



**Colac Otway
SHIRE**

AGENDA

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

9 FEBRUARY 2011

at 10:30 AM

COPACC Meeting Room

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

9 FEBRUARY 2011

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC Meeting Room on 9 February 2011 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.

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 19/01/11.

Recommendation

That Council confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

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Rob Small
Chief Executive Officer

PC110902-1

PLANNING & BUILDING STATISTICAL REPORT

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

Summary

This report provides statistics relating to the month of January 2011.

Planning Statistics – January 2011

27 Planning Permit Applications were received for the period 1 January 2011 – 31 January 2011.

19 Planning Permit Applications were considered for the period 1 January 2011 – 31 January 2011.

Building Statistics

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

Attachments

1. Planning and Statistical Report January 2011

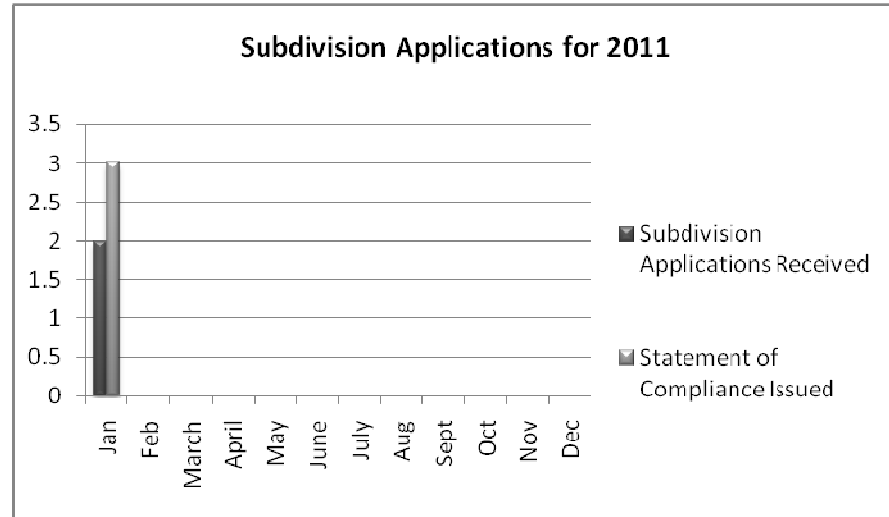
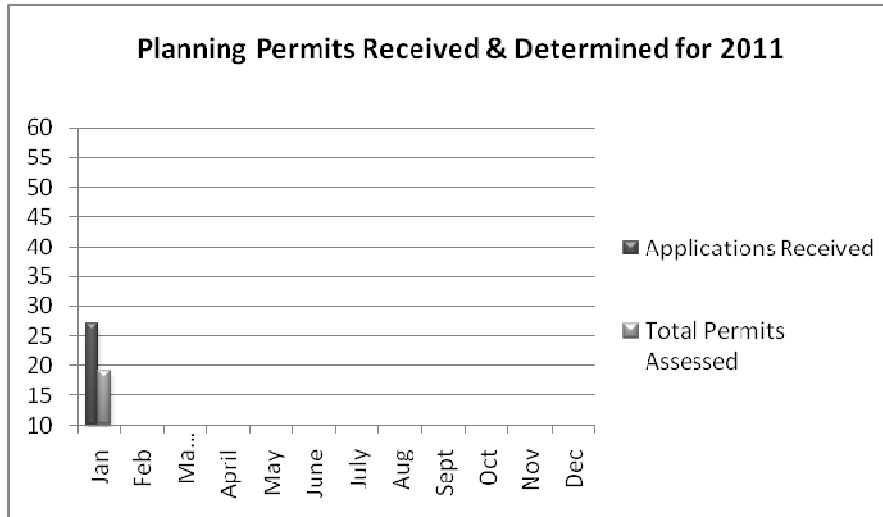
Recommendation(s)

That Council Planning Committee note the statistical report.

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## Planning Statistical Report January 2011

| APPLIC NO  | DATE RECEIVED | LOCATION                            | PROPOSAL                                                                                                                   | DATE ISSUED | ACTUAL TIME | AUTHORITY        | DECISION            |
|------------|---------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------------|
| 318/2009-1 | 12 NOV 09     | 30 OLD MAIN RD, BEECH FOREST        | USE & DEVELOPMENT OF A DWELLING                                                                                            | 19 Jan 11   | 0           | UNDER DELEGATION | REFUSAL TO GRANT    |
| 180/2010-1 | 5 JUL 10      | 34 MURRAY ST, COLAC                 | LIQUOR LICENCE                                                                                                             | 17 JAN 11   | 45          | UNDER DELEGATION | PERMIT ISSUED       |
| 187/2010-1 | 16 JUL 10     | 2705 COLAC FORREST RD, FORREST      | CONSTRUCTION OF A DWELLING                                                                                                 | 20 JAN 11   | 85          | UNDER DELEGATION | PERMIT ISSUED       |
| 229/2010-1 | 16 AUG 10     | 83 MAIN ST, BEEAC                   | TWO (2) LOT SUBDIVISION, BOUNDARY RE-ALIGNMENT, CONSTRUCTION OF A FENCE & CONSTRUCTION OF A CROSSOVER                      | 19 JAN 11   | 86          | UNDER DELEGATION | PERMIT ISSUED       |
| 279/2010-1 | 22 SEP 10     | 195 QUEEN ST, ELLIMINYT             | USE & DEVELOPMENT OF A DWELLING                                                                                            | 10 JAN 11   | 145         | UNDER DELEGATION | PERMIT ISSUED       |
| 282/2010-1 | 24 SEP 10     | 24A TURNER DRIVE, FORREST           | ERECTION OF A RELOCATABLE DWELLING                                                                                         | 11 JAN 11   | 78          | UNDER DELEGATION | PERMIT ISSUED       |
| 301/2010-1 | 7 OCT 10      | 75 WATER BASIN RD, ELLIMINYT        | CONSTRUCTION OF A SHED                                                                                                     | 17 JAN 11   | 39          | UNDER DELEGATION | PERMIT ISSUED       |
| 304/2010-1 | 18 OCT 10     | 44 MURRAY STREET EAST, COLAC        | PROPOSED ADDITIONS TO CARWASH                                                                                              | 21 JAN 11   | 42          | UNDER DELEGATION | PERMIT ISSUED       |
| 312/2010-1 | 29 OCT 10     | 850 CORANGAMITE LAKE RD, CORAGULAC  | BUILDINGS AND WORKS FOR THE PURPOSE OF ADDITIONS TO AN EXISTING DWELLING (AL FRESCO AREA)                                  | 18 JAN 11   | 36          | UNDER DELEGATION | PERMIT ISSUED       |
| 314/2010-1 | 29 OCT 10     | PIPELINE RD, GERANGAMETE            | NATIVE VEGETATION REMOVAL IN ASSOCIATION WITH THE COLAC PIPELINE REPLACEMENT PROJECT                                       | 13 JAN 11   | 44          | UNDER DELEGATION | PERMIT ISSUED       |
| 315/2010-1 | 1 NOV 10      | 19 TALBOT ST COLAC                  | CONSTRUCTION OF A SECOND DWELLING                                                                                          | 11 JAN 11   | 25          | UNDER DELEGATION | PERMIT ISSUED       |
| 316/2010-1 | 2 NOV 10      | 4745 PRINCES HWY, BIRREGURRA        | CONSTRUCTION OF A DAIRY MANUFACTURING FACILITY                                                                             | 10 JAN 11   | 38          | UNDER DELEGATION | PERMIT ISSUED       |
| 319/2010-1 | 4 NOV 10      | 310 SHORTS RD, BARONGAROOK          | EXTENSIONS TO EXISTING DWELLING & CONSTRUCTION OF A SHED                                                                   | 17 JAN 11   | 59          | UNDER DELEGATION | PERMIT ISSUED       |
| 329/2010-1 | 19 NOV 10     | 1A CASINO AVENUE, APOLLO BAY        | CONSTRUCTION OF A SHED                                                                                                     | 18 JAN 11   | 60          | UNDER DELEGATION | PERMIT NOT REQUIRED |
| 326/2010-1 | 15 NOV 10     | 4100 CAPE OTWAY RD, BIRREGURRA      | CONSTRUCTION OF SWIMMING POOL & FREE STANDING PERGOLA, RELOCATION/LOPPING OF TREES, ERECTION OF FENCE AND ASSOCIATED WORKS | 13 JAN 11   | 32          | UNDER DELEGATION | PERMIT ISSUED       |
| 330/2010-1 | 22 NOV 10     | 170 SINCLAIR ST SOUTH, COLAC        | ONE NEW DWELLING – SINGLE STOREY BRICK VENEER                                                                              | 18 JAN 11   | 37          | UNDER DELEGATION | PERMIT ISSUED       |
| 130/2010-1 | 7 MAY 10      | 290 UPPER GELLIBRAND RD, BARRAMUNGA | TIMBER HARVESTING                                                                                                          | 4 JAN 11    | 201         | UNDER DELEGATION | NOTICE OF DECISION  |
| 308/2010-1 | 26 OCT 10     | 30 KENTS ACCESS, KAWARREN           | INSTALLATION OF A BUSHFIRE SHELTER                                                                                         | 11 JAN 11   | 0           | UNDER DELEGATION | PERMIT NOT REQUIRED |
|            |               |                                     | <b>AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS</b>                                                                       |             | <b>58</b>   |                  |                     |

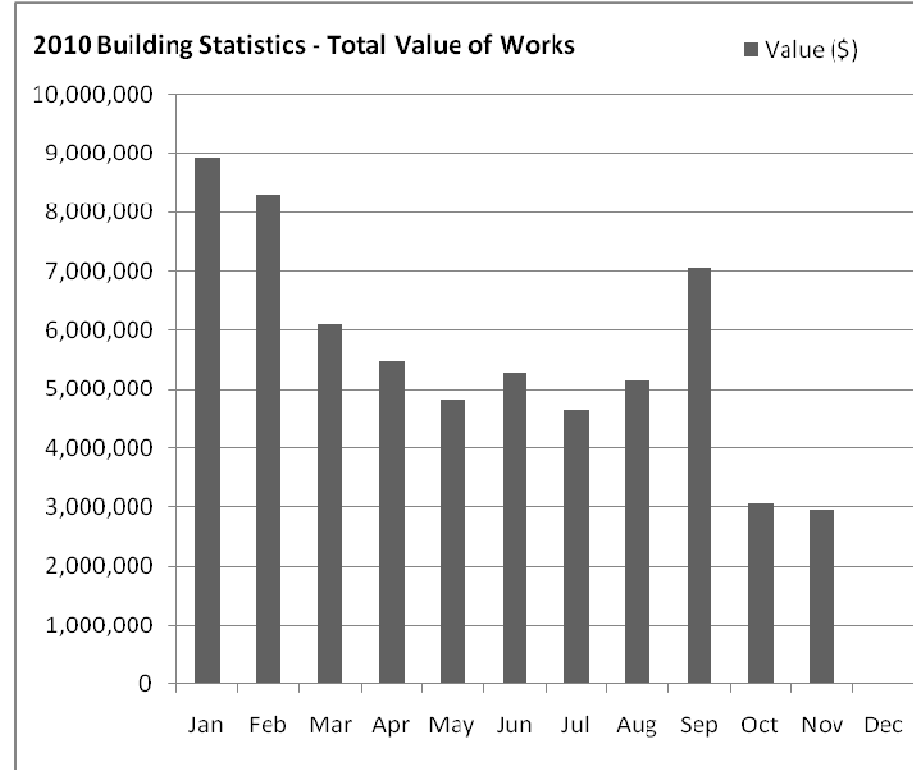
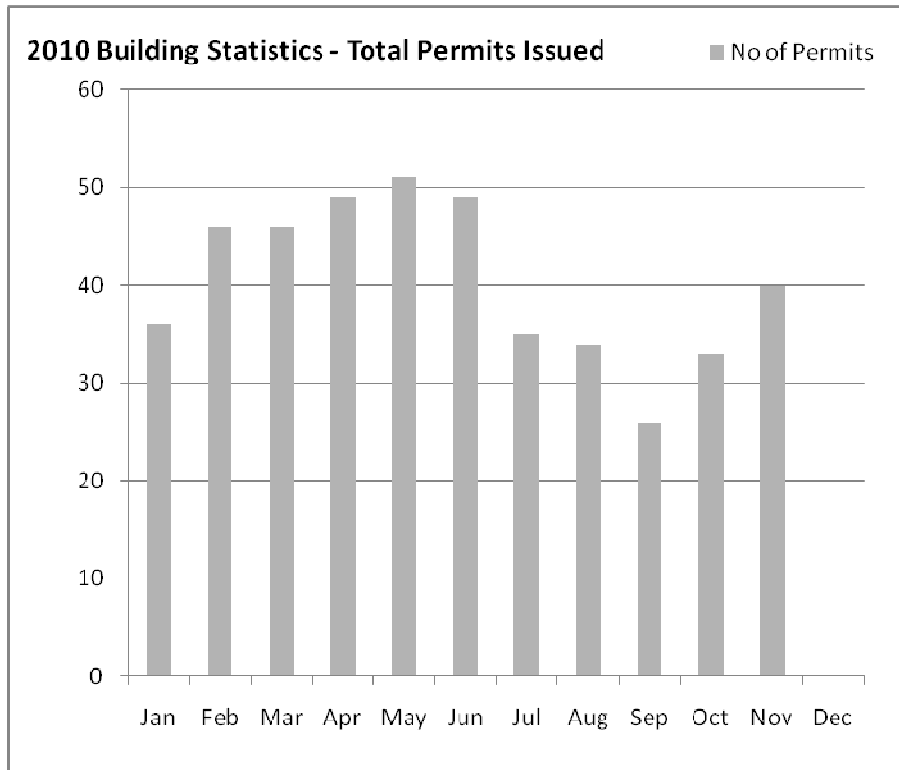


[Pulse Building Reports](#)

[Financial Yr Stats](#)

|               | 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           | 41         | 3,516,484         | 0            | 0                | 5          | 155,750          | 0         | 0              | 1          | 250,000          | 0                   | 0            | 4                | 885,425           | 51               | 4,807,659         |
| Jun           | 39         | 3,673,155         | 2            | 837,632          | 5          | 290,855          | 1         | 50,000         | 0          | 0                | 0                   | 0            | 2                | 432,437           | 49               | 5,284,079         |
| Jul           | 27         | 3,691,419         | 0            | 0                | 2          | 47,900           | 3         | 229,014        | 1          | 34,000           | 1                   | 2500         | 1                | 642,640           | 35               | 4,647,473         |
| Aug           | 26         | 3,924,339         | 0            | 0                | 2          | 120,000          | 1         | 174,104        | 1          | 615,000          | 0                   | 0            | 4                | 326,000           | 34               | 5,159,443         |
| Sep           | 19         | 1,681,008         | 0            | 0                | 0          | 0                | 0         | 0              | 2          | 1,517,008        | 0                   | 0            | 5                | 3,850,217         | 26               | 7,048,233         |
| Oct           | 25         | 2,742,744         | 0            | 0                | 3          | 79,487           | 2         | 35,000         | 0          | 0                | 0                   | 0            | 3                | 195,905           | 33               | 3,053,136         |
| Nov           | 36         | 2,593,554         | 1            | 250,000          | 2          | 45,000           | 0         | 0              | 0          | 0                | 0                   | 0            | 1                | 70,000            | 40               | 2,958,554         |
| Dec           |            |                   |              |                  |            |                  |           |                |            |                  |                     |              |                  |                   |                  |                   |
| <b>Totals</b> | <b>349</b> | <b>39,288,605</b> | <b>4</b>     | <b>1,097,632</b> | <b>36</b>  | <b>4,382,289</b> | <b>11</b> | <b>929,118</b> | <b>7</b>   | <b>3,316,008</b> | <b>1</b>            | <b>2,500</b> | <b>37</b>        | <b>12,717,134</b> | <b>445</b>       | <b>61,733,286</b> |

\*Multi-Development





**PC110902-2                    AMENDMENT TO EXISTING PLANNING PERMIT SEEKING  
RETROSPECTIVE APPROVAL FOR SIX PELLET SILOS AT  
152 POUND ROAD, ELLIMINYT (PP269/2004-2)**

|                    |                                       |                  |              |
|--------------------|---------------------------------------|------------------|--------------|
| <b>AUTHOR:</b>     | Carl Menze                            | <b>ENDORSED:</b> | Jack Green   |
| <b>DEPARTMENT:</b> | Sustainable Planning<br>& Development | <b>FILE REF:</b> | PP269/2004-2 |

**Location:** 152 Pound Road, Elliminyt

**Zoning:** Residential 1 Zone

**Overlay controls:** Nil

**Proposed Amendments:** Nil

**Abuts:** Business 3 Zone (B3Z), opposite Public Conservation Zone 5 (PUZ5)

**Restrictive Covenants:** No

**Purpose:**

The application is before Council for consideration as the proposed structures exceed 8m in height. It is recommended that the application be approved subject to a condition requiring amended plans to be submitted re-locating some of the proposed silos to address amenity concerns.

**Declaration of Interests**

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

**Summary**

- The application is to amend the existing planning permit and is seeking retrospective approval for six silos on a site that is currently used as a farm supplies business (trade supplies).
- Three of the silos are located adjacent to three silos approved under a previous planning permit along the western property boundary, and three are located further within the site.
- The proposed new silos along the western boundary directly abut residential properties and would have an unreasonable visual impact on the amenity of those properties. There is significant area within the site for relocation of the silos to reduce the visual intrusion, and it is therefore appropriate that they be relocated more centrally within the site.
- It is recommended that a notice of decision to grant an amended planning permit be issued subject to conditions requiring the re-siting of the silos.

**Background**

The land has been used as a farm supplies business for a number of years, and has been the subject of a number of planning permits as follows:

- Planning Permit PP269/2004 was issued on 7 September 2004 for a 'Pellet Silo'. The approved silo was sited adjacent to two silos approved in April 2003 by planning permit PP52/2003.
- Planning permit PPA072/99 was issued on 16 March 1999 for a storage shed.

The land owner recently constructed six new silos on the site without a planning permit. The current planning permit application was lodged following a planning enforcement investigation that responded to a complaint from one of the residents of properties abutting the site who was concerned about the amenity impact

### **Issues / Options**

Council has the options of:

- a) Supporting the application through the issue of a Notice of Decision to Grant an Amended Planning Permit subject to conditions.
- b) Supporting the application with changes.
- c) Refusing to grant an amendment to the permit.

The key issue is the proximity of the silos to adjoining residential properties to the west. This is discussed further in the report below.

Should Council not support the proposal, the land owner will be required to remove the six silos from the site, or would have the option of lodging a fresh application seeking approval for them in an alternative location on the site.

### **Proposal**

The proposal seeks retrospective planning approval for the erection of six silos comprising:

- Three 8.5m high x 3.7m diameter silos located adjacent to the three approved silos setback 3.6m from the site's western property boundary; and
- Three 8.5m high x 4.45m diameter silos setback 22m from the rear of the existing shed and 20m from the western property boundary.

The silos are located to the rear of a building fronting Pound Road in the north-western corner of the site.

It is noted that the submitted plans incorrectly show the three larger diameter silos as having a maximum height of 6.0m. Site inspections have confirmed that these three silos are of the same height as the other silos, being 8.5m high. This error can be corrected through conditions on a permit if issued.

### **Site & Surrounds**

The site is located on the south side of Pound Road, Elliminyt, close to the intersection with Gravesend Street (Main Road). The site is rectangular in shape with a width of 87.1m and a length of 147.59m, and with a total area of 1.3 hectares. The site is currently used for the purposes of 'Farm Supplies' (Trade Supplies) and incorporates a large storage building and office at the front of the site. The rear of the site is used for the open storage of materials and as a delivery area. The three approved silos are located to the rear of the storage building adjacent to the western property boundary.

The adjacent property to the east (140 Pound Road) is used as the Colac Otway Shire Depot (COSWORKS). A row of storage buildings abut the shared property boundary.

The adjoining property to the south (2/104 Main Street, Elliminyt) is used for the purposes of Trade Supplies and contains several large storage buildings.

The majority of properties adjoining the site's western boundary are used for residential purposes. The rear yards of 92 and 6/94 Main Street immediately abut the existing and proposed silos, and the structures are highly visible from within the broader unit development at 94 Main Street.

### **Public Notice**

Public notice of the amendment application was given in accordance with Section 52 of the *Planning and Environment Act* by sending letters to adjoining owners/occupiers. The applicant has provided a statutory declaration stating that the advertising has been carried out in accordance with Council's requirements.

Two (2) objections were received. The grounds of objection may be summarised as follows:

- The proposal would cause an unreasonable loss of amenity currently enjoyed by the occupants of the rear units of 94 Main Street, Elliminyt.
- The development would block an unreasonable amount of sunlight entering the habitable rooms of some units.
- The development would substantially reduce the available sunlight currently enjoyed in the court yards of some of the units.
- The level of traffic noise (trucks) and dust is barely tolerable.
- The proposal would result in the increase of both dust and truck traffic.

The issues raised in the objections are discussed later in this report.

### **Referrals**

The application was referred to Council's Building and Infrastructure Departments, neither of which raised any concerns with the proposal.

### **Planning Controls**

#### **a. State and Local Planning Policy Framework**

The State and Local Planning Policy Frameworks seek to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application.

- Clause 11.05 – Regional Development
- Clause 15.01-2 – Urban Design Principles
- Clause 17.01 – Business
- Clause 21.03-2 – Colac

The proposal is consistent with the aims and objectives of the relevant State and Local Planning Policies in that the new silos support an existing agricultural based industry in Colac that services a significant agricultural sector in the surrounding region. The following strategies are relevant from the clause relating to Colac:

- *“Promote Colac as a location for industry.*

- *Facilitate the diversification and expansion of employment opportunities by encouraging the clustering of related industries and services and the development of niche market.; and*
- *Encourage the establishment of industries and businesses that seek to add value to existing primary producers of the region.”*

The clause also contains however, the following strategy:

- *“Assist industries within the main urban area of Colac to develop while minimising off-site effects.”*

This strategy highlights the need to ensure that whilst supporting industries to develop within Colac, it is important that amenity impacts where relevant are minimised for residential and other sensitive uses. The subject land, along with adjoining land, is within a Residential 1 Zone and in the longer term would best be located in an industrial zone, and it is critically important to ensure that any new development or change in use appropriately respects the amenity of nearby housing. The proposed silos in their current form on the western boundary would cause significant detriment to the adjoining residential properties through visual impact, and would not be consistent with the above strategy. This impact could be avoided however by placing a condition on any permit issued requiring that these silos be relocated to a more appropriate position more centrally within the site.

b. Zone provisions

The site is included in the Residential 1 Zone (R1Z). The objectives of the Residential 1 Zone are outlined below:

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

The proposed use is defined as ‘Trade Supplies’ which is prohibited under the Residential 1 Zone. The use however has been conducted from the site for a number of years and enjoys ‘Existing Use’ rights under Clause 63 of the Planning Scheme that allow it to continue operating despite the current controls that apply.

Pursuant to Clause 63.05 of the Planning Scheme a use in Section 2 or 3 of a zone for which an existing use right is established may continue provided:

- *No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.*
- *Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.*

- *The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.*

The current application for buildings and works associated with the existing use can therefore be considered, provided that the amenity of the area is not adversely affected by the proposal (refer to the last dot point above).

c. Overlay Provisions

No overlays affect the subject site.

**Consideration of the Proposal**

The land is used as a 'Farm Supplies' outlet which specialises in the retail and wholesale sale of agricultural related products such as grain, fertilisers and hardware. The use holds 'Existing Use' rights as it commenced when the land was zoned industrial under the old format planning scheme.

It is a long held VCAT principle that an application for a retrospective permit must be assessed on its individual merits and that any existing elements should neither be a positive or negative influence in the decision making policy. Therefore this assessment and recommendation has not taken into account the fact that the six silos have already been erected on-site.

The relocation of the three silos from the western boundary to the centre of the site is considered appropriate as their current location represents the greatest amenity impact upon adjoining residential properties to the west, especially the units at 94 Main Street. The silos directly abut the rear yard of 92 Main Street which is occupied by a single storey dwelling setback approximately 40m from its rear property boundary, and are highly visible from the secluded private open space of this property, presenting as dominant structures. The silos are also visible from units at 94 Main Street especially 6/94 Main Street at oblique angles. Whilst the silos do not directly abut the rear boundary of this unit, they are highly visible and loom large in the eastern view from the rear private open space. Their relocation will ensure they are not highly visible from these or other nearby properties.

Both the subject land and adjoining properties to the west are zoned 'Residential 1 Zone'. The following Clause 65 Decision Guidelines are relevant in the consideration of this application;

- *The purpose of the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*

It is considered that the three proposed silos along the west property boundary respond poorly to the aforementioned decision guidelines. The location of the silos does not respect the purpose of the R1Z which is to provide for residential development. The amenity of adjoining residential properties will be detrimentally affected due to the size, proximity and overall visual dominance of the structures. Considering the overall size of the subject land, the location of the silos does not represent orderly planning of the area, as more appropriate locations exist on the site which would reduce the amenity impacts on the adjoining residential properties. Given the conditions relating to existing uses under Clause 63 as described above, the proposal in its current form could not be supported based on amenity impacts.

It is noted that the three previously approved silos about 90 Main Street which is used for commercial purposes and that residential amenity issues were not significant for that proposal.

### Objectors Concerns

Some of the objectors' concerns have been addressed above, however the following is a more detailed assessment of the specific amenity issues relating to loss of sunlight to habitable rooms and rear court yards of some of the adjoining units. The applicant has provided shadow diagrams for the three additional silos located on the western property boundary. It is appropriate to assess the shadows against the relevant Recode Standard being Standard A14 which states:

*'Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.*

*If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.'*

The shadows cast by the silos comply with the above standard. Additional shadows will be cast in the morning, however the adjoining private open space will still receive in excess of 5 hours of sunlight between the hours of 9am to 3pm.

In respect of objector's concern relating to dust and noise from trucks, the use enjoys existing use rights as a 'Farm Supplies' premises and it is noted that the site was previously used as a transport depot which would have had more truck movements per day than associated with the present use. There is therefore little that can be done to address these existing issues, however movement of the proposed silos as referred to above would limit the noise and dust impacts from their use in addition to reducing the visual impacts.

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

Planning policies relevant to this application have been discussed earlier in the report. It is noted that the Colac Structure Plan 2007 does not identify or set a strategic direction for the subject site and adjoining land, aside from recognising that industrial uses should be encouraged to relocate to the industrial zones in the longer term.

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

There are no financial implications arising from this report.

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

There are no risk management or compliance issues arising from this report.

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

There are no environmental or climate change implications arising from this proposal, aside from the amenity issues already discussed.

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

Public notice of the application was required. All parties will be advised of the decision and will have the opportunity to seek a review of Council's decision at the Victorian Civil and Administrative Tribunal.

**Conclusion**

The three new silos adjacent to the western boundary would have an inappropriate amenity impact for nearby dwellings, however there is substantial scope for them to be relocated more centrally within the site where they would have negligible impact given the size of the property. The issue of a Notice of Decision to Grant an Amended Planning Permit is recommended, subject to a condition requiring these silos to be relocated.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolves to issue a Notice of Decision to Grant an Amended Planning Permit for the Use and Development of a Pellet Silo at 152 Pound Road, Elliminyt subject to the following conditions:***

1. Within three (3) months of the issue of the permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) The three silos proposed adjacent the west property boundary relocated to a more appropriate position a minimum of 10m from the west property boundary and in a position where they result in minimal visual intrusion to adjoining residential properties.
  - b) Relocation of the existing three silos on the western boundary (only if proposed by the applicant), consistent with the requirements of Condition 1a) above.
  - c) The accurate height of the three 4.45m diameter silos.
2. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans shall not be altered or modified without the prior written consent of the Responsible Authority.
3. The silos must be relocated within six (6) months of the date of this amended permit.
4. The development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - transport of materials, goods or commodities to or from the land
  - appearance of any building, works or materials
  - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil presence of vermin
5. All run off from storm water, including overflow from water storage, shall be taken to a legal point of discharge to the satisfaction of the Responsible Authority.

- 6. Silos must not be located closer than 3.6 metres to the western property boundary.
- 7. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two (2) 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.

| Date of amendment | Brief description of amendment                                                                                                                                     |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 February 2011   | <ul style="list-style-type: none"> <li>• Approval of additional six (6) silos.</li> <li>• Condition 1 amended to require amended plans to be submitted.</li> </ul> |

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- It is recommended the proposal be supported subject to an additional condition restricting heavy truck movements associated with the use to the approved heavy vehicle route previously adopted by Council.

Background

Land to the west of the Oak Avenue industrial estate in Montrose Avenue was rezoned in 2005 to Industrial 1 Zone to facilitate expansion of the estate, and with the objective of establishing a suitable site in the centre of the land for a new Council operated transfer station. The first stage of the subdivision was completed in 2010.

On 12 March 2009 planning permission was granted for the use and development of a refuse transfer station on the subject site. The proposal was to replace the landfill/transfer station site located to the west of the Marengo township. Construction of the building was completed late in 2010, with opening of the facility prior to Christmas.

Public notification of permit PP280/2007 included notices to the owners and occupiers of adjoining land, a sign on the site and placement of an advertisement in the Apollo Bay News Sheet. No objections were received for that application.

Issues / Options

Council has the options of:

- a) Supporting the amendment application through the issue of a Notice of Decision to Grant an Amended Planning Permit.
- b) Supporting the proposal (as above) with changes to the conditions that address amenity concerns raised by objectors.
- c) Refusing to support an amended permit.

As discussed later in the report, officers recommend supporting the proposal subject to an additional condition (Condition 35) relating to the route of trucks accessing the site.

Proposal

This application is to amend Condition 6 of planning permit PP280/2007 to extend the operational hours for both the facility and the public at the refuse transfer station.

The applicant has stated that the extension to the hours is required to allow for peak season demand and any hold ups which could result in problems with waste collection and disposal within the area. The proposed changes are that:

The facility may only operate between the hours of:

6.00 am and 7.00 pm Monday to Friday (extended by 1 hour in both am and pm)

8.00 am and 5.00 pm weekends and public holidays

And may only be open to the public between the hours of:

10.00 am and **3.00 pm** (extended by 1 hour in pm)

7 days a week between the **1 December** (previously 24 December) and the end of Easter.

Monday to Friday and Sunday between the end of Easter and 30 November (previously Monday, Wednesday, Friday and Saturday between the end of Easter and 23 December).

Site & Surrounds

The site is centrally located in the first stage of an industrial subdivision creating 25 lots fronting Montrose Avenue. The subdivision is located on the western side of Apollo Bay on the outer edge of the township adjoining an existing industrial estate to the east. The land surrounding the subdivision to the north, south and west consists of land zoned Rural Conservation Zone.

The surrounding land predominantly comprises scattered housing on farming properties and industrial uses. Current residential land is located a minimum of 300 metres from the nearest boundary.

The site of the transfer station is located in the centre of the newly created subdivision and is the largest of the individual lots, being 1.296 hectares in area. The site is rectangular in shape. A new court bowl (Arthur Court) provides access to the site from Montrose Avenue.

The transfer station has been operational since December. Upon entry to the site vehicles are directed to the administration building which is equipped with a weighbridge. Vehicles are then directed to the main transfer station building which is a single enclosed steel constructed shed. The northern elevation consists of six full height roller doors to provide access to the steel bins used for the collection of the disposed material. The bins are located below the access side to allow the disposed goods to be deposited directly into the bins below.

Public Notice

The proposed amendment to the permit was advertised under Section 52 of the *Planning and Environment Act*. A Notice of Application was placed on the site and notices were sent to adjoining owners/occupiers with a Notice of Application also being placed in the Apollo Bay News sheet. At the conclusion of the notification period four (4) letters of objection had been received. The objections are summarised as follows:

- a) Increased truck traffic to and from the transfer station.
- b) Road construction not suitable for increased traffic.
- c) Noise pollution on site and in residential areas.
- d) Danger and risk to the safety of school children.
- e) Speed relating to trucks in Costin Street.
- f) School not appropriately signed.
- g) Alternative route.
- h) Increase heavy vehicle usage at 6.00am.

The refuse transfer station was opened on 20 December 2010 with all objections being received on 22 and 23 December 2010.

Referrals

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

Planning Controls

The land is within the Industrial 1 Zone and is subject to the Erosion Management Overlay (EMO1) and the Significant Landscape Overlay (SLO1). The use requires a planning permit in this zone. These overlays are not relevant to the amendment application as no new buildings or works are proposed.

a. State and Local Policy Framework

The State and Local Planning Policy Frameworks seek 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 were taken into consideration with the original application:

Clause 15.01 Protection of catchments, waterways and groundwater

Clause 15.08 Coastal areas

Clause 18.10 Waste management

Clause 22.05 Coastal and Otway ranges township

Clause 22.06 Erosion management policy

Consideration of the Proposal

The threshold separation distance for a “refuse transfer station” from a sensitive land use is 300 metres. Residential land is approximately 305 metres from the nearest part of the site in which the ‘refuse transfer station’ is to be located. There is also no hospital or education centre located within the 300 metre distance.

A key issue for consideration with the proposed change in operating hours is the potential impact of changes to traffic movements to and from the site. It was recognised in the assessment of the original application that the proposal has the potential to affect the amenity of the neighbourhood particularly with the transport of materials to or from the land. Facility operator bulk transfer units (hook lift trucks) are required to traverse set approved routes as part of the centre’s operation as detailed below:

1. **Trucks entering and exiting in a southerly direction** – Great Ocean Road, Nelson Street, Seymour Crescent and Montrose Avenue.
2. **Trucks entering and exiting in a northerly direction** – Great Ocean Road, Cawood Street, Costin Street and Montrose Avenue.

These routes were selected with consideration to the adequacy of road width, sealed surface, current movement of heavy traffic and avoiding waste truck movements through the residential area.

The applicant has submitted that the increase in operational hours is required to allow for peak season demand and any hold ups which could result in problems with waste collection and disposal within the area.

The applicant has stated that these operations will comprise of:

- Staff being on site to:
 - Finalise takings from the day.
 - Clean all areas.
 - Ensure all outside bins are tarped down.
 - Move bins to prepare for the day or following day.
- Truck movement including:
 - Movement of a litter truck which would commence daily collections at 6am in the morning.

- Movement of bins between the transfer station shed and storage yard outside to allow for the days intake of waste.
- Loading/unloading of bins on trucks into bins – inside the transfer station shed.
- Movement of trucks to empty loads inside the transfer station after 5pm.

The western end of Montrose Avenue is the Industrial Estate of Apollo Bay. At a Council meeting held on 12 December 2001 it was resolved to confirm that the heavy vehicle access routes to the Apollo Bay Industrial Estate be via Cawood Street and Costin Street from the north and via Nelson Street, Seymour Crescent, Costin Street from the south. This decision followed a period of public consultation.

The following is an assessment of the key issues raised in objections:

Increased truck traffic to and from the transfer station

Approval has been granted under PP280/2007 for operational hours to the facility from 7.00am to 6.00pm Monday to Friday. Objectors have raised concerns in regards to increased truck traffic to and from the transfer station. The increase to 6.00am and 7.00pm will only affect the facility operational hours to allow the litter truck to commence the daily collections earlier and to allow facility trucks to empty loads inside the transfer station after 5.00pm. All other facility operations will be undertaken on site.

Approval has been granted under PP280/2007 for operational hours to the public. It is proposed that the hours be increased from 10.00am to 2.00pm for Monday, Wednesday, Friday and Saturday between the end of Easter and 23 December with the transfer station being open to the public 7 days a week between 24 December and the end of Easter. It is proposed to increase these operational days to the public to be Monday to Friday and Sunday between the end of Easter and 30 November and then 7 days a week between 1 December and the end of Easter. This will increase general vehicle and truck access times to and from the transfer station. As the transfer station is within the Apollo Bay Industrial Estate, traffic movements relating to just the transfer station would require further investigation with the transfer station only recently being opened on 20 December 2010. It is considered however that the change in hours would not result in any significant change to the amenity of objector's properties.

As previously stated there are designated heavy vehicle access routes to the Apollo Bay Industrial Estate which incorporates the transfer station.

Road construction not suitable for increased traffic

The heavy vehicle routes noted above have received upgrades over recent years to an industrial standard, and are considered appropriate to cater for additional traffic movements associated with the transfer station facility. On-going maintenance will be required to ensure the condition of these roads remains of an appropriate standard.

Noise pollution on site and in residential areas

Current residential land is located a minimum of 300 metres from the nearest boundary of the transfer station. Conditions 2 and 3 of permit PP280/2007 require landscaping to assist in screening the development. The increase in vegetation will assist in decreasing any noise that may emit from the site.

Whilst it is understood that there will be an increase in traffic to and from the transfer station it must also be taken into consideration that the transfer station is within the Industrial Estate which is also used for other industrial purposes. There would be minimal additional traffic in the early part of the morning resulting from the proposed change.

Risk to the safety of school children

The operational hours to the public are proposed to be increased to close at 3.00pm. This remains within school hours.

Speed relating to trucks in Costin Street

All motorists are required to observe speed limits which are in effect on any road. Victoria Police is the authority that enforces this concern. It is not an issue that is relevant to the proposed change in operating hours for the transfer station.

School not appropriately signed

All motorists are required to observe speed limits and signage within an area. Issues concerning signage around the vicinity of the school raised in the objections have been forwarded to the Shire's Infrastructure Department for response separate to the planning permit process.

Alternative route

Given the location of the industrial estate to the west of the town, traffic movements through residential areas are necessary. The designation of heavy vehicle truck routes in 2001 was designed to address this issue and limit such movements to specified roads. There are no current plans for acquisition of land by Council west of Apollo Bay to construct a new truck route outside of existing urban areas.

Increased heavy vehicle usage at 6.00am

As discussed previously the proposed changes to hours of operation will only facilitate the litter truck to commence its daily collections which will have only a limited impact.

Corporate Plan / Other Strategies / Policy

There are no other corporate plans, strategies or policies relevant in the determination of this amendment application other than those referred to in the report above.

Financial & Other Resource Implications

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

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 the original permit issued under PP280/2007.

Communication Strategy / Consultation Period

Public notification was given and four objections were received in regards to the proposed amendment. All parties to the application will be advised of the Council's decision and have an opportunity to apply to the Victorian Civil and Administrative Tribunal to review the decision.

Conclusion

The amendment application is supported on the grounds that the proposed changes to the operational hours of the transfer station specified in Condition 6 are considered not unreasonable, with the increase in hours in the morning only for the facility litter truck. The extended opening times to the public include an increase in the number of days and an increase in the time to close to 3.00 pm which will be within school closing times. It is recommended the proposal be supported subject to an additional condition restricting heavy truck movements associated with the use to the approved heavy vehicle route previously adopted by Council.

Attachments

Nil

Recommendation(s)

That Council's Planning Committee issue a Notice of Decision to grant an amended Planning Permit PP280/2007-2 to increase operational times for a refuse transfer station at 10-18 Arthur Court, Apollo Bay subject to the following conditions:

- 1. Before the use and/or development start(s), amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit and may not be further modified without the written consent of the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:***
 - a) detail the surface treatment of the area set aside for future use;***
 - b) detail all waste storage areas and the maximum height of stockpiles.***

- 2. Before the development starts, a landscape plan (generally in accordance with landscape plan drawing 31-211994-C006 dated 3/4/08 by GHD) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
 - a) a survey (including botanical names) of all existing vegetation to be retained and/or removed;***
 - b) details of surface finishes of pathways and driveways;***
 - c) include a mixture of trees and shrubs along the boundary fences to assist in screening the operation of the transfer station from the public road;***
 - d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes at maturity, and quantities of each plant;***
 - e) details of in-ground irrigation systems;***
 - f) details of how the area for future use is to be landscaped and maintained.***

Three (3) sets of all plans must be professionally prepared and presented with the following information and in the following format:

- Drawn to an accurate and clearly legible scale on maximum A1 size and minimum A3 size sheets;***
- Include a north arrow, site location, scale drawing, date, drawing no. and the author/designer details;***

- *Be neatly drawn and presented;*
- *Be reproducible and legible in a black and white format (eg plan should not rely on colour reproduction for coding or interpretation).*

Before the occupation of the buildings commences all landscape works forming part of the endorsed Landscape Plans must be completed. The works must then be maintained to the satisfaction of the responsible authority for the minimum period of 24 months. At the written request of the owner, the responsible authority may defer the implementation of the landscaping works due to water restrictions.

- 3. All vegetation screening and landscaping must be undertaken using species that are indigenous to the area. Note: Discuss appropriate species with the Southern Otway Landcare Network, Apollo Bay, 52376504.*
- 4. Before the development starts, a schedule of construction materials, external finishes and colours must be submitted to and approved by the responsible authority. When approved, the schedule will be endorsed to form part of the permit.*
- 5. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans shall not be altered or modified without the further consent of the Responsible Authority. The buildings and works hereby permitted must be entirely located within the surveyed boundaries on Lot 25 PS 601893. Building and works must not commence without either the site being pegged out by a Licensed Land Surveyor or the permit holder has obtained written advice from a Licensed Land Surveyor to ensure that the buildings and/or works are fully located within the dimensioned boundaries of the designated lot and in accordance with the endorsed plans.*
- 6. The facility may only operate between the hours of:

6.00 am and 7.00 pm Monday to Friday
8.00 am and 5.00 pm Weekends and public holidays

and may only be open to the public between the hours of:

10.00 am and 3.00 pm 7 days a week between the 1 December and the end of Easter; and Monday to Friday and Sunday between the end of Easter and 30 November.

without the further written consent of the Responsible Authority.*
- 7. No materials are to be received on the site which would require a licence under the Dangerous Goods Act 1995.*
- 8. All site fencing shall:
a) consist of black or green PVC plastic coated mesh with support poles of similar colour or other material approved by the Responsible Authority in writing;
b) be at least 2.4 metres high;
c) be maintained to prevent uncontrolled access by livestock or people;
d) kept clean and litter free.*

9. ***External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.***
10. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
 - a) ***transport of materials, goods or commodities to or from the land***
 - b) ***appearance of any building, works or materials***
 - c) ***emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***
 - d) ***presence of vermin***
11. ***The permit holder shall ensure no foreign material including but not limited waste, clay or stones is carried from the site and deposited on the surrounding public roads by vehicles leaving the site. All trucks leaving the site must ensure waste materials are covered so the waste is contained within the trucks.***
12. ***Ensure that no waste containing oil, foam, grease, scum or litter is discharged to the stormwater drainage system from the premises.***
13. ***Ensure that all stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system.***
14. ***Sediment movement and erosion must be controlled onsite at all times, and not have the opportunity to move offsite or away from the immediate construction area with all being carried out in accordance with 'Nosedá Industrial Estate – Stage 1, Apollo Bay Site Management Plan, prepared Peter Berry and Associates Pty Ltd, July 2008'. The 'Nosedá Industrial Estate- Stage 1, Apollo Bay Site Management Plan, prepared by Peter Berry and Associates Pty Ltd, must not be altered without the written consent of the Responsible Authority.***
15. ***All stormwater treatment measures must be in accordance with the recommendations listed in the GHD Memorandum dated 25 January 2008 for the Apollo Bay Transfer Station – Water Quality Modelling to Dean Wearne, from Clare Stephenson, Environmental Engineer, GHD without the written consent of the Responsible Authority.***
16. ***Operations must be in accordance with the submitted Environmental Management Plan 'Appendix B Environmental Management of Application for Planning Permit, Construction and Operation of Apollo Bay Transfer Stations, December 2007'. The Environmental Management Plan may not be altered without the written consent of the Responsible Authority.***
17. ***All works must be carried out in accordance with 'Report on Apollo Bay Transfer Station, Geotechnical Investigation, prepared by GHD, dated January 2008'.***
18. ***The permit holder must implement the recommendations of the Acid Sulphate Soil Assessment produced by GHD in December 2008 without the written consent of the Responsible Authority.***
19. ***Any extension of the use or development in the area marked on the endorsed plans for future use must obtain relevant planning approvals.***

20. ***Access onto and within the property must be constructed to the satisfaction of the Responsible Authority.***
21. ***Vehicular crossings must be constructed to the road to suit the proposed driveway to the satisfaction of the Responsible Authority.***
22. ***The driveway must/should enter the roadway perpendicular to the roads centre line and be in a safe location for users, pedestrians, cyclists and motorists by consideration of both vertical and horizontal sight distance to the satisfaction of the Responsible Authority.***
23. ***The driveway must be constructed to an all weather surface to the satisfaction of the Responsible Authority.***
24. ***All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
25. ***Prior to commencement of the development, a stormwater detention system designed by a qualified engineer must be lodged with the Responsible Authority verifying that post development stormwater discharge volume from the land does not exceed predevelopment stormwater discharge volume to the satisfaction of the Responsible Authority, once approved such design must be endorsed and must form part of the permit issued.***
26. ***Prior to commencement of the use, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:-***
 - a) ***constructed to the satisfaction of the Responsible Authority.***
 - b) ***properly formed to such levels that they can be used in accordance with the plans.***
 - c) ***surfaced with an all-weather sealcoat or surfaced with crushed rock or gravel to the satisfaction of the Responsible Authority.***
 - d) ***drained and maintained to the satisfaction of the Responsible Authority.***
 - e) ***line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.***
 - f) ***clearly marked to show the direction of traffic along access lanes and driveways.***

Parking areas and access lanes must be kept available for these purposes at all times.
27. ***No fewer than five car parking spaces must be provided on the land for the use and or development, including one space clearly marked for use by disabled persons.***
28. ***Loading and unloading of all goods, materials and items must be carried out on the site within the defined loading bay on the endorsed plan to the satisfaction of the Responsible Authority.***
29. ***The loading bay area must remain free and available for this purpose at all times to the satisfaction of the Responsible Authority.***
30. ***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.*
- 31. Facility operator bulk transfer units (hook lift trucks) are required to traverse set approved heavy vehicle routes as detailed below:**

 - a) Trucks entering and exiting in a southerly direction – Great Ocean Road, Nelson Street, Seymour Crescent and Montrose Avenue.*
 - b) Trucks entering and exiting in a northerly direction – Great Ocean Road, Cawood Street, Costin Street and Montrose Avenue.*

EPA

- 32. There will be no discharge or seepage of waste (particularly leachate from the green waste) from the premises to land, groundwater or surface waters.**
- 33. Any contaminated stormwater must be managed to ensure no discharge to the environment occurs.**
- 34. Any noise created at the site should be controlled in accordance with permissible levels of the State Environment Protection Policy (Noise from Commerce, Industry and Trade) No N-1 as a guide and EPA Interim Guidelines from Control of Noise from Industry in Country Victoria N3/89.**

CCMA

- 35. The flow capacity of Drainage Easement E-8 must not be reduced.**

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

- Condition 6 amended to show extended facility operating hours to now appear as 6am to 7pm Monday to Friday and operation hours to the public 10am to 3pm, 7 days a week between 1 December and the end of Easter and Monday to Friday and Sunday between the end of Easter and 30 November.*
- A new condition 31 was added to ensure that facility operator bulk transfer units (hook lift trucks) traverse set approved heavy vehicle routes, and the remainder of the conditions were renumbered accordingly.*

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**PC110902-4                    USE AND DEVELOPMENT AS A SHOP AND OFFICE AND  
REDUCTION OF TWO (2) CAR SPACES - 63 MAIN STREET,  
BIRREGURRA (PP290/2010)**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Ros Snaauw                            | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | PP290/2010 |

**Location:**                                    63 Main Street, Birregurra

**Zoning:**                                      Township Zone

**Overlay controls:**                        Heritage Overlay – HO303

**Proposed Amendments:**                Nil

**Purpose:**

This application is before Council for consideration as the proposal seeks a reduction of two (2) car parking spaces. It is recommended that a planning permit be issued subject to conditions.

**Declaration of Interests**

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

**Summary**

- It is proposed to use the subject site for the purpose of a shop and office. The remainder of site will be retained as a residence.
- The applicant is able to provide two on-site car spaces and has applied to reduce the Planning Scheme requirement by two (2) car spaces.
- The reduction in parking is minor and considered appropriate with on street parking available to meet the future demand associated with the use.
- It is therefore recommended that a planning permit be issued.

**Background**

The property is a former bank building dating from the early 20<sup>th</sup> century. It has a shop to the front and a residence to the rear.

**Issues / Options**

Council has the options of:

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

The key issues relate to the provision of car parking and the changes proposed to the heritage building.

**Proposal**

The proposal involves the renovation and restoration of the front rooms of a former bank building as a shop and office with the addition of a new verandah on the north elevation facing the main street, to match those on the adjacent buildings.

The remainder of the existing building will be used as a residence, as it has been in the past.

Renovations to the residence will include internal alterations including the replacement of windows, replacement of the roof and replacement and extension of the deck to the south and part of the east elevation to the residence.

The proposal is to provide two car spaces at the rear of the residence utilising the existing driveway along the west boundary. A reduction in the car parking requirement of two car spaces for the shop and office is required. On street car parking is available in front of the proposed shop and office along Main Street, Birregurra.

The shop will be used to sell memorabilia, second hand items and curios. The hours of operation is proposed to be 9.00am to 5.00pm, seven days a week.

**Site & Surrounds**

The site is positioned on the south side of Main Street, Birregurra between Strachan Street and Austin Street, within the main commercial section of Birregurra. To the south of the subject site and surrounding properties are residential buildings.

The Heritage Overlay encompasses the Birregurra Main Street Precinct which extends from the Barwon River in the east to Ennis Street in the west. The site is recognised to be a contributory building to the heritage significance of the precinct.

**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 owners and occupier and a sign was placed on the road frontage of 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 and Health Departments and to the Council's Heritage Adviser. No objections were received subject to permit conditions should a planning permit be issued.

**Planning Controls**

The land is contained within the Township Zone where a planning permit is required for the use of the land for the purposes of a shop and office. Planning approval is required for the reduction of car spaces. The land is also included in the Heritage Overlay as a contributory building with the Birregurra Town Precinct – HO303.

**a. State and Local Planning Policy Framework**

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

- Clause 15.03 Heritage
- Clause 17.01 Commercial

- Clause 18.02-5 Car parking
- Clause 21.03-4 Birregurra
- Clause 21.04-9 Cultural Heritage
- Clause 22.01-7 HO303 – Birregurra Main Street Precinct, Birregurra

The proposal is considered to accord with the principles of the State and Local Planning Policy Frameworks. The proposed use assists in meeting the community's need for retail, office and other commercial services and provides net community benefit. The site is appropriately located being within the main commercial section of Birregurra. The development will contribute to enhancing the identity of the town, commercial and heritage values of the area.

b. Zone provisions

The purposes of the Township Zone are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage residential development that respects the neighbourhood character.
- To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

Planning approval is not required for the use of the land as a dwelling. The use as a shop and office is a Section 2 use and requires planning approval. Planning approval is also required for buildings and works associated with this use.

The use of the land for a shop and office is considered appropriate given that the proposal is in the recognized area of commercial uses within Birregurra and the premises has formerly been used as a bank. The southern boundary of the site and surrounding lots has a residential interface and this activity compliments the commercial precinct. The use of the north part of the land for a shop and office is unlikely to impact on the existing amenity which is also commercially related with residential use to the south.

c. Overlay Provisions

The purpose of the Heritage Overlay is:

- 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;
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The site is part of the Birregurra Town Precinct – HO303 and is shown to be a contributory building. In the schedule to the overlay tree controls apply however the application is not for removal of any vegetation.

The statement of significance identifies the Birregurra Main Street Precinct as being of historic importance in demonstrating a continuum of growth from the simple timber buildings constructed at the time of settlement in the 1860's located mainly but not exclusively to the east, to the more substantial building of the early decades of the twentieth century predominantly but not exclusively constructed to the west. The Birregurra Main Street Precinct is also of historic importance in demonstrating the community's commitment to their town, especially through the street plantings that illustrate efforts to beautify the town, and the memorial.

The application proposes minimal modifications to the building. It is proposed to construct a verandah and to replace external windows with multi pane upper sashes to the north of the shop which faces Main Street which will improve the appearance of the building in the streetscape and return it to a state closer to its original construction.

The rear renovations will involve some minor internal alterations with the replacement of windows, repair and construction of a deck to the south of the residence and the re-roofing of the entire building. It is proposed to replace the façade and western walls to their original appearance, which includes replacing the later aluminium windows in the façade, with new timber windows. The walls and trims will be repainted in Dulux "Warm Neutral" and Dulux "Lexicon Quarter".

The application was referred to the Shire's Heritage Advisor who concluded:

*"I am supportive of the proposed changes to the property at 63 Main Street, Birregurra. The proposed changes are sympathetic to the existing heritage building and will enhance the contribution this building makes to the heritage streetscape".*

d. Particular Provisions – Clause 52.06 Car parking

Pursuant to Clause 52.06 of the Colac Otway Planning Scheme the use as a 'Shop' attracts a car parking rate of 8 car spaces to each 100sqm of leasable floor area. The proposed shop will be 34.76sqm and will require 3 car spaces to be provided. The use as an 'office' attracts a car parking rate of 3.5 car spaces to each 100sqm of net floor area. The proposed office is 11.52sqm. Between these two uses, a total of 3 spaces are required to be provided. An additional car space is required for the dwelling, resulting in a total requirement of four spaces. The application is to reduce this requirement by two spaces.

**Consideration of the Proposal**

The proposed reduction in the car parking requirement by two spaces is minor and is considered to be justified in this instance. The State Government has undertaken a review of car parking provisions and prepared an Advisory Committee Report in August 2007. This report discusses a range of matters including a review of land use terms and car parking requirements. The report recommends that the rate of 3.5 spaces per 100m<sup>2</sup> be applied to a 'shop'.

Although the State Government has not at this stage incorporated the recommendations of the Advisory Committee Report into planning schemes it is widely accepted through VCAT determinations that the car parking requirements for retail type activities is unrealistic and that the new recommended rate is generally more appropriate. If this lower rate was applied to the current proposal, 2.6 spaces would be required for the overall development (including shop, office and residence), only marginally more than the 2 spaces provided.

The application is supported given the minor nature of the parking reduction, previous use of the building as a bank, and availability of off-site car parking available along Main Street, Birregurra. It is envisaged that the proposed use will attract patrons who are in the town centre precinct already, either visiting other commercial premises adding further diversity to the commercial precinct. As such, the proposed use is unlikely to actually increase parking demand within the area.

The proposed development is sympathetic with the existing heritage building and will enhance the contribution this building makes to the heritage streetscape improving the appearance of the building.

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

The Heritage Study 2003 and Heritage Policy at Clause 22.01 of the Planning Scheme, encourage the protection and conservation of heritage buildings and places.

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

There are no financial or other resource implications associated with this proposal.

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

There are no risk management or compliance issues associated with this proposal.

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

There are no environmental or climate change considerations associated with this proposal.

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

Public notification of the application was required as noted earlier in the report.

#### **Conclusion**

The proposal is consistent with the policies relating to this site. The works associated with the development will be consistent with the heritage values of the site, improving the appearance of the building in the streetscape and returning it to a state closer to its original construction. The reduction in car parking is reasonable given its minor nature and availability of on-street parking. On this basis, it is recommended a planning permit be issued.

#### **Attachments**

Nil

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

***That Council's Planning Committee resolves to grant a Planning Permit for the use and development of the land as a shop and office and reduction of two (2) car spaces at 63 Main Street, Birregurra subject to the following conditions:***

- 1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with *the plans submitted with the application* but modified to show:**
  - a) Colour schedule of walls and trims clearly labelled.**



- b) **Material used for replacing the roof to be the same as the existing material (corrugated sheet cladding) and clearly labelled.**
2. ***The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
  3. ***Unless with the written consent of the responsible authority, operational hours for the shop and office shall be limited to:***
    - ***Monday to Sunday - 9:00 am to 5:00 pm***
  4. ***All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
  5. ***The verandah (including any below verandah advertising signage) must maintain a clearance height of 2.5 metres above the footpath.***
  6. ***If at any time the rear car park is proposed to be used by the public, the owner must formally construct and seal the car park and accessway in asphalt or similar to the satisfaction of the Responsible Authority.***
  7. ***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 use and development is not completed within four (4) years of the date of this permit.***

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

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PC110902-5

**USE OF THE LAND FOR A MUSEUM AND A REDUCTION IN
CAR PARKING AT 42 CLARK STREET, COLAC EAST
(PP320/2010-1)**

| | | | |
|-------------|---------------------------------------|-----------|--------------|
| AUTHOR: | Ian Williams | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning
& Development | FILE REF: | PP320/2010-1 |

Location: 42 Clark Street, Colac East

Zoning: Industrial 1 Zone

Overlay controls: Design and Development Overlay – Schedule 1

Proposed Amendments: Nil

Purpose:

The application is before the Planning Committee as the proposal includes a reduction in car parking. The use will generate low patronage and a reduced level of parking provision is supported in this instance.

Declaration of Interests

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

Summary

- The land is currently used for vehicle restoration. Planning permission is sought for the use of existing buildings on the site as a vehicle museum and a reduction in the number of car spaces required by the Planning Scheme. The proposal does not result in any buildings or works.
- A total of thirty on site car spaces are proposed for the museum with vehicle access retained from Clark Street. Given the nature of the use and the anticipated visitor numbers, it is considered that a reduction in the Planning Scheme parking requirement is warranted, and is unlikely to have any significant impact on parking availability for the immediate and surrounding industrial land uses.
- The proposed use is considered to be of low intensity and compatible with surrounding land uses.
- It is recommended that a planning permit be issued subject to conditions.

Background

On 26 November 1976 a planning permit was issued to use the site for vehicle storage. A planning permit was subsequently issued on 1 November 2007 for an extension to the existing storage shed. Use of the land for industrial purposes does not require a planning permit.

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

Planning permission is sought for the use of the land for a museum and a reduction in the car parking requirements. The proposed museum would display over 30 restored vintage classic trucks which would be open to the public between 10am to 4pm Saturday and Sunday, being staffed by two volunteers. It is anticipated that the museum could cater for groups of tourists and vehicle enthusiasts who would visit the museum by bus and car.

The large rectangular building to the south of the lot would be used to display the vehicles, with the smaller shed to the north being used as a workshop for restoration of any new additional vehicles which would be added to the display (the restoration activity already occurs on the site). There are no external alterations proposed under this application and no external advertising is proposed. The two existing vehicle crossovers would be utilised to provide access to the site.

A total of thirty (30) on site car spaces would be provided for customers of the museum with vehicle access from Clark Street. The majority of the car parking spaces would be located towards the rear of the site.

It is anticipated that the museum would become a community asset rather than a profit making commercial venture. All income generated from the display would be re-invested in the upkeep of the attraction.

Site & Surrounds

The site is located within the industrial area on the eastern edge of Colac. The site is identified as Lot 22 on the plan of subdivision 003567. This site is located on the eastern side of Clark Street, opposite the existing showgrounds and to the south of the junction of Clark Street and Chapel Street. The site backs onto the railway line at the rear.

The site is irregularly shaped and has an area of 3331 square metres, and currently contains three vacant buildings, a small site office, and a larger main building and workshop. Access to the site is via two existing vehicle crossovers off Clark Street. Clark Street is a fairly quiet street with light industrial businesses along the eastern side.

The land to the north and south of the application site is within the Industrial 1 Zone, the land to the west of the site is within Public Use Zone 7 and the land to the east is Darcy Street which is identified as Public Use Zone 4 (Transport). The nearest residential dwelling is located at 39 Clark Street, which is 63 metres to the north, on the junction of Clark Street and Chapel Street.

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 and opposite property owners and occupiers and a sign was placed on the land for a period of 14 days.

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

Referrals

In accordance with Section 52 of the *Planning and Environment Act*, the application was referred to VicRoads. The application was also referred internally to the Council's Infrastructure Department. No objections were received subject to conditions being imposed should a permit be issued.

Planning Controls

The land is included in the Industrial 1 Zone and is subject to the Design and Development Overlay – Schedule 1 under the Colac Otway Planning Scheme. Under the table of uses to Clause 33.01, the use of the land as a museum is a *Section 2 use* which requires a permit.

a. State and Local Planning Policy Framework

The State and Local Planning Policy Frameworks provide the strategy 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 15.05 – Noise abatement
Clause 17.03 – Industry
Clause 21.02 – Vision
Clause 21.03 – Settlement
Clause 21.03-2 – Colac
Clause 21.05 – Economic Development

This proposal is considered consistent with the broader principles of the State and Local Planning Policy Framework as it proposes to utilise an existing industrial site with a compatible land use, whilst adding to the vitality of the industrial area on the eastern edge of Colac.

b. Zoning

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

- *“To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.”*

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

- The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.
- The effect that nearby industries may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.

An assessment of the proposal is given in the report below.

c. Overlay Provisions

The site is subject to the Design and Development Overlay – Schedule 1 (DDO1). This overlay is not triggered, as no buildings or works are proposed with this application.

d. Relevant Particular Provisions

Car Parking - Clause 52.06

Under Clause 52.06, a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land. 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.

Within the table to Clause 52.06, a museum is not a specifically identified land use. The supporting text to Clause 52.06 adds that where a use is not specified in the table an adequate number of car spaces must be provided to the satisfaction of the responsible authority. The use of the site as a museum would require the restoration and display of vintage classic trucks. Whilst a museum is contained under the broader umbrella of *'place of assembly'*, if Council adopted the car parking standard for a *place of assembly* as contained within the table to Clause 52.06, then there would be a requirement for 0.3 spaces to each sqm of net floor area. On this basis 423 car spaces should be provided.

It is anticipated that visitors to the museum would be low throughout the day with approximately one to five car spaces required on any given Saturday or Sunday. The vehicle museum is not perceived as being a major tourist attraction; however, given the size of the vehicles to be displayed, a large building floor area is required. Whilst the car parking ratio set out within Clause 52.06 relates to net floor area, this does not necessarily necessitate that there should be a high level of car parking provided. To adopt the car parking ratio for a *'place of assembly'* is considered to be inappropriate.

Given the nature of the proposed land use, consideration should also be given to the car parking requirements for a *'store'*. The table to Clause 52.06 identifies that 10% of the site should be set aside for car spaces and access lanes, but not driveways. The site has an area of 3331.3 square meters and the proposed 30 car parking spaces would occupy approximately 394.6sqm which is greater than the desired 10%.

Clark Street is a fairly quiet street, 10.4 metres wide with light industrial businesses along one side. Whilst thirty off street car parking spaces would be provided under the proposal, it is considered that should future demand desire, there is sufficient room on both sides of Clark street to accommodate any additional parking demand. Given the nature of the proposed use and the weekend opening hours, it is anticipated that visitor numbers would not be excessive and the thirty proposed car parking spaces would adequately meet future demand without any discernable impact on parking availability for surrounding industrial land uses.

Advertising – Clause 52.05

The purpose of this clause seeks:

- To regulate the display of signs and associated structures.
- To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

The application site is within the Industrial 1 Zone and is subject to the Design and Development Overlay. Under this zone and overlay, advertising sign requirements are a Category 2.

This application does not include the display of any advertisements.

Consideration of the Proposal

The proposal does not seek to utilise the whole site as a museum, with only the largest building on the lot being used to display the vehicles, with the smaller shed being used as a workshop for restoration of any additional vehicles which would later be added to the display. It is considered that the restoration of vehicles on this site (as currently occurs) would be ancillary to the principle use of the land as a museum.

The nearest residential land is located 63 metres to the north of the application site on the corner of Clark Street and Chapel Street. Given the nature of the proposed use and the distance to the nearest dwelling, it is considered that there would be no discernable impact on the level of amenity for any adjoining residential properties.

The land to the north and south of the application site is within the Industrial 1 Zone. The properties immediately adjacent to the application site are currently being utilised for storage and industrial uses which it is considered would be compatible with and would not be detrimental to the proposed use of the land as a vehicle museum.

Visitor numbers to the museum are anticipated to be fairly low, with approximately one to five car spaces required per day. The additional traffic likely to be generated as a result of this attraction is not considered to be significant within the immediate vicinity to result in any congestion or car parking on immediate and surrounding roads. The provision of thirty off street car parking spaces is considered to be more than adequate, however should future demand desire, it is considered that there is sufficient room on both sides of Clark street to accommodate any additional car parking demand.

Overall it is considered that the proposed use would remain consistent with the decision guidelines as set out within the Industrial 1 Zone.

Corporate Plan / Other Strategies / Policy

The Colac Structure Plan is a reference document in the Colac Otway Planning Scheme. It sets out the future development direction for Colac over the next 20 years. The vision for Colac is to create a thriving town which responds to the housing needs of its residents and offers a variety of opportunities for employment and economic development. The vision for commercial development is: *‘Colac Town Centre will be a prosperous and thriving precinct, supported by smaller scale commercial and retail development in specifically targeted locations to provide convenience services for the Colac and Elliminyt communities’*. The Colac Structure Plan makes no specific recommendations in relation to uses or parking outcomes in the industrial areas.

Financial & Other Resource Implications

The proposal raises 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 and no objections were received.

Conclusion

The application proposes to use the existing buildings on the site as a museum to restore and display vintage classic trucks. Given the low intensity nature of the proposed use and the distance to the nearest dwelling, it is considered that there would be no discernable amenity impacts. The provision of thirty off street car parking spaces is considered to be adequate to meet the projected car parking demand, and the application is supported on this basis. 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 the use of the land as a museum and a reduction in the level of car parking in accordance with the following conditions:

- 1. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
- 2. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.**
- 3. The use must be managed so that the amenity of the area is not detrimentally affected, through the:**
 - (a) transport of materials, goods or commodities to or from the land,**
 - (b) appearance of any building, works or materials,**
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil,**
 - (d) presence of vermin.**
- 4. Prior to commencement of the use, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:-**
 - (a) Constructed to the satisfaction of the Responsible Authority.**
 - (b) Properly formed to such levels that they can be used in accordance with the plans.**

- (c) Surfaced with an all-weather sealcoat or surfaced with crushed rock or gravel to the satisfaction of the Responsible Authority.
- (d) Drained and maintained to the satisfaction of the Responsible Authority.
- (e) Line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.
- (f) Clearly marked to show the direction of traffic along access lanes and driveways.

Parking areas and access lanes must be kept available for these purposes at all times.

- 5. Vehicles under the control of the operator of the use or the operator's staff must not be parked on the nearby roads.
- 6. No fewer than thirty (30) car parking spaces must be provided on the land for the use including one (1) space clearly marked for the disabled.

Expiry of the permit

- 7. This permit will expire if the use is not started within two (2) years of the date of this permit. The Responsible Authority may extend this period if a request is made in writing before the permit expires, or within three months afterwards.

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