



**Colac Otway
SHIRE**

AGENDA

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

13 MAY 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 COUNCIL MEETING

13 MAY 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 13 May 2009 at 10.30 am.

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 acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendants here today.

Colac Otway Shire encourages active community input and participation in Council decisions. Council meetings provide one of these opportunities as members of the community may ask questions relating to matters being considered by Council at the current meeting. Questions not related to current agenda items can be made in writing and will be addressed if received within two days of the Council meeting. Council meetings also enable Councillors to debate matters prior to decisions being taken.

I ask that we all show respect to each other and respect for the office of an elected representative.

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.'

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 11/03/09.

Recommendation

That the Planning Committee confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

- PC091305-1 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF MARCH 2009
- PC091305-2 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF APRIL 2009
- PC091305-3 BUILDING AND WORKS, BUSINESS IDENTIFICATION SIGNAGE AND A WAIVER OF CAR PARKING REQUIREMENTS AT UNIT 1-45 CORANGAMITE STREET, COLAC
- PC091305-4 USE AND DEVELOPMENT OF THE LAND FOR TWO (2) DWELLINGS AND A TWO LOT SUBDIVISION AT 38 GAMBIER STREET, APOLLO BAY
- PC091305-5 USE AND DEVELOPMENT OF THE LAND FOR FIVE (5) DWELLINGS AND A FIVE (5) LOT SUBDIVISION AT 183 GREAT OCEAN ROAD, APOLLO BAY

Jack Green
Acting Chief Executive Officer

PC091305-1 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF MARCH 2009

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

36 Planning permit applications received for the period of 1st March 2009 to 31st March 2009

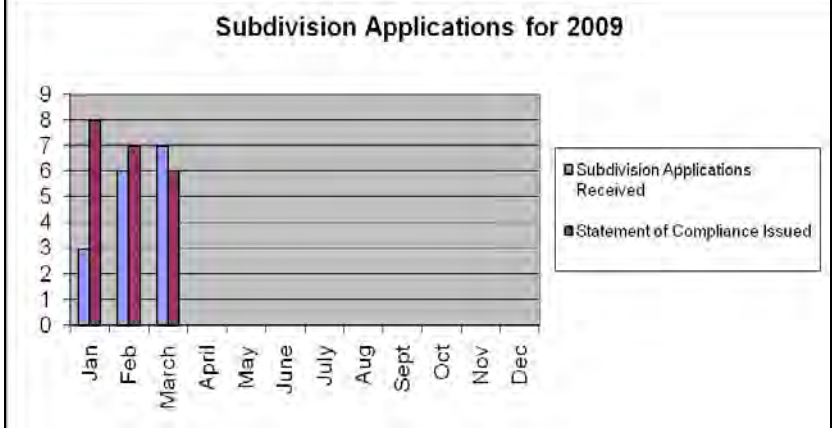
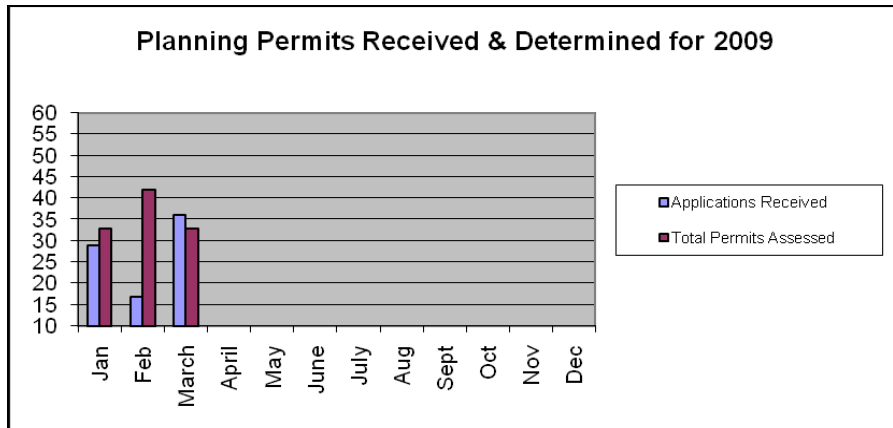
30 Planning permit applications were considered for the period of 1st March 2009 to 31st March 2009

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP1/09	23-Dec-08	RESTORE & REFURBISH THE EXTERNAL BUILDING FABRIC TO IT'S ORIGINAL CONDITION & RE-WORK THE INTERNAL SPACES TO PROVIDE FOR THE CHURCH & COMMUNITY. NEW TOILET FACILITIES ARE TO BE PROVIDED AS AN ADDITION TO THE EAST SIDE OF THE BUILDING. THE EXTENDED AREA TO THE REAR OF THE HALL WILL BE DEMOLISHED THUS PRESERVING THE ORIGINAL HALL STRUCTURE.	06-Mar-09	73	UNDER DELEGATION	Permit Issued
PP143/95-B	10-Feb-09	REMOVE REFERENCE TO SECTION 173 IN CONDITION 3 & 10	12-Mar-09	30	UNDER DELEGATION	Permit Issued
PP17/09	19-Jan-09	USE & DEVELOPMENT OF A DWELLING & SHED	17-Mar-09	37	UNDER DELEGATION	Permit Issued
PP177/08	20-May-08	USE & DEVELOPMENT OF A LICENSED CAFE WITH ANCILLARY MICRO-BREWING FACILITY, ON PREMISE LIQUOR LICENCE, WAIVER OF CARPARKING, ASSOCIATED WORKS AND SIGNAGE	18-Mar-09	33	COUNCIL	NOD To Grant Permit
PP23/09	27-Jan-09	REPLACEMENT OF EXISTING BUSINESS IDENTIFICATION SIGNAGE	17-Mar-09	49	UNDER DELEGATION	Permit Issued

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP24/09	30-Jan-09	CONSTRUCTION OF A CONCRETE FOOTPATH	06-Mar-09	34	UNDER DELEGATION	Withdrawn
PP270/08	14-Aug-08	DEVELOPMENT OF A GARDEN SHED	20-Mar-09	53	UNDER DELEGATION	Refusal To Grant
PP272/08	14-Aug-08	ALTER LOT ENTITLEMENTS & LOT LIABILITY OF ALL LOTS ON PS548144T	05-Mar-09	38	UNDER DELEGATION	Permit Issued
PP280/07	17-Oct-07	USE AND DEVELOPMENT OF A REFUSE TRANSFER STATION	12-Mar-09	243	UNDER DELEGATION	Permit Issued
PP29/09	02-Feb-09	ADDITION TO EXISTING SHED FOR STORAGE.	05-Mar-09	31	UNDER DELEGATION	Permit Issued
PP30/09	04-Feb-09	TO REPLACE EXISTING CORRUGATED IRON ROOF.	03-Mar-09	27	UNDER DELEGATION	Withdrawn
PP314/08	12-Sep-08	DEVELOPMENT OF LAND FOR MULTIPLE DWELLINGS	05-Mar-09	115	UNDER DELEGATION	Permit Issued
PP329/08	26-Sep-08	USE & DEVELOPMENT OF A 2 CUBICAL TOILET AND POSITION THE 2ND AMENITIES HUT.	11-Mar-09	142	UNDER DELEGATION	NOD To Grant Permit
PP34/09	09-Feb-09	CONSTRUCTION OF A CARPORT & RAIN WATER TANK	05-Mar-09	24	UNDER DELEGATION	Permit Issued
PP341/07-B	20-Feb-09	USE & DEVELOPMENT OF A DWELLING & SHED-AMENDMENT	05-Mar-09	15	UNDER DELEGATION	Permit Issued
PP36/09	13-Feb-09	CONSTRUCTION OF A FARM SHED	04-Mar-09	20	UNDER DELEGATION	Permit Issued
PP366/08	23-Oct-08	CONSTRUCTION OF A PORCH, VERANDAH AND COLOURBOND FENCE	10-Mar-09	0	UNDER DELEGATION	Application Lapsed

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP387/08	12-Nov-08	DEVELOPMENT OF A DWELLING & HABITABLE OUTBUILDING	17-Mar-09	91	UNDER DELEGATION	Permit Issued
PP395/08	11-Nov-08	CONSTRUCTION OF A CARPORT	06-Mar-09	0	UNDER DELEGATION	Permit Not Required
PP447/08	15-Dec-08	CONSTRUCTION OF A CARPORT	05-Mar-09	68	UNDER DELEGATION	Permit Issued
PP455/08	15-Dec-08	DEVELOPMENT OF A DWELLING	17-Mar-09	25	UNDER DELEGATION	Permit Issued
PP458/08	16-Dec-08	USE & DEVELOPMENT OF A FARM SHED & REMOVAL OF TREE	04-Mar-09	52	UNDER DELEGATION	Permit Issued
PP459/08	16-Dec-08	USE & DEVELOPMENT OF A FARM SHED	05-Mar-09	79	UNDER DELEGATION	Permit Issued
PP460/08	16-Dec-08	CONSTRUCTION OF TRADE SUPPLIES SHED	17-Mar-09	91	UNDER DELEGATION	Permit Issued
PP461/08	17-Dec-08	EXTENSION TO EXISTING DWELLING	05-Mar-09	50	UNDER DELEGATION	Permit Issued
PP47/09	05-Mar-09	CONSTRUCTION & USE OF A DWELLING & SHED	26-Mar-09	22	UNDER DELEGATION	Permit Issued
PP5/09	07-Jan-09	EXTENSION OF CURRENT SHOW ROOM.	06-Mar-09	58	UNDER DELEGATION	Permit Issued
PP55/09	16-Mar-09	INGROUND SWIMMING POOL	24-Mar-09	8	UNDER DELEGATION	Permit Issued
PP69/09	24-Mar-09	TO ENCLOSE VERANDAH TO CREATE PERGOLA	30-Mar-09	0	UNDER DELEGATION	Permit Not Required

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
		Average Days to Process Planning Application		52		



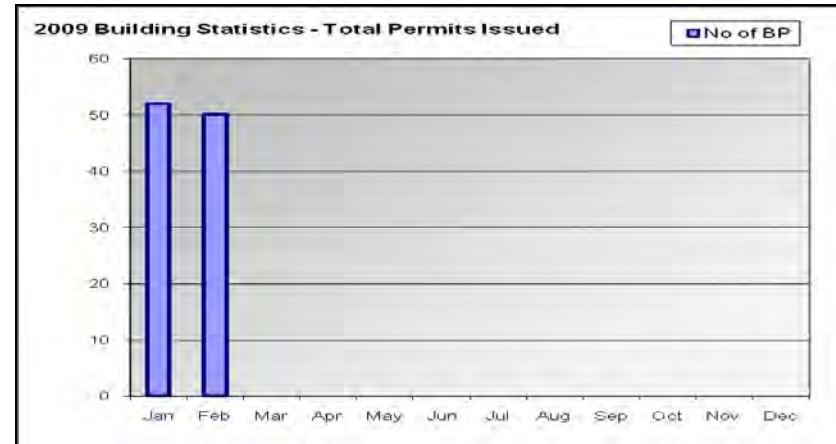
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[Pulse Building Reports](#)

	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	43	3,586,040	1	105,000	6	165,090	1	10,000	0	0	0	0	1	0	52	3,866,130
Feb	42	4,777,075	0	0	4	163,950	0	0	0	0	1	28138	3	181,906	50	5,151,069
Mar																
Apr																
May																
Jun																
Jul																
Aug																
Sep																
Oct																
Nov																
Dec																
Totals	85	8,363,115	1	105,000	10	329,040	1	10,000	0	0	1	28,138	4	181,906	102	9,017,199

*Multi-Development



Building Stats

*****Please note that the Building Commission Website has been updated to February 2009**

Recommendation(s)

That Council's Planning Committee note the March 2009 Planning and Building statistical report.

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**PC091305-2 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF APRIL 2009**

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

27 Planning permit applications received for the period of 1<sup>st</sup> April 2009 to 30<sup>th</sup> April 2009

49 Planning permit applications were considered for the period of 1<sup>st</sup> April 2009 to 30<sup>th</sup> April 2009

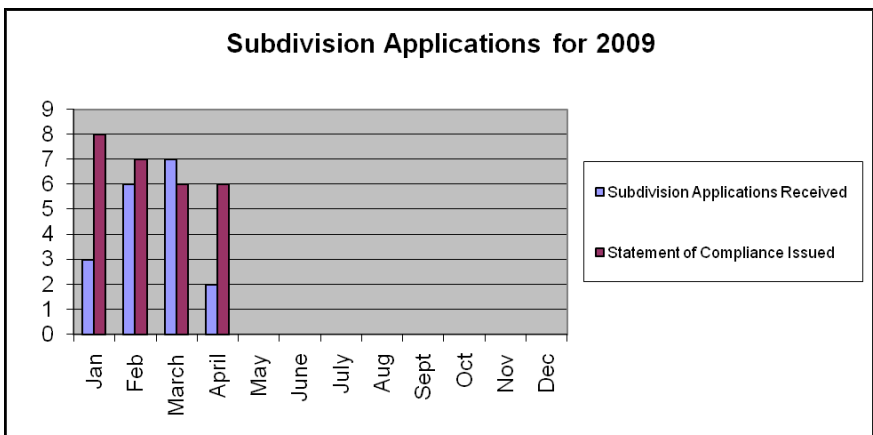
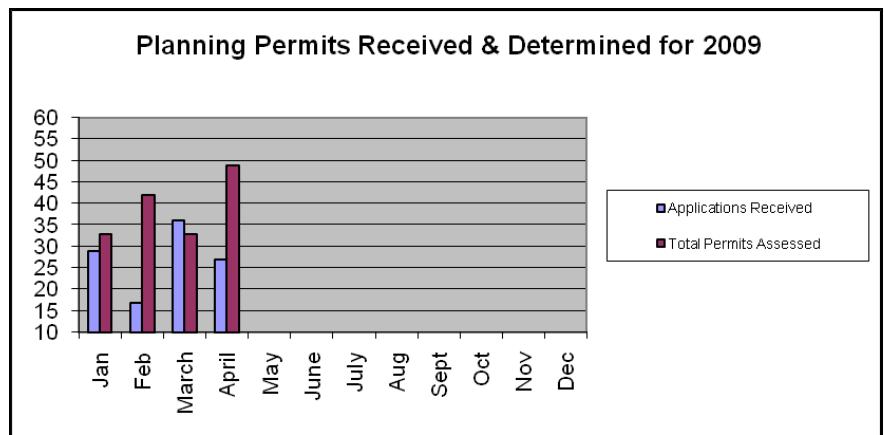
| APPLIC NO  | DATE RECEIVED | Proposal                                                                                                                                                             | DATE ISSUED | ACTUAL TIME | Authority        | Decision           |
|------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|--------------------|
| PP10/09    | 12-Jan-09     | TRIMMING OF TREES                                                                                                                                                    | 23-Apr-09   | 41          | UNDER DELEGATION | Permit Issued      |
| PP117/04-A | 02-Oct-08     | CONSTRUCTION OF A DWELLING - AMENDMENT                                                                                                                               | 21-Apr-09   | 0           | UNDER DELEGATION | Application Lapsed |
| PP13/09    | 15-Jan-09     | CONSTRUCTION SINGLE DWELLING.                                                                                                                                        | 06-Apr-09   | 74          | UNDER DELEGATION | Permit Issued      |
| PP15/09    | 19-Jan-09     | THREE (3) LOT SUBDIVISION.                                                                                                                                           | 16-Apr-09   | 63          | UNDER DELEGATION | Permit Issued      |
| PP18/09    | 22-Jan-09     | DEVELOPMENT OF A SINGLE DWELLING                                                                                                                                     | 06-Apr-09   | 59          | UNDER DELEGATION | Permit Issued      |
| PP19/09    | 28-Jan-09     | USE & DEVELOPMENT OF A DWELLING                                                                                                                                      | 24-Apr-09   | 65          | UNDER DELEGATION | Permit Issued      |
| PP20/09    | 20-Jan-09     | DEVELOPMENT OF AN EXTENSION TO AN EXISTING SHED                                                                                                                      | 06-Apr-09   | 77          | UNDER DELEGATION | Permit Issued      |
| PP232/08-A | 11-Feb-09     | DEMOLISH EXISTING STORE AND CARPORT, CONSTRUCT TWO (2) TOILET BLOCKS AND CONSTRUCTION OF A SHED. AMENDMENT - INSTALLATION OF A 125,000LITRE STORMWATER STORAGE TANK. | 20-Apr-09   | 21          | UNDER DELEGATION | Permit Issued      |

| APPLIC NO  | DATE RECEIVED | Proposal                                                                          | DATE ISSUED | ACTUAL TIME | Authority        | Decision           |
|------------|---------------|-----------------------------------------------------------------------------------|-------------|-------------|------------------|--------------------|
| PP27/09    | 30-Jan-09     | TWO (2) LOT SUBDIVISION                                                           | 16-Apr-09   | 37          | UNDER DELEGATION | Permit Issued      |
| PP277/08   | 14-Aug-08     | USE & DEVELOPMENT OF LAND FOR A DWELLING, ASSOCIATED WORKS & ACCESS               | 30-Apr-09   | 105         | UNDER DELEGATION | Permit Issued      |
| PP284/04-B | 13-Feb-09     | CONSTRUCTION OF A DWELLING - AMENDMENT EXTENSION                                  | 09-Apr-09   | 55          | UNDER DELEGATION | Permit Issued      |
| PP3/09     | 05-Jan-09     | USE AND DEVELOPMENT OF A DWELLING AND & FARM SHED                                 | 16-Apr-09   | 65          | UNDER DELEGATION | Permit Issued      |
| PP304/08   | 21-Aug-08     | REMOVAL OF NATIVE VEGETATION - TREE FERNS                                         | 09-Apr-09   | 39          | UNDER DELEGATION | Application Lapsed |
| PP305/08   | 11-Sep-08     | ADDITION TO EXISTING KINDERGARTEN                                                 | 28-Apr-09   | 128         | UNDER DELEGATION | Permit Issued      |
| PP31/09    | 04-Feb-09     | B & B ADVERTISING SIGN.                                                           | 14-Apr-09   | 47          | UNDER DELEGATION | Permit Issued      |
| PP328/08   | 22-Sep-08     | USE & DEVELOPMENT OF 2 DOUBLE STORY DWELLINGS                                     | 30-Apr-09   | 107         | UNDER DELEGATION | Refusal To Grant   |
| PP344/08   | 08-Oct-08     | CONSTRUCTION OF A GARAGE                                                          | 03-Apr-09   | 0           | UNDER DELEGATION | Application Lapsed |
| PP35/09    | 09-Feb-09     | ENCLOSE EXISTING DECK TO CREATE A LARGER LIVING AREA WITHIN THE EXISTING DWELLING | 14-Apr-09   | 64          | UNDER DELEGATION | Permit Issued      |
| PP359/08   | 20-Oct-08     | TWO (2) LOT PLAN OF SUBDIVISION                                                   | 03-Apr-09   | 0           | UNDER DELEGATION | Application Lapsed |
| PP361/08   | 20-Oct-08     | TO INSTALL AN INTERNALLY ILLUMINATED SKY SIGN                                     | 16-Apr-09   | 52          | UNDER DELEGATION | Permit Issued      |

| APPLIC NO | DATE RECEIVED | Proposal                                                               | DATE ISSUED | ACTUAL TIME | Authority        | Decision           |
|-----------|---------------|------------------------------------------------------------------------|-------------|-------------|------------------|--------------------|
| PP37/09   | 10-Feb-09     | CONSTRUCTION OF TWO (2) CHANGE ROOMS                                   | 22-Apr-09   | 71          | UNDER DELEGATION | Permit Issued      |
| PP374/08  | 03-Nov-08     | EXTENSION TO EXISTING DWELLING & REMOVAL OF SEVEN (7) CYPRESS TREES    | 30-Apr-09   | 87          | UNDER DELEGATION | Permit Issued      |
| PP389/08  | 06-Nov-08     | VEGETATION REMOVAL                                                     | 01-Apr-09   | 0           | UNDER DELEGATION | Application Lapsed |
| PP397/08  | 14-Nov-08     | TWO (2) LOT SUBDIVISION                                                | 06-Apr-09   | 145         | UNDER DELEGATION | Refusal To Grant   |
| PP399/08  | 14-Nov-08     | TWO (2) LOT SUBDIVISION                                                | 23-Apr-09   | 99          | UNDER DELEGATION | Refusal To Grant   |
| PP4/09    | 08-Jan-09     | CONSOLIDATION & TWO (2) LOT RE-SUBDIVISION                             | 16-Apr-09   | 65          | UNDER DELEGATION | Permit Issued      |
| PP40/09   | 16-Feb-09     | EXTENSION TO EXISTING DWELLING & SHED                                  | 06-Apr-09   | 49          | UNDER DELEGATION | Permit Issued      |
| PP402/08  | 18-Nov-08     | TELECOMMUNICATIONS FACILITY BUILDINGS AND WORKS                        | 08-Apr-09   | 0           | UNDER DELEGATION | Withdrawn          |
| PP404/08  | 19-Nov-08     | TO EXTEND THE EXISTING DWELLING                                        | 16-Apr-09   | 0           | UNDER DELEGATION | Application Lapsed |
| PP41/09   | 17-Feb-09     | DEVELOPMENT OF A SHED.                                                 | 16-Apr-09   | 34          | UNDER DELEGATION | Permit Issued      |
| PP417/08  | 27-Nov-08     | CONSTRUCTION OF A STORAGE SHED FOR THE PURPOSE OF RECYCLING MATTRESSES | 23-Apr-09   | 24          | UNDER DELEGATION | Permit Issued      |
| PP437/08  | 05-Dec-08     | EXTENSION AND ALTERATION TO ACCOMMODATION UNIT                         | 16-Apr-09   | 125         | UNDER DELEGATION | Permit Issued      |

| APPLIC NO | DATE RECEIVED | Proposal                                                                                          | DATE ISSUED | ACTUAL TIME | Authority        | Decision            |
|-----------|---------------|---------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------------|
| PP457/08  | 16-Dec-08     | FOUR (4) LOT SUBDIVISION                                                                          | 15-Apr-09   | 0           | UNDER DELEGATION | Withdrawn           |
| PP462/08  | 19-Dec-08     | USE & DEVELOPMENT OF AN ESSENTIAL SERVICES FACILITY (AMBULANCE STATION)                           | 30-Apr-09   | 59          | UNDER DELEGATION | NOD To Grant Permit |
| PP47/08   | 29-Nov-07     | CONSTRUCTION OF TWO (2) INDUSTRIAL SHEDS & THREE (3) LOT SUBDIVISION                              | 03-Apr-09   | 111         | UNDER DELEGATION | Application Lapsed  |
| PP48/09   | 06-Mar-09     | CONSTRUCTION OF A GARAGE & VERANDAH                                                               | 16-Apr-09   | 28          | UNDER DELEGATION | Permit Issued       |
| PP50/09   | 06-Mar-09     | CONSTRUCTION OF A SHED                                                                            | 15-Apr-09   | 23          | UNDER DELEGATION | Permit Issued       |
| PP53/09   | 11-Mar-09     | THREE LOT RE-SUBDIVISION - ALTERATION OF TITLE BOUNDARY                                           | 30-Apr-09   | 38          | UNDER DELEGATION | Permit Issued       |
| PP54/09   | 12-Mar-09     | INTERNALLY ILLUMINATED SIGNAGE                                                                    | 07-Apr-09   | 26          | UNDER DELEGATION | Permit Issued       |
| PP56/09   | 11-Mar-09     | ALTERATIONS & ADDITIONS TO EXISTING DWELLING INCLUDING PARTIAL DEMOLITION                         | 09-Apr-09   | 24          | UNDER DELEGATION | Permit Issued       |
| PP64/09   | 19-Mar-09     | TWO STOREY ADDITION TO EXISTING DWELLING INCLUDING DEMOLITION OF LAUNDRY AND STORAGE AREA AT REAR | 28-Apr-09   | 40          | UNDER DELEGATION | Permit Issued       |
| PP67/09   | 23-Mar-09     | TO REPLACE EXISTING SIGNAGE & PAINT EXTERNAL BUILDING FACADE                                      | 28-Apr-09   | 36          | UNDER DELEGATION | Permit Issued       |
| PP7/09    | 09-Jan-09     | CONSTRUCTION OF A DAM & POND                                                                      | 06-Apr-09   | 49          | UNDER DELEGATION | Permit Issued       |
| PP78/09   | 01-Apr-09     | REPLACEMENT OF SIGNAGE                                                                            | 23-Apr-09   | 22          | UNDER DELEGATION | Permit Issued       |

| APPLIC NO                                           | DATE RECEIVED | Proposal                                                        | DATE ISSUED | ACTUAL TIME | Authority        | Decision         |
|-----------------------------------------------------|---------------|-----------------------------------------------------------------|-------------|-------------|------------------|------------------|
| PP79/09                                             | 01-Apr-09     | REPLACEMENT OF SIGNAGE                                          | 23-Apr-09   | 22          | UNDER DELEGATION | Permit Issued    |
| PP8/09                                              | 12-Jan-09     | CONSTRUCTION OF A DWELLING, SHED & DAM                          | 14-Apr-09   | 94          | UNDER DELEGATION | Refusal To Grant |
| PP80/09                                             | 01-Apr-09     | DEVELOPMENT OF A CARPORT (REPLACING EXISTING)                   | 23-Apr-09   | 22          | UNDER DELEGATION | Permit Issued    |
| PP86/09                                             | 07-Apr-09     | DEVELOPMENT OF TWO STREET SIGNS & FIFTEEN DESIGNATED TREE SIGNS | 16-Apr-09   | 9           | UNDER DELEGATION | Permit Issued    |
| PP99/05-A                                           | 14-Mar-09     | CHANGES TO SIGNAGE BY SECONDARY CONSENT                         | 23-Apr-09   | 9           | UNDER DELEGATION | Permit Issued    |
| <b>Average Days to Process Planning Application</b> |               |                                                                 |             | <b>48</b>   |                  |                  |



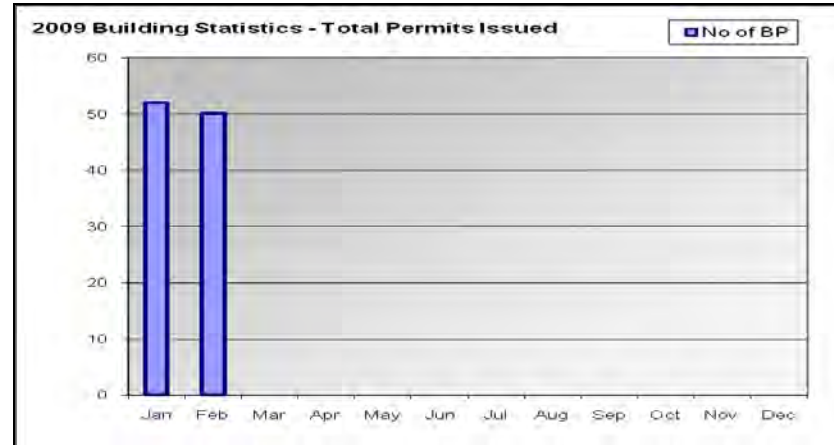
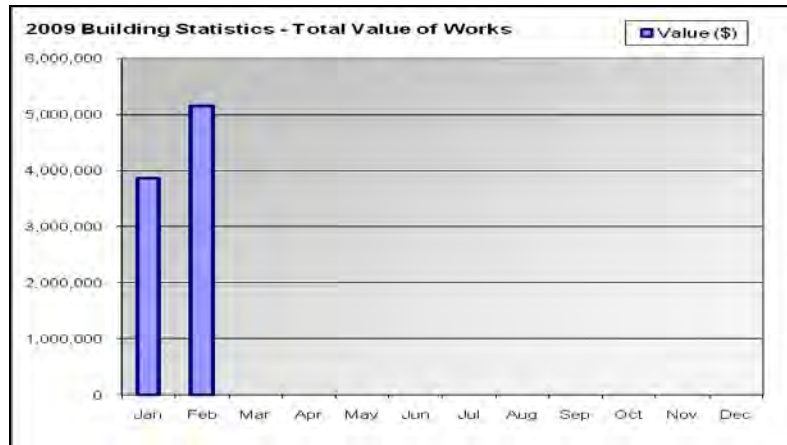
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|               | Domestic  |                  | Residential* |                | Commercial |                | Retail   |               | Industrial |            | Hospital/HealthCare |               | Public Buildings |                | Municipal 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           | 43        | 3,586,040        | 1            | 105,000        | 6          | 165,090        | 1        | 10,000        | 0          | 0          | 0                   | 0             | 1                | 0              | 52               | 3,866,130        |
| Feb           | 42        | 4,777,075        | 0            | 0              | 4          | 163,950        | 0        | 0             | 0          | 0          | 1                   | 28138         | 3                | 181,906        | 50               | 5,151,069        |
| Mar           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Apr           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| May           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Jun           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Jul           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Aug           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Sep           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Oct           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Nov           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| Dec           |           |                  |              |                |            |                |          |               |            |            |                     |               |                  |                |                  |                  |
| <b>Totals</b> | <b>85</b> | <b>8,363,115</b> | <b>1</b>     | <b>105,000</b> | <b>10</b>  | <b>329,040</b> | <b>1</b> | <b>10,000</b> | <b>0</b>   | <b>0</b>   | <b>1</b>            | <b>28,138</b> | <b>4</b>         | <b>181,906</b> | <b>102</b>       | <b>9,017,199</b> |

\*Multi-Development





**Building Stats**

**\*\*\*Please note that the Building Commission Website has been updated to February 2009**

**Recommendation(s)**

***That Council's Planning Committee note the April 2009 statistical report.***

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PC091305-3 BUILDING AND WORKS, BUSINESS IDENTIFICATION SIGNAGE AND A WAIVER OF CAR PARKING REQUIREMENTS AT UNIT 1-45 CORANGAMITE STREET, COLAC

| | | | |
|-------------|--------------------------------------|-----------|--------------|
| AUTHOR: | Rob Fillisch | ENDORSED: | Doug McNeill |
| DEPARTMENT: | Sustainable Planning and Development | FILE REF: | PP408/08 |

Location:

Applicant:

Zoning: Business 1 Zone

Overlay controls: Nil

Amendment: Nil

Abuts: Business 1 Zone

Restrictive Covenants: Nil

Reasons for Planning Committee consideration:

This application is before Planning Committee as a reduction in car parking requirements is being sought.



Summary

- The application seeks approval to expand the existing retail premises at Unit 4/45 Corangamite Street, Colac into the adjoining building (Unit 1) currently used for the purpose as offices. It also includes the construction of a new verandah over the footpath along Corangamite Street and additional business identification signage and a waiver of car parking.

- PP278/04 was issued in August 2004 to allow the use of 4/45 Corangamite Street, Colac for the purposes of a retail shop, alterations to the building, signage, reduction in car parking requirements and a variation to loading bay requirements. Unit 4 has been since used as a retail outlet by Betta Electricals.
- Council's Infrastructure Department has no objection to the construction of the verandah over the footpath provided it complies with the building requirements, provides appropriate height clearance and setbacks from the building and kerb.
- The change of use from office to restricted retail premises (shop) requires Council to consider car parking requirements. There is no capacity for additional car parking to be provided on site.
- Previous planning approvals have acknowledged the constraints of this site in terms of providing car parking on-site. For such a small expansion of an existing use, it is considered appropriate to support the waiver of car parking in this circumstance.
- The proposal was advertised and no objections were received.
- This report recommends Council support the proposal as the increased retail floor area is considered to create a negligible effect on the current car parking within the area.

Background

Unit 1 forms part of a much larger building that is built to the boundary on all sides.

Historically, the premises had been used for decades by Bryan Bros & Borch as a steel fabrication plant which also involved retail and wholesale of trade supplies such as plumbing and bathroom products. This business closed in 1987.

In more recent times, the premise was used for leisure and recreation activities including indoor cricket and soccer.

Planning approval PP459/02 was issued by Council in February 2003 to allow the premises to be used as a nightclub. The nightclub was never formally opened and the planning permit has expired. As the building occupies the entire site, there has never been any formal 'on site' car parking associated with any of the prior uses.

The premise was vacant for some time until planning approval was issued for the Betta Electricals. PP278/04 issued in August 2004 allowed a change of use to retail shop, alterations to the building, signage, reduction in car parking requirements and a variation to loading bay requirements.

PP278/04 approved an internally illuminated sign 2.2m x 2.8 m with total area of 6.1m² attached to the facade and other business identification signage and allowed a waiver of 112 car spaces on the basis of existing credits that would apply for past uses of the site.

Proposal

The applicant proposes to remove all the internal walls within the existing building of Unit 1/45 Corangamite Street with the exception of a small storeroom/toilet located in the western corner. This space will be incorporated into the existing Betta Electrical store surrounding the existing offices by removing the internal non load bearing walls which currently separate the two businesses. This additional space of 213m² will increase the overall site floor area of the Betta Electrical store to approximately 1646m². The additional area will provide a larger open area allowing display of a wider range of goods. It also increases the frontage to the street, providing a more visually prominent site from the street.

The existing floor will be lowered to create a single level across the site. This floor level will be lower than the surrounding Betta Electrical store. A combination of balustrade and steps will be constructed at the change of floor level.

The windows on the eastern elevation will be replaced with full shop front glazing in panels of 2300 X 2700 mm and an automatic sliding door. The area above the windows and doors and the existing roller door will be infilled and given a rendered finish. The existing door and window unit located on the corner of Corangamite Street and the adjoining laneway will be replaced with shop front glazing.

A new steel verandah is to be constructed along the full length of both the existing office and Betta Electrical store along Corangamite Street. The verandah will have a minimum height of 3.0 metres and extend 3.0 metres out from the building. Seven steel posts will support the structure with a 2.0 metre set back from Corangamite Street kerb.

Four ground level garden beds are proposed to be placed partially under the verandah along the footpath set back 1.4 metres from the Corangamite Street kerb. Each planter box is approximately 3.2 x 1.5 metres in size, and is to be maintained by the applicant.

The applicant also seeks to include business signage on the front facade of the building both above and beneath the new verandah. The exact dimensions of the proposed signage have not been provided however an artist's impression of signage has been provided.

Subject Site and Locality

The subject site is located at 1/45 Corangamite Street, Colac and forms part of a much larger development that occupies the entire site. The land is bounded by Skenes Street to the north, Corangamite Street to the east and a laneway to the south and west. There is no provision for off-street car parking on the land.

The whole of the site is fully developed with Unit 1 being used as an existing office building by an apprentice training organisation. No planning approval is required under the Business 1 Zone to use land for an office.

Surrounding businesses include the Austral Hotel, Toyota dealership, Coles Supermarket and a variety of smaller stores. The Austral Hotel and Coles Supermarket both provide on-site parking at the rear of their premises. The site is located within the defined central business area and zoned as Business 1.

Corangamite Street is a wide local road with angle parking, concrete footpaths and naturestrips provided on both sides of the road reserve. The naturestrips contain several established street trees.

Referrals

The application was referred internally to Council's Infrastructure, Building and Local Laws Departments.

No issues were raised by these Departments, however, comment was provided by Building Department that a building permit would be required.

Council's Infrastructure Department requires 5 conditions with regard to the verandah and footpath clearance.

Formal consent will be required to construct the verandah over the footpath and install garden beds from Council as the land is located within the road reserve managed by Council.

Notice of application

Notice of the application was given in accordance with Section 52 of the Planning and Environment Act 1987 due to the dispensation of car parking. This was undertaken by sending letters to the adjoining owners only. No objections were received.

Consideration of proposal

a) State Planning Policy Framework (SPPF)

The proposal is considered to accord with the relevant directions of the SPPF, including Clause 14.01 – Settlement, Clause 17.02 – Economic Development and Clause 19.03 – Particular Uses and Development. The proposal develops an existing building for the purpose of an existing commercial use within the defined central business area. The design of the building facade and verandah is appropriate for the commercial area and provides positive integration with the street.

b) Local Planning Policy Framework (LPPF)

The proposal is considered to accord with Clause 21.04-12 which seeks to promote Colac as the key centre for economic and community focus. The proposal consolidates and expands the existing floor space of an existing commercial enterprise within the central business area which assists in promoting the Colac business area to the whole region.

c) Zoning Provisions

The site is included in the Business 1 Zone which requires planning approval for the following:

- Clause 34.01-4 *Business 1 Zone – Buildings and works*
- Clause 52.05-7 *Advertising signs- Category 1 business areas*
- Clause 52.06-1 *Car Parking – Waiving of car parking*

The use of the land for ‘restricted retail premises’ under the Business 1 Zone does not require planning approval. The definition of ‘restricted retail premises’ under the planning scheme includes the use of land for “household appliances, household electrical goods and home entertainment goods”.

A permit is required to construct a building or carry out works with the following exceptions:

- An alteration of an existing building facade provided:
 - *The alteration does not include the installation of an external roller shutter.*
 - *At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing.*
- *An awning that projects over a road if it is authorised by the relevant public land manager.*

The purpose of the Business 1 Zone is to:

- *Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies*
- *Encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.*

The proposal is considered to accord with the purpose and decision guidelines of the zone.

The proposal intensifies the provision of retail services in an appropriate location within the identified business district.

The inclusion of a new verandah and alterations to the facade will provide an active frontage adding to the streetscape and provide shelter for pedestrians without compromising the existing street trees. Signage is Category 1 and is discussed further in this report.

d) Particular Provisions

Clause 52.05 Advertising signs.

Advertising signs within the Business 1 Zone are classified as Category 1 – Business areas.

Business identification signs are a Section 1- permit not required providing the total area of all signs to each premises does not exceed 8m². If the signage is over 8m² a permit is required.

It is noted that the applicant has not provided final details of the proposed signage but has provided an artist's impression of likely signage. From the artist's impression provided it is considered the following signage is proposed:

- Three panels above the verandah with wording 'Betta Electrical' approximately 3 x 1.8 metres
- Above verandah wording 'BALL & CROFT' approximately 5 x 1 metres
- Strip of red background along the frontage of the building directly below the verandah with lettering reading 'FURNITURE', 'BEDDING' & 'ELECTRICAL' approximately 26 x 0.6 metres
- An existing roller door will be replaced with a pictorial type sign approximately 2 x 3.5 metres

The proposed signage is estimated to occupy in the order of 33 square metres, exceeding the 8m² allowed without planning approval. This includes signage approved by PP278/04 currently located on the existing premises including the illuminated sign of 6.1m².

The proposal is considered to accord with the purpose and decision guidelines of Clause 52.05 *Advertising signs*. The signage is considered appropriate given the location within the central business district and the pattern of other signage in this area.

Clause 52.06 Car parking

Car parking requirements are set out at Clause 52.06-1. Restricted retail premises is included under 'shop' in the definitions of the Colac Otway Planning Scheme and has a requirement of 8 car spaces per 100 sq. metres of floor space. Under clause 52.06-1 consideration can also be given to granting a permit to reduce or waive the number of car spaces required.

The area included in 1/45 Corangamite Street is currently occupied as an *office* and the proposal is to change its use to '*restricted retail premises*'. As the premise has been operating as an office it can be assumed that the site has car parking credits that can be off-set against any car parking requirement for the change of use.

The car parking requirements are set in Clause 52.06-5 *Car parking table* and state the following rate for the two uses:

| Use | Table 52.06-5 measure | Rate | Spaces required for 213 m ² floor space |
|----------------------------|---|------|--|
| Office | Car spaces to each 100 sqm of net floor area | 3.5 | 7.5 credit |
| Shop | Car spaces to each 100 sqm of leasable floor area | 8 | 17 required |
| Balance Outstanding | | | 9.5 spaces |

It is considered that a credit of 7.5 car parks is available as the site has previously been used for the purpose of an office.

The new use requires a total of 17 car spaces minus the 7.5 credits from the previous use, leaving a balance of 9.5 car spaces being required.

The car parking requirement of Table 52.06-5 is generally considered to be a higher rate than what is normally required. Many VCAT determinations reduce the requirement to a lower level of 4 spaces per 100m².

A review of the current car parking requirements in planning schemes has been undertaken by an advisory committee appointed by the State Government. This committee produced a draft document "Review of parking provisions in the Victoria Planning Provisions" in August 2007. While this document has not been formally adopted it recommends a rate of 3 car spaces per 100m² for *restricted retail premises*. At the rate of 3 car spaces per 100m², the car parking requirements of this proposal would be 6 car spaces and once the car parking credit of 7.5 was acknowledged, no additional car parking would be required.

The Officer's report for PP278/04, made a detailed assessment of car parking credits based on previous uses of Unit 4 and found that a credit of 124 car spaces could be applied for this part of the building. As the proposal under PP278/04 required 112 car spaces, a waiver of car parking was granted on the basis of existing car parking credits.

Council has engaged a consultant to undertake a Car Parking Strategy for Colac and Apollo Bay Townships. This strategy is in its infancy at this stage but once completed will be able to provide further guidance on decision making for proposals like this where there is no capacity to provide additional car parking on-site.

While the use of the building is being changed it is envisaged that the numbers of patrons will not substantially increase. The additional space will provide an opportunity to display a wider range of goods than which are currently offered for sale.

The site is located within the central business district where customers often make multi-purpose destination trips and park in one location but frequent a number of shops at several locations.

The site has five angle street car parks in Corangamite Street directly along the frontage of the proposed addition to the shop, plus an additional two in front of the existing shop. It is considered that there is sufficient car parking in this area to accommodate any additional needs generated by the change in use proposed, and on this basis the waivering of spaces is supported.

Conclusion

The applicant is seeking to expand the business into the adjoining building to facilitate more room within which to display their products. The changes proposed to the built form will improve the streetscape from an urban design perspective and allow shelter for pedestrians. It has been acknowledged when issuing previous permits that the site is constrained as the building occupies 100% of the land, effectively limiting any potential for additional car parking to be provided on-site.

This proposal will utilise an existing vacant building through the expansion of an existing use. Where a use is appropriate it is more desirable to have a vacant building occupied as it helps to consolidate the existing commercial area and reduce the opportunity for anti-social behaviour.

The proposal is consistent with Council's policy framework which seeks to promote the commercial strengths of Colac by concentrating commercial and retail facilities within the central area.

The constraints of the site have been acknowledged in previous planning decisions and given the historical use of the site, together with existing car parking credits it is considered appropriate to support the waiver of car parking in this instance. It is recommended that a planning permit be issued for the building and works, and waiver of car parking.

Recommendation(s)

That Council's Planning Committee resolve to Grant a Planning Permit PP408/08 for buildings and works; and waiver of car parking to allow the use of Unit 1, 45 (Lot 3, PS029926D) Corangamite Street, Colac for restricted retail premises subject to the following conditions:

- 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. Before the use and/or development start(s), additional plans 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 plans must be generally in accordance with the plans submitted with the application but modified to show the following details for all signage:***
 - i) Size and dimensions of all signage including wording;***
 - ii) Materials and colours and location on site.***

3. ***Loading and unloading of all goods, materials and items must be carried out on the site within the defined loading bay on the endorsed plan PP278/04 to the satisfaction of the Responsible Authority.***
 4. ***Prior to the issue of a Building Permit, consent must be obtained from the Responsible Authority for building and works on the nature strip.***
 5. ***The verandah must have a minimum 3 metre internal height clearance.***
 6. ***Footpath levels are not to be altered without consultation and approval of Council.***
 7. ***Proposed garden beds are to:***
 - a. ***be constructed to ensure finish levels do not create trip hazards;***
 - b. ***have a minimum distance of 2 metre from the building line to the garden beds to ensure footpath is clear;***
 - c. ***have a minimum distance of 0.7 metres from the kerb;***
 - d. ***be planted with appropriate species;***
 - e. ***be fully maintained by the applicant;***
 - f. ***if no longer maintained by the applicant the area must be reinstated to its original condition.***
- to the satisfaction of the Responsible Authority.***
8. ***No Signage is to be hung from the verandah.***
 9. ***The location and details of the sign and its structure as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
 10. ***All signs must be constructed and maintained to the satisfaction of the Responsible Authority.***
 11. ***The signs must not contain any flashing light except with the written consent of the Responsible Authority***
 12. ***Approval for the signage expires fifteen years after the date it is issued.***
 13. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four 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.

NOTE:

Building approval is required prior to the commencement of construction.

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**PC091305-4 USE AND DEVELOPMENT OF THE LAND FOR TWO (2) DWELLINGS AND A TWO LOT SUBDIVISION AT 38 GAMBIER STREET, APOLLO BAY**

|             |                                      |           |              |
|-------------|--------------------------------------|-----------|--------------|
| AUTHOR:     | Roslyn Snaauw                        | ENDORSED: | Doug McNeill |
| DEPARTMENT: | Sustainable Planning and Development | FILE REF: | PP401/08     |

**Location:**

**Applicant:**

**Zoning:** Residential 1 Zone

**Overlay controls:** Nil

**Amendment:** C55 - Planning Scheme Review  
Design Development Overlay Schedule 6

**Adjoins:** Public Conservation & Resource Zone

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration:**

This application is before Planning Committee as the application has received four (4) objections.



### Summary

- This application proposes the use and development of the land for two 2-storey dwellings and a two lot subdivision.
- The site is located in a Residential 1 Zone and a planning permit is required for the development and to subdivide the land.
- Amendment C55 proposes to apply the Design and Development Overlay - Schedule 6 to the site.
- The application was advertised to surrounding neighbours and four (4) objections were received that raised issues in relation to overshadowing, overlooking and neighbourhood character.
- The Apollo Bay Structure Plan encourages infill development that meets the preferred character statement as set out in the Apollo Bay & Marengo Neighbourhood Character Review.
- It is considered that the proposed development is consistent with the preferred neighbourhood character proposed for this area and on this basis it is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

### Proposal

Planning permit application PP401/08 proposes the use and development of the land for two 2-storey dwellings and a two lot subdivision. The dwellings are contemporary in design and less than 8 metres in height.

The proposal is outlined below:

#### Unit 1

Unit 1 is proposed to be constructed on proposed Lot 1. Lot 1 will have a total area of 367sqm and a new access will be provided from Gambier Street on the western boundary. It will be set back 7.620 metres from the street frontage, consistent with the existing single storey dwelling. The overall height of Unit 1 is 7.8 metres to the top of the stairwell.

Unit 1 has an overall floor area of 307.3m<sup>2</sup> and consists of two levels with a roof-top balcony as follows:

- Ground Level comprises of 138.7m<sup>2</sup> (14.9sqs) and contains a single car garage, three bedrooms with a rumpus, store, laundry and bathroom. A central internal stairway leads to the first level. The wall of the garage runs along the southern boundary. The second car space is located in front of the garage. The ground level leads to the private open space which is to the north of the proposal.
- The first floor level including the balconies is 156.73m<sup>2</sup> (16.9sqs), and consists of a bedroom, ensuite, living area, dining room and kitchen. The first level has a balcony to the south of the development which is 3.6 metres x 7.0 metres and a balcony is also proposed to the north of the development which is 3.6 metres x 6.0 metres. The first floor has an internal stairwell that leads to the second level.
- The roof-top level is an outside upper balcony which is 11.93m<sup>2</sup> (1.3sqs) in area. The east elevation will have an upper balcony balustrade 1.7m in height and shade sail fixing.
- Landscaping is proposed to the site with proposed vegetation not exceeding 1.5 metres in height at the front of the development and no more than 2 metres in the rear/north of the proposed development.
- A paling fence will separate the two developments.

## Unit 2

Unit 2 is proposed to be constructed on proposed Lot 2 which is a battleaxe design with the total area being 4383m<sup>2</sup>. The existing access will be moved to the eastern boundary in accordance with the plan of subdivision and provide access to the dwelling to the rear of the site from Gambier St. The overall height of Unit 2 is 6.9 metres.

Unit 2 has an overall floor area of 224.5m<sup>2</sup> and consists of two levels as follows:

- The ground level is 103.8m<sup>2</sup> (11.2sqqs) and contains a single car garage, two bedrooms with a rumpus room, store/laundry and bathroom area. A second car space is positioned on the common boundary between the two proposed lots. The garage wall runs along the eastern property boundary. A central internal stairway leads to the first level. The ground level leads to the private open space which is to the north of the proposal.
- The first floor level including the balconies is 120.7m<sup>2</sup> (12.9sqqs) and consists of a bedroom, ensuite, living area, dining area and kitchen. The first level has a balcony to the south of the development which is 4.0 metres x 2.30 metres. This southern balcony will contain a 1.7m high screen along the west and half-way along the east elevation. A balcony is also proposed to the north of the development which is 7.5 metres x 3.0 metres. The eastern elevation of the balcony will contain a 1.7metre high screen.
- Landscaping is proposed to the site with proposed vegetation not exceeding 3.0 metres in height at the front of the development and no more than 3 metres in the rear/north of the proposed development.

Materials consist of colorbond sheet roofing, timber framed balcony, scion matrix panel cladding, linea weatherboard, colorbond custom orb horizontal cladding and masonry work with a rendered finish to both units.

### **Subject Site and Locality**

The site has an area of 804.8sqm and presently contains an existing single storey brick dwelling, brick bungalow and zincalume garden shed. The site is rectangular in shape.

The existing dwelling is set back 7.62 metres from the street frontage, 1.2 metres from the west boundary (adjoining lot is currently vacant), 2.6 metres from the eastern boundary and 28 metres from the northern boundary.

A bungalow is 12 metres to the north of the dwelling and forms part of the fence line boundary for 9.6 metres. North of the bungalow is a garden shed which is 1.2 metres from the west boundary and 1.2 metres from the north boundary. The site is generally void of any substantial vegetation.

Immediately to the north and west of the site is vacant land with single storey dwellings to the east. South of the site the land is zoned Public Park and Recreation Zone. Some vegetation exists on this land which screens development to the west. The section immediately in front of the proposal does not contain vegetation. Due to the lack of vegetation, views of the ocean and the township of Marengo are attained. This site and adjoining sites are visible from Great Ocean Road which is identified as a Scenic Route under the Planning Scheme.

**Referrals**

The application was referred internally to the Infrastructure Department, Building Department and the Health Department. As the proposal is in a sewerred area the Health Department had no objection to the proposal. The Infrastructure Department and Building Department have no objection with the proposal subject to conditions.

The application was not required to be referred externally to any authority for the construction of the dwellings or the subdivision.

The application for the two (2) lot subdivision was not referred to any external authority pursuant to Clause 66-01-1, Conditions on Subdivision not requiring referral under the General Provisions of the Colac Otway Planning Scheme.

**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 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 four (4) objections were received.

The matters raised by the objectors may be summarised as follows:

- Overlooking into adjoining properties at 36 and 40 Gambier St and 41 Noel St;
- Overshadowing of adjoining properties at 40 Gambier St;
- Neighbourhood character;
- Proposed density of development on the site;
- Visual intrusion of the proposed development
- Dwellings be constructed on natural ground level;

The concerns raised by objectors are discussed in detail below.

**Consideration of Proposal**

The land is included in the Residential 1 Zone and currently no overlays apply. Planning Scheme Amendment C55 proposes to include the land in the Design and Development Overlay - Schedule 6 (Medium Density Residential Areas).

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

**a) State Planning Policy Framework**

The State Planning 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 11.03– Principles of Land Use and Development Planning
- Clause 11.03-1 – Settlement
- Clause 15.08 - Coastal Areas
- Clause 15.12 – Energy Efficiency

- Clause 14.01– Urban Settlement
- Clause 16.02 – Medium Density Housing
- Clause 19.01 – Subdivision
- Clause 19.03 – Design and Built form

The proposed development and subdivision is consistent with the broader State planning policies as the proposal promotes urban consolidation and diversity of housing choice within existing town centres.

#### **b) Local Planning Policy Framework**

The following local planning policy framework is considered relevant to this proposal:

- Clause 21.01-04 – Settlement patterns and rural living
- Clause 21.04-2– The coast and its environs
- Clause 21.04-10 – Apollo Bay
- Clause 22.01 – Main Roads/Scenic Routes
- Clause 22.05– Coastal and Otway Ranges Townships

The proposed development will provide infill medium density development within the existing township boundaries of Apollo Bay as encouraged by the local policy framework. The development will be visible from the Great Ocean Road due to the topography and lack of existing vegetation. Along this section of Gambier Street, any form of development would be visible from the Great Ocean Road approach from Marengo given the rising topography, cliff face and lack of vegetation on crown land to the south of the site.

The neighbourhood character in this area is evolving and the proposal is considered consistent with the preferred neighbourhood character identified in the Neighbourhood Character Study 2003 (Precinct 5) and soon to be introduced Design and Development Overlay – Schedule 6.

#### **c) Planning Scheme Amendment C55 (Review of Planning Scheme)**

Planning Scheme Amendment C55 is a result of a review of the Colac Otway Planning Scheme. Under this amendment, the subject land is included in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area) implementing the recommendations of the Apollo Bay Structure Plan. The proposed controls of this amendment are being applied consistently as the amendment is a ‘seriously entertained’ document and is expected to be approved by the Minister for Planning in the near future. This application has been assessed in accordance with DDO6 below.

#### **d) Zoning**

The site is located within 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 planning permit is required for the use and development of land for two dwellings and subdivision of the land into two lots.

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 and works associated with a section 2 use.

The use and development and subdivision of the land must be assessed against the provisions of Rescode, in particular Clause 55 and Clause 56. An assessment of the proposal has been undertaken in accordance with Rescode provisions and found to generally comply with the objectives and standards set under Clause 55 and 56.

#### **e) Proposed Overlay Controls – Amendment C55**

Amendment C55 proposed to include the land in the Design and Development Overlay Schedule 6 (DDO6) – Medium Density Residential Area.

The relevant DDO6 Design objectives and Decision Guidelines include:

- To protect the existing low scale coastal character and identity of Apollo Bay;
- To achieve a graduated density of residential development between the town centre and the lower density residential areas;
- To ensure that development density is consistent with the coastal town character;
- To ensure that permeable space is available between dwellings to sustain vegetation;
- 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 DDO6 is proposed to be applied to the existing residential area that abuts the Business 1 Zone (or the commercial centre) and promotes medium density development. The DDO6 contains no density controls for subdivision, but rather relies on the objectives of the overlay to give guidance on the design principles of built form in achieving the preferred character for the area in line with the Apollo Bay and Marengo Neighbourhood Character Study 2003.

In comparison the DDO7 proposes density controls for subdivision with a minimum lot size of 450m<sup>2</sup>. The DDO7 is to apply to the residential areas in the outer lying areas of Apollo Bay.

The application, proposes to create two lots with areas of 367m<sup>2</sup> and 438m<sup>2</sup>. The footprint of each dwelling occupies less than 38% (Unit 1) and 24% (Unit 2), of the area of the proposed lots respectively. The dwellings have been designed so that the upper levels are recessed, although the balcony component on the first floor provides a veranda effect over the ground floor. The design of the dwellings is contemporary in nature and well articulated allowing space between the buildings consistent with the objectives of the DDO6.

The materials used are consistent with the emerging character of the area. The Design and Development Overlay Schedule 6 and the Apollo Bay & Marengo Neighbourhood Character (Precinct 5) encourage the use of materials which are a mix of contemporary and traditional coastal materials, textures and finishes. The dwellings have articulated facades and roof form, incorporating setbacks to upper levels to reduce building bulk and overshadowing.

**f) Assessment of built form and response to objectors concerns**

The following responds to the matters raised in the objections received.

Overlooking

Rescode requires that consideration be given to limiting views into existing private open space and habitable room windows. The property adjoining the site to the west is vacant and therefore has no existing private open space. The balcony on Unit 1 does provide the potential for overlooking into this property to a reasonable degree and the bedroom window of Unit 2, facing west also overlooks the adjoining property. A dwelling could be designed that limited the potential for overlooking from this development in the future, however, it is considered that the potential for overlooking could easily be addressed by providing appropriate screening on the western elevation of the balcony of Unit 1 and obscure glass in the bedroom window of Unit 2. Overlooking into 36 Gambier is minimal as a result of the front and rear balconies of Unit 2. It is considered that overlooking into the property to 41 Noel Street is minimal and does not need to be addressed.

Landscaping will also assist in softening the development and provide further screening to adjoining properties. A landscaping plan lodged with the application shows that a 'Leptospermum Morrisonii (Tea Tree) will be planted in the northwestern corner of the proposal which grows to 3 metres in height which will assist in screening 38 Gambier Street.

A range of additional measures are proposed to address issues of potential overlooking into 36 and 40 Gambier St and 41 Noel St as follows:

- A 1.7metre high screen could be placed along the eastern elevation of Unit 1 on the roof top to prevent any potential for overlooking into the adjoining property.
- A 1.7 metre high screen will be required along the western elevation of the balcony, facing north, of Unit 1 to address potential overlooking of the land to the west.
- Obscure glass to be used in the west facing bedroom window in Unit 2.

Overshadowing

Rescode requires consideration to be given to the overshadowing of existing secluded private open space. Overshadowing diagrams were submitted with the application that demonstrate that while there will be some overshadowing as a result of the built form it complies with the requirements of Rescode Standard B21. 40 Gambier Street will be in shadow in the morning but by midday there will be no overshadowing as a result of the proposed development. Again, as there is no existing dwelling or secluded private open space on 40 Gambier Street, an assessment of impact is limited. However, the overshadowing that will occur with the morning sun is acceptable under the provisions of Rescode.



In terms of 38 Gambier Street, Unit 1 will result in a small part of the existing dwelling being in shadow by the afternoon sun and Unit 2 will result in a portion of the rear yard of 38 Gambier Street in shadow by the afternoon sun, however, it is noted that there is significant canopy vegetation along the common boundary between 36 and 38 Gambier which provides shade into the private open space of 38 Gambier Street. In any case, the overshadowing shown in the plan meets Rescode standards.

#### Neighbourhood character

The Apollo Bay and Marengo Neighbourhood Character Study includes this area in Precinct 5 where the preferred character is to retain a variety of dwelling styles that integrate with the surrounding landscape setting, that are responsive to the topography and coastal location. New development should provide for reasonable sharing of views, be able to retain the space between dwellings and informal garden frontages.

The design of the dwellings is contemporary and the materials used comprise of a mix of contemporary and traditional coastal materials, textures and finishes. The dwellings are well articulated and incorporate setbacks to upper levels to reduce building bulk and overshadowing.

The new dwellings will be constructed on natural ground level which will require some fill for the existing driveway.

The current street profile of Gambier Street consists of two storey contemporary designs with traditional coastal materials, textures and finishes. Intermingled with these new designs are older dwellings which consist of single storey buildings in brick or weatherboard as show in the photos below.





The dwellings have been designed to allow for the sharing of views from other surrounding properties.

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'.

DDO6 has a number of competing objectives. It supports medium density development but also seeks to retain space between built form so that views to the surrounding landscape are retained. Any two storey development on the site will result in some loss of views from surrounding properties, particularly from those properties to the north of the site. However, as the land directly to the west and north is vacant, the opportunity exists to design dwellings that could take advantage of views to the ocean.

### Summary

The proposed development and subdivision complies with the State and Local Policy Framework including Rescode provisions.

While the building design is contemporary it allows for space and views to be obtained due to the size of the lots and design of the dwellings. The development is considered to be consistent with the objectives of the DDO6 and the emerging neighbourhood character for this area.

The concerns of the objectors relating to overlooking can be addressed in part through conditions and overshadowing complies with the relevant standards of Rescode.

Given the above it is considered the that proposal can be supported, therefore, it is recommended that a Notice of Decision to Grant a Planning Permit be issued.

### **Recommendation(s)**

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit PP401/08 for the use and development of 38 Gambier Street, Apollo Bay for two (2) dwellings and a two (2) lot subdivision subject to the following conditions:***

1. ***Before the development starts, amended plans 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 plans must be generally in accordance with the plans submitted with the application but modified to show:***
  - a) ***A 1.7metre high screen placed along the eastern elevation of Unit 1 on the roof top to prevent any potential for overlooking into the adjoining property.***
  - b) ***A 1.7 metre high screen along the western elevation of the balcony, facing north, of Unit 1 to address potential overlooking of the land to the west.***
  - c) ***Obscure glass to be used in the west facing bedroom window in Unit 2.***
  - d) ***The visual screening to be shown as being fixed obscure glazing of at least 1.7 metres above floor level or being fixed external screen to at least 1.7 metres above ground level and be no more than 25 percent transparent.***
  - e) ***Screens used to obscure a view should be:***
    - ***Perforated panels or trellis with a maximum of 25 percent openings or solid translucent panels,***
    - ***Permanent, fixed and durable***
    - ***Designed and coloured to blend in with the development***
  - f) ***A turning template showing movement of vehicles on Lot 2 required to show that vehicles can exit the site (from the car space) in forward motion.***
2. ***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.***
3. ***All external walls on or facing boundaries must be finished to the satisfaction of the Responsible Authority.***

4. ***The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
5. ***The landscaping must be established within 6 months of the completion of the development hereby permitted and must be maintained to the satisfaction of the Responsible Authority.***
6. ***All existing crossings shall be removed and reinstated to grassed nature strip to the satisfaction of the Responsible Authority***
7. ***Access onto and within the property must be constructed to the satisfaction of the Responsible Authority.***
8. ***An application to construct a vehicle crossing must be lodged and approved by the Responsible Authority prior to the commencement of works.***
9. ***The driveway must/should 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.***
10. ***The driveway must be constructed to an all weather surface to the satisfaction of the Responsible Authority.***
11. ***Individual access must be provided onto each lot created and the subject access must be constructed to the satisfaction of the Responsible Authority.***
12. ***Stormwater discharge from the site shall not exceed a rate of 30 litre/sec/hectare.***
13. ***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.***
14. ***The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
15. ***All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
16. ***The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***
17. ***Prior to Statement of Compliance being issued any buildings associated with Lot 3 PS51648 (38 Gambier Street, Apollo Bay) must be removed.***

***Expiry Condition for Development***

**18. This permit will expire if one of the following circumstances applies:**

- a) The development is not started within two years of the date of this permit.**
- b) The development is not completed within four 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.***

***Expiry Condition for subdivision***

**19. This permit will expire if one of the following circumstances applies:**

- a) If the relevant plan of subdivision is not certified within 2 years of the issue of this permit;**
- b) If a Statement of Compliance is not issued with 5 years of the certification of the plan of subdivision;**

***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.***

***Note***

- 1. Building approval is required prior to commencement of construction.**

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PC091305-5 USE AND DEVELOPMENT OF THE LAND FOR FIVE (5) DWELLINGS AND A FIVE (5) LOT SUBDIVISION AT 183 GREAT OCEAN ROAD, APOLLO BAY

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|-------------|--------------------------------------|-----------|--------------|
| AUTHOR: | Anne Sorensen | ENDORSED: | Doug McNeill |
| DEPARTMENT: | Sustainable Planning and Development | FILE REF: | PP278/08 |

Location: 183 Great Ocean Road, Apollo Bay (Lot 2, LP12920, Parish of Krambruk)

Applicant:

Zoning: Residential 1 Zone

Overlay controls: Nil

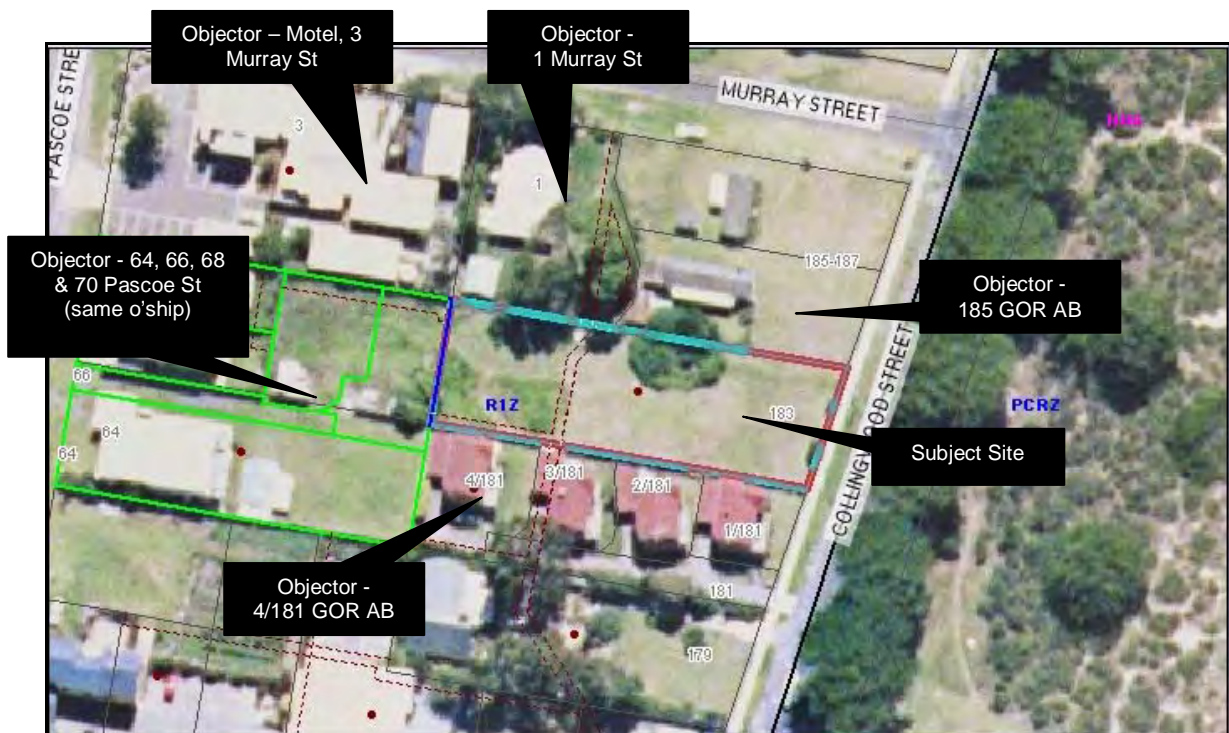
Amendment: Amendment C55 includes the land in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area).

Abuts: Residential 1 Zone, Road Zone 1

Restrictive Covenants: Nil

Reasons for Planning Committee consideration:

This application is before Council’s Planning Committee as five objections have been received.



Summary

- The current application is for the use and development of the land for five (5) two storey dwellings and a five (5) lot subdivision.
- The site is located in a Residential 1 Zone, and a planning permit is required to use and develop the site for a medium density development and to subdivide the land.
- The built form will not exceed a height of 8.0 metres above natural ground level.
- The application was advertised and five (5) objections were received which raised concerns relating to such matters as density, overlooking, impact on existing views and inaccurate information shown on plans submitted.
- Amendment C55 proposes to apply a Design and Development Overlay (DDO6) Medium Density Residential Areas to this site.
- The Municipal Strategic Statement, Apollo Bay Structure Plan and the DDO6 seek to protect the coastal character of Apollo Bay by protecting the low scale coastal character and providing space between buildings to sustain vegetation and to retain views. There are several elements of the design which are contrary to local planning policy including the density of the proposal coupled with the size of the dwellings, the large ground floor footprints, the bulky appearance and extent of built form, the sheer two storey walls to Units 3 and 4, and minimal setbacks between dwellings.
- While the site is suitable for medium density development, the proposed density and built form of this proposal is not consistent with the coastal character of the area and should not be supported. It is recommended that a Refusal to Grant a Planning Permit be issued.

Proposal

The application seeks approval for the use and development of the land for five (5) detached dwellings and a five (5) lot subdivision with a common property driveway (refer to Appendices).

The proposed dwellings are double storey in scale, and constructed of a mix of brickwork, coloured metal cladding and rendered walls with curved and skillion Colorbond roofing. The units are contemporary, well articulated and vary in size, layout and orientation.

Three dwellings will comprise three bedrooms, two bathrooms and a double garage, and two dwellings will have two bedrooms, two bathrooms and a single garage. Each will have bedrooms, bathroom and living rooms on the ground floor and kitchen, dining, family room, bedrooms and a bathroom on the first floor. They range in size from 185.63sqm to 232.29sqm (total floor area). A north facing first floor balcony and north facing ground level private open space courtyard is also provided to each. A visitor's car space is proposed between Units 4 and 5.

Each dwelling will be contained on a separate lot ranging in area from 167.4sqm to 298.6sqm (average lot size being 217.6sqm). A common property area of 331.51sqm will be located adjacent to the south boundary and will provide access to all dwellings.

Due to the site's close proximity to the beach, a Cultural Heritage Management Plan (CHMP) was required under the Aboriginal Heritage Act 2006. The results of the CHMP found no evidence of aboriginal cultural material existing on this site, and found that no further archaeological work was required.

Early in the assessment process, Council Officers highlighted concerns with the proposal in letters to the applicant on three separate occasions. These concerns related to neighbourhood character and compliance with Rescode requirements. Whilst some minor alterations have been made, there has been no significant change to the density, bulk, built form or size of the units, in order to achieve a better design response consistent with neighbourhood character and the objectives of the proposed DDO6.

The applicant recently suggested that the setbacks between units could be increased as follows:

- between Units 1 and 2 could be increased from 1.0m to 2.0m;
- between Units 2 and 3 from 1.0m to 1.5m, and
- between Unit 4 and 5 from 1.0m to 1.5-2.0m.

Revised plans to show increased setbacks were not submitted. It is considered however, that the increased setbacks suggested by the applicant (generally from 1.0m to 1.5-2.0m) are minimal, and are insufficient to provide for effective landscaping, significant retention of views and a reduction to the visual bulk of the development, particularly when viewed from north and south elevations.

Subject Site and Locality

The site is located on the west side of the Great Ocean Road, north of the Apollo Bay town centre, in the Residential 1 Zone. It is located directly opposite the beach with excellent views of the ocean and foothills, and is within short walking distance of all commercial and community services in Apollo Bay.

The site generally has a rectangular shape with an east-west orientation. It has a frontage to the Great Ocean Road of 21.59m and a depth ranging from 40.77m (north boundary) to 42.32m (south boundary), with a total area of 1,419.51m².

The site is vacant and largely devoid of vegetation, apart from some shrubs along the street frontage and shrubs and trees along the northern boundary. The site has a 4.0m wide easement along the entire northern boundary, and a 1.83m wide easement along the rear of the southern boundary which traverses the centre third of the site in a north-south direction. These easements appear to be in favour of Barwon Water. A power pole is located in front of the site. There is no existing vehicle crossover.

Development to the immediate south comprises four two storey brick units (181 Great Ocean Road). A single storey dwelling is located further south (179 Great Ocean Road), whilst sites to the north comprise modest single storey dwellings (185 & 187 Great Ocean Road and 1 Murray Street). Sites to the rear (west) facing Pascoe Street contains two storey unit developments and single dwellings. The area is characterised by a mix of single and two storey, weatherboard and brick dwellings, many used for holiday accommodation. Like much of Apollo Bay, this area is undergoing rapid change and as such the neighbourhood character is evolving.

A Business 1 zoned area is located further south of the site, on the corner of the Great Ocean Road and Thomson Street, and comprises a service station/convenience store and motel development.

Referrals

The application was referred to Barwon Water, Telstra, Powercor, and VicRoads pursuant to Section 55, and to CCMA and DSE pursuant to Section 52 of the Planning and Environment Act 1987. No objections were raised by these parties subject to conditions placed on any permit issued.

Council's Infrastructure Department was also consulted, providing conditional consent.

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 property owners/occupiers and a sign placed on site for a period of 14 days. At the conclusion of the notification period a total of five (5) objections were received.

The grounds of objections may be summarised as follows:

- Density exceeds that of surrounding properties, is at odds with layout and form of area, and allows for minimal private outdoor living space to each unit. Four units would reduce the congested appearance of the development.
- North facing balconies will overlook private open space (14m by 6m) of 185 Great Ocean Road; proposed 4m by 3.2m high screening fence to Unit 2 does not cover this area. Units 1 and 3 will also overlook this property and suitable screening should be provided for all units at the expense of the developer.
- Site context plan appears to include 185 Great Ocean Road as part of the development, which is incorrect.
- Information shown on site context plan is inaccurate and elevations are incorrectly labelled.
- Council required a Section 173 Agreement requiring no further subdivision for four unit development at 64-66 Pascoe Street, adjoining to the west.
- Proposed raised levels will restrict views from the motel at 3 Murray Street towards the township.
- Low growing plants should be used, especially along the driveway, to maintain some views from 4/181 Great Ocean Road.
- The northern boundary adjacent to 1 Murray Street needs to be surveyed and a 1.8m high timber fence should be constructed on the survey line at the developer's expense within 3 months of construction.
- Units 4 & 5 first floor balconies will overlook private open space of 1 Murray Street. Details of proposed screening have not been provided.

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

Consideration of the Proposal

The land is included 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 6 – Medium 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 an existing township being consistent with the State Provision of Clause 16.02. The layout and design also responds to energy principles of Clauses 15.12.

The higher density and extent of built form of the development is not consistent with Clause 19.03 – Design & Built Form and Council's local policy on coastal townships. The development does not achieve a desirable urban design outcome in respect to neighbourhood character.

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

Planning Scheme Amendment C55 proposes to include the subject land in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area) implementing the recommendations of the Apollo Bay Structure Plan. The proposed controls of this amendment are being applied consistently as the amendment is a 'seriously entertained' document and is expected to be approved by the Minister for Planning in the near future. This application has been assessed in accordance with DDO6 below.

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 300m², 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 6 (Medium Density Residential Area), once the amendment is approved by the Minister for Planning.

The relevant DDO6 Design Objectives and Decision Guidelines include:

- To protect the existing low scale coastal character and identity of Apollo Bay.
- To ensure that development density is consistent with the coastal town character.
- To ensure that permeable space is available between dwellings to sustain vegetation.
- 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 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

It is considered that the site is suitable for medium density development as it is located within the Residential 1 Zone and within close proximity to the commercial precinct of Apollo Bay. The proposed DDO6 also supports medium density development providing it meets the objectives contained within this overlay. However, this is a coastal township that has a unique neighbourhood character that needs to be considered as part of the assessment of the proposal. Considerable emphasis is placed on protecting the coastal character under the provisions of the existing scheme and those proposed by Amendment C55.

The DDO6 contains no density controls for subdivision, but rather relies on the objectives of the overlay to give guidance on the design principles of built form in achieving the preferred character for the area in line with the Apollo Bay and Marengo Neighbourhood Character Study 2003.

In comparison, the DDO7 (which does not apply to this site) proposes density controls for subdivision with a minimum lot size of 450 m². The DDO7 is to apply to the residential areas in the outer lying areas of Apollo Bay.

The lot sizes range from 167 m² and 298 m², with an average lot size of 217 m². All lots are under the threshold of 300m² and therefore need to provide a building envelope or plans of the development proposed so that it can be assessed in accordance with Rescode provisions. Clearly, any lot under the 300m² creates a higher density form of development which makes the subsequent built form critical in terms of complying with the local coastal characteristics of Apollo Bay. The higher density combined with the proposed built form, in this instance, does not meet the neighbourhood character principles for Apollo Bay and in particular does not provide space around buildings or opportunity for new vegetation.

f) Assessment of the built form and response to objectors concerns

In assessing this proposal, Council Officers have consistently highlighted to the applicant that the minimal setbacks between dwellings and the visual bulk of the development are not consistent with the preferred neighbourhood character for this area of Apollo Bay. The Apollo Bay and Marengo Neighbourhood Character Review, Apollo Bay Structure Plan and proposed DDO6 seek to protect the low scale coastal character, and to provide space between buildings to sustain vegetation and to retain views. Several ResCode variances have also been raised with the applicant as discussed below.

The applicant has made minor modifications to the design of the development in response to Council Officers concerns, with minimal increases to side setbacks and measures to address overlooking. There have been no substantial changes to the external appearance of the development.

The development proposes five two storey dwellings with large ground floor footprints and minimal setbacks between buildings. First floor levels are generally recessed above the ground floor, however, sheer two storey walls are proposed to Units 3 and 4. The design presents an excessively bulky appearance, particularly when viewed from the north and south elevations. This is inconsistent with the existing low scale coastal character and will restrict views from adjoining properties. Loss of views was raised in objections from property owners to the south, north-west and west of the site.

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 some loss of views from surrounding properties, particularly from the site adjoining to the west. The minimal spacing proposed between buildings is not conducive to reasonable view sharing. The level of impact on views from neighbouring properties is considered unacceptable based on the principles outlined above. Smaller footprints and increased setbacks would retain some views between buildings for properties adjoining to the north and south. This would allow more reasonable view sharing, consistent with the above VCAT principles and DDO6 objectives.

The site coverage also presents limited opportunities for effective landscaping between units to soften and screen the development.

Building Height

Double storey development is proposed with a maximum building height of 7.7m, which satisfies the building height objective.

Some objectors raised concerns that the site levels provided are inaccurate, (resulting in the height of the rear dwellings being raised by over 1.0m, which is not shown on elevations), and the resultant impact on views. Should the application be approved, permit conditions will require an appropriate maximum floor level for Units 3, 4 & 5 to be provided to ensure that the development did not exceed a maximum building height of 7.7 m.

Energy Efficiency

Each dwelling has north facing living rooms at ground and first floor level, and a north facing deck at first floor level, to take advantage of the northerly aspect, satisfying this objective. Shadow diagrams provided indicate that energy efficiency of dwellings to the south will not be unreasonably reduced.

Landscaping

A landscaping plan has not been submitted to demonstrate how this objective and those of the local policy framework could be met. The preferred character statement recognises the need for an increase in canopy trees to strengthen the coastal landscape setting.

It is doubtful that the development, at the density and site coverage proposed could provide for any substantial vegetation consistent with the objective sought.

It is noted that an objector to the proposal requested low growing plants, especially along the driveway, to maintain some views from their property.

Side and Rear Setbacks

The side and rear setbacks to existing north, south and west boundaries generally comply.

The proposed setback between Unit 1 and 2 does not comply. The applicant recently suggested an increase to this setback from 1.0m to 2.0m by slightly reducing the footprint of each dwelling. The first floor of Unit 1 is not sufficiently recessed above the ground floor (0.96m required, approximately 0.5m proposed) in order to satisfy this standard.

Whilst other setbacks between units (other than walls on boundaries) generally comply, the applicant also advised that the setbacks between Units 2 and 3 could be increased from 1.0m to 1.5m, the setback from between Unit 4 and 5 could be increased from 1.0m to 1.5-2.0m. Revised plans showing increased setbacks were not submitted. Whilst the increased setbacks suggested by the applicant (generally from 1.0m to 1.5-2.0m) meet ResCode requirements, they are considered insufficient to reduce the visual bulk of the development, and to provide space between dwellings for vegetation and to maintain views, consistent with local policy.

It should also be noted that the proposal relies on a number of walls constructed to internal boundaries, which are separately assessed below.

Walls on Boundaries

The development proposes a number of walls to be constructed to proposed internal boundaries. These walls do not meet the requirements of this standard, which allow an average height of 3.0m and a maximum height of 3.6m. The side walls of Units 2, 3 and 4 exceed the permitted height. Sheer two storey walls are proposed to Units 3 and 4 and other walls on boundaries are approximately 3.6m high. This objective is not satisfied.

North Facing Windows

The units are generally sufficiently setback from the south boundary to allow adequate light into north facing windows of adjoining dwellings in accordance with this objective (proposed setback is in excess of the required 3.78m).

The garage wall to Unit 5 is to be constructed to the south boundary with a height of 3.0m. There are north facing windows within 3.0m of this boundary (4/181 Great Ocean Road) however the applicant advises that these windows are to a garage, not a habitable room. The owner of this property has not objected on this basis.

Overshadowing Open Space

Shadow diagrams provided indicate that shading from the development will be mostly contained within the property and will not significantly shadow existing private open space. Private open space to the adjoining units is generally on the east side. This standard is satisfied.

Overlooking

The units will not overlook private open space of units adjoining to the south within 9.0m. These open space areas are generally located on the east side of the dwellings and are not within 9.0m.

Overlooking has been raised by objectors, in relation to north facing first floor balconies. Units 1, 2 and 3 balconies potentially overlook 185 Great Ocean Road, and Unit 4 and 5 balconies potentially overlook 1 Murray Street. Should the application be approved, permit conditions would require appropriate measures to prevent overlooking of private open space to the north.

Internal Views

First floor balconies and living room windows on the east elevations of Units 2, 3, 4 and 5 potentially overlook private open space areas of proposed units to the east. The applicant proposes planting of trees in the northwest corner of the private open space areas to prevent this overlooking. Should the application be approved, permit conditions will require this to be included on the landscaping plan.

Design Detail

The development proposes an appropriate contemporary design which is well articulated. As discussed above, there are several elements of the design which are not suited to the character of the area. The development will not contribute to the preferred low scale coastal character, and does not achieve sufficient space between buildings for vegetation and to retain views. The size of the dwellings with large ground floor footprints, the bulky appearance, sheer two storey walls to Units 3 and 4, and minimal setbacks between dwellings are inappropriate. Ongoing consultations with the applicant have resulted in no significant changes, and as such, it is considered that the proposal should not be supported.

Common Property

The common property area will contain the driveway and mail box area. It will be practical and functional and meets this objective. Should the application be approved, a revised plan of subdivision will be required to show the common property area (currently shown as Lot 6).

Side Fencing

The owner of 1 Murray Street adjoining to the northwest requested that the common boundary be surveyed and a 1.8m high timber fence be constructed at the developer's expense. Should the application be approved, this matter can be addressed by permit conditions.

g) 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

While the site is within the Residential 1 Zone and suitable for medium density development, the proposal submitted is not consistent with the neighbourhood character sought by the local provisions of the planning scheme and proposed DDO6.

The lot sizes combined with the building footprints and built form does not respond positively to the low scale, spacious character of the coastal town of Apollo Bay. The development fails to provide space between buildings to sustain vegetation and for a reasonable sharing of views, and does not comply satisfactorily with all objectives of Rescode.

On this basis it is recommended that a Refusal to Grant a Planning Permit be issued.

Recommendation

That Council's Planning Committee issue a Refusal to Grant a Planning Permit PP278/08 for the use and development of 183 Great Ocean Road, Apollo Bay for five two storey dwellings and a five lot subdivision on the following grounds:

- 1. The proposal is not consistent with the provisions of the Municipal Strategic Statement, Clause 22.05 and the Apollo Bay Structure Plan.***
- 2. The proposal is not consistent with the preferred neighbourhood character for the coastal township of Apollo Bay.***
- 3. The proposed development does not comply with all objectives of Rescode.***
- 4. The proposed development does not provide for reasonable view sharing by surrounding properties.***
- 5. The proposal is contrary to the objectives of Planning Scheme Amendment C55 in particular the Design and Development Overlay – Schedule 6 (Medium Density Residential Areas).***

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