

Planning and Environment Act 1987

Panel Report

**Greater Geelong Planning Scheme Amendment C401ggee
Community Care Accommodation at 120 Russells Road,
Mount Duneed**

25 June 2020

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Greater Geelong Planning Scheme Amendment C401ggee

Community Care Accommodation at 120 Russells Road, Mount Duneed

25 June 2020



Sarah Carlisle, Chair



Bill Forrest, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
BAL	Bushfire Attack Level
CHMP	Cultural Heritage Management Plan
Council	Greater Geelong City Council
DAL	Surf Coast Distinctive Area and Landscape
DELWP	Department of Environment, Land, Water and Planning
ESO1	Environmental Significance Overlay Schedule 1
EVC	Ecological Vegetation Class
Incorporated Document	<i>Community Care Accommodation Facility, 120 Russells Road, Mount Duneed, Incorporated Document, August 2019</i>
Native Vegetation Guidelines	<i>Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP, 2017)</i>
Planning Scheme	Greater Geelong Planning Scheme
PPF	Planning Policy Framework
Reserve	Mount Duneed Recreation Reserve
VCAT	Victorian Civil and Administrative Tribunal
VPO1	Vegetation Protection Overlay Schedule 1
VPP	Victoria Planning Provisions

Overview

Amendment summary

The Amendment	Greater Geelong Planning Scheme Amendment C401ggee
Common name	Community Care Accommodation at 120 Russells Road, Mount Duneed
Brief description	Site specific control to allow the use and development of the land for a Community Care Accommodation facility (a residential facility for drug and alcohol rehabilitation)
Subject land	120 Russells Road, Mount Duneed
The Proponent	Foundation 61 Inc
Planning Authority	Greater Geelong City Council
Authorisation	24 September 2019, subject to the following condition: As the land may have been used for agricultural activities in the past, the Council should satisfy itself that the land is not contaminated and is suitable for the proposed use
Exhibition	17 October to 25 November 2019
Submissions	38 submissions (refer to Appendix A): - 31 objecting submissions - 4 supporting submissions A petition with 130 signatures objecting to the proposal was presented to Council at its meeting of 10 December 2019

Panel process

The Panel	Sarah Carlisle (Chair), Bill Forrest
Directions Hearing	21 April 2020 on video conference
Panel Hearing	18, 19 and 20 May 2020 on video conference
Site inspections	Unaccompanied, 14 May 2020
Appearances	Council: Stuart Thiele, Strategic Planner, City of Greater Geelong The Proponent: Chris Wren QC instructed by Brendan O'Loan of St Quentin Consulting, calling expert evidence from: - Rob Lytzki of Foundation 61 on Foundation 61, its programs and services, and the management of Foundation 61 facilities - John Thomson of Thomson Goodall Associates Pty Ltd on demand and the management of residential rehabilitation facilities - Rob Milner of Kinetica on town planning - Mark Stockdale of Okologie Consulting on ecology and native vegetation

Appearances cont	Jan and Ray Calaby Jennie Macaulay Ann Bullen Geelong Field Naturalists Club: Phil Hunter
Citation	Greater Geelong PSA C401ggee [2020] PPV
Date of this Report	25 June 2020

Executive summary

Greater Geelong Planning Scheme Amendment C401ggee (the Amendment) seeks to facilitate a women's residential drug and alcohol rehabilitation facility on the land at 120 Russells Road, Mount Duneed, by applying a Special Controls Overlay to the land and incorporating a document titled *Community Care Accommodation Facility, 120 Russells Road, Mount Duneed, Incorporated Document*, August 2019 (the Incorporated Document) into the Planning Scheme. The Incorporated Document contains a number of conditions that apply to the proposed use and development. It also authorises the removal of native vegetation from the site.

The site is in a semi-rural setting about 2 kilometres from the southern boundary of Geelong's Armstrong Creek growth area. It is surrounded on three sides by the Mount Duneed Recreation Reserve, a highly valued community asset used for recreation purposes including regular equestrian events. Over the years, the fencing separating the site from the Reserve has been partially removed, and the community has come to regard the site as part of the Reserve.

Council exhibited the Amendment in October and November 2019, and received 38 submissions, 31 of which objected to the proposal. None of the submissions challenged the need for a women's drug and alcohol rehabilitation centre, but objecting submissions considered that the site was an inappropriate location for such a facility. Key issues raised in objecting submissions included:

- potential land use conflicts with the Reserve, and the nearby Mount Duneed Primary School and Geelong Pistol Club
- the facility is too close to residences, and should be located in either an urban area close to services or a less dense, less family-oriented area
- social impacts of the proposed use, including the potential for drug affected, violent, and antisocial behaviour from residents or visitors at the facility
- the proposal is inconsistent with the character and semi-rural nature of the area
- the impact of removing vegetation from the site
- traffic impacts, including safety of pedestrians, horses and riders using Russells Road
- impacts on the heritage values of the site, including the ruins of the former Wesleyan Church that once occupied the site.

Drug and alcohol rehabilitation services are in short supply in the Barwon Region and in Victoria more broadly. There is a critical shortage of affordable residential services, particularly those dedicated to treating women. There is an urgent and significant need for the proposed facility, although need alone does not justify its approval.

Many submitters felt that the semi-rural location of the site was inappropriate for a drug and alcohol rehabilitation facility. They were concerned that it would impact on the character and landscape values of the area, and could impact on neighbours' rights to farm their land.

There is a strong theme through the policy framework that productive agricultural land should be protected, and that inappropriate uses that are incompatible with farming activities should not be allowed to intrude into agricultural areas. The Panel was satisfied, however, that the proposal is not inconsistent with these policy objectives. The site has limited agricultural capacity due to its size and isolation from larger parcels of farming land. While the area is an

attractive rural landscape and there are working farms located close by the site, it is not an area identified in State policy or elsewhere as being of high agricultural value.

A semi-rural setting is a critical element of the Proponent's therapeutic model. It provides a therapeutic environment for residents to focus on their recovery without the distractions, temptations and stresses of an urban environment. The site itself is close to Geelong, with access to services and for families and others wanting to visit the residents. The site is well buffered from farming activity to the east, west and south. The Panel does not consider that the proposed development will result in 'reverse amenity' impacts that would impact on the right to farm the land to the north of Russells Road. The site is an appropriate location for the facility.

The community has understandably come to regard the site as part of the Reserve. They feel they are losing part of the Reserve to facilitate the proposed development. The site has, however, always remained in separate private ownership. The site is very small compared to the rest of the Reserve, and the Panel is confident that the facility and the Reserve can successfully coexist.

The surrounding community clearly has genuinely held concerns about the social impacts of the proposed development – fears of antisocial or violent behaviour from residents or their visitors, fears that children at the nearby Mount Duneed Primary School or using the Reserve will be exposed to drug or alcohol affected behaviour, fears of vandalism, property damage and threats to personal safety. However, the Panel does not consider that these fears will ever be realised.

On the evidence of Mr Lytzki, the founder of the Proponent Foundation 61, the facility will be largely self-contained. The facility will be fenced and landscaped, to create a sense of security and privacy for the women. These are key therapeutic aspects of the Proponent's program. The women will not be allowed to leave the facility unless they are accompanied by a staff member or volunteer, and unsupervised interactions between the residents and the surrounding community or Reserve users are extremely unlikely.

The Panel was persuaded that Foundation 61 is a highly respected, well run organisation that regards the safety of residents, staff, volunteers and the community of the utmost priority. The Proponent has been open and transparent about how it will manage the facility, and provided detailed Facility Management and Emergency Management Plans that gave the Panel a high level of confidence that the facility will not generate any adverse social or amenity impacts, and will not pose any risks to the safety or security of the surrounding community.

The development of the facility will require the removal of some vegetation from the site, including some remnant native vegetation. However, the Panel is satisfied that the Proponent has applied the avoid, minimise and offset principles embodied in State policy and the Native Vegetation Guidelines. The proposed development has been redesigned in an effort to minimise the loss of vegetation, and the revised design strikes an appropriate balance between vegetation removal and other considerations including heritage, bushfire, maintenance, and the safety of the facility's residents and their children.

The proposed development will result in the loss of an area of revegetation on the site planted by the community in 2003. The Panel strongly encourages Council to fulfil its commitment to undertake further replanting in the Reserve to replace the planting that will be lost. The replacement planting should aim to enhance the wetland to the immediate east of the site

and create a corridor between the wetland and the remnant native vegetation on the Mount Duneed escarpment. Consideration should also be given to fencing and weed and pest control works.

Subject to minor modifications to the detail of the landscape plan and the conditions in the Incorporated Document, the Panel supports the Amendment and recommends that it proceed.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Greater Geelong Planning Scheme Amendment C401ggee be adopted as exhibited subject to the following:

- 1. Amend Clause 4.5 of the Incorporated Document as shown in Appendix C, to include the following requirements:**
 - a) prepare a Facility Management Plan which must at a minimum contain the following:**
 - **Protocols to ensure orderly arrival and departure of residents, staff and visitors**
 - **Contact details for the Facility Manager**
 - **Staffing and volunteer arrangements**
 - **A requirement to take immediate action to address incidents that may detrimentally affect the amenity of the area**
 - **Incident and emergency management procedures**
 - **Complaints handling processes**
 - **General maintenance and upkeep requirements**
 - b) ensure the amenity of the area is not adversely affected by the use**
 - c) place a sign detailing the facility operator's name and contact details at the entrance to the property, so that the community has a point of contact in the event that they wish to raise concerns.**
- 2. Before endorsing the revised Landscape Plan (Document 6), amend it to be consistent with Figure 2 in version 3 of the Native Vegetation Removal Application (Document 12), by:**
 - a) relocating the effluent envelope out of the remnant vegetation area**
 - b) identifying vegetation to be retained.**

Attach the endorsed Landscape Plan to the Incorporated Document.
- 3. Include additional landscape conditions in the Incorporated Document as shown in Appendix C, dealing with:**
 - a) the timing of the landscaping works**
 - b) requirements to maintain or replace the landscaping should it not survive**
 - c) the protection of landscaping and retained vegetation during construction.**
- 4. Make the minor changes and drafting improvements to the Incorporated Document shown in Appendix C.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment seeks to facilitate a women's residential drug and alcohol rehabilitation facility on the land at 120 Russells Road, Mount Duneed.

Specifically, the Amendment proposes to introduce a site specific control to allow the use and development of the land for Community Care Accommodation in accordance with a document titled *Community Care Accommodation Facility, 120 Russells Road, Mount Duneed, Incorporated Document*, August 2019 (the Incorporated Document), by:

- mapping the site in the Special Controls Overlay Schedule 3
- including the Incorporated Document in the schedules to:
 - Clause 45.12 (Specific Controls Overlay)
 - Clause 72.04 (Documents incorporated in this Planning Scheme).

The exhibited Incorporated Document included a site plan, floor plan and elevations of the proposed development.

(ii) The site

The Amendment applies to land at 120 Russells Road, Mount Duneed, as shown in Figure 1. The site is in a designated Bushfire Prone Area but is not in a Bushfire Management Overlay.

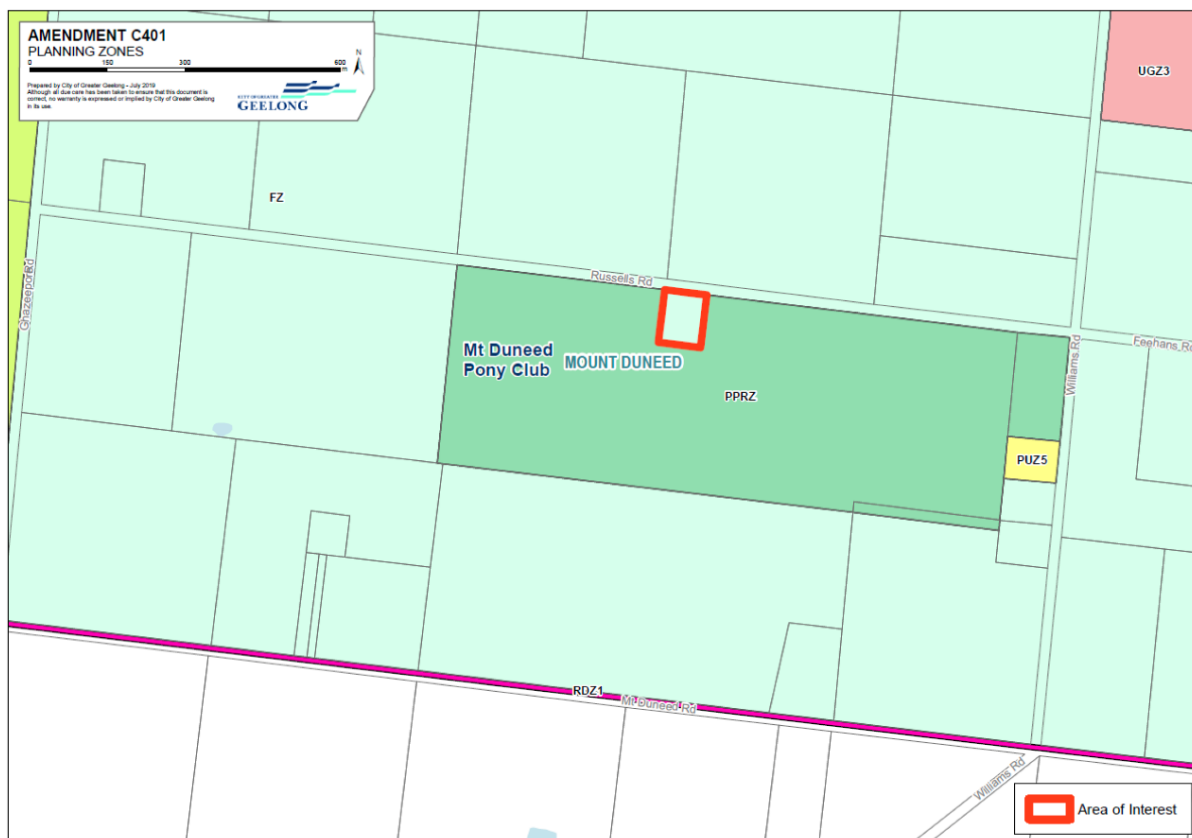


Figure 1 The site

Source: Council's Part A submission

The site is approximately 8,100 square metres. It is owned by the Wesleyan Church. A church once occupied the site, and the ruins of the church are located in the north west corner of the site. The site has been vacant for many years (apart from the church ruins). The Proponent is in negotiations to purchase the site from the Wesleyan Church.

Russells Road is a gravel road that extends from Ghazepore Road to just beyond the site's eastern boundary. The remaining section, to Williams Road, is not constructed and is currently occupied by a substantial stand of sugar gums.

The site is surrounded on three sides by the Mount Duneed Recreation Reserve (the Reserve). The Reserve is Crown land, zoned Public Park and Recreation Zone. The Reserve is described in more detail in Chapter 4.

The site and surrounding land (apart from the Reserve) are zoned Farming Zone. Most of the land in the immediate surrounds of the Reserve is used for grazing. There are a small number of dwellings within 500 metres of the site.

Other nearby land uses include:

- Mount Duneed Primary School and the Mount Duneed Cemetery on the south west corner of Russells Road and the unconstructed portion of Williams Road
- the Geelong Pistol Club on the north west corner of Russells Road and the unconstructed portion of Williams Road
- the Armstrong Creek Growth Area, the southern boundary of which is located roughly 2 kilometres to the north east of the site
- a men's residential drug and alcohol rehabilitation facility about 5 kilometres south of the site on Williams Road, which is also operated by the Proponent.

1.2 Background

Community Care Accommodation is a land use term introduced into the Planning Scheme in October 2018, by the State Government's Amendment VC152. It is nested within Accommodation.

Permit application

In March 2019, a planning permit application (PP190/2019) was lodged for a residential alcohol and drug rehabilitation facility and vegetation removal at the site. Prior to Amendment VC152, Community Care Accommodation would have been an innominate use and therefore permitted in the Farming Zone, subject to a permit. However, with the commencement of Amendment VC152, Community Care Accommodation (being nested under Accommodation) effectively became prohibited in the Farming Zone.

The request for the Amendment

In May 2019, the Proponent withdrew the permit application and lodged a request for a planning scheme amendment to allow a Community Care Accommodation facility and associated vegetation removal at the site, in accordance with the Incorporated Document.

1.3 Supporting technical reports

The request for an amendment (and the earlier permit application) were accompanied by several technical reports which were exhibited as supporting documents to the Amendment:

- two documents prepared by Thomson Goodall Associates dated 23 January 2019:

- Demand for residential rehabilitation services in Geelong
- Service model – proposed Foundation 61 women’s service
- a Land Capability Assessment prepared by St Quentin dated October 2018
- an Ecological Assessment prepared by Okologie Consulting dated 20 November 2018
- a Native Vegetation Removal Application prepared by Okologie dated 20 February 2019
- an Arboricultural assessment prepared by Tree Diagnostics dated August 2018
- a Bushfire Hazard Assessment prepared by Okologie dated 22 February 2019
- a Traffic and Transport Assessment prepared by Cardno dated February 2019
- a Cultural Heritage Management Plan prepared by Ochre Imprints dated 4 September 2018, which was approved by the Wathaurung Aboriginal Corporation on 2 October 2018
- a Feature Survey and Site Analysis prepared by Simon Anderson Consultants dated April 2018.

Some of these plans and documents have been revised and updated by the Proponent since exhibition. The Proponent indicated at the Directions Hearing that additional draft plans had also been prepared. Pursuant to the Panel’s directions, the Proponent provided the following revised and additional documents on 4 May 2020:

- a revised site plan and landscape plan (Documents 5 and 6)
- a revised Native Vegetation Removal Application version 2, along with associated email correspondence with the Department of Environment, Land, Water and Planning (DELWP) (Documents 7 and 8)
- a revised Traffic and Transport Assessment (Document 9)
- a draft Facility Management Plan (Document 10)
- a draft Emergency Management Plan (Document 11).

On 11 May 2020, the Proponent provided a further revised Native Vegetation Removal Application (version 3 dated 8 May 2020), along with a response from DELWP (Documents 12 and 13).

1.4 Revised plans and Incorporated Document

The exhibited site plan and landscape plan were amended to relocate the effluent disposal area and reduce the size of the carpark, so as to reduce the amount of native vegetation required to be removed. The revised plans are Documents 5 and 6.

Council proposed amendments to the exhibited Incorporated Document in light of the revised site plan and landscape plan, the further revised Native Vegetation Removal Application (Document 12), and DELWP’s comments on the exhibited Amendment (discussed in Chapter 6). The revised Incorporated Document was provided as Document 33. The changes were to:

- delete Clause 5.0 requiring a landscape plan, on the basis that the requirement had already been met by the provision of the revised landscape plan (Document 6)
- include Clause 5.13 requiring a native vegetation offset to be provided and secured before native vegetation is removed
- remove references to ‘permit’, to reflect the fact that the controls are being applied through an Incorporated Document, not a permit.

1.5 Summary of issues raised in submissions

(i) Opposing submissions

The key issues raised by objecting submitters were:

- potential land use conflicts with the Reserve, Mount Duneed Primary School and the Geelong Pistol Club
- the facility is too close to residences, and should be located in either an urban area close to services or a less dense, less family-oriented area
- social impacts of the proposed use, including the potential for drug affected, violent, and antisocial behaviour from residents or visitors at the facility
- the proposal is inconsistent with the character and semi-rural nature of the area
- the impact of removing vegetation from the site
- traffic impacts, including safety of pedestrians, horses and riders using Russells Road
- impacts on the heritage values of the site, including the ruins of the former Wesleyan Church.

(ii) Supporting submissions

The key issues raised by supporting submitters were:

- the facility would meet a local need and benefit the community
- the facility would complement the Proponent's men's facility in Williams Road
- the site is well located, being in relatively remote rural surroundings yet accessible for staff, clients and families.

(iii) Relevant agencies

Council consulted the following agencies in relation to the Amendment:

- DELWP, who indicated concerns around the level of assessment and offsets of native vegetation to be removed from the site
- Powercor CitiPower, who indicated no issues with the proposal
- the Country Fire Authority, who indicated no issues with the proposal but recommended certain conditions be included (Document 32).

The issues raised by DELWP were resolved by the further revised Native Vegetation Removal Application and the revised Incorporated Document. This is discussed in detail in Chapter 6.

1.6 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Impacts on the Reserve

- Social impacts
- Vegetation impacts
- Other issues
 - Heritage impacts
 - Landscape, visual and character impacts
 - Traffic impacts
 - Site access arrangements
 - Services
 - Other potential land use conflicts
 - Bushfire
 - Land swap
- Form and content of the Amendment.

2 Planning context

2.1 Planning policy framework

The following clauses in the Planning Policy Framework are relevant.

(i) State policy

Clause 12.01-2S – Native Vegetation Management

The objective of this clause seeks to ensure there is no net loss to biodiversity because of the removal, destruction or lopping of native vegetation. It calls for a three-step approach in accordance with the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation*, DELWP, 2017 (the Native Vegetation 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 from the removal, destruction or lopping of native vegetation.

Clause 12.05-2S – Landscapes

The objective of this clause is to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. Relevant strategies include:

- ensure development does not detract from the natural qualities of significant landscape areas
- improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including conservation areas and non-urban areas
- recognise the natural landscape for its aesthetic value and as a fully functioning system
- ensure important natural features are protected and enhanced.

Clause 13.02-1 Bushfire planning

The objective of this clause is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. Strategies include:

- directing population growth and development to low risk locations
- ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.

Clause 13.02-1 requires bushfire risk to be considered when assessing planning applications for Accommodation in a designated bushfire prone area, including the following:

- 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 13.07-1S Land use compatibility

The objective of this clause is to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects. It requires planning decisions to ensure the compatibility of a use or development to the land use functions and character of the area by:

- directing land uses to appropriate locations
- using a range of building design, urban design, operational and land use separation measures.

Clause 15.01-2S Building design

The objective of this clause is to achieve building design outcomes that contribute positively to the local context and enhance the public realm. Relevant strategies include:

- minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment
- 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 views and vistas
- ensure development provides safe access and egress for pedestrians, cyclists and vehicles
- ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces
- encourage development to retain existing vegetation.

Clause 15.01-6S Design for rural areas

The objective is to ensure development respects valued areas of rural character. Relevant strategies include:

- ensure that the siting, scale and appearance of development protects and enhances rural character
- site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.

Clause 15.03-1S Heritage conservation

The objective is to ensure the conservation of places of heritage significance. Relevant strategies include:

- encourage appropriate development that respects places with identified heritage values
- retain those elements that contribute to the importance of the heritage place
- ensure an appropriate setting and context for heritage places is maintained or enhanced.

Clause 16.01-6S Community care accommodation

The objective is to facilitate the establishment of Community Care Accommodation facilities and support their location being kept confidential. Planning schemes should not require a planning permit for or prohibit the use of land in a residential area for government run or funded Community Care Accommodation, subject to some conditions such as the size of the facility.

(ii) Local policy**Clause 21.07-5 Rural areas policy**

Clause 21.07-5 expects that planning will:

- maintain rural land in large and productive parcels, in accordance with the schedules to the Farming Zone
- minimise non-agricultural land uses in rural areas
- ensure that any non-agricultural land uses will not compromise farming activity in the area.

Clause 22.05 Agriculture, rural dwellings and subdivision

This clause relates to dwellings rather than Community Care Accommodation. Its objectives are to:

- support the ongoing use of rural areas for agriculture and to preserve their farmed rural landscape
- ensure that the development of dwellings in the Farming Zone is consistent with the purpose of the zone and the utilisation of the land for sustainable rural uses
- protect agricultural production and the normal operation of agricultural activities by preventing land use conflicts
- limit development of new dwellings on prime or high quality agricultural land.

House lot excisions are discouraged. Dwellings in the Farming Zone are supported where:

- they will not result in the property being removed from agricultural production
- existing agricultural activity on adjoining land will not be compromised
- the productive capacity and environmental condition of the land is preserved and where possible enhanced, for example by fencing off remnant vegetation and revegetating strategic areas between remnant stands to develop wildlife corridors and along waterways
- the house is sited and designed to not unduly compromise the farmed rural landscape.

Clause 22.64 Discretionary uses in rural areas

While this clause does not apply to Accommodation, it recognises that the rural areas of Geelong are highly valued for their contribution to the economy, liveability and amenity of the whole municipality. It states that non-agricultural uses in rural areas must be carefully managed to ensure that the ongoing use of land for agriculture is supported and the rural landscape character of rural areas is preserved.

The policy discourages discretionary non-agricultural uses in rural areas that could reasonably be located in an urban zone, and seeks to maintain the unique rural landscape character of rural areas. It seeks to ensure that:

- existing agricultural activity on adjoining land will not be compromised
- the scale of development complements and respect the rural landscape character
- visual impacts are mitigated or minimised through sensitive design, landscaping, materials and colours
- the site has access to an appropriately constructed or sealed road that is capable of accommodating anticipated traffic levels
- the site has access to all necessary servicing infrastructure.

2.2 Other relevant planning strategies and policies

Plan Melbourne 2017-2050 seeks Melbourne to be a city of inclusive, vibrant and healthy neighbourhoods, including through the delivery of social infrastructure to support strong communities (Direction 5.3). Policy 5.3.3 is particularly relevant given the Proponent's not-for-profit status. It states:

Key community services are often delivered by not-for-profit community organisations. These organisations offer services and support, build social capital and strong communities, and create education and local work opportunities. The work of not-for-profit organisations provides many long-term benefits, such as reducing the future costs of disadvantage and poor health.

Not-for-profit organisations will be supported to operate in both established and growing neighbourhoods. This will be achieved by facilitating access to affordable space, by reducing project costs, and ensuring that the planning system supports the establishment of services and delivery of integrated responses with other service providers.

2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Strategic Statement and the Planning Policy Framework.

(i) Zones

The land is in the Farming Zone, as is much of the surrounding land. The relevant purposes of the Zone are:

- 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.

(ii) Overlays

The land is subject to the Environmental Significance Overlay Schedule 1 (ESO1), as is the nearby Mount Duneed escarpment. The purposes of the Overlay are:

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

ESO1 applies to "*areas of flora and fauna habitat and of geological and natural interest*". The statement of environmental significance in ESO1 does not specifically name or discuss the significance of Mount Duneed or its surrounds.

The Vegetation Protection Overlay Schedule 1 (VPO1) applies to the Russells Road Reserve, including the area in which the proposed site entrance will be located. The purposes of the Overlay are:

- To protect areas of significant vegetation.
- To ensure that development minimises loss of vegetation.

- To preserve existing trees and other vegetation.
- To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- To maintain and enhance habitat and habitat corridors for indigenous fauna.
- To encourage the regeneration of native vegetation.

The revised landscape plan (Document 6) indicates that three trees within the road reserve will need to be removed, to create the access into the site. This would not require a permit under the VPO1, as an exemption applies for vegetation removal associated with access to a site that is less than 4.2 metres in width.

(iii) Other provisions

Clause 52.22 applies to Community Care Accommodation. Its purposes are:

- To facilitate the establishment of community care accommodation.
- To support the confidentiality of community care accommodation.

Clause 52.22 exempts the use of land for Community Care Accommodation in various zones from the need for a permit. This does not include the Farming Zone, hence the need for the Amendment.

Clause 52.17 requires a permit to remove, destroy or lop native vegetation, subject to certain exemptions. The Clause also details requirements for procuring offsets in relation to any vegetation removed.

The exemptions in Clause 52.17 include vegetation planted from direct seeding where authorised by the public agency who funded the planting. The proposal includes removal of a portion of vegetation planted on the site and the adjacent Reserve, which was undertaken by volunteers in 2003 and funded by Council. Council has authorised the removal of the vegetation, so the exemption in Clause 52.17 applies.

Other patches of native vegetation to be removed would require a permit under Clause 52.17, and would require offsets to be provided. The Incorporated Document proposes to authorise this removal, subject to offsets being provided.

(iv) Requirements related to permit applications

As there is no permit application before the Panel, Planning Scheme clauses relating to permit applications technically don't apply. However the Incorporated Document will effectively act like a permit, so these clauses are relevant.

Clause 71.02-3 requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider:

- the Planning Policy Framework
- the purpose of applicable zones and overlays

- the orderly planning of the area
- the effect on the amenity of the area
- the extent and character of native vegetation, the likelihood of its destruction, and whether it 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.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

2.4 Ministerial Directions and Planning Advisory Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Planning Advisory Note 74 of October 2018 provides information about the changes made to the VPP and all planning schemes by Amendment VC152. Amendment VC152 introduced the changes to Community Care Accommodation discussed in Chapter 1.2, as well as a range of other changes relating to major hazard facilities, residential aged care, and public and social housing. The Advisory Note does not specifically explain the reasons for the changes to Community Care Accommodation. However the explanatory report for Amendment VC152 states:

The Victorian Government's housing strategy *Homes for Victorians (2017)* outlines initiatives to increase and renew social housing stock, including the renovation of existing rooming houses and community housing. Amendment VC152 is required to deliver on these commitments through the introduction of permit exemptions for community care accommodation to enable the streamlined renewal and development of these facilities.

...

Amendment VC152 will generate positive social benefits by providing for inclusionary, social and affordable accommodation suited to the needs of the aged, disabled and disadvantaged people. The Amendment also supports the confidentiality of sensitive accommodation such as housing for victims of domestic violence. Amendment VC152 is also expected to generate economic benefits associated with effective and timely public expenditure associated with the provision of community housing, ensuring that government priorities can be achieved in a timely manner.

...

Amendment VC152 gives effect to the strategies of Clause 16.01-1S (Integrated housing), Clause 16.01-4S (Housing affordability) and Clause 16.01-6S (Crisis accommodation and community care units) of the Planning Policy Framework (PPF) by supporting the supply of social housing and affordable housing. Community care accommodation and rooming houses play an important role in providing social and affordable housing and cater to individuals with varying needs.

3 Strategic justification

3.1 The issues

The issue is whether the Amendment is strategically justified. Submissions and evidence raised the following issues in relation to strategic justification:

- whether there is a need for the facility
- whether the location in a semi-rural setting is appropriate
- impacts on agricultural land and the right to farm.

3.2 Relevant policies, strategies and studies

The planning policy framework is outlined in detail in Chapter 2.

Mr Milner gave planning evidence for the Proponent. He explained some of the key national, state and local adopted drug and alcohol policies, noting that these policies recognise the importance of preventing and minimising alcohol and drug related harm in the community:

The Victorian Government has developed an integrated suite of plans and strategies directed to expand access to vital treatment services for people experiencing drug and alcohol related harm, including a record investment of \$259.9 million in drug services in the period 2018-19.¹

...

Most municipal health and wellbeing plans reference the presence of and response to alcohol and drug use within their communities.

The *Greater Geelong Public Health and Wellbeing Plan 2018-2021* is no exception. The plan:

- identifies the increased lifetime risk of 58.2% of Greater Geelong adults to alcohol related harm among key challenges facing the community; and
- establishes 11 strategic priorities, including improved community health and safety and a more inclusive and diverse community.

Mr Milner also referred to Council's *Social Infrastructure Plan 2014-2031* and *Council Plan 2018-2022*, stating that both plans prioritise the improved health and safety of the community and acknowledge that investment in social infrastructure is essential for the economic prosperity and general health and wellbeing of the community.

3.3 Need

(i) Evidence and submissions

Very few, if any, of the submissions challenged the need for a women's residential drug and alcohol rehabilitation service. Most of the opposing submissions asserted that while the facility is needed, the site is not an appropriate location.

The Proponent submitted that Mr Thomson's evidence (discussed below) demonstrates a clear need for a facility such as this in the Geelong region. It referred the Panel to the Proponent's *Strategic Plan 2015-2020*, February 2016 which describes the context surrounding the establishment of Foundation 61 and which concludes:

¹ Source: *Victoria's Alcohol and Other Drugs Workforce Strategy 2018-2022*

The biggest gap in the service system however is the lack of options for those people needing a medium to long term residential rehabilitation program. Where they have the opportunity to re-establish some control over their lives, gain the skills and resources they need to successfully reintegrate into society and build the personal strength to withstand the pressures that may lead them back to their addiction.

This is the part of the continuum that Foundation 61 seeks to provide. We are committed to working collaboratively with all other [drug and alcohol] service providers to ensure an effective service system and are especially committed to doing more to address the current ice epidemic.

Mr Thomson of Thomson Goodall Associates prepared an analysis of the demand for residential alcohol and drug rehabilitation in Geelong to support the original permit application. He gave evidence at the Hearing on the demand analysis.

The demand analysis estimated that the unmet demand across Australia, while difficult to measure, is likely to be somewhere between 52 percent and 74 percent. In other words, up to 74 percent of people seeking drug and alcohol treatment services are not able to access those services. The undersupply of residential treatment services in Victoria is particularly acute. The demand analysis stated:

Victoria has the second lowest number of residential beds per head of population, with all States except South Australia having more than double the rate of beds per head of population of Victoria. According to Victorian Alcohol and Drug Association (VAADA), the Victorian [alcohol and other drug] treatment sector has been grossly underfunded for decades and this has perpetuated extensive waiting lists.

The demand analysis concluded:

There is significant unmet demand for residential rehabilitation services generally in Victoria, and specifically in the Barwon region. ...

In recognition of the under supply of residential rehabilitation beds, the Victorian government is funding an additional 100 beds [statewide], scheduled to be available 2019/20, including an additional 30 beds in the Barwon region (Corio). The Corio beds are located in an urban setting, and it is expected that they will involve mixed (men and women) accommodation, and be medium length of stay (i.e. 3-4 months).

There is a particular demand for specialised beds for women only, in a semi-rural setting, which maximises the opportunity for recovery and rehabilitation. Victoria is significantly under resourced with women-only facilities, compared to NSW.

The only residential facility in the region that women are able to access is the Geelong Clinic, a private hospital in an urban setting offering 52 mental health beds for men and women that includes a four week inpatient Addictive Behaviours therapy program. Privately run programs such as that offered by the Geelong Clinic are unaffordable for many people seeking treatment.

In his evidence to the Panel Mr Thomson stated that, if anything, the demand is likely to have increased since he prepared the demand analysis in January 2019. The 30 bed facility (for men and women) in Corio has not yet been delivered, and women are limited to the four week residential program in the Geelong Clinic (for those who can afford it), or a range of non-residential counselling and support services.

Mr Thomson indicated that women seeking residential treatment who are unable to access it generally end up in a cycle of detox, counselling and relapse. Mr Lytzki (the founder and CEO of Foundation 61 and manager of the men's facility in Williams Road) confirmed this, and indicated that the cycle sometimes ends in catastrophic results, including death.

In response to questions from the Panel, both Mr Thomson and Mr Lytzki indicated that while four week residential treatment programs might be effective in treating the acute phase of addiction, they have limited ongoing success in terms of long term recovery from addiction. Studies both in Australia and internationally indicate that longer residential programs of 6 to 12 months are far more successful in delivering long term results. There are currently no such facilities operating in the Barwon Region other than the Proponent's men's facility in Williams Road, which offers a 6 month minimum program.

(ii) Discussion

The Panel accepts the evidence of Mr Thomson and Mr Lytzki that there is an urgent and significant need for residential treatment facilities that are affordable, accessible, offer longer term programs and are dedicated to women. As Mr Milner pointed out, drug and alcohol addiction is a widespread problem that affects all parts of our community. Long term addiction is difficult to treat, and requires specialised and dedicated therapeutic programs like that being offered by the Proponent. The community has a shared responsibility to provide effective treatment and services that address this need.

That said, as the Proponent acknowledged in its submissions, need alone, no matter how significant, does not justify the approval of the Amendment. The facility's off-site impacts need to be assessed objectively and found to be acceptable. The following chapters of this report explore whether the impacts of the facility will result in acceptable planning outcomes.

3.4 Is a semi-rural location appropriate?

(i) Evidence and submissions

Many submissions asserted that the site's semi-rural location is inappropriate for a residential drug and alcohol facility, as it is distant from medical treatment and other support services that the residents may require, distant from public transport and distant from families.

The Proponent referred the Panel to the prospectus for the Proponent's Women Rehabilitation Service model, which describes the key features of the Design Brief. They include:

- Facility to be located in a quiet rural setting which offers detachment from the pressures of modern urban life and contact with nature and environment.

The Proponent referred the Panel to several VCAT decisions which considered whether drug and alcohol rehabilitation facilities were appropriately located in rural areas. For example, VCAT stated in *Odyssey House Victoria v Benalla Rural City Council* [2003] VCAT 15:

In many respects, and as we will expand upon later, the proposed use depends to a great extent on a rural or semi-rural location. It needs spacious surrounds and the opportunity for, among other things, soil based pursuits to enhance or underpin its therapeutic programs ...

To conclude on this issue, then, we agree that a self-contained residential rehabilitation facility should not be so isolated as to make day to day access difficult or time consuming in relation to services such as daily visits to the chemist for Methadone dosages or to legal services or for the purpose of delivering a client to public transport. Accordingly, a location at Jamieson or Licola for example would be entirely inappropriate. On the other hand, a facility such as this needs to exude a degree of detachment and would not be suited to a "downtown" location in either Melbourne or Benalla. It seems to us therefore that a location 12 minutes drive from town and in a

not entirely isolated but yet pleasant rural setting such as Molyullah, is entirely appropriate.

The Proponent submitted that the proposed rehabilitation program, like that under consideration in *Odyssey House*, relies on a semi-rural setting away from the distractions and temptations that residents may experience in an urban location.

Mr Thomson addressed the benefits of a semi-rural location in the proposed service model for the facility that he developed for the Proponent, which was exhibited with the Amendment and attached to his witness statement. The service model notes that there is relatively little literature which directly addresses the benefits of a rural location for residential rehabilitation services. The facility service model notes that a number of highly regarded rehabilitation services are located in natural environments, and notes studies that have identified semi-rural and rural settings as best practice, particularly for Aboriginal people. It identifies several “*obvious benefits*” of a rural setting:

- connection with nature
- a peaceful ‘retreat like’ setting allowing clients to focus on recovery without intrusions and distractions, and psychological separation from the area in which they have been using alcohol and other drugs
- remote from drug dealers and other influences which can distract from rehabilitation
- opportunities to participate in therapeutic activities that are not available in an urban setting, such as primary production, horticulture, working with animals, horse riding and so on.

The facility service model notes that the site is a convenient distance from Geelong, where community and other services are accessible. Residents will have opportunities to be supported by, and re-integrate with, local communities. The facility service model also notes other benefits of the site’s location, identified by the Proponent:

- proximity to the men’s facility, where the Proponent’s head office is located and providing access to staff, equipment and resources that may be useful to residents of the women’s facility
- opportunities to share resources and manage and administer both facilities more cost effectively.

The Calabys challenged Mr Thomson’s propositions about the benefits of a rural setting, submitting that activities such as working with animals, horse riding and primary production are available whether you live in the city or the country. They submitted:

We question the practicality of this idea. Rural work is quite often dirty, physically exhausting and requires particular animal handling skills for safety. It is not suitable for everyone.

They also queried assertions that the semi-rural location of the site is remote from drug dealers, submitting that drug paraphernalia has been found on the Reserve in the past, and that there often seems to be activity there during the night. Other submissions raised this issue as well.

Mr Milner’s evidence highlighted that Clause 52.22 of the Planning Scheme exempts Community Care Accommodation from a permit in a range of zones, including the Rural Living Zone, the Low Density Residential Zone and the Township Zone, when specified requirements are met. His evidence was that Clause 52.22 “*highlights the appropriateness of the use in a range of locations and contexts, including urban and semi-rural zones*”.

Mr Milner briefly addressed the benefits of a semi-rural location in paragraphs 69 to 70 of his evidence:

The semi-rural setting and generously proportioned Site presents a special opportunity to establish a community care facility in a semi-rural setting, removed from the activity, temptations and behaviours that might be typically associated with and / or attach to 'everyday' life in an urban setting.

The Panel explored this issue further with Mr Milner at the Hearing. In his oral evidence he referred to the need for drug and alcohol treatment facilities in both urban and non-urban settings. He cited several examples of Victorian drug and alcohol facilities in rural and semi-rural locations, including a semi-rural location near Benalla (the facility that was the subject of the *Odyssey House* decision), a facility in the Warburton township that had moved from a location outside the town, and a facility in the urban part of Shepparton. His evidence was that it makes sense to locate short term frequently used services in urban locations, but his opinion was that programs focussed on longer term care and recovery are more suited to semi-rural locations where people are removed from the daily stresses of the city, and are in a more recuperative environment.

Council cited a number of VCAT decisions which had supported drug and alcohol rehabilitation services in rural or semi-rural locations, and recognised the benefits of a semi-rural location compared with an urban location. It submitted that these decisions demonstrated that drug and alcohol rehabilitation facilities have been deemed, on their merits, to be a suitable use in the Farming Zone.

(ii) Discussion

The Panel accepts that a semi-rural location is a critical element of the therapeutic model the Proponent is offering. The Proponent, Mr Lytzki in particular, has considerable expertise and experience in treating drug and alcohol addictions, and a proven 'track record' in operating the men's facility in a semi-rural location.

Some submitters questioned the success rate of the Proponent's therapeutic model. In response to questions from the Panel, Mr Lytzki was open and transparent about the success rates at the men's facility. He indicated a success rate of 60 percent or higher with alcohol addiction, but acknowledged that treating ice addiction is more challenging and that the success rate is more like 50 percent. Notwithstanding, the Panel accepts the evidence of both Mr Thomson and Mr Lytzki that a long term residential program in a semi-rural setting is more likely to achieve longer term success than the short term and non-residential services currently on offer in the region.

Mr Thomson's research was thorough and detailed. He provided a frank assessment that acknowledged that there is relatively little research directly demonstrating the benefits of a rural location. That said, the Panel accepts his evidence that a semi-rural setting has 'obvious benefits' for residential rehabilitation services. This accords with the findings of VCAT in the cases referred to by both the Proponent and Council.

The Panel is satisfied that the site's location offers respite from the daily stresses and temptations of urban environments, and a contemplative environment in which residents have an opportunity to re-evaluate their lives and their addiction, and focus on their recovery. It offers some limited access to on-site therapeutic rural activities such as gardening, horticultural activities and the like which are a feature of the Proponent's therapeutic model.

At the same time, the location is close enough to Geelong to provide good access to medical and support services, and to enable families to visit the residents.

The Panel agrees with Mr Thomson and Mr Lytzki that the location strikes a suitable balance between the need for residents to be somewhat separate from their usual environment, while still being able to access services and not becoming disconnected from their families and the community into which they will reintegrate when their treatment is complete.

3.5 Impacts on agricultural land and the right to farm

(i) Evidence and submissions

Opposing submitters raised concerns that the Amendment and proposed development would result in the loss of agricultural land, and could result in land use conflicts with farming activity on the surrounding farms. They noted that the use is prohibited in the Farming Zone, and submitted that it would be inappropriate and out of character in an area that is actively used for farming. Other submitters, including Ms Thomas and Ms Bullen, noted that the Farming Zone includes minimum lot sizes on which a dwelling may be constructed, and that this residential facility should not be allowed on a lot that does not meet the minimum size requirements.

The Calabys and others (including Ms Macaulay and Ms Bullen) were concerned that the introduction of a residential facility on the site would impact their right to farm. The Calabys provided a detailed submission questioning how the proposal could be regarded as consistent with the purposes of the Farming Zone, and key policies relating to the protection of agricultural land. They referred to key policy objectives in Clauses 22.05 and 22.64 relating to the ongoing use of rural areas for agriculture, the restriction of dwellings in the Farming Zone, and the protection of agricultural production by preventing land use conflicts through the introduction of non-farm related dwellings into rural areas.

The Calabys submitted:

It is also considered by [Council] that the proposed use will not compromise agricultural activity on adjoining land. We find this to be a major concern. The VPP allows us to use our land for grazing animal production, a poultry farm, cattle feedlot and various other things with no permit required. We have no plans to create a cattle feedlot or poultry farm but grazing animal production will continue on this land for the foreseeable future.

Grazing Animal production requires regular pasture maintenance, fodder production, cattle management etc. Our daughter and son-in-law do much of this work with us, but both work full time, so these works are often done of an evening or at the weekend. This includes work with noisy heavy machinery ploughing, sowing and hay cutting, baling, burning off etc., manure spreading and spraying for weeds and insect pests, and rabbit baiting. This is the reality of farming life.

It is difficult to believe that a community care facility for sensitive women, possibly with pre-school age children, so close to our boundary, will not be affected by noise, dust, fumes and sprays from our property at some time or other as we go about our work. There are many instances of residents in new developments abutting farmland complaining about the activities on the farms that were there before they acquired their new home.

They went on to submit:

The Policy Basis states that “The encroachment of non-agricultural uses into rural areas is discouraged and should only be considered when the use of development cannot be

catered for in an urban area and there are unique circumstances to justify a rural location”.

There is no reason or unique circumstances why this Facility cannot be catered for in an urban location.

Ms Macaulay echoed these concerns. She explained that they often use noisy farming equipment including tractors and chainsaws on their property on the north side of Russells Road. She submitted:

Whilst there may be every intention to tolerate [the neighbouring farming activities], and they may be tolerated for a time, there is a genuine concern that over time the right to do these things may be eroded by concerns of neighbours who are too close to avoid them. Wherever there is development that borders land that is actively farmed there is the potential for tension, and subsequent erosion of the freedom to undertake normal rural enterprises.

Ms Bullen raised similar concerns in her oral submissions to the Panel, emphasising the importance of protecting what remains of the farming land around Geelong.

Mr Milner noted that the 2007 *Greater Geelong - Rural Land Use Strategy* identifies the Site as within an area of ‘Class 3’ soil capability and an area of moderate agricultural quality. The Rural Land Use Strategy indicates that Class 3 land is generally suitable for grazing and broad acre cropping, but not for intensive cropping or horticulture.

Mr Milner’s evidence was that the proposal would not impact on or detract from the productive capacity of the land or surrounding farming land, or existing or future agricultural activities:

Rather, the clustering and consolidation of community activities and land use at Mount Duneed around the recreation reserve, including the school and pony club, avoids land use conflicts, including those with the potential to detract or adversely impact upon ongoing rural activities or the quality of the rural landscape and surrounding rural area.

His evidence was that the Farming Zone does not reflect the current or historic use of the site. He considered that the site is not able to be used for most agricultural activities, due to the limited site area, the presence of the historical Church ruins, and the fact that the land is surrounded on three sides by the Reserve, effectively preventing it from being consolidated with neighbouring land for agricultural use. He concluded that:

... there is no compelling reason why the Site should be protected for its agricultural values or potential. Its size, isolation and inability to be consolidated with a larger agricultural holding preclude a meaningful agricultural role.

Council submitted that the proposed development would not result in the loss or fragmentation of agricultural land. It submitted that, other than some historic grazing, the site has not been used for agricultural purposes and it is not located adjacent to any other land in the Farming Zone with which it could be jointly used for agriculture. Council did not consider that the use is likely to adversely impact on farming operations on land to the north of Russells Road.

(ii) Discussion

There is a strong theme through the Planning Policy Framework that productive farming land should be protected, and that inappropriate non-agricultural uses in farming areas are discouraged.

The Panel does not consider that the proposal is an inappropriate use in this farming area. The site itself has never been used for agricultural purposes, apart from some historic sheep grazing on the Reserve and the site prior to the mid 2000s. This appears to be an anomaly, as it is difficult to see how this is consistent with the recreational purposes for which the Reserve is reserved under the *Crown Land (Reserves) Act 1978*.

The Panel accepts the submissions of Council and the evidence of Mr Milner that the site is heavily constrained in terms of future agricultural use, due to its size, the presence of the historic Church ruins and its lack of connection to surrounding farming land. While it accepts that small lots can be used for productive purposes, this is unlikely on the site. The site has Class 3 soils that are unable to support intensive farming activity or horticulture, and are only suitable for grazing and broad acre cropping. The site is not large enough to support these types of agricultural activities.

The Panel acknowledges the concerns of the surrounding landowners about preserving their right to farm their land. However the Panel was not persuaded that a residential facility on the land will result in the loss of those rights.

Compared to the nearby Armstrong Creek Urban Growth Area, the proposal is a low intensity residential use. The Reserve provides a substantial buffer between the facility and farming land to the east, west and south. The siting of the building at the rear of the site, the existing roadside vegetation, the proposed landscaping and the Russells Road reserve provide a buffer between the facility and farming uses to the north. In reality, the recreation uses of the Reserve are more likely to impact on the residents of the facility than neighbouring farming uses.

The Panel acknowledges the example of the Blackmore wagy farm in Murrindindi referred to by Ms Bullen, but no evidence was presented to the Panel that the activities on the surrounding farms generate off-site impacts like those generated on Mr Blackmore's farm, or that the farming activities referred to by the Calabys and Ms Macaulay are likely to result in 'reverse amenity' impacts that may threaten the ongoing conduct of those farming activities.

3.6 Overall assessment of the strategic justification

Based on the analysis in the preceding parts of this chapter, the Panel is satisfied that there is a clear need for the facility, and that the site is an appropriate location for the proposed development. Remaining questions include:

- why Community Care Accommodation is prohibited in the Farming Zone
- whether the Amendment is generally consistent with other aspects of the Planning Policy Framework, and
- whether the Amendment will deliver net community benefit and sustainable development.

(i) Why Community Care Accommodation is prohibited in the Farming Zone

Council submitted that it is unclear why Community Care Accommodation is prohibited in the Farming Zone. It noted that there was no explanation for this in either the explanatory report for Amendment VC152 (which introduced the Community Care Accommodation changes including Clause 52.22 into the Planning Scheme), or Planning Advisory Note 74 (which explained the changes).

Mr Milner gave oral evidence in relation to this issue. His view was it was unlikely to be related to concerns that Community Care Accommodation may pose safety concerns for the surrounding rural communities. He considered that it is more likely because the policy framework seeks to protect farmland for its productive capacity. His evidence was that if the proposal was on a Farming zoned site in a fertile area surrounded by productive farmland, it would have a much harder case to answer. But that is not the case here.

The Panel agrees with Council and Mr Milner that not too much should be read into the fact that Community Care Accommodation is prohibited in the Farming Zone. There is nothing to suggest that Community Care Accommodation is an inherently inappropriate use in the Farming Zone, as demonstrated by the VCAT cases to which Council and the Proponent referred.

(ii) Consistency with the broader policy framework

Several submitters referred to the overarching objective in the *Planning and Environment Act 1987* to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria. Submitters argued that the proposal fails to meet this objective, including for the reasons discussed in Chapter 5.

Mr Milner, on the other hand, emphasised the threads throughout the planning objectives and the policy framework of ensuring that planning contributes to the health, wellbeing and safety of the community as a whole, while preventing amenity problems created by siting incompatible land uses close together. He stated at paragraphs 46 to 48:

Within this context community health, wellbeing and safety is both a priority and multi-faceted issue.

On the one hand, the health, wellbeing and safety of the community through the establishment and delivery of education and treatment programs targeted at drugs and alcohol requires no further strategic justification.

On the other hand, the health, wellbeing and safety of the community must be assured through the appropriate location, integration, management and delivery of those programs.

Council considered that the proposal is broadly consistent with the purposes of the Farming Zone, as it will not result in the loss of productive agricultural land and will not adversely affect the use of adjacent land for agriculture. In terms of the broader policy framework, Council submitted that the proposal strikes an appropriate balance between the various policy objectives. It noted that the proposed development has been sited and designed to minimise impacts to native vegetation, while avoiding impacts on the Church ruins. Council submitted that the proposed built form of the building, its materials and its location, together with the proposed landscaping on the site, is respectful of the rural character and landscape of the area.

Mr Milner concluded that the proposed development presents “*a well-tested proposal to positively realise a range of relevant planning policy objectives*”. His evidence was that the Planning Policy Framework seeks to balance and protect growth in peri-urban areas to enhance their identified valued attributes, including by ensuring that development is linked to the timely and viable provision of physical and social infrastructure.

The Panel agrees with Mr Milner that the proposal meets policy objectives that seek to ensure that communities are provided with integrated health facilities and social infrastructure,

without compromising policy objectives relating to the protection and preservation of productive agricultural land and the preservation of rural character and landscapes.

(iii) Net community benefit

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme. It has considered the matters referred to in Clause 65 of the Planning Scheme, and in section 60 of the Act.

The Panel concludes that there is a significant need for the proposed facility. Although need alone does not justify its approval, the Panel considers that the proposed development strikes an appropriate balance between the various policy objectives, and is supported by the Planning Policy Framework.

The Amendment will facilitate the delivery of important social infrastructure that will contribute toward the health and wellbeing of the community as a whole by reducing the impacts of long term addiction. While the development will have impacts, particularly on the immediately surrounding community and (to a lesser extent) users of the Reserve, the Panel considers those impacts to be acceptable for the reasons set out in the following chapters.

The Amendment is well founded and strategically justified, and will deliver net community benefit, and should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3.7 Conclusions and recommendations

The Panel concludes:

- There is a significant need for the proposed facility, although need alone does not justify its approval.
- A semi-rural setting is a critical element of the Proponent's therapeutic model.
- A semi-rural setting is an appropriate location for a residential drug and alcohol rehabilitation facility.
- The Amendment will not result in the loss of productive agricultural land.
- The site is well buffered from farming activity to the east, west and south.
- The proposed development is unlikely to result in 'reverse amenity' impacts that would impact on the right to farm the land to the north.

The Panel recommends:

Adopt Amendment C401ggee to the Greater Geelong Planning Scheme, subject to the Panel's specific recommendations.

4 Impacts on the Reserve

4.1 Context

The Reserve effectively wraps around the site on three sides, as shown in Figure 2. The site is outlined in red, and the Reserve is outlined in blue.



Figure 2 The site's relationship with the Reserve

Source: Council's Part A submission

The Reserve is Crown Land managed by the Council as the Committee of Management under the *Crown Land (Reserves) Act 1978*. It is reserved for recreational purposes.

Uses of the Reserve

The Reserve is primarily used for equestrian purposes, with dressage and show jumping facilities and a cross country course. The Mount Duneed Pony Club and the Mount Duneed Adult Riding Club hold regular meets and events at the Reserve. The Reserve also contains an oval, a pavilion (club rooms) and a fenced unirrigated hard wicket cricket oval with training nets. It is used regularly by Highton Cricket Club. The Reserve is also used informally for passive uses such as dog walking. Council advised that no additional uses of the Reserve are currently proposed.

A small portion of the Reserve on the crest of Mount Duneed is leased to Telstra for a telecommunications facility. The crest also contains a large Barwon Water tank that provides a gravity fed recycled water supply to the nearby Armstrong Creek Urban Growth Area. The tank and telecommunications facilities are accessed via a driveway from Williams Road.

The Mount Duneed Recreation Reserve Revegetation Project

In 2003, Council issued a grant to the Mount Duneed Recreation Reserve Environment Group under the Adopt a Park Program to revegetate part of the Reserve (Document 34). The revegetation was planted partly on the Reserve, and partly on the eastern portion of the site. It appears that the site's eastern boundary fence had been removed by 2003, and the boundary between the site and the Reserve was not clear. The Proponent asserted at the Hearing that the revegetation planted on the site was planted 'in the wrong spot', which some submitters took issue with.

Conservation values of the Reserve

Council has identified biodiversity sites within the Reserve as part of the preparation of the City's Biodiversity Strategy, anticipated to be completed during 2020. The conservation values of the Reserve and the native vegetation present on the Reserve are explained in more detail in Chapter 6.

4.2 The issues

The issues are:

- whether the proposal will impact unacceptably on users of the Reserve
- whether the site does (or should) form part of the Reserve.

4.3 Evidence and submissions

Many submissions raised concerns about how the proposed development would impact on the Reserve and its users. Ms Rossack's submission to the Panel (Document 22) sums up well the sentiments expressed by many submitters:

- The parcel of land known as 120 Russells Road is located **ON** the reserve and the proposed structure is very close to the existing infrastructure of user groups such as the equestrian clubs. The entrance to the reserve and to the established facilities there is immediately adjacent to 120 Russells Road.
- Historically (since 1944) 120 Russells Road has been effectively abandoned – not fenced on all sides and became in both perception and use part of the reserve. In the past stock grazed through the site; part of a former tennis club had been there; various users of the reserve including casual members of the public wandered through there and a residents' group using public funding planted trees on there. It was believed by people in the local community that the land had been acquired by the relevant authorities.
- Over many years user groups have worked to improve the amenity of the reserve, especially by removing large swathes of briar rose and other weeds. It is now an attractive community asset. The user groups have valid reasons for objecting to the proposal. Their investment in the development of this asset should be recognized and their concerns given serious consideration.
- The subject land, 120 Russells Road is located within the boundaries of the reserve and very close to club infrastructure.
- Priority should be given to protection of this important community asset which is used by many members of the clubs and by the general public.
- I believe that the most important issue is that of maintaining the status of an important community asset in a rural setting. To rezone a parcel of land that is within the confines of that reserve for the establishment of a privately run residential facility is not desirable.

Many other submitters expressed surprise that the site was not part of the Reserve, as it had been unfenced and not delineated from the Reserve for many years. Mr Hunter submitted that Council should acquire the site and manage it as a conservation reserve.

Other submitters, for example P King, referred to the Reserve as extremely rare and a very sensitive area visited by people of all ages for multiple purposes. They referred to the beauty, serenity, unspoilt nature and natural attributes of the Reserve. Some submitters, for example Ms McLeod, were concerned that access to the Reserve might be restricted if the proposed development goes ahead. Others noted that the Reserve is close to one of the largest growing residential and employment precincts within the City of Greater Geelong, and that use of the Reserve would likely increase given new developments being built in the area.

The Calabys and Ms Macaulay expressed concerns in relation to the impact the proposed development would have on the Mount Duneed Pony Club and equestrian events. Mrs Calaby has had a long association with this and other pony clubs and horses, and explained how the monthly pony club rallies operate. Riders will generally arrive at the site by 6.00 or 7.00am and the events generally run all day to about 3.00pm. Some event attendees may camp on the site the night before an event. In response to questions from the Panel she indicated that upwards of 300 to 400 people can sometimes attend equestrian events on the Reserve, which are held on weekends (as are visiting days for the facility).

Mrs Calaby raised concerns about the location of the entrance to the Reserve right beside the site's western boundary, noise and traffic generated by equestrian events impacting on the residents of the facility, horses and riders being disturbed by the presence of and comings and goings from the facility, and safety concerns arising from event traffic interacting with traffic to and from the facility.

Submitters raised concerns about the impacts of the proposed development on the safety and security of Reserve users, vegetation on the site and Reserve including the revegetation planted in 2003, and the scenic values of the Reserve. These issues are dealt with in Chapters 5, 6 and 7.2.

Mr Milner acknowledged the submissions in relation to impacts on the Reserve and its users, and recognised that the Reserve is regularly used for community gatherings. He considered that this provides a "*more robust setting*" in which the proposed development could be accommodated without materially changing the character of the area. His evidence was:

While concerns have been expressed about the potential negative implications of the use, which I comment upon below, I have formed the view that on a daily basis the proposed use will be experienced as a relatively benign activity in comparison to some of the more active uses currently undertaken on the reserve. I would anticipate it being experienced as quiet and predominantly self-contained.

4.4 Discussion

It is clear from submissions that the Reserve is highly valued by the community as an important environmental, recreational, social and open space asset.

For some time the site has been only partially fenced and has come to be regarded by the community as part of the Reserve. It appears that it may have been regarded as part of the Reserve by the local council over the years too, indicated by the fact that the revegetation undertaken in 2003 was located (apparently mistakenly) partly on the site. Some years ago

the former Shire of Barrabool constructed tennis courts partly on the site as well (the tennis courts are no longer there).

In this context, it is understandable that the community regard the site as part of the Reserve, and feel that they are losing part of the Reserve to facilitate the proposed development. The site has, however, always remained under a separate title to and in separate ownership from the Reserve. The site's size, when compared to the rest of the Reserve, is very small. The Panel does not consider that the loss of the use of the site will impact unacceptably on Reserve users.

The Panel appreciates the concerns expressed by the submitters about interactions between the residents, visitors and staff of the facility, and people using the Reserve, particularly on equestrian event days when usage of the Reserve is high. However, the Panel was not persuaded that the two uses are unable to successfully co-exist.

On the evidence of Mr Lytzki (discussed in more detail in the following chapter), the facility will be largely self-contained. One of the key therapeutic aspects of the program being offered by the Proponent is privacy. The facility will have an internal courtyard open space area where the women and their children are able to enjoy the outdoors without feeling they are watched or under surveillance from the outside world. The facility will be fenced and landscaped, to create a sense of security and privacy for the women. This will also create a clear separation between the facility and the Reserve.

It is important to remember that the women in the facility will have detoxed and withdrawn before they arrive, and there is a zero tolerance policy of drugs or alcohol within the facility. The facility will have limited visiting hours, and will impose strict controls on visitors including a complete ban on drug or alcohol affected visitors. The risk of Reserve users being exposed to drug or alcohol affected behaviour is negligible.

Mr Lytzki's evidence (discussed in more detail in the following chapter) was that the women will not be permitted to leave the facility (including to use the Reserve) without being accompanied by a staff member. Measures will be taken to prevent any random or opportunistic meetings between the women and people within the Reserve in order to protect the safety of the women. By all accounts, the interactions between the residents of the men's facility (which is not fenced and secure in the way that the women's facility is proposed to be) and the public have been entirely benign.

As discussed in Chapter 7.3, the facility is expected to generate very little traffic, even on visiting days on the weekends. The facility will have its own separate entrance, separated by some distance from the entrance to the Reserve. There is minimal risk of unsafe interactions between traffic using the Reserve (including horses and riders) and traffic to or from the facility. Given the strict protocols in place relating to residents of the facility being accompanied at all times when they are outside the facility, there is minimal, if any, risk of inappropriate interactions between the facility's residents or visitors and users of the Reserve.

4.5 Conclusion

The Panel concludes:

- The Panel is confident that the impact of the facility on users of the Reserve will be minimal, and the two uses can successfully co-exist.

5 Social impacts

5.1 The issues

The issue is whether the facility will cause unacceptable social impacts.

5.2 Evidence and submissions

A number of objecting submitters raised concerns about the capacity of the Proponent to manage the facility in such a way as to not have detrimental impacts on nearby uses. Concerns included:

- potential for violent or antisocial behaviour from residents and visitors
- potential exposure of children using the Reserve to inappropriate behaviours related to drug or alcohol use
- potential for vandalism and damage to property caused by residents or visitors to the facility
- threats to the personal safety of surrounding residents and Reserve users.

Concerns were also raised about the Proponent's capacity to manage the facility to avoid these impacts, and whether the Proponent had sufficient backing to ensure that it would be able to effectively manage the facility into the future. For example, Ms Rossack submitted that the proposal was a privately run facility and there was no statutory oversight.

On the other hand, Mrs Calaby submitted she had no reason to doubt that the Proponent is perfectly capable of running the facility. Ms Bullen, who lives close to the men's facility, indicated in her oral submission she had never had any issues with the way that facility was managed.

The Proponent produced and circulated to the parties its Strategic Plan, prospectus for the proposed women's facility, a draft Facility Management Plan, a draft Emergency Management Plan, a video tour of the men's facility and a virtual tour of the proposed women's facility. It also tabled a New Participant Intake Document, Participant Handbook, Participant Agreement and Staff and Volunteer Handbook currently in use in relation to the men's program, which will be adapted for use at the proposed women's facility. These documents provided a comprehensive and detailed description of how the facility is proposed to be managed.

My Lytzki is the founder of Foundation 61 and the manager of the men's facility. He has been involved in drug and alcohol rehab programs for many years, and has lived experience of recovering from addiction. His evidence was that the safety of residents, staff, volunteers and community members is of the utmost priority, and a series of measures would be put in place to ensure this, as detailed in the draft Facility Management and Emergency Management Plans. He explained that all staff and volunteers would be trained in these plans and will be required to implement them.

Mr Lytzki explained that the program is voluntary, with strict assessment criteria applied before women will be accepted into the program. The program will only take women who are committed to recovery and have completed a detox program before joining the program. He emphasised that the proposed facility is not a domestic violence refuge. Any applicant seeking admission with a current threat of violence will be referred to family violence services and linked with external drug and alcohol community services. He also emphasised that the facility

is not a psychiatric facility, and will not accept applicants with an untreated psychiatric disorder (such applicants will be referred to appropriate mental health services).

Mr Lytzki explained that residents of the facility require a sense of safety and privacy, hence the proposed perimeter landscaping and fencing. In addition, security cameras will be installed to monitor the site and the site entrance. There is minimal chance of residents interacting with the Pony Club, horses and riders, surrounding residents or members of the public, as residents will not be permitted to leave the site unless they are accompanied by a staff member or volunteer. This is primarily to ensure the safety and security of the women.

The Facility Management Plan includes strict guidelines about the presence of visitors on site, including a zero tolerance for visitors with drugs or alcohol in their possession or in their system.

Mr Lytzki's evidence was that during the 15 years of operation of the men's facility in Williams Road, there have been no incidents caused by residents or visitors that have required an emergency response, and he was not aware of any concerns from the surrounding community in relation to the men's facility. He explained that Foundation 61 has been running a non-residential women's program in the Geelong area for 20 or more participants for over a decade, and in that time there had been no issues with partners or ex-partners of participants causing any problems or disturbances.

Mr Thomson of Thomson Goodall Associates prepared the draft Facility Management and Emergency Management Plans for the Proponent. Mr Thomson's evidence was that whilst Foundation 61 is a small not-for-profit organisation, it is well run, well regarded by government and other services within the Barwon Region, and performs an important role in the service system.

Mr Thomson's evidence was that the draft Facility Management Plan and Emergency Management Plan, when combined with a focus on staff and volunteer training and induction, represented sound facility management practice. He noted that not-for-profit organisations like Foundation 61 often rely on government grants to operate their programs, and that funding was dependent on sound corporate governance and risk management procedures being applied.

The Panel asked Mr Thomson about the potential for inappropriate behaviour associated with the facility, and whether he thought the facility would pose a safety risk to the surrounding community and users of the Reserve. In his opinion, this was extremely unlikely. Similarly, Mr Milner had reviewed similar proposals located in the middle of suburban streets of regional towns and cities. His evidence was that, managed properly and effectively, concerns expressed through submissions and objections do not materialise in the manner envisaged.

Mr Milner emphasised that, since Amendment VC152, Community Care Accommodation is an as-of-right use in all residential zones and can proceed without a permit, and without the surrounding community even knowing the facility is there. He noted that this is in marked contrast to the proposal, with the Incorporated Document containing multiple conditions. He suggested that the fact that Community Care Accommodation is as-of-right in residential zones is an indication of a general acceptance that these types of facilities are a safe and appropriate use that pose no risk to the community. He also pointed out that no household, neighbour or other nearby community activity is required to provide assurances about quality of behaviour.

Council submitted that it had been in contact with the Planning Enforcement section of Surf Coast Shire Council, the municipality that the men's facility is located in, and was advised there was no record of any complaints having been received by them in relation to the operations of the facility.

Clause 4.5 of the exhibited Incorporated Document requires a Facility Management Plan to be approved by the Responsible Authority. It also details what the Plan must contain. Council proposed amendments to the exhibited Incorporated Document to include additional requirements, and to also include requirements for an Emergency Management Plan and a Risk Management Plan, to provide the community with greater levels of comfort about how the facility will be managed. Council's proposed additions were based on conditions that VCAT had ordered be included on permits for similar facilities in semi-rural locations.

5.3 Discussion

Twenty seven of the 31 objecting submissions expressed concern for the safety of local residents and users of the Reserve due to the nature of the proposed use, the residents and their visitors. It is clear from submissions to both Council and the Panel that these fears are sincerely held and strongly felt.

No evidence was presented to the Panel of actual instances of unacceptable behaviours or negative social impacts at any of the facilities or programs run by Foundation 61, or any other similar facilities. The opposite was in fact the case, in that those with any experience with Foundation 61 programs and services attested to how well they were managed with no unacceptable offsite impacts.

The Proponent has gone to great lengths to be transparent about how the facility will be managed. It has produced and made available to the submitters and Council a detailed Facility Management Plan and an Emergency Management Plan, and has tabled a number of other documents, some of which are published on its website.

The revised Incorporated Document tabled by Council (Document 33) contains detailed requirements for a Facility Management Plan, adds new requirements for an Emergency Management Plan and a Risk Management Plan, and requires the Responsible Authority to assess and provide written consent to any variations to the Facility Management Plan, Emergency Management Plan and Risk Management Plan. This is in addition to separately specifying limits on staffing and resident numbers, limited visiting hours and general requirements that the use not detrimentally impact the amenity of the surrounding area.

As discussed in Chapters 2 and 3, there are many zones, including non-urban zones, where the use could proceed without a permit. In these cases, there would be no conditions attached to the use and the planning system would not regulate the day to day operations of the facility in the way proposed under the Incorporated Document.

The Proponent indicated that it has approved grant funding to assist in establishing the facility. There are a number of regulations and requirements associated with government grants, running and governing organisations and employing staff, aimed at ensuring that funded facilities are safe and well managed. The Proponent will need to maintain good governance and management practices to meet grant conditions and a number of other legal obligations.

The Panel views some of the requirements in the revised Incorporated Document relating to the Facility Management Plan, Emergency Management Plan and Risk Management Plan as

an unnecessary duplication of matters that are more appropriately regulated outside the planning system. These requirements are administratively burdensome on both the Responsible Authority and the Proponent. In the Panel's view, the finer details of the day to day operations of the facility are best left to the experts. These are not matters that the planning system needs to manage.

The exhibited Incorporated Document already contains conditions requiring the facility to be operated in such a way as to not cause detriment to the amenity of the area. The Responsible Authority does not need direct oversight of a detailed Facility Management Plan, Emergency Management Plan or Risk Management Plan to take action if there are detrimental impacts on the amenity of the area.

The Panel considers that a more pared back approach is appropriate, more in line with the exhibited Incorporated Document. The Incorporated Document should broadly outline what the Facility Management Plan must contain, but it is not, in the Panel's view, necessary or appropriate for the Responsible Authority to approve the Facility Management Plan. That is not the role of the planning system. The Panel was not persuaded that the additional requirements proposed by Council for an Emergency Management Plan and a Risk Management Plan were justified. The Panel considers that a better approach is to require the operator of the facility to post a sign near the entrance providing the community with contact details, so they have a point of contact to raise concerns about the operation of the facility.

The Panel has included appropriate conditions in its preferred version of the Incorporated Document in Appendix C.

At the Panel Hearing, there was a brief discussion about the possibility of the Proponent publishing the Facility Management Plan on its website. If the Proponent confirmed to Council that the ongoing publication of a Facility Management Plan did not pose an unacceptable risk to the organisation or the facility's residents, then this would be a preferable method of ensuring public accountability for competent facility management, rather than relying on the planning scheme. Clause 4.5(a) of the Incorporated Document could be amended accordingly.

5.4 Conclusions and recommendations

The Panel concludes:

- While there were genuinely held fears about the perceived negative social impacts of having a residential drug and alcohol rehabilitation facility in the location proposed, the Panel was not persuaded that these fears are likely to eventuate.
- There was no evidence of incidents at any facilities or programs run by the Proponent that suggests that the fears expressed by submitters are likely to be realised. On the contrary, all the evidence and submissions before the Panel were that the Proponent's programs and services are well run, and pose no risk to the community.
- The Proponent has gone to considerable lengths to be open and transparent about the processes and arrangements that will be in place to ensure the facility is well run.
- The planning system does not need to manage the detailed day to day operations of a drug and alcohol rehabilitation facility. Instead, there should be broad requirements for a Facility Management Plan to be put in place, and for a sign to be placed on the land providing a point of contact for surrounding residents to raise any issues or concerns.

The Panel recommends:

Amend Clause 4.5 of the Incorporated Document as shown in Appendix C, to include the following requirements:

- a) prepare a Facility Management Plan which must at a minimum contain the following:**
 - **Protocols to ensure orderly arrival and departure of residents, staff and visitors**
 - **Contact details for the Facility Manager**
 - **Staffing and volunteer arrangements**
 - **A requirement to take immediate action to address incidents that may detrimentally affect the amenity of the area**
 - **Incident and emergency management procedures**
 - **Complaints handling processes**
 - **General maintenance and upkeep requirements**
- b) ensure the amenity of the area is not adversely affected by the use**
- c) place a sign detailing the facility operator's name and contact details at the entrance to the property, so that the community has a point of contact in the event that they wish to raise concerns.**

6 Vegetation impacts

6.1 Context

The site includes about 0.137 hectares of remnant Grassy Woodland vegetation and two Sheoaks. The Sheoaks are proposed to be retained. Other vegetation of note is 11 mature pine trees, 9 of which are to be retained. The site also contains 0.096 hectares of native revegetation planted in 2003, as described in Chapter 4.1. The revegetation area is partly on the site and partly in the adjoining Reserve. The road reserve contains some areas of remnant grassy woodland vegetation and planted eucalypts.

The proposed development includes removal of both native and exotic vegetation from the site, and from the Russells Road reserve around the proposed entrance to the site. The Native Vegetation Removal Application (Document 12) identifies at Figure 2 the areas of remnant native vegetation and other vegetation proposed to be removed.

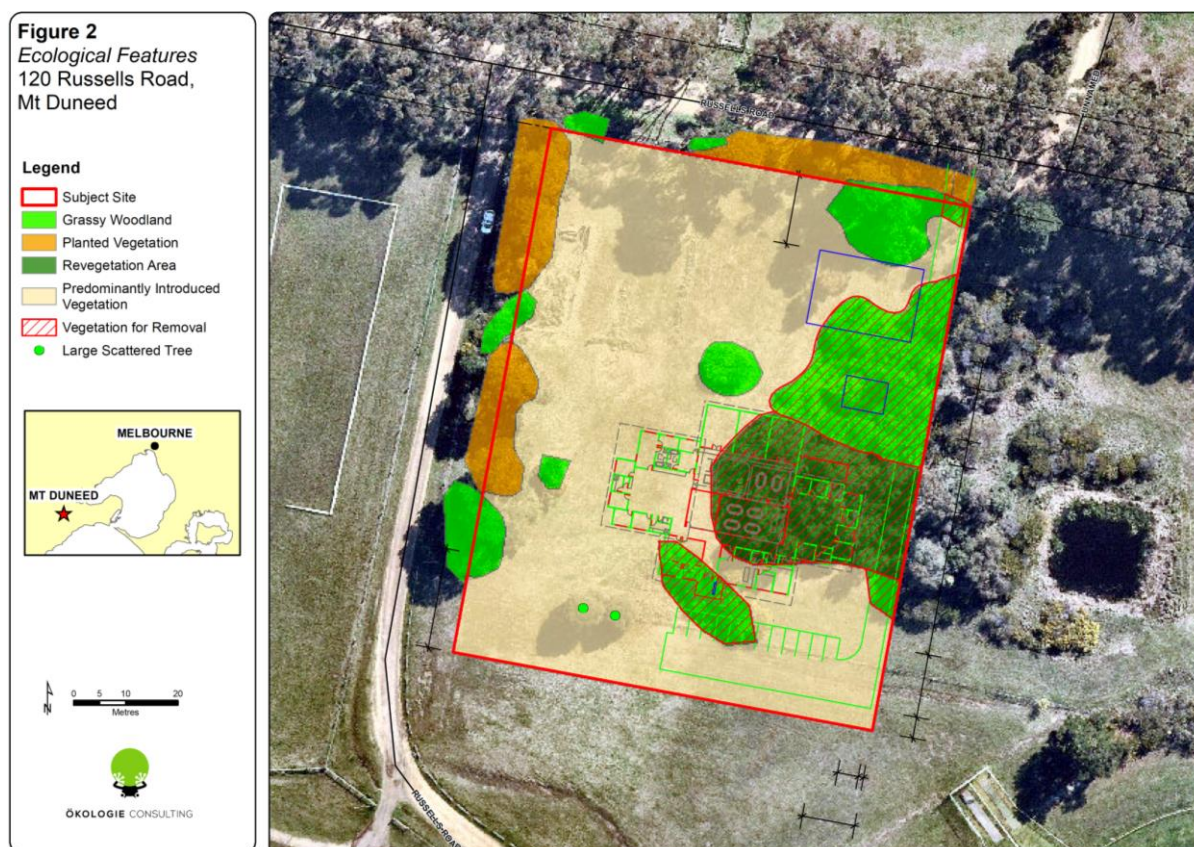


Figure 3 Vegetation to be removed and retained

Source: Figure 2 from the Native Vegetation Removal Application v3 (Document 12)

Four areas of Grassy Woodland totalling 0.101 hectares are proposed to be removed, along with all of the 2003 revegetation on the site and two of the pine trees. Council's Sport and Recreation Planning unit has given permission for the removal of the revegetation. The removal of this vegetation would therefore be exempt from a permit under Clause 52.17 (although it would still require a permit under the ESO). Council has undertaken to conduct additional replanting in the Reserve adjoining the site to compensate for the loss of this revegetation area.

The original design would have required the removal of 0.233 hectares of Grassy Woodland and the two Sheoaks. The location of the effluent disposal area and carpark were amended to reduce the area to be removed to 0.101 hectares. The amended design will retain 0.036 hectares of Grassy Woodland and the two Sheoaks.

The exhibited Incorporated Document included a condition requiring a landscape plan to be endorsed prior to works commencing, and a condition requiring the landscaping to be completed in accordance with the endorsed plan. Council proposed removing the landscape plan condition on the basis that the requirement had already been met with the provision of the revised landscape plan (Document 6), which Council proposed to attach as part of the Incorporated Document.

6.2 The issues

The issues are:

- loss of remnant native vegetation
- loss of revegetation planted by the community
- extent to which Planning Scheme requirements in regard to native vegetation retention and offsets have been complied with
- the appropriateness of the proposed landscape plan and landscaping conditions in the Incorporated Document.

6.3 Relevant policies, strategies and studies

(i) Overlays

Most of the site is within the ESO1. The Russells Road reserve is within the VPO1. Refer to Figure 4 below.

A permit would be required under the ESO1 to remove any vegetation, including dead vegetation. The objectives and decision guidelines in the ESO1 include:

2.0 Environmental objective to be achieved

- To conserve and protect areas of flora and fauna habitat and geological and natural interest.
- To ensure that development does not impact on the environmental significance of the land.
- To ensure that siting and design of any buildings and works maintains the environmental integrity of the land.

4.0 Decision guidelines

Before deciding upon an application, the responsible authority must consider, as appropriate:

- The environmental values of the land.
- The effect of any proposed building or works on the environmental values of the land and its immediate locality.
- The need to control the siting, shape and height of any buildings or extensions.
- The reason for removing any vegetation and the practicality of any alternative options which do not require removal of remnant vegetation.
- The importance of the natural environment including any important landscape or conservation characteristics of the area and the suitability of the proposed development.

- Whether appropriate management practices are proposed including the control of environmental weeds and pest animals, the fencing of animals, prevention of soil erosion, fire prevention measures, and revegetation of degraded areas with indigenous plant species.
- The necessity of retaining a buffer strip of vegetation in the vicinity of water courses, roads and property boundaries.

The proposed removal of the three trees in the Russells Road reserve would not require a permit under the VPO, as an exemption applies for vegetation removal associated with access to a site that is less than 4.2 metres in width.

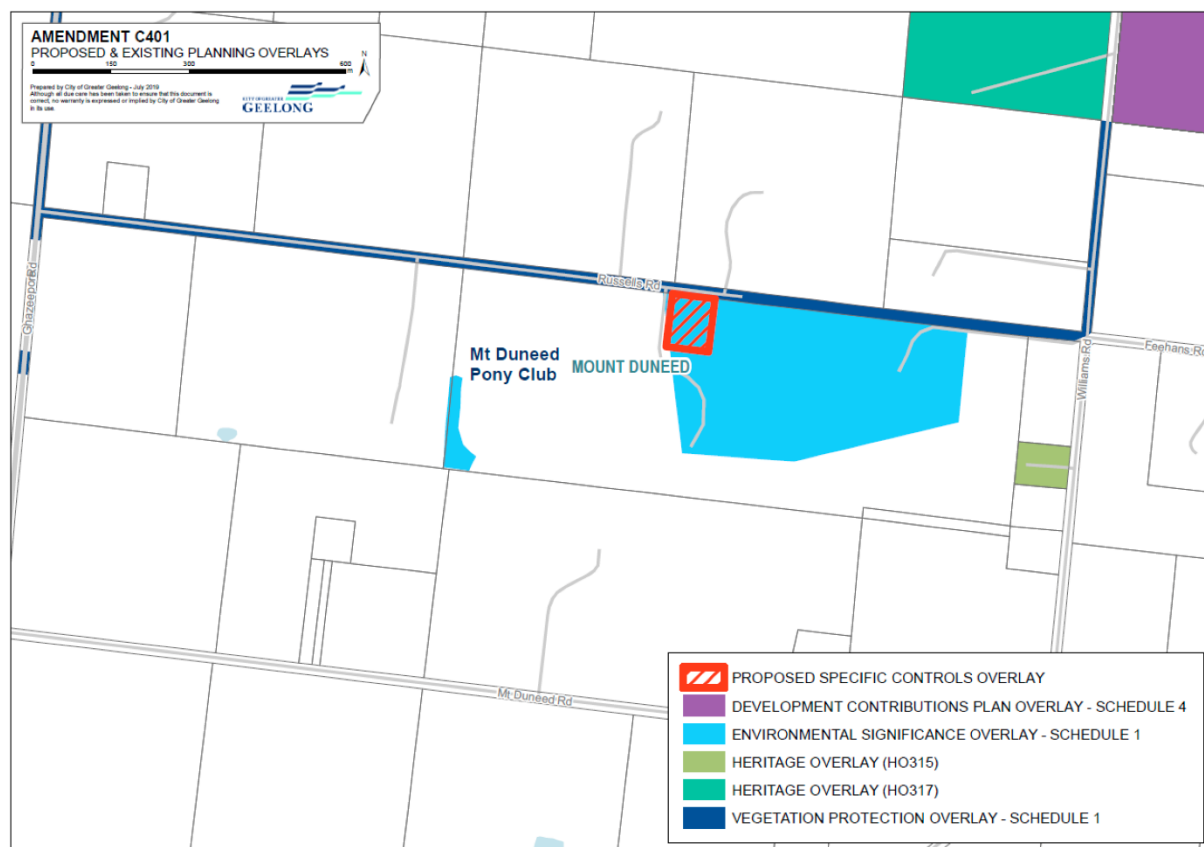


Figure 4 Extent of the ESO1 and VPO1

Source: Council's Part A submission

(ii) The Native Vegetation Guidelines

As explained in Chapter 2.3(iii), Clause 52.17 and the Native Vegetation Guidelines require a three step approach to the removal of native vegetation:

- avoid
- minimise
- offset.

The Native Vegetation Guidelines contain both the methods for calculating the value of offsets required and conditions as to how and where they might be secured.

Several submissions suggested that offsets should be provided on the Reserve, which is Crown land. Guidelines relevant to this include:

Revegetation offset sites can only generate general habitat units.

Revegetation must be for a woody vegetation type.

For revegetation abutting a patch of native vegetation the combined area of vegetation plus adjacent patch of native vegetation must have an area to perimeter ratio of at least 20.

Existing Crown Land must meet the following conditions to be an offset:

- The offset is reserved land and can be managed for conservation objectives
- The offset is only used to either:
 - offset clearing on Crown Land, or
 - provide species offsets that are not available of freehold land.

Existing Crown Land is secured as an offset when:

- the Crown Land Manager and Secretary to DELWP sign a Crown Land offset MOU, and
- the Crown Land offset MOU is registered as an encumbrance on the Crown Land Register

(iii) The draft Biodiversity Strategy

Council is preparing a Biodiversity Strategy, anticipated to be completed during 2020. It is not yet finalised or referenced in the Planning Scheme. The work informing the draft Biodiversity Strategy has identified several biodiversity sites and areas of remnant and native vegetation within the Reserve (see Figure 5). This includes a cluster of fifteen sites located on the steeper western slopes of the Mount Duneed volcanic cone, about 135 metres east of the site. Six of the sites in this cluster are Grassy Woodlands (Ecological Vegetation Class (EVC) 175).



Figure 5 Conservation areas within the Reserve

Source: Council's Part A submission (Document 18)

All of the EVCs identified in the draft Biodiversity Strategy are classified as endangered within the Victorian Volcanic Plains bioregion, within which the Reserve is located. Some of the

biodiversity sites in the north-eastern portions of the Reserve are listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the *Flora and Fauna Guarantee Act 1988* (FFG Act) or both, but this does not include any of the Grassy Woodland sites.

6.4 Evidence and submissions

(i) Native Vegetation Removal Application

The Proponent provided a Native Vegetation Removal Application report prepared by Okologie Consultants. The Native Vegetation Removal Application was updated twice, with the latest version (version 3) dated 8 May 2020. This is the version considered by the Panel.

The Native Vegetation Removal Application assesses the amount and quality of remnant native vegetation on the site, and the offset requirements that would have applied under Clause 52.17. Okologie undertook three site visits on 18 October 2018, 30 March 2020 and 4 May 2020. Field work on the site included an ecological assessment and a bushfire site hazard assessment.

Okologie's assessment identified the site as highly modified from agriculture use, comprising areas of exotic dominated grassland, interspersed with planted exotic trees along the site boundary. Remnant native vegetation consisted of two scattered trees (the Sheoaks) and several modified patches of Grassy Woodland (EVC 175) within the site and along the Russells Road reserve. No flora or fauna species listed under the EPBC Act or the FFG Act were recorded on the site, and none were considered likely to occur due to the absence of suitable habitat.

The Native Vegetation Removal Application concluded that the Proponent had applied the principles of avoid and minimise during the design process. It included a calculation of the required native vegetation offset in accordance with the Native Vegetation Guidelines, based on the removal of 0.101 hectare of remnant vegetation. An offset of 0.063 general habitat units is required, at a Minimum Strategic Biodiversity value of 0.542, to be located in the Corangamite Catchment Management Authority Area. A quote to supply Native Vegetation Credits to meet these criteria on a site in the Shire of Moorabool was attached to the Native Vegetation Removal Application.

(ii) Submissions

The loss of native vegetation on the site was a key issue raised in submissions. Submitters were concerned about the loss of both native and exotic vegetation, and both the remnant native vegetation and the native revegetation planted in 2003. Several submissions claimed that the patches of Grassy Woodland to be removed are regionally significant, and that removal of grasslands from the site would diminish the integrity of the larger grassland patch on adjacent land to the east. Submitters were concerned about impacts on wildlife due to the loss of habitat, and the loss of revegetation planted by community volunteers back in 2003.

In their submissions to the Panel, Mr and Mrs Calaby, Ms Bullen and the Geelong Field Naturalists Club all referenced flora values on the site. Mrs Calaby submitted that:

... the understorey below the prickly acacia includes some of the best examples of chocolate lilies, milkmaids, bulbine lilies, milky beauty heads and grasses on the

Reserve and in Mount Duneed. It is the only area on the Reserve that I know of that includes the chocolate lilies, milkmaids and bulbine lilies.

In an oral submission to the Panel, Ms Bullen submitted that the site was an important seed bank for Kangaroo grass, wallaby grass, chocolate lily and milkmaid. Mr Hunter, on behalf of Geelong Field Naturalists, submitted that he lived a short distance from the site and had visited it on many occasions. He had observed several native species on the site that were not identified in the Native Vegetation Removal Application (chocolate lily, milkmaids, yellow rush-lily, slender speedwell, prickfoot and milky beautyheads). He presented photos and a location map showing these species on the site as part of the Geelong Naturalist Field Club's submission (Document 38). He submitted that these species were not easy to propagate and plant elsewhere.

Mrs Calaby, Ms Bullen and Mr Hunter also submitted that improvements to environmental values would be achieved with rabbit proof fencing and weeding of remnant areas.

Other submissions highlighted the importance of the roadside vegetation, noting that it is protected under the VPO1. Mr and Mrs Calaby submitted they had been involved in a Roadside Vegetation Committee, formed because of the need to better protect important roadside vegetation. They were disappointed that mature eucalypts were to be removed around the site entrance. They indicated there were parts of the road frontage further west of the proposed access that could avoid the removal of mature trees.

Mr Stockdale of Okologie responded to submissions on the Amendment, including that of the Geelong Field Naturalists Club, in his evidence statement (Document 12):

- Chocolate Lily was recorded on site (Okologie Consulting 2018). It is acknowledged that individuals of species will be impacted by the proposed development.
- Native flora species Milky Beauty-heads and Prickfoot do not occur on the site. They do, however, occur on the land to the immediate east of the site. The presence of these species on the adjacent land was confirmed on 4 May 2020.
- Milkmaids, Slender Speedwell and Yellow Rush-lily were not observed on the site during the 2018 ecological assessment, despite the survey being undertaken during spring. Flora surveys provide a 'snapshot' of vegetation at a point in time; however, the limitations of seasonal influence on the presence/absence of flora species (particularly annuals or cryptic species) must be considered.
- These species are not listed as rare or threatened in Victoria under the Advisory List of Rare or Threatened Plants in Victoria (DEPI 2014).

The Panel questioned Mr Stockdale about the five native species identified in the Geelong Field Naturalist Club's submission that were not identified through his field work. Mr Stockdale noted the seasonality of native species, and conceded that it was possible that these species were present on the site at times other than when he conducted his field work. He reiterated that none of the five species are listed as protected or threatened under legislation.

Mr Lytzki's evidence was that the siting of the facility had been the subject of significant scrutiny. Various options had been considered having regard to the need to balance vegetation impacts, site access requirements, impacts on the Heritage Inventory Area, and other safety concerns including bushfire and managing the risk of snakes being present on the site (given children may be living at the facility from time to time). These issues are discussed in more detail in the Chapters 7.1, 7.4 and 7.7.

(iii) DELWP comments

The exhibited Amendment including the Incorporated Document were referred to DELWP who requested a number of issues be addressed (Submission 13):

- The Incorporated Document speaks only generally about vegetation that may be removed and fails to include an offset requirement
- The Incorporated Document should be modified to be specific about the location and extent of native vegetation to be removed and include a requirement that appropriately specified offsets are provided prior to vegetation being removed
- As the amendment has the effect of removing the permit requirement to remove native vegetation associated with the development, this component should be assessed as part of the amendment process
- The ecological assessment and native vegetation removal application reports by Okologie Consulting appear to have been prepared without understanding structure of the amendment and refer to need for planning permits
- The proposal must consider whether the proposal has been sited or designed to avoid and minimise impacts on native vegetation, and whether feasible opportunities exist to further avoid and minimise such impacts. Revised locations for the access, shed and effluent disposal area should be considered before the Incorporated Document is approved
- Feasible alternative designs or siting are likely to be possible with reduced or no impacts to the patches of native vegetation.

In response, Council proposed including an additional Clause 5.13 in the Incorporated Document specifying the offset requirement and requiring evidence that it had been secured. This condition is included in the revised Incorporated Document provided by Council (Document 33). The Proponent did not object to the additional condition.

Prior to the Hearing, the Proponent referred the revised site plan, landscape plan and Native Vegetation Removal Application to DELWP (Document 8). DELWP reviewed the revised plans and reports and advised (Document 13):

- The revised report includes a revised avoid and minimisation statement.
- The revised report avoids the removal of two Large Trees, relocates the effluent disposal area outside of a patch of native vegetation adjacent to Russells Road, and avoids a patch of native vegetation within the centre of the subject land.
- The reason for the extent of proposed native vegetation removal has also been clarified by incorporating features of the development plan on a map along with the extent of native vegetation.
- Based on the revised development plan, revised extent of native vegetation to be removed, and clarification of the reason for native vegetation removal, DELWP is satisfied that the revised development addresses avoidance and minimisation of impacts to native vegetation in accordance with the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation* (DELWP 2017).

(iv) Landscape plan and conditions

In response to questions from the Panel, Mr Stockdale indicated that the revised landscape plan (Document 6) had a suitable selection of native groundcovers and shrubs proposed for the perimeter landscaping. He considered that the species proposed were suitable from a bushfire management perspective.

At the Hearing the Panel expressed some concern that there were no conditions in either the exhibited or the revised Incorporated Document dealing with:

- the timing of the landscaping works

- requirements to maintain or replace the landscaping should it not survive
- the protection of landscaping and retained vegetation during construction and post construction.

Both Council and the Proponent indicated that they were open to including such conditions in the Incorporated Document. The Panel invited Council to provide suggested conditions, which it did (Document 36).

6.5 Discussion

(i) Is the vegetation removal acceptable?

The extent of vegetation removal proposed needs to satisfy planning policy in respect of native vegetation management. A strong theme of the policy framework, reflected in Clauses 12.01-2S, 12.05-2S, 15.01-2S, 15.01-6S and 22.05, the Native Vegetation Guidelines and the objectives of the ESO, is to avoid the need to remove native vegetation. If removal of native vegetation cannot be avoided, it must be minimised, and any vegetation removed must be offset. The ESO includes further objectives to protect habitat, ensure development does not impact on the environmental significance of the land and ensure siting and design of buildings and works maintains the environmental integrity of the land.

In considering whether the avoid and minimise principles have been met, the Panel has considered whether an appropriate balance has been struck between the avoidance and minimisation of vegetation loss, and other objectives related to bushfire management and safety, heritage issues and social and net community benefit. It has also had regard to the quality of the vegetation to be removed, and whether the species to be removed are listed or protected under legislation.

The Panel accepts the evidence of Mr Stockdale that much of the site is highly modified and weed infested, and that the remnant vegetation remaining on the site is not high quality.

The Panel acknowledges the submissions of the Geelong Field Naturalists Club and others that Mr Stockdale had failed to identify several native species that are present on the site. None of the submitters put questions to Mr Stockdale about these species. The Panel, however, did put questions to Mr Stockdale about these species. He conceded that while these species (other than Chocolate Lily) were not present when he conducted his field work, they may be present on the site at other times. He pointed out that the native vegetation assessment was a point in time survey and he did not dispute the possibility of other species being present at other times of the year.

The Panel accepts Mr Stockdale's evidence that none of these particular species are listed or protected under the EPBC Act or the FFG Act. That said, the Panel notes that the Grassy Woodland EVC is endangered within the Victorian Volcanic Plains bioregion.

Council and the Proponent submitted that reasonable efforts had been made to site the proposed building so as to minimise the loss of remnant native vegetation. This was supported by the evidence of Mr Lytzki, who indicated that the design had been through several iterations to attempt to minimise the loss of vegetation while balancing impacts on heritage and other safety and operational matters.

DELWP in its initial response requested alternative design or siting of the access and shed to reduce extent of remnant native vegetation required to be removed. This is partly reflected

in the revised site plan and revised landscape plan (Documents 5 and 6). The amended proposal, with reduced carparking, reduces the extent of vegetation loss. DELWP has confirmed that it is satisfied that the amended proposal meets the avoid and minimise principles set out in the Native Vegetation Guidelines.

The Panel acknowledges the concerns of the residents in relation to the loss of the revegetation area planted by community volunteers in 2003. It understands that the site has, to all intents and purposes, felt like part of the Reserve for many years, and that this proposal feels to the local community like they are losing a part of the Reserve (as discussed in Chapter 4). Council has indicated a willingness to undertake further replanting on the Reserve. While this will take some time to establish and grow, it will, in time, go some way to redressing the loss of replanted vegetation on the site.

On that basis, the Panel is satisfied that the revised design of the proposed development represents an acceptable outcome in relation to vegetation loss.

(ii) Should offsets be provided on the Reserve?

The Panel has given careful consideration to the submissions calling for the native vegetation offsets (for the loss of remnant vegetation on the site) to be provided on the Reserve, rather than a location in the Shire of Moorabool. The Panel agrees with submitters that there are potentially substantial benefits to be obtained by creating a corridor between the remnant vegetation on the site and the areas remaining on the Mount Duneed escarpment, and that the statutory offsets could be used to enhance this corridor.

Council did not support the statutory native vegetation offsets being provided on the Reserve, as the Reserve is Crown land reserved for recreation purposes, not for conservation purposes. The Panel notes that the Native Vegetation Guidelines do not encourage the provision of offsets on Crown land unless specific conditions are met, including that:

- the offset is provided on reserved land managed for conservation objectives
- the offset is for clearing on Crown Land, or to provide species offsets that are not available of freehold land.

Neither of those conditions apply here. It is also not clear that the requirements of the Guidelines relating to securing the offsets on Crown land (described in Chapter 6.3(ii)) could be met.

For these reasons, the Panel does not support the statutory offset being provided on the Reserve. However, it strongly encourages Council to fulfil its commitment to undertake further revegetation planting in the Reserve to replace the revegetation areas on the site that are to be lost. The revegetation should seek to enhance the wetland to the immediate east of the site, and to create a corridor linking the wetland to the remnant native vegetation on the escarpment on the site. Council should also consider fencing and weed and pest control to achieve even better environmental outcomes.

(iii) Landscape plan and conditions

The Panel accepts Mr Stockdale's evidence that the revised landscape plan (Document 6) represents a suitable outcome, and specifies a suitable selection of species for the perimeter landscaping. This is consistent with Council's position.

The Panel is satisfied that the revised landscape plan is broadly appropriate, although it does require some additional modification to make it consistent with Figure 2 in the revised Native Vegetation Removal Application. In particular:

- the location of the effluent treatment area needs to be corrected
- the plan needs to identify vegetation to be retained.

The Panel agrees with Council that the revised plan (with the further modifications outlined above) should be attached as part of the Incorporated Document.

The Panel also considers that additional conditions should be included in the Incorporated Document in relation to:

- the timing of the landscaping works
- requirements to maintain or replace the landscaping should it not survive
- the protection of landscaping and retained vegetation during construction.

The Panel has included suitable conditions (based on Council's standard conditions provided in Document 36) in its preferred version of the Incorporated Document in Appendix C.

Finally, the Proponent made the observation during the Hearing that if access to the site were granted from the accessway into the Reserve, most of the remnant vegetation and revegetation could be retained. This option and the associated issues are discussed in Chapter 7.4.

6.6 Conclusions and recommendations

The Panel concludes:

- The revised siting and design of the proposed development strikes an appropriate balance between vegetation removal and other considerations (including heritage, bushfire, maintenance, and safety aspects).
- The Panel is satisfied that the proposal in its revised form meets the avoid and minimise principles.
- The Panel does not support the statutory offsets (for the loss of remnant native vegetation on the site) being provided on the Reserve, as this would not be consistent with the Native Vegetation Guidelines.
- The Panel strongly encourages Council to fulfil its commitment to undertake further replanting in the Reserve to replace the replanted vegetation being lost on the site. The replacement planting should aim to enhance the wetland to the immediate east of the site, and create a corridor between the wetland and the remnant native vegetation on the Mount Duneed escarpment. Consideration should also be given to fencing and weed and pest control works.
- The landscape plan needs to be amended to be consistent with Figure 2 of the Native Vegetation Removal Report, and the Incorporated Document needs to be supplemented with conditions regarding the timing, maintenance and replacement of landscaping, and the protection of retained vegetation and landscaping during construction.

The Panel recommends:

Before endorsing the revised Landscape Plan (Document 6), amend it to be consistent with Figure 2 in version 3 of the Native Vegetation Removal Application (Document 12), by:

- a) relocating the effluent envelope out of the remnant vegetation area
- b) identifying vegetation to be retained.

Attach the endorsed Landscape Plan to the Incorporated Document.

Include additional landscape conditions in the Incorporated Document as shown in Appendix C, dealing with:

- a) the timing of the landscaping works
- b) requirements to maintain or replace the landscaping should it not survive
- c) the protection of landscaping and retained vegetation during construction.

7 Other issues

7.1 Heritage impacts

(i) Context

The ruins of the Wesleyan Church are located in the north west corner of the site, along with an old cattle yard and ramp, and a basalt outcrop. The whole site is registered on the Victorian Heritage Register (H7721-0534), although Heritage Victoria has indicated that it proposes to amend the Heritage Inventory Area to only apply to the ruins (plus a buffer area), as shown in Figure 6 (Documents 3 and 4). No works are proposed within the revised Heritage Inventory Area.



Figure 6 Current and proposed revised Heritage Inventory Area

Source: Document 3

(ii) The issue

The issue is whether the proposal impacts unacceptably on the heritage values of the site.

(iii) Evidence and submissions

The Proponent engaged Ochre Imprints to prepare a Cultural Heritage Management Plan (CHMP) for the proposed development, which was prepared voluntarily as the site is not within an area of cultural heritage sensitivity. The CHMP covers both indigenous and European cultural heritage (the European land use history analysis was undertaken in order to predict the type of modifications that are likely to have occurred within the activity area which may in turn have had an impact on the Aboriginal archaeological record).

The CHMP confirms that no registered Aboriginal places occur on the site, although it has not been subject to prior Aboriginal archaeological assessment. No Aboriginal cultural heritage was identified during the field surveys undertaken or the preparation of the CHMP. The CHMP includes conditions to ensure that any cultural heritage or artefacts identified during construction are managed appropriately.

In terms of European history, the CHMP reviewed the history of the site and local area. It notes that there are few available historical plans of the site, and aerial photography from around 1947 onwards indicates that it was used as pastoral or agricultural land since that time. The earliest available historical plan is a Duneed Parish Plan dated 1888, which identifies the site as a Wesleyan reserve. The Parish Plan also identifies the Reserve as a reserve, possibly used as a rifle range, and a quarry, a cemetery and a Presbyterian Church in what is now Williams Road.

According to the CHMP (at pages 34 to 35):

In summary, the activity area has likely been subject to historical land use activities since the mid nineteenth century, when the majority of the activity area was reserved for use by the Wesleyan / Methodist Church. A stone church was present in the northern part of the property from c. 1857 to c. 1944, and other structures relating to the use of the property as a church and grounds (such as the timber structure visible at the edge of Figure 12) may also have been present at various times in the historical period. After the church was demolished in 1944 following a bushfire, the activity area appears to have been put to pastoral use, and a cattle yard and ramp was constructed within it. Recent aerial photography (see Figure 2) indicates that parts of the activity area have been ploughed, and a eucalypt plantation is present in the south eastern part of the property.

Heritage was not a strong theme in the submissions, but was mentioned by a couple of submitters. Ms McLeod submitted *“Beautiful historic church ruins, old trees, possibly buried people on site, all to be bulldozed!”*, P King mentioned that the Reserve is known for its heritage, and Mr Fisher submitted *“The general ambience of the ground will change drastically and not in a beneficial way. There is a history on the grounds, church ruins, old trees, and such a beautiful outlook that will no longer exist if this is successful”*.

Council responded to these, and two other submissions that mentioned the possibility of human burials on the site, at paragraphs 93 and 94 of its Part B submission:

The siting of proposed development avoids the extent of identified heritage values – the church remains and other historic features. The Incorporated Document specifies that any works located within the Heritage Inventory area of the site will need a permit from Heritage Victoria.

Council is unaware of any evidence of burials on the site. The Cultural Heritage Management Plan prepared for the site outlines procedures to be followed in the event that any human remains were found.

(iv) Discussion

The CHMP contains a comprehensive analysis of the history of the site and surrounds from an Aboriginal cultural heritage perspective. A comprehensive desktop analysis and field work did not identify any Aboriginal cultural heritage likely to be present on the site. The CHMP recommends management requirements that must be applied to ensure that any artefacts or items of cultural heritage significance that may be found during the construction process are appropriately identified and managed.

The Panel asked the Proponent at the Hearing whether a Statement of Significance has been prepared which explains the European heritage significance of the site. Mr O'Loan of St Quentin Consulting (representing the Proponent) explained that no Statement currently exists. The site was placed on the Heritage Inventory after Ochre Imprints notified Heritage Victoria of the findings of the field work. A Statement could be prepared if further research (including excavation and archaeological investigations) were undertaken, but Heritage Victoria has not indicated that any further research is warranted.

The Panel appreciates that the church ruins have some historical value for the local community. However there is no formal protection of these ruins, other than the inclusion of the site on the Heritage Inventory. While this is not supported by a Statement of Significance which explains the heritage value of the ruins, it was a conscious decision on the part of Heritage Victoria to list the site, and the Panel has given this some weight.

There is no evidence, including in the CHMP, that suggests that human remains are likely to be buried on the site. While cemeteries in church grounds may have been a feature of some of the early churches in Victoria, in this case a local cemetery was located close by in Williams Road. The presence of human remains on the site is unlikely, and the CHMP contains measures that must be implemented in the unlikely event that human remains are found during construction.

The Proponent has clearly gone to some lengths to design and site the building to avoid the area of heritage interest, and if works are to impact on the Heritage Inventory Area a permit will be required under the *Heritage Act 2017*. This will ensure that heritage values are appropriately considered.

The Panel is satisfied that the proposal will not unacceptably impact the heritage values of the site.

(v) Conclusion

The Panel concludes:

- The proposed development will not unacceptably impact the heritage values of the site.

7.2 Landscape, visual and character impacts

(i) The issues

The issue is whether the proposed development will unacceptably impact on the landscape values and rural character of the area.

(ii) Relevant policies, strategies and studies

Clause 12.05-2S – Landscapes

The objective of this clause is to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. Relevant strategies include:

- ensure development does not detract from the natural qualities of significant landscape areas
- improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including conservation areas and non-urban areas
- recognise the natural landscape for its aesthetic value and as a fully functioning system
- ensure important natural features are protected and enhanced.

Clause 21.11 Armstrong Creek Urban Growth Area

The site is located about 2 kilometres from the southern boundary of the Armstrong Creek Urban Growth Area. Clause 21.11-1 of Council's Municipal Strategic Statement states:

Areas of visual sensitivity along the Mount Duneed ridgeline and flood prone areas to the east of Barwon Heads Road will be protected from urban development.

...

Rural land outside of the [Armstrong Creek Urban Growth Area] will be maintained in productive agricultural parcels which provide an attractive rural setting.

Surf Coast Distinctive Area Landscape

The site forms part of the Surf Coast Distinctive Area and Landscape (DAL), declared by the Governor in Council on 17 September 2019. DELWP is developing a draft Statement of Planning Policy for the DAL, but it has not yet been released for public consultation. When finalised, the Statement of Planning Policy will include:

- a long-term vision of at least 50 years for the area
- policy objectives and strategies to achieve the vision
- a strategic framework plan guiding the future use and development of land in the area.

The strategic framework plan may identify long-term settlement boundaries to ensure that development does not inappropriately encroach into valued natural and rural landscapes. If this were to occur, Parliament would need to ratify any future changes the settlement boundaries.

(iii) Evidence and submissions

Several submissions objected to the proposed development on the basis that it would adversely impact on the landscape and the rural character of the area. For example, Ms Bullen submitted that the design and layout of the proposed development, including the proposed clearing of most of the vegetation from the site, would be:

... completely contradictory to the stated aim of providing a peaceful rural setting. It is imposing a highly modified urban site in the midst of a much-enjoyed peaceful rural landscape.

In her oral submissions to the Panel, Ms Bullen highlighted the declaration of the Surf Coast DAL, and submitted that the Amendment fails to take into account the significance of the landscape implicit in the declaration.

The Calabys also highlighted the DAL declaration, submitting:

Mount Duneed has been included in the Surf Coast Distinctive Areas and Landscapes declared area. There are 4 objectives, two of which are:

- To recognise the importance of distinctive areas and landscapes to the people of Victoria and to protect and conserve their unique features and special characteristics
- To enhance the conservation of the environment to declared areas including unique habitats, ecosystems and biodiversity.

Allowing ad hoc developments such as this does not comply with these two objectives.

Ms Macaulay submitted that the proposed development is not in keeping with the semi-rural nature of the area:

Most of the houses (all but one) in Russell's Road, are set well back from the road. What the reserve users see is open land, crops, and farm animals. Some even use the road itself for exercising their dogs and horses, such is the quiet rural aspect of it. To impose any sort of modern facility in the midst of this landscape would impact the open and uninterrupted connection of the farming and Reserve landscapes, which begins at the start of Russell's Road, and continues through to the eastern boundary of the reserve. A new and modern facility will diminish this, and the experience of it. I do not believe that the planting of screening vegetation around a new and modern facility will be able to prevent the change to this open landscape, or compensate for it.

Ms Fisher similarly submitted:

The outlook of the reserve is that of a peaceful area with a lovely natural ambience, it is unique to the area, an area that is seeing development on its outskirts. The idea of a building that does not fit in with the landscape is a travesty in itself, however the reason for needing it to be located in a public reserve is ridiculous.

The Proponent submitted that the facility will be significantly screened by the proposed landscaping, and would be *"an innocuous addition that will go largely unnoticed by anyone unfamiliar with the application"*.

Mr Milner's evidence was that the proposed built form of the facility:

... will integrate comfortably with the scale and character of that style and form of development while retaining a dominant landscape setting by virtue of the recreational reserve that surrounds it.

The proposed building would be of a domestic scale and similar idiom. It would be a single storey structure conceived around an internalised series of communal indoor and outdoor spaces. Its proposed style and architectural form would not offend its siting alongside a recreation reserve.

Mr Milner noted that the roadside vegetation along Russells Road will provide a mature treed setting to the site, softening and partially screening the development and aiding it being “visually absorbed into the landscape”.

Council submitted that the single storey building’s size and height will not adversely intrude on the rural landscape of the area. It noted that the building is well set back from Russells Road, and will be softened and screened by the perimeter landscaping around the site as well as the roadside vegetation along Russells Road, which will minimise its visual impact from the road. Council also highlighted the importance of visually permeable fencing (as proposed) to help maintain the rural character of the area.

Council explained that, as yet, there has been no change to the Planning Scheme as a result of the DAL declaration. Planning permits in the DAL will continue to be assessed under existing planning scheme provisions. It submitted:

Notwithstanding that a draft [Statement of Planning Policy] has not been released, it is not considered that the development facilitated by this amendment will adversely affect any identified landscape values in the area, including views to Mount Duneed.

(iv) Discussion

The objective of Clause 12.05-2S of the Planning Scheme is to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. It recognises the natural landscape for its aesthetic value, and seeks to ensure development does not detract from the natural qualities of significant landscape areas.

Nothing presently in the Planning Scheme suggests that the site is located in a particularly significant landscape. It is not protected by a Significant Landscape Overlay, and there is no particular mention of Mount Duneed or the surrounding area in the local policy framework (other than in Clause 21.11-1). The Panel acknowledges that the Surf Coast DAL includes Mount Duneed and the surrounding area, but as yet there is no Statement of Planning Policy which guides the Panel in relation to what, if any, particular significance Mount Duneed has.

In any event, the Panel agrees with Council and Mr Milner that the proposed development is suitably designed and sited so that it will not unacceptably impact on the landscape values or the rural character of the area. While it may be somewhat larger than an average dwelling, it is of a similar scale and design, set well back from Russells Road and will be well screened by the existing roadside vegetation and the proposed landscaping. The building is modest in scale and design, and while it will introduce an additional built form element into the landscape, it will be no more intrusive (and probably less so) than the club room facilities and sheds on the Reserve, the large tank and telecommunications towers on the crest of Mount Duneed, the school buildings at Mount Duneed Primary School and the surrounding dwellings in the area.

The rear aspect of the proposed development is likely to be more visually intrusive to users of the Reserve than the development when viewed from Russells Road, at least until the perimeter landscaping establishes. The carpark is located close to the southern boundary of the site, and it and the southern elevations of the building will be clearly visible from the Reserve until the landscaping establishes and grows. That said, as Mr Milner pointed out in response to questions from the Panel, carparking is not a foreign element in this landscape, as cars are frequently parked (sometimes in quite large numbers) in the Reserve.

The Panel agrees with Council that it is important that fencing around the proposed development be visually permeable, to better blend in with the surrounding fencing styles. The revised landscape plan (Document 6) indicates visually permeable fencing, with a rural post and wire style fence on the boundary, and a 2.4 metre high aluminium rod style fence inside the perimeter landscaping.

Mr Lytzki explained that part of the rationale for the double layer of fencing, with a taller and more robust inner fence, is to provide a sense of safety and security to the women living in the facility. The Panel accepts that this should be a priority, but it is concerned that a 2.4 metre high aluminium rod style fence may be out of character with the semi-rural nature of the surroundings, particularly in the early days before the perimeter landscaping is well established. The Panel encourages Council to discuss with the Proponent whether there may be alternative, lower or less visually intrusive options for the inner fence that will still provide the necessary sense of safety and security for the residents before finally endorsing the revised landscape plan.

Subject to further exploration of the inner fence, the Panel is satisfied that the proposal will not have unacceptable visual impacts or unacceptably impact the landscape values or rural character of the area.

(v) Conclusion

The Panel concludes:

- The proposal will not have unacceptable visual impacts or unacceptably impact the landscape values or rural character of the area.
- Before endorsing the revised landscape plan, Council should discuss with the Proponent alternative options for the inner fence that are lower or less visually intrusive, but will still provide the necessary sense of safety and security for the facility's residents. If a less visually intrusive option is appropriate, Council should amend the plans in the Incorporated Document accordingly.

7.3 Traffic impacts

(i) The issues

The issue is whether the proposed development will have unacceptable traffic impacts.

(ii) Evidence and submissions

Several submissions raised concerns in relation to the additional traffic that the site would generate along Russells Road. Ms Macaulay submitted that Russells Road is a quiet unmade rural road used by people either riding horses or walking their dogs, and that increased traffic from the facility, particularly during construction, would impact the use of the road. Ms Dimovski submitted that the additional traffic on Russells Road would make it unsafe for her children, horse riders and dog walkers, and Ms Baensch submitted that the gravel road is already hard to maintain.

The updated Traffic Assessment prepared by Cardno (Document 9) concluded that the development is anticipated to not have any significant impacts on the surrounding road network. Traffic counts indicate that current traffic movements in Russells Road are in the order of 88 vehicle movements per day. The facility is anticipated to generate up to 21

additional vehicle movements per day, including 3 trips during the morning peak and 4 during the afternoon peak. In its oral submissions the Proponent described this as 'insignificant' in planning terms.

Mr and Mrs Calaby's driveway is located almost directly opposite the proposed site entrance, at the end of the made section of Russells Road. They submitted:

We believe the effect on the traffic at the Reserve end of Russells Road is understated. Currently, most traffic turns off before or into the Reserve and any traffic from there on services one property (ours). By our calculation, we would have an average of 8 traffic movements per day and most of those traffic movements would be immediate family and friends who keep their horses on our property.

Adding another 21 movements per day to the facility triples the number of movements per day, and many of these drivers will not be used to gravel country roads.

Children on horses regularly leave our property and ride down to the Recreation Reserve gate to access the pony club grounds. We have had previous "near miss" incidents where people driving to the Reserve have overshot the gate as they were travelling too fast, and risked hitting children and horses returning from the Reserve.

One of our concerns is that people travelling to the entrance to the facility will put riders, horses and pedestrians at risk as they use this part of Russell's Road. Vegetation on the side of the road makes it very difficult to walk on the verges.

Council submitted:

Russells Road is a 1.3 km long unsealed no-through road, providing access to five rural properties and to the Mount Duneed Recreation Reserve. The amount of additional traffic anticipated to be generated by the development is acceptable on an unsealed road. There should be no traffic conflict with vehicles using the Reserve as the facility will have a separate access from Russells Road to the east of the access into the Reserve and no vehicular access will be allowed from the Reserve.

(iii) Discussion

The facility will have up to a maximum of 8 residents at a time, with 5 staff. Visiting hours are limited to between 1.00pm and 6.00pm on weekends. While the Panel recognises that weekends are also busy times for the Reserve, it does not consider that the few additional vehicle movements generated by the facility will make a noticeable difference on Russells Road.

The Calabys may notice some additional traffic on their section of Russells Road. However the Panel does not consider that up to 21 movements spread across the day is likely to impact the Calabys to an unacceptable degree. The Calabys' house is set well back from Russells Road (as are most of the houses on the road), and traffic will only be noticed by the existing residents if they are out in their paddocks. There is nothing to suggest that traffic generated by the facility will pose any greater risk to safety of road users, including horse riders and dog walkers, than the existing traffic on Russells Road.

The Panel is satisfied that the traffic impacts of the proposed development are acceptable.

(iv) Conclusion

The Panel concludes:

- The traffic impacts of the proposed development are acceptable.

7.4 Site access arrangements

(i) The issue

Access to the site is proposed to be directly off Russells Road, via a 4 metre wide driveway set 1 metre off the eastern site boundary. As discussed in Chapter 5, this requires the removal of three trees in the Russells Road reserve, and a large section of the vegetation on the site. There was discussion at the Hearing about whether alternative accesses would be preferable (see Figure 7).

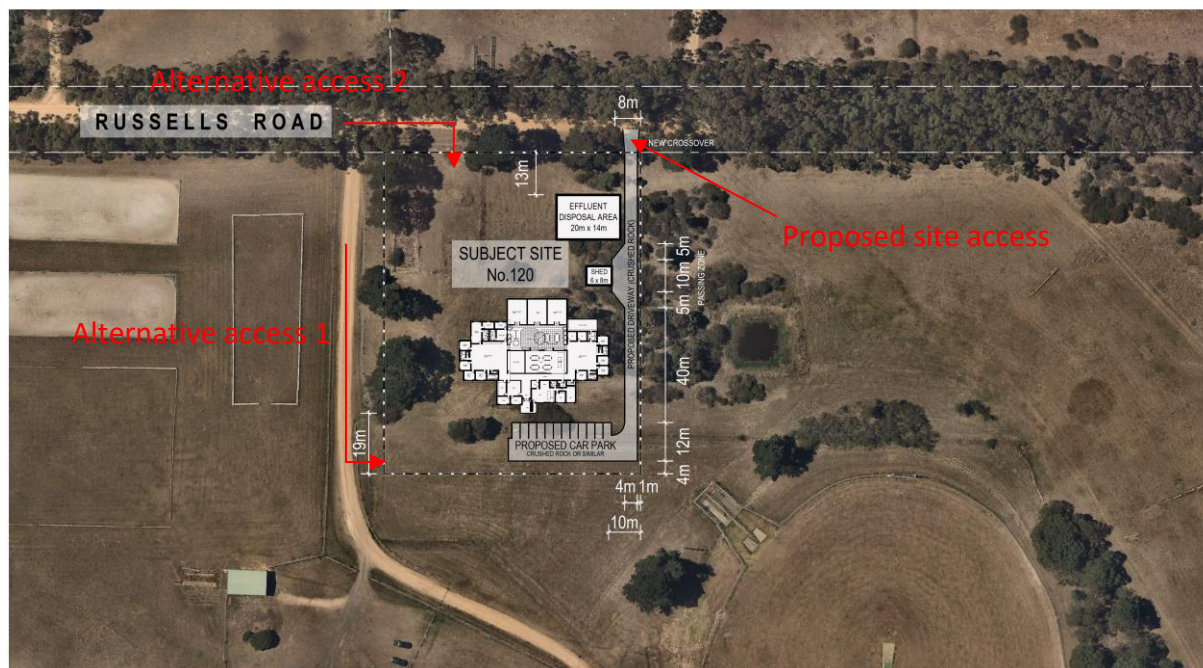


Figure 7 Alternative access proposals

Source: Revised site plan (Document 5), with Panel's annotations

(ii) Evidence and submissions

At the Hearing the Panel sought to explore whether alternative access 1 was viable. Access via the existing access road into the Reserve would utilise existing infrastructure, and avoid the need to remove the trees in the Russells Road reserve and the vegetation along the eastern boundary of the site. It would also likely avoid the proposed revised Heritage Inventory Area on the site (shown in Figure 6 in Chapter 7.1). Mrs Calaby suggested alternative access 2, which would maintain direct access to the site off Russells Road but would also avoid the need to remove vegetation, including in Russells Road.

The Proponent indicated that as well as saving a substantial amount of vegetation, alternative access 1 would involve a considerable cost saving for the Proponent, which was important given its not-for-profit charitable status. However it had not been able to secure agreement from Council and DELWP to alternative access 1. The Proponent provided email correspondence between the Proponent, Council and DELWP (Document 27) which outlined that:

- The Reserve (including the access road) is Crown land managed by Council as a Committee of Management under the *Crown Land (Reserves) Act 1978*.
- The access road is not a formal road and is unencumbered open space.

- Council would not entertain imposing any encumbrances on the land that may restrict its current or future use.
- Neither Council nor DELWP would support a carriageway easement through the Reserve. DELWP indicated that carriageway easements are not granted over Crown land, and that the arrangement would require some form of tenure (lease or licence) allowing access across the Crown land.
- DELWP does not support a lease or licence as they are time limited, and therefore provide no ongoing security of access for the Proponent.
- Council and DELWP could theoretically consider the creation of a Government road to facilitate ongoing legal access to the site, but legislation would be required to excise a strip from the Reserve before changing the status of the strip to a Government road. This process would be neither quick nor straightforward.
- Conditional approval for temporary access for construction activities could be arranged if needed.

Council noted that several submissions opposed shared access to the site via the road into the Reserve, citing concerns that this would lead to additional land use conflicts between the site and the users of the reserve. In response to questions from the Panel, Mrs Calaby and Ms Macaulay (both of whom have been involved with the pony club) indicated that the access road becomes very busy on event days, with horse floats and large numbers of people accessing the Reserve. The gate into the Reserve needs to be closed on event days to manage the risk of runaway horses. Mrs Calaby also mentioned that a lot of children ride bikes along the access road, particularly on event days, and she was concerned that if alternative access 1 was pursued, the additional traffic into and out of the site might pose a safety risk.

(iii) Discussion

The Panel appreciates the suggestions that have been put forward and the efforts that the Proponent has already made to secure access via the access road into the Reserve. However it recognises that none of the alternative access arrangements are straightforward.

Alternative access 1 would provide considerable benefits in terms of the minimisation of vegetation loss and the efficient use of existing infrastructure. However there are tenure arrangements that would need to be worked through, to ensure there was permanent secure access to the site.

The Panel also recognises that alternative access 1 would require ongoing cooperation between the Proponent and the Council and users of the Reserve, to ensure pony club and equestrian events could be managed appropriately. The Panel does not see that this would be insurmountable, given the low traffic movements likely to be generated by the site (see Chapter 7.3). If the gate into the Reserve did need to be closed on occasion, that would not prevent access to the site just as it would not prevent access to event participants.

Alternative access 2 proposed by Mrs Calaby would avoid the loss of vegetation, as well as avoiding the complications associated with accessing the site via the Reserve. However it is not clear that access could be provided through the gap in roadside vegetation on Russells Road without impacting on the Heritage Inventory Area. Again, this is not necessarily an insurmountable problem, and may be possible to design the driveway into the site so that it sweeps to avoid any heritage assets, but further discussions may be required with Heritage Victoria.

The Panel encourages the Proponent to continue to work with Council, DELWP and Heritage Victoria to further explore alternative accesses to the site, but is mindful that this will take time. The Proponent has indicated that the grant funding it has secured for the facility is time dependent. The Panel therefore makes no formal recommendations in this regard.

(iv) Conclusion

The Panel concludes:

- The Panel encourages the Proponent to continue to work with Council, DELWP and Heritage Victoria to further explore alternative accesses to the site, either via Russells Road or the access road into the reserve, that would avoid the vegetation loss associated with the proposed access.

7.5 Services

(i) Submissions

The exhibited Incorporated Document included the following conditions and note suggested by Barwon Water:

5.11.1 The developer will be required to apply to Barwon Water for connection during the permit phase. Specific servicing comments below:

- a) Water – Water is available at the front (northwest) corner of the lot in Russells Road. The main is only a small diameter (DN63mm) and as such pressure and flow is likely to be limited. Due to this, there is a chance that onsite tanks may be required to buffer supply, Barwon Water would assess this on application. In addition, should a fire service be required for the site, they will likely require a self-reliant solution (i.e. tanks and pumps). Exact supply availability to be determined on application.
- b) Sewer – Reticulated Sewer is not available to this property.

Note: Water is available at the site however there is limited capacity. The applicant should approach Barwon Water to discuss specific servicing requirements as part of the connection process.

The Calabys raised concerns about their access to adequate water pressure. They explained that the main at the eastern end of Russells Road was installed at their cost when they built their house, and was only intended to supply their house. They already experience low water pressure and occasionally no water at all when fire trucks are filling from the mains. They were concerned about their ongoing access to water, particularly in the event of a fire.

The Calabys also raised concerns about stormwater discharge from the site and the disposal of effluent generated on the site, submitting that both must not be allowed to discharge to the Reserve. Ms Bullen raised similar concerns about effluent disposal, and queried whether the Environment Protection Authority had approved the proposed septic system on the site.

Council explained at the Hearing that the septic tank proposed had not been referred to the Environment Protection Authority, as Council's Environmental Health unit (not the Environment Protection Authority) is responsible for issuing permits for septic tanks.

(ii) Discussion

The Incorporated Document contains a number of conditions dealing with services, and with stormwater discharge and effluent disposal. Mr Lytzki indicated during the Hearing that the

men's facility has low water pressure, and that onsite tanks have been installed to supplement the water supply including 10,000 litres dedicated to fire fighting. He said that a similar solution could be adopted on the site if required. In response to questions from the Panel, Council indicated that there is plenty of room on the site to install tanks (if required) without further impacting native vegetation. On that basis, the Panel is satisfied that services and stormwater and effluent disposal can be managed appropriately.

(iii) Conclusion

The Panel concludes:

- The conditions of the Incorporated Document appropriately manage services, stormwater and effluent disposal issues.

7.6 Other potential land use conflicts

(i) The issues

The issues are potential land use conflicts with:

- the Mount Duneed Primary School
- the Geelong Pistol Club.

Potential land use conflicts with the Reserve are addressed in Chapter 4. Potential land use conflicts with surrounding residences are addressed in Chapter 5.

(ii) Submissions

Several submissions raised concerns that the facility was not an appropriate use to locate near a primary school, as it would create the potential for children at the school to be exposed to drug affected behaviour. In response to questions from the Panel, Council indicated that it did not expect any land use conflict between the facility and the school. It pointed out that the two are separated by the significant topographical feature of Mount Duneed, and the distance between the two by road is significant.

Others submitters raised concerns that the nearby gun club could create problems. Council responded that the nearest part of the pistol club facility is around 360 metres from the north-east corner of 120 Russells Road. It noted that three existing dwellings are located within 400 metres of the pistol club, one of which is around 300 metres away. Another five dwellings are located between 400 and 600 metres from the gun club.

Council noted that the Geelong Pistol Club Inc was notified of the amendment and did not lodge a submission. Further, Council's Environmental Health unit is not aware of any complaints regarding noise from the pistol club. Council pointed out that the topography in the immediate vicinity of the gun club would ameliorate noise impacts on the site, as the shooting range is in a disused quarry and the gun club is located on the eastern side, downslope from the crest of Mount Duneed.

The Calabys' residence is located relatively close to the gun club, and the Panel asked Mrs Calaby whether she had ever experienced any problems. She responded that while shooting could be heard from time to time they had never experienced any problems with the gun club and had not felt unsafe due to stray shots or the like.

(iii) Discussion

On the basis of the submissions and the parties' responses to the Panel's questions, the Panel is confident that there is minimal potential for land use conflicts between the facility and either the gun club or the school.

There is very little likelihood of school children (or children using the Reserve for that matter) being exposed to alcohol or drug affected behaviour from the facility. As discussed in Chapter 5, women come to the facility after detoxing, and the Proponent has strict operating procedures that will ensure that none of the residents or their visitors are affected by drugs or alcohol at any time. The facility will have children living there, which gives the Panel additional confidence in the Proponent's assurances that it will maintain a strict drug and alcohol free environment.

There is a good degree of physical separation between the site and both the school and gun club. Significant topographical features create further barriers between them, and will ameliorate any noise or other impacts that the facility may experience from either the school or the gun club (and vice versa).

(iv) Conclusion

The Panel concludes:

- There is very little likelihood of land use conflicts between the facility and the school or the gun club.

7.7 Bushfire**(i) Discussion**

The site is in a designated bushfire prone area, but is not in a Bushfire Management Overlay. The Proponent provided a Bushfire Hazard Assessment in support of the planning permit application that was subsequently withdrawn. The Bushfire Hazard Assessment was also exhibited with the Amendment as a supporting document.

The Bushfire Hazard Assessment (prepared by Okologie Consulting) concluded that the site is in a low bushfire risk area and the proposed development will not increase the bushfire risk to the local community. It noted:

- The surrounding landscape is Broader Landscape Type One.
- The site is in a highly modified agricultural area adjacent to the local road network, town water supply and existing cleared areas.
- The 150 metre assessment area includes one classifiable vegetation type (Grassland), as well as modified vegetation and low-threat vegetation consisting of planted windbreaks, cropped vegetation and grassland (grazed) managed in a minimal fuel condition.
- Areas of grassland to the north and west of the site represent a potential bushfire risk to the local area, however the threat is considered low through the presence of surrounding agricultural land and low-threat vegetation managed in a minimum fuel condition.

- The bushfire hazard site assessment identified the development is capable of achieving Bushfire Attack Level (BAL) rating of 12.5 defensible space and construction in accordance with Table 2 to Clause 53.02-5 of the Planning Scheme.
- The required defensible space can be managed entirely within the property boundary.

Council referred the proposed Amendment and the Bushfire Hazard Assessment to the Country Fire Authority (CFA) for comment prior to authorisation. The CFA's response dated 9 August 2019 (Document 32) concurred with the findings of the Bushfire Hazard Assessment, stating:

The proposed amendment will not alter/increase the existing bushfire hazard in the general area to any great extent (management of the vegetation of the "whole of site" will likely reduce the risk).

The CFA recommended a number of conditions be included in the Incorporated Document, including:

- that the proposed development be required to achieve a BAL rating of 19 (rather than 12.5 as proposed in the Bushfire Hazard Assessment)
- the site should be maintained as defensible space, including the following requirements relating to vegetation on the site:
 - all leaves and vegetation debris must be removed at regular intervals during the declared fire danger period
 - plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building
 - shrubs must not be located under the canopy of trees
 - individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres
 - trees must not overhang or touch any elements of the building
 - the canopy of trees must be separated by at least 5 metres
 - there must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- landscaping and planting out of vegetation on the site should reflect good bushfire practice in accordance with CFA publication *Landscaping for Bushfire – Garden Design and Plant Selection*
- installation of a below ground operable hydrant at or near the proposed driveway on Russells Road
- minimum requirements for the driveway to ensure CFA fire trucks can access the site
- consideration be given to installing domestic sprinklers in the building.

In its submission to Council, the CFA confirmed that it had reviewed the Incorporated Document and had no issues with the Amendment.

The Panel is satisfied that the CFA's recommended conditions have been appropriately translated into Clauses 5.9 and 5.10 of the Incorporated Document.

(ii) Conclusions

The Panel concludes:

- The proposed development represents an acceptable bushfire risk.

- The conditions outlined in Clauses 5.9 and 5.10 of the Incorporated Document appropriately translate the comments and recommendations of the CFA.

7.8 Land swap

(i) The issue

Geelong Field Naturalists Club Inc requested that Council examine the feasibility of a land swap within the general area to allow the development to proceed while protecting the native vegetation on the subject site. Council's Environmental Planning Unit also suggested a land swap be investigated for an equivalent parcel in the north-western corner of the Reserve for the same reason.

(ii) Evidence and submissions

Council put the suggestion of a land swap to the Proponent, who advised that a land swap was not a realistic option for the following reasons:

- The Proponent has been negotiating purchase of this land for several years and government grants that have been approved have all referenced this site. To change sites at this stage would almost certainly result in loss of government funding.
- The Proponent's grants are time sensitive and it would appear that the current site and process will be the most effective option.
- The position of the site, which is not contiguous with any other Farming Zone land, has made the use possible.
- The revised site suggested by Council in the north-western corner of the Reserve would not resolve all objections as it would still be adjacent to the Reserve and the pony club and also closer to a residential property than currently proposed.

On that basis Council did not further pursue the suggestion of a land swap. Council also noted that the Reserve is Crown land, not Council owned land.

The Calabys submitted that it was disappointing that the Proponent had dismissed the option of a land swap in the north-western corner of the Reserve, referring to the many benefits that this location offered over the site, including less vegetation loss, no heritage impacts, more usable space and more separation from activities on the Reserve. The Calabys submitted that this location was "*a similar distance*" to the closest neighbouring dwelling as the site is from their house, but pointed out that the owner of that dwelling supported the proposed development.

(iii) Discussion

It is not the Panel's role to consider whether other sites may be preferable to the site proposed. The Panel's role is to consider whether the proposed development on this site would result in acceptable planning outcomes. For the reasons expressed elsewhere in this Report, the Panel considers that the proposed development on this site will result in acceptable planning outcomes.

8 Form and content of the Amendment

8.1 The issues

The issues are:

- whether the Amendment selects the appropriate planning tools
- general drafting issues.

8.2 Evidence and submissions

(i) Does the Amendment select the appropriate planning tool?

Several submitters thought that the Amendment proposes to rezone the site from the Farming Zone to another zone. This is not the case. The Amendment seeks to apply the Special Controls Overlay to the site, and to incorporate a permit-style Incorporated Document that would allow the use subject to conditions. The underlying zoning of the land will remain Farming Zone.

This is important, because under the terms of the Incorporated Document, only the use and development described in the Incorporated Document may proceed. If, for any reason, that use or development did not go ahead, any other use or development of the land must comply with the provisions of the Farming Zone.

Mr Milner considered whether the Special Controls Overlay was the appropriate tool to facilitate the proposal. He noted that other options included a Special Use Zone with a tailored schedule, or rezoning the land to Rural Living Zone which could have allowed the use to proceed without a permit (provided the conditions in Clause 52.22 were met).

Mr Milner concluded that on balance, the selected approach of retaining the land in the Farming Zone and applying a Special Controls Overlay was the preferred approach. He stated:

The merits of the retention of the Farming Zone and the use of the Specific Controls Overlay with an Incorporated Document are it retains a reference to the overall rural setting of the Site and optimises the control over the use and development of the land.

...

The shortcoming of this approach is that it retains an inference that the land is suitable for farming when my findings are that it is highly constrained to be used independently in a farming role and would not be used for farming in the event that the amendment is approved.

He considered that applying a Special Use Zone would create challenges in providing for the level of control of the use (as opposed to buildings and works) enabled by the Special Controls Overlay. It would also remove the site from the rural suite of zones, losing the connection with the rural landscape and use context.

He considered that the Rural Living Zone could have been a suitable option, as the site has limited potential for farming and the proposal amounts to a form of rural living. However he noted that this approach might be seen as setting a precedent or justifying the rezoning of other small lots in the Farming Zone that are incapable of an effective farming role.

(ii) General drafting issues

Council's revised Incorporated Document (Document 33) included the following changes:

- removal of the condition requiring a landscape plan to be approved and endorsed, and specifying the content of the landscape plan
- a new condition requiring offsets to be secured before any remnant native vegetation is removed
- additional requirements for the Facility Management Plan, namely:
 - provision for dealing with clients who wish to leave the facility before the end of their program, including measures to ensure a planned departure
 - rules prohibiting residents from accessing private properties in Russells Road
 - a logbook recording the details of all attendees at the facility, including residents and visitors
- a new requirement for an Emergency Management Plan
- a new requirement for a Risk Management Plan
- removal of references to a permit in several of the conditions (since the control is in the form of an Incorporated Document, not a permit).

Mr Milner indicated that he was supportive of these changes.

The Calabys provided comments on the drafting of the revised Incorporated Document, submitting that:

- it should specify ‘not more than 8 female adult residents’
- the Risk Management Plan should detail a procedure to advise users of the Reserve of any existing safety or security risk
- querying the new condition prohibiting residents from accessing private properties on Russells Road (they did not object to the condition, but queried why it was needed given residents will not be permitted to leave the facility unaccompanied)
- a condition should be included expressly acknowledging their right to go about their property and farm management without hindrance or complaint, including on weekends.

8.3 Discussion

The Panel supports the removal of the condition requiring a landscape plan to be provided (given Document 6 has already been provided), but for the reasons set out in Chapter 6 it considers that additional conditions are required in relation to the timing, maintenance and replacement of landscaping, and the protection of vegetation to be retained. Appropriate conditions have been included in Appendix C. The Panel also recommends changes to the revised landscape plan before it is endorsed, to bring it into line with Figure 2 in the Native Vegetation Removal Application (as outlined in Chapter 6.6).

The Panel supports the new condition inserted at DELWP’s suggestion requiring offsets to be provided before any native vegetation is removed.

The Panel does not support the new requirements for the Facility Management Plan, the Emergency Management Plan or the Risk Management Plan, for the reasons set out in Chapter 5.3. These are detailed operational matters, and the Panel does not consider it appropriate that the planning system intervene in or have oversight of such matters.

The Panel does not support the Calaby’s suggestion of specifying that only female residents are permitted in the facility. While the Proponent has been very clear that the facility is intended to serve women (and only women) and their children, it may be that in the future

there is a need to provide services for men (or, indeed, others that do not identify as ‘female’). There has been no suggestion that the Proponent’s Williams Road facility has created any amenity or other issues for the surrounding community by reason of housing men, and the Panel considers that the Incorporated Document should maintain flexibility to allow the facility to be used to treat those in need irrespective of their gender.

For completeness, the Panel has recommended amending Clause 4.6.1 of the Incorporated Document to make it clear that dependent children of the residents are permitted to occupy the facility.

The Panel agrees with the Calabys that there is no need for a condition prohibiting residents from accessing private properties in Russells Road. As set out in Chapter 5, the Proponent’s internal management procedures are extremely detailed and will ensure that no resident is able to leave the site unaccompanied. The risk of residents accessing private properties is extremely remote, and the Panel does not consider that the proposed condition is necessary.

While the Panel acknowledges the concerns of the Calabys and others that their right to farm be maintained, it does not consider that the facility poses any threat to these rights, for the reasons set out in Chapter 3.5. The condition is unnecessary and would be difficult to enforce.

The Panel supports Council’s proposed amendments to remove references to a permit.

The Panel’s preferred version of the Incorporated Document in Appendix C reflects the above findings and conclusions, as well as other minor drafting improvements.

8.4 Recommendation

The Panel recommends:

Make the minor changes and drafting improvements to the Incorporated Document shown in Appendix C.

Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Pendra Aitneon	21	Phil Hunter
2	Jeanette Armitage	22	Lisa Jameson
3	Russell Artus	23	Jenny Kai
4	Samantha Baensch	24	Dominique King
5	Vanessa Bourke	25	P King
6	Ann Bullen	26	Jennie Macaulay
7	Ray and Jan Calaby	27	Chris Mackey
8	Nikki Cooke	28	Devon McGillicuddy
9	Country Fire Authority	29	Panela McLeod
10	Fiona Cranny	30	Powercor Citipower Pty Ltd
11	Will Cranny	31	Elizabeth Ross
12	Joanna Densley	32	Marylin Rossack
13	DELWP	33	Paul Saunders
14	Bianca Dimovski	34	Lindy Spry
15	Melinda Dimovski	35	Kylie Thomas
16	Darren Fisher	36	Mark Thomas
17	Simone Fisher	37	Jess Westbury
18	Jac Fyffe	38	Christy Wright
19	Geelong Environment Council Inc		
20	Geelong Fields Naturalists Club		

Appendix B Document list

No.	Date	Description	Circulated by
1	21/04/20	Email to B O'Loan regarding matters arising from Directions Hearing	N Clark, Planning Panels Victoria
2	22/04/20	Map of the Geelong Pistol Club by City of Greater Geelong dated 22 April 2020	S Thiele, City of Greater Geelong
3	23/04/20	Current and proposed Heritage Inventory site extent by Department of Environment, Land, Water and Planning (DELWP) dated 14 May 2019	B O'Loan, St Quentin Consulting
4	"	Emails between B O'Loan and Heritage Victoria (HV) regarding HV works approvals	"
5	4/05/20	Site Plan by Mark J Gratwick Architects dated 16 January 2019	"
6	"	Landscape Plan by Mexted Rimmer Associates dated 10 December 2019	"
7	"	Native Vegetation Removal Application by Okologie Consulting dated 9 April 2020 (v2)	"
8	"	Email to G Brooks, DELWP requesting advice regarding native vegetation removal	"
9	"	Traffic and Transport Statement by Cardno dated 6 March 2020 (v2)	"
10	"	Draft Facility Management Plan by Foundation 61 dated April 2020	"
11	"	Draft Emergency Management Plan by Foundation 61 dated May 2020	"
12	11/05/20	Revised Native Vegetation Removal Application by Okologie Consulting dated 8 May 2020 (v3)	"
13	"	Email advice from G Brooks, DELWP dated 8 May 2020 regarding v3 of the Native Vegetation Removal Report	"
14	"	Expert Evidence Statement by Rob Milner of Kinetica	"
15	"	Expert Evidence Statement by John Thomson of Thomson Goodall Associates	"
16	"	Expert Evidence Statement by Mark Stockdale of Okologie Consulting	"
17	"	Expert Evidence Statement by Rob Lytzki of Foundation 61	"
18	"	Part A submission by City of Greater Geelong	S Thiele
19	"	Submitter Map 1	"
20	"	Submitter Map 2	"

No.	Date	Description	Circulated by
21	14/05/20	Part B Submission	"
22	"	Submission of M Rossack	M Rossack
23	15/05/20	8 Video clips showing aspects of the Foundation 61 Men's Facility	B O'Loan
24	"	Proponent's written submission	"
25	18/05/20	Aerial map with contours between 120 Russell and Gun Club	S Thiele
26	"	3D Walk through artists impression of proposed facility sourced from Foundation 61 website	B O'Loan
27	"	Email correspondence between DELWP and Council regarding gaining access to the rear of the property from the Reserve (14/3/2019 and 20/2/2020)	"
28	19/05/20	New participant intake document	"
29	"	Participant handbook	"
30	"	Staff and volunteer Handbook	"
31	"	Participant agreement	"
32	"	CFA Submission	S Thiele
33	"	Incorporated document with tracked changes	"
34	"	Community grant for revegetation	B O'Loan
35	"	Pistol club planning permit information	S Thiele
36	"	Standard landscaping conditions	"
37	"	Submission of R & J Calaby	R Calaby
38	20/05/20	PowerPoint Presentation from Geelong Field Naturalists Club	P Hunter
39	"	Submission of J Macaulay	J Macaulay
40	"	Email correspondence from S Thiele regarding wording of recommended Clause 5.13 of the Incorporated Document (native vegetation removal)	S Thiele
41	"	Email dated 19/05/20 detailing estimates of land take of vegetated and heritage areas of site (in response to query from A Bullen)	"
42	22/05/20	Email dated 22/5/20 concerning Clause 4.4.1 of the Incorporated Document (minor amendments to plans under secondary consent)	"

Appendix C Panel preferred version of the Incorporated Document

Tracked against the exhibited version

GREATER GEELONG PLANNING SCHEME
Community Care Accommodation Facility, 120 Russells Road,
Mount Duneed

Incorporated Document

August 2019

1. INTRODUCTION:

- 1.1. This document is an incorporated document in the Greater Geelong Planning Scheme (planning scheme) and is made pursuant to section (6)(2)(j) of the Planning and Environment Act 1987.
- 1.2. The land identified in Clause 3 of this document ([the Land](#)) may be used and developed in accordance with the specific controls listed in Clause 4 of this document.
- 1.3. The control in this document prevails over any contrary or inconsistent provision in the planning scheme.

2. PURPOSE:

- 2.1. The purpose of the control in Clause 4 is to facilitate the use and development ~~and the removal of vegetation on~~ [of the Land](#) ~~described in Clause 3~~ for a Community Care Accommodation Facility (Residential Drug and Alcohol Facility), ~~as described in Clause 2.2.~~
- 2.2. The project includes but is not limited to:
 - ~~provide for~~ the use and development [of the Land](#) ~~and the removal of vegetation~~ for the purposes of a Community Care Accommodation Facility (Residential Drug and Alcohol Facility)
 - [the removal of vegetation from the Land.](#)

generally in accordance with the plans within Attachment ~~1.2.~~

- ~~provide for the use and development of a Community Care Accommodation Facility (Residential Drug and Alcohol Facility) on a parcel of land within the Farming Zone which currently prohibits Community Care Accommodation.~~

3. LAND TO WHICH THIS INCORPORATED DOCUMENT APPLIES

- 3.1 The control in this document applies to the land as shown on Map 77 Specific Controls Overlay (SCO3) forming part of the Greater Geelong Planning Scheme. The address of the land is 120 Russells Road Mount Duneed, Crown Allotment L2 Section 21 Parish of Duneed (referred to hereafter as 'the [Land](#)'), ~~as shown in Attachment 1.~~

4. CONTROL

Exemption from planning scheme requirements

- 4.1 This document is an incorporated document in the Schedule to Clause 45.12 Specific Controls Overlay and the Schedule to Clause 72.04 of the Greater Geelong Planning Scheme (the Scheme).
- 4.2 Despite any provision to the contrary in the Scheme, pursuant to Clause 45.12 of the Scheme the [Land](#) ~~identified in this incorporated document~~ may be used and developed for Community Care Accommodation in accordance with the specific controls contained in this document.

Conditions

4.3 The use and development permitted by this document must be undertaken in accordance with the following conditions:

4.4 Endorsed Plans

4.4.1 The use and development must be undertaken in accordance with the plans in Attachment 12, with the Landscape Plan amended as outlined in Clause 4.4.2. The plans ~~which~~ may be altered with the written consent of the Responsible Authority.

4.4.12 Prior to the commencement of works the Landscape Plan must be amended as follows to the satisfaction of the Responsible Authority:

- a) Identify all vegetation to be retained, as shown in Figure 2 of the Native Vegetation Removal Application prepared by Okologie Consulting dated 8 May 2020;
- b) Specify vegetation protection zones around all landscaping areas and vegetation to be retained;
- c) Relocate the area marked 'effluent disposal area' to be consistent with the site plan contained in Attachment 1; and
- d) [Specify an alternative inner fence treatment if appropriate – refer to the Panel's conclusions in Chapter 7.2].

4.5 Landscaping

4.5.1 The landscaping works must be carried out and completed in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority. The perimeter landscaping works must be completed prior to works on the site commencing, unless the Responsible Authority consents otherwise.

4.5.2 Prior to the commencement of any works:

- a) All existing vegetation shown on the endorsed Landscape Plan as being retained must be suitably marked on the Land;
- b) Vegetation and tree protection zones must be established around all landscaping areas and vegetation to be retained, extending to the boundaries of the landscaping areas and the Grassy Woodland vegetation areas and the drip line of the Sheoak trees;
- c) Means must be identified in consultation with a nominated representative of the Responsible Authority to minimise any damage to the vegetation on and immediately adjacent to the eastern boundary of the land in the Mount Duneed Recreation Reserve, and the western boundary where areas of remnant vegetation have been identified for retention;
- ed) The vegetation and tree protection zones must be fenced; all to the satisfaction of the Responsible Authority.

4.5.3 Except with the written consent of the Responsible Authority, there must be no vehicular or pedestrian access, trenching or soil excavation, or storage of waste within the vegetation and tree protection zones.

4.5.4 The vegetation and tree protection zones must be maintained to the satisfaction of the Responsible Authority throughout the construction phase.

4.5.5 The landscaping works must be maintained, and any landscaping that dies must be promptly replaced, all to the satisfaction of the Responsible Authority.

4.56 Facility Management Plan

4.56.1 Prior to commencement of the use hereby approved, a Facility Management Plan must be submitted to ~~and approved by~~ the Responsible Authority. ~~When approved the plan will be endorsed and will then form part of the permit. The plan must not be modified without the written consent of the Responsible Authority.~~ The plan must provide details of, but is not limited to:

- a) Protocols to ensure the orderly arrival and departure of residents, staff and visitors;
- b) Contact details of a Facility Manager ~~responsible for ensuring that the use does not have a detrimental impact on the amenity of the area;~~
- c) Staffing arrangements that ensures on-site supervision and support of residents at all times;
- d) ~~Protocols~~ Procedures for dealing with any incidents or emergencies associated with the use ~~that may have a detrimental impact on the amenity of the area;~~
- e) ~~A requirement that the Facility Manager must take immediate ameliorative action in response to any incident associated with the use that may have a detrimental impact on the amenity of the area;~~
- f) ~~Establish and maintain a~~ Procedures to manage complaints ~~register to record details of any and all complaints received by the Facility Manager from neighbours, and the action taken by the Facility Manager to address the complaint;~~
- g) Maintenance of the grounds and upkeep of the buildings;
all to the satisfaction of the Responsible Authority.

4.56.2 The facility operator must ensure that the use hereby approved does not cause detriment to the amenity of the area and must ensure that the premises is operated in accordance with the ~~approved~~ Facility Management Plan, to the satisfaction of the Responsible Authority.

4.6.3 The facility operator must ensure that a sign is placed at or near the entrance to the Land. The sign must include the name and phone number of the Facility Manager, and must be maintained to the satisfaction of the Responsible Authority.

4.67 Maximum Resident Capacity

4.67.1 Unless otherwise approved in writing by the Responsible Authority, not more than eight (8) adult residents and their dependent children (if required) may occupy the premises at any one time, to the satisfaction of the Responsible Authority.

4.78 Maximum staff

4.78.1 Unless otherwise approved in writing by the Responsible Authority, not more than 5 staff may be present on the premises at any one time, to the satisfaction of the Responsible Authority.

4.89 Visiting Hours

4.8.1 Unless otherwise approved in writing by the Responsible Authority, visiting hours may only occur during the following times:

a) Saturdays 1:00PM-6:00PM

b) Sundays 1:00PM-6:00PM

4.910 General Amenity

4.910.1 The amenity of the area must not be detrimentally affected ~~by the permitted use~~ through the:

- a) Transport of materials, goods or commodities to or from the land;
- b) Appearance of any building works or materials;
- c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
- d) Presence of vermin;

All to the satisfaction of the Responsible Authority.

~~5.0 Landscape Plan~~

~~5.0.1 Prior to the works commencing, three (3) copies of a landscape plan prepared by a suitably qualified or experienced, person to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The plan(s) must be drawn to scale and show:-~~

- ~~a) A survey (including botanical names) of all existing vegetation to be retained and/or removed;~~
- ~~b) Details of surface finishes of pathways and driveways;~~
- ~~c) A planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;~~
- ~~d) Landscaping and planting within all open areas of the site;~~
- ~~f) The use of indigenous plants of the Geelong Region, Zone 8.~~
- ~~g) Offset the driveway and carpark off the boundary alignment in order to retain trees (where appropriate) and plant trees to provide a landscape buffer to the reserve and to improve landscape amenity.~~

~~When approved, the plan will be endorsed and form part of the permit, all to the satisfaction of the Responsible Authority.~~

5.1 Cultural Heritage Management Plan

5.1.1 All works must be in accordance with any conditions set out within the approved Cultural Heritage Management Plan no. 15818.

5.2 Engineering

5.2.1 The site must be drained to the satisfaction of the Responsible Authority and no concentrated storm water may drain or discharge from the land to adjoining properties.

5.2.2 Prior to the new use commencing, the developer must:

- a) Construct vehicular crossings in accordance with the requirements and standards of the City of Greater Geelong.

- b) Remove any redundant vehicular crossings with kerb and channel and the footpath/nature strip area reinstated to match existing construction in the street;
- c) Construct and drain the car park and accessways and common access road within the development in accordance with the endorsed plans.
- ~~d) Complete the landscaping in accordance with the endorsed plans.~~

All to the satisfaction of the Responsible Authority.

Notes

1. All internal property drainage must be designed and constructed to satisfy AS/NZS 3500.
2. A Vehicle Crossing Permit must be obtained prior to commencement of works.

5.3 Stormwater Management

5.3.1 The site stormwater system must be designed and installed such that the site stormwater discharge is not increased by the proposed development. An appropriate on-site detention system designed in accordance with the Infrastructure Design Manual may be required all to the sSatisfaction of the Responsible Authority.

5.3.2 Except with the written consent of the Responsible Authority, water tanks and onsite detention systems must be located so as to avoid the removal of any vegetation marked for retention on the endorsed Landscape Plan.

5.4 Recreation and Open Space

5.4.1 There must be no access through or storage on the adjoining council reserve known as/located at Mt Duneed Recreational Reserve at any time during the construction period.

~~5.4.2 Nominate on the landscape plan the effluent discharge location.~~

5.6 Environmental Audit

5.6.1 Unless otherwise approved in writing by the Responsible Authority, prior to the commence of works a Site Investigation Assessment must be submitted to Council that:

- a) ~~a~~Assesses the potential level and nature of contamination on the land;
- b) Provides clear advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all, or part, of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE;
- c) Recommends remediation actions for any contaminated land.

5.7 Environmental Health

5.7.1 An approved septic tank system as defined by the Environment Protection Act 1970 must be installed in accordance with the land capability assessment report ~~or~~ prepared by St Quentin dated October 2018 to the satisfaction of the Responsible Authority. All wastewater must be treated and disposed of within the curtilage of the property.

5.8 Powercor

5.8.1 The applicant shall provide an electricity supply to the development in accordance with the Distributor's requirements and standards.

5.8.2 The applicant shall establish easements, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.

Notes

1. Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.
2. Existing easements may need to be amended to meet the Distributor's requirements
3. Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In Favour Of
	Power Line		Section 88 - Electricity Industry Act 2000	Powercor Australia Ltd

4. It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link:

[5 https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator](https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator)

[65](#) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.

[76](#) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

[87](#) Apply for a site visit and permit to work assessment. This can be done via the Powercor website.

[98](#) Keep the easement land clear of any buildings or structures whatsoever.

5.9 CFA

Amended Emergency Management Plan

5.9.1 Unless otherwise approved in writing by the CFA, the applicant is required to provide ~~an amended~~ Bushfire Emergency Management Plan for the site generally in accordance with the plan attached to the Bushfire Hazard Assessment prepared by Okologie Consulting dated 22 February 2019 but amended to ~~which~~ includes:

- a) Details on the type and nature of the various Risks/Emergencies
- b) The Fire Danger Rating triggers for the closure of the facility for Bushfire risk.
- c) Monitoring and notifying staff and visitors of forecast Fire Danger Rating and any consequential actions.
- d) Details of the location/s for emergency assembly, evacuation and shelter-in-place (in the event that evacuation from the site is not practicable).
- e) Transport arrangements for staff and visitors.
- f) The need for any additional arrangements for persons with special needs.
- g) Training of staff, visitors and overnight guests on emergency procedures.

- h) The nature and frequency of emergency procedure exercises.
- i) Emergency procedures (bushfire action statements) including the assignment of roles and responsibilities to staff. This must include assigning responsibility for the:
 - Management and oversight of emergency procedures.
 - Training of employees in emergency procedures.
 - Reviewing the effectiveness of emergency procedure exercises and implementing procedure improvements.
 - Accounting for all persons during the emergency procedures.
 - Monitoring and review of the Emergency Plans at least annually.

Notes:

Additional changes to the Bushfire Emergency [Management](#) Plan could include: -

1. Page 5 FDR Response table notes that for Code Red and Extreme days guests will be relocated to a place of lesser risk, yet page 7 Evac Action Statement notes guests will be taken off site for Code red only?
2. Page 5 FDR Response table Code Red and Extreme requires a note indicating that duration of relocation will be from no later than 10:00 AM until the FDR drops later that afternoon/evening to that of Severe or below.
3. Page 6 - Bushfire Advice Warnings – Notes guests to contact management for advice on warnings. Needs to be revised that **“Management are advising guests of actions to be taken”**.
4. Page 7 Evacuation Procedures – Notes that Planned evacuation site is Mt Duneed Recreation Reserve. Alternate location Torquay Secondary College White St Torquay. **CFA considers that the Recreation Reserve is not an appropriate evacuation location for bushfire**. Primary response should be to shelter in place. People should only leave the shelter of the site buildings if the integrity of the building is compromised by fire (Rec Reserve may be a suitable location in this event).

5.10 Bushfire/Structural Fire Mitigation Measures

- 5.10.1 Unless otherwise approved in writing by the CFA or the Responsible Authority in consultation with the CFA, the building is required to constructed to a Bushfire Attack Level of BAL 19.
- 5.10.2 The whole of the subject site should be maintained as “defendable space” to the following prescription:
 - a) Grass must be short cropped and maintained during the declared fire danger period.
 - b) All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - c) Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - d) Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - e) Shrubs must not be located under the canopy of trees.
 - f) Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - g) Trees must not overhang or touch any elements of the building.

- h) The canopy of trees must be separated by at least 5 metres.
- i) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

5.10.3 Unless otherwise approved in writing by the CFA or the Responsible Authority in consultation with the CFA, landscaping and planting out of vegetation on the site should be in accordance with CFA publication Landscaping for Bushfire – Garden Design and Plant Selection.

5.10.4 Unless otherwise approved in writing by the CFA or the Responsible Authority in consultation with the CFA, a below ground operable hydrant must be provided at or near the proposed driveway on Russells Rd. The maximum distance between the hydrant and the rear of the building envelope must be no more than 120 metres. The street hydrant shall be identified as per the Fire Services Guideline – Identification of Street Hydrants for Fire Fighting Purposes.

5.10.5 Unless otherwise approved in writing by the CFA or the Responsible Authority in consultation with the CFA, the proposed driveway and accessway must meet the following requirements:

- a) Curves must have a minimum inner radius of 10m.
- b) The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
- c) Have a minimum trafficable width of 3.5m of all weather construction.
- d) Be clear of encroachments for at least 0.5m on each side and 4m above the accessway
- e) Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
- f) Incorporate a turning area for fire fighting vehicles close to the building.

5.10.6 Unless otherwise approved in writing by the CFA or the Responsible Authority in consultation with the CFA, domestic sprinklers should be installed within the proposed building. Sprinkler installation to be installed to the relevant Australian Standards and Building Regulations.

Bushfire Notes

1. This property is in a designated bushfire prone area.
2. Special bushfire construction requirements apply at the Building Permit stage.
3. Any building should consider AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).

5.11 Barwon Water

5.11.1 The developer will be required to apply to Barwon Water for connection during the permit phase. Specific servicing comments below:

- a) **Water** – Water is available at the front (northwest) corner of the lot in Russells Road. The main is only a small diameter (DN63mm) and as such pressure and flow is likely to be limited. Due to this, there is a chance that onsite tanks may be required to buffer supply, Barwon Water would assess this on application. In addition, should a fire service be required for the site, they will likely require a self-reliant solution (i.e. tanks and pumps). Exact supply availability to be determined on application.
- b) **Sewer** – Reticulated Sewer is not available to this property.

Note:

Water is available at the site however there is limited capacity. The applicant should approach Barwon Water to discuss specific servicing requirements as part of the connection process.

5.12 Heritage Victoria

5.12.1 Any works located within the Heritage Inventory area of the site will need a permit from Heritage Victoria.

5.13 Native vegetation removal

5.13.1 Unless otherwise approved by the Responsible Authority, prior to the removal of any native vegetation:

a) An offset must be provided for the removal of that native vegetation in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP, December 2017), as specified:

a general offset of 0.063 general habitat units located within the Corangamite Catchment Management Authority boundary or Greater Geelong municipal district with a minimum strategic biodiversity score of at least 0.542.

b) Evidence that the required offset(s) has been secured must be provided to the Responsible Authority and the Secretary to DELWP.

5.14 Expiry

5.14.1 ~~This permit will~~ The control in this incorporated document expires if ~~one any~~ of the following circumstances ~~applies~~-apply:

- a) The use and/or development allowed by the control is not commenced ~~within two (2) years of the date of this permit~~ by 16 October 2022.
- b) The development allowed by the control is not completed ~~within four (4) years of the date of this permit~~ by 16 October 2024.

The Responsible Authority may extend the periods referred to if a request is made in writing before the ~~permit~~-control expires; or

- a) within six (6) months after the ~~permit~~-control expires where the use or development has not yet started; or
- b) within twelve (12) months after the ~~permit~~-control expires, where the development allowed by the ~~permit~~-control has lawfully commenced before the ~~permit expiry~~-control expires.

Attachment 1

Zone Map

Attachment **12**

Replace the site plan below with the revised site plan (Document 5)

Include the revised landscape plan (Document 6)

Consider updating the notations on the elevations below with an alternative fence to the 2.4 metre high aluminium rod style fence (refer to the Panel's conclusions in Chapter 7.2)

PROPOSED DEVELOPMENT WOMENS REHABILITATION CENTRE







