



**Colac Otway  
SHIRE**

**AGENDA**

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

**12 FEBRUARY 2014**

**at 10:30 AM**

**COPACC Meeting Rooms**

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings. Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission. Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting..



**COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING**

**12 FEBRUARY 2014**

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NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in COPACC Meeting Rooms on 12 February 2014 at 10.30am.

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## **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.

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

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**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 15/01/14 and 29/1/14.**

**Recommendation**

***That Council confirm the above minutes.***

**OFFICERS' REPORTS**

**Sustainable Planning and Development**

PC141202-1 PLANNING AND BUILDING STATISTICAL REPORT  
PC141202-2 BUILDINGS AND WORKS COMPRISING THE INSTALLATION OF A  
POWERFAN AND SUPPORTING STRUCTURE AT THE OTWAY FLY,  
360 PHILLIPS TRACK, WEEAPROINAH (PP213/2013-1)

**Rob Small**  
**Chief Executive Officer**

**PC141202-1**

**PLANNING AND BUILDING STATISTICAL REPORT**

AUTHOR:	Tammy Kavanagh	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	F11/2683

**Summary**

This report provides statistics relating to the month of January 2014.

**Planning Statistics**

23 Planning Permit Applications were received for the period 1 January 2014 to 31 January 2014.

19 Planning Permit Applications were considered for the period 1 January 2014 to 31 January 2014.

**Building Statistics**

The Victorian Building Authority data has been updated to November 2013.

**Attachments**

1. Planning and Building Statistical Report - January 2014 - Agenda Copy

**Recommendation(s)**

***That Council's Planning Committee take note of the statistical report for January 2014.***

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PLANNING STATISTICAL REPORT – JANUARY 2014 – (DETERMINATIONS)

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                             | PROPOSAL                                                                                                                                                                                                                                                                                                                                              | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY                |
|--------------------|---------------|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|------------------------------------------|
| PP229/2011-2       | 5 JUN 2013    | 9 GIBSON AVENUE<br>KENNET RIVER                      | EXTENSION TO DWELLING                                                                                                                                                                                                                                                                                                                                 | 179            | 24 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP183/2013-1       | 13 AUG 2013   | 40 CALVERT STREET<br>COLAC                           | PARTIAL DEMOLITION AND BUILDINGS AND WORKS COMPRISING EXTENSION TO DWELLING                                                                                                                                                                                                                                                                           | 1              | 9 JAN 2014      | PERMIT ISSUED<br>DELEGATE                |
| PP200/2013-1       | 26 AUG 2013   | 725 CORANGAMITE<br>LAKE ROAD<br>CORAGULAC            | USE OF LAND FOR EDUCATION CENTRE WITH ASSOCIATED ACCOMMODATION, ASSOCIATED WORKS AND PARTIAL DEMOLITION                                                                                                                                                                                                                                               | 54             | 24 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP204/2013-1       | 28 AUG 2013   | 730 COLAC LAVERS<br>HILL ROAD<br>BARONGAROOK<br>WEST | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF REPLACEMENT SINGLE STOREY DWELLING                                                                                                                                                                                                                                                                     | 131            | 20 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP227/2013-1       | 9 OCT 2013    | 5 MAIN ROAD<br>GELLIBRAND                            | USE OF BUILDING AS A NEIGHBOURHOOD HOUSE                                                                                                                                                                                                                                                                                                              | 13             | 9 JAN 2014      | PERMIT ISSUED<br>DELEGATE                |
| PP259/2013-1       | 15 NOV 2013   | 307 ARMSTRONG<br>STREET ELLIMINYT                    | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF A DWELLING                                                                                                                                                                                                                                                                                             | 28             | 20 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP267/2013-1       | 6 DEC 2013    | 2445 COLAC<br>BALLARAT ROAD<br>WEERING               | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF AGRICULTURAL SHED                                                                                                                                                                                                                                                                                      | 43             | 24 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP272/2013-1       | 12 DEC 2013   | 28 MURRELL STREET<br>BIRREGURRA                      | BUILDINGS AND WORKS COMPRISING EXTENSION TO DWELLING                                                                                                                                                                                                                                                                                                  | 2              | 24 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP8/2014-1         | 13 JAN 2014   | 130 BIRREGURRA<br>YEODENE ROAD<br>YEODENE            | BUILDINGS AND WORKS COMPRISING THE REPLACEMENT OF A WINDOW                                                                                                                                                                                                                                                                                            | 9              | 22 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP154/2013-1       | 9 JUL 2013    | 20 MOORE STREET<br>APOLLO BAY                        | SUBDIVISION OF THE LAND INTO THREE (3) LOTS AND CONSTRUCTION OF THREE (3) DWELLINGS                                                                                                                                                                                                                                                                   | 169            | 8 JAN 2014      | NOTICE OF<br>DECISION ISSUED<br>DELEGATE |
| PP105/2013-1       | 5 MAY 2013    | 10 BREAKWATER<br>ROAD APOLLO BAY                     | USE AND DEVELOPMENT OF A PUBLIC DECK                                                                                                                                                                                                                                                                                                                  | 148            | 20 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |
| PP235/2013-1       | 16 OCT 2013   | 91-149 FOREST<br>STREET COLAC                        | BUILDINGS AND WORKS ASSOCIATED WITH A MILK PROCESSING FACILITY AND REDUCTION IN CAR PARKING REQUIREMENT                                                                                                                                                                                                                                               | 103            | 29 JAN 2013     | NOTICE OF<br>DECISION ISSUED<br>COUNCIL  |
| PP110/2013-1       | 20 MAY 2013   | 2-4 STATION STREET<br>FORREST                        | CONSTRUCTION OF CAR PARK, USE AND DEVELOPMENT OF LAND FOR A BEER GARDEN, USE OF PART OF THE LAND FOR A TAKEAWAY FOOD OUTLET, INCREASE IN LICENCED AREA, CONSTRUCTION OF AN ANCILLARY PLAYGROUND AREA, DISPLAY OF TWO (2) BUSINESS IDENTIFICATION SIGNS, WAIVER OF THE LOADING AND UNLOADING REQUIREMENTS AND REDUCTION IN THE CAR PARKING REQUIREMENT | 83             | 29 JAN 2014     | NOTICE OF<br>DECISION ISSUED<br>COUNCIL  |
| PP216/2013-1       | 16 SEP 2013   | 21 MITCHELL GROVE<br>SEPARATION CREEK                | BUILDINGS AND WORKS COMPRISING BALCONY EXTENSION                                                                                                                                                                                                                                                                                                      | 61             | 30 JAN 2014     | PERMIT ISSUED<br>DELEGATE                |

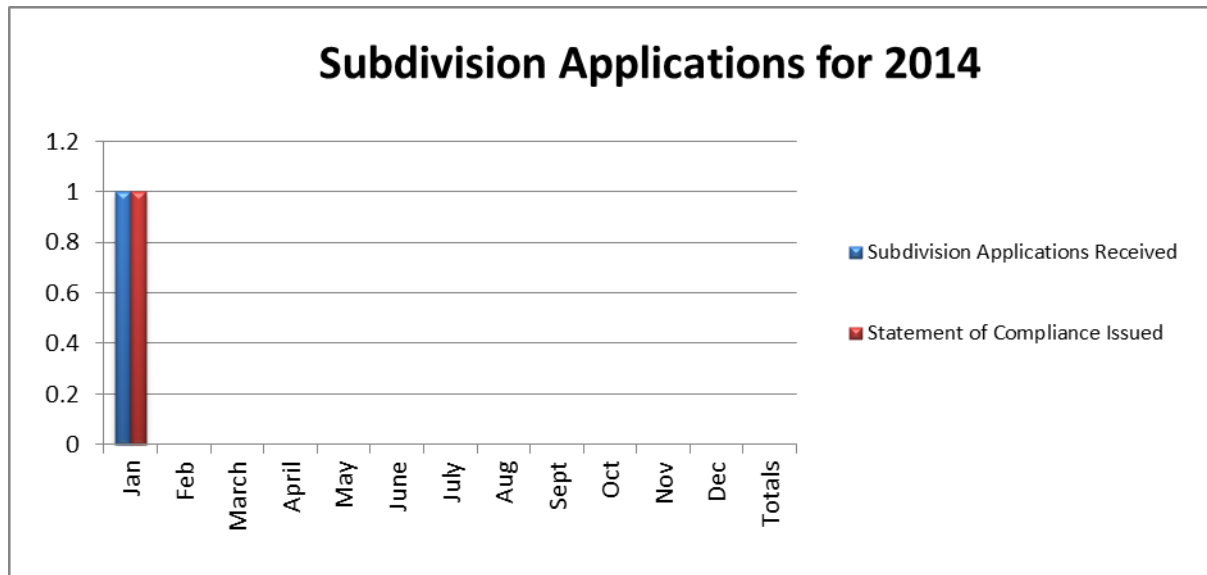
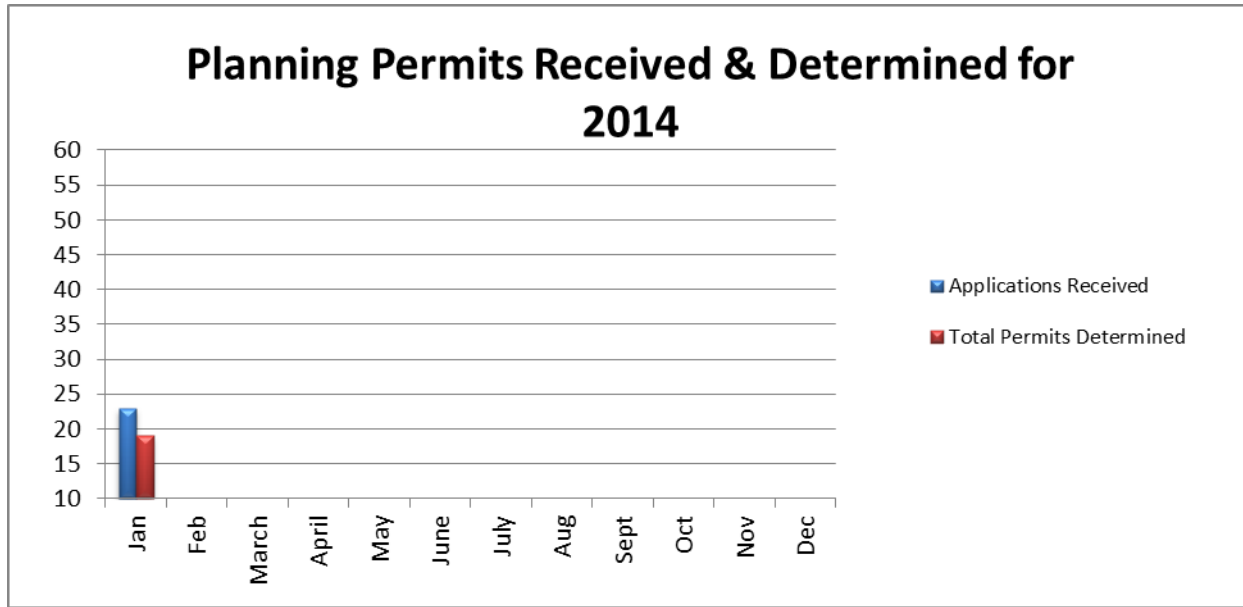
| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                 | PROPOSAL                                     | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY |
|--------------------|---------------|------------------------------------------|----------------------------------------------|----------------|-----------------|---------------------------|
| PP56/2013-1        | 20 MAR 2013   | 630 & 660 CARLISLE ROAD IRREWILLIPE EAST | RE-SUBDIVISION OF THE LAND INTO TWO (2) LOTS | 238            | 31 JAN 2014     | PERMIT ISSUED DELEGATE    |

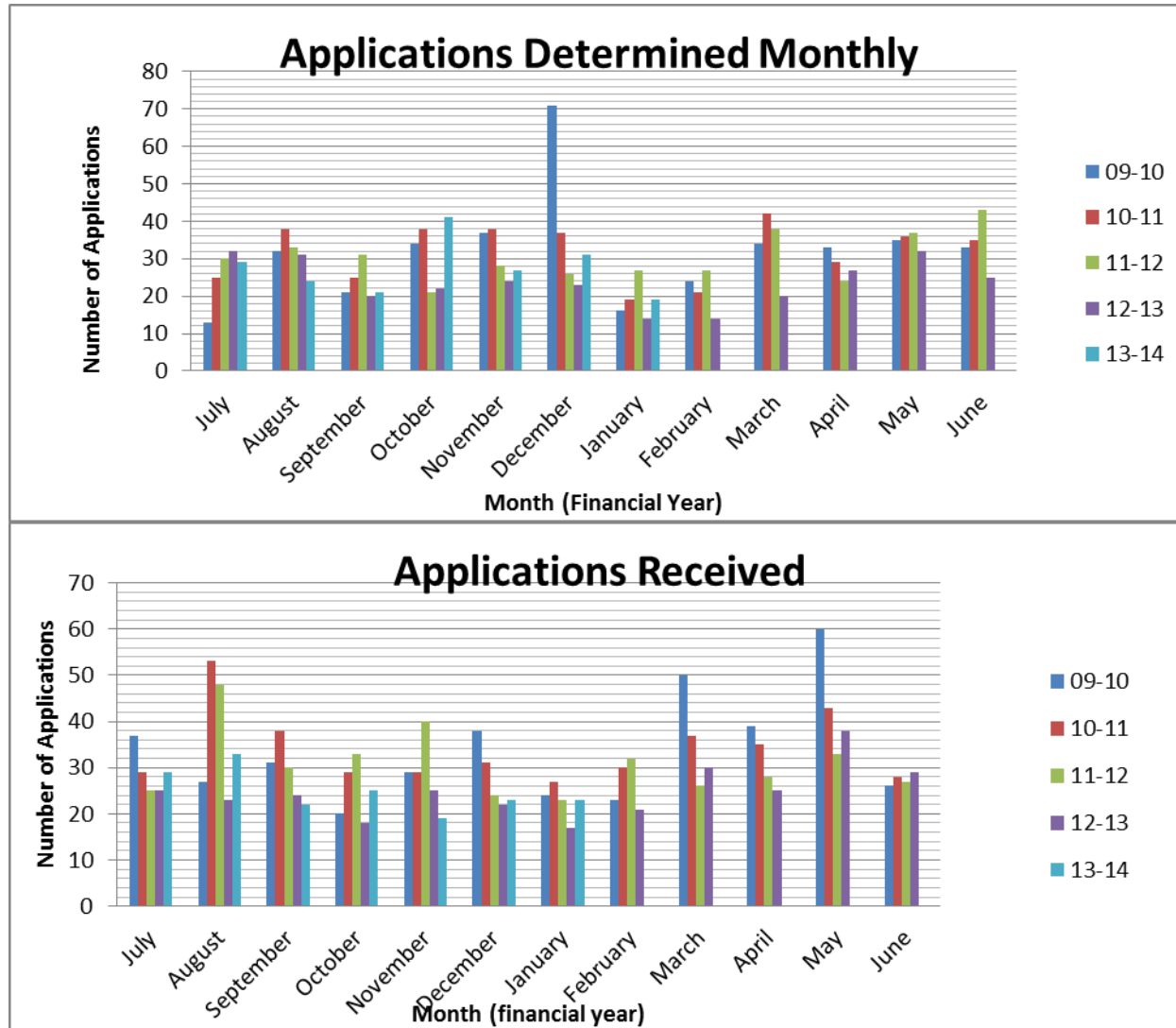
|                                                           |           |  |  |
|-----------------------------------------------------------|-----------|--|--|
| AVERAGE STATUTORY DAYS TO DETERMINE PLANNING APPLICATIONS | <b>84</b> |  |  |
|-----------------------------------------------------------|-----------|--|--|

**PLANNING STATISTICAL REPORT – JANUARY 2014 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

| APPLICATION NUMBER                              | DATE RECEIVED | LOCATION                       | PROPOSAL                                                                                                                                                     | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY |
|-------------------------------------------------|---------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|---------------------------|
| PP359/2010-3                                    | 1 AUG 2013    | 416 PRINCES HIGHWAY COLAC WEST | DEVELOPMENT OF THE LAND COMPRISING THE CONSTRUCTION OF A BUILDING AND WORKS TO BE USED FOR TRADE SUPPLIES AND THE DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE | 0              | 15 JAN 2014     | LAPSED                    |
| PP243/2013-1                                    | 28 OCT 2013   | 160 MURRAY STREET COLAC        | SIGNAGE                                                                                                                                                      | 0              | 2 JAN 2014      | LAPSED                    |
| PP266/2013-1                                    | 4 DEC 2013    | 15 PHILLIPS TRACK FERGUSON     | REMOVAL OF SIXTY ONE (61) NATIVE TREES                                                                                                                       | 4              | 17 JAN 2014     | PERMIT NOT REQUIRED       |
| PP252/2013-1                                    | 8 NOV 2013    | 45 MORLEY AVENUE WYE RIVER     | BUILDINGS AND WORKS COMPRISING EXTENSION TO DWELLING                                                                                                         | 0              | 21 JAN 2014     | LAPSED                    |
| TOTAL AVERAGE STATUTORY DAYS (ALL APPLICATIONS) |               |                                |                                                                                                                                                              | <b>67</b>      |                 |                           |

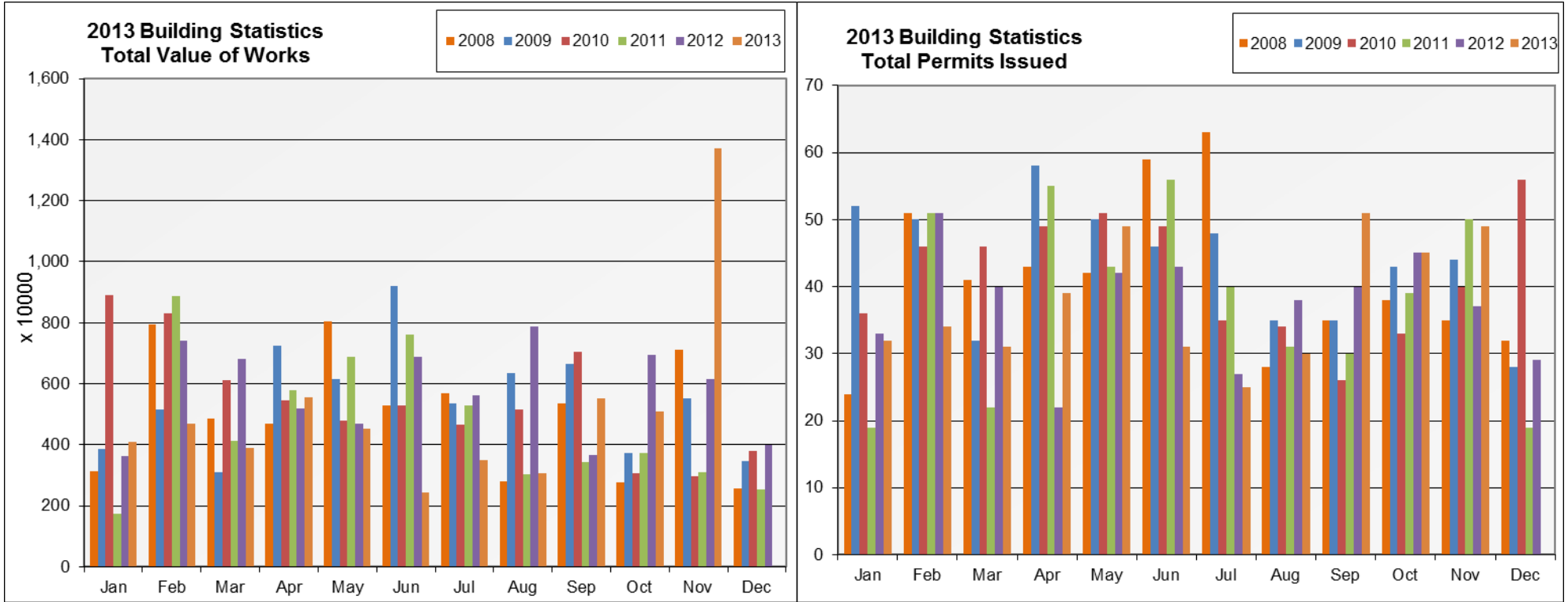






|               | Domestic   |                   | Residential* |                  | Commercial |                  | Retail   |                  | Industrial |                  | Hospital/HealthCare |            | Public Buildings |                   | Municipal Totals |                   |
|---------------|------------|-------------------|--------------|------------------|------------|------------------|----------|------------------|------------|------------------|---------------------|------------|------------------|-------------------|------------------|-------------------|
|               | 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           | 31         | 3,658,781         | 1            | 1,400,419        | 3          | 256,200          | 1        | 29,000           | 1          | 150,000          | 0                   | 0          | 2                | 61,400            | 39               | 5,555,800         |
| May           | 38         | 3,559,921         | 2            | 463,410          | 6          | 228,823          | 0        | 0                | 0          | 0                | 0                   | 0          | 3                | 290,000           | 49               | 4,542,154         |
| Jun           | 20         | 1,578,822         | 2            | 353,483          | 6          | 214,810          | 2        | 246,420          | 0          | 0                | 0                   | 0          | 1                | 30,000            | 31               | 2,423,535         |
| Jul           | 21         | 2,399,630         | 1            | 55,000           | 3          | 1,060,000        | 0        | 0                | 0          | 0                | 0                   | 0          | 0                | 0                 | 25               | 3,514,630         |
| Aug           | 24         | 2,822,638         | 0            | 0                | 4          | 108,579          | 0        | 0                | 1          | 120,000          | 0                   | 0          | 1                | 6,610             | 30               | 3,057,827         |
| Sep           | 38         | 4,145,589         | 0            | 0                | 3          | 76,350           | 2        | 305,500          | 1          | 30,000           | 0                   | 0          | 7                | 980,624           | 51               | 5,538,063         |
| Oct           | 38         | 4,352,741         | 0            | 0                | 3          | 174,344          | 0        | 0                | 3          | 560,000          | 0                   | 0          | 1                | 17,200            | 45               | 5,104,285         |
| Nov           | 41         | 4,243,820         | 0            | 0                | 3          | 116,757          | 1        | 500,000          | 1          | 33,762           | 0                   | 0          | 3                | 8,834,626         | 49               | 13,728,965        |
| Dec           |            |                   |              |                  |            |                  |          |                  |            |                  |                     |            |                  |                   |                  |                   |
| <b>Totals</b> | <b>329</b> | <b>37,993,167</b> | <b>7</b>     | <b>2,553,241</b> | <b>40</b>  | <b>2,867,305</b> | <b>8</b> | <b>1,151,920</b> | <b>9</b>   | <b>1,083,507</b> | <b>0</b>            | <b>0</b>   | <b>23</b>        | <b>10,516,275</b> | <b>416</b>       | <b>56,165,415</b> |

\*Multi-Development



**PC141202-2 BUILDINGS AND WORKS COMPRISING THE  
INSTALLATION OF A POWERFAN AND SUPPORTING  
STRUCTURE AT THE OTWAY FLY, 360 PHILLIPS TRACK,  
WEEAPROINAH (PP213/2013-1)**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Helen Evans                           | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | F13/8032   |

**Location:** 360 Phillips Track Weeaproinah

**Zoning:** Farming Zone

**Overlay controls:** Bushfire Management Overlay (BMO)  
Erosion Management Overlay Schedule 1 (EMO1)

**Proposed Amendments:** C70 (VPO1 & ESO4). There are no implications for the proposal arising from the amendment.

**Purpose:**

This application seeks planning permission for the erection of a 16m high pole with elevated platform and powerfan which would provide a free-fall experience at the Otway Fly, 360 Phillips Track, Weeaproinah. The proposed development as a whole is known as a 'Powerfan'.

This application is before the Council for consideration as the proposed pole structure associated with the free-fall activity would exceed 8 metres in height.

**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 associated with a proposed free-fall experience at the Otway Fly. The proposed structure would comprise a pole with elevated platform and a powerfan. The powerfan is a highly engineered machine that is able to provide a free-fall adventure without the need to deploy a parachute or bungee strap.
- The structure would be a maximum of 16 metres in height and would be located on cleared land between the existing visitor car park and the visitor centre, the walking track and the vehicular access track at the Otway Fly. The proposed development would require no vegetation removal.
- Public notice of the application was given and one objection was received. Concerns were raised about the potential for an increase in noise levels and the impact on visual amenity.
- It is considered that due to the topography, existing and proposed landscaping, and the distance to the nearest residence, the proposed structure would not have a significant impact on the character of the area or the amenity of any nearby property.

- The subject site is within the Farming Zone, but is not suitable for conventional agricultural activities given its steep slopes and dense vegetation cover.
- The Otway Fly is a major tourist activity in the region, located on 80 hectares of heavily vegetated forested land in the Otway Ranges. The applicant has advised that the proposed activity is intended to complement the existing tree top walk and zip line canopy tour, while providing an alternate recreational activity that would have low impact on the existing natural environment. This proposed activity would assist in diversifying the activities on offer and allow the Otway Fly to maintain its status as an important tourism operator in the Colac Otway region.
- It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions.

### **Background**

On 8 October 2002, planning permission (ref. PP204/2002) was granted at the subject site for the construction of a canopy walkway and supporting infrastructure, a visitor interpretation centre/café and associated liquor licence, signage and a three (3) lot re-subdivision, plus the creation of a carriageway easement.

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

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

On 14 July 2010, the Planning Committee granted permission for the installation of a zip line canopy tour, practice simulator, vegetation removal and an extension to the existing visitor centre building (ref. PP104/2010). The permit required the owner to enter into a s173 Agreement, which is now on the title, relating to a native vegetation offset.

### **Issues / Options**

Council has the options 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 proposal are whether any potential visual and other amenity impacts associated with the development would be acceptable in this area, including whether the proposed height above 8 metres could be allowed.

It is recommended that Option a) is supported for the reasons outlined below in the report.

### **Proposal**

The application seeks a permit to install and operate a structure associated with a free-fall activity, comprising a pole with elevated platform and powerfan, at the Otway Fly. As noted above, the powerfan is a machine that is able to provide the free-fall adventure without the need to deploy a parachute or bungee strap. In accordance with the description in the submitted application, the proposed structure as a whole (including the supporting structure of the pole and platform) is referred to as the proposed 'Powerfan' in the remainder of this report.

The proposed Powerfan is a single arm structure with a maximum overall height of 16 metres, and with a drop platform located at a height of 13 metres. Safety handrails would be positioned above the platform. The bracket on which the Powerfan would be located would be two metres above the platform.

It is proposed to locate the Powerfan in the eastern section of lot 1, between two strips of planted native vegetation and approximately 194 metres from the eastern boundary and 75 metres from the northern boundary. This siting would position the proposed Powerfan between the walking track and the vehicular access track and between the car park and the visitor centre.

The proposal would require two additional members of staff. Existing storage and ticketing facilities would be used for the proposed new attraction. It is not proposed to alter the current hours of operation of the site, which is open 9am-5pm.

The proposed activity would entail participants:

- Booking the activity online or walk-in;
- Registering for the activity when arriving at the booking office in the visitor centre;
- Being taken to a fit out area and harnessed into a full body harness and receiving training and briefings about what to expect from the activity as well as safety requirements;
- Each participant then being hooked onto the pole by a trained guide and climbing the pole to the 13 metre high platform. The participant would be met by another trained guide who would ensure that the participant is correctly attached to the Powerfan and understands the requirements for safety. The participant would then step from the platform to free-fall to the point of the belay system halting the fall, landing safely on the ground.

It is envisaged that the new Powerfan activity would increase patronage numbers to the site by 9000 per year or 10% of the annual visitation.

The applicant has advised that visitation numbers have slowly decreased over the years and the forecast number of visitors in 2014 is 110,000, which equates to 42% less than the peak visitation in 2004-2005. Consequently, the applicant maintains that no additional facilities or car parking would be required to facilitate the new activity.

### **Site & Surrounds**

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

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

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

Neighbouring land use is a mix of agriculture to the north and east, native forest to the west and a rural residence to the south.

### **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. The public notice was undertaken by the applicant. The applicant has provided a Statutory Declaration in relation to the notification. It is considered that the advertising has been carried out in accordance with Council's requirements. At the conclusion of the notification period, two (2) objections were received. One of these has since been withdrawn, leaving one (1) outstanding objection to the application. The basis of the objection is summarised as follows:

- a) *The proposed structure could be visible from the southern and highest part of our property (at 370 Phillips Track) and also from Phillips Track.*
- b) *Concerned that the noise coming from adrenalin driven activity such as this free fall simulation activity could interrupt our peaceful enjoyment of our residence.*

The objector suggested a condition that could be placed on any permit issued requiring that:

*A dense vegetation area should be established and maintained between the car park and allotment 28C (370 Phillips Track) in continuation of the existing vegetation strip lower towards the forest. The purpose of this revegetation is to create visual screening as well as a sound buffer. This could be achieved with two rows of indigenous shrubs (i.e. Hazel Pomaderos, Sweet Bursaria, Prickly Tea-tree).*

The objector stated that if this condition formed part of the permit conditions, he would no longer have any objection to the proposal.

A copy of the objection was forwarded to the applicant for consideration. The applicant has agreed to plant trees along the southern end of the car park to supplement the existing trees.

Council officers have investigated the potential for landscaping between the two properties and noted that there is an unused government road reserve located between the subject site and the objector's property. This unused road reserve is leased by the objector and is roughly 10 metres wide. The amount of space between the southern car park pavement on the subject site and the unused road reserve is only 2 metres (this distance is based upon the current fence line and has not been surveyed). This means that the only opportunity for the applicant to provide landscaping to satisfy the objector's concerns is within these 2 metres. Permit conditions cannot impose requirements to landscape areas that are outside an applicant's control or set aside as unused road reserve. The objector was therefore advised that the Council cannot impose permit conditions relating to the neighbouring land.

The location from which the objector states that the Powerfan would be visible is at least 660 metres from the proposed Powerfan, and is also at least 180 metres from the objector's residence. This location, which is around the 480 metre contour, could not be considered as part of the open/recreational space generally associated with a dwelling. It appears that the Powerfan would also be placed along the 480 metre contour.



As the Powerfan structure would be 16 metres high, it is possible that the top of the Powerfan may be visible from this location. However, given that the surrounding vegetation is currently approximately 15 metres in height and the top of the ridge behind the Powerfan is 495 metres (when looking north), it is considered that a proposed strip of vegetation/landscaping along the northern boundary of the subject site would provide an adequate backdrop to screen any potential siting of the Powerfan. This would also alleviate any potential visual impact when travelling south along Phillips Track.

The objector's residence is sited at around the 460m contour, which is much lower in the valley, and it is likely the Powerfan would not be visible from the dwelling due to established vegetation and the topography between the two locations. Even if some view could be obtained, it is considered that these would be at such a distance that a refusal of the proposal on such grounds could not reasonably be substantiated.

On balance, it is not considered that the proposed Powerfan would detract from the visual amenity enjoyed by surrounding properties due to the proposed landscaping, existing vegetation and the topography. If the Powerfan is visible, it would only be the top section of the Powerfan that would be seen, which would comprise a steel arm and pulley system (rather than a solid structure or large building). Appropriate permit conditions relating to the landscaping are included in the recommendation at the end of this report.

### **Referrals**

In accordance with Section 55 of the Planning and Environment Act, the application was referred to the Country Fire Authority (CFA). In addition, the application was referred internally to Council's Environmental Health, Building and Infrastructure departments. A summary of the responses received is provided below:

- The CFA has not raised any objection to the proposal subject to permit conditions, which have been included in the recommendation at the end of this report.
- Council's Infrastructure, Environmental Health and Building departments have not objected to the application.

### **Planning Controls**

The site is located within the Farming Zone (FZ) and is covered by the Bushfire Management Overlay (BMO) and Erosion Management Overlay Schedule 1 (EMO1).

A permit is required under the following provisions of the Planning Scheme.

- Clause 35.07-4 Buildings and works associated with a Section 2 use – Farming Zone
- Clause 44.01-1 Buildings and works – Erosion Management Overlay
- Clause 44.06-1 Buildings and works – Bushfire Management Overlay

#### 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 12.02-6 The Great Ocean Road region
- Clause 13.03-2 Erosion and Landslip
- Clause 13.05 Bushfire
- Clause 14.01-1 Protection of Agricultural Land
- Clause 17.03-1 Facilitating Tourism
- Clause 18.02-5 Car Parking
- Clause 21.03-1 General
- Clause 21.04-5 Erosion
- Clause 21.04-8 Landscape Character
- Clause 21.05-1 Agriculture
- Clause 21.05-4 Tourism

The proposal is considered to be consistent with the broader principles of the State and Local Planning Policy Frameworks. The land is not in agricultural use and therefore would not result in the loss or fragmentation of agricultural land or prejudice the purposes of the Farming Zone. The proposal seeks to improve an existing leisure and recreation use, and add value for the visitors to the region.

b. Zone Provisions

The key purpose of the **Farming Zone (FZ)** is:

- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

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

- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*

- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *Whether the use and development will require traffic management measures.*

The use of the site has evolved over the past decade and the existing use is best classified as 'leisure and recreation', being defined as *land used for leisure, recreation, or sport*. This is a section 2 use in the Farming Zone. It is considered that the proposed Powerfan would be ancillary to this existing use. A permit is therefore not required for use, but is required for building and works associated with a section 2 use.

c. Overlay Provisions

The site is covered by the **Bushfire Management Overlay (BMO)**. The purpose of this overlay is:

- *To assist to strengthen community resilience to bushfire.*
- *To identify areas where the bushfire hazard requires specified bushfire protection measures for subdivision and buildings and works to be implemented.*
- *To ensure that the location, design and construction of development considers the need to implement bushfire protection measures.*
- *To ensure development does not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.*

Under Clause 44.06-1, a permit is required to construct a building or construct or carry out works associated with leisure and recreation. An Emergency Management Plan was submitted as part of the application and forwarded to the CFA in accordance with Section 55 of the Planning and Environment Act 1987. The CFA raised no objection to the proposal subject to conditions which have been included in the recommendation at the end of this report.

The site is covered by the **Erosion Management Overlay Schedule 1 (EMO1)**. The purpose of this overlay is:

- *To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.*

Under Clause 44.01-1, a permit is required to construct a building or construct or carry out works.

d. Particular Provisions - Clause 52.06 Car Parking

The purpose of this clause is:

- *To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Prior to a new use commencing, the floor area or site area of an existing use being increased, or an existing use being increased by the measure specified in Column C of Table 1 in clause 52.06-5 for that use, the car parking spaces required under clause 52.06-5 must be provided on the land or as approved under clause 52.06-3 to the satisfaction of the responsible authority.

Clause 52.06-5A states that, where a use of land is not specified in the table to clause 52.06-5 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.

Under the provisions of Clause 52.06, there is no specified provision for leisure and recreation.

### **Consideration of the Proposal**

The various elements of the current application are considered below.

#### Existing use

The land has established existing use rights for leisure and recreation. The proposed Powerfan is also considered to be classed as leisure and recreation and therefore a permit is not required for the use.

#### Buildings and Works

The Powerfan would be sited to satisfy the minimum setbacks required for buildings and works with the Farming Zone. It is proposed to locate the Powerfan in the eastern section of lot 1, between two strips of planted native vegetation, approximately 194 metres from the eastern boundary and 75 metres from the northern boundary.

This siting would position the proposed Powerfan between the walking track and the vehicular access track and between the car park and the visitor centre. With landscaping proposed along the northern boundary of the site, it is considered that the Powerfan would not be highly visible from outside the site and therefore would not detract from scenic views of the area.

#### Visual Amenity

This issue has been discussed in detail in the 'Public Notice' section of this report. It is not considered that the proposed development would have a significant impact on the character of the area or the amenity of any nearby property.

### Bushfire

The applicant has submitted an Emergency Management Plan as part of the application. The application has been referred to the CFA, which has not raised any objections to the proposal subject to the inclusion of permit conditions which have been included in the recommendation at the end of this report.

### Landslip Risk

Under Clause 44.01-1, a permit is required to construct a building or construct or carry out works. A Geotechnical Assessment was submitted as part of the application and satisfactorily addresses the application requirements of the Erosion Management Overlay.

### Car Parking

Under the provisions of Clause 52.06, there is no specified provision for leisure and recreation and therefore car parking spaces must be provided to the satisfaction of the responsible authority.

The Otway Fly has three existing car parking areas providing a total of 260 car parking spaces. The main car park holds 210 cars, the bus and car/caravan parking area holds 5 coaches or 25 cars, and the disabled and wet weather car park holds 25 cars. There is also an overflow car parking facility available at the operations shed on site which is used for staff parking during peak periods.

In peak times, there can be 1,200 visitors per day. Based on previous years' visitor numbers, these peak days are generally only for 4-5 days and usually between 27-30 December and over Easter. Visitor numbers during the course of a day peaks between 11am and 2pm. During this 3 hour period there can be up to 675 visitors, with visitors spread between the Visitor Centre, the ground walks, the steel structure and the zip line. The applicant estimates that the Powerfan activity would add a further 30 visitors over this 3 hour period.

Based on the varied demographics of people travelling and visiting the site, it is expected that during the peak period the maximum number of car spaces used would be 232 spaces. Therefore it is considered that there is adequate car parking on site to cater for the additional attraction of the proposed Powerfan.

### Cultural Heritage

The site is not located within an area of cultural sensitivity and, as such, a Cultural Heritage Management Plan is not required for the works proposed under this application.

## **Council Plan / Other Strategies / Policy**

### **A Planned Future**

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

### **Our Goal:**

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

### **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**

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

**Communication Strategy / Consultation Period**

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

**Conclusion**

The proposal is considered acceptable in the context of the existing use of the land for leisure and recreation. The proposed Powerfan would complement the existing land use, which is considered to be a major tourist destination within the Shire. It is not considered that the proposal would cause any significant detriment to the character of the area or the amenity of the surrounding properties.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolves to issue a Notice of Decision to Grant a Planning Permit for Buildings and Works Comprising the Installation of a Powerfan and Supporting Structure at 360 Phillips Track Weeaprounah (PP213/2013-1) subject to the following conditions:***

**Amended plans**

- 1. Prior to commencement of the development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application, but modified to show:
  - a) *The elevation plan and site profile plan showing a single arm 13m Powerfan structure.****

**Endorsed Plans**

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

**Landscaping**

- 3. 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) *Landscaping located along the northern boundary, immediately south of easement E-1 on PS514788, 120 metres west of the eastern boundary for a length of 120 metres, providing a mix of indigenous native plants to provide an effective visual screen to a height of 5 metres.*
  - b) *Landscaping with indigenous native plants for a depth of 2 metres between the car park pavement and the southern boundary to provide an effective visual screen.****

- c) *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*

4. *Within three months of the commencement of the Powerfan activity, 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 be thereafter maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.*

#### General Amenity

5. *No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.*

#### Construction

6. *The approved development must be carried out on the site in accordance with the recommendations of the Geotechnical Assessment (Report ref.: ES13106 dated 5 June 2013, by 2020 Engineering Solutions) or any Geotechnical Practitioner engaged to review that assessment submitted with the application.*

#### CFA conditions

#### Defendable Space

7. *Before the operation of the attraction starts, and at all times thereafter, vegetation on the land must be maintained to at least the following standard:*

*Inner Zone – extending from the attraction to 10mts in all directions*

- a) *Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the attraction.*
- b) *Trees must not touch the attraction or other elements of it.*
- c) *Grass must be no more than 5 centimetres in height and all leaves and vegetation debris are to be removed at regular intervals.*
- d) *Shrubs must not be planted under trees and separated by at least 1.5 times their mature height.*
- e) *Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 per cent at maturity.*
- f) *Tree branches below 2 metres from ground level must be removed.*

**Mandatory Condition – Maintenance of Bushfire Mitigation Measures**

- 8. *The bushfire mitigation measures forming part of this permit or shown in the emergency management plan, including those relating to defensible space and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.*

**Expiry**

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

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six (6) months afterwards, or if the request for the extension of time is made within 12 months after the permit expires and the development started lawfully before the permit expired.*

**Notes**

- 1. *The applicant must ensure that none of the construction works affect, or are likely to affect, the operation of the effluent field that services the Otway Fly septic disposal system and should check with the EPA as to its exact location if necessary.*
- 2. *This permit does not authorise the commencement of any construction works. Prior to commencement of the development, it will be necessary to apply for and obtain any required building approval(s).*
- 3. *The CFA has advised that consideration be given to closing the tourist attraction on 'Extreme' rated fire danger days.*

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