



**Colac Otway  
SHIRE**

**AGENDA**

**PLANNING COMMITTEE  
OF THE  
COLAC-OTWAY SHIRE  
COUNCIL**

**14 OCTOBER 2008**

**at 10.30 am**

**COPACC Meeting Room  
Rae Street, Colac**

An audio recording of this 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

**COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING**

**14 OCTOBER 2008**

**TABLE OF CONTENTS**

**OFFICERS' REPORTS**

**SUSTAINABLE PLANNING AND DEVELOPMENT**

<b>PC081410-1</b>	<b>NOVEMBER 2008 PLANNING COMMITTEE.....</b>	<b>5</b>
<b>PC081410-2</b>	<b>PLANNING PERMITS FOR THE MONTH OF SEPTEMBER 2008 .....</b>	<b>6</b>
<b>PC081410-3</b>	<b>USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AND REMOVAL OF VEGETATION AT 305 SAND PIT ROAD, CHAPPLE VALE.....</b>	<b>14</b>
<b>PC081410-4</b>	<b>PP152/08 - ALTERATIONS AND ADDITIONS TO EXISTING CONVENIENCE SHOP AND RESTAURANT, WAIVER OF CARPARKING, SIGNAGE, ALTERATION TO LIQUOR LICENCE, REMOVAL OF UNDERGROUND PETROL TANK AND ASSOCIATED WORKS AT 35 GREAT OCEAN ROAD, WYE RIVER .....</b>	<b>27</b>
<b>PC081410-5</b>	<b>USE &amp; DEVELOPMENT OF A DWELLING AND ASSOCIATED WORKS AT 788 WILD DOG ROAD, APOLLO BAY .....</b>	<b>37</b>
<b>PC081410-6</b>	<b>PP182/08 - WAIVERING OF CAR PARKING ASSOCIATED WITH BUILDING AND WORKS FOR A MINOR EXTENSION TO THE EXISTING SENIOR CITIZENS CENTRE AT 55-59 HESSE STREET COLAC.....</b>	<b>48</b>
<b>PC081410-7</b>	<b>PP106/08 &amp; PP223/08 - TWO APPLICATIONS FOR TWO LOT SUBDIVISION AT 1A KETTLE STREET, COLAC .....</b>	<b>55</b>
<b>PC081410-8</b>	<b>PP117/08 - USE AND DEVELOPMENT OF 210 PIERCES ROAD, BEEAC (CA141, 149 AND 153, PARISH OF ONDIT) FOR A BROILER FARM ASSOCIATED BUILDINGS AND WORKS, INCLUDING ACCESS AND A DAM, AND A MANAGER'S RESIDENCE .....</b>	<b>66</b>
<b>PC081410-9</b>	<b>PP115/08 - RESUBDIVISION OF 6 LOTS AT 210 PIERCES ROAD, BEEAC .....</b>	<b>92</b>

NOTICE is hereby given that the next **PLANNING COMMITTEE OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in the COPACC Meeting Room, Rae Street, Colac on 14 October 2008 at 10.30am.

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## AGENDA

### 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

### 3. APOLOGIES

### 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

## 6. 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 5 minutes will apply.

## 7. CONFIRMATION OF MINUTES

- Planning Committee Meeting of the Colac-Otway Shire Council held on the 09/09/08.

### Recommendation

That Council confirm the above minutes.

## OFFICERS' REPORTS

### Sustainable Planning and Development

PC081410-1	NOVEMBER 2008 PLANNING COMMITTEE
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PC081410-5	USE & DEVELOPMENT OF A DWELLING AND ASSOCIATED WORKS AT 788 WILD DOG ROAD, APOLLO BAY
PC081410-6	PP182/08 - WAIVERING OF CAR PARKING ASSOCIATED WITH BUILDING AND WORKS FOR A MINOR EXTENSION TO THE EXISTING SENIOR CITIZENS CENTRE AT 55-59 HESSE STREET COLAC
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PC081410-9	PP115/08 - RESUBDIVISION OF 6 LOTS AT 210 PIERCES ROAD, BEEAC

**Tracey Slatter**  
**Chief Executive Officer**





APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	AUTHORITY	DECISION
PP181/08	28-May-08	TWO (2) LOT SUBDIVISION	22-Sep-08	88	UNDER DELEGATION	Permit Issued
PP190/08	02-Jun-08	TWO (2) LOT SUBDIVISION	22-Sep-08	82	UNDER DELEGATION	Permit Issued
PP193/08	02-Jun-08	CONSTRUCTION OF SHED & EXTENSIONS/ALTERATIONS TO EXISTING DWELLING & REMOVAL OF VEGETATION	22-Sep-08	85	UNDER DELEGATION	Permit Issued
PP197/08	10-Jun-08	USE & DEVELOPMENT OF A DWELLING	29-Sep-08	53	UNDER DELEGATION	Permit Issued
PP203/08	04-Jun-08	WAIVER OF CAR PARKING ASSOCIATED WITH RESTAURANT, INTERNAL BUILDINGS & WORKS & BYO LIQUOR LICENCE	09-Sep-08	72	COUNCIL	NOD Issued
PP207/08	17-Jun-08	REFURBISHMENT & EXTENSION TO EXISTING DWELLING	05-Sep-08	70	UNDER DELEGATION	Permit Issued
PP219/08	25-Jun-08	THREE (3) LOT SUBDIVISION & REMOVAL OF CARRIAGEWAY EASEMENT	10-Sep-08	42	UNDER DELEGATION	Permit Issued

APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	AUTHORITY	DECISION
PP225/08	26-Jun-08	DEVELOPMENT OF A DWELLING, REMOVAL OF ONE (1) TREE & ASSOCIATED WORKS	24-Sep-08	26	UNDER DELEGATION	Withdrawn
PP227/08	04-Jul-08	CONSTRUCTION OF A DWELLING	25-Sep-08	31	UNDER DELEGATION	Permit Issued
PP228/08	04-Jul-08	BOUNDARY REALIGNMENT	29-Sep-08	22	UNDER DELEGATION	Permit Issued
PP230/07-B	05-Aug-08	EXTRACTIVE INDUSTRY - ADDITION OF A DEWATERING SCREEN TO THE EXISTING PLANT	10-Sep-08	36	UNDER DELEGATION	Permit Issued
PP230/08	01-Jul-08	CONSTRUCTION OF A DWELLING & SHED	10-Sep-08	22	UNDER DELEGATION	Permit Issued
PP233/08	11-Jul-08	DEVELOPMENT OF A DAIRY	16-Sep-08	21	UNDER DELEGATION	Permit Issued
PP235/08	14-Jul-08	DEVELOPMENT OF A SHED FOR STORAGE PURPOSES	22-Sep-08	19	UNDER DELEGATION	Permit Issued
PP240/08	15-Jul-08	DEVELOPMENT OF A COLOURBOND GARAGE	01-Sep-08	22	UNDER DELEGATION	Permit Issued

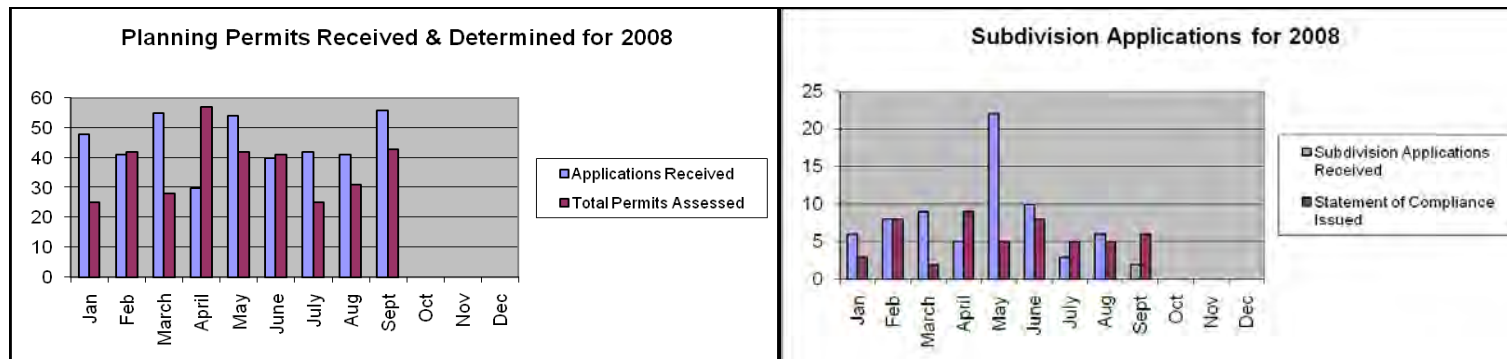


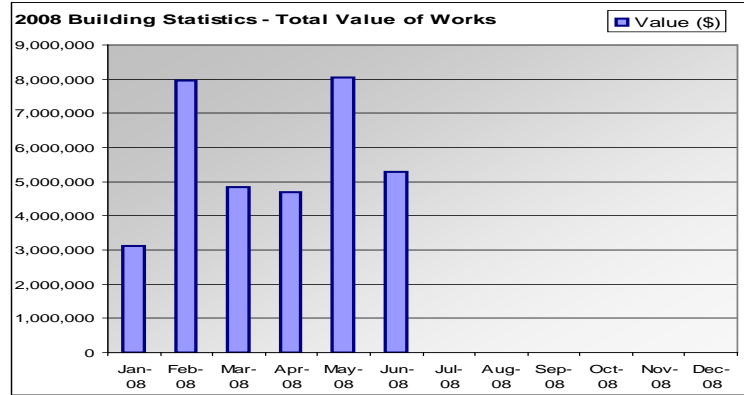
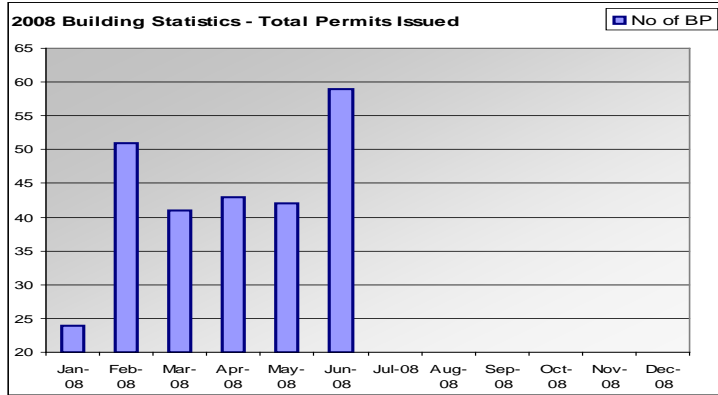
APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	AUTHORITY	DECISION
PP245/08	15-Jul-08	DEVELOPMENT OF A FARM MACHINERY SHED	22-Sep-08	29	UNDER DELEGATION	Permit Issued
PP250/08	16-Jul-08	TWO (2) LOT SUBDIVISION	29-Sep-08	50	UNDER DELEGATION	Permit Issued
PP251/04-B	14-Aug-08	AMENDMENT - CHANGE TO HOUSE DESIGN	22-Sep-08	19	UNDER DELEGATION	Permit Issued
PP251/08	16-Jul-08	DEVELOPMENT OF A GARAGE	02-Sep-08	48	UNDER DELEGATION	Permit Issued
PP252/08	21-Jul-08	TWO STOREY EXTENSION TO EXISTING DWELLING	19-Sep-08	26	UNDER DELEGATION	Permit Issued
PP255/08	16-Jul-08	CONSTRUCTION OF A SHED	29-Sep-08	49	UNDER DELEGATION	Permit Issued
PP260/08	01-Aug-08	CONSTRUCTION OF A WEIGHBRIDGE & ASSOCIATED WORKS	03-Sep-08	25	UNDER DELEGATION	Permit Issued
PP261/08	01-Aug-08	CONSTRUCTION OF A FARM SHED	01-Sep-08	32	UNDER DELEGATION	Permit Issued
PP264/08	28-Jul-08	CONSTRUCTION OF A DWELLING & ASSOCIATED WORKS	01-Sep-08	61	UNDER DELEGATION	Withdrawn

APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	AUTHORITY	DECISION
PP293/08	02-Sep-08	EXTENSION TO EXISTING DWELLING	08-Sep-08	9	UNDER DELEGATION	Permit Issued
PP294/08	03-Sep-08	CONSTRUCTION OF A CARPORT	22-Sep-08	19	UNDER DELEGATION	Permit Issued
PP3/08	20-Dec-07	EXTENSIONS & ALTERATIONS TO EXISTING DWELLING	22-Sep-08	241	UNDER DELEGATION	Permit Issued
PP301/07-B	03-Jul-08	EXTENSION TO TRADING HOURS	01-Sep-08	38	UNDER DELEGATION	Permit Issued
PP308/08	11-Sep-08	CONSTRUCTION OF A FARM SHED	26-Sep-08	15	UNDER DELEGATION	Permit Issued
PP311/06-A	18-Aug-08	USE & DEVELOPMENT OF A DWELLING - AMENDED	02-Sep-08	15	UNDER DELEGATION	Permit Issued
PP326/07-A	11-Jul-08	AMENDMENT - VEGE REMOVAL & HOUSE PLANS	03-Sep-08	54	UNDER DELEGATION	Permit Issued
PP380/05	01-Dec-05	TWO (2) LOT SUBDIVISION	10-Sep-08	750	UNDER DELEGATION	Refusal To Grant
PP496/02-A	19-May-08	CONSTRUCTION OF TWO (2) UNITS - AMENDMENT	15-Sep-08	4	UNDER DELEGATION	Refusal To Grant

APPLIC NO	DATE RECEIVED	PROPOSAL	DATE ISSUED	ACTUAL TIME	AUTHORITY	DECISION
PP57/07	08-Mar-08	CONSTRUCTION OF A DWELLING & GARAGE	23-Sep-08	21	UNDER DELEGATION	Application Lapsed
PP58/07	08-Mar-08	CONSTRUCTION OF A DWELLING & GARAGE	23-Sep-08	21	UNDER DELEGATION	Application Lapsed
PP74/08	28-Feb-08	ADDITIONS & ALTERATION TO AN EXISTING SHED	18-Sep-08	180	COUNCIL	NOD Issued
PP85/08	04-Mar-08	DEVELOPMENT OF TWO (2) DWELLINGS & EIGHT (8) LOT SUBDIVISION	01-Sep-08	30	UNDER DELEGATION	Refusal To Grant

Average Dates to Process Planning Applications 68 Days





[Pulse Building Statistics](#)

[Financial Yr Stats](#)

[Pulse Building Reports](#)

	Domestic		Residential*		Commercial		Retail		Industrial		Hospital/HealthCare		Public Buildings		Municipal Totals	
	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)	No of BP	Value (\$)
Jan-08	20	2,466,200	1	50,000	1	90,000	1	11,500	0	0	1	500,000	0	0	24	3,117,700
Feb-08	47	4,280,656	0	0	3	113,020	0	0	0	0	0	0	1	3,553,701	51	7,947,377
Mar-08	34	4,552,124	0	0	4	156,781	1	100,000	1	20,000	0	0	1	22,000	41	4,850,905
Apr-08	36	4,376,049	0	0	2	38,550	2	227,950	0	0	0	0	3	39,966	43	4,682,515
May-08	35	3,040,877	1	50,000	4	4,660,000	1	55,000	0	0	0	0	1	250,000	42	8,055,877
Jun-08	50	4,422,243	3	600,000	2	144,000	1	0	2	90,000	1	20,000	0	0	59	5,276,243
<b>Totals</b>	<b>222</b>	<b>23,138,149</b>	<b>5</b>	<b>700,000</b>	<b>16</b>	<b>5,202,351</b>	<b>6</b>	<b>394,450</b>	<b>3</b>	<b>110,000</b>	<b>2</b>	<b>520,000</b>	<b>6</b>	<b>3,865,667</b>	<b>260</b>	<b>33,930,617</b>

**Building Stats**

**\*\*\*Please note that the Building Commission website has only been updated to June 2008.**

**Recommendation(s)**

***That Council's Planning Committee note the September 2008 statistical report.***

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- It is considered that the application should not be supported as the use of the land for a dwelling does not meet the objectives of the Farming Zone, the use and development will impact upon the rural use of adjoining land and the design and siting is inappropriate and will result in excessive vegetation removal.

### Proposal

The proposal involves the use and development of a dwelling with a 12 metre setback to Sand Pit Road, with a 15.4 metre setback to the eastern title boundary, 32 metres to the western boundary and a 22 metre setback to the southern boundary. **Details of plan shown in Appendix A.**

The dwelling has a large footprint and is centrally located within the property. It has a hexagon shape with a 5.0 metre high solid brick wall that faces the northwest road frontage. The overall area of the dwelling including the court yard is 64m<sup>2</sup>. It comprises three bedrooms, a studio and open plan living area. Living areas face southeast, whilst the high brick wall creates an enclosed courtyard to the northwest. The dwelling will be single storey construction with a flat roof and constructed of concrete block with a galvanised aluminium roof.

Access is proposed to the west of the dwelling via a new access track 4 metres in width with provision for 3 car spaces. A Blackwater Treatment System and sub-surface effluent dispersal area measuring 10 m x 50 m is proposed in the treed area between the dwelling and the south boundary.

The proposal requires the removal of 17 trees (Messmates, White Gums and Black Wattles) for the dwelling alone. An Environmental Management Plan submitted in support of the proposal identifies these trees being between 6 metres and 23 metres in height, only one of which is noted to be of poor health (rotted at base). This report notes that the 17 trees are proposed to be removed because of proximity to the proposed dwelling and states that (p.3):

*'Although many of the trees do not impinge on the exact house site, they would prove problematic in terms of bushfire risk and potential compromise to the foundations and drainage of the building....The site of the proposed dwelling is setback in the block so as not to impose on the adjacent dwelling on the north side of the road.'*

The proposed dwelling would be setback approximately 80 metres to the dwelling opposite the site.

It also states that (p.4):

*'Birdlife is currently abundant with some small mammals and abundant reptiles. The block as it is, provides a corridor from the adjacent bush blocks to the roadside vegetation which connect to National Park bushland on the eastern side of Chapple Vale creek.'*

The significance of this corridor is demonstrated by the existence of the VPO2 overlay which adjoins the eastern perimeter of the site, and aims to protect roadside vegetation for viable habitat corridors.

### The Site & Surrounds

The land subject to this proposal has an area of 5,017sqm.

The property contains a small area which is partially cleared, whilst medium forest is generally located on the east, west and south portions of the property.

The site is generally flat but falls steeply on the eastern boundary to a gully. The site has a frontage of approximately 140m to Sand Pit Road which runs along the northern and eastern boundaries.

Land to the immediate north is developed with two single storey dwellings and a dairy, sited directly opposite the subject site. It is substantially cleared land with an area of 22ha.

A 77ha parcel of land surrounds the subject site to the south, east and west. A small 4ha parcel of land is located further to the west and is developed with a dwelling on a bush block.



### Public Notice

The application was advertised pursuant to Section 52 of the Planning and Environment Act 1987 in the following manner:

- An A3 Sign on-site
- Letters to surrounding property owners and occupiers

Council received a total of four (4) objections against the application. The objections are summarised and discussed below:

- 'The development would contravene the rural farming zone laws which prohibit housing on lots below 40ha in areas'.



**Comment:** Under the Farming Zone planning approval is required for a dwelling where an allotment is below 40ha in area. Any application submitted for a dwelling is required to be considered against the purpose of the Farming Zone and the decision guideline which assess general, agricultural, environmental, design and built form and dwelling issues.

- 'The removal of vegetation would not be allowed for a farmer without compensating the loss of vegetation'.

**Comment:** This is considered to be a valid concern, given that the application proposes the removal of 17 native trees, and that the site abuts a Vegetation Protection Overlay – Schedule 2 (Roadside Vegetation). The removal of the vegetation is proposed to be compensated by replacement planting elsewhere within the property and the protection of remaining vegetation throughout the site. The Department of Sustainability and Environment did not object to the proposal providing revegetation works are undertaken and the remaining vegetation is protected.

- 'The dwelling could impact on the right for abutting farmers to farm their land in the future.'

**Comment:** The application proposes the development and use of a dwelling on a small rural allotment within close proximity to larger farming properties. The area is generally characterised by large cleared, rural parcels which are used for dairying, grazing and cropping. Potential conflicts often arise where small allotments are located near or within farming areas. Farmers need to be able to conduct agricultural activities without the risk of complaint from nearby landowners who may have different expectations in regard to levels of amenity.

- 'The dwelling would affect the outlook from the dwelling directly opposite the site'.
- 'The dwelling is not sited far enough away from the abutting dwellings with distances of only 70m and 90m proposed'.

**Comment:** The proposed dwelling is located some 70-80m from the nearest dwelling, being 20-30m closer than that which the Farming Zone specifically seeks to encourage (a 100m setback is required unless with a permit). It will be separated from this dwelling by the road and partially screened by vegetation within the subject site. The orientation, design and height of the dwelling is such that it will have a visual impact on the site, particularly given the amount of existing vegetation that is to be removed.

- 'Increased traffic would impact the movement of cattle along Sand Pit Road.'

**Comment:** The development of a single dwelling on the proposed allotment will not result in a significant increase in vehicle movements along Sand Pit road.

- 'The site has been classified a problem site due to the unusual moisture conditions caused by large trees nearby'.

**Comment:** The site is classified a problem site in the geotechnical report which accompanied the application, however the report also provides recommendations with regards to site drainage, building design including slab and footings and protection of the soil conditions to ensure that moisture conditions do not alter significantly during construction. Permit conditions would require compliance with these recommendations, should the application be approved.

- 'The placement of the sub-soil effluent dispersal area on the rear boundary of the block has the potential to increase the nutrient levels over time and further damage the vegetation'.

**Comment:** The design and location of the effluent disposal would be required to be assessed in detail at construction stage by Council's Environmental Health Department. This department has already reviewed the preliminary plans accompanying the application and has not objected to the proposal. It would appear however, that no consideration has been given to the impact on vegetation in this treed area, in determining the location of the sub-surface effluent dispersal area.

- 'The design of the dwelling is large and overpowering on the landscape due to the materials and is inconsistent with the environmental values'.

**Comment:** The dwelling is single storey with a flat roof and will be partially screened from the road by remaining vegetation. It has a very large footprint however, which appears to be excessive given the size of the site. The design is unusual, being a hexagonal shape with an imposing 5 metre high brick wall facing the road frontage. As such, it has potential to be visually imposing. The proposal does not appear to be consistent with protecting the landscape values of the area.

## Referrals

The application was referred under Section 55 of the Planning and Environment Act as follows:

- Wannon Water – No objection to the grant of a planning permit. A condition to be imposed on the permit requiring the submission of an environmental management plan addressing the design and maintenance of the treatment system for treatment and disposal of the wastewater from the dwelling, the development and use of the property to prevent erosion or soil and transportation of soil from the property to adjoining watercourses of land, and vegetation management to ensure the preservation of the natural vegetation within 30m of any water course.
- DSE – No objection to the grant of a planning permit. A condition to be imposed on the permit requiring the remaining vegetation on site to be managed for the protection and enhancement of the biodiversity values, replacement of vegetation to be removed from the property and a map which clearly identifies each offset area.
- CFA – No objection to the grant of a planning permit. Conditions are to be imposed regarding water supply, access requirements and vegetation management requirements.

Comments were also sought from Council's Health Department. No objections were raised in relation to the application subject to standard conditions being imposed.

**Consideration of the Proposal**

A planning permit is triggered pursuant to the following Clauses of the Planning Scheme:

- Clause 35.07-1 – Use as dwelling
- Clause 35.07-4 – Buildings and works, a building within 100 metres of a dwelling not in the same ownership, and within 20 metres of a road
- Clause 42.01-2 – Construct a building or carry out works and remove vegetation
- Clause 44.01-1 – Buildings and works
- Clause 44.01-2 – Removal of vegetation
- Clause 44.06-1 – Buildings and works associated with accommodation

**State Planning Policy Framework (SPPF)**

The SPPF seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

*Clause 15.01 Protection of catchments, waterways and groundwater*

The objective is to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

*Clause 15.07 Protection from wildfire*

The objective is to assist the minimisation of risk to life, property, the natural environment and community infrastructure from wildfire.

*Clause 15.09 Conservation of native flora and fauna*

The clause objective seeks to assist in the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals.

*Clause 17.05 - Agriculture*

The Clause objective seeks to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

In considering a proposal to develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

**Comment:** The SPPF seeks primarily to protect agricultural land from being removed from primary production. The proposed development does not result in the loss of agricultural land, as the subject site has not, and is not used for any agricultural purposes due to its size and vegetation cover. However, the proposal may be detrimental to the continuation of primary production on adjacent land, given the close proximity of the site to surrounding farming activities. It would also have an unnecessary adverse effect on the native vegetation on the site.

### **Local Planning Policy Framework**

The local planning policy framework reflects the direction adopted by the Shire in relation to a number of issues. The local planning policy framework is designed to reflect and expand upon the State Planning Policy Framework. The following clauses are relevant to the consideration of this application:

#### *Clause 21.04-2 - The Otway Ranges and Foothills*

##### Key objective

The strategic challenge is to protect those key environmental features and catchment areas which are of National and Regional significance whilst facilitating key primary industries and a range of developments to add to the economic base of the Shire.

##### Strategies to achieve the objective:

Support development which will provide economic and social benefits while not adversely affecting water catchments, timber production and environmental and landscape attributes.

#### *Clause 22.06 Erosion Management Overlay.*

##### The objectives are:

- To ensure that use and development has regard to the potential for landslip.
- To ensure that in areas where a risk of landslip is identified, all new buildings and works do not increase the possibility of landslip on the land or surrounding land.

**Comment:** Relevant policies within the LPPF primarily seek to retain agricultural land in productive units and protect the agricultural resource base. Whilst this site has very limited potential for rural use, this is not considered to be sufficient justification to warrant approval of the application. The proposed dwelling is likely to have a negative impact on the rural use of adjacent land. In addition, the size and siting of the dwelling, and the extent of vegetation removal proposed are inconsistent with protecting the environmental and landscape attributes of the area.

### **Amendment C55**

The proposal is not supported by current planning policy or by Council's Rural Land Strategy, which nominates nodes for potential rural living development, but does not include the subject site and surrounding area as a potential node.

The Rural Land Strategy forms part of the MSS Review (Amendment C55), for which a panel report has been received by Council and released to the public. Despite the constraints of the subject site, the area in general is identified as being of 'Medium Agricultural Capability'. In implementing this Strategy, proposed Clause 21.05 'Economic Development' clearly states with respect to agriculture that 'proliferation of dwellings for lifestyle/hobby farm purposes in the Farming Zone will compromise the long term viability of farming in the Colac Otway Shire'. Relevant objectives seek to:

- *'discourage the development of dwellings which are unrelated to farming'.*
- *'ensure that incompatible land uses (including dwellings) do not negatively impact on the ability to farm'.*

With respect to the environment and vegetation, proposed Clause 21.04-3 which will also be introduced through Amendment C55, seeks *'to protect and manage remnant native vegetation communities'* by implementing the following strategies:

- *'Maintain bio-diversity through the protection of significant habitats including remnant vegetation;*
- *'Protect native vegetation and other significant stands of vegetation in order to prevent land degradation, maintain water quality and protect the bio-diversity of flora and fauna species'.*

It is considered the proposed dwelling would be inconsistent with these proposed strategies.

### **Zoning**

The site is located in the Farming Zone. The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

A permit is required for use of a dwelling pursuant to Clause 35.07-1. The proposal satisfies Clause 35.07-2, which provides that a lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- 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.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

A permit is also required for buildings and works, a building within 20 metres of a road and 100 metres of a dwelling not in the same ownership, pursuant to Clause 35.07-4.

**Comment:** The Farming Zone seeks to ensure that the main activity within the zone is related to agriculture, and to ensure that any buildings and works approved within the zone do not impact on the ability to farm adjacent land, are not detrimental to the values of the rural landscape, and to ensure that agricultural land is not lost to non-rural uses.

In order to determine whether the approval of this proposal is appropriate, it must be assessed against the purpose and decision guidelines of the zone. The proposal is considered to vary from the following purposes of the Farming Zone:

- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To protect and enhance natural resources and the biodiversity of the area.

With respect to relevant decision guidelines of the Farming Zone, the proposal is considered to be inconsistent with the following:

*General issues*

- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

*Agricultural issues*

- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

*Dwelling issues*

- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

*Environmental issues*

- The impact of the use or development on the flora and fauna of the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

*Design and siting issues*

- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.

The subject site is a small original Crown Allotment with an area of 5,017.5sqm. It is not a lot created by Council for the purpose of a dwelling. Clearly, the lot is not suited to agriculture, given its size and vegetation cover, however this does not imply that a planning permit should be issued for a dwelling. The zoning and planning policy framework seek to retain agricultural land for primary production and to minimise the intrusion of dwellings.

As discussed above, the dwelling will be sited within 50 metres of existing farming operations on adjoining land. The proposal will be incompatible with adjoining rural land uses and may limit their operation and expansion. It is considered that by allowing a dwelling on the site will result in there being less likelihood that the lot will be consolidated with adjoining rural land, particularly given that the value of the land will increase. The dwelling is also likely to be adversely affected by agricultural activities on nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.

The proposal does not minimise adverse impacts, is not appropriate given the landscaped character of the area, and will have a significant impact on the biodiversity and flora and fauna of the area. The trees to be removed form part of a significant habitat corridor, linking treed allotments to the west to National Park bushland on the eastern side of Chapple Vale creek, via roadside vegetation covered by the VPO2. The removal of this vegetation is therefore inappropriate.

An Environmental Management Plan was submitted in support of the application, which detailed revegetation, pest plant and animal management measures, vegetation protection, water quality protection, fauna protection and wildfire management measure. It is considered however that the size and siting of the dwelling, and the extent of vegetation removal proposed undermines any environmental benefits of the Plan and is at odds with the landscape value of the site.

Apart from significant vegetation removal, the design of the dwelling is imposing, and the dwelling footprint is excessive given the size of the allotment. The on-site effluent disposal area is proposed within a treed area along the southern boundary, and appears to have no regard to minimising the impact of nutrient loads on this vegetation.

### **Overlay Controls**

The site is within the Environmental Significance Overlay Schedule 3 (ESO3 – Proclaimed Water Catchment). The statement of environmental significance is as follows:

- Maintenance of high quality water catchments is vital for the continued provision of domestic water supply to the community.

The environmental objectives to be achieved are as follows:

- To protect and maintain water quality and water yields in the Gellibrand River, West Barham, Upper Barwon, Skenes Creek, Pennyroyal Creek, Matthews Creek and Gosling Creek catchments.
- To ensure that subdivision, land use and development meets the requirements of any Land Use Determination.

A permit is required for the development of land and removal of vegetation pursuant to Clause 42.01-2.

Before deciding on an application the responsible authority must consider as appropriate:

- Be satisfied that the proposed subdivision, use or development of land complies with the objectives and provisions of the Land Use Determination for the Gellibrand River Catchment and other water catchments.
- Consider any written comments from the Department of Natural Resources and Environment, Barwon Region Water Authority and any other relevant water authority.

**Comment: Wannon Water has consented to the proposal on the basis of the submission of an environmental management plan to address water quality issues in the design and maintenance of the treatment and disposal of wastewater from the site, vegetation management and prevention of erosion or soil transportation from the property to adjoining lands and watercourses.**

The site is also covered by the Erosion Management Overlay (EMO1), the purpose of which is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

**Comment: Under the requirements of Clause 44.01, a permit is required for all buildings and works, and for removal of vegetation. A Geotechnical Assessment was submitted as part of the application, in accordance with the requirements of this overlay. The geotechnical information provided states that the risk to life and property is low. The proposed method of effluent disposal is satisfactory to Council's Environmental Health Co-ordinator, and would be subject to approval from the Health Department.**

The site is also covered by the Wildfire Management Overlay, the purpose of which is:

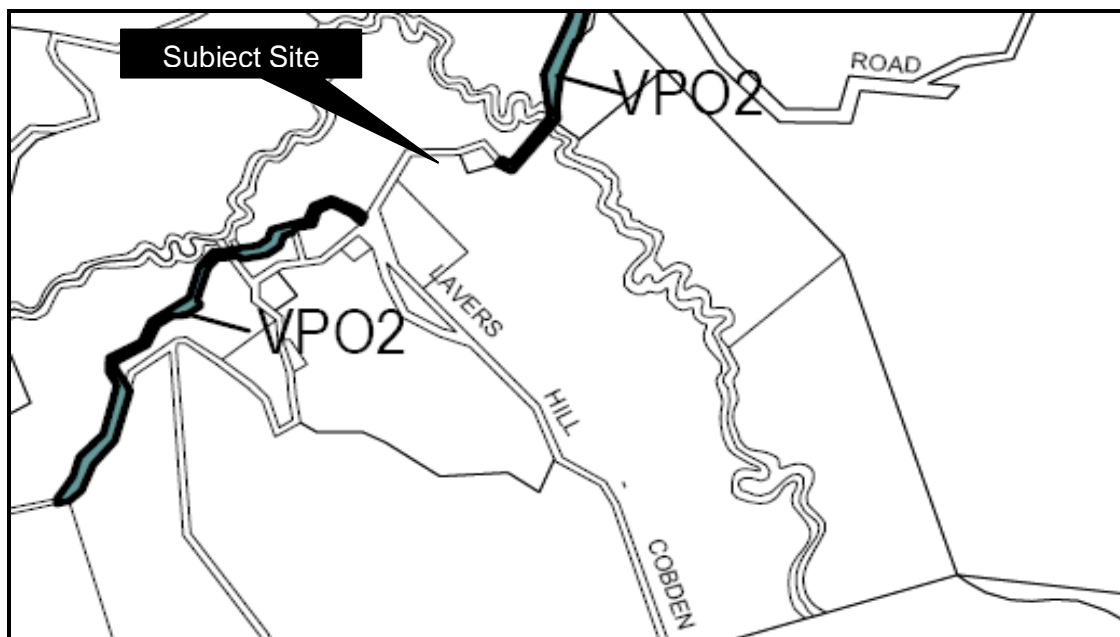
- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:
  - Satisfies the specified fire protection objectives.
  - Does not significantly increase the threat to life and surrounding property from wildfire.
- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.



**Comment:** Under the requirements of Clause 44.06-1, a permit is required for buildings and works associated with Accommodation. The application satisfactorily addresses fire protection requirements of this overlay. Conditions from the CFA will be included on the permit, should the application be approved.

The site also **abuts** a Vegetation Protection Overlay (VPO2 – Roadside Vegetation), the purpose of which is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas of significant vegetation.
- To ensure that development minimises loss of vegetation.
- To preserve existing trees and other vegetation.
- To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- To maintain and enhance habitat and habitat corridors for indigenous fauna.
- To encourage the regeneration of native vegetation.



A permit is required to remove, destroy or lop any vegetation specified in a schedule to this Overlay, pursuant to Clause 42.02-2

The Vegetation protection objective of VPO2 is:

- To protect and manage the remnant vegetation along roadsides as viable habitat areas for animals and birds and for its scenic and recreational value.
- To encourage natural regeneration and replanting with indigenous species and to remove or modify threatening processes and introduced plant species.

**Comment:** As discussed above, removal of significant vegetation from the site is not appropriate given that it forms part of an important habitat corridor, linking adjacent treed areas to roadside vegetation which connects to National Park bushland on the eastern side of Chapple Vale creek.

**Conclusion**

In light of the above assessment against relevant Planning Scheme provisions, and having regard to the concerns raised by objectors, it is recommended that the proposal be refused.

**Recommendation(s)**

***That Planning Committee issue a Refusal to Grant a Planning Permit for the use and development of a dwelling and removal of vegetation at 305 Sand Pit Road, Chapple Vale subject on the following grounds:***

- 1. The proposal is inconsistent with the purpose and relevant decision guidelines of the Farming Zone.***
- 2. The size, design and siting of the proposed dwelling is not appropriate and will result in an unacceptable environmental outcome.***
- 3. The removal of vegetation will have a negative impact on the natural environment of the area.***

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A restaurant is included in **'food and drink premises'** that is defined as –

*Land used to prepare and sell food and drink for immediate consumption on, or off, the premises'.*

### **Particular Provisions**

#### **Clause 63 – Existing use rights.**

An **existing use right is established** in relation to the use of land under this scheme if any of the following apply:

- The use was lawfully carried out immediately before the approval date.
- A permit for the use had been granted immediately before the approval date and the use commences before the permit expires.
- A permit for the use has been granted under Clause 63.08 and the use commences before the permit expires.
- Proof of continuous use for 15 years is established under Clause 63.11.
- The use is a lawful continuation by a utility service provider or other private body of a use previously carried on by a Minister, government department or public authority, even where the continuation of the use is no longer for a public purpose.

An **existing use right expires** if either:

- The use has stopped for a continuous period of 2 years, or has stopped for two or more periods which together total 2 years in any period of 3 years.
- In the case of a use which is seasonal in nature, the use does not take place for 2 years in succession.

If, in relation to an application, the extent of any existing use right for a period in excess of 15 years is in question, **it is sufficient proof of the establishment of the existing use right** if the use has been carried out continuously for 15 years prior to the date of the application or proceeding. An existing use right may be established under Clause 63.11 even if the use did not comply with the scheme immediately prior to or during the 15 year period, unless either:

- At any time before or after commencement of the 15 year period the use has been held to be unlawful by a decision of a court or tribunal.
- During the 15 year period, the responsible authority has clearly and unambiguously given a written direction for the use to cease by reason of its non-compliance with the scheme.

### **Discussion**

The applicant was requested to provide written evidence of a continuing existing use right for the convenience shop and licensed café and has provided the following information as evidence of the continuation of the use for a period of 15 years:

| Date              | Type of information   |
|-------------------|---|
| 22 June 1988      | "Appendix B" - Planning permit OPS-61 issued for an "on premises liquor licence" in the restaurant  |
| 27 October 1988   | "Appendix A" - An on-premises liquor licence was granted to M & D Smith & S & C Clark for the purpose of a restaurant or other place where meals are prepared and served for consumption on the licensed premises   |
| 10 September 1990 | "Appendix D" - Change of licensee removing M & D Smith  |
| 17 August 1990    | "Appendix F" – Transfer of Licence from S & C Clark to M & A Pentz  |
| 5 October 1990    | "Appendix E" - Liquor Licensing Commission authorising the change of licensee to S & C Clark.   |
| 5 October 1990    | "Appendix G" - Liquor Licensing Commission authorising the change of licensee to M & A Pentz.   |
| 2 June 1997       | "Appendix H" - Transfer of Licence from M & A Pentz to Gregan Pty Ltd   |
| 8 September 1997  | Appendix I" – On-premises liquor licence issued to 31 December 1997.  |
| 30 July 1998      | "Appendix J" - Transfer of Licence from Gregan Pty Ltd to Dekker Holdings Pty Ltd.  |
| 17 August 1998    | "Appendix L" – Letter from Council's Planning department regarding liquor licence   |
| 1 September 1998  | "Appendix M" - Letter from Council's Planning department regarding liquor licence   |
| 5 March 1999      | "Appendix K" - On-premises liquor licence issued to 31 December 1999  |
| M. Fowler         | Statutory Declaration stating that he was the manager and operator of the business known as Café Y between on or about 1 November 1995 to 30 April 1996 and 1 December 1996 to 30 April 1997. (Appendix 3)  |
| M. Pentz          | Statutory Declaration stating that he was the proprietor and operator of the business known as Wye River General Store/Café (Woodcutters Bistro) between on or about 15 September 1990 and 1 June 1997 and the liquor licence was maintained and used continuously throughout this time. (Appendix 4) |
| A. Koorn          | Statutory Declaration stating that he was the proprietor and operator of the business known as Wye River General Store/Café between on or about 1 September 1998 and 31 August 2004 and the liquor licence was maintained and used continuously throughout this time. (Appendix 5)                    |
| P. Russell        | Statutory Declaration stating that he was one of the proprietors of the business known as Wye River General Store/Café between 2004 and 2008 and the liquor licence was maintained and used continuously throughout this time. (Appendix 6)   |

**Comment** In accordance with Clause 63.11, the applicant has either provided Statutory Declarations or documentation in relation to the Liquor Licence as evidence to satisfy continuous exiting use.

The evidence provided dates from June 1988 through to March 1999 for liquor licensing arrangements. Further evidence is provided by the way of signed statutory declarations from previous owners or proprietors who operated the premises between 1995 and 2008.

This evidence demonstrates that the site has been used continuously for a period of 15 years. It is considered that sufficient evidence has been received that demonstrates that existing use rights exist in accordance with Clause 63.11.

### **Recommendation(s)**

That Council's Planning Committee issue a Notice of Decision for planning permit application PP152/08 for alterations and additions to an existing convenience shop and restaurant, waiver of carparking, signage, alteration to liquor licence area, removal of underground petrol tank and associated works at 35 Great Ocean Road, Wye River subject to the following conditions:

### **Plans**

1. ***Prior to the commencement of the re-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 with the application, but modified to show:***
  - i. ***Full set of plans drawn to scale showing a reduction in the ground level deck area to allow for the manoeuvring of cars in the parking area;***
  - ii. ***Removal of the protruding seat in the northeast corner of the lot;***
  - iii. ***Full details of business identification signage that does not exceed 3 square metres per premises;***
  - iv. ***Redesign of the car parking area directly in front of the site to include the closing of the exit onto the Great Ocean Road, to show a total of eight (8) carspaces including one (1) disabled car space, clearly delineating the boundary between the road reserve and property boundary.***
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.***

### **Signs**

3. ***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.***
4. ***All signs must be constructed and maintained to the satisfaction of the Responsible Authority.***
5. ***The signs must not contain any flashing light and must not be illuminated by external or internal light except with the written consent of the Responsible Authority***

**Drainage**

6. ***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.***

**Earthworks related to underground petrol tank**

7. ***At the completion of works associated with the removal of the underground petrol tank, an Environmental Site Assessment must be undertaken by a suitably qualified professional to demonstrate that any potential risk from contamination is of low probability in respect to human and environmental health to the satisfaction of the Responsible Authority.***
8. ***The area where the underground petrol tank is to be removed must be re-established with asphalt to the satisfaction of the Responsible Authority.***

**Liquor licence**

9. ***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.***
10. ***The premises must be operated in strict conformity with all requirements of the Liquor Licence.***
11. ***The hours of the on premises liquor licence allowing service of alcohol within the restaurant, on Sunday from 10am to 11pm, Good Friday and Anzac Day from 12noon to 11pm and on any other day from 7am to 11pm.***
12. ***Alcohol consumption must be strictly limited to only those areas marked in red on the endorsed plan to the satisfaction of the Responsible Authority.***

**Carparking, loading and access**

13. ***Loading and unloading of all goods, materials and items must be carried out on the site within the defined loading bay on the endorsed plan to the satisfaction of the Responsible Authority.***
14. ***The loading bay area must remain free and available for this purpose at all times to the satisfaction of the Responsible Authority.***
15. ***Prior to the commencement of works, a detailed construction plan for the carparking area adjacent to the subject site must be submitted for approval by the Responsible Authority. When approved, the plan will be endorsed and form part of the planning permit. The plan must include the parking reconfigured in front of the site to and include:***
  - ***Closing the exit point to the Great Ocean Road;***
  - ***Forming 8 x 90 degree parks spaces – one being disabled to the satisfaction of the responsible authority;***
  - ***Signage and line marking;***
  - ***Drainage; and***

- **Landscaping.**
16. **Prior to the commencement of works, detailed plans for the parking and access arrangement on the Great Ocean Road reserve must be approved by VicRoads.**
  17. **Prior to the re-commencement of the use and once the buildings reconstruction is completed, the carparking area between the site and Great Ocean Road be constructed in accordance with the plans endorsed as part of this permit.**
  18. **Prior to the commencement of the redevelopment, the owner/applicant must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 stating that:**
    - i. **the land between the building the eastern property boundary be kept free and available for the use of carparking and vehicular access as part of the carparking area between the lot and the Great Ocean Road to the satisfaction of the Responsible authority.**
    - ii. **within 3 months of the final inspection/occupancy permit being issued for the redevelopment approved under Planning Permit PP152/08, the owner must make a contribution of \$50,000 to Council towards pedestrian linkages in and around Wye River. This contribution may be made in instalments if agreed to in writing by the Responsible Authority.**
  19. **Evidence of lodging of this agreement in accordance within Section 181 of the Planning and Environment Act 1987 must be submitted to the Responsible Authority. All costs associated with the agreement will be met by the owner/applicant.**

#### **Effluent Disposal & Health**

20. **Soil in the rear effluent field must be replaced with good quality soil, with a soil percolation rate of at least 75mm per hour to the satisfaction of Council's Environmental Health Officer.**
21. **It will be the responsibility of the applicant or owners that if the effluent treatment system does not perform as expected, alterations will be made to remedy the problem or reduce the activity of the premises hereby approved to reduce the amount of waste water produced to that which can be disposed of within the title boundary in accordance with the EPA Guideline – Publication 891 – Septic Tank Code of Practice.**
22. **A waste water storage tank shall be installed that will hold at least 1,000 litres of waste water as a backup for any system failure or to allow waste water produced at times of peak activity to be evenly distributed across the effluent disposal fields.**
23. **The septic system shall be monitored on a daily basis for performance and records kept of the output and the amount of any waste water kept in the storage tanks to the satisfaction of the Responsible Authority.**



24. **Recommendations contained in the Land Capability Assessment No E8098 dated 22 May 2008 by Provincial Geotechnical Pty Ltd in relation to the use of detergents and maintenance of the septic system are to be included in the septic tank application when submitted for approval to the Environmental Health Department of the Colac Otway Shire.**
25. **The applicant must liaise with the Council's Food Safety Officer when designing and before any works are commenced on the kitchen and food preparation areas.**
26. **A food safety plan must be submitted for the new premises and a suitable number of staff trained in food handling techniques before the premises can be legally registered or operate under new proprietors.**

**Conditions required by Department of Sustainability and Environment**

27. **No works are to occur on the adjoining Crown Land without seeking the written consent from the Department of Sustainability and Environment.**
28. **All works must be conducted within the private land. There should be no movement of materials, equipment or vehicles through the adjoining Crown Land.**
29. **No materials, buildings, equipment or vehicles associated with the works are to be stored on the adjoining Crown Land during the construction or demolition works.**
30. **All excess and waste materials, including felled trees, must be disposed of correctly to ensure no materials escape into the adjoining Crown land. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust is created.**
31. **Provision for public access to the adjoining Crown land must be maintained throughout the construction period to the satisfaction of the responsible authority in consultation with the Department of Sustainability and Environment**
32. **The department would like input into any advertising signs located on the north boundary of the property, to ensure that no offensive signs or signs that imply ownership of the adjoining public open space are erected.**

**Conditions required by Country Fire Authority**

**Water Supply Requirements**

33. **A static water supply must meet the following requirements:**
  - **a minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely for fire fighting;**
  - **the water supply must be located within 60 metres of the building;**
  - **fire brigade vehicles must be able to get to within four metres of the water supply outlet;**

- ***the water supply must be readily identifiable from the building or appropriate signage (see Appendix A: Figure 1) must point to water supply. All below-ground water pipelines must be installed to the following depths:***
  - a. ***subject to vehicle traffic - 300 mm***
  - b. ***under houses or concrete slabs - 75 mm***
  - c. ***all other locations - 225 mm***
  - d. ***all fixed above-ground water pipelines and fittings, including water supply, must be constructed of non-corrosive and non-combustible materials or protected from the effects of radiant heat and flame.***

***If the static water supply is above ground the following additional standards must apply:***

- ***all above-ground static water supply must provide at least one 64 mm. 3 thread/25 mm x 50 mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A: Figure 2);***
- ***all pipe work and valving between the water supply and the outlet must be no less than 50 mm nominal bore;***
- ***if less than 20 metres from the building, each outlet must face away from the building to allow access during emergencies.***

#### ***Access Requirements***

- 34. Access to the development must be designed to allow emergency vehicles access. The minimum design requirements are as follows:***
- ***curves in driveway must have a minimum inner radius of ten metres;***
  - ***the average grade must be no more than 1 in 7 (14.4%) (8.1°) with a maximum of no more than 1 in 5 (20%) (11.3°) for no more than 50 metres;***
  - ***dips must have no more than a 1 in 8 (12.5%) (7.1°) entry and exit angle.***
- 35. If the driveway from the road to the building and water supply, including gates, bridges and culverts, is greater than 30 m long, the driveway:***
- ***must be designed, constructed and maintained for a load limit of at least 15 tonnes';***
  - ***be all weather construction; and***
  - ***must provide a minimum trafficable width of 3.5 metres, and***
  - ***be clear of encroachments 4 metres vertically (see Appendix A: Figure 3).***

#### ***Vegetation Management Requirements***

- 36. 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.***

**Conditions required by Environment Protection Authority**

- 37. *The installation and/or decommissioning of underground petroleum storage tanks should be in accordance with EPA Publication 888 Guidelines on Design, Installation and management Requirements for Underground Petroleum Storage Systems.***
- 38. *All contaminated stormwater or sediment arising from the proposal must be retained on the premises.***
- 39. *There should be no odours offensive to the senses of humans beyond the boundary of the premises.***

***If at any stage the site sewage treatment facilities exceed a design or actual flow rate of 5000 litres per day, the works become scheduled under the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 and will require a works approval.***

**Condition required by Corangamite Catchment Management Authority**

***The proponent should consider developing a flood action plan designed to minimise damage to the contents and fittings of the building during a flood.***

**Expiry**

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

- ***The development is not started within two years of the date of this permit.***
- ***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.***

**Notes -**

- ***The holder of this permit must obtain the necessary Building and Health Approvals prior to the commencement of any buildings and works.***

- ***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.***
- ***Non-flammable features such as tennis courts, swimming pools, dams, 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 medium category of bushfire attack - The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006. Low forest or woodland is the predominant vegetation within 100 metres of the proposed building which corresponds to a medium category of bushfire attack under AS 3959.***
- ***The applicable 1% Annual Exceedance Probability (AEP) flood level is 3.2m Australian Height Datum (AHD). This site is located entirely within the 1% AEP flood extent. The Authority has obtained this level from recorded peak levels of a flood that occurred in April 1985. Based on topographical data for the site, the 1985 flood would have resulted in flooding approximately 500mm above the floor level of the existing building (floor level 220mm above ground level). 35 Great Ocean Road is subject to flooding and is known to have been affected during a flood that occurred in April 1985. The peak recorded level for that flood is 3.3m AHD upstream of the Great Ocean road, resulting in flooding up to 600mm deep on the property.***

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- The original application was advertised and a total of four objections were received. A summary of the objectors concerns include the siting and design of the proposed dwelling, its impact on the visual amenity of this rural setting and interruption of the 'ridge scapes', lack of landscaping, the existing use of the land for grazing, the previous consolidation of lots, the inadequacies of the originally submitted geo-technical report accompanying this application, and the absence of a referral response from Parks Victoria.
- It is considered that the proposal is not consistent with the provisions of the State and Local Planning Policy Framework and therefore it is recommended that a refusal to grant a permit be issued. In particular the dwelling would not be consistent with the policies that discourage buildings on ridgelines, and the use would be inconsistent with the Rural Conservation Zone given its residential nature.

### Proposal

The application involves the use and development of a single storey dwelling and associated works including access to the site. (See Appendix A)

The proposed dwelling is situated on top of the ridge being orientated to capture views towards the southeast and the northwest, and has the following notable features:

- The dwelling has a floor area of 184.70m<sup>2</sup>, a deck with a floor area of 135m<sup>2</sup>, and an overall height of 5.4 metres.
- Dwelling sited towards the ridgeline within the former government road title and setback 5.5 metres from the southern boundary;
- Projecting skillion roofs orientated towards southeast;
- Feature water tanks leading to the entry;
- Open-plan kitchen/dining-room/living room leading out to a raised deck; 3 bedrooms with ensuite facilities, feature spa bath and laundry.
- Car parking area set aside to the north of the dwelling.

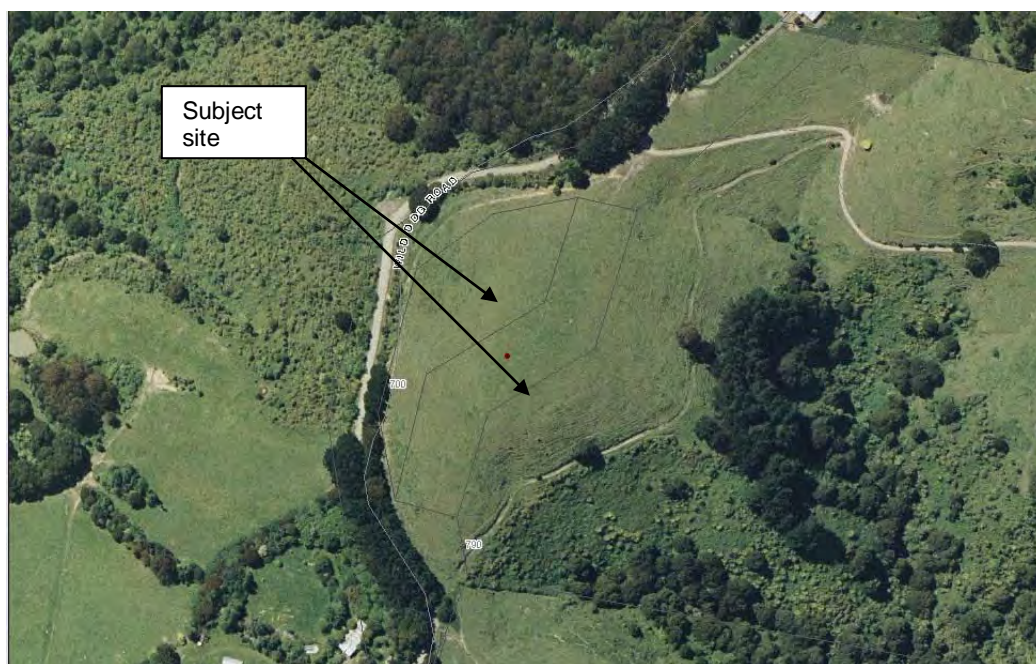


Figure 1

The proposal seeks to utilise approximately 60m of the existing access track that leads from Wild Dog Road to an adjoining property at 790 Wild Dog Road. This access is across crown land, of which the proponent has advised that they have rights of access across. A continuation of the gravel accessway is proposed, in a south westerly direction, to provide a driveway across the proponent's land to the house site which sits around the 141m contour mark.

### **Subject Site and Locality**

The site has a total area of 1.85ha made up by two titles, one being a former government road (area 1 ha) and the other a crown allotment (area of 8473m<sup>2</sup>).

The site is extremely steep, being located on the top of a ridgeline. From the top of the ridge the site falls steeply in all directions, with a 1 in 5 slope. There is no vegetation on the land. The dwelling site sits about 40m high above Wild Dog Road to the west and falling about 100 metres to the creek 300 metres to the east.

The site is located in a rural area that is steep to undulating. There is a mixture of cleared and heavily vegetated areas with a number of dwellings scattered throughout the area. This area forms part of the hilly landscape that provides a backdrop to Apollo Bay. Views can be obtained from the site to Apollo Bay and vice versa.

Properties surrounding the site generally contain a dwelling but all exceed 30ha in area. The smallest land holding with a dwelling onsite nearby is 6ha on Busty Road. (See Appendix B)

Wild Dog Road along with Skenes Creek Road, Forrest-Apollo Bay Road, Busty Road, and Tuxion Road are all identified as 'scenic routes' in the Colac Otway Planning Scheme.

### **Referrals**

The application has been referred under Section 55 of the Planning and Environment Act to the Country Fire Authority. The CFA did not object to the proposal subject to conditions being placed on any permit issued.

The application was referred to Council's Infrastructure, Health, Building and Environment departments which did not object to the proposal subject to conditions being placed on any permit issued.

### **Notice of Application**

Notice of the application was required pursuant to Clause 52 of the Planning and Environment Act, as it was considered that the application may result in material detriment. The application was advertised in the following manner:

- An A3 sign on the site.
- Letters to surrounding property owners and occupiers.

A total of 4 (four) objections were lodged against the proposal.

### **Consideration of Objections**

- *The siting and design of the proposed dwelling;*
- *The visual impact of this proposal on the surrounding rural character and scenic qualities of the area, including protection of ridgelines;*

- *Insufficient landscaping;*

**Comment:** Please refer to discussion in Section B of this report relating to the Local Planning Policy Framework.

- *Inadequate geo-technical assessment;*

**Comment:** The original geotechnical report submitted with the application was undertaken by Bruce Hollioake and Partner, dated December 2002. Given the age of this report and the fact that the report was not for the dwelling for which a permit is being sought, the applicant was required to provide a recent geotechnical report for the proposed dwelling. A new geotechnical assessment was undertaken by P Yttrup & Associates in May 2008. The geotechnical report has identified a number of “slips” on the slopes below the house site. The geotechnical report states that: “for residential construction a risk of “moderate” is considered acceptable, then the residence shall be located away from the steep slopes. For the effluent field the high risk associated with the steep slopes should be avoided”. The report identifies that the location of the effluent field is not suitable due to slope stability issues and recommends the location be amended to the north of the site of the dwelling in accordance with the findings of the report.

- *Absence of a referral response from Parks Victoria;*

**Comment:** Parks Victoria is not a statutory referral authority in this instance or an adjoining landholder and therefore it is not standard practice to forward notice to Parks Victoria. No vegetation is proposed to be removed.

- *Inaccurate depiction of the existing use of the land, which is currently used for grazing.*

**Comment:** It would appear that the subject site has been recently used for grazing cattle by an adjoining landholder.

### **Consideration of the Proposal**

A planning permit is triggered by the following clauses of the Colac Otway Planning Scheme:

- Clause 35.06-1 & 35.06-5 – Use as a dwelling and Buildings and Works
- Clause 44.01-1 – Buildings and Works
- Clause 44.06-1 – Buildings and Works associated with accommodation.

#### **a) State Planning Policy Framework (SPPF)**

The State Policy framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

- Clause 15.07– Protection from wildfire
- Clause 15.08 – Coastal Areas
- Clause 17.05 - Agriculture



- Clause 19.03 – Design and Built Form

**Comment:** It is considered that the proposed use and development of this small parcel of land is not consistent with Clauses 15.08 and 19.03 as views and vistas should be protected. In accordance with the Great Ocean Road Landscape Assessment Study, this area has been identified as a Significant Landscape and should be protected from inappropriate development (see further comment below). The proposal would also introduce a residential use to the site and take the land out of agricultural production, and would create a potential conflict with adjoining rural uses in the future.

#### **b) Local Planning Policy Framework**

The local planning policy framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.04-02– The Nature of the Land
- Clause 22.01 – Main roads/Scenic routes
- Clause 22.02 – Ridgelines
- Clause 22.06 – Erosion Management Policy

The **Scenic Roads Clause** seeks to protect the traffic carrying capacity, safety and appearance of state highways, main roads and major arterial links; to protect scenic roads from unsympathetic developments which would detract from the beauty of the area and to ensure a high level of visual amenity is achieved by blending the development into the environs.

It is policy that the following matters be taken into account when considering applications to use and develop land along specific main roads and scenic routes.

#### **Buildings and works**

- A building should not be located closer than 50 metres to the Great Ocean Road or 30 metres from a scenic road except where the responsible authority is satisfied that geological constraints or topography makes these setbacks impracticable.
- The building envelope should be discreetly sited so that the development does not detrimentally affect the visual environs of the scenic route and, where possible, building envelopes should be sited away from the road, below prominent ridgelines and adjacent to existing stands of vegetation.
- All buildings and works are to be included on the development plan.
- Where possible, all buildings should be grouped in a cluster setting.

#### **Building material**

- A building should be clad with non-reflective external building material and should not exceed 2 storeys or 8 metres in height.
- Fencing is to be of a style, which is in harmony with the surrounding landscape.
- The slope of the roof should relate to the topography of the surrounding landform.
- Dominant roof slopes and bulk are to be avoided.

### Landscaping

- Vegetation which is to be removed from the site is to be stated on the development plan and is to be reinstated as part of the vegetation.
- The development plan is to identify the location of existing stands of vegetation, the type of vegetation and the height of the vegetation.
- Predominantly native species of trees that will grow to a height above the roof level at maturity will be required.
- A landscaping plan identifying each species, density of planting and height at maturity

**Comment:** The application describes that the proposed dwelling is set back 30 metres from Wild Dog Road and has been positioned to 'maximise the panoramic views' available from the site. The dwelling would sit on top of the knoll 40 metres above Wild Dog Road and as such would be highly visible from various vantage points including Biddles Road and Skenes Creek Road. In addition there is no existing vegetation on the site for the development to be screened to reduce the visual impact.



Figure 2 - From Biddles Road

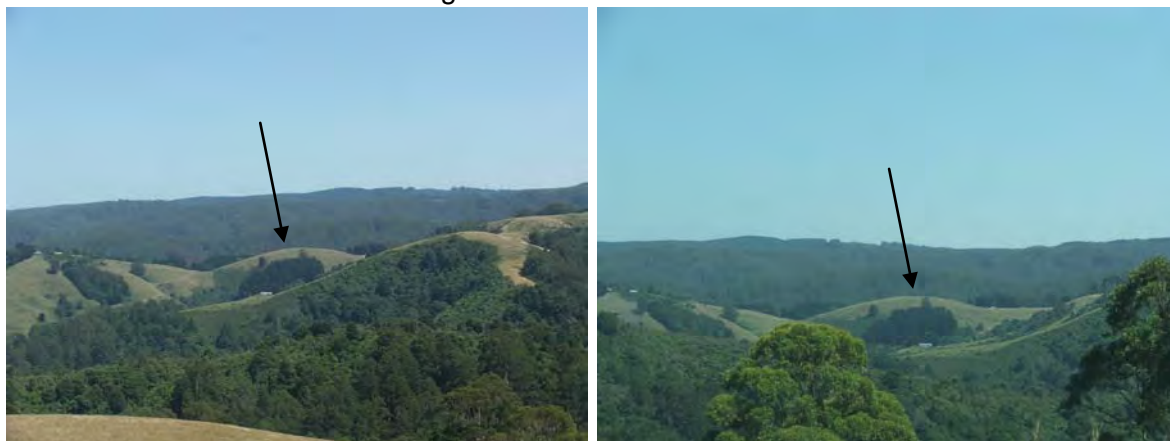


Figure 3 - From Skenes Creek Road

The proposed dwelling is sited near the top of the ridgeline of the subject site. The proponent has offered to re-position the dwelling so that it meets with the preferred setback requirements for buildings within the Rural Conservation Zone. However, by repositioning the dwelling this would place the dwelling higher on the ridgeline.

The proposal is for a single storey dwelling with a 'broken' roof line in an attempt to minimise the impact. The original dwelling design proposed a roofline that did not respond well to the natural form of the site. Amended plans modifying the profile of the roof were submitted. While the amended roofline helped to reduce the visual impact, it is considered that the development would still have an undesirable impact on vistas surrounding the site.

Landscaping could soften the appearance of the dwelling over time from the nearby residential properties to the north and south respectively. The application describes how the applicant is amenable to low planting along the southern extent of the dwelling and screening along the northern bounds of the dwelling, however it is considered that landscaping would take some time to mature and screen the proposed dwelling. No landscaping plan was submitted as part of the application.

The **Ridgelines Policy** seeks to ensure that all development, uses and subdivision are contained within the visual corridors between prominent ridgelines to preserve the visual environment.

It is policy that the following matters be taken into account when considering applications to use and develop land on ridgelines.

### **Buildings**

A building should be sited or designed so that:

- It does not form a prominent silhouette on the ridgeline.
- The slope of the roof relates to the topography of the surrounding landform. Dominant or multiple angular roof slopes and designs are to be avoided.
- External building material colours are in harmony with the surrounding landscape.

### **Landscaping**

Landscaping should be provided so that:

- The development is effectively blended into the surrounding area.
- Predominantly native species of trees that will grow to a height above the roof level are provided.
- A mixture of low, medium and high growing trees and shrubs will be used.
- Any vegetation removed will be reinstated.
- Landscaping is completed within 12 months of the use commencing.

**Comment:** **Given the topography and size of the subject site and the Geotechnical Report on land stability, the most appropriate siting of a dwelling would be on or near the crest of the knoll. Height poles were erected by qualified land surveyors, and a site assessment has taken place to assess visual impact. Based on the height poles, the dwelling would be visible from 790 and 850 Wild Dog Road, and to a lesser degree from 450 Busty Road.**

**It was considered that the dwelling would have a lesser impact when viewed from Skenes Creek Road and Biddles Road as the hills in the distance would partly provide a backdrop to the dwelling.**

**With extensive landscaping the impact of the proposal could be reduced from the nearby dwellings and scenic roads, however, given that the dwelling is sited to maximise panoramic views, it is unlikely that the applicant will want to totally screen the development effectively removing the views, and it is considered that despite design modifications, the building would not meet the policy objectives.**

**c) Zoning**

The site is located in the Rural Conservation Zone. The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve the values specified in the schedule to this zone. These values are to prevent land degradation including soil erosion, salinity and vegetation removal because of agriculture and other activities.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.
- To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.
- To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

**Comment:** In accordance with the Rural Conservation Zone, a planning permit is required for both the use and development of a dwelling on a lot.

**Access to a dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles. Wastewater must be treated and retained on site in accordance with State policy, and potable water must be adequately stored for domestic and fire fighting purposes. The dwelling must be connected to an electricity supply. It is considered that all these components can be satisfied.**

**In relation to the buildings and works, setbacks of the proposed dwelling are considered to be generally in accordance with 'preferred' setbacks highlighted at Clause 35.06-5 of this zone. The applicant has agreed to move the dwelling from the site's southern boundary to provide an increase to this setback to 5.5m.**

**In terms of the purposes and decision guidelines of the zone, the question is would there be any environmental benefit in allowing a dwelling to be sited on this land and would a dwelling be compatible with surrounding land uses and have they been satisfactorily demonstrated in the application.**

As previously stated, the subject site was formerly part of a larger holding that was used for grazing and sold in 2002. The site is not fenced off from the adjoining property and therefore the land is still currently being grazed. This is confirmed in a number of submissions received from neighbours.

In consideration of the history of the lot, in particular having 2 separate narrow and irregular shaped lots, it appears that they have been created due to a realignment in the road and not for the purposes of a dwelling.

The site has a total area of 1.85 hectares and it is not considered that when a dwelling is constructed on the site, together with the driveway access, effluent disposal, that much land would be left to provide for adequate environmental benefit to offset the proposed dwelling. To the contrary, the proposal would transform the use of the site to that of a residential nature and take the land out of agricultural production. In addition, the applicant is required to satisfy the wildfire management requirements of the CFA by leaving an extensive area around the dwelling free of vegetation. Allowing a dwelling on a site of this size would effectively change the use of the land to rural residential.

It is considered that the dwelling would not provide sufficient benefit to the land to support the proposal in accordance with the Rural Conservation Zone.

#### **d) Amendment C55**

Amendment C55 will apply a Significant Landscape Overlay – Schedule 3 (SLO3) to the site. The overlay seeks to ensure that inappropriate development does not occur on hill faces, and where development on hill faces or in other prominent locations is unavoidable that it is not highly visible. The SLO3 seeks to implement the findings of the Great Ocean Road Landscape Assessment Study undertaken for the whole Great Ocean Road region. This proposed control reinforces and supports the current policies discussed above.

The Panel Report has been received by Council and released to the public. Amendment C55 and the Panel Report is expected to be considered for adoption within the coming months. Should Council adopt the amendment, the amendment would be considered a 'seriously entertained' document which should be given the appropriate weight in decision making processes.

**Comment:** The application is not consistent with this proposed overlay, as the application seeks to site a dwelling on a prominent hill face that would be highly visible from surrounding tourist routes and nearby properties. The proposed SLO3 requires that proposals demonstrate that buildings and works on the ridgelines can be avoided. As there is no alternative suitable site on the land, this cannot be achieved, without the application being referred.

#### **e) Overlays**

##### **Erosion Management Overlay (EMO1)**

###### **Purpose**

- To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

A permit is required to construct a building or construct or carry out works

**Comment:** *The original geotechnical assessment provided as part of the application was dated December 2002 and was for a different dwelling. A new geotechnical assessment was undertaken by P Yttrup & Associates in May 2008. The report describes existing landslips within proximity of the site. The report states that 'for residential construction a risk of 'moderate' is considered acceptable, then the residence shall be located away from the steep slopes. For the effluent field the high risk associated with the steep slopes should also be avoided. For the access track a shallow failure in residual soil on steep slopes (>20 degrees) is probably difficult to avoid but reconstruction is possible and not relatively expensive. Alternatively the access track could be engineered to reduce the likelihood of failure; for example anchoring to the underlying rock.'*

The report further states in the recommendations that 'to have acceptable risk to property and life, the residence shall be located 3 metres back from the transition to steep slopes'. Other recommendations in the report include trees and shrubs to be planted across the knoll consistent with bushfire requirements and the effluent field be heavily vegetated together with landscaping along the access track to improve stability.

The Geotechnical Engineer confirmed in a phone conversation that the proposed siting of the dwelling should meet these requirements and any change would be minimal (i.e. 1-2 metres) if necessary. The change required by the Geotechnical Report would be to move the dwelling closer to the crest of the hill. The geotechnical report states that the proposed development is considered acceptable from a landslide point of view, providing the limitations in the report are adopted.

The report suggests that the least risk to life and property of landslip is to position both the effluent field and the dwelling on the crest of the hill and that the access track will have failures although only minor ones.

### **Wildlife Management Overlay (WMO)**

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy
  - Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property.
- To ensure that development which is likely to increase the number of people in the overlay area:
  - Satisfies the specified fire protection objectives.
  - Does not significantly increase the threat to life and surrounding property from wildfire.
- To detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

A permit is required for buildings and works associated with accommodation.

**Comment:** The application was accompanied by a Wildfire Management Overlay Declaration Form, which categorised the proposed development as Category One vegetation – lower risk. The comments from CFA in response to the proponent’s wildfire management overlay declaration form provided conditional support for the proposal.

**f) Summary**

In light of the above assessment, it is considered that the application cannot be supported. A planning permit is required for a dwelling in the Rural Conservation Zone regardless of the lot size to ensure that there is some demonstration that the use and development is appropriate and that a sustainable environmental benefit can be achieved by allowing a dwelling. In this instance the subject site is 1.85 hectares in area and when the dwelling and associated infrastructure is established, little environmental benefit could be achieved to warrant the dwelling. Further to this, history suggests that the lots have been created from road realignments and were never intended to be developed for the purposes of a dwelling. The proposed development would take the land out of agricultural production on a permanent basis and introduce a use that would be in conflict with adjoining rural uses in the future.

The Geotechnical Report suggests that the siting of the dwelling and effluent field should be located as close as possible to the hill crest to reduce risk to life and property and this is not consistent with Council’s Ridgeline policy.

Other fundamental considerations in determining this application is the siting, design and appearance of this dwelling from Wild Dog Road, nearby roads and properties, and from the vantage points in the locality. It is considered that this dwelling would be located on a prominent ridgeline and be visible from scenic roads and the thrust of the objectives set out in the relevant local planning policies together with the Great Ocean Road Landscape Assessment Study is to protect the visual amenity of this significant landscape.

**Recommendation(s)**

***That the Planning Committee resolve to Refuse to Grant a Planning Permit for the use and development of a dwelling at 788 Wild Dog Road, Apollo Bay (CA24B and CA2033, Parish of Krambruk) on the following grounds:***

- 1. The proposal is contrary to the purposes of the Rural Conservation Zone.***
- 2. The proposed development is situated on top of a ridgeline and will have a detrimental impact on the landscape, being contrary to the Local Planning Policy Framework and objectives of the proposed significant Landscape Overlay and Great Ocean Road Landscape Assessment Study.***
- 3. The site for the dwelling is on a narrow parcel of land, formerly a road reserve which was not originally created for the purposes of a dwelling.***

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**PC081410-6 PP182/08 - WAIVERING OF CAR PARKING ASSOCIATED WITH BUILDING AND WORKS FOR A MINOR EXTENSION TO THE EXISTING SENIOR CITIZENS CENTRE AT 55-59 HESSE STREET COLAC**

**AUTHOR:** Helen Evans  
**DEPARTMENT:** Executive

**ENDORSED:** Doug McNeil  
**FILE REF:** PP182/08

**Location:** 55-59 Hesse Street, Colac

**Applicant:**

**Zoning:** Business 1

**Overlays Controls:** Nil

**Amendment:** Amendment C55 (Planning Scheme Review) does not propose any changes.

**Restrictive Covenants:** Nil

**Reasons for Planning Committee consideration**

This application is before Council’s Planning Committee for the waiving of car parking requirements of Clause 52.06-1 of the Colac Otway Planning Scheme. The waiving of ten car parking spaces is sought for this application.



Figure 1

**Summary**

- The site is located in the commercial shopping/office precinct of Colac on the corner of Bromfield and Hesse Streets and within the Business 1 Zone.
- The site is currently used as the Kanyana Senior Citizens Centre and for public conveniences.



- The application seeks permission for the waiving of car parking associated with an extension to the existing office in the building. Permission is also sought for external buildings and works.
- The extension is approximately 31.7 square metres in area which generates the need for a total of 10 additional car spaces. Given the constraints of the site no additional onsite car parking can be provided. As there is no opportunity to provide the additional car parking on site, a waiver of car parking is sought.
- Members of the Kanyana Senior Citizens Centre are given priority over the twelve car spaces in Bromfield Street, opposite the site, subject to permits under Council's Local Laws.
- The application has been advertised and no objections were received.
- Adequate on street and public parking is available in the vicinity of the site that meets the needs of the senior citizens centre. It is considered that the extension to the building will not generate any greater need for carparking than current activities the building is used for.
- It is recommended that this application is supported through the issue of a Planning Permit.

### Proposal

The application seeks approval for an extension of 31.7 square metres to the existing office in the building used as the 'Kanyana' Senior Citizens Centre. The extension is proposed in the northwest corner of the lot. The proposal seeks to alter/extend the building 4650mm north and 5700mm west, leaving a small light court on the east elevation of the building. The brickwork is proposed to match the existing. (See Appendix A)

The use of the building as a Senior Citizens Centre is defined as a 'Place of Assembly' under the Planning Scheme and a car parking rate of 0.3 spaces per square metre is required to be provided on site. As this level of car parking cannot be accommodated on the site, the applicant is seeking permission to waive car parking.

Members of the Senior Citizens Centre may use the existing 12 car spaces in Bromfield Street, opposite the site, for extended periods of time, subject to parking permits under Council's Local Laws.



Proposed extension area (taken from Sitlington's Carpark)



Figure 2

**Subject Site and Locality**

The site is located on the corner of Hesse and Bromfield Streets, Colac. The site contains a building that is used for a Senior Citizens Centre and a public convenience facility available to the general public. The existing building occupies the majority of the site, although there is provision of two car parking spaces on the site adjacent to Bromfield Street.

The centre is mostly used between 10am and 3pm weekdays with approximately 20 people attending the centre. The centre is also used between 4 and 8pm two to three times a week as a meeting place. The patrons are usually transported by 2 twenty-two seater buses and 1 car. Overall it is not expected that there will be a major increase in the number of people attending these activities although it is noted that there may be a minor increase within the office area during office hours.

Angled one-hour parking is available along Hesse Street whilst one-hour parallel parking and centre of road parking is available in Bromfield Street. Members of the Senior Citizens Club are permitted to use 12 of the centre car spaces in Bromfield Street for extended periods. A public car parking area (Sitlingtons Carpark) is within short walking distance to the northwest of the subject site, accessed via Bromfield Street or an accessway via Hesse Street. Sitlingtons Carpark has a 2 hour time restriction.

The site is located in the Business 1 Zone together with the land to the north, south and west, whilst on the east side of Hesse Street and is zoned Business 2. Lots in the area are generally used for either retail or office purposes with a dwelling immediately to the west.

**Referrals**

Council's Building and Infrastructure Departments were consulted. The Building Department offered no comment whilst the Infrastructure Department recommended that drainage of the extension be directed to a legal point of discharge.

**Public Notice**

Notice of the application was required pursuant to Clause 52 of the Planning & Environment Act, as it was considered that the application may result in material detriment. The application was advertised in the following manner:

- An A3 sign on the site.
- Letters to surrounding property owners and occupiers.
- A notice in the Colac Herald.

No objections were received.

**Consideration of the Proposal**

A planning permit is triggered by the following Clauses of the Colac Otway Planning Scheme:

- Clause 34.01-04 – Buildings and works in a Business 1 Zone
- Clause 52.06-1 – Waiving of Car Parking

The application has been considered as follows:

**a) State Planning Policy Framework (SPPF)**

The State Policy framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

- Clause 14.01 – Planning for Urban Settlement
- Clause 17.02 – Business

**b) Local Planning Policy Framework**

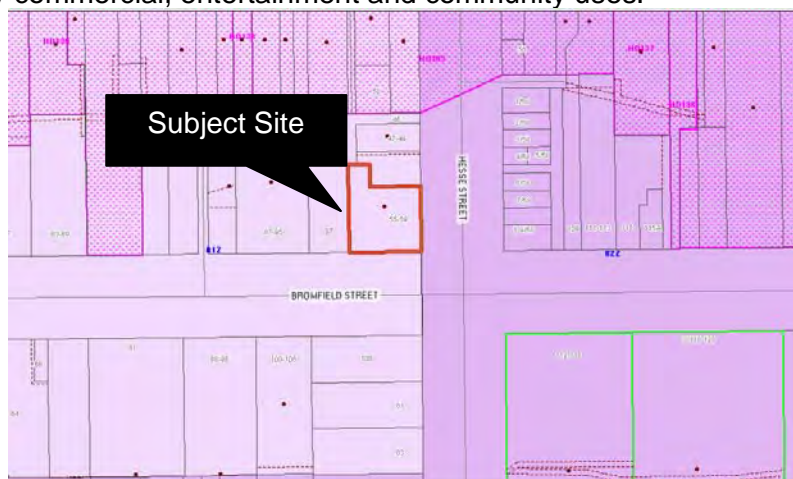
The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.04-12 – Colac

**Comment** This application is consistent with the State and Local Planning Provisions as it provides for social activity within central Colac, increasing the vitality of the centre and adding to the diversity of activities available within the town. The building and works are minor and the site is already used for the purpose proposed.

**c) Zoning Provisions**

The subject land is located within the Business 1 Zone. The primary purpose of the Business 1 Zone is to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.



**Figure 3**

**Comment** The proposed use is consistent with the provisions of the Business 1 Zone as it provides for a community use which complements the existing business centre.

A permit is required for buildings and works in this zone. The proposed works are an extension to the existing building at the rear and as such it is considered that there will be no external impact. The building extension works are minor and appropriate to provide for an improved community facility.

**d) Overlay Provisions**

There are current no overlays which apply to the site.

**e) Particular Provisions**

The particular provision which relates to car parking is applicable to the assessment of this application.

**Clause 52.06– Car Parking**

This Clause contains purposes including:

- To promote the efficient use of car spaces through the consolidation of car parking facilities.
- To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality

**Comment**     **The provisions of the planning scheme allow consideration to be given to the waiving of car parking requirements within commercial areas. The site is currently operating as a Senior Citizens Centre and for the purpose of calculating a carparking requirement it is considered that a 'Place of Assembly' is the most appropriate classification. A place of assembly attracts a carparking rate of 0.3 carspaces to each seat or to each square metre of net floor area, whichever is greater.**

**The proposed extension of the building has an area of 31.76 square metres and therefore 10 car spaces are required. The existing building footprint covers the majority of the site and there is no opportunity for further parking to be provided onsite. Currently 2 car spaces are provided onsite. (See Figure 4)**



**Figure 4**

**The applicant has sought to waive the requirement of the additional car spaces under the provisions of Clause 52.06-1. The Decision Guidelines require consideration of the following to justify reducing or waiving car parking requirements:**

- **The availability of car parking in the locality;**
- **Local traffic management;**
- **Local amenity including traffic amenity;**

- **An empirical assessment of car parking demand.**

**It is considered that there is sufficient car parking available in Bromfield Street and Hesse Street and also in the nearby public car parking areas which have a 2 hour parking limit.**

**It is also considered that as the extension is minimal and provides only for extra office space and a storage area, that the extension will not generate any additional parking demand other than what already exists from the existing use of the site.**

**There is no existing Parking Precinct Plan contained within the Colac Otway Planning Scheme to provide policy guidance in relation to the waiving of car parking as sought. Consideration, therefore, is based on the merits of the case and whether the proposed development warrants the provision of additional parking. Consideration is also given to the availability and demand on existing parking within walking distance that could service the site.**

**A Parking Study for Colac is commencing, with tenders being sought for the project at the present time and expected to be completed by mid 2009. Once the Parking Study has been completed and adopted by Council, this will then give further guidance on parking provision within the commercial areas. It is too early to pre-empt the outcome of the study to know whether car parking contributions for use within the commercial precinct will be supported.**

**In considering the decision guidelines and purposes of Clause 52.06, the request for waiving of the car parking requirement is considered to be appropriate and reasonable.**

### **Summary**

It is considered that the proposed extension of the building is minor and is unlikely to need for additional car parking.

The waiving of car parking is supported on this basis. There is parking available on street and in public car parking areas within close proximity of the site. Approval of the proposed buildings and works are also considered to be appropriate as part of this proposal.

It is recommended that Council supports this application through the issue of a planning permit.

### **Recommendation(s)**

***That Planning Committee issue a Planning Permit for Waivering of Car Parking Associated with building and works for a minor extension to the existing senior citizens centre at 55-59 Hesse Street, Colac, subject to the following conditions:***

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

2. **All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.**
3. **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.**
4. **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.**

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## Background

The subject site is a lot that was created from an 87 lot subdivision (PP89/05) approved in 2005. Since the aerial photo above was taken a number of the allotments within the estate have been developed with dwellings, and these lots are identified.

The original application of PP106/08 was registered with Council on 18 March 2008 for a 3 lot subdivision. At the time of an initial assessment of the application, it was found that a Cultural Heritage Management Plan (CHMP) was required for a 3 lot subdivision at this site and the applicant was notified accordingly. The application was referred to the relevant servicing authorities and notification was undertaken in accordance with Section 52 of the Planning and Environment Act.

At the conclusion of the notification period, eleven objections were received to the three lot subdivision.

On 30 May 2008 the applicant advised Council of an intention to withdraw application PP106/08 for the 3 lot subdivision and lodged two new applications for 2 x 2 lot subdivision. After speaking with the applicant, it was agreed to amend PP106/08 from a 3 lot subdivision to a 2 lot subdivision and submit a new application (PP223/08) for a 2 lot subdivision. The change effectively presents the same outcome as the original application for a 3 lot subdivision. As the original planning permit application was amended, the objections already submitted remain current. The objectors were notified in writing by Council of the change in the application and that their objections would remain unless they withdrew their objections in writing.

The result is that the change negates the requirement of preparing a CHMP in accordance with the Aboriginal Heritage Act 2006. The preparation of a CHMP is required under the Aboriginal Heritage Act 2006 when the proposed activity is a high impact activity; the land is within a culturally sensitive area and there has not been previous significant ground disturbance. A three lot subdivision is considered a high impact activity however a two lot subdivision is not. Although a CHMP is not required for a 2 lot subdivision, there is still a legislative requirement that if any cultural heritage is found during the works, works must cease and the appropriate authority notified of the finding.

As the applications are interrelated, it is considered appropriate that the applications be considered concurrently in this report with a recommendation for each application.

## Summary

- The site is located on the corner of Kettle and Wilson Streets, Colac on the edge of a relatively new residential estate.
- The original application sought permission for a three lot subdivision however the application was amended to a 2 lot subdivision (PP106/08) and a new application was made for a 2 lot subdivision (PP223/08) to further subdivide one of the lots.
- The two applications will ultimately provide the same result as the original application of a 3 lot subdivision.
- Eleven objections were lodged with Council to the original application of three lots and the objectors were advised that the objections would remain valid.
- The proposals are consistent with the provisions of the Residential 1 Zone, State and Local Planning Policy Framework
- It is recommended that both applications be supported through the issue of a Notice of Decision to Grant a Planning Permit, subject to conditions.



## Proposal

### PP223/08 – 2 Lot Subdivision

The proposal is to subdivide Lot 40 into 2 lots. Proposed lot 1 is rectangular in shape and will front onto Kettle Street with a frontage of 24.50 metres and a depth of 30 metres. A 2 metre wide sewerage easement is proposed along the eastern boundary of the lot. The lot size is 735m<sup>2</sup>. Proposed lot 2 is rectangular in shape and is to be located on the corner of Kettle Street and Wilson Street. The frontage to Kettle Street will be 10.38 metres and the frontage to Wilson Street will be 26.50 metres. A splay on the adjoining corner is 4.95 metres. The lot size is 409m<sup>2</sup>. (Refer to Appendix A – copy of plans)

### PP106/08 – 2 Lot Subdivision

The proposal is to subdivide Lot 1 of the above application into 2 lots. Proposed Lot 1 is rectangular in shape and will front onto Kettle Street with a frontage of 12.25 metres and a depth of 30 metres. A 2 metre wide sewerage easement is proposed along the eastern boundary of the lot. The lot size is 368m<sup>2</sup>. Proposed Lot 2 is rectangular in shape and will front onto Kettle Street with a frontage of 12.25m<sup>2</sup>. The lot size is 409m<sup>2</sup> and a depth of 30 metres. A 2 metre wide sewerage easement is proposed along the eastern boundary of the lot. The lot size is 368m<sup>2</sup>. (Refer to Appendix B – copy of plans)

Therefore, if approved, the overall outcome will be 3 lots of 368m<sup>2</sup>, 368m<sup>2</sup> and 409m<sup>2</sup> as demonstrated in green on the aerial photo provided on Figure 1.

## Subject Site and Locality

The site has a total area of 1144 square metres and is currently vacant land. The site is relatively flat. A footpath exists along the Wilson Street frontage and a grassed nature strip along Kettle Street.



Figure 2 - Corner of the site looking north up Kettle Street



Figure 3 - Looking east/northeast of the site.

The adjoining site immediately to the east contains a dwelling, whilst directly to the west and north is vacant land, and directly south of the site is the Colac Players Shed (located in the Industrial 1 Zone) and a neighbouring dwelling.

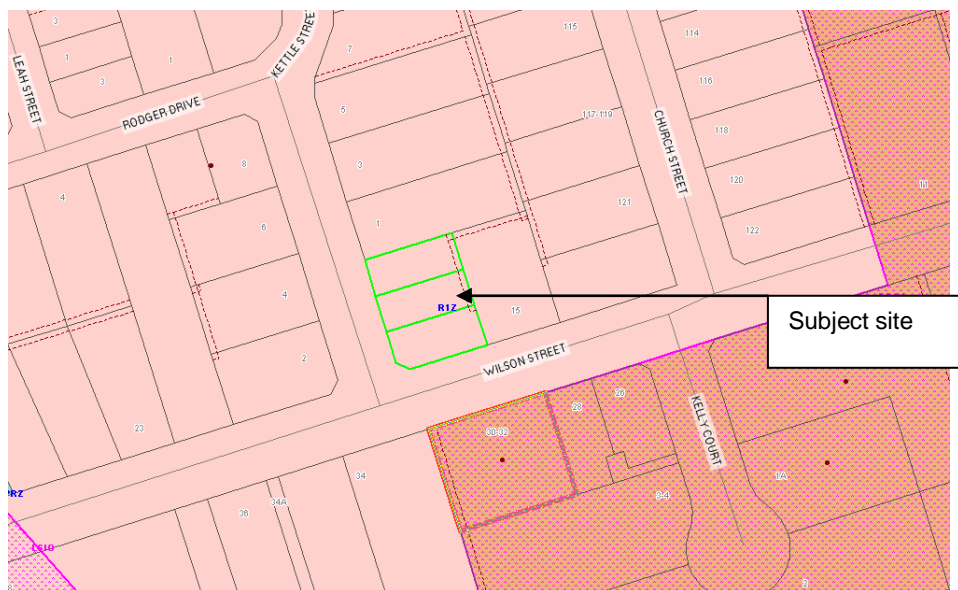


Figure 4

### Referrals

The original three lot application was referred externally to Barwon Water, Powercor, Tenix and Telstra in accordance with Section 55 of the Planning and Environment Act. All referrals offered no objection subject to conditions. When the application was amended to a 2 lot subdivision, no external referral is required in accordance with Clause 66 of the Colac Otway Planning Scheme.

The application was referred internally to Council's Infrastructure Department which offered no objections subject to access conditions.

### Public Notice

Notice of both applications was required pursuant to Clause 52 of the Planning and Environment Act, as it was considered that the applications may result in material detriment. The application was advertised in the following manner:

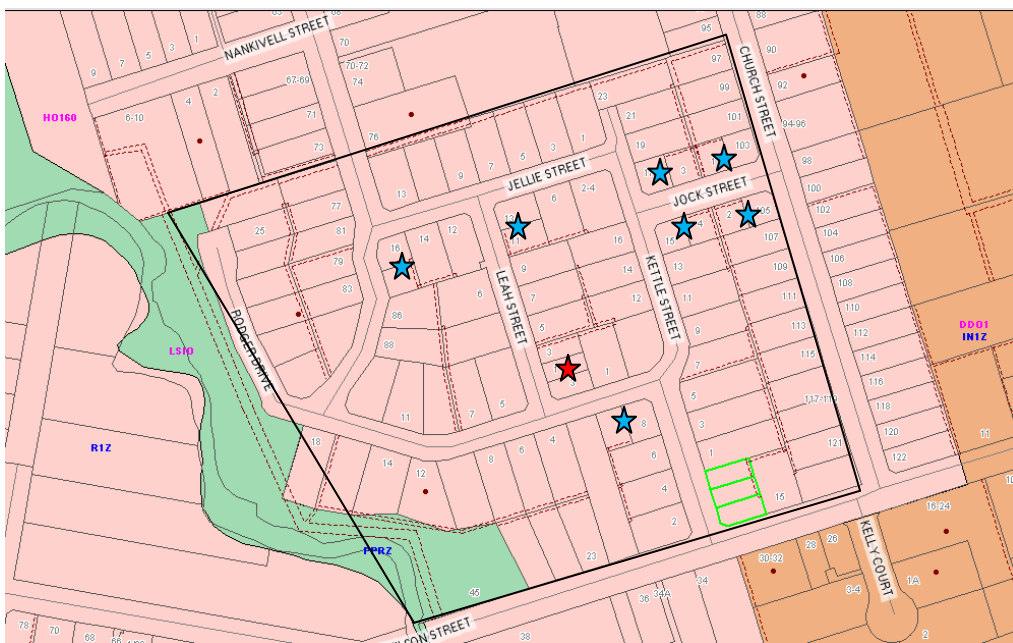
- An A3 sign on the site.
- Letters to surrounding property owners and occupiers.

Notice was given on the original three lot subdivision and a total of eleven objections were received. When the application was amended, the objectors were advised that their objections would remain and that they were welcome to add to their objections if necessary. Both applications for the two lot subdivisions were advertised concurrently and no new objections were received.

### Consideration of Objections

- Landholders purchased in the Glengowan Estate with the expectation that the lot sizes would remain the same with no further subdivision of any of the lots.

**Comment:** The 87 Lot Subdivision (PP89/05) to create Glengowan Estate provided a range of lot sizes between 665m<sup>2</sup> up to 1188m<sup>2</sup>. The approved plan of subdivision identified that seven of the larger corner lots were suitable for dual occupancy development. Four of these larger corner lots have been further subdivided – three into 2 lots and one into 3 lots. The blue stars shown on the map below identify lots that have been subdivided into 2 lots and the red star identifies the lot that has been subdivided into 3 lots. The lots fronting Jock Street were not identified for further subdivision in the original 87 lot subdivision. There is no restriction on the title that prevents further subdivision of the lots in the subdivision and thus the application must be considered on its merits. It is noted that the lots that have been supported for further subdivision have been larger corner allotments that have dual access.



**Figure 5 - Map of Glengowan Estate outlined above.**

- Concern regarding increase in housing density, traffic, noise, loss of amenity and loss of property value.

**Comment:** The proposed subdivision of the lot will increase the dwelling density in the area and will result in some increase in traffic and noise.

However the land is zoned Residential 1 Zone and the Colac Otway Planning Scheme supports urban consolidation for residential development where the land does not impact on native vegetation or environmental values and where infrastructure services are readily available to the site. It is not expected that the additional traffic generated by an additional two dwellings would be unreasonable given that the land is situated in an urban area.

### Consideration of the Proposal

Under the Residential 1 Zone a planning permit is required for the subdivision of land and must meet the requirements of Clause 56.

#### a) State Planning Policy Framework (SPPF)

The State Planning Policy Framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development, planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

- Clause 15.12 – Energy Efficiency
- Clause 16.01 – Residential development for single dwellings
- Clause 16.05 – Affordable Housing

**Comment:** This application supports the SPPF policy directions as it provides for a range of lot sizes in a location with access to physical and community infrastructure, making efficient use of existing infrastructure, and provides opportunity of increased residential density and consolidation.

#### b) Local Planning Policy Framework

The Local Planning Policy Framework is a statement of the key strategic planning, land use and development objectives for the municipality.

- Clause 21.04-03 – Settlement patterns and rural living
- Clause 21.04-12 - Colac

**Comment:** The proposal implements the strategies of these clauses in that the subdivision will encourage the development of a range of dwelling sizes and types to meet the needs of the community and achieves residential development in existing zoned and serviced areas to make efficient use of infrastructure.

#### c) Other relevant adopted policies/strategies/ amendments

##### Colac Structure Plan, April 2006

The Colac Structure Plan provides the strategic framework for the future development of the Colac Township. The directions contained in the Colac Housing and Accommodation section of the Colac Structure Plan make recommendations that landowners of corner lots within the Colac area should be encouraged to develop their sites for dual occupancy, increasing housing density.

The strategy also identified a number of gaps in the current housing supply including lack of suitable retirement style housing and lack of diversity within the existing housing stock.

#### d) Zoning Provisions

The subject land is located within the Residential 1 Zone under the Colac Otway Planning Scheme. The purpose of the zone is as follows:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- To encourage residential development that respects the neighbourhood character.

- In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

Under Clause 32.01-2, a permit is required to subdivide land. A subdivision must meet the requirements of Clause 56 (Residential Subdivision). See discussion below.

**Comment:** The proposed subdivision is consistent with the purpose of the Residential 1 Zone, as it will add to the diversity and density of lots in the area, and therefore, meets the changing needs of the local community.

An assessment of the proposal in accordance with Clause 56 is provided below:

#### Application PP223/08

- **Clause 56.03-5, Neighbourhood Character Objective** - The proposed subdivision is appropriate in this location as it will provide for two lots which each have appropriate street frontage. The size of the allotments is generally consistent with previous planning approvals for resubdivision of existing lots. The character of this urban area is still evolving through the subsequent development of the lots and the further subdivision of land.
- **Clause 56.04-2, Lot Area & Building Envelopes Objective** – Both lots will have an area exceeding 300sqm. Each lot has sufficient area for a dwelling, private open space, vehicle access and parking.
- **Clause 56.04-3, Solar Orientation Objective** – Both lots will have appropriate solar orientation given the size of each lot.
- **Clause 56.04-5, Common Area Objective** – No common property area is proposed or required.
- **Clause 56.06-8 to Clause 56.09-2 (provision of services)** – Access is appropriate with direct street frontage to each lot. All services are available to service both lots and the requirements of these objectives can be met.

#### Application PP106/08

- **Clause 56.03-5, Neighbourhood Character Objective** - The proposed subdivision is appropriate in this location as it will provide for two lots which each having appropriate street frontage. The size of the allotments is generally consistent with previous planning approvals for resubdivision of existing lots. The character of this urban area is still evolving through the subsequent development of the lots and the further subdivision of land.
- **Clause 56.04-2, Lot Area & Building Envelopes Objective** – Both lots will have an area exceeding 300sqm. Each lot has sufficient area for a dwelling, private open space, vehicle access and parking.
- **Clause 56.04-3, Solar Orientation Objective** – Both lots will have appropriate solar orientation given the size of each lot.
- **Clause 56.04-5, Common Area Objective** – No common property area is proposed or required.
- **Clause 56.06-8 to Clause 56.09-2 (provision of services)** – Access is appropriate with direct street frontage to each lot. All services are available to service both lots and the requirements of these objectives can be met.

**e) The decision guidelines of Clause 65**

The proposal will produce acceptable outcomes in terms of the decision guidelines of this clause. Matters considered include:

- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

**Subdivision**

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.

**Comment: These matters have been given due consideration as part of this application.**

**f) Summary**

The State Planning Policy Framework encourages urban consolidation in locations that are close to shopping centres where community and other services are readily available.

It is considered that both applications are consistent with relevant policies of the SPPF and LPPF, the zoning and Clause 56 requirements. The creation of 2 additional lots will not have a significant impact on the residential amenity of the area, streetscape or existing neighbourhood character.

While it is acknowledged that purchasers of lots within the Glengowan Estate did not expect further subdivision of existing allotments there is no restrictions on any of the allotments that would prohibit further subdivision of the land.

The original 87 lot subdivision (PP89/05) identified some lots for further subdivision and while this lot was not identified for dual occupancy, that does not preclude the consideration of these applications. The lots that have been supported for further subdivision have been larger corner allotments that provide a suitable lot configuration and direct road access. Lots that required a battleaxe arrangement would be less desirable from a planning outcome perspective.

Should these applications be approved and separate titles issued, there is no requirement for a planning permit for a single dwelling in a Residential 1 Zone for a lot greater than 300sqm. The plan of subdivision includes a restriction that no building (except of allowable encroachments) shall be constructed on the land within 2 metres of the Wilson Street (southern) boundary, 4 metres of the Kettle Street (western) boundary, 2 metres of the eastern boundary and 2 metres for the most northern boundary (Lot 1 of PP106/08). This does provide some certainty to adjoining landowners that dwellings could not be built on the common property boundaries.

Having considered the above, it is recommended that Council supports this application through the issue of a Notice of Decision to Grant a Permit.

**Recommendation 1 relating to permit application PP223/08**

**That Planning Committee issue a Notice of Decision to Grant a Planning Permit for a Two (2) lot subdivision of 1A Kettle Street, Colac subject to the following conditions:**

- 1. Before the plan of subdivision can be certified, 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 then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show an amended building envelope to exclude the area covered by the sewer easement on the eastern boundary of the lot.**
- 2. Plans submitted for certification must meet the requirements of the Subdivision Act 1988, as amended.**
- 3. The Statement of Compliance will not be issued prior to all conditions in relation to subdivision on the subject Planning Permit being complied with to the satisfaction of the Responsible Authority.**
- 4. Plans lodged for certification pursuant to the provisions of the subdivision Act 1988, as amended, must include a separate sheet which delineates a building envelope within each proposed lot, to the satisfaction of the Responsible Authority.**
- 5. The subdivision as shown on the endorsed plan must not be altered save, with the written consent of the Responsible Authority.**
- 6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas, and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 7. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**

8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the Relevant Authority in accordance with Section 8 of that Act.
9. This permit will expire after two (2) years if the relevant plan of subdivision is not certified by the Responsible Authority, unless an extension of time is approved by the Responsible Authority. The written request for extension of time must be received before 3 months have elapsed after the date of expiry.

**Notes-**

- *The developer must mark street numbers for all lots in the subdivision in accordance with the Shire's street numbering scheme to the satisfaction of the Responsible Authority.*
- *Access to proposed lot 2 must be from Wilson Street via a single width driveway of 3m.*

**Recommendation 2 relating to permit application PP106/08**

That Planning Committee issue a Notice of Decision to Grant a Planning Permit for a Two (2) lot subdivision of 1A Kettle Street, Colac subject to the following conditions:

1. Before the plan of subdivision can be certified, 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 then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show an amended building envelope to exclude the area covered by the sewer easement on the eastern boundary of the lot.
2. Before the plan of subdivision can be certified, the applicant must provide a copy of the title demonstrating that the title has been issued for the subdivision approved in accordance with Planning Permit PP223/08.
3. Plans submitted for certification must meet the requirements of the Subdivision Act 1988, as amended.
4. The Statement of Compliance will not be issued prior to all conditions in relation to subdivision on the subject Planning Permit being complied with to the satisfaction of the Responsible Authority.
5. Plans lodged for certification pursuant to the provisions of the subdivision Act 1988, as amended, must include a separate sheet which delineates a building envelope within each proposed lot, to the satisfaction of the Responsible Authority.
6. The subdivision as shown on the endorsed plan must not be altered save, with the written consent of the Responsible Authority.



7. **The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas, and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
8. **All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
9. **The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the Relevant Authority in accordance with Section 8 of that Act.**
10. **This permit will expire after two (2) years if the relevant plan of subdivision is not certified by the Responsible Authority, unless an extension of time is approved by the Responsible Authority. The written request for extension of time must be received before 3 months have elapsed after the date of expiry.**

**Notes –**

- ***The developer must mark street numbers for all lots in the subdivision in accordance with the Shire's street numbering scheme to the satisfaction of the Responsible Authority.***
- ***Access to the new lots should be gained from a single width driveway of 3m width.***

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- Many of the matters raised by the objectors can be addressed through the inclusion of conditions on any permit issued.
- It is recommended that use and development of the land for a broiler farm be supported and a Notice of Decision to Grant a Planning Permit issued subject to conditions.

### **Background**

On 26 March 2008, Council received three separate planning permit applications for 210 Pierces Road, Beeac as follows:

- Proposal to realign the boundary between the 6 crown allotments;
- Proposal to use and develop the eastern portion of the land for a broiler farm (B); and
- Proposal to use and develop the western portion of the land for a broiler farm (A).

Only two of the planning permit applications will be considered by Council at the October 2008 meeting as the applicant has been asked to provide an Environmental Risk Assessment (ERA) for the broiler farm proposed on the western portion of the land (Broiler Farm A). While each of the farms is proposed to operate independently of the other and may be considered to operate as single farm complexes, they are proposed to be clustered together, are under the same ownership and will be contracted to one processor; and each farm will be reliant on the same access. Matters pertaining to the cumulative impact of two broiler farms have been raised by members of the community, the Environment Protection Authority and Dept of Primary Industries. It is considered that any cumulative impacts of having two broiler farms, with a total bird capacity of 640,000 should be assessed. The applicant has agreed to undertake an ERA and once the ERA has been received and considered, Planning Permit application PP116/08 for Farm A, will then be reported to Council for a decision.

### **Proposal**

A Planning Permit application has been submitted for the use and development of the eastern part of 210 Pierces Road, Beeac for the purposes of a Broiler Farm (B) complex.

The Broiler Farm complex will have a total capacity to house 320,000 birds in 6 sheds, each shed having a capacity to house 53,333 birds. Refer to Appendix A for details pertaining to the siting, location and built form of the farm complex.

#### **a) *The proposed development will comprise of***

- Building and works including six broiler sheds, a machinery shed, staff amenities building, backup generator shed, feed silos, spent litter pad and water tanks;
- Access road construction off Weering School Road;
- Construction of a new dam; and;
- Use and development of a dwelling for the farm manager.

#### **b) *Location of development and separation distances***

The broiler farm complex will be located in the southern portion of the eastern part of the property. The six broiler sheds are proposed to house 53,333 birds each and will run in an east-west direction with the exhaust fans located at the western end of the sheds. The location of the exhaust fans becomes the centroid point upon which the buffer and separation distances are measured.

The new farm centroid will be approximately:

- 745 metres from the nearest dwelling, which is located to the east of the site;
- 655 metres from Weering School Road, which is the nearest road;
- 863 metres from Pierces Road;
- 260 metres from the nearest side boundary (realigned western boundary); and
- 347 metres from the southern boundary.

The proposed 'spent litter pad' is setback approximately 130 metres from the southern common property boundary.

The proposed access off Weering School Road runs parallel with the southern common property boundary.

**c) *Shed size***

Details of the sheds are as follows:

- Each shed will be 159m long x 16.46m wide x 3.8m height to the ridgeline with the roof having a 6.5 degree pitch;
- The floor area of each shed will be 2,614m<sup>2</sup> and the combined floor area of the complex is 15,684m<sup>2</sup>;
- Sheds will be spaced 15 metres apart;
- Shed floors will be raised by 600mm above natural ground level;
- Shed floors will consist of a compacted clay base with a hard surface such as concrete or dry rolled concrete with bitumen sprayed on top.
- Broiler sheds and the utility shed will be constructed of pale green colourbond;
- Shed roofs will be clad in zincalume for bird health and energy efficiency;
- 12 x 30 tonne silos will be constructed in 3 banks of 4.

**d) *Shed ventilation***

The sheds will be designed with "minimum ventilation tunnel vent" technology. The applicant has advised that the shed design and operation represents "best practice" technology.

*Tunnel Ventilation* involves the use of a bank of extractor fans which are located at one end of each shed which draw fresh air into the sheds. The air is drawn through the length of the sheds and expelled by the fans at the other end. The number of fans in operation at any one time depends on the rate of air exchange required.

*Minimum Ventilation* involves the constant exchange of air through the sheds via the use of fans. Even during the initial brooding period there is always a minimum amount of ventilation occurring in the sheds to ensure an adequate air exchange rate to maintain acceptable temperature, air quality and humidity levels in the sheds. Fresh air is usually drawn in via a series of adjustable 'mini air vents' which are located along the top of one of the sidewalls of the sheds. In this instance, minimum ventilation will be provided by three minimum ventilation fans in the opposite sidewall, two minimum ventilation fans at the eastern end of the sheds and by one or more of the tunnel ventilation fans at the western end.

Evaporative cooling pads will be located at the eastern end of the sheds, on the sidewalls of the shed at the opposite end to the fans. Water is circulated through the evaporative cooling pads and the air drawn through is cooled in the same manner as for an evaporative air conditioning system.

The sheds are a controlled environment monitored by a computer system to ensure that the correct temperature is maintained at all times for bird health.

**e) Landscaping**

The proposal shows a landscape buffer around the shed complex and the 'spent litter pad'. It is proposed to use a selection of eucalypt trees and native shrubs.

**f) Farm Operation**

It is anticipated that there will be 5.6 batches of birds produced by the farm per annum. The birds are brought onto the site over a period of 2-3 days in batches approximately every 65 days. The growing period is 7-8 weeks with a 10 day period for shed clean up.

Birds are progressively removed from the shed from 32 days onwards, with quantity depending on market demands.

It is proposed that drinking water be provided to the shed from mains supply. Water will be initially stored in the three large storage tanks and then fed into an automatic watering system within the sheds.

**g) Litter**

Prior to the delivery of birds, 6 to 8 centimetre layer of wood shavings, sawdust, rice hulls or similar material (deep litter) is distributed over the entire shed floor. The purpose of the deep litter is to decompose the droppings of the birds. The deep litter is removed from the sheds at the end of each batch. The applicant has advised that most of the spent litter will be removed from the sheds by contractors, however, it is proposed to retain some litter for on-site use to fertilise pastures. It is proposed to store some litter in the 'spent litter pad' while waiting for it to be used on the balance of the property.

Once all the litter has been removed from the sheds, the sheds are sprayed with high pressure disinfectant sprays that do not produce any free flowing water.

It is proposed that dead birds will be collected on a daily basis and disposed of via composting onsite in accordance with the EPA requirements.

**h) Vehicle Movements**

It is anticipated that there will be up to 109 semi-trailer and B-double truck visits per batch, and with 5.6 batches per annum it is anticipated that there will be:

| Type  | Per Batch | Total |
|---|-----------|-------|
| Delivery of day old chickens in delivery vans | 6         | 34    |
| Gas Deliveries                                | 2         | 12    |
| Litter in and out                             | 18        | 100   |
| Feed Deliveries – B-double vehicles           | 32        | 179   |

|                                  |            |            |
|----------------------------------|------------|------------|
| Mature bird pick ups             | 51         | 286        |
| Maintenance vehicles as required |            |            |
| <b>Total</b>                     | <b>109</b> | <b>611</b> |

All vehicle movements will take place during the day except when mature birds are picked up from the sheds for delivery to the processor. Mature birds will be picked up between 8.30 pm and 7.00 am.

**i) Water Management**

It is proposed that all site drainage from the 'farm site area' will be collected and transferred to the new retarding dam. Table drains will be constructed along the perimeter of the sheds and hard stand areas to direct stormwater flows to the proposed dam. This dam will supply water for stock and landscape irrigation purposes.

**j) Environmental Management Plan (EMP)**

The applicant has submitted an EMP based on the Generic EMP in the Victorian Code for Broiler Farms.

**h) Cultural Heritage Management Plan**

The applicant has advised that a CHMP is not required as the land is not within an area of Cultural Heritage Sensitivity. This has been confirmed by the Aboriginal Affairs Victoria via email dated 17/6/08 from Harry Webber, Coordinator Heritage Assessments.

**Subject Site and Locality**

The total area of the property is approximately 193 hectares which is made up of six crown allotments each with an area of 32 ha. Site and surrounds is shown in Appendix B.

The land has road frontage of 1595 metres to Pierces Road which is an unsealed gravel road, and frontage of 1211.37 metres to Weering School Road which is a sealed. The land has abuttal to an unconstructed government road along the western boundary of the allotments.

Subject to approval of the application to realign the north-south boundary between the allotments, the land subject of Broiler Farm B will comprise of the following:

- 3 crown allotments each with an area of 36.94 ha, overall area of 110.8 ha;
- Frontage of 915 metres to Pierces Road;
- Frontage of 1211 metres to Weering School Road.

The land is currently vacant with no significant vegetation. The topography of the land is relatively flat with a slight fall to the south-west.

The land is situated within a rural area, approximately 5 km from the township of Beeac. Properties within this area are generally used for farming activities, in particular, for the grazing of livestock.

## Referrals

The application has been referred under Section 52 of the Planning and Environment Act to the following authorities for comment:

| Authority  | Authority Comments   | Council Response   |
|--|--|--|
| <b>Corangamite Catchment Management Authority (CCMA)</b> | <p>No objections to the proposal subject to the following condition:</p> <ul style="list-style-type: none"> <li>The floor of the managers dwelling must be constructed no lower than 118.0 metres Australian Height Datum.</li> </ul> <p>The CCMA advised that their assessment has been based on topographic data as they do not have access to the data the LSIO delineation has been based on. CCMA advise that surface level data shows the property is likely to be affected by pooling within relatively low lying areas, rather than flowing flood waters. The proposed location of the Farm B shed pad is positioned on a slight slope rather than a depression and for this reason is not expected to result in a reduction of available temporary flood storage.</p> | <p>Council has recently prepared and placed on exhibition Amendment C12 – Land Subject to Inundation Overlay and Floodway Overlay. Council Officers have liaised with the CCMA in relation to imperial data pertaining to the areas included in the overlays.</p> <p>For this property, the area included in the overlay has not changed significantly. The area included in the LSIO is isolated to the north-west corner of the site and only included due to the realignment of boundaries. The Manager's Residence and the Broiler Farm B Complex are not located within the LSIO.</p> <p>The condition required by CCMA will be included should the application be supported.</p> |
| <b>Southern Rural Water</b>                              | <p>No objection to the proposal subject to the following condition:</p> <ul style="list-style-type: none"> <li>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.</li> </ul>   | <p>The condition required by SRW will be included should the application be supported.</p>   |
| <b>Dept Sustainability and Environment</b>               | <p>Made no comments in relation to the proposal.</p>   |  |

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|--|--|--|
| <p><b>VicRoads</b></p>                         | <p>No objection to the proposal subject to the following condition:</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p>The authority advised that the Hamilton Highway is under their control and the other roads on the proposed route, i.e. Weering School and Barpinba-Poorneet Roads are local roads under the control of Council.</p>  | <p>The application was referred internally to Council's Infrastructure Dept. Council comments on local roads are contained under Infrastructure Dept.</p>  |
| <p><b>Barwon Water</b></p>                     | <p>Barwon Water provided Council with two responses. One requested further information on water usage, demand and onsite capacity. The second response related to a recent interim policy that has now been replaced.</p> <p>Further advice has been received from Barwon Water confirming that an "in principle" agreement has been reached to supply the development with potable water.</p>   | <p>The issue around the supply of potable water has been resolved between Barwon Water and the applicant.</p> <p>A condition will be required that permit holder enter into an agreement with Barwon Water for the provision of potable water, should a planning permit be supported.</p>  |
| <p><b>Environment Protection Authority</b></p> | <p>EPA advised that the proposal does not require an EPA Works Approval and therefore EPA are not a referral authority under Section 55 of the P&amp;E Act.</p> <p>EPA confirmed that buffer distances proposed for each farm appear to meet the requirements of the Code for a Class B Farm.</p> <p>EPA raised the issue of cumulative impacts given the size and close proximity of two 320,000 bird capacity broiler farms in this locality and the need to consider local metrological conditions of the area and whether the recommended buffers in the Code pertaining to Class B farms would be adequate in this circumstance. EPA suggested that an ERA would provide Council with a means of ensuring that the buffers provided are adequate for two farms.</p> | <p>In considering whether an ERA is required, Council Officers had regard to the following VCAT determination: <b><i>Krusic-Golub v Golden Plans SC (2006) VCAT 255 (24 February 2006)</i></b>. This determination deals extensively in relation to the need for an ERA where applications are made for a number of individual broiler farms of 320,000 bird capacity that meet required buffer and separation distances, but within the same locality. The VCAT determination established that where Class B farms comply with the buffer and separation distances of the Code and have a maximum bird capacity of 320,000, the Code does not require an ERA. The other circumstance when an ERA may be required is when the proposal is a "Special Class" or proposing to use "Superior Technology" or</p> |



|  |  |   |
|--|--|---|
|  |  | <p>when the buffer and separation distance may not be adequate due to local considerations. Council Officers have discussed the potential of cumulative impacts as a result of two 320,000 farms and the need for an ERA with the applicant. As a result of these discussions the applicant has agreed to prepare an ERA, which will be submitted to Council prior to the consideration of Farm A, a 320,000 bird proposal on the western half of the property.</p>                                     |
| <p><b>Dept of Primary Industries</b></p> | <p>DPI made comments in relation to the separation distances, air quality, litter use and dead bird management.<br/>                 DPI had difficulty in accurately measuring the buffer and separation distances on the plans due to a distortion when the plans were reproduced and therefore asked Council to confirm the accuracy of the distances.<br/>                 DPI advised that there may be an increased risk of odour nuisance resulting from cumulative odour effects from the two farms and suggested that an ERA be undertaken.<br/>                 DPI have advised that if litter is used on the farm as fertiliser it should be used in accordance with the Guidelines for Manure Management and noted that the re-use of litter on site can provide a valuable fertiliser for the broader farm operations and is encouraged.<br/>                 DPI advised that composting of dead birds needs to be conducted in accordance with the EPA Victoria, Environmental Guidelines for Composting and Other Organic Recycling Facilities.<br/>                 DPI advised that as a general rule spent litter and composting areas should be situated away from waterways and sensitive uses.<br/>                 DPI also made some general comments in relation to the EMP provided as part of the application.</p> | <p>Council Officers have checked the plans for their accuracy and found that the plans are to scale and the buffer and separation distances shown on the plans submitted with the proposal are correct.<br/>                 The applicant has agreed to have an ERA prepared prior to consideration of Farm A.<br/> <br/>                 Comments from the DPI in relation to litter disposal will be considered in context to the concerns raised in objections received, further in the report.</p> |

|                                      |   |  |
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| <b>Council's Health Dept</b>         | No objection subject to conditions placed on any permit issued.   | Conditions will be included should the permit be issued. |
| <b>Council's Infrastructure Dept</b> | No objection was received. Advised that the access onto Weering School Road will need to be constructed to the minimum standards for farm access as set by 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. Further discussion regarding the use of local road by B-Doubles is contained in the body of the report. Site drainage and the management of stormwater will need to comply with EPA requirements. | Condition will be included should the permit be issued.  |

### Public Notice

The applicant was required to give notice of the application under Section 52 of the Planning and Environment Act by sending letters to all owners and occupiers within a radius of 350 metres of the land, by placing a sign on the Pierces and Weering School Road frontages for a minimum of 14 days, and by placing a notice in the Colac Herald for one issue.

Notification was undertaken for a second time as members of the community raised concerns that the notification process had not been undertaken correctly because some of the information was missing from material available for inspection. Whilst Council Officers believe that the advertising was carried out correctly, it was agreed to readvertise the three applications (this application and the applications for Farm A and the resubdivision) in order to ensure that all residents had reasonable access to all information so that they would not be disadvantaged in making submissions.

The proposal was readvertised mid August 2008 for a period of 14 day by sending letters to all owners and occupiers within a radius of 350 metres of the land and by placing a notice in the Colac Herald for one issue. Six new objections were received and further information was received from four existing objectors.

At the conclusion of the notification period a total of 27 objections were received that objected to all three applications. The objections have been summarised in Appendix C. The matters raised in the objections generally fall under the following categories:

- i. Proposal is contrary to the purpose of the zone;
- ii. Use is incompatible with agricultural activities on nearby properties
- iii. Inappropriate buffer and separation distances;
- iv. Environment Risk Assessment
- v. Amenity impact caused by emission of offensive odour;
- vi. Amenity impacts caused by increased traffic;
- vii. Disposal of litter and dead birds;
- viii. Risk of environmental impact on surface, groundwater and overland flow;
- ix. Impact on water supply;
- x. Inundation and flooding of site;

- xi. Risk of disease transfer to livestock;
- xii. Inadequate landscaping to screen the development;
- xiii. Decrease in property values;
- xiv. Generic Environment Management Plan submitted;
- xv. No Cultural Heritage Management Plan submitted.

The concerns raised in the objections are discussed in the following section of this report.

### **Consideration of the Proposal**

The land is included in the Farming Zone, where the schedule specifies a minimum subdivision area of 80 hectares. Only a small area in the north-west portion of the land (CA 140, 148 and 152 subject of the realignment of boundaries) is included in the Land Subject to Inundation Overlay.

Under the Farming Zone a permit is required for a Broiler Farm which must meet the requirements of Clause 52.31.

Under Clause 52.31, a broiler farm must comply with the Victorian code for Broiler Farms, September 2001.

#### **a) State (SPPF) and Local Planning Policy Framework (LPPF) including Municipal Strategic Statement (MSS)**

The State Planning Policy Framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

##### Clause 17.05 - Agriculture

The objective seeks to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

In considering a proposal to develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

Clause 17.05 Intensive animal industries

The objective seeks to facilitate the establishment and expansion of cattle feedlots, piggeries, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment. The Responsible Authority must have regard to the Victorian code for Broiler Farms, September 2001 when considering applications for Broiler Farms.

Clause 21.03-03 and 21.04.02 – The northern plains and lakes

The key objective is to maintain the viability of large scale agriculture and the retention of high quality land, recognising the environmental significance of key sites while allowing limited diversification into new uses and providing for the accommodation of tourist related development.

Clause 21.04.02 identifies the following relevant matters for consideration:

- Encouraging land management practices that are sustainable and protect the environment.
- Ensuring that existing dairying and other agricultural producers are supported from encroachment by conflicting development such as hobby farms.
- Protecting viable agricultural properties by introducing an 80 ha minimum area. The variation in minimum lot size reflects the generally more extensive nature of agricultural enterprises in the north east part of the shire and is designed to prevent the fragmentation of viable agricultural units into small hobby farms.
- Encouraging the restructure of agricultural holdings into larger units.
- Providing for innovative agricultural activities that do not detract from the long-term sustainability of large-scale agriculture.

**b) Planning Scheme Review Amendment C55**

While the above planning scheme amendment makes no changes to the land in relation to the zone or overlay, there are changes proposed to the Municipal Strategic Statement that are relevant to this proposal. In particular, at Clause 21.02 – Land Use Vision the Strategic Framework Plan has been modified to identify the north-west corner of the municipality, west of the Colac-Ballarat Road, as an area of “Farmland of Strategic Significance”. Grazing and cropping farming practices are the preferred land uses in areas designated as “Farmland of Strategic Significance”.

Under Clause 21.05-1 – Agriculture a key objective is to: *“maintain the viability of large-scale agriculture and the retention of areas of farmland of strategic significance and other high quality agricultural land for agricultural use.*

The Panel Report for this amendment has been considered by Council at the September Council Meeting and released to the public. It is anticipated that the amendment will be reported to Council in the coming months for adoption. Once the amendment is adopted by Council it is considered “a seriously entertained” document and must be given the appropriate weight when considering planning permit applications.

**c) Zone Provisions**

The objectives of the Farming Zone are outlined below:

- To implement the SPPF and the LPPF including the MSS and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.

- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

Clause 35.07-6 - Decision guidelines sets out a range of matters for consideration under the categories of: General, Agricultural, Dwelling, Environment and Design and siting issues.

**d) Victorian Code for Broiler Farms**

Clause 52.31 requires that any proposal for a Broiler Farm must comply with the requirements of the Victorian Code for Broiler Farms, September 2001. The proposed Broiler Farm has been classified as a "Class B" farm under the classifications contained within the Code. An assessment of the proposed Class B Broiler Farm has been undertaken and found to generally comply with the requirements of the Code.

The Code was prepared by a technical committee comprising representatives of the Dept of Natural Resources and Environment (now Dept of Sustainability and Environment), Dept of Infrastructure (now Dept of Transport), Environment Protection Authority, Municipal Association of Victoria, Mornington Peninsula, Cardinia and Golden Plains Shire Councils, Victorian Chicken Meat council, Victorian Farmers Federation Chicken Meat Group, and the Chicken Meat Research and Development Committee.

The Broiler Code is currently under review and has been for some time. A representative from the Department of Primary Industries (DPI) has advised that they are hoping a draft Code would be available for public comment in the coming months. Even if a draft Code was out for public comment it would have no legal standing until such time as the draft Code was formally incorporated into the planning scheme, replacing the September 2001 Code. DPI advised that the timeline for when the 2001 Code may be replaced has not been set but would be a minimum of 6 months and more likely 12 months.

Until such time as the 2001 Code is formally replaced within the Victoria Planning Provisions, Council is bound to make decisions on Broiler Farm proposals based on the existing Code that is incorporated into the Planning Scheme.

When interpreting the Code, DPI advised that the intention is that the objectives and the criteria must be met, whereas, the Guidelines are "best practice" and should be applied to broiler farms, although discretion exists to consider alternative methods other than those contained in the Code.

**e) Overlay Provisions**

The objectives of the Land Subject to Inundation Overlay are outlined below:

- To implement the SPPF and the LPPF including the MSS and local planning policies.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the flood plain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.

- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

Only a small section of the land subject to this proposal is included in the LSIO, which is due to the proposed realignment of boundaries. Comments were sought from the CCMA which have been discussed under the "Referral" section of this report.

**f) Consideration of objections**

**i) Proposal is contrary to the purpose of the zone**

The subject land is located to the east of the Colac-Ballarat Road within a rural area that is used for agricultural activity. Under Amendment C55, this area is not included in the area identified as "Farmland of Strategic Significance". In the area identified as Farmland of Strategic Significance, grazing and cropping farming practices are the preferred land uses. The Municipal Strategic Statement gives no specific direction on the preferred location of broiler farms, therefore, agricultural land outside of this area, in the Farming Zone would be expected to be able to be used for a broader range of agricultural activities.

Under the planning scheme, a Broiler Farm sits under the umbrella definition of "intensive animal husbandry" along with cattle feedlots, piggeries and other intensive animal industries. These activities are considered legitimate agricultural uses that would normally be expected to be located within rural areas. These uses sit under this definition as the animals or birds are housed within an enclosed area and reared on grain, pellets, and the like. These types of agricultural activities occupy a small area of land but because of the intensive nature of the use, require substantial buffer and separation distances from dwellings and other sensitive uses to ensure that the amenity of adjoining properties are not impacted upon.

With a broiler farm the buffer and separation distances are quite substantial and therefore it is necessary to occupy much larger sites than the activity itself requires.

The proposed broiler farm complex will occupy between 1-2 hectares of land leaving over 100 hectares for other agricultural activities, including grazing of livestock. Diversification of agricultural activities can assist in achieving a more favourable economic return, particularly when markets are volatile.

The land will remain a large viable agricultural unit as consolidation of the titles or a S173 Agreement will be required that prevents the disposal of any lot while the land is being used as a broiler farm. This will not only retain the land as a larger farming unit but will also ensure the protection of the integrity of the buffers and separation distances.

**ii) Use is incompatible with agricultural activities on nearby properties**

Broiler farming activities are strictly controlled and must operate and conform to various forms of legislation and guidelines. The Chicken Meat Industry requires farms to comply with strict protocols and security measures, particularly in relation to the spread of disease. "Bio-security Guidelines for Poultry Producers" have been prepared by the Department of Primary Industries which set out best practice processes for the management and operation of broiler farms.

The closest setback from an adjoining farming property is 260 metres, to the south of the broiler farm complex. In all other instances the separation distances to other properties varies between 260 metres and 700 metres. The nearest dwelling is 750 metres from the broiler farm complex. These distances should be sufficient to ensure that there is no impact on grazing or other agricultural activities on adjoining properties.

**iii) Inappropriate buffer and separation distances**

The broiler farm has been classified as a Class B Farm. The Victorian Code for Broiler Farms sets out the boundary buffer and separation distances for Class B farms. For a broiler farm with a bird capacity of 320,000, the minimum boundary buffer is 260 metres and the minimum separation distance is 700 metres. For Class B Farms, the boundary buffer must be entirely within the property boundary but it is permitted that part of the separation distance may be outside the property boundary provided there are no existing or likely sensitive land uses within the separation distance.

When measuring the buffer and separation distances, the measure point for tunnel ventilated sheds is taken from the centroid of the exhaust fans. The exhaust fans for this broiler farm are located at the western end of the shed complex. With the exhaust fans in this location the buffer and separation distances to sensitive uses is met. The farm complex is positioned 260 metres from the southern common property boundary so that the separation distances can be met to existing dwellings on adjoining properties, to the north and to the east. This means that the proposal relies substantially on the adjoining property to the south to achieve satisfactory separation distances to any potential new dwelling on this farm. If the broiler farm was supported, the siting of any new dwelling on an adjoining property would need to be considered in light of the separation distances required to be met under the Broiler Code. New dwellings proposing to locate within the separation distances would be unlikely to be supported.

The applicant has provided a locality plan that demonstrates that sites for new dwellings on adjoining properties are available that would be outside the separation distances required by the Broiler Code.

**iv) Environment Risk Assessment**

Concerns regarding the cumulative impact of two 320,000 broiler farms within close proximity each other have been raised by objectors, EPA and DPI. There is also speculation that the owner is in negotiations to purchase other properties in the general locality of this site.

Council can only consider planning permit applications that have been submitted and cannot make decisions on applications on the basis of potential land use applications in the future.

While each separate broiler farm meets the prescribed buffer and separation distances of the Broiler Code, it is considered that Council should satisfy itself that there is no cumulative impact as a result of two broiler farms within close proximity to each other in this locality. Prior to the consideration of Broiler Farm A, an ERA will be submitted.

**v) Amenity impact caused by emission of offensive odour**

Like all agricultural enterprises, some odour is associated with the keeping and breeding of livestock and birds. Broiler farms have the potential to emit odours that the general community may find offensive. It is reasonable to expect that residents, living near a broiler farm, should have the same level of amenity as other residents in rural areas. The odour becomes problematic when it is transmitted beyond the property boundaries to sensitive uses like dwellings. The Broiler Code requires buffer and separation distances as one means of mitigating the risk of the transmission of offensive odour beyond property boundaries to sensitive uses, like dwellings. These buffer and separation distances are in place as a means of protecting the amenity of residences near a broiler farm.

Notwithstanding the buffer and separation distances required under the Broiler Code, prevailing meteorological conditions and local topographical features should be taken into account when assessing whether the prescribed buffer and separation distances are adequate. For instance, where the topography is undulating or hilly, valleys or similar land forms can channel air movements in a particular direction. Other meteorological conditions such as prevailing winds or fogs can create local conditions that may be a factor in determining buffer and separation distances. In this circumstance, the topography is flat and prevailing winds are westerly, so the risk of odour being trapped by inversion layer or the channelling of air movement in a particular direction is reduced.

Generally offensive odours generated by broiler farms occur when there is an incident that causes the litter to become wet or when the capacity of the litter to absorb the moisture from the bird droppings is exceeded. Abnormal or unexpected events (such as plant upsets, accidents or leaks) may cause an increase in odour generated by a broiler farm.

Proper management of broiler farms is essential in mitigating risks of these types of incidences occurring and offensive odour emitting beyond property boundaries.

The EMP requires the monitoring of any such incidents and remedial action must be taken immediately to rectify any problems that occur.

Where broiler farms are well management, the likelihood of incidents occurring that impact on the amenity of neighbouring properties is reduced.

**vi) Amenity impacts caused by increased traffic**

The applicant has advised that the broiler farm will generate over 600 vehicle movements per year, which averages out at one per day. However, vehicle movements will be concentrated depending on the stage of the batch cycle. The most concentrated periods will be when the birds are being picked up to be sent to the processor and when the litter is being delivered and removed.

The number of vehicle movements generated by the operation of the broiler farm has been questioned by some objectors who have suggested that vehicle numbers are more likely to be double what has been estimated in the proposal. If vehicle movements were 1200 per year this would mean that there would be an average of an additional two vehicle movements per day.

The number of vehicle movements generated by the farm will depend to some degree on the type, size and carrying capacity of the vehicle required or available to undertake the activity.

Weering School Road and Barpinba-Poorneet Road currently carry approximately 120 vehicles per day (two-way). The additional traffic generated by this proposal, whether it is the amount estimated by the applicant or the amount estimated by the objectors, is unlikely to result in an unreasonable impact on the capacity of the road network to accommodate the increase in traffic or the amenity of the area.

The applicant has identified the Weering School Road to Baripinba-Poornet Road then onto the Hamilton Hwy as the preferred route for vehicular movements. Both Weering School Road and Baripinba-Poornet Road are local roads under the control of Council. Weering School Road and Baripinba-Poornet Road is not a gazetted B-Double route.

Concerns were raised in objections regarding the suitability of this route given it is not a declared B-Double route and the fact that the Colac-Ballararat Road is a declared B-Double route that would appear to be more suitable for articulated vehicles.



While VicRoads have no control over local Council roads, their comments were sought in relation to the suitability of the proposed vehicle route. In their view, the proposed route appeared to be satisfactory given that the roads were of a standard that could easily accommodate the safe movement of articulated vehicles.

VicRoads were also asked to comment on an alternate route to connect to Colac-Ballarat Road as this road is a declared B-Double route. They advised that the Barpinba-Winchelsea Road is a four metre wide, single lane road and would not be suitable for B-Doubles or semi-trailers. In their view, Eurack Road could be an alternate route to the Colac-Ballarat Road, as it has a 6.2 metre wide pavement, two lane road that would allow for the safe movement of articulated vehicles.

Not all the vehicle movements generated by the broiler farm will be B-Doubles. The application identifies that feed deliveries will be by B-Double vehicles while the other vehicle movements will be generated by delivery vans and semi-trailers.

Only B-Doubles that are 25 metres long or have a carry capacity of in excess of 50 tonnes require permits for approved routes. Individual permits may be granted for B-Doubles to use local roads. If a request was made to use Weering School Road, Barpinba-Poorneet Road, then consideration would be given to the condition of this part of the road network. Council's Infrastructure Dept has advised that the geometric profile of the roads is appropriate for larger vehicles as widening of sections of the road network has recently occurred. On this basis it is expected that favourable consideration would be given to applications, subject to certain conditions in relation to times of use and damage to the roadways.

A condition will be placed on any permit issued that requires B-Doubles meeting the above category to obtain a permit from VicRoads to use the local road network.

**vii) Disposal of litter and dead birds;**

Objectors have raised concerns regarding the stockpiling of litter and the composting of dead birds onsite. While the spreading of untreated fowl manure is an accepted practice in rural areas, concerns have been raised in relation to the transfer of contaminants and pathogens into the natural environment. The EPA and DPI have guidelines that provide advice in the management of litter that is stockpiled on properties.

It is considered that the characteristics of the site are such that the spreading of untreated fowl manure and the composting of dead birds onsite should be discouraged, therefore, a condition will be placed on any permit issued requiring that all litter should be removed from the site at the completion of each batch and that dead birds be kept in a freezer until they are removed from the site.

**viii) Impact on water supply**

In response to Barwon Water's request for information relating to the volume of potable water required for the development, the applicant advised the following:

| <b>Activity</b>   | <b>Amount</b>   |
|---|---|
| Annual amount of water required for Farm B                  | 18-20 ML – 60-70% will be used for drinking and the remainder used for cooling purposes.                              |
| Peak hourly demand for water (usually during summer months) | Peak hourly demand will be in the order of 10,000 litres per hour. This will be drawn from the on-site storage tanks. |
| Average daily demand for water                              | The average daily demand for water will be approximately 52,000 litres.   |

|                          |  |
|--------------------------|--|
| On-Site storage capacity | Enclosed tanks will be used to store water on-site for drinking and cooling purposes. A minimum storage capacity of 750,000 litres will be provided. |
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Barwon Water and the Applicant are in discussions relating to water supply. The Applicant has proposed the following to Barwon Water:

- Install a 100mm private main along Pierces Road from the main in Colac-Ballararat Road;
- Construct a main water storage dam with a capacity of 10 megalitres to serve as a joint storage for both farms;
- Runoff from the shed roofs will be harvested and stored in the stormwater catchment dam at each farm site. This water would be pumped into the main storage dam as required.
- The proposed 0.75 megalitres of tank storage will be retained for each farm as the primary supply of potable water to the sheds. This would be filled directly from the private main or from the main storage dam as conditions dictate. All water from the main storage dam that is to be used for drinking purposes will require treatment prior to being pumped into the tanks;
- Water for use in the evaporative cooling pads will be sourced from the main supply dam. This will not require treatment prior to use.

Barwon Water has advised that the storage calculations outlined above are in line with recent discussions and that Barwon Water has no objection to the plan proposed and fully supports any potable water replacement initiatives.

The permit holder will be required to enter into an agreement with Barwon Water for the supply of potable water to this development.

The supply will be conditional upon best practice water catchment initiatives being provided on site, to supplement potable water requirements, including storm water catchment and treatment.

Barwon Water have advised that extensive water supply modelling has been undertaken which indicates some spare capacity is available in the system at certain times and the permit holder would only be permitted to draw water at times and under conditions aimed to maintain normal supplies to existing customers.

***ix) Inundation and flooding of site;***

Objectors have raised concerns regarding inundation and flooding of the site. Photographic evidence has been submitted by objectors that show in 1983 parts of the land being covered in water. Andrew Watts, Qasco Victoria Pty Ltd was engaged by objectors to review film and inspect prints under 3D, stereoscope to provide additional information in relation to inundation of the land. Photographic material was reviewed from 1956, 1970, 1977, 1983, 1990, 1994 and 2000. Based on this information, Andrew Watts makes the conclusion that the land in large parts may be wet and/or under water for some part of any given year and notes that for the last 11 years Victoria has been experiencing a very dry period and cannot determine the effect that this dry spell has had on inundation during that period but inundation is not as obvious.

The LSIO covers a large part of the land to the west of the north-south boundary. However, only a small section of the land to the east of the north-south boundary is subject to the LSIO, being the subject site under consideration. This application was referred to the Corangamite Catchment Management Authority (CCMA), and their comments are detailed above in the referral section of this report.

As the Broiler Code, under Element 1, Guidelines 1 (pg 22), states that: *“Broiler sheds and associated earthworks must not be located in areas designated as subject to inundation under any planning scheme, and must not adversely affect flood plain capacity or natural drainage lines”* Council Officers sought clarification in regard to this matter in relation to Farm A, proposed on the western portion of the property. While the comments made by CCMA relate only to Farm A, as Farm B is not within the LSIO, they give further understanding around the matters considered by the CCMA and land subject of inundation.

The CCMA advised that Farm A is not expected to adversely affect flood plain capacity or natural drainage lines. In relation to Farm A, CCMA has requested that the applicant prepare a “flood storage replacement plan” for approval by the CCMA.

The CCMA advised that when considering a proposal on land within the LSIO, the CCMA first assesses the nature of flooding expected on the property – i.e. river flood plain (riverine), storm water, water logging due to poor drainage, or pooling in low lying areas. The CCMA can then determine whether:

- The proposal will maintain the free passage and temporary storage of flood water; and
- Whether the proposal is likely to be damaged by flood waters.

Based on available land surface elevation data and CCMA’s understanding of the area, the CCMA has concluded that flooding on the subject property is associated with low lying areas prone to poor drainage and water logging. The CCMA also considers that the actual area prone to water logging is less than that indicated by the LSIO.

The CCMA provided digital images and referred to the Flood Data Transfer Project (commissioned by DNRE in 1998) in arriving at their conclusion. After considering all information, the CCMA advised that the flooding on the subject property is due to shallow pooling in natural depressions fed by runoff from small rural catchments of less than 25 ha.

As the CCMA is the referral authority under Section 55 of the Act for the LSIO, Council must give appropriate weight to their comments given their expertise in this area. The CCMA has raised no concerns in relation to the Farm B Complex, the subject of this report.

It is noted that substantial earthworks will be required to provide the fill pad to 0.6 metres above natural ground level for both broiler farm complexes. No detail has been submitted with the application in this regard, therefore, the applicant will be required to submit a plan showing the details of all earthworks required. The earthworks plan will be referred to CCMA for comment.

**x) Risk of disease transfer to livestock and environment impact on surface waters**

The matter of disease risks associated with the broiler farm has been raised in objections received. The applicant in response to these concerns engaged Dr. Peter C. Scott, Scolexia Pty Ltd who prepared a Report on Avian Diseases associated with Broiler Farms. Dr. Scott was asked to respond to the following matters:

- The risk of pathogens/disease organisms likely in the dam and/or surface runoff waters;
- The risk a broiler farm poses to humans, domestic livestock or wildlife off-site.

Dr. Scott's report provides the following comments on infectious agents:

### **Viruses**

The report states: *"There are no specific pathogenic avian viruses that are recognised as potential pathogens of people, livestock, horses or wildlife under normal exposure conditions. Avian viruses are not considered a risk in the assessment of this report."*

### **Bacteria**

In terms of bacteria, the report discusses in detail five bacteria types that are considered most relevant to broiler farms. They are:

*Enterococcus;*

*Escherichia coli;*

*Salmonella spp.;*

*Campylobacter spp., and;*

*Protozoa (coccidiosis).*

The report states that: *"While there are a number of avian bacterial pathogens that have been known to affect people and livestock these are considered a very low risk assessment under normal exposure conditions."*

Dr. Scott's report provides the following summary in relation to the findings in response to the above two matters:

- a) The pathogens known to be associated with poultry need conditions such as consumption of contaminated production, direct intimate contact with poultry or waste to result in disease transmission to humans or livestock.
- b) These pathogens associated with poultry (*Salmonella spp. And Campylobacter spp.*), etc. are widely distributed in the environment and thus commonly associated with other domestic livestock.
- c) *E.coli 0157* is particularly associated with livestock such as cattle but not with poultry. Thus ruminants are potentially a higher risk of being reservoirs of these bacteria that can cause clinical diseases in humans.
- d) The current requirements of broiler farms under the State Planning legislation and other state regulatory bodies mean that the risk of contaminated runoff is very low.
- e) Work undertaken by the RIRDC indicates that the risk of aerosol spread of avian pathogens is very limited and confined to the immediate perimeter of the shed.
- f) Current farming practices both within Australia and internationally indicates that there are no particular causally associated risks with the farming of cattle, sheep and horses with best practice broiler farm operations.

Dr. Scott makes the following conclusion:

*"An assessment of the known pathogens/disease organisms associated with poultry farms indicate that the risk of any impact on the health of livestock and people at adjoining properties is most unlikely."*

**xi) Inadequate landscaping to screen the development**

Landscaping is important in reducing the visual impact of the development on the landscape and rural character of the area. Landscaping can also assist in buffering noises and reducing the emission of light. For that reason it is considered that substantial landscaping should be provided along the southern common property boundary and along the Weering School Road frontage to screen the development from the adjoining properties and reduce any potential impact on the amenity of these properties caused by the day to day activities conducted on the site, and in particular the pick-up of birds during the night time period.

A detailed landscaping plan will be required and the payment of a bond in accordance with the provisions of the Broiler Code.

**xii) Decrease in property values**

Property values are not a matter that requires planning consideration.

**xiii) Generic Environment Management Plan submitted**

The Broiler Code requires an Environment Management Plan to be submitted as part of an application for a broiler farm. The objective of the EMP is to ensure best practice management and a commitment to continuous improvement in environmental performance is ongoing. The EMP is intended to minimise risk of any adverse event with potential to impact on the environment or the surrounding community during the ongoing operation of a new farm. A generic EMP is included in the Broiler Code for the purposes of developing and assessing a site specific EMP.

Annual audits are undertaken to assess compliance with the EMP. The audit must be undertaken by an accredited auditor and the report must be sent to Council. The annual audit may be made available to members of the community on request.

Given the role of the EMP it is important that they are site specific, therefore, the applicant will be required to provide a site specific Environment Management Plan prior to the commencement of the use of the land for a broiler farm.

**xiv) No Cultural Heritage Management Plan submitted.**

Evidence has been obtained from the Aboriginal Affairs Victoria that confirms that a Cultural Heritage Management Plan is not required. In any case, the Aboriginal Heritage Act provides that if any cultural heritage is found during the works, works should cease and the appropriate authority be notified of the finding.

**Conclusion**

The proposed broiler farm meets the requirements of the Broiler Code and the provisions of the State and Local Planning Scheme.

The concerns of the objectors can be addressed by the inclusion of conditions on any permit that is issued.

Ongoing monitoring of the management and practices of the broiler farm will take place annually in accordance with the Broiler Code and the EMP. Any non-compliance matters can be appropriately addressed should they occur.

An ERA will be required prior to the assessment of Broiler Farm A, proposed for the western portion of the property.

Given the above, there is no reason why the application should not be supported, therefore, it is recommended that a Notice of Decision to Grant a Permit be issued for the use and development of the land for a broiler farm.

### **Recommendation(s)**

***That the Planning Committee 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) for the purposes of a Class B Broiler Farm, associated buildings and works, including access and a dam, and a Managers dwelling subject to the following conditions:***

- 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;***
    - 1.1.4 stormwater wetland treatment pond and other drainage;***
    - 1.1.5 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. In the circumstance where there are seasonal conditions that would be unfavourable to the establishment of the landscaping, the permit holder may apply to the Responsible Authority for an extension of time to complete the landscaping.***

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 completed 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 specialising 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. The only exception to this is in emergency situations when vehicle or plant break down make it necessary for feed to be delivered outside of these times.***
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 Barpinba-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 sanitising 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 for the dwelling. 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 Barpinba-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 Barpinba-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:***
- i. The development and use are not started within two years of the date of this permit;***
  - ii. 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.***

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- The proposed realignment of boundaries is relatively minor and will not alter the capacity of the land for farming activities. The re-subdivision, if supported will facilitate the required buffer and separation for two broiler farms. If the proposal is not supported, the existing configuration of titles would provide adequate buffer and separation distances for one broiler farm. The subdivision is appropriate irrespective of these proposals.
- It is recommended that the proposal for a re-subdivision of the land be supported and a Notice of Decision to Grant a Planning Permit be issued subject to conditions including the requirement for a S173 Agreement to protect the integrity of the buffer and separation distances for the broiler farms, should those proposals be supported by Council or VCAT.

### **Proposal**

A Planning Permit application has been submitted for the re-subdivision of six existing titles at 210 Pierces Road, Beeac for the purposes of providing adequate buffer and separation distances to facilitate the use and development of the land for two broiler farms (subject to separate planning approval).

The re-subdivision proposes to realign the north-south boundary between the six titles to the west by approximately 117 metres. This then creates three lots, each with an area of 36.94 ha and three lots, each with an area of 27.41 ha. Refer to Appendix A.

The application also proposes the creation of a 20 metre wide carriageway easement in favour of Lot 4 along the southern property boundary.

The applicant has advised that the sole purpose of the resubdivision is to facilitate the buffer and separation distances required under the Victorian Code for Broiler Farms to enable the land to be used and developed for the purposes of two Class B broiler farms. Consideration of the merit of the two proposed broiler farms (PP116/08 and PP117/08) will be subject of separate reports to Council.

### **Subject Site and Locality**

The total area of the land is approximately 193 hectares which is made up of six crown allotments each with an area of 32 ha. A map of the sites and surrounds is shown in Appendix B below.

The land has road frontage of 1595 metres to Pierces Road which is an unsealed gravel road, and frontage of 1211.37 metres to Weering School Road which has a sealed pavement. The land has abuttal to an unconstructed government road along the western boundary of the allotments.

The land contains a dam but otherwise has no other improvements, is currently vacant with no significant vegetation. The topography of the land is relatively flat with a slight fall to the south-west.

The land is situated within a rural area, approximately 5 km from the township of Beeac. Properties within this area are generally used for farming activities, in particular, for the grazing of livestock.

**Referrals**

As part of the land is subject to the Land Subject to Inundation Overlay (LSIO), the application was referred to Corangamite Catchment Management Authority (CCMA) under Section 55 of the Planning and Environment Act. The CCMA did not object to the proposal as the CCMA considered that the realignment of boundaries should not have any impact on existing flood characteristics.

Clause 66.01 exempts a proposal for a re-subdivision of land to the servicing authorities but requires conditions to be placed on any permit issued.

**Public Notice**

The applicant was required to give notice of the application under Section 52 of the Planning and Environment Act by sending letters to all owners and occupiers within a radius of 350 metres of the land, by placing a sign on the Pierces and Weering School Road frontages for a minimum of 14 days, and by placing a notice in the Colac Herald for one issue. The application was advertised concurrently with the two separate with applications for the two broilers farm proposals.

Notification was undertaken for a second time after members of the community raised concerns that the notification process had not been undertaken correctly because some of the information was missing from material available for inspection. Whilst Council Officers believe that the advertising was carried out correctly, it was agreed to readvertise the application (as well as the two broiler farm applications) in order to ensure that all residents had reasonable access to all information so that they would not be disadvantaged in making submissions.

The proposal was readvertised mid August 2008 for a period of 14 days by sending letters to all owners and occupiers within a radius of 350 metres of the land and by placing a notice in the Colac Herald for one issue. Six new objections were received and further information was received from four existing objectors.

At the conclusion of the notification period a total of 27 objections were received. Of the 27 objections, only four raised specific matters relating to the re-subdivision. The matters raised may be summarised as follows:

- i. Inappropriate subdivision as it does not promote productive farming practices and contrary to the provisions of the Farming Zone.
- ii. Council supports the consolidation of lots to create larger farming units to make better use of high quality and productive agricultural land.
- iii. Potential to dispose of each lot separately.
- iv. More appropriate to consolidate the land into two lots.
- v. Each lot is below the minimum subdivision area of 80 ha for a dwelling.
- vi. Financing and mortgages are not a relevant planning consideration.
- vii. Resubdivision will contribute to the progressive loss of high quality agricultural land and the introduction of potential sources of conflict with long established dairy farms.
- viii. The small lots provide no association with sustainable agriculture and would be economically not productive for agricultural purposes

The concerns raised in the objections are addressed in the body of this report in the following section.

**Consideration of the Proposal**

The land is included in the Farming Zone, where the schedule specifies a minimum subdivision area of 80 hectares. Most of the western portion of the site, (CA 140, 148 and 152) is included in the Land Subject to Inundation Overlay.

Under the Farming Zone, at Clause 35.07, a planning permit is required for the subdivision of land.

**a) State (SPPF) and Local Planning Policy Framework (LPPF) including Municipal Strategic Statement (MSS)**

The state policy framework seeks to ensure the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application:

Clause 17.05 - Agriculture

The objective seeks to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

In considering a proposal to develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

Clause 21.03-03 and 21.04.02 – The northern plains and lakes

The key objective is to maintain the viability of large scale agriculture and the retention of high quality land, recognising the environmental significance of key sites while allowing limited diversification into new uses and providing for the accommodation of tourist related development.

Clause 21.04.02 identifies the following relevant matters for consideration:

- Encouraging land management practices that are sustainable and protect the environment.
- Ensuring that existing dairying and other agricultural producers are supported from encroachment by conflicting development such as hobby farms.
- Protecting viable agricultural properties by introducing an 80 ha minimum area. The variation in minimum lot size reflects the generally more extensive nature of agricultural enterprises in the north east part of the Shire and is designed to prevent the fragmentation of viable agricultural units into small hobby farms.
- Encouraging the restructure of agricultural holdings into larger units.
- Providing for innovative agricultural activities that do not detract from the long-term sustainability of large-scale agriculture.

**b) Planning Scheme Review Amendment C55**

While the above planning scheme amendment makes no changes to the land in relation to the zone or overlay, there are changes proposed to the Municipal Strategic Statement that are relevant to this proposal. In particular, at Clause 2.102 – Land Use Vision the Strategic Framework Plan has been modified to identify the north-west corner of the municipality, west of the Colac-Ballarat Road, as an area of “Farmland of Strategic Significance”. Grazing and cropping farming practices are the preferred land uses in areas designated as “Farmland of Strategic Significance”.

Under Clause 21.05-1 – Agriculture a key objective is to: *“maintain the viability of large-scale agriculture and the retention of areas of farmland of strategic significance and other high quality agricultural land for agricultural use.”*

The Panel Report for this amendment has been considered by Council at the September Council Meeting and released to the public. It is anticipated that the amendment will be reported to Council in the coming months for adoption. Once the amendment is adopted by Council it is considered “a seriously entertained” document and must be given the appropriate weight when considering planning permit applications.

**c) Zone Provisions**

The objectives of the Farming Zone are outlined below:

- To implement the SPPF and the LPPF including the MSS and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

Clause 35.07-3 Subdivision requires planning approval for the re-subdivision of existing lots. Under this provision, a permit may be issued to create smaller lots where it is a resubdivision of existing lots and the number of lots is not increased. An agreement under S173 of the Act must be entered into with the owner of each lot created, which ensures that the land may not be further subdivided so as to increase the number of lots.

Clause 35.07-6 - Decision guidelines sets out a range of matters for consideration under the categories of: General, Agricultural, Dwelling, Environment and Design and siting issues.

**Discussion**

Both the State and Local Planning Policy Framework recognise the importance of agricultural production to the economy of Victoria, and seek to protect agricultural land from fragmentation and inappropriate land use.

The critical question to consider in this circumstance is whether the realignment of boundaries limits the potential of the land for use as productive agricultural land and whether any subsequent land use or development will adversely affect the use of the land for agriculture.



The realignment of the north-south boundary between the allotments is required to facilitate the proposed broiler farm on the western portion of the land. This will then allow for the required buffer distances between the two broiler farms. If this boundary realignment is not supported, the broiler farm application on the eastern portion of the land could still meet the buffer and separation distances required for a Class B Farm according to the Victorian Code for Broiler Farms.

While the purpose of the realignment of boundaries has been conveyed, the proposed broiler farms may or may not be approved in the future, therefore, consideration of the merits of the proposal are largely weighted towards how the resubdivision will impact on the agricultural productivity of the land.

It is considered that the realignment of boundaries will not have any impact on the capacity of the land to be used for agricultural activities.

In anticipation that one or both of the broiler farm proposals are supported either by Council or VCAT, the location of the carriageway easement will be required to be moved off the southern boundary by 30 metres to ensure the provision of adequate landscaping and drainage in order to protect the amenity of the adjoining property.

The objectors are addressed as follows:

**i. Inappropriate subdivision as it does not promote productive farming practices and contrary to the provisions of the Farming Zone.**

The land is not identified as "high quality" agricultural land under the State provisions of the planning scheme or located with the area designated as 'Farmland of Strategic Significant' under the proposed changes to the Municipal Strategic Statement of the Colac Otway Planning Scheme by Amendment C55. The land is low lying and limited in its ability for broad acre agricultural production and may have less ability to provide for sufficient economic return if the land was not farmed as a whole entity or used for a combination of agricultural activities.

The land is already divided into six crown allotments but has been historically farmed as a single entity. The proposed resubdivision seeks to reconfigure the allotments by creating three with an area of 36.94 ha each and three with an area of 27.41 ha each. The current size of all allotments is 32 ha.

The resubdivision alone will have little bearing on the productivity of the land, farm management practices and activities will determine how well the land performs in terms of agricultural productivity.

As a whole the land has a total area of 193 ha and while there could be a number of combinations arrived at to meet the minimum land size for the zone, the proposed broiler farm applications rely on the layout where the eastern half of the land will become one farm, having a total area of 110.82 ha while the western half of the land would become another broiler farm with a total area of 82.23 ha, therefore, both meeting the minimum subdivision size for the zone and as of right dwelling entitlements if the respective titles were consolidated.

**ii. Council supports the consolidation of lots to create larger farming units to make better use of high quality and productive agricultural land.**

Where lots are less than the minimum subdivision size for the zone and historically farmed as a whole, Council supports the retention of these larger farming enterprises so that productive agricultural land is retained for primary production. Where appropriate, Council supports the consolidation of titles to achieve the objectives of the Farming Zone.

**iii. Potential to dispose of each lot separately.**

Although no evidence has been provided from the Titles Office that each Crown Allotment could be created as a separate title and therefore on-sold separately, it is possible that this could be the case although this would not infer that permit applications for dwellings would be supported. Council has no control over the disposal of individual titles. Council could seek the consolidation of the land so as to create two separate titles to reflect the configuration required to support the proposed broiler farm developments.

**iv. More appropriate to consolidate the land into two lots.**

As the realignment of the north-south boundary is to facilitate buffer and separation distances for the two proposed broiler farms, it will be important if the resubdivision is supported, that the integrity of the buffer and separation distances are protected, in anticipation that the broiler farms are supported by Council or VCAT. Council could ensure the protection of the buffer and separation distances by either requiring the consolidation of the titles or a S173 Agreement being imposed on each of the crown allotments to ensure that they will not be separately disposed of while the land is being used for the purposes of a broiler farm. A condition can be placed on the permit requiring either a S173 Agreement or the consolidation of the land.

In any case, under Clause 35.07, where a planning permit is issued for the resubdivision of land, it is required that the owner enter into a S173 Agreement to prevent further subdivision of the land.

**v. Each lot is below the minimum subdivision area of 80 ha for a dwelling.**

As the total area of the land is greater than 160 hectares, it could be consolidated and subdivided into two large lots with areas greater than 80 ha, the minimum area required under the zone. Each of the larger lots, under this arrangement, would have an as of right entitlement to a dwelling. Under the current title arrangement, a planning permit is required to use and develop any of the allotments for a dwelling. Given the proposed use of the land for a broiler farm and the need to protect buffer and separation distances, support would not be given for more than one dwelling on each of the farm complexes.

The proposed resubdivision does not alter the need for a planning permit to be obtained to use and develop any of the lots for a dwelling.

**vi. Financing and mortgages are not a relevant planning consideration.**

No consideration has been given to financing arrangements for the proposed broiler farm complexes in relation to the consideration of the merit of the proposed resubdivision before Council.

**vii. Resubdivision will contribute to the progressive loss of high quality agricultural land and the introduction of potential sources of conflict with a long established dairy farm.**

Realignment of the boundaries will not directly contribute to the loss of high quality agricultural land. The resubdivision will enable consideration to be given to the subsequent use and development of the land for two broiler farms. The resubdivision will create two large farming properties that will have an area greater than the minimum subdivision area under the zone and although the primary agricultural pursuit proposed is not a soil based activity it is a legitimate agricultural activity.

If the land was used and developed for a broiler farm in the future, the area required for the buildings and works is between 1-2 hectares, leaving the balance of the land for other agricultural pursuits.

A combination of agricultural activities is more likely to increase the viability of the land for agricultural production through the diversification of activities and independent sources of income.

Although the resubdivision creates three smaller lots, the lots are currently well below the minimum lot size and would be capable of continuing to be used for agricultural purposes.

**viii. The small lots provide no association with sustainable agriculture and would not be economically productive for agricultural purposes**

Six separate allotments already exist and each lot already has an area well below the minimum subdivision area for the zone. The resubdivision will marginally alter the size of the allotments but will not substantially alter the potential for the land to be used for sustainable agricultural purposes. A greater risk would be the disposal of the lots into separate ownership as this would have greater impact on the capacity of each individual lot to sustain productive agricultural practices.

**d) Overlay Provisions**

The objectives of the Land Subject to Inundation Overlay are outlined below:

- To implement the SPPF and the LPPF including the MSS and local planning policies.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the flood plain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

Most of the western half of the land is covered by the LSIO, being low lying and subject to the 1 in 100 year flood. The CCMA did not raise any concerns with the proposed realignment of boundaries as it considered that there would be no impact on existing flood characteristics.

## **Conclusion**

It is concluded that the proposed resubdivision meets the purpose of the State and Local Planning Policy Framework. The resubdivision will not impact on the agricultural production of the land but will facilitate the potential use of the land for intensive animal husbandry (broiler farms), subject to their separate planning approval.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions, including a condition that requires the two groups of smaller lots to be held in common ownership if used and developed for broiler farms and that no more than one dwelling be permitted on each farm.

## **Recommendation(s)**

***That the Planning Committee issue a Notice of Decision to Grant a Permit for the re-subdivision of 210 Pierces Road, Beeac (CA140, 141, 148, 149, 152 and 153, Parish of Ondit) and creation of a carriageway easement subject to the following conditions:***

- 1. Before the plan of subdivision can be certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:  
(a) The carriageway easement relocated 30 metres off the southern common property boundary***
- 2. The subdivision as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 3. Prior to a statement of compliance being issued, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 stating that***
  - 3.1 No lot hereby approved will be further subdivided so as to create any additional lots;***
  - 3.2 If the land is used and developed as a broiler farm on CA153, 149 and 141, none of these lots may be disposed of separately to ensure the protection of the buffer and separation distances required for a Class B Broiler Farm in accordance with the Victorian Code for Broiler Farms;***
  - 3.3 If the land is used and developed as a broiler farm on CA152, 148 and 140, none of these lot may be disposed of separately to ensure the protection of the buffer and separation distances required for a Class B Broiler Farm in accordance with the Victorian Code for Broiler Farms;***
  - 3.4 Other than a single dwelling on both CA152 and CA153 no further dwellings will be permitted on any crown allotment while the land is used in accordance with 3.2 and 3.3 above.***

***Evidence of lodging of this agreement in accordance with Section 181 of the Planning and Environment Act 1987 must be submitted to the Responsible Authority. All costs associated with the agreement will be met by the owner/applicant.***

- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the Relevant Authority in accordance with Section 8 of that Act.***
- 5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas, and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 6. This permit will expire if one of the following circumstances applies:***
  - The plan of subdivision is not certified within two (2) years of the date of this permit.***
  - A Statement of Compliance is not issued within five years of the date of certification of the subdivision plan.***

***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.***

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