

PC Item: 8.1

PP142/2019-1 - 260 Warrowie Road Irrewarra

Having declared a conflict of interest, Cr Jason Schram adjourned from the meeting at 12.13pm and did not take part in debate nor vote on the matter.

Having declared a conflict of interest, Cr Joe McCracken adjourned from the meeting at 12.13pm and did not take part in debate nor vote on the matter.

As both the Mayor and the Deputy had adjourned from the meeting due to conflicts of interest, the Chief Executive called for nominations for a Chair of the meeting.

Cr Chris Potter was nominated by Cr Stephen Hart.

The nomination was seconded by Cr Kate Hanson.

As there were no further nominations, Cr Chris Potter was declared Chair for Item 8.1 PP142/2019-1 - 260 Warrowie Road Irrewarra.

RECOMMENDATION

That Council resolves to issue a Notice of Decision to Refuse to Grant a Permit for the Subdivision of Land into Two (2) Lots at 260 Warrowie Road Irrewarra, known as C/A 42 Parish of Irrewarra, on the following grounds:

- 1. The proposed subdivision, which would create a 1.618 hectare lot projecting into a large agricultural landholding, is contrary to Clause 14.01-1S (Protection of Agricultural Land) of the Colac Otway Planning Scheme, which discourages development of isolated small lots in the rural zones from use for dwellings, and seeks to protect strategically important agricultural and primary production land from incompatible uses.*
- 2. The proposed subdivision is contrary to Clause 21.05-1 (Agriculture) of the planning scheme which seeks, inter alia, to limit the fragmentation of rural land by subdivision, to protect the rural and agricultural areas of the Shire from the proliferation of dwellings not associated with agriculture, and to discourage the subdivision of rural land that creates small lots for existing dwellings.*
- 3. The proposal, which would result in the fragmentation of productive agricultural land, does not accord with the purpose and relevant decision guidelines of the Farming Zone, set out in Clause 35.07 of the planning scheme which seek, inter alia, to ensure proposals are compatible with adjoining and nearby land uses, and require matters such as the potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses, and the potential for a proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture, to be taken into account.*
- 4. The proposed subdivision would result in the creation of a small 'battle-axe' lot extending over 300m into an agricultural landholding that would abut the entire length of its northern, southern and eastern boundaries. The excision of the dwelling as proposed would create the potential for land use conflicts and would not represent orderly planning, contrary to Clause 65 of the planning scheme.*

ALTERNATIVE MOTION

MOVED Cr Kate Hanson, SECONDED Cr Brian Crook

That Council defer Item 8.1 PP142/2019-1 - 260 Warrowie Road Irrewarra until Council receives further advice on the matter.

CARRIED 5 : 0

As this Item was deferred, neither the Objector nor the Applicant made a verbal submission.

**Cr Jason Schram and Cr Joe McCracken returned to the meeting at 12.17pm.
The Mayor resumed the role of Chair of the meeting.**

UNCONFIRMED

That Council resolves to Refuse to Grant a Permit for the use and development of the land for a dwelling and alteration of access to a road in a Road Zone Category 1 at 2235 Birregurra Forrest Road, Forrest on the following grounds:

- 1. The proposal does not accord with the decision guidelines of Clause 21.05-1 of the Colac Otway Planning Scheme, which require applications to adequately demonstrate that a dwelling is genuinely required to carry out a long term agricultural activity on land having regard to the size of the lot, intensity and ongoing nature of the proposed agricultural activity.***
- 2. The proposal does not accord with the purpose and relevant decision guidelines of the Farming Zone set out in Clause 35.07 of the Planning Scheme, given that:***
 - a) The proposal would permanently remove land from agricultural production.***
 - b) The application has not demonstrated that a dwelling would enhance agricultural production on the land.***
 - c) The development has the potential to limit the operation and expansion of adjoining and nearby agriculture.***
 - d) The application has not demonstrated that a dwelling would not lead to a concentration or proliferation of dwellings in the area, which would impact on the use of the land for agriculture.***
- 3. The proposal does not accord with Council's adopted Rural Land Strategy 2007 or its Rural Living Strategy 2011, not being within an area nominated in these documents for rural living purposes.***

***The meeting adjourned for a short break at 12.33pm.
The meeting resumed at 12.42pm.***

ALTERNATIVE MOTION

MOVED Cr Chris Smith, SECONDED Cr Stephen Hart

That Council resolves to grant a Permit for the use and development of the land for a dwelling and alteration of access to a road in a Road Zone Category 1 at 2235 Birregurra Forrest Road, Forrest, subject to the following conditions:

Amended Plans

- 1. Prior to commencement of the use and/or development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application, but modified to show:***
 - a) The deletion of the words 'not for construction' from the plans***

Endorsed Plans

- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

Consolidation of land

- 3. Prior to commencement of the use and/or development, C/A 1H Section A (Vol 01996 Fol 155), Lots 1 and 2 TP120818N (Vol 9898 Fol 960) and Lot 1 TP126624 (Vol 09391 Fol 039) must be consolidated under the provisions of the Subdivision Act 1988 to the satisfaction of the Responsible Authority. A copy of the title must be submitted to the Responsible Authority prior to the commencement of the construction of the dwelling.**

Compliance with Geotechnical Assessment

- 4. The approved development must be carried out on the site in accordance with the recommendations of the Geotechnical Assessment by 2020 Engineering Solutions (reference ES18200.1, dated 30/09/2019) or any Geotechnical Practitioner engaged to review the assessment submitted with the application.**

Access

- 5. Prior to commencement of the development, vehicular access from the roadway to the property boundary must be constructed to the satisfaction of the Responsible Authority.**
- 6. Prior to the commencement of the use of the dwelling, the driveway must be constructed to an all-weather standard to the satisfaction of the Responsible Authority and must have a minimum width of 3 metres.**

Wastewater

- 7. A domestic wastewater management system must be constructed concurrently with the dwelling hereby permitted, so that all liquid waste is at all times contained within the curtilage of the lot. The design and installation of any wastewater disposal system for any building on the land must comply with the septic tanks 'Code of Practice - Onsite Wastewater Management', July 2016 (EPA Publication No. 891.4, or as amended), to the satisfaction of the Responsible Authority.**

Proximity to Waterway

- 8. Unless otherwise approved by the Responsible Authority, no earthworks or construction activity associated with the dwelling is permitted to take place within 30 metres of the waterway.**

Stormwater

- 9. All runoff from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.**
- 10. The site must be developed and managed to ensure there is no stormwater pollution through the contamination of runoff by chemicals, sediments, wastes or pollutants in accordance with 'Best Practice Environmental Management Guidelines for Stormwater Management and Construction Techniques for Sediment Pollution Control' (EPA) at any time during construction or operation, to the satisfaction of the Responsible Authority.**

CFA conditions

- 11. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

12. *The Bushfire Management Plan at page 10 of the Bushfire Management Statement prepared by Bruce St Clair (dated 30/10/2018) must be endorsed to form part of the permit and must not be altered without the written consent' by the CFA and the Responsible Authority.*
13. *The marked up Building Plan titled "Site Plan TP-001" (Revision Access Track & Passing Bays dated 22/10/2019) must be endorsed to form part of the permit and must not be altered without the written consent by the CFA and the Responsible Authority.*

VicRoads condition

14. *Prior to the commencement of the use the crossover and driveway are to be constructed generally in accordance with VicRoads Standard Drawing 2066A - Typical Rural Driveway Access to Residential Properties Type C to the satisfaction of and at no cost to the Roads Corporation.*

Expiry

15. *This permit will expire if one of the following circumstances applies:*
 - a) *The development has not commenced within two years of the date of this permit.*
 - b) *The development is not completed and the use has not commenced within four years of the date of this permit.*

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

Notes

1. *This permit does not allow any primary produce sales from the land unless in strict compliance with the provisions of the Colac Otway Planning Scheme. In the event such sales are proposed in the future, contact Council's Statutory Planning Unit to establish whether a permit is required.*
2. *This permit does not authorise the commencement of any building works. Prior to the commencement of development, it will be necessary to apply for and obtain a building permit for the proposed dwelling.*
3. *Prior to preparing drainage plans, a legal point of discharge (LPOD) must be obtained in accordance with Building Regulation 133. A copy of the LPOD, which incurs a fee in accordance with the Building Regulations, must be submitted with the engineering plans.*
4. *A works within road reserve permit is required prior to any works being undertaken on Council managed road reserves within the Colac Otway Shire.*
5. *A separate application to install a domestic wastewater management system must be submitted to and approved by Council's Health Protection Unit prior to the commencement of works.*

This planning permit does not purport to approve the submitted Land Capability Assessment prepared by 2020 Engineering Solutions (Ref: ES18232, dated 22/11/2018). An addendum to support that Land Capability Assessment will be required at the time of the Application for a Permit to Install an Onsite Wastewater System.

CARRIED 7 : 0