



MEETING OF SPECIAL COUNCIL

MINUTES

WEDNESDAY 7 FEBRUARY 2018

AT 4PM

COPACC



COLAC OTWAY SHIRE SPECIAL COUNCIL MEETING

7 FEBRUARY 2018

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COLAC OTWAY SHIRE COUNCIL SPECIAL MEETING

MINUTES of the MEETING OF SPECIAL COUNCIL THE COLAC OTWAY SHIRE held at COPACC
on 7 February 2018 at 4pm.

1. OPENING PRAYER

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

AMEN

2. PRESENT

Cr Kate Hanson
Cr Stephen Hart
Cr Joe McCracken (Mayor)
Cr Chris Potter
Cr Jason Schram
Cr Chris Smith
Cr Terry Woodcroft

Tony McGann, Acting Chief Executive Officer
Errol Lawrence, General Manager, Corporate Services
Gareth Smith, General Manager, Development & Community Services
Sarah McKew, Manager, Governance & Customer Service
Lyndal McLean, Acting Governance Officer
Doug McNeill, Manager, Planning, Building & Health
Blaithin Butler, Statutory Planning Coordinator
Clare Wright, Executive Officer to CEO, Mayor & Councillors
Buddhima Edi, Acting Asset Systems Engineer
Sarah Osborne, Acting Communications Officer
Brydon King, Consultant

3. APOLOGIES

Nil

4. WELCOME & ACKNOWLEDGEMENT OF COUNTRY

I would like to start this evening by acknowledging the traditional custodians and law makers of this land, their elders past and present and welcome any descendants here today.

I would also like to advise that all Council meetings are audio recorded, with the exception of confidential matters. This includes the public participation sections of meetings.

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

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

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

The sole purpose of the Special Meeting is for Council to consider two nominees to the Quarry Consultative Committee and to provide advice on the adequacy of information submitted with the planning application for a tourist resort at 275 Barham River Road, Apollo Bay.

5. DECLARATION OF INTEREST

Cr Hanson:	SC180702-1
Nature of Disclosure:	Indirect Interest
Type of Interest:	Section 78A
Nature of Interest:	I have a direct interest with the Mt Gellibrand wind farm which has become linked to the quarry developer through Federal Court action.

Cr Schram:	SC180702-1
Nature of Disclosure:	Indirect Interest
Type of Interest:	Section 78B
Nature of Interest:	Currently have and previously have and likely to in the future undertake work for one or more of the people being considered for appointment.

6. QUESTION TIME

A public question time of thirty minutes is allowed but I need to emphasise to everyone here that Council's meeting procedures in our Local Law do not allow you to ask questions on topics that aren't on the agenda tonight.

If you have general questions about other matters, I encourage you to ask them at the next Ordinary Council meeting.

We will conduct question time for each item separately, immediately prior to the item being heard for 15 minutes for each of the two agenda items.

SPECIAL COUNCIL MEETING
**MOOLERIC ROAD QUARRY
CONSULTATIVE COMMITTEE**
SC180702-1

LOCATION / ADDRESS	320 Mooleric Road, Ombersley	GENERAL MANAGER	Gareth Smith
OFFICER	Blaithin Butler	DEPARTMENT	Development & Community Services
TRIM FILE	F14/8449	CONFIDENTIAL	No
ATTACHMENTS	<ol style="list-style-type: none"> 1. Attachment 1 - Issued planning permit 2. Attachment 2 - questionnaire for Consultative Committee nominees (condition 74) - Copy 3. Attachment 3 - Draft Terms of Reference for Consultative Committee November 2017 (condition 74) 4. Attachment 4 - Location map surrounding people to 320 Mooleric Road Quarry 		
PURPOSE	For Council to consider nominees and appoint two to the Mooleric Road Quarry Consultative Committee		

Having declared a Conflict of Interest Cr Kate Hanson and Cr Jason Schram adjourned from the meeting at 4.04pm and did not take part in debate nor vote on the matter.

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Nature of Disclosure:	Indirect Interest
Type of Interest:	Section 78A
Nature of Interest:	I have a direct interest with the Mt Gellibrand wind farm which has become linked to the quarry developer through Federal Court action.

Cr Schram:	SC180702-1
Nature of Disclosure:	Indirect Interest
Type of Interest:	Section 78B
Nature of Interest:	Currently have and previously have and likely to in the future undertake work for one or more of the people being considered for appointment.

QUESTION TIME

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

Nil

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Nil

PRESENTATIONS

Nominee Maryjane Crabbtree

Proponent Bill McDonald – MCG Group

RESOLUTION

MOVED Cr Terry Woodcroft seconded Cr Stephen Hart

That Council having considered all of the nominations as set out in the report expresses its satisfaction with the following two nominations namely:

Maryjane Crabbtree and Duncan Barber

CARRIED 4 : 1

DIVISION

For the Motion: Cr Chris Smith, Cr Stephen Hart, Cr Terry Woodcroft, Cr Chris Potter

Against the Motion: Cr Joe McCracken

Cr Kate Hanson and Cr Jason Schram returned to the meeting at 4.32pm.

SPECIAL COUNCIL MEETING
**PROPOSED RESORT DEVELOPMENT AT
275 BARHAM RIVER ROAD, APOLLO BAY
(PP169/2017-1)**

SC180702-2

LOCATION / ADDRESS	275 Barham River Road, Apollo Bay	GENERAL MANAGER	Gareth Smith
OFFICER	Doug McNeill	DEPARTMENT	Development & Community Services
TRIM FILE	F17/7572	CONFIDENTIAL	No
ATTACHMENTS	1. Architectural-Designs		
PURPOSE	To provide advice on the adequacy of information submitted with the planning application for a tourist resort at 275 Barham River Road, Apollo Bay.		

QUESTION TIME

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

Mr Phil Lawson

- 1) My question concerns the Officer's Report to Council on the proposed Development at 275 Barham River Road as the report does not address Health and Safety concerns.

It is well known that the Barham Road is a favoured bicycle route being scenic, flat and with low car numbers even on busy weekends. By increasing total accommodation units by over 4 times [71 present units to 333] the Barham Road will become unacceptably risky for walking and bicycle recreation.

If Public Health and Safety is of any concern to Councillors then they will highlight the need for a designated walking and bike path from Apollo Bay to the Development site.

Will a revised Officer's Report have a section "Health and Safety" and include in it the need for a shared pathway due to the massively increased traffic flow and larger vehicles?

Response from General Manager, Development & Community Services

The capacity of Barham River Road and other local roads to safely accommodate traffic from the proposed development, along with the need for pedestrian and cyclist connections between the site

and Apollo Bay, is an issue that will be considered in any future report to Council on the merits of the proposal.

2)

- a) Does Council have specific flood depth and velocity information for different sections of the Barham River Road, especially for the section from Conns Lane to the development site, which is a section where vehicles have been washed off the road in previous inundations?

Response from General Manager, Development & Community Services

Council has information on flood depth and velocity relating to Barham River Road to the east of the point opposite the western end of Ocean Park Drive. Council is not aware of flood information for that section of road west of this point.

- b) If Council does not have this information how can it make an informed assessment of the risk to public safety, and the requirements to upgrade the access road?

Response from General Manager, Development & Community Services

This issue is addressed in the officer's report, where it is considered that this issue could be managed through a condition on any permit issued requiring the submission of an Emergency Management Plan. No detailed flood study was submitted with the application.

Mr Warrick Ballinger, Objectors Inc

1. Given the profound implications of the LRA [Landslide Risk Assessment], why are we all proceeding with the application process, which clearly cannot proceed as tabled, and why hasn't the application been withdrawn, as requested in writing to Council, dated 04-02-2018?

Response from General Manager, Development & Community Services

Only the applicant can withdraw an application.

2. If Council does not move to have the application withdrawn, will the standard of documentation and detail precedent now being set by this application be applied for future Planning applications in Colac Otway Shire?

Response from General Manager, Development & Community Services

As noted previously, only the applicant can withdraw an application. Council is considering the adequacy of the information provided with the application at the Special Meeting on 7 February 2018 and likewise the panel appointment by the Minister will consider the information provided to it and any concerns raised by objectors about lack of information at the directions hearing and will provide direction on whether further information should be provided by the applicant prior to a full hearing by the panel.

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Carol Wilmink

1. I did send some questions in yesterday; can I ask why they haven't been answered?

Response from General Manager, Corporate Services

A response to the reason for not answering your questions was emailed to you last evening. Essentially there is a requirement for the questions to have been received by Council by 5pm Monday and that was explained in the email to you, but you are at liberty to ask your questions now if you wish and if we can provide an answer at this time we will, otherwise we will take it on notice and provide you with a written answer within the next week or so.

I will ask my questions now, but I also make the observation that the report that I was commenting on wasn't released until Thursday or Friday of last week. I felt that was rather remiss of Council seeing as they did have it from the 1st November last year.

Response from General Manager, Development & Community Services

I assume you are referring to the geotechnical report. When that was drafted there was a also a memorandum that relates to that same report which was actually only provided in the last couple of weeks to Council, which was then considered as a final report that we could make publically available.

2. If evacuation is required because of a 'landslip event', how will an evacuation of up to 2,000 people take place through a flooded landscape?

Response from General Manager, Development & Community Services

This is an issue raised in objections, and will need to be considered as part of the decision by the Planning Minister. Whilst the Corangamite Catchment Management Authority (CCMA) had requested that a Flood Study be provided by the applicant, the applicant has indicated they do not believe that this is warranted. Council officers have considered that this could be dealt with as a condition of any approval, requiring the applicant to prepare an Emergency Management Plan to manage access to the site during times of flood.

3. How can the hotel site be assessed without looking at the higher ground to the west; even if this is not part of this property; shouldn't "consideration be given to the need to provide a landslip run-out area to reduce risk caused by slope failure" as suggested in the Apollo Bay Structure Plan of 2007?

Response from General Manager, Development & Community Services

The Golder Landslide Risk Assessment prepared in November 2017 has been assessed by Council's contract geotechnical engineer who has confirmed that the report satisfactorily addresses landslide risk having regard to the Erosion Management Overlay that applies to the development.

Does that Erosion Management Overlay also apply to the adjoining property?

Response from General Manager, Development & Community Services

Yes, it does apply to the adjacent property.

Sonja Ballinger

1. Given that the Golder's Land Risk Assessment Report recommends that they avoid areas that are mapped as high risk for slippage and given that the hotel is actually located across a stretch where it is at high risk, are there any plans being put forward for an alternative site to the hotel?

Response from General Manager, Development & Community Services

No, Council officers are not aware of any alternate plans at this stage.

2. Is there any information given on the impact to the water quality of the Barham River with the runoff from the development, given that a few years ago the lower reaches of the Barham was re-snagged for the development of the platypus and also the wetlands downstream where we've got the Hooded Plover and the Grayling, also endangered species. So is there any report on the impact of the quality of the Barham River water?

Response from General Manager, Development & Community Services

Due to the technical nature of understanding all of the information that comes to hand with it, I will ask Brydon King to respond, as he has done the detailed analysis of the submissions.

Response from Brydon King, Consultant

There is a flora and fauna assessment that has been provided with the application and some storm water management information that has also been provided as part of the application, which has touched on the issue of water quality and making sure that it's of an appropriate level and responds to that best practice issue, but there has been no detailed study of the Barham River and its health in relation to the proposal.

Will that study change given that in the Golder's report they suggest that the water management plan has to be changed because of the land risk assessment report?

Response from Brydon King, Consultant

There are elements of that proposal that will need to change because of the Golder's recommendations and that may be one of the elements that needs further investigation around that issue.

Warrick Ballinger

1. Can somebody please clarify what is actually being proposed now with the implications of the Golder LRA [Golder Associates Landslide Risk Assessment Report]? It's unclear to us what is actually being proposed and what is still on the table and what isn't on the table. What's the size of the development, where's it going to be sited, the villas, the hotel, the drainage plan, the revegetation plan, the excavations that now need to be less than one metre to satisfy Golder's and the landscape plan, given the recommendations of Golder's that the site needs to be revegetated. As part of the community we actually have no clarity now on what is being proposed. It seems to

us it is more of a concept and we really don't understand what is left on the table. Can someone enlighten us?

Response from Doug McNeill, Manager, Planning, Building & Health

The application still includes all of the elements that were advertised through the public notice process, however the geotechnical landslide risk assessment that we've referred to tonight does clearly indicate that many of the villas that form part of the proposal need to be relocated on the site. The applicant hasn't provided any information to Council, or we believe to the Government, around how that's to occur and so the application has to be considered with that recommendation being in place from the geotechnical engineer. Those elements still form part of the proposal but there is no indication to either Council or the Government around what the applicant intends in terms of relocating those.

2. So we are to consider the application in its entirety even though it's not as proposed? Where does this leave us?

Response from Doug McNeill, Manager, Planning, Building & Health

We are still talking about Stage One and not those elements that are in Stage Two but I believe we are talking about the recommendation that the villas in Stage One need to be relocated.

And the main hotel?

Response from Doug McNeill, Manager, Planning, Building & Health

The report as I understand it accepts that the hotel is acceptable, subject to the way that it is constructed and storm water is managed and a range of elements around that.

3. Sorry, I am confused because the high risk area goes full square through the hotel and part of the report said that the high risk mitigation levels and measures can only be mitigated if they are not in the high risk area. I've got the plan right here, as we all have, and it just shows a huge swathe through the whole hotel. Are we looking at different documentation?

Response from Brydon King, Consultant

The analysis that the Golder and Associates report, that I understand from looking at the table on page twelve, talks about mitigation measures for the level of risk and there are mitigation measures that can be engineered for the hotel, access roads, etc and there are mechanisms that Golder recommends to do that. The other recommendations they make in high risk areas of the site are to relocate, and that's the villas. There seems at this point to be different reading of the report; it's not just about the map and where the high risk area is - it is about what Golder recommends to mitigate those and their recommendations vary between the hotel and the villas in those areas.

Response from Doug McNeill, Manager, Planning, Building & Health

If I could further elaborate on that answer, the report to Council tonight very clearly indicates that there isn't adequate information before Council to make any decision on the merits of all but four of the villas because of the geotechnical recommendation. I just wanted to make that clear that there has been very clear advice to Council that that's the case.

RECOMMENDATION

That Council:

1. *Notes that Stage 1 of the proposal is a Residential Hotel and Leisure and Recreation Facility (integrated tourism resort), which includes:*
 - a. *Residential tourist accommodation including:*
 - i. *180 hotel style rooms*
 - ii. *82 villas used in conjunction with the hotel located to the north, west and south of the main hotel*
 - b. *Hotel facilities including a bar, an all-day dining restaurant, a main restaurant, retail tenancies and an observatory*
 - c. *A wellness centre and a 25-metre swimming pool*
 - d. *Staff accommodation for 30 staff*
2. *Notes that any further development of the site beyond the scope of Stage 1 will require separate planning permission at the relevant time.*
3. *Notes that no flood study related to Barham River Road, or alternative means to manage the risk of flooding of access to the site has been provided, although the applicant has indicated a willingness to develop an Emergency Management Plan as a condition of approval.*
4. *Notes that the updated geotechnical report for the site prepared by Golders Associates P/L recommends that 18 villas to the north, west and south of the hotel should be relocated to mitigate landslip risk, and that no detail has been provided on how that is to occur.*
5. *Notes that no design detail or siting information has been provided for the 60 villas proposed to the south of the hotel, nor have the villas been fully considered in technical reports submitted with the proposal.*
6. *Notes that no approved Cultural Heritage Management Plan has been submitted with the application.*
7. *Notes that the traffic assessment submitted with the application does not fully analyse likely traffic generation from the proposal using different assumptions of the mode of travel to the site, or implications for potential upgrades/improvements required to the local road network, however notes that Council has received independent expert information on traffic management issues to assist it in understanding potential implications.*
8. *Notes that a specific economic impact assessment report has not been submitted with the application, but that economic impact information has been provided in the planning submission, and information on economic benefits has been received from Great Ocean Road Regional Tourism.*
9. *Having considered the officer assessment in this report, resolves a position on whether there is sufficient information to form a view on the merits of the proposal at a subsequent meeting of Council.*

ALTERNATIVE MOTION

MOVED Cr Chris Smith

That Council:

1. *Notes that Stage 1 of the proposal is a Residential Hotel and Leisure and Recreation Facility (integrated tourism resort), which includes:*
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8. *Notes that a specific economic impact assessment report has not been submitted with the application, but that economic impact information has been provided in the planning submission, and information on economic benefits has been received from Great Ocean Road Regional Tourism.*
9. *Having considered the officer assessment in this report resolves to not support the proposed development at 275 Barham River Road Apollo Bay due to its excessive size, risk, issues and negative impact on the Apollo Bay area and community.*

Alternative Motion was not accepted by the Chair pursuant to Governance Local Law 4.

ALTERNATIVE MOTION

MOVED Cr Chris Potter seconded Cr Stephen Hart

That Council:

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 - ii. *82 villas used in conjunction with the hotel located to the north, west and south of the main hotel*
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8. *Notes that a specific economic impact assessment report has not been submitted with the application, but that economic impact information has been provided in the planning submission, and information on economic benefits has been received from Great Ocean Road Regional Tourism.*
9. *Inform the Minister that Council finds it difficult to form a position on the application*

unless it receives further information in the form of:

- a. A Barham River catchment flood study acceptable to Corangamite Catchment Management Authority and Council that identifies the risk of access and egress to the site, and how this will be managed.*
- b. A plan showing the location and design of the 78 Villas recommended to be relocated in the Golders Associates Landslide Risk Assessment report dated November 2017, and supporting technical information that supports the changes to address other implicated planning controls such as a revised Bushfire Management Statement, visual analysis and flora and fauna assessment.*

10. Requests Council Officers represent this resolution to the Minister appointed Planning Panel's Directions Hearing.

CARRIED 6 : 1

DIVISION

For the Motion: Cr Stephen Hart, Cr Terry Woodcroft, Cr Kate Hanson, Cr Joe McCracken, Cr Chris Potter, Cr Jason Schram

Against the Motion: Cr Chris Smith



The Meeting Was Declared Closed at 5.15pm

CONFIRMED AND SIGNED at the meeting held on 28 FEBRUARY 2018

J. McCreeken

J. McCreeken