



Colac Otway
SHIRE

AGENDA

PLANNING COMMITTEE MEETING
OF THE
COLAC-OTWAY SHIRE
COUNCIL

12 AUGUST 2009

at 10:30 AM

COPACC Meeting Rooms

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

12 AUGUST 2009

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC Meeting Rooms on 12 August 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. The Planning Committee provides an opportunity for both objectors and proponents to address Council for up to five minutes. Priority will be given to people who have advised Council in advance that they wish to address the Planning Committee. Planning Committee meetings also enable Councillors to debate matters prior to decisions being taken.

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

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

5. DECLARATION OF INTEREST

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

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

7. CONFIRMATION OF MINUTES

- **Planning Committee held on the 08/07/09.**

Recommendation

That Council confirm the above minutes.

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Rob Small
Chief Executive Officer

**PC091208-1 MONTHLY PLANNING & BUILDING STATISTICAL REPORT
FOR THE MONTH OF JUNE 2009**

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

38 Planning permit applications were received for the period of 1 June 2009 to 30 June 2009.

23 Planning permit applications were determined for the period of 1 June 2009 to 30 June 2009.

The June statistical report was not provided to the July meeting due to the deadline for reports preceding the end of the month. Whilst this report is now available, the July statistical report is not yet available due to the pending changeover of Council software to Civica on 1 July 2009, and will be reported at a future meeting.

Building Stats

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

Attachments

1. Monthly Planning Stats Report.

Recommendation(s)

That Council Planning Committee note the June 2009 Planning and Building statistical report.

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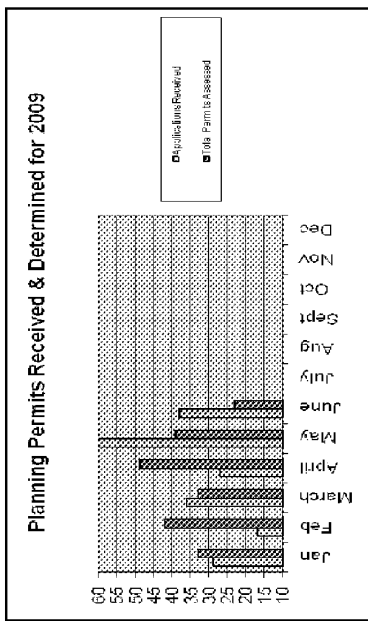
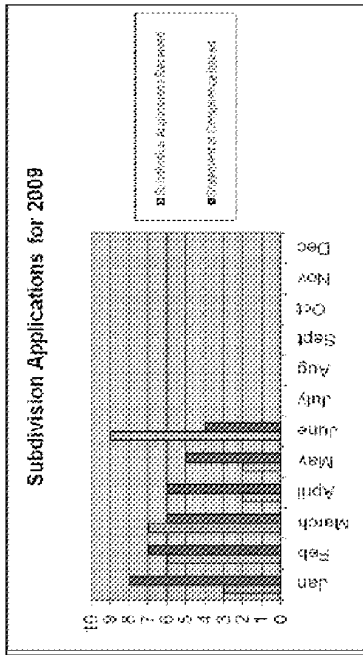
MONTHLY PLANNING & BUILDING STATISTICAL REPORT FOR THE MONTH OF JUNE 2009

| Applic no  | Date received | Proposal                                                                                                             | Date Issued | Actual time | Authority        | Decision            | Comments |
|------------|---------------|----------------------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------------|----------|
| PP100/09   | 23-Apr-09     | Erection & Display Of Signage Including Internally Illuminated Signs                                                 | 11-Jun-09   | 28          | Under Delegation | Permit Issued       |          |
| PP101/09   | 23-Apr-09     | Alterations To The Existing Building Exterior & Advertising Sign                                                     | 12-Jun-09   | 28          | Under Delegation | Permit Issued       |          |
| PP102/09   | 24-Apr-09     | Two Lot Subdivision                                                                                                  | 11-Jun-09   | 24          | Under Delegation | Permit Issued       |          |
| PP107/09   | 29-Apr-09     | Development Of A Garage                                                                                              | 10-Jun-09   | 42          | Under Delegation | Permit Not Required |          |
| PP120/09   | 08-May-09     | Building & Works Incorporating Facade Alterations                                                                    | 10-Jun-09   | 33          | Under Delegation | Permit Issued       |          |
| PP122/09   | 13-May-09     | Construction Of A Hay & Machinery Shed                                                                               | 11-Jun-09   | 29          | Under Delegation | Permit Issued       |          |
| PP126/09   | 18-May-09     | Construction Of Carport                                                                                              | 11-Jun-09   | 24          | Under Delegation | Permit Issued       |          |
| PP144/09   | 01-Jun-09     | Use & Development Of A Single Storey Dwelling                                                                        | 11-Jun-09   | 10          | Under Delegation | Permit Issued       |          |
| PP149/09   | 28-May-09     | Removal & Trimming of Vegetation from Roadside                                                                       | 12-Jun-09   | 14          | Under Delegation | Permit Not Required |          |
| PP186/04-C | 21-May-09     | Forty Four (44) Lot Subdivision & Deletion Of Drainage Easement E1 On Tp 457725q - Amendment To 2 Lot Configurations | 29-Jun-09   | 39          | Under Delegation | Permit Issued       |          |
| PP187/08   | 26-May-08     | Use & Development Of The Land For Six (6) dwellings & a six (6) lot subdivision.                                     | 04-Jun-09   | 210         | Under Delegation | NOD To Grant Permit |          |
| PP285/08   | 20-AUG-08     | Construction Of Two Storey Dwelling                                                                                  | 29-Jun-09   | 220         | Under Delegation | Permit Issued       |          |

| Applic no  | Date received | Proposal                                                                                                                                                       | Date issued | Actual time | Authority        | Decision      | Comments                                                                                                                          |
|------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------|
| PP336/08   | 07-Oct-08     | Temporary office building & waiver of eight (8) car parking spaces                                                                                             | 09-Jun-09   | 10          | Under Delegation | Withdrawn     |                                                                                                                                   |
| PP38/09    | 19-Jan-09     | Two (2) Lot Subdivision                                                                                                                                        | 03-Jun-09   | 133         | Under Delegation | Withdrawn     |                                                                                                                                   |
| PP393/04-B | 24-Nov-08     | Creation Of A Carriageway Easement - Amendment                                                                                                                 | 10-Jun-09   | 50          | Under Delegation | Permit Issued |                                                                                                                                   |
| PP431/08-A | 04-Jun-09     | To Remove The Drainage & Sewerage Easement E-1 In Accordance With The Endorsed Plans                                                                           | 04-Jun-09   | 1           | Under Delegation | Permit Issued |                                                                                                                                   |
| PP449/08   | 10-Dec-08     | Construction Of Concrete Hardstand Area For Bus Stops                                                                                                          | 26-Jun-09   | 37          | Under Delegation | Permit Issued |                                                                                                                                   |
| PP496/02-B | 10-Dec-08     | Construction of two (2) units & a two (2) lot subdivision - amendment louvre screen to east upper window.                                                      | 11-Jun-09   | 106         | Under Delegation | Permit Issued |                                                                                                                                   |
| PP8/08     | 03-Jan-08     | Use & Development Of The Land For The Purpose Of A Dwelling (And Associated Swimming Pool, Shed & Tennis Court) Removal Of Vegetation, & Construction Of A Dam | 10-Jun-09   | 192         | Under Delegation | Permit Issued | Delays have been the result of extensive negotiations with the applicant in achieving the design outcome that could be supported. |
| PP80/06-A  | 04-Jun-09     | Use & Development Of A Dwelling, Dam & Access                                                                                                                  | 04-Jun-09   | 1           | Under Delegation | Permit Issued |                                                                                                                                   |
| PP84/09    | 06-Apr-09     | Development Of Two Dwellings On A Lot                                                                                                                          | 11-Jun-09   | 28          | Under Delegation | Permit Issued |                                                                                                                                   |
| PP88/09    | 07-Apr-09     | Construction Of A Storage Shed                                                                                                                                 | 11-Jun-09   | 37          | Under Delegation | Permit Issued |                                                                                                                                   |
| PP91/09    | 09-Apr-09     | Business Identification Signage                                                                                                                                | 10-Jun-09   | 18          | Under Delegation | Permit Issued |                                                                                                                                   |

Average Days to Process Planning Applications

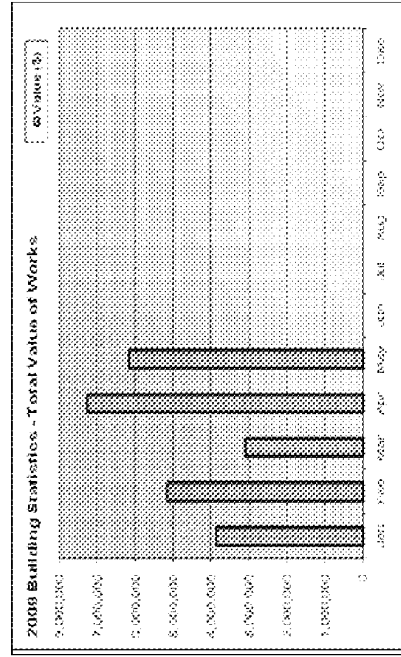
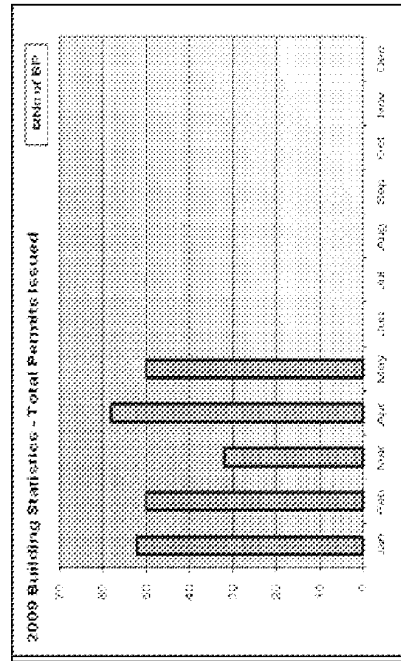
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|               | Domestic   |                   | Residential* |                | Commercial |                  | Retail   |                | Industrial |                | Hospital/HealthCare |               | Public Buildings |                | Municipal 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           | 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          | 157,287          | 1        | 1,950          | 2          | 55,000         | 0                   | 0             | 3                | 565,000        | 58               | 7,263,248         |
| May           | 38         | 4,839,980         | 2            | 126,675        | 7          | 539,459          | 1        | 150,000        | 1          | 350,000        | 0                   | 0             | 1                | 157,099        | 50               | 6,163,213         |
| Jun           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Jul           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Aug           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Sep           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Oct           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Nov           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| Dec           |            |                   |              |                |            |                  |          |                |            |                |                     |               |                  |                |                  |                   |
| <b>Totals</b> | <b>195</b> | <b>22,596,072</b> | <b>3</b>     | <b>231,675</b> | <b>29</b>  | <b>1,211,519</b> | <b>3</b> | <b>161,950</b> | <b>3</b>   | <b>405,000</b> | <b>1</b>            | <b>28,138</b> | <b>8</b>         | <b>904,005</b> | <b>242</b>       | <b>25,538,359</b> |

\*Multi-Development



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**PC091208-2                      WAIVING OF CAR PARKING FOR THE PURPOSE OF ACCOMMODATION – 9A DIANA STREET, APOLLO BAY**

|                    |                                    |                  |            |
|--------------------|------------------------------------|------------------|------------|
| <b>AUTHOR:</b>     | Ros Snaauw                         | <b>ENDORSED:</b> | Jack Green |
| <b>DEPARTMENT:</b> | Sustainable Planning & Development | <b>FILE REF:</b> | PP432/08   |

**Location:**                                      9A Diana Street, Apollo Bay

**Applicant:**

**Zoning:**                                         Residential 1 Zone

**Overlay controls:**                         Design Development Overlay Schedule 6

**Amendment:**                                Nil

**Adjoins:**                                      Residential Zone

**Restrictive Covenants:**                 Section 173 Agreement X680145M 20/08/2001

**Reasons for Planning Committee consideration:**

This application is before Council’s Planning Committee for the waiving of car parking requirements of Clause 52.06-1 of the Colac Otway Planning Scheme. The waiving of one car park space is required for this application.



## Summary

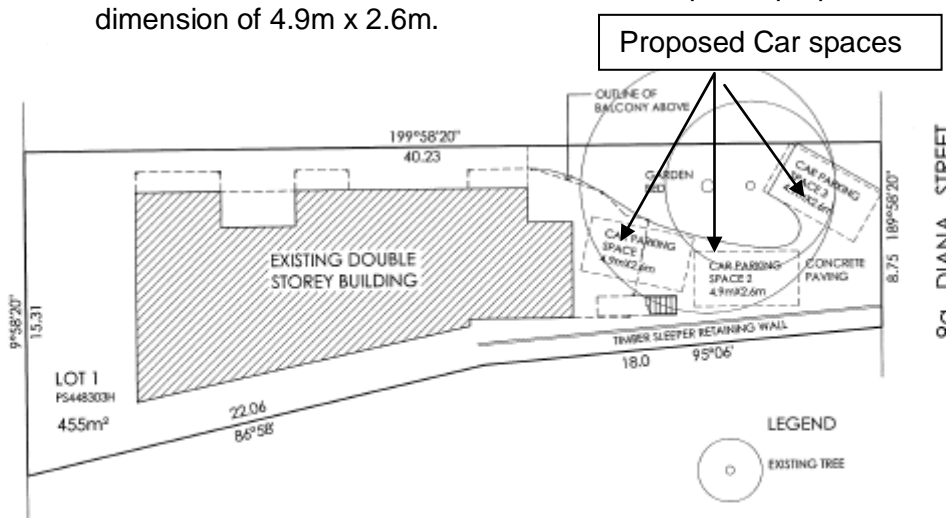
- The site is located in a Residential 1 Zone. A double storey dwelling exists but use of the dwelling for short term accommodation is required to supply four (4) car spaces. Three car spaces are proposed to be provided.
- The applicant seeks permission for the waiving of one (1) car space.
- The application was advertised to surrounding neighbours and one (1) objection was received, that raised concerns in relation to carparking.
- The use of the land for shared accommodation does not require a permit, therefore consideration is limited to the waiving of car parking.
- It is recommended that this application is supported through the issue of a Notice of Decision. If the use of the site were for two dwellings as currently constructed then only two (2) car spaces would be required to be provided. The car parking for the change of use is assessed per lodging room. The waiving of one car space is considered appropriate as off street parking is also available.

## Proposal

The application is for the waiving of one (1) car space.

Clause 52.06-5 of the Planning Scheme requires that the use of the dwelling for short term accommodation provide one (1) car space to each lodging room. The dwelling consists of four bedrooms and this requires that 4 car spaces be provided on site.

Access remains from Diana Street with 3 carspaces proposed with the dimension of 4.9m x 2.6m.



## Subject Site and Locality

The site is located in Diana Street, Apollo Bay. The site has an area of 459.3sqm with an existing double storey dwelling. Surrounding sites have been developed with residential dwellings consisting of single and double storeys. Numerous multiple unit developments feature in the surrounding area.

The site is currently being used for short term accommodation without the required planning approval which created the need for this application.

The ground floor and first floor both contain a kitchen, bathroom, two (2) bedrooms, laundry and lounge/dining room with an internal staircase connecting the two levels.



Existing Multiple Unit Developments = 

The site is currently being used for accommodation purposes.

Covenant X680145M 20/08/2001 was registered for Planning Permit PPA/049/2001 which was issued in 2001 for approval of a Two (2) Lot Subdivision. Condition 6 of this permit required a Section 173 Agreement be entered into so that any future dwelling on Lot 1 incorporates design provisions such that all windows along the western elevation of the dwelling (apart from ground floor level) shall be:

- a) permanently glazed with obscured glass to prevent overlooking of the adjoining property to the satisfaction of the Responsible Authority; or
- b) located a minimum of 1800mm above floor level.

**Referrals**

The application was referred internally to the Infrastructure Department, Building Department and the Health Department.

The Building Department advised that a permit is required for the change of use. The Health Department and Infrastructure Departments have no objection to the granting of the permit.

The application was not required to be referred externally to any authority as the dwelling exists.

**Notice of Application**

Notice of the application was required pursuant to Clause 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.

One objection was received from a dwelling adjoining the site to the north. The concerns raised by the objector are discussed in detail further in the report.

**Consideration of the Proposal**

A planning permit is triggered by the following Clauses of the Colac Otway Planning Scheme:

- Clause 52.06-1 – Waiving of Car Parking

The application has been considered as follows:

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

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 14.01 Planning for Urban Settlement
- Clause 16.02 Medium density housing
- Clause 17.04 Tourism

**b) Local Planning Policy Framework (LPPF)**

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.03 Settlement
- Clause 21.03-3 Apollo Bay and Marengo

**Comment**

The proposal is consistent with the State and Local Planning Provisions as it provides for medium density housing and short term accommodation within walking distance of the commercial area of Apollo Bay.

**b) Zoning**

The site is located within the 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.

**Comment**

A permit is required under Clause 32.01-1 for the change of use for Accommodation.

However, under Clause 52.23 Shared Housing, a permit is not required to use a building, including outbuildings normal to a dwelling, to house a person, people and any dependants or 2 or more people (including people with intellectual disabilities) if the building meets all of the following requirements:

- Is in an area or zone which is used mainly for housing
- Provides self contained accommodation
- Does not have more than 10 habitable rooms.

The dwelling does meet these requirements so it was not required to be assessed under this zone.

**c) Overlay Provisions**

The site is located within the Design & Development Overlay under the Colac Otway Planning Scheme. The purpose to this overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

The DDO6 is not relevant to this application.

**d) Particular Provisions**

The particular provision which relates to car parking is applicable to the assessment of this application.

**Clause 52.06 – Car Parking**

This Clause contains purposes including:

- To promote the efficient use of car spaces through the consolidation of car parking facilities
- To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality

**Comment**

The site is located in a Residential 1 Zone. A double storey dwelling exists but use of the dwelling for short term accommodation is required to supply four (4) car spaces. Three car spaces are proposed to be provided. The issue of car parking is discussed further below.

**e) Response to Objectors concerns**

The following responds to the matters raised in the objection received from the adjoining property owner to the north:

- Verbal abuse from tenant
- Noise
- Pet excrement
- Lack of privacy
- Car parked across his own driveway blocking entrance
- Lack of parking as up to 5 or 6 cars are parked wherever they like

**Comment**

The change of use from a dwelling to a dwelling used for short term accommodation does not require assessment under the Colac Otway Shire Planning Scheme. The application can only be assessed in regards to the car parking requirements. Most of the concerns raised above are not planning related matters. The application proposes to provide three (3) car spaces and requires waiving of one (1) car space. The waiving of this car space is not considered unreasonable. If the use of the site were for two dwellings then only two (2) car spaces would be required to be provided based on the number of bedrooms being provided. The car parking for the change of use is assessed per lodging room. The waiving of one car space is considered appropriate as on street parking is also available and any overflow parking should not adversely affect the amenity of the area. Council's Local Laws Unit has capacity to police the parking of vehicles across the objector's driveway.

**Summary**

In light of the above assessment, it is considered that the request for waiving of one (1) car park space should be supported. The waiving of this car space is not considered unreasonable. On street parking is available in the street and should not unreasonably affect the amenity of the area.

**Recommendation(s)**

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP432/08 for Waiving of Car Parking for the Purpose of Accommodation subject to the following conditions:***

- 1. The layout of the site and the size of the proposed carspaces as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. This permit will expire if the following circumstance applies: The use is not started within two years of the date of this permit. The Responsible Authority may extend the period 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 use of the dwelling as short term accommodation.***

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PC091208-3 USE AND DEVELOPMENT OF THE LAND AT 3620 GREAT OCEAN ROAD, GLENAIRE FOR A DWELLING AND GARAGE/SHED

| | | | |
|-------------|------------------------------------|-----------|------------|
| AUTHOR: | Ros Snaauw | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | PP435-08 |

Location: 3620 Great Ocean Road, Glenaire

Applicant: John Riches

Zoning: Rural Conservation Zone

Overlay controls: Wildfire Management Overlay
Significant Landscape Overlay Schedule 1
Vegetation Protection Overlay Schedule 1
Erosion Management Overlay Schedule 1

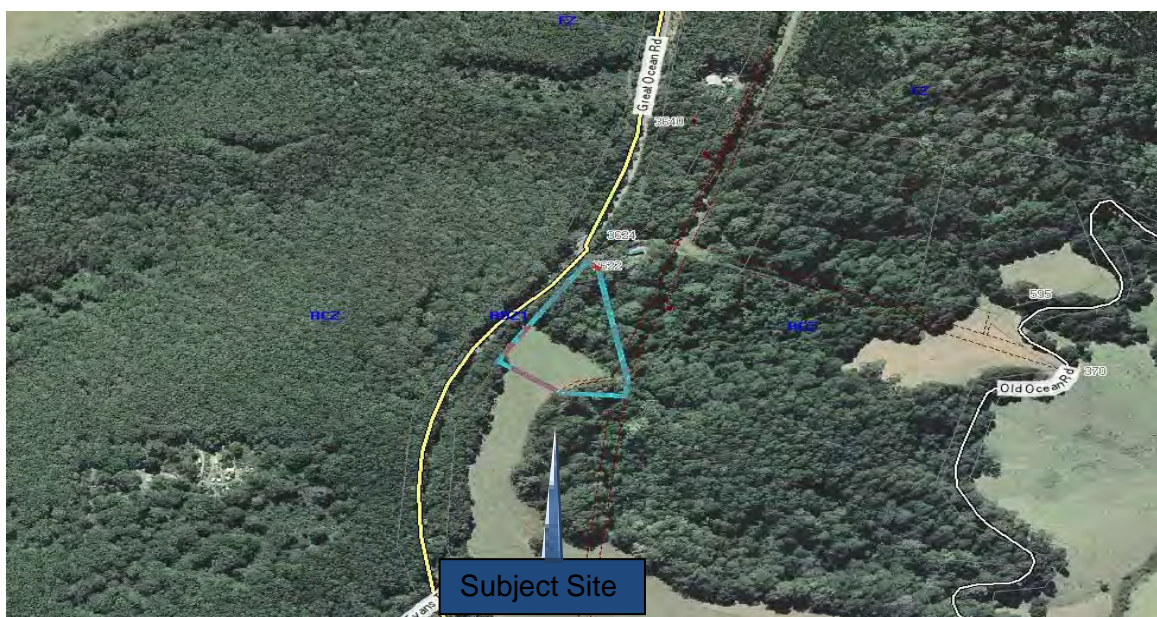
Amendment: Nil

Adjoins: Road Zone Category 1

Restrictive Covenants: 173 Agreement AB585343W
Registered 26/09/2002

Reasons for Planning Committee consideration:

This application is before Council's Planning Committee as the proposed dwelling has a height greater than eight metres.



Summary

- It is proposed to use and develop the land for a two (2) storey dwelling and garage/shed. The dwelling has an overall height of 9 metres from natural ground level.
- The site is situated on the Great Ocean Road, Glenaire and located some 36 km from Apollo Bay.
- The site is located in a Rural Conservation Zone and subject to the Wildfire Management Overlay, Significant Landscape Overlay, Vegetation Protection Overlay and the Erosion Management Overlay.
- The application was advertised to surrounding owners/neighbours with no objections being received.
- Whilst the lot is small, it was created by a boundary re-alignment in 2001 which was supported by Council and carried an expectation of a dwelling on the lot.
- It is considered that the application is consistent with the State and Local planning provisions including the zoning and overlay controls on the land, and as such it is recommended that a permit be issued.

Proposal

The application is to use and develop the land for a double storey dwelling constructed of Scyon "Linea" weatherboard cladding painted in Porter's "Pale Clay" with white trim. The sloped roof will be corrugated steel roofing in colorbond "Bushland Grey". The height of the dwelling will be 9 metres to the top of the roof pitch.

The dwelling has a setback of some 35 metres from the Great Ocean Road and 22.6 metres from the southern property boundary. The garage has a setback of 16.7 metres from the Great Ocean Road and 12.8 metres from the southern property boundary. The dwelling is positioned within the cleared area of the site and requires no vegetation to be removed.

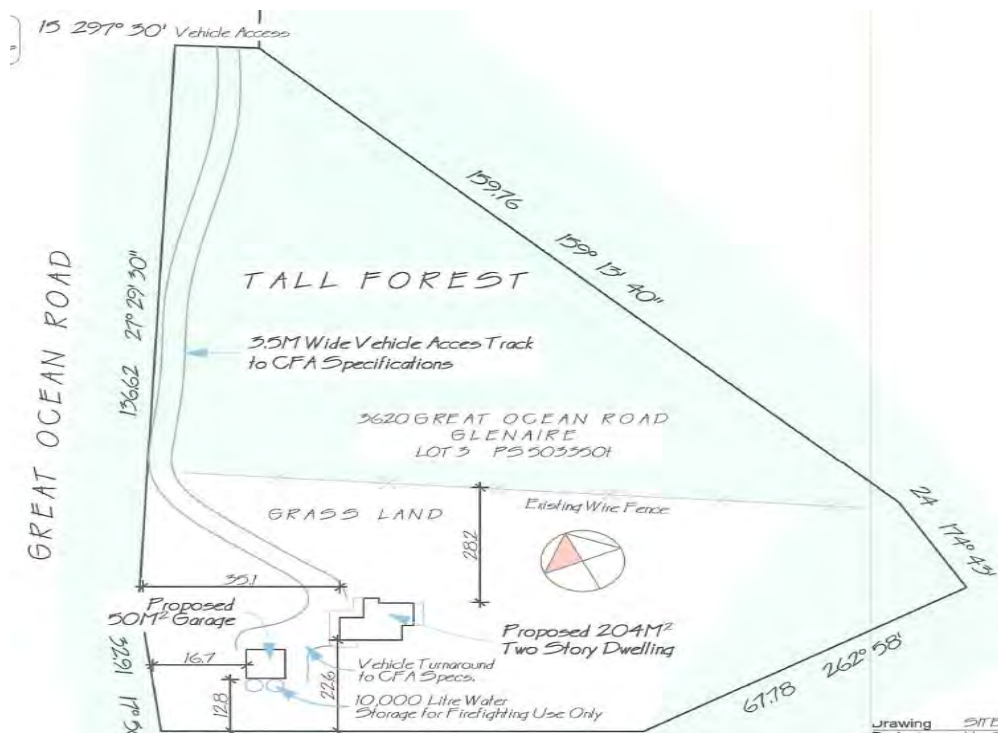
The dwelling has an overall area floor area of 204 m². The ground level of the dwelling has a floor area of 102m² and comprises of a library/living area with a separate living, dining, kitchen and laundry area. The upper level has a floor area of 102m² and comprises of four bedrooms (main bedroom with ensuite) with a bathroom and decking to the west elevation.

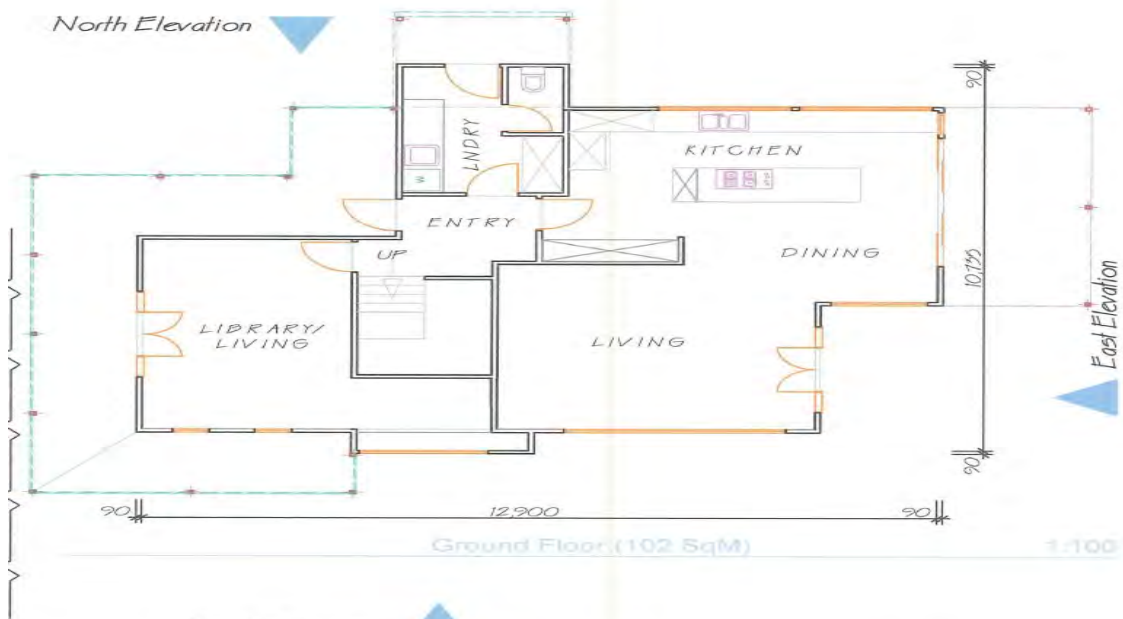
The shed/garage is 7.02m x 9.3m with a height of 4.2m and is to the west of the proposed dwelling. Access to the site is from an existing track to the northwest of the proposal.

The dwelling plans and site photo are shown below. This photo is looking west toward the Great Ocean Road.



The site where the proposed dwelling and shed are to be located is flat.





Drawing: GROUND FLOOR PLAN
Project: New Two Story Single Dwelling



Drawing: FIRST FLOOR PLAN
Project: New Two Story Single Dwelling
Address: 5620 Wood Down Road, Glenaire

The site is located 36km west of Apollo Bay along the Great Ocean Road at Glenaire.

The site is only able to be accessed 136 metres north of the proposed site from the Great Ocean Road due to the topography and existing vegetation.

The site is 1.5 hectare in area and is currently vacant with significant trees over the northern part. The site drains from north to south. There are two properties of similar size to the north of the subject land that have been developed with dwellings. Other properties nearby are significantly larger in area and substantially covered with native vegetation.

The site has a Section 173 Agreement AB585343W registered in 2002 that was made as a condition of permit PPA/285/2000 which was for the realignment of boundaries to create five new lots. Condition 20 of this permit stated:

20. *Prior to the Statement of Compliance being issued, the applicant shall enter into an Agreement pursuant to Section 173 of the Planning and Environment Act 1987. Such an Agreement shall covenant the following:*

- a) *No vegetation shall be lopped, removed or destroyed except for within approved access and building envelopes and for compliance with any Country Fire Authority requirement.*
- b) *If stock is to be carried on any of the lots created by the subdivision, native vegetation shall be fenced and maintained to exclude stock access to the satisfaction of the responsible authority.*

The Agreement shall be registered on title. All costs associated with the preparation and registering of the agreement shall be at the applicant's expense.

Referrals

The application was referred to a number of internal departments and external referral authorities in relation to this application. None of whom had any objection to the issue of a planning permit subject to conditions being placed on any permit issued.

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. No objections have been received.

Consideration of the Proposal

The land is included in the Rural Conservation Zone and subject to the Vegetation Protection Overlay, Significant Landscape Overlay – Schedule 1, Erosion Management Overlay – Schedule 1 and the Wildfire Management Overlay. A planning permit is required for the use and development of the land for a dwelling.

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

The State and Local 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 11.03-2 Environment
- Clause 15.07 Protection from wildfire
- Clause 15.08-2 Strategies
- Clause 15.09 Conservation of native flora and fauna
- Clause 18.09 Water supply, sewerage and drainage
- Clause 21.01-3 Environment
- Clause 21.02-2 Land Use Vision
- Clause 21.03 Settlement
- Clause 21.04-3 Vegetation
- Clause 21.04-5 Erosion
- Clause 21.04-8 Landscape Character

The proposal generally accords with the provisions of the State and Local Planning Policy Framework. The development is sensitively located requiring no removal of vegetation. The materials and colours used in the structure are muted and will blend with the natural environment. Refer to more detailed discussion below in regard to specific issues.

c) Zoning

The relevant objectives of the Rural Conservation Zone are outlined as follows:

- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

The lot has been created through the issue of a planning permit for the re-alignment of boundaries between five titles in 2001. The realignment of boundaries has created three smaller lots with areas ranging from 1.5-2.8 ha along the Great Ocean Road and two other lots with areas of 5 ha and 49 ha. All lots contain significant native vegetation.

Two of the other lots have been granted planning permits for dwellings, and it is clear that when the realignment was approved by Council it created an expectation that a dwelling would be supported on each of the smaller lots created.

The proposed dwelling on this lot does not require the removal of any vegetation. The existing vegetation to the north and along the Great Ocean Road frontage provides a visual screen to the development even though the overall height of the building will be 9 metres.

The setback, materials and colours of the building assist in blending the development into the natural landscape. It is unlikely that the proposed development will be sighted from other adjoining properties.

The proposed dwelling is modest in size and designed to respond appropriately to the site and its surrounds. The dwelling has two stories and the height of the dwelling at 9 metres is largely due to the roof pitch.

The S173 Agreement provides further controls in regard to the removal of native vegetation that are met by this application. The site is capable of accommodating the development which will not impact on either a rural use or the environmental qualities of the land.

d) Overlays

The proposed development has satisfied the requirements of the Vegetation Protection Overlay (VPO), Significant Landscape Overlay (SLO1), Erosion Management Overlay (EMO) and the Wildfire Management Overlay (WMO).

A Geotechnical Report and Checklist were submitted by 2020 Engineering Solutions dated 1 December 2008 as part of the application, in accordance with the requirements of the EMO. The report states that the anticipated risk from soil instability to life is low, and the risk to property and the environment is also low. Permit conditions will require compliance with the recommendations of this report. The site has a slope of 1.5 degrees which requires a small amount of excavating for the dwelling.

The Shire's Health Department has requested conditions to be placed on a permit in relation to septic tank requirements, and the Environment Department has requested conditions to ensure weeds are controlled and any landscaping will require appropriate species indigenous to the area to be planted.

A Wildfire Management Report was prepared by the applicant and referred to Country Fire Authority. The CFA has raised no objection to the proposal subject to conditions.

The proposal is consistent with the SLO and VPO as no vegetation will be affected by the use or development, and as noted above the development will be largely screened from view of the road or surrounding properties, and thus would have minimal visual impact on the landscape.

Conclusion

It is considered that the proposal is consistent with the State and Local Planning Policy Framework and will not have a negative impact on the environmental qualities of the area. The dwelling will not be visible from the Great Ocean Road even though the dwelling has a height of 9 metres, as it will be screened by the existing vegetation.

It is considered that the proposal should be supported subject to conditions.

Recommendation(s)

That Council's Planning Committee resolve to issue a Planning Permit for use and development of 3620 Great Ocean Road, Glenaire for a dwelling and garage 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 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 planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant that will surround the dwelling. All species selected must be to the satisfaction of the Responsible Authority, with a preference for species indigenous to the area (EVC 16 – Lowland Forest).***
3. ***The roof and external walls of the dwelling and the outbuildings shall be constructed of a non-reflective material which will effectively blend the development in with the natural colours of the surrounding landscape (ie. Not white, off white, beige, cream, fawn, light yellow or similar colour, galvanised or zincalume).***
4. ***The development must not breach Covenant No. AB585343W 26/09/2002.***
5. ***The proponent must follow the recommendations contained in the Geotechnical Assessment undertaken by 2020 Engineering Solutions report number ES08217 dated 1 December 2008.***
6. ***All environmental weeds as outlined in “Environmental Weeds of the Colac Otway Shire” brochure must be controlled on the property at all times and prevented from spreading to neighbouring land to the satisfaction of the Responsible Authority.***
7. ***No environmental weeds as referred to in “Environmental Weeds of the Colac Otway Shire” brochure shall be planted on or allowed to invade the site.***
8. ***An all waste septic tank disposal system is to be constructed concurrently with the new dwelling, such that all liquid waste must be, at all times, contained within the curtilage of the title. Such system must be designed and installed to the satisfaction of the Responsible Authority.***
9. ***The proposed septic tank system must not be located within 60 metres of the bank of any surface waters, unless the liquid waste is treated to the satisfaction of the Responsible Authority. Any such reduction in distance to the surface waters will be at the discretion of the Responsible Authority.***
10. ***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.***
11. ***Access from the Great Ocean Road must be of all weather construction and easy to see from the road.***
12. ***This permit will expire if one of the following circumstances applies:***
 - ***The development and use are not started within two (2) years of the date of this permit.***
 - ***The development is not completed within four 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.

Conditions Required by Country Fire Authority

13. Water Supply Requirements

- 13.1** *A static water supply, such as a tank, must be provided.*
- 13.2** *A static water supply such as a tank must be provided and must meet the following requirements:*
- 13.2.1** *A minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely for fire fighting.*
 - 13.2.2** *The water supply must be located within 60 metres of the dwelling.*
 - 13.2.3** *Fire brigade vehicles must be able to get to within four metres of the water supply outlet as indicated on the wildfire development plan.*
 - 13.2.4** *The water supply must be readily identifiable from the building or appropriate signage (see Appendix A: Figure 1) must point to water supply. All below-ground water pipelines must be installed to the following depths:*
 - *subject to vehicle traffic – 300mm*
 - *under houses or concrete slabs – 75mm*
 - *all other locations – 225mm*
 - *all fixed above-ground water pipelines and fittings, including water supply, must be constructed of non-corrosive and non-combustible materials or protected from the effects of radiant heat and flame.*
- 13.3** *If the static water supply is above ground the following additional standards apply:*
- 13.3.1** *All above-ground static water supply must provide at least one 64mm. 3 thread/25mm x 50mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A: Figure 2).*
 - 13.3.2** *All pipe work and valving between the water supply and the outlet must be no less than 50mm nominal bore.*
 - 13.3.3** *If less than 20 metres from the building, each outlet must face away from the building to allow access during emergencies.*

14. Access Requirements

- 14.1** *Access to the dwelling must be designed to allow emergency vehicles access. The minimum design requirements are as follows:*
- 14.3.1** *curves in driveway must have a minimum inner radius of ten metres;*
 - 14.3.2** *the average grade must be no more than 1 in 7 (14.4%)(8.1^o) with a maximum of no more than 1 in 5 (20%)(11.3^o) for no more than 50 metres;*
 - 14.3.3** *dips must have no more than a 1 in 8 (12.5%)(7.1^o) entry and exit angle.*
- 14.2** *If the driveway from the road to the dwelling and water supply, including gates, bridges and culverts, is greater than 30m long, the driveway:*
- 14.2.1** *must be designed, constructed and maintained for a load limit of at least 15 tonnes, and*
 - 14.2.2** *be all weather construction; and*
 - 14.2.3** *must provide a minimum trafficable width of 3.5 metres, and*
 - 14.2.4** *be clear of encroachments four metres vertically (see Appendix A: Figure 3).*
- 14.3** *If the driveway is longer than 100 metres, a turning area for fire fighting vehicles close to the dwelling must be provided by either:*
- 14.3.1** *a turning circle with a minimum radius of 8 metres; or*

- 14.3.2 *by the driveway encircling the dwelling; or*
14.3.3 *a “T” head or “Y” head with a minimum formed surface of each leg being eight metres in length measured from the centre point of the head, and*
14.3.4 *four metres trafficable width (see Appendix A: Figure 4)*

15. **Vegetation Management Requirements**

Inner Zone

A distance of 10 metres around the proposed dwelling must be maintained to the following requirements during the declared ‘Fire Danger Period’ to the satisfaction of the Responsible Authority:

- *Grass must be no more than 100mm in height.*
- *Leaf litter must be less than 10mm deep.*
- *There must be no elevated fuel on at least 50% of the Inner Zone. On the remaining 50% the inner zone, elevated fuel must be at most, sparse, with very little dead material.*
- *Dry shrubs must be isolated in small clumps more than 10m away from the dwelling.*
- *Trees must not overhang the roofline of the dwelling.*

Outer Zone

A distance of 80 metres around the proposed dwelling or to the property boundary (whichever is the lesser) must be maintained to the following requirement during the declared ‘Fire Danger Period’ to the satisfaction of the responsible authority:

- *Grass must be no more than 100mm in height.*
- *Leaf litter must be less than 20mm deep.*
- *There must be no elevated fuel on at least 50% of the outer zone area.*
- *Clumps of dry native shrubs must be isolated from one another by at least ten metres.*

Note: Non-flammable features such as tennis courts, swimming pools, dams, patios, driveways, or paths should be incorporated into the vegetation management plan, especially on the north and western sides of the proposed building. Features with the high flammability such as coir doormats, firewood stacks should to be located near the dwelling during the fire danger period. Clumps of hedges of shrubs with low flammability and/or high moisture content may be retained to act as a barrier to embers and radiant heat.

Note for Category of Bushfire Attack

CFA is unable to provide a note regarding the site assessment for AS 3959-2009. The Relevant Building Surveyor will need to provide this determination prior to issuing a Building Permit.

CFA Recommendations

CFA recommends that consideration be given to the installation of fire fighting equipment as listed below;

- *At least a 5hp petrol or diesel pump, which can be either, be fixed or transportable.*
- *Fire fighting hoses which can, as a minimum reach all parts of the house including the roof and roof space and has attached a controllable branch.*
- *Fixed fire fighting pumps be protected with a non combustible cover or pump house.*

Note

1. ***Building approval is required prior to commencement of construction.***
2. ***A Permit to Install an all waste septic tank system must be lodged and approved by the Responsible Authority prior to the commencement of works. Such system must be designed and installed to the satisfaction of the Responsible Authority before a Permit to Use the waste septic tank system can be issued.***

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**PC091208-4                    USE & DEVELOPMENT OF LAND FOR A TRADE SUPPLY AND ANCILLARY TIMBER YARD, SIGNAGE; AND WAIVERING OF CARPARKING AT 130-138 BROMFIELD STREET AND 73 QUEEN STREET, COLAC**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Anne Sorensen                      | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | PP415/08   |

**Location:**                                    **130-138 Bromfield Street and 73 Queen Street, Colac (Lot 1, TP592083, Lot 1, TP344613, Lots 1 & 2, TP347333 and Lot 1, TP675384, Lot 2, LP13603, Parish of Colac)**

**Applicant:**

**Zoning:**                                        **Business 2 Zone**

**Overlays:**                                    **Nil**

**Amendment:**                                **N/A**

**Abuts:**                                        **Business 2 Zone**

**Restrictive Covenants:**                **Nil**

**Reasons for Planning Committee Consideration:**

This application is before Council for consideration as more than 4 objections have been received and a waivering of car parking is sought.

**Summary**

- Civic Home Hardware is proposing to relocate their existing hardware business from Gellibrand Street to Bromfield Street site to enable the facilitation of an expansion of their business and the provision of on-site car parking.
- The site is appropriately located in the business district of the Colac Township with access to Bromfield, Rae and Queen Streets.
- It is proposed to use and develop the land for a Trade Supplies and ancillary Timber yard, and the application is seeking wavering of car parking and advertising signage.
- The site and surrounding land is included in the Business 2 Zone which requires a planning permit for Trade Supplies. Under this zone, use and development of land for a Timber Yard is prohibited, however, it is considered that the timber yard activity is ancillary to the principle use of the land for Trade Supplies and can be supported on that basis.
- The development site abuts land that is used for residential activities and as such a range of amenity related issues have been raised by objectors. In particular, overshadowing, noise, car parking, prohibition of the timber yard activity and traffic management.
- The purpose of the Business 2 Zone is to provide for commercial activities that do not unreasonably impact on adjoining land uses or the surrounding neighbourhood.

- Most of the concerns of the objectors can be addressed by permit conditions and while there is some overshadowing cast by the development, the level of overshadowing generally complies with the principles of Rescode. An agreement has been reached with the applicant to modify the east facing boundary wall to reduce the extent of overshadowing on adjoining properties.
- Traffic management and provision of car parking are considered to be satisfactory. The proposed use does not generate the same level of demand that a 'shop' or other types of retail activities do and therefore support of a waiver of car parking is not unreasonable.
- The Civic Hardware business makes a positive contribution to the local economy of Colac and will consolidate the core commercial area of Colac through its relocation to the Bromfield Street site. Development of this site in the manner proposed is consistent with the State and Local Planning Policy Framework and should be supported.
- It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

### **Proposal**

The proposal is to develop 130-138 Bromfield Street and 73 Queen Street for a Trade Supplies with ancillary Timber yard, advertising signage and waiver of car parking.

Civic Hardware are proposing to relocate their existing Trade Supplies business from Gellibrand Street to the Bromfield Street site given the constraints the Gellibrand Street location presents in relation to expansion and opportunities to provide improved traffic management and on-site car parking.

It is proposed to construct a building with an overall area of 4296 m<sup>2</sup> to be used as follows:

#### Trade Supplies (3110m<sup>2</sup>)

This will typically include: building supplies (timber, cement, reinforcing mesh, doors); Plumbing (pipes, fittings, roofing, hot water systems, etc); Bathroom & Tiles (tiles, adhesives, toilets, baths, sinks, shower, taps, vanity units); Hand and Power tools (hammers, tape measures, chisels, drills, saws); Paint; Buildings Hardware and Electrical. A small area comprising of 50m<sup>2</sup> has been set aside in the south-west corner of the site for timber milling and a similar area is set aside for receiving general goods.

#### Retail (800m<sup>2</sup>) and Nursery (300m<sup>2</sup>)

This will typically include: Nursery, Garden (lawn seed, watering systems, fertilizers, rakes, shovels, mowers), Home Wares (storage, clothes lines, clothes dryers, kettles, bins), Outdoor Living (settings, bbqs, umbrellas, heaters), Paint and Automotive (fuel cans, car cleaners).

#### Office (120m<sup>2</sup>)

The layout of the office includes two offices, a storeroom, board room and lunch room.

#### Bulk Storage area – 73 Queen St

It is proposed to use 73 Queen St as a bulk storage yard. This land has abuttal to the Shell Service Station to the north, a dwelling to the south, abuttal to Queen Street and abuttal to the main development site.

73 Queen Street has an area of 692m<sup>2</sup> the majority of which will be used for storing of timber packs, reinforcing mesh, brick lintels, pallets of potting mixture and other building supplies. Public access to this area will be limited to those trades requiring mesh. All loose timber products will be in store for customers to access.

Timber in the storage facility will be stacked no higher than the brick walls on either side. A 2.4m colourbond fence is proposed on both side boundaries.

It is proposed that the bulk storage area will only be accessible by staff Monday-Friday 8.00am-5.30pm; Saturday and Sunday 9.00am-4.00pm. Proposed hours of loading and unloading within the site are between 8.00am-5.30pm Monday-Friday. It is expected that there would be 10 deliveries per day to this facility.

Entry into this area will be available from Bromfield Street only (main entrance to the development) with all vehicles exiting onto Queen Street. The entrance on Queen Street will be secured by a gate.

#### Building Design

The building will have an area of 4296m<sup>2</sup> and a height of 6.3 metres with a relatively flat roof. The building will be constructed along the entire southern property boundary of 60 metres (Rae Street), will extend for 55 metres along the eastern property boundary and for 76 metres along the western property boundary. The building will be constructed of concrete and painted corporate colours on all external walls.

Car parking is provided at the front of the building with access from Bromfield Street. Separate entry/exit egress is provided from Rae Street to the rear of the site which will principally be used by trades persons.

#### Operating hours

Operating hours for the Trade supplies, retail/nursery and office are proposed as follows:

Monday-Friday 7.30 am – 6.00 pm;  
Saturday and Sunday 8.00am-4.00 pm

Machinery will be used in the timber milling and cutting location of the site. This will be used between the following hours:

Monday-Friday 8.00am-5.30pm  
Saturday-Sunday 9.00am-4.00pm

Timber machining operated within the business will be in an enclosed sound proof room with dust extraction systems fitted. On average, it is estimated that the machines will be in use for a total of 10-15 hours per week.

Deliveries to the bulk storage area will be Monday-Friday 8.00am-5.30 pm.

#### Car parking

The application provides for a total of 37 car spaces including one disabled car space in the area at the front of the development site. An additional 15 short-term car spaces are proposed on either side of the drive-through in the area that is within the building. This makes a total of 52 car spaces.

In support of the level of car parking provided the applicant has advised that *“the trade area which has short term parking mainly used for pickup purposes has an average time in our store of 10-15 minutes and averages approximately 20 customers per hour giving us enough customer parks to service our clients.”*

The applicant has advised that in addition to parking provided on-site, an agreement has been reached with Colac Central Hotel Motel to utilize the car parking area on this site for the staff employed by Civic Hardware. It is anticipated that a maximum of 13 staff employees will be on the site at any one time. Written confirmation of this agreement has been received by Council Officers, however it is not assessed as part of the development proposal.

### Traffic management

Entry/exit to the customer car parking at the front of the site will be provided from Bromfield Street. One way drive-through access from Bromfield to Rae Street is proposed together with one-way access being provided from Bromfield to Queen Street for the delivery of timber and other materials. Separate entry/exit access is also available from Rae Street at the rear of the site.

GHD prepared a desktop traffic analysis to determine the impact of the proposed development on the surrounding road network and car parking requirements. The report concludes that the additional traffic generated by the proposed development should not have an adverse impact on the existing road network or the existing amenity of the local area.

GHD have identified that based on a site area of 6,125m<sup>2</sup> a total of 54 car spaces should be provided which includes 39 long-term and 15 short-term spaces. This figure is based on applying a parking requirement of 10% of the site area to be set aside for car spaces and access ways, but not driveways for land used for the plant nursery, store, timber yard.

The report states that stores of similar size and within rural townships on average have 200 transactions per day with patrons parking within the site for 15 minutes. On this basis, the average number of patrons within a 15 minute period will be approximately 7 (based on an 8 hour working day) during the week. Adopting a peak hour factor of 2.5, this implies that within the region of 18 spaces will be occupied at any one time during peak times.

The report also states that 95% of all commercial vehicles delivering materials to the site will be medium rigid vehicles which have a load limit of 8 tonnes and typically having a single rear axle and dual tyres. Of the remaining commercial vehicles, 5% will be heavy rigid vehicles with maximum dimensions of a single unit truck and typically having a load capacity of 12 tonnes. This class also includes 4 axle twin steer vehicles with a typical load capacity of 16 tonnes.

### Advertising signage

Advertising signage will consist of the corporate colours and business identification on the northern, southern and western elevations of the building as shown in the elevation plans.

### **Subject Site and Locality**

The site comprises of a number of separate titles which combined have a total area of 6830.9m<sup>2</sup>.



The site has two frontages of approximately 60 metres to Bromfield Street and Rae Street, with a side boundary of 100 metres with a total area of 6138.9m<sup>2</sup>. 73 Queen Street has a frontage of 17 metres to Queen Street with a side boundary of 40.5 metres and an overall area of 692m<sup>2</sup>.

The main development area of the site was formerly used by Powercor as a depot and workshop and currently contains no development. 73 Queen Street contains an existing dwelling that was formerly used for residential purposes which will be demolished as part of the development proposal.

The site abuts three separate land parcels containing dwellings to the east and a service station. To the west, the site abuts land developed for commercial purposes known as Colac Gateway Centre and beyond that Aldi. Both these developments have car parking areas that are accessed from Bromfield Street.

Further to the north, south and west, the land has been developed for commercial purposes. The land to the east of Queen Street, although zoned Business 2, contains dwellings used for residential activities.

### **Referrals**

The proposal was referred to VicRoads which raised no objections subject to conditions. The application was referred internally to Infrastructure and Building who raised no concerns subject to conditions.

### **Public Notice**

Under the provisions of the Business 2 Zone, buildings and works are exempt from the public notification process except in the instance where the development is within 30 metres of land which is within a residential zone. Where a permit is required for the use of land, a planning application is not exempt from the notification process or third party appeal rights.

All adjoining property owners were notified by mail and a sign was placed on site for 14 days. Four objections were received. The matters raised may be summarised as follows:

- i. Use of 73 Queen Street for a bulk storage area is inappropriate as it abuts a site used for residential purposes;
- ii. Use of 73 Queen Street as a Timber Yard is prohibited under the Business 2 Zone. It is a separate use and not ancillary to the hardware and garden supply business;
- iii. Lack of sufficient detail on site and elevation plans, no detail of the design and height of racks and other buildings on 73 Queen Street to allow a proper assessment of proposal. No shadow diagram provided to determine overshadowing and no landscaping proposed to soften impact on adjoining property;
- iv. Unacceptable overshadowing of dwellings to east caused by the 6.3 metre high wall along the eastern boundary;
- v. Impact on existing amenity of dwellings caused by noise from delivery vehicles and forklifts used in the activities of the bulk storage area;
- vi. Traffic reports provided do not adequately address service vehicle access for 73 Queen Street or Bromfield Street;
- vii. Issues with traffic management and large articulated vehicles entering and exiting 73 Queen Street and potential conflict between pedestrians and vehicles;
- viii. Plans submitted show access onto adjoining property at 118-128 Bromfield Street which is not supported by property owners as it removes 7 car spaces;
- ix. Insufficient car spaces provided onsite has the potential to impact on adjoining commercial properties, particularly car parking areas.

The concerns raised in the objections are addressed in the body of this report in the following section.

### **Consideration of the Proposal**

The land is included in the Business 2 Zone, where Trade Supplies, advertising and waivering of car parking requires planning approval.

#### **a) State (SPPF) and Local Planning Policy Framework (LPPF) including Municipal Strategic Statement (MSS)**

The State and Local 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 17.01 – Activity centres

Clause 17.01 – Business

Clause 18.02 – Car parking and public transport access to development

Clause 19.03 – Design and Built Form

Clause 21.03-2 – Colac

The above policies, including the Colac Structure Plan, encourage the concentration of major retail, commercial, administrative and entertainment activities into the Colac Town Centre. These policies also support the co-location, multiple use and sharing of facilities, and seek to minimise the effects of commercial development on the amenity of residential and parkland areas, for example as a result of traffic congestion, noise or overshadowing. The policies encourage the efficient provision of car parking and promote high quality urban design outcomes.

The proposed development is appropriately located within the commercial precinct of the Colac Town Centre and consistent with State and Local Planning Policies outlined above. Relocation of this commercial activity will assist in consolidating this area and improve linkages and synergies with existing commercial activities in the area. Development of this site will assist in further revitalising the general area.

The design of the building is consistent with neighbouring built form in Bromfield and Rae Streets where development generally addresses Bromfield Street with active frontages leaving Rae Street as a rear address to these premises. Some articulation has been provided in the design of the building which assists in breaking up the bulk and mass of the building.

While the broader area is zoned for commercial activities, the site abuts land that is currently used for residential purposes and contains three dwellings. The interface between the commercial use, built form and the residential development will need to be properly managed so as any conflicts between the two uses are minimised. This matter is addressed in more detail in the discussion section of this report.

**b) Zone Provisions**

The objectives of the Business 2 Zone are outlined below:

- To implement the SPPF and the LPPF including the MSS and local planning policies.
- To encourage the development of offices and associated commercial uses.

A permit is required for the use of the land for 'Retail premises', building and works, advertising and the wavering of car parking.

At Clause 75.11, '**Retail premises**' includes Trade Supplies, Garden Supplies, Plant Nursery and Timber yard.

**Trade Supplies** is defined as: Land used to sell by both retail and wholesale, or to hire, materials, tools, equipment, machinery or other goods for use in:

- a) Automotive repairs and servicing;
- b) Building;
- c) Commerce;
- d) Industry;
- e) Landscape gardening;
- f) The medical profession;
- g) Primary production; or
- h) Local government, government department or public institutions.

Under the Business 2 Zone, a Timber yard is prohibited.

**Timber yard** is defined as:

Land used to sell sawn, dressed, and treated timber, wood fibre boards, and the like. It includes cutting the timber and boards to order, and selling hardware, paints, tools and materials used in conjunction with the use and treatment of timber.

Objections have been received that claim that the use of 73 Queen Street as a Timber Yard is prohibited under the Business 2 Zone as it is a separate use and not ancillary to the hardware and garden supply business.

In responding to this matter, it is considered that the principle use of the site is for Trade Supplies as the area set aside for this activity is 3110m<sup>2</sup> whereas the area associated with the timber milling and bulk storage area is less than 700m<sup>2</sup>. This equates to less than a quarter of the site being used for activities that could fall within the definition of a Timber Yard. Therefore, the activities that may fall within the definition of a Timber Yard can be considered ancillary to the principle use of the land. It is not uncommon for businesses that operate as Trade Supplies to have a mix of retail activities for homewares and hardware sales to also include timber supplies and milling. Mitre 10 operates on a similar basis in Murray/Skene Streets, Colac and was given approval for trade supplies, ancillary timber yard and waving of car parking in July 2007. The site occupied by Mitre 10 has a mix of Business 1 and 2 Zoned land.

**c) Advertising**

Advertising signage must meet the requirements of Category 2 – Office and industrial under Clause 52.05, the purpose of which is to provide adequate identification signs and signs that are appropriate to office and industrial areas. No permit is required for Business Identification providing the total advertisement area of all signs to each premises does not exceed 8 sq m. As the advertisement area exceeds this limit a planning permit is required for the signage as shown on the building.

**d) Car parking requirements**

Clause 52.06 sets out the car spaces required for specific uses. Where a use is not specified, an adequate number of car spaces must be provided to the satisfaction of Council. There is scope under this provision to seek a reduction or a waiver of car spaces.

Neither Retail premises nor Trade Supplies are uses that are specified in Clause 51.06-5, leaving discretion as to the number of car spaces to be provided for these uses.

Office has a requirement of 3.5 car spaces to each 100 sq m of net floor area and a shop has a requirement of 8 car spaces to each 100 sq m of leasable floor area. Uses like plant nursery, store and timber yard require 10% of the site area to be set aside for car spaces and access lanes, but not driveways.

It would be reasonable to consider a ratio that would be somewhere in between that of a shop and plant nursery as a benchmark for this site.

**e) Loading and unloading of vehicles**

Clause 52.07 sets out the requirements for the loading and unloading of commercial vehicles on site. Where the floor area of a building is 2,600m<sup>2</sup> or less in single occupation the minimum loading bay dimensions are:

Area 27.4 sq m  
Length 7.6 sq m  
Width 3.6 sq m  
Height clearance 4.0 m

For buildings exceeding 2,600m<sup>2</sup> in area, a further 18m<sup>2</sup> is required for every 1800m<sup>2</sup> floor area above 2600m<sup>2</sup>. A loading area of 45.4m<sup>2</sup> is required in this circumstance, which is achieved by the proposal.

**Discussion**

When assessing the proposed use, and the building and works proposed as part of the development, consideration is required to be given to Clause 34.02-2 and the effect the use may have on the amenity of the neighbourhood including, through the transportation of materials, appearance of any building, works or materials and emissions generated by the activity. In addition, consideration is required to be given to the decision guidelines of Clause 34.02-4 which requires consideration of such matters as traffic management, car parking, interface with adjoining zones including residential areas, streetscapes and urban design, amongst other things.

### Building Design and Streetscape

The scale and height of the building is similar to the scale and height of buildings in the surrounding business areas of Colac. The development adjoining the site to the west has an elevation of 6.4 metres to the top of parapet at the frontage of the development and an external wall height of 5.4 metres on the eastern boundary of the proposed development site. The Aldi Store is of a similar height with an external wall height of 5.5 metres and maximum height of 7.8 metres to the top of the roof pitch.

The layout of the site and design of the building provides an address and active frontage to Bromfield Street which is consistent with development to the west in this area. The landscaping proposed along the street frontage and within the car parking area will assist in softening the expanse of hard surfaced area and contribute to desirable urban design outcomes from a streetscape perspective.

The portico at the front of the building, the corporate colours and business signage provides some visual interest in the form of the building when viewed from Bromfield Street. The building has no setback from the property boundary on Rae Street which is consistent with the Colac Gateway Centre and Aldi development to the west of the site. Additional articulation measures have been incorporated into the south facing wall to include a number of painted mural panels in addition to the two roller door entry/ exit points to break up the facade.

### Impact on amenity of residential properties

Objectors have raised issues in relation to noise, loss of sunlight and visual impact from the use of 73 Queen Street for the purpose of bulk storage associated with the principle use of the site.

The land that will be most affected by the activities undertaken on 73 Queen Street will be the adjoining residential property to the south as the existing dwelling is used for residential purposes. As 73 Queen Street currently contains an existing dwelling and has previously been used for residential purposes, any change in use of this land to commercial purposes is likely to generate additional impacts on the general amenity of adjoining properties above that experienced by a domestic use.

73 Queen Street is proposed to be used for a bulk storage area that provides one-way access through the site, from Bromfield to Queen Street for articulated delivery vehicles that may range from 8 tonne to 12 tonne carrying capacity. As the delivery vehicles will be able to drive through the site this should remove any unnecessary manoeuvring, including backing of the delivery vehicles. Loading and unloading of bulk material will only occur during the week, Monday-Friday between the hours of 8.00am-5.30pm.

The applicant states that there will be approximately 10 deliveries per day to this facility, which averages just over one delivery per hour. This area will be restricted to the use of delivery vehicles only and the use of forklifts for the stacking and relocation of the bulk materials. There will be activity in the bulk storage area 7 days a week as it is likely that goods and materials will be moved from this location by forklifts to service customer needs elsewhere. Forklifts have reversing beepers that emit loud audible noise for safety reasons.

The activities in this area will generate additional levels of noise not currently experienced by the residents at 75 Queen Street. However, all of the land is zoned for commercial use, including the residential properties and it is expected that at some time in the future, the residential properties would be redeveloped and/or used for commercial purposes.

While the issues raised by objectors are not unreasonable, where land is zoned for commercial purposes it is difficult to retain and maintain the expected levels of amenity that a residential property may enjoy when zoned for residential purposes. It is considered that in this case, there is a need to reach a balance between the expectations of the owners/residents of dwellings and the purposes of the Business 2 Zone in relation to potential amenity impacts.

Given the residential nature of the use of the adjoining property it is considered appropriate to require an acoustic report to be provided that identifies the level of noise that will be generated by the activity within this area and if appropriate, recommendations to minimise any unreasonable impact on the adjoining properties. It is considered appropriate to require an acoustic fence to be provided along the boundary between the commercial and residential uses to minimise emission of noise and relocation of the entry/exit on 73 Queen Street nearer to the northern property boundary of the site, and ensure that goods and materials are stacked no higher than the 2.4 metre fence provided.

Any security lighting proposed for this area must be baffled and must not throw direct light onto the adjoining properties.

#### Overshadowing

Objectors have raised issues of overshadowing caused as a result of the wall on the eastern property boundary of the land and the 2.4 metre high fence on the southern boundary of 73 Queen Street, resulting in unacceptable levels of overshadowing of private open space and light into bedroom windows.

The building design provides for a wall height of 6.3 metres along the eastern property boundary that abuts the land developed and used for residential activities.

The wall on the eastern boundary at a height of 6.3 metres will cast a 7 metre shadow across the rear of the residential properties at 3.00 pm on 22 September. The 2.4 metre fence along the southern property boundary of 73 Queen Street will cast a 4 metre shadow at 12.00 noon on 22 September. This shadow extends to the building line of the existing dwelling.

Under the Business 2 Zone, any extensions to or new residential dwellings are required to be assessed against the provisions of Rescode to ensure that existing amenity levels of existing dwellings in relation to daylight and overshadowing are met. While this same requirement does not apply for commercial development in the Business 2 Zone, Council is required to consider the impact of uses and built form on the amenity of the neighbourhood and any residential interface. As Rescode is the guide that is used for assessing residential development it is considered appropriate to use this criteria as a benchmark in assessing the impact of the proposed development on the amenity of the residential properties abutting the development site.

Rescode includes criteria that must be considered when assessing residential development to ensure that any overshadowing is within acceptable limits. Rescode states that: *“where sunlight to secluded private open space of an existing dwelling is reduced, at least 75% or 40 m<sup>2</sup> with a minimum dimension of 3 metres should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September”*.

Both 77 and 79 Queen Street will have in excess of 40m<sup>2</sup> of private open space that will comply with the principles of Rescode. However, 75 Queen Street does not have sufficient area of private open space that would comply with the overshadowing requirement of Rescode. The height of the 2.4 m fence on the northern boundary of this site will also reduce daylight into the bedroom windows of the dwelling. The difficulty with the fence and its proposed height is that the fence at a height of 2.4 metres can assist in buffering the noise generated by the day to day activities of the bulk storage area. If the fence was lowered to, say 1.8 metres, a standard residential height, the adjoining residential property may experience less impact on daylight but potentially risk increased noise levels due to the lower height of the fence.

Discussions have recently been held with the applicant with a view of addressing the extent of overshadowing to the residential properties to the east. The applicant has agreed to reduce the length of the building along the eastern property boundary, as it abuts 75 Queen Street by five (5) metres. The reduction in the length of the building along the common property boundary ensures that the overshadowing standards of Rescode can be met for 75 Queen Street in addition to 77 and 79 Queen Street, as discussed above. The section of the building being reduced will be replaced by a 2.4 m high fence.

It is noted that when the development site was used by Powercor, a wash bay building with a height of 6.6 metres was positioned about 1 metre off the common property boundary directly behind 75 Queen Street. This building would have resulted in overshadowing of the rear of this property to a similar degree. Therefore, the proposed development, as modified, is unlikely to result in any greater impact than the previous development behind 75 Queen Street.

#### Traffic management and car parking

The applicant has demonstrated that there is sufficient road width and capacity to accommodate the additional vehicle movements on the public road network, including articulated vehicles without impacting on Council infrastructure or traffic movement.

Traffic management within the site including the multiple entry/exit points are considered satisfactory.

The following table provides a comparison of car parking requirements based on different ratio requirements.

| Use                                                                | Requirement                                                                                | Number required for proposal |
|--------------------------------------------------------------------|--------------------------------------------------------------------------------------------|------------------------------|
| Trade supplies/Retail (3110m <sup>2</sup> + 800m <sup>2</sup> )    | Shop requirement is 8 car spaces/100m <sup>2</sup>                                         | 312 spaces                   |
| Trade supplies/Retail                                              | Shop requirement at reduced rate of 4 car spaces/100m <sup>2</sup> , as supported by VCAT. | 156 spaces                   |
| Plant Nursery/Timber yard (300m <sup>2</sup> + 692m <sup>2</sup> ) | Plant Nursery/Timber yard requirement is 10% of the site area                              | 99m <sup>2</sup>             |
| Office (120m <sup>2</sup> )                                        | Office requirement is 3.5 car spaces/100m <sup>2</sup>                                     | 4.2 car spaces               |

The proposal has supplied more than 10% of the site area in car parking, setting aside 1465m<sup>2</sup> to provide 37 car spaces at the Bromfield Street frontage. A further 15 car spaces are being provided within the building either side of the drive-thru, totaling 52 car spaces.

If you apply the 'shop' requirement then the development would be required to provide approximately 312 car spaces, or at a reduced rate as shown in the table for a shop, the development would still be required to provide 156 car spaces. The shop requirement for car parking is aimed at retail uses that generate high demand for car parking for longer term stays.

The State Government has undertaken a review of car parking provisions and prepared an Advisory Committee Report in August 2007. This report discusses a range of matters including a review of land use terms and car parking requirements. The report recommends that the following rates be adopted for the following uses:

| Use                                                 | Car parking Requirement                              |
|-----------------------------------------------------|------------------------------------------------------|
| Shop                                                | 3.5 car spaces/100m <sup>2</sup> leasable floor area |
| Restricted Retail premises                          | 2.5 car spaces/100m <sup>2</sup> leasable floor area |
| Office                                              | 3 car spaces/100m <sup>2</sup> of net floor area     |
| Trade supplies, landscape gardening supplies, store | 10% of the site area                                 |



Although the State Government has not at this stage incorporated the recommendations of the Advisory Committee Report into planning schemes it is widely accepted through VCAT determinations that the car parking requirements for retail type activities is unrealistic and that the requirements in the above table are generally more appropriate.

Council, in January 2009 engaged AECOM Australia Pty Ltd (formerly Maunsell) to undertake a car parking study for Colac and Apollo Bay. Work in relation to the study has commenced and it is expected that an issues and options paper will be available shortly for review by Councillors and Council Officers. This study is intended to identify existing levels of car parking, parking demand and needs in both townships and develop a policy on appropriate levels of car parking requirements for various land uses, amongst other things. This study will in the future assist Council in making decisions on when and how much car parking should be required and level of dispensation that should be supported.

In the case of the Mitre 10 development, a total of 70 car spaces have been provided onsite, resulting in a waiver of 88 spaces if you apply a 'shop' requirement of 8/100m<sup>2</sup> of the leasable floor area or 17 spaces if you apply a 'shop' requirement of 4/100m<sup>2</sup> of the leasable floor area. It is noted that the Mitre 10 proposal was considered by Council in July 2007, prior to the release of the Advisory Committee Report in August 2007.

Given the type of use and the recommendations of the Advisory Committee Report it would not be unreasonable to support a car parking requirement consistent with that for 'Trade Supplies' being 10% of the site area.

The application provides for more than 10% of the site in car parking, being a total of 52 car spaces. It is considered that this level of car parking is adequate and should accommodate the demand experienced by the proposed land use.

It is noted that although the applicant has made a commercial arrangement to share parking on a nearby site for staff parking, this cannot be enforced and has not been taken into account in this assessment. However, the provisions of the planning scheme encourage multi-use and sharing of car parking facilities where appropriate.

### **Conclusion**

The proposed land use and development responds appropriately to the State and Local Planning Provisions and is considered to provide a positive outcome for the site and the Colac business district.

Based on an assessment of car parking requirements and previous planning approvals, it is considered appropriate that a waiver of car parking be supported, given the likely car parking demand for this development.

Most of the concerns raised by objectors can be addressed through permit conditions, however, the business zoning and the residential use of land within the zoning can create land use conflicts, particularly in regard to residential amenity levels that cannot be fully ameliorated through changes to the development proposal, given that the primary purpose of the business zone is for commercial land use and development.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

**Recommendation(s)**

***That the Planning Committee issue a Notice of Decision to Grant a Permit for the use and development of 130-138 Bromfield Street and 73 Queen Street, Colac (Lot1, TP592083, Lot 1, TP344613, Lots 1 & 2, TP347333, Lot 1, TP675384 and Lot 2, LP13603, Parish of Colac) for Trade Supplies and ancillary Timber Yard, wavering of car parking and advertising, subject to the following conditions:***

- 1. Before the use and development commences, 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) The wall along the eastern property boundary adjacent to 75 Queen Street to be reduced in length by a minimum of 5 metres;***
  - (b) Provision of a direct pedestrian link from Bromfield Street to the main entry of the building;***
  - (c) Directional signage for the movement of all vehicles, within, to and from the site;***
  - (d) Entry/exit signs on Rae Street;***
  - (e) A left turn only sign at the entry point of Bromfield Street;***
  - (f) A 2.4 metre high gate and a 'no entry' sign on the property boundary butting 73 Queen Street;***
  - (g) Signs identifying a maximum speed limit of 15 kilometres per hour for the internal access roads and car parking areas within the development.***
  - (h) For the bulk storage area on 73 Queen Street, the driveway including entry/exit points to be located towards the northern property boundary of this site;***
  - (i) Details of all security lighting proposed for the site including the bulk storage area;***
  - (j) Provision of an acoustic fence of 2.4 metres in height to be provided along the entire southern property boundary of 73 Queen Street and for a minimum of 5 metres along the north section of the eastern property boundary of 73 Queen Street. The design of the fence must be prepared in consultation with a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the responsible authority;***
  - (k) Identification of the loading bay area for the bulk storage facility and general goods delivery;***
  - (l) Layout of the bulk storage area including the height of timber and mesh racks;***
  - (m) Existing crossovers to be reinstated, existing crossovers to be used and upgraded;***
  - (n) Additional on street car spaces created by the reinstatement of crossovers;***
  - (o) Removal of any on street car spaces required for new crossovers;***
  - (p) Bollards or fence structure between the Colac Gateway Centre car park and the car park on subject site.***

2. ***The use and development as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
3. ***Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. This plan must be prepared by a qualified Landscape Architect who is a member of the Australian Institute of Landscape Architects, or a person with a suitable background in horticultural science or an allied field to the satisfaction of 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 landscaping plan must be generally in accordance with the landscape plan submitted with the application, but modified to include:***
  - a) ***details of surface finishes of pathways and driveways;***
  - b) ***a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sized at maturity, and quantities of each plant. Landscaping must include a mix of canopy trees with a minimum of 2 metres in height when planted and shrubs;***
  - c) ***landscaping and planting within all open areas of the site.***

***All species selected must be to the satisfaction of the Responsible Authority.***
4. ***Before the use starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.***
5. ***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.***
6. ***Prior to the commencement of the use, all titles as described in the preamble of this permit must be consolidated. Written evidence of the consolidation of titles must be provided to the responsible authority.***
7. ***Prior to commencement of any construction on this site, a detailed Construction Management Plan must be submitted to and approved by the Responsible Authority. This plan must detail the following:***
  - a) ***A staging plan for all construction phases including indicative dates for commencement and completion;***
  - b) ***Intended access for construction vehicles;***
  - c) ***Engineering assessment of assets that will be impacted on by construction and recommended techniques to minimise any adverse impact;***
  - d) ***Details of actions to be implemented in the event of damage to abutting assets;***
  - e) ***Details of where construction personnel will park;***
  - f) ***Hours/days of construction;***
  - g) ***Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;***
  - h) ***Details of site cleanliness and clean up regimes;***
  - i) ***Material storage;***
  - j) ***Dust suppression.***

***When approved this Construction Management Plan shall form part of this***

*permit as it relates to the development.*

8. *All development and works must be carried out in accordance with the Construction Management Plan required by the above condition and endorsed under this permit, to the satisfaction of the Responsible Authority.*
9. *During the construction phase of the development, the following conditions must be met:*
  - a) *Only clean rainwater shall be discharged to the stormwater drainage system;*
  - b) *Stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;*
  - c) *Vehicle borne material from the premises shall not accumulate on the roads abutting the site;*
  - d) *All machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;*
  - e) *Fencing is to be fitted and installed so as to ensure safe access for pedestrians;*
  - f) *All litter (including items such as cement bags, food packaging and plastic strapping) must be contained on site.*

*to the satisfaction of the Responsible Authority.*

10. *Before the use commences, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:*
  - a) *In compliance with Austroads Part Eleven (11): Parking;*
  - b) *constructed;*
  - c) *properly formed to such levels that they can be used in accordance with the plans;*
  - d) *surfaced with asphalt;*
  - e) *drained and maintained;*
  - f) *line marked to indicate each car space and all access lanes;*
  - g) *clearly marked to show the direction of traffic along access lanes and driveways;*
  - h) *entry/exit signs provided;*
  - i) *'no entry' sign provided at 73 Queen Street;*
  - j) *15 km speed sign.*

*to the satisfaction of the Responsible Authority.*

*Car spaces, access lanes and driveways must be kept available for these purposes at all times.*

11. *Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.*

12. ***Prior to the commencement of the development, a stormwater detention system must be designed by a qualified engineer and lodged with the Responsible Authority verifying that post development stormwater discharge volume from the land does not exceed pre-development stormwater discharge volume and a maximum discharge rate of 30 litres per second per hectare is not exceeded, to the satisfaction of the Responsible Authority. Once approved such design must be endorsed and must form part of the permit. On site stormwater treatment is to comply with the Environment Protection Authority requirements and include water sensitive urban design techniques.***
13. ***The site must be drained to the satisfaction of the Responsible Authority and no storm water, sullage, sewerage or polluted drainage may drain or discharge from the land to adjoining properties.***
14. ***The use may only operate within the hours of:***
  - ***Monday-Friday 7.30am-6.00pm;***
  - ***Saturday and Sunday 8.00am-4.00pm.***

***unless with the written consent of the responsible authority.***
15. ***Deliveries to the bulk storage facility must be restricted to the following hours:***
  - ***Monday to Friday 8.00am-5.30pm.***
16. ***The bulk storage facility must only be accessible by staff between the hours of Monday-Friday 8.00am-5.30pm, Saturday and Sunday 9.00am-4.00pm. General customer access to the bulk storage facility is not permitted.***
17. ***Materials or goods must not be stacked in the bulk storage area higher than the 2.4 metre fence on either side property boundary of 73 Queen Street.***
18. ***The gate provided at the entrance of 73 Queen Street must be kept closed at all times with the exception of allowing delivery vehicles to exit the site onto Queen Street. Entry from Queen Street into the bulk storage area must not be provided to any vehicles.***
19. ***Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land or road reserve.***
20. ***The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay[s] and must not disrupt the circulation and parking of vehicles on the land.***
21. ***All waste material not required for further on-site processing must be regularly removed from the site to the satisfaction of the Responsible Authority.***
22. ***Prior to the commencement of the development, an acoustic report must be prepared by a suitably qualified Acoustic Engineer for the activities proposed on 73 Queen Street, Colac, at the cost of the permit holder, to the satisfaction of the responsible authority. Recommendations contained within the acoustic report must be implemented as part of the development and prior to the commencement of the use.***

23. ***The acoustic fencing required along the southern boundary of 73 Queen Street, Colac and western boundary of 75 Queens Street, Colac must be constructed in accordance with the recommendations of an acoustic engineer (at the developers cost) and prior to the commencement of use of the bulk storage area to the satisfaction of the Responsible Authority.***
24. ***The amenity of the area must not be unduly detrimentally affected by the use or development 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;***
  - d) ***Presence of vermin.***
- to the satisfaction of the Responsible Authority.***
25. ***The location and details of the signage as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
26. ***All signs must be constructed and maintained to the satisfaction of the Responsible Authority.***
27. ***The signs must not be illuminated by external or internal light except with the written consent of the responsible authority.***
28. ***Advertising signage approval will expire in 15 years from the date of issue of this permit.***
29. ***The access driveway to Queen Street (Colac-Forest Road) shall be designed and constructed to the satisfaction of VicRoads and the Responsible Authority. The driveway shall be designed to cater for the path of turning trucks.***
30. ***All work must be carried out to VicRoads' satisfaction and Vic Roads' approval must be obtained prior to carrying out any work within the Queen Street (Colac-Forest Road) reserve. Appropriate traffic management measures must be in place when the driveway is being constructed.***
31. ***This permit will expire if one of the following circumstances applies:***
- a) ***The development is not commenced within two years of the date of this permit;***
  - b) ***The development is not completed within four years of the date of this permit;***
  - c) ***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.***

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PC091208-5 MULTI STOREY, MIXED USE DEVELOPMENT COMPRISING TWO SHOPS, ACCOMMODATION COMPRISING OF TEN RESIDENTIAL APARTMENTS AND WAIVING OF CAR PARKING AT 161 GREAT OCEAN ROAD, APOLLO BAY

| | | | |
|-------------|------------------------------------|-----------|------------|
| AUTHOR: | Anne Sorensen | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | PP149/08 |

Location: 161 Great Ocean Road, Apollo Bay (Lot 1, PS432488F, Parish of Krambruk)

Applicant:

Zoning: Business 1 Zone

Overlay controls: Design and Development Overlay (DDO5)

Amendments: Nil

Abuts: Road Zone Category 1, Residential 1 Zone

Restrictive Covenants: Nil

Reasons for Planning Committee consideration:

This application is before Council's Planning Committee as 10 objections have been received, waiving of car parking is proposed and the height of the building exceeds 8 metres.



Summary

- Approval has been sought for a multi storey, mixed use development comprising two shops, ten residential apartments and car parking at 161 Great Ocean Road, Apollo Bay. The development will comprise four levels with a commercial component at street level, basement car parking and dwellings located at first, second and third floor levels. The building has three stories above ground level at the rear and car parking within an excavated basement level.
- Building height of the development is generally under 10.5m above ground level, with the exception of the small lift roof (4m by 4m), which extends to 11m height. The majority of the building is between 8m and 9m above ground level.
- The site has been substantially disturbed by development and redevelopment over the last 75 years. There has also been a change in the topography due to earthworks. Therefore, under the Aboriginal Heritage Regulations 2007 no Cultural Heritage Management Plan is required.
- A total of 21 car spaces (4 of which are within car stackers) are proposed. The application involves the waiving of 11 car parking spaces for the retail component and 3 car spaces for the residential which is considered to be appropriate given the clear direction previously applied to this site by VCAT.
- A total of 10 objections have been received that raised a range of concerns relating to the height of the development, loss of views and amenity issues. In response to objectors concerns, various amendments have been made to the design, including the lowering of the roofline at the rear by 0.6m, to minimise interruption to views from neighbouring property balconies, particularly at the rear of the site.
- The site is on the interface between the Residential 1 and Business 1 Zones and it is considered that the development responds to the objectives of the Business 1 Zone and the Design and Development Overlay – Schedule 5 appropriately
- This proposal follows a failed application for a similar development on this site, which was refused by Council in January 2007. That decision was upheld by VCAT.
- The proposal generally complies with the Scheme provisions and achieves a superior design outcome to the development previously refused for this site. The design is of high architectural merit reflecting the gateway status of this site located at the northern entrance to Apollo Bay. It is well articulated, particularly the northern side elevation, which will be visually prominent from the northern approach. The development has been significantly altered to minimise the impact upon adjoining properties, and in particular to allow for reasonable view sharing.
- It is therefore recommended that a Notice of Decision to Grant a planning permit be issued subject to conditions.

Background

Planning Application PP189/05 sought approval for a three storey building with two ground level shops, seven dwellings above and car parking on this site. The building had an overall maximum height of 8.4m. This application was refused by Council on 18 January 2007 based on the following grounds:

1. The development provided inadequate parking and had potential to impact on neighbouring properties, and provided no justification for the waiving of car parking.

2. The development provided a poor urban design outcome via the form and bulk of the proposal and was at odds with the 'Victorian Coastal Strategy' and 'Siting and Design Guidelines for Structures on the Victorian Coast'.
3. The proposal resulted in a poor visual outcome for residents to the west and a loss of amenity due to a loss of views from these properties.
4. The development provided no justification for exceeding the 8 metre height control and was at odds with Clause 22.01 (Main Roads/Scenic Routes) and Clause 22.05 (Coastal and Otway Townships) of the Colac Otway Planning Scheme.
5. The development would have unreasonably restricted future development of the abutting residential zoned land north of the site.

Council's decision was affirmed by VCAT (Reference P616/2007 dated 3 July 2007) which found that issues '*including car parking, building bulk and massing, architectural detailing, lack of landscaping and impact on adjoining properties militate against the issuance of a permit...*'

In the abovementioned VCAT determination, the Tribunal Member highlighted the adjoining development on 155-159 Great Ocean Road as an example of good articulation in terms of levels, materials, finishes and roof treatments, and advised the applicant to engage the same architect or another architect who has experience in dealing with coastal architectural treatments. The Architect who designed the adjoining development was Donald Walker and Associates, who is the architect for the proposed development and the Visitor Information Centre diagonally opposite the subject site.

Proposal

The application proposes a four storey development comprising two retail shops at ground floor level, ten apartments at first, second and third floor levels, and a central common driveway providing access to a 21 space underground car park. The building has three stories above ground level that are progressively set back from the street frontage. No subdivision of the development is proposed at this stage.

The building is architecturally designed and incorporates a range of setbacks with a mix of treatments and materials. It presents as double storey at the street frontage and increases to three storeys in the mid and rear sections. Curved roof forms and verandah treatments assist to integrate the proposal with the development adjoining to the south. The maximum building height will be 10m with the exception of the small lift roof which has a height of up to 11m. The majority of the building will have a height between 8m and 9m above natural ground level.

The retail shops comprise floor areas of 93sqm and 94sqm, and also contain tearoom and toilet facilities. The shops are built to the street frontage with large glazed shopfronts.

A lift and stair lobby provide access to upper level apartments via a landscaped pedestrian entry along the northern property boundary. The first floor comprises Apartments 1, 3, 6 and 7. Apartments 2, 4 and 5 are split level over first and second floors, Apartments 8 and 9 are located on the second floor and Apartment 10 is on the third floor. Eight of the apartments comprise two bedrooms, whilst Apartment 2 has one bedroom, and Apartment 10 has three bedrooms. Apartments 4, 5 and 10 also have two bathrooms. Apartment sizes range from 68sqm to 135sqm. Angled walls have been used to achieve ocean views to decks and/or windows of all apartments.

The development is largely constructed to the south, west and half of the northern boundary at ground level. Small sections only are constructed to the north and south boundaries at first and second levels, with a range of setbacks used, exceeding 1.0m to the south boundary, 2.1m to the west boundary and 1.5m to the north boundary at these levels. The third floor apartment is centrally located at the rear of the development, recessed above second floor.

The proposal presents a recessed appearance to the Great Ocean Road frontage, for reduced visual impact and bulk. The setback to the ground floor shops ranges from 0.6m to 1.5m. The first floor is setback 2.5m, whilst the second floor has a 10.5m setback and the third floor has a 23m setback.

A 4.0m wide central driveway is located between the two shops providing vehicular access to the excavated ground level carpark. Twenty one spaces are proposed, two to each shop and seventeen to the ten apartments. Four car stackers are proposed, each accommodating two spaces. Given the number of spaces proposed, three apartments will be provided with only one space (see discussion of car parking below). A bin storage area is located to the rear of the shops accessed from the carpark.

Since the proposal was first lodged, a range of amendments have been made to the development proposal and subsequent to an onsite mediation meeting held in December 2008, the applicant has made further amendments with a view to addressing objectors concerns. Some of the amendments made are outlined below.

Revised plans were lodged on 24 April 2009 showing the following changes:

- A review of the design of the rear half of the project lowering the portion of the basement where the car stackers are located by 1.7m. This increase in depth enabled the car stackers to be more easily accommodated and other levels to benefit. This was in response to concerns about the height allowance shown for the car stackers.
- The lift was extended to serve the rear basement.
- The applicant offered to modify windows in the rear walls of the rear most apartments facing Hardy Street and to use obscure glass or another appropriate countermeasure. Louvers at an appropriate angle were also suggested as an alternative. Louver screen walls will also be placed around the rear face of the open space patios to Units 7, 8 and 10.
- Plans modified to show air handling (compressors and the like) fully concealed in acoustically treated customized enclosures at the rear of balconies or in selected wall recesses.
- Additional rubbish bins shown in the dedicated room behind one of the front shops. A private contractor will be engaged to take the bins out and return them to that room on the same day. This is a normal condition of permits for residential and commercial projects such as this. The bins will not be cluttering the street.
- The roof form of the front section of the proposal was modified to blend better with surrounding development. More curved roofs are now proposed.
- The shop window line was modified and a stylised verandah added across the front elevation in order to provide a "conclusion" to the built form that presently graces the main shopping zone at Apollo Bay. The pedestrian entry was also enhanced with heavier timber posts and pergola elements. The theme of green landscaping along the motel was further developed to make that entry a "stand out" element.
- The internal staircase in the region of the lift was redesigned to cope with the lowered rear section of the development.
- Floor to ceiling heights were increased from 2.7 to 3.15m, made possible by the deepening of the rear half of the basement.

- The roofline at the rear was lowered by 0.6m following the lowering of the basement in that zone, resulting in the floor level of Apartment 10 being 0.8m below the floor levels of the two easternmost apartments of the Hardy Street apartments to the rear (despite having a ground level contiguous this property to the rear). The applicant advised that only the curved roof of Unit 10 breaks the horizon line when viewed from a height of 1.6m above the neighbouring balcony floor level, and that the more distant raised roof of the lift shaft is the only other interruption to their panoramic view.

The developer stated that the revised design demonstrated their preparedness to work with neighbours and that the design demonstrates a graduation of scale and profile, particularly when viewed from the northern approach to Apollo Bay.

The applicant has advised that a Cultural Heritage Management Plan is not required as there has been substantial ground disturbance on the site due to past development and redevelopment over the past 75 years, and earthworks that have taken place that have altered the natural ground level.

The Site & Surrounds

The subject site is located on the western side of the Great Ocean Road at the northern end of the Apollo Bay business area. The site is prominently located at the northern entrance to the township. The site is identified as an important gateway site for the town.

The land is regular in shape, currently vacant and cleared of vegetation. A single storey weatherboard dwelling was located at the rear of the site until the late 1990's.

The property is approximately 50 metres north of Hardy Street and is located at the interface between the Business 1 Zone and Residential 1 Zone. It has a Great Ocean Road frontage of 20.96m and an overall site area of 954sqm. It has a significant fall from the rear (west) boundary to the Great Ocean Road frontage but is relatively flat from north to south. It appears that the site was excavated to its current form some ten years ago. A 1.83m wide drainage easement is located along the northern boundary.

To the south of the site, at 155-159 Great Ocean Road, there is a mixed use development comprising of six shops on the ground floor and eight residential apartments on the upper levels. The development has frontage to the Great Ocean Road and extends around the corner of Hardy Street. The development fronting the Great Ocean Road is two levels fronting Hardy Street. The two storey component of the development has an overall height of 5.5 m with the maximum height of the building being 8.2 metres to the top of the third level.

To the north of the site is the Beach Front Motel which is a single storey, low scale brick building with driveway access along the northern boundary.

To the rear (west) of the site is a three storey apartment complex with some balconies directing views across the site to the ocean. That development has a maximum building height of 8.5 metres from natural ground level. Due to the excavation that has taken place on the subject site, the development at the rear is elevated some 4 metres above the subject site.

Parallel parking is provided on-street in front of the site. The Visitor Information Centre and car park are located directly opposite the site. A bus stop is also provided in this location.

Referrals

The application was referred under Section 55 of the Planning and Environment Act to VicRoads which did not object to the proposal subject to conditions.

The application was referred to Council's Infrastructure Department which did not object to the proposal subject to conditions. The applicant will be required to satisfy Council that the removal of the drainage easement on the northern boundary will not have implications for the drainage of the site or adjoining properties (refer condition of approval).

Public Notice

Notice of the application was given in September/October 2008 in accordance with Section 52 of the Planning and Environment Act to all adjoining and opposite owners and occupiers as well as objectors to the last application (PP189/05). A sign was placed on site and public notice was placed in the Apollo Bay Newsheet.

At the conclusion of the notification period, a total of ten objections were received. The matters raised in the objections may be summarized as follows:

- a) *Built form and height at 15.2 metres is out of character for Apollo Bay;*
- b) *Insufficient level of car parking provided;*
- c) *Overlooking and overshadowing;*
- d) *Loss of views;*
- e) *Overdevelopment of the site as VCAT refused to support a smaller development.*

The objectors concerns raised in (a)-(e) are discussed in detail in the discussion section of this report. The remaining issues raised from (f)-(r) are addressed below:

- f) *Use of car stackers is inappropriate* – Car stackers are considered to be a legitimate means of providing additional parking and are not uncommon in mixed use developments throughout the state.
- g) *Loading and unloading* – The proposal does not provide a loading bay for the retail premises. The applicant states that no loading area is provided or warranted given the small shop areas (less than 100sqm). Deliveries will be on an infrequent basis, directly from the Great Ocean Road.
- h) *Monetary bond for work on boundary of adjoining property* – This matter falls outside the planning process and is covered by Building Regulations and the builder's construction insurance.
- i) *Construction hours limited to 8am-5pm Mon-Fri* – This matter is covered by Health and EPA Legislation, and falls outside the planning process.
- j) *Maintenance of pedestrian pathway during construction* – A Permit for Occupation of footpath will be required from the Building Department which will require that assets of Council are not impacted by the works.
- k) *Outdoor lighting to be baffled* – This can be addressed by permit conditions.
- l) *Stormwater to a legal point of discharge* – This can be addressed by permit conditions.
- m) *Location of mechanical equipment* – Acoustically lined cupboards are proposed to accommodate mechanical equipment on all boundaries. Equipment will not be located on the roof of the development. Concrete/masonry walls to the north boundary and mechanical ventilation of the car park are proposed to reduce noise impacts to the adjoining motel. Permit conditions will require acoustic treatment of all plant and equipment to the Australian Standard for Sound Emissions.
- n) *Waste management/Location of bins* – A bin storage area is now included at the rear of the shops, accessed via the common driveway. Private contractors will move bins to the street for collection and return them to the storage area to avoid cluttering the street. This can be addressed by permit conditions.

- o) *Stormwater plans should be made available to view to ensure no impact on adjacent property* - Stormwater management will be addressed by permit conditions and by the relevant Building Surveyor.
- p) *No provision for boats* – It is considered unnecessary and inappropriate to require car parking for boat storage.
- q) *Inadequate information* – It is noted that the type of information sought has not been identified by the objectors. The level of information provided is generally sufficient to determine application.
- r) *Removal of shrubs and trees* – Planning approval is not required to remove vegetation on this site.

A mediation meeting was held in December 2008 with the applicant, Council Officers and objectors where many of the above issues were raised and discussed. Subsequent to the meeting, the applicant amended the plans with the view of addressing the objectors' concerns where possible.

The amended plans were circulated to all objectors in May 2008, and while further comments were received from some objectors, no objections were withdrawn.

Consideration of the Proposal

The land is included in the Business 1 Zone and is subject to the Design and Development Overlay – Schedule 5. A planning permit is required for the use and development of the land for accommodation and waiving of car parking.

a) State and Local Planning Policy Framework

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 11.03– Principles of Land Use and Development Planning
- Clause 15.08– Coastal Areas
- Clause 15.12 – Energy efficiency
- Clause 16.02– Medium Density Housing
- Clause 17.02– Business
- Clause 17.04 - Tourism
- Clause 19.01– Subdivision
- Clause 19.03– Design and Built Form.
- Clause 21.03-3 – Apollo Bay and Marengo
- Clause 21.05.04 - Tourism

The above policies, including the Apollo Bay Structure Plan, encourage the concentration of major retail, commercial, accommodation, administrative and entertainment activities in the Apollo Bay Town Centre. These policies also support the co-location, multiple uses and sharing of facilities, and seek to minimise the effects of commercial development on the amenity of the neighbouring area. The policies encourage the efficient provision of car parking and promote high quality urban design outcomes.

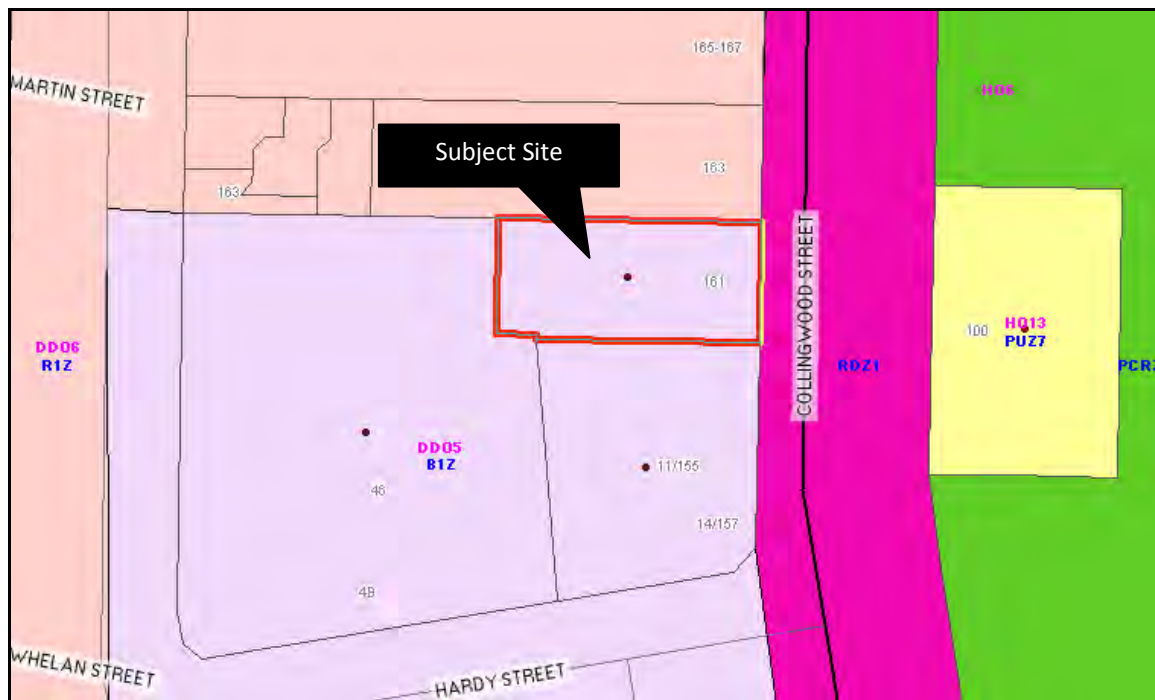
The proposal is considered to accord with the principles of the State and Local Planning Policy Framework. The proposed use and development assists in meeting the community’s need for business related uses and also different forms of housing. The development assists in further consolidating and building upon the importance of Apollo Bay as a regional centre. The development provides for a mix of commercial and medium density development within the centre of town and within walking distance to other commercial, recreational and community facilities. The development will contribute to enhancing the identity of the town and entrance to the commercial area. The building is architecturally designed and provides an appropriate response to a gateway site in Apollo Bay. The scale, height and materials have regard to the coastal character and respect the new controls introduced by the Design and Development Overlay – Schedule 5 (DDO5). As the development proposal has evolved the building height has been reduced to ensure it complies with the 10.5 metre height required by the DDO5 (a condition will require the lift well to be reduced to comply).

The higher built form is supported by the Apollo Bay Structure Plan which sets the direction for development of the town for the next 20 years.

b) Zoning

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.
- To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.



A permit is required for accommodation (Clause 34.01-1) and building and works (Clause 34.01-4). A shop is as of right within the Business 1 Zone, providing the appropriate parking requirements are provided. Clause 52.06-1 requires a permit to reduce or waive the number of car spaces required by the table at Clause 52.06-5. A permit is also required pursuant to Clause 52.29 to create or alter access to a road in a Road Zone Category 1.

The key issues arising from the business zone provisions (purpose of the zone and decision guidelines) relate to the intensive development of business centres for retailing and complementary commercial, entertainment and community uses, whilst having regard to the provision of car parking, movement of pedestrians, interface with adjoining zones, streetscape issues and loading/unloading.

The application accords with the purpose of the zone in that the development provides for commercial and residential development, adding to the overall vitality of the area. The uses proposed are appropriate in this zone and location.

The decision guidelines require consideration of the movement of pedestrians and vehicles. The location of the driveway between the shops potentially causes conflict between pedestrians and vehicles and does not maximise integration of the commercial strip in conjunction with the adjoining development. The central driveway does however allow provision of the articulated northern facade, which is an important component of the development given the site's prominent location at the northern entrance to Apollo Bay. It also minimises the noise impact upon the adjoining motel to the north. The provision of carparking is addressed below and is considered to be adequate for this development. Rubbish is to be stored in the carpark and managed by private contractors.

c) Overlay provisions

The site is subject to the Design and Development Overlay (DDO5), the objectives of this overlay are:

- To protect the existing low scale coastal character and identity of Apollo Bay.
- To ensure that new development in Apollo Bay is consistent with and acts to consolidate the character of Apollo Bay as a coastal town.
- To ensure that upper levels are well articulated to respect the character of the area.

This overlay applies to the town centre and limits building height to 10.5 metres. Where buildings are greater than 8 metres in height they must have an upper floor setback of 3 metres (other than for a transparent balcony structure). The above requirements cannot be varied by a permit.

All buildings and works should comply with the following standards unless it can be demonstrated that an alternative approach achieves the design objectives of this control:

- Simple building details;
- A mix of contemporary and traditional coastal materials, textures and finishes;
- Colours and finishes that compliment those occurring naturally in the area;
- Articulated facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing, and shop front windows at street level in commercial areas;
- Articulated roof forms on new developments to provide visual interest to the street;
- On larger sites, articulated facades to emulate the fine grain (narrow frontage) subdivision pattern in the centre;
- Commercial buildings orientated towards the street and provide the entrance to the building directly from the street frontage;
- On corner allotments, ensure buildings address both streets frontages with shop front windows at street level;
- Buildings constructed to the property boundary at ground level in the commercial area, or are stepped to match existing setbacks if these are varied;
- Water sensitive urban design features incorporated into the design, where practical.

The application is generally in accordance with the design objectives and standards of this overlay. The building height is generally under the 10.5 metres prescribed above, with the exception of the lift roof (16sqm) which extends to some 11m above natural ground level. Discussions have been held with the Applicant who has confirmed that the lift roof can be reduced in height to ensure compliance with the 10.5 metres. A permit condition will require the height of this component to be reduced to 10.5m above natural ground level.

The design is well articulated and includes a mix of materials, textures and finishes, consistent with this overlay. Permit conditions will require a schedule of external colours and materials, to compliment those occurring naturally in the area, prior to commencement of works.

The proposal presents a recessed appearance to the Great Ocean Road frontage, for reduced visual impact and bulk. The setback to the ground floor shops ranges from 0.6m to 1.5m. The first floor setback is some 2.5m, whilst the second floor has a 10.5m setback and the third floor has a 23m setback. Permit conditions will require that the first floor level be setback 3.0m, consistent with the requirements of this overlay.

d) **Clause 52.06 - Car Parking**

The table to Clause 52.06 requires that eight spaces per 100m² of leasable floor area be provided for a shop. Where a use such as 'Accommodation' is not specified at Clause 52.06, an adequate number of car spaces must be provided to the satisfaction of Council. There is scope under this provision to seek a reduction or a waiving of car spaces.

As the site is within a Business Zone, the standards of ResCode do not strictly apply to this site. However, as car parking is not specified for accommodation it is considered reasonable to apply Rescode standards as a benchmark when assessing whether the car parking provided is adequate. Rescode requires the provision of two spaces for two bedroom dwellings, one space for one bedroom dwellings and one visitor space per five dwellings.

The following table provides an assessment of car parking requirements against provision of car parking on-site for this development.

Table 1 – Car parking assessment

| Use | Car Parking Rate | Spaces Required | Spaces Proposed |
|---------------------------------------|----------------------------------|------------------------|------------------------|
| 1 Bedroom Dwelling
(1 proposed) | 1 per dwelling | 1 | 1 |
| 2/3 Bedroom Dwellings
(9 proposed) | 2 per dwelling | 18 | 16 |
| Shops
(total area 187sqm proposed) | 8 per 100sqm leasable floor area | 15 | 4 |
| Visitor Spaces | 1 per 5 dwellings | 2 | 0 |
| Total | | 36 | 21 |

If you apply the above rates, the planning scheme requires a total of 36 spaces for the development. The development provides 4 dedicated car spaces for the two shops and 17 dedicated car spaces for the accommodation, making a total of 21 car spaces being provided on site. This leaves a shortfall of 11 car spaces for the retail component and 2 car spaces for the accommodation.

The State Government has undertaken a review of car parking provisions and prepared an Advisory Committee Report in August 2007. This report discusses a range of matters including a review of land use terms and car parking requirements. The report recommends that 3.5 car spaces/100m² of leasable floor area be adopted for a shop. If you applied the above requirement this would equate to a total of 6.5 car spaces for the two shops. Although the State Government has not at this stage incorporated the recommendations of the Advisory Committee Report into planning schemes it is widely accepted through VCAT determinations that the car parking requirements for retail type activities is unrealistic and that the lesser rate recommended by the Advisory Committee is generally more appropriate.

The parking requirement for a retail shop at Clause 52.06 is widely recognised as being far higher than the actual demand for parking generated by retail uses. This view was reinforced by the previous VCAT determination for this site which accepted that two car parking spaces per retail occupancy were adequate, on the basis that the shops were relatively small (108m² and 85m²) and located in an activity centre which has provision for parking along the Great Ocean Road and Hardy Street, and that there is a high likelihood of shared shopping trips. The shops proposed by this development have floor areas similar to those proposed by the previous development considered by VCAT (93m² and 94m²), therefore, it would not be unreasonable to apply the same logic discussed in the VCAT determination.

Table 2 – VCAT determination assessment

| Use | Car Parking Rate | Spaces Required | Spaces Proposed |
|---|---|-----------------|-----------------|
| 1 Bedroom Dwelling
(1 proposed) | 1 per dwelling | 1 | 1 |
| 2/3 Bedroom Dwellings
(9 proposed) | 2 per dwelling | 18 | 16 |
| Visitor spaces required by
previous VCAT determination | 0 per dwelling | 0 | 0 |
| Shops
(2 proposed, total area
187sqm) | As per previous VCAT
determination – 2 per
shop | 4 | 4 |
| Total | | 23 | 21 |

With respect to the residential component, the VCAT determination for the previous proposal found that two car spaces per dwelling were required having regard to the Business 1 Zone, the layout and large size of the apartments (all 2 or 3 bedroom with 2 bathrooms, ranging from 141sqm to 199sqm), and their likely future use as holiday apartments. Visitor spaces were not required by VCAT in determining the previous proposal.

The dwellings proposed in this development are significantly smaller than those in the previous VCAT determination. The current development proposes a one 1-bedroom apartment, eight 2-bedroom apartments, and one 3-bedroom apartment, only three of which have two bathrooms. Their sizes range from 68sqm to 135sqm. These smaller apartments will accommodate fewer people, even at peak holiday times.

If you apply the reduced car parking rates as supported by VCAT, then there is no shortfall for the provision of car parking for the shops and only a shortfall of 2 car spaces for the accommodation. Whilst Council could apply a higher rate consistent with previous decisions in Apollo Bay over recent years, and by agreement seek cash in lieu contributions, in this case VCAT has given specific direction for this site in relation to car parking for retail and accommodation, which would be given significant weight in the assessment of the proposal should the proposal end up at VCAT for determination.

On this basis, it is considered that the provision of 21 on-site spaces is sufficient for the proposed development, and it is reasonable to waive the two space shortfall identified through the assessment process.

Council, in January 2009 engaged AECOM Australia Pty Ltd (formerly Maunsell) to undertake a car parking study for Colac and Apollo Bay. Work in relation to the study has commenced and it is expected that an Issues and Options paper will be available shortly for review by Councillors and Council Officers. This study is intended to identify existing levels of car parking and parking demand in both townships, as well as to develop a policy on appropriate levels of car parking requirements for various land uses amongst other things. This study will in the future assist Council in making decisions on when and how much car parking should be required and level of dispensation that should be supported.

e) Clause 55 – ResCode

Despite being within a Business 1 Zone, the decision guidelines require consideration to be given to the objectives and standards of ResCode to ensure an appropriate degree of amenity for the dwellings. The requirements of ResCode have been addressed as part of the application and relevant provisions have generally been satisfied.

f) Consideration of Objections

Built form & height out of character

The objectors have raised concerns regarding the mass, bulk, height and design of the building being out of character for the town.

The development is considered to be of a high architectural standard and is suited to this prominent location at the northern entrance to Apollo Bay. The development has much greater articulation and provides a greatly improved response to the site than the earlier proposal previously refused by Council and VCAT for this site. There has been much greater attention made to utilising a range of materials which will assist to break up the bulk of the structure and the use of angled walls also assists.

In the previous VCAT determination, the Tribunal Member had no fundamental opposition to the height of the three level development (8.4m) and considered that there was justification for a three level building that steps up the site, but acknowledging that the building should have much greater regard for surrounding properties and should have better architectural merit to reflect its gateway status.

It is considered that the current design provides a good urban design outcome, having regard to these matters. Building height will not exceed 10.5 metres as the lift roof will be reduced in height. The development is generally less than 10m in height with the majority of the building not exceeding 9.0m above natural ground level. Since the objections have been received in September/October 2008, the overall height of the development has been reduced. Many of the objectors at the time of notification understood the overall height of the building to be 15.2m.

The current proposal represents a significant improvement on the previous development proposal refused for this site. It appropriately addresses the interface with the Residential 1 Zone to the north.

There have been numerous VCAT decisions with regard to residential interface issues including the following decision by Member Hewet in *Woolworths Ltd v Campaspe SC [2004] VCAT 641* where the issue was discussed in some detail. The following is the relevant extract from the VCAT decision:

“The tests to be applied in determining whether the amenity impacts of the proposed use and development are appropriate cannot be confined to a consideration of whether the proposed use will contribute to any increased traffic, noise and general disturbance, but rather must extend to a consideration of whether those impacts are so great as to create an impact which is unacceptable. Clearly a degree of judgement is required to be exercised in arriving at a conclusion about these matters, and these judgements can be difficult, especially in circumstances such as those applying in this case where there exists an interface between a commercial and a residential zone. I agree with Mr Beazely’s submission that in exercising such judgements, a balance must be struck between the reasonable expectations for the development of the site and the reasonable expectations of residents at interface locations. I also agree with Beazely that the Tribunal has adopted a generally consistent approach toward the consideration of residential/commercial interface issues and this approach is reflected in the decision of Member Moles in Kelghan Pty Ltd v Mornington Peninsula Shire Council [2000]VCAT 2538 (Application for Review No. 2000/057218) in which Member Moles said;

With respect to transitional sites or sites located at the interface of zones, the Tribunal has said on numerous occasions that there needs to be an expectation that in each zone, the use and development of land will be constrained or influenced by the adjacency of land in the other zoning. It has been said, for example, that dwelling owners/occupants if they occupy premises at the interface with a commercial or industrial zone, cannot expect to enjoy the same level of residential amenity as persons occupying residential properties more remote from the interface.”

Similarly, the Tribunal has said that persons operating businesses at the edge of a commercial zone must expect to have constraints imposed on their activities or development in recognition of the need to maintain the amenity of an abutting residential zone (or open space area), which constraints would not apply in other more central parts of the commercial zone.

It is considered that the built form and design of the proposal has regard to the specifics of the location being on the Residential 1 interface. The building is generally setback from side and rear boundaries above ground floor level to allow separation from adjoining buildings. It has a graduated setback from the north boundary.

There will be no direct overlooking of the adjoining motel, and permit conditions will require noise attenuation measures to minimise noise impact upon the motel. It is considered that the likely impacts on the adjoining motel, which is located within the Residential 1 Zone, are acceptable.

All elevations are well articulated and feature angular walls and a mix of treatments to add visual interest and to minimise bulk. The graduated height of the development responds appropriately to the site context, particularly given the single storey motel to the north and the multi level mixed use development abutting the site to the south.

The built form steps down the site, with a three storey form at the rear and two storey at the front, providing an appropriate transition and minimising visual bulk from the Great Ocean Road. Whilst orientated for views, the layered design maximises use of the north aspect and uses light courts to provide solar access to dwellings. The design has been modified for reasonable view sharing from the apartments to the rear, as discussed in detail below.

The proposal will contribute to the streetscape with shopfronts at ground level and recessed apartments above. Roof form and verandah treatments have been included to integrate the building with the development adjoining to the south. Permit conditions will require a contiguous verandah to provide weather protection for pedestrians.

Overlooking

Concerns were raised by some objectors in regards to potential overlooking. Overlooking diagrams were provided that demonstrated that there will be no overlooking into the motel units to the north due to window placement and 1.7m high louvres to first floor decks. The application states that overlooking to the apartments to the west is to be prevented by box screens. Permit conditions will require amended plans to clearly demonstrate appropriate measures to prevent overlooking to the north and west.

Loss of views

Land owners to the rear of the site have raised concerns regarding the impact the proposed development will have on their currently uninterrupted views across to the waterfront. This is a valid planning consideration, as the loss of views provides a reduction in the amenity of the adjacent apartments. Whilst there is no absolute right to a view, it is considered that the views from the property to the rear are an important element of their amenity.

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.

The third level apartment of the development will obscure the currently uninterrupted views enjoyed by the apartments at the rear of the site. Views will be blocked to the north-east, but existing views to the south and south east will not be impacted by the development.

Clearly, the properties most affected by loss of views are the properties to the rear of the development site. These properties currently enjoy panoramic ocean views north to Cape Patten and Skenes Creek, east across the site towards the ocean and south to the Apollo Bay Harbour. The proposal will block the central portion of this view, however the built form has been modified to minimise loss of views. Views will be retained to the north and south of the development, and to a limited extent over the roof of the two storey component, as is currently available over the three storey development on the corner of Hardy Street. Current views are demonstrated by photographs provided by the objector, and the likely impact of the proposal demonstrated by perspectives from the balcony and middle level of the objector's property prepared by the architect (see attached).

Deletion of Apartment 10 would ensure that views from adjoining units are largely retained. These adjoining properties have always enjoyed views across the subject site, which has been vacant for some 10 years and prior to that contained a single storey dwelling. It is unreasonable however to expect that this land in a Business 1 Zone would not be developed, and that views would be preserved intact in perpetuity. Any development of the subject site has the potential to impact on views from these properties.

To assist in view sharing, the roofline of the development has been lowered by 0.6m, resulting in the floor level of Apartment 10 being 0.8m below the floor levels of the two eastern most apartments of the Hardy Street apartments to the rear (despite having a ground level contiguous this property to the rear). The applicant advises that *'the curved roof of Unit 10 breaks the horizon line when viewed from a height of 1.6m above the neighbouring balcony floor level, and that the more distant raised roof of the lift shaft is the only other interruption to their panoramic view'*. This is demonstrated by the perspectives from the balcony and middle level of the objector's property prepared by the architect. It should also be noted that plant and equipment will not be located on the roof, so that views are not further interrupted and height increased as suggested by many objections. This will be required by permit conditions.

It is considered that the proposal allows for reasonable view sharing, consistent with the above VCAT principles.

Conclusion

The redevelopment of the site is encouraged, and the mix of uses and waiving of car parking is considered appropriate in this circumstance. The proposal presents a good design outcome and is an appropriate infill development. The design is well articulated in terms of levels, materials, finishes and roof treatments. It is of a high quality architectural standard, fitting to this prominent gateway site at the entrance to the Apollo Bay Activity Centre.

The retail frontage of the development is well integrated with the shops and residential facades of adjoining development. The applicant has made significant alterations to the development following on-going consultations with Council and objectors, to achieve an appropriate design outcome which is sympathetic to adjoining development. Many of the concerns raised by objectors have been addressed through amendments to the development and it is considered that reasonable view sharing has now been achieved. Permit conditions will be required to address many of the concerns raised by objectors.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

Recommendation(s)

That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for a multi storey, mixed use development comprising two shops, ten residential apartments and waiving of car parking at 161 Great Ocean Road, Apollo Bay, subject to the following conditions:

- 1. Before the development start(s), 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) Survey of the topography of the land;***
 - b) Maximum building height, including the lift roof, must not exceed 10.5 metres from the existing ground level;***
 - c) The first floor setback must be increased to 3.0 metres;***
 - d) Measures to ensure no overlooking of adjoining properties to the north or west;***
 - e) Designation of car spaces in the basement car park with two spaces allocated to each shop and the balance of car spaces specifically allocated to each dwelling;***
 - f) The internal access way to be a minimum of 5 metres in width;***
 - g) Provision of a loading bay within the basement car park;***
 - h) Siting of all plant and equipment for minimal impact of adjoining properties. Full details of acoustic screening to all plant and equipment to meet the Australian Standard for Sound Emissions.***
 - i) Colours and materials, including non-reflective roofing;***
 - j) A contiguous verandah along the street frontage to provide weather protection for pedestrians;***
 - k) All external lighting.***
- 2. The use and development as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 3. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. This plan must be prepared by a qualified Landscape Architect who is a member of the Australian Institute of Landscape Architects, or a person with a suitable background in horticultural science or an allied field to the satisfaction of 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 landscaping plan must be generally in accordance with the landscape plan submitted with the application, but modified to include:***
 - a) details of surface finishes of pathways and driveways;***
 - b) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sized at maturity, and quantities of each plant. Landscaping must include a mix of canopy trees with a minimum of 2 metres in height when planted and shrubs;***

c) landscaping and planting within all open areas of the site.

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

- 4. Before the use starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.***
- 5. 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.***
- 6. Prior to the issue of a Building Permit or commencement of any works, the permit holder must have the written consent of the responsible authority to remove or build over the drainage easement located on the northern property boundary.***
- 7. Prior to commencement of any construction on this site, a detailed Construction Management Plan must be submitted to and approved by the Responsible Authority. This plan must detail the following:***
 - a) A staging plan for all construction phases including indicative dates for commencement and completion;***
 - b) Intended access for construction vehicles;***
 - c) Engineering assessment of assets that will be impacted on by construction and recommended techniques to minimise any adverse impact;***
 - d) Details of actions to be implemented in the event of damage to abutting assets;***
 - e) Details of where construction personnel will park;***
 - f) Hours/days of construction;***
 - g) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;***
 - h) Details of site cleanliness and clean up regimes;***
 - i) Material storage;***
 - j) Dust suppression.***

When approved this Construction Management Plan shall form part of this permit as it relates to the development.

- 8. All development and works must be carried out in accordance with the Construction Management Plan required by the above condition and endorsed under this permit, to the satisfaction of the Responsible Authority.***
- 9. During the construction phase of the development, the following conditions must be met:***
 - a) Only clean rainwater shall be discharged to the stormwater drainage system;***
 - b) Stormwater drainage system protection measures shall be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;***
 - c) Vehicle borne material from the premises shall not accumulate on the roads abutting the site;***

- d) **All machinery and equipment must be cleaned (if required) on site and not on adjacent footpaths or roads;**
- e) **Fencing is to be fitted and installed so as to ensure safe access for pedestrians;**
- f) **All litter (including items such as cement bags, food packaging and plastic strapping) must be contained on site.**

to the satisfaction of the Responsible Authority.

10. **Before the use commences, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:**
- a) **in compliance with Austroads Part Eleven (11): Parking;**
 - b) **constructed;**
 - c) **properly formed to such levels that they can be used in accordance with the plans;**
 - d) **surfaced with concrete or asphalt;**
 - e) **drained and maintained;**
 - f) **line marked to indicate each car space and all access lanes;**
 - g) **clearly marked to show the direction of traffic along access lanes and driveways;**
 - h) **amended to show a designated loading bay;**
 - i) **amended to show entry/exit signs;**

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

11. **Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.**
12. **The driveway to the property from the Great Ocean Road, should be shaped to allow two way traffic movement at the entrance of the site, to the satisfaction of VicRoads and the responsible authority. The internal access way should be a minimum of 5 metres in width to allow for the movement of two way traffic within the basement area of the site to the satisfaction of the responsible authority.**
13. **Prior to the commencement of the development, a stormwater detention system must be designed by a qualified engineer and lodged with the Responsible Authority verifying that post development stormwater discharge volume from the land does not exceed pre-development stormwater discharge volume and a maximum discharge rate of 30 litres per second per hectare is not exceeded, to the satisfaction of the Responsible Authority. Once approved such design must be endorsed and must form part of the permit. On site stormwater treatment is to comply with the Environment Protection Authority requirements and include water sensitive urban design techniques.**
14. **The site must be drained to the satisfaction of the Responsible Authority and no storm water, sullage, sewerage or polluted drainage may drain or discharge from the land to adjoining properties.**

15. ***Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining properties.***
16. ***The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay[s] and must not disrupt the circulation and parking of vehicles on the land.***
17. ***All waste material not required for further on-site processing must be regularly removed from the site to the satisfaction of the Responsible Authority.***
18. ***The amenity of the area must not be detrimentally affected by the use or development 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;***
 - d) ***Presence of vermin.***
- to the satisfaction of the Responsible Authority.***
19. ***All run off from stormwater must be taken to a legal point of discharge to the satisfaction of the Responsible Authority, and the hard stand areas of the development must be designed to incorporate water sensitive urban design principles to the satisfaction of the responsible authority. Drainage plans must be submitted to the responsible authority for approval prior to commencement of the development.***
20. ***Provision must be made for waste receptacles for each of the occupancies within the common property area, specifically allocated to each lot, to the satisfaction of the responsible authority.***
21. ***A private contractor must be engaged to collect all rubbish from bins within the car park. No rubbish bins are to be placed on the footpath or out the front of the site for collection. All rubbish collection must be carried out from within the site.***
22. ***This permit will expire if one of the following circumstances applies:***
- ***The development is not commenced within two years of the date of this permit;***
 - ***The development is not completed within four years of the date of this permit;***
 - ***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.

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