



**Colac Otway  
SHIRE**

**AGENDA**

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

**9 SEPTEMBER 2008**

**at 10.30 am**

**COPACC Meeting Room  
Rae Street, Colac**

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

**COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING**

**9 SEPTEMBER 2008**

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NOTICE is hereby given that the next **PLANNING COMMITTEE OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in the COPACC Meeting Room, Rae Street, Colac on 9 September 2008 at 10.30am.

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## **AGENDA**

### **1. PRAYER**

### **2. PRESENT**

### **3. APOLOGIES**

### **4. MAYORAL STATEMENT**

Colac Otway Shire encourages active community input and participation in Council decisions. The Planning Committee provides an opportunity for both objectors and proponents to address Council for up to five minutes. Priority will be given to people who have advised Council in advance that they wish to address the Planning Committee. Planning Committee meetings also enable Councillors to debate matters prior to decisions being taken.

I ask that we all respect each other during this process by:

- being courteous and respectful in the way in which you speak;
- not speaking unless you have been permitted to by me as chairperson;
- respecting the local laws which govern meeting procedure (copies of these are here for your information); and
- understanding that I have a responsibility to ensure proper meeting procedure and the upholding of the local law.

I also would like to inform you that the meeting is being taped. The audio recording of the meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982.

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

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

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

## 7. CONFIRMATION OF MINUTES

- Planning Committee Meeting of the Colac-Otway Shire Council held on the 12/08/08.

### Recommendation

That the Planning Committee confirm the above minutes.

## OFFICERS' REPORTS

### Sustainable Planning and Development

- PC060612-1 PLANNING PERMITS FOR THE MONTH OF AUGUST 2008
- PC080909-2 ALTERATIONS AND ADDITIONS TO EXISTING SHED AT 288 SUNNYSIDE ROAD, WONGARRA (PP74/08)
- PC080909-3 PP152/08 - ALTERATIONS & ADDITIONS TO EXISTING CONVENIENCE SHOP & RESTAURANT, WAIVER OF CAR PARKING, SIGNAGE, ALTERATION TO LIQUOR LICENCE, REMOVAL OF UNDERGROUND PETROL TANK & ASSOCIATED WORKS AT 35 GREAT OCEAN ROAD, WYE RIVER
- PC080909-4 WAIVING OF CAR PARKING ASSOCIATED WITH RESTAURANT, INTERNAL BUILDINGS & WORKS, AND BYO LIQUOR LICENCE AT 205-207 MURRAY STREET, COLAC
- PC080909-5 DEVELOPMENT OF TWO (2) SHOPS, TWO (2) DWELLINGS, WAIVER OF CAR PARKING & RESUBDIVISION AT 16 PASCOE STREET, APOLLO BAY

Tracey Slatter  
Chief Executive Officer

**PC060612-1 PLANNING PERMITS FOR THE MONTH OF AUGUST 2008**

AUTHOR: Stefanie Riches                      ENDORSED: Jack Green  
DEPARTMENT: Sustainable Planning and      FILE REF: GEN00450  
Development

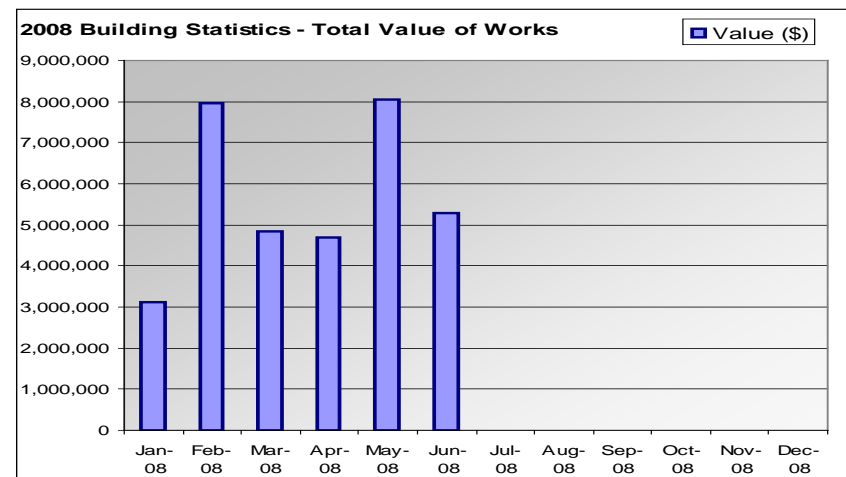
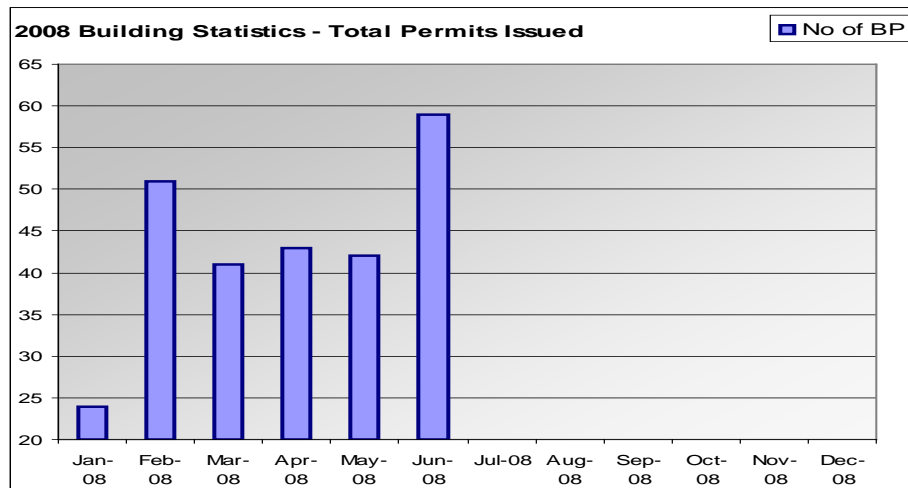
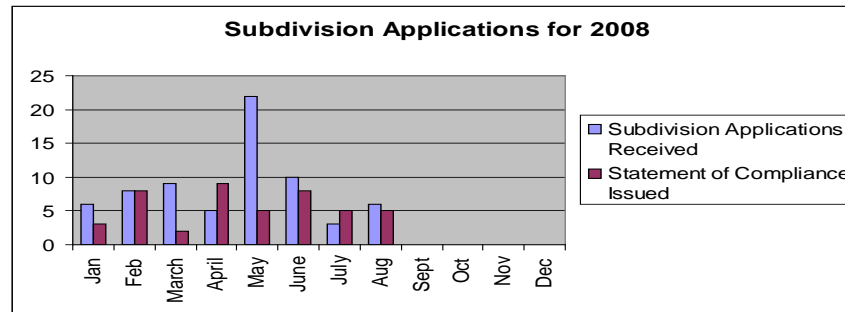
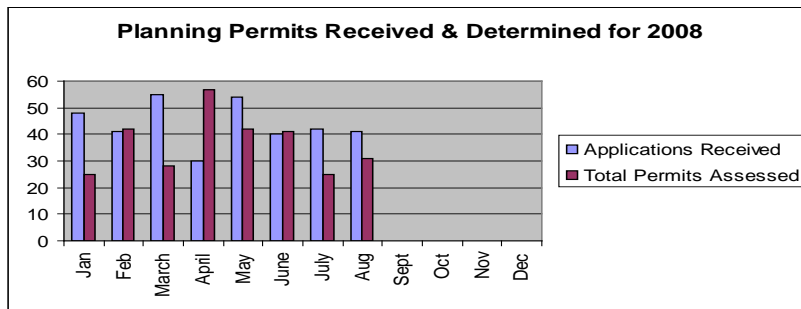
41 Planning permit applications received for the period of 1st August 2008 to 31<sup>st</sup> August 2008

31 Planning permit applications were considered for the period of 1<sup>st</sup> August 2008 to 31<sup>st</sup> August 2008

APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	Authority	Decision
PP102/08	19-Mar-08	TWO (2) LOT SUBDIVISION EXCISION OF DWELLING	06-Aug-08	117	UNDER DELEGATION	REFUSAL
PP114/08	27-Mar-08	EXTENSION TO DWELLING	25-Aug-08	74	UNDER DELEGATION	GRANTED
PP125/08	04-Apr-08	TWO (2) LOT RE-SUBDIVISION (BOUNDARY REALIGNMENT), REMOVAL OF CARRIAGEWAY & DRAINAGE EASEMENT	20-Aug-08	52	UNDER DELEGATION	GRANTED
PP131/08	11-Apr-08	DEVELOPMENT OF A DWELLING & REMOVAL OF VEGETATION	22-Aug-08	87	UNDER DELEGATION	NOD
PP146/08	02-May-08	USE AND DEVELOPMENT OF A DWELLING	06-Aug-08	44	UNDER DELEGATION	GRANTED
PP170/08	21-May-08	USE OF TEMPORARY OFFICE BUILDING	21-Aug-08	74	UNDER DELEGATION	GRANTED
PP192/08	3-Jun-08	DEVELOPMENT OF A SHED	20-Aug-08	22	UNDER DELEGATION	GRANTED
PP195/08	27-May-08	TWO (2) LOT SUBDIVISION	20-Aug-08	60	UNDER DELEGATION	GRANTED
PP196/08	10-Jun-08	USE AND DEVELOPMENT OF A DWELLING	06-Aug-08	42	UNDER DELEGATION	GRANTED
PP198/07-A	07-Jul-08	AMENDMENT - ALTERATION OF FAÇADE	13-Aug-08	37	UNDER DELEGATION	GRANTED
PP202/08	4-Jun-08	UPGRADE OF LIGHTING FOR RESERVE	06-Aug-08	35	UNDER DELEGATION	GRANTED

PP204/08-A	11-Jun-08	WAIVING OF CAR PARKING ASSOCIATED WITH THE USE OF THE LAND AS A RESTAURANT & AN "ON PREMISES" LIQUOR LICENCE	22-Aug-08	67	COUNCIL	GRANTED
PP206/08	12-Jun-08	HOME OCCUPATION	06-Aug-08	28	UNDER DELEGATION	GRANTED
PP210/08	12-Jun-08	CONSTRUCTION OF GARAGE	04-Aug-08	53	UNDER DELEGATION	GRANTED
PP213/08	24-Jun-08	USE & DEVELOPMENT OF A DWELLING	13-Aug-08	42	UNDER DELEGATION	GRANTED
PP214/07-A	06-Aug-08	AMENDMENT - EXTENSION TO EXISTING SHED	07-Aug-08	1	UNDER DELEGATION	GRANTED
PP214/08	24-Jun-08	ALTERATIONS & EXTENSIONS TO EXISTING DWELLING	20-Aug-08	39	UNDER DELEGATION	GRANTED
PP236/08	14-Jul-08	DEVELOPMENT OF CANOPY/VERANDAH OVER SHED ENTRANCE	20-Aug-08	8	UNDER DELEGATION	GRANTED
PP239/08	14-Jul-08	REMOVAL OF EXISTING DWELLING & DEVELOPMENT OF DWELLING	06-Aug-08	23	UNDER DELEGATION	GRANTED
PP253/08	17-Jul-08	CONSTRUCTION OF VERANDAH ROOF	04-Aug-08	18	UNDER DELEGATION	WITHDRAWN
PP292/06-B	27-Jun-08	DEVELOPMENT OF A DWELLING & SHED	07-Aug-08	39	UNDER DELEGATION	GRANTED
PP330/07	05-Dec-07	USE AND DEVELOPMENT OF A DWELLING	01-Aug-08	16	UNDER DELEGATION	WITHDRAWN
PP341/07-A	24-Jul-08	AMENDMENT - CHANGE TO SHED SIZE & ORIENTATION	13-Aug-08	20	UNDER DELEGATION	GRANTED
PP38/08	30-Jan-08	THREE (3) LOT RE-SUBDIVISION	06-Aug-08	170	UNDER DELEGATION	REFUSAL
PP461/03A	30-Jan-08	AMENDED - CONSTRUCTION OF SEVEN (7) UNITS & SEVEN (7) LOT SUBDIVISION	11-Aug-08	70	UNDER DELEGATION	GRANTED
PP49/08-A	07-Jul-08	REMOVAL & VARIATION OF SEWERAGE EASEMENTS & REMOVAL OF CONDITION 7	13-Aug-08	44	UNDER DELEGATION	GRANTED
PP57/08	14-Feb-08	CONSTRUCTION OF DWELLING	20-Aug-08	47	UNDER DELEGATION	GRANTED

PP67/08	26-Feb-08	TWO (2) LOT RE-SUBDIVISION (EXCISION OF DWELLING)	06-Aug-08	129	UNDER DELEGATION	REFUSAL
PP68/07-A	07-Jul-08	EXTENSION TO EXISTING SHED	21-Aug-08	24	UNDER DELEGATION	GRANTED
PP83/08	06-Mar-08	THREE (3) LOT SUBDIVISION	22-Aug-08	142	COUNCIL	NOD
PP99/08	14-Mar-08	EXTENSION TO CHILDCARE CENTRE	08-Aug-08	75	UNDER DELEGATION	GRANTED
<b>Average Days to Process Planning Applications</b>				<b>55</b>	<b>Days</b>	



[Pulse Building Statistics](#)

[Financial Yr Stats](#)

[Pulse Building Reports](#)

	Domestic		Residential*		Commercial		Retail		Industrial		Hospital/HealthCare		Public Buildings		Municipal Totals	
	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)
Jan-08	20	2,466,200	1	50,000	1	90,000	1	11,500	0	0	1	500000	0	0	24	3,117,700
Feb-08	47	4,280,656	0	0	3	113,020	0	0	0	0	0	0	1	3,553,701	51	7,947,377
Mar-08	34	4,552,124	0	0	4	156,781	1	100,000	1	20,000	0	0	1	22,000	41	4,850,905
Apr-08	36	4,376,049	0	0	2	38,550	2	227,950	0	0	0	0	3	39,966	43	4,682,515
May-08	35	3,040,877	1	50,000	4	4,660,000	1	55,000	0	0	0	0	1	250,000	42	8,055,877
Jun-08	50	4,422,243	3	600,000	2	144,000	1	0	2	90,000	1	20000	0	0	59	5,276,243
Jul-08															0	0
Aug-08															0	0
Sep-08															0	0
Oct-08															0	0
Nov-08															0	0
Dec-08															0	0
<b>Totals</b>	<b>222</b>	<b>23,138,149</b>	<b>5</b>	<b>700,000</b>	<b>16</b>	<b>5,202,351</b>	<b>6</b>	<b>394,450</b>	<b>3</b>	<b>110,000</b>	<b>2</b>	<b>520,000</b>	<b>6</b>	<b>3,865,667</b>	<b>260</b>	<b>33,930,617</b>

**Building Stats**

**\*\*\*Please note that the Building Commission website has only been updated to June 2008.**

**Recommendation(s)**

***That Council's Planning Committee note the August 2008 statistical report.***

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## Summary

- Approval is sought for alterations and additions to an existing shed. The existing shed was formerly a dairy and is now derelict. It is sited approximately 6.4m from the road frontage.
- The new shed will be in the same footprint as the existing shed and adjoining concrete slab, and will comprise workshop areas, store areas, an open machinery store, a loft, veranda and bathroom.
- The application states that it will be used for storage associated with the rural maintenance of the land (e.g. weed control, revegetation, infrastructure maintenance etc), and also as a studio/workshop for sketching and painting hobbies. The bathroom is required due to the distance of the shed from the existing dwelling (250m).
- The same siting has been selected due to the lack of alternative flat areas and to avoid site disturbance elsewhere on this steep lot. The new shed will be within 1.5m off the road frontage, sited on the existing concrete slab in this location.
- Access is from Sunnyside Road via Groves Court, a no through road that carries only local traffic. The new building will not be highly visible from Sunnyside Road which is a scenic route.
- There were seven objections to this application. Grounds of objection centred on the siting and visual impact of the building (particularly from the nearest dwelling, some 50m to the south west), and the possible use of the building as a second dwelling.
- It is considered that use of muted, non-reflective external colours and materials will minimise the visual impact of the shed. The proposal is likely to result in a better visual outcome than the existing derelict shed.
- A geotechnical report identified a low risk of landslip associated with the proposal.
- In light of the above, it is considered that the application should be supported subject to appropriate conditions including that the shed not be used as a second dwelling, and requiring a suitable septic system appropriately setback from the waterway.
- The application was considered at the August Planning Committee meeting and was deferred so that Councillors could inspect the site and a mediation meeting could be arranged between the applicant and objectors. The Councillor site visit and mediation meeting were conducted on Thursday 28 August 2008 without any agreement being reached by the parties. The Council's Environmental health Officer has also confirmed the previous advice that treated effluent from the septic system can be appropriately contained on the site without adverse impacts on the waterway. A decision on the application is now sought.

## Proposal

On 28 February 2008, Council received an application (PP74/08) for alterations and additions to an existing shed at 288 Sunnyside Road, Wongarra.

An existing derelict, weatherboard shed is located on the western portion of the site, approximately 6.5 metres from the road frontage. It comprises a ground floor storage area (67.6sqm) with a small loft (18.2sqm) above, with an overall building footprint of approximately 85.8sqm. The ground floor has a height of 2.77 metres to the top of the roof line, where the loft is positioned the overall height of the shed to the top of the roof line is 3.9 metres. The shed contained shower and toilet facilities that were not connected to a septic tank system and currently not in use. A large concrete paved area (approximately 40sqm) extends to the northwest from the shed.

Approval is sought for refurbishment of the existing shed, and construction of an extension on the adjoining concrete area. The shed will comprise two workshop areas and a store on the ground floor (79.35sqm) with a new loft (44sqm) above. The extended area will comprise an open machinery store, a store area, a bathroom and a covered verandah area, and will have a total area of approximately 106sqm.

The total building area will be approximately 230sqm, an increase of approximately 144.20sqm (more than double the current building footprint). The overall roof height will increase by approximately 1.6m to 5.7 metres (to the top of the roof line of the loft).

The application states that the shed will be used for both storage associated with the rural use of the land (e.g. weed control, revegetation, infrastructure maintenance etc) and as a studio/workshop for sketching and painting hobbies. It will not be used for stand alone commercial or residential purposes. The bathroom is required due to the substantial distance to the existing dwelling, an estimated distance of 250 metres away.

The siting of the shed in this location is due to the site's topography and the absence of other flat areas. It will also avoid disturbance elsewhere on the site. No vegetation removal is required.

### **Subject Site and Locality**

The site is located on the east side of Sunnyside Road, Wongarra, and is accessed via Groves Court. This property is located at the end of the court and has an irregular shape with an area of 15.74ha. It contains a derelict timber shed located close to the road frontage, and a timber dwelling some 250m to the east. The topography of the land is generally steep. A small creek within a steep, treed gully is located just north of the shed. The eastern portion of the site also contains a creek and significant vegetation cover.

The lot was created as part of a subdivision approved in 1979. Surrounding land is also within the Rural Conservation Zone, and these lots generally contain dwellings and are used for grazing.

The nearest dwelling is situated opposite the existing shed, set back about 40 metres from the road frontage. As a result of the previous subdivision, this property effectively surrounds the subject site.

### **Referrals**

Referral of the application was not required pursuant to Section 55 of the Planning and Environment Act.

Council's Environmental Health Department has advised that the proposed building could be serviced by a packaged sewerage treatment plant subject to the following conditions:

- It must be located to the west of the building in the higher ground away from the watercourse.
- Effluent must be pumped to effluent disposal fields established on either side of the driveway to the main house, east of the waterway. A distance of 30m must be maintained between any part of the effluent field and the steep banks of the watercourse.

- At least 30m of effluent trench is required to service a workshop/studio fitted with a toilet and shower. Alternatively, an irrigation bed constructed to the satisfaction of Council's Environmental Health Officer could be utilised to water a plantation of shrubs, trees or a garden area. An area of 70m<sup>2</sup> is required for that purpose, and a distance of 30m would need to be maintained to the watercourse.

It has been advised that the installation of a packaged treatment plant requires the installation of either a flashing light or audible alarm to warn of any pump malfunction in the system, and that the alarm could be located inside the building.

These requirements are reflected in the proposed conditions. It is proposed to require that the alarm referred to above be located in both the proposed studio and the main dwelling on the property, but so that it is not audible beyond the boundaries of the site.

### **Notice of Application**

The application was advertised pursuant to Section 52 of the *Planning & Environment Act 1987*. Notice was provided via a sign on-site and notices to surrounding owners/occupiers.

Seven objections were received. However, the weight given to those objections needs to be considered in context to their proximity to the site and potential for material detriment to occur as a result of the proposal.

Of those seven objections, two objectors advised that their property was 'nowhere near this proposed site' and another objector advised that they were friends of the property owner opposite the subject site. Therefore, little weight should be given to these objections.

The main concerns raised are summarised as follows:

- The intention appears to be to build a second residence.

**Comment:** The shed is not a self-contained dwelling as it does not include a kitchen sink and food preparation facilities. If approved, permit conditions will prohibit the use of the shed as a second dwelling. Subject to the standard of construction meeting appropriate building standards, this would not preclude habitation of the building from time to time provided it was in conjunction with the main dwelling and no cooking facilities were installed.

- Who monitors use of the shed to ensure that it does not become a second dwelling?

**Comment:** Permit conditions will prohibit use of the shed as a separate dwelling in its own right. The owners risk enforcement action by Council should it be used as a second dwelling. The permit runs with the land, not the owner, and as such, this restriction applies to all subsequent owners.

- Major visual impact as sited so close to Sunnyside Road.

**Comment:** The siting of the building, whilst close to the road, has been selected due to the lack of other flat areas on the site and to avoid further disturbance elsewhere. A portion of the proposed building will occupy the same footprint as the existing shed and concrete pad, and with appropriate external colours could achieve a better visual outcome than the existing derelict shed.

**Whilst planting to the south of the building could provide some screening, it is impractical for screening to the west of the building to screen it from the objector's view.**

- The proposal suggests a small commercial development.

**Comment:** The application states that the shed is for private purposes only (storage and workshop/studio). Further approval would be required for any commercial use, and in most cases such uses would be prohibited under the zone controls. This matter is addressed in permit conditions.

- The development will alter the neighbourhood and environmental character of Sunnyside Road.

**Comment:** This area is generally used for agricultural related uses where outbuildings and sheds would be expected to be found. These improvements would be considered to form part of the character of the area providing that they are sensitively sited and screened in part by landscaping.

- The building will be 50m from the dwelling at 290 Sunnyside Road and less than 20m from the boundary of this property and will have a severe impact on privacy of the dwelling at 290 Sunnyside Road.

**Comment:** The existing shed is setback about 6 metres from the property boundary and while the proposed extension will encroach on this setback (1.6 metres), this reduction in setback is largely caused as a result of the irregular shape of the allotment (i.e. the effective setback to the driveway itself is larger). The earlier subdivision of the land has created a situation whereby the property at 290 Sunnyside Road effectively wraps around the northern boundary of the subject site (both properties were originally under the same ownership). It is noted that under the provisions of the planning scheme the existing shed, including loft, could be rebuilt without planning approval provided it was not being extended. Whilst the proposed extension will result in a larger building, the visual impact on the objector's property it is not considered unreasonable. Windows to the proposed studio/workshop do not face the objector's dwelling and thus should not affect the privacy of that dwelling.

- Visual and noise impacts upon 290 Sunnyside Road, which adjoins the site on the west and north sides.

**Comment:** As noted above, the proposed building will be larger than the current building, but should not result in an unreasonable visual impact. It is likely to increase activity levels in this location, however this it is not unusual for farming activities to create noise from various activities undertaken on the land, and it is noted that the site was previously used as a dairy. Having said that, it is considered that noise emissions from the site are likely to be minimal given the nature of the proposed use. Noise emissions are controlled through state environmental legislation, regulated by the EPA.

- Significant increase to the height and width of the loft.

**Comment:** The existing building contains a loft that is proposed to be increased in area by approximately 26sqm. The overall height of the structure, to the top of the roof line of the loft, will increase by around 1.6 metres to 5.7 metres.

- Risk of pollution of the creek due to septic waste.

**Comment:** A packaged waste water treatment system can be installed on the site provided that treated waters are pumped to the eastern side of the waterway and effluent trenches have a minimum setback of 30m to the waterway to the satisfaction of the Responsible Authority. This will ensure that the waterway is not at risk from pollution associated with the development, in accordance with State Environmental Protection Policy.

- Possible removal of trees which line the creek.

**Comment:** No vegetation removal is proposed.

- The shed would be more conveniently and appropriately sited closer to the dwelling (better security, easier access and less impact on neighbours).

**Comment:** For the shed to be sited closer to the dwelling it would be likely that earthworks would be required given the slope of the site and lack of alternative flat areas to site a structure. The proposed site minimises the need to respond to landslip risk.

- Impact on the current usage of Groves Court.

**Comment:** The shed will be contained within the boundaries of the lot and will have no impact on the public use of Groves Court.

- The description '*addition and alteration to an existing shed*' understates the size and scope of the proposal.

**Comment:** The description is considered to accurately describe the proposal. The application was available for inspection during the notice period, to allow affected parties to consider the full extent of the proposal.

- There has been no significant agricultural or farming activity on this property for the last seven years.

**Comment:** The application states that the shed is required to support rural maintenance activities (e.g. weed control, revegetation, and infrastructure maintenance).

- Increased tourist traffic on a very minor country road.

**Comment:** The shed will not be used for tourist accommodation and will have no impact on traffic generation.

- It will detract from the value of 290 Sunnyside Road.

**Comment: This is not a valid planning consideration.**

### **Consideration of the Proposal**

A planning permit is triggered by the following Clauses of the Colac Otway Planning Scheme:

- Clause 35.06-5, Rural Conservation Zone – buildings and works associated with a Section 2 Use (agriculture, dwelling), a building within 20m of a road, 100m from a dwelling not in the same ownership and 100m from a waterway.
- Clause 44.01, Erosion Management Overlay (EMO1) – buildings and works.

#### **a) State Planning Policy Framework (SPPF)**

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

- Clause 15.01 – Environment, which deals with the protection of catchments, waterways and groundwater;
- Clause 15.07 – Protection from Wildfire;
- Clause 15.08 – Coastal Areas (Great Ocean Road Region), which seeks to protect natural landscapes of the coastal environment, and manage the impact of development on the environmental values of the area.
- Clause 17.05 – Agriculture, which seeks to protect the State's agricultural base;

**Comment: The proposal is considered to be consistent with relevant State Policy. Approval is sought for an outbuilding that will be used to support the rural and environmental management of the land. It is considered that the building can be appropriately screened from the road, and is likely to improve the existing visual appearance of the site. The siting avoids the need for disturbance elsewhere on the site and there will be no loss of vegetation as a result of this proposal. If approved, permit conditions will require limited screen planting, use of muted non-reflective colours and appropriate wastewater treatment on the site.**

#### **b) Local Planning Policy Framework**

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality. The following policies are relevant to the consideration of this application:

- Clause 21.04-2 – The Otway Ranges and Foothills, which seeks to protect key environmental features, whilst facilitating a range of developments in an environmentally sensitive way.
- Clause 22.01 – Main Roads/Scenic Routes, which seeks to protect scenic roads from unsympathetic development, and to ensure a high level of visual amenity is achieved by blending development into the environs.
- Clause 22.06 – Erosion Management Policy, which seeks to ensure that use and development has regard to, and does not increase the potential for landslip.

**Comment:** It is considered that the application can comply with the intent of relevant local policy. The site is accessed from Sunnyside Road via Groves Court, which is not a through road. Whilst sited close to the road frontage, the new shed will not be highly visible from Sunnyside Road. The new building will be larger than the existing shed, which is in a very poor state of repair. The use of limited screen planting and muted colours will minimise the appearance of the building from the surrounding lots and the road, although it is unlikely effective screening could occur to the neighbouring house. The building does not exceed 8.0m in height and should not result in an unreasonable visual impact. Erosion management requirements have been satisfied as discussed below.

### **c) Zoning**

The site is within a Rural Conservation Zone (Clause 35.06 of the Colac Otway Planning Scheme), the purpose of which is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve the values specified in the schedule to this zone (Prevent land degradation including soil erosion, salinity and vegetation removal because of agriculture and other activities).
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

**Comment:** A permit is required under Clause 35.06-5 for buildings and works associated with a Section 2 Use (agriculture and dwelling) and for a building within prescribed setbacks. The application proposes an extension and alterations to an existing building, which is appropriate in light of the purposes and decision guidelines of the zone. The siting of the building is close to the road due to the location of the existing shed and the topography of the land. It can be partially screened from Sunnyside Road by appropriate planting, and use of muted, non-reflective colours will further minimise the visual impact. Whilst it will be visible from the neighbouring property, its visual impact is not considered unreasonable given the existence of the current building in that location. Effluent disposal must meet Environmental Health Department requirements to ensure no impact on the adjacent waterway. No vegetation removal is required, and the proposal will not affect other environmental features of the site.

### **d) Overlay Controls**

#### **Erosion Management Overlay (EMO1)**



**Purpose:**

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

**Comment:** A permit is required for all buildings and works, and for removal of vegetation under Clause 44.01. A Geotechnical Report was submitted with the application. The Geotechnical Report found that a low landslip risk was associated with this proposal. Compliance with the Geotechnical Report will be a condition on the permit.

**Wildfire Management Overlay (WMO)****Purpose:**

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:
  - Satisfies the specified fire protection objectives.
  - Does not significantly increase the threat to life and surrounding property from wildfire.
- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

**Comment:** A permit is not required under this overlay as the proposal is not for a use specified under Clause 44.06-1.

**e) Amendment C55**

Consideration should be given to the proposed controls as they apply to this site for Planning Scheme Amendment C55. Amendment C55 is a seriously entertained document for which a Panel Hearing was held for two weeks commencing 16 June 2008. Amendment C55 proposes to introduce a Significant Landscape Overlay 3 (SLO3 – Apollo Bay Coastal Valley and Hills Precinct) over this site.

**Proposed Significant Landscape Overlay (SLO3)****Landscape Character Objectives:**

- To achieve the preferred character for the area.
- To increase the use of indigenous vegetation to highlight natural features within the precinct.
- To consider the contrasts between landscapes elements within the precinct.
- To ensure that development that occurs on hill faces or in other prominent locations is not highly visible.
- To protect the clear sweeping views to the ocean available from the precinct.
- To consider the dominance of an indigenous natural landscape in coastal areas, between townships, particularly from the Great Ocean Road.

**Comment:** A permit would be required for all buildings and works under the provisions of this overlay. This proposal has been assessed against the objectives of the proposed SLO and found to comply for the reasons discussed earlier in this report.

### **Summary**

In light of the above assessment, it is considered that the application should be supported. While the extension will be sited close to the road, this is influenced by the use of the footprint of the existing shed and concrete slab. By siting the structure in this location, the need for earthworks and vegetation removal is avoided. The proposed development can be partially screened by landscaping; and use of muted colours and materials will minimise the visual impact of the building. It is likely that the proposal will achieve a better visual outcome, given the dilapidated state of the existing shed. Proposed conditions will prohibit use of the building for a separate dwelling or commercial use.

### **Recommendation**

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP74/08 for alterations and additions to an existing shed at 288 Sunnyside Road, Wongarra, subject to the following conditions:***

- 1. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. Stormwater discharge from access roads and buildings and structures must be dealt with on the site to the satisfaction of the Responsible Authority. No sheet flow discharge point will be permitted within five (5) metres of the lowest property boundaries and any discharge point must not be located so as to surcharge the septic effluent disposal system.***
- 3. A packaged wastewater treatment system is to be constructed concurrently with the redevelopment of the shed to ensure that all liquid waste is to be contained within the curtilage of the title at all times. Such system must be located on the higher ground away from the watercourse, and designed and installed to the satisfaction of the Responsible Authority. The treated effluent from the packaged system must be pumped to effluent disposal fields established on the eastern side of the waterway, more than 30m from the banks of the waterway to the satisfaction of the Responsible Authority.***
- 4. The installation of a packaged waste water treatment system requires the installation of either a flashing light or audible alarm in both the proposed shed and the main dwelling to warn of any pump malfunction in the system to the satisfaction of the responsible authority. The alarm can be located outside of the buildings, but must not be audible beyond the boundaries of the site.***
- 5. Before a Building Permit can be issued, 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) a survey (including botanical names) of all existing vegetation to be retained and/or removed in the vicinity of the shed;***

- (b) *planting of areas around the shed not designated as accessways to screen the building where possible from Groves Court, Sunnyside Road and the dwelling located at 290 Sunnyside Road.*
- (c) *a schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant*

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

6. *The landscaping must be established within 6 months of the completion of the development hereby permitted and must be maintained to the satisfaction of the Responsible Authority.*
7. *All development and works associated with this permit must be carried out in strict conformity with the recommendations of Geotechnical Engineers Report prepared by Saunders Consulting Group Pty Ltd, Number 29550, dated 24 July 2007.*
8. *The roof and exterior walls of the outbuilding must be constructed of a non-reflective material which will effectively blend the development in with the natural colours of the surrounding landscape (i.e. not white, off-white, beige, cream, fawn, light yellow or similar colour, galvanised or zincalume, gull grey or any other unsuitable colour as determined by the Responsible Authority).*
9. *Prior to the issue of a Building Permit, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 requiring that:*
- a. *The shed must not be converted into a habitable dwelling as defined under the Planning Scheme or used for commercial purposes.*
- Evidence of lodging of this agreement in accordance within Section 181 of the Planning and Environment Act 1987 must be submitted to the Responsible Authority. All costs associated with the agreement will be met by the owner/applicant.*
10. *In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:*
- The development and use are not started within two (2) years of the date of this permit.*
  - The development is not completed within four years of the date of this permit.*

*In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.*

## **NOTES**

1. *A Permit to install an all waste septic tank system must be lodged and approved by the Responsible Authority prior to the commencement of works. Such system must be designed and installed to the satisfaction of the Responsible Authority before a Permit to Use the waste septic tank system can be issued.*

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**PC080909-3 PP152/08 - ALTERATIONS & ADDITIONS TO EXISTING CONVENIENCE SHOP & RESTAURANT, WAIVER OF CAR PARKING, SIGNAGE, ALTERATION TO LIQUOR LICENCE, REMOVAL OF UNDERGROUND PETROL TANK & ASSOCIATED WORKS AT 35 GREAT OCEAN ROAD, WYE RIVER**

AUTHOR: Helen Evans  
DEPARTMENT: Sustainable Planning and Development

ENDORSED: Jack Green  
FILE REF: PP152/08

**Location:** 35 Great Ocean Road, Wye River

**Applicant:**

**Zoning:** Rural Conservation Zone

**Overlays Controls:** Wildfire Management Overlay,  
Land Subject to Inundation overlay,  
Erosion Management Overlay 1

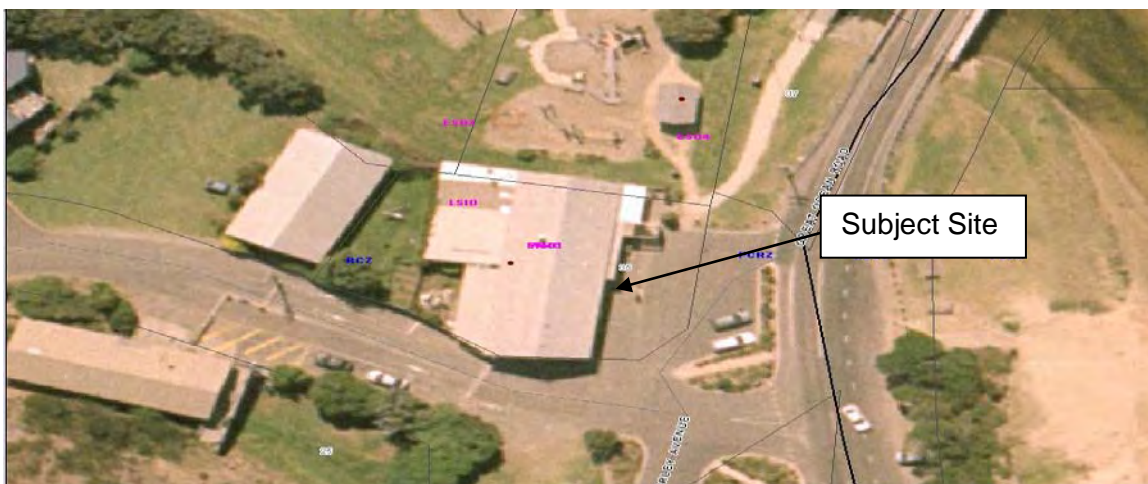
**Amendment:** Nil. Amendment C55 (Planning Scheme Review) does not propose any change to the provisions relating to this proposal.

**Abuts:** RDZ1

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration**

This application is before Council's Planning Committee for the waiving of car parking requirements of Clause 52.06-1 of the Colac Otway Planning Scheme. The waiving of sixteen car parking spaces is required for this application. Four submissions were received to the proposal, however, two of the submissions were in support of the proposal.



**Summary**

- The site is in a prominent location on Great Ocean Road, Wye River and within the Rural Conservation Zone.
- The site is currently developed as a convenience shop and the Fat Cow Cafe.

- The site is centrally located in Wye River on the corner of the Great Ocean Road and Morley Avenue. This site is one of the two eating facilities available in Wye River and situated in front of the existing caravan park and opposite the foreshore reserve. The site is located more centrally within the broader coastal township area.
- The application seeks permission for the waiving of car parking associated with an increased restaurant use and reduced convenience shop use.
- As no additional on-site car parking can be provided, the application involves the waiving of sixteen car parking spaces. The site has car parking credits which are attributed to its current use as a shop and restaurant, however, the proposed convenience shop and restaurant use exceeds these credits, resulting in a need to apply to waive car parking. The restaurant will accommodate a maximum of 94 patrons.
- The applicant has advised that the shop and restaurant principally serve the needs of the existing residents and tourists that come to stay in the coastal township, many of whom walk to the premise reducing the demand for car parking.
- Permission is also sought for an extension of area on the existing on-premise liquor licence and for the works associated with the removal of the underground petrol tank.
- The application was advertised and 4 submissions were lodged with Council – 2 in support and 2 objections.
- The redevelopment of the building will achieve an improved urban design outcome and the expansion of the restaurant will contribute to enhancing the vibrancy of the centre of Wye River, and is consistent with the objectives of the recently adopted structure plan.
- It is recommended that this application is supported through the issue of a Notice of Decision to Grant a Planning Permit, with conditions that seek to increase parking capacity at the front of the shop and restaurant which enhance pedestrian safety.

### **Proposal**

The proposal is to alter and extend the existing convenience shop and restaurant, waiver of car parking, signage, and associated works. Existing use rights exist for the use of the land for the purpose of a restaurant and convenience shop, therefore, the use itself does not require planning approval.

For the purposes of this application, the café has been defined as a 'restaurant' and the general store has been defined as a 'convenience shop' in accordance with the definitions described in the Colac Otway Planning Scheme. These definitions are required to determine the level of car parking required under the Planning Scheme.

The application proposes to:

- Retain the shell of the building but remove the garage and dwelling. There is a minor decrease in the overall footprint;
- Add a first storey area to be used for dining;
- Increase the floor area of the convenience shop/takeaway to a total of 192m<sup>2</sup>;
- Extend the deck area at the front of the building to provide for outdoor dining and disabled pedestrian access;
- Extend the liquor licence area over the deck area on the ground level and all of the first floor level excluding the green roof area;
- The number of seats proposed for the dining area is 94, comprising:
  - Indoor ground floor – 46 seats

- Outdoor ground floor – 8 seats
- Indoor and outdoor first floor – 40 seats

The proposal also includes:

- The provision of a 'green roof'. This allows for the treatment of effluent disposal on the upper storey. An area of 146sqm on the first floor will have a grass cover. A 'green roof' is an elevated irrigated garden area raised off the floor (similar to a large planter box) and filled with a soil type medium 300mm deep that is designed to hold water and plants. The area is planted out with high water consuming plants and used as an effluent disposal/treatment area. Any excessive effluent will be returned to the main system or holding tank if necessary and dispersed at night time or quiet times. The moisture of the soil will be controlled electronically and monitored. The green roof may need to be covered/roofed later if necessary due to the high rainfall. Effluent will be of an 'A' grade quality that presents no risk to the public and will be suitable for recycling in garden beds and will be used for toilet flushing which will further reduce the waste water output on the site;
- The removal of the underground petrol tank located at the front of the current building;
- Waiving of the additional car parking requirement of 16 spaces.

The restaurant currently has an on-premises liquor licence allowing service of alcohol within the premises, on Sunday from 10am to 11pm, Good Friday and Anzac Day from 12noon to 11pm and on any other day from 7am to 11pm. No changes are proposed to the hours for the serving of alcohol under the liquor licence. The proposed hours of operation for the restaurant will be Monday to Sunday 7am to 11pm with Good Friday and Anzac Day being 9am to 11pm.

Approval is also sought for an extension of area of the current on premises liquor licence. This form of licence is associated with a restaurant use and sets out that the premises must be predominantly used for the preparation and serving of meals for consumption on the premises.

### **Subject Site and Locality**

The site has a total area of 1007 square metres and currently contains a building that occupies 80% of the site, used as follows:

- A convenience shop with an overall area of 160.8m<sup>2</sup>;
- A restaurant that includes outdoor dining for 48 seated patrons;
- A residence and garage attached to the rear of the building used as the convenience shop and restaurant;
- An effluent field to the west of the dwelling and garage.

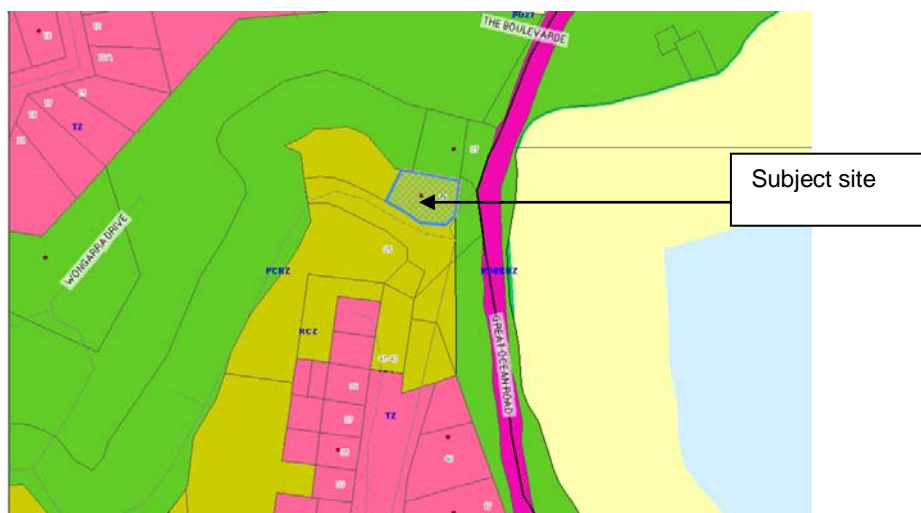


**Photos of the subject site**

This site is within the 'heart' of Wye River, being located 50m from the beach, 40m from the river, with a public park immediately to the north, and an informal car parking area along the Great Ocean Road foreshore area, opposite the site. There are five car parking spaces directly in front of the convenience shop/restaurant.

Adjoining properties are developed in the following way:

- To the west is the Wye River Caravan Park
- To the north is public land/playground area with the Wye River beyond
- To the south is the Wye River Hotel
- To the east is the Great Ocean Road and foreshore reserve.



### Referrals

The application was referred externally to VicRoads, Country Fire Authority and Corangamite Catchment Management Authority in accordance with Section 55 of the Planning and Environment Act.

The application was referred externally under Section 52 of the *Planning and Environment Act* to the Department of Sustainability and Environment (DSE) in its capacity as the land manager of the adjoining Crown Land, Environment Protection Authority (EPA) in relation to the removal of the underground petrol tank, and Colac Police having regard to any on premise liquor licensing issues.

None of these authorities offered any objection to the proposal subject to conditions that will be included in permit conditions if the application is supported, although VicRoads and Department of Sustainability and Environment expressed concern in relation to parking issues which are addressed in the report.

The application was referred internally to Council's Infrastructure and Health Departments who provided the following responses:

- Health – no objections subject to effluent disposal conditions to be included on the permit;
- Infrastructure – no objections subject to access and drainage conditions to be included on the permit together with alteration to the car parking area between the subject site and the Great Ocean Road.

### **Public Notice**

Notice of the application was required pursuant to Clause 52 of the *Planning and Environment Act*, as it was considered that the application may result in material detriment. The application was advertised in the following manner:

- An A3 sign on the site.
- Letters to surrounding property owners and occupiers.
- Notice in "The Echo" newspaper.

A total of four (4) submissions were received to the proposal - two (2) in support of the proposal and two (2) objecting to the proposal. The two submissions in support of the proposal were from Wye River and Separation Creek Progress Association and Wye River Foreshore Committee of Management. These submissions provide positive feedback in relation to the overall development and their views in relation to the parking issues and highlight; in particular, that the parking problem over the summer period is caused by lack of onsite car parking at the nearby caravan park.

### **Consideration of Objections**

- Non-conforming use under the Rural Conservation Zone

**Comment:** The use has been operating on the site since the 1920s and has existing use rights under the planning scheme, and, therefore, allowed to continue to operate as is. Provision is available under Clause 63.05 of the planning scheme to consider expansion and alteration to building and works of businesses that have existing use rights. It is considered that the application satisfactorily addresses the matters contained under this clause. This matter is further discussed in Section D of this report – Zoning.

- Concern regarding increase in waste water discharge and leaching into the River reserve



**Comment:** The Council's Environmental Health Department has assessed the proposal and has advised that the site will be able to contain and treat all effluent. This concern is likely based upon the existing effluent disposal system and considerable changes are being made to the effluent disposal as part of the proposed development.

- Concern over traffic, pedestrian safety and car parking

**Comment:** This matter is discussed in detail in Section F (Car Parking) of this report.

- Concern regarding the site being subject to flooding and that effluent could escape if a flood occurs

**Comment:** As noted above, the Council's Environmental Health Department has assessed the proposal and has advised that the site will be able to contain and treat all effluent. This concern is likely based upon the existing effluent disposal system and considerable changes are being made to the effluent disposal as part of the proposed development including the use of a 'green roof'.

- Concerns regarding contamination of the site with the underground petrol tanks

**Comment:** The proposal is to remove the existing underground tank. The application was referred to the Environment Protection Authority (EPA). The advice received from the EPA states that *'environmental risks associated with the removal of underground petrol tanks are spillages of fuel, soil and stormwater contamination and odours. Old petrol tanks may still contain fuel, which is likely to discharge from the tank during the removal process. Council must be satisfied that any fuel spillage or contaminated soil on the premises will not leave the site and enter any nearby stormwater drains and/or waterways.'* A condition of the permit is that the decommissioning of underground petroleum storage tanks are in accordance with the EPA Publication 888 'Guidelines on the Design, Installation and Management Requirements for Underground Petroleum Storage Systems'. A Preliminary Environmental Site Assessment was undertaken and tests have shown that it does not appear that the underground petrol tank has created a soil contamination risk in respect to a commercial development. A condition on the permit will also require that after works associated with the removal of the underground petrol tank are completed, a further Environmental Site Assessment should be undertaken.

- Concern of conflict between licensed area and children's playground adjoining the property.

**Comment:** A liquor licence currently exists that permits the sale of alcohol on the premises while the site is adjacent to the children's playground. There has been no complaint recorded at Council of any conflict. This issue is further discussed in Section F (Liquor licence) of this report.

### Consideration of the Proposal

A planning permit is triggered by the following clauses of the Colac Otway Planning Scheme:

- Clause 35.06 – Rural Conservation Zone, buildings & works
- Clause 44.01 – Erosion Management Overlay Schedule 1, buildings and works
- Clause 44.04 – Land Subject to Inundation Overlay, buildings and works
- Clause 44.06 – Wildfire Management Overlay, buildings and works
- Clause 52.05 – Signage
- Clause 52.06 – Waiving of Car Parking
- Clause 52.27 – Licensed Premises.
- Clause 52.29 – Land Adjacent To A Road Zone, Category 1, or A Public Acquisition Overlay for a Category 1 Road

The application has been considered as follows:

#### a) State Planning Policy Framework (SPPF)

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

- Clause 14.01 – Planning for Urban Settlement
- Clause 15.01 – Protection of catchments, waterways and groundwater
- Clause 15.02 – Floodplain management
- Clause 15.06 – Contamination
- Clause 15.07 – Wildfire
- Clause 15.08 – Coastal areas
- Clause 17.02 – Business
- Clause 17.04 – Tourism
- Clause 18.02 – Car parking & public transport access to development

**Comment:** This application supports the SPPF policy directions as it provides for a tourist related activity in Wye River, by increasing the vitality of the town and the variety of services available whilst having consideration of environmental values.

#### b) Local Planning Policy Framework

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.04-02 - Natural Resources & Cultural Heritage Management - the coast and its environs
- Clause 21.04-08 - Tourism

**Comment:** The proposal implements the strategies of this clause in that Wye River is part of the nationally significant Great Ocean Road landscape to be protected whilst providing for a range of developments in an environmentally sensitive manner. The redevelopment of the building will result in an improved urban design outcome and streetscape appearance. Changes are proposed to the car parking arrangement directly in front of the site and pedestrian improvements that will enhance pedestrian linkages and safety in the area. The redevelopment will generally support tourism activity in the area.

**c) Other relevant adopted policies/strategies/ amendments**

The Kennett River, Wye River and Separation Creek Structure Plan was adopted by Council on 26 February 2008 and a Planning Scheme amendment is currently being prepared to incorporate the Structure Plan into the Colac Otway Planning Scheme.

**Comment:** This proposal is consistent with the Structure plan which supports the redevelopment of the convenience shop and restaurant in Wye River with improvement in the car parking area to be more landscaped and pedestrian friendly. Actions recommended in the Structure plan include the improvement of pedestrian links. This matter is discussed in detail in the car parking section of this report.

**d) Zoning Provisions**

The site is located in the Rural Conservation Zone the purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies.
- To conserve the values specified in the schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

**Comment:** Under the Rural Conservation Zone, a restaurant is a permit required use that must be used in conjunction with agriculture, rural industry or winery and the number of patrons does not exceed 150. If these conditions are not met, then the use is prohibited (Section 3 use). A convenience shop (retail premise) is prohibited under the Rural Conservation Zone.

This site has existing use rights and therefore no planning approval is required for the use of the land as a convenience shop or restaurant. An existing use right is established in relation to the use of the land under the Colac Otway Planning Scheme if proof of continuous use of 15 years is established in accordance with Clause 63.11. The applicant advises that the convenience shop has operated since approximately the 1920's and the café has been operating since 1988.

*Clause 63.05 states that –*

*“A use in Section 2 or 3 of a zone for which an existing use right is established may continue provided:*

- No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.*
- Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.*
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.”*

It is acknowledged that the existing use is not consistent with the purpose of the Rural Conservation Zone, however, existing use rights apply and Council is able to consider an application to extend the existing use, building and works in accordance with Clause 63.05. The use of the site is historically important to the coastal township providing for day to day needs of local residents and tourists. It is a key element in the vitality of the township which is recognised and supported in the Kennett River, Wye River and Separation Creek Structure Plan.

The applicant is proposing to utilise the latest technology in relation to effluent disposal that will provide an environmental improvement in comparison to the existing effluent disposal system.

It is proposed that the building will be renovated with the use of natural timber and colorbond finishes which will provide an improved overall visual appearance of the existing building. Although the proposed building is double storey, the building materials and landscaped open areas on the 2<sup>nd</sup> storey will be more sympathetic to the surrounding landscape compared to the existing brick building with gable roof.

Clause 35.06-5 states that a planning permit is required for buildings and works associated with a Section 2 use and where a building is within 100 metres of a Road Zone Category 1. The existing building has an adjoining deck that is proposed to be extended towards the east and to the south that triggers these permit requirements, however, the building siting is considered appropriate.

**e) Overlays****Clause 44.01 - Erosion Management Overlay Schedule 1**

The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

Pursuant to Clause 44.01-1 A permit is required to construct a building or carry out works

**Comment:** The applicant has supplied the required application requirements as noted within the overlay. The Land Stability Assessment supplied by Provincial Geotechnical Pty Ltd dated 23 May 2008 has categorised the site as a low risk.

**Clause 44.04 Land Subject to Inundation Overlay (LSIO)**

The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

A permit is required for the construction of a building or to carry out works under the requirements of Clause 44.04-1

**Comment:** The application was referred to the Corangamite Catchment Management Authority (CCMA) with respect to flooding issues related to this proposal. CCMA offered no objection subject to conditions being included on the permit.

**Clause 44.06 - Wildfire Management Overlay**

The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:

- Satisfies the specified fire protection objectives.
- Does not significantly increase the threat to life and surrounding property from wildfire.
- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

Pursuant to Clause 44.06-1 a permit is required to construct a building or carry out works.

**Comment: The proposal addresses the requirements of the zone. The application has been referred to the CFA for comments and permit conditions have been provided.**

#### **f) Particular Provisions**

##### **Clause 52.05 Signage**

The purpose of this clause is:

- To allow adequate and effective signs appropriate to each zone.
- To provide for the orderly display of signs.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

In accordance with Clause 35.06-7, the category for advertising signage is 4 – Sensitive Areas. Business identification signage requires a planning permit and the total advertisement area to each premises must not exceed 3 square metres.

Clause 52.05-4 (existing signs) states that a sign that was lawfully displayed on the approval date or that was being constructed on that date may be displayed or continue to be displayed and may be repaired and maintained. A lawfully displayed advertisement may be renewed or replaced. However, a permit is required:

- To renew or replace the advertisement of an animated or internally-illuminated sign.
- If the advertisement area is to be increased.
- If the renewal or replacement would result in a different type of sign.

**Comment: The applicant has indicated that they intend on utilising the full extent of 3 square metres of business identification signage. As a wall is intended to separate the convenience shop and the café/restaurant and have separate tenancies, it is reasonable to consider each as a premise and therefore a total of 6 square metres is possible subject to planning approval.**

**The existing signage may currently exceed 6 square metres under existing use rights and replacement signage would provide for an orderly overall appearance in comparison.**

**The applicant has not provided full details of the proposed signage at this stage of the development. A permit condition will require that plans are submitted for assessment prior to the commencement of the development and that the business identification signage does not exceed 3 square metres per premise.**

##### **Clause 52.06– Car Parking**

This Clause contains purposes including:

- To promote the efficient use of car spaces through the consolidation of car parking facilities;
- To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

In accordance with this clause, a permit is required for the waiving or reduction of car parking spaces. There are two different uses under consideration of this proposal, being a shop and restaurant.

Clause 52.06 requires that for a Shop eight (8) spaces to each 100sqm is provided.

|  |         |   |   |   |              |
|--|---------|---|---|---|--------------|
| Proposed area  | 160.8m2 | x | 8 | = | 12.86        |
| Existing area  | 192m2   | x | 8 | = | <u>15.36</u> |
| <i>Difference for convenience shop/takeaway area</i> |         |   |   |   | -2.5         |

Clause 52.06 requires that for Restaurant 0.6 space to each seat.

|                                  |    |   |     |   |             |
|----------------------------------|----|---|-----|---|-------------|
| Proposed seats                   | 94 | x | 0.6 | = | 56.4        |
| Existing seats                   | 48 | x | 0.6 | = | <u>38.4</u> |
| <i>Difference for restaurant</i> |    |   |     |   | 18.0        |

A total of 15.5 (16) additional car spaces are required to be provided for the proposed redevelopment. Because no additional car spaces are proposed onsite, the application seeks a waiver of the 16 spaces that cannot be provided on-site.

**Comment:** It is acknowledged by both the applicant and Council Officers that no parking can be provided onsite due to the constraints of the site including the size of the lot and building footprint. The building footprint is being reduced and the balance of the lot will be used for effluent disposal. The only area not built on or used for effluent disposal is a loading area at the front of the shop and an area that provides for vehicular access to the car parking area between the site and the Great Ocean Road.

As there is no available area on site to provide additional parking, the applicant has sought to waive the requirement of the sixteen car spaces under the provisions of 52.06-1. The Decision Guidelines require consideration of the following to justify reducing or waiving car parking requirements:

- The availability of car parking in the locality;
- Local traffic management;
- Local amenity including traffic amenity;
- An empirical assessment of car parking demand.

The applicant provided an aerial photograph demonstrating the pedestrian catchment within 250m and 500m of the site, claiming that the majority of patrons would walk to the site during the busy periods when car parking is at a premium in the town. This claim is supported by the Wye River and Separation Creek Progress Association submission.

There is public car parking available along the foreshore on the opposite side of the Great Ocean Road and across the River in the Harrington Street public car park. Demand on existing car parking is seasonal. In the colder months there is ample public parking available, however, in the warmer months when tourism is high, car parking is insufficient to meet demand, particularly over the holiday period.

It is likely that during the day the use itself will not be a destination, but will be an activity undertaken as part of a trip to the beach. It is considered that the restaurant will be an adjunct to the main purpose of the trip, however the function of the restaurant will alter in the evening and it would more likely become a destination in itself. It must be acknowledged that the peak hours of the restaurant as a destination in its own right would be late afternoon to evening and would generally be outside the peak times for the foreshore area.

The Kennett River, Wye River and Separation Creek Structure Plan provides a number of strategies in relation to access both vehicular and pedestrian. These include -

- *Create or enhance safe pedestrian access from all parts of the hamlet to the foreshores.*
- *Construct zebra crossings (signage not flashing lights) with a pedestrian refuge on the Great Ocean Road opposite the convenience shop in Wye River and opposite the middle foreshore car park at Kennett River. The precise location of both crossings would be subject to detailed survey work and approval by VicRoads. A grade separated crossing, such as a boardwalk under the road bridge, will be investigated at Wye River as an alternative to a pedestrian crossing of the Great Ocean Road.*
- *Investigate options for dedicated pedestrian / bicycle pathways along the Great Ocean Road and inland.*
- *Improve the efficiency of the existing foreshore car parks by delineating parking bays. Retain the informal appearance by retaining the unsealed surface and use of the palette of materials in accordance with the Wye River and Separation Creek Masterplan.*
- *Allow/formalise parallel parking on roads close to the foreshore.*
- *Avoid new large scale car parks. Any new car parking will be provided in small scale informal car parks and incorporated landscaping.*
- *No new car parks or expansion of car parks will occur on land between the Great Ocean Road and the coast.*

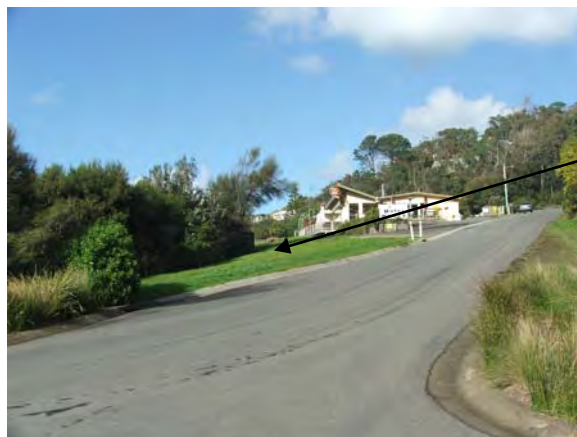


- ***Reinforce Paddy's Path as an all year round walk between Wye River and Separation Creek.***

A number of these options have been investigated as part of this application by the applicant and Council Officers. It was found that an estimated 27 spaces (when at 90 degree) would be available plus a bus stop area along the Foreshore. By delineating this car park, it is estimated that the car parking would be reduced to 24 spaces. VicRoads has also indicated that they have concern with this as vehicles backing out from the parking bays onto Great Ocean Road may result in conflict between these vehicles and through traffic.

Council Officers discussed the option of a pedestrian access across Great Ocean Road in front of the shop with VicRoads. VicRoads indicated that a raised refuge island in the middle of the road would be the most appropriate treatment and street lighting would need to be provided to illuminate the raised island at night. This type of treatment would enhance pedestrian activity and provide a safe crossing point across the Great Ocean Road.

A plan was provided by the applicant demonstrating that a total of 10 car spaces could be created east of Morley Avenue (between Morley Avenue and the Great Ocean Road between the Hotel and road junction). It was found that this area is currently used during holiday periods for overflow car parking (generally by users of the nearby Caravan Park) and creating a formal parking area would not create more spaces than already currently used and would not be consistent with the Kennett River, Wye River and Separation Creek Structure Plan in that strategies recommend informal appearance of car parking areas. Any works would require approval of Department of Sustainability and Environment, and the Wye River Foreshore Committee of Management. The Committee of Management has advised in its submission to this proposal that it is 'reluctant to "over domesticate" the slightly wild coastal village look of the foreshore'. (Pictured below)



Other options investigated included the closing of the exit point in front of the convenience shop onto the Great Ocean Road which would direct all traffic access to the site via the Great Ocean Road from the Morley Avenue intersection.

This area could provide for an additional two car spaces and a disabled car space. VicRoads supported this option commenting that the closure of the exit would have the additional benefit of reducing the number of conflict points along the Great Ocean Road (pictured below). It is acknowledged that the front verandah would need to be reduced in width for part of its length to accommodate adequate turning space for vehicles, however this is considered appropriate as it would not unreasonably affect the function of the verandah for dining and disabled access.



The Harrington Street carpark (pictured below) contains 28 informal car parking spaces which are not lined but the vehicle barriers indicate that 28 vehicles could comfortably park in this area.



The applicant has indicated that additional parking is not required as during the holiday periods the majority of visitors/residents walk around Wye River and during the quieter periods there is already sufficient car parking located around the site.

As the applicant seeks to justify a waiver of car parking on the basis that the majority of patrons will access the venue on foot, it is considered reasonable for the applicant to provide a contribution towards improving pedestrian links to offset the lack of car parking provided onsite. Improving pedestrian links is also supported in the Kennett River, Wye River and Separation Creek Structure Plan. Pedestrian links could be improved by any or all of the following, subject to further investigation:

- **A pedestrian refuge in the centre of the Great Ocean Road located generally opposite the site in Wye River;**
- **Extend the pedestrian path upstream along the river reserve as far as practicable;**
- **Provide for low impact lighting across the existing pedestrian bridge between the site and the Harrington Street car park.**

**A contribution by the proponent of \$50,000 towards pedestrian improvements and linkages in and around Wye River is considered reasonable. This is based on preliminary costing of some of the improvements discussed above and identified in the Kennett River, Wye River and Separation Creek Structure Plan. There have been discussions with the proponent in relation to this, and whilst there is agreement in principle to a contribution being made, there has been disagreement about the extent of the contribution.**

**Thus, in considering the decision guidelines and purposes of Clause 52.06, the request for waiving of the car parking requirement is considered to be acceptable subject to the following:**

- i. Closure of the exit onto the Great Ocean Road, redesign of existing parking area in front of the site to include an additional two car spaces plus a disabled car space (providing a total of eight spaces in this location); and**
- ii. A contribution of \$50,000 towards pedestrian improvements and links within the vicinity of the site.**

### **Clause 52.27 Licensed Premises**

The purpose of Clause 52.27 is to ensure that licensed premises are situated in appropriate locations and that the impact of the licensed premises on the amenity of the surrounding area is considered.

These provisions apply to premises licensed, or to be licensed, under the Liquor Control Reform Act 1998.

A permit is required to use land to sell or consume liquor where a licence is required under the Liquor Control Reform Act 1998 and the hours of trading allowed under any licence are to be extended.

The responsible authority must consider, as appropriate, the impact of the sale or consumption of liquor permitted by the liquor licence, the hours of operation, the number of patrons and the cumulative impact of any existing and the proposed liquor licence, on the amenity of the surrounding area.

**Comment: This proposal is seeking an extension to the area to be covered by a liquor licence to include the upper level and the extended deck area. The restaurant currently has an on-premises liquor licence allowing service of alcohol within the premises, on Sunday from 10am to 11pm, Good Friday and Anzac Day from 12noon to 11pm and on any other day from 7am to 11pm. No change to the licensed hours is proposed.**

**An objection to this proposal raised concern over potential conflict with the adjoining children's playground, however, the premises already has a liquor licence and has been operating for considerable time without causing any undue impact on the amenity or safety of nearby land uses. Council has no record of complaints being received relating to any conflict between the consumption of liquor on the site.**

**An on-premises license is unlikely to cause any amenity type concerns due to the nature of licensed restaurants and their proposed hours.**

**Clause 52.29 Land Adjacent To A Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road**

The purpose of this clause is to -

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads.

and applies to land adjacent to a Road Zone, Category 1.

A permit is required to create or alter access to a road in a Road Zone, Category 1. (i.e. Great Ocean Road).

The decision guidelines of this clause states that the responsible authority must consider the views of the relevant road authority, the effect of the proposal on the operation of the road and on public safety and any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

**Comment: The application was referred to VicRoads which advised that Council would need to address the parking issue raised as part of the application. A meeting was held between VicRoads and Council Officers to discuss options available to improve the parking within Wye River, and as discussed earlier in the Car Parking Section of the report, VicRoads supported the option of closing the exit onto the Great Ocean Road in front of the subject site.**

**The decision guidelines of Clause 65**

The proposal will produce acceptable outcomes in terms of the decision guidelines of this clause. Matters considered include:

- 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 amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

- 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.

**Comment:** These matters have been given due consideration as part of this application.

#### **g) Particular Provisions**

##### **Clause 63 – Existing Use**

Existing use rights have been discussed in the Zoning (Section D) of this report.

#### **h) Summary**

It is assessed that the proposed redevelopment of the Wye River convenience shop and licensed restaurant at this site is considered to be appropriate and supported by the relevant planning provisions of the Colac Otway Planning Scheme.

The waiving of car parking is necessary as there is no ability to provide any additional parking on the site. However, there is an opportunity for car parking to be extended and improved in Wye River directly adjacent to the subject site as well as improved pedestrian access to the area. It is considered that the waiving of car parking associated with the application is justified as the benefits to the town of the redevelopment and contribution to improving vehicular and pedestrian access to the site outweighs the lack of onsite car parking.

It is recommended that Council supports this application through the issue of a Notice of Decision to Grant a Permit.

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

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP152/08 for alterations and additions to an existing convenience shop and restaurant, waiver of car parking, signage, alteration to liquor licence area, removal of underground petrol tank and associated works at 35 Great Ocean Road, Wye River, subject to the following conditions:***

#### **Plans**

- 1. Prior to the commencement of the re-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 provided. The plans must generally be in accordance with the plans submitted with the application, but modified to show:***
  - i. Full set of plans drawn to scale showing a reduction in the ground level deck area to allow for the manoeuvring of cars in the parking area;***
  - ii. Removal of the protruding seat in the northeast corner of the lot;***

- iii. Full details of business identification signage that does not exceed 3 square metres per premise;*
  - iv. Redesign of the car parking area directly in front of the site to include the closing of the exit onto the Great Ocean Road, to show a total of eight (8) car spaces including one (1) disabled car space, clearly delineating the boundary between the road reserve and property boundary.*
- 2. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.*

### **Signs**

- 3. The location and details of the sign and its structure as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
- 4. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.*
- 5. The signs must not contain any flashing light and must not be illuminated by external or internal light except with the written consent of the Responsible Authority*

### **Drainage**

- 6. All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.*

### **Earthworks related to underground petrol tank**

- 7. At the completion of works associated with the removal of the underground petrol tank, an Environmental Site Assessment must be undertaken by suitably qualified professional to demonstrate that any potential risk from contamination is of low probability in respect to human and environmental health to the satisfaction of the Responsible Authority.*
- 8. The area where the underground petrol tank is to be removed must be re-established with asphalt to the satisfaction of the Responsible Authority.*

### **Liquor licence**

- 9. The provision and or consumption of liquor within the development hereby permitted must be subject to the issue of a Liquor Licence, pursuant of the provision of the Liquor Control Reform Act, 1988, as amended.*
- 10. The premises must be operated in strict conformity with all requirements of the Liquor Licence.*

11. ***The hours of the on premise liquor licence allowing service of alcohol within the restaurant, on Sunday from 10am to 11pm, Good Friday and Anzac Day from 12noon to 11pm and on any other day from 7am to 11pm.***
12. ***Alcohol consumption must be strictly limited to only those areas marked in red on the endorsed plan to the satisfaction of the Responsible Authority.***

#### **Car parking, loading and access**

13. ***Loading and unloading of all goods, materials and items must be carried out on the site within the defined loading bay on the endorsed plan to the satisfaction of the Responsible Authority.***
14. ***The loading bay area must remain free and available for this purpose at all times to the satisfaction of the Responsible Authority.***
15. ***Prior to the commencement of works, a detailed construction plan for the car parking area adjacent to the subject site must be submitted for approval by the Responsible Authority. When approved, the plan will be endorsed and form part of the planning permit. The plan must include the parking reconfigured in front of the site to and include:***
  - ***Closing the exit point to the Great Ocean Road;***
  - ***Forming 8 x 90 degree parks spaces – one being disabled to the satisfaction of the responsible authority;***
  - ***Signage and line marking;***
  - ***Drainage; and***
  - ***Landscaping.***
16. ***Prior to the commencement of works, detailed plans for the parking and access arrangement on the Great Ocean Road reserve must be approved by VicRoads.***
17. ***Prior to the re-commencement of the use and once the buildings reconstruction is completed, the car parking area between the site and Great Ocean Road be constructed in accordance with the plans endorsed as part of this permit.***
18. ***Prior to the commencement of the redevelopment, the owner/applicant must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 stating that:***
  - a. ***the land between the building the eastern property boundary be kept free and available for the use of car parking and vehicular access as part of the car parking area between the lot and the Great Ocean Road to the satisfaction of the Responsible authority.***
  - b. ***within 3 months of the final inspection/occupancy permit being issued for the redevelopment approved under Planning Permit PP152/08, the owner must make a contribution of \$50,000 to Council towards pedestrian linkages in and around Wye River. This contribution may be made in instalments if agreed to in writing by the Responsible Authority.***

***Evidence of lodging of this agreement in accordance within Section 181 of the Planning and Environment Act 1987 must be submitted to the Responsible Authority. All costs associated with the agreement will be met by the owner/applicant.***

**Effluent Disposal & Health**

19. ***Soil in the rear effluent field must be replaced with good quality soil, with a soil percolation rate of at least 75mm per hour to the satisfaction of Council's Environmental Health Officer.***
20. ***It will be the responsibility of the applicant or owners that if the effluent treatment system does not perform as expected, alterations will be made to remedy the problem or reduce the activity of the premise hereby approved to reduce the amount of waste water produced to that which can be disposed of within the title boundary in accordance with the EPA Guideline – Publication 891 – Septic Tank Code of Practice.***
21. ***A waste water storage tank shall be installed that will hold at least 1,000 litres of waste water as a backup for any system failure or to allow waste water produced at times of peak activity to be evenly distributed across the effluent disposal fields.***
22. ***The septic system shall be monitored on a daily basis for performance and records kept of the output and the amount of any waste water kept in the storage tanks to the satisfaction of the Responsible Authority.***
23. ***Recommendations contained in the Land Capability Assessment No E8098 dated 22 May 2008 by Provincial Geotechnical Pty Ltd in relation to the use of detergents and maintenance of the septic system are to be included in the septic tank application when submitted for approval to the Environmental Health Department of the Colac Otway Shire.***
24. ***The applicant must liaise with the Council's Food Safety Officer when designing and before any works are commenced on the kitchen and food preparation areas.***
25. ***A food safety plan must be submitted for the new premise and a suitable number of staff trained in food handling techniques before the premises can be legally registered or operate under new proprietors.***

***Conditions required by Department of Sustainability and Environment***

26. ***No works are to occur on the adjoining Crown Land without seeking the written consent from the Department of Sustainability and Environment.***
27. ***All works must be conducted within the private land. There should be no movement of materials, equipment or vehicles through the adjoining Crown Land.***
28. ***No materials, buildings, equipment or vehicles associated with the works are to be stored on the adjoining Crown Land during the construction or demolition works.***



29. **All excess and waste materials, including felled trees, must be disposed of correctly to ensure no materials escape into the adjoining Crown land. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust is created.**
30. **Provision for public access to the adjoining Crown land must be maintained throughout the construction period to the satisfaction of the responsible authority in consultation with the Department of Sustainability and Environment**
31. **The department would like input into any advertising signs located on the north boundary of the property, to ensure that no offensive signs or signs that imply ownership of the adjoining public open space are erected.**

#### **Conditions required by Country Fire Authority**

#### **Water Supply Requirements**

32. **A static water supply must meet the following requirements:**
  - **a minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely for fire fighting;**
  - **the water supply must be located within 60 metres of the building;**
  - **fire brigade vehicles must be able to get to within four metres of the water supply outlet;**
  - **the water supply must be readily identifiable from the building or appropriate signage (see Appendix A: Figure 1) must point to water supply. All below-ground water pipelines must be installed to the following depths:**
    - a. **subject to vehicle traffic - 300 mm**
    - b. **under houses or concrete slabs - 75 mm**
    - c. **all other locations - 225 mm**
    - d. **all fixed above-ground water pipelines and fittings, including water supply, must be constructed of non-corrosive and non-combustible materials or protected from the effects of radiant heat and flame.**

**If the static water supply is above ground the following additional standards must apply:**

- **all above-ground static water supply must provide at least one 64 mm. 3 thread/25 mm x 50 mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A: Figure 2);**
- **all pipe work and valving between the water supply and the outlet must be no less than 50 mm nominal bore;**
- **if less than 20 metres from the building, each outlet must face away from the building to allow access during emergencies.**

### **Access Requirements**

33. **Access to the development must be designed to allow emergency vehicles access. The minimum design requirements are as follows:**
- **curves in driveway must have a minimum inner radius of ten metres;**
  - **the average grade must be no more than 1 in 7 (14.4%) (8.1°) with a maximum of no more than 1 in 5 (20%) (11.3°) for no more than 50 metres;**
  - **dips must have no more than a 1 in 8 (12.5%) (7.1°) entry and exit angle.**

**If the driveway from the road to the building and water supply, including gates, bridges and culverts, is greater than 30 m long, the driveway:**

- **must be designed, constructed and maintained for a load limit of at least 15 tonnes’;**
- **be all weather construction; and**
- **must provide a minimum trafficable width of 3.5 metres, and**
- **be clear of encroachments 4 metres vertically (see Appendix A: Figure 3).**

### **Vegetation Management Requirements**

34. **A distance of 30 metres around the proposed building or to the property boundary (whichever is the lesser) must be maintained to the following requirements during the declared 'Fire Danger Period' to the satisfaction of the responsible authority.**
- **Grass must be no more than 100mm in height**
  - **Leaf litter must be less than 10mm deep**
  - **There must be no elevated fuel on at least 50% of the area. On the remaining 50% the elevated fuel must be at most, sparse, with very little dead material.**
  - **Dry shrubs must be isolated in small clumps more than ten metres away from the building.**
  - **Trees must not overhang the roofline of the building.**

### **Conditions required by Environment Protection Authority**

35. **The installation and/or decommissioning of underground petroleum storage tanks should be in accordance with EPA Publication 888 Guidelines on Design, Installation and management Requirements for Underground Petroleum Storage Systems.**
36. **All contaminated stormwater or sediment arising from the proposal must be retained on the premises.**
37. **There should be no odours offensive to the senses of humans beyond the boundary of the premises.**
38. **If at any stage the site sewage treatment facilities exceed a design or actual flow rate of 5000 litres per day, the works become scheduled under the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 and will require a works approval.**

**Condition required by Corangamite Catchment Management Authority**

39. **The proponent should consider developing a flood action plan designed to minimise damage to the contents and fittings of the building during a flood.**

**Expiry**

40. **This permit will expire if one of the following circumstances applies:**

- **The development is not started within two years of the date of this permit.**
- **The development is not completed within four years of the date of this permit.**

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

**Notes**

- a. **The holder of this permit must obtain the necessary Building and Health Approvals prior to the commencement of any buildings and works.**
- b. **A Permit to install an all waste septic tank system must be lodged and approved by the Responsible Authority prior to the commencement of works. Such system must be designed and installed to the satisfaction of the Responsible Authority before a Permit to Use the waste septic tank system can be issued.**
- c. **Non-flammable features such as tennis courts, swimming pools, dams, patios, driveways, or paths should be incorporated into the vegetation management plan, especially on the north and western sides of the proposed building.**
- d. **Features with high flammability such as coir doormats, firewood stacks should not be located near the building during the fire danger period.**
- e. **Note for medium category of bushfire attack - The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006. Low forest or woodland is the predominant vegetation within 100 metres of the proposed building which corresponds to a medium category of bushfire attack under AS 3959.**
- f. **The applicable 1% Annual Exceedance Probability (AEP) flood level is 3.2m Australian Height Datum (AHD). This site is located entirely within the 1% AEP flood extent. The Authority has obtained this level from recorded peak levels of a flood that occurred in April 1985. Based on topographical data for the site, the 1985 flood would have resulted in flooding approximately 500mm above the floor level of the existing building (floor level 220mm above ground level). 35 Great Ocean Road is subject to flooding and is known to have been affected during a flood that occurred in April 1985. The peak recorded level for that flood is 3.3m AHD upstream of the Great Ocean road, resulting in flooding up to 600mm deep on the property.**

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**PC080909-4 WAIVING OF CAR PARKING ASSOCIATED WITH RESTAURANT, INTERNAL BUILDINGS & WORKS, AND BYO LIQUOR LICENCE AT 205-207 MURRAY STREET, COLAC**

AUTHOR: Anne Sorensen                      ENDORSED: Jack Green  
DEPARTMENT: Sustainable Planning and Development                      FILE REF: PP203/08

**Location:** 205-207 Murray Street, Colac

**Applicant:**

**Zoning:** Business 1

**Overlays Controls:** Nil

**Amendment:** Amendment C55 proposes an Environmental Significance Overlay (ESO1) – Warrion Groundwater Area  
Amendment C27 proposes a Heritage Overlay (HO305) – Murray Street Precinct

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

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration**

This application is before Council's Planning Committee for the waiving of car parking requirements of Clause 52.06-1 of the Colac Otway Planning Scheme. The waiving of eighteen car parking spaces is required for this application.

**Summary**

- The site is located in the commercial shopping precinct of Colac in Murray Street and within the Business 1 Zone.
- The site is currently vacant but was recently used as an office (Displan/Barwon Psychiatric Resources Council).

- The application seeks permission for the waiving of car parking associated with a restaurant use. Permission is also sought for internal buildings and works and a BYO liquor licence.
- The restaurant will accommodate a maximum of 40 patrons which generates the need for a total of 24 car spaces. Three car parking spaces were proposed to be provided within the Right of Way at the rear of the premises, but this is not supported. The site has a car parking credit of six spaces attributed to its previous use as an office, leaving a deficit of eighteen car spaces. As there is no opportunity to provide for this additional car parking on site, a waiver of car parking is sought.
- The application has been advertised and one objection was received from a business located on the south side of Murray Street opposite the site. The grounds of objection relate to the demand for parking in this area and the perceived impact on the objector's business.
- There is considered to be adequate on street and public parking in the vicinity of the site to accommodate the needs of the restaurant and further, it is considered that the peak hours for the restaurant are outside the peak hours for shops, such that times of high demand do not coincide.
- It is recommended that this application is supported through the issue of a Notice of Decision.

### **Proposal**

The application proposes to use the land for the purpose of a restaurant (Thai), for which a permit is not required in a Business 1 Zone. However the provisions of the planning scheme are such that a car parking rate of 0.6 spaces per seat is required to be provided on site. As this level of car parking cannot be accommodated on the site, the application seeks permission to waive car parking.

The restaurant will accommodate a maximum of 40 patrons at any one time. Proposed hours of operation are 11:30am to 3:00pm, Monday to Saturday and 5:00pm to 9:00pm, seven days. Associated buildings and works, for which approval is also required, are limited to removal of partition walls and installation of joinery and a commercial kitchen. No external works are proposed apart from signage, which does not form part of this application.

Approval is also sought for a BYO liquor licence. This form of licence is often associated with a restaurant use and allows customers to bring their own liquor and drink it on the premises.

### **Subject Site and Locality**

The site is located in the main street of Colac. The site is developed for commercial purposes and was previously used as an office. The building takes up the entire site, however, there is sufficient area for three car parking spaces within the Right of Way at the rear of the premises. This area is accessed via Corangamite Street to the east and Skene Street to the north.

Murray Street is a Category 1 Road. Angled parking is generally available along this section of the street and parking is available in front of the site. A public car parking area is within short walking distance to the south east of the site, accessed via Johnstones Lane. It should also be noted that several businesses within this area have on-site car parking and are not reliant on on-street parking (Beechley Antiques, KFC, McDonalds).

The site and surrounding area are located in the Business 1 Zone, such that lots in the area are used and developed for commercial purposes. The site to the east contains a Telstra

Shop, while the site to the west contains a Nail Technician. Premises opposite the site also contain a mix of office and retail uses (homewares, toys and sports shops, antiques, lawyers offices, beautician, farm, computer and electrical supplies).

### **Referrals**

The application was referred to the Victoria Police for comment in relation to the liquor licence sought. No objections were lodged.

Council's Building and Health Departments were consulted. The Building Department advised that a permit is required for the change of use. The Health Department raised no objection, subject to satisfying Health Regulations with respect to food preparation and safety.

### **Public Notice**

Notice of the application was required pursuant to Clause 52 of the Planning & Environment Act, as it was considered that the application may result in material detriment. The application was advertised in the following manner:

- An A3 sign on the site.
- Letters to surrounding property owners and occupiers.

One objection was received from a business located opposite the site. The business from which the objection has been received has on-site parking at the rear which would accommodate approximately six vehicles.

The grounds of objection are summarised as follows:

- Parking is at a premium at this site;
- The objector had difficulty in obtaining an extra parking lot and loading zone in front of the premises which has a shop and residence;
- Proposed hours of operation are similar (11:30am to 3:00pm six days a week);
- Previous occupants used car parks at the rear of the building;
- Waiving of car parking would not allow the business to trade on a fair and reasonable basis, and restricted parking in the area would lose him considerable business.

### **Consideration of the Proposal**

A planning permit is triggered by the following Clauses of the Colac Otway Planning Scheme:

- Clause 34.01-04 – Buildings and works in a Business 1 Zone
- Clause 52.06-1 – Waiving of Car Parking
- Clause 52.27 – Licensed Premises.

The application has been considered as follows:

**a) State Planning Policy Framework (SPPF)**

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

- Clause 14.01 – Planning for Urban Settlement
- Clause 17.02 – Business

**b) Local Planning Policy Framework**

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.04-12 – Colac

**Comment: This application is consistent with the State and Local Planning Provisions as it provides for commercial use within the primary commercial area of Colac, increasing the vitality of the centre and adding to the diversity of businesses available within the town.**

**c) Zoning Provisions**

The subject land is located within the Business 1 Zone. The primary purpose of the Business 1 Zone is to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

**Comment: The proposed use is consistent with the provisions of the Business 1 Zone as it provides for a restaurant use which complements the existing business centre. As noted previously, a permit is not required for the use of the site as a restaurant.**

**A permit is required for buildings and works in this zone. As discussed above, the proposed works are limited to internal alterations. There will be no external changes to the building and as such no external impact. The works are minor and permit conditions will require the building to be maintained in good order and appearance, and appropriate storage of rubbish.**

**d) Overlay Provisions**

There are current no overlays which apply to the site.

**e) Amendment C55**

Amendment C55 proposes to introduce an Environmental Significance Overlay (ESO1) – Warrion Groundwater Area, and Amendment C27 proposes a new Heritage Overlay (HO305) – Murray Street Precinct, both of which will cover this site.

**Comment:** The proposal is consistent with the proposed overlays of Amendment C55. The proposal proposes only internal alterations of the building which has no impact on the external appearance and the use will not affect the quality or quantity of groundwater recharge in the Warrion aquifer area.

**e) Particular Provisions**

The particular provision which relates to car parking is applicable to the assessment of this application.

**Clause 52.06– Car Parking**

This Clause contains purposes including:

- To promote the efficient use of car spaces through the consolidation of car parking facilities.
- To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality

**Comment:** The provisions of the planning scheme allow consideration to be given to parking credits which exist for a site. The site has operated as an office and has a credit of six car parking spaces. The existing building footprint covers the majority of the site and there is no opportunity for further parking to be provided. There is an area at the rear of the building within the Right of Way in which the applicant proposed to accommodate three spaces however this is not appropriate given the need to keep this area available for access by other land owners.

A restaurant use attracts a requirement for 0.6 spaces per seat, although as discussed in detail below, this requirement has been found in the past to be excessive and a reduced rate of 0.3 spaces per seat has been generally accepted as an appropriate rate. With 40 seats available, a total of 24 car parking spaces are required to be provided based on the higher rate of 0.6 spaces per seat. This leaves a deficit of eighteen spaces after the credit of six spaces is taken into account.

The applicant has sought to waive the requirement of the additional car spaces under the provisions of 52.06-1. The Decision Guidelines require consideration of the following to justify reducing or waiving car parking requirements:

- The availability of car parking in the locality;
- Local traffic management;
- Local amenity including traffic amenity;
- An empirical assessment of car parking demand.

It is considered that there is sufficient car parking available in Murray Street and also in nearby public car parking areas. As noted above, several businesses in the vicinity of the site also provide private on-site car parks (i.e. Beechy Antiques, KFC, McDonalds) and are not reliant on on-street parking for patrons.



Despite the concerns of the objector, it is considered that there is sufficient car parking in the area to accommodate the use as proposed. The objector's business is located opposite the site on the south side of Murray Street. The restaurant will have similar daytime operating hours, however, given the level of existing parking available within the immediate area, the impact of the proposed use on the objector's business is likely to be minimal.

It is likely that during the day the use itself will not be a destination in itself, but would more likely be an activity undertaken as part of a trip to the commercial area of Colac. In such cases, patrons would park in the general vicinity of the site and walk to the restaurant, as an adjunct to the main purpose of the trip. At night however, the function of the restaurant would be likely to alter and become a destination in itself. It should be acknowledged that the peak hours of the restaurant as a destination in its own right, are likely to be at night, after normal business hours and outside the peak times for the shops.

The Victorian Civil and Administrative Tribunal (VCAT) has regularly accepted a rate of 0.3 spaces per seat for a restaurant, based on studies undertaken by traffic engineers for various application proposals. If this rate was to be applied to the proposal, there would be a requirement for 12 on-site car parking spaces to be provided, half of which is covered by the existing credit which applies to the site. It is noted that previous office and shop uses have operated from the premises without impacting unreasonably on the level of car parking available in the surrounding area.

There is no existing Parking Precinct Plan contained within the Colac Otway Planning Scheme and therefore no ability under the Planning Scheme to require, as a condition on the permit, a monetary contribution (cash in lieu) for off site car parking, unless a voluntary agreement between Council and the land owner is reached. It is considered unreasonable to request a voluntary agreement given the availability of on street parking in the immediate vicinity of the site. A Parking Study for Colac is commencing, with tenders being sought for the project at the present time, and will give further guidance on parking provision within the commercial areas when it is completed in approximately twelve months time. It is too early to know whether the Study will support parking contributions for commercial uses.

In considering the decision guidelines and purposes of Clause 52.06, the request for waiving of the car parking requirement is considered to be appropriate and reasonable.

#### Clause 52.27– Licensed Premises

This Clause seeks to ensure that licensed premises are adequately controlled and appropriate licenses applied.

**Comment:** There are no decision guidelines contained within this provision. The advice of the Victoria Police has been sought and no concerns have been raised about the proposal. It is considered that a BYO licence is a common and appropriate outcome for the restaurant use, as it will allow patrons to bring their own alcohol for consumption at the premises.

**In relation to the hours of operation, the applicant has nominated a quite restrictive range of opening times. It is considered appropriate to allow a broader range of hours through the permit conditions that would allow some flexibility for the proponent without having any adverse effect on residential amenity.**

### **Summary**

It is considered that the proposed use of a restaurant at this site is appropriate, which is supported by the relevant planning provisions of the Colac Otway Planning Scheme. The addition of a restaurant in Murray Street will further enhance the vitality and diversity of services available in the street.

The waiving of car parking is appropriate in this instance as there is parking available on street and in public car parking areas within close proximity of the site. Approval of the proposed buildings and works and a BYO licence are also considered to be appropriate as part of this proposal.

It is recommended that Council supports this application through the issue of a Notice of Decision.

### **Recommendation(s)**

***That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP203/08 for waiver of car parking associated with a restaurant, internal buildings and works, and a BYO liquor licence at 205-207 Murray Street, Colac, subject to the following conditions:***

- 1. The use and or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 2. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.***
- 3. The amenity of the area must not be detrimentally affected by the use or development through the:***
  - a) Transport of materials, goods or commodities to or from the land;***
  - b) Appearance of any building, works or materials;***
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;***
  - d) Presence of vermin;***

***to the satisfaction of the Responsible Authority.***
- 4. The use must only operate between the following hours except with the prior written consent of the Responsible Authority:***
  - 11:00am to 11:00pm, Monday to Sunday***
- 5. Accommodation for patrons must not exceed 40 seats except with the prior written consent of the Responsible Authority.***

- 6. ***This permit will expire if the use hereby permitted is not started within two years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards***

**NOTE:**

- a. ***Further planning approval may be required should business identification signage associated with the use exceed 8.0 square metres (Clause 52.05, Category 1 of the Colac Otway Planning Scheme).***

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**PC080909-5 DEVELOPMENT OF TWO (2) SHOPS, TWO (2) DWELLINGS, WAIVER OF CAR PARKING & RESUBDIVISION AT 16 PASCOE STREET, APOLLO BAY**

AUTHOR: Doug McNeill  
DEPARTMENT: Sustainable Planning and Development

ENDORSED: Jack Green  
FILE REF: PP108/08

**Location:** 16 Pascoe Street, Apollo Bay (Lot 1, TP700460Y, CA3 (PT), Section 7, Parish of Krambruk)

**Applicant:**

**Zoning:** Business 1 Zone

**Overlay controls:** Nil

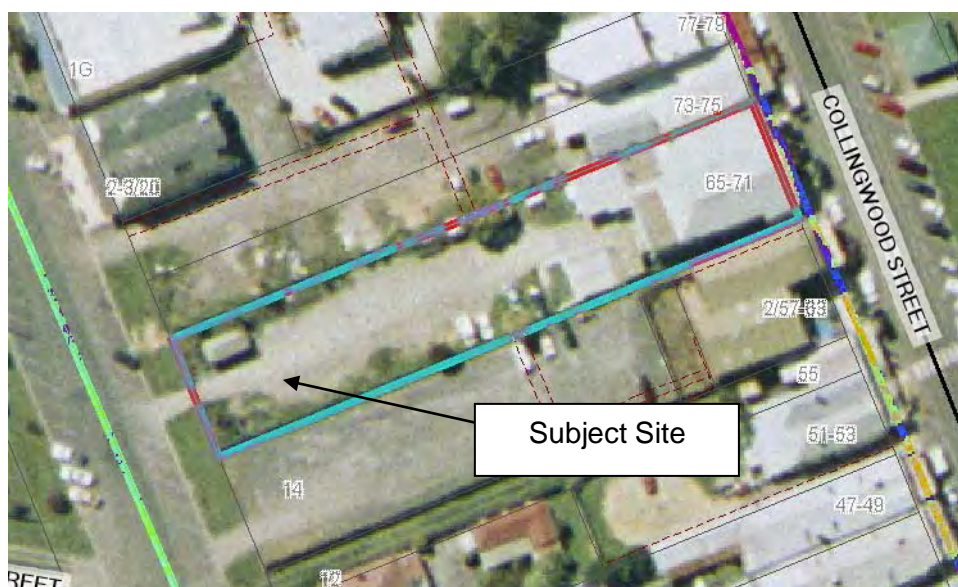
**Amendment:** Amendment C55 proposes a new Design and Development Overlay – Schedule Five (DDO5)

**Abuts:** Business 1 Zone

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration:**

This application is before Planning Committee as the application involves the construction of buildings exceeding eight metres in height, and also the waiving of car parking.

**Summary**

- The planning permit application is for the construction of two shops and two dwellings and a four lot subdivision on the subject site. The dwellings are located at first and second floor level, with the commercial component at ground floor level.
- The development has a maximum height of 9.0 metres.

- A total of 24 on site parking spaces are provided. The application involves the waiving of five car parking spaces.
- A planning permit is required to construct the development, waive car parking spaces, and to subdivide the land.
- The application was advertised and no objections were received.
- The proposal seeks approval for a smaller building footprint than a similar development approved by permit previously with the objective of bringing the siting of the rear of the building into line with adjoining developments to facilitate the construction of a rear central car park in conjunction with adjoining property owners.
- It is considered that the application provides an appropriate design outcome for the site, and the application is supported subject to conditions.

### **Proposal**

The application involves development of the western portion of the site which has frontage to Pascoe Street and is currently vacant. The eastern portion of the site has frontage to the Great Ocean Road, and contains an office with two dwellings above.

The development will comprise three storeys, with two shops at ground floor level fronting onto Pascoe Street, with two dwellings proposed above, at first and second floor levels.

The ground floor will have a total area of 157.39sqm with each shop having an area of 73.22sqm. A 2.8 metre wide verandah is proposed along the building façade to match with, and connect to, existing verandahs to the north and south.

Each dwelling will have an area of 156.83sqm (including decks), and will comprise three bedrooms with east facing decks at first floor level, and east and west facing decks at second floor level. The second floor of the dwellings is recessed above the first and ground floors.

The building is contemporary in design, with glazed areas at ground floor level, and a mix of external building materials. A maximum building height of 9.0 metres is proposed. The design is consistent with development currently under construction on the lot adjoining to the south, which comprises four shops with four two storey dwellings above. Similar development has been constructed adjoining to the north, comprising five shops with three single storey units above.

A four lot re-subdivision of the site is also proposed, such that each shop and each dwelling will be contained within a single lot. Car parking, access and entry areas at the rear of the building will be contained within common property. The existing development fronting the Great Ocean Road will not form part of the re-subdivision.

Under the Parking Precinct Plan adopted by Council in 2001, vehicle access to the rear of the site and the centralised car parking area will be available to the north and south of the site. A detailed plan for the construction of this car park is currently in development. The application involves the waiving of car parking. Pursuant to Clause 52.06, a total of 29 spaces are required for total development on this site (including the existing development fronting the Great Ocean Road), while 24 spaces are to be provided on site. Therefore approval is sought for the waiving of five car parking spaces (see discussion below).

## History

- PP02/296 issued on 20 September 2002, approved the construction of 3 offices and 6 units. Plans approved as part of the permit showed an office and 4 units, comprising 3 storeys, fronting the Great Ocean Road, and 2 offices and 2 units fronting Pascoe Street, comprising of 2 storeys. Provision for 13 car spaces was shown between the two sets of building.
- PP274/06 issued on 17 January 2007, approved the subdivision of the land into 6 lots and creation of vehicular access. The subdivision created separate titles for each of the shops and units already developed on the Great Ocean Road frontage as well as the creation of common property and an area for further development designated as Lot A. The Pascoe Street portion of the development has not commenced to date and is proposed to be contained within Lot A.
- The site is one of four that are contiguous with one another fronting Pascoe Street where retail/accommodation developments have been approved on the basis of parking being provided at the rear. Such car parking is to be developed as a rear central car park including Council land at 14 Pascoe Street where access to the parking is to be obtained. As part of the investigations associated with construction of that car park it was discovered that the previous permit for the site allowed a development which had a footprint that would prevent the central car park from being achieved. Following negotiations with the land owner, it was agreed to lodge a new permit application for a development having a smaller footprint, that is consistent with siting of the adjoining developments and which would accommodate centralised car parking at the rear and between the Great Ocean Road and Pascoe Street, consistent with the 2001 Parking Precinct Plan 2001. The current application reflects this outcome.

## Subject Site and Locality

The site is located in the Business 1 Zone in the primary commercial centre for Apollo Bay. It is within the developing business area of Pascoe Street, to the rear of the Great Ocean Road. A number of sites along Pascoe Street are currently being redeveloped with a mix of commercial and residential uses. Typically buildings are double or three storeys in height and contain varied roof forms and lighter looking building materials. Buildings are generally constructed to the front property boundary, with car parking located to the rear.

As discussed above, the eastern portion of the site has frontage to the Great Ocean Road, and contains an office with two double storey dwellings above. The balance of the site contains two garages and a gravelled, informal car parking area.

The site adjoining to the south comprises four shops with four two storey dwellings above, and the site adjoining to the north comprises five shops with three single storey units above.

## Referrals

The application has been referred to Barwon Water, Telstra, Powercor and Tenix for comment. No concerns were raised, and conditional consent was provided.

## Notice of Application

The application was advertised pursuant to Section 52 of the *Planning and Environment Act*, as it was considered that the proposal may result in material detriment. No objections were received as a result of public notification process.

### Consideration of the Proposal

A planning permit is triggered by the following clauses of the Colac Otway Planning Scheme:

- Clause 34.01-3– Subdivision
- Clause 34.01-4– Buildings and Works
- Clause 34.01-1– Use
- Clause 52.06– Waiving of Car Parking

#### a) State Planning Policy Framework (SPPF)

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

- Clause 11.03– Principles of Land Use and Development Planning
- Clause 17.02– Business
- Clause 15.08– Coastal Areas
- Clause 16.02– Medium Density Housing
- Clause 19.01– Subdivision
- Clause 19.03– Design and Built Form

**Comment:** The development is considered to accord with the principles of the State Planning Policy Framework. The development and use proposed assists in meeting the community's need for business related uses and also different forms of housing. The development assists in further consolidating and building upon the importance of Apollo Bay as a regional centre. The building design, scale and materials are consistent with the developing character of the area, and the provision of car parking helps Council to achieve a larger central car park servicing development in the area.

#### b) Local Planning Policy Framework

The local planning policy framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.01-03– The Nature of the Land
- Clause 21.04-02– The Nature of the Land
- Clause 21.04.07 - Tourism
- Clause 21.04-10– Apollo Bay
- Clause 22.05 – Coastal and Otway Ranges Townships

**Comment:** The application generally accords with the local planning policy framework. The development will assist in providing a range of services to visitors and residents of Apollo Bay, and also adds to the diversity of housing opportunities available within the town. Clause 22.05 states that new development which is more than two storeys or higher than 8 metres in height should be discouraged, unless the specifics of the site warrant a higher development and no off site detriment is caused.

In this regard, it is considered that a higher built form should be supported given that the first and second storey is setback from the street and also from side boundaries and presents generally as a double storey form when viewed from the street. The higher form is supported by the Apollo Bay Structure Plan, which although not yet part of the planning scheme has been adopted by Council (April 2007) and sets the direction for the development of the town for the next 20 years. The Structure Plan clearly supports three storey development in this location which does not exceed 10.5 metres in height.

**c) Amendment C55**

Amendment C55 seeks to apply a Design and Development Overlay to the site (DDO5). The overlay will apply to the town centre and it seeks to limit building height to 10.5 metres and where buildings are greater than 8 metres in height they must have an upper floor setback of 3 metres.

**Comment:** The application is generally in accordance with the proposed overlay. The building height is under the 10.5 metres prescribed in Amendment C55 and the upper level, being part of the dwelling component, is setback from the street frontage.

**d) Zoning**

The site is located in the Business 1 Zone. The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies.
- To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

**Comment:** The application accords with the purpose of the zone in that the development provides for commercial and residential development, adding to the overall vitality of the Pascoe Street business area. The uses proposed are allowed by the zone and are appropriate in this location.

The current zoning provisions for the site are such that there is no permit requirement in relation to height (i.e. a building of 9 metres in height can be approved under the current zoning controls).

The decision guidelines require consideration to be given to the objectives and standards of ResCode to ensure an appropriate degree of amenity for the dwellings. The requirements of ResCode have generally been satisfied, however, the dwellings have an entrance from the rear of the building, resulting in a poor sense of address to Pascoe Street. They will face a centralised car parking area to be developed under the proposed parking precinct plan and will be accessed via a footpath along the rear of the building. Direct access from the dwellings to the Great Ocean Road will also be available via this integrated parking area.

While it is noted that there is limited opportunity for landscaping to be provided on the site, it is recommended that landscaping including street trees be provided in the nature strip of Pascoe Street.



### e) Waiving of Car Parking

The provisions of the Planning Scheme are such that a permit may be granted to reduce or to waive the number of car spaces required by the table at Clause 52.06. The following table sets out the level of car parking required for total development on this site by the Planning Scheme:

| <b>Use</b>                                | <b>Car Parking Rate</b>          | <b>Car Spaces Required</b> |
|---|----------------------------------|----------------------------|
| Dwellings<br>(2 existing plus 2 proposed) | 2 per dwelling                   | 8                          |
| Shops<br>(2 proposed @ 73.22sqm each)     | 8 per 100sqm leasable floor area | 12                         |
| Office<br>(existing 73 GOR @ 260sqm)      | 3.5 per 100sqm net floor area    | 9                          |
| <b>Total</b>                              |                                  | <b>29</b>                  |

A total of 29 spaces are to be provided on site under current Planning Scheme requirements. A total of 24 on-site spaces are proposed, such that the waiving of five spaces is required.

It is not unusual, however, for car parking to be provided at a rate of one space per dwelling for apartments of this nature. ResCode requires two spaces for a three bedroom dwelling, however, given the central location and the nature of the dwellings (typically for tourist accommodation), it is not unreasonable to allow one space per dwelling in this instance. It is recommended that one on-site parking space should be individually allocated to each dwelling through the Plan of Subdivision. This leaves 22 additional car parking spaces on-site, and effectively reduces the parking requirement by two spaces to 27, leaving a shortfall of three spaces not provided on-site for the development. These spaces need to be formally waived through any permit issued.

The parking requirement for a retail shop at Clause 52.06 is recognised in the planning industry as being far higher than the actual demand for parking generated by developments, and a review is currently occurring into whether the rate should be reduced in future. A lower figure of 4 spaces per 100sqm floor area is much closer to that required for similar developments elsewhere. Application of this lower rate would require six spaces for the proposed shops, and would in fact eliminate the car parking shortfall for this development.

The following table sets out the modified level of car parking considered to be appropriate in this instance, as discussed above:

| <b>Use</b>                                | <b>Car Parking Rate</b>          | <b>Car Spaces Required</b> |
|---|----------------------------------|----------------------------|
| Dwellings<br>(2 existing plus 2 proposed) | 1 per dwelling                   | 4                          |
| Shops<br>(2 proposed @ 73.22sqm each)     | 4 per 100sqm leasable floor area | 6                          |
| Office<br>(existing 73 GOR @ 260sqm)      | 3.5 per 100sqm net floor area    | 9                          |
| <b>Total</b>                              |                                  | <b>19</b>                  |

In light of the above, it is considered that the provision of 24 on-site spaces is sufficient for the proposed development, and it is reasonable to waive the three space shortfall required by the Planning Scheme in this instance.

It has been common practice with past developments in the Apollo Bay commercial area to accept a contribution in-lieu of spaces not provided on-site, so that the parking can be provided elsewhere in the centre by Council. It is noted that such an arrangement is resulting at the rear of properties between 14-20 Pascoe Street where parking contributions will be used to provide common parking on Council land and at the rear of shops fronting Pascoe Street and Great Ocean Road in a coordinated manner.

The Council has recently commenced a Car Parking Precinct Plan for Apollo Bay by calling tenders for the project, and this will review parking rates for Apollo Bay and the policy that should be applied when spaces cannot be provided on-site. Whilst parking contributions cannot be required by Council without having a Parking Precinct Plan in the Planning Scheme, they can be accepted if offered by agreement of the proponent.

Given the history of this site, it is considered that payment in-lieu of spaces is not required. The applicant has redesigned the current development following on-going consultations with Council, in order to facilitate a centralised, contiguous and larger car parking area between the Great Ocean Road and Pascoe Street, to the benefit of the Apollo Bay commercial area. The previous permit for this site provided for a larger building footprint, and thus parking requirement, and was approved with a lesser parking requirement. The current application for a smaller development and increased parking spaces on-site therefore presents a more beneficial parking outcome.

It should also be noted that three on-street car parks are to be created in front of the building in Pascoe Street, as an existing crossover is to be removed, thereby adding to available parking in the area.

#### **f) Subdivision**

The subdivision of the site is considered to be appropriate. The shops and dwellings will be on separate titles. Permit conditions will require parking to be dedicated for use by the dwellings (one space per dwelling). The balance of the car parking area will be contained within the common property area.

#### **Summary**

In light of the above assessment, it is considered that the application can be supported. The redevelopment of the site is encouraged, and the proposed uses and reduction of car parking are appropriate. The proposal presents an appropriate infill development, which facilitates provision of an integrated and centralised car parking area, to the benefit of the Apollo Bay business area.

#### **Recommendation**

***That Council's Planning Committee resolve to issue a Planning Permit for Planning Permit Application PP108/08 for the development of two shops, two dwellings, waiving of car parking and re-subdivision at 16 Pascoe Street, Apollo Bay, subject to the following conditions:***

- 1. Before the development commences, 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. ***Modified subdivision design to reflect changes to the plans in accordance with this condition, with a single car space specifically allocated to each dwelling and the balance of parking within common property.***
  - b. ***Appropriate landscaping including planting of street trees in the nature-strip along the Pascoe Street frontage of the property to the satisfaction of the Responsible Authority.***
  - c. ***Full details of streetscape works including footpath design and construction, and street lighting.***
2. ***Prior to the development commencing a Section 173 Agreement must be entered into between the owners and the Responsible Authority and registered on the title to the land. The agreement will require that part of the common property being the car spaces and necessary access-ways shown on the endorsed plans must be maintained and kept available for use as a car park and access-ways to be accessed initially via 14 Pascoe Street only and then additionally over contiguous and proximate land and which is similarly developed in a manner so as to implement the creation of centrally located car park depicted in the draft Apollo Bay Precinct Plan. The Responsible Authority's reasonable legal costs of agreement and its registration must be paid by the permit holder (as per PP127/07, 65-71 GOR).***
3. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
  - (a) ***transport of materials, goods or commodities to or from the land***
  - (b) ***appearance of any building, works or materials***
  - (c) ***emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil***
  - (d) ***presence of vermin.***
4. ***All run off from stormwater must be taken to a legal point of discharge to the satisfaction of the Responsible Authority, and the hard stand areas of the principles to the satisfaction of the responsible authority. Drainage plans must be submitted to the responsible authority for approval prior to commencement of the development.***
5. ***The landscaping shown on the endorsed plan must be established within 3 months of completion of the development hereby permitted and must be maintained to the satisfaction of the Responsible Authority.***
6. ***External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.***
7. ***Provision must be made for waste receptacles for each of the occupancies within the common property area, specifically allocated to each lot, to the satisfaction of the responsible authority.***
8. ***Loading and unloading of all goods, materials and items must be carried out on the site to the satisfaction of the Responsible Authority.***
9. ***Driveways and car parking areas must be constructed in an all weather surface to the satisfaction of the responsible authority.***

10. ***All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.***
11. ***The use and or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
12. ***This permit will expire if one of the following circumstances applies:***
  - ***The development and use are not started within two (2) years of the date of this permit.***
  - ***The development is not completed within four years of the date of this permit.***

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

13. ***The applicant or owner must pay to Council the equivalent of five per cent of the site value of all land in the subdivision as a public open space contribution. This payment must be made before a Statement of Compliance is issued and is varied under Section 19 of the Subdivision Act 1988, as amended.***
14. ***The Statement of Compliance will not be issued prior to all conditions in relation to subdivision on the subject Planning Permit being complied with to the satisfaction of the Responsible Authority.***
15. ***The developer must mark street numbers for all lots in the subdivision in accordance with the Shire's street numbering scheme to the satisfaction of the Responsible Authority.***
16. ***The subdivision as shown on the endorsed plan must not be altered save, with the written consent of the Responsible Authority.***
17. ***Easements in favour of Colac Otway Shire must be created on the plan to the satisfaction of the Responsible Authority.***

#### **CONDITIONS REQUIRED BY BARWON WATER**

##### **GENERAL**

18. ***The certified plan must create implied easements under Section 12(2) of the Subdivision Act, over all proposed existing water and sewerage works within the subdivision.***
19. ***Any plan submitted under the Subdivision Act 1988 must be forwarded to Barwon Water under Section 8 of the Act.***
20. ***The creation of an Owners Corporation to encumber all lots within the subdivision.***

**WATER**

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

**SEWER**

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

**CONDITIONS REQUIRED BY POWERCOR**

29. ***The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.***

**30. The applicant shall:-**

- **Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards (a payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- **Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- **Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**  
**Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.**
- **Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.**
- **Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- **Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- **Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**
- **Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.**

- 31. The permit as it relates to the subdivision will expire after two (2) years if the relevant plan of subdivision is not certified by the Responsible Authority, unless an extension of time is approved by the Responsible Authority. The written request for extension of time must be received before 3 months have elapsed after the date of expiry.**

**NOTES:****BARWON WATER**

- a. The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply and sewerage services to the subdivision.**

***It would be appreciated if all communication between the developer/agent and Barwon Water quote Barwon Water reference number 60-066-082433.***

**POWERCOR**

- b. It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling the Statement of Compliance to be issued).***

***Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.***

**TELSTRA**

- c. Approval does not cover alterations to existing Telstra Plant or Network. Locations of existing network can be obtained from Dial Before You Dig – Ph: 1100.  
For co-ordinated Telstra plant reticulation in this development, please refer to [www.telstrasmartcommunity.com](http://www.telstrasmartcommunity.com) to Register your Development and Apply for Reticulation.***

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