



Colac Otway
SHIRE

AGENDA

PLANNING COMMITTEE MEETING
OF THE
COLAC-OTWAY SHIRE
COUNCIL

10 JULY 2013

at 10:30 AM

COPACC Meeting Rooms

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

COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING

10 JULY 2013

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC Meeting Rooms on 10 July 2013 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 community input and participation in Council decisions.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

An audio recording of this meeting is being made for the purpose of ensuring the minutes of the meeting are accurate. 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. It is an offence to make an unauthorised recording of the meeting.

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 12/06/13.

Recommendation

That Council confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

- | | |
|------------|--|
| PC131007-1 | PLANNING & BUILDING STATISTICAL REPORT |
| PC131007-2 | BUILDINGS AND WORKS COMPRISING THE DEVELOPMENT OF A CO-GENERATION PLANT AT THE EXISTING BULLA DAIRY MANUFACTURING PLANT AT 270-302 MURRAY STREET, COLAC (PP57/2013-1). |
| PC131007-3 | CONSTRUCTION OF EIGHT (8) DWELLINGS, SUBDIVISION OF THE LAND INTO EIGHT (8) LOTS AND CREATION OF AN ACCESS TO A ROAD ZONE CATEGORY 1 AT 183 GREAT OCEAN ROAD, APOLLO BAY. (PP4/2013-1) |

Rob Small
Chief Executive Officer

PC131007-1

PLANNING & BUILDING STATISTICAL REPORT

AUTHOR:	Janole Cass	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	F11/2683

Summary

This report provides statistics relating to the month of June 2013.

Planning Statistics

29 Planning Permit Applications were received for the period 1 June 2013 – 30 June 2013.
 25 Planning Permit Applications were considered for the period 1 June 2013 – 30 June 2013.

Building Statistics

Please note that the Building Commission Website has been updated to March 2013.

Attachments

1. Planning and Building Statistical Report June 2013

Recommendation(s)

That Council's Planning Committee note that statistical report for June 2013.

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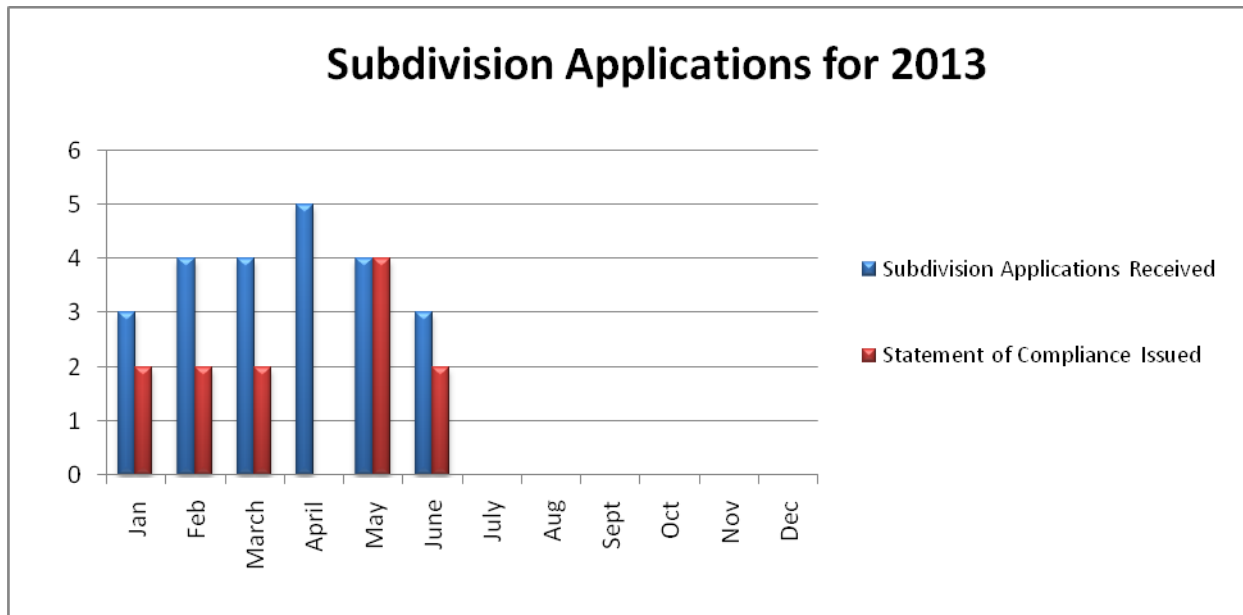
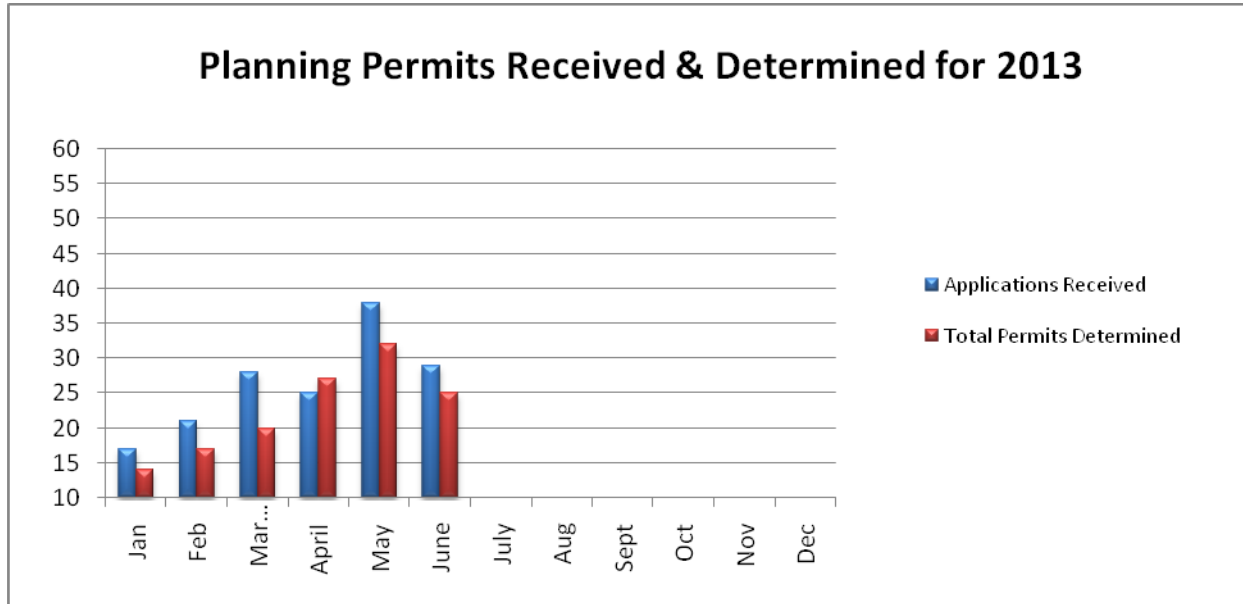
## PLANNING STATISTICAL REPORT – JUNE 2013 – (DETERMINATIONS)

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                            | PROPOSAL                                                                                                                                                                       | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY                |
|--------------------|---------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|------------------------------------------|
| 482/2004-3         | 1 MAY 2013    | 50 MINGAWALLA ROAD BEEAC            | TWENTY TWO (22) STAGED SUBDIVISION – AMENDMENT                                                                                                                                 | 41          | 11 JUN 2013     | AMENDED PERMIT ISSUED<br><b>DELEGATE</b> |
| 351/2008-2         | 7 DEC 2012    | 35 OLD COACH ROAD SKENES CREEK      | CONSTRUCTION OF A DWELLING & ASSOCIATED WORKS INCLUDING CONSTRUCTION OF A FIRE BUNKER, CONSTRUCTION OUTSIDE THE BUILDING ENVELOPMENT AND REMOVAL OF NINE (9) TREES – AMENDMENT | 59          | 17 JUN 2013     | AMENDED PERMIT ISSUED<br><b>DELEGATE</b> |
| 165/2012-1         | 27 JUL 2012   | 111-117 GREAT OCEAN ROAD APOLLO BAY | COMMERCIAL AND RESIDENTIAL DEVELOPMENT AND SUBDIVISION                                                                                                                         | 68          | 14 JUN 2013     | NOTICE OF DECISION<br><b>COUNCIL</b>     |
| 183/2012-1         | 21 AUG 2012   | 2 SHURVELLS ROAD ELLIMINYT          | USE & DEVELOPMENT OF A DWELLING CONSTRUCTION OF EXTENSIONS (INCLUDING CARPORT) TO EXISTING SHED                                                                                | 229         | 17 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 186/2012-1         | 27 AUG 2012   | 9 KARINGAL DRIVE WYE RIVER          | EXTENSION TO EXISTING DWELLING                                                                                                                                                 | 35          | 14 JUNE 2013    | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 193/2012-1         | 7 SEP 2012    | 6 OTWAY PARK CAPE OTWAY             | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING                                                                                                              | 228         | 7 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 197/2012-1         | 6 SEP 2012    | 156 HEARN STREET COLAC              | TWO (2) LOT SUBDIVISION                                                                                                                                                        | 268         | 6 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 235/2012-1         | 8 NOV 2012    | 82 MARRINER STREET COLAC EAST       | USE & DEVELOPMENT OF THE LAND FOR A DOUBLE STOREY DWELLING                                                                                                                     | 213         | 19 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 261/2012-1         | 6 DEC 2012    | 52 ROADKNIGHT STREET BIRREGURRA     | TWO (2) LOT SUBDIVISION AND CREATION OF ACCESS TO ROAD IN A ROAD ZONE                                                                                                          | 176         | 7 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 32/2013-1          | 26 FEB 2013   | 42 CLARK STREET COLAC EAST          | SUBDIVISION OF THE LAND INTO (2) LOTS                                                                                                                                          | 59          | 24 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 33/2013-1          | 26 FEB 2013   | 32-40 GRAVESEND STREET COLAC        | INCREASE IN AREA IN WHICH LIQUOR IS ALLOWED TO BE CONSUMED OR SUPPLIED                                                                                                         | 112         | 19 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 36/2013-1          | 28 FEB 2013   | 375 CORANGAMITE LAKE ROAD COROROOKE | TWO (2) LOT SUBDIVISION (REALIGNMENT OF BOUNDARY) AND ALTERATION OF ACCESS TO ROAD IN A ROAD ZONE                                                                              | 57          | 7 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 43/2013-1          | 6 MAR 2013    | 85 STRACHAN STREET BIRREGURRA       | SUBDIVISION OF THE LAND INTO TWO (2) LOTS                                                                                                                                      | 31          | 17 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 64/2013-1          | 2 APR 2013    | 6265 PRINCES HIGHWAY IRREWARRA      | USE & DEVELOPMENT OF THE LAND FOR A REPLACEMENT SINGLE STOREY DWELLING                                                                                                         | 49          | 7 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |
| 74/2013-1          | 7 APR 2013    | 14 MONTROSE AVENUE APOLLO BAY       | TWO (2) LOT SUBDIVISION                                                                                                                                                        | 59          | 5 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b>         |

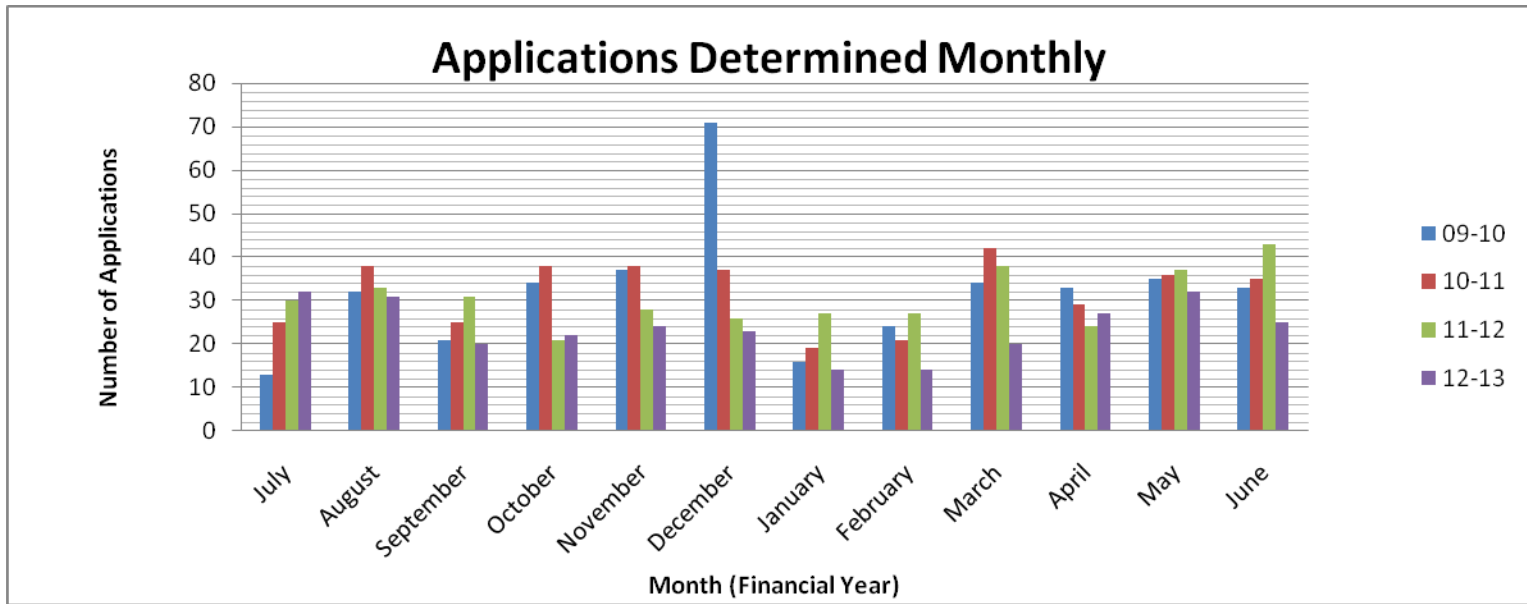
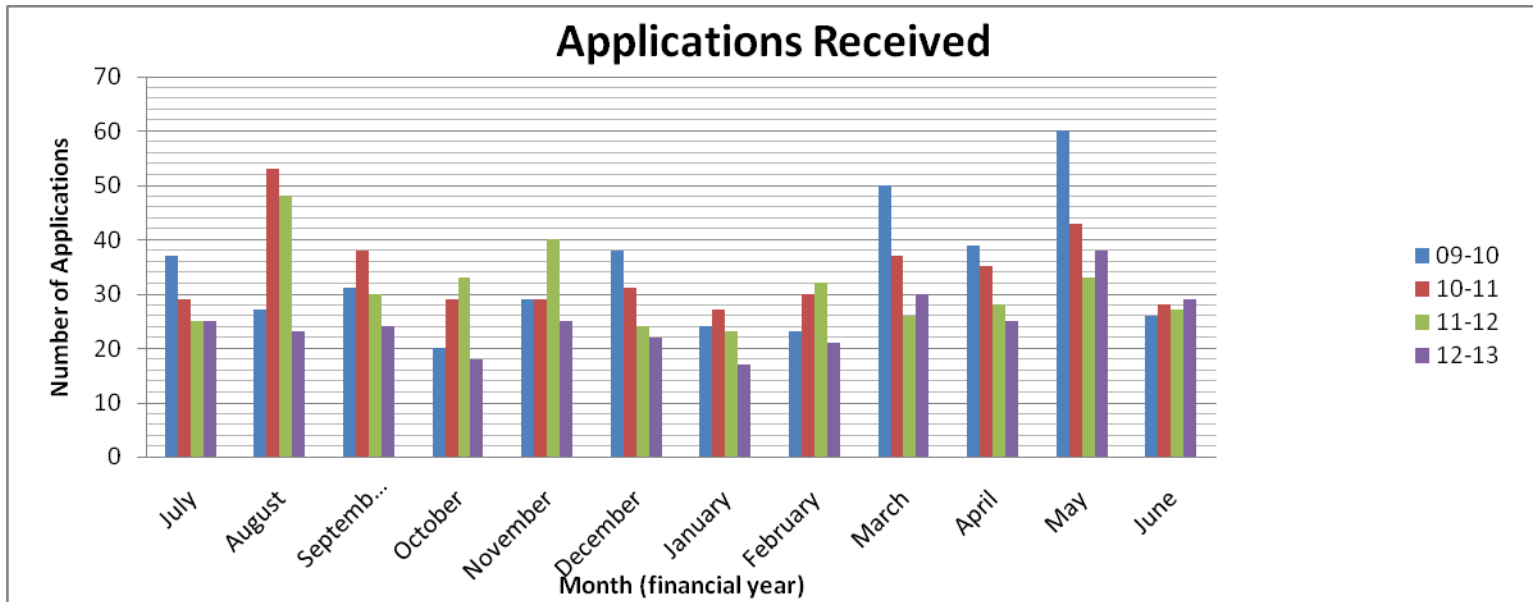
| APPLICATION NUMBER                            | DATE RECEIVED | LOCATION                      | PROPOSAL                                                                                                                   | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY        |
|-----------------------------------------------|---------------|-------------------------------|----------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|----------------------------------|
| 76/2013-1                                     | 12 APR 2013   | 1 LYONS STREET CRESSY         | RETROSPECTIVE PLANNING PERMISSION FOR THE EXTERNAL PAINTING OF PARTS OF THE CHURCH AND HALL                                | 3           | 14 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 77/2013-1                                     | 15 APR 2013   | 35 RAILWAY LINE ROAD KAWARREN | CONSTRUCTION OF AN AGRICULTURAL SHED                                                                                       | 3           | 6 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 88/2013-1                                     | 1 MAY 2013    | 123 DIVISION ROAD MURROON     | BUILDING & WORKS COMPRISING THE CONSTRUCTION OF A DWELLING AND A SWIMMING POOL                                             | 50          | 20 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 91/2013-1                                     | 1 MAY 2013    | 19 STRACHAN STREET BIRREGURRA | EXTENSION TO LIQUOR LICENCE TRADING HOURS AND INCREASE IN AREA WHERE LIQUOR IS ALLOWED TO BE CONSUMED                      | 38          | 26 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 103/2013-1                                    | 14 MAY 2013   | 20 FYANS STREET COLAC         | DEMOLITION OF EXISTING GARAGE AND PARTIAL DEMOLITION OF SIDE BOUNDARY WALL AND FENCE AND CONSTRUCTION OF A DETACHED GARAGE | 45          | 28 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 112/2013-1                                    | 21 MAY 2013   | 35 FACTORY ROAD COROROOKE     | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING                                                          | 16          | 6 JUN 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 115/2013-1                                    | 23 MAY 2013   | 35 ROBILIARDS ROAD MURROON    | CONSTRUCTION OF AN OUTBUILDING                                                                                             | 35          | 27 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 117/2013-1                                    | 24 MAY 2013   | 192-198 MURRAY STREET COLAC   | DISPLAY OF FIVE (5) BUSINESS IDENTIFICATION SIGNS                                                                          | 10          | 26 JUN 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
|                                               |               |                               |                                                                                                                            |             |                 |                                  |
| AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS |               |                               |                                                                                                                            | 82          |                 |                                  |

**PLANNING STATISTICAL REPORT – MAY 2013 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

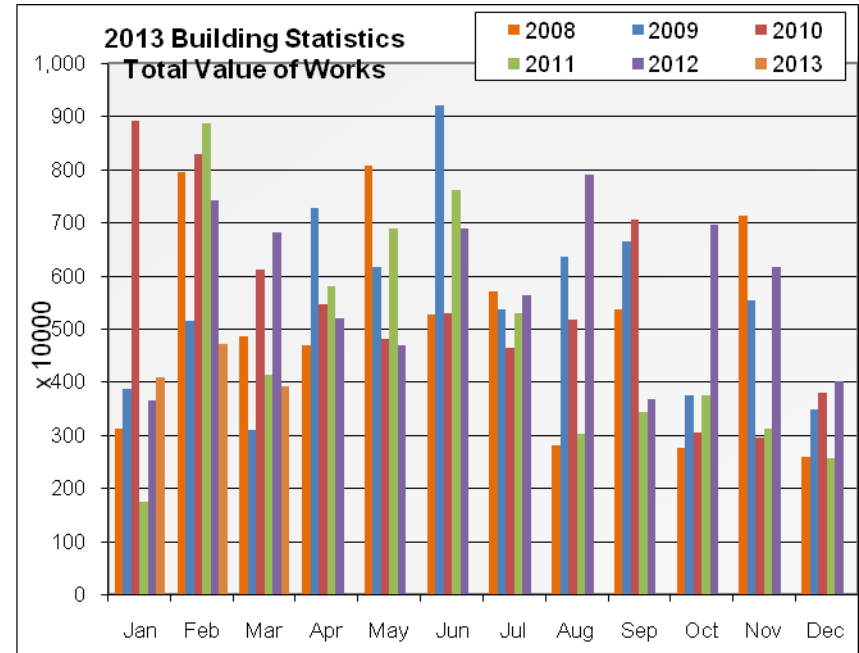
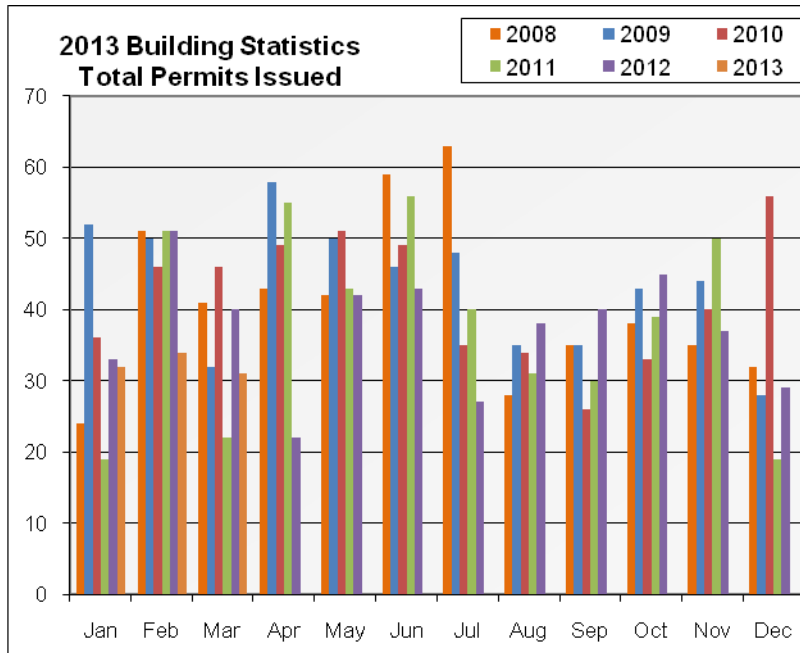
| APPLICATION NUMBER                                                      | DATE RECEIVED | LOCATION                  | PROPOSAL                                                                 | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY |
|-------------------------------------------------------------------------|---------------|---------------------------|--------------------------------------------------------------------------|-------------|-----------------|---------------------------|
| 39/2013-1                                                               | 4 MAR 2013    | 260 OLD YEO ROAD YEO      | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING (SHED) | 0           | 5 JUN 2013      | APPLICATION LAPSED        |
| 120/2013-1                                                              | 24 MAY 2013   | 425 SCOTTS ROAD WOOL WOOL | REMOVAL OF SHELL GRIT                                                    | 0           | 14 JUNE 2013    | PROHIBITED                |
|                                                                         |               |                           |                                                                          |             |                 |                           |
| AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS (INC. WITHDRAWN & LAPSED) |               |                           |                                                                          | 76          |                 |                           |







|               | 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           | 21        | 3,757,719         | 0            | 0              | 5          | 117,068        | 1        | 2,000         | 1          | 39,745         | 0                   | 0          | 4                | 177,495        | 32               | 4,094,027         |
| Feb           | 31        | 4,341,165         | 1            | 280,929        | 1          | 10,000         | 1        | 69,000        | 0          | 0              | 0                   | 0          | 0                | 0              | 34               | 4,701,094         |
| Mar           | 26        | 3,132,341         | 0            | 0              | 3          | 504,374        | 0        | 0             | 1          | 150,000        | 0                   | 0          | 1                | 118,320        | 31               | 3,905,035         |
| Apr           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| May           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Jun           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Jul           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Aug           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Sep           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Oct           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Nov           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Dec           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| <b>Totals</b> | <b>78</b> | <b>11,231,225</b> | <b>1</b>     | <b>280,929</b> | <b>9</b>   | <b>631,442</b> | <b>2</b> | <b>71,000</b> | <b>2</b>   | <b>189,745</b> | <b>0</b>            | <b>0</b>   | <b>5</b>         | <b>295,815</b> | <b>97</b>        | <b>12,700,156</b> |



**PC131007-2****BUILDINGS AND WORKS COMPRISING THE DEVELOPMENT OF A CO-GENERATION PLANT AT THE EXISTING BULLA DAIRY MANUFACTURING PLANT AT 270-302 MURRAY STREET, COLAC (PP57/2013-1).**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Ian Williams                       | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F13/2277   |

**Location:** 270-302 Murray Street, Colac**Zoning:** Commercial 1 Zone**Overlay controls:** Nil**Proposed Amendments:** Amendment C72 (applying a Design and Development Overlay – Schedule 8 and a Parking Overlay Schedule 1)**Purpose:**

This application seeks planning permission for buildings and works comprising the development of a co-generation plant at the existing Bulla dairy manufacturing plant.

Consideration of this application by the Planning Committee is required as the height of the co-generation plant would be above eight (8) metres.

**Declaration of Interests**

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

**Summary**

Planning permission is sought for 'buildings and works' comprising the development of a co-generation plant. The co-generation plant would require the installation of two generators, two boilers and ground floor cooling fans to provide 3.1 megawatts of electricity and thermal energy through the combustion of natural gas. The height of the plant would be generally below the height of the existing overhead gantries, with exhaust chimneys projecting to a height of approximately 11.4m - 12.7m. Four chimney flues are proposed, which would be set back from the street by approximately 11m.

It is considered that the proposed plant would be appropriately located in the context of the site, and designed to reflect the function and manufacturing built form of the site as a whole. It is considered that the proposal would be in keeping with the existing use and activity on the land, and would not result in any additional detriment to the amenity of residential properties in the vicinity of the site.

The generators would be within containers designed to provide the appropriate acoustic attenuation to achieve SEPP N-1 noise limits for nearby residential properties.

## Background

The existing site has been developed with a number of buildings and associated structures, which are collectively used as a factory for the manufacture of ice creams and related products such as ice cream sticks, cones, cups and tubs.

The Bulla factory has operated continuously on this site since 1927. The factory's main frontage is onto Murray Street. The proposed co-generation plant would be located near the Connor Street frontage of the site.

The history of the site is detailed as follows:

- Addition of three silos - 27 February 2007 (PP40/2007-1).
- Conversion of existing dwelling into an office - 2 August 2007 (PP191/2007).
- Use and development of the land for a warehouse - 2 June 2009 (PP175/2009).
- Business identification signage - 14 December 2011 (PP319/2011).
- Buildings and works to relocate and extend the forklift structure, enclose two new silos, and removal of existing structures - 13 March 2012 (PP21/2012).

Bulla Dairy Foods is the largest producer of bottled cream in Australia. Bulla Dairy Foods purchases from Fonterra, Murray Goulburn and Warrnambool Cheese and Butter, employing approximately 500 staff in Colac (including seasonal/casual) with the estimated value of investment in Colac being over \$200 million.

The applicant has advised that the electricity supplied by a co-generation system has much lower carbon emissions than grid electricity and, as a result of the proposal, the site would reduce emissions by approximately 55%, saving over 10 million tons of carbon emissions each year. The planning application has been made to Council following the approval of a \$2.15 million grant from the Clean Technology Investment Program, administered by Aus Industry (Federal Government) in February 2012. The total cost of the works associated with this project is \$6.4 million. Co-generation is also referred to as 'Combined Heat and Power' (CHP) and is the generation of electricity through the combustion of fuel where the heat generated by combustion is captured and utilised.

## Issues/Options

Council has the option of:

- a) Supporting the application subject to conditions;
- b) Supporting the application subject to conditions with changes;
- c) Refusing to grant a permit.

The key issues relating to the application are whether the visual and potential amenity impacts would be acceptable, including whether the proposed height above 8m would be acceptable.

It is recommended that Option a) is supported.

## Proposal

Planning permission is sought for 'buildings and works' comprising the development of a co-generation plant on Lot 1 TP344237 and Lot 2 TP247592E, which face onto Connor Street. To accommodate the proposed plant, the existing ground level pilot plant, office, maintenance office and workshop would be demolished. The co-generation plant would require the installation of two generators, two boilers and ground floor cooling fans to provide 3.1 megawatts of electricity and thermal energy through the combustion of natural gas.

The majority of the proposed works would be set back over 9m from the front title boundary with Connor Street, and would be positioned to the rear of the existing substation and switch room.

The height of the plant would be generally below the height of the existing overhead gantries, with exhaust chimneys projecting to a height of 11.4m-12.7m. Four chimney flues are proposed and these would be set back from the street by approximately 11m.

The plant would be constructed in a combination of stainless steel and aluminium. The form, design, colours and finishes of the co-generation plant and supporting structures would reflect their function and manufacturing built form within the wider context of the site. The proposal includes a level of illumination of the plant, for security purposes only. To ensure the noise of the generators would not contribute significantly to noise emissions already measured at the plant, the target noise levels for the generators would be set below the current on site noise limits.

The applicant has advised that the exhaust stacks would not emit smoke, vapour, soot, ash, dust or smell. The existing on-site boilers currently emit burnt gas fumes from their exhaust stacks. Burnt natural gas would still be emitted from the two new exhaust stacks; however this would be reduced below current levels and would be below the Victorian standards for gas appliance emissions. The exhaust stacks would discharge some steam, although this would be at a level consistent with the existing boilers.

The production plant at Connor Street operates 24 hours a day, and the proposed energy plant would operate on a similar basis.

### **Site & Surrounds**

Bulla Dairy Foods manufacturing is located towards the western end of Murray Street and extends across the bulk of land bounded by Murray Street, Scott Street, Connor Street and Hart Street. The land on the corner of Hart Street/Murray Street is occupied by McMahons and a number of commercial premises including Subway and VicRoads are located on the corner of Scott Street/Murray Street. The land comprises a number of titles, which have been progressively accumulated over a number of years as the Bulla Dairy Foods manufacturing operation has expanded into adjoining properties. The site for the proposed co-generation plant is identified as Lot 1 TP344237K and Lot 2 TP247592E. There are no restrictions on the title. The co-generation plant would be located approximately opposite 48 Connor Street.

The Bulla manufacturing site operates twenty-four hours a day, five days a week on a single, two and three shift basis, depending on production. Seasonal variation in winter allows this to be scaled back to 18 hours per day for the two months of June and July. The site employs 143 staff on a permanent basis, with seasonal and casual staff employed to match production demand.

Access for deliveries of goods used in the manufacturing process is from a laneway off Hart Street and Scott Street. Delivery trucks arriving to pick-up the manufactured product enter from a crossover on Connor Street in the middle of the site; receive their load in the centre of the site (within the building) and exit in a forward manner onto Murray Street. On site car parking is located at the south-west corner of the site.

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

**Public Notice**

Public notice of the application was given in accordance with Section 52 of the Planning and Environment Act by sending letters to adjoining owners/occupiers and by placing a sign on site facing Connor Street. The public notice was undertaken by the applicant. At the conclusion of the notification period, no objections have been received.

**Referrals**

In accordance with Section 52 of the Planning and Environment Act, the application was referred to the Environment Protection Agency (EPA). The application was also referred internally to Council's Health Department. No response was received from the Environment Protection Agency and no objection has been raised to the proposal by Council's Environmental Health Department.

**Planning Controls**

The site is located within the Commercial 1 Zone and is not covered by any overlays. A permit is required under Clause 34.01-4 for buildings and works.

a. State and Local Planning Policy Frameworks

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 are considered relevant to the consideration of this application.

- Clause 11.05 – Regional Development
- Clause 15 – Built Environment and Heritage
- Clause 17 – Economic Development
- Clause 17.02 – Industry
- Clause 21.02 – Vision
- Clause 21.03-2 – Colac
- Clause 21.05 – Economic Development

The proposal is considered to be consistent with the broader principles of the State and Local Planning Policy Frameworks. The proposal would assist in intensifying and consolidating the existing industrial use, enhancing its long term viability with the existing industrial development on the site. Bulla Dairy Foods is one of the major business employers within Colac and the proposal seeks to support the existing land use. The design of the co-generation plant is considered consistent with the existing manufacturing built form on the site.

b. Zone Provisions

The key purpose of the Commercial 1 Zone is:

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

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

- The interface with adjoining zones, especially the relationship with residential areas.
- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to a development of four or more storeys, excluding a basement.

The use of the land for industry (manufacturing of milk products) is established at this site and, as such, a permit is not triggered for the use under clause 34.01-1.

Under clause 34.01-4, a permit is required to construct a building or construct or carry out works.

c. Overlay Provisions

Amendment C72 seeks to apply the Design and Development Overlay Schedule 8 to the Colac CBD generally defined by the current Commercial 1 Zone. The Design Objectives of this schedule seek within all areas of the CBD covered by the overlay to:

- Create a distinct character and image for the CBD through the quality of new buildings.
- Encourage the development of buildings that maximise use of available space within the CBD, and create a vibrant and people-focussed centre.
- Protect the heritage buildings of the CBD.
- Support high quality residential development within the CBD.
- Create an attractive, pedestrian-focussed and well-connected public realm in the CBD.

d. Particular Provisions – Clause 52.06 Car Parking

Pursuant to 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.

The proposal would not result in an increase in the floor area of the existing use; however it would require the removal of the existing ground level pilot plant, office, maintenance office and workshop. The proposed plant would comprise two generators, two boilers and ground floor cooling fans, and would not increase the floor area of the existing use. In view of this, it is considered that the provisions of Clause 52.06 are not relevant to the consideration of this application.

**Consideration of the Proposal**

The co-generation plant would require the installation of two generators, two boilers and ground floor cooling fans to provide 3.1 megawatts of electricity and thermal energy through the combustion of natural gas. The site of the proposed works is set back over 9m from the front title boundary with Connor Street, and is positioned to the rear of the existing substation and switch room (which would be retained). The height of the plant would be generally below the height of the existing overhead gantries, with exhaust chimneys projecting to a height of 11.4m - 12.7m. Four chimney flues are proposed and these would be set back from the street by approximately 11m.

It is considered that the proposed development would be appropriately located in the context of the site, and designed to reflect the function and manufacturing built form of the site as a whole. The proposed development would be suitably recessed from Connor Street and, as such, it is not considered it would have a detrimental impact on the character and appearance of the site or the surrounding area as a whole. Overall, the proposal is considered to be in keeping with the existing use and activity on the land.

The applicant has advised that the existing boilers at the site are significant contributors to the existing noise levels. The applicant has provided a noise report which identifies existing noise levels during the day, evening and night; these are consistent with the *'Audiometric and Acoustic Services Report'* (Ref: 9039 26 May 2009) and SEPP N-1. The applicant has advised that the proposal would retain the existing brick switch room, which would act as a noise barrier to the generators. The generators would be within containers designed to provide the appropriate acoustic attenuation to achieve SEPP N-1 noise limits at residences. To ensure the noise of the generators would not contribute significantly to noise emissions already measured at the plant, the target noise levels for the generators would be set below the current site noise limits.

The proposed co-generation plant is considered to accord with the design objectives and general guidance as specified within Schedule 8 to the Design and Development Overlay as proposed under Amendment C72.

In view of the above, it is considered that the proposed co-generation plant would not result in any significant additional detriment to the amenity of surrounding residential properties, with particular regard to those on Connor Street to the south. In conclusion, it is considered that the proposal would be consistent with the provisions of the Commercial 1 Zone.



**Council Plan / Other Strategies / Policy****Leadership and Governance**

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 and vibrant town centre, which responds to the housing needs of its residents and offers a variety of opportunities for employment and economic development.

The vision for industrial development in Colac is to provide for a thriving industrial sector that provides opportunities for the development of a range of industries and associated activities, in a location and form that is compatible with surrounding development, and that achieves high quality and sustainable design outcomes.

The proposal, which proposes additional plant that has been designed and located to reflect the function and manufacturing built form of the site as a whole whilst being in keeping with the existing use and activity on the land, is considered to be consistent with the preferred vision for Colac.

**Financial & Other Resource Implications**

There are no financial implications arising from this report.

**Risk Management & Compliance Issues**

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

**Environmental Consideration/Climate Change**

The applicant has advised that the electricity supplied by a co-generation system has much lower carbon emissions than grid electricity and, as a result, the site would reduce emissions by approximately 55%, saving over 10 million tons of carbon emissions each year. The planning application has been made to Council following the approval of a \$2.15 million grant from the Clean Technology Investment Program, administered by Aus Industry (Federal Government) in February 2012. The total cost of the works associated with this project is \$6.4 million.

**Communication Strategy / Consultation Period**

Community consultation in the form of public notification has been undertaken as part of this assessment process.

**Conclusion**

The proposed buildings and works are considered acceptable in the context of the surrounding development. It is not considered that the proposal would cause any significant detriment to the amenity of the surrounding residential properties. The proposal would assist in intensifying and consolidating the existing industrial use, and support an important industry in Colac's economy. The design of the plant is considered to be consistent with the existing manufacturing built form on this site.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolves to Grant a Planning Permit for Buildings and Works Comprising the Development of a Co-generation Plant at 270-302 Murray Street Colac subject to the following conditions:***

**Endorsed Plans**

1. *The layout and size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.*

**Amenity**

2. *The co-generation plant hereby permitted must be constructed and operate in accordance with the 'Audiometric and Acoustic Services Report' (Ref: 9039 dated 26 May 2009) submitted as part of the application, to the satisfaction of the Responsible Authority.*
3. *Any external lighting on the development hereby permitted must be designed, baffled and located so as to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.*
4. *The development hereby permitted must be managed so that the amenity of the area is not detrimentally affected, through the emission of noise, artificial light, vibration, smell, fumes dust, waste water or waste products.*
5. *All buildings and works must be maintained in good order and appearance, to the satisfaction of the Responsible Authority.*

**Expiry**

6. *This permit will expire if one of the following circumstances applies:*
  - a) *The development is not commenced within two (2) years of the date of this permit.*
  - b) *The 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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PC131007-3

CONSTRUCTION OF EIGHT (8) DWELLINGS, SUBDIVISION OF THE LAND INTO EIGHT (8) LOTS AND CREATION OF AN ACCESS TO A ROAD ZONE CATEGORY 1 AT 183 GREAT OCEAN ROAD, APOLLO BAY. (PP4/2013-1)

| | | | |
|-------------|------------------------------------|-----------|------------|
| AUTHOR: | Ian Williams | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F13/38 |

Location: 183 Great Ocean Road, Apollo Bay

Zoning: Residential 1 Zone (R1Z)
Adjacent Road Zone Category 1 (RDZ1)

Overlay controls: Design and Development Overlay (DDO6)

Proposed Amendments: Nil

Purpose:

This application seeks planning permission to construct eight (8) dwellings, to subdivide the land into eight (8) lots with common property and to create an access to a Road Zone Category 1.

Consideration of this application by the Planning Committee is required as the height of the development is above 8m and nine (9) objections have been received.

Declaration of Interests

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

Summary

This application seeks planning permission to construct three residential blocks containing a total of eight (8) dwellings. In addition, it is proposed to subdivide the land into eight (8) lots with common property and to create an access to a Road Zone Category 1. The site is in the Residential 1 Zone, and is covered by DDO6 (Apollo Bay – Medium Density Residential Area).

The key considerations in this case are:

- whether the proposed development and subdivision would be in keeping with the neighbourhood character of the area;
- whether the proposed residential density is acceptable;
- whether the proposal complies with the provisions of clauses 55 and 56 of the Planning Scheme ('ResCode'), and would result in an acceptable outcome in terms of residential amenity;
- whether the proposed subdivision adjacent to a Road Zone Category 1, and access to that road, is acceptable.

The proposed development comprises three residential blocks, the maximum height of which would be 9.0 metres. This maximum height would only be achieved within the middle 'block' (units 4 and 5). The front and rear blocks would have heights of 7.4m and 7.8m respectively, which would be below the maximum height of 9m specified in DDO6 (Apollo Bay – Medium Density Residential Area). The proposal is considered to be reflective of the surrounding single and double storey built form.

The Apollo Bay Structure Plan encourages higher built form within 400m of the commercial area of Apollo Bay and includes the application site within the '*Higher Density Residential Area*'. It is considered that the proposal would result in medium density infill housing development located within walking distance of the commercial area of Apollo Bay, which ultimately would reduce pressure to expand the boundary of the existing Township.

The proposal is considered to respond in a positive way to the underlying neighbourhood character of the surrounding area. The use of appropriate coastal materials and colours, in conjunction with the recessed upper levels and the separation of built form, would result in a design which is considered to be acceptable. The proposal complies with the provisions of clause 55 and clause 56 of the Planning Scheme ('ResCode').

There is also a permit trigger for subdivision adjacent to a Road Zone Category 1 and for the creation of an access to that road. The application was referred to VicRoads, which raised no objection to the proposal subject to conditions being imposed on any permit issued.

Background

On 16 March 2010 planning permit ref. PP278/2008 was issued at the direction of VCAT. This allowed the construction of five (5) dwellings and a five (5) lot subdivision on this site (*Great Ocean Road Coastal Planning v Colac-Otway Shire Council P1405/2009*). Council had refused to grant a permit for the proposal on the grounds that it did not comply with the objectives and standards of the planning controls applying to the site.

Following the VCAT decision, on 9 May 2011 a planning application was submitted to Council for twelve (12) dwellings and a twelve (12) lot subdivision on the site (ref: PP112/2011). The development proposed was contemporary in style and comprised three residential blocks, with a common property driveway extending along the north boundary providing access to ground floor car parking areas. The application proposed a mix of 9 x 2 bedroom dwellings and 3 x 3 bedroom dwellings. Car parking was proposed on-site; however there was a shortfall of two visitor spaces. The proposed development comprised three storeys, with a maximum building height of 9m above ground level.

On 19 January 2012 Council determined to refuse to grant a planning permit on the grounds that the proposal represented an *overdevelopment of the site and did not reflect the low scale coastal setting as identified in the Apollo Bay to Marengo Neighbourhood Character Study 2003*. It was also considered that the proposal failed to meet all of the objectives and standards of clause 55 ('ResCode'), the objectives and relevant decision guidelines of the Design and Development Overlay Schedule 6, and that it failed to achieve the preferred character and accord with the decision guidelines of the Apollo Bay Precinct One Brochure from the Apollo Bay to Marengo Neighbourhood Character Study Review.

On 17 August 2012 Council's decision to refuse a planning permit for twelve dwellings and a twelve lot subdivision was upheld by VCAT. The VCAT Order identified the locality as a '*medium density housing area*', and reaffirmed that the proposed development was an unacceptable response to the preferred neighbourhood character.

The Tribunal Member also noted that the “*three storey nature of the central ‘block’ in particular is markedly at odds with the one and two storey development that exists in the neighbourhood*” and that “*the structure presents as a visually dominant built form as there has been no meaningful attempt to recess the top most level from that below*”. It was also considered that “*restricted opportunities for meaningful landscaping on the site are a further indicator that the design and layout of the development has failed to have sufficient regard to the relevant neighbourhood character considerations*”.

On 16 March 2012, a Practice Day Hearing was held to establish whether the Cultural Heritage Management Plan produced for application ref. PP27/2008 could be relied on for application ref: PP112/2011. By VCAT Order dated 26 March 2012, the Tribunal ruled that the Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006*, which had been prepared for application ref. PP278/2008, could be relied upon for the proposal for twelve dwellings and a twelve lot subdivision. This decision was on the basis that there was no reason why a Cultural Heritage Management Plan prepared for a particular development proposal could not be relied upon as a Cultural Heritage Management Plan for a subsequent development proposal, provided the activity in each case was a high impact activity and the activity area was the same.

In the case of the current application for 8 dwellings and an 8 lot subdivision, the proposed activity is the same (subdivision and the construction of three or more dwellings) and the activity area is the whole site. In view of this, it is considered that there is no further requirement under the *Aboriginal Heritage Act 2006* or the *Aboriginal Heritage Regulations 2007* to prepare an additional Cultural Heritage Management Plan.

Issues/Options

Council has the options of:

- Supporting the application through the issue of a Notice of Decision to Grant a Planning Permit subject to conditions.
- Supporting the application with changes.
- Refusing to grant a permit.

The key issues relating to this application are whether the design and density is consistent with the surrounding development and the neighbourhood character as a whole, whether the proposed height is acceptable, and whether the proposal complies with the provisions of clauses 55 and 56 (‘ResCode’) and would result in an acceptable outcome in terms of residential amenity.

Proposal

Planning permission is sought for the construction of eight (8) dwellings, the subdivision of the site into eight (8) lots with common property, and the creation of access to a Road Zone Category 1.

The proposed development comprises seven (7) two bedroom units and one (1) three bedroom unit. The proposal consists of three ‘blocks’ of built form, which would run east/west in the centre of the site. Access to the site would be from the Great Ocean Road, adjacent to the southern boundary with No. 181 Great Ocean Road. The proposed access off the Great Ocean Road would be 5.0m wide at the front of the site, increasing to 6.0m within the site.

The units would be constructed using a mix of grey brickwork, render and timber garage doors at the ground floor level, with weatherboards finished in 'surfmist' at upper floor. The roof would comprise skillion colorbond sections finished in ironstone. The residential blocks would be spaced 4m to 4.5m apart on ground floor, increasing to a maximum of 5.9m on the upper floor.

The front block would be set back 4.5m – 6.6m from the property frontage with the Great Ocean Road, 4.5m from the northern boundary and 6m from the southern boundary. The front residential block would contain Units 1, 2 and 3, and would have a maximum height of 7.4m. The units would occupy floor areas of approximately 140.38sqm - 146.96sqm and would contain two bedrooms at ground and first floor levels, with a single car garage (3.5m x 6m) and private open space on the northern side (ranging from 28.3sqm to 48.6sqm) at ground floor level, and living and meals on the upper floor. These units would benefit from north-facing first floor glazed balconies. The primary entry to Unit 1 would front the Great Ocean Road, with access to Units 2 and 3 fronting onto the southern driveway.

The middle residential block would contain Units 4 and 5, and would be located 4.0m – 5.9m to the west of unit 3, separated by a visitor car parking space. Units 4 and 5, with a maximum height of 9m, would be the highest of the three blocks and would be the only three storey residential block. The units would occupy floor areas of approximately 145.97sqm to 152.89sqm and would contain two bedrooms (one bedroom on the ground floor and one bedroom on the second floor), single car garage (3.5m x 6m) and private open space on the northern side (ranging from 44.32sqm to 46.47sqm), with living and meals at first floor level. The balconies to Units 4 and 5 would be located to the southern and eastern sides. The primary entry to Units 4 and 5 would be from the southern driveway.

The rear residential block would contain Units 6, 7 and 8, and would be located 4.5m to 4.9m to the west of unit 5, separated by a designated turning area. The western ground floor boundary wall of unit 8 would be located 1.2m off the rear boundary, increasing to 2.6m at first floor level. Units 6, 7 and 8 would have a maximum height of 7.4m and would occupy an area of approximately 129.12sqm to 204.27sqm. Units 6 and 7 would contain two bedrooms, a single car garage (3.5m x 6m) and private open space to the north ranging from 27.8sqm to 50.90sqm, with living and meals on the upper floor. All units would benefit from north-facing first floor glazed balconies. Unit 8 would contain three bedrooms and a double car garage.

The proposal includes 229.51sqm of common property along the southern boundary. It is also proposed to create vehicular access to the Great Ocean Road.

Site & Surrounds

The site is situated in the Residential 1 Zone of the Apollo Bay Township. The site is located on the Great Ocean Road foreshore, to the south of its junction with Murray Street and to the north of its junction with Thomson Street; approximately 300m north of the shopping precinct of Apollo Bay. The arrival into Apollo Bay from the north is signified by the avenue of Cypresses in the foreshore reserve on one side and the beginning of urban development on the other side. The Cypresses and the large, grassed road reserve on the opposite side are considered to be important elements to emphasise and enhance the entry. The Otway foothills to the west provide a scenic backdrop to the town, and feature in many long distance views.

The application site is rectangular in shape with an east-west orientation and sits at approximately the 4.5m contour mark. The site has a 21m frontage and has a depth ranging from 30m (north boundary) to 42m (south boundary), with a total area of 1,419sqm. The site is vacant and largely devoid of vegetation apart from some small shrubs along the northern boundary. There are no restrictions on title.

The site has a 4m wide easement along the entire north boundary and a 1.83m wide easement along the rear of the southern boundary, which traverses the central third of the site in a north-south direction. These easements are in favour of Barwon Water. A power pole is located in front of the site. There is no existing crossover onto the Great Ocean Road.

The site is situated in an area that is characterised by a mix of single-storey and two-storey dwellings constructed of weatherboard and brick. There are also a number of motels and units of holiday accommodation within the area. There are ocean views from the site to the east and views to the Otway Ranges to the north, west and south-west. Development to the immediate south of the site at No. 181 Great Ocean Road comprises four (4) two-storey brick units which were given planning approval in 2000. No. 181 Great Ocean Road is a similar sized allotment to the application site. Development further south comprises a single dwelling at 179 Great Ocean Road within the Residential 1 Zone, and a service station (177 Great Ocean Road) and apartment development (2-4 Thomson Street) both within the Business 1 Zone. Lots to the north of the site comprise modest single-storey dwellings at No. 185 Great Ocean Road and No. 1 Murray Street. No. 187 Great Ocean Road contains a newly constructed, two-storey contemporary dwelling, which did not require a planning permit. To the west of the site, the lots contain two-storey unit developments and single dwellings.

Planning permission was granted in 2002 to develop 66-68 Pascoe Street, directly behind the site, for medium density development comprising four (4) two-storey units. The lot size for each unit is approximately 350sqm. Only the front two units have been constructed.

Public Notice

Public Notice of the application was required in accordance with Section 52 of the Planning and Environment Act 1987.

The applicant undertook public notification by means of letters to adjoining and surrounding owners/occupiers, and by the display of a notice on the site. The applicant has provided a Statutory Declaration in relation to notification. It is considered that the advertising has been carried out in accordance with Council's requirements.

At the conclusion of the notification period nine (9) objections were received. The grounds of objection are summarised as follows:

- *The submitted plans contain the incorrect annotation 183-185 Great Ocean Road. The application only relates to 183 Great Ocean Road and not 185.*

This has been addressed by the applicant and revised plans received with the correct annotation (i.e. No. 183 Great Ocean Road only). This was a discrepancy on the development plans only, and the titles submitted with the application refer only to 183 Great Ocean Road, Apollo Bay. A copy of the revised plans was sent to all objectors on 7 June 2013.

- *The public notice displayed on the site was removed after one day.*

The first A3 advertising sign was removed unexpectedly from the site within the first few days of placement. A second A3 sign was erected on site for the full advertising period, therefore meeting the public notice requirements.

- *The total height of the development is not clear from the plans.*

The overall building heights to the natural ground levels (NGL) would not exceed the maximum 9m mandatory height limit. The applicant has undertaken an independent survey of the site to ascertain the precise ground levels to ensure the height of the overall development can be clearly presented. Following this survey revised plans were submitted to Council showing the maximum height at 9m. A copy of the revised plans was sent to all objectors on 7 June 2013.

- *The proposal would require fill to be added to the middle of the site. Any proposed fill will impact on water run-off and drainage issues for adjacent dwellings. The submitted sections do not show fill and have nominated a floor level to Australian Height Datum, which is considerably higher than the existing ground level. As such, a correct survey of site levels should be submitted to accompany the application. Increasing floor levels is likely to create a dam between the application site and Murray Street.*

Following receipt of this objection, the applicant undertook an independent survey of the site to ascertain the area and level of fill required to address any potential drainage issues. The applicant has identified parts of the site that would require fill in conjunction with low level retaining walls. The majority of fill would need to be added to the central section to a height of 20cm adjacent to units 4 and 5, increasing to 60cm adjacent to unit 8. Low level sleeper retaining walls would be required to contain the fill on the site. Council's Infrastructure Department has advised that the fill to be placed on site is necessary to any future development of the site. The purpose of the proposed fill is to provide 'levelling out' to parts of the site to assist in the natural drainage by providing a gradual grading site for stormwater runoff to a legal point of discharge. It is not considered that the fill would have an adverse affect on overground stormwater flow to neighbouring properties. The proposal is likely to require further investigation by civil engineers, and the submission of a drainage plan. It is recommended that a condition to address this issue be imposed on any permit issued.

- *The existing on site drainage system is inadequate as identified by ARUP ('Engineering Drainage and Apportionment Analysis Apollo Bay, May 2012') and an additional eight dwellings will add to the drainage and, as such, stormwater detention must be considered. Approval for any development in this area will leave Council and rate payers vulnerable to litigation by affected parties.*

Having regard for the "objectives, standards and decision guidelines of Clause 54 & 55", which state that: "the responsible authority must consider if the drainage system has little or no spare capacity, the capacity of the development to provide for stormwater drainage mitigation..." the application has been considered by Council's Infrastructure Department. Council's Infrastructure Department has advised that Council has adopted the Apollo Bay Drainage Strategy which specifically describes Apollo Bay's existing drainage infrastructure as under severe pressure, incapable of handling the 20% AEP (1 in 5 year storm). The stormwater line which would be used by the development is particularly problematic. It is therefore required that the applicant demonstrate on-site stormwater detention. As the Planning Scheme gives no firm guidance on the full requirement of the required detention system, the Infrastructure Design Manual has been used as guidance for the wording of the conditions recommended for inclusion on any permit issued.

The applicant has further advised that the adequacy of the existing drainage system will be analysed by a suitably qualified civil engineer. The Apollo Bay Drainage Strategy identifies the intersection of Thomson Street and the Great Ocean Road as problem area Pa1. Pa1 is approximately 70m from the subject site. Whilst the report raises concerns in relation to four (4) problem areas including Pa1, it also provides for a number of holistic drainage recommendations in order to address Apollo Bay's drainage shortcomings. This issue is discussed in more detail later in the report.

- *The level of fill to be added to raise the ground floor levels for units 4 and 5 will present building heights of 10.2m which is above the height limit and the ground floor level of units 6, 7 and 8 should be reduced to RL 4.4m.*

The overall building heights relative to natural ground levels (NGL) would not exceed the maximum 9m mandatory height limit and these levels have been confirmed by an independent survey of the site. The elevation plans detail heights from Natural Ground Level (NGL), and are not measured from the top of the proposed fill, therefore providing no opportunities to increase the dwelling heights above 9m.

- *Bedroom 1 of Unit 8 should be set back 5m from the boundary.*

The proposed setback of bedroom 1 of Unit 8 is 2.1m from the western boundary and 2.95m from the southern boundary. The rear setback satisfactorily responds to the requirements of Clause 55.

- *The proposed setback distance and lack of grassy verges from the Great Ocean Road is not consistent with the neighbourhood character statement.*

The front block would be set back 4.5m – 6.6m from the property frontage with the Great Ocean Road, 4.5m from the northern boundary and 6m from the southern boundary. This setback is greater than the setback approved by VCAT, which was between 4.2m - 5.8m. The lesser setback was considered to be appropriate by VCAT to provide an open grassed expanse with low coastal shrubs to reflect the streetscape character.

- *The use of concrete surfaces minimises the opportunity for landscaping.*

The proposal presents adequate area for landscaping within the private gardens and along the common property. It is recommended that an appropriate permit condition requiring the submission of a landscaping plan be included on any permit issued.

- *The colours selected for the building are relatively dark.*

The units would comprise a mix of grey brickwork, render and timber garage doors at ground floor level, with weatherboards finished in 'surfmist' at upper floor. This is not considered to be out of keeping with the surrounding coastal development.

- *The proposal does not provide adequate resident and visitor car parking on site and will put increased pressure on car parking, traffic management and safety within Apollo Bay, and there is inadequate visitor car parking on site.*

Each dwelling has been provided with car parking spaces to meet the requirements of Clause 52.06 (Car Parking) of the Planning Scheme. No dispensation is required for car parking as part of this application. The proposal also meets the required levels of on-site visitor car parking and, as such, complies with the Planning Scheme controls.

- *Balustrades of at least 1.7m high should be included on all north facing balconies.*

Balustrades to a height of 1.7m where required to meet the provisions of Clause 55 have been included on the proposed elevations.

- *A 1.8m high timber fence should be constructed on the property line from the finished fill level.*

The proposal includes a 1.8m high paling fence along the northern and western boundaries. A 1.7m high fence exists along the southern boundary.

- *The size of the units does not lend them to permanent accommodation and noise from short-term rentals, cars and wind whistling up the driveway is likely to have an adverse impact on surrounding properties.*

The site is located within the Residential 1 Zone and, as such, noise levels are not likely to be significantly above noise levels from other surrounding residential properties in the immediate vicinity. Noise levels from residential premises are governed by local laws. The scope of the proposal does not provide for any unforeseen issues relating to noise impacts. A permit would be required for further accommodation within the Residential 1 Zone.

- *It is not clear how the common property will be managed.*

The applicant has advised that management of common property would be by an Owners Corporation. Individual owners would be encumbered by membership to the body corporate through the sharing of common property areas and therefore payment made to the body corporate for upkeep and maintenance to the common property areas. This is a normal practice for developments that share common property areas on site.

- *The proposed density is not medium density and is out of keeping and scale with the neighbourhood character, presenting insufficient space between dwellings, impacting on views at an unacceptable density.*

A number of the objections raise issues relating to the proposed density of eight (8) units on the site. Some objectors suggest this is an overdevelopment of the site and would not reflect the small coastal character of Apollo Bay. This site is covered by the Design and Development Overlay 6 (DDO6), for 'Medium Density' within Apollo Bay. The DDO6 does not have prescribed lot sizes; however it does provide a number of design elements that are preferred in this area as discussed later in this planning report. The site is located in close proximity to other similar developments and, as such, it is considered that the proposed density reflects the existing and preferred neighbourhood character. The proposal is considered to positively respond to the surrounding pattern of development. This is discussed in greater detail later in this report.

- *The application details that there are no north facing windows at 181 Great Ocean Road. The objection adds that the units at 181 Great Ocean Road have large north facing windows and north and east facing balconies that look directly at the units and, as such, the first floor balcony of unit 8 will overlook the living area.*

The proposal includes a trellis screening to a height of 1.7m with 25% openness along the balconies of Unit 8 and 5. The screens are marked on the floor plans and elevations, and would prevent overlooking to No. 181 Great Ocean Road. The proposal is considered to meet the requirements of clause 55 ('ResCode') in relation to amenity issues for adjacent properties. This is discussed in greater detail later in this report.

Referrals

The application was referred to VicRoads, Barwon Water, Powercor, Telstra, Tenix and the Country Fire Authority (CFA) under Section 55 of the Planning and Environment Act.

It was also referred to the Department of Sustainability and Environment (DSE) - now Department of Environment and Primary Industries (DEPI) - and Corangamite Catchment Management Authority (CCMA) under Section 52 of the Planning and Environment Act. The application was also referred internally to Council's Infrastructure and Building Departments.

The following is a summary of the responses received:

- VicRoads, CFA, Telstra and Powercor have not objected to the application subject to the inclusion of permit conditions. These are included in the recommendation at the end of this report. Tenix raised no objection and did not require any conditions to be imposed, in the event a permit is issued.
- Council's Infrastructure Department agrees that stormwater detention must be included as a condition of the permit. The Infrastructure Department has advised that Council has adopted the Apollo Bay Drainage Strategy, which specifically describes Apollo Bay's existing drainage infrastructure as under severe pressure and incapable of handling the 20% AEP (1 in 5 year storm). The stormwater line required to be used for the development is particularly problematic. It is therefore required that the applicant demonstrate on-site stormwater detention.

The car parking provision is considered to meet the standards as set down in the Colac Otway Shire Planning Scheme and the development allows for forward direction vehicular access and egress to and from the site, as well as passing room for two contra flow vehicles at regular intervals.

Referral to Aboriginal Affairs Victoria was not required under this application. A Cultural Heritage Management Plan (CHMP) was provided for the previous proposal on this site (ref. PP278/2008, VCAT No P1405/2009). The Plan was approved by the appropriate Registered Aboriginal Party on 27 October 2008 (AAV Reference No: 10445), and found no evidence of Aboriginal cultural material existing on this site and advised that no further archaeological work was required. A VCAT Practice Day Hearing Order (P261/2012, dated 26 March 2012) found that this report could be relied upon in respect of application PP112/2011 and that an additional Cultural Heritage Management Plan was not required.

Planning Controls

The site is located within the Residential 1 Zone and is subject to the Design and Development Overlay Schedule 6. The site abuts the Great Ocean Road, a Road Zone Category 1. A planning permit is required under the following Clauses of the Colac Otway Planning Scheme:

- Clause 32.01-2 – Residential 1 Zone – Subdivision.
- Clause 32.01-4 – Residential 1 Zone – Two or more dwellings on a lot.
- Clause 43.02-2 – Design and Development Overlay 6 – Subdivision, and buildings and works.
- Clause 52.29 – Land adjacent to RDZ1 – Subdivision, and creation of an access.

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 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 11.05-4 - Regional planning strategies and principles
- Clause 15.01-1 - Urban design objective
- Clause 15.01-3 - Neighbourhood and subdivision design objective
- Clause 15.01-4 - Design for safety objective
- Clause 15.01-5 - Cultural identity and neighbourhood character objective

- Clause 15.02-1 - Energy and resource efficiency objective
- Clause 16 - Housing
- Clause 21.03-3 - Apollo Bay and Marengo

The Planning Scheme seeks to encourage medium density housing, and ensure that proposals strike a balance between achieving higher densities and respecting neighbourhood character. The Great Ocean Road Region Strategy (GORRS) identifies Apollo Bay as a “*strategically located coastal settlement with the capacity for growth beyond its current boundaries*”. It also notes that growth in Apollo Bay “*presents an opportunity to create best practice future urban form that responds to the landscape around it.*”

The Great Ocean Road Regional Landscape Assessment Study (GORRLAS) recognises the importance of settlement or township edges in this area and provides a future direction that identifies the potential to further define the edges. It also provides an objective that seeks “*to retain the dominance of an indigenous natural landscape in coastal areas, between settlements, particularly from the Great Ocean Road.*”

It is considered that the proposal would respect the underlying neighbourhood character and meet the community’s expectations in relation to the future development of Apollo Bay. The design of the development is considered to be consistent with the local character, whilst providing for medium density housing within walking distance to the Apollo Bay town centre. This is reaffirmed within the underlying objectives of the Apollo Bay Structure Plan adopted by Council on the 26 April 2007. The overview of the ‘Settlement’ section of the Municipal Strategic Statement (MSS) states that development of the major towns in the Shire should take place in accordance with the Structure Plans for Colac and Apollo Bay. The weight to be given to the Structure Plan is addressed at Clause 21.07, which states that the listed reference documents have informed the preparation of the Planning Scheme and that all relevant material has been included in the Scheme. Therefore, the reference document provides guidance on decision making.

The Municipal Strategic Statement, particularly Clause 21.03-1 (Settlement - General Overview) and 21.03-3 (Settlement – Apollo Bay and Marengo), together with the Apollo Bay Structure Plan, outlines a number of strategies. The key thrust of these strategies seeks to concentrate higher and medium densities closer to the commercial node and existing facilities of Apollo Bay. The strategies also seek to provide a diversity of housing types with more traditional dwelling density in the residential areas further away from the town centre, whilst incorporating environmental sustainable initiatives and development integrated with the preferred neighbourhood character. The Apollo Bay Structure Plan also encourages higher built form within 400m of the commercial area of Apollo Bay and includes the application site within the ‘*Higher Density Residential Area*’. This is reaffirmed by the maps on page 63 and 71 of the Apollo Bay Structure Plan, which also identifies the land as being suitable for ‘*infill development*’.

The Apollo Bay Structure Plan notes that some components of the Apollo Bay and Marengo infrastructure are under strain, being close to capacity or in need of renewal; in particular water storage and electricity supply. Stormwater drainage has also since been identified as an issue.

It is accepted that new development places increased pressure on this infrastructure; therefore consideration needs to be given to making the most efficient use of existing infrastructure.

A key objective of the plan seeks to “ensure that urban development results in the efficient utilisation of existing infrastructure and minimises the requirements for new infrastructure” whilst encouraging new development to occur firstly in areas with existing infrastructure provision, and seeking to ensure that any new infrastructure is efficiently provided and utilised.

It is therefore expected in this location that appropriately designed medium density development can be supported. This is reaffirmed by the recent support by VCAT for a five dwelling development and subdivision on this site. A number of medium density housing developments exist along the frontage of the Great Ocean Road and it is considered that the proposal would remain consistent with these. Issues concerning stormwater have been addressed elsewhere in the report.

b) Zone Provisions

The purpose of the Residential 1 Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To 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.*

Under clause 32.01-2 to the Residential 1 Zone, a permit is required to subdivide land. An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of clause 56.

Under clause 32.01-4 to the Residential 1 Zone, a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of clause 55.

c) Overlay Provisions

The objectives of the Design and Development Overlay – Schedule 6 ‘Medium Density Residential Area’ (DDO6) are:

- *To protect the existing low scale coastal character and identity of Apollo Bay.*
- *To achieve a graduated density of residential development between the town centre and the lower density residential areas.*
- *To ensure that development density is consistent with the coastal town character.*
- *To ensure permeable space is available between dwellings to sustain vegetation.*
- *To ensure that new development maintains space between buildings so that views to the surrounding landscape are retained.*

A requirement for a permit is triggered under this overlay for building and works where there is more than one dwelling on a lot, the lot is less than 300m² and/or the height of the development is over 8 metres. There is a mandatory height limit of 9 metres for all development. A permit is also required for subdivision under clause 43.02-3 of the DDO provisions.

Under DDO6 provisions, all buildings and works should comply with the following standards unless it can be demonstrated that an alternative approach achieves the design objectives of this control:

- *Simple building details.*
- *A mix of contemporary and traditional coastal materials, textures and finishes.*
- *Colours and finishes that complement those occurring naturally in the area.*
- *Articulated facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing, and shop front windows at street level in commercial areas.*
- *Articulated roof forms on new developments to provide visual interest to the street.*
- *On larger sites, articulated facades to emulate the fine grain (narrow frontage) subdivision pattern in the centre.*
- *Buildings greater than 8 metres in height have a front setback at the upper level of 3 metres.*
- *Water sensitive urban design features incorporated into the design, where practical.*

d) Particular Provisions

Clause 52.29 – Land Adjacent to a Road Zone Category 1

A permit is required to create or alter access, and to subdivide land, adjacent to a road in a Road Zone, Category 1.

Consideration of the Proposal

The key considerations in this case relate to neighbourhood character issues and the potential impact of the proposal on neighbouring properties.

The provisions of the Design and Development Overlay (DDO6) that apply to the site are instrumental in assessing the neighbourhood character implications of the proposed development. DDO6 identifies this site as a *'medium density housing area'* whereby multi dwelling development of up to 9.0m is acceptable in this part of Apollo Bay. Also for consideration are the design responses set out under the Apollo Bay and Marengo Neighbourhood Character Study, which identifies large setbacks, grassy verges, high standard of contemporary design for dwellings that are set into the landscape that reflect the coastal setting.

Setbacks

Whilst the proposed front setback of 4.5m fails to meet the minimum standard recommended within clause 55.03-1, being 9m, it is considered that the proposal does meet the objective of this clause. The proposal would result in a front setback from the Great Ocean Road of 4.5m to 6.6m, which is greater than the 4.2m setback previously approved by VCAT. The development has been suitably recessed from the side and rear boundaries to meet the standard and objectives of Clause 55.04-1.

Building Height

Under the provisions of DDO6, development is subject to a mandatory 9.0 metre maximum building height. The overlay also identifies a number of standards that should be met, including the use of a mix of simple building materials, a mix of colours and finishes that complement those in the area, articulated facades, upper level setbacks and articulated roof forms. The proposed development would have a maximum height of 9.0 metres, which is presented within the middle residential 'block' for units 4 and 5.

The front and rear residential blocks would have heights of 7.4m and 7.8m respectively. This is below the maximum specified height of 9m and is considered to be reflective of the surrounding double storey built form at Nos. 181 and 187 Great Ocean Road, which present a height of 7.6m and 7m respectively. The majority of the bulk of the development would be at ground floor level, with the overall mass reduced further through recessed articulated upper levels and the skillion roof form.

Neighbourhood Character

The design of the development would include glazed balconies, brick, render, colorbond and timber cladding, which are all reflective of the coastal theme observed in the immediate and surrounding neighbourhood. The proposed colour pallet would comprise a mix of grey brickwork, render and timber garage doors at ground floor level, with weatherboards finished in 'surf mist' at upper floor level. The roof would comprise skillion colorbond sections finished in ironstone. Overall, it is considered that the colour and materials proposed would complement the coastal character of the area and would not be detrimental to the surrounding neighbourhood character.

The Neighbourhood Character Statement seeks to achieve an appropriate design through development that sits within the landscape, provides a reasonable view-sharing of the ocean, ensures development does not obscure views and vistas from public viewing points, and ensures buildings demonstrate a high standard of contemporary design that reflects the coastal setting and the spacing of buildings to allow for permeability of built form. The Neighbourhood Character Study also seeks to ensure that *"in the residential areas outside the town centre of Apollo Bay, limit building heights and ensure upper levels are well articulated to respect the character of the area"*.

The design response is considered to address the elements of the neighbourhood character statement. It is considered that the proposed built form would be suitably recessed from the site boundaries to allow for private open space on the northern aspect and a common driveway towards the southern side of the site. The spacing between built form would increase from 4.0m on the ground floor to 5.9m on the upper floor, which is greater than the spacing previously approved by VCAT under PP278/2008 for five dwellings and five lot subdivision. In conjunction with the boundary setback and the appropriate use of coastal materials, it is considered that the overall design would present as a contemporary response that positively responds to the low scale coastal neighbourhood character of the immediate and surrounding area, being not too dissimilar to the overall bulk and mass of the five dwellings supported by VCAT on 16 March 2010. The recessed built form with stepped upper level would allow for views of the western and northern Otway foot hillside backdrop to be maintained.

It is accepted that, within the VCAT Order dated 17 August 2012 for twelve dwellings and a twelve lot subdivision (when the Council's refusal was upheld), the Member was critical of the design response and, in particular, the fact the design of the development which had not been recessed at the top most level from that below. This earlier proposal presented significant bulk at all levels and, within all three blocks, articulation was limited and overall the proposal was not reflective of the underlying coastal character. In that case, the bulk at lower level was translated to the upper levels creating a top heavy appearance and, consequently, a design and mass that was not conducive with the neighbourhood character. The development proposed under the current application is considered to present a significantly lighter built form, particularly at upper level, which incorporates appropriate coastal design elements.

The neighbourhood character statement highlights the open expansive nature of front grassed setbacks with 'occasional coastal shrubs'. A landscaping plan was not submitted as part of this application.

The VCAT decision dated 16 March 2010 notes that “to plant tall shrubs or canopy vegetation at this site would be in contrast to the existing character, its coastal location and would detract from the dramatic feature of the cypresses”, which present as part of the significant northern entrance to the Township. Whilst there are landscaping constraints on the site, a permit condition has been recommended within this report for a landscaping plan to be submitted which would allow for landscaping along the southern and eastern boundaries.

The proposed development would have a front setback from the Great Ocean Road ranging of 4.5m to 6.6m, which is greater than the setback approved by VCAT on 16 March 2010 which was 4.2m to 5.8m. At the time, the lesser setback was considered to be appropriate by VCAT, allowing for an open grassed expanse with low coastal shrubs to be provided to reflect the streetscape character along the entrance to the Township. It is considered that these comments remain relevant to the current proposal. The current proposal would also provide sufficient open space within the site to soften the built form with appropriate landscaping.

The development proposal would recess the built form back from the side boundaries and adopt a generally low scale built form consistent with the provisions of the overlay. The proposed buildings would be appropriately spaced to ensure views to the surrounding landscape are retained, whilst retaining suitable opportunities for landscaping along the site boundaries. This is different to the earlier VCAT refusal (PP112/2011), which noted that the substantial footprint of the development significantly limited and presented restricted opportunities for any meaningful landscaping on the site.

The proposal is considered to respond in a positive way to the underlying neighbourhood character of the surrounding area. The use of appropriate coastal materials and colours, in conjunction with the recessed upper levels and the separation of built form, would result in a design which is considered to be acceptable.

Residential Density

The Municipal Strategic Statement (Clauses 21.03-1 and 21.03-3) and the Schedule to the Design and Development Overlay are clear that this site is suitable for ‘medium density development’, and this should be encouraged and fostered through appropriate design. The Apollo Bay Structure Plan seeks to concentrate higher medium densities closer to the commercial node, with more traditional dwelling density in the residential areas further away from the town centre. The maps on page 63 and 71 of the Apollo Bay Structure Plan identify the land as being suitable for ‘infill development’ and land of a ‘higher density residential area’. Consideration must be given to whether the proposed eight dwellings would constitute a development that is too intensive for this location, given the coastal neighbourhood character and other matters applicable under the Planning Scheme provisions.

It is considered that the proposal constitutes medium-density housing, which has been designed to be compatible with the character of the existing established residential areas in terms of design, height, setbacks, and low level landscaping, whilst maintaining views of the surrounding Otway foothills. It is accepted that the strategic increase in density sought through policy and via the provisions of the Design and Development Overlay (DDO6) would result in some loss of private realm views. In this instance, the proposal is considered to maintain an appropriate balance to achieve an acceptable outcome.

Consideration must also be given to the earlier VCAT determinations. On 16 March 2010, VCAT approved five dwellings and a five lot subdivision on this site. On 17 August 2012, VCAT refused twelve dwellings and a twelve lot subdivision. In both instances VCAT reaffirmed that the development of the site for multi-dwellings would be consistent with the strategic vision for this part of Apollo Bay.

The density proposed in 2012 translated into an overdevelopment of the site. However, the development approved in 2010 presented a density and mass which was considered acceptable. The current proposal presents a density which it is considered could be appropriately accommodated on the site. It is considered that the proposal would result in medium density infill housing development located within walking distance of the commercial area of Apollo Bay, which ultimately reduces pressure to expand the boundary of the existing Township.

Amenity

Clause 55 of the Colac Otway Planning Scheme specifies a number of objectives and standards relating to the construction of two or more dwellings on a lot within the Residential 1 Zone. The standards should normally be met; the objectives must be met. With regard to the provisions of Clause 55, a separate detailed assessment has been undertaken and the proposal is considered to comply with the objectives, and generally comply with the specified standards.

At ground floor level the site would be enclosed by a 1.7-1.8m high fence and, as such, any potential for overlooking from this level is not considered to be an issue. With regard to overlooking from upper levels, it is noted that there are existing north-facing windows in dwellings at No. 181 Great Ocean Road; some of these windows are angled habitable windows. The proposal includes windows and balconies at first floor levels. To prevent overlooking to the secluded private open space and habitable room windows of adjacent dwellings and ensure compliance with the standards of Clause 55, the plans show suitable screens on the dwellings and show that windows would be obscured where necessary. Where screens and obscured glazing have not been added to windows, these windows are outside of the 9m overlooking arc specified within Clause 55.06-6.

With regard to overshadowing, the applicant has submitted shadow diagrams that demonstrate that, with the exception of the east (rear) end of the garden of 66 Pascoe Street and a small section of the garden to Unit 4, 181 Great Ocean Road, the proposal would not significantly overshadow the secluded private open space of adjacent dwellings. The overshadowing levels comply with the requirements of Clause 55.04-5, which seek to ensure that secluded private open space receives a minimum of five hours of sunlight between 9am and 3pm on 22 September.

Where practical, bedrooms would be located adjacent to bedrooms and potential noise generating rooms would be located away from bedrooms. The proposed dwellings have been designed with good natural light conditions, with living spaces facing north. Each proposed dwelling would benefit from private open space in the form of north-facing rear gardens and balconies at upper level. The area of garden private open space would vary from 27.8sqm to 50.9sqm. In addition to this space, secluded private open space is also proposed in the form of first floor balconies, ranging from 7.45sqm to 14.28. The proposal provides for a level of private open space for each unit in the range of 42.6sqm to 63.6sqm with balconies greater than 8qm being conveniently located adjacent to living areas. The proposed layout is considered to be acceptable and complies with the requirements of clause 55.05-4.

Clause 56 – Subdivision

The proposal is considered to comply with the provisions of Clause 56, which seek to create liveable and sustainable neighbourhoods, and urban places with character and identity. The proposal constitutes a residential subdivision that appropriately responds to the site and surrounds. Given that the proposal has been assessed in detail against the provisions of clause 55, a full assessment against the provisions in this particular instance is not considered necessary.

The clause 55 assessment has demonstrated that each dwelling could be appropriately accommodated on its lot, with sufficient parking and open space available for each unit. In this instance it is not considered necessary to tie the subdivision and development together through a Section 173 Agreement, because any alternate development proposal for any of the lots would trigger a requirement for a planning permit as the lot sizes would be less than 300sqm.

Creation of an access and subdivision adjacent RDZ1

VicRoads was consulted on this application and raised no objection subject to the inclusion of permit conditions. The new vehicular crossover and entrance to the Great Ocean Road is required to be at least 5m wide for a distance of 7m, and this has been shown on the submitted plans. The permit conditions provided have been included in the recommendation at the end of this report.

Council Plan/Other Strategies/Policy Leadership and Governance

Council will engage, plan and make decisions about land use and development that takes into account the regulatory role of Council, its diverse geography, social, community, economic and environmental impacts for current and future generations. It is considered that the proposal is in accordance with the above objective.

Financial & Other Resource Implications

This proposal raises no financial or resourcing implications for Council for the consideration of the planning application.

Risk Management & Compliance Issues

This proposal raises no risk management or compliance implications for Council.

Environmental Consideration/Climate Change

The site is currently a vacant parcel of land and sits at 4.5 metres AHD and is separated from the coastal foreshore by the Great Ocean Road. The proposal raises no major concerns in relation to climate change or future sea level rise.

Communication Strategy/Consultation Period

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

Conclusion

The proposal is considered to respond in a positive way to the underlying neighbourhood character of the immediate and surrounding area. The use of appropriate coastal materials and colours, in conjunction with the recessed articulated upper levels and the separation of built form, would present a design that is considered to be acceptable. The proposal complies with the provisions of clause 55 and clause 56 of the Planning Scheme ('ResCode'). The proposed development height is considered to be reflective of the surrounding single and double storey built form, with the overall mass reduced through recessed upper levels.

The Apollo Bay Structure Plan 2007 encourages higher built form within 400m of the commercial area of Apollo Bay and includes the application site within the 'Higher Density Residential Area'. VCAT has reaffirmed that the development of the site for multi-dwellings is considered consistent with the strategic vision for this part of Apollo Bay.

The proposal is considered to comply with the provisions of clauses 55 and 56 of the Colac Otway Planning Scheme.

Attachments

Nil

Recommendation(s)

That Council's Planning Committee resolves to issue a Notice of Decision to Grant Planning Permit PP4/2013-1 for the construction of eight (8) dwellings, the subdivision of the land into eight (8) lots and the creation of an access to Road Zone Category 1 at 183 Great Ocean Road, Apollo Bay subject to the following conditions:

Amended Plans

- 1. Prior to commencement of the development hereby permitted, 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 on 7 June 2013, but modified to show:***
 - a) Details of the location(s) of lighting within the common property.***
 - b) Details of waste management, including the location of bins towards the front of the site when awaiting collection from the Great Ocean Road.***
 - c) Details of the location and size of signage, or line-marking, to identify the visitor car parking space.***

- 2. Prior to certification of the plan of subdivision under the Subdivision Act 1988, 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 annotation 'Lot 9' removed and replaced with 'Common property' clearly depicted on the plan of subdivision.***
 - b) The common property amended to include areas for waste storage, mailboxes and/or meters, if required.***

DEVELOPMENT CONDITIONS

Endorsed Plan

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

Amenity

- 4. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
- 5. The lighting of the common property must be carried out in accordance with the details shown on the endorsed plans, to the satisfaction of the Responsible Authority.***

6. ***Prior to the initial occupation of any part of the development hereby permitted, the screens on balconies and windows (which must be no more than 25% transparent) must be installed, and any obscure glazed window must be fitted and permanently maintained with obscure glass, in accordance with the endorsed plans. The screens and windows must thereafter be maintained in accordance with the approved details, to the satisfaction of the Responsible Authority.***

Landscaping

7. ***Prior to commencement of the development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
 - a) ***details of surface finishes of pathways and driveways***
 - b) ***a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant***

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

8. ***Prior to occupation of the development or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be established and maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***

Drainage

9. ***All runoff from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***
10. ***Prior to the commencement of the development hereby permitted, details of a stormwater detention system designed by a qualified engineer must be submitted to and approved by the Responsible Authority. The design must provide for a maximum site discharge rate of 64 litres per second per hectare during the 10 year storm (10% AEP). The plan will, once approved, form part of the permit.***

Parking and Access

11. ***Prior to the occupation of the development, the area/s set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:-***
 - a) ***Constructed in accordance with the approved plans;***
 - b) ***Properly formed to such levels that they can be used in accordance with the plans;***
 - c) ***Drained;***
 - d) ***Line-marked to indicate each car space and all access lanes.***

12. ***Car spaces, access lanes and driveways, including the turning area marked on the plan, must be kept available for these purposes at all times, to the satisfaction of the Responsible Authority. The turning area and visitor parking space must be clearly signed to indicate its purpose.***

SUBDIVISION CONDITIONS

Endorsed Plans

13. ***The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

Easements

14. ***Prior to the certification of the plan of subdivision under the Subdivision Act 1988, all easements deemed necessary to protect existing or future drainage lines within the subject site, and any easements required between the subject site and the nominated legal point of discharge, must be created to the satisfaction of the Responsible Authority.***

Open Space Contribution

15. ***Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, the applicant or owner must pay to the Responsible Authority a cash contribution equivalent to five per cent of the site value of all land in the subdivision.***

Barwon Water Conditions

General

16. ***The owner shall create easements for Pipelines or Ancillary Purposes in Favour of Barwon Region Water Corporation over all existing and proposed sewers located within the subdivision. The width of these easements shall be 4.5 metres along the north boundary over the existing sewer main.***
17. ***The certified plan must create implied easements under Section 12 (2) of the Subdivision Act, over all proposed existing water and sewerage works within the subdivision.***
18. ***The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.***
19. ***The creation of an Owners Corporation to encumber all lots within the subdivision.***
20. ***Conditions contained in Barwon Water's consent to Build over or within 1.0 metre from a sewer main dated 29/1/2013 must be complied with.***

Water

21. ***The provision and installation of individual water services including meters to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all meters relative to the allotment boundaries, and its number(s), is to be submitted. Note that tapplings and services are not to be located under existing or proposed driveways.***
22. ***The provision of sub meters are required to services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all sub meters relative to the allotment boundaries, and its number(s), is to be submitted.***
23. ***The payment of New Customer Contributions for each additional lot created and/or each additional metered connection for water supply within the subdivision.***
24. ***An additional tapping(s) is to be supplied to service the proposed development. A dimensioned plan showing location of all new tapplings relative to the allotment boundaries, and its number(s), is to be submitted, where a meter is not being fitted. Note that tapplings and services are not to be located under existing or proposed driveways.***

Sewer

25. ***The provision of sewerage services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. Individual allotment house connection drains are to be provided for and extend into each allotment.***
26. ***The payment of New Customer Contributions for sewer for each additional lot created and/or each additional metered connection within the subdivision.***
27. ***Any existing house connection branch that is to be utilised for additional connections or altered to serve the development is to be CCTV inspected with the report and/or video submitted to Barwon Water for condition assessment. If it is deemed by Barwon Water that the branch is unsatisfactory for use, it is to be removed and replaced at the developer's expense. If the branch being replaced is greater than 4.0 metres deep, a new sewer manhole or maintenance shaft is to be constructed with the new branch connected to this structure. Also, any existing house connection drain that traverses through the proposed allotments shall be relocated so not to inhibit future development.***

Telstra Conditions

28. ***The owner of the land must enter into an agreement with:***
 - a) ***a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and***

- b) *a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*
29. *Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:*
- a) *a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and*
- b) *a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*

Powercor Conditions

30. *The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.*
31. *The applicant shall:-*
- a) *Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required.) In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.*
- b) *Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.*
- c) *Any buildings must comply with the clearances required by the Electricity Safety (Network Assets) Regulations.*
- d) *Any construction work must comply with Energy Safe Victoria's 'No Go Zone' rules.*
- e) *Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided.*

Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

- f) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of 'Powercor Australia Ltd' for 'Powerline Purposes' pursuant to Section 88 of the Electricity Industry Act 2000.**
- g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- i) Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**
- j) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.**

VicRoads Conditions

- 32. The new vehicular crossover and entrance to the Great Ocean Road shall be at least 5 metres wide for a distance of 7 metres to permit two way vehicle movements.**
- 33. The crossover and driveway are to be constructed to the satisfaction of the Roads Corporation (VicRoads) and the Responsible Authority prior to the commencement of the use.**

CFA Conditions

Hydrants

- 34. Operable hydrants, above or below ground must be provided to the satisfaction of CFA.**
- 35. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.**
- 36. Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority web site (www.cfa.vic.gov.au)**

Roads

- 37. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.**

38. **The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.**
39. **Roads must have a minimum trafficable width of:**
 - a) **5.5m if parking is prohibited on one or both sides of the road,**
 - b) **7.3m where parking is allowable on both sides of the road.**
40. **Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.**

Expiry

41. **This permit will expire if one of the following circumstances applies:**
 - a) **The development has not commenced within two (2) years of the date of this permit;**
 - b) **The plan of subdivision has not been certified within two (2) years of the date of this permit;**
 - c) **The development is not completed within four (4) years of the date of this permit;**
 - d) **A statement of compliance is not issued within five years of the date of certification.**

The Responsible Authority may extend the periods referred to if a request is made in writing within three (3) months of the date of expiry.

Notes

1. **The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply and sewerage services to the subdivision. It would be appreciated if all communication between the developer/agent and Barwon Water quote Barwon Water reference number L009883.**
2. **Prior to commencement of works, an application to undertake works within the road reserve must be submitted to and approved by the Council.**
3. **The applicant must give notice to the Responsible Authority of the installation of the stormwater detention system in compliance with the approved design, and must request an inspection and written approval by the Responsible Authority.**

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