

**Baw Baw Planning Scheme
Referral 40: Warragul Business Park**

Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

16 July 2024

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

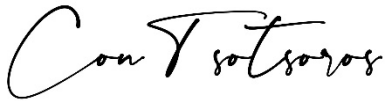
Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report pursuant to section 25 of the *Planning and Environment Act 1987*

Baw Baw Planning Scheme

Referral 40: Warragul Business Park

16 July 2024



Con Tsotsoros, Chair



Peter Edwards, Member

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Glossary and abbreviations

Amendment	Baw Baw Planning Scheme draft Amendment C148bawb
AEP	Annual Exceedance Probability
Council	Baw Baw Shire Council
Crayfish	Warragul Burrowing Crayfish
DDO12	Design and Development Overlay Schedule 12
DEECA	Department of Energy, Environment and Climate Change
DTP	Department of Transport and Planning
Earthworm	Giant Gippsland Earthworm
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
the permit	draft Planning Permit PA2303141
the Proponent	Freeway Business Park Pty Ltd (originally Advantage All Group Pty Ltd)
the proposal	Amendment and permit
West Gippsland CMA	West Gippsland Catchment Management Authority

Overview

(i) Referral summary

Referral summary	
Referral date	21 April 2024
Committee Members	Con Tsotsoros (Chair), Peter Edwards
Committee assisted by	Georgia Brodrick, Project Officer, Office of Planning Panels Victoria
Referral description	Combined planning permit application and planning scheme amendment that aims to facilitate the development of a business park
Subject land	14-40 and 42-60 Wills Street and 98 King Street, Warragul
Site inspection	Unaccompanied, 14 June 2024
Amendment	Baw Baw Planning Scheme draft Amendment C148bawb
Description	The Amendment seeks to: <ul style="list-style-type: none"> - rezone part of the subject land from the Urban Floodway Zone to Industrial 1 Zone - apply a new Design and Development Overlay Schedule 12 to all the subject land
Planning Authority	Minister for Planning
Proponent	Freeway Business Park Pty Ltd (originally Advantage All Group Pty Ltd)
Exhibition	8 to 26 May 2023
Planning permit	draft PA2302141
Description	The planning permit application seeks to subdivide the land into 24 lots and realign Hazel Creek into a new drainage reserve
Permit applicant	Freeway Business Park Pty Ltd

(ii) Committee process

Committee process	
Submissions	<ol style="list-style-type: none"> 1. Owners of 74-110 Wills Street, Warragul 2. West Gippsland Catchment Management Authority 3. Department of Education 4. Department of Energy, Environment and Climate Action 5. Gippsland Water 6. Country Fire Authority 7. Baw Baw Shire Council 8. Environment Protection Authority (Victoria) 9. Department of Transport (now Department of Transport and Planning)
Directions Hearing	By video conference, 20 May 2024
Hearing	Planning Panels Victoria, Hearing Room 2 and by video conference, 18 and 20 June 2024
Parties to the Hearing	<p>Advantage All Pty Ltd (Proponent) represented by Andrew Iser of Best Hooper Lawyers, who called expert evidence on:</p> <ul style="list-style-type: none"> - urban planning from Damien Iles of Hansen Partnership - ecology from Alan Brennan of Nature Advisory - hydrology from Rob Swan of HARC - engineering from Kyle Taylor of Taylor Miller Pty Ltd <p>Baw Baw Shire Council represented by Keith Black</p> <p>West Gippsland Catchment Management Authority represented by Adam Dunn</p>
Citation	Priority Projects Standing Advisory Committee Referral 40 [2024] PPV
Date of this report	16 July 2024

Executive summary

Baw Baw Planning Scheme draft Amendment C148bawb and draft planning permit PA2302141 (the proposal) seek to expand industrial land at 14-40 and 42-60 Wills Street and 98 King Street, Warragul (subject land) in the existing Freeway Business Park.

The Proponent submitted the proposal to Victoria's Development Facilitation Program to:

- rezone part of the subject land and apply additional planning provisions
- subdivide the subject land into twenty-four lots
- create new accessways, realign Hazel Creek and create new drainage reserve.

Specifically, the proposal comprises:

- draft Amendment C148bawb – to rezone part of the subject land from the Urban Floodway Zone to the Industrial 1 Zone and apply a new Design and Development Overlay Schedule 12 to all the land
- draft Permit PA2302141 – to subdivide the subject land into 24 lots, realign Hazel Creek, construct access tracks and to remove vegetation.

The Department of Transport and Planning sought views under section 20(5) of the *Planning and Environment Act 1987* from 8 to 26 May 2023 and received 9 submissions. On 21 April 2024, the Minister for Planning referred two specific issues to the Committee for its advice and recommendations – flooding impacts and potential land use conflicts.

(i) Findings to referred issues

After considering the two issues referred to the Committee, it finds no flooding impact or potential land use conflict related reason why the proposal should not progress.

Flooding impacts

Modelling and assessments completed to date indicate that flooding issues can be mitigated to enable future development on the subject land. It is appropriate to rezone the subject land to the Industrial 1 Zone because existing flood issues can be managed through the Design and Development Overlay Schedule 12 provisions and the Planning Permit conditions.

Design and Development Overlay Schedule 12 provides an appropriate framework for guiding permit applications on managing flooding by requiring a Stormwater Management Plan and a Waterway Management Plan. The permit conditions are generally appropriate but should be revised to include the West Gippsland Catchment Management Authority requirements and to require:

- a groundwater hydrology assessment
- the flood hazards mitigation strategy to comply with agreed safety criteria
- building floor levels to have a freeboard of at least 600 millimetres above 1 per cent Annual Exceedance Probability flood levels along the waterway and drainage reserve.

The proposal has potential flooding impacts related to how flooding mitigation measures will impact native vegetation and living populations such as the Giant Gippsland Earthworm (Earthworm) and Warragul Burrowing Crayfish (Crayfish).

Planning Permit PA2302141 should be referred to the Department of Energy, Environment and Climate Change before it is granted to receive a formal Native Vegetation Removal Report which quantifies the final vegetation offset amounts.

Planning Permit PA2302141 includes an appropriate and comprehensive set of conditions that require the Warragul Burrowing Crayfish be considered across six plans before the plan of subdivision is certified. However, it would benefit from including a new set of conditions for fauna management to support the successful translocation of the Warragul Burrowing Crayfish and the Dwarf Galaxias.

Potential land use conflicts

The Committee concludes the future use of the subject land enabled by the proposed Industrial 1 Zone will not result in unreasonable land use conflicts.

Drafting

Design and Development Overlay Schedule 12 should be consistent with the format set out in the Ministerial Direction on the form and content of planning schemes. The Planning Permit conditions should be drafted to use consistent terminology between all conditions that is consistent with drafting rules set out in the Practitioner's guide to Victoria's planning schemes.

(ii) Recommendations to the Minister for Planning

Based only on the referred specific issues, the Priority Projects Standing Advisory Committee recommends the Minister for Planning:

- 1. Request that Baw Baw Planning Scheme Amendment C148bawb be prepared subject to revising Design and Development Overlay Schedule 12 as shown in Appendix B.**
- 2. Approve Baw Baw Planning Scheme Amendment C148bawb with changes in Recommendation 1, pursuant to section 20(4) of the *Planning and Environment Act 1987*.**
- 3. After approving Baw Baw Planning Scheme Amendment C148bawb, issue Permit PA2303141 with conditions shown in Appendix C.**

1 Introduction

1.1 Terms of Reference and referral letter

The Minister for Planning appointed the Priority Projects Standing Advisory Committee (the Committee) on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference dated 9 September 2023 (Appendix D) to:

... provide timely advice to the Minister for Planning on projects referred by the Development Facilitation Program (DFP), or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

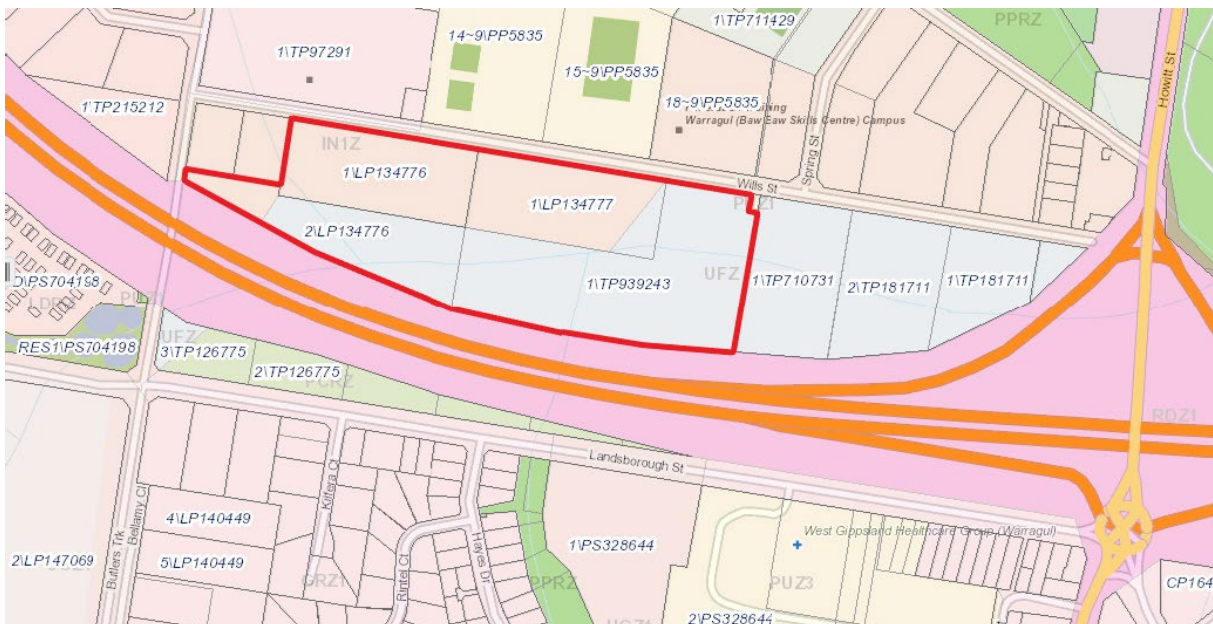
The Minister for Planning provided a referral letter dated 21 April 2024 to the Lead Chair of the Committee which seeks the Committee's advice on potential land use conflicts and flooding. These issues were raised in submissions from Baw Baw Shire Council (Council), Department of Energy, Environment and Climate Change (DEECA), Environment Protection Authority and the owners of 74-110 Wills Street, Warragul. Since views on the proposal were sought, the Proponent advised that it purchased 74-110 Wills Street.

1.2 Subject land

The subject land, comprising 14-40 and 42-60 Wills Street and 98 King Street, Warragul (Figure 1) is:

- about 800 metres to 1 kilometre southwest of the Warragul town centre
- near the Princes Freeway interchange with access to metropolitan Melbourne or regional Victoria
- currently part zoned Industrial 1 and part Urban Floodway and bound by the Princes Freeway along its southern boundary.

Figure 1 Subject land and surrounds



Source: Document 35

1.3 The proposal

Baw Baw Planning Scheme draft Amendment C148bawb (Amendment) and draft planning permit application PA2302141 (the permit) form a combined application (the proposal) which seeks to facilitate additional industrial land within an existing industrial precinct known as the Freeway Business Park.

Specifically, the proposal seeks to:

- rezone part of the subject land from Urban Floodway Zone to Industrial 1 Zone
- apply a new Design and Development Overlay Schedule 12 (DDO12)
- create a new accessway and realign Hazel Creek and new drainage reserve
- subdivide the subject land into twenty-four lots.

1.4 Planning context

Table 1 identifies planning context relevant to Amendment and permit.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the <i>Planning and Environment Act 1987</i>
Municipal Planning Strategy	- Clause 02
Planning Policy Framework	- Clauses 11.01-1S (Settlement), 11.01-1R (Settlement – Gippsland), 11.02-1S (Supply of urban land), 11.03-6S (Regional and local places) - Clauses 12.01-1S (Protection of biodiversity), 12.01-2S (Native vegetation management), 12.03-1S (River and riparian corridors, waterways, lakes, wetlands and billabongs) - Clauses 13.01-1S (Natural hazards and climate change), 13.02-1S (Bushfire planning), 13.03-1S (Floodplain management), 13.07-1S (Land use compatibility) - Clause 14.02-1S (Catchment planning and management) - Clauses 15.01-1S (Urban design), 15.01-2S (Building design), 15.01-3S (Subdivision design), 15.03-2S (Aboriginal cultural heritage) - Clause 17.01-1S (Diversified economy), 17.02-1R (Diversified economy – Gippsland), 17.02-1S (Business), 17.02-1R (Commercial centres – Gippsland), 17.03-1S (Diversified economy), 17.03-1R (Industrial land supply – Gippsland) - Clause 18.01-1S (Land use and transport integration)
Other strategies and policies	- Baw Baw 2050 Community Vision - Economic Development Strategy 2018-2021 - Baw Baw Economic Development Land Use Strategy
Planning scheme provisions	- Industrial 1 Zone - Urban Floodway Zone - Design and Development Overlay - Native Vegetation

Ministerial directions	- Ministerial Direction 11 (Strategic Assessment of Amendments) - Ministerial Direction 15 (The Planning Scheme Amendment Process)
Planning practice notes	- Planning Practice Note 46 (Strategic Assessment Guidelines)

1.5 Strategic justification

The Terms of Reference and referral letter do not require the Committee to consider strategic issues such as net community benefit or whether they align with Ministerial Directions and planning practice notes.

The two referred issues do not relate to whether the proposal is strategically justified. Findings in this report relate to whether the Amendment and permit should progress based on these two issues.

2 Flooding impacts

The proposal has potential flooding impacts related to:

- waterway and stormwater management
- how flooding mitigation measures will impact native vegetation and living populations such as the Giant Gippsland Earthworm (Earthworm) and Warragul Burrowing Crayfish (Crayfish).

2.1 Waterway and stormwater management

(i) The issues

The issues are:

- whether DDO12 provides an appropriate framework for guiding permit applications on managing stormwater and the waterway
- whether the permit conditions are appropriate for managing waterway and stormwater issues associated with the proposed development on the subject land
- whether the subject land should be rezoned to the Industrial 1 Zone when considering flooding issues.

(ii) Background

Background work includes detailed flood modelling and stormwater management and water quality outlined in the *Stormwater Management Strategy, Freeway Business Park, 14 – 70 Wills Street and 110 King Street, Warragul, Incitus*, 15 November 2021.¹

(iii) Evidence and submissions

The Proponent called Rob Swan as an expert on hydrology. Mr Swan's report included a concept plan (Figure 2) that proposed to:

- realign Hazel Creek towards the southern end of the subject land
- provide a new 45-metre-wide 'flood corridor', extensively landscaped with native vegetation
- establish an associated wetlands to maintain water quality
- extensive cut and fill across the subject land.

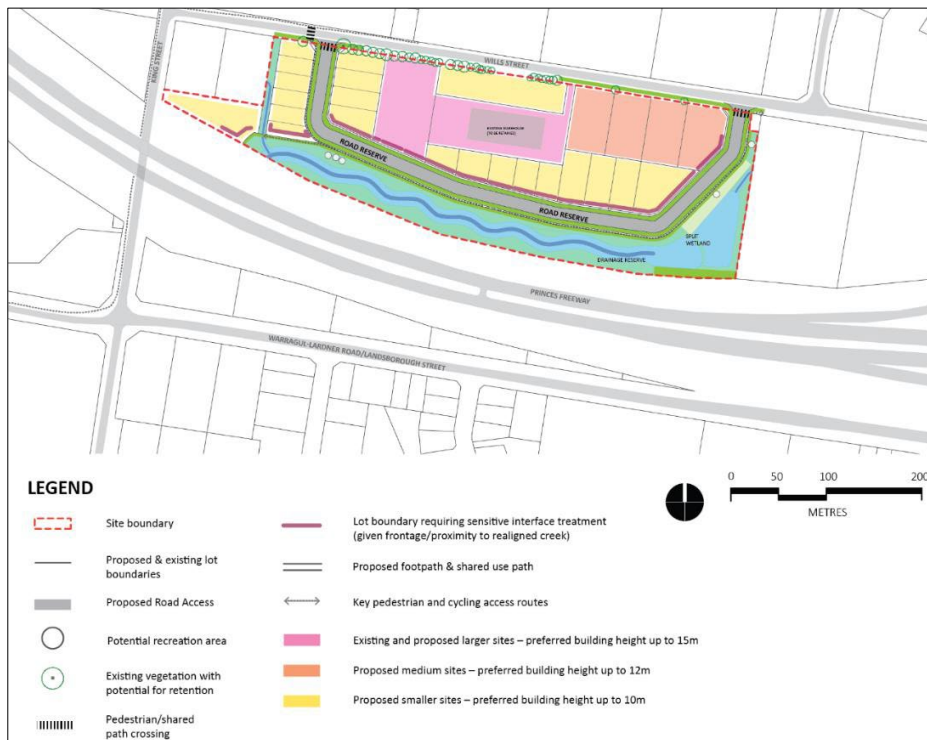
Mr Swan found the proposal would not cause negative flood impacts. He explained:

- the fill would essentially elevate the proposed industrial land so that the building floor plates are at least 600 millimetres above the 1 per cent Annual Exceedance Probability (AEP) flood level²
- the realigned creek corridor is in cut and set below the existing ground level to balance the loss of floodplain storage.

¹ Document 23

² 1 per cent AEP is the 1 per cent annual exceedance probability, similar to the 1-in-100 year flood event

Figure 2 Subject land concept plan



Source: Document 36

Mr Swan found:

- no adverse flood impacts on the subject land or surrounding properties
- the drainage channel concept design is consistent with Melbourne Water guidelines and meets safety criteria for waterways
- further detailed work is required to finalise the wetlands design and can be appropriately managed through permit conditions
- the flood and drainage considerations in the proposed Industrial 1 Zone and DDO12 are consistent with Baw Baw Planning Scheme requirements.

Council submitted:

- there was insufficient information regarding the flood level and flow of a smaller drainage line along the western boundary of the site and:
 - amended plans showing finished floor levels with a freeboard of at least 600 millimetres above the 1 per cent AEP flood level(s) would be required
 - flood hazard safety associated with deep fast moving flood waters at this location would require remedial works (potentially safety fencing to stop pedestrian access) through permit condition (supported by Mr Swan)
- the wetlands may require a bypass channel or further design to manage higher flood flows
- existing groundwater levels may be higher than the wetland's permanent water level so they:
 - may negatively affect the water table or wetland
 - should be considered as part of an updated Stormwater Management Plan or hydrology assessment report

- as raised by DEECA, the altered hydrology (flooding and groundwater) may impact the Earthworm and Crayfish.

West Gippsland Catchment Management Authority (CMA) submitted:

- it supported the Incitus flood modelling report findings that there would be no negative impact on flood behaviour to upstream or downstream properties
- the concept was converting a wide shallow floodplain to a narrower deeper configuration
- stormwater discharge would be treated to meet the objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO 1999).
- it requested permit conditions that required:
 - offset payments for floodplain habitat loss (discussed further in Chapter 2.2)
 - works to be undertaken to satisfaction of West Gippsland CMA.

The Proponent and Council did not object to the permit conditions requested by the West Gippsland CMA.

During the proposal's exhibition, the adjacent property owner (east of the subject land) submitted that realigning Hazel Creek may impact his stock animal's ability to access water. At the Hearing, the Proponent advised it had purchased this property, so the submission was no longer relevant.

(iv) Discussion

Developing on a floodplain needs careful consideration so that the loss of floodplain storage does not cause negative impacts such as:

- greater upstream or downstream flooding from the development
- increased flood velocity which can lead to safety and erosion issues
- flooding of the new development.

The Committee is satisfied the proposal will not result in a negative flooding outcome for neighbouring properties or the development itself, having regard to Mr Swan's expert findings and the views of West Gippsland CMA regarding the flood modelling and associated works. Associated works includes safety measures required as part of the flood hazards mitigation strategy, as agreed to by Mr Swan.

DDO12 provides sufficient certainty and guidance to ensure appropriate land use outcomes can be realised while ensuring adequate oversight of the potential flood issues with requirements for a Stormwater and Waterway Management Plan.

Further work is required to:

- finalise the wetlands design
- mitigate flood safety issues at the western end of the subject land
- identify potential groundwater hydrology issues.

All these matters can be resolved during the detail design process and managed through planning permit conditions. The collaborative approach taken by Council and the Proponent result in the permit conditions (Version 3) being generally uncontested.

Considering the above, in relation to flooding, the Committee believes the proposal is satisfactory and provides sufficient controls to ensure that future development should not adversely affect surrounding properties.

(v) Findings and recommendations

The Committee finds:

- Modelling and assessments completed to date indicate that flooding issues can be mitigated to enable future development on the subject land.
- Design and Development Overlay Schedule 12 provides an appropriate framework for guiding permit applications on managing flooding by requiring a Stormwater Management Plan and a Waterway Management Plan.
- The permit conditions are generally appropriate but should be revised to include the West Gippsland Catchment Management Authority requirements, and to require:
 - a groundwater hydrology assessment
 - the flood hazards mitigation strategy to comply with agreed safety criteria
 - building floor levels to have a freeboard of at least 600 millimetres above 1 per cent AEP flood levels along the waterway and drainage reserve.
- It is appropriate to rezone the subject land to the Industrial 1 Zone because existing flood issues can be managed and mitigated through the Design and Development Overlay Schedule 12 provisions and the Planning Permit conditions.

The Committee recommends:

Amend draft Planning Permit PA2302141, as shown in Appendix C, to:

- a) **include conditions requested by West Gippsland Catchment Management**
- b) **require the flood hazards mitigation strategy to provide a response that meets safety criteria specified in the relevant Melbourne Water guidelines**
- c) **require a groundwater hydrology assessment**
- d) **specify that floor levels of the buildings provide a freeboard of at least 600 millimetres above 1 per cent Annual Exceedance Probability flood levels along the waterway and drainage reserve.**

2.2 Flora and fauna

2.2.1 The issues

The issues are:

- whether works needed to mitigate flooding will negatively impact flora and fauna
- whether the Amendment and permit provide an appropriate framework and conditions to manage impacts on flora and fauna, including native vegetation, the Earthworm, Crayfish and Dwarf Galaxias.

2.2.2 Background

The Amendment and permit were accompanied by:

- *Dwarf Galaxias Survey targeted investigation* (Streamline Research Pty Ltd, November 2022)
- *Ecological (Flora & Fauna) Assessment (revised)* (Paul Kelly & Associates, 21 April 2022)
- *Giant Gippsland Earthworm and Warragul Burrowing Crayfish assessment at a proposed Industrial development final report* (Invert-Eco Consulting, 5 February 2021)
- *Warragul Burrowing Crayfish Translocation Proposal* (Invert-Eco, 5 November 2022).

The permit includes a comprehensive set of conditions which require the following plans to consider the Warragul Burrowing Crayfish and be prepared before the plan of subdivision is certified:

- Warragul Burrowing Crayfish Management Plan
- Hazel Creek and Warragul Burrowing Crayfish Translocation Plan
- Landscape Master Plan
- Detailed Landscape Plan
- Waterway Management Plan
- Functional Layout Plan.

The permit also includes conditions for tree protection measures required before any works can start.

2.2.3 Native vegetation

(i) Evidence and submissions

DEECA noted the Ecological (Flora & Fauna) Assessment did not identify large areas of patch native vegetation surrounding Hazel Creek. DEECA submitted:

- the native trees located along Wills Street need to be reviewed as any natural recruitment from native species is considered native vegetation regardless if they were planted
- a review of the trees on the southern boundary of the site needs to be undertaken to establish if they constitute assumed loss.

DEECA considered the full extent of native vegetation to be removed in accordance with Clause 52.17 Guidelines needed to be reviewed and accurately identified before finalising the draft permit and conditions.

The Proponent called expert evidence on ecology from Alan Brennan of Nature Advisory. Mr Brennan conducted a field survey and found:

- the site was dominated by a range of introduced grasses and broad-leaf weeds
- native vegetation was of low quality and comprised highly modified forms of Swampy Riparian Woodland, and scattered trees except for one large River Red Gum
- no flora species or communities listed under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) or listed communities under the *Flora and Fauna Guarantee Act 1988*
- one *Flora and Fauna Guarantee Act 1988* protected flora species on private land.

Mr Brennan found the proposed development is unlikely to result in a significant impact on any EPBC Act listed species or ecological communities and there are no implications under the EPBC Act regarding vegetation.

He explained:

- the proposed development will result in the loss of 0.708 hectares of native vegetation comprising 0.644 hectares of native vegetation patches and one large scattered tree
- the general offset amount if a planning permit is granted is 0.138 general habitat units that must:
 - achieve a minimum strategic biodiversity value score of 0.470
 - occur within the West Gippsland CMA boundary or the Baw Baw municipal district

- protect at least one large tree³.

Council submitted:

- the revised amount of vegetation removal is greater than 0.5 hectares so it would require referral to DEECA
- definitive permit conditions for native vegetation offsets cannot be provided until a final native vegetation removal report is obtained from DEECA
- the report will detail scenarios that exclude and include the River Red Gum removal
- it supported Mr Brennan's recommendation to retain the River Red Gum, noting if this was not possible then its loss must be included in any native vegetation removal assessment.

West Gippsland CMA requested the Proponent contribute to a waterway offset fund at the rate of \$50,000 per hectare to compensate for the loss of floodplain habitat that will be impacted by earthworks.

At the Hearing, both Council and the Proponent agreed to include permit conditions regarding offsets including those proposed by West Gippsland CMA. The Proponent explained it had agreed to the \$50,000 per hectare rate specified by the Authority.

To mitigate impacts to vegetation during construction, Mr Brennan recommended to:

- establish appropriate Tree Protection Zones around scattered native trees to be retained before works start
- ensure all construction personnel are appropriately briefed before works start, and that no construction personnel, machinery or equipment are placed inside the vegetation zones
- a suitably qualified zoologist should undertake a pre-clearance survey of planted trees to be removed during the week before removal to identify the presence of any nests or hollows
- if considered necessary and based on the results of the pre-clearance survey, a suitably qualified zoologist should be on site during any tree removal works to capture and relocate any displaced fauna.

Council proposed conditions for fauna management including having a zoologist present during all tree and vegetation removal. The Proponent agreed to all these conditions.

(ii) Discussion

Future development and mitigation measures needed to address flooding issues can negatively impact flora and fauna if not managed appropriately. Having said that, the Committee accepts the evidence of Mr Brennan that native vegetation on the site is of low quality and is dominated by invasive grass species. Therefore, its removal is not considered to significantly impact flora or ecological communities on the subject land.

The Committee agrees with Council that a final native vegetation removal report must be obtained from DEECA to determine the permit conditions for appropriate native vegetation offsets, including consideration of the River Red Gum. The offset amounts can be specified in a permit condition after receiving this report. The Committee notes this report is not an assessment by DEECA of the proposed native vegetation removal.

³ River Red Gum in the south-west corner of the subject land

The Committee agrees with the offset conditions requested by West Gippsland CMA to compensate for the loss of floodplain habitat associated with the proposal.

The Committee is satisfied that the Council's proposed Fauna Management conditions will mitigate impacts to fauna during vegetation removal through the requirement of having a qualified zoologist present for inspection of trees and fauna salvage and translocation.

These conditions have been adopted by the Proponent and are incorporated into the permit conditions as shown in Appendix C.

2.2.4 Earthworm, Crayfish and Dwarf Galaxias

(i) Evidence and submissions

DEECA submitted the Earthworm and Crayfish are highly susceptible to hydrological changes, surface and subsurface water flows and increases in usage of the subject land. It noted the subject land has significant populations of Dwarf Galaxias. It added:

- the application did not consider activities outside the area of the colony/habitat
- stormwater management plans, flood mitigation measures and the land's revised hydrology have not considered impact on the populations and their habitat
- expert findings were not based on optimal survey conditions
- it was not provided with a suitable assessment to determine the hydrological impact from proposed waterway changes
- it supports the concept and development of a model translocation plan, that should be peer reviewed by a subject matter expert
- the Earthworm is an EPBC Act protected matter of National Environmental Significance species listed as vulnerable.

Council requested:

- DDO12 require any permit application to include a Crayfish Translocation Plan
- the permit be revised to:
 - require an independent review of certain elements of the Hazel Creek and Crayfish translocation plan
 - require a Fauna Management Plan that among other things, considers the Crayfish and Dwarf Galaxias.

The Proponent agreed to these changes.

Council had reservations about the ability to successfully translocate Crayfish. The Proponent submitted:

- the Crayfish Translocation proposal was prepared by Dr Beverley Van Praagh, the foremost expert on this animal ⁴
- translocations had been successfully undertaken throughout Australia.

(ii) Discussion

The Committee agrees with DEECA that the Earthworm and Crayfish are highly susceptible to hydrological changes. Works are needed to mitigate flooding that may negatively impact fauna on the subject land if not managed appropriately.

⁴ Document 27

A DDO12 design objective is to *“enhance environmental values biodiversity at the site including habitat for the Warragul Burrowing Crayfish, Dwarf Galaxias and other native species”*. This sets an appropriate framework for the key native fauna species which may be found in and around the subject land.

In this regard, the Committee is comfortable the proposed strategy and actions will appropriately mitigate potentially negative consequences, particularly, for the Earthworm and Crayfish. The translocation plan is needed to ensure the Crayfish have the greatest likelihood of surviving the translocation process.

More broadly, Council’s post-exhibition Fauna Management Plan permit conditions agreed to by the Proponent require:

- a plan identifying all known and potential fauna habitat and proposed release sites for fauna encountered during vegetation removal
- requirements for the Hazel Creek realignment including management of aquatic and semi aquatic fauna
- requirements for managing and monitoring the identified species.

These comprehensive permit conditions are sufficiently robust to protect, maintain and enhance native fauna.

2.2.5 Findings and recommendations

The Committee finds that Planning Permit PA2302141 should:

- be referred to the Department of Energy, Environment and Climate Change before it is granted, to receive a formal Native Vegetation Removal Report which quantifies the final vegetation offset amounts
- include an appropriate set of comprehensive conditions that require the Warragul Burrowing Crayfish to be considered before plan of subdivision is certified
- include a new set of conditions for fauna management to support the successful translocation of the Warragul Burrowing Crayfish and the Dwarf Galaxias.

The Committee recommends:

Amend draft Design and Development Overlay Schedule 12, as shown in Appendix B, to include a Warragul Burrowing Crayfish Management Plan as an application requirement.

Amend draft Planning Permit PA2302141, as shown in Appendix C, to:

- a) require an independent peer review of Crayfish Translocation Plan**
- b) require a Fauna Management Plan**
- c) revise the offset figures in Condition 30 after obtaining the final native vegetation removal report from the Department of Energy, Environment and Climate Change.**

3 Other issues

3.1 Potential land use conflicts

(i) The issue

The issue is whether the future use of the subject land enabled by the proposed Industrial 1 Zone may result in unreasonable land use conflict.

(ii) Evidence and submissions

Environment Protection Authority submitted the subject land is near residential zones and the Public Use Zone 2 (Education). It referred to the Victoria Planning Provisions which seek as a priority, to avoid land use conflicts where possible through well considered zoning decisions. Environment Protection Authority added:

- rezoning the subject land to the Industrial 1 Zone would require a permit for uses in Clause 53.10 (Uses and activities with potential adverse impacts) and a referral to Environment Protection Authority, if the associated threshold distance specified in that clause is not met
- it is likely to object to a permit application with insufficient separation distances that would significantly risk human health and the environment.
- rezoning to the Industrial 1 Zone may be interpreted in two ways:
 - uses are appropriate in this zone regardless of whether there is adequate separation from surrounding sensitive uses
 - there may be limited industrial uses that can establish in the Industrial 1 Zone.

Environment Protection Authority encouraged the use of another zone to prohibit incompatible uses and to avoid relying on referral authority advice to moderate such uses. It referred to Planning Scheme policies which state:

- Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together (Clause 11)
- Planning should aim to identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:
 - Land use and development compatibility.
 - Effective controls to prevent or mitigate significant impacts. (Clause 13)
- Ensure that use or development of land is compatible with adjoining and nearby land uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures. (Clause 13.07-1S)
- Provide an adequate supply of industrial land in appropriate locations including sufficient stocks of large sites for strategic investment.
- Identify land for industrial development in urban growth areas where:
 - Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses. (Clause 17.03-1S)

At the Hearing, Council confirmed it had no issue regarding the land use proposed on the subject land.

(iii) Discussion

The Committee agrees with Environment Protection Authority's objectives. Good planning ensures that land uses are located to be reasonably compatible with each other.

The proposed Industrial 1 Zone is unlikely to result in any unreasonable land use conflict when having regard to:

- the subject land's robust interface, particularly with the Princes Freeway and other Industrial 1 Zone land
- location of the existing Industrial 1 Zone closer to existing sensitive land uses
- the Industrial 1 Zone provisions including its purpose to provide uses "*in a manner which does not affect the safety and amenity of local communities*".

The Industrial 1 Zone currently exists:

- on the north-western part of subject land directly opposite the school (Warragul Regional College) and General Residential Zone Schedule 1 land north of Wills Street
- all land on the north side of Will Street from the school's eastern boundary to Howitt Street.

Residential land south of the subject land is more than 125 metres from the closest point, separated by the Princes Freeway.

The Industrial 1 Zone will not automatically enable any industry to establish on the subject land. It requires a permit that proposes to use the land for industry and:

- is listed for a purpose in Clause 53.10
- is within 30 metres of a sensitive land use, if not for a purpose listed in Clause 53.10.

This will enable Council, and where relevant Environment Protection Authority, to assess whether certain industrial uses can be appropriately managed to avoid unreasonable land use conflicts.

Certain uses and activities listed in the Clause 53.10 table will not be able to occur on the subject land because they will not have the necessary separation distance to operate without affecting the safety and amenity of local communities.

(iv) Finding

The Committee finds the future use of the subject land enabled by the proposed Industrial 1 Zone will not result in unreasonable land use conflicts.

3.2 DDO12 and permit conditions drafting**(i) The issue**

The issue is whether DDO12 and the permit conditions have been appropriately drafted.

(ii) Background

The Committee has reviewed the planning provisions and permit conditions, having regard to:

- *Ministerial Direction on the Form and Content of Planning Schemes*
- Writing Planning Permits, Department of Transport and Planning
- Practitioner's guide to Victoria's planning schemes (Practitioners Guide), Department of Transport and Planning.

Writing Planning Permits states:

Writing effective conditions

General principles for drafting conditions are:

- Ensure the condition is within power.
- Use plain English.
- Use the active voice, not the passive voice.
- Use simple words and avoid problematic expressions.
- Use technical expressions carefully and purposefully.

It provides examples of expressions to be generally avoided or used carefully:

- replace 'prior to' with 'before' – it is not plain English
- never use 'shall' – it is not plain English and ambiguous because it is not clear if the obligation is mandatory or discretionary: Alternative: must / are to
- replace 'should' with 'must' – it is unclear whether the obligation is mandatory or discretionary: Alternative: 'must' where an obligation is to be applied.

Writing Planning Permits includes two appendices showing example and model permit conditions.

(iii) Submissions

Council and the Proponent each provided a revised tracked version of the permit conditions for discussion at the Hearing. They agreed that DDO12 should align with the *Ministerial Direction on the Form and Content of Planning Schemes* and the permit conditions should be consistent with guidance in Writing Planning Permits and the Practitioner's Guide.

(iv) Discussion

The Committee commends Council and the Proponent for how they:

- collaborated during and outside the Hearing to refine drafting
- achieved consensus on most drafting matters.

The Committee supports the drafting changes agreed to by Council and the Proponent shown in Appendix B and Appendix C because they align with good practice drafting rules. Specifically, the changes:

- replace 'prior to' with 'before'
- use plain English including active voice
- start each alpha point with a lower case and no punctuation at the end except for the final point
- apply consistent terms and phrases between conditions.

The Committee recommends these drafting changes be applied to all conditions in the permit.

(v) Findings and recommendations

The Committee finds:

- Design and Development Overlay Schedule 12 should be consistent with the format set out in the Ministerial Direction on the form and content of planning schemes.
- The Planning Permit conditions should be drafted to use consistent terminology between all conditions that is consistent with drafting rules set out in the Practitioner's guide to Victoria's planning schemes.

The Committee recommends:

Amend draft Design and Development Overlay Schedule 12, as shown in Appendix B, to replace the first provision in Clause 5.0 with the words specified in the *Ministerial Direction on the form and content of planning schemes*.

Amend draft Planning Permit PA2302141, as shown in Appendix C, to make drafting changes consistent with drafting rules in the *Practitioner's guide to Victoria's planning schemes* and guidance in *Writing Planning Permits*.

Appendix A Document list

No	Date	Description	Presented by
2023			
1	9 Sep	Terms of Reference	Minister for Planning
2024			
2	21 Apr	Letter of Referral	Minister for Planning
3	21 Apr	Instruction sheet	Department of Transport and Planning (DTP)
4	21 Apr	Explanatory Report	DTP
5	21 Apr	Draft Schedule 12 to Clause 43.02 Design and Development Overlay (DDO12)	DTP
6	21 Apr	Exhibited Draft Map DDO12	DTP
7	21 Apr	Exhibited Draft Map Industrial 1 Zone	DTP
8	21 Apr	Bushfire Risk Assessment	DTP
9	21 Apr	Cultural Heritage Management Plan	DTP
10	21 Apr	Dwarf Galaxias Survey	DTP
11	21 Apr	Earthworks Plan	DTP
12	21 Apr	Ecology Report	DTP
13	21 Apr	Engineering Services Report	DTP
14	21 Apr	Existing Conditions Plan	DTP
15	21 Apr	Feature Level Survey Plan	DTP
16	21 Apr	Giant Gippsland Earthworm and Warragul Burrowing Crayfish Assessment	DTP
17	21 Apr	Landscape and Concept Plan	DTP
18	21 Apr	Planning Property Report	DTP
19	21 Apr	Planning Report	DTP
20	21 Apr	Preliminary Tree Assessment	DTP
21	21 Apr	Proposed plan of subdivision	DTP
22	21 Apr	Proposed subdivision Concept Plan	DTP
23	21 Apr	Stormwater Strategy	DTP
24	21 Apr	Property titles – subject land	DTP
25	21 Apr	Traffic Impact Assessment	DTP
26	21 Apr	Waterway Management Plan	DTP
27	21 Apr	Warragul Burrowing Crayfish Translocation Proposal	DTP

No	Date	Description	Presented by
28	21 Apr	Planning Permit PA2302141	DTP
29	21 Apr	Plan of subdivision – subject land	DTP
30	30 Apr	Directions Hearing notification letter	Planning Panels Victoria (PPV)
31	21 May	Committee Directions and Hearing Timetable (version 1)	PPV
32	4 Jun	Committee Directions and Hearing Timetable (version 2)	PPV
33	11 Jun	Proponent Background and context submission	Proponent
34	11 Jun	Expert report – Alan Brennan on ecology	Proponent
35	11 Jun	Expert report – Kyle Taylor on engineering services	Proponent
36	11 Jun	Expert report – Robert Swan on flooding and stormwater	Proponent
37	11 Jun	Expert report – Damien Iles on town planning with attachment: a) visual presentation	Proponent
38	17 Jun	Main Proponent submission with attachments: a) draft DDO12 (Version 1) b) Planning Permit PA2302141 (Version 1)	Proponent
39	17 Jun	Main West Gippsland CMA submission	West Gippsland CMA
40	18 Jun	Plan referred to by Kyle Taylor during his evidence	Proponent
41	18 Jun	Planning Permit PA2302141 (Version 2)	Proponent
42	19 Jun	Main Council submission with attachment: a) Planning Permit PA2302141 (Version 2)	Council
43	21 Jun	Email – to Committee regarding proposed conditions	Council
44	25 Jun	Proponent closing submission with attachments: a) Draft DDO12 (Version 2) b) Planning Permit PA2302141 (Version 3)	Proponent

Appendix B Committee recommended DDO12

Legend: [Tracked Added](#) ~~Tracked Deleted~~

SCHEDULE 12 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as DDO12.

FREEWAY BUSINESS PARK

1.0 Design objectives

To ensure development of the Freeway Business Park is of high quality urban design and provides appropriate interface treatments to Hazel Creek, the Princes Freeway and residential areas.

To introduce high quality landscape treatment to the site that contributes positively to the overall character and amenity of the Freeway Business Park.

To facilitate public access to the new wetland.

To enhance environmental values biodiversity at the site including habitat for the Warragul Burrowing Crayfish, Dwarf Galaxias and other native species.

2.0 Buildings and works

The following buildings and works requirements apply to an application to construct a building or construct or carry out works:

- Building heights should respond to the building heights plan shown at Figure 1.
- A landscaping strip must be provided along and within the frontage and along and within a side street boundary.
- Trees or shrubs should be included as part of the landscaping treatment to the frontage of the lots.
- Car parking should not be provided in the landscape setback area.
- Sympathetic landscaping and screening should be provided for the side and rear of lots facing Hazel Creek, the Princes Highway, and residential areas.
- Contemporary and creative architecture is encouraged in the design, built form, style and finishes. Articulated building facades should be provided.
- A colour and materials palette should be adopted that responds to the wider landscape.
- All structures on rooftops, including air conditioning units and fans, must be appropriately screened to address any visual amenity issues.
- External storage areas and garbage receptacles must be screened and adequately distanced from sensitive uses.
- All driveways and car parking areas at the front of the site must be constructed of an impervious all-weather seal coat such as concrete or bitumen and drained to the satisfaction of the responsible authority.
- Signage should be integrated within the building design.

3.0 Subdivision

None specified.

4.0 Signs

None specified.

5.0 Application requirements

~~Applications must be generally in accordance with the Concept Plan as shown in Figure 1, and include the following, as relevant:~~

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

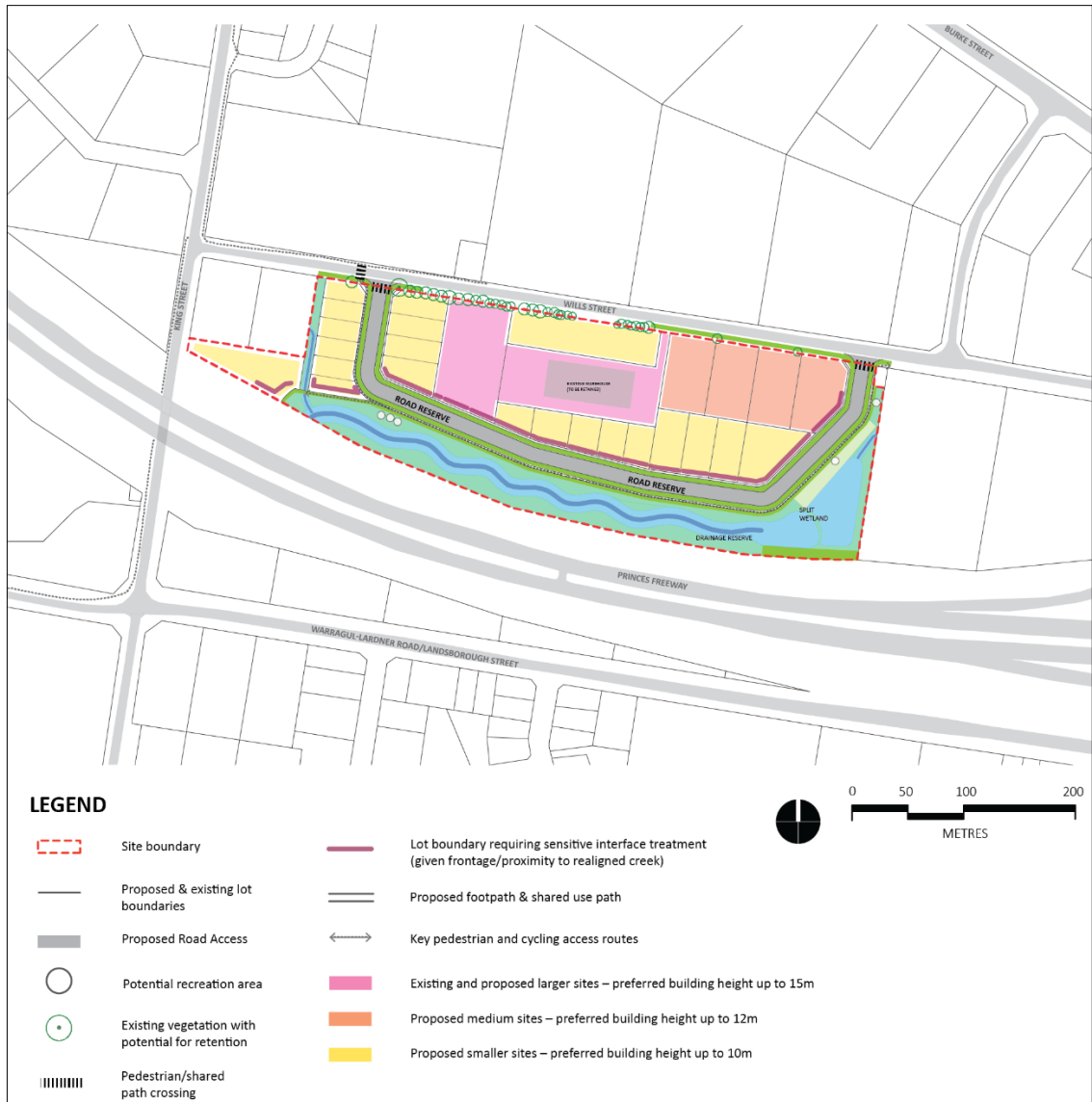
- Context analysis and design response.
- Planning Report.
- Stormwater Management Plan.
- Waterway Management Plan that identifies how the design of the wetland will provide habitat for the Warragul Burrowing Crayfish and how the habitat will be protected once established.
- Traffic Impact Assessment.
- Landscape Concept Plan.
- Materials and Colours Schedule.
- Acoustic Assessment for individual site development introducing sensitive uses to mitigate noise impacts from Princes Freeway.
- Warragul Burrowing Crayfish Translocation Plan and Warragul Burrowing Crayfish Management Plan.

6.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The impact of the development on the amenity and streetscape of the area and particularly having regard to the proximity of Hazel Creek, the Princes Freeway, and residential areas.
- The impact of the development on environmental values and biodiversity of the site.
- The design and layout of the proposed development including setbacks from property boundaries.
- The proposed landscape treatment.
- The facilitation of public access to the new wetland.
- The need to ensure that development or works are completed and maintained to a standard appropriate to the site's prominent location.
- Signage shall be confined to simple, clear business identification signs on premises.
- Signage identifying the industrial precinct must contribute to the overall design and character of the industrial precinct.
- The views of Department of Transport and Planning regarding impacts of noise from Princes Freeway to individual site developments facilitating sensitive uses.

Figure 1 Concept plan with building heights



Appendix C Committee recommended permit conditions

Legend: [Tracked Added](#) ~~Tracked Deleted~~

Permit No.:	PA2302141
Planning Scheme:	Baw Baw
Responsible authority:	Minister for Planning
ADDRESS OF THE LAND:	14-40, 42-60 WILLS STREET AND 98 KING STREET, WARRAGUL Lot 1 PS901914 (14-40 Wills Street, Warragul) Lot 2 PS901914 (14-40 Wills Street, Warragul) Lot 3 PS901914 (42-60 Wills Street, Warragul) Lot 4 PS901914 (98 King Street, Warragul)
THE PERMIT ALLOWS:	Subdivision of the land into 24 lots, subdivision of land adjacent to a road in a Transport Zone 2 , earthworks allowing the realignment of Hazel Creek and construction of access tracks, creation of easements and removal of vegetation.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

Plans Required

Subdivision Plans

1. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988*, an amended subdivision plan must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans by Advantage All Development Group, Job No. 01001, dated 9 May 2022 but modified to show:
 - a) A 2 metre wide footpath along the northern side of the internal road reserve.
 - b) A 2.5 metre wide shared path from the eastern end of the existing footpath on the northern side of Wills Street to Spring Street (approximately 410 metres) including pram crossings.
 - c) All vegetation within the subject site and in the adjoining road reserve identified for either removal and/or retention.
 - d) Tree Protection Zones and Structural Root Zones of all vegetation within the subject site and any vegetation within 3 metres of the subject site on adjoining properties and within the road reserve.
 - e) Tree protection envelopes for vegetation being retained.
 - f) Location, materials and height of all front and boundary fences. If no fencing is proposed, a notation must be included on the plan stating this.

- g) Location of retaining walls.
- h) Dimensions of the Creek Reserve.

Elevation Plans

2. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988*, elevation plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but must show:
 - a) ~~N~~natural ground level and finished ground level (to AHD) clearly nominated on all elevations for the length of the boundaries.
 - b) ~~D~~dimensions including maximum heights of cut and fill for the entire site.
 - c) ~~D~~dimensions including maximum heights of retaining walls for the entire site.
 - d) ~~D~~dimensions including maximum heights of fencing for the entire site.

Staging Plan

- ~~3. Before the plan of subdivision is certified for the first stage under the *Subdivision Act 1988*, a staging plan showing the order and sequence of all stages forming part of the subdivision must be submitted to and approved by the Responsible Authority.~~

Warragul Burrowing Crayfish Management Plan

- ~~43.~~ Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988* and ~~before~~ prior to commencement of any works start, a Warragul Burrowing Crayfish Management Plan must be prepared by a suitably qualified and experienced person. The plan must be submitted and approved by the Responsible Authority. Once approved, the plan will be endorsed and form part of this permit. The Management Plan must include:
 - a) A plan showing the location of known Warragul ~~B~~eurrowing Crayfish colonies and habitat areas.
 - b) Details of Conservation Zones including:
 - i. Buffer distance between the edge of the colony and habitat areas and location of Conservation Zone Fence.
 - ii. Conservation Zones marked on a plan.
 - iii. Conservation Zone requirements in accordance with Conditions ~~360~~ and ~~624~~.
 - c) Revegetation Guidelines.
 - d) Translocation and monitoring requirements as required by Condition ~~54~~.
 - e) Construction methodologies to protect hydrological conditions during works associated with Hazel Creek.
 - f) Specific protection requirements for the colonies in the north east and south east corners of the subject land.
 - g) Accidental Unearthing Guidelines as required by Conditions ~~360~~ and ~~624~~.

- h) Any other detail as requested by the Responsible Authority.

Hazel Creek and Warragul Burrowing Crayfish Translocation Plan

54. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988* and commencement of any works including works associated with the construction of Hazel Creek, a Warragul Burrowing Crayfish Translocation Plan must be prepared by a suitably qualified and experienced person. The plan must be submitted and approved by the Responsible Authority. Once approved, the plan will be endorsed and form part of this permit. The Translocation Plan must include:

- a) Protection Requirements for Warragul Burrowing Crayfish colonies, including reference to the requirements of Condition 811 and Warragul Burrowing Crayfish Management Plan.
- b) Clear information on the Warragul Burrowing Crayfish colony proposed for translocation including maps showing their current location and the translocation site(s).
- c) Clear information on the Warragul Burrowing Crayfish Colony adjacent to the translocation site including maps showing the existing habitat area in relation to the proposed translocation site(s).
- d) Experimental Design including:
 - i. A clear hypothesis to be tested during the trial and aim stating the intentions of the trial.
 - ii. Discussion of existing knowledge and available literature relating to the translocation trial.
 - iii. Methodology for translocation of Warragul Burrowing Crayfish including requirements for assessment ~~before~~ prior to the translocation and specific conditions for the day and date of translocation.
 - iv. Monitoring timelines including intervals for monitoring over a minimum five year period.
 - v. Explanation of monitoring intervals selected including a discussion on why each interval is required and expectations for observations during each monitoring interval in relation to the hypothesis and aim of the trial.
 - vi. Information on what data will be collected during the monitoring and how the data relates to hypothesis which is being tested in the trial.
 - vii. Parameters for success or failure of the trial in relation to the hypothesis which is being tested in the trial.
- e) Requirements for providing monitoring reports including information which must be included in report and requirements for providing the report to the Responsible Authority.
- f) Requirements for protection of Warragul Burrowing Crayfish colonies and habitat areas (existing and translocated) following translocation of Warragul Burrowing Crayfish.

- g) Information on site establishment requirements including timelines to ensure that the Warragul Burrowing Crayfish habitat is suitably formed and established ~~before~~^{prior to} translocation.
- h) A revised Gantt Chart stating proposed dates for works associated with the construction of Hazel Creek and the translocation of Warragul Burrowing Crayfish.
- i) Independent peer review of Experimental Design Elements, Habitat Construction and proposed translocation timelines as listed in Condition 4d, Condition 4g and Condition 4h.

Fauna Management

5. Before a plan of subdivision is certified under the *Subdivision Act 1988* and before any works associated with Hazel Creek start a Fauna Management Plan must be prepared by someone suitably qualified and experienced and to the satisfaction of the Responsible Authority. Once approved, the plan will be endorsed and form part of this permit. The Fauna Management Plan must include:
- a) A plan identifying:
 - i. all know fauna habitat areas
 - ii. all potential fauna habitat areas
 - iii. all large hollow bearing trees which are either approved for removal or being retained within the subdivision
 - iv. proposed release sites for fauna encountered during vegetation removal and the realignment of Hazel Creek
 - b) requirements for fauna management during vegetation removal in accordance with Conditions 7 and 8 by a suitably qualified and experienced Zoologist
 - c) permit requirements for fauna handling in accordance with the *Wildlife Act 1975* and any other relevant legislation as applicable
 - d) requirements for the Hazel Creek realignment including the management of aquatic and semi aquatic fauna which may be present. This should include (but not be limited to):
 - i. reference to Dwarf Galaxias and Flinders Pygmy Perch which may utilise Hazel Creek as transitory habitat
 - ii. requirements for management of Dwarf Galaxias and Flinders Pygmy Perch if they are encountered during creek alignment including reference to the required permits for salvage and release
 - iii. Reference to management of exotic and pest fish species encountered during works including any requirements for euthanasia to prevent further dispersal
 - iv. requirements for supervision at the relevant stages of the Hazel Creek realignment by a suitably qualified and experienced Aquatic Ecologist and Zoologist and a suitably qualified and experienced Terrestrial Invertebrate Ecologist
 - e) reference to the endorsed Warragul Burrowing Crayfish Management Plan and Warragul Burrowing Crayfish Translocation Plan including:

- i. Reference to the colony locations within the subject site including the existing and translocation sites
 - ii. requirements for management and monitoring of the species
 - f) reporting requirements to the Responsible Authority in accordance with any of the endorsed plans
 - g) reference to endorsed Warragul Burrowing Crayfish Management Plan and Warragul Burrowing Crayfish Translocation Plan
 - h) reference to the Accidental Unearthing Guidelines for Giant Gippsland Earthworm and Warragul Burrowing Crayfish in Conditions 66 and 67
 - i) details of Conservation Zone Requirements in Conditions 36 and 62.
6. All actions endorsed in the Fauna Management Plan in Condition 5 must be implemented and carried out at the relevant stages.
7. Before works start including the removal of any vegetation, a pre-clearance fauna survey and inspection of all trees to be removed (including all hollows) and all understorey vegetation to be removed must be carried out. The survey must:
- a) be completed by a qualified and experienced Zoologist with experience in wildlife salvage
 - b) be undertaken by someone with the appropriate permits under the *Wildlife Act 1975*
 - c) be to the satisfaction of the Responsible Authority
 - d) identify release sites on or adjacent to the subject site for fauna salvage and relocation in accordance with the Fauna Management Plan identified in Condition 5
 - e) include a report on the findings and mitigation methods adopted which must be submitted to the Responsible Authority before any vegetation is removed.
8. During all tree and vegetation removal, a suitably qualified and experienced Zoologist with the relevant permits under the *Wildlife Act 1975* must be present to undertake fauna salvage and relocation. A report on the outcome of the fauna salvage operation must be submitted to the Responsible Authority.

Landscape Master Plan

69. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988*, an amended landscape masterplan for the entire subdivision must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format. The plan must show and include:
- a) The landscaping theme and graphical concepts to be developed for the subdivision including all reserve areas and waterways.
 - b) The type of species to be used for street tree planting in the subdivision. The plant schedule must be consistent with adjoining sites where roads are continued through. native plant species should be used where possible.
 - c) Street trees along the internal road reserve and Wills Street are to be to the satisfaction of the Responsible Authority.

- d) All plant species within the protected vegetation area must be to the satisfaction of the Responsible Authority. Locations of substations.
- e) Entrance treatments, if applicable.
- f) Proposed location of paths, pavement areas and other structures including details of construction materials.
- g) Locations of any protected trees or patches of protected native vegetation to be retained.
- h) Location of all existing vegetation with retained trees clearly indicated.
- i) The tree protection zone for each tree.
- j) Location of any waterway or waterbody on or adjoining the land including the location of Hazel Creek, wetlands, and retarding basins.
- k) Conservation Zones for Warragul Burrowing Crayfish in accordance with the endorsed Warragul Burrowing Crayfish Management Plan.
- l) Location of existing Warragul Burrowing Crayfish colonies and translocation sites in accordance with the endorsed Warragul Burrowing Crayfish Translocation Plan.
- m) Areas which will be available for revegetation within the Waterway Reserve.
- n) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves.
- o) Style and location of lighting, including in public open space and reserves.
- p) Management notes including site preparation and future maintenance.
- q) Details of soil treatments, mulching, and irrigation systems. Areas of cut and fill required for landscaping, including location and dimensions of any retaining walls.
- r) A schedule of proposed species that are to be planted on the site including scientific names and common names.
- s) Quantities of all species to be planted on site including their supply size and size when mature (height and width).
- t) Areas to be landscaped including hard surface areas.
- u) All vegetation to be removed and retained on the subject site.

All landscaping must be to the satisfaction of the Responsible Authority and elements of the above Landscaping Plan must be designed and sited in relation to safety and convenience consideration, the need for pedestrian/bicycle linkages, rest locations, scenic viewing opportunities and landscaping themes.

Detailed Landscape Plan

710. Before the plan of subdivision is certified ~~for the relevant stage~~ under the *Subdivision Act 1988*, a Detailed Landscape Plan for that stage must be prepared by a suitably qualified and experienced person. When approved, the plan will be endorsed and will be the form part of this permit. The Detailed Landscape Plan must be drawn to scale with dimensions and an electronic copy (.pdf) must be provided. The Plan must be consistent with the endorsed Landscape Master Plan and must show:

- a) Location of Hazel Creek and associated wetlands.
- b) Location of Warragul Burrowing Crayfish existing colonies and translocation sites in accordance with the endorsed Warragul Burrowing Crayfish Translocation Plan.
- c) New plantings including their layout to be provided in any road reserves and within the Waterway Reserve.
- d) Proposed revegetation within the Waterway Reserve. Revegetation should be in accordance with the modelled Ecological Vegetation Class, West Gippsland Catchment Management Authority and Baw Baw Shire Council Waterway Management Plan Guidelines and Giant Gippsland Earthworm and Warragul Burrowing Crayfish Guidelines listed in the endorsed Giant Gippsland Earthworm and Warragul Burrowing Crayfish Management Plan.
- e) Detailed planting schedule of all proposed trees, shrubs and groundcovers including botanical names, common names, pot sizes, sizes at maturity, quantities and densities of each plant.
- f) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements including retaining walls.
- g) All proposed street tree planting using semi-advanced trees with species selection that is in accordance with Baw Baw Shire Council's Tree Selection, Planting and Maintenance Policy. Trees must have a minimum container size of 45 litres.
- h) Location of wetlands and retarding basins including necessary maintenance structures including hard stands and dewatering sites.
- i) Materiality and finish detail for paths, lighting typologies, street furniture detail, bicycle parking design and specification, with standard and safety compliance detail.

Waterway Management Plan

811. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988*, a detailed Waterway Management Plan [in accordance with Hazel Creek Waterway Management Plan 2010, Melbourne Water Waterway design guidelines and EVC benchmarks](#) must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The Waterway Management Plan must be drawn to scale with dimensions and an electronic copy (.pdf) must be provided. The plan must be consistent with any endorsed Landscape Master Plan and must show details of works within and adjacent to the designated waterways and include:

- a) Waterway design drawing identifying the existing environmental values to be retained and protected, including native vegetation, and Warragul Burrowing Crayfish colonies.
- b) Site preparation details ~~prior to before implementation of~~ revegetation activities (i.e., removal/control of high-threat weeds) [are implemented](#).
- c) Details of revegetation/restoration activities, monitoring activities and planting standards, including:
 - i. Tube stock planting standards.

- ii. Appropriate consideration of the feasibility of incorporating any threatened species habitat into the revegetation / restoration activities.
 - iii. Modification to revegetation activities within Warragul Burrowing Crayfish habitat areas in accordance with the endorsed Warragul Burrowing Crayfish Management Plan.
 - iv. Two-year maintenance actions and conditions regarding the revegetation and monitoring works.
 - v. Two-year weed management program for environmental weeds.
- d) Details of wetland construction and maintenance including:
- vi. Location of wetlands and retarding basins.
 - vii. Location and access of hard stands.
 - viii. Location and access of dewatering sites.

Stormwater Management Plan

912. Before the plan of subdivision is certified ~~for the first stage~~ under the *Subdivision Act 1988*, an amended stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan. The stormwater management plan must include the following:

- a) A detailed description of the proposed works in the south-east corner of the creek reserve area including location of the ~~low flow channel~~, off-line sediment pond and wetland with associated maintenance access and hardstand.
- b) Strategy to mitigate the flood hazard and achieve flood velocities to provide a response to the flood hazard and demonstrate that the flood risk at roads, pedestrian paths and crossings does not exceed the agreed safety criteria. ~~not exceeding 1.5m/sec and depth not exceeding 0.4m.~~
- c) A comprehensive hydrogeology assessment to identify any risks associated with ground water levels and, as necessary, demonstrate the strategies to mitigate and manage groundwater risks and the function of the proposed wetland with regard to groundwater.
- e)d) Provide calculations and RORB model output to demonstrate that the 1 per cent% AEP post-development discharge does not exceed the pre-development rate.
- e)e) Demonstrate that water quality objectives are achieved. An electronic copy of the MUSIC model must be provided for council verification.
- e)f) Details of the proposed wetland including area, treatment and 1 per cent% AEP bypass channel. The macrophyte zone is to be designed to comply with requirements relating to velocities.

- ~~10~~13. Before a Statement of Compliance for the subdivision is issued under the *Subdivision Act 1988*, ~~Prior to SOC~~ provide a plan showing 1 per cent% AEP flood levels along the waterway and drainage reserve and finished floor levels of the buildings with freeboard of at least 600 millimetres.

Functional Layout Plan

- ~~11~~14. Before a plan of subdivision is certified under the *Subdivision Act 1988*, a functional layout plan for the subdivision ~~or the stage of subdivision~~ must be submitted to and approved by the Responsible Authority. When approved the functional layout plan will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or other scale as agreed by the Responsible Authority with all leading dimensions clearly shown. An electronic copy (.pdf) of the plans must be provided plus additional hard copies if requested by the Responsible Authority. The functional layout plan must be generally in accordance with the application plans and must incorporate the following:
- a) A subdivision layout drawn to scale, including proposed street names if known, lot areas, lot numbers, widths of street reservations and driveway crossing locations.
 - b) Topography and existing features, including contours for the subject land and any affected adjacent land.
 - c) Proposed speed limits on all roads, proposed location of speed limit signs and Local Area Traffic Management devices incorporated into road designs to ensure slow speed environments as required by the Responsible Authority.
 - d) Typical cross-sections for each street type.
 - e) Typical cross-sections in areas of cut and fill involving retaining walls.
 - f) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, and traffic controls including traffic calming devices.
 - g) A table of offsets for all utility services and street trees.
 - h) Preliminary location of reserves for electrical kiosks.
 - i) Preliminary location of street lights.
 - j) Preliminary master services plan.
 - k) Intersection works on Wills Street.
 - l) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.
 - m) Details of tree protection zones for all trees to be retained on site.
 - n) Any trees proposed for removal from the site clearly designated.
 - o) Drainage outfall system (both interim and ultimate), indicating legal point of discharge.
 - p) The proposed minor drainage network, any other drainage works to mitigate shallow groundwater and any land required for maintenance access.
 - q) The major drainage system, including the proposed levels of any watercourse, lake, wetland, bypass channel, silt pond, and/ or piped elements showing preliminary sizing

and any access requirements for construction and maintenance [and existing groundwater levels](#).

- r) Overland flow paths (1 [per cent](#)% AEP) to indicate how excess runoff will be safely conveyed through the subdivision.
- s) Tree Protection Zones of all retained trees on the subject site.
- t) Tree Protection Zones of trees on adjacent property which may be impacted by development including trees in road reserves.
- u) Warragul Burrowing Crayfish Conservation Zones where no works can occur.

Public Infrastructure Plan (PIP)

~~12~~[15](#). Before the plan of subdivision ~~for the first stage~~ is certified under the *Subdivision Act 1988*, an amended Public Infrastructure Plan (PIP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit.

[16](#). The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure required on the land and surrounding which is identified in the Warragul Precinct Structure Plan and Development Contributions Plan, or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP, it must include the following:

- a) Partial delivery of DR-SW-02 (Wills Street wetland).
- b) Intersections of the internal road with Wills Street.
- c) Shared path along southern side of internal road.
- d) A 2.5 metre wide shared path from the eastern end of the existing footpath on the northern side of Wills Street to Spring Street (approximately 410 metres) including pram crossings.
- e) Pedestrian crossings of Wills Street and the internal road at the western intersection with the internal road to connect the internal footpath to the existing Wills Street footpath.
- f) Pedestrian crossings of Wills Street and the internal road at the eastern intersection with the internal road to connect the internal footpath to the extension of the Wills Street shared path.
- g) All waterway works.
- h) Habitat area.
- i) Any land which is required to be set aside for infrastructure identified in the ICP or the PSP including land required for public open space and community facilities.
- j) The staging sequence.

The PIP may be amended with the written consent of the Responsible Authority.

~~13~~[17](#). Before the plan of subdivision for the first stage is certified under the *Subdivision Act 1988*, or any other time agreed to in writing by the Responsible Authority, the owner must enter

into an agreement or agreements under ~~S~~section 173 of the *Planning and Environment Act 1987* which provides for:

- a) The implementation of the Public Infrastructure Plan approved under this permit.
- b) The timing of any payments to be made to the owner in respect of any infrastructure project having regard to the availability of funds in the applicable Precinct Structure Plan and Development Contributions Plan.

~~18.~~ 18. The agreement must apply to the relevant permit area only.

~~19.~~ 19. The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the Responsible Authority).

General Conditions

~~14~~20. The subdivision of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.

~~15~~21. The layout of the subdivision and access as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.

~~16~~22. The extent of vegetation removal as shown on the endorsed plan/s must not be altered or modified without the further written consent of the Responsible Authority. Vegetation identified removal (Native Vegetation Removal Report ID: 305-20220421-009) is 0.070 hectares of native vegetation which is comprised of:

- a) 1 large tree.
- b) With a minimum strategic biodiversity value score of 0.600.

~~17~~23. Once the vegetation removal has commenced it must be continued and completed to the satisfaction of the Responsible Authority.

~~18~~24. Once the subdivision starts, it must be continued and completed to the satisfaction of the Responsible Authority.

~~19~~25. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authorities in accordance with ~~S~~section 8 of that Act and Clause 66 of the Baw Baw Planning Scheme.

~~20~~26. All existing and proposed easements and sites for existing or required utility services, roads, public open space and other infrastructure on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

~~21~~27. The costs associated with effecting the transfer or vesting of land required for the reserve must be borne by permit holder.

~~22~~28. Land required for the reserve must be transferred to or vested in the relevant public agency with any designation (e.g. road, reserve or lot) nominated by the relevant agency.

Telecommunications

~~23~~29. The owner of the land must enter into an agreement with:

- a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan/s in accordance with the provider's requirements and relevant legislation at the time; and
- b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan/s in accordance with industry specifications or any standards set by the Australian Communications and Media Authority, unless the owner of the land can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Native Vegetation Offsets

2430. Before the plan of subdivision is certified under the *Subdivision Act 1988*, a native vegetation offset must be secured for the removal of 0.070 hectares of native vegetation in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017). The permit holder must secure the following offsets:

- a) A general offset of **[insert figure after DEECA referral]** general habitat units:
 - i. Located within the West Gippsland Catchment Management Authority (CMA) or Baw Baw Shire Council Municipal area.
 - ii. With a minimum strategic biodiversity value of at least **[insert figure after DEECA referral]**.
 - iii. The offset(s) must also protect 1 large tree.

2531. Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the Responsible Authority. This evidence must be one or both of the following:

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

2632. A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Energy, Environment and Climate Action, Traralgon Regional Office via Gippsland.Planning@delwpdeeca.vic.gov.au.

2733. In the event that a security agreement is entered into as ~~prespecified in~~ Condition **3124** relating to first party offset sites, the applicant must provide the annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a Statutory Authority.

Prior to Before commencement of site works start

Detailed Engineering Plans

2834. Before any road and/or drainage works associated with the subdivision ~~or stage of the subdivision~~-start, detailed construction plans must be submitted to and approved by the Responsible Authority. If a Functional Layout Plan has been approved the Engineering plans

must be generally in accordance with the approved Functional Layout Plan. When approved the Engineering plans will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy (.pdf) of the plans must be provided plus additional hard copies if requested by the Responsible Authority. The plans must show:

- a) Engineering plans and specifications of the proposed works that are to become public assets such as roads, paths, intersections, drains, bridges and the like.
- b) Location of Permanent Survey Marks.
- c) Details of any cut and fill including retaining walls.
- d) All road dimensions and cross sections generally to [the Infrastructure Design Manual \(IDM\)](#) requirements.
- e) Intersections of the internal road with Wills Street.
- f) Pedestrian crossings of Wills Street and the internal road at the western intersection with the internal road to connect the internal footpath to the existing Wills Street footpath. [Paths should generally conform to IDM requirements and any paths abutting industrial/commercial land uses should have a minimum depth of 150mm as per SD 205 of the IDM.](#)
- g) A 2.5 metre wide shared path from the eastern end of the existing footpath on the northern side of Wills Street to Spring Street (approximately 410 metres) including pram crossings.
- h) Pedestrian crossings of Wills Street and the internal road at the eastern intersection with the internal road to connect the internal footpath to the extension of the Wills Street shared path.
- i) A 2.5 metre wide shared path along the southern side of, and for the entire length of, the internal road.
- j) A 2 metre wide footpath along the northern side of, and for the entire length of, the internal road.
- k) Pavement design using a recognised engineering methodology based on a geotechnical investigation of the site in accordance with IDM 12.7 including consideration of the in-situ soil conditions and available road making materials. A geotechnical report must be submitted with the detailed plans.
- l) SM2 modified kerb on all roads except where there is a frontage to a park or reserve, where B2 barrier kerb must be used unless otherwise agreed by the Responsible Authority.
- m) Location of speed limit signs and traffic management devices.
- n) A driveway crossing for each lot designed for the expected vehicle type conforming to horizontal and vertical clearances in accordance with IDM Standard Drawings.
- o) Temporary turnaround areas within or outside the site (sealed or unsealed as directed by the Responsible Authority) for waste collection vehicles (8.8 metres in length) at the temporary dead end of any road.
- p) Master services plan.

- q) Location of street lighting.
- r) Major and minor drainage generally in accordance with the approved Stormwater Management Plan.
- s) Details of any silt basin, retarding basin and wetland in accordance with the approved Stormwater Management Plan.
- t) Underground drains incorporating features to prevent litter, sediments, and oils from entering the drainage system (in particular waterways) and/or cut-off drains to intercept storm water run-off from adjoining properties as appropriate and to the satisfaction of the Responsible Authority.
- u) Any water sensitive urban design features.
- v) Tree Protection Zones of all retained trees on the subject site.
- w) Tree Protection Zones of trees on adjacent property which may be impacted by development including trees in road reserves.
- x) Warragul Burrowing Crayfish Conservation Zones where no works can occur.

Site and Environmental Management Plan ~~(SEMP)~~

2935. At least 15 days before any works start, a site specific Site and Environmental Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved Site and Environmental Management Plan.

36. The ~~SEMP~~ [Site and Environmental Management](#) must address all environmental risks and include:

- a) A construction program in bar chart form (major time interval in months, minor time interval in weeks) clearly indicating the start-up meeting, stages, all tasks and all hold points including submission of “As Constructed” plans and CCTV inspections.
- b) A site plan clearly indicating the location of all public noticeboards, site access, security fencing, site office and rest rooms, plant depot, rumble strips, vehicle wash bays, soil stockpiles, tree protection zones, temporary drainage protection measures and any other relevant operational or construction features.
- c) A program for notification (initial notification and updates as required) of all residents and businesses who will be directly affected by the construction works, including a phone number of a representative of the contractor that can be contacted at any time should there be any complaints or concerns in connection with the works.
- d) Occupational Health and Safety arrangements.
- e) An Environmental Management Program for all on-site personnel and contractors including site inductions, specific procedures for working within the waterway reserve to avoid impacts on the Warragul Burrowing Crayfish habitat, and Accidental Unearthing Guidelines for Giant Gippsland Earthworm and Warragul Burrowing Crayfish.
- f) All Warragul Burrowing Crayfish Conservation Zones marked on plans.
- g) Reference to endorsed Warragul Burrowing Crayfish Management Plan.

- h) Reference to the endorsed Warragul Burrowing Crayfish Translocation Plan.
- i) Appropriate cultural protection measures in accordance with any approved Cultural Heritage Management Plan applying to the land.
- j) A Traffic Management Plan including the proposed route for construction vehicle access to the site, arrangements for any road closures, etc.
- k) Any specific measures required to protect Council assets during construction including prevention of earth being tracked onto surrounding roads by vehicles and cleaning of roads if necessary.
- l) Measures to reduce the impact of noise, dust and other emissions created during the construction process.
- m) Measures for control of storm water during construction, including preventing erosion and any storm water runoff onto adjoining properties and ensuring that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the storm water drainage system.
- n) Measures to ensure that all machinery brought onto the site is weed and pathogen free.
- o) Control and management of any soil to be imported or removed from the site and any soil stockpiles.
- p) Waste management during construction.
- q) Any contamination assessments and or mitigation requirements directed by the Responsible Authority regarding any stage which contains a known or suspected contamination area.

Vegetation Marking on Site

~~30~~37. Before ~~the commencement of~~ any buildings and works start, and before the removal, destruction or lopping of any native vegetation, all vegetation must be clearly marked on site, within Wills Street and Hazel Creek reserve as retained or removed in accordance with this permit, to the satisfaction of the Responsible Authority.

Tree Protection

~~31~~38. Before ~~the commencement of~~ any works start, Tree Protection Zone fencing must be established around all retained vegetation on and adjacent to the subject site in accordance with the Australian Standards for the Protection of Trees on Development Sites (AS4970-2009).

39. The Tree Protection Zone Fence must be established to the satisfaction of the Responsible Authority and be in accordance with the endorsed Tree Management Plan.

40. The Tree Protection Zone fence must:

- a) ~~B~~be erected before any machinery or materials are brought on site,
- b) ~~B~~be temporary chain mesh fencing,
- c) ~~B~~be at least 1.8 metres high,
- d) ~~H~~have signs denoting it as the Tree Protection Zone,

- e) ~~N~~not be removed or altered without approval from the Responsible Authority.
- f) ~~M~~ust be established at 12 x the Diameter at Breast Height (DBH) to a minimum of 2 metres and to a maximum of 15 metres unless otherwise specified in accordance with AS4970-2009.

Conservation Protection

~~3241.~~ Before ~~the commencement of~~ any works start, Conservation Zone fencing must be established around Warragul Burrowing Crayfish habitat areas to the satisfaction of the Responsible Authority. The Conservation Zone fence must:

- a) ~~B~~be constructed in accordance with the locations on the endorsed Warragul Burrowing Crayfish Management Plan.
- b) ~~B~~be erected before any machinery or materials are brought on site.
- c) ~~B~~be temporary chain mesh fencing.
- d) ~~B~~be at least 1.8 metres high.
- e) ~~H~~have signs denoting it as a Conservation Zone where no access is permitted.
- f) ~~M~~must not be removed or altered without approval from the Responsible Authority.

Certification

Land to Shown for Vesting

~~3342.~~ The plan of subdivision submitted for certification under the *Subdivision Act 1988*, must show land for the creek reserve and DR-SW-02 vested to the Responsible Authority.

Creation of an Easement

~~3443.~~ The plan of subdivision submitted for certification under the *Subdivision Act 1988*, must include any approved easement forming part of this permit in favour of the responsible authority.

Statement of Compliance

Telecommunication works

~~3544.~~ ~~Prior to the issue of~~Before a Statement of Compliance for the subdivision is issued under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- a) ~~A~~a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; ~~and~~
- b) ~~A~~a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Public Open Space

~~3645.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for ~~each stage of~~ the subdivision is issued under the *Subdivision Act 1988*, a Public Open Space contribution equivalent to the value of 5 percent of the site area must be paid to the satisfaction of the Responsible Authority.

Fire Hydrants

~~3746.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for the subdivision is issued under the *Subdivision Act 1988*, the owner of the land must provide Council with written confirmation from a suitably qualified professional that the requirements of Clause 56.09-3 (Fire Hydrants Objectives Standard C29) of the Baw Baw Planning Scheme have been provided on the land.

Construction

~~3847.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for the subdivision is issued under the Subdivision Act 1988 ~~for any stage~~, all works specified on the approved engineering plans in that stage must be constructed or carried out in accordance with those plans unless otherwise agreed by the Responsible Authority.

~~3948.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for subdivision is issued under the Subdivision Act 1988 ~~for any stage~~, street lighting must be provided on all roads and at all intersections with existing roads which are included in that stage. Lighting must also be provided within reserves and along pathways. Lighting design must be in accordance with the relevant Australian Standards, including the current issue of AS/ANZ 1158 – Lighting for Roads and Public Spaces and must utilise LED lighting heads and standardised street lighting poles approved by the network distributor (Ausnet Services) and the installation must be signed off by the network distributor.

~~4049.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for subdivision is issued under the Subdivision Act 1988 ~~for any stage~~, any nature strip, park or reserve created in that stage must be cleared of all noxious weeds, graded, filled and compacted with approved material free of rock, stone and other contamination, landscaped, shaped and formed as necessary, scarified, top dressed with a minimum 100 mm depth of approved topsoil and sown with a turf mixture of 80 per cent% perennial rye (40 per cent% Summer + 40 per cent% Winter) and 20 per cent% kikuyu or other approved mixture at a rate of 300 kilograms~~kg~~ per hectare to ensure the land is free draining and able to be mown by a rotary mower to the satisfaction of the Responsible Authority.

~~4150.~~ Unless otherwise agreed by the Responsible Authority, all road works must be constructed in accordance with the relevant IDM, VicRoads and AustRoads requirements, procedures and guidelines as applicable to urban developments including:

- a) ~~C~~compaction testing and proof rolling of subgrade, sub-base and base course layers and proof rolling in preparation for asphalt must be undertaken at developer's cost in accordance with IDM clauses 12.7.10 to 12.7.16 (IDM Version 5.20 or later) and results submitted to Council for approval and records purposes
- b) ~~A~~a wearing course of asphalt unless otherwise approved by the Responsible Authority.

- c) ~~A~~ny road works abutting an existing carriageway must ensure adequate surface drainage to the kerb and channel or road shoulder and provide a smooth watertight seal without discontinuity to the existing carriageway, generally in accordance with IDM Standard Drawing SD130.

~~4251. Prior to the issue of~~ Before a Statement of Compliance for ~~any stage of~~ the subdivision is issued under the Subdivision Act 1988, the following must be constructed or carried out in accordance with the relevant approved plans for that stage unless otherwise agreed by the Responsible Authority:

- a) ~~P~~ower and telephone lines placed underground from the main point of service supplied by the relevant authority outside the boundaries of the land must be provided to all new dwellings/lots.
- b) ~~F~~encing in accordance with endorsed plans.
- c) ~~A~~ll other works associated with all public open space areas, including, parklands, water retention areas, buffer zones, service corridors, community use areas
- d) ~~A~~ll streetscapes including road and plantation reserves must be landscaped and planted as shown on the approved landscape plans.

Wills Street Wetlands

~~4352. Prior to the issue of~~ Before a Statement of Compliance ~~is issued for the relevant stage of the subdivision~~ under the *Subdivision Act 1988*, unless otherwise agreed in writing by the Responsible Authority, the following must be constructed in accordance with the approved detailed design and the Warragul Development Contributions Plan to the satisfaction of the Responsible Authority:

- a) Partial delivery of DR-SW-02 (Wills Street Wetland).

Temporary Vehicle Turning Areas

~~4453. Prior to the issue of~~ Before a Statement of Compliance ~~is issued for any stage under the Subdivision Act 1988~~, temporary vehicle turning areas, either sealed or unsealed as directed by the Responsible Authority, must be constructed on roads which are intended to be continued in a subsequent stage or at a future time. The areas must be maintained by the Developer to the satisfaction of the Responsible Authority unless alternative arrangements are agreed in writing with the Responsible Authority.

~~4554. Once the temporary vehicle turning areas are no longer required, they must be removed at Developer's cost and the area, together with all nature strips, footpaths and the like, finished to the satisfaction of the Responsible Authority.~~

~~4655. If the Responsible Authority agrees to a temporary turning area being retained after the issue of a Statement of Compliance for any stage, an agreement providing for a bond of sufficient value to cover all reinstatement costs plus any contingency amount must be reached with the Responsible Authority~~ ~~prior to the issue of~~ before a Statement of Compliance for that stage is issued.

~~4756. A sign of at least 1 square metre in area must be displayed in a prominent position near the temporary vehicle turning area while a temporary turning area is in operation advising that~~

it is a temporary turning area only. The sign must be removed after the temporary vehicle turning area is removed.

Drainage

~~4857.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for ~~any stage of~~ the subdivision is issued under the *Subdivision Act 1988*, all components of the stormwater drainage system relevant to that stage must:

- a) ~~Be~~ constructed in accordance with the stormwater drainage design approved by the Responsible Authority; ~~and.~~
- b) ~~Provide~~ a legal point of stormwater discharge for each allotment all to the satisfaction of the Responsible Authority.

~~4958.~~ The design, construction, and handover of wetland and stormwater retardation systems must follow the “Water Sensitive Urban Design Guidelines, South Eastern Councils” and “Water Sensitive Urban Design Guidelines Addendum, Baw Baw Shire Council”.

Speed Reduction

~~5059.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for ~~any stage of~~ the subdivision is issued under the *Subdivision Act 1988*, the developer must advise the Responsible Authority that a speed reduction from 70 km/h~~r~~ to 60 km/h~~r~~ is required on Wills Street to match the existing posted speed limits on Burke and King Streets.

Making Good

~~5160.~~ ~~Prior to the issue of~~ Before a Statement of Compliance for ~~any stage~~ the subdivision is issued under the Subdivision Act 1988, the Developer must repair any damage to Council infrastructure as directed by the Responsible Authority which can reasonably be determined to have occurred as a result of the Developer’s works unless such damage was identified by the Developer and reported to the council in writing ~~prior to commencement of~~ before works on that stage start.

Practical Completion

Street Tree Planting

~~5261.~~ ~~Prior to the issue of~~ Before a Letter of Practical Completion is issued ~~for any stage~~, the Developer must purchase and plant advanced trees of an approved variety in line with the specification in Council’s Tree Selection, Planting and Maintenance Policy in all nature strips in accordance with the approved landscaping plan. Appropriate planting techniques and tree guards must be provided to the satisfaction of the Responsible Authority.

62. The trees must be maintained for a minimum period of two (2) years after practical completion including replacing any dead or damaged trees during the two-year maintenance period.

CCTV

~~563.~~ ~~Prior to the issue of~~ Before a Letter of Practical Completion ~~for any stage~~ is issued, CCTV results for the full length of all storm water drainage pipes shown on the approved drawings for that stage where Council is the Responsible Authority, must be submitted for

assessment. In the case of pipes beneath roads, CCTV results must be submitted and approved ~~prior to placement of~~ before asphalt is placed.

564. The CCTV work must be performed by an independent specialist contractor at the Developer's cost. The submitted information must be to the satisfaction of the Responsible Authority. Pipe joints which exceed the manufacturer's installation tolerances and other significant defect or damage must be rectified at the developer's expense within the maintenance period or other period agreed in writing by the Responsible Authority.

As Constructed Drawings

565. ~~Prior to the issue of~~ Before a Letter of Practical Completion ~~for any stage~~ is issued, "As Constructed" drawings in PDF and AutoCAD format must be submitted through Council's certification portal for receiving A-SPEC "As Constructed" data. Drawings must include digital road, drainage and open space (R-SPEC, D-SPEC & O-SPEC) information in AutoCAD format for all works where Council is the Responsible Authority with all X-refs bound into the drawings and showing any amendments during construction and location of any permanent survey marks in accordance with the current version of D-SPEC, O-SPEC and R-SPEC. All graphical information is to be provided in the datum of GDA94 and projection of MGA Zone 55. The submitted information is to be to the satisfaction of the Responsible Authority and provided at the Developer's cost. (Refer to the A-SPEC website www.a-specstandards.com.au for minimum Council requirements). The various road, drainage and open space works must be maintained by the owner until this condition has been complied with.

Subdivision Conditions

Vested Land

566. Within four (4) weeks of the registration of the plans at the Land Titles Office, a Certificate of Title for all land vested in the Responsible Authority on the plan of subdivision must be sent to the Responsible Authority.

Works within Tree Protection Zones

567. Except with written consent from the Responsible Authority, none of the following actions are permitted within the Tree Protection Zone. These actions include, but are not limited to:
- a) Machine excavation including trenching.
 - b) Excavation for silt fencing.
 - c) Cultivation.
 - d) Storage of any materials and placement of fill.
 - e) Preparation of chemicals, including preparation of cement products.
 - f) Parking of vehicles and plant.
 - g) Refuelling.
 - h) Dumping of waste.
 - i) Wash down and cleaning of equipment.

- j) Lighting of fires.
- k) Soil level changes.
- l) Temporary or permanent installation of utilities and signs.
- m) Landscaping.
- n) Physical damage to the tree.

Works within Conservation Zones

568. Except with written consent from the Responsible Authority, none of the following actions are permitted within the Conservation Zone. These actions include, but are not limited to:

- a) Machine excavation including trenching.
- b) Excavation for silt fencing.
- c) Cultivation.
- d) Storage of any materials and placement of fill.
- e) Preparation of chemicals, including preparation of cement products.
- f) Parking of vehicles and plant.
- g) Refuelling.
- h) Dumping of waste.
- i) Wash down and cleaning of equipment.
- j) Lighting of fires.
- k) Soil level changes.
- l) Temporary or permanent installation of utilities and signs.
- m) Landscaping.
- n) Any other works that may impact Warragul Burrowing Crayfish.

Warragul Burrowing Crayfish Management Plan Implementation

569. All actions endorsed in the Warragul Burrowing Crayfish Management Plan in Condition **43** must be implemented and carried out at the relevant stages unless otherwise agreed to in writing by the Responsible Authority.

Warragul Burrowing Crayfish Translocation Plan Implementation

670. All actions endorsed in the Warragul Burrowing Crayfish Translocation Plan in Condition **54** must be implemented and carried out at the relevant stages unless otherwise agreed to in writing by the Responsible Authority.

671. All post translocation Monitoring Reports must be submitted and approved by the Responsible Authority in consultation with DEECA unless otherwise agreed to in writing by the Responsible Authority. Once approved the Monitoring Reports will be endorsed.

Accidental Unearthing of Giant Gippsland Earthworm and Warragul Burrowing Crayfish

672. In the event of the accidental unearthing of Giant Gippsland Earthworm, the Guidelines for the Accidental Unearthing of Giant Gippsland Earthworms (INVERT-ECO, March 2016) must

be followed including the immediate cease of works and reporting of the incident to the relevant authorities. Works cannot resume until all relevant statutory approvals and permits have been obtained.

673. In the event of the accidental unearthing of the Warragul Burrowing Crayfish, the Salvage and Release Protocols for the accidental unearthing of Warragul Burrowing Crayfish (INVERT-ECO, December 2015) must be followed, including the immediate cease of works, reporting of the incident to the relevant authorities. Works cannot resume until all relevant statutory approvals and permits have been obtained. Further steps to salvage and release unearthed Warragul Burrowing Crayfish including release in situ, in suitable habitat or euthanasia must be followed.

Landscaping Ongoing Maintenance

674. The landscaping works shown on the approved Landscape Plan for any stage must be carried out and completed to the satisfaction of the Responsible Authority ~~prior to~~ before ~~the issue of~~ a Statement of Compliance is issued for that stage or any other time agreed in writing by the Responsible Authority.
675. The landscaping shown on the endorsed Landscape Plan must be maintained to the satisfaction of the Responsible Authority for a period of two years from the practical completion of the landscaping, unless alternative arrangements have been made in writing by the Responsible Authority. During this period, any dead, diseased or damaged plants or landscaped areas are to be repaired or replaced during the period of maintenance and must not be deferred until the completion of the maintenance period.
676. Once the subdivision is commenced the permit-holder must maintain the land so that undeveloped areas and areas under construction do not become weed-infested, vulnerable to erosion, a potential fire risk or cause other nuisance to the satisfaction of the Responsible Authority.
677. ~~Prior to~~ Before the Certificate of Final Completion ~~being~~ is issued an assessment of the level of sediment within the wetland system must be conducted by a suitably qualified and experienced person with results provided to the Responsible Authority. If the level of sediment is found to be within 500mm of the Normal Water Level or occupies more than one third of the pond's capacity, then the wetlands must be desilted at the expense of the permit holder.

Amenity

678. The subdivision works must be managed so that the amenity of the area is not detrimentally affected through the:
- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.

To the satisfaction of the Responsible Authority.

Stormwater Management Interim Works

679. The Developer is wholly responsible for ongoing maintenance of any interim on-site sediment, retarding and treatment basins and any other associated works until the permanent sediment, retarding basin and wetland are completed and are operational unless otherwise agreed by the Responsible Authority.
780. Unless otherwise agreed by the Responsible Authority, when the permanent sediment, retarding basin and wetland works have been completed, or at any other time if requested by the Responsible Authority, the Developer must, at its cost, remove and rehabilitate the interim on-site sediment, retarding and treatment basin and any other associated Waterway Works all to the satisfaction of the Responsible Authority. An agreement providing for a bond of sufficient value to cover all ongoing maintenance requirements and reinstatement works plus any contingency amount must be reached with the Responsible Authority before a Statement of Compliance is issued for the stage containing construction of the interim on-site sediment, retarding and treatment basin.

Control of run-off

781. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into drains or watercourses.

Urban Stormwater

782. Stormwater must not be discharged from the subject land other than by means of a waterway or an underground pipe drain discharged to an outlet in the street or to an underground pipe drain unless otherwise agreed by the Responsible Authority.

Stormwater Overflows

783. Stormwater works must be provided on the subject land to prevent overflows onto adjacent properties.

Minimal Soil Erosion

784. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Service substations and kiosk sites

785. Service substations, kiosk sites and the like must not be located on/address/front any land identified as public open space (including encumbered open space) or land to be used for any municipal purpose unless otherwise agreed by the Responsible Authority.

Vegetation Impact - Construction Stockpiles/Fill/Machinery

786. Any construction stockpiles, fill and machinery must be placed away from areas supporting native vegetation and drainage lines to the satisfaction of the Responsible Authority.

Earthworks

787. No earthworks, compaction or modification of existing drainage patterns may be undertaken which present a risk to any vegetation to be retained, remnant trees, understorey or revegetated areas.

West Gippsland Catchment Management Authority

88. Payment of a waterway offset to compensate for the loss of floodplain habitat that will be impacted by the filling of the land that is currently zoned Urban Floodway Zone. The offset area must be agreed with the West Gippsland CMA and will be calculated at a rate of \$50,000 per hectare.
89. Before a Statement of Compliance is issued for the subdivision:
- a) the waterway realignment and any other flood mitigation works outlined in the Stormwater Management Strategy by Incitus dated 15 November 2021 must be undertaken to the satisfaction of West Gippsland Catchment Management Authority
 - b) the water quality treatment works outlined in the Stormwater Management Strategy by Incitus dated 15 November 2021 must be undertaken to the satisfaction of West Gippsland Catchment Management Authority
 - c) the waterway improvement works outlined in the Waterway Management Plan by Habitat Creations dated 07/10/2021 must be undertaken to the satisfaction of West Gippsland Catchment Management Authority.

Expiry

7890. This permit will expire if one of the following circumstances applies:

- a) The plan of subdivision ~~for the first stage~~ is not certified within two (2) years of the date of this permit; ~~or~~
- ~~b) The plan of subdivision for the last stage of the subdivision is not certified within 10 years of the date of this permit; or~~
- ~~e~~b) The registration of the last stage of the subdivision is not completed within five (5) years from the date of certification of that plan of subdivision.

The starting of the subdivision is regarded by section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with section 69 of the *Planning and Environment Act 1987*.

Appendix D Terms of Reference extract

Method

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

Submissions are public documents

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

Outcomes

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

Timing

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

Fee

23. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.


Sonya Kilkenny MP
Minister for Planning

Date:

9/9/2023