

Planning and Environment Act 1987

Great Ocean Road Region Standing Advisory Committee – Referral No 2

1200 Ghazeepore Road and 350 Coombes Road, Freshwater Creek

31 December 2020

Planning and Environment Act 1987

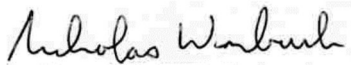
Advisory Committee Report pursuant to section 151 of the Act

Great Ocean Road Region Standing Advisory Committee – Referral No 2

1200 Ghazeepore Road and 350 Coombes Road, Freshwater Creek

31 December 2020

Members of the Great Ocean Road Region Standing Advisory Committee who considered this matter:



Nick Wimbush, Co-Chair



Michael Kirsch, Deputy Chair

Contents

	Page
1 Summary of advice	1
2 Introduction and background	2
2.1 Advisory Committee	2
2.2 The referral	2
2.3 The Proposal	3
2.4 The site	6
2.5 Limitations and approach in this report	7
3 Previous application.....	8
3.1 Council decision.....	8
3.2 Victorian Civil and Administrative Tribunal.....	8
4 Planning considerations	9
4.1 Surf Coast Planning Scheme	9
4.2 Other planning policies and strategies.....	14
4.3 Distinctive Areas and Landscapes	15
4.4 Discussion	18
4.5 Conclusion	20

List of Figures

	Page
Figure 1: Proposed subdivision and boundary realignment	4
Figure 2: Landscape Master Plan	5
Figure 3: Proposed Lot 1, and the proposed location of the caravan park	6
Figure 4: Map 1 from Clause 21.08 (blue arrow shows site location)	13
Figure 5: Surf Coast DAL Area.....	17

Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Council	Surf Coast Shire Council
DAL	Distinctive Areas and Landscapes
DELWP	Department of Environment, Land, Water and Planning
FZ	Farming Zone
MSS	Municipal Strategic Statement
MPS	Municipal Planning Strategy
PPF	Planning Policy Framework

SMO	Salinity Management Overlay
SPP	Statement of Planning Policy
the Committee	Great Ocean Road Region Standing Advisory Committee
VCAT	Victorian Civil and Administrative Tribunal

Overview

Application summary

Application reference number	19/0292
Brief description	Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision and Earthworks
Subject land	1200 Ghazeepore Road & 350 Coombes Road, Freshwater Creek
The Proponent	Ninety Four Feet Pty Ltd
Responsible Authority	Surf Coast Shire Council

Committee process

Committee Members	Nick Wimbush (Co-Chair) and Michael Kirsch (Deputy Chair)
Hearings	On the papers
Site inspection	The Co-Chair undertook a brief inspection of the site and surrounds from the public domain
Date of this Report	31 December 2020

1 Summary of advice

The Great Ocean Road Region Standing Advisory Committee (the Committee) finds that the proposal for a camping and caravan park at 1200 Ghazeepore Road and 350 Coombes Road Freshwater Creek should be not be supported.

Whilst there are a number of elements of the proposal that could be addressed through project design or planning permit conditions, the planning policy imperative lies in protecting the non-urban break between Torquay and Armstrong Creek (Geelong).

This has been a long standing policy direction which if anything will be strengthened through initiatives such as the Distinctive Areas and Landscapes program.

While the proposal is modest compared to earlier iterations, in the Committee's view planning policy in general does not support this type of incursion into the non-urban break; although it may well be appropriate in other areas of the Shire.

2 Introduction and background

2.1 Advisory Committee

The Great Ocean Region Standing Advisory Committee (the Committee) was appointed on 14 April 2019 and reconstituted on 8 December 2019.

The Committee comprises Kathy Mitchell and Nick Wimbush as Co-Chairs, Michael Kirsch as Deputy Chair, Elissa Bell, Ian Hamm, Andrew Hutson, Michael Malouf and Kate Partenio as Members.

The Minister for Planning issued the Committee with Terms of Reference on 13 April 2019. The purpose of the Committee is:

...to consider the matters listed below, within the Great Ocean Road Strategic Framework Plan Indicative Area, that will impact on or facilitate the Great Ocean Road visitor economy, as shown in Appendix 1, to provide independent advice

- a. ...
- b. To a responsible authority on the appropriateness of the land use and design of visitor economic development proposals, included in Appendix 3, referred by a responsible authority.
- c. ...
- d. ...

2.2 The referral

On 6 September 2020, the Minister for Planning wrote to the Committee Co-Chair's advising of his decision to refer planning permit application no.19/0292 to the Committee for advice. The Minister considered that:

the camping and caravan park proposal (19/0292) has strategic relevance to the Victorian Government's Great Ocean Road Region Strategic Framework Plan and Surf Coast Distinctive Area and Landscape projects. The application raises policy issues relating to the preservation of scenic landscapes and agricultural land, the protection of green breaks between settlements, the provision of infrastructure and services to support the visitor economy, and Torquay's role as a major tourist destination at the gateway of the Great Ocean Road.

....

I consider that the council's assessment and decision-making process on this visitor economy development proposal would benefit from the advice on planning policy, design, ecological and landscape matters that the SAC can provide.

The letter requested that:

in accordance with the SAC's terms of reference, the application may be assessed 'on the papers' or through targeted consultation with relevant parties. For this particular SAC review process, a public hearing may not be necessary as the council is seeking advice to assist with its assessment of the application rather than consideration of the submissions/objections it has received.

...

The letter of referral was not accompanied by the permit application material. Consequently, the Committee wrote to Surf Coast Shire Council on 5 October 2020 and requested:

- The planning application; including any additional material sought from and provided by the applicant
- Any relevant approved background reports prepared by Council or the applicant
- Any relevant Council minutes on the application
- Any relevant approved reference or incorporated documents the Council considers are called up by the planning scheme for the application.

The Committee noted in its correspondence that it understood:

...from the referral that Council is not seeking assistance in reviewing the submissions to the application as that will occur via the statutory consideration. On this basis the Committee does not require a copy of the submissions.

Council provided the Committee with the application documents and supporting reports by email on 21 October 2020 which consisted of:

- Notice of Application of Planning Permit
- Title search
- Plan of subdivision
- Agreement pursuant to section 173 of the *Planning and Environment Act 1987*
- Planning permit application report, Habitat Planning, June 2019
- Correspondence to Surf Coast Shire Council from Beveridge Williams, dated 12 August 2019 titled '*Re 19/0292 Additional Information Request*'
- Bushfire Risk Assessment, Surf Coast Bushfire Consultants, 6 August 2019
- Bushfire Emergency Management Plan, 20 May 2019
- Torquay Eco-Park Ecological Assessment, Biosis, 27 February 2014
- Acoustic Engineering Report, Cogent Acoustics, 14 March 2019
- Infrastructure Servicing Report, Beveridge Williams, 25 February 2014
- Stormwater Management Strategy, Beveridge Williams, 7 November 2019
- Traffic Impact Assessment, One Mile Grid, 8 November 2019
- Landscape & Visual Impact Assessment, Hansen Partnership, March 2014
- Landscape Master Plan, Ninety Four Feet, 4 November 2019
- Feature & Level Survey, A Line Surveying, 23 October 2018
- Revised Plans, WMK Architecture, 17 October 2019

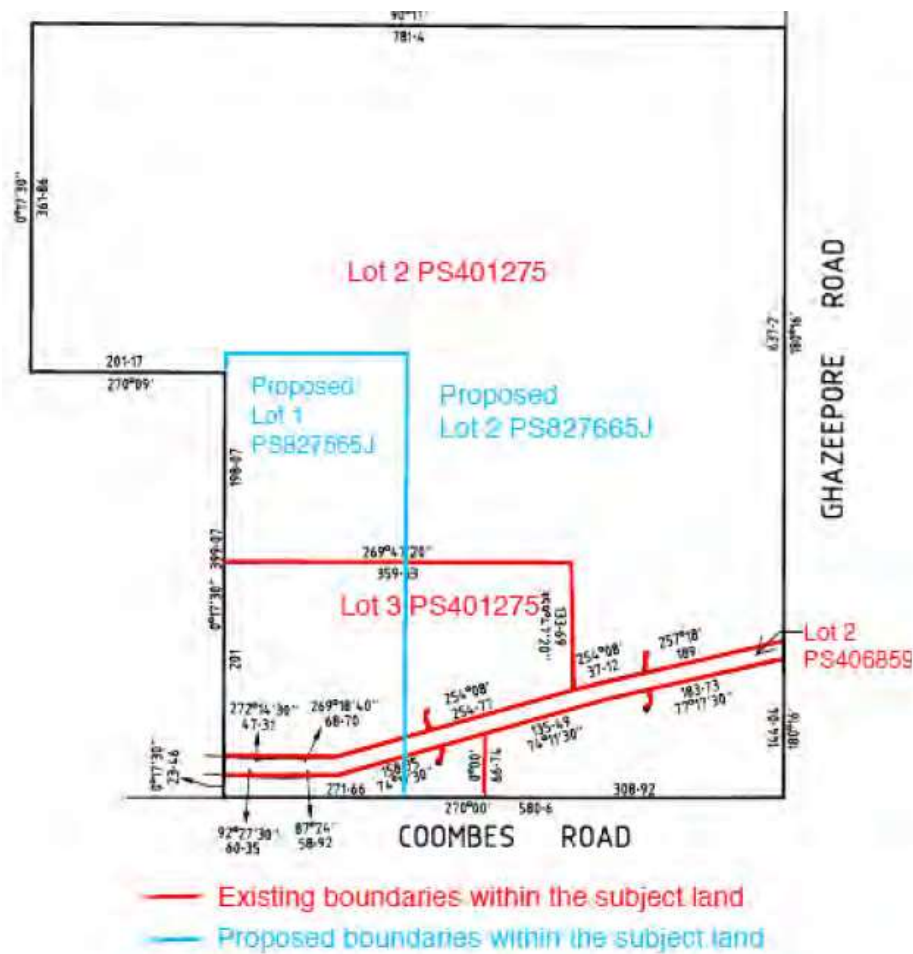
2.3 The Proposal

The permit application seeks a consolidation and boundary realignment of three lots and subsequent development of one of the lots for a camping and caravan park at 350 Coombes Road, Freshwater Creek.

Subdivision and boundary realignment

The proposed subdivision has the effect of consolidating lots 2 and 3 on PS401275 and lot 2 on PS406859, and then subdividing that land into two separate parcels described as new lots 1 and 2 on PS827665J.

Figure 1: Proposed subdivision and boundary realignment¹



Camping and Caravan Park

A camping and caravan park is proposed on the proposed lot 1 resulting from the subdivision (see Figure 2).

The proposal is for 33 cabins comprising one, two or three bedrooms, 15 powered glamping tents and 65 powered caravan sites, powered and unpowered camping sites and unpowered overnight stays. The accommodation is to be supported by amenity blocks and indoor and outdoor BBQs and kitchens.

¹ Planning Permit Application Report, Habitat Planning, June 2019, page 8.

Figure 2: Landscape Master Plan



2.4 The site

The site is located to the north west of Torquay and comprises lots 2 and 3 on PS401257 and Lot 2 on PS406859. The permit application relating to the use and development of the land for a camping and caravan park applies to land shown in Figure 2.

Figure 3: Proposed Lot 1, and the proposed location of the caravan park²



The site has an area of 8.482 hectares and is rectangular in shape with a 185 metre frontage to Coombes Road, a sealed road. The land has been mostly cleared and has one dwelling at the southern end. The southern portion of the land has been revegetated with native species. Two dams are located at the site's southern end and are situated on a drainage line which diagonally traverses the land.

² Planning Permit Application Report, Habitat Planning, June 2019, page 3.

The land is used predominantly for grazing, with a poultry farm located in the south western end of proposed Lot 2 that would be decommissioned should planning approval be granted for the camping and caravan park.

The dwelling located on proposed Lot 2 will be more than 200 metres from the eastern boundary of the lot proposed to contain the camping and caravan park. The nearest residence to the site is located to the west, near Coombes Road, 10 metres from the western side boundary.

2.5 Limitations and approach in this report

As per the referral, the Committee has not considered submissions to the application and has considered the matter ‘on the papers’.

The Committee has also not undertaken a full assessment against the planning provisions in the Surf Coast Planning Scheme; this is the role of Council in considering the application. Whether the advice of the Committee is accepted or not the Committee notes Council will still need to consider the application under the provisions of Part 4 of the *Planning and Environment Act 1987*.

This Report deals with the issues under the following headings:

- Previous application
- Planning considerations
 - Surf Coast Planning Scheme
 - Other planning policies and strategies
 - Distinctive Areas and Landscapes

3 Previous application

3.1 Council decision

An earlier planning permit application No. 14/0111 sought approval for the use of land for 515 cabins and 202 caravan / camping sites. Council determined to refuse to grant a permit based on four grounds:

- the scale and intensity of the proposal in its context
- the suitability of the proposal given the non-urban break role of this land
- the economic impact of concentrating regional tourism growth in the form of accommodation on the review site
- insufficient information has been provided to properly categorise the proposed land use.³

3.2 Victorian Civil and Administrative Tribunal

The applicant sought review of the Council's decision at the Victorian Civil and Administrative Tribunal (VCAT). Through amended plans, the proposal was reduced to 250 cabins and 160 caravan park sites. VCAT affirmed Council's decision that no permit be issued. The Tribunal held:

- that policy does not support the establishment of the proposed use and development on the review site. While it confirmed policy support for the development of new tourist accommodation in the region, it considered that the site was not suitable for use and development of the scale proposed
- that a Camping and Caravan Park is a Section 2 use in the Farming Zone and therefore does not imply that every site within that zone is suitable for that land use
- the introduction of a substantial development and its presence within an area designated in policy as non-urban where Council's Municipal Framework Plan seeks to maintain a clear rural-landscape separation between Torquay-Jan Juc and the Armstrong Creek southern growth corridor of Geelong would be of concern
- the site is in a location where connection to the services and facilities in Torquay are poor, except by private vehicle
- the site's close proximity to the Torquay-Jan Juc settlement boundary may have the effect of weakening that part of the settlement boundary
- that the development would not achieve a net community benefit.

³ *BCR Asset Management Pty Ltd v Surf Coast SC* [2015] VCAT 34.

4 Planning considerations

4.1 Surf Coast Planning Scheme

(i) Planning Policy Framework (PPF)

Many state and regional policies seek to guide decision making around the protection of the coastal and natural environment with appropriate development.

Coastal Settlement (11.03-4s) seeks to support a network of diverse coastal settlements that provide for a broad range of housing types, economic opportunities and services. It seeks to identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values are protected. New residential and other urban development and infrastructure are to be directed to locations within defined settlement boundaries of existing settlements that are capable of accommodating growth.

Distinctive areas and landscapes (11.03-5S) seeks to protect and enhance the valued attributes of identified distinctive areas and landscapes. To achieve this objective, development that could undermine the long-term natural or non-urban use of land in these areas is to be avoided, while use and development that enhances the valued characteristics of these area is supported. The policy seeks to recognise the important role that these areas play in the state as tourist destinations.

Protection of coastal areas (12.02-1) seeks to recognise the value of coastal areas to the community, conserve and enhance coastal areas and ensure sustainable use of natural coastal resources.

Bushfire planning (13.02-1S) seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. The subject land is in a bushfire prone area, with proposed Lot 2 partly subject to the Bushfire Management Overlay. The policy seeks to protect human life by prioritising it over all other policy considerations, directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life is better protected from the effects of bushfire.

Land use compatibility (13.07-1S) seeks to ensure that use or development of land is compatible with adjoining and nearby land uses, and to avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.

Protection of agricultural land (14.01-1S) seeks to protect the state's agricultural base by persevering productive farmland. The removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for agricultural production and processing sectors is to be avoided. Productive farmland that is of strategic significance in the local or regional context is to be protected.

Diversified economy (17.01-1S) seeks to facilitate a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region and to support rural economies to grow and diversify.

Diversified economy – Geelong G21 (17.01-1R) seeks to build on the region’s competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.

Facilitating tourism (17.04-1S) seeks to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. To achieve this objective, the development of a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities is encouraged as well as investment that meets demand and supports growth in tourism. Tourism facilities should ensure they have access to suitable transport.

Coastal and maritime tourism and recreation (17.04-2S) seeks to encourage suitably located and designed coastal, marine and maritime tourism and recreational opportunities. Tourism development within non-urban areas should demonstrate a tourist accommodation need and support a nature-based approach. Development should be of an appropriate scale, use and intensity relative to its location, and minimise impacts on the surrounding natural, visual, environmental and coastal character.

(ii) Municipal Planning Strategy (MPS)

A number of clauses in the Municipal Strategic Statement are also relevant.

Introduction (Clause 21.01) contains the high level profile and vision for the Shire and identifies key issues and influences as:

- Increasing popularity of the coast and coastal towns as permanent, holiday and tourist destinations.
- Reconciling coastal growth with the fragile natural environment, traditional coastal town character and relaxed surfing culture.
- Changing rural industry and influx of lifestyle farms.
- Protection of significant wetlands, waterways and vegetation, habitats and scenic landscapes.
- Threat of bushfire on coastal and hinterland towns within close proximity to forested land.
- Rapid rate of growth in Torquay-Jan Juc and delivery of necessary infrastructure.
- High cost of urban land and consequent pressure to develop urban uses in rural areas.
- Increasing accessibility of the Shire to Geelong and Melbourne.

Tourism (Clause 21.04) has the objective:

To enhance and expand the tourism industry, whilst protecting the environmental, landscape and cultural values of the Shire and the lifestyle of its residents.

Relevant strategies include:

- Locate high profile, high volume tourism development in appropriate urban areas or strategically justified non-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 key strategic rural areas. Such developments should be key strategic tourist destinations or small-scale, nature and adventure based tourist activities where accommodation is provided that is compatible with natural processes having regard to minimising exposure and risk to bushfire.

- Encourage agriculture based tourism development in the rural hinterland to assist in diversification of the rural economy. Such development to be small scale and in character with the immediate rural/agricultural environment.
- 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.
- Consider provision of caravan parks in appropriately located areas to provide for affordable visitor accommodation.
- ...

Agriculture (Clause 21.05) has the following objectives (with associated strategies):

- To encourage sustainable agricultural activities, to grow and maintain prosperous and sustainable rural communities.
- To protect the ability of future generations to productively farm the land.
- To avoid the loss of agricultural productivity associated with land use conflicts, particularly between farming activities and non-farm related residential development.

Rural Landscape (Clause 21.06) defines five landscape and land use precincts in the Shire, with the subject site being in Precinct 3 - Mixed Farming. The clause has the following objectives:

- To protect and enhance the landscape values of the rural precincts as described in Clause 21.06-2 above.
- To protect and maintain open and uncluttered rural landscapes, including vistas from main road corridors.
- To protect the rural landscape from urban intrusion and to provide clear distinction between townships.
- To recognise the importance of maintaining the visual landscape qualities of the Great Ocean Road and Bells Beach environs both for residents and visitors to the coast.

The clause also has a significant number of strategies including:

- 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 outside of the Cape Otway Road Australia (CORA) Sports, Tourism and Accommodation Development, 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 outside of the Cape Otway Road, Australia (CORA) Sports, Tourism and Accommodation Development, 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.
- ...
- Discourage uses not associated with an agricultural activity in any rural area outside the Rural Activity Zone and the Comprehensive Development Zone Schedule 3 - Cape Otway Road Australia (CORA) Comprehensive Development Plan.
- Maintain clear, non urban breaks between Geelong and Torquay and between the coastal settlements.
- ...

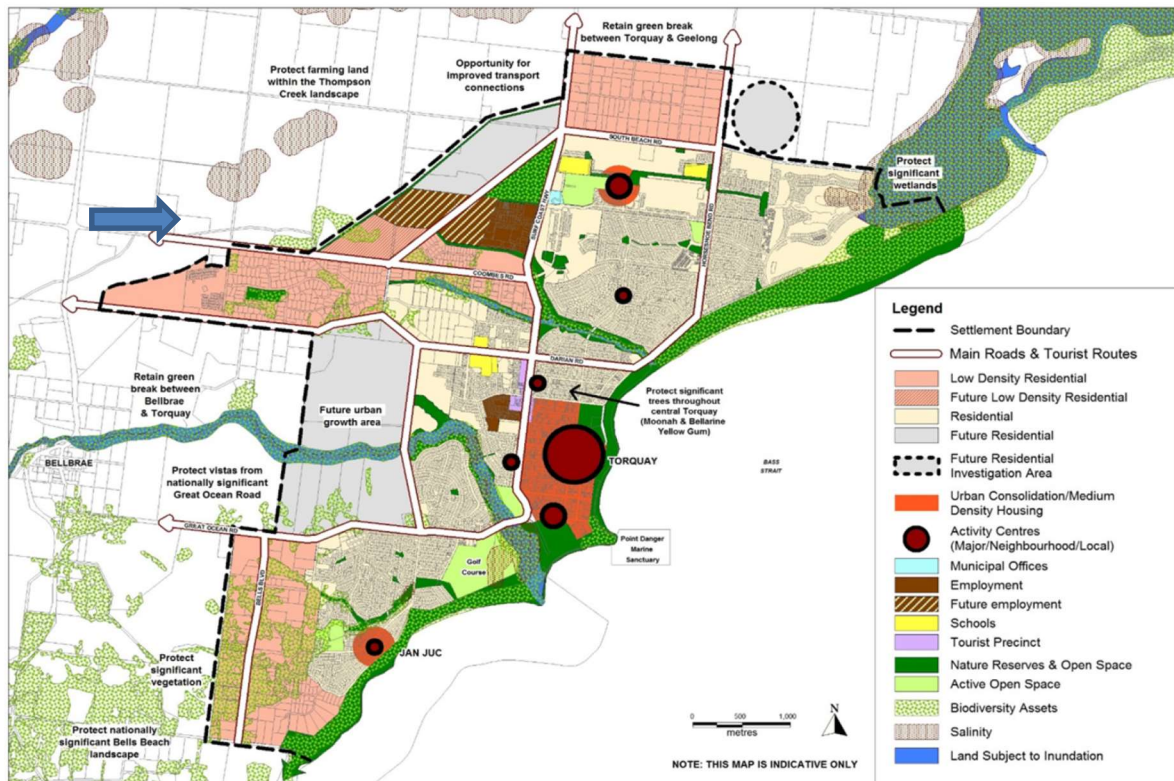
Torquay – Jan Juc Strategy (Clause 21.08) seeks to preserve the clear delineation between the urban township and the rural landscape of the Thompson Creek Valley and to maintain non-urban breaks to Geelong and Bellbrae to protect the landscape values of the Thompson Creek and Spring Creek valleys beyond the settlement boundaries. The subject site lies outside of the Torquay – Jan Juc settlement boundary.

The Torquay – Jan Juc Framework map at Clause 21.08 (Figure 3 below) includes an annotation to ‘protect farming land within the Thompsons Creek Landscape.

The strategy identified an issue and influence being the continued growth of Torquay as a tourist/holiday destination, but also as a weekend and night-time shopping and entertainment attraction for the new Armstrong Creek population.

Under economic development at Clause 21.08-4, is an objective to grow a vibrant and sustainable local tourism industry while marrying with the Torquay – Jan Juc lifestyle and promoting/showcasing the community’s values. To achieve the objective, the relevant strategy seeks to ensure that all tourist development is of high quality design and respectful of the low-rise character of Torquay-Jan Juc, using colours materials, architectural features and landscaping that builds on the surfing, beach and coastal character of the town.

Figure 4: Map 1 from Clause 21.08 (blue arrow shows site location)



(iii) Farming Zone

The site is in the Farming Zone (FZ), the purpose of which is, as well as implementing the PPF and MPS, is:

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

The proposed Camping and Caravan Park and caretaker dwelling requires a permit for 'use' under Clause 34.07-1 and 'buildings and works' under Clause 35.07-4.

A permit is required to subdivide land in the Farming Zone (Clause 35.07.3).

The area of the lot proposed for the camping and caravan park (8.482 hectares) is less than the minimum required by the Schedule to the Farming Zone. However lots smaller than the minimum can be created where *'the subdivision is the re-subdivision of existing lots and the number of lots is not increased.'*

There are various permit requirements relating to buildings and works within the Farming Zone.

Within the context of the proposal, those that are relevant include:

- construct a building or carry out works associated with a land use included in Section 2 of the Land Use Table to the FZ
- undertake earthworks that *'change the rate of flow or the discharge point of water across a property boundary'*
- construct a building within 5 metres of a side or rear boundary; and
- construct a building within 100 metres of a dwelling not on the subject land.

The FZ contains extensive decision guidelines in Clause 35.07-6 around sustainable land management, agricultural protection, environmental management and using design to minimise impacts on rural areas.

(iv) Salinity Management Overlay

The north east corner of the land is covered in part with the Salinity Management Overlay (SMO), the purpose of which is to:

- To identify areas subject to saline ground water discharge or high ground water recharge.
- To facilitate the stabilisation of areas affected by salinity.
- To encourage revegetation of areas which contribute to salinity.
- To encourage development to be undertaken in a manner which brings about a reduction in salinity recharge.
- To 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.
- To prevent damage to buildings and infrastructure from saline discharge and high watertable.

The land subject to the SMO is proposed to be subdivided but is not proposed to include the camping and caravan park.

Clause 44.02-3 requires a permit for the subdivision of land within the SMO.

4.2 Other planning policies and strategies

(i) G21 Regional Growth Plan

The *G21 Regional Growth Plan* is a policy document in the Surf Coast Planning Scheme and informed elements of various regional planning policies.

The G21 Regional Growth Plan has several regional strategies that articulate opportunities for growth in the region and the role of tourism. The Plan anticipates substantial population growth to 500,000 people in the next 30 years across the region recognising the pressure the planned growth will place on the capacity of the region's tourism infrastructure.

The Plan highlights the agricultural, economic and natural significance of settlement breaks including the Thompson Valley, to ensure a strong farmed landscape character between the urban areas of Armstrong Creek and Torquay.

(ii) Rural Hinterland Futures Strategy – Final Draft, February 2019

The Rural Hinterland Futures Strategy was 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.

A key objective of the Strategy is to support tourism activities which complement the landscape, agricultural and environmental values of the Council. The Strategy seeks to ensure that new tourism activities are complementary to existing values sought to be retained and enhanced and make a positive contribution to the economy. It identifies a shortfall in the diversity and quality of tourist accommodation, particularly in relation to 4+ star accommodation in larger facilities.

The Strategy identifies ‘*Areas well suited to tourism*’⁴. The maps in the Strategy are regional scale maps that are marked ‘*indicative only*’. The subject site appears to be on the edge of this designation. The areas more clearly identified for tourism are predominantly west of Anglesea Road.

The area of the subject site is also marked as a ‘*High value scenic vista area*’. The Strategy is not in the Planning Scheme but has been adopted by Council so carries some weight.

4.3 Distinctive Areas and Landscapes

(i) Legislative basis

Part 3AAB of the Act, introduced through the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018*, contains a process for implementing a framework to guide decision-making in relation to an area determined to be a Distinctive Area and Landscape (DAL). The objectives of implementing a framework are to:

- protect and conserve distinctive areas and landscapes
- enhance the conservation of the environment in declared areas
- integrate policy development, implementation and decision-making in declared areas
- recognise the connection and stewardship of traditional owners in relation to land in declared areas.

An area of Victoria can be declared a distinctive area and landscape where it has most of the attributes specified by section 46AP of the Act. Once a DAL is declared, a Statement of Planning Policy (SPP) is to be prepared by the Minister for Planning. It must include a 50-year vision and strategies and may include long-term settlement boundaries.

The preparation of an SPP must include consultation with each responsible public entity (as defined by the Act) for a declared area, the local community and any other person that may be affected, consistent with s46AW of the Act. The SPP must then be endorsed by each responsible public entity (s46AX) and the Governor-in-Council may approve the SPP by publishing a notice in the Government Gazette (s46AY).

⁴ Figure 6, page 24.

The SPP must be prepared within one year after the declaration or a longer period but not exceeding two years after the declaration, if a greater period is approved by the Governor-in-Council (s46AT). The declaration will lapse if the above requirements are not met.

The Minister for Planning must then prepare an amendment to the Planning Scheme in which the declared area is located to give effect to approved SPP. The Planning Scheme amendment must not be inconsistent with an SPP. Where a protected settlement boundary is to be implemented, the Planning Scheme amendment does not take effect unless and until it is ratified by Parliament.

An SPP must be reviewed within 10 years of its commencement. Any amendment to an SPP that seeks to change a protected settlement boundary must also be ratified by both Houses of Parliament, providing the highest level of protection.

(ii) Declared area

Parts of the Surf Coast Shire and City of Greater Geelong were declared a DAL under section 46AO of the Act by order of the Governor in Council, publishing in the Government Gazette on 19 September 2019 as set out in Figure 5.

The Surf Coast DAL includes the section of Greater Geelong between the municipal boundary at Mt Duneed/Lower Duneed Road and the southern boundary of the Armstrong Creek Growth Area. To the west, the boundary continues to the intersection of Bogans Lane and Reservoir Road, continuing south along Woodland Road. The subject site sits within the declared area.

Figure 5: Surf Coast DAL Area



(iii) Draft Statement of Planning Policy

Section 46AT of the Act requires the Minister for Planning prepare a SPP for a declared area. On 19 November 2020, a draft SPP was released for public comment accompanied with proposed landscape planning controls.

The draft Surf Coast SPP and proposed landscape planning controls seek to guide future use and development of land in the Surf Coast declared area and propose long-term protections for the declared area's coastal environments, hinterland areas and townships.

Protected settlement boundaries are proposed for Torquay-Jan Juc, Bellbrae, Breamlea and Armstrong Creek Urban Growth Area to protect their valued coastal and rural hinterland settings, while enabling growth in preferred locations. Settlement boundaries are proposed for the Mount Duneed and Connewarre areas.

In the Framework Plan (Map 3) in the Draft SPP, the subject site is within an area marked as:

Green breaks – potential location for agricultural, natural resources and/or nature based tourism land uses that protect and enhance significant landscape features.

Further on, the subject site appears to fall just within the eastern boundary of an area marked '*Well suited to tourism activities*'.⁵ As for the Hinterland Strategy, the bulk of tourism investigation area appears to be further west.

The Committee understands the draft SPP will be considered by a separate Advisory Committee in 2021.

4.4 Discussion

The Committee provides commentary under the four specific areas referenced in the referral from the Minister for Planning.

(i) Planning policy

As outlined above there is significant policy in the Planning Scheme around:

- facilitating tourism development in appropriate locations
- protecting natural areas and landscapes
- protecting productive agricultural land
- maintaining settlement boundaries and a green inter-urban break between Torquay and Armstrong Creek (Geelong).

Importantly, the State government has also initiated the DAL process, which reinforces and strengthens policy in the above areas.

The Committee notes that Council's consideration of the application, will require the assessment of many issues, including traffic, ecology, infrastructure servicing and others. These can likely be satisfactorily addressed through project modifications or planning permit conditions.

The Committee considers whilst consideration of these issues is important and necessary, the Responsible Authority should focus on the strategic issues associated with the proposal.

⁵ Map 8 of the draft SPP.

In many places in the Planning Scheme, and other policy documents, the importance of maintaining the non-urban break between Geelong and Torquay is reinforced. Whilst this policy does not translate into prohibition of the proposed use in this area, there is a clear and strong policy imperative to avoid inappropriate development between the urban centres.

This was clearly identified as a significant issue with the original application in 2014, a view reinforced by VCAT in its endorsement of the Responsible Authority's permit refusal, which was also based on other grounds.

The question then arises, does this proposal, much reduced in scale from the amended plans presented to VCAT, meet a threshold that suggests it might be appropriate or acceptable in this location?

The reduction in size is significant, however, it still raises many of the same strategic issues. It introduces a significant accommodation use, more akin to an urban use rather than a rural use, into a rural area just outside an established township boundary. The longer term potential of the proposal to encourage other uses to locate outside the boundary and potentially lead to an expansion of the boundary by 'creep' must be considered.

In addition, the intrusion into the inter-urban break still occurs, albeit at a smaller scale. The inter-urban break in this area has been defended vigorously for many years and its maintenance provides a clear sense of entry to the Surf Coast from the larger urban area of Geelong.

The planning application makes the point that it is only a small incursion into a large non-urban break. This may be true, but it is no less significant for that. One of planning's roles is to avoid the 'death by a thousand cuts' approach and establish clear strategic policy positions. The position to protect the non-urban break has been clear in this area for a long time and recent initiatives such as the DAL process suggest that this approach has not changed.

Despite this, the Committee also notes that there is policy support for tourism accommodation, including caravan parks. These types of developments typically require large sites and can benefit from rural rather than urban locations. If such a development is inappropriate adjacent to, but outside a town boundary, it is not clear whether or where they might be in other rural areas. Given the lack of specific policy guidance about this, the Committee relies on the weight of other policy, particularly the green break policies, and is satisfied that in combination they militate against the proposal in this location.

(ii) Design

The design of the proposal is clearly something that will need to be considered in detail through the application process. There is guidance in the planning scheme about appropriate design to minimise impact on the environment and views. This may include low level structures with materials and finishes sympathetic to the natural environment and screening to minimise views into the development.

The focus in this location should clearly be on minimising visual impact and visibility of development rather than creating a highly visible 'icon' design.

(iii) Ecology

According to the ecological report prepared by Biosis which supported the planning application, there is little habitat value on the site and no rare or threatened communities or species. Any requirements for vegetation removal can be addressed through clause 52.17 of the Planning Scheme if necessary. If the proposal was approved, landscaping and revegetation should aim to improve the overall ecological values of the site.

(iv) Landscape

The subject site is on a gentle north facing slope into the Thompson Creek Valley. The landscape significance of the valley is intrinsically tied to its non-urban nature as it falls from Mt Duneed and slopes in the north to the valley floor and then rises to the ridge on the north side of Torquay.

Whilst the landscape assessment provided with the planning application indicates that significant views of the site can be screened, maintaining the broader non-developed rural landscape is important in maintaining the non-urban break.

4.5 Conclusion

The Committee concludes:

- There is policy support for tourism development in the Planning Scheme; but in this location the planning imperative lies strongly with protecting the non-urban, green break between Geelong and Torquay
- On balance, the application should not be supported.