



Colac Otway  
SHIRE

**AGENDA**

PLANNING COMMITTEE MEETING  
OF THE  
COLAC-OTWAY SHIRE  
COUNCIL

12 JUNE 2013

at 10:30 AM

COPACC Meeting Rooms

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

12 JUNE 2013

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC Meeting Rooms on 12 June 2013 at 10.30 am.

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## **AGENDA**

### **1. OPENING PRAYER**

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

**AMEN**

### **2. PRESENT**

### **3. APOLOGIES**

### **4. MAYORAL STATEMENT**

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

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

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

An audio recording of this meeting is being made for the purpose of ensuring the minutes of the meeting are accurate. 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. It is an offence to make an unauthorised recording of the meeting.

### **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 08/05/13.**

**Recommendation**

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

**OFFICERS' REPORTS**

**Sustainable Planning and Development**

PC131206-1 PLANNING & BUILDING STATISTICAL REPORT  
PC131206-2 COMMERCIAL REDEVELOPMENT AND SUBDIVISION OF LAND AT 111-  
117 GREAT OCEAN ROAD, APOLLO BAY (PP165/2012).

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

**PC131206-1**

**PLANNING & BUILDING STATISTICAL REPORT**

AUTHOR:	Janole Cass	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	F11/2683

**Summary**

This report provides statistics relating to the months of April & May 2013.

**Planning Statistics**

25 Planning Permit Applications were received for the period 1 April 2013 – 30 April 2013.

27 Planning Permit Applications were considered for the period 1 April 2013 – 30 April 2013.

38 Planning Permit Applications were received for the period 1 May 2013 – 31 May 2013.

32 Planning Permit Applications were considered for the period 1 May 2013 – 31 May 2013.

**Building Statistics**

Please note that the building Commission website has been updated to March 2013.

**Attachments**

1. Planning and Building Statistical Report April 2013 0 Pages
2. Planning and Building Statistical Report May 2013 0 Pages

**Recommendation(s)**

***That Council's Planning Committee note the statistical reports for April and May 2013.***

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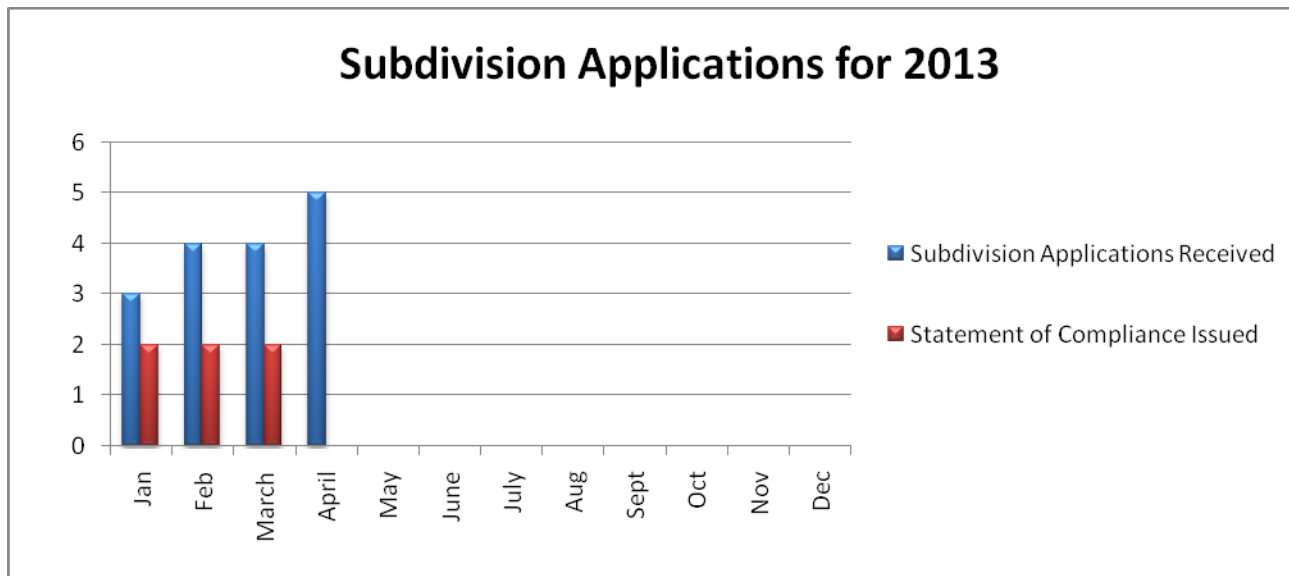
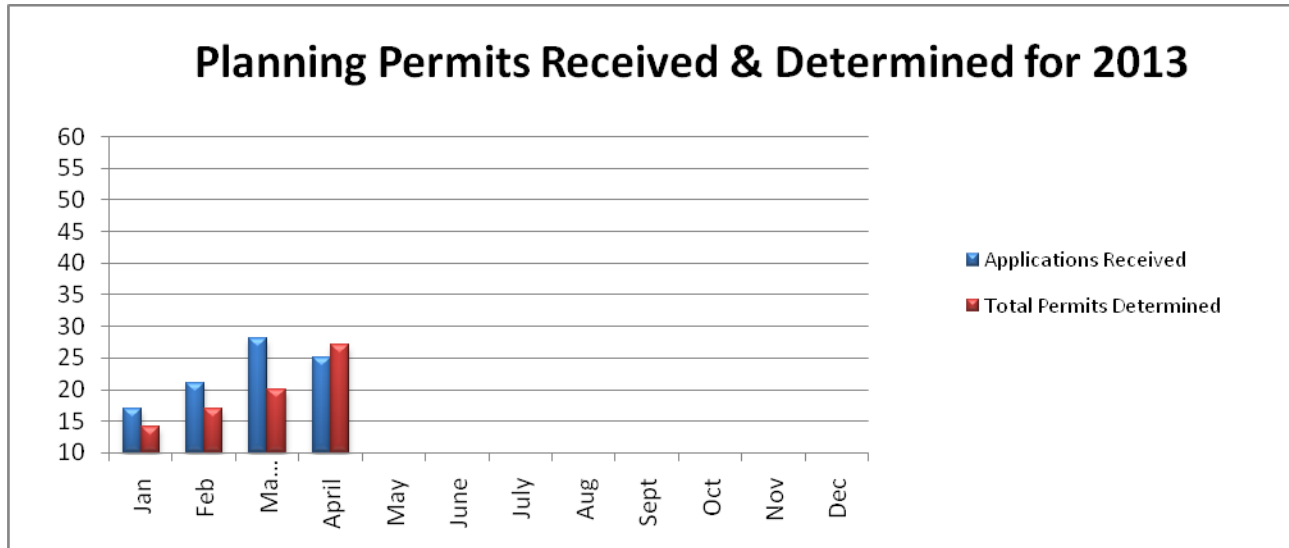
## PLANNING STATISTICAL REPORT – APRIL 2013 – (DETERMINATIONS)

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                    | PROPOSAL                                                                                                 | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY                               |
|--------------------|---------------|---------------------------------------------|----------------------------------------------------------------------------------------------------------|-------------|-----------------|---------------------------------------------------------|
| 353/2006-4         | 17 JAN 2013   | 125 ACKERLEYS ROAD WEST<br>BARONGAROOK WEST | USE & DEVELOPMENT OF THE LAND FOR A DWELLING AND SHED – AMENDMENT                                        | 92          | 19 APR 2013     | AMENDED PERMIT ISSUED<br><b>DELEGATE</b>                |
| 230/2009-2         | 6 MAR 2013    | 555A CORANGAMITE LAKE ROAD<br>COROROOKE     | DEVELOPMENT OF THE LAND FOR A DWELLING AND SHED - AMENDMENT                                              | 44          | 19 APR 2013     | AMENDED PERMIT ISSUED<br><b>DELEGATE</b>                |
| 203/2011-1         | 17 AUG 2011   | 1 SARSFIELD STREET<br>SEPARATION CREEK      | CONSTRUCTION OF A DWELLING                                                                               | 394         | 10 APR 2013     | NOTICE OF DECISION TO GRANT A PERMIT<br><b>COUNCIL</b>  |
| 226/2011-1         | 9 SEP 2011    | 1-3 GREAT OCEAN ROAD SKENES<br>CREEK        | TWO (2) LOT SUBDIVISION AND REMOVAL OF NON-INDIGENOUS VEGETATION                                         | 346         | 2 APR 2013      | NOTICE OF DECISION TO GRANT A PERMIT<br><b>DELEGATE</b> |
| 309/2011-1         | 29 NOV 2011   | 22-28 CAWOOD STREET APOLLO<br>BAY           | TWENTY ONE (21) LOT SUBDIVISION -STAGED                                                                  | 154         | 2 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 107/2012-1         | 15 MAY 2012   | 89-91 STRACHAN STREET<br>BIRREGURRA         | TWO (2) LOT SUBDIVISION – BOUNDARY REALIGNMENT                                                           | 181         | 5 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 108/2012-1         | 16 MAY 2012   | 36 STATION STREET FORREST                   | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN ADDITION TO AN EXISTING OUTBUILDING (STORAGE SHED) | 111         | 5 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 138/2012-2         | 28 FEB 2013   | 10 TREETOPS TERRACE SKENES<br>CREEK         | CONSTRUCTION OF AN EXTENSION TO THE EXISTING DWELLING – AMENDMENT                                        | 36          | 5 APR 2013      | AMENDED PERMIT ISSUED<br><b>DELEGATE</b>                |
| 142/2012-1         | 27 JUN 2012   | 31 GRIFFINS ROAD BARWON<br>DOWNS            | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND ASSOCIATED BUILDINGS AND WORKS                        | 268         | 26 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 166/2012-1         | 30 JUL 2012   | 10 MAIN STREET BIRREGURRA                   | SUBDIVISION OF THE LAND INTO TWO (2) LOTS                                                                | 163         | 5 APR 2013      | NOTICE OF DECISION TO GRANT A PERMIT<br><b>DELEGATE</b> |
| 212/2012-1         | 3 OCT 2012    | 307 FOREST STREET ELLIMINYT                 | USE & DEVELOPMENT OF THE LAND FOR A SECOND DWELLING                                                      | 113         | 3 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 252/2012-1         | 26 NOV 2012   | 197-203 MURRAY STREET COLAC                 | CONSTRUCTION OF DECK AT REAR OF PREMISES FOR USE AS A STAFF AMENITIES AREA                               | 147         | 22 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 255/2012-1         | 23 NOV 2012   | 235 MCKAYS ROAD IRREWARRA                   | CONSTRUCTION OF A SHED FOR THE USE AS AN AIRCRAFT HANGER                                                 | 73          | 26 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b>                        |
| 262/2012-1         | 14 DEC 2012   | 52C RAE STREET COLAC                        | ADULT SEX BOOKSHOP                                                                                       | 72          | 11 APR 2013     | PERMIT REFUSED<br><b>COUNCIL</b>                        |
| 269/2012-1         | 17 DEC 2012   | 2 ARTHUR COURT APOLLO BAY                   | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN INDUSTRIAL BUILDING                                | 98          | 4 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b>                        |

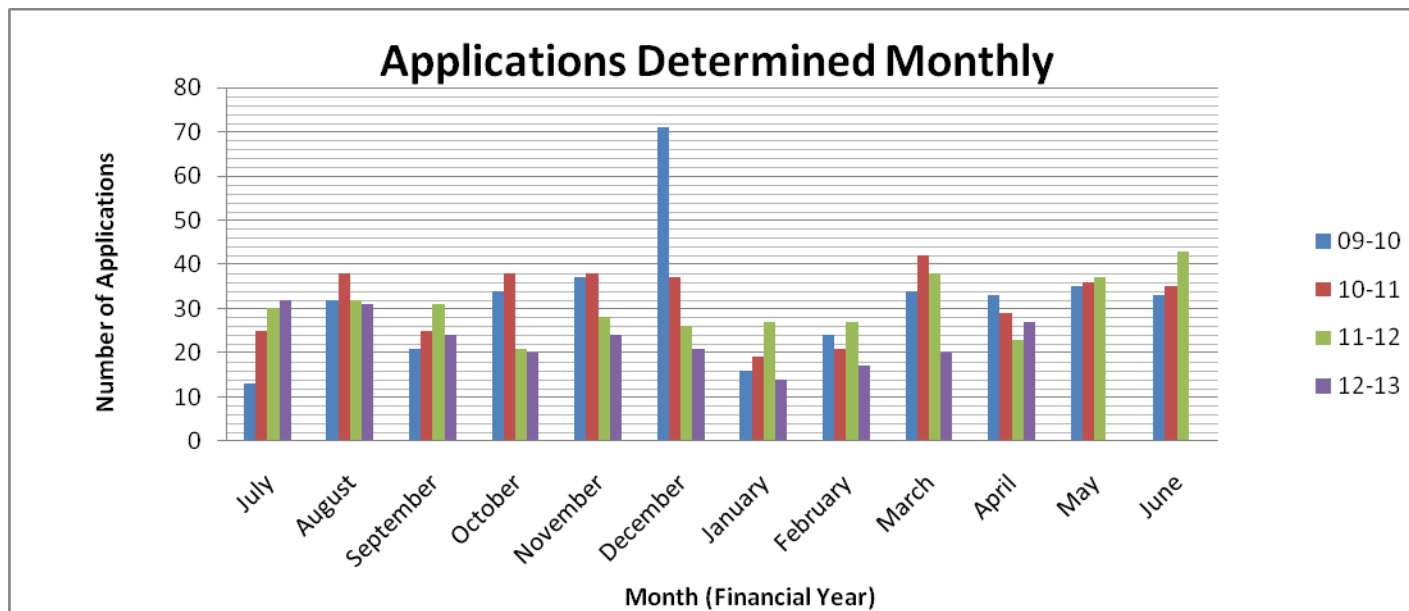
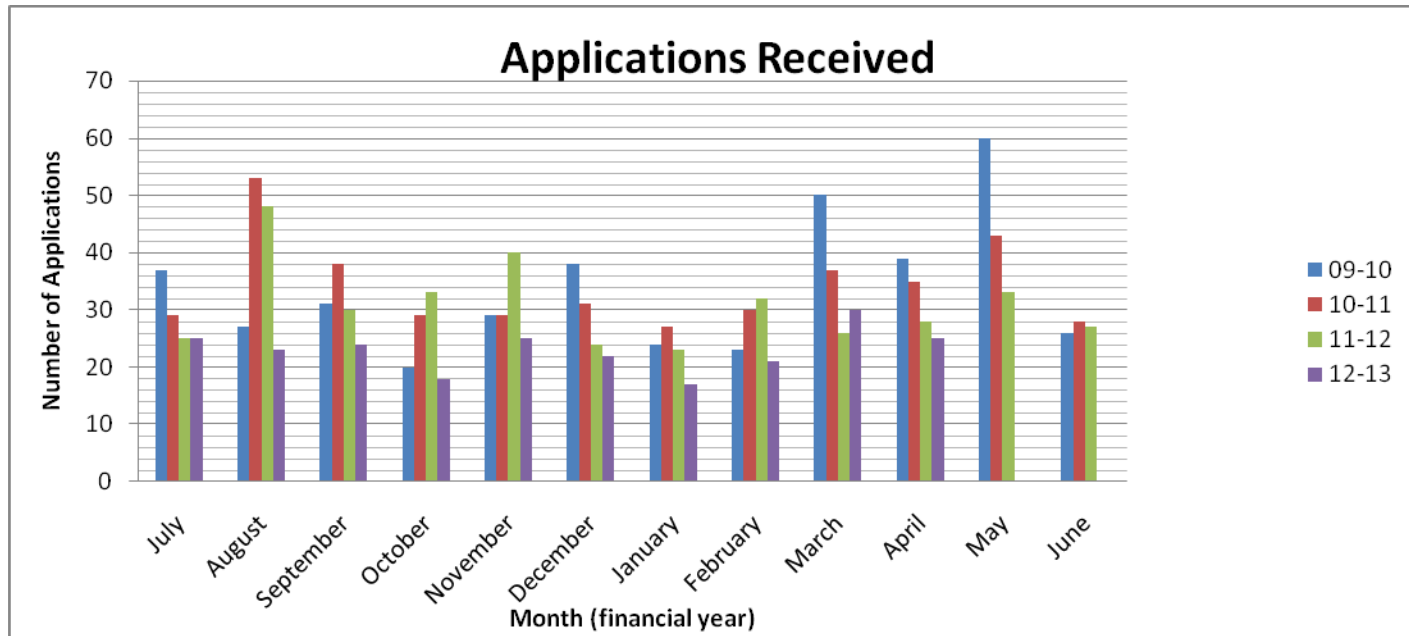
| APPLICATION NUMBER                             | DATE RECEIVED | LOCATION                              | PROPOSAL                                                                                        | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY        |
|------------------------------------------------|---------------|---------------------------------------|-------------------------------------------------------------------------------------------------|-------------|-----------------|----------------------------------|
| 272/2012-1                                     | 21 DEC 2012   | 81-85 HEARN STREET COLAC              | THREE (3) LOT SUBDIVISION                                                                       | 63          | 3 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 5/2013-1                                       | 4 JAN 2013    | 38 BEAL STREET BIRREGURRA             | SUBDIVISION OF THE LAND INTO TWO (2) LOTS                                                       | 98          | 19 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 6/2013-1                                       | 1 JAN 2013    | 1 POINT AVENUE SKENES CREEK           | CONSTRUCTION OF A DWELLING & REMOVAL OF ONE TREE                                                | 94          | 19 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 12/2013-1                                      | 23 JAN 2013   | 19 MCKENZIE STREET COLAC              | SUBDIVISION OF THE LAND INTO TWO (2) LOTS                                                       | 60          | 3 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 14/2013-1                                      | 31 JAN 2013   | 20 MINCHINTON ROAD<br>WEEAPROINAH     | CONSTRUCTION OF AGRICULTURAL SHEDS                                                              | 60          | 2 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 15/2013-1                                      | 1 FEB 2013    | 37 GELLIBRAND STREET COLAC            | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A CARPORT                                    | 76          | 24 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 18/2013-1                                      | 29 JAN 2013   | 410 MELROSE ROAD WARRION              | SUBDIVISION (BOUNDARY REALIGNMENT) OF TWO (2) EXISTING LOTS                                     | 70          | 9 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 19/2013-1                                      | 6 FEB 2013    | 465 SKENES CREEK ROAD<br>SKENES CREEK | USE AND DEVELOPMENT OF THE LAND FOR A NEW CARPORT/SHED                                          | 1           | 19 APR 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| 22/2013-1                                      | 11 FEB 2013   | 27 PANORAMA CRESCENT<br>MARENGO       | BUILDINGS AND WORKS COMPRISING ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING                | 24          | 4 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| 30/2013-1                                      | 29 FEB 2013   | 4730 GREAT OCEAN ROAD<br>LAVERS HILL  | ALTERATION TO THE LOCATION OF THE BOTTLE SHOP TO A POSITION ADJACENT TO THE EXISTING RESTAURANT | 9           | 3 APR 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| AVERAGE DATES TO PROCESS PLANNING APPLICATIONS |               |                                       |                                                                                                 | 114         |                 |                                  |

**PLANNING STATISTICAL REPORT – APRIL 2013 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

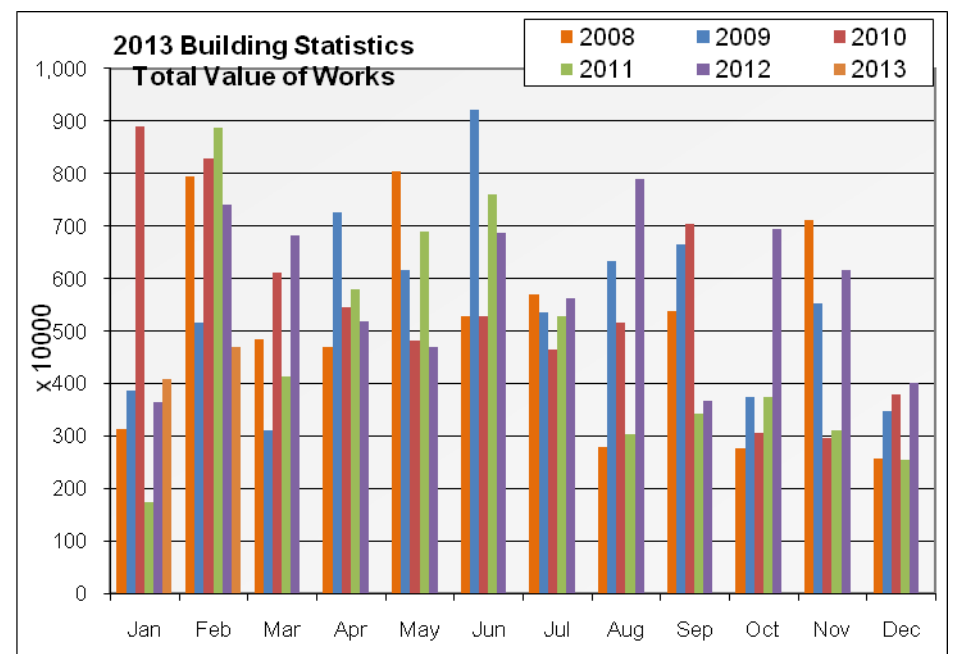
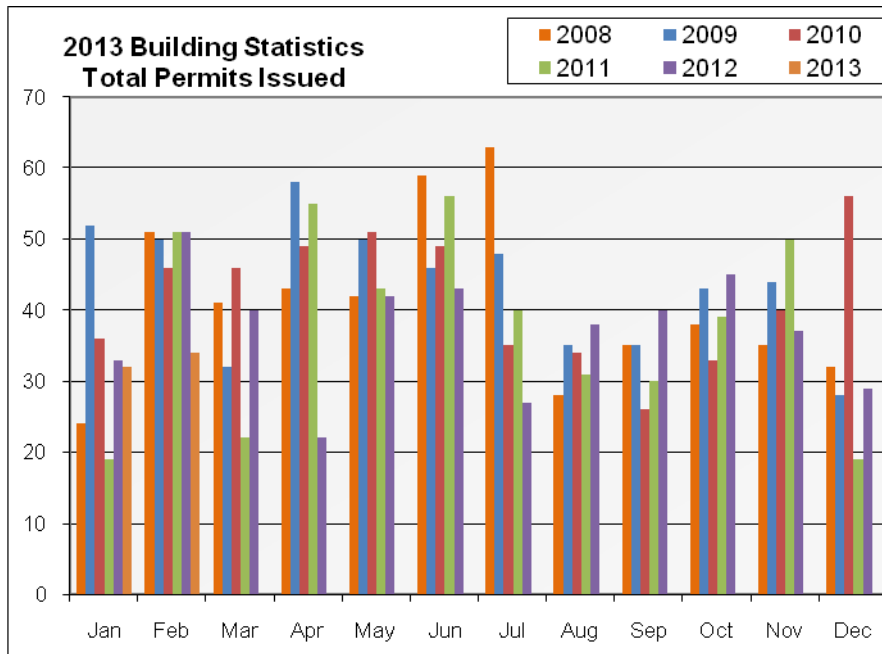
| APPLICATION NUMBER                                                      | DATE RECEIVED | LOCATION                            | PROPOSAL                                                 | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY             |
|-------------------------------------------------------------------------|---------------|-------------------------------------|----------------------------------------------------------|-------------|-----------------|---------------------------------------|
| 284/2011-1                                                              | 21 JAN 2013   | 46 POLLOCK STREET COLAC             | DEMOLITION OF EXISTING SHED & CONSTRUCTION OF A NEW SHED | 0           | 16 APR 2013     | APPLICATION LAPSED<br><b>DELEGATE</b> |
| 200/2012-1                                                              | 14 SEP 2012   | 200 BARHAM RIVER ROAD APOLLO<br>BAY | CHANGE OF USE TO ALLOW LAND FILL AND REVEGETATION        | 0           | 12 APR 2013     | APPLICATION LAPSED<br><b>DELEGATE</b> |
| AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS (INC. WITHDRAWN & LAPSED) |               |                                     |                                                          | 105         |                 |                                       |







|               | Domestic  |                  | Residential* |                | Commercial |                | Retail   |               | Industrial |               | Hospital/HealthCare |            | Public Buildings |                | Municipal Totals |                  |
|---------------|-----------|------------------|--------------|----------------|------------|----------------|----------|---------------|------------|---------------|---------------------|------------|------------------|----------------|------------------|------------------|
|               | No of BP  | Value (\$)       | No of BP     | Value (\$)     | No of BP   | Value (\$)     | No of BP | Value (\$)    | No of BP   | Value (\$)    | No of BP            | Value (\$) | No of BP         | Value (\$)     | No of BP         | Value (\$)       |
| Jan           | 21        | 3,757,719        | 0            | 0              | 5          | 117,068        | 1        | 2,000         | 1          | 39,745        | 0                   | 0          | 4                | 177,495        | 32               | 4,094,027        |
| Feb           | 31        | 4,341,165        | 1            | 280,929        | 1          | 10,000         | 1        | 69,000        | 0          | 0             | 0                   | 0          | 0                | 0              | 34               | 4,701,094        |
| Mar           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Apr           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| May           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Jun           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Jul           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Aug           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Sep           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Oct           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Nov           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| Dec           |           |                  |              |                |            |                |          |               |            |               |                     |            |                  |                |                  |                  |
| <b>Totals</b> | <b>52</b> | <b>8,098,884</b> | <b>1</b>     | <b>280,929</b> | <b>6</b>   | <b>127,068</b> | <b>2</b> | <b>71,000</b> | <b>1</b>   | <b>39,745</b> | <b>0</b>            | <b>0</b>   | <b>4</b>         | <b>177,495</b> | <b>66</b>        | <b>8,795,121</b> |



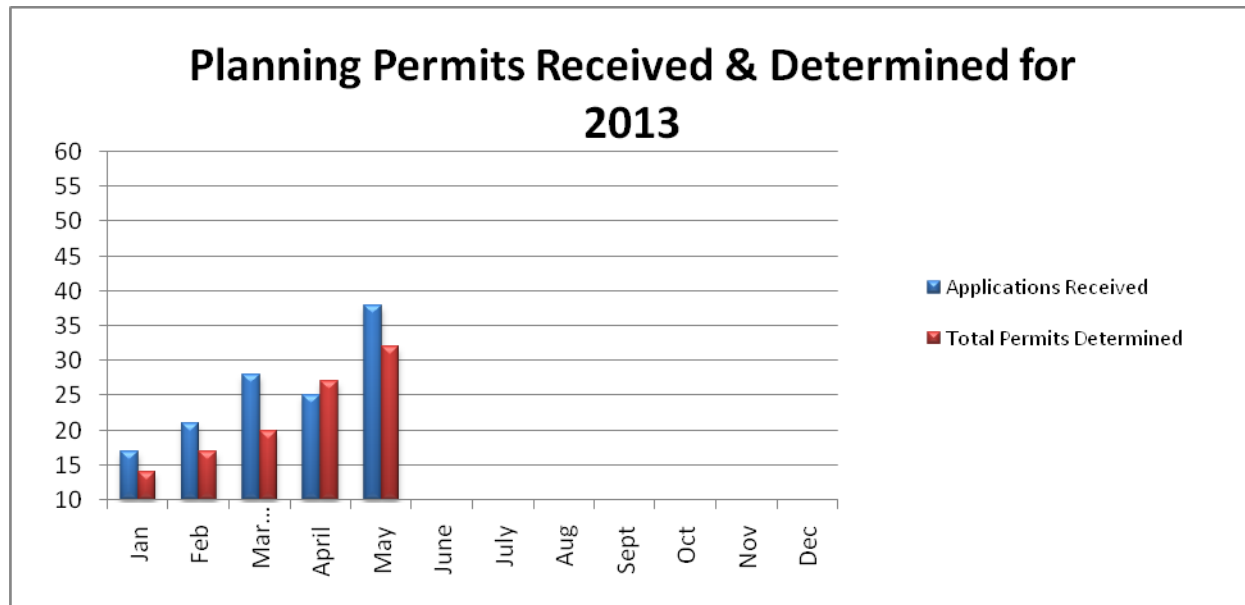
## PLANNING STATISTICAL REPORT – MAY 2013 – (DETERMINATIONS)

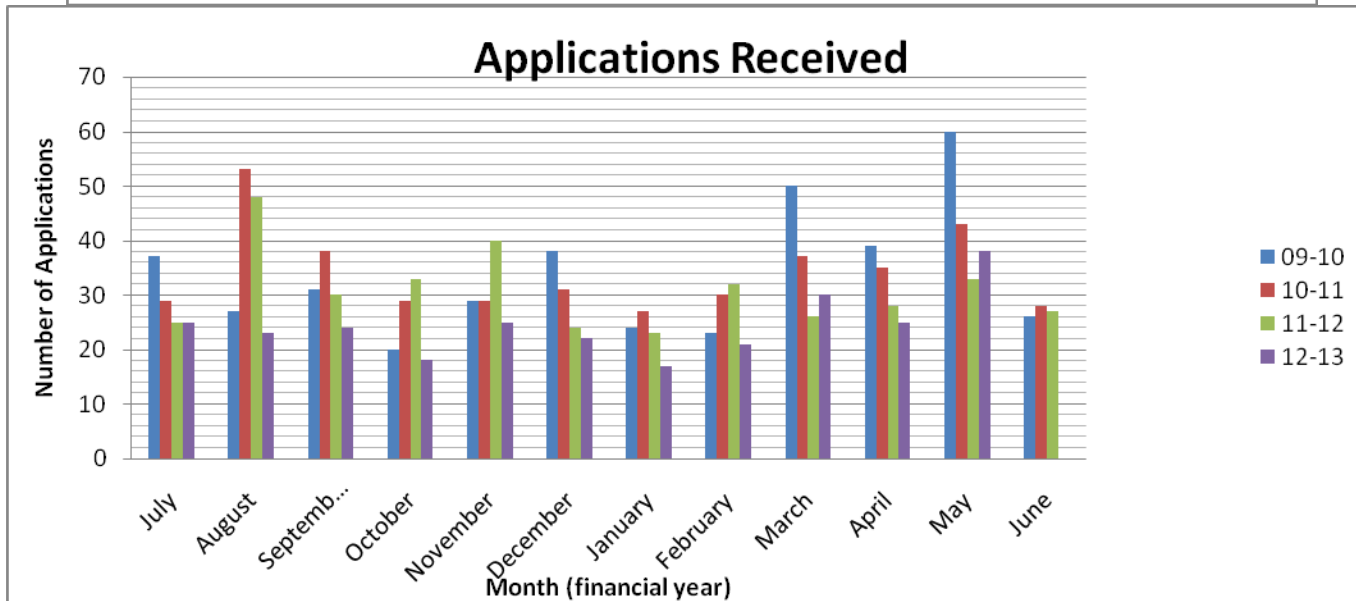
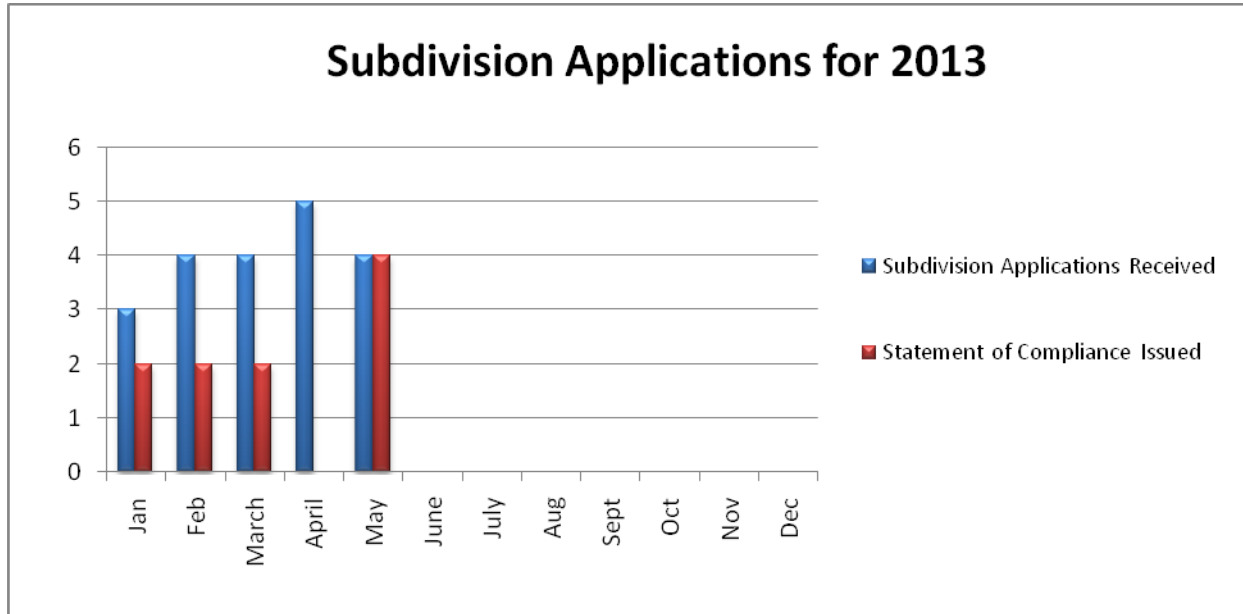
| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                | PROPOSAL                                                                                                                                        | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY             |
|--------------------|---------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|---------------------------------------|
| 64/2010-2          | 19 APR 2013   | 70 MURRAY STREET COLAC                  | ALTERATIONS & ADDITIONS TO SHOP, SIGNAGE, EXTERNAL PAINTING AND WAIVER OF FOUR (4) CAR PARKING SPACES - AMENDMENT                               | 35          | 24 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 351/2010-2         | 24 SEP 2012   | 4695 COLAC LAVERS HILL ROAD WYELANGTA   | USE AND DEVELOPMENT OF A DWELLING - AMENDMENT TO ALTER DWELLING DESIGN AND A SITE CUT NORTH OF EXISTING GARAGE FOR STORAGE AND VEGETABLE GARDEN | 147         | 27 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 214/2011-2         | 30 JAN 2013   | 30 ROBERTS ROAD MARENGO                 | BUILDINGS AND WORKS ASSOCIATED WITH APOLLO BAY BACKWASH RECOVERY PROJECT AND VEGETATION REMOVAL – AMENDMENT                                     | 97          | 7 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 318/2011-1         | 8 DEC 2011    | 70 EVANS TRACK JOHANNA                  | EXTENSION TO DWELLING AND REMOVAL OF ONE TREE                                                                                                   | 485         | 8 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 35/2012-1          | 14 FEB 2012   | 40 RIVERSIDE DRIVE WYE RIVER            | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A DWELLING AND REMOVAL OF VEGETATION                                                         | 396         | 22 MAY 2013     | NOTICE OF DECISION<br><b>DELEGATE</b> |
| 117/2012-1         | 28 MAY 2012   | 150 WILSON STREET COLAC                 | TWO (2) LOT SUBDIVISION                                                                                                                         | 195         | 27 MAY 2013     | REFUSAL TO GRANT<br><b>DELEGATE</b>   |
| 181/2012-1         | 13 AUG 2012   | 32 MCRAE ROAD WYE RIVER                 | CONSTRUCTION OF AN EXTENSION TO EXISTING BALCONY                                                                                                | 266         | 17 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 195/2012-1         | 7 SEP 2012    | 95 OLD BEECH FOREST ROAD GELLIBRAND     | USE AND DEVELOPMENT OF THE LAND FOR A STORE                                                                                                     | 193         | 31 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 224/2012-1         | 18 OCT 2012   | 33 SURF AVENUE SKENES CREK              | CONSTRUCTION OF A DWELLING                                                                                                                      | 75          | 17 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 228/2012-2         | 14 MAY 2013   | 100 BLUE JOHANNA ROAD JOHANNA           | CONSTRUCTION OF AGRICULTURAL SHED – AMENDMENT                                                                                                   | 13          | 27 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 241/2012-1         | 15 NOV 2012   | 15 BERRYS LANE GELLIBRAND               | CONSTRUCTION OF A HOT HOUSE                                                                                                                     | 9           | 16 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 263/2012-1         | 18 DEC 2012   | 178 AIREYS STREET ELLIMINYT             | THREE (3) LOT SUBDIVISION                                                                                                                       | 131         | 31 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 9/2013-1           | 10 JAN 2013   | 25 HINDS ROAD BIRREGURRA                | BUILDINGS AND WORKS COMPRISING ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING                                                                | 70          | 1 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 13/2013-1          | 29 JAN 2013   | 23-25 HART STREET COLAC                 | BUILDINGS AND WORKS COMPRISING EXTENSION TO EXISTING CHILDCARE CENTRE                                                                           | 74          | 15 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 17/2013-1          | 25 JAN 2013   | 1485 OLD BEECH FOREST ROAD BEECH FOREST | REMOVAL OF NATIVE VEGETATION                                                                                                                    | 1           | 3 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |

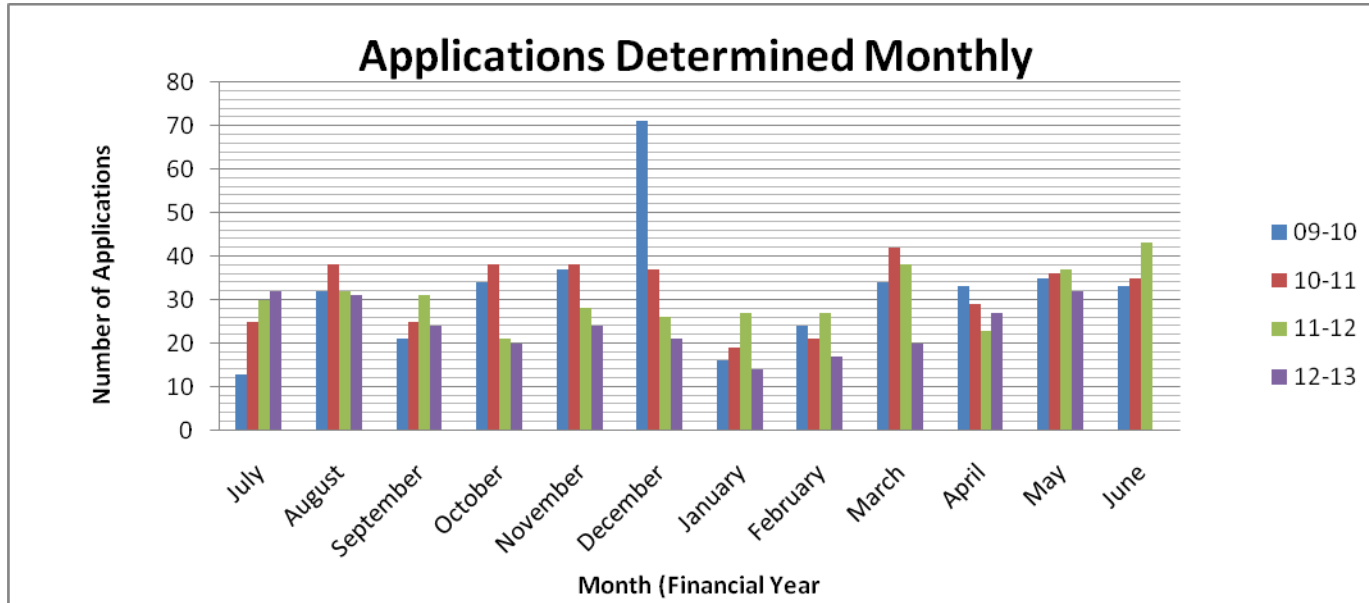
| APPLICATION NUMBER                             | DATE RECEIVED | LOCATION                          | PROPOSAL                                                                                                     | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY             |
|------------------------------------------------|---------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------|-------------|-----------------|---------------------------------------|
| 27/2013-1                                      | 19 FEB 2013   | 31 MANIFOLD STREET COLAC          | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING (GARAGE)                                   | 76          | 6 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 31/2013-1                                      | 22 FEB 2013   | 10 CASSIDY DRIVE KENNETT RIVER    | DEVELOPMENT OF THE LAND FOR A DWELLING AND REMOVAL OF NATIVE VEGETATION                                      | 77          | 16 MAY 2013     | NOTICE OF DECISION<br><b>DELEGATE</b> |
| 37/2013-1                                      | 4 MAR 2013    | 16 MURRELL STREET BIRREGURRA      | USE & DEVELOPMENT OF THE LAND FOR A STORAGE SHED                                                             | 38          | 3 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 40/2013-1                                      | 5 MAR 2013    | 140 CALLAHANS LANE BARWON DOWNS   | CONSTRUCTION OF OUTBUILDING (STORAGE SHED)                                                                   | 49          | 10 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 42/2013-1                                      | 6 MAR 2013    | 126A MURRAY STREET COLAC          | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A ROOF OVER AN EXISTING FIRST FLOOR DECK                  | 61          | 6 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 44/2013-1                                      | 8 MAR 2013    | 21 HUGH MURRAY DRIVE COLAC EAST   | CONSTRUCTION OF A WAREHOUSE (SELF STORAGE FACILITY)                                                          | 55          | 2 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 45/2013-1                                      | 12 MAR 2013   | 2 KETTLE STREET COLAC             | TWO (2) LOT SUBDIVISION                                                                                      | 60          | 29 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 60/2013-1                                      | 21 MAR 2013   | 215 BULLOCK SWAMP ROAD CORAGULAC  | RE-SUBDIVISION OF THE LAND INTO TWO (2) LOTS (BOUNDARY REALIGNMENT)                                          | 56          | 16 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 68/2013-1                                      | 8 APR 2013    | 12 JOHNSTONE CRESCENT COLAC       | CONSTRUCTION OF A GARAGE                                                                                     | 27          | 1 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 69/2013-1                                      | 8 APR 2013    | 5159 GREAT OCEAN ROAD LAVERS HILL | BUILDINGS AND WORKS COMPRISING EXTENSION TO AN EXISTING DWELLING                                             | 3           | 24 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 72/2013-1                                      | 27 MAR 2013   | 51-57 DENNIS STREET COLAC         | CHANGE THE USE OF PART OF THE LAND FROM AN OFFICE TO AN EDUCATION FACILITY (VOCATIONAL EDUCATION & TRAINING) | 40          | 8 MAY 2013      | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 83/2013-1                                      | 18 APR 2013   | 2 MCMINN COURT MARENGO            | BUILDINGS AND WORKS COMPRISING REAR BALCONY AND ALTERATIONS TO EXISTING DWELLING                             | 10          | 23 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| 85/2013-1                                      | 30 APR 2013   | 138 AIREYS STREET ELLIMINYT       | CONSTRUCTION OF AN OUTBUILDING                                                                               | 21          | 20 MAY 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| AVERAGE DATES TO PROCESS PLANNING APPLICATIONS |               |                                   |                                                                                                              | 98          |                 |                                       |

**PLANNING STATISTICAL REPORT – APRIL 2013 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

| APPLICATION NUMBER                                                      | DATE RECEIVED | LOCATION                                     | PROPOSAL                                                            | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY |
|-------------------------------------------------------------------------|---------------|----------------------------------------------|---------------------------------------------------------------------|-------------|-----------------|---------------------------|
| 199/1998-2                                                              | 14 DEC 2012   | 3 CARTRA CRESCENT KENNETT RIVER              | CONSTRUCTION OF A DWELLING – AMENDMENT                              | 0           | 7 MAY 2013      | APPLICATION WITHDRAWN     |
| 214/2012-1                                                              | 8 OCT 2012    | 5 BEECH FOREST LAVERS HILL ROAD BEECH FOREST | REMOVAL OF NATIVE VEGETATION                                        | 0           | 14 MAY 2013     | APPLICATION WITHDRAWN     |
| 34/2013-1                                                               | 25 FEB 2013   | 85 MAIN STREET BEEAC                         | CONSTRUCTION OF A GARAGE                                            | 0           | 5 MAY 2013      | APPLICATION LAPSED        |
| 48/2013-1                                                               | 14 MAR 2013   | 147 WILSON STREET COLAC                      | USE OF THE LAND AS A RETAIL PREMISES TO SELL AUTOMOTIVE SPARE PARTS | 0           | 19 MAY 2013     | APPLICATION LAPSED        |
| AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS (INC. WITHDRAWN & LAPSED) |               |                                              |                                                                     | 86          |                 |                           |

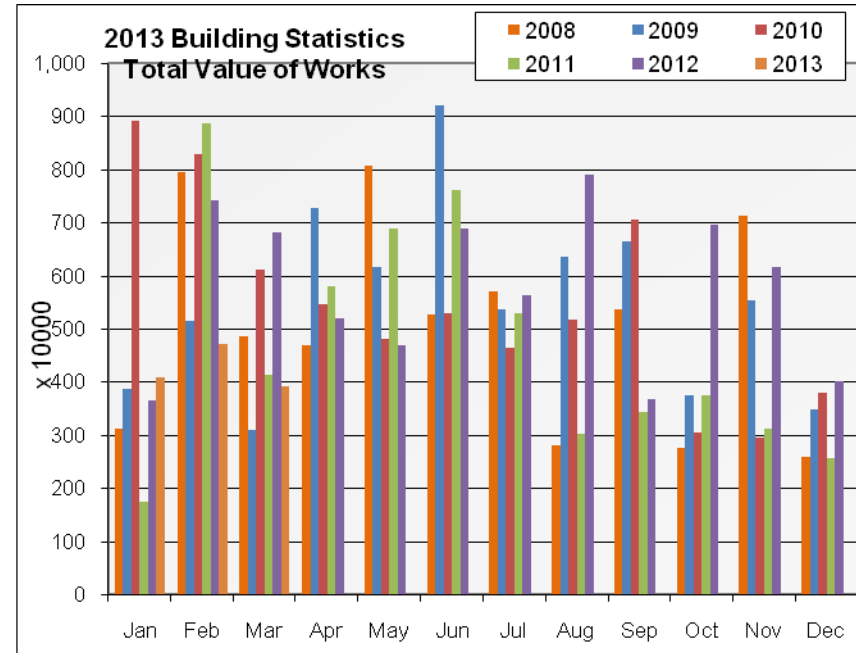
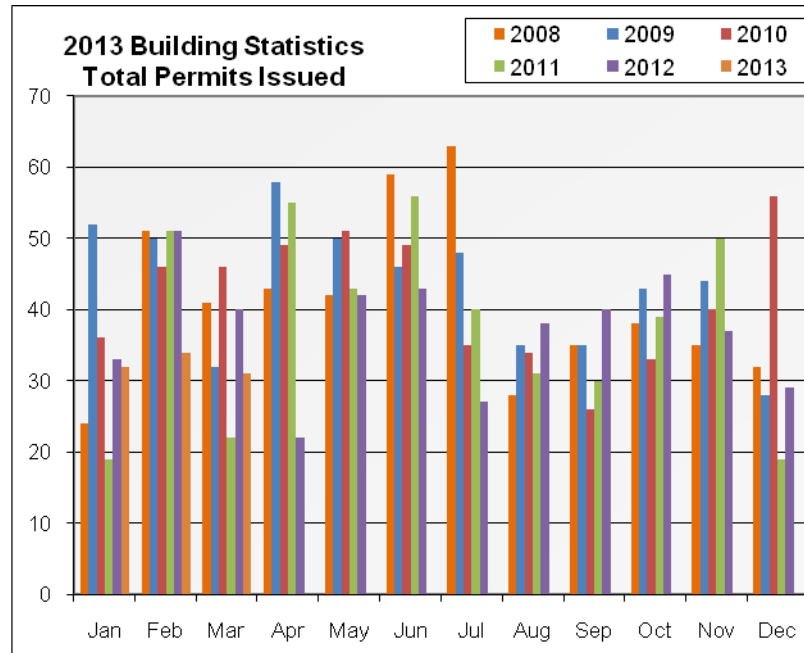








|               | Domestic  |                   | Residential* |                | Commercial |                | Retail   |               | Industrial |                | Hospital/HealthCare |            | Public Buildings |                | Municipal Totals |                   |
|---------------|-----------|-------------------|--------------|----------------|------------|----------------|----------|---------------|------------|----------------|---------------------|------------|------------------|----------------|------------------|-------------------|
|               | No of BP  | Value (\$)        | No of BP     | Value (\$)     | No of BP   | Value (\$)     | No of BP | Value (\$)    | No of BP   | Value (\$)     | No of BP            | Value (\$) | No of BP         | Value (\$)     | No of BP         | Value (\$)        |
| Jan           | 21        | 3,757,719         | 0            | 0              | 5          | 117,068        | 1        | 2,000         | 1          | 39,745         | 0                   | 0          | 4                | 177,495        | 32               | 4,094,027         |
| Feb           | 31        | 4,341,165         | 1            | 280,929        | 1          | 10,000         | 1        | 69,000        | 0          | 0              | 0                   | 0          | 0                | 0              | 34               | 4,701,094         |
| Mar           | 26        | 3,132,341         | 0            | 0              | 3          | 504,374        | 0        | 0             | 1          | 150,000        | 0                   | 0          | 1                | 118,320        | 31               | 3,905,035         |
| Apr           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| May           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Jun           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Jul           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Aug           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Sep           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Oct           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Nov           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| Dec           |           |                   |              |                |            |                |          |               |            |                |                     |            |                  |                |                  |                   |
| <b>Totals</b> | <b>78</b> | <b>11,231,225</b> | <b>1</b>     | <b>280,929</b> | <b>9</b>   | <b>631,442</b> | <b>2</b> | <b>71,000</b> | <b>2</b>   | <b>189,745</b> | <b>0</b>            | <b>0</b>   | <b>5</b>         | <b>295,815</b> | <b>97</b>        | <b>12,700,156</b> |



PC131206-2

**COMMERCIAL REDEVELOPMENT AND SUBDIVISION OF  
LAND AT 111-117 GREAT OCEAN ROAD, APOLLO BAY  
(PP165/2012).**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Ian Williams                          | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | F12/6537   |

**Location:** 111-117 Great Ocean Road, Apollo Bay

**Zoning:** Business 1 Zone

Adjacent road in a Road Zone Category 1

**Overlay controls:** Design and Development Overlay Schedule 5

**Proposed Amendments:** Amendment C72 (application of Parking Overlay Schedule 2)

**Purpose:**

Planning permission is sought to extend the existing building at 111-117 Great Ocean Road, Apollo Bay by constructing two additional floors over the existing single-storey building. The extended building would contain the existing café/takeaway and residential units at ground floor level, with a separate restaurant and a lounge bar/tavern proposed at first floor level. The restaurant and tavern would be physically separated and would have separate liquor licences. Two four bedroom residential units are proposed above at second floor level. The application also includes a proposed amendment to the carriageway easement (to limit the height of the easement to 4.1 metres and its width to 4.02m) - columns and footings to support the proposed first and second floors would encroach into the width of the easement by 40cm. The proposal also includes relocating the existing drainage easement on the north boundary to the centre of the carriageway easement. A reduction in car parking and loading bay requirements, and a seven (7) lot subdivision is also proposed.

This application is before Council's Planning Committee as there is a proposed parking reduction (of 18.5 car parking spaces under the proposed Amendment C72 implementing revised rates from the Colac and Apollo Bay Parking Study, or 111 spaces under clause 52.06), the height of the building is proposed above 8m and four (4) objections have been received.

A requirement for a permit is triggered under this application for the buildings and works, the use of the land for tavern, the use of the land for the sale and consumption of alcohol, the reduction in car parking and loading bay requirements, the waiver of bicycle facilities, the subdivision of the land and the variation of easements.

**Declaration of Interests**

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

## Summary

The full description of the planning permission sought is:

An extension of the building to create two additional floors, use of part of the first floor as a tavern, use of land to sell or consume liquor including provision of a General Licence and a Restaurant/Cafe Licence, variation of easements to limit the height and allow construction on carriageway easement (easement E1 on Lot 2 on Plan of Subdivision 309031T) and to relocate drainage easement (easement E2 on Lot 2 on Plan of Subdivision 309031T), reduction in car parking and loading/unloading requirements, waiver of bicycle requirements, and seven (7) lot subdivision at 111-117 Great Ocean Road, Apollo Bay (PP165/2012).

Four objections to the application have been received.

The key considerations in this case are:

- whether the proposed building and works would be in keeping with the character and appearance of the streetscape
- whether there would be any adverse amenity implications associated with the proposed tavern
- liquor licence – cumulative impact
- whether the amendments to the carriageway easement would have detriment to the beneficiary of the easement
- whether the reduction in car parking is acceptable
- whether the reduction in the provision of loading/unloading on site is acceptable.

It is considered that the proposed development, in terms of bulk, location, character and appearance, would be in keeping with the preferred direction for future development within the Apollo Bay Town Centre. It is considered that the proposal would maintain the preferred low scale coastal character and identity of Apollo Bay, assisting in consolidating the town centre whilst presenting a mixed use development that would be visually attractive and mindful of the requirements of the planning scheme provisions, including the Apollo Bay Structure Plan and the Design & Development Overlay Schedule 5. The proposed development would not exceed the maximum height of 10.5m allowed under DDO5 and would accord with the required street setback at the upper level of 3 metres (other than for a transparent balcony structure).

Another key consideration whether the potential noise levels associated with the proposed tavern would be detrimental to the enjoyment of neighbouring residential properties. Whilst a noise limiter would identify to the owner of the land when noise levels are excessive and would turn off amplifiers at a predetermined level, it is considered that this would not achieve the desired outcome of maintaining noise to an acceptable level and containing noise as far as reasonably possible to within the premises. In light of this, it is considered appropriate to ensure the use of the external decked area ceases after 10pm on any given day and the front external doors are closed, thereby ensuring noise would be largely contained within the premises. The applicant has advised within a letter dated 20 May 2013 that his client wishes to reduce the proposed hours to be in accordance with a general licence, which would allow for normal trading hours during the day and from 11pm on any particular day to 1am the following day with the option of later trading on special days. A consideration in the determination of this application is the cumulative impact of a number of licensed premises within the foreshore precinct of Apollo Bay and whether this is detrimental to amenity levels.

It is not considered that building over the carriageway easement in the manner proposed would be detrimental to the use of the easement by the beneficiary, or result in any potential loss of light or significantly impact on the amenity of the beneficiary. The width and height of the easement would be maintained at an acceptable level and as such, this reduction is not considered to result in any potential impacts on vehicular access.

Council's Infrastructure Department and VicRoads have considered the on/off site loading and unloading provision, and have advised that this is considered to be acceptable and that the development would have tolerable impact on traffic and parking in the area.

The owner of the land is unable to provide further car parking facilities for the commercial development either on or off site, due to a lack of available land. As a result of the proposal there would be a shortfall of one hundred and eight (108) car spaces under the current provisions for the commercial component. If the rate proposed by the adopted Colac and Apollo Bay Parking Study was applied then there would be a total car parking shortfall of 18.5 spaces. Council's Infrastructure Department raises no objection to the proposed reduction in car parking.

### **Background**

The following section outlines the planning history of the application site and surrounding properties considered relevant to this application.

#### 111-117 Great Ocean Road (the current application site)

On 25 June 2012 Council issued a 'Notice of Decision to Grant a Permit' at 111-117 Great Ocean Road, Apollo Bay for an amendment to the height of the carriageway easement. The carriageway easement (identified as E2 on Lot 2 on the Plan of Subdivision 309031T) benefits 30 Pascoe Street (Lot 1 of PS 309031T) which is located immediately to the rear (west) of the application site. The application (ref. PP66/2012) sought to specify a height of 4.1 metres over the easement, which would allow for future development above the easement. The applicant advised Council that this height was selected as it was 0.1 metres higher than the minimum height clearance for loading bays specified under Clause 52.07 of the Colac Otway Planning Scheme.

Two objections were received to that application - one being from the beneficiary of the carriageway easement (the owner of 30 Pascoe Street) and the second from the landowner at 103-109 Great Ocean Road, Apollo Bay. Council issued a Notice of Decision to Grant a permit and an appeal was lodged with VCAT. On 27 July 2012, the application to amend the height of the carriageway easement was formally withdrawn by the applicant.

#### 103-109 Great Ocean Road (adjacent current application site)

On the 15 June 2010, planning permission was granted for the redevelopment of the existing IGA supermarket, the construction of six dwellings and a seven lot sub-division at 103-109, Great Ocean Road. On 13 April 2011, a subsequent planning permit was issued for the redevelopment of the site with a building containing four ground floor shops, six dwellings and a seven lot sub-division at 103-109, Great Ocean Road. An extension of time was granted to this application on 3 April 2013, requiring the development to commence by 13 April 2015. To date this permit has not been implemented. No. 103-109 is adjacent to the application site and the potential redevelopment of No. 103-109 is therefore of relevance to the current application.

### 30-32 Pascoe Street (rear of current application site)

On 12 September 2012 a Notice of Decision to Grant a Permit was issued at the direction of the Planning Committee for the redevelopment of 30-32 Pascoe Street for a supermarket and a reduction in car parking. This site is located immediately to the rear of 111-117 Great Ocean Road, is within the Business 1 Zone and is covered by Schedule 5 to the Design and Development Overlay (DDO5).

That application site occupies an area of 1012sqm and was used until 2008/09 as a 'fun parlour'. The fun parlour was accessed via the carriageway easement off the Great Ocean Road, with staff and customer vehicles utilising the carriageway easement to park at the rear of 30 Pascoe Street. The use of the land ceased when 30 Pascoe Street ceased to operate as a fun parlour. The site is currently occupied by a large warehouse and has been used to store goods for the CFA and the IGA supermarket on the Great Ocean Road.

On 21 February 2013 VCAT issued an amended planning permit for the redevelopment of 30-32 Pascoe Street for a supermarket and a reduction in car parking. Conditions 4 and 5 of this permit were slightly reworded by the Tribunal, with the agreement of the applicant and the objector, to ensure that loading and unloading associated with the supermarket would occur from Pascoe Street, and that vehicular access to the site by customers and delivery vehicles associated with the supermarket would only occur from the Pascoe Street car park entrance. These conditions aim to ensure that the carriageway easement from the Great Ocean Road, on land at 111-117, is not used for vehicular access by customers and delivery vehicles.

### **Issues / Options**

Council has the options of:

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

The key issues relating to the application are:

- a) whether the proposed building and works are in keeping with the character and appearance of the streetscape;
- b) whether there would be any adverse amenity implications associated with the proposed use of the land as a tavern;
- c) whether the amendments to the carriageway easement would have detriment to the beneficiary of the easement;
- d) whether the reduction in the car parking requirement is acceptable;
- e) whether the reduction in on-site loading/unloading is acceptable.

### **Proposal**

Planning permission is sought for the construction of a two-storey extension over the existing building on the application site, which contains a café/takeaway and two 3 bedroom units. A restaurant and tavern are proposed at first floor level, with two (2) additional 4 bedroom residential units at second floor level

As well as seeking a permit for buildings and works, the application seeks a permit for the use of the first floor as a restaurant and lounge bar/tavern, and for the sale and consumption of alcohol in both. In addition, the application seeks a permit for an amendment to the height and width of the carriageway easement, the relocation of the drainage easement, the reduction of the car parking, loading and bicycle requirements, and a seven (7) lot subdivision.

Subdivision of the land into seven (7) lots is proposed to provide separate titles to the existing café/takeaway, each of the four (4) residential units, one (1) to the lounge bar and one (1) to the restaurant. Common property is proposed to benefit the accommodation units, the first floor restaurant and the lounge bar/tavern.

### **Ground floor**

It is proposed to retain the existing café and takeaway use (200m<sup>2</sup>) at ground floor level, with the provision of an additional, centrally located, entry stair and lift towards the front of the building to facilitate access to the first floor commercial lounge bar/tavern and restaurant. The existing café/takeaway would retain a glazed display and customer entry point off the Great Ocean Road. The façade would abut the front property boundary, as existing. The two (2) existing single-storey three bedroom units (95.6sqm) would be retained to the rear, along with private open space and one (1) car space per unit within the car park to the rear of the site (identified as proposed lots 2 and 3 on the plan of subdivision). The proposal also includes the provision of an additional ground floor staircase to the rear, to provide an additional exit from the restaurant and lounge bar/tavern. The rear staircase would also provide access to the two additional residential units at second floor level.

The ground level car park to the rear of the site would contain a total of nine (9) car parking spaces, which is three (3) more than the existing on-site provision. The area to the rear would also provide a loading/unloading area for small rigid vehicles, and a storage area for waste bin/gas bottles. The car spaces would be allocated as follows - two car (2) spaces for existing units 1 and 2; four (4) car parking spaces for proposed units 3 and 4; and three (3) additional spaces for use by the existing ground floor takeaway, the proposed restaurant and the proposed tavern. The three parking spaces for the commercial uses have not been specifically allocated on the plans, at the request of the applicant. The proposed provision would constitute a reduction of 111 car parking spaces for the commercial component of this application under the provisions of Clause 52.06 of the Planning Scheme, or 18.5 car spaces under the Parking Overlay being introduced through planning scheme Amendment C72 which implements the Colac and Apollo Bay Parking Study.

Whilst a loading/unloading bay is depicted on the submitted plans, this would not provide an adequate area for the loading and unloading of larger service vehicles which would occur every two weeks and as such, a waiver of this component is also required.

The provision of cycle parking has not been included within the submitted application and as such, a waiver of this component is also sought under this application.

### **First floor**

At first floor level, the proposal would provide a lounge bar/tavern and a restaurant, both accessed via the centrally located ground floor staircase off the Great Ocean Road. The lounge bar would be located on the northern side of the building (adjacent to 119 Great Ocean Road) and the restaurant on the southern side (adjacent to 103-105 Great Ocean Road). The lounge bar and restaurant would share a common entry point, toilets to the rear and a large deck to the front of the building projecting 2.9m over the footpath.

The proposed front deck would comprise two areas: one for the lounge bar and one for the restaurant, separated by a 1.7m high screen. The external deck would be roofed over, in part, with a 1.78m canopy projecting from the front of the property. The proposed deck would also be enclosed in part by side 'wing walls', which would extend to the front property boundary.

The applicant has advised that the proposed first floor lounge bar/tavern could accommodate 153 patrons over a leasable floor area of 287sqm. The proposed tavern would employ up to six (6) full time staff and six (6) part time staff, including a manager and bar staff. It is not proposed that the lounge bar would contain gambling or amusement machines but would offer live and recorded music. The type of licence required to be obtained for the tavern would be a general licence. As originally submitted the application sought opening hours for the tavern until 2am and 3am on 12 special nights during peak tourist times. The applicant has advised in a letter dated 20 May 2013 that his client now seeks to amend the hours to be in accordance with a general licence, which would allow for normal trading hours during the day and from 11pm on any particular day to 1am the following day with the option of later trading on special days subject to written consent by Council.

To address any potential noise concerns from within the tavern and restaurant, and to ensure the amenity of adjacent residential units would be safeguarded, the applicant has commissioned an Acoustic Assessment Report and has advised that the walls of the upper floors would be soundproofed in accordance with Part F5 of the National Construction Code.

The restaurant would be capable of accommodating 124 patrons. The floor area of the restaurant would be 186sqm, or 242sqm of leasable floor area including the front external deck. The type of liquor licence sought for the restaurant is a 'Restaurant/Café Liquor Licence.' No live music or entertainment activity is proposed within the restaurant. The applicant has advised that the proposed hours of operation of the restaurant are as follows:

- 7:00am to 11:00pm each day of the week, other than Sunday
- 7:00am to 11:00pm Sundays
- 12 noon to 11:00pm Good Friday & ANZAC Day

Air conditioning units to service the lounge bar and restaurant would be located on the north and south facades. Kitchen exhaust ducts would be located on the southern facade and would terminate at roof level. Windows are proposed in the east facing wall of the lounge bar. The front and rear exits and the footpath outside 111 Great Ocean Road would be lit at all times when the tavern is open.

The proposal includes a 7.6m x 3.6m loading bay at the rear of the premises, accessed from the Great Ocean Road via the carriageway easement to the side of the premises. The loading bay could be accessed by a 6.4m/7.5 tonne small rigid vehicle (which would meet the requirements for approximately 80% of all deliveries). Deliveries to the tavern and restaurant, and by a gas refill truck, would be made from the loading bay area to the rear and via the stairs at the rear of the building. The larger drink supply vehicles could not access the loading area to the rear of the premises and, as such, it is proposed that they would unload from the Great Ocean Road. The applicant has advised that delivery from the larger drink supply vehicles would occur every two weeks before 9:00am during the off season and weekly in the evening around 10:00pm in peak season.

Each property owner would be required to move refuse to the front of the carriageway easement for collection and then return the empty bins to their storage place. This would be supervised and controlled by the body corporate.

## **Second floor**

The site currently contains two (2) ground floor, three (3) bedroom units (units 1 and 2) located towards the rear of the site. As part of the application, two additional four (4) bedroom residential units - unit 3 (215m<sup>2</sup>) and unit 4 (225m<sup>2</sup>) - are proposed. Access to units 3 and 4 would be provided via a staircase at the rear of the building. Natural light to bedrooms would be provided via north facing windows and high level clerestory windows. Units 3 and 4 would occupy the entire second floor of the building, with large decks to the front of the building to overlook the external front deck of the lounge bar and restaurant below. The wing walls at level 3 would be recessed 3m from the front property boundary, and would enclose the front deck and prevent lighting from spilling into adjacent properties. The unit facades would be set 11.8 metres behind the road reserve. The units would be provided with a 'sense of identity' by street numbers on the Great Ocean Road with letter boxes adjacent to the gated entry.

The building would have a width of 19.7m and a depth (front to rear) of 49m. The proposed building would have a maximum height of 10.5m. The front projecting canopy would be 4m in height, with the canopy over the projecting first floor front deck 7.2m high. The centrally located staircase enclosure would be 7.85m high and located on the front property boundary. The side wing walls enclosing the first floor front deck would be 7.8m in height, increasing to 10.2m in height at second floor level where it is recessed 3m from the front property boundary.

The proposal includes building over the carriageway easement at a height of 4.1m. In addition columns and footings to support the first and second floors would encroach into the width of the easement by 40cm. The first floor lounge bar would extend 4m over the existing carriageway easement adjacent to the northern boundary, extending 16.8m in depth to the rear. The existing refrigeration plant that currently restricts the width of the easement to 3.6m would be removed. It is proposed that the boundary separating 30 Pascoe Street and 111 Great Ocean Road would be fenced with a gate to allow the beneficiaries to pass when required. The proposal also includes relocating the existing drainage easement on the north boundary to the centre of the carriageway easement.

To build on the coastal character of Apollo Bay Township, the proposed building design references a ship design/art deco design style. The applicant has advised that the proposed circular porthole windows and the proposed wide 'streamlined' deck canopy are reminiscent of the bridge of an ocean liner. The tiered facades of the upper levels and the traditional white and blue boat colours draw on further nautical design elements. The external building material would comprise a mix of grey tiles, white and blue render, colorbond shale grey roofing and steel framed windows to the ground floor, with white tiles and large sections of bi-folding glazed doors to the upper parts. A main feature of the units on the third level would be the large decks enclosed by rounded wing walls along the north and south boundaries, to enclose the external living area and anticipate future development on the neighbouring sites.

## **Site & Surrounds**

The site is situated on the western side of the Great Ocean Road, to the north of its junction with Moore Street and to the south of its junction with Hardy Street. The site is rectangular in shape with a frontage of 20m to the Great Ocean Road and has an overall site area of 1382m<sup>2</sup>. It is located at 4.4m AHD (ie above sea level). The site backs onto Nos. 28, 30 and 32 Pascoe Street to the rear.



The site contains an existing takeaway restaurant/café (food and drink premises) with an area of 200m<sup>2</sup>, with two residential units to the rear. Mail to the residential units is delivered to the existing ground floor café. The rear portion of the site is currently vacant land used for storage and informal car parking, with access for service vehicles via an existing carriageway easement adjacent to the northern boundary with 119 Great Ocean Road. The existing building is single-storey and built to the street frontage, with a verandah extending over the front footpath which covers café/takeaway seating. The existing development presents glass windows and doors within the street facade.

The site is located in the heart of the commercial precinct of Apollo Bay, with nearby buildings being used for commercial purposes. The Apollo Bay IGA and Hotel are located to the south of the site, being individually listed in the Heritage Overlay of the Planning Scheme. The recently developed two-storey Apollo Bay Pharmacy is located to the north. A motel complex is situated to the south-west of the site, while the CFA station is located to the rear. The site is located opposite the foreshore and benefits from views to the ocean.

A hotel with bar and restaurant is located two properties to the south along the Great Ocean Road. Live music is played in the hotel bar, which is licensed and open until 1am. Further to the north all premises are ground floor shops with dwellings on the first floor level, with the one exception being a first floor restaurant. There are six (6) licensed restaurants and two hotels in the precinct. The closest residential property is located at 121 Great Ocean Road and is 7m from the site. The site faces open space on the east side of the road. The beach is 125 metres to the east. On-street car parking is available on both sides of the Great Ocean Road, which is a Road Zone Category 1 road. There is no significant vegetation contained within the site.

The site is located within an area of cultural heritage sensitivity, however a Cultural Heritage Management Plan is not required for this application, as the application is exempt from such a requirement as the ground has already been significantly disturbed as a result of the existing development on the land and the majority of works proposed under this application are above existing ground floor level.

The site is located at approximately 4.4m AHD, however given that the majority of the proposed redevelopment of the site is above ground floor level, in this particular instance it is considered that the provision of a Coastal Hazard Vulnerability Assessment is not required to be provided.

Other than the existing carriageway easement (E2 as identified on Lot 2 on the Plan of Subdivision 309031T), which benefits 30 Pascoe Street (Lot 1 PS 309031T) located immediately to the rear (west) of the application site, and the existing drainage easement (E1 as identified on Lot 2 on the Plan of Subdivision 309031T) there are no restrictions on the title.

### **Public Notice**

Public notice of the application was given during April 2013 in accordance with Section 52 of the Planning and Environment Act by sending notice to all adjoining and opposite owners and occupiers. A sign was also placed on site.

At the conclusion of the notification period, four (4) objections were received. The grounds of objection are summarised as follows:

### Design

- a) The proposal is an overdevelopment of the site with the monolithic built form inconsistent with the streetscape and seaside character of the area.

*The proposed development is considered to be contemporary in its design. The use of appropriate colours and building materials would assist in developing a new commercial activity above the existing takeaway cafe, maximising sea and harbour views whilst providing a service for visiting tourists and the Apollo Bay resident population. The building would have a contemporary art deco presence in the streetscape, which is considered to be in harmony with other recently approved architectural styles located within the retailing, commercial and entertainment centre of Apollo Bay. It is considered that the bulk, location, character and appearance of the proposed development would be in keeping with the preferred direction for future development within the Apollo Bay Town Centre. The proposal would maintain the preferred low scale coastal character and identity of Apollo Bay, assisting in consolidating the town centre whilst presenting a mixed use development that is visually attractive.*

- b) Gas bottles and waste cooking oil storage adjacent to 103-109 Great Ocean Road boundary are inappropriately located at the rear and this is potentially dangerous.

*The gas bottles and waste cooking oil would be located behind an existing 1.8m high fence within the rear yard. Gas bottles and waste cooking oil are currently stored within the rear yard for the existing takeaway premises. The proposed location is not considered to be inappropriate or potentially dangerous. The Planning Scheme does not provide guidance on the storage of waste cooking oil and gas bottles. In the context of the existing and proposed use of the land, the designated storage areas within the rear car park are considered to be acceptable and would allow for collection out of the public domain. As such, it is not considered that this aspect of the proposal would be detrimental to adjacent and nearby properties.*

- c) The building height appears to be 10.5m.

*The height of the built form does not exceed maximum 10.5 metres specified by the overlay. The proposed height of the building would be consistent with the height of the adjacent buildings and those approved nearby, with particular reference to the development approved at 103-109 Great Ocean Road.*

- d) The proposed first floor balcony extends 3m over the footpath; this was not allowed as part of the redevelopment of 103-109 Great Ocean Road.

*The application includes a 3m deck over the front footpath. The projecting deck has been considered by VicRoads as part of this application. VicRoads has not raised any objection to the occupation of part of the Great Ocean Road reserve with a balcony subject to the land owner entering into a licence agreement with VicRoads for the proposed use of a stratum of the Great Ocean Road reserve. The approved development at 103-109 Great Ocean Road is being re-assessed under this application.*

- e) The application does not include an assessment against Clause 55.

*The provisions of Clause 55 (Two or more Dwellings on a lot and Residential Buildings) apply to applications in the Residential 1 Zone, Residential 2 Zone, Residential 3 Zone, Mixed Use Zone and Township Zone. The application site is located within the Business 1 Zone and, as such, the provisions of Clause 55 do not strictly apply. The decision guidelines to the Business 1 Zone specify that, before deciding on an application, the Responsible Authority must consider as appropriate the objectives, standards and decision guidelines of Clause 55. The applicant has provided overshadowing diagrams which show that the potential for overshadowing the adjacent site at 103-109 Great Ocean Road is limited should this site be developed in the future in line with the earlier approval.*

*The proposal would allow for full sunlight for the whole day with the exception of the glazed bedroom door to proposed units 2 and 3. The application also proposes translucent side screens to the balconies to prevent overlooking of neighbouring properties. There are no windows in the south elevation and those in the north elevation would serve bedrooms 2, 3 and 4 and the dining room. There is no potential for overlooking from these windows as there are no side-facing windows serving the upper floor residential premises at 121 Great Ocean Road. During the processing of the application, consideration was also given to relocating the exhaust ducts to the ground floor café/takeaway and the proposed first floor restaurant; however the applicant has advised that, given the building design constraints, this is not practical. These exhaust ducts are proposed to terminate at roof level and at this height it is not considered that the kitchen exhausts would have a detrimental impact on adjacent properties. The applicant has provided an adequate neighbourhood and site description, and design response.*

- f) The requirements of the Aboriginal Heritage Act 2006 have not been addressed.

*Clause 15.03 of the Colac Otway Planning Scheme seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance. A Cultural Heritage Management Plan is not required for this application, as the application is exempt from such a requirement as the ground has already been significantly disturbed as a result of the existing development on the land and the majority of works proposed under this application are above existing ground floor level.*

- g) The application description does not specify the number of car spaces to be waived.

*The description of the application identifies a 'waiver' of the car parking requirements. The applicant's supporting information clearly identifies the level of car parking reduction required for the proposal.*

- h) The application should have been advertised in the Apollo Bay Newsletter, Colac Herald and further advertising should have been undertaken.

*Public notice of the application was given during April 2013 in accordance with Section 52 of the Planning and Environment Act by sending notice to all adjoining and opposite owners and occupiers. A sign was also placed on site. The application was not required to be advertised in the Apollo Bay Newsletter or the Colac Herald.*

#### Car Parking

- i) The level of on-site car parking is insufficient and incorrectly adopts Council's Draft Car Parking Strategy setting a reduced rate of 19.5 car parking spaces in place of the requirements of Clause 52.06 which sets a requirement for 111 spaces.

*A total of one hundred and eleven (111) car spaces are required to meet the requirements of Clause 52.06. The applicant has advised that the owner of the land is unable to provide further car parking facilities for the commercial development either on or off site, due to a lack of available land. The Colac and Apollo Bay Parking Study was adopted by Council on 12 December 2011 and recommends that a rate of 3.5 car spaces per 100sqm of floor area for a restaurant be incorporated in the Apollo Bay Commercial Centre Parking Precinct Plan. If the rate proposed by the study was applied in this instance, the proposed restaurant would generate a car parking requirement of eight (8) car spaces. A 'tavern' use was not included in the study; however, if the same rate of 3.5 car spaces per 100sqm was applied, then the lounge bar would generate a car parking requirement of ten (10) car spaces and, as such, there would be a total car parking requirement for the tavern and restaurant of 18.5 spaces.*

The Colac and Apollo Bay Parking Study has not been formally incorporated into the Colac Otway Planning Scheme however given that this document was formally adopted by Council on 12 December 2011, it is considered that the recommendations and findings of this document carry significant weight in the determination of planning applications. The recommendations of the Colac and Apollo Bay Car Parking Study form part of Amendment C72 which is due to be considered by Council at the June Council meeting for adoption.

- j) No visitor parking is provided for the residential units.

*There is no requirement under Clause 52.06 to provide visitor car parking for four units.*

- k) Manoeuvring from car spaces 5 and 6 has not been demonstrated.

*A permit condition has been recommended to ensure that, prior to the commencement of the development, turning templates are submitted to Council for review and endorsement. The turning templates must show how each car park space is to be accessed in both entering and exiting motions. The template must be the 85<sup>th</sup> percentile vehicle.*

- l) The justification submitted in support of the reduction in car parking relies on survey data of the patrons to the existing café. The results are not relevant to the proposed uses. It is unlikely that patrons will travel to the venue by bus and the report takes no account for higher demand on weekends and during times like the Apollo Bay Music Festival.

*In support of the waiver of car parking spaces for the commercial component, the applicant has undertaken a 'traffic and impact analysis' which identifies that the proposed commercial development would increase demand by 2.3% (19.5 spaces as percentage of 841 total spaces available). During peak holiday season parking demand is at its maximum around midday, with on-street parking at 80% capacity (Apollo Bay Parking Strategy - page 42) leaving 116 available spaces. On-street demand drops to 60% at 5:30pm. During the off season, on-street parking at the midday peak is at 50% capacity (p.44) leaving 289 on-street spaces. This drops to 25% usage at 5:30pm. During off-season at weekends, approximately 270 on-street spaces are available (p.44). The Apollo Bay Parking Strategy does not consider parking availability after 5:30 pm when both proposed commercial premises would be open. The Strategy indicates that demand decreases later in the day. It is acknowledged that traffic congestion in Apollo Bay increases significantly during peak holiday periods, however it is generally accepted that in highly seasonal locations peak demand will always outstrip supply and some traffic disruption will occur. This is discussed in greater detail later in this report. As such, no objection is raised to the proposed reduction in the car parking requirement.*

- m) The cash in lieu contribution is significantly less than the \$13,000 per space proposed in Council's draft Car Parking Strategy.

*A requirement for cash in lieu for a shortfall of onsite car parking spaces is not adopted within the Colac Otway Planning Scheme and, consequently, at present there is no requirement on the applicant to provide a monetary contribution for the reduction in car parking provision.*

#### Deliveries

- n) The 20% of loading which will take place on Great Ocean Road is excessive and dangerous and will cause traffic disruption and obstruction to adjacent properties.

*The applicant has advised that delivery from the larger drink supply vehicles would occur from the Great Ocean Road every two weeks before 9:00 am during the off season, and weekly in the evening around 10:00pm in peak season. There is insufficient land to allow for larger vehicles to enter/exit the site in a forward direction from/to the Great Ocean Road. With the exception of a few commercial properties within the precinct which benefit from access lanes through to Pascoe Street at the rear, the absence of off-street loading is considered to be the case for the majority of commercial premises within the commercial precinct of Apollo Bay.*

*Council's Infrastructure Department and VicRoads have considered the proposal and no objection is raised, subject to the inclusion of permit conditions which have been included in the recommendation at the end of this report.*

o) Details of how emergency services will access the premises have not been provided.

*Emergency vehicles would access the site from the Great Ocean Road or via the carriageway easement adjacent to the side boundary. In the event that the building is on fire, it is considered unlikely that the emergency vehicles would park within the carriageway easement.*

#### Easement

p) Building over the easement will unreasonably interfere with the use of the easement by the owners of 30-32 Pascoe Street to the rear.

*The application seeks to build over the carriageway easement at a height of 4.1m and for columns and footings to intrude by 40cm into the easement to support the first and second floors. The existing carriageway easement provides a legal passage for 30 Pascoe Street; however this is considered to be a secondary access, as primary access is via Pascoe Street to the rear. This was reaffirmed by the amended permit issued at the direction of VCAT on 21 February 2013 for the redevelopment of 30-32 Pascoe Street for a supermarket. Condition 4 and 5 of this permit aim to ensure that loading and unloading for the supermarket would occur from Pascoe Street, and that vehicular access to the site by customers and delivery vehicles associated with the supermarket would only occur from the Pascoe Street entrance and would not use the carriageway easement accessed via the Great Ocean Road.*

*The section of lounge bar area built over the easement would be at a height of 4.1 metres, which is 0.1 metres higher than the minimum height clearance for a loading bay specified in Clause 52.07 of the Planning Scheme. This would allow for any standard delivery vehicles to be able to pass over the carriageway easement.*

*The applicant has stated that the existing carriageway easement is not being used by the beneficiary at 30 Pascoe Street. It is noted that the carriageway easement currently has a closed gate on the Great Ocean Road frontage. The opening of the gate is under the control of the owner of 111-117 Great Ocean Road. With regard to the current available alternatives for access, it is noted that No. 30-32 Pascoe Street benefits from direct access off Pascoe Street and the future redevelopment of this site would use Pascoe Street as the main pedestrian and vehicular access point. In light of the above, and on balance, it would appear that there is no recent use of the carriageway easement to access 30 Pascoe Street and there remain other suitable available alternatives to the access for the beneficiary.*

*Access, loading and car parking for this re-development of 30 Pascoe Street is proposed from Pascoe Street. The proposed use does not rely on the use of the carriageway easement and the site benefits from a primary frontage onto Pascoe Street.*

*In light of this, it is considered unlikely that the beneficiary of the carriageway easement (30 Pascoe Street) would suffer any material detriment from the potential development at 111-117 Great Ocean Road. In view of this, it is considered that the restricted height of 4.1m would retain access for most vehicles via the carriageway easement.*

- q) The reduction of width of the carriageway easement from 4.57m to 4.02m over the length of 16.8m and height restriction raises acoustic issues in terms of noise funnelling, safety issues creating an unsafe hub, adequate lighting concerns, visual obstruction of our building from Great Ocean Road and loss of Great Ocean Road presence.

*It is not considered that building over the carriageway easement would result in any potential loss of light or significantly impact on the amenity of the beneficiary. No. 30 Pascoe Street does not benefit from a frontage onto the Great Ocean Road, but is set back 62m from the Great Ocean Road. As such, it does not have a 'Great Ocean Road frontage'. It is also considered that as each property with frontage onto the Great Ocean Road is developed, it must be accepted that views from the Pascoe Street properties to the foreshore will eventually be lost. It is also considered unlikely that any vehicle using the carriageway easement would cause additional noise levels to an unacceptable level or create a level of noise funnelling that reaches unacceptable levels. A permit condition has been recommended to ensure the 16m covered section of the easement is lit at all times.*

#### Amenity

- r) The proposal will result in conflicts between nearby business operations and new residents from the ambient hum of generators and equipment, after-hours noise and activity from forklifts and trucks especially in summer.

*The application site is located within the Business 1 Zone of the Apollo Bay Town Centre. This Zone sees to encourage intensive development for retailing and other complementary commercial and entertainment and community uses and, as such, noise levels associated with activity from delivery vehicles must be accepted in this commercial precinct. Where appropriate, permit conditions have been recommended to ensure the residential amenity is not adversely affected through deliveries, noise from the tavern and noise from associated plant and equipment.*

- s) There is no detail of acoustic measures to ensure residential amenity is not unreasonably affected. The noise report has not been prepared by a specialist in the field and does not take account of two dwellings above the chemist 8m to the north and how the large front glazing doors will be soundproofed and how the doors will be kept closed after 10pm.
- t) The acoustic report does not provide an indication of the levels of expected noise from the proposed restaurant and tavern and does not provide enforceable decibel limits to ensure that these impacts are avoided or minimised to an acceptable level.

*In support of the application, the applicant commissioned an Acoustic Assessment Report to be undertaken by specialists in building soundproofing - 'Acoustic Advisory and Consulting Services' who have over 36 years experience. Section 3 of the Acoustic Assessment Report (reference 13109) specifies that the report covers protection from noise for the existing and planned apartments in adjoining properties. To establish the acoustic protection required, typical sound levels for the restaurant, the lounge bar and the commercial kitchens have been established from the legal requirements and published sources. Background sound levels for the evening period and night period were measured using an EL-316 noise logger. The results from the report identify that background noise levels are relatively high due to sounds from the ocean.*

*The report also specifies that sound levels from a commercial kitchen must not exceed 85dBA under the Victorian Workcover regulations. Sound levels for a noisy restaurant with only background music are typically measured up to 95dBA.*

*Sound levels for a lounge bar depend on the type of music being played and can vary widely, although the report recommends a maximum level up to 95dBA. The report makes a number of recommendations about the construction of internal walls, ceilings and floors and external walls, to contain noise levels to those specified above. The report also considers the use of the front deck and advises that consideration should be given to closing the concertina doors at 10pm each evening or the installation of a noise limiter set at 95dBA. The report concludes that, subject to following the recommendations of its content and a noise limit of 95dBA, the proposal would provide satisfactory acoustic protection for the general public outside the premises and the neighbours on all sides. Permit conditions have been recommended to ensure compliance with the recommendations and content of the report.*

- u) It is unacceptable that licensed security staff will only be employed when the bar is in operation after 2.00am. The amenity of the area will be affected by the following:
- Amplified music and crowd noise until 3am.
  - Artificial light and vibration from the restaurant and tavern/nightclub.
  - Unacceptable noise levels from the tavern and deck area to the adjacent dwelling 7m away at 121a Great Ocean Road.
  - Potential overlooking from the deck.
  - Increased noise levels from patrons entering and leaving the premises and car noise.
  - Noise and vibration from the air conditioning plant and equipment adjacent to the first floor south wall.

*In support of the proposal, the applicant has provided an Acoustic Assessment Report dated 25 March 2013. With regards to the use of the deck to the lounge bar at the front of the premises, the report advises that consideration should be given to closing the tavern concertina doors at 10pm each evening, or alternatively that a suitable noise limiter be installed in the lounge bar set at 95dBA. The noise limiter would turn off any amplifiers at a predetermined level (95dBA). This would not control patron noise levels and there are no controls regulating crowd noise. Given the potential amenity implications, it is considered appropriate to ensure the appropriate noise limiter is installed within the premises and the use of the external decked area at the front of the tavern and restaurant ceases after 10pm on any given day. This is not considered to be overly onerous on the owner of the land, but would ensure noise levels would be contained within the confines of the walls of the site. Permit conditions have been recommended to ensure the use of the external front deck would not extend beyond 10pm and would achieve compliance with the submitted Acoustic Report.*

*The applicant had originally requested that the tavern be open until 2am and 3am on 12 special nights during peak tourist season. The applicant has advised that his client is now seeking to amend the hours to be in accordance with a general licence, which would allow for normal trading hours during the day and from 11pm on any particular day to 1am the following day with the option of later trading on special days subject to written Council approval.*

*In the context of the surrounding business and commercial activity within the Business 1 Zone, it is considered that the proposed use of the land for a tavern with restricted use of the deck and restricted opening hours until 1am would ensure the proposal is consistent with the hours of opening of the neighbouring commercial premises. It is considered that, subject to a 1am closure, the proposed use of the land would not have a significant detrimental impact on the amenity of the neighbourhood.*

*To safeguard the amenity of the adjacent dwellings and to reduce any potential transmission of noise through the walls, the applicant has advised that the adjacent boundary walls and ceilings would be soundproofed in accordance with Part F5 of the National Construction Code.*

*To further safeguard residential amenity, permit conditions have been recommended to ensure security alarms or similar devices would be of a silent type, there would be no external sound amplification equipment or loud speakers, and all external plant and equipment would be acoustically treated or placed in soundproofed housing.*

*The proposed front deck would overlook the Great Ocean Road to the east. There is no development at first floor level to the south of the application site. The side wing walls at first floor level to the north and south sides of the application site would comprise translucent side screens to a height of 1.8m. It is considered that this would assist in preventing patrons who use the front deck from overlooking the glazed side screen to the residential balcony at 121 Great Ocean Road. The side wing walls to the front deck would also assist in controlling light spill to the closest dwelling to the north. It should also be noted that the existing front balcony at 121 presents obscured side sections, which would also offer a level of privacy for the occupier. Permit conditions to control the use of the deck would also ensure that any outdoor lighting is designed, baffled and located to prevent any adverse effect on adjoining properties.*

*The applicant has advised that management personnel would use their best endeavours to ensure that patrons leaving the premises at closing time each night do so in an orderly manner and that no patrons associated with the venue congregate in the surrounding area. A manager would be on site at all times during opening hours to receive and deal with complaints from the public, and to ensure that no disturbance likely to cause a nuisance to adjoining occupiers or cause detriment to the amenity of the neighbourhood occurs or emanates from the land. Management would also retain a logbook of complaints or incidents for review.*

- v) The proposal is contrary to planning provisions of Clause 34.01-2 of the Business 1 Zone which requires that a use must not detrimentally affect the amenity of the neighbourhood, including through the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

*The Business 1 Zone of the Apollo Bay Town Centre seeks to encourage intensive development for retailing and other complementary commercial, entertainment and community uses, subject to these uses not detrimentally affecting the amenity of the neighbourhood through noise, artificial light, vibration etc. as set out in clause 34.01-2. Within the Business 1 Zone, it is considered that a careful balance must be drawn between encouraging suitable development that promotes and enhances the vitality and viability of the shopping precinct, whilst being mindful of residential development and ensuring the development potential is not stifled.*



*It is considered that, subject to a 1am closure, the proposed use of the land would not have a significant detrimental impact on the amenity of the neighbourhood. Permit conditions have been recommended to ensure the amenity of nearby residential properties is respected and, subject to the tavern only being open between the hours of 10am to 1am on any given day and controlled hours of use of the front deck, it is considered that the proposal would result in an acceptable planning outcome. Permit conditions have also been recommended with regard to the insulation of the internal walls and the protection of the general amenity of the area. In view of this, it is considered that the proposal adequately addresses the requirements of Clause 34.01-2.*

- w) The proposed residential units may be occupied by staff of the venue that work late and may not have the same residential amenity expectations.

*Permit conditions have been included to restrict the opening of the tavern and the use of the external front deck. There are no requirements with the Planning Scheme to control noise from the residential properties.*

- x) The number of patrons is excessive and the long hours of operation to 2am and 3am will impact on the amenity of the area in particular the existing adjacent dwellings and those approved at 103-109 Great Ocean Road. The tavern should close at 10pm or 11pm.

*The applicant had originally requested that the tavern be open from 7am to 1am on week days, until 2am on Friday and Saturday, and 12 midnight on Sundays. In addition, the applicant also requested a 3am opening on 12 special nights during peak tourist and public celebration nights, such as New Year's Eve. Subject to the inclusion of appropriate permit conditions controlling the use of the front deck, it is considered that in the context of the surrounding business area and commercial activity within the precinct, the proposed use of the land for a tavern with restricted use of the deck and opening hours until 1am would be consistent with the hours of neighbouring commercial premises and would be acceptable. The closure of the tavern at 10pm or 11pm would not be consistent with existing commercial properties within the precinct. The applicant has agreed to a 1am closure and it is considered that this would suitably control the use of the land and would not have a significant detrimental impact on the amenity of the surrounding neighbourhood. The appropriate permit condition has been recommended.*

*The proposed lounge bar/tavern would accommodate 153 patrons within a leasable area of 287sqm which includes the front external deck. The restaurant would be capable of accommodating 124 patrons within a leasable floor area of 242sqm including the front external deck. Within the commercial precinct of Apollo Bay, which seeks to accommodate higher densities, this is not considered to be excessive.*

### **Referrals**

In accordance with Section 55 of the Planning and Environment Act, the application was referred to Powercor, Barwon Water, VicRoads, Telstra, Tenix, Chief Commissioner Victoria Police and Apollo Bay Police and the Victorian Commission for Gambling and Liquor Regulation (VCGLR). The application was also referred internally to Council's Infrastructure, Health and Building Departments.

Referral responses have been received and these are summarised as follows:

- Barwon Water and Powercor have not objected to the application, subject to the inclusion of permit conditions which have been recommended within this report.
- Tenix raised no objection to the proposal and no conditions have been recommended.

- VicRoads has given its consent to the proposal, subject to the applicant entering into a licence agreement with VicRoads for the proposed use of a stratum (Great Ocean Road) arterial road reserve, prior to any commencement of works. An appropriate permit condition has been included in the recommendation at the end of this report.
- The Victorian Commission for Gambling and Liquor Regulation (VCGLR) does not object to the granting of a permit. The VCGLR does not recommend any permit conditions, but has requested that the applicant be advised that the decision is not taken pursuant to the Liquor Control Reform Act 1998 in respect of the applicant's liquor licence application.
- VicPolice has not objected to the application, but has raised concerns over the proposed opening hours of the Tavern. VicPolice advises that there are currently 38 various permanent Liquor Licences in Apollo Bay, of which 4 are 'General Licences'. Presently local policing arrangements are fashioned around the two General Licensed Hotels, which are permitted to operate until 1.00am most days. Police hours are currently based on the high volume closing times of the hotels and late night on weekends. Consideration also has to be given to providing a Police service during day time hours. VicPolice advised that the proposal for a venue to be licensed until 2.00am or 3.00am would severely impact on local policing, making it near impossible to effectively meet service demand. VicPolice has also advised that it has discussed these issues with the owner of the site, who understands that any liquor licence application will be in line with current local general licences.
- Council's Building Department has not objected to the application.

### **Planning Controls**

The site is located within the Business 1 Zone and covered by the Design and Development Overlay – Schedule 5. A permit is required under the following Clauses:

- Clause 34.01-1 – Use of the Land as a Tavern
- Clause 34.01-3 – Subdivide the Land.
- Clause 34.01-4 – Buildings and Works
- Clause 43.02-2 – Buildings and Works
- Clause 43.02-3 – Subdivide the Land
- Clause 52.05 - Removal and Variation of an Easement
- Clause 52.06 – Reduction in Car Parking
- Clause 52.07 – Loading and Unloading
- Clause 52.27 – Licensed Premises
- Clause 52.29 – Alter Access and Subdivide Land
- Clause 52.34 – Bicycle Facilities

### State and Local Planning Policy Frameworks

- a. The State and Local Planning Policy Frameworks provide strategic direction for the consideration of land use and development proposals. The following policies are considered relevant to the consideration of this application:

- Clause 11 - Settlement
- Clause 11.05 – Coastal Settlement
- Clause 12.02 – Coastal Areas
- Clause 12.02 – The Great Ocean Road Region
- Clause 15 – Built Environment and Heritage

Clause 15.01 – Neighbourhood and Subdivision Design  
Clause 16.01 – Residential Development  
Clause 17 – Economic Development  
Clause 21.02 – Vision  
Clause 21.03 – Settlement  
Clause 21.03 – Apollo Bay and Marengo

The proposal is considered to be consistent with the broader principles of the State and Local Planning Policy Frameworks, as it proposes to upgrade and modernise an existing commercial property, intensifying development within the business centre of Apollo Bay whilst providing additional residential accommodation. It is considered that the proposed use would complement the existing activity centre, with a high quality design which reinforces the 'fishing village coastal character', by positively contributing to the local character and sense of place whilst enhancing the liveability, diversity and amenity of the vibrant public realm. The design of the building along with the use of appropriate materials presents as a high quality, contemporary and modern built form, which is consistent with the overall design intent and future policy direction for the streetscape character and Apollo Bay as a whole.

b. Zone Provisions

The site is included in the Business 1 Zone. The key purpose of this zone is:

- *To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.*

Under Clause 34.01-1, no planning permit is required to use the land for a restaurant and no planning permit is required to use the land for a dwelling provided the residential frontage at ground floor level does not exceed 2 metres. Under this clause, a permit is required to use the land as a tavern. Under clause 34.01-3, a permit is required to subdivide land and under clause 34.01-4, and a permit is required to construct a building or carry out works.

Under the requirements of clause 34.01-2 a use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

Consideration must also be given to the following decision guidelines:

- *The effect that existing uses may have on the proposed use;*
- *Provision of car parking, pedestrian movement and public transport;*
- *The streetscape, including design of verandah's, access, protection of active frontages for pedestrians, treatment of built form and illumination of buildings;*
- *Design of buildings to provide for solar access;*
- *Availability of and connection to services;*
- *Objectives, standards and decision guidelines of Clause 54 and 55:*

- *The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation and light spill, solar access and glare.*

Consideration should also be given to the new State Zone reforms which will mean the introduction of the Commercial 1 Zone to the site on the 1 July 2013. Under these reforms a restaurant would no longer be a 'permit not required' use but would be included within Section 2, with a tavern; both of which would require a planning permit.

c. Overlay Provisions

This site is subject to the Design and Development Overlay – Schedule 5 – Apollo Bay Town Centre (DDO5). Under clause 43.02-2, a permit is required to construct a building and carry out works. Under clause 43.02-3, a permit is required to subdivide the land.

The design objectives of DDO5 are:

- *To protect the existing low scale coastal character and identity of Apollo Bay;*
- *To ensure that new development in Apollo Bay is consistent with and acts to consolidate the character of Apollo Bay as a coastal town;*
- *To ensure that upper levels are well articulated to respect the character of the area.*

Under DDO5, buildings and works are required to satisfy the following criteria:

- *Buildings must not exceed a height of 10.5 metres;*
- *Buildings greater than 8 metres in height must have a street setback at the upper level of 3 metres (other than for a transparent balcony structure);*
- *All buildings and works should comply with the following standards unless it can be demonstrated that an alternative approach achieves the desired design outcomes;*
  - *Simple building details and a mix of contemporary and traditional coastal materials, textures and finishes;*
  - *Colours and finishes that complement those occurring naturally in the area;*
  - *Articulated roof forms and facades, incorporating setbacks to upper levels to reduce building bulk and overshadowing, and shop front windows at street level in commercial areas;*
  - *Commercial buildings orientated towards the street and provide the entrance to the building directly from the street frontage and constructed to the property boundary;*
  - *Water sensitive urban design features incorporated into the design where practical.*

d. Particular Provisions

i. Clause 52.05 – Easements, Restrictions and Reserves;

The purpose of this clause is:

- *To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.*

Under this clause a permit is required before a person proceeds:

- Under Section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.
- Under Section 24A of the *Subdivision Act 1988*.
- Under Section 36 of the *Subdivision Act 1988* to acquire or remove an easement or remove a right of way.

Before deciding on an application, in addition to the decision guidelines in clause 65, the Responsible Authority must consider the interests of affected people.

ii. Clause 52.06 – Car Parking

The purpose of this clause is:

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

Prior to a new use commencing, a new building being occupied, the floor or site area of an existing use being increased or the number of patrons, seats or practitioners at an existing use being increased, the car parking spaces required under clause 52.06-5 must be provided on the land or as approved under clause 52.06-3 to the satisfaction of the responsible authority.

The Colac and Apollo Bay Parking Study was adopted by Council on 12 December 2011.

The Study has not yet been formally incorporated into the Colac Otway Planning Scheme however Planning Scheme Amendment C72 proposes the introduction of a Parking Overlay which would vary the state parking rates and require a cash-in-lieu payment for spaces not provided, and the amendment is due to be considered for adoption by Council at the June Council meeting after not receiving any objections. This amendment and the Parking Study findings should therefore carry significant weight in the determination of planning applications.

iii. Clause 52.07 – Loading and Unloading of Vehicles

The purpose of this Clause is:

- *To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.* This clause specifies that no building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless space is provided on the land for loading and unloading vehicles as specified in the accompanying table.

iv. Clause 52.27 – Licensed Premises

The purpose of this clause is:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

Under this clause, a permit is required to use land to sell or consume liquor if a licence is required under the Liquor Control Reform Act 1998.

v. Clause 52.29 – Land adjacent to a Road Zone Category 1.

The purpose of this clause is:

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

Under this clause, a permit is required to create or alter access, and to subdivide land adjacent to a Road Zone Category 1.

vi. Clause 52.34 – Bicycle facilities

The purpose of this clause is:

- To encourage cycling as a mode of transport.
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Under this clause, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

### **Consideration of the Proposal**

The use of the land as takeaway/café currently exists in the single-storey building on the site and this would be retained in the ground floor of the proposed extended building as part of this application. The use of the land for a dwelling is a permit not required use within the Business 1 Zone subject to any frontage for the dwelling at ground floor level not exceeding 2 metres. The use of the land for a restaurant is a permit not required use within the Business 1 Zone. The applicant has advised that part of the first floor would be used as a 'lounge bar', which is considered to be akin to the use of the land for a tavern. A tavern is defined in the Colac Otway Planning Scheme as '*land used to sell liquor for consumption on the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines and gambling*'.

The Business 1 Zone of the Apollo Bay Town Centre seeks to encourage intensive development for retailing and other complementary commercial, entertainment and community uses, subject to these uses not detrimentally affecting the amenity of the neighbourhood through noise, artificial light, vibration etc. as contained in clause 34.01-2. Within the Business 1 Zone, a careful balance must be drawn between encouraging suitable development that promotes and enhances the vitality and viability of the shopping precinct, and the potential amenity impacts of a proposal. It is necessary to be mindful of amenity concerns from nearby residential development, whilst overall ensuring the development potential of the town is not stifled.

The nearest residential zone land to the application site is located to the west within Pascoe Street, approximately 70m to the rear. However it should be noted that six residential units have been approved at first and second floor level on the land immediately to the south at 103-105, Great Ocean Road. To date, this permit has not been implemented. There are no residential dwellings at ground floor level within the immediate vicinity of the application site, although there are existing residential units at first floor level at 121 and 123 Great Ocean Road which is located to the north. The majority of two-storey development along the foreshore comprises leased holiday accommodation on the first floor, with access from Pascoe Street and Hardy Street. The units approved at 103-105 Great Ocean Road would benefit from residential balconies at first and second floor level, at a height similar to the lounge bar, restaurant and second floor residential component proposed under this application.

#### Zone Reforms

The new State Zone reforms will mean the introduction of the Commercial 1 Zone to the site on the 1 July 2013, which would trigger a permit for both the use of the land for a tavern and restaurant. As such, the permit triggers would remain the same as currently for a tavern but there would be a new permit trigger for a restaurant use.

Given that a permit is not currently triggered for the use of the land as a restaurant, permit conditions on hours of opening of this use cannot currently be imposed. However, permit conditions have been recommended to control the use of the front deck and the required Restaurant/Café Licence required would limit the opening hours (normally until 11pm, unless an extension is sought and approved by Victorian Commission for Gambling and Liquor Regulation).

#### Proposed Design

The application premises forms part of the Apollo Bay commercial precinct. The section of commercial precinct adjacent to the application site extends from 153 Great Ocean Road in the north to 95-101 Great Ocean Road in the south. The Apollo Bay Hotel is situated at 95-101 Great Ocean Road, on the corner of the Great Ocean Road and Moore Street, and is individually listed as a significant heritage building in Apollo Bay.

It is regarded as *“aesthetically important through the building’s contribution to the streetscape, and as a central element in Apollo Bay’s main street.”* The Apollo Bay Hotel is a single-storey building and is set back between 0.5m -1m from the adjoining property boundary. The adjoining development to the north of the application site is built on the common property boundary. The maximum height of the adjoining single-storey buildings is in the order of 5 metres. Further to the north of the site, most buildings are two-storeys in height along the streetscape. To the south of the application site at 103-105 Great Ocean Road is the IGA supermarket site, which is a single-storey art deco white and blue building built in the 1940’s. This is one of the few buildings within the parade with a distinctly identifiable architectural style.

The proposed development is considered to be contemporary in its design. The proposed use of colours and building materials would assist in developing a new commercial building above the existing takeaway cafe, maximising sea and harbour views, whilst providing a service for visiting tourists and the Apollo Bay resident population as a whole. The proposed development would have a contemporary art deco presence in the streetscape, which it is considered would be in harmony with other recently approved architectural styles located within the retailing, commercial and entertainment centre of Apollo Bay. The proposed built form would extend over and above the existing carriageway easement adjacent the northern boundary of the site, which provides direct access to the car parking and service area at the rear of the site. This existing laneway/carriageway easement benefits 30 Pascoe Street, which is located immediately to the rear (west) of the application site. It is considered that building boundary to boundary over the easement at first floor level is the preferred design outcome for the Apollo Bay Township. This would assist in avoiding blank end walls and a potential *'toothless gap'* between 117 and 119 which, in this key active street frontage location, is critical to defining future development direction for the coastal town of Apollo Bay.

The Design and Development Overlay – Schedule 5 makes provision for buildings with three levels, providing the built form is recessed in accordance with the set criteria. The Apollo Bay Structure Plan 2007 encourages higher built form within the Business 1 Zone, provided the development complements the character of the township. The Structure Plan emphasizes the need to step development to match the height of adjoining properties, and to provide building setbacks to minimise amenity impacts. The proposed development would have a height of 7.8 metres at the street frontage. The proposed staircase enclosure to the middle of the development is considered to be critical in providing a vertical component to break up the strong horizontal theme and is reminiscent of a ship's funnel. Above this, the proposed building would step back 3 metres with the roof at a height of 10.5m. The height of the built form would not exceed 10.5 metres, as specified by the requirements of the overlay, and would be consistent with the height of the adjacent buildings and those approved nearby. With the front setback, the bulk of the building would occupy the mid section of the site and present as a graduated form from the front of the site and from both approaches along Great Ocean Road. Overall, it is considered the proposed development design satisfies the objectives set out within the overlay.

The external building materials would comprise a mix of grey tiles to the lower level, white and blue render and white tiles to the upper parts, with shale grey colorbond roofing. Large sections of bi-folding steel framed windows would dominate the upper parts fronting onto the Great Ocean Road. The proposed design of the development is a mix of contemporary art deco with a strong coastal theme, presenting circular porthole windows and large decks with stepped upper parts to create the illusion of an ocean liner. The roof of the building would present a low angled skillion, sloping up from the curved fascia of the verandah on the eastern facade.

The second floor residential component would be recessed from the front property boundary, and the proposed side wing walls would provide for a suitable level of screening from any potential adjacent built form and from the public realm along the Great Ocean Road.

Overall it is considered that the bulk, location, character and appearance of the proposed development would be in keeping with the preferred direction for future development within the Apollo Bay Town Centre. The proposal would maintain the preferred low scale coastal character and identity of Apollo Bay, assisting in consolidating the town centre whilst presenting a mixed use development which would be visually attractive.



### Amenity issues

It must be acknowledged that the amenity standards for residential properties within the CBD of Apollo Bay (Business 1 Zone) are not the same as those found within the surrounding Residential 1 Zone. To a large part, the amenity implications associated with this proposal have been addressed within the 'public notice' section of this report.

The nearest residential properties to the application site are located approximately 7m to the north, at first floor level at 121 and 123 Great Ocean Road. The nearest residential zoned land is located approximately 70m to the rear in Pascoe Street. Patrons exiting the commercial premises (proposed under this application) would exit the site onto the Great Ocean Road, being the commercial precinct of Apollo Bay away from the Residential 1 Zone. Access and egress for patrons will also be made available via the proposed staircase at rear of the development and the laneway. The location of this secondary access would direct patrons onto the Great Ocean Road and as such, is not considered to be detrimental to the amenity of surrounding residential properties.

Whilst a permit is not specifically required for the use of the land for a restaurant within the Business 1 Zone, consideration should be given as to the cumulative impact of patron noise levels for surrounding properties from within the tavern and the restaurant as a liquor licence triggers the requirement for a planning permit under Clause 52.27. No live music is proposed in the restaurant. Given that a permit is not triggered for the use of the land as a restaurant, permit conditions on hours of opening of this use cannot be included, however, the required Restaurant/Café Licence required would control the opening hours. The tavern would require a general licence whereby live music would be played.

The potential for noise levels to be detrimental to the enjoyment of neighbouring properties, and particularly nearby dwellings, is a material consideration in the determination of this application. Given the potential for noise from the tavern to be harmful to surrounding properties, it is considered appropriate to require the installation of a 'noise limiter' and to ensure the use of the external decked area ceases after 10pm on any given day. The appropriate permit condition has also been recommended to ensure that patrons of the tavern do not use the external front deck beyond 10pm on any day.

A key feature in the overall design at first and second floor levels is the 'wing walls', which would enclose the deck to the lounge bar, restaurant and residential open space above. The wing walls would assist in containing light and noise from patrons using the front deck, whilst providing a level of privacy screening to the adjacent residential deck at 121 Great Ocean Road and beyond. Double glazed doors accessing the front balcony would create a 'sound lock' between the balcony, tavern and restaurant, and when these doors are closed it is considered that noise from the tavern would be suitably contained within the building. Management personnel would monitor the behaviour of patrons utilising this area and would, to the best of their ability, seek to ensure that patrons leaving the premises at the closing time each night do so in an orderly manner and do not congregate in the surrounding area. The side wing walls at first floor level to the north and south sides of the application site would comprise translucent side screens to a height of 1.8m. These screens would assist in screening the proposed front deck from the existing residential unit to the north at 121 Great Ocean Road. The existing obscurely glazed side screen to the residential balcony at 121 Great Ocean Road offers an existing level of privacy for the occupier and this is considered to be maintained under the current proposal.

The provision of a deck over the front footpath has been considered by VicRoads as part of this application. VicRoads has not raised any objection to the occupation of part of the Great Ocean Road reserve with a habitable balcony, subject to the land owner entering into a licence agreement with VicRoads for the proposed use of a stratum of the Great Ocean Road reserve. An appropriate permit condition has been recommended within this report.

It must be acknowledged that dwellings within the Business 1 Zone cannot expect to have the same overshadowing and amenity controls as those properties with a Residential Zone. Whilst the provisions of Clause 55 do not strictly apply to applications within the Business 1 Zone, the applicant has provided overshadowing diagrams that show that the potential for overshadowing to the adjacent site at 103-109 Great Ocean Road would be limited, should this site be developed in the future in line with the permit issued. The proposal would allow for full sunlight for the whole day with the exception of the glazed bedroom door to proposed units 2 and 3. The proposal also includes translucent side screens to the balconies to prevent overlooking to neighbouring properties. There are no high level windows to the south elevation and those to the north elevation would service bedrooms 2, 3 and 4 and the dining room. There is no potential for overlooking from these windows as there are no side-facing windows to upper floor residential premises at 121 Great Ocean Road. During the processing of the application, consideration was also been given to relocating the exhaust ducts to the ground and first floor restaurants. The applicant has advised that, given the building design constraints, this is not practical. These exhaust ducts are proposed to terminate at roof level and, at this height, it is not considered that the kitchen exhausts would have a detrimental impact on adjacent properties.

The proposal includes an area within the rear car park, adjacent to the proposed commercial car parking spaces, for the storage of restaurant and lounge bar waste and gas bottles. All rubbish and refuse generated by the site would be stored within the designated areas to the rear and moved to the side of the carriageway easement adjacent to the Great Ocean Road for collection. The appropriate permit condition has been included to ensure that no rubbish bins are placed on the footpath. In the context of the existing and proposed use of the land, the designated storage areas within the rear car park are considered to be appropriate and not detrimental to adjacent and nearby properties.

The applicant has identified an area to the rear of the site for the loading and unloading of deliveries. In the context of the proposed land use, this is considered to be acceptable and in this location is not considered to have a significant impact on noise levels for surrounding residential properties. The applicant has also advised that deliveries will occur every two weeks before 9:00 am during the off season, and weekly in the evening around 10:00pm in peak season from the Great Ocean Road. Whilst this time of day could be considered to be detrimental to residential amenity, it is considered that in the context of noise levels from surrounding commercial properties and given the level of traffic noise associated with the Great Ocean Road, on balance this is considered to be acceptable.

#### Licensed premises

The type of liquor licence sought for the restaurant is a 'Restaurant/Café Liquor Licence', whereby live music would not be played. The tavern would require a general licence whereby live music would be played. There are currently 38 various permanent Liquor Licences in Apollo Bay, of which 4 are 'General Licences'. Within the commercial precinct 153 to 95-101 Apollo Bay there is one (1) General Licence at the Apollo Bay Hotel and four (4) Restaurant/Café Licences. A General licence can apply to pubs, hotels and taverns, and permits the licensee to supply alcohol to consumers both for drinking on the premises and for take away purposes.

Presently local policing arrangements are fashioned around the two General Licensed Hotels, which are permitted to operate until 1.00am most days. VicPolice has advised that opening hours for the venue until 2.00am or 3.00am (as originally sought) would severely impact on local policing, making it near impossible to effectively meet service demand. The cumulative impact of the proposed use of the land as a tavern, and the potential impact of the proposed hours of opening on the amenity of the surrounding area, has been considered within this report. There is a limited density of 'General licences' within the immediate precinct and the remainder are Restaurant/Café Licences. Within this part of the commercial precinct it is considered that there is an appropriate mix of licensed premises within the area and as such, the cumulative impact of the hours of operation, the number of patrons and the associated noise levels is considered to be acceptable. On the basis of the proposed revised opening hours and restricted use of the deck, it is considered that the use of the land for the sale and consumption of alcohol is acceptable.

### Car Parking

The proposal seeks to utilise the area towards the rear of the building for the provision of car parking required for the residential component and for part of the commercial component. The existing cafe use benefits from four (4) car spaces and the existing residential dwellings two (2) car spaces. These are currently not formally identified within the site.

The site is located within the Business 1 Zone and car parking requirements are set out within the table to Clause 52.06. A key purpose of clause 52.06 seeks to ensure that an appropriate number of car spaces are provided on the land to meet the potential demand likely to be generated. The clause adds that the car parking spaces required under clause 52.06-5 must be provided on the land or as approved under clause 52.06-3 to the satisfaction of the responsible authority.

The planning application proposes two (2) additional four (4) bedroom dwellings, which have a requirement for two (2) car spaces for each. These would be provided as part of the proposal. In addition, a parking space would be provided for each of the retained residential units on the site.

The restaurant component has a requirement of 0.4 car spaces to each patron permitted, which equates to fifty (50) car spaces. Similarly, the lounge bar/tavern component requires 0.4 car spaces to each patron permitted, which equates to sixty one (61) car spaces. A total of one hundred and eleven (111) car spaces are therefore required to meet the requirements of Clause 52.06. As noted above, the existing cafe use benefits from four (4) car spaces – the availability of car parking for this existing use would be reduced as a result of this proposal.

The proposal would provide four (4) car spaces for the new residential component and three (3) car spaces for the existing and proposed commercial component. As such, there would be a shortfall of one hundred and eight (108) car spaces under the current provisions. The applicant has advised that the owner of the land is unable to provide further car parking facilities for the commercial development either on-site or off-site due to a lack of available land.

The adopted Colac and Apollo Bay Parking Study, adopted by Council on 12 December 2011 (and Parking Overlay Schedule 2 proposed in Amendment C72) recommends that a rate of 3.5 car spaces per 100sqm of floor area for a restaurant be applied. If the rate proposed by the Study (and Amendment C72) was applied in this instance, the proposed restaurant would generate a car parking requirement of eight (8) car spaces.

A 'tavern' use was not included in the Study; however, if the same rate of 3.5 car spaces per 100sqm was applied, then the lounge bar would generate a car parking requirement of ten (10) car spaces and, as such, there would be a total car parking requirement of 18.5 spaces.

The Colac and Apollo Bay Parking Study summarises the key issues relating to parking supply in Apollo Bay as:

- *Peak demand for parking at the most popular locations in the township (i.e. Great Ocean Road and the Surf Club car parks) exceeds supply.*
- *Searching for parking spaces by visitors can contribute to congestion and negatively impact on the safety of other road users.*
- *Visitor numbers and the resident population of Apollo Bay significantly decreases during non seasonal periods resulting in a much lower demand for parking.*

With respect to car parking rates, the report states:

*"Given the often unique circumstances associated with different new developments, it is not always the case that one parking rate fits all developments in all locations. As an alternative, Clause 52.06-6 of the Colac Otway Shire Planning Scheme enables Parking Precinct Plans to be prepared. These are locally prepared strategic plans that contain parking provisions for an area or "precinct". They allow all the parking issues arising in a precinct to be considered and a strategy to be implemented to address them".*

Specifically, this approach would allow the adoption of parking rates which recognise that:

- *"The likely demand for parking for shops in the Apollo Bay Commercial Centre is lower than the rate specified by the Victorian Government (refer to Table 3.7 which provides a comparison between the proposed Victorian Government rates and the demand based empirical rates which have been calculated from the 2009 parking surveys and described in detail in the Issues and Opportunities Paper prepared for the Apollo Bay Commercial Centre).*
- *Many shops and food catering outlets in the Apollo Bay Commercial Centre are unlikely to generate single purpose trips and be part of a multipurpose trip meaning that the parking demand is shared by a number of land uses."*

In support of the proposed reduction in the parking requirement for the commercial component, the applicant has undertaken a 'traffic and impact analysis' which identifies that the proposed commercial development would increase demand by 2.3% (19.5 spaces as percentage of 841 total spaces available).

During peak holiday season parking demand is at its maximum around midday, with on-street parking at 80% capacity (Apollo Bay Parking Strategy - page 42) leaving 116 available spaces. On-street demand drops to 60% at 5:30pm. During the off season on-street parking at the midday peak is at 50% capacity (p.44) leaving 289 on-street spaces. This drops to 25% usage at 5:30pm. During off-season at weekends approximately 270 on-street spaces are available (p.44). The Apollo Bay Parking Strategy does not consider parking availability after 5:30 pm when both proposed commercial premises would be open. The Strategy indicates that demand decreases later in the day.

It is accepted that traffic congestion in Apollo Bay increases significantly during peak holiday periods, however it is generally accepted that in highly seasonal locations peak demand will always outstrip supply and some traffic disruption will occur (Oberegger Investco Pty Ltd v Colac Otway SC [2010] VCAT 922 (27 May 2010) paragraph 28).

Council's Infrastructure Department has considered the traffic impact assessment submitted as part of the application and concurs with the general conclusion that the development would have a tolerable impact on traffic and parking in the area. The Infrastructure Department considers that this type of development lends itself to patrons being able to park in the general area and walk to the development. The development would naturally have an impact on traffic and parking. However, it is considered that the level of impact would be reasonable for the area. Apollo Bay has a high ratio of public parking to its level of development compared with other coastal townships such as Lorne and Torquay. On this basis, no objection is raised to the proposed reduction in the parking requirement for the commercial elements of the proposed development.

Consideration must also be given to the Schedule to the Parking Overlay under Proposed Amendment C72. The key objectives of the amendment seek to ensure that new retail development provides adequate and convenient car parking, and to provide for the collection of financial contributions to contribute to the construction of shared car parking facilities. The financial contribution would be in the region of \$13,000 in lieu of each space not provided on the land. The amendment includes revised car parking rates for Supermarkets and Shops but does not vary the rate for restaurants and taverns. The requirement for cash in lieu for a shortfall of onsite car parking spaces is not adopted within the Colac Otway Planning Scheme and, consequently, at present there is no requirement on the applicant to provide a monetary contribution for the reduction in car parking provision.

#### Loading and Unloading

The proposal includes a 7.6m x 3.6m loading bay at the rear of the premises, accessed via the carriageway easement from the Great Ocean Road. The loading bay could be accessed by a 6.4m - 7.5 tonne small rigid vehicle, which the applicant has advised would account for approximately 80% of all deliveries to the site. The deliveries to the tavern and restaurant, and those made by a gas refill truck, would be made from a small rigid vehicle parked within the loading bay area to the rear of the car park. Deliveries to the tavern and restaurant would be made via the stairs at the rear of the development.

Delivery from the larger drink supply vehicles would occur from the Great Ocean Road every two weeks before 9am during the off season, and weekly in the evening around 10pm in peak season. The applicant seeks a waiver for part of the requirements for loading and unloading, on the basis that there is insufficient land to allow for larger vehicles to enter/exit the site in a forward direction from/to the Great Ocean Road. With the exception of a few commercial properties within the precinct that benefit from access lanes through to Pascoe Street at the rear, the absence of off-street loading is considered to be an existing situation for the majority of commercial premises within the commercial precinct of Apollo Bay. The amenity concerns with regard to loading and unloading to the rear of the site and from on the Great Ocean Road have been considered earlier within this report.

Council's infrastructure Department has considered this and has advised that the proposed onsite servicing of the development is considered to be adequate. It is noted that the development would require a weekly on-street delivery in peak season. The applicant has indicated that the required delivery truck would be a medium rigid vehicle and that goods would be delivered from the truck to the premises by trolley, which is in keeping with the practices of other businesses in the town.

The proposal would not result in any additional vehicle access onto the Great Ocean Road but would utilise the existing access. The proposal has been referred to VicRoads, which does not raise any objection to the application subject to the inclusion of a permit condition. That condition has been included in the recommendation at the end of this report.

### Carriageway Easement

An easement is a right given to another person or entity to enter (or trespass) upon land that person or entity does not own. The land at 111-117 Great Ocean Road, Apollo Bay is subject to carriageway easements in favour of the owner of the adjoining allotment at 30 Pascoe Street. To construct over an easement, a developer must:

- i) Obtain permission from the relevant parties/authorities to construct over the easement; or
- ii) Remove or vary the location of the easement.

Landowners are not able to construct buildings over the easements at any height level without the consent of the owners of the land in which the easement vests or without first seeking to remove those easements. The relevant tests are further considered in this report. The VCAT decision of *K J Barge and Associates v Prahran City Council & Anor* (1992) 10 AATR 345 (Barge) is relevant in determining applications for amendments to easements.

Planning permission is sought to amend the existing carriageway easement (E2 as identified on Lot 2 on the Plan of Subdivision 309031T), which benefits 30 Pascoe Street (Lot 1 PS 309031T) located immediately to the rear (west) of the application site. The application seeks to build over the carriageway easement at a height of 4.1m and for columns and footings to support the first and second floors to intrude into the easement. The first floor lounge bar would extend 4m (wide) over the existing carriageway easement adjacent to the northern boundary, extending 16.8m in depth to the rear. The proposal also includes relocating the existing drainage easement which runs along the north boundary with a drainage easement located centrally in the laneway. It is proposed to provide a gate on the boundary separating Nos. 30 Pascoe Street and 111 Great Ocean Road, which would allow the beneficiaries to pass when required.

The existing carriageway easement is currently gated off at the entrance to the Great Ocean Road, with a horizontal metal bar above the existing gated carriageway easement set at a height of approximately 3m. The carriageway easement is not the main access for 30 Pascoe Street. No. 30 Pascoe Street does not benefit from a frontage onto the Great Ocean Road, but is set back 62m from the Great Ocean Road. Whilst the existing carriageway easement provides a legal passage, this is considered a secondary access. This was reaffirmed by the amended permit issued at the direction of VCAT on 21 February 2013 for the redevelopment of 30-32 Pascoe Street for a supermarket. Conditions 4 and 5 of this permit ensure that loading and unloading would occur via Pascoe Street, and that vehicular access to the site by customers and delivery vehicles associated with the supermarket use would only occur from the Pascoe Street entrance and not use the carriageway easement accessed via the Great Ocean Road.

The section of lounge bar area built over the easement would be at a height of 4.1 metres, which is 0.1 metres higher than the minimum height clearance for a loading bay specified in clause 52.07 of the Planning Scheme. This would allow for any standard delivery vehicles to pass over the carriageway easement. It is also considered that the storage of refuse bins within the carriageway easement on a weekly basis would not result in any material detriment to the beneficiary of the easement.

The Apollo Bay Settlement Boundary and Urban Design Review identifies that the existing laneway from the Great Ocean Road through to Pascoe Street should be maintained to provide a formal pedestrian priority pathway.

The retention of the carriageway easement is considered to remain consistent with the preferred direction identified within the Apollo Bay Settlement Boundary and Urban Design Review retaining a possible pedestrian link to the rear if required at a future date.

Council has sought legal advice and the applicant has also obtained separate legal advice about whether building over the carriageway easement could be permitted by Council. This advice is summarised and commented below.

#### Council's Legal Advice from Harwood Andrews 4 April 2012

In *K J Barge and Associates v Prahran City Council & Anor* (1992) 10 AATR 345 (Barge), the Administrative Appeals Tribunal considered the removal of part of a carriageway easement and established a two part test. At 347, the Tribunal provided:

*“How then does the Tribunal decide whether or not to grant a permit? The Tribunal is of the view that the following questions should be asked:*

- (i) Does the current use of or the current state or condition of the dominant and servient lands (tenements) indicate a need or requirement for the continued existence of the easement; and;*
- (ii) Would the owners of the dominant land suffer any material detriment in the use and enjoyment of that land if the easement were removed or varied?*

*If the answer to either of these questions is in the affirmative then the Tribunal should not grant the Permit”.*

Relevant considerations in assessing ‘need’ under the first limb of the *Barge* test include *recent use* and *current available alternatives*. In assessing material detriment under the second limb, there is no detriment if the future use or development is speculative or hypothetical. In response to these points of *Barge*:

*‘Does the current use of or the current state or condition of the dominant and servient lands (tenements) indicate a need or requirement for the continued existence of the easement’*

The existing carriageway easement is not being used by the beneficiary at 30 Pascoe Street and, as such, no recent use has been demonstrated. The beneficiary site was previously used as a fun parlour and access was provided from the Great Ocean Road via the carriageway easement. The amended permit issued at the direction of VCAT for the redevelopment of 30-32 Pascoe Street for a supermarket reaffirms that loading and unloading must occur from via Pascoe Street and all vehicular access associated with the supermarket use (excepting use by staff) must only occur from the Pascoe Street entrance and must not use the carriageway easement accessed via the Great Ocean Road. In light of this, it would appear that there is no recent use of the carriageway easement to access 30-32 Pascoe Street and there remain other suitable available alternatives.

*‘Would the owners of the dominant land suffer any material detriment in the use and enjoyment of that land if the easement were removed or varied’?*

Access, loading and car parking for this redevelopment of Nos. 30 and 32 Pascoe Street is proposed from Pascoe Street. The proposed use does not rely on the use of the carriageway easement and the site benefits from a primary frontage onto Pascoe Street. In light of this, it is considered unlikely that the beneficiary of the carriageway easement (30 Pascoe Street) would suffer any material detriment from the proposed development at 111-117 Great Ocean Road.

It is not considered that building over the carriageway easement would result in any potential loss of light or significantly impact on the amenity of the beneficiary. It should also be reiterated that 30 Pascoe Street does not benefit from a frontage onto the Great Ocean Road, but is set back 62m from the Great Ocean Road. As such, it does not have a 'Great Ocean Road frontage' and, as each property with frontage onto the Great Ocean Road is developed, then it must be accepted that views from the Pascoe Street properties to the foreshore will be lost. It is also considered unlikely that any vehicle using the carriageway easement would present any additional noise levels to an unacceptable level.

The applicant has submitted to Council a legal opinion from Best Hooper dated 21 March 2013. The advice is summarised as follows:

*'Given the construction over the easement is at a height of 4.1m that this is of a sufficient height into the airspace above the easement so that it will not provide any obstruction to vehicular and pedestrian traffic associated with the use of 30 Pascoe Street and is permissible under the terms of the easement. Notably the recent permit issued for a supermarket for this land prevents delivery vehicles using the carriageway easement. Further we do not consider that the footings proposed would constitute any real obstruction to the continued use of the carriageway easement for access.'*

#### Bicycle Facilities

The proposal does not include provision for any bicycle facilities. Under the provisions of Clause 52.34, bicycle facilities are required to be provided on the land if the use proposed is listed in the table. The table specifies that for a restaurant one (1) bike space is to be provided for employees to each 100sqm of floor area available to the public and for patrons two (2) bike spaces plus one (1) bike space to each 200sqm of floor area available to the public if the floor area available to the public exceeds 400sqm. A 'tavern' is not included within the table. A dwelling is included within the table however the provision only applies to developments of four or more storeys. In this instance, the proposed use sets a requirement for four (4) bike spaces. Given the location of the site within the commercial precinct of Apollo Bay and adjacent to the foreshore where cycle parking is available, it is considered that the provision of on-site bicycle facilities can be waived.

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

The Apollo Bay Structure Plan 2007 provides guidance in the assessment of this application. The Structure Plan provides direction in relation to building heights in the town centre, building design and streetscape character. The following structure plan objectives are considered relevant:

- Consolidate the town centre of Apollo Bay and provide a greater diversity of housing and accommodation at higher densities within and in close proximity to the commercial area;
- Require new development and streetscape works in the Apollo Bay town centre to build on and reinforce the fishing village coastal character of the township, and contribute to the creation of a vibrant public realm.



- Achieve excellent architectural quality in new development or improvements to existing buildings in the town centre of Apollo Bay, drawing on the existing valued qualities of the centre and setting a new direction in the use of innovative, high quality design.

In the Structure Plan, the site is situated in Section A of the 'Buildings in the Town Centre Plan' on page 71. The notation in relation to Section A is to allow up to 8 metres at the street frontage with a recessed upper level and up to 10.5 metres provided the building is set back from the street boundary by at least 3 metres. This is consistent with the DDO5 criteria.

The Apollo Bay Settlement Boundary and Urban Design Review identifies that space at the rear of the main shops in Apollo Bay is mostly used for private car parking, rubbish collection/storage and rear service access. In some cases, public car parking is provided at the rear, and close by to laneway connections that link through to the main shops. The review identifies initiatives that seek to consolidate car parking areas and provide formal pedestrian priority pathways through car parking areas, leading to the shops via the laneway. The proposal is considered to remain consistent with the preferred direction identified in the Apollo Bay Settlement Boundary and Urban Design Review, presenting articulated facades and retaining a possible future pedestrian link to the rear.

The Colac and Apollo Bay Car Parking Strategy 2011 is directly relevant to the application and has been discussed in the report above.

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

This proposal raises no financial or resourcing implications for Council for the consideration of the planning application.

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

This proposal raises no risk management or compliance implications for Council.

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

The site currently contains an existing development at ground level which is being refurbished and sits at 4.4 metres AHD. The proposed extension at the first and second levels raises no major concerns in relation to climate change or future sea level rise.

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

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

#### **Conclusion**

The proposed development is considered to comply with the provisions of the Planning Scheme, including the Apollo Bay Structure Plan and DDO5. The planning provisions provide scope to consider a development that is contemporary in design, and that includes the use of modern elements such as glass and precast concrete. The development would have a significant presence in the streetscape, particularly as existing development nearby is low scale and of a different architectural style. However, it is considered that the Structure Plan and DDO5 anticipate changes to the existing streetscape character and give support for higher building forms. It is considered that the bulk, location, character and appearance of the proposed development would be in keeping with the preferred direction for future development within the Apollo Bay Town Centre. The proposal would maintain the preferred low scale coastal character and identity of Apollo Bay, assisting in consolidating the town centre whilst presenting a mixed use development that would be visually attractive.

Subject to appropriate permit conditions, which have been recommended within this report, it is considered that the impact on the amenity of surrounding and adjacent properties would be suitably controlled and enforceable by Council should the need arise.

It is not considered that building over the carriageway easement, at a height of 4.1m, would result in any potential loss of light or significantly impact on the amenity of the beneficiary.

Council's Infrastructure Department has considered the on-site and off-site loading and unloading provision, and has advised that this is considered to be acceptable. Whilst the development would not meet car parking requirements, it is considered the reduction proposed is acceptable having regard to the availability of parking in proximity to the site. Council is unable to require a cash-in-lieu contribution for car spaces not provided as Amendment C72 has not yet been gazetted to formally introduce this requirement into the Planning Scheme.

#### **Attachments**

Nil

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

***That Council Planning Committee resolve to issue a Notice of Decision to Grant Planning Permit PP165/2012 for the an extension of the building to create two additional floors, use of part of the first floor as a tavern, use of land to sell or consume liquor including provision of a General Licence and a Restaurant/Cafe Licence, variation of easements to limit the height and allow construction on carriageway easement (easement E1 on Lot 2 on Plan of Subdivision 309031T) and to relocate drainage easement (easement E2 on Lot 2 on Plan of Subdivision 309031T), reduction in car parking and loading/unloading requirements, waiver of bicycle requirements, and seven (7) lot subdivision at 111-117 Great Ocean Road, Apollo Bay subject to the following conditions:***

#### **Amended Plans**

- 1. Prior to certification of the plan of subdivision under the Subdivision Act 1988, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application, but modified to show:***
  - (a) The carriageway easement (shown as E1 on Lot 2 on Plan of Subdivision 309031T) and the relocated drainage easement (currently shown as E2 on Lot 2 on Plan of Subdivision 309031T) clearly depicted on the plan of subdivision.***
  
- 2. Prior to commencement of the development hereby permitted, 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) Details of the location, and operation, of lighting in the carriageway easement and rear parking area.***

- (b) *Details of waste management, including the location of bins towards the front of the site when awaiting collection from the Great Ocean Road.*
- (c) *An on-street loading plan, which must nominate the maximum sized service vehicle required by the development.*
- (d) *A revised Noise and Amenity Plan, updating the proposed hours of operation of the tavern and including details of the operation of a noise limiter to restrict noise levels from amplified equipment in the tavern to the level specified in the Acoustic Assessment Report undertaken by Acoustic Advisory & Consulting Services Reference 13109 dated 25 March 2013.*

## **DEVELOPMENT AND USE CONDITIONS**

### **Endorsed Plans**

- 3. *The use and development as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.*
- 4. *The area in which liquor is allowed to be consumed or supplied under a licence hereby permitted must not be altered without the written consent of the Responsible Authority.*

### **Tavern Use**

- 5. *Unless otherwise approved in writing by the Responsible Authority, the tavern hereby permitted must only be open to customers between the hours of 10:00am to 1:00am Monday to Sunday.*
- 6. *No more than 153 patrons may be present in the tavern at any one time unless otherwise approved in writing by the Responsible Authority.*

### **Noise Mitigation**

- 7. *The tavern and restaurant must be constructed in accordance with the recommendations of the Acoustic Assessment Report undertaken by Acoustic Advisory & Consulting Services Reference 13109 dated 25 March 2013.*
- 8. *Unless otherwise agreed in writing by the Responsible Authority, the operator of the venue must adhere to the 'Code of Practice for Control of Noise in the Music Entertainment Industry 2003' and noise from music in the tavern must conform with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.*
- 9. *No external sound amplification equipment or loudspeakers shall be used for the purpose of announcement, broadcast, playing of music or similar purpose.*
- 10. *Unless otherwise approved by the Responsible Authority, there must be no live music in the restaurant premises at any time.*

11. *The external first floor deck to the front of the restaurant and tavern hereby permitted must not be used by customers beyond 10pm on any given day, with the first floor front doors to the external deck closed by 10pm and customers prevented from using the deck, unless with the prior written consent of the Responsible Authority.*
12. *All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and must be connected to a security service.*
13. *All external plant and equipment must be acoustically treated or placed in soundproofed housing to reduce noise to a level satisfactory to the Responsible Authority.*
14. *The premises must operate in accordance with the endorsed Noise and Amenity Plan, to the satisfaction of the Responsible Authority.*

#### **General Amenity**

15. *The lighting of the carriageway easement and rear parking area must be carried out in accordance with the details shown on the endorsed plans, to the satisfaction of the Responsible Authority.*
16. *External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.*
17. *The amenity of the area must not be detrimentally affected by the use or development through the:*
  - a) *Transport of materials, goods or commodities to or from the land;*
  - b) *Appearance of any building, works or materials;*
  - c) *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;*
  - d) *Presence of vermin;*

*to the satisfaction of the Responsible Authority.*

#### **Drainage**

18. *All runoff from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.*
19. *Prior to the commencement of the development hereby permitted, a stormwater detention system designed by a qualified engineer must be submitted to and approved by the Responsible Authority. The design must provide for a maximum site discharge rate of 64 litres per second per hectare during the 10 year storm (10% AEP). Once approved, the plan will form part of the permit.*
20. *The footings within the drainage easement must be designed and built so that no damage is caused to existing infrastructure within the easement.*

### **Parking, Loading/Unloading and Access**

21. ***Prior to the commencement of the development hereby permitted, turning templates must be submitted to the Responsible Authority for review and endorsement. The turning templates must show how each car park space is to be accessed in both entering and exiting motions. The template must be the 85<sup>th</sup> percentile vehicle.***
22. ***Prior to the initial occupation of any part of the development hereby permitted, the area/s set aside for the parking of vehicles, loading/unloading, access lanes and external storage as shown on the endorsed plans must be:***
  - (a) ***Constructed;***
  - (b) ***Properly formed to such levels that they can be used in accordance with the plans;***
  - (c) ***Surfaced with asphalt;***
  - (d) ***Drained;***
  - (e) ***Line-marked to indicate each car space, the loading bay and all access lanes;***

***all to the satisfaction of the Responsible Authority.***
23. ***The on-site loading bay must be available, without obstruction, for the purpose of loading and unloading at all times.***
24. ***The loading and unloading of goods from service vehicles on site must only be carried out on the land within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land.***
25. ***All on street loading must occur before 9:00am on any given day between March to November each year, and before 10:00pm on any day during the months of December, January and February unless with the written consent of the Responsible Authority.***

### **VicRoads condition**

26. ***The landowner must enter into a licence agreement with VicRoads for the proposed use of a stratum of the (Great Ocean Road) arterial road reserve (land) prior to the commencement of any works within the (Great Ocean Road) arterial road reserve.***

### **SUBDIVISION CONDITIONS**

#### **Endorsed Plans**

27. ***The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

### Easements

28. *Prior to the certification of the plan of subdivision under the Subdivision Act 1988, all easements deemed necessary to protect existing or future drainage lines within the subject site, and any easements required between the subject site and the nominated legal point of discharge, must be created to the satisfaction of the Responsible Authority.*
29. *Plans lodged for certification pursuant to the provisions of the Subdivision Act 1988, as amended, must include a restriction on a separate sheet which nominates a minimum height clearance of 4.1m over the carriageway easement, to the satisfaction of the Responsible Authority.*

### Open Space Contribution

30. *Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, the applicant or owner must pay to the Responsible Authority a cash contribution equivalent to five per cent of the site value of all land in the subdivision.*

### Telecommunications

31. *The owner of the land must enter into an agreement with:*
  - *a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and*
  - *a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*
32. *Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:*
  - *a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and*
  - *a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*

## **Powercor Conditions**

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

**34. The applicant shall:**

- a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required.) In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- c) Any buildings must comply with the clearances required by the Electricity Safety (Network Assets) Regulations.**
- d) Any construction work must comply with Energy Safe Victoria's 'No Go Zone' rules.**
- e) Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**

**Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.**

- f) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan as easement(s) in favour of 'Powercor Australia Ltd' for 'Powerline Purposes' pursuant to Section 88 of the Electricity Industry Act 2000.**
- g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**

- i) Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.*
- j) Provide to Powercor Australia Ltd a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.*

### **Barwon Water conditions**

#### **General**

- 35. The owner shall create easements for Pipelines or Ancillary Purposes in Favour of Barwon Region Water Corporation over all existing and proposed sewers located within the subdivision. The width of these easements shall be 2.0m centrally located over existing 150mm VC sewer main.*
- 36. The certified plan must create implied easements under Section 12 (2) of the Subdivision Act, over all proposed existing water and sewerage works within the subdivision.*
- 37. The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.*
- 38. The creation of an Owners Corporation to encumber all lots within the subdivision.*

#### **Water**

- 39. The provision and installation of individual water services including meters to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all meters relative to the allotment boundaries, and their numbers is to be submitted.*
- 40. An additional tapping is to be supplied or the existing water service upgraded to service the proposed development. A dimensioned plan showing the location of all new and existing tappings relative to the allotment boundaries, and their numbers is to be submitted. Note that tappings and services are not to be located under existing or proposed driveways.*
- 41. The provision and installation of a master meter and sub meters are required to service to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. The applicant is to liaise with Barwon Water to ensure that all meters are located in an accessible and secure location. A dimensioned plan showing the location of all sub meters relative to the allotment boundaries and their numbers is to be submitted. Note that tappings and services are not to be located under existing or proposed driveways.*
- 42. The payment of New Customer Contributions for each additional lot created and/or each additional metered connection for water supply within the subdivision.*



- 43. Barwon Water's records indicate that an existing water service and meters are located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.**

**Sewer**

- 44. The provision of sewerage services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. Individual allotment house connection drains are to be provided for and extend into each allotment.**
- 45. The payment of New Customer Contributions for sewer for each additional lot created and/or each additional metered connection within the subdivision.**
- 46. The provision of a separate sewer connection branch to all lots within the subdivision and the replacement of the existing end of line with a Maintenance Shaft (MS)/Terminal Maintenance Shaft (TMS) in accordance with Barwon Water's requirements, Victorian Plumbing Regulations, and all relative statutory regulations. Note that sewer connection branches are to be provided by a Barwon Water approved confined space plumber and the MS/TMS constructed by an approved Barwon Water plumbing services contractor. A list of approved plumbers/ contractors can be provided upon request.**
- 47. A new Maintenance Shaft is to be installed over the existing sewer main termination point outside the south east boundary as per Barwon Water's Consent to Build over or within 1.0 metre from a sewer main. This consent is dated 17/10/2011 for the proposed verandah in Great Ocean Road.**

**Expiry**

- 48. This permit will expire if one of the following circumstances applies:**
- a) The development has not commenced within two (2) years of the date of this permit;**
  - b) The plan of subdivision has not been certified within two (2) years of the date of this permit;**
  - c) The development is not completed within four (4) years of the date of this permit;**
  - d) The use has not commenced within four (4) years of the date of this permit;**
  - e) A statement of compliance is not issued within five years of the date of certification.**

**The Responsible Authority may extend the periods referred to if a request is made in writing within three (3) months of the date of expiry.**

**Notes**

1. **VicRoads**  
*Prior to commencement of any works within the arterial road reserve, the landowner must obtain written consent from VicRoads for working in the road reserve, as required under the Road Management Act 2004.*
  
2. **Liquor Licence**  
*The provision and or consumption of liquor within the development hereby permitted may not commence until such time as a Liquor Licence has been issued, pursuant to the Liquor Control Reform Act 1988, as amended. This planning permit does not purport to prejudge the decision of the Victorian Commission for Gambling and Liquor Regulation on any such application, or the conditions that may be imposed by the VCGLR.*
  
3. **Barwon Water**  
*The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply and sewerage services to the subdivision. It would be appreciated if all communication between the developer/agent and Barwon Water quote Barwon Water reference number L007593.*
  
4. **Powercor**  
*It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued).*  
  
*Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.*
  
5. **Building Regulations**  
*This permit does not authorise the commencement of any building construction works. Prior to commencement of the development, it will be necessary to apply for and obtain any building approval(s) required.*

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