



**Colac Otway  
SHIRE**

**AGENDA**

**PLANNING COMMITTEE  
OF THE  
COLAC-OTWAY SHIRE  
COUNCIL**

**21 JANUARY 2009**

**at 10.30 am**

**COPACC Meeting Room  
Rae Street, Colac**

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982

**COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING**

**21 JANUARY 2009**

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NOTICE is hereby given that the next **PLANNING COMMITTEE OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in the COPACC Meeting Room, Rae Street, Colac on 21 January 2009 at 10.30am.

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## AGENDA

### 1. OPENING PRAYER

*Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.*

**AMEN**

### 2. PRESENT

### 3. APOLOGIES

### 4. MAYORAL STATEMENT

Colac Otway Shire encourages active community input and participation in Council decisions. The Planning Committee provides an opportunity for both objectors and proponents to address Council for up to five minutes. Priority will be given to people who have advised Council in advance that they wish to address the Planning Committee. Planning Committee meetings also enable Councillors to debate matters prior to decisions being taken.

I ask that we all respect each other during this process by:

- being courteous and respectful in the way in which you speak;
- not speaking unless you have been permitted to by me as chairperson;
- respecting the local laws which govern meeting procedure (copies of these are here for your information); and
- understanding that I have a responsibility to ensure proper meeting procedure and the upholding of the local law.

I also would like to inform you that the meeting is being taped. The audio recording of the meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982.

**5. DECLARATION OF INTEREST**

**6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS**

The Mayor is to read out the names of those applicants and objectors who have confirmed in writing that they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A time limit of 5 minutes will apply.

**7. CONFIRMATION OF MINUTES**

- Planning Committee Meeting of the Colac-Otway Shire Council held on the 09/12/08.

**Recommendation**

That the Planning Committee confirm the above minutes.

**OFFICERS' REPORTS**

**Sustainable Planning and Development**

- PC092101-1      PLANNING COMMITTEE MEETING VENUES 2009  
PC092101-2      PLANNING PERMITS FOR THE MONTH OF DECEMBER 2008  
PC092101-3      CONSTRUCTION OF FOUR (4) DWELLINGS AND A FOUR (4) LOT  
SUBDIVISION AT 15 CAWOOD STREET, APOLLO BAY

**Jack Green**  
**Acting Chief Executive Officer**

**PC092101-1 PLANNING COMMITTEE MEETING VENUES 2009**

AUTHOR:	Bronwyn Keenan	ENDORSED:	Doug McNeill
DEPARTMENT:	Sustainable Planning and Development	FILE REF:	GEN00450

**Purpose**

To confirm the venue for Planning Committee Meetings for 2009.

**Background**

Under the Council's Local Law 4, Part 4 – Council Meeting, Clause 20 – Dates & Times of Meetings, Council is required to confirm their meeting dates on at least an annual basis.

At its meeting on the 9 December 2008 the Planning Committee resolved to confirm the dates and time of the Planning Committee meetings to be held in 2009. The report noted that the venue details for these meetings would be discussed at the December Workshop, however the workshop discussions related only to the time and venue of Council meetings.

**Corporate Plan/Other Strategies/Policy**

Not applicable

**Issues/Options**

As it does with Council Meetings, Council has the option of considering alternative venues for the Planning Committee Meetings, however, given the amount of officer clarification of issues raised at and prior to meetings regarding planning issues, that require access to planning files and I.T resources, it is considered that holding meetings at COPACC would be the most effective and efficient outcome for Planning Committee Meetings. This approach would continue to be consistent with past practices.

**Proposal**

It is proposed that the Planning Committee Meetings for 2009 be held at COPACC on the second Wednesday of each month at 10.30am.

**Financial and other Resource Implications**

Not applicable

**Risk Management & Compliance Issues**

There is a risk that if meetings are not conducted at COPACC as at present, it may be difficult to appropriately respond to issues of clarification raised at and during meetings regarding agenda items.

**Environmental Considerations**

Not applicable

**Communication Strategy/Consultation**

Details of the Planning Committee Meetings are advertised each month.

**Implementation**

Not applicable

**Conclusion**

That Council's Planning Committee confirm that the 2009 Planning Committee Meetings be held at COPACC.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee confirm that the 2009 Planning Committee Meetings be held at COPACC.***

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**PC092101-2 PLANNING PERMITS FOR THE MONTH OF DECEMBER 2008**

AUTHOR:	Janole Cass	ENDORSED:	Doug McNeill
DEPARTMENT:	Sustainable Planning and Development	FILE REF:	GEN00450

44 Planning permit applications received for the period of 1<sup>st</sup> December 2008 to 31<sup>st</sup> December 2008

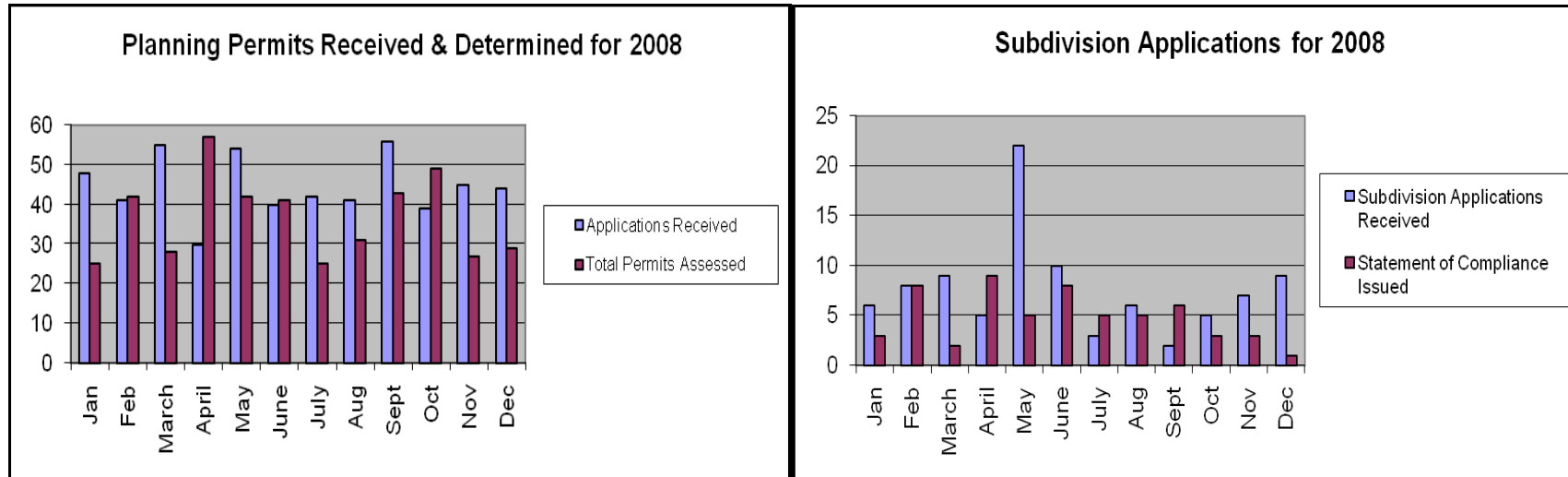
29 Planning permit applications were considered for the period of 1<sup>st</sup> December 2008 to 31<sup>st</sup> December 2008

Applic No	Date Received	Proposal	Date Issued	Actual Time	Authority	Decision
PP131/08-A	28-Nov-08	Development of a dwelling and removal of vegetation - Amendment	15-Dec-08	17	Under Delegation	Permit Issued
PP155/08	07-May-08	Construction of five (5) single storey dwellings - Amendment	24-Dec-08	113	Under Delegation	Permit Issued
PP2/08	02-Jan-08	Use & Development Of A Dwelling & Removal Of Vegetation	03-Dec-08	207	Under Delegation	Permit Issued
PP258/08	29-Jul-08	Construction of a Hay Shed	19-Dec-08	127	Under Delegation	NOD To Grant Permit
PP262/08	01-Aug-08	Harvesting of tree ferns	23-Dec-08	45	Under Delegation	Permit Issued
PP265/08	06-Aug-08	Extension and alteration to existing dwelling	15-Dec-08	42	Under Delegation	Permit Issued
PP271/08	14-Aug-08	Erection of internally illuminated sign	08-Dec-08	89	Under Delegation	Permit Issued
PP274/08	18-Aug-08	Construction of three (3) dwellings and a three (3) lot subdivision	24-Dec-08	75	Under Delegation	Permit Issued
PP288/08	28-Aug-08	Construction of Storage Shed	08-Dec-08	47	Under Delegation	Permit Issued
PP313/08	11-Sep-08	To install a user-operated automatic dog wash facility.	15-Dec-08	64	Under Delegation	Permit Issued
PP316/07-A	04-Dec-08	Construction of a dwelling - Amendment	23-Dec-08	19	Under Delegation	Permit Issued
PP327/05-B	16-Dec-08	To subdivide land (in stages) into twenty six (26) lots (including the balance lot), creation of a new road & reserve and works associated with partial filling of the land - Amendment	18-Dec-08	2	Under Delegation	Permit Issued

Applic No	Date Received	Proposal	Date Issued	Actual Time	Authority	Decision
PP332/08	27-Aug-08	Two (2) Lot Subdivision	15-Dec-08	93	Under Delegation	Permit Issued
PP347/08	10-Oct-08	Two (2) Lot Subdivision	15-Dec-08	44	Under Delegation	Permit Issued
PP355/08	03-Oct-08	Two (2) Lot Subdivision	24-Dec-08	59	Under Delegation	Permit Issued
PP363/08	03-Nov-08	Construction of a two bedroom dwelling	05-Dec-08	30	Under Delegation	Withdrawn
PP364/08	03-Nov-08	Re-Alignment of Boundary	15-Dec-08	42	Under Delegation	Permit Issued
PP378/08	03-Nov-08	To erect illuminated signage	15-Dec-08	35	Under Delegation	Permit Issued
PP379/08	05-Nov-08	To replace two (2) existing verandah's with colour bond steel.	08-Dec-08	33	Under Delegation	Permit Issued
PP390/08	10-Nov-08	Development of a shed	24-Dec-08	15	Under Delegation	Permit Issued
PP391/08	14-Nov-08	Use & development of an extension to woodwork room & extension of verandahs to school buildings.	24-Dec-08	17	Under Delegation	Permit Issued
PP406/08	24-Nov-08	New Portable Classroom	12-Dec-08	18	Under Delegation	Permit Issued
PP407/08	20-Nov-08	Construction of a bridge over Tirrengower Drain and a Cattle Underpass	12-Dec-08	22	Under Delegation	Permit Issued
PP413/08	25-Nov-08	Construction of a dwelling	24-Dec-08	29	Under Delegation	Permit Issued
PP416/08	27-Nov-08	Construction of a verandah	24-Dec-08	26	Under Delegation	Permit Issued
PP418/08	28-Nov-08	Relocation of portable classrooms on site	12-Dec-08	14	Under Delegation	Permit Issued
PP421/08	26-Nov-08	Extension to an existing dwelling	22-Dec-08	26	Under Delegation	Permit Issued
PP456/08	20-Oct-08	Amendment - Signage	24-Dec-08	45	Under Delegation	Permit Issued
PP6/05-A	14-Nov-08	Amended Plans	08-Dec-08	24	Under Delegation	Permit Issued



Applic No	Date Received	Proposal	Date Issued	Actual Time	Authority	Decision
		<b>Average Days to Process Planning Application</b>		<b>49</b>		

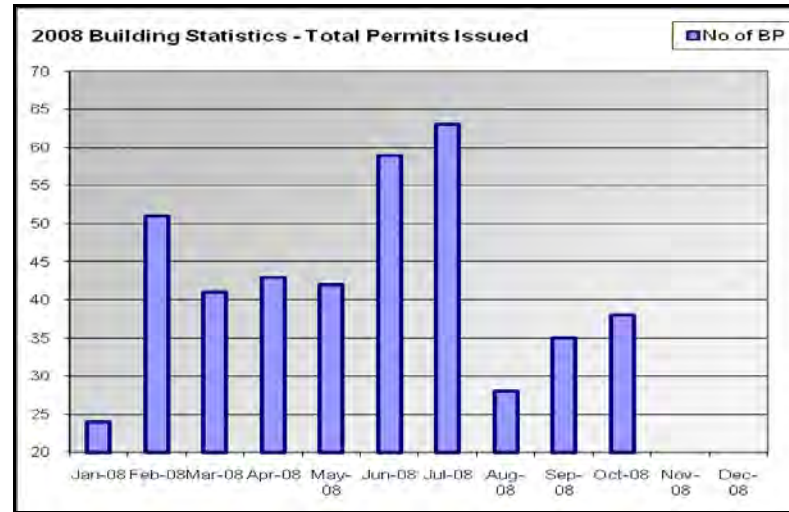
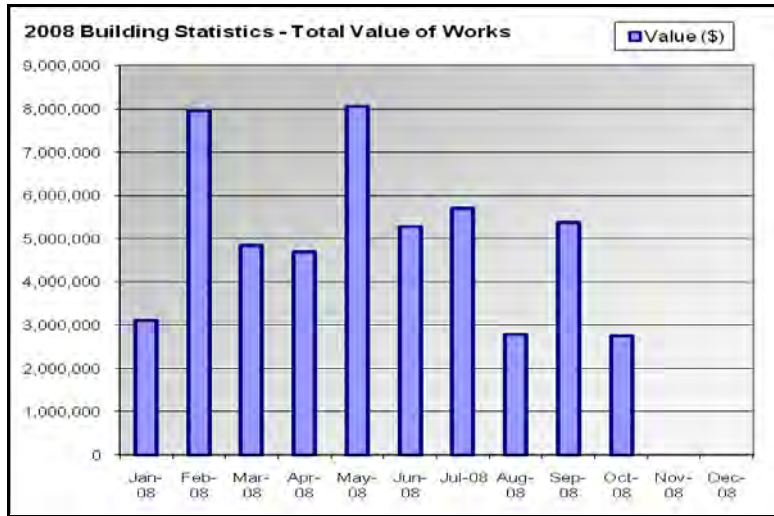


[Pulse Building Statistics](#)

[Financial Yr Stats](#)

[Pulse Building Reports](#)

	Domestic		Residential*		Commercial		Retail		Industrial		Hospital/HealthCare		Public Buildings		Municipal Totals	
	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)
Jan-08	20	2,466,200	1	50,000	1	90,000	1	11,500	0	0	1	500000	0	0	24	3,117,700
Feb-08	47	4,280,656	0	0	3	113,020	0	0	0	0	0	0	1	3,553,701	51	7,947,377
Mar-08	34	4,552,124	0	0	4	156,781	1	100,000	1	20,000	0	0	1	22,000	41	4,850,905
Apr-08	36	4,376,049	0	0	2	38,550	2	227,950	0	0	0	0	3	39,966	43	4,682,515
May-08	35	3,040,877	1	50,000	4	4,660,000	1	55,000	0	0	0	0	1	250,000	42	8,055,877
Jun-08	50	4,422,243	3	600,000	2	144,000	1	0	2	90,000	1	20000	0	0	59	5,276,243
Jul-08	50	4,411,138	0	0	8	532,950	1	15,000	1	10,000	1	9000	2	711,874	63	5,689,962
Aug-08	27	2,491,383	0	0	0	0	1	300,000	0	0	0	0	0	0	28	2,791,383
Sep-08	27	1,183,923	1	750,000	1	2,000	2	17,500	1	124,000	0	0	3	3,289,452	35	5,366,875
Oct-08	32	2,468,125	1	50,000	3	203,000	2	41,105	0	0	0	0	0	0	38	2,762,230
Nov-08																
Dec-08																
<b>Totals</b>	<b>358</b>	<b>33,692,718</b>	<b>7</b>	<b>1,500,000</b>	<b>28</b>	<b>5,940,301</b>	<b>12</b>	<b>768,055</b>	<b>5</b>	<b>244,000</b>	<b>3</b>	<b>529,000</b>	<b>11</b>	<b>7,866,993</b>	<b>424</b>	<b>50,541,067</b>



**Building Stats**

\*\*\*Please note that the Building Commission website has only been updated to October 2008.

**Recommendation(s)**

*That Council's Planning Committee note the December 2008 statistical report.*

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**PC092101-3 CONSTRUCTION OF FOUR (4) DWELLINGS AND A FOUR (4) LOT SUBDIVISION AT 15 CAWOOD STREET, APOLLO BAY**

|             |                                      |           |              |
|-------------|--------------------------------------|-----------|--------------|
| AUTHOR:     | Anne Sorensen                        | ENDORSED: | Doug McNeill |
| DEPARTMENT: | Sustainable Planning and Development | FILE REF: | PP198/08     |

**Location:** 15 Cawood Street, Apollo Bay

**Applicant:**

**Zoning:** Residential 1 Zone

**Overlay controls:** Nil

**Amendment:** Amendment C55 includes the land in the Design and Development Overlay – Schedule 7 (Lower Density Residential Area)

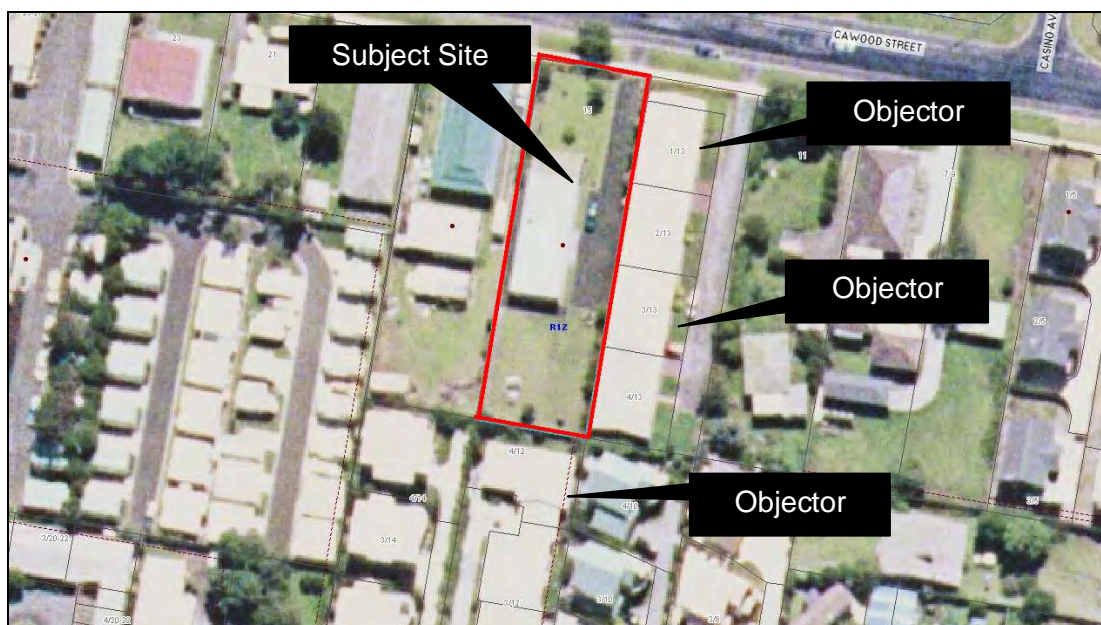
**Abuts:** Residential 1 Zone

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration:**

At the Planning Committee meeting held on 9 December 2008, Council resolved to defer consideration of the planning permit application PP198/08 to enable amended plans submitted by the Applicant to be sent to objectors and adjoining property owners/occupiers for comment.

On 12 December 2008, the amended development plans were sent to all objectors and adjoining property owners/occupiers for comments to be received in writing by 6 January 2009. Comments were received from four of the existing objectors. There were no new objections to the proposal.



**Summary**

- Council resolved at the 9 December 2008 meeting that the amended development plans should be referred to objectors and adjoining property owners/occupiers for comment by 6 January 2009. Further comments were received from four existing objectors. No new objections were received.
- Further minor alterations have been made with a view to addressing some of the concerns raised in the comments received in January from the objectors.
- The amendments made to the layout and design response of the development are regarded to be sufficient enough to warrant support of the development proposal. Reorientation of Unit 1 to address the street frontage along with other changes to Unit 2, 3 and 4 assists in achieving an acceptable outcome from an urban design and a neighbourhood character perspective. The density of the development is acceptable.
- The officer recommendation in December 2008 was that the application be refused, however, with the changes prepared in the latest plans, the proposed development is now in a form that can be supported, being generally consistent with the provisions of the planning scheme. It is recommended that a Notice of Decision to Grant a Planning Permit be issued.

**Proposal**

The development proposal has gone through a number of amendments which are generally outlined in the attached Planning Committee Report for the December 2008 meeting.

The development plans, Revision G, now under consideration propose the use and development of the land for four (4) detached dwellings and a four (4) lot subdivision, and a common property driveway (refer to Appendix A). There is no change to the density of the development.

The major changes from the original proposal are:

- a) Unit 1 has been reorientated to address the street frontage with separate access off Cawood Street;
- b) Unit 4 has had the garage relocated and offset on the south-east boundary to allow an increase in the setback of the dwelling from the southern boundary and minimise overshadowing.
- c) All units have had internal layout changes made to the kitchen/living/dinning areas on the first floor in order to take greater advantage of the northerly aspect and solar orientation.

The development plan shows four 2-storey dwellings with a maximum building height of 6.8m and constructed of a mix of sheet cladding (Ecoply), brickwork and rendered walls with Colourbond skillion roofing. All units comprise of two bedrooms, a bathroom and laundry on the ground floor; and kitchen, dining/living, master bedroom and ensuite and two separate decks on the first floor. Each will have a garage and second tandem space.

The size of each unit is as follows:

- Ground floor area including garage 94.43m<sup>2</sup>;
- First floor area 79.65m<sup>2</sup>;
- Decks 23.54m<sup>2</sup> ;
- Total area including decks 184.28m<sup>2</sup>.

Each dwelling will be contained on a separate lot ranging in area from 246m<sup>2</sup> to 313m<sup>2</sup> (average lot size being 272.57m<sup>2</sup>). A common property driveway area of 248m<sup>2</sup> will be located adjacent to the east boundary and will provide access to Units 2, 3 and 4. A separate driveway will provide access to Unit 1.

### **Subject Site and Locality**

The site is located on the south side of Cawood Street, north of the Apollo Bay town centre, in the Residential 1 Zone.

The site has a rectangular shape with a north-south orientation. It has a frontage to Cawood Street of 20.12m and a depth of 66.54m<sup>2</sup>, with a total area of 1,338.72m<sup>2</sup>. The site contains two single storey attached 1960's style units, accessed via a driveway along the eastern boundary. The balance of the site comprises garden and lawn areas, but otherwise no significant vegetation.

Development to the immediate east, west and directly to the south is single storey with a mix of attached and detached unit development. There are a number of lots in close proximity to this site that have been developed with two storey dwellings. A caravan park is located approximately 80m to the west, and the site is within a short walk to the beach and foreshore area (approximately 200m).

Like much of Apollo Bay, this area is undergoing rapid change and as such the neighbourhood character is evolving.

### **Referrals**

The application was referred to Barwon Water, Telstra, Powercor and Tenix pursuant to Section 55 of the Planning and Environment Act 1987, each providing no objection to the proposal.

Council's Infrastructure and Building Departments were also consulted, each providing no objection to the proposal.

### **Notice of Application**

The application was advertised pursuant to Section 52 of the Planning and Environment Act 1987 with public notices being sent to adjoining and opposite property owners/occupiers and a sign was placed on site for a period of 14 days. At the conclusion of the notification period a total of six (6) objections were received, 4 objections were received from the owner and occupants of Unit 4, 12 Murray Street, one was received from the owner of the unit adjoining to the east (3/13 Cawood Street); and one from the owner of 20 Tuxion Road, some 830m west of the site.

A submission was received from the owner of Unit 1/13 Cawood Street, not objecting to the development providing that if the common fence along the eastern boundary of the development site was replaced that the cost of the replacement be borne by the developer/permit holder.

The grounds of objections may be summarised as follows:

- Loss of views of the foothills and Marriners Lookout from 4/12 Murray Street;
- Overlooking from windows and decks, reducing the privacy of the backyard of Unit 4/12 Murray Street;
- Overshadowing caused by the development of Unit 4/12 Murray Street and Units along the eastern boundary at 13 Cawood Street;
- Noise and potential light glare emanating from Unit 4 deck, impacting on the amenity of Unit 4/12 Murray Street.
- The development is not characteristic of this part of Cawood Street. The bulky design, high ceilings and raked roofline do not fit in with the current streetscape. These units will be completely out of context with the rest of the houses and units around them.
- Noise and glare caused by the driveway of proposed Unit 4 which is directly in line with a bedroom. Slow growing landscaping and the existing low fence will not prevent the loss of amenity;
- Car parking is inadequate and extra cars/boats/trailers parking in Cawood Street would create safety issues;
- Potential removal of the Cypress pine tree on the nature strip;
- Inaccurate/incomplete information provided by the application (extent of two storey dwellings, nature of development to the rear, height of south fence, positioning of doors, windows, no floor levels to a datum point which may result in increased height of units, etc).
- No drainage plan was provided with the application. The back of 15 Cawood Street floods regularly, water flows from the southern end of the western boundary and gathers in the southeast corner. Condition requested that no fill is to be put along the southern boundary so levels consistent with top of sewerage pit in southeast corner.

In response to the Council resolution of the December 2008 Planning Committee meeting, the amended development plan, Revision F, was circulated to all objectors and adjoining landowners/occupier for comment by 6 January 2009. Council received submissions in relation to the amended plans from existing objectors. Additional issues raised relate to:

- *Type of landscaping impacting on daylight of Unit 1, 13 Cawood St;*
- *Car parking reduced on the street and onsite car parking inadequate;*
- *Proposal inconsistent with objectives of DDO6;*
- *Amended location of garage for Unit 4 will be built over a sewerage pit;*
- *Relocation of the garage impacts on views from southern property.*

The matters raised by the objections are discussed in detail in later sections of this report.

**Consideration of the Proposal**

The land is contained within the Residential 1 Zone where a planning permit is required for the subdivision, use and development of land for medium density development. Planning Scheme Amendment C55 includes the site in the Design and Development Overlay – Schedule 7 – Lower Density Residential Areas.

The need for a permit is specifically triggered by the following Clauses:

- Clause 32.01-2, Subdivision
- Clause 32.01-4, Two or More Dwellings on a Lot
- Clause 32.01-6, Buildings & Works Associated with a Section 2 Use

There are a range of State and Local Planning Policies that must be considered when assessing this application, these are detailed below.

**a) State and Local Planning Policy Framework, including the Municipal Strategic Statement.**

The state policy framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

- Clause 15.08 – Coastal Areas
- Clause 15.12 – Energy Efficiency
- Clause 16.02– Medium Density Housing
- Clause 19.03 - Design & Built Form
- Clause 21.04-02– The Coast & Environs
- Clause 21.04-10– Apollo Bay
- Clause 22.05 – Coastal & Otway Ranges Townships

At the broader strategic level, the proposed development provides for medium density development in a coastal location that has been designated for such a use and therefore is consistent with the State Provision of Clause 16.02 and Local Provision of Clause 21.04-2. The layout and design alterations have improved the way that the development responds to energy and urban design principles of Clauses 15.12, 19.03 and 21.04.10.

**b) Planning Scheme Amendment C55 (Review of Planning Scheme)**

Amendment C55 is a result of a review of the Colac Otway Planning Scheme. When Amendment C55 was placed on exhibition in December 2007, the subject land was included in the Design and Development Overlay – Schedule 7 (Lower Density Residential Areas) implementing the recommendations of the Apollo Bay Structure Plan. The Panel, which considered submissions to Amendment C55, supported the inclusion of the land in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area) due to the existing higher density of development in this locality. The Panel, however, did not support an immediate change to the amendment, and recommended that Council exhibit a 'follow-up' amendment to effect this change. This recommendation was adopted by Council at the Council meeting of 28 October 2008. Given the Panel's recommendation, this application has been assessed in accordance with DDO6.



**c) Zoning**

The site is located within a Residential 1 Zone under the Colac Otway Planning Scheme. The purpose of the zone is as follows:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- To encourage residential development that respects the neighbourhood character.
- In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

A permit is required to subdivide, use and develop land for two or more dwellings on a lot (Clause 32.01-4, 32.01-2 and 32.01-6). The proposed development and subdivision must meet the requirements of Clause 55 and 56 (ResCode).

Under Clause 56, where a proposal seeks to create lots of less than 300m<sup>2</sup>, the subdivision must be considered with the proposed development or with building envelopes under the provision of this Clause.

**d) Overlay Controls**

Under Amendment C55 the land will be included in the Design and Development Overlay – Schedule 7 (Lower Density Residential Area), once the amendment is approved by the Minister for Planning, although as noted above, the panel for Amendment C55 has recommended that Council include the land in the DDO6, and the application has been assessed against these provisions.

The relevant DDO6 Design Objectives and Decision Guidelines include:

- To limit building heights and ensure that upper levels are well articulated to respect the character of the area.
- To ensure that new development maintains space between buildings so that views to the surrounding landscape are retained.
- Articulated facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing.

The amended development proposal has been assessed against the existing provisions of the planning scheme including the State and Local provisions, Clause 55 and 56.

There are two key planning considerations in relation to this proposal. Firstly whether the density proposed is appropriate and whether the subsequent built form responds satisfactorily to the relevant planning controls. These matters are discussed below.

**e) Density of site**

As the DDO7 will be replaced by a follow-up amendment in the future it is considered appropriate to assess the proposal against the provisions of the DDO6. It is regarded that the site is suitable for medium density development and can support the density proposed as the DDO6 does not contain any prescriptive density controls. The site presents few constraints with the orientation and allotment configuration assisting in achieving a higher density as it is a rectangular shape, north-south facing allotment. There are no concerns with the proposed plan of subdivision or the density proposed.

**f) Assessment of the built form**

The applicant has been willing to make a range of modifications to the design of the development with the view of improving the liveability of the dwellings, and how the development responds to the site and surrounds and neighbourhood character objectives and ResCode.

While there have been no substantial changes to the external appearance of the development nor the height and bulk, there has been a number of modifications that improve the way the design responds to the streetscape and site context as well as to the solar orientation of living areas that on balance warrant support of the application. The changes made and how they respond to various planning policy objectives and objectors' concerns are discussed below.

The amended development proposal is considered to satisfactorily address the requirements of ResCode.

**Assessment in accordance with Clause 55**Neighbourhood Character

The development proposes no new changes to the design of the development that would further address neighbourhood character since reported in December 2008.

Concerns have been raised by an objector in relation to the loss of views across to the foothills and Marriners Lookout from the objector's dwelling. Consideration of this matter is made having regard to VCAT's established principles for balancing the interests of neighbours in respect of a view:

- (a) There is no legal right to a view;
- (b) Views form part of the existing amenity of a dwelling and their loss is a relevant consideration to be taken into account;
- (c) The availability of views must be considered in light of what constitutes a reasonable sharing of those views; and
- (d) In addressing the concept of "reasonableness" it is relevant to consider
  - (i) the importance of the view to be lost within the overall panorama available;
  - (ii) and whether those objecting have taken all appropriate steps to optimise development of their own properties.
- (e) Added emphasis will be placed on considerations (b) and (c) if the question of views is specifically addressed under the Planning Scheme'.

A recent VCAT determination, *S and M Roxburgh Vs Colac Otway Shire* (P243/2008) for a medium density development in Marengo has given some weight to the sharing of views by neighbours. Although the Tribunal supported the proposed development, the Tribunal required that the development be designed so that views to the ocean could still be obtained by the adjoining property. DDO6 which will be applied to this site seeks 'to ensure that new development maintains space between buildings so that views to the surrounding landscape are retained'.

Any two storey development on the site will result in loss of views from all surrounding properties as the development directly to the south, east and west is single storey. DDO6 has a number of competing objectives. It supports medium density development but also seeks to retain space between built form and longer distance views. The redesign of Unit 4 will further limit views from the objector's dwelling to the south given the design of the single storey unit. Retention of views from this property would be difficult to retain given the design of the unit, however, if Unit 4 reverted back to the design and layout in version E of the plans, the objector would obtain some views through the south-eastern corner of the development site and whilst a redesign of the dwellings to reduce the first floor footprint would provide for more reasonable view sharing, it is considered the impact on views of the latest proposal is reasonable given the single storey nature of the objectors dwelling.

#### Residential Policy

The application provides for medium density development which in the broader sense meets policy objectives for a range of housing types on a strategic basis. Whilst the application will provide for four similarly designed detached dwellings, the changes to siting of Units 1 and 4 now proposed provide some variety within the development.

#### Integration with the Street

The amended plans received show Unit 1 repositioned so that the dwelling addresses the street frontage with the garage located on the western side of the dwelling. This is an improvement on the original orientation of the unit as it previously presented a solid brick wall with no windows or articulation to the street, although the garage located on the western side of the dwelling creates the need for a second crossover which is discouraged in the Neighbourhood Character Description for this precinct. The provision of ResCode, however, does allow a second crossover to be created and the application would meet the relevant standard.

#### Energy Efficiency

The internal design of the dwellings has been modified to take advantage of the northerly aspect. The redesign of the upper levels in particular provides much more appropriate solar access. This greatly enhances the liveability of each of the units and is a marked improvement on the original design. The lack of suitable design response to this standard was one of the key reasons for lack of officer support for previous versions of the plan.

#### Safety

The entrances to the dwellings are not clearly visible and identifiable from the street or internal access ways. They are recessed and obscured, and do not allow for external surveillance. Open space areas at ground level are not private and are not protected from being used as public thoroughfares. This is addressed by the proposed permit conditions which require internal fencing.

### Landscaping

An objector has raised concerns regarding the type of vegetation proposed for the eastern property boundary. The applicant has indicated a willingness to work with the adjoining landowners/occupiers to enable appropriate landscaping to be provided along this boundary. A landscaping plan has been submitted, however, permit conditions will require more appropriate planting to boundaries to screen and soften the development. The landscape plan must give consideration to minimising loss of views from adjoining dwellings and maintaining existing levels of daylight to adjoining development.

### Parking Location

Each dwelling has a conveniently located garage and tandem space, and the dimensions of garaging meets with the requirements of the standard. The applicant has demonstrated that turning circles for these spaces are appropriate.

### Parking Provision

The level of car parking provided on site meets the requirements of the standard. Each dwelling has three bedrooms and is provided with two spaces (a garage and a tandem space). Concerns were raised by an objector regarding the level of car parking and safety issues arising by additional vehicles having to park in Cawood Street. While the development would be likely to generate additional traffic to and on the site, the proposal has complied with the requirements of ResCode. In addition there is on-street parking available for visitors to the development although the need for an additional crossover would have a minor impact on on-street car parking. Concerns were also raised in relation to the driveway that is directly in line with a bedroom causing noise and light glare. Unit 4, as is currently proposed would eliminate this concern.

### Overshadowing Open Space

Overshadowing was raised by the objectors to the south and the east. The owner of Unit 3/13 Cawood Street also objects on the basis of loss of sunlight into three west facing windows. The 'Daylight to Existing windows Objective' under ResCode has been satisfied as a light court exceeding 3m by 1m is available to these windows.

The amended plans received on 28<sup>th</sup> November 2008 provide a setback of 4 metres from Unit 4 to the southern property boundary. This reduces the extent of overshadowing substantially from the original plans submitted with the application.

Shadow diagrams provided, show that shading from the development will now meet the standard under ResCode.

### Overlooking

Overlooking has been raised by objectors, particularly in relation to the balconies and first floor windows. The proposal has been amended to reduce overlooking into the objector's property from Unit 4 by setting the development 4 metres from the southern property boundary and incorporated a 1.8m high screen. The setback of the garage of Unit 4 has been increased to allow for a sewerage pit under the responsibility of Barwon Water. This will also assist in reducing the potential for overlooking and noise emanating from the deck on the top of the garage.

The applicant has indicated that screening can be provided to prevent the potential of overlooking to the east. The applicant has indicated a willingness to consult with the adjoining owners on the type of treatment suitable in order to arrive at a mutually acceptable outcome.

#### Noise

An objector has raised concerns regarding the emission of unacceptable levels of noise and potential disturbance from light glare from Unit 4 on the amenity of the objector to the south. The proposal has been amended to include a solid screen with acoustic insulation to minimise sound transmission from the deck of Unit 4. Should the application be supported, permit conditions will require positioning and use of lights to prevent light glare affecting neighbouring properties.

#### Private Open Space

Private open space areas are provided on first floor deck areas which face east and north and comply with the ResCode standards. There is additional private open space provided at the ground level.

#### Solar Access to Open Space

Solar access to deck areas and ground level open space is satisfactory in accordance with this objective.

#### Design Detail

There were some concerns expressed in the previous officers' report in relation to the bulk and mass of the development, particularly the first floor component of the development. It is considered that with the changes made in the latest amended plans that on balance it is considered that the improvements to the overall design and layout enable the proposal to be supported.

#### Removal of the cypress pine

An objector raised concerns as to whether the cypress pine would be removed from the nature strip. The applicant has confirmed that there is no intention or need to remove the existing cypress pine located on the nature strip.

#### Drainage Plans

Detailed drainage plans are not normally submitted with a development proposal of this type; however, if the development is approved permit conditions will require a drainage plan to show drainage to a legal point of discharge. The development would reduce water runoff from the site and runoff from buildings and driveway areas will be piped into the wastewater system.

#### Outcome of assessment

The applicant has shown a willingness to work with council officers to achieve an improved design outcome for this site. The original layout and design of the development has been substantially improved through a range of modifications with the development meeting the prescriptive requirements of ResCode, enabling the application to be supported.

**e) Relevant Particular Provisions****Clause 52.01 – Public Open Space Contribution:**

A public open space contribution of 5% of the site value of all land in the subdivision will be required if this application is supported. This contribution is required in accordance with Section 18 of the Subdivision Act 1988.

**Summary**

The density of the development is considered to be appropriate and the proposal, as amended, improves the way in which it responds to the site, the neighbourhood character and ResCode. While the development has not capitalised on all of the suggestions in the December 2008 report, on balance, the proposal is a much improved outcome and can now be supported. It is recommended that a Notice of Decision be issued to Grant a Planning Permit for this proposal.

**Recommendation(s)**

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP198/08 for the subdivision, use and development of the land for four (4) dwellings and a four (4) lot subdivision at 15 Cawood Street, Apollo Bay, with the following conditions:***

**General**

- 1. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. External lighting (if required) must be designed, baffled and located on each of the units so that it does not cause any adverse impacts on adjoining land.***

**Drainage/Services**

- 3. All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
- 4. All services to each dwelling must be provided only through the common property area on the south side of the allotment.***
- 5. Prior to commencement of the development, a stormwater detention system designed by a qualified engineer must be lodged with the Responsible Authority verifying that post development stormwater discharge volume from the land does not exceed pre-development stormwater discharge volume to the satisfaction of the Responsible Authority, once approved such design must be endorsed and must form part of the permit issued.***

**Access and Car Parking**

- 6. Access onto and within the property must be constructed to the satisfaction of the Responsible Authority.***

7. ***Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority.***
8. ***The driveways must enter the roadway perpendicular to the roads centre line and be in a safe location for users, pedestrians, cyclists and motorists by consideration of both vertical and horizontal sight distance to the satisfaction of the Responsible Authority.***
9. ***The common property area and driveways must be constructed to an all weather surface being concrete, pavers or similar to the satisfaction of the Responsible Authority.***
10. ***Prior to commencement of the use, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:-***
  - (a) ***Constructed to the satisfaction of the Responsible Authority.***
  - (b) ***Properly formed to such levels that they can be used in accordance with the plans.***
  - (c) ***Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.***
  - (d) ***Drained and maintained to the satisfaction of the Responsible Authority.***

#### ***Landscaping***

11. ***Before the development starts, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
  - (a) ***landscaping and planting within all open areas of the site, including effective planting to the east, west and south boundaries to screen and soften the development, using tree species indigenous to the area. The landscape plan must give consideration to minimising loss of daylight and views from adjoining dwellings;***
  - (b) ***a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.***

***All species selected must be to the satisfaction of the Responsible Authority.***

12. ***The landscaping must be established prior to the occupation of the dwellings hereby permitted and maintained to the satisfaction of the Responsible Authority.***

#### ***Expiry of Permit***

13. ***This permit will expire if one of the following circumstances applies:***
  - ***The development and use are not started within two (2) years of the date of this permit.***
  - ***The development is not completed within four (4) years of the date of this permit.***

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.*

#### **Subdivision**

14. *The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
15. *Prior to the certification of the Plan of Subdivision all easements deemed necessary to protect existing or future drainage lines within the subject site, and any easements required between the subject site and the nominated legal point of discharge must be created to the satisfaction of the Responsible Authority.*
16. *Prior to the issue of a Statement of Compliance, the applicant or owner must pay to the Responsible Authority a sum equivalent to five percent of the site value of all land in the subdivision. Note: This requirement for payment is made pursuant to Section 18 of the Subdivision Act 1988.*
17. *Prior to the issue of a Statement of Compliance, the subdivider must mark street numbers for all lots in the subdivision in accordance with the Shire's street numbering scheme to the satisfaction of the Responsible Authority.*
18. *The Statement of Compliance will not be issued prior to all conditions on the subject Planning Permit are complied with to the satisfaction of the Responsible Authority.*

#### **Conditions Required by Telstra**

19. *That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988.*

#### **Conditions Required Barwon Water**

#### **General**

20. *The creation of easements over all existing and proposed sewers located within the subdivision in favour of the Barwon Region Water Corporation. The width of the easement is to be 2.5m over existing sewer main.*
21. *The certified plan must create implied easements under Section 12 (2) of the Subdivision Act, over all proposed existing water and sewerage works within the subdivision.*
22. *Any plan submitted under the Subdivision Act 1988 must be forwarded to Barwon Water under Section 8 of the Act.*
23. *The creation of an Owners Corporation to encumber all lots within the subdivision.*



**Water**

24. ***The provision and installation of individual water services including meters to all lots in the subdivision in accordance with Barwon water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all meters relative to the allotment boundaries, and its number(s), is to be submitted. Note that tapplings and services are not to be located under existing or proposed driveways.***
25. ***The payment of New Customer Contributions for each additional lot created and/ or each additional metered connection for water supply within the subdivision.***
26. ***An additional tapping(s) is to be supplied to service the proposed development. A dimensioned plan showing location of all new tapplings relative to the allotment boundaries, and its number(s), is to be submitted, where a meter is not being fitted. Note that tapplings and services are not to be located under existing or proposed driveways.***
27. ***Barwon Water's records indicate that an existing water service and meter is located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.***

**Sewer**

28. ***The provision of sewerage services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing regulations. Individual allotment house connections drains are to be provided for and extend into each allotment.***
29. ***The payment of New Customer Contributions for sewer for each additional lot created and/or each additional metered connection within the subdivision.***
30. ***Any existing house connection branch that is to be utilised for additional connections or altered to serve the development is to be CCTV inspected with the report and/or video submitted to Barwon Water for condition assessment. If it is deemed by Barwon Water that the branch is unsatisfactory for use, it is to be removed and replaced at the developer's expense. Also, any existing house connection drain that traverses through the proposed allotments shall be relocated so not to inhibit future development.***

**Conditions Required by Powercor**

31. ***The plan of subdivision submitted for certification under the Subdivison Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.***

**32. The applicant shall:-**

- a) **Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- b) **Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- c) **Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**

**Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of caveat prior to the registration of the plan of subdivision.**

- d) **Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for Powerline purposes" pursuant to section 88 of the Electricity Industry Act 2000.**
- e) **Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- f) **Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- g) **Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**
- h) **Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.**

**33. The time limit for the commencement of the subdivision hereby approved is two years from the date of issue of this permit and it must be completed within five years of the date of the subdivision plan.**

**NOTES**

1. ***Building approval is required for demolition of the existing dwelling and for development of the dwellings, prior to commencement of construction.***
2. ***An application to construct vehicle crossings must be lodged and approved by the Responsible Authority prior to the commencement of works.***
3. ***Approval does not cover alterations to existing Telstra Plant or Network. Locations of existing network can be obtained from Dial Before You Dig – Ph: 1100.***
4. ***For co-ordinated Telstra plant reticulation in this development, please refer to [www.telstrasmartcommunity.com](http://www.telstrasmartcommunity.com) to Register your development and Apply for Reticulation.***
5. ***The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply and sewerage services to the sub division.***

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