



**Colac Otway
SHIRE**

AGENDA

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

9 DECEMBER 2008

at 10.30am

**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 DECEMBER 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 December 2008 at 10.30am.

AGENDA

1. OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2. PRESENT

3. APOLOGIES

4. MAYORAL STATEMENT

Colac Otway Shire 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 11/11/08.

Recommendation

That the Planning Committee confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

- PC080912-1 PLANNING COMMITTEE MEETING DATE FOR JANUARY 2009**
PC080912-2 PLANNING PERMITS FOR THE MONTH OF NOVEMBER 2008
PC080912-3 CONSTRUCTION OF FOUR (4) DWELLINGS AND A FOUR (4) LOT SUBDIVISION

Jack Green
Acting Chief Executive Officer

PC080912-1 PLANNING COMMITTEE MEETING DATE FOR JANUARY 2009

AUTHOR: Bronwyn Keenan ENDORSED: Doug McNeill
DEPARTMENT: Sustainable Planning and FILE REF: GEN00450
Development

Purpose

To confirm the Planning Committee Meeting dates and times for 2009 as per the following table:

Date	Time
Wednesday, 23 January 2009	10.30am
Wednesday, 12 February 2009	10.30am
Wednesday, 11 March 2009	10.30am
Wednesday, 8 April 2009	10.30am
Wednesday, 13 May 2009	10.30am
Wednesday, 10 June 2009	10.30am
Wednesday, 8 July 2009	10.30am
Wednesday, 12 August 2009	10.30am
Wednesday, 9 September 2009	10.30am
Wednesday, 14 October 2009	10.30am
Wednesday, 11 November 2009	10.30am
Wednesday, 9 December 2009	10.30am

Background

Under the Council's Local Law 4, Part 4 – Council Meeting, Clause 20 – Dates & Times of Meetings, Council is required to confirm their meeting dates on at least an annual basis.

Corporate Plan/Other Strategies/Policy

Not applicable

Issues/Options

Not applicable

Proposal

It is proposed that the first Planning Committee Meeting for 2009 be held on Wednesday 21 January 2009, 10.30am at Colac Otway Performing Arts and Culture Centre, Colac with future Meetings to be held on the second Wednesday of each month.

Venue details for Planning Committee Meetings for the remainder of 2009 will be determined at the December Councillor Workshop.

Financial and other Resource Implications

Not applicable

Risk Management & Compliance Issues

Not applicable

Environmental Considerations

Not applicable

Communication Strategy/Consultation

Not applicable

Implementation

Not applicable

Conclusion

That Council's Planning Committee confirm the meeting dates, time and venue for the January 2009 Planning Committee Meeting.

Attachments

Nil

Recommendation(s)

That Council's Planning Committee confirm the meeting dates and time for the 2009 Planning Committee Meetings.

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**PC080912-2 PLANNING PERMITS FOR THE MONTH OF NOVEMBER 2008**

AUTHOR: Janole Cass                                        ENDORSED:                                        Doug McNeill  
DEPARTMENT: Sustainable Planning and                    FILE REF:                                        GEN00450  
Development

45 Planning permit applications received for the period of 1<sup>st</sup> November 2008 to 30<sup>th</sup> November 2008

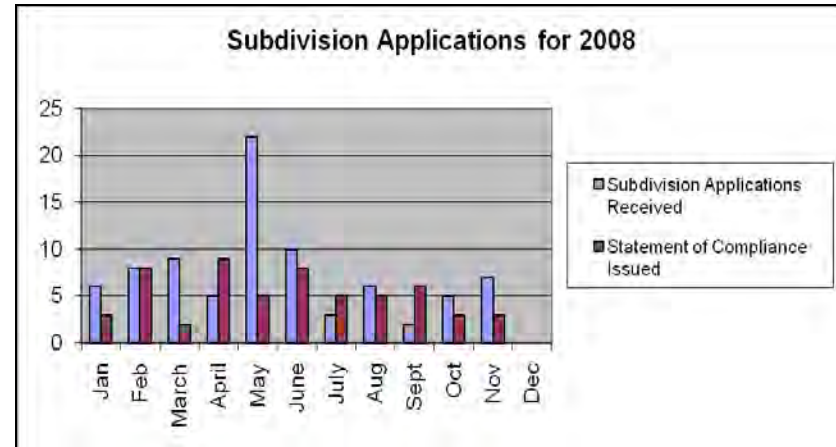
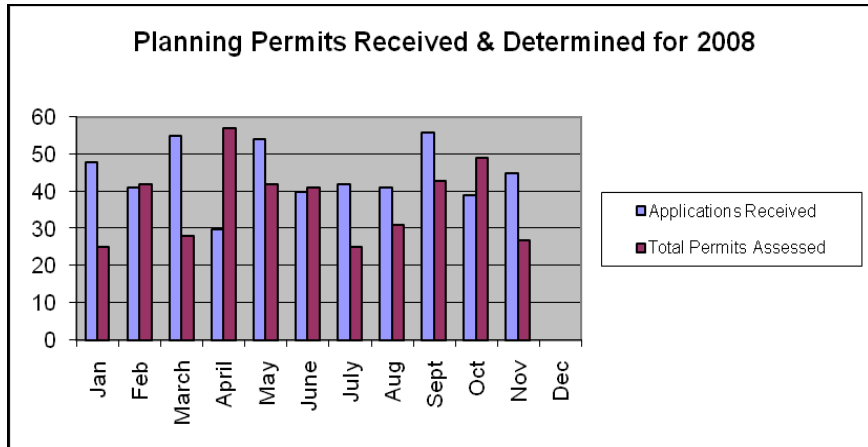
27 Planning permit applications were considered for the period of 1<sup>st</sup> November 2008 to 30<sup>th</sup> November 2008

| APPLIC NO  | DATE RECEIVED | PROPOSAL                                                                                            | DATE ISSUED | ACTUAL TIME | AUTHORITY        | DECISION            |
|------------|---------------|-----------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------------|
| PP107/08   | 19-Mar-08     | DEVELOPMENT OF ONE SHOP WITH DWELLING ABOVE & PARTIAL WAIVING OF CAR PARKING REQUIREMENTS           | 12-Nov-08   | 155         | COUNCIL          | NOD To Grant Permit |
| PP165/08   | 16-Apr-08     | TWO (2) LOT SUBDIVISION                                                                             | 27-Nov-08   | 213         | UNDER DELEGATION | Refusal To Grant    |
| PP174/08   | 19-May-08     | DEVELOPMENT AND USE OF A DWELLING, CONSTRUCTION OF AN ACCESS TRACK AND REMOVAL OF NATIVE VEGETATION | 21-Nov-08   | 122         | UNDER DELEGATION | Permit Issued       |
| PP184/03-A | 24-Jul-08     | EXTENSION OF EXISTING SHED                                                                          | 24-Nov-08   | 42          | UNDER DELEGATION | Permit Issued       |
| PP188/08   | 26-May-08     | DEVELOPMENT OF FIVE (5) TOWNHOUSES & A FIVE (5) LOT SUBDIVISION                                     | 07-Nov-08   | 120         | UNDER DELEGATION | NOD To Grant Permit |
| PP207/07   | 15-Aug-07     | USE & DEVELOPMENT OF A LEISURE & RECREATION FACILITY (SKATE PARK)                                   | 27-Nov-08   | 96          | UNDER DELEGATION | NOD To Grant Permit |
| PP213/06-A | 09-Oct-08     | THREE (3) LOT SUBDIVISION - AMENDMENT                                                               | 17-Nov-08   | 39          | UNDER DELEGATION | Permit Not Required |
| PP231/08   | 01-Jul-08     | TWENTY EIGHT (28) LOT SUBDIVISION                                                                   | 10-Nov-08   | 91          | UNDER DELEGATION | Permit Issued       |

| APPLIC NO  | DATE RECEIVED | PROPOSAL                                                                                                | DATE ISSUED | ACTUAL TIME | AUTHORITY        | DECISION      |
|------------|---------------|---------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------|
| PP241/08   | 09-Jul-08     | DEVELOPMENT OF A TWO (2) CAR GARAGE                                                                     | 24-Nov-08   | 70          | UNDER DELEGATION | Permit Issued |
| PP280/08   | 20-Aug-08     | EXTENSION TO LIQUOR LICENSING TRADING HOURS                                                             | 13-Nov-08   | 21          | UNDER DELEGATION | Permit Issued |
| PP302/08   | 25-Aug-08     | TWO (2) LOT SUBDIVISION                                                                                 | 06-Nov-08   | 49          | UNDER DELEGATION | Permit Issued |
| PP306/08   | 08-Sep-08     | DEMOLISH EXISTING DWELLING AND CONSTRUCT A NEW DWELLING                                                 | 05-Nov-08   | 58          | UNDER DELEGATION | Permit Issued |
| PP307/08   | 08-Sep-08     | AMEND BUILDING ENVELOPE                                                                                 | 24-Nov-08   | 63          | UNDER DELEGATION | Permit Issued |
| PP309/08   | 11-Sep-08     | CONSTRUCTION OF A SWIMMING POOL AND ASSOCIATED WORKS INCLUDING REMOVAL OF ONE (1) TREE                  | 21-Nov-08   | 59          | UNDER DELEGATION | Permit Issued |
| PP310/08   | 10-Sep-08     | TO INFILL UNDERNEATH ORIGINAL STRUCTURE WITH TIMBER CLADDING. FOR USE AS GARAGE, WORK SHOP AND STORAGE. | 06-Nov-08   | 25          | UNDER DELEGATION | Permit Issued |
| PP312/08   | 11-Sep-08     | DEMOLISH ALL EXISTING BUILDINGS & EXISTING WORKS.                                                       | 12-Nov-08   | 62          | UNDER DELEGATION | Withdrawn     |
| PP316/05-A | 24-Oct-08     | DEVELOPMENT AND USE OF THE LAND FOR A SINGLE DWELLING, ACCESS AND ASSOCIATED WORKS - AMENDMENT          | 11-Nov-08   | 18          | UNDER DELEGATION | Permit Issued |
| PP317/08   | 15-Sep-08     | CONSTRUCTION OF SHED                                                                                    | 24-Nov-08   | 39          | UNDER DELEGATION | Permit Issued |
| PP327/08   | 22-Sep-08     | CONSTRUCTION OF SECOND STOREY TO BE USED AS A STORAGE ROOM.                                             | 24-Nov-08   | 42          | UNDER DELEGATION | Permit Issued |
| PP342/08   | 07-Oct-08     | DEVELOPMENT OF A WAREHOUSE (STORAGE SHED)                                                               | 27-Nov-08   | 51          | UNDER DELEGATION | Permit Issued |

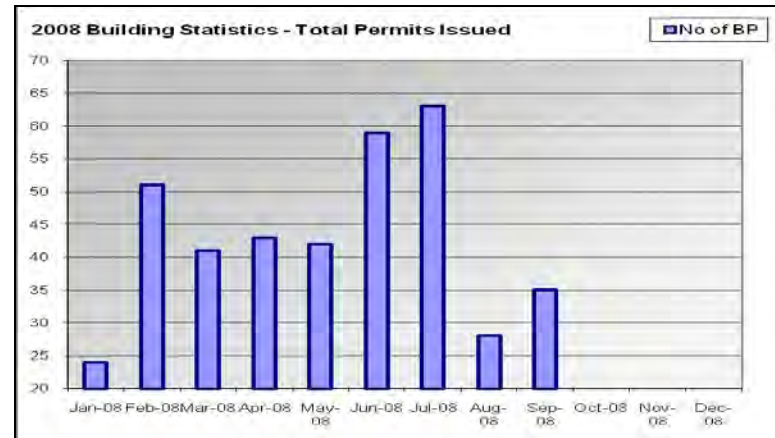
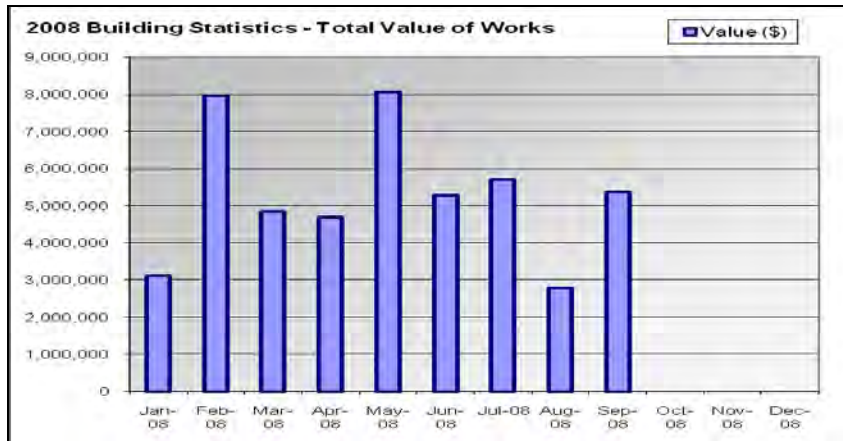


| APPLIC NO | DATE RECEIVED | PROPOSAL                                                                                                | DATE ISSUED | ACTUAL TIME | AUTHORITY        | DECISION            |
|-----------|---------------|---------------------------------------------------------------------------------------------------------|-------------|-------------|------------------|---------------------|
| PP345/08  | 08-Oct-08     | ON PREMISES LIQUOR LICENCE                                                                              | 24-Nov-08   | 26          | UNDER DELEGATION | Permit Issued       |
| PP365/08  | 23-Oct-08     | CONSTRUCTION OF A CARPORT                                                                               | 24-Nov-08   | 32          | UNDER DELEGATION | Permit Issued       |
| PP369/08  | 29-Oct-08     | EXTENSION TO EXISTING DWELLING                                                                          | 06-Nov-08   | 8           | UNDER DELEGATION | Permit Issued       |
| PP383/08  | 31-Oct-08     | TO ERECT A LIGHT ON BOAT RAMP                                                                           | 21-Nov-08   | 21          | UNDER DELEGATION | Permit Not Required |
| PP408/08  | 20-Nov-08     | TO TURN INTO A RETAIL SHOWROOM                                                                          | 28-Nov-08   | 8           | UNDER DELEGATION | Withdrawn           |
| PP46/08   | 06-Feb-08     | USE & DEVELOPMENT OF LAND FOR THREE (3) SHOPS, ASSOCIATED STORAGE & REDUCTION IN CAR PARKING (6 SPACES) | 12-Nov-08   | 114         | COUNCIL          | Permit Issued       |
| PP94/07   | 19-Apr-07     | USE AND DEVELOPMENT OF A DWELLING, VEGETATION REMOVAL, GARAGE AND ASSOCIATED WORKS                      | 25-Nov-08   | 417         | UNDER DELEGATION | Permit Issued       |
|           |               |                                                                                                         |             |             |                  |                     |
|           |               | <b>Average Days to Process Planning Application</b>                                                     |             | <b>76</b>   |                  |                     |



|               | Domestic   |                   | Residential* |                  | Commercial |                  | Retail    |                | Industrial |                | Hospital/HealthCare |                | Public Buildings |                  | Municipal Totals |                   |
|---------------|------------|-------------------|--------------|------------------|------------|------------------|-----------|----------------|------------|----------------|---------------------|----------------|------------------|------------------|------------------|-------------------|
|               | No of BP   | Value (\$)        | No of BP     | Value (\$)       | No of BP   | Value (\$)       | No of BP  | Value (\$)     | No of BP   | Value (\$)     | No of BP            | Value (\$)     | No of BP         | Value (\$)       | No of BP         | Value (\$)        |
| Jan-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        | 50         | 4,411,138         | 0            | 0                | 8          | 532,950          | 1         | 15,000         | 1          | 10,000         | 1                   | 9000           | 2                | 711,874          | 63               | 5,689,962         |
| Aug-08        | 27         | 2,491,383         | 0            | 0                | 0          | 0                | 1         | 300,000        | 0          | 0              | 0                   | 0              | 0                | 0                | 28               | 2,791,383         |
| Sep-08        | 27         | 1,183,923         | 1            | 750,000          | 1          | 2,000            | 2         | 17,500         | 1          | 124,000        | 0                   | 0              | 3                | 3,289,452        | 35               | 5,366,875         |
| Oct-08        |            |                   |              |                  |            |                  |           |                |            |                |                     |                |                  |                  |                  |                   |
| Nov-08        |            |                   |              |                  |            |                  |           |                |            |                |                     |                |                  |                  |                  |                   |
| Dec-08        |            |                   |              |                  |            |                  |           |                |            |                |                     |                |                  |                  |                  |                   |
| <b>Totals</b> | <b>326</b> | <b>31,224,593</b> | <b>6</b>     | <b>1,450,000</b> | <b>25</b>  | <b>5,737,301</b> | <b>10</b> | <b>726,950</b> | <b>5</b>   | <b>244,000</b> | <b>3</b>            | <b>529,000</b> | <b>11</b>        | <b>7,866,993</b> | <b>386</b>       | <b>47,778,837</b> |

\*Multi-Development



**Building Stats**

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

**Recommendation(s)**

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

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PC080912-3 CONSTRUCTION OF FOUR (4) DWELLINGS AND A FOUR (4) LOT SUBDIVISION

AUTHOR: Anne Sorensen
DEPARTMENT: Sustainable Planning and Development

ENDORSED: Doug McNeill
FILE REF: PP198/08

Location: 15 Cawood Street, Apollo Bay

Applicant:

Zoning: Residential 1 Zone

Overlay controls: Nil

Amendment: Amendment C55 includes the land in the Design and Development Overlay – Schedule 7 (Lower Density Residential Area)

Abuts: Residential 1 Zone

Restrictive Covenants: Nil

Reasons for Planning Committee consideration:

This application is before Planning Committee as six objections have been received.



Summary

- The planning application proposes the use and development of the land for four (4) two storey detached dwellings and a four (4) lot subdivision of the subject site.
- The site is located in a Residential 1 Zone, and a planning permit is required for the subdivision and the use and development of the land for medium density development.
- The application was advertised and six (6) objections were received that raised issues in relation to overlooking, overshadowing, loss of views, and the design and layout of the dwellings not being consistent with the neighbourhood character of the area.
- The exhibited version of Amendment C55 included the land in the Design and Development Overlay – Schedule 7 (Lower Density Residential Areas). The Panel Report recommended that the site and surrounding area be included in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area) and that a separate amendment be prepared. The proposed density is considered to comply with DDO6.
- While the density of the site is acceptable, the development does not respond well from an urban design perspective. The layout and design of the dwellings do not respond appropriately to the objectives of Rescode (Clause 55).
- The proposed development is not consistent with the provisions of the planning scheme and it is recommended that a Refusal to Grant a Planning Permit be issued.

Proposal

Planning permit application PP198/08 was received by Council on 6 June, 2008. The application seeks approval for the use and development of the land for four (4) detached dwellings and a four (4) lot subdivision, with access to all dwellings via common property (refer to Appendix A).

The plans submitted with the application show four 2-storey dwellings with a maximum building height of 6.8m and constructed of a mix of sheet cladding (Ecoply), brickwork and rendered walls with Colourbond skillion roofing. All units will be identical in layout and orientation, comprising two bedrooms, a bathroom and laundry on the ground floor; and kitchen, dining/living, master bedroom and ensuite and two separate decks on the first floor. Each will have a single garage and second tandem space.

The size of each unit is as follows:

- Ground floor area including garage 94.43m²;
- First floor area 79.65m²;
- Decks 23.54m² ;
- Total area including decks 184.28m².

Each dwelling will be contained on a separate lot ranging in area from 246m² to 313m² (average lot size being 272.57m²). A common property driveway area of 248m² will be located adjacent to the east boundary and will provide access to all dwellings.

An assessment of the original plans submitted was undertaken and a request for further information was sent to the applicant on 1 July 2008, as the proposed development failed to comply with certain provisions of Rescode including neighbourhood character, overshadowing, overlooking, private open space and access. In addition, the proposal did not comply with Amendment C55, which proposed to include the site within the Design and Development Overlay – Schedule 7 Apollo Bay and Marengo – Lower Density Residential Areas. Under the DDO7 this site was included within Precinct 4 which has a density provision where new lots created should have a minimum area of 450m². The Panel Report for Amendment C55, received in September 2008, has recommended that this site and surrounding land be included in the Design and Development Overlay – Schedule 6 Medium Density Residential Area, implemented by a separate amendment to the planning scheme. Under the DDO6 there are no prescriptive density provisions that apply to this site, however, the DDO6 does contain a range of objectives that relate to the design of development. The DDO6 emphasises the need to ensure that development is high quality and upper levels are well articulated to ensure the protection of the existing coastal character of the town, maintaining space between buildings for views and landscaping.

Amended plans were received on 21 August 2008 (Refer to Appendix B). The amended plans made some minor changes to the design but the changes made did not fully satisfy the matters raised previously by Council Officers. Notwithstanding this, it was agreed to advertise the proposal although the applicant was advised that the proposal would be unlikely to gain the support of Council Officers given that the design did not respond adequately with the provisions of the planning scheme.

There have been ongoing discussions with the applicant and owner with the view of achieving a design outcome that would comply with the provisions of the planning scheme.

Further amended plans were received on 28 November 2008 (see Appendix C) that reorientated the front unit so that it addressed the street, creating the need for a second crossover. These plans also increased the setback of Unit 4 from the southern property boundary. No other major changes were made to the plans.

These plans were assessed against the provisions of the planning scheme, in particular Rescode and the Design and Development Overlay – Schedule 6.

While it is encouraging that the applicant and owner has shown a preparedness to work with Council Officers in achieving a design that responds well to the planning controls, the changes made have not been significant enough so that the application responds appropriately to the provisions of the planning scheme.

Subject Site and Locality

The site is located on the south side of Cawood Street, north of the Apollo Bay town centre, in the Residential 1 Zone.

The site has a rectangular shape with a north-south orientation. It has a frontage to Cawood Street of 20.12m and a depth of 66.54m², with a total area of 1,338.72m². The site contains two single storey attached 1960's style units, accessed via a driveway along the eastern boundary. The balance of the site comprises garden and lawn areas, but otherwise no significant vegetation.

Development to the immediate east, west and directly to the south, is single storey with a mix of attached and detached unit development. There are a number of lots in close proximity to this site that have been developed with two storey dwellings. A caravan park is located approximately 80m to the west, and the site is within a short walk to the beach and foreshore area (approximately 200m).

Like much of Apollo Bay, this area is undergoing rapid change and as such the neighbourhood character is evolving.

Referrals

The application was referred to Barwon Water, Telstra, Powercor and Tenix pursuant to Section 55 of the Planning and Environment Act 1987, each providing no objection to the proposal.

Council's Infrastructure and Building Departments were also consulted, each providing no objection to the proposal.

Notice of Application

The application was advertised pursuant to Section 52 of the Planning and Environment Act 1987 with public notices being sent to adjoining and opposite property owners/occupiers and a sign was placed on site for a period of 14 days. At the conclusion of the notification period a total of six (6) objections were received, 4 objections were received from the owner and occupants of Unit 4, 12 Murray Street, one was received from the owner of the unit adjoining to the east (3/13 Cawood Street); and one from the owner of 20 Tuxion Road, some 830m west of the site.

A submission was received from the owner of Unit 1/13 Cawood Street, not objecting to the development providing that if the common fence along the eastern boundary of the development site was replaced that the cost of the replacement be borne by the developer/permit holder.

The grounds of objections may be summarised as follows:

- *Loss of views of the foothills and Marriners Lookout from 4/12 Murray Street;*
- *Overlooking from windows and decks, reducing the privacy of the backyard of Unit 4/12 Murray Street;*
- *Overshadowing caused by the development of Unit 4/12 Murray Street and Units along the eastern boundary at 13 Cawood Street;*
- *Noise and potential light glare emanating from Unit 4 deck, impacting on the amenity of Unit 4/12 Murray Street.*
- *The development is not characteristic of this part of Cawood Street. The bulky design, high ceilings and raked roofline do not fit in with the current streetscape. These units will be completely out of context with the rest of the houses and units around them.*
- *Noise and glare caused by the driveway of proposed Unit 4 which is directly in line with a bedroom. Slow growing landscaping and the existing low fence will not prevent the loss of amenity;*
- *Car parking is inadequate and extra cars/boats/trailers parking in Cawood Street would create safety issues;*
- *Potential removal of the Cypress pine tree on the nature strip;*

- *Inaccurate/incomplete information provided by the application (extent of two storey dwellings, nature of development to the rear, height of south fence, positioning of doors, windows, no floor levels to a datum point which may result in increased height of units, etc).*
- *No drainage plan was provided with the application. The back of 15 Cawood Street floods regularly, water flows from the southern end of the western boundary and gathers in the southeast corner. Condition requested that no fill is to be put along the southern boundary so levels consistent with top of sewerage pit in southeast corner.*

The matters raised by the objections are discussed in detail in later sections of this report.

Consideration of the Proposal

The land is contained within the Residential 1 Zone where a planning permit is required for the subdivision, use and development of land for medium density development. Planning Scheme Amendment C55 includes the site in the Design and Development Overlay – Schedule 7 – Lower Density Residential Areas.

The need for a permit is specifically triggered by the following Clauses:

- Clause 32.01-2, Subdivision
- Clause 32.01-4, Two or More Dwellings on a Lot
- Clause 32.01-6, Buildings & Works Associated with a Section 2 Use

There are a range of State and Local Planning Policies that must be considered when assessing this application, these are detailed below.

a) State and Local Planning Policy Framework, including the Municipal Strategic Statement.

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 15.08 – Coastal Areas
- Clause 15.12 – Energy Efficiency
- Clause 16.02– Medium Density Housing
- Clause 19.03 - Design & Built Form
- Clause 21.04-02– The Coast & Environs
- Clause 21.04-10– Apollo Bay
- Clause 22.05 – Coastal & Otway Ranges Townships

At the broader strategic level, the proposed development provides for medium density development in a coastal location that has been designated for such a use and therefore is consistent with the State Provision of Clause 16.02 and Local Provision of Clause 21.04-2. However, the proposal is not designed to provide for diversity in housing style, form or size and responds poorly to energy and urban design principles of Clauses 15.12, 19.03 and 21.04.10.

b) Planning Scheme Amendment C55 (Review of Planning Scheme)

Amendment C55 is a result of a review of the Colac Otway Planning Scheme. When Amendment C55 was placed on exhibition in December 2007, the subject land was included in the Design and Development Overlay – Schedule 7 (Lower Density Residential Areas) implementing the recommendations of the Apollo Bay Structure Plan. The Panel, which considered submissions to Amendment C55, supported the inclusion of the land in the Design and Development Overlay – Schedule 6 (Medium Density Residential Area) due to the existing higher density of development in this locality. The Panel, however, did not support an immediate change to the amendment, and recommended that Council exhibit a 'follow-up' amendment to effect this change. This recommendation was adopted by Council at the Council meeting of 28 October 2008. Given the Panel's recommendation, this application has been assessed in accordance with DDO6.

c) Zoning

The site is located within a Residential 1 Zone under the Colac Otway Planning Scheme. The purpose of the zone is as follows:

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

A permit is required to subdivide, use and develop land for two or more dwellings on a lot (Clause 32.01-4, 32.01-2 and 32.01-6). The proposed development and subdivision must meet the requirements of Clause 55 and 56 (ResCode).

Under Clause 56, where a proposal seeks to create lots of less than 300m², the subdivision must be considered with the proposed development or with building envelopes under the provision of this Clause.

d) Overlay Controls

Under Amendment C55 the land will be included in the Design and Development Overlay – Schedule 7 (Lower Density Residential Area), once the amendment is approved by the Minister for Planning, although as noted above, the panel for Amendment C55 has recommended that Council include the land in the DDO6, and the application has been assessed against these provisions.

The relevant DDO6 Design Objectives and Decision Guidelines include:

- To limit building heights and ensure that upper levels are well articulated to respect the character of the area.
- To ensure that new development maintains space between buildings so that views to the surrounding landscape are retained.
- Articulated facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing.

The proposal has been assessed against the existing provisions of the planning scheme including the State and Local provisions, Clause 55 and 56.

There are two key planning considerations in relation to this proposal. Firstly whether the density proposed is appropriate and whether the subsequent built form responds satisfactorily to the relevant planning controls. These matters are discussed below.

e) Density of site

As the DDO7 will be replaced by a follow-up amendment in the future it is considered appropriate to assess the proposal against the provisions of the DDO6. It is regarded that the site is suitable for medium density development and can support the density proposed as the DDO6 does not contain any prescriptive density controls. The site presents few constraints with the orientation and allotment configuration assisting in achieving a higher density as it is a rectangular shape, north-south facing allotment. There are no concerns with the proposed plan of subdivision or the density proposed.

f) Assessment of the built form

While the density is supported, it is considered that the design of the development proposed for the site responds poorly in regard to the site context, fails to comply with certain elements of Rescode and the objectives of DDO6. Overall, it is considered that the proposal cannot be supported as alternative design concepts could result in improved liveability and site responsiveness for the development.

The following section provides detailed discussion on the elements where the proposal fails to comply with Rescode and addresses objectors concerns.

A detailed assessment of the application in accordance with the provisions of Rescode was undertaken on the original and amended plans submitted to Council. The development does not satisfactorily address the following matters under Clause 55.

Assessment in accordance with Clause 55

Neighbourhood Character

The Apollo Bay and Marengo Neighbourhood Character Study 2003 involved a review of the 2001 Neighbourhood Character Study. The 2003 study identifies a total of eight character precincts within Apollo Bay and Marengo. These precincts are further discussed in the Apollo Bay Structure Plan, 2007. This study provides the basis for the soon to be introduced Design and Development Overlay – Schedule 7 (Amendment C55).

Under Clause 54.02 (Rescode), the proposal is required to respect the existing or preferred neighbourhood character of the area and respond to the features of the site. When giving consideration to whether a proposal meets the neighbourhood character objective, consideration is required to be given to any relevant neighbourhood character objectives, policy or statement in the planning scheme, the neighbourhood and site description and the design response.

When the application was first submitted to Council, it did not contain a satisfactory neighbourhood and site description as required by Clause 55.01. A neighbourhood and site description plan was submitted with the first amendment to the plans.

When assessing the development within the site context it is considered that the development does not respond well to the existing neighbourhood character of the area. It is acknowledged that the character of the neighbourhood is evolving as the area continues to be further developed with medium density development. When the DDO6 is introduced into the planning scheme, this will provide stronger controls in relation to the implementation of a preferred character for the area that is consistent with a small coastal town.

Having considered the immediate existing character of the area, the newer medium density development nearby, and the objectives of the DDO6, there is some concern about the way in which the upper level floor area of the dwellings contribute to a bulky appearance across the development. A reduction in first floor footprint could assist in addressing this concern. The latest amendment to the plans by the re-orientation of Unit 1 to address the street assists to some degree with the issues around neighbourhood character in that the design of this unit now addresses the street. However, the current design requires a second crossover, which in turn breaks up the local streetscape and reduces the availability of on-site car parking.

Concerns were raised by an objector in relation to the loss of views across to the foothills and Marriners Lookout from the objectors dwelling. Consideration of this matter is made having regard to VCAT's established principles for balancing the interests of neighbours in respect of a view:

- (a) There is no legal right to a view;
- (b) Views form part of the existing amenity of a dwelling and their loss is a relevant consideration to be taken into account;
- (c) The availability of views must be considered in light of what constitutes a reasonable sharing of those views; and
- (d) In addressing the concept of "reasonableness" it is relevant to consider
 - (i) the importance of the view to be lost within the overall panorama available;
 - (ii) and whether those objecting have taken all appropriate steps to optimise development of their own properties.
- (e) Added emphasis will be placed on considerations (b) and (c) if the question of views is specifically addressed under the Planning Scheme'.

A recent VCAT determination, *S and M Roxburgh Vs Colac Otway Shire* (P243/2008) for a medium density development in Marengo has given some weight to the sharing of views by neighbours. Although the Tribunal supported the proposed development, the Tribunal required that the development be designed so that views to the ocean could still be obtained by the adjoining property. DDO6 which will be applied to this site seeks 'to ensure that new development maintains space between buildings so that views to the surrounding landscape are retained'.

The development will result in loss of views from the objector's dwelling, however, views will still be obtained to the east and west of the development until such time as these adjoining properties are redeveloped given that the objector's dwelling is single storey and located to the immediate south. Whilst the development does achieve a sharing of views, any redesign of the dwellings to reduce the first floor footprint, would provide for increased view sharing, consistent with the above VCAT principles and the DDO6.

Residential Policy

The application provides for medium density development which in the broader sense meets policy objectives for a range of housing types on a strategic basis. However, at the local level the application will provide for four identical detached dwellings, which, with the exception of Unit 1, will be oriented in the same way, and have an identical footprint with no variety in the external or internal form, size, type or scale.

Integration with the Street

The amended plans received on 28 November, 2008 show Unit 1 repositioned so that the dwelling addresses the street frontage with the garage located on the western side of the dwelling. This is an improvement on the original orientation of the unit as it previously presented a solid brick wall with no windows or articulation to the street. However, the garage located on the western side of the dwelling creates the need for a second crossover which is discouraged in the Neighbourhood Character Description for this precinct and which could be avoided through a different design response.

Energy Efficiency

Northern light is available to deck areas, however, the stair well and solid walls on the north side of the living/dining area reduces the opportunity for northerly exposure of this space. The garage is located on the north side of the ground floor which limits the ability of achieving any meaningful northern exposure for the ground floor bedrooms. This objective is not satisfied.

Safety

The entrances to the dwellings are not clearly visible and identifiable from the street or internal access ways. They are recessed and obscured, and do not allow for external surveillance. Open space areas at ground level are not private and are not protected from being used as public thoroughfares. This may be addressed by permit conditions requiring internal fencing, should the application be approved. The development does not satisfy this objective.

Landscaping

A landscaping plan has been submitted, however, should the application be approved, permit conditions will require more appropriate planting to boundaries to screen and soften the development. The landscape plan must give consideration to minimising loss of views from adjoining dwellings.

Access

The common driveway services each dwelling. Manoeuvring has not been satisfactorily demonstrated to ensure that vehicles are able to exit the site in a forward motion. Larger turning circles will reduce the opportunities for landscaping along the driveway. As such, it may be necessary to review the siting of the garages and tandem spaces. The width of the access way is appropriate.

Parking Location

Each dwelling has a conveniently located single garage and tandem space, and the dimensions of garaging meets with the requirements of the standard.

Parking Provision

The level of car parking provided on site meets the requirements of the standard. Each dwelling has three bedrooms and is provided with two spaces (a single garage and a tandem space). Concerns were raised by an objector regarding the level of car parking and safety issues arising by additional vehicles having to park in Cawood Street. While the development would be likely to generate additional traffic to and on the site, the proposal has complied with the requirements of Rescode. In addition there is on-street parking available for visitors to the development although the need for an additional crossover would reduce on-street car parking to some degree.

Concerns were also raised in relation to the driveway that is directly in line with a bedroom causing noise and light glare. It is considered that this matter could be addressed by permit conditions requiring effective screen planting and an increase to fence height.

Overshadowing Open Space

Overshadowing was raised by the objectors to the south and the east. The owner of Unit 3/13 Cawood Street also objects on the basis of loss of sunlight into three west facing windows. The 'Daylight to Existing windows Objective' under Rescode has been satisfied as a light court exceeding 3m by 1m is available to these windows.

Amended plans received on 28 November 2008 provide a setback of 4 metres from Unit 4 to the southern property boundary. This reduces the extent of overshadowing substantially from the original plans submitted with the application.

It appears from shadow diagrams provided that shading from the development will now meet the standard under Rescode.

Overlooking

Overlooking has been raised by objectors, particularly from the balconies and first floor windows. The proposal has been amended to reduce overlooking into the objector's property from Unit 4 by setting the development 4 metres from the southern property boundary. However, Unit 4 still results in some degree of overlooking within the 9 metres under Rescode.

Measures to prevent overlooking to the east include provision of 600mm high trellis addition to the fence height along the east boundary. The impact of this will be to further reduce the daylight into habitable windows and open space areas along this boundary. Highlight windows to first floor south and west elevations and screening to first floor decks assist in reducing overlooking. However, overlooking within 9m is possible from the first floor bedroom windows (south elevations), which can be addressed by permit conditions should the application be approved. Screen planting to the eastern boundary is also proposed.

Internal Views

As discussed above, overlooking within 9m is possible from the first floor bedroom windows (south elevations), into dwellings within the development.

Noise

An objector has raised concerns regarding the emission of unacceptable levels of noise and potential disturbance from light glare from Unit 4 on the amenity of the objector to the south. The proposal has been amended to include a solid screen with acoustic insulation to minimise sound transmission from the deck of Unit 4. Should the application be supported, permit conditions will require positioning and use of lights to prevent light glare affecting neighbouring properties.

Private Open Space

Private open space areas are provided on first floor deck areas which face east and north. There is private open space provided at the ground level but access to this area is obtained from the laundry which is located on the south side of the development.

Solar Access to Open Space

Solar access to deck areas and ground level open space is satisfactory in accordance with this objective.

Removal of the cypress pine

An objector raised concerns as to whether the cypress pine would be removed from the nature strip. If the additional crossover is required it is likely that this would require the removal of this tree. Without the additional crossover there would be no need to remove the tree from the nature strip.

Drainage Plans

No drainage plans were submitted with the proposal, however, if the development is approved permit conditions will require a drainage plan to show drainage to a legal point of discharge.

Outcome of assessment

While the original design of the development can be modified in some circumstances so that it will generally comply with the provisions of Rescode, these modifications are not sufficient enough to result in a good design outcome that responds appropriately to the site context or neighbourhood character. The proposed development fails to take advantage of the northerly aspect or to build on other attributes of the site. Each of the units proposed are identical, both internally and externally, with garages placed on the north side of the ground floor removing any opportunity for north exposure into the ground floor bedrooms or to provide a northerly open space area that could be conveniently accessed at ground level. The design of the living areas on the first floor is poorly design and does not take advantage of the northerly aspect either. Liveability of the development is poor.

The site itself presents few constraints in relation to achieving a design that would respond more appropriately to the context within which the site sits. For example, it would be possible to site the garages of Units 1, 2 and 3 on the southern boundary of the respective lots and position the garage of Unit 4 one metre off the eastern property boundary. This single change in the layout of the design of the development then allows northern sunlight into the ground floor bedrooms and creates a private open space, at ground level, that is north facing for units 1, 2 and 3. There is also opportunity to redesign the first floor layout, to increase northerly exposure for the living/dining/kitchen areas.

A change in design to reduce the first floor area by increasing the ground floor area, would enable a reduction in the building bulk and incorporate further setbacks into the upper level. This would better respond to the preferred neighbourhood character, the objectives of Rescode and proposed DDO6.

g) Relevant Particular Provisions

Clause 52.01 – Public Open Space Contribution:

A public open space contribution of 5% of the site value of all land in the subdivision will be required if this application is supported. This contribution is required in accordance with Section 18 of the Subdivision Act 1988.

Summary

Whilst the density of the development is considered to be appropriate, the proposal, as amended, does not provide a good design outcome for the site. The design does not capitalise on the attributes of the site, particularly the northerly aspect and there is some concern about the bulk associated with upper levels of the development. Vehicle manoeuvring has not been satisfactorily demonstrated. The proposal does not respond well to the streetscape and the character of the area. It is therefore recommended that a refusal to grant a permit be issued.

Recommendation(s)

That Council's Planning Committee resolve to issue a Refusal to Grant a Planning Permit for Planning Permit Application PP198/08 for the subdivision, use and development of the land for four (4) dwellings and a four (4) lot subdivision at 15 Cawood Street, Apollo Bay, on the following grounds:

- 1. The overall design and layout of the development is not responsive to the site context as the layout and design of the built form fail to capitalise on the natural attributes of the site, particularly in respect of achieving appropriate solar access.***
- 2. The development proposed does not respond appropriately to the existing or preferred neighbourhood character of the area and does not satisfy the provisions of the Residential 1 Zone and the requirements of Clause 55 (ResCode).***
- 3. The proposal does not comply with the objectives of the Design and Development Overlay – Schedule 7 (Lower Density Residential Areas) or the Design and Development Overlay – Schedule 6 (Medium Density Residential Areas), which encourages well articulated upper levels to respect the character of the area, space between buildings so that views to the surrounding landscape are retained, and articulated facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing.***

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