



**Colac Otway
SHIRE**

AGENDA

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

8 JULY 2009

at 10.30 am

**COPACC Meeting Room
Rae Street, Colac**

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

COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING

8 JULY 2009

TABLE OF CONTENTS

OFFICERS' REPORTS

SUSTAINABLE PLANNING AND DEVELOPMENT

PC090807-1	MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF MAY 2009.....	5
PC090807-2	PP175/09- USE AND DEVELOPMENT OF THE LAND FOR A WAREHOUSE AND CARPARK AND WORKS THAT INTENSIFY THE EXISTING USE OF THE LAND FOR INDUSTRY AT 270-302 MURRAY STREET, COLAC.....	11

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 8 July 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 descendents 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 APPLICANT/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 respecting 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 13/05/09.

Recommendation

That the Planning Committee confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

- PC090807-1 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF MAY 2009
- PC090807-2 PP175/09- USE AND DEVELOPMENT OF THE LAND FOR A WAREHOUSE AND CARPARK AND WORKS THAT INTENSIFY THE EXISTING USE OF THE LAND FOR INDUSTRY AT 270-302 MURRAY STREET, COLAC

Rob Small
Chief Executive Officer

PC090807-1 MONTHLY PLANNING AND BUILDING STATISTICAL REPORT FOR THE MONTH OF MAY 2009

AUTHOR:	Janole Cass	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning and Development	FILE REF:	GEN00450

61 Planning permit applications received for the period of 1 May 2009 to 31 May 2009

39 Planning permit applications were considered for the period of 1 May 2009 to 31 May 2009

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP105/09	28-Apr-09	GARAGE & DOMESTIC STORE	21-May-09	23	UNDER DELEGATION	Permit Issued
PP106/09	29-Apr-09	TWO (2) LOT RE-SUBDIVISION	28-May-09	14	UNDER DELEGATION	Permit Issued
PP108/09	29-Apr-09	CONSTRUCTION OF A SINGLE STOREY DWELLING	21-May-09	22	UNDER DELEGATION	Permit Issued
PP111/09	30-Apr-09	CONSTRUCTION OF A RESIDENTIAL DWELLING	21-May-09	21	UNDER DELEGATION	Permit Issued
PP115/06-B	27-Jun-08	USE & DEVELOPMENT OF A DWELLING & SHED	21-May-09	7	UNDER DELEGATION	Application Lapsed
PP2/09	24-Dec-08	CONSTRUCTION OF NEW SHED.	12-May-09	45	UNDER DELEGATION	Permit Issued
PP244/04-A	16-Dec-08	USE & DEVELOPMENT OF A DWELLING IN ACCORDANCE WITH THE ENDORSED PLANS - AMENDMENT TO ADDRESS WMO & EMO1, ADD GARAGE, MINOR ALTERATIONS TO DWELLING.	28-May-09	129	UNDER DELEGATION	Permit Issued
PP269/07-A	07-Nov-08	CONSTRUCTION OF TWO LEVEL DWELLING & ASSOCIATED WORKS - AMENDMENT	20-May-09	194	UNDER DELEGATION	Permit Issued
PP278/08	19-Aug-08	CONSTRUCTION OF 5 DWELLINGS AND A 5 LOT SUBDIVISION	14-May-09	213	COUNCIL	Refusal To Grant
PP279/08	19-Aug-08	CONSTRUCTION OF TWO (2) CABINS	12-May-09	227	UNDER DELEGATION	Permit Issued

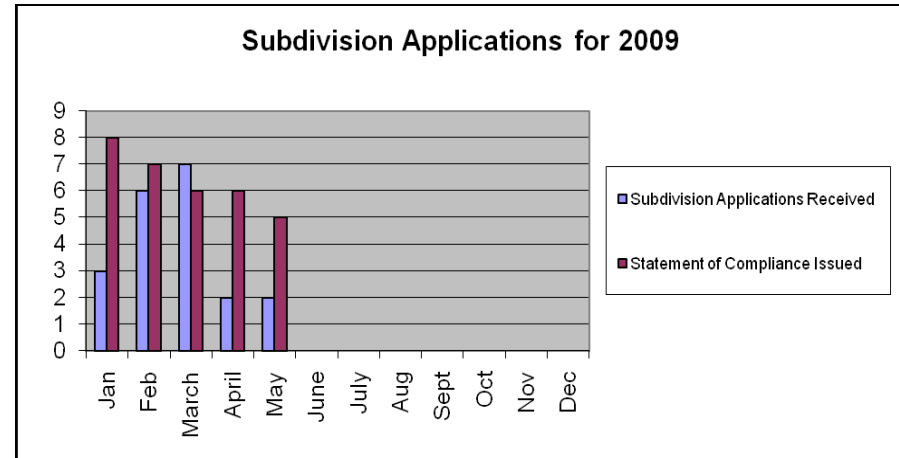
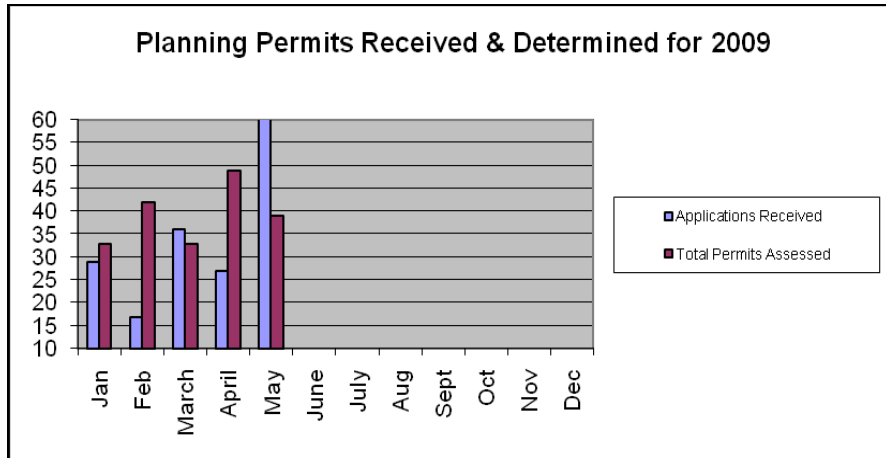
APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP28/09	23-Jan-09	THREE (3) LOT PLAN OF SUBDIVISION (RE-SUBDIVISION OF EXISTING LOTS)	11-May-09	119	UNDER DELEGATION	Permit Issued
PP289/08	27-Aug-08	CONSTRUCTION OF A DWELLING	18-May-09	237	UNDER DELEGATION	Permit Issued
PP290/08	22-Aug-08	NINETEEN (19) LOT SUBDIVISION	28-May-09	253	UNDER DELEGATION	Refusal To Grant
PP33/09	05-Feb-09	USE & DEVELOPMENT OF A DWELLING & SHED.	08-May-09	42	UNDER DELEGATION	Permit Issued
PP330/08	26-Sep-08	USE & DEVELOPMENT OF SINGLE STORY DWELLING WITH CARPORT & REMOVAL OF VEGETATION	12-May-09	168	UNDER DELEGATION	Permit Issued
PP372/08	03-Nov-08	EXTENSION TO EXISTING DWELLING AND RESTAURANT AND ASSOCIATED WORKS	11-May-09	83	UNDER DELEGATION	Permit Issued
PP388/08	11-Nov-08	DEVELOPMENT OF A DWELLING	12-May-09	162	UNDER DELEGATION	Permit Issued
PP39/09	18-Feb-09	USE AND DEVELOPMENT OF LAND TO BE USED FOR AN INDUSTRY(CARAVAN REPAIRS AND MANUFACTURING) AND BUSINESS IDENTIFICATION SIGNAGE IN ACCORDANCE WITH ENDORSED PLANS	28-May-09	73	UNDER DELEGATION	Permit Issued
PP396/08	12-Nov-08	USE & DEVELOPMENT FOR A DWELLING & SHED	12-May-09	150	UNDER DELEGATION	Permit Issued
PP401/08	18-Nov-08	DEVELOPMENT OF TWO (2) DWELLINGS & A TWO (2) LOT SUBDIVISION	14-May-09	115	COUNCIL	NOD To Grant Permit
PP408/08	20-Nov-08	TO TURN INTO A RETAIL SHOWROOM	14-May-09	80	COUNCIL	Permit Issued
PP411/08	21-Nov-08	THREE (3) LOT SUBDIVISION	01-May-09	85	UNDER DELEGATION	Permit Issued
PP45/09	03-Mar-09	AGRICULTURAL SHED	21-May-09	79	UNDER DELEGATION	Permit Issued

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP46/09	03-Mar-09	CONSTRUCTION CAR GARAGE	28-May-09	64	UNDER DELEGATION	Permit Issued
PP57/08-A	18-Sep-08	USE AND DEVELOPMENT OF DWELLING AND SHED - AMENDMENT. HOUSE AND SHED DESIGN & SIZE	06-May-09	0	UNDER DELEGATION	Application Lapsed
PP59/09	16-Mar-09	EXTENSION TO SHED & OFFICE ADDITION	28-May-09	52	UNDER DELEGATION	Permit Issued
PP60/09	17-Mar-09	ADDITION TO EXISTING DWELLING	12-May-09	36	UNDER DELEGATION	Permit Issued
PP62/09	17-Mar-09	USE & DEVELOPMENT OF A RELOCATED TWO (2) BEDROOM DWELLING	12-May-09	35	UNDER DELEGATION	Permit Issued
PP63/09	17-Mar-09	TWO (2) LOT SUBDIVISION - REALIGNMENT OF BOUNDARIES	12-May-09	33	UNDER DELEGATION	Permit Issued
PP71/09	23-Mar-09	WORKS IN AN EASEMENT & INSTALLATION OF STORMWATER PIPE	20-May-09	0	UNDER DELEGATION	Permit Not Required
PP76/09	31-Mar-09	REPLACEMENT DWELLING AND CONSTRUCTION OF STORAGE SHED	28-May-09	58	UNDER DELEGATION	Permit Issued
PP77/09	31-Mar-09	ADDITION TO EXISTING DWELLING	28-May-09	9	UNDER DELEGATION	Permit Issued
PP78/06-A	04-Dec-08	USE & DEVELOPMENT OF LAND FOR A DWELLING - AMENDMENT	28-May-09	121	UNDER DELEGATION	Permit Issued
PP82/09	03-Apr-09	CONSTRUCTION OF A STORAGE SHED	08-May-09	8	UNDER DELEGATION	Permit Issued
PP90/09	14-Apr-09	TWO (2) LOT SUBDIVISION OF EXISTING SEMI DETACHED DWELLINGS	08-May-09	24	UNDER DELEGATION	Permit Issued
PP93/09	14-Apr-09	DEVELOPMENT OF A SINGLE STORY DWELLING	21-May-09	37	UNDER DELEGATION	Permit Issued
PP95/09	15-Apr-09	USE AND DEVELOPMENT OF A DWELLING & ASSOCIATED SHED	28-May-09	21	UNDER DELEGATION	Permit Issued
PP96/09	15-Apr-09	EXTENSION TO EXISTING DWELLING, ERECT A DECK, A FRONT FENCE & 2 WATER	08-May-09	23	UNDER DELEGATION	Permit Issued

APPLIC NO	DATE RECEIVED	Proposal	DATE ISSUED	ACTUAL TIME	Authority	Decision
		TANKS				
PP97/09	16-Apr-09	DEVELOPMENT OF SHED	12-May-09	26	UNDER DELEGATION	Permit Issued

**Average Days to Process
Planning Application**

79

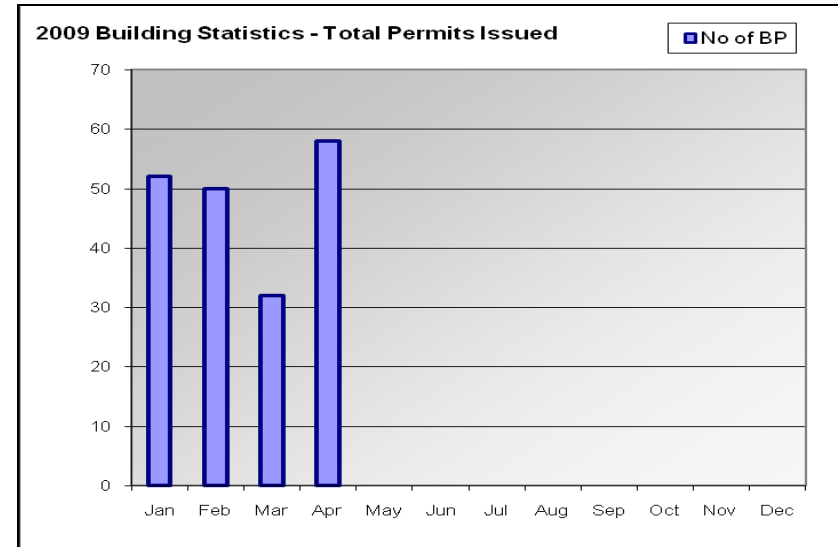
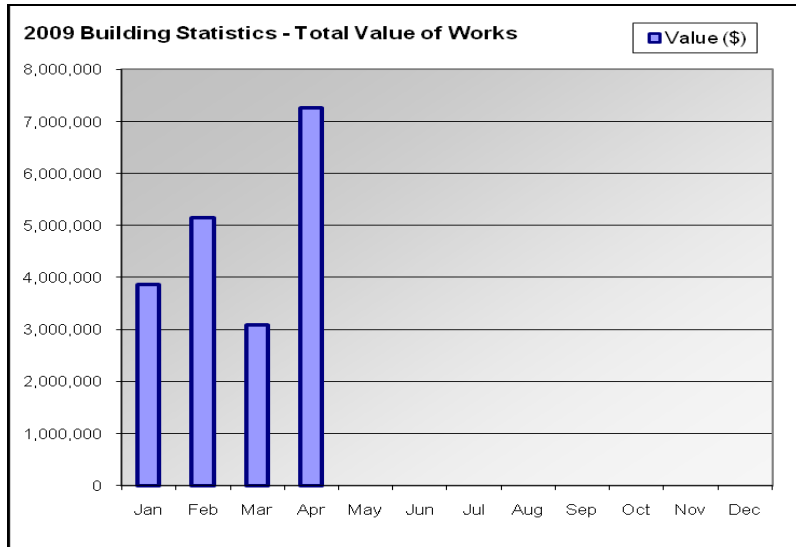


[Pulse Building Statistics](#)

[Financial Yr Stats](#)

[Pulse Building Reports](#)

	Domestic		Residential*		Commercial		Retail		Industrial		Hospital/HealthCare		Public Buildings		Municipal Totals	
	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)
Jan	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	26	2,908,966	0	0	6	185,733	0	0	0	0	0	0	0	0	32	3,094,699
Apr	46	6,484,011	0	0	6	157287	1	1,950	2	55,000	0	0	3	565,000	58	7,263,248
May																
Jun																
Jul																
Aug																
Sep																
Oct																
Nov																
Dec																
Totals	157	17,756,092	1	105,000	22	672,060	2	11,950	2	55,000	1	28,138	7	746,906	192	19,375,146



Building Stats

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

Recommendation(s)

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

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**PC090807-2 PP175/09- USE AND DEVELOPMENT OF THE LAND FOR A WAREHOUSE AND CARPARK AND WORKS THAT INTENSIFY THE EXISTING USE OF THE LAND FOR INDUSTRY AT 270-302 MURRAY STREET, COLAC**

|             |                                      |           |            |
|-------------|--------------------------------------|-----------|------------|
| AUTHOR:     | Doug McNeill                         | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning and Development | FILE REF: | PP175/09   |

**Location:**

**Applicant:**

**Zoning:** Business 2 Zone

**Overlays Controls:** Nil (Opposite Heritage Overlay HO305)

**Abuts:** Road Zone Category 1, Opposite Business 1 and Residential 1

**Restrictive Covenants:** Nil

**Section 173 Agreement:** W840444W 13.6.

**Reasons for Planning Committee Consideration**

This application is before Council's Planning Committee as some of the proposed works exceed 8 metres in height above natural ground level.

**Summary**

- An application has been submitted for a warehouse and car park, and building and works that will expand the existing manufacturing use of the site by Bulla Dairy Foods. The expansion will facilitate a new processing factory to produce ice creams with the majority of the building and works occurring towards the Connor Street frontage of the site.
- This project is of significant economic importance to the Colac community through the investment and job creation that will result, producing approximately 20 additional full time jobs in a time when manufacturing is under pressure due to the economic climate.
- The current use comprises a range of production and office areas, on a large site of some 20 titles generally bounded by Murray Street, Scott Street, Connor Street and Hart Street.
- The manufacture of milk products is prohibited in the Business 2 Zone because the use is listed at Clause 52.10 relating to uses with potential adverse amenity impacts. However, as the existing factory has operated continuously from this site since 1927 it is considered to have existing use rights, and a planning application can be considered under the existing use provisions of the planning scheme.
- A permit is required under the Business 2 Zone for the warehouse and car park.
- Land to the south and west of the site is included in the Residential 1 Zone and developed for housing. Land to the east is zoned Business 1.
- The Colac Structure Plan suggests that in the longer term Bulla should consider relocating its operations in Murray Street to the Forest Street site which is located within an industrial zoned area. However given the nature of machinery required for ice cream production that is currently at the Connor Street site and not available in Forest Street, and the economic benefits of the investment to Colac, it is considered appropriate to support the redevelopment of the Connor Street site, recognising that the movement of the Bulla operation away from Murray Street may be a longer term proposition.

- The application was advertised and two objections were received that raised issues relating to car parking, traffic management and the bulk, height and visual appearance of the walls along the Hart Street and Connor Street frontages, as well as other amenity issues.
- The proposed development will result in improvements to existing off street car parking, traffic movement and reduction in existing noise levels, and the outcome of the proposal should be an improvement to the amenity for existing residents in the immediate area.
- The applicant has agreed to modify the design of the warehouse component of the development to reduce its visual impact, and amended plans will be required that address concerns being raised by objectors in this regard.
- The EPA has assessed the proposal and advised that a Works Approval is not required and that it does not object to the application provided conditions are included on the permit relating to proposed noise attenuation measures being implemented.
- Given the measures being proposed to address amenity issues, and the significant economic benefits of the proposal, it is recommended that this application be supported through the issue of a Notice of Decision to Grant a Permit.



**Proposal**

Approval is sought for a warehouse and car park and building and works to expand the existing manufacturing use at the Regal Cream Products (known as Bulla Dairy Foods) site for ice cream production.

The proposed works involve construction/installation of the following:

- A 2,071sqm extension to the production building to be located on the southeast portion of the site with a frontage to Conner Street. An elevated walkway above the roofline of this building is proposed to provide a staff link between buildings with adequate clearance above the main north-south truck access which runs through the centre of the site.
- A 904sqm warehouse to be located on the southeast portion of the site, on the corner of Conner and Hart Streets. This building will be used for the storage of packaging materials.
- A 145sqm store constructed of concrete blockwork, to be located on the southwest portion of the site, close to the Connor Street frontage;
- Seven milk and cream silos, each 9 metres in height, to be located to the south of the existing silos, on the southwest portion of the site. These will be finished in corrugated profile colorbond to match the existing silos;
- A roller shutter door to the Murray Street façade to secure the centrally located north/south loading egress point;
- A new car park comprising 59 spaces in the southwest corner of the site, on the corner of Scott and Connor Streets with two entry points onto Connor Street (one new crossover) and an exit onto Scott Street via an existing lane under the ownership of Bulla to the north which adjoining owners have access rights over;
- Changes to access with a new accessway to be created from Connor Street.
- Partial new perimeter fencing (black powdercoated chain wire mesh fence to 1.8 metre height) for improved security and aesthetics.

A workshop, part of the existing production building and two dwellings in the southeast corner of the site will be demolished to accommodate the production building extension and warehouse. Planning approval is not required for demolition under the provisions of the Planning Scheme.

The production building extension and warehouse will have a maximum height of 9.38 metres, and will be constructed of concrete panels with dado height panels in a ribbed profile to articulate the facades and to discourage graffiti. Several additional measures will be used to provide visual interest to the Connor and Hart Street facades, including use of false jointing to break the mass of concrete panels, a projecting element from the facade (400mm rendered compressed sheet), and use of custom orb cladding applied to sections of concrete panel façade to further articulate the building.

The new manufacturing hall is to house production equipment necessary to manufacture a range of products as part of a recent acquisition, including ice cream cones, ice cream sandwiches, ice cream cakes, cups and tubs. Overall, the new line is expected to increase production by 15 million litres annually, with the new volumes produced on a one and two shift basis over a five day week depending on seasonal timing. The new production is expected to create 18-20 new permanent jobs on the site.

Carparking required for the warehouse and new building and works is being provided on-site. No waiver of car parking is required for the proposal.

The application was accompanied by a Traffic Impact Report and an Acoustic Report (including a supplementary report), both of which are addressed below.

Intensification of the existing use is discussed in detail below under General Provisions, and amenity impacts are discussed in Particular Provisions below.

### **Subject Site and Locality**

The land comprises approximately 20 titles which have been progressively accumulated over a number of years as the Bulla Dairy Foods manufacturing operation has expanded into adjoining property. The site is towards the western end of the Murray Street retail strip and extends across the bulk of land bounded by Murray Street, Scott Street, Connor Street and Hart Street, excluding land at the corner of Hart Street/Murray Street occupied by McMahons and a series of commercial premises including Subway and VicRoads at the corner of Scott Street/Murray Street.

The site is developed by a number of buildings which are collectively used as a factory for the manufacture of ice creams and related products. Products are made as ice cream sticks, cones, cups and tubs, and vary in size from single serve sticks, cups and cones up to tubs of 10 litres capacity. Production is expected to reach 65 million litres in the 2008/09 financial year. The factory has operated continuously from this site since 1927 and has incrementally expanded over the years, the most recent expansion being in 1993. Its main frontage is to Murray Street.

The site operates twenty-four hours a day, five days a week on a single, two and three shift basis depending on production levels. Seasonal variation in winter allows this to be scaled back to 18 hours per day for approximately the two months of June and July. Production is regularly carried out on weekends on an as required basis, again depending on seasonal demand.

The site employs 143 staff on a permanent basis, with seasonal and casual staff employed to match production demand during the year, peaking at an additional 120 staff in 2009. These workers are spread across the shift patterns worked on the site.

The site is accessed for deliveries of goods used in the manufacture process from a laneway off Hart Street that exists between McMahons and a vacant lot also owned by McMahons. Trucks exit the site onto Connor Street from an open yard. Milk deliveries are made to and from a crossover onto Connor Street at the south-west corner, with milk trucks reversing onto the property from the street. Delivery trucks arriving to pick-up the manufactured product enter from a crossover on Connor Street in the middle of the site, receive their load in the centre of the site (within the building) and exit in a forward manner onto Murray Street. Trucks occasionally reverse into the site from Scott Street along a lane owned by Bulla which adjoining owners have access over. The administration areas abut Murray Street, and a workshop exists within a relatively new building on the Connor Street frontage. There is no formal onsite car parking.

Land directly opposite the site in Scott Street and Connor Street is developed for residential purposes with some community health care uses in Connor Street. Properties opposite in Hart Street are used for a mix of commercial activities, including medical premises, and dwellings.

**Referrals**

The application was referred to the Environmental Protection Authority (EPA) under Section 55 of the Act. The EPA advised that a works approval is not required for the proposal, and that it does not object to the application but recommends that a condition be placed on the permit requiring that acoustic measures proposed for the new production area and refrigeration plant be located and constructed to ensure that noise emissions from the site do not exceed 38 dB(A) when measured outdoors at houses in Connor Street. The condition would further require that an acoustic report be submitted to Council prior to operation of the new facility to demonstrate that these noise levels are achieved.

VicRoads, Barwon Water and Powercor were given notice of the application under Section 52 of the Act. VicRoads responded that it did not object to the application. No response had been received from Barwon Water or Powercor at the time of writing the report.

The Council's Infrastructure Department did not object to the proposal, but made suggestions about traffic management, stormwater detention on-site and other matters that will be addressed in the conditions. There was no objection from the Environmental Health Officer.

**Public Notice**

Notice of the application was required pursuant to Section 52 of the Planning and Environment Act, as it was considered that the application may result in material detriment. The application was advertised in the following manner:

- Four A3 signs on the site, including the Connor Street, Hart Street and Scott Street frontages.
- Letters to surrounding property owners and occupiers.

An information session during the exhibition period was arranged by Bulla at COPACC and attended by Council Officers and nearby residents.

Two objections were received based on the following grounds:

- Increased traffic
- Inadequate car parking
- Parking area needs to be fenced and lockable to avoid access by the public when the plant is not operating.
- Twenty-four hour operation should be reduced to minimise discomfort to residents.
- Noise from the operation, including beepers from reversing fork lifts.
- Noise level should be less than 40 decibels.
- Visual appearance of the walls – façade needs softening.
- Height and length of street boundary walls and lack of setback from the street for the warehouse.
- Location and size of truck access onto Connor Street at south-east corner and potential interference with resident's vehicles.
- Want assurance that warehouse will only be used for that purpose.
- Blind spots for trucks accessing street from the site.
- Forklifts operating on Connor Street is inappropriate, and they should be restricted to being on-site.
- There should be a written agreement that trucks larger than semi-trailers be prevented from accessing the premises due to the safety risk they pose.
- The use of silver colourbond on the façade has potential to cause glare.
- The modern appearance of the building does not complement the existing character of the street.
- Inadequate period of public notice.
- Public notice didn't refer to all titles in the application.
- Devaluation of property values.

The issues are discussed in detail below. Property values are not a valid planning consideration, and it is considered that the public notice process has been carried out appropriately within the requirements of the Act. The information session arranged by Bulla in the second week of the notice period had no relationship to the giving of notice, nor with the responsibilities of residents to lodge objections within the prescribed time.

### **Consideration of the Proposal**

#### **a) State Planning Policy Framework (SPPF)**

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 15.04 – Air Quality
- Clause 15.05 – Noise Abatement
- Clause 17.03 – Industry
- Clause 18.02 – Car Parking and Public Transport Access to Development
- Clause 19.03 – Design and Built Form

#### **Comment**

**This application supports the SPPF policy directions as the proposal will not increase odour emissions from the site, and noise attenuation measures proposed for the new production areas and refrigeration unit will reduce noise levels to no higher than 38 dB(A), far lower than the noise levels of the existing facility consistent with State Environmental Protection Policy relating to noise. Whilst the proposal does not meet the separation distance to residential development specified in the Scheme for manufacture of milk products, the amenity impact of the proposal should be no higher than the existing use, and the EPA has not objected to the application. Conditions will be included to further address amenity issues.**

**Whilst it would be preferable for Bulla's operations to be situated in an industrial area and thus avoid any amenity conflict with abutting housing, the factory has developed over a significant period of time, and officers understand it is not economically viable for Bulla to construct the new production facilities at its Forest Street site. The housing which surrounds the site has existed with reduced amenity for many years, and an opportunity exists to increase the visual amenity of the site from Connor and Scott Street through construction of boundary walls which screen the factory's operations, and through landscaping of the new car park.**

**Whilst production levels would be increased, there is not expected to be a significant change in traffic movements, and through access for trucks will avoid reversing of trucks from the street which occurs at present. Fork lifts will be retained within the site to an increased degree, as part of a longer term plan to completely contain them within the site, thereby reducing noise and safety impacts in Connor Street. The application provides car parking that meets the requirements of the Scheme, and which is likely to reduce the current demand for on-street parking for employees of the factory.**

**A proposed condition will require some changes to the appearance of the street boundary walls to enhance their attractiveness and reduce the appearance of bulk, as well as require the planting of street trees to soften the building's appearance.**



**b) Local Planning Policy Framework**

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality. The following clauses are relevant to the application:

- Clause 21.03 - Settlement
- Clause 21.05 – Economic Development

Clause 21.05 recognises the close links between manufacturing industries in the Shire and the agricultural resource base of the region, and in particular, the manufacture of powdered milk, cheese and ice-cream. It also notes the importance of manufacturing to local employment, with over 20% of the Shire's labour force being employed in the manufacturing, construction and transport sectors. Colac is promoted as a location for industry, and there are specific strategies to:

- Assist industries within the main urban area of Colac to develop while minimising off-site effects; and to
- Encourage the establishment of industries and businesses that seek to add value to existing primary producers of the region.

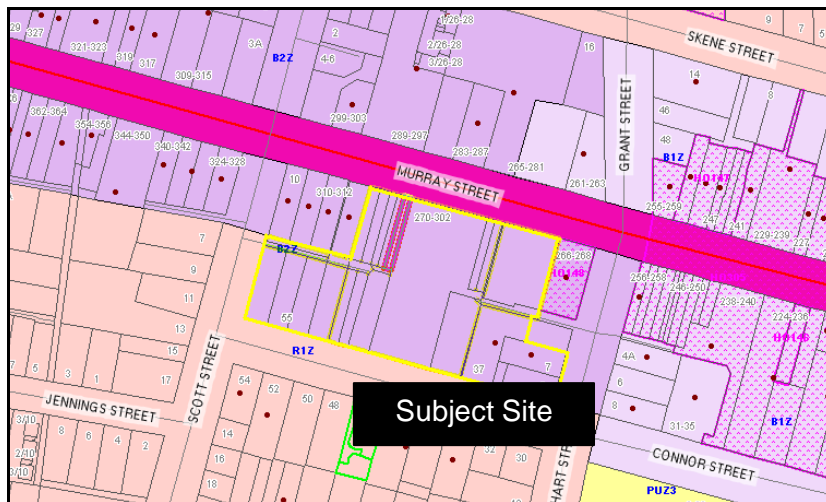
Clause 21.03-2 notes that the Colac Structure Plan encourages the relocation of existing 'inappropriate' industrial uses out of the town centre.

**Comment**

**The Bulla factory encompasses a significant area of land in the town centre and ideally would be better located in a dedicated industrial area away from the town centre. Bulla has a second factory in Colac in an industrial zone at Forest Street which also manufactures milk products, and it is a possibility that Bulla may at some future time consolidate their operations at that site, however that factory is a different type of operation, producing chilled milk products such as cream and yoghurt as opposed to frozen products such as ice creams and frozen yoghurt which are produced at the Connor Street site. Bulla advises that it would be uneconomic for the firm to invest in new machinery at the Forest Street site for production of frozen ice creams when existing machinery and facilities suited to that process could be used at Connor Street at far less cost. Other options for the company would be to modify an existing factory operated in Mulgrave or to construct a new factory at Derrimut where Bulla has a distribution centre. Whilst support for the intensification of the Connor Street facility will lengthen the life of the facility and reduce the chances of relocation within Colac in the short to medium term, on balance it is considered the economic benefits of the investment to Colac outweigh this consideration. The current use is a significant value adding industry to the dairy industry, and its expansion will assist in strengthening the local economy at a time when manufacturing employment is under pressure generally as a result of broader economic conditions. As noted above, it is considered the new works on the site can actually improve amenity for nearby residents through site improvements relating to traffic movements, visual amenity and noise emissions.**

**c) Zoning Provisions**

The subject land is located within the Business 2 Zone. The primary purpose of the Business 2 Zone is to encourage the development of offices and associated commercial uses.



Industry is a permit required use in the zone, however if the use is a purpose listed in the table to Clause 52.10 the use is prohibited. A warehouse and car park require a permit.

Clause 32.02-2 states that a use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

### **Comment**

**As the manufacture of milk products is listed in Clause 52.10, the component of the application relating to production of ice creams is prohibited under the current controls, but because of its long established use of the site, the factory enjoys existing use rights under Clause 63 of the Planning Scheme. An application for buildings and works can be considered under that clause for the production area (this is discussed in more detail below). The warehouse and car parking components of the use are permit required uses which can be considered under the zone provisions in their own right.**

**As noted elsewhere in this report, it is considered the proposed development will result in improvements to existing off street car parking, traffic movement and reduction in existing noise levels, and the outcome of the proposal should be an improvement to the amenity for existing residents in the immediate area. The applicant has agreed to modify the design of the warehouse component of the development to reduce its visual impact, which is expected to at least partly address objectors' concerns. Conditions have been included in the recommendation that require:**

- **Landscaping around the perimeter of the proposed car park.**
- **Planting of street trees within the naturestrip of each street frontage to assist in softening the visual appearance of the site.**
- **New buildings to be constructed in accordance with acoustic measures described in the application which reduce noise emissions to 38 dB(A) at houses in Connor Street.**
- **Changes in the design and appearance of the new boundary walls fronting Hart Street and Connor Street.**
- **Baffling of external lighting to reduce glare off the site.**

- A change in fencing style for the car park from chain mesh to painted steel pickets.
- Loading and unloading of goods to occur within the site to a greater degree than at present. Different beepers to be installed on the fork lifts.
- The car park to be secured and public access prevented outside the hours of operation of the plant.

The issues raised by the interface of the site with residential uses opposite, as well as car parking are discussed in more detail below.

The EPA has advised that no works approval is required. The applicant will notify Worksafe of any increases in volumes of dangerous goods that may arise as a result of this project.

### *Traffic*

The Traffic Impact report by Ratio, submitted with the application states that there will be an increase in traffic associated with the proposal, but that this increase can easily be accommodated by the surrounding road network, and VicRoads has expressed no concern with the proposal.

Concern was raised in the objections regarding truck movements in Connor Street. Whilst there is increased production capacity being proposed which will generate new truck movements, the changes to the milk drop-off area on the western side will necessitate a change in practice whereby Bulla will no longer use its own tanker fleet, and deliveries will be made to the site by suppliers in larger capacity vehicles, reducing the number of movements by tanker vehicles. The net result should be an insignificant change to overall truck movements.

There will be benefit achieved by providing through access for tankers within the site, as trucks will now be able to drive in from Scott Street and exit via Connor Street, avoiding trucks reversing off Connor Street to deliver the milk.

Concern was expressed by an objector to the trucks exiting as proposed onto Connor Street at the revised entrance on the south-east corner due to pedestrian safety. Whilst left hand turn truck movements into the site from Connor Street would be preferable, the applicant has demonstrated that this cannot be practically achieved. A warning device would be required at the Connor Street frontage (as proposed at the Murray Street exit) to warn pedestrians of truck movements. These matters are addressed in the proposed conditions.

There are currently no B-double vehicles used to access the site, and it is not proposed they be used for the factory expansion. The Traffic Report submitted with the application demonstrates appropriate access into and out of the site for vehicles that require access. It is not necessary or appropriate to place limits on truck size in the permit conditions.

### **Odour**

With respect to odour emissions, information submitted in support of the application states that *'the manufacturing plant currently emits an odour that is typically described as a pleasant, slightly sweet dairy odour reminiscent of our ice cream mix and ice cream. The proposed new plant is expected to produce a similar odour, of similar intensity to the existing manufacturing on the site'*. No concerns regarding odour associated with the existing manufacturing on the site have been raised with Council. Similarly, no submissions have been made that this is currently a significant issue. Permit conditions will require no additional odour impact due to the proposed works.

### **Noise**

The acoustic report submitted with the application was prepared by a specialist consultant 'Audiometric and Acoustic Services', which advised that the new plant will be expected to meet EPA requirements, and will need to be adequately attenuated to ensure it is not audible above the existing plant. The report stated that:

*'The exact design criteria will depend upon the final placement of the noisy items. This has not yet been agreed in terms of the final design but is all achievable with current technology.'*

It further found that there is already noticeable output of noise to the Connor Street area from the existing operations, but that there is no infringement of EPA requirements (SEPP N-1), as there have been no recent complaints. It recommended a program of noise attenuation works to reduce noise levels for nearby residents as part of a 'good neighbour policy', despite no adverse comment from the neighbourhood. The report further states:

*'We also recommend that Bulla Dairy Products undertake some attenuation works on the existing plant, primarily to reduce the noise levels identified with respect to Connor Street. Scott Street residents are less affected and will have some benefits from the proposed works'*.

A further addendum report was submitted on 24<sup>th</sup> June following discussions with the EPA, and it is on the basis of noise attenuation measures contained in these reports that the EPA has not objected to the application. Whereas the current plant results in noise levels of approximately 53-54 dB(A) in Connor Street, the new plant will be restricted to 38 dB(A), significantly lower than at present, and lower than the SEPP 43 dB(A) night time limit. Compliance with recommendations of the two reports, for both the existing operation and the proposed new works, is required by proposed permit conditions.

Concern had been expressed by residents in relation to beeping noises from operation of fork lifts. The acoustic report noted that there will be reduced east-west fork lift movements occurring in Connor Street. This should reduce noise associated that aspect of the use. Bulla currently restricts use of forklifts in the open yard to the east of the building between 6:00 pm and 6:00 am under an Environmental Improvement Program for the site. Proposed conditions require specific types of beepers on the fork lifts as recommended by the report. The report notes that milk deliveries currently create high noise levels for residents opposite in Connor Street, but that this impact should be reduced by the altered traffic management which negates trucks reversing into the site.

It had been suggested by objectors that restrictions be placed on the hours of operation of the current facility. This is not supported given the significant impact this would have on the production capacity of the factory and its potential viability. The site has existing use rights to operate without restriction on hours, and Council could not retrospectively introduce such controls.

#### ***Light Spill/Glare/Solar Access***

Information accompanying the application states that all lights proposed will be cowed and directed downwards to ensure that there is no horizontal or upward light spill, and that no solar access will be lost to neighbouring residentially zoned properties (as they are 30 metres or greater away). The proposed permit conditions address this issue.

#### ***Visual Amenity***

One of the key concerns of objectors was the visual impact in the streetscape of the proposed new buildings which are to be constructed on the street boundary. The new warehouse building will replace two houses to be demolished at the corner of Hart Street and Connor Street, and will have a maximum height on the boundary of 9.25m. This represents a significant change in the streetscape from the current residential appearance of that corner, however there should be some expectation of commercial development (with its subsequently greater building bulk) given the Business 2 zoning of the property.

Whilst officers generally support the siting of the buildings, the objector's concerns are shared to a degree concerning the bulk of the building at the corner in particular, and it is recommended that conditions require amended plans to address this issue. Greater articulation could be introduced to the design of the wall to break-up its appearance further and soften its appearance (this applies to the production building also), and consideration should be given to reducing its height and increasing its setback from the street boundary to provide for landscape screening (warehouse component only).

Overall, the proposed works will screen many of the ad-hoc industrial buildings and manufacturing activities currently visible from Connor Street, and provide a themed building façade along that frontage that is more attractive for residents. It will be important that sufficient attention be given to ensuring the appropriate use of materials and building articulation when considering the submission of amended plans.

The proposed conditions include a requirement that Bulla plant new street trees along the three street frontages to further soften the visual appearance of the site, although the species selected will need to acknowledge the overhead power lines.

#### **d) Overlay Provisions**

There are current no overlays affecting the site.

**e) Particular Provisions**Clause 52.06 – Car Parking

The parking requirement for the new floor area is outlined in the table below::

| <b>Use</b>   | <b>Floor Area</b>   | <b>Rate</b>           | <b>Spaces Required</b> |
|--------------|---------------------|-----------------------|------------------------|
| Industry     | 2,071m <sup>2</sup> | 2.9/100m <sup>2</sup> | 60                     |
| Store        | 145m <sup>2</sup>   | 2.9/100m <sup>2</sup> | 4.2                    |
| Warehouse    | 904m <sup>2</sup>   | 1.5/100m <sup>2</sup> | 13.6                   |
| <b>Total</b> |                     |                       | <b>78</b>              |

**Comment**

A total of 78 spaces would therefore be required, however the proposal is to remove current buildings on part of the site of the new production area (480m<sup>2</sup>) which in addition to the three dwellings to be demolished create an existing parking credit of 20 spaces. Once this credit is taken into account, the provision of 59 new car spaces on the south-west corner of the site meets the Planning Scheme requirement.

Residents in the surrounding streets currently experience some parking pressures associated with all day staff parking generated by Bulla, the nearby hospital and commercial uses in Murray Street due to time restrictions in that vicinity. This is reflected in the objections to this application where concerns have been expressed about lack of parking for the Bulla site. This is a broader issue however that is being assessed as part of the Colac and Apollo Bay Car Parking Study. Surveys were undertaken by the consultants for that study in February 2009 and an Issues and Options Paper will be presented to Council shortly. The management of parking in the area, including time restrictions, can be considered in that process, and residents are encouraged to participate when the opportunity arises for input.

Whilst there is little on-site parking for Bulla at present, this is a historical situation. Aside from meeting the Planning Scheme requirement, the proposed new car park will in fact reduce current on-street parking pressures by providing far higher numbers of spaces than the 18-20 additional permanent employees which will result from the investment.

Clause 52.10 Uses with Adverse Amenity Potential

This clause identifies those types of industries which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood. The manufacture of milk products is listed in the table at this clause as requiring a minimum distance of 300m from any part of the proposed use or buildings and works to residential land opposite the site and the nearby hospital.

**Comment**

The proposed production area would be well within this separation distance and in circumstances where a fresh development was being proposed, the use would not be supported with this proximity to sensitive uses. The application is being made however under the Existing Use clause of the Scheme, and thus these distances do not technically apply.

**The relevant issue however is that amenity impacts resulting from the proposal are no higher than at present, and in this respect it is considered the proposal should have a beneficial impact by producing noise emissions from operations well below that of the current use, negating reversing of vehicles on the street and reducing use of fork lifts outside the site, and increased off-street parking. There is not expected to be any increase in odour from the site and the EPA have not objected to the application.**

#### **Clause 52.29 – Land Adjacent to Road Zone**

Murray Street is a Category 1 Road, but as there is no change to the access no referral to VicRoads is required. Notwithstanding, a copy of the application was circulated to VicRoads for its comment.

#### **Comment**

**VicRoads advised it does not have an objection to the proposal, and noted that there will not be any significant change to traffic movements onto Murray Street.**

#### **Clause 63 – Existing Use Rights**

Clause 63 provides that an existing use right is established in relation to use of land if the use was lawfully carried out immediately before the approval date or proof of continuous use for 15 years is established under Clause 63.11. For a use to continue to enjoy such rights:

- No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.
- Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

#### **Comment**

**As the existing factory has operated continuously from this site since 1927 the use is considered to have existing use rights, and a planning application can be considered under Clause 63 – Existing Rights provisions of the planning scheme. The important consideration as noted above is to ensure that the proposal has amenity impacts that are no higher than at present, and in this respect it is considered the proposal should have a beneficial impact subject to conditions.**

#### **Summary**

The application seeks approval to increase the capacity of the ice cream production facilities of Bulla Dairy Foods which currently contributes significantly to employment in Colac and the surrounding region, value adding to the dairy industry. Despite prolonging the use of the land for industrial purposes within the town centre, the proposed expansion is supported due to the significant economic effects it would have for the region through additional employment. It has been demonstrated that amenity impacts can be improved and proposed conditions will seek to further address these as described in the report.

**Recommendation(s)**

***That the Planning Committee resolve to issue a Notice of Decision to Grant a Permit for use and development of the land for a warehouse and car park and works that intensify the existing use of the land for industry at 270-302 Murray Street, Colac subject to the following conditions:***

- 1. Prior to the commencement of the development, 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 provided. The plans must generally be in accordance with the plans submitted with the application, but modified to show:***
  - (a) Any acoustic measures as detailed in the report by Audiometric and Acoustic Services dated 26<sup>th</sup> May 2009 and the subsequent addendum report dated 24<sup>th</sup> June 2009.***
  - (b) A revised façade of buildings fronting Hart Street and Connor Street to reduce the visual impact of the walls and introduce greater vertical articulation.***
  - (c) Security fencing at the south-western corner of the site modified from chain mesh to painted steel pickets.***
  - (d) Location of existing vehicle crossings that are no longer required which are to be removed and reinstated to the satisfaction of the responsible authority.***
  - (e) Appropriate facilities for the storage on-site of at least three bicycles.***
  - (f) Details of the external colour scheme and materials of the new buildings.***
  - (g) Removal of the two entries to the car park from Connor Street, with the access from Scott Street being the sole access to that car park.***
  - (h) Wider crossover to Connor Street at the south eastern corner.***
- 2. The works (including the extension to the production floor area and associated refrigeration plant) shall be located and constructed so that the noise emissions from the works do not exceed 38 dB(A) outdoors at the houses in Connor Street. Prior to the commencement of operation of the works, a report must be submitted to Council detailing the noise control works undertaken including any calculations demonstrating that the noise target in Connor Street is achieved for the new works.***
- 3. All run off from stormwater, including overflow from water storage must be taken to a legal point of discharge in accordance with Condition 10 to the satisfaction of the Responsible Authority.***
- 4. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
  - (a) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant***
  - (b) landscaping and planting throughout the car parking area, with focus on achieving a planted buffer along the street frontages;***



- (c) *a mix of canopy trees and lower level vegetation;*
- (d) *street trees to be planted along naturestrips abutting the site in Hart Street, Connor Street and Scott Street. The species shall be chosen in consultation with the responsible authority to avoid unreasonable conflict with overhead powerlines.*

*All species selected must be to the satisfaction of the Responsible Authority. The landscape plan as it applies to the site itself must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.*

5. *Prior to commencement of the use, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:-*
  - (a) *Constructed to the satisfaction of the Responsible Authority.*
  - (b) *Properly formed to such levels that they can be used in accordance with the plans.*
  - (c) *Surfaced with an all-weather seal-coat of asphalt or similar to the satisfaction of the Responsible Authority.*
  - (d) *Drained and maintained to the satisfaction of the Responsible Authority.*
  - (e) *Line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.*
  - (f) *Clearly marked to show the direction of traffic along access lanes and driveways*
6. *A warning device shall be installed at the proposed exit points for trucks onto Murray Street and Connor Street to warn pedestrians that vehicles are crossing the footpaths to the satisfaction of the responsible authority. The warning device is to be located within the property and to emit light only (not sound).*
7. *The car park at the south-west corner of the site shall be secured to prevent public access outside the hours of operation of the site to the satisfaction of the responsible authority.*
8. *Prior to commencement of the development, a stormwater detention system designed by a qualified engineer must be lodged with the Responsible Authority verifying that post development stormwater discharge volume from the land does not exceed 64 litres/sec/ha to the satisfaction of the Responsible Authority. Once approved such design must be endorsed and must form part of the permit.*
9. *Prior to the commencement of the use, the applicant must give notice to the Responsible Authority of the installation of the stormwater detention system in compliance with the approved design and must submit a report completed by a design engineer that provides written confirmation of construction to the satisfaction of the Responsible Authority.*
10. *Access onto and within the property must be constructed to the satisfaction of the Responsible Authority.*
11. *Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the Responsible Authority.*

12. ***Any existing crossing or crossing opening that is redundant under the proposal must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.***
13. ***An application to construct a vehicle crossing must be lodged and approved by the Responsible Authority prior to the commencement of works.***
14. ***The access areas are to have an asphalt pavement overlay constructed to the satisfaction of the responsible authority.***
15. ***The driveway must enter the roadway perpendicular to the roads centre line and be in a safe location for users, pedestrians, cyclists and motorists by consideration of both vertical and horizontal sight distance to the satisfaction of the Responsible Authority.***
16. ***Parking areas and access lanes must be kept available for these purposes at all times.***
17. ***Loading and unloading of all goods, materials and items must be carried out on the site to the satisfaction of the Responsible Authority.***
18. ***Fork lifts shall be fitted with Broad Band Reversing Beepers to the satisfaction of the responsible authority.***
19. ***The landscaping shown on the endorsed plans shall be established within 3 months of commencement of the use hereby permitted and shall be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
20. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
  - (a) ***transport of materials, goods or commodities to or from the land;***
  - (b) ***appearance of any building, works or materials;***
  - (c) ***emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and***
  - (d) ***presence of vermin.***
21. ***External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.***
22. ***No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.***
23. ***The use and or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

- 24. This permit will expire if one of the following circumstances applies:**
- a) The development and use are not started within (2) years of the date of this permit.**
  - b) The development is not completed and the use is not commenced 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.**

**Notes for Planning Permit**

- 1. Building approval is required prior to commencement of construction.**
- 2. Any works abutting or in close proximity to public spaces (roads, reserves, rights of way etc) need to be reviewed by the Responsible Building Surveyor. If the Responsible Building Surveyor requires protection to the public the specific consent needs to be sought through Council's Local Laws department.**

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