

# Great Ocean Road Coastal Trail: Planning desktop assessment

FINAL REPORT

Prepared for World Trail Pty Ltd & Department of Environment, land, Water and Planning

28 March 2022

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# 1 Executive summary

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Biosis Pty Ltd was commissioned by the Department of Environment, Land, Water and Planning (DELWP) to undertake a due diligence assessment of the likely planning permit requirements for the proposed alignments of the Great Ocean Road Coastal Trail (GORCT).

This report provides an overview of the likely planning permit and biodiversity requirements/ exemptions for land use, buildings and works, signage and the removal of native vegetation associated with the GORCT.

A summary of the findings of this report are as follows:

- The following permit requirements under the Surf Coast Planning Scheme are likely to apply to the GORCT:

**Clause 36.04 – Transport Zone (TRZ2):**

- A permit is likely to be required for land use under the TRZ2.

**Clause 42.01 – Environmental Significance Overlay (ESO):**

- A permit is likely to be required for buildings and works, to construct a fence, and to remove, destroy or lop any vegetation including dead vegetation under the ESO. This does not apply to specific exemptions listed under the relevant schedules to the ESO (See Section 3.2.2 of this report).

**Clause 42.03 – Significant Landscape Overlay (SLO):**

- A permit is likely to be required to construct a fence and to remove, destroy or lop and vegetation under the SLO. This does not apply to specific exemptions listed under the relevant schedules to the SLO (See Section 3.2.4 of this report).

**Clause 44.04 – Land Subject to Inundation Overlay (LSIO):**

- A permit is likely to be required for buildings and works under the LSIO.

**Clause 52.29 – Land adjacent to the Principal Road Network:**

- A permit is likely to be required to create or alter access to a road in a TRZ2.

- The following permit requirements under the Colac Otway Planning Scheme are likely to apply to the GORCT:

**Clause 36.04 – TRZ2:**

- A permit is likely to be required for land use under the TRZ2.

**Clause 42.01 – ESO:**

- A permit is likely to be required for buildings and works, to construct a fence, and to remove, destroy or lop any vegetation including dead vegetation under the ESO. This does not apply to specific exemptions listed under the relevant schedules to the ESO (See Section 4.2.2 of this report).

**Clause 42.03 – SLO:**

- A permit is likely to be required to construct a fence and to remove, destroy or lop and vegetation under the SLO. This does not apply to specific exemptions listed under the relevant schedules to the SLO (See Section 4.2.4 of this report).

**Clause 44.01 – Erosion Management Overlay (EMO):**

- A permit is likely to be required to remove, destroy or lop any vegetation, if the removal of roots below ground level is required on land mapped under the EMO1. This will need to be confirmed as part of a geotechnical assessment.

**Clause 44.04 – LSIO:**

- A permit is likely to be required for buildings and works under the LSIO.

**Clause 52.29 – Land adjacent to the Principal Road Network:**

- A permit is likely to be required to create or alter access to a road in a TRZ2.

- The following exemptions may apply to the project under both the Surf Coast and Colac Otway Planning Schemes:

**Clause 52.05 – Signs:**

- A permit is not likely to be required for signage associated with the GORCT if the trail's relevant signage meets the definition of a 'Direction sign' (See Section 5.1.1 of this report).

**Clause 52.17 – Native Vegetation:**

- A permit to remove, destroy or lop native vegetation, including dead native vegetation is required, unless an exemption under Clause 52.17-7 applies. Of particular significance to the project is the 'Crown land' exemption under Clause 52.17-7, whereby a permit is not required under Clause 52.17 for native vegetation which is removed on Crown land 'by or on behalf of' DELWP, Parks Victoria and the Great Ocean Road Coast and Parks Authority (GORCAPA).
- Consultation with DELWP, Parks Victoria and GORCAPA concluded that the Crown land exemption is only able to be used by the relevant authority for land which is under their own management. Further advice about the implications of this for the GORCT's approvals pathway will be provided by Biosis in the planning components of Milestone 8 and 9 of the project. Where the exemption does not apply a planning permit will be required to remove, destroy or lop native vegetation under Clause 52.17.

**Clause 52.30 – State projects:**

- Clause 52.30 (State projects) has been incorporated into the Victoria Planning Provisions to fast track the development of projects being undertaken by/ on behalf of, jointly/ in partnership with, or funded by the State of Victoria or a public authority on Crown land. However, a project is considered a 'State project' under Clause 52.30 if it does not require an Environment Effects Statement (EES) under the *Environment Effects Act 1978* (EE Act). Given the location and scale of the GORCT, it is likely that an EES will be required for the project and therefore the exemption under Clause 52.30 would not apply.
- If the GORCT does not require an EES, and the criteria for a 'State project' under Clause 52.30 is met, the project would be exempt from any planning permit requirements applicable under both the Surf Coast and Colac Otway Planning Schemes. However the requirements specified under Clauses 52.30-4 to 52.30-7 would apply and project approval would be required from the Minister

for Planning. See Victorian legislation summary below and Section 6.2.2 of this report for further information.

#### **Clause 62.02-2 – Buildings and works not requiring a permit unless specifically required by the planning scheme:**

- If the GORCT is classified as a 'trail' for the purpose of the 'Bicycle pathways and trails' exemption under Clause 62.020-2, a permit would not be required for buildings and works associated with the development of the GORCT. However, this exemption would not apply to buildings and works on land zoned under the Public Conservation and Resource Zone (PCRZ) or if a permit is specifically required for bicycle pathways and trails under the Surf Coast or Colac Otway Planning Schemes.
- Consultation with DELWP has raised the question whether the GORCT is better defined as a 'road' due to the definition for a 'road' under the *Planning and Environment Act 1987* (P&E Act) including a 'highway, street, lane, footway, square, court, alley or right of way, whether a thoroughfare or not and whether accessible to the public generally or not'. Further discussion with the Responsible Authority and DELWP Planning would be required to discuss whether the GORCT is better defined as a 'footway' as per the definition of a road provided above. If the Responsible Authority agrees that the GORCT is better defined as a 'footway' (and ultimately a road), exemptions for buildings and works under Clause 62.02-2 would still apply through the 'Roadworks' exemption (See Section 5.2.1 for further information)
- Clause 62.02-2 provides an exemption for '*repairs and maintenance to an existing building or works*' which is likely to apply to upgrading works which will occur along existing sections of the GORCT. This exemption would not apply if the footprint of the existing trails are increased. This exemption would also not apply to native vegetation which is removed along existing sections of the GORCT, as the construction or carrying out of works does not apply to the removal, destruction or lopping of native vegetation (as per Clause 62.02-3 of the Planning Scheme).

#### **Clause 73.03 – Land use terms: land use exemption for 'informal outdoor recreation':**

- Land use associated with the GORCT is defined as 'informal outdoor recreation', which is exempt from permit requirements under a number of zones and overlays in the Surf Coast and Colac Otway Planning Schemes.
- The following related legislative requirements are likely to apply to the project:

#### **Commonwealth legislation:**

- ***Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)***: The likelihood that development of the GORCT will trigger the EPBC Act will be determined following the project's biodiversity and heritage assessments.
- ***Native Title Act 1993 (Native Title Act)***: An assessment of the GORCT against the Native Title Act will be undertaken by Biosis as part of the cultural heritage components of Milestones 8 and 9 of the project.

#### **Victorian legislation:**

- ***Flora and Fauna Guarantee Act 1988 (FFG Act)***: If development of the GORCT requires the removal of flora protected under the FFG Act, a protected flora permit will be required. The likely presence of flora protected under the FFG Act will be determined following the project's biodiversity assessments. It is also a requirement of the FFG Act that a public authority, in performing its functions, considers the objectives of the FFG Act and the impact on biodiversity.



- **Environment Effects Act 1978 (EE Act):** The likelihood that the project will trigger the need for an EES under the EE Act will be better informed following the project’s planning, biodiversity and heritage assessments.
- **National Parks Act 1975 (NP Act):** Consent is required from the Minister for Energy, Environment and Climate Change/ Parks Victoria to undertake works for the construction of a building/ other structure, or other permanent works for the protection, development or improvement of the park, including the establishment of camping places roads and tracks. Note – This does not apply if a notice from the Minister for Energy, Environment and Climate Change was published prior in the Government Gazette. Given the GORCT is a DELWP-led project, consent would be required under Section 27 of the NP Act. it is recommended that DELWP undertakes further consultation with Parks Victoria to determine any specific conditions which will need to be incorporated into the design and operation of the GORCT.
- **Water Act 1989 (Water Act):** The current proposed alignments of the GORCT are likely to traverse waterways which are declared ‘designated waterways’ under the Water Act. A works on waterway permit would be required for works/ activities on, in and within proximity to designated waterways, and the proposed works are therefore likely to require a permit from Corangamite CMA. Biosis contacted Corangamite CMA in early December 2021 to obtain data on the locations of the designated waterways in proximity to the study area. Corangamite CMA has not yet provided the designated waterways data. Once the data has been received, Biosis will provide it to DELWP.
- **Marine and Coastal Act 2018 (Marine and Coastal Act):** All use, development or works on land defined as marine and coastal Crown land requires consent from the Victorian Minister for Environment through an approved consent application form.
- **Aboriginal Heritage Act 2006 (AH Act):** A preliminary assessment of the GORCT against the AH Act has determined that the project is considered a high impact activity and therefore a mandatory Cultural Heritage Management Plan (CHMP) would be required. See Biosis 2021b for further information.

## 2 Project background

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### 2.1 Background

Biosis Pty Ltd was commissioned by the Department of Environment, Land, Water and Planning (DELWP) to undertake a due diligence assessment of the likely planning permit and related legislative requirements for the proposed Great Ocean Road Trail (GORCT) (also referred to within this report as the 'project').

### 2.2 Location of the project

The GORCT is an approximately 90 kilometre proposed coastal walking trail between Fairhaven and Skenes Creek along the Great Ocean Road on Victoria's south-western coastline. It will provide a trail link between the Surf Coast Walk and Great Ocean Walk.

The GORCT will consist of existing and new trails, two campgrounds and car parking facilities. This report provides advice about the relevant planning approvals for the walking trail. Once the proposed locations of the campgrounds and car parking are finalised, this report can be updated to provide advice on the relevant planning approvals requirements associated with the campgrounds/ car parking facilities.

### 2.3 Related assessments

Biosis was commissioned by DELWP to undertake the ecological, planning and cultural heritage Desktop Assessments for the proposed alignments of the GORCT.

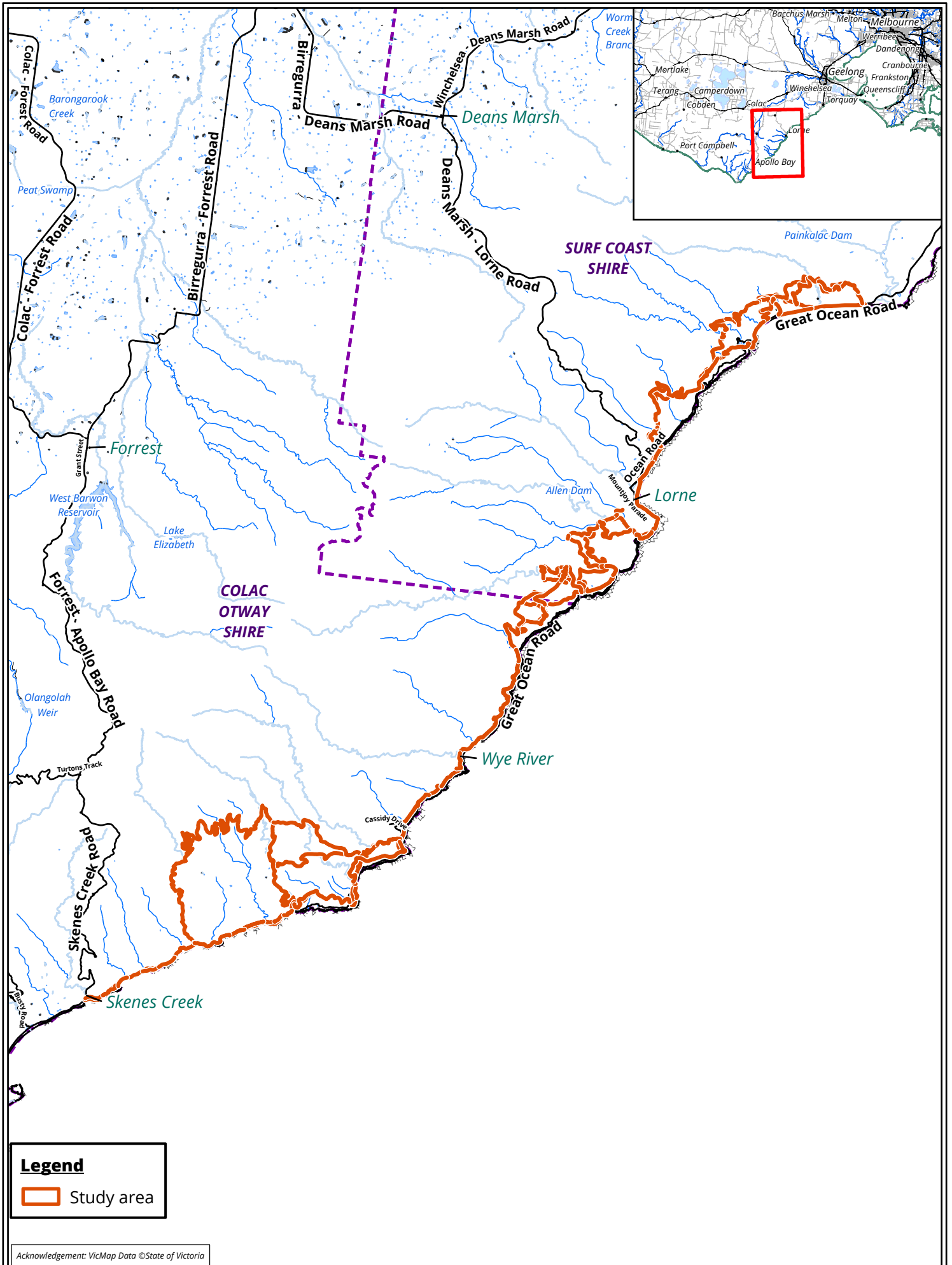
Accordingly, this planning desktop assessment should be read in conjunction with the following related assessments:

- *'Desktop ecological values and constraints assessment: Great Ocean Road Coastal Trail'* (ecology desktop assessment) (Biosis 2022a).
- *'Great Ocean Road Coastal Walking Trail Master Plan, Fairhaven to Skenes Creek: Heritage Desktop assessment'* (heritage desktop assessment) (Biosis 2022b).

### 2.4 Structure of this report

The remainder of the report is structured as follows:

- Section 3 provides information about the likely planning requirements, permit triggers and exemptions relevant to the project under the Surf Coast Planning Scheme.
- Section 4 provides information about the likely planning requirements, permit triggers and exemptions relevant to the project under the Colac Otway Planning Scheme.
- Section 5 provides information about the likely planning requirements, permit triggers and exemptions under the Victoria Planning Provisions (VPP), which applies to both the Surf Coast and Colac Otway Planning Schemes.
- Section 6 provides a review of biodiversity and cultural heritage legislation which are relevant to the project, and the likely approval requirements which apply.



**Figure 1 Location of the study area - Great Ocean Road trail, Victoria**

## 3 Surf Coast Planning Scheme – Zoning and overlay controls

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The section of the proposed GORCT between approximately Fairhaven and Cumberland River occurs on land covered by the Surf Coast Planning Scheme (Planning Scheme).

The following section provides a review of the likely zoning and overlay planning permit requirements and exemptions under the Planning Scheme.

A summary of the likely planning permit requirements is provided in Section 1 (Executive Summary) of this report.

### 3.1 Zone controls

The study area traverses the following Zones (Figure 2):

- General Residential Zone – Schedule 1 (GRZ1)
- Rural Conservation Zone (RCZ)
- Public Park and Recreation Zone (PPRZ)
- Public Conservation and Resource Zone (PCRZ)
- Transport Zone 2 (TRZ2)

The planning permit requirements and permit triggers likely to apply to the project under each zone are as follows:

#### 3.1.1 Clause 32.08 – General Residential Zone – Schedule 1

The purpose of the GRZ1 is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

#### Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 32.08-2.

##### Buildings and works

A permit is not likely to be required.

Under Clause 62.02-2, a permit is not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks, unless specifically required by the Planning Scheme.

### **3.1.2 Clause 35.06 – Rural Conservation Zone**

The purpose of the RCZ is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve the values specified in a schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 35.06-1.

##### Buildings and works

A permit is not likely to be required.

Under Clause 62.02-2, a permit is not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks, unless specifically required by the Planning Scheme.

### **3.1.3 Clause 36.02 – Public Park and Recreation Zone**

The purpose of the PPRZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise areas for public recreation and open space.
- To protect and conserve areas of significance where appropriate.
- To provide for commercial uses where appropriate.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 36.02-1.

### Buildings and works

A permit is not likely to be required.

Clause 36.02-2 states that a permit is not required to construct a building or construct or carry out works associated with:

- Pathways, trails, seating, picnic tables, drinking taps, shelters, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure.
- A building or works carried out by or on behalf of a public land manager, Parks Victoria or the Great Ocean Road Coast and Parks Authority, under the *Local Government Act 1989*, the *Reference Areas Act 1978*, the *National Parks Act 1975*, the *Fisheries Act 1995*, the *Wildlife Act 1975*, the *Forest Act 1958*, the *Water Industry Act 1994*, the *Water Act 1989*, the *Marine Act 1988*, the *Port of Melbourne Authority Act 1958* or the *Crown Land (Reserves) Act 1978*.
  - Further consultation with the Responsible Authority, DELWP, Parks Victoria and GORCAPA is required to determine if this exemption applies to land managed by Parks Victoria and GORCAPA, as the GORCT is not being undertaken 'by or on behalf of' a public land manager, Parks Victoria or GORCAPA.

Ultimately a permit is not likely to be required for buildings and works if the exemptions for 'bicycle pathways and trails' and 'Roadworks' under Clause 62.02-2, unless specifically required by the Planning Scheme, apply to the project.

### **3.1.4 Clause 36.03 – Public Conservation and Resource Zone**

The purpose of the PCRZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values.
- To provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes.
- To provide for appropriate resource based uses.

### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

#### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 36.03-1, on condition that the use is conducted by or on behalf of a public land manager, Parks Victoria or the Great Ocean Road Coast and Parks Authority (GORCAPA), or specified in an incorporated plan in a schedule to the PCRZ.

Our understanding is that GORCAPA will be the public authority responsible for the operation and the management of the GORCT. However further consultation with the Responsible Authority, DELWP, Parks Victoria and GORCAPA is required to determine whose project it is and the current and future land tenure.

There is also no incorporated plans specified in the schedule to the PCRZ. Accordingly, the project meets the condition to be considered a Section 1 use under the PCRZ.

#### Buildings and works

Clause 36.03-2 states that a permit is not required for:

- a building or works specified in Clause 62.02-1 or 62.02-2 carried out by or on behalf of a public land manager, Parks Victoria or GORCAPA.
- a building or works carried out by or on behalf of a public land manager, Parks Victoria or the GORCAPA.

However further consultation with the Responsible Authority, DELWP, Parks Victoria and GORCAPA is required to determine whose project it is and the current and future land tenure.

### **3.1.5 Clause 36.04 – Transport Zone 2 (TRZ2)**

The purpose of the TRZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for an integrated and sustainable transport system.
- To identify transport land use and land required for transport services and facilities.
- To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.
- To ensure the efficient and safe use of transport infrastructure and land comprising the transport system.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is likely to be required.

The use of land for information outdoor recreation is not a 'Section 1 – Permit not required' Use under Clause 36.04-1.

##### Buildings and works

A permit is not likely to be required.

Under Clause 62.02-2 a permit is not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks, unless specifically required by the Planning Scheme.

##### Application requirements

Sections of the GORCT which are mapped under the TRZ are classified as 'TRZ2 – Principal road network' under Clause 36.04-4.

An application by a person other than a relevant transport manager on land shown on a planning scheme map as TRZ1 or TRZ2 must be accompanied by the written consent of the Head, Transport for Victoria, indicating that the Head, Transport for Victoria consents generally or conditionally to either:

- The application being made.
- The application being made and to the proposed use or development.

#### Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The views of the relevant road authority.
- The effect of the proposal on the operation of the road and on public safety.

### **3.2 Overlay controls**

The study area is mapped under the following Overlays (Figures 3, 4 and 5):

- Environmental Significance Overlay – Schedules 1 (ESO1), 4 (ESO4) and 5 (ESO5)
- Significant Landscape Overlay – Schedules 1 (SLO1) and 4 (SLO4)
- Heritage Overlay – Reference no. 53 (HO53), 58 (HO58), 59 (HO59), 67 (HO67), 68 (HO68), 71 (HO71), 78 (HO78) and 163 (HO163)
- Design and Development Overlay – Schedules 10 (DDO10) and 12 (DDO12)
- Neighbourhood Character Overlay – Schedule 1 (NCO1)
- Land Subject to Inundation Overlay (LSIO)
- Bushfire Management Overlay (BMO) and Bushfire Management Overlay – Schedule 2 (BMO2)

Appendix 3, Table 3 provides a breakdown of the locations of the overlays along the GORCT.

The planning permit requirements and permit triggers likely to apply to the project under each overlay are as follows:

#### **3.2.1 Clause 42.01 Environmental Significance Overlay**

The purpose of the ESO is:

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

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Buildings and works

A permit would be required if the GORCT is defined as a 'trail', as a permit is specifically required to construct bicycle pathways and trails under Clause 42.01-2.



If the GORCT is classified as a 'road', a permit would not be required due to the exemption for Roadworks under Clause 62.02-2.

A permit is also required to construct a fence (if applicable).

#### Vegetation Removal

A permit is likely to be required to remove, destroy or lop any vegetation, including dead vegetation unless a schedule to the ESO specifically states that a permit is not required (see below).

#### Decision guidelines

There are a number of decision guidelines the Responsible Authority will need to consider when deciding on the planning application, including:

- The Municipal Planning Strategy and Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay.

### **3.2.2 Schedules to the Environmental Significance Overlay**

The following schedules to the ESO are likely to apply to the project:

#### **Environmental Significance Overlay – Schedule 1**

##### Objective of the ESO1

The ESO1 applies to 'aquatic systems – significant wetland and waterways' and its objective is '*to maintain the physical and biological integrity and functioning of aquatic systems and to enhance river health and biodiversity*'.

##### **Likely permit requirements and exemptions**

The following permit requirements and exemptions under the ESO1 are likely to apply:

##### Vegetation Removal

A permit is required to remove, destroy or lop any vegetation, except vegetation that:

- Is within 3 metres of a building used for accommodation.
- Is listed as an environmental weed in the incorporated document, Weeds of the Surf Coast Shire (2013).
- Is not native to Victoria.
- Has been planted or is being managed for the purposes of agroforestry.
- Is dead, other than a standing dead tree with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

##### Construction of a fence

A permit is not required for a post and wire fence that restricts livestock, but does not restrict native fauna access to a wetland or waterway.

### Decision guidelines

There are a number of decision guidelines within the ESO1 relating to vegetation removal which the Responsible authority will need to consider when deciding on the planning application. These decision guidelines will need to be addressed as part of the project's design and incorporated into the project's associated documents prior to the submission of a planning permit application.

## **Environmental Significance Overlay – Schedule 4**

### Objective of the ESO4

The ESO4 applies to 'Habitat protection and significant remnant vegetation within the coastal settlements of Lorne, Moggs Creek, Fairhaven, Aireys Inlet, Anglesea, Torquay and Jan Juc'. The objective of the ESO4 is to *'recognise the important contribution that biodiversity makes to the overall character and identity of the settlements and to protect and enhance all biodiversity assets'*.

### **Likely permit requirements and exemptions**

The following exemptions under the ESO4 are likely to apply:

#### Vegetation Removal

A permit is not required to remove, destroy or lop any vegetation that is:

- Within 3 metres of a building used for accommodation.
- Listed as an environmental weed in the incorporated document, Weeds of the Surf Coast Shire (2013).
- Not native to Victoria.
- Dead.

### Decision guidelines

There are a number of decision guidelines at the end of the ESO4 relating to vegetation removal, and buildings and works. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

## **Environmental Significance Overlay – Schedule 5**

### Objective of the ESO5

The ESO5 applies to 'Parts of the settlements and hinterlands of Aireys Inlet to Eastern View'. There are a number of objectives under the ESO5 which may need to be achieved through the project, including (but not limited to):

- To protect, enhance and restore the native vegetation cover, with emphasis on retaining intact remnant vegetation patches that provides a buffer to the National Park.
- To preserve and enhance vegetation corridors to provide habitat for the Rufous Bristlebird.
- To manage the retention and enhancement of vegetation cover in a manner which avoids increasing wildfire threats.

### **Likely permit requirements and exemptions**

The following exemptions under the ESO5 are likely to apply to the project:

### Construction of a fence

A permit is not required for a fence that is:

- Not more than 1.5 metres in height.
- Made of post and wire.
- Containing gaps in the wire large enough to enable the movement of indigenous fauna.

### Removal of vegetation

A permit is not required to remove, destroy or lop any vegetation that is:

- Within 2 metres of the outer edge of the roof of a building or overhangs this area.
- Not indigenous to the Aireys Inlet to Eastern View area.
- Dead, unless it is a tree containing a hollow.

### Decision guidelines

There are a number of decision guidelines at the end of the ESO5 relating to vegetation removal. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

### **3.2.3 Clause 42.03 Significant Landscape Overlay**

The purpose of the SLO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

### **Likely permit requirements and exemptions**

The following permit requirements are likely to apply:

#### Buildings and works

A permit is not likely to be required due to the buildings and works exemption for bicycle pathways and trails, or Roadworks, under Clause 62.02-2.

A permit is likely to be required to construct a fence if specified in a schedule to the SLO (see below).

#### Vegetation removal

A permit is likely to be required to remove, destroy or lop any vegetation specified a schedule to the SLO (see below).

#### Decision guidelines

There are a number of decision guidelines at the end of the SLO relating to vegetation removal. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

### 3.2.4 Schedules to the Significant Landscape Overlay

The following schedules to the SLO are likely to apply to the project:

#### Significant Landscape Overlay – Schedule 1

The SLO1 applies to the 'Great Ocean Road Environs – Bells Beach, Point Addis, Anglesea, Big Hill and Lorne Hinterland'. The objective of the SLO1 is to *'preserve and enhance the scenic landscape values and environmental qualities within viewsheds of the Great Ocean Road, Bells Beach and coastal environs'*.

#### Likely permit requirements

The following requirements are likely to apply:

##### Construction of a fence

A permit is required to construct a fence, except where the fence is:

- Of timber post and wire construction.
- Not more than 1.5 metres in height.

##### Removal of vegetation

A permit is required to remove, destroy or lop any vegetation unless it is:

- Dead.
- On the building side of a vertical line 3 metres from the outer edge of the roof of an existing or approved building.
- Listed as an environmental weed in the incorporated document *Weeds of the Surf Coast Shire (2013)*.

##### Application requirements

A landscape plan is required to accompany the planning application, which includes the information specified under Clause 4.0 of the SLO1.

##### Decision guidelines

There are a number of decision guidelines under the SLO1 which the Responsible authority will need to consider when deciding on an application. These decision guidelines relate to the visual prominence of the proposal, building height/ design/ siting, recreational structure, vegetation removal and general considerations.

These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

#### Significant Landscape Overlay – Schedule 4

The SLO4 applies to 'Lorne residential areas' and its objective is to *'maintain and enhance the vegetated landscape quality of significant public vistas, especially as viewed from the Great Ocean Road and the coast'*.

#### Permit exemptions

A following permit exemptions are likely to apply:

##### Buildings and works

A permit is not likely to be required to construct a building or construct or carry out works, as *'buildings and works associated with informal outdoor recreation'* is specifically exempt under the SLO4.

### Vegetation removal

A permit is required to remove, destroy or lop any vegetation under the SLO4 unless the vegetation is:

- Dead.
- Less than 3 metres in height and is not shown on an approved landscape plan or site plan specifying its retention.
- Within 2 metres of the outer edge of the roof of a building or overhangs this area
- Listed as an environmental weed in the incorporated document *Weeds of the Surf Coast Shire (2013)*.

### Application requirements

There are a number of application requirements which must accompany a planning application, including:

- A site plan (drawn to scale).
- A description of the native vegetation to be removed.
- Topographical information.
- A report by a qualified arborist that details:
  - The structure, health and species of native vegetation on site.
  - The expected impact of proposed works on native vegetation that is proposed to be retained in development, and recommended measures to suitably protect trees from damage during the proposed works.
  - Recommended means of retaining vegetation as a preference to removal.
- A written explanation of the steps that have been taken to:
  - Avoid the removal of native vegetation, where possible.
  - Minimise the removal of native vegetation.
  - Appropriately offset the loss of native vegetation through net gain.

### Decision guidelines

There are a number of decision guidelines at the end of the SLO4 relating to vegetation removal. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

#### **3.2.5 Clause 43.01 – Heritage Overlay**

The purpose of the HO is:

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

## Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply:

### Buildings and works

A permit is required to remove or demolish a building.

A permit is not likely to be required to construct a building or construct or carry out works due to the buildings and works exemptions for bicycle pathways and trails, or Roadworks, under Clause 62.02-2.

Under Clause 43.01-3, a planning permit is also not required for buildings and works associated with the development of a heritage place included in the Victorian Heritage Register. However, a permit would be required to carry out works, repairs and routine maintenance which change the appearance of a heritage place or which are not undertaken to the same details, specifications and materials.

See Table 1 for details about heritage places along the route of the GORCT. Further information about works being undertaken in proximity to these heritage places would be required to determine if a permit is required for buildings and works under the HO.

### Vegetation removal

A permit is required to remove, destroy or lop a tree if the schedule to the HO specifies that a tree control applies to the specific heritage place (See Tables 1 and 2 of this report). This does not apply if the tree presents an immediate risk of personal injury or damage to property.

### Decisions guidelines

There is an extensive list of decision guidelines which the Responsible authority must consider when deciding on a planning application. This includes (but is not limited to):

- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
- Whether the lopping or development will adversely affect the health, appearance or significance of a tree (protected through tree controls).

### Use of a heritage place

A permit may be granted to use a heritage place (including a heritage place which is included in the Victorian Heritage Register) for a use which would otherwise be prohibited if all of the following apply:

- The schedule to this overlay specifies the heritage place as one where prohibited uses may be permitted.
- The use will not adversely affect the significance of the heritage place.
- The benefits obtained from the use can be demonstrably applied towards the conservation of the heritage place.

### Aboriginal heritage places

A heritage place specified in the schedule to this overlay as an Aboriginal heritage place is also subject to the requirements of the Aboriginal Heritage Act 2006.

## 3.2.6 Schedule to the Heritage Overlay

The study area intersects with the following heritage places specified in the schedule to the Heritage Overlay specified in Table 1.

**Table 1 Heritage Places intersecting with the GORCT under the Surf Coast Planning Scheme**

Heritage Place No.	Heritage Place	Tree controls apply?	Included on the Victorian Heritage Register?	Prohibited uses permitted?	Aboriginal heritage place?
HO53	Queens Park Caravan Park & Air Spotters Cabin - 20 Armytage Street, Lorne	Yes	No	No	No
HO58	Cypress Avenue, Lorne Foreshore	Yes	No	No	No
HO59	Lorne swimming pool and kiosk - 81 Mountjoy Parade, Lorne	No	No	No	No
HO67	Swing bridge (foot bridge) - Ocean Road at Erskine River mouth, Lorne	No	No	No	No
HO68	Graves of Lindsay Children (Splitters Graves) - Ocean Road, Lorne.	No	No	No	No
HO71	House, including the Canary Island Palm tree – 69 Ocean Road, Lorne	No	Yes – Canary Island Palm only	No	No
HO78	Cumberland River Ford - 2680 Great Ocean Road, Lorne	No	No	No	No
HO163	Great Ocean Road - Great Ocean Road between Torquay and Allansford, Surf Coast Shire. The heritage place includes Part HO68 Graves of Lindsay Children (Splitters Graves) and Part HO77 Mountjoy Parade Heritage Area.	No	Yes – Ref No. H2261	Yes	No

### 3.2.7 Clause 43.02 Design and Development Overlay

The purpose of the DDO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

#### Likely permit requirements and exemptions

The following permit requirements are likely to apply:

##### Buildings and works

A permit is not likely to be required due to the buildings and works exemption for Bicycle pathways and trails, and Roadworks, under Clause 62.02-2.

### 3.2.8 Schedules to the Design and Development Overlay

The following schedules to the DDO are likely to apply to the project:

#### Design and Development Overlay – Schedule 10

The DDO10 applies to the ‘settlements of Aireys Inlet, Fairhaven and Moggs Creek’ and the design objectives are:

- To preserve and enhance the low density, low scale, vegetated character of the settlements.
- To ensure lots are of a sufficient size and width to encourage vegetation retention and reinstatement, buildings that meet the preferred neighbourhood character and adequate space for bushfire protection.
- To retain a sense of openness between properties by encouraging the use of open style fencing and vegetated buffers in preference to solid fences.
- To preserve the night sky ambience of the settlements.

#### Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply to the project:

##### Buildings and works

A permit is not likely to be required to construct a building or construct or carry out works due to the buildings and works exemption for Bicycle pathways and trails, and Roadworks, under Clause 62.02-2.

A permit is not likely to be required to construct a post and wire fence that is no more than 1.5 metres in height.

#### Design and Development Overlay – Schedule 12

The DDO12 applies to ‘Lorne residential areas’ and its objective is:

- To ensure that lot sizes are sufficient to accommodate adequate vegetation, including substantial trees, buildings that meet the preferred neighbourhood character, and provide space for bushfire management requirements.
- To protect the quality of the vegetated amphitheatre vista of the Lorne township as viewed from the public realm.
- To reinforce and/or establish an unfenced open character throughout Lorne.
- To encourage a diversity of dwelling types within locations in close proximity to the commercial centre of Lorne.
- To preserve historic places and landscapes that contribute to the character and history of Lorne.
- To minimise the visual impact of signage.

#### Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply:

##### Building and works

A permit is not likely to be required to construct a building or construct or carry out works due to the buildings and works exemption for Bicycle pathways and trails, and Roadworks, under Clause 62.02-2.



A permit is not likely to be required to construct a fence that is:

- Of post and wire construction.
- Not more than 1.5 metres in height.
- Not located on a street boundary or within a street boundary building setback.

### **3.2.9 Clause 43.05 Neighbourhood Character Overlay**

The purpose of the NCO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas of existing or preferred neighbourhood character.
- To ensure that development respects the neighbourhood character.
- To prevent, where necessary, the removal of buildings and vegetation before the neighbourhood character features of the site and the new development have been evaluated.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Buildings and works

A permit is not likely to be required to construct a building or construct or carry out works due to the buildings and works exemption for Bicycle pathways and trails, and Roadworks, under Clause 62.02-2.

##### Vegetation Removal

A permit is not likely to be required to remove, destroy or lop trees unless specified in a schedule to this overlay (see below).

### **3.2.10 Schedules to the Neighbourhood Character Overlay**

The following schedule to the NCO is likely to apply to the project:

#### **Neighbourhood Character Overlay – Schedule 1**

The NCO1 applies to 'the settlements of Aireys Inlet, Fairhaven and Moggs Creek'.

No permit requirements under the NCO1 apply to the project.

### **3.2.11 Clause 44.04 Land Subject to Inundation Overlay**

The purpose of the LSIO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To minimise the potential flood risk to life, health and safety associated with development.
- To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.

- To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.
- To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

### **Likely permit requirements**

A permit is likely to be required for the following:

#### Buildings and works

A permit is required for buildings and works associated with the construction of bicycle pathways and trails, as it is specifically required under Clause 44.04-2.

A permit for buildings and works may be required if the GORCT is classified as a 'road', as a permit is required for Roadworks. However, a permit for buildings and works under the LSIO would only apply if the flow path of water is redirected or obstructed by the roadworks. Further information would be required by a suitably qualified person to determine if the GORCT would redirect or obstruct the flow path of water.

#### Referral of application

An application must be referred to the relevant floodplain management authority as a recommending referral authority, unless (in the opinion of the responsible authority) the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

#### Decision guidelines

There are a number of decision guidelines which must be considered by the Responsible authority when deciding on an application, including:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- Alternative design or flood proofing responses.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
  - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
  - The flood warning time available.
  - Tidal patterns.
  - Coastal inundation and erosion.
  - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.

- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effect of the development on river, marine and coastal health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality, estuaries and sites of scientific significance.

### 3.2.12 Clause 44.06 Bushfire Management Overlay

The purpose of the BMO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

#### Likely permit requirements

The following permit requirements are likely to apply:

##### Buildings and works

'Informal outdoor recreation' is not a use listed under Clause 44.06-2, however it is nested in 'Leisure and recreation' under Clause 73.04 of the Planning Scheme which triggers the need for a permit for buildings and works under Clause 44.06-2. Further consultation with the Responsible Authority is required to determine whether a permit is therefore under Clause 44.06-2.

Clause 62.02-2 provides exemptions for buildings and works associated with 'Bicycle pathways and trails' and 'Roadworks' (subject to the GORCT being classified as a 'trail' or a 'road'). Neither of these triggers are specifically mentioned in Clause 44.06-2, and therefore further clarification should be undertaken to determine if a permit is required for buildings and works under the BMO.

However consultation with DELWP, Parks Victoria and GORCAPA concluded that a bushfire assessment would be undertaken as part of the project's background assessments to ensure the project meets Clause 13.02-1S (Bushfire planning) of the Planning Scheme (see below).

##### Application requirements

DELWP will need to ensure the GORCT aligns with bushfire planning policy specified under Clause 13.02 (Bushfire) of the Planning Scheme. The objective of Clause 13.02-1S (Bushfire planning) is *'to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life'*. Accordingly, the Responsible Authority is required to consider Clause 13.02-1S as part of a planning application, including:

- Consideration of the risk of bushfire to people, property and community infrastructure.
- The implementation of appropriate bushfire protection measures to address the identified bushfire risk.
- Ensuring new development can implement bushfire protection measures without unacceptable biodiversity impacts.

- Consulting with relevant emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measure.

The preparation of a Bushfire Emergency Management Plan (BEMP) may also be required. BEMPs provide information and emergency protocols which are to be followed and implemented during and after construction to minimise the risk of fire experienced by future users of the GORCT. This may include closure of the trails on periods of high fire danger and the identification of evacuation routes/ procedures. Consultation with the relevant fire management authority would be required as part of the development of a BEMP.

### **3.2.13 Schedules to the Bushfire Management Overlay**

The following schedule to the BMO applies to the project:

#### **Bushfire Management Overlay – Schedule 2**

The BMO2 applies to 'Aireys Inlet, Anglesea and Lorne BAL-29 areas' and the objectives are to:

- Specify bushfire protection measures to construct or extend one dwelling on a lot.
- Specify referral requirements for applications to construct or extend one dwelling on a lot.

There are no permit requirements under the BMO2 which apply to the project.

## 4 Colac Otway Planning Scheme – Zoning and overlay controls

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The section of the GORCT between approximately Cumberland River and Skenes Creek occurs on land covered by the Colac Otway Planning Scheme (Planning Scheme).

The following section provides a review of the likely zoning and overlay planning permit requirements and exemptions under the Planning Scheme.

A summary of the likely planning permit requirements is provided in Section 1 (Executive Summary) of this report.

### 4.1 Zoning Controls

The study area traverses the following zones (Figure 2):

- Township Zone (TZ)
- Rural Conservation Zone (RCZ)
- Public Conservation and Resource Zone (PCRZ)
- Transport Zone 2 (TRZ2)
- Public Use Zone – Schedule 7 (PUZ7)

The planning permit requirements and permit triggers likely to apply to the project under each zone are as follows:

#### 4.1.1 Clause 32.05 - Township Zone

The purpose of the TZ is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

#### Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 32.05-2.

##### Buildings and works

A permit is not likely to be required.

Informal outdoor recreation is a Section 1 Use, which is exempt from permit requirements for buildings and works under the Township Zone.

Under Clause 62.02-2, a permit is also not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks.

#### **4.1.2 Clause 35.06 – Rural Conservation Zone**

The purpose of the RCZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve the values specified in a schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 35.06-1.

##### Buildings and works

A permit is not likely to be required.

Under Clause 62.02-2, a permit is not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks.

#### **4.1.3 Clause 36.01 – Public Use Zone**

The purpose of the PUZ is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise public land use for public utility and community services and facilities.
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

#### **Likely permit requirements**

The following permit requirements and exemptions are likely to apply:

### Land use

A permit is not likely to be required.

The use of land for 'any other use' is a 'Section 1 – Permit not required' Use under the following conditions:

- The use must be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map.
- The use must be carried out by or on behalf of the public land manager.

The project is zoned under PUZ7 which is associated with 'Other public use' under Clause 36.01-6. The use of land for the GORCT (classified as 'informal outdoor recreation') is likely to meet the definition of a public use since it is open to the public and used by non-paying persons.

Our understanding is that GORCAPA will be the public authority responsible for the operation and the management of the GORCT. However further consultation with the Responsible Authority, DELWP, Parks Victoria and GORCAPA is required to determine whose project it is and the current and future land tenure.

#### **4.1.4 Clause 36.03 - Public Conservation and Resource Zone**

The purpose of the PCRZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values.
- To provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes.
- To provide for appropriate resource based uses.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

### Land use

A permit is not likely to be required.

Informal outdoor recreation is specified as a 'Section 1 – Permit not required' Use under Clause 36.03-1, on condition that the use is conducted by or on behalf of a public land manager, Parks Victoria or GORCAPA, or specified in an incorporated plan in a schedule to the PCRZ.

Our understanding is that GORCAPA will be the public authority responsible for the operation and the management of the GORCT. However further consultation with the Responsible Authority, DELWP, Parks Victoria and GORCAPA is required to determine whose project it is and the current and future land tenure.

### Buildings and works

A permit is not likely to be required.

Clause 36.03-2 states that a permit is not required for:

- A building or works specified in Clause 62.02-1 or 62.02-2 carried out by or on behalf of a public land manager, Parks Victoria or GORCAPA.
- A building or works carried out by or on behalf of a public land manager, Parks Victoria or the GORCAPA.

Our understanding is that GORCAPA will be the public authority responsible for the operation and the management of the GORCT. Accordingly, it is not likely that a permit will be required for buildings and works under the PCRZ.

#### **4.1.5 Clause 36.04 – Transport Zone 2 (TRZ2)**

The purpose of the TRZ is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for an integrated and sustainable transport system.
- To identify transport land use and land required for transport services and facilities.
- To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.
- To ensure the efficient and safe use of transport infrastructure and land comprising the transport system.

#### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

##### Land use

A permit is likely to be required.

The use of land for information outdoor recreation is not a 'Section 1 – Permit not required' Use under Clause 36.04-1.

##### Buildings and works

A permit is not likely to be required.

Under Clause 62.02-2 a permit is not required to construct a building or construct or carry out works associated with Bicycle pathways and trails, or Roadworks, unless specifically required by the Planning Scheme.

##### Application requirements

Sections of the GORCT which are mapped under the TRZ are classified as 'TRZ2 – Principal road network' under Clause 36.04-4.

An application by a person other than a relevant transport manager on land shown on a planning scheme map as TRZ1 or TRZ2 must be accompanied by the written consent of the Head, Transport for Victoria, indicating that the Head, Transport for Victoria consents generally or conditionally to either:

- The application being made.
- The application being made and to the proposed use or development.

##### Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The views of the relevant road authority.



- The effect of the proposal on the operation of the road and on public safety.

## 4.2 Overlay controls

The study area is mapped under the following Overlays (Figures 3, 4 and 5):

- ESO2, ESO4
- SLO2, SLO3
- HO210, HO243, HO244, HO312
- DDO4
- NCO1
- BMO

Appendix 1, Table 4 provides a breakdown of the locations of the overlays along the GORCT.

The planning permit requirements and permit triggers likely to apply to the project under each Overlay are as follows:

### 4.2.1 Clause 42.01 - Environmental Significance Overlay

The purpose of the ESO is:

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

#### Likely permit requirements and exemptions

The following permit requirements and exemptions are likely to apply:

##### Buildings and works

A permit would be required if the GORCT is classified as a 'trail', as Clause 42.01-2 specifically requires a permit to '*construct bicycles pathways and trails*'.

A permit would not be required if the GORCT is classified as a 'road', as Clause 42.01-2 does not specifically require a permit for Roadworks.

A permit is also required to construct a fence (if applicable).

##### Vegetation Removal

A permit is likely to be required to remove, destroy or lop any vegetation, including dead vegetation unless a schedule to the ESO specifically states that a permit is not required (see below).

##### Decision guidelines

There are a number of decision guidelines the Responsible Authority will need to consider when deciding on the planning application, including:

- The Municipal Planning Strategy and Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.

- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay.

#### **4.2.2 Schedules to the Environmental Significance Overlay**

The following schedules to the ESO apply to the project:

##### **Environmental Significance Overlay – Schedule 2**

The ESO2 applies to ‘lakes wetlands and watercourses’ and the environmental objectives to be achieved are:

- To protect the quality of water entering lakes, watercourses and wetlands.
- To protect and enhance lakes, watercourses and wetlands with significant flora, fauna and fisheries habitat.
- To minimise erosion along Lake foreshore areas and surrounding waterways and catchments.
- To protect and enhance the quality of lake foreshores and riparian strips along watercourses.
- To prevent pollution and increased turbidity of water in natural watercourses.
- To maintain the ability of streams and watercourses to carry natural flows.
- To prevent erosion of banks, streambeds and adjoining land and the siltation of watercourses, drains and other features.
- To consider the intensity of the development of environmentally sensitive land.
- To promote environmental solutions in siting and design in preference to modification of natural systems through technical and engineering measures.

##### **Likely permit requirements and exemptions**

A permit is not likely to be required for the following:

- To remove, destroy or lop any non-native vegetation.
- To prune any native vegetation provided it does not exceed 20 per cent of the bio-mass of the vegetation.
- Buildings and works associated with informal outdoor recreation, except involving any new effluent disposal system.
- Works undertaken by a public authority relating to watercourse management, environmental improvements or infrastructure services.

##### Referral of application

All planning applications associated with the ESO2 must be referred to DELWP as the determining referral authority in accordance with the schedule to Clause 66.04 of the Planning Scheme.

##### Decision guidelines

There is an extensive list of decision guidelines which the Responsible authority must consider when deciding on a planning application. These decision guidelines will need to be addressed as part of the project’s design and associated documents prior to the submission of a planning permit application.

## Environmental Significance Overlay – Schedule 4

The ESO4 applies to ‘Habitat protection’ and its objectives are:

- To protect Victorian Rare or Threatened (VROT) flora and fauna species or communities and significant habitats for native flora and fauna.
- To maintain and enhance the long-term viability of significant flora and fauna populations and habitats listed in the table to this schedule.
- To ensure development does not adversely impact on rare or threatened species and their habitats.
- To encourage the re-establishment of habitat areas and to remove or modify threatening processes and introduced plant species.

### Likely permit requirements and exemptions

A permit is not likely to be required for the following:

- Buildings and works associated with informal outdoor recreation, except involving any new effluent disposal system.
- Outbuildings less than 300 square metres in floor area.
- Works undertaken by a public authority relating to watercourse management, environmental improvements or infrastructure services.
- The removal of any non-native vegetation.

### Application requirements

There are a number of application requirements which must accompany a planning application (to the satisfaction of the Responsible authority) under the ESO, including:

- The total extent of native vegetation on the property and the extent of native vegetation proposed to be removed.
- The location of areas, if any, with a gradient exceeding 25 per cent.
- The purpose of the proposed vegetation removal.
- Details of any proposed revegetation, including the proposed species to be planted and any proposals for ground stabilisation.
- If the area of proposed native vegetation removal exceeds 400 square metres, a report by a suitably qualified person which describes the vegetation and habitat significance of the site and the likely impact of the proposed vegetation removal on the habitat value of the site and surrounding area.

### Referral of application

All applications must be referred to the Corangamite Catchment Management Authority (CMA) as the recommending referral authority in accordance with the schedule to Clause 66.04 of the Planning Scheme.

The Responsible authority may also seek the comments on any application from DELWP in accordance with the schedule to Clause 66.06 of the Planning Scheme.

### Decision guidelines

There are a number of decision guidelines which the Responsible authority must consider when deciding on a planning application. These decision guidelines will need to be addressed as part of the project’s design and associated documents prior to the submission of a planning permit application.

### 4.2.3 Clause 42.03 – Significant Landscape Overlay

The purpose of the SLO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

#### Likely permit requirements and exemptions

The following permit requirements are likely to apply:

##### Buildings and works

A permit is not likely to be required due to the buildings and works exemption for Bicycle pathways and trails, or Roadworks, under Clause 62.02-1.

A permit is likely to be required to construct a fence if specified in a schedule to the SLO (see below).

##### Vegetation removal

A permit is likely to be required to remove, destroy or lop any vegetation specified a schedule to the SLO (see below).

##### Decision guidelines

There are a number of decision guidelines at the end of the SLO relating to vegetation removal. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

### 4.2.4 Schedules to the Significant Landscape Overlay

The following schedules to the SLO apply to the study area:

#### Significance Landscape Overlay – Schedule 2

The SLO2 applies to 'Coastal towns: Skenes Creek, Kennett River, Wye River and Separation Creek, and the following objectives are to be achieved:

- To protect and enhance the valued characteristics of the nationally significant Great Ocean Road Region landscape.
- To ensure that the dominance of vegetation over built form is retained as an element of township character by encouraging retention of existing trees and planting of new indigenous vegetation.
- To increase the use of indigenous vegetation to highlight natural features within the precinct.
- To retain the contrasts between landscape elements within the precinct.
- To ensure that development that occurs on hill faces or in other prominent locations is not highly visible.
- To minimise the visual impact of signage and other infrastructure, particularly in coastal areas, hill faces and ridges.
- To protect the clear, sweeping views to the ocean available from the precinct.
- To retain the dominance of an indigenous natural landscape in coastal areas, between townships, particularly from the Great Ocean Road.

- To ensure that fence styles and heights reflect the predominant and preferred character of the townships.

### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

#### Construction of a fence

A permit is not required to construct a fence that is:

- A post and wire fence that is less than 1.2 metres in height if on the front boundary.
- A post and wire fence that is less than 1.5 metres in height if on any other boundary.

Note – For the purpose of this clause a post and wire fences includes wire strands, wire mesh ('ringlock'), chainmesh and similar open rural style fencing.

#### Vegetation removal

A permit is required to remove, destroy or lop a tree. This does not apply to:

- A tree having a single trunk circumference less than 0.5 metre at a height of one metre above the ground level.
- The pruning of a tree for regeneration or ornamental shaping.
- A tree which is dead or dying.

#### Decision guidelines

There are a number of decision guidelines relating to buildings and works, and tree removal which must be considered by the Responsible authority when deciding on an application. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

### **Significant Landscape Overlay – Schedule 3**

The SLO3 applies to the 'Apollo Bay coastal valley and hills precinct' and the landscape character objectives to be achieved are:

- To achieve the "Preferred Character" as specified in the SLO3.
- To increase the use of indigenous vegetation to highlight natural features within the precinct.
- To consider the contrasts between landscape elements within the precinct.
- To ensure that development that occurs on hill faces or in other prominent locations is not highly visible and sensitively designed.
- To minimise the visual impact of signage and other infrastructure, particularly in coastal areas, hill faces and ridges.
- To protect the clear sweeping views to and from the ocean available from the precinct.
- To consider the dominance of an indigenous natural landscape in coastal areas, between townships, particularly from the Great Ocean Road and avoid ribbon development.

### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

### Vegetation removal

A permit is required to remove, destroy or lop any native vegetation. However, a permit is not required for the following:

- To remove, destroy or lop any dead vegetation.
- To prune any native vegetation provided it does not exceed 20% of the bio-mass of the vegetation.
- The removal and crushing of rock, soil and stone.
- Buildings and works associated with informal outdoor recreation, except involving any new effluent disposal system.
- Outbuildings less than 130 square metres in floor area.
- Alterations and addition to a dwelling of less than 130m in additional floor area, except involving any new effluent disposal system.
- A post and wire fence less than 1.8m in height.
- Works undertaken by a public authority relating to watercourse management, environmental improvements or infrastructure services.

### Referral of application

The Responsible authority may seek the comments on any application from DELWP in accordance with the schedule to Clause 66.06 of the Planning Scheme.

### Application requirements

A landscaping plan should be submitted with an application to remove, destroy or lop vegetation, utilising appropriate species and demonstrating how the affected area will be remediated after development.

Applicants are required to provide a realistic visual impact illustration of the view of the development from key viewpoints along the Great Ocean Road.

An application is required to demonstrate the following:

- Whether all new buildings and works are designed and constructed to avoid contrasting shape, colour, size and mass.
- Whether buildings and works are sited so that they do not dominate the visual landscape.
- Whether buildings and works on ridgelines can be avoided. It must be demonstrated that there is no alternative suitable site and that the buildings and works are essential.

### Decision guidelines

There are a number of decision guidelines relating to buildings and works and tree removal which the Responsible authority must consider when deciding on a planning application. These decision guidelines will need to be addressed as part of the project's design and associated documents prior to the submission of a planning permit application.

#### **4.2.5 Clause 43.01 – Heritage Overlay**

The purpose of the HO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.

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

### **Likely permit requirements and exemptions**

The following permit requirements and exemptions are likely to apply:

#### Buildings and works

A permit is required to remove or demolish a building.

A permit is not likely to be required to construct a building or construct or carry out works due to the buildings and works exemptions for Bicycle pathways and trails, and Roadworks, under Clause 62.02-1.

Under Clause 43.01-3, a planning permit is also not required for buildings and works associated with the development of a heritage place included in the Victorian Heritage Register. However, a permit would be required to carry out works, repairs and routine maintenance which change the appearance of a heritage place or which are not undertaken to the same details, specifications and materials.

See Table 2 for details about heritage places along the route of the GORCT. Further information about works being undertaken in proximity to these heritage places would be required to determine if a permit is required for buildings and works under the HO.

#### Vegetation removal

A permit is required to remove, destroy or lop a tree if the schedule to the HO specifies that a tree control applies to the specific heritage place (See Tables 1 and 2 of this report). This does not apply if the tree presents an immediate risk of personal injury or damage to property.

#### Decisions guidelines

There is an extensive list of decision guidelines which the Responsible authority must consider when deciding on a planning application. This includes (but is not limited to):

- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
- Whether the lopping or development will adversely affect the health, appearance or significance of a tree (protected through tree controls).

#### Use of a heritage place

A permit may be granted to use a heritage place (including a heritage place which is included in the Victorian Heritage Register) for a use which would otherwise be prohibited if all of the following apply:

- The schedule to this overlay specifies the heritage place as one where prohibited uses may be permitted.
- The use will not adversely affect the significance of the heritage place.
- The benefits obtained from the use can be demonstrably applied towards the conservation of the heritage place.

### Aboriginal heritage places

A heritage place specified in the schedule to this overlay as an Aboriginal heritage place is also subject to the requirements of the *Aboriginal Heritage Act 2006*.

#### 4.2.6 Schedule to Heritage Overlay

**Table 2 Heritage Places intersecting with the GORCT under the Colac Otway Planning Scheme**

Heritage Place No.	Heritage Place	Tree controls apply?	Included on the Victorian Heritage Register?	Prohibited uses permitted?	Aboriginal heritage place?
HO210	Dugout Grey River Road Kennett River (GR 745260717090)	No	No	No	No
HO243	War Memorial Cairn Great Ocean Road Wye River	No	No	No	No
HO244	Wye River Hotel 19 Great Ocean Road Wye River	No	No	No	No
HO312	Great Ocean Road Great Ocean Road between Torquay and Allansford HO312 This heritage place includes Armistead's sawmill Wye River (GR 749037716510) (See HO242) Japanese Flowering Cherry Tree 53-81 Great Ocean Road Lavers Hill (See HO214) Godfrey Creek graves Great Ocean Road Separation Creek (GR 754040722550) (See HO226) Yuulong Public Hall adjoining 5655 Great Ocean Road Yuulong War Memorial Great Ocean Road Apollo Bay	-	Yes Ref No H2261	Yes	No

#### 4.2.7 Clause 43.02 – Design and Development Overlay

The purpose of the DDO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.