



## **PLANNING COMMITTEE MEETING**

# **MINUTES**

**Wednesday 11 December 2019**

**at 4:00 pm**

**COPACC**

**95 - 97 Gellibrand Street, Colac Victoria**



# COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

Wednesday 11 December 2019

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## COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

MINUTES of the **PLANNING COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL** held at  
COPACC on Wednesday 11 December 2019 at 12:00 pm.

### MINUTES

#### **1 DECLARATION OF OPENING OF MEETING**

##### **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 Brian Crook  
Cr Kate Hanson  
Cr Stephen Hart  
Cr Joe McCracken (Deputy Mayor)  
Cr Chris Potter  
Cr Jason Schram (Mayor)  
Cr Chris Smith

Peter Brown, Chief Executive  
Errol Lawrence, General Manager, Corporate Services  
Tony McGann, General Manager, Infrastructure & Leisure Services  
Ian Seuren, General Manager, Development & Community Services  
Sarah McKew, Manager, Governance & Communications  
Doug McNeill, Manager, Planning, Building & Health  
Bláithín Butler, Coordinator, Statutory Planning  
Simon Clarke, Coordinator, Strategic Planning and Major Projects  
Helen Evans, Senior Statutory Planner  
Ian Williams, Senior Statutory Planner  
Julia Repusic, Statutory Planner  
Vikram Kumar, Statutory Planner  
Jane Preston-Smith, Executive Officer, Development & Community Services  
Sarah Osborne, Communications Officer  
Lyndal Redford, Governance Officer



### 3 APOLOGIES AND LEAVES OF ABSENCE

Nil

### 4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging and welcomes any descendants here today.

Please note: All Council and Committee meetings will be audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

Audio recordings of meetings will be available to the public on Council's website as soon as practicable following the meeting and may be circulated by other means also. Audio recordings are also taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. Original audio recordings will be retained by Council for a period of four years.

As stated in Local Law 4, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Council Meeting.

### 5 DECLARATIONS OF INTEREST

Cr Joe McCracken	Item 8.1 : PP142/2019-1 260 Warrowie Road Irrewarra
Nature of Disclosure	Conflicting Personal Interest
Type of interest	Section 79B
Nature of interest	A situation has arisen where I believe that until I receive further legal advice, I cannot remain in the chamber.

Cr Jason Schram	Item 8.1 : PP142/2019-1 260 Warrowie Road Irrewarra
Nature of Disclosure	Direct Interest
Type of interest	Section 77B
Nature of interest	My company has been engaged and accepted work with objectors in this matter.

### MOTION

**MOVED** Cr Stephen Hart, **SECONDED** Cr Chris Potter

***That Council accepts Cr McCracken's declaration of conflict of interest under section 79B of the Local Government Act 1989 for Item 8.1 PP142/2019-1 - 260 Warrowie Road Irrewarra.***

**CARRIED 7 : 0**

## 6 CONFIRMATION OF MINUTES

- Planning Committee Meeting held on 9 October 2019.

### **RESOLUTION**

*That the Planning Committee confirm the minutes of the Planning Committee Meeting held on 9 October 2019.*

*MOVED Cr Stephen Hart, SECONDED Cr Brian Crook*

*That Council confirm the above minutes.*

**CARRIED 7 : 0**

## 7 VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

The Mayor is to read out the names of those applicants and objectors who have confirmed in writing that they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A time limit of five minutes will apply.

**Item 8.1: PP142/2019 260 Warrowie Road Irrewarra**

**Objector: David King, Kings Lawyers**

**Applicant: Rod Bright, Rod Bright & Associates**

**Item 8.2: PP182/2019 2235 Birregurra Forrest Road Forrest**

**Objector:**

**Applicant: Peter Scott**

Item: 8.1

**PP142/2019-1 - 260 Warrowie Road Irrewarra**

<b>ADDRESS AND PROPERTY DETAILS</b>	260 Warrowie Road Irrewarra	<b>APPLICATION NUMBER</b>	PP142/2019-1
<b>PROPOSAL</b>	Two Lot Subdivision of Land		
<b>PERMIT TRIGGERS</b>	Clause 35.07-3 – Farming Zone – Subdivision Clause 45.02-3 – AEO2 – Subdivision		
<b>TRIGGER FOR DETERMINATION BY COMMITTEE</b>	Officer recommendation for refusal of excision of dwelling in Farming Zone		
<b>ZONE</b>	Farming Zone	<b>OVERLAYS</b>	Airport Environs Overlay – Schedule 2
<b>COVENANTS</b>	Nil		
<b>CULTURAL HERITAGE</b>	The site is partially within an area of cultural heritage sensitivity, with the dwelling and its driveway entirely within this area; however the proposal is not classed as a high impact activity.		
<b>OFFICER</b>	Helen Evans	<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services		
<b>ATTACHMENTS</b>	1. P P 142 2019-1 - 260 Warrowie Road IRREWARRA - Application [8.1.1 - 3 pages]		



Cr Joe McCracken	Item 8.1 : PP142/2019-1 260 Warrowie Road Irrewarra
Nature of Disclosure	Conflicting Personal Interest
Type of interest	Section 79B
Nature of interest	A situation has arisen where I believe that until I receive further legal advice, I cannot remain in the chamber.

Cr Jason Schram	Item 8.1 : PP142/2019-1 260 Warrowie Road Irrewarra
Nature of Disclosure	Direct Interest
Type of interest	Section 77B
Nature of interest	My company has been engaged and accepted work with objectors in this matter.

*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 Cr Jason Schram (Mayor) and Cr Joe McCracken (Deputy Mayor) had adjourned from the meeting due to conflicts of interest, the Chief Executive called for nominations for Chair.*

*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.

Simon Clarke attended the meeting at 12.17pm.



Item: 8.2

**PP182/2019-1 - 2235 Birregurra-Forrest Road Forrest**

<b>ADDRESS AND PROPERTY DETAILS</b>	2235 Birregurra Forrest Road, Forrest	<b>APPLICATION NUMBER</b>	PP182/2019-1
<b>PROPOSAL</b>	Use and Development of the Land for a Dwelling and Alteration of Access to a Road in a Road Zone Category 1		
<b>PERMIT TRIGGERS</b>	Clause 35.07-1 - Farming Zone – Use of the land for a dwelling Clause 35.07-4 - Farming Zone – Building and works associated with a Section 2 (permit required) use Clause 44.01-2 - Erosion Management Overlay – Construction of a building or construction or carrying out of works Clause 44.06-2 - Bushfire Management Overlay – Construction of a building or construction or carrying out works associated with accommodation Clause 52.29 - Adjacent RDZ1 – creation or alteration of access to a road in a Road Zone Category 1		
<b>TRIGGER FOR DETERMINATION BY COMMITTEE</b>	Officer recommendation for refusal of an application for a dwelling in the Farming Zone		
<b>ZONE</b>	Farming Zone (FZ)  Adjacent Road Zone Category 1 (RDZ1)	<b>OVERLAYS</b>	Erosion Management Overlay – Schedule 1 (EMO1)  Land Subject to Inundation Overlay (LSIO)  Bushfire Management Overlay (BMO)
<b>COVENANTS</b>	Nil		
<b>CULTURAL HERITAGE</b>	The site is within an area of cultural heritage sensitivity; however, the proposal is not classed as a high impact activity.		
<b>OFFICER</b>	Helen Evans	<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development & Community Services		
<b>ATTACHMENTS</b>	1. P P 182 2019-1 - 2235 Birregurra Forrest Road FORREST - Planning Permit application [8.2.1 - 13 pages]		

## RECOMMENDATION

*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, defensible 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**

Peter Brown left the meeting at 12.20pm.

Peter Brown returned to the meeting at 12.22pm.

Jane Preston-Smith left the meeting at 12.33pm.

Ian Williams left the meeting at 12.33pm.

Vikram Kumar left the meeting at 12.33pm.

Julia Repusic left the meeting at 12.33pm.

*The meeting was declared closed at 1:06pm*

**CONFIRMED AND SIGNED** at the meeting held on 12 February 2020



A handwritten signature in blue ink, reading "Anne Craephu", is written over a horizontal dotted line. The signature is stylized with a large loop on the left and a curved arrow-like stroke at the bottom right.