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VCAT Ref:	P229/2015
Address:	77 Charles Street, Lorne
Officer Recommendation:	Permit Refused
Committee Resolution:	Officer Recommendation - Permit Refused
VCAT Decision:	Decision overturned due to amended plans – Permit Granted
Proposal:	Development of buildings and works (multi-level dwelling) and Removal of Native Vegetation

**10. POLICY ISSUES**

Nil

**11. OTHER MATTERS**

Nil

**12. CLOSE OF MEETING**

8.30

**NEXT MEETING** – 12 October 2015

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**ITEM NO:** 8.1  
**PLANNING REF:** 15/0231  
**PROPOSAL:** Construction of four dwellings and front fence and subdivision of the land into four lots  
**APPLICANT:** Archer Property Group Pty Ltd  
**DATE RECEIVED:** 03-Jun-2015  
**SUBJECT LAND:** 4 SPRING STREET, TORQUAY (Lot: 1 TP: 740679R)  
**ZONE:** General Residential Zone Schedule 1  
**OVERLAYS:** Design and Development - Schedule 20, Significant Landscape - Schedule 6, Development Contributions Plan  
**PERMIT REQUIRED UNDER CLAUSES:** 32.08-2, 32.08-4, 43.02-2 & 43.02-3  
**EXISTING USE:** Single dwelling  
**REPORTING OFFICER:** Maggie Juniper

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

Planning Officer recommending refusal

Objections received – Ten (10)

**MOVED:** Austin Swain      **SECONDED:** Wesley McClendon

**OFFICERS RECOMMENDATION**



**ALTERNATIVE RECOMMENDATION**



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**POINTS OF DISCUSSION:**

Consistency of solid fencing in context of preferred character of open street scapes with landscaping including canopy trees. Impact of wall on boundary on neighbouring vegetation, need for protection conditions. Pool impact on ability to plant canopy trees, if applicant to take the risk then this should be achievable without needing to remove pool. Concerns about boxy design and bulk of four two storeys without significant gaps between second storey, but on balance consider that the balance is achieved with consolidation objectives

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

New conditions 1(d), (e) and (g)

Insertion of new condition 2

Deletion of Condition 3(a)

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**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 15/0231 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the provisions of 32.08-2, 32.08-4, 43.02-2 & 43.02-3 of the Surf Coast Planning Scheme in respect of the land known and described as 4 SPRING ST, TORQUAY., for the Construction of four dwellings and subdivision of the land into four lots in accordance with the endorsed plans, subject to the following conditions:

## DEVELOPMENT

### Amended plans

1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) The location of at least 6m<sup>3</sup> of externally accessible storage space for each unit which may include shelf storage within the garages to meet Standard B30 Clause 55.05-6 Storage objective (Rescode);
  - b) The location of rubbish bin storage;
  - c) Deletion of the gate house element within the front fence;
  - d) The deletion of the front block fence west of the gate house. Any replacement fence must be at least 25% visually permeable at not more than 1.8 metres in height above ground level;
  - e) The front block fence east of the gate house reduced in height to a maximum of 1.8 metres;
  - f) The location of external roof top plant including, but not limited to, service units for heating, cooling and hot water, solar panels and communication devices which is to be located and designed so as to not be visibly prominent from the public realm or neighbouring properties;
  - g) changes to the proposal as necessary to incorporate the recommendations contained in the arborist's report approved under Condition 2
2. Before the development hereby approved commences, a report from a qualified arborist must be prepared and submitted to the satisfaction of the responsible authority setting out the recommendations and actions to be taken to ensure that trees located on adjoining land, can be and are retained in healthy condition during and after construction. The report must nominate any other measures to be taken to maintain the health of the trees, including specific methods of construction. The recommendations and actions contained in the report must be implemented to the satisfaction of the responsible authority.

### Stormwater Management Plan

3. Before the development starts a stormwater management plan (three copies) 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 ensure that stormwater and drainage discharge from the development site meets current best practice performance objectives for stormwater (Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)) and must include:
  - a) The incorporation of on-site retention/infiltration, storage and re-use stormwater management techniques where practicable to reduce pollutant export from the site;
  - b) Reduce peak discharge from the site to that of the existing development;
  - c) Connection to council infrastructure.

### Landscaping

4. Before the development starts an amended 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 be generally in accordance with the plan submitted with the application but modified to show:
  - a) A Planting Schedule that details the species type and number of species to be plantedAll species selected must be to the satisfaction of the responsible authority.

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### **Payment of Landscape Bond**

5. Before the release of the approved plan for the approved development, a cash bond or bank guarantee to the value of \$4000 (\$1000 per dwelling) must be deposited with the responsible authority by the developer of the land as security against failure to protect existing native vegetation to be retained or to comply with the landscape plan endorsed under this permit.

The bond or bank guarantee will only be refunded or discharged by the responsible authority upon being satisfied that the requirements of the landscape plan and protection of native vegetation have been fulfilled to the satisfaction of the responsible authority.

### **Completion of Landscaping**

6. Before the occupation 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 carried out and completed to the satisfaction of the responsible authority. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

### **Access & Parking**

7. Before the occupation of the development, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- a) Constructed
- b) Properly formed to such levels that they can be used in accordance with the plans
- c) Surfaced as shown on the endorsed plans
- d) Drained

to the satisfaction of the responsible authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

8. The following requirements shall apply to vehicle crossings and driveways that shall be constructed to the satisfaction of the responsible authority:
- a) Vehicle crossings shall be constructed in reinforced concrete or other approved material;
  - b) New vehicle crossings to suit the proposed driveways shall be constructed;
  - c) Redundant vehicle crossings shall be removed and kerb and channel or other approved road edgings reinstated to suit existing works;
  - d) A "Non-Utility - Minor Works" permit shall be obtained from the Coordinating Road Authority defined in the Roads Management Act 2004 prior to any works being undertaken in road reserves.

### **Development Infrastructure Levy (Community Infrastructure)**

9. A Community Infrastructure Levy (additional dwelling) must be paid to the Collecting Agency (Surf Coast Shire Council) based on the net change in demand units in accordance with the provisions of the incorporated Torquay – Jan Juc Development Contributions Plan applying to the land. The payment must be made before the commencement of the approved development
10. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

### **SUBDIVISION**

11. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
- a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements.
12. Before a statement of compliance is issued under the Subdivision Act 1988 the owner must provide:
- a) Access to each lot;

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- b) Drainage of each lot including those works shown on the plans endorsed under Condition 2 of the permit;
- To the satisfaction of the responsible authority.
13. Before a statement of compliance is issued under the Subdivision Act 1988:
- a) The development approved by this permit must be completed to lock up stage, to the satisfaction of the responsible authority.
14. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
15. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
16. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
17. A Development Infrastructure Levy must be paid to the Collecting Agency (Surf Coast Shire Council) based on the net change in demand units in accordance with the provisions of the incorporated Torquay – Jan Juc Development Contributions Plan applying to the land. The payment must be made after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued under the Subdivision Act 1988.
18. The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
19. The owner of the land must enter into an agreement with:
- a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
20. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

### **Conditions required by Barwon Region Water**

#### General

21. The owner shall create easements for Pipelines or Ancillary Purposes in Favour of Barwon Region Water Corporation over all existing and proposed sewers located within the subdivision. The width of these easements shall be 2.2m as per attached plan.
22. The certified plan must create implied easements under Section 12 (2) of the Subdivision Act, over all proposed existing water and sewerage works within the subdivision.
23. The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.
24. The creation of an Owners Corporation to encumber all lots within the subdivision.

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Water

25. The provision and installation of individual water services including meters to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all meters relative to the allotment boundaries, and its number(s), is to be submitted.
26. The payment of New Customer Contributions for each additional lot created and/ or each additional metered connection for water supply within the subdivision.
27. An additional tapping(s) is to be supplied to service the proposed development. A dimensioned plan showing location of all new tapplings relative to the allotment boundaries is to be submitted, where a meter is not being fitted. Note that tapplings and services are not to be located under existing or proposed driveways.
28. The existing water main is a cracked asbestos water pipe. Please contact Barwon Water for specific requirements at least 5 business days prior to undertaking any works in its vicinity.

**Conditions required by AusNet Services (Gas)**

29. The plan of subdivision submitted for certification must be referred to AusNet Services (Gas) in accordance with Section 8 of the Subdivision Act 1988.

**Conditions required by Powercor Australia Ltd**

30. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
31. The applicant shall:-
  - a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor.
  - b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System.
32. The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.
33. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
34. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

**Expiry of Permit**

35. The permission for development will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit
  - b) The development is not completed within four years of the date of this permit
  - c) The plan of subdivision is not certified under the Subdivision Act 1988 within two years of the date of this permit
  - d) Five years after the certification of the plan of subdivision under the Subdivision Act 1988.

The Responsible Authority may extend the period for commencement of the development if a request is made in writing before the permit expires or within six months afterwards.

The Responsible Authority may extend the period in which the development must be completed if the request for an extension of time is made in writing within twelve months after the permit expires and the development or stage started lawfully before the permit expired.

**CARRIED**

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**ITEM NO:** 8.2  
**PLANNING REF:** 15/0150  
**PROPOSAL:** Two lot subdivision of the land  
**APPLICANT:** K & J Deppeler  
**DATE RECEIVED:** 20-Apr-2015  
**SUBJECT LAND:** 840 BARRABOOL ROAD, BARRABOOL (LOT: 2 PS: 330020)  
**ZONE:** Farming Zone  
**OVERLAYS:** Salinity Mangement Overlay  
**PERMIT REQUIRED UNDER CLAUSES:** 35.07-3  
**EXISTING USE:** Grazing  
**REPORTING OFFICER:** Brenton Hann

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

- Planning Officer recommending refusal  
 Objections received

**MOVED:**                      **SECONDED:**                      **FOR:**                      **AGAINST:**  
**OFFICERS RECOMMENDATION**                            **ALTERNATIVE RECOMMENDATION**     

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**POINTS OF DISCUSSION:**

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

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Application withdrawn verbally by applicant. Application not considered by Planning Committee

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**RECOMMENDATION**

That Council having caused notice of Planning Application No. 14/0214 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of 35.07-3 of the Surf Coast Planning Scheme in respect of the land known and described as 840 Barrabool Road, Barrabool, for the 2 Lot Subdivision, for the following reasons:

1. The proposal is contrary to the Clause 22.01 Rural Tenement Policy, specifically:
  - a) The site has previously been the subject of an excision for an existing dwelling.
  - b) Subdivision to create a lot containing an existing dwelling is not to be greater than 1ha.
2. The information submitted in support of the proposal does not demonstrate that the proposed subdivision will support the ongoing viability of either lot.
3. Creation of the proposed subdivision will create an expectation of additional dwelling entitlement.
4. The proposal is inconsistent with the provisions of the Farming Zone as:



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- a) It does not enhance agricultural production; and
  - b) Exacerbates the fragmentation of rural land.

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**ITEM NO:** 8.3  
**PLANNING REF:** 15/0012  
**PROPOSAL:** Two lot re-subdivision  
**APPLICANT:** LE & HJ GRAHAM  
**DATE RECEIVED:** 19-Jan-2015  
**SUBJECT LAND:** 1710 BARRABOOL ROAD, GNARWARRE (LOT: 1 PLN: 13748)  
**ZONE:** Farming  
**OVERLAYS:** Nil  
**PERMIT REQUIRED UNDER CLAUSES:** 35.07-1, 35.07-4, 35.07-7  
**EXISTING USE:** Agriculture & dwelling  
**REPORTING OFFICER:** Maggie Juniper

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

- Planning Officer recommending refusal  
 Objections received

**MOVED:** Austin Swain **SECONDED:** Lesley Evans

**OFFICERS RECOMMENDATION**  **ALTERNATIVE RECOMMENDATION**

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**POINTS OF DISCUSSION:**

Can't consider personal circumstances. Unfortunate that property is not on the other side of the 40/80 line and that the property has a lot which is landlocked, but to re-subdivide would be contrary to the planning scheme.

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

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**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 15/0012 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of Clause 35.07-2 of the Surf Coast Planning Scheme in respect of the land known and described as 1710 BARRABOOL ROAD, GNARWARRE for the following reasons:

1. Proposal does not meet the minimum lot size of 80ha under the Farm Zone;
2. The subdivision will result in the fragmentation of rural land in the Farming Zone;
3. The subdivision will lead to the loss of land from agricultural production;
4. The proposal is contrary to the Rural Tenement Policy of Clause 22.01 of the Surf Coast Planning Scheme.
5. The subdivision will not enhance the use of the subject land for agriculture and has the potential to adversely affect the operation and expansion of agricultural uses on the site and nearby land.

**CARRIED**

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**ITEM NO:** 8.4  
**PLANNING REF:** 14/0306  
**PROPOSAL:** Two (2) lot resubdivision of the land and use and development of a dwelling on proposed Lot 1  
**APPLICANT:** St Quentin Consulting  
**DATE RECEIVED:** 14-Aug-2014  
**SUBJECT LAND:** 690 POLLOCKS FORD ROAD, GNARWARRE. (LOT: 1 PS: 627770C, Lot: 3 PS: 3087945)  
**ZONE:** Farming Zone  
**OVERLAYS:** None  
**PERMIT REQUIRED UNDER CLAUSES:** 35.07-2  
**EXISTING USE:** Agricultural  
**REPORTING OFFICER:** Jennifer Davidson

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:** Planning Officer recommending refusal Objections received

**MOVED:** Lesley Evans     **SECONDED** : Wesley McClendon     **FOR** : Lesley Evans, Wesley McClendon, Wayne Reid     **AGAINST:** Austin Swain

**OFFICERS RECOMMENDATION**     **ALTERNATIVE RECOMMENDATION**     

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**POINTS OF DISCUSSION:**

It wasn't made out by the applicants that the subdivision was required to achieve the increase in productivity from improved land management claimed in the application. They were able to build a dwelling on the small lot (with permit) to live on the site to support farming. It isn't necessary to subdivide. The subdivision creates a real risk of both lots becoming less viable and being lost from farming compared to maintaining the existing arrangement.

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

Austin Swain – grant permit. No second

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**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 14/0306 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of Clause 35.07-2 of the Surf Coast Planning Scheme in respect of the land known and described as 690 Pollocksford Road, Gnarwarre for the two (2) lot resubdivision of the land and use and development of a dwelling on proposed Lot 1 for the following reasons:

1. Proposal does not meet the minimum lot size of 40ha under the Farm Zone;
2. The subdivision will result in the fragmentation of land in the Farming Zone into less viable farming lots;
3. The subdivision will reduce the viability of the whole of the land for farming purposes, thereby

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prejudicing the long term retention of the land for farming;

4. The subdivision will not enhance the use of the subject land for agriculture and has the potential to adversely affect the operation and expansion of agricultural uses on the site and nearby land;
5. The proposed dwelling location on a hilltop, facilitated by the proposed subdivision, is contrary to the objectives and strategies of the Rural Landscape Strategy of Clause 21.06, and may detract from the rural landscape values.
6. Given the existing dwelling, it is unlikely that an additional dwelling is required to support existing or expanded agricultural activities.

**CARRIED**