

Use and development of land for a restaurant, place of assembly, group accommodation (and ancillary use for a caretakers dwelling, art and craft centre and shop), sale and consumption of liquor, removal of native vegetation, reduction of car parking requirements, creation and alteration of access to a Road in a Transport Zone 2 and associated works

Planning Permit Application

**1486-1492 Korumburra-Wonthaggi Road
and Church Road
KONGWAK 3951**

Prepared for:
Kongwak Butter and Cheese

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Table of Contents (Hyperlinked)

| | |
|---|-----------|
| 1. Introduction | 4 |
| 2. Subject site, surrounding area and proposal | 5 |
| 2.1 Site and area | 5 |
| 2.2 The proposal | 15 |
| 2.3 Permit triggers | 21 |
| 2.4 Title restrictions | 23 |
| 2.5 Previous Planning Permits | 24 |
| 2.6 Cultural Heritage | 24 |
| 2.7 Potentially Contaminated Land | 24 |
| 2.8 Community and stakeholder consultation | 26 |
| 2.9 Notice and referrals | 29 |
| 2.9.1 Referrals | 29 |
| 2.9.2 Notice | 30 |
| 3. Planning controls | 31 |
| 3.1 Planning Policy Framework | 31 |
| 3.2 Zoning | 64 |
| 3.2.1 Clause 32.05 – Township Zone (TZ) | 65 |
| 3.2.2 Clause 35.07 – Farming Zone (FZ) | 66 |
| 3.3 Overlays | 66 |
| 3.3.1 Clause 42.01 – Environmental Significance Overlay – Schedule 5 (ES05) | 67 |
| 3.3.2 Clause 43.01 – Heritage Overlay (HO4) | 68 |
| 3.4 Particular Provisions | 70 |
| 3.4.1 Clause 52.05 – Signs | 70 |
| 3.4.2 Clause 52.06 – Car Parking | 70 |
| 3.4.3 Clause 52.17 – Native Vegetation | 71 |
| 3.4.4 Clause 52.27 – Licensed Premises | 72 |
| 3.4.5 Clause 52.29 – Land adjacent to the principal road network | 73 |
| 3.4.6 Clause 52.34 – Bicycle Facilities | 73 |
| 3.4.7 Clause 53.18 – Stormwater Management in Urban Development | 74 |
| 3.4.8 Clause 53.22 – Significant Economic Development | 74 |
| 3.5 General Provisions | 76 |
| 3.6 Operational Provisions | 76 |
| 4. Planning Assessment | 77 |



4.1 The decision guidelines of the Township Zone..... 77

4.2 The decision guidelines of the Farming Zone 78

4.3 The decision guidelines of the Environmental Significance Overlay – Schedule 5 (ES05) 83

4.4 The decision guidelines of the Heritage Overlay 84

4.5 The application requirements and decision guidelines of Clause 52.06..... 86

4.6 The decision guidelines of Clause 52.17 89

4.7 The decision guidelines of Clause 52.27 91

4.8 The decision guidelines of Clause 52.29..... 93

4.9 The decision guidelines of Clause 65 94

5. Conclusion.....96

6. Acknowledgements.....97

1. Introduction

This town planning report has been prepared in support of an application for the use and development of land for a restaurant, place of assembly, group accommodation (and ancillary use for a caretaker's dwelling, art and craft centre and shop), sale and consumption of liquor, removal of native vegetation, reduction of car parking requirements, creation and alteration of access to a Road in the Transport Zone 2 and associated works at 1486-1492 Korumburra-Wonthaggi Road and Church Road, Kongwak (the subject site).

Figure 1 shows the subject land in relation to the surrounding landscape.



Figure 1: Subject site and immediate surrounds. Source: VicPlan.

This report provides details of the site and its environs, the proposal, relevant planning controls and an assessment against the relevant provisions of the South Gippsland Planning Scheme.

2. Subject site, surrounding area and proposal

2.1 Site and area

The subject site comprises a number of allotments, formally known as Lots 1 and 2 PS716625R, Lot 11 LP4610 and Lots 1, 2 and 3 PS331420F Parish of Kongwak, situated on land that is traditionally owned by the Bunurong People. Cumulatively, the site encompasses approximately 16 hectares of land situated on the northern side of Korumburra-Wonthaggi Road, between Church Road to the east and Bena-Kongwak Road to the west, in the centre of the Kongwak hamlet.

The site as a whole is irregular in shape and is split zoned. Subsequently, it features varied natural and built form characteristics. To the south-west of the site, the land is zoned in the Township Zone (TZ) and it is currently improved by a detached dwelling (to be removed) and the heritage significant Kongwak butter and cheese factories. Contrastingly, to the north and east, the balance of the land is generally zoned in the Farming Zone (FZ) and is currently underutilized pastoral land improved with an existing agricultural outbuilding.

Access can be obtained by a number of existing crossovers to Korumburra-Wonthaggi Road (to the south) and Church Road (to the east).

The subject site appears to have access to reticulated electricity and telecommunications but not water and sewer.

Foster Creek and Browns Creek, run through the subject land, effectively segmenting it into three parts. The watercourses are delineated by remnant swampy riparian woodland consisting of shrubbery and high canopy, of which is dominated by Swamp Gum (*Eucalyptus ovata*). Although the balance of the site is generally cleared pasture comprised of dominant common weed pasture grasses. There is a natural depression in the western sector of the cleared pasture area that has been drained by way of a channel being cut to the Foster Creek. There is also a farm dam in the northern sector of the cleared pasture area. The southwestern corner of the site is comprised of gardens, which contain trees such as peppercorn, managed lawns stretching to the waterway, and ornamental exotics planted next to the waterway.

The western half of the site is classified an Area of Aboriginal Cultural Heritage Sensitivity, centred on Foster Creek, and the entire site is within an identified Bushfire Prone Area (BPA).

The Kongwak Avenue of Honour runs along either side of the Korumburra-Wonthaggi Road road reserve, along the property frontage to the south and south-east. The Avenue of Honour is in the Heritage Overlay (HO50).

The subject site is surrounded by an eclectic mix of land uses and developments.

Surrounding the site to the north, east and west is land zoned in the Farming Zone (FZ) that is typically developed with a single dwelling and open pasture (not necessarily utilised for productive/intense agriculture).

Contrastingly, to the site's south is land zoned in the Township Zone (TZ). Abutting the site to the south-west and south-east are detached dwellings on generous quarter-acre and half-acre lots. To the south (across the road) is a site developed with a shop and which typically forms part of the Kongwak Market. Further to the south-east is the Kongwak Primary School and associated RN Scott Memorial Park. Foster Creek continues through the subject land under Korumburra-Wonthaggi Road to the south.

Images of the subject site and surrounds are provided below:



Figure 2: Aerial image of subject site and its surrounds. Source: VicPlan.



Figure 3: Site photograph looking north towards the existing butter factory.



Figure 4: Site photograph looking north towards the existing cheese factory.



Figure 5: Site photograph looking north-west towards the existing butter and cheese factories.



Figure 6: Site photograph of the existing dwelling at 1492 Korumburra-Wonthaggi Road.



Figure 7: Site photograph looking south towards the rear of the existing butter and cheese factories.



Figure 8: Site photograph looking south-west towards the rear of the existing cheese factory.



Figure 9: Site photograph looking north from within the subject site.



Figure 10: Site photograph looking west at Foster Creek from within the subject site.



Figure 11: Looking north at Foster Creek at the approximate location of the proposed bridge.



Figure 12: Site photograph looking west at the subject site from Church Road.



Figure 13: Site photograph looking north at the subject site from Church Road.



Figure 14: Site photograph looking west at the subject site and proposed access from Brownes Road.



Figure 15: Site photograph looking east along Korumburra-Wonthaggi Road (subject site to the left).



Figure 16: Site photograph looking west along Korumburra-Wonthaggi Road (subject site to the right).



Figure 17: Site photograph looking north along Church Road (subject site to the left).

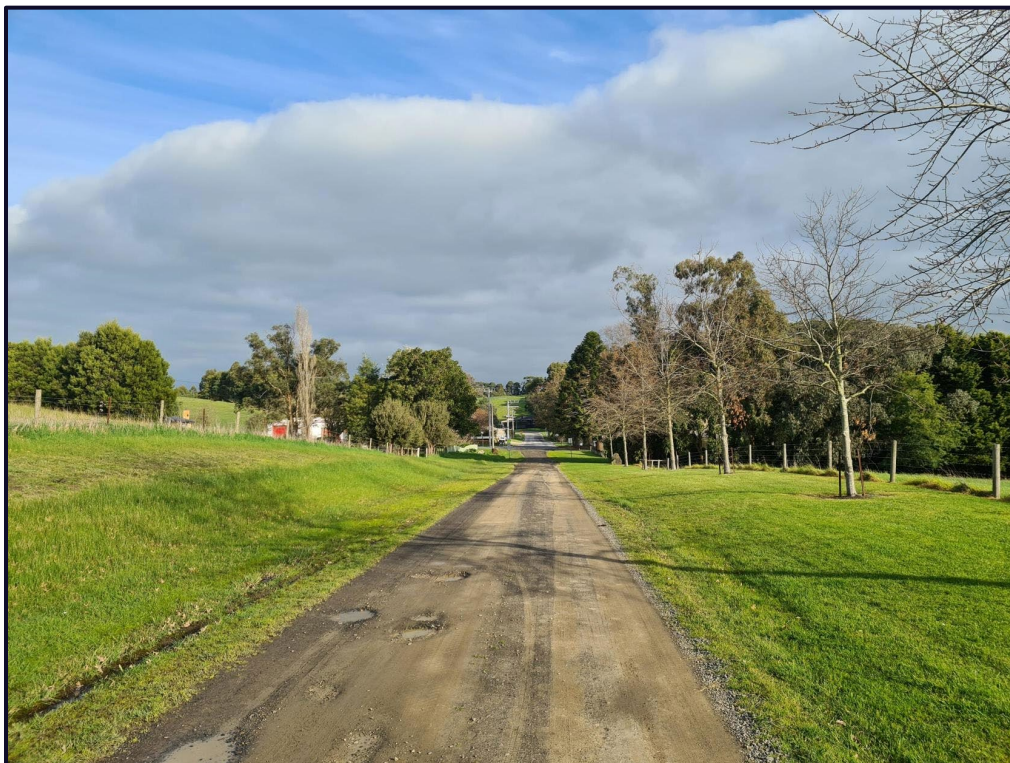


Figure 18: Site photograph looking south along Church Road (subject site to the right).

2.2 The proposal

This application seeks to use and develop the land for the purposes of a restaurant, place of assembly, group accommodation (and ancillary use for a caretakers dwelling, art and craft centre and shop), and licensed premises, undertake native vegetation removal, seek a reduction to the car parking requirement, create and alter access to a road in the Transport Zone 2, and undertake associated works.

The key aspects of the proposal are:

Land use – restaurant

- Proposed restaurant capacity = 150 patrons (noting that normal operations would expect a maximum of 130 people, however the space will have capacity for 150 people).
- Gross floor area / net floor area = approximately 389.8 m² / 377.8 m²
- Operating hours –
 - Sunday to Wednesday – 7:00 am to 10:00 pm
 - Thursday – 7:00 am to 11:00 pm
 - Friday and Saturday – 7:00 am to 12:00 am

Land use – place of assembly

- Proposed place of assembly capacity = 278 patrons.
- Gross floor area / net floor area = approximately 1,476.6 m² / 1,462.2 m²
- Operating hours –
 - Sunday to Wednesday – 7:00 am to 10:00 pm
 - Thursday – 7:00 am to 11:00 pm
 - Friday and Saturday – 7:00 am to 12:00 am

Land use – group accommodation

- Proposed accommodation capacity (total) = 40 cabins / 42 bedrooms / 84 visitors.

Land use – agriculture (as of right)

5.2 ha (approx.) of agricultural production, comprised of:

- 0.7 ha (approx.) market gardens.
- 0.7 ha (approx.) fruit orchard.
- 0.8 ha (approx.) vineyard.

- 3 ha (approx.) grazing paddock (split into 3 paddocks).

Development – restaurant and place of assembly

- Demolition (refer to TP 0100, TP 0300, TP 0301, TP 0310 and TP 0311), comprising:
 - Partial excavation of existing floor level of the butter factory building.
 - Removal of existing roller door to frontage of the butter factory building.
 - Demolition of the existing lean-to of the existing cheese factory building (non-significant).
 - Demolition of the existing dwelling and curtilage at 1492 Korumburra-Wonthaggi Road.
 - Partial demolition of internal walls of the existing cheese and butter factory buildings.
 - Partial demolition of external rear and side walls to create new openings (doors and windows)
 - Replacement of existing doors and windows in the existing cheese and butter factory buildings (including framing).
 - Removal of window and door boardings, and reinstatement of windows and doors to frontage of the existing cheese factory building.
 - Reinstatement of original window openings to side wall of butter factory building.
 - Partial demolition of existing roofing to provide for skylights.
 - Existing pumphouse to be dismantled and rebuilt in new siting to the north of main carparking area.
- Construction (refer to TP 0110, TP 0111, TP 0500, TP 0501, TP 0502, TP 0503, TP 0504 and TP 0505), comprising:
 - External modifications:
 - A new internal glass link between the butter and cheese factory buildings;
 - New windows and doors (including framing);
 - New skylights in existing roofing;
 - New chimney atop cheese factory building;
 - New steel awning over main entrance to frontage of butter factory; and
 - General external improvements to the existing buildings.
 - Internal modifications, comprised of:
 - 194.3 m² 200-patron capacity event space;
 - 87.6 m² 10-patron capacity art and craft centre (gallery);
 - 64 m² shop (providore);
 - 226.2 m² 150-patron capacity restaurant with bar and fireplace;
 - 85 m² kitchen / back-of-house area;
 - 57.7 m² externally accessible bar;
 - 30.1 m² externally accessible storage room;

- 25.9 m² back-of-house storage room;
 - 136.7 m² reception area / guest lounge with bar and fireplace;
 - 56 m² bridal suite / small conference room with shower facility and toilet provision;
 - 132.9 m² 52-patron capacity conference room;
 - x2 staff offices; and
 - Provision for toilet facilities, including a DDA-compliant toilet in each building.
- Maximum overall development height = 7.7 m NGL / RL 62.05 (existing)
 - Setbacks:
 - 78 m to the northern (rear) property boundary;
 - 395 m to the eastern (side) property boundary;
 - 700 mm to the southern property boundary (frontage); and
 - 38 m to the western (side) property boundary.

Development – Dwelling

- Construction of a 175 m² (138 m² internal) single storey dwelling.
- Comprised of 3 bedrooms, 2 bathrooms (including ensuite), open plan kitchen/living/dining, and private terrace.
- Primarily constructed of corrugated galvanized steel to roofing, corrugated galvanized steel and timber cladding to walls, timber decking to private terrace areas and double glazed windows.
- Maximum overall development height = 4.68 m / RL 3.5
- The cabin would be sited within the Church Road property, generally to the north-west end of the FZ-zoned portion of the land and adjacent to the billabong, and would feature the following minimum setbacks:
 - 105 m to the northern (rear) property boundary;
 - 450 m to the eastern (side) property boundary;
 - 191 m to the southern property boundary (frontage); and
 - 70 m to the western (side) property boundary.

Development – group accommodation

- Construction of 40 accommodation cabins (refer to TP 0110, TP 0510, TP 0520 and TP 0530), comprised of:
 - x32 Type A cabins. Each cabin would comprise:
 - The cabins would be attached in groups of 4.
 - 46.7 m² (32.6 m² internal) gross floor area per cabin / 486.8 m² gross floor area per group of 4 cabins.
 - A 1-bedroom studio with ensuite bathroom and private terrace.

- x7 Type B cabins. Each cabin would comprise:
 - The cabins would be attached in groups of 2.
 - 95 m² (68 m² internal) gross floor area per cabin / 190 m² gross floor area per group of 2 cabins.
 - A 1-bedroom villa with ensuite bathroom, open plan living/dining and private terrace.
- x1 Type C cabin, which would comprise:
 - 175 m² (138 m² internal) gross floor area.
 - 3-bedrooms, 2 bathrooms (including ensuite), open plan kitchen/living/dining, and private terrace.
- Primarily constructed of corrugated galvanized steel to roofing, corrugated galvanized steel and timber cladding to walls, timber decking to private terrace areas and double glazed windows.
- Maximum overall development height = 4.68 m / RL 3.5
- The cabin would be sited within the Church Road property, generally to the southern end of the FZ-zoned portion of the land, and would feature the following minimum setbacks:
 - 28.5 m to the northern (rear) property boundary;
 - 24 m to the eastern (side) property boundary;
 - 67 m to the southern property boundary (frontage); and
 - 139 m to the western (side) property boundary.

Development – service building (associated with group accommodation and agriculture/crop raising)

- Construction of a 247 m² (35.9 m x 11.9 m) service building (refer to TP 0110 and TP 0540).
- Comprised of a staff room with toilet facilities; a store area (including storage for tractors and agricultural equipment), bin storage area; and a small outdoor decked area to entry.
- Features 2x external rollers doors to eastern elevation and a double pedestrian entry door to the northern elevation (accessible via timber deck and stairs).
- Primarily constructed of corrugated galvanized steel to roofing, corrugated galvanized steel and timber cladding to walls, corrugated galvanized steel to external roller doors, timber decking to decked entry area and double glazed windows.
- Maximum overall development height = 6.1 metres.
- Setbacks:
 - 78 m to the northern (rear) property boundary;
 - 395 m to the eastern (side) property boundary;
 - 700 mm to the southern property boundary (frontage); and
 - 38 m to the western (side) property boundary.

Sale and consumption of liquor

- A licence is required under the *Liquor Control Reform Act 1998* to sell or consume liquor on the subject site, associated with the use of the land for a restaurant and place of assembly.

Native vegetation removal

- Removal of 0.059 ha of native vegetation at the proposed waterway crossing point.
- An offset amount of 0.023 General Habitat Units (no large trees), with a minimum strategic biodiversity value score of 0.744.

Bicycle and car parking provision and car parking reduction

- Provision of 16 on-site bicycle parking spaces for the restaurant and place of assembly (on 1486-1492 Korumburra-Wonthaggi Road).
- Provision of 171 car parking spaces on the subject site, comprised of:
 - Provision of 52 on-site car parking spaces for the group accommodation (on Church Road site).
 - Provision of 52 on-site car parking spaces for the restaurant and place of assembly (on 1486-1492 Korumburra-Wonthaggi Road).
 - Provision of an additional 67 car parking spaces (overflow) on another site (Church Road).
- A reduction of 24 car parking spaces for the restaurant and place of assembly (it is noted that the group accommodation spaces will cater for onsite guests using these facilities, which is discussed further in this report).

Access

- Access to the site is proposed via x3 access points along Korumburra-Wonthaggi Road (zoned in the Transport Zone 2), x2 access points along Church Road, and x1 access point at the end of Brownes Road.

Stormwater management

A Stormwater Management report, prepared by CJ Arms (dated June 2023) has been prepared. It specifies:

- Stormwater runoff from roofs will be pumped to water storage tanks and treatment system for reuse as potable drinking water.

- The stormwater runoff from footpaths, roads, and carparks will be guided by swales and channels to raingardens located downstream, improving stormwater quality, before finally being discharged into the waterways.
- A proposed dam /wetland situated at the downstream end of an informal drainage channel will reuse a portion of the stormwater for irrigation.
- The proposed levels and grading will utilise the existing hydrology of the site to minimise construction works and site disturbance.
- All stormwater infrastructure will be constructed in accordance with planning scheme requirements, AS3500.3 and all other relevant standards and guidelines.

Wastewater management

- The Wastewater Treatment report, prepared by Diston Wastewater Technology (dated July 2023), recommends a new on-site Trickling Biofilter type plant be provided to cater for all wastewater needs from the various uses described above, which will meet the Class B reuse quality required at the site. The core treatment will provide an effluent quality of a maximum BOD of 20 mg/L, Suspended Solids of 30 mg/L and low bacterial content.

Waste management

- The Waste Management Plan, prepared by Onemilegrid (dated July 2023), nominates that a private contractor to manage the collection and disposal of all waste streams associated with the development.
- There will be provision for a dedicated bin storage area adjacent to the cheese and butter factory car parking area comprised of 5x 1,100 L garbage bins and 4x 1,100 L recycling bins, housed within the repurposed pumphouse structure.
- A further bin storage area within the proposed service building to the east of the site to service the group accommodation comprised of 2x 1,100 L garbage bins and 2x 1,100 L recycling bins.

Landscaping

(Refer to TP 0110, MP-300, MP-401, MP-402, MP-403 and MP-404)

- Construction of garden beds and landscaping around the butter and cheese factory buildings, frontages and car parking area.
- Construction of a landscaped wetlands area traversing between the southern property boundary and the balance of the proposed group accommodation cabins. Comprised of a pond network with swales (for on-site stormwater management), indigenous and deciduous

vegetation, pedestrian paths, a communal space and sculptures. A large portion of this area will be set aside for public use as publicly-accessibly, privately owned public open space reserve for the community along the balance of the Township Zoned land along Church Road.

- Provision for a network of walking trails throughout the site, largely following existing and proposed waterway areas and open spaces.
- Revegetation works –
 - Existing billabong in north-western section of the property will be re-instated and revegetated. The existing drainage outlet in this location will be filled in.
 - Re-vegetation along select parts of the existing waterway corridor(s).
- Waterway management –
 - Ongoing weed control and management of existing vegetation along existing waterway corridor(s).

Other

- Anticipated maximum number of staff at any one time – 30 people.
- Construction of a 48.39 m long pedestrian bridge across Foster Creek to provide pedestrian access to car parking, group accommodation cabins, restaurant and place of assembly (refer to TP 0110 and TP 0550).
- Construction of a 2.4 m high acoustic wall along the shared boundary with 1494 Korumburra-Wonthaggi Road.
- Construction of firewater and service water tanks in the north-east corner of the site.
- Provision of open space, proposed for public access/use on the southern interface of the site with Korumburra-Wonthaggi Road, as detailed on the plans.

2.3 Permit triggers

A Planning Permit is triggered under the following clauses of the South Gippsland Planning Scheme:

- Clause 32.05-2 – A permit is required to use land for Group Accommodation¹.
- Clause 32.05-2 – A permit is required to use land for a Place of Assembly (other than Carnival, Circus and Place of Worship).
- Clause 32.05-2 – A permit is required to use land for a Restaurant.

¹ Noting that while there are no specific Group Accommodation buildings within the Township Zone, the 'Planning Unit' to which the Group Accommodation applies includes the Township Zone land on Church Road, and as such is considered to be a permit trigger.

- Clause 32.05-10 – A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.05-2.
- Clause 35.07-1 – A permit is required to use land for Group Accommodation.
- Clause 35.07-4 – A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 35.07-1.
- Clause 35.07-4 – A permit is required to construct a building:
 - Within 100 metres of a Road in a Transport Zone 2 (Korumburra-Wonthaggi Road)
 - Within 20 metres of a boundary; and
 - Within 100 metres of a waterway, wetland or designated flood plain.
- Clause 42.01-2 – A permit is required to construct a building or construct or carry out works² and to remove vegetation.
- Clause 43.01-1 – A permit is required to:
 - Demolish or remove a building;
 - Construct a building or construct or carry out works;
 - Externally alter a building by structural work, rendering, sandblasting or in any other way;
 - Externally paint a building; and
 - Internally alter a building.
- Clause 52.06-3 – A permit is required to:
 - Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.
 - Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.
- Clause 52.17-1 – A permit is required to remove, destroy or lop native vegetation.
- Clause 52.27 – A permit is required to use land to sell or consume liquor where a licence is required under the *Liquor Control Reform Act 1998*.
- Clause 52.29-2 – A permit is required to create and alter access to a road in a Transport Zone 2.

In relation to the other activities occurring on the land:

² It is noted that each accommodation building is individually exempt under the Schedule to the ESO, as each building will have a resultant floor area less than 200m² and will be constructed in accordance with *Construction Techniques for Sediment Pollution Control (EPA 1991)* and the background document *Control of Erosion on Construction Sites (Soil Conservation Authority)*, however the car parking and drainage works, access tracks and 'Service Building' all trigger under this Clause.

- The use of land for Crop Raising (market garden/vineyard) is a Section 1 – permit not required use within the Farming Zone;
- The use of land for Informal Outdoor Recreation (open space along Korumburra-Wonthaggi Road) is a Section 1 – permit not required use within the Farming Zone and Township Zone
- The ‘Providore’ space within the cheese and butter factory building is an ancillary use to the Restaurant and Place of Assembly, and will only be operating when one or both of these uses is occurring, generally catering for guests to those uses.
- The ‘Gallery’ space within the cheese and butter factory building is an ancillary use to the Restaurant and Place of Assembly, and will only be operating when one or both of these uses is occurring, generally catering for guests to those uses.
- The ‘caretakers dwelling’ is an ancillary use to the broader Group Accommodation and Place of Assembly activities, as:
 - Of the scale of the project, the dwelling occupies a trifling land area (less than 1%), represents 1-2% of the total development cost, contains less than 1% of the maximum number of people across the activity, appears similar to other Group Accommodation offerings, and would only be occupied by the operator of the overall activity.
 - The dwelling is only present to allow for the on-site management of the overarching uses and developments. In that sense, but for the presence of the broader activity, the dwelling would not exist on the site (or to put it another way, if the main development was not present, the dwelling would not be present).
 - The scale of the activity is of such a degree, where a dwelling/accommodation for manager is a necessary component of the activity (akin to a publican residing in a pub due to operational natures of a pub). The link/nexus between the ancillary dwelling and the primary use described in *Pacific Seven*³ is reasonably met.

In relation to all uses considered ancillary, we note that it is irrelevant to the determination of whether something is ancillary, whether it is otherwise a defined term in the Scheme or not. An ancillary use, by its nature, is not a distinct use, but merely a part of (an adjunct) to another, dominant use on the site

2.4 Title restrictions

Pursuant to Section 61(4) of the *Planning and Environment Act 1987*, the Responsible Authority must not issue a permit that breaches a registered restriction.

³ Pacific Seven Pty Ltd v City of Knox [1993] AATR 325 (11 July 1993)

Review of the title documents to the subject land do not show any registered restrictions.

2.5 Previous Planning Permits

The following Planning Permits have been identified in relation to the site:

| Application Number | Proposal | Decision |
|--------------------|--|-------------|
| 2023/233 | Use of land for an Art and Craft Centre and Place of Assembly | In progress |
| 2023/68 | Buildings and works and partial demolition for the purpose of repairs to an existing building | Issued |
| 2017/185 | Use and development of Licenced Restaurant and Accommodation (3 units), Internally Illuminated Business Identification Signage and ancillary works | Issued |
| 2009/276 | Change of Use (Dwelling) and Boundary Realignment | Issued |

2.6 Cultural Heritage

The subject land is partially located in an area of Aboriginal Cultural Heritage Sensitivity under the *Aboriginal Heritage Act 2006* and the proposal contains activities defined as high impact activities under Division 5 of the *Aboriginal Heritage Regulations 2018*.

A Cultural Heritage Management Plan (CHMP) has been approved for the proposal – CHMP number 19263.

2.7 Potentially Contaminated Land

Pursuant to Clause 73.01 of the Scheme, potentially contaminated land is defined as:

Land:

- a) *used or known to have been used for industry or mining;*
- b) *used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land); or*
- c) *where a known past or present activity or event (occurring on or off the land) may have cause contamination of the land.*

Planning Practice Note 30 (Potentially Contaminated Land) sets out land uses with potential to contaminate land, as follows:

Table 2: Land uses with potential to contaminate land

| High potential for contamination | | Medium potential for contamination |
|--|---|---|
| Abattoir | Fuel storage depot | <p>Ancillary use or activities</p> <p>In some cases, while the land use onsite may be benign, an ancillary land use or even a one-off activity or event has the potential to cause contamination. Examples include:</p> <ul style="list-style-type: none"> Above ground storage of chemicals or fuels (where such storage is ancillary to the primary site activities but is not minor) Waste disposal such as illegal dumping Stockpiles of imported fill |
| Abrasive blasting | Gasworks | |
| Airport | Glass manufacture | <p>Adjacent contaminating activity</p> <p>For the activities listed below, potential for contamination from adjoining land, and, if there is reason to suspect further offsite contamination, other nearby land, should be considered.</p> <p>Automotive repair/engine works Bitumen Manufacturing Chemical Manufacturing/storage/blending Council Works Depot Gasworks Defence works Dry Cleaning Electrical/ electrical components manufacturer Electroplating Landfill Service station Fuel storage depot Tannery Underground storage tanks</p> |
| Asbestos production/disposal | Iron and steel works | |
| Asphalt manufacturing | Landfill sites/waste depots | <p>Agriculture and animal production</p> <p>While most agricultural land is not likely to be contaminated, the potential for specific contaminating activities to have occurred over time should be considered, including:</p> <ul style="list-style-type: none"> Commercial use of pesticides (including herbicides, fungicides etc) Biosolids application to land Farm waste disposal <p>See also activities in the 'high' category.</p> |
| Automotive repair/engine works | Lime works | |
| Battery manufacturing/recycling | Materials recycling and transfer stations | |
| Bitumen manufacturing | Mass animal burial on agricultural sites | |
| Boat building/maintenance | Metal coating / electroplating | |
| Breweries/distilleries | Metal finishing and treatments | |
| Brickworks | Metal smelting/refining/finishing | |
| Cement manufacture | Mining and extractive industries ¹ | |
| Ceramic works | Oil or gas production/refining | |
| Chemical manufacturing/storage/blending | Pest control depots | |
| Chemical treatment / destruction facilities | Printing shops | |
| Coke works | Pulp or paper works | |
| Compost manufacturing | Railway yards | |
| Concrete batching | Scrap metal recovery | |
| Council works depot | Service stations/fuel storage | |
| Defence works | Sewage treatment plant | |
| Drum re-conditioning facility | Ship building/breaking yards | |
| Dry cleaning | Shipping facilities – bulk (rate <100 t/day) | |
| Electrical/electrical components manufacture | Shooting or gun clubs | |
| Electricity generation/power station | Stock dipping sites | |
| Electroplating | Tannery (and associated trades) | |
| Explosives industry | Textile operations | |
| Fertiliser manufacture or storage | Timber preserving/treatment | |
| Fibreglass reinforced plastic manufacture | Tyre manufacturing | |
| Fill sites | Underground storage tanks | |
| Firefighting or training (use of foams) | Utility depots | |
| Foundry | Waste treatment/incineration/disposal | |
| | Wool scouring | |

Table 3 to Planning Practice Note 30 sets out the following approach to assessing potentially contaminated land:

Table 3: Recommended approach to assessing potentially contaminated land

| Planning Proposal | | Potential for Contamination | |
|--|--|-----------------------------|---|
| | | High | Medium |
| Uses defined in Ministerial Direction No. 1, the EAO, and clause 13.04-1S | | | |
| <ul style="list-style-type: none"> Sensitive uses: Residential use, childcare centre, kindergarten, pre-school centre, primary school, even if ancillary to another use. Children's playground Secondary school | New use, or buildings and works associated with a new use | A | B |
| | Buildings and works associated with an existing use | B | B |
| Other land use | | | |
| Open space Agriculture Retail or office Industry or warehouse | New use, or buildings and works associated with a new or existing use | C | D |
| Planning Scheme Amendment | | Planning Permit Application | |
| A | PRSA or audit option applies Proceeding directly to an audit is recommended. | A | PRSA or audit option applies Proceeding directly to an audit is recommended. |
| B | PRSA or audit option applies PRSA to determine need for audit is recommended. | B | PRSA or audit option applies PRSA to determine need for audit is recommended. |
| C | PSI to inform need for audit is recommended | C | PSI to inform need for audit is recommended |
| D | Planning authority to document consideration of potential for contamination to impact proposal | D | Responsible authority to document consideration of potential for contamination to impact proposal |

The historic land uses for the butter and cheese factory sites are not listed in Table 2 as land uses with potential to contaminate land, and these areas are not proposed for sensitive uses as part of this proposal. Moreover, the site for the proposed group accommodation was previously used for cattle grazing, whereby there would have been no use of chemicals that would result in land contamination.

2.8 Community and stakeholder consultation

Prior to the lodgment of this application, the proponents have endeavored to adopt a proactive communications and engagement approach, with themselves front and centre, and with a commitment to being approachable, honest and transparent in what is proposed for the site.

This approach has been particularly evident over the past 9 months - with information that is known and is ready to share, having been made publicly available.

In this vein, extensive measures have been undertaken to keep the local community and stakeholders engaged, including:

- Proactive communication of government grant outcomes;
- Establishment of a website with frequently asked questions and a sign up option included;
- Acknowledgement of receipt of formal feedback, with such feedback carefully considered in designing the site and offerings; and
- Responding to all email queries from local residents in relation to the development.

Additionally, the proponents have interacted with a number of local community groups, and established a Community Reference Group to facilitate discussion and obtain feedback of the project, including:

- Kongwak Hills Landcare Group
- Kongwak CFA
- Kongwak Market
- Kongwak Hall Committee
- Kongwak Social Committee
- Kongwak Farmer Representatives
- Descendents of Kongwak Pioneers
- Previous Butter Factory Worker
- Save Kongwak Group
- Kongwak Church Group

Like many projects of this nature, the Kongwak Butter and Cheese Factory has had significant interest from the local community, with sentiment ranging from enormous support to localised concern about project impacts. The concerns raised include:

- Car parking provision and traffic impacts
- Neighbourhood character
- Scale of development resulting in amenity impacts
- Noise emissions
- Wastewater generation
- Environmental impacts; and
- Agricultural land use.

These matters have been addressed through this report and supporting documentation, including by way of the following:

- Designs have been amended to provide overflow car parking on the Church Road site, supported by traffic and car parking assessments by OneMileGrid, to ensure that there is ample car parking provision for the activity and that traffic impacts can be managed on the public road network;
- The proposal includes provision for publically accessible parkland abutting the Korumburra-Wonthaggi Road, which will provide an improved amenity and environmental outcome for the site, as well as softening the appearance of the development from other dwellings and along the Kongwak Avenue of Honour;
- The Butter and Cheese Factory will be restored and form the focal point of the development, with support from the author of the South Gippsland Heritage Study, David Helms. The heritage significance of the site is a driving factor in the project;
- Acoustic assessments have been undertaken by JTA Noise, which demonstrates that there will be no unreasonable impacts on amenity (as relating to noise) from the project. The recommendations of JTA are incorporated into the design documentation;
- Wastewater has been appropriately catered for for the entirety of the project, ensuring appropriate setbacks from the Foster Creek and adaptive reuse of greywater for agricultural production;
- Approximately 3.2ha of the project area is proposed for revegetation and rehabilitation, including buffers to the Foster Creek, natural drainage lines through the property, and reestablishment of a 'billabong' in the north-western corner of the site, resulting in an improved ecological outcome along one of South Gippsland's most degraded waterways; and
- Agricultural activities to occur across the balance of the site, using the land in a productive manner that can exist harmoniously with the proposed uses, fosters agri-tourism and represents the highest and best use of the agricultural land on the site given its quality and context.

These matters respond directly to the engagement undertaken, and are in addition to what we consider are positive benefits of the project in relation to relevant planning policy and controls, as expressed through this report.

Throughout the application process, it is also the intention of the proponents to continue their communication and engagement efforts during and post planning process. This will include sharing project updates, and content with the community periodically and as required to ensure that the community remains informed about key developments.

2.9 Notice and referrals

2.9.1 Referrals

Pursuant to Section 55 of the Act and Clause 66 of the South Gippsland Planning Scheme, the application is required to be referred to the following agencies:

| Referral Authority | Clause | Kind of Application | Type of Referral Authority |
|--|-------------------|--|----------------------------|
| Environment Protection Authority (EPA) | 66.02-1 | A use or development requiring a Development Licence or Operating Licence in accordance with Part 4.4 of the <i>Environment Protection Act 2017</i> . | Determining |
| AusNet Transmission | 66.02-4 | To construct a building or construct or carry out works on land within 60 metres of an electricity transmission easement | Determining |
| Head, Transport for Victoria | 66.02-11 | An application subdivide land, to construct a building or to construct or carry out works for any of the following: <ul style="list-style-type: none"> A place of assembly comprising 400 or more seats or 600 or more square metres of gross floor area. | Determining |
| Head, Transport for Victoria | 52.29-4 and 66.03 | An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or an arterial road under the <i>Road Management Act 2004</i> | Determining |

In addition, comments have already been sought from a number of other authorities in preparing this application, including:

- West Gippsland Catchment Management Authority (waterway proximity) – General support has been provided for the proposal, with a request to undertake flood modelling, which has now been completed with the conclusion that flows and flood levels have been determined with enough detail to provide the CMA and Council with confidence that the development is

not unreasonably affected by flooding in its current form, with recommendations for future work that can be included as permit conditions if required.

- Fire Rescue Victoria – Following a Fire Protection Study for the butter and cheese factory building, and nomination of fire protection infrastructure for the site, FRV have advised that there will be no likely objection to the proposal in general, with some variations to be considered. A formal response is pending at the time of this report.

2.9.2 Notice

The entirety of the proposal, save for minor works in the Heritage Overlay and the creation and alteration of access to a Road in a Transport Zone 2, are not exempt from notice and review rights.

It is anticipated that the Responsible Authority will determine the extent of notice required given the nature of the project.

Pursuant to Clause 53.22-4 of the Scheme, the application is exempt from the decision requirements of sections 64(1), (2) and (3), and the review rights of sections 82(1) of the Act.

3. Planning controls

3.1 Planning Policy Framework

The South Gippsland Planning Scheme contains the following State and Local Planning Policies relevant to this proposal:

- Clause 02.03-1 Settlement
- Clause 02.03-2 Environmental and landscape values
- Clause 02.03-3 Environmental risks and amenity
- Clause 02.03-4 Natural resource management
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-6 Housing
- Clause 02.03-7 Economic development
- Clause 02.03-9 Infrastructure
- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Gippsland
- Clause 11.01-1L-10 Hamlets
- Clause 12.01-1S Protection of biodiversity
- Clause 12.01-1L Biodiversity
- Clause 12.01-2S Native vegetation management
- Clause 12.03-1S River and riparian corridors, waterways, lakes, wetlands and billabongs
- Clause 13.02-1S Bushfire planning
- Clause 13.02-2S Erosion and landslip
- Clause 13.05-1S Noise management
- Clause 13.07-1S Land use compatibility
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-2S Sustainable agricultural land use
- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Urban design
- Clause 15.01-2S Building design
- Clause 15.01-2L-01 Building design – residential
- Clause 15.01-4S Healthy neighbourhoods
- Clause 15.01-6S Design for rural areas
- Clause 15.01-6L Open farmed landscapes
- Clause 15.03-1S Heritage conservation

- Clause 15.03-1L Heritage
- Clause 15.03-2S Aboriginal cultural heritage
- Clause 16.01-1S Housing supply
- Clause 16.01-1L Housing supply in South Gippsland
- Clause 16.01-2S Housing affordability
- Clause 17.01-1S Diversified Economy
- Clause 17.01-1R Diversified Economy – Gippsland
- Clause 17.02-1S Business
- Clause 17.04-1S Facilitating Tourism
- Clause 17.04-1R Tourism – Gippsland
- Clause 17.04-1L Tourism
- Clause 18.02-4S Roads
- Clause 18.02-4L Road system
- Clause 19.02-6S Open spaces
- Clause 19.03-2S Infrastructure design and provision
- Clause 19.03-2L Infrastructure design and provision
- Clause 19.03-3S Integrated water management
- Clause 19.03-3L Integrated water management

Clause 02.03-1 – Settlement

Council seeks to:

- *Direct growth to settlements in accordance with their role and function as set out in the South Gippsland settlement hierarchy outlined in this clause.*
- *Support the provision of reticulated water, sewerage and drainage improvements to settlements to protect community health and environmental values and to support population growth.*

Hamlets – Bena, Buffalo, Dumbalk, Jumbunna, Kongwak, Mirboo, Port Franklin, Ruby and Stony Creek

The Hamlets are characterised by a cluster of housing on urban or small rural allotments with limited infrastructure and community services, and often no, or highly limited, retail services. Some Hamlets have potential for small-scale tourism associated with local agricultural products, markets, the rail trail, rural landscapes and natural environments.

Kongwak is located in a foothills dairying area, with part of the town susceptible to bushfire risk. It has relatively good community, recreation and tourist-attracting facilities including an historic former butter factory.

Council seeks to:

- Contain growth within the settlement boundary of each Hamlet to protect agricultural, landscape and environmental values and to reduce risks associated with environmental hazards.*
- Provide an attractive and safe residential environment in each hamlet.*

Clause 11.01-1S – Settlement has the objective:

- To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

Relevant strategies are:

- Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.*
- Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.*
- Plan for development and investment opportunities along existing and planned transport infrastructure.*
- Promote transport, communications and economic linkages between settlements through the identification of servicing priorities in regional land use plans.*
- Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable*
- Encourage a form and density of settlements that supports healthy, active and sustainable transport.*
- Promote and capitalise on opportunities for urban renewal and infill redevelopment.*

Clause 11.01-1R – Settlement – Gippsland has the relevant strategies:

- Support the continuing role of towns and small settlements in providing services to their districts, recognising their relationships and dependencies with larger towns.*
- Create vibrant and prosperous town centres that are clearly defined and provide commercial and service activities that respond to changing population and market conditions.*
- Provide regional social infrastructure in the regional city and regional centres.*

- *Plan for increased seasonal demand on services and infrastructure in towns with high holiday home ownership.*

Clause 11.01-1L-10 – Hamlets applies to land in the Kongwak Framework Plan.

All Hamlets strategies

- *Support development of infrastructure that provides access to any future rail trail developed in hamlets adjoining the former railway line.*
- *Encourage development that is sympathetically designed and located so as to protect the environmental and landscape values of the surrounding area.*

Kongwak strategies

- *Consolidate the Town Centre of Kongwak as the preferred focus for commercial services and facilities.*
- *Support tourism opportunities associated with Kongwak Market and the former Butter Factory.*

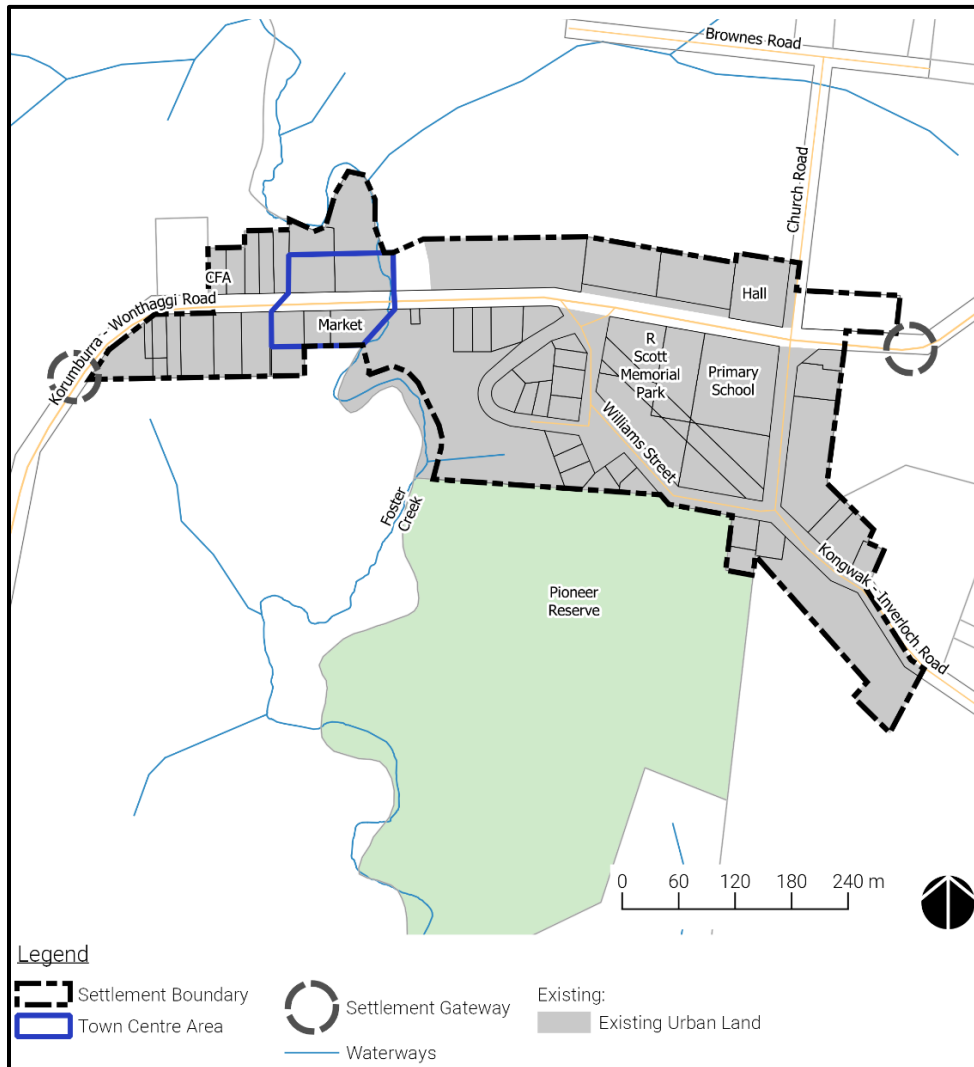


Figure 19: Kongwak Framework Plan. Source: South Gippsland Planning Scheme.

Clause 02.03-2 – Environmental and landscape values

Biodiversity

Council seeks to:

- *Protect sites of biological significance including on roadsides and private property.*

Clause 12.01-1S – Protection of biodiversity has the objective:

- *To protect and enhance Victoria’s biodiversity.*

Relevant strategies are:

- *Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:*
 - *Cumulative impacts.*
 - *Fragmentation of habitat.*
 - *The spread of pest plants, animals and pathogens into natural ecosystems.*
- *Avoid impacts of land use and development on important areas of biodiversity.*
- *Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites; including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention) and sites utilised by species listed under the Japan-Australia Migratory Birds Agreement (JAMBA), the China-Australia Migratory Birds Agreement (CAMBA), or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).*
- *Assist in the identification, protection and management of important areas of biodiversity.*
- *Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.*
- *Support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas.*

Clause 12.01-1L – Biodiversity has the relevant strategies:

- *Encourage landholders to protect remnant vegetation on their land by fencing off areas of native vegetation and excluding stock.*
- *Retain and enhance areas of remnant vegetation within urban areas.*
- *Protect and enhance areas of indigenous and native vegetation where possible in development.*

Clause 12.01-2S – Native vegetation management has the objective:

- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.*

Relevant strategies are:

- *Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017):*

- *Avoid the removal, destruction or lopping of native vegetation.*
- *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- *Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.*

Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs has the objective:

- *To protect and enhance waterway systems including river and riparian corridors, waterways, lakes, wetlands and billabongs.*

Relevant strategies are:

- *Protect the environmental, cultural, landscape values of all waterway systems as significant economic, environmental and cultural assets.*
- *Conserve waterway systems and the landscapes and environmental values surrounding them by protecting ecological values, indigenous vegetation, terrestrial and aquatic habitats and encouraging biodiversity.*
- *Sensitively design and site development to maintain and enhance the waterway system and the surrounding landscape setting, environmental assets, and ecological and hydrological systems.*
- *Address the impacts of use and development on drought and flooding events at a catchment and site scale to protect the health and natural function of waterway systems and their surrounding landscape and environment.*
- *Protect geomorphology, bank stability and flood management capacity to strengthen the environmental value and health of waterway systems by:*
 - *Retaining, enhancing and re-establishing indigenous riparian vegetation along waterway systems, ensuring it responds to the bushfire risk of a location.*
 - *Enhancing and re-establishing both terrestrial and aquatic habitats and their linkages along and surrounding waterway systems.*
 - *Limiting earthworks in proximity to waterway systems to minimise alterations to geomorphology, natural drainage, natural flows and water quality.*
 - *Facilitating the restoration of waterway systems through the removal of weeds, invasive species and pests.*
- *Enhance a sense of place and landscape identity by:*
 - *Conserving areas of identified Victorian Aboriginal cultural heritage significance relating to waterway systems.*

- *Retaining and re-establishing vegetation, including grasslands and canopy trees, surrounding waterway systems to enhance and connect to the landscape setting, ensuring it responds to the bushfire risk of a location.*
- *Protecting existing topographic features and maintaining a sense of naturalness through sensitive design and siting.*
- *Retain and enhance the recreation and amenity values along waterway systems by:*
 - *Planning for surrounding green spaces as recreation and tourism resources without adversely impacting environmental values and flood management capacity.*
 - *Protecting and enhancing parklands for their economic, social and environmental values.*
 - *Protecting and enhancing public access to waterway systems and surrounding parklands.*
 - *Enhancing existing and providing new green links, pedestrian and cycle connections and open space.*
 - *Discouraging privatisation of spaces that interface with or provide access to waterway systems.*
 - *Avoiding overshadowing of waterway systems, their banks and adjacent public open space.*
 - *Promoting safety by maximising visibility and passive surveillance and providing good connections and access.*
- *Design and site development to maintain and enhance the natural environment of waterway systems by:*
 - *Minimising the visual intrusion of development on the natural landscape views from major roads, bridge crossings, public open space, recreation trails and within waterway systems themselves.*
 - *Ensuring development is visually subordinate to the local landscape setting, including through the use of vegetation to filter views of development.*
 - *Ensuring development adjacent to waterways adopts high quality materials and respectful design and siting.*
 - *Avoiding impeding the natural flow of waterways and future flood events.*
 - *Directing growth to established settlements where water and wastewater can be managed.*

Clause 02.03-3 – Environmental risks and amenity

Climate change

The effects of climate change on the local environment are starting to appear and will continue into the future. The potential flow-on effects from changing climatic conditions include reduced agricultural

production, decreased and more erratic environmental flows in waterways and wetlands, increased risk of bushfire, and decreased water security for settlements and activities. Direct impacts of climate change are also likely to include an increase in storm surges, increased and altered patterns of erosion of beach and dune systems, undercutting of cliffs, increased peak flows in coastal rivers and estuaries and damage to coastal infrastructure (piers, jetties, breakwaters and seawalls).

Clause 13.02-1S – Bushfire planning has the objective:

- *To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

Strategies are:

Protection of human life

- *Give priority to the protection of human life by:*
 - *Prioritising the protection of human life over all other policy considerations.*
 - *Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.*
 - *Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.*

Bushfire hazard identification and assessment

- *Identify bushfire hazard and undertake appropriate risk assessment by:*
 - *Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.*
 - *Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under the Building Act 1993 or regulations made under that Act.*
 - *Considering and assessing the bushfire hazard on the basis of:*
 - *Landscape conditions - meaning conditions in the landscape within 20 kilometres (and potentially up to 75 kilometres) of a site;*
 - *Local conditions - meaning conditions in the area within approximately 1 kilometre of a site;*
 - *Neighbourhood conditions - meaning conditions in the area within 400 metres of a site; and*
 - *The site for the development.*

- *Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures.*
- *Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.*
- *Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.*

Settlement planning

- *Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:*
 - *Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).*
 - *Ensuring the availability of, and safe access to, areas assessed as a BAL-LOW rating under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018) where human life can be better protected from the effects of bushfire.*
 - *Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.*
 - *Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.*
 - *Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.*

Areas of biodiversity conservation value

- *Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are important areas of biodiversity.*

Use and development control in a Bushfire Prone Area

- *In a bushfire prone area designated in accordance with regulations made under the Building Act 1993, bushfire risk should be considered when assessing planning applications for the following uses and development:*
 - *Accommodation.*
 - *Place of assembly.*
 - *Any application for development that will result in people congregating in large numbers.*
- *When assessing a planning permit application for the above uses and development:*
 - *Consider the risk of bushfire to people, property and community infrastructure.*
 - *Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.*
 - *Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.*

Clause 13.02-2S – Erosion and landslip has the objective:

- *To protect areas prone to erosion, landslip or other land degradation processes.*

Strategies are:

- *Identify areas subject to erosion or instability in planning schemes and when considering the use and development of land.*
- *Prevent inappropriate development in unstable areas or areas prone to erosion.*
- *Promote vegetation retention, planting and rehabilitation in areas prone to erosion and land instability.*

Clause 13.05-1S – Noise management has the objective:

- *To assist the management of noise effects on sensitive land uses.*

Strategies are:

- *Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.*
- *Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

Policy guidelines

Consider as relevant:

- *The noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017.*

Clause 13.07-1S – Land use compatibility has the objective:

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Strategies are:

- *Ensure that use or development of land is compatible with adjoining and nearby land uses*
- *Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.*
- *Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.*
- *Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.*

Clause 02.03-4 – Natural resource management

Agriculture

Council seeks to maintain a viable and sustainable agricultural industry as the cornerstone to the Shire's economy and its future wellbeing by:

- *Protecting high quality agricultural land for primary production.*
- *Supporting diverse and sustainable agriculture industries, including promoting the region as a premium 'green' products food bowl.*
- *Facilitate the provision of essential services to support agricultural production.*
- *Facilitate industries in rural areas that specifically support the agricultural sector and add value to primary produce.*
- *Promote agricultural land management that includes sustainable integration of economic and environmental needs.*
- *Support the development of the marine and farm forestry industries.*

Clause 14.01-1S – Protection of agricultural land has the objective:

- *To protect the state’s agricultural base by preserving productive farmland.*

Relevant strategies are:

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *Limit new housing development in rural areas by:*
 - *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
- *Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
 - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
 - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
 - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
 - *Land capability.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*

- *Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.*
- *Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.*

Clause 14.01-2S – Sustainable agricultural land use has the objective:

- *To encourage sustainable agricultural land use.*

Relevant strategies are:

- *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
- *Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.*
- *Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.*
- *Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.*
- *Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.*
- *Support agricultural investment through the protection and enhancement of appropriate infrastructure.*
- *Facilitate ongoing productivity and investment in high value agriculture.*

Clause 02.03-5 – Built environment and heritage

The protection of settlement character and landscape and environmental values through the design and siting of development is necessary to maintain the Shire’s desirability as a place to live, work and visit.

Council seeks to:

- *Promote sympathetically designed and located development that complements the built form character, environmental, topographical and landscape values of its location.*

Environmentally sustainable design

Council seeks to:

- *Encourage the use of passive and active energy efficient systems in development.*

Heritage

Council seeks to:

- *Protect heritage places from development that would diminish their significance.*
- *Retain, use, manage and develop heritage places in a way that conserves or reveals their heritage significance and their contribution to the identity, culture and history of the municipality.*

Clause 15.01-1S – Urban design has the objective:

- *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

Relevant strategies are:

- *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.*
- *Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.*
- *Ensure the interface between the private and public realm protects and enhances personal safety.*
- *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
- *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*
- *Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.*
- *Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.*
- *Promote good urban design along and abutting transport corridors.*

Clause 15.01-1L-01 – Urban design has the relevant strategies to:

- *Encourage a building design, layout and landscaping for all development, that respects the existing character and strategic context of the site, particularly at the highway entrances to the town and settlement gateways.*
- *Locate infrastructure away from highly scenic locations, key views and coastal locations, or underground wherever possible in the case of powerlines and other utility services.*
- *Locate access tracks and other infrastructure in areas of low visibility, preferably in previously cleared locations.*
- *Avoid the use of materials that contrast with the landscape.*
- *Use vegetation to screen infrastructure from key viewing corridors and public use areas.*
- *Encourage reticulated electricity to be provided using underground cabling.*

Clause 15.01-2S – Building design has the objective:

- *To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.*

Relevant strategies are:

- *Ensure a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.*
- *Ensure development responds and contributes to the strategic and cultural context of its location.*
- *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- *Improve the energy performance of buildings through siting and design measures that encourage:*
 - *Passive design responses that minimise the need for heating, cooling and lighting.*
 - *On-site renewable energy generation and storage technology.*
 - *Use of low embodied energy materials.*
- *Ensure the layout and design of development supports resource recovery, including separation, storage and collection of waste, mixed recycling, glass, organics and e-waste.*
- *Encourage use of recycled and reusable materials in building construction and undertake adaptive reuse of buildings, where practical.*
- *Encourage water efficiency and the use of rainwater, stormwater and recycled water.*
- *Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.*

- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- *Ensure development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles.*
- *Encourage development to retain existing vegetation.*
- *Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.*

Clause 15.01-2L-01 – Building design – residential has the relevant strategies:

- *Design residential development in small towns to be sustainable and sympathetic to the existing character of these towns.*
- *Orient and site dwellings and other accommodation to optimise the use of active solar energy generation, passive solar energy, energy efficiency principles and natural, year-round daylight.*
- *Encourage the retention and planting of indigenous vegetation to:*
 - *Screen dwellings and ancillary outbuildings from adjoining properties, roads and nearby public space.*
 - *Assist in decreasing greenhouse gas emissions.*
- *Encourage dwellings and accommodation to respond to the surrounding natural environment through siting, minimising cut and fill, and use of exterior building materials, finishes and colours that are non-reflective and blend with the surrounding natural environment.*
- *Site and design dwellings and other accommodation types to minimise the potential impacts of climate change, including factors such as water usage, thermal comfort, maintaining access and protection from environmental risks such as storms, inundation, erosion and bushfires.*

Clause 15.01-4S – Healthy neighbourhoods has the objective:

- *To achieve neighbourhoods that foster healthy and active living and community wellbeing.*

Clause 15.01-6S – Design for rural areas has the objective:

- *To ensure development respects valued areas of rural character.*

Relevant strategies are:

- *Ensure that the siting, scale and appearance of development protects and enhances rural character.*
- *Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.*
- *Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.*

Clause 15.01-6L – Open farmed landscapes has the relevant strategies:

Relevant strategies are:

- *Protect open farmed landscapes from inappropriate dwelling development by avoiding:*
 - *Proliferation of dwellings.*
 - *Development on ridgelines.*
 - *Development that visually impacts on the landscape due to colour, building outline, size, mass, reflectivity, earthworks, vegetation clearance or siting.*

Clause 15.03-1S – Heritage conservation has the objective:

- *To ensure the conservation of places of heritage significance.*

Relevant strategies are:

- *Encourage appropriate development that respects places with identified heritage values.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements of a heritage place.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings where their use has become redundant.*

Clause 15.03-1L – Heritage applies to all heritage places included in the Heritage Overlay.

Relevant strategies are:

General strategies

- *Facilitate buildings, works or subdivision where it will assist in the short or long term conservation of the place by:*
 - *Maintaining, protecting, restoring, repairing or stabilizing significant fabric.*

- *Supporting the continued original use of the building by enabling it to be upgraded to meet present day requirements and standards, including improved energy efficiency.*
- *Allowing an alternative use (where this is permitted by the zoning or in accordance with the Heritage Overlay Schedule) when the original use of the building is no longer viable.*

Demolition strategies

- *Discourage the demolition of a building or works that contribute to the significance of a heritage place.*
- *Discourage the demolition of part of a building or works unless:*
 - *The fabric to be removed is not of primary significance and its removal will not adversely affect the significance of the place.*
 - *It will assist in the long term conservation of the place.*

Development or works strategies

- *Encourage development that assists in revealing the significance of the place.*
- *Discourage development that would alter, destroy or conceal any fabric that contributes to its significance, except where it can be demonstrated that any alteration is reversible.*
- *Ensure that the siting, size, height, setback, materials, form and colour of new development are sympathetic to the elements that contribute to the significance of a heritage place, including its context.*
- *Distinguish new development from heritage fabric whilst being sympathetic to the heritage context.*
- *Discourage development that mimics or copies an earlier style.*
- *Discourage buildings or works that will have an adverse effect upon a significant tree identified by the South Gippsland Heritage Study (2004), or any tree that contributes to the setting of a heritage place.*

Policy document

Consider as relevant:

- *South Gippsland Heritage Study (David Helms, 2004)*

Clause 15.03-2S – Aboriginal cultural heritage has the objective:

- *To ensure the protection and conservation of places of Aboriginal cultural heritage significance.*

Relevant strategies are:

- *Identify, assess and document places of Aboriginal cultural heritage significance, in consultation with relevant Registered Aboriginal Parties, as a basis for their inclusion in the planning scheme.*
- *Provide for the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places.*
- *Ensure that permit approvals align with the recommendations of any relevant Cultural Heritage Management Plan approved under the Aboriginal Heritage Act 2006.*

Policy guidelines

Consider as relevant:

- *The findings and recommendations of the Aboriginal Heritage Council.*
- *The findings and recommendations of the Victorian Heritage Council for post-contact Aboriginal heritage places.*

Clause 02.03-6 – Housing

Council seeks to:

- *Accommodate housing growth that is sustainable and sympathetic to:*
- *The hierarchy and existing character of the Shire’s settlements.*
- *The availability and capacity of infrastructure and commercial, community and transport services.*
- *Significant environmental features and landscapes.*
- *Continuation of commercial agriculture in rural areas.*
- *Encourage diversity in dwelling type, size, adaptability and accessibility to provide greater choice and affordability to suit a range of needs.*

Clause 16.01-1S – Housing supply has the objective:

- *To facilitate well-located, integrated and diverse housing that meets community needs.*

Relevant strategies are:

- *Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.*

- *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- *Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*
- *Encourage the development of well-designed housing that:*
 - *Provides a high level of internal and external amenity.*
 - *Incorporates universal design and adaptable internal dwelling design.*
- *Support opportunities for a range of income groups to choose housing in well-serviced locations.*
- *Plan for growth areas to provide for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.*

Clause 16.01-1L – Housing supply in South Gippsland has the relevant strategies:

- *Encourage medium density housing close to the commercial centres of Leongatha, Korumburra, Foster and Mirboo North.*
- *Locate dwellings on flat land close to retail, community and health services.*
- *Design dwellings so that they can be adapted to meet changing lifecycle circumstances and the needs of diverse households.*
- *Support housing options with convenient access to secondary and further education, employment and transport for younger people.*

Clause 16.01-2S – Housing affordability has the objective:

- *To deliver more affordable housing closer to jobs, transport and services.*

Clause 02.03-7 – Economic development

Diversified economy

Value adding manufacturing and processing plays an important part in the future economic growth opportunities in the Shire. The lower operational costs for businesses and the unique lifestyle that the Shire offers should be promoted to attract new employment opportunities and population growth.

Council seeks to:

- *Attract and develop value adding opportunities to diversify the industry base and maximise industrial employment opportunities.*
- *Locate service industries in towns where they support the local population and provide employment opportunities.*
- *Encourage major economic development opportunities associated with the use of deep water port facilities at Barry Beach.*

Tourism

Tourism is fast becoming a significant employer and generator of economic activity within the Shire. The region boasts Wilsons Promontory National Park and borders Phillip Island. The Shire's rural landscapes, spectacular coastal areas and numerous historically and culturally significant sites are major tourist attractions. The South Gippsland region provides a diverse range of recreational and tourism-related experiences such as festivals, Coal Creek Community Park and Museum, Grand Ridge Road scenic drive, the Great Southern Rail Trail and the Grand Ridge Rail Trail, boutique food and beverage outlets and the Nyora Speedway. Growth opportunities exist in eco-tourism while agricultural and farming activities can service the industry through the development of agri-tourism.

Council seeks to:

- *Protect the Shire's heritage assets, coastline, rural landscapes and agricultural produce for their tourism value.*
- *Encourage the development of eco-tourism and agri-tourism, building on the Shire's natural assets and agricultural land use.*
- *Encourage tourism use and development in association with the Great Southern Rail Trail and the Grand Ridge Rail Trail.*

Clause 17.01-1S – Diversified Economy has the objective:

- *To strengthen and diversify the economy.*

Relevant strategies are:

- *Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.*
- *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
- *Improve access to jobs closer to where people live.*

- *Support rural economies to grow and diversify.*

Clause 17.01-1R – Diversified Economy – Gippsland has the relevant strategies:

- *Support production and processing facilities that add value to local agricultural, forestry and fisheries products.*
- *Support the development of industry sectors focussed on growing Asian and other international markets.*

Clause 17.02-1S – Business has the objective:

- *To encourage development that meets the community’s needs for retail, entertainment, office and other commercial services*

Clause 17.04-1S – Facilitating Tourism has the objective:

- *To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination*

Relevant strategies are:

- *Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities.*
- *Seek to ensure that tourism facilities have access to suitable transport.*
- *Promote tourism facilities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions.*
- *Create innovative tourism experiences.*
- *Encourage investment that meets demand and supports growth in tourism.*

Clause 17.04-1R – Tourism – Gippsland has the relevant strategies:

- *Facilitate tourism development in existing urban settlements to maximise access to infrastructure, services and labour and to minimise impacts on the environment and exposure to natural hazards.*
- *Support nature-based tourism proposals that complement and are compatible with the region’s environment and landscape attractions or are close to identified strategic tourism investment areas.*

Clause 17.04-1L – Tourism has the relevant strategies:

- *Encourage outdoor education and adventure type tourism activities.*
- *Support the development of larger scale tourism infrastructure capable of attracting year round visitation, such as conference centres and major accommodation venues, in appropriate locations, including within settlement boundaries and at locations that are close to Wilsons Promontory.*
- *Encourage small-scale tourism within the Township Zones in the Villages and Hamlets that complement the natural environment, agricultural and landscape values of the region and takes advantage of proximity to tourist routes and access to the Great Southern Rail Trail.*

Policy documents

Consider as relevant:

- *Economic Development and Tourism Strategy 2015-2020 (SGSC, 2015)*
- *South Gippsland Rural Land Use Strategy (SGSC, 2011)*

Clause 18.02-4S – Roads has the objective:

- *To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.*

Relevant strategies are:

- *Plan an adequate supply of car parking that is designed and located to:*
 - *Protect the role and function of nearby roads.*
 - *Enable the efficient movement and delivery of goods.*
 - *Facilitate the use of public transport.*
 - *Maintain journey times and the reliability of the on-road public transport network.*
 - *Protect residential areas from the effects of road congestion created by on-street parking.*
 - *Enable easy and efficient use.*
 - *Achieve a high standard of urban design.*
 - *Protect the amenity of the locality, including the amenity of pedestrians and other road users.*
 - *Create a safe environment, particularly at night.*
- *Allocate land for car parking considering:*
 - *The existing and potential modes of access including public transport.*
 - *The demand for off-street car parking.*

- *Road capacity.*
- *The potential for demand-management of car parking.*
- *Consolidate car parking facilities to improve efficiency.*

Clause 18.02-4L – Road system has the relevant strategy:

- *Discourage the use and development of land that would prejudice the safety and efficiency of roads.*

Clause 02.03-9 – Infrastructure

The design, management and delivery of infrastructure are key issues for Council. The Infrastructure Design Manual (IDM) includes guidelines for the design and construction of infrastructure within the municipality. The IDM complements the objectives and standards of Clause 56 for residential subdivision applications.

Council seeks to:

- *Ensure a consistent approach to the planning, design and construction of infrastructure.*

Community infrastructure

Due to the widespread distribution of the Shire’s population, effective planning is needed to allow the community equitable access to a range of recreation, education and health services and facilities.

Council seeks to:

- *Facilitate a range of services and facilities including recreation, education and health services that meet the needs of the community.*

Clause 19.02-6S – Open spaces has the objective:

- *To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.*

Relevant strategies are:

- *Plan for regional and local open space networks for both recreation and conservation of natural and cultural environments.*
- *Ensure that open space networks:*

- *Are linked, including through the provision of walking and cycling trails.*
 - *Are integrated with open space from abutting subdivisions.*
 - *Incorporate, where possible, links between major parks and activity areas, along waterways and natural drainage corridors, connecting places of natural and cultural interest.*
 - *Maintain public accessibility on public land immediately adjoining waterways and coasts.*
- *Create opportunities to enhance open space networks within and between settlements.*
 - *Ensure that land is set aside and developed in residential areas for local recreational use and to create pedestrian and bicycle links to commercial and community facilities.*
 - *Ensure that land use and development adjoining regional open space networks, national parks and conservation reserves complements the open space in terms of visual and noise impacts, preservation of vegetation and treatment of waste water to reduce turbidity and pollution.*
 - *Improve the quality and distribution of open space and ensure long-term protection.*
 - *Ensure that urban open space provides for nature conservation, recreation and play, formal and informal sport, social interaction, opportunities to connect with nature and peace and solitude.*
 - *Develop open space to maintain wildlife corridors and greenhouse sinks.*
 - *Provide new parkland in growth areas and in areas that have an undersupply of parkland.*
 - *Ensure public land immediately adjoining waterways and coastlines remains in public ownership.*

Clause 19.03-2S – Infrastructure design and provision has the objective:

- *To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.*

Clause 19.03-2L – Infrastructure design and provision has the relevant strategy:

- *Provide a consistent approach to the design and construction of infrastructure across the municipality.*

Policy guideline

Consider as relevant:

- *The Infrastructure Design Manual (Local Government Infrastructure Design Association, 2020) or an approved precinct structure plan for subdivision and development.*

Policy document

Consider as relevant:

- *The Infrastructure Design Manual (Local Government Infrastructure Design Association, 2020)*

Clause 19.03-3S – Integrated water management has the objective:

- *To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

Relevant strategies are:

- *Plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:*
 - *Take into account the catchment context.*
 - *Protect downstream environments, waterways and bays.*
 - *Manage and use potable water efficiently.*
 - *Reduce pressure on Victoria's drinking water supplies.*
 - *Minimise drainage, water or wastewater infrastructure and operational costs.*
 - *Minimise flood risks.*
 - *Provide urban environments that are more resilient to the effects of climate change.*
- *Integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use.*
- *Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.*
- *Ensure that development protects and improves the health of water bodies including creeks, rivers, wetlands, estuaries and bays by:*
 - *Minimising stormwater quality and quantity related impacts.*
 - *Filtering sediment and waste from stormwater prior to discharge from a site.*
 - *Managing industrial and commercial toxicants in an appropriate way.*
 - *Requiring appropriate measures to mitigate litter, sediment and other discharges from construction sites.*
- *Manage stormwater quality and quantity through a mix of on-site measures and developer contributions at a scale that will provide greatest net community benefit.*
- *Minimise the potential impacts of water, sewerage and drainage assets on the environment.*
- *Protect significant water, sewerage and drainage assets from encroaching sensitive and incompatible uses.*
- *Protect areas with potential to recycle water for forestry, agriculture or other uses that can use treated effluent of an appropriate quality.*

- *Ensure that the use and development of land identifies and appropriately responds to potential environmental risks, and contributes to maintaining or improving the environmental quality of water and groundwater.*

Clause 19.03-3L – Integrated water management has the relevant strategies:

- *Progressively upgrade wastewater disposal and drainage infrastructure for existing development to current standards.*
- *Promote the use of new technology in wastewater system design, testing and management.*
- *Encourage the use of best practice water sensitive urban design measures for new developments.*

Discussion

Settlement

Relevant policy relating to settlements highlights Kongwak as an attractive tourist destination, largely owing to the historic former butter factory and the local market. The subject site is located within the hamlet along Korumburra-Wonthaggi Road, being the main connection between Korumburra and the Bass Coast. The proposal provides for a place of assembly (event venue), restaurant and group (tourism) accommodation associated with agricultural enterprise (on the site of the activity) and the natural features of the land (eco-tourism). It is considered that the proposal, while large in scale in a broad sense, presents a carefully considered interface with Kongwak, carefully integrated amongst the heritage fabric and throughout the private realm. This is consistent with state, regional and local policy to support the agricultural features of the settlement and capitalise on the ecological attributes of the site and surrounding area. Further, the proposal would proportionately enliven the hamlet, providing superior access to jobs, services and open space for residents and visitors alike, while ensuring that the majority of movement and human activity is confined to the private realm behind landscaping and open space.

Environmental and landscape values

Planning policy centred on the protection of biodiversity and riparian corridors generally seeks to avoid impacts of land use and development on important areas of biodiversity, support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas, and avoid, minimise and offset native vegetation removal. The vegetation removal proposed is very nominal, whilst the balance of vegetation on the site will be maintained or improved (owing to proposed revegetation of the riparian areas) – which maintains an appropriate level of vegetation coverage overall whilst simultaneously accommodating the small pedestrian bridge. Should

a permit be issued, Clause 52.17 requires an appropriate offset to be provided that is commensurate with the biodiversity value of the vegetation for removal. Stormwater runoff and wastewater will be managed onsite, with no impact on the waterways or vegetated areas. Further, the proposal would provide ongoing riparian rehabilitation throughout the site, including the revegetation of approximately 3 ha of the site, and incorporate eco-tourism activities into this. Preliminary comments have been sought from the West Gippsland Catchment Management Authority (WGCMA) in relation to waterway health, which has been incorporated into the design response. Overall, the proposed vegetation removal (and offset) and waterway management regime is an acceptable response for the purposes of the relevant policy.

Environmental risks

The intent of the relevant state and local bushfire policy at Clauses 02.03-3, 13.02-1S and 13.02-1L centres on the preservation of landscapes and character of areas like Kongwak and, as the highest priority, the preservation of human life in bushfire affected areas. The subject land, while not within a Bushfire Management Overlay, is identified as being in a Bushfire Prone Area and as such, bushfire risk must be considered. The predominant risk to the site arises from low threat vegetation or grassland that has Column A separation in most directions. It is demonstrated that the land is 'Landscape Type Two' having vegetation influence in the form of grassland and riparian forest; whilst also having interface to developed and maintained rural living lots that reinforce why the land does not meet the criteria for application of the Bushfire Management Overlay. Application of AS3959 will address the bushfire risk to the buildings. The nearby dwellings within the township of Kongwak will have an increase in their level of resilience due to enhanced development of this land. The development will increase the need for vegetation management on the land, thus creating a safer environment for all. There is an increase in risk by placing accommodation in a rural location. However, the risk is commensurate with the mitigation measures taken including BAL, access and water supply and responds to the revegetation. Conditions can be imposed on any permit issued to require the accommodation to close on extreme or catastrophic fire risk days, should this be considered necessary to ensure protection of human life. The new accommodation buildings will be constructed to, either, BAL 12.5 or BAL 29 depending on the identified bushfire risk (refer to sheet MP-303). The site would be provided with a 10 KL static water supply for firefighting purpose (330 KL effective capacity), and water supply outlets would be provided throughout the accommodation areas in accordance with CFA requirements, which provides ample water supply to manage fire risk should the need arise at a localised level.

Planning policy centred on erosion (Clause 13.02-2S) seeks to protect prone areas from land degradation caused by inappropriate use and development. The ESO5, which is concerned with erosion, land disturbance and vegetation loss, applies to the site. The proposal minimises land

disturbance and vegetation loss owing to the nominal site coverage and impermeability, and appropriately manages runoff, as demonstrated in the Stormwater Management report, prepared by CJ Arms dated 15 June 2023. This ensures that there is no net increase to the site's susceptibility to erosion.

The site is not within a designated floodway, however there are watercourses running through the site. A flood study has been undertaken on the site, finding that the development is not adversely affected by flooding and any flood risk from the Foster Creek can be appropriately mitigated. Further, the proposal would have negligible impact on water quality or flows running through the site, as demonstrated by the Stormwater Management report.

Amenity

Planning policy centre on land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate use and development. Surrounding land uses to the south are typically residential (zoned in the TZ), with FZ lots surrounding in all other directions. The proposal comprises restaurant, event and accommodation land uses. Any on-site amenity implications have been considered, including by an Acoustic Assessment, prepared by JTA Health, Safety and Noise Specialists (dated July 2023). The Acoustic Assessment recommends that: a 2.4 m high acoustic wall be constructed along the shared boundary with 1494 Korumburra-Wonthaggi Road; external mechanical plants be acoustically enclosed/treated; waste disposal only occur during the daytime; a noise limiter be installed to the speaker system; windows in the dining area of the cheese factory be installed in acoustic frames; and existing vegetation be maintained to suppress noise. Having regard to alcohol consumption (and associated impacts), the extent of alcohol consumption associated with the proposed use and development is not considered to be excessive and will be managed according to relevant legislative and liquor licencing requirements. The hours of operation are not considered to unreasonably impact upon surrounding amenity, owing to the provision of adequate noise attenuation measures proposed and the nominal intrusion that the proposed uses (restaurant and place of assembly) typically impose. Aside from the restaurant use, large patron numbers are not considered to be particularly prevalent owing to the periodic and fluctuating nature of corporate events, weddings and the like. Given the mix of agricultural activities and accommodation uses in the surrounds, the issue of the proposed uses (to the extent proposed) is compatible having regard to the site and surrounds.

Natural resource management

One of the most relevant policy setting for this application relates to protection of agricultural land, with the overarching policy direction being to ensure that productive agricultural land remains available for such purposes.

Importantly on the subject site, is that a significant proportion of the land would be used for productive agricultural activities, acknowledging that a large proportion of the land is constrained by environmental factors (i.e. waterways and riparian corridors, and proximity to residential uses in the TZ). The proposal is consistent with policy at Clause 14.01-1S as it is associated with the proposed agricultural use of the land; this forming part of the core reason why the place of assembly, restaurant and accommodation is sited, orientated (and ultimately to be marketed) in the form that it is – along with the site’s unique environmental attributes. Proposed agricultural activities on the site have been chosen based on the agricultural report, prepared by Ag-Challenge Consulting Pty Ltd, which provided recommendations based on the land and soil types to best ensure viability. They comprise, a market garden, fruit orchard, winery and grazing pasture.

The acceptability of non-agricultural land uses in the FZ has been contemplated by the Victorian Civil and Administrative Tribunal on a number of occasions. In the Tribunal decision of *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, the Tribunal found in favour of an application for an accommodation use on a small lot in the FZ, finding that the locational and site-specific characteristics of the site meant that the productive capacity of the site was reduced and non-agricultural land uses, such as dwelling, were amenable. Notably:

34. I also consider that its use for a dwelling is compatible with its surrounds. It is directly opposite small lots used for residential purposes... The balance of existing residential and agricultural uses will not be significantly altered if this site is used for a dwelling.

Similarly, in *Tsourounakis v Hepburn SC [2009] VCAT 1311 (5 July 2009)*, Member Rundell found in favour of an application for group accommodation on a lot in the FZ, finding that:

15. ... The planning policy framework contemplates that farming land will be used for a wide range of activities that leverage off the farming activities. Importantly these are seen to be important to generate income sources that can positively contribute to the costs of land management and environmental improvements.

This is consistent with state-led policy at Clause 14.01-1S which calls for consideration of the *desirability and impacts of removing the land from primary production* [potential] and the land’s capability. Moreover, given the locational context of the site (within the Kongwak settlement) together with the scale and siting of the use and development proposed, it is highly unlikely that the proposed use and development would have any notable impact on nearby agricultural production. Rather, the proposed use and development of the site would provide for an appropriate transition (or buffer) between the sensitivities of the hamlet and surrounding FZ land, where greater scale agriculture could be undertaken. This is consistent with state and local-led policy at Clauses 14.01-1S and 14.01-1L which calls for consideration of the *impacts on the continuation of primary production on adjacent land, with*

particular regard to land values and the viability of infrastructure for such production and the compatibility between the proposed and the existing use of the surrounding land. It is also further enforced by *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, as discussed further above. Further to this point, the perceived commodification of the land for non-agricultural uses is unlikely to have drastic implications on surrounding land value of properties in the FZ any more than the existing conditions of surrounding land cause – owing to the existing proliferation of dwellings in the area (in Kongwak and surrounds).

Clause 17.04-1R and 17.04-1L specifically envisage uses and developments such as the one proposed where small-scale tourism complements the natural environment, agricultural and landscape values of the site and surrounds in hamlets such as Kongwak, to support and diversity such activities at a micro level, and to support the broader agricultural and tourism economy at a macro level. The ancillary caretakers dwelling would be intrinsically linked to the each of the other uses on site, allowing the landowners to remain on site and, integrally, to facilitate the efficient management and interactions of those uses, including the proposed onsite agricultural production. Such unions of land uses in the FZ are reaffirmed in *Tsourounakis v Hepburn SC [2009] VCAT 1311 (5 July 2009)*, as already discussed, and importantly, our clients accept conditions to the effect of tying the caretakers dwelling to the proposed use and development, which is already intrinsic in being an ancillary component of same. As discussed further in this report, the proposal has no effect on the agricultural productivity of the land (noting the deliberate siting of the cabins closer to the TZ-zoned portion of the site), which minimises any potential that the approval of this application could lead to the eventual cessation or reduction of agricultural activities on the site.

On balance, the proposal is considered to be consistent with the policy enunciated above relating agriculture given that it seeks to use and develop land that is not generally suited to large-scale agricultural production, owing to its size, site constraints and location, in a manner which proportionately capitalises on small scale agricultural production, agricultural and eco-tourism opportunities, riparian revegetation and heritage preservation.

Built form

Planning policy centred on built form, design and character outcomes (Clauses 02.03-5, 15.01-1S, 15.01-1L-01, 15.01-2S, Clause 15.01-2L-01 and 15.01-6S) seeks to ensure the implementation of good urban and building design practices that it responsive to site's surrounds and characteristics. The proposed partial demolition and modifications to the existing butter and cheese factory buildings are responsive to the existing built form of the site and hamlet. Likewise, the proposed accommodation buildings are considered to be responsive to the character of the area and do not detract from the rural aesthetic of the surrounding FZ land. The form and siting of the accommodation is small in scale in the

context of the site, appropriately setback and generously landscaped (with screening of vegetation on the site) and other land, with no jarring or distinguishing characteristics in terms of height, materials or visual bulk. The design of the buildings takes into account ESD and WSUD principles, as demonstrated by the Stormwater Management report, which further promotes the environmental connectiveness of the proposal with the site and surrounds. Overall, the proposal presents a positive inter-connected urban design response, that proportionately activates the site and settlement, and appropriately transitions the site from the urbanised nature of the hamlet to the rolling hills of the surrounding landscape.

Heritage

State and local planning policy direction relating to heritage seeks to protect and conserve heritage places, allow adaptive re-use of heritage buildings and ensure that new development does not impugn on the heritage significance. The proposed partial demolition and modifications to the existing butter and cheese factory buildings would preserve and restore the heritage attributes of the site and maintain its integrity and visual prominence along the streetscape. Likewise, the proposed group accommodation (and associated development) would not undermine nor detract the significance of the heritage attributes of the butter and cheese factory buildings (HO4) and the Kongwak Avenue of Honour (HO50), largely owing to the scale, siting, articulation and fabric of the proposed cabins together with the proposed landscaping response.

Having regard for aboriginal cultural heritage, the subject land is partially located in an area of Aboriginal Cultural Heritage Sensitivity under the *Aboriginal Heritage Act 2006* and the proposal contains activities defined as high impact activities under Division 5 of the *Aboriginal Heritage Regulations 2018*. A CHMP has been prepared and has been approved by AAV– CHMP number 19263. The CHMP provides recommendations for the site’s ongoing protection and conservation concurrently to the proposed use and development. Overall, the proposal provides a positive heritage response for the site, which will see it adaptively re-used in a manner that is respectful of the heritage significance.

Tourism development

The proposal is wholly consistent with planning policy relating to tourism development, which seeks to support nature-based tourism and encourage a scale of tourism that is commensurate to the site and its surrounds. The proposal would provide a place of assembly, restaurant and group accommodation options – that are proportionately-scaled and good quality – directly linked to the primary landmark and tourism driver for Kongwak (the butter and cheese factory buildings and the valued landscape characteristics) for prospective visitors to the area to experience. The use and development of the restaurant and place of assembly preserves and adapts the existing butter and cheese factory buildings, whilst the accommodation interacts with the form and viewshed of the rolling rural landscape of

Kongwak. Overall, it provides a boutique and niche offering of high quality dining, event and accommodation areas to visitors of the area to experience. The location of the site is well serviced and located for such activities, provides for the promotion and consumption/sale of agricultural products produced on the land (and the surrounding area more generally), promotes heritage tourism and eco/agri-tourism, and which does not compromise the natural landscape features or agricultural value of the land. Overall, the proposed use and development is considered an appropriate undertaking for the site considering the site's limitations and favourable location.

Transport

Relevant policy relating to roads (Clause 18.02-4S and 18.02-4L) seeks to, among other things, ensure the efficient safe management of the local road network and to plan an accessible and adequate supply of car parking for new use and development. The application provides safe and efficient access throughout the site and an abundant supply of car parking, which takes into account the variable intricacies of each land use proposed.

Infrastructure

Planning policy associated with infrastructure seeks to ensure infrastructure is provided in line with community (and development) needs. The proposal includes the development of a landscaped wetlands area which will largely be set aside for public use as a publicly-accessibly, privately owned public open space reserve for the community. The proposal is consistent with the policy direction at Clauses 02.03-9, 15.01-4S and 19.02-6S in that it provides new well-designed recreational areas for the local community and visitors to use, that will improve general population wellbeing and beatification of the hamlet. The proposal accords with the relevant policy at Clauses 02.03-9, 19.03-2S, 19.03-2L, 19.03-3S and 19.03-3L in that it provides for appropriate development infrastructure, including potable water supply, on-site wastewater treatment and stormwater management, as demonstrated by the expert reports submitted with the application.

As a result of the above, the proposed use and development on the subject land is considered to be supported by the relevant provisions of the Planning Policy Framework and Municipal Planning Strategy.

3.2 Zoning

The subject land is located within the Township Zone (TZ) and the Farming Zone (FZ) under the South Gippsland Planning Scheme. An extract of the relevant zoning map is provided below:

3.2.2 Clause 35.07 – Farming Zone (FZ)

The purpose of the Farming Zone, as stated at Clause 35.07 of the Scheme is:

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

Pursuant to Clause 35.07-1, a permit is required to use land for Group Accommodation.

Pursuant to Clause 35.07-4, a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 35.07-1.

Pursuant to Clause 35.07-4, a permit is required to construct a building:

- *Within 100 metres of a Road in a Transport Zone 2 (Korumburra-Wonthaggi Road);*
- *Within 20 metres of a boundary; and*
- *Within 100 metres of a waterway, wetland or designated flood plain.*

3.3 Overlays

The subject land is covered by the following overlays:

- Clause 42.01 – Environmental Significance Overlay – Schedule 5 (ESO5); and
- Clause 43.01 – Heritage Overlay (HO4).

3.3.1 Clause 42.01 – Environmental Significance Overlay – Schedule 5 (ESO5)

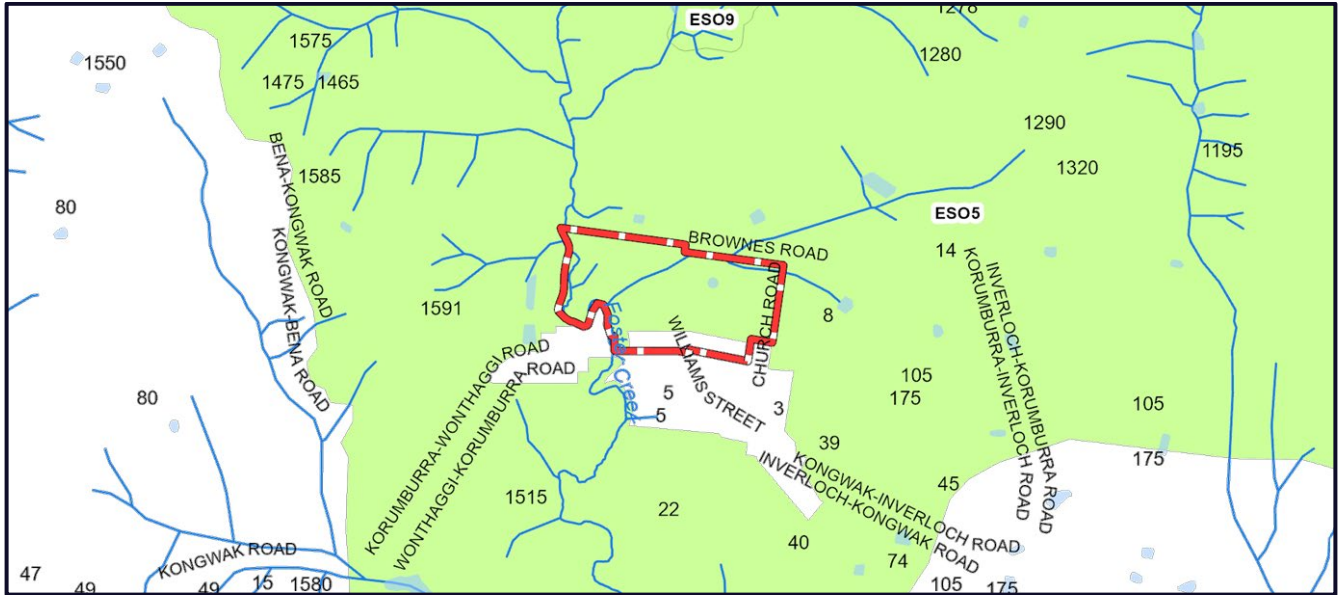


Figure 21: ESO5 map of subject site and immediate surrounds. Source: VicPlan

The purpose of the Environmental Significance Overlay, as stated at Clause 42.01 of the Scheme is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Statement of environmental significance

Erosion is recognised as a land management concern with diverse causes that may affect any property. Therefore it is important to encourage best practices for farming, building and associated land disturbances and to increase awareness of the issues that may exacerbate the process such as earthworks, control of water run-off and removal of vegetation.

The Department of Natural Resources and Environment has mapped certain areas in the Shire as susceptible to erosion. There are other areas within the Shire which have been specifically identified as prone to land slips. Whereas this overlay is applied to the areas susceptible to erosion as identified by the Department of Natural Resources and Environment, the Erosion Management Overlay is applied to the areas specifically identified as prone to land slips.

Environmental objective to be achieved

- *To protect areas prone to erosion by minimising land disturbance and vegetation loss.*
- *To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of watercourses.*

Pursuant to Clause 42.01-2, a permit is required to construct a building or construct or carry out works and to remove vegetation.

3.3.2 Clause 43.01 – Heritage Overlay (HO4)

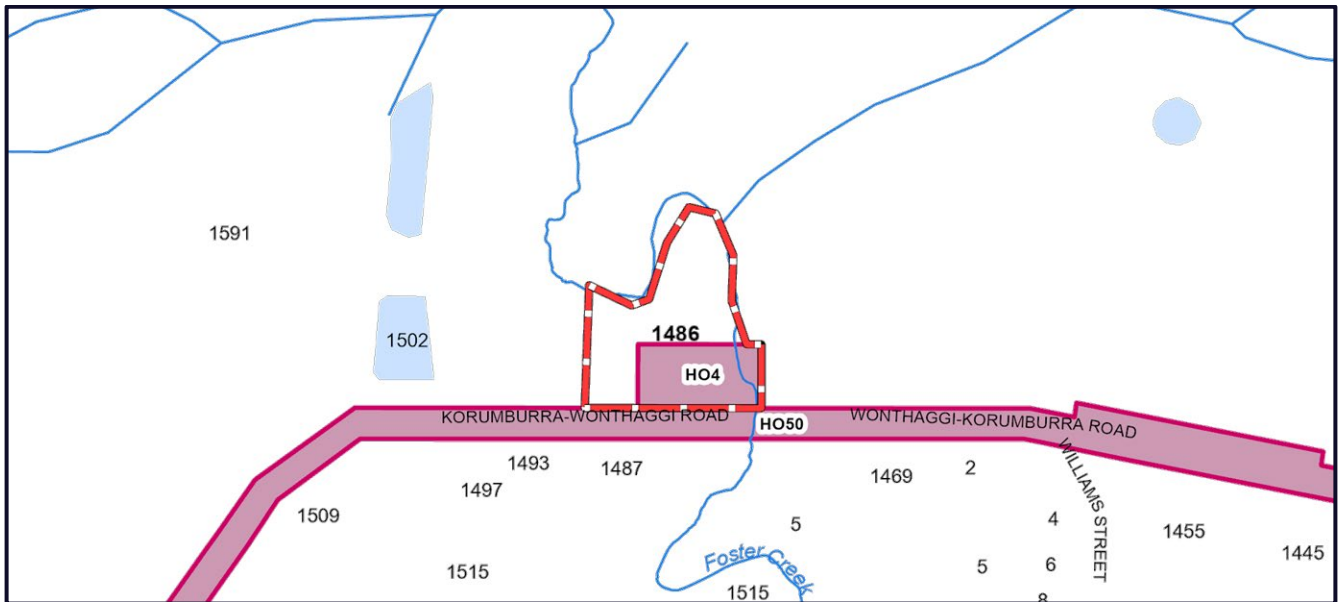


Figure 22: HO4 and HO50 map of subject site and immediate surrounds. Source: VicPlan

The purpose of the Heritage Overlay, as stated at Clause 43.01 of the Scheme is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

Pursuant to Clause 43.01-1, a permit is required to:

- *Demolish or remove a building;*
- *Construct a building or construct or carry out works;*

- Externally alter a building by structural work, rendering, sandblasting or in any other way;
- Externally paint a building; and
- Internally alter a building.

Application requirements

The following application requirements apply to an application under Clause 43.01, in addition to those specified elsewhere in the planning scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A report prepared by a suitably qualified heritage consultant, that assesses the impact of the application upon the significance of the heritage place. This report should:
 - Include a Site Analysis that:
 - Describes the significant elements of the place having regard to the relevant citation in the South Gippsland Heritage Study (2004).
 - Demonstrates how the significant elements of the place have been considered in the preparation of the application. For applications that include demolition, provide an assessment of whether the fabric is significant and, if so, why it is to be removed.
 - Provide an assessment of how the application will affect the significance of the heritage place.

Schedule to Clause 43.01 Table

| | |
|--|--|
| <i>Planning Scheme map reference</i> | HO4 |
| <i>Heritage place</i> | Kongwak Cooperative Butter and Cheese Factory (former) Korumburra-Wonthaggi Road, Kongwak |
| <i>External paint controls apply?</i> | Yes |
| <i>Internal alteration controls apply?</i> | Yes |
| <i>Tree controls apply?</i> | No |
| <i>Solar energy system controls apply?</i> | Yes |

| | |
|---|-----|
| <i>Outbuildings or fences which are not exempt under Clause 43.01-3</i> | No |
| <i>Included in the Victorian Heritage Register under the Heritage Act 2017?</i> | No |
| <i>Prohibited uses permitted?</i> | Yes |
| <i>Aboriginal heritage place?</i> | No |

3.4 Particular Provisions

3.4.1 Clause 52.05 – Signs

The application does not currently propose any signage, acknowledging that any signage will be subject to a future Planning Permit application or amendment application.

3.4.2 Clause 52.06 – Car Parking

Clause 52.06 is relevant to this application.

The purpose of Clause 52.06 is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Table 1 to Clause 52.06-5 prescribes the following car parking rates for the proposed uses

| <i>Use</i> | <i>Rate Column A</i> | <i>Rate Column B</i> | <i>Car Parking Measure Column C</i> |
|---------------------------------|--------------------------|--------------------------|---|
| <i>Place of assembly</i> | <i>0.3</i> | <i>0.3</i> | <i>to each patron permitted</i> |

| | | | |
|-------------------|-----|--|---------------------------------|
| Restaurant | 0.4 | | <i>to each patron permitted</i> |
|-------------------|-----|--|---------------------------------|

Note, group accommodation (or accommodation, which it nests under) is an innominate use for the purposes of Clause 52.06 and, therefore, Clause 52.06-6 applies.

Using Column A, the following car parking requirements therefore arise for the site:

- Place of assembly (278 patron capacity) – 83 spaces required (rounded down from 83.4); and
- Restaurant (150 patron capacity) – 60 spaces required (no rounding).

The application provides for:

- 51 spaces associated with the group accommodation, inclusive of 2 short-term spaces, on the land; and
- 52 spaces associated with the restaurant and place of assembly on the land.

The application seeks for:

- 67 spaces associated with the restaurant and place of assembly to be provided on another site (Church Road); and
- A reduction of 24 car parking spaces for the restaurant and place of assembly.

Pursuant to Clause 52.06-3, *a permit is required to:*

- *Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.*
- *Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.*

An assessment of the application requirements and decision guidelines will be undertaken in Section 4 of this report.

3.4.3 Clause 52.17 – Native Vegetation

Clause 52.17 is relevant to this application.

The purpose of Clause 52.17 is:

- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in*

accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

- *Avoid the removal, destruction or lopping of native vegetation.*
- *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*
- *To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

Pursuant to Clause 52.17-1, *a permit is required to remove, destroy or lop native vegetation.*

Clause 52.17-2 specifies that an application must meet the requirements specified in the *Guidelines*. It is noted that the State Government 'NVIM' platform is currently unable to generate the requisite report (refer NVIM website for details), and as such the required information is contained within this report and the submitted Ecological Assessment, prepared by Ecocentric Environmental Consulting (dated July 2023).

The proposed development will result in the loss of 0.059 ha of native vegetation at the proposed waterway crossing point. All native canopy trees will be retained during bridge construction, but for the purpose of calculating Offset requirements have been assumed lost as a precautionary measure, to ensure that the development results in no net loss of biodiversity. The generated general offset amount is 0.023 General Habitat Units, comprised of a minimum Strategic Biodiversity Score of 0.744, zero (0) large trees. In relation to the required offset, this can be readily found within the Shire or CMA catchment area, which could include a first party offset if required. It is anticipated that if the offset is required, it will form part of the permit conditions.

An assessment of the application requirements and decision guidelines will be undertaken in Section 4 of this report.

3.4.4 Clause 52.27 – Licensed Premises

Clause 52.27 is relevant to this application.

The purpose of Clause 52.27 is:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

Pursuant to Clause 52.27, a permit is required to use land to sell or consume liquor where a licence is required under the Liquor Control Reform Act 1998 (general licence).

An assessment of the decision guidelines will be undertaken in Section 4 of this report.

3.4.5 Clause 52.29 – Land adjacent to the principal road network

Clause 52.29 is relevant to this application.

The purpose of Clause 52.29 is:

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.

Pursuant to Clause 52.29-2, a permit is required to create and alter access to a road in a Transport Zone 2.

An assessment of the decision guidelines will be undertaken in Section 4 of this report.

3.4.6 Clause 52.34 – Bicycle Facilities

Clause 52.34 is relevant to this application.

Table 1 to Clause 52.06-5 prescribes the following car parking rates for the proposed uses

| Use | Employee | Visitor |
|--------------------------|---|--|
| Place of assembly | 1 to each 1500 sqm of net floor area | 2 plus 1 to each 1500 sqm of net floor area |
| Restaurant | 1 to each 100 sqm of floor area available to the public | 2 plus 1 to each 200 sqm of floor area available to the public if the floor area available to the public exceeds 400 sqm |

Note, group accommodation (or accommodation, which it nests under) is an innominate use and, therefore, no statutory requirement applies for this use. There are no requirements for any other uses proposed on the site.

Pursuant to Clause 52.34-5, the following bicycle facility requirements arise for the proposal:

- Place of assembly (1462,2 m² net floor area) – 4 spaces required (rounded up from 3.95); and
- Restaurant (377.8 m² net floor area) – 4 spaces required (rounded up from 3.78) Note, no spaces required for visitors as floor area available to the public is less than 400 m².

The application provides for:

- 16 bicycle parking spaces for shared use between the place of assembly and restaurant.

No variation, reduction or waiver is being sought.

It is anticipated that permit conditions will require the 8 requisite spaces to be provided on the land.

3.4.7 Clause 53.18 – Stormwater Management in Urban Development

Clause 53.18 is relevant to this application.

The purpose of Clause 53.18 is:

- *To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*

Clause 53.18-3 states:

An application to construct a building or construct or carry out works:

- *Must meet all of the objectives of Clauses 53.18-5 and 53.18-6.*
- *Should meet all of the standards of Clauses 53.18-5 and 53.18-6.*

An application must be accompanied by details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system.

The application has been submitted with a detailed stormwater plan prepared by CJ Arms creative urban design studio that meets the requirements of Clause 53.18-3.

3.4.8 Clause 53.22 – Significant Economic Development

Clause 53.22 is applicable to this application. Pursuant to Clause 53.22-1, the provisions of this clause prevail over any inconsistent provision in this planning scheme.

Clause 53.22-1 specifies that this clause applies to an application under any provision of this planning scheme, if the condition corresponding to a category in Table 1 is met.

Table 1 is extracted below:

| Table 1 | |
|------------|---|
| Category | Condition |
| Category 1 | <p>The use must be specified in Table 2 and the condition corresponding to that use must be met. If the application includes more than one use in Table 2, only one use must meet the corresponding condition.</p> <p>Must have written advice from the Chief Executive Officer, Invest Victoria confirming the likely financial feasibility of the proposal.</p> |

Figure 23: Table 1 to Clause 53.22 of the South Gippsland Planning Scheme

Table 2 to Clause 53.22 is also extracted below:

| Table 2 | |
|---|---|
| Use | Condition |
| Camping and caravan park Group accommodation Food and drink premises (other than bar, convenience restaurant and take away food premises) Leisure and recreation Place of assembly Recreational boat facility Residential hotel Winery | <p>The estimated cost of the development must be at least:</p> <ul style="list-style-type: none"> ■ \$10 million if any part of the land is in metropolitan Melbourne; or ■ \$5 million if any part of the land is not in metropolitan Melbourne. |

Figure 24: Table 2 to Clause 53.22 of the South Gippsland Planning Scheme

We have been advised by the Department of Transport and Planning, that written advice from the Chief Executive Officer, Invest Victoria, will not be required in this case.

In relation to the requirements of Clause 53.22, Table 1 specifies that where a proposal includes more than one use in Table 2, only one use must meet the corresponding condition.

A Quantity Surveyor Report prepared by Melbourne Quantity Surveyors, shows the estimated costs of Group Accommodation are \$11,167,000 (ex. services and associated works). This is well in excess of the required \$5,000,000 cost of works requirement for land outside of metropolitan Melbourne, and as such the application meets the application requirements of this clause under Clause 53.22-1 and Clause 53.22-3.

Noting that the views of the office of the Victorian Government Architect will be sought under this clause, our assessment of the application against all relevant provisions of the South Gippsland Planning Scheme (as per Section 4 of this report) demonstrates that the purpose of Clause 53.22 is achieved in this development.

3.5 General Provisions

The provisions of Clause 65 – Decision Guidelines are relevant to this proposal and are discussed at Section 4 of this report.

3.6 Operational Provisions

Incorporated and Background Documents

The following incorporated and background documents have been considered in the assessment of this application:

- *Australian Standard AS/NZS 2890.1:2004, Parking Facilities - Off-street car parking* (Standards Australia, 2004)
- *Building in bushfire-prone areas* (Publication SAA HB36-1993, CSIRO & Standards Australia, May 1993)
- *Design Vehicles and Turning Path Templates* (Publication AP-34/95, Austroads, 1995)
- *Economic Development and Tourism Strategy 2015-2020* (SGSC, 2015)
- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning 2017)
- *Infrastructure Design Manual* (Local Government Infrastructure Design Association, 2020)
- *South Gippsland Heritage Study* (David Helms, 2004)
- *South Gippsland Rural Land Use Strategy* (South Gippsland Shire Council, 2011)
- *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999)

4. Planning Assessment

4.1 The decision guidelines of the Township Zone

The decision guidelines of the Township Zone set out the matters that the Responsible Authority must consider (as appropriate):

General

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The objectives set out in a schedule to this zone.*
- *The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.*
- *The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.*
- *In the absence of reticulated sewerage, a Land Capability Assessment on the risks to human health and the environment of an on-site wastewater management system constructed, installed or altered on the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017.*
- *The design, height, setback and appearance of the proposed buildings and works including provision for solar access.*
- *Provision of car and bicycle parking and loading bay facilities and landscaping.*
- *The effect that existing uses on adjoining or nearby land may have on the proposed use.*
- *The scale and intensity of the use and development.*
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
- *Any other decision guidelines specified in a schedule to this zone.*

Discussion

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report. The proposal has particular regard for the environmental and landscape values of the site. Vegetation is largely unaffected by this proposal save for a nominal removal and the proposed riparian revegetation works along the waterways running through the site. A Wastewater Treatment report (Land Capability Assessment) has been prepared, demonstrating how wastewater will be managed on the site for the proposed use and development. Likewise, a Stormwater Management report has been prepared detailing how stormwater flows will be managed on site to avoid impact on the environment and to ensure a water supply for drinking and

firefighting purposes. Outside of this, the subject site appears to have access to reticulated electricity and telecommunications. The demolition and works to the heritage place are responsive to the existing built form of the site and Kongwak itself. Likewise, the proposed group accommodation cabins are responsive to the character of the area and do not detract from the rural aesthetic. The form and siting of the proposed cabins are small scale, appropriately setback and landscaped, with no jarring or distinguishing characteristics in terms of height, materials or visual bulk. Furthermore, the design of the proposed pedestrian, vehicle access, car parking areas and bicycle spaces are well-considered/designed, safe and appropriate for the proposal and the site and surrounds, as demonstrated in the Transport Impact Assessment. The assessment finds that there will be high propensity for multi-purpose trips, carpooling and group transport (i.e. coach services), meaning that the impact on the surrounding road network will not exceed the carrying capacity of that infrastructure. Having regard to the applicable schedule to the zone, Schedule 1 to Clause 32.05 does not specify any neighbourhood character objectives, requirements or decision guidelines. Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of the TZ and is an appropriate use and development for the subject land.

4.2 The decision guidelines of the Farming Zone

The decision guidelines of the Farming Zone set out the matters that the Responsible Authority must consider (as appropriate):

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*

- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

Accommodation issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use and development will require traffic management measures.*

Discussion

General issues

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report. The subject land is predisposed to notable encumbrances in terms of landscape features (riparian corridors) and location (in the hamlet). That said, the site is capable of sustaining the proposed use and development owing to its size, location and topographic attributes. The site's location in the centre of the Kongwak hamlet renders it relatively unusable for large-scale productive agriculture owing to its size and proximity to sensitive urban use and development and the segmentation of the land caused by the waterways. Nominal vegetation removal is proposed.

The proposed use and development would promote the eco-tourism and agri-tourism concept and enable viable sustainable land management practices on the site, particularly riparian buffers along the waterways. The development would not impact on the potential for the subject land to be used for agricultural purposes; rather the proposal has been deliberately designed to complement, support and enhance agricultural production on the site and surrounds, noting that the proposed restaurant, group accommodation and place of assembly activities are directly tied with the proposed market garden, orchard, vineyard and pastoral (agricultural) activities on the site. This suite of land uses provide value adding associated activities that support one another harmoniously, and which complement the local Kongwak market.

The proposed use and development would not adversely affect soil quality or permanently remove land from agricultural production nor limit the operation and expansion of adjoining and nearby agricultural uses.

The site will utilise existing services available to the land, along with onsite wastewater treatment and stormwater management measures and minor changes to internal access arrangements.

Agricultural issues

The proposed accommodation use will not result in the loss or fragmentation of productive agricultural land nor the operation and expansion of adjoining and nearby agricultural uses owing to the measured and considered design and siting of the project and its incorporation with agricultural activities on the site.

The proposed works will directly remove the land on which it is sited from theoretical agricultural production; however this is the case with all physical works to occur in the Farming Zone. The greater concern regarding the removal of land is the indirect removal of a parcel from agricultural production

due to change in land use. As demonstrated through this report, the subject site is not currently used for productive agricultural use, largely owing to its size, locational and topographic attributes. Our assessment of these factors indicates that productive agriculture on its own (on the site) is not a viable activity, and must be augmented in some manner.

The siting of the proposed non-agricultural use and development as well as the proposed agricultural activities (market gardens, fruit orchard, vineyard and pastures) on the site have been informed by the Agricultural report, prepared by Ag-Challenge Consulting Pty Ltd, which provided recommendations based on the land and soil types to best ensure viability. It is not uncommon for this type of agriculture (i.e. orchards, vineyards and market gardens) to be provided adjacent complementary land uses to provide an enticing visitor experience and economic benefits to the operators and region more generally. The proposal, while being for a restaurant, place of assembly and accommodation, is wholly related to both the agricultural use of the land and its riparian characteristics, which provides the desired context for guests to visit in and experience the site and surrounds.

Noting that the land area to which the development is proposed is minor in the total context of the site, the form of the group accommodation buildings as modular structures ensures that they can be readily removed should the need arise, and other buildings such as the service building can be reconfigured. There is no impact to land quality either directly on the building site or immediately surrounding same as a result of the works.

The location of the buildings and works will not impact on adjoining agricultural activities (or their potential), with the use and development appropriately setback from property boundaries, avoiding land use conflict. The nature of use on the site means that it is likely to expand rather than contract, such that any change to land value resulting from the proposal will not impact agricultural expansions or economic viability of land.

The nature of the use is not considered to unnecessarily impact agricultural expansions or economic viability of land (including property prices) owing to the existing development conditions on surrounding land, both in the TZ and FZ. Contrastingly, any agricultural uses on the site, if viable, would be further hindered by the site's abutments to land in the TZ and location in the centre of the hamlet. That said, the land remains capable of sustaining some agricultural use, noting that the proposal introduces agriculture to the site, and therefore agricultural output from the site is improved as a result of the proposal.

Accommodation issues

While the decision guidelines speak to dwellings specifically (and not other accommodation such as the proposed group accommodation), the intent of this decision guideline is to ensure accommodation

land uses do not impact agriculture, which is relevant to this application. The siting of the use and development, will ensure that it is not adversely affected by agricultural activities on adjacent and nearby land, and conversely that it will not affect such activities itself. The proposal will not lead to a concentration or proliferation of dwellings given the direct nexus to agricultural production and other activities on the land, and nature of productive agricultural use in the area, resulting in no arguments regarding the underlying land use characteristics in the area.

Environmental issues

The siting of the proposed accommodation is well setback from waterways and floodplains and has minimal vegetation impacts, which are considered as consequential impacts rather than direct loss. Potable water supply is provided to each cabin and throughout the site. The location of on-site effluent disposal has been informed by the Wastewater Treatment report, prepared by Diston Wastewater Technology (dated July 2023), which has validated that all wastewater management needs can be catered for onsite with consideration of the worst case scenario, in accordance with the EPA Code of Practice, and without adverse impact or without removing land from agricultural production. Further, the proposal provides a riparian buffer comprising revegetation of existing watercourses on the site, as required by the WGCMA to improve the land, which would be otherwise compromised by large-scale agricultural production.

Design and siting issues

The design of the new development incorporates well with the natural and rural/agricultural environment and does not present any bulk or appear out of place. The proposal represents a positive improvement to the character of the hamlet. The alterations to the heritage place are largely restorative (externally) and would have a positive impact on the site's interface with the streetscape. The dwelling and group accommodation cabins are to be constructed in colours and materials typical of a rural environment and will not be a dominant feature in the landscape. The works are appropriately separated from abutting properties (and each other), minimising the prospect of land use conflicts to other land. Built form presentation is harmonious with development currently found on the land, and will be screened from most public vantage points by existing and proposed vegetation and landscaping treatments.

Based on the above, it is considered that the proposal is supported by the relevant decision guidelines of the Farming Zone and is an appropriate use and development for the subject land.

4.3 The decision guidelines of the Environmental Significance Overlay – Schedule 5 (ESO5)

The decision guidelines of the ESO5 set out the matters that the Responsible Authority must consider (as appropriate):

- *The Municipal Planning Strategy and Planning Policy Framework.*
- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *Any other matters specified in a schedule to this overlay.*
 - *The purpose of the overlay.*
 - *The following publications:*
 - *Background document Environment Guidelines for Major Construction Sites (Environment Protection Authority, February 1996).*
 - *Construction Techniques for Sediment Pollution Control (Environment Protection Authority, May 1991).*
 - *Background document Control of Erosion on Construction sites (Soil Conservation Authority).*
 - *Background document Your Dam, an Asset or a Liability (Department of Conservation and Natural Resources).*
 - *Any proposed measures to minimise the extent of soil disturbance and runoff.*
 - *The need to stabilise disturbed areas by engineering works or vegetation.*
 - *Whether the land is capable of providing a building envelope, which is not subject to high or severe erosion problem.*
 - *Whether the proposed buildings or works are likely to cause erosion or landslip.*
 - *Whether the proposed access and servicing of the site or the building envelope is likely to result in erosion or landslip.*
 - *Any Land Capability Report Guidelines prepared by the Department of Natural Resources and Environment, Centre for Land Protection Resource.*
 - *The views of the Department of Natural Resources and Environment in respect to:*
 - *Applications, which in the opinion of the responsible authority may cause or otherwise cause erosion, land degradation or affect land stability on either the subject land or on adjoining land.*

Discussion

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report.

The proposed use development is accordant with the statement of environmental significance and environmental objectives to be achieved prescribed in the Schedule. It would not increase the site's susceptibility to erosion owing to:

- The minimal land disturbance and vegetation loss associated with the proposed development (the siting of the proposed accommodation is well setback from waterways and has minimal vegetation impacts), particularly on areas of high biodiversity value.
- The efficient onsite treatment and management of wastewater and stormwater, as demonstrated by Wastewater Treatment report, prepared by Diston Wastewater Technology (dated July 2023) and the Stormwater Management report, prepared by CJ Arms (dated 15 June 2023).
- The benefits of widening the riparian corridor and providing EVC appropriate habitat (i.e. reduction in the edge effects, such as weed invasion; provision of a buffer against nutrient and sediment runoff and fauna movement; and limits to erosion of the streambank and maintenance of a saturation zone adjacent to the waterway for provision of habitat for burrowing crayfish and the Giant Gippsland Earthworm).
- The eco-tourism element(s) of the proposal, which seek to educate and foster positive land management practices for the site surrounds.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of the ESO5 and is an appropriate use and development for the subject land.

4.4 The decision guidelines of the Heritage Overlay

The decision guidelines of the Heritage Overlay set out the matters that the Responsible Authority must consider (as appropriate):

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay.*

- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the lopping or development will adversely affect the health, appearance or significance of the tree.*
- *Whether the location, style, size, colour and materials of the proposed solar energy system will adversely affect the significance, character or appearance of the heritage place.*

Discussion

The area affected by the HO is confined to the land within 1486 Korumburra-Wonthaggi Road (the cheese and buttery factory site) and, therefore consideration of the HO only relates to buildings and works within that property.

The *South Gippsland Shire Heritage Study 2004* identifies the existing buildings on the site, that being the former Kongwak Co-operative Butter & Cheese Factory complex comprising the butter factory (constructed in 1925) and the former cheese factory and milk depot designed by T.C McCullough (constructed c.1941), as having local historical, representative, and aesthetic significance to South Gippsland Shire. Note, the extent of heritage significance does not extend to alterations and additions made after 1945, such as the existing lean-to, which are not heritage significant.

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework related to heritage is contained in Section 3 of this report.

In support of the application is a Heritage Report and Heritage Impact Assessment, prepared by David Helms Heritage Planning dated March 2023 and June 2023 (respectively).

There are no heritage design guidelines specified in the schedule to this overlay. The citation for the site recommends that the significant buildings and site context be conserved and maintained and, if it

is no longer required for its original use, then a suitable new use should be found. The adaptive re-use of the site will enable the conservation of culturally significant fabric and minimises the impacts upon fabric of primary or secondary fabric to facilitate the new uses. This is a positive outcome for the longevity site and preservation of the heritage significant aspects into the future. The internal and external treatments of the buildings will showcase the heritage character of the buildings and their significance to Kongwak.

The integrity and historic setting of the heritage buildings and their current relationship to each other and as viewed from the road will be generally unchanged. The proposal places great importance on ensuring that heritage-significant fabric are not lost. The proposed conservation works will retain the significant attributes of the heritage place, utilising like-for-like replacement and reinstatement of heritage-significant features, which will enhance the integrity of the buildings and assist in revealing their significance.

New development will respect the heritage buildings by using sympathetic materials, colours, and detailing that complements the simple, honest, and robust industrial aesthetic. New development will be readily identifiable as new, separate works and does not seek to replicate the historic fabric in detail.

No solar energy systems are proposed in this application.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of the Heritage Overlay and is an appropriate use and development for the subject land.

4.5 The application requirements and decision guidelines of Clause 52.06

Clause 52.06-7 states that application must be provided with a Car Parking Demand Assessment and sets out the matters that the Responsible Authority must consider (as appropriate):

The Car Parking Demand Assessment must assess the car parking demand likely to be generated by the proposed:

- *new use; or*
- *increase in the floor areas or site area of the existing use; or*
- *increase to the existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.*

The Car Parking Demand Assessment must address the following matters, to the satisfaction of the responsible authority:

- *The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.*
- *The variation of car parking demand likely to be generated by the proposed use over time.*
- *The short-stay and long-stay car parking demand likely to be generated by the proposed use.*
- *The availability of public transport in the locality of the land.*
- *The convenience of pedestrian and cyclist access to the land.*
- *The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.*
- *The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.*
- *Any empirical assessment or case study.*

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- *The Car Parking Demand Assessment.*
- *Any relevant local planning policy or incorporated plan.*
- *The availability of alternative car parking in the locality of the land, including:*
 - *Efficiencies gained from the consolidation of shared car parking spaces.*
 - *Public car parks intended to serve the land.*
 - *On street parking in non-residential zones.*
 - *Streets in residential zones specifically managed for non-residential parking.*
- *On street parking in residential zones in the locality of the land that is intended to be for residential use.*
- *The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.*
- *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
- *The future growth and development of any nearby activity centre.*
- *Any car parking deficiency associated with the existing use of the land.*
- *Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.*
- *Local traffic management in the locality of the land.*
- *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*
- *The need to create safe, functional and attractive parking areas.*
- *Access to or provision of alternative transport modes to and from the land.*

- *The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.*
- *The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.*
- *Any other matter specified in a schedule to the Parking Overlay.*
- *Any other relevant consideration.*

Discussion

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report.

As noted in Section 3 of this report, a total of 170 car parking spaces are provided, comprising:

- 51 spaces associated with the group accommodation, inclusive of 2 short-term spaces, on the land;
- 52 spaces associated with the restaurant and place of assembly on the land; and
- 67 spaces associated with the restaurant and place of assembly to be provided on another site (Church Road).

This presents a shortfall of 24 spaces and, subsequently, a reduction of 24 car parking spaces for the restaurant and place of assembly is sought.

In support of the application is a Transport Impact Assessment Report (including Car Park Demand Assessment), prepared by onemilegrid (dated 20 June 2023).

This report finds that there is a likelihood of multi-purpose trips to the site owing to accommodation guests patroning the restaurant and place of assembly facilities (conference and event rooms, arts and crafts centre, and shop) and vice versa. The report also finds that there is a likelihood that a portion of patrons using the restaurant and event space facilities will arrive in groups (i.e. carpooling or by coach services). This supports a nominal reduction to the car parking requirement, such as proposed. It is contended that car parking for the proposal can be sufficiently accommodated on the site. There are also opportunities for informal parking throughout the site, should this be required. The demand for car parking associated with the use and development will not discernibly change over time, and no other developments are proposed in the immediate area that would change access to transport or public car parking provision. A reduction in car parking spaces associated with the restaurant and place of assembly will not have an amenity impact on the surrounding area given the nature of the use, car parking demand and site and surrounds.

It is anticipated that the group accommodation will generate 1 car parking space per occupied room. With a total of 42 bedrooms proposed across the different-sized accommodation units, the site is expected to have a maximum demand of 42 spaces. Provision for 51 spaces for the group accommodation is proposed, which exceeds the anticipated car parking demand for that use.

All provided car parking meets the design requirements of Clause 52.06-9. The submitted Car Park Demand Assessment provides further justification against these controls.

For the reasons above it is considered that the shortfall of car parking is considered acceptable in this instance and the provision of parking for the innominate use (group accommodation) is more than satisfactory.

4.6 The decision guidelines of Clause 52.17

The decision guidelines of Clause 52.17 set out the matters that the Responsible Authority must consider (as appropriate):

- *Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider the decision guidelines specified in the Guidelines as appropriate.*
 - *Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation, and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:*
 - *the site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation*
 - *the proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation*
 - *feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.*
 - *The role of native vegetation to be removed in:*
 - *Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the Catchment and Land Protection Act 1994.*
 - *Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly: -where ground slopes are more than 20 per cent -on land which is subject to soil erosion or slippage -in harsh environments, such as coastal or alpine areas.*

- *Preventing adverse effects on groundwater quality, particularly on land: -where groundwater recharge to saline water tables occurs -that is in proximity to a discharge area -that is a known recharge area.*
- *The need to manage native vegetation to preserve identified landscape values.*
- *Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the Aboriginal Heritage Act 2006.*
- *The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures.*
- *Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.*
- *Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.*
- *For applications in both the Intermediate and Detailed Assessment Pathway only – consider the impacts on biodiversity based on the following values of the native vegetation to be removed:*
 - *The extent.*
 - *The condition score.*
 - *The strategic biodiversity value score.*
 - *The number and circumference of any large trees.*
 - *Whether it includes an endangered Ecological Vegetation Class (EVC).*
 - *Whether it includes sensitive wetlands or coastal areas.*

Offset requirements

Clause 52.17-5 prescribes that, *if a permit is required to remove, destroy or lop native vegetation, the biodiversity impacts from the removal, destruction or lopping of native vegetation must be offset, in accordance with the Guidelines. The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement and the timing to secure the offset.*

Discussion

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report.

As discussed in the Aboricultural Assessment and Report, prepared by Glenn Waters Arboriculture (dated 18 February 2023), and the Ecological Assessment, prepared by Ecocentric Environmental Consulting (dated July 2023), details that the proposed pedestrian bridge will result in the loss of 0.053

ha of native vegetation at the proposed waterway crossing point. The generated general offset amount is 0.023 General Habitat Units, comprised of a minimum Strategic Biodiversity Score of 0.744 and zero (0) large trees.

These expert reports demonstrate that the proposed removal has been sufficiently avoided and minimised so as not to adversely impact the riparian diversity values associated with the site, and that an appropriate offset can be sought to offset the nominal loss. Native vegetation losses associated with this proposal are minimal given the scale of the development and impacts have been largely avoided and minimized to the installation of a waterway crossing. The placement of the works and development is set within the treed setting, to ensure an appropriate separation from agricultural land. Given the clustering of the trees within the site, the proposal provides the best balance of protecting agricultural land and minimising land use conflict, while ensuring that vegetation is not removed unnecessarily. In relation to the required offset, this can be readily found within the Shire or CMA catchment area, which could include a first party offset if required. It is anticipated that if the offset is required, it will form part of the permit conditions.

It is anticipated that appropriate conditions will be included in any permit issued relating to native vegetation removal and offset requirements.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of Clause 52.17 and is an appropriate use for the subject land having regard to this particular provision.

4.7 The decision guidelines of Clause 52.27

The decision guidelines of Clause 52.27 set out the matters that the Responsible Authority must consider (as appropriate):

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- *The impact of the hours of operation on the amenity of the surrounding area.*
- *The impact of the number of patrons on the amenity of the surrounding area.*
- *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

Discussion

Planning Practice Note 61 (Licenses premises: Assessing cumulative impact) sets out guidelines that assist with assessing the cumulative impact of licensed premises as part of a planning permit application. That is, the following matters should be considered:

1. Planning policy context.
2. Surrounding land use mix and amenity.
3. The mix of licensed premises.
4. Transport and dispersal.
5. Impact mitigation.

These have been considered in concert with the relevant decision guidelines to frame an assessment for this proposal.

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report. The Township Zone contemplates a mix of land uses, including commercial and other non-residential uses. The application provides a scale of use and development that is commensurate with the capabilities of the subject site and surrounding land and the expectations of the zoning.

There is a notable absence of licensed premises in the hamlet and surrounding area. As such, the introduction of a licensed premises by way of a restaurant and function venue is considered to be an appropriate model for the site and surrounds, noting that the extent of alcohol consumption associated with the proposed use and development is not considered to be excessive in nature, comparative to other types of licensed premises. Furthermore, the venue will ensure that responsible service of alcohol is observed at all times in accordance with the relevant legislative and liquor licencing requirements.

As already discussed, the Transport Impact Assessment Report, prepared by onemilegrid (dated 20 June 2023) finds that there is a likelihood that a portion of patrons using the restaurant and event space will arrive in groups (i.e. carpooling or by coach services) and/or will be guests to the group accommodation cabins on site or nearby accommodation. Consequently, the dispersal of patrons is likely to be varied and unlikely to have any significant amenity impacts, such as traffic or loitering.

Furthermore, the hours of operation are not considered to unreasonably impact upon surrounding amenity, owing to the provision of adequate noise attenuation measures proposed and the nominal intrusion that the proposed uses (restaurant and place of assembly) typically impose. Aside from the restaurant use, large patron numbers are not considered to be particularly prevalent owing to the periodic and fluctuating nature of corporate events, weddings and the like.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of Clause 52.27 and is an appropriate use for the subject land having regard to this particular provision.

4.8 The decision guidelines of Clause 52.29

The decision guidelines of Clause 52.29-6 set out the matters that the Responsible Authority must consider (as appropriate):

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The views of the relevant road authority.*
- *The effect of the proposal on the operation of the road and on public safety.*
- *Any policy made by the relevant road authority pursuant to schedule 2, clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

Discussion

The application proposes three vehicle access points to Korumburra-Wonthaggi Road.

The interaction of this proposal with the relevant clauses of the Municipal Planning Strategy and Planning Policy Framework is contained in Section 3 of this report.

The views of the Head, Transport for Victoria will be sought as part of the application process.

The Transport Impact Assessment, prepared by onemilegrid dated 20 June 2023, demonstrates that the proposed creation and alterations to access into the TRZ2 are considered in their siting, design and suitability to the site and surrounding road network.

The report also finds that, outside of the operating times for the Kongwak Market, traffic activity in Kongwak is very limited. The relevant traffic volume surveys suggest weekday peak hour directional flows of up to 49 vehicles per hour on average, equivalent to less than 1 vehicle movement every minute. Any additional traffic generated by the proposed development will be easily accommodated by the surrounding road network. During the Kongwak Market, traffic activity is high in comparison, with vehicles looking for parking and circulating the surrounding area, though due to the high demand for parking, and high activity in the area, traffic speeds are low, and drivers are cautious and alert. Regardless of the high activity, traffic capacity is expected to remain available, and it is expected that the majority of site patronage on market days is expected to be generated from market patrons, and therefore the proposed development will not generate considerable additional traffic. The traffic

generated by the proposed development is therefore expected to be easily accommodated by the surrounding road network, even during peak market days.

It is anticipated that the Department of Transport, under delegation of the Head, Transport for Victoria, will require appropriate conditions on any permit issued to ensure that the design and construction of vehicle crossovers into the TRZ2 are undertaken to their satisfaction and current standards.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of Clause 52.29 and is appropriate for the subject land having regard to this particular provision.

4.9 The decision guidelines of Clause 65

The decision guidelines contained in Clause 65 of the South Gippsland Planning Scheme set out the matters that the Responsible Authority must consider (as appropriate):

Clause 65.01 – Approval of An Application or Plan

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Discussion

The matters set out at Section 60 of the Act are satisfactorily addressed by the application. As previously discussed, it is considered that the proposal is supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework with regards to protection of biodiversity, economic development, building design, heritage, infrastructure, environmental risks and amenity, and natural resource management. The matters to be considered by the FZ, TZ, ESO5, HO4, Clause 52.06, Clause 52.17, Clause 52.29 and Clause 53.22 are appropriately met. The use and development is proposed in conjunction with, and to enhance the existing use and development of the land, and in this context results in no impact to agricultural production, amenity impacts to the use or impacts to other properties. The proposal will manage drainage and effluent on site and utilise existing services where available. Natural hazard risks to the site can be appropriately managed as a result of the development forms and any required operational measures that the Responsible Authority may impose. Vegetation impacts are minimised to the greatest extent practicable while ensuring there is no land use conflict resulting from the proposed use to agricultural activity. No issues relating to land capability are identified as a result of this application. Access, car parking and loading and unloading arrangements are catered for on site, the potential impacts of which have been carefully assessed in the Transport Impact Assessment.

5. Conclusion

This report demonstrates that the proposal is consistent with the relevant provisions of the South Gippsland Planning Scheme, including the Planning Policy Framework, Municipal Planning Strategy and the relevant objectives and decision guidelines of the Farming Zone, Township Zone, Environmental Significance Overlay – Schedule 5, Heritage Overlay, Clause 52.06, Clause 52.17, Clause 52.29, Clause 53.22 and Clause 65.

The proposed use and development is appropriate for the site as it:

- Is supported by relevant State and Local Planning Policy relating to protection of biodiversity, economic development, building design, heritage, housing, infrastructure, environmental risks and amenity, and natural resource management;
- Satisfies the relevant objectives and decision guidelines of the Farming Zone and Township Zone;
- Satisfies the relevant objectives and decision guidelines of the Environmental Significance Overlay – Schedule 5;
- Satisfies the relevant objectives and decision guidelines of the Heritage Overlay (HO4);
- Satisfies the relevant objectives and decision guidelines of Clause 52.06;
- Satisfies the relevant objectives and decision guidelines of Clause 52.17;
- Satisfies the relevant objectives and decision guidelines of Clause 52.27;
- Satisfies the relevant objectives and decision guidelines of Clause 52.29;
- Satisfies the relevant purpose and decision guidelines of Clause 53.22; and
- Is consistent with the decision guidelines of Clause 65 of the South Gippsland Planning Scheme.

It is therefore considered that the proposal is worthy of support. Thus, it is respectfully requested that the Responsible Authority issue a Planning Permit to allow the use and development as described in this report at 1486-1492 Korumburra-Wonthaggi Road and Church Road, Kongwak.

6. Acknowledgements

This application has been informed by the work of numerous expert consultancies, who we thank and acknowledge for their work. This includes:

- Wardle
- Studio Y
- OneMileGrid
- Unearthed Heritage
- David Helms Heritage
- TGA Engineers
- PWLA
- JTA
- Spiire
- Glenn Waters
- Diston Wastewater Technologies
- CJ Arms
- Cova
- Ecocentric Enviro. Consulting
- Euca Planning
- Ag-Challenge
- Afflux Consulting
- NJM Design
- Annina Breidahl
- Ben Shaw Permaculture
- Kaptify