



**Colac Otway  
SHIRE**

**AGENDA**

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

**13 NOVEMBER 2013**

**at 10:30 AM**

**COPACC Meeting Rooms**

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings. Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

**COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING**

**13 NOVEMBER 2013**

**TABLE OF CONTENTS**

**OFFICERS' REPORTS**

<b>PC131311-1</b>	<b>PLANNING &amp; BUILDING STATISTICAL REPORT.....</b>	<b>5</b>
<b>PC131311-2</b>	<b>USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240 TUXION ROAD, APOLLO BAY (PP240/2012-1).....</b>	<b>13</b>
<b>PC131311-3</b>	<b>INCREASE CAPACITY OF RESTAURANT, REDUCTION OF CAR PARKING REQUIREMENT, INCREASE THE LICENSED AREA FOR SALE AND CONSUMPTION OF LIQUOR, AND BUILDINGS AND WORKS ASSOCIATED WITH THE CONVERSION OF AN OUTBUILDING INTO A DWELLING AT 16 GRANT STREET, FORREST (PP100/2013) .....</b>	<b>29</b>

NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in COPACC Meeting Rooms on 13 November 2013 at 10.30 am.

---

## **AGENDA**

### **1. OPENING PRAYER**

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

**AMEN**

### **2. PRESENT**

### **3. APOLOGIES**

### **4. MAYORAL STATEMENT**

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

Colac Otway Shire encourages 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.

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. 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 09/10/13.**

**Recommendation**

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

**OFFICERS' REPORTS**

**Sustainable Planning and Development**

- |            |   |
|------------|---|
| PC131311-1 | PLANNING & BUILDING STATISTICAL REPORT  |
| PC131311-2 | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240 TUXION ROAD, APOLLO BAY (PP240/2012-1).  |
| PC131311-3 | INCREASE CAPACITY OF RESTAURANT, REDUCTION OF CAR PARKING REQUIREMENT, INCREASE THE LICENSED AREA FOR SALE AND CONSUMPTION OF LIQUOR, AND BUILDINGS AND WORKS ASSOCIATED WITH THE CONVERSION OF AN OUTBUILDING INTO A DWELLING AT 16 GRANT STREET, FORREST (PP100/2013) |

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

**PC131311-1**

**PLANNING & BUILDING STATISTICAL REPORT**

AUTHOR:	Tammy Kavanagh	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	F11/2683

**Summary**

This report provides statistics relating to the month of October 2013.

**Planning Statistics**

25 Planning Permit Applications were received for the period 1 October 2013 – 31 October 2013.

40 Planning Permit Applications were considered for the period 1 October 2013 – 31 October 2013.

**Building Statistics**

The Victorian Building Authority data has been updated to August 2013.

**Attachments**

1. Planning and Building Statistical Report October 2013 0 Pages

**Recommendation(s)**

***That Council's Planning Committee take note of the statistical report for October 2013.***

~~~~~\) ~~~~~

PLANNING STATISTICAL REPORT – OCTOBER 2013 – (DETERMINATIONS)

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                              | PROPOSAL                                                                                                   | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY         |
|--------------------|---------------|---------------------------------------|------------------------------------------------------------------------------------------------------------|----------------|-----------------|-----------------------------------|
| PP266/2009-2       | 6 JUN 2013    | 100 BEAL STREET BIRREGURRA            | SIX (6) LOT SUBDIVISION                                                                                    | 71             | 01 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP63/2012-2        | 01 AUG 2013   | 89 RIFLE BUTTS ROAD COLAC             | DEVELOPMENT OF LAND FOR A DWELLING                                                                         | 51             | 09 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP83/2012-1        | 27 APR 2013   | 3812 COLAC LAVERS HILL ROAD FERGUSON  | PARTIAL USE OF BUILDING AS RESTAURANT AND ASSOCIATED WORKS AND WAIVER OF BICYCLE PARKING REQUIREMENT       | 2              | 09 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP99/2012-1        | 09 MAY 2012   | 340 SUNNYSIDE ROAD WONGARRA           | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND REMOVAL OF NATIVE VEGETATION                            | 126            | 16 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP139/2012-1       | 25 JUN 2012   | 62 HARRIS ROAD ELLIMINYT              | SUBDIVISION OF LAND INTO THREE (3) LOTS                                                                    | 452            | 21 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP201/2012-1       | 17 SEP 2012   | 15 KARINGAL DRIVE WYE RIVER           | CONSTRUCTION OF A SINGLE DWELLING AND REMOVAL OF TWO (2) TREES                                             | 122            | 17 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP247/2012-1       | 22 NOV 2012   | 17 KOONYA AVENUE WYE RIVER            | CONSTRUCTION OF A DWELLING AND REMOVAL OF ONE (1) TREE                                                     | 27             | 01 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP3/2013-1         | 02 JAN 2013   | 140 PENNYROYAL WYMBOLIEL ROAD MURROON | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, CONSTRUCTION OF AGRICULTURAL BUILDING AND ASSOCIATED WORKS | 65             | 18 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP71/2013-1        | 08 APR 2013   | 90 BAYNES ROAD ALVIE                  | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND ASSOCIATED WORKS                                        | 90             | 01 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP73/2013-1        | 08 APR 2013   | 15 MAXWELL ROAD KAWARREN              | CONSTRUCTION OF A DAM                                                                                      | 148            | 10 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP93/2013-1        | 03 MAY 2013   | 85 STRACHAN STREET BIRREGURRA         | USE AND DEVELOPMENT OF A THIRD DWELLING                                                                    | 96             | 03 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP94/2013-1        | 09 MAY 2013   | 147 AIRE SETTLEMENT ROAD JOHANNA      | USE OF THE LAND FOR TWO (2) DWELLINGS AND BUILDINGS AND WORKS COMPRISING BALUSTRADES AND EXTERNAL STEPS    | 118            | 21 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |
| PP107/2013-1       | 17 MAY 2013   | 65 COLLYERS ROAD WARNCOORT            | TWO (2) LOT SUBDIVISION (EXCISION OF EXISTING DWELLINGS)                                                   | 81             | 01 OCT 2013     | PERMIT REFUSED<br><i>DELEGATE</i> |
| PP114/2013-1       | 18 MAY 2013   | 23 GREAT OCEAN ROAD SKENES CREEK      | EXTENSIONS AND ALTERATIONS TO DWELLING AND CREATION OF ACCESS TO ROAD                                      | 91             | 09 OCT 2013     | PERMIT ISSUED<br><i>DELEGATE</i>  |

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                | PROPOSAL                                                                                                                             | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY        |
|--------------------|---------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|----------------------------------|
| PP123/2013-1       | 28 MAY 2013   | 86 MURRAY STREET COLAC                  | USE OF LAND TO SELL OR CONSUME LIQOR UNDER RESTAURANT AND CAFÉ LIQOR LICENCE                                                         | 45             | 21 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP131/2013-1       | 11 JUN 2013   | 2-14 DALTON STREET COLAC EAST           | BUILDINGS AND WORKS COMPRISING EXTENSION TO INDUSTRIAL BUILDING AND ASSOCIATED WORKS                                                 | 50             | 14 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP134/2013-1       | 14 JUN 2013   | 1/27-29 VISTA AVENUE SKENES CREEK       | BUILDINGS AND WORKS COMPRISING EXTENSION AND ALTERATIONS TO DWELLING                                                                 | 61             | 21 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP138/2013-1       | 18 JUN 2013   | 895 CARPENDEIT BUNGADOR ROAD SWAN MARSH | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A REPLACEMENT EMERGENCY SERVICES FACILITY (FIRE STATION) AND ASSOCIATED WORKS     | 80             | 11 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP142/2013-1       | 24 JUN 2013   | 80 MAIN STREET BIRREGURRA               | SUBDIVISION OF THE LAND INTO TWO (2) LOTS AND CREATION OF ACCESS TO A ROAD IN A ROAD ZONE CATEGORY 1                                 | 119            | 29 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP143/2013-1       | 25 JUN 2013   | 160 BIRREGURRA YEODENE ROAD YEODENE     | BUILDINGS AND WORKS COMPRISING EXTENSION TO DWELLING                                                                                 | 62             | 14 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP145/2013-1       | 26 JUN 2013   | 110-116 MURRAY STREET COLAC             | DISPLAY OF TWO (2) BUSINESS IDENTIFICATION SIGNS (ONE INTERNALLY ILLUMINATED)                                                        | 75             | 28 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP148/2013         | 1 JUL 2013    | 245 MURRAY STREET COLAC                 | BUILDINGS AND WORKS COMPRISING EXTENSION TO REAR OF SHOP                                                                             | 72             | 23 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP158/2013-1       | 15 JUL 2013   | 1/2 & 2/2 SEYMOUR CRESCENT APOLLO BAY   | TWO (2) LOT SUBDIVISION                                                                                                              | 3              | 28 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP163/2013-1       | 17 JUL 2013   | 2 ADRIAN STREET COLAC                   | TWO (2) LOT SUBDIVISION (BOUNDARY REALIGNMENT)                                                                                       | 90             | 17 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP165/2013-1       | 19 JUL 2013   | 2705 COLAC FORREST ROAD FORREST         | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING                                                                                       | 64             | 24 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP168/2013-1       | 23 JUL 2013   | 90 BIRREGURRA YEODENE ROAD YEODENE      | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING ASSOCIATED WITH THE EXISTING DWELLING AND FOUR (4) RAINWATER TANKS | 44             | 03 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP175/2013-1       | 2 AUG 2013    | 2480 TIMBOON COLAC ROAD IRREWILLIPE     | BUILDINGS AND WORKS COMPRISING SAFETY FENCING AROUND CRICKET PRACTICE PITCH                                                          | 40             | 08 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP193/2013-1       | 20 AUG 2013   | 50 BEATTIE LANE WONGARRA                | BUILDINGS AND WORKS COMPRISING EXTENSIONS TO DWELLING                                                                                | 59             | 18 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP197/2013-1       | 26 AUG 2013   | 32 PANORAMA CRESCENT MARENGO            | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF DECK                                                                                  | 17             | 31 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                                            | PROPOSAL                                                                                                                               | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY             |
|--------------------|---------------|-----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|---------------------------------------|
| PP205/2013-1       | 2 SEPT 2013   | 224-236 MURRAY STREET COLAC                         | DEVELOP LAND FOR OFFICE/RETAIL USE, SIGNAGE, CONSTRUCT A BUILDING, REDUCTION IN CAR PARKING, TWO (2) LOT SUBDIVISION AND CONSOLIDATION | 35             | 09 OCT 2013     | PERMIT ISSUED<br><b>COUNCIL</b>       |
| PP208/2013-1       | 4 SEPT 2013   | ROAD RESERVE ADJACENT TO 22 MAIN STREET BIRREGURRA  | REMOVAL OF ONE (1) TREE                                                                                                                | 56             | 31 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| PP209/2013-1       | 4 SEPT 2013   | ROAD RESERVE ADJACENT TO 14 HESSE STREET COLAC      | REMOVAL OF ONE (1) TREE                                                                                                                | 56             | 31 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| PP226/2013-1       | 1 OCT 2012    | 310 BARRYS ROAD BARONGAROOK WEST                    | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF AGRICULTURAL BUILDING                                                                   | 18             | 18 OCT 2013     | PERMIT ISSUED<br><b>DELEGATE</b>      |
| PP149/2012-1       | 11 JULY 2012  | 33 VISTA AVENUE SKENES CREEK                        | BUILDINGS AND WORKS COMPRISING EXTENSIONS TO AN EXISTING DWELLING                                                                      | 70             | 9 OCT 2013      | NOTICE OF DECISION<br><b>DELEGATE</b> |
| PP184/2013-1       | 13 AUG 2013   | 118-134 HEARN STREET COLAC & 175 QUEEN STREET COLAC | BUILDINGS AND WORKS COMPRISING EXTENSIONS AND ALTERATIONS TO THE EXISTING MINOR SPORTS AND RECREATION FACILITY                         | 35             | 9 OCT 2013      | PERMIT ISSUED<br><b>COUNCIL</b>       |

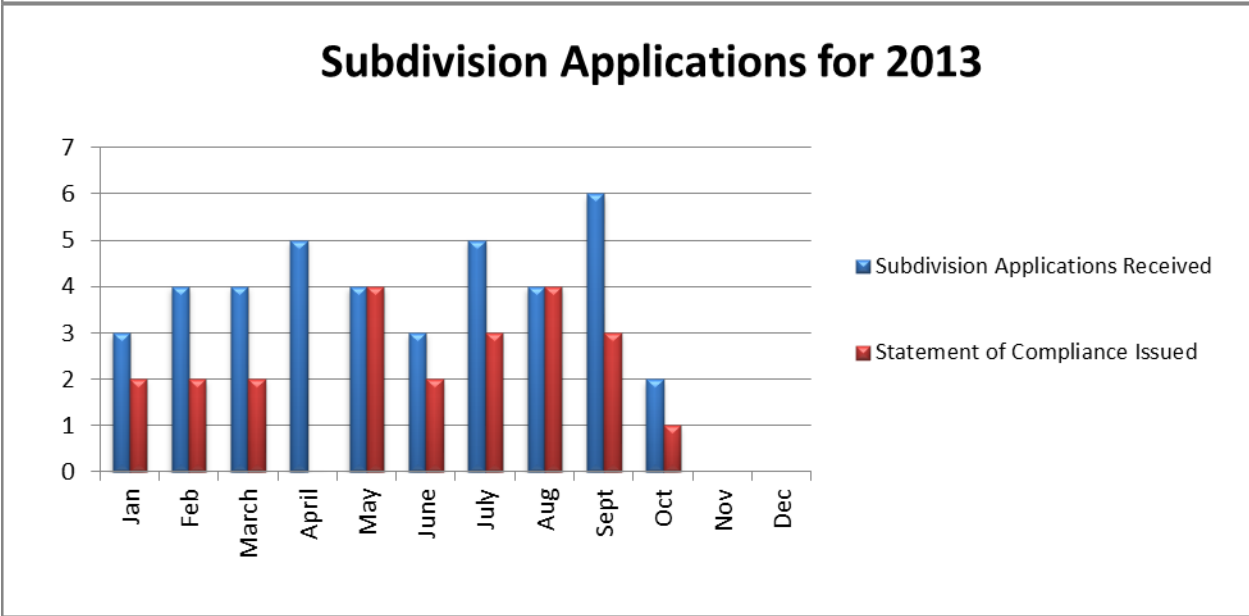
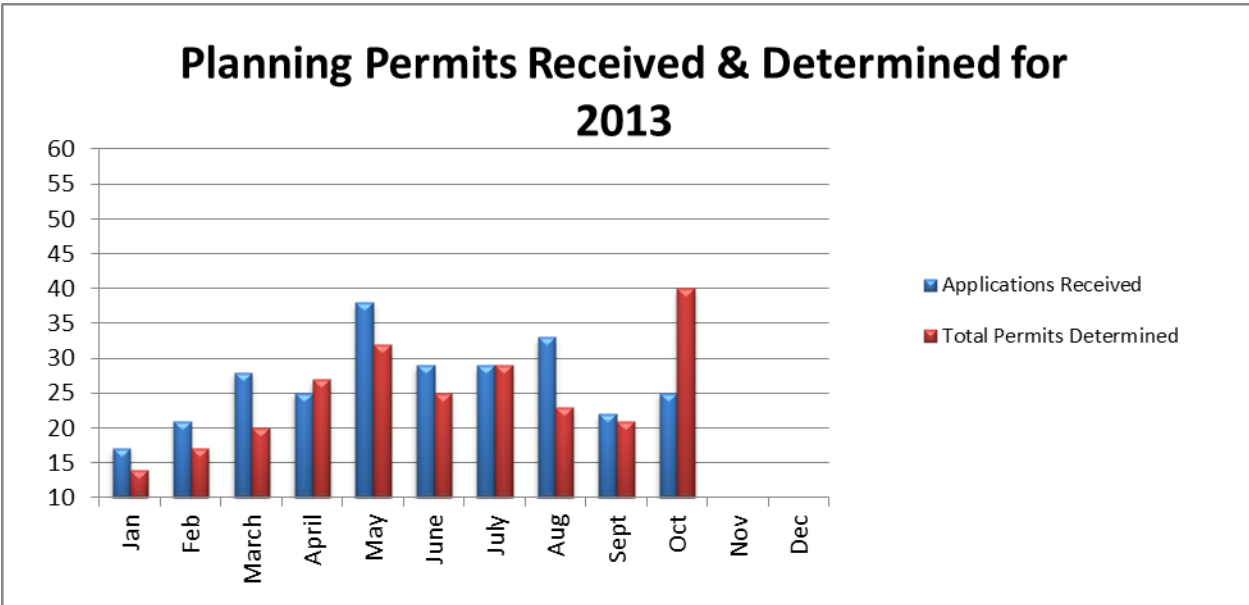
AVERAGE STATUTORY DAYS TO DETERMINE PLANNING APPLICATIONS

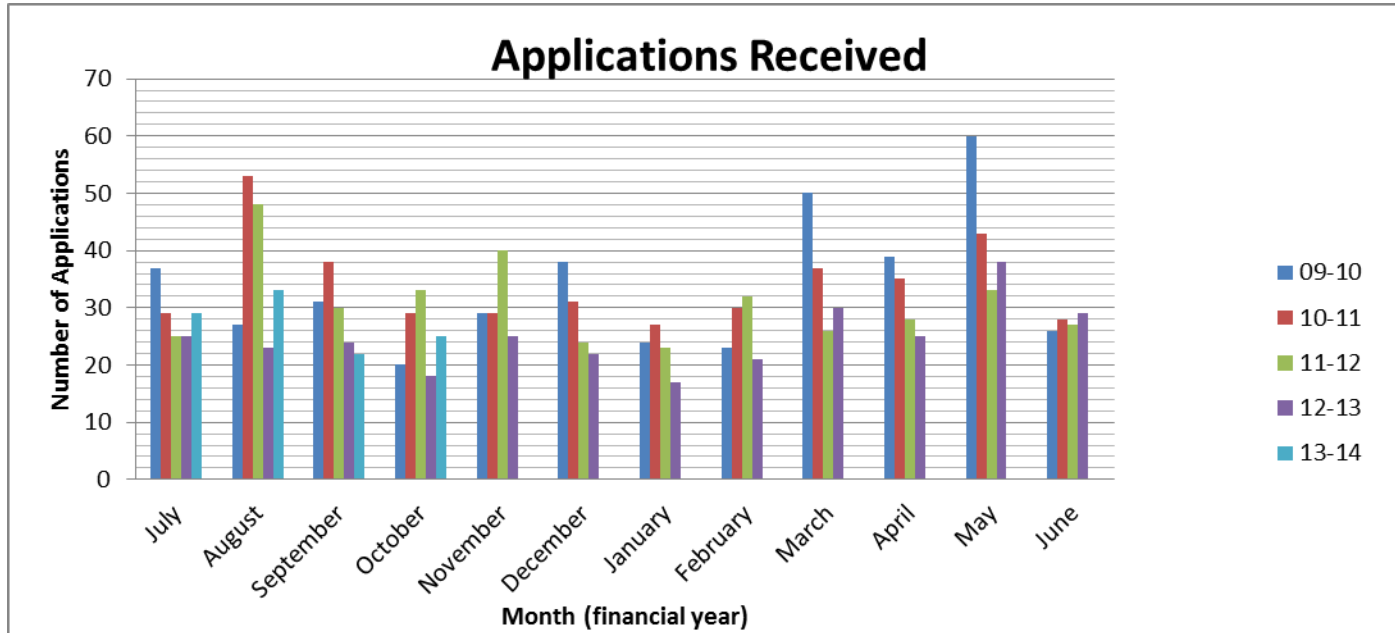
77

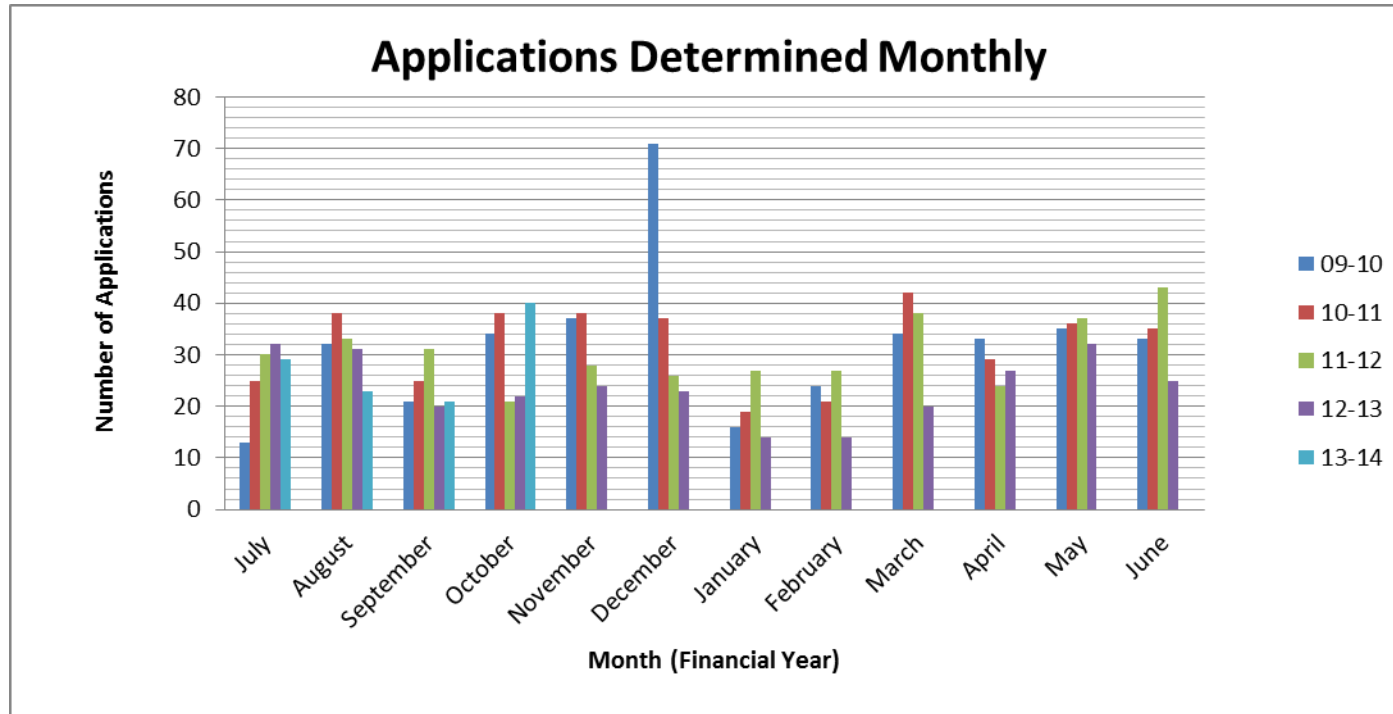
**PLANNING STATISTICAL REPORT – AUGUST 2013 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

| APPLICATION NUMBER                              | DATE RECEIVED | LOCATION                             | PROPOSAL                                                                   | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY |
|-------------------------------------------------|---------------|--------------------------------------|----------------------------------------------------------------------------|----------------|-----------------|---------------------------|
| PP244/2012-1                                    | 20 NOV 2012   | 3813 COLAC LAVERS HILL ROAD FERGUSON | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND ASSOCIATED OUTBUILDINGS | 223            | 01 OCT 2013     | WITHDRAWN                 |
| PP109/2013-1                                    | 20 MAY 2013   | 365 AIREYS STREET ELLIMINYT          | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF AN OUTBUILDING          | 98             | 04 OCT 2013     | WITHDRAWN                 |
| PP203/2013-1                                    | 30 AUG 2013   | 30 ROADKNIGHT STREET BIRREGURRA      | CONSTRUCTION OF DWELLING AND ASSOCIATED WORKS                              | 0              | 15 OCT 2013     | WITHDRAWN                 |
| PP150/2013                                      | 2 JUL 2013    | 1 KEMP STREET COLAC                  | TWO (2) LOT SUBDIVISION                                                    | 0              | 01 OCT 2013     | LAPSED                    |
| PP153/2013-1                                    | 9 JUL 2013    | 51-53 MANIFOLD STREET COLAC          | REMOVE ONE (1) TREE                                                        | 0              | 02 OCT 2013     | LAPSED                    |
| TOTAL AVERAGE STATUTORY DAYS (ALL APPLICATIONS) |               |                                      |                                                                            | 75             |                 |                           |





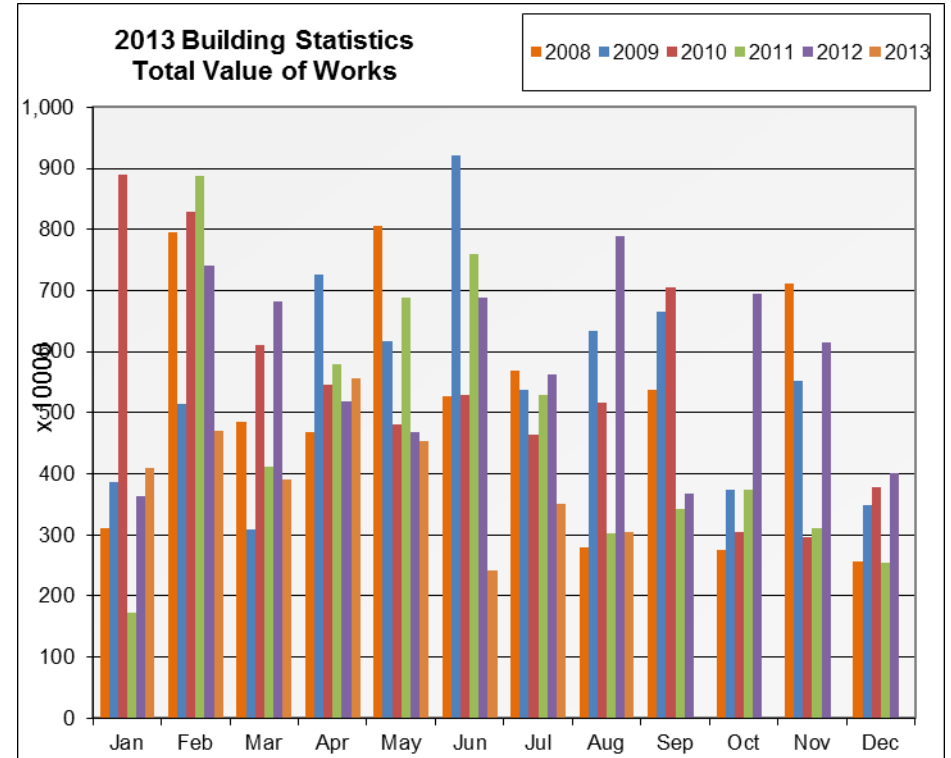
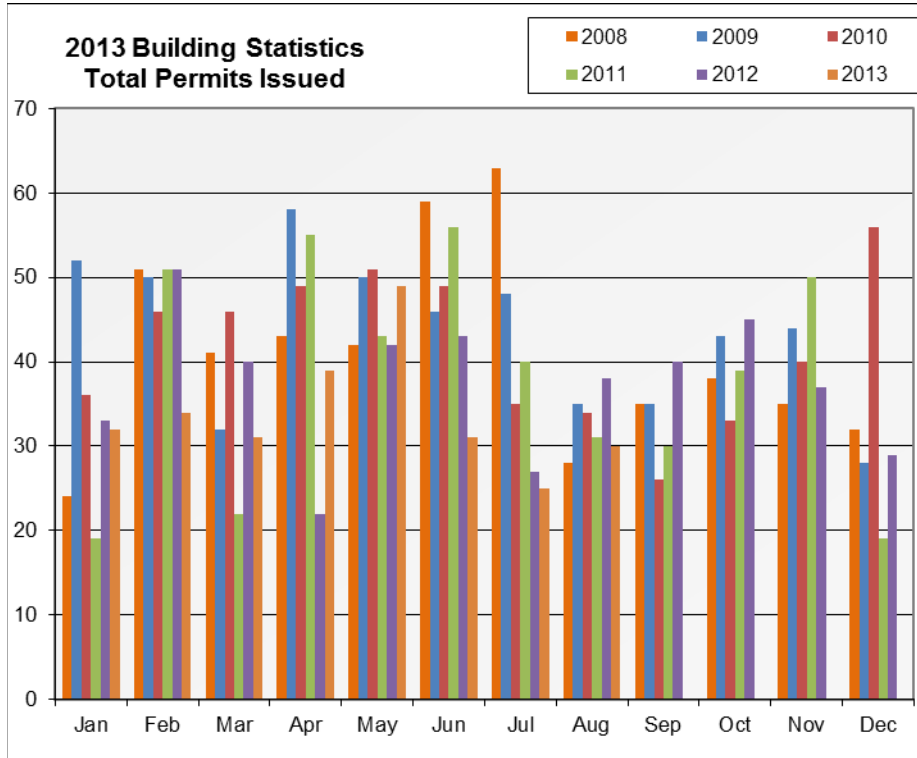




|     | Domestic |            | Residential* |            | Commercial |            | Retail   |            | Industrial |            | Hospital/HealthCare |            | Public Buildings |            | Municipal Totals |            |
|-----|----------|------------|--------------|------------|------------|------------|----------|------------|------------|------------|---------------------|------------|------------------|------------|------------------|------------|
|     | 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 | 31       | 3,658,781  | 1            | 1,400,419  | 3          | 256,200    | 1        | 29,000     | 1          | 150,000    | 0                   | 0          | 2                | 61,400     | 39               | 5,555,800  |
| May | 38       | 3,559,921  | 2            | 463,410    | 6          | 228,823    | 0        | 0          | 0          | 0          | 0                   | 0          | 3                | 290,000    | 49               | 4,542,154  |
| Jun | 20       | 1,578,822  | 2            | 353,483    | 6          | 214,810    | 2        | 246,420    | 0          | 0          | 0                   | 0          | 1                | 30,000     | 31               | 2,423,535  |
| Jul | 21       | 2,399,630  | 1            | 55,000     | 3          | 1,060,000  | 0        | 0          | 0          | 0          | 0                   | 0          | 0                | 0          | 25               | 3,514,630  |
| Aug | 24       | 2,822,638  | 0            | 0          | 4          | 108,579    | 0        | 0          | 1          | 120,000    | 0                   | 0          | 1                | 6,610      | 30               | 3,057,827  |

|               |     |            |   |           |    |           |   |         |   |         |   |   |    |         |     |            |
|---------------|-----|------------|---|-----------|----|-----------|---|---------|---|---------|---|---|----|---------|-----|------------|
| Sep           |     |            |   |           |    |           |   |         |   |         |   |   |    |         |     |            |
| Oct           |     |            |   |           |    |           |   |         |   |         |   |   |    |         |     |            |
| Nov           |     |            |   |           |    |           |   |         |   |         |   |   |    |         |     |            |
| Dec           |     |            |   |           |    |           |   |         |   |         |   |   |    |         |     |            |
| <b>Totals</b> | 212 | 25,251,017 | 7 | 2,553,241 | 31 | 2,499,854 | 5 | 346,420 | 4 | 459,745 | 0 | 0 | 12 | 683,825 | 271 | 31,794,102 |

\*Multi-Development



PC131311-2

**USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240 TUXION ROAD, APOLLO BAY (PP240/2012-1).**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Ian Williams                       | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F12/9612   |

**Location:** 240 Tuxion Road, Apollo Bay

**Zoning:** Rural Conservation Zone

**Overlay controls:** Erosion Management Overlay (EMO1)  
Bushfire Management Overlay (BMO)  
Significant Landscape Overlay (SLO3)

**Proposed Amendments:**

The site would be affected by proposed Amendment C70. An increase in coverage of the Environmental Significance Overlay (ESO4) over the northern and southern parts of the application site is proposed under this Amendment. The car parking area, the end of the driveway and part of the dwelling would be within one section of the proposed ESO4. The Amendment relates to areas and sites of biodiversity value that have been identified and mapped throughout the Colac Otway Shire by the Department of Environment and Primary Industries (formerly the Department of Sustainability and Environment - DSE). The Amendment proposes to update the mapping for biodiversity values and assets across the Shire and the relevant overlays of the Colac Otway Planning Scheme relating to biodiversity protection and enhancement.

However, as the Amendment has not been approved, it is not considered to currently have sufficient weight to materially influence the decision on this application.

**Purpose**

This application seeks planning permission to use and develop the land for a dwelling and outbuilding. Significant site cut is also proposed as part of the associated works.

Consideration of this application by the Planning Committee is required as the height of the proposed development would be above 8m.

**Declaration of Interests**

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

**Summary**

The application was deferred at the Planning Committee meeting held on 9 October 2013 by request of the applicant.

A site inspection was subsequently conducted on the 6 November 2003 with Councillors, the owner, the applicant and Council officers, to discuss the issues around the application, with particular reference to its prominence on the landscape.

- Planning permission is sought to use and develop the land for a dwelling and outbuilding, together with associated works including significant site cut of up to approximately 4m.
- The site is located within the Rural Conservation Zone and is subject to the Erosion Management Overlay (EMO1), Bushfire Management Overlay (BMO) and Significant Landscape Overlay (SLO3).
- The CFA has not objected to the application, subject to the inclusion of conditions on any permit issued.
- Public notice of the application was given and one objection was received. The objection was on the grounds that the proposed shed would be likely to be used as a dwelling.
- The key issues in this case relate to the potential impact of the proposed development on the significant landscape of the area, having regard also to any potential environmental benefits that could be achieved at the site through appropriate management.
- On balance it is considered that the principle of a dwelling on this site is acceptable, however, it is considered that the design and bulk of the proposed dwelling, together with the solid built form of the proposed shed, would conflict with the purpose of the Rural Conservation Zone and dominate the natural landscape setting, being in contrast with the scenic beauty of the immediate area and the preferred character for the Apollo Bay Hills precinct.
- It is considered that the scale, bulk and design of the proposed development are inappropriate for this area, and that the development would be detrimental to the coastal hills of Apollo Bay. The proposed development would lack integration with the landscape character and would be detrimental to the non urban landscape.

### **Background**

There are no previous planning permit applications on record for the subject site. The site is a vacant parcel of land.

### **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 this application are whether the design, scale and bulk of the proposed development would be consistent with the prevailing coastal landscape setting; whether the proposal is consistent with the purposes of the Rural Conservation Zone; and whether the proposal complies with the preferred direction as specified within the Apollo Bay Structure Plan.

### **Proposal**

Planning permission is sought for the construction of a two-storey dwelling and a shed at 240 Tuxion Road, Apollo Bay. As well as being a private dwelling, part of the proposed dwelling would be used as a bed and breakfast/guesthouse.

The description of development refers only to the dwelling, as 'outbuildings' are included within the definition of a 'dwelling' in the Planning Scheme and 'bed and breakfast' is a section 1 use for which a permit is not required.

The proposed dwelling would be located within the northern corner of the site, approximately 22.5m from the northern site boundary with Tuxion Road and approximately 44m from the western site boundary. The dwelling would be located at approximately 215m AHD (the adjacent section of Tuxion Road to the north is approximately 225-227m AHD). The proposed dwelling would have a total depth (north to south) of approximately 19m and a width (east to west) of approximately 28m. The maximum height of the dwelling would be 8.9m above natural ground level.

The main entrance to the dwelling would be located on the northern side, adjacent to a deck/verandah. On the upper floor plan, the dwelling would contain living and dining rooms and two bedrooms. A conservatory is proposed to the north eastern side of the dwelling and a large south facing balcony (4.0m by 12.3m) to the southern side. Access to the lower ground floor would be provided via an internal staircase located adjacent to the entry hall. The lower ground floor would contain a cellar, laundry and two guest bedrooms.

The north-west dwelling aspect would present towards Tuxion Road. This facade would be single-storey, with a slate grey roof, natural stone walls and timber sash windows. The conservatory would also be visible from the road and would be timber-framed. The height of the roof of the dwelling above natural ground level on the northern side would be approximately 6.2m. The southwest and southeast elevations would present as two-storey and would also be finished in natural stone with a slate roof. The height of the roof of the dwelling, excluding the chimney, would be approximately 7.6m. The chimney on the south west elevation would be to a height of approximately 8.9m above natural ground level.

The proposed shed would be located approximately 57m to the east of the proposed dwelling and 20m from the northern property boundary. The proposed shed would be approximately 22.2m wide and approximately 8m deep, with a height of approximately 8m. The shed would contain a garage, studio and workshop with wash basin and shower at ground floor level. The shed would also contain a sub-ground floor area, measuring 21.6m by 3.6m, which would be used as a store, and loft space 4.8m by 3.1m. The shed would be finished with timber barn doors, timber sash windows, synthetic grey slate tiles and stone walls in a style to match the proposed dwelling. The applicant has confirmed that the proposed shed would not be used for habitation purposes.

Access to the proposed dwelling and shed would be off Tuxion Road via a gravel driveway positioned on the northern side of the dwelling. The gravel access would be approximately 4m wide. Due to an existing drainage channel within the site, the proposal also includes the provision of a timber bridge (4.5m wide by 28m long by 3m high).

Three rainwater tanks are proposed to the southwest of the dwelling. The wastewater treatment system associated with the dwelling would be located to the south of the shed. The proposal does not require the removal of any vegetation.

The proposal requires approximately 4m of site cut for the dwelling, approximately 3m for the car parking area to the rear of the dwelling, approximately 2m for the shed and approximately 2.8m for the driveway.

### **Site & Surrounds**

The site is located approximately 3.5km from the Apollo Bay town centre. The site comprises one title, being an irregularly shaped parcel of land located on the south side of Tuxion Road. There are no restrictions on title. The site contains a vegetated gully through the central section and has a frontage of approximately 550m to Tuxion Road. The land slopes from north to south, with an approximate fall from 232.5m AHD in the north to 147.5m AHD in the south.

With the exception of the vegetated gully, the site does not contain any significant notable features. The absence of vegetation is in contrast to the land located to the east. The site is located within the Rural Conservation Zone and is set amongst existing rural properties used for agriculture, hobby farming and tourist accommodation.

The site forms part of the Apollo Bay Hills Precinct and is distinctive as a location where a number of different landscape elements intersect. The edges and interrelationships between these elements create a landscape setting of national significance. The 'preferred character' of this precinct is the retention of the dramatic intersection of landscape 'edges' which could be further emphasised by increasing indigenous planting for subtle emphasis. The site is not in an area of cultural heritage sensitivity.

### **Public Notice**

Public notice of the application was required in accordance with Section 52 of the *Planning and Environment Act 1987*.

The applicant undertook public notification by means of letters to adjoining and surrounding owners/occupiers, and by the display of a notice on the site. The applicant has provided a Statutory Declaration in relation to notification. It is considered that the advertising has been carried out in accordance with Council's requirements.

At the conclusion of the notification period, one objection had been received. The grounds of objection relate to the possibility that the proposed shed is likely to be used as a dwelling in the future.

### Comment

Within a response to the objection, the applicant has confirmed that the intended use of the shed is as a non-habitable outbuilding ancillary to the dwelling. The shed is intended for storage and other uses ancillary to the dwelling, and it is intended to use the garage area for storage of a vehicle and caravan. The studio/workshop would be used for antique furniture restoration work and storage, and the loft area used for painting and sculpting. The subfloor level would be used for general storage. The owner acknowledges that the shed is not typical in its construction but sees this as preferable to constructing a steel framed industrial/agricultural style shed in a visually prominent position.

Notwithstanding the comments of the applicant, it is also noted that an outbuilding ancillary to a dwelling cannot be used as a dwelling in its own right. Under the provisions of the Rural Conservation Zone, a dwelling is a section 2 (permit required) use and is subject to the condition that it is the only dwelling on the lot.

### **Referrals**

The application was referred to the Country Fire Authority (CFA) under Section 55 and the Department of Environment and Primary Industries (DEPI) under Section 52 of the Planning and Environment Act.

The application was also referred internally to Council's Infrastructure, Environment and Health departments.

The following is a summary of the responses received:

- The CFA has not objected to the application, subject to the inclusion of conditions should Council determine to issue a permit.



- The Department of Environment and Primary Industries (DEPI) has not responded to the referral. This was a s52 notification, rather than a s55 statutory referral, and DEPI has had more than 28 days to respond. It is therefore considered that a decision can reasonably be made without a response from DEPI.
- Council's Infrastructure Department has not objected to this proposal, subject to permit conditions.
- Council's Environment Department has reviewed the application and advised that the proposed re-vegetation would amount to approximately 50% of the land parcel and this re-vegetation would be concentrated within the gullies and along the boundaries. Stock exclusion fencing is also proposed for these areas.
- Council's Environment Department concludes that if these actions are coupled with appropriate weed control works, then there would be a significant net environmental benefit which would meet and even exceed the requirements of the zone. In view of this, Council's Environment Department raised no objection to the proposal subject to permit conditions, should Council consider the proposal acceptable.
- Council's Health Department has advised that the proposed location of the effluent field is considered to be unacceptable. The application has not adequately demonstrated that the location of the proposed effluent field would comply with EPA guidelines, which require effluent disposal fields to be at least 60 metres distant from a watercourse in the case of a primary treatment plant and at least 30 metres distant in the case of a septic system producing a 20ppm dissolved solids 300 ppm BOD. Should Council consider this application acceptable in principle, then a Land Capability Report would need to be required by permit condition.

### **Planning Controls**

The site is located within the Rural Conservation Zone and is subject to the Erosion Management Overlay (EMO1), Bushfire Management Overlay (BMO) and Significant Landscape Overlay (SLO3). A planning permit is required under the following clauses of the Colac Otway Planning Scheme:

- Clause 35.06-1 – Rural Conservation Zone – Use of the land for a dwelling.
- Clause 35.06-5 – Rural Conservation Zone – Buildings and works.
- Clause 42.03-2 – Significant Landscape Overlay – Buildings and works.
- Clause 44.01-1 – Erosion Management Overlay – Buildings and works.
- Clause 44.06-1 – Bushfire Management Overlay – Buildings and works associated with 'Accommodation'.

#### a) State and Local Planning Policy Frameworks

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

- Clause 11.05 – Regional Development
- Clause 12 – Environmental and Landscape Values
- Clause 13 – Environmental Risks
- Clause 19.03-2 – Water Supply, Sewerage and Drainage
- Clause 21.02 – Vision
- Clause 21.03 – Settlement

- Clause 21.04 – Environment
- Clause 21.04-8 – Landscape Character

The overview of the ‘Settlement’ section of the Municipal Strategic Statement (MSS) states that *“development of the major towns in the Shire should take place in accordance with the Structure Plans for Colac and Apollo Bay”*. The Apollo Bay Structure Plan was adopted by Council on 26 April 2007.

The Municipal Strategic Statement (MSS) - particularly clause 12.02-1 (Coastal Areas), clause 12.02-2 (Appropriate Development of Coastal Areas), clause 12.02-4 (Coastal Tourism), clause 12.02-6 (The Great Ocean Road Region), clause 21.03-1 (Settlement - General Overview), clause 12.04-2 (Landscapes) and clause 21.03-3 (Settlement – Apollo Bay and Marengo) - together with the Apollo Bay Structure Plan, outlines a number of strategies. Clause 12.02-6 is specific to the Great Ocean Road Region and seeks to ensure development responds to the identified landscape character of the area. Clause 12.04-2 seeks to protect landscapes and significant open spaces that contribute to character, identity and sustainable environments. Clause 12.02-4 seeks to ensure that a diverse range of accommodation options and coastal experiences are maintained and provided for, and that sites and facilities are accessible to all. Clause 12.02-4 also seeks to ensure that development is of an *“appropriate scale, use and intensity”* relative to its location and *“minimises impacts on the surrounding natural visual, environmental and coastal character”*.

The strategies seek to enhance coastal areas and ensure that future development takes place in a manner that responds to environmental constraints and protects the broader landscapes. The strategies seek to ensure development is sensitively sited and designed to respect the character of coastal settlements. The MSS identifies that rural residential living provides a desirable lifestyle for a number of residents and, if appropriately located, can reduce land use conflict in farming areas and contribute toward the economic development of small townships.

The MSS also recognises the Great Ocean Road coastline as one of the most spectacular in Australia and one which requires sensitive attention to maintain its visual qualities and physical features. The MSS seeks to ensure that the natural beauty of the area is reflected in new development and that the Otway foothills are protected as a scenic, undeveloped backdrop to Apollo Bay and Marengo.

#### Apollo Bay Structure Plan

The following principles have guided the preparation of the Apollo Bay Structure Plan (2007):

- *The natural beauty of the area, with its unspoilt beaches set against a dramatic backdrop of rolling hills, provides the overarching character which unites the settlements, and should be reflected in new development.*
- *Protect the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay, Marengo and Skenes Creek.*
- *Protect and enhance the significant views and vistas available from the settlements, the beach and the harbour, as well as the views available from key vantage points in the hills above the Study Area.*

The Structure Plan advises that future proposals should be measured against the principles to ensure that a positive contribution will be made to realising a vision for the area.

Great Ocean Road Region Landscape Assessment Study (GORRLAS)

The Great Ocean Road Region Landscape Assessment Study (GORRLAS - September 2003) underpins many of the recommendations of the Great Ocean Road Region Strategy and describes the landscape of the application site (Precinct 2.4) as:

*“...characterised by a backdrop of tall, steep rugged hills, at the foot of which is gently rolling land, sloping down to the coast. The wide sandy beach at Apollo Bay curves around to Wild Dog Creek, with grassy dunes and low bluffs behind.*

*The hills that encase the precinct are predominantly cleared with some remnant shrubby foothill and riparian forest vegetation. Numerous rivers and creeks incise the hills and run to the bay, which is vegetated with remnant coastal heathland scrub. This largely open, cleared precinct is surrounded by dense, wet eucalypt forest, providing a stark character contrast.”*

The study identifies this landscape as nationally significant which is due, in part, to the intersection of landscape elements, visibility and accessibility from the Great Ocean Road, and high visitation levels. The study adds that the landscape setting of the precinct outside townships is of national significance and warrants additional protection and management.

The foothills provide a natural backdrop to Apollo Bay and Skenes Creek and visually appear to set a limit to urban development, which is focused in the lower portion of the hill. The topography rises sharply behind each settlement, and creates a strong impression of the urban areas being subordinate to the landform. The GORRLAS acknowledges the significance of the foothills in defining the dramatic natural setting of the area, and acknowledges that rural-residential density or clustered cabin-style accommodation could impact on the naturalness of the setting and detract from the significance of the foothills.

The GORRLAS identifies that development above the 40-50 metre contour line is particularly visible, as it is at a point between these contour lines that the hill slope steepens substantially ('break of slope'), rising above the more gently sloping land down to the ocean (*Visibility From the Great Ocean Road Map - Appendix A and the Slope Analysis Map - Appendix B*). The GORRLAS adds that any development permitted above this height would need to adhere to strict guidelines to ensure it remains recessive in the landscape context.

b) Zone Provisions

The purpose of the **Rural Conservation Zone (RCZ)** is:

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

Under clause 35.06-2, the use of land for a dwelling must meet the following requirements:

- *Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.*
- *The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.*
- *The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.*
- *The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.*

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate the decision guidelines from the zone:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development.*
- *How the use or development conserves the values identified for the land in a schedule.*
- *Whether the use or development protects and enhances the environmental, agricultural and landscape qualities of the site and its surrounds.*
- *Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.*
- *The environmental capacity of the site to sustain the rural enterprise.*
- *The need to prepare an integrated land management plan.*
- *The impact on the existing and proposed infrastructure.*
- *Whether the use or development will have an adverse impact on surrounding land uses.*
- *An assessment of the likely environmental impact on the biodiversity and in particular the flora and fauna of the area.*
- *The protection and enhancement of the natural environment of the area, including the retention of vegetation and faunal habitats and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas.*
- *How the use and development relates to sustainable land management and the need to prepare an integrated land management plan which addresses the protection and enhancement of native vegetation and waterways, stabilisation of soil and pest plant and animal control.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*
- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*

- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.*
- *The location and design of existing and proposed infrastructure services which minimises the visual impact on the landscape.*
- *The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of roads and existing and proposed infrastructure services to minimise the visual impact on the landscape.*

Under clause 35.06-1, the use of the land for a dwelling (including outbuilding) is a Section 2 use that requires a permit. The use of the land as a 'Bed and Breakfast' is a Section 1 use (permit not required) within the Rural Conservation Zone provided the conditions associated with this use are met. The conditions state that no more than 6 persons may be accommodated away from their normal place of residence, and at least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence. (Two guest rooms are proposed within the dwelling, which would require two spaces - 4 parking spaces are proposed adjacent to the dwelling, which would cater for residents and guests.)

Under Clause 35.06-5 a permit is required to construct a building or carry out works associated with a use in Section 2 of Clause 35.06-1.

c) Overlay Provisions

The site is covered by the **Significant Landscape Overlay (SLO3)** - Apollo Bay Coastal Valley and Hills Precinct. The overlay identifies the key considerations in the determination of applications as follows:

- *To increase the use of indigenous vegetation to highlight natural features within the precinct.*
- *To consider the contrasts between landscape elements within the precinct.*
- *To ensure that development that occurs on hill faces or in other prominent locations is not highly visible and sensitively designed.*
- *To protect the clear sweeping views to and from the ocean available from the precinct.*
- *To consider the dominance of an indigenous natural landscape in coastal areas, between townships, particularly from the Great Ocean Road and avoid ribbon development.*
- *The conservation and enhancement of the landscape values of the area.*
- *The need to remove, destroy or lop vegetation to create defensible space to reduce the risk of bushfire to life and property.*
- *The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.*
- *The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.*
- *The impact of buildings and works on significant views.*
- *The overview, objectives and strategies at Clause 21.04-8.*

- *The 'Apollo Bay Coastal Valley and Hills Precinct Development Principles Incorporated Plan' from the Great Ocean Road Region Landscape Assessment Study at Clause 81.*

Under clause 42.03-2 of the Significant Landscape Overlay (SLO3), a permit is required to construct a building or construct or carry out works.

The site is also covered by the **Erosion Management Overlay** (EMO1). A key purpose of this overlay is:

- *To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.*

Under clause 44.01-1 a permit is required to construct a building or construct or carry out works.

In addition, the site is covered by the **Bushfire Management Overlay** (BMO). The key purpose of this overlay is as follows:

- *To assist to strengthen community resilience to bushfire.*
- *To identify areas where the bushfire hazard requires specified bushfire protection measures for subdivision and buildings and works to be implemented.*
- *To ensure that the location, design and construction of development considers the need to implement bushfire protection measures.*
- *To ensure development does not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.*

Under clause 44.06-1, a permit is required to construct a building or construct or carry out works associated with 'Accommodation'.

### **Consideration of the Proposal**

The application proposes the construction of a dwelling and a large outbuilding, with associated works including significant site cut of up to 4m.

The main considerations in this case are whether the bulk, scale and design of the dwelling would dominate the natural landscape setting or be in keeping with the natural scenic qualities of the immediate and surrounding area, and whether the use of the land for a dwelling would provide for such future on-site management opportunities to protect the environmental qualities of the site that this would warrant the grant of a planning permit.

#### Use of the land for a dwelling

Clause 35.06-2 sets out specific requirements for the use of land in the Rural Conservation Zone for a dwelling. These relate to access, sewerage, water supply and electricity supply.

The proposed access to the dwelling and shed would be via a 4m wide crushed rock driveway. The applicant has advised that grey water would be recycled for sanitary flushing and garden use, and water would be treated on-site via a domestic sewer treatment plant located to the south of the proposed shed.

Council's Health Department has reviewed the application and advised that the proposal does not adequately demonstrate that the location of the proposed effluent field would comply with EPA guidelines. Should Council consider this application acceptable in principle, then a Land Capability Report would need to be required by permit condition. Stormwater would be collected and stored on-site in rainwater tanks for domestic use, with all overflow water taken to a legal point of discharge.

The proposed dwelling would be connected to a reticulated electricity supply. Subject to the effluent issues being addressed, it is considered that the proposal could comply with the requirements of clause 35.06-2.

#### Environmental Considerations

The applicant has stated that the proposal would assist in providing for future on-site management opportunities to protect the environmental qualities of the site, which currently lacks any significant vegetation.

The applicant also considers that the proposed dwelling would not be detrimental to the environmental qualities of the site and would allow for future landscaping and a significant level of planting on site. The extent of proposed landscaping is shown on the submitted plans.

The size of the land parcel is not considered to be significant in terms of land within the Rural Conservation Zone. Consideration should therefore be given to whether the land is suitable for a dwelling and whether the proposal would result in an overall net gain to the landscape values.

It is considered that the substantial revegetation and management of the land proposed is a key consideration in determining whether Council should consider allowing the proposal. Should Council accept the use of the land for a dwelling, the revegetation of the land and the ongoing management would be controlled through permit conditions. It is noted that Council's Environment Department considered this application at an early stage, and has previously advised the applicant to explore how and where the site could be revegetated.

The Council's Environment Department has raised no objection to the proposal and advised that the re-vegetation would be a significant net environmental benefit which would meet and even exceed the requirements of the zone. It also advised that, should Council choose to allow this application, appropriate permit conditions would be required to ensure the protection and enhancement of the natural environment through a '*Land Management Plan*'. The Land Management Plan would assist in securing sustainable land management practices, the protection and enhancement of native vegetation and waterways, stabilisation of soil along Tuxion Road, and pest, plant and animal control.

It is considered that the proposed dwelling would be located a suitable distance from the existing vegetation stands to the west and would not have any impact or require any vegetation removal. The site exhibits little vegetation in comparison to adjacent lots to the east and south. As a result, it is considered that the proposal would present a significant opportunity for improved planting and revegetation on the lot as a whole. Landscaping proposed under this application would significantly improve the natural landscape character from surrounding properties and Tuxion Road; however this should not be the decisive factor as to whether a dwelling is considered to be acceptable.

In view of the potential benefits it is considered that the use of this land for a dwelling could potentially be allowed subject to an appropriate dwelling design and permit conditions requiring a '*Land Management Plan*', as it is considered that the net environmental benefits to the land as a result of the proposed re-vegetation would be a positive outcome.

#### Impact on the Landscape Setting

The applicant has advised that *"the proposed dwelling and shed have been designed to be reflective of 'Victorian architecture' and as such, the overall aesthetic beauty of the design complements the landscape backdrop whilst supporting economic development within the tourism sector of Apollo Bay"*. In support of the proposal, the applicant has identified other examples of solid brick dwellings at Nos. 165, 235 and 295 Tuxion Road.

The applicant has further advised that the roof height would be less than 8m, with the design presenting as a *“period home with architectural features, articulated facades presenting visual interest which in time will be softened by the natural landscape”*.

The purpose of the Rural Conservation Zone contains clear indications of the intent of the zone, and seeks to conserve and enhance the landscape and environmental values of the immediate and surrounding area.

It is considered that the design and bulk of the proposed dwelling, together with the solid built form of the proposed shed, would conflict with the purpose of the zone and dominate the natural landscape setting, being in contrast with the scenic beauty of the immediate area and the preferred character for the Apollo Bay Hills precinct. It is considered that the proposed development would be inappropriate for the coastal hills of Apollo Bay and would lack integration with the landscape character, being detrimental to the non urban landscape.

Given the potential impact resulting from the overall design, bulk and appearance of the proposed built form on the natural landscape features, officers advised the applicant of the need to minimise any adverse impacts of siting, design, height, bulk, colours and materials on the major roads and vistas and the natural scenic beauty of the immediate and surrounding area.

Officers encouraged the applicant to revise the design and present a dwelling with a lighter built form, comprising a mix of coastal materials and suitable natural colours. Following consideration of the issues raised by Council, the applicant provided amended plans (received on the 20 June 2013) reducing the width of the dwelling by 4.2m. However, this minor amendment is not considered sufficient to adequately reduce the visual impact of the structure on the natural landscape setting.

It is not considered that the built form of the proposed dwelling would be recessive in the landscape, or positively reflect the natural beauty of the surrounds. It is considered that the proposal would not make a positive contribution to the preferred vision for the area, detracting from the naturalness of the coastal setting and the significance of the surrounding foothills. As such, it is considered that the proposal is in conflict with the Apollo Bay Structure Plan, the GORRLAS, and the purpose and decision guidelines as set out in the Rural Conservation Zone and the preferred landscape character contained within the Significant Landscape Overlay Schedule 3.

#### View from Tuxion Road

The proposed dwelling would be located at approximately 215m AHD, with an approximate height of 8m (223m AHD). Tuxion Road wraps around the application site to the west and north. To the north of the site Tuxion Road is located at approximately 225-227m AHD and to the west it is at approximately 210m AHD. It is considered that a significant part of the dwelling and shed would be visible from Tuxion Road.

The applicant considers that a reduction in the proposed width of the dwelling by 4.2m would be sufficient to reduce the visual bulk on the natural landscape setting when viewed from the public realm.

The applicant has also advised that any visible impact from Tuxion Road would be negated by the overall height being less than 8m, by the location of the dwelling within a natural depression in the landscape and by the additional vegetation planting to soften the built form. The applicant adds that there would be no impact on Tuxion Road from the proposed development and that the proposal would maintain full uninterrupted views into Apollo Bay. Consideration has been given to the impact of the proposed dwelling when viewed from the public and private realm, notably adjacent dwellings and Tuxion Road.



The closest existing dwelling to the application site is located approximately 150m north-east of the proposed dwelling at No. 325 Tuxion Road. The dwelling at No. 325 Tuxion Road is located at approximately 240m AHD. Given that the roof of the dwelling would be located at approximately 223m AHD and the roof of the shed would be at approximately 235m AHD, it is considered that the height of the proposed dwelling and shed would not impact on any existing coastal views from nearby or adjacent dwellings, notably No. 325 Tuxion Road.

It is accepted that planting and landscaping would assist in screening and softening the built form; however overall it is considered that the bulk and mass of the dwelling would be significantly dominant within the context of the landscape setting and would be detrimental to the coastal character of the Apollo Bay foothills when viewed from Tuxion Road.

#### View from Great Ocean Road

The proposed location of the dwelling and shed would be approximately 2.2km from the Great Ocean Road. Under the requirements of this Significant Landscape Overlay (SLO3), the *'landscape character objective'* seeks to ensure that *"development that occurs on hill faces or in other prominent locations is not highly visible and has been sensitively designed to 'protect the clear sweeping views to and from the ocean available from the precinct'"*. The Apollo Bay Structure Plan (2007) also seeks to protect the natural beauty of the area and the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay and the Great Ocean Road.

In support of this application, the applicant has submitted visual impact assessments/photomontages to demonstrate the visual impact of the development within the context of the landscape setting from Tuxion Road and from the Great Ocean Road to the south.

As noted earlier, the Great Ocean Road Region Landscape Assessment Study identifies the landscape setting outside of the townships as being of National Significance and one that warrants additional protection and management. Given the scale, bulk, mass, materials and siting, the proposal is not considered to be of a low scale or present a development that is recessive in the landscape, being one which it is considered would be significantly visible and detrimental to scenic views from the Great Ocean Road.

#### Proposed Bridge

As part of the application, the applicant has proposed an elevated timber bridge to link the dwelling and the outbuilding. The timber bridge would be approximately 28m long and 4.5m wide elevated to a height of approximately 3m. The proposed bridge would be located at raised ground level, below the height of Tuxion Road. In terms of its design and location within the natural landscape setting, it is not considered that the proposed bridge would be detrimental to the coastal landscape setting of Apollo Bay. Council's Infrastructure Department has considered the proposed bridge and has not raised any objection.

#### Erosion Management Considerations

This application was received by Council on 24 October 2012. The transitional arrangements in the schedule to the Erosion Management Overlay state that any planning permit application that was lodged with Council prior to approval of Amendment C68 on 31 January 2013 does not need to meet the requirements of the new schedule. The transitional arrangements apply to this application.

The proposal requires approximately 3m of site cut for the length of the dwelling and car parking area to the northern side (approximately 17m), approximately 2m of site cut for the shed and approximately 2.8m of site cut for the driveway. In support of the application, the applicant has provided a preliminary Landslip Risk Assessment report dated 29 June 2011, reference 34617 by Saunders Consulting Group.

The report identifies that the site has a moderate risk of landslide and, as such, a full Landslip Risk Assessment Report for the site has been prepared. The applicant has submitted a Geotechnical Assessment Report dated August 2011 reference 34617-LRA. The report identifies that the risks of property damage are 'very low to moderate' and the risk of injury is 'tolerable' based on the guidelines published by the Australian Geometrics Society March 2007.

Following concerns raised by Council, an addendum report dated 17 June 2013 (reference 34617-A-LRA) has been submitted. The submitted report makes specific reference to the proposed double-storey stone veneer residence, stone shed, timber access-bridge and car parking area. The plans submitted with the application have been referenced within the addendum report. The report concludes that the risk of property damage is '*very low to moderate*' and the risk of injury is '*tolerable*' based on the guidelines published by the Australian Geomechanics Society March 2007. The submitted geotechnical report makes a number of recommendations that would reduce or maintain the likelihood and/or consequences of the conceivable landslide events below the recommended '*acceptable risk levels*'. As such, should Council choose to allow this application, these should be included as permit conditions.

#### Bushfire Considerations

The applicant has submitted a Bushfire Management Statement undertaken by 2020 Engineering Solutions, dated 8 October 2012 reference ES12156.1. The revised plans submitted by the applicant on 20 June 2013 include a turning bay area towards the northern side of the shed and it has been advised that the landscaping proposed has been designed to meet the recommendations of the Bushfire Management Report. The report has been considered by the CFA, which has not raised any objection to the proposal subject to the inclusion of permit conditions. Should Council choose to allow this application, these must be included as permit conditions.

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

##### **A Planned Future**

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

##### *Our Goal:*

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

#### **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 is currently a vacant parcel of land and sits at approximately 215m AHD and is separated from the coastal foreshore by the Great Ocean Road. The proposal 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**

It is not considered that the proposal accords with relevant State and local planning policies, which seek to ensure that development is of an appropriate scale, sensitively sited and designed, respects the coastal landscape character, maintains the visual qualities of the Great Ocean Road coastline, the natural beauty of the area and protects the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay and Marengo.

It is also considered that the built form of the proposed dwelling and shed would not be recessive in the landscape or positively reflect the natural beauty of the surrounds. It is considered that the proposal would not make a positive contribution to the preferred vision for the area, detracting from the naturalness of the coastal setting and the significance of the surrounding foothills. As such, it is considered that the proposal is in conflict with the Apollo Bay Structure Plan and the Great Ocean Road Region Landscape Assessment Study (GORRLAS - 2003) and the purpose and decision guidelines as set out in the Rural Conservation Zone and the preferred landscape character contained within the Significant Landscape Overlay Schedule 3. It is therefore recommended the application be refused.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee resolve to issue a Refusal to Grant a Planning Permit (PP240/2012-1) for the use and development of the land for a dwelling at 240 Tuxion Road, Apollo Bay on the following grounds:***

- 1. The proposed development, due to its scale, design and prominence, does not accord with relevant State and local planning policies, which seek to ensure that development is of an appropriate scale, sensitively sited and designed, respects the coastal landscape character, maintains the visual qualities of the Great Ocean Road coastline, the natural beauty of the area and protects the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay and Marengo. As such, the proposal is contrary to clauses 12.02-1, 12.02-2, 12.02-6, 12.04-2, 21.03-1, 21.03-3 and 65 of the Colac Otway Planning Scheme.***
- 2. The proposed development does not accord with the purpose and relevant decision guidelines of the Rural Conservation Zone, set out in Clause 35.06 and the Significant Landscape Overlay Schedule 3 of the Planning Scheme, given that:***
  - It has not been adequately demonstrated that the proposed dwelling and outbuilding would conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.***
  - The proposal would not minimise the adverse impacts of siting, design, height, bulk, and colours and materials.***
- 3. The proposed development does not accord with Council's adopted Apollo Bay Structure Plan, which seeks to ensure that proposals make a positive contribution to realising a vision for the area whilst protecting the Otway foothills as a scenic, undeveloped backdrop to Apollo Bay.***

- 4. The proposed development, due to its scale and design, would not be recessive in the landscape or positively reflect the natural beauty of the surrounds and does not accord with the Great Ocean Road Region Landscape Assessment Study (GORRLAS - 2003) which identifies the landscape as nationally significant and acknowledges that rural-residential development can impact on the naturalness of the setting and detract from the significance of the foothills.**
  
- 5. The proposal does not adequately demonstrate that the location of the proposed effluent field would comply with Environmental Protection Authority Guidelines.**

~~~~~U~~~~~

PC131311-3

**INCREASE CAPACITY OF RESTAURANT, REDUCTION OF CAR PARKING REQUIREMENT, INCREASE THE LICENSED AREA FOR SALE AND CONSUMPTION OF LIQUOR, AND BUILDINGS AND WORKS ASSOCIATED WITH THE CONVERSION OF AN OUTBUILDING INTO A DWELLING AT 16 GRANT STREET, FORREST (PP100/2013)**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Carl Menze                         | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F13/3913   |

**Location:** 16 Grant Street, Forrest

**Zoning:** Township Zone (TZ)  
Adjacent Road Zone Category 1

**Overlay controls:** Erosion Management Overlay Schedule 1 (EMO1)  
Bushfire Management Overlay (BMO)

**Proposed Amendments:** Nil

**Purpose:**

This application seeks a planning permit to increase the capacity of the existing restaurant at the Forrest Guesthouse to 60 seats, to reduce the car parking requirement from that specified in the Planning Scheme, to increase the licenced area for the sale and consumption of liquor, and to carry out buildings and works associated with the conversion of an existing outbuilding into a dwelling.

The application is before Council for consideration as the proposal seeks a reduction in the car parking requirement.

It is recommended that a planning permit be issued, subject to conditions.

**Declaration of Interests**

The Manager of Planning and Building has declared an interest in this application as he is an acquaintance of the permit applicants. The Manager has therefore not been involved in the processing of this application.

**Summary**

- The application site currently contains a 30 seat restaurant, 7 bedroom guesthouse, manager's accommodation and a detached garage.
- This application seeks a planning permit to increase the number of patrons allowed from 30 to 60, to reduce the car parking requirement from that specified in the Planning Scheme by 12 spaces, to increase the licenced area for the sale and consumption of liquor to include the garden area and forecourt, and to carry out buildings and works associated with the conversion of the existing garage into a three bedroom dwelling.

- The key considerations in this case are the parking implications, and the potential impacts on the amenity of adjacent properties and the area as a whole that could result from the increased licenced area of the proposal and the increased capacity of the premises.
- It is considered that, given the nature of the use and the availability of on-street parking in the vicinity of the site, the reduction in the car parking requirements would be acceptable and that any potential impacts from the proposal would not cause material detriment to any persons.
- It is considered that the expanded restaurant use would be beneficial to the town from a social and economic perspective, and that any potential impacts on the amenity of neighbours could be appropriately ameliorated through permit conditions.
- The proposed buildings and works associated with the dwelling conversion would be acceptable in terms of the streetscape and character of the area.
- Public notification of the application was undertaken, with no objections being received.
- Given the above, it is recommended a permit be issued subject to conditions.

### **Background**

The land has been subject to several planning permit applications in the past. Of most relevance to the current proposal are the following applications:

Planning permit PPA175, which was issued on 17 November 1998. That permit allowed:

- Use and development of the land for a twenty seat restaurant.
- On Premises Liquor Licence.

Most recently, planning permit PP107/05 was issued on the 22 July 2005. This permit allowed:

- The waiver of fourteen (14) on-site car parking spaces.
- An increase in the restaurant capacity to a maximum of thirty (30) seats.
- Use of the forecourt of the building for restaurant seating.
- The construction of additions and alterations to the existing guesthouse building.
- Use and development of a retail shop.

PP107/05 essentially allowed for the expansion of the restaurant use that was approved under planning permit PPA175. The retail shop allowed by this permit does not exist on site.

The applicant has advised that the existing restaurant/café currently functions as follows:

*“The café is open each day, except Thursdays, from 10.00am to 4.00pm. We also provide evening meals on request (principally for in-house guests). Our liquor license allows us to serve alcohol at the following times:*

|                                  |                                 |
|----------------------------------|---------------------------------|
| <i>Sunday</i>                    | <i>Between 10am and 11pm</i>    |
| <i>Good Friday and Anzac Day</i> | <i>Between 12 noon and 11pm</i> |
| <i>On any other day</i>          | <i>Between 7am and 11pm</i>     |

## Issues / Options

Council has the options of:

- a) Supporting the application by issuing a planning permit subject to conditions;
- b) Supporting the application with changes;
- c) Refusing to grant a permit.

The key issues are whether the proposed intensified use of the land would cause material detriment to any persons, having regard to matters such as potential increased activity in the area and the parking implications.

It is recommended that Option (a) is supported.

## Proposal

As noted above, this application has a number of elements. A permit is sought to:

- Increase the capacity of the restaurant from 30 to 60 patrons;
- Reduce the car parking requirement by 12 spaces;
- Increase the licenced area for the sale and consumption of liquor to include the garden and forecourt areas;
- Convert an existing outbuilding adjacent to the southern boundary of the site into a three (3) bedroom dwelling.

The applicant has advised that the main purpose of the proposed increase in patron numbers is to allow for weddings and other similar functions to occur from the premises.

The existing hours of operation, as stipulated on the current liquor licence, are not proposed to be altered. The hours of operation are:

|                  |                           |
|------------------|---------------------------|
| Sunday           | Between 10 am and 11 pm   |
| Good Friday      | Between 12 noon and 11 pm |
| On any other day | Between 7 am and 11 pm    |

The applicant has advised that it is intended that the restaurant would normally operate primarily during daytime hours. Evening meals would, however, be always offered to people staying in the guesthouse and to the general public during busy weekends.

Outdoor seating would generally be limited to an existing gravelled area immediately adjacent to the restaurant building, apart from when functions are held when seating may be placed within the extended licensed area. It is estimated that the gravelled area could hold a maximum of around 20 patrons.

## Site & Surrounds

The subject site is located on the west side of Grant Street, Forrest. The site is irregular in shape with a total land area of 1863.6sqm. The site contains several buildings within the southern portion of the site, which are used as a restaurant, guesthouse accommodation, manager's accommodation and a store.

A crossover at the southern end of the road frontage provides access to a service road, which in turn leads to Grant Street.

The northern portion of the subject land comprises cultivated gardens.

The adjacent property to the north (No. 14 Grant Street) is occupied by the Forrest Community Hall. This single-storey building is located in the northern section of the site. The remainder of the site is open space, with no on-site parking provided.

The adjacent property to the north-west (No. 22 Turner Drive) is occupied by dwelling and associated outbuildings.

The adjacent property to the south (No. 18 Grant Street) is occupied by the Forrest Anglican Church. The church building is located towards the front of the site, with the remainder of the site comprising open space. No on-site parking is provided.

The adjacent property to the west (No. 20 Turner Drive) is occupied by dwelling and associated outbuildings.

The subject site fronts Grant Street, which is a Road Zone Category 1 and the main thoroughfare through the Forrest township. Properties along Grant Street generally comprise commercial, community or residential land uses.

Substantial parking is provided along the Grant Street service road, with space for up to 64 vehicles.

### **Public Notice**

Public notice of the application was given in accordance with Section 52 of the Planning and Environment Act by sending letters to adjoining owners/occupiers and by placing one (1) sign on site.

The applicant has provided a Statutory Declaration indicating that the public notification was carried out in accordance with Council's instructions. No objections have been received.

### **Referrals**

The application was referred to the CFA under section 55 of the Planning and Environment Act. On 17 September 2013, the CFA advised it has no objection to the application, subject to conditions being imposed on any permit issued. The CFA's response only relates to the proposed dwelling component of the application, as this is the only element for which a permit is required under the BMO.

In line with the Council's procedure for applications that seek a planning permit for new or amended liquor licences, the application was referred to VicPolice under section 52 of the Planning and Environment Act. VicPolice responded on the 30 September 2013 advising that it has no objections to the proposed increase in the 'red line' licensed area.

The application was referred internally to Council's Infrastructure, Health and Building Departments.

Council's Infrastructure Department raised no objections to the proposal. However, it has recommended the following conditions be placed on any permit issued in relation to the car parking reduction:

- *Limit the number of large events per year to 4. (This has been discussed with the applicant, who agrees to such a condition being imposed).*
- *A traffic management plan be developed that is to be endorsed under the permit, addressing the traffic and risk factors associated with the application. The plan should require large functions associated with the premises to make use of buses at certain times of the year – i.e. school holidays, public holiday weekends, known events such as the Forrest 6 hour mountain bike event.*



Council's Health Department has reviewed the application, with no objections raised subject to several conditions being placed on any permit issued.

Council's Building Surveyor provided the following response:

*The proposal introduces many elements that would need to be conveyed to the applicant as it will require a review of all toilet facilities & access for disabled.*

*Further, the siting of the garage will not be acceptable as a conversion to a dwelling without major changes.*

Following receipt of this referral response, the proposal was discussed further with the Building Department. It was confirmed that it would be possible to convert the existing outbuilding to a dwelling, but noted that the works required could be very costly. The Building Department advised that the referral response was provided in order to draw the applicant's attention to the fact that major works would be required for the conversion in order to comply with Building Regulations. One significant change required for the proposed dwelling would relate to the fire-rating of the boundary wall.

The applicant has been advised that toilet facilities and access for the disabled would also be required to meet building standards and that it would be necessary to review the existing facilities. Some minor works would be required to ensure disabled access is up to standard.

It is recommended that a note be added to any permit issued, advising the applicants of the need to meet Building Regulation requirements.

## **Planning Controls**

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

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

- Clause 11.05 – Regional Development
- Clause 13.04-1 – Noise Abatement
- Clause 15 – Built Environment and Heritage
- Clause 16 – Housing
- Clause 17 – Economic Development
- Clause 18.02-5 – Car Parking
- Clause 19 – Infrastructure
- Clause 20 – Economic Development
- Clause 21.3-7 – Smaller Townships

The above policies support the co-location, multiple use and sharing of facilities, and seek to minimise the effects of commercial development on the amenity of the neighbouring area. The policies encourage the efficient provision of car parking and promote high quality urban design outcomes.

The proposal is considered to accord with the principles of the State and Local Planning Policy Frameworks. It is considered that the proposed use would assist in meeting the community's need for commercial facilities. The site is appropriately located within the town centre.

b. Zone provisions

The purpose of the Township Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for residential development and a range of commercial, industrial and other uses in small towns.*
- *To encourage residential development that respects the neighbourhood character.*

Planning approval is not triggered under the Township Zone for the proposal.

A requirement for a planning permit is not triggered under the Township Zone for the proposal.

c. Overlay Provisions

Erosion Management Overlay Schedule 1

The purpose of the Erosion Management Overlay is:

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

The proposed buildings and works do not require planning approval under this overlay provision as the works are primarily internal and would not increase the floor area of any existing building.

Bushfire Management Overlay

The purpose of the Bushfire Management Overlay is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To assist to strengthen community resilience to bushfire.*
- *To identify areas where the bushfire hazard requires specified bushfire protection measures for subdivision and buildings and works to be implemented.*
- *To ensure that the location, design and construction of development considers the need to implement bushfire protection measures.*
- *To ensure development does not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.*

A permit is required to construct a building or construct or carry out works associated with the use of land for Accommodation, which includes a dwelling. The acceptability of converting the outbuilding to a dwelling is assessed later in this report.

d. Particular Provisions – Clause 52.06 - Car Parking

Pursuant to Clause 52.06, a permit is required to:

- *“Reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause”*

The proposal would increase the number of patrons from 30 to 60.

Under the current provisions of the Planning Scheme, a restaurant has a car parking rate of 0.4 spaces per patron.

The proposal seeks approval for an additional 30 patrons (0.4 x 30) which generates a car parking requirement of 12 spaces. Therefore, the current proposal requires the reduction of a further 12 parking spaces.

Planning permit PP107/05 allowed the reduction of 14 parking spaces. That permit did not require the provision of any on-site parking.

### **Consideration of the Proposal**

There are a number of elements to this application, including an increase in the number of patrons allowed on the premises at any time of 30 patrons to 60 patrons, a reduction in parking provision from that specified in the Planning Scheme of 12 spaces in addition to the 14 previously approved through an earlier permit, an increase in the area covered by the liquor licence, and the conversion of an outbuilding to a three bedroom dwelling.

Whilst the current owners propose a relatively low key use of the restaurant, as described above, appropriate controls should be considered to ensure that any change in circumstances (for example a change in ownership) would not have the potential to result in unacceptable impacts on neighbours or the area as a whole.

### Restaurant Expansion

The existing restaurant has approval for 30 seats. This application seeks to increase the number of patrons allowed to 60. The applicant has indicated that the main purpose of the increase is to allow for the restaurant to cater for a small amount of functions, such as weddings and birthdays, through the course of a year. The applicant initially envisages that between three (3) to four (4) functions would occur per year and is prepared for a cap to be placed on any permit issued. If the number of functions is restricted by a condition on any permit issued, in the event that an increase in the number of events was proposed in the future a further application would be required to vary the permit.

Based on the capacity of the building, the referral responses received, the social and economic benefit to the town and the lack of objection from neighbours, it is considered that the principle of allowing an increase in the number of patrons is acceptable, subject to the potential impacts being minimised. It is considered that potential noise impacts could be controlled through appropriate permit conditions relating to matters such as hours of operation, amplified music and noise levels. It is also recommended that the area that could be used for outdoor seating be restricted to that proposed, i.e. apart from when functions are held, any outdoor seating would be in the immediate vicinity of the restaurant building. The provision of a landscaped buffer area adjacent to the western boundary would also help to protect the amenity of neighbouring residential properties. These matters have been discussed and agreed with the applicant. The issue of parking is considered later in this report.

The applicant has advised that:

*"...we would envisage that functions would occur on limited occasions, possible three to four times a year. When they are being planned, we would be happy to advise our neighbours and limit the timings of the events so as not to impact on school or church times – i.e. Saturday afternoon/evening, Sunday afternoons. We would also be prepared to limit these to a set number per annum."*

For the most part, the applicants propose to operate the restaurant within its current capacity of 30 seats. However, it is likely that during busy periods such as the festivals, long weekends, mountain bike events that maximum capacity could be reached.

In terms of any restriction on the number of functions allowed in a year, it should be noted that if the permit is issued the restaurant could potentially operate at full capacity at all times and that the restriction would only limit group functions. It is, however, considered appropriate to limit the number of functions that occur at the site, as these have the potential to have greater impact than regular use of the restaurant due to the larger groups present, the celebratory nature of the event and the extended timeframe over which they take place. In addition, whilst the restaurant may not be the sole destination of a lot of customers (e.g. if they were in town for the weekend or a biking event) who might therefore walk to the premises, it is likely that a formal function would generate greater traffic and parking demand at one time.

The proposal does not seek to alter the hours of operation which are:

- Sunday                      Between 10 am and 11 pm
- Good Friday                Between 12 noon and 11 pm
- On any other day         Between 7 am and 11 pm

As noted, given the proposed increase in patron numbers and the extended licenced area, the proposal has the potential to cause detriment to adjoining landowners, primarily through noise. It is noted that the current planning permit PP107/05 includes specific conditions which relate to noise control. The conditions read as:

5. *Noise levels from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.*
6. *No external sound amplification equipment or loud sound speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose in the outdoor seating area of the restaurant after 8.00pm.*

In the event that a permit is issued, it is considered appropriate to include similar conditions on any permit issued to ensure noise does not become a nuisance to surrounding properties, especially given patron numbers are to be increased.

#### Increase in 'Red Line'/Liquor Licence Area

The proposed increase in the red line area is to allow for the consumption of alcohol in the garden area of the subject land. Currently, only the internal restaurant and part of the outdoor decking area are licenced and within the red line area.

The applicant wishes to have the ability to hold up to four (4) functions per year at the restaurant, such as weddings. The site has formal cultivated gardens to the north of the buildings and the applicant wants to be able to utilise these gardens when functions are held.

As noted above, it is not the intention to have seating within the garden area apart from those times that functions are held; normally any outdoor seating provided would be immediately adjacent to the restaurant building.

The adjoining properties to the west and north-west both contain dwellings. The applicant has advised that the dwelling to the rear is used as a “weekender”. Due to the proximity to dwellings, there would be the potential for adverse amenity impacts on these properties from the proposed expanded restaurant use, primarily in the form of noise. It is noted that the application underwent public notification with no objections being received.

As stated earlier, it is considered appropriate that conditions be placed on any permit issued to control noise from the premises. It has also been agreed with the applicant to amend the ‘red line’ licensed area to provide a 5m landscaped buffer near the western boundary of the site, which is shared with residential properties. It is noted that the plans submitted show part of the driveway within the red line area. This is not considered appropriate as it provides vehicular access to the site which should be kept free for this purpose; the ‘red line’ plan would also therefore be amended to delete the driveway from the licensed area.

The proposal would not alter the existing hours of operation.

The application was referred to VicPolice, with no objections being raised.

Overall, the proposed increase in the red line area is considered acceptable, provided appropriate conditions are placed on any permit issued.

#### Car Parking Reduction

The proposal would increase the number of restaurant seats from 30 to 60. A restaurant has a car parking rate of 0.4 spaces per patron.

The proposal seeks approval for an additional 30 seats (0.4 x 30) which generates a car parking requirement of 12 spaces. Therefore, the current proposal requires the reduction of 12 parking spaces.

The subject land is provided with two (2) on-site car parking spaces. The current application would result in these spaces being designated for the proposed dwelling.

The premises would operate at maximum capacity at limited times during the year with the applicant prepared to have only four (4) functions per year. The applicant has advised that it is intended that the restaurant would generally run at a similar rate as now; however on busy weekends, such as the Otway Odyssey, maximum capacity could be reached.

The applicant has provided a Parking Report which included details on the number of parking spaces along Grant Street (service road) and a car parking availability count.

In total, there is space for the parking of 64 cars along the Grant Street service road. 33 spaces are to the south of the subject land whilst 31 spaces are to the north. These spaces are on-street and shared with other users including the Primary School, Church and Community Hall.

The following car parking count was undertaken by the applicant at 12:00 noon and 6:00pm on a Saturday for four weeks at the end of June and beginning of July. The parking count was undertaken on a weekend as this is the most likely time that the restaurant (function) would reach capacity.

|      | 12:00 Noon |       | 6:00PM |       |
|------|------------|-------|--------|-------|
| Date | North      | South | North  | South |
| 15/6 | 0          | 5     | 0      | 2     |
| 22/6 | 1          | 4     | 0      | 3     |
| 29/6 | 0          | 2     | 0      | 2     |
| 6/7  | 0          | 6     | 0      | 2     |

The parking count clearly indicates that on weekends there is a substantial availability of on-street parking spaces. The parking spaces to the south of the site are more utilised as a result of being in close proximity to the successful Forrest Brewery Café.

The nearby Church, Hall and Primary School all have peak operation hours different to the Forrest Guesthouse and, as such, there is unlikely to be an impact on parking availability for these nearby land uses.

Council's Infrastructure Department has reviewed the application and raised no objections. Given the potential for car parking issues to arise as a result of the proposed functions, the Infrastructure Department recommends that the number of large events per year to be limited to four 4 and that a traffic management plan addressing the traffic and risk factors associated with the proposal be developed, and endorsed as part of the permit.

It is considered that the proposed car parking reduction would be acceptable through the implementation of the above conditions.

#### Buildings and Works

The application also proposed buildings and works to convert the existing single-storey shed/garage on the site's southern boundary into a dwelling. The proposed buildings and works would entail bricking in the front garage entrance, and installing windows and doors along the north east and west elevations. The proposed dwelling would contain three bedrooms (one en-suite), an open plan living/dining/kitchen area, a separate study/family room and a bathroom. Two parking spaces would be located in front of the dwelling. An area of 91m<sup>2</sup> of secluded private open space would be provided to the rear (west) of the proposed dwelling, with an additional area of 80m<sup>2</sup> of private open space in front of the dwelling.

The applicant has advised that it is proposed *“to relocate our personal caretaker's residence from the rear at the restaurant/café to the large shed at the rear of the Guesthouse. This will allow for more kitchen/storage space and an additional guest lounge and administration areas”*.

The proposed buildings and works only require planning approval under the Bushfire Management Overlay Provisions. The application was referred to the CFA in accordance with Section 55 of the Act, with conditional consent being granted by the CFA.

Council's Building Department has reviewed the application with no objection being raised subject to a note being placed on any permit issued advising that considerable work may need to be undertaken to get the building in line with the Building Code. The applicant has had direct conversation with Council's Municipal Building Surveyor.

It is considered that, subject to addressing the requirements of the Building Regulations, the proposed dwelling would provide an acceptable level of amenity for residents.

## **Council Plan / Other Strategies / Policy Leadership and Governance**

Council will engage, plan and make decisions about land use and development that takes into account the regulatory role of Council, its diverse geography, social, community, economic and environmental impacts for current and future generations.

It is considered that the proposal is in accordance with the above objective.

## **Financial & Other Resource Implications**

There are no financial implications arising from this report.

## **Risk Management & Compliance Issues**

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

## **Environmental Consideration / Climate Change**

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

## **Communication Strategy / Consultation Period**

Community consultation in the form of public notification has been undertaken as part of this assessment process in accordance with the Planning and Environment Act.

## **Conclusion**

It is considered that the proposal would not cause detriment to the existing streetscape or the general amenity of the site and surrounds. The reduction of 12 car parking spaces is considered acceptable given the parking demand generated by the proposal and the substantial on-street parking available. As such, it is considered that a permit could reasonably be issued for the expanded use, the reduction in the car parking requirement and the conversion of the building into a dwelling.

## **Attachments**

Nil

## **Recommendation(s)**

***That Council's Planning Committee resolves to grant planning permit PP100/2013 to increase in the capacity of restaurant to 60 patrons, a reduction in the car parking requirement, an increase the licensed area for sale and consumption of liquor, and for buildings and works associated with the conversion of an existing building into a dwelling at 16 Grant Street, Forrest subject to the following conditions:***

### ***Amended plans***

- 1. Prior to patron numbers being increased as allowed by this permit, 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 driveway excluded from the licensed area.***
  - b) The western boundary of the licensed area relocated to provide a 5m landscaped buffer with the neighbouring residential property.***
  - c) The external seating area for the restaurant limited to the gravelled area adjacent to the restaurant building, apart from when functions are held.***

- d) *The number of seats, as shown on the site plan, reduced to 60.*

#### **Endorsed Plans**

2. *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.*
3. *The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*

#### **Traffic Management Plan**

4. *Prior to patron numbers being increased as allowed by this permit a traffic management plan addressing the traffic and risk factors associated with the application must be submitted to and approved by the Responsible Authority. When approved, the traffic management plan will be endorsed and will form part of the permit. The plan must demonstrate how traffic will be managed and how alternative modes of transport will be encouraged for functions and during certain times of the year, e.g. school holidays, public holiday weekends and known events such as the Forrest 6 hour mountain bike event.*

#### **Hours of operation**

5. *The use hereby permitted must operate only between the hours of:*
  - *Sunday*                      *Between 10 am and 11 pm*
  - *Good Friday*              *Between 12 noon and 11 pm*
  - *On any other day*        *Between 7 am and 11 pm*

#### **Patron Numbers**

6. *No more than 60 patrons may be present on the premises at any one time unless the prior approval of the Responsible Authority is obtained to a variation via the submission of a planning application.*

#### **Limit on functions**

7. *No more than four (4) functions, when the primary use is for a single or private event, can be conducted on the premises in any calendar year unless otherwise approved in writing by the Responsible Authority.*

#### **Amenity**

8. *The owner/operator must take all responsible measures to ensure that patrons consuming alcohol remain within the licensed area, so as not to breach conditions of the liquor licence, and that patrons' behaviour is acceptable, so as not to create a nuisance to pedestrians or road users.*
9. *Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.*



10. **No external sound amplification equipment or loud sound speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose in the outdoor seating area of the restaurant after 8.00pm.**
11. **Prior to the extended licensed area hereby permitted being brought into use, a landscape plan for landscaping along the western boundary of the site to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:**
- (a) a survey (including botanical names) of all existing vegetation to be retained and/or removed within the 5m buffer area adjacent to the western boundary**
  - (b) a planting schedule of all proposed trees and shrubs, including botanical names, common names, sizes at maturity, and quantities of each plant within the 5m buffer area adjacent to the western boundary**
- All species selected must be to the satisfaction of the Responsible Authority.**
12. **Prior to the extended licensed area hereby permitted being brought into use or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**

**Septic**

13. **Prior to the patron numbers being increased from 30 patrons, the existing septic system must be upgraded to the satisfaction of the Responsible Authority to ensure that as much as possible of the waste water generated by the premises is retained within the property boundaries.**

**CFA conditions**

**Defendable Space**

14. **Before the occupation of the dwelling starts, and at all times thereafter, vegetation on the land must be maintained to at least the following standard:**

**Inner Zone – extending from the dwelling and studio to all property boundaries**

- a) Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the building such as windows, decks and eaves.**
- b) Trees must not overhang the roofline of the building, touch walls or other elements of the dwelling.**
- c) Grass must be no more than 5 centimetres in height and all leaves and vegetation debris are to be removed at regular intervals.**
- d) Shrubs must not be planted under trees and separated by at least 1.5 times their mature height.**
- e) Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.**
- f) Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 per cent at maturity.**

- g) Tree branches below 2 metres from ground level must be removed.**

#### **Construction**

**15. A site assessment for the purpose of determining the bushfire attack level for the site has been considered as part of the application for the planning permit.**

- a) The construction of the dwelling must be to a bushfire attack level of BAL 12.5 in accordance with the relevant sections to AS3959-2009.**

#### **Static Water Supply**

**16. The site plan provided by the applicant on 17/9/2013 as 'Attachment 4 Version 2' is endorsed as showing the approved location of the static water supply. Prior to the initial occupation of the dwelling a static water supply must be provided on the land and must meet all of the following requirements:**

- a) The water supply must have a minimum capacity of 10,000 litres that is maintained solely for fire fighting purposes.**
- b) The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.**
- c) The water supply must be located within 60 metres of the outer edge of the dwelling (including any obstructions).**
- d) The water supply outlet/s must be attached to the water tank and must face away from the building if located less than 20 metres from the building to enable access during emergencies.**
- e) All pipework between the water supply and the outlet/s must be a minimum of 64mm nominal bore.**
- f) All fixed above-ground water pipelines and fittings must be of non-corrodible and non-combustible materials.**
- g) The water supply must:**
- i. Be located so that fire brigade vehicles are able to get to within 4 metres of the water supply outlet.**
  - ii. Incorporate an additional 64mm (minimum) gate or ball valve and 64mm (fixed size), 3 threads per inch, male fitting to suit a CFA coupling.**
  - iii. Incorporate a vortex inhibitor or additional water must be provided to ensure that the volume of water available is not restricted by a vortex. Refer to Section 5 of AS.2419 for requirements for vortex inhibitors.**
  - iv. Incorporate an additional ball or gate valve to provide access to the water by the resident of the dwelling.**
- h) The water supply outlet must not be obstructed by vegetation, buildings, fences or other structures.**
- i) All below-ground water pipelines must be installed to at least the following depths:**
- i. Subject to vehicle traffic: 300mm**
  - ii. Under dwellings or concrete slabs: 75mm**
  - iii. All other locations: 225mm**
- j) The water supply must be readily identifiable from the building or appropriate signage must be provided which:**
- i. Has an arrow pointing to the location of the water supply.**

- ii. *Has dimensions of not less than 310mm high and 400mm long.*
- iii. *Is red in colour, with a blue reflective marker attached.*
- iv. *Is labelled with a 'W' that is not less than 15cm high and 3cm thick.*

#### **Access**

**17. Before the occupation of the dwelling starts access to the static water supply outlet must be provided and must be designed to allow emergency vehicle access. The design of the access (including gates, bridges and culverts) must comply with the following minimum requirements:**

- a) *Curves in driveway must have a minimum inner radius of 10 metres.*
- b) *The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 metres.*
- c) *Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.*
- d) *Designed, constructed and maintained for a load limit of at least 15 tonnes and be of all-weather construction.*
- e) *Have a minimum trafficable width of 3.5 metres and be substantially clear of encroachments for at least 0.5 metres on each side.*
- f) *Be clear of encroachments at least 4 metres vertically.*

#### **Mandatory Condition – Maintenance of bushfire mitigation measures**

**18. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply, and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

#### **Expiry**

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

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

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six (6) months afterwards, or if the request for the extension of time is made within 12 months after the permit expires and the development started lawfully before the permit expired.*

#### **Notes**

- 1. *The provision and or consumption of liquor within the development hereby permitted must not commence until such time as a Liquor Licence has been issued, pursuant to the Liquor Control Reform Act 1988, as amended.*

2. ***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 required building approval(s).***
3. ***This development has not been assessed under the provisions of Clause 54 or 55 of the Colac Otway Planning Scheme. The relevant Building Surveyor will be required to undertake an assessment against the building regulations and to contact the Municipal Building Surveyor in relation to any variations.***
4. ***All works concerning improvements to the septic system will be subject to a separate approval by Council's Health Department. The applicant must liaise closely with the Council's Health Department to ensure that all, or as much as possible, of the waste water generated by the premises is retained within the property boundaries. Such improvements to the effluent system may include the provision of a holding tank for excess effluent in times of heavy usage and the construction of an effluent disposal field designed to maximise the usage of the effluent within the property boundaries.***

~~~~~\ ~~~~~