

Planning and Environment Act 1987

Advisory Committee Final Report

**Surf Coast Planning Scheme: Amendment C125
Cape Otway Road Australia (CORA)**

17 April 2020

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Kathy Mitchell, Chair



William O'Neil, Deputy Chair



Natasha Reifschneider, Member

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Abbreviations

Act	<i>Planning and Environment Act 1987</i>
BMO	Bushfire Management Overlay
CCMA	Corangamite Catchment Management Authority
CDP	Comprehensive Development Plan
CDZ	Schedule 3 to the Comprehensive Development Zone
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan
COESR	The Proponent, COESR Pty Ltd
Committee	Cape Otway Road Australia Development Advisory Committee
CORA	Cape Otway Road Australia
Council	Surf Coast Shire Council
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DoT	Department of Transport
EES	Environment Effects Statement
EHP	Ecology and Heritage Partners
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EY	Ernst and Young
G21	Geelong Regional Alliance
GDE	Groundwater Dependent Ecosystems
GGF	Growling Grass Frog
GORRT	Great Ocean Road Regional Tourism
LSIO	Land Subject to Inundation Overlay
LVIA	Landscape and Visual Impact Assessment
Minister	Minister for Planning
MSS	Municipal Strategic Statement
NBN	National Broadband Network
NIRV	Noise from Industry in Rural Victoria, EPA publication 1411
O	Objective (in the Comprehensive Development Plan)
PPF	Planning Policy Framework

R	Requirement (in the Comprehensive Development Plan)
S	Submitter
the Amendment	Draft Amendment C125 to the Surf Coast Planning Scheme
the Project	Cape Otway Road Australia Development Project
VPP	Victoria Planning Provisions
WSUD	Water Sensitive Urban Design

Overview

Amendment summary	
The Amendment	Surf Coast Planning Scheme: Amendment C125
Common name	Cape Otway Road Australia (CORA)
Brief description	<p>The Amendment seeks to provide the planning framework to facilitate the CORA Development Project.</p> <p>The Project seeks to provide for elite athletes in a high-performance sports training facility, featuring a sports science, innovation and education hub, sports fields with four and five-star accommodation, including 61 accommodation lodges and a 128-room hotel, wellness centre, a retail village including dining venues, art gallery, sculpture park, farming precinct and farmers market venue, a conservation area, childcare centre, micro-brewery and a sewerage treatment plant.</p>
Subject land	<p>The subject site comprises approximately 220 hectares of land in Modewarre, comprising:</p> <ul style="list-style-type: none"> • 1130 Cape Otway Road • 1280-1320 Cape Otway Road • 1300 Cape Otway Road • 1340 Cape Otway Road • 155 Batsons Road (part) • 10 Connies Lane • 50 Connies Lane <p>The subject land is shown in Figure 2</p>
The Proponent	COESR Pty Ltd
Planning Authority	Minister for Planning
Exhibition	21 October to 28 November 2019
Submissions	Number of Submissions: 246 (see Appendix B)

Advisory Committee process

The Panel	Kathy Mitchell (Chair) William O’Neil (Deputy Chair) Natasha Reifschneider, Member Elissa Bell, Member
Directions Hearing	Friday 13 December 2019 in the offices of Planning Panels Victoria in Melbourne
Advisory Committee Hearings	3, 4, 5, 6, 7, 10, 11, 12, 13 and 14 February 2020 in the offices of Surf Coast Shire at Torquay
Site inspections	Accompanied on Wednesday 5 February 2020
Appearances	See Appendix C
Citation	Surf Coast Planning Scheme PSA Amendment C125 [2020] PPV
Date of this Report	17 April 2020

Executive summary

The Victorian planning system provides robust guidance for proposed planning projects through the *Planning and Environment Act 1987*, state and local policies and municipal Planning Schemes. These are well tested when considering amendments to planning schemes when required and have stood the test of time. Planning scheme amendments engage with all aspects of the planning system and are able to be critically scrutinised by local Councils, various agencies, Proponents and third party involvement of local community submitters.

Projects that are supported should demonstrate there is a net community benefit and that the Project is sustainable. This often involves weighing up competing State and local policies to assist determining the net benefit of a Project. Planning is not about maintaining the status quo but rather it is about managing change for the benefit of existing and future generations of Victorians. This means that net community benefit is not just about immediate local communities at this point in time, but what might be benefited by wider communities, both regionally and in some cases, statewide – now and into the future.

The Cape Otway Road Australia (CORA) Project by the Proponent COESR Pty Ltd is one that has robustly tested the planning scheme amendment process. This Project seeks to provide for an elite sports training facility, hotel and other accommodation, a small retail precinct, farming precinct and a conservation area on land covered by the Rural Conservation and Farming Zones in an area proximate to Modewarre in the Surf Coast hinterland.

The Minister for Planning appointed this Advisory Committee to provide him with advice on the suitability of the CORA Project assessed against a number of planning and environmental factors. The Advisory Committee undertook its work in four stages, commencing with a review of the Project to determine if it was sufficiently justified to be placed on public exhibition. After making recommendations that it could be placed on exhibition subject to further work being undertaken, and following that exhibition period, the Advisory Committee held a public hearing in Torquay over 10 days in early February 2020.

The Project is proposed to be realised through a Comprehensive Development Zone and Comprehensive Development Plan, both of which were subject to detailed scrutiny at the Hearing by Council and community submitters and robust review by the Proponent.

Consideration of the Project was significantly enhanced by the input of many submitters through their written submissions and through their involvement at the Hearing, where many submitters attended and contributed by asking questions of witnesses and by supplementing their original submissions. Their local knowledge provided valuable guidance for the Advisory Committee, particularly on matters relating to landscape, traffic and access, biodiversity and conservation, infrastructure and water.

For example, during the Hearing, the Advisory Committee was alerted by two submitters to the presence of Growling Grass Frog near the subject site and the Proponent was required to further address this further. The Advisory Committee required further information be provided on the implications of recent sightings of Growling Grass Frog on the Project, the need for further survey work, and whether the Masterplan required amendment.

Taking all of these matters into consideration, the key findings of the Advisory Committee are that:

- While the Project is not directly contemplated by the Surf Coast Planning Scheme, it has broad support through economic and tourism policy at the local and State level and through strategic work relating to the Great Ocean Road Region of Victoria.
- The site is a suitable location for the CORA Project, and it will sit comfortably within its setting with few (but some) impacts on neighbouring properties.
- The proposed layout and built form of the integrated development are generally well resolved.
- The Project will realise significant economic and tourism benefits to local, regional and state communities.
- There is significant latent demand for additional 4 and 5 star accommodation facilities in the region, and the Project has the potential to respond favourably to this demand.
- While there will be some landscape and visual impacts on neighbouring properties, these can be effectively mitigated, and at the same time, the Project will rehabilitate and reinvigorate a denuded landscape and farm setting.
- There are no traffic reasons to preclude the Project, particularly as Connies Lane will not be an access point to the site, there are good traffic networks and options for access, and Cape Otway Road can comfortably accommodate the expected additional traffic derived from the Project.
- While there will be loss of native vegetation, the Project has appropriately avoided and minimised native vegetation loss, by which a net gain is expected following rehabilitation compared to the current condition of the site.
- The development of the Conservation Precinct within the wetlands area is appropriate, and the Project satisfactorily deals with future management arrangements.
- The Project provides inadequate justification for the removal of 'Good' potential Growling Grass Frog habitat at Site 7 (Figure 3, Ecology and Heritage Partners 2019) to allow for the soccer field to the west of Connie's Lane. The Project should be redesigned to facilitate Growling Grass Frog retention.
- There are no surface water or groundwater reasons to preclude the Project, the Project can be designed to be protected from flooding and is not expected to detrimentally impact on adjacent properties or Lake Modewarre.
- The Project provides for adequate management of sewerage and stormwater onsite.
- The bushfire provisions which require the preparation of a whole site plan are appropriate, and a detailed level of assessment of buildings will be undertaken at detailed design.
- There is no conflict of land use between the Project site and hunting activities on Lake Modewarre.
- While there is potential for land use and safety conflict between the Project and abutting Modewarre airfield, the Project has provided effective measures to address these matters.
- The proposed statutory planning framework provided by the Comprehensive Development Plan and the Comprehensive Development Zone will enable the

effective management and mitigation of adverse noise and lighting impacts on residents of Connies Lane.

- While there will be some amenity impacts on the immediate neighbouring properties and some perceptible social impact on Modewarre and to a lesser extent Moriac, there will be positive social impacts (economic development, tourism, accommodation, identity, employment) for the Surf Coast Shire, regional Victoria, and Victoria and Australia more broadly.
- The use of the Comprehensive Development Zone and Comprehensive Development Plan is supported and is appropriate to deliver and realise the Project.

For the reasons expressed in this report, and subject to the recommendations being supported and implemented, the Advisory Committee advises the Minister for Planning that while the CORA Project will have local impacts, those impacts can be suitably managed. The Project will result in sustainable development outcomes and will provide a clear net community benefit to the region and to Victoria.

Consolidated Recommendations:

Based on the reasons set out in this Report, the Advisory Committee has consolidated its recommendations and recommends:

Amendment C125 to the Surf Coast Planning Scheme be adopted as exhibited subject to the following changes:

- 1. Replace the exhibited Schedule 3 to the Comprehensive Development Zone with the Advisory Committee Recommended Version provided in Appendix E of this Report.**
- 2. Review the Schedule to the Comprehensive Development Zone to ensure that:**
 - a) All land use terms are defined and accord with the Victoria Planning Provisions.**
 - b) The schedule accords with the plain English guidance set out at section 6.1 of the *Practitioner's Guide to Victorian Planning Schemes*.**
- 3. Replace the exhibited version the Comprehensive Development Plan with the post hearing version submitted by the Proponent, Document 150(c), and further modified in response to the Recommendations contained in the body of this report as follows:**
 - a) Amend Section 3.1.4, 'Conservation Precinct and Conservation Area' as follows:**
 - (i) Amend Requirement 24 to require the provision of a boardwalk within the wetlands area, but outside of the offset area as shown in Figure 14. Specify that the boardwalk should provide a common link between precincts.**
 - (ii) Amend Figure 9 'Conservation Precinct Plan' to show the offset area as shown in Figure 14.**
 - b) Amend Section 3.2, 'Landscape' to include the following dot points as 'Requirements':**
 - (i) The landscape design must incorporate the retention of the existing windrow on the boundary shared with 51 Connies Lane to assist in the screening of light spill from the sports facilities.**

- (ii) The landscape design must include the provision of a network of passive open spaces throughout the whole site linked by a walking and cycling trail.
 - (iii) Incorporate the removal or burying of the overhead power line near the access gate on Connies Lane in the Stage 1 landscaping works in order to enable the creation of a more comprehensive and enduring amenity buffer.
 - (iv) Consult the owners of 51 Connies Lane regarding the proposed landscaping, fencing, lighting and noise mitigation measures proposed, noting the full cost of implementation of agreed measures must be borne by the Proponent.
- c) Amend Section 3.4, 'Water' to include the following dot points as 'Requirements':
- (i) Potential Growling Grass Frog habitat Site 7 (Figure 3, EHP 2019) must be retained and protected in its current form.
 - (ii) Any artificial water body removed for development must be replaced with an equivalent area of artificial waterbody within 500 metres of remaining water bodies.
 - (iii) Along key drainage lines that serve a habitat link function for the Growling Grass Frog, include 'stepping-stone' wetlands to provide refuge for Growling Grass Frog once water levels in the drain drop, maximising opportunities for the species to move along the drain.
 - (iv) All current and new waterbodies on the site must be connected via suitable drains to form a potential habitat network.
 - (v) Levels and water flow paths within the system must be designed to promote habitat conditions for Growling Grass Frog (including suitable depth and duration of inundation).
 - (vi) Revegetation of waterbodies must be undertaken with species suitable for Growling Grass Frog (i.e. no trees or extensive dense shrub plantings).
 - (vii) The design and layout of the waterbodies and connected drainage lines must have regard to and reflect the *"Growling Grass Frog Habitat Design Standards - Melbourne Strategic Assessment, DELWP 2017b"*.
- d) Amend Section 3.5, 'Environment' as follows:
- (i) Add a Requirement that specifies *"Retain and protect potential Growling Grass Frog habitat Site 7 (Figure 3, EHP 2019)"*.
 - (ii) Amend Figure 14 'Environment Plan' to show potential Growling Grass Frog Site 7 as a 'protected waterbody' and map all potential 'Good' Growling Grass Frog habitat quality as shown in Appendix 3.4, EHP 2019.
4. Amend the Instruction Sheet and Explanatory Report to clarify that the Cape Otway Road Australia (CORA) Comprehensive Development Plan is to be included as an Incorporated Document in Clause 72.04 of the Surf Coast Planning Scheme.

Part A: Background

1 Introduction

1.1 Advisory Committee and Terms of Reference

The Cape Otway Road Australia (CORA) Development Advisory Committee (the Committee) was appointed by the Minister for Planning (the Minister) on 8 December 2019 under Section 151 of the *Planning and Environment Act 1987* (the Act) to provide advice on all relevant planning matters associated with the Project. The Minister issued Terms of Reference on 17 February 2019 and updated these on 17 March 2019 (Appendix A).

The Committee comprises:

- Ms Kathy Mitchell (Chair)
- Mr William O’Neil (Deputy Chair)
- Ms Natasha Reifschneider
- Ms Elissa Bell.

The Committee was assisted by Ms Andrea Harwood, Senior Project Manager and Ms Georgia Thomas, Project Officer of Planning Panels Victoria. Originally Mr Adrian Vlok was appointed to the Committee however, due to a change in his circumstances, the Committee was reconstituted to include Ms Reifschneider following the completion of Stage 1. Ms Bell was active with the Committee until the end of 2019 and due to family reasons could not be involved in the Stage 3 component (apart from attendance and contribution to the Directions Hearing). Ms Bell assisted the Committee in its later stages of report writing through review and editorial input.

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

- Stage 1: Initial assessment
- Stage 2: Exhibition
- Stage 3: Public Hearing
- Stage 4: Outcomes.

The purpose of the Committee, set out at Clause 2 of the Terms of Reference, is to advise the Minister on all relevant planning matters associated with the proposed development including:

- the strategic planning and planning policy context and merits
- the net community benefit of the Project
- the potential environmental impacts and net environmental gain
- any potential risks associated with the proposed sequencing of the development
- the suitability of the site for the proposed development
- the suitability of the proposed planning controls.

The Committee provides a summary response to its Terms of Reference in Chapter 15.

1.2 Stage 1: Initial assessment

Clause 27 of the Terms of Reference required the Committee to review material prepared by COESR Pty Ltd (the Proponent) and provide a written report to the Minister identifying whether there was sufficient strategic justification for the Project to proceed as a draft amendment to public exhibition.

After reviewing the material provided to it, the Committee convened an Inception Meeting at Torquay on 28 March 2019, where the parties listed in Clause 21 of the Terms of Reference were invited to attend. The meeting was followed by an accompanied site inspection of the subject land and its surrounds.

The Committee sought further information from the Proponent. It then reviewed all subsequent information and material and provided its Stage 1 report to the Minister on 17 April 2019.

In its Stage 1 Report, the Committee noted that:

It is not the purpose of this report to fully test the strategic basis and veracity of the proposed Amendment, rather to determine whether there is sufficient information and strategic justification for it proceeding to exhibition.

The Committee made 16 recommendations about the form of the Project and recommended that there was sufficient justification for it to proceed as a draft Amendment to public exhibition.

On 2 June 2019, the Minister wrote to the Proponent (Document 1) to advise of his decision to allow the Project to proceed to public exhibition, subject to the Committee's report and its 16 recommendations. The Minister requested the Proponent provide a report that included a review of social impacts and an analysis of net community benefit. Consistent with Clause 19 of the Terms of Reference, the Proponent was required to submit its revised Project documents to the Minister within 30 business days.

At the request of the Proponent, DELWP on behalf of the Minister, granted two extensions of time (Documents 2 and 3a) for the Proponent to submit the updated Project documents. The Proponent formally responded to the Committee's recommendations in written correspondence dated 20 September 2019 (Document 3b) and provided a revised package of Project documents to the Minister. This led to the public exhibition stage.

1.3 Stages 2 and 3: Exhibition and public hearings

Consistent with Clause 18 of the Terms of Reference, the Project (including amended planning controls), a development plan and associated background documents were publicly exhibited on the Engage Victoria website between 21 October and 19 November 2019. In response to requests for an extension to the notice period on 13 November 2019, DELWP agreed to extend the closing date for submissions to 28 November 2019. The extent of notification undertaken by DELWP is outlined in the *'Cape Otway Road Development Project Public Notification Report'* (Document 31).

A total of 246 submissions were received by PPV through the public exhibition period and are recorded at Appendix B.

Clause 24 of the Terms of Reference required the Committee to carry out a public Hearing and provide all submitters with the opportunity to be heard. In this regard, a Directions Hearing was held on 13 December 2019 at Planning Panels Victoria. The public Hearing was held over ten days at the Council Chambers in Torquay on 3, 4, 5, 6, 7, 10, 11, 12, 13 and 14 February 2020 to consider submissions and evidence. The parties to the Hearing are provided in Appendix C.

The Committee undertook an accompanied site inspection on Day 3 of the Hearing (5 February 2020). Parties were provided an opportunity to nominate site inspection locations based on a draft itinerary prepared by the Proponent. Some parties took up this opportunity, adding locations in Connies Lane and sites on Hendy Main Road Moriac.

The inspection covered the route outlined in the final itinerary prepared by the Proponent and tabled as Document 40. This included access to properties at 1340 and 1300 Cape Otway Road and 10 Connies Lane, inspection of Connies Lane, the eastern and northern aspects of Lake Modewarre, Buckley, Modewarre and land at 865 Hendy Main Road and Hinterland Estate on Hendy Main Road, Moriac.

Those in attendance at the inspection included the Committee, Council, Proponent, DELWP and various submitters.

1.4 Stage 4: Outcomes

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 exhibition of 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.

Clause 28 of the Terms of Reference notes that the Committee must produce a written final report that includes:

- a. An assessment of all planning matters relevant to the proposed CORA development, and
- b. Consideration of the matters listed under 'Stage 1 – Initial Assessment' and Clause 29.

In this regard, Clause 29 notes the Committee must consider all relevant matters, including but not limited to:

- a. Provisions of the Planning and Environment Act 1987 and Surf Coast Planning Scheme, including any adopted plans, strategies or planning scheme amendments,
- b. The views of the Proponent (COESR Pty Ltd), and all relevant material prepared by or for the Proponent including any amended documentation and matters related to requirements under the Environment Protection Act 1970, the Aboriginal Heritage Act 2006 and the Environment Effects Act 1978,
- c. All relevant material provided to it by all participating parties, and
- d. All submissions and evidence received.

This report is divided into three parts (Background, Assessment and Implementation) that addresses and delivers on all aspects of the Terms of Reference as follows:

Part A: Background

- Chapter 1: Introduction
- Chapter 2: The Project
- Chapter 3: Planning and approvals context

Part B: Assessment

- Chapter 4: Land use planning
- Chapter 5: Economics and tourism
- Chapter 6: Landscape and visual impacts
- Chapter 7: Traffic and transport
- Chapter 8: Biodiversity and conservation
- Chapter 9: Water management
- Chapter 10: Infrastructure and services
- Chapter 11: Noise and lighting impacts
- Chapter 12: Other matters (Bushfire and emergency management, Modewarre airfield, Lake Modewarre hunting)
- Chapter 13: Social impacts

Part C: Implementation

- Chapter 14: Final planning controls
- Chapter 15: Response to Terms of Reference

2 The Project

2.1 Locational context

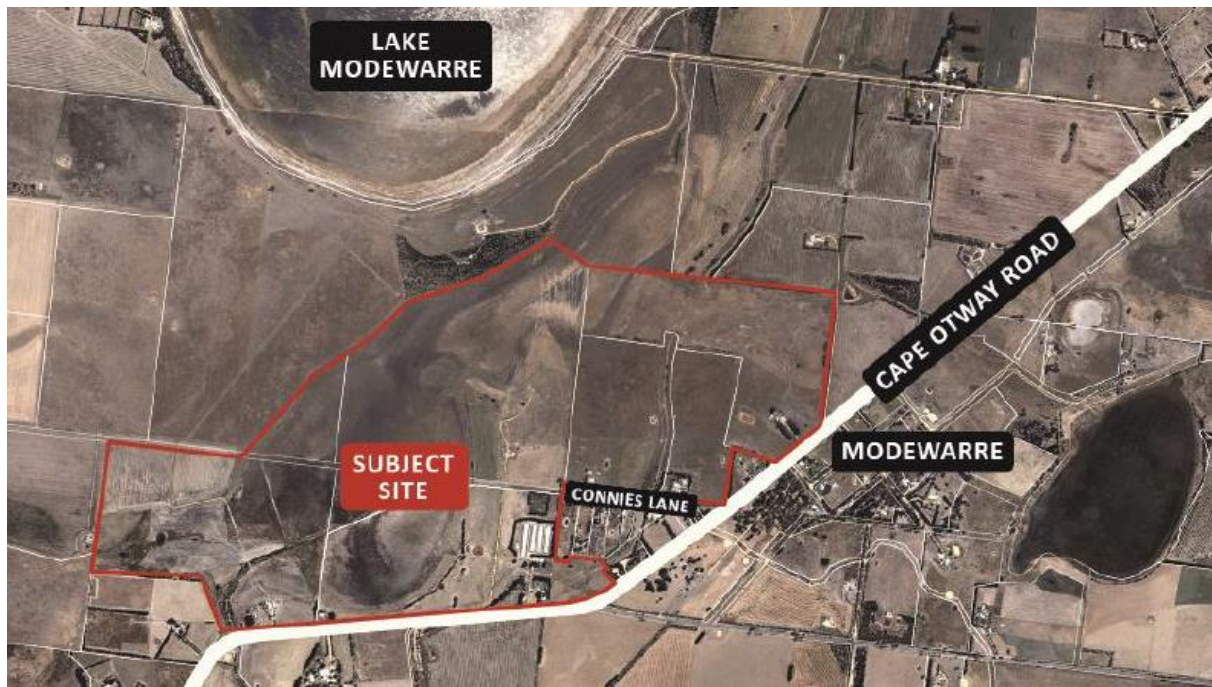
The CORA site is located adjacent to Modewarre, within the rural hinterland of Surf Coast Shire, shown in Figure 1. Modewarre is 10 kilometres south-east of Winchelsea, 26 kilometres south-west of Geelong and 90 kilometres south-west of Melbourne.

Figure 1: Surrounding context plan



Source: CORA Town Planning Report

The Site as shown in Figure 2, is approximately 220 hectares in size and is primarily oriented toward Cape Otway Road at the south and east. A secondary frontage exists to the east and south to Connies Lane. The site is bordered by privately owned land to the north and west. The Site is located to the south of Lake Modewarre.

Figure 2: Subject site

Source: Document 32 – Evidence Statement of Mr Milner

The site includes number of properties with abuttal to Connies Lane and Cape Otway Road. Connies Lane is an unsealed rural access lane with no through access, although a paper road exists through the subject site.

The Site consists of seven properties as listed in Table 1. Seven houses exist across the Site, of which four are along the frontage of Cape Otway Road, two adjoin Connies Lane and one is more centrally located.

Table 1: Site address and title particulars

Address	Title details
1130 Cape Otway Road	Lot 1 on TP954804X Lot 2 on TP954804X Lot 1 on TP954817N Lot 1 on TP133932S Lot 3 on TP954804X
1280-1320 Cape Otway Road	Lot 2 on PS544009
1300 Cape Otway Road	Lot 1 on PS544009
1340 Cape Otway Road	Lot 2 on TP2582
155 Batsons Road (Part)	Portion 8/Section 1 of Lot 2 on LP82811
10 Connies Lane	Lot 1 on TP21820
50 Connies Lane	Lot 2 on TP14253

Source: CORA Town Planning Report, 20 September 2019.

A decommissioned Broiler Farm exists near the south-eastern corner of the site. The remainder of the site generally consists of grazed farmland which gently undulates around

the Lake Modewarre floodplain and serves tributaries feeding into the Site from the south and west.

The land surrounding the Site is located within the Farming Zone and Rural Conservation Zone as shown in Figure 10 in Chapter 3.

2.2 The Project

CORA is a large development Project that seeks to deliver a unique tourist experience to users among the natural rural setting near Modewarre.

The Project seeks to attract elite athletes and sport teams by providing a world-class sport training, tourism and accommodation facility and sports science hub. In unison with this, the Project seeks to promote both regional, interstate and international tourism within the region by providing wellness services, and showcasing Australian-centric art, produce, food and culture.

CORA seeks to achieve environmentally sustainable outcomes that would conserve and restore the natural land systems. This is proposed to be achieved through the provision of site-responsive built form and landscape outcomes, the restoration of the wetland through revegetation and habitat creation and sustainable energy management and water sensitive urban design.

The Project is made up of the following key components:

- Retail and tourism precinct, including:
 - art gallery
 - childcare centre
 - design studio
 - distribution centre
 - food and beverage
 - microbrewery
 - retail
 - sculpture park
- Elite sports training precinct, including:
 - AFL oval
 - aquatic centre
 - cricket field
 - gymnasium
 - indoor sports hall
 - MCG sized oval
 - media centre
 - rugby pitch
 - soccer pitches
 - sports science hub
 - tennis courts
 - wellness centre
- Accommodation precinct, including:
 - hotel accommodation of 128 rooms
 - 61 eco-lodges
 - staff accommodation

- managers residence
- rural conservation precinct, including a Wetland conservation area.
- wastewater treatment plant
- organic farm
- depot.

Since CORA's inception in 2017, the Project has evolved and changed in response to several factors including specialist advice, local community expectations and this Committee process. This includes the removal of:

- 48 rural residential lots
- 15 lakeside surf eco-lodges
- six caretaker dwellings
- an athletics track, beach volleyball sandpit, cycling paths and wave pool
- helipad.

The Concept Master Plan at Figure 3 shows the different components of the site.

Figure 3: Concept Masterplan



Source: Document 150c – Final Comprehensive Development Plan

2.3 The draft Amendment

Draft Amendment C125 to the Surf Coast Planning Scheme (the Amendment) proposes to:

- update the Municipal Strategic Statement to remove any existing policy conflict with the Project and to recognise the benefits and opportunities of CORA
- rezone the site to the Comprehensive Development Zone (CDZ) with an accompanying Comprehensive Development Plan (CDP) to facilitate the integrated mixed-use CORA Project.

More specifically, as exhibited, the Amendment seeks to update:

- Clause 21.01 with an amended Map 2 to identify the CORA Project location and include a new dot point in the Settlement Built Environment and Heritage section of Clause 21.01-3 stating: *“Support the use and development of the world class Cape Otway Road, Australia (CORA) sports, tourism and accommodation precinct at Modewarre”*.
- Clause 21.04, sub-clause 3, Strategies to include:
 - a new dot point stating: *“Support the use and development of the world class Cape Otway Road, Australia (CORA) sports, tourism and accommodation precinct at Modewarre”*.
 - an amended dot point to include: *“strategically justified non-urban areas”*.
 - an amended dot point to include: *“key strategic rural areas shown in the Municipal Strategic Framework Plan”, “key strategic tourist destinations”* and other general drafting changes.
- Clause 21.04, sub-clause 5, Reference Documents to include:
 - a new dot point to include: *“Cape Otway Road Australia (CORA) Comprehensive Development Plan (2019)”*.
- Clause 21.06, sub-clause 1, Issues to include:
 - an amended dot point to include reference to: *“the proposed Cape Otway Road, Australia (CORA) Sports, Tourism and Accommodation Development at Modewarre”*.
- Clause 21.06, sub-clause 6, Strategies to include:
 - an amended dot point to ensure tourism facilities: *“outside of the Cape Otway Road, Australia (CORA) Sports, Tourism and Accommodation Development”* are limited in their intensity and scale.
 - an amended dot point to direct tourism and other commercial facilities: *“outside of the Cape Otway Road, Australia (CORA) Sports, Tourism and Accommodation Development”* to land within settlement boundaries.
 - an amended dot point to discourage uses not associated with an agricultural activity in any rural area outside of the Rural Activity Zone: *“and the Comprehensive Development Zone 3 - Cape Otway Road Australia (CORA) Comprehensive Development Plan”*.
- Clause 21.06, sub-clause 4, Implementation to include:
 - a new dot point in Applying zones and overlays to include reference to the: *“Comprehensive Development Zone 3 - Cape Otway Road Australia (CORA) Comprehensive Development Plan to recognise the importance of the world class facility located in a rural landscape setting”*.
- Clause 21.06, sub-clause 5, Reference documents to include:
 - a new dot point to include *“Cape Otway Road Australia (CORA) Comprehensive Development Plan (2019)”*.

The exhibited explanatory report for the Amendment further stated that:

The Amendment introduces the need for a Development Comprehensive Plan (sic) to be prepared and approved via an Incorporated document prior to a planning permit being issued for specific uses, buildings and works and subdivision.

Chapter 4.2 discusses the inconsistency in referencing the CDP as both a ‘Reference Document’ and as an ‘Incorporated Document’.

The Proponent addressed issues raised in submissions and prepared a revised 'Day 1' CDP which included the following changes and clarifications (Document 37):

- removal of:
 - 48 rural residential lots
 - 15 lakeside surf eco-lodges
 - six caretaker dwellings
 - an athletics track, beach volleyball sandpit, cycling paths and wave pool
 - the running and fitness paths
 - helipad
 - vehicle access from Connies Lane to the CORA Site
- increase in:
 - the maximum light pole height to 32 metres
 - the size of the wetland conservation area
 - the number of eco-lodges from 22 to 61 and relocated to the north-eastern portion of the Site
- relocation of:
 - the organic farm to 50 Connies Lane and reduced in size
 - the Sculpture park to the southwestern portion of the Site
 - the wellness centre to the southeast portion of the Site
 - the Hotel to the southeast portion of the Site
- inclusion of an additional Australian Football League sized oval.

2.4 Site layout and built form

(i) Overview

The CORA Project is designed to complement the natural landscape of its setting while ensuring high quality, low intensity, unobtrusive and site responsive buildings that are based on ecologically sustainable design principles. The scale of the buildings is designed to be consistent with those found in rural settings, with requirements and guidelines as set out in the CDP as follows:

- buildings must be setback a minimum of 40 metres from the Cape Otway Road boundary to accommodate space for landscaping
- buildings must not exceed the maximum building heights shown on the Built Form Plan (Refer Figure 4)
- buildings must be designed to utilise natural colours, muted tones, matte finishes and non-reflective materials
- bushfire protection measures must be assessed, considered and implemented
- development must achieve environmental design outcomes consistent with the Built Environment Sustainability Scorecard
- lighting spill to adjoining properties and to the conservation area must be minimised by design and baffling of lighting and the use of landscaping
- development should consider the need to provide multiple active interfaces where it will interface with the public domain
- environmentally sustainable design practices should be implemented to provide design responsive elements that ensure the Project meets best practice energy efficiency ratings

- land uses with the probability of noise emissions should be sited appropriately to avoid or minimise interfaces with existing or proposed sensitive uses.

Landscape requirements listed in the CDP include, but are not limited to:

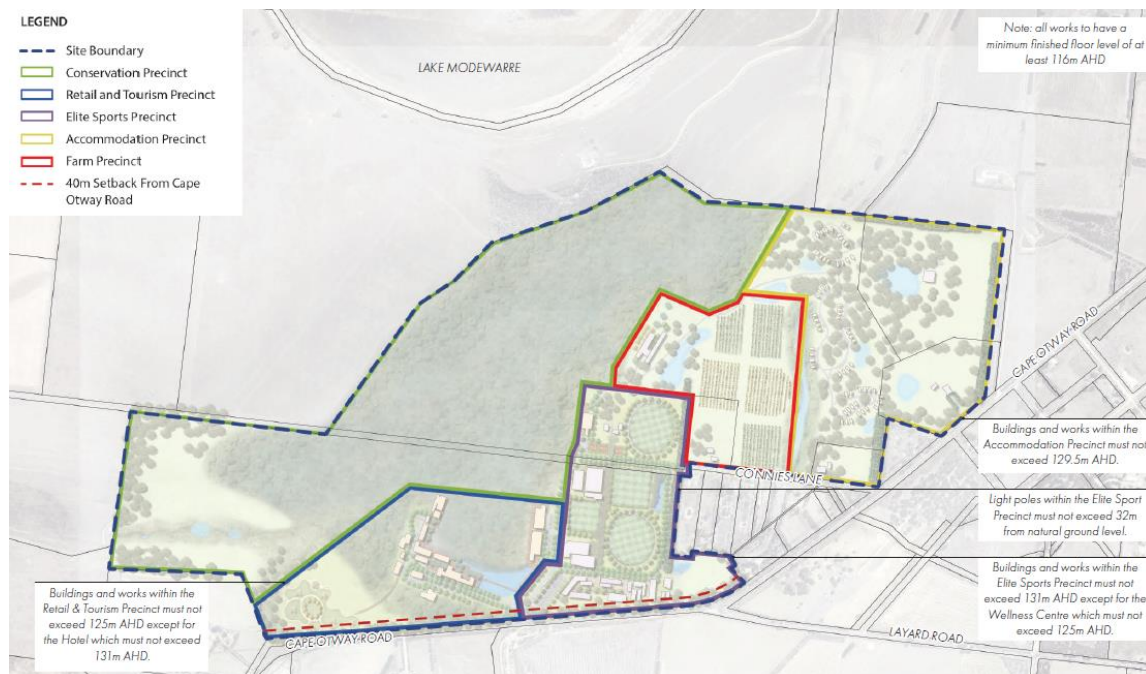
- the use of local and indigenous plant species and canopy trees in open spaces must be prioritised where appropriate
- Water Sensitive Urban Design (WSUD) principles must be incorporated
- landscape design must provide for the targeted and progressive removal of exotic or weed species and replaced with indigenous vegetation over time.

Other requirements specified in the final version of the CDP include:

- no access is permitted to the site via Connies Lane
- an emergency access point must be created through the land at 1130 Cape Otway Road, Modewarre
- required upgrades to the external road network must be designed and undertaken to the satisfaction of the Responsible Authority
- impact upon significant environmental areas including the wetland, native grass patches and scattered trees must be avoided or minimised
- potential impacts upon native fauna from noise and lighting must be minimised
- stormwater must be captured, treated and discharged appropriately to minimise impacts on the biodiversity values of the wetland or receiving water bodies.

Figure 4 sets out the Built Form Plan for the site and the various sub-precincts.

Figure 4: Built form plan



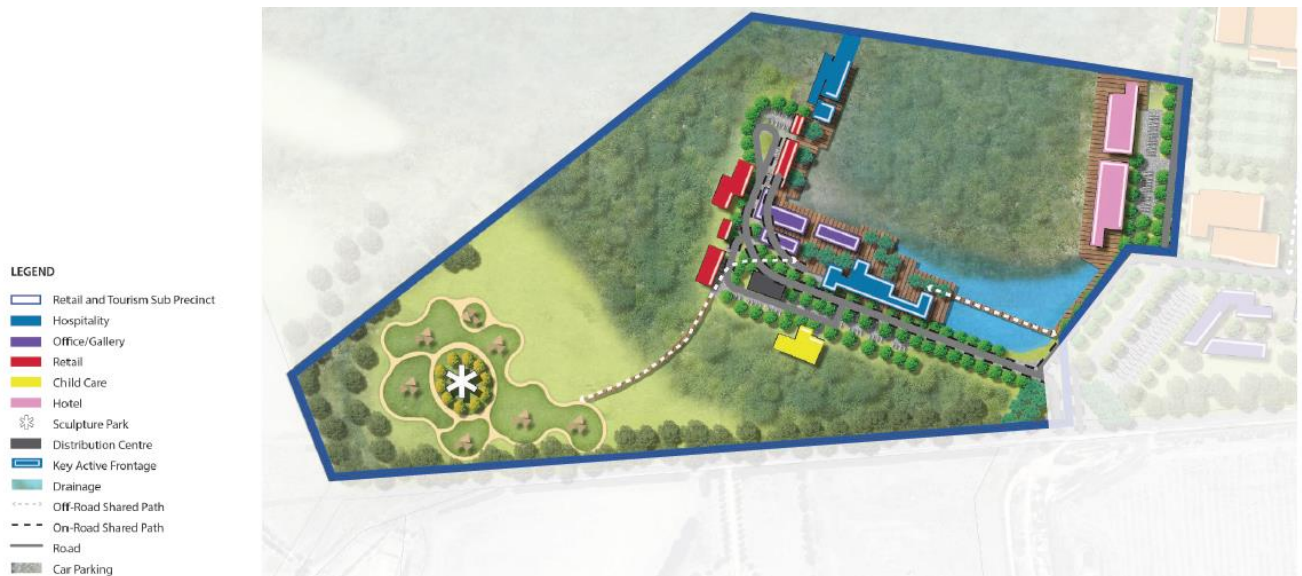
Source: Document 150c Final Comprehensive Development Plan

(ii) Precincts

Retail and Tourism Precinct

The Retail and Tourism Precinct is set out in Figure 5 and seeks to create an activated and pedestrianised village that invokes the feel of a 'main street'. It comprises a childcare building, a hotel, hospitality, retail, office/gallery, a distribution centre and a sculpture park. Buildings within the precinct are to be generally one to two storeys, except for the hotel which would be a three-storey building.

Figure 5: Retail and Tourism Precinct



Source: Document 150c Final Comprehensive Development Plan

Elite Sports Precinct

The Elite Sports Precinct set out in Figure 6 seeks to create a highly permeable and pedestrianised precinct that invokes the feel of a 'campus'. It comprises one MCG sized oval and one standard Australian Football League size oval, a soccer field, a synthetic pitch and tennis courts, in addition to a wellness centre, Sports Science Hub and staff accommodation. Light poles within the precinct must not exceed 32 metres from natural ground level. Lighting associated with the sports field must not be used outside of the hours of 7.00am and 8.30pm, unless otherwise approved in writing by the Responsible Authority.

Figure 6: Elite Sports Precinct

Source: Document 150c Final Comprehensive Development Plan

Accommodation Precinct

The Accommodation Precinct set out in Figure 7 seeks to create a varied bushland landscape with informally located buildings. The precinct is to contain a maximum of 61 accommodation lodges which include a range of one, two, three and four bedrooms, arranged in clusters of four or five lodges. Car parking and rubbish collection areas are to be discrete and provided in areas away from outdoor living zones.

Figure 7: Accommodation Precinct

Source: Document 150c Final Comprehensive Development Plan

Rural Conservation Precinct

The Rural Conservation precinct set out in Figure 8 seeks to facilitate the restoration and conservation of the wetland through the removal of livestock and man-made structures from the floodplain and the revegetation of the precinct to create habitat, enhance local biodiversity and restore natural land systems.

Figure 8: Conservation Precinct and Conservation Area

Source: Document 150c Final Comprehensive Development Plan

Farm Precinct

The Farm precinct set out in Figure 9 seeks to create a low intensity agricultural operation to facilitate food production to provide a 'paddock-to-plate' concept for the various hospitality venues within the Retail and Tourism Village. New buildings within the precinct must be associated with the farming operations and be of a low scale. Use and development of the land within the precinct must avoid unreasonable amenity impacts for dwellings located to the south of Connies Lane.

Figure 9: Farm Precinct



Source: Document 150c Final Comprehensive Development Plan

3 Planning and approvals context

3.1 Planning policy framework

(i) *Planning and Environment Act 1987*

The relevant Objectives of the Act are defined in section 4(1) and include:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) ...
- (e) ...
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (fa) ...
- (g) to balance the present and future interests of all Victorians.

The duties and powers of planning authorities in relation to the preparation of an amendment are set out in section 12(2):

- (2) In preparing a planning scheme or amendment, a planning authority –
 - (a) must have regard to the Minister’s directions; and
 - (aa) must have regard to the Victoria Planning Provisions; and
 - (ab) in the case of an amendment, must have regard to any municipal strategic statements, strategic plan, policy statement, code or guideline which forms part of the scheme; and
 - (b) must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment; and
 - (c) must take into account its social effects and economic effects.

The objectives of planning in Victoria not only seek to secure a pleasant, efficient and safe working, living and recreation environment for all Victorians but also for visitors to Victoria.

(ii) **Planning Policy Framework**

The Proponent submitted that the Amendment is supported by various clauses in the Planning Policy Framework (PPF), which the Committee has summarised below.

Clause 11.01-1S Settlement and 11.01-1R Settlement – Geelong 21

A key strategy of Clause 11.01-1S Settlement is to “*ensure regions and their settlements are planned in accordance with any relevant regional growth plan*”. Clause 11.01-1S seeks to “*provide for growth in population and development of facilities and services across a regional*

network". Clause 11.01-1R Settlement – Geelong 21 reinforces the role of towns in providing these services to surrounding areas.

The G21 Regional Growth Plan anticipates substantial growth to 500,000 people in the next 30 years across its five member Councils. This planned growth and required new investment and employment provides support for initiatives such as the CORA Project to be considered.

Clause 11.03-5S – Distinctive areas and landscapes

The Objective of this Clause is to *"protect and enhance the valued attributes of identified distinctive areas and landscapes"*. Strategies to achieve this include supporting development which enhances these attributes while avoiding development that could undermine long-term natural use in these areas.

The Project seeks to integrate purpose-built architecture, appropriately sited within a restored high-quality landscape.

Clause 11.03-5R – Transport, the Great Ocean Road Region

The Objective is to *"manage the sustainable development of the Great Ocean Road Region"*. Strategies to achieve this include encouraging sustainable tourism uses which provide environmental, economic and social benefits.

The CDZ requires a Road Network and Traffic Management Plan to be completed prior to lodging an application for a planning permit.

Clauses 12.01-1S - Protection of Biodiversity, 12.01-2S Native vegetation management and Clause 12.05-1S – Environmentally sensitive areas

The Objective is to *"protect and conserve environmentally sensitive areas"*. One of the key strategies is to avoid impacts of land use and development on important areas of biodiversity.

Whilst the Project will result in the loss of native vegetation within the wetland, the overall Project is one that offers the opportunity to better protect, restore and enhance the quality of land and wetland areas, waterways, biodiversity and soils.

Clause 13.02-1S – Bushfire planning

The Objective is to *"strengthen resilience of settlements and communities to bushfire through risk-based planning"*. Strategies include giving priority to the protection of human life over all other policy considerations, directing development to low risk locations, assessing bushfire hazards and ensuring bushfire protection for new development do not impact biodiversity.

The site is in a designated Bushfire Prone Area but is not subject to the Bushfire Management Overlay, thus confirming it is not a high bushfire risk landscape. The proposed CDP requires planning applications to demonstrate how relevant bushfire provisions are to be addressed, how performance measures are to be satisfied and how bushfire protection measures are to be implemented.

Clause 13.03-1S – Floodplain management

The Objective is to *"assist the protection of life, property and community infrastructure from flood hazard"* which can be achieved by *"avoid intensifying the impact of flooding through inappropriately located use and development"*.

The Project on balance results in a high-quality development based around a floodplain that will act as a strong aesthetic and natural asset.

Clause 15.03-2S – Aboriginal cultural heritage

A key strategy of this Clause is to *“provide for the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places”*.

The Cultural Heritage Assessment recommends that a Cultural Heritage Management Plan (CHMP) be prepared at the time any future planning permit application is prepared for the Site. This is required to be completed prior to lodging an application for a planning permit through the CDZ.

Clause 17.01-1R – Diversified economy (Geelong G21) and Clause 17.04-1S – Facilitating tourism

Tourism development is encouraged to maximise the economic, social and cultural benefits of developing the State as a competitive and international destination. Strategies to achieve this include to encourage well designed and sited tourist facilities, encourage investment in tourism and create innovative tourism experiences, and building on tourism resources and supporting new businesses that provide employment and innovation opportunities.

The CORA Project will deliver a unique and improved visitor experience for the Great Ocean Road Region (GORR), which is expected to increase visitor numbers and economic return to the region. It will provide diversification in employment and accommodation opportunities within the region.

3.2 Other relevant planning strategies and policies

(i) G21 Regional Growth Plan 2013

The G21 Regional Growth Plan has several regional strategies that articulate opportunities for growth in the region, the role of tourism, as well as growth in Moriac.

The Plan lists significant tourism routes and destinations among the matters that contribute to regional strategic assets. Cape Otway Road is nominated as a significant tourism route, regardless of the presence of CORA. Modewarre is within the 100 kilometre, peri urban influence of Melbourne and is located in immediate proximity to the regional road and rail network.

(ii) The Geelong Regional Plan 2006

The Geelong Regional Alliance (G21) adopted a region plan in 2006 for sustainable growth. The G21 Regional Growth Plan anticipates substantial growth to 500,000 people in the next 30 years.

The plan includes five Directions:

- Direction 1: Protect and enhance our environment
- Direction 2: Create sustainable settlements
- Direction 3: Strengthen our communities
- Direction 4: Refocus our economy
- Direction 5: Make it happen.

Relevant policies to the Project under these directions are to:

- 1.2 Use our water resources more efficiently
- 1.3 Maintain and restore our natural assets
- 1.4 Reduce our everyday environmental impacts
- 2.1 Minimise the amount of land used for urban development
- 2.4 Provide land for industry and commerce
- 3.2 Encourage healthy, active, learning lifestyles
- 3.4 Improve access to services, infrastructure, education and housing
- 5.2 Work together to deliver region-wide community benefits.

(iii) Great Ocean Road Region Strategy 2004

The *Great Ocean Road Region Strategy 2004* provides a long-term strategy for the management of the Great Ocean Road and the five local government areas it covers, which includes Surf Coast. The key directions of the strategy, relevant to the Project, are to:

- Protect the landscape and care for the environment
- Manage the growth of towns
- Improve the management of access and transport
- Encourage sustainable tourism and resource use.

The strategy seeks to encourage sustainable tourism by directing significant tourism facilities to both key towns and strategic locations.

(iv) Rural Hinterland Futures Strategy 2019

The Rural Hinterland Futures Strategy was prepared and adopted by Council in May 2019 to provide a clear vision and high-level strategic direction for the Surf Coast hinterland to revitalise the economy and ensure its long-term sustainability. The strategy was developed in the face of pressures of urban growth, climate change, the evolving role of agribusiness in the Shire and changing technology. Urban growth in particular creates the need to generate new jobs to retain or grow the current contribution the hinterland makes to the Surf Coast economy.

The Strategy identifies a number of planning actions to implement the Strategy. Council advised¹ it is currently developing planning policy and design guidelines for development in rural areas which will form part of a future planning scheme amendment.

The Strategy's vision identifies the future of the hinterland area as a renowned visitor destination and specifically states that *"by 2040 the hinterland is a key contributor to the Surf Coast economy and renowned visitor destination"*. One of its two aims are to *"develop agri-food, agritourism and tourism opportunities in the hinterland that are complementary to the rule landscape and environment values"*.

A key objective of the Strategy is to support tourism activities which complement the landscape, agricultural and environmental values of the Council. Further, it seeks to ensure

¹ Document 8

that new tourism activities are complementary to existing values sought to be retained and enhanced and make a positive contribution to the economy.

The Strategy identifies areas of the municipality that are “*well suited to tourist activities*”. The Cape Otway Road area, including Moriac sits within these areas.

The Strategy identifies a deficit in the amount and diversity of accommodation to support the hinterland as a renowned visitor destination. It identifies the opportunity to grow the tourism accommodation sector, particularly 4+ star accommodation in larger facilities to complement the existing offering.

The Strategy includes a priority short term action to:

Encourage nature-based activities and agritourism in areas identified as high environmental and landscape value that preserve those values as a priority. New uses must be complementary and must address bushfire risk.

(v) Municipal Planning Statement

The Proponent submitted that the Amendment supports and implemented the following Municipal Planning Statement (MPS) clauses:

Clause 21.01-3 – Vision and strategic framework plan

Local policy does not currently envisage a Project such as CORA. Accordingly, the Amendment seeks to amend this clause to identify the CORA site and underpin the strategic support for the Project.

Clause 21.03-2 – Environmental management (Environmental assets) and Clause 21.03-3 – Environmental management (Environmental risks)

Key strategies of Clause 21.03-2 and Clause 21.03-3 are to:

- Avoid extending settlements or intensifying development in locations identified as containing biodiversity assets, except where assets won't be fragmented or otherwise compromised and can be protected and incorporated into a proposed open space network.
- Discourage buildings, works, land use and subdivision that would be detrimental to the maintenance of the natural systems of land affected by flooding and inundation.
- Minimise development on land within or adjacent to naturally saline waterways including wetlands to prevent their degradation.
- Discourage land use and development that has potential to aggravate or initiate salinity has regard to the salinity risk and takes the appropriate measures to mitigate any adverse impacts.
- Avoid re-zoning and development of land for urban purposes where there is a high risk of flooding.
- Ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level and bushfire protection measures can be readily implemented.

The Project is not expected to impact water quality, stream flows or regional groundwater levels. The Project seeks to minimise interference with the aquifer and groundwater receptors using a groundwater management plan to ensure there will be no negative groundwater and salinity impact.

The requirements and guidelines of the CDP will ensure that appropriate fire protection, safety and management measures are adopted to minimise risk to life and property.

Clause 21.04-2 – Tourism (Tourist development)

Key strategies seek to:

- Locate high profile, high volume tourism development in appropriate urban areas where their impacts and infrastructure requirements can best be accommodated.
- Limit non-agricultural based tourism development to the Lorne coastal hinterland and other selected rural areas. Such developments to be small scale, nature and adventure-based tourist activities and accommodation that are compatible with natural processes and have regard to minimising exposure and risk to bushfire.
- Ensure new tourism development uses high quality, low intensity, unobtrusive, site responsive buildings and works based on ecologically sustainable design principles.
- Encourage use and development that will increase visitor length of stay and increase visitor numbers in the off-peak period.
- Facilitate the provision of appropriate infrastructure to support the tourism industry.
- Encourage the development of a diverse range of quality tourist accommodation and facilities to meet changing visitor needs.

The Surf Coast tourism policy seeks to enhance and expand the tourism industry, while concurrently protecting the environmental, landscape and cultural values of the Shire and the lifestyle of its residents. In this policy, it is expected that high profile, high volume tourism developments will be sited in appropriate urban areas, where impacts and infrastructure requirements can be accommodated.

The CORA site is located on Cape Otway Road, the key arterial road through the Surf Coast's Rural Hinterland and in proximity to surrounding infrastructure including the existing Warrnambool-Melbourne Railway Line that passes near Winchelsea. The Committee was advised the unique size, scale and proposition of the Project means that it is not suitable to be located within the coastal hinterland of Lorne or other coastal towns. The Project will provide for a tourism development in the Surf Coast rural hinterland that can assist in diversifying the rural economy.

Clause 21.06-3 – Rural landscape (Landscape outcomes)

Key strategies of Clause 21.06-3 are to:

- Encourage the siting and design of new buildings to complement existing farm structures, avoid locating on hilltops and ridges and to nestle into the landscape where possible.
- Ensure tourism facilities are limited in their intensity and scale to avoid adverse visual impact on the natural environment and rural landscape and to retain the marketing characteristics of low key, eco-based tourist values.
- Direct tourism and other commercial facilities to land within settlement boundaries or in locations with easy access to existing infrastructure. Beyond settlement boundaries, avoid these uses in land subject to the Significant Landscape Overlay Schedule 1 or where the removal of indigenous vegetation cannot be avoided or suitably minimised.
- Encourage new development, including intensive animal industries and dwellings, to adopt a clustered development pattern rather than being dispersed throughout the landscape

The Project seeks to integrate purpose-built architecture appropriately sited within a restored high-quality landscape. All buildings will be predominantly single and two-storey,

variously sited in water edge conditions, on natural and built surfaces and in open and dense landscapes. The CDP provides built form requirements and guidelines to ensure that CORA will comprise high quality, low intensity, unobtrusive, site responsive buildings and works based on environmentally sustainable design principles.

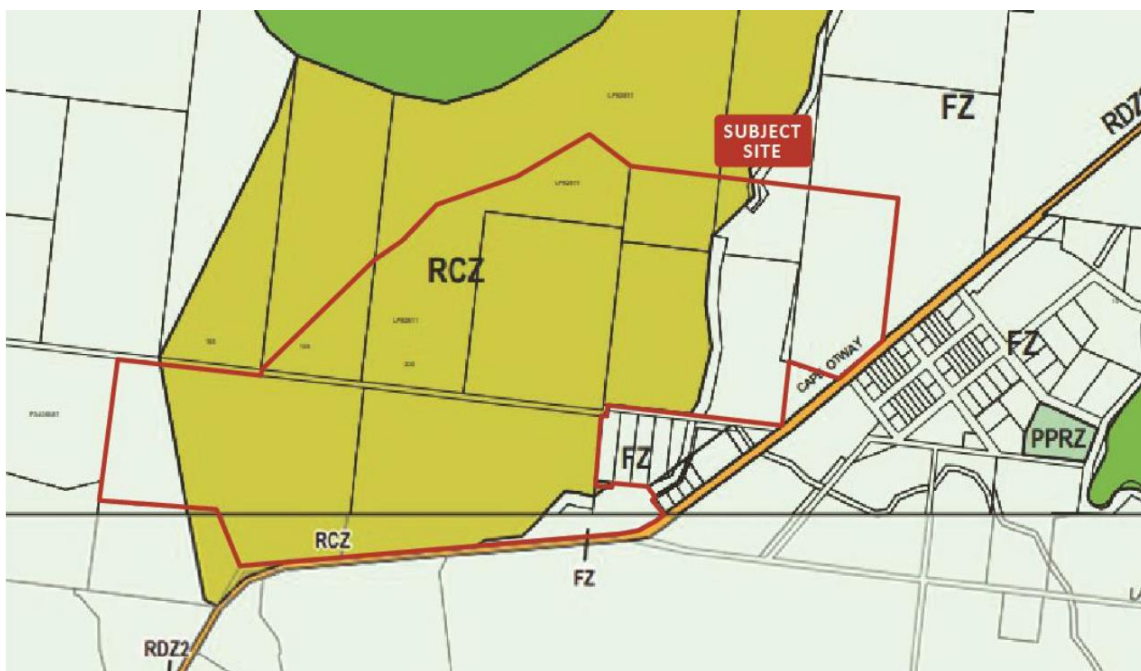
3.3 Planning scheme provisions

A common zone and overlay purpose is to implement the MPS and PPF:

(i) Zones

The subject land is currently located in part Rural Conservation Zone and part Farming Zone as shown in Figure 10.

Figure 10: Existing zone plan



Source: Document 32 – Evidence Statement of Mr Milner

The purposes of the Rural Conservation Zone are to:

- conserve the values specified in a schedule to this zone.
- protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- protect and enhance natural resources and the biodiversity of the area.
- 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.
- provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.

The Schedule to this zone identifies that the site is included in the zone as a result of its proximity to the Lake Modewarre precinct which is noted for the following characteristics:

- the fauna habitat for rare and threatened species and recreational fishing activities

- minimal nutrient infiltration into the Lake.

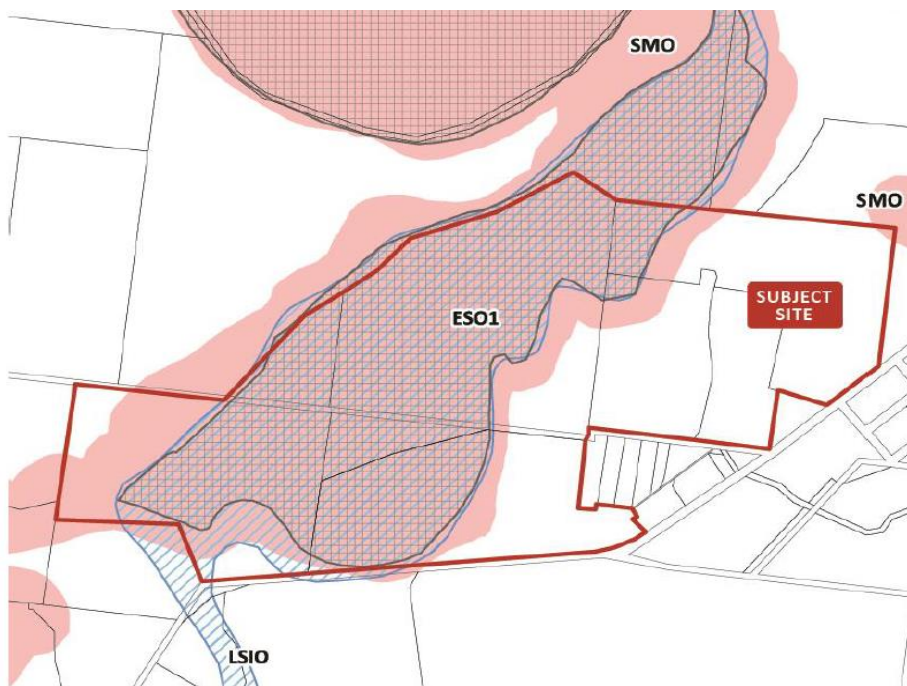
The purposes of the Farming Zone are to:

- provide for the use of land for agriculture
- encourage the retention of productive agricultural land.
- ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- encourage the retention of employment and population to support rural communities.
- encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

(ii) Overlays

The land is subject to three overlays, these being Environmental Significance, Salinity Management and Land Subject to Inundation Overlays.

Figure 11: Existing Overlays



Source: Document 32 – Evidence Statement of Mr Milner

The purposes of the Environmental Significance Overlay are to:

- identify areas where the development of land may be affected by environmental values.
- ensure the development is compatible with identified environmental values.

The purposes of the Salinity Management Overlay are to:

- identify areas subject to saline ground water discharge or high ground water recharge.
- facilitate the stabilisation of areas affected by salinity.
- encourage revegetation of areas which contribute to salinity.
- encourage development to be undertaken in a manner which brings about a reduction in salinity recharge.
- ensure development is compatible with site capability and the retention of vegetation, and complies with the objectives of any salinity management plan for the area.
- prevent damage to buildings and infrastructure from saline discharge and high watertable.

The purposes of the Land Subject to Inundation Overlay are to:

- identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

3.4 Ministerial Directions and Practice Notes

Ministerial Direction – The form and content of planning schemes

This Ministerial Direction is enabled through section 7(5) of the Act and applies to the form and content of all planning schemes prepared under Part 3 of the Act and any amendment to those planning schemes.

Ministerial Direction 11

Ministerial Direction 11 (Strategic Assessment of Amendments) seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. 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.

Planning Practice Notes

The following Planning Practice Notes are relevant to the Amendment:

- *Planning Practice Note 13 (Incorporated and Background Documents)*, September 2018
- *Planning Practice Note 23 (Applying the Incorporated and Development Plan Overlays)*, November 2018
- *Planning Practice Note 46 (Strategic Assessment Guidelines)*, August 2018
- *Planning Practice Note 59 (The role of mandatory provisions in planning schemes)*, September 2018
- *Planning Practice Note 64 (Local planning for bushfire protection)*, September 2015.

3.5 Other approvals

The Project requires the statutory approvals outlined in Table 2.

Table 2: Statutory decisions or approvals required

Decision/Approval	Timing of approval
Referral to the Department of the Environment and Energy (Commonwealth) under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)	A referral was lodged on 31 January 2018 and decision was made that the Project was not a controlled action on 31 July 2018.
Referral to the Minister for advice to determine whether an Environment Effects Statement (EES) is required under the <i>Environment Effects Act 1978</i> (Vic)	A referral was lodged on 6 March 2018 and withdrawn on 1 May 2018 due to the Proponent significantly modifying the Project to substantially reduce the potential for significant environmental effects.
Approval for a Flora & Fauna Guarantee Act permit under the <i>Flora and Fauna Guarantee Act 1988</i> (Vic)	Not yet sought, approval required at the planning permit stage
Approval for a Cultural Heritage Management Plan (CHMP) under Section 49 of the <i>Aboriginal Heritage Act 2006</i> (Vic)	The Desktop cultural heritage assessment identified a mandatory CHMP will be required. The Committee was advised this is in progress, and approval is required prior to the issue of a planning permit for use, development or subdivision
Approval to undertake road upgrades and to discontinue the section of the Connies Lane road reserve that intersects the site under the <i>Road Management Act 2004</i> (Vic)	Not yet sought, approval required at the planning permit stage
Approval to discontinue the section of the Connies Lane road reserve that intersects the site under the <i>Crown Land (Reserves) Act 1978</i> (Vic)	Not yet sought, approval required at the planning permit stage
Approval of a works approval for the proposed sewer plant under the <i>Environment Protection Act 1970</i> (Vic)	Not yet sought, approval required at the planning permit stage
Approval to undertake works within the floodplain affecting the site under the <i>Water Act 1989</i> (Vic)	Not yet sought, approval required at the planning permit stage
Approval to undertake works within the floodplain affecting the site under the <i>Catchment and Land Protection Act 1994</i> (Vic)	Not yet sought, approval required at the planning permit stage

Source: Servicing Infrastructure Report, SMEC (September 2019)

3.6 Discussion and conclusion

The CORA Project is unique and is not specifically contemplated in the Surf Coast Planning Scheme. The Committee observed this in its Stage 1 report. The distinctiveness of the Project is apparent by its ambitious vision, the characterisation of the facility, its component parts and the integrated nature of its operations.

It is difficult for a planning scheme to strategically contemplate and plan for all possibilities, including for this unique Project and type of land use. There will always be new ideas and planning should encourage, not stifle innovation.

The PPF and the G21 Regional Growth Plan anticipates and supports strong economic and population growth over the next 30 years within the Great Ocean Road region. Both the VPP and the G21 Regional Growth Plan broadly anticipate that specialised Projects of this scale may arise.

While the Regional Growth Plan and policy do not specifically anticipate major new initiatives such as this Project, the planned growth in population in the region, and the encouragement of new investment in tourism and employment provides support for initiatives such as CORA to be considered.

The more recently prepared *Rural Hinterland Futures Strategy* actively supports tourism opportunities in the Surf Coast hinterland which complement the municipality's landscape, agricultural and environmental values. The Strategy envisions the hinterland area as a key contributor to the local economy and a renowned visitor destination.

The CORA Project presents an opportunity to provide for a unique tourism development in the Surf Coast rural hinterland that can assist in diversifying the rural economy and redress the identified shortfall of quality accommodation options within the region. The Project will deliver an improved visitor experience by providing a distinctive rural landscape-based tourism facility in a hinterland setting, unlikely to be found in a town or city.

The Committee was advised the unique scale and distinctive nature of the Project means that it is not suitable to be located within the coastal hinterland of Lorne, for example. The CORA site is located on Cape Otway Road, the key arterial road through the rural hinterland of Surf Coast and in proximity to surrounding infrastructure, including the existing Warrnambool-Melbourne Railway Line.

For the reasons set out in the following chapters, the Committee concludes that the Amendment is supported by, and implements, the relevant sections of the PPF and MPS, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified. The following chapters of the report undertake the further detailed assessment of the Project.

Part B: Assessment

4 Land use planning

4.1 Context and key issues

Chapter 2 of the Committee's Stage 1 report provided its review of planning and land use issues. As noted previously, the Committee's Stage 1 assessment concluded there was sufficient strategic justification for the Project to proceed to public exhibition. The Committee recommended the Proponent investigate the use of the CDZ with an accompanying CDP to implement the Project. It further recommended that an updated town planning report accompany the public exhibition, and an independent peer review in planning be commissioned for the public hearing.

In response to the Committee's Stage 1 Recommendations, the Proponent commissioned Tract to prepare an updated Town Planning Report as part of the exhibition material (20 September 2019). That report provided a comprehensive overview of the Project including a review of existing planning policies and controls as well as a summary of the various technical studies undertaken. It concluded with a Planning Assessment that found the proposed Amendment would facilitate a development that could improve the current environmental, social and economic settings of the region.

Council's assessment determined that the Project should be supported subject to a number of matters being satisfied. Central to its submission, was its concern to ensure that was proposed by the Proponent, would ultimately be delivered. Accordingly, Council submitted:

... the planning approval framework needs to be clear and certain about the delivery of the Project as communicated and assessed to date, and not a diluted version of that Project or part of that Project, which would, in effect constitute a different Project.

A number of submissions opposed the Project on the basis that it was not appropriate for the site.

The key issues to be resolved are:

- whether the CDZ and CDP are the appropriate statutory planning tools to advance the Project
- whether the site is suitable for the Project
- whether further changes to the form and content of the exhibited material is required.

4.2 Use of the Comprehensive Development Zone and Plan

(i) Context

As part of its Inception Meeting associated with Stage 1, the Committee questioned the choice of the zone and overlays proposed to deliver the statutory framework for the Project. The Proponent preferred at that stage, to use a Special Use Zone with a Design and Development Overlay and a Development Plan Overlay. The Committee noted it could result in cumbersome and conflicting controls. In its Stage 1 report, the Committee recommended:

Investigate the use of the Comprehensive Development Zone with a draft high level Comprehensive Development Plan to implement the Project.

The Proponent undertook this review and the Amendment was exhibited with a new Schedule 3 to the CDZ, and a draft CDP.

The CDZ requires an application for use, subdivision and buildings and works to be generally in accordance with the CORA CDP.

The purpose of the CDP is to ensure the development of land and the provision of uses is undertaken in a coordinated manner. The CDP provides an overall vision and broad objectives for CORA and details requirements and guidelines around:

- built form
- landscape
- transport and infrastructure
- water
- environment.

(ii) Evidence and submissions

At the Directions Hearing, the Proponent advised that it intended to incorporate the CDP in the schedule to the CDZ through this Amendment process. This was welcomed by the Committee as it provided a higher level of transparency to what was proposed. The Day 1 version of the CDZ (Document 36) was distributed with a Day 1 version of the CDP (Document 37) together with a summary list of CDP changes (Document 38). A further iteration of the CDZ was distributed which included a series of changes proposed by Mr Biacsi (Document 39).

Mr Milner of David Lock Associates and Mr Biacsi of Contour Town Planners were commissioned by the Proponent to prepare expert town planning evidence statements (Documents 32 and 33).

Mr Biacsi's evidence focused on the mechanics of the Amendment, including the statutory tools selected and their drafting. Prior the Hearing commencing, Mr Biacsi prepared a revised CDZ that incorporated his recommended changes. The track change version of Mr Biacsi's proposed changes formed the basis of the Day 1 Hearing Version of the CDZ (Document 41).

Mr Biacsi concluded that he was broadly satisfied the CORA Project was appropriate for the subject site. He stated the potential amenity impacts associated with the development and its ongoing use and operation could be effectively managed to achieve an acceptable outcome, including at the interface with residential properties along Connies Lane. Subject to a number of refinements, Mr Biacsi concluded the planning tools as proposed were acceptable.

Council's submission at the Hearing reiterated its support for the CORA Project and that it promises to deliver significant benefits to the community. Council's support was conditional on a number of matters being embedded into the final planning controls to ensure the benefits of the Project are ultimately realised (Document 81). These included:

- a. The Project remaining an integrated use.
- b. No subdivision of the site beyond the identified precincts.
- c. Development staging to require the Elite Sports Precinct to be delivered prior to the Accommodation Precinct.

- d. A clear and unambiguous planning approval framework.
- e. Confirmation of responsibilities for restoration and management of the Conservation Precinct.
- f. Measures to moderate the impact of the development on Connies Lane residents, including:
 - i. Removing access to the site via Connies Lane, except for emergency purposes
 - ii. Managing the hours of operation and light spill of sporting fields adjacent to neighbouring properties
 - iii. Requiring the Rural Conservation Precinct immediately north of Connies Lane only to be used for low scale agriculture.

Council supported the application of the CDZ and the incorporation of a CDP to facilitate CORA (Document 81). Having noted its support for the Project and for the overarching statutory framework to deliver it provided by the CDP and the CDZ, Council raised drafting issues in its original, opening and closing submissions. The conclusion to Council's opening submission (Document 81) expressed some reservation regarding the framing of the proposed controls:

A substantial amount of new information has been produced as part of this process and there has not been an opportunity to put this material before Council.

Council's planning officers have reviewed the material and considered it in light of Council's original submission. Council's planning officers do not consider that the proposed controls provide a clear and unambiguous planning framework and suggest that further work is required.

Council's planning officers also remain concerned about some of the gaps in the technical analysis that have been identified by DELWP Environment and that have emerged through the evidence called by the Proponents and what implications this might have for the delivery of the concept that is currently before this Advisory Committee.

The Committee observes that Council did not call planning evidence. Following the Hearing, the Committee sought further submissions from parties on the drafting of the controls in response to Documents 130, 131 and 132. Council's post Hearing submission raised a number of issues that its Officers considered were still unresolved (Document 139).

DELWP did not raise any major issues with the CDZ or the CDP, either in its opening submission (Document 45) or in closing. Post hearing, however, even though it was invited to make concluding comments on the penultimate day and declined to do so, DELWP provided written comments about the CDZ (Document 138). The Committee finds this surprising as none of these issues were raised during the course of the ten day hearing process. It addresses these in Chapter 14.

Most submitters generally supported or did not contest the form of the controls and generally appreciated that the CDP was to be included as part of the CDZ. The Committee concedes that many submitters would have found the statutory controls quite difficult to understand and it appreciates that they were not able to fully contribute to drafting issues. However, overall, their written and verbal submissions during the course of the hearings made excellent comments and these were picked up by the Proponent to be included in what are now the final controls for consideration. Submitters were invited to respond to the final planning controls documents and while the Committee did receive a number of additional submissions, few were relevant to the drafting of the proposed controls.

(iii) Discussion

The CDZ schedule and CDP have evolved considerably over the course of the Hearing. Many concessions were made by the Proponent in response to issues raised and the final controls represent a considered and appropriate form of planning control for the site (Documents 155 and 150c).

Some of these changes since exhibition include:

- incorporating the CDP as part of the schedule to the CDZ
- reducing the number of Section 1 – Permit not required uses
- including many Plans to be prepared to the satisfaction of the Responsible Authority as part of Clause 2.0 Site-wide Plans, prior to the approval of any Precinct Concept Plan
- providing more detail on the application requirements at Clause 6.2 in the form of additional plans and assessments
- including a clear Vision statement and improved clarity of maps and plans in the CDP
- including urban design guidelines in the form of objectives and requirements in the CDP.

In relation to Council's concern to ensure appropriate staging of the development occurs, the Committee notes that a specified purpose of the CDZ schedule is:

To facilitate the orderly development of the land to achieve an integrated development outcome that does not unreasonably impact surrounding land, including residential properties on Connies Lane.

The Proponent included a requirement to prepare a site-wide 'Staging Plan' to the satisfaction of the responsible authority prior to approval of any Precinct Plan. As drafted, the Staging Plan requires the following to be shown:

- The proposed sequence of development across all precincts.
- Implementation of the Conservation Management Plan commencing no later than commencement of construction in the first stage of development and continuing in accordance with the terms of the Conservation Management Plan and any agreement securing its implementation.
- Provision of infrastructure for each stage of development in accordance with the Infrastructure Delivery Plan.
- Inclusion in the first stage of development of:
 - Completion of at least two sporting fields (AFL oval, soccer tablet or synthetic pitch) and 50% of the buildings labelled 'Elite Sports' on Figure 7: Elite Sports Precinct of the CDP.
 - Completion of the Hotel.
 - Completion of the main vehicle entry from Cape Otway Road (to its ultimate standard);
 - Provision of screening planting along the site's frontage to Cape Otway Road; and
 - Provision of screening planting along the eastern boundary of the Elite Sports Precinct where it abuts the Farm Precinct and extending to the north as shown on Figure 1 (Concept Master Plan) of the CDP.
- Inclusion, in the second stage of development, of completion of part or all of the Accommodation Precinct.

The Committee is satisfied the scope of the first stage of development as outlined achieves an appropriate balance between the delivery of the proposed elite sports elements of the Project, impact mitigation measures and commercial elements such as the hotel.

The Committee acknowledges Council's concerns expressed in its response to the final hearing day version of the controls (Document 139). Many of the issues identified by Council were resolved in the final controls circulated by the Proponent and the Committee makes a number of additional changes and recommendations in Chapter 14.

While there is significant work to be undertaken in realising the Project, the combined CDZ and CDP, subject to the recommendations of the Committee being implemented, provide clarity and certainty going forward.

The Committee highlights that the exhibited C125 Explanatory Report and Instruction Sheet do not include reference to the Project to include the CDP as an incorporated document. Further the Explanatory Report and list of changes note the inclusion of the CDP as a Reference Document. The Proponent alerted the Committee and all parties on the 20 December 2019 of its intention to update Clause 72.04 of the Planning Scheme to include the CDP as an incorporated document. No party to the Hearing opposed this outcome.

A post hearing change was made to the Explanatory Report and the Instruction Sheet to delete references to its inclusion as a Reference Document, together with an amendment to acknowledge the Cape Otway Road Australia (CORA) CDP as an Incorporated Document at Clause 72.04. The CDP was clearly prepared as the Incorporated Document referenced in Schedule 3 to the CDZ. This is an important outcome that will ensure the CDP and CDZ are recognised and read as one control.

4.3 Site suitability

(i) Context

The Committee's Terms of Reference require it to advise the Minister on all relevant planning matters associated with the Project, including the suitability of the site for the proposed development. In response to this requirement, the Committee directed the Proponent to address the site selection process and benefits of siting the Project at the subject location in its Part B submission (Document 7).

(ii) Evidence and submissions

The evidence of Mr Milner provided an independent review of the strategic planning merits of the Project and its proposed implementation through the proposed controls. His evidence was that while the Project will have some localised impacts on agricultural, landscape, environmental and community values, the proposed mitigation measures reduce those impacts to acceptable levels. Mr Milner placed significance on the anticipated delivery of the Project on a range of regional and local social, economic and environmental benefits that he considered align with principles underpinning regional growth policy and local tourism development. He considered the subject site is among a number that might suit the attributes of CORA and concluded that the successful implementation of the Project will deliver a substantial net community benefit.

Mr Biacsi's planning assessment concluded the CORA Project is appropriate for the subject land having regard to the planning policies and controls of the Planning Scheme as they presently apply. He gave evidence that the Project would deliver significant tourism and employment benefits and the layout and built form implications of the integrated development were generally well resolved. Mr Biacsi was satisfied the potential amenity impacts associated with the development and its ongoing use and operation could be effectively managed to achieve an acceptable outcome.

The Proponent submitted the site had been comprehensively assessed to determine its appropriateness for the proposed uses (Document 46). Its summary assessment provided a useful overview, as follows:

The area is predominantly used for rural living rather than commercial agriculture. The site has historically been used for cattle grazing, limited broadacre cropping and a chicken broiler farm. It is not suitable for larger scale cropping due to its size.² 40% of the land is within a floodplain and therefore of poor agricultural quality, while the remaining 60% is arable land of average agricultural quality due to moderate levels of per hectare productivity and small property size.³ The use of this land for non-agricultural purposes (apart from the farm precinct) will have no impact on local and regional agricultural performance.⁴

A desktop assessment indicated no greater levels of contamination than would normally arise through the use of land for agriculture, grazing and poultry farming.⁵

Potable water can be supplied via a connection to an existing pipeline to the south-east of the site.⁶ Sewerage will be treated on-site by a wastewater treatment plant that is subject to a separate approval process through the EPA.

While the site is partially within the floodplain, this has been factored into the concept masterplan for the Project, and the effects of any development within that floodplain have been comprehensively assessed and are the subject of evidence. There is a clear benefit in removing cattle grazing from the floodplain and revegetating it for conservation purposes into the future. Indeed, the wetland environment is one of the features of the site that makes it an attractive host for a facility such as this.

The site is not in a high bushfire risk landscape, is not affected by the Bushfire Management Overlay, and is within one of the lower bushfire risk locations in Surf Coast Shire.⁷

Based on consultation with MediaCom and Proleisure, the site meets the requirements of the Project in terms of its size, location, availability and its potential for environmental enhancement and conservation. In relation to paragraph 2(e) of the Terms of Reference, the Committee should assess the site as being suitable for the proposed development.

Specifically, in response to the Committee's direction to advise on the site selection process and benefits of siting the Project at the selected location, the Proponent was candid in noting *"there was no formal site selection process"* (Document 46).

In its closing submission (Document 76) the Proponent noted:

² *Agricultural Land Quality Assessment*, Phillips Agribusiness, September 2019, pp4-5 (exhibited).

³ *Ibid*, pp2 and 6.

⁴ *Ibid*, p12.

⁵ *Phase 1 Site History Assessment*, Compass Environmental Pty Ltd, 7 March 2018, p19 (exhibited).

⁶ *Infrastructure Servicing Report*, SMEC, September 2019, p7 (exhibited). See submission 4.

⁷ *Bushfire Development Report*, Terramatrix, September 2019, p11 (exhibited).

Numerous times during the hearing, the word ‘guarantee’ has been used. It is reasonable when assessing highly aspirational Projects such as this to question whether those aspirations can or will be met. But there are limits to what the planning system can ensure.

....

The planning framework operates to provide, secure and facilitate outcomes. It cannot operate to guarantee outcomes any more than the Proponent can guarantee the success of this facility. But, should the Project be found to have strategic merit, the planning framework should facilitate its success, with an appropriate balancing of safeguards with flexibility. That is the balance the Proponent will seek to strike in providing its final version of the draft controls.

In relation to site suitability, the submission by DELWP (Environment) (S210) noted the development area is relatively constrained in the context of the surrounding landscape. Key constraints identified by DELWP included large areas of native vegetation and wetlands mapped in DELWP’s ‘Current wetlands’ GIS layer. The submission noted this area may support a range of threatened and migratory waterbirds. The submission observed that the proximity of the site to Lake Modewarre increased the likelihood of such species using the Project area and presented *“a risk of hydrological impacts, including land salinization, on surrounding environmental receptors (e.g. Lake Modewarre, Browns Swamp and Thompson Creek)”*. In its subsequent submission presented at the Hearing, DELWP noted its position was substantially unchanged from its original submission (Document 45).

The submission by DELWP’s Planning Group advised it had not undertaken a merits assessment of the Project, noting the independence of the Committee’s recommendations may be compromised should the Minister express a view about the merits of the Project to the Committee (Document 44).

In its original written submission to the exhibited Project (S119), and then reiterated in its opening submission (Document 81), Council stated its support for the Project. Council considered the Project had broad strategic support and had the potential to provide a unique facility that would be of economic benefit to the region, both in terms of attracting tourists and facilitating jobs.

The submission stated the Project had broad strategic support, noting a tourism facility in the proposed location was generally identified in the *Rural Hinterland Futures Strategy*. Further, Council acknowledged the extraordinary nature of the CORA development and the multiple uses on the site meant that it could not adequately be predicted or planned for by policy.

Opposing community submissions largely focused on the scale of the Project and expressed concerns it would adversely impact local amenity and be out of character with and in the existing rural setting.

(iii) Discussion

The CORA Project is visionary and unique. The subject site contains a diverse mix of landscapes, view-sheds, environmental qualities and challenging interfaces. The Committee considers the Project masterplan and its various design components have responded effectively to the challenging site constraints. It presents an integrated development concept that embraces and maximises the positive landscape features within which it is located.

In forming this view, the Committee supports the findings of Council, and the conclusions of the two planning witnesses who gave evidence at the Hearing that the localised Project impacts can be effectively mitigated. All observed that the Project will deliver a range of significant local and regional benefits. Further, the Committee accepts the submissions of Council and the Proponent, and the findings in evidence of Mr Milner and Mr Biacs that the Surf Coast Planning Scheme affords the Project broad strategic planning policy support.

4.4 Policy issues

(i) Context

The Amendment proposes to make changes to local policy to explicitly reference the CORA Project by name at Clauses 21.01, 21.04 and 21.06. Mr Milner questioned the appropriateness of the proposed changes.

(ii) Evidence and submissions

Mr Milner questioned whether the accompanying Amendment documentation should be amended to delete references to 'CORA' and replace them with generic statements relating to tourism development in Modewarre. His evidence noted the Amendment seeks to amend the Framework Plan and Tourism Policy to explicitly reference CORA as a major tourist facility and acknowledge the scale and scope of the Project.

Mr Milner opined that rather than reference the Project in the Surf Coast Planning Scheme by its current business/corporate identity, it would be preferable to identify Modewarre in policy by its future intended role as a 'Rural Tourist or Activity Centre'. He explained his concern as follows:

In the event of unforeseen circumstances, the Project does not proceed or changes its commercial identity it is preferable the *Surf Coast Planning Scheme* provides guidance upon the role of land rather than the location of a prospective business.

Council submitted that such changes would be beyond the scope of this Amendment, which is specific to CORA and does not invite a review of Council's broader tourism strategies or planning for Modewarre. Further, Council noted it has repeatedly acknowledged that the CORA Project was not specifically anticipated by the Scheme and is a unique Project that will be subject to its own CDZ controls. Accordingly, if a reference to the Project is to be included in local policy, Council submitted it should be specific to CORA.

In forming this position, Council acknowledged that while it is somewhat unusual to refer to a business name within policy, it argued it is difficult to identify a land use descriptor that would appropriately capture the unique nature of the CORA concept. Further Council submitted that it did not support the descriptor suggested by Mr Milner and expressed concern that such a descriptor could suggest the Scheme supported the development of an activity centre or other tourist facility on the site.

(iii) Discussion

The Committee supports Council's view that the proposed post exhibition changes to the exhibited local planning policy content advanced by Mr Milner in his evidence are inappropriate. The Committee considers in this instance, it is appropriate to reference CORA by name, as is reflected in the exhibited version of Clauses 21.01, 21.04 and 21.06. Doing so

assists in reinforcing that the specific Project advanced by the Proponent and considered by this Committee, is what is sought to be delivered.

4.5 Conclusions and recommendations

The Committee concludes:

- The use of the Comprehensive Development Zone and Comprehensive Development Plan as the primary form of planning control for the site, along with the existing Overlays remaining in place, is appropriate and is supported.
- The requirement to prepare the Staging Plan to the satisfaction of the Responsible Authority minimises potential risks associated with the sequencing of development.
- The Proponent is to be commended for including the Comprehensive Development Plan as part of the Comprehensive Development Zone, for being responsive to matters raised in submissions and at the Hearing about the planning controls and for updating these accordingly through various iterations of the controls.
- The Project will have some localised impacts upon agricultural, landscape, environmental and community values.
- The proposed layout and built form of the integrated development are generally well resolved.
- The proposed design and planning approvals framework will mitigate local impact to an acceptable level.
- Subject to the findings concerning biodiversity and conservation discussed in Chapter 8, the Committee considers the subject site is suitable for the Project.
- Specific references to the subject site and subject Project as included in the exhibited and subsequent versions of the Amendment is supported.
- There are no land use planning issues that preclude development of the Project on the site.

The Committee recommends:

- 1. Amend the Instruction Sheet and Explanatory Report to clarify that the Cape Otway Road Australia (CORA) Comprehensive Development Plan is to be included as an Incorporated Document in Clause 72.04 of the Surf Coast Planning Scheme.**

5 Economics and tourism

5.1 Context and key issues

Ernst & Young (EY) was engaged by the Proponent in 2017 to prepare a business case for the Project for Regional Development Victoria. The Proponent commissioned Urban Enterprise to prepare an Economic Assessment (May 2018). That assessment provided an overview of the economic impact of the proposed retail uses.

The Committee's Stage 1 report noted the Economic Assessment was adequate for exhibition subject to updates to ensure the Project description assessed remained current. The Stage 1 report recommended including the business case as part of the public exhibition material.

An updated economic assessment was prepared by Urban Enterprise as a supporting background document (September 2019). The economic assessment reviewed the business case and the amended Project.

The Proponent commissioned Mr Ainsaar to provide an expert witness statement in relation to a range of economic matters focusing on an independent peer review of the business case and a 'first principles' analysis in relation to the proposed accommodation supply and demand trends as relevant to the Project.

Council assessed the Project and concluded it would provide positive local and regional economic and tourism benefits.

A large number of submissions that opposed the Project questioned the viability and anticipated economic benefits of the Project. Conversely, a number of submissions viewed the Project favourably citing positive economic, tourism and accommodation benefits.

The key issues to be resolved are:

- whether the business case and economic assessment are sound
- whether the projected economic impacts of the Project are acceptable
- the latent demand for additional 4 and 5 star accommodation facilities in the region, and whether the Project would address this demand
- the economic imperatives that influence the timing and staging of development.

5.2 Evidence and submissions

(i) Proponent

The 2017 EY business case included a number of Project elements that are no longer being pursued (including a wave pool and 24 low density residential allotments). The Project in the business case was assessed as having the potential to generate an economic output of \$80.2 million, a value add of \$35.1 million and a benefit cost ratio of 2.44.

In relation to economic impacts, the 2019 economic assessment concluded:

- the total direct employment as a result of CORA will be approximately 117 jobs (in 2024-25) with further employment (74 jobs) resulting from flow-on economic impacts in the region

- the expected direct economic impact of the Project to the region will be \$32.5 million per annum and indirect impact of \$22.2 million per annum in 2024-25.

The economic assessment noted the ongoing economic impacts assessed in the EY business case related only to the impact of new visitor expenditure brought to the region. It did not consider benefits associated with other elements of the Project. The economic assessment concluded the ongoing employment and economic impact estimates in the business case were therefore considered to be conservative.

In relation to retail impacts, the September 2019 economic assessment concluded the overall retail and hospitality components of the Project were assessed to provide a net economic benefit to the region. The CORA facilities were projected to generate an additional \$3million of tourism retail expenditure in the region. The assessment concluded the existing retail hierarchy in nearby towns was not expected to compete with the CORA retail components due to the lack of comparable offer. Further, the retail components of the Project were expected to have negligible economic impacts on existing retailers (less than 2 – 3 per cent).

The Proponent relied on the economic evidence of Mr Ainsaar who concluded that:

- a. The estimated economic impact of the CORA Project is significant, in terms of direct and indirect economic output and the creation of jobs for the region, both through the construction and ongoing operational phases of the Project;
- b. The estimated economic impacts as outlined in the EY business case are conservative and most likely understated;
- c. Any negative impact of the retail components of the CORA Project on existing businesses is likely to be marginal, and following ramp up of the operational phase, it is expected that CORA will provide a new and increased visitor base for these existing businesses;
- d. There are significant gaps in tourist accommodation in both the Great Ocean Road Region and the Geelong and The Bellarine Region, in terms of the amount of commercial tourist accommodation required and the type of accommodation that is needed. The CORA Project will make a contribution to meeting these significant gaps, in terms of the amount and the type of accommodation proposed.

The Proponent highlighted that Mr Ainsaar's peer review of the business case found it likely understated the economic benefits of the Project (Document 46). Further, the Proponent noted Mr Ainsaar found significant gaps in tourist accommodation in the Great Ocean Road, Geelong and Bellarine regions, which the Project would assist in filling.

The Proponent advised that the economist working with Dr Stubbs (Mr Storer), undertook a cost benefit analysis of the Project, and concluded there was likely to be a significant net community benefit in economic terms.

The Proponent observed that many tourism and sporting related bodies and interest groups provided submissions in support of the Project.

In relation to the assessments undertaken, the Proponent stated (Document 46):

It is unusual for any Project to have this level of economic analysis – and support – underpinning it. There is no expert evidence to be adduced to contradict this evidence. The Committee should give this material and evidence great weight.

In its closing submission, the Proponent noted that Mr Ainsaar assessed the Project met strategic policy objectives for provision of additional high quality accommodation

throughout the Surf Coast region (Document 76). Mr Ainsaar noted that the provision of a diverse accommodation offer, such as that proposed, would be critical in attracting tourists to the Great Ocean Road hinterland.

The Proponent concluded *“the Committee should be comforted by Mr Ainsaar’s assessment of the viability of the Project, having peer-reviewed the Ernst Young Business Case and the exhibited Urban Enterprise report”*.

(ii) Council

In relation to economics impacts and tourism, Council’s initial submission stated the Project had the potential to bring additional tourism product and increased employment opportunities to the Surf Coast Shire (Document 119). Council noted the findings of the economic assessment and peer review of the business case that concluded the Project would derive significant economic and employment benefits for the region (134 direct jobs during construction and 117 direct jobs once operational).

Council’s submission observed the proposed retail offering differed to the offering in nearby townships. It noted the economic assessment found the retail impact on tourism related retailers in Torquay and Winchelsea would be *“low”* and even less for Moriac. In relation to the anticipated employment generation by the Project, Council noted the projections aligned with the identified need in the *Rural Hinterland Futures Strategy* (which was adopted by Council in May 2019) to create additional employment opportunities.

Council submitted the geographic location of the Project is generally consistent with the *Rural Hinterland Futures Strategy*, which identifies the area as suitable for tourism uses. Council noted the Project also aligns with the *Great Ocean Road Visitor Economy 2015-2025* strategy that seeks to attract new tourism products and stimulate the visitor economy.

The submission by Council summarised its economic and tourism assessment as follows:

Council recognises that the CORA Project for an integrated facility has the potential to stimulate the local and regional economy.

While the CORA Project is unique and could not be planned for, its location generally aligns with the adopted Rural Hinterland Futures Strategy.

The introduction of a new tourism product and the anticipated creation of jobs aligns with objectives set out in State and Local Strategies.

Council’s submission at the Hearing reiterated its support for the Project and considered the Project will be of economic benefit to the region, both in terms of attracting tourists and in facilitating jobs (Document 81).

It is significant to the Committee that Council’s advocate did not cross examine Mr Ainsaar.

(iii) Submitters

Many individuals lodged submissions both in support and in opposition to the Project, the key themes of which were well summarised by Mr Ainsaar who categorised these as follows:

Themes of opposing submissions (87 in total):

- The Project is not viable or needed;
- The business case is outdated and the Project has changed since it was prepared;
- There is no justification or need for the accommodation components;

- The sports facilities will duplicate existing and proposed facilities;
- The Project will adversely impact existing child-care facilities;
- The Project will have limited or no community benefits;
- The Project will impact existing retail and tourism businesses in surrounding towns;
- The Project will not provide employment for local residents.

Themes of supporting submissions (84 in total):

- The Project will create employment for the local area and region;
- The Project will attract international visitors. It will assist in increasing the number of international visitors to the region including elite sports visitors and visitors from China;
- The Project will provide much-needed accommodation in the region;
- The Project will have significant economic benefits for the region, including employment and flow on economic benefits from construction and operation;
- The Project will have significant tourism benefits for the region, including providing an iconic tourist attraction, increased visitation, increased length of stay, increased visitor expenditure, broadening of market segments visiting the region and encouraging dispersal of tourists through the region;
- The Project will promote tourism to the region, provide opportunities to showcase local tourism product, facilitate branding of the region as a food and wine tourism destination and create a destination for visitors to the region.

Great Ocean Road Regional Tourism Limited (GORRT) made a submission in support of the Project (S116). GORRT is the Regional Tourism Board for the Great Ocean Road Region which covers the geographic area from Torquay to the South Australian Border. GORRT considered the Project would deliver a range of regional tourism and economic benefits including, but not limited to, the attraction of new markets, increase the region's hinterland tourism offering, diffusion of the primary visitor journey and increase the length of stay, expenditure and yield. The submission noted the Project is consistent with the priorities identified in the tourism Strategic Master Plan for the region.

GORRT appeared at the Hearing and provided a comprehensive overview of the Great Ocean Road Visitor Economy (Document 86). The presentation reinforced opinions expressed in its original submission that the Project would deliver significant economic and tourism benefits, consistent with the region's Strategic Master Plan. The presentation noted (Slides 17 and 18) the demand for an additional 3,400 commercial accommodation rooms and approximately 1,200 additional hotel rooms in the region, with up to four large resorts of 4.5 standard, and up to 12 new motels/hostels required to meet forecast demand.

The G21 Geelong Region Alliance provided a submission in support of the Project (S12). It advised that G21 was established in 2002 by five Geelong region municipalities (Geelong, Queenscliffe, Surf Coast, Golden Plains and Colac Otway) with the support of the Victorian Government and a wide range of local organisations. G21 has approximately 200 members including the three levels of government as well as non-government organisations, businesses and community groups. The submission advised it had an adopted regional plan with regional priority projects and noted its support for the Project, which it considered to be unique with clear state, regional and local benefits.

Other business and community organisations which provided submissions in support of the Project included Geelong Pilates Studio (S28), Australia China Business Council (S32), Barwon Sports Academy (S46), Lancemore Group (S65), Modewarre Cricket Club (S73), Great

Southern Touring Route (S91), Australian Tourism Export Council (S92), Geelong Lawn Tennis Club and Nautilus Fitness (S95), Epworth Geelong Hospital (S110), Winchelsea Football Netball Club (S112), Geelong Region Olives (S154), and Surfcoast Honey (S172), some of whom articulated their support by presenting at the Hearing.

In relation to submissions that considered the Project is not needed and/or not viable, the Committee notes that no submission advancing this view contained an assessment or expert opinion to validate or substantiate such claim. Submitter 160 attended the majority of the Hearing and advised his greatest concern with the Project is its long term viability (Document 100). The submission questioned the robustness of revenue streams from naming rights and accommodation and the possible underestimation of costs associated with rehabilitation of the wetland. Submitter 147 expressed similar concerns regarding viability of the accommodation offering.

5.3 Discussion

The Committee considers the summary assessment of issues raised in submissions concerning economics and tourism provided by Mr Ainsaar was thorough and representative of submissions received in response to exhibition of the Project.

The Committee acknowledges that due to the uniqueness of the Project, it is not possible to review it against like projects. The issues regarding its viability are complex for the Committee to reconcile. In these circumstances, the Committee acknowledges it has limited capacity to make definitive findings on whether the Project will ultimately be successful due to the many commercial variables that will influence such success.

Having noted this, the Committee has before it:

- a comprehensive business case,
- a secondary economic assessment, and
- an expert peer review and economic witness statement,

that all conclude the Project is viable and will generate significant positive economic and employment outcomes.

The EY business case determined the Project had a benefit-cost ratio of 2.44:1 (ie for every \$1.00 of cost there would be \$2.44 in benefits). While the Committee accepts the business case is now out of date, and that the Project has evolved since it was prepared, the Committee had the benefit of the expert evidence of Mr Ainsaar that peer reviewed the business case in light of the current iteration of the Project.

The evidence of Mr Ainsaar noted the soundness of the business case, the conclusions of which remained valid. He fairly acknowledged the economic benefits would be reduced compared to the business case as a result of removing the wave pool, as well as other adjustments to direct visitor expenditure calculations. When questioned by the Committee about a revised benefit cost ratio for the Project, Mr Ainsaar confirmed his modelling determined the benefit cost ratio would be 1.5:1 (ie \$1.50 in benefits for every \$1 in costs) and up to 2.1:1 (ie \$2.10 in benefits for every \$1.00 in costs) depending on the how direct visitor expenditure and operating revenue was accommodated in the EY model (Document 123). The Committee notes this opinion and takes comfort from it.

In light of business and economic assessments before it, the Committee considers it is reasonable to find that the Project could be viable, should planning permissions be granted.

Submitters 147 and 86 put a number of questions to Mr Ainsaar in cross examination concerning his conclusions that there was latent demand for accommodation beds in the region and whether the proposed site, given it is not on the coast, would be viable. Mr Ainsaar responded there is significant demand (and gaps) for additional accommodation in the region and that demand has been quantified by a number of strategic assessments undertaken over recent years. The Committee accepts the evidence of Mr Ainsaar that the Project and principally the elite sports hub, will create its own demand for accommodation if it is successful.

The Committee highlights that the submissions and presentations by Council, GORRT and G21 all align with the findings of the business case, the review by the 2019 economic assessment and the evidence of Mr Ainsaar regarding the accommodation and tourism fit of the Project in relation to existing local and regional demand. Council, GORRT and G21 have intimate and detailed knowledge of the local and regional economic and tourism drivers. The Committee considers it significant the Project received support from these organisations.

A number of submissions noted the sports facilities would likely duplicate facilities available at Deakin University and other locations in the region. The Committee accepts the Proponent's submissions and the evidence of Mr Ainsaar that the integrated nature of the Project is a different offering and cannot be compared to Deakin's facilities at Waurin Ponds. Further, the Committee accepts that the business case and accompanying peer review determined the Project would be viable and produce a positive benefit cost ratio.

In relation to the submissions that expressed concern that the proposed child-care facility would adversely impact on existing facilities in the region, the Committee accepts the evidence of Mr Ainsaar that the proposed on-site facility is primarily to support the needs of staff working on site and to accommodate the needs of visiting guests.

A number of submissions opposed the Project due to concerns it will have a significant negative trading impact on existing retail and tourism businesses. The Committee notes the 2019 economic assessment determined there would be less than a 3 per cent trading impact on centres in the region, a finding supported by Mr Ainsaar who concluded "*there will not be material disbenefit to the existing retail industry*". Further, he noted the impact would be made good over time by the increase in expenditure associated with new visitors to the region.

Based on the material before it, the Committee is satisfied the Project will not result in unacceptable retail trading impacts on existing communities. Further, the Committee does not consider the Project will materially influence shop vacancy rates in Torquay, as raised in questions to Mr Ainsaar by Submitter 34 during the hearing. The Committee agrees with Mr Ainsaar that the Project will likely add substantially to the visitor base of the region and will ultimately benefit existing businesses throughout the catchment.

The Committee does not concur with submissions that stated the Project will not provide employment opportunities for local residents.

A number of additional matters were put to Mr Ainsaar by the Committee. In response to the question of which elements of the Project would derive the greatest economic impact

for the State, region and local communities, Mr Ainsaar observed the Project needs to be viewed as an integrated package, and that it would be inappropriate to view it as a series of isolated elements. He reiterated the accommodation components of the Project are required to realise the elite sports component, and further, without the elite sports hub as a driver, the Project becomes like many other tourist assets. Mr Ainsaar acknowledged the accommodation component provides a critically important revenue stream for the overall Project (approximately 65 per cent of income). Accordingly, he stated the provision of the accommodation components, and particularly the Hotel will be vital in the first stage of Project delivery. The Committee agrees with his expert opinions on this.

5.4 Conclusions

The Committee concludes:

- Based on the findings of the peer review by Mr Ainsaar that the business case is sound and the conclusions remain valid, there is a reasonable prospect that the Project will be viable should planning permissions be granted.
- There will be significant positive local, regional and Statewide economic, tourism and employment benefits arising from the successful implementation of the CORA Project.
- The Project is unlikely to result in unacceptable economic impacts on existing retailers or accommodation providers.
- There is significant latent demand for additional 4 and 5 star accommodation facilities in the region, and the Project has the potential to respond favourably to this demand.
- The provision of hotel accommodation as part of Stage 1 of the development will be important to the economic viability of the Project as a whole.
- There are no economic or tourism issues that preclude development of the Project on the site.

6 Landscape and visual impacts

6.1 Context and key issues

Tract prepared several versions of a Landscape Masterplan that responded to various iterations of the Concept Masterplan. A *Baseline Landscape and Visual Values Study* (20 September 2019) was included in the suite of exhibition documents. The exhibition version of the Landscape Masterplan was replaced with an updated version (Rev 16) that was included in Appendix 1 of the *Landscape and Visual Impact Assessment* (LVIA), (15 January 2020) that was circulated as part of the evidence for the Hearing (Document 28).

The Committee's Stage 1 report concluded that further visual and landscape character information was required as part of the public exhibition process, particularly with regard to the quality and assessment of visual impacts, to be informed by further photomontage imagery. Further, the Committee recommended the Proponent consider undertaking a peer review assessment of visual impacts as part of the exhibition and hearing process. The Proponent responded to these conclusions and recommendations through the provision of additional modelling and analysis contained in Document 28 and the commissioning of Mr Czarny to provide an independent peer review and urban design/landscape and visual expert evidence (Document 18).

Several submissions raised concerns with the Project's impact on the existing rural landscape of Modewarre and from Cape Otway Road. Many submissions stated that the visual impact of the Project would be unacceptable.

Council raised issues with the Landscape Plan's proposed retention of exotic trees and the lack of passive open space opportunities provided in the Concept Masterplan.

The key issues to be resolved are:

- whether the subject land is part of a distinctive landscape classification
- whether the visual impact of the Project on the rural setting and the rural lifestyle is acceptable
- whether appropriate landscape and visual amenity guidelines and requirements are reflected in the planning framework provided by the CDZ and CDP.

6.2 Evidence and submissions

(i) Proponent

The updated 15 January 2020 version of the LVIA prepared and relied upon by the Proponent covers both landscape and visual assessment, described as follows (Document 28):

- The landscape assessment deals with the potential effects on the quality of the landscape setting, considered as an environmental resource, independent of views of that landscape.
- The visual assessment deals with potential effects on the visual resources of the setting from changes in the composition and quality of views, people's response to likely changes and the overall effect on visual amenity.

The assessment is based on Masterplan level design which does not include detailed architectural design, materiality, colour, or site works such as parking, or site grading. The report stated that "*indicative terrain modelling*" and "*wire frame modelling*" images were

developed to provide an indication of the likely general form of the development within the proposed future site landscape. In this regard the LVIA stated:

The LVIA findings are considered to be a realistic assessment of likely landscape and visual impacts but are limited by the level of detail and accuracy of information available at this time.

The scope of the LVIA addressed the following elements:

- planning policy context and likely community values
- description of the Project
- baseline landscape and visual values for the existing site and the broader local and regional landscape
- viewshed modelling to determine the likely extent of landscape and visual effects
- consideration of the likely sensitivity of landscape and visual receptors to development related changes
- description of the likely landscape and visual effects related to the Project (to the extent possible with current information)
- description of the potential impact mitigation measures or strategies that relate to the described landscape and visual effects.

No empirical research or specific consultation relating to local community values or perceptions of landscape and visual quality was undertaken as a part of this study. In this regard the LVIA noted:

The assessment process, and this baseline values study, is based on a range of existing information sources, including the State and Local Planning Policy Framework and existing studies which make specific reference to the landscape character and visual quality values of the area surrounding the site. In this context, these information sources are considered to generally represent State Government, Council and broader community values relating to the landscape and visual resources of the region.

The LVIA provided a summary of the 18 December 2019 iteration of the Landscape Masterplan. It noted that the design *“illustrates the relationship between the proposed internal land uses, built form and the natural landscape”* and is intended to:

- Be sensitive to the existing rural context through extending features of the existing wider landscape setting into the Project site and to integrate the built form of the various new land uses into the landscape of the site. A significant percentage of the site area is to be a restored natural wetland or retained as a woodland or in typical farm landscape form.
- The design is intended to maintain key vistas and natural/cultural landscapes as the dominant aspect of the site’s presentation to Cape Otway Road, with new planting comprising indigenous species from appropriate Ecological Vegetation Classes (EVC 55_63: Plains Grassy Woodland and EVC 175: Otway Plain Grassy Woodland).
- The adopted rural character is intended to draw upon “the best of the historical Western District” through the use of indigenous woodland and wetland planting styles, along with more formal defined hedgerows (with species such as *Callitris glaucophylla* (White Cypress Pine); tree-lined avenues (utilising exotic species such as *Ficus macrophylla* var. *hillii* (Hills Fig) and *Platanus orientalis* (Plane Tree), established gardens and well maintained paddocks.
- Car parks are broken up into smaller cells within landscaped areas to reduce the physical and visual impact of these areas and respond to existing topography.
- The new buildings will be predominantly single and two storey structures variously sited in water edge locations, on natural and built surfaces and in open and dense landscapes.

- The Rural Conservation Precinct will provide a rehabilitated and revegetated area across the existing floodplain area with new planting comprising indigenous species from the appropriate Ecological Vegetation Class (EVC 653: Aquatic Herbland).

The proposed built form is described in detail in Chapter 3.2 of that report, on a precinct by precinct basis, with an overview of the relevant Policy Context in Chapter 4. Chapter 5 assessed the baseline conditions. The analysis noted the site is located within the Winchelsea Western Plains Precinct Landscape Character Area. The aesthetic values of this character unit are described as follows:

- A sense of vastness and openness, long distance views to a low horizon, shelter belts as a feature between large paddocks, indigenous vegetation emphasising - landscape features, the character of farming structures. (Great Ocean Road Landscape Assessment Stud, 2003)

The analysis noted the Surf Coast Planning Scheme does not identify the site as being a significant landscape. The assessment highlighted the site is included within the 'Mixed Farming' precinct and is not considered to be an exemplar or special site with specific design considerations. It observed the landscape has an *"associated level of significance"* based on its visual association with Lake Modewarre, which is considered a regionally significant landscape feature with related environmental values.

An Impact Assessment of new conditions is documented in Chapter 6 of the LVIA. It described and rated likely impacts and included mitigation measures and recommendations. Only one matter was rated 'high significance', that being 'Water form'. The description of likely impacts included:

- The proposed development is located on land that sits partly within the lake floodplain. The existing floodplain area appears to be in relatively poor condition due to grazing. The active floodplain area is not directly affected by development.
- The development will not adversely impact on the form of Lake Modewarre or its primary floodplain and revegetation of the ephemeral wetland zone north and west of the proposed development zone with EVC planting is likely to improve the quality of the southern floodplain landscape and the visual definition of the wider lake edge.

The proposed mitigation measure is listed as follows:

- Consider the location of buffer tree planting to ensure that the ephemeral wetland retains a natural physical and visual relationship to the lake edge.

Other mitigation measures/recommendations listed in the impact assessment included:

- Use tree planting to maintain a visual separation between built elements. Ensure that, where possible, expansive views of continuous built form and skyline silhouette are avoided.
- Maintain a dispersed pattern of low scale development (below tree height) where possible, separated by tree planting.
- Maximise buffer planting on the Cape Otway Road, but include lateral planting elements (tree planting that runs perpendicular to the road edge) that allows for visual breaks in the roadside planting pattern.
- Maximise the retention of existing site trees.
- Maintain EVC woodland planting to the perimeter of the site and in areas relating to principal view locations.
- Establish buffer planting and structural planting features early in the development.
- Screen elevated light sources.
- Minimise contrast colour and reflective surfaces.

An assessment of potential visual effects was documented. This assessment described the nature and scale of changes in the character of the available views, identified in the baseline conditions review, resulting from the Project and likely changes in amenity based on end stage development conditions. A total of 13 sites were assessed. No sites were identified as having a 'High Significance' rating. The sites identified as having a 'Moderate Significance' rating included:

- Connies Lane – view west
- Cape Otway Road/Layard Road intersection – view north west
- Cape Otway Road – view east
- Cape Otway Road – view west
- Connies Lane – view north west.

A number of overarching mitigation and enhancement measures were identified to influence the detail design process, including:

- **Arrival views:** Consider the alignment of entry roads to ensure that they do not provide viewing corridors into development areas.
- **Using colour treatments:** Selection of colours on visible structures and surfaces to blend with the surrounding landscape and avoid obvious colour contrasts or reflective surfaces. Where there are a series of adjoining structures, consider subtle colour shifts within a colour range.
- **Retaining existing landform** profiles at the edge of the site.
- **Avoiding skyline silhouettes.**
- **Maintenance of existing site vegetation:** Maintaining existing vegetation to the greatest extent possible is critical.
- **View management through screen planting:** As per the existing landscape masterplan, develop a strategic approach to planting that considers:
 - Formal plantations that reference shelter belt plantations within the local area
 - EVC based woodland plantings
 - Offsite plantings, including road edges, that specifically consider views to elements such as light towers.
- **Shield all lighting to minimise light spill and radiance.**

The peer review and expert evidence provided by Mr Czarny determined the 15 January 2020 version of the LVIA *“serves a suitable baseline for preliminary evaluation of the visual impacts of the CORA development”* and is *“fit for purpose”* for the relative basic design information provided at this point in the process. He considered the updated LVIA addressed the further investigation and assessment sought by the Committee in its Stage 1 Report.

Mr Czarny concluded the updated LVIA documentation was suitably detailed and presented in a suitable format for the *“Planning Scheme Amendment and CDP approach”* being advanced and is *“a suitable foundation for further (future) investigation – based on more resolved design detail as part of a Planning Permit Application”*.

Among Mr Czarny's opinions, he agreed with the findings of the LVIA's assessment of Landscape Character impacts and observed:

While the setting is clearly an attractive open rural and natural setting — underpinned by open panoramic views, it cannot be claimed to be pristine in character and is heavily modified and influenced by both historical and concurrent infrastructures. I believe that it can absorb

some change. I concur that the magnitude and format of the proposed development will not alter the primary composition or appreciation of the strategic landscape.

In respect of the photomontages, Mr Czarny gave evidence that he was satisfied they are competent enough to enable an assessment of preliminary impacts and allow for an understanding of the likely profile of the proposed development in the setting. He noted however, that no assessment was provided of impacts at night, and he was unable to evaluate any such impacts as there was inadequate detail on proposed lighting configuration or influence in the panorama.

Mr Czarny completed a review of the 13 “*potential visual effects*” sites assessed in the LVIA. He generally supported the finding documented in the LVIA, although he determined three sites as having a ‘High’ visual impact rating (compared with the LVIA rating as Moderate). These sites included:

- View M002 – Cape Otway Road / Layard Road intersection – view north west
- View M006 – Cape Otway Road – view east
- View M007 – Cape Otway Road – view west.

In response a question from the Committee, Mr Czarny agreed that View M013 was also a high impact location given the residential abuttal.

The key conclusions contained in the evidence of Mr Czarny included:

- a) Adding an Application Requirement to the proposed CDZ3 section 4.3, that specifically requires a Site Planning & Architectural Package including:
 - Detailed site plans per precinct (roads, infrastructure, buildings, relative levels of cut/fill), and
 - Detailed architectural package (plans, sections, elevations, materials palette).
- b) Adding an Application Requirement to the proposed CDZ3 section 4.3, that specifically requires a Scenic Evaluation & Visualization Package including:
 - 3D Visualisations (of key buildings and works including external sporting infrastructure), and
 - LVIA per Precinct based on defined locations and identification of mitigation treatments.
- c) Adding an additional Part to the Draft Comprehensive Development Plan (between chapters 3-4 or 4-5) that reinforces the CDZ3 purpose ‘To protect the scenic landscape character of the Lake Modewarre and Cape Otway Road environs’ and provide guidance on ‘the strategic landscape setting’. Such a new Chapter should include Requirements and Guidelines that focus on;
 - Influence and strategic importance of Lake Modewarre and its context,
 - Key vantage points and public viewing locations toward the site,
 - Nature of vegetation in broader context (ie. clusters of wooded areas, windrow vegetation),
 - On-site influences such as the wetland, existing vegetation etc, and
 - The experience along Cape Otway Road defining arrival, departure and passing-by of the site.

(ii) Council

In relation to landscape, Council’s original submission expressed concern about the ability of the Project to retain exotic trees on the site that are designated weeds in the Shire (S119).

Council's submission at the Hearing noted the proposed landscaping plan included retention of exotic trees and that the Project does not include passive recreation opportunities for visitors to the site (Document 81). In relation to these issues, Council submitted:

The site is currently developed with a number of exotic species. While Council acknowledges the functional and aesthetic values of retaining mature trees, these should be replaced over time with native species. Some exotic trees on the site are designated weeds and should be targeted for removal.

Further, the likely use of the hotel by families or the use of the sports facilities by athletes and their families will bring children onto the site. The current landscape masterplan and guidelines with the CDP do not provide opportunities for families with children to explore the environment and play. The inclusion of a playground (outside of the childcare centre) would facilitate this informal family time.

Council acknowledged the revised Day 1 version of the CDP addressed in part the concerns expressed, however it raised additional concerns:

Council planning officers welcome the commitment in requirement R44 of the Day 1 CDP that "Landscape design must provide for the targeted and progressive removal of exotic or weed species and replaced with indigenous vegetation overtime". Requirement R39 also clarifies that the use of local and indigenous plant species must be prioritized.

These are positive matters, however it is essential to ensure that the removal and replacement of trees is managed in an appropriate way. Planning officers suggest this needs to be detailed in both the landscape master plan/design guidelines and landscape management plan. Similarly, Council requests the content of R41 be included as an application requirement for the landscape management plan.

Council planning officers also welcome reference at G28 of the Day 1 CDP to providing "passive open space for informal recreation", but seeks clarification regarding how this space would be accessed given access to the Sports Precinct is to be by prior arrangement.

It is noted that in Mr Dluzniak's evidence he highlighted the importance of the retention of the existing windrow on the boundary shared with 51 Connies Lane to screen light spill from the sports facilities. This needs to be recognised in the landscaping requirements and CDP.

(iii) Submitters

The concerns and/or objections based on landscape or visual impacts grounds raised by various submitters are summarised as follows:

- the Project size and scale is inappropriate given the subject site is within the Western Plains 'distinctive landscape' and the Rural Conservation Zone
- the Project will compromise the rural landscape and setting and will impact on the views and amenity provided by Lake Modewarre and Mount Moriac
- the Project will negatively impact on the rural lifestyle and image of the area
- the exhibited documentation does not contain adequate detail in regard to the likely form of development and likely landscape impacts
- the siting of the retail precinct poses an unacceptable visual impact when viewed from the Cape Otway Road Frontage.

6.3 Discussion

As an overarching observation, the Committee accepts the primary submission of the Proponent that the exhibited LVIA was appropriately updated in response to the Committee's Stage 1 report. Further, the Committee agrees with the Proponent that Mr

Czarny's independent peer review informed the update to the LVIA prepared in January 2020 by Tract Consultants. Mr Czarny determined the LVIA to be a competent and adequately detailed evaluation of the relevant considerations and issues, adopting a methodology and approach consistent with contemporary practice. His recommended changes to the exhibited CDZ and CDP were incorporated in the final versions of the controls.

The Proponent's post hearing final version of the CDP (Document 150c) included a new 'Landscape and Scenic Values' overview, and a new 'Landscape Context Plan' at Section 2.2. These inclusions are in response to Mr Czarny's recommendation for inclusion of a new section in the CDP that reinforces the importance of protecting the scenic landscape character of Lake Modewarre and Cape Otway Road environs and provide guidance on the strategic landscape setting. Further, it included revised sections on 'Built Form' including new specific design guidelines for each precinct as recommended by Mr Williams of Williams Boag Architects (who gave a submission on Day 1 for the Proponent on the overall context of built form and urban design). The final CDP included an updated Landscape Chapter with new 'Objectives' and modified 'Requirements' and 'Guidelines' in response to the evidence of Mr Czarny and submissions received during the Hearing.

Consistent with submissions advanced by Council, the final version of the CDP retains the requirement that the landscape design must provide for the targeted and progressive removal of exotic or weed species and replaced with indigenous vegetation overtime (R34). The Requirement to prioritise the use of local and indigenous plant species and canopy trees in open spaces was also retained (R30). Council requested a Requirement should be added to the landscape section of the CDP that highlights the importance of retaining the existing windrow on the boundary shared with 51 Connies Lane to screen light spill from the sports facilities. The evidence of Dr Dluzniak (who gave lighting evidence for the Proponent) supported this outcome, an inclusion that the Committee supports.

The Committee questioned the Proponent regarding the merit of incorporating walking and pedestrian trails throughout the development to facilitate connectivity between precincts and to provide a healthy passive recreation opportunity for neighbouring residents and visitors to the site. Aligned with this proposition, Council called for more passive open space and opportunities for families with children to explore the environment and play.

The Committee acknowledges there is a CDP Objective (O) to develop an inter-connected internal street and pedestrian network within the site (O6). Additionally, there is a CDP Requirement (R) in the Elite Sport Precinct that states appropriate pedestrian and cyclist facilities must be provided to safely and efficiently circulate within the precinct (R15). The Committee considers the CDP would be strengthened by inclusion of a Requirement that more specifically requires the landscape plan must include the provision of a network of passive open spaces throughout the whole site, linked by a walking and cycling trail.

Changes were made to the CDZ by the Proponent relating to landscape and visual impact, most significantly being a Requirement to prepare a site-wide Landscape Masterplan (Clause 2.0). In addition, the application requirements at Clause 6.2 have been strengthened to require:

- **Site Planning and Architectural plans** drawn to scale which show (in relation to the precinct to which the application applies), an extensive range of detailed information sought by Mr Czarny including details of the site context in relation to

the relevant Precinct Concept Plan approved under Clause 3.0; the location, dimension and floor areas of all buildings and works

- A **Design Response Report** that explains how the Project responds to the Design Guidelines included in the CDP
- A **Landscape and Visual Impact Assessment** based on appropriate locations have regard to the CDP that includes:
 - 3D visualisations of key buildings and works including (where relevant) external sports lighting and similar infrastructure
 - locations where there is potential for development to have a high visual impact
 - identification of mitigation treatments

These requirements were included in specific response to the recommendations of Mr Czarny.

- A **Landscape Plan** that:
 - responds to the Landscape Masterplan approved under Clause 2.0 and to the relevant requirements and guidelines of the CDP
 - provides landscape designs for all publicly assessable areas showing, as necessary and appropriate, the location of proposed improvements including playgrounds, pedestrian and cycle paths, earthworks, seats, bollards, fencing, landscaping, irrigation systems, drinking fountains, drainage lines and detention basins
 - provides interface treatment plans including cross-sectional diagrams detailing the proposed interface treatments to all adjoining rural properties, conservation areas and to Cape Otway Road (as relevant)
 - ensures that screen planting along Cape Otway Road in the Retail and Tourism Precinct does not prevent intermittent views into the Precinct and across to significant landscape features as identified by the Landscape and Visual Impact Assessment (as relevant)
 - where existing vegetation is to be removed, ensures that adequate replacement vegetation is planted at advanced heights prior to the removal of existing vegetation, particularly at high impact locations as determined by the Landscape and Visual Impact Assessment
 - shows the location and design of any facilities for viewing the wetlands.

The Committee considers the above changes to the CDP and CDZ substantially strengthen the planning framework. It results in a robust response to the landscape and visual amenity issues that emerged through the hearing process. The Committee commends the responsiveness of the Proponent to the suggestions and concerns raised by submitters and the thorough manner in which it has updated the proposed controls.

In relation to submitter concerns that the Project size and scale is inappropriate given the subject site is within the Western Plains 'distinctive landscape' and the Rural Conservation Zone, the Committee notes and agrees with the evidence of Mr Czarny. His assessment found that while the Surf Coast Planning Scheme and relevant strategic documentation recognises the importance of open rural environments, the land does not qualify for the Distinctive Landscape classification, nor is it identified within an Overlay (such as a Significant Landscape Overlay) that would warrant such. While the site is open and has expansive views, it is highly modified. The landscape studies that have been undertaken in

the region over the last decade have not identified the landscape setting as one of note, nor as one that should be protected. The Committee agrees with Mr Carney that the site:

... is one that can be managed within the profile of the relevant Zone provisions which seek to 'conserve and enhance the ... character of open rural and scenic non-urban landscapes'. This does not suggest the land can be compromised – rather it highlights the opportunity for integrated development that is compatible and sympathetic to the rural landscape context.

Further, the Committee does not consider the Project will compromise the rural landscape and setting, nor will it significantly impact on the views and amenity provided by Lake Modewarre and Mount Moriac. While the Committee acknowledges the views to Lake Modewarre and Mount Moriac will in some locations be interrupted, they will not be obscured to such an extent that they cannot continued to be enjoyed. The Committee agrees with Mr Czarny they *"will remain visible, noticeable and relevant in the panorama"*.

The Committee does not agree with the submission by the Geelong Environment Council that *"the Project does not recognise or protect the natural environment or the landscape values and amenity in this area, and does not comply with the Landscape, Farming or the Rural Conservation Zones and should be rejected"* (Document 134). Further the Committee does not agree with Submission S156 that the landscape will be obliterated. This characterisation is not supported by the expert opinion of Mr Czarny and the town planning and ecology/conservation evidence tested during the Hearing.

In relation to submitter concerns that the Project will negatively impact on the rural lifestyle and image of the area, the Committee agrees that the Project will result in a changed environment. That noted, the Committee considers the landscape and visual amenity impacts will be appropriately managed through design and implementation of the site-wide and precinct specific landscape plans and initiatives. The Committee highlights that the preparation of a further LVIA is required prior to the issue of a permit for building and works. That further assessment will require specific mitigation initiatives to be identified and implemented for high visual impact locations, including, but not necessarily limited to, M002, M006, M007 and M013. The Committee asked Mr Czarny if he considered it appropriate that the most affected residents have input into this further design process. He agreed and the Committee recommends accordingly.

The Committee is satisfied the updated landscape design Objectives, Requirements and Guidelines in the CDP and the suite of requirements included in the CDZ provide adequate detail with regard to the likely form of development and landscape impacts.

Regarding concerns that the siting of the Retail Precinct poses an unacceptable visual impact when viewed from Cape Otway Road, the Committee accepts that view will alter. The Committee notes that the wetland is highly modified and is in private ownership. While the proposed Retail Precinct will be visible, the Committee considers the proposed perimeter landscaping and built form design will be acceptable. The Committee agrees with Mr Carney's evidence that *"Cape Otway Road represents the private boundary which could at any time (in current circumstances) be planted out with roadside vegetation and screening treatments without a permit or the authorisation of the Council"*.

6.4 Conclusions and recommendations

The Committee concludes:

- The subject land is not part of a distinctive landscape classification as defined by the Surf Coast Planning Scheme, nor is it identified within a Significant Landscape Overlay.
- The visual impact of the Project is considered to be acceptable and an appropriate response.
- Generally, the landscape and visual amenity Objectives, Guidelines and Requirements included in the planning framework provided through the Comprehensive Development Zone and Comprehensive Development Plan are appropriate.
- It is appropriate for residents abutting high visual impact locations to have the opportunity to input into the detailed design phase.
- There are no landscape and visual impact issues that preclude development of the Project on the site.

The Committee recommends:

- 2. Amend the Schedule to the Comprehensive Development Zone to provide the opportunity for residents abutting high visual impact sites (M002, M006, M007 and M013) to be consulted regarding proposed mitigation measures.**
- 3. Amend Section 3.2 Landscape of the Comprehensive Development Plan to include the following Requirements:**
 - a) The landscape design must incorporate retention of the existing windrow on the boundary shared with 51 Connies Lane to assist in the screening of light spill from the sports facilities.**
 - b) The landscape design must include the provision of a network of passive open spaces throughout the whole site linked by a walking and cycling trail.**

7 Traffic and transport

7.1 Context and key issues

Traffix Group prepared a traffic engineering assessment as part of the suite of technical reports placed on public exhibition (August 2019). Mr Walsh of Traffix Group was called to provide expert evidence to the Committee (21 January 2020). He advised in his statement of evidence that he was not involved in the preparation of the initial technical assessment.

Traffic and infrastructure were dealt with at Chapter 5 of the Committee's Stage 1 report. Recommendation 6 said: *"Include the Traffic Engineering Assessment as part of the public exhibition background material, revised and updated as appropriate"*.

Mr Vass of the Department of Transport (DoT) provided a written submission (S127) and presented a PowerPoint at the Hearing (Document 84).

Council raised issues in its original submission relating to Cape Otway Road being used as the main access road, Connies Lane being used only for emergency purposes, clarifying the role of the unused road on the subject land and the currency of data underpinning the traffic assessment.

Numerous submitters raised traffic and access as a key issue, particularly with regard to access to the site from Cape Otway Road, the condition and safety of Cape Otway Road, and the use of Connies Lane for site access.

The key issues to be resolved are:

- whether Cape Otway Road is appropriate to be used as the key access point to the site
- how Connies Lane should be used, either as a secondary or emergency access road
- distribution of car parking across the site and the use of 'golf buggies' for onsite transportation.

7.2 Evidence and submissions

(i) Proponent

The evidence of Mr Walsh noted the main access to the site is proposed from Cape Otway Road, approximately mid-block along the southern abuttal in a 'boulevard' style. There will be localised widening of Cape Otway Road with a deceleration lane approaching the site from the west and a dedicated right turn lane approaching the site from the east.

Car parking is proposed within the site at or near the retail, hotel, wellness elite sports uses. Bus parking will be provided south of the hotel. Car parking will not be provided at the eco-lodges. The Proponent advised that users of the eco-lodges would park in the hotel precinct and use golf carts or buggies to get to the eco-lodges and generally around the site.

In considering traffic issues, Mr Walsh assessed the road network, accident statistics, internal roads, existing traffic volumes, traffic generation and distribution, post development traffic volumes, access arrangements and carparking, loading and bicycle considerations. His primary conclusions included:

- access from Cape Otway Road as the main access point can be accommodated safely with a left turn in lane and a channelised right turn lane
- Cape Otway Road is a designated primary collector and arterial road that will suitably accommodate the projected levels of traffic
- there is no need for other improvements along Cape Otway Road apart from the construction of the site access intersection works
- Connies Lane should only be used for emergency purposes
- all car parking can be accommodated in various areas and precincts on site.

Mr Walsh advised that from his analysis, post development:

.... the site access with Cape Otway Road will operate in 'excellent' conditions, with modest queues and delay. In fact, the access operation is only at 30% of capacity, meaning additional volumes to/from the site or on Cape Otway Road could be accommodated by the proposed access.

For these reasons, Mr Walsh was satisfied the development traffic can be accommodated by the proposed access arrangements.

(ii) Council

Council raised a number of traffic and access issues in its original submissions but did not pursue these in great detail at the Hearing (S119). Council supported the primary access being from Cape Otway Road and contended the traffic counts provided in the exhibited traffic report be updated. Its principal concern related to Connies Lane being used for service and construction vehicles and as a secondary access to Cape Otway Road.

At the Hearing, Council supported Connies Lane being used only for emergency purposes but sought more information regarding how that would work in practice. Council noted the evidence report of Mr Walsh contained updated data, but considered the report did not address:

- impacts of additional development on functionality of various roads
- contributions to road upgrades
- sustainable transport initiatives
- on site vehicle movements
- emergency access within and through the site
- triggers for construction of the main access entry on Cape Otway Road.

Council questioned Mr Walsh on the delivery of the main access road, to which he advised it would be provided for the full layout, not as an interim layout. Ms Piskuric further questioned Mr Walsh on access to the eco-lodges and how water, wastewater and other services would access the site, particular in the eco-lodge area. Mr Walsh advised he had not undertaken that level of assessment as that will be undertaken as part of the detailed design work.

Council made no specific comments about transport and access in its closing submission.

(iii) Agencies

The DoT made a submission that incorporated comments from Regional Roads Victoria and noted:

... the proposed development will generate substantial increases in traffic volumes on the broader external road network both during construction and when fully developed. The potential traffic impacts on the arterial road section of Cape Otway Road and intersections with Hendy Main Road and the Princes Highway in terms of surface condition, functionality and safety needs to be assessed.

The DoT submission was very brief and noted that Regional Roads Victoria and VicTrack approval would be required for any relevant plans and documents. It noted various approvals regarding other upgrades. The initial submission was supported by Mr Vass at the Hearing with a focus on the role of the authority and its current works in the region.

The submission further noted potential impacts of increased traffic on Cape Otway Road, details of an upgrade to the Princes Highway and Cape Otway Road intersection, potential road surface damage as a result of construction and recommended changes to the CDZ. Much of the information provided in the submission was general in nature and lacked specificity. Mr Vass was unable to respond to many of the questions of clarification put to him by the Committee.

(iv) Submitters

Community submitters expressed concern about the condition and use of Cape Otway Road as the primary access to the site. Many stated that it was already unsafe and that numerous vehicle accidents, including some that resulted in deaths, had occurred on the road.

While most submitters supported Connies Lane only being used for emergency purposes, some sought a definition of what 'emergency purposes' meant for certainty and clarity. Some acknowledged that this change of use was a better outcome but would only "*soften the blow marginally*" of the overall development.

Some submitters expressed concern about the high number of fatalities along Cape Otway Road and the surrounds in recent years. Submitter 86 contended there were at least five fatalities over the past few years. She and others spoke of the use of Cape Otway Road for stock and farm heavy vehicles and the impact these vehicles have on the condition of the road, leading to concerns about safety generally.

Both S34 and S86 questioned Mr Walsh on traffic matters relating to increases in traffic and truck movements, signage and way finding, safety issues (trees, power poles), large vehicles and fatalities.

7.3 Discussion

The evidence of Mr Walsh was that Cape Otway Road has sufficient and spare capacity to accommodate the Project. With regard to the contention by submitters that it had high usage by heavy vehicles, the Committee asked Mr Walsh the average percentage of commercial vehicle usage of the road. He advised that traffic counts indicated a commercial vehicle volume of 7 to 8 per cent, which he said was the typical range of a road of this nature (Document 64). The Committee accepts this evidence.

In addressing the issue of the condition of Cape Otway Road, Mr Walsh advised:

VicRoads is the responsible authority for Cape Otway Road, between Princes Highway and Hendy Main Road, and Surf Coast Shire is the responsible authority for Cape Otway Road south west of Hendy Main Road.

These authorities are charged with maintaining the road to a standard commensurate with its classification. Cape Otway Road, between Princess Highway and Hendy Main Road is an arterial and approved B-Double route. South west of Hendy Main Road, Cape Otway Road reverts to a primary collector, which is described as a road with higher traffic volumes and to service tourist destinations, such as the CORA development.

Mr Walsh contended the condition of Cape Otway Road should be maintained to a safe standard by the relevant authorities and argued this is not a factor that should preclude the rezoning of the land, nor should the Proponent contribute to overall maintenance of the road, except for undertaking the necessary upgrades to provide for access into and out of the site.

The Committee agrees. If Cape Otway Road is in as bad a condition as contended by community submitters, it is incumbent upon the relevant authorities to undertake necessary repairs or upgrades to make the road safe for its designed function and capacity. CORA is rightfully obliged to pay all the costs of its work on Cape Otway Road but not to contribute to maintenance of the road condition or other matters beyond its doing or control.

The Committee notes the inclusion of a Road Network and Traffic Management Plan as part of the Site-wide Plans at Clause 2.0 of the CDZ that must be prepared to the satisfaction of the Responsible Authority prior to any approval of any Precinct Concept Plan. This plan has a number of inclusions, including defining the cross sections for all roads within and adjacent to the site. It is clear that there will be significant detailed work to undertake prior to any development of the site if it is to be approved.

The Committee was disappointed with the presentation by DoT. Its original submission highlighted a number of issues to which Mr Walsh responded in his evidence and at the Hearing. Neither Mr Vass nor anyone else from DoT attended at the time Mr Walsh was giving his evidence to hear and consider the responses provided.

When Mr Vass presented to the Hearing, he made a number of statements that were directly relevant to the evidence of Mr Walsh, and in the opinion of the Committee, should have been put to him. Such matters related to increases in traffic volumes; impacts on the arterial road section of Cape Otway Road; assessment of the surface condition, functionality and safety of the Cape Otway Road/Hendy Main Road/level crossing at Moriac; traffic impacts at the intersection of Princes Highway and Cape Otway Road; and impacts from construction traffic. The Committee asked why he was not present to put these issues to Mr Walsh and Mr Vass reflected that perhaps he should have been.

The Committee acknowledges the firsthand information provided by various submitters about traffic issues, particularly along Cape Otway Road. It does not dispute there have been fatalities in the area. That is not an issue for the Proponent. Regional Roads Victoria and Council are responsible for roads in the region and they must do what they can to reduce road trauma issues. One suggestion by the Committee going forward (but not a recommendation) could be to have a lower speed limit along those areas of road perceived to be dangerous (from 100 to 80 kilometres per hour). Another is to fix any significant adverse surface conditions.

The Proponent will be responsible for providing appropriate and safe access into and out of the site, at its own cost. The Committee does not hold any reservations about this.

The key issue with the access arrangements is the location of access to the site from Cape Otway Road. It was contended by submitters that the proposed access point was on a dangerous curve and it was not the optimum location due to the curve, and that a power pole sits directly opposite the road. While Mr Walsh did not accept that as an issue, the Proponent provided an updated CDP that moved the access point on Cape Otway Road slightly to the east.

At the Directions Hearing, the Proponent advised that it would not be pursuing the use of Connies Lane other than for emergency access, consequently there would be no proposed change of the condition of Connies Lane (which is an unmade gravel road). At the end of the Hearing, the Proponent advised that Connies Lane would not be used for any access, rather emergency access would be created through the land at 1130 Cape Otway Road. This is a welcome concession.

7.4 Conclusions

The Committee concludes:

- Cape Otway Road is appropriate to be used for the main access into and out of the Project site.
- While the Committee is not concerned about the use of Cape Otway Road as the primary access, Regional Roads Victoria and/or Council could investigate whether it is appropriate to reduce the speed limit of Cape Otway Road from 100 to 80 kilometres per hour from Modewarre until after the 'bend' on Cape Otway Road.
- Connies Lane is not to be used for any access to the site, emergency or otherwise, unless in the case of an extreme emergency.
- All car parking can be comfortably accommodated on site.
- The Committee supports the modifications to the Transport Plan at Figure 12 of the revised Comprehensive Development Plan (Document 150c) and that the Road Network and Traffic Management Plan is required to be prepared as part of Site-wide Plans prior to the approval of any Precinct Concept Plans through the Comprehensive Development Zone (Document 155).
- There are no traffic access or car parking issues that preclude development of the Project on the site.

8 Biodiversity and conservation

8.1 Context and key issues

Ecology and Heritage Partners Pty Ltd (EHP) prepared a Biodiversity Assessment as part of the suite of technical reports placed on public exhibition (September 2019).

The Committee's Stage 1 report concluded that the Biodiversity Assessment (14 May 2018) provided an adequate assessment of potential Project impacts on biodiversity, but would require supplementary information to be included, such as project information, potential indirect impacts on groundwater dependent ecosystems (GDE) and adjacent flora and fauna on Lake Modewarre through the changed hydrological regime. The Committee concluded the adoption of a risk-based approach was appropriate which included consideration of potential impacts from the operation of the Project. The Committee recommended the Proponent consider how the relevant recommendations from the biodiversity assessment could be updated and reflected in the revised planning controls. Further, the Committee recommended the Final Biodiversity Assessment Report (May 2018) and the new June 2019 report be exhibited as background reports.

Mr Lane of Nature Advisory was commissioned by the Proponent to provide a peer review and expert evidence on biodiversity matters at the Hearing (Document 22). As part of this assessment, he considered impacts on biodiversity and GDE.

Mr Brooks of DELWP (Environment) provided a written submission (S210) on environmental matters and presented at the Hearing (Document 45).

Council raised matters in submission on the use, impact and management on the Conservation Precinct, the extent of vegetation loss, the impact of the Project on the wetland and implications of the Project on the Growling Grass Frog (GGF).

Community submitters raised concerns about the Project being sited close to Lake Modewarre and impacts on flora and fauna, including on the GGF.

As a result of two submitters providing information on the penultimate hearing day about the presence of the GGF on their properties, the Committee issued further directions to explore these implications. In this regard, the Committee directed the Proponent to respond to the following matters on GGF (Direction 4, Document 133).

- F. Provide an outline of the implications, if any, of the recent sightings of GGF and how they can be addressed as part of this process.
- G. Liaise with DELWP to determine whether further GGF targeted survey or other investigation is required prior to contemplation of development given the length of time since the 2017 targeted survey, the presence of 'good' and 'moderate' GGF habitat on the CORA site, and the recent confirmed sightings of GGF on neighbouring properties.
- H. Advise on *Environment Protection and Biodiversity Conservation Act 1999*, *Flora Guarantee Act 1988* and *Environmental Effects Act 1978* implications if GGF are found to be present on the site.
- I. Advise on the impact on flora and fauna offsets if GGF are on the CORA site.
- J. Advise on the Masterplan implications if GGF are present in suitable habitat locations on the CORA site, in particular, whether presence of the species would require any change to:
 1. the layout of buildings
 2. cut and fill works
 3. water management regime
 4. proposed night lighting
 5. access road locations
 6. uses proposed at the CORA site.

K. Advise of any consequential changes to the CDZ3 or CDP.

The key issues to be resolved are:

- whether the Project has appropriately avoided and minimised native vegetation loss
- whether development of the retail village and hotel is appropriate within the wetlands area
- the ability of the CDP to deal with management arrangements for the Conservation Precinct
- the use of the wetlands within the Conservations Precinct as an offset site
- the impact of the Project on the GGF.

8.2 Evidence and submissions

(i) Proponent

EHP prepared a biodiversity assessment report (September 2019), which Mr Lane peer reviewed as part of his expert evidence (Document 22). He found the impacts on native vegetation to be slightly higher than EHP, due to mapping discrepancies and accounting for construction impacts. However, his evidence concluded the Project had avoided and minimised native vegetation loss in accordance with DELWP guidelines. Mr Lane noted removal of native vegetation had decreased from 39.352 hectares and seven scattered trees in an early iteration of the Project (September 2017) to 10.365 hectares and one scattered tree in the current Project.

Mr Lane considered that partial removal of the artificial earth berm in the wetland would restore a natural water regime, including providing the benefit of preventing inundation to a depth tolerable to much of the wetland vegetation, resulting in wetland improvement for wetland fauna species.

Mr Lane gave evidence that the operation and lighting of the CORA facility would not be expected to have a significant impact on fauna, and there was a low potential for the Project to impact on GDE.

Mr Lane made several construction mitigation recommendations, which were accepted by the Proponent and included in the final version of the CDP.

In its closing submissions, the Proponent confirmed EHP surveyed all the sites numbered on Figure 3 in its report for GGF and other frog species, and no species were found on site. The Proponent concluded that if GGF were present at the time of survey, they would have been located.

Post Hearing

Following the Hearing, the Proponent provided final versions of the CDP and CDZ, the key changes of which are outlined in Chapter 14.

In response to DELWP's submission (Document 144), the Proponent made the following further submission in Document 150a:

COESR acknowledges the matters raised in this submission and has adopted and incorporated the majority of DELWP's suggested drafting changes in its Final CDZ3 and CDP, other than as referenced below.

In respect to DELWP's comments that '*it is unnecessary to reference the 10.365 ha figure which has informed the hearing in the planning scheme*' COESR acknowledges that future planning permit applications will be required to address the avoid, minimise and offset provisions of clause 52.17 of the Planning Scheme.

That said, COESR is of the firm view that it is appropriate that the CDZ3 recognise the rigorous assessment that has been undertaken through the DAC process, and that is the intention of the proposed drafting as per the Part D and Final CDZ3.

In response to the Committee's Direction requesting further information on the implications of the confirmed sighting of the GGF on neighbouring sites to CORA, the Proponent provided a response prepared by Mr Lane, the main conclusions of which include (Document 153):

- Submitter sightings relate to two sites within several kilometres of the proposed CORA site indicating that there is a 'metapopulation' of GGF in the waterways and wetlands of the district.
- The wetland network would include one or more larger, permanent wetlands suitable for breeding and several smaller stepping-stone wetlands, at a maximum of 500 metres apart. The ephemeral or permanent waterways/drainage lines that fill after rain provide a hydraulic link between these habitats, facilitating movement of GGF individuals. No wetlands on the Project site are suitable breeding sites.
- EHP (2019) identified potential GGF habitat on the site in three locations (Sites 2, 7 and 9).
- There is no evidence the species occurs on the site, however it is possible that they could occur after heavy rainfall encouraging widespread movement of the species from the confirmed nearby habitats.
- The drainage system should be designed in a manner that protects as many potential habitats as possible and provides linkages between these. This can occur either through the maintenance of existing drainage lines or, where these must be unavoidably modified, constructed drainage lines that support key habitat elements for the species, such as stepping-stone wetlands.
- As long as the planning controls provide for design and permitting of a suitable drainage system design that maintains and improves habitat, replaces any habitat unavoidably lost and facilitates movement between habitats on and beyond the site, the impacts of the Project on the local GGF metapopulation can be mitigated effectively.

Mr Lane confirmed that actual and potential GGF habitat areas on the site were documented in EHP's report (2019) and the original *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) referral documents in 2018. Mr Lane noted that utilisation of the site by GGF is possible, but there is a low likelihood of permanent or semi-permanent occurrence, as evidenced by the 2017 surveys during suitable conditions using accepted survey methods and effort. Mr Lane advised that if further surveys were done, this would not alter the appropriateness of adopting a precautionary approach and assuming GGF could use habitats on site.

Mr Lane further advised that development should be undertaken in a manner that:

- a) will not compromise the ability of the GGF to persist in the area; and
- b) if possible, contribute to a net enhancement of habitat opportunities for the species through sensitive design at the planning permit stage.

He concluded that given the extensive knowledge of the species' habitat requirements, these principles could be adopted whether surveys were completed or not to confirm GGF presence onsite.

In response to Direction 4H, requesting implications of the EPBC Act, *Flora Guarantee Act 1988* and *Environmental Effects Act 1978*, if GGF are found to be present on the site, Mr Lane advised that the Project was referred under the EPBC Act and was found not to be a controlled action. He noted there are no confirmed records of the GGF on the site and given the development approach is to ensure there is no decline in potential habitat opportunities for the wider area's GGF metapopulation, it would be highly unlikely to be justification for revisiting this referral decision.

Mr Lane further advised that the *Flora and Fauna Guarantee Act 1988* requires a permit for the removal of protected flora, which only applies to public land and would not apply to any activity proposed relating to the Project, with the exception of roadsides.

In relation to the *Environment Effects Act 1978*, Mr Lane advised that the impacts of the Project on GGF do not meet the criteria for referral of the Project under this Act.

In response to Direction 4I requesting advice on the impact of flora and fauna offsets if GGF is found on the CORA site, Mr Lane advised the assessment of native vegetation removal indicated the proportional impact on modelled GGF habitat was below the general species offset threshold, suggesting the impact on this species is not considered to warrant a specific offset.

In response to Direction 4J, requesting advice on Masterplan implications if GGF are present on the CORA site, Mr Lane's response is summarised as follows:

- Implications for development layout and associated cut and fill works, water management regime and access road locations require further investigation and detailed drainage design work based on detailed site elevation information and associated drainage design at planning permit application stage of a development assessment process.
- All potential GGF habitats on the site are artificial wetlands. The GGF's habit of using artificial wetlands is an advantage when it comes to habitat creation and enhancement. One artificial wetland (Site 3 in Figure 3, EHP 2019) will be restored to its natural state through the removal of the berm separating it from the balance of the wetland basin in which it lies.
- The proposed works and the location of development in the southern part of the wetland, will occupy 9.23 hectares of the DELWP mapped current wetland layer, which represents the removal of about seven per cent of the wetland.
- Human activity at the hotel and retail precinct will result in occasional disturbance of potential GGF habitat. Disturbance is unlikely to occur during construction as this will take place when the wetland is dry. When it is wet and the species may be present, human activity during the day may disturb individuals that occur, but at such times, the wetland is likely to be extensive and plenty of potential habitat would remain undisturbed.
- A key practical implication for the Masterplan would be the design of the drainage system which could be modified to include the following measures:
 - any artificial water body removed is replaced with an equivalent area of waterbody within 500 metres of remaining water bodies

- along key drainage lines that serve a habitat link, include 'stepping-stone' wetlands to provide refuge for GGF once water levels in the drain drop
- connect all current and new waterbodies on the site through suitable drains to form a potential habitat network
- design levels and water flow paths to promote habitat conditions for GGF
- revegetate waterbodies with species suitable for GGF
- design and layout of waterbodies and connected drainage lines have regard to Growling Grass Frog Habitat Design Standards - Melbourne Strategic Assessment. DELWP, 2017b.

Mr Lane advised in response to Direction 4K, requesting advice on consequential changes to the CDZ or CDP, that planning controls could incorporate the following measures to protect potential GGF onsite:

- Design a drainage scheme for the development that provides hydraulic connection during periods of waterway flow between known GGF habitats to the south east and potential GGF habitats on the site;
- Ensure that the removal of any artificial waterbody is replaced with at least an equivalent number and extent of waterbodies designed and vegetated in a manner that provides equivalent future potential habitat for the GGF;
- Where a priority habitat link, ensure small waterbodies are provided as 'stepping' stones' every 200 to 300 metres to facilitate movement of the GGF after high flows have receded.

Mr Lane reviewed DELWP's suggested amendments to the planning provisions for the development. He advised he supported the measures suggested as a suitable means of ensuring the achievement of an outcome that will not prejudice the future potential usage of the development site by the GGF.

Mr Lane reviewed the final version of the CDZ and confirmed it provided clear direction to ensure the protection and maintenance of potential GGF habitat is considered in the detailed planning and design stage for planning permit applications.

(ii) Council

Biodiversity

Council's original submission acknowledged the native vegetation loss as a result of the development had been reduced from almost 40 hectares in the original concept, to 9.182 hectares in the exhibited iteration (Document 119). It noted that despite this reduction, the biodiversity assessment did not explain how the Project has been designed to avoid and minimise vegetation loss overall.

Council noted that bushfire mitigation measures had yet to be determined which could increase the quantity of native vegetation clearance.

Council raised a concern with the location of the retail village within the mapped vegetation and wetland layer, which it said was without justification, and it sought clarity on the location of the new berm location within the wetland.

Council summarised its biodiversity assessment conclusions as follows:

The extent of vegetation loss overall should be clarified and the appropriateness of the species groups for replanting should be addressed.

Justification is required for the proposed siting of the retail village inside the mapped wetland and this should be addressed.

The proposed location of the (relocated) berm and the method to ensure the continuity of natural flow in wetland area should be clarified.

Council's submission at the Hearing reiterated its concerns regarding biodiversity impacts (Document 81). Council raised further concern with the lack of targeted surveys of fauna, in particular migratory bird species, the absence of a light impact assessment on bird life and other fauna, and an assessment of the impacts of wastewater reuse on the wetland.

Protection of the Conservation Precinct

Council's original submission requested details of preliminary discussions with Trust for Nature be provided to confirm interest in the Project. It noted the CDP and CDZ did not provide a timing commitment for the conservation actions, nor clear obligations for ongoing conservation related costs and a mechanism to make them binding. Council noted it advised the Proponent that it will not assume responsibility for management of the Conservation Precinct. It sought clarification about whether the land would be transferred or subject to a section 173 agreement pursuant to the Act between the landowner and Council to give effect to the arrangements.

In its response to exhibition, Council noted that restoration of the wetland and the conservation precinct were important environmental benefits of the Project, that if not appropriately secured, may not be realised. It argued the importance of the wetland restoration should be elevated through its inclusion as an Objective in the CDP.

Council expressed concern that the table of Section 1 uses in the CDZ did not adequately confine the range of permitted uses for the Conservation Precinct. It recommended that consideration be given to the inclusion of passive recreation opportunities and public access to the Conservation Precinct where it would not compromise the conservation values.

Council's submission at the Hearing welcomed the Proponent's proposed inclusion of Objective O2 in the CDP regarding the restoration and conservation of the wetland, and the separation of the Conservation Precinct and the Farming Precincts (Document 81). However, it noted Objective O2 did not address the detail regarding any arrangements with Trust for Nature.

Council summarised its assessment and recommendations for the Conservation Precinct as follows:

- Elevate the importance of the wetland restoration by including it as an objective at Clause 2.2 of the CDP.
- Council supports the concept of a conservation zone and an allocated land manager and these elements should be confirmed.
- The suite of permissible use and development within the conservation zone should be confined and grazing ceased. The mechanism to deliver this needs to be clarified.
- Include passive recreation opportunities and address public access to the conservation precinct where it does not compromise the conservation values.

Council reiterated its position that the Project should increase opportunities for public access of the Conservation Precinct or should include public viewing areas outside the conservation area that would facilitate passive recreation and education. It said:

Such opportunities would promote awareness of the conservation and cultural heritage values of the site. Council submits in the absence of public engagement, the conservation area has the potential to become a disused and unvalued space 'out the back' of the tourist and sporting facilities.

Council noted the role of the Conservation Precinct as an offset area had not been confirmed, a position it said, needed to be clarified.

Council submitted the staging of restoration works for the Conservation Precinct as contained in the CDP R5 needed to be clarified. While this Requirement suggested that works would commence "*no later than the first stage*", it also provided that "*Restoration may be completed in stages over the course of development of CORA*".

(iii) Agencies

Department of Environment, Land, Water and Planning

DELWP made a written submission on native vegetation and biodiversity matters (S210). It acknowledged that some level of native vegetation impact avoidance and minimisation had been demonstrated, however it considered that further opportunities exist, particularly with respect to siting of the retail and tourism precinct.

DELWP submitted that it lacked confidence in the accuracy of the total extent of native vegetation proposed to be removed. It noted that greater clarity was required in the plans and documentation relating to impacts on native vegetation including:

- discrepancies between the CDP, the plans used to calculate native vegetation losses in the Biodiversity Assessment and the plans within the Integrated Water Management Plan
- confidence that works will be able to be confined to the assumed construction buffers for the terraces, road, footpaths and earth berms
- the Biodiversity Assessment identified that the artificial berm wall, which currently impedes flows to the north of the site, will be removed
- native vegetation losses had been calculated for removal of the berm to the north of the retail and tourism precinct
- it was unclear if the berm would be removed to the west of the precinct
- the loss of native vegetation associated with development into a current wetland area must be confirmed
- the Tree Protection Zone of Scattered Tree number 3, as identified in the Biodiversity Assessment, was likely to be impacted
- trees should not be planted within retained treeless native vegetation types (wetlands)
- the development plan should be updated accordingly.

DELWP noted the proposed offset site within the main wetland area did not meet the eligibility requirements in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017), due to the presence of weeds. It said a revised offset statement outlining the availability of a suitable offset would be required to meet the application requirements of those Guidelines.

DELWP submitted that an inadequate survey and assessment effort had been made to support the Biodiversity Assessment relating to migratory species. Key limitations include:

The Biodiversity Assessment highlights previous records of two migratory species within Lake Modewarre (Red Knot and Curlew Sandpiper) but omits mention of other migratory species records within Lake Modewarre (Ruddy Turnstone, Common Greenshank, Eastern Curlew, Caspian Tern) and within the study area (Caspian Tern – four records). Despite the existing records, the report classifies Caspian Tern as being unlikely to occur within the study area (Appendix 3.2). With the exception of Ruddy Turnstone, which was recorded in 2018, records of the above noted species are indicated in Figure 8, but not addressed in the report.

The findings and assumptions regarding migratory species appear solely based on historic database records and opportunistic observations made during field surveys. DELWP is not aware of any bird surveys being undertaken for the Project, or direct engagement with groups such as BirdLife Australia or relevant field naturalist clubs.

The reported extent of ephemeral habitat removal (approximately two hectares) appears to be understated and inconsistent with other statements in the Biodiversity Assessment, with Table 7 noting that 8.35 hectares of wetland-type vegetation will be impacted. A review of historical aerial photos indicates relatively recent (Jan 2017) inundation of at least five hectares of land within the proposed development area.

DELWP's initial submission made the following recommendations to the Committee:

The Proponent should refine the Project design to demonstrate increased effort to avoid and minimise impacts on native vegetation.

The Proponent should adopt a consistent Project design across all supporting documents, and identify the extent of proposed disturbance as closed polygons for clarity.

The Proponent should prepare a revised Biodiversity Assessment Report that addresses uncertainties regarding:

- Extent of native vegetation impacts;
- Impacts to migratory species;
- Direct and indirect hydrological impacts;
- Buffers to areas of native vegetation and wetlands;
- Availability of suitable native vegetation offsets.

A peer review of the hydrological reports (Water Technology 2019a; 2019b, Out Task 2019) is undertaken by a qualified independent expert, to better inform the Advisory Committee.

DELWP's further submission at the Hearing reiterated its concerns regarding biodiversity as follows (Document 45):

The CDP's failure in respect of avoiding native vegetation consistent with State policy, in particular by failing to canvass development layout options that avoid placing development in the wetland altogether;

The challenges of offsetting native vegetation that is proposed to be removed, in particular whether the Proponent has adequately anticipated the nature of the task of bringing the proposed offset site into a condition where it is eligible for consideration as an offset.

That the Proponent's assessment that the Project will not have a significant impact on threatened and migratory species is not supported by any bird survey at the site.

DELWP submitted that removal of the earthen berm within the wetland is ecologically beneficial.

DELWP chose not to question any of the relevant experts called by the Proponent (Mr Lane, Mr Telfer and Mr Bishop) as part of the hearing process nor call any evidence. The Committee was surprised and not helped by DELWP not taking the opportunity to explore

and test these matters further through cross examination, as it would have allowed these issues to be properly ventilated. The Committee did, however, make further inquiries to the Proponent on the matters raised by DELWP by requesting clarification on native vegetation impacts and offset considerations.

The Committee accepts the evidence of Mr Lane, Mr Telfer and Mr Bishop in responding to DELWP's submission.

Further submissions were received from DELWP in response to the final day version of the CDP and CDZ (Documents 130, 131 and 132). In relation to the proposed site-wide Infrastructure Delivery Plan, DELWP commented as follows (Document 144):

Proposed stormwater and drainage infrastructure, as well as existing water bodies identified as potential Growling Grass Frog habitat in CDP Figure 14 have significant potential to be designed, constructed and maintained to support creation and protection of Growling Grass Frog habitat both within the features and supporting frog movement across the site. DELWP has prepared guidance for this purpose. A general reference is preferred to allow for update or replacement over time. The current reference is: "*Growling Grass Frog Habitat Design Standards – Melbourne Strategic Assessment*" (DELWP 2017).

Through DELWP's review of the final day version of the CDP and CDZ, it submitted the requirement to prepare site-wide plans and precinct plans should be removed from the CDZ and instead be included in an Incorporated Document under the Specific Control Overlay due to non-compliance with the *Ministerial Direction – the Form and Content of Planning Schemes*. The Incorporated Document would include the Conservation Management Plan requirements as set out in the CDZ as follows:

A Conservation Management Plan for all areas within the conservation area as shown on Figure 14 of the CDP. The plan must be prepared in consultation with the Department of Environment, Land, Water and Planning. The plan must:

- Identify the final boundaries of sub-precincts within the conservation area, including the proposed offset area and a passive recreation area;
- Identify the DELWP-mapped wetland area that is proposed for retention;
- Specify, for each sub-precinct, the conservation actions required (including removal of grazing) and timing;
- Consider any issues related to bushfire planning;
- Specify public access arrangements, including:
- No public access to the wetland area; and
- Provision of passive recreation opportunities in areas outside the wetland area.

Further written submissions from DELWP (Document 144) were provided in response to the amended CDP (Document 130) to add requirements for the design of the stormwater infrastructure as follows:

3.6 Water

Proposed stormwater infrastructure must be designed to incorporate creation of GGF habitat features informed by DELWP or other guidance.

3.7 Environment

Amended wording of Requirement R56:

Impacts to existing water bodies identified as potential habitat for Growling Grass Frog (shown as Existing/Modified Water Body in Figure 14) must be minimised and steps ~~should~~

must be taken to create a connected corridor to facilitate the movement of fauna through the site.

The written submission from DELWP in response to the development of a Water Sensitive Urban Design Assessment and Conservation Management Plan noted:

In respect of Growling Grass Frog habitat, the CMP should include objectives and content that will inform actions in respect of GGF habitat creation and protection, and kangaroo management outside as well as within the Conservation Area.

DELWP observes the Kangaroo management plan sits better in a site wide plan context than as an application requirement for buildings and works. Most actions of the Kangaroo management plan will require engagement with DELWP and a further application for an authority under the Wildlife Act 1975.

Additional points:

- Provide for creation and protection of Growling Grass Frog habitat and connectivity.
- Provide for restoration of wetland ecological condition.
- Identify the person responsible for actions of the CMP.
- Be structured to support both construction and operational phases of the development.
- Provide a native vegetation offset strategy for native vegetation losses associated with the development.
- Include a Kangaroo management plan.

(iv) Submitters

Community submitters raised several concerns with the Project being sited in proximity to Lake Modewarre and its impacts to flora and fauna and onsite wetlands. Submitters expressed general concerns regarding the impact of the Project on bird life, impact from noise and impact on fauna habitats. Many stated the wetland should be preserved and promoted and not consumed by the CORA Project.

Conversely, supporting submissions raised matters including the ability of the CORA development to improve the condition of Lake Modewarre and the wetland by restoring natural water flows and improvements to biodiversity.

Several submitters at the Hearing raised queries in relation to the impact on GGF. Submitters queried Mr Lane on the location and adequacy of on-site surveys. Some suggested that given EHP had identified “*potential habitat*” for GGF onsite, and GGF were located on neighbouring properties, they must be located on the CORA property.

On Days 8 and 9 of the Hearing, two submitters tendered photographs and audio recordings of recent sightings of the GGF, one being from a property adjoining the CORA site and the other on a property within two kilometres of the CORA site. Due to the timetable, these submissions occurred after the evidence of the Proponent had concluded. As outlined previously in response to the content of these submissions, the Committee issued further directions that sought a response from the Proponent to a raft of GGF issues.

8.3 Discussion

(i) Native vegetation

DELWP submitted the design of the Project made insufficient efforts to avoid and minimise the removal of native vegetation. In response, Mr Lane's evidence emphasised there had been significant reductions in the extent of native vegetation removal since the CORA concept was presented during Stage 1 of the Committee's work. Mr Lane submitted the extent of vegetation removal had reduced from almost 40 to 10.365 hectares – a reduction of almost 75 per cent.

During the Hearing, the Committee heard a submission from Mr Williams for CORA, who explained the rationale for the layout of built form as shown on the concept Masterplan. Mr Williams explained inter-relationships between the various components on the site and how the development responded to both its multiple functions and its setting to create a sense of space.

In providing his planning evidence, Mr Milner responded to a question from Council that he considered the Project had struck "*the right balance*" in terms of avoidance and minimisation of the removal of native vegetation. He noted there would be significant consequences for the design concept if further minimisation of native vegetation removal was required.

The Committee acknowledges the Proponent for its response to minimise the extent of native vegetation removal since the first version of the concept plan was produced. It is clear to the Committee that the extent of vegetation removal has been minimised to a level that meets the Native Vegetation Guidelines and Clause 52.17 without undermining the objectives of the Project.

The Committee recognises the site is constrained by the presence of the wetlands, Cape Otway Road setbacks, Modewarre Airfield runways and the interface with properties in Connies Lane, which have been considered in the siting of infrastructure. Where possible, infrastructure has been sited where native vegetation is not present, or of low ecological value. Further avoidance of native vegetation would leave limited land available for the Project and could compromise the viability of the Masterplan.

The Committee is satisfied the Proponent has demonstrated "*no options exist to avoid native vegetation removal, that will not undermine the objectives of the proposed development*" in accordance with the Native Vegetation Guidelines. Further, the Committee acknowledges the Project will provide net biodiversity benefits by removing livestock and the broiler sheds from the site, restoring wetlands habitat, creating offsets and replanting the site with locally indigenous vegetation.

(ii) Fauna management

DELWP's post hearing submission noted a site-wide kangaroo management plan for the Project should be prepared (Document 144). Given the wide habitat range of kangaroo, the Committee agrees with this submission that management of kangaroos should be dealt with holistically through a site wide requirement in the CDZ.

(iii) Growling Grass Frog

Several submitters and DELWP raised concern regarding the adequacy of onsite GGF surveys and potential for impact on GGF given the species had been found in neighbouring properties to the CORA site. The Committee is aware the Federal Department of Environment found the CORA Project not to be a 'controlled action' in 2018.

In response to submitter concerns, Mr Lane provided evidence and confirmed that EHP had undertaken a comprehensive on-site survey for GGF in accordance with survey requirements. The survey results were that GGF were not found to be calling on the CORA site at the time of survey. Mr Lane's evidence was that the surveys undertaken by EHP were "*adequate*". The Committee accepts the EHP 2017 onsite survey results and Mr Lane's peer review on this matter.

In response to the two submitters providing recordings of GGF, this information was examined by Mr Lane who confirmed that at least one of the recordings was confirmed GGF. He submitted that GGF may be on the site, but the EHP survey results suggested no reason to expect a significant population. In response to the Committee direction to provide further advice about the potential presence of GGF at the CORA site, Mr Lane advised:

Despite appropriate, targeted surveys of the proposed CORA development site in spring 2017 not detecting the GGF in potential habitat on the site (EHP 2019), **there remains a possibility that the species could occur during favourable conditions, such as in an average or wet winter and spring when waterbodies and drainage lines hold water.** (Committee emphasis)

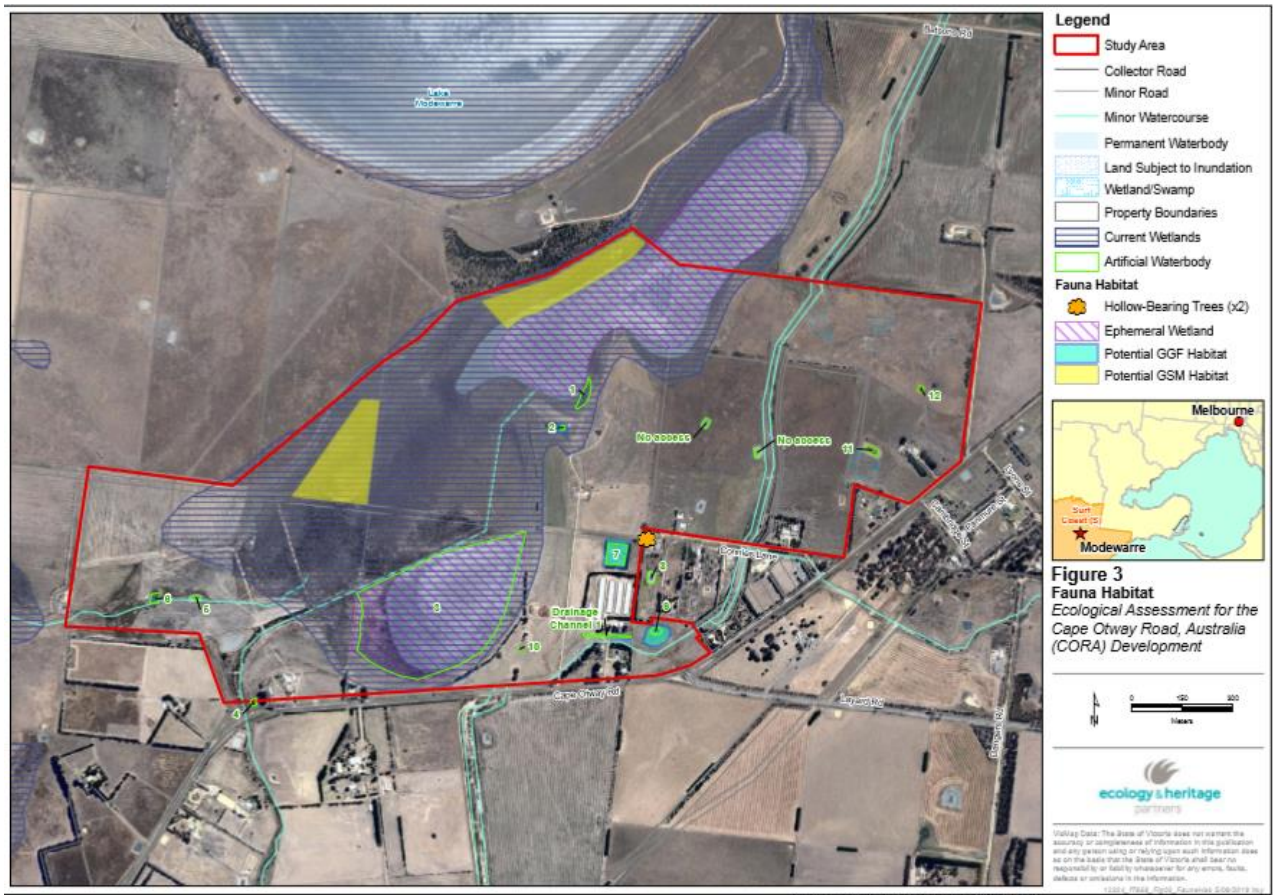
The site lacks wetland habitat permanent enough or vegetated enough to support a GGF breeding population and it is considered a low likelihood that the species occurs on the site on a permanent or semi-permanent basis (EHP 2019). The wider area holds a metapopulation and individuals may wander into the site from time to time and use potential habitats there. For this reason, adopting a precautionary approach that assumes the species may do this requires that it is provided for in the detailed planning and design of the CORA development.

Mr Lane summarised that implications for the development as follows:

The implications for the proposed development are that the drainage system should be designed in a manner that protects as many potential habitats as possible and provides linkages between these. This can occur either via the maintenance of existing drainage lines or, where these must be unavoidably modified, constructed drainage lines that support key habitat elements for the species, such as 'stepping-stone' wetlands.

Mr Lane confirmed GGF can move over a kilometre in one night via waterways or overland during rain.

The Committee notes that two of the artificial waterbodies identified as potential GGF habitat by EHP's survey are proposed to be impacted by the Project. These are identified as Site 7 and Site 10 in Figure 3, of EHP's Biodiversity Assessment (2019), shown as Figure 12.

Figure 12: EHP ecological assessment

Source: EHP report, 2019

The proposed soccer field west of Connie's Lane within the Elite Sports Facilities Precinct is to be located at Site 7 potential GGF habitat location, and the CORA site entrance located on Site 10 potential GGF habitat. Site 7 is the largest site for potential GGF habitat and is noted in Appendix 3.4 of EHP's Biodiversity Assessment as a dam with 'Good' habitat quality for GGF. This site is proposed to be removed in its entirety and replaced with a smaller size linear shaped wetland to the east of the soccer field. Site 10 is of 'Moderate' habitat quality and is proposed to be removed for carparking and roadway.

Based on evidence provided at the Hearing, and Mr Lane's response to Committee Direction 4, the Committee is not satisfied the removal of Site 7 potential GGF habitat is "unavoidable". The size of the CORA landholding is such as that the Masterplan for the site has the opportunity to be reconfigured to accommodate retention of Site 7, and facilitate the soccer field in another location, potentially to the west of its current location to retain the wetland.

It is the Committee's view that in line with Mr Lane's evidence, the precautionary approach should be taken which assumes that GGF may be present at Site 7 (which is of 'Good' habitat quality) and loss of current available potential habitat at this location should be avoided, even though the Committee acknowledges the habitat is artificial. The Committee acknowledges the Proponent's proposal to deal with the loss of Site 7 by replacing the site with new wetland to the east of the soccer field, however the Committee considers the

creation of new habitat cannot be justified when loss can be more practically dealt with by 'avoiding' removal of Site 7.

Given the size of the CORA site, and the presence of 'Good' potential habitat at the location of the proposed soccer field, the Committee considers that the Masterplan should be redesigned to retain GGF potential habitat Site 7.

Mr Lane submitted that implications for the development layout and associated cut and fill works, water management and drainage design is normally undertaken during planning permit application phase of the Project. He said to achieve the desired outcomes, planning provisions need to give clear direction on requirements.

Mr Lane put to the Committee key modifications to the CDP that would ensure the development did not compromise the capacity of the GGF to survive in the wider area, including:

- Any artificial water body removed for development is replaced with an equivalent area of artificial waterbody within 500 metres of remaining water bodies;
- Along key drainage lines that also serve a habitat link function for the GGF, include 'stepping-stone' wetlands to provide refuge for GGF once water levels in the drain drop, maximising opportunities for the species to move along the drain;
- All current and new waterbodies on the site are connected via suitable drains to form a potential habitat network;
- Levels and water flow paths within the system are carefully designed to promote habitat conditions for GGF (including suitable depth and duration of inundation);
- Revegetation of waterbodies is undertaken with species suitable for GGF (i.e. no trees or extensive dense shrub plantings); and
- The design and layout of the waterbodies and connected drainage lines have regard to Department of Environment Land Water and Planning (DELWP) 2017b *Growling Grass Frog Habitat Design Standards - Melbourne Strategic Assessment*. DELWP, Melbourne.

It is the Committee's view that the above recommendations provided by Mr Lane should be incorporated into the CDP to support GGF which may utilise the site to connect with other GGF habitats in the broader region.

DELWP recommended that R56 of the CDP be amended to add a requirement for the design of the stormwater infrastructure to incorporate creation of GGF habitat features. The Proponent adopted this wording with reference to the *'Growling Grass Frog Habitat Design Standards – Melbourne Strategic Assessment'* (DELWP, 2017) (Document 150C). The Committee supports the amendment to R56 as proposed.

(iv) Conservation Precinct

At the Hearing, Council expressed concern with the lack of clarity around the future use and management of the Conservation Precinct. Council's submission noted the importance of restoration of the Conservation Precinct and made clear that it did not intend to take on the management of that precinct. The Committee notes the arrangements for management and maintenance of the Conservation Precinct have not been finalised and acknowledge the Proponent has been in discussion with Trust for Nature on this matter.

It is the Committee's view that R1 of the CDP adequately provides a requirement to ensure a single title is created to facilitate the transfer to Trust for Nature or an equivalent body to appropriately manage the conservation and restoration in perpetuity.

Given the Project is yet to go through detailed design, and management plans and have not been developed for the balance of the site, the Committee considers it is not unreasonable for the Proponent to finalise these matters at the next phase of detailed design.

In submission, Council requested consideration be given to the inclusion of passive recreation opportunities and public access to the Conservation Precinct. Council submitted that in the absence of public engagement, the area has the potential to become disused and unvalued space. The Committee agrees.

The Proponent's post hearing versions of the CDP (Document 130 and 150C) includes an updated Environment Plan at Figure 14 which designates the land to the west of the wetland as a passive recreation area (Refer Figure 13). This designation addresses Council's submission and is supported, however it is the Committee's view that passive recreation opportunities could be extended further throughout the Conservation precinct.

Figure 13: CDP Environment Plan



The Conservation precinct provides a common connection with every precinct on the site. It is the Committee's view that integration of the precincts could be strengthened by introduction of a raised boardwalk or similar along the edge of the Conservation Precinct, outside the offset area. The precinct would then serve a formal function of connecting precincts as well as providing for an opportunity to promote awareness and conservation values of the site, as well as providing the community with opportunities to engage more fulsomely with the overall site. Such a path could extend to the periphery of the eco-lodges and Farm precinct.

(v) Offset site

The Proponent proposed to provide offsets for native vegetation removal within the wetland area. DELWP provided strong support for the restoration of the wetlands, and Mr Lane agreed with DELWP on the *“opportunity and value”* the proposed offset would provide.

DELWP disputed the eligibility of the proposed offset site, submitting that there are more weeds than the ecologists had reported, which would make restoration more challenging. However, Mr Lane confirmed in written and oral evidence that the offset site identified by EHP was suitable. The Committee was not assisted by the fact that DELWP did not call evidence in relation to the scoring of the offset site, had not visited the site, and did not ask Mr Lane any questions about the suitability of the site.

On balance and on the basis of the information before it, the Committee concludes the wetland site is suitable as an offset site. In reaching this conclusion, the Committee accepts the evidence and peer review undertaken by Mr Lane and the conclusion of EHP, that the offset site is appropriate.

The Committee is satisfied that the CORA offset site is addressed in both the CDP and CDZ and will be further considered through the Ecological Assessment required by the CDZ.

(vi) Development within the Wetlands

Submitters expressed concern with impacts of the Project on the natural wetland environment and disconnection of wetlands to the south and west of the retail village. DELWP’s submission noted the failure of the CDP to *“canvass development layout options that avoid placing development in the wetland altogether”*.

Mr Lane confirmed through evidence that the wetland area to the south and west of the retail village would not be isolated from the balance of the wetland and that it is intended to function as one wetland system. Mr Bishop similarly confirmed in his evidence that the pier construction will ensure connectivity of the wetland.

Mr Lane gave evidence that the proposed works represent the removal of about seven per cent of the wetland:

The proposed works and the location of development elements in the southern part of this wetland, such as the retail centre, hotel and stormwater treatment wetlands, will occupy 9.23 hectares of the DELWP mapped current wetland layer, which has a total area of approximately 130 hectares. This represents the removal of about seven percent of the area of that wetland.

The wetland environment is a significant site feature that makes the site attractive for development. The Committee considers that it will be enhanced and protected as a result of the Project. It is the Committee’s view that given the wetland environment has been degraded over time by agricultural practices, there is clear benefit in removing cattle grazing from the floodplain, restoring natural hydrology and revegetating for conservation purposes. Although a portion of the wetland will be utilised for the retail village and hotel, the pier construction methodology of buildings as required by R47 of the CDP will minimise impact on the wetland and provide for unobstructed water flows which will result in a net benefit to its condition.

With regard to impact on the GGF who may use the wetland, Mr Lane confirmed that human activity at the hotel and retail precinct will result in disturbance of potential habitat but would only affect species occasionally. In Document 153 he noted:

Disturbance is unlikely to occur during construction as this will take place when the wetland is dry. When it is wet and the species may be present, human activity during the day may disturb individuals that occur within about 50 metres. At such times, the wetland is likely to be extensive and plenty of potential habitat would remain undisturbed within the wetland beyond this distance for the GGF to inhabit. It is noteworthy that in Melbourne the GGF has adapted to and remains in wetlands where night lighting occurs.

Given Mr Lane's evidence, the Committee agrees that it is unlikely the presence of the Project elements on and adjacent to the wetland will compromise the capacity of the GGF to use the restored wetland at times when conditions are suitable for GGF.

On balance, the Committee considers the CORA Project will enhance the wetland through removal of livestock from the floodplain, revegetation, and partial removal of the artificial earth berm that currently interrupts the natural flow of water, all of which will facilitate rehabilitation of the natural values of the wetlands. The successful implementation of the CORA Project provides the opportunity to improve the ecological condition of the site and protect the wetland. This outcome has the potential to provide enduring local and regional environmental benefits.

8.4 Conclusions and recommendations

The Committee concludes:

- The Project has appropriately avoided and minimised native vegetation loss.
- A net gain is expected following rehabilitation compared to the current condition of the site.
- The development of the retail village and hotel within the wetlands area located within the Conservation precinct is appropriate.
- The Comprehensive Development Plan satisfactorily deals with management arrangements for the Conservation precinct.
- The use of the wetlands within the Conservation precinct as an offset is supported.
- The amendment to Requirement 56 of the Comprehensive Development Plan as set out in Document 155 is supported.
- The amendments to the Conservation Management Plan as set out in Document 150B are supported.
- The removal of 'Good' potential Growling Grass Frog habitat Site 7 (Figure 3, EHP 2019) has not been justified. The Comprehensive Development Plan must be amended to retain Site 7.
- The Growling Grass Frog Management Plan for the entire site as set out in the final Comprehensive Development Zone which adopts Mr Lane's recommendations is supported, subject to an additional point which identifies potential habitat Growling Grass Frog Site 7 as requiring retention and protection.
- There are no biodiversity and conservation issues that preclude development of the Project on the site.

The Committee recommends:

- 4. Amend the Conservation Precinct and Conservation Area of the Comprehensive Development Plan at Section 3.1.4 to include the following requirements:**
 - a) Amend Requirement 24 to require the provision of a boardwalk within the wetlands area, but outside the offset area as shown in Figure 14. The boardwalk should provide a common link between precincts.**
 - b) Amend Figure 9 'Conservation Precinct Plan' to show the offset area as shown in Figure 14.**
- 5. Amend the Water Section of the Comprehensive Development Plan at Section 3.4 to include the following requirements:**
 - a) Potential Growling Grass Frog habitat Site 7 (Figure 3, EHP 2019) must be retained and protected in its current form.**
 - b) Any artificial water body removed for development must be replaced with an equivalent area of artificial waterbody within 500 metres of remaining water bodies.**
 - c) Along key drainage lines that serve a habitat link function for the Growling Grass Frog, include 'stepping-stone' wetlands to provide refuge for Growling Grass Frog once water levels in the drain drop, maximising opportunities for the species to move along the drain.**
 - d) All current and new waterbodies on the site must be connected through suitable drains to form a potential habitat network.**
 - e) Levels and water flow paths within the system must be designed to promote habitat conditions for Growling Grass Frog (including suitable depth and duration of inundation).**
 - f) Revegetation of waterbodies must be undertaken with species suitable for Growling Grass Frog (i.e. no trees or extensive dense shrub plantings).**
 - g) The design and layout of the waterbodies and connected drainage lines must have regard to and reflect the '*Growling Grass Frog Habitat Design Standards - Melbourne Strategic Assessment (DELWP 2017)*'.**
- 6. Amend the Environment Section of the Comprehensive Development Plan at Section 3.5 to include the following requirements:**
 - a) Add a Requirement that specifies 'Retain and protect potential Growling Grass Frog habitat Site 7 (Figure 3, EHP 2019)'.**
 - b) Amend Figure 14 'Environment Plan' to show potential Growling Grass Frog Site 7 as a 'protected waterbody' and map all potential 'Good' Growling Grass Frog habitat quality as shown in Appendix 3.4, EHP 2019.**

9 Water management

9.1 Context and key issues

Water Technology prepared several versions of the Integrated Water Management Plan and a separate Flood Report that responded to various iterations of the Concept Masterplan. The exhibited versions of the reports were dated September 2019.

The Stage 1 report of the Committee concluded that further information was required to verify that local drainage infrastructure and flood pathways could reliably control the height of Lake Modewarre. Further information was required in relation to Lake Modewarre ecology, water balance model and groundwater. The Committee recommended the Proponent update the Flood Report for public exhibition and provide additional information on Lake Modewarre ecology and groundwater dependent ecosystems (GDE), water balance model and groundwater levels, flows and quality.

The Proponent responded to these conclusions and recommendations through the provision of the exhibited Flood Report (September 2019) and Integrated Water Management Plan (September 2019), and the commissioning of Mr Bishop to provide expert evidence on drainage and flooding (Document 17) and Mr Telfer to provide expert evidence on groundwater matters (Document 27).

Mr Lane of Nature Advisory was called to provide peer review and expert evidence on biodiversity matters (Document 22). As part of this assessment, he considered impacts of the Project on GDE.

The Environment Protection Authority (EPA) provided a written submission in response to the Project (S248), as did Dr Taylor of the Corangamite Catchment Management Authority (CCMA) (S190).

DELWP provided a written submission and presented at the Hearing (S210 and Document 45).

Council raised issues in its original submission relating to the basis of the onsite detention system, onsite maintenance responsibilities and mechanism to ensure the water management plan forms part of the detailed design.

Submitters raised water flows and hydration of the wetlands as an issue, as well as the health of Lake Modewarre and Brown Swamp.

The key issues to be resolved are:

- The ability to protect the Project from flooding
- responsibilities for implementation, management and maintenance of wastewater
- stormwater quantity and quality, and potential impacts on Lake Modewarre and GDE.

9.2 Evidence and submissions

(i) Proponent

The evidence of Mr Bishop assessed the appropriateness of the Project in relation to integrated water management and considered flood risks on surrounding properties including mitigation measures (Document 17). His primary conclusions included:

Flooding

- during times of flooding, there would be an extremely low risk of lake levels exceeding the recommended design floor level (116m AHD including freeboard) of the site
- the size of Lake Modewarre is large in comparison to the available catchment and there is not enough runoff to cause extended periods of elevated levels at a height that would threaten the proposed buildings
- buildings founded on stumps or piers would have minimal impact on flood storage and due to the low velocity environment, would be at low risk of flood damage
- the proposed development would not result in unacceptable detrimental impact on adjacent properties
- where there are off-site impacts, the Proponent reached an in-principle agreement with adjacent landowners for the proposed floodplain changes and increase in flood levels
- if extended periods of elevated lake levels were a concern in the future, there is the opportunity to reactivate the drainage culvert to Thompson Creek
- the surface water balance should remain largely unchanged, and as a result, there is unlikely to be any significant impact on local salinity
- wetlands on the site are expected to be subject to natural variation in water levels.

Integrated water management

- the proposed stormwater treatment would exceed best practice standards
- downstream habitats would not be significantly impacted by the Project in terms of water quality
- water quality modelling showed there will be a reduction in pollutant loads to the downstream surface water environment through a comprehensive surface water treatment train
- there will be an increase in surface water runoff volumes generated
- this increase would be mitigated by the construction of swales, wetlands and rainwater tanks
- a preliminary water balance assessment suggested the impacts of the development on the wetland water level regime and Lake Modewarre are likely to be minor
- reduced water inflows to Lake Modewarre due to changing climate is outside the influence of the Project
- the removal of part of the berm would increase the area of ephemeral wetland by reducing the area of permanent water storage and would restore the overall area to a more natural hydrologic regime
- a maintenance plan should be developed that details the sequencing and periods of short, medium, and long-term actions, and the parties responsible for each action.

Mr Bishop advised from his analysis:

I am satisfied that sufficient details relating to the design and performance of the proposed water quality assets have been provided for a planning amendment. This gives confidence that necessary treatment performance will be achieved along with appropriate water quality and quantity outcomes. It is appropriate for details to be confirmed at the detailed design stage.

The evidence of Mr Bishop noted that the CDP includes several water-related Requirements and Guidelines that would direct the future design of the Project. Mr Bishop concluded it is appropriate for details of the drainage strategy be reviewed at the detailed design stage.

Groundwater

The evidence of Mr Telfer assessed the impact of the Project on groundwater systems including contamination of groundwater, impacts on Lake Modewarre and salinity risk (Document 27). His primary conclusions included:

- rates and quality of water interchange between the wetland and any aquifer which may exist beneath the wetland would be effectively unchanged
- groundwater migration rates away from the wetland are anticipated to be slow
- it is unlikely that change in the surface water regime from the Project would have a material impact on the groundwater system, and the groundwater system are unlikely to affect surface waters
- the wastewater treatment system is designed to be effective at removing nutrients, and the wastewater is less saline than the groundwater
- it is anticipated that groundwater flow may be generally eastward from the wastewater irrigation site, and not toward Lake Modewarre
- it is unlikely that wastewater irrigation will cause the groundwater to have an impact on the wetland or Lake Modewarre
- the potential for groundwater connection between the wetland and Lake Modewarre is considered low, and the risk that groundwater migration from the Project site will influence groundwater beneath Lake Modewarre was considered to be negligible.

Mr Telfer concluded his witness statement by recommending a groundwater monitoring regime to collect baseline data to:

- qualify changes in groundwater level and characteristics
- evaluate performance of the wastewater disposal process
- confirm groundwater interactions between the wetland and Lake Modewarre.

Groundwater dependant ecosystems

Mr Lane's evidence utilised the hydrological assessment and GDE Atlas for identification of potential GDE within the study area (Document 22).

Mr Lane provided evidence that the GDE Atlas indicated there is high potential for GDE in the area. However, given the hydrological assessment of Water Technology found that the Project would not alter groundwater quality or quantity available to GDE, Mr Lane concluded that GDE are unlikely to be impacted by the Project.

(ii) Council

Council's original submission agreed in principle with design assumptions in the Integrated Water Management Plan by Water Technology but noted the reason for detention sizing was unclear (S119).

Council requested confirmation from the Proponent on maintenance responsibilities, including a commitment that maintenance was a landowner responsibility, not Councils. It summarised the water management assessment as follows:

Clarify the basis for the detention sizing.

Confirm obligations for the maintenance of on-site assets.

Confirm mechanisms to ensure that the WMP recommendations form part of the detailed design and on-ground works.

Council's opening submission at the Hearing reiterated concerns about the implementation of a water management system on the site and the maintenance of the system (Document 81). It provided support for Objective O8 that seeks *"To deliver an integrated water management system that has regard for flood water, stormwater, waste water and their interaction with groundwater"*. However, Council expressed concern that it was not clear from either the CDZ or CDP how the integration would occur.

Council's submission acknowledged that the Integrated Water Management Plan would provide guidance on the performance measures for any future system, the general location and the type of measures that might be implemented. However, it submitted it was not clear how the various reports or systems recommended in the plan would integrate with one another.

Council provided support to the development staging section of the CDP (at 4.2), which includes in Requirement 6 the delivery of the wastewater treatment plant in Stage 1 but noted this Requirement does not discuss infrastructure, other than the wastewater treatment that may be required.

(iii) Agencies**Environment Protection Authority**

The EPA submitted the *"Urban Stormwater Best-Practice Environmental Management Guidelines (or other stormwater management policies)"* should be considered to maintain water quality (Document 248). These guidelines are referenced in the CDP. Further, its submission recognised the proximity of the Project to Lake Modewarre and noted that any discharges must be in accordance with the *State Environment Protection Policy (Waters)*.

Corangamite Catchment Management Authority

The CCMA made a written submission to the draft Amendment that noted its support for the requirements that a permit application under the CDZ be accompanied by a flood impact assessment where appropriate. Further, it noted support for the CDZ to formalise the requirement for referral to the CCMA for applications within the floodplain. The CCMA confirmed that if this occurred, the CDZ would provide sufficient floodplain planning control and removal of the LSIO could be justified.

The CCMA made the following recommendations in its submission:

Include the adopted flood level (being a combination of the backwater level of 115.38 metres AHD and waterway flooding for the upstream area) on the incorporated Comprehensive Development Plan and include in the schedule a requirement for referral to the CMA for applications within that area.

To accommodate the proposed flood mitigation earthworks (filling) in the Retail and Tourism Precinct, include an exemption to the referral requirement for Buildings and Works on land that has been filled above the flood level in accordance with a previous permit provided no further ground level alteration is proposed.

Remove the permit requirement exemption for outbuildings and fences within the flood extent as identified on the CDP and require referral to the CMA as above.

Alternatively, the CCMA submitted the Project in its current form would provide adequate flood protection, however, may increase the planning approval burden on the Project.

The CCMA expressed in principle agreement with the proposed stormwater and wastewater management strategies, however, was unclear of the management approach when the capacity of the wastewater winter storage pond is exceeded.

The CCMA noted that both Brown Swamp and Lake Modewarre are high value waterways and recommended that this be considered by the relevant referral agency when determining the management arrangements for the storage pond and wastewater treatment plant.

Department of Environment, Land Water and Planning

DELWP noted the Project site adjoins Lake Modewarre, which is Crown land reserved for recreation, and is managed by DELWP. It noted that water inflows to the Lake have declined, contributing to increased management difficulty in maintaining its ecological condition and its recreational potential. DELWP submitted it would be interested to pursue opportunities resulting from the Project whereby additional water flows to Lake Modewarre could be realised, and active planned management restored.

At the Hearing, DELWP further submitted that maintenance of the site as a permanently full water body, if that were intended or proposed, is likely to be detrimental to the flora, fauna and ecological communities supported by the wetland. DELWP chose not to pursue any outstanding issues following the relevant evidence and made no concluding remarks.

In response to its review of the final day controls, DELWP recommended the proposed site-wide and precinct plans, including the Groundwater Monitoring and Management Plan, be removed from the CDZ schedule and repositioned into an incorporated document under the Specific Controls Overlay due to non-compliance with the *Ministerial Direction - the Form and Content of Planning Schemes* (Document 138a and b).

A further written submission from DELWP was provided in response to the amended CDP which recommended requirements for the design of the stormwater infrastructure to provide GGF habitat (Document 144), as noted in Chapter 8.

(iv) Submitters

Community submitters expressed concern about the impact of the Project on flood risk to adjacent properties. Some noted concern with the offsite impacts of the floodplain changes and increase in flood levels.

Some submitters expressed concerns about the contamination of surface water, including the impact on downstream habitats. Others were concerned about how the reduction of pollutant loads would be achieved.

Others raised issues about the impact of the Project on the hydrological regime of Lake Modewarre, Brown Swamp and hydration of the wetlands. Issues were raised regarding reduced water inflows to Lake Modewarre due to reservoir and climate change impacts, and increased salinity.

Submitter 96 noted the extent of Environmental Significance Overlay Schedule 1 over Lake Modewarre and the backwater on the site and argued it should be considered as one entity.

9.3 Discussion

(i) Surface water

While the CORA site is partially within the floodplain, the Committee acknowledges the effort of the Proponent to factor these conditions into the concept Masterplan for the Project.

The Committee notes the written submission from the CCMA indicating it had worked closely with the Proponent and their consultants to address flooding issues. The CCMA advised that its issues have been addressed to their satisfaction in the Flood Report. The Committee accepts that the CCMA has endorsed the assumption that Lake Modewarre can be reliably controlled to a maximum level of 114 metres AHD. Notwithstanding this, if a potential worst-case flooding scenario occurred, the planning and land management process would be better served if this was modelled to understand the implications (if any) for fill requirements and building floor levels.

The Proponent's post hearing version of the CDZ (Document 150B) included an application requirement at Clause 6.2 to prepare a Flood Impact Assessment which incorporates catchment modelling, both pre and post development. The assessment includes a requirement to identify any proposed flood mitigation works and the assessment must be prepared to the satisfaction of both Council and the CCMA. The Committee considers the flood impact assessment requirement in the CDZ is appropriate to assess the detailed design of the Project and 'test' the suitability of proposed flood mitigation works. Further, the land is already covered by the LSIO (which is not intended to be removed) and the existing approval regime will continue to apply.

(ii) Groundwater

The evidence of Mr Telfer was that the groundwater-surface water interaction at the wetlands would remain unchanged. He noted it would be unlikely that any change in the surface water regime from the Project would have an impact on the groundwater system. He concluded the groundwater connection between the wetlands and Lake Modewarre to be low. He noted that groundwater flow may be generally eastwards, away from the wastewater treatment plant and not towards Lake Modewarre.

The Committee notes the Integrated Water Management Plan addressed the impacts of the wastewater treatment system on groundwater more specifically:

The wastewater treatment and reuse will largely be a closed system and will not interact with the groundwater or stormwater system other than a very small component of the wastewater reuse potentially leaching from irrigated surfaces. Based on the irrigation rates provided in the Out Task Environmental report (August 2019), the impact on groundwater will be negligible.

The Committee acknowledges the Wastewater Treatment Plant will require a works approval under the *Environment Protection Act 1970*, and the EPA will consider whether use of the treated wastewater is safe and sustainable having regard to groundwater.

The Committee notes Mr Telfer confirmed in response to questions at the Hearing that the effects of water reuse and treated effluent on the site (e.g. watering of the farm and sporting fields etc) has not been assessed as part of his work and the effects of this on the groundwater system.

In conclusion, Mr Telfer recommended a groundwater monitoring regime whereby baseline data is obtained prior to development, and a groundwater management and monitoring regime implemented. A monitoring regime would assess changes in groundwater quality and confirm groundwater interactions between the wetland and Lake Modewarre as well as monitor the performance of the wastewater disposal system. The Committee agrees with this approach and the proposed inclusion of the Groundwater Monitoring and Management Plan in the CDZ which specifies requirements as outlined by Mr Telfer and subsequently drafted (Document 155). Given that limited data is available to document current conditions (pre-development), a groundwater monitoring program is justified. Should there be non-compliance, the source can be determined, and management measures put in place.

In relation to salinity, the Committee agrees it is appropriate to continue to deal with this matter through the Salinity Management Overlay when permit applications are made. It will also be addressed by the EPA in assessing the works approval for the Wastewater Treatment Plant.

The Committee notes DELWP's preference that the proposed site-wide plans be removed from Schedule 3 to the CDZ and replaced by inclusion in an Incorporated Document under the Specific Controls Overlay. This is discussed in Chapter 14.

A Groundwater Monitoring and Management Plan for the entire site is one of the site-wide plans proposed in this suite of site-wide plans. The Committee's recommendation on where the Groundwater Monitoring and Management Plan is best placed within the planning controls to facilitate the orderly development of the site is discussed in Chapter 14.

(iii) Integrated water management

The Committee accepts and agrees with the evidence of Mr Bishop that removal of part of the wetland berm will restore the natural flow of water within the wetland. The Committee understands the intent of the wetland between the hotel and retail village is a WSUD feature intended to hold water on a quasi-permanent basis. It notes it will not be artificially filled and the entire wetland will continue to be subject to temporal influences.

Mr Bishop's evidence addressed this element of the Project and advised:

This is in accordance with G45 of the CDP with call for development to "... provide for improvements to health values of the wetlands, natural habitat, environmental flows and water quality." Encouraging temporal variation in water level would be consistent with this guideline.

The Committee finds the supporting evidence acceptable. There is no suggestion CORA will “*drain the wetland*” and create artificial waterbodies in its place. Rather, it will restore its natural hydrology and vegetation.

In relation to submitter concerns regarding water, hydration of the wetlands and the link between Lake Modewarre and the site, the Committee agrees there would be benefit in a more holistic management of Lake Modewarre, however, acknowledges this is outside the control of the Proponent.

The Committee finds the assertion that the Project is likely to “*destroy*” Lake Modewarre and Brown Swamp is contrary to the evidence of Mr Bishop and Mr Telfer. Their evidence confirms water will not be captured and instead redirected to those water bodies.

The Proponent’s post hearing version of the CDZ includes the application requirement for a WSUD Assessment and Management Plan provided to the satisfaction of the Responsible Authority. It is the Committee’s view that this plan will provide the Proponent with the opportunity to submit details for further assessment and review of stormwater detention systems, methods of stormwater collection, treatment and disposal and identify maintenance and ongoing management requirements.

EPA’s submission confirmed the potential environmental impacts from the proposed wastewater treatment plant will be fully assessed through the separate works approval process.

(iv) Groundwater dependant ecosystems

Mr Lane’s evidence which assessed impacts of the Project on GDE was based on the hydrological conditions of the site provided by Water Technology.

The Committee accepts the evidence of Mr Lane which concluded that due to the unchanged conditions of groundwater quality or quantity, GDE are unlikely to be impacted by the Project.

9.4 Conclusions

The Committee concludes:

- The Project can be designed to protect development on the site and adjacent to it from flooding.
- Salinity matters will continue to be assessed and can managed through the Salinity Management Overlay.
- Increase in surface water can be managed and mitigated through the design of the Project.
- Management of stormwater and groundwater quality and quantity and the potential impacts on Lake Modewarre and groundwater dependant ecosystems has been adequately assessed, with management measures proposed including ongoing monitoring.
- The responsibilities for implementation, management and maintenance of wastewater will be provided in the Water Sensitive Urban Design Assessment and Management Plan which will be to the satisfaction of the Responsible Authority.

- The Committee supports the requirements of a Flood Impact Assessment, Groundwater Monitoring and Management Plan and Water Sensitive Urban Design Assessment and Management Plan in the Comprehensive Development Zone.
- There are no water management issues that preclude development of the Project on the site.

10 Infrastructure and services

10.1 Context and key issues

The Proponent commissioned SMEC Australia to prepare an infrastructure servicing assessment for the Project. OutTask Environmental were engaged to undertake a wastewater treatment assessment. Both reports were part of the suite of technical reports placed on public exhibition. The Proponent did not call or provide expert evidence on infrastructure and services provision.

Council raised matters in its original submission relating to the proposed staging and infrastructure delivery of the Project and requested that critical infrastructure such as effluent treatment and water supply be provided for in the first stage of site development.

The EPA provided a written submission that commented on the proposed treatment of wastewater (S248).

The CCMA provided a written submission which addressed several matters, including wastewater treatment (S190).

Barwon Water provided a written submission, which addressed matters regarding water supply and sewer servicing which was supplemented during the hearing (S4 and Document 79).

Following the hearing, DELWP proposed an Incorporated Document as part of a Specific Control Overlay be considered to implement the site-wide plans needed to manage the development.

Submitters raised issues about the supply of potable water and wastewater treatment as key issues, questioning the availability of water to service the Project and associated water quality impacts.

Pamas Property Pty Ltd made a submission and called expert evidence from Mr Prossor of Cardno TGM to support its proposed wastewater and sewer servicing options (S68).

The key issues to be resolved are:

- availability of water to service the Project
- whether the Project should be amended to provide reticulated sewerage.

10.2 Evidence and submissions

(i) Proponent

The Proponent engaged SMEC Australia to provide a high-level *Infrastructure Servicing Report (September 2019)* on the requirements and constraints associated with the development of the Project. SMEC's summary of infrastructure service availability and constraints is as follows:

- opportunity exists to potentially utilise and incorporate the Land Subject to Inundation Overlay as part of a WSUD treatment option for the site
- reticulated sewerage is not currently available to the site, nor does it comprise part of Barwon Water's current network planning

- further discussion with Barwon Water is required to confirm sewer reticulation availability
- Barwon Water advised the preferred supply option for provision of potable water to the site will require installation of a 1.0 megalitre water tank, booster pump station and DN150 reticulation mains
- National Broadband Network (NBN) services are planned to be available in the area by December 2019
- Powercor advised that full power supply can be made available to the site.

SMEC's conclusion on infrastructure availability to service the Project noted:

SMEC believes that the Subject Site does have availability and access (subject to service Authority approvals and negotiations) for connection to the majority of the necessary services for a development of the nature proposed. In the case where existing connection is not available in the vicinity of the site, opportunities exist to manage this as part of the development by means of implementing private systems to accommodate deficits in Authority infrastructure or by negotiated outcomes with the applicable Authority.

OutTask Environmental was engaged by the Proponent to prepare an EPA works approval application for the proposed onsite wastewater treatment plant and recycled water irrigation scheme. It provided correspondence advising of the investigations and advice on reports that will be undertaken to support the works approval application.

During the Hearing, and in response to Committee Directions, the Proponent confirmed the first stage of development would include delivery of a Wastewater Treatment Plant. The Proponent confirmed that the provisions of the CDZ require an application for buildings and works to include an infrastructure delivery plan.

(ii) Council

Council's original submission stated that the Project lacked detail regarding staging and infrastructure delivery (S119). It noted critical infrastructure required in the first stage of development should be identified in the CDP and mechanisms put in place to ensure it is provided at the early stage. Council confirmed that given infrastructure is critical to development of the site and operation, reference to infrastructure delivery in the CDZ required more rigour and less ambiguity around what is required.

Council's submission requested development of the Elite Sports Precinct be prioritised and summarised its staging and infrastructure assessment as follows:

Within the CDP, identify critical infrastructure and the mechanisms to be put in place to ensure that they are provided at an early stage and within the CDZ2, strengthen the reference to infrastructure identification and delivery.

Amend the CDP and CDZS to add rigour and remove ambiguity about what is required, when it is required and what approvals must be obtained before subsequent work may occur.

Prioritise the delivery of the central area of the Elite Sports Precinct that includes the Elite Sports buildings, oval, grounds and associated infrastructure and landscaping.

Council's submission at the Hearing reiterated its support for a clear staging plan for delivery of infrastructure and a regulated wastewater treatment plant to manage potential odour impacts (Document 81).

(iii) Agencies

Department of Environment Land Water and Planning

The Part D version of Schedule 3 to the CDZ (Document 132) included a requirement that a site-wide Infrastructure Delivery Plan be prepared and approved prior to the approval of any Precinct Concept Plan. As noted previously, following its review of the final day version of the CDZ, DELWP recommended that the proposed site-wide and precinct plans be removed from the Schedule and relocated to a separate Incorporated Document under a Specific Controls Overlay. The DELWP submission did not comment on the proposed content or substance of the proposed Infrastructure Delivery Plan.

Environment Protection Authority

The EPA submission noted potential environmental impacts from the wastewater treatment plant would be fully assessed by EPA through a separate works approval process and said:

EPA has not undertaken an assessment of the “Wastewater Treatment and Recycled Water Land Capability Assessment Overview” (or other reports that will form part of the works approval application) as part of this planning referral. This will occur through the works approval process by EPA’s Development Assessments Unit. The potential environmental impacts from the wastewater treatment works will be fully assessed by EPA through the works approval process.

The EPA confirmed that preliminary discussions had been undertaken with the Proponent about this requirement.

Barwon Water

Barwon Water submitted it had no objection to the Project. It advised water could be supplied to the site and reticulated sewerage is not available (S4). The submission noted:

Barwon Water has reviewed the documentation and raises no objections to the Project and amendment proceeding. Reticulated water supply will be provided to the site via Barwon Water Infrastructure. Reticulated sewerage is not available at the site and will not be provided to this development.

Barwon Water’s submission noted water supply for the site would require a 1.0 megalitre water tank, booster pump and reticulated mains to gate and further discussion would be required to confirm water supply servicing requirements. It noted that due to reticulated sewerage not being available, an onsite sewerage treatment system would be required to facilitate the Project, which is outside the responsibility of Barwon Water.

Following evidence by Mr Prossor who argued for reticulated sewerage infrastructure on a broader scale, the Committee invited Barwon Water to provide a response on sewer servicing of the Greater Moriac and Modewarre Region, pipeline alignment options, economic benefits of reticulated sewerage and Class A water provision.

Barwon Water provided an email response to the Committee which noted (Document 79):

- Barwon Water currently has no plans to provide reticulated sewerage to Moriac/Modewarre
- Barwon Water would not be averse to further investigations of sewer servicing with support of Surf Coast Shire and Moriac community
- Barwon Water could not comment on feasibility of sewer connection as no investigations have been undertaken

- it is not reasonable to rely on Class A water as a suitable substitute of recycled water for the Project site.

Corangamite Catchment Management Authority

The CCMA submission advised that it was unclear on the details around management of the wastewater storage:

The CMA agrees in principle with the proposed stormwater and wastewater management strategies, however it is unclear what will happen when the capacity of the wastewater winter storage pond is exceeded, or management arrangements around this.

The CCMA acknowledged that wastewater management is regulated by EPA. It noted Brown Swamp and Lake Modewarre as high value waterways and requested the values of these waterways be considered by the referral agency when determining management arrangements for wastewater treatment.

(iv) Submitters

Community submitters expressed concern with the ability of infrastructure to accommodate the Project, including emergency services, water supply and sewer. Further, they raised concern with the Project's impact on drinking water and questioned the working capability of the proposed wastewater treatment system and impact of effluent on Lake Modewarre.

Other submitters expressed concern that the Project would impact wireless internet services and the NBN.

Mr Marshall appeared at the hearing on behalf of Pamas Property Pty Ltd. He relied on the evidence of Mr Prossor who was engaged to provide an engineering assessment and advice around the wastewater and sewer servicing options of the Project on behalf of a landowner at Moriac.

Mr Prossor gave evidence that further consideration and investigation of reticulated sewerage infrastructure that would service the Project and the broader locality to allow higher density (standard residential) development on a development site near Moriac should be undertaken. In summary, Mr Prossor contended (Document 34):

It is considered that further investigation into a combined sewer strategy approach for both the CORA site and the greater Moriac township will likely lead to improved economic and environmental synergies for both areas.

Mr Prossor acknowledged that CORA proposed to treat wastewater onsite and a wastewater treatment system could operate with an EPA works approval.

10.3 Discussion

Potable water supply

Barwon Water will supply the Project with potable water. It is the Committee's view that the Project will have the same impact on Barwon Water's system as any development of comparable scale in this region. The Committee does not consider that use of potable water is an issue for the Project.

Treatment of sewage

The Proponent has confirmed that wastewater produced on-site will be treated at the onsite wastewater treatment plant.

The evidence of Mr Bishop and Mr Telfer was that the wastewater treatment plant will pose no issues for water quality (see Chapter 9).

The Committee notes that a works approval or development licence under the *Environment Protection Act 1970* will be required for the wastewater treatment plant. EPA will assess the application for approval, third parties will have rights of participation, and all issues in relation to the operation of the wastewater treatment plant and use of treated water will be considered. The EPA will consider potential impacts of the wastewater treatment plant in relation to quality of surface water and groundwater. Any approval will likely include conditions and requirements for environmental management plans or similar.

The OutTask Environmental report on wastewater treatment exhibited with the Amendment explained how the wastewater was assessed. It noted the irrigation area and winter storage has been designed to contain all wastewater in accordance with EPA requirements.

The Committee notes the Proponent has confirmed that sports fields, landscaping and the farm are intended to be watered with treated water, providing capacity to productively use the water. It was submitted this management technique will mean there is significant excess capacity to contain wastewater on site.

The Committee notes the evidence of Mr Prossor that expressed a strategic interest in the Project being amended to include reticulated sewerage infrastructure that would service the Project and broader locality. Barwon Water made it clear to the Committee that it had no plans to provide reticulated sewerage to Moriac/Modewarre.

The Committee agrees with the Proponent's submission that the provision of reticulated sewerage to the Project site is not a matter that should hold up the Project, which can be serviced through the proposed wastewater treatment plant.

Infrastructure Delivery Plan

The Committee notes DELWP's preference that the proposed site-wide plans, including the Infrastructure Delivery Plan, be removed from Schedule 3 to the CDZ and replaced by inclusion in an Incorporated Document under the Specific Controls Overlay. The Committee addresses the issue of the use of the Specific Controls Overlay in Chapter 14.

10.4 Conclusions

The Committee concludes:

- Whether or not Moriac is serviced by sewerage infrastructure in the future is a matter for Barwon Water.
- The preparation of an infrastructure delivery plan for the entire site as proposed through the Comprehensive Development Zone is supported.
- There are no infrastructure or service issues that preclude development of the Project on the site.

11 Noise and lighting impacts

11.1 Context and key issues

Enfield Acoustics prepared a technical memorandum containing a high-level assessment of noise conditions for the Project (August 2019). Mr Tardio of Enfield Acoustics prepared a statement of evidence that contained an overview of applicable noise policy and guidelines, sleep disturbance guidelines and an assessment of the Project (Document 26). No party sought to cross examine Mr Tardio and he was not called during the Hearing.

A number of questions however were forwarded to him in writing on behalf of a community submitter (S108). Mr Tardio's response to the questions was tabled (Document 75).

Dr Dluzniak prepared a sports lighting assessment that provided an overview of the lighting requirements and design parameters for the proposed professional training and sports activities of the Project (December 2019). He prepared an expert witness statement (Document 20) and was called to answer a number of submitter questions regarding light spill and proposed impact mitigation measures.

The Committee's Stage 1 report noted that no technical information had been provided with respect to potential noise impacts and the EPA's preliminary assessment concluded that a noise assessment report would be required. The Committee's Stage 1 report noted that further information regarding potential amenity impacts and likely management measures would assist addressing concerns likely to be raised in submissions.

Numerous submitters, primarily residents of Connies Lane, raised noise and light spill amenity impact concerns, including issues about light spill impacts on fauna.

The key issues to be resolved are:

- whether the proposed lighting impacts and mitigations are acceptable
- whether the proposed noise impacts and mitigations are acceptable

11.2 Evidence and submissions

(i) Proponent

The Proponent acknowledged the many submissions from Connies Lane residents who expressed concern about potential amenity impacts, particularly noise and light-spill. In response to these concerns, the Proponent submitted that loss of amenity is limited through conditions and restrictions on land uses, management of noise and operations, placement of buildings and removal of access to the facility via Connies Lane (Document 46).

The evidence Mr Tardio noted the existing residential uses on Connies Lane as well as proposed sensitive uses on the subject land which would "*drive any noise attenuation requirements in practice*". The assessment stated the types of noise sources that could reasonably be expected to generate transient noise include outdoor sporting activities, whistles, sirens and shouting. Given the hours of operation of the sports training facility are limited to 7:00am to 8:30pm, the assessment found the key potential noise sources would occur outside the defined sleep disturbance period (10:00pm-7:00am). Accordingly, Mr Tardio advised he was satisfied that outdoor sporting field noise emissions would be reasonable. Further, he considered the risk of any adverse noise impacts occurring were

considered to be low and would comply with other benchmark noise policies and guidelines such as Noise from Industry in Rural Victoria, EPA publication 1411 (NIRV).

Mr Tardio concluded he was *“satisfied that the guidelines set out in the draft CDP and amendment to the Scheme generally addresses both policy and practical requirements to ensure that the use is controlled to a reasonable level”*.

The evidence of Dr Dluzniak noted the main area affected by spill light and glare is Connies Lane. His assessment of the lighting impact on Connies Lane was that all the technical parameters specified in the Obtrusive Light Code (AS 4282:2019 – *Control of the obtrusive effects of outdoor lighting*) would be met because:

- Connie’s Lane is essentially parallel to the aiming direction of the floodlights lighting the various ovals and pitches. Hence the building lines are also essentially parallel to the floodlight aiming directions.
- However, the spill light and luminous intensity measurements are made (by definition) at right angles to the building lines.
- Thus, the components of spill light and luminous intensity are necessarily small when measured perpendicular to the light flow direction.

Dr Dluzniak’s assessment concluded the obtrusive effect of the lighting would be minimal and would be fully compliant with the Code. He noted that compliance would be demonstrated through the results of calculations and simulations undertaken at the design stage of the Project. Dr Dluzniak concluded the proposed lighting of the Project should not pose issues for local residents due to the design and location of the lighting installations and the proposed hours of operation of the lighting.

In closing, Ms Porter reiterated the evidence before the Committee was that amenity impacts can be appropriately mitigated. In this regard, she submitted:

Mr Biacsi’s view is that potential amenity impacts associated with the development of the Project can be effectively managed so as to achieve an acceptable outcome.⁸

Mr Tardio’s evidence deals with regulation of noise, and he concludes that the risk of any adverse noise impacts occurring are considered to be low.⁹

Dr Dluzniak considers the obtrusive effect of lighting will be minimal and fully compliant with relevant guidelines.¹⁰

(ii) Council

Council’s original submission expressed concern regarding potential impacts to adjoining properties, in particular to residents of Connies Lane (S119). The submission recommended that access to Connies Lane be limited and measures be developed to manage the hours of operation and light spill.

As noted previously, Council’s submission at the Hearing noted Council’s overall support for the Project and that it would deliver significant benefits to the community, conditional on a number of matters embedded in the planning controls to ensure the benefits of Project are ultimately realised. Those relating to amenity impacts included measures to moderate the

⁸ Expert witness report of Mr Biacsi, para 117.

⁹ Expert witness report of Mr Tardio, para 24.

¹⁰ Expert witness report of Dr Dluzniak, p6.

impact of the development on Connies Lane residents including *“managing the hours of operation and light spill of sporting fields adjacent to neighbouring properties”*.

(iii) Submitters

Community submitters that reside on Connies Lane expressed concern with adverse amenity impacts from noise and light-spill from the Project. Submitter S30 and S97 were reflective of the issues raised by residents of Connies Lane. The submissions expressed concern regarding noise associated with the use of the sports fields, the occupation of staff quarters (Element No 14 on the Concept Masterplan) and from the operation of depot (Element No 16 on the Concept Masterplan).

Submitter S30 suggested that removal of the overhead power line near the access gate on Connies Lane could enable planting of trees and further landscaping which could mitigate the visual impact, as well as provide a buffer from noise and light-spill. The submitter was concerned to ensure they had input into any new landscaping and fencing to be erected along their boundary to mitigate impacts, and that the landscaping and fencing be provided at the full cost of the Proponent.

A number of submissions expressed concern regarding the impact of noise and lighting on wildlife. The Surf Coast Hinterland Group reflected such submissions (Document 93). It considered threatened and migratory species would abandon their habitat as a result of the proposed built form, visual pollution, lights, noise, human movement, air pollution, among other issues. The submission stated the Project is not compliant with content of the *“Draft National Light Pollution Guidelines for Wildlife”* which recommends that *“where there is important habitat for listed species that are known to be affected by artificial light within 20km of a Project, species specific impacts should be considered through an Environmental Impact Assessment (EIA) process”*.

11.3 Discussion

The location of the proposed retail precinct is approximately 800 metres from the nearest Connies Lane interface. The Hotel is closer, at approximately 500 metres. The Elite Sports playing fields are closer, but do not comprise built form elements. The Committee accepts the evidence that due to the large distances from these elements of the Project, and the intervening topography and land features including extensive hedgerow plantings, Connies Lane residents are unlikely to be unacceptably impacted by noise or lighting from the operation of the proposed retail and hotel precincts.

The Committee accepts the evidence of Mr Tardio and Dr Dluzniak that the operation of sports playing fields has the most potential to generate adverse amenity impacts for residents of Connies Lane. The Committee agrees with Council’s submission that it is appropriate to ensure adequate controls are specified to moderate the impact of the Project on these residents.

In relation to the proposed height of light poles for the outdoor sports fields, the Proponent advised in December 2019 (Document 10a) that in response to a detailed assessment of lighting requirements, the maximum height of light poles required to be erected is 32 metres from natural ground level. A requirement has been included in the CDP that mandates that light poles must not exceed this height.

The Committee highlights that the Proponent's final version of the CDP (Document 150c) contains a number of Requirements and Guidelines that have been designed to mitigate potential lighting and noise impacts. These include:

Requirements

- R8 Lighting must be designed to promote way finding and ensure safety.
- R13 Light poles within the Elite Sports Precinct must not exceed 32m from natural ground level.
- R16 Lighting associated with the sports training fields must not be used outside the hours of 7:00am and 8:30pm, unless otherwise approved in writing by the Responsible Authority.
- R17 Lighting associated with the sports training fields must be designed and baffled to minimise light spill to adjoining properties and landscaping is to be used to minimise adverse impacts.
- R54 Potential impacts upon native fauna from noise and lighting must be minimised.

Guidelines

- G3 Land uses with the probability of noise emissions should be sited appropriately to avoid or minimise interfaces with existing or proposed sensitive uses.
- G42 Landscaping should consider the staged development of the site, and how amenity will be protected for adjoining properties.

Consistent with the above requirements and controls, the Proponent's final version of the CDZ includes requirements designed to control and mitigate lighting and noise impacts. These are extensive and include the requirement to prepare a site wide staging plan that requires the provision of screening planting along the eastern boundary of the Sports Precinct be provided as part of first stage works. A requirement relating to the use of land specifies the amenity of the area must not be detrimentally affected through, among other matters, the "*emission of noise*" and "*artificial light*". Further controls relating to noise and lighting listed in the CDZ include:

Noise

The use of land must be managed in accordance with the following noise limits:

- Noise must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV: EPA Publication 1411, 2011) (or any relevant policy which supersedes it);
- Music (indoor and outdoor) and public address equipment shall comply with State Environment Protection Policy (Control of Music Noise from Public Premises) N2 and relevant Environmental Protection Authority guidelines.

4.3 Application Requirements

The following application requirements apply to an application to use the land under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme, and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- ...
- The likely effects of the use, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation, and light spill, solar access and glare.

6.0 Buildings and Works

6.2 Application Requirements

A permit for buildings and works must be generally in accordance with the CDP and, in addition to those specified in Clause 37.02 and elsewhere in the scheme, must include the following information, as appropriate, to the satisfaction of the Responsible Authority:

- ...
- In relation to an application involving external sports lighting, a **Lighting Assessment** by a suitably qualified expert to demonstrate that sports lighting will be designed and baffled to achieve:
 - Light spill of no greater than 5 lux to 51 Connies Lane, to be measured at the common boundary between that land and the subject site; and
 - Otherwise conformance with Australian Standard AS4282:2019 – Control of the Obtrusive Effects of Outdoor Lighting (or any relevant standard with supersedes it).
- An Acoustic Assessment to demonstrate that noise levels will not exceed the relevant Environment Protection Authority guidelines.

6.3 Decision Guidelines

Before deciding on an application for buildings and works under Clause 37.02, in addition to the decision guidelines in Clause 37.02 and Clause 65 and elsewhere in the scheme, the Responsible Authority must consider as appropriate:

- ...
- The potential impacts on the amenity of the nearby properties.
- Whether the lighting associated with the development has been designed to minimise any unreasonable impacts on the amenity of surrounding properties.

The Committee considers the proposed statutory planning framework, as summarised above, is robust. It provides a thorough suite of design, audit and compliance controls that when implemented, will enable the effective management and mitigation of adverse noise and lighting impacts on Connies Lane residents. In this regard the Committee accepts the submissions advanced by the Proponent that the *“the loss of amenity is limited through conditions and restrictions on land uses, management of noise and operations and placement of buildings”*.

The Committee accepts the noise and light impacts associated with use of the elite playing fields, which are the closest components of Project to Connies Lane residents, have been assessed as acceptable.

The Committee accepts the Proponent’s concession to remove Connies Lane as an access road. The final version of the CDP states that no access is permitted to the site via Connies Lane (R37). It has removed reference to use of Connies Lane for emergency purposes. A new requirement specifies that emergency access will be provided via 1130 Cape Otway Road (R38). The Committee supports these revisions. The amenity of Connies Lane will be protected from the impacts of traffic from CORA and additional landscaping can be undertaken within the site in the existing Connies Lane road easement.

In relation to future landscaping within the Connies Lane road reserve, in response to the suggestion made by S30, the Committee agrees there is merit in relocating or burying the current overhead power line near the access gate on Connies Lane. The Committee agrees that relocation or burying of the asset could enable a more effective landscape outcome which in turn could provide a more comprehensive buffer from light spill, and potentially noise impacts. The Committee further accepts the request of submitters they be consulted about proposed landscaping, fencing, lighting and noise mitigation measures and that the full cost of implementation of the agreed measures be borne by the Proponent.

In relation to concerns expressed that the lighting impacts on fauna have not be adequately assessed, the Committee notes that the CDZ requires a lighting assessment to be undertaken to demonstrate that sports lighting will be designed and baffled to achieve conformance

with Australian Standard AS4282:2019 – Control of the Obtrusive Effects of Outdoor Lighting (or any relevant standard with supersedes it). The Committee notes and takes comfort in the evidence of Mr Lane that lighting associated with the sports fields, in his opinion would not likely cause unacceptable impacts on fauna species, particularly given that sport field lighting will not (unless agreed in writing by the Responsible Authority) be used past 8:30pm. Further, the Committee notes that the CDP includes a requirement that *“the potential impacts upon native fauna from noise and lighting must be minimised”*. The Committee accepts the inclusion of this requirement is appropriately responsive to the concerns expressed by submitters.

11.4 Conclusions and recommendations

The Committee concludes:

- Connies Lane residents are unlikely to be unacceptably impacted by noise or lighting from the operation of the proposed retail tenancies or the proposed hotel.
- The noise and lighting impacts associated with the use of the elite playing fields, which are the closest components of the Project to residents of Connies Lane have been assessed as being acceptable.
- The inclusion of Requirement 16 that specifies lighting associated with the sports training fields must not be used outside the hours of 7:00am and 8:30pm, unless otherwise approved in writing by the Responsible Authority, is an important and responsive amenity impact mitigation control.
- The proposed statutory planning framework provided by the provisions of the Comprehensive Development Plan and Comprehensive Development Zone represents a responsive suite of design, audit and compliance controls that will enable the effective management and mitigation of adverse noise and lighting impacts on residents of Connies Lane.
- There are no noise or lighting issues that preclude development of the Project on the site.

The Committee recommends:

7. Amend Section 3.2 Landscape of the Comprehensive Development Plan to include the following Requirements:

- a) **Incorporate the removal or burying of the overhead power line near the access gate on Connies Lane in the Stage 1 landscaping works in order to enable the creation of a more comprehensive and enduring amenity buffer.**
- b) **Consult with the owners of 51 Connies Lane regarding the proposed landscaping, fencing, lighting and noise mitigation measures proposed, noting the full cost of implementation of agreed measures must be borne by the Proponent.**

12 Other matters

12.1 Bushfire and emergency management

(i) Evidence and submissions

Proponent

The Proponent engaged Terramatrix to prepare a bushfire development report to assess how the proposed rezoning and development of the CORA site will comply with Victorian bushfire planning and building controls. The key findings of this assessment are summarised as follows:

- the site is located in a designated Bushfire Prone Area but is not covered by the Bushfire Management Overlay (BMO)
- the site could be exposed to grassfire but is in a lower bushfire risk landscape relative to much of Surf Coast Shire.
- it is proposed that BMO-style assessment and bushfire protection measures be applied to the planned buildings
- the site enables development to be located and designed with appropriate bushfire protection measures, while minimising impact on biodiversity conservation values
- a Bushfire Emergency Management Plan will be developed for the site covering prevention, response and recovery.

Council

In relation to Bushfire and Emergency Management, Council's original submission noted its support in principle of the findings in the Terramatrix Bushfire Development Report, although it contended the enabling provisions in the CDZ or CDP were unclear. Council requested that the connection between the Bushfire Development Report and the planning scheme provisions include requirements and mechanisms to require management actions to be made clear at a whole of site level.

Council submitted there was an opportunity to integrate bushfire mitigation and emergency management to consider the capacity of emergency services, onsite resource needs, construction and siting, vegetation management, emergency and site management and shelter in place options. Council summarised its recommendations as follows:

Create a clear and strong connection between the BDP recommendations and the CDZS and CDP.

Take an integrated (site level) approach to bushfire mitigation and emergency management.

Council's submission at the Hearing welcomed the Day 1 changes to the CDZ in respect of bushfire, which introduced the preparation of an integrated plan to cover the whole site. Council submitted the application requirements also required consideration of access, vegetation management, water sources, emergency management, shelter in place options and perimeter roads.

Country Fire Authority

The Country Fire Authority (CFA) did not make a formal submission but provided a letter which provided in principle support for the Amendment (Document 6):

CFA is generally supportive of rezoning the land to Comprehensive Development Zone subject to the inclusion of appropriate policy controls that ensure bushfire risks at the site can be appropriately mitigated and managed.

The CFA noted a full copy of the proposed policy that would form part of the Amendment was not provided, and as such it was unclear how aspects of the information would be implemented.

The Committee invited the CFA to present at the Hearing, which it did.

At the hearing, the CFA confirmed support for rezoning of the land, and advised it was appropriate to direct development to land that is in a lower bushfire risk landscape (Document 85). The submission provided a set of recommended amendments to the CDP.

The CFA submission questioned the expert evidence provided by Mr Milner for not providing an assessment of siting and location against relevant bushfire policy (although the CFA was not present for that evidence).

Submitters

Community submissions raised issues in relation to bushfire risk and logistical issues concerned with emergency management. Submissions expressed concerns about the current fire hazard of the area and the potential of the Project to increase fire risk if it proceeded. In addition, submitters were concerned with the prospect of many people trying to leave the CORA site in the event of a bushfire and how this would occur.

(ii) Discussion

The Committee supports the information provided by the Proponent that proposes detailed BMO-style assessment and bushfire protection measures be applied. Further it supports the inclusion of an application requirement at Clause 6.2 of the CDZ regarding the preparation of an Integrated Bushfire Emergency Management Plan for the site covering prevention, response and recovery.

The Committee acknowledges the support of the CFA for rezoning the CORA site, and its acknowledgement that the site is located in a low bushfire risk landscape. The CFA provided a set of recommended amendments to the CDP (Document 85, attachment 3), which assume a level of detailed design that has not yet been undertaken.

Upon review, the Committee acknowledges that Mr Milner did address bushfire risk in his written evidence (Document 32).

The Committee acknowledges the Proponent has no in-principle objection to the CFA recommended amendments to the CDP and understands these matters will be addressed in the Integrated Bushfire and Emergency Management Plan, which will need to be prepared to the satisfaction of the CFA.

The Committee understands that in response to the CFA's initial letter, the Proponent further amended the CDZ to include an application requirement for an integrated bushfire management plan to the satisfaction of the responsible authority.

The Committee considers that given the site is not in a high bushfire risk landscape, and is not affected by the BMO, the level of control provided in the CDZ is appropriate. It is satisfied that in the event of a fire emergency, the site can be evacuated if required.

(iii) Conclusions

The Committee concludes:

- The bushfire provisions in the Comprehensive Development Zone which secures the preparation of an Integrated Bushfire Emergency and Management Plan covering the whole site is appropriate.
- The detailed level of assessment of the Project against relevant bushfire policy will appropriately be undertaken at detailed design stage of the Project.
- There are no bushfire or emergency management issues that preclude development of the Project on the site.

12.2 Modewarre airfield**(i) Evidence and submissions**

The owner of the adjoining Modewarre airfield submitted that the development of buildings and structures within the far western portion of the development site may be impacted by aircraft using the North West/South East airfield runway (S70). The submission expressed concern that aircraft passing over the top of buildings at very low altitude could create potential safety issues for aviators and visitors to the Project site in the event of an engine failure or other disaster, along with potential noise impacts.

In her presentation to the Committee and written submission, the submitter stated:

In the interest of safety, and respect for the Modewarre aviation community; Any planning provisions governing the CORA site in the future include a requirement that the land adjoining the Modewarre airfield (YMOD) remains a Rural Conservation Precinct with a prohibition on man-made structures including buildings, sports fields and other group community activities, or any other uses which could lead to conflict between users of YMOD and CORA.

(ii) Discussion

The Committee acknowledges the information provided by S70 that demonstrates the potential for conflict to exist between the abutting Modewarre airfield and the Project.

The Committee understands the Project has been redesigned from its original concept to remove all buildings from the flight path of Modewarre airfield. The location of the sculpture park was to the right of the flight path and would not pose a concern to approaching aircraft.

At the conclusion of the Hearing, the Proponent proposed a requirement be included in the CDP to further address the concern of S70:

The land to the west of the retail village must not be developed with any buildings, sports fields or structures capable for accommodating groups of people (not including the sculpture park or passive recreation structures such as paths or boardwalks) that conflict with the ongoing use of the Modewarre airfield (YMOD).

The Committee considers the proposed amendment to the CDP would provide an effective measure to address the potential land use and associated safety conflicts of both properties, without limiting the ability of both land uses to operate harmoniously.

(iii) Conclusions

The Committee concludes:

- The modification to the Comprehensive Development Plan to limit buildings, sports fields and structures that conflict with use of the Modewarre airfield is supported.
- There are no issues relating to the Modewarre airfield that preclude development of the Project on the site.

12.3 Lake Modewarre hunting

(i) Evidence and submissions

Field and Game Australia expressed concern with the use and development of the CORA site on the basis that the Project would pose a threat to the conservation values and hunting continuation at Lake Modewarre (S169). The submission noted:

Historically FGA have seen too many times that urban encroachment on wetlands brings with it populations who oppose or feel disturbed by the activities which have been taking place well before their arrival. In the case of Modewarre hunting on the lake has been a legal, legitimate and sustainable activity recorded since the mid 1830's in addition to its indigenous usage. FGA see the urban development of the area as a direct threat to the hunting activities which take place on Lake Modewarre during the prescribed seasons.

The Submitter provided a video presentation to supplement the written submission which provided information on the conservation and hunting activities at Lake Modewarre.

(ii) Discussion

The Committee acknowledges the Project will introduce a new level of recreational and commercial activity to the locality. However, given the location of the site some distance from Lake Modewarre, the lack of direct access to the Lake, and the presence of a buffer between the Lake and areas of site provided by wetlands and private land to the north, direct impacts from the Project on hunting activities at Lake Modewarre is unlikely.

The Committee considers that provided hunters do not attempt to hunt on the Project site (which they should not be doing in any event, as it is not a specified hunting area), there is no reason for the Project to impact on the ability of hunters to continue to utilise the existing game reserve at Lake Modewarre.

(iii) Conclusions

The Committee concludes:

- The development does not pose a threat to the use of Lake Modewarre as a specified hunting area.
- Provided hunting remains confined to Lake Modewarre and does not extend onto neighbouring private land, there should be no conflict of land use between the development site and hunting activities on Lake Modewarre.
- There are no issues relating to hunting at Lake Modewarre that preclude development of the Project on the site.

13 Social impacts

13.1 Context and key issues

K2 Planning prepared the CORA Project Social Impact Assessment Final Report as part of the suite of background reports placed on public exhibition (September 2019). Dr Stubbs of Judith Stubbs and Associates provided expert evidence on social impacts and gave evidence at the Hearing. Both reports concluded the CORA development will result in a net community benefit.

Social and community issues were dealt with at Chapter 3 of the Committee's Stage 1 report and it made no specific recommendations in relation to these issues.

Council provided some commentary in its original submission about social impacts and spoke of impacts on adjoining residents at the Hearing.

Numbers of submitters spoke of the change in their lifestyle, amenity impacts and uncertainty about how noise and light spill will be mitigated. This is particularly the case for residents of Connies Lane, who the Committee acknowledges are most directly impacted by CORA.

The key issues to be resolved are:

- impact of new development not contemplated in the Farming and Rural Conservation Zones
- amenity impacts (especially light spill and noise) on nearby residents
- whether mitigation will be appropriately managed
- whether the Project will result in a net community benefit.

13.2 Evidence and submissions

(i) Proponent

The social impact assessment by K2 Planning noted that overall, the Project will result in positive social impacts with regard to policy alignment, tourism, employment, retail and community infrastructure. The report observed:

However, there is evidence of significant negative social impacts associated with the community living immediately adjacent to the development in Connies Lane.

The report advised potential mitigating strategies could reduce this impact but would not fully resolve the impacts. K2 Planning made a number of recommendations to minimise these impacts, particularly on the residents of Connies Lane. In its original submission and reiterated at the Hearing, Council advised it supported all K2 Planning recommendations being implemented.

Dr Stubbs gave evidence for the Proponent and included a definition for 'community' in the context of assessing the social impacts of CORA as follows:

- A wider community (the state of Victoria and other areas in Australia and overseas), which will experience long term positive impacts of the development from the provision of sporting and tourist facilities;

- A community at the LGA or hinterland scale, which is likely to experience both positive (such as increased employment and economic development opportunities) and negative (such as changing in character) impacts of the Project;
- An immediate community, where negative impacts of the Project related to amenity and character will be more intensely experienced, either in the short to medium term, or permanently as a result of the Project.

In discussing the social context of the Project, Dr Stubbs focussed on Winchelsea, an area she said represented a proximate urban area that will be subject to significant urban growth. She found that Winchelsea had low socio-economic indicators in that it is a disadvantaged area with higher median age, above average rate of lone person and single parent families, lower than average incomes and higher unemployment compared to the region generally. Dr Stubbs noted:

Moreover, although the immediate locality of the proposed development is relatively advantaged in terms of income, occupation and general social wellbeing, it is apparent that the growing town of Winchelsea has a significantly disadvantaged social profile. In consideration of this profile and its future growth, the town is likely to receive important benefits from the proposed development with regard to employment and enhanced economic development more generally.

Dr Stubbs provided a useful summary in the form of a graph about those aspects of the Project seen by submitters as positive and negative, with the key themes reproduced by the Committee as Table 3.

Table 3: Positive and negative summary of issues raised in submissions

Positive (number)	Negative (number)
Jobs/economy (55)	Natural environment (79)
General support (42)	Traffic/transport (61)
Tourism (30)	Amenity impacts (46)
Need for facilities (23)	Connies Lane impacts (38)
Natural environment (17)	Changing character (38)
Showcase (11)	Unsuitable site/location (38)

Source: Evidence of Dr Stubbs, p25

An important interpretation about Table 3 and the source is that the ranking of issues is not even, in that the number of submissions that mentioned negative impacts far exceeds those that raised positive impacts. The evidence of Dr Stubbs expanded on these themes and explored the issues raised.

Dr Stubbs indicated she undertook a site inspection and held discussions with “key informants” to inform her view about how to minimise adverse effects. When questioned who the key informants were, Dr Stubbs indicated it was a colleague who door knocked Connies Lane and endeavoured to speak to residents. Through pursuing this in questioning by the Committee, it was then revealed that in fact her colleague did not manage to speak to anyone about the Project.

Disappointingly, the evidence statement did not contain any specific recommendations for mitigation. When questioned by the Committee why she did not make recommendations,

Dr Stubbs merely indicated that mitigation is important to balance the highly localised impacts with the “*enormous benefits*” for the wider community.

(ii) Council

In summarising the key strategic benefits of CORA in its original submission, Council highlighted it will:

- bring an additional tourism product to the region
- increase employment opportunities in the Shire
- realise economic benefits
- provide a retail offer that differs to that nearby
- be located in an area that is generally consistent with the *Rural Hinterland Futures Strategy*
- stimulate the visitor economy.

In addressing the impacts on adjoining properties, Council concluded that all the recommendations of the social impact assessment report of K2 Planning be implemented¹¹.

At the same time, Council noted the impacts will be largely felt by residents of Connies Lane and the Project needs to be carefully planned to mitigate against those potential amenity impacts. At the Hearing, Council expanded on some of these issues and noted its support was subject to the closure of Connies Lane for all traffic to and from the CORA site (except for emergency purposes); managing the hours of operation and light spill of the sporting facilities; and requiring land to the immediate north of Connies Lane be used for low scale agriculture (Document 81).

Council was supportive of many of the mitigation issues proposed by CORA (such a limited traffic access along Connies Lane) but noted it required further clarification on the type of emergency access permitted, the proposed access to the eco-lodges, hours of operation of the sporting fields and the type of agriculture to be provided in the farm precinct. Council further noted clarity was required regarding staging and infrastructure delivery to provide certainty, both to it and to the community.

(iii) Submitters

Submitters raised numerous concerns about social impacts. Many expressed confusion about the proposed Amendment and its impact on their chosen lifestyle. A common issue raised was that residents chose to live in Connies Lane and the nearby areas due to the peace and tranquillity of the area, the opportunity to have areas of highly vegetated land in a farming area with space for animals, fruit and vegetables supported by dams and other water bodies. Many noted they would never have bought there if they had known about the CORA Project. A number of submitters spoke about the ‘unfairness’ of it all. Most contended that it should not be allowed as the Planning Scheme has never contemplated such a development proposal in this area.

Submitter 102 initially made a very short written submission about insufficient information, the business case and loss of amenity and came to the Hearing to speak to it. However, he essentially argued that the evidence of Dr Stubbs was misleading in that what she was really

¹¹ Chapter 3 of the K2 Planning report

advocating for was that CORA is a proposal to only deliver affordable housing. He asserted that because she appeared to be highly credentialed in housing policy, and that she provided statistics reflecting the low social economic status of Winchelsea, this was really a case to get affordable housing on the site.

13.3 Discussion

The key to analysing a Project such as this where there are competing policy objectives is to determine whether CORA will result in an acceptable outcome that achieves a net community benefit.

Clause 72.02-3 of the VPP 'Integrated decision making' provides that:

Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure.

Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations. (Committee underlining)

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

In considering net community benefit, the 'community' which might be positively or negatively impacted must be acknowledged. It is well recognised that planning is not about maintaining the status quo but, in accordance with the Act at section 4(1)(g), to balance the present and future interests of all Victorians. Change to amenity and lifestyle can be upsetting and difficult to accept and often will bring benefits to some and dis-benefits to others.

The community in this case includes the immediate neighbours, the local Modewarre/Moriac community, regional Victoria, Melbourne, Victoria and Australia. The positive impacts of the Project will be felt by all, but the negative impacts will largely fall on the immediate neighbours and the immediate local community.

The Committee was disappointed in the evidence of Dr Stubbs. Her statement included numerous unfounded comments, which she was unable to justify. For example, her opening comment under 1.3 'Summary of Expert Opinion' noted:

Like many large community infrastructure Projects, the positive and adverse social impacts of the Project are likely to be distributed quite differently, across geographic areas and communities of interest.

While the Committee agrees with the latter part of that statement, it questioned Dr Stubbs about her characterisation of the Project as "*large community infrastructure*". It is clear that this is not a community Project and in fact there will be very limited use by the community of the sports facilities, if at all. She agreed that the proper characterisation is as a private Project for profit and commercial enterprise for use by elite sports people. Such

generalisations were littered throughout her evidence. For further example, Dr Stubbs noted:

Access to elite sports facilities will be available to community groups and organisations through partnership agreements when the facilities are not being used by elite sports team ...

Again, this is not the case. There may be some limited access but there are at least two of the ovals where there will be absolutely no access, even if those ovals are not being used. The Committee was left with the impression that Dr Stubbs did not fully understand what CORA was really about.

The Committee considers that Dr Stubbs did not provide the appropriate level of social impact assessment that is required for a Project such as this where a substantial change is proposed for an area that could not possibly have been contemplated given the existing policy settings and controls in the Planning Scheme. Dr Stubbs said she undertook informal consultation with local residents, then retracted that upon questioning and then noted her colleague did that work – but again was not substantiated. This reflects the quality of the social impact evidence put to this Committee. Her report provided no comfort to the Committee, nor to the community.

The recommendations of the K2 Planning report were in four parts and in response to the Council request that all recommendations be adopted, the Committee responds accordingly.

The first group of recommendations related to employment opportunities, age friendly design features, childcare services, partnerships with Deakin University, updating the Moriac Structure Plan and reducing traffic impacts. Some of these are matters for Council, others are matters for the Proponent in conjunction with Council if the Project proceeds. These are not matters which the Committee considers appropriate to be included in the CDP or CDZ, except for traffic which is discussed in Chapter 7.

The second group relate to hours of operation and communication. The CDZ contains an application requirement to prepare a Management Plan that includes, among other things *“a breakdown of days and hours of operation for all proposed uses”* (Clause 4.3 of the CDZ). Communication with the local community and Indigenous groups is important. The Committee was advised that a CHMP is in the process of being prepared and that work is being undertaken separately to this Committee process. Ongoing communication with the immediate local community is critically important. One idea is to convene a ‘community reference group’ or similar and that is something that can be explored through the CDP.

The third group of issues relate to impacts on residents of Connies Lane and the Committee considers that the Proponent has aptly responded to these as part of its revised CDP and CDZ. The requirements specified in Clause 4.1 of the CDZ, under the heading *“Amenity of the neighbourhood”*, require the use of land must not detrimentally affect the amenity of the area including through the emission of noise, vibration, smell, fumes, wastewater, and waste products. The Committee is satisfied that this requirement, together with the EPA’s conditions that will accompany the works approval for the wastewater treatment plant, will adequately respond to resident concerns relating to odour and sound from the wastewater treatment plant and the substation. Importantly, no access is now proposed along Connies Lane.

The fourth group of issues raised by the K2 Planning report relate to hours of operation and lighting and these are dealt with in Chapter 11 and in the CDZ at Clause 4.0.

The biggest impacts will no doubt be felt by the residents of the five private houses located on the southern side of Connies Lane. There will be some noise, visual and light disturbance to these residents of Connies Lane, particularly at No 51. These impacts can be quantified and addressed but will not likely be eliminated.

The impact of change and overall impact on lifestyle is more difficult to address. The Committee accepts that residents chose to live in this now quiet and peaceful rural environment away from even the small towns of Modewarre and Moriac. They will inevitably experience significant disruption as the result of CORA, especially during the construction phase of the Project.

The Committee accepts the confusion, worry and anger felt by many residents. It accepts there can be mitigation, but this may not allay the fears and concerns of the residents of Connies Lane.

It has particular empathy with the residents at 51 Connies Lane who share an adjacent boundary with CORA. Currently the broiler farm buildings abut this boundary, but it has a pleasant outlook with significant stands of trees between the residence and the sheds. The Committee understands that these residents finished building their house at this location some 12 to 18 months ago. It is clear that they will experience changed conditions. Having acknowledged this, the Committee is confident that the CDP and CDZ controls will appropriately mitigate potential disturbance from light spill and noise.

The Committee supports the requirement for a community access strategy in Clause 2.0 of the CDZ. This mainly relates to access to facilities within the site at appropriate times and is generally written in a negative way in that it notes what the community will not be able to access, rather than what it can access. The Committee considers this strategy can be broadened to include provision for community engagement and information. It should be retitled *Community Access and Engagement Strategy* and include provision for:

- information sessions for the local community at appropriate times as the Project evolves
- one on one discussions with residents of Connies Lane prior to completion of plans and strategies as set out in Clauses 2.0 and 6.2
- opportunities for local residents to visit the site and see first-hand how the Project is being developed at key points in its development.

The Committee recognises these are difficult matters to reconcile in a planning control and that it relies on cooperation and interest from the immediate local community. As the impacts will be felt predominantly by these residents, this targeted consultation, briefing and review process is just that – targeted to the residents of Connies Lane.

Overall, the Committee accepts that the key positive impacts of the Project include increase in the tourism offering in the region, including quality and diverse accommodation opportunities, a range of employment opportunities, and a boost to the Surf Coast economy through the retail offer.

The Committee considers the low scale agricultural uses on the north side of Connies Lane are appropriate. They will ensure the outlook to the north from Connies Lane is maintained at its existing rural low scale and existing amenity will be maintained and enhanced.

While there will be inevitable impacts, the Committee observes that CORA will be low scale with predominantly single or two storey buildings closest to Connies Lane, there will be natural enhancement of the landscape, the existing broiler farm sheds will be removed, Cape Otway Road will be the main traffic access and the sports facilities will be for training purposes, not active spectator sports. Conditions on timing on the use of the sports facilities and lighting will assist to minimise impacts. The retail and accommodation precincts are some distance (in the order of 500 and 800 metres) from Connies Lane and now, there will be no access at all from the lane.

The Committee finds the submission put by Submitter 102 to be a far reached proposition with no basis at all. He did not put his propositions to Dr Stubbs, nor did he have any evidence to support his argument. Irrespective of the outcome of this Project, the planning controls through the CDZ and CDP would not allow an affordable housing development in any form on any part of the site.

13.4 Conclusions and recommendations

The Committee concludes:

- There will be positive social impacts (economic development, accommodation, tourism, identity, employment) for the Surf Coast Shire, regional Victoria (particularly the Great Ocean Road Region and hinterland), the State of Victoria and Australia more broadly.
- There will be some social impacts on Modewarre and Moriac, and the broader regional hinterland abutting those townships, but these are more about not wanting this type of development in this locality.
- Residents in Connies Lane will experience changed conditions. Visual amenity, light spill and noise impacts can be adequately mitigated through detailed design, management and monitoring by the Responsible Authority as specified in the planning framework provided by the CDP and CDZ. These impacts cannot, however, be entirely eliminated.
- The outlook and ambience of a rural farm landscape to the north will be maintained through the nomination of this area as the farm precinct.
- More careful consideration must be given to the impacts on residents at 51 Connies Lane and significant liaison between these residents, Council and the Proponent should be undertaken at every step of the way.
- The Community Access Strategy should be renamed and modified to include the opportunity for targeted consultation with the residents of Connies Lane.
- Overall, the Project will result in a significant net community benefit.
- There are no social impact issues that preclude development of the Project at the site.

The Committee recommends:

- 8. Amend the 'Community Access Strategy' at Clause 2.0 of the CDZ as follows:**
 - a) Rename the title to "Community Access and Engagement Strategy"**
 - b) Insert the following tasks:**
 - (i) A schedule of information sessions for the local community at appropriate times as the Project evolves**

- (ii) The conduct of one-on-one discussion with residents of Connies Lane prior to completion of plans and strategies as set out in Clauses 2.0 and 6.2**
- (iii) Opportunities for local residents to visit the site and see first-hand how it is being developed at key points in its development.**

Part C: Implementation

14 Final planning controls

The preceding chapters have focussed on the background to the Amendment and have provided an assessment of key issues. The Committee concludes the impacts of the Project can be appropriately managed, and that the Project will deliver net community benefit.

This chapter focusses specifically on the detail of the CDZ and CDP to make the specific changes to finalise the Amendment documentation. It does this by using Documents 155 (CDZ) and 150c (CDP) as its base.

14.1 Comprehensive Development Zone

As mentioned in Chapter 4, the CDZ has evolved significantly since exhibition of the Amendment. The form and structure of the control has been improved and the Committee is satisfied it is appropriate to be applied to the subject land. The Committee highlights there are some structural issues that need to be reconciled in the final form of the CDZ.

(i) Location of Site-wide Plans and Precinct Plans

The CDZ should operate similarly to a Development Plan Overlay, in that a plan (or series of plans) must be 'approved' by the responsible authority before a permit can issue.

Specifically, the desired outcome is that a series of Site-wide Plans and Precinct Concept Plans are to be prepared and approved by the responsible authority before a permit can issue. Subsequently, the use and development of land is to be generally in accordance with those Site-wide Plans and Precinct Concept Plans, and the CDP.

DELWP's response to the review of the final day controls (Document 138a) noted that the Ministerial Direction on the Form and Content of Planning Schemes does not allow the requirements proposed for Site-wide Plans and Precinct-wide Plans to appear in the Schedule before the Table of Uses. In response, DELWP suggested they be removed from the CDZ Schedule and be placed in a new Incorporated Document under the Specific Controls Overlay.

The Proponent submitted that rather than adopt DELWP's alternate approach, the Site-wide Plans and Precinct-wide Plans could be relocated in the CDZ to follow the Table of Uses (Document 150a). The Proponent circulated copies of CDZ Schedules from the Hume Planning Scheme that adopted this approach.

The Committee supports the repositioning of the Site-wide and Precinct-wide plans as proposed by the Proponent, as is reflected in the Proponent's final version of the CDZ3 Schedule (Document 155). The Committee considers removing them from the CDZ would be less than ideal and potentially cause significant confusion and a multiplicity of planning controls.

Therefore, the suggested introduction of the Specific Controls Overlay by DELWP is not supported. The Committee is reluctant to recommend the introduction of a new overlay for consideration at this very late stage of the process, with no opportunity to test this with any of the parties.

(ii) Drafting issues

A series of other drafting issues were identified by DELWP and many of these have been addressed in the revised CDZ3 (Document 155). The Committee has identified other issues, and these will need to be addressed prior to finalising the Amendment. These are summarised as follows:

Use of undefined and obsolete land uses

- the table of uses occasionally refers to undefined land use terms, for example, 'Gymnasium', 'Brewery' and 'Distillery'
- terms that are not defined in the planning scheme or legislation take their ordinary meanings as defined in the Macquarie Dictionary
- using a term that is new to the scheme creates uncertainty in interpretation which can in turn cause delays and dispute
- land use terms Backpackers' lodge, Boarding house, Hostel, Nurses' home, and Residential college were removed from the VPP in 2018 through VC152.

Other general edits for readability

- a thorough review of the schedule should be undertaken in accordance with the plain English guidance set out at section 6.1 of the *Practitioner's Guide to Victorian Planning Schemes*.

(iii) Conclusions and recommendations

The Committee remains convinced the CDZ is the appropriate statutory mechanism to deliver the CORA Project. Coupled with the CDP, it provides a clear and transparent statutory mechanism to ensure that what has been proposed, will be delivered. There can generally be no change to the CDZ or CDP unless it is by way of a further planning scheme amendment process.

Any permit sought must be 'generally in accordance' with the provisions of the CDP and the Committee accepts that this is the appropriate way to deal with permits. Not everything will be exactly as envisaged and there will no doubt be many minor modifications as the Project evolves. This is common practice in a large and complicated planning process and a degree of flexibility is important.

The Committee found the post Hearing advice from DELWP to introduce a new overlay and Incorporated Document not helpful in terms of timing. The Committee considers these matters should have been raised during the hearing process, especially through the opportunity provided to DELWP to make a closing submission and to comment on the final form of the Amendment, when the issues relating to the site-wide plans had been well ventilated and put forward by the Proponent. The other matters raised by DELWP, both of a planning and environmental focus have generally been picked up and included in the final recommended controls in Appendix E.

Council noted its support for the Amendment through its original submission, subject to drafting issues. As the Hearing progressed, it seemed that the list of issues of concern raised by Council grew and by the end of the Hearing, the Committee began to question whether Council did in fact support the Amendment. That said, many of the issues raised by Council in its final submissions and through Document 139 have been picked up by the Proponent in its final version of the CDZ3.

Council raised the issue of uncertainty about the Project, for example Paragraph 6 of Document 139:

Clauses 2.0 and 3.0 also allow a plan to be amended with the written consent of the responsible authority. This introduces another level of uncertainty into the process and threat to the objective of delivering an integrated development as it could lead to a different version of various plans informing different stages of the development.

The Committee accepts that comment and has recommended the addition of the words “*so long as it remains generally in accordance with the Plan*” at the end of the relevant part of Clauses 2.0 and 3.0.

Some submitters provided comments after the Hearing ostensibly about the CDZ and CDP, but most were further submissions about matters that had already been raised at the Hearing. The Committee reviewed these and where appropriate, it made some changes, particularly with regard to the CDP. One submitter raised the issue of defining short term accommodation and the Committee considers this warrants an inclusion in the Integrated Management Plan at Clause 2.0 to note that short term accommodation must be defined and managed accordingly.

The Committee recommends:

- 9. Review the Schedule to the Comprehensive Development Zone to ensure that:**
 - a) All land use terms are defined and accord with the Victoria Planning Provisions**
 - b) The schedule accords with the plain English guidance set out at section 6.1 of the *Practitioner’s Guide to Victorian Planning Schemes*.**

It may be appropriate that the CDZ is referred back to the Proponent to review the Schedule to consider Recommendation No 9 and provide its advice to DELWP before finalisation.

14.2 Comprehensive Development Plan

As mentioned in Chapter 4, the CDP has evolved significantly since exhibition of the Amendment. The form and structure of this Plan has markedly improved, and the Committee is satisfied it is appropriate to be applied to the subject land.

The Committee has recommended a number of changes to the CDP, specifically in relation to Section 3.1.4 – Conservation Precinct and Conservation Area, Section 3.2 Landscape, Section 3.4 Water and Section 3.5 Environment. The changes are explained and listed in the body of this report and consolidated in the Executive Summary. They are not repeated here.

As noted in Chapter 4.2, the exhibited C125 Explanatory Report and Instruction Sheet does not make it clear whether the CDP is to be an Incorporated Document in the Planning Scheme. The Explanatory Report and list of changes note the inclusion of the CDP as a Reference Document. The Proponent alerted the Committee and all parties on 20 December 2019 of its intention to update Clause 72.04 of the Planning Scheme to include the CDP as an Incorporated Document. No party to the hearing opposed this outcome. The Committee agrees and has recommended accordingly. This is an important outcome that will ensure that the CDZ and CDP are recognised and read as one control, and that neither can be amended without a planning scheme amendment.

Council raised a number of further issues in relation to the final version of the CDP, including (Document 139):

- lack of guidance in the CDP
- urban design principles not included
- detail about subdivision.

The CDP has evolved significantly over the hearing process and the Committee is satisfied that the final version, Document 150c, reflects the discussions and suggestions made by Council, submitters and the Committee. The Committee considers the CDP is appropriate to be referenced by the CDZ Schedule, subject to the further recommendations of the Committee in this report.

The Committee has reviewed the Guidelines in the CDP and considers most, if not all of the urban design guidelines now provided in Document 129 have been included as Guidelines in the CDP.

The Committee recognises the concerns raised by a number of submitters about the uncertainty of the CDP and whether ‘what is being sought will be delivered’. The CDP is a statutory planning control and will be incorporated into the Planning Scheme through this process, which means that it will not be able to be changed without a planning scheme amendment. All permits must be ‘generally in accordance’ with the CDP. The Committee considers that this will deliver a high degree of certainty in relation to the future use and development on the site.

Questions were raised about the role of the Objectives, Requirements and Guidelines. The Visions and Objectives must be complied with. The Requirements must be complied with to the satisfaction of the Responsible Authority. The Guidelines should be complied with, noting:

If the Responsible Authority is satisfied that an application for an alternative to a guidelines satisfies the vision, objectives or requirements of the CDP, then the Responsible Authority may consider an alternative. (Committee emphasis)

In considering an alternative to a Guideline, the application must still comply with the Vision, Objectives and Requirements. This should ensure that what is being sought will be delivered.

With regard to subdivision, the Committee has amended Clause 5.1 to note that a permit for subdivision must (rather than may) consider one of three criteria and it has included another Decision guideline to note that any subdivision must not compromise the overall intent of the Precinct.

15 Response to Terms of Reference

The Terms of Reference for the Committee require it to provide “an assessment of all planning matters relevant to the proposed CORA development” and “... advise the Minister for Planning on all relevant planning matters associated with the proposed Cape Otway Road Australia development Project including”:

- a. the strategic planning and planning policy context and merits
- b. the net community benefit of the Project
- c. the potential environmental impacts and environmental net gain
- d. any potential risks associated with the proposed sequencing of development
- e. the suitability of the site for the proposed development
- f. the suitability of the proposed planning controls

Table 4 summarises how and where in this report the various requirements of Terms of Reference have been addressed.

Table 4: Summary response Terms of Reference

Terms of Reference		Report chapter
Clause 28(a):		
Strategic planning and planning policy context and merits		3 and 4
Net community benefit		13
Potential environmental impacts and net environmental gain		6, 7, 8, 9, 11
Any potential risks associated with sequencing		4.2
Site suitability		4.3
Suitability of proposed planning controls		14
Clause 28(b) matters listed in Stage 1 Clause 17, section 12(2) of PEA		
12(2) (a)	Minister’s Directions	3.4 and 4
	(aa) Victorian Planning Provisions	3.1(ii) and r 4
	(ab) any Municipal Strategic Statement, Strategic Plan, policy statement, code or guideline which forms part of the scheme	3.2
(b)	significant environmental effects of the development or which the environment may have on the development	6, 7, 8, 9, 11
(c)	social and economic effects	5, 10, 12 and 13
Clause 28(b) Clause 29		
(a)	Provisions of the PEA and Surf Coast Planning Scheme including adopted	3 and 4

	plans, strategies or planning scheme amendments	
(b)	Views of the Proponent, and all relevant material prepared by or for the Proponent including any amended documentation and matters related to requirements under the <i>Environment Protection Act 1970</i> , the <i>Aboriginal Heritage Act 2006</i> and the <i>Environment Effects Act 1978</i>	3.5 and Part B Assessment in 4, 5, 6, 7, 8, 9, 01, 11, 12, 13
(c)	All relevant material provided to it by all participating parties	All
(d)	All submissions and evidence received	All

As outlined in Table 4, the preceding Chapters of this report have assessed the Project in accordance with the matters outlined in the Committee's Terms of Reference.

The balance of this Chapter brings these issues together and provides the overall summary of the Committee's key findings in response to these Terms of Reference.

15.1 Strategic planning and planning policy context and merits

The PPF and the G21 Regional Growth Plan anticipates and supports strong economic and population growth over the next 30 years within the Great Ocean Road region. Both the VPP and the G21 Regional Growth Plan broadly anticipate that specialised projects of this scale may arise.

While the Regional Growth Plan and policy do not specifically anticipate major new initiatives such as this Project, the planned growth in population in the region, required new investment and employment provides support for initiatives such as CORA to be considered. Further support is provided by Council's recently adopted *Rural Hinterland Futures Strategy* which generally identifies a tourism facility in the general site location. Further, the Project aligns with Futures Strategy policy objective to support tourism activities which complement the agricultural, landscape and environmental values of the Surf Coast Shire (Objective 4).

The Committee's assessment of planning policy concludes that the Amendment is supported by, and implements, the relevant sections of the PPF and MPS and is consistent with the relevant Ministerial Directions and Practice Notes.

The Amendment is well founded and strategically justified.

15.2 Net community benefit

The key communities likely to be impacted by the Project (both positively and negatively) include the immediate neighbours who are resident in Connies Lane, the local Modewarre/Moriac community, and the wider resident and business interests throughout the Surf Coast region, metropolitan Melbourne, Victoria and Australia.

The negative impacts of the Project associated with the changed condition of the rural setting, and amenity impacts, are localised impacts such as change of land use, impacts of

lighting and noise, most felt by the immediate neighbours in Connies Lane and to a lesser extent, the local Modewarre/Moriac community.

The positive impacts of the Project include an increase in tourism offer in the region, including quality and diverse accommodation opportunities, a range of employment opportunities, and a boost to the Surf Coast economy through the retail offer and wider economic benefits arising from increased tourism for the region, and the State of Victoria.

Overall, the Committee concludes the successful implementation of the Project will result in a net community benefit.

15.3 Potential environmental impacts and environmental net gain

The extent of vegetation removal has been minimised to a level that meets the Native Vegetation Guidelines without undermining the objectives of the Project. The site is constrained by the presence of the wetlands, Cape Otway Road setbacks and Connie's Lane residents which have been considered in the sighting of infrastructure on the site. The Project will provide net biodiversity benefits by removing livestock from the site, restoring wetlands habitat, creating offsets and replanting the site with locally indigenous vegetation.

The Project proposes to remove potential 'Good' quality GGF habitat to facilitate the development of a soccer field. It is the Committee's view that the precautionary approach should be taken, and the loss of this potential habitat be avoided. The Committee recommends the Masterplan be redesigned to retain GGF potential habitat.

The wetland environment is a significant site feature that makes the site attractive for development. The Committee considers that the Project should result in the wetlands being enhanced and protected. Given the wetland environment has been degraded over time by agricultural practices there is clear benefit in removing cattle grazing from the floodplain, restoring natural hydrology and revegetating for conservation purposes. Although a portion of the wetland will be used for the retail village and hotel, the pier construction methodology of buildings will minimise impact on the wetland and provide for unobstructed water flows that will result in a net benefit to the conditions of the wetland.

On balance, it is the considered opinion of the Committee that the CORA Project provides the opportunity to improve the ecological condition of the site and protect the wetland which will result in its restoration and overall improvement.

15.4 Potential risks with proposed sequencing

Potential risks with proposed sequencing were addressed by the Proponent through the inclusion of a requirement in the CDZ to prepare a site-wide Staging Plan to the satisfaction of the Responsible Authority. The Staging Plan is required to be prepared prior to the approval of any Precinct Plan. The Staging Plan requires the following to be shown:

- The proposed sequence of development across all precincts.
- Implementation of the Conservation Management Plan commencing no later than commencement of construction in the first stage of development and continuing in accordance with the terms of the Conservation Management Plan and any agreement securing its implementation.
- Provision of infrastructure for each stage of development in accordance with the Infrastructure Delivery Plan.

- Inclusion in the first stage of development of:
 - Completion of at least two sporting fields (AFL oval, soccer tablet or synthetic pitch) and 50% of the buildings labelled 'Elite Sports' on Figure 7: Elite Sports Precinct of the CDP.
 - Completion of the Hotel.
 - Completion of the main vehicle entry from Cape Otway Road (to its ultimate standard);
 - Provision of screening planting along the site's frontage to Cape Otway Road; and
 - Provision of screening planting along the eastern boundary of the Elite Sports Precinct where it abuts the Farm Precinct and extending to the north as shown on Figure 1 (Concept Master Plan) of the CDP.
- Inclusion, in the second stage of development, of completion of part or all of the Accommodation Precinct.

The Committee is satisfied the scope of the first stage of development achieves an appropriate balance between the delivery of the proposed elite sports elements of the Project, impact mitigation measures and commercial elements such as the hotel. Further, the Committee considers the requirement to prepare the Staging Plan to the satisfaction of the Responsible Authority minimises potential risks associated with the sequencing of development.

15.5 Suitability of the site for the proposed development

The Committee acknowledges that the implementation of the Project will have some localised impacts upon agricultural, landscape, environmental and community values. Having noted this, the Committee finds that the proposed layout and built form of the integrated development are generally well resolved and the proposed design, and planning approvals framework will mitigate local impact to an acceptable level. Overall, the Committee considers the subject site is suitable for the Project.

15.6 Suitability of the proposed planning controls

The Committee concludes the use of the CDZ and incorporation of the CORA CDP into the Surf Coast Planning Scheme as the primary form of planning controls for the site, along with existing Overlays remaining in place, is appropriate and is supported.

15.7 Draft Amendment C125

At the request of Council, the Minister is Planning Authority for this Amendment. At the commencement of the Hearing, the Committee asked Council whether the Minister or Council would be Responsible Authority going forward. Apart from acknowledging the question and Council commenting that it had not turned its mind to this, there was no discussion about this at the Hearing.

In its final submission post Hearing, Council noted at paragraph 7 (Document 139):

... one of the purposes of requesting the Minister for Planning become the planning authority for the Amendment, and in turn the appointment of the Advisory Committee, was to ensure that the Amendment and the reports that underpin it were assessed by suitably qualified experts in circumstances where Council did not have the requisite in-house expertise. Council

officers considers that the Part D documents undermine the purpose sought to be achieved by this process.

Based on the Part D documents, Council officers are of the view that it would be more appropriate for the Minister for Planning to be the relevant responsible authority.

The Committee makes no recommendation on this, but it observes that should the Minister consider it appropriate; this current Committee process could be maintained going forward and by letter of instruction, the Committee could assist with any further matters about the CORA Project as requested and directed by the Minister.

The Amendment was exhibited as a Draft Amendment, meaning it was not exhibited as a planning scheme amendment under Part 3, Division 1 the Act. Under normal circumstances if it was exhibited in that way, unresolved submissions would be referred to a Panel.

In this case, DELWP carried out the notification process and prepared a Public Notification Report, January 2020 (Document 31).

The Minister is the Planning Authority for this Amendment and for these reasons, the Committee concludes that if the recommendations of the Committee are accepted, the Minister can approve the Amendment under the provisions of sections 20(4) and (5) of the Act.

Appendix A Terms of Reference

Cape Otway Road Australia Development Advisory Committee

Advisory committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report on the proposed elite athlete training, accommodation, retail and tourism facility by COESR Pty Ltd at 1300-1320 Cape Otway Road, Modewarre

Name

The advisory committee is to be known as the 'Cape Otway Road Australia Development Advisory Committee' (CORADAC).

- 1 The CORADAC is to have members with the following skills:
 - a. Strategic and statutory planning
 - b. Economic, retail and tourism development feasibility
 - c. Environment (with knowledge of hydrology), biodiversity

The CORADAC may engage specialist advice as required.

Purpose

- 2 The purpose of the CORADAC is to advise the Minister for Planning on all relevant planning matters associated with the proposed Cape Otway Road Australia development proposal including:
 - a. the strategic planning and planning policy context and merits
 - b. the net community benefit of the project
 - c. the potential environmental impacts and net environmental gain
 - d. any potential risks associated with the proposed sequencing of the development
 - e. the suitability of the site for the proposed development
 - f. the suitability of the proposed planning controls.

Background

- 3 The 240-hectare Cape Otway Road, Modewarre site is located directly south of Lake Modewarre and consists of six rural lots.
- 4 The site is mainly within the Rural Conservation Zone and partly within the Farming Zone.
- 5 The proposal seeks to provide for elite athletes in a high-performance sports training facility, featuring a sports science, innovation and education hub, sports fields with four and five-star accommodation, including 37 eco-lodges and a 128-room hotel, wellness centre, retail village (1 830 m²) with fine and casual dining, art gallery (550 m²), sculpture park, farmers market venue, childcare centre, micro-brewery (1 425 m²), office (1 060 m² Fire Authority), 24 rural residential lots, 24 homestead lodges (some for staff accommodation) and a sewerage treatment plant.
- 6 The site currently includes a broiler farm in the south-eastern corner, and the remainder of the land is used for grazing around the existing ephemeral wetland located south of Lake Modewarre.
- 7 Lake Modewarre is a shallow crater lake managed by the Department of Environment, Land, Water and Planning (DELWP) for recreation purposes and is an important recreational fishery.
- 8 The site is located within the Great Ocean Road region 'interface area' i.e. outside the proposed study area for the Great Ocean Road Strategic Framework Plan.

- 9 The Surf Coast Shire Council (council) reviewed the proponent's draft planning scheme amendment documentation, technical reports and revised concept masterplan and precinct plans for the proposed project. Subsequently, the council requested that the Minister for Planning become the planning authority for the amendment as it considered it to be of regional, state and broader significance. The proponent COESR Pty Ltd has also requested the Minister to undertake the planning authority role.
- 10 On 15 October 2018, the Minister for Planning advised the council and the proponent that he had decided to refer the CORA proposal to an independent advisory committee.

Method

- 11 The CORADAC consideration of the proposal is expected to proceed in four stages.
- 12 The CORADAC may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit prior to submission of its final report to the Minister for Planning.
- 13 The CORADAC requires a quorum of two members, one of whom must be the Chair or the Deputy Chair, for any workshops, forums or hearings.

Stage 1 - Initial assessment

- 14 The CORADAC is to undertake an initial assessment of the material that has been prepared by the proponent.
- 15 The CORADAC is not expected to carry out public notification or conduct a public hearing during its Stage 1 initial assessment but may invite DELWP Planning or any other party, including those listed at Clause 21, to identify or address any matters through meetings, workshops or written comments.
- 16 As an outcome of this assessment, the CORADAC must consider whether there is sufficient strategic justification for the proposal to proceed as a draft Amendment to public exhibition.
- 17 If the CORADAC is satisfied that there is sufficient strategic justification for the proposal to proceed to public exhibition, it is to identify any omissions or critical information that it considers must be prepared before public exhibition of the proposal. This includes, but is not limited to, the information that is required to address those matters set out in section 12(2) of the *Planning and Environment Act 1987*.

Stage 2 - Exhibition

- 18 If the Minister for Planning is satisfied that there is sufficient strategic justification for the proposal to proceed to public exhibition, he may direct that the additional material identified by the CORADAC is provided. Public notice of the proposal, relevant background material and any associated amended planning controls must be given.
- 19 The proponent must either produce the additional material or advise that it no longer wishes to proceed with the proposal, within 30 business days of the date it receives the Stage 1 report unless an extension of time is approved by the Minister's delegate.
- 20 After the additional material required by the CORADAC is provided, DELWP Planning must liaise with the CORADAC to agree:
 - a. the scope of public exhibition
 - b. the public exhibition dates
 - c. the directions hearing date
 - d. the public hearing dates.The agreed dates are to be included on all notices.
- 21 The following agency parties will also be invited to make submissions and appear at the public hearing:
 - a. Surf Coast Shire Council
 - b. Department of Jobs, Precincts and Regions - Invest Assist

- c. Regional Development Victoria
 - d. Corangamite Catchment Management Authority
 - e. Sport and Recreation Victoria.
 - f. Tourism Victoria
 - g. Country Fire Authority
 - h. DELWP Environment
 - i. Environment Protection Authority
 - j. Wathaurung Aboriginal Corporation
 - k. Any other relevant parties as identified by the Committee, including local submitters.
- 22 All submissions are to be collected at the office of Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV'. Electronic copies of submissions will be provided to DELWP Planning, Surf Coast Shire Council and the proponent.
- 23 Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence on CORADAC matters.

Stage 3 - Public Hearing

- 24 Following exhibition, the CORADAC is expected to hold a directions hearing and a public hearing and provide all submitters with an opportunity to be heard.
- 25 The CORADAC may conduct workshops, forums or other meetings as necessary.
- 26 The CORADAC may limit the time of parties appearing before it and may prohibit or regulate cross-examination.

Stage 4 - Outcomes

- 27 The CORADAC must produce a written report for the Minister for Planning following its Stage 1 Initial Assessment. The report must include:
- a. an assessment of the material prepared by the proponent and a conclusion about whether there is sufficient strategic justification for the proposal to proceed to public exhibition,
 - b. a recommendation to the Minister for Planning on whether the proposal should proceed to public exhibition (Stage 2) and a public hearing (Stage 3), and
 - c. a description of any critical information which must be provided before the public exhibition of the proposal, where the CORADAC recommends the proposal proceeds to public exhibition.
- 28 Should the CORADAC proceed to a public hearing (Stage 3), after the conclusion of the public hearing, it must produce a written final report for the Minister for Planning which includes:
- a. an assessment of all planning matters relevant to the proposed CORA development, and
 - b. consideration of the matters listed under 'Stage 1 – Initial Assessment' and Clause 29.
- 29 The CORADAC may inform itself in any way it sees fit, but must consider all relevant matters including but not limited to:
- a. provisions of the *Planning and Environment Act 1987* and the Surf Coast Planning Scheme, including any adopted plans, strategies or planning scheme amendments,
 - b. the views of the proponent (COESR Pty Ltd), and all relevant material prepared by or for the proponent including any amended documentation and matters related to requirements under the *Environment Protection Act 1970*, the *Aboriginal Heritage Act 2006* and the *Environment Effects Act 1978*,
 - c. all relevant material provided to it by all participating parties, and
 - d. all submissions and evidence received.
- 30 Following the final submission and sign-off of the report, the CORADAC may deliver an oral briefing to DELWP Planning or the Minister.

Submissions are public documents

- 31 The CORADAC must retain a library of any written submissions or other supporting documentation provided to it directly to it until a decision has been made on its report or five years has passed from the time of its appointment.

Timing

- 32 The CORADAC is required to complete its Stage 1 report no later than 40 business days from the date that Panel Panels Victoria is formally notified of the appointment of CORADAC.
- 33 The CORADAC is required to submit its final report following Stage 3 no later than 40 business days from the final day of public hearings.

Fee

- 34 The fee for the CORADAC will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- 35 The costs of the CORADAC and any associated public consultation notification will be met by COESR Pty Ltd.


HON RICHARD WYNNE MP
Minister for Planning
Date: 17/3/19

Appendix B Submitters to the Amendment

No.	Submitter	No.	Submitter
1.	Julie Jagot	2.	Sam Hayden
3.	Shaun Keet	4.	Barwon Water
5.	Kylie Maugeri	6.	Maria Rahman
7.	Vladimir Kondratiev	8.	Carly Merlo
9.	Simon Hawkins	10.	Tom Houlihan
11.	Emma Stevens	12.	G21 – Geelong Region Alliance
13.	Wayne Carroll	14.	Phil Brett Avery
15.	Aleisja Henry	16.	Richard Shelton
17.	Jill Korevaar	18.	David Spedding
19.	Carrie Vanderpol	20.	Hugh Forbes
21.	Campbell Fraser /Natalie Verryckt	22.	Anne McKnight
23.	Rob Smith	24.	Dr Barbara Hindson
25.	Susan Butler	26.	Anthony Maugeri
27.	David Watson	28.	Geelong Pilates Studio
29.	Robert Bruce Cameron	30.	Paul Wilson
31.	Brett Andrew Lewis	32.	Australia China Business Council
33.	John Grigg	34.	Peter Brighton
35.	Lynelle stiles	36.	Caitlin Ovens
37.	Annette Stephens	38.	John Henderson
39.	Soudan Holdings Pty Ltd	40.	Swanson Surveying
41.	Peter Dolheguy	42.	Julie Jagot
43.	Pete Bradley	44.	Greg and Maureen McInerney
45.	Dr Mary-Jane Walker	46.	Barwon Sports Academy
47.	Lynette Batson	48.	Carole Ann O'Neill
49.	Patrick Lambert	50.	James Povey
51.	Philip Lang	52.	Ashley Lochhead
53.	<i>Not allocated</i>	54.	Brigitte Hutchens
55.	Daniel Kuster	56.	Belinda Langler
57.	Louise McInerney	58.	Kim Blasdel
59.	Matt Francis	60.	Brett Wiltshire
61.	John Stubbings	62.	Ken Roberts
63.	Geelong Environment Council Inc	64.	Adam Jaques
65.	Lancemore Group	66.	Madeline Pearce
67.	Nick Clements	68.	Pamas Property Pty Ltd

69. Gareth Bellchambers	70. Fiona Jean Cumming
71. Francis Austin Swain	72. Steve Tillinger
73. Modewarre Cricket Club	74. Julie Ann and Mervyn Barry Stephenson
75. Lee Ogden	76. James Rigoni
77. Zeally Bay Sourdough	78. Lindsay Isobel Hendry
79. Mark Fox	80. Virginia Anscombe
81. Barry Fagg	82. Nicole Marshall
83. Kerry Timmins	84. Trevor Flannery
85. Mark Reeves	86. Ann Bullen
87. Karen Tayler	88. Pete Buckland
89. Janet Brown	90. Rebecca Anne Lofts
91. Great Southern Touring Route	92. Australian Tourism Export Council
93. John Maxwell	94. Gayle Maxwell
95. Geelong Lawn Tennis Club and Nautilus Fitness	96. Luke Keane
97. Elizabeth Wilson	98. Nathan Sayers
99. Dale Whitford	100. Cheryl Ann Dixon
101. Con Christophers	102. Steve Sweeney
103. Chris Howe	104. Amanda Miller
105. Kirra Fitzgerald	106. Alexander Frabotta
107. Katja Nedoluha	108. Gavin Michael Houlihan
109. Kerrie Emmett	110. Epworth Geelong Hospital
111. Pro Scout International	112. Winchelsea Football Netball Club
113. Dunview Pty Ltd	114. Ann Thomson
115. Andrea Newton	116. Great Ocean Road Regional Tourism
117. Heather Peillon	118. Valerie Ratcliff
119. Michelle Warren	120. Jack Houlihan
121. Julia Menzies	122. Paula Jones
123. Hanna El Mouallem	124. Lockie Scicluna
125. Ann-Louise Eaton	126. Felicia Mariani (VTIC)
127. Department of Transport	128. Cameron McDonald
129. Lee Ann Lee	130. Yestin Griffiths
131. Murray Baker	132. Jason Smith
133. Stuart Whitehead	134. Paul Adkin
135. John Olliff	136. Jim Fennell
137. Julia Earle	138. Tristan Green Landscapes Pty Ltd
139. Robyn Shakespeare	140. Leanne Prestipino

141. Andrew Price	142. Alexandra Pix
143. Harold Price	144. Chris Nation
145. Surf Coast Hinterland Group Incorporated	146. Michael and Ann Sayers
147. Peter Fogarty	148. Meg Joan Houlihan
149. Lisa Cain	150. Ken Hole
151. Benjamin Joel McKenzie	152. Emily Nation
153. Steve Drummond	154. Geelong Region Olives
155. Vaia Allen	156. Heather MacFarlane
157. Gary Hourticolon	158. Grant Linley
159. Tobias Davidson	160. Robert Bullen
161. Andrew Siemek	162. Felix Koutsoukis
163. <i>Duplicate</i>	164. Dr David McKinna
165. Vanessa Stiles	166. Carl W Tracey
167. Claire Cameron Darby	168. Integrity Governance
169. Field and Game Australia Geelong Branch	170. Alexandra O'Dea
171. Alistair Guss	172. Surfcoast Honey
173. <i>Duplicate</i>	174. James Robert Coulson
175. StratHouse	176. Angela Fennell
177. Paul Kleijn	178. Kenneth Charles MacLeod
179. Callum Fairnie	180. Louise Ellis
181. John O'Brien	182. Megan Budd
183. Ellie Houlihan	184. ILINC Construction
185. Lance Michael Houlihan	186. A. Elzahbi
187. A.Kansowa	188. Cheryl Nagel
189. Shelley Drysdale	190. Corangamite Catchment Management Authority
191. Christine Manos	192. Shane Edward Jacobsen
193. Ivan Krmelic	194. Grain Storage Solutions
195. Lachlan James Samuel Rose	196. Christian Turner
197. Ian McKinnon	198. Jan Calaby
199. Enza Prestipino	200. Barry Mulholland
201. Maree Dyson	202. Hilary River
203. Carolyn Jane Houlihan	204. David Prestipino
205. Darren Noyes-Brown	206. Gina Rose
207. John David Rose	208. Nicholas Bernard Callinan AO
209. Barney Buoy	210. Department of Environment, Land, Water

			and Planning
211.	Nick Vanagtmaal	212.	Peter Tobias
213.	Jodie Oliver	214.	Geoff Clark
215.	Darren Gibbons	216.	Marie Gorman
217.	Margaret Joan Mason	218.	Chris Lowrey
219.	Camille Bennett	220.	Raelene Craven
221.	Jillian Anne Kvant	222.	Estelle Blowes
223.	Robert Kvant	224.	Ryan Sichter
225.	Wayne Tobin	226.	Wayne Robert Milthorpe
227.	Ryan Tracey	228.	Rowan Birch
229.	Talia Lombardo	230.	Lachlan Staines
231.	Lachlan Grant Elliott	232.	Kate Hill
233.	Rebecca Spedding	234.	Tony Overman
235.	Maree Chambers	236.	Greg McKnight
237.	Gael Dixon	238.	Tony Cuskelly
239.	Robyn Tennant	240.	Justin Michael McInerney
241.	Andrea Batson	242.	Helen Treuel
243.	Zac Cole	244.	Swami Samadhijyoti Saraswati
245.	Michael McCallum	246.	Michael Tong
247.	Phillip Kayler-Taylor	248.	Environment Protection Authority
249.	Jennifer Garlick		

Appendix C Appearances at the Hearing

Submitter	Represented by
COESR Pty Ltd (the Proponent)	<p>Emily Porter and Alexandra Guild of Counsel, instructed by Mark Naughton and Rob McKendrick of Planning and Property Partners and Simon Loader of Tract Consultants, who called expert evidence on:</p> <ul style="list-style-type: none"> - economics by Matt Ainsaar of Urban Enterprise - town planning by Rob Milner of David Lock Associates - integrated water management by Warwick Bishop of Water Technology - hydrogeology by Andrew Telfer of Water Technology - ecology and biodiversity by Brett Lane of Nature Advisory - landscape and visual impact by Craig Czarny of Hansen Partnership - traffic engineering by Jason Walsh of Traffix Group - lighting by Richard Dluzniak of Richard Dluzniak Consulting - social impact by Judith Stubbs of Judith Stubbs and Associates - town planning from Andrew Biacsi of Contour Consultants <p>Submissions were made on:</p> <ul style="list-style-type: none"> - video presentation by MediaCom and ProLeisure (Documents 47 and 48) - site layout and built form by Peter Williams of Williams Boag Architects (Document 49)
DELWP	Mark Gregory and Geoff Brooks
Surf Coast Shire Council	Kim Piskuric of Harwood Andrews with Karen Hose and Michelle Warren from Council
Department of Transport	Josef Vass
Corangamite Catchment Management Authority	Geoff Taylor
Country Fire Authority	Anne Coxon
Pamas Property Pty Ltd	<p>Chris Marshall of TGM, called expert evidence on:</p> <ul style="list-style-type: none"> - engineering from Leigh Prosser of CardnoTGM
Great Ocean Road Regional Tourism	Liz Price
Australia China Business Council	Barry White
Surfcoast Honey	Tony McNamara
Geelong Environment Council Inc	Jan Calaby
Surf Coast Hinterland Group	Leanne Prestipino
Field and Game Australia, Geelong Branch	Trent Leen
Peter Brighton	
John Rose	
Francis Swain	

Heather Macfarlane	
Andrew Price	
Harold Price	
Peter Fogarty	
Swami Saraswati	
Carolyn Houlihan	
Lance Houlihan	
Meg Houlihan	Lance Houlihan
Tom Houlihan	Lance Houlihan
Jack Houlihan	
Luke Keane	
Robert Bullen	
Steve Sweeney	
Paul Wilson	
Fiona Cumming	
Ann Bullen	
Elizabeth Wilson	
Emily Nation	
Shane Jacobsen and Melissa Tinney	

Appendix D Document list

No.	Date	Description	Presented by
1	02/06/19	Correspondence to Proponent advising of Stage 1 outcome	Minister for Planning
2	22/07/19	Correspondence to Proponent granting extension to respond to Stage 1 outcome	Ms Homewood, DELWP
3	13/09/19	a) Correspondence to Proponent granting further extension to respond to Stage 1 outcome b) Correspondence from Tract to DELWP – response to CORADAC Stage 1 Report Recommendations (20 September 2019)	Ms Homewood
4	2/12/19	Hearing Notification Letter	Ms Mitchell, Committee Chair
5	11/12/19	Confirmation of Expert Witnesses	Mr Naughton, Planning and Property Partners for CORA
6	12/12/19	Correspondence from CFA	Ms Croxton, CFA
7	17/12/19	Committee Directions Letter and Timetable (v1)	Ms Mitchell
8	18/12/19	Council response to Direction 10 – outline of relevant strategic planning work	Ms Piskuric, Harwood Andrews for Council
9	19/12/19	Council further response to Direction 10 a) Hinterland Futures Strategy (May 2019) b) Moriac Structure Plan (2010)	“
10	20/12/19	a) Statement of Clarification b) Attachment 1 (Tables 1 and 2; Project elements and Comparison with EV Business Case) c) Memorandum from Tract consultants (19 December 2019)	Mr Naughton
11	“	Proponent response to Direction 1, draft site inspection route	Mr McKendrick, Planning and Property Partners
12	20/01/20	Council response to Direction 2 and 3	Ms Piskuric
13	“	Pamas Properties response to Direction 2 and 3	Mr Marshall of Cardno TGM
14	23/01/20	Letter to PPV	Mr McKendrick
15	“	Part A Submission	“
16	“	Evidence statement - Matt Ainsaar	“
17	“	Evidence statement - Warwick Bishop	“
18	“	Evidence statement – Craig Czarny	“
19	“	Sports Lighting Assessment - Richard Dluzniak	“

No.	Date	Description	Presented by
20	"	Evidence statement - Richard Dluzniak	"
21	"	Curriculum Vitae - Richard Dluzniak	"
22	"	Evidence statement - Brett Lane	"
23	"	Evidence statement - Dr Judith Stubbs	"
24	"	Appendix B – Demographic Indicators	"
25	"	Curriculum Vitae - Dr Judith Stubbs	"
26	"	Evidence statement - Darren Tardio	"
27	"	Evidence statement - Andrew Telfer	"
28	"	Landscape and Visual Impact Assessment - Tract Consulting	"
29	"	Appendix 1 - Landscape Masterplan - Tract Consulting	"
30	"	Evidence statement - Jason Walsh	"
31	"	Public Notification Report	Mr Gregory, DELWP
32	24/01/20	Evidence statement – Rob Milner	Mr McKendrick
33	"	Evidence statement – Andrew Biacsi	"
34	"	Evidence statement – Leigh Prossor	Mr Marshall
35	29/01/20	Revised Hearing Timetable (version 2)	Ms Harwood, PPV
36	30/1/20	Comprehensive Development Zone Schedule 3 – Day 1 Version	Mr McKendrick
37	"	Comprehensive Development Plan	"
38	"	Summary of Comprehensive Development Plan changes	"
39	"	Mr Biacsi recommended changes to CDZ schedule	
40	"	Site Inspection Itinerary	"
41	3/2/2020	CDZ3 Tracked Changes	Ms Porter of Counsel
42	"	Concept Masterplan A3	"
43	"	Memo Re: Irrigation Buffer by OutTask Environmental	"
44	"	Submission on behalf of DELWP	Mr Gregory
45	"	Submission by DELWP – Environment Portfolio	Mr Brooks, DELWP
46	"	Part B Submissions on behalf of COESR Pty Ltd	Ms Porter
47	"	Video Presentation - MediaCom and Proleisure	"
48	"	MediaCom Slide Presentation	"
49	"	CORA Overview Presentation – William Boag Architects	Mr Williams
50	4/02/20	Memo Re Treatment of Bushfire Defendable Space	Ms Porter
51	"	A3 Plans re Land Fill	"

No.	Date	Description	Presented by
52	“	Corangamite CMA Submission	Dr Taylor
53	5/02/20	Aerial Photo showing Hinterland Estate and 865 Hendy Main Road	Mr Marshall
54	“	Native Vegetation Removal Report	Ms Porter
55	“	A1 Plan SK01 – SK11 Sections	“
56	6/2/20	CV of Mr Telfer	Ms Porter
57	“	Aerial Image of Cape Otway Road	Ms Bullen
58	“	AustRoad Turning Circle Diagram	“
59	“	Road side utility poles Design Note	“
60	“	Route Assessment for 14.5 metre buses	“
61	“	Slide Presentation of Mr Czarny	Ms Porter
62	“	Revised Page 20 of Mr Walsh evidence – substitute pages	“
63	“	Revised Appendix C of Mr Walsh evidence – substitute pages	“
64	7/2/20	Email Re: Commercial Vehicle Traffic Count	“
65	“	Submission on behalf of Pamas Property Pty Ltd	Mr Marshall
66	“	Email from Rhys Bennett to Cardno TGM	“
67	“	Plan showing Barwon Water Easement/Reserve	“
68	“	A3 Radius Plan	Ms Porter
69	“	Understanding High Performance Sport in Australia	“
70	10/2/20	Concept Plan overlayed on Aerial	“
71		Existing Planning Permit (05/0653F)	Ms Piskuric
72		Title Search	“
73		Land Management Plan for 1320 Cape Otway Road	“
74		Slide Presentation – Dr Stubbs	Dr Stubbs
75		Memo from Mr Tardio responding to submitter questions	Ms Porter
76		Closing Submission on Behalf of COESR Pty Ltd	“
77	“	Memo from Terramatrix re retention in situ of grass in wetland	“
78	“	Email from Mr Ralphs Re EES Referral	Mr Gregory
79	“	Correspondence with Barwon Water	Ms Mitchell
80	“	Email re Climate Change Date	Mr McKendrick
81	11/02/20	Submission on behalf of Surf Coast Shire Council	Ms Piskuric
82	“	Attachment 1 to Council Submission – Proposed Changes to Schedule 1 to CDZ	“

No.	Date	Description	Presented by
83	“	Attachment 2 to Council Submission – Proposed Changes to Day 1 CDP	“
84	“	Department of Transport Slide Presentation	Mr Vass
85	“	CFA Presentation	Ms Coxon
86	“	Great Ocean Road Regional Tourism Presentation	Ms Price
87	“	Australia China Business Council presentation notes	Mr White
88	“	Presentation notes	Mr Rose
89	12/02/20	Letter of support – Modewarre Cricket Club	Ms Porter
90	“	Letter of support – Winchelsea Football and Netball Club	“
91	“	Letter from ‘Give Where You Live Foundation’	“
92	“	Surf Coast Hinterland Group submission to EPBC referral	Ms Prestipino
93	“	Presentation Notes by Surf Coast Hinterland Group	“
94	“	Slide Show by Field and Game Australia	Mr Leen
95	“	Photomontages and Written Notes	Ms MacFarlane
96	“	Submission Notes	Ms Saraswati
97	“	Letter by Piper Alderman	Ms Houlihan
98	“	Surf Coast Times Article (13 December 2017)	Mr Fogarty
99	“	Speaking notes	Mr Swain
100	“	Speaking notes	Mr Bullen
101	“	Part C CDP with new plans	Ms Porter
102	“	Part C CDZ3 Clean skin with comments	“
103	“	Part C CDZ3 Tracked	“
104	“	Part C Additional Plans	“
105	“	Supporting Documents to Houlihan Submissions (Email 12 February)	Mr Houlihan
106	13/02/20	Mr Walsh Memo	“
107	“	Power point presentation	Mr Sweeney
108	“	Submission Documentation	Mr Wilson
109	“	A4 sheet of slides	Ms Cumming
110	“	Submission	Ms Wilson
111	“	Growling Grass Frog Recording Letter	“
112	“	Growling Grass Frog photos and videos	“
113	“	Submission notes	Ms Bullen
114	“	Attachments to submission of Ms Bullen	“

No.	Date	Description	Presented by
115	"	Geelong Environment Council submission	Ms Calaby
116	"	Slide Presentation	Ms Nation
117	"	Video and Audio Recordings of Growling Grass Frog	"
118	"	Speaking notes	Mr Jacobsen
119	"	Slide Presentation	Ms Tinney
120	"	Draft Guidelines for Precinct, 13 February 2020	Ms Porter
121	"	Closing Submission on behalf of Surf Coast Shire	Ms Piskuric
122	"	Correspondence to the Chair via Email	Mr Houlihan
123	"	Memo from Mr Ainsaar	Ms Porter
124	"	Letter from OutTask Environmental	"
125	"	Dr Stubbs response to guide for Expert Witnesses	"
126	"	Part D Submission on behalf of COESR Pty Ltd	"
127	"	Letter from Mr Lane regarding Growling Grass Frog	"
128	"	Ownership Plan	"
129	"	Revised Design Guidelines	"
POST FINAL HEARING DATE OF 14 FEBRUARY 2020			
130	18/03/20	Final Version of CDP – 14 Feb 2020	Mr McKendrick
131	"	Part D CDZ3 Tracked over Document 102	"
132	"	Part D CDZ Tracked over Document 103	"
133	19/02/20	Post Hearing Directions	Ms Mitchell
134	24/02/20	Geelong Environment Council submission	Ms Lindros
135	26/02/20	Correspondence advising of grant of extension for response to Further Panel Directions	Ms Harwood
136	27/02/20	Response to Post Hearing Directions	Ms Prestipino
137	"	Correspondence advising of timing to respond to further Direction	Mr McKendrick
138	28/02/20	a) Response to Post Hearing Directions b) DELWP Incorporated Document under Specific Controls Overlay	Mr Gregory
139	"	Response to Post Hearing Directions	Ms Piskuric
140	02/03/20	Response to Post Hearing Directions	Mr Jacobsen
141	"	Response to Post Hearing Directions	Mr Marshall
142	"	Response to Post Hearing Directions	Mr Houlihan
143	"	Response to Post Hearing Directions	Mr Rose

No.	Date	Description	Presented by
144	“	Response to further Directions	Mr Brooks
145	“	GGF habitat guidelines	“
146		Response to Post Hearing Directions	Ms Tinney
147	“	Response to Post Hearing Directions	Mr and Ms Wilson
148	“	Response to Post Hearing Directions	Ms McFarlane
149	“	Further Direction	Ms Mitchell
150	10/03/20	a) Proponent response to Post Hearing Directions – Drafting matters b) Final Comprehensive Development Zone c) Final Comprehensive Development Plan d) Hume Planning Scheme Clause 37.0 Schedule 2 e) Hume Planning Scheme Clause 37.02 Schedule 4	Mr McKendrick
151	11/03/20	Request for extension re Direction 4	Mr McKendrick
152	“	Email chain accepting request for extension	Ms Harwood
153	13/03/20	Letter to Mr McKendrick	Mr Lane
154	“	Letter to PPV – GGF update	Mr McKendrick
155	“	Final Comprehensive Development Zone	“
156	19/03/20	Hearing Close email	Ms Mitchell

Appendix E Panel preferred version of Schedule 3 to the Comprehensive Development Zone

Tracked Added

~~Tracked Deleted~~

Note: Changes are tracked against Document 155, the final version of Schedule 3 to the Comprehensive Development Zone, submitted by the Proponent on 13 March 2020.

--/20--
C--

SCHEDULE 3 TO CLAUSE 37.02 COMPREHENSIVE DEVELOPMENT ZONE

Shown on the planning scheme map as **CDZ3**.

CAPE OTWAY ROAD AUSTRALIA (CORA)

Land

This schedule applies to land at and around 1300 Cape Otway Road, Modewarre as identified in Map 1 'Cora Concept & Precinct Plan' and as shown in the *Cape Otway Road Australia Comprehensive Development Plan (CDP)*.

The precincts referred to in this Schedule are identified on Map 1 to this schedule.

Purpose

To facilitate an integrated global sports, tourism and accommodation development including training facilities, a sport science hub, various accommodation types as well as an integrated retail and tourism precinct.

To encourage sustainable land management practices and infrastructure provision.

To protect the scenic landscape character of the Lake Modewarre and Cape Otway Road environs, including specifically through the Conservation Precinct.

To facilitate the orderly development of the land to achieve an integrated development outcome that does not unreasonably impact surrounding land, including residential properties on Connies Lane.

To provide for the use and development of the land generally in accordance with the CDP.

1.0

Table of uses

Section 1 - Permit not required

Use	Condition
Art gallery	<p>Must be located in the Retail and Tourism Precinct.</p> <p>Must not accommodate more than 150 patrons within the Precinct.</p>
Bar	<p>Must be located in the Retail and Tourism Precinct and must be associated with a Brewery and/or Distillery.</p> <p>Must not include provision of accommodation.</p> <p>Must not include amusement machines or gaming.</p> <p>The total floor area must not exceed 425 square metres within the Precinct.</p>
Caretaker's house	<p>Must be located in the Farm Precinct.</p> <p>Must be no more than 1 Caretaker's house within the Precinct.</p>
Childcare centre	<p>Must be located in the Retail and Tourism Precinct.</p> <p>Must provide no more than 90 places within the Precinct.</p>
Dwelling	<p>Must be a dwelling existing on the land at the date of</p>

SURF COAST PLANNING SCHEME

	approval of Amendment C125.
Food and drink premises (other than Restaurant, Hotel& Bar)	Must be located in the Retail and Tourism Precinct. The total floor area must not exceed 610 square metres of leasable floor area within the Precinct.
Group accommodation	Must be located in the Accommodation Precinct. Must include no more than 61 dwellings within the Precinct.
Horticulture	Must not involve aerial application. Must be located in the Farm Precinct.
Indoor recreation facility	Must be located in the Elite Sports Precinct The total floor area of the Gymnasium must not exceed 975 square metres of leasable floor area.
Industry (other than Research and development centre)	Must be located in the Retail and Tourism Precinct. Must only be for a Brewery and/or Distillery that does not exceed 1000 square metres of net floor area.
Leisure and recreation (other than Indoor recreation facility, Major sports and recreation facility, Motor racing track, Golf course, Golf driving range, Amusement park and Zoo)	Must be located in the Elite Sports Precinct or the Retail and Tourism Precinct.
Market	Must be located in the Retail and Tourism Precinct.
Medical Centre	Must be located in the Elite Sports Precinct. Must not include more than 12 practitioners within the Precinct.
Office (other than Bank, Electoral office, Medical Centre, Real estate agency and Travel agency)	Must be located in the Retail and Tourism Precinct or the Elite Sports Precinct. The total floor area for office in the Retail and Tourism Precinct must not exceed 200 square metres within the Precinct. The total floor area for office in the Elite Sports Precinct must not exceed 860 square metres within the Precinct.
Primary produce sales	Must be located in the Retail and Tourism Precinct.
Residential building (other than Backpackers' lodge, Boarding house, Hostel, Nurses' home, Residential aged care facility, Residential college and Residential hotel)	Must be located in the Elite Sports Precinct. Must provide for no more than 28 rooms and must be used only for staff accommodation.
Residential hotel	Must be located in the Retail and Tourism. Precinct. Must provide for no more than 128 bedrooms. Must not include the sale of liquor for consumption off the premises.
Restaurant	Must be located within the Retail and Tourism Precinct. The total floor area must not exceed 590 square metres within the Precinct.
Shop (other than Adult sex product shop, Beauty salon, Bottle shop, Convenience shop, Dry cleaning agent, Department	Must be located in the Retail and Tourism Precinct. The total floor area must not exceed 1,220 square

store, Hairdresser, Laundromat, Restricted retail premises & Supermarket)	metres of leasable floor area.
Utility installation	Telecommunications facilities must meet the requirements of Clause 52.19.
Warehouse (other than Commercial display area, Fuel depot, Mail centre and Milk depot)	Must be located in the Retail and Tourism Precinct. Floor area must not exceed 450 square metres of leasable floor area within the Precinct.
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Agriculture (other than Animal husbandry, Animal training, Apiculture and Horticulture)	Must be located in the Farm Precinct.
Cinema	Must be located in the Retail and Tourism Precinct. Must be associated with a use identified in the CDP.
Conference centre	
Manufacturing sales	Must be located in the Retail and Tourism Precinct.
Place of assembly (other than Art Gallery, Amusement parlour, Carnival, Cinema, Cinema-based entertainment facility, Circus, Night club and Place of worship)	Must be located in the Retail and Tourism Precinct or the Elite Sports Precinct. Must be associated with a use identified in the CDP.
Renewable energy facility	Must meet the requirements of Clause 52.32 or Clause 53.13.
Research and development centre	Must be located in the Elite Sports Precinct. The total floor area must not exceed 8,745 square metres within the Precinct.
Restricted recreation facility	Must not include gaming.
Rural industry (other than Abattoir and Sawmill)	Must be located in the Farm Precinct.
Rural store	Must be located in the Farm Precinct.
Store (other than Boat and caravan storage, Freezing and cool storage, Shipping contained storage & Vehicle store)	Must be located in the Elite Sports Precinct. Must be associated with a use identified in the CDP.
Tertiary institution	Must be located in the Elite Sports Precinct. Must be associated with a use identified in the CDP.
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use

Abattoir	Motor racing track
Accommodation (other than Caretakers House, Dwelling, Group Accommodation, Residential Hotel and Residential Building)	
Adult sex product shop	Motor vehicle, boat or caravan sales
Animal husbandry	Real estate agency
Animal training	Residential age care facility
Boat and caravan storage	Saleyard
Brothel	Sawmill
Cemetery	Service station
Crematorium	Shipping container storage
Department store	Supermarket
Dwelling – if the Section 1 condition is not met	
Electoral office	Tramway
Freeway service centre	Trade supplies
Freezing and cool storage	Transport terminal
Fuel depot	Travel agency
Funeral parlour	Vehicle store
Leisure and recreation – if the Section 1 condition is not met	Veterinary centre
Market – if the Section 1 condition is not met	
Primary Produce Sales – if the Section 1 condition is not met	

2.0 Site-wide Plans

Prior to the approval of any Precinct Concept Plan for the site under clause 3.0, the following plans must be prepared to the satisfaction of the responsible authority:

- A **Conservation Management Plan** for all areas within the conservation area as shown on Figure 14 of the CDP. The plan must be prepared in consultation with the Department of Environment, Land, Water and Planning. The plan must:
 - Identify the final boundaries of sub-precincts within the conservation area, including the proposed offset area and a passive recreation area;
 - Identify the DELWP-mapped wetland area that is proposed for retention;
 - Specify, for each sub-precinct, the conservation actions required (including removal of grazing) and timing;
 - Provide for restoration of wetland ecological condition.
 - Identify the person responsible for actions of the CMP.
 - Be structured to support both construction and operational phases of the development.
 - Consider any issues related to bushfire planning;
 - Specify public access arrangements, including:
 - No public access to the wetland area; and
 - Provision of passive recreation opportunities in areas outside the wetland area.

- A **Growling Grass Frog Management Plan** for the entire site prepared in accordance with the *Growling Grass Frog Habitat Design Standards – Melbourne Strategic Assessment* (DELWP 2017) (or any superseding guidelines). The plan must:
 - Design a drainage scheme for the development that considers the need to provide hydraulic connection during periods of waterway flow between known GGF habitats to the south east and potential GGF habitats on the site;
 - Ensure that the removal of any artificial waterbody is replaced with at least an equivalent number and extent of waterbodies designed and vegetated in a manner that provides equivalent (hydroperiod, depth, vegetation) future potential habitat for the GGF (i.e. no net loss in the extent and nature of potential habitat on the site);
 - Where a priority habitat link between potential or planned artificial habitats exists, ensure small waterbodies are provided as ‘stepping’ stones’ every 200 to 300 metres to facilitate movement of the GGF after high flows have receded.
- An **Infrastructure Delivery Plan** for the entire site. The plan must show the location, type, staging and timing of infrastructure on the land as identified in the CDP or as reasonably required as a result of the development of the land. The plan must address the following:
 - Stormwater drainage and water quality works;
 - Site services, including the provision of potable water supply;
 - Provision for the on-site capture and treatment of wastewater including delivery of the wastewater treatment plant;
 - Measures to prevent nutrients and sediments entering waterways, the lake and wetlands, and to slow the rate of runoff;
 - A detailed maintenance plan and monitoring schedule for all on-site water assets, including the wastewater treatment plan, that demonstrates how all such assets will be managed, monitored and maintained;
 - Road works internal or external to the land and details of the mechanisms to ensure their delivery;
 - The effects of the provision of infrastructure on the land or any other land;
 - The reserving or encumbrance of land for infrastructure, including public open space and community facilities;
 - The person responsible for all infrastructure identified in the plan;
 - Identify design opportunities in relation to creating Growling Grass Frog habitat in constructing new stormwater infrastructure and modifying existing water features, informed by DELWP and other guidance; and
 - Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.
- A **Landscape Masterplan** for the entire site that includes:
 - Species proposed for planting and the location of proposed improvements;
 - The extensive use of local indigenous plant species and canopy shade trees in public spaces where appropriate;
 - An explanation of how publicly accessible areas will be made clearly visible and identifiable and how their design will generally accord with Crime Prevention Through Environmental Design (CPTED) principles.
 - Shared paths.
- A **Groundwater Monitoring & Management Plan**. The plan must include:
 - Augmentation of the groundwater monitoring network adjacent to Lake Modewarre;
 - Baseline groundwater data (level, salinity and nutrients);
 - Baseline surface water data from the wetlands (level, salinity and nutrients);

- Assessment and documentation of pre-development groundwater gradients, subsurface materials and groundwater quality, and extent of groundwater interactions between groundwater, the wetland and Lake Modewarre; and
- A groundwater and wetland monitoring regime for five years following completion of development.
- Measures to respond to changes in groundwater levels, salinity or nutrients.
- **A Staging Plan.** The plan must show:
 - The proposed sequence of development across all precincts.
 - Implementation of the Conservation Management Plan commencing no later than commencement of construction in the first stage of development and continuing in accordance with the terms of the Conservation Management Plan and any agreement securing its implementation.
 - Provision of infrastructure for each stage of development in accordance with the Infrastructure Delivery Plan.
 - Inclusion in the first stage of development of:
 - Completion of at least two sporting fields (AFL oval, soccer tablet or synthetic pitch) and 50% of the buildings labelled 'Elite Sports' on Figure 7: Elite Sports Precinct of the CDP.
 - Completion of the Hotel.
 - Completion of the main vehicle entry from Cape Otway Road (to its ultimate standard);
 - Provision of screening planting along the site's frontage to Cape Otway Road; and
 - Provision of screening planting along the eastern boundary of the Elite Sports Precinct where it abuts the Farm Precinct and extending to the north as shown on Figure 1 (Concept Master Plan) of the CDP.
 - Inclusion, in the second stage of development, of completion of part or all of the Accommodation Precinct.
- **A Community Access [and Engagement](#) Strategy**, which outlines:
 - Areas of the land and/or buildings accessible to the public and/or community groups;
 - Any limitations on such access having regard to the purpose and operations of the use of the land, conservation management or other infrastructure or servicing requirements applying to the land. There may be no public or community access to the southern AFL oval and the soccer tablet shown on Figure 7: Elite Sports Precinct in the CDP;
 - Any groups that will have priority access where there are competing demands; **and**
 - Details of security measures on the site after hours;
 - [A schedule of information sessions for the local community at appropriate times as the Project evolves;](#)
 - [The conduct of one-on-one discussions with residents of Connies Lane prior to completion of plans and strategies as set out in Clauses 2.0 and 6.2;](#)
 - [Opportunities for local residents to visit the site and see first-hand how it is being developed at key points in its development; and](#)
 - [The mechanism to provide the opportunity for residents abutting high visual impact sites \(M002, M006, M007 & M013\) to be consulted regarding proposed mitigation measures.](#)
- An **Integrated Management Plan** that describes how the components of the CORA facility will be [managed and](#) operated in an integrated manner, including in the event of subdivision. [It must provide details about how the accommodation is to be used and by whom and it must define terms such as 'short-term'.](#)

- A **Road Network and Traffic Management Plan** that:
 - Incorporates car, bus and long vehicle parking;
 - Includes concept designs for all new or upgraded intersections;
 - Includes an internal road and pedestrian/cyclist movement network that provides a high level of access and connectivity both within and to and from the site;
 - Defines the cross-sections (including verge widths, nature strips, kerb & channel, pavement widths and pathways) for all roads within and adjacent to the site;
 - Identifies all required upgrades to the external road network and external pedestrian/cyclist movement network, including pedestrian access to bus stops on the nearest public transport route;
 - Identifies emergency access and any necessary works required to facilitate such access and ensure that access is limited to emergency services; and
- A **Kangaroo Management Plan** that does not include culling as an option.

Any Site-wide Plan may be amended with the written consent of the responsible authority, [so long as it remains generally in accordance with the Plan](#).

Any permit granted must be generally in accordance with the approved Site-wide Plans.

3.0 Requirement for Precinct Concept Plan

A permit must not be granted in respect of any land before a Precinct Concept Plan has been approved for the precinct in which the land is located as identified in the Map 1 of this schedule.

Each Precinct Concept Plan must include the following, to the satisfaction of the responsible authority:

- Details of the Precinct shape, size, orientation and contours and any differences in levels between the precinct and adjacent properties and Precincts.
- The location and height of existing buildings in the Precinct and adjacent Precincts and on adjacent properties (where relevant).
- The use of adjacent land and buildings.
- Environmental features such as vegetation, topography, wetlands and significant views to and from the Precinct.
- The location and height of proposed buildings in the Precinct.
- Any infrastructure required to be provided within the precinct in accordance with the Infrastructure Delivery Plan approved under clause 2.0 or as reasonably required as a result of the development of the land.
- The overarching principles for advertising signage and interpretative signage across the Precinct.

Any Precinct Concept Plan must be generally in accordance with the approved Site-wide Plans.

Any Precinct Concept Plan may be amended with the written consent of the responsible authority, [so long as it remains generally in accordance with the Plan](#).

Any permit granted must be generally in accordance with the relevant Precinct Concept Plan.

4.0 Use of land

4.1 Requirements

The use of the land must be generally in accordance with the CDP.

The use of the land must be in accordance with the Community Access Strategy and the Integrated Management Plan approved under clause 2.0.

Group accommodation must not be used for permanent accommodation and no part of the Group accommodation may be individually leased, owned or subject to an arrangement whereby

more than one person has the right to use any part of the Group accommodation under a time-sharing scheme.

Amenity of the neighbourhood

The use of land must not detrimentally affect the amenity of the area, including through the:

- Transport of materials, goods or commodities to or from the land;
- Appearance of any building, works or materials;
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

Noise

The use of land must be managed in accordance with the following noise limits:

- Noise must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) (or any relevant policy which supersedes it);
- Music (indoor and outdoor) and public address equipment shall comply with State Environment Protection Policy (Control of Music Noise from Public Premises) N-2 and relevant Environment Protection Authority guidelines.

4.2 Exemption from notice and review

4.3 Application requirements

The following application requirements apply to an application to use land under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme, and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The purpose of the use and the types of activities which will be carried out.
- The likely effects of the use, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation, and light spill, solar access and glare.
- **A Management Plan** that includes:
 - An outline of the proposed uses along with operational information such as staff and patron numbers.
 - A breakdown of days and hours of operation for all proposed land uses.
 - A site plan drawn to scale that identifies the boundaries and dimensions of the site as well as the layout and use of existing and proposed buildings and works.
 - Details of how community access will be provided in accordance with the Community Access Strategy approved under clause 2.0.

4.4 Decision guidelines

Before deciding on an application to use land, in addition to the decision guidelines in Clause 37.02 and Clause 65, the responsible authority must consider, as appropriate:

- The CDP.
- Any relevant Site-wide Plan approved under clause 2.0.
- The relevant Precinct Concept Plan approved under clause 3.0.
- The purpose of this Schedule.
- Whether the site is suitable for the use and whether the Project is compatible with adjoining and nearby uses.
- The effect that existing and approved lawful uses may have on the proposed use.

5.0 Subdivision

5.1 Requirements

The subdivision of land must generally be in accordance with the CDP and the Staging Plan approved under clause 2.0.

A permit for subdivision ~~may~~ must only be granted for a subdivision that satisfies one of the following:

- Creates a lot comprising a Precinct in the CDP;
- Creates a lot comprising all or part of the Conservation Area where it is demonstrated to the satisfaction of the responsible authority that a separate lot is required to facilitate the conservation of that area; or
- Creates a separate lot within the Accommodation Precinct for a dwelling that existed on the land at the date of approval of Amendment C125.

5.2 Application requirements

The following application requirements apply to an application for a permit under Clause 37.02, in addition to those specified in Clause 37.02 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the Responsible Authority:

- A plan showing the proposed subdivision in the context of Map1: CORA Concept & Precinct Plan or any other relevant plan contained in the CDP.
- A plan and/or statement showing the delivery of infrastructure to each lot consistent with the Infrastructure Delivery Plan approved under clause 2.0.

5.3 Exemption from notice and review

An application for the subdivision of land is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

5.4 Decision guidelines

Before deciding on an application for subdivision under Clause 37.02, in addition to the decision guidelines in Clause 37.02 and Clause 65 and elsewhere in the scheme, the Responsible Authority must consider as appropriate:

- The CDP.
- Any relevant Site-wide Plan approved under clause 2.0.
- The relevant Precinct Concept Plan approved under clause 3.0.
- The effect of the subdivision on the integrated development of the site as sought by the CDP.
- Whether the subdivision will prejudice the orderly sequencing of services and infrastructure in accordance with the Staging Plan and Infrastructure Delivery Plan approved under clause 2.0.
- Whether the subdivision will prejudice the integrated implementation of the Conservation Management Plan approved under clause 2.0 of this schedule.
- [Whether subdivision will compromise the overall intent of development of the Precinct in which it is located.](#)
- The need to provide common property for the primary internal road network and other facilities serving land beyond the land being subdivided.

6.0 Buildings and works

6.1 Requirements

The following requirements apply to construct a building and to carry out works:

- A permit for buildings and works must be generally in accordance with the CDP.
- A permit is not required to construct a building or construct or carry out works normal to a dwelling that already exists on the land at the time of approval of Amendment C125.
- Development of the site as envisaged in the CDP must provide and meet the total cost of delivering, managing and maintaining the following to the satisfaction of the Responsible Authority:
 - Implementation of the Conservation Management Plan approved under clause 2.0;
 - Intersection works and traffic management measures as required to Cape Otway Road;
 - Connector streets and local streets;
 - Landscaping, and where required by the responsible authority, fencing of abutting streets and roads;
 - Local shared, pedestrian and bicycle paths along local roads, connector streets, utilities easements, local streets, waterways and within local parks including bridges, intersections, and barrier crossing points;
 - Bicycle parking;
 - Appropriately scaled lighting along all roads, major shared and pedestrian paths, and traversing the open space network; and
 - Local drainage, wastewater and water quality control systems.

Requirements for land management

- Prior to the commencement of any development (other than landscaping in accordance with the Landscaping Master Plan or conservation works in accordance with the Conservation Management Plan approved under clause 2.0) or any subdivision of land, the owner or owners of all of the land included in the Comprehensive Development Zone - Schedule 3 must enter into an agreement:
 - with the appropriate entity under section 173 of the *Planning & Environment Act 1987*, section 69 of the *Conservation, Forests and Lands Act 1987* or section 3A of the *Victorian Conservation Trust Act 1972*. The Agreement must require implementation of the Conservation Management Plan approved under clause 2.0 (as amended from time to time) at the cost of the owner(s); and
 - with the responsible authority to require groundwater monitoring and management in accordance with the Groundwater Monitoring and Management Plan approved under clause 2.0 (as amended from time to time) at the cost of the owner(s).

6.2 Application requirements

A permit for buildings and works must be generally in accordance with the CDP and, in addition to those specified in Clause 37.02 and elsewhere in the scheme, must include the following information, as appropriate, to the satisfaction of the Responsible Authority:

- **Site Planning & Architectural plans** drawn to scale which show (in relation to the precinct to which the application applies):
 - Details of the site context in relation to the relevant Precinct Concept Plan approved under clause 3.0.
 - The location, dimensions and floor areas of all buildings and works.
 - The height and elevations of all buildings using Australian Height Datum levels.
 - The proposed building materials and treatment of all external finishes.

- Sectional diagrams through proposed buildings to illustrate any cut and fill required.
- All roads and infrastructure.
- The purpose or purposes for which it is intended that buildings and outdoor recreational spaces are to be used.
- The location of all vehicular and pedestrian access and egress within and to and from such development.
- The location and layout of all areas set aside for the accommodation of stationary vehicles.
- The provision of a reticulated water supply and the treatment and disposal of all wastewater and drainage water.
- A **Design Response Report** that explains how the proposed development responds to the Design Guidelines included in the CDP.
- A **Landscape and Visual Impact Assessment** based on appropriate locations having regard to the CDP that includes:
 - 3D visualisations of key buildings and works including (where relevant) external sports lighting and similar infrastructure;
 - Locations where there is potential for development to have a high visual impact.
 - and
 - Identification of mitigation treatments.
- A **Landscape Plan** that:
 - Responds to the Landscape Masterplan approved under clause 2.0 and to the relevant requirements and guidelines of the CDP.
 - Provides landscape designs for all publicly accessible areas showing, as necessary and appropriate, the location of proposed improvements including playgrounds, pedestrian and cycle paths, earthworks, seats, bollards, fencing, landscaping, irrigation systems, drinking fountains, drainage lines and detention basins;
 - Provides interface treatment plans including cross-sectional diagrams detailing the proposed interface treatments to all adjoining rural properties, conservation areas and to Cape Otway Road (as relevant);
 - Ensures that screen planting along Cape Otway Road in the Retail and Tourism Precinct does not prevent intermittent views into the Precinct and across to significant landscape features as identified by the Landscape and Visual Impact Assessment (as relevant).
 - Where existing vegetation is to be removed, ensures that adequate replacement vegetation is planted at advanced heights prior to the removal of existing vegetation, particularly at high impact locations as determined by the Landscape and Visual Impact Assessment.
 - Shows the location and design of any facilities for viewing the wetlands.
- An **Environmentally Sustainable Design Assessment** detailing the proposed environmental sustainability aspects of the development including use of renewable energy, optimisation of energy reduction, use of recycled materials in construction, rehabilitation of sites with environmental values, resource efficient design, LED lighting, use of recycled water and related elements.
- An **Ecological Assessment** that addresses the removal of any native vegetation in excess of 10.365 ha. The report must outline how the additional removal has achieved the three step approach of avoid, minimise and offset.
- A **Flood Impact Assessment** incorporating hydraulic modelling of the catchment to define flood depth, extent and velocity during 1% and 10% AEP flood events both pre- and post – development. The assessment must include the identification of any proposed flood mitigation works and be prepared to the satisfaction of both Council and the Corangamite Catchment Management Authority (CCMA).

- A **Water Sensitive Urban Design Assessment and Management Plan** that:
 - Demonstrates the methods of collection, treatment and disposal of stormwater runoff in an environmentally acceptable manner including, as appropriate, provision of detention and water quality treatment;
 - Utilises the MUSIC (Model for Stormwater Improvement Conceptualisation) program to measure the benefits and performance outcomes incorporated into the plan;
 - Provides for the safe overflows paths for the 1% ARI and considers the impact of the >1% ARI event;
 - Identifies all land to be set aside for drainage purposes, detailing the approximate size and location of all drainage reserves and system components, including retarding basins to meet peak discharge limits and WSUD elements to meet Best Practice Environmental Management Guidelines.
 - Details any maintenance and ongoing management requirements.
 - Provides for creation of Growling Grass Frog habitat within stormwater infrastructure, consistent with the Growling Grass Frog Management Plan and the Infrastructure Delivery Plan.
- An **Arborist Report** prepared by a suitably qualified arborist that assess any trees to be retained with details of suitability for retention and ongoing management recommendations for the trees including Tree Protection Zones in accordance with AS4970 – 2009 Protection of Trees on Development Sites.
- An **Environmental Site Assessment** that includes an assessment of the land by a suitably qualified environmental professional detailing the level and location of any soil contamination. This assessment is to be peer reviewed by a suitably qualified environmental professional approved by Council. If the responsible authority is satisfied that significant levels of contamination have been found:
 - A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
 - An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of the Environment Protection Act 1970 that the environmental conditions of the land are suitable for sensitive uses, as required.
- In relation to an application involving external sports lighting, a **Lighting Assessment** by a suitably qualified expert to demonstrate that sports lighting will be designed and baffled to achieve:
 - Light spill of no greater than 5 lux to 51 Connies Lane, to be measured at the common boundary between that land and the subject site; and
 - Otherwise conformance with Australian Standard AS4282:2019 – Control of the Obtrusive Effects of Outdoor Lighting (or any relevant standard which supersedes it).
- An **Acoustic Assessment** to demonstrate that noise levels will not exceed the relevant Environment Protection Authority guidelines.
- A **Construction Management Plan** detailing measures to address Project management details (e.g. Project manager contact details, construction schedule, site induction and monitoring, community engagement and information), soil and sediment control, construction materials, equipment and machinery, site access, materials and stockpile areas identification and management of asbestos and any other matter, as appropriate, and relevant to the construction process. The plan must be prepared with reference to EPA Victoria Publication 480 Best Practice Environmental Management: Environmental Guidelines for Major Construction Sites.
- A **Construction Environmental Management Plan (CEMP)** outlining measures to protect native vegetation and wetlands to be retained. The CEMP must, at a minimum:
 - Establish mitigation measures, timing and responsibilities;

- Provide that construction activities in and adjacent to wetlands must only be undertaken when those wetlands are dry;
- Establish appropriate vegetation protection zones around areas of native vegetation to be retained prior to works;
- Establish tree protection zones around scattered native trees to be retained prior to works;
- Provide that all construction personnel are briefed prior to works, and that no construction personnel are placed inside vegetation/tree protection zones;
- Include details of the protocols for the rescue and relocation of any native fauna found on site;
- Provide that a suitably qualified zoologist undertakes a pre-clearance survey of planted trees to be removed in the week prior to removal to identify the presence of any nests of hollows;
- If considered necessary based on the results of the pre-clearance survey, provide that a suitably qualified zoologist should be on site during any tree removal works to capture and relocate any misplaced fauna that may be present; and
- Address pest plant and animal control measures.
- A **Salinity Impact Report** for any land uses and developments that can significantly change surface water and groundwater hydrological flow patterns with measures to mitigate the expansion of existing areas effected by salinity or the generation of new areas effected by salinity.
- A **Road Safety Audit** prepared by an appropriately qualified person and report addressing any safety issues identified by the audit.
- A **Waste Management Plan**.
- An **Integrated Bushfire and Emergency Management Plan** to the satisfaction of the CFA covering all land shown in the CDP. The plan must consider (including, but not limited to):
 - Access;
 - Vegetation management;
 - Water sources;
 - Emergency management;
 - Shelter in place options; and
 - The need (if any) for perimeter roads.
- A **Town Planning Report** that demonstrates how the Project responds to and complies with any relevant Site-wide Plan approved under clause 2.0 or Precinct Concept Plan approved under clause 3.0.

6.3 Decision Guidelines

Before deciding on an application for buildings and works under Clause 37.02, in addition to the decision guidelines in Clause 37.02 and Clause 65 and elsewhere in the scheme, the Responsible Authority must consider as appropriate:

- The CDP.
- Any relevant Site-wide Plan approved under clause 2.0.
- The relevant Precinct Concept Plan approved under clause 3.0.
- The impact of the siting, design, height, bulk and colours and materials to be used on the amenity of the area, the natural environment, major roads, vistas and water features, and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of natural scenic beauty or importance.

- Whether the development implements environmental sustainable design practices to provide design responsive elements that ensure the Project meets best practice energy efficiency ratings.
- Whether development protects and enhances the landscape and environmental qualities of the site and its surrounds.
- The location and design of existing and proposed landscaping treatments to be used to protect the visual amenity of the area including of the natural environment, major roads, vistas and waterbodies.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications, sewerage and waste water treatment facilities.
- The safe and efficient movement of vehicular traffic, pedestrians and cyclists to and from the site and any parking issues which will result from the Project.
- The potential impacts on the amenity of nearby properties.
- Whether the lighting associated with the development has been designed to minimise any unreasonable impacts on the amenity of surrounding properties.

7.0 Advertising signs

Advertising sign requirements are at Clause 52.05. Advertising sign requirements are at Clause 52.05. Signage must comply with the following:

- All land located within the Elite Sports Precinct and Retail and Tourism Precinct is in Category 3 – High amenity areas.
- All other land is in Category 4 – Sensitive areas.

Map 1 to Schedule 3 to Clause 37.02: CORA Concept & Precinct Plan

