

Objection to planning permit application PP 386/2022 at 12 Regent Street, Belmont

Thank you for the opportunity to comment on the planning permit application, number PP 386/2022 at 12 Regent Street, Belmont.

The application is for a three (3) lot subdivision and the construction of three (3) dwellings.

I live at 10 Shoubra Drive in Highton, a suburb in Geelong. I am submitting an objection because I am concerned about unnecessary and indiscriminate tree removals in Greater Geelong.

I formally object to the development application PP 386/2022 at 12 Regent Street, Belmont, as permitted in Section 57(1) of the *Planning and Environment Act 1987* on the basis and for the reasons stated in detail below.

1. The application does not meet the requirements stipulated in **clause 55** (Neighbourhood and Site Description and Design Response) in that the site description does not comply with **clause 55.01-1** (Neighbourhood and site description).
2. The application does not meet the requirements stipulated in **clause 56** (Residential subdivision) in that the site description does not comply with **clause 56.01-1** (Subdivision site and context description).
3. The application is inconsistent with the objectives and strategies of **clause 21.06-6** (Neighbourhood character) in that it seems to fail to retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality's tree canopy.
4. The application is inconsistent with the objectives of **clause 55.03-8 (Landscaping Objectives)** in that the proposed development fails to retain mature vegetation.
5. The non-compliance in relation to **clauses 55.01-1 and 56.01-1** precludes a valid decision by the responsible authority as to whether the application is consistent with the strategies of **clause 21.06** (Settlement and Housing), specifically **clause 21.06-6** (Neighbourhood character) and/or meets the objectives and standards contained in **clause 55.03-8**.

1. Non-compliance with clauses 55.01-1 and 56.01-1

The relevant Planning Policies:

The Greater Geelong Planning Scheme includes the following purposes for **clause 55**:

- 'To implement the Municipal Planning Strategy and the Planning Policy Framework'; and
- 'To encourage residential development that provides reasonable standards of amenity for existing and new residents'.

To this end, **clause 55.01** requires applications to construct two or more dwellings on a lot to be accompanied by a neighbourhood and site description and a design response.

Clause 55-01-1 specifies that the required subdivision site and context description 'must accurately describe', in relation to the site, in particular and pertinent to this application,

- Location of **significant trees** existing on the site and any significant trees removed from the site 12 months prior to the application being made, where known.

As for **clause 56**, the Greater Geelong Planning Scheme includes the following purposes:

- 'To implement the Municipal Planning Strategy and the Planning Policy Framework';
- 'To create liveable and sustainable neighbourhoods and urban places with character and identity'; and

- 'To ensure residential subdivision design appropriately provides for liveable and sustainable communities'.

To this end, **clause 56** requires applications to subdivide land to be accompanied by a site and context description and a design response.

Clause 56-01-1 specifies that the required subdivision site and context description 'must accurately describe', in relation to the site, in particular and pertinent to this application,

- The natural features **including trees and other significant vegetation**, drainage lines, water courses, wetlands, ridgelines and hill tops.

The wording of clause 56.01 qualifies the other vegetation to be described as 'significant'. However, it does not qualify the word trees. Therefore, the site description must include a description of all the trees, regardless of size/age/significance, on the site.

The application

The application contains the following documents that pertain to vegetation on the site:

1. The Amended Plans: Folio 1 contains an aerial photo of the site that marks the trees to be removed, describing these trees as 'not significant'.
2. The site description in the site and context details (par 3) of the application response against relevant State and Local Planning Policies described the vegetation and trees as follows: 'The site is considered to contain minimal, insignificant vegetation'.

Notably, the documents on the Greater Geelong Planning website include an Arborist Impact Assessment Report (Jay Pritchard, March 2022). However, the report only discusses two trees on road reserves and a tree on an adjoining property. It does not record nor make any mention of the vegetation or any of the trees on the subject site.

Why the application is non-compliant

I acknowledge that **clauses 55.01-1** and **56.01-1** allow for the use of photographs for site description. However, the aerial photo in the application fails to provide sufficient information to constitute compliance with **clauses 55.01-1** and **56.01.1**.

The mere statements in the application plans and the site description describing the trees on the site as 'not significant' and 'Minimal, insignificant' do not comply with the stated requirements under **clauses 55.01-1** or **56.01-1**.

Relying on visuals from publicly accessible areas and the aerial photo provided in the application, the site contains several established trees. I counted seven. At least one tree, the tree in the corner of the site in front of the existing dwelling, is greater than 5 metres tall. Neither the application plans nor the Planning Scheme response describes the trees or mentions tree heights. The arborist report also does not contain references to tree height. However, the tree in the front corner is taller than trees 1 and 2 of the arborist report.

Compliance with **clause 55.01-1** requires a description of the location of significant trees. At the very least, the application must describe the location of the tree in the front garden. **Clause 56.01-1** requires the application to describe all the trees and any vegetation on the site. The application is non-compliant as it does not describe any trees or vegetation accurately.

2. Clause 21.06-6 (Neighbourhood character) in the Greater Geelong Municipal Strategic Statement

Clause 26.06-6 includes a strategy to 'retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality's tree canopy'.

The Greater Geelong Planning Scheme does not define 'canopy tree' in general. However, the City of Greater Geelong Tree Management Council Policy (Version 1, approved 8 September 2020) does contain a definition. Unfortunately, the Tree Policy is not incorporated into the Planning Scheme. It does, however, provide helpful guidance to inform the interpretation of what would constitute a tree that 'contributes to the municipality's tree canopy'. The Tree Management Policy defines a canopy tree as 'A tree with spreading branches that is greater than 6 metres in height at maturity' (P4). The visibility of

the trees on the aerial image and the street view indicates that at least some of the trees, in particular the tree in the front corner, on the subject site are likely canopy and/or significant trees.

Villawood Homes Pty Ltd v Greater Geelong CC [2020] VCAT 840 provides a convincing argument for the importance of clause 26.06-6. In this case, a permit application for a staged subdivision was declined for failing to properly and appropriately consider tree retention on the review site. The written decision makes it very clear that the application failed specifically because of the failure to appropriately respond to clause 21.06-6. Member Deidun found that 'it appears that there has been no real thought given to which trees are suitable to be retained on site' [26]. He also indicated that he was not 'persuaded that this development has appropriately analysed which of the existing trees are suitable for retention, and how their retention can be incorporated into the design for the review site' [33].

The application does not provide any evidence that the applicant considered the retention of any trees, in particular, trees that contribute to the municipality's tree canopy. None of the trees on the site are appropriately described nor considered for retention.

3. Clause 55.03-8 (Landscaping Objectives) in the Greater Geelong Planning Scheme

The **objectives** of **clause 55.03-8** include 'To encourage the retention of mature vegetation on the site'.

The **Decision Guidelines** determine that the responsible authority **must** inter alia consider the following before deciding on an application:

- The health of any trees to be removed.
- Whether a tree was removed to gain a development advantage.

The application fails to meet the objectives of **clause 55.03-8** in that the landscape layout and design do not allow for the retention of trees on the site.

4. The impact of non-compliance with clauses 55.01-1 and 56.01-1 on permit application decisions

The particular provisions contained in **clauses 55** and **56** serve to facilitate the implementation of the Municipal Planning Strategy contained in **clause 21** of the Planning Scheme.

Without a compliant site description, it is not possible to appropriately assess the trees to determine whether the application is consistent with the objectives and strategies of **clause 21.06-6**. In particular, it is not possible to assess the application against the strategy to retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality's tree canopy.

The absence of an accurate description of, at the very least, the significant tree(s) on the site also means that the responsible authority cannot comply with the Planning Scheme provisions by considering the health of any trees to be removed or whether a tree was removed to gain a development advantage before deciding the application.

To conclude, while the applicant's proposal to plant three new trees that could possibly grow to 8 metres at maturity is commendable, the permit should not be awarded as the application fails to properly and appropriately consider tree retention on the review site, the site description does not meet the specific requirements set out in **clauses 55.01-1** and **56.01-1**, and it possibly fails to retain vegetation that contributes to the municipality's tree canopy.

Again, I thank Council for the opportunity to comment on the application.

Yours sincerely,



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