

1. OPENING PRAYER

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

2. PRESENT

Cr Brian Crook (Mayor)
Cr Frank Buchanan
Cr Stephen Hart
Cr Stuart Hart
Cr Geoff Higgins
Cr Lyn Russell
Cr Chris Smith

Jack Green, Acting Chief Executive Officer
Doug McNeill, Acting General Manager Sustainable Planning and Development
Colin Hayman, General Manager Corporate and Community Services
Neil Allen, General Manager Infrastructure and Services
Anne Sorensen, Acting Manager Planning and Building
Bronwyn Keenan, Executive Officer Sustainable Planning and Development

3. APOLOGIES

NIL

4. MAYORAL STATEMENT

Colac Otway Shire encourages active community input and participation in Council decisions. The Planning Committee provides an opportunity for both objectors and proponents to address Council for up to five minutes. Priority will be given to people who have advised Council in advance that they wish to address the Planning Committee. Planning Committee meetings also enable Councillors to debate matters prior to decisions being taken.

I ask that we all respect each other during this process by:

- being courteous and respectful in the way in which you speak;
- not speaking unless you have been permitted to by me as chairperson;
- respecting the local laws which govern meeting procedure (copies of these are here for your information); and
- understanding that I have a responsibility to ensure proper meeting procedure and the upholding of the local law.

I also would like to inform you that the meeting is being taped. The audio recording of the meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982.

5. DECLARATION OF INTEREST

NIL

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

Item PC091103-2 Matthew Bradshaw
 Emma Colson

Item PC091103-3 and
Item PC091103-4 Janette Martin
 Chris Stewart (on behalf of Weering/Beeac Conservation
 Group)
 Ian d'Oliveyra (on behalf of George Gigas of Prindell Pty Ltd)
 Jack Kraan of Focus Creation Solutions (on behalf of
 applicant)

7. CONFIRMATION OF MINUTES

- Planning Committee Meeting of the Colac-Otway Shire Council held on the 11/02/09.

Recommendation

That the Planning Committee confirm the above minutes.

Resolution

MOVED Cr Russell seconded Cr Higgins that the Planning Committee confirm the above minutes.

CARRIED 7:0

OFFICERS' REPORTS

Sustainable Planning and Development

- PC091103-1 PLANNING PERMITS FOR THE MONTH OF FEBRUARY 2009
- PC091103-2 USE & DEVELOPMENT OF A LICENSED CAFE WITH ANCILLARY MICRO-BREWING FACILITY, ON-PREMISE LIQUOUR LICENCE, WAIVER OF CARPARKING, ASSOCIATED WORKS AND SIGNAGE AT 26 GRANT STREET, FORREST
- PC091103-3 PP117/08 - USE AND DEVELOPMENT OF 210 PIERCES ROAD, BEEAC (CA141, 149 AND 153, PARISH OF ONDIT) FOR A BROILER FARM (B), ASSOCIATED BUILDINGS AND WORKS, INCLUDING ACCESS AND A DAM, AND A MANAGER'S RESIDENCE
- PC091103-4 PP116/08 - USE AND DEVELOPMENT OF 210 PIERCES ROAD, BEEAC (CA140, 148 AND 152, PARISH OF ONDIT) FOR A BROILER FARM (A), ASSOCIATED BUILDINGS AND WORKS, INCLUDING ACCESS AND A DAM, AND A MANAGER'S RESIDENCE

PC091103-1 PLANNING PERMITS FOR THE MONTH OF FEBRUARY 2009

AUTHOR:	Janole Cass	ENDORSED:	Doug McNeill
DEPARTMENT:	Sustainable Planning and Development	FILE REF:	GEN00450

Recommendation(s)

That Council's Planning Committee note the February 2009 statistical report.

Resolution

MOVED Cr Stephen Hart seconded Cr Stuart Hart that Council's Planning Committee note the February 2009 statistical report.

CARRIED 7:0

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PC091103-2 USE & DEVELOPMENT OF A LICENSED CAFE WITH ANCILLARY MICRO-BREWING FACILITY, ON-PREMISE LIQUOUR LICENCE, WAIVER OF CARPARKING, ASSOCIATED WORKS AND SIGNAGE AT 26 GRANT STREET, FORREST

AUTHOR: Helen Evans
DEPARTMENT: Sustainable Planning and Development

ENDORSED: Doug McNeill
FILE REF: PP177/08

Recommendation(s)

- A) That Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP177/08 for the use and development of the land for café/restaurant with ancillary micro-brewery and associated works, an on premise liquor license, advertising signage and waiving of car parking subject to the following conditions:**

Amended plans

- 1. Prior to the 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 provided. The plans must generally be in accordance with the plans submitted on 16 February 2009, but modified to show:
 - Fully detailed plans of all proposed signage, including location, dimensions and wording, materials and colours;
 - Floor and elevation plans for all buildings, fully dimensioned and drawn to scale, external materials and colours.to the satisfaction of the responsible authority.**
- 2. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.**

Liquor Licence

- 3. The provision and or consumption of liquor within the development hereby permitted must be subject to the issue of a Liquor Licence, pursuant of the provision of the Liquor Control Reform Act, 1988, as amended.**
- 4. The cafe/restaurant may only operate between the following hours without the further written permission of the responsible authority:
 - (a) Monday to Saturday 9.00am to midnight;
 - (b) Sunday 9.00am to 8.00pm**

Ancillary use (Microbrewery)

- 5. The floor area to be used in association with the Micro-brewery (all storage and equipment including bottling, kegs, ingredients, waste, vats and brew house) must not exceed forty-nine (49) square metres.**

6. ***The volume of all types of alcoholic brew made on the premises must not exceed 30,000 litres per annum. Records of the amount of brew produced must be kept onsite and be available upon inspection to the satisfaction of the Responsible Authority.***
7. ***The volume of all types of alcoholic brew made on the premises and sold for consumption off the premises must not exceed 10,000 litres per annum. Records of the amount of retail sales of the produce must be kept onsite and be available upon inspection to the satisfaction of the Responsible Authority.***
8. ***If the café use hereby permitted ceases, the microbrewery production must also cease.***
9. ***Activities associated with the brewing and bottling of beer (except for maturation and fermentation) must not be conducted outside the hours of 9.00am and 5.00pm unless written approval is granted from the Responsible Authority prior to the event.***

Infrastructure, car parking & drainage

10. ***Before the use commences, the owner must:***
 - (a) ***Concrete the area to be used for public seating where the petrol tank was situated in the southeast corner of the site;***
 - (b) ***Remove the concrete slab on the road reserve and reinstate to the satisfaction of the responsible authority;***
 - (c) ***Erect a temporary barrier to prevent vehicular access of the existing access point from Turner Drive onto the road reserve east of the subject site to the satisfaction of the responsible authority.***
11. ***The driveway entrance off Turner Drive is to be constructed to Council's minimum standard to the satisfaction of the Responsible Authority.***
12. ***No fewer than 4 car spaces must be provided on the land for the use of the residence and staff employed in the business.***
13. ***Prior to the commencement of the use of the cafe, the permit holder must make a cash contribution to the Colac Otway Shire of \$22,750 (being 50% of the estimated cost of the car park).***
14. ***All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***

Amenity

15. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the***
 - ***Transport of materials goods or commodities to or from the land***
 - ***Emission of noise, artificial light, vibration, smell, fumes, smoke ,waste water etc***

16. ***External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.***
17. ***All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited.***

Food Safety & Effluent Disposal

18. ***That the premises be limited in size to a 50 seat restaurant to ensure that the resultant waste water produced can be adequately disposed of within the title boundaries.***
19. ***The permit holder must obtain a permit from Council's Health Department before any works are started on the restaurant and a detailed plan submitted for approval showing the fixtures and fittings of the kitchen and food preparation areas.***
20. ***A food safety plan must be submitted to Council covering the food operations. A suitable number of staff must also be trained in food handling techniques before the premises can be registered to sell food or alcoholic beverages.***
21. ***The septic system must be upgraded to cater for the increased loading and an application for such alteration must be approved by Council's Health Department prior to the commencement of any works on such system.***
22. ***Effluent generated from the brewing process including any washing/rinse waste water or bottle washing water shall be treated as industrial waste and be disposed of via Barwon Water treatment facilities.***
23. ***In the event that Barwon Water refuses to accept or ceases to accept the effluent from the brewing operation then the premises shall stop the brewing operation immediately. Alternative methods of disposal of effluent generated by the brewing and bottling procedure must be approved by Council.***

Signage

24. ***The location and details of the sign and its structure as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
25. ***All signs must be constructed and maintained to the satisfaction of the Responsible Authority.***
26. ***The sign may only be illuminated between the hours of Monday to Saturday 9am to Midnight and Sunday 9am to 8pm.***

Conditions required by Environment Protection Authority

27. ***Operation of the micro-brewing facility must not emit odours offensive to the senses of human beings beyond the boundaries of the premises.***
28. ***Noise from the operation must meet the noise limits provided in the EPA publication N3/89 Interim Guidelines for Control of Noise from Industry in Country Victoria.***

29. *Liquid wastes must be disposed of in compliance with agreement from the relevant water authority.*
30. *Section 6 of EPA publication 888.1 Guidelines on the Design, Installation and Management Requirements for Underground Petroleum Storage Systems (UPSS) outlines the requirements for the removal/decommissioning of disused UPSS.*

Conditions required by Country Fire Authority

Water Supply Requirements

31. *A static water supply, such as a tank must be provided unless there is a hydrant connected to a reticulated water supply within 120 metres of the rear of the building.*

Vegetation Management Requirements

32. *A distance of 30 metres around the proposed building or to the property boundary (whichever is the lesser) must be maintained to the following requirements during the declared 'Fire Danger Period' to the satisfaction of the responsible authority.*
 - *Grass must be no more than 100mm in height*
 - *Leaf litter must be less than 10mm deep*
 - *There must be no elevated fuel on at least 50% of the area. On the remaining 50% the elevated fuel must be at most, sparse, with very little dead material.*
 - *Dry shrubs must be isolated in small clumps more than ten metres away from the building.*
 - *Trees must not overhang the roofline of the building.*
33. *This permit will expire if one of the following circumstances applies:*
 - (a) *The development is not started within two years of the date of this permit.*
 - (b) *The development is not completed within four years of the date of this permit.*

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Note: *Non-flammable features such as, patios, driveways, or paths should be incorporated into the vegetation management plan, especially on the north and western sides of the proposed building.*

Features with high flammability such as coir doormats, firewood stacks should not be located near the building during the fire danger period.

Note: for low category of bushfire attack

The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006. Grassland with minimal trees or cultivated gardens is the predominant vegetation within 100 metres of the proposed building, which corresponds to a low category of bushfire attack under AS 3959.

- B) Council Officers make a submission to the Minister for Planning in relation to Clause 52.10 – Food and beverage production seeking a review of this provision particularly as it related to uses like microbreweries, to express concern that the Planning Scheme is currently inhibiting appropriate investment opportunities in this regard.**

Resolution

MOVED Cr Stephen Hart seconded Cr Stuart Hart that:

- A) Council's Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Permit Application PP177/08 for the use and development of the land for café/restaurant with ancillary micro-brewery and associated works, an on premise liquor license, advertising signage and waivering of car parking subject to the following conditions:**

Amended plans

- 1. Prior to the 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 provided.**

The plans must generally be in accordance with the plans submitted on 16 February 2009, but modified to show:

- Fully detailed plans of all proposed signage, including location, dimensions and wording, materials and colours;**
- Floor and elevation plans for all buildings, fully dimensioned and drawn to scale, external materials and colours.**

to the satisfaction of the responsible authority.

- 2. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.**

Liquor Licence

- 3. The provision and or consumption of liquor within the development hereby permitted must be subject to the issue of a Liquor Licence, pursuant of the provision of the Liquor Control Reform Act, 1988, as amended.**
- 4. The cafe/restaurant may only operate between the following hours without the further written permission of the responsible authority:**
- (a) Monday to Saturday 9.00am to midnight;**
 - (b) Sunday 9.00am to 8.00pm**

Ancillary use (Microbrewery)

- 5. The floor area to be used in association with the Micro-brewery (all storage and equipment including bottling, kegs, ingredients, waste, vats and brew house) must not exceed forty-nine (49) square metres.**

6. ***The volume of all types of alcoholic brew made on the premises must not exceed 30,000 litres per annum. Records of the amount of brew produced must be kept onsite and be available upon inspection to the satisfaction of the Responsible Authority.***
7. ***The volume of all types of alcoholic brew made on the premises and sold for consumption off the premises must not exceed 10,000 litres per annum. Records of the amount of retail sales of the produce must be kept onsite and be available upon inspection to the satisfaction of the Responsible Authority.***
8. ***If the café use hereby permitted ceases, the microbrewery production must also cease.***
9. ***Activities associated with the brewing and bottling of beer (except for maturation and fermentation) must not be conducted outside the hours of 9.00am and 5.00pm unless written approval is granted from the Responsible Authority prior to the event.***

Infrastructure, car parking & drainage

10. ***Before the use commences, the owner must:***
 - (a) ***Concrete the area to be used for public seating where the petrol tank was situated in the southeast corner of the site;***
 - (b) ***Remove the concrete slab on the road reserve and reinstate to the satisfaction of the responsible authority;***
 - (c) ***Erect a temporary barrier to prevent vehicular access of the existing access point from Turner Drive onto the road reserve east of the subject site to the satisfaction of the responsible authority.***
11. ***The driveway entrance off Turner Drive is to be constructed to Council's minimum standard to the satisfaction of the Responsible Authority.***
12. ***No fewer than 4 car spaces must be provided on the land for the use of the residence and staff employed in the business.***
13. ***Prior to the commencement of the use of the café, the permit holder must make a cash contribution to the Colac Otway Shire of \$10,000. The works to the carpark must be sufficient to make it safe and serviceable to a standard generally consistent with carparking in the vicinity. If the works on the carpark are not completed within two years of receiving payment, the cash contribution is to be refunded.***
14. ***All run off from stormwater, including overflow from water storage, must be taken to a legal point of discharge to the satisfaction of the Responsible Authority.***

Amenity

15. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the***
 - ***Transport of materials goods or commodities to or from the land***

- *Emission of noise, artificial light, vibration, smell, fumes, smoke ,waste water etc*
16. *External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.*
 17. *All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited.*

Food Safety & Effluent Disposal

18. *That the premises be limited in size to a 50 seat restaurant to ensure that the resultant waste water produced can be adequately disposed of within the title boundaries.*
19. *The permit holder must obtain a permit from Council's Health Department before any works are started on the restaurant and a detailed plan submitted for approval showing the fixtures and fittings of the kitchen and food preparation areas.*
20. *A food safety plan must be submitted to Council covering the food operations. A suitable number of staff must also be trained in food handling techniques before the premises can be registered to sell food or alcoholic beverages.*
21. *The septic system must be upgraded to cater for the increased loading and an application for such alteration must be approved by Council's Health Department prior to the commencement of any works on such system.*
22. *Effluent generated from the brewing process including any washing/rinse waste water or bottle washing water shall be treated as industrial waste and be disposed of via Barwon Water treatment facilities.*
23. *In the event that Barwon Water refuses to accept or ceases to accept the effluent from the brewing operation then the premises shall stop the brewing operation immediately. Alternative methods of disposal of effluent generated by the brewing and bottling procedure must be approved by Council.*

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24. *The location and details of the sign and its structure as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
25. *All signs must be constructed and maintained to the satisfaction of the Responsible Authority.*
26. *The sign may only be illuminated between the hours of Monday to Saturday 9am to Midnight and Sunday 9am to 8pm.*

Conditions required by Environment Protection Authority

27. *Operation of the micro-brewing facility must not emit odours offensive to the senses of human beings beyond the boundaries of the premises.*

28. **Noise from the operation must meet the noise limits provided in the EPA publication N3/89 Interim Guidelines for Control of Noise from Industry in Country Victoria.**
29. **Liquid wastes must be disposed of in compliance with agreement from the relevant water authority.**
30. **Section 6 of EPA publication 888.1 Guidelines on the Design, Installation and Management Requirements for Underground Petroleum Storage Systems (UPSS) outlines the requirements for the removal/decommissioning of disused UPSS.**

Conditions required by Country Fire Authority

Water Supply Requirements

31. **A static water supply, such as a tank must be provided unless there is a hydrant connected to a reticulated water supply within 120 metres of the rear of the building.**

Vegetation Management Requirements

32. **A distance of 30 metres around the proposed building or to the property boundary (whichever is the lesser) must be maintained to the following requirements during the declared 'Fire Danger Period' to the satisfaction of the responsible authority.**
 - **Grass must be no more than 100mm in height**
 - **Leaf litter must be less than 10mm deep**
 - **There must be no elevated fuel on at least 50% of the area. On the remaining 50% the elevated fuel must be at most, sparse, with very little dead material.**
 - **Dry shrubs must be isolated in small clumps more than ten metres away from the building.**
 - **Trees must not overhang the roofline of the building.**
33. **This permit will expire if one of the following circumstances applies:**
 - (a) **The development is not started within two years of the date of this permit.**
 - (b) **The development is not completed within four years of the date of this permit.**

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Note: Non-flammable features such as, patios, driveways, or paths should be incorporated into the vegetation management plan, especially on the north and western sides of the proposed building.

Features with high flammability such as coir doormats, firewood stacks should not be located near the building during the fire danger period.

Note: for low category of bushfire attack

The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006. Grassland with minimal trees or cultivated gardens is the predominant vegetation within 100 metres of the proposed building, which corresponds to a low category of bushfire attack under AS 3959.

- B) Council Officers make a submission to the Minister for Planning in relation to Clause 52.10 – Food and beverage production seeking a review of this provision particularly as it related to uses like microbreweries, to express concern that the Planning Scheme is currently inhibiting appropriate investment opportunities in this regard.***

CARRIED 6:1

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**PC091103-3 PP117/08 - USE AND DEVELOPMENT OF 210 PIERCES ROAD, BEEAC (CA141, 149 AND 153, PARISH OF ONDIT) FOR A BROILER FARM (B), ASSOCIATED BUILDINGS AND WORKS, INCLUDING ACCESS AND A DAM, AND A MANAGER'S RESIDENCE**

AUTHOR: Anne Sorensen  
DEPARTMENT: Sustainable Planning and  
Development

ENDORSED: Doug McNeill  
FILE REF: PP117/08

**Recommendation(s)**

***That the Planning Committee advise the Victorian and Civil Administrative Tribunal that it would have determined to issue a Notice of Decision to Grant a Permit for the use and development of 210 Pierces Road, Beeac (CA 141, 149, and 153, Parish of Ondit)(proposed Lots 1, 2 and 3) for the purposes of a Class B, Broiler Farm B, associated buildings and works, including access and a dam, and a Managers dwelling subject to the following conditions, if a review had not been lodged with the Tribunal:***

- 1. Before the use and development commences, the following documents to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority for approval and be approved by the Responsible Authority:**
  - 1.1 Amended plans which must be drawn to scale and with dimensions. Three copies must be provided and the plans must be generally in accordance with the plans submitted with the application but modified to show:**
    - 1.1.1 The access road must be set 30 metres north of the southern common property boundary;**
    - 1.1.2 The type, specifications and location of all external flood and security lighting to be used including provision for light baffling to ensure all light is contained within the property boundary;**
    - 1.1.3 Deletion of the spent litter pads;**
    - 1.1.3 Stormwater wetland treatment pond and other drainage;**
    - 1.1.4 Location, dimensions and specifications of any dams to be constructed on site.**
  - 1.2 Environmental Management Plan (EMP) which is site specific;**
  - 1.3 Water Use and Re-use Plan addressing stormwater, rainwater and reticulated water use and re-use issues including a plan for the management of areas from which water is proposed to be harvested. The plan must also detail arrangements for the provision on site of an emergency water supply;**

**1.4 Amended Landscape Plan which must be site specific and have due regard to the visual impact of the sheds and other buildings, including consideration of bunding and mounding. The Landscape Plan must show the location and type of all proposed screen and other plantings and landscaping, anticipated tree or shrub height and width at maturity, timetables for plantings and arrangements for maintenance of the landscaped areas. All trees and shrubs included in the Landscape Plan must be indigenous to the locality. The Landscape Plan must show:**

**1.4.1 A 15 metre wide landscaping strip along the southern common property boundary commencing at the Weering School Road frontage to the edge of the western property boundary;**

**1.4.2 A 15 metre wide landscaping strip along the Weering School Road frontage from the southern common property boundary for a distance of 500 metres.**

**1.4.3 A 10 metre wide landscaping strip, setback approximately 10 metres from the sheds, around the perimeter of the shed complex.**

**1.4.4 The landscaping strips must contain a mixture of canopy trees and shrubs to ensure effective screening.**

**When approved, the Landscape Plan will be endorsed by the Responsible Authority and will then form part of this permit.**

**1.5 Earthworks Plan must be submitted that shows the extent of the earthworks to be undertaken including details on the amount of fill required for the construction of the development. The earthworks plan will be referred to the CCMA for comment.**

**2. The use and development approved by this permit must at all times be conducted in accordance with the requirements of:**

**2.1 The Victorian Code for Broiler Farms, September 2001, as amended;**

**2.2 The Code for Accepted Farming Practice for the Welfare of Poultry, December 2003, as amended;**

**2.3 Environmental Management Plan,**

**2.4 Each of the Permit Documents.**

**to the satisfaction of the Responsible Authority.**

**3. The layout of the site and size of the buildings and works, as shown on the endorsed plans, must not be altered or modified without the consent in writing of the Responsible Authority.**

**4. The use permitted by this permit must not commence until the subdivision permitted by Planning Permit PP115/07 has been lodged and registered with Land Victoria and evidence of such provided to the Responsible Authority.**

**5. The poultry shed must be designed and constructed using a tunnel-vented exhaust system or such other alternative technology which complies with the requirement of the Broiler Code, to the satisfaction of the Responsible Authority.**

6. **All trees and shrubs included in the endorsed Landscape Plan must be planted prior to the completion of the development and the commencement of the use and must thereafter be maintained to the satisfaction of the Responsible Authority.**
7. **Prior to the commencement of any works pursuant to this permit the permit holder must lodge a landscape performance bond with the Responsible Authority. The bond can be either a monetary contribution or an irrevocable bank guarantee in favour of the Responsible Authority. The bond is to be based on the endorsed Landscape Plan with additional details to be provided to the satisfaction of the Responsible Authority incorporating:**
  - 7.1 **An estimate of the quantity and type of materials, watering equipment, plants, etc. required; and**
  - 7.2 **A quotation from a reputable nursery supplier for the implementation of the Landscape Plan identifying the cost for materials, plants and labour. The quotation is to be independently verified to Responsible Authority's satisfaction.**

**The bond is to comprise the verified quotation plus a 10% margin for unforeseen costs. When the landscape works are complete to the satisfaction of the Responsible Authority, 85% of the bond will be released. The balance is to be retained as a maintenance bond for a period of three (3) years following the date of release of the 85%. If the landscaping has not been maintained to the Responsible Authority's satisfaction at the end of the three years the maintenance bond is to be applied to upgrade the landscaping.**
8. **Any dam shall be constructed by a suitably qualified and experienced contractor in accordance with Southern Rural Water's guidelines for dam construction and maintained to the satisfaction of the Responsible Authority.**
9. **All bird litter must be removed from the site as soon as possible after it is removed from the sheds. All trucks removing litter from the site must have covered loads.**
10. **There shall be no stockpiling of litter on the site and no bird litter may be spread or otherwise disposed on the site.**
11. **The removal of dry bird litter from the sheds by use of machinery must occur between the hours of 7.00 am and 8.00 pm and no removal may be undertaken on Sundays and Public Holidays including Christmas Day and Good Friday.**
12. **The permit holder must dispose of dead birds off site using a contractor specializing in this type of disposal or in an alternative manner to the satisfaction of the Responsible Authority. Pending collection for offsite disposal, dead birds must be held in sealed refrigerated containers or otherwise as approved by the Responsible Authority.**
13. **The use authorized by this permit must be operated as a dry litter poultry operation only and the provision for the collection and disposal of solid wastes and for the collection, treatment and disposal of any liquid wastes to arise from the development and use hereby permitted must comply with all applicable laws and regulations.**



- 14. If the Responsible Authority determines that the amenity of nearby residents is adversely affected in the emission of an unreasonable level of odour from the site the permit holder must immediately and to the satisfaction of the Responsible Authority take such action as is required to prevent those emissions, which may include adjusting stocking density in the sheds, removing litter immediately, or any other actions reasonably required to rectify the emission of offensive odour.**
- 15. The poultry sheds and all feed stores must be vermin and bird proof to the satisfaction of the Responsible Authority.**
- 16. The manner of discharge of all water from the site must be to the satisfaction of the Responsible Authority and the CCMA.**
- 17. Other than the loading and placement of live birds, no deliveries to or removals from the site must take place after 8.00 pm or before 7.00 am on any day without the prior written approval of the Responsible Authority.**
- 18. The permit holder shall require that all contractors and suppliers accessing the site from the Hamilton Highway do so by way of Weering School Road and Barpinda-Poorneet Road.**
- 19. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried on entirely within the site.**
- 20. The surface of the car parking and loading areas and access lanes must be constructed and maintained to the satisfaction of the Responsible Authority to prevent dust and drainage run-off.**
- 21. The driveway entrance on Weering School Road shall be designed in accordance with AS2890.2-2002 and shall be properly maintained to the satisfaction of the Responsible Authority.**
- 22. Security lighting or external floodlighting (if required) must be installed in such a manner that it does not create amenity problems outside the site.**
- 23. All vehicles used in the delivery, pick-up and transportation of live birds must be fitted with high performance sound-reducing mufflers to the satisfaction of the Responsible Authority and the permit holder must use its best endeavours to ensure that such activities do not cause any unreasonable noise impact on the amenity of the surrounding area.**
- 24. The permit holder must use its best endeavours to avoid sanitizing sheds with odorous chemicals which give rise to offensive odours being detectible off site. Airborne sprays or chemical odours must not be transmitted beyond the site to the detriment of any person to the satisfaction of the Responsible Authority.**
- 25. All walls of the poultry sheds and other buildings hereby permitted which will be visible from beyond the site must be coloured or painted in non-reflective muted tones to the satisfaction of the Responsible Authority.**
- 26. All goods and materials must be stored out of view of so as not to be unsightly when viewed from nearby roads to the satisfaction of the Responsible Authority.**

- 27. Prior to the commencement of the use, the permit holder must enter into an agreement with Barwon Region Water Authority (Barwon Water). The agreement must provide for a centralised potable water storage facility to be established to serve the development authorised by this permit. The agreement shall provide for the taking of up to 25 ML per annum (or such other amount permitted by Barwon Water) during periods where the taking of water will not adversely impact the supply of water to other water users in the vicinity of the development. The agreement shall provide an appropriate mechanism for the operation and maintenance of the storage facility to provide for an equitable sharing of potable water by other water users in this area.**
- 28. An all waste septic tank disposal system is to be constructed concurrently with the new dwelling, such that all liquid waste must at all times be contained within the curtilage of the title. Such system must be designed and installed to the satisfaction of the Responsible Authority.**
- 29. A Permit to install an all waste septic tank system must be lodged and approved by the Responsible Authority prior to the commencement of works. Such system must be designed and installed to the satisfaction of the Responsible Authority before a Permit to Use the waste septic tank system can be issued.**
- 30. The proposed septic tank system must not be located within 60 metres of the bank of any surface waters, unless the liquid waste is treated to the satisfaction of the Responsible Authority. Any such reduction in distance to the surface waters will be at the discretion of the Responsible Authority.**
- 31. The floor of the managers dwelling must be constructed no lower than 118.0 metres Australian Height Datum.**
- 32. If any works will impact on a waterway or groundwater or will include the use of water for irrigation or commercial purposes from these resources or from a dam, soak or spring, it will be necessary for the land owner or permit holder to apply to Southern Rural Water for a licence in accordance with Section 51 or 67 Water Act 1989.**
- 33. The Barpinda-Poorneet Road approach to the Hamilton Highway intersection shall be widened as necessary to accommodate the turning path of trucks, to the satisfaction of VicRoads and the Responsible Authority.**
- 34. Access off Pierces Road will only be permitted for the approved dwelling. No access will be permitted from Pierces Road to service the Broiler Farm Complex.**
- 35. Access onto Weering School Road must be constructed to the minimum standard for farm access in accordance with the requirements of VicRoads' Guidelines for Truck Access to Rural Properties, April 2006 and allow sufficient storage area to cater for a B-Double to be parked within the gateway area. i.e. 25 metres off the edge of the road to the gate into the property.**
- 36. Access points onto Weering School Road must be constructed with an asphalt overlay over Weering School Road for the length of the road abutting the access point as well as the sealing of the holding area required in Condition 35 to the satisfaction of the Responsible Authority.**

37. *Any B-Double vehicles 25 metres in length or in excess of 50 tonnes must obtain written consent from the Responsible Authority and VicRoads to use Weering School Road and/or Barpinda-Poorneet Road.*
38. *The permit holder must prepare and submit to the Responsible Authority a Fire Prevention Plan for approval by the Responsible Authority prior to the commencement of the use hereby permitted. Such a plan, when approved, shall be endorsed and form part of this permit.*
39. *Prior to the construction of the access road, construction plans must be submitted showing the details of the standard of the access and any drainage requirements, to the satisfaction of the Responsible Authority.*
40. *This permit will expire if one of the following circumstances applies:*
- 40.1 *The development and use are not started within two years of the date of this permit;*
- 40.2 *The development is not completed within four years of the date of this permit.*

*The Responsible Authority may extend the periods referred to is a request is made in writing before the permit expires or within three months thereafter.*

### **Resolution**

*MOVED Cr Smith seconded Cr Stephen Hart that the Planning Committee advise the Victorian and Civil Administrative Tribunal that it would have determined to refuse a Planning Permit for PP117/08 for the use and development of 210 Pierces Road, Beeac (CA 141, 149, and 153, Parish of Ondit)(proposed Lots 1, 2 and 3) for the purposes of a Class B, Broiler Farm B, associated buildings and works, including access and a dam, and a Managers dwelling, if a review had not been lodged with the Tribunal on the following grounds:*

1. *The proposal does not comply with the Victorian Code for Broiler Farms as it has the potential to impact on the amenity of sensitive uses in close proximity to the site.*
2. *The risk of the cumulative impact of odour generated by two 320,000 Class B broiler farms near each other is unacceptable.*
3. *The Environmental Risk Assessment has not been based on an approved Environment Protection Authority methodology required by the Victorian Code for Broiler Farms.*

**CARRIED 5:2**

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PC091103-4 PP116/08 - USE AND DEVELOPMENT OF 210 PIERCES ROAD, BEEAC (CA140, 148 AND 152, PARISH OF ONDIT) FOR A BROILER FARM (A), ASSOCIATED BUILDINGS AND WORKS, INCLUDING ACCESS AND A DAM, AND A MANAGER'S RESIDENCE

AUTHOR: Anne Sorensen
DEPARTMENT: Executive

ENDORSED: Doug McNeill
FILE REF: PP116/08

Recommendation(s)

- A. That Council Officers facilitate discussions on the Environment Risk Assessment between the Environment Protection Authority and the applicant to determine whether the risk concerning the cumulative off-site impacts from dust and odour of Farms A and B is acceptable.**
- B. That at the end of these discussions, should the EPA agree in writing that the risk is acceptable for the two broiler farms, that the Victorian and Civil Administrative Tribunal be advised that Council would have determined to issue a Notice of Decision to Grant a Permit for the use and development of 210 Pierces Road, Beeac (CA 140, 148, and 152, Parish of Ondit) for the purposes of a Class B Broiler Farm A, associated buildings and works, including access and a dam, and a Managers dwelling subject to the following conditions, if a review had not been lodged with the Tribunal:**
- 1. Before the use and development commences, the following documents to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority for approval and be approved by the Responsible Authority:**
 - 1.1 Amended plans which must be drawn to scale and with dimensions. Three copies must be provided and the plans must be generally in accordance with the plans submitted with the application but modified to show:**
 - 1.1.1 The access road must be set 30 metres north of the southern common property boundary;**
 - 1.1.2 The type, specifications and location of all external flood and security lighting to be used including provision for light baffling to ensure all light is contained within the property boundary;**
 - 1.1.3 Deletion of the spent litter pads;**
 - 1.1.3 Stormwater wetland treatment pond and other drainage;**
 - 1.1.4 Location, dimensions and specifications of any dams to be constructed on site.**
 - 1.2 Environmental Management Plan (EMP) which is site specific;**

- 1.3 **Water Use and Re-use Plan addressing stormwater, rainwater and reticulated water use and re-use issues including a plan for the management of areas from which water is proposed to be harvested. The plan must also detail arrangements for the provision on site of an emergency water supply;**
- 1.4 **Amended Landscape Plan which must be site specific and have due regard to the visual impact of the sheds and other buildings, including consideration of bunding and mounding. The Landscape Plan must show the location and type of all proposed screen and other plantings and landscaping, anticipated tree or shrub height and width at maturity, timetables for plantings and arrangements for maintenance of the landscaped areas. All trees and shrubs included in the Landscape Plan must be indigenous to the locality. The Landscape Plan must show:**
 - 1.4.1 **A 15 metre wide landscaping strip along the southern common property boundary commencing at the edge of the eastern property boundary to the edge of the western property boundary;**
 - 1.4.3 **A 10 metre wide landscaping strip, setback approximately 10 metres from the sheds, around the perimeter of the shed complex.**
 - 1.4.4 **The landscaping strips must contain a mixture of canopy trees and shrubs to ensure effective screening.**

When approved, the Landscape Plan will be endorsed by the Responsible Authority and will then form part of this permit.

- 1.5 **Earthworks Plan that shows the extent of the earthworks to be undertaken including details on the amount of fill required for the construction of the development. The earthworks plan will be referred to the CCMA for comment.**
2. **The use and development approved by this permit must at all times be conducted in accordance with the requirements of:**
 - 2.1 **The Victorian Code for Broiler Farms, September 2001, as amended;**
 - 2.2 **The Code for Accepted Farming Practice for the Welfare of Poultry, December 2003, as amended;**
 - 2.3 **Environmental Management Plan,**
 - 2.4 **Each of the Permit Documents.**

to the satisfaction of the Responsible Authority.
3. **The layout of the site and size of the buildings and works, as shown on the endorsed plans, must not be altered or modified without the consent in writing of the Responsible Authority.**
4. **The use permitted by this permit must not commence until the subdivision permitted by Planning Permit PP115/07 has been lodged and registered with Land Victoria and evidence of such provided to the Responsible Authority.**

5. The poultry shed must be designed and constructed using a tunnel-vented exhaust system or such other alternative technology which complies with the requirement of the Broiler Code, to the satisfaction of the Responsible Authority.
6. All trees and shrubs included in the endorsed Landscape Plan must be planted prior to the completion of the development and the commencement of the use and must thereafter be maintained to the satisfaction of the Responsible Authority.
7. Prior to the commencement of any works pursuant to this permit the permit holder must lodge a landscape performance bond with the Responsible Authority. The bond can be either a monetary contribution or an irrevocable bank guarantee in favour of the Responsible Authority. The bond is to be based on the endorsed Landscape Plan with additional details to be provided to the satisfaction of the Responsible Authority incorporating:
 - 7.1 An estimate of the quantity and type of materials, watering equipment, plants, etc. required; and
 - 7.2 A quotation from a reputable nursery supplier for the implementation of the Landscape Plan identifying the cost for materials, plants and labour. The quotation is to be independently verified to Responsible Authority's satisfaction.

The bond is to comprise the verified quotation plus a 10% margin for unforeseen costs. When the landscape works are complete to the satisfaction of the Responsible Authority, 85% of the bond will be released. The balance is to be retained as a maintenance bond for a period of three (3) years following the date of release of the 85%. If the landscaping has not been maintained to the Responsible Authority's satisfaction at the end of the three years the maintenance bond is to be applied to upgrade the landscaping.
8. Any dam shall be constructed by a suitably qualified and experienced contractor in accordance with Southern Rural Water's guidelines for dam construction and maintained to the satisfaction of the Responsible Authority.
9. All bird litter must be removed from the site as soon as possible after it is removed from the sheds. All trucks removing litter from the site must have covered loads.
10. There shall be no stockpiling of litter on the site and no bird litter may be spread or otherwise disposed on the site.
11. The removal of dry bird litter from the sheds by use of machinery must occur between the hours of 7.00 am and 8.00 pm and no removal may be undertaken on Sundays and Public Holidays including Christmas Day and Good Friday.

12. The permit holder must dispose of dead birds off site using a contractor specializing in this type of disposal or in an alternative manner to the satisfaction of the Responsible Authority. Pending collection for offsite disposal, dead birds must be held in sealed refrigerated containers or otherwise as approved by the Responsible Authority.
13. The use authorized by this permit must be operated as a dry litter poultry operation only and the provision for the collection and disposal of solid wastes and for the collection, treatment and disposal of any liquid wastes to arise from the development and use hereby permitted must comply with all applicable laws and regulations.
14. If the Responsible Authority determines that the amenity of nearby residents is adversely affected in the emission of an unreasonable level of odour from the site the permit holder must immediately and to the satisfaction of the Responsible Authority take such action as is required to prevent those emissions, which may include adjusting stocking density in the sheds, removing litter immediately, or any other actions reasonably required to rectify the emission of offensive odour.
15. The poultry sheds and all feed stores must be vermin and bird proof to the satisfaction of the Responsible Authority.
16. The manner of discharge of all water from the site must be to the satisfaction of the Responsible Authority and the CCMA.
17. Other than the loading and placement of live birds, no deliveries to or removals from the site must take place after 8.00 pm or before 7.00 am on any day without the prior written approval of the Responsible Authority.
18. The permit holder shall require that all contractors and suppliers accessing the site from the Hamilton Highway do so by way of Weering School Road and Barpinda-Poorneet Road.
19. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried on entirely within the site.
20. The surface of the car parking and loading areas and access lanes must be constructed and maintained to the satisfaction of the Responsible Authority to prevent dust and drainage run-off.
21. The driveway entrance on Weering School Road shall be designed in accordance with AS2890.2-2002 and shall be properly maintained to the satisfaction of the Responsible Authority.
22. Security lighting or external floodlighting (if required) must be installed in such a manner that it does not create amenity problems outside the site.
23. All vehicles used in the delivery, pick-up and transportation of live birds must be fitted with high performance sound-reducing mufflers to the satisfaction of the Responsible Authority and the permit holder must use its best endeavours to ensure that such activities do not cause any unreasonable noise impact on the amenity of the surrounding area.

24. The permit holder must use its best endeavours to avoid sanitizing sheds with odorous chemicals which give rise to offensive odours being detectible off site. Airborne sprays or chemical odours must not be transmitted beyond the site to the detriment of any person to the satisfaction of the Responsible Authority.
25. All walls of the poultry sheds and other buildings hereby permitted which will be visible from beyond the site must be coloured or painted in non-reflective muted tones to the satisfaction of the Responsible Authority.
26. All goods and materials must be stored out of view of so as not to be unsightly when viewed from nearby roads to the satisfaction of the Responsible Authority.
27. Prior to the commencement of the use, the permit holder must enter into an agreement with Barwon Region Water Authority (Barwon Water). The agreement must provide for a centralised potable water storage facility to be established to serve the development authorised by this permit. The agreement shall provide for the taking of up to 25 ML per annum (or such other amount permitted by Barwon Water) during periods where the taking of water will not adversely impact the supply of water to other water users in the vicinity of the development. The agreement shall provide an appropriate mechanism for the operation and maintenance of the storage facility to provide for an equitable sharing of potable water by other water users in this area.
28. An all waste septic tank disposal system is to be constructed concurrently with the new dwelling, such that all liquid waste must at all times be contained within the curtilage of the title. Such system must be designed and installed to the satisfaction of the Responsible Authority.
29. A Permit to install an all waste septic tank system must be lodged and approved by the Responsible Authority prior to the commencement of works. Such system must be designed and installed to the satisfaction of the Responsible Authority before a Permit to Use the waste septic tank system can be issued.
30. The proposed septic tank system must not be located within 60 metres of the bank of any surface waters, unless the liquid waste is treated to the satisfaction of the Responsible Authority. Any such reduction in distance to the surface waters will be at the discretion of the Responsible Authority.
31. The floor of the managers dwelling must be constructed no lower than 118.0 metres Australian Height Datum.
32. If any works will impact on a waterway or groundwater or will include the use of water for irrigation or commercial purposes from these resources or from a dam, soak or spring, it will be necessary for the land owner or permit holder to apply to Southern Rural Water for a licence in accordance with Section 51 or 67 Water Act 1989.

33. The Barpinda-Poorneet Road approach to the Hamilton Highway intersection shall be widened as necessary to accommodate the turning path of trucks, to the satisfaction of VicRoads and the Responsible Authority.
34. Access off Pierces Road will only be permitted for the approved dwelling. No access will be permitted from Pierces Road to service the Broiler Farm Complex.
35. Access onto Weering School Road must be constructed to the minimum standard for farm access in accordance with the requirements of VicRoads' Guidelines for Truck Access to Rural Properties, April 2006 and allow sufficient storage area to cater for a B-Double to be parked within the gateway area. i.e. 25 metres off the edge of the road to the gate into the property.
36. Access points onto Weering School Road must be constructed with an asphalt overlay over Weering School Road for the length of the road abutting the access point as well as the sealing of the holding area required in Condition 35 to the satisfaction of the Responsible Authority.
37. Any B-Double vehicles 25 metres in length or in excess of 50 tonnes must obtain written consent from the Responsible Authority and VicRoads to use Weering School Road and/or Barpinda-Poorneet Road.
38. The permit holder must prepare and submit to the Responsible Authority a Fire Prevention Plan for approval by the Responsible Authority prior to the commencement of the use hereby permitted. Such a plan, when approved, shall be endorsed and form part of this permit.
39. Prior to the construction of the access road, construction plans must be submitted showing the details of the standard of the access and any drainage requirements, to the satisfaction of the Responsible Authority.
40. *Prior to works commencing a flood storage replacement plan must be submitted for approval. The plan must include the following details to the satisfaction of the CCMA:*
 - 40.1 Calculation of the volume of lost temporary flood storage that will result from construction of the shed pad, and all other areas that will be finished above the existing surface level (e.g. loading pads, dam embankments as applicable);
 - 40.2 The location and dimensions of replacement storage areas or area.
41. This permit will expire if one of the following circumstances applies:
 - 41.1 The development and use are not started within two years of the date of this permit;
 - 41.2 The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to is a request is made in writing before the permit expires or within three months thereafter.

- C. *That if the risk is determined to be unacceptable by the Environment Protection Authority in accordance with recommendation A above, the Victorian and Civil Administrative Tribunal be advised that the application would not have been supported based on the following grounds:*
1. *The proposal does not comply with the Victorian Code for Broiler Farms as it has the potential to impact on the amenity of sensitive uses in close proximity to the site.*
 2. *The risk of the cumulative impact of odour generated by two 320,000 Class B broiler farms near each other is unacceptable.*
 3. *The Environmental Risk Assessment has not been based on an approved Environment Protection Authority methodology required by the Victorian Code for Broiler Farms.*
- D. *That Officers write to the Environment Protection Authority to request that the relevant representatives from the Environment Protection Authority be a party to the proceedings of the Victorian and Civil Administrative Tribunal hearing.*

Resolution

MOVED Cr Russell seconded Cr Stephen Hart that:

1. *The Colac Otway Shire engage the services of appropriate legal representation to present Council's recommendations at the VCAT hearing on 20 April 2009.*
2. *The legal representation advise VCAT that Council would have rejected the application for a Broiler Farm on 210 Pierces Road (Farm A), on the following grounds:*

The adverse effects on neighbouring properties including:

- a) *Odour – the effect of both Farm A & B operating does increase the potential exposure of residents compared to when either farm is operating alone.*
- b) *The additive effect of Farm A operating in addition to Farm B is a marginal increase in peak odour levels at the most exposed residences (4% - 50%).*
- c) *Undue interference with the rights to neighbouring property owners to construct a home.*
- d) *Excessive truck/vehicle movements including at night and the effects of this truck use on Weering School Road.*

3. ***Whilst Council's preference is that the application for Farm A be refused, the draft conditions outlined in the agenda (1 – 41) should be used if VCAT directs a permit be issued.***

CARRIED 5:2

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