



Colac Otway
SHIRE

PLANNING COMMITTEE MEETING

MINUTES

Wednesday 7 December 2022

at 4:00 PM

COPACC

95 - 97 Gellibrand Street, Colac



COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

Wednesday 7 December 2022

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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 7 December 2022 at 4:00 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 Chris Potter (Mayor)
Cr Jamie Bell
Cr Graham Costin
Cr Kate Hanson
Cr Stephen Hart
Cr Margaret White

Anne Howard, Chief Executive Officer
Andrew Tenni, General Manager Corporate Services
Heath Chasemore, General Manager Infrastructure and Operations
Ian Seuren, General Manager Community and Economy
Marlo Emmitt, Manager Governance and Communications
Lyndal McLean, Coordinator Council Business
Doug McNeill, Manager Planning and Strategic Focus
Blaithin Butler, Coordinator Statutory Planning

3 APOLOGIES AND LEAVES OF ABSENCE

Cr Joe McCracken

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.

RECORDING AND PUBLICATION OF MEETINGS

Please note: All Planning Committee meetings are live streamed and recorded when the meeting is held either at COPACC or online. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

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

As soon as practicable following each open Council and Planning Committee meeting, the live stream recording will be accessible on Council's website. Recordings are also taken to facilitate the preparation of the minutes of open Council and Planning Committee meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

As stated in the Governance Rules, 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 Planning Meeting.

This meeting was livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at www.youtube.com).

5 DECLARATIONS OF INTEREST

| | |
|----------------------|--|
| Cr Graham Costin | Item: 8.3 - PP101/2020-1 - 979 Corangamite Lake Road, Cororooke - Use and Development of Land for Dwelling |
| Nature of Disclosure | Material conflict of interest |
| Nature of Interest | A family member has assisted the applicant and may be perceived as gaining a benefit or suffering a loss depending on the outcome of the matter. |

6 CONFIRMATION OF MINUTES

- Planning Committee meeting held on 12 October 2022.

RESOLUTION

MOVED Cr Stephen Hart, SECONDED Cr Kate Hanson

That the Planning Committee confirm the minutes of the Planning Committee meeting held on 12 October 2022.

CARRIED 6 : 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 - Development Plan (DPO5) - Amended - 6230 and 6280 Great Ocean Road Apollo Bay - Consideration of Submissions

Objectors: Dan Holthouse
Jan Lewis, on behalf of Apollo Bay and District Historical Society

Applicant: Bernard Stewart

Item 8.2 - PP223/2022-1 - 1140 Irrewillipe Road, Barongarook West - Use and Development of Land for Dwelling

Applicant: Eve Groves

Item 8.3 - PP101/2020-1 - 979 Corangamite Lake Road, Cororooke - Use and Development of Land for Dwelling

Applicant: Neil Cook

Item 8.4 - PP188/2022-1 - 255 Colac Ballarat Road, Irrewarra - Use and Development of a Dwelling

Applicant: Brendan O'Loan
Charlie Buchanan

Item 8.5 - PP70/2022-1 - 1075 Larpent Road, Larpent - Use and Development of Dwelling

Objector: Myriam Amiet-Knottenbelt

Applicant: Joanne Preece

Item: 8.1

Development Plan (DPO5) - Amended - 6230 and 6280 Great Ocean Road Apollo Bay - Consideration of Submissions

| | | | |
|---|---|------------------------------------|-------------|
| ADDRESS AND PROPERTY DETAILS | 6230 and 6280 Great Ocean Road, Apollo Bay | | |
| PROPOSAL | Development Plan | | |
| OFFICER | Ravi Ayyagari | CHIEF EXECUTIVE OFFICER | Anne Howard |
| DIVISION | Executive | | |
| ATTACHMENTS | 1. Overall Development Plan - Version 37 [8.1.1 - 1 page] | | |

RESOLUTION

MOVED Cr Stephen Hart, **SECONDED** Cr Graham Costin

That the Planning Committee:

1. **Acknowledges the submissions received in response to the informal public notice undertaken for the Development Plan for 6230 and 6280 Great Ocean Road, Apollo Bay.**
2. **Thanks the submitters for their informal input.**
3. **Resolves to consider all written submissions and verbal presentations made in respect of submissions at a future meeting to consider adoption of the Development Plan.**

CARRIED 6 : 0

Item: 8.2

**PP223/2022-1 - 1140 Irrewillipe Road, Barongarook West -
Use and Development of Land for Dwelling**

| | | | |
|---|---|------------------------------------|---|
| ADDRESS AND PROPERTY DETAILS | 1140 Irrewillipe Road, Barongarook West Lot 1 TP118801, V/F: 9826/929 | APPLICATION NUMBER | PP223/2022-1 |
| PROPOSAL | Use and Development of Land for a Dwelling | | |
| PERMIT TRIGGERS | 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, and within specified setbacks Clause 42.03-2 – SLO1 – Buildings and works | | |
| TRIGGER FOR DETERMINATION BY COMMITTEE | Officer recommendation for refusal of an application for a dwelling in the Farming Zone | | |
| ZONE | Farming Zone (FZ) | OVERLAYS | Significant Landscape Overlay, Schedule 1 (SLO1) - 100% Vegetation Protection Overlay, Schedule 1 (VPO1) - 100% Erosion Management Overlay, Schedule 1 (EMO1) - 74.6% |
| COVENANTS | None | | |
| CULTURAL HERITAGE | The site is not within an area of cultural heritage sensitivity | | |
| OFFICER | Ravi Ayyagari | CHIEF EXECUTIVE OFFICER | Anne Howard |
| DIVISION | Executive | | |

ATTACHMENTS

1. Application Documents [8.2.1 - 36 pages]
2. Dwelling Plans [8.2.2 - 5 pages]
3. Maps of Area Analysis [8.2.3 - 2 pages]
4. Area Analysis information - (relates to maps) [8.2.4 - 3 pages]
5. Agriculture Victoria Response [8.2.5 - 8 pages]
6. Former VCAT Decision - Swanson v Colac Otway July 2009 [8.2.6 - 7 pages]
7. Former VCAT Decision - Heaysman Pty Ltd v Colac Otway March 2013 [8.2.7 - 9 pages]
8. Former VCAT Decision - Kennedy v Baw Baw July 2022 [8.2.8 - 22 pages]
9. Former VCAT Decision - Strachan v Latrobe January 2022 [8.2.9 - 25 pages]
10. Draft Permit Conditions (Not Officer Recommendation) [8.2.10 - 3 pages]

RECOMMENDATION

That the Planning Committee resolves to Refuse to Grant a Permit for the Use and Development of the Land for a Dwelling and Construction of One Agricultural Building at 1140 Irrewillipe Road, Barongarook West (Lot 1 TP: 118801U V/F: 9826/929 Parish of Irrewillipe) for the following reasons:

1. *The proposed dwelling is contrary to clauses 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the Colac Otway Planning Scheme, which seek to protect high quality agricultural land and 'Farmland of Strategic Significance', and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the intensity and ongoing nature of the proposed agricultural activity.*
2. *The proposed use and development of a dwelling on the 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, given that:*
 - a) *It has not been adequately demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - b) *The proposal has the potential to limit the operation and expansion of adjoining and nearby agriculture uses.*
 - c) *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 proposed dwelling 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.*

MOTION

MOVED Cr Graham Costin, SECONDED Cr Stephen Hart

That the Planning Committee resolves to Grant a Permit for the Use and Development of the Land for a Dwelling and Construction of One Agricultural Building at 1140 Irrewillipe Road, Barongarook West (Lot 1 TP 118801U, V/F 9826/929), 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, which must be drawn to scale with dimensions, must be generally in accordance with the plans submitted with the application, but modified to show:

- a) The dwelling located entirely outside the Erosion Management Overlay.*
- b) Details of the cattle yards onsite proposed to be shifted into the north-west corner of the site.*

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.

Dwelling Infrastructure

3. Prior to the initial occupation of the dwelling hereby permitted, the following must be provided to the satisfaction of the Responsible Authority:

- a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.*
- b) The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.*
- c) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*
- d) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.*

Agricultural Infrastructure

4. Prior to the commencement of the construction of the dwelling, the infrastructure required for the agricultural use as set out in the submitted Farm Management Plan and shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority.

Access

5. Prior to the commencement of development, unless otherwise agreed in writing by the Responsible Authority, vehicular access from the roadway to the property boundary must be constructed to the satisfaction of the Responsible Authority.

6. *Prior to the initial occupation of the dwelling hereby permitted, the driveway must be constructed to an all-weather standard and with a minimum width of 3 metres, to the satisfaction of the Responsible Authority.*

Drainage

7. *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.*
8. *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.*

Wastewater

9. *An onsite 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 'Code of Practice - Onsite Wastewater Management', July 2016 (EPA Publication No. 891.4, or as amended), to the satisfaction of the Responsible Authority.*
10. *Primary and secondary wastewater areas for the dwelling must be appropriately buffered and fenced to exclude stock, in accordance with any Land Capability Assessment recommendations.*

Landscaping

11. *Prior to the commencement of development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:*
 - a) *a survey (including botanical names) of all existing vegetation on the road frontage boundary to be retained and/or removed*
 - b) *a planting schedule of proposed trees, shrubs and ground covers along the road frontage boundary, if any, including botanical names, common names, sizes at maturity, and quantities of each plant*

All species selected must be to the satisfaction of the Responsible Authority.

12. *Prior to the initial occupation of the dwelling hereby, or by such later date as is approved by the Responsible Authority in writing, any landscaping works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.*

Expiry

13. *This permit will expire if one of the following circumstances applies:*
 - a) *The development is not commenced within three years of the date of this permit.*

- b) *The development is not completed, and use is not commenced, within five 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 authorise the commencement of any building works. Prior to the commencement of development, it will also be necessary to obtain building permits for the proposed buildings.*
2. *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.*
3. *A works within road reserve permit is required prior to any works being undertaken on Council managed road reserves within the Colac Otway Shire.*
4. *At least seven (7) days before any works start, an Asset Protection Permit must be obtained from Council. Council infrastructure must be maintained in a safe condition during the construction period. Any damage caused by these works to Council assets must be reinstated to the satisfaction of the Council prior to the completion of works.*
5. *A separate application to install an onsite wastewater management system must be submitted and approved by Council's Health Protection Unit prior to the commencement of works. The Health Protection Unit requests that a Land Capability Assessment by a suitably qualified person be submitted for approval at the onsite wastewater permit application stage, unless otherwise agreed in writing.*

EQUAL 3 : 3

The Mayor used their casting vote to vote against the motion. The motion was LOST.

RESOLUTION

MOVED Cr Kate Hanson, **SECONDED** Cr Margaret White

That the Planning Committee resolves to Refuse to Grant a Permit for the Use and Development of the Land for a Dwelling and Construction of One Agricultural Building at 1140 Irrewillipe Road, Barongarook West (Lot 1 TP: 118801U V/F: 9826/929 Parish of Irrewillipe) for the following reasons:

1. *The proposed dwelling is contrary to clauses 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the Colac Otway Planning Scheme, which seek to protect high quality agricultural land and 'Farmland of Strategic Significance', and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the intensity and ongoing nature of the proposed agricultural activity.*

2. *The proposed use and development of a dwelling on the 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, given that:*
 - a) *It has not been adequately demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - b) *The proposal has the potential to limit the operation and expansion of adjoining and nearby agriculture uses.*
 - c) *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 proposed dwelling 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.*

EQUAL 3 : 3

DIVISION

For the motion: Cr Kate Hanson, Cr Margaret White, Cr Chris Potter

Against the motion: Cr Stephen Hart, Cr Jamie Bell, Cr Graham Costin

The Mayor used their casting vote to vote in favour of the motion. The motion was CARRIED.

Item: 8.3

**PP101/2020-1 - 979 Corangamite Lake Road, Cororooke -
Use and Development of Land for Dwelling**

| | | | |
|---|---|-------------------------------|--|
| ADDRESS AND PROPERTY DETAILS | 979 Corangamite Lake Road, Coragulac Lots 1, 2 and 3 TP663499W (V/F: 8213/973) | APPLICATION NUMBER | PP101/2020-1 |
| PROPOSAL | Use and Development of Land for a Dwelling | | |
| PERMIT TRIGGERS | <p>Clause 35.07-1 - Farming Zone – Use of the land for a dwelling, for a store and associated works</p> <p>Clause 35.07-4 - Farming Zone – Building and works associated with a Section 2 (permit required) use; within specified setbacks; and within 500m of the nearest title boundary of land on which a work authority has been granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p> <p>Clause 42.01-2 – ESO2 – Buildings and works</p> <p>Clause 42.03-2 – SLO1 – Buildings and works</p> | | |
| TRIGGER FOR DETERMINATION BY COMMITTEE | Officer recommendation for refusal of an application for a dwelling in the Farming Zone | | |
| ZONE | Farming Zone (FZ) | OVERLAYS | <p>Environmental Significance Overlay, Schedule 2 (ESO2)</p> <p>Significant Landscape Overlay, Schedule 1 (SLO1)</p> <p>Part Land Subject to Inundation Overlay, Schedule 1 (LSIO) - 4.42%</p> |
| COVENANTS | <p>None.</p> <p>Note: right of carriageway exists over 977 Corangamite Lake Road to access the subject site.</p> | | |

Item: 8.3

PP101/2020-1 - 979 Corangamite Lake Road, Cororooke - Use and Development of Land for Dwelling

CULTURAL HERITAGE

The subject site is in an area of cultural heritage sensitivity; however, construction of a single dwelling is not a high impact activity under the *Aboriginal Heritage Regulations 2018*. With regards to use of land for a store (for purposes associated with the applicant's business, rather than ancillary to the dwelling), the land has already been subject to significant ground disturbance. As such, it is considered that the proposal would fall within the exemption under Regulation 58(4) which states, inter alia, that if the whole of the activity area for an activity requiring statutory authorisation has been subject to significant ground disturbance, that activity is not a high impact activity.

OFFICER

Ravi Ayyagari

CHIEF EXECUTIVE OFFICER

Anne Howard

DIVISION

Executive

ATTACHMENTS

1. Plans [8.3.1 - 6 pages]
2. Application Documents [8.3.2 - 14 pages]
3. Draft Permit Conditions (Not Officer Recommendation) [8.3.3 - 4 pages]

Cr Graham Costin declared a material conflict of interest pursuant to section 128 of the *Local Government Act 2020* and left the meeting at 5.32pm prior to discussion taking place.

| | |
|----------------------|--|
| Cr Graham Costin | Item: 8.3 - PP101/2020-1 - 979 Corangamite Lake Road, Cororooke - Use and Development of Land for Dwelling |
| Nature of Disclosure | Material conflict of interest |
| Nature of Interest | A family member has assisted the applicant and may be perceived as gaining a benefit or suffering a loss depending on the outcome of the matter. |

RECOMMENDATION

That the Planning Committee resolves to refuse to grant a permit for the use and development of the land at 979 Corangamite Lake Road, Cororooke (Lots 1, 2 and 3 TP663499W - V/F: 8213/973) for a dwelling, a store and associated works including the retention of a retaining wall, on the following grounds:

1. *Evidence has not been submitted to demonstrate that the land can be safely developed with a dwelling, having regard to the proximity of the building that is proposed to be converted and extended to a closed landfill site and an operating green waste and materials recovery facility, and the lack of information about potential contamination of the land. As such, the proposal is contrary to clauses 13.04-1S (Contaminated and Potentially Contaminated Land), 13.07-1S and 13.07-1L (Land Use Compatibility) and 65.01 (Approval of an Application or Plan) of the Colac Otway Planning Scheme.*
2. *The proposed use and development of a dwelling is contrary to clauses 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the planning scheme, which seek to limit new housing development in rural areas by directing housing growth into existing settlements, and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the intensity and ongoing nature of the proposed agricultural activity.*
3. *The proposed use and development of a dwelling on the 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, given that:*
 - a. *It has not been demonstrated that the site is suitable for the use or development, or that the proposal is compatible with adjoining and nearby land uses.*
 - b. *It has not been demonstrated how the use or development relates to sustainable land management.*
 - c. *It has not been demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - d. *It has not been 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.*
4. *The proposed dwelling 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.*
5. *The proposed use of a reflective material on a site clearly visible from Red Rock Lookout would be detrimental to the character of the area, contrary to the decision guidelines of the Farming Zone in Clause 35.07 and to the objectives of Significant Landscape Overlay, Schedule 1 which seeks to ensure development has regard to character of an area.*

RESOLUTION

MOVED Cr Stephen Hart, SECONDED Cr Jamie Bell

That the Planning Committee:

- 1. Defers the decision on the application for planning permit seeking approval for the Use and Development of the Land for a Dwelling and Store at 979 Corangamite Lake Road, Coragulac to allow further time for the applicant to provide information requested by planning officers.*
- 2. Considers an officer report on the application when the requested information has been supplied to officer's satisfaction, or no later than the scheduled May 2023 Planning Committee meeting, whichever occurs first.*
- 3. Acknowledges that the only reason for refusal of the shed at this time is reason 5 (the Zinalume roof on the shed), and a new application for the construction of a shed that addresses the concern in that reason may be assessed in a more timely and simplified manner under delegation by officers.*

CARRIED 5 : 0

The meeting adjourned for a short break at 5.53pm.

The meeting resumed at 6.04pm.

Cr Graham Costin was in attendance at the resumption of the meeting (6.04pm).

Item: 8.4

PP188/2021-1 - 255 Colac Ballarat Road, Irrewarra - Use and Development of a Dwelling

| | | | |
|---|---|--------------------------------|--------------|
| ADDRESS AND PROPERTY DETAILS | 255 Colac Ballarat Road, Irrewarra Lot 2 TP863303 V/F: 6847/270 Parish of Irrewarra | APPLICATION NUMBER | PP188/2021-1 |
| PROPOSAL | Use and Development of a Dwelling | | |
| PERMIT TRIGGERS | 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. | | |
| TRIGGER FOR DETERMINATION BY COMMITTEE | Officer recommendation for refusal of an application for a dwelling in the Farming Zone | | |
| ZONE | Farming Zone (FZ) Adjacent Transport Zone 2 (TRZ2) | OVERLAYS | None |
| COVENANTS | Crown Grant relating to water and mining rights, and a drainage easement (Note – there are two lots on the title – Lots 1 and 2 TP863303 V/F: 6847/270) | | |
| CULTURAL HERITAGE | The site is within an area of cultural heritage sensitivity. A single dwelling is not a high impact activity under the <i>Aboriginal Heritage Regulations</i> 2018. A Cultural Heritage Management Plan (CHMP) is therefore not required. | | |
| OFFICER | Louise Lunn (consultant) | CHIEF EXECUTIVE OFFICER | Anne Howard |
| DIVISION | Executive | | |
| ATTACHMENTS | <ol style="list-style-type: none"> 1. Application Form [8.4.1 - 4 pages] 2. Title Information [8.4.2 - 3 pages] 3. Site Plan [8.4.3 - 2 pages] | | |

4. Dwelling Plans [8.4.4 - 8 pages]
5. Irrewarra Estate Ltd v Colac Otway VCAT Decision [8.4.5 - 30 pages]
6. Draft Permit Conditions (Not Officer Recommendation) [8.4.6 - 2 pages]
7. Applicant's Planning Report [8.4.7 - 20 pages]
8. Map A - Property Numbering [8.4.8 - 1 page]
9. Map B - Existing Dwellings and Lot Layout [8.4.9 - 1 page]
10. Area Analysis information [8.4.10 - 13 pages]

RECOMMENDATION

That the Planning Committee resolves to Refuse to Grant a Permit for the Use and Development of the Land for a Dwelling at 255 Colac Ballarat Road, Irrewarra (Lot 2 TP863303, V/F 6847/270 Parish of Irrewarra), on the following grounds:

1. *The proposal is contrary to clauses 02.03-1 (Settlement), 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the Colac Otway Planning Scheme, which seek to protect high quality agricultural land and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the 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) *It has not been demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - b) *The proposal has the potential to limit the operation and expansion of adjoining and nearby agriculture uses.*
 - c) *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.*

RESOLUTION

MOVED Cr Graham Costin, SECONDED Cr Stephen Hart

That the Planning Committee resolves to Grant a Permit for the Use and Development of the Land for a Dwelling at 255 Colac Ballarat Road, Irrewarra (Lot 2 TP863303, V/F: 6847/270), subject to the following conditions:

Endorsed Plans

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

Consolidation

- 2. Prior to commencement of development, Lot 2 TP863303D (currently part of V/F: 6847/270) and Lot 1 TP837025 (V/F: 8738/818) must be consolidated under the provisions of the Subdivision Act 1988 to the satisfaction of the Responsible Authority.*

Dwelling Infrastructure

- 3. Prior to the initial occupation of the dwelling hereby permitted, the following must be provided to the satisfaction of the Responsible Authority:*
 - a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.*
 - b) The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.*
 - c) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*
 - d) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.*

Access

- 4. Prior to the commencement of development, unless otherwise agreed in writing by the Responsible Authority, vehicular access from the roadway to the property boundary must be constructed to the satisfaction of the Responsible Authority.*
- 5. Prior to the initial occupation of the dwelling hereby permitted, the driveway must be constructed to an all-weather standard and with a minimum width of 3 metres, to the satisfaction of the Responsible Authority.*

Stormwater

- 6. 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.*
- 7. 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.

Wastewater

8. *An onsite 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 'Code of Practice - Onsite Wastewater Management', July 2016 (EPA Publication No. 891.4, or as amended), to the satisfaction of the Responsible Authority.*

Expiry

9. *This permit will expire if one of the following circumstances applies:*

- a) *The development is not commenced within three years of the date of this permit.*
- b) *The development is not completed, and the use is not commenced, within five 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 authorise the commencement of any building works. Prior to the commencement of development, it will also be necessary to obtain a building permit for the dwelling.*
2. *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.*
3. *A works within road reserve permit is required prior to any works being undertaken on Council managed road reserves within the Colac Otway Shire.*
4. *At least seven (7) days before any works start, an Asset Protection Permit must be obtained from Council. Council infrastructure must be maintained in a safe condition during the construction period. Any damage caused by these works to Council assets must be reinstated to the satisfaction of the Council prior to the completion of works.*
5. *A separate application to install an onsite wastewater management system must be submitted and approved by Council's Health Protection Unit prior to the commencement of works. The Health Protection Unit reserves the right to request that a new Land Capability Assessment by a suitably qualified person be submitted for approval at the onsite wastewater permit application stage, unless otherwise agreed in writing.*

CARRIED 4 : 2

DIVISION

For the motion: Cr Graham Costin, Cr Margaret White, Cr Stephen Hart, Cr Jamie Bell

Against the motion: Cr Kate Hanson, Cr Chris Potter

Item: 8.5

PP70/2022-1 - 1075 Larpent Road, Larpent - Use and Development of Dwelling

| | | | |
|---|--|--|-------------|
| ADDRESS AND PROPERTY DETAILS | 1075 Larpent Road, Larpent Lot 1 PS 024858, V/F: 07795/142 Use and Development of a Dwelling | APPLICATION NUMBER | PP70/2022-1 |
| PERMIT TRIGGERS | <p>Clause 35.07-1 - Farming Zone – Use of the land for a dwelling.</p> <p>Clause 35.07-4 - Farming Zone – Building and works associated with a Section 2 (permit required) use</p> | | |
| TRIGGER FOR DETERMINATION BY COMMITTEE | Officer recommendation for the refusal of an application for a dwelling in the Farming Zone | | |
| ZONE | Farming Zone (FZ) | OVERLAYS | None |
| COVENANTS | None | | |
| CULTURAL HERITAGE | The eastern boundary of the site is within an area of cultural heritage sensitivity. The proposed dwelling would be located some distance to the west of this area. A single dwelling is not considered a high impact activity and a cultural heritage management plan (CHMP) is therefore not required. | | |
| OFFICER | Louise Lunn (consultant) | CHIEF EXECUTIVE OFFICER | Anne Howard |
| DIVISION | Executive | | |
| ATTACHMENTS | <ol style="list-style-type: none"> 1. Application Form [8.5.1 - 3 pages] 2. Title Information [8.5.2 - 3 pages] 3. Planning Report Submitted with Application [8.5.3 - 18 pages] 4. Response to Council Further Information Request [8.5.4 - 3 pages] | | |

5. Proposed Farm Management Plan (FMP) [8.5.5 - 16 pages]
6. Dwelling Plans [8.5.6 - 5 pages]
7. Agriculture Victoria Referral Response [8.5.7 - 8 pages]
8. Area Analysis (Refer to maps in report) [8.5.8 - 3 pages]
9. Draft Permit Conditions (Not Officer Recommendation) [8.5.9 - 2 pages]

RECOMMENDATION

That the Planning Committee resolves to Refuse to Grant a Permit for the Use and Development of the Land at 1075 Larpent Road, Larpent (Lot 1 PS024858 V/F: 07795/142) for a Dwelling, on the following grounds:

1. *The proposal is contrary to clauses 02.03-1 (Settlement), 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the Colac Otway Planning Scheme, which seek to protect high quality agricultural land and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the 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) *It has not been adequately demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - b) *The proposal has the potential to limit the operation and expansion of adjoining and nearby agriculture uses.*
 - c) *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.*

MOTION

MOVED Cr Graham Costin, SECONDED Cr Jamie Bell

That the Planning Committee resolves to Issue a Notice of Decision to Grant a Permit for the Use and Development of the Land for a Dwelling at 1075 Larpent Road, Larpent (Lot 1 PS 024858, V/F: 07795/142), subject to the following conditions:

Amended Plans

- 1. Prior to the commencement of 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, which must be drawn to scale with dimensions, must be generally in accordance with the plans submitted with the application, but modified to show:*
 - a) vehicle access to the dwelling, including details of its width and surface*
 - b) location of the proposed wastewater treatment system*
 - c) location of proposed water tanks*

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.*

Dwelling Infrastructure

- 3. Prior to the initial occupation of the dwelling hereby permitted, the following must be provided to the satisfaction of the Responsible Authority:*
 - a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.*
 - b) The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.*
 - c) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*
 - d) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.*

Access

- 4. Prior to the commencement of development, unless otherwise agreed in writing by the Responsible Authority, vehicular access from the roadway to the property boundary must be constructed to the satisfaction of the Responsible Authority.*
- 5. Prior to the initial occupation of the dwelling, the driveway must be constructed to an all-weather standard and with a minimum width of 3 metres, to the satisfaction of the Responsible Authority.*

Stormwater

6. *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.*
7. *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.*

Wastewater

8. *An onsite 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 'Code of Practice - Onsite Wastewater Management', July 2016 (EPA Publication No. 891.4, or as amended), to the satisfaction of the Responsible Authority.*

Expiry

9. *This permit will expire if one of the following circumstances applies:*
 - a) *The development is not commenced within three years of the date of this permit.*
 - b) *The development is not completed, and the use is not commenced, within five 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 authorise the commencement of any building works. Prior to the commencement of development, it will also be necessary to obtain a building permit for the proposed buildings.*
2. *Prior to conducting any drainage works, a legal point of discharge (LPOD) must be obtained in accordance with Building Regulation 133.*
3. *A works within road reserve permit is required prior to any works being undertaken on Council managed road reserves within the Colac Otway Shire.*
4. *At least seven (7) days before any works start, an Asset Protection Permit must be obtained from Council. Council infrastructure must be maintained in a safe condition during the construction period. Any damage caused by these works to Council assets must be reinstated to the satisfaction of the Council prior to the completion of works.*
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. The Health Protection Unit reserves the right to request a Land Capability Assessment by a suitably qualified person to be submitted for approval at the permit application stage, to support a detailed system design and sustainable wastewater management system.*

LOST 2 : 4

DIVISION

For the motion: Cr Graham Costin, Cr Jamie Bell

Against the motion: Cr Kate Hanson, Cr Stephen Hart, Cr Margaret White, Cr Chris Potter

RESOLUTION

MOVED Cr Kate Hanson, SECONDED Cr Margaret White

That the Planning Committee resolves to Refuse to Grant a Permit for the Use and Development of the Land at 1075 Larpent Road, Larpent (Lot 1 PS024858 V/F: 07795/142) for a Dwelling, on the following grounds:

- 1. The proposal is contrary to clauses 02.03-1 (Settlement), 02.03-4 (Natural Resource Management), 02.04 (Strategic Framework Plans), 14.01-1S and 14.01-1L (Protection of Agricultural Land) and 16.01-3S (Rural Residential Development) of the Colac Otway Planning Scheme, which seek to protect high quality agricultural land and to limit rural residential development unless an application adequately demonstrates that a dwelling is genuinely required to carry out a long term agricultural activity having regard to the size of the lot, and the 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) It has not been adequately demonstrated that a dwelling would enhance agricultural production based upon the land unit described in the application.*
 - b) The proposal has the potential to limit the operation and expansion of adjoining and nearby agriculture uses.*
 - c) 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.*

CARRIED 4 : 2

DIVISION

For the motion: Cr Margaret White, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter

Against the motion: Cr Graham Costin, Cr Jamie Bell

The meeting was declared closed at 8.02pm.

CONFIRMED AND SIGNED at the meeting held on 8 February 2023.

A handwritten signature in black ink, appearing to be 'M. J. B.', is written above a dotted line.

.....MAYOR