



**Colac Otway
SHIRE**

AGENDA

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

8 DECEMBER 2010

at 10:30 AM

COPACC

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

8 DECEMBER 2010

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC on 8 December 2010 at 10.30 am.

AGENDA

1. OPENING PRAYER

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

AMEN

2. PRESENT

3. APOLOGIES

4. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendents here today.

Colac Otway Shire encourages active community input and participation in Council decisions.

I ask that we all show respect to each other and respect for the office of an elected representative.

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5. DECLARATION OF INTEREST

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

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

7. CONFIRMATION OF MINUTES

- Planning Committee held on the 10/11/10.

Recommendation

That Council confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

PC100812-1	PLANNING & BUILDING STATISTICAL REPORT
PC100812-2	DEVELOPMENT OF A DWELLING AND REMOVAL OF THREE (3) NATIVE TREES AT 48 KARINGAL DRIVE, WYE RIVER
PC100812-3	PROPOSED AMENDMENT TO AN EXISTING PERMIT ALLOWING THE CONVERSION OF AN OUTBUILDING TO TOURIST ACCOMMODATION AT 3229 GREAT OCEAN ROAD, GLENAIRE
PC100812-4	BUILDINGS AND WORKS FOR THE PURPOSE OF CONSTRUCTING A DWELLING AT 23 ILUKA AVENUE, WYE RIVER

Rob Small
Chief Executive Officer

PC100812-1

PLANNING & BUILDING STATISTICAL REPORT

AUTHOR:	Janole Cass	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	GEN000450

Summary

This report provides statistics relating to the month of November 2010.

Planning Statistics – November 2010

27 Planning Permit Applications were received for the period 1 November 2010 – 30 November 2010.

35 Planning Permit Applications were considered for the period 1 November 2010 – 30 November 2010.

Building Statistics

Please note that the Building Commission Website has been updated to August 2010.

Attachments

1. Planning Statistical Report November 2010

Recommendation(s)

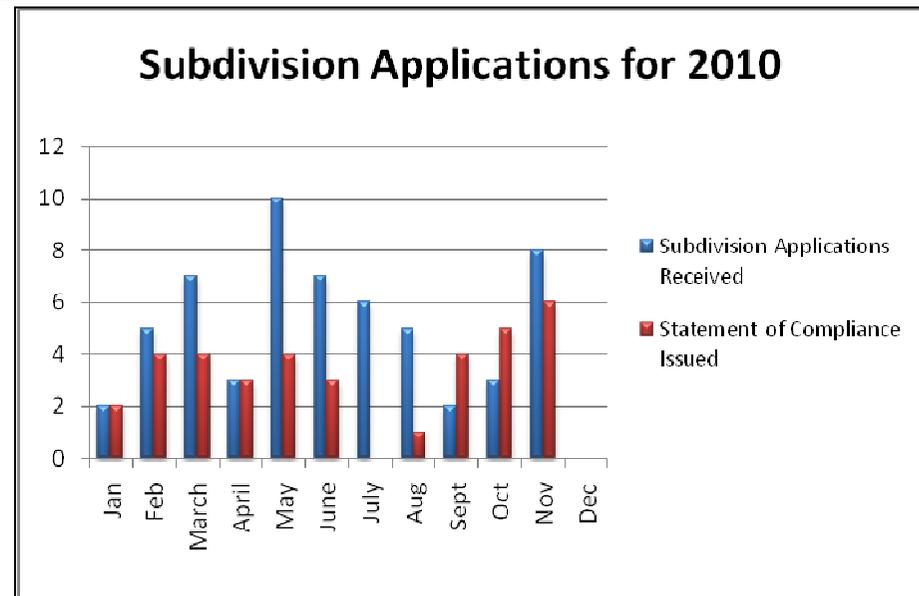
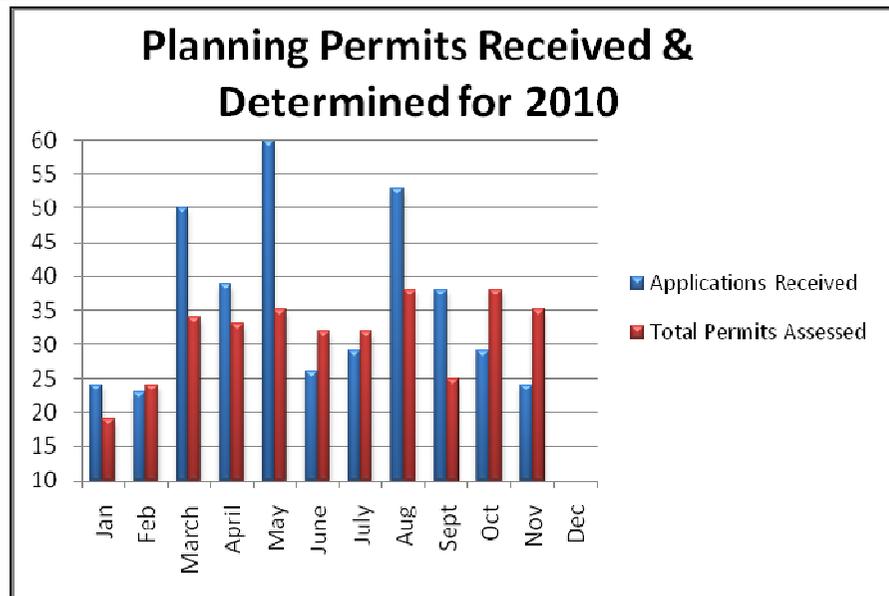
That Council Planning Committee note the statistical report.

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## Planning Statistical Report November 2010

| APPLIC NO  | DATE RECEIVED | LOCATION                                | PROPOSAL                                                                                                   | DATE ISSUED | ACTUAL TIME | AUTHORITY          | DECISION           |
|------------|---------------|-----------------------------------------|------------------------------------------------------------------------------------------------------------|-------------|-------------|--------------------|--------------------|
| 327/2005-4 | 27 OCT 2010   | 1-19 COSTIN STREET, APOLLO BAY          | TO SUBDIVIDE THE LAND (IN STAGES) INTO TWENTY SIX (26) LOTS                                                | 01 NOV 2010 | 4           | UNDER DELEGATION   | PERMIT ISSUED      |
| 73/2009-1  | 26 MAR 2009   | 9 POLLACK STREET, COLAC                 | HOME OCCUPATION (HAIRDRESSING) VARIATION TO CLAUSE 52.11                                                   | 02 NOV 2010 | 60          | UNDER DELEGATION   | REFUSAL TO GRANT   |
| 222/2010-1 | 12 AUG 2010   | 2-10 MARRINERS LOOKOUT ROAD, APOLLO BAY | ADDITION TO EXISTING DWELLING                                                                              | 02 NOV 2010 | 34          | UNDER DELEGATION   | PERMIT ISSUED      |
| 236/2010-1 | 20 AUG 2010   | 32-40 GRAVESEND STREET, COLAC           | EXTENSION TO EXISTING STORAGE SHED FOR STORAGE OF SPORTING EQUIPMENT                                       | 02 NOV 2010 | 17          | UNDER DELEGATION   | PERMIT ISSUED      |
| 277/2010-1 | 20 SEP 2010   | 10 AROONA COURT, FORREST                | CONSTRUCTION OF A CARPORT AND SHED                                                                         | 02 NOV 2010 | 43          | UNDER DELEGATION   | PERMIT ISSUED      |
| 255/2010-1 | 03 SEP 2010   | 20B DOUGLAS STREET, COLAC               | USE & DEVELOPMENT OF A STORAGE SHED                                                                        | 03 NOV 2010 | 8           | UNDER DELEGATION   | PERMIT ISSUED      |
| 264/2010-1 | 07 SEP 2010   | 35 HIDERS ACCESS, YUULONG               | CONSTRUCTION OF AN OUTBUILDING                                                                             | 03 NOV 2010 | 56          | UNDER DELEGATION   | PERMIT ISSUED      |
| 265/2010-1 | 08 SEP 2010   | 34 GREAT OCEAN ROAD, MARENGO            | CONSTRUCTION OF A GARAGE                                                                                   | 03 NOV 2010 | 42          | UNDER DELEGATION   | PERMIT ISSUED      |
| 268/2010-1 | 10 SEP 2010   | 100 GREAT OCEAN ROAD, APOLLO BAY        | BUILDINGS & WORKS ASSOCIATED WITH AN UPGRADE TO A PUMP STATION                                             | 05 NOV 2010 | 15          | UNDER DELEGATION   | PERMIT ISSUED      |
| 272/2010-1 | 16 SEP 2010   | 43-47 FOREST STREET, COLAC              | CONSTRUCTION OF A STORAGE SHED                                                                             | 05 NOV 2010 | 10          | UNDER DELEGATION   | PERMIT ISSUED      |
| 297/2010-1 | 12 OCT 2010   | 52A RAE STREET, COLAC                   | USE OF THE LAND AS FOR TRADE SUPPLY AND REDUCTION OF CARPARKING                                            | 15 NOV 2010 | 21          | PLANNING COMMITTEE | PERMIT ISSUED      |
| 169/2010-1 | 18 JUN 2010   | 18 GRANT STREET, FORREST                | DEVELOPMENT OF A TWO OUTBUILDINGS (STORAGE) & WAIVER OF TWELVE (12) CAR SPACES                             | 15 NOV 2010 | 81          | PLANNING COMMITTEE | NOTICE OF DECISION |
| 296/2010-1 | 11 OCT 2010   | 76 CORANGAMITE STREET, COLAC            | WAIVER OF CAR PARKING REQUIREMENTS FOR ADDITIONAL STORAGE AREA                                             | 15 NOV 2010 | 21          | PLANNING COMMITTEE | NOTICE OF DECISION |
| 288/2010-1 | 4 OCT 2010    | 137 GREAT OCEAN ROAD, APOLLO BAY        | WAIVER OF CAR PARKING SPACES IN ASSOCIATION WITH THE USE OF THE LAND FOR A RESTAURANT AND A LIQUOR LICENCE | 15 NOV 2010 | 22          | PLANNING COMMITTEE | NOTICE OF DECISION |
| 212/2010-1 | 06 AUG 2010   | 15 SKENE STREET, COLAC                  | USE OF THE LAND FOR A FUNERAL PARLOUR, BUILDING AND WORKS AND REDUCTION OF CAR PARKING                     | 15 NOV 2010 | 81          | PLANNING COMMITTEE | PERMIT ISSUED      |
| 230/2010-1 | 17 AUG 2010   | 102A GELLIBRAND STREET, COLAC           | VEGETATION MAINTENANCE – OLD BEECHY RAIL TRAIL                                                             | 16 NOV 2010 | 104         | UNDER DELEGATION   | PERMIT ISSUED      |
| 100/2010-1 | 17 MAY 2010   | 30 GRAVESEND STREET, COLAC              | CONSTRUCTION OF A STORAGE SHED & CYCLONE FENCE                                                             | 17 NOV 2010 | 54          | UNDER DELEGATION   | PERMIT ISSUED      |
| 119/2006-3 | 20 OCT 2010   | 100 MAGGIOS ROAD, BARONGAROOK           | CONSTRUCTION OF A DWELLING & SHED – AMENDMENT                                                              | 17 NOV 2010 | 54          | UNDER DELEGATION   | PERMIT ISSUED      |
| 45/2010-1  | 3 MAR 2010    | 265 MCCALLS ROAD, YEODENE               | TWO (2) LOT SUBDIVISION                                                                                    | 17 NOV 2010 | 236         | UNDER DELEGATION   | REFUSAL TO GRANT   |

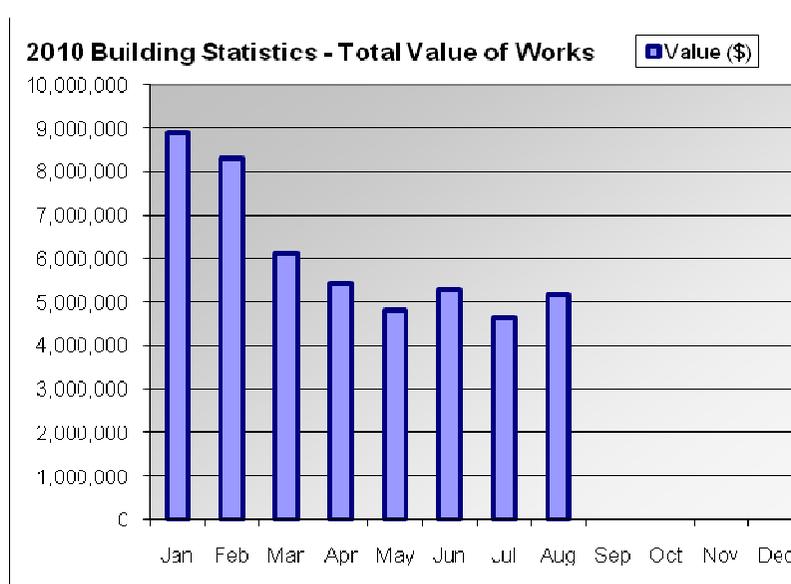
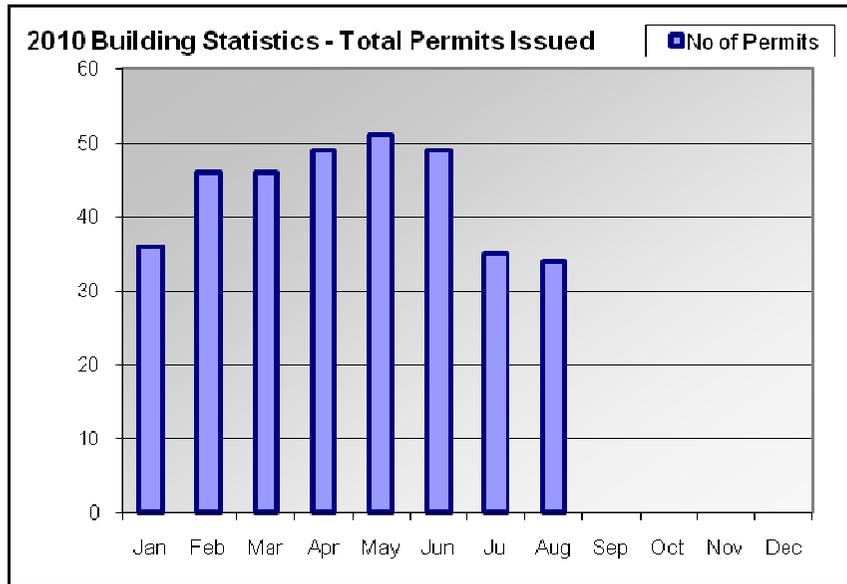
| APPLIC NO  | DATE RECEIVED | LOCATION                                 | PROPOSAL                                                                                                     | DATE ISSUED | ACTUAL TIME | AUTHORITY           | DECISION               |
|------------|---------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------|-------------|---------------------|------------------------|
| 224/2010-1 | 12 AUG 2010   | 59-71 NOEL STREET,<br>APOLLO BAY         | ALTERATIONS & EXTENSION TO EXISTING &<br>DEMOLITION OF ACCOMMODATION PREMISES                                | 17 NOV 2010 | 32          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 327/2010-1 | 16 NOV 2010   | 5 MAHONEY COURT,<br>ELLIMINYT            | EXTENSION TO SECOND STOREY DWELLING                                                                          | 18 NOV 2010 | 0           | UNDER<br>DELEGATION | PERMIT NOT<br>REQUIRED |
| 93/2010-1  | 16 APR 2010   | 27 HUGH MURRAY DRIVE,<br>COLAC EAST      | CONSTRUCTION OF THREE (3) STORAGE SHEDS                                                                      | 18 NOV 2010 | 35          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 262/2010-1 | 7 SEP 2010    | 23 MONTROSE AVENUE,<br>APOLLO BAY        | TWO (2) LOT SUBDIVISION                                                                                      | 22 NOV 2010 | 28          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 182/2010-1 | 12 JUL 2010   | 105 WOODROWVALE ROAD,<br>ELLIMINYT       | USE OF PART OF THE SITE FOR A MEDICAL<br>CENTRE                                                              | 23 NOV 2010 | 43          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 242/2010-1 | 25 AUG 2010   | 3 ILUKA AVENUE, WYE<br>RIVER             | CONSTRUCTION OF A DRIVEWAY, RETAINING<br>WALL & ASSOCIATED WORKS                                             | 24 NOV 2010 | 91          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 90/2010-1  | 17 MAY 2010   | 130 MCDONALDS ROAD,<br>KAWARREN          | EXTENSION TO EXISTING DWELLING                                                                               | 26 NOV 2010 | 60          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 152/2010-1 | 28 MAY 2010   | 45 KENTS ROAD, BARWON<br>DOWNS           | USE OF LAND AS A DWELLING, ADDITION TO<br>EXISTING BUILDING & CONSTRUCTION OF<br>OUTBUILDING (RETROSPECTIVE) | 26 NOV 2010 | 81          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 165/2010-1 | 16 JUN 2010   | 500 TUXION ROAD, APOLLO<br>BAY           | TWO (2) LOT RE-SUBDIVISION (REALIGNMENT OF<br>BOUNDARY)                                                      | 26 NOV 2010 | 54          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 233/2010-1 | 17 AUG 2010   | 15 MARRINERS LOOKOUT<br>ROAD, APOLLO BAY | TWO (2) LOT SUBDIVISION                                                                                      | 26 NOV 2010 | 72          | UNDER<br>DELEGATION | REFUSAL TO<br>GRANT    |
| 271/2010-1 | 16 SEP 2010   | 1C MOORE STREET,<br>APOLLO BAY           | FIXED STEEL A-FRAME AWNINGS TO SHOP<br>FRONT                                                                 | 26 NOV 2010 | 60          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 293/2010-1 | 8 OCT 2010    | 8-14 MURRAY STREET,<br>COLAC             | CONSTRUCTION OF A FOGGED GLASS SCREEN                                                                        | 26 NOV 2010 | 32          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 295/2010-1 | 11 OCT 2010   | 175 COLAC BALLARAT<br>ROAD, IRREWARRA    | CONSTRUCTION OF A SHED                                                                                       | 26 NOV 2010 | 29          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 306/2010-1 | 21 OCT 2010   | 230 COLAC BALLARAT<br>ROAD, IRREWARRA    | SUBDIVISION – REALIGNMENT OF BOUNDARY                                                                        | 26 NOV 2010 | 36          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
| 311/2010-1 | 27 OCT 2010   | 178-180 MURRAY STREET,<br>COLAC          | CHANGE OF BUSINESS IDENTIFICATION SIGNAGE                                                                    | 26 NOV 2010 | 30          | UNDER<br>DELEGATION | PERMIT<br>ISSUED       |
|            |               |                                          |                                                                                                              |             |             |                     |                        |
|            |               |                                          | <b>AVERAGE DAYS TO PROCESS PLANNING<br/>APPLICATIONS</b>                                                     |             | <b>48</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           | 28         | 4,006,262         | 0            | 0              | 3          | 2,156,102        | 0        | 0              | 1          | 700,000          | 0                   | 0            | 4                | 2,044,000        | 36               | 8,906,364         |
| Feb           | 35         | 4,714,164         | 0            | 0              | 5          | 1,116,245        | 2        | 202,000        | 1          | 200,000          | 0                   | 0            | 3                | 2,063,065        | 46               | 8,295,474         |
| Mar           | 30         | 3,682,282         | 1            | 10,000         | 6          | 246,720          | 2        | 239,000        | 0          | 0                | 0                   | 0            | 7                | 1,931,805        | 46               | 6,109,807         |
| Apr           | 43         | 5,063,194         | 0            | 0              | 3          | 124,230          | 0        | 0              | 0          | 0                | 0                   | 0            | 3                | 275,640          | 49               | 5,463,064         |
| May           | 41         | 3,516,484         | 0            | 0              | 5          | 155,750          | 0        | 0              | 1          | 250,000          | 0                   | 0            | 4                | 885,425          | 51               | 4,807,659         |
| Jun           | 39         | 3,673,155         | 2            | 837,632        | 5          | 290,855          | 1        | 50,000         | 0          | 0                | 0                   | 0            | 2                | 432,437          | 49               | 5,284,079         |
| Jul           | 27         | 3,691,419         | 0            | 0              | 2          | 47,900           | 3        | 229,014        | 1          | 34,000           | 1                   | 2500         | 1                | 642,640          | 35               | 4,647,473         |
| Aug           | 26         | 3,924,339         | 0            | 0              | 2          | 120,000          | 1        | 174,104        | 1          | 615,000          | 0                   | 0            | 4                | 326,000          | 34               | 5,159,443         |
| Sep           |            |                   |              |                |            |                  |          |                |            |                  |                     |              |                  |                  |                  |                   |
| Oct           |            |                   |              |                |            |                  |          |                |            |                  |                     |              |                  |                  |                  |                   |
| Nov           |            |                   |              |                |            |                  |          |                |            |                  |                     |              |                  |                  |                  |                   |
| Dec           |            |                   |              |                |            |                  |          |                |            |                  |                     |              |                  |                  |                  |                   |
| <b>Totals</b> | <b>269</b> | <b>32,271,299</b> | <b>3</b>     | <b>847,632</b> | <b>31</b>  | <b>4,257,802</b> | <b>9</b> | <b>894,118</b> | <b>5</b>   | <b>1,799,000</b> | <b>1</b>            | <b>2,500</b> | <b>28</b>        | <b>8,601,012</b> | <b>346</b>       | <b>48,673,363</b> |

\*Multi-Development





**Background**

There have been no previous applications in regards to this site.

**Issues / Options**

Council has the options of:

- a) Supporting the application through the issue of a Planning Permit subject to conditions.
- b) Supporting the application with changes.
- c) Refusing to grant a permit.

The key issue is whether the development height being over 8 metres is justified.

**Proposal**

The application is for the construction of a two storey split level dwelling and the removal of three trees in the centre of the site. The dwelling is split level with the south portion of the structure being two storey. The proposed dwelling will be rectangular in shape with the roof being both flat and then pitched up towards Karingal Drive to follow the site contour. The overall footprint of the proposal is 119sqm which includes the decks. The dwelling will be set back from the north boundary (Karingal Drive) 6m, east boundary 4.8m, west boundary 4.8m and the south boundary 12m (Koonya Avenue). An existing access site cut runs almost parallel to Karingal Drive along the road reserve and will provide access to the proposed dwelling. The proposed dwelling will be developed within the centre of the subject site with the effluent disposal area to the south being 140sqm. The upper level is approximately 119sqm and contains a small deck to the north providing access to the dwelling, bedroom, water closet, dining room, kitchen, living room and a deck to the south from the living room. The south aspect of the upper level is double storey with an internal staircase providing access to the lower level. The lower level is approximately 46sqm, contains two bedrooms, toilet and shower, rumpus room and a small deck to the south accessed from the rumpus room. An internal staircase provides access to the level above. The height of the east elevation due to the incline and contour of the site will be 8.6m whilst the west elevation is 7.2m in height at the same point. The proposal does not provide car spaces on site however there is capacity for these to be provided on an amended plan. The applicant has verbally proposed that the car spaces would come from Koonya Avenue to the south.

**Site & Surrounds**

The subject site is within the small hamlet of Wye River which overlooks the ocean and is west of the Great Ocean Road. The allotment is rectangular in shape and is bounded to the north by Karingal Avenue and to the south by Koonya Avenue. The site has sparse vegetation within it with an existing site cut providing access from Karingal Drive. The site is 654sqm with the site draining north to south – south east and being steep. To the immediate north is vacant land zoned Rural Conservation Zone. Surrounding properties contain dwellings. The site slopes 30 degrees from Karingal Drive to the front of the allotment (road reserve) then there is a further fall of 20 degrees to the south boundary which is Koonya Avenue.

**Public Notice**

The applicant was required to give notice of the application in accordance with Section 52 of the Planning and Environment Act, by sending a copy of the notice to adjoining owners and occupiers and by placing a sign on the land for a period of 14 days at both Karingal Drive and Koonya Avenue. No objections were received.

### Referrals

The application was referred internally to the Environment, Infrastructure, Building and Health Departments and externally to the Country Fire Authority. All referrals required conditions to be placed into a permit if issued.

### Planning Controls

a. State and Local Planning Policy Framework

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

Clause 11 Settlement

Clause 13.03-2 Erosion and landslip

Clause 13.05 Wildfire

Clause 15 Built environment and heritage

Clause 15.01-5 Cultural identity and neighbourhood character and sense of place

Clause 21.03 Settlement

Clause 21.03-7 Wye River and Separation Creek

Clause 21.04-5 Erosion

The proposal is considered to be in keeping with the objectives of the above policies. The siting of the proposed dwelling will not be incompatible with surrounding residential development, responding well to the landscape character of the area. A landslip risk assessment was submitted with the application stating that the risk associated with building on the site is low to moderate with the risk to life below the recommended acceptable risk. The applicant provided an assessment for wildfire management and the Country Fire Authority has approved this. The site is within an area characterised by a cover of native vegetation consisting of canopy trees. Whilst this site does not contain a significant number of canopy trees the applicant does propose landscaping which includes numerous plantings of native vegetation around the proposed dwelling reinforcing the characteristic of a vegetated area.

b. Zone Provisions

The site is zoned Township Zone (TZ). No permit is required to use the land for a dwelling, nor to construct or carry out works normal to a dwelling.

c. Overlay Provisions

The site is subject to the **Design Development Overlay Schedule 4**. A permit is not required to construct a building or carry out works under this provision.

The site is also subject to the **Significant Landscape Overlay Schedule 2** which relates to the coastal towns of Skenes Creek, Kennett River, Wye River and Separation Creek. The purpose of this 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 significant landscapes
- To conserve and enhance the character of significant landscapes.

A permit is required to construct a building or construct or carry out works and to remove vegetation. It is the objective of Clause 21.03-7 of the Planning Scheme to protect the nationally significant Great Ocean Road Region landscape and the distinctive landscape qualities and coastal setting of Wye River and Separation Creek townships. The subject site is not dominated by native vegetation/bush providing a canopy and a landscape plan was submitted with the application which proposes to plant the subject site with native vegetation with a substantial number of trees that will have a mature height of up to 3 metres. The proposed dwelling will not be visible from the Great Ocean Road with the removal of only three trees for the purpose of the development.

The site is also subject to the **Erosion Management Overlay Schedule 1**. The purpose of this 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 disturbances and inappropriate development.

A permit is required construct a building or construct or carry out works and to remove vegetation. The applicant submitted a Geotechnical Assessment of Landslide Risk and a Land capability Assessment Report. The Geotechnical Assessment for landslide risk concluded that *“there are risks to life and of damage to property on the subject site, due to conceivable landslip event. The risk associated with building on the site is low to moderate and in quantitative terms, the risk to life is below the recommended “acceptable risk” defined as  $1 \times 10^{-6}$  by the AGS Guidelines....assessments of the risks, concluded that there are no geotechnical reasons to prevent the issue of a permit to build on this site, subject to engineering design demonstrating acknowledgement of a low to moderate landslip risk on this site”*.

The Land capability assessment recommended that a new wastewater management system can be built to meet the needs of a residence on the proposed vacant allotment with specific recommendations. If a permit is issued conditions will be placed on the permit to ensure the recommendations contained within both reports are implemented.

The site is also subject to the **Wildfire Management Overlay**. The purpose of this 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.

A permit is required to construct a building or construct or carry out works. The applicant was required to submit a response in regard to the Wildfire Management Overlay which was referred to the Country Fire Authority (CFA). The CFA required further information which was submitted and referred to the CFA, which did not object to the granting of a permit subject to conditions being placed within a permit and the wildfire management plan dated 8 September 2010 being endorsed.

The site is also subject to the **Neighbourhood Character Overlay Schedule 1**. The purpose of this 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 of existing or preferred neighbourhood character.
- To ensure that development respects the neighbourhood character.
- To prevent, where necessary, the removal of buildings and vegetation before the neighbourhood character features of the site and the new development have been evaluated.

A permit is required to construct a building or construct or carry out works. The site is within Precinct 1. The overlay states that the preferred character of this precinct will *“continue to be characterised by dominant native bush that forms a consistent canopy, linking to the adjacent bushland. The dwelling scale, bulk and siting will respond to the site and topography, allowing space and setbacks to maintain native bush, both as canopy and understorey. Buildings will be set beneath the canopy, and appropriately sited and designed so as to allow for the sharing of views to the coast where available, and to be hidden from view from the Great Ocean Road. The informality of the streetscapes will be retained by the lack of front fencing, frequent unmade roads and remnant vegetation.”*

The siting, bulk, form and appearance of the proposed dwelling will contribute to the township's preferred character. Although the building height exceeds the standard of 8m, only a small portion of the roof exceeds this height on one side. The dwelling will be sited centrally on the site with the removal of only three trees, and as noted earlier the site has only a small cover of native vegetation. The applicant has provided a landscape plan which will maintain and increase the dominance of native vegetation over the built form through this proposal. Surrounding sites contain dwellings of varying shape and form, and the proposed split level design which follows the contours of the site will be consistent with this development. Colour samples will be required to be submitted for all external roof and wall finishes to ensure they are non reflective and in muted earthy colours to match the surrounding landscape.

d. Particular Provisions

The applicant was required to submit a response to **Clause 54 – One Dwelling on a lot** of the Planning Scheme. Modifications to the performance standards as specified in the Neighbourhood Character Overlay are included. The Standards that are not able to be met are detailed below:

- *Standard A3, Street Setback.* The proposal is required to be setback 7 metres from the front street. The setback from Karingal Drive from the deck is 6 metres from the front boundary with a further 7 metres of road reserve to Karingal Drive. Porches, pergolas and verandahs that are less than 3.6m high and eaves may encroach less than 2.5m into the setback of this standard. It is acceptable for the deck on the north elevation to encroach 1 metre into the setback.

The building setback is considered appropriate in this instance given the steepness of the site and width of the road reserve, which will enhance the visual separation of the building from the road.

- *Standard A4, Building Height.* The maximum building height should not exceed 8m or two storeys, whichever is the lesser. The south east corner of the proposal is 8.6m in height, but is considered acceptable in this instance given the dwelling is designed to be stepped with the contours of the site and only a small portion of the south east corner of the building exceeds the 8m height requirement. The building should not be visually dominant from elsewhere given the surrounding tree canopy on adjoining land.
- *Standard A9. Parking.* Two car spaces should be provided per dwelling. The applicant has not provided two car spaces on site but has verbally agreed to providing two car spaces accessed from Koonya Avenue and if a permit is issued the applicant will be required to submit amended plans showing the car spaces.
- *Standard A10. Side and Rear Setback.* A new building should be setback from the side or rear boundary a minimum of 3 (side) or 5 (rear) metres plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1 metres for every metre of height over 6.9m. The east boundary setback is 5.6m as opposed to 5.69m which is considered a minor non-compliance, and acceptable in this instance.

### **Consideration of the Proposal**

The township of Wye River is placed within Precinct 4.1 'Otway Ranges Forest and Coast' and the Otway Forest and Coast landscape type. The distinctive qualities of the precinct are described as:

*"containing large areas of dense, tall forest cover in hilly terrain, extending to the sea with high, rugged cliffs in places. In some coastal locations the vegetation is sparser and smaller in scale....While the entire forest is a significant part of the region's landscape character, particular parts have greater significance. The Great Ocean Road hugs coastline from Lorne to Kennett River, offering some of the most dramatic cliff and coastal scenery able to be viewed by car or bus anywhere in the world and is a landscape of national significance. ...the remainder of the coastal landscape in the precinct (is) of state significance."*

The siting, design, height, site coverage and materials of all buildings, and vegetation around buildings and public domain treatments all contribute to the maintenance and enhancement of the key landscape characteristics of the region. The proposed dwelling will be placed central to the subject site, and the removal of three trees is considered reasonable given their location. As discussed above, the proposed dwelling respects the neighbourhood character with the architectural style being similar to surrounding dwellings. The design is split level and stepped with the contours of the site. The built form respects the current built form surrounding it and should not appear bulky within the landscape. Reports that were required to be submitted with the application to address the Erosion Management Overlay and the Wildfire Management Overlay support the application with landscaping proposed that will increase the native vegetation on the subject site.

### **Corporate Plan / Other Strategies / Policy**

There are no other corporate plans, strategies or policies relevant in the determination of this application.

**Financial & Other Resource Implications**

There are no financial implications arising from this report.

**Risk Management & Compliance Issues**

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

**Environmental Consideration / Climate Change**

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

**Communication Strategy / Consultation Period**

A pre application meeting was held with the Applicant.

**Conclusion**

Overall the proposal is considered to be a positive outcome and will not result in any detriment to the amenity of the surrounding area or any persons. Despite some elements not complying with the performance standards of the Neighbourhood Character Overlay, these are considered minor and are supported as it is considered the proposed dwelling would appropriately respect the landscape character of the area. The application includes a landscaping plan which provides replacement vegetation for the removal of three trees required for the development.

Based on this assessment, it is recommended that a planning permit be granted.

**Attachments**

Nil

**Recommendation(s)**

***That Council Planning Committee resolve to grant a permit for the Development of a Dwelling and the removal of three (3) native trees at 48 Karingal Drive, Wye River subject to the following conditions:***

- 1. Prior to the commencement of the development, amended plans 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 car parking being contained within the property boundary***
- 2. Before the development starts, colour samples of all external roof and wall finishes must be submitted to the Responsible Authority for consideration. When approved, such information will be endorsed and will form part of the permit issued.***
- 3. 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.***
- 4. No trenching, soil excavation, storage or dumping of tools, equipment or waste is to occur on native vegetation without the written consent of the Responsible Authority.***
- 5. Sediment movement and erosion must be controlled onsite, and not have opportunity to move offsite or away from the immediate construction area.***

6. **All environmental weeds as outlined in "Environmental Weeds of the Colac Otway Shire" brochure must be controlled on the property at all times and prevented from spreading to neighbouring land to the satisfaction of the responsible authority.**
7. **No environmental weeds as referred to in "Environment Weeds of the Colac Otway Shire" brochure will be planted on or allowed to invade the site.**
8. **An all waste septic tank disposal system is to be constructed concurrently with the new dwelling, such that all liquid waste must at all times be contained within the curtilage of the title. Such system must be designed and installed to the satisfaction of the Responsible Authority.**
9. **Access onto and within the property must be constructed to the satisfaction of the Responsible Authority.**
10. **An application to construct a vehicle crossing must be lodged and approved by the Responsible Authority prior to the commencement of works with the maximum grade 1 in 8 (12.5%).**
11. **The driveway must be constructed to an all weather surface to the satisfaction of the Responsible Authority with driveway cuts to be avoided where possible.**
12. **Maximum batter slopes to be 1 vertical to 2 horizontal, unless in sound rock where the batter slopes may be increased to 1 vertical and 1 horizontal.**
13. **Stormwater discharge from the approved stormwater detention system must only be distributed across the property by sheet flow (i.e. along a contour) or to a legal point of discharge as approved by the Responsible Authority. No sheet flow discharge point must 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.**
14. **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.**
15. **The proponent must follow the recommendations contained in the Landcapability Assessment Report undertaken by Provincial Geotechnical Pty Ltd, Report Number F9039 dated 26 June 2009 and Geotechnical Assessment of Landslide Risk undertaken by Provincial Geotechnical Pty Ltd, Report Number A0094 dated 25 February 2010.**
16. **All external cladding and roofing of the dwelling hereby permitted shall be of a non reflective material which will effectively blend the development in with the natural colours of the surrounding landscape (ie not white, off-white, beige, cream, fawn, light yellow or similar colour, galvanised or zincalume, gull grey or any other unsuitable colours) to the satisfaction of the Responsible Authority.**

**Conditions Required by the Country Fire Authority**

17. **Water Supply Requirements**
- 17.1 **A static water supply such as a tank must be provided and must meet the following requirements:**
  - 17.1.1 **A minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely for fire fighting.**

**17.1.2 The water supply must be located within 60 metres of the dwelling.**

**17.1.3 Fire brigade vehicles must be able to get to within four metres of the water supply outlet as indicated on the wildfire development plan.**

**17.1.4 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:**

- **Subject to vehicle traffic – 300mm**
- **Under houses or concrete slabs – 75mm**
- **All other locations – 225mm**
- **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.**

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

**17.2.1 All above ground static water supply must provide at least one 64mm 3 thread/25mm x 50mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A: Figure 2).**

**17.2.2 the average grade must be no more than 1 in 7 (14.4%)(8.1<sup>0</sup>) with a maximum of no more than 1 in 5 (20%)(11.3<sup>0</sup>) for no more than 50 metres.**

**17.2.3. dips must have no more than a 1 in 8 (12.5%)(7.1<sup>0</sup>) entry and exit angle.**

## **18. Access Requirements**

**18.1 Access to the dwelling must be designed to allow emergency vehicles access. The minimum design requirements are as follows:**

**18.1.1 curves in driveway must have a minimum inner radius of ten metres;**

**18.1.2 the average grade must be no more than 1 in 7 (14.4%)(8.1<sup>0</sup>) with a maximum of no more than 1 in 5 (20%) (11.3<sup>0</sup>) for no more than 50 metres;**

**18.1.3 dips must have no more than a 1 in 8 (12.5%)(7.1<sup>0</sup>) entry and exit angle.**

## **19. Vegetation Management Requirements**

**19.1 The wildfire management plan dated 8 September 2010 must be endorsed as part of the Permit.**

**19.2. The vegetation management areas as indicated on the wildfire management plan be maintained to the following standard:**

### **Inner Zone**

**A distance of 10 metres around the proposed dwelling 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 Inner zone. On the remaining 50% the inner zone, elevated fuel must be at most, sparse, with very little dead material.*
- *Dry shrubs must be isolated in small clumps more than 10m away from the dwelling.*
- *Trees must not overhang the roofline of the dwelling.*

**Outer Zone**

*Vegetation in outer zones, as specified in the wildfire development plan 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 20mm deep.*
- *There must be no elevated fuel on at least 50% of the outer zone area.*
- *Clumps of dry native shrubs must be isolated from one another by at least ten metres.*

**22. Expiry of Permit**

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

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

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

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- During May 2010, a planning enforcement investigation commenced in relation to changes to the external colour of the building and the absence of screens to the southwest elevation. The current amendment application has been submitted as a result of this investigation.
- Six objections have been received in relation to this application. Only one of these letters was from the resident immediately adjacent to the application site, the remainder of objections were from residents of Colac, Port Melbourne, Apollo Bay and the Great Ocean Road. The objections raised concerns about the lack of landscaping which offers no regard for the visual amenity of the adjacent residential property, the revised location of the water and gas tanks which are considered to negatively affect the visual amenity from the adjacent residence, the new secondary vehicle access which is considered to result in a loss of privacy for the adjacent residence and the obscure film over the loft windows proposed to prevent overlooking to the neighbouring residence.
- On the 29 October 2010, revised drawings were received by Council and one further letter of objection was received. Efforts have been made by officers to liaise with the applicant and objectors to address the issues of concern, and it is considered the amended plans result in an appropriate outcome, subject to additional conditions.
- It is recommended that Council's Planning Committee issue a Notice of Decision to grant an amended Planning Permit PP326/2003-3 to convert the outbuilding to tourist accommodation at 3229 Great Ocean Road, Glenaire, subject to conditions.

Background

On 19 September 2005, planning permission was granted at the direction of VCAT to convert the existing outbuilding to tourist accommodation. The endorsed plans involved extensive refurbishment of the existing building and retained the accommodation units close to the title boundary with 3227 Great Ocean Road. A number of conditions were attached to the approval, one in particular sought to ensure that the external colours used for the accommodation unit would distinguish the accommodation building from the adjacent residence to ensure that tourists and the like would be able to differentiate the two buildings.

On 5 September 2007, an application for amended plans was approved by Council. The application sought to demolish the existing outbuildings and reconstruct these to the same form and scale as the existing. At the time, the Council accepted that the existing buildings could not be renovated and as such, new buildings should be constructed on the site. At this time an application for an extension of time was also granted approval specifying that the works must be completed by the 19 September 2011.

On the 30 June 2008, an amendment to the existing permit was granted. The amended plans included an increased setback from the road by 3 metres, increasing the ground floor area by 29sqm and the addition of a second floor comprising a loft bedroom and separate stair access. The proposal included an increase in the overall height of unit 2 by 800mm to facilitate the second storey. Condition 1 of this approval required details of the external colours, to distinguish the accommodation buildings from the adjoining residence and details of the fixed louvers to be used on the upper level openings on the south west elevation. The fixed louvers and window opening details were required to prevent direct sight lines into the abutting open space area of the adjoining dwelling at 3227 Great Ocean Road. Public notice of this amendment was given and one (1) objection was received from the neighbouring dwelling on the basis that the colours of the walls and roof materials did not comply with the original VCAT requirements, the height of the building had been increased, the footprint of the building had been moved closer to the boundary, the car parking would be noisy and the upper floor windows would result in overlooking. Conditions were placed on the permit to address these issues.

On the 10 August 2009, an application was granted under the secondary consent provisions of Condition 3. The approved changes consisted of; a) extending the loft floor to unit 1 over the existing ground floor area, b) removing the internal ladder access and the provision of a new external access, c) the relocation of the ground floor access at the south east end of unit 1, d) internal reorganisation of the rooms, and e) the removal of the external door in the north facing wall of unit 2. The changes proposed were considered to be minor in the overall context of the development and did not result in any additional overlooking or material detriment.

During May 2010, a planning enforcement investigation commenced in relation to changes to the external colour of the building and the absence of screens to the southwest elevation. The current amendment application has been submitted as a result of this investigation.

When considering proposed changes to plans approved by a planning permit, Council must consider whether the proposed amendments can be considered under secondary consent, being changes of a *'minor'* nature which do not result in a transformation of the proposal from what has been approved, without the need for notification or involvement of third parties. Alternatively, amendments which *'fundamentally alter'* an earlier approval and have external impacts on third parties should be considered in the context of an application to amend the permit under Section 72 of the Act. This process enables third party participation in the decision making process, unlike the secondary consent process. There are a range of Victorian Civil and Administrative Tribunal determinations, such as *Fosters Group Ltd v Mornington Peninsula SC* (4/02/2010) and *Zuzek v Boroondara CC* (15/11/2007) which consider the issues relating to what constitutes an *amendment* to a planning permit.

Condition 3 of permit PP326/03 granted at the direction of VCAT on the 19 September 2005 states that:

'The layout of the site and size of the proposed buildings and works as shown on the endorsed plans shall not be altered or modified without the consent of the Responsible Authority.'

The approved building plans have been amended under both secondary consent and amendment application. The proposed transformation of the building from a single storey to a double storey was considered to have an amenity impact and as such, an amendment application was submitted and notice was given to adjoining land owners. The current modifications being sought to the approved plans have similarly been judged to have potential adverse amenity impacts on 3227 Great Ocean Road. The issues which are considered to have potential for adverse amenity impacts are considered in greater detail later in this report.

Issues / Options

Council has the options of:

- a) Supporting the application through the issue of a Notice of Decision to Grant an amendment to the Planning permit, subject to conditions;
- b) Supporting the application with changes. An option would be for Council to allow certain aspects of the amendment, rather than approving or refusing the proposal in its entirety.
- c) Refusing to support an amendment to the permit.

As the application to amend the permit is in part retrospective, if the amendments are not supported by the Council, the owner will need to modify the building to comply with the approved plans.

All parties would retain the opportunity to apply for a review of the decision at the Victorian Civil and Administrative Tribunal (VCAT). If the amendments are not supported the applicant would be required to modify the building to accord with the most recently approved plans.

Proposal

This application is for an amendment to the existing planning permit that allowed the conversion of the existing outbuilding to tourist accommodation. The amendment proposes to change the internal floor plan of the loft (including the addition of a toilet and shower) to the northern side of the building at first floor level, the replacement of the privacy screens to windows on the southwest elevation with an obscured film fixed to the glass, the retention of the 'classic cream' colourbond colour to the north east elevation, colourbond windspray to the roof and south west elevation, the relocation of the water tanks and the repositioning of the rear external staircase with privacy screen. The current application is in part retrospective, as the building works have already been substantially completed.

The current application does not seek to amend the use of the land, only the works which are to be undertaken and constructed. The proposed amendment to the permit is specifically detailed as follows;

- a) The approved floor plan showed a void at either end of the building with a single bedroom adjacent to a gallery/loft room. The void to the south side has been retained with the northern void replaced with a toilet/shower and access door. These internal alterations do not result in any external changes to the building.
- b) Condition 1 of the earlier permit required *'details of the fixed louvers to be used on the upper level openings on the south west elevation, to prevent direct sight lines into the abutting open space area and details of the window openings to ensure privacy is achieved'*.

The proposal includes four equally spaced awning windows [1.3m by 0.5m] to the southern end, a single window [1.3m by 0.5m] adjacent to the bathroom and a single smaller window [500mm by 250mm] within the bathroom. With the exception of the northern quarter of the northern window over the internal void, the awning windows are obscured and fixed with limited opening to 8cm on the bottom edge. The most northern window is over an internal void and is positioned 4m above floor level.

- c) Condition 1 also required *'details of the colours to be used externally to distinguish the accommodation buildings from the adjoining residence'*.

The colour schemes used on the buildings are detailed as follows;

| | Accommodation units | Adjacent Residence |
|--|---|---------------------------|
| Roof | Colourbond windspray* | Woodland Grey* |
| Wall finish to South West elevation facing the Great Ocean Road | Rough render & horizontal rippled colourbond | Smooth render |
| Wall Colour | Tumblestone grey, Colourbond windspray and colourbond classic cream | Beige |
| Trim | Steel | Black |

**Woodland grey is a dark grey and colourbond windspray is a light grey.*

The proposal includes a rough render finished in tumblestone grey and a rippled Colourbond 'windspray' for the roof and the sections of the south west elevation which are visible from the Great Ocean Road. Colourbond 'classic cream' has been used for the rear [north east] elevation.

- d) The endorsed plans included two water storage tanks and single pump located adjacent to the northern boundary with 3227 Great Ocean Road and a single 6.6m high gravity fed water storage tank, positioned 10m to the east of the boundary with 3227. The amendment application seeks to replace all three water tanks with two 2.2m high water tanks set 1.2m into the ground and surrounded by low level shrubs and additional planting to the top of the tanks.
- e) The endorsed plans included an external staircase 2.5m by 2m to the south elevation of the accommodation unit. The amendment application seeks to reduce the projection of the staircase to 60cm and includes a 2.4m high privacy screen to prevent overlooking to the adjacent dwelling.

Site & Surrounds

The site has a total area of 64056 square metres (6.4 hectares) and currently contains existing buildings and scattered vegetation.

The site is located approximately 34m to the north of Sand Road, adjacent to its junction with the Great Ocean Road. The property benefits from a 4.5m wide private vehicle access to the north of Sand Road. The site also has the benefit of a secondary access to the rear, positioned adjacent to the rear boundary with 3227 Great Ocean Road. This secondary access has not been formally used as a vehicle entry and egress point, but has previously been used for cattle and associated farm vehicles.

The accommodation unit is visible from the Great Ocean Road although, due to its location, it is partially screened by the existing dwelling at 3227 Great Ocean Road.

A vacant restaurant with car parking is located to the north of the application site.

Public Notice

The applicant was required to give notice of the application in accordance with Section 52 of the *Planning and Environment Act*, by sending a copy of the notice to adjoining land owners.

At the conclusion of the notification period six (6) letters of objection and one (1) letter of interest was received in relation to this application. The objections were received from residents of Colac, Port Melbourne, Apollo Bay and the Great Ocean Road, a number of which are not considered to be within the immediate vicinity of the site and as such, the individual merits of the objections are questionable. On 13 October 2010, the Council sought further clarification on the merit of these objections, and two further replies were received.

The letter of interest received by Council raised the question why only one adjacent land owner was notified of the amendment application. Officers responded in writing that only the immediate land owner was notified of the application, as it was considered that the proposed modifications would not have a significant detrimental impact on the amenity of any other land owner surrounding the site.

The objections are summarised as follows;

- a) The windows within the second storey result in light pollution to the rural environment and present a lack of privacy to the adjacent property.
- b) The built form is excessive on the landscape.
- c) The obscure glazing to the toilet window and the window over the internal void is inadequate and should be increased to prevent sight lines to the adjacent garden.
- d) A privacy screen should be added to the external staircase.
- e) The classic cream colour to the south west elevation is similar to the adjacent residence.
- f) The new vehicle access results in a loss of privacy to the adjacent dwelling and was installed without planning permission, resulting in damage to the stormwater pipe of 3227 Great Ocean Road. This access allows for a circular driveway and additional traffic which would reduce the privacy for the adjacent dwelling. The access should only be used by the CFA and emergency vehicles.
- g) The water and gas tanks have been installed in an incorrect location and destroy the visual amenity from the adjacent residence.
- h) The proposed landscaping plan offers no regard for the visual amenity of the adjacent residential property.

Whilst a number of different issues have been raised within the objections, it should be noted that only the amendments specifically detailed within the submitted drawings are able to be considered under this application. The amendment application does not seek to amend the use of the land for tourist accommodation, only the works which are to be undertaken and constructed. The built form and the upper floor windows have previously been approved, and as such, it is considered that a number of the issues raised within the objections are not considered relevant in the determination of this amendment application. Furthermore, only one objection was received from the immediate neighbour at 3227 Great Ocean Road, with the remainder being received from residents elsewhere and unrelated to the site. As such, it is considered that only the immediate neighbour could reasonably demonstrate any detriment as a result of this proposal and therefore, the individual merits of the remaining objections are questionable.

Following extensive discussions with the owner of the adjacent dwelling and the applicant, revised drawings were received by the Council. Copies of the revised drawings were sent to all objectors. The revised drawings included the following changes;

- a) The provision of additional planting to screen the water tanks from the adjacent residence.
- b) Annotation to the secondary access adjacent to 3227 Great Ocean Road to state '*existing access to Sand Road for CFA and Services*'
- c) The provision of a 2.4m high corrugated steel screen in windspray to restrict overlooking from the external staircase.
- d) A change in the colour of the visible elevations of the south west elevation to windspray – (light grey) as opposed to *classic cream*.
- e) With the exception of a 30cm section of the first floor window over the void, all first floor awning windows were obscured and contain restricted opening to 8cm.

A further letter of objection was received from the owner of 3227 Great Ocean Road in response to the revised drawings. The objection is summarised as follows; a) the landscaping should be amended to assist screening the water tanks and the remainder of the development from the neighbouring dwelling, b) the external light at the rear should only be switched on during an emergency, c) the gate to the secondary access at the rear should be reinstated and the access only used by the CFA during emergencies, for livestock and for no other purpose, and d) the location of the gas cylinders should be shown on the plans.

Referrals

The application did not require referral to any internal departments or external authorities.

Planning Controls

The land is included in the Rural Conservation Zone and is subject to the Erosion Management Overlay (EMO1), the Wildfire Management Overlay (WMO) and the Land Subject to Inundation Overlay (LSIO).

a. State and Local Policy Framework

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

Clause 11 – Introduction, Goal and Principles

Clause 14.01 – Settlement

Clause 15 - Environment

Clause 15.07 – Protection from wildfire

Clause 15.08 – Coastal Areas

Clause 15.09 – Conservation of native flora and fauna

Clause 17.04 – Tourism

Clause 19.03 – Design and built form

Clause 21.02 – Vision

Clause 21.03 – Settlement

Clause 21.03-8 – Smaller townships

Clause 21.04-3 – Vegetation

Clause 21.04-5 – Erosion

Clause 21.04-8 - Landscape character

The State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF) seek to protect and enhance the natural landscapes of the coastal environment by ensuring development responds to the identified landscape character of the area. The LPPF identifies the importance of views of the landscape from road corridors and the need to control and manage development that is highly visible from main road corridors and principle tourist routes, whilst retaining the dominance of the landscape from key viewing locations. The LPPF further seeks to provide an attractive and safe residential environment within the smaller communities of the Shire.

The proposal is considered to be consistent with the broader principles of the State and Local Planning Policy Framework.

b. Zone Provisions

The site is subject to the Rural Conservation Zone which has a number of key objectives. The use and development of the site for tourist accommodation has in the past been considered against the requirements of the Environmental Rural Zone (which formerly applied prior to the similar Rural Conservation Zone being applied in 2006) and as such, at the direction of VCAT planning permission was granted on 19 September 2005. The changes proposed to the building remain consistent with the zone provisions.

c. Overlay provisions

The site is subject to the **Erosion Management Overlay Schedule 1 (EMO1)**, the **Land subject to Inundation Overlay (LSIO)** and the **Wildfire Management Overlay (WMO)**.

The original permit application was assessed against the requirements of these overlays and as such, given the nature of the current amendment application, a further assessment against these overlays is not considered necessary.

Consideration of the Proposal

The current application does not seek to amend the use of the land for tourist accommodation, only the works which are to be undertaken and constructed. In view of this, only the proposed amendments are for consideration under this application. The proposed amendments are specifically addressed as follows;

- (a) *a change to the internal floor plan of the loft (including the addition of a toilet and shower) to the southern end of the building at first floor level with a 600mm x 600mm obscure film over the window.*

The endorsed loft floor plan presented a void at either end of the building with a single bedroom adjacent to a gallery/loft room. The removal of the internal void to the southern end and its replacement with a toilet/shower and access door and single obscurely glazed window 600mm by 600mm to the southern end is not considered to fundamentally alter the original approved use of the land for tourist accommodation and would not result in the loss of privacy to the adjoining dwelling. The void to the northern end is being retained as per the earlier approval.

- (b) *the replacement of the approved privacy screens with obscure awning windows to the north eastern side of the accommodation unit.*

The endorsed permit required details of the fixed louvers to be used over the upper level window openings on the south west elevation. The purpose of these fixed louvers was to prevent direct sight lines and maintain the existing privacy levels for the adjoining residence. The proposed amendment includes four equally spaced windows [1.3m by 0.5m] to the southern end, a single window [1.3m by 0.5m] adjacent to the bathroom and a single smaller window [500mm by 250mm] within the bathroom to the southern end of the building. With the exception of a 30cm section of the northern most loft window, the loft windows have been obscured with a fixed film and prevented from opening at their base by more than 8cm. The most northern window will only be partially obscured as this window is approximately 4m above floor level and located over the existing internal void.

Overall, the provision of the obscure film and the restricted opening to the loft windows is not considered to result in any additional overlooking to the adjacent property, and will serve the same purpose as intended originally by the louver windows.

(c) the retention of the classic cream colourbond colour to the north east elevation and colourbond windspray to the roof and the south west elevation.

The intent of the earlier condition required by the VCAT direction was to distinguish the accommodation buildings from the adjoining residence. The colour schemes of the accommodation unit and the adjoining residence are detailed as follows;

| | Accommodation units | Adjacent Residence |
|--|--|---------------------------|
| Roof | Colourbond windspray* | Woodland Grey* |
| Wall finish to South West elevation facing the Great Ocean Road | Rough render & horizontal rippled colourbond | Smooth render |
| Wall Colour | Tumblestone grey and Colourbond windspray | Beige |
| Trim | Steel | Black |

The key intent of the earlier condition was to ensure that the two buildings present from the Great Ocean Road as separate structures. The south west elevation of the accommodation unit provides a backdrop to the existing residence and as such, it is paramount to ensure that there are noticeable differences between the two buildings. To provide a noticeable contrast between the two properties, colourbond 'windspray' has been used on the roof and the south west elevation of the accommodation unit. Windspray is a light-grey colour, whilst the woodland grey used on the adjacent residence is a much darker earthier grey colour. In view of this, it is considered that there is a marked noticeable difference between the two properties. In addition to the colour choices, the two properties have also been finished in different materials. The application site has been finished in a rough render and rippled colourbond, and the adjacent residence has been finished in smooth render. Whilst the use of 'classic cream' to the north elevation is not too dissimilar from the beige colour of the existing residential dwelling, this elevation is not visible from the Great Ocean Road and it is considered that the use of classic cream to the rear would still present the properties as being unrelated when viewed from the principle tourist route. On balance, it is considered that these changes are significant enough to distinguish the accommodation building from the adjoining residence, to achieve compliance with the earlier condition.

d) the replacement all three water tanks with two 2.2m high water tanks set 1.2m into the ground and surrounded by low level shrubs and additional planting to the top of the tanks.

The endorsed plans included two water storage tanks and single pump located adjacent to the northern boundary with 3227 Great Ocean Road and a single 6.6m high gravity fed water storage tank, positioned 10m to the east of the boundary with number 3227. The current proposal seeks to replace all three water tanks with two (2) 2.2m high water tanks set 1.2m into the ground and surrounded by low level shrubs and additional planting to the top of the tanks. It should be noted that within both the existing and endorsed location, the water tanks (in particular the single 6.6m high gravity fed water tank), would be visible from the rear garden of the adjacent residence. In their current location, the water tanks are set 1.2m into the ground, with approximately 1m projecting above ground level. To screen these additions and retain the existing views to the south from the adjacent residence, the proposal includes low level planting to surround the water tanks. A permit condition has been recommended to ensure this occurs.

e) a reduction in the projection of the staircase to 60cm and include a 2.4m high privacy screen to prevent overlooking to the adjacent dwelling.

The endorsed plans included an external staircase 2.5m by 2m, located adjacent to the southern end of the accommodation unit. The current proposal seeks to reduce the projection of the staircase to a 60cm projection and include a 2.4m high privacy screen to prevent overlooking to the adjacent dwelling. In terms of the visual impact, a reduction in projection of the staircase structure is considered to be beneficial. The inclusion of a 2.4m high privacy screen is considered to restrict direct overlooking from the external staircase to the neighbouring dwelling.

In addition to the amendments proposed under this application, consideration should also be given to the additional points raised by the immediate neighbour within the letter to the Council received on 8 November 2010 in response to the revised drawings (see below).

f) Additional landscaping to assist in screening the water tanks and the remainder of the development from the neighbouring dwelling.

A permit condition has been included in the recommendation to ensure a revised landscaping plan is submitted to effectively screen the water and gas tanks, the south end of the accommodation unit and the existing dwelling at 3229 Great Ocean Road from the adjacent dwelling at 3227 Great Ocean Road.

g) The external light at the rear should only be switched on during an emergency.

A permit condition has been included in the recommendation to ensure that the light on the back of Unit 2 is appropriately shielded so as not to result in unreasonable glare and shine to the adjacent dwelling.

h) The gate to the secondary vehicle and cattle access at the rear should be reinstated and this access should only be used by the CFA during emergencies and for livestock access.

The existing main access to the accommodation unit and the farm buildings is located to the northern side of 3227 Great Ocean Road. The property also benefits from a secondary access which in the past has been used for cattle and other associated farm vehicles. Prior to the commencement of the implementation of this permit, and to prevent cattle from leaving the site, this access had been enclosed with a farm gate. This gate has since been removed and the access formalised.

The primary outlook from the neighbouring dwelling at 3227 Great Ocean Road is immediately adjacent to the informal secondary access and as such, it is considered that the intensification of the use of this access by guests of the accommodation unit would have a negative impact on the amenity of the adjacent residence. In view of this, it is considered appropriate to include a permit condition to ensure that the secondary access is not used by visitors to the accommodation units and is only used for CFA vehicles, gas supply vehicles and for general farm purposes.

i) the location of the gas cylinders should be shown on the plans.

Under the provisions of the Rural Conservation Zone, a permit is not required for the installation of a gas tank and as such, these do not need to be detailed on the plan.

Corporate Plan / Other Strategies / Policy

There are no other corporate plans, strategies or policies relevant in the determination of this application.

Financial & Other Resource Implications

This proposal raises no financial or resourcing implications for the Council.

Risk Management & Compliance Issues

There are no risk management of compliance implications for the Council.

Environmental Consideration / Climate Change

Any relevant environmental considerations have been addressed within this report.

Communication Strategy / Consultation Period

Public notice of the application was required in accordance with Section 52 of the Planning and Environment Act, as noted earlier in the report, and there were liaisons between the officer, applicant and objectors to explore means of addressing the issues of concern.

Conclusion

Planning permission was granted at the direction of VCAT on 19 September 2005, to convert the existing outbuilding to tourist accommodation. The amendment application does not seek to amend the use of the land for tourist accommodation, only the works which are to be undertaken and constructed.

The proposed amendments are considered to be consistent with the character of the existing building and subject to the appropriate conditions, the amendment is considered to preserve and respect the amenity of the adjacent dwelling.

It is therefore recommended that a Notice of Decision to issue an amended planning permit be supported subject to additional conditions that address the objectors concerns, and deletion of Condition 1(d) which related to installation of louvers to windows facing the objector's property and is now superseded by proposed new conditions relating to the proposal to place obscure film over the windows. Condition 1(a) was deleted on a previous occasion.

Attachments

Nil

Recommendation(s)

That Council's Planning Committee issue a Notice of Decision to grant an amended Planning Permit PP326/2003-3 to convert the outbuilding to tourist accommodation – amendment at 3229 Great Ocean Road, Glenaire, subject to the following conditions:

1. **Before the development starts, 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) **deleted**
 - (b) **the colours proposed to be used externally on the buildings. Such colours shall distinguish the accommodation buildings from the adjoining residence.**
 - (c) **the relocation of the water pump to under the elevated water tank**
 - (d) **deleted**

- (e) details of all external plant and equipment to both units, including air conditioning units.
2. Prior to the commencement of any works, a Contaminated Site Assessment shall be undertaken by an experienced Environment Auditor registered pursuant to the Environmental Protection Act and prepared to the satisfaction of the responsible authority. The assessment, when satisfactory to the responsible authority shall be endorsed and form part of this permit. Any further assessment or remediation works, if required, must be completed prior to commencement of any works and to the satisfaction of the responsible authority.
 3. The layout of the site and size of the proposed buildings and works as shown on the endorsed plans shall not be altered or modified without the consent of the Responsible Authority.
 4. Access onto and within the property shall be constructed to the satisfaction of the Responsible Authority and to the standard shown on the endorsed plans.
 5. The surface of the car park area must be treated to the satisfaction of the Responsible Authority to prevent dust causing loss of amenity to the neighbourhood.
 6. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
 7. No fewer than three (3) car parking spaces must be provided on the land for the use and or development.
 8. An all-waste septic tank disposal system is to be constructed concurrently with the new dwelling, such that all liquid waste must at all times be contained within the curtilage of the title. Such system must be designed and installed to the satisfaction of the Responsible Authority.
 9. 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 can be issued.
 10. The proposed septic tank system must not be located within 60m metres of the bank of any surface waters, unless the liquid waste is treated to the satisfaction of the responsible authority. Any such reduction in distance to the surface waters will be at the discretion of the responsible authority.
 11. All run-off from storm water, including overflow from water storage and wastewater, shall be taken to a legal point of discharge to the satisfaction of the Responsible Authority.
 12. All development and works associated with this permit shall be carried out in strict conformity with the recommendations of the Geotechnical Assessment for Slope Stability prepared by Bruce Hollioake and Partners dated 15 January 2004.

13. The accommodation units must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the Responsible Authority. Any provision of reticulated electricity must not unreasonably impact on the existing infrastructure and be to the satisfaction of the Responsible Authority and Powercor.
14. The accommodation units must have a potable water supply with adequate storage for domestic use as well as for fire fighting purposes to the satisfaction of the Responsible Authority.
15. The minimum amount of stored water exclusively for fire fighting purposes shall be 10,000 litres with a 64mm 3 threads/25mm round thread male coupling with the CFA fitting at the bottom of the storage facility.
16. The paved area, roof sails, awnings, exterior walls and other external features of the accommodation units and fencing shall be constructed of non-reflective materials which will effectively blend the development in with the natural colours of the surrounding landscape.
17. Within 3 months of the date of issue of this amended permit, 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:
 - a) Show plantings of a suitable species, at a suitable location around the accommodation units to soften their impact on the landscape; and
 - b) Have regard to wildfire safety.
 - c) Screen the water and gas tanks, the south end of the accommodation unit and the existing dwelling at 3229 Great Ocean Road from the adjacent dwelling at 3227 Great Ocean Road.
18. The landscaping shall be established within 6 months of commencement of the use hereby permitted and shall be permanently maintained to the satisfaction of the Responsible Authority.
19. If the development authorised by this permit is not completed by 19 September 2011, this permit shall expire, unless an extension of time is approved by the Responsible Authority. The written request for an extension of time must be received before 3 months have elapsed after the date of expiry.
20. Within 3 months of the date of issue of this amended permit, the existing light affixed to the rear of Unit 2 shall be appropriately shielded so as to prevent light spill and glare to the adjacent dwelling at 3227 Great Ocean Road.
21. The secondary access lane located to the south of 3227 Great Ocean Road, shall not be used by residents of the accommodation units or in association with the accommodation units and shall only be used by CFA vehicles in an emergency, by gas supply vehicles for the filling of the gas tanks and for general farm purposes. The secondary access lane shall not be used for any other service vehicles associated with the use without the written consent of the Responsible Authority.

- 22. **Within 3 months of the date of issue of this amended permit a sample of the glass with obscure film attached to be used on the loft windows to the south west elevation shall be submitted to and approved by the Responsible Authority. When approved, the sample will be endorsed and will then form part of the permit. The sample must be consistent with the level of obscurity already used on the loft windows to the south west elevation. The obscure film shall not be removed from the loft windows without the written consent of the Responsible Authority.**

- 23. **The awning windows to the south west elevation shall be prevented from opening by more than 8cm along the bottom edge without the written consent of the Responsible Authority.**

- 24. **Should at any time in the future the internal loft floor be extended over the existing internal void towards the northern end of unit 1, then the remaining 30cm of clear glazing to the south west elevation shall be obscured to a level to match the existing obscurity of the windows at this level, to the satisfaction of the Responsible Authority.**

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**BUILDINGS AND WORKS FOR THE PURPOSE OF  
CONSTRUCTING A DWELLING AT 23 ILUKA AVENUE,  
WYE RIVER**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Carl Menze                            | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | PP173/2010 |

**Location:** 23 Iluka Avenue, Wye River

**Zoning:** Township Zone (TZ)

**Overlay controls:** Neighbourhood Character Overlay 1 (NCO1)  
Significant Landscape Overlay 1 (SLO1)  
Wildfire Management Overlay (WMO)  
Erosion Management Overlay 1 (EMO1)  
Design and Development Overlay 4 (DDO4)

**Proposed Amendments:** Nil

**Abuts:** Public Conservation Zone

**Restrictive Covenants:** No

**Purpose:**

This application is before Council for consideration as more than (4) four objections have been received and the proposed dwelling is in excess of 8m in height at one point.

It is recommended that the application be refused as the proposal fails to meet key objectives of the Neighbourhood Character Overlay 1 and Significant Landscape Overlay 2.

**Declaration of Interests**

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

**Summary**

- The proposed dwelling is partially constructed, the majority of this construction having occurred after the planning permit previously issued for the development expired on 9 July 2009, and despite the owner and building being aware of the permit expiry and being advised in May 2010 by planning officers that works should cease. The current application seeks fresh approval for the building.
- The dwelling, despite minor changes from the original design, does not comply with all the objectives and standards of the Neighbourhood Character Overlay 1 (NCO1), nor the objectives and decision guidelines of the Significant Landscape Overlay 2 (SLO2).
- Six (6) objections have been received primarily based on the building's visual bulk and dominance on the landscape and surrounding area.

- The planning controls have changed significantly in Wye River since the issue of the original permit, implementing the neighbourhood character objectives resulting from the Neighbourhood Character Study, and it is considered the building design departs from the objectives of these controls to the extent that the proposal is not supported.
- The fact that the building has been partially constructed should not be an influence on the Council's decision on the application, as despite the cost to the applicant of the works to date, much of the works has occurred after it was known by the owner and builder that the planning permit had expired.

## **Background**

The site has a complex history relevant to this proposal, with a previous planning permit expiring after only a small part of the foundations of the building had been constructed, and construction continuing for some time despite the owner and building knowing the permit had expired, and after instructions from Council officers in May 2010 that works should cease. The current application is being sought by the owner to authorize the continuation of the building's construction, with some minor changes to the building appearance from the original design, but largely based on the same premise as the original proposal.

The following is a chronology of the background to this proposal:

- Planning Permit PPA25/03 was issued on 9 July 2003 for the development of a dwelling generally consistent with the current proposal.
- The planning permit was extended on 3 May 2006 requiring development to start by 9 July 2007 and to be completed by 9 July 2009.
- The permit was extended again on 22 May 2007 requiring the development to start by 22 May 2008 and be completed by 9 July 2009. This extension approval specifically stated that no further extension would be given to either the start or completion dates unless the dwelling was to 'lock up' stage.
- Amended plans were approved on 11 October 2008.
- A complaint was received in November 2008 regarding vegetation removal and excavations occurring on the site. Council's Planning Enforcement Officer subsequently inspected the site on 9 December 2008. Trees had been retained in accordance with the permit, but no sediment traps were in place. An email was sent on 10 December 2008 to the builder advising of non-compliance with the permit.
- The site was again inspected on 18 December 2008 and contractors found working on-site who were advised that works had to cease as the storm water detention plan had not been endorsed as required under the permit conditions.
- Officers inspected the site on 16 March 2009 and noted that excavation works had been completed in accordance with the endorsed plans.
- The planning permit expired on 9 July 2009 as the development had not been completed at that time (only foundations had been constructed).
- Officers inspected the site on 29 January 2010. The storm water detention system had been constructed in accordance with the endorsed plans and no further action was considered to be required at that stage. The officer was unaware of the expiry of the permit at that time.
- An application to extend the life of the planning permit was received on 4 March 2010, well after the expiry of the permit 8 months earlier. The request was refused on 22 April 2010 as the permit has been expired well in excess of the 3 month period stated in the permit conditions within which an extension request could be considered.

- The applicant was advised on 4 May 2010 that works should cease on the site as an extension of time had not been granted and there was no valid permit. It was advised that only works required to make the site safe should be allowed to proceed (i.e. very limited works, not continuation of construction of the frame and other elements of the building).
- The current planning application was lodged on 24 June 2010. A request for further information was sent on 21 July 2010 and a site meeting held on 5 August 2010 (Planning Officers, Applicant and Builder). Works completed at that point included the suspended concrete slabs and steel framing of dwelling.
- Council received a complaint on 26 October 2010 indicating that works were still being undertaken. Officers subsequently inspected the site on 27 October 2010 confirming that substantial works had been undertaken since the previous site visit on 5 August 2010 - walls and roofing had been constructed. Builders on-site were advised to stop work, and the sub contractor was phoned to again confirm that there was no valid planning approval for the building and as such works should cease.
- Given the continued construction of the building following advice by officers in May 2010 to cease works and the applicant being aware of there being no valid planning permit, a Planning Infringement Notice was issued on 3 November 2010 with a request for works to cease.

It is clear from Council inspections of the site that the majority of the works relating to the dwelling as constructed have been constructed after the expiry of the permit. Council's photographs dated 29 January 2010 clearly show works up to the site cut and foundation stage. Council photographs taken on 5 August 2010 and 27 October 2010 show substantial works undertaken including:

- Suspended slabs
- Erection of Steel Framework
- Roof partially constructed
- Timber joists, bearers, stud walls, wall panelling and fascias.

### **Issues / Options**

Council has the options of:

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

The key issue is whether the dwelling satisfies the Neighbourhood Character Overlay and Significant Landscape Overlay. As discussed in detail in the report below, the planning controls have changed significantly since the issue of the original permit (2003), to implement the outcomes of the Wye River, Separation Creek and Kennett River Neighbourhood Character Study. Given the expiry of the previous permit, the current application must be assessed against the new suite of controls. As described above, the owner has proceeded with construction of all of the building structure except for the site cut and foundations of the building since he was made aware of the permit's expiry and asked to cease works.

Should Council support the officer recommendation and refuse the application, the applicant will have a right to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the decision. If VCAT was to support a refusal of the permit application, then the owner would need to redesign the proposed dwelling to more closely accord with the current planning controls. Officers would seek an enforcement order from VCAT that the building as constructed be removed and the site reinstated.

Whilst this outcome could be costly for the applicant, the applicant has knowingly proceeded with the building construction following requests to cease works, and by doing so has increased the potential costs of reinstating the site should the proposal not be successful.

### **Proposal**

The application seeks approval for the construction of a large dwelling which consists of several levels which step down the site. The dwelling is predominately single storey except for the rear portion which is double storey. Due to the slope of the land and the stepped nature of the dwelling it will present as a four storey dwelling when viewed from the south. The dwelling is to comprise of:

- First Floor - Double Garage, laundry and entry
- Ground Floor – Bedrooms 2 and 3, bathroom, wash closet, dining room, kitchen, living room and deck area
- Lower Floor - Master bedroom, en-suite, entry and deck area

The proposed dwelling is for the most part less than 8m in height except for a portion of the ground floor deck which has a maximum height of 8.9m.

The dwelling is setback a minimum of 6.15m from the front boundary, 2.78m from the east property boundary, 3.05m from the west property boundary and 8m from the South (rear) property boundary.

The dwelling is to be predominately clad in woodland grey (dark grey) colourbond cladding and also incorporates large areas of glazing especially along the southern facades.

The application does not require any vegetation removal as this was approved and undertaken under the previous permit.

### **Site & Surrounds**

The site is located on the southern side of Iluka Avenue, Wye River. The site is rectangular in shape with a width of 18.11m and a depth of 37.38m with a total area of 677sqm. The site falls steeply away from the street frontage at an angle of between 25° and 30°.

The site contains a partially constructed dwelling which was approved under Planning Permit PPA25/03 issued on 9 July 2003.

The surrounding area is characterised by residential dwellings set amongst a hilly vegetated landscape. Dwellings are generally double storey in order to take advantage of the exceptional views available from the majority of properties. The Great Ocean Road is the defining feature of the area.

### **Public Notice**

Public notice of the application was given in accordance with Section 52 of the *Planning and Environment Act* by sending letters to adjoining owners/occupiers. The applicant has provided a Statutory Declaration stating that the advertising has been carried out in accordance with Council's requirements.

At the conclusion of the notification period a total of six (6) objections were received.

The grounds of objection may be summarised as follows:

- Non-compliance with the objectives and standards of the Neighbourhood Character Overlay.
- Non-compliance with the overlays applying to the land.
- Considerable visual bulk and impact upon the landscape.
- Excessive building height.
- Excessive building footprint/site coverage.
- Represents an overdevelopment of the site.
- Visual impact from adjoining properties.
- Sewerage and grey water will not be able to be treated adequately on-site.
- Excessive vegetation removal.
- Impact upon solar amenity.
- Considerable unauthorised construction has occurred on-site.

The issues raised in the objections are discussed later in this report.

### **Referrals**

The application was referred to Council's Environment, Health and Infrastructure Departments. None of the Departments object to the proposal providing certain conditions are placed on any approval issued.

Council's Environmental Planner noted that the vegetation to the east of the property is very intact Shrubby Foothill Forest, EVC 45 and that if the vegetation on this site had not been validly removed by the previous planning permit, there would be concern about the extent of vegetation removal being proposed. The vegetation was removed whilst the earlier permit was valid however, limiting the capacity to deal with this issue under the current application.

Pursuant to Section 55 of the *Planning and Environment Act*, the application was referred to the CFA for comment. The CFA does not object to the proposal providing certain conditions are placed on any approval issued including the requirement that the submitted Wildfire Management Plan be endorsed as part of the permit.

### **Planning Controls**

#### **a. State and Local Planning Policy Framework**

The State and Local 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 11.05 – Regional Development
- Clause 12.02-2 – Appropriate Development of Coastal Areas
- Clause 15.01-5 – Cultural Identity and Neighbourhood Character
- Clause 21.02-2 – Land Use Vision
- Clause 21.03-7 – Wye River and Separation Creek

Overall the proposal fails to meet key objectives relating to neighbourhood character and built form of the above State and Local planning policies, as discussed later in the report.

b. Zone provisions

The site is included in the Township Zone. The objectives of the Township Zone are outlined below:

- *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 and a range of commercial, industrial and other uses in small towns.*
- *To encourage residential development that respects the neighbourhood character.*

A permit is not required under the zone provisions to construct a single dwelling pursuant to Clause 32.05 of the Colac Otway Planning Scheme.

c. Overlay Provisions

***Neighbourhood Character Overlay 1 (NCO1)***

Planning approval is required to construct a building or construct or carry out works pursuant to Clause 43.05 of the Colac Otway Planning Scheme. The purpose of this overlay control 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 of existing or preferred neighbourhood character.*
- *To ensure that development respects the neighbourhood character.*
- *To prevent, where necessary, the removal of buildings and vegetation before the neighbourhood character features of the site and the new development have been evaluated.*

Schedule 1 to this NCO1 relates to the coastal towns of Skenes Creek, Kennett River, Wye River and Separation Creek.

***Significant Landscape Overlay 2 (SLO2)***

Planning approval is required to construct a building or construct or carry out works pursuant to Schedule 2 of Clause 42.03 of the Colac Otway Planning Scheme. Relevant Decision Guidelines are:

- *The impact of the development on the nationally significant Great Ocean Road Region landscape.*
- *Whether the landscaping plan accompanying the application, details existing vegetation, vegetation to be removed, new plantings incorporating native and indigenous species and avoids the use of exotic species.*
- *Whether the vehicle access and storage proposed has been designed to minimise excavation, loss of vegetation and dominance of car storage facilities.*
- *The impact of the proposed development on the conservation of trees.*
- *The impact of the proposed development on natural ground levels and drainage patterns which may have a detrimental impact on the health and viability of surrounding trees.*

- *Whether there is an adequate buffer strip along roads and between private gardens.*

***Erosion Management Overlay (EMO)***

Planning approval is required to construct a building or construct or carry out building and works pursuant to Clause 44.01 of the Colac Otway Planning Scheme.

***Wildfire Management Overlay (WMO)***

The purpose of the Wildfire Management Overlay is to identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.

A permit is required to undertake buildings and works pursuant to Clause 44.06-1 of the Colac Otway Planning Scheme.

***Design and Development Overlay 4 (DDO4)***

Planning approval is not required to undertake building and works under this overlay provision.

The extent of compliance with these overlays is discussed below.

**Consideration of the Proposal**

It is acknowledged that the dwelling in question has been partially constructed with the applicant indicating that in excess of \$700,000 has been spent in construction works to date. Nevertheless, this application is a new application and must be treated on its individual merits. As noted earlier, most of the structure has been constructed after the expiry of the permit.

Neighbourhood Character Overlay 1

The overall intent of this Overlay is to ensure that new development respects the preferred neighbourhood character of the site and surrounds. The Preferred Character Statement (Neighbourhood Character Study 2005, Precinct Brochure, Wye River 1) for this area is:

*'This precinct will continue to be characterised by dominant native bush that forms a consistent canopy, linking to the adjacent bushland. Dwelling scale, bulk and siting will respond to the site and topography, allowing space and setbacks to maintain native bush, both as canopy and understorey. Buildings will be set beneath the canopy, and appropriately sited and designed so as to allow for the sharing of views to the coast where available, and to be hidden from view from the Great Ocean Road. The informality of the streetscapes will be retained by the lack of front fencing, frequent unmade roads and remnant vegetation.'*

The following Neighbourhood Character Objectives are relevant to the proposed development:

- *To ensure that new buildings and works respect the nationally significant Great Ocean Road Region landscape.*
- *To ensure that new buildings and works achieve the preferred character for the townships as stated above and in Clauses 21.04-13 (Skenes Creek), 21.04-14 (Kennett River) and 21.04-15 (Wye River and Separation Creek).*
- *To encourage the siting of buildings within the vegetation and landform, and below the predominant tree canopy height.*
- *To ensure new buildings reflect and complement the scale, setback, siting, materials and overall form of existing buildings.*

- *To ensure the townships retain an informal, open, spacious character created by the dominance of vegetation, low scale buildings and a lack of solid fencing.*

Overall, the proposal does not respond positively to the above objectives or achieve the preferred character for the Wye River township. The dwelling will be visible from sections of the Great Ocean Road, and does not compliment the scale, setbacks and overall form of existing buildings within the surrounding area.

The site coverage and setbacks do not allow for substantial vegetation to be planted on-site which could help maintain the open and spacious character of the area and soften the visual dominance of the dwelling.

A key decision guideline of the Neighbourhood Character Overlay is '*Whether the building respects the predominantly low scale forms in the area.*' The proposed dwelling cannot be regarded as low scale given its large building footprint and its four storey appearance from some angles. The proposed dwelling fails to satisfy many objectives of the NCO1, and fails to generally satisfy the modifications to Clause 54 standards as follows:

#### *Street Setback – Modified Standard A3*

The proposed dwelling has a minimum setback of 6.1m from the street frontage. Standard A3 requires a minimum front setback of 7m. The slope of the land limits the front setback potential.

#### *Building Height – Modified Standard A4*

The proposed dwelling has a maximum height of 8.9m above natural ground level. Modified Standard A4 requires;

- *The maximum building height should not exceed 8 metres or two storeys, whichever is the lesser.*
- *Buildings are to be stepped to follow the contours of the site.*
- *Changes of building height between existing buildings and new buildings should be graduated by recessing the upper levels from the ground level.*

The element exceeding 8m in height is minor as it is essentially the balustrade of the rear deck area. Never the less the dwelling does present as a four storey building at some angles due to its excessive footprint and the significant fall of the land.

#### *Site Coverage – Modified Standard A5*

The applicant states the proposed dwelling has a site coverage of (222sqm) 32.5% which exceeds the 20% requirement by 12.5%. It is noted that the applicant's assessment does not include the deck areas of the dwelling which when added result in a site coverage of (261sqm) 38.55%. Furthermore, the proposed driveway is an elevated timber structure with an area in excess of 35m<sup>2</sup>. This further adds to the site coverage and limits substantial planting within the front setbacks.

The site coverage is excessive, even when the deck area is not included in the calculations. The preferred 20% site coverage seeks to maintain the open and spacious landscape character of the area and allow for substantial vegetation to be retained/planted on-site. A site coverage of 38.55% is almost double the standard, a significant departure from the policy, and therefore an inappropriate outcome.

### *Energy Efficiency – Standard A7*

The dwelling is orientated to the south due to the constraints of the site and in order to make the most of the views.

### *Side and Rear Setbacks – Modified Standard A10*

The rear south west corner of the proposed dwelling is setback 2.7m from the side property boundary, and a minimum setback of 3.05m from the east property boundary, but pursuant to the amended Standard this setback should be 4.2m.

Compliance with these setback standards would help the proposal respond more positively to the following objective;

- *“To ensure the townships retain an informal, open, spacious character created by the dominance of vegetation, low scale buildings and a lack of solid fencing.”*

### *Private Open Space – Standard A17*

The site does provide in excess of 80sqm in total of private open space, however the majority of this space is unusable due to the severe slope of the site. The proposal incorporates areas of secluded private open space in the form of decks with a total area of 65sqm. None of these decks have a minimum area of 25sqm with a minimum dimension of 3m as required.

### *Design Detail – Standard A19*

The dwelling attempts to follow the fall of the land and as a result extends for a large proportion of the site’s length. Despite being well articulated the dwelling’s mass (ie visual bulk) is of concern, especially when viewed from adjoining properties.

### Significant Landscape Overlay 2

The proposed dwelling incorporates several measures to limit it’s impact upon the significant landscape values of the area. The dwelling has been designed to step down the site and employs several site cuts as opposed to a single large cut.

The dwelling is to be predominantly clad in colourbond (woodland grey) which is a dark grey tone. This will help the dwelling blend in with the tree canopy especially when viewed from the Wye River foreshore and sections of the Great Ocean Road, however it is unclear as to how the large glazed facades will present within the landscape.

Nevertheless despite the building colour scheme, the dwelling will be highly visible from the Wye River foreshore and sections of the Great Ocean Road. The overall size of the dwelling and its extended footprint ensures the dwelling is of a larger size and scale to that of the majority of dwellings visible from within the public realm. As a result, the proposed dwelling fails to satisfy the following objectives of the Significant Landscape Overlay 2 which seek:

- *To protect and enhance the valued characteristics of the nationally significant Great Ocean Road Region landscape.*
- *To ensure that the dominance of vegetation over built form is retained as an element of township character by encouraging retention of existing trees and planting of new indigenous vegetation.*
- *To increase the use of indigenous vegetation to highlight natural features within the*
- *To retain the contrasts between landscape elements within the precinct.*

- *To ensure that development that occurs on hill faces or in other prominent locations is not highly visible.*
- *To retain the dominance of an indigenous natural landscape in coastal areas, between townships, particularly from the Great Ocean Road.*

Whilst measures have been implemented to reduce its visual impacts, the dwelling will be excessively visible from the Wye River Foreshore and sections of the Great Ocean Road. Furthermore, the proposal does not provide for substantial vegetation to be planted which could help screen the building's visibility in the long term.

#### Erosion Management Overlay 1

The applicant has provided advice from a Geotechnical Engineer (P.J.Yttrup & Associates, 30 September 2010) which states;

*'We confirm that the Land Stability Assessment Report 15406 (August 2003), and subsequent site stabilisation drawings (155406, Sheet C1 to C3 (Rev.A), Mar, 2005) are still relevant for the site.'*

The assessment recommended the proposal be allowed, therefore the development is considered to respond positively to the objectives and decision guidelines of the EMO1.

The applicant has also provided a Land Capability Assessment Report (Provincial Geotechnical Pty Ltd, 18 August 2010, H0053) in accordance with the requirements of this Overlay provision. The assessment provides the following conclusion:

*'As a result of our investigations we recommend that a sustainable onsite new wastewater management system can be built to meet the needs of a residence on the allotment.'*

The Land Capability Assessment has been reviewed by Council's Environmental Health Co-ordinator who has no objection to the grant of a permit subject to conditions.

#### Wildfire Management Overlay

The applicant has provided a Wildfire Management Statement (Paul Barnard, Ecotide Pty Ltd, 24 August 2010) which demonstrates that all fire protection requirements for water supply, access, buildings and works, vegetation and any other relevant matter have been considered and incorporated.

The application was referred to the CFA under Section 55 of the *Planning and Environment Act*. The CFA raised no objection to the proposal pursuant to several conditions being placed on any permit issued including the endorsement of the Wildfire Management Statement as part of the Permit.

#### Partially Constructed Building/ VCAT Precedent

The proposed dwelling has been partially constructed, some of which occurred during the lifespan of the previous Permit PPA25/03 which expired 9 July 2009. However, Council records indicate that the majority of the works that have occurred were undertaken after the permit expired. Photos taken by Council's Enforcement Officer on 29 January 2010 clearly show that the only works completed to that date were the site cuts, fill, retaining walls and concrete footings/anchors.

Site Inspections on the 5 August 2010 and 27 October 2010 revealed that substantial construction had been undertaken since 29 January 2010 to the point where the owner has verbally indicated that the proposal is only several weeks away from the lock up stage. The issue with these works being undertaken is that not only were they well outside the time limits of the original Permit but they have limited the capability of modifications being undertaken to the dwelling in response to the additional planning controls introduced.

It is a long held VCAT principle that an application for a retrospective permit must be assessed on its individual merits and that any partially built elements should neither be a positive or negative influence in the decision making policy. Therefore this assessment and recommendation has not taken into regard the substantial works currently completed nor have the financial or emotion implications been given weight as they are outside the realms of the relevant planning considerations.

#### **Corporate Plan / Other Strategies / Policy**

Planning policies relevant to this application have been discussed earlier in the report.

#### **Financial & Other Resource Implications**

There are no financial implications arising from this report.

#### **Risk Management & Compliance Issues**

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

#### **Environmental Consideration / Climate Change**

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

#### **Communication Strategy / Consultation Period**

Public notice of the application was required. All parties will be advised of the decision and will have the opportunity to seek a review of Council's decision at the Victorian Civil and Administrative Tribunal.

#### **Conclusion**

Overall the proposal is not considered to respond positively to the NCO and SLO2 due to its excessive site coverage, limited setbacks, four storey nature and limited revegetation opportunities. The proposal also fails to meet many of the Modified Rescode Standards, some of which may be acceptable on their own merits, but overall contribute to a development which fails several key elements of the overlay.

It is recommended that the planning application be refused.

#### **Attachments**

Nil

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

***That Council resolve to issue a Notice of Refusal for Planning Permit Application PP173/2010 for the construction of a dwelling at 23 Iluka Avenue, Wye River on the following grounds;***

- 1. The proposal fails to meet the objectives and the Modified Rescode Standards of the Neighbourhood Character Overlay Schedule 1.***
- 2. The proposal fails to meet the objectives and relevant decision guidelines of the Significant Landscape Overlay Schedule 2.***

3. ***The proposed dwelling represents an overdevelopment of the site to the detriment of the existing and preferred character of the site and surrounds.***
4. ***The proposed dwelling will present as a dominant building when viewed from sections of the Great Ocean Road and the Wye River foreshore to the detriment of the existing and preferred landscape of the area.***
5. ***The proposal will set an undesirable precedent for the area with respect to its non-compliance to the Modified Rescode Standards of the Neighbourhood Character Overlay Schedule 1.***

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