

*Planning and Environment Act 1987*

**Panel Report**

**Surf Coast Planning Scheme Amendment C114**

**Spring Creek Precinct Structure Plan**

**23 January 2017**

*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Surf Coast Planning Scheme Amendment C114

Spring Creek Precinct Structure Plan

23 January 2017

A handwritten signature in blue ink, appearing to read 'Brett Davis', with a small circular mark at the end.

Brett Davis, Chair

A handwritten signature in blue ink, appearing to read 'John Hartigan', with a long horizontal stroke at the end.

John Hartigan, Member

A handwritten signature in blue ink, appearing to read 'Lisa Kendal', with a long horizontal stroke at the end.

Lisa Kendal, Member

# Contents

	Page
<b>Executive Summary .....</b>	<b>1</b>
<b>1 Introduction.....</b>	<b>8</b>
1.1 Location and context.....	8
1.2 The Amendment.....	9
1.3 Amendment process .....	9
1.4 Issues dealt with in this Report .....	11
<b>2 Strategic planning context .....</b>	<b>13</b>
2.1 Planning context.....	13
2.2 Planning scheme provisions .....	16
2.3 Ministerial Directions and Practice Notes.....	16
2.4 Discussion .....	21
<b>3 The Precinct Structure Plan .....</b>	<b>22</b>
3.1 Interpretation of the PSP .....	24
3.2 Community panel process.....	24
3.3 Precinct features .....	25
3.4 Development Contributions Plan Overlay Schedule 3 (DCPO3) .....	27
3.5 Conclusions.....	29
3.6 Recommendation .....	29
<b>4 Western Growth Boundary .....</b>	<b>30</b>
4.1 The issue .....	30
4.2 Evidence and submissions.....	30
4.3 Discussion .....	32
4.4 Conclusions.....	33
4.5 Recommendations .....	33
<b>5 Road network .....</b>	<b>34</b>
5.1 The issues .....	34
5.2 Intersections along the Great Ocean Road .....	35
5.3 Alignment of the north-south connector street to create a T intersection offset from Strathmore Road East .....	41
5.4 Designation of north-south connector street .....	42
5.5 Additional connection to Duffields Road south of Ocean View Crescent.....	42
5.6 Pedestrian crossing of the Great Ocean Road in the vicinity of Strathmore Road East .....	43
5.7 Internal vehicular crossing of Spring Creek.....	45
5.8 Traffic measures to discourage traffic from using Ocean View Crescent.....	47
5.9 ‘Dog-leg’ proposed .....	47
5.10 Conclusions.....	49
5.11 Recommendations .....	50

<b>6</b>	<b>Stormwater and drainage .....</b>	<b>52</b>
6.1	The issue .....	52
6.2	Evidence and submissions .....	52
6.3	Discussion .....	57
6.4	Conclusions.....	58
6.5	Recommendations .....	59
<b>7</b>	<b>Biodiversity.....</b>	<b>60</b>
7.1	The issue .....	60
7.2	Native Vegetation Precinct Plan.....	60
7.3	Native vegetation offsets .....	68
7.4	Vegetation protection and specific biodiversity assets .....	70
7.5	Conclusions.....	82
7.6	Recommendations .....	83
<b>8</b>	<b>Climate change and environmental sustainability.....</b>	<b>84</b>
8.1	The issue .....	84
8.2	Evidence and submissions .....	84
8.3	Discussion and Conclusions.....	85
8.4	Conclusion .....	86
8.5	Further recommendations .....	86
<b>9</b>	<b>Open space .....</b>	<b>87</b>
9.1	The issue .....	87
9.2	Open Space Contribution and Waterway Corridor Buffer Width .....	87
9.3	Conservation reserve – 200-220 Great Ocean Road.....	96
9.4	Site specific issues .....	100
9.5	Conclusions.....	105
9.6	Recommendations .....	107
<b>10</b>	<b>General issues.....</b>	<b>108</b>
10.1	Density.....	108
10.2	Neighbourhood Activity Centre .....	113
10.3	Local Convenience Centre .....	114
10.4	Delivery of the Community Facility .....	114
<b>11</b>	<b>Drafting issues .....</b>	<b>116</b>
11.1	The issue .....	116
11.2	Residential Design Controls.....	116
11.3	The Urban Growth Zone Schedule 1 .....	121

**Appendix A**      **Submitters to the Amendment**

**Appendix B**      **Parties to the Hearing**

**Appendix C**      **Document list**

**Appendix D**      **Panel preferred Urban Growth Zone Schedule 1**

## Appendix E Council response to requested changes to the exhibited Spring Creek PSP, UGZ1, DCPO3 and Clause 52.01 Schedule, with summary of Panel recommendations

### List of Tables

	Page
Table 1 Spring Creek SPP consultation details .....	10
Table 2 Avoid minimise and offset requirements.....	69

### List of Figures

	Page
Figure 1 Regional context plan .....	8
Figure 2 Spring Creek Future Urban Structure Plan .....	23
Figure 3 Precinct features (Plan 2 of PSP pg.6) .....	25
Figure 4 PSP Plan 7 – Road network, public transport and trail .....	34
Figure 5 Traffix TIAR Assessment of road network .....	48
Figure 6 Exhibited PSP ‘dog-leg’ alignment, Plan 3 .....	48
Figure 7 Spring Creek Biodiversity Assessment – Key areas of conservation significance within the study area.....	61
Figure 8 Native Vegetation Precinct Plan – Map 2 Native vegetation to be retained and removed.....	63
Figure 9 PSP Plan 6 - Open Space and Community Facilities Plan .....	88
Figure 10 Alternate Draft Framework Plan .....	97
Figure 11 OS-08 located on western boundary of the PSP area .....	100
Figure 12 Excerpt from PSP Plan 4 showing location and open space allocation on property 3 (160 and 195 Grossmans Road) and property 2 (165 Grossmans Road) .....	101
Figure 13 Excerpt from PSP Plan 6 – showing the location of OS-01 and OS-02 102	
Figure 14 Plan 5 Spring Creek PSP .....	108
Figure 15 Extract from Map 1 of the Urban Growth Zone Schedule 1 .....	110
Figure 16 Map from Clause 22.09 .....	111

## List of Abbreviations

ARC	Architectural Review Committee
BIOR	Biodiversity Impact and Offset Requirements
CCMA	Corangamite Catchment Management Authority (CCMA)
DCP	Development Contribution Plan
DCPO	Development Contributions Plan Overlay
DELWP	Department of Environment, Land, Water and Planning
EVC	Ecological Vegetation Class
ESO	Environmental Sustainability Overlay
GRZ	General Residential Zone
GW	Grassy Woodland
LCC	Local Convenience Centre
LPPF	Local Planning Policy Framework
LSIO	Land Subject to Inundation Overlay
MCP	Memorandum of Common Provisions
MPA	Metropolitan Planning Authority
MSS	Municipal Strategic Statement
NAC	Neighbourhood Activity Centre
NDA	Net Developable Area
NVPP	Native Vegetation Protection Plan
PSP	Precinct Structure Plan
RDC	Residential Design Control
SFP 2040	Sustainable Future Plan 2040
SPPF	State Planning Policy Framework
SRW	Swampy Riparian Woodland
SUZ	Special Use Zone
The Act	Planning and Environment Act 1987
TIA	Traffic Impact Assessment
UGZ	Urban Growth Zone
VPA	Victorian Planning Authority
VPO	Vegetation Protection Overlay
VPP	Victoria Planning Provisions
WL	Water line

## Overview

### Amendment Summary

<b>The Amendment</b>	Surf Coast Planning Scheme Amendment C114
<b>Common Name</b>	Spring Creek Precinct Structure Plan
<b>Subject Site</b>	Land within the Spring Creek Precinct. The subject land extends one kilometre west of Duffields Road and is bounded by the Great Ocean Road to the south and Grossmans Road to the north, Torquay



<b>Planning Authority</b>	Surf Coast Shire Council
<b>Exhibition</b>	26 May to 27 June 2016
<b>Submissions</b>	A total of 80 submissions were received, including five from referral authorities, ten from Spring Creek landowners/developers, three from community groups and 62 from residents.

## Panel Process

<b>The Panel</b>	Brett Davis (Chair), John Hartigan and Lisa Kendal, appointed on 1 September 2016 under the <i>Planning and Environment Act 1987</i> .
<b>Directions Hearing</b>	Surf Coast Shire Council, 5 October 2016
<b>Panel Hearing</b>	Peppers, The Sands, Torquay, 2 and 3 November 2016 Surf Coast Shire Council, 4, 7 and 10 November 2016
<b>Site Inspections</b>	Accompanied 2 November 2016
<b>Appearances</b>	See Appendix B
<b>Date of this Report</b>	23 January 2017

---



## Executive Summary

### (i) Summary

Surf Coast Shire Council Amendment C114 seeks to implement the Spring Creek Precinct Structure Plan (PSP). The PSP covers an area of approximately 245 hectares extending generally one kilometre west of Duffields Road.

Council received a total of 80 submissions. Key issues raised in submissions included the density of development, size of the neighbourhood activity centre, extent of native vegetation retention, reserves and buffers, location and extent of the public open space, the nature of the residential design controls and whether they are discretionary or mandatory, vehicle connections and road network throughout the PSP and interface with the school on the western edge. The extent of the future growth area beyond the current PSP on the western boundary was a key issue.

Submissions were made that some requirements should be expressed as guidelines. These submissions addressed the issues of the mandatory nature of the requirements. Council outlined the detailed 'Community Panel' process that preceded the preparation of the PSP, and the assistance provided to it by the Victorian Planning Authority.

The Amendment was predicated on this process, whereby a number of community representatives and selected landowners participated in the planning for the PSP. The Panel commends Council for its innovative approach in this regard. The community panel represents a potentially useful means of engaging the public in a planning process, yet despite this it was apparent that the one unifying factor for both the pro-development community and anti-development community has been a level of dissatisfaction with this process. The Panel found this has resulted in a disjointed PSP and one that requires substantial changes prior to it being approved.

A number of submissions from both developers and residents raised the issue of density. Council maintained that lower densities should be provided in Spring Creek and that the PSP achieves the objectives for this development area. Council maintained that the lot densities of 10 dwellings per hectare achieves the forecast population and provide for housing diversity.

The Panel concludes that while it is appropriate to be mindful of community attitude, it is obligatory on the planning process to make decisions in the interest of present and future Victorians.

Planning for new growth is not a popularity contest and community panel process seems to have provided an aspirational outcome, not entirely based on planning rigour. The Panel was surprised that Council did not seek to call any evidence or expert review to provide a level of comfort that the proposed PSP met its stated requirements, particularly with regard to open space provision, location and biodiversity issues.

The Panel found that the PSP is overly generous with regard to its allocations of open space. In addition, it found no evidence or compelling argument as to why the western boundary of the PSP should be the ultimate growth boundary, and is concerned that lessons from Amendment C66 have not been taken on board. Growth to the west should not be discarded, and proper growth planning should not discount its possibility at this stage.

The Panel found a number of deficiencies in the exhibited PSP. This was reinforced by the numerous comments and revisions received for the PSP workshop and post-Hearing mark ups.

The Panel supports Amendment C114, and is satisfied that the PSP and UGZ1 provide a sound framework and mechanism to manage land use and development within the precinct. The Amendment is strategically justified subject to a number of modifications to the PSP.

The Panel has responded to a large range of drafting and site specific issues raised in submissions, and has recommended further changes where appropriate. The Panel's marked up version of the UGZ Schedule is contained at Appendix D. Given the amount of changes, the Panel encourages Council and submitters to treat the recommendation summary at Appendix E as a 'running sheet' to amend the PSP accordingly prior to its final approval.

In relation to other key issues raised in submissions, the Panel has reached the following conclusions:

- Any debate to be had in respect of the cost of various infrastructure items is a matter to be tested before a Panel constituted to determine the appropriateness of any DCP in due course
- There is no evidence before the Panel that supports a change in long term planning direction for the Spring Creek Valley and links to the west should be shown on the PSP
- Signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection as proposed in the exhibited PSP is potentially a superior treatment compared to an un-signalised intersection
- On the evidence presented, the decision to delete the signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection should be reviewed
- The Panel supports changes to the PSP to provide greater clarity that the water management infrastructure shown in the PSP is intended to be indicative only, and that the PSP provides a level of flexibility to consider alternative outcomes
- Council's proposed landscape scale, precinct wide approach to vegetation native planning and protection is supported, subject to some refinements
- It is important for climate change to be considered in relation to stormwater modelling in order to fully understand the potential implications and achieve an adequate design response
- The proposed waterway corridors and buffers in the Spring Creek PSP are wider than that recommended by any of the relevant policy documents and background reports
- There is a correlation between the wide waterway corridors and high passive open space contribution. The PSP requirement for 9.76 percent of passive open space is greater than that envisaged by the PSP Guidelines and Surf Coast Open Space Strategy
- The PSP as exhibited does not provide a meaningful ability to deliver diversity of housing in the southern portion
- Early delivery of the Neighbourhood Activity Centre to 5000 square metres is likely to occur. The evidence of Mr Ganly supports this and should be added to any application for the NAC at the planning permit stage
- The Residential Design Controls provided through a Memorandum of Common Provisions in any subdivision permit is the most efficient manner of securing an intended neighbourhood character outcome without additional burden on the responsible authority.

**(ii) Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Surf Coast Planning Scheme Amendment C114 be adopted as exhibited subject to the following changes and further recommendations:

The Precinct Structure Plan generally:

1. Update the Precinct Structure Plan to reflect the Panel's suggested changes detailed throughout this report and listed in Appendix E.
2. Council review the wording of its regulations and guidelines where applicable to ensure that the terms 'must' and 'should' are appropriately placed.

The Western Growth Boundary:

3. Council include 'urban growth potential' for the balance of Spring Creek with appropriate community engagement as part of its Rural Hinterland Futures Project.
4. Provide a notation on the Precinct Structure Plan showing the area south-west of the Precinct Structure Plan boundary as a 'Strategic Investigation Area.'

Road Network:

5. VicRoads and Council review the decision to delete the signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection as proposed in the exhibited Precinct Structure Plan in favour of a un-signalised staggered T-intersections.
6. Should the review confirm the decision to replace the signalisation of the intersection with un-signalised staggered T-intersections, the Precinct Structure Plan Plan 7 (Road Network, Public Transport and Trail) be amended as follows:
  - a) show a re-aligned north south access street to create a T-intersection with the Great Ocean Road approximately midway between Strathmore Drive East and Torquay Boulevard
  - b) change the designation of the north south access street from Connector Street to Local Access Street – Level 2
  - c) include an additional connection from the north south access street to Duffields Road south of Ocean View Crescent subject to resolution of the environmental and sight distance issues raised by Council.
7. Should the review confirm the decision to replace the signalisation of the intersection with un-signalised staggered T-intersections:
  - a) a pedestrian refuge should be constructed as part of the T-intersection as an interim measure
  - b) VicRoads and Council should monitor pedestrian and cyclist numbers crossing the Great Ocean Road and traffic volumes with the view to installing pedestrian activated traffic signals when warranted
8. As development occurs in the Spring Creek precinct, Council should monitor the increase in traffic volumes on Ocean View Crescent to determine whether the installation of traffic calming measures to discourage through traffic is warranted.

**Stormwater and drainage:**

9. Redraft the Precinct Structure Plan section 3.6.1 Integrated water cycle management, the annotation to Plan 8 Integrated Water Management as follows:
  - a) make it clear and explicit that the Precinct Structure Plan requirements with respect to the water management system and the location of drainage infrastructure are indicative only and can be amended at the subdivision approval stage
  - b) provide clarity and future guidance for the assessment by the responsible authority of development proposals.
  - c) Amend R55 to state:
    - Final methodology, design and boundary of waterway and drainage reserves and infrastructure, including retarding basins, stormwater quality treatment infrastructure and associated paths, boardwalks, bridges and planting is to be agreed at the time of making an application for subdivision to the satisfaction of the responsible authority and the catchment management authority where required.
10. Amend Precinct Structure Plan Plan 8 Integrated Water Management as follows:
  - a) delete WL15 and WL21
  - b) provide a conceptual layout in place of these deleted water bodies to show water management infrastructure at a downstream location.
11. Council give further consideration in consultation with affected landholders to mechanisms to provide for the equalisation of contributions to shared water management infrastructure.
12. Add the following sentence at the end of R70 to state:

...unless the liability arises pursuant to an agreement under section 173 of the *Planning and Environment Act 1987*, in which case Council is obliged to satisfy the liability in accordance with the agreement.

**Biodiversity:**

13. Amend the wording of R23 of the Precinct Structure Plan to allow for a permit application to remove native vegetation identified for protection in the Native Vegetation Precinct Plan.
14. Council consider using the best part of GW5 as a net gain native vegetation offset, with consideration of appropriate public access that manages identified threats and protects the values of the biodiversity asset.
15. Remove SRW1 from the Precinct Structure Plan and Native Vegetation Precinct Plan as vegetation proposed for retention in a conservation reserve.
16. Review the status of native vegetation at 160 and 195 Grossmans Road, and amend the Biodiversity Assessment and Native Vegetation Precinct Plan accordingly.

**Open space:**

17. Council should prepare a detailed assessment of how active open space needs of Spring Creek residents will be met, and review the requirement for passive open space

contribution accordingly, to achieve a passive and active open space contribution of no more than 10 percent, and in line with the Open Space Strategy and Community Infrastructure Assessment.

18. Review waterway buffer widths and amend these in association with the review of open space provision, in response to site specific considerations and constraints such as amenity, topography and the need for open space linkages.
19. Review the distribution of local and neighbourhood parks to ensure that provision within 400 metres of at least 95 percent all dwellings is achieved.
20. If part of GW5 is secured as a net gain offset and Council is not able to manage this asset, then a suitable alternative land manager be secured.
21. Amend the native vegetation patch identified as GW5 on 200-220 Great Ocean Road as follows:
  - a) re-shape to minimise the boundary to area ratio
  - b) include credited open space in the south western patch that has a degraded understory and sparse trees,
  - c) develop this south western patch as a Bellarine Yellow Gum reserve that is sensitively designed and managed for passive open space that protects and respects the environmental values of this area.
22. Relocate OS-08 to incorporate trees 41 – 47.
23. Review the size and configuration of OS-01, OS-02 and OS-13, and resize based on strategic justification for environmental or open space purposes.
24. Council should determine a suitable treatment for the southern boundary of 231 Grossmans Road to ensure open space continuity, for example public open space along the waterway with fence to the northern side of the creek.

**Density:**

25. Amend O5 to read:

Provide for a range of residential densities that reduce along Spring Creek and Grossmans Road, near rural land, and increase to allow the creation of lots of less than 600 square metres within a reasonable walking distance of the neighbourhood activity centre and the school.
26. Add G18 to state: Greater housing diversity is encouraged within a reasonable walking distance of the neighbourhood activity centre and the school.
27. Amend the land budget and associated mapping highlighting density accordingly, with a view to increasing densities to at least 12-13 dwellings per hectare.

**Neighbourhood Activity Centre:**

28. Amend the Urban Growth Zone Schedule to ensure that early delivery of the Neighbourhood Activity Centre can be considered through a planning permit application with supporting evidence.

**Local Convenience Centre:**

29. Reinststate the asterix on Map 1 of the Urban Growth Zone and Plan 5 of the Precinct Structure Plan denoting a Local Convenience Centre in the northern precinct.

**Community Facilities:**

30. Add the following guideline in relation to Community Facilities:
  - Where the responsible authority is satisfied that land shown as a local community facility on Plan 3 is unlikely to be used for that purpose, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone.

**Drafting issues:**

31. Delete G17.
32. Insert the following preamble above Table 2 of the Residential Design Control to state:
  - This table constitutes the residential design controls contemplated by Clause 4.7 of Schedule 1 to the Urban Growth Zone. These controls should inform the Memorandum of Common Provisions required by Clause 4.7 of Urban Growth Zone Schedule 1, and may be adopted in full or part as either mandatory or discretionary provisions, in conjunction with an application for subdivision, to the satisfaction of the Responsible Authority. These controls may also be varied at the discretion of the Responsible Authority.
33. Amend the following controls within Table 2 of the Residential Design Control:
  - RDC-3: minimum front setbacks to 4.0 metres and 3.0 metres for side setbacks across all columns.
  - RDC-5: The area of a lot covered by buildings should not exceed 35 per cent
  - RDC-6: At least 40 per cent of a lot must be available for the planting of vegetation and provision of permeable surfaces (excludes driveways and tennis courts of all surface types)
34. At section 3.2, in the first paragraph delete the words “co-located with” and replace them with “and”.
35. Delete R8 and redraft as a Guideline. As a guideline, amend the following dot points:
  - Third: Provide staging (if relevant) and indicative timing of the development
  - Fourth: If appropriate, incorporate public transport services into the design of the centre
  - Eighth: Address interim management of the land required for longer term expansion (if relevant having regard to any staging and timing of development) so that the land is not kept in an unattractive or neglected state for long periods.
36. Redraft R10 and after the words "as illustrated on Plan 5", insert the words "or by reference to an approved Concept Plan pursuant to Clause 2.6 of UGZ1".
37. Delete R12.
38. Delete the words “car parking and” from G18.

39. **Insert the following new Guidelines: G18A Buildings within the neighbourhood centre must provide:**
  - **Primary vehicle access from the connector street**
  - **Positive and active building frontages addressed towards to the adjoining street network**
  - **Service and loading areas that manage amenity impacts the surrounding residential area.**
40. **Insert G18B: Address the Activity Centre Design Guidelines as appropriate having regard to the context, scale and topography of the neighbourhood centre.**
41. **Insert G18C: Demonstrate how the neighbourhood centre provides for a range of compatible commercial, residential and community uses.**
42. **Insert G18D: Provide appropriate opportunities for higher density housing or specialised accommodation such as serviced apartments, aged care or retirement living.**
43. **Insert G18E: Locate and design car parking areas to manage negative amenity impacts.**
44. **Insert G18F: Locate and design service areas for deliveries and waste disposal including access for larger vehicles with measures that manage impacts on adjoining areas.**

**Urban Growth Zone Schedule:**

45. **Amend Schedule 1 to the Urban Growth Zone as outlined in Appendix D and make any consequential changes as a result of amendments to the Precinct Structure Plan.**

**(iii) Further recommendations**

**The Panel makes the following further recommendations:**

**Council should work with Department of Environment, Land, Water and Planning to review and refine the Native Vegetation Protection Plan, to include a rationale for native vegetation proposed for retention and removal, and respond to the specific matters raised by Department of Environment, Land, Water and Planning, including:**

- **Minimisation strategy**
- **Review of the Native Vegetation Protection Plan to minimise specific offsets**
- **Roadside vegetation inclusion**
- **Biodiversity Impact and Offset Requirements (BIOR) report**
- **Clearly explain vegetation for practical retention**
- **Rewording tree protection zone requirements**
- **Information that explains the difference between specific and general offsets, and the offset requirements of landholders.**

**The impact of climate change should be modelled for stormwater for the precinct, and to ensure that design detail for each stage of the development demonstrates a response to this modelling.**

# 1 Introduction

## 1.1 Location and context

The Spring Creek Precinct Structure Plan (PSP) covers an area of approximately 245 hectares extending generally one kilometre west of Duffields Road, and is shown in Figure 1. The precinct is shown on Plan 2 of the PSP and on the Planning Scheme maps as UGZ1.

The precinct is bounded by Grossmans Road to the north, Duffields Road to the east, Great Ocean Road to the south and rural land to the west. The precinct is 1km to the west of Duffields Road and consists of sixteen land parcels (including Christian College land).



Figure 1 Regional context plan



## 1.2 The Amendment

As exhibited Amendment C114 proposes a number of changes to facilitate the development and use of land within the Spring Creek PSP area:

- Amend Schedule 1 to the Urban Growth Zone (UGZ) and rezone part of the land within the precinct to Urban Growth Zone (UGZ1)
- Apply the Development Contributions Plan Overlay Schedule 3 (DCPO3) to all land zoned UGZ
- Include the Spring Creek Native Vegetation Precinct Plan.

More specifically, the Amendment proposes the following changes:

- Amend Schedule 1 to Clause 37.07 Urban Growth Zone (UGZ1) to facilitate the development of the land in accordance with the Spring Creek Precinct Structure Plan (PSP)
- Rezone land from Special Use Zone Schedule 9 (SUZ9) to Urban Growth Zone Schedule 1 (UGZ1) within the amendment area
- Amend the Schedule to Clause 36.03 Public Conservation and Resource Zone (PCRZ) to include reference to the Spring Creek PSP
- Delete the Vegetation Protection Overlay Schedule 1 (VPO1) from land within the amendment area
- Insert Schedule 3 to Clause 45.06 Development Contributions Plan Overlay (DCPO)
- Apply the Development Contributions Plan Overlay Schedule 3 (DCPO3) to all land zoned Urban Growth Zone within the amendment area
- Amend the schedule to Clause 52.01 to provide for open space contributions within the amendment area
- Amend the schedule to Clause 52.16 to include the Spring Creek Native Vegetation Precinct Plan;
- Amend the schedule to Clause 81.01 to include two new incorporated documents titled 'Spring Creek Precinct Structure Plan' and 'Spring Creek Native Vegetation Precinct Plan'.

## 1.3 Amendment process

### (i) Amendment preparation

Table 1 provides a timeline of key events in the lead up to the preparation of this Amendment.

Date	Event
20 March 2014	Gazettal of Amendment C66 and C95. Rezoning of 1 <sup>st</sup> kilometre west of Duffields Road to Urban Growth Zone and Christian College site to Special Use Zone by Minister for Planning
23 September 2014	Council resolves to adopt a consortium led model for the preparation of the Spring Creek PSP with assistance from the MPA. Council remains Planning Authority
December 2014	Minister for Planning authorises MPA to assist Council

Date	Event
January 2015	Council commences procurement of consultants to prepare Stage 1 technical studies: biodiversity, arboriculture, aboriginal heritage, post-contact heritage, land capability, utilities, community infrastructure, economic assessment
26 May 2015	Execution of landowner funding agreements (5x) to fund the preparation of the PSP, technical studies, planning scheme amendment and project manager (12 months)
26 June – 29 July 2015	Online survey (59 responses)
August 2015	Community Panel sessions (4 workshops)
22 September 2015	Presentation of Community Panel recommendations to Council
24 November 2015	Council's written response to Community Panel recommendations
25 November 2015 – 12 January 2016	Exhibition of Draft Framework Plan (56 submissions) Council appoints consultants to prepare Stage 2 technical studies: stormwater modelling, traffic infrastructure
21 January 2016	Christian College applies to rezone part of their site at 248 Great Ocean Road surplus to their requirements to Urban Growth Zone and undertake a two lot subdivision as a section 96A application. This application was later withdrawn, as Council officers agreed to include the rezoning in Amendment C114, and planning permit 15/0384 for a two lot subdivision and carriageway easement was issued under delegation on 27/4/2016.
26 April 2016	Council resolution to seek authorisation to prepare Amendment C114 for the Spring Creek Precinct Structure and to include the rezoning of the Christian College land at 248 Great Ocean Road
26 May – 27 June 2016	Public exhibition of Amendment C114 (80 submissions)
23 August 2016	Council resolution to consider submission and decide on Planning Panel requirement

Table 1 Spring Creek PSP consultation details (Source: Council Part A submission, Appendix 4)

Prior to 20 March 2014, the detailed history of strategic planning in Torquay – Jan Juc can be found in the Surf Coast C66 Panel Report (Document 15).

## (ii) Parties to the Hearing

Those in attendance at the Panel Hearing are listed in Appendix B.

### **(iii) Post-Hearing process**

A without prejudice workshop was timetabled on Day 5 of the Hearing. On 4 November 2016 the Panel issued a direction, that prior to the workshop on 10 November 2016, parties are to clearly document their PSP and UGZ changes if they differ with those outlined in Council's Part A submission.

Parties were to submit and circulate these by 11am on 9 November 2016. Only Council and two other submitters met this deadline. As a result the Panel received a number of submissions stating that parties had little time to prepare or make comments on the tracked changes versions prior to the workshop.

At the beginning of Day 5, the Panel directed that the workshop would continue, however all parties had the opportunity to make comments on the tracked changes version supplied until 18 November 2016.

The Panel was inundated with versions of the PSP and where possible, the Panel has tried to reconcile the opinions put forward while:

- ensuring the views of referral authorities are considered and adopted as relevant
- trying to avoid replicating other statutory heads of power
- avoiding a 'belts and braces' approach where similar conditions are sought to be applied at multiple points
- ensuring that the fundamental elements and values to be protected are adequately addressed.

## **1.4 Issues dealt with in this Report**

The Panel considered all written submissions made in response to the exhibited Amendment, as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits.

The documents tabled at the Hearings are listed in Appendix C. The Panel was also provided with the following background reports:

- Aboriginal Heritage Impact Assessment, Ecology and Heritage Partners, 13 October 2015
- Spring Creek Activity Centre Assessment, Tim Nott, February 2016
- Tree Retention Report, ENSPEC, 30 July 2015
- Biodiversity of Spring Creek Urban Growth Area, Ecology and Heritage Partners, January 2016
- Biodiversity impact and offset requirements report, 23 July 2015
- Community Infrastructure Needs Assessment – Stage 2, ASR Research, September 2015
- Integrated Water Cycle Plan for Spring Creek, September 2015
- Spring Creek Interim Indicative Infrastructure List
- Land Capability Assessment, Coffey, 28 September 2015
- Post-Contact Heritage Assessment, Ecology and Heritage Partners, 28 September 2015
- Servicing and Utilities Assessment, Spiire, November 2015
- Stormwater modelling, Tomkinson Group, 5 April 2016
- Spring Creek Transport Infrastructure Assessment, Traffix, 10 March 2016
- Spring Creek PSP Background Report, April 2016
- Biodiversity Assessment, 248 Great Ocean Road, Jan Juc, Ecology and Heritage Partners October 2015

- Aboriginal and Historical Heritage Assessment (Addendum), Ecology and Heritage Partners, 19 November 2015
- Further Environmental Assessment Work for Christian College, Coffey, 19 January 2016
- Land Capability Assessment for Christian College, Coffey, 19 October 2015
- Spring Creek Community Panel Recommendations, August 2015
- History of Spring Creek Urban Growth Area.

The Panel has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the report. All submissions and material have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- The Precinct Structure Plan
- Western Growth Boundary
- Road network
- Stormwater and drainage
- Biodiversity
- Climate change and environmental sustainability
- Open space
- General issues
  - Density
  - Neighbourhood Activity Centre
  - Local Convenience Centre
  - Delivery of the community facility
- Drafting Matters
  - Residential Design Controls
  - The Urban Growth Zone Schedule 1.

## 2 Strategic planning context

This chapter briefly addresses the strategic planning context of Amendment C114.

### 2.1 Planning context

#### (i) State Planning Policy Framework

Council submitted that the following sections of the SPPF are relevant to the Amendment:

*Clauses 11.01 (Activity centres), Clause 11.02 (Urban growth), Clause 11.03 (Open space), Clause 11.05 (Regional development) and Clause 11.07 Geelong (G21) (regional growth)* supports the growth of Torquay-Jan Juc as a district town by building on existing and planned infrastructure and focussing growth along key road networks. The G21 Regional Growth Plan identifies Torquay as a designated growth town to accommodate a portion of the region's population growth.

*Clause 12.01 (Biodiversity) and 12.02 (Coastal areas)* directs growth in coastal townships along the Great Ocean Road into strategically identified areas, including the Spring Creek Precinct.

*Clauses 13.01 (Coastal inundation and erosion) and Clause 13.05 (Bushfire)* sets out policies to manage risks associated with coastal inundation and erosion and bushfires. The risk of coastal inundation and erosion are considered to be minimal as the precinct is located approximately one kilometre from the coastline at its closest point and ranges from approximately 45 to 75 metres above sea level along the southern boundary of the site. Bushfire risks will be managed through the inclusion of conditions outlined within the UGZ1.

*Clause 15.01 (Urban environment), Clause 15.02 (Sustainable development) and Clause 15.03 (Heritage)* provides direction on how new land use and development within the precinct should appropriately respond to the landscape, built form and cultural context whilst protecting places and sites with heritage significance.

*Clause 16 (Housing)* seeks to provide diversity of well-serviced housing to meet increasingly diverse housing needs. The PSP provides a range of lot sizes, with smaller lot sizes envisaged within proximity to the neighbourhood centre, larger lot sizes along sensitive interfaces and more conventional lot sizes in other parts of the precinct.

*Clause 17.01 (Commercial)* encourages development which meets "community needs for retail, entertainment, office and other commercial services". It includes the strategy to "locate commercial facilities in existing or planned activity centres". The precinct nominates a Neighbourhood Centre, which is located central to a population catchment both within and adjacent to the precinct. The Neighbourhood Centre will provide local retail services to the nearby catchment.

*Clause 18.01 (Integrated transport) and Clause 18.02 (Movement networks)* are addressed as the proposed road network will provide for vehicle access to developments in accordance with forecast demand. The connector and local street network will be complemented by on-street and off-street bike and pedestrian paths. Spring Creek divides the precinct, however a new pedestrian and cycle bridge will allow for movement within the precinct. Duffields Road is considered to be an appropriate north-south connector road servicing the precinct.

The policies set out in Clause 19 (Infrastructure) are met as the precinct will be fully serviced by reticulated water, sewer, electricity, gas and telecommunications and adopts the principles of best

practice stormwater management and water sensitive urban design based on integrated water cycle management. The Development Contributions Plan Overlay (DCPO) will be applied to the precinct to enable development contributions to be levied towards the funding and delivery of required development and community infrastructure.

**(ii) Local Planning Policy Framework**

Council submitted the following sections of the LPPF are relevant to the Amendment:

*Clause 21.01-4 (Municipal Framework Plan)* states that the natural environment is the single most important attribute and asset of the Shire and recognises Torquay-Jan Juc as one of two towns within the Shire that are capable of supporting substantial growth.

*Clause 21.02 (Settlement, Built Environment, Heritage and Housing)* acknowledges that relatively strong population growth within the Shire's coastal towns is expected to continue for the foreseeable future due to sustained interest in the region's natural environment. It also identifies Torquay as the only coastal town in the Shire with capacity to accommodate substantial growth.

*Clause 21.02-3 (Settlement Patterns)* aims to ensure that urban development minimises the impact on the environment, makes efficient use of land, infrastructure and resources, and is concentrated in accessible locations. It directs the majority of urban growth in the Shire to Torquay-Jan Juc and Winchelsea and seeks to maintain clear non-urban breaks between settlements.

*Clause 21.02-4 (Neighbourhood Character)* seeks to protect the individual coastal township character values of low urban density, recessive built form, vegetated coastal landscapes and ecological values of the natural environment from inappropriate urban development. It encourages residential development densities that are compatible to the protection of the indigenous vegetation and the historic neighbourhood character of the Surf Coast settlements and recognises the key role vegetation plays in defining township character and in softening urban development.

*Clause 21.02-6 (Open Space and Infrastructure)* seeks to ensure that open space is landscaped and developed in a manner that is consistent with the character of the local area. The use of indigenous planting in the landscaping of open space is encouraged.

*Clause 21.03 (Environmental Management)* seeks to protect and enhance the Shire's diverse natural resources in an ecologically sustainable manner for present and future generations by:

- Retaining and enhancing adequate and appropriately vegetated riparian and wetland buffer zones to prevent nutrients and sediments entering waterways, lakes, wetlands and estuaries, and to slow the rate of runoff
- Ensuring that development on and near the coast is compatible with and enhances the environmental values, visual character and amenity of the coastal environment
- Encouraging the protection, maintenance and re-establishment of indigenous vegetation and the removal of environmental weeds.

*Clause 21.08 (Torquay-Jan Juc Strategy)* seeks to contain and consolidate urban development within the defined settlement boundary as indicated on Map 1 to Clause 21.08 – Torquay-Jan Juc Framework Map. It also seeks to promote a range of lot sizes and housing types, including medium density development in appropriate locations, in the new growth areas and ensure good access to surrounding areas, public transport, public open space and other facilities; and

encourages lower housing densities in the Spring Creek valley up to one kilometre west of Duffields Road.

*Map 3 to Clause 21.03 (Activity Centre Hierarchy)* identifies a future Neighbourhood Activity Centre in the general location as that which is identified in the Spring Creek PSP.

*Clause 21.08 (Torquay-Jan Juc Strategy)* seeks to contain and consolidate urban development within the defined settlement boundary as indicated on Map 1 to Clause 21.08 – Torquay-Jan Juc Framework Map. It also seeks to promote a range of lot sizes and housing types, including medium density development in appropriate locations, in the new growth areas and ensure good access to surrounding areas, public transport, public open space and other facilities; and encourages lower housing densities in the Spring Creek valley up to one kilometre west of Duffields Road. It also aims to protect and enhance significant environmental, landscape and cultural heritage features which contribute to the ecological values, coastal character and residential amenity of Torquay-Jan Juc, including maintaining non-urban breaks to Bellbrae and protecting the Bellarine Yellow Gum and Coastal Moonah Woodland.

*Clause 22.09 (Torquay-Jan Juc Residential Development and Neighbourhood Character Policy)* applies to residential development and subdivision in the residential zones in Torquay and Jan Juc. It identifies Spring Creek as “Residential Growth (Greenfield areas)”. It specifies that Greenfield areas should support an overall general density of 15 lots/dwellings per hectare, unless a lower density is desirable in response to environmental or landscape values, and provide a variety of lot sizes ranging from conventional urban lots to medium and higher density lots to encourage a mix of housing types and sizes. Higher residential densities (20 dwellings per hectare) should be focussed around activity centres, schools, community hubs and active public open space.

The policy promotes housing forms up to 2 storeys (7.5 metres) with possible 3 storey development within or close to activity centres and active public open space; the planting of indigenous and other typical coastal vegetation around dwellings to create a linkage to the coastal setting; and consistent street tree planting to assist in unifying the appearance of the areas.

To achieve the above outcomes, the policy gives support to:

- The master planning of new growth areas to facilitate the development of diverse, high amenity neighbourhoods which have an identifiable sense of place.
- The preparation of siting and design guidelines to guide the development of high quality and high amenity buildings which evoke a coastal character and create a sense of place.
- The preparation of landscape concept plans which include plans for proposed public open space and street planting to contribute to the amenity and liveability of the new neighbourhoods.

### **(iii) Other planning strategies or policies used in formulating the Amendment**

#### **Torquay-Jan Juc Structure Plan (1992, 1996 and 2007)**

These documents have continued to reference the area’s growth potential.

#### **Sustainable Future Plan Torquay Jan Juc 2040 (SFP 2040)**

This Plan sets out Council’s long term, high level vision for the future growth and development of Torquay-Jan Juc. When it adopted the SFP 2040 in July 2011, Council resolved not to include any include any growth in Spring Creek. Council sought to incorporate this version of the plan with the

western town boundary at Duffields Road into the Planning Scheme, through Surf Coast Planning Scheme Amendment C66.

The then-Minister for Planning approved Amendment C66 in March 2014. Amendment C66 included the first kilometre west of Duffields Road within the settlement boundary and rezoned the land from Farming Zone to Urban Growth Zone. In June 2014, Council adopted a new version of the SFP 2040 to recognise the Spring Creek urban growth area.

### **G21 Regional Growth Plan 2013**

The G21 Regional Growth Plan directs projected population growth to the following: existing district towns (including Torquay), new targeted growth nodes at Colac and Winchelsea, and the longer term two further investigation areas in Geelong. The Shire's major growth centres are Torquay-Jan Juc and Winchelsea.

### **Sustainable Futures Plan 2040**

The SFP 2040 is structured around five core values and principles:

- Value 1 – places for people
- Value 2 – the natural environment
- Value 3 – the built environment
- Value 4 – services and infrastructure
- Value 5 – a local economy.

## **2.2 Planning scheme provisions**

### **(i) Zones**

The Amendment proposes to rezone land from Special Use Zone Schedule 9 (SUZ9) to Urban Growth Zone Schedule 1 (UGZ1). The Urban Growth Zone seeks to manage the transition of non-urban land into urban land in accordance with a precinct structure plan. The amendment introduces planning provisions to implement the Spring Creek PSP.

The Amendment proposes to amend the PCRZ to include reference to the Spring Creek PSP.

### **(ii) Overlays**

Spring Creek is affected by the ESO, LSIO and VPO. It is proposed that the land retain the ESO and LSIO and the VPO be removed. A Native Vegetation Precinct Plan has been prepared in conjunction with the PSP to protect remnant vegetation patches and significant trees, thus it is proposed that the VPO be removed.

The Amendment also proposes to apply a DCPO to the site, which will trigger the need for developers to enter into Section 173 agreements with Council regarding infrastructure contributions prior to the finalisation of the update to the Torquay Jan Juc Development Contributions Plan (DCP).

## **2.3 Ministerial Directions and Practice Notes**

### **(i) Ministerial Directions**

Council submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:



### **Ministerial Direction No 1 – Potentially Contaminated Land**

A Land Capability Assessment has been carried out for the precinct (prepared by Coffey, July 2015). The assessment identified several potential sources of contamination within the precinct, derived from minor chemical storage, imported fill, potential localised chemical use, and potential asbestos.

The report identified one property with a high potential for contamination, and a further five properties presented a medium contamination risk. The UGZ1 will trigger the need for an Environmental Site Assessment to be prepared for the medium and high risk properties, and accompany any planning permit application. A permit condition included in the UGZ1 will require any recommendations of the Environmental Site Assessments to be implemented.

All other properties were assessed as having low potential for contamination and therefore no further assessments are considered necessary.

### **Ministerial Direction No 11 – Strategic assessment of amendments**

This direction seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment. This Explanatory Report addresses the requirements outlined in this direction.

### **Ministerial Direction No 12 – Urban Growth Areas**

Ministerial Direction 12 requires that when preparing an amendment to introduce or change provisions in a schedule to the UGZ, a planning authority must evaluate and include in the explanatory report a discussion about:

- *How the amendment implements any Growth Areas Framework Plan applying to the land*

The *Torquay-Jan Juc Framework Plan* applies to the land (See Map 1 to Clause 21.08). The use of the amendment area is identified as “future urban growth area” and “Future Residential” with the abutting Duffields Road, Grossmans Road and Great Ocean Road described as “Main Roads and Tourist Routes”. The “settlement boundary” of Torquay-Jan Juc forms the western boundary of the precinct.

Spring Creek as it flows through the precinct is identified as “Biodiversity Assets” and “Land Subject to Inundation Overlay”. Further “Biodiversity Assets” are identified at the northern boundary of the area along Grossmans Road and in the southern parts of the area. Existing residential areas surround the precinct to the north, east and south.

The Amendment will provide for a residentially-based urban extension of Torquay-Jan Juc including local retailing and services. The amendment maintains Spring Creek as an accessible waterway with the addition of significant new open space alongside and includes other biodiversity assets within open space. The Amendment will maintain the functionality of the surrounding main roads.

The PSP embeds the following community values expressed in SFP 2040:

#### *Fostering the unique coastal look and feel*

Diverse and affordable housing options for all life stages; sustainable development sensitive to local environmental conditions; protect the unique coastal feel; and, planned timing of development.

### *Services with Development*

Services and infrastructure provided with new development; distinct well-serviced communities; Jan Juc, Central Torquay, Torquay North; improved public transport and internal pathways; community hubs with multi-use facilities and shared spaces; and, facilities to service the population i.e. aged care and families.

### *Providing Employment Opportunities Locally*

Support and grow local surf industry; support new local industries in the business park; support the tourism and retail industry; and, encourage local business to work together to create complementary offers.

### *Places for People – a close knit community*

Sustainable and well-serviced neighbourhoods; walking and cycling paths; shared spaces and integrated services; and, dedicated arts facility.

### *Protecting and enhancing the natural environment*

Protection of the bush and the beach; a clear town boundary; non-urban breaks between towns; key buffers to protect vegetation and soften views to development; and, protect and maintain existing natural assets.

The SFP 2040 estimated approximately 1,900 lots for the Spring Creek Precinct. The PSP provides for approximately 1,780 lots at a lower density consistent with Clause 21.08 adopted as part of C66 in March 2014 which states “Encourage lower housing densities in the Spring Creek valley up to one kilometre west of Duffields Road”.

### *How does the amendment accord with the Precinct Structure Planning Guidelines*

#### **Objective one:** *To establish a sense of place and community*

The PSP essentially envisions two distinct yet connected residential precincts with their own sense of place that will integrate with existing development in Torquay-Jan Juc:

North of Spring Creek – an incremental extension of the Beach Road residential area across Duffield Road, extending waterway parks along Spring Creek and its northern tributaries; and

South of Spring Creek – interfacing with the Jan Juc township to the south and Great Ocean Views estate to the east. This precinct includes a new town centre that will complement the convenience centre on Stuart Avenue, Jan Juc.

The PSP seeks to preserve the important aspects of the Spring Creek urban growth area by:

Conserving Spring Creek and its tributaries as reserves with high levels of public accessibility and visual prominence within the neighbourhood and as habitat corridors;

Conserving existing stands of significant vegetation including Bellarine Yellow Gums in conservation reserves;

Maintaining existing significant roadside vegetation on the boundary roads of the precinct so as to assist in softening views to new development from primary tourist routes.

The PSP extends the existing road networks into the new neighbourhoods including Strathmore Drive, Ocean View Crescent, Beach Road and Messmate Road. This assists in integrating the new

development with the existing township and encourages new streetscapes to be continued and maintained in line with existing character.

The PSP vision suggests that housing densities will be the primary tool for providing a sense of place. Differing housing densities are envisaged to respond to the striking topography of the land and the important visual interfaces to the creek and rural land.

**Objective two:** *To create greater housing choice, diversity and affordable places to live*

The primary method for delivering a range of housing types is the provision for a range of lot sizes across the precinct. The PSP envisages larger lots of 1,500-2,000 square metres in size on sloping and visually sensitive land through to terraced and more compact style housing surrounding the neighbourhood centre. The balance of the area will comprise of more conventional allotments interspersed with extensive parkland and conservation areas.

This variety in lot size and settings will aid in delivering housing choice and alternatives to the range of home styles and sizes currently available across Torquay and Jan Juc.

**Objective three:** *To create highly accessible and vibrant activity centres*

A new local town centre is planned at the intersection of two new connector roads in the southern precinct. Its location allows for the best possible access to residents of Jan Juc south of the Great Ocean Road with direct road access from Duffields Road and the two extensions of Strathmore Drive.

Additionally, the plan provides for a path and trail network with direct routes to the new town centre from the north across Spring Creek in addition to the Duffields Road access.

Higher densities are planned around the town centre to provide for a busier, more vibrant town feel. The presence of people can provide passive surveillance and activity in the area after the shops close, providing for a safer area and increasing the chance that after hour's uses, like restaurants, will establish in the centre.

The Amendment deliberately restricts the establishment of take-away and convenience restaurants to the town centre. Without the Urban Growth Zone making this restriction the General Residential Zone could see these land uses establish along the Great Ocean Road frontage of the precinct.

**Objective four:** *To provide for local employment and business activity*

The Amendment retains the existing Special Use Zone Schedule 9 zoning for the private school currently under development on the Great Ocean Road near Strathmore Drive and rezones the land surplus to the school as Urban Growth Zone to form part of the PSP. A co-located neighbourhood centre and community facility will provide a retailing, business and services hub with local business opportunities. On a broader employment basis the area is not suitable for more intensive employment. This is provided for elsewhere within Torquay.

**Objective five:** *To provide better transport choices*

Easily navigable and direct roads with 25 metres cross sections are planned as extensions through the precinct from the existing Beach Road, Ocean View Crescent and Strathmore Drive. These roads will be the primary routes connecting residents to the broader town and regional road network. They are also wide enough to accommodate local bus routes and cycling for local trips.

In addition, recreational walking and cycle trails will be extended along the Spring Creek and its northern tributaries, including a bridge link across Spring Creek for pedestrians and cyclists. The urban structure plan has been planned to provide high connectivity between destinations, such as the neighbourhood centre and creek environs.

**Objective six:** *To respond to climate change and increased environmental sustainability*

Local and linear parks are seen as a critical attraction providing recreational opportunities. Being located next to waterways, these provide large connected open spaces based on the natural features of the Spring Creek, existing native vegetation stands in the south and around tributaries of Spring Creek in the north. A dedicated pedestrian/cycle way including a bridge across Spring Creek is planned to connect the open space network. The path will also provide a direct connection from the north to the neighbourhood centre in the south.

The provision for non-car transport as detailed above will also give people the choice of reducing their carbon footprint by using non-motorised transport for local trips.

The drainage of the precinct utilises the existing natural drainage lines of Spring Creek and its tributaries, therefore reducing the need for expensive and carbon intensive drainage works including concrete piping and pumping of stormwater and sewer.

The majority of the recorded native vegetation in the area will be retained and landscaping, particularly with canopy trees will provide additional cooling, wind breaks from coastal winds, shade and habitat.

**Objective seven:** *To deliver accessible, integrated adaptable community infrastructure*

Torquay and Jan Juc are well provided with recreation, sport and community facilities, including numerous football/cricket ovals, tennis courts, golf courses, soccer pitches, netball and multi-use courts and a bowls club. Torquay, Jan Juc and nearby Bells Beach comprise some of the highest quality surf beaches in Australia. The township is located adjacent the Great Ocean Road and within vicinity of the Great Otway National Park.

The Amendment maintains the provision for the recently approved private school on Great Ocean Road and sets aside land for a new community centre within the southern part of the precinct. The new population will not generate enough demand to require a new public primary or public secondary school, with the existing primary school on Grossmans Road, the existing secondary college on Surf Coast Highway and a proposed new primary school on Horseshoe Bend Road. In addition there is an existing and a proposed new Catholic primary school in Torquay.

Numerous existing community, health and worship services are available in the neighbourhood between Duffields Road and Surf Coast Highway and need not be reproduced in the Spring Creek precinct. In any event, such uses may establish within the local town centre or appropriate locations within the residential as demand arises.

*How the provisions give effect to the intended outcomes of the precinct structure plan*

Most provisions in the incorporated documents and associated ordinance are designed to be implemented at the subdivision development stage. At this point, requirements and guidelines are either designed into subdivision plans (e.g. spatial outcomes), implemented through permit conditions (e.g. infrastructure contributions), implemented through referral authority agreements (e.g. essential services) or required to be applied as restrictions on title (residential design controls).

This provides for single permission after approval of the PSP and is central to providing certainty and clarity in the planning process.

Additionally, applied zones that follow the pattern of development rather than lead it (i.e. the Commercial 1 Zone for the Neighbourhood Centre) allow flexibility when the PSP is implemented through the detail of subdivision and land use layouts.

*How a translation of the provisions can be achieved once development anticipated by the precinct structure plan is substantially complete.*

As discussed above, most outcomes will be delivered through subdivision permits prior to translation of the PSP to standard provision. Subdivision permits will implement most of the non-standard provisions.

An assessment of how development has proceeded and where public land uses have been established closer to the time of translation will provide a better guide to where zone boundaries should be settled.

Other than the UGZ Schedule, standard provisions are used to implement the plan including open space contributions through Clause 52.01 and native vegetation management and exemptions through Clause 52.16. These will stay in place until all relevant contributions are collected and native vegetation is securely managed or offset.

### **The Form and Content of Planning Schemes (s7(5))**

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes issued under section 7(5) of the *Planning and Environment Act (1987)*.

## **2.4 Discussion**

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

The Panel concludes that the Amendment is well founded and is strategically justified subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### 3 The Precinct Structure Plan

In April 2015, work commenced on the PSP with Council seeking assistance from the then Metropolitan Planning Authority (now Victorian Planning Authority – VPA). Council commissioned the preparation of a number of technical studies in order to inform the PSP including flora and fauna, biodiversity, arboricultural studies, pre and post contact heritage, land capability, traffic, drainage services and utilities, community infrastructure and economic assessments.

This section of the report briefly describes the main elements of the PSP, the issues raised in relation to the PSP, the associated Development Contributions Plan (DCP) and planning scheme implementation.

In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites, both accompanied and unaccompanied.

The PSP presents a vision for Spring Creek:

*Spring Creek will be an attractive, liveable and sustainable neighbourhood that will integrate with the landscape character of the Spring Creek valley and the established emerging character of surrounding areas.*

*Local parks and reserves will be situated along the natural waterway and drainage corridors and will offer diverse recreational opportunities as part of an integrated road network. Significant biodiversity assets, including stands of Bellarine Yellow Gums, are planned for protection within conservation and open space reserves. Shared paths for walking and cycling will be incorporated into the open space network. Landscaping along the precinct's edge will serve the dual purpose of protecting native vegetation and softening views from external roads.*

*A range of housing densities will respond to the topography and sensitive interfaces, including the Spring Creek riparian corridor and rural land to the west.*

*Daily service and convenience needs of residents within and surrounding the precinct will be met by a new neighbourhood centre planned to include a supermarket, speciality shops, cafes and commercial services. A multi-use community centre within associated facilities will support the resident population.*

*Pedestrian friendly streets will offer safe and convenient connections between the neighbourhood centre, open spaces, community facilities, the non-government school and other external destinations. The street pattern and the dedicated walking and cycling paths create an accessible neighbourhood, where residents have viable transport alternatives.*

Figure 2 shows the overall urban structure proposed.

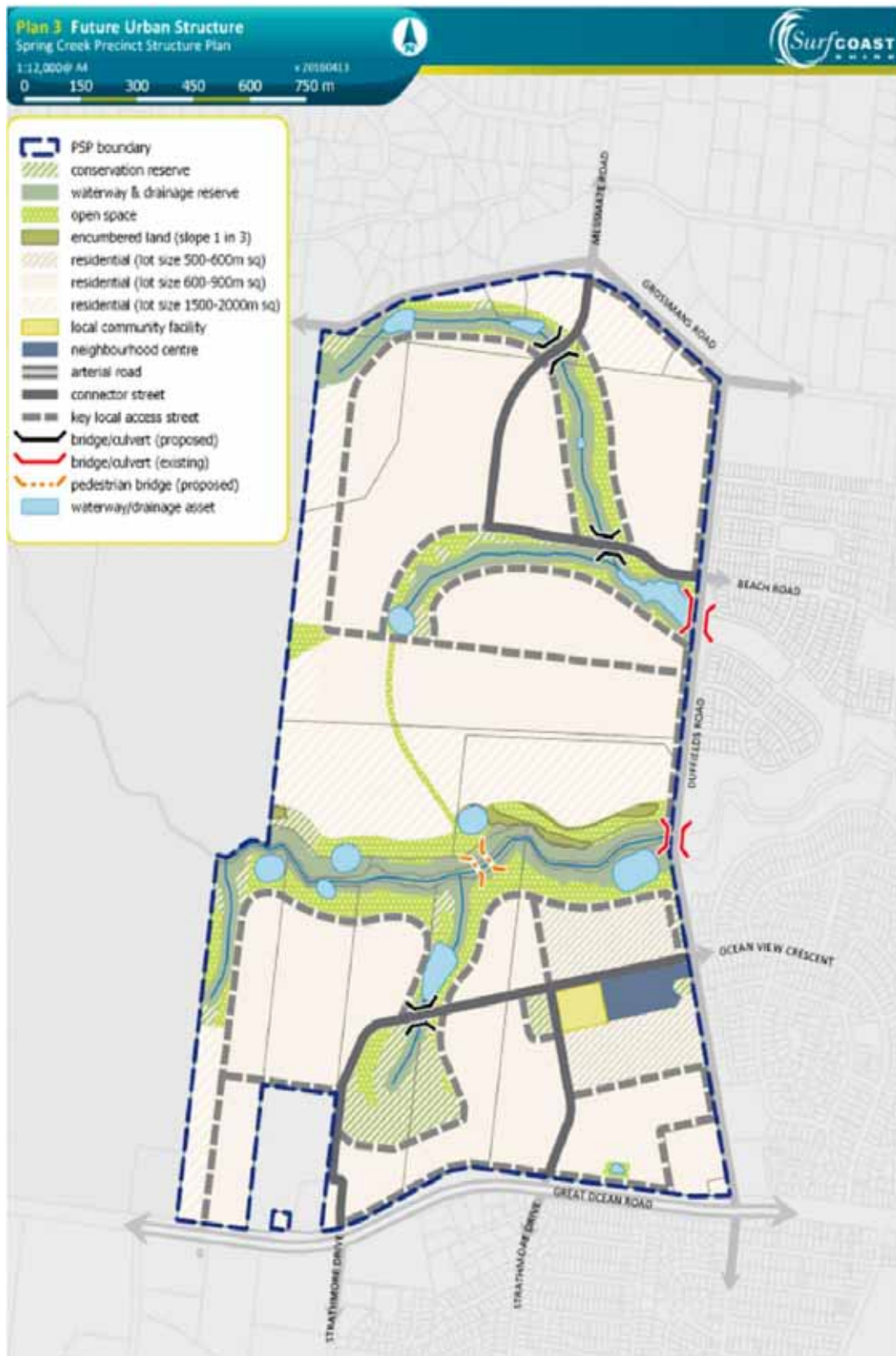


Figure 2 Spring Creek Future Urban Structure Plan

### 3.1 Interpretation of the PSP

Under the heading ‘How to read this document’ the PSP sets out requirements that ‘must be adhered to’ and guidelines that express how ‘discretion is to be exercised’.

Submissions were made that some requirements should be expressed as guidelines. These submissions addressed the issues of the mandatory nature of the requirements.

A without prejudice workshop was held on the last day of the hearing to work through a number of these issues. These are discussed below.

### 3.2 Community panel process

A Community Panel comprising of nine landowners, representatives from three community groups (3228 Residents Association, Bellbrae Residents Association and Surfrider Foundation) and 19 randomly selected residents from Torquay, Jan Juc and Bellbrae participated in four independently facilitated workshops in August 2015. The task of the Panel was to make recommendations to Council regarding the Spring Creek PSP. In particular, the panel was asked to respond to the question “How do we design urban growth that is in balance with the surrounding environment?” The recommendations of the Panel received greater than 80 percent support of panel members and have, to a great degree, informed the form and content of the PSP.

From November 2015 through to January 2016, Council responded to the community panel recommendations through the exhibition of a draft framework plan which formed a precursor to the current PSP. The majority of the recommendations were addressed in the draft framework plan and the plan was placed on public exhibition, receiving 56 submissions.

A number of submissions questioned this process and these are addressed throughout the report. In particular, Mack Developments, Parklea, Amex, Rural Estates Pty Ltd and Christian College Geelong made submissions at the Hearing on this matter. It was best summed up by Mr Greg Tobin, on behalf of Christian College Geelong (submitter 57). He submitted:

*The Council in this Amendment has adopted the somewhat unusual process to determine the planning controls. It is beyond doubt that land is an important resource; that planning is an ever increasingly technical discipline; and that it is important that our communities are developed in the most appropriate manner for all of the community. The community panel represents a potentially useful means of engaging the public in a planning process ... despite this it could be fairly said that the one unifying factor for both the pro-development community and anti-development community has been a level of dis-satisfaction with this process.*

The Panel was taken time and again to concerns with the selectiveness of the Community Panel. This was a concern to the Panel and the validity of this process and its outcomes, in the Panel’s view, do not have the rigour of other more formal strategic planning processes. If this has informed the PSP in determining growth boundaries, significant buffers and the like, the Panel is concerned with how the rationale has been formulated. This is discussed where the issues arise in later chapters.



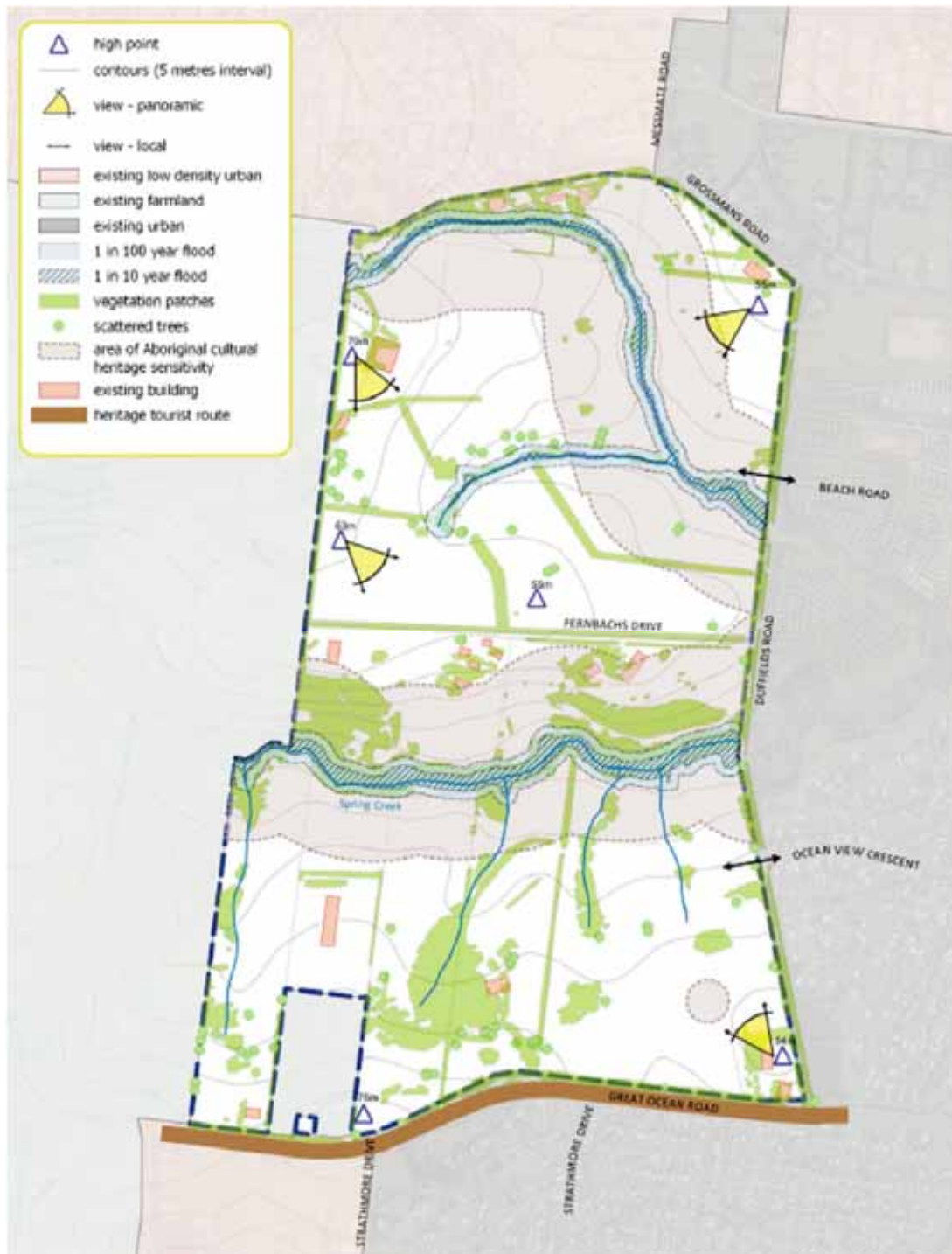


Figure 3 Precinct features (Plan 2 of PSP pg.6)

### 3.3 Precinct features

Council submitted that there are five key features of the precinct as follows:

- A predominantly enclosed valley form which falls away from Grossmans Road and the Great Ocean Road towards the Spring Creek waterway. This waterway divides the precinct into two distinct areas, that is the north and south precincts. There are a number of drainage lines and tributaries which run into the creek including a northern tributary which

flows south east to a confluence with Spring Creek approximately 500 metres east of the precinct.

- An undulating topography with some steep to very steep sections, particularly immediately north of the creek. The precinct has a topographical relief of over 60 metres between its highest point (> 70metres AHD) near the north west and south west corners and the bottom of the valley (< 10metres AHD).
- Panoramic vistas from highpoints within the area and from adjacent roads.
- A largely undeveloped rural landscape with occasional farm buildings and dwellings.
- Vegetation consisting of open pastures with patches of remnant vegetation, scattered trees, exotic and non-native wind rows, indigenous roadside vegetation and riparian vegetation along the creek.

#### **(i) Urban structure and Density**

The PSP provides for a range of lot sizes with the following lot densities:

- 1,500 – 2,000 square metres - will produce an average density of 4.6 dwellings per hectare
- 600 – 900 square metres - will produce an average of 10.7 dwellings per hectare
- 500 – 600 square metres - will produce an average of 14.5 dwellings per hectare.

Council submitted that the PSP envisages an average density of 10 dwellings per net development hectare. A number of submissions from both developers and residents raised the issue of density.

#### **(ii) Transport and movement**

The PSP road network is culmination of detailed transport impact assessment (TIA) undertaken for Council by the Traffix Group. The road network, public transport and trail at Plan 7 of the PSP sets out the proposed local road network and provides for a robust structure for traffic and transport movement within and through the precinct that Council submitted will satisfactorily meet the expected traffic demand. Issues relating to transport and movement are discussed in greater detail in Chapter 5.

#### **(iii) Native Vegetation Protection Plan (NVPP) and Biodiversity**

The Spring Creek Native Vegetation Precinct Plan (NVPP) will be listed under the Schedule to Clause 52.16. Any removal, destruction or lopping of native vegetation in accordance with the NVPP does not require a planning permit provided the conditions and requirements specified in the NVPP are met.

The biodiversity significance of the land has been assessed by Ecology and Heritage Partners Pty Ltd. These reports identify the key biodiversity assets and include mapping and modelling information. Outstanding issues and submissions on the NVPP and biodiversity are discussed in Chapter 6.

#### **(iv) Buffers**

Native vegetation must be retained as described in the NVPP and there is to be buffer zones provided on each side of Spring Creek to achieve a minimum width of 75 metres measured from the one (1) in ten (10) year flood level. The width of the various buffers as set out in the PSP are:

- 75 metres on each side of Spring Creek, measured from the 1 in 10 year flood level (R25)

- 50 metres on each side of the northern tributaries, measured from the 1 in 10 year flood level (G36)
- 20 metres on each side of other waterways, measured from the centreline (G36).

Council submitted the buffers have been established based on environmental/biodiversity, flooding, topographical, landscape, recreation and cultural reasons. The widths have also taken into account the views expressed through the community panel process. Issues relating to the proposed width are discussed in Chapter 8.

#### **(v) Open space**

The PSP includes:

- 18.26 hectares of unencumbered or credited passive open space (9.76 percent developable area) consisting of 15 land parcels
- 38.97 hectares of encumbered open space (20.9 percent developable area) consisting of:
  - 9.7 hectares of conservation reserves
  - 28.06 hectares of waterways and drainage
  - 1.21 hectares of other encumbered open space.

#### **(vi) Utilities**

The proposed utilities are set out at Plan 9 of the PSP and indicate the existing and proposed sewer, existing and proposed potable water supply and the existing electricity supply.

#### **(vii) Activity Centre and Community facilities**

A Spring Creek Activity Centre assessment was prepared by Tim Nott dated February 2016. Council sought Mr Nott's advice on the appropriate size and location of a retail centre within the PSP precinct. Mr Nott's findings are summarised as follows:

- Planning for a NAC at Spring Creek should be for a small centre of 3,000 square metres initially (in 2021), but that the site could have room for the facility to grow in due course into a NAC with a full time supermarket and a total retail floor space of 5000 square metres by 2030.
- In addition, there may be an opportunity to allow for up to two local activity centres of up to 400 square metres each in order to provide convenience services in areas that are beyond walking distance from other centres. Such centres should be on collector roads (not the Great Ocean Road).

Parklea submitted evidence to the contrary of Mr Nott's position. This is discussed in Chapter 10 of the report.

A community facility is proposed alongside the commercial centre.

### **3.4 Development Contributions Plan Overlay Schedule 3 (DCPO3)**

DCPO3 is sought to be applied to the PSP area. Council submitted that the resources to prepare a DCP for the precinct were not available at the time that DCPO3 sought to be applied.

As an interim measure, Council considered that DCPO3 should require land developers to enter into a section 173 agreement pursuant to the *Planning and Environment Act, 1987 (the Act)*, to provide monetary contributions which would allow fees to be balanced when the DCP is finalised.

These agreements will ensure that the Council can collect the funds required whilst ensuring that landowners are ultimately charged appropriately.

It submitted that a DCP for the PSP area would be prepared at a later date. Council submitted that this work will determine the most appropriate method for applying the development contribution costs and may include as follows:

1. *Include the Spring Creek precinct in the existing Torquay/Jan Juc DCP (updated March 2013) as part of the review of that document which is planned for late 2016; or,*
2. *Provide a DCP applicable to the Spring Creek precinct only.*

*Regardless of the method that is ultimately employed, the Spring Creek DCP will require consideration of the following:*

- Which new infrastructure items in Spring Creek should be funded by a DCP;*
- Which existing DCP items are within the Torquay/Jan Juc DCP of which the Spring Creek might need to contribute;*
- Payment credits for the landowners who funded the preparation of the Spring Creek PSP.*

In its directions, the Panel raised concern regarding the exhibition of the PSP with a 'blank schedule' to the DCPO Schedule. Council prepared an 'Interim indicative DCP' list of items to alleviate some of these concerns. It explained:

*To assist landowners within the PSP area, an interim indicative list of DCP items and costs has been prepared ahead of the final work being included. This was included as tab 8 in its Background Documents – Part 1 folder provided to the Panel and on public display at the Hearing.*

The indicative list has been prepared as follows:

- Assigning charge areas within the Spring Creek precinct;*
- Identifying the existing Torquay/Jan Juc DCP items for which the Spring Creek precinct might contribute; and*
- Identifying new DCP items for which the Spring Creek DCP might include.*

A charge area as defined in the existing DCP for Torquay/Jan Juc, is a land area for which a discreet development contribution rate is calculated. All development within a particular charge area will be required to pay the same contribution amount. These are defined by the key principle of ensuring that the potential for serious 'cross subsidies' is minimal. A cross subsidy occurs when the development is asked to pay for infrastructure that it will not (or hardly ever) use, or is asked to pay above its fair share. The Spring Creek precinct DCP would notionally comprise two (2) charge areas, land north of Spring Creek (North SC) and land south of Spring Creek (South SC).

Council explained that the infrastructure costs associated with the land north and south of the precinct will differ given Spring Creek bisects vehicle movements and residential densities, community uses and as well, commercial uses vary north and south of the creek.

With regard to exhibiting a blank DCPO, Council submitted that it was advised by the VPA that this was a legitimate methodology adopted when a DCP was not fully resolved at the time the PSP was being considered. It argued:

*The use of a schedule which requires a section 173 Agreement to be entered into provides a mechanism for developers should they wish to proceed with development prior to the resolution of a DCP and is a common mechanism used in such circumstances.*

Whilst not a preferred approach of the Panel, it agrees with Council's submissions, it is neither unusual nor uncommon for such a procedure to be followed.

### **3.5 Conclusions**

The Panel concludes:

- The community panel process, whilst admirable, should not and has not spoken for the whole community. The selective nature of membership, approval ratings metrics and somewhat unfounded outcomes in part have led to confusion within the PSP that is discussed throughout the remaining sections of this report. The tension between development and anti-development factions is evident through submissions and in some of the PSP outcomes.
- The zones and overlays to implement the Spring Creek PSP are appropriate. The PSP itself is the key document guiding future urban growth and biodiversity protection of the precinct. Its incorporated stature provides the clearest vision regarding the future of this precinct. Subject to changes discussed in later chapters, it should be supported.
- The application of the PSP and its content reflects how that future will materialise and in this sense the Panel is satisfied, subject to its changes, with the Amendment.
- A number of changes are required to the PSP and UGZ Schedule prior to its approval.
- Any debate to be had in respect of the cost of various infrastructure items to the extent submitters may have differing would be a matter to be tested before a Panel constituted to determine the appropriateness of any DCP in due course.

### **3.6 Recommendation**

- 1. Update the Precinct Structure Plan to reflect the Panel's suggested changes detailed throughout this report and listed in Appendix E.**
- 2. Council review the wording of its regulations and guidelines where applicable to ensure that the terms 'must' and 'should' are appropriately placed.**

## 4 Western Growth Boundary

### 4.1 The issue

The issue is whether or not the western boundary of the PSP area is the ‘final’ growth boundary.

### 4.2 Evidence and submissions

#### (i) Amendment C66

Mr Townshend QC and Ms Emily Porter represented Rural Estates (Torquay) Pty Ltd (Rural Estates). Rural Estates submitted that they were concerned about the lack of any provision for linkages to the west of the PSP land, and assumptions about the western settlement boundary that are implicit in the PSP process. They sought recommendations that:

- *The PSP be revisited in light of the recommendations of the Panel that considered Amendment C66;*
- *A further strategic planning exercise be undertaken to consider the long-term residential potential of the broader Spring Creek Valley; and*
- *The PSP should be amended to include future linkages and infrastructure provision to the west of the PSP area, and increased density in the west of the PSP area.*

The submission related to land outside of the PSP area, immediately abutting the PSP to the west at 320 Great Ocean Road, Bellbrae. It was submitted that the planning for the precinct should not discount or preclude the strategic potential for urban development of land to the west. Mr Townshend took the Panel in detail through Amendment C66 and argued that the Panel:

*....preferred long term strategic planning to political pandering. This Independent Panel should do the same. We are here to talk to long term planning. PSP planning is not isolated. All we are asking for is the independent panel is mindful of future proofing – be careful not to foreclose on its potential. Sometimes you future proof by making sure you don’t foreclose. That means this PSP provides for integration of a future community.*

Rural Estates argued that it is inevitable there would be growth to the west. They submitted that this has been a long term strategic planning pillar for Surf Coast and just because it is not popular with current residents it should not be ruled out. Rural Estates submitted that the Panel recognise a state and regional policy interest to see this area planned accordingly.

A detailed history of strategic planning was provided by Rural Estates, this included a history of relevant amendments affecting the area. Rural Estates submitted that even as the largest landowner in Spring Valley, they were excluded from the PSP Community Panel process.

Council did not support the submissions of Rural Estates. It argued that whilst the submissions of Rural Estates provided a summary as articulated in Amendment C66 of the planning history of the Spring Creek Valley, it is pertinent that the approval of Amendment C66 and C95 and the letter accompanying the gazettal by the then Minister for Planning, Matthew Guy, stated inter alia as follows:

*... I have also prepared, adopted and approved Amendment C95 to the Surf Coast Planning Scheme to rezone the majority of the first kilometre area to the Urban*

*Growth Zone (UGZ). My action is consistent with the recommendation of the Panel. However, my approval of Amendment C66 recognises the land areas identified by Council for urban growth located north west Messmate Road and north east of the Sands Estate.*

*For the remaining land zoned farming in Spring Creek beyond the first kilometre area to Bellbrae, I support Council's continued planning for a suitable location for a green break between Torquay, Jan Juc and Bellbrae. I understand Council will be undertaking a strategic planning exercise to determine the uses to be encouraged in this area compatible with this objective ...*

Council referred to page 74 of the C66 Panel Report, where the Panel made the following comments on the extent of the settlement boundary:

*The Panel is not convinced by Minister Barnes' evidence that the boundary should be at Anglesea Road. Putting Bellbrae into the Torquay-Jan Juc area seems to be at odds with the objective of creating a green break to Bellbrae. The Panel recommends the boundary be placed at approximately 1 kilometre west line and further advise through strategic planning of the balance of the Spring Creek Valley.*

Council submitted that it is important for the Panel to note that no version of the SFP included the land further west of the 1 kilometre west of Duffields Road. Nor did the Minister's intended rezoning in 2010, or the ultimate rezoning through Amendment C95 in 2014, contemplate any development in that area.

Council has commenced further strategic work for the balance of the Spring Creek Valley in the form of a 'Rural Hinterland Futures Project'. Residential development is not part of the future of this area under that review. The project is considering the future opportunities and barriers to sustainable agribusiness in the context of climate change. The review will explore the opportunities and challenges of current and emerging enterprise and seek to create clarity for land owners and investors via clear planning principles and an action plan. The review work recognises as follows:

- *The importance of the hinterland in the Surf Coast's economy;*
- *The potential of job creation, sustainable agricultural productivity, visitation and appreciation of the natural environment;*
- *A clear vision for the hinterland which will create and assist in realising the potential while not compromising the environment; and*
- *Planning principles and an action plan which will create a clear path forward.*

Council concluded that this information has been provided for background purposes for the Panel, and on that basis, Council urges the Panel to refrain from commenting on the future planning for any land outside the PSP area. It argued that Rural Estates will have an opportunity to address its concerns through that process and should not use this process to voice any earlier objection.

Mr Lawrie (submitter 56) submitted that the UGZ and Farming Zone were incompatible. He submitted concerns about noise and dust impacts along the western boundary. He argued that if this was to be the final western town boundary then "we need to ensure that this is the final buffer." He sought a 20-40 metre buffer along the western boundary. Buffers are discussed in Chapter 9.

Ms Ancell, on behalf of Mennoty (submitter 41) argued it did not seem prudent to close off the western boundary in any way.

Mr Tobin for Geelong Christian College (submitter 57) submitted that the College agreed with the submissions of Rural Estates that there is “sense in leaving capacity for an extension of the western local access road”.

Council raised the *Strategic Framework Plan 2040* (SFP) and the location of the ‘green break’ challenged by Rural Estates. It submitted:

*It was made clear in earlier submissions that the SFP 2040 (June 2012) is the document which appears in the planning scheme and does not provide for development in the Spring Creek area.*

*The SFP 2040 (June 2014) was adopted by the Council following the gazettal of C66 and C95 to the Planning Scheme. Council’s adopted strategy that clearly shows how Council intends to fulfil its responsibilities for Torquay as a regional and municipal growth node. It provides for new growth areas in Torquay North, Torquay North West, Torquay North East and Spring Creek. Together these growth areas will accommodate the forecast population of 25,000-30,000. The SFP does not envisage any development further to the west of the 1km area. This growth outlined for Torquay is consistent with the G21 Regional Growth Plan (April 2013) (G21 Plan) that was approved by the former Minister for Planning in 2013. Of note is that the G21 Plan does not identify the Spring Creek valley as a growth area. The G21 identifies Winchelsea as a growth node with potential to reach a population of 10,000 by 2030-2040.*

*SFP 2040 (June 2014) provides for 1,900 lots (see map at page 13) with ‘maintain non-urban breaks between towns’ depicted by green circles. This map is the adopted position of the Council. Part B of the document provides history of the preparation of the SFP with section 4 of Part B setting out various growth scenarios (Low Growth, Medium Growth and High Growth). Scenario 2 which is the Medium Growth Scenario envisages a population growth of approximately 30,200 by 2040, including 17,500 new residents in just over 8,000 new lots. The population figures identified in G21 Regional Plan range from 25,000 – 30,000. In Part B the ‘green break’ is not physically located so close to the features on the maps. These maps are background and not intended to indicate or convey any information on the location of the green break that is to be ascertained with regard to the Planning Scheme.*

### **4.3 Discussion**

The submissions on behalf of Rural Estates raises a genuine matter for the Panel to consider, that is: whether the PSP should provide for a link so as not to jeopardise any long-term future development of that land. The Panel did not support Council’s submission that the Panel should have no regard to this request. Strategic planning for this corridor is long and varied. To close off a potential link to the west without detailed planning would result in poor planning outcomes.

The SFP mapping is at best vague, when it comes to non-urban breaks between towns. The Panel would encourage Council to become clear on this aspect in its future growth review once planning for the PSP has been completed. In fact, the Panel was taken to a number of iterations that had



Rural Estates land in, out, not shown at all. Moreover some of these plans were not even the endorsed, referenced SFP that lies within the planning scheme.

The Panel supports the submissions of Rural Estates and the Christian College as relevant and pertinent. It urges Council to think appropriately and responsibly about the 'next phase' post this Spring Creek PSP. The Panel notes the *Rural Hinterland Futures Project* was raised by Council and believes 'future growth' should form part of this strategic planning exercise. The fact that this project directly abuts the PSP area, is a matter of relevance for the Panel, and proper planning.

It was of concern to the Panel that Rural Estates, as the largest landowner in the Spring Creek Valley, was excluded from the PSP Community Panel process. It agreed with their submissions that this predetermined their fate in many ways and does not fairly balance future interests. The Panel notes that the '*Rural hinterland futures project*' seems to have predetermined the study in its title.

For reasons unknown, Council has in this case seemingly ignored a valid, proven and tested strategic planning history for the western precinct. It was upheld by Amendment C66 and this Panel finds the same. The area immediately west of the PSP area must be properly planned and investigated for possible future expansion as has been heralded in many previous strategic processes.

#### **4.4 Conclusions**

The Panel concludes:

- There is no evidence before the Panel that supports a change in long term planning direction for the Spring Creek Valley and links to the west should be shown on the PSP.
- The PSP should include future linkages and infrastructure provision to the west of the PSP area. This does not predetermine further decisions but preserves options.

#### **4.5 Recommendations**

- 3. Council include 'urban growth potential' for the balance of Spring Creek with appropriate community engagement as part of its Rural Hinterland Futures Project.**
- 4. Provide a notation on the Precinct Structure Plan showing the area south-west of the Precinct Structure Plan boundary as a 'Strategic Investigation Area.'**

# 5 Road network

## 5.1 The issues

The primary issue with respect to the road network as show in Plan 7 is the exhibited PSP is the number of proposed signalised intersections on the Great Ocean Road.

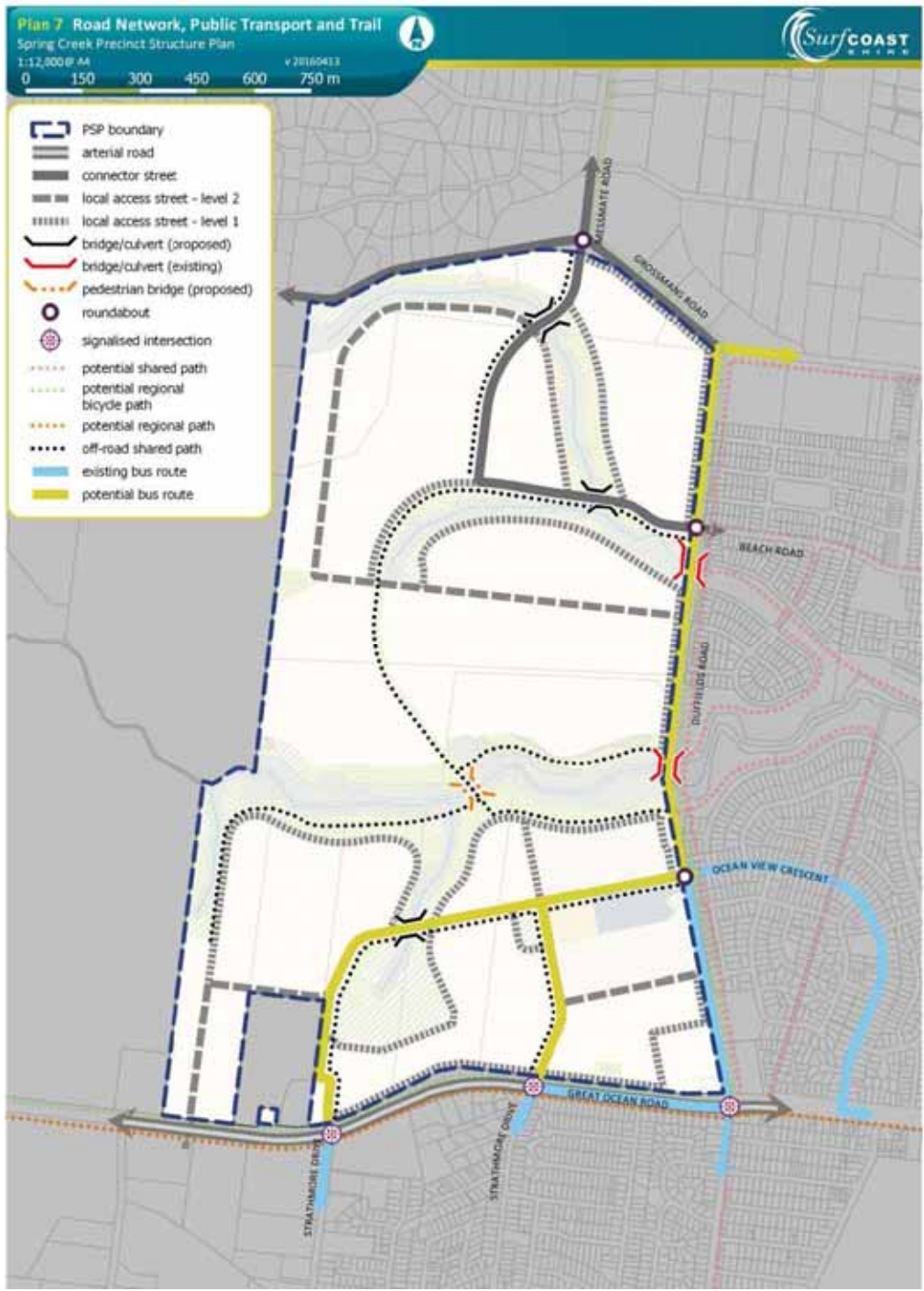


Figure 4 PSP Plan 7 – Road network, public transport and trail

There are a number of consequential issues if, as required by VicRoads, the signals at the intersection of the Great Ocean Road and Strathmore Drive East are deleted. These consequential issues include:

- a change in the alignment of the north-south connector road to create a T-intersection offset from Strathmore Road East
- the designation of that north-south connector road
- the need for an additional connection to Duffields Road south of Ocean View Crescent
- how to provide for the safe crossing of pedestrians of the Great Ocean Road in the vicinity of Strathmore Road East.

Other issues include whether:

- an internal vehicular crossing of Spring Creek is needed to provide for the circulation of traffic within the PSP
- traffic measures are needed to discourage traffic from using Ocean View Crescent.

## 5.2 Intersections along the Great Ocean Road

### (i) Evidence and submissions

In the exhibited PSP Road Network, access to the Spring Creek precinct is via two connector streets aligned with Strathmore Drive East and Strathmore Drive West. Both of these intersections were to be signalised to allow for all turning movements.

Some 31 of the 80 submissions received by Council opposed these two additional sets of traffic signals along the Great Ocean Road. Some submitters suggested that these signals should be replaced with roundabouts. Comments by submitters in opposition to the signals included:

*This would create five sets of traffic lights within 1.5 kilometres ... and will deter visitors from visiting Torquay (Submitter 12)*

*Installing traffic lights at Strathmore Drive lower.....will exacerbate problems. A solution could be to have only one south exit from the Spring Creek development onto the Great Ocean Road. (Submitter 13)*

*Object to profusion of traffic lights. Residents of Jan Juc are being stopped five times in less than 2 km. (Submitter 18)*

*Traffic lights are not needed through the Great Ocean Road (Submitter 21)*

*Strathmore Drive is currently a free flowing road. Extra traffic lights will be detrimental to the aesthetics and mean there will be 5 sets of traffic lights. (Submitter 22)*

*There should be no entry/exits to Great Ocean Road which would need to be signalised. (Submitter 33)*

*The additional traffic lights will divert more traffic through Jan Juc to Bell's Beach. (Submitter 37)*

*There should be no road connections to the Great Ocean Road and no traffic lights at Strathmore Drive East or West. (Submitter 79)*

In its Part A Submission, the Surf Coast Shire Council stated that:

*Importantly, access to and from the Great Ocean Road must be provided only as set out in Plan 7 unless otherwise agreed to by the coordinating roads authority. The PSP proposed two (2) new signalised intersections at the extensions of Strathmore Drive East and Strathmore Drive West.*

In response to the VicRoads advice that the intersection of the Great Ocean Road and Strathmore Drive East be removed, Council stated that: *The provision of alternative access has been investigated refer outcomes of Traffix review (Part A Submission, Appendix 1, page 20).*

Ms Bisucci for Council stated that Council discussed revised access to the Great Ocean Road with VicRoads and the options were provided to the Traffix Group ... *who advised that a T intersection is feasible but would result in increased traffic using Duffields Road.*

Ms Bisucci submitted that:

*In summary, the following position is set out:*

- *The initial traffic assessment undertaken to inform the drafting of the PSP recommended signalised intersections at both Strathmore Drive East and West;*
- *In response to the DEDJTR/VicRoads submissions, submissions from the Jan Juc residents, Council resolved to investigate alternative access arrangements such as left in / left out intersection in lieu of signalised intersection at Strathmore Drive East;*
- *The Council commissioned Traffix Group to investigate the alternative options and Council notes the findings of the assessment which have been discussed with DEDJTR/VicRoads. In the circumstances Council will be guided by the opinion of these bodies in forming a final position, and would also assisted by any recommendations of the Panel in respect of this matter (Part B Submission, page 15).*

In closing, Ms Bisucci advised that Council had noted the conclusions reached by the Traffix Group in regard to safety and accessibility of the alternative access arrangements. She submitted that:

*Council supports a left in/left out access arrangement from the Great Ocean Road between Strathmore Drive East and Torquay Boulevard, which is supported by the Traffix Group review, the evidence of Mr Higgs and VicRoads. Council does not support an option facilitating all vehicle movements as this would unacceptably increase the risk of accidents (Reply Submission, page 7).*

Council submitted that “... *the reality is that the road is controlled by VicRoads.*”

The exhibited PSP Road Network was based on work done for Council by the Traffix Group. Mr Ross Thomson of the Traffix Group did further analysis of the alternative access arrangements and his follow up report was tabled (Document 7) by Ms Bisucci on day two of the Panel hearing. Ms Bisucci did not call Mr Thomson as an expert witness.

The follow up analysis showed that all intersections would operate acceptably in both the AM and PM peak periods in the alternative access arrangement (i.e. Left in/left out only at the T intersection of the connector street with the Great Ocean Road) but there would be increased delays and queues at the Duffields Road/Ocean Views Crescent roundabout and the Great Ocean Road/Duffields Road traffic signals compared to the PSP road network with signalisation allowing all movements at the Great Ocean Road/Strathmore Crescent East/connector street intersection.

In his report on the follow up analysis, Mr Thompson noted that the modelling suggested that removing the signalised intersection may actually increase overall delays for the Great Ocean Road because of increased delays through the Duffields Road intersection due to greater conflicting traffic movements. He also stated that if signals at the Great Ocean Road/Strathmore East/connector street intersection were coordinated with existing traffic signals, delays to Great Ocean Road through traffic would be negligible.

Mr Thomson also raised safety concerns with the proposed alternative arrangement. He considered that there could be an increased risk of crashes due to through and right turn movements at Duffields Road and more opposing traffic for vehicles turning right into and out of Torquay Boulevard (although Mr Thompson noted that this risk could be mitigated by constructing an auxiliary right turn lane at the Great Ocean Road/Torquay Boulevard intersection).

Mr Thomson expressed particular concern with the proposed right/left stagger combination via Strathmore Drive East noting that with the alternative arrangement, the increase in vehicles undertaking an un-signalised right turn movement from Strathmore Drive East into the Great Ocean Road would increase road safety risks. He also noted in his report that the alternative access arrangement is not in accordance with current VicRoads practice which is for connector streets to align across arterial roads for direction connection between neighbourhoods and efficient movement of pedestrians, cyclists, public transport and other motor vehicles at signalised intersections.

An alternative full access arrangement without signalisation was also assessed by Mr Thomson. This would involve the widening of the Great Ocean Road to allow for the construction of auxiliary right turn lane at the access point into the Spring Creek precinct which would need to be located within 80 metres to the east of Strathmore Drive East to avoid overlapping right turn lanes. Mr Thomson stated:

*In terms of traffic impacts on the road network, the provision of full access will lessen vehicle turning demands at the Great Ocean Road/Duffields Road and Duffields Road/Ocean Views Crescent intersection as vehicles will be able to turn right directly from the Great Ocean Road to access the Spring Creek Precinct. Accordingly, conditions at both the above intersections could be expected to improve compared to what has been modelled previously in this assessment for the left in/left out access arrangement.*

*As per the left in/left out arrangement, the provision of a full access intersection would result in a lesser road safety outcome compared to the signalised intersection contemplated in the Transport Infrastructure Assessment due to the creation of an additional un-signalised access point along the Great Ocean Road.*

In conclusion, Mr Thomson stated that the assessment of the alternative access arrangement has revealed that:

- all intersections surrounding the Spring Creek Precinct will operate in an acceptable manner under the alternative access arrangement, however there will be increased queuing and delays at the Great Ocean Road/Duffields Road and Duffields Road/Ocean View Drive intersections
- there may be increased delays to through traffic along the Great Ocean Road
- increased turning movements at the existing un-signalised T-intersections at Strathmore Drive East and Torquay Boulevard and increased traffic through the Great Ocean Road/Duffields Road intersection will increase the risk of crashes

- the introduction of staggered T-intersections to provide access across the Great Ocean Road is not in accordance with current best practice as described in the VicRoads Guidance for Planning Road Networks in Growth Areas
- both alternative access arrangements reviewed as part of this assessment are considered to deliver a lesser standard of accessibility and safety compared to the access arrangement (i.e. full signalisation at Strathmore Drive East) proposed in the exhibited PSP.

In his submission, Mr John Murphy for VicRoads reaffirmed the VicRoads' previous advice to Council that two signalised intersections from the PSP onto the Great Ocean Road would only be accepted, one of which was the existing Duffields Road intersection and that at Strathmore Drive East, the preference was not for a cross intersection but rather a T-intersection an appropriate distance to the east. Mr Murphy submitted that VicRoads did not support the signalised intersection at Strathmore Drive East due to adverse impact on traffic flows along the Great Ocean Road. He confirmed at the hearing that a T-intersection to the east of Strathmore Drive East with left in/left out movements only from the Spring Creek precinct was the preferred VicRoads solution.

Mr Murphy submitted that the traffic generation assessment (of the alternative access arrangement by the Traffix Group) is considered to be appropriate but that VicRoads has concerns with the distribution calculations at several locations and turning movement assumptions have been incorrectly analysed which may impact upon the operation of the Great Ocean Road/Duffields Road intersection. Mr Murphy did not submit any alternative modelling by VicRoads.

With respect to the potential impact on traffic flows on the Great Ocean Road with two additional sets of traffic signals as proposed in the PSP, Mr Murphy submitted that:

*VicRoads supports the suggestions by the public that there would be an excessive number of signals on this section of the Great Ocean Road.*

*The removal of the signals at Strathmore Drive East will reduce travel delays past the Spring Creek PSP. This is reflective of VicRoads earlier advice.*

*VicRoads will implement traffic signal linking appropriate for the traffic flows generated. A reduced number of signals will make it easier to guarantee signal linking.*

In response to a question from the Panel, Mr Murphy advised that VicRoads had done no modelling to confirm the potential impacts on the Great Ocean Road as asserted by VicRoads, nor that traffic signal linking would be "easier" with no signals at Strathmore Drive East.

On the use of roundabouts suggested by some submitters, Mr Murphy stated that a roundabout has the potential to provide a safer intersection for vehicles but traffic signals provide a better service for pedestrians and cyclists wishing to cross the road. He added that the grades on the Great Ocean Road along the PSP frontage are generally unsuitable for roundabouts.

Mr Phil Bisset for Parklea Pty Ltd submitted that:

*Parklea relies on the evidence of Mr Higgs in relation to proposed changes to the Amendment outlined in his statement.*

...

*Parklea does not oppose the deletion of the signalised intersection on the Great Ocean Road and its replacement with an un-signalised T intersection, subject to the provision of the secondary vehicular entry point off Duffields Roads (see below).*

In oral submissions at the hearing, Mr Jim Higgs (TTM Consulting) stated that he had not seen the report by the Traffix Group on its analysis of the proposed alternative access arrangements (Document 7) until it was tabled at the hearing on day two. He nonetheless generally agreed with the Traffix Group's assessment commenting that he thought the Traffix analysis was "conservative". In response to a question from the Panel, Mr Higgs stated that he thought the delays on the Great Ocean Road could be exacerbated but that these could be mitigated by the co-ordination of traffic signals which could be achieved even with two additional sets of traffic signals. His preference was for signals at both Strathmore Drive East and Strathmore Drive West on the Great Ocean Road.

## **(ii) Discussion**

The exhibited PSP Road Network included two additional sets of traffic signals on the Great Ocean Road, one approximately 510 metres west of the existing Duffields Road signals and the second approximately 550 metres further west. That is, two new traffic signals within just over one kilometre.

It is not surprising that this has drawn criticism from residents in the area. Submitters expressed concerns that there would be increased delays and more traffic through existing areas should the traffic signals be installed.

The Panel has reached a different conclusion on the evidence presented.

Partly in response to community concerns and VicRoads' view that two sets of signals would increase delays to through traffic on the Great Ocean Road, VicRoads has required the replacement of the signals proposed for the Great Ocean Road/Strathmore Drive East/connector street intersection with an un-signalised T-intersection to provide access to the Spring Creek precinct. This T-intersection would be located approximately midway between Strathmore Drive east and Torquay Boulevard and importantly, allow only left turns in and out of the Spring Creek area. The existing Great Ocean Road/Strathmore Drive East intersection would remain un-signalised and both left and right turning movement into and out of Strathmore Drive East would continue to be allowed.

It is notable that no modelling was presented by VicRoads to support its position that two sets of signals were unacceptable partly due to increased delays on the Great Ocean Road. Mr Murphy simply said at the hearing that one additional set of signals would be easier to coordinate with existing signals on the Great Ocean Road than would two additional sets.

As noted by Ms Bisucci, VicRoads is the road authority controlling the Great Ocean Road and has the ultimate say on this matter. While acknowledging VicRoads' authority, the Panel does not accept that the views of VicRoads should go unchallenged and its requirements simply accepted.

It would seem that this what Council has done. It has on the face of it acquiesced to the requirement of VicRoads.

In passing and without wishing to make much of the issue, the Panel was frustrated by Council's initial reluctance to circulate the Traffix Group report on its analysis of the alternative access arrangements. Council has made much of this analysis and made reference to it in its Part A

submission and subsequent submissions to the Panel. Yet prior to the hearing the report was only provided to VicRoads, not to others parties and not even to the Panel. It should have been circulated with Council's Part A Submission to provide time for all parties to fully digest its findings.

Ms Bisucci argued that Council's support for a left in/left out T-intersection is supported by the Traffix Group review and the views of Mr Higgs. The Panel has a different interpretation of the findings presented in the Traffix Group review and indeed of the evidence of Mr Higgs.

The Traffix Group review did find that the alternative T-intersection could work with all roads in the surrounding area functioning to an acceptable level. However, the Traffix Group report was critical of this T-intersection proposal because it would deliver a lesser standard of accessibility for pedestrians and cyclists wishing to cross the Great Ocean Road, increase the risk of crashes and, in contrast to the view of VicRoads, potentially increase delays on the Great Ocean Road compared to the PSP proposal for a signalised intersection. It would also lead to higher volumes of traffic on Duffields Road, Ocean View Crescent and southbound on Torquay Boulevard. The Traffix Group report noted that the alternative T-intersection arrangement was not in accordance with VicRoads' current practice and guidance practice note for new growth areas.

The Traffix Group report presented a second alternative that would provide for protected rights turns in and out of the Spring Street precinct through the construction of auxiliary right turns on the Great Ocean Road at the connector street intersection. VicRoads and Council have apparently rejected this option on the basis of safety concerns.

Mr Higgs expressed a preference for a signalised intersection at Strathmore Drive East. He also downplayed the VicRoads' traffic lights coordination issue. He said that coordinating two additional sets of traffic signals would not be much more difficult than coordinating one additional set with existing signals.

The Panel is not persuaded that the T-intersection access arrangement should be preferred over a signalised intersection. It considers more compelling the Traffix Group analysis and findings that a signalised intersection would provide a superior solution. In the Panel's view and in contrast to the position adopted by Council, the Traffix Group review report provides strong reasons to challenge the argument put forward by VicRoads against the signalisation of both intersections on the Great Ocean Road. The Panel considers that further consideration should be given to the original proposal for signalisation and the two alternative T-intersection arrangements to determine the option which provides the highest standard outcome in terms of accessibility into the Spring Creek precinct, safety including for pedestrian and cyclists crossing the Great Ocean Road and the traffic impact on the surrounding streets.

The Panel also notes that several changes to the exhibited PSP road network, as discussed below, will be required as a consequence of deleting the signalised intersection in favour of a T-intersection with restricted left in/ left out access to Spring Creek. These consequential PSP changes should be taken into consideration as part of any further consideration of the original proposal for a signalised intersection.



### **5.3 Alignment of the north-south connector street to create a T intersection offset from Strathmore Road East**

#### **(i) Evidence and submissions**

In the Traffix Group report on the alternative access arrangements (Document 7), Mr Thomson noted that the alternative access point would be located approximately half way between Strathmore Drive East and Torquay Boulevard in a sag in the road and was not expected to result in any adverse sight distance issues for vehicles turning into or out of the access street.

Mr Higgs stated in his evidence that:

*To obtain an appropriate spatial relationship between Strathmore Drive and a new street intersection for the PSP area the intersection will need to be located between Strathmore Drive (east leg) and Torquay Boulevard.*

His statement included a revised Road Network plan for the southern part of the PSP area which shows the north-south connector street intersecting with the Great Ocean Road midway between Strathmore Drive East and Torquay Boulevard. This is consistent with the evidence of Mr Thomson.

No evidence or submissions were presented which disputed the views of Mr Higgs and Mr Thomson.

#### **(ii) Discussion**

This issue has only arisen because of the alternative T-intersection access arrangement.

The left in/left out T-intersection access into and from the Spring Creek precinct must be offset from the Strathmore Drive East intersection so as to allow all the currently permitted turns into and out of Strathmore Drive East to be retained. Offsetting the T-intersection could be avoided if a central median was constructed on the Great Ocean Road at Strathmore Drive East but that would then prevent right turns into and out of Strathmore Drive East. Such a restriction on existing right turn movements is undesirable and unnecessary. The obvious solution is to offset the T-intersection, however that requires a change in the alignment of the PSP connector street as it approaches the Great Ocean Road.

The re-alignment is relatively minor with little consequence for other parts of the PSP road network. Mr Higgs presented a plan showing a revised alignment through the Parklea land. Mr Bisset for Parklea, the owners of the land affected by the proposed change, raised no objection to the change in alignment.

This matter is not contentious in itself. There is general agreement on the re-alignment suggested by Mr Higgs which accords with the view of Mr Thomson (Traffix Group) and VicRoads that the T-intersection, if adopted, should be located roughly midway between Strathmore Drive East and Torquay Boulevard.

The Panel agrees with the proposed re-alignment of the north south connector street assuming that the T-intersection option is confirmed.

## 5.4 Designation of north-south connector street

### (i) Evidence and submissions

In his statement of evidence, Mr Higgs proposed that with the intersection of the north-south connector street no longer signalised, it would be appropriate for this street to be designated as a Local Access Street Level 1.

Ms Bisucci submitted in her closing that:

*Council agrees that the north-south connector street on the Parklea land no longer needs to be a connector road if it does not connect through to a signalised intersection at Strathmore Drive East and suggests that a Local Street Level 2 (20m reservation width) would be appropriate for this street as shown in the Traffix Group review dated 21 October 2016.*

There were no other submissions with respect to the designation of the north-south connector street.

### (ii) Discussion

Mr Higgs submitted that with a T-intersection at the Great Ocean Road, the projected traffic volumes using the north south connector street would be reduced to a level whereby its designation and, by implication its cross section, no longer needed to be that of a connector street.

Council agreed with Mr Higgs that the street's designation could be down-graded it does not connect through to a signalised intersection at Strathmore Drive East. Council proposed that a Local Access Street Level 2 (20 metre reservation width) would be appropriate for this street as shown in the Traffix Group review.

There were no submissions opposing this change to the street's designation.

The Panel endorses the change to a Local Street Level 2 again assuming that the T-intersection option is confirmed.

## 5.5 Additional connection to Duffields Road south of Ocean View Crescent

### (i) Evidence and submissions

In his statement of evidence, Mr Higgs stated that an additional intersection onto Duffields Road is proposed south of Ocean View Crescent to compensate for reduced accessibility at the Great Ocean Road due to the replacement of a signalised intersection at Strathmore Drive East with a T-intersection restricting movements to left in/ left out to and from the Spring Creek precinct.

Ms Bisucci submitted that:

*....Council's view is that this arrangement (the alternative access arrangement into the Spring Creek precinct from the Great Ocean Road) would be provisional on providing an additional intersection onto Duffields Road. There are two concerns with the proposed Duffields Road intersection that need to be further investigated before the Council could secure the outcome being that there is significant vegetation (Bellarine Yellow Gums) that must be avoided and the site distance at Duffields Road at this intersection.*

In closing, Ms Bisucci submitted that Council accepts the change advocated by Mr Higgs to create an additional intersection onto Duffields Road subject to the investigation of sight distances and vegetation impacts. She added that a Local Access Street Level 1 would be appropriate for this connection.

**(ii) Discussion**

This proposed additional link to Duffields Road is apparently agreed by all parties on the basis that it is needed to compensate for the reduced accessibility into the south part of the Spring Creek Precinct due to the deletion of the signalised intersection on the Great Ocean Road at Strathmore Drive East.

Mr Bisset stated that Parklea's support for the deletion of the signalised intersection was conditional on the provision of this second entry point off Duffield Road to the south of Ocean View Crescent.

Council put a similar view but noted that the location of the new link would need to be determined to overcome issues with respect to loss of native vegetation and sight distances.

The Panel has no difficulties with the additional connection and consequent change to the exhibited PSP road network provided that the issues raised by Council can be overcome. But again, the Panel notes that this additional connection to Duffields Road is required because of the proposed deletion of the signalised intersection on the Great Ocean Road and the consequent reduced access into the Spring Creek precinct.

## **5.6 Pedestrian crossing of the Great Ocean Road in the vicinity of Strathmore Road East**

**(i) Evidence and submissions**

Council submitted it was seeking to encourage walking to and from school as viable options. She submitted that if the only options were signals at Duffields Road or Strathmore Drive West that would be too far for pedestrians to walk. As a minimum, some form of pedestrian refuge would be required to traverse the Great Ocean Road near the new intersection.

Mr Murphy for VicRoads submitted that the proposed T-intersection arrangement would allow for a pedestrian refuge island and that this was a typical solution for pedestrian and vehicle volumes in this type of environment. He noted that Strathmore Drive West and Duffields Road would have signalised pedestrian access.

Mr Murphy submitted that warrants for pedestrian operated signals traditionally occur when pedestrian numbers exceed 100 pedestrians per hour and traffic volumes exceed 1000 vehicles per hour where there is a median or pedestrian refuge. He noted that the Traffix Group Alternative Access Arrangement report made no reference to predicted pedestrian numbers. VicRoads predicts that 100 pedestrians are unlikely to cross at this location per hour.

In the Traffix Group report on the alternative access arrangements (Document 7), Mr Thomson stated that the alternative access arrangement would result in a spacing of some 1060 metres between signalised intersections on the Great Ocean Road compared to no greater than 550 metres spacing achieved in the road network proposed in the exhibited PSP.

He noted that to achieve the objective for pedestrian connectivity in the VicRoads guidelines for crossing facilities at least every 800 metres on primary arterial roads and at least every 400 metres on secondary arterial roads, a new signalised pedestrian crossing would need to be provided on the Great Ocean Road in the vicinity of the existing T-intersection at Strathmore Drive East. In his view:

*Providing strong pedestrian connectivity between the adjacent neighbourhoods of Jan Juc and Spring Creek is considered important as it will enable Jan Juc residents to safely access the local activity centre and community facilities proposed within Spring Creek, whilst also enabling future Spring Creek to access facilities in Jan Juc.*

He concluded that a pedestrian refuge should be constructed on Great Ocean Road near Strathmore Drive East as an interim treatment prior to the ultimate construction of pedestrian signals at this location.

Mr Bisset submitted that:

*Parklea does not oppose the introduction of the signalised pedestrian crossing on the Great Ocean Road subject to appropriate allocation of the costs associated with such a crossing. It is understood that this project is not contemplated in the current provisions of the PSP.*

## **(ii) Discussion**

It goes without saying that walking and cycling should be encouraged through the design of road, walking and cycling networks in new development areas and the provision of appropriate and, most importantly, safe links to adjoining areas and facilities.

The Great Ocean Road does present a barrier to pedestrians and cyclists and as noted by Council, the deletion of the signalised intersection at Strathmore Drive East would result in the distance between the existing Duffield Road signals and the new signals at Strathmore Drive West being too great for pedestrians to walk.

VicRoads suggested that the design of the proposed T-intersection could incorporate a pedestrian refuge to aid pedestrians in crossing the Great Ocean Road. Mr Murphy added that the volume of pedestrians likely to cross at this point would not warrant the installation of pedestrian signals. He noted, somewhat glibly in the Panel's view, that pedestrians could cross at the signals at Duffield Road and Strathmore Drive East. These sets of lights are over one kilometre apart.

The Traffix Group report recommended that a pedestrian refuge be constructed as an interim treatment prior to pedestrian signals being constructed ultimately between Strathmore Drive East and the un-signalised T-intersection (Panel's emphasis). In this report, Mr Thomson referenced the VicRoads guidelines which state that pedestrian crossing facilities should be provided at least every 800 metres on arterial roads and every 400 metres on secondary arterial roads. It could of course be argued that a middle of the road pedestrian refuge is a pedestrian crossing facility and therefore the guidelines will be met with the refuge proposed by VicRoads.

Ms Bisucci stated that Council considered, as a minimum requirement, some form of pedestrian refuge must be provided for pedestrians to traverse the Great Ocean Road near the new intersection.

All parties agree that a pedestrian refuge should and will be constructed as part of the alternative T-intersection in lieu of the signalised intersection at Strathmore Drive East. The Panel concurs

that a pedestrian refuge is a minimum requirement but sees this as a lower standard outcome for pedestrians and cyclists in comparison to the originally proposed signalised intersection at Strathmore Drive East.

## 5.7 Internal vehicular crossing of Spring Creek

### (i) Evidence and submissions

Mr Val Fernbach (Submitter 11) requested a trafficable culvert/bridge crossing over Spring Creek broadly aligning with an existing unmade private road on his property (Property 7 on Plan 4 of the PSP). He submitted that an internal crossing would improve internal connections, alleviate traffic on Duffields Road, provide better access for emergency vehicles, improve emergency evacuation links and provide a better alignment for a sewer main and the north-south pedestrian link. He submitted that with the proposed trafficable culvert, traffic to the Christian College and to the shops would not have to enter Duffields Road and pedestrians would be more likely to use the link at his proposed location than the pedestrian link shown in the exhibited PSP which was on much steeper terrain.

Mr Fernbach submitted that an estimated cost of a culvert similar to the existing culvert on Duffields Road would be \$600,000 compared to the cost estimate by Council of \$2.38 million for the pedestrian bridge included in the PSP. In response to a question from the Panel, Mr Fernbach stated that the cost estimate was made by a friend “with experience in bridge construction”. He was vague as to what works were included in the estimate.

In a summary table of the submissions and Surf Coast Council response, Council made reference to the conclusions of the Transport Infrastructure Assessment by the Traffix Group. Council also stated that the optimal alignment of sewer mains and the north-south pedestrian link would be considered at the subdivision design stage.

The Traffix Group Transport Infrastructure Assessment found that an internal crossing of Spring Creek would:

- provide some traffic relief to Duffields Road and the west approach to Ocean View Crescent/Duffields Road roundabout
- improve safety by minimising the amount of traffic likely to make a right turn onto Duffields Road from the PSP access street near the top of the crest where sight distance is limited.

An internal crossing could also allow a more direct route for buses through the precinct so that a greater proportion of the precinct could be located within 400 metres of a bus route.

The Assessment concluded that:

*However, whilst there are traffic benefits from providing the internal crossing of Spring Creek it is understood that there may be cost and environmental reasons why it should not be provided. The peak hour traffic analysis indicates that whilst there will be slightly greater traffic delays if the Spring Creek Crossing is not provided, these delays will not be significant and all intersections surrounding the site can operate at an acceptable standard.*

Mr Tobin for the Christian College Geelong stated in submissions that the College supported the Fernbach proposal for an internal crossing of Spring Creek as it would provide better circulation

within the PSP and access to the school from the north of Spring Creek rather than via Duffields Road.

He submitted that:

*The College acknowledges the proposed crossing of Spring Creek in the submission by Val Fernbach. There is considerable merit to the facilitation of this outcome. A north south connection with appropriate traffic calming measures would assist in the movement of local traffic and the permeability of the valley. In the Colleges (sic) view this is appropriate in circumstances where the school will be at the south of the PSP area.*

*Such a connection would be a DCP item and would require the upgrading of the infrastructure listing in the PSP.*

*This link is preferable outcome to forcing all traffic to Duffields road.*

## **(ii) Discussion**

The proposal put forward by Mr Fernbach has some support, notably from the Christian College Geelong. An internal creek crossing would improve access to the College in the southwest of the precinct and would no doubt facilitate the development of Mr Fernbach's land.

The Transport Infrastructure Assessment done initially by the Traffix Group did examine this option. This assessment found that an internal creek crossing would provide some advantages. It would reduce precinct generated traffic from using Duffields Road and could also provide an internal route for buses to increase the number of houses within 400 metres of a public transport service. However, the assessment did not recommend an internal crossing because the benefits were marginal and the surrounding street network would function to a satisfactory standard without it. The Traffix Group report also noted that there would be some environmental and cost issues to overcome to provide a creek crossing.

On cost, Mr Fernbach suggested that an internal creek vehicular crossing to a standard similar to the existing culvert on Duffields Road could be constructed for around \$600,000. The Panel is very sceptical of this costing. Mr Fernbach could not provide details on how it was determined and it also seems very low in comparison to the more rigorous estimate by Council of some \$2.38 million the proposed pedestrian and bike crossing of Spring Creek.

Aside from Christian College Geelong, no other submitters expressed support for Mr Fernbach's proposal. Nor was there any opposition expressed by other parties notwithstanding that an internal creek vehicular crossing would come at some considerable cost which would be added to the DCP.

The Panel accepts that there could be some benefits in having an internal vehicular crossing of Spring Creek although the prospect of enhanced public transport services with a crossing would seem in the Panel's view unlikely given the relatively low housing density and hence population catchment that will result as development occurs in the Spring Creek precinct. At best on the evidence presented, the benefits would be marginal and would not justify the additional cost particularly when environmental impacts and the difficult terrain in terms of construction are included in the costings.

The addition of an internal vehicular creek crossing would require a substantial revision of the exhibited PSP road network and other aspects of the PSP. Potentially, there would be significant impacts on other landholders in the PSP.

The Panel considers that revisions needed to the PSP to incorporate an internal vehicular crossing would constitute such fundamental change to the exhibited PSP that it would need to be re-exhibited.

The Panel does not support the proposal put forth by Mr Fernbach.

## **5.8 Traffic measures to discourage traffic from using Ocean View Crescent**

### **(i) Evidence and submissions**

In correspondence dated 22 June 2016 from DEDJTR and quoted in the VicRoads submission, VicRoads noted that:

*The Transport Infrastructure Assessment (TIA) forecasts significant additional traffic volumes along Ocean View Crescent to assess the development from the Great Ocean Road. As this could impact on amenity for existing residents, it is recommended that measures be implemented to discourage traffic from using this route.*

Mr Murphy confirmed at the hearing that VicRoads had nothing specific in mind other than normal traffic calming measures.

The TIA shows traffic on Ocean View Crescent increasing from 885 vehicles per day to 2569 vehicles per day following full development of the Spring Creek precinct.

Council made no submissions on this issue.

### **(ii) Discussion**

This matter was raised specifically by VicRoads although other submitters did express concerns over the potential increase in traffic resulting from the development of the Spring Creek precinct.

The assessment by the Traffix Group does project a substantial, almost three-fold increase in traffic on Ocean View Crescent albeit of a relatively low volume around 885 vehicles per day. Projected traffic volumes on Ocean View Crescent post full development of the Spring Creek precinct would still be within recommended levels for a connector street.

Nonetheless, residents will perceive some increase in traffic and Council should monitor traffic levels and if needed, respond with appropriate traffic calming measures as suggested by VicRoads.

## **5.9 'Dog-leg' proposed**

### **(i) Evidence and submissions**

The alignment of the connector street as shown in the exhibited PSP meets the critical traffic engineering requirement that this connector street lines up at approximately 90 degrees with the existing Great Ocean Road/Strathmore Drive West intersection. However, the exhibited alignment with a relatively sharp 'dog leg' to the west and then to the north will present some design challenges to meet road safety design standards. Council submitted:

*The location of the connector road has been raised as a concern. Whilst the connector road could be realigned its alignment has already been amended from the*

alignment in the exhibited Framework Plan to allow the Christian College to have a connector road frontage which allows safe and efficient bus routes and school drop off and pick up.

Mack Developments submitted that the TIA exhibited with the Amendment proposed the following hierarchy and alignment of internal roads within the Land as shown in Figure 5.



Figure 5 Traffic TIAR Assessment of road network  
Source: Mack submission (Document 12 pg.6)

Mack submitted that Plan 3 in the PSP proposes to deviate from that more straightforward alignment, so that the Connector Road dog-legs to the west to abut the western boundary, as shown below in Figure 6.



Figure 6 Exhibited PSP 'dog-leg' alignment, Plan 3

Mr Woodland, in his evidence for Mack noted this 'dog leg' does not appear to serve any traffic management/calming purposes. Mack submitted that the road should be realigned to match the original Traffix Group proposal (Figure 5). Mr Woodland gave evidence that schools should be given at least three roads on boundaries, assuming the Great Ocean Road was one of those boundaries the realignment could occur.

Under cross-examination, Mr Woodland did acknowledge he was not a traffic expert, however he offered the view that his evidence "integrates advice, on matters of technical detail."

Mr Tobin supported the exhibited orientation of Strathmore Drive on behalf of the Christian College. He argued it was "entirely consistent with long established growth area planning for



school sites and necessary to what is currently Guideline 30 of the PSP.” In his cross-examination of Mr Woodland, he highlighted that the assumption of using the Great Ocean Road as a road boundary for the school was incorrect. Mr Tobin opined:

*The VicRoads submission makes it clear that the Great Ocean Road access for the school is temporary in nature....having road frontages to three sides of the School Land provides for an appropriate level of passive surveillance. It is not appropriate that backyard fences abut the school boundary.*

Council confirmed the interim status of access from the Great Ocean Road, stating:

*The recently issued Planning Permit for the School site (14/0374) contains a condition that the applicant must enter into a S.173 agreement with VicRoads and the Council that specifies and clarifies interim and ultimate access arrangement to the site from the Great Ocean Road. Further, this agreement provides that when access is available from the PSP road network that access from the Great Ocean Road is to be removed.*

Mack submitted if the ‘dog-leg’ treatment was to remain, then consideration of a designation for certain uses such as convenience and or child care should be made for the ‘island’ site created. Council submitted Council it was not opposed to higher order uses in this location, but submits these do not need to be shown on Plan 3 as they can be considered pursuant to the underlying residential zone.

## **(ii) Discussion**

While a north south alignment without the ‘dog leg’ as originally proposed in the Traffix Group’s TIA is preferable from a traffic engineering perspective, the road safety design challenges are not insuperable. Having three road frontages to the school is consistent with PSP Guidelines.

The Panel is confident that an acceptable alignment that incorporates a less pronounced ‘dog leg’ can be designed at the subdivision stage. Traffic engineering requirements are not considered to be a determining factor in selecting the most appropriate alignment for the connector road. The Panel agrees that no specific designation is required for higher order uses in this location, and agrees with Council these do not need to be shown on Plan 3 as they can be considered pursuant to the underlying residential zone.

## **5.10 Conclusions**

The Panel concludes that:

- Signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection as proposed in the exhibited PSP is potentially a superior treatment compared to an un-signalised intersection in terms of access into the Spring Creek precinct, impact on the surrounding road network including the Great Ocean Road and safety particularly for pedestrians and cyclists crossing the Great Ocean Road.
- On the evidence presented, the decision to delete the signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection should be reviewed.
- Subject to the replacement of the signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection with staggered un-signalised T-intersections, changes to the PSP road network are warranted as follows:

- a realignment of the north south access street to create a T-intersection with the Great Ocean Road
- a change in the designation of the access street from Connector Street to Local Access Street – level 2
- the addition of a new connection to Duffields Road south of Ocean View Crescent.
- To provide safer crossing of the Great Ocean Road for pedestrians and cyclists:
  - a pedestrian refuge should be included in the construction of the T-intersection as an interim measure
  - pedestrian activated signals in the vicinity of Strathmore Drive East should be installed when warranted by pedestrian/cyclist crossing numbers and traffic volumes.
- An internal vehicular crossing of Spring Creek is not justified given its marginal benefits compared to cost and environmental implications and the consequential substantial changes to the exhibited PSP.
- Traffic volumes on Ocean View Crescent will increase substantially as development occurs in the Spring Creek precinct and should be monitored by Council.
- A less pronounced '*dog leg*' can be designed at the subdivision stage for the Strathmore Drive West connector road.

### 5.11 Recommendations

The Panel recommends:

5. **VicRoads and Council review the decision to delete the signalisation of the Great Ocean Road/Strathmore Drive East/connector street intersection as proposed in the exhibited Precinct Structure Plan in favour of a un-signalised staggered T-intersections.**
6. **Should the review confirm the decision to replace the signalisation of the intersection with un-signalised staggered T-intersections, the Precinct Structure Plan, Plan 7 (Road Network, Public Transport and Trail) be amended as follows:**
  - a) **show a re-aligned north south access street to create a T-intersection with the Great Ocean Road approximately midway between Strathmore Drive East and Torquay Boulevard**
  - b) **change the designation of the north south access street from Connector Street to Local Access Street – Level 2**
  - c) **include an additional connection from the north south access street to Duffields Road south of Ocean View Crescent subject to resolution of the environmental and sight distance issues raised by Council.**
7. **Should the review confirm the decision to replace the signalisation of the intersection with un-signalised staggered T-intersections:**
  - a) **a pedestrian refuge should be constructed as part of the T-intersection as an interim measure**
  - b) **VicRoads and Council should monitor pedestrian and cyclist numbers crossing the Great Ocean Road and traffic volumes with the view to installing pedestrian activated traffic signals when warranted**

- 8. As development occurs in the Spring Creek precinct, Council should monitor the increase in traffic volumes on Ocean View Crescent to determine whether the installation of traffic calming measures to discourage through traffic is warranted.**

## 6 Stormwater and drainage

### 6.1 The issue

The issue is whether the requirements in the exhibited PSP provide sufficient flexibility to allow for alternative solutions to be proposed at the detailed design stage in relation to:

- the size and location of water bodies
- the stormwater management system (online wetlands) shown in the exhibited PSP.

A related matter is the approach for the delivery of stormwater management infrastructure.

The width of the waterway easements either side of Spring Creek and creek tributaries with respect to drainage and stormwater management requirements was also raised by several submitters. This aspect is discussed in Chapter 9.

### 6.2 Evidence and submissions

#### (i) Size and location of water bodies

Ms Porter, appearing for Mack Developments, cited the evidence of Mr Dara McGrenaghan (Wood and Grieve Engineers) and submitted that:

*Plan 8 of the PSP shows a large but unreferenced waterbody in the centre of the Land, in the approximate location of an existing dam that was constructed for agricultural purposes. It should be relocated north within the Spring Creek buffer zone on the basis that it:*

- *is human-made for agricultural purposes;*
- *will not capture all of the upstream catchment, requiring additional infrastructure to retard flows;*
- *does not meet required safety standards and is too steep for replacement infrastructure; and*
- *cannot be integrated with the future development of the Land for residential or open space purposes*

*Similarly, waterway WL21 should be deleted from the PSP on the basis that it:*

- *has been amended for agricultural purposes and is not natural;*
- *cannot be integrated with the future development of the land; and*
- *is not as safe as other options.*

In oral submissions, Ms Porter stated that her client was ... *not reassured that Council says that the location of wetlands shown on PSP Map 8 are "indicative"*. She expressed concern that there had been no change in Council's position on this matter.

At the Panel Hearing, Mr McGrenaghan confirmed his written evidence that the unreferenced waterbody (which Council advised was not labelled in error and should be shown as WL15) was constructed for agricultural purposes, its structural integrity was not proven, and would create a health and safety issue if rehabilitation works were not done to eliminate risk. He stated that he assumed that WL15 was placed at the location shown on Plan 8 of the PSP for no other reason than that is the location of the existing dam. He added that development of the Mack land would require a water retardation/treatment body further down-stream and should be an end of line treatment to achieve best practice in terms of water quality management.

Mr McGrenaghan questioned whether WL21 was a natural streamlined. He believed it to be modified to align with the constructed dam. In his opinion, WL21 should be removed and replaced with a pipe which could be sized to manage run-off from the catchment area.

In submissions, Ms Bisucci argued that the PSP Plan 8 was indicative only and water bodies shown on the Plan could be relocated at the subdivision stage. Under cross examination by Ms Bisucci, Mr McGrenaghan said that he disagreed because any proposal at subdivision stage to relocate water management infrastructure “*would be subject to the opinion of the relevant authority*”. In his opinion, the current location of WL15 was not its best site and it was preferable to amend the PSP to provide a conceptual layout showing water management infrastructure at a more appropriate location.

Ms Ancell represented Mennoty Pty Ltd (submitter 41) at the Hearing, and stated that while she had not been instructed to make submissions on several issues raised in Mennoty’s original submission (submission 41 made by Reeds Consulting), she was instructed that these issues remain outstanding and that Mennoty’s written submission should be referred to in relation to these matters. One such matter is the extension of the proposed waterway into the Mennoty site. The Mennoty submission expressed concern that the water body (WL1) on land Parcel 1, as shown on PSP Plan 8, had been exaggerated and did not represent the true extent of the water body on the site. Mennoty requested this be reduced to reflect the true size of the dam thereby allowing the Level 2 Local Access Street on this site to run through to Grossmans Road.

## **(ii) The stormwater management system**

Council’s Part A submission states that:

*This (Stormwater) Strategy was prepared to meet Surf Coast Shire, Metropolitan Planning Authority (MPA) and Corangamite Catchment Management Authority (CCMA) requirements of best practice stormwater management, engineering standards and integration of drainage assets with open space to enhance biodiversity, heritage and conservation values. This strategy aimed to maximise the benefits offered (social and amenity) by drainage assets whilst minimising the area of developable land required for them.*

*In doing this, a drainage scheme approach has been adopted to identify a smaller number of centralised, larger infrastructure, rather than allowing and (sic) ad-hoc approach post PSP process that may result in a number of small infrastructure spread across the PSP area that could results (sic) in a less effective use of available land and create a maintenance burden for council. To this end, Council has indicated a preference for centralised retarding basins and WSUD (combined where possible).*

Ms Bisucci submitted in Council’s Part B statement that:

*It is noted that a stormwater management report was prepared by Engeny dated June 2016 and filed as part of Amex’s submissions to C114. In Council’s view, the witness statement does not provide any new insights beyond the information provided in its June 2016 report and hence, Council remains of the view that the PSP provides flexibility for Council to consider alternative stormwater solutions and that detailed plans will be considered at the subdivision stage.*

*Council has been in contact with the submitter throughout the course of the PSP process with particular reference to the stormwater approach in the PSP which is challenged by the*

submitter. Meetings were attended by Council Officers, the submitter, its consultants and the CCMA. Council's position is as follows:

- The wetlands shown on the plans in the PSP are indicative only;
- The PSP refers to Council considering alternative stormwater management systems being approved subject to Council approval. For example, see requirement 52 on page 29 of the PSP which states as follows:

*"Stormwater management system must be designed in accordance with Plan 8 unless otherwise approved by the Responsible Authority."*

*Interestingly, it is not clear what the alternative stormwater system has been designed to achieve. For example, is it designed to achieve the density of lots as proposed in the PSP or some other density desired by the submitter? Given that the density of development within the PSP area is an issue of contention before the Panel, in Council's view it is premature to approve any detailed stormwater management plans. These are in fact required at the subdivision stage and it is at that stage that the Council will assess the arrangements be they alternative to the PSP or not.*

*It is Council's position that the stormwater management systems as set out in the PSP are indicative and moreover, the PSP itself allows for alternative design solutions to be considered at the appropriate time.*

For the Amex Corporation, Mr Bisset submitted that:

*The Part B Submission confirms that the current drafting of the PSP is based on the Tomkinson Group work. It is noted that the author of this work has not been called to give evidence before the Panel. The Council's preferential position on this matter is also demonstrated in response to submissions as set in the Part B submission.*

*If the Council is intending that the PSP reflect a neutral position on these issues then the provisions of R55 should clearly express that position.*

He submitted that the alternative solution proposed by Engeny for the site is not ad hoc and the combination of offline gross pollutant traps and rain gardens is a typical design used in new residential developments and is considered to be best practice. He noted that best practice guidelines currently discourage the use of online wetlands (as proposed by Council) and the drainage system proposed by Engeny would not lead to greater maintenance or cost obligations on Council than the system Council.

Mr Bisset submitted that detailed reviews by Mr Prout and Mr McGrenaghan both indicate that there are issues with Council's proposed drainage scheme that need to be revisited. He added that:

*Council has not called evidence on this matter, but has indicated that it is willing to show flexibility in terms of the ultimate drainage system constructed for each landholding. Our client supports this approach.*

*If Council is genuine about determining the most appropriate drainage system for any given site at the subdivision stage, then this ought to be expressed in the provisions of the PSP.*

Mr Bisset proposed that:

- Requirement R55 be redrafted ... to reflect a neutral position on a preferred drainage system

- WL06, WL09 and WL10 be removed from the PSP Plan 8 and the waterbodies depicted in association with those wetlands altered to show offline drainage systems and rain gardens
- the PSP Table 5 be amended to reflect changes in drainage infrastructure proposed for the above locations
- the UGZ1 Map 1 be amended to reflect the potential use of offline drainage systems.

In conclusion, Mr Bisset submitted that:

*Although the wording of the PSP indicates that Council has the ability to “otherwise approve” an alternative drainage system, an amendment of the PSP at this stage is an appropriate outcome to ensure alternative drainage solutions based on best practice requirements are recognised in the document.*

In his expert witness statement, Mr Prout recommended that the stormwater treatment system be changed from a series of online wetlands to offline gross pollutant traps and rain garden. His reasons were that:

- current best practice including Melbourne Water guidelines discourages use of online wetlands as proposed in the PSP due to the risk of sediment being scoured from the wetlands and plants being damaged during flood event
- sub-catchments for the proposed development are too small to sustain healthy offline wetlands
- access down into the creek valley to maintain the wetlands would be difficult compared with his recommended alternative with gross pollutant traps and rain gardens at the top edge of waterway corridors with easy access from adjacent streets.

Mr Prout also said in his statement that:

*The CCMA had stated that all flow volumes and rates be restricted within the development to a “level as determined by the design capacity of the receiving pipe or downstream floodplain”. Engeny has assessed the capacity of the downstream waterway to convey the flow following development of the site and has found that there is sufficient capacity without the requirement for any works on the waterway.*

In oral evidence at the hearing, Mr Prout explained that wetlands in existing waterways as shown on PSP Plan 8 was not best practice and Melbourne Water guidelines say that this approach should not be done. He added the his alternative strategy treated water before discharge into a waterway rather than within the waterway, it could be built progressively as development occurred, was no more costly to maintain than the system shown in the PSP and flood control in the Spring Creek situation was not an issue as the existing culvert under Duffields Road acts as a control with no flooding over the road.

In response to a question from the Panel, Mr Prout stated that in his view, the Tomkinson Report (on which the PSP system is based) did not meet best practice noting that online treatment systems do not capture sediment and there was the potential for leakage into ground water. Under cross examination by Ms Bisucci, Mr Prout agreed that the PSP online management system met CCMA flood control requirements but he reiterated his view that the system did not meet best practice in terms of water quality treatment.

In their written submission (submission 78), the directors of PJC Co Pty Ltd stated that “...the Stormwater strategy is ill conceived and not suitable for the site”. PJC Co did not make further submissions at the hearing.

In its Part A submission, Council's response was:

*Developers will be required to prepare detailed stormwater management plans as part of subdivision applications. The PSP provides a level of flexibility to consider alternative outcomes.*

**(iii) Delivery of stormwater management infrastructure**

In submissions, Mr Bisset for Amex Corporation raised concerns over the potential "upsizing" of drainage infrastructure to cater for drainage flows from other properties. He made reference to clause 4.2 of the exhibited Schedule 1 to the UGZ. He submitted that:

*...there is no reference to potential planning agreements to facilitate the provision of drainage infrastructure within this Clause, the Clause does not adequately provide for a mechanism to equitably allocate responsibility, costs and contributions where the relevant infrastructure is "upsized" – i.e. a developer pays and constructs drainage infrastructure that benefits other upstream lots, which have not contributed to the relevant infrastructure.*

He suggested that Requirement R56 could be expanded to provide for arrangements between landholdings for subsequent upgrading of interim downstream drainage solutions.

In closing, Ms Bisucci for Council submitted that:

*During the panel hearing a number of parties raised "upsizing" of retarding basins/wetlands to cater for drainage flows from other properties. There are a number of options, including incorporating the wetlands in a DCP. However, this reduces flexibility for landowners for alternative stormwater management plans.*

*It is important to note that the Spring Creek PSP Stormwater Modelling has been based on the principle that stormwater flows are limited to pre-development levels. This was done "in order to ensure that the goal of maintaining the present catchment drainage discharge characteristics so as not to contribute to or exacerbate any downstream flooding, was achieved." Tomkinson February 2016.*

*A number of scenarios have been adopted in other areas of the municipality to cope with the equalization of contributions to shared wetlands. In Torquay North and Bellbrae an overall masterplan for the catchment was developed and agreed by negotiation with landowners/developers. At Bellbrae, one wetland is proposed to service a number of properties and they are required to calculate apportionment of costs and enter into a legal agreement prior to Council approving the subdivision.*

**(iv) Onsite wastewater treatment**

Mr Tobin submitted that with the lot sizes in the exhibited PSP, onsite wastewater (septic) treatment should be permitted on the Haebich land as an interim arrangement under a Section 173 agreement with an obligation to connect to sewer once available at this location. He noted that onsite treatment was common in the area now, there was no risk to the Responsible Authority and such an approach would provide the potential for early development of the site. Mr Tobin agreed, however, that onsite treatment should only be allowable for larger lot sizes and would not be appropriate with development of the Haebich land at smaller lots sizes of 600-900 square metres.



## (v) Development Staging

Amex and Parklea submitted that the wording of the clause R70 relating to development staging needed to be amended for flexibility. It was submitted that the wording of this clause be amended to allow for obligations which Council is required to satisfy pursuant to a planning agreement under Section 173 of the Act.

## 6.3 Discussion

A common theme in submissions made on behalf of landowners was that the relevant sections and plans in the PSP should be redrafted to make it explicit that the requirements with respect to the water management system and the location of drainage infrastructure are indicative only and can be amended at the subdivision stage. The Panel has attempted to recommend these changes throughout the report and these are captured in Council's submitted summary at Appendix E.

In addition, some specific changes to the PSP were requested including the relocation or removal of several water bodies from PSP Plan 8 and to reflect a "*neutral*" position with respect to the water management system.

The response of Council was consistent in rejecting changes as unnecessary. Council argued essentially that the PSP requirements provided flexibility with the responsible authority able to approve alternative systems "*to the satisfaction of the responsible authority*". It held firm in its view that the drainage and stormwater management system and the location of associated infrastructure shown in PSP are indicative only and could be amended at the subdivision design stage.

Mr Bisset and Ms Porter expressed concerns over Council's reluctance to agree to PSP changes before its approval. Ms Porter noted that there had been no change in Council's position and Mr Bisset questioned whether Council had an open mind to alternative water management systems. In particular, Mr Bisset argued that an appropriate outcome at this stage would be to amend the PSP to recognise in it alternative drainage solutions based on best practice.

The Panel is inclined to agree with Ms Porter and Mr Bisset. Council has indeed shown no inclination to accept any changes to the PSP that would make it very clear that the PSP requirements are indicative and can in fact be amended at the subdivision stage.

The Panel is of the view that some appropriate redrafting of the PSP would be beneficial in providing future guidance for officers in responsible authorities as to how phrases such as "*unless otherwise approved by the responsible authority*" and "*all to the satisfaction of the responsibility authority*" should be interpreted. Some appropriate redrafting could introduce a degree of flexibility and explicitly provide discretion for the responsible authority to consider alternative water management systems without weakening the requirements of the PSP or the powers of the responsible authority to determine subdivision applications.

On the matter of alternative water management, the Panel is impressed by the evidence of Mr Prout. He provided a full explanation of his proposed alternative scheme which in the view of the Panel is worthy of further detailed examination at the appropriate design stage. The Panel is not suggesting that the PSP should be amended to adopt the Prout scheme – that was not requested by Mr Bisset – but rather the PSP should be amended as previously suggested to ensure that the Prout scheme (and potentially other water management schemes) is able to be put forward and approved if assessed as a satisfactory scheme by the responsible authority at the approval stage.

With appropriate redrafting of the PSP to incorporate suitably worded flexibility in the requirements and an annotation to PSP Plan 8, the Panel does not consider it necessary to delete WL06, WL09 and WL10 from the PSP Plan 8 as requested by Mr Bisset. His further request that the waterbodies depicted in association with those wetlands be altered to show offline drainage systems and rain gardens could in fact be interpreted as the PSP adopting the Prout scheme. That would be step too far at this PSP stage and could be seen as introducing the very inflexibility that Mr Bisset and others are seeking to avoid.

The Panel is, however, inclined to accept the view of Mr McGrenaghan that WL15 and WL21 should be deleted from PSP Plan 8 on the basis that these features are man-made, pose a potential safety risk and are not in a suitable location to provide effective management of water flows from the small catchment area. The PSP Plan 8 should be amended to provide a conceptual layout showing water management infrastructure at a more appropriate downstream location.

The Mennoty submission stated that the extent of the water body (WL1) on its land had been exaggerated and should be reduced to show the true extent of the water body on the land. No evidence was presented to the Panel, and the Panel is not in a position to form a view on this matter. It suggests that Council and the submitter hold further discussions.

On the final matter regarding the potential “*upsizing*” of drainage infrastructure to cater for drainage flows from other properties and the absence of any reference to potential planning agreements to facilitate the provision of drainage infrastructure within the Clause 4.2 of Schedule 1 of the UGZ1, the Panel agrees with Mr Bisset that a mechanism to equitably allocate responsibility, costs and contributions where the relevant infrastructure is “*upsized*” should be included in the PSP.

The Panel agrees with Council that the inclusion of wetlands in the DCP is not appropriate. Council has suggested other approaches to cope with the equalization of contributions to shared wetlands. These should be considered further in consultation with affected landholders. They could, for example, it could be included in an expanded Requirement R56 as suggested by Mr Bisset.

The Panel agrees with the submissions of Amex and Parklea with regards to R70 (Development staging) and has recommended a change to the wording accordingly.

## **6.4 Conclusions**

The Panel concludes:

- The Panel supports the request made by some submitters for changes be made to the PSP to provide greater clarity that the water management infrastructure shown in the PSP are intended to be indicative only and that the PSP provides a level of flexibility to consider alternative outcomes.
- The relevant sections of the PSP should be re-drafted accordingly.
- The alternative water management system proposed by Engeny has considerable merit and the redrafting of the PSP provisions should make it clear and explicit that there is flexible to consider alternative systems including the Engeny scheme at the subdivision approval stage.
- The deletion of WL15 and WL21 from Plan 8 and replacement with a conceptual layout showing water management infrastructure downstream is justified.

- Further consideration is required on PSP mechanisms to equitably allocate the responsibility, costs and contributions of “upsized” water management infrastructure.
- Onsite treatment should only be allowable for larger lot sizes and would not be appropriate with development of the Haebich land at smaller lots sizes of 600-900 square metres.

## 6.5 Recommendations

The Panel recommends:

9. **Redraft the Precinct Structure Plan section 3.6.1 Integrated water cycle management, the annotation to Plan 8 Integrated Water Management as follows:**
  - a) **make it clear and explicit that the Precinct Structure Plan requirements with respect to the water management system and the location of drainage infrastructure are indicative only and can be amended at the subdivision approval stage**
  - b) **provide clarity and future guidance for the assessment by the responsible authority of development proposals.**
  - c) **Amend R55 to state:**
    - **Final methodology, design and boundary of waterway and drainage reserves and infrastructure, including retarding basins, stormwater quality treatment infrastructure and associated paths, boardwalks, bridges and planting is to be agreed at the time of making an application for subdivision to the satisfaction of the responsible authority and the catchment management authority where required.**
10. **Amend Precinct Structure Plan, Plan 8 Integrated Water Management as follows:**
  - a) **delete WL15 and WL21**
  - b) **provide a conceptual layout in place of these deleted water bodies to show water management infrastructure at a downstream location.**
11. **Council give further consideration in consultation with affected landholders to mechanisms to provide for the equalisation of contributions to shared water management infrastructure.**
12. **Add the following sentence at the end of R70 to state:**

**...unless the liability arises pursuant to an agreement under section 173 of the *Planning and Environment Act 1987*, in which case Council is obliged to satisfy the liability in accordance with the agreement.**

## 7 Biodiversity

### 7.1 The issue

The issue is whether the natural environment has been adequately protected by the Spring Creek PSP and the Native Vegetation Precinct Plan (NVPP). Issues include whether:

- the NVPP appropriately translates the findings of the native vegetation assessments (biodiversity assessment and arboricultural assessment)
- the NVPP clearly communicates the rationale for the removal and retention of native vegetation
- requirements for practical retention of vegetation are clear, including tree protection zones
- the NVPP and associated regulatory tools effectively regulate the protection and clearance of native vegetation.

The issue of native vegetation offsets was raised, including the potential to reduce specific offsets required for the removal of threatened species through more detailed investigation of vegetation protection options.

Issues have been raised in relation to the protection of specific sites and matters, including:

- Bellarine Yellow Gum / Grassy Woodland (GW5): 200 – 220 Great Ocean Road
- Swampy Riparian Woodland (SRW1): 200 – 220 Great Ocean Road
- Remnant vegetation: 160 and 195 Grossmans Road
- Wildlife and kangaroo management
- Rural urban buffer
- Species selection for revegetation and planting
- General matters relating to environment and biodiversity protection.

A number of submissions raised issues relating to the equitable distribution of conservation reserves (encumbered open space), and the suitability of establishing publicly owned and managed offset sites within the precinct, specifically at 200-220 Great Ocean Road. These matters are discussed in greater detail in Chapter 9 of this report.

### 7.2 Native Vegetation Precinct Plan

#### (i) Evidence and submissions

Council submitted that Ecology and Heritage Partners were engaged to prepare a Biodiversity Assessment within the precinct, and that this was used to inform the development of a Native Vegetation Precinct Plan:

*This assessment was undertaken to identify and characterise the vegetation onsite, determine the presence (or likelihood thereof) of any significant flora and fauna species and/or ecological communities and address any implications associated with future development under Commonwealth and State environmental legislation.*

Council submitted that the Biodiversity Assessment included a general field assessment, targeted surveys for key threatened species and a habitat hectare assessment. The Assessment found that whilst “the majority of the study area supports cleared areas dominated by introduced pasture grasses” however there are areas within the site that support native vegetation.

The Biodiversity Assessment report includes a map showing “key areas of conservation significance within the study area” (see Figure 7 below).



Figure 7 Spring Creek Biodiversity Assessment – Key areas of conservation significance within the study area

In summary:

*The key biodiversity assets of the precinct are:*

- *Two (2) flora of state significance;*
- *Two (2) fauna of national significance;*
- *Seven (7) fauna of state significance;*
- *One (1) fauna of regional significance; and*
- *One (1) community of state significance.*

*The majority of the site consists of cleared areas dominated by introduced pastures. However, within the site there are areas supporting native vegetation of the following four (4) Ecological Vegetation Classes (EVC):*

- *Grassy Woodland (EVC 175);*
- *Swampy Riparian Woodland (EVC 83);*
- *Heathy Woodland (EVC 892); and*
- *Coastal Alkaline Scrub (EVC 858).*

*Further, there are 93 scattered trees across the precinct.*

With consideration of native vegetation offsets, the biodiversity importance of the land can be summarised as follows:

- *Strategic biodiversity score of all marked native vegetation of 0.729;*
- *Risk based pathway – high;*
- *Total extent – 18.165 hectares*
  - *Remnant patches 12.329 hectares*
  - *83 scattered trees*
  - *Locations – C.*

Council submitted that vegetation proposed in the Biodiversity Assessment for retention included:

- *Swampy Riparian Woodland along Spring Creek*
- *Higher quality areas of Heathy Woodland, in particular patches within 195 Grossmans Road and along Grossmans Road*
- *Higher areas of Grassy Woodland (GW2 and GW5), in particular in larger patches within 140 Duffields Road, 220, 220 and 260 Great Ocean Road and within road reserves*
- *Areas of Coastal Alkaline Scrub which contains the threatened ecological community Coastal Moonah Woodland*
- *Scattered Bellarine Yellow Gums.*

Council submitted that an Arboricultural Assessment was prepared by ENSPEC Environment and Risk in July 2015. The report detailed retention value criteria and assessed the retention value of all trees in the PSP area.

Council submitted that the retention of “*High and Very High Retention*” Value trees is significant, and will become even more so in an urban development setting. This was on the basis that preserving existing trees provides an immediate value to the new community that would otherwise take decades to develop with new plantings. Existing trees were also considered potentially important as part of biodiversity links.

The report concluded that:

*The preservation of remaining smaller groups and scattered trees on private land, road reserves or other tenures is also viable if appropriate space is allowed for the trees current and future requirements.*

*Implementation of recommended tree protection measures is essential for the long term preservation of those trees not in public reserves.*

Council submitted that the NVPP sets out the native vegetation to be removed and retained (see Figure 8 below), and it considers native vegetation for practical retention. This process is undertaken on the principles of avoid and minimise losses of remnant vegetation.

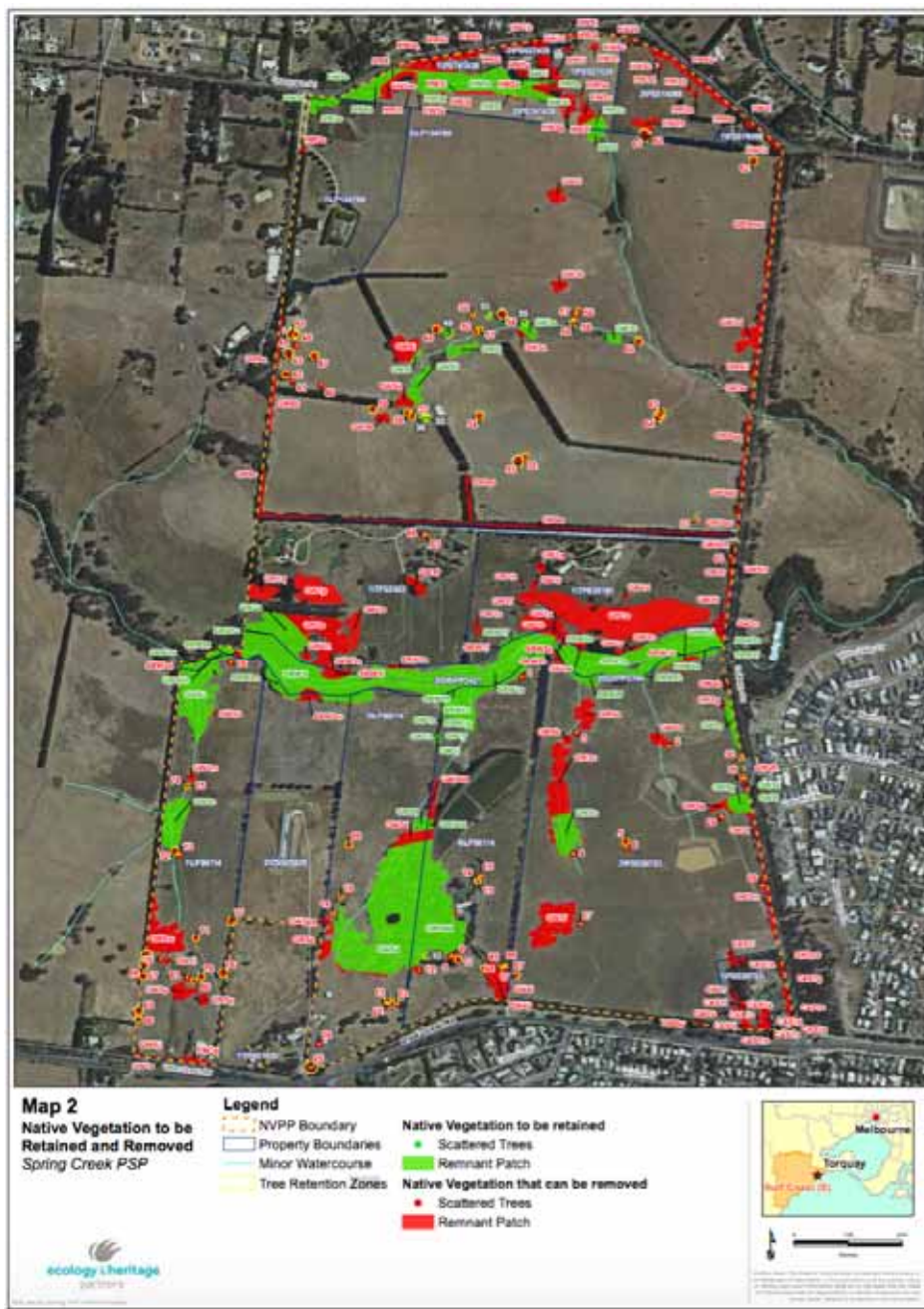


Figure 8 Native Vegetation Precinct Plan – Map 2 Native vegetation to be retained and removed

Council submitted that the process to identify vegetation for protection in the NVPP was informed by the Biodiversity Assessment prepared by Ecology and Heritage Partners “*which made recommendations for the prioritisation of the retention of areas of the highest conservation value*”.

Council submitted that the Spring Creek Native Vegetation Precinct Plan (NVPP) was proposed to be listed under the Schedule to 52.16 of the Planning Scheme. This would require that:

*Any removal, destruction or lopping of native vegetation in accordance with the NVPP does not require a planning permit provided the conditions and requirements specified in the NVPP are met.*

*The purposes of the NVPP are to:*

- *Summarise the biodiversity values of the land;*
- *Apply a holistic, landscape wide approach to retention and removal of native vegetation;*
- *Specify the native vegetation to be retained and removed;*
- *Ensure that any removal, destruction or lopping of native vegetation as identified in the plan meets the “no net loss objective” set out in the Biodiversity Assessment Handbook: Permitted Clearing of Native Vegetation (Department of Environment, Land, Water and Planning 2015 – Guidelines); and*
- *Streamline the planning approvals process through a landscape approach to native vegetation protection and management.*

Council submitted in the Explanatory Report to the Amendment that:

*Spring Creek, which traverses the precinct from east to west, will retain its current Public Conservation and Resource Zone (PCRZ), Environmental Significance Overlay (ESO) and Land Subject to Inundation Overlay (LSIO). Changes to the boundary of the extent of the overlays are subject to a separate amendment C85 which was exhibited in 2015 and not yet completed.*

*A Native Vegetation Precinct Plan (NVPP) has been prepared in conjunction with the PSP, which will protect remnant vegetation patches and trees of significance within the precinct. An existing Vegetation Protection Overlay (VPO) is proposed to be removed from the amendment area, as the vegetation will be appropriately retained and protected through the NVPP and PSP. The Future Urban Structure has incorporated the majority of trees within the VPO into a conservation reserve, and has identified all trees of conservation value for retention within the NVPP.*

The Ecology and Heritage Partners Biodiversity Assessment recommended that:

*Any loss of ecological values should be viewed in the overall context of ongoing loss, fragmentation, and deterioration in the quality of remnant vegetation throughout the greater Otway Plain bioregion. It is recommended areas of highest conservation value are considered for retention, where practicable, when developing a future NVPP for the study area.*

Council submitted that:

*a landscape and holistic approach is a common methodology used in NVPP's as it enables the identification and protection of the most significant biodiversity and ecological values and habitat linkages within a precinct rather than on a site by site basis.*

Council submitted that the NVPP protects vegetation within the riparian corridor and the larger patch of Bellarine Yellow Gum on PSP properties 12 and 13. *“Whilst the loss of other patches of*



*high value vegetation is regrettable, these patches area much smaller and less significant on a precinct level compared to the large patch of Bellarine Yellow Gums”.*

DELWP submitted that it supported the amendment, and provided comments on a number of biodiversity conservation matters.

DELWP submitted that *“an incorporated NVPP will provide for a landscape scale approach to the management and retention of native vegetation in the Precinct, informed by a comprehensive understanding of all impacts and removes the ad-hoc nature of applying for planning permits for the removal of native vegetation as the precinct develops”*. DELWP favours the removal of the VPO1 as it would duplicate the protections provided by the native vegetation regulations. DELWP submitted that it supported retention of the ESO1 to provide additional protection of fauna habitat.

DELWP submitted that it supported a strategic approach to protect higher value vegetation. On this basis DELWP supported the key conservation strategies identified in the PSP, including retention of the large area of Bellarine Yellow Gum in the southern area of the precinct, and incorporation of a waterway / drainage reserve as a protective buffer around Spring Creek.

DELWP submitted that it supported the NVPP as exhibited on the basis that *“it’s the best with the information that we have at hand”*, however it recommended that there are areas where further consideration of options to retain native vegetation may be warranted. This recommendation was informed by the Objectives and Strategies in Clauses 12.01-2 Native vegetation management and 52.16 Native Vegetation precinct plan in the VPP.

DELWP submitted that the rationale behind the native vegetation proposed for retention and removal has not been provided, and that a minimisation statement had not been provided. DELWP recommended that further investigation be undertaken regarding vegetation identified for removal, with particular reference to *“vegetation on steep slopes adjoining the north side of Spring Creek associated with low density residential development, and vegetation loss associated with Water Sensitive Urban Design (WSUD) wetland areas”*.

A number of specific matters were also raised by DELWP relating to the NVPP, including consideration of:

- vegetation removal as a result of construction of utilities and roads
- inclusion of roadside vegetation
- potential to minimise vegetation loss to avoid specific offset requirements identified for four threatened species.

DELWP submitted that the growth area’s perimeter roads contain native vegetation that is likely to be impacted through road upgrades and widening. On this basis DELWP recommended that the NVPP and PSP be extended to include perimeter roads. Inclusion of these areas in the NVPP would help to streamline the approvals process by removing the need for a planning permit. DELWP submitted that as an assessment had already been undertaken of roadside vegetation that incorporation of this into the NVPP should be relatively straightforward.

DELWP submitted that it supported the approach to seek practical retention of some vegetation identified in the NVPP as being permitted to be removed. This would reduce losses of native vegetation and reduce offset liabilities. This was achieved by the City of Greater of Geelong for the Armstrong Creek Urban Growth Area by applying additional conditions in the NVPP and matching design considerations in the PSP.

DELWP submitted that a number of changes could be made to the NVPP and PSP to clearly explain the plans for native vegetation proposed for practical retention, including the strategic process undertaken to identify each area of vegetation for practical retention, inclusion of patches of vegetation and individual trees on maps and in tables, including the size of scattered trees to allow larger scattered trees to be retained where possible.

DELWP submitted a number of specific comments and suggestions for amendment to the PSP, NVPP, UGZ and schedule to the PCRZ.

Ms Porter, representing Mack Property Development, called Mr Harvey from Biosis to give evidence in relation to the ecological considerations of the NVPP.

Mr Harvey gave evidence that in general he considered that the Biodiversity Assessment report had accurately mapped the extent of native vegetation within the precinct. Mr Harvey also gave evidence that:

*The NVPP is a brief document, which does not explain the process used to identify areas of removal and retention ... The document states that a 'holistic' and 'landscape' approach has been adopted, but the document does not provide any further detail on how this approach was applied ... There is no clear explanation and/or rationale that sets out how areas were selected for retention or removal and the overall outcome is not consistent with my experience with other NVPP's.*

Ms Porter submitted that it appears that the process has involved “*retention of the largest / most significant areas of native vegetation, partially in line with the development plan for the site, but this is not specified in the document*”.

Ms Porter, called Mr Woodland from Echelon Planning to give evidence in relation to planning considerations relating to the NVPP.

Mr Woodland gave evidence that:

*Both the draft Spring Creek NVPP and Biodiversity Assessment were prepared by Ecology and Heritage Partners. The draft NVPP appears to generally identify areas for retention of native vegetation based on the recommendations set out in Chapter 5 of the Biodiversity Assessment report. However, the basis for why certain areas are identified for retention and others are identified for removal is not made clear within the NVPP document itself.*

Mr Woodland gave evidence that Clause 21.08 of the Surf Coast Planning Scheme contains a local policy relating to the development of Torquay and Jan Juc, which includes the following strategy in relation to the retention of valued native vegetation:

*“place high priority on the protection and enhancement of remnant vegetation throughout Torquay-Jan Juc, particularly Coastal Moonah Woodland community species and the Bellarine Yellow Gum”.*

In response to a question from the Panel, DELWP submitted that the threatened community Coastal Moonah would not be viable in an urban setting as it the existing remnants were small and fragmented.

Mr Tobin, acting for R and P Haebich (submitter 62), questioned the nature of the scheme for vegetation protection, stating that the native vegetation protection framework has four layers

that as proposed do not work cohesively together, namely the PSP, NVPP, applied zones and Clause 52.16. Mr Tobin submitted that the framework as proposed is a departure from the ordinary operation of the VPPs to effectively prohibit any departure from the NVPP, and that Council has not made meaningful submission to support this position.

Mr Tobin submitted that Clause 52.16 provides for removal of native vegetation in accordance with the NVPP as of right, and provides for the removal of vegetation to be protected under the NVPP subject to a permit. The NVPP is consistent with this clause, however application of the Public Conservation and Resource Zone will effectively bar *“any sensible variation from the NVPP at the time of detailed design of the subdivision of land. A Planning Scheme Amendment is required to alter the urban structure if any alternation to the NVPP is proposed”*.

In contrast with Section 1.5.1 of the PSP, which states that that the NVPP identifies native vegetation which may and cannot be removed without a permit, R23 of the PSP states that native vegetation must be retained as described in the NVPP. Mr Tobin requested that this requirement, which is considered a mandatory requirement, be removed.

AMEX submitted (submitter 42) that greater clarity was required within the NVPP to assist all stakeholders to achieve the intent of the plan. Specifically AMEX requested that the NVPP state that all trees of significance have been identified on the site, and that any tree not identified can be removed or retained at the discretion of the landowner without further need of approval.

In closing, Council submitted *“the Council accepts that the NVPP does not clearly enunciate nor refer to the Ecology and Heritage Partners biodiversity assessment and clearly that needs to be addressed and could simply do so by reference in the NVPP to that particular report”*.

Council submitted that it had agreed to undertake the further work on the NVPP as recommended by DELWP prior to the adoption of C114, including:

- identifying and listing trees subject to practical retention in a separate schedule in the NVPP
- adding the wording suggested by DELWP to the PSP (G41) – Tree Protection Zones (TPZ) should be established and maintained around trees to be retained as per Australian Standard AS 4970-2009 – Protection of trees on development sites.
- investigating opportunities to reduce specific offsets for Bellarine Yellow Gum, Snowy Mint-bush, Sharp Greenhood and Paper Flower.
- extending the boundary of the NVPP to include perimeter roads (Grossmans Road, Duffields Road) in order to streamline approvals for vegetation losses associated with road upgrades and intersection works.

## **(ii) Discussion**

There appears to be general agreement amongst submitters that a landscape scale, precinct wide approach to native vegetation planning as proposed by Council is appropriate for the Spring Creek PSP area.

Council submitted that the NVPP was derived from the Ecology and Heritage Partners Biodiversity Assessment. DELWP (submitter 40) and Mack (submitter 43) raised concerns that the connection between the two documents had not been communicated clearly. DELWP submitted that the Biodiversity Assessment was not accompanied by a minimisation statement that could be used to

unpin recommendations in an NVPP and that there were a number of opportunities to review the NVPP to minimise vegetation removal.

The Panel notes that whilst there are large areas of overlap between the two maps (Figures 7 and 8), there are key areas of conservation significance identified for removal in the NVPP. The reason for removal of these key areas of conservation significance has not been made clear by Council, and this has created some confusion about the rationale for the selection of vegetation for protection and removal.

Council agreed that the NVPP does not clearly explain the basis for vegetation removal, and suggested that this could easily be resolved by referencing the Biodiversity Assessment in the NVPP. The Panel, however, does not feel that this will adequately explain the rationale for removal of key areas of conservation significance. An explanation of the decision making process, accompanied by the minimisation statement and explanation of the Biodiversity Impact and Offset Requirements (BIOR) report for the precinct, as suggested by DELWP, would provide greater clarity for landholders.

Council agreed, and the Panel supports, DELWP's suggestion to include:

- information in the NVPP to clearly explain the plans for native vegetation proposed for practical retention
- additional wording in relation to tree protection zones
- roadside vegetation in the NVPP as this would help to achieve an overall precinct approach and streamline permitting.

In relation to the removal of State significant Coastal Moonah Woodland, the Panel accepts DELWP's explanation that the remnant vegetation on the site was small and fragmented and presents a challenge to maintain in an urban setting and would not be viable into the future. The Panel suggests that this information should be included in the NVPP to clearly explain the rationale for removal of this vegetation that is identified as a priority for protection in the Biodiversity Assessment.

The NVPP was generally accepted by submitters as a suitable substitute for the existing VPO1.

Mr Tobin raised concerns about the integration of the four layers of the native vegetation protection framework. Council agreed, and the Panel supports, the suggestion to change the wording of R23 to allow a permit application to remove native vegetation identified to be retained in the NVPP. Applied zone considerations are addressed in Chapter 9.

## **7.3 Native vegetation offsets**

### **(i) Evidence and submissions**

Council submitted that:

*any person wanting to remove, lop or destroy native vegetation for removal as part of the NVPP, is responsible for ensuring that offsets have been secured before any permitted clearing commences. The provision of offsets must accord with the conditions and any permit notes specified on any permit granted, and the conditions listed in the NVPP.*

Council submitted a summary of the offset requirements of marked native vegetation.

Council submitted that the Biodiversity Assessment explains that:

*Offsets are divided into two categories: General and Specific. Specific Offsets are required when the removal of native vegetation has a significant impact on habitat for a rare or threatened species. Otherwise a General offset is required.*

DELWP submitted that the PSP layout triggers specific offsets for four species; Bellarine Yellow Gum, Snowy Mint Bush, Sharp Greenhood and Paper Flower. DELWP submitted that specific offset sites can be difficult to source, and that it had reviewed the NVPP and had identified opportunities to reduce the type and amount of vegetation to be removed and associated specific offsets required. DELWP submitted that Habitat Importance Maps were important to help finesse design and reduce the need for offsets.

DELWP submitted that General Offsets are generally available.

DELWP submitted that Council may like to consider providing including further information to give developers a better understanding of their offset requirements, including:

- explaining the Biodiversity Impact and Offset Requirements (BIOR) report for the study area
- detailing the difference between specific and general offsets.

In response to DELWP's submission, Council agreed to "investigate opportunities to reduce specific offsets for Bellarine Yellow Gum, Snowy Mint-bush, Sharp Greenhood and Paper Flower".

Ms Porter submitted on the advice of Biosis that:

- Offsets may be sourced through an "over the counter purchase" through the Bush Broker system or establishment of offset sites within areas of retained vegetation within the precinct
- the NVPP did not provide an assessment of the availability of the required offsets, and that that offset sites for Bellarine Yellow Gum would be limited to modelled habitat in the Bellarine Peninsula and could be difficult to locate
- without assessment of availability of both general and specific offsets, the extent of vegetation removal identified in the NVPP may be unachievable.

## (ii) Discussion

The Biodiversity Assessment includes a table which explains the Avoid, Minimise and Offset requirements under the permitted clearing assessment for native vegetation.

Risk-based pathway	Avoid	Minimise	Offset
Low	X	X	✓
Moderate	X	✓	✓
High	✓*	✓	✓

Notes: \*Where native vegetation makes a significant contribution to Victoria's biodiversity

Table 2 Avoid minimise and offset requirements

Source: Excerpt from Biodiversity Assessment for the Spring Creek PSP area, Table 3, p. 13)

The Panel notes that under a High Risk-based Pathway (which has been identified for this site) that vegetation removal must be avoided "where native vegetation makes a significant contribution to Victoria's biodiversity".

DELWP recommended that the NVPP be reviewed to:

- identify opportunities to reduce specific offsets through the use of habitat importance maps
- include additional information to help communicate more clearly the offset requirements of land owners.

Council agreed, and the Panel supports, the suggestion to investigate opportunities to reduce specific offsets. The Panel also supports the suggestion to include additional information to help communicate more clearly the offset requirements of land owners. In response to Mr Tobin, Council suggested a change of wording to R23 - Native vegetation must be retained as described in the NVPP unless a permit is granted for its removal.

## 7.4 Vegetation protection and specific biodiversity assets

### (i) Evidence and submissions

#### **Bellarine Yellow Gum / Grassy Woodland (GW5) – 200 – 220 Great Ocean Road**

Council submitted that the Biodiversity Assessment recommended that the large area of Grassy Woodland (GW5) at 200-220 Great Ocean Road be prioritised for retention on that basis that it is:

- the largest contiguous patch supporting the State significant Bellarine Yellow Gum in the PSP area
- the largest patch of Grassy Woodland in the PSP area
- relatively high in condition when compared with Grassy Woodland across the PSP (GW5 and GW2 score 38 and 49 out of 100 respectively, the remainder of the habitat zones score 18-33 out of 100).

Council submitted that Bellarine Yellow Gum was a priority for protection as it is:

- endemic to the area
- it is a threatened species under the *Flora and Fauna Guarantee Act 1988* and is listed as endangered on the Victorian List of Rare and Threatened Plants
- *populations of the tree are severely fragmented, and with an estimated loss of 95 percent over the last three generations*
- *most remnants are not reserved and do not adequately regenerate, with the added threat of a limited gene pool and hybridisation between sub species*
- *the species is in decline in area, extent and quality of habitat*
- Clause 21.08 of the Surf Coast Planning Scheme identified loss of the Bellarine Yellow Gum as a key issues and places high priority on its protection.

Council submitted that:

*This subspecies only occurs in the Bellarine area and with the current and ongoing development in the region the long-term preservation of the subspecies can only be assured through the preservation, protection and enhancement of existing populations. Maintaining biodiversity links between patches of the subspecies is crucial to ensure that regeneration, genetic diversity and population resilience is maintained*

Council submitted that the PSP had sought to conserve “existing stands of significant vegetation including the Bellarine Yellow Gums in conservation reserves”.

Council submitted that at its Council meeting on 23 August 2016 that it resolved to:

*Not support the request to accept the large area of Bellarine Yellow Gum woodland on 200 and 220 Great Ocean Road, Jan Juc as an offset site due to the restrictions this would place on future passive recreational use and ongoing land management obligations for Council.*

DELWP submitted that the Bellarine Yellow Gum is endemic to the Surf Coast and Bellarine region, and that these populations are highly fragmented and predominantly on freehold land and threatened by development. Bellarine Yellow Gum is listed as threatened under the *Flora and Fauna Guarantee Act 1988*, and is identified as endangered within Victoria. Overall the species is in decline across the region in terms of area, extent and quality of habitat.

DELWP submitted that it supported the retention of the large area of Bellarine Yellow Gum in the southern area of the precinct, in particular GW5d and GW5dd. This is on the basis that this area has the *“highest biodiversity values on the site due to the large size of the patch, the relatively intact understorey, the large number of old trees, and the presence of the state listed Bellarine Yellow Gum”*.

SCEG (submitter 36) submitted that the Bellarine Yellow Gum is a keystone species within the Spring Creek catchment and it supports a wide range of species, particularly because it is winter flowering and provides an important food source when there is little around.

Surfrider Foundation Surf Coast (submitter 72) submitted that it supported the protection of the remnant Bellarine Gums and other native species through a series of well-connected vegetation buffers and reserves.

Ms Porter submitted that Council had overstated the exceptional value of the environment along Spring Creek and that the PSP had gone overboard to protect what it says is *“exceptional”*. Ms Porter submitted that this is rural land, not pristine, and is now zoned UGZ, and that change is anticipated.

Ms Porter submitted that the NVPP identifies almost all of the Grassy Woodland on the property for retention. *This is to be contrasted with the large swathes of Grassy Woodland identified on land to the north and east for removal, without any clear analysis of how this has been determined.* Mack Property Development submitted and Mr Harvey gave evidence that 67 percent of the Grassy Woodland habitat zone 2 (GW2) within the PSP had been identified for removal, despite having the highest quality habitat hectare score of 49/100.

Ms Porter submitted that Mack was seeking an alternative distribution and size of conservation reserves on its land, which *“focuses retention on the core of the patch and removes the requirement to retain the lower quality portion of the patch in the south-west”*. This consolidation would reduce the overall edge to area ratio of the reserve, which would improve the ability to manage weed incursion.

Ms Porter called Mr Harvey from Biosis to provide expert evidence on native vegetation matters, particularly in relation to the large area of Bellarine Yellow Gums on 200-220 Great Ocean Road, Jan Juc.

Mr Harvey gave evidence that the Bellarine Yellow Gum is considered endangered in Victoria according to the Advisory List of rare and threatened plants, and that it is also listed as threatened

under the *Flora and Fauna Guarantee Act 1988* (Action Statement No. 180). It is not listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999*.

Mr Harvey gave evidence that the ecological vegetation class Grassy Woodland, dominated by Bellarine Yellow Gum, is not listed as a threatened community under the *Flora and Fauna Guarantee Act 1988* or *Environment Protection and Biodiversity Conservation Act 1999*. It has however been allocated the Bioregional Conservation Status of endangered within the Otway Plain Bioregion in the Corangamite Native Vegetation Plan 2003-2008. Mr Harvey noted that whilst the Bioregional Conservation Status is no longer relevant under the State Biodiversity Assessment Guidelines (Department of Environment and Primary Industries, 2013), that the VPO1 which currently covers this site requires consideration of the Bioregional Conservation Status.

Mr Harvey agreed with the Biodiversity Assessment report's habitat hectare assessment of GW5 as 38/100, and noted that the report identified all patches of GW5, supporting Bellarine Yellow Gum, as 'high priority for retention'. Mr Harvey also agreed that the vegetation quality scoring "*appears to be a reasonable representation of average condition*", but he also notes that the condition of the patch within 200-220 Great Ocean Road is variable, particularly in regard to canopy cover and understorey quality". This variability is not reflected in the habitat hectare scoring due to the nature of the habitat hectare methodology.

Mr Harvey concluded that the patch of GW5 in the 200-220 Great Ocean Road property is not likely to support important habitat for other significant species, and that the patch contains very few hollow bearing trees.

Mr Harvey suggested that some removal of the western section of the patch should be considered on the basis that:

- it was in generally poorer than the remainder of the patch
- the shape of the reserve would be improved if a portion of the western section were to be removed. This would reduce the overall boundary to area ratio which would assist with management. *It is well understood that management of vegetation condition within ecological reserves is more difficult for reserves with a high boundary to area ration, due to weed incursion from the boundary*
- simplification of the reserve would assist with management of the reserve if it were to be used as an offset.

Mr Harvey gave evidence that in his opinion offset requirements identified in the NVPP for 200-220 Great Ocean Road could be satisfied by a combination of onsite and purchased/offsite offsets through the Victorian Native Vegetation Credit Register.

Mr Harvey submitted that the NVPP does not require provision of specific offsets for Bellarine Yellow Gum for clearance of vegetation within the site.

Mack submitted based on preliminary advice from Biosis that "*given that the main component of significance of the vegetation is the tree layer, some level of passive recreation could be allowed without impacting upon vegetation quality... The amount of offset area impacted for bushfire management buffers should be minimised by appropriate positioning of road reserves and setbacks from dwellings.*"

Under cross examination by Council, Mr Harvey gave evidence that he agreed with the identified conservation significance of GW5 and that it was in relatively high condition compared with other sites apart from GW2, he agreed that the best part or core of the site should be retained and that



the understorey would likely regenerate if the current threats, e.g. grazing, are removed. Mr Harvey also gave evidence that he thought that public access would help to activate the site to get people using it and valuing it.

In response to a question from Mr Stockton (SCEG, submitter 36) Mr Harvey gave evidence that the scale of proposed removal in this instance was very small and would not have a significant negative impact on native vegetation.

Subsequent to the hearing, Mr Harvey emailed examples of net gain offset sites that have managed public access.

Mr Woodland from Echelon provided expert evidence in relation to open space and the NVPP. Mr Woodland acknowledged that Council had reservations about accepting the land if it was formally registered as native vegetation offset site. Mr Woodland gave evidence that *“In my opinion, if a conservation area of such value that passive recreation activities should be excluded from it entirely, the owner of the land should be able to utilise the land for a biodiversity offset”*.

Ms Porter submitted that the conservation reserve should be amended in size and shape in accordance with Mr Harvey’s evidence, and that it should either accept it as a publicly owned offset site, or accept a partial or full credit as part of the open space contribution.

Ms Porter submitted that based on Mr Harvey’s evidence that a portion of the Bellarine Yellow Gum patch would be suitable for the provision of native vegetation offsets in the precinct, and that most of the offsets required for that property would be available in that portion of the patch of remnant vegetation.

Ms Porter submitted that there were multiple opportunities to establish new Bellarine Yellow Gums across its land and the PSP area.

Ms Porter submitted that it was perverse that Council would not accept any part of the patch as an offset site on the basis that the protection and management requirements would conflict *“with the planned passive recreational use of the area”*, and yet nor would Council consider crediting the space as part of the open space contribution.

In response to Mr Harvey’s evidence that GW5 could be utilised as a vegetated offset site, in accordance with the Guidelines, Council submitted that:

*use of this site as a formal offset site in accordance with the Guidelines is not appropriate, considering both environmental and community values. Offset sites under the Guidelines restrict any public access, and require the site to be securely fenced in accordance with the bush fencing standards. The required fencing standard and restriction of public access may conflict with public expectations for the use and aesthetics of the site. As such, careful consideration is required before allocating any onsite offset with PSP area, in order to ensure public expectations and offset site management/security commitments to ensure biodiversity protection can be met.*

*Biosis also discussed the eligibility of the offset site considering appropriate setbacks in order to meet the relevant building approvals for construction in accordance with a specified Bushfire Attack Level (BAL). However, the report fails to mention that offset sites within a bushfire prone area should not be located within 50m of any*

*dwellings, irrespective of defensible space and this setback should be considered when assessing the eligibility of the proposed site as an offset site.*

*Council does not accept the patch of Bellarine Yellow Gum woodland as an offset as it would not be suitable as Council managed land if it were an offset site. As an offset site, the land would have to be exclusively managed for biodiversity, meaning it would have to be fenced and signed as a conservation area with no pathways, public access or passive recreation activities occurring within the boundary. This is not consistent with the planned passive recreational use of the area.*

Council responded to Mr Harvey's evidence that new Bellarine Yellow Gums could be planted to in part compensate for any removal by stating that whilst these plantings will add some value, it would only be minor compensation for the removal of large mature trees.

In response to Mr Harvey's evidence, Council submitted that the primary purpose of the NVPP was precinct scale vegetation planning, rather than property scale, and that the biodiversity values across the entire precinct have been considered.

*Habitat Zone GW5 located on PSP Property Nos 12 and 13 is the largest contiguous patch of grassy woodland within the PSP area, and it also supports the State significant Bellarine Yellow Gum; as such, it is recommended that this patch is retained without significant changes to areas allocated as "native vegetation that can be removed" within the NVPP. By ensuring the majority of GW5 is retained as currently proposed in the NVPP, the core area that Biosis agrees should be retained, will be protected in part by a vegetated buffer particularly in the south west.*

### **Swampy Riparian Woodland (SRW1) – 200-220 Great Ocean Road**

Council submitted that the findings of Biosis and Ecology and Heritage Partners are consistent, and have identified that the patch of vegetation at SRW1 as planted vegetation. Council submitted that, according to Council staff, it is likely that the vegetation within 200 Great Ocean Road was also part of a publicly funded revegetation planting along Spring Creek, and as such Council does not consider this vegetation exempt from requiring a planning permit nor the offsets under Clause 52.17.

Council recommended that vegetation along the Spring Creek corridor is retained wherever practicable for the potential habitat benefits that it contributes to the area. On questioning, Council submitted that there were no records of public funding for this planting.

Mr Harvey gave evidence that he was of the opinion that the area of Swampy Riparian Woodland (SRW1) mapped near Spring Creek in 200 Great Ocean Road was planted and not remnant vegetation. Mr Harvey submitted aerial photographic evidence from 1962, 1971 and 1988 that the vegetation in the area had been planted, and also advised that SRW1 was not modelled habitat on the site.

Mack Property Development submitted that as this native vegetation was planted, and there was no record that it was publicly funded, that it should be exempt from native vegetation offset requirements.

### **Remnant vegetation - 160 and 195 Grossmans Road**

R and P Haebich (submitter 62) submitted that much of the native vegetation identified as remnant on their property is in fact planted or regrowth. Mr Tobin, acting for R and P Haebich, submitted that *“this assessment simply does not accord with our client’s knowledge of the land over the past 35 years where the land has been slashed and farmed”*.

Mr Tobin submitted that while the biodiversity consultants did inspect the site, they did not have any contact with R and P Haebich who could have provided information about historical use of the land.

Mr Tobin submitted that while a large portion of vegetation is earmarked for removal, it does call in to question the balancing exercise that has occurred to determine the retention and removal of vegetation, as has been queried by Mr Harvey. On this basis, Mr Tobin submitted that *“the Panel should be slow to place weight in these assessments where conflicting evidence is presented”*.

Council submitted the Biodiversity Assessment identified this vegetation as one of the higher quality areas of Heathy Woodland and that this was a priority for protection.

### **Wildlife and kangaroo management**

Council submitted that the Biodiversity Assessment recorded that large populations of Kangaroos occur throughout the study area and recommended that the PSP includes mitigation measures for their management in accordance with DELWP’s Interim advice for consultants on the contents of a Kangaroo Management Plan v6 2013.

Council submitted that it is unlikely that open space reserves within the precinct will be of a suitable size and composition to support the kangaroo population, however Spring Creek will provide a movement corridor.

DELWP submitted that a precautionary approach is recommended by implementing fauna-friendly design of WSUD features and adequate environmental protection measures during construction.

DELWP submitted that once the area is developed, it can be assumed that the area will not be good habitat for kangaroos. DELWP submitted that:

*Kangaroo management is a complex issue with a number of competing factors, including human safety and animal welfare. These factors make it difficult to provide adequate care and management of kangaroos within urban areas in accordance with the Wildlife Act 1975.*

*Any kangaroos frequenting the Spring Creek area are likely to continue to naturally move across the adjoining landscape.*

DELWP recommended that all kangaroo staged management principles be included in full in Appendix G of the PSP, and cross referenced in the UGZ1. The Construction Environment Management plan should also reference and address the kangaroo management principles.

Mr Harvey gave evidence that development of the precinct will change the availability of habitats and the suitability of the area for fauna species. Mr Harvey also advised that the removal of native vegetation is likely to impact on local arboreal mammals and birds in the short term, but that many will adapt and will use new vegetation planted throughout the precinct.

A number of other submitters raised concerns about wildlife and kangaroo management, including:

- Concerns that kangaroos and wildlife would no longer be able to inhabit the precinct:
  - 3228 Residents Association (submitter 66) submitted that the plan gives little consideration to the resident kangaroos, and that the *“fauna management plan is essentially an exclusion plan”*. The precinct should be developed to encourage kangaroos and other wildlife. 3228 Residents Association suggests that native animals could be catered for by providing 0.4 hectares minimum lots with contained building envelopes and ample public open space
  - D, A, B and P Tepper and P Contessotto (submitter 37) submitted that the kangaroo management plan was not appropriate as it was intended only to keep kangaroos off building sites. They suggested that this should be revisited with an intention to create a wildlife corridor with a realistic opportunity for wildlife to be able to move throughout the precinct
  - S & E Rodgers (submitter 38) submitted that they were concerned about displacement of kangaroos
  - V Rippon (submitter 63) submitted that the plan provided insufficient provision for wildlife management, in particular kangaroos, and suggests that a better solution would be to relocate the current kangaroo population to an area away from development, or a fertility program could be introduced to decrease the population
  - Ms O’Shanassy (submitter 64) submitted that the PSP gives no adequate proposal to accommodate the resident population of kangaroos.
- Concerns that the displaced kangaroos would have a negative impact on surrounding properties:
  - C Jacobs (submitter 44) submitted that development in the vicinity of their property has increased the kangaroo population on their property which is a significant impact on grazeable land and water supply
  - D and D Lawrie (submitter 56) suggested that provision should be made for kangaroos to live within the precinct rather than being diverted onto adjacent rural land, as this is already impacting negatively on rural uses
  - C Rippon (submitter 71) submitted that following recent increased development that their property has been overrun by kangaroos, and they anticipate this becoming worse with the development of the Spring Creek valley.
- General concerns that the development would not be designed to accommodate wildlife:
  - SCEG (submitter 36) submitted that provision must be made for nature and other life forms, and that public space suitable for humans does not necessarily suit other species
  - Ms Appleton (submitter 48) submitted with concerns about the loss of the scenic rural tree view, vegetation and space for wildlife.

### **Species selection for revegetation and planting**

Council submitted that if works are required in waterway and drainage reserves that revegetation is to be provided with indigenous species.

In response to a question from the Panel, Council submitted that in taking advice from its Parks and Gardens department, that Bellarine Yellow Gum may not be the best street tree, and that there may be better options to respond to street tree requirements.

DELWP submitted that to strengthen protection of the Bellarine Yellow Gum that the PSP should incorporate measures to prevent planting of other Yellow Gum sub species which may hybridise, and that the Bellarine Yellow Gum should be incorporated into revegetation programs.

SCEG submitted that public open spaces should be designed to support a wide range of local Woodland birds, Bellarine Yellow Gum should be used across the landscape with other indigenous tree species and that the area should be planned as a biolink subdivision, not just relying on thin biolink ribbons.

Surfrider Foundation Surf Coast Branch (submitter 72) submitted that it supported protection of Bellarine Yellow Gums and use of them as the Community Visions proposal for 80 percent of all street trees to be Bellarine Yellow Gums.

A Burnham (submitter 70) submitted that all of Torquay/Jan Juc should have mandatory planting of indigenous plants and Mennoty (submitter 41) submitted that all landscaping should be predominantly indigenous plants and be low maintenance.

Mr Harvey gave evidence that *“revegetation along waterways should be designed to maximise chances of survival, minimise ongoing water use and management intervention. Due to the changing climate, non-indigenous native species should also be considered. Revegetation should also be designed to be compatible with other uses of reserves, such as passive recreation”*.

Under cross examination, Mr Harvey submitted that Bellarine Yellow Gums would be OK as a street tree which could be useful for increasing their number in the landscape. They tend to be more successful grown in a nursery than natural regeneration. They are however mallee forming / multistemmed and will hybridise and it would be important to plant the correct subspecies.

### **General matters**

A number of submissions were made objecting to vegetation removal and biodiversity loss

- SCEG (submitter 36) submitted that we need to recognise that the natural environment is the Surf Coast’s biggest economic asset, and that mitigating against the worst effects of urban sprawl is critical. Major threats include climate change and species decline at all levels, plus a number of local level threats, such as environmental weeds and inappropriate roadside reserve management
- 3228 Residents Association (submitter 66) submitted that the Biodiversity Assessment identified flora and fauna of State significance, and several species listed in the Environment and Biodiversity Conservation Act 1999 (sic.). They submitted that the suggested targeted surveys should have been completed before the draft plan was released. 3228 Residents Association submitted that it did not support removal of any existing indigenous, native flora
- Surfrider Foundation Surf Coast (submitter 72) submitted that it did not support the removal or clearing of any native vegetation, stating that local flora and fauna is under significant levels of stress due to development in the area
- C Brooks (submitter 28) submitted concern for impact on natural environment based on a concept of duty of care
- A Laird (submitter 31) submitted that inappropriate development would ruin the natural environment and international reputation of the iconic Great Ocean Road
- Ms Norred (submitter 58) submitted that vegetation, flora and land needs to be protected not developed

- G Norris (submitter 60) submitted that a balance between development and conservation of environment and wildlife needs to be achieved
- Ms O'Shanassy (submitter 64) submitted that *"the PSP gives insufficient regard to the loss of biodiversity that will occur as a result of this plan"*
- R and R Irwin (67) submitted that flora and fauna needed to be shown greater respect
- R Hull, submitter 68 submitted concern that the development will damage to valuable environmental assets and provide for unsustainable development
- D Noyes-Brown (submitter 73) submitted concern about the impacts on the environment and wildlife
- J Mason (submitter 15) submitted that overdevelopment will devalue the coastal town feel, increase population, traffic and congestion, and affect the local environment and habitat. Submits the statement to 'protect as many stands of Bellarine Yellow Gum and individual trees as possible' should be replaced with 'protect ALL stands of Bellarine Yellow Gum and individual trees'
- I & P Edwards (submitter 79) submitted that the subdivision would destroy wildlife and vegetation.

The Surfrider Foundation and C Brooks (submitter 28) submitted concerns about the risk of wildfire.

A number of submissions related to shelter belts and windbreaks:

- Mr Harvey gave evidence that shelter belts of non-indigenous species generally have little value for indigenous fauna, and that these should not constrain design plans. A better outcome could be achieved through revegetation with indigenous species in appropriate locations
- D, A, B and P Tepper and P Contessotto (submitter 37) submitted that windbreaks should not be removed as it would make many of the allotments subject to the extreme windy weather from the South West. *To remove these trees will lead to significant problems including potential for serious injury and death.* Windbreak trees should only be removed with a permit and a plan to relocate the native possum population
- R and R Irwin (submitter 67) objected to the removal of windbreak trees because it will cause wind tunnel and loss of possums.

Mennoty (submitter 41) objected to the protection of native vegetation and submitted that significant trees are generally undesirable on residential lots due to the potential to drop limbs, and suggested that the PSP be amended to only retain significant trees in front yards and on public land, and only if practical.

Council submitted that the precinct is zoned UGZ and therefore designated for urban development. Council submitted that the PSP sought to ensure that development is respectful of the landscape and environmental values of the precinct, such as through establishment of an integrated open space network. The PSP had been designed to protect wildlife and vegetation as much as possible, in balance with urban development.

Council submitted that whilst the development area is not covered by a Bushfire Management Overlay, it is within a designated Bushfire Prone Area but not classified as a high bushfire risk area. The PSP includes requirements to manage and mitigate any bushfire risk and impacts on the natural environment.

**(ii) Discussion****Bellarine Yellow Gum / Grassy Woodland (GW5) – 220-220 Great Ocean Road**

Bellarine Yellow Gum is endemic to the area, is a threatened species under the Flora and Fauna Guarantee Act 1988, has strong local and regional policy protection and is in decline. The patch of Grassy Woodland (GW5) containing a stand Bellarine Yellow Gum at 200 - 220 Great Ocean Road has been identified by Council and DELWP as a priority for protection because it:

- is a large and contiguous patch
- has a relatively high quality (habitat hectare) score
- is identified as a threatened species and is a priority for protection under State and local policy
- contains relatively intact understory and a number of large old trees.

Mack submitted that, based on Mr Harvey's evidence, it would be appropriate to review the size and distribution of the patch of vegetation, to focus *"retention on the core of the patch and remove the requirement to retain the lower quality portion of the patch in the south west"*.

Mr Harvey gave evidence that the patch is variable in condition across the site, and that the south western part of the patch had poor quality understory, few large old trees and was unlikely to support important habitat for other significant species. Mr Harvey explained that the current habitat hectare assessment methodology did not allow for differentiated assessment of the parts of the patch.

Mr Harvey drew the conclusion that the south western part of GW5 that has poor quality understory is comparable to areas that have been identified for removal in the NVPP, and that the trees in this area should also be suitable for removal.

Mr Harvey also gave evidence that part of the site may be suitable for use as a net gain offset site as specified in the Gain Scoring Manual (Department of Environment and Primary Industries, 2013) and provided examples showing that this would not necessarily preclude public access from the site. As a designated Bushfire Prone Area, the exact offset area would need to be determined in light of defensible space zone requirements for surrounding properties.

Mack submitted a request, based on Mr Harvey's evidence, for Council to consider:

- Use of a portion of the patch as a net gain native vegetation offset site, with managed public access as appropriate
- And/or allocated of part of the vegetation patch as a credited open space.

Council objected to these requests on the basis that it was not prepared to:

- agree to any formal net gain offsets due the management and maintenance burden that this would create, and the restriction of public access to the site
- accept encumbered open space as credited open space, as this was not the primary purpose of the land.

Council concluded that:

*By ensuring the majority of GW5 is retained as currently proposed in the NVPP, the core area that Biosis agrees should be retained, will be protected in part by a vegetated buffer particularly in the south west*

Mr Harvey queried the rationale behind the NVPP's recommendations to remove a large part of GW2 which had a higher quality (habitat hectare) rating. As discussed above, the Panel agrees that this is not clear and has suggested that Council include additional information in the NVPP to explain the rationale for native vegetation removal and retention.

Council did not agree with Mr Harvey that planted trees would be an adequate substitute for the removal of mature trees. The Panel also agrees that planted trees are not a direct substitute for removal of mature trees, however this may be an important part of succession planning and long term protection of the species in the precinct.

The Panel notes that Council did not call any evidence in support of its position, and the Panel has placed great weight on the evidence submitted by Mack.

It was observed during the Panel's site visit to the property that the south western part of the patch was in poorer condition, with a degraded understory and sparse over story compared with the balance of the patch.

The Panel considers that it is important to protect the Bellarine Yellow Gum, however the condition of the ecological community is significant and should inform management objectives and strategies. This may vary across the patch of vegetation depending on the condition, threats and proposed use of each part, for example conservation or public use. The Panel considers that an alternative management regime in the south western portion of the site, such as an open space reserve, may be appropriate, on the proviso that Bellarine Yellow Gum are retained.

Establishment of an open space reserve and buffer in the south western part of GW5 may also help to provide a protection for the core area of better quality vegetation.

Given the significance of the asset and Council's desire to achieve long term preservation of the subspecies the Panel considers that it would be appropriate to consider using part of the patch as a net gain offset site.

The suitability of public access should be determined based on an assessment of the identified threats to the native vegetation, and appropriate management actions required to protect the vegetation. Based on the evidence submitted, this may include controlled public access to the site.

### **Swampy Riparian Woodland (SRW1) - 200-220 Great Ocean Road**

Parties agreed that the area of Swampy Riparian Woodland (SRW1) on 200-220 Great Ocean Road was most likely planted. Council submitted that this was likely to have been publicly funded, and whilst there was no record of this, that it should not be exempt from a planning permit nor offsets under Clause 52.17. Council submitted that this area provided valuable habitat along Springs Creek.

Without a record of public funding, the Panel cannot recommend that this planted vegetation be subject to a planning permit or offset requirement under Clause 52.17. Whilst the Panel agrees that this vegetation should be maintained to provide habitat benefits if possible, the PSP and NVPP should be amended to remove this area as a conservation reserve.

### **Remnant vegetation – 160 and 195 Grossmans Road**

The landowners have submitted that native vegetation on the property has been planted, including photographic evidence, and requested that the vegetation assessment be reviewed. The



Panel agrees that the status of the vegetation in the Biodiversity Assessment should be reviewed in light of this information, and the NVPP should be reviewed in response to the findings of this review.

### **Wildlife and kangaroos management**

The Panel understands the community's concern that urban development in the precinct will result in displacement of kangaroos and other wildlife. The precinct is zoned for urban growth, and development of the precinct will change the availability of habitats and the suitability of the area for fauna species.

DELWP made sound recommendations for the PSP to incorporate kangaroo management principles, and for these to also be addressed in Construction Environmental Management Plans. Council agreed to this submission.

The protection of native vegetation through the NVPP, and provision of generous conservation reserves / waterway corridors throughout the precinct, will assist with maintaining a suitable environment to provide habitat for some species.

### **Species selection for revegetation and planting**

Mr Harvey raised the issue that climate change may have implications for native vegetation viability along waterways, and suggested that alternative, non-indigenous species may be appropriate for revegetation. The Panel agrees with this approach, and suggests that Council should undertake further work to understand climate change impacts on native vegetation across the site and to determine suitable revegetation species.

There is a clear desire amongst a large number of submitters to include opportunities to protect and improve the viability of Bellarine Yellow Gum's across the site by planting more of these trees across the precinct. Detailed design should consider opportunities to maximise the appropriate use of Bellarine Yellow Gums, with the potential to use them as street trees, subject to Council's assessment of suitability.

### **General matters**

The Panel was generally comfortable with Council's response to submissions that raised concerns about the balance of environmental protection. The Panel notes that the precinct is zoned UGZ and therefore designated for urban development, and that the PSP had been designed to establish an integrated open space network and to protect wildlife and vegetation as much as possible, in balance with urban development.

Mennoty proposed to only retain significant trees in front yards or on public land. The Panel considers it more appropriate to determine suitable solutions for protection of identified significant trees at the detailed design stage.

## 7.5 Conclusions

In relation to the native vegetation protection framework, the panel concludes that:

- it supports Council's proposed landscape scale, precinct wide approach to native vegetation planning and protection
- the NVPP needs to be refined to:
  - include a clear rationale for the removal and retention of native vegetation, particularly where this differs from the key areas of conservation significance identified in the Biodiversity Assessment
  - include the improvements suggested by DELWP, in particular inclusion of a minimisation strategy, explanation of the Biodiversity Impact and Offset Requirements (BIOR) report and information that clearly explains the difference between specific and general offsets, and the offset requirements of land owners
  - include the improvements suggested by DELWP, and agreed by Council, including review of the NVPP to reduce specific offsets, inclusion of information to clearly explain the plans for vegetation for practical retention, additional wording in relation to tree protection zones and inclusion of roadside vegetation.
- the wording of R23 should be amended to allow a permit application to remove native vegetation
- the NVPP is a suitable replacement for the VPO1.

The Panel considers that these changes will achieve a better and more holistic vegetation protection outcome for the precinct.

In relation to GW5 – 200-220 Great Ocean Road, the Panel concludes that it is a priority to protect the Bellarine Yellow Gum, however the condition of the ecological community is significant and should inform management objectives and strategies. The Panel concludes that consideration should be given to using the best part of the patch as a net gain offset site, and consideration of an alternative management regime, such as credited open space, in the south western portion on the basis that Bellarine Yellow Gum are retained. Credited open space is discussed in greater detail in Chapter 9 of this report.

The Panel concludes that suitability of public access should be determined based on an assessment of the identified threats to the native vegetation, and suitable management actions required to protect the vegetation.

The Panel is satisfied that vegetation patch SRW1 – 200-220 Great Ocean Road is planted and that removal should not be subject to a planning permit as no evidence of public funding has been provided, and the PSP and NVPP should be amended to remove this area as a conservation reserve.

In relation to wildlife and kangaroos, the Panel supports DELWP's recommendations, and Council has agreed to include Kangaroo Management Principles in the PSP and for these to also be included in Construction Environmental Management Plans.

The Panel concludes that status of the native vegetation at 160 and 195 Grossmans Road should be reviewed and the Biodiversity Assessment and NVPP should be reviewed accordingly.

The Panel concludes that Council should undertake further work to understand climate change impacts on native vegetation across the site, and determine suitable revegetation species.

## 7.6 Recommendations

The Panel makes the following recommendations in relation to biodiversity:

- 13. Amend the wording of R23 of the Precinct Structure Plan to allow for a permit application to remove native vegetation identified for protection in the Native Vegetation Precinct Plan.**
- 14. Council consider using the best part of GW5 as a net gain native vegetation offset, with consideration of appropriate public access that manages identified threats and protects the values of the biodiversity asset.**
- 15. Remove SRW1 from the Precinct Structure Plan and Native Vegetation Precinct Plan as vegetation proposed for retention in a conservation reserve.**
- 16. Review the status of native vegetation at 160 and 195 Grossmans Road, and amend the Biodiversity Assessment and Native Vegetation Precinct Plan accordingly.**

### Further recommendation

The Panel makes the following further recommendation:

**Council work with DELWP to review and refine the Native Vegetation Precinct Plan, to include a rationale for native vegetation proposed for retention and removal, and respond to the specific matters raised by DELWP, including:**

- Minimisation strategy**
- Review of the Native Vegetation Precinct Plan to minimise specific offsets**
- Roadside vegetation inclusion**
- Biodiversity Impact and Offset Requirements (BIOR) report**
- Clearly explain vegetation for practical retention**
- Rewording tree protection zone requirements**
- Information that explains the difference between specific and general offsets, and the offset requirements of landholders.**

## 8 Climate change and environmental sustainability

### 8.1 The issue

The issue is whether climate change and environmental sustainability has been adequately addressed in the Spring Creek PSP.

### 8.2 Evidence and submissions

Council submitted that the Spring Creek PSP responded to the Precinct Structure Planning Guidelines, Objective 6 - To respond to climate change and increased environmental sustainability, through the following initiatives:

- *Local and linear parks will be located next to waterways and will provide large connected open spaces based on natural features of the Spring Creek, existing native vegetation stands in the south and around the tributaries of Spring Creek in the north. A dedicated pedestrian/cycle path including a bridge across Spring Creek will connect the open space network but this path will also provide a direct connection from the north to the neighbourhood centre in the south.*
- *These connections will provide people with a choice, reducing their carbon footprint by using non vehicle transport for local trips.*
- *The proposed drainage for the precinct utilises the existing natural drainage lines of Spring Creek and its tributaries, therefore reducing the need for expensive and intensive drainage works.*
- *The majority of the recorded native vegetation in the PSP area will be retained and landscaping, particularly with the canopy trees, will provided additional cooling, windbreaks from coastal winds, shade and habitat.*

Two submitters raised concerns that the proposed development did not adequately address matters of climate change.

SCEG (submitter 36) presented a submission on behalf of nine separate community groups who supported the community plan for the site. SCEG submitted that the key drivers of climate change and ongoing species decline would not be addressed by modest improvements to exhibited plan for Spring Creek. SCEG submitted that if Spring Creek is developed as proposed that this would be *“another squandered opportunity to avoid greenhouse gas emissions”*. SCEG referred to internationally recognised research which argued that we have crossed four of the nine *“planetary boundaries”* that should not be crossed in order *“to sustain a living planet suitable to humanity”*. The boundaries in include Climate Change, Biodiversity Loss, Land Use Change and Nitrogen and Phosphorous flows. On this basis, SCEG submitted that *“it is incumbent on all of us to deliver a precinct plan that sets a real and authentic sustainability standard”*. As a specific recommendation, SCEG submitted that *“all houses should be north south orientated to maximise passive energy efficiency, every single house should be carbon positive”*.

Ms O’Shanassy (submitter 64) submitted that *“the PSP gives insufficient regard to climate change – it is hardly mentioned”*.

Mack submitted that it had received ecological advice from Biosis that climate change should be a factor when considering appropriate species for vegetation, and that non-indigenous species.

A number of other submissions raised concern about environmental protection, which are detailed in Section 7.2.3 of this report.

In closing, Council submitted:

*Clearly, given the distance of the PSP area from the coast, changing sea level is unlikely to directly impact upon the development in this area. However, storm surge and high rainfall events may impact development within the PSP area. In the Tomkinson report, climate change effects such as high rainfall impacts have been taken into account with a conservative approach being adopted.*

*Queries have been raised in relation to climate change and stormwater modelling. Projected changes to global and regional climate are expected to have impacts on both sea levels and rainfall intensities – this includes predictions of both increasing and decreasing trends. Notwithstanding this, the VPA notes for PSP suggest that provision be made for storage and conveyance of floodwaters and flood events through drainage reserves and watercourses, including consideration of likely increases in extreme events due to predicted climate change.*

Council submitted that the stormwater modelling was undertaken in a conservative manner to account for any possible imprecision in the modelling and to make sure that the land taken for stormwater assets was sufficiently conservative to cater for events outside of those modelled, such as the possible effects of climate change.

Council submitted that recent Amendments for Greater Bendigo C221 and Greater Geelong C301 did not include an allowance for climate change.

### **8.3 Discussion and Conclusions**

Council submitted that it had responded to climate change considerations adequately, as detailed in its response to Objective 6 of the PSP Guidelines. Objective 6 of the PSP Guidelines requires consideration of:

- reducing car use
- reducing environmental footprint and careful use of resources such as land, energy and water
- renewable energy options
- climate change risks
- integrated water management
- protecting waterways and ecologically significant areas
- efficient use of land required for community purposes
- providing for both conservation and recreation needs by retaining environmental and heritage assets within the open space network
- environmental constraints and risks such as salinity, soil erosion, flooding, coastal inundation, bushfire risk and increased predicted temperatures
- land management, river health and biodiversity enhancement.

In reviewing Objective 6 of the Guidelines and Council's response, the Panel notes that the Council response to climate change and environmental sustainability is more comprehensive in the PSP. For example, the PSP includes Appendix F - Sustainability Principles, which detail a number of principles to guide sustainable development outcomes. However, the PSP only requires a

response to Appendix F in Section 3.2 Neighbourhood Centre, Convenience Centres and Employment. Given that many of the sustainability principles relate to planning and development of the entire precinct and residential areas, it would make sense to require a response to the Sustainability Principles for other elements of the development.

The Panel acknowledges SCEG's submission and understands the severity of the climate change challenge. It is clear that Council's intention is to create an environmentally sensitive development. More comprehensive application of Appendix F may go some way towards meeting this goal and SCEG's expectations and aspirations for the site.

Mack made a suggestion in relation to the implications of climate change and species selection for revegetation. This is discussed in greater detail in Chapter 7.

Council submitted that the Tomkinson report did address climate change effects such as high rainfall impacts. The Panel notes that the Tomkinson Report on Storm Water Modelling Spring Creek PSP Area states *"The impacts of climate change have not been assessed in this report"* (p.11).

Council cited examples of other panel hearings relating to flood and stormwater management planning where a response to climate change was not provided. The Panel notes in relation to the referenced panel hearings and reports:

- Greater Geelong C301 – this amendment proposed to rezone land from Farming Zone to Urban Growth Zone, incorporate the Armstrong Creek South Precinct Structure Plan and apply a Public Acquisition Overlay to implement the Armstrong Creek South Precinct Stormwater Management Strategy. The panel report notes that the amendment was relatively uncontentious and attracted a limited number of submissions. The Panel notes that there were no submissions related to matters of climate change and hence were not addressed by the Panel.
- Greater Bendigo C221 - proposes to implement the findings of the Bendigo Urban Flood Study (2013). The panel hearing for this amendment was held in October 2016 and the panel report was submitted to Council on 21 November 2016.

## 8.4 Conclusion

Whilst Council submitted that it was confident that the approach taken was adequately conservative to accommodate the possible effects of climate change, the Storm Water Modelling report did not take into consideration the impacts of climate change and Council did not present any evidence in support of its position. On this basis it is not possible for the Panel to know whether the proposed drainage infrastructure is adequate in light of climate change projections.

The Panel concludes that climate change should be considered in stormwater modelling in order to fully assess the climate change and environmental risks as required by the PSP Guidelines and to ensure an adequate design response.

## 8.5 Further recommendations

The Panel makes the following further recommendation:

**The impact of climate change should be modelled for stormwater for the precinct, and to ensure that design detail for each stage of the development demonstrates a response to this modelling.**

## 9 Open space

### 9.1 The issue

The issue is whether the open space contribution required by the Spring Creek PSP is appropriate and consistent with the requirements of the PSP guidelines and other policy documents.

The PSP requires provision of 9.79 percent passive open space, consisting mostly of wide creek corridors along the length of Spring Creek and its tributaries. The issue is whether there is enough evidence to warrant the proposed waterway corridor widths, and whether there is a need for an active open space contribution.

A number of issues were raised by Mack in relation to the proposed conservation reserve at 200 - 220 Great Ocean Road, with consideration of equitable distribution of reserves and whether:

- the lower quality part of the vegetation patch (south west) may be partly credited as passive open space
- Council would agree to take on management of the conservation reserve.

A number of issues were raised in relation to proposed specific open space matters and areas:

- OS-08
- 165 Grossmans Road
- 160 and 195 Grossmans Road
- Rural urban buffer and open space interface.

### 9.2 Open Space Contribution and Waterway Corridor Buffer Width

#### (i) Evidence and submissions

Council submitted that *“the precinct’s location within the Spring Creek valley provides an ideal opportunity for the provision of open space and an open space network”*. Figure 9 shows the location and distribution of proposed open space in the exhibited Spring Creek PSP.

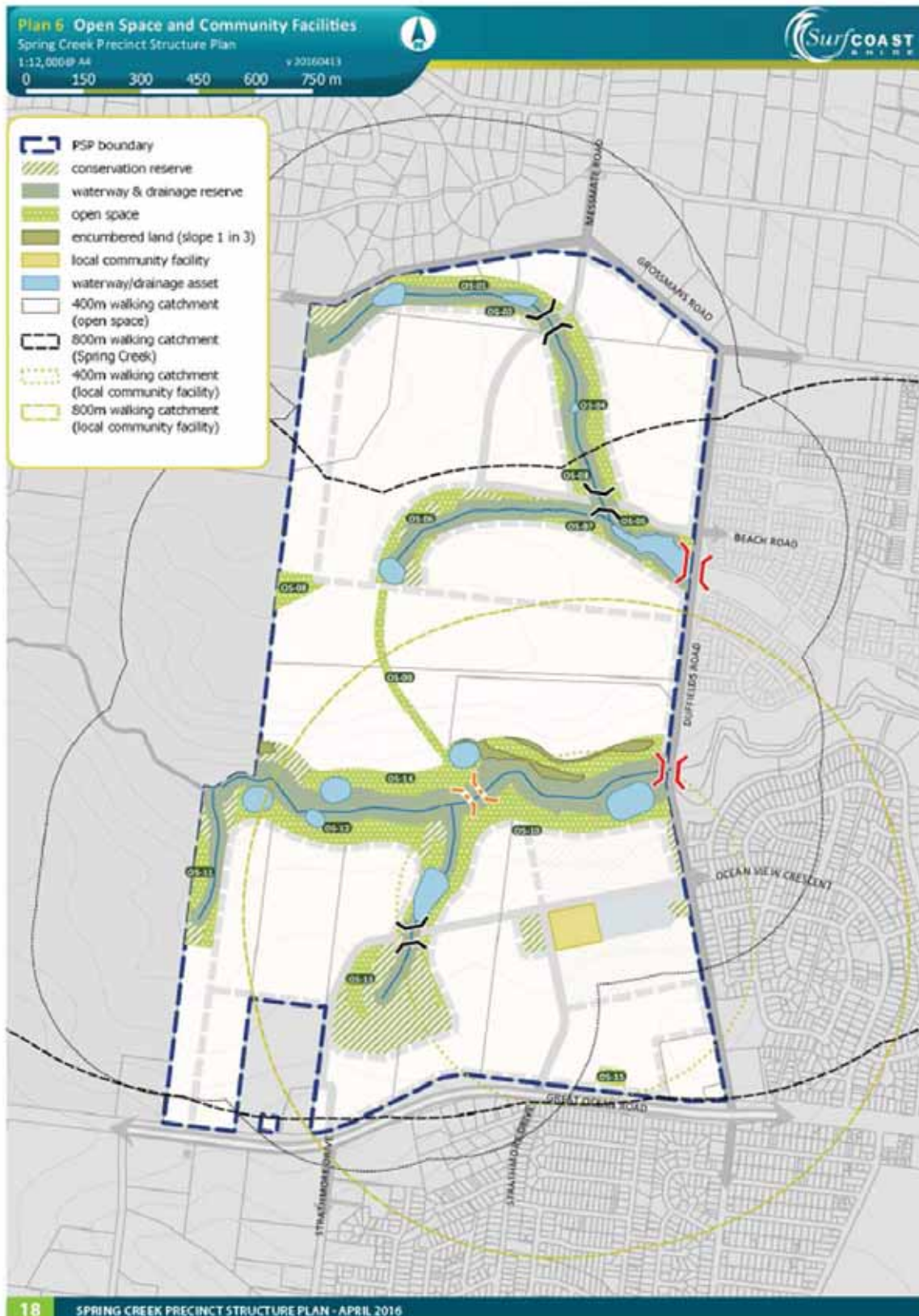


Figure 9 PSP Plan 6 - Open Space and Community Facilities Plan

Council commissioned ASR Research to prepare a Community Infrastructure Assessment (CIA) for the site which included recommendations relating to open space provision.



The Assessment concluded that:

*8 hectares of active open space reserve should be provided in Torquay to meet future demands although due to topographical and environmental reasons, the PSP area may not be a suitable area to locate a large reserve in Spring Creek such as that that might be used for rugby, hockey or baseball.*

*The open space network in Spring Creek should provide the following:*

- *At least two local parks with playgrounds;*
- *A linear park and trail along the full length of Spring Creek;*
- *A linear open space network and internal park / trail network which links the creek and the proposed community facilities and residential areas and connects to external trails and other links in Torquay;*
- *Land that is required for drainage purpose or to protect sites that have environmental, heritage and conservation values, for example, habitat links, sites with archaeological significance and significant vegetation.*

Council submitted that all owners must provide a 10 percent public open space contribution upon subdivision of land in accordance with the following:

- Unencumbered public open space equal to 10 percent of the lots NDA, to be transferred to Council at no cost
- A total contribution of 10 percent of the lots NDA through a combination of a cash contribution and unencumbered public open space, to be transferred to Council at no cost
- Where land required for unencumbered public open space is greater than 10 percent of the lots NDA, Council may pay an amount equivalent the value of the additional land being provided.

Council submitted that *“it must be understood that any landowner who is required to contribute 10 percent of the NDA towards public open space will receive a credit where more than 10 percent of the lot’s NDA is provided (R15). Secondly, there will be no “double dipping” by the DCP and Infrastructure list prepared by the VPA. The DCP in Section 2.5 turns its mind to double dipping and multiple POS contributions through the different mechanisms and states that the DCP requires contributions for ‘unique’ items”*. Council submitted that the Torquay Jan-Juc DCP Review would determine the method for application of the DCP’s for Spring Creek. Council submitted that the list does identify one active open space (OR17) for lawn bowls.

Council submitted that based on the service standards specified in the Open Space Strategy, that a population of 4,524 in Spring Creek would require 12.67 hectares of open space, including:

- 1.36 hectares for local parklands and gardens
- 2.26 hectares for district/precinct parklands and gardens
- 9.05 hectares for outdoor sports.

Council submitted that a 10 percent open space contribution (passive and active) as required by the Planning Scheme would require 18.56 hectares of net developable area. Council submitted that Spring Creek residents would have access to 20.51 hectares of open space within 1 kilometre of the site, and that ASR recommended that the demand for active recreation generated by the Spring Creek development be met by a combination of existing reserves and provision of a new active open space elsewhere in Torquay.

Council submitted that:

*The PSP area is focussed on providing passive open spaces including parklands and gardens as well as linear open spaces to ensure connectivity of all green spaces, to protect and enhance environmental and landscape values and to maximise walking and cycling opportunities.*

Council submitted that the PSP included a number of encumbered conservation reserves, waterway and drainage assets and a number of unencumbered passive open space assets (total 15). Council submitted that the following buffer zones were proposed:

- 75 metres on either side of Spring Creek, measured from the 1:10 year flood level
- 50 metres on either side of the northern tributaries, measured from the 1:10 year flood level
- 20 metres on either side of other waterways, measured from the centre line.

Council submitted details of waterway corridor widths in the Great Ocean Views Estate and Surf View Estate, to the east of the Spring Creek PSP, showing variable buffer widths ranging from approximately 35 – 130 metres and 30 – 50 metres respectively on each side of the creek, and suggested that the proposed corridor widths as part of the PSP were not in excess of surrounding land.

Council submitted that waterways and drainage reserves must be integrated into the open space system to maximise the potential for recreational uses and wetlands, where it doesn't conflict with the primary function of the land.

DELWP submitted that it supported the creation of a drainage / waterway reserve as a protective buffer around Spring Creek.

Ms Porter submitted that the PSP proposes a much larger contribution of open space than that required by the PSP Guidelines. The PSP proposes provision of passive open space plus land for conservation reserves, water / drainage reserves and other encumbered land. Ms Porter called Mr Woodland from Echelon Planning to provide expert evidence on the allocation of land for open space purposes, and the long term ownership and management regime for proposed conservation reserves.

Mr Woodland gave evidence that the PSP Guidelines require:

*That the overall quantum of open space (including active and passive open space) should be circa 10 percent of the net developable area of the precinct, and that 6 percent of the open space contribution be for active open space purposes.*

*I do not consider that a case has been made in Amendment C114 (or the material that supports it) to depart from the open space standards set out in the PSP Guidelines.*

Mr Woodland gave evidence that Council's requirement in the PSP for 9.76 percent of the net developable area to be provided for passive open space along waterways and drainage corridors is well in excess of the requirements in the PSP Guidelines, and has not been justified by Council. Mr Woodland gave evidence that, whilst not specified in the PSP, the explanatory material accompanying Amendment C114 suggests that Council will also collect a development contribution towards delivery of active open space outside of the precinct. This would be in addition to the passive open space contributions proposed in the PSP and at clause 52.10 which

specifies a 10 percent open space contribution for developments of more than 10 lots within the Torquay – Jan Juc urban settlement boundary.

Mr Woodland quoted the exhibited report ‘Spring Creek Precinct – Interim Indicative Infrastructure list’ which stated:

*If the Spring Creek Precinct was included [into the existing Torquay and Jan Juc DCP], this would likely require the addition of new items as well as the redistribution of the existing DCP items for which the Spring Creek community will need to be contribute, such as higher order active sports facilities”.*

Mr Woodland noted that the Interim Indicative Infrastructure list contained a number of higher order active open space facilities.

Mr Woodland gave evidence that the PSP proposes to achieve very wide waterway corridors, which has resulted in the high passive open space contribution.

The proposed waterway corridors are “*substantially wider than that contemplated under State policy, the draft Spring Creek IWCM Plan, and the waterway corridor widths typically delivered in the majority of regional and metropolitan growth plans in Victoria*”. They are also substantially wider than the corridor widths referred to in the Torquay Jan Juc Sustainable Futures Plan 2040.

Mr Woodland gave evidence that he had found no compelling environmental, cultural or social reason to establish these exceptionally wide corridors, and he did not think that it was warranted to meet the passive recreational needs of the future residents, particularly in light of the need to deliver active recreational spaces to meet the needs of the growing community. It was his evidence that given that the PSP proposed to include a number of high amenity ‘encumbered’ open space areas that he considered that the “*passive open space contribution specified in Amendment C114 should be closer to the 4 percent contribution envisaged in the PSP guidelines*”.

Ms Porter called Mr McGrenaghan from Wood and Grieve Engineers to give evidence in relation to stormwater and buffers required for safety.

Mr McGrenaghan gave evidence that “*from an engineering perspective the Spring Creek buffer should have sufficient width to ensure that people moving around Spring Creek during a major flood event are not endangered by deep or fast flowing water*” and, based on the PSP Stormwater Modelling report prepared by Tomkinson Group, the following buffers should be adequate:

- A 30 metre wide Spring Creek buffer zone (60 metres total width)
- A 10 metre wide Spring Creek tributary buffer zone (20 metres total width).

Ms Porter submitted that the proposed buffers are not justified on the basis of stormwater or drainage requirements, or cultural heritage reasons, or for ecological reasons, and that the buffer zones should be reduced to 30 metres either side of Springs Creek and 10 metres either side of creek tributaries, in line with Mr McGrenaghan’s evidence.

Ms Porter submitted that the extent of land required for open space could be reduced where encumbered land can support passive recreational use. *In the alternative, the amount of passive open space required to be provided in the PSP area should be reduced to around 4 percent of net developable area.*

Christian College (submitter 57) submitted that the 75 metre setback on either side of the 10-year flood level along the creek was excessive as it is mostly a dry drainage line up the valley.

Council responded to the evidence presented by Mack, stating that wider waterway buffers are justified on the basis of:

- assisting with the protection of environmental assets and not relying on minimum waterway buffer widths
- existing topography which is steep in places, particularly on the north side of the creek
- providing habitat corridors and bio-links as recommended in the Ecology and Heritage Partners reports
- kangaroo management principles prepared by DELWP
- connectivity of all green spaces and to maximise walking opportunities
- protection of areas of high Aboriginal cultural heritage sensitivity and recorded places, particularly on the south side of the creek
- implementation of the recommendations of the Community Panel adopted by Council.

Council clarified that final buffer width for Spring Creek was as a result of the community panel process. Council submitted that the proposed buffer widths were considered a “balanced” view of all of the positions that Council received, bearing in mind that State Policy talks about 30 metres, the Tomkinson report suggest 40 metres, and the remainder of the buffer is made of up of slopes, cultural heritage, habitat corridors and passive recreation.

Council referred to its Open Space Strategy 2015 - 2025 in support of this position, submitting that the strategy emphasises the community’s desire for pedestrian and cycling connections, and connection to the natural environment. Waterways within the PSP provide an opportunity to provide linear walking and open space connections, protection of cultural heritage and habitat corridors, consistent with the Open Space Strategy.

A number of submitters suggested that a larger allocation of open space and wider corridors would be appropriate:

- SCEG (submitter 36) submitted that there should be a minimum of 27 percent public open space as per the community groups’ plan for Spring Creek to respond to biodiversity decline and to provide suitable wildlife habitat corridor, forming the basis for “*corridor for life botanic gardens*” and “*21st century sustainable growth*”. SCEG would like to see a revolving fund established to fund maintenance of this large area of open space
- 3228 Residents Association (submitter 66) submitted that the proposed allocation of open space was insufficient, although it would be adequate if lot sizes were increased, on the basis that:
  - it was concerned that each individual developer contribution would be reduced when the separate subdivision plans were presented to Council for approval, and suggested that Council put measures in place to ensure this does not occur.
  - waterway corridors should be increased to 100 metres on each side
  - Christian College should be required to make a 10 percent public open space contribution
  - bike paths should be provided in all reserves, not just the creeks.
- Surf rider Foundation Surf Coast Branch (submitter 72) submitted that it supported the alternative community plan for Spring Creek including the proposed 100 metre buffer on the south side and 75 metres on the north side, stating that the current plan fails to provide an interconnecting network of conservation buffers and wildlife corridors and the

proposed buffer widths would be inadequate for the protection of native vegetation and wildlife habitat

- A Burnham (submitter 70) submitted that Council should negotiate more than 10 percent open space in the precinct to protect native flora and fauna
- G Davis (submitter 5) submitted that plan does not provide for any new active play areas.

A number of submitters suggested that the open space requirement of the PSP was unreasonable:

- J and J Walker (submitter 27) and R and P Haebich (submitter 62) submitted that the open space requirement of the PSP was unreasonable for their properties. PJC Co (submitter 78) submitted that the extent of allocated open space is a significant burden on the property and sought clarification as to how the credited open space areas were determined and why they do not include encumbered land that is suitable for open space.

Christian College (submitter 57) submitted that Open Space requirement 15 (R15) allows for the responsible authority to alter the distribution of public open space, and suggested that this be amended to reflect that this can be initiated by the land owner.

In response to submissions, Council responded that the need for active open space was recognized in the Community Infrastructure Assessment, however it was also recognized that the Spring Creek precinct does not provide suitable areas for active open space due to its topography. The report recommended that active open space be provided elsewhere in Torquay to meet the active recreation needs of the future population.

Council responded that *“waterway buffers have been established based on environmental/biodiversity, flooding, topographical, landscape, recreation and cultural reasons. The widths have also taken into account the views expressed through the community panel process”*.

Council acknowledged that some areas within the precinct would be beyond a 400 metre walking distance to local or neighbourhood parks, however, if this was delivered it would result in reduced linear spaces elsewhere in the precinct.

In response to SCEG’s submission, Council stated that it noted SCEG’s support for the alternative community plan, however the PSP provided a total of 23 percent of public open space, consisting of conservation reserves, waterway/drainage reserves and credited open space (local parks). In accordance with Clause 52.01 of the Planning Scheme 10 percent credited open space can be required, and if Council required any more than this would need to be compensated by Council, with a current land valuation of approximately \$1 million per hectare.

Council submitted that although encumbered land may provide some opportunities for (passive) recreation, the main purpose would be for conservation or drainage and would not be considered for credited open space.

In closing, Council submitted that *“cash contributions to POS will be saved into a reserve fund. When payments are due to developers who have greater than 10 percent POS on their land, a valuation will determine the amount and the Council will pay the amount from the funds”*.

**(ii) Discussion**

The Spring Creek PSP proposes:

- 18.26 hectares for unencumbered or credited passive open space (9.76 percent developable area)
- 38.97 hectares for encumbered open space (20.9 percent developable area) consisting of:
  - 9.7 hectares for conservation reserves
  - 28.06 hectares for waterway and drainage
  - 1.21 hectares for other encumbered open space.

The Open Space Strategy 2016 – 2025 (Document 8) envisages provision of open space for a Spring Creek population of 4,524 would be 12.67 hectares, of which 3.62 hectares or 29 percent would be passive open space, and 9.05 hectares or 71 percent would be for outdoor sports.

The Spring Creek Community Infrastructure Assessment specified the required land for local parks/playgrounds at 1.4 hectares, paths and trails of 2,000 metres (2km), other passive areas (size not determined) and an active open space of 8 hectares to be provided in a new development area north of Torquay.

Mr Woodland gave evidence that the PSP Guidelines require an overall open space contribution (passive and active) of circa 10 percent of the NDA of the precinct, with 6 percent allocated to active open space.

In the context of strategic planning for open space provision, the Panel notes that the Open Space Strategy references the Torquay Jan Juc Development Contributions Plan 2011, stating that it will adequately provide for passive open space needs, however “in contrast, the expected 21 hectares shortfall in outdoor sport land will require future acquisition”. *“The Spring Creek Urban Growth area is an area where future open space will be required (provided) for future residents, but the precise form has yet to be determined and will be done through a separate process - the Spring Creek Precinct Structure Plan project”.*

Council has indicated that the precinct is not suitable for the provision of active open space due to topography and other constraints, and that the only active open space to be provided is OR17 for lawn bowls (identified in the Interim Indicative Infrastructure list).

The Panel finds that Council’s requirement of 9.76 percent of passive open space is much greater than that envisaged by the Surf Coast Open Space Strategy, Community Infrastructure Plan and PSP Guidelines for open space.

Mr Woodland has presented evidence that a 4 percent contribution of passive open space would be appropriate and consistent with the PSP Guidelines, on the basis that developers would be required to contribute to active open space provided in other locations.

Mr Woodland gave evidence that the exhibited material with the amendment indicated that developers would be required to contribute towards active open space delivered off site, facilitated under a future Development Contributions Plan or individual section 173 agreements. Council submitted that the Spring Creek CIA recommended that the demand for active recreation generated by the Spring Creek development be met by a combination of existing reserves and provision of a new active open space provided elsewhere in Torquay.

The Surf Coast Planning Scheme provides for a combined passive and active open space contribution of up to 10 percent. The Panel notes that whilst the PSP Guidelines indicate a

possible allocation of this to active (6 percent) and passive open space (4 percent), they are guidelines only and should be applied in response to a strategic assessment of the need for passive and active open space for the precinct.

The Panel finds that Council has not presented a convincing strategic assessment for why the proposed provision of passive open space contribution is greater than that identified in the Open Space Strategy, CIA or PSP Guidelines, or how the active open space needs of Spring Creek residents will be met.

Mr Woodland gave evidence to the Panel that the proposed waterway corridors and buffers in the Spring Creek PSP are wider than that recommended by any of the relevant policy documents and background reports. The Panel reviewed the Torquay Jan Juc Sustainable Futures Plan 2040 (2014 version), and notes that it specifies for Spring Creek a *“thirty-metre buffer to be provided either side of the creek and gully corridors, and provision of integrated cycling/walking pathway systems along these corridors”*.

Council submitted that the wider buffer widths were justified on the basis of environmental, flooding, topographical, landscape, recreation and cultural matters, however Council did not provide any evidence to underpin that position. Council clarified that the final buffer widths were based on input from the community panel process.

Council submitted that the Open Space Strategy emphasizes the community’s desire for pedestrian and cycling connections, and connection to the natural environment. Council did not present evidence that wider than standard buffers are required to achieve these outcomes.

Council submitted that the proposed buffers were consistent with development to the east along Spring Creek, namely Great Ocean Views and Surf View Estates. The Panel found that buffer widths varied throughout these developments from 30-130 metres.

The Panel notes that while DELWP supports incorporation of a waterway / drainage reserve as a protective buffer around Spring Creek, it does not specify preferred widths.

In response to Mr McGrenaghan’s evidence, the Panel comments that the corridor width required for stormwater and waterway management is only one consideration in determining the final corridor width suitable for open space purposes.

The Panel finds that the primary driver for the proposed buffers has been Council’s community panel process, but that this recommendation has not been underpinned by evidence or strategic rigour. The Panel is of the opinion that no strategic justification has been presented for the proposed wider corridor width.

The Panel agrees with Mr Woodland’s evidence that the very wide waterway corridors have resulted in the very high passive open space contribution.

Whilst the Panel agrees with Council that locating open space along waterways corridors is appropriate, and can lead to positive outcomes for the community and environment when well integrated with encumbered open space, it however finds that proposed waterway buffers are the result of the crude application of fixed width buffers that do not demonstrate a site specific response to opportunities and constraints of the precinct, nor a response to an identified need for passive open space.

SCEG submitted that it supported wider corridor buffers to protect environmental and biodiversity assets. SCEG’s proposal includes the establishment of a *“Bio-tanic Garden”*, and whilst this idea is

to be commended, the Panel notes that to be effectively implemented that it must form part of an overall, endorsed regional plan to establish this with connections beyond the precinct, and that the PSP does not provide for funding of this concept. There would be value in pursuing this idea with Council for planning across the Shire.

Ms Porter took the Panel to Casey Planning Scheme Amendment C102, which included a recommendation to consider the role of encumbered open space in meeting passive open space requirements:

*Review the quantum and location of passive open space to achieve a 4 percent (NDA) provision. In undertaking this review, Council should:*

- *take greater account of the opportunities afforded by drainage reserves to satisfy a passive open space function....*

The Panel notes the findings of this panel report, and agrees that the availability of encumbered open space for passive open space purposes should be considered in a strategic assessment of the need for passive open space.

The Panel agrees with Council that the use of encumbered open space for recreational purposes is however a bonus, and that encumbered open space should not be credited.

The Panel finds that there is a significant amount of encumbered open space proposed within the PSP, and a large proportion does serve a passive recreation function. Therefore the Panel concludes that the strategic open space assessment should take this into consideration when determining the quantum and location of passive open space in line with the requirements of the Open Space Strategy, CIA and PSP Guidelines.

Council submitted that some areas within the precinct would be beyond a 400 metre walk to a local or neighbourhood park, and that if this was delivered that it may result in a reduced linear space elsewhere. The Panel notes that the PSP Guidelines recommend that local parks are provided within 400 metres of at least 95 percent of all dwellings. The Panel considers that provision should be reviewed to achieve this minimum standard, and that this should be achievable if buffer widths are reduced as discussed above.

The Panel supports Christian College's request to amend R15 to reflect that a land owner can initiate a request to alter the distribution of public open space within the PSP.

The Panel notes that the Council did not call any evidence in support of its position regarding open space, and the Panel has placed great weight on the evidence submitted by Mack.

### **9.3 Conservation reserve – 200-220 Great Ocean Road**

#### **(i) Evidence and submissions**

Mr Harvey gave evidence that it would appear that 200 – 220 Great Ocean Road had been disproportionately allocated larger areas of retained native vegetation (GW5) relative to other properties across the PSP (34 percent of total retained vegetation within the PSP), and that the alternative draft Framework Plan prepared by Niche Planning (see Figure 10) sets out a more appropriate and equitable distribution of conservation reserves.



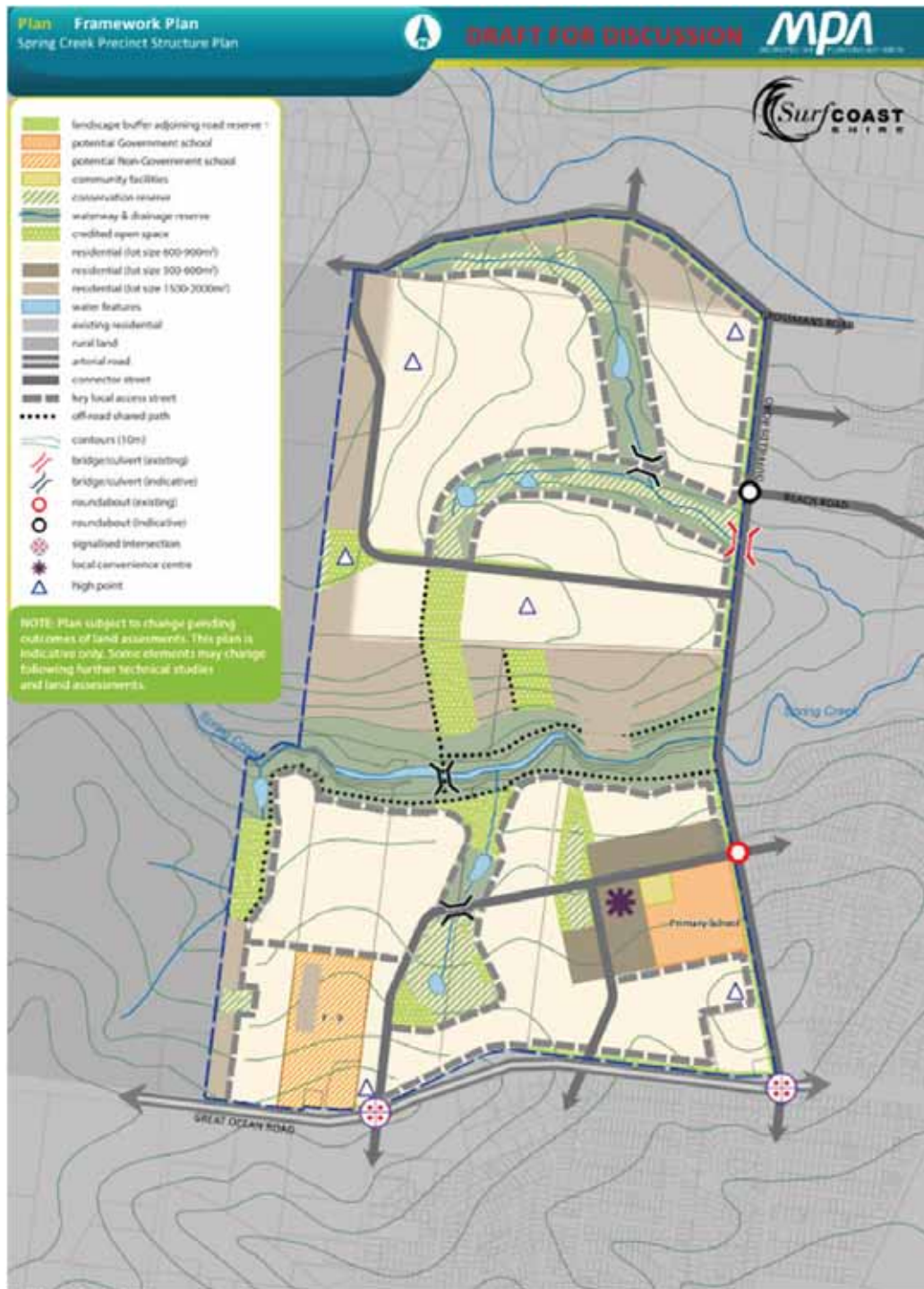


Figure 10 Alternate Draft Framework Plan  
Source: Mack submission (submitter 43), Appendix F

Mr Harvey gave evidence that alternative Framework Plan focused on protecting the core of the patch and removing the requirement to retain the lower quality portion of the patch in the south west.

Under cross examination by Mr Tobin, Mr Harvey stated that he agreed that conservation areas should be vested in Council.

Mr Woodland gave evidence that there may be opportunity for part of the proposed conservation area to form part of the passive open space network. Mr Woodland gave evidence that while a large portion of the vegetation patch would need to be managed for conservation purposes, the balance of the land could be made available for passive open space and managed to respect environmental values.

Mr Woodland gave evidence that in his opinion the proposed conservation reserve should be placed in public ownership, possibly Council, and managed for conservation purposes. Mr Woodland gave evidence that *“there may be opportunities for part of the proposed conservation reserve to form part of the passive open space network”*.

Mr Woodland gave evidence that he recommended further consideration of the following options:

- *Review the extent and shape of the proposed conservation reserve, with a view to creating a simpler, more regular reserve boundary, which can better integrate with the drainage reserve, passive open space and adjoining urban development*
- *Review opportunities for parts of the native vegetation patch to be treated as (credited) passive open space under the planning scheme*
- *Revisit whether Council is prepared to own and manage the conservation reserve, as either a native vegetation offset site, sensitively managed passive open space reserve or a combination thereof.*

Council submitted that it did not accept Mr Woodland’s suggestion that part of the conservation area could form part of the passive open space network, on the basis that it is not the core function of these spaces. Council referenced the PSP Guidelines in support of its position.

Council responded to the evidence by stating that *“whilst some areas of encumbered open space may provide opportunities for passive recreation, this is not the core function of these spaces and thus should not contribute towards credited open space”*.

Council submitted that it did not accept Mr Woodland’s suggestion that it would be impractical if the conservation reserve was secured as a native vegetation offset but was not transferred to public ownership. Council submitted that there were many examples of offset sites in private ownership, however:

*Having said that, Council’s expectation is that the reserve will be transferred to Council and that Council will manage it as a conservation reserve with limited passive recreational use. Council does not accept the site as an offset site moreover, it is not even known if the area of Bellarine Yellow Gum is sufficient for the offset that will be required. As an offset site, the land would be exclusively managed for biodiversity, meaning it would be fenced and signed as a conservation area with no pathways, no public access and no passive recreation activities occurring within the boundary. The PSP seeks to establish a network of high quality open space for the benefit of the entire precinct, not just an individual site. It is not in the interest of the community to exclude public access to use of the site.*

*...Council is adamant that this area is not to be provided as an offset for vegetation removal as it defeats the purpose of the open space.*

Mr Tobin, acting for Christian College (submitter 57), submitted that the school accepts Mr Harvey’s evidence relating to the quality of the Bellarine Yellow Gums at the western end of the remnant patch of vegetation on abutting land to the east, and *“endorses an approach where*

*necessary adjustments are made to the patch of trees to facilitate development on the eastern side of the connector. This is a reasonable approach*". Mr Tobin submitted that if the alternative road alignment submitted by Mack is supported by the Panel, then to provide for an effective road frontage the open space currently to the east of the connector should be relocated between the west of the connector and school land.

Ms Porter submitted that her client did not support this suggestion by Mr Tobin.

In closing, Council submitted that:

- *"conservation reserves will be identified on a plan of subdivision as a reserve to be vested in Council", and transfer will occur as per the Subdivision Act 1988*
- *it believes that best management of the GW5 site is Council ownership and management as a conservation reserve, but not an offset site. Although it may provide some passive recreation opportunities such as Bush Kinder, it should not form part of the 10 percent public open space contribution as the land is 'encumbered' under that definition.*
- *"counting part of encumbered land towards credited open space is not consistent with the PSP Guidelines, even though part of the land may be used for passive recreation".*

In response to proposed removal of Public Conservation and Resource Zone as an Applied Zone Provision in the UGZ1, Council submitted that there was some merit in this suggestion, and that the same logic would apply to the other open space category.

## **(ii) Discussion**

Mr Harvey supported the alternative draft Framework Plan prepared by Niche Planning, stating that it sets out a more appropriate and equitable distribution of conservation reserves for 200-220 Great Ocean Road, by focusing the reserves on the centre of GW5. The Panel notes that the intention with allocation of conservation reserves is not equitable provision, but protection of significant environmental and biodiversity assets. This is by necessity based on a biophysical assessment of the site and may not result in equitable distribution of conservation reserves.

The Panel gave significant weight to the opinion of Mr Woodland's and Mr Harvey that the extent and shape of the conservation reserve should be reviewed and that the south western part of the reserve with degraded understory and sparse trees should be considered for credited passive open space.

Mr Harvey gave evidence that the key biodiversity value of the south western part of the patch is the Bellarine Yellow Gums and suggested options for sensitively designed and managed passive open space that would protect the environmental values of this area. Mr Harvey gave evidence that public access is not strictly limited under the native vegetation offset guidelines, and subsequent to the hearing he submitted a number of examples to the Panel and parties.

Mr Woodland's gave evidence that a large part of the proposed conservation reserve should be placed in public ownership, possibly Council, and managed for conservation purposes, possibly as a net gain native vegetation offset, and that *"there may be opportunities for part of the proposed conservation reserve to form part of the passive open space network"*.

The Panel notes Council's objection to allocation of any of the patch of native vegetation as credited passive open space on the basis that this is not the core function of this area.

The Panel considers that some biodiversity assets may be suitably located in credited open space, depending on the condition and management requirements, and that the asset may not warrant designation as a conservation reserve.

The Panel notes Council's support for Council ownership and management of the conservation reserve, and its objection to owning and managing it as a native vegetation offset. Council argued that whilst the native vegetation (GW5) identified for protection in the NVPP should be retained, it did not agree with use of this area as a formal offset on the basis that it would not be consistent with the planned passive recreational use of the area. As discussed in Chapter 7, the Panel finds it appropriate to consider this site as a native vegetation offset, and that if necessary an alternative suitable land manager be sought.

Mr Harvey gave evidence that reshaping the western edge of the reserve could assist with management of the native vegetation and reserve. The Panel considers that introduction of a part of the credited open space at the south western part of the reserve could assist with management of this edge effect and the potential for weed incursion by providing a managed open space buffer.

Christian College submitted that it supported the road network on 200-220 Great Ocean Road as exhibited on the PSP. Christian College requested that if this was not the Panel's preferred option, and the alternative road alignment submitted by Mack was supported by the Panel, that the open space currently to the east of the connector should be relocated between the west of the connector and school land. The Panel considers the road alignment in the exhibited PSP a superior solution for protection of the Bellarine Yellow Gums.

The Panel agrees with Council's conclusion that there is merit in the suggestion by Mr Tobin to remove Public Conservation and Resource Zone and other open space categories from the Applied Zone Provision in the UGZ1.

## **9.4 Site specific issues**

### **9.4.1 OS-08**

#### **(i) Submissions**

Council submitted that the location of OS-08 was chosen for its panoramic view (see Figure 11).



Figure 11 OS-08 located on western boundary of the PSP area

P Raines (submitter 1) and C Jacobs (submitter 44), co-owners of 231 Grossmans Road, submitted that the location of OS-08 directly exposes their property to the general public and that it should be deleted as it may facilitate access onto adjacent rural land and generate noise from gatherings and sports activities by park users, which will unsettle horses. P Raines submitted a preferred alternative location, that would encompass the “*large 100 year old, healthy, native tree currently slated for demolition*”.

In closing, Council submitted that taking into consideration the submissions from P Raines and C Jacobs that the large trees near the western boundary should be retained, and DELWP’s submission that trees 41-47 should be retained to reduce specific offsets, Council considers it appropriate to relocate OS-08 to incorporate trees 41-47. The reserve would still be located on the western boundary, but with an enhanced buffer to rural properties to the west.

## (ii) Discussion

P Raines and C Jacobs requested that OS-08 be moved away from the western boundary.

The Panel agrees with Council that relocation of this reserve to encompass trees 41 – 47 provides an improved outcome as it protects these trees in open space and reduces specific offsets. The relocated area of open space will still be located on the western boundary in order to protect these trees.

A vegetated buffer integrated into the reserve design would assist with protecting land to the west from activities in the reserve.

### 9.4.2 Haebich – 160 and 195 Grossmans Road (PSP property 3)

#### (i) Submissions

Mr Tobin, acting for R and P Haebich (submitter 62), submitted that there were two areas of passive open space identified for the land (property 3), OS-01 and OS-02, totalling 0.95 hectares or more than 25 percent of the NDA (see Figures 12 and 13 below). In addition to this 0.37 hectares is identified as a conservation reserve, in accordance with PSP guideline G35.



Figure 12 Excerpt from PSP Plan 4 showing location and open space allocation on property 3 (160 and 195 Grossmans Road) and property 2 (165 Grossmans Road)



Figure 13 Excerpt from PSP Plan 6 – showing the location of OS-01 and OS-02

Mr Tobin submitted that this proposed passive open space does not appear to have any meaningful purpose and seriously impacts on the developable area of the land and *“in practical terms sterilises this northern land”*:

- it is small, separated by a steep drainage line and does not provide connectivity to the east
- it reduces the NDA by two lots at best
- it cuts through the middle of the existing dwelling, recently valued at \$1.5M.

Mr Tobin submitted that under these conditions that the land would not be developed, which has consequences for the future DCP and open space network.

Mr Tobin submitted that OS-01 should be deleted, and that the Haebich’s consider that the provision of open space in the PSP is excessive.

Haebich submitted that it sought assurances that the encumbered land would be assessed and credited as open space.

Council submitted that it did not support the proposed changes.

## (ii) Discussion

Mr Tobin argued that the open space contribution on the Haebich property was unreasonable and would render the property sterile for development.

The Panel notes that the proposed open space OS-01 along the north side of the Spring Creek tributary does not provide an open space connection to the west, and its purpose is not obvious, other than applying Council’s wide waterway buffers, as discussed above.

The Panel concludes that this large area of passive open space contribution, relative to the property size, should be reviewed and reduced based on proper assessment of its merit.

The Panel discusses the designation of encumbered land as credited open space in Chapter 9 of this report.

### 9.4.3 Walker – 165 Grossmans Road (PSP property 2)

#### (i) Submissions

J and J Walker (submitter 27) submitted an objection to the proposed larger lot sizes and the area of public open space on their property (property 2, see Figure 12 and 13 above).

Ms Katz, representing J and J Walker (submitter 27), submitted that it was unclear how the floodplain and surrounding areas had been calculated, that the width of the reserve did not seem

to be related to the slope or be designated for a particular purpose besides a link for pedestrians, and that a further bridge over the creek to allow for connection from north to sounds for pedestrians or cyclists may be warranted.

Ms Katz submitted that the 10 percent passive open space contribution seemed excessive given that the State government requirement is 10 percent for both active and passive open space.

Ms Katz questioned how the buffer distance of 50 metres each side of the northern tributary had been developed, and suggested that it was unclear how the required passive surveillance of open space was to be achieved.

Ms Katz submitted that her clients were concerned that community groups are driving this '*land grab*' on the premise that '*the bigger the buffer the better*' without sound knowledge of land development costs or efficiencies and suggested that the ongoing maintenance costs to Council would be excessive. Ms Katz submitted that the standard setback requirements in Port Phillip and Westernport region may be a better guide, and that a "*balance needs to be sought between achieving river health and recreational aspects and maximising developable land*". Ms Katz suggested that buffer areas not based on environmental grounds should be reduced to 10 metres from the centre line, and relate to topography and local site environmental values.

Ms Katz requested:

- The open space (encumbered and unencumbered) should be removed from 165 Grossmans Road (property 2 in the PSP)
- Element G36 should be modified to refer to a reduced buffer (up to 10 metres) based on specific work relating to health of the creek
- Element R31 should require a good amenity to the waterways and open space, but not to require a frontage road to the open space as this substantially reduced the NDA of the property
- Support for the existing agreement between property 2 and 3 for use of water from the dam.

In response to the submission, Council responded that the open space was required to provide a buffer to the waterway (northern tributary), and it did not support the proposed changes. They submitted that the addition of the words '*paper roads*' to provide flexibility for a range of interface options would be sufficient in addressing element R31.

Council submitted:

*Submissions on behalf of the Walkers compared the widths of the buffers to those at The Sands. What was not disclosed is that the waterways within that development are artificial and not natural. The more appropriate comparison in terms of buffer widths is with those which occur to the east and the Panel has been provided those details.*

## **(ii) Discussion**

Ms Katz submitted that the 10 percent passive open space contribution seemed excessive given that the State government requirement is for 10 percent for both active and passive open space.

Council did not agree to the proposed changes, arguing that the open space was required to provide a buffer to the waterway (northern tributary). Council's proposed buffer width is 50 metres on either side of Spring Creek tributaries and 20 metres on either side of other waterways.

The Panel notes that the same issues relate to the Walker and Haebich properties in relation to OS-01, and concludes that this large area of passive open space contribution, relative to the property size, should be reviewed and reduced based on proper assessment of its merit.

#### **9.4.4 Rural urban buffer and open space interface**

##### **(i) Submissions**

Council submitted that its endorsed position was to:

*Require the establishment of a suitable buffer within private land along the rural-urban interface, through the Residential Design Controls in the PSP and Memorandum of Common Provisions (restrictions) on each title. The buffer must include a 20 metre wide building setback from the western boundary, a vegetated buffer 10 metres in width and appropriate rural style fencing which prevents the passage of pedestrians and dogs. Vegetation must consist of species which are a low bushfire risk.*

P Raines (submitter 1) submitted that best practice for a buffer between residential and farm zoned land would be a 40 metre vegetated buffer with abutting residential lots of 4,000 square metres, including substantial fencing and recognition of the buffer as encumbered land. P Raines and Cindy Jacobs (submitter 44), co-owners of 231 Grossmans Road, submitted that Council's treatment of this zone was not appropriate, and proposed the following:

- a densely vegetated 20 metre buffer incorporating the existing tree lane, not located on resident's land
- a substantial dog and child proof fence positioned on the east side of the vegetated buffer
- location of the north south road to the east of the fenced buffer
- provision for the water main easement could be located between the road and the buffer.

Ms Jacobs (submitter 44) submitted that the fenced vegetated buffer was required to protect the financial viability of the existing equine business, ensure the safety of horses and future residents, and provide for privacy. The green break should be established early in the development phase to ensure vegetation is well established before the impacts of urban growth occur.

D and D Lawrie (submitter 56) submitted that the proposed urban rural interface was inadequate and severely compromises their amenity, semi-rural lifestyle and equestrian business. They submitted a request for a proper vegetation buffer, larger lots and dog-proof fencing along western boundary.

Council responded that it would require the establishment of a vegetation buffer within private land along the rural-urban interface.

Council submitted that it considered a number of options for the western boundary in response to submissions.

*A vegetated 20 metre wide buffer was rejected for the following reasons:*



- *it would take the public open space requirement above 10 percent and therefore would need to be acquired by Council at an estimated cost of \$1million per hectare*
- *it would become a bushfire risk*
- *it would be an ongoing maintenance problem if vested in Council.*

*A perimeter road is also not supported, as it is contrary to the community panel recommendations and will not exclude public access near or onto adjacent rural properties to the west. Further, it is inefficient from an infrastructure perspective to serve 'one sided development' for a long stretch of road.*

Mr Raines submitted that his property (231 Grossmans Road) has approximately 200 metres of creek frontage on the southern boundary directly opposite a publicly accessible conservation zone, and have requested that Council construct a substantial fence to deter people from crossing to his land. Council did not respond to this submission.

Parklea (submitter 65), AMEX (submitter 42) and Walker (submitter 27) submitted a number of detailed suggestions for changes to the PSP in relation to wording of requirements and guidelines relating to the open space interface with development. Council responded to each of these and suggested alternative wording in its response to requested changes to the PSP.

## **(ii) Discussion**

The Panel understands that urban development on the land immediately abutting rural land can create amenity issues. Council has proposed to ameliorate this by establishing a 10 metre wide vegetated buffer on private land, a 20 metre building setback and rural dog/pedestrian proof fencing. The landowners to the immediate west of the development have proposed a wider vegetated buffer, to be owned and managed by Council, with a road frontage and child/dog proof fencing on the eastern side of the vegetated buffer.

Given that the future of the land to the west of the development has not been determined, it would be premature to establish this as a firm western boundary, and the investment asked of Council to establish and maintain this buffer is well beyond normal levels of investment in open space and infrastructure. The Panel considers the proposed substantial fence to be located on the eastern side of the 20 metre planted buffer to potentially create amenity and safety concerns.

The Panel supports Council's proposal for treatment of this urban / rural interface.

A suitable treatment for the southern boundary of 231 Grossmans Road needs to be determined. It appears that this section of creek is shown as part of the PSP, and to ensure open space continuity it may be appropriate for Council to purchase this land and fence on the northern side of the creek.

## **9.5 Conclusions**

The Panel concludes in relation to open space provision, that:

- the PSP requirement for 9.76 percent of passive open space is much greater than that envisaged by the PSP Guidelines and Surf Coast Open Space Strategy for passive open space
- there is an unresolved question about provision and funding of active open space to meet the needs of new Spring Creek residents

- a more detailed assessment needs to be undertaken of how the active open space needs of Spring Creek residents will be met, and the requirement for passive open space contribution needs to be amended and/or reduced accordingly to achieve a total open space contribution of no more than 10 percent, and in line with the Open Space Strategy and CIA
- access to encumbered open space for passive recreational activities should be considered in determining the quantum and location of passive open space.

In relation to waterway buffer widths, the Panel concludes that:

- the proposed waterway corridors and buffers in the Spring Creek PSP are wider than that recommended by any of the relevant policy documents and background reports
- there is a correlation between the very wide waterway corridors and very high passive open space contribution
- Council has not presented a convincing strategic justification for the proposed wider corridor widths
- waterway buffer widths should be reviewed and reduced in association with the review of the passive and active open space requirements, as detailed above
- the distribution of local or neighbourhood parks should be reconsidered to ensure accessibility within 400 metres of at least 95 percent of all dwellings, with a resulting reduction in linear park as required.

In relation to the proposed conservation reserve at 200-220 Great Ocean Road, the Panel concluded:

- it is not concerned with the non-equitable distribution of conservation reserves, as the distribution of reserves is based on a biophysical assessment of the precinct
- that equitable distribution of conservation reserves should not be a driver for reducing the allocation, as this is not the intention of the reservation
- ownership and management of the conservation reserve should sit with Council, however if part of the reserve is to be used as a net gain offset, Council may identify an alternative suitable land manager
- that the shape of the conservation reserve should be reviewed to minimise the boundary to area ratio and that the south western part of the reserve with degraded understory and sparse trees should be considered as a credited passive open space.

The Panel concludes that the Applied Zone Provisions in the exhibited UGZ1 should be amended to remove the open space categories PCRZ and PPRZ, and that these areas be rezoned once vested in Council.

In relation to specific issues and sites, the Panel concludes:

- that Council's proposal to relocated OS-08 to incorporate trees 41-47 is appropriate
- open space OS-01 should be reviewed and resized/reconfigured based on a proper assessment of its merit based on environmental and open space purposes.

The Panel concludes that due to the uncertainty of the future of land to the west of the PSP precinct, and the land and cost impost of alternative solutions, that the buffer arrangements along the western boundary as proposed by Council are appropriate. A suitable treatment for the southern boundary of 231 Grossmans Road needs to be determined, and may involve Council purchasing the waterway and fencing along the north side of the creek.

## 9.6 Recommendations

The Panel makes the following recommendations in relation to open space issues:

- 17. Council should prepare a detailed assessment of how active open space needs of Spring Creek residents will be met, and review the requirement for passive open space contribution accordingly, to achieve a passive and active open space contribution of no more than 10 percent, and in line with the Open Space Strategy and Community Infrastructure Assessment.**
- 18. Review waterway buffer widths and amend these in association with the review of open space provision, in response to site specific considerations and constraints such as amenity, topography and the need for open space linkages.**
- 19. Review the distribution of local and neighbourhood parks to ensure that provision within 400 metres of at least 95 percent all dwellings is achieved.**
- 20. If part of GW5 is secured as a net gain offset and Council is not able to manage this asset, then a suitable alternative land manager be secured.**
- 21. Amend the native vegetation patch identified as GW5 on 200-220 Great Ocean Road as follows:**
  - a) re-shape to minimise the boundary to area ratio**
  - b) include credited open space in the south western patch that has a degraded understory and sparse trees,**
  - c) develop this south western patch as a Bellarine Yellow Gum reserve that is sensitively designed and managed for passive open space that protects and respects the environmental values of this area.**
- 22. Relocate OS-08 to incorporate trees 41 – 47.**
- 23. Review the size and configuration of OS-01, OS-02 and OS-13, and resize based on strategic justification for environmental or open space purposes.**
- 24. Council should determine a suitable treatment for the southern boundary of 231 Grossmans Road to ensure open space continuity, for example public open space along the waterway with fence to the northern side of the creek.**

# 10 General issues

## 10.1 Density

### (i) Evidence and Submissions

A number of submissions have raised the issue of density, some community members arguing the density was still too high whilst various developers questioned that the proposed density was too low.

Council submitted that the PSP at pages 12 and 14, Plan 5 and Table 2 sets out the location of the various lot sizes. The PSP envisages an average density of 10 dwellings per net development hectare.

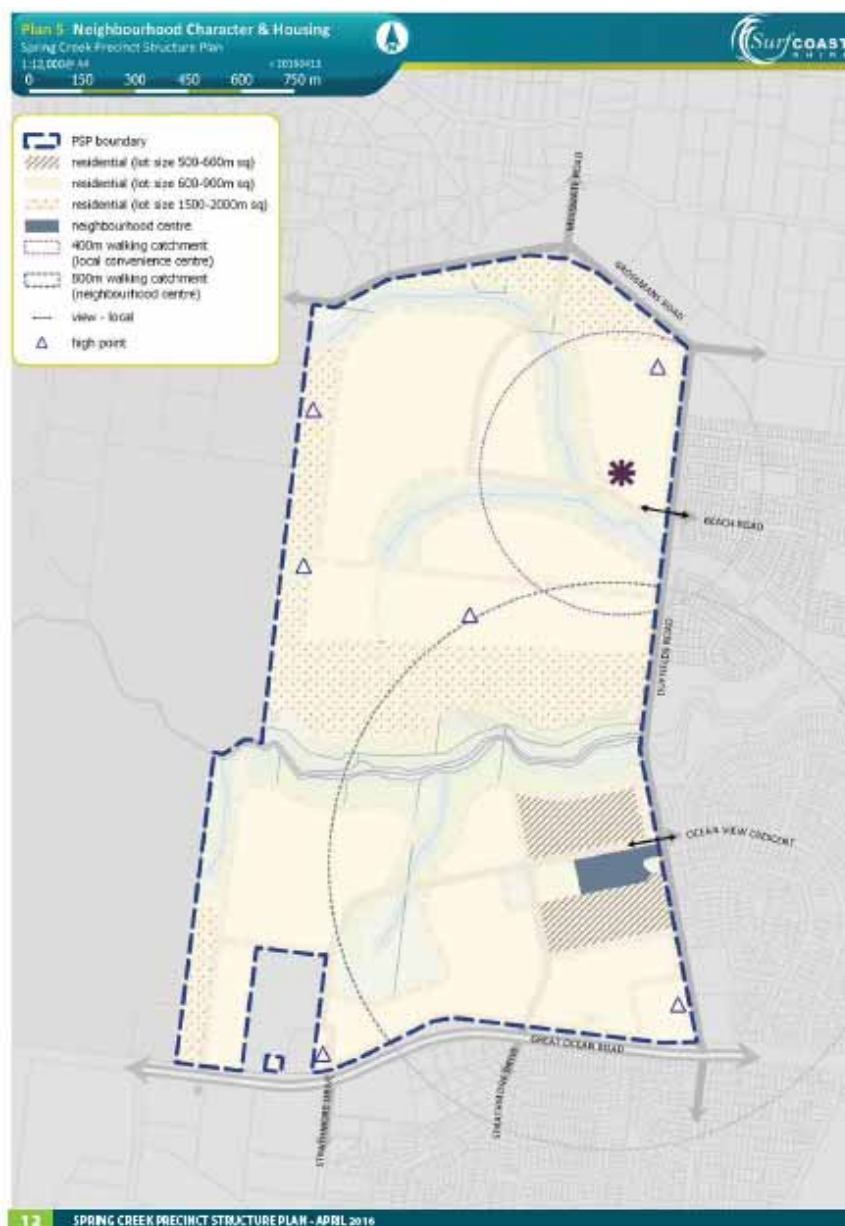


Figure 14 Plan 5 Spring Creek PSP

Council submitted that the Planning Scheme specifically states that lower densities should be provided in Spring Creek. The PSP achieves the objectives for this development area notwithstanding the lower density. Council opined:

*It should also be noted that the lot density and location responded to the recommendations of the Community Panel and wider expectations for the precinct. The real inquiry is whether the lot densities proposed achieve the forecast population and provide for housing diversity. The answer to both of these inquiries is yes.*

Council argued that the overall residential densities do not have to be achieved in one area within the municipality, it can be achieved across all growth areas within a municipality. Further, the strategies sought to achieve growth also seeks to ensure that density is balanced to retain unique characteristics of established areas incorporated into new communities to protect and manage natural resources and areas of heritage, cultural and environmental significance. The unique characteristics of this area have already been enunciated.

Council submitted that the level of development envisaged in the PSP is consistent with the VCS 2014 in that development is proposed within the settlement boundary and the density of development to manage population has been considered having regard to other matters such as the natural environment, topography and character.

Mack submitted that the vast majority of the PSP area is designated for residential lot sizes of between 600 square metres and 900 square metres (10.7 dwellings per hectare), with substantial areas designated for 1500-2000 square metres lots (4.6 dwellings per hectare) and only parcel 14 designated for 500-600 square metres lot sizes (14.5 dwellings per hectare). Ms Porter explained:

*This means that around 90 percent of all lots will exceed 600 square metres in area, and that even the "higher density" areas have a proposed density that is less than the minimum of 15 dwellings per hectare recommended in clause 11 of the SPPF.*

Ms Porter called Mr Mark Woodland of Echelon Planning to give expert evidence on the matter. It was Mr Woodland's evidence that that state policy for urban areas mandates 15 lots per hectare. It was the evidence of Mr Woodland that the number of lots in the PSP would not substantially increase if density ranges were adjusted accordingly, and this would allow for a higher range of lot sizes for more diverse housing. It was the evidence of Mr Woodland:

*It is my view that the PSP ought to encourage a greater percentage of residential lots that would deliver circa 14.5 dwellings hectares than is currently suggested.*

Mr Woodland suggested that Plan 5 of the PSP be amended to identify a more extensive area of land south of the creek as being potentially suitable for 'smaller lots' and the PSP should contain a guideline encouraging (but not mandating) the delivery of greater housing diversity within the walking catchment of the town centre.

Reeds, on behalf of submitter 41 argued that conventional allotments within the Spring Creek precinct appear to fall within a range of 500 square metres – 600 square metres and not in keeping with recent trends and market demands. They submitted that larger lot sizes across the board result in larger allotment prices and therefore this priced out housing diversity, citing the nearby Ocean Acres Estate as an example, where the majority of homeowners were third and fourth homebuyers.

Ms Ancell of Echelon representing submitter 41 argued that the proposed density of 10 dwellings per hectare is too low and should be increased:

*Density should be increased so as to meet the requirements and expectations set out in the State Planning Policy Framework, The G21 Geelong Region Plan, Sustainable Futures Plan Torquay-Jan Juc 2040 (2014 version), and the Local Planning Policy Framework.*

In refuting the evidence of Mr Woodland and other submitters questioning the lower densities, Council submitted that the PSP area is not the only area where additional housing is encouraged in the municipality the average lot density of 10 dwellings per hectare is acceptable and appropriate.

Ms Ancell countered this argument by stating:

*The analysis contained within the Sustainable Futures Plan Torquay-Jan Juc demonstrates that none of the growth areas are being considered for average densities higher than 15 dwellings per hectare. We query therefore whether Council is really going to start planning for significantly higher densities in the other growth areas within Torquay in order to compensate for the densities proposed in Spring Creek being substantially below the 13 dwellings per hectare assumed in the plan.*

Ms Ancell requested that a density of at least 13 dwellings per hectare would be appropriate and that allowable site coverage and the ability for dual occupancy be revisited.

Mr Bisset, for Parklea and Amex submitted that Map 1 of Schedule 1 to the UGZ depicts lots outside the proposed NAC as being intended to be between 500 and 600 square metres in size, and this prevented Parklea from delivering medium and high density housing (Figure 15). Parklea sought amendments to Map 1 to show a notation on Map 1 which indicates that residential lots around the NAC may be of a higher density as contemplated by the PSP.



Figure 15 Extract from Map 1 of the Urban Growth Zone Schedule 1

Mr Tobin, for Geelong Christian College argued that Council's policy at Clause 22.09 endorses higher density lots around community assets such as Schools. He proffered:

*In the context of the Amendment this constitutes not the 20 dwellings per Hectares suggested at Clause 22.09 but rather the opportunity to provide some lots at the 500-600 metre range in this vicinity. This opportunity should extend to land to the east, west and south of the School Land. These would not be small lots but rather substantial lots rather than the large lots provided for elsewhere in the PSP area.*

Council submitted as part of its rationale for the density allocation that the Community Panel and broader community consultation, expressed a wish to have low density residential development in the Spring Creek PSP area. Many references were made to the Ocean Acres development in Grossmans Road, which is zoned Low Density Residential. The minimum lot size in the LDRZ is 2000 square metres if sewered, although in this estate the lot sizes are 4,000 square metres or larger.

Mr Tobin submitted that the PSP area is intended to provide what are very low levels of development compared with other growth areas. He stated *“the College acknowledges the submissions of others that this does not appear to be justified in planning principle as opposed to following the outcome of the community forum.”*

## (ii) Discussion

Council’s justification that the densities came about because the community expressed a desire for larger lots simply flies in the face of the fact that this land is zoned Urban Growth Zone, with a PSP being applied to it. To restrict densities in the locations closest to the NAC and Christian College is not a proper planning outcome. Higher density lots, as indicated in its own local policy at Clause 22.09 is a sound planning principle that is applied across growth areas across Melbourne.

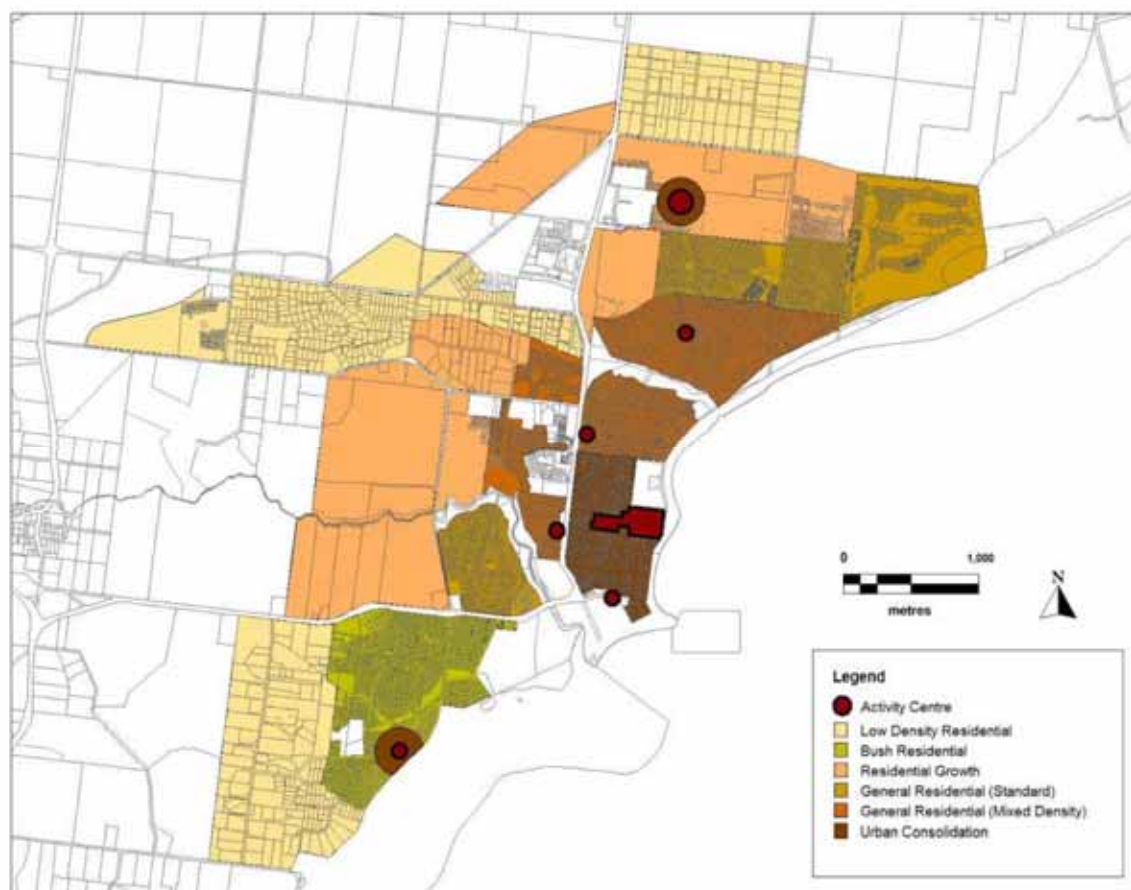


Figure 16 Map from Clause 22.09

The Panel believes that the vision for the precinct “derived from community aspirations was for a vegetated character, with larger allotments and low site coverage” will still be achieved even with

a change to the density in the southern portion of the PSP. It has discussed its concerns with the Community Panel elsewhere as justification for some of the PSP outcomes.

The Panel forms the view that the southern portion nearest the school and future NAC are more than capable of achieving higher densities and this should be revised. In recognising Clause 21.08-2 (Torquay Jan Jun Strategy), the Panel is cognisant of its policy setting to:

*Encourage lower housing densities in the Spring Creek valley up to one kilometre west of Duffields Road.*

The Panel agrees with the submission of Ms Ancell that stated that Clause 21.08 seeks to encourage densities in Spring Creek that are lower than the average 15 dwellings per hectare sought in Clause 22.09. However, the Panel does not agree that the proposed average of 10 dwellings per hectare is an appropriate interpretation of these policies, and that higher densities are capable of being achieved without eroding the topographical and environmental setting of the PSP area. In the same way that it would not be acceptable for Council to apply a higher density category from Clause 22.09 to Spring Creek (for example by instead using the Urban Consolidation category to create densities of 15 to 25 dwellings per hectare), neither should it be acceptable for Council to apply a lower density category.

### (iii) Conclusions

The Panel concludes:

- The PSP as exhibited does not provide a meaningful ability to deliver diversity of housing in the southern portion.
- The location of the Mack and Parklea properties requires that there should be sufficient flexibility within the PSP to enable density of less than 600 square metres within walking distance of the NAC and school, subject to any specific site constraints.
- Changes to density in this section will still reflect the coastal character of the area and integrate with the surrounding areas whilst being site responsive to topography and environmental values.
- Council should look to increase densities to at least 12-13 dwellings per hectare to make better use and provision of infrastructure.
- Map 1 of UGZ1 is effectively Map 3 to the PSP, so any changes recommended would need to be reflected in both plans.

### (iv) Recommendations

#### 25. Amend O5 to read:

**Provide for a range of residential densities that reduce along Spring Creek and Grossmans Road, near rural land, and increase to allow the creation of lots of less than 600 square metres within a reasonable walking distance of the neighbourhood activity centre and the school.**

**26. Add G18 to state: Greater housing diversity is encouraged within a reasonable walking distance of the neighbourhood activity centre and the school.**

**27. Amend the land budget and associated mapping highlighting density accordingly, with a view to increasing densities to at least 12-13 dwellings per hectare.**



## 10.2 Neighbourhood Activity Centre

### (i) Evidence and submissions

Submissions on behalf of Parklea raised concerns with Council's proposed drafting changes to Regulation 8 in relation to the staged development Neighbourhood Activity Centre (NAC). Council understands the conundrum created by inserting staging requirements into the PSP, which would become mandatory if drafted as a requirement, whilst the UGZ1 provides for a 'soft cap' of 5,000 square metres of retail floor space.

The Panel is aware that Council is concerned that the early delivery of a full size NAC (including full-line supermarket) by 2021 would have serious consequences for the primacy of the Torquay CBD.

Parklea called Mr Justin Ganly of Deep End to provide evidence on the matter. It was Mr Ganly's evidence that a Neighbourhood Activity Centre (NAC) with 5,000 square metres of retail floor space can be provided in the PSP area by 2021, as opposed to Mr Nott's view for Council that proposed a staging of delivery, 3,000 square metres by 2021 and the balance by the year 2031. Council did not initially accept the evidence of Mr Ganly and a debate ensued over catchment methodology. However, in its closing Council submitted it is prepared to consider another alternative than that shown in Council's tracked changes to the PSP (9 November 2016) which would put an additional condition in the UGZ Schedule that would make early delivery of the 5,000 square metres able to be considered through a planning permit application with supporting evidence. Council may also require a peer review of the consultant's report.

### (ii) Discussion

The Panel agrees that there will be an established need for a NAC in some form by the time development proceeds in Spring Creek, noting that early delivery typically benefits the emerging and surrounding community. The debate on methodology and different catchments was academic rather than helpful in this instance. Parklea called the only expert evidence on the matter at the Hearing and the Panel gave weight to Mr Ganly's evidence in this regard. However, the Panel was satisfied that if 5,000 square metres could be delivered earlier (by 2021) then Council's acquiesce of willing to consider this subject to supporting evidence is an acceptable outcome.

### (iii) Conclusions

The Panel concludes:

- Early delivery should of the NAC to 5,000 square metres is likely to occur. The evidence of Mr Ganly supports this and should be supplemented to any application for the NAC at the planning permit stage.

### (iv) Recommendation

The Panel recommends:

- 28. Amend the Urban Growth Zone Schedule to ensure that early delivery of the Neighbourhood Activity Centre can be considered through a planning permit application with supporting evidence.**

### 10.3 Local Convenience Centre

#### (i) Submissions

Amex submitted that Council proposed the deletion of a “*Local convenience centre*” (LCC) from Map 1 of the proposed Urban Growth Zone and Plan 5 of the PSP. Amex argued that procedurally, this position had only arisen from Council’s “Part A” submission and is not supported by any resolution of Council to modify this aspect of the Amendment.

Amex requested that should such a designation remain i.e. that there should be an LCC in the northern section of the PSP area, they were agreeable subject to an amendment to R13 which indicates the need for a LCC in the northern part of the PSP area.

Council did not support this request.

#### (ii) Discussion

The Panel sees no issue with the request of Amex, particularly in the light of the nature of the LCC removal. It notes that it is possible for Amex to use part of the site for a convenience shop or café under the proposed General Residential Zone. The specificity of the wording proposed to R13 at this stage is premature.

#### (iii) Conclusion and recommendation

The Panel concludes:

- There is scope for an LCC in the northern section of the PSP and Council should reinstate the asterisk on Map 1 of the proposed Urban Growth Zone and Plan 5 of the PSP.

The Panel recommends:

**29. Reinstate the asterisk on Map 1 of the Urban Growth Zone and Plan 5 of the Precinct Structure Plan denoting a Local Convenience Centre in the northern precinct.**

### 10.4 Delivery of the Community Facility

#### (i) Evidence and submissions

Parklea made submission that the land set aside for the community facility is “blighted” in perpetuity without a further planning scheme amendment. That is, the PSP does not incorporate any provisions which would take effect if a specifically nominated land use outcome provided for in the PSP is abandoned or not able to be delivered, such as the local community facility.

In its closing, Council recognised this and considered the addition of the following requirement / guideline to address the matter:

*Where the responsible authority is satisfied that land shown as a local community facility on Plan 3 is unlikely to be used for that purpose, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone.*

Parklea questioned the ability for Council to deliver the facility in a funding regime. Council submitted in relation to the purchase and funding of the community facility, the timing of the

facility will be scheduled in the DCP. Parklea has questioned what will occur if there are insufficient funds in the DCP at the time delivery is due. In this case, Council will need to either delay the timing or seek alternatives.

Council submitted that this is demonstrable in all the community and recreation facilities delivered in Torquay North in recent years i.e. The Torquay Children's Hub, the sports ovals and other major infrastructure items. Council acknowledged that the existing Torquay Jan-Juc DCP was developed as a customised DCP under the old system. However, the funding gap is unlikely to change in the foreseeable future for regional councils.

**(ii) Discussion and conclusion**

The Panel acknowledges Parklea's concerns about the need for the facility and its ability to be funded. Council acknowledged that it may even be reviewed. The Panel agrees with Council's closing statement that in reality and inevitably there is a gap between DCP funding and the cost of community infrastructure, usually addressed by Council applying for State and Federal Funding grants to fill this gap.

**(iii) Recommendation**

**30. Add the following guideline in relation to Community Facilities:**

- **Where the responsible authority is satisfied that land shown as a local community facility on Plan 3 is unlikely to be used for that purpose, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone.**

## 11 Drafting issues

### 11.1 The issue

As a result of a number of submissions, the Panel has recommended a number of changes to the exhibited Spring Creek PSP, Residential Design Controls and UGZ1. The PSP was the subject of a workshop at the conclusion of the Hearing. Some submitters who did not attend the workshop forwarded written redrafting suggestions post-hearing.

The Panel has reviewed suggestions for changes and Council's responses and provides comment below where the issues raised have not already been addressed in this report.

Some submitters took the opportunity to make further submissions rather than clarify their existing submission and these changes have not been addressed. The Panel did not choose to include a text version of the entire PSP due to the number of 'track changes' applied and its legibility.

Council provided a response to requested changes to the exhibited documents on 18 November 2016. For information purposes, this is contained at Appendix E. The Panel's marked up versions of the UGZ Schedules are contained at Appendix D. Given the amount of changes, the Panel encourages Council and submitters to treat Appendix E as a 'running sheet' to amend the PSP accordingly prior to its final approval.

### 11.2 Residential Design Controls

#### (i) Evidence and submissions

A number of submissions have sought to raise concerns with the residential design controls within the PSP.

Council applied the '*Residential Design Controls*' (RDC) as set out in Table 2 of the PSP as mandatory requirements into the common provisions in all cases and with no discretion in any circumstances. Parklea submitted that Council's case in support of this approach is not supported by any independent evidence.

Council submitted that the RDC were derived because:

*The community and Council also expressed a desire to create a vegetated character, and retain as much of the existing vegetation within the precinct as possible. To allow adequate space for planting and retention of vegetation, site coverage restrictions and setbacks were deemed necessary. They were also required to create a preferred character for the PSP area. As overlays are not encouraged in PSP areas, Residential Design Controls were developed to apply to all land within the precinct to achieve a similar outcome.*

Council submitted that each element of the PSP contains requirements and guidelines as relevant. The PSP makes it clear that the Requirements "must be adhered to in developing land" whilst Guidelines "express how discretion will be exercised by the Responsible Authority in certain matters that require a planning permit". The 12 RDC's are to create a specific character and image sought to be achieved by the relevant requirements and guidelines.

Parklea and Amex made submission at the Hearing on the RDC prepared as part of the PSP. It generally supported the approach proposed by Council, but questioned the mandatory and inflexible nature of the RDC. It called Ms Sarah Buckeridge, of Hayball Architects.

Ms Buckeridge gave evidence based on lot testing and design controls to support the proposition that mandatory application of residential controls may lead to inappropriate outcomes in some circumstances. Ms Buckeridge took the Panel through her experience at the Sands Torquay as an relevant example of where this occurred.

Under cross examination, Ms Buckeridge was asked whether the RDC provided for housing diversity in their current form. Ms Buckeridge opined that the devil was in the implementation. Drawing on her experience with the Sands development, she said it was heartening to see the outcomes there, with more relaxed controls but detailed guidelines. It was Ms Buckeridge's view that the RDC as written would not achieve the desired outcomes without some nuance added. Ms Buckeridge advocated for a similar system to the Sands whereby a Design Review Panel would oversee development.

Mr Bisset submitted:

*The Panel must be clear that the Council's proposed approach would see the requirements of Table 2 having to be included in the Memorandum of Common Provisions for all residential subdivision without exception or discretion regardless of the use of the terms such as "must" or "should" within the relevant controls within the Table.*

Several submitters (39,41) called for the deletion or significant changes to table 2, arguing that it was overly prescriptive and these matters could be dealt with at the permit stage. Reeds Consulting, on behalf of submitter 41 made a number of suggested changes pairing back the RDC, and Council did not support a majority of them. Reeds submitted:

*There needs to be more focus by the Council on ensuring that the resulting allotments and specific controls deliver what the community who will be residing at Spring Creek want, not what the existing residents of Torquay, Jan Juc and Bellbrae who are unlikely to reside in this location desire.*

Mr Anthony Jansen from Amex provided a lay witness presentation to the Panel from a developers' perspective on the need for flexibility with regard to lot frontages, sloping sites and best practice from other states. Overall he stressed the need for flexibility. Amex and Parklea submitted that Guideline 17 be amended to alleviate this concern. Submitter 41 requested its deletion and Council agreed to this in its post-hearing changes.

Amex submitted that mandatory lot sizes within the PSP was not necessarily the best approach and suggested an average minimum lot size across the subdivision area.

Christian College (submitter 57) requested that Guideline 15 (G15) be amended to state "Dwellings **must** (instead of should) provide a positive address to community centres and schools." Council was supportive of this change.

Council submitted it "*strongly supports the use of a Memorandum of Common Provisions which is then executed through the subdivision process and remains on title as a permanent record and enforceable instrument to guide development of each and every lot post subdivision.*"

Council argued that the evidence of Ms Buckeridge discussed the use of a Design Review Panel to assess individual applications. This method or more accurately, an Architectural Review Committee (ARC), was established to review development of The Sands, Torquay. The composition of the ARC comprised representatives of the developer, Council and an architect experienced in design of dwellings sympathetic to the coastal environment.

In reality, this created additional administrative work for the responsible authority appointed on the ARC and, is proving difficult when the developer or owner of the land now no longer holds any interest in any of the land at The Sands. The issue that arises is, who is responsible for the payment of the fees associated with the ARC and the like when the developer/owner no longer holds any interest in the land? Another issue which has arisen with this process is the processing of amendments to dwellings and who carries the administrative burden of assessing such matters when the ARC ultimately dissolves?

In Council's view, the mechanism proposed, that is, that the RDC's be provided via a Memorandum of Common Provisions in any subdivision permit, is the most efficient manner of securing an intended neighbourhood character outcome without additional burden on the responsible authority. Council also believes that developers will prepare project design guidelines regardless. Council submitted:

*The Council does not accept the recommendations set out in the evidence filed on behalf of Parklea Pty Ltd prepared by Hayball. The recommendations seek to reduce front setbacks, increase site coverage and reduce the extent of permeability which in short seek to undermine the image, character and landscape objectives for this part of the PSP area. For part of the evidence consistency with Rescode is seen as a positive whilst in other parts reduction of front setbacks to 4m is seen appropriate although clearly not consistent with Rescode.*

Council submitted that it is imperative to understand that Spring Creek is not just another suburb, it will be the first development observed after Bellbrae and the green break and has a role to play to the image and character in the municipality on the approach to Torquay from the Great Ocean Road.

## **(ii) Discussion**

The Panel understands that for lots above 300 square metres approval would not be required for construction of a dwelling under the provisions of the applied General Residential Zone. The Panel generally supports the approach proposed by Council in applying the RDC as set out in Table 2 of the PSP.

On the one hand Council argued that they were open to being flexible, yet on the other when reading the RDC and the level of control specified it was hard for the Panel to reconcile. Many of these aspects are matters of detail, not yet contemplated. Council argued that the use of RDC's is to reduce the number of planning permit applications for individual dwellings and hence "reduce red tape" and make the development of the PSP area more efficient and streamlined.

The Panel considered Ms Buckeridge's evidence and gave it some weight, and formed the view that the RDC requires some flexibility for all parties. This will relieve the statutory burden should the cases requiring flexibility, as demonstrated by Parklea arise, without diluting the principles of

the RDC. The changes as proposed by Parklea and Amex in this instance, for the most part should be supported.

The Panel accepts Council argument that use of RDC's is not uncommon within PSP's to ensure that a particular image and character is achieved. This is no different to many metropolitan planning schemes that contain neighbourhood character guidelines either as a reference document or incorporated document.

The Panel appreciates the desire of Council to 'lock in' the RDC, however considers that ultimately, some flexibility needs to be built in to avoid situations where it is clear residential development is planned for that such development can actually proceed without increasing the burden on all parties. This was reinforced by Ms Buckeridge and to a lesser extent, Mr Jansen whereas Council did not call any experts or witnesses to reinforce their stringent RDC.

The Panel did not support the language change in G15 as it is a guideline, and where possible the use of the term should be avoided.

Council provided a list of the requested changes of all parties to the RDC. These are found at Appendix E, with Council's response and Panel's response where applicable. Some changes not specifically discussed within the body of the report have been made as a consequence of other recommended changes.

### **(iii) Conclusions**

The Panel concludes:

- The RDC's provided through a Memorandum of Common Provisions in any subdivision permit, is the most efficient manner of securing an intended neighbourhood character outcome without additional burden on the responsible authority.
- Additional flexibility in the RDC should be applied.
- Generally, the RDCs are structured to achieve the desired design outcomes of the PSP, and the proposed changes will not dilute the intended results.
- Other changes should be made to the PSP as shown in the following recommendations and summarised in Appendix E.

### **(iv) Recommendations**

The Panel recommends:

#### **31. Delete G17.**

#### **32. Insert the following preamble above Table 2 of the Residential Design Control to state:**

- **This table constitutes the residential design controls contemplated by Clause 4.7 of Schedule 1 to the Urban Growth Zone. These controls should inform the Memorandum of Common Provisions required by Clause 4.7 of Urban Growth Zone Schedule 1, and may be adopted in full or part as either mandatory or discretionary provisions, in conjunction with an application for subdivision, to the satisfaction of the Responsible Authority. These controls may also be varied at the discretion of the Responsible Authority.**

- 33. Amend the following controls within Table 2 of the Residential Design Control:**
- **RDC-3: minimum front setbacks to 4.0 metres and 3.0 metres for side setbacks across all columns.**
  - **RDC-5: The area of a lot covered by buildings should not exceed 35 per cent**
  - **RDC-6: At least 40 per cent of a lot must be available for the planting of vegetation and provision of permeable surfaces (excludes driveways and tennis courts of all surface types)**
- 34. At section 3.2, in the first paragraph delete the words “co-located with” and replace them with “and”.**
- 35. Delete R8 and redraft as a Guideline. As a guideline, amend the following dot points:**
- **Third: Provide staging (if relevant) and indicative timing of the development**
  - **Fourth: If appropriate, incorporate public transport services into the design of the centre**
  - **Eighth: Address interim management of the land required for longer term expansion (if relevant having regard to any staging and timing of development) so that the land is not kept in an unattractive or neglected state for long periods.**
- 36. Redraft R10 and after the words "as illustrated on Plan 5", insert the words "or by reference to an approved Concept Plan pursuant to Clause 2.6 of UGZ1".**
- 37. Delete R12.**
- 38. Delete the words “car parking and” from G18.**
- 39. Insert the following new Guidelines: G18A Buildings within the neighbourhood centre must provide:**
- **Primary vehicle access from the connector street**
  - **Positive and active building frontages addressed towards to the adjoining street network**
  - **Service and loading areas that manage amenity impacts the surrounding residential area.**
- 40. Insert G18B: Address the Activity Centre Design Guidelines as appropriate having regard to the context, scale and topography of the neighbourhood centre.**
- 41. Insert G18C: Demonstrate how the neighbourhood centre provides for a range of compatible commercial, residential and community uses.**
- 42. Insert G18D: Provide appropriate opportunities for higher density housing or specialised accommodation such as serviced apartments, aged care or retirement living.**
- 43. Insert G18E: Locate and design car parking areas to manage negative amenity impacts.**
- 44. Insert G18F: Locate and design service areas for deliveries and waste disposal including access for larger vehicles with measures that manage impacts on adjoining areas.**



## 11.3 The Urban Growth Zone Schedule 1

### (i) Submissions

Parklea made a number of drafting suggestions to the UGZ1. Mr Bisset, for Parklea submitted that it is particularly important to understand the relationship of the head clause of the UGZ, the schedule to the zone and the requirements, conditions and guidelines that would be implemented by the PSP as they would apply in the subsequent stages. Mr Bisset submitted:

*The effect of that legal structure is that requirements and specified conditions are mandatory and must be applied by Council or VCAT on appeal in relation to relevant planning permit applications. In other words they are not negotiable or subject to the exercise of discretion.*

Parklea and Amex made submissions in relation to Clause 2.7 of the proposed UGZ1. Mr Bisset questioned how Clause 2.7 operates in conjunction with Clause 4.7 of the proposed UGZ1. He queried “if Council intends that Clause 4.7 of the proposed UGZ1 is to give flexibility as to which RDCs apply to any particular subdivided lot, we submit the clauses do not work together effectively.” The matter of the RDC within the PSP was discussed in Chapter 10.

Council submitted that Clauses 2.7 and 2.8 of the Schedule to the UGZ were drafted to give effect to the RDC. Clause 2.7 specifies that if the RDC in relation to subdivision conflicts with an objective of Clause 56 that it is the RDC that prevails. The same applies for any consideration of Clause 54 and 55. Clause 2.8 of the Schedule to the UGZ provides that a permit is required to construct a building which is more than 7.5 metres above natural ground level or to extend a building of a height more than 7.5 metres above natural ground level.

Council submitted:

*Moreover, the matters set out at Clause 2.7 and 2.8 are akin to a variation to a schedule to a zone where Clauses 54 or 55 are varied. These all seek to ensure a particular image and character are either maintained or established.*

Mr Bisset submitted that Clause 4.1 was not clearly drafted, as it does not specifically provide for the option of works in lieu or credits against required contribution rates. Clause 4.2 omits provisions that give effect to or explain how the subsequent provisions will be implemented. Council supported these changes in principle.

On the matter of building height, Amex submitted the maximum building height requirement of 7.5 metres set out in the UGZ1 presents a significant restriction on home builders to design a site response built form outcome. Amex requested a height limit of 9 metres (10 metres where the land is sloped) to accommodate this.

With regard to Clause 5 – Advertising Signage, Mr Bisset submitted the proposed NAC should be subject to Category 1 signage controls, not Category 3. Council did not support this as they apply Category 3 under Design and Development Overlay Schedule 23 to the NAC in Torquay North.

### (ii) Discussion

As the Panel has made a number of recommendations throughout this report, it agrees that the flow on from these recommendations should translate to the UGZ for this matter and has amended its preferred UGZ1 at Appendix D accordingly.

In addition, it agrees with the submissions of Amex with regard to building heights, given the slope and topography of the some of the Amex land amendment this should alleviate those concerns without affecting the scale and character of the PSP area.

The Panel did not support the proposed change Clause 5.

**(iii) Conclusions**

Mr Bisset, on behalf of two submitters was the only submitter to critically assess the UGZ1 and how it relates to the PSP. Council generally supported the drafting improvements in principle where it did not clash with items discussed in Chapter 10.

The Panel concludes:

- Changes to the UGZ1 make for a more refined and workable Schedule and should be supported.

**(iv) Recommendations**

**45. Amend Schedule 1 to the Urban Growth Zone as outlined in Appendix D and make any consequential changes as a result of amendments to the Precinct Structure Plan.**

## Appendix A Submitters to the Amendment

No.	Submitter
1A-D	Peter Raines
2	Barwon Water
3	Southern Rural Water
4	Brian and Jill Pocklington
5	Greg Davis
6	John Jacoby
7	Renato Carbonelli
8	Paul Weekes
9A-B	Neal Latto
10	Kristie Kadera
11	Val Fernbach
12	Gordon and Pat Eagles
13A-B	Alison McAdam
14	Brenden Long
15	J Mason
16	Heath Selleck
17	Ray Frost
18	Greg Wilson
19	David Morony
20	Marie Kullenberg
21	'Janjucgirl'
22	Andrew Boag
23	Rachael Sorbara
24	Chris Bushfield
25	Emily Bogue
26	DEDJTR
27	John and Jennifer Walker
28	Charles Brooks
29	William Welsh
30	Stephen Byrne

---

31	Andrew Laird
32	Peter Campbell
33	Frank O'Shanassy
34	Paul Hunt
35	Mark Trintham and Fiona Crawford
36	Surf Coast Energy Group
37	Patricia Contessotto, Anneliese, Bianca, Dale and Philippa Tepper
38	Sue and Elizabeth Rodgers
39	Rural Estates
40	Department of Environment, Land, Water and Planning
41	Reeds Consulting on behalf of Mennoty Pty Ltd
42	Amex Corporation
43	Niche Planning Studio on behalf of Mack Property Developments Pty Ltd
44A&B	Cindy Jacobs
45	Joe Groher
46	David Scott
47	Lachlan Scott
48	Jennifer Appleton
49	Bridget Jacoby
50	Brian Smith
51	Anthony Christie
52	Stuart Spark
53	Peter Roberts
54	Stephen Heskett
55	Peter Bistak
56	Donald and Deborah Lawrie
57	Christian College
58	Sarah Norred
59	John Rippon
60	Grant Norris
61	Elizabeth Scott
62	Sherwood Management Pty Ltd on behalf of P J and R S Haebich
63	Victoria Rippon
64	Sue O'Shanassy

---

65	Parklea
66	3228 Residents Association
67	Rupert and Robin Irwin
68	Rebecca Hull
69	Christine Rule
70	Andrew Burnham
71	Christine Rippon
72	Surfrider Foundation
73	Darren Noyes-Brown
74	Keith Grossman
75	Lisa Rogers
76	Claire Cowan
77	Corangamite Catchment Management Authority
78	PJC Co Pty Ltd
79	Phyllis Edwards
80	Maria Abate

---

## Appendix B Parties to the Hearing

Submitter	Represented by
Surf Coast Shire Council	Ms Teresa Bisucci of Best Hooper Lawyers assisted by Karen Hose and Jorgen Peeters of Surf Coast Shire Council
Department of Environment, Land, Water and Planning (DELWP)	Mr Geoff Brooks
VicRoads	Mr John Murphy
Mack Developments	Ms Emily Porter, of Counsel instructed by Ms Alexandra Guild of Norton Rose Fulbright who called the following expert witnesses: <ul style="list-style-type: none"> <li>- Aaron Harvey (Biosis) in native vegetation</li> <li>- Mark Woodland (Echelon Planning) in planning</li> <li>- Dara McGrenaghan (Wood and Grieve Engineers) in stormwater</li> </ul>
Rural Estates (Torquay) Pty Ltd	Mr Chris Townshend SC and Ms Emily Porter, of Counsel instructed by Ms Alexandra Guild of Norton Rose Fulbright
Parklea Pty Ltd	Mr Phil Bisset, Minter Ellison and calling expert evidence in the following: <ul style="list-style-type: none"> <li>- Sarah Buckeridge (Hayball Architects) in design control</li> <li>- Jim Higgs (TTM Consulting) in traffic</li> <li>- Justin Ganly (Deep End Services) in property economics</li> </ul>
Amex Corporation	Mr Phil Bisset, Minter Ellison and calling expert evidence in the following: <ul style="list-style-type: none"> <li>- Andrew Prout (Engeny Group) in drainage</li> <li>- * Anthony Jansen from Amex provided a presentation on lot sizes and development techniques for sloping land.</li> </ul>
Mr Don Lawrie	
Mr Charles Brooks and Ms Cindy Jacobs	
Mennoty Pty Ltd	
Mr J H and Mrs J L Walker	Ms Sarah Ancell, Echelon Planning
Surf Coast Energy Group	Ms Julie Katz of APP Planners
3228 Residents Association	Mr Graeme Stockton
Mr Val Fernbach	Mr Andrew Cherubin and Ms Sue O'Shanassy
Mr Peter Raines	
Mr Dale Tepper	
Mr Roger Haebich	Ms Patricia Contessotto
Christian College Geelong	Mr Greg Tobin, Harwood Andrews

## Appendix C Document list

No.	Date	Description	Presented by
1	2/11/2016	Letter from VPA dated 19 October 2016	Surf Coast Shire Council
2	2/11/2016	Part B – Submission Surf Coast Shire Council	Surf Coast Shire Council
3	2/11/2016	DELWP Submission	DELWP
4	2/11/2016	Native Vegetation Offsets	DELWP
5	2/11/2016	DELWP Attachments	DELWP
6	2/11/2016	Submission to the Panel Hearing by VicRoads	VicRoads
7	3/11/2016	Letter from Traffix Group – GOR Alternative Access Arrangements	Surf Coast Shire Council
8	3/11/2016	Open Space Strategy	Surf Coast Shire Council
9	3/11/2016	Great Oceans Views Estate Creek Buffers	Surf Coast Shire Council
10	3/11/2016	Surf View Estate Landscape Masterplan	Surf Coast Shire Council
11	3/11/2016	Great Ocean Views – Agreement under Section 173	Surf Coast Shire Council
12	3/11/2016	Submission on behalf of Mack Property Development	Mack Property Group Pty Ltd
13	3/11/2016	200-220 Great Ocean Road, Jan Juc. Landscape Concept Plan by Papworth Davies	Mack Property Group Pty Ltd
14	4/11/2016	Submission on behalf of Rural Estates	Rural Estates (Torquay) Pty Ltd
15	4/11/2016	C66 Panel Report	Rural Estates (Torquay) Pty Ltd
16	4/11/2016	Minutes Council meeting 10 December 2013	Rural Estates (Torquay) Pty Ltd
17	4/11/2016	Panel Submission - Parklea Pty Ltd	Parklea Pty Ltd
18	4/11/2016	Hayball – Expert witness report	Parklea Pty Ltd
19	4/11/2016	Parklea 2013-022 Jan Juc North NAC	Parklea Pty Ltd
20	4/11/2016	Panel Submission - AMEX Corporation	AMEX Corporation Pty Ltd
21	4/11/2016	AMEX PSP response table	AMEX Corporation Pty Ltd

No.	Date	Description	Presented by
22	4/11/2016	80 Duffields Road – Site Features and Land Budget Plan	AMEX Corporation Pty Ltd
23	4/11/2016	AMEX Spring Creek – The need for discretionary variation to Residential Design Controls	AMEX Corporation Pty Ltd
24	7/11/2016	Panel Submission – 235 Grossmans Road	D and D Lawrie
25	7/11/2016	In support of my Duty of Care Submission	Charles Brookes
26	7/11/2016	Council meeting report recommendations - excerpt	Charles Brookes
27	7/11/2016	Submission to the Panel – 231 Grossmans Road	Cindy Jacobs
28	7/11/2016	Submission for Mennoty Pty Ltd	Mennoty Pty Ltd
29	7/11/2016	Torquay-Jan Juc Residential Development and Neighbourhood Character Policy	Mennoty Pty Ltd
30	7/11/2016	Sustainable Futures Torquay 2040 - excerpt	Mennoty Pty Ltd
31	7/11/2016	Rural Residential Development – Planning Practice Note 37	Mennoty Pty Ltd
32	7/11/2016	Panel Submission by Julie Katz on behalf of J H and J L Walker – 165 Grossmans Road	J H and J L Walker
33	7/11/2016	Spring Creek Precinct Structure Plan, Community Panel Recommendations, Aug 2015 – Minority Report	J H and J L Walker
34	7/11/2016	Email from Jorgen Peeters to John Walker, 17 October 2016	J H and J L Walker
35	7/11/2016	Photos – Walker property	J H and J L Walker
36	7/11/2016	Community Vision for the Future (A3)	Surf Coast Environment Group
37	7/11/2016	SCEG - Wildlife Card Collection	Surf Coast Environment Group
38	7/11/2016	Surf Coast Environment Group submission	Surf Coast Environment Group
39	7/11/2016	3228 Residents Association Submission	3228 Residents Association
40	7/11/2016	Submission to the Panel – 231 Grossmans Road	Peter Raines
41	8/11/2016	Summary of requested changes from current PSP	C Jacobs and P Raines
42	9/11/2016	Summary of Requested changes from current PSP	D and D Lawrie



No.	Date	Description	Presented by
43	9/11/2016	C114 – Mennoty Pty Ltd – Changes Requested to Draft Spring Creek PSP Documents	Mennoty Pty Ltd
44	9/11/2016	Appendix 2 List of Changes to the exhibited Spring Creek PSP, NVPP and UGZ1	Mr and Mrs Walker / APP
45	9/11/2016	Surf Coast Shire – proposed changes to the PSP	Best Hopper / Surf Coast Shire
46	9/11/2016	Surf Coast Shire – further direction (email only)	C Brooks
47	9/11/2016	Plan 3 and PSP proposed changes	Rural Estates
48	9/11/2016	Alternative Urban Structure Plan and PSP proposed changes	Mack Developments
49	9/11/2016	Plan 3, PSP and UGZ1 proposed changes	R and P Haebich
50	9/11/2016	Plan 3, PSP and UGZ1 proposed changes	Christian College Geelong
51	9/11/2016	PSP, Part A Table and UGZ1 track/proposed changes	Parklea Pty Ltd / Amex Corporation Pty Ltd
52	9/11/2016	Plan 7 proposed changes	VicRoads
53	10/11/2016	Submission to the panel presented by P Contessotto	D Tepper
54	10/11/2016	Hearing Folder - Haebich	R Haebich
55	10/11/2016	Outline of submissions	R Haebich
56	10/11/2016	Hearing Folder - Christian College Geelong	Christian College Geelong
57	10/11/2016	Outline of submissions	Christian College Geelong
58	10/11/2016	Addendum to amendments	Parklea and AMEX
59	10/11/2016	Reply Submission	Surf Coast Shire Council
60	10/11/2016	Email from E McIntosh to Jorgen Peeters, 9 November 2016	Surf Coast Shire Council
61	10/11/2016	Bellbrae Strategic Framework Plan (Clause 21.14) (Amendment C74)	Surf Coast Shire Council

# Appendix D Panel preferred Urban Growth Zone Schedule 1

[Tracked Added by Panel](#)

~~Tracked Deleted by Panel~~

--/20--  
C114

## SCHEDULE 1 TO THE URBAN GROWTH ZONE

Shown on the planning scheme map as **UGZ1**.

### SPRING CREEK PRECINCT STRUCTURE PLAN

#### 1.0 The Plan

--/20--  
C114

Map 1 shows the future urban structure proposed in the incorporated *Spring Creek Precinct Structure Plan*.

#### Map 1 to Schedule 1 to Clause 37.07

[Map to be updated to reflect Panel recommendations](#)

#### 2.0 Use and development

##### 2.1 The Land

--/20--  
C114

The provisions specified in this schedule apply to land in the Spring Creek Precinct as shown on Map 1 [subject to Clause 2.2 of this schedule](#) and shown as UGZ1 on the planning scheme map.

##### 2.2 Applied zone provisions

--/20--  
C114

The provisions of the following zones in this scheme apply to the use and subdivision of land, the construction of a building and the construction or carrying out of works, by reference to Map 1 of this schedule [or by reference to the boundaries of the neighbourhood centre identified on the Concept Plan approved pursuant to Clause 2.6 of this schedule and section 3.2 of the Spring Creek Precinct Structure Plan](#).

**Table 1: Applied zone provisions**

Land use or development (carried out or proposed) generally in accordance with the precinct structure plan applying to the land	Applied zone provisions
Neighbourhood centre	Clause 34.01 – Commercial 1 Zone
Conservation reserve	Clause 36.03 – Public Conservation and Resource Zone
Encumbered land (slope 1 in 3) Open space Waterway & drainage reserve	Clause 36.02 – Public Park and Recreation Zone
All other land	Clause 32.08 – General Residential Zone-Schedule 1

### 2.3 Reference to a planning scheme zone is a reference to an applied zone

--/20--  
C114

A reference to a planning scheme zone in an applied zone must be read as if it were a reference to an applied zone under this schedule.

Note:

*e.g. The General Residential Zone specifies 'Car wash' as a Section 2 Use with the condition, 'The site must adjoin, or have access to, a road in a Road Zone.' In this instance the condition should be read as, 'The site must adjoin, or have access to, a road in a Road Zone or an applied Road Zone in the Urban Growth Zone schedule applying to the land'*

### 2.4 Specific provisions – Use and development of future public land

--/20--  
C114

A permit is not required to use or develop land shown in the *Spring Creek Precinct Structure Plan* as open space (active or passive) or community facilities provided the use or development is carried out generally in accordance with the *Spring Creek Precinct Structure Plan* and with the prior written consent of Surf Coast Shire Council.

### 2.5 Specific provisions – Use of land

--/20--  
C114

The use of land must be generally in accordance with the incorporated *Spring Creek Precinct Structure Plan*.

The following provisions apply to the use of land.

**Table 2: Use**

Use	Condition
<b>In the applied General Residential Zone:</b> <b>Convenience restaurant</b> <b>Take away food premises</b> <b>Service station</b> <b>Car wash</b>	Prohibited
<b>Shop where the applied zone is Commercial 1 Zone</b>	A permit is required to use the land for a shop if the combined leasable floor area of all shops exceeds 5,000 square metres.

### 2.6 Specific provisions - Neighbourhood Centre

--/20--  
C114

A permit must not be granted to use or subdivide land, construct a building or construct or carry out works within the land identified as the Neighbourhood Centre in the incorporated *Spring Creek Precinct Structure Plan* until a concept plan for the Neighbourhood Centre has been prepared to the satisfaction of the responsible authority.

Unless the responsible authority agrees, the concept plan must include all of the land in the Neighbourhood Centre and must be generally in accordance with the objectives and planning and design guidelines within the incorporated *Spring Creek Precinct Structure Plan*.

A permit may be granted to subdivide land, construct a building or construct or carry out works prior to the approval of a concept plan if, in the opinion of the responsible authority, the grant of the permit will ~~assist in achieving not prejudice the future use and development of the land in an integrated manner, and not prejudice the delivery of the objectives and the planning and design guidelines for the neighbourhood centre set out in the incorporated~~ generally in accordance with section 3.2 of the *Spring Creek Precinct Structure Plan* to the satisfaction of the Responsible Authority.

The concept plan may be amended to the satisfaction of the responsible authority.

## 2.7 Specific provisions – Residential design controls

--/20--  
C114

The residential design controls in the incorporated *Spring Creek Precinct Structure Plan* are set out at Table 2 of the Spring Creek Precinct Structure Plan. ~~must be met by a residential subdivision or a development of a dwelling on a residential lot, as relevant, to the satisfaction of the responsible authority.~~

Where a residential design control relating to subdivision conflicts with an objective or standard of Clause 56 of this scheme, the residential design controls prevail.

Where a residential design control relating to the development of a dwelling conflicts with an objective or standard of Clause 54 or Clause 55 of this scheme, other than in relation to dwellings proposed for the medium and high density housing areas depicted on Map 1 of this schedule or by reference to a Concept Plan approved pursuant to Clause 2.6 of this schedule, the residential design controls prevail.

## 2.8 Specific provisions – Building heights

--/20--  
C114

A permit is required to construct a building which is more than 9.7.5 metres above natural ground level or to extend a building where the extension is more than 9.7.5 metres above natural ground level (excluding any television antenna, chimney, flue or solar panels attached to the building), or 10 metres where there is a slope of more than 2.5 degrees across a cross-section wider than 8 metres.

Before deciding on an application the responsible authority must consider:

- Whether a building height over 9.7.5 metres is reasonable due to the physical constraints of the site.
- Whether the building has been designed to step down the slope on steep sites to reduce building height and reduce the appearance of visual bulk.
- Whether the extent of building that exceeds a height of 9.7.5 metres above natural ground level ~~has been minimised~~ is appropriate.
- Whether the height of a building will cause the building to be visually prominent within the landscape or when viewed from adjoining properties.
- Whether the landscaping of the site will soften the appearance of the building in the landscape and from adjoining properties.
- How the building height contributes to the visual appearance of building scale and bulk.

## 3.0 Application requirements

--/20--  
C114

If in the opinion of the responsible authority an application requirement listed at 3.1 or 3.2 is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

### 3.1 Subdivision - Residential development

--/20--  
C114

An application for subdivision must be accompanied by a site analysis and design response as detailed in Clause 56.01. In addition, the site analysis and design response must show or include the following to the satisfaction of the responsible authority:

- A written statement that explains how the subdivision meets the objectives, requirements, guidelines and residential design controls in the incorporated *Spring Creek Precinct Structure Plan*.
- A land budget table in the same format and methodology as those within the *Spring Creek Precinct Structure Plan*, setting out the amount of land allocated to the proposed uses and expected population and dwelling yields.
- Integration with the existing or proposed subdivision of adjoining properties including through alignment and configuration of the street network and landscape character.
- The staging of the development.

An application for subdivision on land with a slope greater than 10 percent must also be accompanied by a report and plan that addresses the following:

- The type, location and approximate depth of any proposed earthworks.
- The location and approximate height of proposed retaining walls or other methods of retaining soil batters.
- The impact of the proposed development and works on land stability and erosion, and identification of appropriate methods of erosion control and slope stability for the proposed development.
- The location and approximate grade of any proposed roads and paths.
- Indicative lot access arrangements consistent with Surf Coast Shire standards for crossover design.

An application for subdivision on a land parcel which includes a conservation reserve must also be accompanied by a Conservation Management Plan to the satisfaction of the responsible authority. The plan must be to the satisfaction of the responsible authority and address four key biodiversity themes:

- Biodiversity representation
- Ecological restoration
- Fire management; and
- Threat management

### 3.2 Precinct Infrastructure Plan

--/20--  
C114

An application for subdivision must be accompanied by a Precinct Infrastructure Plan which addresses the following:

- A stormwater management strategy that makes provision for the staging and timing of stormwater drainage works, including temporary outfall provisions, to the satisfaction of the Catchment Management Authority and the responsible authority;
- An Integrated Water Management Statement which addresses how the objectives and planning and design guidelines of the Integrated Water Management Plan of the incorporated *Spring Creek Precinct Structure Plan* are achieved and what land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;
- The landscaping of any land;
- What, if any, infrastructure set out in an applicable Development Contributions Plan is sought to be provided as "works in lieu" subject to the written consent of the responsible authority;
- The provision of public open space and land for any community facilities;
- Any other matter relevant to the provision of public infrastructure required by the responsible authority; and
- A Landscape Master Plan which addresses the following:
  - themes for the planting of street trees within all road reserves
  - concepts for the landscaping of public open space reserves.

The Landscape Master Plans must address and respond to the provisions set out in the incorporated *Spring Creek Precinct Structure Plan* and include objectives and principles for the subsequent preparation of detailed landscape plans in relation to each part of the land.

### 3.3 Traffic Impact Assessment

--/20--  
C114

An application that proposes to create or change access to an arterial road must be accompanied by a Traffic Impact Assessment Report (TIAR). The TIAR, including functional layout plans and a feasibility/concept road safety audit, must be to the satisfaction of VicRoads.

### 3.4 Use or develop land for a sensitive purpose – Environmental Site Assessment for land at 90, 140 and 170 Duffields Road and 200, 220 and 260 Great Ocean Road

--/20--  
C114

An application for the subdivision, use or development of land for a sensitive use (residential use, child care centre, kindergarten or primary school) within areas identified as being of potential environmental interest (e.g. potentially contaminated land or land at risk from land slip), must be accompanied by an environmental site assessment by a suitably qualified environmental professional to the satisfaction of the responsible authority. The assessment should include the following information:

- Detailed assessment of potential contaminants on the relevant land.
- Clear advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all, or part, of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.
- Detailed assessment of surface and subsurface water conditions and geotechnical characteristics on the relevant land and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater conditions and geology on the development and the impact of the development on surface and subsurface water.
- Recommended remediation actions for any potentially contaminated land.

All to the satisfaction of the responsible authority.

### 3.5 Sloping land

--/20--  
C114

An application for development on any natural or fill slopes that are steeper than 1V:6H (i.e. 10 degrees) and are more than 3 metres high must be accompanied by detailed topographical surveying, geotechnical assessment and details of any remediation works to the satisfaction of the responsible authority.

### 3.6 Kangaroo Management Plan

--/20--  
C114

An application for subdivision must be accompanied by:

- A staging plan to help avoid landlocked kangaroos. All staging plans must be prepared in accordance with the key management principles outlined in the *Spring Creek Precinct Structure Plan*, and:
  - Plan the order of each stage of subdivision to avoid landlocking Eastern Grey Kangaroos.
  - Abut hazardous or built up areas and progress toward undeveloped areas.
  - Coordinate stages with adjacent subdivision applications, where relevant.
  - Consider exit routes for Eastern Grey Kangaroos (such as nearby roads, fences, gates and quarries, gaps between development and open space, and creek lines).
  - Include an explanation on how the subdivision will be staged to minimise the risk of Eastern Grey Kangaroos being landlocked, including estimated dates for each stage, as part of the 'design/management response' statement.
- A 'design/management response' statement outlining how the application is consistent with the key management principles outlined in the *Spring Creek Precinct Structure Plan*.

Both the staging plan and the 'design/management' response are to be to the satisfaction of the responsible authority.

### ~~3.7 Subdivision – Functional Layout Plans~~

--/20--  
C114

~~An application for subdivision must be accompanied by functional layout plans of the road network showing the location of all:~~

- ~~▪ Road pavements and verges~~
- ~~▪ Underground services~~
- ~~▪ Intersection devices~~
- ~~▪ Driveways and crossovers~~
- Shared, pedestrian and bicycle paths

- Street lights
- Street trees
- On-street parking spaces

A typical cross section of each street must also be submitted showing above and below ground placement of services, street lights and trees.

The plans and cross sections must demonstrate how services, driveways and street lights will be placed so as to achieve the required road reserve width (consistent with the road cross sections in the *Spring Creek Precinct Structure Plan*) and accommodate the minimum level of street tree planting requirements. The plan and cross sections must nominate which services will be placed under footpaths or road pavement, as relevant.

The plans and cross sections are to be to the satisfaction of the responsible authority and all relevant service authorities.

#### 4.0 Conditions and requirements for permits

--/120--  
C114

Any permit must contain conditions which give effect to any requirements or conditions of the relevant part of the incorporated *Spring Creek Precinct Structure Plan* and *Spring Creek Native Vegetation Precinct Plan*.

#### 4.1 Subdivision – Functional Layout Plans

##### An application for subdivision must be accompanied by functional layout plans of the road network showing the location of all:

- Road pavements and verges
- Underground services
- Intersection devices
- Driveways and crossovers

#### 4.12 Condition - Development Contributions

--/120--  
C114

Where a development contributions plan for the Spring Creek Precinct has not been incorporated in this scheme, a Statement of Compliance in respect of subdivision of land must not be issued unless the owner enters into an agreement under Section 173 of the *Planning and Environment Act 1987* providing for development contributions. The agreement must have regard to the matters set out in the incorporated *Spring Creek Precinct Structure Plan*.

The agreement must ~~include requirements to provide those~~ provide for the owner to make a development contributions that the responsible authority is satisfied ~~is~~ are necessary to ~~be provided on or to the land or on other land as a result of the development of the land subject of the application or to~~ ensure the orderly and proper development of the Spring Creek Precinct. The agreement may also provide for the timing of land acquisition and other buildings and works to be undertaken or funded by any person other than the owner of the land subject to the agreement, including the Council, the Responsible Authority or any other public authority.

#### 4.23 Condition - Subdivision or building and works permits where land is required for community facilities, public open space, road widening and drainage

--/120--  
C114

Any permit for subdivision must contain the following conditions, as relevant:

##### **Open space, conservation reserves and community facilities**

Land identified as open space, conservation reserve or community facilities as set out in the incorporated *Spring Creek Precinct Structure Plan* must be ~~transferred to or vested in Council at no cost to Council unless funded by an~~ provided in accordance with any applicable Development Contributions Plan or planning agreement under section 173 of the *Planning and Environment Act 1987* pursuant to Schedule 3 of the *Development Contributions Plan Overlay*.

**Road widening**

Apart from land affected by a Public Acquisition Overlay, land required for road widening including right of way flaring for the ultimate design of any intersection with an existing or proposed arterial road must be transferred to or vested in Council or VicRoads at no cost to the acquiring agency unless funded by an applicable Development Contributions Plan [or planning agreement under section 173 of the Planning and Environment Act 1987 pursuant to Schedule 3 of the Development Contributions Plan Overlay](#).

**Drainage**

Individual stages of development must demonstrate compliance with the staged delivery of ultimate drainage infrastructure in accordance with Plan 8 of the incorporated *Spring Creek Precinct Structure Plan*.

**4.34**

--/20--  
C114

**Bushfire management**

Any permit for subdivision must contain the following conditions:

Before the commencement of works for any stage of subdivision a Site Management Plan that addresses bushfire risk during, and where necessary, after construction must be submitted to and approved by the Country Fire Authority and the responsible authority. The plan must specify, amongst other things:

- The staging of development and the likely bushfire risks at each stage.
- An area of land between the development edge and non-urban areas consistent with the separation distances specified in AS3959-2009, where bushfire risk is managed.
- The measures to be undertaken by the developer to reduce the risk from fire within any surrounding rural or undeveloped landscape and protect residents and property from the threat of fire.
- How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.
- The reticulated fire hydrant service plan, with calculated pressure and flows available during peak demand.

Roads must be constructed to the followings standards, unless otherwise approved by the Country Fire Authority:

- Constructed roads must be a minimum of 7.3 metres trafficable width where cars are parked on both sides, or:
  - A minimum of 5.4 metres in trafficable width where cars may park on one side only.
  - A minimum of 3.5 metres width with no parking and 0.5 metres clearance to structures on either side, and if this width applies, there must be passing bays at least 20 metre long, 6 metres wide and located not more than 200 metres apart.
- Roads must be constructed so that they are capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- The average grade of a road must be no more than 1 in 7 (14.4 percent or 8.1°).
- The steepest grade on a road must be no more than 1 in 5 (20 percent or 11.3°) with this grade continuing for no more than 50 metres at any one point.
- Dips in a road must have no more than a 1 in 8 grade (12.5 percent or 7.1°) entry and exit angle.
- Constructed dead end roads more than 60 metres in length from the nearest intersection must have a turning circle with a minimum radius of 8 metres (including roll-over curbs if they are provided).

**4.43**

--/20--  
C114

**Public transport**

Any permit for subdivision must contain the following condition:

Unless otherwise agreed by Public Transport Victoria, prior to the issue of a Statement of Compliance for any subdivision stage, bus stop hard stands with direct and safe pedestrian access to a pedestrian path must be constructed:



- In accordance with the *Public Transport Guidelines for Land Use and Development* and be compliant with the *Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002*.
- At locations approved by Public Transport Victoria, at no cost to Public Transport Victoria, and to the satisfaction of Public Transport Victoria.

#### 4.56 Construction management

--/20--  
C114

Before the works start, a Construction Environment Management Plan (CEMP) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. In addition to the responsible authority's standard requirements, the CEMP must include whether the development involves the removal of any trees. Where trees are identified for removal, the plan must also address:

- Prior to the removal, lopping or destruction of a tree, the examination of the tree by a suitably qualified individual for the presence of vertebrate fauna, including those using external nests (eg. common ringtail possum, bird nests) and tree hollows.
- Where native fauna species are identified as being present, the salvage and relocation of the fauna in accordance with all relevant legislation and approvals.

#### 4.67 Condition - Use or develop land for a sensitive purpose for land at 90, 140 and 170 Duffields Road and 200, 220 and 260 Great Ocean Road

--/20--  
C114

Before a plan subdivision is certified under the Subdivision Act 1988, the recommendations of the Phase 2 Environmental Site Assessment submitted with an application for land at 90, 140 and 170 Duffields Road and 200, 220 and 260 Great Ocean Road, must be carried out to the satisfaction of the responsible authority.

Upon receipt of the further testing report the owner must comply with any further requirements made the responsible authority after having regard to the guidance set out in the General Practice Note on Potentially Contaminated Land June 2005 (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

#### 4.78 Restrictions

--/20--  
C114

Prior to the Certification of the Plan of Subdivision, a Memorandum of Common Provisions must be placed on the Plan of Subdivision for all residential lots to the satisfaction of the responsible authority. The restriction must include reference to relevant residential design guidelines within the Spring Creek Precinct Structure Plan.

Applications must be made to the Registrar of Titles to have the Memorandum of Common Provisions registered on title to the land under section 181 of the Subdivision Act 1988 which provides that on each lot to be created, buildings must be constructed only in accordance with the Memorandum of Common Provisions.

#### 5.0 Advertising signs

--/20--  
C114

The advertising category is category 3.

Despite the provisions of Clause 52.05, signs promoting the sale of land or homes on the land (or on adjoining land in the same ownership) may be displayed without a permit provided:

- The advertisement area for each sign does not exceed 10 square metres;
- Only one sign is displayed per road frontage. Where the property has a road frontage of more than 150 metres multiple signs may be erected provided there is a minimum of 150 metres distance between each sign, with a total of not more than 4 signs per frontage;
- The sign is not animated, scrolling, electronic or internally illuminated sign;
- The sign is not displayed longer than 21 days after the sale (not settlement) of the last lot; and
- The sign is setback a minimum of 750 millimetres from the property boundary.

A permit may be granted to display a sign promoting the sale of land or homes on the land (or on adjoining land in the same ownership) with an area greater than 10 square metres.

## 6.0 Decision guidelines

-/-20-  
C114

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works the responsible authority must consider, as appropriate:

- Whether the use or development is consistent with the incorporated *Spring Creek Precinct Structure Plan, 2016*.
- Whether the use or development is consistent with the incorporated Spring Creek Native Vegetation Precinct Plan, 2016.
- Whether the use or development is consistent with any applicable Development Contributions Plan.
- Whether an application for land within the Neighbourhood Centre is consistent with any approved Concept Plan

## **Appendix E Council response to requested changes to the exhibited Spring Creek PSP, UGZ1, DCPO3 and Clause 52.01 Schedule, with summary of Panel recommendations**

Note: This table was submitted by Council post-hearing on 18 November 2016 in response to the without prejudice workshop and parties' marked up PSPs. The Panel has added an additional column with its recommendation where it has differed from the Council response, with the corresponding recommendation from the report. Where there is no corresponding recommendation, the Panel has provided brief commentary. Other submissions not dealt with here have been dealt with throughout the body of the report where relevant.

### Precinct Structure Plan

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
5	1.0	Amend final sentence to "through the construction of approximately 2,400 dwellings to accommodate more than 6,000 people".	41	Not supported.	Agree with Council.
		Update population figure to account for density suggestions.	57 + 62	Not supported.	Subject to other changes, covered by rec 1.
	1.1	Delete 2 <sup>nd</sup> dot point: <i>Enables the transition of non-urban land to urban land.</i>	39	Not supported. This is one of the key purposes of a PSP and the UGZ.	Agree with Council.
		Delete reference to Open Space Strategy 2016-2026.	62	Not supported. The strategy is not a reference document in the Planning Scheme, but is an adopted document that has informed the PSP.	Agree with Council.
8	Plan 3	Change "residential (lot size 500-600m sq)" to "medium density residential (townhouses and terraced housing)".	41	Not supported.	Agree with Council.
		Change "residential (lot size 600-900m sq)" to conventional density residential (minimum average lot size at least 500m sq)".	41	Not supported.	Agree with Council.
		Remove "residential (lot size 1500-2000m sq)" category.	41	Not supported.	Agree with Council.
		Remove the waterway and drainage reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council.
		Review the conservation reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council.

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Delete open space OS-01 (encumbered and unencumbered) and waterway corridor/drainage asset from Property 2.	27	Not supported.	See rec 23.
		Extend road to PSP boundary.	39	Council does not support any roads terminating at the western boundary.	See rec 4. (southern portion)
		Change designation of 1500-2000sqm lots along south-west boundary to residential (lot size 600-900sqm).	39	Not supported.	See rec 26, 27
		Pedestrian access over Spring Creek to be realigned.	43	Council accepts that the location of the pedestrian bridge may be reviewed subject to further detailed site investigations.	Agree with Council.
		Local access road to be relocated closer to creek.	43	Council does not support a reduction to the creek buffers.	See rec 18
		Waterway to be removed.	43	Not supported.	See rec 10
		Dam within open space to be relocated.	43	Not supported.	See rec 10
		Open space allocation to be reduced.	43	Not supported.	See rec 17
		Area of vegetation to be slightly reduced.	43	Not supported.	See rec 21
		Dam within vegetation to be removed.	43	Not supported.	See rec 10
		Higher density residential land to be encouraged around the school site.	43	Not supported.	See rec 26
		Dog-leg to be re-oriented.	43	Not supported. Road frontage to school site to be maintained.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Higher order uses (ie medical centre, childcare centre, café).	43	Council not opposed to higher order uses in this location, but submits these do not need to be shown on Plan 3 as they can be considered pursuant to the underlying residential zone.	Agree with Council
		Development to be set back 30m from 1 in 10 year floodplain.	43	Council does not support a reduction to the creek buffers.	See rec 9, 10, 18
		Drain within conservation area to be removed.	43	Not supported.	See rec 9
		Proposed nature play area.	43	Council not opposed to delivery of nature play area in a suitable location, but should not be shown on Plan 3.	Agree with Council
		Removal of vegetated tail.	43	Strongly opposed for the reasons set out in Council's submissions.	See rec 21
		Remove open space and conservation reserve from Property 3.	62	Not supported.	See rec 23
		Move local access street to south or DCP fund to deliver.	62	Not supported.	Agree with Council
		Standard density lots along Grossmans Road.	62	Not supported.	Agree with Council
		Continue road to western boundary as per Rural Estates.	57	Not supported.	See rec 3,4
		Standard density lots (along western precinct boundary).	57	Not supported.	Subject to other changes. Covered by rec 1
		Remove open space (along western precinct boundary).	57	Not supported.	See rec 22.

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Reduce open space per overall reduction.	57	Not supported.	Subject to other changes, covered by rec 1.
		Identify land for potential non-residential use.	57	Not supported.	Agree with Council
		Reduce size of open space / conservation area to facilitate lots fronting connector.	57	Not supported.	Subject to other changes, covered by rec 1.
		If connector straightened against school submissions, move open space to land between connector and school boundary.	57	Not supported.	Agree with Council
		Identify land around school for higher density residential.	57	Not supported.	See Rec 25, 26
		Increase the size of the neighbourhood centre to 3ha.		Supported.	Agree with Council
		Notation on map or additional shading to designate potential medium / high density housing in and around the NAC.	42 +65	Not supported.	Subject to other changes, covered by rec 1.
9	2.1	Amend 3 <sup>rd</sup> paragraph as follows: A range of housing densities will respond to the topography and sensitive interfaces, including the Spring Creek riparian corridor and <del>rural</del> land to the west, which is currently rural but is recognised as having potential for future residential development and is required by the Planning Scheme to be the subject of a further strategic planning exercise to identify preferred land uses.	39	Strongly opposed. Land further to the west is <u>not</u> identified by Council or any strategic documents for future residential development.	See rec 4
		Amend 3 <sup>rd</sup> paragraph as follows: A range of housing densities will respond to the topography and sensitive interfaces, including the Spring Creek riparian corridor and <del>rural land to the west</del> , the proposed neighbourhood activity centre and the non-government school.	43	Not supported.	Agree with Council
	2.2	Amend O5 "Provide for a range of residential densities and lot types, including medium density around the neighbourhood centre".	41	Not supported.	See rec 25

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Amend O5 "Provide for a range of residential densities that reduce along Spring Creek and Grossmans Road, near rural land, and increase to allow the creation of lots of less than 600 square metres within a reasonable walking distance of the <del>around the commercial centre</del> neighbourhood activity centre and the non-government school."	43	Not supported.	See rec 25
		Amend O5 "Provide for a range of residential densities that reduce along Spring Creek and Grossmans Road, near rural land north of Spring Creek, and increase around the commercial centre."	39	Not supported.	Agree with Council
		Amend O11 "Deliver a permeable movement network of attractive streetscapes which connect residential, community and commercial uses and encourage walking and cycling and provide for future connection to land to the west."	39	Strongly opposed. Land further to the west is <u>not</u> identified by Council or any strategic documents for future residential development.	See rec 4
10	Plan 4	Change "residential (lot size 500-600m sq)" to "medium density residential (townhouses and terraced housing)".	41	Not supported.	Agree with Council
		Change "residential (lot size 600-900m sq)" to conventional density residential (minimum average lot size at least 500m sq)".	41	Not supported.	Agree with Council
		Remove "residential (lot size 1500-2000m sq)" category.	41	Not supported.	Agree with Council
11	2.3	Amend third and fourth sentences to: "The land budget shows that the PSP will yield 2,398 lots with an average density of approximately 13 dwellings per net developable hectare. An average household size of 2.54 persons for conventional density housing (based on Victoria in Future 2015), is used to estimate the future population of the PSP area. On this basis, the future population of the PSP is estimated to be 6,091 residents."	41	Not supported.	Agree with Council



P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Update dwelling yield and densities.	57 + 62	Not supported.	Subject to other changes, covered by rec 1.
	Table 1	Remove the waterway and drainage reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council
		Review the conservation reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Subject to other changes, covered by rec 1.
		Remove the individual lot size categories and just use the net developable area to calculate the dwelling capacity at 13 dwellings per hectare, i.e.: NDA = 184.48 Dwell / NDHa = 13 Dwellings = 2,398	41	Not supported.	Subject to other changes, covered by rec 1.
		Update to reflect submissions in relation to reduced areas of waterways, conservation area, open space.	43	Not supported	Subject to other changes, covered by rec 1.
12	Plan 5	Change “residential (lot size 500-600m sq)” to “medium density residential (townhouses and terraced housing)”.	41	Not supported.	Agree with Council
		Change “residential (lot size 600-900m sq)” to conventional density residential (minimum average lot size at least 500m sq)”.	41	Not supported.	Agree with Council
		Remove “residential (lot size 1500-2000m sq)” category.	41	Not supported.	Agree with Council
		Remove the local convenience centre and its catchment from Plan 5, and instead add a note in the legend “local convenience centre location to be determined”	41	Supported.	Agree with Council
		Inclusion of notation indicating that the location of a Local Convenience Centre is to be included on the landholding of 80 Duffields Road.	42 + 65	Not supported.	See rec 29
13	R1	Redraft as a guideline.	42 + 65	Not supported. Maintain as a requirement.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
	R2	Redraft as a guideline.	42 + 65	Not supported. Maintain as a requirement.	Agree with Council
	R3	Redraft as a guideline.	42 + 65	Not supported. Maintain as a requirement.	Agree with Council
	G4	Delete.	41	Not supported.	Agree with Council
	G8	After the phrase "abutting open space areas", insert the words "other than retaining walls constructed to a boundary".	42 + 65	Not supported.	Agree with Council
14	R4	Redraft as a guideline.	42 + 65	Not supported. Maintain as a requirement.	Agree with Council
	R5	Redraft as a guideline.	42 + 65	Not supported.	Agree with Council
	R6	Add "(with the exception of lots fronting Grossmans Road)". This does not work in the current layout of large lots and open space in between the drainage line and Grossmans Road. Primary position is to delete open space. Secondary position is to remove this impracticable requirement.	62	Not supported. G43 provides discretion for alternative access to be considered.	Agree with Council
		(a) Insert the word "any" before the words "dwellings fronting open space"; (b) Insert the words "in order to provide a physical separation between the dwelling and the open space, conservation reserve or arterial road".	42 + 65	Not supported. Refer to wording previously provided by Council.	Agree with Council
	R7	Inconsistent with R6.	62	Agree. Council has provided amended wording for R5, R6, R7.	Agree with Council
		Redraft as a guideline.	42 + 65	Not supported.	Agree with Council
	G15	Modify to "Dwellings should must provide a positive address to abutting community centres and schools" and include as a requirement.	57	Council is not opposed to this change.	Retain as should
	G17	Delete.	41	Accepted.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Replace with “Lot sizes may be reviewed based on matters including design, orientation, topography, aspect and subdivision layout. Lot sizes may be provided both above and below the lot size ranges set out in Table 2 and Plan 3, provided that the average minimum lot size in a subdivision area does not fall below the minimum lot size provided for the relevant area.”	42 + 65	Not supported. Council agreed to delete G17.	See rec 31
		Add G18 – Greater housing diversity is encouraged within a reasonable walking distance of the neighbourhood activity centre and non-government school.	43	Not supported.	Agree with Council
14 15	Table 2	Underneath the heading "Table 2 Residential design controls", insert the following words:  <i>This table constitutes the residential design controls contemplated by Clause 4.7 of Schedule 1 to the Urban Growth Zone. These controls should inform the MCP required by Clause 4.7 of UGZ1, and may be adopted in full or part as either mandatory or discretionary provisions, in conjunction with an application for subdivision, to the satisfaction of the Responsible Authority.</i>	42 + 65	Supported in part. Reword as follows:  <i>This table constitutes the residential design controls contemplated by Clause 4.7 of Schedule 1 to the Urban Growth Zone. These controls must inform the MCP required by Clause 4.7 of UGZ1.</i>	See rec 32
		Table 2 is unnecessarily prescriptive and should be deleted; these matters would be better covered at permit stage.	39	Not supported. Council prefers the use of MCPs to reduce planning permit requirements.	Agree with Council – see rec 32
	RDC-1	Delete.	41	Not supported.	Agree with Council
		Change 500-600 sqm category to “medium density residential (townhouses and terraced housing) – no specific lot sizes”.	41	Not supported.	Agree with Council
		Change “residential (lot size 600-900m sq)” to conventional density residential (minimum average lot size at least 500m sq)”.	41	Not supported.	Agree with Council
		Remove “residential (lot size 1500-2000m sq)” category.	41	Not supported.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
	RDC-3	Amend to be in accordance with ResCode, i.e. 4m façade setback to dwellings and 2m size setback when adjoining a road.	41	Not supported.	Agree with Council
		(a) Change minimum front setbacks to 4.0 metres.	42 +	Not supported.	See rec 33
		(b) Change minimum side setbacks to 3.0 metres.	65		
	RDC-4	Amend so that setbacks to rear boundaries are 3m not 20m and require landscaping along the boundary with land in the Farming Zone.	41	Not supported.	Agree with Council
		(a) Delete the current additional requirements set out in relation to the 500-600sqm lots;	42 +	Not supported.	Agree with Council
		(b) Replace the requirements with the following words:	65		
		(i) A new wall should be located a minimum of 2.0 metres from a side boundary.			
		(ii) A new wall should be located a minimum of 5.0 metres from a rear boundary to facilitate privacy between upper levels of adjoining lots.			
	RDC-5	Amend to allow site coverage up to 60 percent on sites less than 500 sqm.	41	Not supported.	Agree with Council
		(a) Amend site coverage from 35 percent to 50 percent; and	42 +	Not supported.	See rec 33
		(b) At the end of the sentence, insert the words "or 60 per cent including all impervious surfaces".	65		
	RDC-6	Amend to "Front setbacks must be planted with a canopy tree or trees".	41	Not supported.	Agree with Council
		(a) Amend reference to 50 percent to 40 percent; and	42 +	Not supported.	See rec 33
		(b) After the phrase "planting of vegetation", insert the words "and provision of permeable surfaces".	65		
16	3.2	1 <sup>st</sup> paragraph: delete the words "co-located with" and replace them with "and".	42 +	Supported.	See rec 34
			65		

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		2 <sup>nd</sup> paragraph: replace the first sentence with: <i>The Spring Creek Neighbourhood Centre will provide important economic support for the local both in the early phases of residential development in the PSP area and the subsequent growth of the Spring Creek community.</i>	42 + 65	Not supported.	Agree with Council
17	R8	1 <sup>st</sup> bullet point: redraft as a Guideline which refers to the Activity Centre Design Guidelines.	42 + 65	Not supported.	Agree with Council
		2 <sup>nd</sup> bullet point: redraft as a Guideline	42 + 65	Not supported.	Agree with Council
		3 <sup>rd</sup> bullet point: after the words "provide staging", insert "(if relevant)"	42 + 65	Supported.	See rec 35
		4 <sup>th</sup> bullet point: insert the words "if appropriate" at the start of the point	42 + 65	Supported.	See rec 35
		5 <sup>th</sup> bullet point: redraft as a Guideline	42 + 65	Council suggests deleting this point.	See rec 35
		6 <sup>th</sup> bullet point: redraft as a Guideline	42 + 65	Not supported.	See rec 35
		7 <sup>th</sup> bullet point: redraft as a Guideline	42 + 65	Not supported.	See rec 35
		8 <sup>th</sup> bullet point: after the words "longer term expansion", insert the words "(if relevant having regard to any staging and timing of development)"	42 + 65	Supported.	See rec 35
	R10	After the words "as illustrated on Plan 5", insert the words "or by reference to an approved Concept Plan pursuant to Clause 2.6 of UGZ1".	42 + 65	Not supported.	See rec 36
	R12	Redraft as a Guideline.	42 + 65	Not supported.	See rec 37

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
	R13	Redraft to read as follows: <i>A local convenience centre must be:</i> <ul style="list-style-type: none"> <li>• provided for within the landholding of 80 Duffields Road, with the ultimate location to be approved by the Responsible Authority; and</li> <li>• located on and positively address the adjoining street.</li> </ul>	42 + 65	Not supported.	See rec 29
	G18	Delete the words "car parking and".	42 + 65	Not supported.	See rec 38
		Insert G18B-F	42+65	Not supported	See rec 39-44
18	Plan 6	Remove the waterway and drainage reserve from Property 1 (225 Grossmans Road).	41	Not supported.	See rec 9
		Review the conservation reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council
		Remove OS-08 away from western boundary.	1 + 44	Council has suggested OS-08 could be relocated to cover tree 41-47 as suggested in DELWP submission.	See rec 22
19	R15	Reduce public open space contribution to 4 percent passive public open space.	43	Strongly opposed. Council maintains a 10 percent POS contribution should be required consistent with other areas in Torquay.	See rec 17
		Reduce public open space contribution to 5 percent.	62	As above.	See rec 17
20	G25	"may vary so long as it is not less than one hectare" does not make sense having regard to areas of in particular OS-02 but also OS-01.	62	Council already suggested the deletion of these words.	See rec 23
21	G30	Modify to "School sites <del>should</del> must be provided with three street frontages, <del>where practicable</del> " and include as a requirement.	57	Not supported. Council prefers this to remain as a guideline.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
	G31	Modify to “Childcare, medical or similar facilities should be located proximate within the neighbourhood centre or in the potential non residential use location at the corner of Strathmore Drive and the Great Ocean Road”.	57	Not supported. The underlying residential zone will enable these types of uses to be considered.	Agree with Council
22	R23	Native vegetation must be retained as described in the NVPP unless a permit is granted for its removal.	43	Accepted.	See rec 13
	R23	Delete.	57 + 62	Council accepts the submission that the requirement is contrary to the operation of the NVPP and Clause 52.16, however prefers wording suggested above by S43.	Agree with Council
	R25	Reduce buffer zone along Spring Creek to 30m.	43	Strongly opposed.	See rec 17, 18
		Reduce buffer zone along Spring Creek to 50m.	57	Strongly opposed.	See rec 17, 18
	G36	Reduce buffer zone along northern tributaries to 10m.	43	Strongly opposed.	Agree with Council
		Modify to refer to reduced buffer of 0m – 10m.	27	Not supported.	Agree with Council
24	Plan 7	Reinstate the road connection from Grossmans Road to Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council
		Amend the “local access street – level 1” adjacent to Grossmans Road to “local access place”.	41	Supported	Agree with Council
		Offset the two potential bus routes that connect to Strathmore Drive to avoid the need to install signalised intersections on the Great Ocean Road.	41	Council supports removal of signalised intersection at Strathmore Drive East.	See rec 5,6,7

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Deletion of service road along Grossmans Road. Instead, propose a limit on the number of driveways able to have direct access to Grossmans Road.	27	Not supported. G43 provides discretion for alternative access to be considered.	Agree with Council
		(a) Delete signalised intersection on the Great Ocean Road, to be replaced with an unsignalised T-intersection; (b) Insert a secondary vehicular entry point to the proposed NAC along Duffields Road	42 + 65	Supported in principle.	See rec 5,6,7
25	R31	Modify to allow lots that provide good amenity to the waterways and open space to not require a frontage road to open space.	27	Council proposed the addition of the words “paper roads” to provide flexibility for a range of interface options to be considered.	Agree with Council
	G43	Modify to refer to Grossmans Road, east of Messmate Road, Or Exempt low density allotments (1500sqm – 2000sqm) fronting Grossmans Road from this requirement and allow them to be accessible without additional road reserve widths by using direct crossovers.	27	Not supported. G43 provides discretion for alternative access to be considered.	Agree with Council
	G43	Vehicle access to lots fronting Grossmans Road should be provided from existing crossings or service road, local internal loop road or rear lane, or a combination of the two, to the satisfaction of the coordinating roads authority.	62	Not supported. G43 provides discretion for alternative access to be considered. Where land is not subdivided, existing dwellings will be allowed to maintain existing driveways.	Agree with Council
27	R51	Replace “as an integral part of” with “to interface with the”.	42 + 65	Supported.	Agree with Council
28	Plan 8	Remove the waterway corridor from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council



P#	Section	Requested change	Sub #	Council response	Panel Recommendation
29	3.6.1	<p>Under the heading "Integrated water cycle management", insert the following words:</p> <p><i>Further to the requirements and guidelines set out below, a landowner may design an alternative stormwater management system to what is currently set out in Plans 3, 4, 6, 8, 9 and Table 5 of this PSP and Map 1 set out in UGZ1. In the event that a landowner proposes an alternative stormwater management system to what is proposed in this PSP and the UGZ1, it is the intent of this PSP and the UGZ1 that Surf Coast Shire Council and the Corangamite Catchment Management Authority (where relevant) are capable of considering and assessing the alternative stormwater management system proposed, and approve the alternative stormwater management system. Where an alternative stormwater management system is approved by the Surf Coast Shire Council and Corangamite Catchment Management Authority, the alternative stormwater management system is to be considered to be generally in accordance with this PSP (including Plans 3, 4, 6, 8 and 9 and Table 5) and Map 1 of UGZ1.</i></p> <p><i>To the extent that an approved alternative stormwater management system encumbers part of the land identified in Table 1 and Appendix A to this PSP as credited open space, the amount specified in Table 1 and Appendix A to this PSP must be adjusted to reflect the extent of unencumbered credited open space resulting from the construction of the approved alternative stormwater management system.</i></p>	42 + 65	Not supported. Council has provided additional wording to the note on Plan 7.	See rec 9
29	R52	The stormwater management system <del>must be designed in accordance with</del> depicted in Plan 8 is indicative only. The stormwater management system must be <del>unless otherwise</del> approved by the responsible authority.	43	Not supported. Council has provided additional wording to the note on Plan 7.	See Rec 9
	R55	After the word "final", insert the word "methodology".	42 + 65	Supported.	Agree with Council
		After the words "drainage reserves", insert the words "and infrastructure, including".	42 + 65	Supported.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		Delete the words "must be" and replace them with "is to be agreed at the time of making an application for subdivision".	42 + 65	Not supported.	<del>Agree with Council</del> See Rec 9
31	Table 5	Remove the waterway from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council
		Remove WL21.	43	Not supported.	See rec 10
		Amend note <i>The areas and corridor widths identified in this table are indicative only and are subject to refinement alteration during detailed design to the satisfaction of the Corangamite Catchment Management Authority and the responsible authority.</i>	43	Supported as is generally consistent with suggested wording provided by Council.	Agree with Council
33	R63	Rationalisation of words "except where it is included in the DCP or outlined as the responsibility of an agency".	57 + 62	Supported.	Agree with Council
35	R69	Delete last dot point.	43	Not supported.	Agree with Council
	R70	At the end of the paragraph, insert the following words: <i>unless the liability arises pursuant to an agreement under section 173 of the Planning and Environment Act 1987, in which case Council is obliged to satisfy the liability in accordance with the agreement.</i>	42 + 65	Not supported.	See rec 12
		Accepts amended Parklea wording to account for Section 173 agreements.	57 + 62		See rec 12
	3.7.3	At the end of the fourth bullet point, insert the words "if applicable".	42 + 65	Supported.	Agree with Council
36	Table 6	Add local access road to the south of the drainage line.	62	No supported. Local access roads are not part of DCPs.	Agree with Council
39	App. A	Remove the waterway and drainage reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council
		Review the conservation reserve from Property 1 (225 Grossmans Road).	41	Not supported.	Agree with Council

P#	Section	Requested change	Sub #	Council response	Panel Recommendation
		For Property 4, remove the 0.7 hectares from the "Arterial Road – Widening and Intersection Flaring" column.	41	Not supported.	Agree with Council
		Update to reflect submissions in relation to reduced areas of waterways, conservation area, open space.	43	Not supported.	Agree with Council
40	App. B	Remove the cells setting out "Guidelines" next to each "Principle".	42 + 65	Council in principle supports culling of number of guidelines.	Subject to other changes, covered by rec 1

### DCPO3

P#	Clause	Requested change	Sub. No.	Council response	Panel
All	All	Provide information on the development contributions.	41	DCP review in progress.	Agree with Council

### 52.01 Schedule

P#	Clause	Requested change	Sub. No.	Council response	Panel
		Delete the reference to "10%" and replace with "10 percent of net developable area".	42 + 65	Not required. Head clause specifies that contributions apply to "land intended to be used for residential, industrial or commercial purposes". This assumes the NDA.	Agree with Council