



Colac Otway
SHIRE

UNSCHEDULED COUNCIL MEETING

AGENDA

Wednesday 15 June 2022

at 3:00 PM

COPACC

95 - 97 Gellibrand Street, Colac



COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

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COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

NOTICE is hereby given that the next **UNSCHEDULED COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 15 June 2022 at 3:00 PM.

AGENDA

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

3 APOLOGIES AND LEAVES OF ABSENCE

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 Council meetings will be live streamed and recorded when when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. 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 of mode.

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).

As soon as practicable following each open Council 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 meetings and to ensure their accuracy. Live stream and audio 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 Council Meeting.

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

The sole purpose of this unscheduled Council meeting is to consider the following agenda item:

- Request to Planning Minister for Fast Track Assessment Process - Planning Scheme Amendments C120cola (Bakerland), C122cola (Hillview) and Flood Overlay Changes.

5 QUESTION TIME

Please note that as this is an Unscheduled Council meeting, only questions pertaining to this agenda will be responded to. A maximum of 15 minutes is allowed for question time at Unscheduled Council meetings. Any person wishing to participate in question time by videoconference will need to register their intention to do so by contacting the shire prior to 12 midday on Tuesday 14 June 2022. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting.
2. Questions by videoconference (by prior arrangement).
3. Questions from the floor.

6 DECLARATIONS OF INTEREST

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

Item: 7.1

Request to Planning Minister for Fast Track Assessment Process - Planning Scheme Amendments C120cola (Bakerland), C122cola (Hillview) and Flood Overlay Changes

OFFICER	Simon Clarke
GENERAL MANAGER	Ian Seuren
DIVISION	Development and Community Services
ATTACHMENTS	Nil

1. PURPOSE

To recommend three priority Colac housing initiatives be referred to the State Government's Development Facilitation Program for accelerated assessment and determination.

2. EXECUTIVE SUMMARY

The Department of Environment Land Water and Planning (DELWP) has established a Development Facilitation Program (DFP) that is intended to provide a fast-track assessment and decision-making process for identified priority projects right across Victoria. Officers from the program contacted Council at the end of May 2022 to discuss the potential for inclusion of the Bakerland Planning Scheme Amendment C120cola in the program. It became apparent in this discussion that the Hillview planning scheme amendment C122cola and a flood overlay amendment in Colac to facilitate a subdivision in Sinclair Street could also benefit from this program.

Council officers consider that three priority projects (all being planning scheme amendments) could benefit from the DFP and each is recommended to be part of this program. Whilst further work will still need to occur with Council staff on developing Shared Infrastructure Funding plans for Bakerland and Hillview, along with social housing agreements, the DFP offers a significant opportunity to ensure that these projects proceed in the shortest possible time, responding to the immediate lack of available residential land in Colac to meet demand.

3. RECOMMENDATION

That Council:

- 1. Refers the following priority projects to the Department of Environment, Land, Water and Planning's Development Facilitation Program for accelerated assessment and determination:**
 - a. Hillview Planning Scheme Amendment C122cola.**
 - b. Irrewillipe Road (Bakerland) Planning Scheme Amendment C120cola.**
 - c. Flood Overlay Amendment to facilitate assessment of Planning Permit PP105/2016-1 (130-154 Sinclair Street, Colac).**
- 2. Advises the Planning Minister that this resolution is made on the basis that Council requires a Shared Infrastructure Planning plan to be prepared and agreed with the proponents of Amendments C122cola and C120cola before finalisation of both amendments.**
- 3. Requests that the Planning Minister through the Department of Environment Land Water and Planning negotiates the provision of social housing within new residential development facilitated by Amendments C120cola and C122cola, in accordance with the Colac Otway Shire Social Housing Plan and that social housing outcomes agreed with the proponents are incorporated prior to finalisation of the amendments.**

4. KEY INFORMATION

In late 2021, the Minister for Planning established the Development Facilitation Program (DFP) to make faster decisions for priority projects that experienced delays due to COVID-19. The program identifies and case manages development projects with the potential to:

- Deliver investment into the Victorian economy.
- Keep people in jobs.
- Provide a substantial public benefit; and
- Continue to support our State's economic recovery.

The DFP is focussed on new medium-term development projects in priority sectors. However, the program will still consider projects that are already in the planning system and facing delays. Projects considered for the program include:

- Planning permit applications
- Planning scheme amendments
- Section 96A combined planning scheme amendments and permit applications

Projects identified as being eligible for the DFP remain subject to comprehensive assessment with the opportunity for public notice and independent review by an independent Advisory Committee appointed by the Minister for Planning, depending on the scale and impacts of the project. Councils and other government agencies remain an integral part of the process and are involved from pre-application, preliminary assessment to conditions of approval, where applicable.

The assessment process is outlined below (noting that some of these steps have already been undertaken by Council officers):

Assessment

- Merits assessment**

Recommended project is referred to the relevant statutory planning team within DELWP for a detailed merits assessment.
- Case manager**

The case manager will continue to provide oversight of the project and assistance to the statutory planning team where required.
- Consultation**

A formal consultation process is undertaken including notification to the relevant council, government agencies and bodies, key stakeholders and neighbouring owners and occupiers as required.
- Priority Projects Standing Advisory Committee**

If required, the project may be referred to the Priority Projects Standing Advisory Committee (PPSAC), to hear submissions and provide independent advice to the Minister for Planning.
- Final assessment**

Final assessment is undertaken having regard to consultation findings, PPSAC recommendations before final decision by the Minister for Planning.

In late May 2022, officers from DELWP approached Council with the view to assisting the proponent for the Irrewillipe Road (Bakerland) Planning Scheme Amendment C120cola under the DFP following an earlier approach from the applicant. In those discussions, Council officers raised two other potential candidates for consideration under the program, being the Hillview Planning Scheme Amendment C122cola and a planning scheme amendment necessary to facilitate Planning Permit PP105/2016-1 (130-154 Sinclair Street, Colac), which has been delayed due to technical complications associated with the Flood Overlay.

The Irrewillipe Road (Bakerland) Planning Scheme Amendment C120cola is proposing to rezone land between Harris Road and Irrewillipe Road for residential purposes. The amendment would rezone land currently in the Rural Living Zone to General Residential Zone and apply a Development Plan Overlay that requires a Development Plan to be endorsed prior to residential subdivision occurring. A draft Framework Plan has been produced that demonstrates appropriate transport linkages, open space provision and integration of development with surrounding areas, although this plan will continue to be refined into a Development Plan that will be approved after the amendment process. A request for authorisation was approved by the Minister in April, subject to conditions that required some further response from the proponent prior to public exhibition. These are currently being addressed.

The Hillview planning scheme amendment was considered by Council at the May 2022 Council meeting. Council resolved to proceed with a request for authorisation to prepare and exhibit the amendment. The amendment would rezone land at Elliminyt, south of Harris Road and east of Colac

Lavers Hill Road, from Farming Zone to the General Residential Zone and apply a Development Plan Overlay. The land is to the west of the existing 'Wyuna Estate'. The land is currently zoned Farming and has a total area of approximately 34.85 hectares. The land comprises 13 separate titles across nine landholdings. The proponent is a landowner consortium represented by each of the nine owners. Officers are in the process of applying for Ministerial authorisation.

In the interests of fairness and to take advantage of this opportunity for a fast-track assessment process, officers have requested that DELWP consider both C120cola and C122cola as being eligible for the DFP. The proponents for the Hillview Planning Scheme amendment C122cola have confirmed that they want to be assessed under the program.

Furthermore, a planning permit is ready to be issued for the subdivision of land at 130-154 Sinclair Street, Colac. However, under the planning scheme, subdivision of lots cannot be permitted where lots would be wholly contained in a Flood Overlay. In the case of 130-154 Sinclair Street, all matters relating to flooding and drainage have been resolved to the satisfaction of the Corangamite Catchment Management Authority to the extent that it would allow a permit to be issued, if it were not for the Flood Overlay being present.

The CCMA has reviewed the underpinning assumptions used in flood modelling for this site and found that there are unique factors which indicate the flood depth in this location would not be as significant as the Colac Flood Study had anticipated. Therefore, there is justification for a review of the flood mapping on this property, as the detailed flood modelling undertaken by the applicant's specialist consultant has demonstrated that subdivision could be achieved on the land with a centralised open drain alongside the main access road, and a detention basin on the north side, with lots constructed to be flood free.

Council has previously sought DELWP's assistance in resolving this matter and is now seeking further assistance through the DFP. Officers at DELWP have confirmed that this could also be a priority project that they could assist Council in expediting.

Accordingly, the three priority projects (C120cola, C122cola and the Sinclair Street Flood Overlay amendment) are recommended for referral to the DFP for assessment and determination under their fast-track initiatives.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The recommendation is consistent with the following overarching governance principles:

- a) Council decisions are made and actions taken in accordance with the relevant law.
- b) Priority is given to achieving best outcomes for the municipal community, including future generations.
- c) The municipal community is engaged in strategic planning and strategic decision making.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

The Amendments are being processed in accordance with the provisions of the *Planning and Environment Act 1987* and relevant Ministerial Directions. The Colac Otway Planning Scheme and, more specifically, the provisions associated with the Colac 2050 Growth Plan aim to increase the availability of residential land in Colac.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

In each of the housing initiatives noted in this report, suitable environmental assessments have been undertaken to ensure that impacts have been identified and responded to. Environmental considerations are managed as a priority through the planning scheme amendment process. The re-establishment of waterways and the appropriate management of flood plains will have positive benefits to the environment when development is realised by creating waterway corridors for both environmental, flood management and recreation purposes.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

All planning scheme amendment documentation will be made publicly available as part of the DFP process similar to the way that the documentation would be made available through the customary planning scheme amendment process. The community will still be able to make submissions and have them heard by an independent Advisory Committee appointed by the Government.

Public Transparency (s58 LGA 2020)

All amendment documentation will be publicly available as part of the exhibition process consistent with the relevant planning legislation.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 1: Affordable and available housing will support our growing community and economy

Objective 5: Grow the Colac Otway Shire's permanent population by at least 1.5%

The three projects referred to in the report have very strong alignment towards achieving these objectives of increasing residential land supply. State Government assistance to facilitate the projects will advance the timing of their completion.

Financial Management (s101 Local Government Act 2020)

Whilst there would still be involvement of officers in the three amendment processes and liaison with the proponents of the Bakerland and Hillview amendments to develop Shared Infrastructure Funding Plans and social housing agreements, there will be less workload for officers overall, allowing staff to focus on delivery of other key residential initiatives including the Deans Creek Precinct Structure Plan for the Colac West growth area.

Service Performance (s106 Local Government Act 2020)

The accelerated Planning Scheme Amendment program will positively contribute towards the provision of new residential lots in Colac, where there is a pent-up demand for new housing, and as noted earlier, increase the capacity of staff to facilitate other key strategic planning initiatives.

Risk Assessment

It is important that the community be appropriately consulted with respect to each of the planning scheme amendments proposed. Consultation remains a key part of the DFP and includes relevant checks and balances through the Independent Advisory Committee to review submissions.

There is some risk that landowners impacted by the amendments may be concerned at the change in process and feel that Council control over the outcome is reduced. Under the DFP fast track process, Council would not be responsible for making decisions on the assessment of submissions or adopting the amendment, but it would have the opportunity to influence the process through indirect

involvement and submissions to the Advisory Committee. The Minister is always the final decision making in amendment processes, and thus Council's influence on the process will not be significantly changed. On balance, there is considered to be a significant advantage to our community in having the amendment processes fast tracked. Officers have already negotiated draft Development Plans and subdivision designs for the projects, ensuring that Council's key interests are taken into account.

A key issue will be the finalisation of the Shared Infrastructure Funding Plans for Amendments C120cola and C122cola to ensure that these mechanisms are agreed before the finalisation of the amendment processes. Similarly, the outcomes Council is seeking on social housing being established in the new developments will need to be agreed with the respective landowners. Should Council accept the recommendation to refer the projects to DELWP under the DFP, it will be important that these outcomes are well understood by DELWP staff.

Communication/Implementation

The recommendation will be supported by a media release announcing the Development Facilitation Program with further communication to be provided on Council's website with links to DELWP's DFP webpage. Owners of land within the areas being rezoned will be notified directly in writing explaining Council's approach.

Human Rights Charter

Not applicable.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Adopt the recommendation

This option is recommended by officers as it is in the interests of accelerating the provision of residential lots in Colac, consistent with the Colac 2050 Growth Plan.

Option 2 – Adopt the recommendation with amendments

Council may choose to endorse only some of the priority projects included within the recommendation. However, this option is not recommended as it is important that all planning scheme amendment proponents are treated consistently and fairly through the assessment process.

Option 3 – Do not adopt the recommendation

This option is not recommended by officers as it does not afford an opportunity to accelerate the planning scheme amendment processes to deliver residential land to the market in a timelier manner.

