

**Glenelg Planning Scheme Draft Amendment C107gelg
Cape Bridgewater Residential Hotel Resort**

Priority Projects Standing Advisory Committee Report – Referral No 10

Planning and Environment Act 1987

16 July 2021

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report – Referral No 10 pursuant to s151 of the Act

Draft Glenelg Planning Scheme Amendment C107gelg

Residential Hotel Development at Cape Bridgewater

16 July 2021

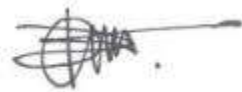
Members of the Priority Projects Standing Advisory Committee who considered this referral:

A handwritten signature in black ink, appearing to be 'DM', with a stylized, wavy line extending from the end.

David Merrett, Chair

A handwritten signature in black ink, appearing to be 'ME', with a long, horizontal line extending to the right.

Mandy Elliott, Deputy Chair

A handwritten signature in black ink, appearing to be 'PC', with a circular scribble and a horizontal line extending to the right.

Philippa Crone, Member

Contents

	Page
1 Introduction.....	5
1.1 Terms of Reference and letter of referral	5
1.2 Cape Bridgewater	5
1.3 The subject land and surrounds	6
1.4 The Amendment.....	9
1.5 Proposal description.....	10
1.6 Background.....	16
1.7 The Specific Controls Overlay	16
1.8 The Committee’s approach	17
1.9 Limitations	17
2 Planning context	19
2.1 Planning policy framework.....	19
2.2 Victorian Coastal Strategy 2014	21
2.3 Great South Coast Regional Growth Plan 2014	21
2.4 Amendment C102.....	24
2.5 Planning scheme provisions	24
2.6 Ministerial Direction.....	27
3 Strategic justification	28
3.1 The issues	28
3.2 Consistency with planning policy	28
3.3 Consistency with planning controls	35
4 Character and landscape impacts	39
4.1 Built form and design	39
4.2 Visual impact	47
5 Tourism and economics.....	51
5.1 The issue	51
5.2 Evidence and submissions.....	51
5.3 Discussion	54
5.4 Conclusion	55
6 Biodiversity.....	56
6.1 Flora.....	56
6.2 Fauna	59
7 Environmental risks	62
7.1 Bushfire risk.....	62
7.2 Geological features and landslip	64
7.3 Surface water and hydrogeology	68

8	Cultural heritage	72
8.1	Aboriginal cultural heritage.....	72
8.2	Post contact heritage	74
9	The gifting of land and access to the Great South West Walk.....	76
10	Amenity	78
10.1	Light spill.....	78
10.2	Noise	79
10.3	Construction phase.....	80
11	Sustainability	81
11.1	The issue	81
11.2	Submissions and discussion	81
11.3	Conclusion	81
12	Traffic and parking	82
12.1	Traffic and visitor parking.....	82
12.2	Car parking for employees	83
13	Overall conclusions	86
14	Specific Controls Overlay and Incorporated Document	88
14.1	The issues	88
14.2	Use of the Specific Controls Overlay	88
14.3	Committee preferred version of the Incorporated Document.....	90

Appendix A Terms of Reference

Appendix B Minister’s letter of referral

Appendix C List of submitters

Appendix D Parties to the Committee Hearing

Appendix E Document List

Appendix F Committee preferred version of the Incorporated Document

List of Tables

	Page
Table 1 Cut and fill comparison.....	13
Table 2 Employee and economic impact comparison	54

List of Figures

	Page
Figure 1 Location of Cape Bridgewater	6
Figure 2 Aerial photo of the land	7
Figure 3 Site survey plan	8
Figure 4 View of the land from the north east.....	8
Figure 5 View of part of the land from the north	9
Figure 6 View of the land from the east (oceanside)	9
Figure 7 Site plan – referred plans	10
Figure 8 Site development plan - amended	12
Figure 9 Cut and fill ‘heat map’ - amended.....	13
Figure 10 Eastern or ocean side view of the hotel complex	14
Figure 11 Hotel entry and Porte Cochere	14
Figure 12 ‘Pasture’ villa render	15
Figure 13 ‘Coastal’ villa render	15
Figure 14 Cape Bridgewater Structure Plan precincts	20
Figure 15 Cape Bridgewater Framework Plan.....	23
Figure 16 Zone map.....	25
Figure 17 Significant Landscape Overlay	26
Figure 18 Bushfire Management Overlay	27
Figure 19 Photomontage view from the foreshore	35
Figure 20 Application plan view from Cape Bridgewater	40
Figure 21 Amended plan view from Cape Bridgewater	41
Figure 22 Papworth landscape plan	42
Figure 23 Partos Rhino 3-D model – view from the foreshore	43
Figure 24 Partos Rhino 3-D model – view from Panoramic Drive.....	43
Figure 25 View from the south post -development along the GSWW (focussed view)	49

Glossary and abbreviations

the Act	Planning and Environment Act 1987
Amendment C107gelg	Glenelg Planning Scheme Amendment C107gelg
the Applicant	Australian Tourism Trust
BAL	Bushfire Attack Level
BPA	Bushfire Prone Area
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan 16933
the Committee	Priority Projects Standing Advisory Committee (Referral No. 10)
Council	Glenelg Shire Council
DELWP	Department of Environment, Land, Water and Planning
DRT	Design Review Team
EPA	Environment Protection Authority
EPBC Act	Environment Protection and Biodiversity Conservation Act (Commonwealth) 1999
ESO1	Schedule 1 to the Environmental Significance Overlay
EVC	Ecological Vegetation Class
GMTOAC	Gunditj Mirring Traditional Owners Aboriginal Corporation
GSWW	Great South West Walk
the Guidelines	Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017)
the Incorporated Document	Cape Bridgewater Resort, Blowholes Road, Cape Bridgewater November 2020 Incorporated Document
the Minister	Minister for Planning
the Permit Application	Planning Permit Application No P19181
PPSAC	Priority Projects Standing Advisory Committee
RAP	Registered Aboriginal Party
RCZ	Rural Conservation Zone
SCBA	Save Cape Bridgewater Association Inc.
SCO	Specific Controls Overlay
SLO	Significant Landscape Overlay
SLO3	Schedule 3 to the Significant Landscape Overlay
the Structure Plan	Cape Bridgewater Structure Plan 2018
UNESCO	United Nations Educational and Scientific and Cultural Organisation

Overview

Amendment summary

The Amendment	Glenelg Planning Scheme draft Amendment C107gelg
Common name	Cape Bridgewater Residential Hotel Resort
Brief description	Use and develop the land for an integrated tourism resort comprising residential hotel including ancillary retail and tourism facilities, bar, restaurant, sale and consumption of liquor on the premises, removal of native vegetation and waiver of bicycle facilities
Subject land	Lot 1 Plan of Subdivision 500866 Blowholes Road, Cape Bridgewater. The land is 10.42 hectares in area
The Proponent	Australian Tourism Trust Pty Ltd
Planning Authority	Minister for Planning
Exhibition	Planning Permit Application P19181 was placed on public notice between 10 January to 24 January 2020
Submissions	Number of Submissions: 111 Opposed: 100 Refer to Appendix C

Committee process

The Committee	David Merrett (Chair), Mandy Elliott (Deputy Chair) and Philippa Crone The Committee was assisted by Georgia Thomas, Project Officer, of the office of Planning Panels Victoria
Directions Hearing	8 February and 17 March 2021, by video
Committee Hearing	24, 25, 26, 27, 28, 31 May and 1, 3, 4, 7, 8, 9, 10, 11 June 2021, by video conference
Site inspections	Unaccompanied, 25 and 26 March and 17 May 2021
Parties to the Hearing	Refer to Appendix D
Citation	Glenelg Planning Scheme PSA C107gelg [2021] PPV
Date of this report	16 July 2021

Executive summary

Cape Bridgewater is a small coastal settlement located 20 kilometres west of Portland in a landscape of State significance (known as the 3 Capes). The landscape provides spectacular scenery, dominated by elevated coastal views and some of the highest coastal cliffs in Victoria. The Great South West Walk is a coastal and inland walk between Portland and the South Australian border that attracts domestic, interstate and international visitors. It follows the coast at Cape Bridgewater and along the 3 Capes.

The permanent population of Cape Bridgewater is between 60 and 80 people. There is no reticulated town water or sewerage supply to the land, and all wastewater is required to be treated on site. Most tourist accommodation in Cape Bridgewater is based around private dwellings and a school camp facility that also provides a limited number of camping sites.

Amendment C107gelg Cape Bridgewater Residential Hotel Resort proposes a luxury high-end tourist resort hotel that comprises five buildings and 18 villas. At capacity, the complex would accommodate 238 guests. The hotel complex of buildings provides 88 serviced rooms, including two 'coastal' villas on the ocean side and 16 'pasture' villas on the inland side of the hill. To accommodate the hotel buildings approximately 79,000 cubic metres of earth would be excavated, with approximately 45,000 cubic metres to be used as onsite fill and a balance of approximately 34,000 cubic metres used to form the rammed earth buttress walls. To accommodate the hotel building, excavation to a maximum depth of 14.5 metres is proposed that would provide for an underground two-storey carpark. The proposal is ambitious and would need to manage all its own waste onsite, generate all its electricity and source potable water from ground bores.

The land is located immediately to the south of the Cape Bridgewater settlement on a 10-hectare site that contains a dominant hill offering spectacular coastal and settlement views. The eastern third of the land contains the Great South West Walk, native vegetation and coastal cliffs, the middle third would contain the hotel complex of buildings on the ocean side of the hill and the western third 16 of the 18 villas. Vehicle access is gained from Blowholes Road.

There is an approved Cultural Heritage Management Plan, and an Environment Protection Authority Works Approval is required to manage the treatment and disposal of wastewater on site.

The Amendment was translated from Planning Application P19181 that had received 111 submissions, most objecting to the proposal. Glenelg Shire Council requested the Minister for Planning to determine the application under section 97C of the *Planning and Environment Act 1987*. Glenelg Shire Council, some community members and tourism bodies supported the proposal. The Amendment proposes to use Schedule 10 to the Specific Controls Overlay to manage the use and development of the land with an Incorporated Document.

Amendment C92 introduced the Cape Bridgewater Structure Plan 2018 into the Glenelg Planning Scheme in July 2019. It is included as a local policy in the Planning Scheme at Clause 11.03-6L and as a background document. The land is contained in the Blowholes Precinct, outside of the settlement boundary. The policy framework identifies the site for a residential or tourist accommodation development, or both. The preferred character statement for the land in the Cape Bridgewater Structure Plan states *"development will incorporate a modest scale, potentially high-end integrated accommodation facility, combined with some low scale residential or other*

tourism-related development on the balance of the site.” Planning policy and guidance from the Cape Bridgewater Structure Plan 2018 provide a consistent set of themes for the development of the land. These are:

- it should have a tourist accommodation focus, at least in part
- buildings should be low scale and modest
- the development should not be invisible but should have minimal visual intrusion, particularly when viewed from the settlement and foreshore
- the development should sit lightly in the landscape and allow the landscape to dominate
- development should be achieved by minimising cut and fill.

Australian Tourism Trust Pty Ltd (the Applicant) submitted that the proposal will meet a market demand for high-end tourist accommodation and encourage more overnight stays. The Applicant submitted the proposal is modest, low scale, sits lightly in and integrates with the landscape.

The Applicant submitted amended plans prior the Hearing that responded to feedback from the submissions received, the recommendations of the Design Review Team engaged by the Applicant to peer review the proposal and other expert recommendations. The final position of the Applicant was:

- The use of excess spoil from the land excavation for rammed earth buttresses to each of the hotel buildings, thus limiting or negating off-site disposal. The buttresses were reduced in scale during the Hearing.
- The deletion of one level from Lodge A.
- Additional spacing between the hotel and lodge buildings.
- The relocation of the two ‘coastal’ villas further inland out of the 20-degree slope.
- Deletion of two ‘pasture’ villas to avoid any buildings above the 80 metre Australian Height Datum contour and the heat rejection field.

The proposal attracted significant community opposition. The Save Cape Bridgewater Association Inc. and many community members had significant concern with the bulk, siting and scale of the buildings, particularly the hotel complex of 5 buildings. Most generally agreed that some form of the tourist development was appropriate for the land but that this should be of a reduced scale, that is subservient to the state significant landscape and more consistent with the Cape Bridgewater Structure Plan 2018. The design, siting and scale of this development is the key issue.

The Committee has assessed the proposal against the recent strategic work provided by the Cape Bridgewater Structure Plan 2018 and relevant planning policy.

The Committee concludes:

- The scale and siting of the hotel complex of buildings is inconsistent with the Cape Bridgewater Structure Plan 2018 and planning policy. The re-engineering of the hill to accommodate the hotel complex of buildings is excessive and goes well beyond the policy to ‘*minimise cut and fill.*’ Simply excavating the site to this degree and burying a significant portion of the hotel complex of buildings does not allow for the development to ‘*sit lightly in the landscape.*’ The Committee considers how you get to this outcome is as important as achieving it.

- Not aligning the buildings with the site contours and projecting built form out from the contours results in a built form that breaks the ridgeline when viewed from the settlement and foreshore.
- A significant public benefit is the transfer of land into public ownership that contains the Great South West Walk and coastal cliffs to the beach and the use of the central hotel building as a Shelter-in-Place building for the community to use in extreme fire risk periods.
- The proposal would meet a general need for high quality tourist accommodation in south west Victoria that could encourage tourists in the Great Ocean Road region to extend their stay. This and the operation of the facility would have significant, but undetermined, economic and employment benefits for the community.
- The 'pasture' villas have been well resolved and present a scale that is consistent with the Cape Bridgewater Structure Plan 2018 and planning policy.
- The relocation of the 'coastal' villas is supported and reduces the extent of native vegetation to be removed and minimises the potential of landslip.
- With some further investigation the geology of the land can be confirmed, and it is not anticipated to impede development.
- Risk from bushfire can be managed.
- The treatment of wastewater will be the subject of an EPA Works Approval.
- The construction of accommodation in Portland for employees is not part of Amendment C107gelg. This presents an issue with the lack of employee parking onsite. The Committee does not support the permanent use of what was described as overflow parking for employees (none of which were shown on any plans) and believes the proposed condition for 'busing' in employees is problematic and not enforceable.
- With the iterative changes to the proposal throughout the Committee process, there is a need to re-engage with the Gunditj Mirring Traditional Owners Aboriginal Corporation.

The Committee's central concern rests with the hotel complex of buildings. It did consider whether the Incorporated Document could require further amended plans to reduce the scale, siting, and bulk of these buildings to present an acceptable outcome. This would require significant, not minor changes, and has the clear potential of translating the proposal into a different proposal. The Committee lacked information to make this judgement. The degree of change expected by the Committee would likely have flow-on effects to other parts of the proposal, such as the earthworks proposed for the 'pasture' villas and the location for other key parts of the proposal.

A redesigned proposal with a reduced scale, number of rooms and buildings and excavation of the site would still provide economic and employment benefits to the community but be more appropriate in this landscape of State significance and would more appropriately reflect the intent of the Cape Bridgewater Structure Plan 2018.

The Committee considers the proposal in its current form would not result in a net community benefit and therefore is not acceptable.

Should the Planning Authority not support the Committee's recommendations and determine to support the Amendment, the Committee has provided preferred conditions in the Incorporated Document at Appendix F.

Recommendation

The Committee recommends:

- 1. Based on the reasons set out in this Report, draft Amendment C107gelg to the Glenelg Planning Scheme, for a Residential Hotel Resort at Lot 1 Blowholes Road, Cape Bridgewater should be abandoned.**

1 Introduction

1.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (PPSAC) was appointed by the Minister for Planning (the Minister) on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference (Appendix A) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

The Priority Projects Standing Advisory Committee for this matter (Referral No. 10) (the Committee) was provided with a letter of referral from the Minister dated 20 December 2020 (Appendix B) that tasked it to:

- a) Consider the draft planning scheme amendment, any supporting documents and all submissions and referral agency comments received by the council.
- b) Conduct a public hearing to give the council, the applicant, any referral authority and all submitters a reasonable opportunity to be heard.
- c) Address the following issues in its report in addition to those matters set out in the terms of reference:
 - i. whether the project achieves acceptable planning outcomes having regard to Glenelg Planning Scheme policy objectives including but not limited to economic, tourism, employment, environmental, biodiversity, coastal, landscape, cultural heritage, town character, amenity, infrastructure and built form and good design objectives
 - ii. whether the proposed planning scheme controls provide a suitable basis for the establishment and operation of the proposal, including recommended conditions for the incorporated document, if approval of the project is deemed appropriate
 - iii. any other matter that the committee considers appropriate.

1.2 Cape Bridgewater

The Cape Bridgewater Structure Plan 2018 (the Structure Plan) describes the town as:

Cape Bridgewater is a small coastal settlement located 18km west of Portland. The settlement performs an important tourism role in the region, with a number of houses providing a short term accommodation role (either as private holiday homes or short-term rental accommodation).

The permanent population of Cape Bridgewater is between 60-80 people. Its location is shown in Figure 1.

Figure 1 **Location of Cape Bridgewater**



1.3 The subject land and surrounds

The Amendment applies to 10.42 hectares of land at Lot 1 on Plan of Subdivision 500866W at Blowholes Road, Cape Bridgewater.

The Amendment land is shown in Figure 2. The land is located immediately south of the Cape Bridgewater settlement, and access to the land is gained off Blowholes Road. The land has private title to the high-water mark of Bridgewater Bay, is vacant and the western two thirds of the land comprises open grasslands. The eastern third of the land, separated by a rural style fence, comprises native vegetation and a section of the Great South West Walk (GSWW).

A restrictive covenant (A897386M) applies to the land and neighbouring land that requires the landowners to ensure:

- they will not construct or cause to be constructed to the east of and including the easement numbered E-3 on the said plan of subdivision any building or structure
- they will not cultivate the land to the east of the easement E-3 on the Plan of Subdivision except for weed control
- that no aircraft or aircraft landing facilities be constructed on the said Lot and that no aircraft be allowed to land on the said Lot at any time.

The restriction prevents development on approximately 1.7 hectares of the land, being land east of the GSWW easement shown as E-3 on the title plan.

Figure 2 Aerial photo of the land



The topography of the land is an important contextual element. The cliffs from Bridgewater Bay rise steeply from the beach. Generally, the slope decreases west of the GSWW, although there is a steep section in the southern portion, west of the GSWW. The topography and slope of the land is shown in the site survey plan in Figure 3.

The land is dominated by a ridgeline in the middle of the land that creates a high point of 82 metres above sea level. At the Blowholes Road frontage, the slope decreases to a height that varies between 52 metres and 64 metres. On the opposite side of the ridge at the fence (start of vegetation) the height varies between 67 metres and 53 metres. This hilltop context results in:

- exposed land to the prevailing south west winds
- a prominent site when viewed from the Bridgewater Bay and other parts of the settlement, including the main access road from Portland
- the ability to gain impressive views of Bridgewater Bay and beyond into the Southern Ocean.

There is an unmade government road reserve at the northern boundary. Further to the north are a school camp facility and dwellings.

A dwelling is located to the south of the land on a similar sized lot.

The topography of the land is shown in the drone photos in Figures 4, 5 and 6.

Figure 3 Site survey plan

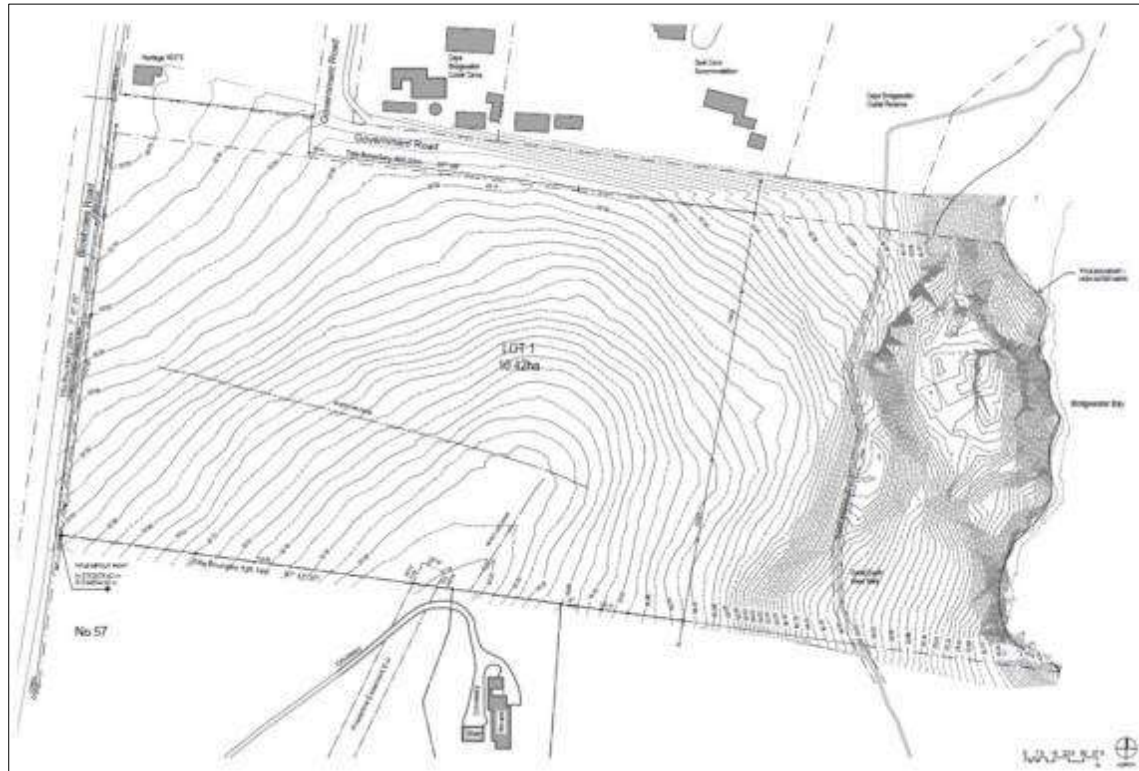


Figure 4 View of the land from the north east



Figure 5 View of part of the land from the north



Figure 6 View of the land from the east (oceanside)



1.4 The Amendment

Glenelg Planning Scheme Amendment C107gelg (Amendment C107gelg) seeks to facilitate the use and development of a residential hotel (with ancillary restaurant, bar, retail, gallery, observatory, spa and pool), use of land for a liquor licence, removal of native vegetation and waiver of bicycle facilities generally as proposed in Planning Permit Application P19181.

Specifically, Amendment C107gelg:

- applies Schedule 1 to the Specific Controls Overlay (SCO) to the land

- inserts Clause 45.12 'Specific Controls Overlay' and the associated Schedule into the Glenelg Planning Scheme, and inserts the Incorporated Document titled '*Cape Bridgewater Resort, Blowholes Road, Cape Bridgewater, November 2020*'
- inserts Planning Scheme Map 34SCO
- amends the Schedule to Clause 72.03 to insert Planning Scheme Map No. 34SCO
- amends the Schedule to Clause 72.04 'Documents Incorporated in this Planning Scheme' to insert the Incorporated Document titled '*Cape Bridgewater Resort, Blowholes Road, Cape Bridgewater, November 2020*'.

Since the drafting of the Amendment C107gelg documents there have been other Specific Controls Overlay schedules introduced, so for this matter the schedule is known as No 10.

1.5 Proposal description

The plans for the proposal referred by the Minister included:

- 88 accommodation units within four buildings generally located around a central hotel building, with 18 stand-alone villas (16 'pasture' villas to the west of the hotel complex and two 'coastal' villas to the east of the hotel complex)
- a day spa and health and wellbeing retreat
- dining options, including a degustation restaurant and a bar/bistro. The restaurant was to be located in the north east of the land and accessed via an underground tunnel
- health facilities, including a gym, pool and steam room
- underground parking facilities for tourists (96 car spaces).

The villas provide serviced accommodation with 5 one-bedroom and 13 two-bedroom facilities. The accommodation provides for a capacity of 238 people.

Figure 7 contains the original site plan.

Figure 7 Site plan – referred plans



(i) The amended plans

The Committee requested the Applicant to engage a peer review of the built form and landscape response of the proposal. The Design Review Team (DRT) comprising Tim Biles (urban design), Clare McAllister (architecture) and Brendan Papworth (landscape) provided evidence to the Committee. The Applicant advised at the second Directions Hearing that amended plans (Document 103) would be circulated and *“the changes have been made in response to a detailed review of objector submissions, the Council recommended conditions contained in the draft Incorporated Document and feedback received from the Applicant’s expert witness team.”*

A description of the changes is outlined in Document 102, including:

- Relocation of the cliff top restaurant into the main building so that the north-eastern corner of the site remains undeveloped.
- The subsequent rationalisation of the main hotel building and associated external areas including the pool.
- The subsequent removal of the tunnel, galleries and associated excavation.
- Lodge A has been reduced in height with the deletion of the top level. The net number of rooms however remains consistent through a redesign of the floor plans which now show slightly smaller rooms which now face south-east and also north-west.
- The northern facades of the lodges and the main entry building have been refined.
- The external materials to the northern faced of the main entry building have been reconsidered with the introduction of rammed earth and glazing, and the deletion of basalt.
- Additional articulation has been introduced to the west façade of the main entry building.
- Amendments have been made to the design and external finishes of the pasture villas.
- Reduction to the extent of vegetation required to be removed.

To assist in the understanding of what was proposed the Committee requested the Applicant to:

- Install height poles for each of the hotel buildings and the ‘coastal’ villas and a marker for the western extent of the underground carpark. Document 122¹ contains the height pole map for the amended plans. This map was colour-coded for each hotel building.
- Provide a ‘heat map’² that shows the extent of cut and fill on the land associated with the proposal (Document 187 – Figure 11).

The Applicant placed a marker, not a height pole for the ‘coastal’ villas as it was too difficult to gain access to the east-of-fence location, which the Committee accepted.

The amended plans also addressed an issue raised by the Gunditj Mirring Traditional Owners Aboriginal Corporation (GMTOAC) and Mr Rotumah (late submitter) by amending aspects of the villa design and internal design of the hotel building to remove concerns over the appropriation of cultural heritage without consent.

Figure 8 contains the amended development site plan.

¹ The original height pole map is Document 65

² The original cut and fill heat map is Document 104

Figure 8 Site development plan - amended



The amended plans do not provide parking for employees as it was put to the Committee that employees would be transported by bus from Portland where purpose-built accommodation would be constructed. This issue is discussed further in Chapter 12.

A significant amount of earthworks is proposed. Figure 9 contains the cut and fill heat map and Table 1 shows an earthworks comparison between the original and amended set of plans.

Under the amended design the hotel buildings and associated carpark require a site excavation of up to 11.5 metres in depth. This indicates approximately 33,740 cubic metres of spoil from the land would need to be disposed of off-site. However, the amended plans show rammed earth buttresses to the hotel complex of buildings and the Committee was advised there should be no need to export spoil from the land as it would provide material for these structures. To gain an understanding of the extent of cut and fill, a comparison has been made to Olympic swimming pools³. The Applicant advised the intent was to set the building bulk within the landscape and not upon it.

The height of the hotel buildings above finished ground varies from 2-3 storeys.

Figures 10 and 11 contain renders of the hotel complex. Figure 12 contains a render of the 'pasture' villa and Figure 13 contains a render of the 'coastal' villa. The extent of rammed earth buttresses was reduced with the submission of Technical Note 6 (Document 253).

³ Contains a volume of 2,500 cubic metres

Figure 9 Cut and fill 'heat map' - amended

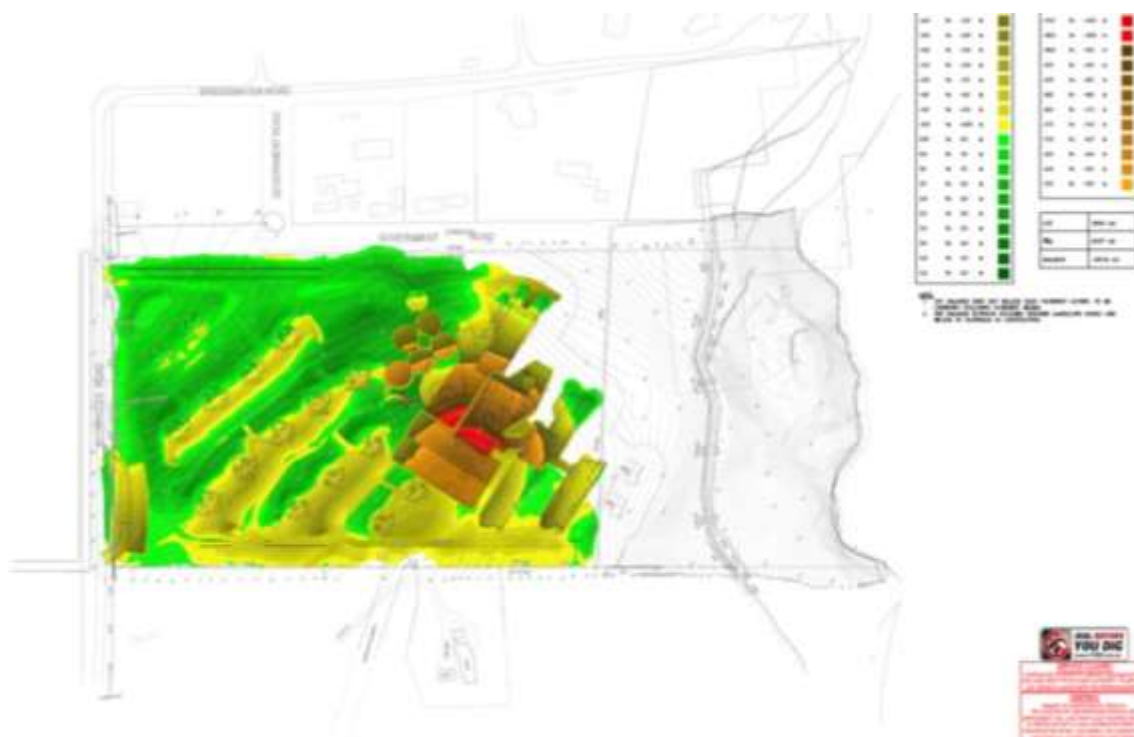


Table 1 Cut and fill comparison

	Original	Olympic pool	Amended	Olympic pool
Cut	69,566 cubic metres	27.8	78,937 cubic metres	31.6
Fill	23,399 cubic metres	9.3	45,197 cubic metres	18.1
Balance	46,167 cubic metres	18.1	33,740 cubic metres	13.5

The development is intended to be fully off-grid and generate its own energy and manage its own waste on site. There is no reticulated town water supply or sewerage in Cape Bridgewater. The following is proposed:

- solar panels on the hotel buildings and lodges A and B with all panels laid flat to avoid glare
- one 200 kilolitre underground tank for rainwater harvesting
- five 1 megalitre underground tanks for wet weather effluent storage
- firefighting water tanks and pumps in the underground carpark providing four hours of water supply
- one 5,000 litre grease trap
- a 3,240 square metre underground heat rejection field located at the highest point on the southern boundary
- a water bore to provide potable water following treatment
- a hydraulic services plant room next to the bus drop off facility containing underground treated wastewater filtration, rainwater treatment, bore water treatment, chlorination, potable water storage, switch room, bio fuel generator and bio fuel storage

- all services to be underground.

As the complex would generate in excess of 5,000 litres of wastewater per day an Environment Protection Authority (EPA) Works Approval will be required.

More detail on specific elements of the proposal is outlined in the relevant issue chapters.

Figure 10 Eastern or ocean side view of the hotel complex



Figure 11 Hotel entry and Porte Cochere



Figure 12 'Pasture' villa render



Figure 13 'Coastal' villa render



All dining, bar and health and wellbeing facilities would be open to the public.

1.6 Background

Planning Permit Application P19181 (the Permit Application) was lodged with Glenelg Shire Council (Council) in December 2019. Council referred the application to the Country Fire Authority (CFA), Department of Transport, EPA and Department of Environment, Land, Water and Planning (DELWP) and it was advertised to the community in January 2020. Several technical reports supported the proposal, including traffic, bushfire, engineering, flora and fauna, infrastructure, architectural and landscape impact.

The Permit Application was placed on public notice from 10 January to 24 January 2020. A total of 111 submissions were received, comprising 100 objections and 11 in support. The Save Cape Bridgewater Association Inc. (SCBA) was formed by concerned community members.

A Cultural Heritage Management Plan was approved on 2 July 2021 by the GMTOAC.

The Applicant responded to several requests for further information from the referral authorities. Ultimately all referral authorities supported the proposed development subject to conditions. These have generally been translated to the Incorporated Document.

At its 28 July 2020 meeting Council resolved to:

1. Pursuant to section 97C of the Planning and Environment Act 1987 the Council, as responsible authority:
 - a) Request that the Minister for Planning (Minister) decide Permit Application; and
 - b) If the Minister agrees to the request, refer the Permit Application to the Minister for decision.
2. If the Application is referred to the Minister that the Council will not itself determine the Application.
3. Advise the Minister of its in-principle support for the Application; and
4. Participate in any process, forum or hearing.

The Council formally requested the Minister on 3 August 2020 to decide the Permit Application pursuant to 97C of the *Planning and Environment Act 1987*. Council advised the Minister for Planning that it supported the development.

The Minister wrote to the Council on 6 September 2020 advising that he had put the request on hold as he intended to write to the Applicant requiring it to prepare draft Planning Scheme amendment documents to apply the SCO and an Incorporated Document to the land and refer the project to the PPSAC for advice.

1.7 The Specific Controls Overlay

The SCO is the primary statutory tool and Schedule 10 contains the Incorporated Document with 38 development conditions (akin to a planning permit) under which the use and development of the land must abide. Construction is to commence within 5 years of approval and development completed within 3 years.

At the start of and during the Hearing further iterations of the Incorporated Document were tabled. A 'without prejudice' session on the Incorporated Document was held on the last Hearing day, based upon Version 3 that was provided by the Applicant. Drafting issues are addressed in Chapter 14.

1.8 The Committee's approach

The Committee considers the proposal is very ambitious. It would no doubt be an impressive tourism experience and public facility that the residents of Cape Bridgewater could frequent.

The land contains a very prominent hill next to the Cape Bridgewater settlement. The policy context outlined in Chapters 2 and 3 indicates there is an expectation that the land will be developed, most likely for tourism accommodation purposes and that it should not seek to be invisible, but its visual impacts should be minimised by siting, built form, scale and landscaping. The guidance provided by the Structure Plan is most relevant. It reflects the most recent strategic work for Cape Bridgewater and was tested by the Amendment C92 Panel process.

The Committee has been asked to rely upon the EPA Works Approval process for the management of all wastewater on site. The Committee accepts this is the next key statutory step if Amendment C107 is approved; however, it does present strategic issues that are considered in this Report.

The Committee has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Committee considered all written submissions made in response to the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Character and landscape impacts
- Tourism and economics
- Biodiversity
- Environmental Risks
- Cultural heritage
- The gifting of land and access to the Great South West Walk
- Amenity
- Sustainability
- Traffic and parking
- Overall conclusion
- Specific Controls Overlay and the Incorporated Document.

1.9 Limitations

Several submitters encouraged the Committee to look beyond its Terms of Reference and comment on a proposed Geopark (Kanawinka) for the area and consider whether the Minister should declare the area as a Distinctive Area and Landscape under the *Planning and Environment Act 1987* (the Act), and the extent of heritage controls for the area.

The Committee notes the concern of the local community on these issues however it is restricted by its Terms of Reference and does not comment further on them.

The Permit Application refers to purpose-built accommodation in Portland to house workers for the resort. This was not part of Amendment C107gelg but it does have a significant impact upon the management of parking on site for workers. This matter is considered further in Chapter 12. Apart from this, the Committee has not and cannot consider worker accommodation in Portland any further.

2 Planning context

2.1 Planning policy framework

The Applicant and Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Committee has summarised below.

Relevant State and regional policy include:

- Ensure development protects and seeks to enhance coastal biodiversity and ecological values. (Clause 12.02-1S)
- Ensure development is sensitively sited and designed and respects the character of coastal settlements. (Clause 12.02-1S)
- Protect environmentally sensitive areas with significant recreational value from development that would diminish their environmental conservation or recreational values. (Clause 12.05- 1S)
- Protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. (Clause 12.05-2S)
- Ensure significant landscape areas such as forests, the bays and coastlines are protected. (Clause 12.05-2S)
- Ensure development does not detract from the natural qualities of significant landscape areas. (Clause 12.05-2S)
- (Clause 11.03-5R) Ensure development responds to the identified landscape character of the area.
- Encourage sustainable tourism and resource use by:
 - Developing a network of tourism opportunities throughout the region.
 - Supporting tourism activities that provide environmental, economic and social benefits. (Clause 11.03-5R)

Relevant local policy includes:

Clause 11.03-6L (Cape Bridgewater) contains the local policy for Cape Bridgewater which is based on the Cape Bridgewater Structure Plan 2018. The Blowholes Precinct (Figure 14) applies specifically to the land and has the following strategies:

Encourage modest, low-scale tourist and residential accommodation development and other tourism-related uses that blend into the landscape.

Encourage built form that is designed and sited to be visually unobtrusive when viewed from the settlement and foreshore area.

Support opportunities that enhance access to the coastal cliffs.

The land is not shown within the settlement boundary but is identified as an investigation area.

Clause 11.02-3L (Sequencing of development) seeks to:

Discourage the expansion of unserviced town areas unless all wastewater and sewerage can be treated onsite.

Clause 11.03-4L (Coastal settlement) seeks to:

- Confine development to within existing coastal settlements.
- Site and design development in the Bridgewater Bay coastal area so that it maintains the landscape features and qualities of the natural environment.

- Design development at the coastal edge of settlements to be sensitive to surrounding development, the surrounding landform and the visual setting of the settlement, particularly when viewed from the foreshore.
- Support a hierarchy of built form within coastal settlements, with lower buildings adjacent to the foreshore and higher buildings away from the foreshore. Locate development in flatter locations outside of dune areas.
- Minimise visual intrusion of development and retain a dominant natural character within 500 metres of the edge of the coast.

Clause 12.05-2L (Landscapes) contains some relevant strategies:

Minimise the visual dominance of buildings from ridge tops and prominent hill faces by:

- Siting development in the lower third of the visible slope, wherever possible.
- Setting buildings and structures amongst existing vegetation, and/or establishing gardens of locally compatible species.
- Designing buildings to follow the contours or step down the site to minimise earthworks.
- Articulating buildings into separate elements and avoiding visually dominant elevations.

The *Coastal Spaces Landscape Assessment Study (2006)* is a policy document. This document identifies the Three Capes around Cape Bridgewater is of State significance.

Clause 13.04-2L (Erosion and landslip) seeks to “discourage development on slopes of greater than 20 degrees.”

Clause 17.04-1L (Tourism) relevantly seeks to:

Encourage tourist use and development that enhances local environmental and aesthetic values.

The issue chapters provide further detail on the relevant parts of the Planning Scheme and the Structure Plan.

Figure 14 Cape Bridgewater Structure Plan precincts



2.2 Victorian Coastal Strategy 2014

Clause 13.01-2S and Clause 12.02-1S references the *Victorian Coastal Strategy 2014* as a policy document.

It outlines the policy commitment for coastal and marine environments in Victoria and details the policies and actions required for management of these environments. The Victorian Coastal Strategy outlines the hierarchy of principles for Victoria's coast, being 'value and protect'; 'plan and act'; and 'use and enjoy'.

The *Marine and Coastal Act 2018* refers to the Marine and Coastal Policy in Part 4 Division 1. DELWP advised⁴ that the Marine and Coastal Policy 2020 was introduced on 6 March 2020 and has superseded the 'policy for decision making' parts of the *Victorian Coastal Strategy 2014*.

The Committee understands from DELWP that they are in the process of preparing an amendment to give effect to the newer Marine and Coastal Policy 2020, prepared under the *Marine and Coastal Act 2018* which supersedes the *Victorian Coastal Strategy 2014*.

2.3 Great South Coast Regional Growth Plan 2014

Cape Bridgewater is identified as a 'small town' in the *Great South Coast Regional Growth Plan 2014*. This addresses a wide range of issues relevant to the region that extends from Camperdown to the South Australian border. Tourism is a key theme which relevantly states⁵:

Support tourism development in locations that:

- have been identified for sustainable and appropriate development
- have access to settlements, transport infrastructure and other services
- sustainably manage, link and are compatible with nearby environmental and cultural heritage assets and other economic activities, particularly agriculture
- can be managed for risks from natural hazards such as bushfire and flood
- assist small towns that are facing economic and population challenges.

Relevant policy and strategy for small towns are to:

- Support flexibility in planning schemes to facilitate housing and economic development, including tourism and industrial development.
- Support infrastructure for seasonal population and tourism facilities.

(i) Municipal Planning Strategy

The Municipal Planning Strategy at Clause 02.03 (Strategic Directions) refers to Cape Bridgewater as follows:

Cape Bridgewater is located approximately 20 kilometres west of Portland. The small town attracts tourists to its picturesque coastal setting with the highest coastal cliffs in Victoria, towering sand dunes, wide beaches and the pristine waters of Bridgewater and Discovery Bays. The Shire seeks to facilitate the development of Cape Bridgewater by:

- Containing growth and development within the defined settlement boundary, with capacity to support modest-scale tourism and accommodation opportunities.

⁴ Document 215

⁵ Page 29

- Encouraging development to respond to the low-scale residential character of the town.
- Encouraging development and subdivision that responds to topography, the foreshore, the fragile coastal environment and views to the sea and landscape formations.
- Encouraging view sharing between developments.

Under Clause 02.03-2 (Environmental and landscape values - Significant Environments and Landscapes), it states:

In protecting environmental and landscape values, the Shire supports:

- Protecting the Shire's significant landscapes, waterways and wetlands and Red Gum woodlands.
- Encouraging development that is subordinate to the natural, visual and environmental landscape character and significance.

Under Clause 02.03-6 (Economic Development – Tourism), it states:

Tourism plays a significant role in the local economy. The Shire has a range of attractions including recreational fishing, heritage, eco-tourism, beaches, surfing, trails, national parks, and a series of festivals throughout the year. Portland is developing as a tourism destination and is now seen as the western gateway to the Great Ocean Road and the eastern gateway for the Limestone Coast. Council seeks to facilitate tourism by:

- Supporting the development of tourism based on attractions including natural features, fishing, local produce, cultural and built heritage, eco-tourism, beaches, surfing, trails and national parks.
- Encouraging development of tourist accommodation.
- Maximising opportunities in niche markets, including fishing and boating, bird watching, adventure groups and cruise ship visitors.
- Supporting opportunities for coastal tourism.

(ii) Cape Bridgewater Structure Plan 2018

The Structure Plan provides guidance for the development of the land including the Framework Plan shown in Figure 15.

The land (shown with red line) is identified as *“Potential Residential / Accommodation Development (subject to pre-conditions)”* and a red asterisk marks the location for a *“Potential tourism feature / Accommodation node.”* Land east of this asterisk, either side of the GSWW is identified as land to be transferred to public ownership.

The Structure Plan contains the following vision:

The vision for Cape Bridgewater is to protect and enhance the quiet lifestyle and sleepy coastal character of the settlement by providing for limited development within a clearly defined settlement boundary. All development will be carefully controlled to be respectful of the existing, low-scale character of the township, to sit lightly within the landscape and to be sensitive and responsive to the fragile coastal environment.

The secret of the Cape Bridgewater's dramatic landscapes, spectacular scenery and sensational nature-based experiences will be shared with the broader region through the careful and considered support of low-scale, sensitive tourism development that will contribute positive physical and economic benefits to the local community.

Pages 50 and 51 outline the guidelines and requirements for the Blowholes Precinct.

Figure 15 Cape Bridgewater Framework Plan



The Structure Plan recommends the rezoning of the Blowholes Precinct to the Rural Activity Zone subject to the following pre-conditions being met:

- transfer of vegetated coastal land into public ownership (informed by a detailed flora and fauna assessment)
- agreement to deliver a tourism/ accommodation facility
- demonstration that wastewater can be appropriately treated and disposed of
- agreement to deliver infrastructure items. The items the land developer is responsible for includes:
 - pedestrian paths in foreshore reserve and Bridgewater Road (above upper carpark)
 - local access road (utilising existing paper road)
 - coastal cliffs in public ownership
 - green link (including pedestrian path)
- demonstration of a proposal that incorporates a subdivision and development design that:
 - has regard to the landform and visual sensitivity of the land
 - proposes lot sizes/development outcomes that are in accordance with wastewater requirements and to manage bushfire risks, and specified design guidelines

- delivers low scale and sensitive built form in elevated areas
- provides for access in accordance with the Structure Plan.

Action A11 of the Structure Plan refers to the need for a Tourism and Economic Development Strategy which focusses on, amongst others *“opportunities to provide a high-end ‘destination’ accommodation and dining development of a modest scale, in the key accommodation node identified in the Structure Plan at Figure 6.”*

2.4 Amendment C102

Glenelg Planning Scheme Amendment C102 introduced a policy-neutral translation of the Planning Policy Framework to comply with the new structure introduced by Amendment VC148. This translation occurred after the lodgement of the Planning Application and the Amendment C107 documents refers to the new framework.

2.5 Planning scheme provisions

A common zone and overlay purpose are to implement the Municipal Planning Strategy and the Planning Policy Framework.

(i) Zones

The land is in the Rural Conservation Zone (RCZ). The purposes of the RCZ are:

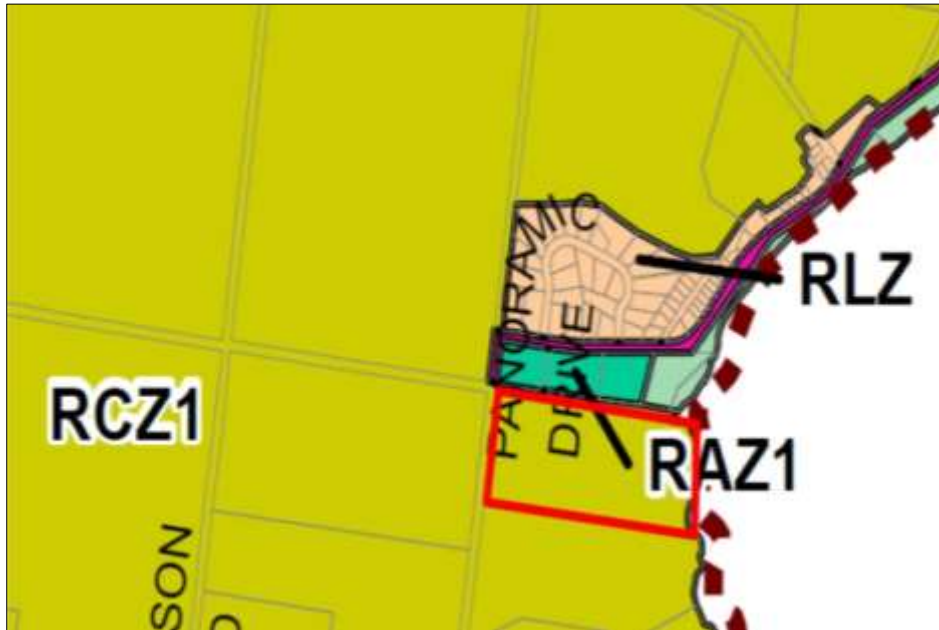
- To conserve the values specified in a schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.

Schedule 1 to the RCZ contains the following conservation values statement:

- To conserve the environment, landscape and vegetation qualities of the area by encouraging sound management practices and land capability principles which recognise the environmental sensitivity and biodiversity of the locality.

Figure 16 contains the zone map, with a red line outlining the subject land. Land within Cape Bridgewater is in the Rural Living Zone and land south of Bridgewater Road is in the Rural Activity Zone. The foreshore land is in the Public Park and Recreation Zone.

Figure 16 Zone map



A planning permit is required for the use and development of the land for a Residential Hotel in the RCZ. A Residential Hotel is defined under Clause 73.03 (Land Use Terms) as:

Land used to provide accommodation in serviced rooms for persons away from their normal place of residence. If it has at least 20 bedrooms, it may include the sale of liquor for consumption on, or off, the premises, function or conference rooms, entertainment, dancing, amusement machines, and gambling.

(ii) Overlays

The land is subject to the Significant Landscape Overlay (SLO). The purposes of the Overlay are:

To identify significant landscapes.

To conserve and enhance the character of significant landscapes.

Figure 17 shows Schedule 3 - Cape Bridgewater and Cape Nelson (SLO3) which applies to the land and contains the following 'Statement of nature and key elements of landscape':

The spectacular cliffs, pristine bays and dramatic coastal scenery of Cape Bridgewater and Cape Nelson are unique in Victoria and combine to make a landscape of state significance.

The capes are listed by the National Trust for their dramatic coastal forms, with the huge bulk of the capes separated by the low-lying Bridgewater Bay. The towering cliffs, which are the highest in the state, provide an unusually dramatic edge to the rural hinterland where, in places, native vegetation comes right down to the water's edge. There are notable views of the capes from the Great South West Walk along the beach, and along the coast from high points at the top of the cliffs. Cape Bridgewater is a remnant of a volcanic crater. The visual significance of the landscape is enhanced by high cultural and environmental values. Blue Whales, Humpback Whales, Southern Right Whales, dolphins and orcas frequent the area, and there are also seal colonies and gannet rookeries. Each of the capes is of high geomorphological and geological significance, with a number of rare features such as blowholes, shore platforms, petrified forests and sea caves are of great interest to academics and visitors alike.

There are extensive Aboriginal sites throughout the area and the Cape Nelson Lighthouse settlement is significant as an intact example of a Victorian light station.

The coastal landscape has recently experienced significant visual change due to wind turbines in this locality.

Figure 17 **Significant Landscape Overlay**



The landscape character objectives to be achieved are:

- To protect and enhance the coverage of indigenous coastal vegetation to ensure that it is a dominant feature of the landscape.

- To protect cultural vegetation patterns throughout the rural hinterland.

- To protect locally significant views and vistas which contribute to the character of the landscape.

- To retain the dominant natural landscape character and sense of isolation at the coastal cliffs and edges and the clear views to the ocean.

- To minimise visual clutter of the hinterland landscape with built development to retain open spaces that provide views to the coast, capes and hinterland.

- To retain natural landforms and indigenous vegetation as an essential component of the character of the rural hinterland.

- To preserve an appropriate landscape setting for features of cultural or heritage significance, including the Cape Nelson Lighthouse Station.

- To recognise that the wind turbine towers on the capes do not set the scale for other forms of development.

The land is affected by Schedule 1 to the Environmental Significance Overlay (Coastal areas - ESO1) which contains the following statement of environmental significance:

The Shire's coastline is a significant environmental resource and long term public asset which should not be compromised by inappropriate development. Coastal environments must be protected especially features of ecological, geological, geomorphological, cultural and historic significance.

The land is not affected by the Bushfire Management Overlay; however, some surrounding land is (Figure 18). The land is within a Bushfire Prone Area (BPA).

Figure 18 Bushfire Management Overlay



(iii) Particular provisions

Relevant particular provisions include:

- Car parking (Clause 52.06)
- Bushfire management (Clause 13.02)
- Removal of native vegetation (Clause 52.17)
- Bicycle parking (Clause 52.34)
- Licensed premises (Clause 52.27).

2.6 Ministerial Direction

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

3 Strategic justification

3.1 The issues

The key issues are whether the proposal is consistent with and an acceptable outcome with regard to planning policy and planning controls.

3.2 Consistency with planning policy

(i) Evidence and submissions

Council submitted (Document 216) the proposal responded appropriately to the policy framework as it:

- is consistent with local and State coastal policies seeking to avoid development which leads to adverse impacts on marine and coastal functions (Clauses 11.03-4S and 11.03-4L)
- is located away from the foreshore thereby being sited higher and designed to take advantage of landscape (Clause 11.03-4L)
- provides an integrated accommodation node on the land (Clauses 11.03-6L and 17.04-1S)
- is not impacted by or exacerbates a coastal hazard risk (Clause 13.01-2S)
- is not impacted by a significant bushfire threat (Clause 13.02-1S)
- retains the natural coastal character of the land adjacent to its vegetated coastal edge (Clauses 11.03-4L, 17.04-2L and 17.04-2S)
- does not place built form on the highest point of the land and follows the contours of undulating landform (Clause 12.05-2L)
- will result in significant economic benefits to Cape Bridgewater and the wider Glenelg community (Clauses 11.03-6L and 17.01-1R)
- is located on land identified as a tourism accommodation opportunity in the Structure Plan (Clause 02.03-1).

In response to the Structure Plan, Council submitted elements of it had been translated into the Planning Scheme and other guidance remains in the Structure Plan as a background document to the Planning Scheme. The key elements are translated into the Planning Scheme at Clause 11.03-6L (Cape Bridgewater).

Guidance provided by the Structure Plan includes:

- Buildings should be designed to sit lightly within the landscape, by minimising cut and fill.
- Boundaries between public and private land should be defined informally (for example through use of coastal planting or garden beds) or via open style fencing.
- Development and subdivision design should be sensitive and responsive to the interface with surrounding rural land.
- Built form should be sited so as to minimise visual exposure when viewed from the settlement. Built form located high on the visually exposed ridgeline should be avoided.
- Built form should be well spaced, with irregular front setbacks to create an informal arrangement of buildings.

- Contemporary, coastal architecture is preferred.
- Buildings of 2 storeys should be well articulated at the second storey, for example, through use of balconies, terraces and cantilevered elements.
- Flat or skillion roof forms are preferred, pitched roof forms should be avoided.
- Tiled roofs should be avoided.
- Heavy materials, such as brick and render should be avoided. Lightweight cladding materials such as timber cladding is preferred.
- A light and natural colour palette is preferred.
- Use of balconies, windows and cantilevered elements is supported to provide articulation to the façade of the built form.
- Use of glazing to capture views is supported. Tinted glazing should be avoided.
- Roads to provide access to tourism development and any additional residential development must be provided generally in accordance with the Structure Plan.
- Driveways should be informal and constructed of materials such as gravel.
- Garages and carports should not dominate views from Bridgewater Road.
- Open carports are preferred.
- Garages and storage sheds should be located so as to minimise visibility from the street frontage.
- A combination of informal coastal planting and low scale formal garden beds and lawn areas is supported. Large tree planting should be avoided.

Council concluded with⁶:

In implementing the Structure Plan, Council was deliberate in its approach to insert a small number of key policy objectives in the Scheme. This was because of the need for flexibility to consider a range of accommodation options that may arise in future and associated technical considerations that would raise various issues.

The background information in the Structure Plan is useful, depending on the nature of a proposal, to assist and guide interpretation of key objectives listed in the Scheme. In approving Amendment C92 the Minister for Planning accepted this approach.

This is also true of the development pre-conditions in the Structure Plan. They were designed as useful considerations to guide any rezoning that was anticipated for any future development. They are not a statutory consideration.

In context where elements of the Structure Plan are not met or are resolved in an alternative manner, it is not fatal to a proposal. In some cases, there are technical reasons why variation is required. An example in this proposal is that to achieve a BAL 40, lightweight timber materials envisioned in structure plan guidelines simply cannot be used as they are combustible.

Ultimately it is the policy in Clause 11.03-6L that is the primary consideration from the Structure Plan. Flexibility has deliberately been built in to accommodate a range of proposals plus technical considerations. Overall, this Proposal is considered by Council to be generally consistent and in keeping with the principles of the Structure Plan.

The Applicant submitted that⁷:

The Structure Plan provides emphatic policy support for the use and development of the site for the purposes proposed in this application.

⁶ Council submission, page 27, paragraphs 4.7.44 to 4.7.48

⁷ Applicant submission, page 6, paragraph 24

The Structure Plan is a key strategic tool to be used to guide how broader coastal, environmental and settlement policy objectives are to be implemented in this locality.

The Land is demonstrably capable of accommodating the development with innovative and sustainable measures for power, water, wastewater and site construction.

The reasonable expectation arising from policy is that development on the Land will be clearly visible from surrounding vantage points.

The proposal has the strong support of the Glenelg Shire which has been responsible for the strategic planning for the Land and area and the assessment of the proposal.

The proposed design and layout is of a high architectural standard, befitting the aspiration for high end tourism and the objectives for modesty of scale, and a sensitive response to landscape.

The proposal would bring about direct and sustainable economic benefits for the locality and the region.

The proposed planning tools are sufficiently flexible and effective to ensure the final design and operation of the facility is in accordance with policy and that the completed project delivers substantial community benefits.

The Applicant submitted in response to the need for the proposal to be modest that⁸:

Modest scale and high end - this reference can be linked to both the scale of the resort and scale of the buildings. Insofar as the proposed hotel is concerned:

- (a) The modesty of scale must be interpreted as sufficient for a high end resort that can support year round dining and beverage offers;
- (b) The proposal is modest in the sense that it is not of the scale seen within reach of capital cities and which frequently includes large conference facilities, for example; and
- (c) The physical modesty of scale links to site coverage (which is very low), height in numbers of storeys (at 2 storeys), and height on elevated areas (which is avoided).

The Applicant submitted *“the proposal responds to the aspiration of the Structure Plan and runs with it.”* It encouraged the Committee to *“not get caught on a word here and there, but to focus on the aspiration of the Structure Plan.”*

Mr Biacsi provided planning evidence for the Applicant. He considered *“the complexity of the policy framework in this case is notable.”* He provided a review of the Planning Scheme provisions and relevant strategic documents in his planning evidence. He referred to Clause 02.03-2 (Environmental and Landscape Values) under significant environment and landscapes where it states:

Encouraging development that is subordinate to the natural, visual and environmental landscape character and significance.

He gave evidence that the *Glenelg Tourism Strategy 2019-2026* *“highlights the limited range of tourist accommodation options and that these can be broadened and improved in order to respond to the region’s appeal as a tourist destination.”* Mr Biacsi referred to the *Great South Coast Regional Strategic Plan 2010* in highlighting the need for high quality accommodation⁹:

⁸ Applicant Part B submission, page 5, paragraph 13

⁹ Mr Biacsi evidence statement, page 48, paragraph 142

Among the factors said to limit the region's ability to better develop and protect nature based and indigenous heritage tourism assets and broaden the tourism experience and yield include a lack of high quality accommodation options to attract visitors including the proportion of multiple night stays.

This informed the *Great South Coast Regional Growth Plan 2014* which identified the need to *"provide flexibility and opportunities for a diverse range of tourism development, including an increase in the supply of appropriate accommodation and tourism infrastructure."* The Strategic Master Plan for the *Great Ocean Road Region Visitor Economy 2015–2025*, while not referenced in the Planning Scheme, notes at page 8:

To increase visitor yield, it is critical to improve many of the region's existing products, services and facilities, develop new ones and improve infrastructure to meet visitors' expectations and preferences. There is also a lack of high quality accommodation to meet demand.

Mr Biacsi considered the reference to 'modesty' in the policy framework refers to the proposals tourist accommodation offer. He stated¹⁰:

Indeed, it is the modest scale of the accommodation proposed (88 suites and 18 villas), its quality and target offering that stands as a feature of the Project and a point of difference from the more mainstream tourist accommodation available in the region.

The submission of Great Ocean Road Regional Tourism (Document 227) indicated the number of overnight visitors reduces proportional to the distance from Melbourne and the proposal would assist in meeting the accommodation demand gap.

The SCBA acknowledged in its submission that the Structure Plan seeks a tourist accommodation response for the land and *"we say the current design response is not the right fit and there will be more suitable design responses in due course that will retain the significance of this landscape."* The SCBA referred to the Structure Plan which requires development to be modest, low scale, sitting lightly in the landscape and minimising cut and fill in the Blowholes Precinct as key drivers which when viewed as a whole indicates that too much is being asked of the land resulting in buildings that will dominate the landscape and not let the landscape to continue to be the 'WOW factor'. Effectively, the SCBA submitted the proposal was an over-development of the land.

Mr Partos provided landscape evidence on behalf of the SCBA. He did not support the proposal and noted the placement of some of the key hotel buildings do not follow the contours of undulating landform (Clause 12.05-2L - Landscapes) and protrude from the contours and landscape exacerbating its visual impact when viewed from the settlement and foreshore.

(ii) Discussion

The Committee noted early in the Hearing that it considered the key issue was not whether tourism accommodation should be constructed on the land, but what it should look like and what scale was appropriate. It is clear to the Committee that the Structure Plan entertains a development of some sort on this land. The Structure Plan and its Framework Plan refer variously to tourist accommodation or a residential subdivision, or both. It cannot be said that nothing should be constructed on the land. The Committee accepts the outcome of the Structure Plan/Amendment C92 process and this PPSAC process was not an opportunity to revisit

¹⁰ Mr Biacsi evidence statement, page 63, paragraph 193

these outcomes. While some parties were concerned with this statement at the end of the first Hearing week, what it did was to narrow the focus of submissions to more relevant matters.

The Applicant maintained a distinction between references to the Blowholes Precinct in the Planning Scheme (carrying greater statutory weight) and those that are retained in the Structure Plan as a background document (carrying less statutory weight). The Committee accepts that this is a sound basis of planning.

However, the Committee considers the Applicant was selective in providing weight to some policy and guidance and not others. For instance, the Committee was advised of the strong desire for a ‘high end’ tourist accommodation outcome for the land and yet downplayed the significance of other guidance provided by the Structure Plan for modest and low scale development and minimising cut and fill, even though all these guidelines are in the Structure Plan and not the Planning Scheme.

The Committee considers that the contents of the Planning Scheme at Clause 11.03-6L (Cape Bridgewater) for the Blowholes Precinct focusses on appropriate outcomes and not any particular use.

There is no mention of a high-end accommodation outcome, but there is a reference to scale, tourist accommodation and its relationship to landscape. The Structure Plan does not state unequivocally that a high-end tourist accommodation facility is the only option. It refers to it as a potential option.

These are the strategies that are most relevant to the Committee’s consideration. The emphasis here is on proportional development that is site responsive, is not invisible but does not dominate the landscape.

The Committee has underlined some of the following objectives and strategies that are relevant to the Blowholes Precinct in the Structure Plan to demonstrate what are the key and consistent themes:

- Settlement Form 2 – to identify a preferred location for modest-scale sensitive accommodation style development and limited residential development (subject to pre-conditions). Strategies include:
 - Ensure development is designed to sit unobtrusively within the landscape and in accordance with the Design Guidelines for the relevant precinct.
 - Support development that is of a high quality, contributes positively to Cape Bridgewater’s role and character, is visually unobtrusive and respects the sensitive coastal landscape.
 - Support uses and development that reinforce Cape Bridgewater’s role as a low-scale, nature-based tourism destination.
- Neighbourhood Character 1 seeks to “*protect and enhance the low-scale built form character of Cape Bridgewater, and to maintain the landscape and vegetation setting as the defining features of the settlement.*” It will do this by supporting “*new development that respects the natural features of Cape Bridgewater such as the dunes, native coastal vegetation and views to the coastal cliffs and ocean. Removal of excessive cut and fill should be avoided.*”
- Tourism and Economic Development 1 seeks to “*promote Cape Bridgewater as a nature-based tourism destination*” by supporting “*development of modest scale tourism*”

infrastructure such as accommodation, and other facilities, consistent with nature and environmental-based tourism, at key nodes identified in the Structure Plan at Figure 6.”

- Tourism and Economic Development 2 seeks to “*support and promote a range of diverse accommodation options that are in keeping with the low-scale and informal character of the settlement*” by encouraging “*diverse, small-scale accommodation options in preferred locations ...*” and “*encourage new accommodation options in the Blowholes precinct...*” and “*encourage inclusion of dining options as part of any future group accommodation proposals.*”
- Action A11 refers to “*opportunities to potentially provide a high end ‘destination’ accommodation and dining development, of a modest scale, in the key accommodation node of the Structure Plan at Figure 6.*”
- Action A12 refers to nominating a Neighbourhood Safer Place in the settlement to address bushfire risk.
- A general objective for Cape Bridgewater is “*to support modest scale tourism and accommodation development within appropriate locations that will benefit from the direct visual and physical connection with the surrounding natural landscape.*” This is to be read in conjunction with specific objectives for each precinct.

The preferred character statement for the Blowholes Precinct is:

The Blowholes Precinct presents opportunities for low-scale development that will contribute to the tourism role of Cape Bridgewater. Development will incorporate a modest scale, potentially high-end integrated accommodation facility, combined with some low scale residential or other tourism-related development on the balance of the site.

The site will be developed to reflect the relaxed coastal character of the settlement, with informal, semi-rural streetscapes, large open space between built form, and low coastal vegetation. Development, including any subdivision and built form design, will be visually unobtrusive and sit lightly within the landscape.

Objectives are:

To support modest, low-scale development of a tourism-related nature, supported by some low scale integrated residential development or other tourism-related uses.

To provide for a movement network that is consistent with the relaxed coastal character of Cape Bridgewater.

To ensure built form is designed and sited to minimise visual intrusion when viewed from the settlement.

To provide an opportunity to enhance access to and management of the coastal cliffs.

Guidelines include:

- Buildings should be designed to sit lightly within the landscape, by minimising cut and fill.
- Built form should be sited so as to minimise visual exposure when viewed from the settlement. Built form located high on the visually exposed ridgeline should be avoided.
- Buildings of two storeys should be well articulated at the second storey, for example, though use of balconies, terraces and cantilevered elements.
- Heavy materials, such as brick and render should be avoided. Lightweight cladding materials such as timber cladding is preferred.

The guidance provided by Clause 02.03-1 (Settlement) is instructive as it states Council will facilitate development of Cape Bridgewater by:

- Containing growth and development within the defined settlement boundary, with capacity to support modest-scale tourism and accommodation opportunities.
- Encouraging development to respond to the low-scale residential character of the town.
- Encouraging development and subdivision that responds to topography, the foreshore, the fragile coastal environment and views to the sea and landscape formations.
- Encouraging view sharing between developments.

The Applicant considered a sign of the proposals' modesty was that it could not operate as a conference facility as it lacks conference rooms. The Committee accepts the need for high-end tourist accommodation in the Great Ocean Road region. According to the submissions it received, the Committee considers a well-designed, sited, and proportionate high end accommodation facility on this land could be appropriate and would meet a market demand. How this presents on the ground is the key issue. There are likely to be many options, and the answer lies in what the policy framework says as a whole and whether the proposal is acceptable.

When read as a whole, there is a consistent set of themes that development at the Blowholes Precinct should:

- have a tourist accommodation focus
- be low scale and modest
- have minimal visual intrusion
- sit lightly in the landscape and allow the landscape to dominate
- align buildings with contours to minimise visual impacts
- be achieved by minimising cut and fill.

The Applicant encouraged the Committee to not take a volumetric approach to the proposed cut and fill. The Committee disagrees. There is explicit reference in policy to minimising cut and fill in this landscape of State significance. Representing Council, Mr Beazley advised that Council still retains concerns with this aspect of the proposal even though it provides overall support. The strategic work completed as part of the Structure Plan is recent, balanced and adopted by Council. The policy issues are interrelated and minimising cut and fill will inform how a proposal responds to other policy considerations such as sitting lightly in the landscape, allowing the landscape to dominate and being modest and low scale. The Committee understands the philosophy of trying to embed the buildings in the ground to minimise its visual impact, however this is, in itself, an indication that the proposal is just too big. The land is in a landscape of State significance and what is proposed is a re-engineering of a highly prominent hill, albeit next to the Cape Bridgewater settlement, that would be a poor planning outcome and would not be site or policy responsive.

Even with the extent of cut and fill proposed the Committee does not consider the proposal has been successful in minimising its visual impact with a low scale development and allowing the landscape to dominate. The central hotel building and Lodges A, B and C (and Lodge D to a lesser extent) project out from the land contours and do not follow the land contours which creates a more striking visual impact when viewed from the settlement and foreshore. Figure 19 contains the photomontage of the proposal, without landscaping, as viewed from foreshore and clearly shows the proposal breaking the ridgeline. On this issue the Committee agrees with Mr Partos.

The western slope of the land contains the set of ‘pasture’ villas. The Committee considers this part to the proposal has been reasonably well resolved in that it minimises visual impact, is low scale, can be viewed as a set of individual buildings and does not rely on excessive cut and fill in the landscape.

Ultimately, the Committee considers the proposal performs poorly against some key aspects of the planning policy framework and should not be supported. There does not seem to be sufficient constraint exercised in line with the policy framework and what it anticipates. Issues relating to the built form, its intensity and scale, and visual impact are considered in more detail in the following chapters.

Figure 19 Photomontage view from the foreshore



(iii) Conclusions

The Committee concludes that overall the proposal in its current form is not consistent with policy and is not an acceptable planning outcome as:

- The land is in a landscape of State significance, and the proposal does not minimise cut and fill as required by policy.
- The resultant built form is not low scale, has not been successful at minimising its visual impact which leads to an outcome where the landscape is subservient to the built form.

3.3 Consistency with planning controls

(i) Evidence and submissions

Council elected not to rezone the land or apply a Design and Development Overlay control to the land as part of Amendment C92. Regarding the latter, Council advised this was to ensure there was a level of flexibility for proponents to pursue appropriate forms of development on the land. The Structure Plan proposed several pre-conditions for the rezoning of the land to the Rural Activity Zone. The Applicant initially submitted a Planning Application for the proposal which Council accepted *“as the proposed land use and development was permissible under the relevant zone and overlay controls and not contrary to the relevant planning policy framework.”*

While Council did not specifically provide a response to the RCZ or SLO3 provisions, it addressed elements of each under the themes in its submission. Similarly, Mr Biacsi referred to the zone and overlay controls but did not provide a full assessment against these. Mr Biacsi noted that the Incorporated Document, once approved, would override all other elements of the Planning Scheme.

The SCBA made a more substantive assessment of these controls. The SCBA accepted that a Residential Hotel was permissible in the RCZ with a permit however considered this was not an unfettered opportunity. The purposes of the RCZ refer to conserving, enhancing, and protecting the natural environment. The conservation values of Schedule 1 are:

To conserve the environment, landscape and vegetation qualities of the area by encouraging sound management practices and land capability principles which recognise the environmental sensitivity and biodiversity of the locality.

The SCBA referred to the decision guidelines of the zone, such as:

The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.

The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.

The SCBA noted the SLO3 cites the landscape is of State significance and referred to the following character objectives to be achieved:

To protect locally significant views and vistas which contribute to the character of the landscape.

To retain the dominant natural landscape character and sense of isolation at the coastal cliffs and edges and the clear views to the ocean.

To minimise visual clutter of the hinterland landscape with built environment to retain open spaces that provide views to the coast, capes and hinterland.

To retain natural landforms and indigenous vegetation as an essential component of the character of the rural hinterland.

To recognise that the wind turbine towers on the capes do not set the scale for other forms of development.

Key decision guidelines are:

In coastal areas, whether development is sited sparsely, minimising visibility from the roads and the Great South West Walk and maximising the retention of coastal vegetation.

Whether the visual intrusion of the proposed development is minimised in landscapes visible in the within the foreground (up to 500 m) of the Great South West Walk.

Development on the coastal side of the Great South West Walk should be strongly discouraged.

The confinement of development to existing coastal settlements wherever possible and the avoidance of any development atop cliffs and coastal landforms visible from roads, beaches and recreation locations.

The SCBA commented on the role of policy and planning controls in stating at paragraphs 43 to 46:

43 It is difficult to see that this proposal responds acceptably to the SLO3 or the RCZ.

44. Even if the Structure Plan contained policy indicating that a large resort was 'encouraged' (as distinct from being a mere possibility) such policy would have to be read down to accord with section 7(4) so that it was not elevated above specific controls, including SLO3. It could not be accorded weight that elevated the Structure Plan over those primary controls.
45. Ultimately, the Committee must determine whether a proposal of this scale and ambition is consistent with the objectives of the RCZ and SLO3. If it cannot reasonably be said that it meets the objectives of the SLO3, then on one view, it does not matter whether it can be justified by reference to policy.
46. That said, the Association recognises that the Structure Plan is a vehicle to balance and integrate the existing planning controls and policies affecting land in Cape Bridgewater. Moreover, the Blowholes Precinct provides clear guidance to contain a type of tourism accommodation within its low scale coastal context.

(ii) Discussion

Even though the approved Incorporated Document will prevail over other parts of the Planning Scheme, the Committee must still consider how the proposal responds to the RCZ and the SLO3. Council and the Applicant elected not to rezone the land to the Rural Activity Zone (as suggested in the Structure Plan) prior to the consideration of a proposal for this land, therefore, the RCZ remains a relevant consideration.

The Committee considers there is an alignment of the RCZ and SLO3 provisions with the planning policy framework and the Structure Plan. The Committee accepts that the general theme in the planning controls is to contain development and minimise its impact.

The RCZ indicates that a permit could be applied for a Residential Hotel. Whether a permit should be issued is a separate matter. The RCZ is a rural zone and not surprisingly it has a focus on conservation, protection and enhancement of natural features and provide for agricultural uses. This proposal needs to be considered against all zone purposes but in particular:

To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.

It seems the land is not currently used for agriculture, although it could be used for grazing purposes. This proposal does not incorporate any agricultural use. The Committee's consideration of the RCZ purposes needs to be informed by the outcomes of the Structure Plan. The Committee also accepts that the strategic role of the land is to support and tourist accommodation facility of some form. On this basis the Committee believes the proposal should not be hindered by a strict assessment against the RCZ in terms of the use of the land, but it still should be required to respond to the need to constrain development and minimise its impacts in response to conservation values.

The SLO3 provides an additional level of clarity. The Committee considers the proposal performs poorly against the provisions of the SLO3. In this regard the proposal:

- includes significant structures in a landscape of State significance
- does not include buildings on the top of the hill, however it does contain buildings that project forward from contours and do not follow contours to minimise visual impacts. When viewed from the settlement and foreshore this has the visual effect of structures that break the natural slope of the ridgeline

- contains the complex of hotel buildings that can be seen clearly from the GSWW, but not from that part of the land the GSWW traverses. From the south the complex presents as a large single configuration of buildings, not separate features in the landscape. The Committee does not consider the proposal seeks to minimise its visual impact from this view.

Overall, the Committee considers that the planning policy framework and planning controls, when read collectively present clear direction for this land. This includes that a tourist accommodation facility should be modest in terms of siting, height, bulk and built form, be subservient to the State significant landscape allowing for the landscape to dominate and yet take advantage of the impressive views. This can all be achieved on the land with a more modest, low scale proposal that sits comfortably with the character of Cape Bridgewater.

(iii) Conclusions

On the basis that the planning controls require the use and development to conserve, protect, minimise and enhance the natural environment, and protect locally significant views, retain the dominance of the landscape and minimise visual clutter, the Committee concludes that the proposal responds poorly to the policy framework and planning controls that apply to the land. The current scale of the proposal is not site responsive or sensitive to its landscape or context.

For reasons outlined in further detail in the following chapters, the Committee considers the proposed development in its current form is not consistent with the policy framework and planning controls for the land and is not acceptable.

The issue of net community benefit is addressed further in Chapter 13 (Overall conclusions).

4 Character and landscape impacts

The most significant issue for the Applicant, Council and the community was how the proposed built form impacted character and landscape values of the site and Cape Bridgewater. Amended plans were submitted prior to the Hearing and further amendments were made from the expert evidence called by the Applicant and its DRT.

4.1 Built form and design

(i) The issue

The issue is whether the proposed built form and design is site responsive and acceptable.

(ii) Evidence and submissions

At the direction of the Committee the Applicant engaged a peer review of the proposal with a focus on its built form and setting. The DRT provided an expert evidence statement (Document 159) and Mr Chris Goss from Orbit Images also provided photomontages of pre and post development (with and without landscaping). The Committee was advised its instructions were to conduct *“a peer review of the urban design, architectural and visual impact, the landscape and architectural merit of the proposal.”* The DRT advised the Committee it had a broad ambit which included whether it supported the proposal. The DRT worked iteratively with the Applicant’s architect (Spowers).

The recommendations of the DRT informed the amended plans that were circulated prior to the Hearing. The evidence statement included a more detailed landscape plan prepared by Mr Papworth. Two site visits were conducted to undertake a context and site analysis. Significant view lines were established at Bridgewater Lakes Road (distant view), Peacocks Road (before entering the settlement), foreshore and café, Panoramic Drive, Blowholes Road and GSWW.

The key design recommendations of the DRT were:

- Maintain the ridgeline and nestle built form into the ridgeline topography.
- Assume background tall trees will not grow successfully in the longer term and cannot be relied upon as a backdrop to the development.
- In the main, accept the landscape as it is.
- Visually link the procession of buildings across the skyline from the review site to the lighter elevated structures in the existing village of Cape Bridgewater.
- Where buildings punctuate the skyline fracture the plane of elevations so as not to create a long linear visual mass.
- Contain buildings to prevent overt views from its west. No built form would be seen west of the headland to maintain that sense of the headland acting as a finishing point for the village.
- Reference the fractured language and materiality of rock formation in the headland in new built form.
- Use rammed earth over bluestone to provide a lighter form more easily recognised externally and internally as belonging to the coast land unit.
- Maintain the distinctive shape and nature of the hill of the ‘pasture’ land unit of the review site, preserving that sense of the grassed hill.

- Express in the idea of a “folded” landscape, suggested as waves, that, “fold” the pasture villas into the landscape, rather than sitting exposed on the side of the hill.

In assessing the plans, the DRT identified the following concerns:

The pronounced horizontal silhouette against the sky when viewed from Cape Bridgewater Beach below, created by the rectilinear roof parapet lines.

The skyline profile of the Central hotel building presented as a ‘box’, albeit with an ‘eroded’ corner, also with a strong horizontal parapet.

The materiality of the proposed dark coloured basalt stone cladding for the upper levels of the Central hotel building was identified as an area of concern.

The siting of the Pasture Villas was identified as a concern, echoed as well by the Landscape Architectural appraisal.

Some key changes proposed by the DRT were the:

- breaking up the strong horizontal roof lines of the hotel lodges to be ‘fractured’ and the stepping of the north east elevations of Lodges C and D
- use of rammed earth buttressing to the hotel buildings that slightly increases the height of the central hotel building (by 1.5 metres) and using a simpler glazing configuration
- stone cladding was replaced with rammed earth materials.

In cross examination, Mr Biles confirmed the proposal treads lightly on the land and is modest.

Figures 20 and 21 contain a comparison of the application plans and amended plans.

Figure 20 Application plan view from Cape Bridgewater



The upper level of Lodge A (building to the right of view) was deleted with no decrease in room yield as the footprint was widened inland to accommodate a new series of rooms at ground level.

Figure 21 Amended plan view from Cape Bridgewater



The amendments suggested by the DRT provided variation to the orientation of the buildings, to create a more informal presence, and the use of ‘rolling’ contoured earth mounding to provide partial screening from the key view from Blowholes Road. Mr Papworth considered the large trees proposed high on the ridge were unrealistic in the prevailing conditions and:

... from a landscape perspective would be to “fold” the accommodation structures into the hillside landscape through manipulation of the landform to recede structures into the landscape.

I believe that this would allow for the existing grassed hillside paddock landscape vernacular to be partially retained. This could be achieved through a sloping grassed landscape in front of the villas that would also assist in partially screening any steeper portions of the landscape that would need to be created to accommodate the villas.

Mr Biles provided a summary of the overall design merits of the proposal¹¹:

The disaggregation of buildings into separate ‘pieces’, rather than a single entity or mass, is an appropriate response as expressed in the amended plans.

The above ground building separation to reinforce the disaggregated site organization and has been successfully resolved in the amended plans.

The orientation strategy, in terms of visual mass, maintains visual breaks from key vantage points and is now well considered and resolved.

‘Embedding’ buildings into the site, rather than ‘stepping down’ with the topography in a terraced form is a sensible design response given the nature of the use.

Building height is acceptable.

The back of house areas, car parking and services have been dealt with in a skilful manner.

Mr Papworth prepared a landscaping plan (Figure 22) that reflected the outcome of the DRT process. This plan was supported by the Applicant and contains the latest building locations, including the relocation of the two ‘coastal’ villas further up the slope. This is the plan referred to

¹¹ DRT evidence statement, pages 20-21

in Development Condition 1 of the Incorporated Document as a base plan contained in Appendix F.

Figure 22 Papworth landscape plan



Mr Partos made the following observations of Cape Bridgewater’s landscape character:

- it provides a striking character to the settlement
- existing dwellings are nestled into the landscape with the majority of dwellings sitting below the ridgelines
- those dwellings that do sit above the ridgeline are low scale and have a low visual impact
- the landscape rises significantly to the south, including the land, where the “*land rises abruptly from the sea, rising to large, distinctive hills and ridges*” in stark contrast to the landscape of the settlement. The few dwellings in this area have low visual impact
- the wind turbines are visually distinct from the buildings in the area
- landscape character has a key reference in the Planning Scheme.

Mr Partos prepared his evidence prior to the DRT process, the Papworth landscape plan and the photomontages prepared by Mr Goss. He used the height poles to prepare his own Rhino 3-D model, examples of which are contained in Figures 23 and 24. Mr Partos noted the images do not show the full built form, but a plane created by linking the height poles at either end of the hotel buildings.

Mr Partos confirmed his conclusions did not alter once he had viewed the photomontages or the DRT evidence statement.

Figure 23 Partos Rhino 3-D model – view from the foreshore



Figure 24 Partos Rhino 3-D model – view from Panoramic Drive



Mr Partos did not support the proposal and recommended the following¹²;

Reduce the number of 'larger' hotel and lodge buildings on the site to a number that can be suitably accommodated without detrimentally impacting on the sight lines to the existing ridge line (including the highest point on the site) as viewed from within the Cape Bridgewater village and the foreshore (e.g., at the café).

Reposition the larger buildings to better respond to the site contours and away from the ridgeline to ensure the ridgeline remains unobstructed when viewed from the Cape Bridgewater village and foreshore (e.g., at the Café). The built form should not result in a continuous building strip across the hillside when viewed from any direction.

Reduce the hotel and lodge building height to a maximum of 2 storeys (7m – 9m) to better reflect the existing local residential scale. Buildings may be stepped down the site to better respond to the existing contours in preference to adopting a cut and fill approach.

Reduce the number of small villas by approximately 50% (e.g., from 18 to 9) and arrange these in smaller 'clusters' in a manner that is consistent with the typology of rural homesteads or the adjacent Coastal Camp. The final number of villas should be determined through a holistic approach where the site planning, local character, context, circulation and landscape are considered in concert.

Relocate the proposed Coastal Villas to avoid any requirement for building on, or removal of vegetation from within the existing vegetated area at the east side of the site, maintaining the existing 'boundary' for the property proposed to be vested in public ownership.

Refine the landscape design to:

- Reinforce the existing rural landscape character (taking cues from local farm properties)
- Maintaining an uninterrupted view of the ridge line as viewed from within the Cape Bridgewater village and foreshore; and
- Create usable outdoor spaces that are defined by a mixture of built form and landscape.

Introduce a public pedestrian path through the site, adding to options for residents and visitors to walk around the Cape Bridgewater village. The existing Government Rd. reserve could effectively be used for this.

Simplify the design of all buildings to better reflect the local built form character, and to create a design impression of buildings 'sitting lightly' on the landscape.

Introduce some lighter weight materials for building finishes to reduce the 'solidity' of the building forms, provide some differentiation between the buildings and assist with creating a more diverse built-form character that is more consistent with the prevailing Cape Bridgewater village character.

Council supported the hotel complex of buildings as they *"are disaggregated into separate 'pieces' which disperses the visual mass when viewed from the foreshore."* Regarding the 'pasture' villas and the folding of the landscape Council submitted *"while this may minimise the visibility of the villas when viewed from Blowholes Road, Council maintains its concern about the level of site excavation and land manipulation required to achieve this."*

The Applicant submitted¹³:

Lightly on the land – this should be understood as an idea and not a specific outcome. Language like this is better understood as helping to identify whether

¹² Mr Partos expert evidence, page 56-57

¹³ Applicant closing submission, page 6, paragraph 15

something is **not** successful. In this case, the Proposal is not perched on the hilltop, it references the earth landscape within which it sits, and it incorporates glazing as encouraged under the Structure Plan. It is designed to belong to the 'place' and be remarkable for that fact.

Several community submitters referred to other tourist accommodation establishments that were high-end but, in their opinion, low scale and sympathetic to their surrounds, including:

- Three Capes Lodge, Tasmania (Mr Sebastian Harvey)
- 12 Apostles Hot Springs and Resort (SCBA – yet to be developed)
- Freycinet Lodge, Tasmania (SCBA)
- Southern Ocean Lodge, Kangaroo Island (SCBA).

Mr Meredith considered any oblique or off-centre view of the proposal would result in a joining of the buildings and present it as a single mass.

Mr Biacsi referred to the local planning policy (Clause 13.04-2L) that seeks to prevent buildings on slopes of 20 per cent or greater and suggested the 'coastal villas' could easily be relocated outside of this slope.

Towards the end of the Hearing Mr Townshend agreed that, to avoid any structures on the highest point of the land and to avoid the underground heat transfer field, that the number of 'pasture' villas should be reduced from 16 to 14.

(iii) Discussion

To its credit the Applicant established the DRT with a broad ambit to consider all issues. The DRT process resulted in some important changes to the proposal, including the relocation of the 'coastal' villas further up the slope out of the 20 degree slope, deleting a level off Lodge A, increasing building separation and an approach with the 'pasture' villas that creates 'folds' in the landscape with excavated material that would nestle the villas within the landscape and minimise their visual impact. More minor changes were made to the extent of the rammed earth buttresses to the hotel and lodge buildings.

On a broader level the Committee was supportive of the hidden (underground) car parking but accepts that this is also a function of the scale of the proposal and resulted in a significant amount of cut and fill on the land.

As outlined in Chapters 2 and 3 there is a consistent policy theme for Cape Bridgewater and in relation to this land what the built form outcome should be. This includes built form of a modest and low scale and sitting lightly in the landscape. On this issue the Committee has several concerns.

The level of cut and fill of the land is a function of the scale of the proposal. A smaller concept would result in less cut and fill and when aligned with contours should result in a proposal that sits lightly in the landscape. Any redesigned proposal should utilise the contours as an opportunity not a constraint that can be overcome with impressive architecture and built form.

The positioning of Lodges B and C present as stacked built form that can be read as a continuous built form from low on the slope to high on the slope. The Committee is concerned with the view this presents to the settlement and foreshore.

The Committee agrees with the community submitters who considered the proposal was more about the significance of the built form and not its integration into the landscape. The Committee considers the proposal would be very impressive in its setting and internally provide

unsurpassed views of the landscape. However, this ultimately is not the test the Committee is presented with by the planning policy framework.

The Committee accepts that the spacing of the hotel complex of buildings does break up built form to an extent but is not overly successfully. The complex is so large that this design element is insignificant, and the built form dominates the landscape. The Committee considers the proposed use of large buttressing forms with increased height might solve an issue with the re-use of excavated material from the site, but this has resulted in a more dominant built form in the landscape. The DRT advised the Committee that the buttresses were ‘not structural’ and designed aesthetically to detract from the overall glass form. That may be the case however the built form impacts seem to have been under-estimated. Technical Note 6 (Document 253) from the DRT and Spowers showed some reduction in the scale of the buttresses, but the Committee still retains its concern.

The ability for landscaping to soften built form is limited due to the exposed site and the predominance of low coastal scrub and lack of any substantial trees on the land. The photomontages contain large trees on the ridgeline as a backdrop to the built form; a concern that was expressed at the Hearing. The Committee has placed little weight in any landscaping that includes large trees being able to soften the built form. On this point the Committee agrees with Mr Papworth.

The amended plans do reduce building height in storeys to generally 1 to 2 storeys however when measured in metres the height of the hotel building is over 10 metres at the northern façade overlooking the settlement and does not step back or recess with the slope of the land. This therefore presents as a robust interface to the settlement and foreshore. All lodge buildings adopt the same approach and avoid any measures to setback or recess upper levels, resulting in dominant built form over 10 metres high presenting to the settlement and foreshore.

The Committee advised the Hearing that it considered the Papworth landscape plan approach to the ‘pasture’ villas has been well resolved. It acknowledges Council’s concern with earthworks proposed to achieve this but believes this is of a scale that the Structure Plan envisages for this part of the land.

(iv) Conclusions

The Committee concludes:

- The hotel complex of buildings present as a dominant and unacceptable built form, particularly to the settlement and foreshore and to the south on the GSWW.
- The policy framework for the Cape Bridgewater and the Blowholes Precinct seeks an outcome that is low scale, modest, sitting lightly in the landscape and allowing the landscape to dominate. This has not been achieved.
- If Amendment C107gelg is approved:
 - the ‘pasture’ villas have been well resolved and is reflective of a scale envisaged by policy and the Structure Plan.
 - landscaping should not include large trees to soften the development as this is unrealistic for this site.
 - the relocation of the ‘coastal’ villas outside of the 20 degree slope, closer to Lodge D is supported.

4.2 Visual impact

(i) The issue

The issue is whether the proposal has an acceptable visual impact in response to the provisions of the SLO3, the Structure Plan and the policy framework.

(ii) Evidence and submissions

Council submitted *“that the following built form, siting and landscaping treatments, as reflected in the Amended Plans, assist in minimising the visual intrusion of the development on the amenity of the existing settlement and public reserves:*

- *removal of the cliff top restaurant from the north-east portion of the site and retention of native vegetation along the coastal edge and eastern portion of the site;*
- *external finishes and introduction of ‘softer’ cladding, including rammed earth;*
- *change in roof and parapet plane and external finishes of the western elevation of central hotel building;*
- *reduction in building heights, including heights on the eastern and north slope of the dominant ridgeline set below the highest site point (noting that some vertical accents project beyond the ridgeline);*
- *increase in setbacks to adjoining properties;*
- *vegetation screening and landscape roofs to assist with integration of built form when viewed from views from Blowholes Road; and*
- *undergrounding of key services and infrastructure and use of earth berms to obscure the ancillary service plant and carpark.”*

Regarding the view from the GSWW, Council submitted:

Council notes that Lodges B, C and D, when viewed from the GSWW coastal walk and beyond the southern property boundary are visible, however the existing coastal vegetation assists to reduce the visual impact of these buildings from the coastal walk.

The SCBA criticised the lack of a visual impact assessment to support the proposal. Ms Fanning considered *“the assessment of the Applicant’s ‘Design Review Team’ should not be conflated with a visual impact assessment, or the visual impact methodology deployed by such experts.”* She *“submitted that the inability of the Applicant to procure favourable visual impact assessment evidence from a credible expert is a significant flaw in its evidence for this matter.”*

In response to this criticism the Applicant submitted¹⁴:

The criticism by the SCBA that there is “no visual impact evidence” is factually incorrect and also misdescribes the visual amenity task in this case.

- (a) First, there is considerable visual impact evidence and a range of qualified experts;
- (b) Second, the sophistication of the independent peer review should be recognised and given real weight for its independence, expertise and independence;
- (c) Thirdly, it is noted that, if some other evidence was appropriate, it was open to SCBA to produce it. But that is not the case; Mr Partos agreed that he and other witnesses were qualified for the purpose for this case; and

¹⁴ Applicant closing submission, page 6, paragraph 21

- (d) The difference here may be that SCBA submits that a visual impact assessment, of the risk assessment variety, is called for here. Such assessments are common in environmental assessments or where a visual change is anticipated without support in the planning scheme. In this case however, change is contemplated and guidance is available. It is not a useful assessment exercise here to assess impact as high, medium or low.

The DRT did not have the benefit of the photomontages during preparation of its evidence. It considered the only loss of view would be to Mr Chipman's adjoining property (located to the south) and that this would be minor in the expansive ocean views he benefits from.

Regarding the 'coastal' villas the Applicant considered they "*present no unacceptable visual impact and, where re-sited, present no other issues.*" The Applicant encouraged the Committee to consider visual obtrusiveness based on its purpose as a high-end resort.

Ms Adam submitted "*everyone is welcome to enjoy the natural wonders of the world...and the beauty of the natural environment should be left intact ... and any development should be unobtrusive to the landscape*" and "*with its rugged and magnificent vistas ... this is an inappropriate development and will have a profound visual impact being seen from kilometres away.*"

For many other community submitters, the proposals' visual impact was the most dominant issue. For instance, Mr Golding, who does volunteer maintenance on the GSWW submitted "*these clifftops are the best of Victoria's best walk ... and the grand finale of the walking experience ... as a world-class walking experience, we should not be cavalier nor careless on this impact.*"

Mr Chipman, as the owner of the dwelling to the south, was concerned with the visual bulk of the proposal and the potential loss of views.

(iii) Discussion

The Committee believes it has sufficient information to address visual impacts and does not consider the lack of a detailed visual impact assessment is terminal to the consideration of this proposal. The site visits, the photomontages and other technical notes presented by the Applicant give the Committee confidence to address this issue.

The Committee accepts that any development of this prominent site on the ocean side of the hill as envisaged by the Structure Plan will be seen from adjacent and distant views. The Structure Plan and relevant policy does not seek to make development invisible. In fact, it invites proposals "*in appropriate locations that will benefit from direct visual and physical connection with the surrounding natural landscape.*" The policy objective is to minimise visual impact and maintain the dominance of the landscape. For the Blowholes Precinct, the key visual impact view line from the Structure Plan is from the settlement.

As a function of distance, the Committee considers the most important views of the proposal are those closer to the site from within the Cape Bridgewater settlement and at the foreshore and to the south from the GSWW. The elevated views of the site from Panoramic Drive also provide a clear view of the 'pasture' villas and, due mainly to the scale of the proposal, there are views to the hotel complex of buildings which rise above the large Cypress Pine trees on the land to the north.

The Committee considers the relocated 'coastal' villas and 'pasture' villas have been well resolved and will assist in minimising the visual impacts of the proposal.

As discussed in the previous Chapter, the Committee considers that the scale of the hotel complex of buildings is not consistent with the policy intent of low and modest scale in its setting.

The Committee considers when viewed from outside of the land, the hotel complex also has unacceptable visual impacts.

The Committee understands the approach of focussing the hotel and lodge buildings towards the impressive views over the settlement and beyond and providing another longitudinal flank that maximises views over the GSWW and coastal vegetation from Lodges B, C and D. Mr Partos was critical of this approach as the buildings did not align with site contours and in this respect provided built form that projected out from the site contours. This exacerbates its visual impact and, while not located on the highest point of the land, gives the strong impression of built form that breaks the ridgeline. This is exacerbated when viewed from lower down in the settlement. The Committee notes the references to other dwellings in Cape Bridgewater that break the ridgeline but agrees with Mr Partos that these are low in number and of relatively low impact compared to the visual impact of this proposal from the settlement and foreshore.

The view from the south along the GSWW is an important view line, but of less significance than from land to the north. The GSWW rises with the landscape and provides a level view of the land. View 7 (Figure 25) of the photomontages indicates there would be a continuous built form from this view. There is little relief provided by new landscaping and all existing landscaping sits lower in the landscape. The Committee is concerned that the built form clearly breaks and extends above the ridgeline. Figure 25 does not include proposed landscaping as the Committee has no confidence the large screening trees can be established in this environment. A similar conclusion could be reached for the view from Panoramic Drive. The Committee agrees with Mr Papworth and has no confidence that screening landscaping using trees of a height of 4-5 metres would be successful in this harsh environment.

The Committee inspected the land from Mr Chipman's property where he benefits from wide expansive view of the capes and Bridgewater Bay. He does not have a view into the settlement due to the hill obscuring the view. The Committee accepts there may be some loss of view however this is in a direction away from the most significant views that will be retained. The Committee considers this is an acceptable outcome.

Figure 25 View from the south post -development along the GSWW (focussed view)



(iv) Conclusions

The Committee concludes:

- The proposal will not result in unacceptable loss of views from private property.
- The hotel complex of buildings will have an unacceptable visual impact when viewed from within the settlement and the foreshore and to the south from the GSWW.

5 Tourism and economics

5.1 The issue

The issue is whether the proposal will meet a tourism market demand and result in positive economic benefits.

5.2 Evidence and submissions

Mr Quick provided economics and tourism evidence on behalf of the Applicant. He considered:

- There is strong and ample strategic justification from a tourism and economic development perspective, at both the state, region, and local level, for the development of a high-end tourist accommodation facility on the subject.
- The Shire needs investment into both existing and new growth industries capable of generating jobs to retain existing residents and attract new residents. The local tourism sector has potential for growth.
- While Glenelg offers some of the most appealing sights along the Great Ocean Road, the absence of quality accommodation facilities has impacted on its ability to attract more visitors to support the growth of local tourism.
- As the local economy continues to transition away from manufacturing, new opportunities such as those likely to be generated by the proposed development will be crucial to the health and sustainability of the Glenelg economy.
- Substantial employment and economic benefits will likely be generated for the Glenelg Shire as a result of the resort and hotel development;
 - 31 direct and 63 indirect FTE jobs on average for the equivalent of one year during construction for the Glenelg Shire.
 - \$6.1 million direct and \$9.1 million indirect gross value added contributions on average per annum during construction to the State economy, with most of that growing the Glenelg Shire economy.
 - 120 FTE direct jobs in the resort and 18 indirect FTE jobs on an on-going operation basis at capacity as a result of the development.
 - \$11.3 million direct and \$3.1 million indirect annual gross value added contribution to the State, with almost all of that benefit accruing to the Shire's economy.

Mr Quick considered a larger number of rooms (compared to boutique examples) would enable the resort to meet peak demand and smaller number of rooms would reduce the estimated economic benefits. Mr Quick considered the proposal would provide comparable accommodation to The Cumberland at Lorne and the RACV resorts at Torquay and Inverloch. Mr Quick accepted that he had not critically analysed the 65 per cent occupancy rate as this was provided by the Applicant as an assumption. He considered that Warrnambool and Port Fairy tourist would travel to Cape Bridgewater as part of an extended stay.

Mr Campbell provided economics and tourism evidence on behalf of the SCBA. He summarised his opinion as:

- The Glenelg Shire (and Cape Bridgewater specifically) are relatively small tourism destinations that do not currently attract or support a large number of visitors every year, compared to numerous other existing and well-known visitor destinations in regional Australia.

- The local accommodation market in the Glenelg Shire is largely supported by commercial accommodation in Portland, which is typically older in nature and provides a more traditional motel experience.
- The local accommodation market in Cape Bridgewater has no formal commercial accommodation and provides only B&B and holiday house style accommodation.
- Cape Bridgewater has a number of nature-based assets including Cape Bridgewater Bay, Shelly Beach, GSWW, Blowholes and Petrified Forest, which could be further leveraged to support increases in visitation as well as increases in accommodation provision.
- The Glenelg Shire and Cape Bridgewater are relatively removed from the more well-known and accessible attractions and destinations of the Great Ocean Road tourism region.
- The identified site is attractive for future visitor accommodation development.
- Cape Bridgewater lacks accessibility, visitor amenity, activities and experiences required to support large scale commercial accommodation.
- Based on the case study analysis and other research above, at the current scale, the constraints affecting the destination may affect the site's ability to maintain a sustainable annual occupancy rate.
- A staged development approach or a smaller overall development would fit better with the destination at this current time and would mitigate the risk of not achieving a sustainable occupancy rate.

Mr Townshend considered both experts were “*ships in the night*” in that “*Mr Quick assessed the justification for a hotel of this size, as well as the benefits of the proposal*” and “*Mr Campbell sought to assess the viability of the project by reference to current market conditions.*”

Mr Townshend submitted:

Mr Campbell acknowledges that the Land is attractive for future visitor accommodation development. His evidence does not contradict the analysis of Mr Quick, as he does not undertake an economic assessment of the Proposal but rather seeks to argue that the Proposal may not achieve anticipated patronage levels.

Mr Campbell's reliance on the financial characteristics of the existing accommodation market are not a reliable basis to draw conclusions about the future financial performance of the hotel. The fact that the existing market is dominated by low cost accommodation is indicative of an opportunity, not a constraint. Mr Campbell has also failed to properly weight the destination character of the Hotel – creating its own critical mass and attracting high-yield visitors.

The SCBA considered there were far too many assumptions (including an assumed occupancy rate of 65 per cent) and “*the absence of any feasibility analysis on the part of the Applicant is a significant gap in its evidence.*” Ms Fanning concluded¹⁵:

Mr. Campbell's evidence, he suggests that a smaller development in this location may have a better chance of achieving sustainable occupancy levels. He identifies factors that are relevant to the ability of resorts in relatively remote locations to draw and retain customers.

In that context, the Committee can have regard to average occupancy rates achieved for all forms of accommodation across the Great Ocean Road region and

¹⁵ SCBA submission, page 29, paragraphs 115-117

including Portland, relative to occupancy rates in other areas. The more likely analysis is that the occupancy rates may be much lower than 65%.

It follows that the benefits assessed by Mr. Quick are likely overstated and unreliable.

Ms Fanning submitted the 65 per cent occupancy level was on par with CBD hotel occupancies pre-COVID-19.

Ms Fanning referred to the *Market Assessment and Tourism Investment Guidelines 2008* and noted it reinforces the need for an assessment of market demand, locational constraints and financial feasibility. Ms Fanning referred to other accommodation proposals in the region such as the 12 Apostles Resort that had not secured funding yet and was to be built in stages as demand grows as an example of the viability of resorts in cold climate areas with significant peaks and troughs in demand.

Mr O'Brien provided a detailed critique (Document 287) of Mr Quick's evidence. He questioned the "*build it and they will come*" theory in an area that is remote from a capital city market, the reliance on international tourism post-COVID in a location that traditionally is dominated by domestic tourism, and the reliance on an occupancy rate like the central Melbourne.

Mr Beazley informed the Committee that Council had requested an Economic and Tourism Market Analysis Report during the assessment of the Permit Application and the Applicant refused to provide one. However, he advised:

Council strongly supports the significant economic benefits the Proposal will bring to Cape Bridgewater and the municipality, both short term (during development) and long term via both employment and local economy via increased visitations.

Objector submissions contest the financial viability, demand forecasting and projected economic contribution of the proposal.

While the *Planning and Environment Act 1987* does require consideration of significant economic effects, this consideration rarely extends to the financial viability of a project.

In terms of objector concerns about projections on economic contributions it is respectfully submitted that those concerns appear overstated. Whilst there may be some variation of figures, given the scale of investment, the Proposal will still deliver a significant economic contribution to the Shire as set out above.

Mr Walshe considered the anticipated 120 effective full time workers was an over-estimate. In questioning Mr Quick he considered that at an average of \$400 per night, across 104 rooms and an average occupancy of 65 per cent the proposal would generate around \$10 million from accommodation. Adopting an average annual staff salary of \$60,000 there would be a wages bill of around \$7.2 million. On top of this would be food and drink spending. Mr Quick generally agreed with this analysis but could not comment on whether this would make the proposal financially viable.

Mr Townshend responded to criticism by the SCBA and the community that there has been no demonstration of the need for a high-end tourist resort in Cape Bridgewater¹⁶:

No Proponent is required to provide a feasibility analysis as part of demonstrating need for a project. Putting aside commercial privacy, it misconstrues the nature of planning approval and planning assessments. The general proposition is that it is unnecessary to prove need for a project but that evidence of need can be taken into

¹⁶ Applicant closing submission, page 17, paragraph 53

account as a factor in support of a proposal. In this case the need is evidenced by policy. In this sense, it is corroborated by both witnesses.

Ms Price from Great Ocean Road Regional Tourism Ltd that services the area from Torquay to the South Australian border, provided statistics (Document 227) that show the Glenelg local government area performs poorly compared to others in the region for domestic day and overnight visitors. This is due to the lack of tourism product, distance from a capital city and the need for a detour off the main road network to access the coast.

Ms Price advised that supply-side change is critical in recovering from COVID-19. The Cape Bridgewater resort would be important in tapping a new high-end market and extending tourist stays and “*dispersal beyond the 12 Apostles.*” A target market is the high value traveller which typically travels long haul, prefers visiting Australia, coastal, wildlife and nature are key attractions and has a high likelihood of travelling for longer and spending more. Ms Price considered the proposal would fill an accommodation demand gap and is consistent with the Great Ocean Road Region Master Plan and the Great Ocean Road Region Action Plan.

5.3 Discussion

The Committee acknowledges that any vacant land that is developed as an income generating tourist use will provide tourism and economic benefits. No submitters took the position that there would not be tourism or economic benefits. The key issue was whether the forecasts as contained in Mr Quick’s evidence were sound and realistic.

The purported economic benefits seem to have been a ‘moving feast’ from those contained in the supporting documents for the Permit Application and that in Mr Quick’s evidence. The Committee understands the scale of the proposal has been reduced slightly with the removal of the tunnel and restaurant, however the number of rooms have been retained which is the principal income driver. Table 2 provides a comparison of the data. Given the number of rooms has not changed, the reason for the 22 per cent reduction in construction employment or 54 per cent reduction in operational employment is not clear to the Committee. What this indicates is that forecasting is an imprecise science that is based upon assumptions, scenarios, and estimates.

Table 2 Employee and economic impact comparison

	Permit application ¹⁷	Amendment C107gelg amended plans ¹⁸	–
Project cost	\$85 million	\$55 million	
EFT employees – construction	120	94	
EFT employees - operational	245	138	
Economic impacts - construction	N/A	\$12.8 million	
Economic impacts – operational	\$60 million	\$14.2 million	

What is surprising to the Committee is the significant reduction in economic benefit from what was initially envisaged. The reduction equates to 76 per cent in economic benefit which seems to be disproportionate to the changes to the plans, especially where there is no reduction in the

¹⁷ Taken from Explanatory Report

¹⁸ Taken from Mr Quick’s PowerPoint presentation

number of rooms. This is a further reason why the Committee places little weight in these figures.

Mr O'Brien commented on the reliance on what he considered was an ambitious occupancy rate of 65 per cent throughout the year, which apparently is on par with that of central Melbourne. The Committee shares this concern and agrees with Mr Quick that a larger number of rooms would enable the development to meet peak demand (January) and a reduced number of rooms would result in less economic benefit. Considered in its own prism the economic benefit of the proposal would appear significant however this is not the only consideration for the Committee. A development of lesser scale would still provide an ongoing economic benefit. Further, a reliance on an occupancy rate of 65 per cent seems to be optimistic in a cold climate environment where there are significant fluctuations in demand.

Council is clearly supportive of the proposal and its economic benefits.

There is mentioned in the Structure Plan of the need for a potentially high-end tourist resort on this land. This has not been carried forward into policy, but the Committee generally agrees that high end accommodation would service a need along the Great Ocean Road region more generally. As the Committee has stated earlier there is not a one-size-fits-all approach for a high-end facility on this land. Other examples referred to such as the Southern Ocean Lodge at Kangaroo Island is considered high-end but is of a quite different scale. It is the scale of this proposal and how it responds to policy and site constraints which are the key issues. The Committee has not considered other tourist accommodation proposals it was referred to and the problems with securing finance. This is a business risk the Applicant will need to overcome and is not a relevant planning consideration.

The Committee acknowledges that Cape Bridgewater is not located on an identified tourism route and would require a detour from and an extension to the Great Ocean Road region to tap into an existing market and encourage tourists to extend their stay in this region.

5.4 Conclusion

The Committee concludes the proposal would result in economic benefits, although undefined.

6 Biodiversity

6.1 Flora

(i) The issues

The issues are whether the removal of native vegetation is consistent with:

- Clause 52.17 (Native Vegetation) and the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017)(the Guidelines)
- the Structure Plan.

The land contains a total of 4.044 hectares of native vegetation, principally located east of the rural fence covering the GSWW, the cliffs and down to the beach. Remnant native vegetation represents two Ecological Vegetation Classes (EVC); Coastal Headland Scrub (EVC 161) and Coastal Alkaline Scrub (EVC 858).

Plan TP.006 of the amended plans indicates the proposal would result in the removal of native vegetation to allow for the construction of the two 'coastal' villas, access tracks internally and access to Blowholes Road and defensible space to manage bushfire risk.

(ii) Relevant policies and strategies

The following relevant policies apply:

- Clause 12.01-1S (Protection of Biodiversity) and Clause 12.01-2S (Native Vegetation Management).
- Clause 52.17 (Native Vegetation) of the Planning Scheme requires a planning permit to remove, destroy or lop native vegetation. The assessment process for the clearing of vegetation follows the Guidelines which seek to achieve the objectives of Clause 12.01-2S "*to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation, through the three-step approach:*
 - *Avoid the removal, destruction or lopping of native vegetation.*
 - *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
 - *Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.*"

The Structure Plan contains a plan that indicates native vegetation is to be retained on the land, depicted by a darker green shading (refer to Figure 6) and proposes that this area become public land and rezoned for such use.

(iii) Evidence and submissions

Mr Organ provided flora and fauna evidence (Document 158) on behalf of the Applicant. He found that 0.532 hectares of native vegetation would be impacted by the proposed development from an area with 11 to 15 years old vegetation that had regenerated since it had been previously cleared and fenced for agricultural purposes. No scattered trees or large trees in patches were recorded within the study area. Mr Organ stated that this is due to the land being predominantly cleared or covered by a treeless EVC.

Mr Organ’s evidence included a description of the targeted surveys for four flora species listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) – the Leafy Greenhood (*Pterostylis Cucullata subsp. Cucullata*), Dense Leek-orchid (*Prasophyllum spicatum*), Limestone Spider-orchid (*Caladenia calcicola*), and Coast Ixodia (*Ixodia achillaeoides subsp. arenicola*). These flora species were not found during the field surveys.

Mr Brooks (DELWP) outlined previous correspondence between the Applicant and DELWP which requested the Applicant to follow the three step approach and to avoid removal of native vegetation where possible. DELWP submitted that its expectation regarding application of the Guidelines at the land “*was and remains that all opportunities should be pursued to avoid loss of native vegetation by locating built form elements within the cleared part of the land*”¹⁹. Mr Brooks clarified that DELWP supported the amended proposal but preferred the use of the pasture area for villas but did acknowledge that relocating the ‘coastal’ villas further up the slope resulted in less vegetation removal and was a substantial response to the policy setting.

Mr Brooks asked Mr Organ whether the avoid, minimise and offset three step approach had adequately been addressed for the land. Mr Organ stated that he understood that the Applicant could use the cleared land as a starting point (that is the avoid principle) however there are often competing objectives and that overall, from an ecological point of view the removal of native vegetation proposed for this development was not significant.

Mr Organ stated that the more mature and valuable native vegetation within the proposed development area is in the north-eastern area of the land and should be avoided. The proposed deletion of the restaurant and access tunnel ensures this vegetation will remain intact. The highest diversity native vegetation and habitat is found in this area which has evidently experienced less pressure from grazing and clearing. This area of the land is not proposed for development and when asked by Ms Fanning, Mr Organ agreed that this vegetation is an important habitat corridor along the coast. Mr Organ found that²⁰:

Despite the small area of highly modified vegetation to be removed (0.532 hectares), the proposed development does not contradict the objectives of the ESO1 or SLO3, in that ecological values along the coastal environment will be protected and areas across the study area will be revegetated with site indigenous plants as part of the landscape plantings.

Mr Brooks asked if there were potential impacts to native vegetation associated with the inclusion of an access track to the GSWW. Mr Organ suggested that having a delineated access track from the land to the GSWW is recommended to discourage people finding their own way down to the GSWW which would cause more damage to the coastal vegetation.

Mr Organ was asked by Ms Fanning and submitters whether the landscape plan included appropriate species for the landscaping of the land. On review, Mr Organ suggested some of the species were not appropriate and agreed they were environmental weeds. A revised planting species list was provided as an appendix to Technical Note 2 (Document 217).

Mr Organ confirmed that the relocation of the two ‘coastal’ villas would reduce the removal of vegetation even further to 0.415 hectares²¹.

¹⁹ Document 215, page 1

²⁰ Document 181, page 33

²¹ Technical Note 2, Document 217

Mr Organ was asked by the Committee about the potential for erosion due to the removal of native vegetation in close proximity of the slope and he acknowledged that removal of vegetation could lead to further erosion.

Mr Organ submitted in his evidence that the overall outcome for the land regarding biodiversity is a good outcome as the ecological values are proposed to be enhanced through the landscape plan and replanting across the land as part of the development.

Mr Townshend submitted the removal of native vegetation was not inconsistent with the Structure Plan. He considered the Framework Plan contained at Figure 17 was an indicative plan and based on an arbitrary line (possibly the fence line) within the land and that the Committee should not afford too much weight to this detail and rely on the evidence provided.

(iv) Discussion

Although the land supports just over four hectares of native vegetation along the eastern third of the land, much of this vegetation is dense Coastal Headland Scrub that runs down the significant slope and cliffs to the water. The GSWW runs through the native vegetation and is managed by Parks Victoria.

Through the DRT process, the Committee notes that the Applicant, in consultation with DELWP and the project ecologist, has reduced the amount of native vegetation to be removed from the original application of 0.923 hectares of native vegetation to 0.415 hectares. The Committee agrees with Mr Organ that moving the two 'coastal' villas back into the land further reduces the amount of native vegetation to be removed and is a better outcome for native vegetation. It also understands the position of DELWP and the Guidelines where avoidance is the first step and therefore does not agree with the original location of the 'coastal' villas so close to the slope and where more native vegetation is required to be removed. The final revised offset calculation would need to be reflected in the conditions of the Incorporated Document. The Committee notes the submission from DELWP²² that this will need to include a final calculation once the position of the access track is resolved (that is, whether it is as shown on the application plans or a new access utilising the unmade road to the north as a greenlink).

Overall, this is not a significant amount of native vegetation proposed to be removed if the 'coastal' villas are set further back as per the Papworth landscape plan and the Committee notes that this avoids the most significant patches of native vegetation. Notwithstanding, the Committee does have reservations regarding the impacts of removing native vegetation on the potential visual impact and erosion of this part of the land which could impact on the users of GSWW or the land below, which is proposed to be transferred to public ownership. Management measures would need to be in place to ensure such risks are minimised.

The Committee finds that although not completely in line with the Structure Plan, in that no development is shown to occur within the area of native vegetation, it accepts that the Applicant has demonstrated an approach to reducing the removal of native vegetation from an area of lesser quality through the advice of the DRT and Mr Biacsi. The Committee considers this is an acceptable response rather than following the internal fence line within the land depicted in the Structure Plan.

²² Document 215, page 23

The Committee accepts the evidence of Mr Organ that the Coastal Headland Scrub to be removed is of lower significance, however, also agrees with Mr Organ that removal of native vegetation can result in greater erosion particularly near the two ‘coastal’ villas if mitigation is not in place. The Committee notes that the Urbis planning report²³ submitted with the Permit Application states:

The vegetation provides important cover and protection for habitat and existing Great South West Walk which traverses through its upper reaches. The vegetation is important to the stability of the dune system and preventing landslip of highly erodible coastal soils.

(v) Conclusions

The Committee concludes:

- That the amount of native vegetation to be removed will not have a significant impact and is of lower quality than that native vegetation to be retained along the eastern slope. This conclusion is contingent on the relocation of the two ‘coastal’ villas in accordance with the Papworth landscape plan, resulting in a reduced amount of native vegetation to be removed. The relocation of the two ‘coastal’ villas would also reduce the potential for erosion and instability of the cliff areas by retaining some vegetation in this area that would have otherwise been removed.
- That it agrees with DELWP that ideally the development would utilise the cleared area only (that is following the three step approach of the Guidelines), however as DELWP also acknowledged, the Applicant has demonstrated through an iterative process a willingness to avoid, minimise and offset native vegetation.
- If Amendment C107gelg is approved, the Committee’s preferred Condition 6.39 of the Incorporated Document is sufficient to capture any recalculations of final native vegetation removal on the site.

6.2 Fauna

(i) The issue

The issue is whether the potential impacts to native fauna from development of the land and removal of habitat are acceptable.

There are native fauna species that are known to use or potentially use the coastal scrub areas on the eastern section of the land. This includes the Rufous Whistle bird and potentially the endangered Southern Bent Winged Bat (SBWB).

(ii) Evidence and submission

Mr Organ stated²⁴:

Based on the modified nature of the study area, landscape context and the proximity of previous records, significant fauna species are considered unlikely to rely on habitat within the study area for foraging or breeding purposes due to the lack of suitable and/or important habitat features.

²³ Document 10, page 11

²⁴ Document 15, page 13

Mr Brooks stated that DELWP were aware of known caves within the region for the EPBC Act listed critically endangered SBWB. DELWP's submission²⁵ states:

Its population has dramatically declined over recent years. There are 3 known maternity sites for the species, two being located in Victoria, one of which is located within less than three kilometres of the proposed development site.

SBWB are very likely to forage across the site nightly, particularly in the summer breeding season. Accordingly, DELWP prioritises retention of native vegetation in such areas ...

DELWP acknowledges the longer term benefit represented by the extensive revegetation works proposed in the landscaping plan. Revegetation and lighting across the site is likely to attract more insects to the site, supporting bats' foraging.

The condition sought in DELWP's 6 July letter addressing lighting in the development was focused directly on the aim of maintaining dark foraging conditions for fauna including SBWB. Excessive lighting may displace bats from useful habitat. Its translation in the draft Incorporated Document has lost any representation of this intent.

Mr Brooks asked Mr Organ whether there was potential for the SBWB to be present on the land. Mr Organ responded that he had not observed any maternity caves on land and that there is nothing unique about the land that would impact on the SBWB and therefore considered that there would be a low risk to the species from the development.

Mr Organ, in reply to questions from the Committee and Mr O'Brien regarding potential bat and bird collision from the extensive use of windows, confirmed that there would be collisions with windows, but this was no different than from vehicle collisions with native fauna. He submitted that this is more of an issue for smaller bird species such as Superb Fairy Wren and honeyeaters.

When asked by Ms Galewski, (Submitter 9) about the fauna species likely to use this area of coast Mr Organ referred to his evidence where he noted that the Rufous Whistle bird is likely to occur on land and that there would be several small native birds utilising the Coastal Headland Scrub.

Ms Galewski asked whether Mr Organ had considered the presence of the Southern Brown Bandicoot and Rufus Whistle Bird. Mr Organ replied that in his experience, the habitat is not suitable for the Southern Brown Bandicoot however encouraged community members to document such occurrences so that they could be verified and potentially be added to the DELWP database. Regarding the Rufus Whistle Bird, Mr Organ advised that it is likely to occur in the Coastal Headland Scrub area and noted that a full list of potential and likely species is included in the appendix to his evidence.

Mr Lees (Birds Australia) raised concerns about the proposed development and the potential for increase in tourists to impact on a known breeding pair of Hooded Plovers that nest along this stretch of coastline if any walking track was proposed from the resort directly to the beach.

(iii) Discussion

The Committee is not convinced that the development will not have impacts on native fauna, particularly on the SBWB and bird collision if the built form is to include extensive windows as proposed. However, it accepts Mr Organ's evidence that there is unlikely to be significant effects on avifauna listed as threatened under State Flora and Fauna Guarantee Act 1988 or the EPBC Act occurring on the land.

²⁵ Document 215, page 2

The Committee considers that it is quite plausible that the SBWB utilises or forages within or adjacent to the land as there are known maternity caves within close proximity to the land. However, it acknowledges no evidence or avifauna assessment was provided on this issue.

DELWP proposed a condition be inserted into version 3 of the Incorporated Document to include reference to operational measures specifically to avoid or minimise potential impacts on local native fauna, including but not necessarily limited to the SBWB.

The Committee accepts the concerns raised by DELWP and agrees that the amendments proposed by DELWP regarding lighting and fauna management should be included in the Incorporated Document.

Regarding the issue raised by Mr Lees, the Committee notes that an access track from the site is proposed to link to the GSWW only, and not beyond to the beach.

(iv) Conclusions

If Amendment C107gelg is approved, the Committee accepts the DELWP proposed updates to the Incorporated Document to strengthen the need to monitor populations during the life of the project for such species and to require a Lighting Management Plan (Condition 6.14).

7 Environmental risks

7.1 Bushfire risk

(i) The issues

The issues are whether the:

- proposal will be able to manage bushfire risk
- central hotel building should be used as a Shelter-in-Place structure for the community to access.

(ii) Relevant policies, strategies and studies

Clause 13.02 Bushfire Planning applies to this proposal in a BPA. The key objective of the policy is *“to strengthen the resilience of all settlements and communities to bushfire through risk-based planning that priorities the protection of human life.”*

(iii) Evidence and submissions

A Bushfire Management Statement and Bushfire Emergency Management Plan were submitted as part of the Permit Application. Ms Steel was the author of these and provided expert evidence on behalf of the Applicant.

She concluded the landscape fire risk is deemed to be low and that the Bushfire Attack Level (BAL) parameters have been set in line with Australian Standards. The Shelter-in-Place hotel building would be built to BAL40 design parameters for fire risk. This was to allow, in part, time for emergency vehicles to access the site from out of town.

The CFA assessed the application plans and had no objection to the proposal and proposed several conditions, such as the requirement for the Shelter-in-Place hotel building to be constructed to BAL40 standard, a requirement around defendable space, and site access requirements²⁶. These conditions have been included in the Incorporated Document.

Mr Galewski (Submitter 5), a member of the local CFA, raised several concerns about the proposed Shelter-in-Place building²⁷:

I wish to raise my concerns and those of the brigade about the applicant’s invitation for the local community, and therefore the general public, to shelter at the resort during wildfire.

The Brigade and I consider this offer to be very dangerous.

Bridgewater Beach is Portland’s surf beach. On a hot day, it is not uncommon to have 150 cars parked at the foreshore car parks and along both sides of all the roads.

Glenelg Shire Council has refused to declare the beach a “Bushfire Place of Last Resort (BPLR)” and instead, advises the residents of Cape Bridgewater to “Leave Early” on high fire danger days.

... If the public choose to shelter at the resort, they must also travel through an area under a BMO which has highly flammable vegetation either side of the road and stairs.

²⁶ Document 29

²⁷ Document 313, page 5

Walking up the steep slope to the resort through a tunnel of coast tea-tree would be suicidal if those highly flammable shrubs caught fire.

Driving up the road from the beach to the resort is also an issue as the road is narrow with no room to park on the shoulder. Smoke will affect visibility, possibly causing accidents, leaving vehicle occupants exposed to lethal wildfire conditions.

In addition vehicles parked or stopped on this road will impede the progress of emergency vehicles thus affecting their response.

The Brigade and I have great concerns that if the public are invited to shelter at the resort, people who choose to drive or walk from the beach to the resort during a wildfire, risk injury or death if caught in a burn-over.

Mr O'Brien (Submitter 7) advised there were current efforts to make the Surf Lifesaving Club a Shelter-in-Place option and that another option would confuse the community as they currently use the beach as the main fire access and evacuation point.

Regarding these concerns raised by submitters, Ms Steel responded that the Shelter-in-Place building provides another option for the community to use, there is no compulsion to use it and noted that having a Shelter-in-Place building does not guarantee protection of life.

Mr Brooks confirmed this was the first example in Victoria of a private building being used as a Shelter-in-Place structure and DELWP were not opposed to such a use and had assessed the removal of native vegetation with this in mind.

In response to community submitters concerns regarding the Shelter-in-Place option, Ms Steele emphasised the importance of community members to have their own Bushfire Emergency Plans. The development would also be subject to a Bushfire Emergency Management Plan and Bushfire Management Plan, which she agreed after questions from the Committee, should be subject to consultation with the CFA in addition to being approved by the Responsible Authority.

The Applicant submitted that the evidence of Ms Steel concludes that the proposal has prioritised the protection of human life and property by²⁸:

- (a) Assessing bushfire risk by reference to a landscape assessment of risks up to 50km from the Land, to determine the level of bushfire mitigation required
- (b) Managing a large area of the Land to a low threat condition, in accordance with Table 6 to cl 53.02-5
- (c) Siting buildings to ensure that all but the Coastal Villas are not exposed to radiant heat loads greater than 12.5kW/sqm
- (d) Providing adequate access to the Land is provided for emergency vehicles including perimeter access along the north, west and southern boundaries
- (e) Providing a fire hydrant system with 4 hours water supply to facilitate firefighting capacity within the Land and the hotel buildings
- (f) Preparing a Bushfire Emergency Management Plan (BEMP) to mitigate the risks associated with the development.

Mr Beazley advised if the Shelter-in-Place requirement in the Incorporated Document was to be administered by a section 173 agreement then Council would need to be party to the agreement, which it does not accept.

²⁸ Document 181, page 34

(iv) Discussion

The site is not affected by the Bushfire Management Overlay however is within a BPA. The Committee accepts the evidence of Ms Steele that the landscape fire risk is deemed to be low.

The Committee accepts that the revised siting and layout has been informed by bushfire management considerations and that measures would be put in place as part of the Bushfire Emergency Management Plan for those buildings not deemed as BAL40 such as the two 'coastal' villas.

The Committee accepts that the proposed Shelter-in-Place building would offer the community a choice in the event of a fire danger but is not to be considered the only response option the community would need to have for fire risk.

The Committee accepts that the proposal will be able to manage bushfire or grass fire risk on site.

(v) Conclusions

If Amendment C107gelg is approved, the Committee concludes that:

- there is a net community benefit in having a Shelter-in-Place building that is constructed to a BAL40 standard.
- it is satisfactory if the conditions 6.47 and 6.48 of the Committee preferred version of the Incorporated Document be introduced so the Bushfire Management Statement and Bushfire Emergency Management Plan are to the satisfaction of the CFA, in addition to the responsible authority.

7.2 Geological features and landslip

(i) The issues

The issues are whether:

- the land has the potential for landslip or geological features such as caves or voids
- there is the possibility for land instability to be exacerbated by the proposed development and extent of excavation.

(ii) Relevant policies, strategies and studies

The following relevant policies apply:

- Clause 12.05-2L (Landscapes) - retain natural landforms and indigenous vegetation as an essential component of the character of the rural hinterland.
- Clause 02.03-3 (Environmental risks and amenity) – Soil degradation: *“Limestone cliffs, steeper earth slopes and coastal dunes along the main rivers and coast are susceptible to erosion as a result of landslip. A significant problem is the existence of slopes in excess of 20 degrees where further development and vegetation removal would compromise land stability.”*
- Clause 13.01-2S (Coastal Inundation and Erosion) – Strategies: *“Avoid development in identified coastal hazard areas susceptible to inundation (both river and coastal), erosion, landslip/landslide, acid sulfate soils, bushfire and geotechnical risk.”*
- Clause 13.04-2S (Erosion and landslip) – Strategy: *“Identify areas subject to erosion or instability in planning schemes and when considering the use and development of land.”*

- Clause 13.04-2L (Erosion and landslip) – Strategy: *“Minimise development in steep locations.”*
- Clause 13.04-2L (Erosion and landslip) – Policy guidelines: *“Consider as relevant – Discouraging development on slopes in excess of 20 degrees.”*
- Section 2.1 of the 2014 Coastal Strategy indicates that a desired outcome in relation to coastal hazards and processes is that *“New development, reuse and development avoids areas subject to coastal hazards...”*, with the policy for decision-making including *“6. Avoid development in sand dunes, low-lying coastal areas and in identified coastal hazard areas susceptible to inundation (both river and coastal), erosion, landslip/landslide, coastal acid sulphate soils, bushfire and geotechnical risk.”*

The schedules to the SLO3 and ESO1 refer to coastal landscapes and erosion management but they do not specifically address landslip. However, a State strategy in the Planning Scheme indicates that, in general, limestone cliffs, earth slopes and coastal dunes steeper than 20 degrees are susceptible to landslip and should be avoided.

(iii) Evidence and submissions

Mr Finlayson provided geotechnical evidence on behalf of the Applicant and concluded there are no geotechnical constraints that would prevent the proposed development and future design and construction and using typical or standard procedures or practices would be sufficient.

Based on review of the previous investigations of the land that included a review of four boreholes as well as a site visit, Mr Finlayson concluded that the land geology inferred Newer Volcanic (basaltic) tuff as all boreholes encountered this at between 4.4 metres and 6.8 metres. He submitted that the assessment by AS James²⁹ that suggests this is limestone is erroneous but nevertheless, is immaterial to his assessment of the potential geotechnical constraints as it is the engineering properties of the sub-surface units as opposed to their geological origin that are important in determining geotechnical constraints. He states³⁰:

In fact, the absence of limestone across the site means that the potential for karstic features (solution features - which are more prevalent in limestone formations) impacting the design, construction and performance of footings is negligible.

Mr Chipman (Submitter 2) questioned Mr Finlayson regarding his conclusions about the geology since Mr Chipman’s own house (directly south of the site) was required to be set further back from the ‘slip zone’ due to geotechnical instability concerns raised by the geotechnical study. Mr Finlayson maintained that the geology is not limestone but basaltic tuff. Through several questions from Mr Brooks, Mr Walshe and the Committee, Mr Finlayson acknowledged that there could be limestone present but *“no prospect of karstic features.”*

Mr Colls provided further geotechnical evidence on behalf of the Applicant. He agreed with Mr Finlayson and concluded the description of the land geology as limestone on the AS James boreholes was not consistent with the published geological information for the land³¹:

The Property is predominantly underlain by rocks of volcanic origin derived from the Quaternary Newer Volcanics unit including basalt, tuff or scoria. These rocks are present beneath most of Cape Bridgewater and are exposed below younger

²⁹ Provided as part of the IrwinConsult infrastructure report with the permit application

³⁰ Document 155, page 8

³¹ Document 156, pages 7-11

sediments/calcareous dune deposits on the west side of the cape at the geological feature known as the 'petrified forest'...

The map sheet indicates Bridgewater Formation materials outcrop on the east and northwest sides of the Property, which is generally consistent with my observations during the site visit. My site observations indicate that Malanganee Formation swamp deposits and sand dunes are present as a capping across parts of the Property ...

I consider the description of the rock as limestone by AS James to be inconsistent with the published geology and likely to be inaccurate. Whilst it is difficult to make a judgement based on core photographs alone, based on the photographs provided I consider it is more likely that Borehole BH1 encountered basalt to a depth of about 14 m overlying tuff, and that Borehole BH2 encountered predominantly tuff rather than limestone ...

There is a break in slope that runs approximately north-south through the eastern part of the Property... This break in slope is likely to represent a boundary between increased landslip susceptibility to the east and reduced susceptibility to the west.

Mr Byrne provided geotechnical evidence on behalf of SCBA. He submitted that the geology of the land is described as part of the Bridgewater volcanic group which comprises interbedded basalt, tuff and scoria. He concluded there could be limestone and he observed exposed limestone in the lower slopes of the land just above the GSWW. He also based his evidence on the only recorded and laboratory tested borehole data, which was that of AS James.

Mr Brooks asked Mr Finlayson about the potential for landslip and instability given the responsibilities DELWP (and Parks Victoria) to maintain the GSWW. Mr Finlayson replied that the 'coastal' villas would require an engineered footing solution or could be moved 10 metres back up the slope to reduce potential impacts on slope stability (or the need to engineer for this).

Regarding the potential for landslip, Mr Colls stated³²:

Based on the results of my information review and the site visit observations set out in the preceding sections of this report, I consider there to be evidence of historical landslip affecting approximately the eastern 30% of the Property.

I consider that landslip susceptibility at the Property is generally a function of geology and slope angle, with susceptibility also increased by poor vegetation cover, surface drainage characteristics and proximity to coastal areas that are subject to ongoing erosion. I consider that areas underlain by Bridgewater Formation materials or younger sediments are more susceptible to landslip than areas underlain by Newer Volcanics material, and that landslip susceptibility increases where the slope angle is steeper.

I consider the proposed development is feasible with respect to the management of landslip issues, subject to consideration of my comments below in relation to the proposed Coastal Villas, which are located on or a short distance above the break in slope noted above and are therefore in an area of higher landslip susceptibility than the remainder of the Property to the west.

Mr Colls had not had the benefit of reviewing the Papworth landscape plan that relocated the two 'coastal' villas further back into the site by approximately 10 metres, thus avoiding the 20-degree slope. However, when asked by the Committee he acknowledged that this would be a better outcome.

Mr Byrne stated that detailed geotechnical investigations to date have been insufficient to enable proper assessment and that such investigations will be required to ensure slope stability

³² Document 156, pages 19-20

in the eastern portion of the land does not impact the development and the development will not impact on slope stability.

All experts agreed that there is evidence of historic landslip along the slopes.

The Applicant submits that the proposal is feasible with respect to management of landslips issues and that there is no evidence of slippage in the area within a human time scale and that there is a very low likelihood of caves in the development area.

Regarding the ‘coastal’ villas, the Applicant stated³³:

Critically, the central hotel building and pasture villas are sufficiently setback so as to present no credible landslip hazard. Mr Colls concludes that there are practical and feasible engineering options to manage any landslip risk associated with the Coastal Villas as part of detailed design.

Many submitters raised concerns with the amount of cut and fill to be used across the site, particularly the impact to the landscape and visual values of the Cape - and these issues are considered in other Chapters.

The Applicant submitted that the *“land is demonstrably capable of accommodating the development with innovative and sustainable measures for power, water, wastewater and site construction.”*

(iv) Discussion

The Committee acknowledges the issues raised by DELWP, SCBA and other submitters regarding the original location of the two ‘coastal’ villas being problematic from a potential slope stability and landslip perspective. It is satisfied that geotechnically the relocation of the two ‘coastal’ villas further back into the site (Papworth landscape plan) is a more acceptable outcome.

Through questions from the Committee, Mr Finlayson and Mr Colls agreed that further detailed geotechnical investigations would be required to confirm the geological features of the land and to ensure slope stability in the eastern portion of the land. Both experts supported, even with the ‘coastal’ villas set back further, a condition in the Incorporated Document for such investigations prior to commencement of work.

Having heard from three experienced experts in the field of geology and geotechnical engineering, the Committee was not convinced that the exact nature of the underlying geology is precisely known, although it is likely to be tuff and not predominantly limestone (which would have the potential to increase the chance of caves and voids). The Committee is satisfied that further investigations should confirm this either way.

Regarding the proposed cut and fill for development of the site, from an environmental risk perspective, all experts did not raise any significant issues with the amount or constructability. The Committee has concerns with the amount of cut and fill for other reasons set out in this Report.

(v) Conclusions

If Amendment C107gelg is approved, the Committee concludes that:

³³ Document 181, page 27

- the two 'coastal' villas must be setback from the cliff area as shown in the Papworth landscape plan to remove them from slope in excess of 20 degrees
- further development and vegetation removal would compromise land stability
- the geology is likely to be tuff, but this must be confirmed through further detailed geotechnical investigation prior to commencement of works on site as detailed in the Committee preferred condition 6.28 in the Incorporated Document.

7.3 Surface water and hydrogeology

(i) The issues

The issues are whether:

- a wastewater treatment facility could treat all wastewater on site and avoid disposal to the soil that could increase discharges over the land
- the development would cause greater surface water runoff across the land.

(ii) Relevant policies, strategies and studies

Clause 14.02-2S (Water quality) seeks to protect water quality by managing the potential for incompatible land use and development that may contaminate waterways, reservoirs, water mains and local storage facilities, or in aquifer recharge areas.

The Structure Plan requires all wastewater to be treated and contained on site.

(iii) Evidence and submissions

The Applicant submitted that the proposed development includes a wastewater management treatment system to treat, store and dispose of all onsite wastewater generation. Wastewater will be collected from site facilities via an onsite reticulated sewer system and a treatment plant proposed to be located on the western boundary to treat the wastewater to a sufficient quality for sub-surface irrigation on site.

As the production of wastewater will exceed 5,000 litres per day, an EPA Works Approval would be required to treat and manage all wastewater. Therefore, the details and assessment of the wastewater treatment plant is subject to a separate approvals process under the *Environment Protection Act 2017* and the Committee was advised by Mr Townshend this would occur soon.

The EPA submitted³⁴:

EPA's status as a Section 55, 'determining referral authority' on the earlier Planning Permit application was based on the need for a Works Approval due to the wastewater discharge amounts exceeding 5000L/ day. The estimated daily discharge of 33.2kL exceeds the criteria of 5000L/ day set out in Environment Protection (Scheduled Premises and Exemptions) Regulations 2017 A03 (Sewage Treatment).

A 'Pathways Application' was submitted to EPA on 23 December 2019 and a Works Approval was confirmed to be required. It is expected that details of risks associated with wastewater discharge will form part of the assessment during the Works Approval Pathway process (i.e.: noise, odour, groundwater, surface water) that is yet to take place.

³⁴ Document 113

The environmental, amenity and human health risks associated with the proposed wastewater discharge/ sewage treatment will be assessed through the Works Approval Pathways application process as set out in our earlier referral response to Council dated 30 January 2020.

We recommend that the SAC gives consideration to the deletion of conditions and notes relating to EPA Works Approval, as well as general obligations and duties that arise under the *Environment Protection Act 1970*. The need for Works Approval and any other duties or obligations, either under the 1970 or the 2017 Act, exist regardless of whether they are stated in the Incorporated Document or not.

Regarding wastewater treatment, the Applicant submitted³⁵:

182. The issue of the operation of the wastewater treatment facility and any contingency arrangements will be dealt with as part of the EPA's works approval process. Such operational and contingency requirements will include obligations with respect to preventative, corrective and emergency management, monitoring obligations, and may include a wastewater overflow abatement program / plan.
183. More specifically, onsite wastewater treatment will require an aerobic wastewater treatment system, including screening (primary treatment) and biological treatment for the reduction of carbonaceous material and nutrients (secondary treatment).
184. The system will be mostly located within underground treatment tanks. Additional equipment for screening and filtering will be installed above ground in the utility / plant area located adjacent to Blowholes Rd.
185. Wannon Water has been consulted on this approach and they have provided their in-principal support. Further discussions with Wannon Water will occur during detailed design, to identify which of their treatment plants is most suitable for this purpose.
186. Overflows will be managed using multiple barriers to minimise the likelihood of an off-site discharge, as described in the following points:
 - (a) Minimising stormwater in sewer system: wet weather inflows and infiltration into the sewer system will be minimised through system design and installation to prevent this. For example, the location and design of manholes to prevent stormwater ingress.
 - (b) Adequate capacity of wastewater treatment plant: the wastewater treatment plant will be sized based on the average dry weather flow and peak wet weather flow. This is standard practice for wastewater treatment plants and takes into account the detention time needed for treatment, as well as the system hydraulics.
 - (c) Setbacks: wastewater infrastructure will have setback distances from sensitive landscape features or structures as required by EPA Code of Practice - Onsite wastewater management.
 - (d) Sufficient recycled water storage: the recycled water has been designed to meet the EPA Victoria requirement of 90th percentile wet year containment. Based on water balance modelling of this system, 5 ML of storage is required. This approach greatly minimises the likelihood of overflow of recycled water.
 - (e) Site stormwater management: in the very unlikely event of an overflow from any wastewater infrastructure, the Land has a stormwater detention dam.

³⁵ Document 181, pages 45-47

Regarding potential groundwater infiltration, Mr O'Brien (Submitter 7) and Mr Walshe (Submitter 94) and others questioned the viability of the treatment system to be able to ensure contamination of the groundwater or wastewater over the land would not occur. Mr Lane, hydrogeological expert for the Applicant, responded that the treatment system would be designed to ensure no seepage to the groundwater, and he also acknowledged in his evidence additional hydrogeological information would be required for assessment by the EPA and Southern Rural Water.

The Applicant submitted that based on Mr Lane's evidence³⁶:

... it is feasible that the development can obtain the required water supply from groundwater bores, that the extraction is unlikely to have any measurable effect on the nearest private bores and that there is negligible potential for any adverse impacts on the groundwater quality due to the construction and operation of the Proposal, including irrigation of landscaped areas with treated water.

Mr Walshe submitted that the scale and density of the proposed development is incompatible with the size of the land and its ability to manage wastewater using sub-surface irrigation. He questioned the analysis undertaken by RMCG³⁷ regarding volumes of wastewater production and area of land available for irrigation³⁸. Mr Walshe submitted that in his opinion, an onsite laundry should be prohibited as, based on his own calculations in interpreting the tables of the RMCG report, there is not enough land to treat the additional wastewater.

The authors of the original report by RMCG (Ms Kelliher and Ms Hall) did not provide evidence but were made available for questions at the request of Mr Walshe. In Technical Note 5³⁹ they informed the Committee a conservative approach was taken to overall occupancy, total nitrogen in the treated wastewater and the assume uptake of nitrogen by plants. Onsite of storage of wastewater was required during the wetter months and onsite irrigation could occur during the drier months. Based on this conservative approach 2 hectares of land was required for wastewater irrigation, with the Papworth landscape plan showing approximately 3 hectares was available. Ms Kelliher and Ms Hall concluded⁴⁰:

We are satisfied that wastewater can be appropriately treated and beneficially used for irrigation on the site. The EPA works approval process will include a detailed land capability assessment and risk analysis of the proposed scheme. This will affirm and verify our concept design.

Mr Byrne stated that any discharge of stormwater, especially concentrated runoff from hard stand areas to the east of the site should not occur without more geotechnical assessment to demonstrate with confidence that erosion and saturation of soils will not contribute to further slope instability.

The Applicant submitted that the concerns raised by Mr Byrne regarding stormwater runoff and wastewater irrigation can be dealt with by condition if necessary. The Committee asked Mr Townshend whether new conditions regarding waste and wastewater should be added to the drainage management conditions within the Incorporated Document. Although this was supported during the 'without prejudice' discussion on the Incorporated Document, the Applicants' final position on this matter is that such conditions were not required.

³⁶ Applicant Part B submission (Document 181), page 27

³⁷ RMCG provided a report to support the planning application

³⁸ Document 200

³⁹ Document 208

⁴⁰ Document 208, page 3

(iv) Discussion

The Committee acknowledges that a key part of the proposal is its management of all wastewater on site. A wastewater treatment and irrigation system will be required for the development, and this would need to be designed in accordance with Australian Standards and EPA Works Approval requirements.

The Committee does not have the detailed design of the systems before it and appreciates the assessment and approvals of these will be undertaken through a separate and thorough process by the EPA. It understands the frustrations of the community that this matter will be dealt with through a separate process and not be resolved by the Committee.

The Committee notes that the level of onsite treatment is proportionate to the scale of the development and understand this will be thoroughly assessed through the EPA Works Approval process. The Committee considers there is a limited margin for error with the scale of the facility that has been chosen, as nearly all the land is used for some function.

Notwithstanding, the Committee is considering a proposed development and needs to be satisfied that such facilities would not have detrimental environmental effects such as increased irrigation and surface water flows across the land, particularly to groundwater and towards the eastern edge of the land which would be prone to erosion and greater instability if surface water flows were to increase. For this reason, the Committee proposes to include additional text in the drainage management conditions within the Incorporated Document to ensure both stormwater and wastewater drainage is appropriately managed. Further that as raised by Mr Walshe, an onsite laundry would significantly increase wastewater and this should be prohibited.

(v) Conclusions

If Amendment C107gelg is approved, the Committee concludes that:

- Condition 6.20 should be included in the Committee preferred version of the Incorporated Document to ensure wastewater does not leave the site or discharge into the remnant vegetation and steep slopes of the eastern third of the land
- it is likely that an onsite laundry would require further land for wastewater disposal and this should be prohibited, as per proposed Condition 6.22.

8 Cultural heritage

8.1 Aboriginal cultural heritage

(i) The issue

The issue is whether Aboriginal cultural values have been adequately assessed as part of the Amendment.

Panlyth (Cape Bridgewater) and surrounds has significant Aboriginal cultural heritage values, both tangible and non-tangible.

The Registered Aboriginal Party (RAP) is the Gunditj Mirring Traditional Owners Aboriginal Corporation. Pursuant to section 65(2) of the *Aboriginal Heritage Act 2006*, the GMTOAC approved the Cultural Heritage Management Plan 16933 (CHMP) dated 3 June 2020 for the proposed development.

(ii) Submissions

Mr Bell, Chief Executive Officer of the GMTOAC, submitted that the coast of Cape Bridgewater and beyond is filled with Gunditjmara artefacts and intangible values that are evidence of earlier ages and integral to the cultural heritage and continuing connection to Country of the Gunditjmara Traditional Owners.

Mr Bell stated that the CHMP has been approved for the proposed development and that consultation with the RAP had occurred as part of the CHMP development. Mr Bell submitted that the GMTOAC is representative of the rights and interests of the Gunditjmara community and Gunditjmara Native Title holders.

The original plans incorporated culture and heritage elements of the Gunditjmara which Mr Bell submitted at the second Directions Hearing had not been agreed to by GMTOAC⁴¹. The amended plans removed this appropriation of cultural elements. Mr Bell stated that the proponent must formally request the engagement of the Gunditjmara through GMTOAC, and if the Gunditjmara then decide to engage and progress discussions, a culturally meaningful engagement process would then need to be developed collaboratively that empowers Gunditjmara culture and heritage throughout this project⁴². The Committee understands the Applicant sent a letter of apology to GMTOAC.

Mr Bell tabled a letter⁴³ that requested Traditional Owners be given greater participation opportunities in planning processes that may affect Aboriginal cultural heritage including Aboriginal cultural values which may not always be tangible. He stated:

Aside from the requirements under the Aboriginal Heritage Act 2006 and Regulations, and the Native Title Act 1993 for proposed future acts on public land, there is no formal planning process for the proponent to engage with the Gunditjmara or for local or state governments to review or assess the engagement by the proponent with Gunditjmara. This is of particular concern and importance when Gunditjmara culture and heritage is featured and spruiked in planning

⁴¹ Document 88, page 1

⁴² *ibid*

⁴³ *ibid*

applications and business prospectuses without Gunditjmara input, engagement, empowerment and decision making.

Gunditjmara knowledge, practice and connection with Country must be respected to bring a cultural approach to planning.

Identifying this concern in 2020, GMTOAC wrote to the Glenelg, Moyne and Southern Grampians Shire Councils with each Council responding to our concern with an undertaking to engage with GMTOAC to address the matter. GMTOAC have been working with Department of Environment, Land, Water and Planning (DELWP) and the three Councils to address planning provisions along the UNESCO world heritage listed Budj Bim Cultural Landscape, but not for the broader Gunditjmara traditional boundaries which include major developments such as the proposed Residential Hotel Development at Cape Bridgewater.

GMTOAC on behalf of Gunditjmara and Gunditjmara native title holders advocate for culturally appropriate community engagement by proponents who are seeking to include any aspect of Gunditjmara culture and heritage in their planning, design, and business prospectus.

Mr Rotumah took the Committee and the Hearing participants on a live virtual tour of Cape Bridgewater to demonstrate the expanse of middens and Aboriginal cultural heritage, which were quite visible as well as his submissions on the intangible values important to the Gunditj Mirring Traditional Owners – the importance of place.

Mr Saunders (Submitter 6) objected to the proposed development at Cape Bridgewater as it *“would continue to interfere with the spiritual and cultural significance of Cape Bridgewater.”* Mr Saunders provided a confidential submission to the Committee where certain values were explained at a high level to ensure the Committee has an appreciation of intangible values important to the Traditional Owners of the area and the importance of Cape Bridgewater, the surrounding Capes and sea. Mr Saunders is a direct descendent of Ms Eliza Mitchell and he explained that his connections to the Cape are both spiritual and physical, are sacred and includes the songline of Mr Saunders family’s totemic story line⁴⁴.

Many others including the National Trust of Australia - Portland branch (Submitter 12), Ms Chalmers on behalf of the Historic Buildings Restoration Committee (Submitter 57), SCBA and individual submitters, also raised concerns about the impacts to Gunditjmara cultural heritage because of the proposed development.

(iii) Discussion

The Committee accepts that there is a process under the *Aboriginal Heritage Act 2006* of which the GMTOAC as the RAP has approved a CHMP for the proposed development. The Committee acknowledges that the GMTOAC is a prescribed body corporate under the *Native Title Act 1993* as well as a RAP under the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2006* (the Regulations).

Notwithstanding, there are potential changes that may occur in detailed design relevant to the amount of soil to be excavated, re-used around the land and therefore further engagement with the RAP to ensure any such amendments are incorporated into the CHMP would be important.

For this reason, the Committee agrees with the proposed wording of the Note within the Incorporated Document regarding Aboriginal Cultural Heritage proposed by the Applicant as it ‘closes the loop’ on this issue alerting the Responsible Authority that there is a process under the

⁴⁴ Document 341

Aboriginal Heritage Act 2006 that may need further consideration prior to plans being endorsed under Condition 6.1 of the Incorporated Document.

The Committee thanks Mr Bell, Mr Saunders and Mr Rotumah for sharing what is very important and sensitive cultural heritage matters and values for the Gunditjmara Traditional Owners and the Committee acknowledges that planning processes can be daunting for many people and not always clearly accessible.

The Committee concludes the Minister for Planning should consider how Traditional Owners can better participate at an early stage of planning and decision making processes, whether it be amendments, permits or Environment Effects Statement processes and give further consideration of the wider issues raised in Mr Bell's letter on this matter (Document 88).

(iv) Conclusions

If Amendment is C107gelg is approved, the Committee concludes:

- further engagement with the RAP is required to ensure any amendments, such as amount of excavation of the land, should be incorporated into the CHMP
- it is appropriate to include a Note (C) within the Incorporated Document regarding Aboriginal Cultural Heritage alerting the responsible authority that there is a process under the *Aboriginal Heritage Act 2006* that may need further consideration prior to plans being endorsed under Condition 6.1 of the Incorporated Document.

8.2 Post contact heritage

(i) The issue

The issue is whether the proposed development would affect listed post contact heritage sites.

(ii) Submissions

The National Trust (Portland branch) represented by Mr Stokes submitted that Cape Bridgewater is of State geological and geomorphological significance, listed on the Register of National Estate and cited in the ESO1 as a significant site of geological and geomorphological significance, which should be protected. Mr Stokes also provided a submission on the Kennedy cemetery site and a ditch and bank fence located within the site, stating:

The planning application does not acknowledge the historic, pioneer cemetery of the Kennedy family, located east of the Great South West Walk easement on Lot 1.

This cemetery, although recognized as historically significant, in the Glenelg Shire Heritage Study Stage 2 as an element in the settler heritage of Cape Bridgewater, has not as yet been afforded the protection of a heritage overlay ...

Ditch and Bank fence, although recognized as an historically significant element in the cultural landscape of Cape Bridgewater, in the Glenelg Shire Heritage study 2002 and 2006, it was not afforded the protection of a heritage overlay⁴⁵

Ms Chalmers, representing the Historic Buildings Restoration Committee, submitted that Cape Bridgewater, due to its geomorphological significance, had been part of a United Nations Educational and Scientific and Cultural Organisation (UNESCO) Geopark nomination. Ms Chalmers stated:

⁴⁵ Document 238, page 26

The Kanawinka Geopark area (extending from Colac and Camperdown to Coleraine and Casterton (Glenelg Shire and to Mt Gambier and Port McDonnell) was nominated as a Geopark by UNESCO in 2008, but the nomination was withdrawn in 2012 because of lack of support from Victorian, South Australian and Commonwealth, Governments⁴⁶.

(iii) Discussion

The Committee notes there is a small number of post contact heritage items associated with early post contact settlement of Cape Bridgewater located in close proximity to the land (ruins of old and original dwellings on land to the north) and on the land (Kennedy gravesite).

Although not a State-listed heritage site, the Committee notes the Kennedy cemetery site that is covered by the HO175 and is located on the land but downslope of the proposed development area, adjacent to the GSWW. It is acknowledged that this site will not be impacted by the proposed development.

Notwithstanding the above, the Committee agrees with Mr Stokes and Ms Chalmers and many other submitters that Cape Bridgewater is a site of geological and geomorphological significance and has been cited in several documents as being so, including the former Register of the National Estate.

(iv) Conclusions

The Committee understands that there are no post contact listed heritage sites on the land however the Kennedy gravesite is located downslope from the GSWW. Notwithstanding, the Committee concludes that there will be no impact to post contact heritage from the proposed development.

However, the Committee acknowledges the geological and geomorphological significance of the Cape as mentioned in the ESO1 and this is discussed further as part of the significance of the landscape in Chapter 3.

⁴⁶ Document 241, page 8

9 The gifting of land and access to the Great South West Walk

(i) The issues

The issues are:

- to what extent of the land should be gifted to the public as part of the proposal
- whether there should be a direct link to the GSWW.

(ii) Evidence, submissions and discussion

The Structure Plan indicates that the extent of land to be gifted to the public should include all land up to the rural fence that spans the land and delineates the current extent of vegetation. Figure 15 indicates the extent of land to be transferred to public ownership.

On these issues the Applicant:

- submitted the extent of land to be transferred to public ownership should be restricted to the GSWW and land below it
- agreed with the Committee that a condition could be added to the Incorporated Document requiring the alignment of the pedestrian link to the GSWW be confirmed and added to the plans.

The reduced extent of the land to be gifted to public ownership was due to the 'coastal' villas being located east of the rural fence and in native vegetation. The original plans also located the restaurant building in this area. Mr Biacsi considered the transfer of land to public ownership must occur and is key part of the assessment of net community benefit.

The original plans did include the pedestrian link to the GSWW, but the amended plans and the Papworth landscaping plan did not. Council did not object to the removal of the pedestrian link. Council submitted⁴⁷:

Council's view is that the creation of a formal pedestrian network along the Government Road reserve to the north of the site would also prevent informal pedestrian movements along Blowholes Road and reduce private vehicle use and parking associated with the proposed development.

The concept of creating 'a green link within the paper road' is identified in the Structure Plan: Blowholes Precinct Guidelines and Requirements.

Council would encourage the Applicant to engage with Council and DELWP to discuss the use of the unmade Government Road reserve on the north boundary to the site to provide a pedestrian access link from the site to the public foreshore area.

Council's position on this matter accords with expert evidence provided by Mr Partos.

Mr Lees from Birdlife Australia was concerned about the viability of the local Hooded Plover pair that nest on the beach at the base of the cliffs. He encouraged the Committee not to allow direct access from the land to the beach to protect this nesting pair. The Committee confirms a direct pedestrian access to the beach below the cliffs was never part of the original or amended proposal.

⁴⁷ Council submission, pages 49-50

The unmade road reserve to the north provides a direct connection to the GSWW and the Committee accepts that this may be a more appropriate connection to the GSWW where the slope of the land is significantly less than from other areas of the land. This would also reduce the amount of native vegetation to be removed from the land, which is an appropriate outcome. The opening of this road reserve for pedestrian movement also provides access to the GSWW for surrounding landowners along Blowholes Road. The creation of this green link is consistent with the Structure Plan and is supported by the Committee.

This matter can be resolved with a finalised set of plans. The Committee supports an additional requirement under Development condition 6.1 of the Incorporated Document that provides for this outcome.

(iii) Conclusion

If Amendment C107gelg is approved, the Committee concludes:

- the transfer of land to public ownership is an excellent public outcome
- no direct pedestrian access to the beach should be allowed
- the unmade road reserve to the north should be developed as a greenlink and convey pedestrians from the land to the GSWW and should be included as a requirement of the Incorporated Document (Condition 6.1(k)).

10 Amenity

10.1 Light spill

(i) The issue

The issue is whether the proposal would result in unintended or inappropriate light spill impacts on surrounding land and avifauna.

(ii) Submissions

Council and the Applicant accepted that due to the visibility of this land from the settlement that at night there would be light spill impacts. Council submitted *“that the site is not an isolated or remote parcel as it adjoins a modified landscape that comprises buildings that are also illuminated at night.”*

Council supported the DELWP position for a Lighting Management Plan to address impacts upon fauna and considered this should also address general amenity impacts.

(iii) Discussion

Despite the submissions received, the ‘without prejudice’ drafting session for the Incorporated Document did not specifically address the need for a Lighting Management Plan. DELWP submitted⁴⁸ that the Incorporated Document should be amended to include an objective similar to that requested in their referral letter (Document 95) to include:

... design and operational measures specifically to avoid or minimise potential impacts on local native fauna, including but not necessary limited to bats

This matter is also discussed in the biodiversity chapter of this Report.

The Committee agrees that a Lighting Management Plan is appropriate to address general amenity impacts but also fauna impacts, particularly on avifauna.

For such a large, elevated site located next to a settlement the Committee agrees there is a need to manage light spill. The extensive use of glazing will focus a lot of light towards the settlement, which is unavoidable. How external lighting is managed should be the focus of the Lighting Management Plan to ensure the ‘beacon’ effect of the proposal is not overplayed. As raised in the biodiversity chapter, the Committee notes the concerns raised by DELWP that the SBWB may utilise the site and surrounds and this is a primary consideration for the lighting of external areas. Way finding lighting should be low set in the landscape, baffled and not located on high poles. DELWP and Council should be provided the opportunity to review a plan and endorse it to ensure these important matters have been addressed to their satisfaction.

(iv) Conclusion

If Amendment C107gelg is approved, the Committee concludes that a Lighting Management Plan (Condition 6.14) is required and should be to the satisfaction of the responsible authority and DELWP.

⁴⁸ Document 215 page 8

10.2 Noise

(i) The issue

The issue is whether construction or operational noise from the site can be appropriately managed.

(ii) Submissions

The community submitters were concerned the proposal would result in adverse noise impacts on surrounding properties and rural land uses. The range of adverse noise impacts identified by objectors are associated with the operation of plant, equipment, and patron activities associated with live and recorded music, outdoor activities, consumption of alcohol and movement within and from the site.

Council submitted the following measures were in place to address noise:

- construction of hotel service zones within acoustic rated boxes (using noise attenuation building materials)
- no live music performed externally
- internal live music limited to internal spaces
- trading hours limited to 11pm
- compliance with standards for playing of recorded or live music set out in EPA S43: State Environment Protection Policy: Control of Music Noise from Public Premises', No. N-2 (SEPP)
- compliance with the following minimum noise levels as per EPA SEPP N-2:
 - Day – 46 decibels
 - Evening – 41 decibels
 - Night – 38 decibels.
- plant generators to be rated for use in open air and housed in an acoustic rated building
- construction of earth berm and vegetation screening.

Mr Beazley noted the hospitality and entertainment functions are consolidated into the hotel building but acknowledged that *“any new use of land will create some noise, however the potential for noise impacts arising from the operation of the resort to disturb surrounding residents is considered to be limited with an Acoustic Management Plan in place.”*

Mr Beazley referred the Committee to the conditions in the Incorporated Document for an Acoustic Management Plan and sound proofing of plant and equipment rooms.

The DELWP referral response to the Permit Application contained a condition that required the details, timing and anticipated duration of the blasting program. This was transferred across to the Incorporated Document. The Committee confirmed with the Applicant that no blasting would occur on site which it strongly supports given the proximity of housing. This part of the DELWP conditions is to be deleted.

(iii) Conclusion

If Amendment C107gelg is approved, the Committee concludes:

- there is a need for an Acoustic Management Plan (Condition 6.13), especially for a site that needs to generate its own electricity including back-up generation and manage its own waste

- Condition 6.29(e)(ii) should be inserted into the Incorporated Document to prohibit blasting.

10.3 Construction phase

(i) The issue

The issue is whether noise and amenity impact during the construction phase can be appropriately managed.

(ii) Submissions

Community objectors submitted that construction phase of the project would result in amenity impacts, including noise, dust, heavy vehicle movements and odour.

Council accepted there would be some impacts and referred the Committee to the Incorporated Document that required the preparation of a Construction Environmental Management Plan. The Applicant and SCBA supported this condition.

Council submitted the re-use of excavated material on site would reduce the amount of heavy vehicle movements on the local road network if it were to be disposed of off site. DELWP proposed conditions that required a Construction Environmental Management Plan principally in its role of managing vegetation removal.

(iii) Discussion and conclusion

The Incorporated Document allows for a construction period up to three years from the start of construction. The Committee considers that there is significant potential for the local road network and general amenity to be impacted during the construction period.

If Amendment C107gelg is approved, the Committee supports the need for a Construction Environmental Management Plan to manage the construction phase detailed as Condition 6.29 in the Incorporated Document.

The Committee considers that the noise and amenity impact during the construction phase can be appropriately managed.

11 Sustainability

11.1 The issue

The issue is whether the proposal would achieve an appropriate environmental rating.

11.2 Submissions and discussion

The Applicant proposed a new condition in the Incorporated Document that required a 5 Star environmental design rating. The Committee supported this and added reference to the Green Star rating system for this condition.

11.3 Conclusion

If Amendment C107gelg is approved the Committee recommends Conditions 6.26 and 6.27 are included in the Incorporated Document.

12 Traffic and parking

12.1 Traffic and visitor parking

(i) The issue

The issue is whether the surrounding roads have capacity to accommodate traffic generated by the proposal.

(ii) Evidence and submissions

Ms Dunstan provided traffic and parking evidence on behalf of the Applicant. Ms Dunstan used a 100 per cent occupancy scenario to assess the proposal traffic generation and impacts and *“accordingly, the traffic generation represents the maximum that may be generated during peak holiday times.”* Ms Dunstan estimated the proposal would generate 238 vehicle movements per day, mostly between the land and Portland.

Ms Dunstan considered:

This level of traffic is well within the environmental capacity of Blowholes Road.
Notably:

- the existing two-way daily traffic volume in the vicinity of the site is currently up to 266 vehicles per day with 11% commercial vehicles.
- the future two-way daily traffic volume with development traffic added will conservatively be in the order of 504vpd.
- the classification of Blowholes Road as a ‘rural collector’ under Council’s Public Road Register.
- Clause 56.06-8 of the Planning Scheme provides an indicative capacity of 3,000vpd for collector/connector roads.

Ms Dunstan found that the proposal would generate a parking demand for 85 car spaces. Based upon the provision of 96 spaces in the underground car park, Ms Dunstan concluded *“that the proposed car parking provision satisfies the expected demands, and accordingly, there is unlikely to be any adverse off-site parking impacts.”*

Ms Dunstan reviewed Development Condition 17 of the Incorporated Document that required an upgrade to Blowholes Road from the western extent of Panoramic Drive to the land to include a 7-metre-wide pavement, 1.5 metre shoulders, drainage, signage and line-marking. Ms Dunstan noted *“the proposed development will not change the nature or type of the traffic using the road, and I am satisfied that the existing road construction standard is appropriate”* and concluded *“that the extent of upgrade being sought (a length of approximately 400m) is an onerous requirement.”* Mr Townshend accepted the intent of Condition and did not propose any substantive changes.

The SCBA did not raise traffic concerns with the operation of the proposal, as other community submitters did, but submitted that during a three year construction period that damage would occur to the local road network and *“we urge the Committee to consider an upgrade to the road through the township to rectify and wear and tear and enhance the road surface to better cope with regular heavy traffic.”*

In response to a question from Mr O’Brien, Ms Dunstan was satisfied that the proposal would not generate the need to upgrade Bridgewater Road along the foreshore. Ms Dunstan agreed

that the proposal would double the traffic flow through the settlement but *“it was reasonable for these roads to accommodate higher flows.”*

(iii) Discussion

This is a large and significant construction project for Cape Bridgewater. There is no doubt the construction phase of this proposal would generate additional traffic on the local road network. However, this is inevitable with any project on this land. The position of the Applicant is that spoil from the excavation of the land would be re-used on site, principally for the rammed earth structures, thus avoiding disposal offsite. Elsewhere in this Report the Committee has supported this approach to minimise the extent of offsite disposal. The Incorporated Document requires a Construction Environmental Management Plan and the Committee is satisfied that this is the appropriate mechanism to have construction-related issues addressed.

The Committee accepts the evidence of Ms Dunstan that traffic generated by the proposal would be accommodated by the existing road network, however it would roughly represent a doubling of traffic movements on the network⁴⁹. The environmental capacity of collector and connector roads is 3000 vehicles per day in Clause 56.06-8 (Lot access objective).

(iv) Conclusions

If Amendment C107gelg is approved, the Committee concludes:

- that the generation of 238 vehicle movements per day can be accommodated by the local road network.
- the Blowholes Road upgrade condition (Condition 6.18), accepted by the Applicant, would assist in managing the additional traffic in Cape Bridgewater.

12.2 Car parking for employees

(i) The issues

The issues are whether:

- the accommodation of employees away from the land is appropriate
- whether sufficient parking is provided for employees.

(ii) Evidence and submissions

The original and amended plans do not make provision for any employee parking on site. This was based upon the notion of the Applicant constructing purpose-built employee accommodation in Portland and transporting (by bus) the employees to the land. This was to avoid the need for at grade car parking on site.

Mr Townshend did not confirm this was still the proposed arrangement for employee parking.

Ms Dunstan did not comment on the notion of purpose-built accommodation but did confirm *“it is proposed that the site will operate a shuttle bus service for staff to and from Portland, where the majority of staff are likely to reside.”* Ms Dunstan agreed with the Committee that there was a significant reliance on transporting workers to the land. Parking for the staff mini bus is

⁴⁹ Blowholes Road has 266 movements per day on weekends and 181 during the week. Bridgewater Road has 292 vehicle movements per day on weekends and 196 during the week.

provided in the undercover loading area of the main hotel building. However, Ms Dunstan did identify an overflow parking area at grade along the main access road off Blowholes Road where *“it is proposed that the main entry driveway be designed in such a way that the grassed verges on either side can accommodate occasional use as overflow parking, so that the site’s absolute peak parking demands are accommodated entirely within the sit at all times.”* (underline added)

Ms Dunstan provided swept paths for the 14.5-metre-long buses that will access the site off Blowholes Road. This was included on Technical Note 4 (Document 214). To accommodate this movement without a three-point exiting manoeuvre onto Blowholes Road the services buildings will need to be relocated further into the site.

In response to a question from Mr Galewski, Ms Dunstan confirmed in extreme fire risk or fire weather the community could use the overflow parking along the main access driveway.

(iii) Discussion

To the Committee a key part of the proposal is to transport employees to the land from Portland. This is to minimise employee traffic through Cape Bridgewater and avoid the visual impact of parking at ground level on site. During the Hearing there was neither confirmation nor commitment to the construction of worker accommodation in Portland by the Applicant. No land had been identified. The Committee has not relied on this in its assessment.

Employee parking evolved over the Hearing from:

- the amended plans showing no employee parking on site, to
- the need for overflow employee parking on site, to
- the provision of 42 car spaces along the main access road on site that could be permanently used for parking, to
- at the end of the Hearing a new condition for a Car Parking Management Plan (Document 359) that included;
 - a shuttle bus service to transport staff required to attend the site, leaving from and returning to Portland, for each work shift
 - proactive measures to encourage workers to travel to and from the site via the bus service offered from Portland
 - the location of the onsite pick-up and drop-off areas/zones for the shuttle bus service
 - the location of all areas on site to be used for staff parking and guest parking
 - how on site parking is allocated and managed.

Based on this condition, we understand the Applicant did not wish to pursue the construction of employee accommodation in Portland. The Committee notes the benefits of transporting workers to the land would assist in minimising the visual impacts of at grade parking on a highly exposed land. The Committee would have appreciated this issue being given sufficient consideration by the Applicant at the Hearing and notes that it was at the instigation of the Committee that a condition was drafted by the Applicant to address this matter. The Committee would be concerned if the overflow parking on site were to become a permanent feature of the proposal, particularly as all versions of the plans did not show this. This would be a difficult operational issue to manage, and the Committee is concerned as to how it can be implemented if employees elect to drive themselves to work and perhaps park along the road network. This is a matter that the Applicant will need to resolve with Council as part of the Car Parking Management Plan.

The Committee supports the need to amend the plans to ensure bus exiting manoeuvres onto Blowholes Road can be achieved in a single movement.

(iv) Conclusions

If Amendment C107gelg is approved, the Committee concludes:

- the provision of at grade employee parking on site would not be appropriate as it was not part of any versions of the plans and would result in an increased visual impact on this highly exposed land
- the Car Parking Management Plan may be an appropriate means to manage employee parking, however the Committee does have concern over its ability to manage employees desire to drive themselves to work and its impacts on site and potentially in the local road network for parking as these issues have not been assessed
- amended plans will be required to ensure the bus existing manoeuvre onto Blowholes Road is achieved in a single movement.

13 Overall conclusions

Clause 71.02 requires the Committee *“to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.”*

The Minister’s letter of referral requires the Committee to consider *“whether the project achieves acceptable planning outcomes having regard to Glenelg Planning Scheme policy objectives including but not limited to economic, tourism, employment, environmental, biodiversity, coastal, landscape, cultural heritage, town character, amenity, infrastructure and built form and good design objectives.”* While the Committee is not assessing a Permit Application, at Clause 65 a responsible authority *“must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.”*

The Committee is therefore required to balance several competing policies in the interests of net community benefit and ensure the proposal is acceptable, not ideal. This invariably requires the application of more weight to some policy and less to others.

The Committee applies more weight to planning policy that applies to the land and the recently completed strategic work of the Structure Plan.

Once operating, the Incorporated Document will override other parts of the Planning Scheme, however the Committee is still required to assess the proposal’s performance against the current statutory controls. The most relevant are the RCZ and the SLO3. This, combined with the policy framework and the recent strategic work of the Structure Plan, present a clear policy framework for the development of the land. The Committee accepts that this framework anticipates the development of this land for either a residential or tourist accommodation development, or both. When read as a whole, there is a consistent set of themes that development at the Blowholes Precinct should:

- have a tourist accommodation focus
- be low scale and modest
- have minimal visual intrusion
- sit lightly in the landscape and allow the landscape to dominate
- be achieved by minimising cut and fill.

There is no doubt that this proposal is ambitious as a completely off-grid development and sited on a very prominent hill next to the settlement of Cape Bridgewater. It will effectively double the footprint of Cape Bridgewater. There are likely to be local and indeed regional economic and tourism benefits flowing from its construction and operation. If the assumed occupancy rate and the anticipated employment eventuated the Committee accepts this would benefit the economy of this part of Victoria, particularly Portland and Cape Bridgewater. The proposal will not be a closed facility for paying guests only and it is likely the community and other tourists to Cape Bridgewater would use the bar, dining and health and wellbeing facilities. This would be a good social outcome for the community.

A significant public benefit is the transfer into public ownership of the GSWW and land down to the beach as foreshadowed in the Structure Plan. This has been a significant consideration in the assessment of net community benefit. However, this should not be conflated with any doubt

over the future of GSWW on the land as this is protected into perpetuity with the easement on title.

The Applicant chose to pursue a high-end tourist resort. This would meet one of the strategic drivers for this land, but the choice that has been made is a proposal of a scale that is inconsistent with that anticipated by the policy framework within a landscape of State significance as cited in the SLO3.

The re-engineering of the hill to accommodate the hotel complex of buildings is excessive and goes well beyond the policy to '*minimise cut and fill.*' Simply excavating the site to this degree and burying a significant portion of the hotel complex of buildings does not allow for the development to '*sit lightly in the landscape.*' The Committee considers how you get to this outcome is as important as achieving it.

The Committee acknowledges the submissions from Traditional Owners regarding the intangible cultural heritage values associated with the Cape although it notes that the GMTOAC, as the Registered Aboriginal Party under the *Aboriginal Heritage Act 2006*, has approved the Cultural Heritage Management Plan for the original development.

The core concern of the Committee relates to the hotel complex of buildings. The Committee considers the proposal will have unacceptable landscape impacts due to the scale and built form of this part of the proposal and is inconsistent with planning policy and the intent of the Structure Plan.

The Committee appreciates the work of the DRT and the Applicant to address issues as they arose though the Hearing. However, it considers the changes proposed were relatively minor and do not address its fundamental concern of the bulk and scale of the proposal. The Committee believes a high-end tourist accommodation facility could be constructed that would be consistent with the scale anticipated by the Structure Plan, but this would inevitably see a reduction in the number of rooms, built form and building bulk.

On other issues, the Committee believes these can be managed by the proposal, with some changes as proposed in the Papworth landscaping plan. The land is not impacted by coastal hazards or flooding risk and bushfire risk can be managed. The use of the hotel building as a Shelter-in-Place structure is a good outcome and the removal of vegetation is minor and of less quality than that to be retained.

The Committee concludes it is not appropriate to approve Amendment C107gelg based upon the amended plans and the Papworth landscaping plan as it will have significant impacts to the State significant landscape values of Cape Bridgewater and would not lead to a net community benefit and is therefore unacceptable.

The Committee recommends:

- 1. Based on the reasons set out in this Report, draft Amendment C107gelg to the Glenelg Planning Scheme, for a Residential Hotel Resort at Lot 1 Blowholes Road, Cape Bridgewater should be abandoned.**

14 Specific Controls Overlay and Incorporated Document

14.1 The issues

Part C(ii) of the Minister's letter of referral requires the Committee to consider whether the SCO *"provides a suitable basis for the establishment and operation of the proposal, including recommended conditions for the incorporated document, if approval of the project is deemed appropriate."*

The issues are whether :

- use of the SCO provides a suitable basis for the establishment and operation of the proposal
- if the proposal is approved, what should the final form of the Incorporated Document be.

14.2 Use of the Specific Controls Overlay

(i) Submissions and discussion

The Specific Controls Overlay was introduced by Amendment VC148 in 2018 and is designed to phase out and replace Clause 51.01 (Specific Sites and Exclusions). For the Glenelg Planning Scheme this has been achieved with no local content in the schedule to Clause 51.01 and nine local schedules for SCO.

The general approach is where there is an incorporated document to guide land development these have now been mapped (via the overlay) to provide greater transparency that an incorporated document affects the land. In this case, the incorporated document effectively replaces a planning permit and outlines the development conditions that would apply.

Importantly, and similar to the operation of Clause 51.01, the SCO enables specific controls to override other requirements of the Planning Scheme. This does not mean that the Committee is restricted in its assessment of this Amendment against the current controls that affect the land. The Applicant accepts this⁵⁰:

Contrary to some of the submissions, whilst the SCO overrides other parts of the Scheme, that does not mean that the proposed controls, or this Committee process shortcuts the approvals process. The Committee will consider the merits of the Proposal and provide advice to the Minister consistent with the TOR and the Minister's request.

In Chapter 3 the Committee has assessed the proposal against the 88 planning controls that affect the land, in addition to the policy framework.

Mr Biacsi considered the use of the SCO⁵¹:

In effect, the Incorporated Document will switch off or override the planning controls for the area covered by the SCO. The use of the SCO is appropriate in order 'to

⁵⁰ Applicant Part B submission, page 14, paragraph 53

⁵¹ Mr Biacsi evidence statement, page 69, paragraphs 220, 222 and 223

achieve a particular land use and development outcome in extraordinary circumstances.'

...

The permission granted by the Incorporated Document provides for the approval of the proposed use and development, subject to the provisions of the Incorporated Document which, among other things, includes an exemption for the Project from other provisions of the Planning Scheme which operate to prohibit, restrict or regulate the use and development of the land for the purposes permitted by the SCO and Incorporated Document.

The Incorporated Document in this case includes conditions relevant to the establishment of the use and development of the Subject Land and the ongoing operation of the permitted use and development.

Mr Biacsi concluded:

In the circumstances, I am comfortable with and entirely supportive of the proposal to use the SCO as the preferred planning tool to facilitate the Project.

Council supported the use of the SCO.

SCBA submitted the use of the SCO is not warranted as a permit could issues under the planning provisions of the day. SCBA states:

A Specific Controls Overlay (SCO) will by-pass good strategic work and opens up this tool to be applied by the Developer for 'resorts' in unique landscape settings into the future setting precedent.

SCBA concluded:

Prima facie, a specific control overlay looks to the public, as little more than a means of circumventing existing controls and policy to achieve a particular end. It is necessary to ensure that this process is not perceived that way and that the process does not undermine the Structure Plan or the existing vision for Cape Bridgewater.

There are no extraordinary circumstances justifying an amendment that would circumvent the existing controls. The existing controls are appropriate.

The SCBA was concerned the rezoning of the land to the Rural Activity Zone was not facilitated by Amendment C107gelg. SCBA stated:

The application of the SCO in our view is the wrong instrument and the application should not by-pass normal strategic planning processes to rezone the land to RAZ identified in the Strategy and impose the development conditions.

In relation to the specific controls in Clause 45.12-1 (Use and development) the Committee provides the following comments:

- Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted. The Committee does not consider this criterion applies as the Residential Hotel is not prohibited in the RCZ.
- Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply. The Committee does not consider this criterion applies as no further restriction is proposed that current planning controls do not deliver.
- Exclude any other controls in this scheme. The Incorporated Document proposes this and seeks to override other planning controls in the Planning Scheme. This is an operational provision of the Incorporated Document. This means that in considering an Amendment to apply this control that this Committee needs to consider other planning controls of the day.

(ii) Conclusions

Overall, the Committee is satisfied that the SCO is an appropriate statutory tool to use because it:

- applies to a specific site
- applies to a specific proposal
- sits side-by-side with an endorsed set of plans and contains development conditions the use and development must comply with
- once in operation it overrides other planning controls of the day, but consideration must first be given to whether the Amendment is appropriate
- provides the ability to enforce and monitor the conditions contained therein, like a permit condition, as it is contained in an incorporated document that forms a part of the Planning Scheme.

14.3 Committee preferred version of the Incorporated Document

If Amendment C107gelg is approved by the Minister for Planning the Committee has provided a preferred version of the Incorporated Document at Appendix F. With the approval of Amendment C105 the relevant schedule number to the SCO is 10, not 1.

As discussed in this Report several updates to the Incorporated Document were provided by the Applicant. Version 3 formed the basis of the ‘without prejudice’ discussion of the Incorporated Document on the last day of the Hearing.

DELWP, Council, SCBA provided a response to Version 3 document in either tracked form or clean sheet. SCBA sought to include conditions that would transform the project, with an emphasis on reduced scale and intensity. This was of no assistance to the Committee. Ultimately, the SCBA did provide a revised version for discussion.

The Applicant did not support the need for a Decommissioning Plan for the land to be returned to its natural state if the proposal fails. The Committee considers this is required and has re-inserted it.

The key changes contained in the Committee preferred version of the Incorporated Document include to:

- add a two lot subdivision to the description of what the Incorporated Document allows to excise the land to be transferred to public ownership
- delete all references to the tunnel and restaurant
- use the Papworth landscape plan as a basis for further changes described in Condition 6.1, including:
 - the reduction of the ‘pasture villas’ from 16 to 14
 - no above ground buildings sited above the 80 metre Australian Height Datum contour
 - access to the GSWW to be via the unmade road reserve to the north that is to be developed as a greenlink between Blowholes Road and the public land
 - changes to ensures the bus existing manoeuvre onto Blowholes Road can be achieved in a single movement
 - an amended red line plan to reflect he deletion of the tunnel and restaurant.
- require a Lighting Management Plan (Condition 6.14)
- prohibit an onsite laundry facility (Condition 6.22)
- require further geotechnical assessment (Condition 6.28)

- prohibit explosives as part of the Construction Environmental Management Plan (Condition 6.29)
- require a Car Parking Management Plan (Condition 6.32)
- require a dilapidation report for existing road and drainage infrastructure (Condition 6.36)
- finalise the amount of native vegetation to be removed and the offset requirement (Conditions 6.39 and 6.40)
- require the Bushfire Management Plan and Bushfire Emergency Management Plan to be to the satisfaction of the CFA, in addition to the responsible authority (Conditions 6.47 and 6.48).

A note (C) has been added to the Incorporated Document requiring further consultation with the Traditional Owners given the extent of changes since the approval of the CHMP.

While the EPA submitted (Document 113) there was no need for a condition that require a Works Approval as this is administered under separate legislation, the Committee has retained Condition 6.21 for clarity.

Appendix A Terms of Reference

Terms of Reference

Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority ProjectsPriority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

Terms of Reference | Priority Projects Standing Advisory Committee

10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

Terms of Reference | Priority Projects Standing Advisory Committee

22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Minister's letter of referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Kathy Mitchell
Chair (Lead), Priority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref: MBR043603



Dear Ms Mitchell

REFERRAL OF PROPOSED RESIDENTIAL HOTEL DEVELOPMENT AT CAPE BRIDGEWATER AND PROPOSED DRAFT GLENELG PLANNING SCHEME AMENDMENT C107GELG

On 3 August 2020, I received a request from the Glenelg Shire Council that I decide planning permit application no. P19181 for the use and development of a residential hotel development and ancillary facilities at Blowholes Road, Cape Bridgewater under section 97C of the *Planning and Environment Act 1987*.

On 6 September 2020, I wrote to the council advising that I have put the request on-hold as I intended to require the applicant, Australian Tourism Trust Pty Ltd, to prepare draft planning scheme amendment documents to apply the Specific Controls Overlay and an incorporated document to the site and refer the project to the Priority Projects Standing Advisory Committee for advice.

Draft planning scheme amendment documents have now been prepared. The proposed draft Amendment C107gelg to the Glenelg Planning Scheme seeks to:

- Apply the Specific Controls Overlay (SCO) to the land.
- Insert Clause 45.12 and the associated schedule into the Glenelg Planning Scheme.
- Amend the Schedule to Clause 72.03 to insert planning scheme map no. 34SCO.
- Amend the Schedule to Clause 72.04 to include the 'Cape Bridgewater Resort, Blowholes Road, Cape Bridgewater, November 2020' incorporated document.

I wish to refer the draft planning scheme amendment and all submissions and other supporting documents about the proposal to the committee for review and advice under section 151 of the Act in accordance with its terms of reference.

I request that the committee:

- a. Consider the draft planning scheme amendment, any supporting documents and all submissions and referral agency comments received by the council.
- b. Conduct a public hearing to give the council, the applicant, any referral authority and all submitters a reasonable opportunity to be heard.
- c. Address the following issues in its report in addition to those matters set out in the terms of reference:
 - i. whether the project achieves acceptable planning outcomes having regard to Glenelg Planning Scheme policy objectives including but not limited to economic, tourism, employment, environmental, biodiversity, coastal, landscape, cultural heritage, town character, amenity, infrastructure and built form and good design objectives;
 - ii. whether the proposed planning scheme controls provide a suitable basis for the establishment and operation of the proposal, including recommended conditions for the incorporated document, if approval of the project is deemed appropriate;

I am aware that this matter may involve a public hearing process, following which a report will be provided to me. Once the extent of the review and hearing is known, please advise me when the committee expects to be able to deliver its report to me.

The costs of the committee will be met by the applicant in accordance with the terms of reference.

If you would like more information, please contact Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, on 0410 627 547 or email jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

20 / 12 / 2020

Appendix C List of submitters

No.	Submitter	No.	Submitter	No.	Submitter
1	Patrick and Anne O'Brien	2	Nick and Roxanne Chipman	3	Garry Kerr
4	John Doyle	5	Stan Galewski	6	Steven Saunders
7	Brian and Joanne Kermond	8	S and Irene Yuill	9	Judith Galewski
10	Robyn Neilson	11	Carmel and Dominic Danna	12	National Trust of Australia (Victoria) Portland Branch
13	Douglas Cahill (Petition)	14	Katie Fenton	15	Great Ocean Road Regional Tourism Ltd
16	Jane and Joel Gilby	17	Peter Flynn	18	Sandra Fairthorne
19	Doug Maxwell	20	Stephen Liddicut	21	Denis Carr
22	Save Cape Bridgewater Association Inc	23	Mary Picard and Michael Bartos	24	Damon Jarrett
25	Helen Oakley	26	Jon Dennis	27	Linton Smith
28	Fiona Leith	29	Belinda Peddie	30	Lynette Heavyside
31	Marilyn Herring	32	Melinda Radcliffe	33	Gloria Hollindale
34	Craig and Marie Cooter	35	Bill and Karen Tober	36	Anton Hornemann and Merry Abbey
37	Ross and Nola Bremner	38	Barry Brunt	39	Philip and Deborah Bunce
40	Linda Cable	41	Bill Collett	42	Peter Couttie
43	Richard and Prue Crutch	44	Raymond Dalziel	45	Angie Howson and Mike English
46	Kevin Phillips	47	Laurence James Richard Mooney	48	Paula and Graham Preece and John and Dianne Gabriel
49	Donna and Paul Stock	50	Grant and Carmel Wallace	51	Lois Williams
52	Krysalis and Paul Wizard	53	Daryl and Bev Petch	54	Lyn Browne
55	Candice Harvey	56	Deborah Jones	57	Historic Buildings Restoration Committee Inc
58	Greg, Marian, and Jean Hoggan	59	Alice Roberts	60	Pat Jarrett
61	Lynda Cooper	62	Marlowe Richmond	63	Simon Clark
64	Jo Austin	65	Douglass and Amanda Cahill	66	Frances Lovell on behalf of the Lovell Family
67	David Bevan	68	Val Golding	69	Bill Golding
70	Catherine Bawden and Julie Adam	71	Stephen VonTunk	72	Submission recorded in error
73	Phil and Jen Sheppard	74	Ray Fitzgerald	75	Heather Fitzgerald
76	Jenni Pike	77	Kammy Cordner Hunt	78	June Saunders

79	Viona Lowenthal	80	Matt Arnott	81	David Bennett
82	P and M Ward	83	Brian Cavagnino	84	Elizabeth Clements
85	Brigita Keiller	86	Shirley Adams	87	Daniela Conesa
88	Joan Boyd	89	Gerrett Springer	90	Unknown
91	Hector Walshe	92	Birdlife Australia	93	Gabby Rogers
94	Terry Walshe	95	Megan Jarrett	96	Tom Martin
97	Peter William Collins	98	A W & B M Mills Pty Ltd	99	Unknown
100	Ian Edgar	101	Katrina Ruddick	102	Kerry and David Arnott
103	Mary Picard	104	Voi Williams	105	Richard and Valma Davidson
106	Sebastian Harvey	107	Gavin Doherty	108	Sue Picard (petition)
109	Roger Thompson	110	Hayne Meredith	111	Jenny Lindscaux

Appendix D Parties to the Committee Hearing

Party	Represented by
Glenelg Shire Council	Matthew Beazley of Russell Kennedy Lawyers, instructed by Kelly Wynne and Matt Berry
Australian Tourism Trust Pty Ltd (Applicant)	<p>Christopher Townshend QC and Nicola Collingwood of Counsel, instructed by Sarah Raso of Corrs Chambers Westgarth, who called the following expert evidence:</p> <ul style="list-style-type: none"> - Strategic planning from Andrew Biacsi of Contour Consultants - Economics from Rhys Quick of Urbis - Geotechnical assessment from Jim Finlayson of FSG - Landslip and Landslide from Stuart Colls of Golder - Hydrogeological assessment from Anthony Lane of SLR Consulting - Biodiversity and native vegetation from Aaron Organ of Ecology and Heritage Partners - Design Review Team from Tim Biles of Ratio, Clare McAllister of Clare McAllister Architecture, Interiors and Urban Design, and Brendan Papworth of Papworth Design - Traffic engineering from Charmaine Dunstan of Traffix Group - Photo montages from Chris Goss of Orbit - Bushfire management from Kylie Steel of South Coast Bushfire Consultants
Save Cape Bridgewater Association Inc	<p>Shelly Fanning of Coastal Planning, instructed by Patrick O'Brien, who called the following expert evidence:</p> <ul style="list-style-type: none"> - Landscape and visual impact from Andrew Partos of Hansen Partnership - Geological and environmental impact from Geoff Byrne of Niboi Consulting - Economics from Michael Campbell of Lucid Economics
Department of Environment, Land, Water and Planning	Geoff Brooks
Great Ocean Road Regional Tourism	Liz Price
Birdlife Australia	Daniel Lees
Historic Buildings Restoration Committee	Lex Chalmers
National Trust Australia (Victoria) Portland branch	Gordon Stokes
Gunditj Mirring Traditional Owners Aboriginal Corporation	Damein Bell

Garry Kerr, Marilyn Herring, Melinda Radcliffe, Ross Bremner, Angie Howson, Deborah Jones, Jen Sheppard, Jen Pike, Jane Gilby	Hayne Meredith
Steve Saunders	
Hayne Meredith	
John Doyle	Brian and Joanne Kermond
Brian and Joanne Kermond	
Shea Rotumah	
Irene Yuill	
Joan Boyd	
Sebastien Harvey	
Mary Picard and Michael Bartos	
Kerry Picard-Arnott	Mary Picard and Michael Bartos
Bill Collett	(did not appear)
Marlowe Richmond	
Lynne Brown	
Julie Adam	
Nick Chipman	
Bill and Val Golding	
Patrick and Anne O'Brien	
Judith Galewski	
Stan Galewski	
Robyn Neilson	
Catherine Bawden	
Brigita Keillor	
Jo Austin	
Daniela Conesa	
Helen Oakley	
Terry Walshe	
Viona Lowenthal	
Sandra Fairthorne	
Gerret and Katrin Springer	
Denis Carr	
Megan Jarrett	

David Bevan	(did not appear)
Sue Picard	Mary Picard
Deborah and Phillip Bunce	
Douglass and Amanda Cahill	
Peter Collins	
Paul Wizard	
Belinda Peddie	
June and Craig Saunders	Curtis Saunders (did not appear)
David Bennett	
Jenny Lindscaux	
Kammy Cordner	
Alice Roberts	
Linda Cable	
Steve Liddicut	
Phil and Jen Sheppard	
Gavin Doherty	
Damon Jarrett	

Appendix E Document List

Version 28 – 16/06/2021

No.	Date	Description	Presented by
1	20/12/20	Letter of Referral	Minister for Planning
2	12/01/21	Draft Glenelg C107gelg Planning Scheme Amendment - Instruction Sheet	Mr Peeters, DELWP
3	“	Draft Glenelg C107gelg Incorporated Document	“
4	“	Draft Glenelg C107gelg Explanatory Report	“
5	“	Draft Glenelg C107gelg Schedule to 72_04	“
6	“	Draft Glenelg C107gelg Schedule to Clause 72_03	“
7	“	Draft Glenelg C107gelg Schedule to Clause 45_12	“
8	“	Draft Glenelg C107gelg Map 34	“
9	“	Application for Planning Permit_P19181	“
10	“	Planning Report prepared by URBIS on behalf of Australian Tourism Trust	“
11	“	Appendix A - Architectural Report	“
12	“	Appendix B - Landscape Report	“
13	“	Appendix C - Bushfire Management Statement	“
14	“	Appendix C - Bushfire Emergency Management Plan	“
15	“	Appendix D - Ecology Biodiversity Assessment	“
16	“	Appendix E - Town Planning Report	“
17	“	Appendix F - Traffic Report	“
18	“	Liquor Plan	“
19	“	Plans	“
20	“	Urbis on behalf of Australian Tourism Trust - Response to Submitters	“
21	“	Urbis on behalf of Australian Tourism Trust - Response to Amendment C102	“
22	“	Gunditj Mirring Traditional Owners Corporation - Cultural Heritage Management Plan Approval Letter	“
23	“	Delegates Report	“
24	19/01/21	Letter to the Minister for Planning	Ms Fanning, Coastal Planning for SCBA Inc.

No.	Date	Description	Presented by
25	21/01/21	Notification Letter and - Terms of Reference - Letter of Referral	Mr Merrett, Committee Chair
26	22/01/21	Email raising procedural issues and attaching submission provided by Council	Mr O'Brien, SCBA Inc.
27	27/01/21	Email thread regarding procedural matters and various queries	"
28	"	Email regarding submissions and attaching late referral authority responses to permit application	Mr Peeters
29	"	CFA referral response	"
30	"	DELWP referral response	"
31	"	EPA referral response	"
32	"	VicRoads referral response	"
33	28/01/21	Letter to Mr McGough, DELWP Planning Services	Mr Merrett
34	29/01/21	Email correspondence regarding draft Incorporated Document	
35	01/02/21	Email chain regarding Committee's scope	Ms Fanning
36	02/02/21	Letter to the Committee	Ms Kelly, Glenelg Shire Council
37	"	Email foreshadowing matters for discussion at the Directions Hearing	Mr Merrett
38	08/02/21	Statement	Mr McGough, DELWP
39	"	Amended Glenelg C107gelg Schedule to Clause 45.12 Specific Controls Overlay v2	"
40	"	Amended Glenelg C107gelg 72_04s v2 schedule to Clause 72.04 documents incorporated into planning scheme	"
41	"	Amended Glenelg C107gelg Explanatory Report v2 with track changes	"
42	"	Amended Glenelg C107gelg Explanatory Report v2 clean	"
43	"	Amended Glenelg C107gelg Incorporated Document v2	"
44	"	Amended Glenelg C107gelg Instruction Sheet v2 with track changes	"
45	"	Amended Glenelg C107gelg Instruction Sheet v2 clean	"
46	09/02/21	Letter to the Hon. Shaun Leane MP	Mr O'Brien
47	09/02/21	Letter to the Minister from Mr Stokes – National Trust of Australia (Victoria) Portland Branch dated 25 October 2020	Mr McGough

No.	Date	Description	Presented by
48	“	DELWP response to National Trust of Australia (Victoria) Portland Branch	“
49	12/02/21	Response to Committee	Mr Haley, Country Fire Authority
50	“	Amended Draft C107gelg Map 34 (Specific Controls Overlay)	Mr Peeters
51	15/02/21	Email providing SCBA Inc. members and ASIC association summary	Ms Fanning
52	“	Confirmation of submitters to be represented	Mr Meredith
53	16/02/21	Emails regarding Hearing commencement dates	Mr Merrett
54	18/02/21	Email requesting height pole locations are provided on plans	Ms Fanning
55	19/02/21	Request for height pole locations to be provided on TP .006	Mr Merrett
56	12/02/21	Amended Version 2 Map 34 (SCO)	Mr Peeters
57	19/02/21	Email to all parties advising of Hearing commencement dates	Mr Merrett
58	22/02/21	Email filing TP 06 and TP 012	Ms Raso, Corrs Chambers Westgarth for the Applicant
59	“	Base drawing TP.006 – Key hotel buildings and vegetation removal	“
60	“	Base drawing TP.012 – Height poles and vegetation removal	“
61	01/03/21	Confirmation of representation	“
62	“	Confirmation of expert witness details	Ms Fanning
63	“	Collated nominated site inspection locations	Mr Merrett
64	05/03/21	Correspondence regarding expert witnesses and height pole matters	Ms Raso
65	“	Updated base drawing TP.012 height poles and vegetation removal	“
66	“	Letter to the Committee – late request to be heard	Mr Rotumah
67	“	Additional letter to the Committee	“
68	09/03/21	Response to Mr Rotumah	Mr Merrett
69	“	Email to all parties regarding late submission request	“
70	10/03/21	Email of support for the late request to be heard of Mr Rotumah	Mr O’Brien
71	“	Correspondence regarding expert witness details	Ms Raso
72	11/03/21	Email regarding further directions hearing	Ms Fanning
73	12/03/21	Response to document 73	Mr Merrett

No.	Date	Description	Presented by
74	“	Email to all parties containing OneDrive link	Mr Merrett
75	15/03/21	Email to Committee regarding involvement in Hearing process	Mr Bell, Gunditj Mirring Traditional Owners Aboriginal Corporation
76	“	Response to late request to be heard of Mr Rotumah	Mr Springer
77	“	Clarification of matters to be raised at the Directions Hearing	Mr Bell
78	16/03/21	Response to late request to be heard of Mr Rotumah	Ms Wynne
79	“	Letter addressing several matters and confirming expert witness details	Ms Raso
80	17/03/21	Email regarding further directions Hearing	Mr O’Brien
81	“	Email attaching statement of Eliza Mitchell	Ms Brand
82	“	Statement of Eliza Mitchell	“
83	22/03/21	Email with images regarding ‘spruiking’ and Committee response	“
84	“	Directions and Timetable Version 1	Mr Merrett
85	“	Email to Ms Fairthorne regarding access to her property for unaccompanied site inspection	“
86	“	Email to Mr Chipman regarding access to his property for unaccompanied site inspection	“
87	29/03/21	Further Directions	“
88	01/04/21	Submission	Mr Bell
89	“	Applicant response to DELWP referral response v1 dated 15 Feb 2020	Mr Brooks
90	“	Applicant response to DELWP referral response v2 dated 12 March 2020	“
91	“	Summary of geotechnical assessment dated 27 March 2020	“
92	“	Applicant response to DELWP referral response v3 dated 4 April 2020	“
93	“	Biodiversity Assessment dated 3 April 2020	“
94	“	Applicant response to DELWP referral response v4 dated 20 May 2020	“
95	“	DELWP final referral response dated 6 July 2020	“
96	“	DELWP further information request date 24 January 2021	“
97	“	Response to further directions dated 29 March 2021	Ms Raso
98	“	Email to all parties providing Applicant response to further directions dated 29 March 2021	Mr Merrett

No.	Date	Description	Presented by
99	“	Submission and images	Mr Rotumah
100	12/04/21	Letter to the Committee in regard to the location of height poles	Mr Page, Corrs Chambers Westgarth for the Applicant
101	14/04/21	Email filing amended plans	“
102	“	Amended plans – statement of changes	“
103	“	Amended plans	“
104	“	Amended plans – heat map	“
105	“	Amended plans – wastewater storage and irrigation methods letter	“
106	“	Amended plans – wastewater treatment and management letter	“
107	15/04/21	Email filing proposed installation location of height poles	“
108	“	TP.012 map showing proposed height pole installation locations	“
109	“	Response to documents 100 and 107	Mr Merrett
110	“	Email seeking clarification of in regard to document 109	Mr Page
111	“	Response to document 110	Mr Merrett
112	“	Email in regard to placement of post in respect of basement excavation area	Ms Raso
113	16/04/21	Submission	Mr Chiu for Environment Protection Authority Victoria
114	“	Letter to the Committee filing amended plans in accordance with direction 29	Ms Raso
115	“	TP.006 including existing fence line	“
116	“	TP.008 including existing fence line	“
117	“	TP.012 including existing fence line	“
118	19/04/21	Letter filing submitter location map	Mr Page
119	“	Submitter location map	“
120	“	Detailed land and planning history for subject site	Ms Wynne
120a	“	Bridgewater Bay Foreshore Master Plan November 2014	“
120b	“	Cape Bridgewater 1992 - map	“
120c	“	Cape Bridgewater Coastal Hazard Vulnerability Assessment	“
120d	“	Cape Bridgewater Structure Plan Background Report	“

No.	Date	Description	Presented by
120e	“	Cape Bridgewater Structure Plan July 2018	“
120f	“	Coastal Spaces Landscape Assessment Study Protection & Management of Coastal Landscapes-Glenelg Shire	“
120g	“	Coastal Spaces Recommendations Report	“
120h	“	Emerging Options	“
120i	“	Glenelg Shire Coastal Action Plan	“
120j	“	Glenelg Shire Tourism Research Report 22 August 2011	“
120k	“	Glenelg Strategic Futures Plan 2009	“
120l	“	Glenelg Sustainable Settlement Strategy 26 June 2012	“
120m	“	Glenelg Tourism Strategy - 25 May 2015	“
120n	“	Great South Coast Regional Growth Plan May 2014	“
120o	“	Pre VPP-Map	“
120p	“	Siting and Design Guidelines for Structures on the Victorian Coast May 1998	“
120q	“	South West Victoria Regional Coastal Action Plan 2002	“
120r	“	Tourism Opportunities Assessment Cape Bridgewater Structure Plan	“
120s	“	Victorian Coastal Strategy 2008	“
120t	“	Victorian Coastal Strategy 2014	“
120u	“	Victorian Coastal Hazard Guide	“
121	21/04/21	Letter filing amended height pole map	Mr Page
122	“	TP.012 Amended height pole map	“
123	20/04/21	Extension request to file economic expert evidence	Ms Fanning
124	“	Response to document 123	Mr Merrett
125	“	Email to parties advising of error in directions and timetable issued 23 March 2021 and extension request for economic evidence	“
126	30/04/21	Request for Hearing to be recorded	Ms Fairthorne
127	“	Email in regard to height poles with photo	Mr Liddicut
128	07/05/21	Request for list of members to SBCA Inc to be tabled	Mr Page
129	10/05/21	Email in regard to submitter location map (document 119)	Mr O’Brien
130	“	Response to document 129	Mr Merrett
131	“	Response to document 128	“
132	12/05/21	Email requesting redacted copy of member list	Mr Merrett
133	“	Response to document 132	Mr O’Brien

No.	Date	Description	Presented by
134	“	Email with images in regard to height poles and amendment documentation	“
135	“	Further response to document 132	“
136	“	Emails including Committee response to document 134	Mr O’Brien
137	14/05/21	Email seeking clarification relating to the CHMP	Ms Fanning
138	“	Order of expert witnesses	Ms Raso
139	“	Expert witness statement of Mr Partos – Landscape and visual impacts	Ms Fanning
140	“	Expert witness statement of Mr Byrne – Geological and environmental impacts	“
141	“	Letter filing expert witness statements	Ms Raso
142	“	Part A submission	“
143	“	Coastal Spaces Recommendations Report	“
144	“	Cape Bridgewater Structure Plan (July 2018)	“
145	“	Glenelg Shire Council Action Plan (2004)	“
146	“	Glenelg Tourism Strategy (2019-2026)	“
147	“	Great Ocean Road Strategic Masterplan (2015-2025)	“
148	“	Great South Coast Regional Growth Plan (May 2014)	“
149	“	Tourism Opportunities Assessment Cape Bridgewater Structure Plan (Sept 2016)	“
150	“	Victorian Coastal Strategy.	“
151	“	Visitor Economy Strategy	“
152	“	Bridgewater Final Plan	“
153	“	Expert witness statement of Mr Biacsi - Strategic Planning	“
154	“	Expert witness statement of Mr Quick - Economics	“
155	“	Expert witness statement of Mr Finlayson – Geotechnical	“
156	“	Expert witness statement of Mr Colls - Landslip and Landslide	“
157	“	Expert witness statement of Mr Lane – Hydrogeology	“
158	“	Expert witness statement of Mr Organ - Biodiversity and Native Vegetation	“
159	“	Expert witness statement of Mr Biles, Ms McAllister and Mr Papworth - Design Peer Review	“
160	“	Expert witness statement of Ms Steel - Bushfire Management	“
161	“	Expert witness statement of Ms Dunstan - Traffic and Car Parking	“

No.	Date	Description	Presented by
162	“	Video conferencing details & Timetable (v2)	Mr Merrett
163	“	Zoom instructions	“
164	“	Submitter guide to the Hearing	“
165	18/05/21	Email to Applicant in regard to the late evidence of Mr Goss	Mr Merrett
166	“	Response to document 165	“
167	“	Further email in regard to the member list of SCBA Inc	Mr Page
168	“	Response to document 167	Mr Merrett
169	“	Expert witness statement of Mr Goss - Visual and Amenity Impacts (photo montages)	Ms Raso
170	“	Statement of methodology of Mr Goss	“
171	19/05/21	Request for Ms Kelliher and Ms Hall to appear for cross examination at the Hearing with Committee response	Mr Walshe
172	“	Email offering to appear at Hearing for bushfire related matters	Mr Haley, Country Fire Authority
173	“	Expert witness statement of Mr Campbell – Economics	Ms Fanning
174	20/05/21	Drone footage - Ocean side view with villa post shown	Mr Merrett
175	“	Drone footage - Ocean side villa post	“
176	“	Drone footage - South east view with GSWW	“
177	“	Drone footage - North east side view	“
178	“	Drone footage – North side view	“
179	“	Drone footage – Video ocean and north side view	“
180	21/05/21	Letter filing Part B submission	Ms Raso
181	“	Part B submission	“
182	“	Day 1 version of the Incorporated Document with suggested changes (tracked)	“
183	“	Day 1 version of the Incorporated Document with suggested changes (clean)	“
184	“	Response to submissions table	“
185	24/05/21	Email filing redacted SCBA Inc member list	Mr O’Brien
186	“	Member list	“
187	“	Updated heat map	Ms Raso
188	25/05/21	Video presentation of proposal	Mr Townshend QC for the Applicant
189	“	Presentation of Mr Quick	Ms Raso
190	“	Presentation of Mr Finlayson	“

No.	Date	Description	Presented by
191	“	Email attaching 2016 Census data for Cape Bridgewater	Mr O’Brien
192	25/05/21	Apollo Bay Tourism Resort Call-In - Colac Otway Permit Application No. PP169/2017-1 Panel Report	Mr Merrett
193	26/05/21	Presentation of Mr Colls	Ms Raso
194	“	Presentation of Mr Lane	“
195	“	Siting and Design Guidelines May 2020	Ms Fanning
196	“	Presentation of Mr Papworth	Ms Raso
197	“	Presentation of Mr Biles and Ms McAllister	“
198	27/05/21	Emails in regard to landscape and native vegetation	Mr O’Brien
199	“	Victorian Heritage Database Report	“
200	27/05/21	Questions for Ms Kelliher and Ms Hall (RMCG)	Mr Walshe
201	28/05/21	Auditor-General’s Report: Community Planning in the Glenelg Shire: 1998-2005	Mr Chalmers for the Historic Buildings Restoration Committee
202	31/05/21	Victorian land capability assessment framework (VLCAF)	Mr Walshe
203	“	VLCAF irrigation area sizing spreadsheet	“
204	“	Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1) 2006	“
205	31/05/21	EPA Publication 891.4 Code of practice for onsite wastewater management	“
206	“	Request to make ‘in confidence’ submission	Mr Saunders
207		Mr Bremner submissions	Mr Bremner
208	“	Technical Note #5: RMCG response to Mr Walshe’s questions	Ms Raso
209		Applicant Part B Closing remarks	“
210	“	Applicant Version 2 updated Incorporated Document (clean)	“
211	31/05/21	Applicant Version 2 updated Incorporated Document (tracked)	“
212	“	Technical Note #1: Industry Occupation Benchmarks - Mr Quick	
213	“	Technical Note #3: Design detail by Spowers Architects	
214	“	Technical Note #4: Swept path diagrams and bus access arrangements – Ms Dunstan	
215	“	DELWP submissions	Mr Brooks, DELWP Barwon South West Region

No.	Date	Description	Presented by
216	“	Glenelg Shire Council submissions	Mr Matthew Beazley, Special Counsel on behalf of Glenelg Shire Council
217	31/05/21	Technical Note #2: Vegetation removal	Ms Raso
218	“	Appendix to Technical Note #2	“
219	01/06/21	GSFP Implementation Strategy 2009	Ms Chalmers
220		Glenelg C52 Panel Report SLO's March 2011	“
221		Document 3 VCAT Re DPO5 Narrawong Coast Directions Hearing (Helen Gibson)	“
222		Document 4 Extracts VCAT HBRC v GSC P 1722 Building C Nelson Road	“
223		Directions Hearing re DPO5, P2226 2006	“
224		Map of CSLAS 2006, Glenelg Shire Municipal Reference Document	“
225	01/6/21	Case citation as referred to in Part B Submission (Document 181)	Ms Raso
226	“	Tourism Investment Guidelines 2008	Ms Fanning
227	“	Presentation	Ms Price for Great Ocean Road Regional Tourism
228	02/06/21	Confidential document	Mr Saunders
229	“	VCAT proceeding P2332/2005 - Tower Hill Killarney	Ms Fanning
230	“	Extract: Stakeholder Values and Geoparks Full: Stakeholder Values and Geoparks: A Case Study for a Geopark in the Wheatbelt of Western Australia - Alan Briggs, September 2020	Ms Chalmers
231	“	Extract: Tardis Cultural Heritage Study - Cultural Heritage Opportunities and Management Issues - 2006	“
232	“	The Coast is Unclear - VPNA 2014	“
233	“	Article extract: The Coast is Unclear – Chris Smyth	“
234	“	Extract: Fundamental Features of a UNESCO Global Geopark	“
235	“	Timeline – Glenelg Shire Council Development Strategies 1994 -2009	“
236	“	Extract: Historic Building Restoration Committee v Glenelg Shire Council P1722 2006	“
237	“	Extract: Kanawinka Geopark Areas 2008	“

No.	Date	Description	Presented by
238	“	Submission	Mr Stokes for the National Trust of Australia (Portland Branch)
239	“	Submission – Part 1	Ms Chalmers
240	“	Submission – Part 2	“
241	“	Submission – Part 3	“
242	“	Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia	“
243	“	Extract: Dhawura Ngilan Vision 4	“
244	“	Updated member list – Save Cape Bridgewater Association Inc. – 1 June 2021	Mr O’Brien
245	“	Map: Areas of Aboriginal Archaeological Sensitivity/Potential – Glenelg Shire, Tardis Desktop Study	Ms Chalmers
246	03/06/21	SCBA Inc. submission	Ms Fanning
247	“	Annexure B to SCBA Inc. submission	“
248	“	Deloitte Visitor demand and accommodation forecast – Final report	Ms Price
249	“	Visitor Economy Recovery and Reform Plan (April 2021)	“
250	“	Great Ocean Road region visitor Covid impacts presentation	“
251	“	Economic value to Victoria of the visitation to the Shipwreck Coast	“
252	“	Mr Byrne presentation	Ms Fanning
253	“	Technical Note 6: Design detail in relation to visual impact	Ms Barnes
254	“	Mr Partos - Urban design and Landscape evidence presentation	Ms Fanning
255	04/06/20	Tourism Research Australia State of the Industry 2018 -2019 March 2020	Mr O’Brien
256	“	Tourism Research Australia <i>The Beach, Bush and Beyond, Understanding Regional Dispersal of Australian Tourists</i> October 2019	“
257	“	VICMAP South West Region Maps 6840 and 6841 1:50,000	“
258	“	Destination Maker or Destination Breaker: The Role of the Victorian Civil and Administrative Tribunal (VCAT) by Justice Stuart Morris, President VCAT	“
259	“	Parish of Tarragal, County of Normanby, 1:25,000, Division of Survey and Mapping (State of Victoria) 1976	“
260	“	Parish of Trewalla, County of Normanby, 1:25,000, Division of Survey and Mapping, (State of Victoria) 1976	“

No.	Date	Description	Presented by
261	“	A Best Practice Approach to Shelter-in-Place for Victoria, Heads of Agency Agreement Shelter-in-Place Report Issued by the Metropolitan Fire and Emergency Services Board May 2011	“
262	“	Country Fire Authority neighbourhood safer place – bushfire place of last resort assessment guidelines July 2020	“
263	“	Portland Observer article front page (January 10, 2020)	“
264	“	Portland Observer article (March 20, 2020)	“
265	“	Pre-recorded submission	Ms Sheppard
266	“	Written submission	“
267	“	Pre-recorded submission	Mr Kerr
268	“	Pre-recorded submission	Ms Gilby
269	“	High value data – Tourism factsheets	Ms Price
270	“	Submission	Ms Howson
271	“	Submission	Ms Jones
272	“	YouTube links	Mr Kerr
273	“	Submission	Ms Pike
274	“	Submission	Ms Herring
275	“	Submission	Ms Radcliffe
276	“	Submission	Mr Meredith
277	“	Presentation	“
278	“	Recording	Ms and Mr Kermond
279	07/06/21	Submission	Ms Pike
280	“	Article from the Portland Observer – 2 February 2021	Mr O’Brien
281	“	Submission	Ms and Mr Kermond
282	“	Submission	Ms Brown
283	“	Speaking notes	Ms and Mr Kermond for Mr Doyle
284	“	Submission and poem	“
284a	“	Audio recording	Mr Doyle
285	“	Submission	Ms and Mr Golding
286	“	Submission	Ms O’Brien
287	“	Submission	Mr O’Brien

No.	Date	Description	Presented by
288	“	Pre-recorded submission	Ms Richmond
289	“	Presentation of Mr Campbell	Ms Fanning
290	“	Submission	Mr O’Brien for Ms Yuille
291	07/06/21	Presentation	Mr and Ms Chipman
292	“	Speaking notes	Mr Harvey
293	“	Photos	Mr Bartos
294	“	Sydney Morning Herald Article – Midfield Meats story	“
295	“	Submission	Ms Adam
296	“	Submission	Ms Bawden
297	“	Images of Cape Bridgewater	Mr and Ms Kermond
298	“	Pre-recorded submission	Ms Boyd
299	08/06/21	Baywater View Estate: Cape Bridgewater brochure	Ms Kermond
300	“	Presentation	Mr Harvey
301	“	Email in response to Committee query relating to the status of case study quoted in Cape Bridgewater Structure Plan	Ms Wynne
302	“	Submission	Mr Walshe
303	“	Presentation	Ms Conesa
304	“	Submission	Ms Keiller
305	“	Submission	Ms Oakley
306	“	Pre-recorded submission	Ms Fairthorne
307	“	Submission – Part 1	Ms and Mr Bunce
308	“	Submission – Part 2	“
309	“	Letter to Peter Dutton MP	“
310	“	Pre-recorded submission	Ms Jarrett
311	“	Submission	Ms and Mr Wizard
312	“	Submission	Ms Galewski
313	“	Submission	Mr Galewski
314	“	Submission	Ms Lowenthal
315	“	Petition in opposition to permit application	Ms Picard
316	“	Submission	“
317	“	Speaking notes	Ms Neilson
318	“	Presentation	Mr Springer

No.	Date	Description	Presented by
319	“	Pre-recorded submission	Ms Peddie
320	“	Speaking notes	Mr Bartos
321	09/06/21	Pre-recorded submission	Ms Roberts
322	“	Submission	Mr Collins
323	“	Email filing documents 324 and 325	Ms Fairthorne
324	“	National Recovery Plan for the Southern Bent-wing Bat (Lumsden & Jemison 2015)	“
325	“	Investigation of existing post construction mortality - Vic wind farms (ARI 2019)	“
326	“	Southwest Victoria Landscape Assessment Study - Regional Overview Report (2013)	Mr Liddicut
327	“	Scenic video of Cape Bridgewater	“
328	“	Submission	Ms Cordner
329	“	Victorian guideline for water recycling (EPA 2021)	Mr Walshe
330	“	Submission	Mr Jarrett
331	“	Speaking notes	Ms Cordner
332	“	Presentation	Mr Galewski
333	“	Pre-recorded submission	Mr Bennett
334	10/06/21	Version 3 Incorporated Document (Tracked)	Ms Raso
335	“	Version 3 Incorporated Document (Clean)	“
336	“	Incorporated Document with suggested changes (Tracked)	Mr Brooks
337	“	Marine and Coastal Policy (DELWP 2020)	Mr Liddicut
338	“	Submission	“
339	“	Southern Bent Wing Bats article	“
340	“	Supplementary notes	Ms Cordner
341	“	Further written submission	Mr Saunders
342	“	Pre-recorded submission	Ms Cable
343	“	Version 3 Incorporated Document with suggested changes (Tracked)	Mr Beazley
344	“	Version 3 Incorporated Document with suggested changes (Clean)	“
345	“	Letter from the Victorian Volcanic Plan Biosphere Inc.	Mr Liddicut
346	“	'Position Paper' on the Version 3 Incorporated Document	Ms Fanning
347	“	Speaking notes	Ms Jarrett
348	“	Southern Bent Wing Bat information sheet	Mr Meredith

No.	Date	Description	Presented by
349	“	Version 3 Incorporated Document (Tracked)	Ms Fanning
350	“	Closing submission	Ms Raso
351	“	Long section – viewline	“
352	“	Technical note 7 – Indicative room rate	“
353	“	Visual amenity document addendum of Mr Goss	“
354	“	Statement of methodology addendum of Mr Goss	“
355	11/06/21	Speaking notes	Ms Fairthorne
356	“	Landscape section	Ms Raso
357	“	Letter from Ian Lewis: Director of the Kanawinka Volcanic Geotrails, Western Victoria and Southeast South Australia	Mr Liddicut
358	“	Video submission	Mr Kerr and Ms Fairthorne
359	“	Proposed car parking management condition	Ms Raso
360	“	Response to glare	“
361	“	Email filing documents 362 – 364	Mr Beazley
362	“	Indigenous plant guide for Warrnambool	“
363	“	Plant species of environmental weeds to be avoided	“
364	“	Cross section of built form running parallel to southern boundary	Ms Raso
365	“	TP.008 Map (marked up showing revised site plan)	“

Appendix F Committee preferred version of the Incorporated Document

GLENELG PLANNING SCHEME

CAPE BRIDGEWATER RESORT, BLOWHOLES ROAD, CAPE BRIDGEWATER

~~NOVEMBER 2020~~ [insert date]

Incorporated Document

This document is an incorporated document in the Glenelg Planning Scheme pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

This document is an Incorporated Document in the Schedules to Clauses 45.12 (Specific Controls Overlay) and 72.04 (Documents Incorporated in this Planning Scheme) of the Glenelg Planning Scheme (the scheme).

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and conditions contained in Clauses 5.0 and 6.0 of this document.

The provisions of this document prevail over any contrary or inconsistent provision in the scheme.

2.0 PURPOSE

The purpose of this document is to permit the use and development of the land identified in Clause 3.0 of this document for an [integrated resort comprising](#) residential hotel [and ancillary facilities and activities](#), generally in accordance with the plans approved [under](#) Clause 6.0 of this document.

3.0 LAND

This document applies to the land at Blowholes Road, Cape Bridgewater, which is shown as SCO10 on the planning scheme maps and identified generally at Figure 1 below. The land is described as Lot 1 on Plan of Subdivision PS 500866.



Figure 1: Land subject to this incorporated document highlighted in red

4.0 EXEMPTION FROM PLANNING SCHEME PROVISIONS

Despite any provision to the contrary or any inconsistent provision in the scheme, no planning permit is required for, and no planning provision in the scheme operates to prohibit, restrict or regulate the use and development of the land for the purposes of the development permitted by this document.

5.0 WHAT THIS DOCUMENT ALLOWS

This document allows the use and development of an [integrated tourism resort comprising residential hotel including ancillary retail and tourism facilities, bar, restaurant, sale and consumption of liquor on the premises](#), removal of native vegetation, [two lot subdivision](#), waiver of bicycle facilities, generally in accordance with [plans approved under](#) Clause 6.0 of this document and including any amendment of the plans that may be approved from time to time under the clauses of this document.

6.0 CONDITIONS

The following conditions apply to the use and development permitted by this document.

Amended Plans

6.1 Before the development starts, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of this Incorporated Document. The plans must be drawn to scale with dimensions provided. The plans must be generally in accordance with the plans prepared by Spowers [Architects](#), titled Cape Bridgewater Resort, Project No. 2019011 dated [12/04/2021](#) but modified to show:

- a) [Siting of villas generally as shown on the Landscape Concept Plan approved under condition 6.15 subject also to any modifications emerging from the Further Design Review in Condition 6.7.](#)
- b) All dimensions and levels to Australian Height Datum (AHD), including levels of built form, car parking, outdoor terrace, pool, ~~tunnel~~, roadways, pedestrian paths, boardwalks and finished heights of buildings.
- c) Schedules of all external materials and finishes that show the materials, colours and finishes of all external walls, roofs, fascias, soffits, window frames, glazing type, doors, fencing and paving structures, all to the satisfaction of the responsible authority. [The schedule of materials ~~should~~ must include a sample of rammed earth finishes.](#)
- d) Location, [positioning](#) and specification of solar panels.
- e) [Identification of land to be gifted to public ownership under Condition 6.33 as a new lot.](#)
- f) [Windows to the hotel building and lodges treated to minimise reflectivity towards the coast and settlement.](#)
- g) [Bicycle parking provided on site in a convenient location to the satisfaction of the responsible authority.](#)
- h) [The Hotel building used also as a Shelter-in-Place building that is available to the Cape Bridgewater community.](#)
- i) [No above ground buildings \(other than landscape works, fencing and the like\) to be sited on the land above the existing 80 metre contour.](#)
- j) [The reduction in the 'pasture' villas from 16 to 14.](#)
- k) [Provision of pedestrian access to the Great South West Walk via the unmade road reserve to the north of the land. A plan must show how this greenlink is to be](#)

constructed between Blowholes Road and the Great South West Walk.

- l) Changes to the services buildings to ensure bus exiting manoeuvre onto Blowholes Road can be achieved in a single movement.
- m) An amended red line plan to reflect the deletion of the tunnel and restaurant and the final layout of the buildings.
- n) Any consequential changes arising under these conditions.

6.2 The use and development must be undertaken in accordance with the endorsed plans and must not be altered for any reason without the written consent of the responsible authority.

6.3 The use and development must be conducted in accordance with any works approval or license issued under the Environment Protection Act 1970.

6.4 The use and development must not commence until the required works approval is issued under the Environment Protection Act 1970.

6.5 All waste shall be disposed of, to the satisfaction of the responsible authority and the Environment Protection Authority.

6.6 The proposed building and works must be drained to the satisfaction of the responsible authority.

Further Design Review

~~[Included for example – not proponent's position]~~

6.7 Prior to the endorsement of plans under Condition 6.1 the plans shall be subject to a further design review by an expert to the satisfaction of the responsible authority to address the following matters:

- a) Softening of impression of view of hotel building from the settlement by refining solid elements generally as shown in the image prepared by [insert details] and/or by design modifications to lessen the visual impact of the central hotel building and lodge when viewed from the foreshore area near the café;
- b) The use of angled windows on the hotel buildings as they overlook the Cape Bridgewater settlement to address potential bird and bat strike;
- c) Any consequential modifications internally, including to excavated areas with any lost parking area to made up elsewhere on site; and

A report must be prepared to document the Further Design Review.

~~d) No building (other than landscape works, fencing and the like) to be sited on the land above the existing 82m contour.~~

Amenity

6.8 The amenity of the area must not be unreasonably detrimentally affected by the development and works permitted by this Incorporated Document through:

- a) processes carried out;
- b) transport of materials, goods or commodities to or from the land;
- c) appearance of any building, works or materials;
- d) emission of artificial light, vibration, smell, noise, fumes, smoke, vapour, steam soot, ash, dust, wastewater, waste products, grit or oil;
- e) presence of vermin;
- f) generation of dust.

- 6.9** The subject land must be kept neat and tidy at all times and its appearance must not, in the opinion of the responsible authority, adversely affect the amenity of the locality.

Hours of Operation

- 6.10** Except with the written consent of the responsible authority, the premises may only serve liquor on-premises between the following hours:
- a) 11am until 11pm in the restaurant and Central hotel;
 - ~~b) 11am until 1am in the Observatory Lounge~~
 - c) ANZAC Day and Good Friday 1pm until 11pm.

Liquor Licence

- 6.11** The ~~owner document holder~~ must provide the ~~responsible authority Council~~ with an original copy of any new Liquor Licence for the premises within one (1) month of being issued by the Victorian Commission for Gambling and Liquor Regulation. This must be consistent with the red line plan approved under this consent.

Acoustic Management Plan

- 6.12** Except with the written consent of the responsible authority, ~~n~~No external sound amplification equipment or loudspeakers are to be used on the land for the purpose of announcement, broadcast, playing of music or similar purpose.

- 6.13** Before the development starts, an Acoustic Management Plan must be submitted to and approved by the responsible authority. When approved, the Acoustic Management Plan will be endorsed and will then form part of the Incorporated Document.

The plan must show measures taken to ensure noise level emanating from the premises will not exceed those required to be met under State Environmental Protection Policy, including:

- a) State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
- b) State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- c) Noise from industry in Regional Victoria: Recommended maximum noise levels from commerce, industry and trade premises in regional Victoria (NIRV; EPA publication 1411).
- d) How plant and equipment is to be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the responsible authority.

Lighting Management Plan

- 6.14** Before the development starts, an amended Lighting Management Plan to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning must be submitted to and approved by the responsible authority. This must include measures to limit and attenuate any external lighting through must be designed, bafflinged and be located to prevent any adverse effect on adjoining land and to avoid and minimise potential impact to native fauna.

Landscaping Plan

- 6.15** Before the development starts, an amended Landscaping Plan to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the Incorporated Document. The plan must be drawn to scale with dimensions and one copy provided. The submitted plan must be generally in accordance with the Landscape Concept Plan prepared by

[Papworth Design dated 11 May 2021](#) but altered [as necessary](#) to show:

- a) A schedule of all proposed trees and shrubs, which will include the location, number and size at maturity of all plants, the botanical names of such plants to be used for the vegetation screening along the north, west and south property boundary;
- b) A plan, drawn to scale with dimensions, showing clearer delineation of the boundaries of the different landscape zones (i.e. where the 'landscape zones' are described by the different Planting Palettes);
- c) Description of an additional landscape zone specifically relating to the “defendable space – managed native vegetation” area;
- d) The proposed composition and management of the “defendable space – managed native vegetation” zone, including a survey (including botanical names) of all existing vegetation to be retained and removed within this area;
- e) A schedule of all proposed trees, shrubs, ground cover and green roofs, which will include the location, number and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface materials as specified;
- f) [Inclusion of species within the former Ecological Vegetation Classes \(EVCs\), namely Herb-rich Foothill Forest \(EVC 23\), Coastal Headland Scrub \(EVC 161\) and Coastal Alkaline Scrub \(EVC 858\);](#)
- g) [The deletion of the following weed species:](#)
 - [Yellow Gum](#) *Eucalyptus leucoxylon ssp. leucoxylon*
 - [Old Man Banksia](#) *Banksia serrata*
 - [Willow Myrtle](#) *Agonis flexuosa*
 - [Pincushion Hakea](#) *Hakea laurina*
 - [Bushy Yate](#) *Eucalyptus conferuminata*
 - [Coast Wattle](#)
 - [Coast Teatree](#)
- h) The method of preparing, draining, watering and maintaining the landscaped area;
- i) Additional information about the proposed interface with and management of the “existing coastal headland scrub” remnant native vegetation [where that remains as part of the site;](#)
- j) [Any consequential changes arising under Condition 6.31 \(Bulk Earthworks Strategy Plan\) and Condition 6.45 \(Defendable Space\);](#)
- k) [The location, treatment and design of any external on site car parking and bicycle parking areas;](#)
- l) [Identification of a pedestrian pathway linking the site to the Great South West Walk;](#)
- m) [Any other consequential change from Condition 6.1.](#)

6.16 Before the use/occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

Decommissioning and Rehabilitation

6.17 [Within three months of the use ending, a Decommissioning and Rehabilitation Management Plan prepared by a suitably qualified person to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will form part of the Incorporated Document. The plan must include but is not limited to:](#)

- a) Identification of structures to be removed, including but not limited to all buildings, services, internal roadways, pathways, piping and electrical infrastructure, including underground infrastructure to be removed and how they will be removed;
- b) Details of how the land will be rehabilitated, including tunneling and site earthworks, to allow it to be used for agricultural purposes (or proposed alternative use).

Within 12 months of the endorsement of the decommissioning and rehabilitation management plan, all the decommissioning and rehabilitation must be completed to satisfaction of the responsible authority.

Assets and Engineering Conditions

Road Upgrading

6.18 Before the use begins, the owner ~~document holder~~ must upgrade Blowholes Road from the western access to seal join at Panoramic Drive to the extent of the development property to incorporate earthworks, pavement, sealing, shoulder-sealing, drainage, line-marking and environmental treatments in accordance with plans and specifications submitted and approved by the responsible authority.

The detailed design is to be as per current Infrastructure Design Manual. When endorsed, the plans will form part of the Incorporated Plan. The plans must be drawn to scale with dimensions. A completed and signed "Checklist #D2 Request for Detailed Design Approval" must be submitted along with the plan. Submission must include:

- a) Geotechnical testing of the current pavement and area to be widened;
- b) Widening of the existing Road to a 7.0 metre fully sealed pavement;
- c) 1.5m shoulders on both sides;
- d) Roadside drainage;
- e) Appropriate intersection and access treatment and traffic calming measures;
- f) Appropriate signage and line-marking.

Operational Traffic Management Plan

6.19 Prior to approving the plans for the upgrade of Blowholes Road, a revised traffic management plan to the satisfaction of the responsible authority must be submitted to and approved by responsible authority.

Stormwater and Drainage Management Plan

6.20 Prior to the endorsement of plans a Stormwater and Drainage Management Plan is to be prepared by a suitably qualified consultant and submitted to and approved by the Responsible Authority. The Plan must deal with drainage management for the site and include:

- a) All irrigation and concentrated drainage water to be retained within the property and with surface flows not to exceed pre-existing levels to the satisfaction of the responsible authority;
- b) No stormwater is to be concentrated such as to flow onto neighbouring properties other than in accordance with the plan;
- c) No stormwater, drainage water or wastewater is to be discharged over pre-existing flows east of the Carriageway Easement E-3 (Great South West Walk).

Wastewater

6.21 Wastewater is to be treated in accordance with the approved Works Approval from the Environment Protection Authority.

6.22 All laundry is to be taken off site to a suitably licensed facility.

Access

6.236.20 Before the use begins, vehicular crossings shall be constructed in accordance with the endorsed plan(s) and the Infrastructure Design Manual to the satisfaction of the responsible authority, and shall comply with the following:

- a) Vehicular crossings shall be constructed at right angles to the road to suit the proposed driveway.
- b) Any proposed vehicular crossing shall have satisfactory clearance to any side entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the ~~applicant's~~ owner's expense.
- c) Vehicle crossings must have a minimum clearance of 6 metres from any intersection (from the point of intersection of title boundaries at the intersection).

6.246.21 Before the use begins, the owner ~~document holder~~ shall ensure that safe intersection sight distances (SISD) as described in AustRoads Publication 'Guide to Traffic Engineering Practice Part 5 - Intersections at Grade', is achieved at the point of access, to the satisfaction of the responsible authority.

Speed Zoning

6.25 Before the use begins, an application for review of current speed zoning must be made to the state road authority (Regional Roads Victoria). Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the ~~applicant's~~ owner's expense.

Sustainable Management Plan

6.26 Before the development commences, an amended Sustainable Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The amended Sustainable Management Plan must be generally in accordance with the report prepared by IrwinConsult, dated 17 December 2019, titled 'Town Planning Submission Report' (Appendix E to the planning permit application) but modified as appropriate to the plans submitted for endorsement and to specify initiatives to achieve a certified 5 Star Green Star Design rating.

6.27 The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and thereafter complied with to the satisfaction of the responsible authority.

Geotechnical Assessment

6.28 Prior to the commencement of works, a geotechnical assessment must be prepared by a suitably qualified professional and must be submitted to and approved by the responsible authority in consultation with DELWP.

Construction Environmental Management Plan

6.29 Before works start, a Construction Environmental Management Plan (CEMP) to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning must be submitted to and approved by the responsible authority. When approved, the CEMP will be endorsed and will form part of this Incorporated Document. The CEMP must include:

- a) An amended site plan, drawn to scale with dimensions and geo-references (such as VicGrid94 co-ordinates), that clearly shows:
 - i. the location and identification of the land affected by this Incorporated

Document, including standard parcel identifiers for freehold land;

- ii. the location and area of all native vegetation present, including scattered trees, that are permitted to be removed under this Incorporated Document;
 - iii. all areas of native vegetation to be retained.
- b) A detailed description of the measures to be implemented to protect the native vegetation to be retained during construction works, and the person/s responsible for implementation and compliance. These measures must include the erection of a native vegetation protection fence around all native vegetation to be retained on site, to the satisfaction of the responsible authority and DELWP. Protection measures must remain in place until all works are completed, to the satisfaction of the responsible authority.
- ~~c) Information relating to blasting (should it form part of the confirmed construction methodology), including but not limited to:~~
- ~~i. details of the timing and anticipated duration of the blasting program;~~
 - ~~ii. any seasonal restrictions (i.e. months) required to avoid and minimise potential fauna impacts;~~
 - ~~iii. any contingency measures required in the event of unanticipated environmental impacts.~~
- d) A procedure to be enacted if any caves or significant cavities are identified during the geotechnical assessments which may be affected by the development or are encountered during works. The procedure must include notification to the Department of Environment, Land, Water and Planning and the responsible authority. As a result of such notification, the Department of Environment, Land, Water and Planning may require the ~~document holder~~ [owner](#) to submit a report (prepared by a suitably qualified expert), to the satisfaction of the Department of Environment, Land, Water and Planning, for approval by the responsible authority. Any such report should investigate whether the cave or cavity formations provide habitat for threatened native flora or fauna species, such as the Southern Bent-wing Bat. If there is deemed to be habitat for threatened native flora or fauna species, then the report must recommend appropriate avoidance and mitigation measures. These avoidance and mitigation measures are then to be incorporated into the CEMP to the satisfaction of the Department of Environment, Land, Water and Planning.
- e) Measures and procedures to manage the following:
- i. outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed on site during the construction phase.
 - ii. [a prohibition on the use of explosives on site during construction.](#)
 - iii. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise.

All works constructed or carried out must be in accordance with the endorsed plan.

6.30 Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the responsible authority.

~~**6.31** Before the development starts, a Construction Environmental Management Plan must be submitted to and approved by the responsible authority. The pPlan must include:~~

6.31 [Before the plans are endorsed under Condition 6.1 a Bulk Earthworks Strategy Plan must be submitted to the satisfaction of the responsible authority. The Plan must be prepared by a suitably qualified person and must show the following to the satisfaction of the Responsible Authority:](#)

- a) Final estimate of cut and fill balance.
- b) An explanation of how on site re-use of fill will be used, processed, treated and maximised including for site works, landscape and re-use in building construction material.
- c) Any practical consequential amendments to the design.
- d) The management of any stockpiling of earth and rocks on site.
- e) An explanation of how off-site disposal (if any) is to be carried out including consideration of re-use for public projects in the area in consultation with relevant agencies.
- f) Any other relevant information.

Car Parking Management Plan

6.32 Prior to commencement of operation, a Car Parking Management Plan is to be submitted to the responsible authority. The Plan must include:

- A shuttle bus service to transport staff required to attend the site, leaving from and returning to Portland, for each work shift;
 - Proactive measures to encourage workers to travel to and from the site via the bus service offered from Portland;
 - The location of the onsite pick-up and drop-off areas/zones for the shuttle bus service;
 - The location of all areas on-site to be used for staff parking and guest parking;
 - How on-site parking is allocated and managed.

Land Gift

6.33 Prior to the commencement of the use or at such time as agreed by the responsible authority measures are to be in place to secure and provide for the transfer of ownership of the land between the western edge of the carriageway easement and the eastern title boundary to the Glenelg Shire Council or any other relevant public land manager as directed by the responsible authority.

6.34 All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the Plan of Subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

6.35 The Plan of Subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Miscellaneous

6.36~~6.34~~ Before works start, the owner ~~document holder~~ must submit to the responsible authority a written dilapidation report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of road seal, signs and other public infrastructure from Panoramic Drive to the extent of the development site. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the Council's assets/public infrastructure caused as a result of the development or use permitted by this Incorporated Document.

Referral Authority Conditions:

Department of Environment, Land, Water and Planning (DELWP)

6.37~~6.32~~ Before works start, the ~~document holder~~ owner must advise all persons undertaking the vegetation removal or works on site of all relevant Incorporated Document

conditions and associated statutory requirements or approvals.

6.386.33 Except with the written consent of the responsible authority, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and development, the following is prohibited:

- a) vehicular or pedestrian access;
- b) trenching or soil excavation;
- c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
- d) entry and exit pits for the provision of underground services;
- e) any other actions or activities that may result in adverse impacts to retained native vegetation.

6.39.6.34 The native vegetation permitted to be removed, destroyed or lopped under this Incorporated Document is 0.415 hectares of native vegetation described in Native Vegetation Removal Report ID: EHP 2021_062, or an area agreed by the Responsible Authority following any final design review **NOTE: AREAS MAY NEED TO BE ADJUSTED AFTER FINAL DESIGN**

6.406.35 To offset the removal of 0.415 hectares of native vegetation, the ~~document-holder~~ owner must secure the following native vegetation offsets in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:

- a) A general offset of 0.130 general habitat units located within the Glenelg Hopkins Catchment Management boundary or Glenelg Shire Council municipal area, with a minimum strategic biodiversity value of at least 0.417.

6.41.6.36 Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning. This evidence must be one or both of the following:

- a) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
- b) Credit extract(s) allocated to the Incorporated Document from the Native Vegetation Credit Register.

6.42.6.37 A copy of the offset evidence will be endorsed by the responsible authority and form part of this Incorporated Document. Within 30 days of endorsement of the offset evidence, the ~~document-holder~~ owner must provide a copy of the endorsed offset evidence to the Department of Environment, Land, Water and Planning.

6.43.6.38 Where the offset includes a first party offset(s), the ~~document-holder~~ owner must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

Country Fire Authority (CFA)

Shelter in place building

6.44.6.39 The Bushfire Attack Level (BAL) for the central hotel building is BAL40 in order to be suitable for Shelter-in-Place purposes.

Defendable space

6.45.6.40 Defendable space shown on the endorsed plans must be implemented and maintained as follows:

- a) Grass must be short cropped and maintained during the declared fire danger period;
- b) All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period;
- c) Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building;
- d) Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building;
- e) Shrubs must not be located under the canopy of trees;
- f) Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres;
- g) Trees must not overhang or touch any elements of the building;
- h) The canopy of trees must be separated by at least 5 metres;
- i) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

Site access

6.46.6.41 Roads for access and emergency service vehicles must meet the following requirements:

- a) Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width;
- b) The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres;
- c) Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle;
- d) Curves in driveway must have a minimum radius of 10 metres;
- e) Must provide a minimum trafficable width of 3.5 metres, be clear of encroachments 4 metres vertically and have no obstructions within 0.5 metres either side of the formed width of the road, to the satisfaction of the ~~r~~Responsible ~~a~~Authority;
- f) Incorporate a turning area for fire fighting vehicles close to the building, being either a circle of minimum radius 8 metres, a driveway encircling the building or provide vehicle turning - such as a T or Y head which meets the specification of Austroad Design for an 8.8 metre Service Vehicle;
- g) Incorporate passing bays at least every 200 metres which must be at least 20 metres long and have a minimum trafficable width of 6 metres. The access road is 6 metres in width.

Bushfire Management Plan

6.47.6.42 Prior to the commencement of development, an amended Bushfire Management Plan must be submitted to and approved by the responsible authority [in consultation with the Country Fire Authority](#). The Bushfire Management Plan should include bushfire-related requirements specified in this Incorporated Document.

Bushfire Emergency Management Plan

6.48.6.43 Prior to the commencement of development, a Bushfire Emergency Management Plan (BEMP) must be submitted to and approved by the responsible authority [in consultation with the Country Fire Authority](#). It should generally be consistent with the BEMP submitted with the application but amended where necessary to reflect the final approved proposal.

7.0 EXPIRY OF INCORPORATED DOCUMENT

7.1 Notwithstanding any other provisions of this document, this Incorporated Document will expire if one of the following circumstances applies:

- a) The development is not started within five years of the date of the gazettal of Amendment C107gelg.
- b) The development is not completed within three years from the date of commencement.

The Minister for Planning may extend the periods referred to if a request is made in writing before these controls expire, or within 6 months afterwards.

8.0 NOTES

A-8.1 Registration of food and accommodation premises

Prior to commencing operation, an application must be made to the Glenelg Shire Council Environmental Health Unit for:

- a) Registration of a Food Premises under the provisions of the *Food Act 1984*.
- b) Registration of Prescribed Accommodation under the provisions of the Public Health and Wellbeing Regulations 2009, Part 5 – Prescribed Accommodation and Registration Premises.

B8.2 EPA

This Incorporated Document is not an EPA Works Approval or licence. Before the use or development authorised under this Incorporated Document starts, any obligations or duties that arise under the *Environment Protection Act 1970* must be met.

C Aboriginal Cultural Heritage

[Before the plans are endorsed under Condition 6.1 a report prepared by a suitably qualified expert must be submitted to the satisfaction of the Responsible Authority outlining and describing the outcomes of further consultation with the Registered Aboriginal Party in relation to the plans for buildings and works submitted for endorsement. The purpose of this condition is to keep the responsible authority apprised of any steps taken under the Cultural Heritage Management Plan as relevant to the endorsed plans.](#)

D8.3 Cultural Heritage

Heritage Victoria requires notification of any archaeological finds and consent to undertake works that may affect places registered on the Victorian Heritage Inventory, in accordance with the *Heritage Act 2017*.

E8.4 Ground Water

Before the development can commence, all permissions regarding the harvesting of ground water must be obtained from Southern Rural Water.

End of Document