

South Gippsland Shire Council**Planning Delegation Report**

2022/165 - 79 Atherton Drive Venus Bay VIC 3956

Application Details	
Application No	2022/165
Proposal	Develop land with a dwelling (replacement)
Applicant	T M Werschkul
Application lodged	12 May 2022
Plan Details	David Gaskin Designs Project No. 141021, dated 14/10/21 – received 17/4/2023 in response to Council concerns
Officer:	Robyn Begg
Property Details	
Property Address	79 Atherton Drive, Venus Bay VIC 3956
Land Description	L494 LP56448
Land Area	597.5m ²
Restrictions on title	Nil
Existing Use	Dwelling
Planning Provisions	
Zone	Township Zone
Overlays	Environmental Significance Overlay - Schedule 7 Design and Development Overlay - Schedule 5 Bushfire Management Overlay
Particular Provisions	Clause 53.02
General Provisions	Clause 65 - Decision Guidelines
CHMP	Nil
Permit Triggers	
Zone?	No
Overlay?	Design and Development Overlay - Schedule 5 Bushfire Management Overlay
Notifications	
Advertising	Yes
Number Objections	13
Recommendation	
	Notice of Decision

THE PROPOSAL

The application seeks approval to develop the land with a new double storey dwelling on the corner of Atherton Drive and the #5 Beach access road in Venus Bay. The site has historically been developed with a dwelling; this has recently been demolished, and the land is presently vacant. The land is a corner lot fronting Atherton Drive, and backs onto the coastal Crown Land reserve.

The originally advertised dwelling was proposed to have a:

- Front set back 5m from Atherton Drive
- Side set back from #5 Beach Access 5.91m
- Site coverage at 40.97%
- Area of the dwelling is:
 - First floor 130.39m²
 - Ground floor 253.95m²
 - Total area 384.34m²

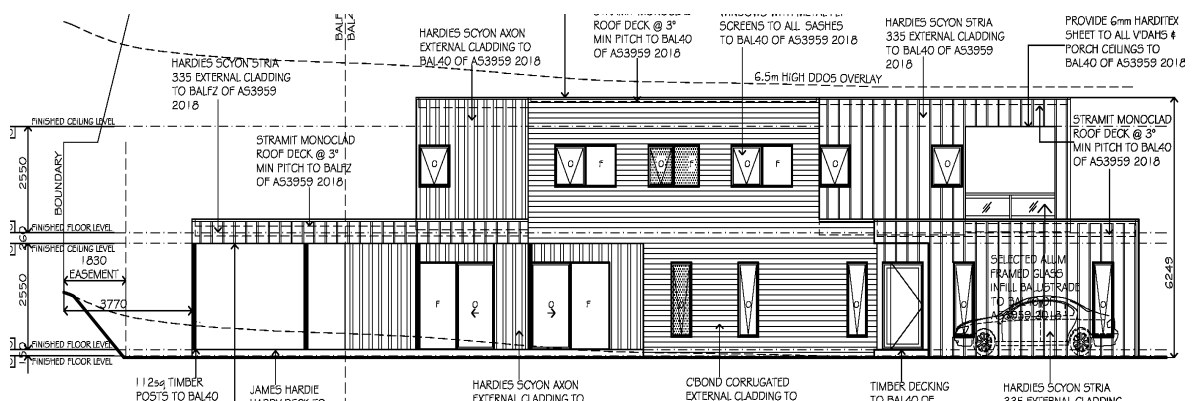
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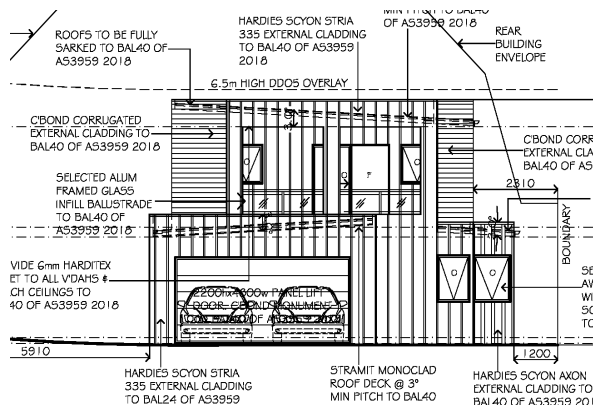
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- Overall height above natural ground level of 6.3m
- Materials used comprised a mix of Colorbond cladding and Hadies Axon Cladding (timber like cladding); colour treatment is monument for the Axon Cladding and Dune for the Colorbond cladding.
- Roof deck: Colorbond monument – Its noted that the roof is flat to minimise the height of the dwelling.

Within the dwelling the ground floor level consists of a large combined family, dining and kitchen area with a small study, bedroom and self-contained living space. Additionally, there is a double garage that obtains access from Atherton Drive. And to the rear of the dwelling is a large undercover alfresco area. The first floor level consists of an additional 4 bedrooms, rumpus and verandah that is located on the Atherton Drive street frontage.



(Original elevation which faces the #5 Beach Access)



(Original elevation which faces Atherton Drive)

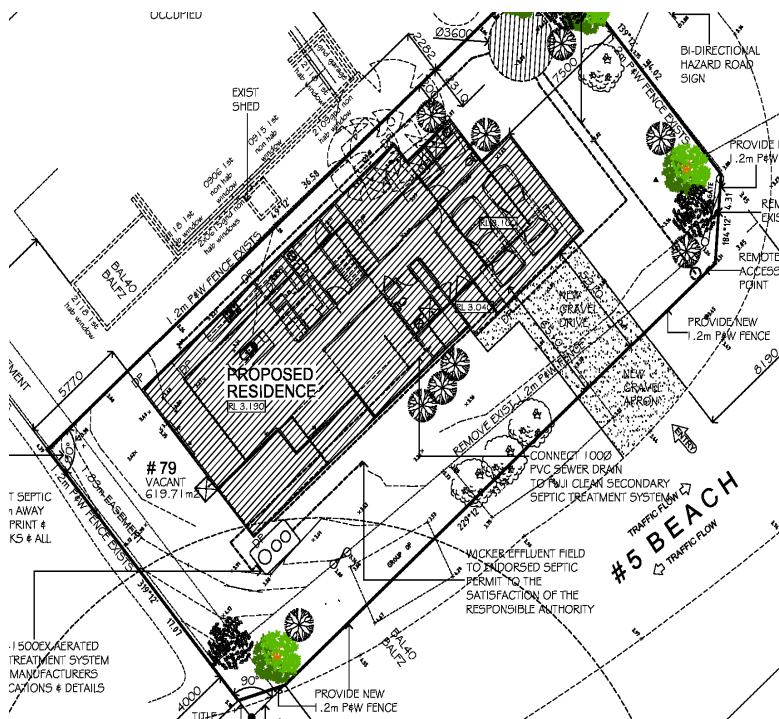
Following notice and concerns raised by objectors and the assessing Officer, the design of the dwelling has been amended. The amended plans for consideration have been readvertised. There were no new submitters or comments as a result of the readvertising process. The dwelling has been amended to have a:

- Front set back increased to 7.5m to Atherton Drive

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- Side set back from #5 Beach Access 5.91m (unchanged)
- Site coverage at 35.48% (reduced)
- Area of the dwelling is:
 - First floor 130.39m²(unchanged)
 - Ground floor 211.84m² (reduced)
 - Total area 384.34m²
- Overall height above natural ground level of 6.249m
- Materials used Hadietex sheeting to meet the Flame Zone Bushfire Attack Level which sits under the proposed cladding previously selected.

Additional changes to the dwelling include vehicle access being relocated from Atherton Drive, to the side street (being the #5 Beach access) to avoid relocation of a power pole, Council traffic signage and road safety reasons.

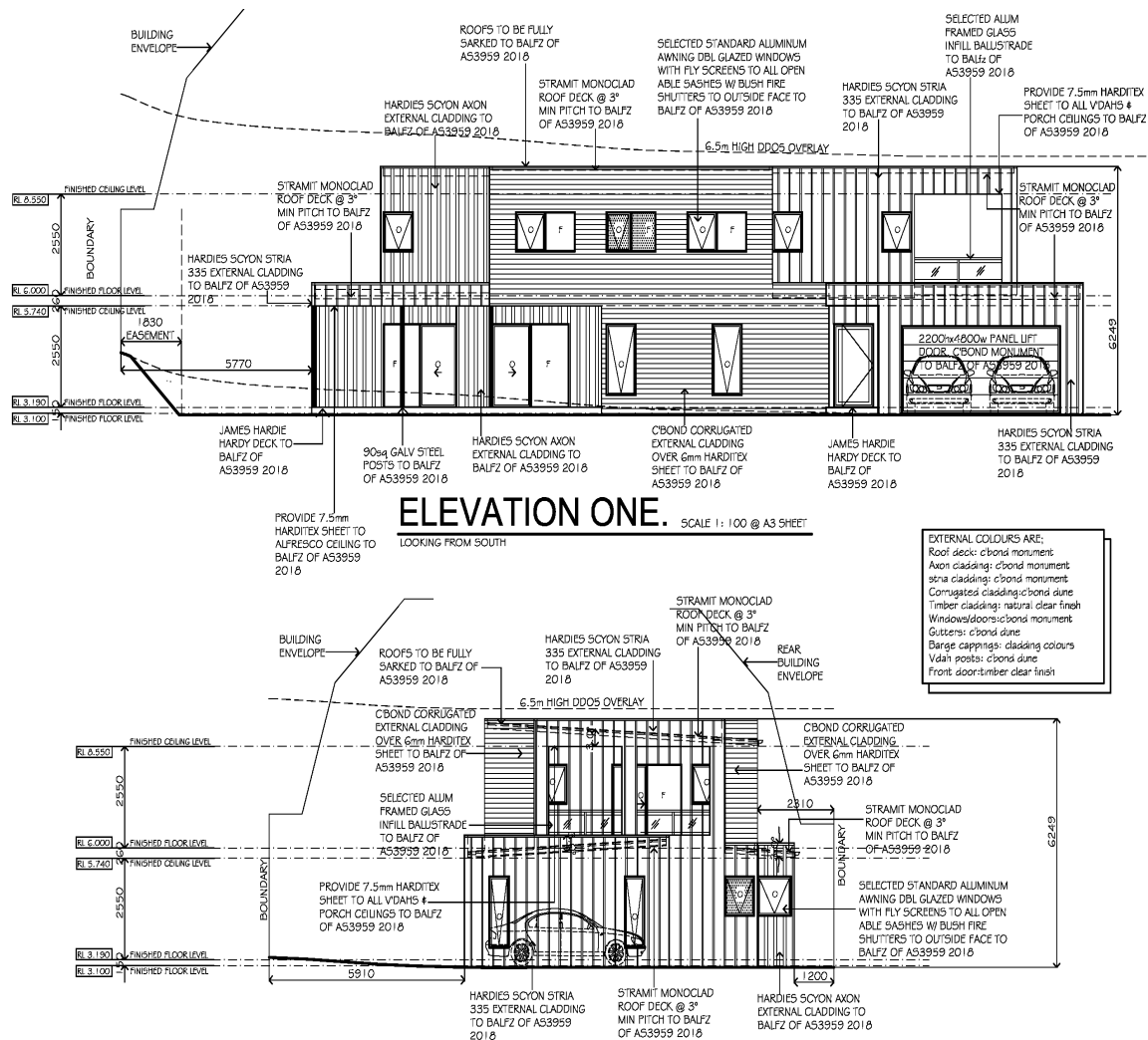


Revised Site plan

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SUBJECT SITE AND SURROUNDING AREA

The land is a corner site that has road frontage to Atherton Drive to the east and #5 Beach Access to the south. To the west of the site is Crown Land with a residential allotment forming the northern boundary. There is an established dwelling which was approved under Planning Permit 2001/255 being a single storey yellow cladding, blue roofed dwelling with no formal driveway to the site. There is a gate located on the corner of the allotment adjacent to the intersection which is considered a dangerous location for any future driveway. There is a large electricity pole and road side vegetation that will impact the sight distance for the proposed driveway. Road signs are also established alongside the power pole that will impact the proposed driveway location as well. Access will need to be established off the Beach Access to avoid the impact of the power pole and to provide safe access for future residents.

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It is noted that the dwelling has since been demolished and the site remains cleared.



Surrounding development.

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Surrounding land to the north, east and south of the site has been developed with dwellings and is within the settlement boundary for Venus Bay. The neighbouring dwellings to the north of the site are double storey, with the dwelling to the south of the site being single storey development. The dwelling development on the eastern side of Atherton Drive is predominantly single storey.

To the west of the site is coastal Crown land, which is the source of the fire hazard that is being considered under the Bushfire Management Overlay. This land is predominantly unmanaged apart from the access road.

EASEMENTS

There is an easement that is located on the western side of the allotment that runs along the entire western (rear) boundary. The easement, shown as E-1 of the Title Plan is for drainage and sewerage purposes. It is noted that there is no formal infrastructure within the easement. Additionally, no part of the proposed built development is impacting the said easement.

RESTRICTIVE COVENANTS, CAVEATS AND SECTION 173 AGREEMENTS

Title Volume 08400 Folio 365 for Lot 494 on Plan of Subdivision 056448 shows no encumbrances on the land.

BACKGROUND / PLANNING PERMIT HISTORY

2001/255 – Development of a Single Dwelling, this is the approval for the existing dwelling on the land (since demolished).

PLANNING SCHEME CONTROLS & PERMIT TRIGGERS

Zone/Overlays/Particular Provisions		
Provision	Trigger?	Rationale
Township Zone	No	A planning permit is not required for a single dwelling on a lot over 300m ²
Environmental Significance Overlay - Schedule 7	No	A Planning Permit is not required as the proposed earthworks on the site do not exceed 1m.
Design and Development Overlay - Schedule 5	Clause 43.01-2	A Planning Permit is required as the proposed development is greater than 250m ² in building floor area.
Bushfire Management Overlay	Clause 44.06-2	A Planning Permit is required for the development of land associated with accommodation (dwelling)

SPECIAL WATER SUPPLY CATCHMENT AREA

The land is not located within a Water Catchment Area.

ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

A Cultural Heritage Management Plan is not required for the development of a single dwelling. It is noted that all of Venus Bay is within an Area of Aboriginal Cultural Heritage Sensitivity and any permits issued for the land should include a Planning Note highlighting the potential of finding artefacts and the requirements of the *Aboriginal Heritage Act 2006*.

FURTHER INFORMATION

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The following information was undertaken outside the statutory timeframes following advertising and referral of the application to the Health and Engineering Departments.

1. The proposed irrigation shown on the plan is not viable due to a bore located on 81 Atherton Drive. A revised solution is required to ensure a 30m set back from the bore location for the wastewater system. An installing plumber is to assess the viability of a FujiClean ACE1200 Advanced Nutrient Reduction Secondary treatment system with disinfection to Wick Trenching and provide an update wastewater plan that demonstrates the site can accommodate the 5 bedrooms.
2. Relocation of the proposed crossover location to face onto #5 Beach Road to avoid the crossover alongside the power pole at Atherton Drive.
3. 13 objections to the application have been submitted to date. Any changes to the designs as result of above should also take the decision guidelines of the Design Development Schedule 5 which has been the basis of the objections submitted so far.

Response to Further information request

Amended plans were submitted to address the wastewater concerns and a slight variation to the crossover location (but not in accordance with the further information request). A report/letter addressing the objections was also provided.

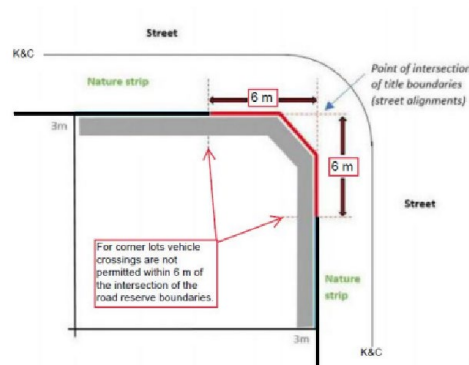
On the 9th January 2023 Officer's raised the following concerns as part of the assessment process:

- Bushfire Management Overlay changes:
 - o The CFA raised in their response that the submitted elevation plans show a number of materials that may not meet the requirements for BAL-FZ construction. Confirmation from a suitable qualified Building Surveyor is required to verify that all building materials being used meets the BAL-FZ requirements. Adjustments to the proposed building materials to meet this requirement needs to be reflected on the Bushfire Management Plan submitted for endorsement.
 - o All references to BAL-40 must be removed from the submitted Bushfire Management Plan.
 - o Removal of the undercover decking area to the rear of the dwelling. This will increase the defendable space area to the rear of the property.
- Access Issues
 - o Access to the site must be established from the #5 Beech access due to the location of the power pole and the intersection. The access must meet the requirements of Council's Infrastructure Design Manual. The crossover must also be set back a minimum of 6m from the boundary as per the diagram below.

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- Design and Development Overlay – Schedule 5
 - The current design fails to meet the Schedule requirements on multiple fronts. These being the front setback, the overall area of the dwelling being over 250m² and site coverage over 40%.
 - The removal of the decking area will ensure compliance with the site coverage requirement and reduce the overall floor area of the dwelling.
 - With the removal of the decking area and the relocation of the garage to meet the access change there is the ability to move the front setback to meet the 7.5m as stipulated in the Schedule.
 - The combination of ground and first floor will still exceed 250m², however you will then be requesting Council to consider the Schedule with one change and not three.

The applicant provided amended plans on 17 April 2023 to address these issues. These are the plans which form the basis of Council's assessment.

NOTIFICATION OF THE PROPOSAL

The application was placed on notice in accordance with Section 52 of the *Planning and Environment Act 1987* by:

- Notice on site
- Letters to adjoining owners and occupiers

SUBMISSIONS

22-May-2022 Submission – Objector 1 – First Submission
Submission Summary <ul style="list-style-type: none"> • Closeness of proposed residence to Atherton Drive; • Siting of southern fence; • Damage to road infrastructure.
23-May-2022 Submission – Objector 1 – Second Submission
Submission Summary <ul style="list-style-type: none"> • Damage to road surfaces (raised previously) • Obstacles to Emergency Vehicles: the Application (page13) indicates the new fence line which includes a post some 800mm into the existing road surface. There would also be a need to move the Give Way sign and place this into, or immediately adjacent to, the recently sealed corner of Atherton Drive and #5 Beach Road

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02-Jun-2022 Objection - Objector 1 – Third Submission**Submission Summary**

The property, 79 Atherton Drive Venus Bay, is within and affected by, one of the areas of

- cultural heritage as described in the Aboriginal Heritage Regulations 2007. The Planning Application makes no reference to whether there is a need to prepare a Cultural Heritage Management Plan as part of this redevelopment.
- The Planning Application (Page 13) shows the location of the 22,000 litre water tank as abutting the #5 Beach Road.

The dimensions of a 22,000 litre tank are approximately 3.5 metres in diameter and 2.5 - 2.9 metres high. The location of the tank is approximately 5 metres in altitude above the base level of the house. From the perspective of Atherton Drive the tank will tower over the house. If it is to be dug down and in, there is no mention of the structural reinforcing of the road that will need to be achieved.

The tank location is next to the parking side of #5 Beach Road. It is at the narrowest section of #5 Beach Road and is also on a blind bend when coming down the road.

In the summer holiday period pre-Covid, Fisheries Victoria and Parks Victoria reported that #5 Beach Road had more vehicular traffic than Wilson Promontory.

The tank position, in conjunction with parked cars, runs the risk of hampering Fire Fighting and other Emergency Vehicles having access to Fire Access track behind the houses along Atherton Drive.

The Planning Application (Page 13) shows the gravel driveway running next to the power pole.

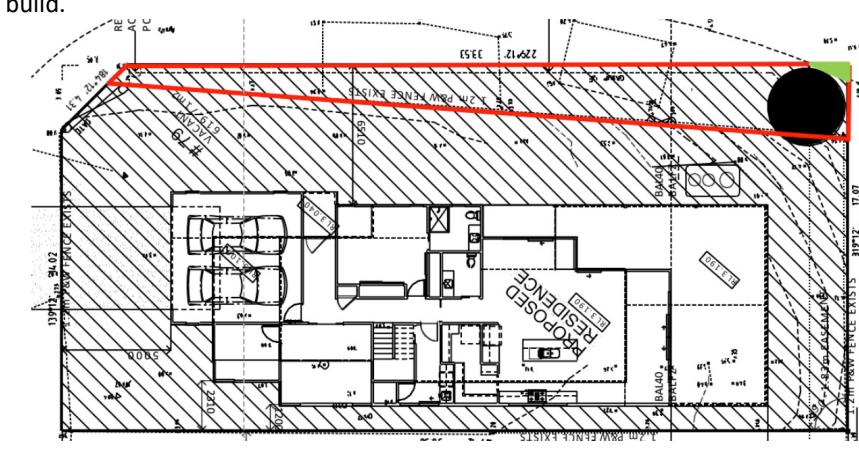
There is a South Gippsland Council Traffic Management sign as shown below. There is no information pertaining to whether this is to be retained or removed and at who's cost.

03-Jun-2022 Objection – Objector 1 – Fourth Submission**Submission Summary**

- The Planning Application states that "The dwelling is 253.95m². Building coverage of the allotment is 40.97%, there are no paved areas and the permeable area is 59.03%."
- Several presumptions need to be made to achieve the claimed building coverage and permeable area.
- The area shown encompassed by the Red lines is the section of the block which is currently existing as a roadside verge alongside Beach #5 Road. This area totals some 75 sqm. (refers to plans presented by the objector).
- There is a presumption of reassuming the road side verge from Parks Victoria and South Gippsland Shire as the two Government entities who are responsible for that road.
- The Green triangle (top right) shows the area of the block currently existing as a section of the actual road. This area encompasses some 1.7 sqm.
- There is a presumption of reassuming the actual road from Parks Victoria as the two Government entities who are responsible for that road.
- The impermeable area under cover by the residence, incorporated garage and back deck and the water tank is almost 364 sqm.
- With a block size of 597sqm (LASSI) the site coverage of the full block is 60.9% provided reassumption of the road and roadside verge is achieved.
- On the block as currently fenced, the resultant coverage is 70%, resulting in a permeable area of only 30%.
- The Natural Ground Level is at or below sea level. It has the worst soil drainage of properties on the 2nd Estate (as evidenced by the road side photos in the application).
- It is suggested that it may be necessary to increase the drainage currently planned for this

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24-Oct-2022 Submission – Objector 1 – Fifth Submission following the response from applicant
<p>Submission Summary</p> <ul style="list-style-type: none"> • There are NO examples of properties with 5 metre setbacks along Atherton Drive. All comply with current guidelines of a minimum 7 metre front set back. • It should perhaps be reiterated that the site remains within an area of cultural heritage sensitivity as described by the Aboriginal Heritage Regulations 2007 and should be developed in accordance with the heritage guidelines.
30-May-2022 Objection – Objector 2 – First Submission
<p>Submission Summary</p> <ul style="list-style-type: none"> • Size of the house, in a sensitive location • Planned building proximity to front boundary • Property location at high volume intersection • Lack of space between boundary and house for indigenous vegetation, making it visually unsympathetic to its neighbouring properties • Potential culturally sensitive overlay exists on property Size of property This property sits in prominent Venus Bay Estate 2 location, on the intersection of Venus Bay Beach 5 Road, Atherton Drive and Spring Street. The look & feel of this property impacts the overall aesthetics of Estate 2. In granting an application for a building as big as this, it negatively impacts the low scale, vegetation dense current aesthetic of Venus Bay Estate 2. Issues with size relate to height/setbacks; proximity to main road intersection and lack of space to provide a low impact, indigenous vegetated property. • Dwelling is listed as 253.95m² however as it has 2 floors and is approx. 403m² under roof. Total site is 619.71m², which exceeds building site coverage of 40% • 5 bedroomed house, with a height of 6.249m, whilst close to the planning guidelines of 6.5m, when considering the 5m front setback, seems excessive Planned Proximity to front boundary Details: • The neighbouring property has a 11.791m set back • This planning application is for this to be 5m, well below required 7.5m • The examples used in the submission on existing setbacks in Atherton Drive, are out buildings and not the main dwelling. Eg. 665 Lees Road and 11 Atherton Drive Property location Located in main thoroughfare to Beach 5, at a slightly unaligned 4-way crossing. Concern is that not enough consideration has been given to visual lines of cars driving down Beach 5 Road, from

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cars driving south on Atherton drive Visually Sympathetic Lack of space between boundary & house for natural indigenous vegetation, in line with the rest of the properties on Atherton drive, whilst still making property Bushfire safe. Potential Culturally sensitive overlay There is a common local understanding that there is a culturally sensitive overlay over the property, not built into the submission
02-Jun-2022 Objection - Objector 2 – Second Submission
Submission Summary The house is just so big and is not sympathetic to the low scale vegetation that surrounds this area. The road to Beach 5 is extremely busy and is shared by cars and pedestrians, if this building was to go ahead, then the road would be significantly narrowed, and poses a massive danger to cars, pedestrians and wildlife. Also current traffic hazard signs would be removed for current drivers down Spring Street, making the intersection where this property sits, very dangerous.
01-Jun-2022 Objection – Objector 3 (single submission)
Submission Summary <ul style="list-style-type: none"> • Not in keeping with the South Gippsland Planning Scheme. • This part of Venus Bay is in an informal landscape of both paved and unpaved roads, no footpaths, indigenous street trees and roadside vegetation. • The site is adjacent to the Cape Liptrap Coastal Park (managed by Parks Victoria) which is recognised for its significant landscapes. • Council has an obligation to “Maintain locally significant views and vistas that contribute to the character of the coast and coastal hinterland region” page 11 of the South Gippsland Planning Scheme. • The visual bulk of the proposed development does not respect the predominant character of the area and will dominate the surrounding landscape. The appearance of the area will not be improved by this development. • A setback of only 5 metres is not in keeping with properties in the immediate vicinity of 79 Atherton Drive. • The examples of similar set backs which appear to be the following properties; i) 665 Lees Road - An outbuilding screened by a teatree hedge ii) 19 Atherton Drive - An outbuilding screened by teatree hedge iii) 142 Atherton Drive - A single storey dwelling built many years ago, situated much further away from the Beach 5 Dunes, at the northern end of Atherton Drive. • These examples are not representative of the character of Atherton Drive. Of note, recent builds in Atherton Drive have setbacks greater than 5 metres. Recent builds on Atherton Drive in close proximity to the Beach 5 dunes have been single storey dwellings. The building size to block ratio is excessive at 40.97% and is an overdevelopment of the site. • The planned First floor verandah overlooks 72 Atherton Drive resulting in a loss of privacy to front yard, living areas and a bedroom. This build will adversely impact not only our family living in close proximity but the broader Venus Bay community and tourists who use Beach 5 Road to access the Coastal Park beach. They too will also adversely impacted by the visual bulk of the proposed development. • Council must ensure; development conserves, protects and seeks to enhance coastal biodiversity and ecological values. development is sensitively sited and designed and respects the character of coastal settlements. sensitive landscape areas such as the bays and coastlines are protected and that new development does not detract from their natural quality. that coastal development at the edge of settlements responds appropriately to the landscape setting and character In closing, we deem that a 5 bedroom, 27 Square home on a block of approximately 619m to be an inappropriate development at this site.

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02-Jun-2022 Objection – Objector 4 (single submission)**Submission Summary**

- Proposed size and height of dwelling is way too big for the block, making it maligned to the character of the area, as well as the general low scale vegetation of Venus Bay second estate.
- This block is situated at the entry point to Beach 5 which is quite a dangerous intersection already especially at peak times.
- The scale of the proposed dwelling would significantly narrow the road, and create increased danger to pedestrians and wildlife; it is imperative to avoid over development of Venus Bay, it is a beautiful, natural place, and there are other areas of Victoria where big developments like this are better suited.

02-Jun-2022 Objection – Objector 5 (single submission)**Submission Summary**

Venus Bay is a coastal village, Schedule 5 of the Design and Development Overlay for Venus Bay rightly describes our character as:

“coastal village character of Venus Bay” and requires buildings to be

“respectful of the typical built form and the coastal land scape setting” and

“To encourage low scale development that is sited so to be screened by and nestled within indigenous vegetation.”

We are not Korumburra or Leongatha, and developments need to be assessed accordingly.

This is an important and prominent site. It is the first property that sits by the beach 5 road. An existing small-scale house is currently sited on the property.

- Council should understand that due to the prominence of the property, decisions and exemptions made with respect to this redevelopment will set an obvious standard and precedent for future property applications.
- This block is very public and will be walked past by every beach user every day of the year, therefore its public and community impact matters. It will fix the tone and character for this beach.

Objections Specifically:

1. Setbacks

The development is requesting much reduced setbacks.

Setbacks are defined for a reason. They contribute in the most obvious way to township character and precious open space.

This development is requesting a front setback of only 5meters. I believe the minimum required is 7.5m. The neighbouring house has a setback of 11.8meters. The house obviously must still maintain the 10m setback are rear as this is a BAL requirement.

2. Sewerage

It is not obvious to me that the sewerage treatment plant proposed meets the required amount of open space for drainage for a 5 bedroom house.

3. Building Coverage

The building proposes to cover 41% of the site, when only 40% is regulated. Can they please redesign to build within the regulated 40%. I believe the dwelling should be only 250 m2 yet they propose to exceed this.

3. Building Height

The building proposes to be 25cm below the maximum 6.5 meter allowed height but his relies on the site being excavated at the rear. Will council

- a) check the excavation is low enough before building starts
- b) guarantee that if the construction is inaccurately built to exceed the maximum height, that

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<p>the development will have to be altered to reduce the height?</p> <p>4. Fencing I would like to see the approved plans include the fencing design including the required post and wire fencing ahead of the building frontage. Commonly now, new developments are building high solid front fencing.</p> <p>5. Landscaping Can council request the landscaping plans for the length of the property along the road. Village character requires sensitive landscaping, particularly on this dune site.</p> <p>6. Village Character This proposal does not maintain the township character as described in the Venus Bay Urban Design Framework. Presumably the site was purchased specifically because of the Venus Bay character.</p>
02-Jun-2022 Objection – Objector 6 (single submission)
<p>Submission Summary</p> <ul style="list-style-type: none"> - It is definitely not the area for this to happen. - Venus Bay is a small coastal village and buildings erected need to be respectful of that and nestled into the indigenous vegetation of which there is a lot in this particular area. - It also appears that this building doesn't seem to be far enough back from the road either. It is on the corner of a road to one of our beaches and needs, in my opinion, to fit in with that.
02-Jun-2022 Objection – Objector 7 (Single Submission)
<p>Submission Summary</p> <ul style="list-style-type: none"> • The development takes up all or most of the open space on allotments at Venus Bay. • Planning needs to consider visual impact, wildlife habitat and congestion of a holiday destination. • Blocks should not be rigidly fenced; wildlife friendly fencing is required here. • Over development spoils the natural amenity for residents and visitors.
02-Jun-2022 Objection – Objector 8 (First Submission)
<p>Submission Summary</p> <p>I cannot believe that this development conforms in anyway to the areas design or environmental overlays.</p> <p>The impact of allowing this development to move ahead will open the floodgates to the destruction of the nature of the area and the impact on the local wildlife will be significant.</p>
02-Jun-2022 Objection – Objector 8 (Second Submission)
<p>Submission Summary</p> <ul style="list-style-type: none"> • I object to this development I cannot see how it would align I with the design or environmental overlays. • It is not aligned with the character of the area and if developments like this are approved it will change the very nature and character of the area.
03-Jun-2022 Objection – Objector 9 (Single Submission)
<p>Submission Summary</p> <p>Venus Bay has developed into a small quiet coastal village. Planning should only be approved with a view to maintain the character of our town.</p> <p>The buildings should respect, enhance and reinforce our beach atmosphere of “single story weekend homes “, fitting in and respecting our coastal environment, especially maintaining indigenous vegetation.</p> <p>To maintain the character of Venus Bay Council should refuse the “large double story house on the</p>

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small block at no 79 Atherton Drive.”
03-Jun-2022 Objection – Objector 10 (Single Submission)
Submission Summary <ul style="list-style-type: none"> We are witnessing city life monstrosities with suburban fencing and removal of the vegetation that we are collectively trying to maintain. Another sky scraper spanning the entire block, removing everything important to local wild life - really!
05-Jun-2022 Objection – Objector 11 (Single Submission)
Submission Summary <p>I strongly object to the proposed development for 79 Atherton Drive Venus Bay. This building is totally out of character with the area they are detrimental to wildlife and vegetation, and most likely only holiday homes.</p> <p>As a permanent resident I'm seeing this all too often.</p> <p>Re design and re consider what is being built, for this building and others, will be destroying the very reason why people come to Venus Bay.</p>
06-Jun-2022 Objection Objector 12 (Single Submission)
Submission Summary <p>Significantly out of character with existing homes in Atherton Drive and the second estate of Venus Bay.</p> <p>I welcome development but it needs to be sympathetic to existing structures and complement the environment rather than dominate it. What is proposed seems more appropriate for heavily built up areas and towns and not in an area that has sought to preserve its green spaces and the natural environment.</p>
06-Jun-2022 Submission – Submitter/Objector 13 (Single Submission)
Submission Summary <p>In agreement to solely to keep the character, peace and serenity of Venus bay. I have seen many double storey monstrosities going up in Venus Bay and it worries me that it will turn into another Inverloch.</p> <p>Allowing money to talk will get a sensitive and fragile environment in a lot of trouble down the track. The time to act for the environment in every aspect is now.</p>

Response to Submissions

Council has worked with the permit applicant to respond to the above issues. The plans submitted on the 17 April 2023 have addressed the issues pertaining to the front set back and the access issues from Atherton Drive by relocating the crossover to be from the #5 Beach access.

The applicant and Council have worked together to balance the needs of the applicant and the considerations for a planning permit. Many of the objections raised issues with the height of the dwelling. Venus Bay has a combination of heights throughout the town; the applicant has sought to design the height of the dwelling to be under the 6.5 metre height trigger for the Design and Development Overlay. The footprint has been reduced in response to the Bushfire Overlay and the Design and Development Overlay policy considerations. Upon the readvertising of the new design, Council received no response from the objectors.

Fencing

The applicant has not sought planning approval for fencing. The fencing shown on the plans is post and wire and does not trigger a planning permit. The proposed fencing is show below on the site plan.

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Vegetation removal

[illegible]

Authority	Rationale	Date received and response
Department of Environment, Land Water and Planning	Neighbouring property Owner Section 52	26 May 2022 No objection to the application and no conditions.
SGSC Wastewater	Large 5 bedroom dwelling minimal area for wastewater treatment	3 June 2022 Further information requested regarding the neighbouring bore location and the location of the subject sites wastewater system. 27 June 2022

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		<p>Conditional consent – Wastewater system can meet the set backs and be located within the front of the dwelling.</p> <p>Note amended design makes no changes to above</p>
Country Fire Authority	Bushfire Management Overlay Section 66.03	<p>14 June 2022</p> <p>Conditional consent to the permit.</p> <p>The CFA provided further commentary being: <i>The elevation plans prepared by David Gaskin Designs shows a number of materials that may not meet the requirements for BAL-FZ construction. For example, timber posts that are labelled as BAL-40. It is strongly recommended that council seeks certification from an independent building surveyor that the plans provided for endorsement as part of the permit comply with the requirements on the Bushfire Management Plan.</i></p> <p>2 May 2023 (in response to the amended plans) Amended conditional consent, one aspect of the submitted Bushfire Management Plan needs to be revised prior to endorsement.</p>
SGSC Engineering	<p>Location of the proposed driveway in close proximity to the power pole.</p> <p>Rereferred when the driveway relocated.</p>	<p>17 June 2022</p> <p>Crossover location on Atherton Drive is too close to the Power pole and will need to be relocated to increase sight lines.</p> <p>4 October 2022</p> <p>Crossover location has been relocated to the corner of Atherton and the #5 Beach access. There must be a minimum 6m clearance from the corner to the driveway location as per the IDM. Access to be relocated to the #5 Beach access.</p>

ASSESSMENT**PLANNING POLICY FRAMEWORK (PPF)**

The following Victorian Planning Policies and Local Planning Policies are relevant to this proposal:

VPP	11.01-1S Settlement
LPP	11.01-1L-09 Coastal Village – Port Welshpool, Sandy Point, Tarwin Lower, Venus Bay, Walkerville, Waratah Bay and Yanakie
	13.01 Climate Change Impacts

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	13.02 Bushfire 15.01-2L-01 Building design – residential
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The application meets the requirements of Clause 11.01-1L-09 for Venus Bay. The dwelling is within the Second Estate in the Township Zone in accordance with the first strategy:

Limit projected residential growth to the long term development areas identified on the Venus Bay Estate 1 framework plan and the Venus Bay Estate 2 framework plan.

Climate change impacts are limited for this site as an immediate impact, as there are no areas of flooding within the vicinity of the site. It is noted that access to the township is impacted due to the one way in / one way out access arrangement.

The land is located within the Bushfire Management Overlay and will be assessed under the requirements of the Overlay and Clause 53.02. Clause 13.02 requires the consideration of human life when considering sensitive uses. The hazard for Venus Bay is the Coastal Crown land that forms the boundary of the township. The subject application has a direct interface with the hazard to the west. There is no boundary road providing additional defensible space between the hazard and the dwelling as is the case in more contemporary subdivision design. The application has addressed the delicate balance of trying to meet the design objectives of Venus Bay with the bushfire constraints. For the subject site, this will be a Flame Zone construction on one of the smaller sites in the town.

The built form of the application has sought a balance with the environment and the bushfire impacts of the site. The requirements for the defensible space area allow for the retention of some of the existing vegetation within the site (with a spacing requirement of 5m between canopies). The fencing requirements for Venus Bay being post and wire is being maintained. The Dwelling has been designed to meet the height requirements of the Design and Development Overlay that applies to the land.

Overall the proposal is consistent with the relevant objectives and strategies of the PPF clauses listed above.

ZONE**Township Zone**

A Planning Permit is not required for the Use and Development of land for a dwelling in the Township Zone. The application must meet the requirements of the Building regulations; any permit issued should include a notation to confirm that the requirements of Rescode have not been assessed as part of the application (since neither of the permit triggers call up an assessment under Rescode).

OVERLAYS**Environmental Significance Overlay Schedule 7**

A Planning Permit is not triggered under the overlay for the following reasons:

- Any vegetation removal on the land is exempt under Clause 52.12-1 "Exemptions to create defensible space around buildings used for accommodation". This Clause overrides all other provisions of the planning scheme which triggers a permit for vegetation removal associated with the development of a single dwelling.

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- Earthworks are under 1m. The land has been previously developed for a dwelling land is already significantly flat. There is some excavation of the land to the west of the site which is 1m. Any approval should include the requirement that any areas of cut and fill must not exceed 1m.

Bushfire Management Overlay

A Planning Permit is required for all new dwellings (accommodation) under the Overlay. The subject land is not within a Schedule area and required referral and consideration by the Country Fire Authority who have consented to the application, subject to the standard conditions at Clause 44.06-5 and a minor change to the Bushfire Management Plan being 5m separation for vegetation on the land. All applications must meet the requirements of Clause 53.02, for development within defined settlement areas the application must meet the requirements of Clause 53.02-3 in particular. Assessment of this requirement is addressed further in this report.

Design and Development Overlay Schedule 5

The proposed development is on a corner site with an area of 597.50m² which is smaller than the surrounding sites. The land has been previously developed for a single storey dwelling which has been removed from the land since the lodgement of the application. The application when submitted triggered the Design and Development Overlay under Schedule by 3 triggers being:

- Site coverage
- Front set back
- Overall floor area

The application has subsequently been amended to balance Officer concerns in addition to the concerns raised in the submissions, CFA and by Engineering. As a result, the application now only triggers a permit under the Design and Development Overlay as the total floor area of the dwelling (lower and upper combined) exceeds 250m² in area.

The dwelling must also meet Flame Zone construction requirements; in this regard, the design incorporates a Harditex Boundary Wall system which assists in meeting the requirement of the Flame Zone. Over the top of this will be cement sheeting then the Hardiplank and Colorbond cladding. The materials are consistent with other dwellings within Venus Bay. The colour treatment will remain the same as originally proposed however, the details of the colour treatment have been omitted from the new plans. Any permit issued for the site will require these notations to be included.

Shutters – To meet the requirements of the Flame Zone, the dwelling design requires a shutter system, since window treatments alone cannot meet the Flame Zone requirement. This is an acceptable design response having regard to the bushfire risk associated with the land.

The amended development has reduced the site coverage to allow for the reorientation of the garage to face the #5 Beach access, and increase the front setback from Atherton Drive. The side setback has not been encroached (being a 3m requirement under the Schedule to the Overlay).

The dwelling has met the height requirements under the Schedule, being a 6.5m general requirement. The dwelling height is 6.249m which does not trigger a permit under the DDO5. The development incorporates

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a flat roof to reduce the impact of the dwelling. The design of the dwelling creates a split-level presence facing onto Atherton Drive. The dwelling will have the backdrop of the Crown land vegetation which rises behind the dwelling to the west.

The dwelling has been amended to minimise the visual bulk of the dwelling when viewing the dwelling from the #5 Beach access aspect through the reduction of the ground floor level, and a reduction of the covered alfresco area.

Overall the application has set to achieve a balance with the Overlay requirements and the Bushfire provisions.

PARTICULAR PROVISIONS

Clause 53.02-3 Dwellings in existing settlements – Bushfire protection objective

Approved Measure (AM) 1.1 - Siting

A building must be sited to ensure the site achieves the following:

- The maximum separation distance between the building and the bushfire hazard.
The amended design provides a greater separation distance from the hazard to the west of the site without compromising the 7.5m front setback of the Design and Development Overlay.
- The building is in close proximity to a public road.
The property is on a corner site with two road frontages.
- Access can be provided to the building for emergency service vehicles.
Emergency vehicle access will be provided from #5 Beach access.

The application meets the requirements of AM 1.1

AM 1.2 – Bushfire Construction and Defendable Space

A building provides the defendable space in accordance with Table 1 Columns A, B, C, D or E and Table 6 to Clause 53.02-5. Adjoining land may be included as defendable space where there is a reasonable assurance that the land will remain or continue to be managed in that condition as part of the defendable space.

- Adjoining land is not included to the west and south of the site.
- The road reserves to the south and east of the site are managed and can be considered as part of the defendable space.
- The reduced site coverage allows for greater defendable space around the dwelling.
- The development of the dwelling must be to a Flame Zone Bushfire Attack Level due to the proximity to the hazard to the west of the site.

The development is to be built to the maximum standards due to the proximity to the hazard to the west. In the event of a fire there is opportunity for escape to the east and out of the town which is much like the rest of Venus Bay.

Defendable space must:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.

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- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. 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.

The application meets the requirements of AM 1.2

AM 1.3 – Water and access

A building is provided with:

- A static water supply for fire fighting and property protection purposes specified in Table 4 to Clause 53.02-5. The water supply may be in the same tank as other water supplies provided that a separate outlet is reserved for fire fighting water supplies.
A 10,000 litre water tank is provided within the front set back of the dwelling with the remote connection point located within 4m of the new driveway location. The Bushfire Management Plan includes the appropriate signage requirements for the identification of the remote connection.
- Vehicle access that is designed and constructed as specified in Table 5 to Clause 53.02-5.

The application meets the requirements as it will be:

Constructed to an all weather construction and subsequently maintained

Have a load limit of at least 15 tonnes

Have a minimum trafficable width of 3.5 metres

Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres vertically

Curves must have a minimum inner radius of 10 metres (not proposed)

The average grade must be no more than 1 in 7 (14.4%) (8.1°) with a maximum grade of no more than 1 in 5 (20%)(11.3°) for no more than 50 metres (not required)

Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle (not required).

These requirements as per the standards under the Bushfire Provisions.

The application meets the requirements of AM1.3

GENERAL PROVISIONS

Clause 65.01 – Approval of an application or plan

- The matters set out in section 60 of the Act.
All matters set out in section 60 have been taken into consideration.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
The wastewater system has been located sufficiently away from the neighbouring bore. The removal of vegetation is in accordance with the requirements to provide defensible space on the land.
- The Municipal Planning Strategy and the Planning Policy Framework.
The application is consistent with the requirements of the South Gippsland Planning Scheme.
- The purpose of the zone, overlay or other provision.
The application meets the purpose and decision guidelines of the Zone and Overlays applicable to the land as discussed within the report.
- The orderly planning of the area.

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The development is orderly planning and located within the settlement area of the Venus Bay township.

- The effect on the environment, human health and amenity of the area.
Egress from the site and away from the bushfire hazard is available.
- The proximity of the land to any public land.
The public land manager of the coastal Crown Land has been notified of the application with no objection.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
The impacts of Bushfire have been adequately addressed.

Declaration of Conflict of Interest:

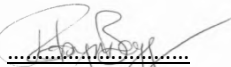
No officers involved in the preparation of this report have any direct or indirect conflict of interest in this matter.

Conclusion and Recommendation:

Council has considered the matters under Section 60 of the *Planning and Environment Act 1987*. It considers that the proposed **development** is appropriate having regard to the relevant matters and **can** be managed through appropriate conditions.

It is recommended that **a report be written to Council supporting** the Development of land with a dwelling, in accordance with the endorsed plans, and that a Notice of Decision to Grant a Permit be recommended.

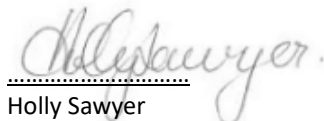
Signed.



Robyn Begg

Senior Statutory Planning Officer

Date: 19 May 2023



Holly Sawyer

Statutory Planning Coordinator

Date: 19 May 2023