

**Minutes of Planning Committee Meeting No. 454 held at 5.00pm Monday 23 November 2015 in the Council Chambers, Surf Coast Shire Offices, Torquay.**

**1. OPENING OF MEETING**

5.05pm

**2. PRESENT**

Geoff Fulton, Robert Troup, Marshall Sullivan, Tony Hobba (chair), Phil Rosevear

**3. APOLOGIES**

Nil

**4. CONFIRMATION OF MINUTES**

Minutes of the Planning Committee Meeting held on Monday 28 September 2015 – Held over

**5. DISCLOSURE OF CONFLICTS OF INTEREST**

Nil

**DISCLOSURE OF INTERESTS (AT DISCRETION OF COMMITTEE)**

Nil

**6. PUBLIC PRESENTATIONS**

Nil

**7. CONSIDERATION OF THE AGENDA**

Item 8.1 will be heard last

**8. CONSIDERATION OF APPLICATIONS FOR A PERMIT**

Item 8.1 171-173 Great Ocean Road, Anglesea (15/0107).....Page 3  
Construction of Works (Driveway and Landscaping); and Alterations of Access to a Road In Road Zone Category 1

Item 8.2 10 Camp Road, Anglesea (15/0267).....Page 15  
Construction of a Dwelling and Removal of Native Vegetation

Item 8.3 43 Great Ocean Road, Aireys Inlet (14/0418).....Page 35  
Development of a dwelling and construction of access in a Road Zone Category 1 and Construction of a Fence

**9. RECENT VCAT DECISIONS**

Application Number:	14/0528
VCAT Ref:	P916/2015
Address:	4 Twelfth Avenue, Anglesea
Officer Recommendation:	Permit Refused
Committee Resolution:	Officer Recommendation - Permit Refused
VCAT Decision:	Permit Refused
Proposal:	Construction of a swimming pool and fencing

**10. POLICY ISSUES**

Nil

**11. OTHER MATTERS**

Nil

**12. CLOSE OF MEETING**

6.15pm

**NEXT MEETING** – 7 December 2015

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**ITEM NO:** 8.1  
**PLANNING REF:** 15/0107  
**PROPOSAL:** Construction of Works(Driveway and Landscaping); and Alterations of Access to a Road in Road Zone Category 1  
**APPLICANT:** J M & D G DUCA  
**DATE RECEIVED:** 24-Mar-2015  
**SUBJECT LAND:** 171 - 173 GREAT OCEAN ROAD, ANGLESEA. (LOT: 3 PS: 444277C)  
**ZONE:** General Residential Zone Schedule 1  
**OVERLAYS:** Neighbourhood Character - Schedule 3, Design and Development - Schedule 19, Significant Landscape - Schedule 3  
**PERMIT REQUIRED UNDER CLAUSES:** 43.05-2  
**EXISTING USE:** Dwelling  
**REPORTING OFFICER:** Ben Schmied

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

Planning Officer recommending refusal

Objections received

**MOVED:**

**SECONDED:**

**FOR: X4**

**OFFICERS RECOMMENDATION**



**ALTERNATIVE RECOMMENDATION**



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**POINTS OF DISCUSSION:**

**No support**

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

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**SUMMARY**

The application seeks approval for Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.

This current application is retrospective as the works have already been completed and include clearing and replanting of the road reserve at the front of the property together with providing a loop driveway extension that allows drive in/drive out in a one way vehicle movement via a single crossover. This new driveway extension has required the the removal of all vegetation from the road reserve in front of the property plus a retaining wall which also extends into this road reserve area. These works have been undertaken without any referral to VicRoads as the Great Ocean Road is a Road Zone Category 1 and management of the road reserve is their responsibility.

It should be noted that the removal of vegetation at the front of the property and within the road reserve would not have triggered a planning permit given the exemptions outlined under Clause 52.48 of the Surf Coast Planning Scheme in regard to removal, destruction and lopping of vegetation for bushfire exemptions to create defensible space.

### **RECOMMENDATION**

That Council having caused notice of Planning Application No. 15/0107 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 43.05-2 of the Surf Coast Planning Scheme in respect of the land known and described as 171 - 173 GREAT OCEAN ROAD, ANGLESEA., for the Construction of Works(Driveway and Landscaping); and Alterations of Access to a Road in Road Zone Category 1 for the following reasons:

- 1) The works fail to meet Standards A5 and A19 of Clause 54 in terms of hard surface cover and the preferred neighbourhood character for Anglesea respectively; and
- 2) The works are contrary to the relevant objectives of the NCO3.

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**OFFICER'S REPORT - 15/0107 - 171 - 173 GREAT OCEAN ROAD, ANGLESEA.**

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**Proposal**

The application seeks approval for Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.

This current application is retrospective as the works have already been completed and include clearing and replanting of the road reserve at the front of the property together with providing a loop driveway extension that allows drive in/drive out in a one way vehicle movement via a single crossover. This new driveway extension has required the the removal of all vegetation from the road reserve in front of the property plus a retaining wall which also extends into this road reserve area. These works have been undertaken without any referral to VicRoads as the Great Ocean Road is a Road Zone Category 1 and management of the road reserve is their responsibility.

The driveway has been constructed in gravel and extends through the road reserve area outside of the property boundaries. A landscape plan has been provided showing a planting schedule for the front garden area of the property plus the road reserve area.

It should be noted that the removal of vegetation at the front of the property and within the road reserve would not have triggered a planning permit given the exemptions outlined under Clause 52.48 of the Surf Coast Planning Scheme in regard to removal, destruction and lopping of vegetation for bushfire exemptions to create defensible space.

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**Site and Surrounding Area**

The subject site has a total land area of approximately 1,143sqm and is located on the north side of the Great Ocean Road, Anglesea. The property has mainly been cleared of native vegetation in the front setback area while the area rear of the dwelling has boundary plantings of Eucalypts and native shrubs.

A 2 metre wide easement runs along the western side boundary. The land includes a double storey modern dwelling with vehicle access off Great Ocean Road. The general area is characterised by mature plantings of native vegetation along the road reserve, which partly screens dwellings behind from the view of the streetscape.



**Relevant History and Background**

No record exists for any previous planning permit applications for the site.

**Registered Restrictions**

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land is not affected by registered restrictions.

**Aboriginal Cultural Heritage**

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit can not be granted until a copy of the approved CHMP is provided and can not grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site isn't within an area of cultural heritage sensitivity therefore a CHMP isn't required.

**Referral**

The application was not required to be formally referred in accordance with the Section 55 of the *Planning and Environment Act 1987* or Clause 66 of the *Surf Coast Planning Scheme*.

Section 55 Referrals	Advice/Response
VicRoads	No objection to the works, but would not be supportive to a second direct vehicle access off Great Ocean Road

Internal Council Referrals	Advice/Response
Infrastructure Department	Consent with conditions
Community Fire and Safety Officer	No issue

**Public Notice**

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

- notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.
- a sign was erected on the land for a period of 14 days.

No objections have been received. Council's electronic TRIM system was checked on 22 October 2015.

**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned General Residential Schedule 1 and a planning permit is not triggered under the zone as the lot is greater than 500sqm in area.

The land is also affected by the Neighbourhood Character - Schedule 3, Design and Development - Schedule 19, Significant Landscape - Schedule 3 and is assessed against the relevant provisions as follows:

<b>Significant Landscape Overlay Schedule 3 – Anglesea</b>			
Criteria	Standard	Proposal	Comment
Clause 42.03-2 Permit requirement	A permit is required to: <input type="checkbox"/> Construct a building or construct or carry out works. This does not apply: <input type="checkbox"/> If a schedule to this overlay	Construction of Works	Permit not

	<p>specifically states that a permit is not required.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> To the conduct of agricultural activities including ploughing and fencing (but not the construction of dams) unless a specific requirement for that activity is specified in a schedule to this overlay.</li> <li><input type="checkbox"/> Construct a fence if specified in the schedule to this overlay.</li> <li><input type="checkbox"/> Remove, destroy or lop any vegetation specified in a schedule to this overlay. This does not apply:           <ul style="list-style-type: none"> <li><input type="checkbox"/> If the table to Clause 42.03-3 specifically states that a permit is not required.</li> <li><input type="checkbox"/> To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16.</li> </ul> </li> </ul>	<p>(Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.          N/A</p> <p>N/A</p> <p>vegetation removal</p>	<p>required (see below)</p>
<p><i>Schedule 3: 3.0</i>  <b>Buildings &amp; works</b></p>	<p>A permit is not required to construct a building or construct or carry out works.          A permit is required to remove, destroy or lop native vegetation. This does not apply to native vegetation that is:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dead;</li> <li><input type="checkbox"/> Less than 2 metres in height and is not a species of Grass Tree (<i>Xanthorrhoea</i>);</li> <li><input type="checkbox"/> On the building side of a vertical line 2 metres from the outer edge of the roof of an existing or approved building; or</li> <li><input type="checkbox"/> Listed as an environmental weed in Environmental Weeds – Invaders of our Surf Coast (2nd Edition, 2002).</li> </ul>	<p>Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.</p>	<p>Permit not required</p>

<b>Neighbourhood Character Overlay Schedule 3 – Lorne Residential Areas</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<p><i>Clause 43.05-2</i>  <b>Buildings and works</b></p>	<p>A permit is required to construct a building or to construct or carry out works. This does not apply to:</p> <ul style="list-style-type: none"> <li>• The construction of an outdoor swimming pool associated with a dwelling, unless specified in the schedule.</li> <li>• The construction or extension of an outbuilding normal to a dwelling unless specified in a schedule.</li> </ul> <p>A permit is required to demolish or remove a building if specified in</p>	<p>Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.</p>	<p><b>Permit required</b></p>

	a schedule. Remove, destroy or lop trees if specified in a schedule. Note: some exemptions apply.	N/A	
<b>Schedule 3: 3.0 Buildings and works</b>	A permit is required to: <ul style="list-style-type: none"> <li>construct an outdoor swimming pool</li> <li>construct or extend an outbuilding normal to a dwelling.</li> </ul>	N/A  N/A	
<b>Design and Development Overlay Schedule 19 – Anglesea Residential Areas</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<b>Clause 43.02-2 Buildings &amp; works</b>	A permit is required to construct: <ul style="list-style-type: none"> <li>a building or to construct or carry out works (other than an outdoor swimming pool associated with a dwelling). This does not apply if a schedule to the overlay states that a permit is not required</li> <li>a fence if specified within the overlay.</li> </ul>	Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.	Permit not required
<b>Schedule 19: 2.0 Buildings and Works</b>	A permit is not required to construct a building or to construct or carry out works.  A permit is required to construct a fence.	Construction of Works (Driveway and Landscaping) and Alterations of Access to a Road in Road Zone Category 1.  No new fence	Permit not required

Relevant Policies

**State Planning Policy Framework**

Clause 12 Environmental and landscape values

Clause 12.02 - Coastal Areas

In relation to the appropriate development of coastal areas the relevant objective of this policy is:

- To ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.

The strategies to help achieve this include:

- Ensure development is sensitively sited and designed and respects the character of coastal settlements.

Clause 12.04 Significant Environments and Landscapes

In relation to landscapes the relevant objective of this policy is:

- To protect landscapes and significant open spaces that contribute to character, identify and sustainable environments.

The strategies to help achieve this include:



- *Ensure sensitive landscape areas such as the bays and coastlines are protected and that new development does not detract from their natural quality.*

### **Local Planning Policy Framework**

#### **MSS**

#### **Clause 21.11 Anglesea Strategy**

This clause describes the character of Anglesea as:

*“... a small coastal town on the Great Ocean Road between Torquay and Aireys Inlet. It has a low percentage of permanent residents and is a popular holiday destination for families. The town is bordered by environmentally significant Crown land on three sides and by the coastline to the south.*

Key issues and influences identified in the Strategy include:

- Anglesea and surrounding significant natural landscape is visible from the Great Ocean Road and public viewing points.
- Recognising the importance of significant native vegetation to Anglesea’s character and the following key neighbourhood character attributes:
  - The dominance of the indigenous vegetation over the built environment
  - Low profile buildings contained within the tree canopy, with small footprints and screened by vegetation.
  - A sense of openness between properties due to the absence of solid fencing , the use of post and wire fences or no fences at all.
  - The use of vegetation to achieve a sense of privacy.
  - Gravel roads, and roads with an informal appearance, complemented by vegetation in the roadside
- Balancing development demand for views with protecting neighbourhood character.

Clause 21.11-2, Settlement, Built Environment and Heritage the strategies in support of Objective 1: *”to preserve and enhance the distinctive low density coastal character of Anglesea and retain the sense of houses dispersed in an informal setting”* are:

- Apply minimum subdivision lot sizes and maximum development densities that, together with limits to building footprint and hard surface area, ensure adequate area is maintained for vegetation around buildings.
- Limit the total floor area of buildings relative to the size of an allotment to avoid excessive building bulk and houses that are dominant in the streetscape.
- Encourage a diversity of building styles that reflects a coastal style of architecture, using design materials, features and colours that contribute to the character of Anglesea.
- Retain a sense of openness between properties by discouraging solid fences and encouraging the use of vegetation to achieve privacy.

The following local policies are relevant to the proposal:

- Clause 22.06 – Streetscape and Landscape Policy
- Clause 43.05 - Neighbourhood Character Overlay – Schedule 3

#### **Summary of Policy**

Policy, at both the State and Local level, is essentially directing a balancing of achieving in-fill development with the protection of scenic landscapes, environmental and residential amenity. It is considered that in the policy context greater weighting will be given in coastal towns, particularly in this case, to matters of landscape and environment. As a coastal village, under the Great Ocean Road Strategy, the character of

Anglesea should be protected.

**Particular Provisions**  
 Nil

**Discussion of Key Issues**

Neighbourhood Character Overlay (Schedule 3)

The Neighbourhood Character Overlay (Schedule 3) identifies a preferred neighbourhood character for the Anglesea residential areas derived from a strong native bush landscape setting dominated by an indigenous tree canopy within which sit visually recessive, unobtrusive buildings that are screened by vegetation. Buildings with small footprints and generous setbacks that are not visually bulky or prominent and are screened by vegetation, classic older beach style buildings or modern coastal designs utilising simple built form, buildings that use a diverse range of natural and visually lightweight materials and colours that are subtle, neutral and unobtrusive, are encouraged.

Schedule 3 to the Neighbourhood Character Overlay (NCO3) has the following *relevant* objectives:

- To preserve and enhance the low density non-suburban coastal village character of Anglesea and retain the sense of houses in a bush setting.
- To retain and enhance the existing cover of indigenous vegetation with particular emphasis on Messmate Stringybark and Coastal Moonah Woodland species, where this does not increase bushfire risk.
- To encourage development and infrastructure that retains a non-suburban and informal appearance, reflective of the coastal character of the town and its bushland / heathland environment.
- To maintain a sense of space around buildings to support the preservation and reestablishment of vegetation that enhances screening of the development from adjoining properties and public areas, and to enable the creation and management of defensible space for bushfire protection.
- To maintain a low profile building height that minimises the visibility of buildings in the broader landscape, particularly where the vegetation canopy height is low or a site is prominently located.
- To ensure that buildings are sited and designed to avoid protruding over or above ridgelines or form a silhouette against the sky when viewed from the Great Ocean Road or any other significant viewing point.
- To protect residential amenity by achieving a reasonable sharing of views of significant landscape features, including views of the ocean and coastal shoreline, the Anglesea River and surrounds and natural bushland in the hinterland.
- To encourage development that is well designed with a lightweight coastal image and avoids a typical suburban or historic replica appearance.
- To encourage the use of natural colours as opposed to strong, bold or dark colour schemes to allow buildings to blend with the natural surroundings.

To achieve these objectives, the Neighbourhood Character Overlay (Schedule 3) modifies the following standards of Clause 54, for street setback, building height, site coverage, side and rear setbacks, walls on boundaries and design detail.

The application as proposed has been assessed against the modified standards of the NCO3 as follows:

Performance Measurement	Varied Standard	Proposed
<b>A3/B6 Street Setback</b>	9m from the Great Ocean Road. 4m side street	N/A
	For other streets – the street boundary setbacks of Standard A3 & B6 apply.	No change

	Allotments with vacant lots either side. Front street : 9 metres Side Street: 4 metres	N/A
<b>A4/B7 Building Height</b>	The maximum building height should not exceed 7.5 metres	No change
<b>A5/B8 Site Coverage:</b> <ul style="list-style-type: none"> <li>• Site Coverage</li> <li>• Hard Site</li> <li>• Plot ratio</li> </ul>	<p>The site area covered by buildings should not exceed 30% or 35% where percentage of building &gt;30% is unroofed deck only.</p> <p>The site area covered by any hard surfaces, including pervious surfaces such as gravel, paving, swimming pools and tennis courts, should not exceed 40%.</p> <p>The gross floor area of all buildings should not exceed a plot ratio of 0.4 of the site area.  <i>'Site area' excludes land common to more than one dwelling or land providing vehicular access to a rear dwelling such as in a battle-axe lot.</i>  <i>Site area is calculated for an individual dwelling and is not an average across multiple dwellings.</i></p>	<p>No change</p> <p><u>Hard Site Coverage</u>          Approx. 750sqm – Building and hard surface cover combined</p> <p>Approx. 65%  <b>Does not comply</b></p> <p>&lt;0.4 (No change)  <b>Complies</b></p>
<b>B15 Parking</b>	<p>In addition to the requirements of Clause 55.03-10:</p> <p>Any new or undercover parking space should be sited behind the front wall of the dwelling.</p>	No change
<b>A10/B17 Side and Rear Setbacks</b>	<p>A new building should be setback at least 3 metres from side and rear boundaries.</p> <p>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated that a 3 metre setback from side and rear boundaries cannot be avoided due to site constraints, the requirements of Standards A10 and B17 apply.</p>	No change

<p><b>A11/B18 Walls boundaries</b></p>	<p><b>on</b></p> <p>A new wall should not be located on a side or rear boundary.</p> <p>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated that walls o boundaries cannot be avoided due to site constraints, the requirements of Standards A11 and B18 apply.</p>	<p>No new walls on side or rear boundaries. <b>Complies</b></p>
<p><b>A19/B31 Design Detail</b></p>	<p><b>DESIGN DETAIL</b></p> <p>The design of buildings, including:</p> <ul style="list-style-type: none"> <li>▪ Scale and form</li> <li>▪ Roof form and pitch</li> <li>▪ Height</li> <li>▪ Materials, finishes and colours</li> <li>▪ Façade articulation</li> <li>▪ Building siting</li> <li>▪ Setbacks and space around buildings, and</li> <li>▪ Siting and design of driveways, garages or carports</li> </ul> <p>should respect the preferred neighbourhood character of the area.</p> <p>Building colours should be natural, receding and unobtrusive and assist in visually blending the building with the surrounding natural landscape and vegetation. The use of uncoated Zinalume or galvanised iron as a roofing material is strongly discouraged.</p> <p>Any new or undercover car parking space should be sited behind the front wall of the dwelling.</p> <p>All other requirements of Standards A19 and B31 continue to apply.</p>	<p>The proposed works are contrary to the preferred neighbourhood character in terms of excessive hard surface cover on the property with a lack of mature vegetation being retained within the nature strip. <b>Does not comply</b></p>

As previously outlined, the works have already been undertaken and the application for a planning permit is retrospective.

Given that the property will not comply with Standards A5 and A19 it is considered that the works cannot be supported as they are contrary to the preferred neighbourhood character of the locality.

As a result, the works are contrary to the following relevant objectives of the NCO3:

- *To preserve and enhance the low density non-suburban coastal village character of Anglesea and retain the sense of houses in a bush setting.*
- *To retain and enhance the existing cover of indigenous vegetation with particular emphasis on Messmate Stringybark and Coastal Moonah Woodland species, where this does not increase bushfire risk.*
- *To encourage development and infrastructure that retains a non-suburban and informal appearance, reflective of the coastal character of the town and its bushland / heathland environment.*

It is recommended that Council issue a refusal for the works.

### **Infrastructure**

The application has been referred to Council's Infrastructure section and issue has been raised with regard to works for the unsealed driveway within the road reserve and the retaining wall. It is requested that an amended plan be submitted to show these items deleted plus a landscape plan showing revegetation of the road reserve.

### **Community Fire and Safety**

The application was also referred to Council's Community Fire and Safety officer. In particular, advice has been sought in regard to the plantings within the road reserve. The response has suggested the following:

*'In this area I would recommend low growing plants or plants that would respond positively to grooming as the Surf Coast Shire Groomer will be maintaining a 2 to 4m strip annually along this section of the Great Ocean Road to manage fuel loads too low to medium*

*On the inside of the driveway path there is a number of Boobialla's which are outside the 4m line from the kerb and well away from the house. This area could be planted up with more Boobialla to create a screen from the road with a mix of local native plants Banksias, Bursaria's etc. This area has overhead power lines which will need to be considered.'*

Any conditions of a permit in regard to a landscape plan would include the above suggestions.

### **VicRoads**

The application has been referred to VicRoads and the Authority has no comments to make in relation to the works.

Council has also sought their comments in relation to the construction of a second direct access to the Great Ocean Road and they would not support this due to poor sight limits.

### **Amenity**

The application has been assessed against Clause 54 and the modifications to the Clause under NCO3 outlined above.

The application fails to meet Standards A5 and A19 and subsequently is contrary to the relevant objectives of the NCO3.

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### **Conclusion**

It is recommended that the permit be refused based on the following grounds:

- 3) The works fail to meet Standards A5 and A19 of Clause 54 in terms of hard surface cover and the preferred neighbourhood character for Anglesea respectively; and
- 4) The works are contrary to the relevant objectives of the NCO3.

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ITEM NO: 8.2  
PLANNING REF: 15/0267  
PROPOSAL: Construction of a Dwelling and Removal of Native Vegetation  
APPLICANT: V KARABINAS  
DATE RECEIVED: 03-Jul-2015  
SUBJECT LAND: 10 CAMP ROAD, ANGLESEA. (Lot: 2 PS: 726087M)  
ZONE: GRZ1  
OVERLAYS: Neighbourhood Character - Schedule 3, Design and Development - Schedule 19, Significant Landscape - Schedule 3  
PERMIT REQUIRED UNDER CLAUSES: 42.03-2, 43.05-2  
EXISTING USE: Vacant  
REPORTING OFFICER: Maggie Juniper

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

Planning Officer recommending refusal

Objections received

**MOVED:**

**SECONDED:**

**FOR:**

**OFFICERS RECOMMENDATION**

**ALTERNATIVE RECOMMENDATION**

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**POINTS OF DISCUSSION:**

The Committee identified that there was an opportunity for a compliant design to be achieved. The applicant indicated a willingness to undertake a change of design and lodge amended plans. On this basis the Committee resolved to defer a decision and allow new plans to be assessed.

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

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**SUMMARY**

The application seeks approval for the construction of a single storey dwelling of 3 bedrooms and removal of native vegetation at a vacant 733sqm site. No undercover car parking is proposed.

The site is located at the eastern side of Camp Road in central Anglesea, is elevated relative to the Camp Road pavement/footpath and has an informal access driveway constructed at the southern side. The site adjoins an established dwelling on the north and vacant lots on other boundaries and lies opposite the former Narambi Caravan Park site.

The surrounding residential area, which is proximal to the Anglesea River, is characterised by a low to moderate development density within a modified native vegetation setting. The Anglesea Shopping Centre, the Anglesea Hotel and the Anglesea River bridge and the Great Ocean Road lie nearby to the south.

The application was notified with no objections received.

The development proposes a relatively compact, low scale building with appropriate setbacks and substantially satisfies the modified CL54 standards of Schedule 3, Neighbourhood Character Overlay. The

key departure is the failure to provide or at least to show how undercover on-site parking could be provided behind the front wall of the dwelling as sought by Standard A19 Design Detail which states:

*Any new or undercover car parking space should be sited behind the front wall of the dwelling.*

This was raised with the applicant at the pre-application stage and in subsequent correspondence on lodgement of the application but has not been resolved.

When determining the merits of an application the NC03 Decision Guidelines direct consideration of the following (as relevant):

**Parking and access**

- *The need to ensure that driveways and parking spaces are visually recessive in the streetscape by:
  - Discouraging undercover or enclosed car parking forward of the dwelling façade;
  - In multi-dwelling developments and battle-axe subdivisions, encouraging shared driveways;
  - Designing driveways and parking areas so that they can be softened from the street by vegetation.*
- *Where undercover parking is not proposed, the need to accommodate future demand for undercover parking in a manner that is consistent with the objectives and requirements of this schedule.*

The 733sqm site is relatively large with few constraints and it is considered the failure to incorporate covered parking in the design is a lost opportunity that in the future will result in inevitable conflict with the NCO3. Some discretion with respect to siting and site coverage (double carport/garage would increase building site coverage > 30%) may be appropriate but the merits have been unable to be tested with the subject application.

Given the specific directions of the NC03 with respect to the siting of undercover parking it is considered the preferred neighbourhood character is not met.

**RECOMMENDATION**

That Council having caused notice of Planning Application No. 15/0267 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 42.03-2, 43.05-2 of the Surf Coast Planning Scheme in respect of the land known and described as 10 CAMP ROAD, ANGLESEA., for the Construction of a Dwelling and Removal of Native Vegetation for the following reasons:

1. The proposed development is contrary to the preferred neighbourhood character for the Anglesea Residential Areas, as outlined by Schedule 3 Neighbourhood Character Overlay of the Surf Coast Planning Scheme, in that future demand for undercover parking is unable to be accommodated in a manner that is consistent with the objectives and requirements of this schedule.
2. The proposed development fails to meet Standard A19 Design Detail with respect to the siting of undercover car parking spaces.



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**OFFICER'S REPORT - 15/0267 - 10 CAMP ROAD, ANGLESEA.**

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**Proposal**

The application seeks approval for the construction of a dwelling and removal of native vegetation at a vacant 733sqm site.

The proposed dwelling comprises:

- A single storey building contained to a maximum building height of around 4.90 metres ngl
- A ground floor layout of kitchen/living/dining, TV room, study nook, laundry, 3 bedrooms – one with ensuite and bathroom with a roofed recreation deck on the northern side off the living room.
- A minimum 8.00 metre street setback (W) that steps away from the street boundary increasing to 18 metres at the north west corner (deck)
- Minimum 3 metre setbacks off the side and rear property boundaries
- A conventional hipped roof building style with external wall cladding of painted render, linea weatherboards, corrugated Colorbond sheet and a feature rock face wall with a corrugated Colorbond roof - in neutral greys and browns

No roofed car parking is proposed.

The development also proposes the removal of a group of pine trees near the northern side boundary (no permit required) and the removal of 2 Manna gums and a Black Wattle at the rear south eastern side.

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**Site and Surrounding Area**



The 733sqm vacant site is located in central Anglesea at the eastern side of Camp Road close to the corner with Walker Street.

The site is essentially rectangular shape with an angled frontage (23.460m) to Camp Road and contains semi-mature pines across the front northern side, regrowth wattles and a scattering of native vegetation at the rear. A section of the northern side property boundary is bounded by a new timber picket fence.

The site is elevated above the Camp Road pavement/footpath and has an informal access driveway constructed at the southern side.

**GIS 2015**

The site rises at a regular grade from the street boundary to the rear and this elevation provides for aspect toward the tree canopy within the nearby Anglesea River Reserve.

The site has three (3) abuttals.

- North at 12 Camp Road Anglesea – a two storey dwelling at a deep street setback (20m) and sited around 3 metres from the common boundary. The dwelling's ground floor side windows that looked toward the subject site are now screened by a new side boundary fence.
- East at 1B Walker Street – a vacant 809sqm lot
- South at 8 Camp road – a vacant 557sqm lot

- West (opposite) – compact single storey dwellings (nos 7 & 9 Camp Road) and accommodation buildings associated with the former Narambi Caravan Park

The surrounding residential area of central Anglesea is characterised by a low to moderate development density within a modified native vegetation setting. Development includes older style and recent coastal dwellings and units and the former Narambi Caravan Park adjacent the Anglesea River in the east. Nearby to the south is the Anglesea Shopping Centre, the Anglesea Hotel and the Anglesea River bridge that provides access to the southern side of the township and the Great Ocean Road.



Site and Surrounds: Source: Surf Coast Shire Aerial Photographs 2015

### Relevant History and Background

**Past permits:**

No record exists for any previous planning permit applications for the site.

**Enforcement:**

Nil

### Registered Restrictions

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land Lot 2 PS 726087M is not affected by any registered restriction.

### Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit cannot be granted until a copy of the approved CHMP is provided and cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site is within an area of cultural heritage sensitivity but the proposal is not a high impact activity as specified in the Aboriginal Heritage Regulations 2007 therefore a CHMP isn't required.

**Referral**

The application was not required to be formally referred in accordance with the Section 55 of the *Planning and Environment Act 1987* or Clause 66 of the *Surf Coast Planning Scheme*.

Internal Council Referrals	Advice/Response
Infrastructure Department	Consent with conditions

**Public Notice**

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

1. Notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.
2. A sign was erected on the land for a period of 14 days.

No objections were received. Council's electronic storage system (TRIM) was checked on 13 November 2015.

**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned General Residential 1 and is assessed against the provisions of the *Surf Coast Planning Scheme*. A planning permit is not required under the General Residential Zone to construct a dwelling on a lot >300sqm.

The land is also affected by the Significant Landscape Overlay (Schedule 3), the Design and Development Overlay (Schedule 19) and the Neighbourhood Character Overlay (Schedule 3) and is assessed against the relevant provisions as follows:

<b>Significant Landscape Overlay Schedule 3 – Anglesea</b>			
Criteria	Standard	Proposal	Comment
<i>Clause 42.03-2</i> <b>Permit requirement</b>	A permit is required to construct a building or to construct or carry out works.	Construct a dwelling and <b>removal of native vegetation.</b>	<b>Permit required</b> <b>See below</b>
<i>Schedule 3: 3.0</i> <b>Buildings &amp; works</b>	<p>A permit is not required to construct a building or carry out works</p> <p>A permit is required to remove, destroy or lop native vegetation. This does not apply to vegetation that is:</p> <ul style="list-style-type: none"> <li>• Dead;</li> <li>• Less than 2 metres in height and is not a species of Grass Tree;</li> <li>• On the building side of a vertical line 2 metres from the outer edge of the roof of an existing or approved building; or</li> <li>• Listed as an</li> </ul>	<b>Removal of two (2) manna gum , black wattle (1) and golden wattle (1).</b>	<p>Permit not required</p> <p><b>Permit required</b></p>

	environmental weed in Environmental Weeds – Invaders of our Surf Coast (2 <sup>nd</sup> Edition, 2002)		
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<b>Design and Development Overlay Schedule 19 – Anglesea Residential Areas</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
43.02-2 <b>Building &amp; works</b>	<p>A permit is required to:</p> <ul style="list-style-type: none"> <li>Construct a building or construct or carry out works. This does not apply :               <ul style="list-style-type: none"> <li>If a schedule to this overlay specifically states that a permit is not required.</li> <li>To the construction of an outdoor swimming pool associated with a dwelling unless a specific requirement for this matter is specified in a schedule to this overlay.</li> </ul> </li> <li>Construct a fence if specified in a schedule to this overlay.</li> </ul>	Construct a dwelling and removal of native vegetation.	<b>Permit not required – see exemptions below</b>
<i>Schedule 19: 2.0</i> <b>Buildings and works</b>	<p>A permit is <b>not</b> required to construct a building or construct or carry out works.</p> <p>A permit is required to construct a fence. This does not apply to:</p> <ul style="list-style-type: none"> <li>A fence of post and wire construction not more than 1.5 metres in height; or</li> <li>A fence that meets all of the following:               <ul style="list-style-type: none"> <li>Is located in Precinct B as shown on Map 1 to this schedule; and</li> <li>Is sited adjacent or to the rear of an existing dwelling (Section B as shown on Diagram 1); and</li> <li>Does not exceed a height of 1.8 metres; and</li> <li>Is at least 25% permeable.</li> </ul> </li> </ul>	<p>Construct a dwelling and removal of native vegetation.</p> <p>No fence proposed</p>	Permit not required

<b>Neighbourhood Character Overlay Schedule 3 – Anglesea Residential Areas</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<i>Clause 43.05-2</i> <b>Buildings &amp; works</b>	A permit is required to construct a building or to construct or carry out works.	<b>Construct a dwelling</b> and removal of native vegetation.	<b>Permit required</b>
<i>Schedule 2: 3.0</i> <b>Buildings &amp; works</b>	<p>A permit is required to:</p> <ul style="list-style-type: none"> <li>construct an outdoor swimming pool</li> <li>construct or extend an</li> </ul>	<p>No pool</p> <p>No outbuilding</p>	<p>N/A</p> <p>N/A</p>

	outbuilding normal to a dwelling.		
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## **Relevant Policy**

### ***State Planning Policy Framework***

#### **Clause 11 Settlement**

11.05 Regional development

11.05-4 Coastal settlement

#### **Clause 12 Environmental and Landscape Values**

12.02 – 2 appropriate development of coastal areas

The relevant objectives of this policy are:

- *To ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.*

Clause 12.02-6 Great Ocean Road region

The relevant objective is:

- *To manage the sustainable development of the Great Ocean Road region..*

Clause 12.04 Significant environments and landscapes

Clause 12.04-2 Landscapes

#### **Clause 15 Built Environmental and Heritage**

##### **Clause 15.01 Urban Environment**

The objective from this clause is:

- *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

The strategies are as relevant:

- *Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate*
- *Encourage retention of existing vegetation or revegetation as part of subdivision and development proposals*

### ***Local Planning Policy Framework***

#### **Clause 21 Municipal Strategic Framework**

##### **Clause 21.02 Settlement, Built Environment, Heritage and Housing**

##### **Clause 21.02-4 Neighbourhood Character**

The objective is:

- *To protect the individual coastal township character values of low urban density, recessive built form, vegetated coastal landscapes and ecological values of the natural environment from inappropriate urban development.*

##### **Clause 21.11 Anglesea Strategy**

The following local policies are relevant to the proposal:

- Streetscape and Landscaping Policy

### ***Particular Provisions***

#### ***Clause 54 One Dwelling on a Lot (Rescode)***

These provisions apply to an application to construct a building or to construct or carry out works associated with one dwelling on a lot under the provisions of:

- A Neighbourhood Character Overlay if the land is in a Residential 1 Zone ....

**Provisions Apply** – Proposal: Buildings and works to construct a dwelling on land zoned General Residential1 within a NCO3.

An analysis of the application against the requirements of Clause 54 of the planning scheme is attached to this report.

**Clause 52.06 Car Parking**

These provisions **do not** apply to:

The construction of one dwelling on a lot in the Residential 1 zone .....

The provisions **do not apply** as the proposal is for the extension of one dwelling within the Residential 1 Zone.

**Planning Scheme Amendments**

Nil

**Discussion of Key Issues**

Neighbourhood Character Overlay (Schedule 3)

The Neighbourhood Character Overlay (Schedule 3) identifies a preferred neighbourhood character for the Anglesea residential areas that is derived from a strong native bush landscape setting dominated by an indigenous tree canopy within which sit visually recessive, unobtrusive buildings screened by vegetation. Buildings with small footprints and generous setbacks, that are not visually bulky or prominent and screened by vegetation; classic older beach style buildings or modern coastal designs utilising simple built form, buildings that use a diverse range of natural and visually lightweight materials and colours that are subtle, neutral and unobtrusive, are encouraged.

Schedule 3 to the Neighbourhood Character Overlay (NCO3) has the following *relevant* objectives:

- *To preserve and enhance the low density non-suburban coastal village character of Anglesea and retain the sense of houses in a bush setting.*
- *To retain and enhance the existing cover of indigenous vegetation with particular emphasis on Messmate Stringybark and Coastal Moonah Woodland species, where this does not increase bushfire risk.*
- *To encourage development and infrastructure that retains a non-suburban and informal appearance, reflective of the coastal character of the town and its bushland / heathland environment.*
- *To maintain a sense of space around buildings to support the preservation and reestablishment of vegetation that enhances screening of the development from adjoining properties and public areas, and to enable the creation and management of defensible space for bushfire protection.*
- *To maintain a low profile building height that minimises the visibility of buildings in the broader landscape, particularly where the vegetation canopy height is low or a site is prominently located.*
- *To ensure that buildings are sited and designed to avoid protruding over or above ridgelines or form a silhouette against the sky when viewed from the Great Ocean Road or any other significant viewing point.*
- *To protect residential amenity by achieving a reasonable sharing of views of significant landscape features, including views of the ocean and coastal shoreline, the Anglesea River and surrounds and natural bushland in the hinterland.*
- *To encourage development that is well designed with a lightweight coastal image and avoids a typical suburban or historic replica appearance.*
- *To encourage the use of natural colours as opposed to strong, bold or dark colour schemes to allow buildings to blend with the natural surroundings.*

To achieve these objectives, the Neighbourhood Character Overlay (Schedule 3) modifies the Clause 54 standards for street setback, building height, site coverage, side and rear setbacks, walls on boundaries and design detail.

The application has been assessed against the modified standards of the NCO3 as follows:

Performance Measurement	Varied Standard	Proposed

<p><b>A3/B6 Street Setback</b></p>	<p>9m from the Great Ocean Road. 4m side street</p> <p>For other streets – the street boundary setbacks of Standard A3 &amp; B6 apply.</p> <p>Allotment with existing building on one abutting allotment facing the same street &amp; not a corner. Front street : Same distance as front wall setback of abutting existing dwelling or 9 metres whichever is the lesser.</p> <p>Side Street: 4 metres setback from a side street</p>	<p>Other Streets:</p> <p><u>Front Street Setback</u> Proposed: 8.0 metres increasing to 18.0m across frontage Required: 9.0m <b>Minor non-compliance</b></p> <p><u>NA</u></p>
<p><b>A4/B7 Building Height</b></p>	<p>The maximum building height should not exceed 7.5 metres</p>	<p><u>Max Height:</u> Approx. 4.90m ngl <b>Complies</b></p>
<p><b>A5/B8 Site Coverage:</b></p> <ul style="list-style-type: none"> <li>• Site Coverage</li> <li>• Hard Site</li> <li>• Plot ratio</li> </ul>	<p>The site area covered by buildings should not exceed 30% or 35% where percentage of building &gt;30% is unroofed deck only.</p> <p>The site area covered by any hard surfaces, including pervious surfaces such as gravel, paving, swimming pools and tennis courts, should not exceed 40%.</p> <p>The gross floor area of all buildings should not exceed a plot ratio of 0.4 of the site area. <i>'Site area' excludes land common to more than one dwelling or land providing vehicular access to a rear dwelling such as in a battle-axe lot. Site area is calculated for an individual dwelling and is not an average across multiple dwellings.</i></p>	<p><u>Site coverage:</u> Approx. 29% *all roofed areas <b>Complies</b></p> <p><u>Hard Site Coverage</u> 41.50% <b>Minor non-compliance</b></p> <p><u>Plot Ratio:</u> 0.0288 *all roofed areas <b>Complies</b></p>
<p><b>A10/B17 Side and Rear Setbacks</b></p>	<p>A new building should be setback at least 3 metres from side and rear boundaries.</p> <p>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated</p>	<p><u>Side &amp; Rear Setbacks</u></p> <p><u>Dwelling:</u> <u>South (side):</u> 3.00m <u>North (side):</u> 3.00m <u>East (rear):</u> 3.00m <b>Complies</b></p>

	that a 3 metre setback from side and rear boundaries cannot be avoided due to site constraints, the requirements of Standards A10 and B17 apply.	
<b>A11/B18 Walls on boundaries</b>	<p>A new wall should not be located on a side or rear boundary.</p> <p>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated that walls o boundaries cannot be avoided due to site constraints, the requirements of Standards A11 and B18 apply.</p>	No new walls on side or rear boundaries. <b>Complies</b>
<b>A19/B31 Design Detail</b>	<p><b>DESIGN DETAIL</b></p> <p>The design of buildings, including:</p> <ul style="list-style-type: none"> <li>▪ Scale and form</li> <li>▪ Roof form and pitch</li> <li>▪ Height</li> <li>▪ Materials, finishes and colours</li> <li>▪ Façade articulation</li> <li>▪ Building siting</li> <li>▪ Setbacks and space around buildings, and</li> <li>▪ Siting and design of driveways, garages or carports</li> </ul> <p>should respect the preferred neighbourhood character of the area.</p> <p>Building colours should be natural, receding and unobtrusive and assist in visually blending the building with the surrounding natural landscape and vegetation. The use of uncoated Zincolume or galvanised iron as a roofing material is strongly discouraged.</p> <p><b>Any new or undercover car parking space should be sited behind the front wall of the dwelling.</b></p> <p>All other requirements of Standards A19 and B31 continue to apply.</p>	<p>The building is responsive to the preferred neighbourhood character with respect to mass/bulk, height and proportions, siting and space around to achieve/retain a low density vegetated setting.</p> <p>But <b>fails</b> with respect to siting and design of driveways, garages or carports</p> <p>Materials and external colours typical of area and neutral toned. <b>Satisfactory</b></p> <p><b>No covered parking space proposed. Dwelling design and siting means that any covered parking will be forward of the building</b> <b>Fails.</b></p>



The proposed dwelling development is a relatively compact, low scale building with appropriate setbacks that substantially satisfies the modified C154 standards of Schedule 3, Neighbourhood Character Overlay. In this respect it is considered the development responds to the neighbourhood character objectives that seek to maintain the positive elements of Anglesea's existing character including ..... *a strong native bush landscape setting dominated by indigenous tree canopy within which sit visually recessive, unobtrusive buildings that are screened by vegetation ... a low profile building height, small footprints and large setbacks, which affords a sense of space between buildings.*

The key departure is the failure to provide or at least to show how undercover on-site parking could be provided behind the front wall of the dwelling as sought by Standard A19 Design Detail which states:

*Any new or undercover car parking space should be sited behind the front wall of the dwelling.*

This matter was raised with the applicant at the pre-application stage and in subsequent correspondence on lodgement of the application. The pre-application plan nominated a double carport at the southern side of the site forward of the dwelling to a 4 metre street setback (CL54 Rescode Std A3 requires 9m). The lodged application plan showed no carport or on-site parking but an access crossover at the southern side and the revised Site Layout Plan (9 Sept 2015) now indicates a possible double carport within the frontage at the northern side but no details of the access driveway have been shown.

Clearly, the 733sqm site has capacity to accommodate 2 on-site carports (as required by Clause 52.06 Car Parking) but the matter turns on response to the preferred neighbourhood character. When determining the merits of an application the NC03 Decision Guidelines direct consideration of the following (as relevant):

**Parking and access**

- *The need to ensure that driveways and parking spaces are visually recessive in the streetscape by:
  - *Discouraging undercover or enclosed car parking forward of the dwelling façade;*
  - *In multi-dwelling developments and battle-axe subdivisions, encouraging shared driveways;*
  - *Designing driveways and parking areas so that they can be softened from the street by vegetation.**
- *Where undercover parking is not proposed, the need to accommodate future demand for undercover parking in a manner that is consistent with the objectives and requirements of this schedule.*

As noted above, no covered on-site parking is proposed and given the dwelling's site layout and design any future parking (covered or otherwise) will have to be sited within the front setback and forward of the dwelling which conflicts with the NCO3's design detail standard A19. Further, as the site is elevated to the street it is considered a carport/garage forward of the dwelling would be unacceptably prominent in the streetscape. A future carport/garage would also likely fail to meet the Rescode Street Setback standard requirement of 9 metres.

The 733sqm site is relatively large with few constraints and it is considered the failure to incorporate covered parking in the design is a lost opportunity that in the future will result in inevitable conflict with the NCO3. Some discretion with respect to siting and site coverage (double carport/garage would increase building site coverage > 30%) may be appropriate but the merits have been unable to be tested with the subject application.

Given the specific directions of the NC03 with respect to the siting of undercover parking it is considered the preferred neighbourhood character is not met.

**Clause 54 standards not varied by the NCO2**

An assessment of the proposal against the objectives and standards of Clause 54 not varied by the NCO2 has been undertaken. These provisions deal with matters of on-site amenity and services and the off-site impacts of a new development on the amenity of existing neighbouring dwellings by building bulk (setbacks), overlooking and overshadowing. The proposal is assessed as meeting all the above relevant objectives and standards.

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**Conclusion**

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It is recommended that the application for Construction of a Dwelling and Removal of Native Vegetation be REFUSED.

**ATTACHMENT – ASSESSMENT AGAINST CLAUSE 54: ONE DWELLING ON A LOT ON LAND AFFECTED BY THE NCO3 ANGLESEA RESIDENTIAL AREAS**

NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE					
Neighbourhood Character Objectives	Met?	Comments	Standard A1	Met?	Comments
<i>Design respects the existing or contributes to a preferred neighbourhood character.</i>	No		<i>Design respects neighbourhood character and responds to the site features.</i>	NO	The proposal does not respect the preferred neighbourhood character with regard to on-site covered carparking.
<i>To ensure that the design responds to the features of the site and the surrounding area</i>	Yes		(see statement of neighbourhood character and neighbourhood character objective in NCO3)		
Integration With The Street Objective	Met?	Comments	Standard A2	Met?	Comments
<i>To integrate the layout of development with the street</i>	Yes		<i>Dwellings should be oriented to front existing and proposed streets</i>	Yes	The dwelling faces towards Camp Road and will allow informal surveillance of street.
			<i>High fencing in front of dwellings should be avoided if practicable</i>	NA	NA
			<i>Dwellings should be designed to promote the observation of abutting streets and any abutting public open spaces</i>	Yes	The dwelling faces towards Camp Road and will allow informal surveillance of street.
Street Setback Objective	Met?	Comments	Standard A3 (varied by NCO3)	Met?	Comments
<i>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</i>	Yes		<i>Walls of buildings should be setback from streets the distance specified the Street Setback Table below:</i>		
			<i>The allotment fronts the Great Ocean Road - 9 metres front street and 4 metres setback from a side street.</i>	NA	
			<i>Other Streets: The allotment fronts a street other than the Great Ocean Road and there is an existing building on either of the abutting allotments facing the same street - the street boundary setbacks of Standard A3 and B6 apply</i>	Yes	<b>Front Setback</b> Prop setback: 8.00m min Req: 9.00m
			<i>The allotment fronts a street other than the Great Ocean Road and there is no existing building on either of the abutting allotments facing the same street. – 9 metres front street and 4 metres setback from a side street</i>	NA	<b>Satisfactory</b> – minor non-compliance but front wall steps back from street boundary across the frontage to around an 18m max street setback.

			<i>Porches, pergolas and verandahs that are &lt; 3.6m high and eaves may encroach ≤ 2.5m into the setbacks of this standard</i>	NA	NA
<b>Building Height Objective</b>	Met?	Comments	Standard A4 (varied by NCO3)	Met?	Comments
<i>To ensure that the height of buildings respects the existing or preferred neighbourhood character</i>	Yes		<i>The maximum building height should not exceed 7.5m</i>	Yes	<u>Max Height:</u> Approx. 4.90m ngl Complies
<b>Site Coverage Objective</b>	Met?	Comments	Standard A5 (varied by NCO3)	Met?	Comments
<i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</i>	Yes		<i>The site area covered by buildings should not exceed 30% or 35% where percentage of building &gt;30% is unroofed deck only.</i>	Yes	<u>Site coverage:</u> 29% approx. inc of all roofed areas <b>Complies</b>
			<i>The site area covered by any hard surfaces, including pervious surfaces such as gravel, paving, swimming pools and tennis courts, should not exceed 40%.</i>	Yes	<u>Hard Site Coverage</u> 41.507% <b>Fails – minor non compliance</b>
			<i>The gross floor area of all buildings should not exceed a plot ratio of 0.4 of the site area.</i>  <i>'Site area' excludes land common to more than one dwelling or land providing vehicular access to a rear dwelling such as in a battle-axe lot.</i> <i>Site area is calculated for an individual dwelling and is not an average across multiple dwellings.</i>	Yes	<u>Plot Ratio:</u> 0.287 <b>Complies</b>
<b>Permeability Objectives</b>	Met?	Comments	Standard A6	Met?	Comments
<i>To reduce the impact of increased stormwater run-off on the drainage system</i>	Yes		<i>The area covered by pervious surfaces should be at least:</i> <ul style="list-style-type: none"> <li>▪ <i>The minimum area specified in a schedule to the zone; or</i></li> <li>▪ <i>If no minimum area is specified in a schedule to the zone, 20 percent of the site.</i></li> </ul>	Yes	Permeable area approx. 60% <b>Complies</b>
<i>To facilitate on-site stormwater infiltration</i>	Yes				
<b>Energy Efficiency Protection Objectives</b>	Met?	Comments	Standard A7	Met?	Comments
<i>To achieve and protect energy efficient dwellings</i>	Yes		<i>Buildings should be:</i> <ul style="list-style-type: none"> <li>• <i>Orientated to make appropriate use of solar energy</i></li> <li>• <i>Sited and designed to ensure that the energy efficiency of existing dwellings is maximised</i></li> </ul>	Yes  Yes	The living rooms are located on the northern side of the dwelling and open to a side roofed deck. <b>Satisfactory</b>

<i>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</i>	Yes		<i>Living areas and private open space should be located on the north side of the dwelling if practicable</i>	Yes	The living rooms are located on the northern side of the dwelling and open to a side roofed deck. <b>Satisfactory</b>
			<i>Dwellings should be designed so that solar access to north-facing windows is maximised</i>	Yes	Yes
Significant Trees Objectives	Met?	Comments	Standard A8	Met?	Comments
<i>To encourage development that respects the landscape character of the neighbourhood</i>	Yes		<i>Development should provide for the retention or planting of trees, where these are part of the neighbourhood character.</i>	Yes	Two (2) euc trees , exotic pines and 2 wattles are proposed to be removed to facilitate the proposal. Some removal exempt under Bushfire Protection Clause 52.48 and SLO3. Landscape Plan will be required.
<i>To encourage the retention of significant trees on the site</i>	Yes		<i>Development should provide for the replacement of significant trees that have been removed in 12 months prior to the application being made.</i>	NA	Landscape Plan will be required.

**AMENITY IMPACTS**

Side And Rear Setback Objective	Met?	Comments	Standard A10 (varied by NCO3)	Met?	Comments
<i>To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	See discussion		<i>A new building should be setback at least 3 metres from side and rear boundaries.</i>  <i>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated that a 3 metre setback from side and rear boundaries cannot be avoided due to site constraints, the requirements of Standards A10 and B17 apply.</i>	Yes	<u>Dwelling:</u> <u>North (side):</u> 3.00m minimum  <u>South (side):</u> 3.00m minimum  <u>East (rear):</u> 3.00m minimum <b>Complies</b>
			<i>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5m into the setbacks of this standard</i>	NA	None indicated
			<i>Landings having an area of not more than 2sqm and less than 1m high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard</i>	NA	None indicated

Wall On Boundaries Objective	Met?	Comments	Standard A11 (varied by NCO3)	Met?	Comments
<i>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	Yes		<p><i>A new wall should not be located on a side and rear boundaries.</i></p> <p><i>Where a lot has a boundary width of 14 metres or less, or where it can be demonstrated that walls on boundaries cannot be avoided due to site constraints, the requirements of Standards A11 and B18 apply.</i></p>	Yes	No new walls are located on a side or rear boundary.
Daylight To Existing Windows Objective	Met?	Comments	Standard A12	Met?	Comments
<i>To allow adequate daylight into existing habitable room windows</i>	Yes		<p><i>Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot.</i></p>	Yes	<p>New dwelling/building will be setback at least 3 metres off the common boundaries.</p> <p><b>Satisfied</b></p>
			<p><i>Walls or carports more than 3m in height opposite an existing habitable room window should be <u>set back from the window</u> at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window</i></p> <p><i>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window</i></p> <p><i>*see NCO3 variations for side &amp; rear setbacks</i></p>	Yes	<p><u>North:</u> Height: 3.20m Setback: 3.0m to boundary Required Setback: 1.60m <b>Complies</b></p> <p><u>South: (vacant lot)</u> Height: 3.6.00m ngl Setback: 3.00m to boundary Required Setback: 1.50m <b>Complies</b></p> <p><u>East: (vacant lot)</u> Height: 3.00m Setback: 3.0m to boundary Required Setback: 1.50m <b>Complies</b></p>

North Facing Windows Objective	Met?	Comments	Standard A13	Met?	Comments
To allow adequate solar access to existing north-facing habitable room windows	Yes		<p>If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m <u>from the edge of each side of the window.</u></p> <p>A north facing window is a window with an axis perpendicular to its surface oriented north 20degrees west to north 30 degrees east.</p>	Yes	No north facing window within 3.0 metres of a boundary.
Overshadow Open Space Objective	Met?	Comments	Standard A14	Met?	Comments
To ensure buildings do not significantly overshadow existing secluded private open space	Yes		Where sunlight to secluded private open space of an existing dwelling is reduced, at least 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September	Yes	<p>The shadow diagram submitted with the application illustrated that the areas of secluded private open space of existing dwellings to north will not be affected. The vacant lots to south and east will be minimally shaded at the relevant date.</p> <p>Future dwellings should be able to design to benefit from solar access.  <b>Satisfactory</b></p>
			If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced	NA	NA
Overlooking Objective	Met?	Comments	Standard A15	Met?	Comments
To limit views into existing secluded private open space and habitable room windows	Yes		A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct <b>views into the secluded private open space</b> of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level	<p>N/A</p> <p>Yes</p>	<p><u>East &amp; South:</u>            Vacant lots to east and south.</p> <p><u>North at 12 Camp Road</u>            The 9m O/L arc from the north side deck will be interrupted by a 75% solid 2m high side boundary fence.</p> <p><i>It is noted no objection has been received to proposed development on basis of overlooking.</i></p>

		<p>A habitable room window, balcony, terrace, deck or patio with a direct view <b>into a habitable room window</b> of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either:</p> <ul style="list-style-type: none"> <li>• offset a minimum of 1.5m from the edge of one window to the edge of the other</li> <li>• have sill heights of at least 1.7m above floor level</li> <li>• have fixed, obscure glazing in any part of the window below 1.7m above floor level</li> <li>• have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent</li> </ul>	<p>NA</p> <p>Yes</p>	<p><u>East &amp; South:</u>          Vacant lots to east and south.</p> <p><u>North at 12 Camp Road</u>          The 9m O/L arc from the north side deck will be interrupted by a 75% solid 2m high side boundary fence.</p> <p><i>It is noted no objection has been received to proposed development on basis of overlooking</i></p>
		<p>Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this standard</p>	<p>NA</p>	<p>See above</p>
		<p>Screens used to obscure a view should be:</p> <ul style="list-style-type: none"> <li>• perforated panels or trellis with a maximum of 25% openings or solid translucent panels</li> <li>• permanent, fixed and durable</li> <li>• designed and coloured to blend with the development</li> </ul>	<p>NA</p>	<p>See above</p>
		<p>This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.6m high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.6m above ground level at the boundary</p>	<p>NA</p>	



<b>ON-SITE AMENITY AND FACILITIES</b>					
<b>Daylight To New Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A16</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate daylight into new habitable room windows</i>	Yes		<p><i>A window in a habitable room should be located to face:</i></p> <ul style="list-style-type: none"> <li>• <i>an outdoor space or a light court ≥3sqm and minimum dimension of 1m clear to the sky, not including land on an abutting lot, or</i></li> <li>• <i>a verandah provided it is open for at least one third its perimeter, or</i></li> <li>• <i>a carport provided it has two or more open sides and is open for at least one third of its perimeter</i></li> </ul>	<p>Yes</p> <p>Yes</p> <p>NA</p>	<b>Complies</b>
<b>Private Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A17</b>	<b>Met?</b>	<b>Comments</b>
<i>To provide adequate private open space for the reasonable recreation and service needs of residents</i>	Yes		<p><i>Dwelling should have private open space:</i></p> <ul style="list-style-type: none"> <li>• <i>of 80sqm or 20% of the area of the lot, whichever is the lesser, but not less than 40sqm</i></li> <li>• <i>at least one part of the POS should consist of a minimum area of 25sqm secluded with a minimum dimension of 3m at the side or rear of the dwelling with convenient access from a living room</i></li> </ul>	Yes	<b>Complies</b>
<b>Solar Access To Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A18</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow solar access into the secluded private open space of a new dwelling</i>	Yes		<p><i>The private open space should be located on the north side of the dwelling, if practicable.</i></p> <p><i>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least (2 + 0.9h) metres, where "h" is the height of the wall</i></p>	<p>Yes</p> <p>Yes</p>	<p>Primary deck on north side</p> <p>Walls to north within 6.50metres of north edge of north side deck. Assume: Wall Height: 6m Req SB: 7.40m Prop SB: 9.50m (south end) <b>Complies</b></p> <p>Other SPOS will not be affected.</p>

<b>DETAILED DESIGN</b>					
Design Detail Objective	Met?	Comments	Standard A19 (varied by NCO3)	Met?	Comments
<i>To encourage design detail that respects the existing or preferred neighbourhood character</i>	No	<i>Fails with respect to location of undercover parking</i>	<p>The design of buildings, including:</p> <ul style="list-style-type: none"> <li>▪ Scale and form</li> <li>▪ Roof form and pitch</li> <li>▪ Height</li> <li>▪ Materials, finishes and colours</li> <li>▪ Façade articulation</li> <li>▪ Building siting</li> <li>▪ Setbacks and space around buildings, and</li> <li>▪ Siting and design of driveways, garages or carports</li> </ul> <p>should respect the preferred neighbourhood character of the area.</p> <p>Building colours should be natural, receding and unobtrusive and assist in visually blending the building with the surrounding natural landscape and vegetation. The use of uncoated Zinalume or galvanised iron as a roofing material is strongly discouraged.</p>	Yes	<p>The building is responsive to the preferred neighbourhood character with respect to mass/bulk, height and proportions and adequate space around.</p> <p><b>Satisfactory</b></p> <p>The building is proposed to be constructed of render board, linea board, CBond cladding), select stonework and CBond steel sheet roof. The external colours are neutral and muted.</p> <p><b>Satisfactory</b></p>
			<p>Any new or undercover car parking space should be sited behind the front wall of the dwelling.</p>	<b>NO</b>	<p>No undercover parking is proposed and given the dwelling design &amp; layout any future covered parking would have to be located forward of the front wall of the dwelling. And potentially to a 4m street setback.</p> <p><b>Fails.</b></p>
Front Fences Objective	Met?	Comments	Standard A20	Met?	Comments
<i>To encourage front fence design that respects the existing or preferred neighbourhood character</i>	Yes		<p><i>The design of front fences should complement the design of the dwelling and any front fence on adjoin properties</i></p> <p><i>A front fence within 3 metres of a street should not exceed:</i></p> <p><i>The maximum height specified in schedule to the zone or</i></p> <p><i>If none specified:</i></p> <p><i>Streets in RDZ Cat 2 metres</i></p> <p><i>1:</i></p> <p><i>Other Streets: 1.5 metres</i></p> <p><i>Refer to DDO19</i></p>	NA	None proposed

**ITEM NO:** 8.3  
**PLANNING REF:** 14/0418  
**PROPOSAL:** Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence  
**APPLICANT:** Clause 1 Pty Ltd  
**DATE RECEIVED:** 30-Oct-2014  
**SUBJECT LAND:** 43 GREAT OCEAN RD, AIREYS INLET. (LOT: 6 LP: 60518)  
**ZONE:** General Residential 1  
**OVERLAYS:** Environmental Significance – Schedule 4, Design and Development – Schedule 10, Neighbourhood Character – Schedule 1  
**PERMIT REQUIRED UNDER CLAUSES:** 42.01-2, Clause 3.0 of Schedule 4 to 42.01-2, 43.05-2 and 52.29  
**EXISTING USE:** Vacant  
**REPORTING OFFICER:** Ben Schmied

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

Planning Officer recommending refusal

Objections received x 1

**MOVED:**

**SECONDED:**

**FOR:**

**OFFICERS RECOMMENDATION**



**ALTERNATIVE  
RECOMMENDATION**



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**POINTS OF DISCUSSION:**

The Committee considered that the proposed development would result in too many areas of non-compliance as detailed in the officers report and as a result failed to adequately respond to the relevant planning controls

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

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**SUMMARY**

The application seeks approval to construct a new two storey dwelling, to create access to Great Ocean Road and to construct a Colorbond fence to a side boundary. A planning permit is required to develop the land under the Neighbourhood Character Overlay Schedule 1 (NCO1) and Environmental Significance Overlay Schedule 4 (ESO4).

The proposed dwelling is a substantial house of five bedrooms, two large living areas and amenities. The maximum height is 7.75m, total building site coverage is in the order of 40%, less than 50% of the site is available for landscaping and the setback from the southern side boundary is 1.865m. The scale of the building is substantially greater than expected under NCO1 and it has been assessed that the proposal fails to achieve the character objectives of this overlay.

One objection was received from a neighbouring property, primarily in relation to the impact of development on significant views. This issue hasn't been tested exhaustively due to the more substantive issues of building scale and impact on neighbourhood character, but it is estimated that a reasonable sharing of views

would be achieved as the view to the lighthouse is expected to be retained from the primary viewing locations of the deck and living room.

### **RECOMMENDATION**

That Council having caused notice of Planning Application No. 14/0418 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 Clauses 42.01-2, Clause 3.0 of Schedule 4 to 42.01-2, 43.05-2 and 52.29 of the Surf Coast Planning Scheme in respect of the land known and described as 43 GREAT OCEAN RD, AIREYS INLET, for the Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence for the following reasons:

1. The proposed development will detract from the landscape and neighbourhood character of the area by way of the intensity of development including height, site coverage and minimal boundary setbacks and therefore fails to achieve the objectives of Neighbourhood Character Overlay Schedule 1 and Aireys Inlet to Eastern View Strategy.

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**OFFICER'S REPORT - 14/0418 - 43 GREAT OCEAN RD, AIREYS INLET.**

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**Proposal**

The application seeks approval for construction of a double storey dwelling on the site together with construction of an access in a Road Zone Category 1 and construction of a fence.

The proposed dwelling will comprise the following:

*Ground floor*

- Master bedroom with walk in robe and ensuite;
- Second bedroom (bedroom 5);
- Laundry, bathroom and powder room;
- Open plan living/meals/kitchen area with outdoor covered pergola area; and
- Attached single garage.

*First floor*

- 3 bedrooms (bedrooms 2, 3 and 4) each with walk in robe and a shared two-way ensuite between bedrooms 2 & 3;
- Bathroom;
- Large retreat area with balcony;
- Balcony accessed from bedroom 2;
- Northwest balcony adjacent bedroom 3.

The proposed dwelling will have an overall maximum height of 7.75 metres. The proposed external finishes will include:

- Roofing – Galvanised steel
- Walls – Face Brick in 'Steel' colour (light grey); Rendered brick and polystyrene in Dulux 'Bushland Grey half strength' (light grey); Alucobond White
- Parapet – Rendered polystyrene in Dulux 'Bushland Grey' (Mid-grey/green)
- Garage door – Alucobond Silver

It is further proposed to construct a retaining wall forward of the dwelling to create a level terrace. The retaining wall would have a maximum height of about 1.2m above natural ground level. The retaining wall would have a minimum setback of 5.84m from the front boundary.

The proposed vehicle access onto Great Ocean Road will be via a 3 metre wide crossover located at the northeastern front corner of the site. In addition, new Colorbond 'Teatree' fencing at a height of 1.8 metres will be erected part way along the southern side boundary of the site, from the rear boundary of the property up to the kitchen window. This fence will screen the outdoor pergola area. Gates are also proposed between the garage and the northern side boundary

No vegetation will be removed from the site. A 1.82m wide easement adjoins the southern side boundary.

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**Site and Surrounding Area**

The site is an almost rectangular shaped vacant lot of approximately 608m<sup>2</sup> with frontage to the Great Ocean Road, Aireys Inlet. The lot is 16.76m wide with a depth of between 36.68m and 36.29m. The lot is grassed with a gentle fall from northwest to southeast. Views of the Split Point Lighthouse, ocean and coast can be obtained to the southeast and around to the southwest. Along this stretch of Great Ocean Road the road verge on the western side of the road is about 16m wide giving all buildings the appearance of very large street setbacks, For the purposes of this report the road is taken as forming the eastern boundary, though in true orientation the lot is rotated approximately 22 degrees to the south.

The property adjoins the site occupied by the Aireys Inlet hotel to the south. Vehicle access to the hotel crosses in front of the property for almost the entire width. Abutting the site boundary on the hotel land is an open grassed area of up to 15m width. Beyond this are gravel accessways and parking. The hotel building is setback further than the depth of the subject site. The hotel is single storey.

The adjoining lot to the north at 41 Great Ocean Road is a recently constructed two storey dwelling. This dwelling is setback a minimum of 10m from the street boundary and 3m from the common side boundary. The main living spaces of the dwelling are located at first floor and along with an adjacent deck are

orientated to gain a view across the front of the subject site towards the lighthouse. On the opposite side of the road is a restaurant and adjoining motel.

The surrounding area is characterised by low building densities with a built form nestled within a cover of native vegetation.




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### Relevant History and Background

#### **Past permits:**

No relevant previous planning permit applications for the site.

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### Registered Restrictions

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land is not affected by registered restrictions.

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### Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit can not be granted until a copy of the approved CHMP is provided and can not grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site isn't within an area of cultural heritage sensitivity therefore a CHMP isn't required.

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### Referral

The application was required to be referred under Clause 66 of the Surf Coast Planning Scheme.

Authority	Decision
VicRoads	No objection subject to condition

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### Public Notice

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

3. notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.
4. a sign was erected on the land for a period of 14 days.

One objection has been received. Council’s electronic storage system (TRIM) was checked on 23 October 2015.

The issue raised in the objection include:

**A – 41 Great Ocean Road, Aireys Inlet**

- *Impact on views (lighthouse and ocean)*

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**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned General Residential Zone Schedule 1. A planning permit is not required to construct a dwelling as the lot is more than 300m<sup>2</sup>.

The land is also affected by the Neighbourhood Character - Schedule 1, Environmental Significance - Schedule 4, Design and Development - Schedule 10 and is assessed against the relevant provisions as follows:

<b><i>Environmental Significance Overlay Schedule 4 – The Settlements of Aireys Inlet, Fairhaven and Moggs Creek</i></b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<b>Clause 42.01-2 Permit requirement</b>	A permit is required to: <ul style="list-style-type: none"> <li>• Construct a building or construct or carry out works.</li> <li>• Construct a fence (see exemptions below).</li> <li>• Subdivide land.</li> <li>• Remove, destroy or lop any vegetation (see exemptions below).</li> </ul>	Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence  N/A  N/A	<b>Permit required</b>
<b>Schedule 4: 3.0 Fence</b>	A permit is required to construct a fence. This does not apply to a fence of post and wire construction not more than 1.5m in height.	1.8m Colorbond fence part way along southern side boundary	<b>Permit required</b>
<b>Schedule 4: 3.0 Vegetation</b>	A permit is not required to remove, destroy or lop any vegetation that is: <ul style="list-style-type: none"> <li>• within 2 metres of the outer edge of the roof of a building or overhangs this area.</li> <li>• listed as an environmental weed in the incorporated document. “Environmental Weeds – Invaders of our Surf Coast, 2<sup>nd</sup> Edition (2002)”.</li> <li>• not native to Victoria</li> <li>• native to Victoria and less than 2 metres in height, provided it is not locally indigenous to the Aireys Inlet to Eastern View area.</li> </ul>	N/A	

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***Design and Development Overlay Schedule 10 – The Settlements of Aireys Inlet, Fairhaven and***

<b>Moggs Creek</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<i>Clause 43.02-2</i> <b>Buildings &amp; works</b>	A permit is required to construct a building or to construct or carry out works. This does not apply: <ul style="list-style-type: none"> <li>If a schedule to this overlay specifically states that a permit is not required.</li> </ul>	Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence	Permit not required
<i>Clause 43.02-3</i> <b>Subdivision</b>	A permit is required to subdivide land.	N/A	
<i>Schedule 10: 2.0</i>	A permit is not required to construct a building or construct or carry out works.	Construction of alterations and additions to an existing dwelling	Permit not required

<b>Neighbourhood Character Overlay Schedule 1 – The Settlements of Aireys Inlet, Fairhaven and Moggs Creek</b>			
<b>Criteria</b>	<b>Standard</b>	<b>Proposal</b>	<b>Comment</b>
<i>Clause 43.05-2</i> <b>Buildings &amp; works</b>	A permit is required to construct a building or to construct or carry out works.	Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence	<b>Permit required</b>
<i>Schedule 1: 3.0</i> <b>Buildings &amp; works</b>	A permit is required to: <ul style="list-style-type: none"> <li>construct an outdoor swimming pool</li> <li>construct or extend an outbuilding normal to a dwelling.</li> </ul>	N/A  N/A	

**State Planning Policy Framework**

12.02-2 Appropriate development of coastal areas

**Objective**

To ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.

**Strategies**

Ensure development is sensitively sited and designed and respects the character of coastal settlements.

12.02-6 The Great Ocean Road region

**Objective**

To manage the sustainable development of the Great Ocean Road region.

**Strategies**

Ensure development responds to the identified landscape character of the area.

Manage the impact of development on the environmental and cultural values of the area.

Manage the growth of towns by:

- Respecting the character of coastal towns and promoting best practice design for new development.

15 BUILT ENVIRONMENT AND HERITAGE



Planning should ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

Creating quality built environments supports the social, cultural, economic and environmental wellbeing of our communities, cities and towns.

Land use and development planning must support the development and maintenance of communities with adequate and safe physical and social environments for their residents, through the appropriate location of uses and development and quality of urban design.

Planning should achieve high quality urban design and architecture that:

- Contributes positively to local urban character and sense of place.
- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances liveability, diversity, amenity and safety of the public realm.
- Promotes attractiveness of towns and cities within broader strategic contexts.
- Minimises detrimental impact on neighbouring properties.

#### 15.01-1 Urban design

##### **Objective**

To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

##### **Strategies**

Promote good urban design to make the environment more liveable and attractive.

Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

#### 15.01-5 Cultural identity and neighbourhood character

##### **Objective**

To recognise and protect cultural identity, neighbourhood character and sense of place.

##### **Strategies**

Ensure development responds and contributes to existing sense of place and cultural identity.

Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.

Ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising:

- The underlying natural landscape character.
- The heritage values and built form that reflect community identity.
- The values, needs and aspirations of the community.

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## **Local Planning Policy Framework**

### 21.01 Surf Coast Shire Profile and Vision

Clause 21.01 under the heading “Key Issues and Influences” states that *key issues and influences impacting the Surf Coast Shire include:*

- *Increasing popularity of the coast and coastal towns as permanent, holiday and tourist destinations.*
- *Reconciling coastal growth with the fragile natural environment, traditional coastal town character and relaxed surfing culture.*
- *Changing rural industry and influx of lifestyle farms.*
- *Protection of significant vegetation and amenity of the vegetated landscape versus wild fire risk.*
- *Rapid rate of growth of coastal towns and delivery of necessary infrastructure.*
- *High cost of urban land and consequent pressure to develop urban uses in rural areas.*
- *Increasing accessibility of the Shire to Geelong and Melbourne.*

The Municipal Framework Plan at clause 21.01-4 goes on to emphasise that “*the underlying principle that directs all local policy and strategies of the Surf Coast Planning Scheme is that the natural environment is the single most important attribute and asset of the Surf Coast Shire.*”

The key strategic directions for sustainable land use and development as identified in the framework plan are (inter alia):

- *To manage population and tourist growth and development in an ecologically sustainable manner.*
- *To support and strengthen the individual character and role of the coastal and rural towns within the Shire that contributes to the diversity of experiences, and residential, commercial, recreational and employment opportunities.*
- *To protect the fragile coastal and forest environments and scenic landscapes that separates the coastal townships, from urban sprawl and inappropriate development.*
- *To find a balance in the management of native vegetation to secure environmental and landscape values while reducing the risk of wildfire.*

### Clause 21.02 – Settlement, built environment and heritage

Clause 21.02-1 details the key issues and influences within the Shire which include (inter alia):

- *Relatively strong population growth within the coastal towns is expected to continue for the foreseeable future due to sustained interest in the region’s natural environment.*
- *Development pressure and insensitive suburban style development are threatening the character of the coastal towns valued by residents and visitors alike.*
- *Insensitive and inappropriate development often results from a poor understanding of local character, stemming from an inadequate analysis of the context in which a property is located.*
- *A significant proportion of dwellings in the coastal towns are not permanently occupied, serving as holiday homes.*

At clause 21.02-3 of the MSS under the heading “Neighbourhood Character”, the objective is listed as:

- *To protect the individual coastal township character values of low urban density, recessive built form, vegetated coastal landscapes and ecological values of the natural environment from inappropriate urban development.*

The strategies to achieve this include:

- *Ensure residential development densities are compatible to the protection of the indigenous vegetation and the historic neighbourhood character of the Surf Coast settlements.*
- *Encourage a coastal style of urban form within all coastal towns and coastal localities in all developments.*
- *Recognise the key role vegetation plays in defining township character in softening urban development.*

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#### Clause 21.12 – Aireys Inlet to Eastern View Strategy

This clause identifies Aireys Inlet as a small coastal township ‘where the key focus will be on the protection and enhancement of the unique coastal character with its cover of indigenous vegetation’. The strategy states that the ‘*Aireys Inlet to Eastern View Neighbourhood Character Study and Vegetation Assessment 2005*’ establishes that the town has a ‘distinctive low density, generally vegetated coastal character’ and that the preferred neighbourhood character is to retain and enhance these identified characteristics , including ‘the generous space between buildings, the low building scale, the availability of views, the informal fencing of property boundaries and the informal road network’. Strategies for residential development in Aireys Inlet are described as to:

- *Recognise that the townships have limited growth opportunities due to environmental and physical limitations and the desire to protect and enhance the preferred neighbourhood character.*
- *Maintain and enhance the vegetated landscape and encourage its dominance over the built environment.*
- *Encourage new development that displays a coastal style of architecture, maintains a low rise building height and blends with the surrounding landscape.*
- *Limit the size and footprint of dwellings and hard surfaces so buildings can be screened by vegetation setback from buildings to provide fire safety and so that a sense of space around buildings is maintained.*
- *Encourage a reasonable sharing of views of significant landscape features form private land.*

#### Clause 22.02 – Streetscape and Landscape Policy

To protect and enhance the landscape character of towns, the policy requires that applications for development be accompanied by a landscape plan.

#### **Particular Provisions**

##### Clause 52.29

This clause provides that a planning permit is required to create access to a road in Road Zone Category 1.

##### Clause 54 One Dwelling on a Lot states:

*These provisions apply to an application to construct a building or construct a building or carry out works associated with one dwelling on a lot under the provisions of:*

- *A Neighbourhood Character Overlay if the land is in a General Residential Zone.*

Construct a building or to construct or carry out works on land in a General Residential Zone and included within an NCO1 – **provisions apply** and development must be assessed against Clause 54 and modifications.

#### **Planning Scheme Amendments**

N/A

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#### **Discussion of Key Issues**

##### Neighbourhood Character

The importance of new development respecting the character of coastal townships and the protection of landscape values along the coast is expressed within the SPPF, as outlined in the summary of the SPPF provided above. One example of this is Clause 12.02-2 which states “*Ensure development is sensitively sited and designed and respects the character of coastal settlements.*” This message is reinforced for towns along the Great Ocean Road by Clause 12.02-6 which establishes the strategies for this area of “*Ensure development responds to the identified landscape character of the area*” and “*Manage the growth of towns by respecting the character of coastal towns and promoting best practice design for new development.*”

The preferred neighbourhood character for Aireys Inlet is that of low building densities within a natural setting where vegetation dominates the landscape. To this end, low scale and low profile buildings of simple design on relatively generous lots are sought. Reasonable boundary setbacks creating spacing between buildings, and construction that makes use of natural materials and subdued colours are also measures applied to achieve the character objectives. The Design and Development Overlay – Schedule 10 reinforces the character objectives of the NCO1 through the application of minimum subdivisional lot areas and via fencing controls.

Schedule 1 to the Neighbourhood Character Overlay (NCO1) states the following relevant objectives:

- *To ensure that development presents an inconspicuous profile against the landscape setting, allowing the landscape to remain the key feature of the settlements, particularly where the vegetation canopy height is low and/or a site is prominently located.*
- *To require adequate setbacks from boundaries to retain space around buildings and to provide sufficient room for landscaping to the front and side of a development so it appears to be ‘nestled in the trees’.*
- *To ensure that the scale, setback, site coverage, location and overall form of the development promotes the preferred character attributes of the settlements.*
- *To provide sufficient land, free of buildings and hard surfaces, in order to sustain vegetative screening that better integrates built form with the landscape.*
- *To achieve a reasonable sharing of views of significant landscape features, including views of the ocean and coastal shoreline, the Split Point Lighthouse, the Painkalac valley and natural bushland in the hinterland.*

The key issue with this application is the intensity of the development proportionate to the lot size as demonstrated through the proposal’s failure to meet a number of the performance standards of the NCO1.

Specifically, schedule 1 to the Neighbourhood Character Overlay applies variations to Clauses 54 and 55 (Rescode) standards to help achieve the preferred character objectives. In particular, the variations deal with street and side setbacks, building height, site coverage, total land area occupied by buildings and ancillary works (i.e. driveways, patios etc) and visual bulk (through plot ratio).

As mentioned above, the development fails to comply with many of the variations as outlined in the following table (a full assessment against Clause 54 is attached):

Performance Measurement	Required under varied standard	Proposed	Comment
A3: Front Setback	9 metres	10.5m	Complies
A4 Building Height	7.5m	Approx. 7.75m <sup>1</sup>	<b>FAILS</b>
A5 Site Coverage	30% (or 35% including unroofed deck)	36.9% (224m <sup>2</sup> ) or 40.7% including unroofed decks	<b>FAILS</b>
Plot Ratio	0.40	0.65 (0.59 excluding roofed decks)	<b>FAILS</b>
A6 Permeability	At least 60% of the lot must not be covered by hard surfaces including pervious surfaces, such as gravel, paving, swimming pools and tennis	~49.8% (building and driveway, other hard surface areas likely but landscape	<b>FAILS</b>

<sup>1</sup> It has been identified that there is an apparent error in the survey information as there are spot levels that do not correlate with the contour levels. The contours are spaced at 0.2m intervals and as an example of the discrepancies close to and downhill of the 39 contour is a spot level of 39.98. Downhill of the 38.4 contour is a spot level of 38.74. These might be typographic errors but they could also be errors in the establishment of the contours creating some doubt as to the true ground levels, though the fall of the contours is consistent with site observations.

	courts, to provide adequate space for vegetation	plan not provided)	
A10 Side and rear setbacks	3.0m side and rear	<u>N:</u> <ul style="list-style-type: none"> <li>• 3m to wall</li> <li>• 2m to stair</li> <li>• 2.1m to eave</li> </ul> <u>W:</u> <ul style="list-style-type: none"> <li>• 4.975m</li> </ul> <u>S:</u> <ul style="list-style-type: none"> <li>• 3m to ground floor wall</li> <li>• 2.25m to ground floor deck and pergola</li> <li>• 1.865m to first floor wall and balcony</li> </ul>	Complies <b>FAILS</b> <b>FAILS</b> Complies Complies <b>FAILS</b> <b>FAILS</b>

Whilst non-compliance with the standards is not of itself fatal to the application, as these are not mandatory standards, they are a strong indicator of a development that, more importantly, fails to achieve the character objectives of NCO1. It is recognised that the permit applicant has provided dimensions and calculations of areas which are much lower than those provided in the table above, but it is submitted that these figures are incorrect.

The decision guidelines of NCO1 include:

*Street setback*

- Whether the minimum street setback should be reduced to preserve vegetation, address topographical site constraints (e.g. steep slope) or retain views of significant features that might otherwise be lost due to the siting of neighbouring dwellings.

*Building height*

- Whether a lower building height is required in order to meet the landscape character objectives, particularly where a building would protrude above the tree canopy.
- Whether a higher building height on steeply sloping land will be in keeping with the landscape character of the area having regard to the proportioning and bulk of building.

*Site coverage*

- Whether the maximum site coverage and plot ratio for an existing lot having an area less than 550sqm should be varied where the objectives of the schedule can still be met.

It is submitted that the subject site is notably unconstrained in any way that would substantiate a variation to the above standards. The site is a rectangular lot with a reasonably generous area of 608m<sup>2</sup>, comfortably greater than the minimum lot area required by DDO10<sup>2</sup>. The site has a gentle fall and is devoid of vegetation of any significance. It is encumbered by an easement along the southern boundary but this does not constrain the achievement of the above standards.

The variation by NCO1 of standard A10 reads in full that:

*A new building should be setback at least 3 metres from side and rear boundaries.*

*Where a lot has a boundary width of 14 metres and less or where it can be demonstrated that a 3 metre setback from all boundaries cannot be achieved due to site constraints, the following standards apply:*

*A new building may be set back from side or rear boundaries:*

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<sup>2</sup> For the purposes of Clause 3.0 of Schedule 10 to the DDO, the site is within Precinct B, whereby a lot to be created by subdivision is required to have a minimum area of 550m<sup>2</sup>.

- 1 metre, plus 0.3 metres for every metre of height over 3.6metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres; and
- at least 3 metres from one side boundary, which shall be set aside for landscaping.

The site has a width of 17.34m and as noted does not suffer any constraints which warrant variations to side setbacks. To highlight the inappropriate scale of the proposed development, the building would also fail to provide normal Rescode setbacks for the proposed wall heights<sup>3</sup>.

In the decision of the Tribunal in *Orbit Solutions Pty Ltd v Surf Coast SC* [2009] VCAT 2043, in relation to five applications for dwellings on nearby land at 31-33 Pearse Road, Aireys Inlet, (5 lots each of 506m<sup>2</sup>) the member commented:

*"I agree with him that no application should be simply assessed on the basis of it 'ticking all or most of the boxes'. Our planning system is far more sophisticated than that. But assessment against 'standards' does provide a useful tool as part of a much broader and more qualitative assessment that must also consider issues such as site context and the whole suite of relevant policies and controls within the Planning Scheme. Even if a development does 'tick all the boxes' there may be valid reasons why an application should be refused (see Chak Lai Li v Whitehorse CC (No. 1) [2005] VCAT 1274 and Li v Whitehorse CC (No. 2) [2005] VCAT 1438)."*

The same decision also includes the following commentary:

*Development in these small coastal townships has the potential to undermine the very attributes that attract people to live in these locations in the first place. Council has a very clear vision about how future development will be managed and Clause 21.04 sets out the Strategic Framework for the Shire under various themes or subject areas. Clause 21.04-3 is policy for housing and settlement and different centres are discussed and a key objective given for each. Aireys Inlet is included under the heading Anglesea to Eastern View and is described as follows:*

The townships of Aireys Inlet, Fairhaven, Moggs Creek and Eastern View are contained by dense bushland and spectacular coastline, and are a popular destination for surfers and tourists, with attractions including the Split Point Lighthouse and Angahook-Lorne State Park. The townships are characterised by their relative lack of urbanisation. Future development will be strictly limited due to the environmental sensitivity of the area, the high level of fire risk and the need to prevent development spreading along the Great Ocean Road.

These townships are relatively small (populations of less than 3000 people), with a large proportion of non-permanent residents (around 35%). The number of permanent residents is slowly increasing, however the towns are still seen as attractive holiday destinations with residents and visitors seeking a place of escape from the stresses of urban living, and a sense of wellbeing through their enjoyment of the natural environment. The towns are constrained in their capacity to accommodate increased population growth because of the environmental sensitivity of their surrounding hinterlands and because residents are seeking to maintain the low density coastal character of the towns. It will be important to maintain the non-urban character of the townships (such as their coastal vegetation and informal road networks) and the environmental values of their surrounding bushland, estuaries and foreshore areas.

*These broad themes are further explained in later policies with Clause 21.13 of particular relevance (Aireys Inlet to Eastern View Strategy). It is clear that in reading these various policies that one of the key objectives is to confine urban development within existing township boundaries. This proposal for five dwellings is well within the township boundary and therefore satisfies this aspect of policy. However another key objective is to protect and enhance the small scale coastal bushland amenity of townships and their low density non-suburban character. A list of strategies to achieve the objectives is then provided, together with steps for implementation, applying zones and overlays, and undertaking further strategic work.*

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<sup>3</sup> South boundary, maximum wall height 7.28m-7.75m, required setback 2.37m-2.84m, proposed setback 1.865m.

*The strategies include (as directly relevant):*

- Limit the size and footprint of dwellings and hard surfaces so buildings can be screened by vegetation setback from buildings to provide fire safety and so that a sense of space around buildings is maintained.
- Limit the floor area of buildings to avoid bulky houses that are dominant in the streetscape and landscape.
- Apply minimum lot sizes that will enable the retention of space around buildings in infill development and retain the low density character of the townships.
- Ensure that development maintains a low rise building height.
- Integrate buildings with the surrounding landscape through the use of warm, natural and earthy colours and non reflective roofing.
- Retain a sense of openness between properties by discouraging solid fences and encouraging the use of indigenous vegetation to achieve privacy.
- Retain and enhance the informal vegetated appearance of access driveways, roadsides and pathways.
- Avoid development on the ridgelines and hillsides that are visible from the Great Ocean Road at Fairhaven, Moggs Creek and Eastern View.
- Encourage the principles of green building, water sensitive urban design and adopt best practice stormwater management principles.

*Clause 21.13 also requires the Neighbourhood Character Overlay to be applied to the land zoned residential with a Schedule that contains performance standards for development. Neighbourhood character and how the development has responded to the clearly enunciated preferred character set out in 1.0, the neighbourhood character objectives set out in 2.0 and the standards set out in 4.0 of Schedule 1 to the Neighbourhood Character Overlay 1 are key factors in any assessment of these five applications.*

It is considered that, as with the proposals considered in *Orbit Solutions*, the intensity of the current proposal is far too great to be consistent with the preferred character. The proposed development would present a significant scale of building to the street and neighbouring properties with limited opportunity for landscaping which would screen the building and place it in a bushland setting as is sought by policy and the NCO1 objectives. It is acknowledged that landscaping undertaken as part of the development will increase the level of vegetation cover on the site, as there is currently no vegetation, but the balance between built form and vegetation will not be as envisaged by policy.

In the decision of *Dawson-Ryan v Surf Coast SC* [2011] VCAT 522, an application for a tennis court in Anglesea where similar character objectives apply, the Tribunal commented:

*“There is clearly a strong policy commitment to the retention and enhancement of the vegetated character of the area and, as part of that thrust to discourage development which diminish opportunities for re-establishment of vegetation. Council has, in recent years increased its commitment to the protection of vegetation in the Anglesea coastal area as exemplified by the introduction of Amendment C16, which incorporated the changes to SLO3 and to Clause 22.06 (22.09 in AM 16). It has continued to take a consistent stance opposing developments which might undermine that approach.*

*While there is little vegetation on the areas proposed to be covered by the tennis court at No. 58 Eleventh Avenue, much of which is maintained as lawn, what is important is not the current situation but what the preferred future is for the area concerned. Clearly the Council envisages the retention of any native vegetation present and the re-establishment of native vegetation where opportunities are available.*

*While I accept Mr Finanzio’s proposition that the planning scheme cannot compel revegetation I cannot accept his further view that the long term prospects for revegetation are minimal if non-*

*existent. Ownerships may change, the values of other generations may change. Council's view is clearly a long term view - it should not be undermined by short term objectives. The policies of the scheme have come from a period of community consultation including the development of the Anglesea Neighbourhood Character Study (2003) and clearly identify the introduction of tennis courts as potentially prejudicial to that long term aim.*

...

*I note that Member Naylor reached similar conclusions in the Costa case<sup>2</sup>. While there were particular circumstances at play in that case, including the proximity to the coastal reserve, her fundamental conclusions are based on the same policy basis as that which I have applied. The objectives of the Environmental Significance Overlay include the same objectives as those of the SLO3. I note that in that case the tennis court was a grass court.*

Similarly, the overall extent of the tennis court has reduced marginally but it does not address my previous findings that the use of a tennis court limits the opportunity for new landscaping that will complement the landscape character. Mr Wyatt's landscaping concept is an improvement upon the previous proposal, but the inclusion of a tennis court on the review site means the environmental objectives of ESO4 have not been achieved. Whilst the surface of the tennis court may be grassed, it remains a large surface area that is not restored with native vegetation cover and does not support the landscape character objectives of NCO1, particularly providing sufficient land in order to sustain vegetative screening that better integrates built form within the landscape."

It is considered that some parallel can be drawn to this matter, where it is not a case of retaining existing vegetation but of not removing the opportunity to revegetate in a manner consistent with the township character by overdeveloping the site with building and hard surfaces.

The applicant has submitted that a number of contextual circumstances support the proposed variations to the standards. These are set out and responded to as follows:

- *"The site is immediately adjacent to a large open site (Hotel) thereby the proposed single dwelling is not likely to cause any detrimental amenity impacts or be perceived as excessive built form in this context;"*

The issue of building scale is not one of detrimentally impacting on the amenity of neighbouring properties but rather the impact on the neighbourhood character of the area. To rely on the space around the hotel to justify a building scale disproportionate to its site is to 'borrow' from the lesser developed land. The proportionally small footprint of the hotel, low height and large open spaces surrounding the building are in many ways consistent with the preferred neighbourhood character

While the adjoining site is currently a hotel car parking area, it must be acknowledged that it is also included in the General Residential Zone Schedule 1 so the current level of development is not necessarily an indication of its future development as it could be further developed, with or without removal of the hotel.

- *"The large verge provided at the site's frontage further recessing the proposed dwelling when viewed from the public domain;"*

There is a large verge to the front of the site but this is not unique to the site, all properties on the western side of Great Ocean Road share a similarly wide reserve. Much of the verge is occupied by the crossover to the hotel which angles across in front of the site; the balance is grassed and lacks any mature vegetation as seen in other nearby areas, therefore the verge does not contribute to a strong landscape setting. The site also rises up from the road so is readily visible from the street front so any development on it would not necessarily be reduced in terms of visual impact, rather its visual presence in the streetscape could be further enhanced.

- *"The proposed dwelling is similar in scale, mass and area to the one recently constructed on the neighbouring site (41 Great Ocean Road);"*



The double storey dwelling approved at 41 Great Ocean Road adjoining the subject site is recorded in the officer report for that application as having a maximum building height of 6.6m, site cover of 25%, a plot ratio of 0.39 and complying minimum 3 metre setbacks to side boundaries and 8.4m to the rear boundary. The proposed dwelling is therefore substantially higher and larger in site coverage and scale

- *“The site abuts the Great Ocean Road (Cat. 1 Road Zone) where it is considered a different standard is justified compared to the residential hinterland also affected by the NCO.”*

NCO1 does not distinguish between land along the Great Ocean Road and other residential areas; the neighbourhood character objectives and standards apply equally. In the inverse, for many visitors to the Surf Coast Shire, the character of the coastal towns is primarily appreciated from the experience of travelling along the Great Ocean Road adding importance to achieving the preferred neighbourhood character.

- *“Furthermore the proposal is provided with generous front and rear setbacks and low profile roof form to ensure an open low rise and low density neighbourhood character is maintained by the proposal.”*

The above summary table and attached detailed assessment of Clause 54 demonstrate that the proposed development exceeds a number of the standards of NCO1. The achievement of some standards does not offset the significant scale of the building. The roof of the building is ‘low profile’ in that it is a flat roof behind a parapet, but the height of the building still exceeds 7.5m above the existing ground level at the highest point. The front setback will be substantially occupied by the proposed terrace area which may reduce the landscaping potential of this area.

The impacts of the scale of the proposed buildings are emphasised by the architectural style of the design and selected materials. The rectangular forms of the building, use of light coloured render and white and silver Alucobond cladding has more in common with an urbane context that might be found in Melbourne, Geelong or even Torquay, than with the low-key character of Aireys Inlet. A flat façade is avoided by the recesses of the balconies but there is little of the coastal character preferred for the town.

In summary, the proposal is an overdevelopment of the site which fails to achieve the neighbourhood character objectives for Aireys Inlet and cannot be supported in its current form.

#### VicRoads

The proposed development seeks to establish a new vehicle entry/exit onto Great Ocean Road, which is Road Zone Category 1. The application was referred to VicRoads under Section 55 of the Act and in a letter to Council dated 22 June 2015 the Authority has raised no issue with the proposal subject to a condition relating to the construction standard for a new crossover.

#### ESO4 – Fence

The application triggers a planning under Clause 42.01-2 of the ESO4. In particular, it is proposed to construct a new colorbond fence at a height of 1.8 metres part way along the south side boundary of the site, from the rear boundary up to the kitchen window. This fence will screen the outdoor pergola area.

The Environmental Objectives for Schedule 4 state amongst others:

*“To encourage the use of post and wire fencing to provide for the movement of fauna.”*

Further, the relevant Decision Guidelines state:

- *Whether solid fencing has been used sparingly and only for achieving privacy for habitable room windows and designated areas of private open space.*
- *Whether the fencing material contributes to an open non-suburban character and has a lightweight appearance.*

The proposed fence will provide privacy to the outdoor pergola area from the open car parking area of the hotel adjoining to the west. Given the level of activity associated with the hotel and its car parking, despite the separation from the common boundary it is considered appropriate for some fencing to be provided to achieve privacy. Further, it will only cover approximately 14 metres of a 36.68 metre length of boundary, so its visual impact as well as its impact on the movement of fauna in the area would be limited.

However it is considered that the proposed Colorbond material doesn't contribute to a 'non-suburban character'. Whilst the fence will be setback from the street boundary the open landscape means that it will be quite visible from the public realm. It is considered that a timber fence (but not a standard paling fence) would be more appropriate to the setting.

#### View sharing

View sharing is a principle which has been supported in the current Planning Scheme and in decisions of the Victorian Civil and Administrative Tribunal (VCAT) over a number of years. In these decisions, both within the Surf Coast Shire and other municipalities, VCAT has defined a set of principles that should be considered in assessing view sharing, which have been most completely stated in *Healy v Surf Coast SC [2005] VCAT 990*:

- (a) *there is no legal right to a view;*
- (b) *views form part of the existing amenity of a property and their loss is a relevant consideration to take into account;*
- (c) *the availability of views must be considered in the light of what constitutes a reasonable sharing of those views;*
- (d) *in addressing the concept of "reasonableness", it is relevant to consider:*
  - (i) *the importance of the view to be lost within the overall panorama available; and*
  - (ii) *whether those objecting have taken all appropriate steps to optimise development of their own properties.*
- (e) *added emphasis will be placed on principles (b) and (c) above if the issue of views is specifically addressed in the planning scheme.*

The Surf Coast Planning Scheme does address views with NCO1 stating the objective "*To achieve a reasonable sharing of views of significant landscape features, including views of the ocean and coastal shoreline, the Split Point Lighthouse, the Painkalac valley and natural bushland in the hinterland.*"

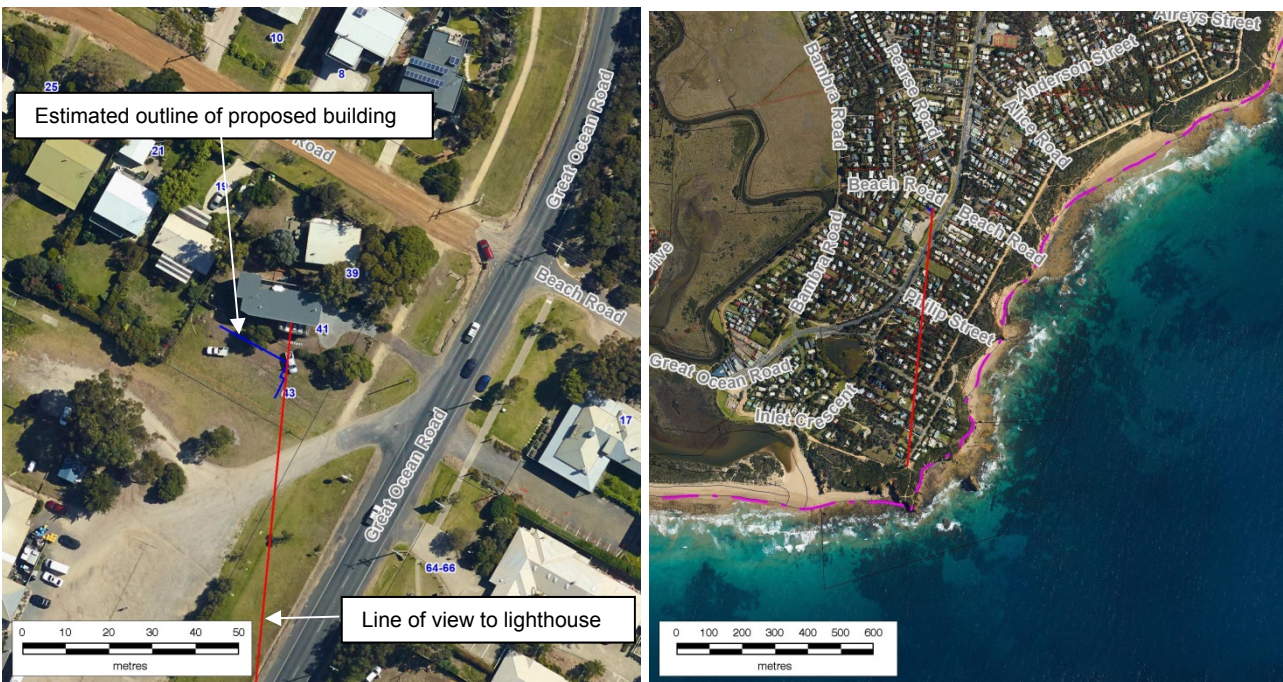
Given the substantial issues around the scale of the building as discussed above the impacts of the proposed development on views from the neighbouring property at 41 Great Ocean Road haven't been explored on site. As a general comment given the relatively gentle slope any two storey building on the site is likely to significantly interrupt the views gained from buildings upslope. In other words there isn't sufficient height gain between properties to achieve views over similar height buildings. Therefore it is a matter potentially achieving views to either side and between buildings.

The layout of the dwelling on 41 Great Ocean Road has the primary living spaces of an open plan kitchen, dining and living room located across the centre and eastern end of the first floor. A deck is accessed from the living room on the southern side. It is estimated that the dwelling would enjoy views to Split Point Lighthouse to the south and spreading east and west open ocean and to the southwest the coastline to Lorne and beyond. The dwelling is angled to the property boundary to face primarily towards the lighthouse view.



Example of view – dwelling at 41 Great Ocean Road visible at right

Based on the setback of the proposed dwelling of 11.5m to the northern side of the building it is estimated that views would continue to be obtained to the east of the proposed dwelling from the centre of the southern deck and living room. From the dining room and kitchen it is likely that the view to the lighthouse would be lost, though blue water views may be obtained to the southeast.



The view to the southwest is likely to be lost from the primary living areas, but these aren't really orientated to take in this view. The key location to gain the view to the southwest appears to be the master bedroom from its west window and this view would not be affected by the proposed development.

It is likely that the proposed development will achieve a reasonable sharing of views, but given the substantive issues of building scale, the impact on views has not been fully explored. If the committee was of the mind to grant a permit it is recommended that a height pole exercise be completed before a decision is issued to ensure the above assumptions are correct.

**Conclusion**

It is recommended that a permit not be granted for Development of a Dwelling and Construction of Access in a Road Zone Category 1 and Construction of a Fence.

**ATTACHMENT – ASSESSMENT AGAINST CLAUSE 54 WITH NCO1 VARIATIONS**

<b>NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE</b>					
<b>Neighbourhood Character Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A1</b>	<b>Met?</b>	<b>Comments</b>
<i>Design respects or contributes to the neighbourhood character.</i>	<b>No</b>		<i>Design respects neighbourhood character and responds to the site features.</i>	<b>No</b>	The design provides for an over scaled dwelling that will result in overdevelopment of the site, and will fail to meet the purpose of the NCO. The development is not respectful of the existing NC.
<i>To ensure that development responds to the features of the site and the surrounding area</i>	<b>No</b>		<i>(see statement of neighbourhood character and neighbourhood character objective in NCO1)</i>		
<b>Integration With The Street Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A2</b>	<b>Met?</b>	<b>Comments</b>
<i>To integrate the layout of development with the street</i>	Yes		<i>Development should be oriented to front existing and proposed streets</i>	Yes	The proposed dwelling will be orientated towards Great Ocean Road frontage.
			<i>High fencing in front of dwellings should be avoided if practicable</i>	N/A	
			<i>Dwellings should be designed to promote the observation of abutting streets and any abutting public open spaces</i>	Yes	The proposed dwelling will integrate well with the street frontage.

<b>SITE LAYOUT AND BUILDING MASSING</b>					
<b>Street Setback Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A3 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</i>	Yes		<i>Walls of buildings should be setback from streets: Minimum setback from front street – 9m Minimum setback from a side street – 6m</i>	Yes	Great Ocean Road – Prop. Setback – 10.5m to dwelling facade.  <b>Complies.</b>
			<i>Porches, pergolas and verandahs that are &lt; 3.6m high and eaves may encroach ≤ 2.5m into the setbacks of this standard</i>	N/A	
<b>Building Height Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A4 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the height of buildings respects the existing or preferred neighbourhood character</i>	<b>No</b>		<i>The maximum building height should not exceed 7.5m</i>	<b>No</b>	7.75m max building height
			<i>Buildings should be stepped down the slope on steep sites</i>	N/A	Not a steep site
			<i>The second storey is to be setback behind the lower storey on lots located within <b>Precinct 1.</b></i>	N/A	
			<i>Buildings should be stepped down the site following the contour, on lots located within <b>Precinct 2.</b></i>	N/A	N/A
			<i>Buildings should be recessive adjacent to the lighthouse, on lots located within <b>Precinct 3</b></i>	N/A	N/A
			<i>New development must not dominate or compete with the lighthouse in <b>Precincts 2 and 3.</b></i>	N/A	N/A

<b>Site Coverage Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A5 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</i>	Yes		<i>The site area covered by buildings should not exceed 30% or 35% where the percentage exceeding 30% is unroofed deck only</i>	No	BSC ex. unroofed deck – 36.9% BSC inc. unroofed deck – 40.7%
			<i>The gross floor area of all buildings must not exceed a plot ratio of 0.4 of the site area.</i>	No	0.65
			<i>The calculation for site area must not include:</i> <ul style="list-style-type: none"> <li>• <i>Land common to, or in shared use between, two or more dwellings.</i></li> <li>• <i>Land providing vehicular access to a rear dwelling, such as in a battle-axe lot.</i></li> </ul>	N/A	
<b>Permeability Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A6 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To reduce the impact of increased stormwater run-off on the drainage system</i>	Yes		<i>At least 60% of the lot must not be covered by hard surfaces including pervious surfaces, such as gravel, paving, swimming pools and tennis courts to provide adequate space for vegetation.</i>	No	Approx. 49.8%
<i>To facilitate on-site stormwater infiltration</i>	Yes				
<b>Energy Efficiency Protection Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A7</b>	<b>Met?</b>	<b>Comments</b>
<i>To achieve and protect energy efficient dwellings</i>	No		<i>Buildings should be:</i> <ul style="list-style-type: none"> <li>• <i>Orientated to make appropriate use of solar energy</i></li> <li>• <i>Sited and designed to ensure that the energy efficiency of existing dwellings is maximised</i></li> </ul>	No  Yes	Dwelling has a northwest southeast orientation, but internal living areas do not maximise the northern aspect.
<i>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</i>	No		<i>Living areas and private open space should be located on the north side of the development if practicable</i>	No	Internal living areas not located on the north side
			<i>Maximise north-facing windows</i>	No	North facing windows for master bedroom and bedroom 4 only.
<b>Significant Trees Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A8</b>	<b>Met?</b>	<b>Comments</b>
<i>To encourage development that respects the landscape character of the neighbourhood</i>	No		<i>Development should provide for the retention or planting of trees (refer to ESO4/ESO5 for requirements for landscaping and vegetation removal)</i>	No	Amount of hard surface cover and reduced side boundary setback will inhibit area for substantial landscaping.
<i>To encourage the retention of significant trees on the site</i>	Yes		<i>Replace any significant trees that have been removed in the 12 months prior to the application being made</i>	N/A	None removed

<b>AMENITY IMPACTS</b>					
<b>Side And Rear Setback Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A10 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	Yes		<p>A new building should be setback at least 3 metres from side and rear boundaries.</p> <p>Where a lot has a boundary width of 14 metres and less or where it can be demonstrated that a 3 metre setback from all boundaries cannot be achieved due to site constraints, the following standards apply:</p> <ul style="list-style-type: none"> <li>• A new building may be setback from the side or rear boundaries: <ul style="list-style-type: none"> <li>▪ 1m, plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m; and</li> <li>▪ At least 3 metres from one side boundary, which shall be set aside for landscaping.</li> </ul> </li> </ul>	<p>Yes</p> <p>Yes <b>No</b></p> <p>Yes Yes</p>	<p><u>North (side):</u> Grd FI – 3m First FI – 3m</p> <p><u>South (side):</u> Grd FI – 3m First FI – 1.865m</p> <p><u>West (rear):</u> Grd FI – 4.975m First FI – 6.375m</p>
			<p>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5m into the setbacks of this standard</p>	<p><b>No</b></p> <p><b>No</b></p>	<p><u>North</u> Eave encroaches 0.9m</p> <p><u>South</u> First floor roofed balcony (verandah) encroaches 1.135m</p>
			<p>Landings having an area of not more than 2sqm and less than 1m high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard</p>	<p><b>No</b></p>	<p>Landing to north west corner encroaches 1.0m and is more than 1m high</p>
<b>Wall On Boundaries Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A11 (varied by NCO1)</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	Yes		<p>A new wall should not be located on side and rear boundaries.</p>	<p>Yes</p>	<p>No new walls on boundaries.</p>
<b>Daylight To Existing Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A12</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate daylight into existing habitable room windows</i>	Yes		<p>Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot</p>	<p>Yes</p>	

			<p><i>Walls or carports more than 3m in height opposite an existing habitable room window should be set back from the window at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window</i></p> <p><i>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window</i></p>	N/A	
<b>North Facing Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A13</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate solar access to existing north-facing habitable room windows</i>	Yes		<i>If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m from the edge of each side of the window</i>	N/A	
<b>Overshadow Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A14</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure buildings do not significantly overshadow existing secluded private open space</i>	Yes		<i>Where sunlight to secluded private open space of an existing dwelling is reduced, <math>\geq</math> 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September</i>	Yes	Easy compliance with standard
			<i>If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced</i>	N/A	
<b>Overlooking Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A15</b>	<b>Met?</b>	<b>Comments</b>
<i>To limit views into existing secluded private open space and habitable room windows</i>	Yes	Overlooking is suitably limited in context of area.	<i>A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the <b>secluded private open space</b> of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level</i>	?	There is an inconsistency in the plans as the first floor plan shows the northwest balcony having a 1.7m high glass screen which is suggestive of an opaque privacy screen, however the north and west elevations show a 1.0m high glass balustrade. There may be overlooking depending on resolution of this, though there is also a question whether the open space is secluded given the openness of fencing.

		<p><i>A habitable room window, balcony, terrace, deck or patio with a direct view into a <b>habitable room window</b> of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either:</i></p> <ul style="list-style-type: none"> <li>• <i>offset a minimum of 1.5m from the edge of one window to the edge of the other</i></li> <li>• <i>have sill heights of at least 1.7m above floor level</i></li> <li>• <i>have fixed, obscure glazing in any part of the window below 1.7m above floor level</i></li> <li>• <i>have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent</i></li> </ul>	<b>No</b>	<p>Bedroom 3 on the first floor has two windows with a sill height of 0.6m above floor level that are opposite the kitchen windows of 41 Great Ocean Road with less than 9.0m separation. These windows may also overlook the ground floor rumpus room windows.</p>
		<p><i>Obscure glazing in any part of the window below 1.7m above floor level may be operable provided that there are no direct views as specified in this standard</i></p>	N/A	
		<p><i>Screens used to obscure a view should be:</i></p> <ul style="list-style-type: none"> <li>• <i>perforated panels or trellis with a maximum of 25% openings or solid translucent panels</i></li> <li>• <i>permanent, fixed and durable</i></li> <li>• <i>designed and coloured to blend with the development</i></li> </ul>	N/A	
		<p><i>This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.6m high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.6m above ground level at the boundary</i></p>	NA	



<b>ON-SITE AMENITY AND FACILITIES</b>					
<b>Daylight To New Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A16</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate daylight into new habitable room windows</i>	Yes		<p><i>A window in a habitable room should be located to face:</i></p> <ul style="list-style-type: none"> <li><i>an outdoor space or a light court <math>\geq 3\text{sqm}</math> and minimum dimension of 1m clear to the sky, not including land on an abutting lot, or</i></li> <li><i>a verandah provided it is open for at least one third its perimeter, or</i></li> <li><i>a carport provided it has two or more open sides and is open for at least one third of its perimeter</i></li> </ul>	Yes  Yes  N/A	All HR windows will receive adequate daylight.
<b>Private Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A17</b>	<b>Met?</b>	<b>Comments</b>
<i>To provide adequate private open space for the reasonable recreation and service needs of residents</i>	Yes		<p><i>Dwelling should have private open space:</i></p> <ul style="list-style-type: none"> <li><i>of 80sqm or 20% whichever is less</i></li> <li><i><math>\geq 25\text{sqm}</math> secluded with a width of <math>\geq 3\text{m}</math> and access from a living room</i></li> </ul>	Yes	More than 20% of the site is available for use as POS which well in excess of 80m <sup>2</sup> . Convenient access from living room areas is available.
<b>Solar Access To Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A18</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow solar access into the secluded private open space of a new dwelling</i>	Yes		<i>The private open space should be located on the north side of the dwelling</i>	Yes	Open space has good access to sunlight
			<i>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least <math>(2 + 0.9h)</math> metres</i>	N/A	

<b>DETAILED DESIGN</b>					
<b>Design Detail Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A19 (varied by NCO)</b>	<b>Met?</b>	<b>Comments</b>
<i>To encourage design detail that respects the existing or preferred neighbourhood character</i>	No		<p><i>The design of buildings, including:</i></p> <ul style="list-style-type: none"> <li><i>façade articulation and detailing,</i></li> <li><i>window and door proportions,</i></li> <li><i>roof form, and</i></li> <li><i>verandahs, eaves and parapets,</i></li> </ul> <p><i>should respect the existing or preferred neighbourhood character.</i></p>	No	Other than the sheer size and mass of the building, it will not respect the neighbourhood character of Aireys inlet as it represents overdevelopment of the site.
			<i>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character</i>	Yes	

			<p><i>In addition to the attributes listed above the design of buildings should reflect the preferred neighbourhood character attributes, including:</i></p> <ul style="list-style-type: none"> <li>• <i>Landscape setting</i></li> <li>• <i>Building massing</i></li> <li>• <i>Height</i></li> <li>• <i>Colours, materials and finishes</i></li> <li>• <i>Space around buildings and setbacks</i></li> </ul>	<b>No</b>	The overall design is considered to be contrary to the preferred neighbourhood character and will not sit comfortably within the landscape and exiting streetscape character.
<b>Front Fences Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A20</b>	<b>Met?</b>	<b>Comments</b>
<i>To encourage front fence design that respects the existing or preferred neighbourhood character</i>	Yes		<i>Refer to DDO10</i>	N/A	