

**Colac Otway Planning Scheme Amendment C111cola and
Planning Permit Application PP219/2020-1
Red Rock Regional Theatre and Gallery**

Correction to the Panel Report

Planning and Environment Act 1987

19 August 2022

Planning and Environment Act 1987

Correction to the Panel Report pursuant to section 25 of the PE Act

Colac Otway Planning Scheme Amendment C111.cola and Planning Permit Application PP219/2020-1

19 August 2022

A handwritten signature in blue ink, appearing to read 'Alison McFarlane', with a stylized flourish at the end.

Alison McFarlane, Chair

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Overview

Amendment summary

The Amendment	Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1
Common name	Red Rock Regional Theatre and Gallery
Brief description	<p>The Amendment proposes to rezone part of the land at 30 Factory Road, Cororooke from Farming Zone to Township Zone.</p> <p>The Amendment is accompanied by Planning Permit Application PP219/2020-1 applying to 520 Corangamite Lake Road and 30 Factory Road and proposes to subdivide the land into three lots, extend and alter buildings and associated works, construct car parking and fencing, use the land as a food and drink premises (café) and for the sale and consumption of liquor (on-premises licence), temporary use of the land as a store (storage of tram), alter access to a Road in a Transport Zone 2, display signs and reduce bicycle parking requirements.</p>
Subject land	520 Corangamite Lake Road and 30 Factory Road, Cororooke
The Proponent	Andrew Beale of Red Rock Regional Theatre and Gallery
Planning Authority	Colac Otway Shire Council
Authorisation	5 November 2021
Exhibition	2 December 2021 to 21 January 2022

Panel process

The Panel	Alison McFarlane, Chair
Directions Hearing	28 April 2022 by video conference
Panel Hearing	14 June 2022 at Colac Otway Performing Arts Centre
Citation	Colac Otway PSA C111cola [2022] PPV
Date of Panel Report	29 July 2022
Date of Corrections Report –	19 August 2022

1 Correction

This report is to be read in conjunction with the Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1 Panel Report (the Panel Report) dated 29 July 2022.

1.1 Issues raised

Planning Panels Victoria received an email from Jason Schram on 7 August 2022, which is provided in Appendix A. In his email, Mr Schram raised the following issues:

- a number of procedural issues regarding how the Panel Hearings were conducted
- a number of mistakes and factual errors in the Panel Report.

1.2 Panel response

The Panel appointed to consider Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1 has reviewed these items and offers the following responses:

- The Panel accepts the distance separating the Dunlop dwelling and the eastern elevation of the tramcar building is not 300 metres. The correct distance is approximately 190 metres. The correct distance does not alter the Panel's conclusions at section 4.4 of the Panel Report.
- Other issues raised by Mr Schram do not require any changes to the Panel Report.

1.3 Revisions

Having considered the above, the Panel recommends that the Panel Report dated 29 July 2022 be changed to:

1. **Revision 1**
 - a) **In the 5th paragraph of Chapter 4.3 the distance that separates the Dunlop residence and the eastern elevation of the tram car building should be amended from "Over 300 metres" to "Approximately 190 metres".**

1.4 Notice to Submitters

As Council has made the Panel Report available to the public, it is to write to all submitters and advise them of the Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1 Corrections Report dated 19 August 2022.

Appendix A Email from Jason Schram

Sent: Sunday, 7 August 2022 9:39 A
To: Adrian H Williams (DELWP)
Subject: Panel report for C111 cola

Hello Adrian

I write this email to express the disappointment of the panel report into the combined amendment and planning permit C111 cola 30 Factory Rd & 520 Lake Corangamite Rd Cororooke.

The report itself is factually incorrect and when using these incorrect assessments to support the application we can't help but assume if the panel used the correct information presented and checked some of the things used to base their report the outcome would have been vastly different. The recommendation may have been to abandon the application or most likely at the very least impose stricter restrictions on the planning permit. Not only is the report, conclusions from the panel and the recommendations wrong and incorrectly assessed the process from the panel was not followed under the planning and environment act and clearly lent towards favouring the Colac Otway Shire.

Firstly the panel hearing was to be a public hearing so public could attend in person or via online capabilities. The hearing was not publicly advertised and no online services were available.

The elected Councillors were also not able to attend as the Colac Otway Shire sent them a link to attend remotely and this was cancelled last minute by the officers. A mobile phone was attempted to be used for one Councillor to listen but this failed. There was also no recording made of the hearing when established the public had not been invited to attend nor 6 of the 7 Councillors as one was in town that day and attended when told on the day the remote services were not available.

The second failure was Council missed the deadline set out in the direction from the panel to submit a response by 12pm 30th June. The panel allowed the late submission to be considered then allowed the Council to make changes to that submission and submit it on the 6th of July.

The third was I was emailed by PPV stating we would be sent an email with a direction to when the hearing would be closed and accept no further material. We were not sent an email saying the panel had closed the hearing.

It was apparent the applicant had knowledge of this as he had a Facebook post quoting he had spoken to PPV and they had informed him a report would be sent to Council on July 29th which turned out to be correct.

The report itself.

In the Executive summary it says the Amendment is to accommodate the expansion of the theatre and gallery. This is incorrect. It is to build a new use restaurant and that adjoins the theatre and car park etc that is triggered by the new use. The theatre and gallery are remaining the same.

The privacy can't be protected with landscaping under the CFA bushfire requirements that canopies must be maintained to at least 2 metres apart.

Under Recommendations.

The amendment be adopted as exhibited. The exhibited amendment was proven to be wrong. So is it to be adopted as exhibited or as corrected?

1. Introduction.

The plans in figure 2 clearly have no deck at the rear. This was a major point to the objection and privacy etc. The deck was not exhibited, the CFA and all other could not comment on the deck, materials, location.

Yet the panel is allowing a deck to be built that looks directly over the Dunlop's property.

The figure in the plan for the new lot are 75.594m X 65m this adds up to 4913 m² not 4904m² as now the council are saying not 4274 m² as exhibited and not 4875m² as in Councils reply submission that the panel allowed them to change to 4904 m². Add any of these incorrect lot sizes to the existing lot of 2026m² and you still don't come up with the new proposed lot as exhibited of 6927m².

When surveyed there may be a discrepancy but on the exhibited plans a math calculation can not contain an error. That is a fact.

The panel states the fonterra factory closed in 2013. This is correct. It then states the site has not been used since for any formal purpose. The panel ignored, seeming deliberately, the facts and evidence provided in the hearing that the site is in full industrial operation and has been since 2018 by the Red Rock Winery. A letter was presented to the panel from the Red Rock Winery stating they have used the site since 2018 for their entire operation. Regardless of having a permit from Council to do so or not the facts presented to the panel are the site is in full operation.

In 1.2.

Reasons for the amendment. The panel states to restore an old tram. No where was this listed as a rezone to rezone land in the application or in the hearing. The only fact about the tram was the applicant said they would not use the tram as a green room but was to be used for exclusive, private dining as part of the restaurant.

In 1.5.

The Council tried to confirm the correct size was 4875m² This was in several of there replies including the reply after the deadline that was later accepted by the panel and then allowed to be changed 6 days later to the still incorrect size of 4904m².

1.6.

The panel did not properly consider all material presented during the hearing. It ignored key admissions presented by the applicant. For example the true intent of the trams use. Not a green room but a dining cart.

There have been several outdoor events including weddings in the past and the application states clearly the intent to hold future outdoor events, even if a new permit must be sort. I presented Colac Herald articles where the applicant has stated the new facility will be used for many outdoor theatre and entertainment events. The panel ignored the fact of the use of the factory site and also the admissions that the red rock winery will use the new facility as a cellar door. This is also stated in the letter signed by the owners of the winery. The

panel did not assess the impacts on the neighbouring property as it has not even checked the distance between the facility and the Dunlop's residence. The panel did not address the fact the the applicant owns the adjoining TZ land of which the new facility could be built on with out an amendment and of which over 5000m2 is vacant TZ.

3.3 the discussion.

As stated factually wrong. Regardless of a permit of not the factory is in full use. There have even been media articles about it's use. This whole statement therefor has been written based on an incorrect assessment and being a key part of the recommendations must be reassessed independently.

4.2

RRRTAG response amounts to nothing more than deliberate misinformation to deceive the panel. Unfortunately the panel by not fact checking anything and these untruths have been used by the panel to come op with the report and the recommendations. The Dunlop's is not over 300 metres away but closer to 190m. A huge difference in context.

4.3

Again the panel's assessment and recommendations are based on the incorrect assumptions that the residence is over 300m away. It is approx 190m. The residence at 500 Lake Congamite Rd is 150m away.

Speaking to her she was not notified by the council of the amendment and permit application which is a failure under the statutory requirements.

The screening planting first proposed may have led to the conclusion of this reducing the amenity impact but after the CFA submission the screening planting can't be achieved.

The panels assessment here is factually incorrect and very poor. This was the main area of objection and a proposal from the Dunlop's to exclude a deck as it was not exhibited was disregarded by the panel.

So Adrian, I look forward to a response regarding the poor quality and the assessment made by the panel based on incorrect information and materials ignored at the hearing as well as the process defects from the panel.

I understand that the report does not contain all information but mainly the key points to coming to its conclusion. I would hate to think how all excluded materials from the report were assessed or ignored or were completely wrong when there is so much wrong in the published report. As Council use the report to adopt and amendment a challenge is needed or a new hearing.

We would like another independent hearing to base a report on fact not fiction as is the case here. At this point we are considering challenging the process defects and the actual report in VCAT.

Thank you.

Jason Schram.

**Colac Otway Planning Scheme Amendment C111cola and
Planning Permit Application PP219/2020-1
Red Rock Regional Theatre and Gallery**

Panel Report

Planning and Environment Act 1987

29 July 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1

Red Rock Regional Theatre and Gallery

29 July 2022



Alison McFarlane, Chair

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Glossary and abbreviations

Amendment	Colac Otway Planning Scheme Amendment C111cola
CFA	Country Fire Authority
Council	Colac Otway Shire Council
EPA	Environment Protection Authority
MPS	Municipal Planning Strategy
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Colac Otway Planning Scheme
RRRTAG	Red Rock Regional Theatre and Gallery
Rural Land Strategy	Colac Otway Rural Land Strategy, 2007
Rural Living Strategy	Colac Otway Rural Living Strategy, 2011

Overview

Amendment summary

The Amendment	Colac Otway Planning Scheme Amendment C111cola and Planning Permit Application PP219/2020-1
Common name	Red Rock Regional Theatre and Gallery
Brief description	<p>The Amendment proposes to rezone part of the land at 30 Factory Road, Cororooke from Farming Zone to Township Zone.</p> <p>The Amendment is accompanied by Planning Permit Application PP219/2020-1 applying to 520 Corangamite Lake Road and 30 Factory Road and proposes to subdivide the land into three lots, extend and alter buildings and associated works, construct car parking and fencing, use the land as a food and drink premises (café) and for the sale and consumption of liquor (on-premises licence), temporary use of the land as a store (storage of tram), alter access to a Road in a Transport Zone 2, display signs and reduce bicycle parking requirements.</p>
Subject land	520 Corangamite Lake Road and 30 Factory Road, Cororooke
The Proponent	Andrew Beale of Red Rock Regional Theatre and Gallery
Planning Authority	Colac Otway Shire Council
Authorisation	5 November 2021
Exhibition	2 December 2021 to 21 January 2022
Submissions	Number of Submissions: 7 Opposed: 5 (2 later withdrawn)

Panel process

The Panel	Alison McFarlane, Chair
Directions Hearing	28 April 2022 by video conference
Panel Hearing	14 June 2022 at Colac Otway Performing Arts Centre
Site inspections	10 June 2022, accompanied
Parties to the Hearing	Refer Appendix B
Citation	Colac Otway PSA C111cola [2022] PPV
Date of this report	29 July 2022

Executive summary

The Red Rock Theatre and Gallery opened in 2011 in the former St David's Presbyterian Church in the small town of Cororooke, located eight kilometres north-west of Colac. The theatre and gallery are operated by a volunteer Committee of Management and host a variety of cultural and performing arts events, including live theatre, films, and exhibitions.

The purpose of Colac Otway Planning Scheme Amendment C111cola is to provide a single, consolidated site to accommodate an expansion of the theatre and gallery. The Amendment proposes to do this by rezoning part of the land at 30 Factory Road from Farming Zone to Township Zone.

The Amendment is accompanied by Planning Permit Application PP219/2020-1 that applies to the existing theatre and gallery site located at 520 Corangamite Lake Road and 30 Factory Road. The application proposes to subdivide the land to reflect the proposed new zone boundaries and to use and develop a café and artist's green room.

Key issues raised in submissions included:

- lack of policy support for the rezoning
- fragmentation of agricultural land and impact of the proposed use on existing farming activities
- opportunity for site to accommodate a wider range of uses in the future
- alternative options to upgrade buildings and associated infrastructure
- amenity and community impact of the liquor licence.

The Panel finds the modest expansion of the Township Zone for the purpose of expanding the theatre and galley is appropriate. The proposal is aligned with the strategic directions of the Colac Otway Planning Scheme which supports development of small towns through tourism and economic development responsive to environmental conditions.

It is appropriate to grant a planning permit for proposal, subject to conditions to manage potential amenity impacts on adjoining land, including by restricting hours of operation, external lighting and sound amplifications, and the areas where alcohol may be consumed. In addition to restrictions, privacy of adjoining dwellings will be protected through landscaping and restricting use of the proposed deck and grassed area for outdoor theatre events.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Amendment C111cola to the Colac Otway Planning Scheme be adopted as exhibited.**
- 2. Planning permit PP219/2020-1 be granted to allow the subdivision of the land at 30 Factory Road and 520 Corangamite Lake Road, Cororooke, into three lots, extension and alteration to buildings and associated works, construction of car parking and fencing, use of the land as a food and drink premises (café) and for the sale and consumption of liquor (on-premises licence), temporary use of the land as a store (storage of tram), alteration of access to a Road in a Transport Zone 2, display of signs and reduction of bicycle parking requirements subject to conditions in Appendix D.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Colac Otway Planning Scheme Amendment C111cola (the Amendment) is to provide a single, consolidated site to accommodate an expansion of the Red Rock Regional Theatre and Gallery (RRRTAG). The Amendment proposes to do this by rezoning part of the land at 30 Factory Road, Cororooke from Farming Zone to Township Zone (Figure 1, blue shading).

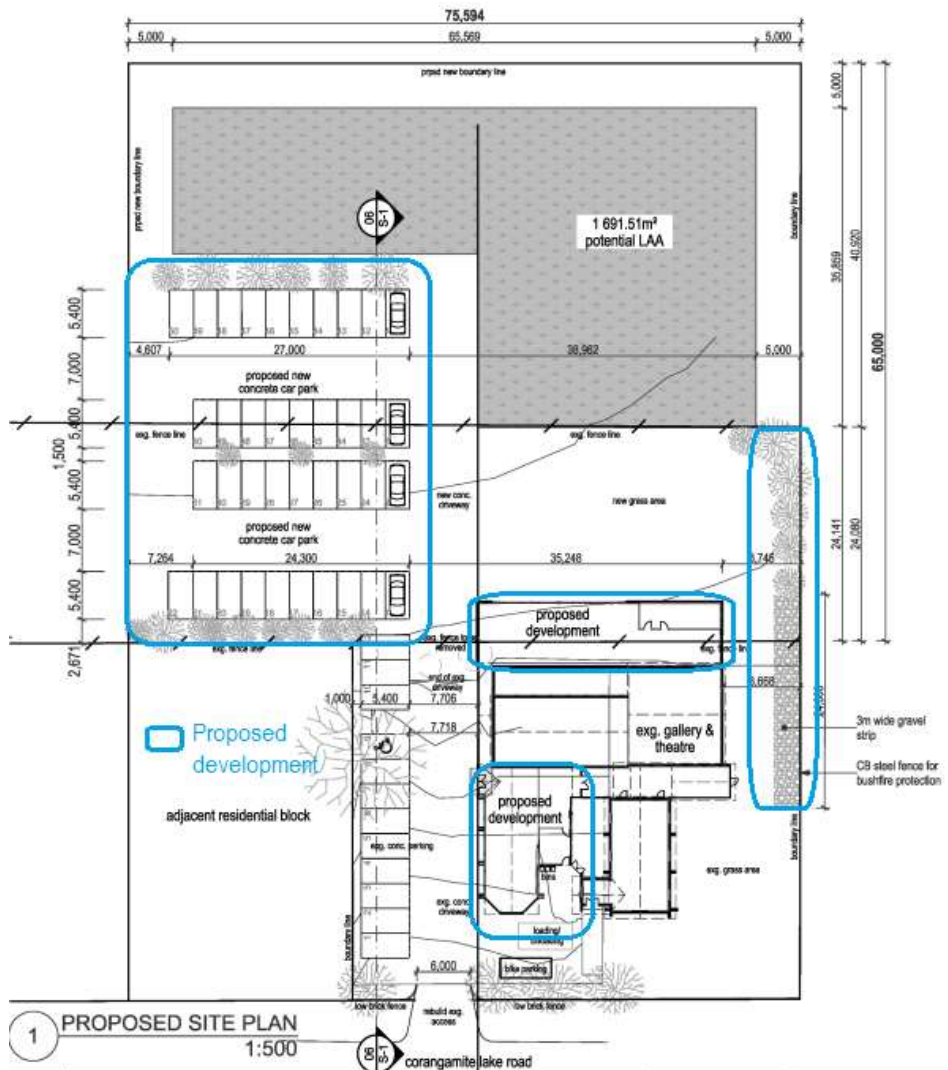
The Amendment is accompanied by Planning Permit Application PP219/2020-1 applying to the existing RRRTAG site at 520 Corangamite Lake Road and 30 Factory Road. The application proposes:

- to subdivide the land into three lots to create two lots in the Township Zone and a balance lot in the Farming Zone
- extend the existing building to accommodate a café/restaurant, with seating for up to 80 patrons across indoor and courtyard areas
- develop a shelter around a former W class tram which is proposed to be used as a 'green room' (Place of assembly). The shelter is to be connected to the other buildings via a walkway
- an on-premises liquor licence, in place of the temporary limited licences applied for previously. The licence would enable patrons to carry drinks into the gallery space and theatre and allow for liquor to be served for consumption on-premises at special events in the Red Line Plan licensed area
- a range of associated works including updating the existing signs, construction of drainage and wastewater systems, and the expansion of the car park from 18 to 50 spaces.

Figure 1: Amendment site



Figure 2: Proposed site plan



(ii) The subject land and surrounds

Figure 3 shows the location of the subject land and surrounds.

The Amendment applies to part of the land at 30 Factory Road, Cororooke. This land has an area of 36.7 hectares and is currently included in two zones, the majority of which is in the Farming Zone with a smaller area of 5,446 square metres fronting Corangamite Lake Road in the Township Zone. The Amendment proposed to rezone an additional 4,904 square metres of this lot to Township Zone.

The existing RRRTAG site at 520 Corangamite Lake Road is located at the southern entry of the Cororooke township. It has an area of 2,026 square metres, with existing buildings comprising the former St David’s Presbyterian Church and a later-constructed hall and amenities. The site is in the Township Zone. All of the site is included in Heritage Overlay HO166 and the Designated Bushfire Prone Area.

The RRRTAG site is adjoined to the north by a residential dwelling on a small lot (1,013 square metres), and rural land to the east, south and south-west. There are dwellings opposite the site within the Township Zone to the west, and a dwelling in the Farming Zone to the south at 500 Corangamite Road.

Further north of the site, on the northern side of Factory Road, is the former Fonterra milk factory. The factory ceased operation in 2013 and has not been used for any formal purpose since its closure.

Figure 3 Subject land and surrounds



1.2 Background

RRRTAG was founded in July 2011 by Andrew and Mary Beale in memory of their daughter Carolyn. It is operated by a volunteer Committee of Management and hosts a variety of cultural and performing arts events, including live theatre, films, and exhibitions.

Colac Otway Shire Council granted a Planning Permit for the use of the site as a 'Place of assembly' in 2011¹. The officer report on the application notes *"the proposed use assists in meeting the community's need for entertainment and community facilities. It also assists in further consolidating the use of a significant heritage building whilst increasing its long term viability"*.²

There are three primary reasons for the Amendment. The first is the requirement to accommodate wastewater treatment facilities in the same lot as the gallery and proposed café. The existing wastewater treatment system is aged and must be upgraded to meet demand

¹ A 'Place of assembly' is defined at Clause 73.03 of the Planning Scheme as *"Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings"*.

² Document 20.

generated by the proposal. There is insufficient area to accommodate an upgraded system within the bounds of 520 Corangamite Lake Road.

The second reason for the Amendment is to accommodate car parking required by the proposed use and development. The existing use is supported by 18 concrete car parking spaces located on the northern boundary of the site and there is no available site area to accommodate additional spaces.

The third reason for the Amendment is to achieve the restoration and public use of the historic W Class Tram gifted to the RRRTAG in 2019 by the Victorian government through VicTrack's Reinventing Trams Program. The tram was originally stored on the former Fonterra site, but has since been relocated to the rear of 520 Corangamite Lake Road. Retrospective permission to store the tram is sought by permit application accompanying the Amendment.

1.3 Site inspections

The Panel visited the subject site, adjoining land and the broader Cororooke area on 10 June 2022 and observed:

- the subject site
- surrounding environs, including the location of the former Fonterra factory
- the proposed location for the building extension, tram lounge, landscaping and car parking
- the proximity and views to the sites from the dwelling located at 480 Corangamite Lake Road.

The Panel was accompanied by Council representatives and the Proponent for its inspection of the Amendment and permit sites. The Panel was accompanied by Council representatives and representatives of submitters 2 and 7 for its inspections at 480 Corangamite Lake Road.

1.4 Summary of issues raised in submissions

Seven submissions were received from exhibition, of which:

- two were agency submissions from the Environment Protection Authority (EPA) and Country Fire Authority (CFA)
- five were community submissions.

Council advised that it worked with all submitters to resolve concerns raised. Two community submissions were withdrawn following changes to the draft permit. These submissions were not referred to the Panel.

While the EPA and CFA submissions were referred to the Panel, both confirmed in writing prior to the Hearing that their concerns had also been resolved through changes to the draft permit.

The key issues for three unresolved submissions were:

- lack of policy support for the rezoning
- fragmentation of agricultural land and impact of the proposed use on existing farming activities
- opportunity site to accommodate a wider range of uses once rezoned
- alternative options to upgrade buildings and associated infrastructure
- amenity and community impact of the liquor licence.

1.5 Procedural issues

During the Hearing, Council acknowledged the Plan of Subdivision exhibited with the Amendment incorrectly labelled the area to be rezoned as 4,274 square metres. Council later confirmed the correct area was 4,904 square metres. This was a significant issue for Mr and Mrs Dunlop who concluded the error should be fatal to the Amendment and Planning Permit Application progressing.

In response Council advised:

- the boundary dimensions on the exhibited plan should take precedence over the incorrect areas
- final boundary dimensions will be subject to a survey prior to certification of a plan of subdivision
- there is flexibility in the draft conditions that can accommodate any variation between the future survey plans and the plans referred to in the permit conditions
- the exhibited Amendment map showing the area to be rezoned is correct.

The Panel acknowledges that inaccurate documentation is frustrating for all parties participating in the Hearing process. Having reviewed the error and submissions received, the Panel is satisfied it does not change the issues requiring consideration.

The Dunlop submissions also suggested there was insufficient community consultation on the proposal. Council advised it followed the statutory notice requirements set out in the PE Act and allowed additional time for submissions to account for the Christmas period.

Ultimately, it is not the role of a Panel to make legal rulings about the validity or otherwise of an amendment or procedure. A person who is substantially and materially affected by a technical defect can refer the matter to the Victorian Civil and Administrative Tribunal for resolution.

1.6 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment and planning permit, observations from site visits, and submissions and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Amenity impacts of use and development
- Planning permit.

1.7 Limitations

Submitter 3 raised issues about the governance of the RRRTAG organisation. This is not relevant to the Amendment and has not been considered by the Panel.

2 Planning context

2.1 Planning policy framework

Various clauses in the Planning Policy Framework and Municipal Planning Strategy are relevant to the Amendment, which the Panel has summarised below.

Clause 11 (Settlement)

Clause 11.01-1S (Settlement) promotes the sustainable growth and development of Victoria through a network of settlements and seeks to ensure settlements are planned in accordance with their relevant regional growth plan and settlement boundaries are created and reinforced.

Regional strategies relevant to the Amendment at Clause 11.01-1R (Settlement – Geelong G21) require a settlement boundary for all towns and to “*protect critical agricultural land by directing growth to towns*”.

Local strategies relevant to the Amendment at Clause 11.01-1L (Settlement – Colac Otway) include encouraging townships to have a definitive visual edge, delineating the boundary between urban development and the natural landscape beyond. This clause also encourages development of smaller townships that contributes to their economic development, acknowledges and responds to environmental constraints and protects the broader landscapes within which these towns are located.

The objective of Clause 11.02-1S (Supply of urban land) is to ensure a sufficient supply of land for residential, commercial, retail, industrial, recreational, institutional and other community uses. The objective of Clause 11.02-2S (Structure planning) is to facilitate to the orderly development of urban areas.

Clause 11.03-6S (Regional and local places) seeks to facilitate place-based planning by integrating relevant planning considerations to provide specific direction for the planning of sites, place, neighbourhoods and towns.

Clause 12 (Environment and landscape values)

The objective of Clause 13.05-1S (Noise abatement) is to assist the control of noise effects on sensitive land uses. Relevant strategies are to ensure community amenity is not adversely impacted by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

The objective of Clause 13.07-1S (Land use compatibility) is to protect community amenity while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Clause 13 (Environmental risks and amenity)

The objectives of Clause 13.02-1S (Bushfire planning) is strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. This policy must be applied to all planning and decision making relating to land within the designated bushfire prone area or subject to a Bushfire Management Overlay.

Clause 14 (Natural resource management)

The objective of Clause 14.01 (Agriculture) is to protect the state's agricultural base by preserving productive farmland. For proposals to use, subdivide or development agricultural land it requires consideration of:

- desirability and impacts of removing the land from primary production, given its agricultural productivity.
- impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- compatibility between the proposed or likely development and the existing use of surrounding land.
- the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- land capability.

Clause 15 (Built environment and heritage)

The objective of Clause 15.01-2S (Building design) is to achieve building design outcomes that contribute positively to the local context and enhance the public realm.

Clause 15.03-1S (Heritage Conservation) supports the conservation of places of heritage significance. Relevant strategies at Clause 15.03-1L (Heritage conservation) are to encourage subdivision or consolidation that complements and supports the significance of heritage places and retain heritage places as significant components of the character and attractiveness of small towns.

Clause 17 (Economic development)

Clause 17.01-1L (Diversified economy) encourages the development of small-scale economic activity in small towns which complements the resources and industries of the region. Clause 17.01-1R (Diversified economy – Geelong G21) seeks to build on the region's competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.

The objective of Clause 17.02-1S (Business) is to encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

Clause 17.04-1S (Facilitating tourism) seeks to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. Relevant strategies at Clause 17.04-1L are to support tourism development and use that is at a scale that relates to the land size and surrounding uses.

Clause 18 (Transport)

The objective of Clause 18.02-4S (Roads) to facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure. Relevant strategies are to plan and adequate supply of car parking.

2.2 Other relevant planning strategies and policies

(i) G21 Regional Growth Plan

The *G21 Regional Growth Plan, 2021* provides broad direction for land use and development across the G21 region. Appendix B notes development in Cororooke should be limited to existing settlement boundaries with some minor growth consistent with the *Colac Otway Rural Living Strategy, 2011*.

(ii) Municipal Planning Strategy

The Municipal Planning Strategy vision at Clause 02.02 is:

- plan for growth in business and employment in towns and settlements.
- promote healthy, safe environments which enhance community life and wellbeing.
- manage infrastructure assets so they are sustainable for the long term.
- support long term sustainability.

The Strategic Framework Plan (Clause 02.04) (Figure 4) identifies Cororooke as a small town surrounded by farmland of strategic significance.

Figure 4: Colac Otway Shire Strategic Framework Plan



Clause 02.03-1 (Settlement) identifies Cororooke as one of a number of smaller towns with development opportunities that can improve their presentation, however effluent is recognised as a major problem. Council seeks to facilitate the development of small towns by:

Supporting tourism and rural lifestyle opportunities.

Protecting the local character of each town, particularly those located within the Otway Ranges.

Encouraging development to proceed in a manner that contributes to the economic development of these towns, responds to environmental constraints, and protects the broader landscape.

Strategies at Clause 02.03-6 (Economic development) promotes economic development and tourism by:

Encouraging employment focused use and development.

Supporting tourism that contributes to the economic growth of the Shire.

Managing tourism growth to protect the environmental and landscape assets that attract tourists and new residents.

Diversifying tourist attractions that result in all-year round activities.

(iii) Colac Otway Rural Living Strategy

The *Colac Otway Rural Living Strategy, 2011* (Rural Living Strategy) investigated the suitability of the Shire's small towns and villages, including Cororooke, for further residential development. Cororooke is identified as having moderate growth potential. Some small-scale expansion of the Township Zone is recommended to provide for demand and to consolidate community infrastructure. Cororooke is noted as being well serviced to accommodate growth and small growth is not expected to take up a significant amount of agricultural land.

Figure 5: Cororooke proposed settlement boundary and investigation area



Source: Rural Living Strategy modified by PPV

A long term investigation area for growth is identified to the west of Cororooke away from potential industrial interface conflicts with the (former) Fonterra factory (Figure 5). A structure plan is recommended to examine the capacity for infill development, assess effluent management issues and to investigate potential locations for expansion of the Township Zone.

The Rural Living Strategy is a background document to the Planning Scheme, introduced via Amendment C69 in 2013. The Panel notes it has informed much of the policy content referenced in Chapter 2.2(ii).

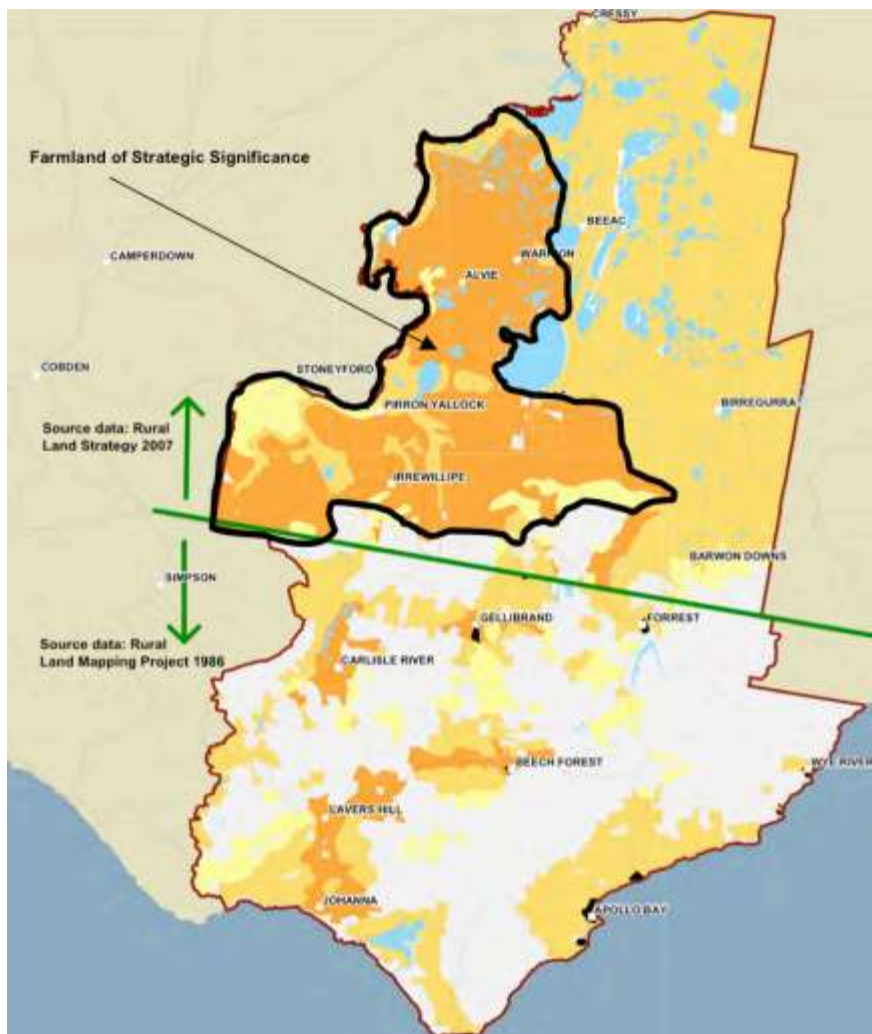
(iv) Colac Otway Rural Land Strategy

The *Colac Otway Rural Land Strategy, 2007* (Rural Land Strategy) identifies farmland of strategic significance based on areas of high quality agricultural land, the pattern of allotments and contribution to the local economy. The identified area includes the land surrounding Cororooke (refer Figure 6).

The Rural Land Strategy notes an increasing demand for rural lifestyle opportunities and low supply of Rural Living Zone land across the Colac Otway municipality, which has led to de facto rural living areas establishing in the Farming Zone.

The Rural Living strategy recommended Council prepare a Rural Living Strategy to investigate opportunities for rural residential development at Kawarren, Barongarook, Gellibrand, Forrest, Beech Forest, Lavers Hill and Elliminyt areas and other small towns across the Shire.

Figure 6: Farmland of Strategic Significance



The Rural Land Strategy is a background document to the Planning Scheme, introduced via Amendment C55 in 2009.

2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

(i) Zones

The Amendment land is currently in the Farming Zone. The relevant purposes of the Zone are:

- 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.

The Amendment land is proposed to be rezoned to Township Zone. The purposes of the Zone are:

- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

(ii) Overlays

The land permit land is included in a site-specific Heritage Overlay (HO166) applying to the (former) St David's Church. The purpose of the Heritage Overlay is:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

(iii) Particular and other provisions

Development of the site must have regard to the following particular and other provisions:

- Clause 52.06 Car parking
- Clause 52.27 Licensed premises
- Clause 52.29 Land adjacent to the Principal Road Network
- Clause 52.34 Bicycle facilities
- Clause 59.09 Signs.

(iv) Ministerial Directions and Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

In addition, council identified and responded to the other relevant Ministerial Directions and Planning Practice Notes as follows:

- the Amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* under Section 7(5) of the PE Act
- the Amendment addresses *Ministerial Direction No. 1 Potentially Contaminated Land, August 2021*. Council is satisfied the environment conditions of the land are suitable for the intended purpose
- the Amendment addresses *Ministerial Direction No. 19 Preparation and content of amendments that may significantly impact the environment, amenity and human health, October 2018* by having sought the views of the Environment Protection Authority (EPA) in relation to the use and development. The EPA has confirmed that the development represents a prescribed activity under the *Environment Protection Regulations 2021* (sewage treatment) and requested the inclusion of notes on the planning permit relating to regulatory approvals for the proposed wastewater system
- *Planning Practice Note 30 Potentially Contaminated Land, July 2021* was considered and informed assessment of the potential contamination of the site. The use of the land proposed by the application is not a sensitive use.

3 Strategic justification

3.1 The issue

The issue is whether the Amendment is strategically justified.

3.2 Submissions

Council submitted:

- Policies relating to agricultural land, if read in isolation, would discourage the proposed rezoning of land because it would result in a permanent loss of a small area of farmland.
- There is conflict in this instance between policies seeking to protect farmland from fragmentation and encroachments, and policies for employment and tourism.
- The Rural Land Strategy identifies the north-western quadrant of the shire (within which Cororooke is located) as farmland of strategic significance. This significance is a function of high agricultural capability (soil and rainfall) as well as larger lot sizes. Smaller lot sizes and existing sensitive uses within the adjoining township would prevent the subject land from being used for intensive scale agriculture.
- The Rural Living Strategy identifies Cororooke as having moderate growth potential given it is relatively less constrained than towns of equivalent size within the shire, and because it has a basic level of social infrastructure including town water, weekly waste collection, post office, recreation reserve, public hall and maternal child health centre. The Amendment aligns with the recommended outcomes of the Rural Living Strategy.
- The Amendment would not compromise or undermine any future structure planning envisaged in the Rural Living Strategy in any meaningful way. The strategy is proposed to be reviewed by Council within the next 2 years.
- The Amendment would achieve a planning purpose, being the provision of an appropriate wastewater treatment system and on site car parking.
- Rural Zones reforms from 2013 opened the list of discretionary uses in the Farming Zone to include 'Restaurant' and 'Place of assembly' meaning a permit could be sought under the existing zone configuration for the proposal.
- The obstacle to the development and use in this instance is the fact the subject land is in two zones and the zone provisions limit subdivision. A boundary realignment is needed to enable an upgrade of the onsite wastewater treatment system within a single lot, consistent with EPA requirements.

Council concluded when balancing the impact of lost agricultural land against the potential improvements of the rezoning, the Amendment would result in a net community benefit. It said:

... there is considered to be adequate policy guidance to support the rezoning as far as the rezoning is required to enable the proposed use, development and associated works to proceed. The rezoning would address a technical planning constraint – it would not itself fundamentally alter the character of the land or the development outcome sought and that which is considered otherwise appropriate. The rezoning of this relatively small piece of land, directly adjoining the township, would neither amount to a significant loss of agricultural land nor would it set a precedent given that there are specific reasons supporting the merits of the proposal.

Mr and Mrs Dunlop argued the Rural Living Strategy and Rural Land Strategy do not support the Amendment. They said the planning intent is to achieve population growth by consolidating

housing within township boundaries and any rezoning to expand boundaries should only occur in exceptional circumstances where a clear strategic justification has been established. They submitted:

What we have is a clear and direct set of policies, framework and guidelines that have come about through years of community engagement and adopted by the elected officials of the day, that state in black and white what can and cannot be rezoned.

...

Without doing a future growth plan for Cororooke how can Council state with certainty that this amendment won't impact the future growth of the town. It is at best an ad hoc approach to planning? The study must be done to allow natural justice and community input into the future growth of Cororooke.

The Planning Report prepared on behalf of RRRTAG noted the proposed café is intended to encourage tourism visitation and build on experiences offered by the theatre and gallery, consistent with tourism and economic development policies in the Planning Scheme.

3.3 Discussion

The Panel is not persuaded the Rural Living Strategy and Rural Land Strategy are so instructive in opposition to the Amendment that it should fail. The modest expansion of the Township Zone to achieve a specific outcome for a community facility aiming to broaden its appeal for tourism is, in the Panel's view, aligned with the outcome of the Rural Living Strategy to accommodate demand for, and consolidate community infrastructure. Importantly, it is consistent with the strategic directions of Clause 02.03-1 (Settlement) of the Municipal Planning Strategy which seek to facilitate development of small towns through tourism and economic development responsive to environmental conditions.

The Panel disagrees the proposal represents ad hoc planning, or the Amendment should be delayed while a structure plan is prepared and a town boundary is set for Cororooke. The Amendment site is logically connected to the Township Zone. Any future settlement boundary will need to tackle the environmental constraint presented by the depth of lots in the existing Township Zone, which has largely driven the Amendment.

Future expansion of Cororooke does not need to be limited to the investigation area identified in the Rural Living Strategy (Figure 5). This area was originally preferred because alternatives were constrained by buffers to the Fonterra factory. As the factory no longer operates and its existing use rights have lapsed, there is a new context for future use and development in the town.

The Amendment will result in the loss of a very small area of strategic agricultural land. The Rural Living Strategy acknowledges and accepts this will be a consequence of future development in Cororooke. The Panel has weighted this loss accordingly.

As with all planning matters, policy objectives must be balanced to determine what an appropriate outcome or decision is. In this case, the Panel finds the Amendment will result in a net community benefit by facilitating a modest expansion of a local enterprise that will continue to meet the community's need for entertainment and community facilities and broaden its appeal for tourism.

3.4 Conclusion and recommendation

The Panel concludes:

- The Amendment is supported by, and implements, the Planning Policy Framework and is strategically justified.

The Panel recommends:

- 1. Amendment C111cola to the Colac Otway Planning Scheme be adopted as exhibited.**

4 Amenity impacts of use and development

4.1 The issues

The issues are whether the:

- noise and light from the use would impact livestock and residential amenity
- privacy of residents in the adjoining dwelling would be reduced
- liquor licence arrangements are appropriate.

4.2 Evidence and submissions

Council submitted:

- Hours of operation of the existing theatre and gallery are not limited by permit conditions. The operating hours for the café would be formalised through permit conditions allowing the use until 10pm on Sunday to Thursday and 11pm on Friday and Saturday.
- Permit conditions would also restrict external lighting and sound amplification to avoid adverse impacts on adjoining properties. These conditions provide an appropriate level of protection to adjoining residents and livestock grazing on the land. They also enable Council to undertake enforcement action against the landowner for any nuisance caused to surrounding occupiers.
- Licensing as proposed is considered appropriate. The use is not a late night venue and no concerns have been raised by the Victoria Police following referral of the proposal. (The proposed licensed area is shown in Figure 7).
- Additional landscaping has been negotiated with the adjoining owners. The open Land Application Areas for wastewater treatment would need to be protected from access by persons, livestock or vehicles and therefore would function as a buffer to the adjoining land. These, combined with limits on use of outdoor spaces, will prevent privacy impacts.

Submissions from Mr and Mrs Dunlop noted:

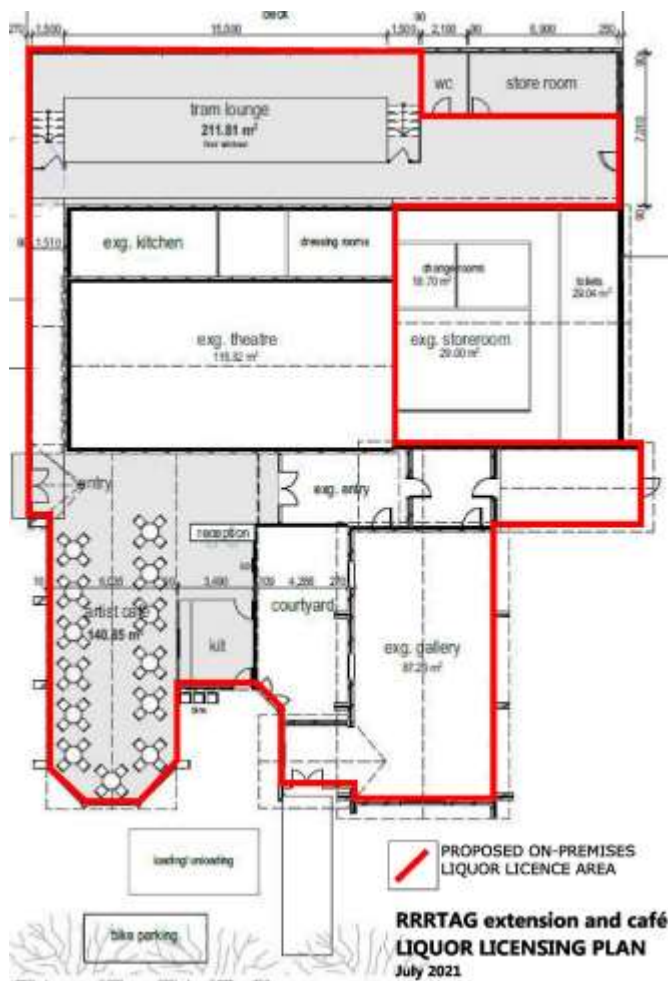
- There is an intention to intensify agricultural pursuits on the Dunlop land. The proposal is directly adjacent to a dry sheltered area suitable for animals at night when calving.
- The proposal will mean parts of the Dunlop adjacent to the rezoned area cannot be used for agriculture as the noise, lighting and human activity could cause the stress to stock. This will impact on the right to farm and the protection of significant farmland.
- There is an intent to use the rezoned area for outdoor entertainment. Permit conditions limiting outdoor theatre events do not exclude, for example, a band playing at a wedding.
- The seven-day operation is a complete change from the current theatre activity.

In response to concerns raised about the visibility of the permit site from the Dunlop land, RRRTAG submitted:

I note that currently and historically there is no natural screen between the Dunlop's and the back of the theatre building which has been in place since 1960. The view line to the theatre will be the same view line after the proposed building program except a natural screen will be planted to allow the Dunlop's extra privacy they don't currently have nor historically had. I also note that the Dunlop's house is some 300 metres from the theatre while our proposed project would bring the building 6 metres closer. I fail to see that this minor change would have any impact on the Dunlop's privacy, in fact, the planting of a screen as part of the project would somewhat improve their current situation.

RRRTAG also confirmed all past events at the theatre and gallery have been held indoors. It submitted it *“has no plans to hold outdoor entertainment”*.

Figure 7: Proposed licensed area



In response to questions from the Panel during the Hearing, both Council and the Dunlop’s confirmed there was no history of complaints about the existing theatre and gallery operations.

While strongly opposing the Amendment and permit, the Dunlop submissions put forward suggested conditions in the event the proposal was supported. These included at a minimum:

- deletion of the outdoor deck
- restriction on all outdoor entertainment
- a 173 agreement restricting future permits being granted for human activity, new buildings or subdivision on the rezoned land
- restriction on all outdoor consumption of alcohol
- revised hours of operation to 8.00pm Sunday to Thursday and 10.00pm on Friday and Saturday.

4.3 Discussion

The Panel’s site inspections confirmed that the Dunlop dwelling has broad views towards, but is well separated from the Amendment and RRRTAG sites. The Panel also observes the functional activity areas of the proposal (café and green room) are located well away from the Dunlop residence.

The permit conditions proposed by Council respond to the issues raised by the Dunlops by limiting activity on the proposed deck, imposing time restrictions on hours of operation, restricting lighting and sound amplification and requiring landscape screening. The Panel is satisfied these conditions, combined with the considerable separation between the RRRTAG and Dunlop dwelling, will manage potential amenity impacts and minimise disturbance to livestock. The Panel considers that the restriction on theatre events should extend to the grassed area adjoining the proposed deck. This is consistent with undertakings given by RRRTAG that outdoor entertainment is not proposed.

Any future intensification of activity on the expanded Township Zone will be subject to a new planning permit application and considered on its merits. The Panel disagrees with the Dunlop submissions that a section 173 agreement is needed to curtail future opportunity.

The proposed licensed area, which includes the café, courtyard, gallery, theatre, and green room, is appropriate. This will be reflected on the endorsed plans of any permit granted for the proposal. Draft permit conditions require the owner/operator ensure the alcohol is consumed in the licensed area only and patron behaviour is acceptable. Additional permit conditions are not required.

Over 300 metres separates the Dunlop residence and the eastern elevation of the tram car building and this, with landscape screening required by permit conditions, is sufficient to secure the visual amenity of the Dunlop dwelling. If visual privacy continues to be a concern, the Dunlops have the option of adding to landscaping required by the permit through planting on their own property.

4.4 Conclusions

The Panel concludes:

- Permit conditions will manage the potential amenity impacts of the proposal on adjoining land.
- A permit condition should restrict use of the grassed area adjoining the deck for outdoor theatre events.
- The proposed licensed area and hours of operation for sales and consumption of liquor are appropriate.

5 Planning permit

(i) Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

The Municipal Planning Strategy and the Planning Policy Framework.

The purpose of the zone, overlay or other provision.

Any matter required to be considered in the zone, overlay or other provision.

The orderly planning of the area.

The effect on the environment, human health and amenity of the area.

Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

The relevant decision guidelines of the Township Zone are:

The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.

In the absence of reticulated sewerage, a Land Capability Assessment on the risks to human health and the environment of an on site wastewater management system constructed, installed or altered on the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017*.

The design, height, setback and appearance of the proposed buildings and works including provision for solar access.

Provision of car and bicycle parking and loading bay facilities and landscaping.

The effect that existing uses on adjoining or nearby land may have on the proposed use.

The scale and intensity of the use and development.

The safety, efficiency and amenity effects of traffic to be generated by the proposal.

The pattern of subdivision and its effect on the spacing of buildings.

For subdivision of land for residential development, the objectives and standards of Clause 56.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

(ii) What is proposed

Application plans

Prior to and through the Hearing, the Panel sought clarification on various details in the plans, including the current version of plans, dimensions of the proposed deck and details of proposed landscaping. Council confirmed:

- the current Application plans are those attached to the Council Minutes of 23 March 2022
- the deck proposed on the eastern side of the tram lounge has a proposed width of 3.5 metres
- landscaping is proposed on the east and south boundaries of the site to the nearby dwellings.

Permit trigger for subdivision

Council's Part A and Part B submissions did not definitively identify the permit trigger for subdivision of the land. The Panel requested this be clarified. In response, Council advised:

- the subdivision does not achieve the minimum lot size for land in the Farming Zone
- the application relies on Clause 64.03 (Subdivision of land in more than one zone).

Clause 64.03 provides "*if a provision of this scheme provides that a permit is required to subdivide land and the land is in more than one zone a permit may be granted even if one does not comply with the minimum lot size requirements of a zone*". The permit requirements of Clause 64.03 are:

A permit may be granted to create one lot smaller than specified in the scheme if all of the following are met:

- The lot to be subdivided is in more than one zone and cannot comply with the minimum lot area specified in the scheme.
- The proposed subdivision does not create lots where any lot extends into more than one zone. This does not apply to any lots created for the following purposes:
 - To comply with the requirements of the Urban Floodway Zone.
 - To provide access to a road.
- The remainder of the proposed lots must comply with the minimum lot area specified in the scheme.

Council explained Clause 64.03 could be relied upon because:

- the lot to be subdivided would be in more than one zone (Farming Zone and Township Zone) and the lot in the Farming Zone cannot comply with the minimum lot area specified in the scheme
- the proposed subdivision would not create lots where any lot extends into more than one zone
- there is no minimum lot size in the Township Zone.

Conditions

Council advised conditions of the draft exhibited permit were amended following a consultation meeting with objectors. These changes:

- included an additional landscaping condition
- amended the CFA condition relating to defensible space between the tram lounge and the southern boundary
- deleted the CFA conditions relating to amended plans

- included amended plan conditions requiring an extension of the fence along the southern boundary
- included a condition preventing use of the eastern deck adjoining the tram lounge for external theatre events
- included a condition requiring the applicant to enter into an agreement under section 173 of the Act relating to the implementation and maintenance of bushfire protection measures.

A copy of draft permit detailing the amended condition supported by Council was attached to its Part A submission.

(iii) Discussion

Council's Part A submission provided a helpful summary of the permit triggers (except as noted above), application requirements and referral requirements for the proposal under the Planning Scheme. It also provided a summary of referral authority comments and responses, and a chronology of the Permit Application. The Panel has been assisted by these in its deliberations.

The Panel agrees the application for subdivision can be made under Clause 64.03.

The issues and impacts required to be considered by the decision guidelines have been partially discussed in Chapter 4 of this Report. On those matters, the Panel is satisfied the potential amenity impacts will be acceptably managed by:

- limiting activity on the proposed deck and adjoining grassed area
- imposing time restrictions on hours of operation
- restricting lighting and sound amplification
- landscape screening
- limiting the area where, and hours when, alcohol may be consumed.

In response to the other key matters requiring consideration, the Panel finds:

- the scale of the development is proportionate to existing buildings and is supported by Council's Heritage Adviser
- increased on site car parking will provide convenient and safe options for patrons and reduce overflow onto Corangamite Lake Road
- the minor waiver of bicycle parking sought is appropriate
- access arrangements are appropriate and supported by the Department of Transport
- bushfire risk has been satisfactory addressed in the Bushfire Management Plan and is supported by the CFA, subject to conditions.

The Panel is satisfied that conditions proposed by Council as included in its Part B submissions are fit for purpose and meet drafting requirements, except as noted below:

- the permit preamble requires updating to replace reference to Road Zone Category 1 with Transport Zone 2
- the multiple permit conditions for construction management should be consolidated
- conditions requiring changes to the current plans should be consolidated under Condition 1.

On balance, the Panel considers a permit should be granted with conditions. The proposed is consistent with the requirements of the Planning Scheme and will result sustainable development delivering a net community benefit.

(iv) Conclusion and recommendation

The Panel concludes:

- It is appropriate to grant a planning permit for the proposed use and development.
- Conditions proposed by Council are appropriate, except as noted in Appendix D.

The Panel recommends:

- 2. Planning permit PP219/2020-1 be granted to allow the subdivision of the land at 30 Factory Road and 520 Corangamite Lake Road, Cororooke, into three lots, extension and alteration to buildings and associated works, construction of car parking and fencing, use of the land as a food and drink premises (café) and for the sale and consumption of liquor (on-premises licence), temporary use of the land as a store (storage of tram), alteration of access to a Road in a Transport Zone 2, display of signs and reduction of bicycle parking requirements subject to conditions in Appendix D.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Environment Protection Authority
2	Paul Dunlop
3	Confidential
4	Country Fire Authority
5	Helen Gathercole
6	Keith Gathercole
7	Dianne Dunlop

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Colac Otway Shire Council	Erin Sonogo, Senior Strategic Planner (Directions Hearing only), Simon Clarke, Coordinator, Strategic Planning and Major Projects and Ravi Ayyagari, Statutory Planner
Red Rock Regional Theatre and Gallery	Andrew Beale
Paul and Dianne Dunlop	Jason Schram

Appendix C Document list

No.	Date	Description	Provided by
1	4/5/2022	Panel Directions and Hearing Timetable	Planning Panels Victoria (PPV)
2	16/5/2022	Colac Otway Shire Council Meeting Agenda 23 March 2022	Colac Otway Shire Council (Council)
3	"	Colac Otway Shire Council Meeting 23 March 2022 signed minutes	"
4	"	Colac Otway Shire Council Meeting Agenda 27 October 2021	"
5	"	Colac Otway Shire Council Meeting 27 October 2021 signed minutes	"
6	"	Environment Protection Authority letter of confirmation 11 May 2022	"
7	"	Amendment exhibition documents <ul style="list-style-type: none"> • Instruction sheet • Explanatory Report • Zone map 	"
8	"	Bushfire further information BAL method 2	"
9	"	Bushfire report addendum	"
10	"	Draft Planning Permit conditions CFA	"
11	"	Draft Planning Permit	"
12	"	Existing and proposed signage	"
13	"	Fire Fence Detail	"
14	"	Liquor Licence Red Line Plan	"
15	"	Planning Submission	"
16	"	Proposed Plan of Subdivision with Aerial	"
17	"	Revised Proposal Plans	"
18	"	Titles	"
19	"	Planning Permit and Endorsed Plan PP184/2011-1 520 Corangamite Lake Road, Cororooke	"
20	"	Planning Committee Report PP184/2011-1 520 Corangamite Lake Road, Cororooke	"
21	"	Occupancy Permit BSU 23052/20110359 521 Corangamite Lake Road, Cororooke	"
22	27/5/2022	Site inspection itinerary	"
23	6/6/2022	CFA email 19 May 2022	"

No.	Date	Description	Provided by
24	“	Land Capability Assessment for 520 Corangamite Lake Road, Cororooke, 27 March 2021	“
25	7/6/2022	Council Part A submission	“
26	8/6/2022	Timetable Version 2	PPV
27	“	Panel Further Directions	“
28	9/6/2022	Colac Otway Rural Living Strategy 2011	Council
29	“	Heritage Adviser advice May 2021	“
30	“	Heritage Adviser advice March 2022	“
31	“	Letters of support	Red Rock Regional Theatre and Gallery (RRRTAG)
32	10/6/2022	Council Part B submission	Council
33	15/6/2022	Submissions of AE and ME Beale (proponent)	RRRTAG
34	“	Further submissions of AE Beale	“
35	15/6/2022	Panel further Directions	PPV
36	16/6/2022	Council response to Panel request for further information	Council
37	19/6/2022	Submissions of P and D Dunlop – response to Part A	P & D Dunlop
38	“	Submissions of P and D Dunlop – response to Part B	“
39	“	Submissions of P and D Dunlop – response to further information	“
40	“	Submissions of P and D Dunlop – hearing arguments	“
41	“	Copy of email - Response to Questions on existing wastewater Treatment System	“
42	“	Colac Otway Shire Council Meeting Agenda 12 October 2011	“
43	20/6/2022	Submissions of P and D Dunlop – further response to further information	“
44	30/6/2022	Concluding submissions	Council
45	6/7/2022	Corrected concluding submissions	“

Appendix D Panel recommended changes to conditions

Note: No changes recommended to conditions not listed.

Table 1: Panel recommended changes to conditions

#	Condition	Panel comments and recommendation
-	The Permit allows: Re-subdivision of the Land into Three Lots, Extensions and Alterations to Building and Associated Works, Construction of Car Park and Erection of Fence, Use of the Land as a Food and Drink Premises (Café) and for the Sale and Consumption of Liquor (On-Premises Licence), Temporary Use of the Land as a Store (Storage of Tram), Alteration of Access to a Road in a Road Zone Category 1, Display of Signage and Reduction of Bicycle Parking Requirements in accordance with the endorsed plans.	Replace: - 'Re-subdivision' with 'Subdivision' 'Road Zone Category 1' with 'Transport Zone 2'
1	Prior to the commencement of 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, which must be drawn to scale with dimensions, must be generally in accordance with the plans submitted with the application but modified to show: a) the proposed solid non-combustible fence located along the southern boundary running the distance from the front elevation of the existing former church and gallery/theatre to the rear elevation of the tram lounge building. b) the location, dimensions of the deck and any associated structures (such as balustrading and steps) to the east of the tram lounge, including a section showing the height of the deck above natural ground level.	Replace: 'plans submitted with the application' with specific references to current plans (where the current plans are those appended to the Council Minutes of 23 March 2022). Revise b) with: 'the location, dimensions, height and materials of the deck to the east of the tram lounge, including details of balustrading and steps, where the width of the deck does not exceed 3.5 metres.'
12	The deck to the east of the tram lounge must not be used for any outdoor theatre events.	Revise as: The deck and grassed area to the east of the tram lounge must not be used for any outdoor theatre events.

#	Condition	Panel comments and recommendation
19	<p>Prior to the commencement of development, unless otherwise approved in writing by the Responsible Authority, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The plan must detail how the site will be managed prior to and during the construction period, and must set out requirements for managing:</p> <ul style="list-style-type: none"> - Erosion and sediment. - The deposit of any sediment or other material by vehicles on the abutting roads. - Dust. - Runoff. - Litter, concrete and other construction wastes. - Chemical contamination. - Vegetation and natural features planned for retention. <p>The plan must include a detailed photographic record of the road reserve/s in the vicinity of the site, which shows the condition of the existing public infrastructure.</p>	Consolidate with Condition 41.
20	<p>All construction works must be undertaken in accordance with the approved Construction Management Plan. The developer must ensure that all contractors are aware of the requirements of the approved Construction Management Plan and understand how to implement them. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Colac Otway Shire drains and/or watercourses at any time during construction or operation to the satisfaction of the Responsible Authority.</p>	
25	<p>Unless otherwise approved in writing by the Responsible Authority, the timber cladding on the proposed café and lounge extensions must be a mid-brown tone rather than a dark-brown tone.</p>	Delete. Insert 'The timber cladding on the proposed café and lounge extension in a dark brown tone' under Condition 1.

#	Condition	Panel comments and recommendation
39	<p data-bbox="276 288 831 539">Prior to the issue of a statement of compliance under the Subdivision Act 1988, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The plan must detail how the site will be managed prior to and during the construction period, and must set out requirements for managing:</p> <ul data-bbox="276 551 831 949" style="list-style-type: none"><li data-bbox="276 551 831 584">- Erosion and sediment.<li data-bbox="276 595 831 663">- The deposit of any sediment or other material by vehicles on the abutting roads.<li data-bbox="276 674 831 707">- Dust.<li data-bbox="276 719 831 752">- Runoff.<li data-bbox="276 763 831 831">- Litter, concrete and other construction wastes.<li data-bbox="276 842 831 875">- Chemical contamination.<li data-bbox="276 887 831 954">- Vegetation and natural features planned for retention. <p data-bbox="276 965 831 1104">The plan must include a detailed photographic record of the road reserve/s in the vicinity of the site, which shows the condition of the existing public infrastructure.</p>	Consolidate with conditions 21 and 22.