



**Colac Otway
SHIRE**

AGENDA

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

11 DECEMBER 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

11 DECEMBER 2013

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NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in COPACC Meeting Rooms on 11 December 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.

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5. DECLARATION OF INTEREST

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

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

7. CONFIRMATION OF MINUTES

- **Planning Committee held on the 13/11/13.**

Recommendation

That Council confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

PC131112-1	PLANNING & BUILDING STATISTICAL REPORT
PC131112-2	PLANNING MEETINGS SCHEDULED FOR 2014
PC131112-3	USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, AND ASSOCIATED WORKS INCLUDING SITE CUT AT 240 TUXION ROAD, APOLLO BAY (PP240/2012-1).

Rob Small
Chief Executive Officer

PC131112-1 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 November 2013.

Planning Statistics

19 Planning Permit Applications were received for the period 1 November 2013 – 30 November 2013.

26 Planning Permit Applications were considered for the period 1 November 2013 – 30 November 2013

Building Statistics

The Victorian Building Authority data remains updated to August 2013.

Attachments

1. Planning & Building Statistical Report November 2013

Recommendation(s)

That Council’s Planning Committee notes the statistical report for November 2013.

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**PLANNING STATISTICAL REPORT – NOVEMBER 2013 – (DETERMINATIONS)**

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                        | PROPOSAL                                                                                                                                                                                                                                                                 | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY        |
|--------------------|---------------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|----------------------------------|
| PP43/2007-3        | 13 NOV 2013   | 18 ROSS STREET COLAC            | DEVELOP SEVEN (7) SINGLE STOREY DWELLINGS AND EIGHT (8) LOT SUBDIVISION - AMENDMENT                                                                                                                                                                                      | 2              | 15 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP57/2008-3        | 19 AUG 2013   | 35 MEREDITH PARK ROAD IRREWARRA | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND ANCILLARY MANÈGE/SCHOOLING ARENA                                                                                                                                                                                      | 85             | 20 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP288/2010-3       | 25 JUN 2013   | 137 GREAT OCEAN ROAD APOLLO BAY | WAIVER OF CAR PARKING SPACES IN ASSOCIATION WITH THE USE OF THE LAND FOR A RESTAURANT AND LIQUOR LICENCE - AMENDMENT                                                                                                                                                     | 119            | 5 NOV 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP11/2013-1        | 25 OCT 2013   | 150 IRREWILLIPE ROAD ELLIMINYT  | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND SHED                                                                                                                                                                                                                  | 14             | 8 NOV 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP86/2013-1        | 30 APR 2013   | 63 MORLEY AVENUE WYE RIVER      | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A TWO STOREY DWELLING                                                                                                                                                                                                 | 45             | 11 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP99/2013-1        | 10 MAY 2013   | 1-19 COSTIN STREET APOLLO BAY   | SIXTEEN (16) LOT STAGED SUBDIVISION                                                                                                                                                                                                                                      | 79             | 7 NOV 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP100/2013-1       | 13 MAY 2013   | 16 GRANT STREET FORREST         | INCREASE IN THE CAPACITY OF RESTAURANT TO 60 PATRONS, A REDUCTION IN THE CAR PARKING REQUIREMENT, AN INCREASE IN THE LICENCED AREA FOR SALE AND CONSUMPTION OF LIQUOR AND FOR BUILDINGS AND WORKS ASSOCIATED WITH THE CONVERSION OF AN EXISTING BUILDING INTO A DWELLING | 22             | 14 NOV 2013     | PERMIT ISSUED<br><b>COUNCIL</b>  |
| PP122/2013-1       | 27 MAY 2013   | 45 GELLIBRAND STREET COLAC      | EXTERNAL PAINTING OF BUILDING                                                                                                                                                                                                                                            | 58             | 6 NOV 2013      | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP174/2013-1       | 30 JUL 2013   | 1/25 CAMPBELL COURT APOLLO BAY  | BUILDINGS AND WORKS COMPRISING THE CONSTRUCTION OF A DWELLING                                                                                                                                                                                                            | 53             | 15 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP176/2013-1       | 5 AUG 2013    | 10/131-141 WILSON STREET COLAC  | DISPLAY OF TWO (2) INTERNALLY ILLUMINATED BUSINESS IDENTIFICATION SIGNS                                                                                                                                                                                                  | 61             | 11 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP182/2013-1       | 9 AUG 2013    | 18 MORLEY AVENUE WYE RIVER      | BUILDINGS AND WORKS COMPRISING EXTENSION TO DWELLING                                                                                                                                                                                                                     | 66             | 20 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP212/2013-1       | 16 SEP 2013   | 25 COLLYERS ROAD WARNCOORT      | RESUBDIVISION OF THE LAND INTO TWO (2) LOTS                                                                                                                                                                                                                              | 47             | 22 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP224/2013-1       | 27 SEP 2013   | 135 RICcarton ROAD WARRION      | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF A DWELLING                                                                                                                                                                                                                | 49             | 20 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP228/2013-1       | 14 OCT 2013   | 6110 PRINCES HIGHWAY IRREWARRA  | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF AN OUTBUILDING                                                                                                                                                                                                            | 38             | 21 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |
| PP231/2013-1       | 14 OCT 2013   | 202-204 MURRAY STREET COLAC     | BUILDINGS AND WORKS COMPRISING INSTALLATION OF EXTRACT FAN AND DISPLAY OF ONE BUSINESS IDENTIFICATION SIGN                                                                                                                                                               | 17             | 11 NOV 2013     | PERMIT ISSUED<br><b>DELEGATE</b> |

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                        | PROPOSAL                                                                                                                          | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY        |
|--------------------|---------------|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|----------------------------------|
| PP244/2013-1       | 28 OCT 2013   | 7 STURT COURT WYE RIVER         | BUILDINGS AND WORKS COMPRISING OF A DWELLING AND ASSOCIATED WORKS                                                                 | 18             | 15 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |
| PP250/2013-1       | 12 NOV 2013   | 465 PRINCES HIGHWAY COLAC WEST  | ALTERATIONS TO EXISTING BUILDING AND USE AS A DWELLING                                                                            | 9              | 21 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |
| PP207/2013-1       | 3 SEP 2013    | 51 NEW STATION STREET CRESSY    | USE AND DEVELOPMENT OF THE LAND FOR A STORE AND CREATION OF ACCESS TO ROAD ZONE CATEGORY 1                                        | 56             | 26 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |
| PP256/2013-1       | 13 NOV 2013   | 4285 CAPE OTWAY ROAD BIRREGURRA | DISPLAY OF AN INTERNALLY ILLUMINATED BUSINESS IDENTIFICATION SIGN                                                                 | 8              | 28 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |
| PP101/2013-1       | 13 MAY 2013   | 7 & 9 RAMSDEN AVENUE APOLLO BAY | PARTIAL CHANGE OF USE OF LAND AND DEVELOPMENT AS A CAR PARK IN CONJUNCTION WITH OTWAY HEALTH HOSPITAL AND DISPLAY REFLECTIVE SIGN | 117            | 29 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |
| PP135/2013-1       | 10 JUN 2013   | 16-20 MURRAY STREET COLAC       | DISPLAY OF TWO BUSINESS IDENTIFICATION SIGNS                                                                                      | 84             | 29 NOV 2013     | PERMIT ISSUED<br><i>DELEGATE</i> |

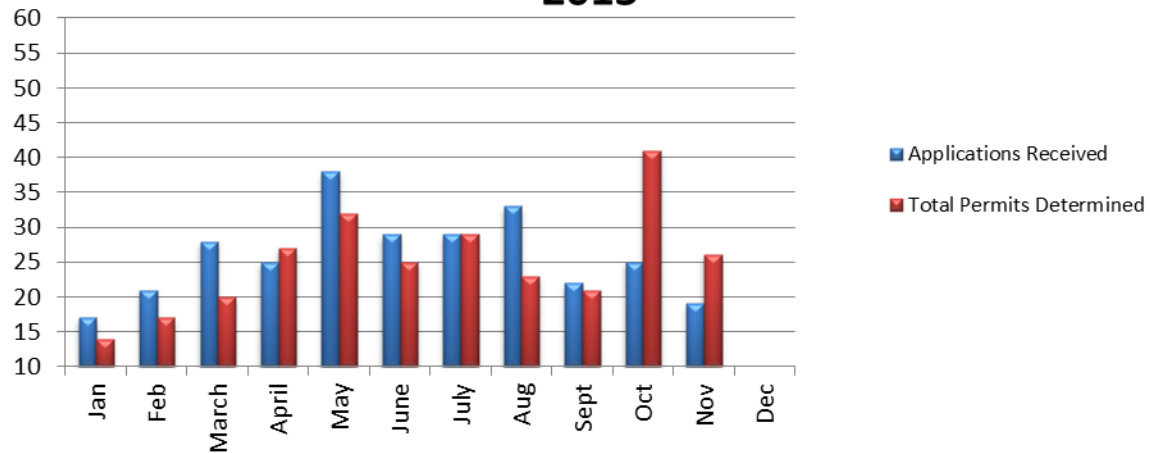
AVERAGE STATUTORY DAYS TO DETERMINE PLANNING APPLICATIONS

50

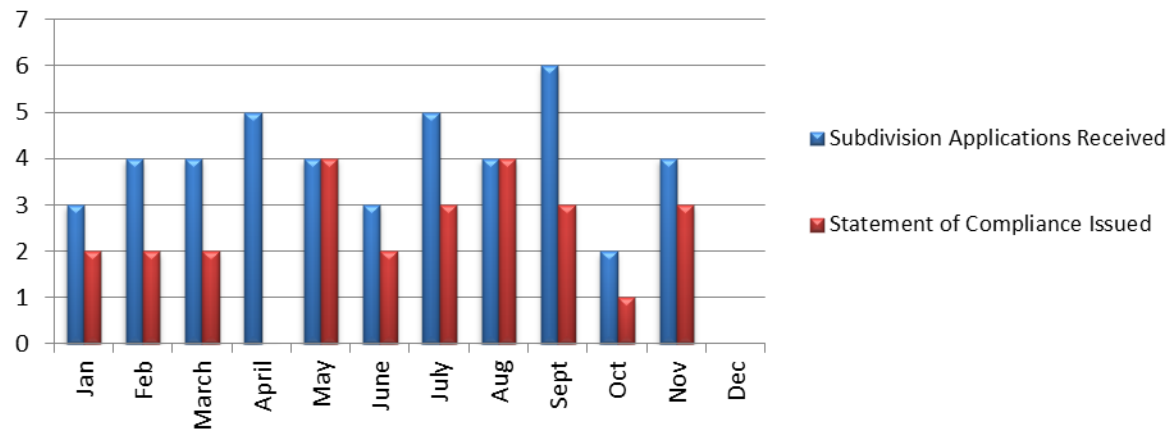
**PLANNING STATISTICAL REPORT – NOVEMBER 2013 (PERMITS NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

| APPLICATION NUMBER                              | DATE RECEIVED | LOCATION                      | PROPOSAL                                                                                 | STATUTORY DAYS | DATE DETERMINED | DETERMINATION & AUTHORITY |
|-------------------------------------------------|---------------|-------------------------------|------------------------------------------------------------------------------------------|----------------|-----------------|---------------------------|
| PP170/2013-1                                    | 25 JUL 2013   | 56 LYONS STREET CRESSY        | SIGNAGE                                                                                  | 104            | 12 NOV 2013     | <i>WITHDRAWN</i>          |
| PP186/2013-1                                    | 14 AUG 2013   | 247 MURRAY STREET COLAC       | DISPLAY OF FOUR (4) BUSINESS IDENTIFICATION SIGNS                                        | 0              | 14 NOV 2013     | <i>LAPSED</i>             |
| PP225/2013-1                                    | 10 OCT 2013   | 20 ROSS STREET COLAC          | BUILDINGS AND WORKS COMPRISING CONSTRUCTION OF A SINGLE STOREY DWELLING                  | 34             | 13 NOV 2013     | <i>WITHDRAWN</i>          |
| PP239/2013-1                                    | 22 OCT 2013   | 14 QUEEN STREET COLAC         | VEGETATION REMOVAL                                                                       | 28             | 20 NOV 2013     | <i>WITHDRAWN</i>          |
| PP177/2013-1                                    | 5 AUG 2013    | 195 ROBINSON ROAD BARONGAROOK | CONSTRUCT A DWELLING, DRIVEWAY, ONSITE WASTE WATER DISPOSAL AND REMOVAL OF SIX (6) TREES | 9              | 25 NOV 2013     | <i>WITHDRAWN</i>          |
| TOTAL AVERAGE STATUTORY DAYS (ALL APPLICATIONS) |               |                               |                                                                                          | 47             |                 |                           |

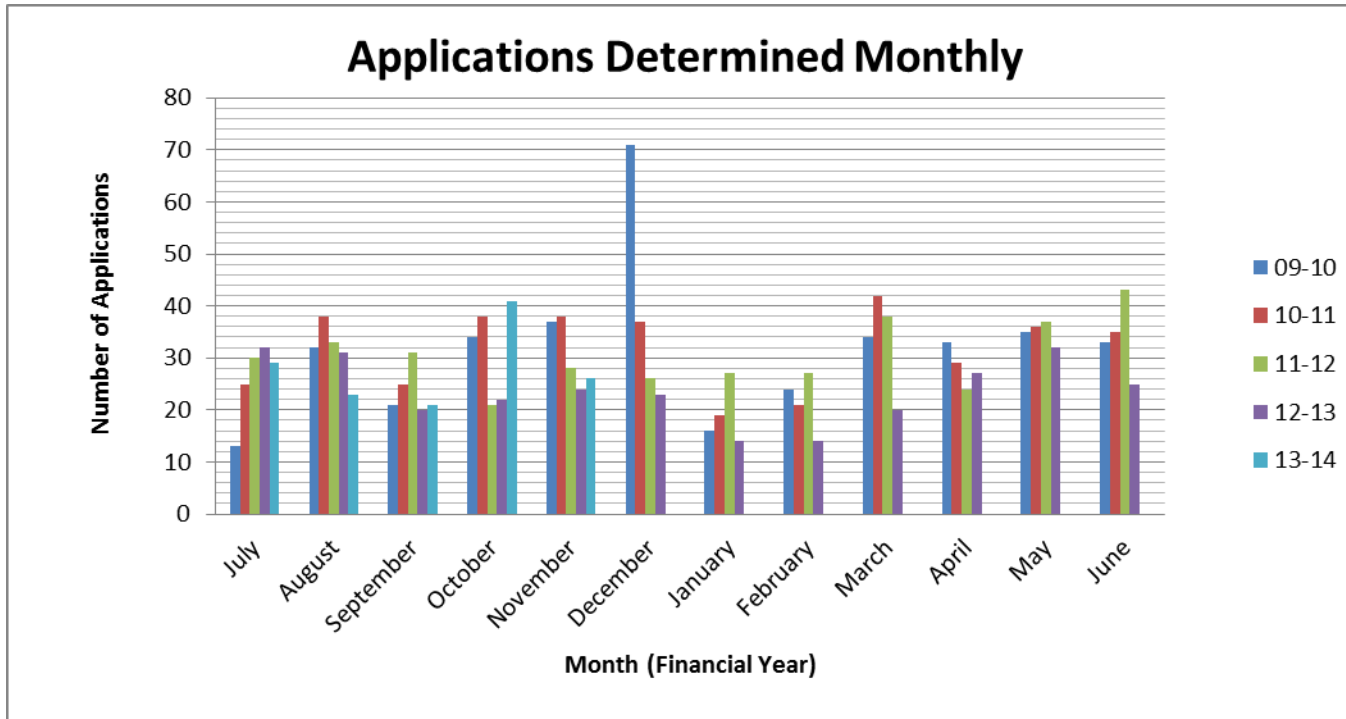
### Planning Permits Received & Determined for 2013

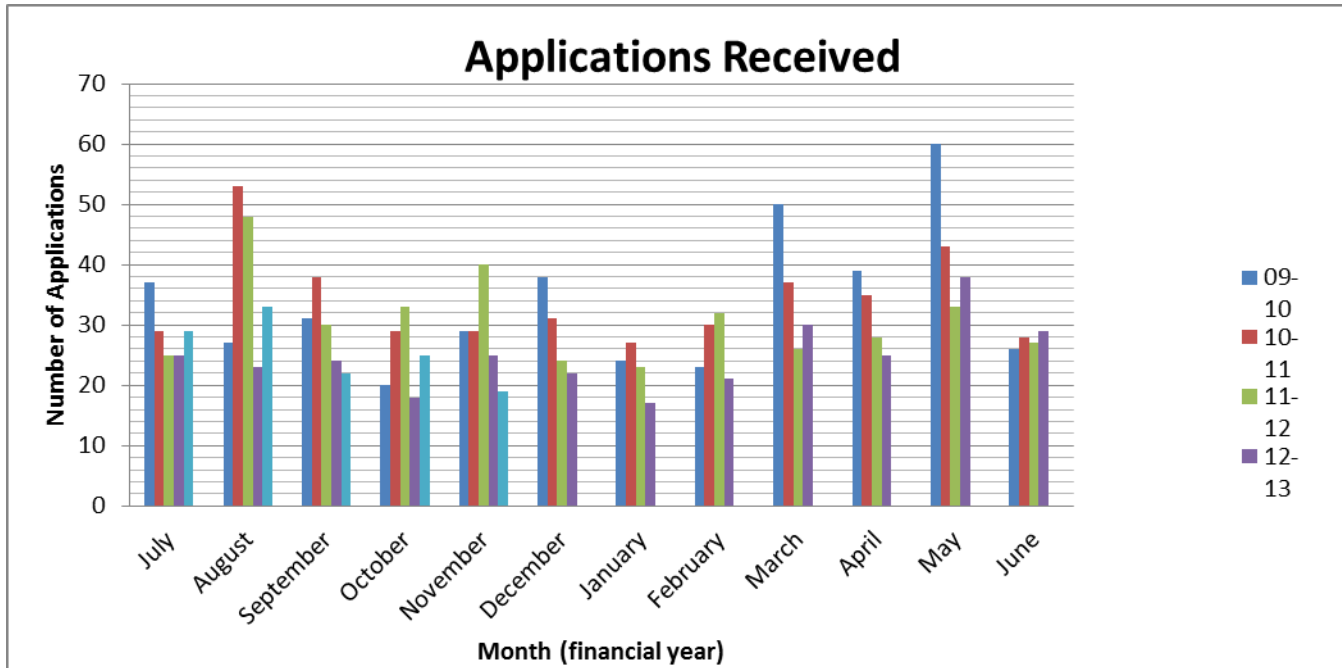


### Subdivision Applications for 2013



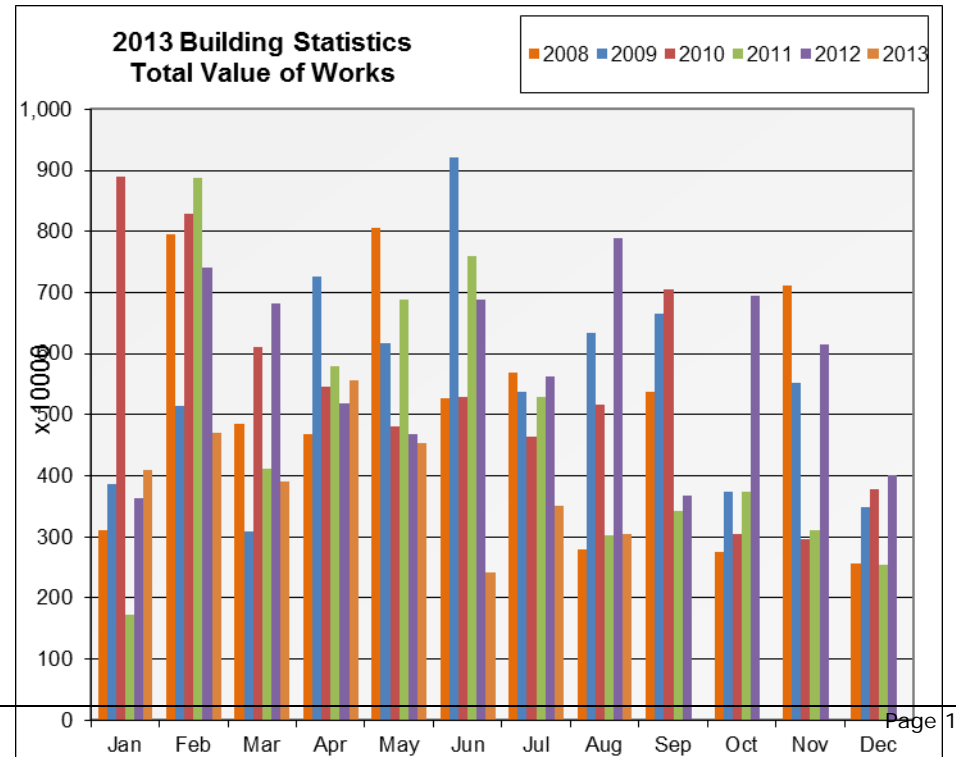
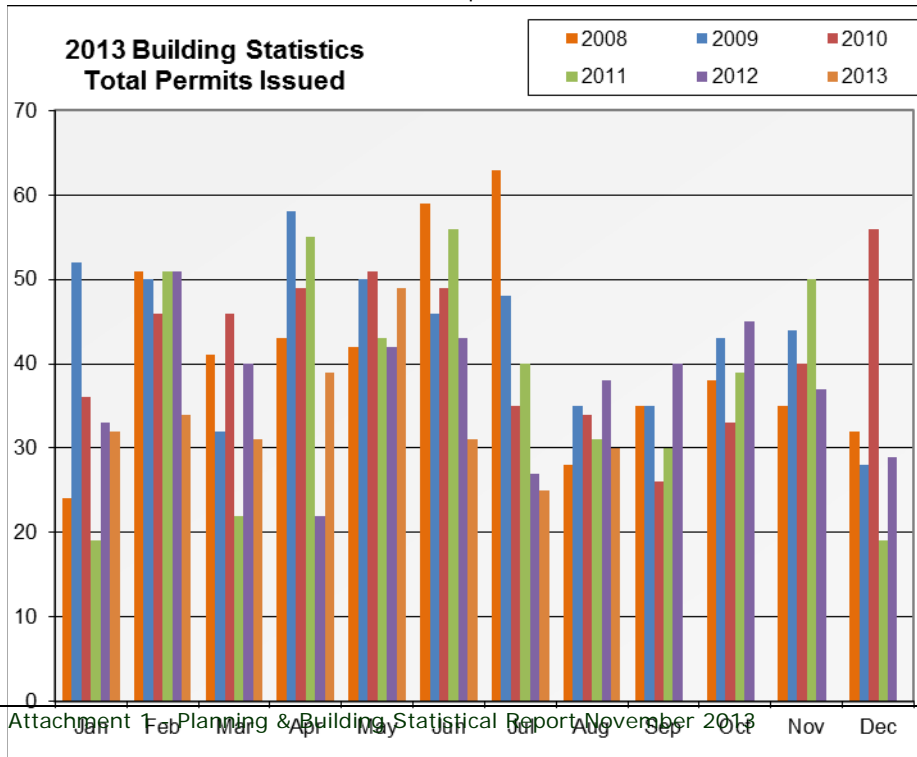






|               | Domestic   |                   | Residential* |                  | Commercial |                  | Retail   |                | Industrial |                | Hospital/HealthCare |            | Public Buildings |                | Municipal Totals |                   |
|---------------|------------|-------------------|--------------|------------------|------------|------------------|----------|----------------|------------|----------------|---------------------|------------|------------------|----------------|------------------|-------------------|
|               | 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> | <b>212</b> | <b>25,251,017</b> | <b>7</b>     | <b>2,553,241</b> | <b>31</b>  | <b>2,499,854</b> | <b>5</b> | <b>346,420</b> | <b>4</b>   | <b>459,745</b> | <b>0</b>            | <b>0</b>   | <b>12</b>        | <b>683,825</b> | <b>271</b>       | <b>31,794,102</b> |

\*Multi-Development



**PC131112-2****PLANNING MEETINGS SCHEDULED FOR 2014**

|             |                                    |           |            |
|-------------|------------------------------------|-----------|------------|
| AUTHOR:     | Bronwyn Keenan                     | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning & Development | FILE REF: | F11/1530   |

**Purpose**

To confirm the Planning Committee meetings 2014 are to be held at 10.30 am on the following days:

|                   |   |                          |
|-------------------|---|--------------------------|
| 15 January 2014   | - | COPACC (third Wednesday) |
| 12 February 2014  | - | COPACC                   |
| 12 March 2014     | - | COPACC                   |
| 9 April 2014      | - | COPACC                   |
| 14 May 2014       | - | COPACC                   |
| 11 June 2014      | - | COPACC                   |
| 9 July 2014       | - | COPACC                   |
| 13 August 2014    | - | COPACC                   |
| 10 September 2014 | - | COPACC                   |
| 8 October 2014    | - | COPACC                   |
| 12 November 2014  | - | COPACC                   |
| 10 December 2014  | - | COPACC                   |

**Declaration of Interests**

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

**Background**

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

At the Statutory Council Meeting held on 13 November 2013, Councillors were given the opportunity to consider a schedule of dates for 2013 for both Ordinary Council and Planning Committee meetings noting that the dates for the Planning Committee will need to be confirmed at the next Planning Committee meeting.

Meetings will continue to be held on the second Wednesday of the month (except for the January meeting), which will be on the third Wednesday due to the closure of the off over the Christmas/New Year period.

**Council Plan / Other Strategies / Policy****Good Governance**

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

*Our Goal:*

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

**Issues / Options**

In the event that there are no planning reports ready for consideration that require a resolution by Council at the time for agenda preparation, the Planning Committee meeting for that month will not be required and notification of this will be placed in the Colac Herald. Councillors will be advised through a memo and the internal diary process.

This process reflects the manner in which this matter has been addressed in 2013 and previous years.

**Proposal**

It is proposed that the first Planning Committee Meeting for 2014 be held on Wednesday 15 January 2014, 10.30am at Colac Otway Performing Arts and Culture Centre, Colac with future meetings in 2014 to be held on the second Wednesday of each month at the same venue.

**Financial and Other Resource Implications**

Not applicable

**Risk Management & Compliance Issues**

Not applicable

**Environmental and Climate Change Considerations**

Not applicable

**Community Engagement**

The community engagement strategy follows the recommendation of the Colac Otway Shire Council Community Engagement policy of January 2010 which details five levels of engagement - inform, consult, involve, collaborate and empower. The method selected is inform and is achieved by the resolution of the meeting dates, times and venue through the adoption of the recommendation in this report.

**Implementation**

The 2014 schedule of Planning Committee meetings would commence in January 2014. Meetings are advertised in the local paper prior to the meeting being held.

**Conclusion**

That Council's Planning Committee confirm the meeting dates, time and venue for the 2014 Planning Committee meetings.

**Attachments**

Nil

**Recommendation(s)**

***That Council's Planning Committee confirm the meeting dates, times and venues of 2014 Planning Committee meetings, if required, as:***

- ***15 January 2014 at 10.30am at COPACC, Colac (third Wednesday)***
- ***12 February 2014 at 10.30am at COPACC, Colac***
- ***12 March 2014 at 10.30am at COPACC, Colac***
- ***9 April 2014 at 10.30am at COPACC, Colac***
- ***14 May 2014 at 10.30am at COPACC, Colac***
- ***11 June 2014 at 10.30am at COPACC, Colac***
- ***9 July 2014 at 10.30am at COPACC, Colac***
- ***13 August 2014 at 10.30am at COPACC, Colac***
- ***10 September 2014 at 10.30am at COPACC, Colac***
- ***8 October 2014 at 10.30am at COPACC, Colac***
- ***12 November 2014 at 10.30am at COPACC, Colac***
- ***10 December 2014 at 10.30am at COPACC, Colac***

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**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 6 November 2013 with Councillors, the owner, the applicant and Council officers to better inform Council of the proposal from the applicants perspective and to discuss the officer's concerns with the application, with particular reference to its prominence in the landscape. The application was further deferred by the Planning Committee at its meeting on 13 November 2013.

The following is a summary of the proposal:

- 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 issue in this case relates to the potential impact of the proposed development on the significant landscape of the area.
- 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 purposes 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 and objectives of the Significant Landscape Overlay.
- 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.
- Council's Health Department had originally advised that the location of the effluent field would be unacceptable, as the information submitted did not adequately demonstrate that its location would comply with EPA guidelines. Following the Planning Committee meeting on 13 November 2013, the applicant provided a revised Land Capability Report. Council's Health Department considered the revised report and has advised that the area to the south west of the lot would be suitable for effluent disposal and confirmed it no longer objects to the proposal. In light of this, the corresponding reason for refusal previously recommended has been removed.
- Following the Planning Committee meeting on 13 November 2013, discussions took place with the applicant about further reducing the bulk and scale of the proposed development. The applicant has declined to reduce the overall size of the dwelling or shed, therefore the development plans (and officer concerns about the visual impact of the development) remain unchanged.
- Further consideration has also been given to whether proposed revegetation works could offer a suitable screen and soften the built form from the Great Ocean Road, whilst meeting the desired outcomes of the Bushfire Management Overlay and capacity to comply with the CFA permit conditions. It is considered that an additional staggered/mosaic planting arrangement could be provided to the south of the dwelling approximately along the 210m contour line, which should achieve compliance with the CFA permit conditions. However any planting along this contour would need to reach a height of 5m, to account for the slope, before it would begin to screen the dwelling. The Council's Environment Department estimates that it would take a minimum of ten years before any suitable screen could be offered for the upper parts of the dwelling and shed, based on the principle of 1m growth per year. It should also be noted that other factors (e.g. drought, wind sheer and insect attack) could reduce this growth rate and thus the screening ability. Combined with the potential conflict between vegetation in front of the building and a desire of the owners to retain panoramic ocean and coastal views, it is considered this screening is unlikely to be effective, and does not adequately offset the prominence of the house and shed proposed.

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.
- As noted above, the Environment Department has also since provided advice on the extent of screening that revegetation and landscaping could provide, concluding that it would take up to 10 years to screen the upper parts of the proposed development.
- Council's Health Department originally advised that the proposed location of the effluent field was considered to be unacceptable. The application had 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.

As noted above, further information received from the applicant has allayed the concerns of the Health Department. Whilst it is now considered that an appropriate effluent disposal field could be provided on site, a revised Land Capability Report would still be required to ensure appropriate siting.

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 originally advised that the proposal did not adequately demonstrate that the location of the proposed effluent field would comply with EPA guidelines. Since then, further information has been submitted by the applicant and the Health Department is satisfied that an appropriate effluent disposal field could be provided on the site. 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. Further discussions have taken place with the applicant since the November Planning Committee to establish whether the applicant was prepared to consider amending the proposal. The applicant has advised that no further amendments will be made to the proposed development.

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 to some degree, 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.

As noted at the beginning of this report, since the November Planning Committee meeting, an analysis of the potential screening by landscaping has been undertaken by officers in consultation with Council's Environment Department. As part of this assessment, consideration has been given to whether this revegetation could offer a suitable screen and soften the built form from the Great Ocean Road, whilst meeting the desired outcomes of the Bushfire Management Overlay and capacity to comply with CFA permit conditions. The assessment concluded that additional staggered/mosaic planting arrangement could be provided to the south of the dwelling approximately along the 210m contour line, which should achieve compliance with the CFA permit conditions.

However, whilst this could be done, it should be noted that it appears that any planting along this contour would need to reach a height of 5m to account for the slope before it would even begin to screen the dwelling. Council's Environment Department estimates that it would take a minimum of ten (10) years before any suitable screening of the upper parts of the dwelling and shed would occur based on the principle of 1m growth per year. It should also be noted that other factors (e.g. drought, wind shear and insect attack) could reduce this growth rate and thus the screening ability. As stated earlier, with the potential conflict between vegetation in front of the building and a desire of the owners to retain panoramic ocean and coastal views, it is considered this screening is unlikely to be effective, and does not adequately offset the prominence of the house and shed proposed.

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.**

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