



**Colac Otway  
SHIRE**

**AGENDA**

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

**14 JULY 2010**

**at 10:30 AM**

**COPACC**

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**

**14 JULY 2010**

**TABLE OF CONTENTS**

**OFFICERS' REPORTS**

|                   |  |           |
|-------------------|--|-----------|
| <b>PC101407-1</b> | <b>PLANNING &amp; BUILDING STATISCAL REPORT.....</b>   | <b>5</b>  |
| <b>PC101407-2</b> | <b>INSTALLATION OF A CANOPY TOUR &amp; SIMULATOR,<br/>VEGETATION REMOVAL AND AN EXTENSION TO THE VISITOR<br/>CENTRE BUILDING AT THE OTWAY FLY, 360 PHILLIPS TRACK,<br/>WEEAPROINAH .....</b>   | <b>11</b> |
| <b>PC101407-3</b> | <b>DEVELOPMENT AND USE OF THE LAND FOR A SINGLE<br/>DWELLING, ACCESS AND ASSOCIATED WORKS -<br/>AMENDMENT TO INCREASE THE OVERALL BUILDING HEIGHT<br/>AND USE BLACK COLOURBOND FOR EXTERNAL WALLS AT<br/>395 BLUE JOHANNA ROAD, JOHANNA.....</b> | <b>25</b> |
| <b>PC101407-4</b> | <b>USE OF THE LAND AS A SHOP, ERECTION OF ADVERTISING<br/>SIGNS AND WAIVER OF TEN (10) CAR SPACES AT 77 MAIN<br/>STREET, BEEAC .....</b>   | <b>35</b> |
| <b>PC101407-5</b> | <b>ALTERATIONS AND ADDITIONS TO EXISTING SHOP<br/>INCLUDING EXTERNAL PAINTING AND SIGNAGE AND WAIVER<br/>OF 4 CAR SPACES AT 70 MURRAY STREET, COLAC .....</b>  | <b>41</b> |

NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in COPACC on 14 July 2010 at 10.30 am.

---

## **AGENDA**

### **1. OPENING PRAYER**

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

**AMEN**

### **2. PRESENT**

### **3. APOLOGIES**

### **4. MAYORAL STATEMENT**

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

Colac Otway Shire encourages active community input and participation in Council decisions. Council meetings provide one of these opportunities as members of the community may ask questions to Council either verbally at the meeting or in writing.

Please note that some questions may not be able to be answered at the meeting, these questions will be taken on notice. Council meetings also enable Councillors to debate matters prior to decisions being taken.

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

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

### **5. DECLARATION OF INTEREST**

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

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

## 7. CONFIRMATION OF MINUTES

- Planning Committee held on the 09/06/10.

### Recommendation

*That Council confirm the above minutes.*

## OFFICERS' REPORTS

### Sustainable Planning and Development

- PC101407-1 PLANNING & BUILDING STATISCAL REPORT
- PC101407-2 INSTALLATION OF A CANOPY TOUR & SIMULATOR, VEGETATION REMOVAL AND AN EXTENSION TO THE VISITOR CENTRE BUILDING AT THE OTWAY FLY, 360 PHILLIPS TRACK, WEEAPROINAH
- PC101407-3 DEVELOPMENT AND USE OF THE LAND FOR A SINGLE DWELLING, ACCESS AND ASSOCIATED WORKS - AMENDMENT TO INCREASE THE OVERALL BUILDING HEIGHT AND USE BLACK COLOURBOND FOR EXTERNAL WALLS AT 395 BLUE JOHANNA ROAD, JOHANNA.
- PC101407-4 USE OF THE LAND AS A SHOP, ERECTION OF ADVERTISING SIGNS AND WAIVER OF TEN (10) CAR SPACES AT 77 MAIN STREET, BEEAC
- PC101407-5 ALTERATIONS AND ADDITIONS TO EXISTING SHOP INCLUDING EXTERNAL PAINTING AND SIGNAGE AND WAIVER OF 4 CAR SPACES AT 70 MURRAY STREET, COLAC

**Rob Small**  
Chief Executive Officer

PC101407-1

**PLANNING & BUILDING STATISCAL REPORT**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Janole Cass                        | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | GEN000450  |

**Summary**

This report provides statistics relating to the month of June 2010.

**Planning Statistics**

26 Planning permit applications were received for the period 1 June 2010 to 30 June 2010.

33 Planning permit applications were considered for the period 1 June 2010 to 30 June 2010.

**Building Statistics**

Please note that the Building Commission Website has been updated to April 2010.

**Attachments**

1. PLANNING STATISTICAL REPORT JUNE 2010

**Recommendation(s)**

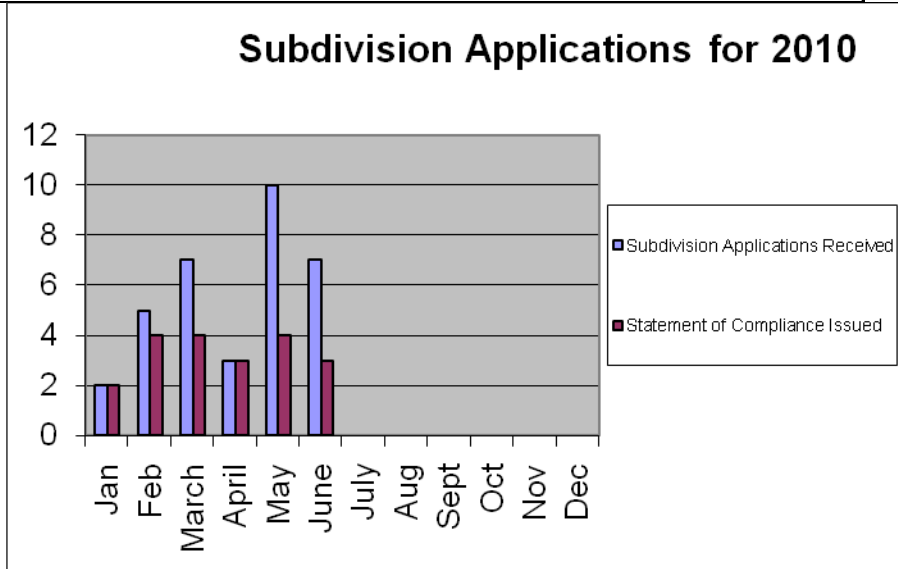
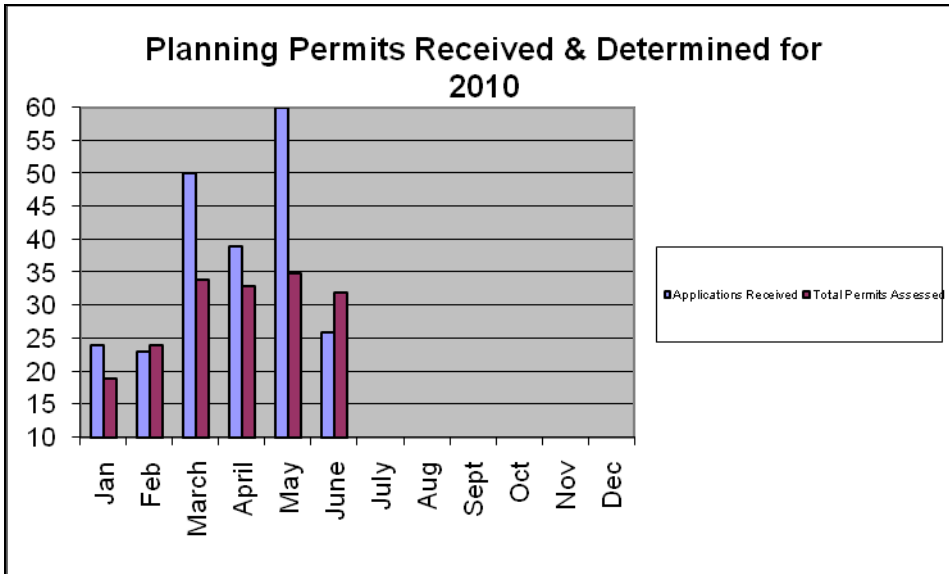
***That Council's Planning Committee note the statistical report.***

~~~~~\~~~~~

## Planning Statistical Report June 2010

| APPLIC NO  | DATE RECEIVED | LOCATION                              | PROPOSAL                                                                                                 | DATE ISSUED | ACTUAL TIME | AUTHORITY          | DECISION      |
|------------|---------------|---------------------------------------|----------------------------------------------------------------------------------------------------------|-------------|-------------|--------------------|---------------|
| 67/2004-2  | 2 JUN 2010    | 12 WARNCOORT CEMETERY ROAD, WARNCOORT | USE AND DEVELOPMENT OF A DWELLING - AMENDMENT                                                            | 25 JUN 2010 | 22          | UNDER DELEGATION   | PERMIT ISSUED |
| 43/2007-2  | 31 MAR 2010   | 18 ROSS STREET, COLAC                 | DEVELOP SEVEN (7) SINGLE STOREY DWELLINGS & EIGHT (8) LOT SUBDIVISION - AMENDMENT                        | 7 JUN 2010  | 39          | UNDER DELEGATION   | PERMIT ISSUED |
| 251/2009-1 | 19 AUG 2009   | 119-121 MURRAY STREET, COLAC          | ADVERTISING SIGNS                                                                                        | 25 JUN 2010 | 171         | UNDER DELEGATION   | PERMIT ISSUED |
| 255/2009-1 | 26 AUG 2009   | 103-105 GREAT OCEAN ROAD, APOLLO BAY  | REDEVELOPMENT OF EXISTING SUPERMARKET AND CONSTRUCTION OF SIX (6) DWELLINGS, & SEVEN (7) LOT SUBDIVISION | 9 JUN 2010  | 163         | PLANNING COMMITTEE | PERMIT ISSUED |
| 266/2009-1 | 4 SEP 2009    | 98 BEAL STREET, BIRREGURRA            | SIX (6) LOT STAGED SUBDIVISION                                                                           | 10 JUN 2010 | 241         | UNDER DELEGATION   | PERMIT ISSUED |
| 276/2009-1 | 18 SEP 2009   | 230 COCKERILLS ROAD, DREEITE          | CONSTRUCTION OF THREE SHEDS (FOR DOG BREEDING)                                                           | 10 JUN 2010 | 58          | UNDER DELEGATION   | PERMIT ISSUED |
| 308/2009-1 | 4 NOV 2009    | 119-121 MURRAY STREET, COLAC          | ADVERTISING SIGN                                                                                         | 25 JUN 2010 | 173         | UNDER DELEGATION   | PERMIT ISSUED |
| 328/2009-1 | 24 NOV 2009   | 45 TELFORD STREET, MARENGO            | SIGN FOR CUSTOMER PARKING                                                                                | 3 JUN 2010  | 12          | UNDER DELEGATION   | WITHDRAWN     |
| 14/2010-1  | 14 JAN 2010   | 24 EGAN STREET, ELLIMINYT             | CONSTRUCTION OF A GARAGE                                                                                 | 11 JUN 2010 | 0           | UNDER DELEGATION   | LAPSED        |
| 28/2010-1  | 4 FEB 2010    | 2 HELEN COURT, SKENES CREEK           | CONSTRUCTION OF A TWO (2) STOREY DWELLING                                                                | 9 JUN 2010  | 68          | UNDER DELEGATION   | PERMIT ISSUED |
| 37/2010-1  | 18 FEB 2010   | 27 STRACHAN STREET, BIRREGURRA        | TWO (2) LOT SUBDIVISION                                                                                  | 10 JUN 2010 | 55          | UNDER DELEGATION   | PERMIT ISSUED |
| 38/2010-1  | 22 FEB 2010   | 21 YARIMA ROAD, CRESSY                | EXTERNAL PAINTING OF EXISTING SCHOOL BUILDING                                                            | 16 JUN 2010 | 0           | UNDER DELEGATION   | LAPSED        |
| 40/2010-1  | 23 FEB 2010   | 53-57 MAIN STREET, BIRREGURRA         | CHANGE EXISTING SHOP WINDOW TO DOUBLE DOOR                                                               | 10 JUN 2010 | 2           | UNDER DELEGATION   | PERMIT ISSUED |
| 43/2010-1  | 1 MAR 2010    | 760 WARROWIE ROAD, IRREWARRA          | TWO LOT RE-SUBDIVISION                                                                                   | 25 JUN 2010 | 80          | UNDER DELEGATION   | PERMIT ISSUED |
| 44/2010-1  | 5 MAR 2010    | 51-53 HESSE STREET, COLAC             | USE THE LAND AS MEDICAL CENTRE (CHRIOPRACTIC)                                                            | 7 JUN 2010  | 58          | UNDER DELEGATION   | PERMIT ISSUED |
| 57/2010-1  | 11 MAR 2010   | 4-6 MOORE STREET, APOLLO BAY          | EXTENSION TO LIQUOR LICENCE AREA                                                                         | 25 JUN 2010 | 21          | UNDER DELEGATION   | PERMIT ISSUED |
| 59/2010-1  | 12 MAR 2010   | 270 LARPENT ROAD, CORUNNUN            | RE-SUBDIVISION OF EXISTING ALLOTMENTS                                                                    | 25 JUN 2010 | 59          | UNDER DELEGATION   | PERMIT ISSUED |
| 78/2010-1  | 25 MAR 2010   | 250 PHALPS ROAD, LARPENT              | CONSTRUCTION OF A DAM                                                                                    | 25 JUN 2010 | 38          | UNDER DELEGATION   | PERMIT ISSUED |
| 79/2010-1  | 29 MAR 2010   | 151-165 FOREST STREET, COLAC          | TWO (2) LOT SUBDIVISION                                                                                  | 10 JUN 2010 | 10          | UNDER DELEGATION   | PERMIT ISSUED |

| APPLIC NO                                            | DATE RECEIVED | LOCATION                            | PROPOSAL                                                                                               | DATE ISSUED | ACTUAL TIME | AUTHORITY        | DECISION           |
|------------------------------------------------------|---------------|-------------------------------------|--------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|--------------------|
| 81/2010-1                                            | 31 MAR 2010   | 6 SARFIELD STREET, SEPARATION CREEK | CONSTRUCTION OF A TWO (2) STOREY DWELLING FOR SHORT TERM HOLIDAY ACCOMMODATION AND VEGETATION REMOVAL  | 30 JUN 2010 | 41          | UNDER DELEGATION | NOTICE OF DECISION |
| 88/2010-1                                            | 8 APR 2010    | 140 OLD YEO ROAD, YEO               | DEVELOPMENT OF A FIRE STATION, ASSOCIATED BUILDINGS AND WORKS AND INSTALLATION OF SIGNAGE.             | 25 JUN 2010 | 53          | UNDER DELEGATION | PERMIT ISSUED      |
| 98/2010-1                                            | 22 APR 2010   | 615 SWAN MARSH ROAD, SWAN MARSH     | DEVELOPMENT OF A FIRE STATION, ASSOCIATED BUILDINGS AND WORKS.                                         | 25 JUN 2010 | 39          | UNDER DELEGATION | PERMIT ISSUED      |
| 105/2010-1                                           | 27 APR 2010   | 15 AIREYS STREET, ELLIMINYT         | CONSTRUCTION OF A SHED                                                                                 | 10 JUN 2010 | 59          | UNDER DELEGATION | PERMIT ISSUED      |
| 109/2010-1                                           | 29 APR 2010   | 71 DENNIS STREET, COLAC             | USE OF THE SITE AS A SHOP (HAIR DRESSER SALON) AND ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING. | 2 JUN 2010  | 11          | UNDER DELEGATION | PERMIT ISSUED      |
| 115/2010-1                                           | 3 MAY 2010    | 32-40 GRAVESEND STREET, COLAC       | EXTENSION TO LIQUOR LICENCE AREA                                                                       | 10 JUN 2010 | 37          | UNDER DELEGATION | PERMIT ISSUED      |
| 120/2010-1                                           | 27 APR 2010   | 33 VISTA AVENUE, SKENES CREEK       | BUILDINGS AND WORKS FOR THE PURPOSE OF CONSTRUCTING ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING | 25 JUN 2010 | 34          | UNDER DELEGATION | PERMIT ISSUED      |
| 122/2010-1                                           | 5 MAY 2010    | 197 ARMSTRONG STREET, ELLIMINYT     | CONSTRUCTION OF A SHED                                                                                 | 25 JUN 2010 | 11          | UNDER DELEGATION | PERMIT ISSUED      |
| 124/2010-1                                           | 5 MAY 2010    | 13 STATION STREET, FORREST          | CONSTRUCTION OF A DWELLING                                                                             | 3 JUN 2010  | 0           | UNDER DELEGATION | WITHDRAWN          |
| 129/2010-1                                           | 10 MAY 2010   | 245 FOREST STREET SOUTH, ELLIMINYT  | BUILDINGS AND WORKS FOR THE PURPOSE OF CONSTRUCTING ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING | 25 JUN 2010 | 46          | UNDER DELEGATION | PERMIT ISSUED      |
| 136/2010-1                                           | 12 MAY 2010   | 555 HORDERN VALE ROAD, HORDERN VALE | CONSTRUCTION OF A GARAGE                                                                               | 10 JUN 2010 | 29          | UNDER DELEGATION | PERMIT ISSUED      |
| 144/2010-1                                           | 25 MAY 2010   | 197-203 MURRAY STREET, COLAC        | REPAINTING & INSTALLATION OF A NEW SHOP FRONT                                                          | 25 JUN 2010 | 3           | UNDER DELEGATION | PERMIT ISSUED      |
| 148/2010-1                                           | 26 MAY 2010   | 151-165 FOREST STREET, COLAC        | CONSTRUCTION OF A SKILLION & BUSINESS IDENTIFICATION SIGNAGE                                           | 10 JUN 2010 | 10          | UNDER DELEGATION | PERMIT ISSUED      |
| 163/2010-1                                           | 11 JUN 2010   | 55 MONAGHANS ROAD, ONDIT            | USE & DEVELOPMENT OF A DWELLING & ASSOCIATED WORKS                                                     | 25 JUN 2010 | 14          | UNDER DELEGATION | PERMIT ISSUED      |
| <b>AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS</b> |               |                                     |                                                                                                        |             | <b>50</b>   |                  |                    |



[Pulse Building Statistics](#)

[Financial Yr Stats](#)

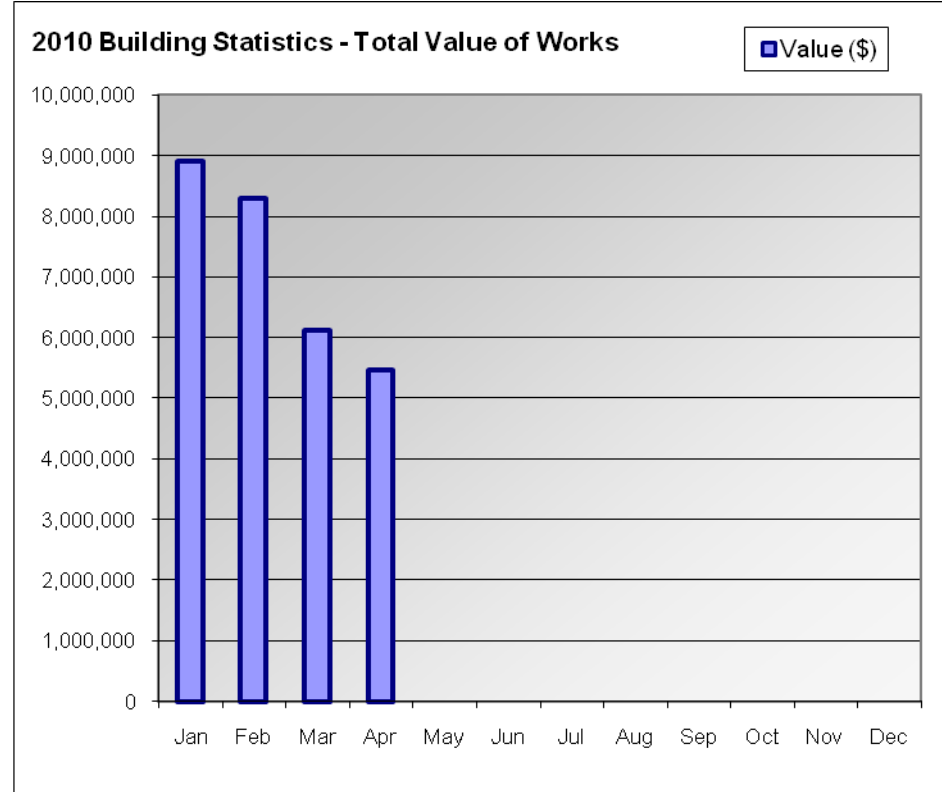
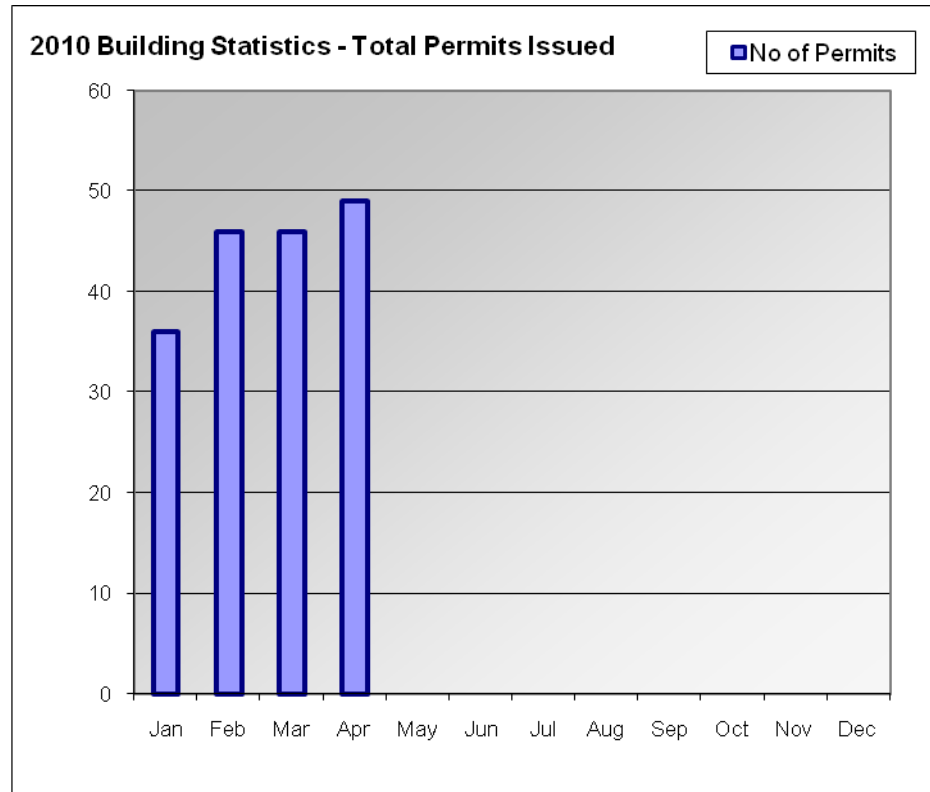
[Pulse Building Reports](#)

| Domestic | Residential* | Commercial | Retail | Industrial | Hospital/HealthCare | Public Buildings | Municipal Totals |
|----------|--------------|------------|--------|------------|---------------------|------------------|------------------|
|----------|--------------|------------|--------|------------|---------------------|------------------|------------------|



|               | No of BP   | Value (\$)        | No of BP | Value (\$)    | No of BP  | Value (\$)       | No of BP | Value (\$)     | No of BP | Value (\$)     | No of BP | Value (\$) | No of BP  | Value (\$)       | No of BP   | Value (\$)        |
|---------------|------------|-------------------|----------|---------------|-----------|------------------|----------|----------------|----------|----------------|----------|------------|-----------|------------------|------------|-------------------|
| Jan           | 28         | 4,006,262         | 0        | 0             | 3         | 2,156,102        | 0        | 0              | 1        | 700,000        | 0        | 0          | 4         | 2,044,000        | 36         | 8,906,364         |
| Feb           | 35         | 4,714,164         | 0        | 0             | 5         | 1,116,245        | 2        | 202,000        | 1        | 200,000        | 0        | 0          | 3         | 2,063,065        | 46         | 8,295,474         |
| Mar           | 30         | 3,682,282         | 1        | 10,000        | 6         | 246,720          | 2        | 239,000        | 0        | 0              | 0        | 0          | 7         | 1,931,805        | 46         | 6,109,807         |
| Apr           | 43         | 5,063,194         | 0        | 0             | 3         | 124,230          | 0        | 0              | 0        | 0              | 0        | 0          | 3         | 275,640          | 49         | 5,463,064         |
| May           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Jun           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Jul           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Aug           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Sep           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Oct           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Nov           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| Dec           |            |                   |          |               |           |                  |          |                |          |                |          |            |           |                  |            |                   |
| <b>Totals</b> | <b>136</b> | <b>17,465,902</b> | <b>1</b> | <b>10,000</b> | <b>17</b> | <b>3,643,297</b> | <b>4</b> | <b>441,000</b> | <b>2</b> | <b>900,000</b> | <b>0</b> | <b>0</b>   | <b>17</b> | <b>6,314,510</b> | <b>177</b> | <b>28,774,709</b> |

\*Multi-Development



**PC101407-2                    INSTALLATION OF A CANOPY TOUR & SIMULATOR,  
VEGETATION REMOVAL AND AN EXTENSION TO THE  
VISITOR CENTRE BUILDING AT THE OTWAY FLY, 360  
PHILLIPS TRACK, WEEAPROINAH**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Ian Williams                          | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | PP104/2010 |

**Location:** 360 Phillips Track, Weeaproinah

**Zoning:** Farming Zone

**Overlay controls:** Wildfire Management Overlay (WMO)  
Erosion Management Overlay (EMO1)

**Proposed Amendments:** N/A

**Purpose:**

The application is for the installation of a zip line canopy tour, practice simulator, vegetation removal and an extension to the existing visitor centre building at the Otway Fly, 360 Phillips Track, Weeaproinah.

This application is before the Council for consideration as the proposed cloud stations associated with the zip line activity would exceed 8 meters in height.

**Declaration of Interests**

No officer has declared an interest under the Local Government Act 1989 in the preparation of this report.

**Summary**

- Planning permission is sought for the installation of a zip line canopy tour including simulator and an extension to the existing visitor centre building at the Otway Fly which is a tourist activity located on 80 hectares of heavily vegetated forested land in the Otway Ranges.
- The proposed development will require the removal of 11 trees and 951m<sup>2</sup> (0.1ha) of 'medium' conservation significance vegetation in three specific locations: (1) zip line simulator adjacent to the existing visitor centre, (2) access tracks, launching and landing pads adjacent to cloud stations 1, 5 & 9, and (3) the canopy tour route between cloud stations. Given the significance of the vegetation and the presence of the threatened Otway Black Snail, vegetation offsets will be required to be provided on site that will be protected in perpetuity by requiring a S173 Agreement to be registered on the title of the land.
- Public notice of the application was given and one objection was received that raised issues in relation to the potential for an increase in noise levels. This objection has been withdrawn on the basis of the inclusion of a condition to address their concerns.

- The site is within the Farming Zone, but not suitable for conventional agricultural activities given its steep slopes and dense vegetation cover. The Otway Fly is a major tourist attractor to the region attracting in the order of 170,000 visitors per year. The proposed activity will complement the existing tree top walk while providing an alternate recreational activity that is low impact on the existing natural environment. This proposed activity will assist in diversifying the activities on offer and allow the Otway Fly to maintain its status as an important tourism operator in the Colac Otway region.
- It is recommended that a Planning Permit be issued subject to conditions.

### **Background**

On the 8 October 2002 planning permission was granted for the construction of a canopy walkway and support infrastructure, visitor interpretation centre/café and associated liquor licence, signage and a three (3) lot re-subdivision, plus the creation of a carriageway easement.

The original proposal was considered by Council at the Planning Committee meeting of 10 September 2002. The officer report discussed a range of issues relating to the potential impact of the proposal on the environment through the disposal of effluent, erosion and landslip risks, and treatment of stormwater and found that these matters could be satisfactorily addressed by appropriate conditions on the planning permit (PP204/02).

On the 1 December 2005, planning permission was granted for the use and development of the land for a koala compound.

On the 8 November 2006, planning permission was refused for the use and development of the land for a helipad to establish and operate a helicopter facility to conduct scenic flights. The Council's decision was later upheld by VCAT after a change from Rural Zone to Farming Zone made the use prohibited.

### **Issues / Options**

Council has the options of:

- a) Supporting the application through the issue of a Planning Permit, subject to conditions.
- b) Supporting the issue of a Planning Permit application with changes.
- c) Refusing to grant a permit.

### **Proposal**

Planning permission is sought for the installation of a canopy tour zip line activity and associated works comprising the following elements:

- a) An extension to the existing visitor centre building to provide for two 'zip' line training rooms, a storage area for equipment and an administrative area. The extension would be 6.9 metres wide by 24 metres long and would enclose the external space between the pavilion and the visitor centre building to provide 165.6m<sup>2</sup> of additional floor area for cafe seating (approx 50 seats) and retail space.

In total, 135 cafe seats would be provided at the site. The extension would be finished to match the existing structure in terms of building materials and height.

- b) A zip line simulator located adjacent to the visitor centre to give instruction and practice prior to undertaking the main zip line activity. The location of the simulator has been selected for security reasons and to ensure the fluid movement of participants to the commencement of the activity. To accommodate the simulator, a total of 20m<sup>2</sup> of small / medium understorey shrubs with an Ecological Vegetation Class (EVC) of 30: Wet Forest and one immature canopy tree (Mountain Ash *Eucalyptus regnans*) would need to be removed; of these only one has a trunk diameter of greater than 40cm.
- c) Nine (9) elevated platforms / cloud stations attached high on tree trunks with two battery powered elevators to ascend and descend patrons at the first and last cloud stations and a zip line (metal cable) for *'flying fox'* movement between cloud stations. Each zip line canopy tour would comprise a maximum of 12 adults who would receive safety training by two tour guides prior to the tour. The participants would be fitted with a full body harness connected to the continuous 'belay' system and would trial their harness system on the simulator located adjacent to the existing visitor centre. The proposed zip line activity would be similar to a 'flying fox' which would enable participants to move between cloud stations (trees) (based on a gravity system) which are at varying heights. The only time that participants are on the ground is at the beginning and end of the tour.

The proposed zip line, when not in use, would remain between the tree mounted cloud-stations. The proposed cloud stations would be fixed to the outer circumference of the tree bark via 'Eco' clips, which would not penetrate the wood. The proposed eco clips would allow the tree to grow unimpeded whilst preventing movement of the cloud station against the tree. When a tree has outgrown the eco-clips, the clips and the chain wrap are expanded to allow growth to continue unimpeded.

- d) The second area of vegetation to be removed is the proposed walking trail/access tracks to cloud station 1, at the beginning of the canopy tour, cloud station 5, a track for emergency access and a small section between cloud station 9 and the existing track. A total of 931m<sup>2</sup> of native vegetation is proposed to be removed to accommodate the access track and areas immediately surrounding cloud stations 1, 5 and 9. Of this, 871m<sup>2</sup> of ground storey and mid storey vegetation would need to be removed to provide the access to cloud station 1, which would be at the beginning of the canopy tour zip line. The proposed track would be 484m long by 1.8 m wide, drained and surfaced to ensure stability and prevent erosion. In addition, 30m<sup>2</sup> of vegetation would need to be removed around the base of the trees at cloud stations 1, 5 and 9. In these areas, the vegetation has an Ecological Vegetation Class of 30: Wet Forrest.

A total of 11 trees (including four Mountain Ash and seven Satinwood trees) and pruning of no more than 5% of the total tree biomass is required to be removed to provide a clear line between the cloud stations. Pruning would be limited to 'dead wood' and small live branches. The proposed zip line path would sit above the understorey canopy at a height which would minimise the need to lop or prune the tops of canopy species.

The trees to be removed would be cut approximately 1.3m (or more) above ground level with stumps and trees being retained to on site to avoid disturbance to microhabitats and soil.

**Site & Surrounds**

The Otway Fly is a tourist activity located on 80 hectares of heavily forested land in the Otway Ranges. The site is located on the western side of Phillips track, 3.6km south of the junction of Phillips Road with Lavers Hill Road. The Otway Fly is a 600 metre, 25 metre high tree top walkway constructed from steel and accessed via a ground based gravel walkway, taking visitors 1.1km into the forest. The site opened to the public in September 2003 and currently employs 25 personnel on any one day.

The site's flora is divided into two main forest types. The drier forest species consisting generally of Mountain Ash is located on the ridges and hills overlooking Youngs Creek and the rain forest species consisting of Beech Myrtle is located on the valley floor and gullies through which Youngs Creek and Bills Creek flow.

The Otway Fly has three car parking areas providing a total of 260 car parking spaces. The main car park holds 210 cars, the bus and car/caravan parking area holds 5 coaches or 25 cars and the disabled and wet weather car park holds 25 cars.

**Public Notice**

Public Notice of the application was given in accordance with Section 52 of the Planning and Environment Act 1987 by sending letters to letters to adjoining and opposite owners/occupiers and by displaying a sign at the site for a minimum period of 14 days.

At the conclusion of the notification period, one objection was received. The grounds of the objection are summarised as follows;

- a) The proposed zip line activity has the potential for increased noise levels from the proposed activities which could interrupt the peaceful enjoyment of the neighbouring residence.
- b) Signs should be displayed at the first cloud station and within the briefing room requesting that participants of the Otway zip line respect the neighbours with regards to noise.
- c) The objection adds that a notice should be read at the initial briefing session and the facilitators should seek to enforce this request throughout the activity.

The applicant was asked to respond to the concerns raised in the submission and a response was received. This response was forwarded onto the objector, who subsequently withdrew the objection subject to a suitable condition being included to address noise levels.

**Referrals**

In accordance with Section 52 of the Planning and Environment Act, the application was referred to the County Fire Authority (CFA) and the Department of Sustainability and Environment. The application was also referred internally to the Council's Environment Department. No objections were received subject to conditions being imposed should a permit be issued.

**Planning Controls**

The land is included in the Farming Zone and is subject to the Wildfire Management Overlay (WMO) and the Erosion Management Overlay (EMO1). A planning permit is required for buildings and works associated with a Section 2 use within the Farming zone and for buildings and works and for the removal of native vegetation in accordance with Clauses 44.01-1 & 44.01-2 (EMO), Clause 44.06-1 (WMO) and Clause 52.17 (Native Vegetation).

a. State and Local Planning Policy Framework

The State and Local policy framework provides the strategic direction for the consideration of land use and development proposals. The following policies are relevant to the consideration of this application:

Clause 15 - Environment  
Clause 15.07 - Protection from wildfire  
Clause 15.09 - Conservation of Flora and fauna  
Clause 17.04 - Tourism  
Clause 17.05 - Agriculture  
Clause 18.02 - Car parking and public transport access to development  
Clause 19.03 - Design and built form  
Clause 21.04 - Environment  
Clause 21.05-4 – Tourism

The proposal is considered consistent with the broader principles of the State and Local Planning Policy Framework, as it proposes to intensify one of the Shire's existing tourist attractions by adding variety with economic benefit to the locality whilst being sensitive to the natural environment. The proposal is not considered to permanently remove land from agricultural production or limit the operation and expansion of adjoining agricultural uses.

b. Zone provisions

The site is subject to the Farming Zone which has a number of objectives. The key objectives in relation to this proposal are:

- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of the land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

Under the Farming Zone a permit is required for buildings and works associated with a Section 2 use (*leisure and recreation*).

Consideration of the following decision guidelines is required in the assessment of the proposal:

- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat.
- The impact of the siting, design, height, bulk, colours and materials to be used on the natural environment, major roads, vistas and water features and the measures to be taken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or the natural scenic beauty or importance.

The site was given approval in 2002 to operate as a tourist facility providing for a low impact recreation experience within the existing natural environment. Approval was also given for complementary visitor/cafe facilities. At that time the land was included in the Rural Zone which was replaced in 2006 with the Farming Zone. At the time of the original approval consideration was given to the impact of the activity on the natural environment and it was considered that the proposal could be supported subject to a range of planning permit conditions on PP204/2002, a number of which related to landscaping of the site.

The proposal before Council is to build on the existing activity and capitalize on the existing natural environment by providing a different experience to visitors to the area. The proposed activity has been designed to minimize any impact on the biodiversity of the area by minimizing the need for removal of vegetation. The location and route of the zip line has been selected to minimise any impact on the flora and fauna, by taking participants through upper canopies, sub-canopies and just above the ground level.

Participants will be elevated above the forest floor once on the zip line and will have no contact with ground cover vegetation. On approach and descent, participants will be required to keep to designated pathways to the first and from the last cloud station. Careful consideration has been given in the selection of the route and the method proposed to remove vegetation so that there is minimal disturbance to microhabitats and soil. Where trees are required to be removed it is proposed that they would be cut approximately 1.3 metres above ground level with stumps being retained on site thereby minimising any soil disturbance.

The infrastructure required for the proposal is minimal and generally located within the dense canopy of the existing vegetation. The batteries required to power the lifts will be removed at the end of each day, recharged and replaced the following day. The infrastructure itself has been designed to essentially "grow" with the trees with no long term impact on the health of the trees required to support the cloud stations.

c. Overlay provisions

The site is subject to the **Erosion Management Overlay Schedule 1 (EMO1)**. The purpose of this overlay is to protect areas prone to erosion, landslip and other land degradation processes, by minimising land disturbance and inappropriate development.

Under Clause 44.01 to this overlay, a permit is required to construct a building or carry out works and to remove, destroy or lop any vegetation.

The applicant has undertaken a Geotechnical assessment and provided a checklist dated 21 April 2010. In summary, the report identifies that the anticipated risk from soil instability to life is 'low to extremely low' and the risk to property and the environment is 'low'.

The site is also subject to the **Wildfire Management Overlay (WMO)**. The purpose of this overlay is;

- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:
  - Satisfies the specified fire protection objectives.
  - Does not significantly increase the threat to life and surrounding property from wildfire.



- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

Under Clause 44.06-1, a permit is required for buildings and works associated with a retail premises. The proposal includes an extension to the retail floor area. In accordance with the requirements of this overlay, the applicant has provided an updated Emergency Management Plan. The purpose of the plan is to detail the agreed arrangements for the prevention of, the response to, and the recovery from, emergencies that have potential to occur at the Otway Fly. The broad objectives of the plan are to a) implement measures to prevent or reduce the causes or effects of emergencies, b) manage arrangements for the response to emergencies when they occur and c) to assist employees and the company to recover following an emergency.

The application has been referred to the Country Fire Authority (CFA) and no response had been received at the time of writing this report.

d. Relevant Particular Provisions

Car Parking

**Clause 52.06-1 (Car Parking)** specifies that the floor area of an existing use must not be increased until the required car spaces have been provided on the land. The table contained within Clause 52.06-5 sets out the number of car spaces required for uses not covered by a parking precinct plan or another clause. Where a use is not specified in the table at Clause 52.06-5, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

A condition of the initial approval for the canopy walkway and support infrastructure on 8 October 2002 required that no fewer than 200 car parking spaces, and 8 bus parking spaces must be provided on the land for the use and or development, including 6 spaces clearly marked for the disabled. This car parking requirement was based on the expected number of visitors reaching 300,000 in the first year and then increasing up to 500,000 by year five. In reality, the number of visitors has been substantially less with the peak being 189,000 in 2005 and therefore demand for car parking is substantially less than expected.

Under the current arrangement and within the designated parking areas, the site has capacity to contain a total of 260 cars in the following arrangement; a) 210 cars within the main car park, b) 5 coaches or 25 cars within the bus/car/caravan parking area and c) 25 cars within the disabled/wet weather car park.

Since the commencement of the operation of the Otway Fly in 2005, on average the supply of existing car parking on site has met the demand. While there may be peaks during the summer period in attendance numbers at the centre, the existing level of car parking is considered to be sufficient to cater for any additional demand as a result of the introduction of the zip line activity. During the summer period, between 27-30 December, the average number of visitors is 1500 people visiting the attraction on each given day. On these days, peak times, are generally between 11 am and 2 pm, with 675 people visiting; the 'family' demographic generally outweighing 'couples' or 'individuals'. Given that the zip line tours have a limit of 12 participants per tour with a maximum of 3-4 tours per day, the additional demand for car parking is minimal in context to the existing supply and current demand. It is considered that no additional car parking is required to cater for the proposed activity.

The infill extension would result in the rearrangement of the existing seating area, with the provision of 9 additional seats. The existing cafe at the Otway Fly is not considered to be a destination restaurant and therefore, the 9 additional seats are not considered to warrant a further increase in car parking provision beyond the existing levels specified earlier in this report.

The applicant has also indicated that the proposed activity would employ an additional 20 staff. Currently staff utilise a separate car parking area adjacent to the existing maintenance shed and this situation would remain. The area of car parking designated for staff is considered to be sufficient to meet the additional demand.

#### Native Vegetation

A planning permit is required under **Clause 52.17 Native Vegetation**. The purpose of this provision is;

- To protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals.
- To achieve the following objectives:
  - To avoid the removal of native vegetation.
  - If the removal of native vegetation cannot be avoided, to minimise the removal of native vegetation through appropriate planning and design.
  - To appropriately offset the loss of native vegetation.
- To provide for the management and removal of native vegetation in accordance with a property vegetation plan.
- To manage vegetation near buildings to reduce the threat to life and property from wildfire.

This Clause specifies that a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

The proposal seeks to remove 11 trees and 951m<sup>2</sup> (0.1ha) of 'medium' conservation significance vegetation in three specific locations as described earlier in the report.

The application was referred to Councils Environment Department and the Department of Sustainability and Environment who are of the opinion that the site has an Ecological Vegetation Class 30 - 'Wet Forest', which has a Bioregional Conservation Status within the Otway Ranges Bioregion of "Least Concern", with a conservation significance of Medium. The presence on site of the threatened Otway Black Snail species raises the conservation significance status from "Medium" to "Very High". During a site visit by Council officers, presence of the Otway Black Snail was confirmed with the sighting of the snail on the site.

This increase in conservation significance increases the offset required and raises the consideration of whether the proposal is satisfactory or not. It is considered that given the site specific area of canopy understorey vegetation to be removed, the potential impact on the Otway Black Snail is very minor. The consideration of the three step approach towards vegetation management (*avoid, minimise & offset*) is considered to be satisfactory and increases the desired offset to 8 times the area (or 8,000m<sup>2</sup>) of similar good condition EVC – Wet Forest vegetation and for the protection of 8 large trees with a trunk diameter greater than 40cm and the planting of 90 trees.

Should Council support the proposal, a number of conditions are proposed that relate to the management of the vegetation removal, including a vegetation offset of 8,000m<sup>2</sup> to compensate for the vegetation that is removed. The vegetation offset is to be protected in perpetuity through the requirement of a S173 Agreement to be registered on title.

### **Consideration of the Proposal**

The existing Otway Fly treetop walk has experienced a decline in visitation since 2005, with approximately 135,000 visitors per annum. The vision for the Otway Fly zip line is to become a half day activity (2.5 – 3 hours) employing 20 additional staff, being the first activity of its type in Victoria and Colac Otway Shire.

It is anticipated that the proposed zip line activity could increase visitor numbers by 10% or to 155,000 people, rising to 160,000 in its first full year of operation. This figure would still be below the 189,000 visits in 2004/04 and the 162,000 visitors in 2005/06. It is anticipated that the proposal would take approximately 6 months to commission and construct with the provision of a site office and storage facility.

The Otway Fly attracts interstate and overseas visitors which ultimately promotes and markets the Otway Ranges as an attractive tourist destination that has a multiplier effect particularly for accommodation providers. The existing operation is a significant economic driver for tourism in the Otways.

While the zone provisions promote and support agricultural activities it does not exclude non-agricultural activities from being supported, particularly when a site is unsuitable for farming activities. This is a large, heavily vegetated parcel of land, where wholesale clearance of vegetation would not be supported.

The additional use and development proposed is complementary to the existing use and is sensitive to the natural environment. Given the size of the site and dense nature of the vegetation it is unlikely that the activity would result in any unreasonable detriment to the amenity of property owners nearby.

Notwithstanding this, conditions have been required to ensure noise is kept to a minimum in the undertaking of the proposed activity.

The site is not considered to be suitable for agricultural purposes and therefore the intensification of the tourist activity is not considered to permanently remove land from agricultural production or limit the operation and expansion of adjoining and nearby agricultural uses.

The proposed intensification of the use on this site is considered to add variety to a tourist attraction whilst contributing to the tourism base and growth of the shire.

The proposed infill extension between the pavilion and the visitor centre building is considered to be in keeping with the character, appearance, scale, proportion and rhythm of the existing buildings and the scenic significance / natural beauty of the immediate area.

### **Corporate Plan / Other Strategies / Policy**

Any relevant policy issues have already been addressed earlier within this report.

### **Financial & Other Resource Implications**

The proposal raises no financial or resourcing implications for the Council.

### **Risk Management & Compliance Issues**

The proposal raises no risk management or compliance issues.

**Environmental Consideration / Climate Change**

Any relevant environmental considerations have been addressed within this report.

**Communication Strategy / Consultation Period**

Public notice of the application was required in accordance with Section 52 of the Planning and Environment Act as discussed earlier in this report. One objection was received from a surrounding property owner and has been withdrawn.

**Conclusion**

The proposed intensification of the use on this site is considered to comply with the planning provisions of the scheme, contributing to the tourism base and growth of the Shire whilst demonstrating sensitivity to the environment.

The existing car parking can adequately cope with any increase in demand and therefore no additional car parking requirements are necessary. The approach towards vegetation management is supported and considered to meet the objectives of the relevant policy.

It is recommended that a planning permit be issued subject to conditions.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolve to issue to grant a Planning Permit for the installation of a zip line canopy tour, practice simulator, vegetation removal and an extension to the existing visitor centre building at the Otway Fly, 360 Phillips Track, Weeaproinah subject to the following conditions:***

- 1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 2. The various activities forming parts of the use as shown on the endorsed plan must not be altered without the written consent of the Responsible Authority.***
- 3. The use hereby approved may only operate between the hours of 9am and 5pm on any given day.***
- 4. 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 buildings, 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***
- 5. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.***
- 6. The colour of building materials employed in the pavilion extension shall match the existing materials used for the pavilion and visitor centre building and must be harmonious with the environment to the satisfaction of the Responsible***

**Authority.**

7. **Before the use hereby approved commences, a cautionary sign shall be placed within the zip line fit out centre and on the approach to the first cloud station. The sign shall be accessible to be read by guests undertaking the zip line activity and shall remind guests of the need to respect the environment and the need be mindful of noise levels. This message shall also form part of the zip line guide's orientation training.**
8. **All excavation works upon the subject land must be kept to the absolute practicable minimum and to the satisfaction of the Responsible Authority.**
9. **All development and works associated with this permit must be carried out in strict conformity with the recommendations of Geotechnical Engineers Report Number (ES1087 by 2020 Engineering dated 21/04/2010).**
10. **The existing car / bus parking area shall be retained at all times to the satisfaction of the Responsible Authority. Should visitation numbers as a result of the proposed zip line activity exceed the existing level of car parking provision at the site, then the zip line activity hereby approved shall cease until such a time that the additional car parking required can be provided to the satisfaction of the Responsible Authority.**
11. **Before the vegetation removal starts, an offset plan showing a native vegetation offset of 8 times the area cleared (8,000m<sup>2</sup>) be put under conservation management to compensate for the removal of 0.1ha of Very High Conservation Significance EVC 30 Wet Forest vegetation and for one tree greater than 40cm and 10 trees less than 10cm trunk diameter of Very High Conservation Significance EVC Wet Forest vegetation to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The offset plan must include the protection of eight large trees plus the recruitment of 40 plants for the removal of Tree 2, to the satisfaction of the responsible authority. Three copies of the plan must be provided. When approved, the plan will be endorsed and will then form part of this permit.**

**Maps or plans forming part of the offset plan must be drawn to scale with dimensions (where appropriate). The offset plan must include details of the following:**

- a) **vegetation to be removed;**
- b) **the location of the vegetation including details of the Ecological Vegetation Class (EVC) of the vegetation and its Conservation Significance;**
- c) **the area to be removed (in hectares);**
- d) **the habitat hectare score (out of 1) of the vegetation;**
- e) **the number of large and medium old trees to be removed and;**
- f) **the presence of any rare or threatened species.**

**The offset plan must also include details of the offset(s) to compensate for the vegetation removal, including details of the following;**

- i. type and location of offset(s) to be provided which are located in areas separate from any previous offset locations on the subject land;*
- ii. number of large old trees to be protected;*
- iii. details of any revegetation including the number of trees, shrubs and other plants, species mix and density;*
- iv. methods of managing and restoring the existing vegetation to be retained;*
- v. methods of interim protection for newly established offsets;*
- vi. persons responsible for implementing and monitoring the offset plan;*
- vii. time frame for implementing the offset plan;*

***Vegetation removal and the provision of offsets must accord with the endorsed plan.***

***The offset area(s) must be permanently protected and maintained to the satisfaction of the Responsible Authority and the Department of Sustainability and Environment.***

- 12. Before the vegetation removal starts, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 and make an application to the Registrar of Titles to have the agreement registered on the title to the land under section 181 of that Act which provides for a native vegetation offset in accordance with the endorsed offset plan of this permit. The owner / applicant must pay the reasonable costs of the preparation, execution and registration of the Section 173 agreement.***
- 13. 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.***
- 14. No environmental weeds as referred to in "Environmental Weeds of the Colac Otway Shire" brochure will be planted on or allowed to invade this site.***

**Department of Sustainability and Environment Conditions**

- 15. The clearing of native vegetation must only be the minimum extent necessary to allow for the tour infrastructure.***
- 16. No native vegetation shall be lopped, damaged or destroyed other than the vegetation marked on the endorsed plan, without further written consent of the responsible authority in consultation with the Department of Sustainability and Environment.***

17. ***Before the vegetation removal starts, the boundaries of all vegetation to be removed and retained must be clearly marked on the ground with temporary fencing. All trees within this area and approved for removal in accordance with the endorsed plan must be clearly marked with a painted 'X' and must be felled within the prescribed works area in such a manner to avoid damaging vegetation to be retained. Prior to the felling of the vegetation, 24 hours notice must be given to Council's Environment Planner and written approval must be obtained.***
18. ***Tree trimming operations must be undertaken using the natural target pruning 'three cut method' as described in the Roadside Handbook (VicRoads 2006), which accords with the Australian Standard for Pruning Amenity Trees (AS 4373-1996). The use of an excavator, backhoe, bulldozer blade or loader to trim branches of trees is not permitted.***
19. ***All vehicles, earth-moving equipment and other machinery must be cleaned of soil and plant material before entering and leaving the site to prevent the spread of weeds and pathogens.***
20. ***Prior to the commencement of works, all persons undertaking the works must be properly briefed on all environmental requirements of the planning permit. A copy of the permit must be made available to all people working on the project.***

**Expiry of the permit**

21. ***This permit will expire if one of the following circumstances applies:***
  - a) ***The development is not started within two years of the date of this permit.***
  - b) ***The development is not completed within four years of the date of this permit.***

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

~~~~~\ ~~~~~

THIS PAGE LEFT BLANK INTENTIONALLY



**PC101407-3                      DEVELOPMENT AND USE OF THE LAND FOR A SINGLE DWELLING, ACCESS AND ASSOCIATED WORKS - AMENDMENT TO INCREASE THE OVERALL BUILDING HEIGHT AND USE BLACK COLOURBOND FOR EXTERNAL WALLS AT 395 BLUE JOHANNA ROAD, JOHANNA.**

|             |                                    |           |              |
|-------------|------------------------------------|-----------|--------------|
| AUTHOR:     | Ian Williams                       | ENDORSED: | Jack Green   |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | PP316-2005-3 |

**Location:** 395 Blue Johanna Road, Johanna

**Zoning:** Farming Zone (Abuts Rural Conservation Zone)

**Overlay controls:** Wildfire Management Overlay (WMO)  
Erosion Management Overlay (EMO1)

**Proposed Amendments:** Nil

**Purpose:**

The application comprises an amendment to an existing planning permit for the use and development of the land for a dwelling, approved in May 2006. In November 2008 the original plans were amended to decrease the footprint of the proposed dwelling. The proposal before Council is a further amendment request that seeks to increase the overall building height and to use black colourbond cladding for the external walls.

The application is before the Planning Committee as the dwelling is above 8m in height.

**Declaration of Interests**

No officer has declared an interest under the Local Government Act 1989 in the preparation of this report.

**Summary**

- The application proposes an amendment to an existing planning permit for the use and development of the land for a dwelling which was granted in May 2006. The original proposal was amended to reduce the dwelling footprint in November 2008 and the current request proposes to amend this approval to allow for an increase to the overall building height and the use of black colourbond for the external walls. The current application is retrospective as the building works have been substantially completed.
- During 2009, a planning enforcement investigation commenced in relation to the height of the dwelling and the use of black colourbond cladding. A site visit confirmed that the south, east and west elevations have been built on average 1.28m higher than previously approved and the whole building had been clad in black colourbond, in contravention of planning permit conditions.

- The black colourbond finish and additional height/bulk is not consistent with the policy direction for this significant landscape and is considered to have an unacceptable visual impact. The building is considered to present as a dominating feature on the scenic landscape when viewed from the principle tourist route – the Great Ocean Road, and from adjoining properties.
- It is recommended that the proposed amendment be refused on this basis.
- Should the Committee resolve to support this recommendation, the applicant will have the opportunity to apply for a review of the decision at the Victorian Civil and Administrative Tribunal (VCAT).
- In the event the application for amendments to the permit are refused it is proposed that Council lodges an application for Enforcement Order at VCAT seeking to have the building modified to comply with the plans approved in 2008 – this would require a lowering of the building height and replacement of the external cladding. It is anticipated that VCAT would hear this application concurrently with any application for review of the Council decision by the applicant.

### **Background**

On 10 May 2006, a planning permit was granted for the use and development of a single dwelling, access and associated works on the land (PP316/05-A). On 11 November 2008, an amendment to the plans was approved and an extension of time for the expiry date of the permit was granted. The amendment included a reduction in the size of the footprint of the dwelling by 154m<sup>2</sup> to 450m<sup>2</sup>. The extension of time required the development to be commenced by 10 May 2010 and completed by 10 May 2012. The officer report concerning the amendment approved in 2008 makes reference to the development being under 8 metres in height, with a planting screen of native trees to the west, north and east. The amended plans show have a notation of “colourbond blk cladding” to the northern elevation of the garage only. The remaining sections of the building have the notation of ‘colourbond’ with no reference to a specific colour.

Condition 20 of PP316/05-A states that *‘the nature and colour of building materials employed in the construction of the buildings and works hereby permitted must be harmonious with the environment to the satisfaction of the Responsible Authority’*.

Condition 21 states that *‘the roof and exterior walls of the dwelling and outbuildings must be constructed of non-reflective material which will effectively blend the development in with the natural colours of the surrounding landscape (i.e. not white, off-white, beige, cream, fawn, light yellow or similar colour, galvanised or zincalume, surfmist, shale grey, colourbond smooth cream, gull grey or any other unsuitable colour as determined by the Responsible Authority)’*.

During December 2009, a planning enforcement investigation commenced in relation to the height of the dwelling and the external cladding. A site visit confirmed that the south, east and west elevations have been built on average 1.28m higher than previously approved and the whole building had been clad in black colourbond. After reviewing the approved plans of November 2008 it was found that the dwelling, as built, did not comply with the plans due to the increased height and extensive use of black colour bond. The builder and subsequently the owner, were advised of the non-compliance with the approved plans and asked to cease construction until the matter was resolved.

On 4 January 2010, a Planning Infringement Notice was issued to the owner of the land against the breach of conditions of planning permit PP316/05. The Infringement Notice was issued in relation to the height of the structure and cladding in a colour that does not blend in with the natural surroundings. The Notice advised that in addition to paying the monetary penalty, the owner was required to cease all works associated with the development unless with the approval of the Responsible Authority.

On 14 January 2010, the owner of the site advised Council by letter that they were of the view that the building height was in accordance with the approved drawings and that the use of black colourbond is recessive on the landscape. The owner claims that the approved drawings make specific reference to the use of black colourbond cladding.

Officers became aware that building works were continuing to occur on the site, and on 27 January 2010 advised the builder by letter that all works on site must cease and that no further works should continue without the approval of Council. The letter also advised that failure to stop works could result in the Council pursuing further enforcement action.

Despite several times advising that works should cease, officers again found that works on the building were continuing to occur, and on 7 April 2010, a further Planning Infringement Notice was issued to the construction company against the breach of conditions. The Notice again advised that all works associated with the development should cease.

On 18 April 2010, the owner advised Council by letter that:

- a) the building had been built in accordance with the approved plans and any increase in height was due to the drop in contour of the land in the south-west corner;
- b) the building was not visible from Blue Johanna Road; and,
- c) the black colour had been endorsed on two separate occasions by the Council.

At the same time however, Council received from the owner an application for an amendment to the planning permit to reflect the additional building height and use black colourbond for the external cladding. That this application was lodged with Council is in itself an acceptance of the fact that the building is in breach of the permit conditions.

Council wrote to the owner acknowledging receipt of the application and reiterated the advice that all building works should cease in accordance with the directions contained in the Planning Infringement Notices, with the exception of the works specified in the Council's letter dated 16 April 2010, which allowed minor works to be completed that prevented damage to the building from the weather.

It is understood that despite numerous requests by officers to cease building works until this matter is resolved, the building has reached a state of near completion.

### **Issues / Options**

Council has the options of:

- a) Supporting the application through the issue of a Notice of Decision to Grant an Amendment to the Planning Permit, subject to conditions;
- b) Supporting the application with changes. An option would be for Council to allow either the existing height or the cladding to remain, rather than approving or refusing the proposal in its entirety;
- c) Refusing to support an amendment to the permit.

Because the application to amend the permit is retrospective, if the amendments are not supported by Council, the owner will need to modify the building to comply with the approved plans. This would require a lowering of the building height and replacement of the external cladding with a more natural colour, and in the case of achieving a lower building height, could require significant changes to the building.

Should the Planning Committee resolve to support this recommendation, the applicant will have the opportunity to apply for a review of the decision at the Victorian Civil and Administrative Tribunal (VCAT).

In the event the application for amendments to the permit are refused it is proposed that Council lodges an application for Enforcement Order at VCAT seeking to have the building modified to comply with the plans approved in 2008. This is the most effective mechanism to achieve compliance with the permit. Whilst Council has issued Planning Infringement Notices with monetary penalties (these have been paid) that have included requests to cease construction works, an Enforcement Order from VCAT is required to legally require the changes to occur. It is anticipated that VCAT would hear this application concurrently with any application for review of the Council decision by the applicant.

### **Proposal**

The application is for an amendment to the existing planning permit for the development and use of the land for a single dwelling, access and associated works. The amendment proposes an increase to the building height (to reflect the as-built height) and the use of black colourbond cladding to the external walls. The current application is retrospective as the building works have already been substantially completed.

The dwelling as built is centrally located on the lot, approximately 300m south of the Blue Johanna Road frontage, 11m from the western boundary. The dwelling is sited below the central ridgeline and is not visible from Blue Johanna Road, but is visible from the Great Ocean Road. Towards the southern end of the dwelling, the building is approximately 24m wide and 10.5 metres deep. A 16.5m wide garage is positioned to the north of the site linked to the main building by a verandah.

The dwelling is rectangular in shape, with a flat roof, with its orientation towards the south, to achieve coastal views. The south elevation contains a number of window openings and a large projecting deck. The dwelling comprises two storeys. The heights of the southwest, south and southeast elevations as measured by Council officers ranges from 7.7m-8.4m, 8.2m-8.4m and 7.2m respectively. On average, the building is 1.28m higher than approved. The dwelling is not visible from Blue Johanna Road, but is visible from vantage points along the Great Ocean Road, 2.4km to the east.

The building currently being built on site has been clad in its entirety in black colourbond cladding.

### **Site & Surrounds**

The application site comprises cleared agricultural farmland, which slopes from a central ridgeline towards the entrance with Blue Johanna Road and from the central ridgeline to the south. The land is not identified as being farmland of strategic significance as contained within the Rural Land Strategy 2007, but is identified as being land of high agricultural capability. Its use for rural activities is restricted however due to its steep slope and gullies to the south.

The site is located on the south-eastern side of Blue Johanna Road, approximately 300m south of the entrance with Blue Johanna Road and 14m from the western boundary. The site has an area of 9.25 hectares and was created as Lot 3 of a three lot subdivision approved in 2001 (PP273/2000). Lot 2 (475, Blue Johanna Road) contains a dwelling which was approved on 31 March 2005 and Lot 1 has planning approval for a dwelling.

### **Public Notice**

The applicant was advised on 14 May 2010 to give notice of the application in accordance with Section 52 of the *Planning and Environment Act*, by sending a copy of the notice to adjoining and nearby property owners and occupiers and by placing a sign on the land for a period of 14 days.

On 3 June 2010, the applicant advised the Council that the advertising process would shortly commence and the delay in advertising the application was due to the applicant being based in Melbourne. The applicant did not appear to have undertaken the advertising of this application at the time of writing the report. Given the ongoing delay in the giving of public notice, in conjunction with the progression of building works on site it is considered important that a decision on the proposal is made without delay. If it is necessary to pursue the matter through VCAT then the Tribunal can require the applicant to give notice to any persons affected before proceeding with the review hearing.

Despite the absence of advertising, on 16 June 2010 a letter of objection was received from an adjoining property owner. The objection is on the basis that the dwelling exceeds 8 metres in height and is of an inappropriate colour. The person is concerned at the visual impact of the dwelling which is in close proximity to their dwelling.

### **Referrals**

The application did not require referral to any internal departments or external authorities.

### **Planning Controls**

The land is included in the Farming Zone and is subject to the Wildfire Management Overlay (WMO) and the Erosion Management Overlay (EMO1). A planning permit is required for buildings and works associated with a Section 2 Use within the Farming Zone and for buildings and works associated with Clause 44.01-1 of the Erosion Management Overlay (EMO1) and for buildings and works associated with Clause 44.06-1 of the Wildfire Management Overlay (WMO).

#### a) State and Local Policy Framework

The State and Local Policy Framework seeks to ensure that 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 12.03-2 - Rural residential development

Clause 15.07 - Protection from Wildfire

Clause 15.08 - Coastal Areas

Clause 21.02 - Vision

Clause 21.04-5 - Erosion

Clause 21.04-8 - Landscape Character

Clause 21.05-1 - Agriculture

The State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF) seek to protect and enhance the natural landscapes of the coastal environment by ensuring development responds to the identified landscape character of the area. The LPPF identifies the importance of views of the landscape from road corridors and the need to control and manage development that is highly visible from main road corridors and principle tourist routes, whilst retaining the dominance of the landscape from key viewing locations. The LPPF further states that finishes and colours of buildings should complement those found naturally in the landscape with large buildings screened to minimise their visibility from main roads.

The application site is not covered by the Significant Landscape Overlay, however the Great Ocean Road Regional Landscape Assessment Study (GORRLAS) identified the area as being a Landscape of Regional Significance. The study also identifies key viewing locations from the Great Ocean Road which are frequented by tourists and visitors to the region and states that the protection and management of views from popular and established locations is a key priority.

The proposal is not considered to be consistent with the broader principles of the State and Local Planning Policy Framework. The black colourbond finish and additional building height/bulk is considered to present a stark contrast with the natural landscape and as such, is considered to have an unreasonable visual impact on the scenic landscape when viewed from the Great Ocean Road, which is a principle tourist route. The proposal is not considered to preserve or enhance the significant coastal landscape and would present an undesirable precedent for future decisions.

b) Zone provisions

The site is subject to the Farming Zone which has a number of objectives. The key objectives in relation to this proposal are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

Under the Farming Zone a permit is required for buildings and works associated with a Section 2 use (dwelling, which does not meet the requirements of the Section 1 use). Consideration of the following decision guidelines is required in the assessment of the proposal:

- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.

c) Overlay provisions

The site is subject to the **Erosion Management Overlay Schedule 1 (EMO1)**. The purpose of this overlay is to protect areas prone to erosion, landslip and other land degradation processes, by minimising land disturbance and inappropriate development. Under Clause 44.01 to this overlay, a permit is required to construct a building or carry out works and to remove, destroy or lop any vegetation.

The original permit application was assessed against the requirements of the Erosion Management Overlay and as such, a Geotechnical Report and Land Capability Assessment was submitted by the applicant based on a 6 bedroom dwelling. The amended application does not result in an increase in the footprint of the dwelling and as such, a permit is not triggered under this overlay.

The site is also subject to the **Wildfire Management Overlay (WMO)**. The purpose of this overlay is:

- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:
  - Satisfies the specified fire protection objectives.
  - Does not significantly increase the threat to life and surrounding property from wildfire.
- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

The original permit application was referred to the Country Fire Authority (CFA) under Section 55 of the Act. The CFA raised no objection to the application subject to conditions being included on any permit. No permit is triggered under this overlay for the amendments sought.

### **Consideration of the Proposal**

The architectural form, position and orientation of the dwelling on the lot were approved on 10 May 2006 and as such, these aspects are not for consideration under this application. The box like form and appearance of the structure as approved by that permit is not in itself considered appropriate for the site in today's policy environment, however the decision to approve that building form cannot be revisited today. The key consideration for the Committee is the appropriateness or otherwise of the additional building height that is sought, and the black external colour scheme.

The current application seeks an amendment to the height of the building, being on average 1.28m higher within the south elevation than previously approved. Despite repeated requests, the applicant has failed to provide accurate survey drawings of the building currently under construction. As such, the task of determining the actual built height was left to Council officers through measurements taken on inspections of the site.

The height measured by Council officers on the south west elevation ranges from 7.7m-8.4m, as opposed to the height on the endorsed plans of 6.6m-6.9m. On the south elevation, the surveyed height measures 8.2m - 8.4m as opposed to 6.6m-7.2m on the endorsed plans. On the east elevation, the surveyed height measured 7.2m as opposed to 6.6m on the endorsed plan.

The dwelling has also been finished in black colourbond, which is considered to conflict with the aims of the earlier permit conditions and endorsed plan of November 2008. A site inspection has confirmed that without significant disruption, there is no scope to lower the height of the dwelling to the approved height or amend the colour to one which is harmonious with the natural landscape. It should be noted within this report that the drawings endorsed under permit PP316/05-A contain the reference '*colourbond blk cladding*' to the 'north elevation'. This reference was made in relation to the northern elevation of the garage building, however, the remainder of the annotation on the endorsed drawings only refers to '*colourbond*', with no reference made to a specific colour.

The *'design and siting issues'* decision guidelines within the Farming Zone seek to ensure that the Responsible Authority considers the siting, design, height, bulk, colours and materials to be used and the measures to be undertaken to minimise any adverse impacts. Also for consideration is the impact of the proposal on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance. The dwelling is not visible from Blue Johanna Road, but is visible from a vantage points along the Great Ocean Road, 2.4km to the east, and is highly visible from the adjoining property.

The applicant has chosen to clad the building in black colourbond, as opposed to the use of a natural colour which would blend the building in with the natural colours of the surrounding landscape. The approved building has a considerable presence in this location, which is exacerbated by its shape and colour. The building's bulk and angular black form is considered to be inappropriate and in direct contrast to the objectives of the planning policy, presenting a stark contrast with the natural landscape and being detrimental to the scenic landscape when viewed from the principle tourist route, the Great Ocean Road and the adjoining properties. Whilst the current permit requires some landscaping around the building, it is considered this landscaping would not sufficiently soften the appearance of the dwelling.

It is considered that the increase in building height, which varies from 8.2m to 8.4m along the south facing elevation, in conjunction with the use of black colourbond cladding and the building's 'box like' appearance, presents a visually dominant structure which compounds the visual impact of the previously approved dwelling on the immediate natural landscape. For these reasons it is recommended that the application for an amendment be refused.

#### **Corporate Plan / Other Strategies / Policy**

There are no other corporate plans, strategies or policies relevant in the determination of this application.

#### **Financial & Other Resource Implications**

Costs may be incurred by Council if the decision results in hearings at VCAT concerning an Enforcement Order Application. Such costs would fall within the Statutory Planning budget for legal costs.

#### **Risk Management & Compliance Issues**

There are no risk management or compliance implications for the Council.

#### **Environmental Consideration / Climate Change**

Any relevant environmental considerations have been addressed within this report.

#### **Communication Strategy / Consultation Period**

Public notice of the application was required in accordance with Section 52 of the Planning and Environment Act. As discussed earlier in the report, the applicant was instructed to give notice on 14 May, but this has not occurred. Despite notice not being given as requested, a letter of objection was received from an adjoining property owner.

#### **Conclusion**

The additional building height sought by the amendment and the use of black colourbond cladding presents a visually dominant structure on the immediate landscape, which neither preserves nor enhances the significant coastal landscape, being detrimental to significant views from private and public spaces, in particular the immediate road corridor of the Great Ocean Road and the adjoining properties.



It is therefore recommended that a refusal to grant an amendment to the permit be issued and that Council lodges an application for an enforcement order with VCAT seeking compliance with the approved plans of the current permit.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolve to:***

- 1. Issue a refusal to grant an amendment to Planning Permit PP316-205, to increase the overall building height and to retain the black colourbond cladding to the external walls on the following grounds:***
  - a. The increased building height and the use of black colourbond cladding presents a visually dominant structure on the immediate landscape, which neither preserves nor enhances the significant coastal natural landscape, being detrimental to significant views from private and public spaces, in particular the immediate surrounding road corridor of the Great Ocean Road and adjoining property.***
  - b. The proposal represents an excessive visual impact that fails to meet the decision guidelines of the Farming Zone and the policies contained in the State and Local Planning Policy Frameworks relating to landscape protection.***
- 2. Support the lodgement of an application for enforcement order with VCAT to address non-compliance with the approved plans endorsed under PP316-2005.***

~~~~~\ ~~~~~

THIS PAGE LEFT BLANK INTENTIONALLY

**PC101407-4                    USE OF THE LAND AS A SHOP, ERECTION OF  
ADVERTISING SIGNS AND WAIVER OF TEN (10) CAR  
SPACES AT 77 MAIN STREET, BEEAC**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Ros Snaauw                            | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | PP113/2010 |

**Location:** 77 Main Street, Beeac

**Zoning:** Township Zone

**Overlay controls:** Environmental Significance Overlay Schedule 1  
Heritage Overlay HO301

**Proposed Amendments:** Nil

**Purpose:**

The application proposes to use the existing dwelling as a shop, and seeks approval for an advertising sign and the waiver of ten (10) car spaces.

The application is before Council for consideration as the proposal seeks a waiver of car parking spaces.

**Declaration of Interests**

No officer has declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Summary**

- The applicant proposes to change the use of a dwelling to a shop selling pottery, gifts, soaps, jewellery, vintage furniture, art, cards, books and the like.
- The site is within the commercial precinct of Beeac and will provide economic benefits to the town in a location that complements other retail premises.
- The site does not provide any on-site parking, and a waiver of ten spaces is required. Given the low demand for parking associated with the existing commercial uses and availability of on street parking available, the proposed parking waiver is supported.
- The application was subject to public notice but no objections were received.
- The proposed advertising sign will have no adverse impact on the heritage significance of the building.
- It is therefore recommended that a planning permit be issued.

**Background**

The site is within the commercial precinct of the township of Beeac. Although the recent use of the site has been for a dwelling the original use of the land was as a shop, being both a saddler and a bank. The application therefore seeks to reinstate the original use of the site which because of the time that elapsed since its use as a shop has lost its 'existing use rights' to be used for that purpose.

There is no record of previous planning permits issued for this site. There was a planning permit application in 2008 seeking approval for use of the site for a café however this did not proceed and was withdrawn.

### Issues / Options

Council has the options of:

- Supporting the application through the issue of a Planning Permit;
- Supporting the application with changes;
- Refusing to grant a permit.

The key issue is whether a waiver of parking spaces is justified, and this is discussed further in the report below.

### Proposal

The application seeks approval for the use of the existing building as a shop, to construct an advertising sign and to waive ten (10) car spaces.

The floor area of the proposed shop is 8.2m x 15.5m (127m<sup>2</sup>). This area will comprise the shop circulation area and two storage areas with one storage area containing a toilet and shower. This floor area generates a need for the supply of 10 car spaces which are unable to be provided on-site. The proposal is to utilise the significant supply of on-street parking that is available at the front of the proposed shop.

An advertising sign is proposed for the shop front window. This sign will be 44mm x 480mm and will be 1.4m from the ground. The sign will represent a painters pallet.

### Site & Surrounds

The site is located in the commercial precinct of Beeac on the west side of Main Street. Adjoining land to the north and south is used for commercial purposes with several vacant shops along this part of the street. The site is rectangular shaped and contains a structure that was originally constructed as a shop with a verandah over the footpath, but which has more recently been used as a dwelling. Vacant land to the rear of the site extends through to Coulstone Street and forms part of the adjoining property.

### Public Notice

Public Notice of the application was given pursuant to Section 52 of the *Planning and Environment Act 1987* by sending a letter to adjoining owners/occupiers and by placing a notice on the site. No objections were received.

### Referrals

The application was referred internally to the Council's Health and Infrastructure Departments which have raised no objection to the proposal.

### Planning Controls

- a) State and Local Planning Policy Framework

The following State and Local planning policies are relevant to this proposal:

Clause 11.03 - Principles of land use and development planning

Clause 11.03-5 - Economic well-being

Clause 15.11 – Heritage

Clause 17.02 – Business

Clause 21.03-8 - Smaller Townships

Clause 21.04-9 - Cultural Heritage

Clause 22.01-5 - HO301 Beeac Commercial Precinct, Beeac

The use of the site as a shop will contribute to the economic development of Beecac and assist in the future growth of the town. The application for the change of use and advertising sign will not detract from the heritage significance of the site which falls within the commercial precinct. The proposal is therefore consistent with the State and Local Planning Policy objectives.

b) Zoning and Overlays

The site is included within the Township Zone. Land to the east of Main Street is zoned Farming Zone with all other adjoining sites being within the Township Zone. The site is affected by the Environmental Significance Overlay - Schedule 1 and the Heritage Overlay HO301. Although the site is within the Environmental Significance Overlay, the proposal does not require a permit under that overlay as no works are proposed.

A planning permit is required under the following clauses:

- Clause 32.05-1 Township Zone (use of land for a shop)
- Clause 43.01-1 Heritage Overlay (advertising sign)
- Clause 52.05 Advertising Signs
- Clause 52.06 Car Parking

Under Clause 52.06 – Car parking, use of land for a Shop requires eight (8) car spaces to each 100m<sup>2</sup> of leasable floor area. The floor area of the shop is 127m<sup>2</sup> and therefore ten (10) car spaces are required to be provided.

The issues arising from these provisions are discussed in the report below.

### **Consideration of the Proposal**

The purpose of the Township Zone is:

*“To provide for residential development and a range of commercial, industrial and other uses in small towns.”*

The original use of the site was as a shop, and the form of the building reflects this, with a verandah along the front façade of the building which provides shelter for pedestrians. Given the past use of the building and its location in the commercial heart of the main street of Beecac, the use is supported. As noted earlier in the report, the proposed shop has potential to further strengthen the economic vitality of the town, and support its continued growth.

The application is not able to accommodate the requirement to provide 10 car spaces required for the floor area of the proposed use as there is no land at the rear of the building which could be used for this purpose. Undeveloped land at the rear of the site forms part of an adjoining property. The proposal to waive the requirement to provide 10 car spaces is supported on the grounds that there is a significant supply of on-street parking available in the vicinity of the site which will be capable of accommodating parking demand generated by the use. The site has historically been used as a shop without a requirement to provide on-site parking.

Advertising signs in the Township Zone fall under Category 3 at Clause 52.05 (Advertising Signs) of the Planning Scheme. This clause states that a business identification sign requires a permit. The proposed sign is small and will be placed on the front window of the shop. It will not detract from the appearance of the building or the surrounding area.

The site is within Heritage Overlay 301 which covers the Beeac Commercial Precinct. The Statement of Significance for this precinct at Clause 22.01 of the Planning Scheme states:

*“Development of the Beeac Precinct commenced on the main route between Colac to Ballarat in the mid-nineteenth century, before the Township Survey of 1864.....The commercial and residential dwellings that make up the precinct, were constructed during the seventy year period from the 1850’s to 1920s.....The Beeac Precinct is historically important in demonstrating a continuum and the evolution of a township in response, firstly, to road travellers; then to an increased local population following the subdivision of surrounding estates; and thirdly, to the construction of rail routes.”*

A sign is required to be assessed under the Heritage Overlay the purpose of which is:

*“To conserve and enhance those elements which contribute to the significance of heritage places”*

As noted above, the appearance of the small sign on the shop window will not adversely affect the significance, character or appearance of the heritage place.

#### **Corporate Plan / Other Strategies / Policy**

The relevant planning policies have been discussed in the report above.

#### **Financial & Other Resource Implications**

This proposal will raise no financial or resourcing implications for Council.

#### **Risk Management & Compliance Issues**

This proposal raises no risk management or compliance issues.

#### **Environmental Consideration / Climate Change**

There are no environmental or climate change implications arising from this proposal.

#### **Communication Strategy / Consultation Period**

Public notice of the application was required for the change of use and the waiver of car parking as noted earlier in the report.

#### **Conclusion**

The site has been previously used as a shop and falls within the commercial precinct of Beeac. The proposed shop is supported as it is appropriately located and will strengthen the economic vitality and performance of the town. There is on-street car parking in close proximity of the site that has capacity to accommodate any car parking demand generated by the use, and the waiver of a requirement to provide ten (10) car spaces is supported. It is recommended that a planning permit be issued on this basis.

#### **Attachments**

Nil

#### **Recommendation(s)**

***That the Planning Committee resolve to grant a Planning Permit for the use of the existing building as a shop, the erection of an advertising sign and the waiver of ten (10) car spaces at 77 Main Street Beeac, subject to the following conditions:***

- 1. The use and or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority***

- 2. ***The location and details of the sign as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 3. ***The sign must not contain any flashing light except with the written consent of the Responsible Authority.***
- 4. ***The sign must not be illuminated by external or internal light except with the written consent of the responsible authority.***

***Expiry of Use***

- 5. ***This permit will expire if one of the following circumstances applies:***
  - ***The development is 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.***

***Expiry of Advertising Sign***

- 6. ***This permit as it relates to the advertising sign expires fifteen years after the date of the permit.***

~~~~~\ ~~~~~

THIS PAGE LEFT BLANK INTENTIONALLY



**PC101407-5                    ALTERATIONS AND ADDITIONS TO EXISTING SHOP  
INCLUDING EXTERNAL PAINTING AND SIGNAGE AND  
WAIVER OF 4 CAR SPACES AT 70 MURRAY STREET,  
COLAC**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Helen Evans                           | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | PP64/2010  |

**Location:** 70 Murray Street, Colac (Lot 1 TP381782)

**Zoning:** Business 1 Zone, Abuts Road Zone Category 1

**Overlay controls:** Heritage Overlay Schedule 305

**Proposed Amendments:** Nil

**Purpose:**

This application is seeking approval for alterations and additions of the existing building, including the addition of a storeroom, painting the external walls of the building, signage and the waiver of four (4) car spaces at 70 Murray Street, Colac. The application is before the Planning Committee as the proposal includes the waiver of four car spaces.

**Declaration of Interests**

No officer has declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Summary**

- The application seeks approval for the refurbishment of the existing shop, including painting the external walls, business identification signage, the addition of a storeroom at the rear of the site and the waiver of four car spaces.
- The site is situated in the commercial area of Colac where planning controls require permission in relation to external changes to a building including consideration of the heritage values of the precinct.
- Public notice of the application was given and no objections have been received.
- The development is consistent with the heritage values of the precinct and the proposed alterations will not affect the streetscape. The waiver of car parking is minor and will not have a negative impact on traffic management or parking in the immediate area.
- It is recommended that a planning permit be issued subject to conditions.

**Background**

The site contains an existing building which is single storey and built to the street frontage of Murray Street, Colac. The building was formerly used as a shop 'Gags and Gifts'. Access to the rear of the site is via the Sitlington Carpark in Bromfield Street. The existing footprint of the building is 135.25m<sup>2</sup> in area. To the rear of the site there is provision for 4 car spaces.

**Issues / Options**

Council has the options of:

- Supporting the application through the issue of a planning permit subject to conditions;
- Refuse to grant a planning permit.

**Proposal**

The application proposes to construct a storeroom with an area of 36m<sup>2</sup> at the rear of the site. The proposed storeroom is detached from the existing building and is proposed to be built from side boundary to side boundary.

It is also proposed to alter the rear of the existing building by attaching a new bathroom facility adjoining the eastern boundary. The increased floor area is approximately 16m<sup>2</sup>.

Works also include the painting of the street façade of the building. The colours proposed are:

- Thunderbolt (grey)
- Crimson Queen (crimson red)
- Caesars Stone (light brown)
- Oyster Bed (creamy tan)

Two signs are also proposed on the street façade, one on the northern façade canopy measuring 600mm x 3000mm (1.8m<sup>2</sup>) and another to be suspended below the canopy measuring 450mm x 1500mm (0.67m<sup>2</sup>). Both signs will be black print on a crimson background. The 0.67m<sup>2</sup> sign is proposed to be internally illuminated between the hours of 9am to 5pm.

Due to the increase in floor area of the buildings onsite and the lack of area left to provide additional car parking in accordance with the planning provisions, a waiver of 4 car spaces is required.

**Site & Surrounds**

The site is situated on the southern side of Murray Street with an overall area of 290m<sup>2</sup>. It is rectangular in shape with a frontage of 6.1 metre frontage to Murray Street and has a depth of 48 metres.

The site contains an existing building which is single storey and built to the street frontage of Murray Street, with a verandah extending out from the building over the footpath. The existing building has large glass windows and doors located on its façade. Existing bathroom facilities are detached from the main building. Vehicular access to the rear of the site is via the Sitlington Carpark in Bromfield Street. The existing footprint of the building is 135.25m<sup>2</sup> in area.

The site is located in the heart of the commercial precinct in Colac with nearby buildings being used for retail/commercial purposes. Hulms Bakery is located on the eastern side of the site and is individually listed in the Heritage Overlay of the planning scheme. Showcase Jewellers is located on the western property boundary. The Memorial Square is located on the opposite (north) side of Murray Street. Sitlington Carpark adjoins the site to the south (rear). A wire mesh fence defines the rear property boundary.

**Public Notice**

Public notice of the application was given in accordance with Section 52 of the *Planning and Environment Act* by sending a copy of the notice to adjoining property owners and occupiers and a sign was placed on the Murray Street frontage on the site for a period of 14 days.

At the conclusion of the notification period no objections were received.

**Referrals**

The application was referred internally to Council's Infrastructure Department. No objection was received subject to conditions being imposed should a permit be issued. As the building is a contributory building in the Murray Street Heritage Precinct, the application was referred to Council's Heritage Advisor who advised of no concern with the proposed signage or colour palette for the external frontage.

**Planning Controls**

The land is included in the Business 1 Zone and subject to the Heritage Overlay – Schedule 305 – Murray Street Precinct Colac under the Colac Otway Planning Scheme. A planning permit is required for buildings and works pursuant to the zone provisions at Clause 34.01 and overlay provisions at Clause 43.01. The use of the land for a shop does not require planning approval.

a) State and Local Planning Policy Framework

The State and Local Planning Policy Framework provides the strategic direction for the consideration of land use and development proposals. The following policies are considered relevant to the consideration of this application:

Clause 11 – Introduction, Goal and Principles  
Clause 14.01 – Settlement  
Clause 15.11 – Heritage  
Clause 17.02 – Business  
Clause 19.03 – Design and built form  
Clause 21.02 – Vision  
Clause 21.03 – Settlement  
Clause 21.03-2 – Colac  
Clause 21.05 – Economic Development  
Clause 22.01 – Heritage Places and Areas

This proposal is considered to be consistent with the broader principles of the State and Local Planning Policy Framework as it proposes to upgrade and internally modernise an existing commercial building consistent with the intent of the heritage significance of the precinct.

b) Zoning

The site is included in the Business 1 Zone. The key objective in relation to this proposal is:

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

Consideration of the following decision guidelines is required in the assessment of the proposal:

- The provision of car parking.

- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the front and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.

A permit is required for buildings and works in a Business 1 Zone. From a streetscape aspect, the proposed changes to the front of the building are cosmetic changes in the form of painting the façade and this is discussed further in the 'Overlays' section of this report.

The proposed extension of the building is to the rear of the site and will not impact on the streetscape but will enhance the commercial activity to be conducted on site. The provision of car parking will be discussed in the 'Relevant Particular Provisions' section of this report.

c) Overlay Provisions

This site is subject to Heritage Overlay Schedule 305 – Murray Street Precinct (HO305). The purpose of the Heritage Overlay seeks:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.

In accordance with the HO305, a planning permit is required to construct a building or carry out works including displaying a sign; or carrying out works, repairs and routine maintenance which change the appearance of a heritage place or which are not undertaken to the same details, specifications and materials (ie painting in a different colour).

Local Planning Policy Clause 22.01-9 in relation to this precinct seeks to:

- Encourage reconstruction of shop fronts and verandahs, where sufficient information exists to enable this or where it is known a verandah did exist, construction of appropriate typical shop fronts and verandahs (preferably with simplified detailing, so that they are not construed as original).
- Discourage the removal or alteration of historic shopfronts dating back to the mid-twentieth century.
- Encourage infill development to reflect the scale, ratio of solid to void and rhythm of articulation of significant buildings either adjoining or which predominate in the building group within which the site is located.

The storeroom proposed at the rear of the existing building will not be visible from Murray Street and therefore it is not considered to have an impact on the heritage values of the precinct.

The front façade is also proposed to be painted in heritage colours and it is considered that the colours selected will not detract from the heritage value of the building. The colours should in fact improve its current appearance which is represented by peeling paint above the verandah and is in need of fresh paint below the verandah.

Council's Heritage Advisor has advised that the proposed colours, the graphics and the location of the signage and works is suitable in relation to the heritage values of the site.

d) Relevant Particular Provisions

Signage

Signage requirements are set out at Clause 52.05. Within a Business 1 Zone, a permit is not required for business identification signage that does not exceed 8 square metres in total advertisement area. A permit is also not required for internally illuminated signage where the total advertisement area does not exceed 1.5 square metres.

Signage proposed does not trigger a permit requirement under this clause.

Car parking

Car parking requirements are set out at Clause 52.06. Where the floor area occupied by an existing use is increased, the parking requirement only applies to the floor area of any extension of the use or site area provided the existing number of car spaces is not reduced.

The increase in the floor area proposed is:

- Storage area of 36m<sup>2</sup>
- Bathroom facility area of 16m<sup>2</sup>

As the proposal is within the Business 1 Zone, car parking requirements are set by the table at Clause 52.06 which requires that eight spaces be provided for each 100m<sup>2</sup> of leasable floor area. The planning application proposes an additional 52m<sup>2</sup> of leasable floor area, therefore four spaces are required for the additional area.

Four car spaces are currently available on the site and no additional spaces can be physically provided.

The decision guidelines suggest that a reduced parking provision may be justified based on consideration of:

- The availability of car parking in the locality.
- The availability of public transport in the locality.
- Any car parking deficiency or surplus associated with the existing use of the land.

Recent surveys conducted as part of the 'Colac Parking Study – Issues and Opportunities Paper', indicated that the on street parking occupancy rate adjacent to the subject site is 50 to 75% whilst Sitlington Carpark is only 50% occupied during peak periods. A draft Car Parking Study is currently being prepared for Colac, however based on the outcome of the surveys undertaken the waiver of 4 car spaces in this circumstance will not negatively impact on traffic management or car parking demand in this area.

The applicant provided the following information in support of the request for a waiver:

- It is not possible to accommodate more than 4 car spaces.
- 4 spaces will be more than adequate for the current tenants as there are only 2 managers onsite at any one time and other staff will be dropped off.

It is considered reasonable to allow for a waiver of car spaces in this instance as it appears that the four existing car spaces will accommodate any staff parking need; there is no room on the lot to accommodate further car spaces; and a public car park (Sitlington's Car park) adjacent to the rear of the site would provide parking for customers as well as on street parking along Murray Street. The addition of a new storage shed and upgraded bathroom facilities, are unlikely to create an additional demand for parking.

### **Consideration of the Proposal**

Overall the proposed renovations to the existing building are consistent with the heritage significance of the building and the heritage precinct within which it sits. The works will improve the presentation of the building from the streetscape perspective and the inclusion of a storeroom and bathroom will facilitate improvements to the operation and amenities provided to customers.

The increase in the leasable floor area is minor although it results in the need for additional car parking when applying the car parking rates at Clause 52.06. The additional leasable floor area will not contribute to any increase in demand for car parking and therefore it is reasonable to support a waiver of car parking in this instance.

### **Corporate Plan / Other Strategies / Policy**

The Colac Otway Heritage Study provides guidance as to the significance of the heritage precinct. The statement of significance has identified that this building is a contributory building to the heritage significance of the precinct. The Murray Street Precinct is of both historic and architectural importance to the Colac Otway Shire.

The Murray Street Precinct is of historic and architectural importance:

- through association with Colac's late nineteenth and early twentieth century period of prosperity and consolidation as a large regional service centre for the surrounding rich agricultural and grazing district.
- in demonstrating Colac's growth as a regional centre over a fifty year period, through the nineteenth century civic and financial buildings constructed to the east near Barongarook Creek, and the early twentieth century and inter-war retail that followed later as Colac's industries expanded and its population grew.
- in illustrating the development of civic pride, authority and community solidarity in a regional nineteenth century Anglo-Celtic farming community, demonstrated in the clustering of a series of elegant architect-designed nineteenth century Victorian Italianate civic and government buildings near the entrance to the commercial area, adjacent to the bridge over Barongarook creek.

- in exhibiting twentieth century styles, including Art Nouveau and Arts and Craft, that demonstrate the prosperity of the period and the confidence held in Colac's continued growth by those who constructed these commercial premises.

As noted above, the proposal will not detract from the heritage values of this precinct.

#### **Financial & Other Resource Implications**

The proposal raises no financial or resourcing implications for Council.

#### **Risk Management & Compliance Issues**

There are no risk management or compliance implications for Council.

#### **Environmental Consideration / Climate Change**

There are no environmental or climate change implications for Council.

#### **Communication Strategy / Consultation Period**

Public notice of the application was required in accordance with Section 52 of the *Planning and Environment Act* as discussed earlier in the report. No objections were received therefore no further consultation was required.

#### **Conclusion**

It is considered that the proposed development will comply with the provisions of the Colac Otway Planning Scheme. The proposed addition to the buildings is to be undertaken at the rear of the site and therefore does not alter the architectural design of the building. The proposed painting of the front façade will complement the design of the building and also improve the overall look of the building. The waiver of four car spaces is supported on the grounds that the additional floor area is unlikely to generate additional demand for parking and no further spaces can be accommodated on the site.

It is recommended that a planning permit be issued subject to conditions.

#### **Attachments**

Nil

#### **Recommendation(s)**

***That Council's Planning Committee resolve to issue a Planning Permit for alterations and additions to the existing building, including the addition of a storeroom, painting of the external walls of the building, signage and the waiver of four (4) car spaces at 70 Murray Street, Colac in accordance with the following conditions:***

- 1. The layout of the site and the size of the proposed buildings and works, including the detail of the proposed external wall painting, as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. Excess stormwater generated from the buildings and works hereby approved, must be discharged to the existing on-site drainage system or taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
- 3. The location and details of the sign and its structure as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

4. ***The sign may only be internally illuminated between the hours of 9am to 5pm.***
5. ***This signage permit expires fifteen years after the date it is issued.***
6. ***This permit will expire if one of the following circumstances applies:***
  - ***The development is not started within two 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.***

~~~~~\~~~~~