

PLANNING COMMITTEE MEETING

AGENDA

WEDNESDAY 14 NOVEMBER 2018

AT 4PM

COPACC

COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

14 NOVEMBER 2018

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COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on 14 November 2018 at 4pm.

AGENDA

1. I DECLARE THIS MEETING OPEN

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 AND LEAVE OF ABSENCE

4. WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendants 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. DECLARATIONS OF INTEREST

6. CONFIRMATION OF MINUTES

• Planning Committee Meeting held on 11 July 2018.

Recommendation

That the Planning Committee confirm the above minutes.

7. 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 five minutes will apply.



PLANNING COMMITTEE

CONSTRUCTION OF FOUR (4) DWELLINGS – 17 THOMSON STREET, APOLLO BAY

PC181411-1

ADDRESS AND

17 Thomson Street,

GENERAL

lan Seuren

PROPERTY DETAILS

Apollo Bay

MANAGER

PREPARED BY

Helen Evans

TRIM FILE

F17/6220

DIVISION

Development &

Community Services CONFIDENTIAL

No

PERMIT TRIGGERS

Four or more objections

TRIGGER FOR

DETERMINATION BY

COMMITTEE

COMMITTEE

APPLICATION NUMBER

GRZ1 – Clause 32.08-6 – construct two or more dwellings on a lot

DDO6 – Clause 43.02-2 –construct a building or construct or carry out works

PP146/2017-1

PROPOSAL

Construction of four (4) dwellings

Design and

Development Schedule

ZONE

General Residential

(GRZ1)

OVERLAYS

6 (DDO6: Apollo Bay -

Medium Density Residential Area)

COVENANTS No.

LIST OF

1. PP146/2017- 17 Thomson Street Apollo Bay - Amended

Plans

CULTURAL HERITAGE

ATTACHMENTS

Not applicable

1. LOCATION PLAN / AERIAL PHOTO





2. EXECUTIVE SUMMARY

A planning permit is sought to construct four two-storey dwellings on a lot with an area of 1265 square metres. The site is located on the south side of Thomson Street, approximately 275 metres west of the Great Ocean Road and the Apollo Bay foreshore. The land is zoned General Residential and is covered by a Design and Development Overlay (DDO6). The application was advertised and 6 objections have been received. Key issues relate to the scale of development, the impact on neighbourhood character and views, inadequate open space and landscaping, overshadowing, overlooking and noise.

It is considered that the proposed layout and building massing would respond in an acceptable manner to the site and its immediate context. Screening measures to restrict overlooking would meet the relevant standards specified in the planning scheme. It is considered that the proposal

would be consistent with State and local planning policies, would achieve the objectives of the zone and overlay, and would comply with the particular provisions relating to the construction of more than one dwelling on a lot and car parking.

3. RECOMMENDATION

That Council resolves to issue a Notice of Decision to Grant a Permit for the construction of four two-storey dwellings at 17 Thomson Street Apollo Bay (Crown Allotment 3 Section 16 Township of Apollo Bay Parish of Krambruk) subject to the following conditions:

Endorsed Plans

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Landscaping

- 2. Prior to commencement of the development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - a) A survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
 - c) Details of surface finishes of pathways and driveways;
 - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant;
 - e) Landscaping and planting within all open areas of the site; and,
 - f) The provision of at least one canopy tree that can grow to a minimum height of 6 metres (minimum two metres tall when planted) within the front setback area and each of the secluded private open spaces.

An in-ground irrigation system is to be provided to all landscaped areas.

All species selected must be to the satisfaction of the Responsible Authority.

3. Prior to occupation of any part of the development, 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.

Stormwater

4. All runoff from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.

- 5. Prior to the commencement of development, a stormwater detention system designed by a qualified engineer must be submitted to and approved by the Responsible Authority. The design must provide for a maximum site discharge rate equal to the pre-development 5 year storm (20% AEP) and detain the post development 10 year storm (10% AEP). The stormwater detention system must be implemented as part of the development in accordance with the approved plan.
 - Within one week of the installation of the stormwater detention system, notice of its installation must be given to the Responsible Authority, an inspection must be requested and the written approval of the Responsible Authority must be obtained.
- 6. The site must be developed and managed to ensure there is no stormwater pollution through the contamination of runoff by chemicals, sediments, wastes or pollutants in accordance with 'Best Practice Environmental Management Guidelines for Stormwater Management and Construction Techniques for Sediment Pollution Control' (EPA) at any time during construction or operation, to the satisfaction of the Responsible Authority.
- 7. The site during construction must be developed and managed to ensure that no contaminants, including but not limited to chemicals, sediments, wastes or pollutants, are deposited by vehicles on the abutting roads when vehicles are leaving the property, to the satisfaction of the Responsible Authority.

Access

- 8. Prior to the completion of the development, a new vehicle crossing must be constructed at right angles to the road to suit the proposed driveway to the satisfaction of the Responsible Authority. The vehicle crossings must maintain a minimum 1.0m offset from any existing trees or utility service assets to the satisfaction of the Responsible Authority.
- 9. The driveway must be constructed to an all-weather hard surface standard to the satisfaction of the Responsible Authority and must have a minimum width of 3 metres.

Expiry

- 10. This permit will expire if one of the following circumstances applies:
 - a) The development is 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.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition.

Notes

- 1. This permit does not authorise the commencement of any building works. Prior to the commencement of development, it will be necessary to apply for and obtain building approval for the proposed dwellings.
- 2. Prior to commencement of the development, an application to undertake works within the road reserve must be submitted to and approved by the Council.

4. OPTIONS

Council has the options of:

- a) Issuing a Notice of Decision to Grant a Permit subject to the recommended conditions;
- b) Issuing a Notice of Decision to Grant a Permit subject to the recommended conditions with changes;
- c) Refusing to grant a permit on specified planning grounds.

The key issues for consideration when assessing this application relate to whether the requirements of Clause 55 (Two or More Dwellings on a Lot/'ResCode') and the provisions of Clause 43.02 (Design and Development Overlay) of the Planning Scheme have been properly addressed, and whether or not the proposed dwellings would be acceptable on the subject land, having regard to the amenity of neighbouring properties and the character of the area.

It is recommended that Option a) is supported for the reasons outlined in the balance of this report.

5. RELEVANT BACKGROUND

A previous planning application (ref. PP283/2016-1), which proposed the construction of four dwellings on the subject land, lapsed without a decision on 7 April 2017, in accordance with the provisions of Section 54B of the *Planning and Environment Act 1987* (the Act).

The current application is similar to that previously submitted, but with a slightly increased front setback and some gaps between the buildings.

6. PROPOSAL

The application seeks a permit for the construction of four double-storey dwellings. The proposed development would be set back 7.65 metres from the street. New garage walls would extend along the rear south-east corner of the property, with all other walls to a maximum height of 5.8 metres set back a minimum 1.8 metres from side and rear boundaries. The buildings would occupy 42% of the site, with a maximum height of 7.9 metres.

The internal layout of the development would provide four-bedroom dwellings, with 166 to 185 square metres of floor space. The dwellings would be finished in face brickwork, render and Harditex material, with pitched colorbond roofing.

Secluded private open space associated with each of the dwellings would range between 45 and 55 square metres. Each dwelling would be provided with two car parking spaces. Vehicle access would be via the existing crossover and a shared driveway adjacent to the eastern boundary.

Permeable surfaces would occupy 40% of the site, and garden areas would occupy 37.14% of the site. Indicative landscaping proposes the retention of existing trees within the front setback area and the provision of canopy trees within each of the secluded private open spaces. New paling fences are proposed on side and rear boundaries.

7. SUBJECT LAND & SURROUNDINGS

The site is located on the south side of the street, approximately 275 metres west of Collingwood Street and the Apollo Bay foreshore. It has a rectangular shape, with a street frontage width of 20.12 metres and an area of 1265 square metres. The land is generally flat, with minimal fall towards the east. There are no easements affecting the land.

The site has been developed with a single-storey detached dwelling set back 8 metres from the street. Vehicle access to the site is located adjacent to the eastern boundary. There is no significant vegetation and no front fence.



The adjoining property to the west (No. 19 Thomson Street) has been developed with a similar single-storey dwelling set back 8 metres from the street and 9.5 metres from the common boundary. Vehicle access is located on the east side of the dwelling, and private open space abuts the common boundary.

The adjoining property to the east (No. 15 Thomson Street) is divided into two lots. The front lot has been developed with a single-storey dwelling set back 7.2 metres from the street and approximately 3.0 metres from the common boundary. The rear lot remains vacant. Vehicle access to both lots and two dwellings further east (No. 13 Thomson Street) is on the east side of the dwelling.

Properties at the rear, separated by a laneway, have been developed with single-storey dwellings fronting onto Martin Street.

Properties on the opposite side of Thomson Street have been developed with one and two-storey dwellings set back 7 to 10 metres from the street.

8. PLANNING SCHEME PROVISIONS

State Planning Policy Framework

The State Planning Policy Framework (SPPF) seeks to ensure that the objectives of planning in Victoria are fostered through appropriate land use and development policies. The policies considered relevant to this application are identified below:

- Clause 11 Settlement
- Clause 12.02 Coastal Areas
- Clause 15 Built Environment and Heritage
- Clause 16 Housing

Local Policy Planning Framework (LPPF), including the Municipal Strategic Statement (MSS)

The Local Planning Policy Framework (LPPF) outlines the local and regional strategic policy context for the Shire. The policies considered relevant to the application are identified below:

- Clause 21.02 Vision
- Clause 21.03-3 Settlement Apollo Bay and Marengo

Other relevant provisions

Zone

General Residential Zone

Pursuant to Clause 32.08-6, a permit is required to construct two or more dwellings on a lot in a General Residential Zone.

Pursuant to Clause 32.08-9, dwellings must not exceed a maximum building height of 11 metres or 3 storeys at any point.

Pursuant to Clause 32.08-4, an application to construct a dwelling on a lot exceeding 650 square metres must provide a minimum 35% garden area at ground level.

Overlay

Design and Development (DDO6: Apollo Bay – Medium Density Residential Area)

Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.

The objectives of the overlay are:

- To protect the existing low scale coastal character and identity of Apollo Bay.
- To achieve a graduated density of residential development between the town centre and the lower density residential areas.
- To ensure that development density is consistent with the coastal town character.
- To ensure that permeable space is available between dwellings to sustain vegetation.
- To ensure that new development maintains space between buildings so that views to the surrounding landscape are retained.

Buildings must not exceed a height of 9 metres.

Particular Provisions

Clause 52.06 - Car Parking

Pursuant to Clause 52.06-2, before a new use commences or the floor area of an existing use is increased, the number of car spaces required under Clause 52.06-5 must be provided on the land to the satisfaction of the Responsible Authority.

Under 52.06-5, a dwelling including three or more bedrooms requires the provision of two car spaces.

Clause 55 - Two or More Dwellings on a Lot

Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards.

Clause 55 states, inter alia, that if the land is included in an overlay, other than a Neighbourhood Character Overlay, and a schedule to the overlay specifies a requirement different from a requirement of a standard set out in this clause or a requirement of a standard set out in the zone or a schedule to the zone, the requirement in the overlay applies.

Therefore, the maximum height of 9 metres under the Design and Development Overlay applies to this proposal.

Relevant Planning Scheme amendments

There are no current planning scheme amendments relevant to the proposal.

9. OFFICER'S ASSESSMENT

Strategic context

The overarching objective for settlement in Victoria is to promote sustainable growth and development, and deliver choice and opportunity for all Victorians. This involves building on the strengths and capabilities of each region and developing settlements that support resilient communities and their ability to adapt and change. It also requires building design outcomes that protect the character of townships and respond sensitively to coastal environments.

The Apollo Bay Structure Plan adopted by Council in April 2007 articulates the preferred settlement and built form outcomes for this key coastal centre. To ensure Apollo Bay develops into an attractive residential area and tourist centre while preserving its seaside village quality, relevant strategies seek to:

- In the residential areas outside the town centre of Apollo Bay, limit building heights and ensure upper levels are well articulated to respect the character of the area and provide for a more traditional dwelling density to contribute to a diversity of housing choice.
- Reinforce and improve the informal character, accessibility and amenity of streetscapes in the residential areas of Apollo Bay, Marengo and Skenes Creek, reflecting the distinct existing and preferred future character of each settlement in new improvements.

It is considered that the proposed two-storey dwellings, located one behind the other with one dwelling presenting to the street, would be generally consistent with the preferred character and rhythm of development along the street. It is not considered that there would be any significant change to the informal amenity of the street or any adverse impact on the seaside village quality of Apollo Bay.

General Residential Zone – Garden Area

The site has an area of 1265 square metres and therefore requires a minimum 35% garden area at ground level.

Garden area is defined as any area on a lot with a minimum dimension of 1 metre that does not include:

- a) a dwelling or residential building, except for:
 - an eave, fascia or gutter that does not exceed a total width of 600mm;
 - a pergola;
 - unroofed terraces, patios, decks, steps or landings less than 800mm in height;
 - a basement that does not project above ground level;
 - any outbuilding that does not exceed a gross floor area of 10 square metres; and
 - domestic services normal to a dwelling or residential building;
- b) a driveway; or
- c) an area set aside for car parking.

The proposed development would provide 472.14 square metres of garden area, representing 37.14% of the site, and therefore would comply with the standard.

Design and Development Overlay (DD06 - Apollo Bay - Medium Density Housing Area)

The design objectives for the area seek to protect the existing low scale coastal character and identity of Apollo Bay while achieving a graduated density of residential development between the town centre and lower density residential areas to the north of Thomson Street and west of McLachlan Street. This relies on ensuring sufficient space to sustain vegetation and retain views of the surrounding landscape.

With regard to the overall building height, the proposed height of 7.9m would be below the maximum height of 9m applicable under the overlay, which is more stringent than the maximum building height of 11m under the zone provisions, and the discretionary height limit of 9m under Clause 55. It is also considered that the proposed height would also be consistent with the mix of one and two-storey buildings in the immediate area.

From a design perspective, articulated facades should incorporate setbacks to the upper levels, and articulated roofs should provide visual interest to the street. The layout of the development should also emulate the fine grain (narrow frontage) pattern of development. The use of simple building detail, including a mix of contemporary and traditional coastal materials, textures, colours and finishes that complement those occurring naturally in the area, are recommended.

As recognized in the Structure Plan, Apollo Bay's natural beauty is attributed to "..its unspoilt beaches set against a dramatic backdrop of rolling hills, providing the overarching character which unites the settlements, to be reflected in new development". Located on flat land approximately 300

metres from the beach, it is considered that there would be no adverse impact from the proposed development on views of the sea or the backdrop of rolling hills. Also, the 2-metre separation between the front and rear dwellings, together with generous spacing between upper storeys, would maintain view lines through the site. These could be enhanced by new landscaping, including canopy trees within the front setback area and each of the secluded private open spaces.

It is considered that the proposed design includes reasonable articulation and detailing, using materials and finishes which would generally reflect the traditional coastal materials and finishes.

Clause 55 ('ResCode')

An assessment of the proposal against the objectives and standards of Clause 55 been undertaken. The proposal complies with all of the standards.

Clause 52.06 - Car Parking

The proposed development would provide 2 car parking spaces for each of the dwellings in accordance with Clause 52.06 of the Planning Scheme. The 3.0-metre width of the shared driveway would comply with the relevant standard, and turning circles submitted with the application indicate that all vehicles could enter and exit the site in a forward direction. It is noted that Council's Infrastructure Department raised no objection to the proposal, subject to conditions.

10. REFERRALS

Internal Referrals

The application was referred internally to Council's Infrastructure Department and Building Unit. No objections were raised as a result of these referrals, subject to permit conditions relating to drainage and access requirements.

External Referrals

The application did not require referral to any external authorities.

11. PUBLIC NOTIFICATION & RESPONSE

Notice of the original application for four two-storey dwellings was sent to the surrounding property owners and occupiers, and a sign was erected on site for a period of 14 days. There were six objections received.

A Consultation Meeting, facilitated by Council and attended by the applicant and objectors, was held on 13 March 2018.

In response to concerns, amended plans were submitted on 31 July 2018.

Changes to the original proposal, received on 31 July, were as follows:

- Removal of the rooftop decks and associated staircases.
- A 200-millimetre reduction in the front setback to 7.65 metres at ground level and 8.15 metres at first floor level.
- The minimum spacing between Units 2 and 3 increased by 200 millimetres to 2 metres.
- Minor changes to the roof form and materials and finishes.

The amended plans were circulated to objectors. No objections to the application were withdrawn as a result of the amendments.

It should be noted that subsequently further amended plans were submitted on 17 October, addressing a couple of minor errors on the plans (deleting protrusions and wing walls, and providing full elevations of all dwellings); reducing the number of materials proposed at first floor level; and improving solar access to some rooms on the west side of the dwellings (whilst still complying with the relevant clause 55 standard relating to overlooking). These plans were also provided to the objectors for information prior to the Planning Committee meeting.

The grounds of objection can be summarised as follows:

Design and built form

- The proposed roof form, height, materials and density fail to integrate with the neighbourhood character and streetscape.
- Overdevelopment of the site will have an adverse impact on the visual amenity of adjacent properties.

It is not considered that the proposal would result in an overdevelopment of this site, which is located within a medium density residential area. Similar developments within the medium density residential area have been contested and approved by VCAT in recent years. For example, planning permit PP323/2010-01, issued in June 2010, allowed the construction of five dwellings on a similar size lot at 26 Nelson Street. The fundamental principle of whether or not five dwellings represented a 'graduated scale' was considered by VCAT in the original application for five dwellings (*Quattrocchi v Colac Otway SC [2010] VCAT 1346*). The major issue of contention raised by the VCAT Member related to the adequacy of the front setback. Otherwise, the Member found that separation between buildings would be sufficient to enable views to the hillside landscape from the public realm and to provide sufficient landscaping.

The development currently proposed would provide comparable separation between buildings and the setback from Thomson Street would comply with the specified setback standard under Clause 55 ('ResCode'). This, and the provision of reasonable scope for landscaping, would allow views to the hillside landscape in keeping with the preferred character of the area.

Also, the proposed height would meet the mandatory height limit under the Design and Development Overlay.

Amenity

- The potential for overlooking will cause an unacceptable loss of privacy to adjacent properties.
- The proposal will cause a loss of daylight and overshadowing to adjacent properties.
- Increased noise levels will adversely affect the amenity of the area.

To minimise the potential for overlooking, all upper-storey west-facing windows would include obscure glass to 1.7 metres above floor level, and three upper-storey east-facing windows set back 5.5 metres from the eastern boundary would include obscure glass to 1.7 metres above floor level. There is no potential for overlooking from upper-storey south-facing windows. Rooftop decks originally proposed have been removed from the application, which addresses concerns in relation to overlooking as well as other matters.

There would be no loss of daylight to the adjacent properties and no significant loss of sunlight to the adjacent secluded private open spaces, having regard to the relevant standards of Clause 55.

In terms of the potential for overshadowing, Clause 55.04-5 states that where sunlight to the secluded private open space of an existing dwelling would be reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. Due to the long axis of the site running north/south and the generous setbacks from both side boundaries, the proposed development would easily meet the specified standard.

There is no evidence to suggest that noise generated by residents of the proposed dwellings would cause any significant disturbance to the neighbourhood. It is considered that the removal of the rooftop decks originally proposed would largely address noise concerns and also the overlooking concerns. In addition, additional screening, as described above, would restrict the potential for overlooking.

Open space and landscaping

- Private open space and landscaping is inadequate.
- The proposed bedroom abutting the south east corner may have a detrimental impact on existing tree at 2/15 Thomson Street.

The extent of private open space and garden area would satisfy the mandatory requirements and specified standard under the zone provisions and Clause 55 ('ResCode'). This would be sufficient for outdoor living and new landscaping. It is recommended that landscape plans required by a condition of any permit issued include a requirement for the planting of canopy trees to both soften the impact of the development and contribute to the landscape character of the area. It is unlikely that the root system of the existing tree on the adjoining property to the east would be affected by the construction of new walls at the south east corner of the property. The tree is 4 to 5 metres from the common boundary, with a canopy that is largely confined to the adjoining property.

Fencing

The replacement of existing fence along the eastern boundary is unnecessary.

The construction of common boundary fencing is a civil matter between the adjoining property owners. However, the proposed fence to a height of 2.1 metres would improve security and better protect the privacy of the adjoining property. Overshadowing from the fence would be negligible. Regardless, no permit is required to replace the fence.

Future development potential and land values

• The proposal will have an adverse and unfair impact on the future development potential and value of vacant land on the adjoining properties.

It is not considered that the proposed extent of development would jeopardise the future of adjoining land. Also, land values are not a relevant planning consideration.

12. DECLARATION OF INTEREST

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







