



# **Planning Committee Minutes**

**Bannockburn Shire Hall**

**Tuesday 10 November 2015  
10.00am-11.30am**

# Committee Charter

1. To oversee the effective planning of the Shire in accordance with Council's Municipal Strategic Statement, policies and provisions of the Golden Plains Planning Scheme.
2. To work with the Development Unit to identify opportunities for the development of local planning policies and provide direction in the preparation of such policies and any relevant state policies.
3. To implement the provisions of the Golden Plains Planning Scheme, including the Municipal Strategic Statement, Local Planning Policies, State Planning Policies and Victorian Planning Provisions.
4. To consider the views of written submissions from the public; relevant Government and resource bodies and the Planning Officer's report and recommendations in the assessment of planning applications which attract objection(s) or are recommended for refusal.
5. To make recommendations to Council on planning applications and other planning matters, where appropriate.
6. To take all reasonable steps to improve our knowledge of matters relevant to our planning duties.

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### **3. DECLARATIONS & MINUTES**

#### **3.1. DECLARATIONS OF INTEREST**

File: 02-03-007

Councillors must disclose a conflict of interest in accordance with Section 79 of the *Local Government Act 1989*.

Nil

#### **3.2. CONFIRMATION OF MINUTES**

*Moved Crs Phelan/Cameron*

*That the Minutes of the Planning Committee meeting held 13 October 2015, as circulated, be confirmed.*

*Carried*

## 4. REPORTS

### 4.1. KEY RESULT AREA: ENVIRONMENT & LAND USE PLANNING

#### 4.1.1 Planning Application P15-133 use and development of land for a plant nursery at 151 Yverdon Drive, Bannockburn

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Leigh Page, Acting Planning Team Leader
Author	Adrian Peggie, Town Planner
File References	Planning Application P15-133
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The use of the land for a plant nursery
Land Address	151 Yverdon Drive, Bannockburn
Applicant	Just Building Surveying Solutions
Zone & Overlay Summary	Low Density Residential Zone Design and Development Overlay 5
Attachments	<ol style="list-style-type: none"> <li>1. P15-133 Plans</li> <li>2. P15-133 Locality Plan</li> <li>3. P15-133 Objections</li> </ol>

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Leigh Page: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Adrian Peggie: In providing this advice as the author, I have no disclosable interests in this report.

#### *Purpose*

This report relates to a planning permit application for the use of the subject land for a plant nursery. The application has been referred to the Planning Committee for determination as objections have been received and as refusal of the proposal is recommended. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes to use land at 151 Yverdon Drive, Bannockburn, for a plant nursery. 975 square metres of land on the western side has been designated as a plant propagation and storage area. There is a proposed storage area of 420 square metres. Eight car parking spaces have been proposed for the front of the site. It is expected that one to two people will be employed by the proposed use.

Three advertising signs are proposed for the site, being a business identification sign of 0.8 square metres at the front of the site, a directional sign of 0.24 square metres at the front of the site indicating the car parking and a further business identification sign of 2.6 square metres on the shed on the site. The signs are to be non-illuminated.

### *Site Description*

The subject site is located at 151 Yverdon Drive, Bannockburn. It is formally known as Lot 49 on Plan of Subdivision 508991, of the Parish of Murgheboluc. The lot is nearly rectangular with front boundary length of 64.5m and side boundaries of 138 and 141m. It has an area of 9,005 square metres. There is a dwelling in the middle of the front of the site. A large circular driveway fronts the dwelling. An ancillary shed is located behind the dwelling near to the western boundary. The site contains perimeter planting, with the remainder of the site containing scattered vegetation. The site is generally flat.

The subject site forms part of an established low density residential area. Lots in this area are typically of a similar size to the subject site and are used for residential purposes. Typically, houses are located towards the front of the lots, with paddocks to the rear. The area is generally a quiet, low-density residential neighbourhood with a relatively high degree of amenity. There are no footpaths in this part of Yverdon Drive.

### *History*

The application was received on 30 June 2015. Further information was requested in regards to the proposed use of the development, and the application was subsequently advertised.

The application was referred to the Council's Works and Environmental Health Departments. Neither Department objected to the proposal. The Works Department requested that a condition be applied to any permit granted.

Amended plans were submitted on 19 October proposing additional landscaping, an additional accessway and two additional car parking spaces.

### *Community Communication*

Notice of the application was given to eight neighbours pursuant to Section 52 (1)(a) of the *Planning and Environment Act 1987* ("the Act"). An advertisement was also displayed at the front of the site.

Eight objections were received following notification of the proposal. Copies of those objections are provided at Attachment 3. The common ground of those objections is that the proposed development will have a detrimental impact on the amenity of the area.

A consultation meeting was held on 14 September 2015 to discuss the proposal. The objectors concerns can be summarised as follows:

- Loss of amenity caused by noise from the additional traffic generated by the nursery due to increased vehicle movements.
- Loss of amenity caused by the display of advertisements for the nursery.
- Loss of amenity caused by odours from fertilisers.
- Potential for expansion of the nursery in the future.
- Precedent for other businesses to open in the area.
- Loss of property value.
- Adverse effect on safety from additional traffic.
- Decrease in security from additional persons in the area.
- Increased water run-off from the property.

No agreement was reached on any of the issues raised.

## *Golden Plains Planning Scheme*

### **STATE PLANNING POLICY FRAMEWORK (SPPF)**

#### **17.01-1 Business**

##### Objective

To encourage development which meet the communities' need of retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

##### Strategies (selected)

- Locate commercial facilities in existing or planned activity centres.
- Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

### **LOCAL PLANNING POLICY FRAMEWORK (LPPF)**

#### **21.03-2 Township areas**

##### Objectives and Strategies

**Objective 1 To direct commercial and retail development to appropriate locations.**

Strategy 1.1 Encourage higher order and specialty retail services to locate in Bannockburn.

Strategy 1.2 Encourage commercial and retails services to locate in Bannockburn and district commercial and retail centres.

Strategy 1.3 Encourage commercial and retail services that service immediate residents to locate in town commercial and retail centres.

Strategy 1.4 Avoid linear commercial and retail development along highways and beyond identified commercial precincts.

#### **21.07-1 Bannockburn**

##### Objectives and strategies

**Objective 1 To promote growth in Bannockburn that is sustainable in accordance with the Overall Principles Plan and Land Use Precinct Plan.**

Strategy 1.5 Strongly discourage commercial development that is independent and separated from the defined town centre, unless a proposal can clearly demonstrate that it will benefit the needs of its local catchment and the greater Bannockburn township.

### **ZONE & OVERLAY PROVISIONS**

#### **32.03 Low Density Residential Zone**

##### Purpose

- 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 low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.



**32.03-6 Decision Guidelines**

- The State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

**43.02 Design and Development Overlay**

The proposal does not trigger any permit requirements pursuant to this Overlay.

**PARTICULAR PROVISIONS****52.05 Advertising Signs**

Advertising signs in the Low Density Residential Zone are in Category 3.

A Business identification sign is a Section 2 sign in Category 3. A Direction sign is a Section 1 sign for which a permit is not required.

**52.05-3 Decision guidelines**

- The character of the area including:
  - The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.
  - The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
  - The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
  - The consistency with any identifiable outdoor advertising theme in the area.
- Impacts on views and vistas:
  - The potential to obscure or compromise important views from the public realm.
  - The potential to dominate the skyline.
  - The potential to impact on the quality of significant public views.
  - The potential to impede views to existing signs.
- The relationship to the streetscape, setting or landscape:
  - The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.
  - The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.
  - The ability to screen unsightly built or other elements.
  - The ability to reduce the number of signs by rationalising or simplifying signs.
  - The ability to include landscaping to reduce the visual impact of parts of the sign structure.
- The relationship to the site and building:
  - The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
  - The extent to which the sign displays innovation relative to the host site and host building.
  - The extent to which the sign requires the removal of vegetation or includes new landscaping.
- The impact of structures associated with the sign:
  - The extent to which associated structures integrate with the sign.
  - The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.

- The need for identification and the opportunities for adequate identification on the site or locality.
- The impact on road safety. A sign is a safety hazard if the sign:
  - Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.
  - Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.
  - Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
  - Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
  - Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
  - Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
  - Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
  - Is within 100 metres of a rural railway crossing.
  - Has insufficient clearance from vehicles on the carriageway.
  - Could mislead drivers or be mistaken as an instruction to drivers.

#### **52.06 Car Parking**

Plant nurseries do not have a defined level of required car parking. Pursuant to Clause 52.06-5A, such uses have to provide a number of car parks that is satisfactory to the responsible authority.

#### **52.07 Loading and unloading of vehicles**

Provision must be made for a loading bay unless adequate provision is made to the satisfaction of the responsible authority.

### **GENERAL PROVISIONS**

#### **65 Decision Guidelines**

The relevant matters to consider are:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone.
- Any matter to be considered in the zone provisions.
- The effect on the amenity of the area.

## *Discussion*

### **Planning Scheme**

The proposed use is considered to fail to meet the objectives of the State Planning Policy Framework and the Local Planning Policy Framework.

### **POLICY FRAMEWORKS**

#### **State Planning Policy Framework**

- The proposed use is considered to meet a community need in that there are relatively few such retail facilities in the Bannockburn area.
- The proposed use is not, however, located in an existing or planned activity centre.
- The proposed use is considered to be a small scale shopping opportunity that meets the needs of local residents. It is not, however, deemed to be in a suitable area.
- The site is not considered to be in a convenient location. The street is in a quiet part of Bannockburn. The nearest road in a Road Zone is High Street, which is approximately 1.96km by road. The site is effectively isolated from other commercial uses. This particular part of the street has little traffic. Most of the traffic appears to be highly localised, ie it is going to or from houses on that part of the street. Furthermore, the site is not on a corner. It is considered that the site could hardly be in a more inconvenient location.
- It is considered that the proposed use does not meet the State Planning Policy Framework.

#### **Local Planning Policy Framework**

- It is considered that the proposed use is not in an appropriate location, as explained above.
- It is considered that the use is likely to benefit the needs of its local catchment and the greater Bannockburn township, although this has not been clearly demonstrated, nor has it been demonstrated that there are no suitable alternative sites in the town centre.

#### **Previous Council decisions**

The Council has issued permits for commercial developments on sites in the Low Density Residential Zone in the fairly recent past. Two such examples are:

##### P13-055 – The use and development of the land for a service station

This site is on the corner of the Midland Highway and the Bannockburn-Shelford Road. It is a much more convenient location for a commercial development as it is bordered by two roads in a Road Zone. The surrounding area is not an established residential neighbourhood.

##### P13-293 – The use and development of the land for a plant nursery

This site is on Bannockburn-Shelford Road at the entry to Teesdale. The delegate report reveals that part of the reasoning for it being acceptable was its direct access to a main road, which made it a convenient location.

### **ZONING PROVISIONS**

#### **Low Density Residential Zone**

It is considered that the proposal does not meet the purpose of the Zone as it does not implement the State or Local Planning Policy Frameworks, for the reasons mentioned earlier in the report.

## **PARTICULAR PROVISIONS**

### **52.05 Advertising Signs**

It is considered that the advertising signs proposed are suitable for the site.

#### Character

There is no identifiable outdoor advertising theme in the area as there very few signs in the area. The signs proposed are generally of a small-scale and won't lead to clutter or visual disorder.

#### Impacts on views and vistas

The signs won't impact any particular views or vistas. The proposed signs are not bulky and would not obscure or compromise any important views or dominate the skyline.

#### The relationship to the streetscape

The streetscape is generally defined by rural fences, some front boundary landscaping and generous setbacks to dwellings. It is considered that the sign at the front of the site won't have an unacceptable impact on the streetscape.

#### The relationship to the site and building

The front sign is considered acceptable. Displaying a sign on the shed is considered to be an appropriate location as it won't protrude from the building and obstruct any other views.

#### The impact of structures associated with the sign

The sign at the front will be attached to the existing front fence and the other sign will be attached to the existing shed.

#### The need for identification

Uses such as plant nurseries rely on an extent to passing trade and word-of-mouth and also on appropriate identification. It is considered that such a use has some need for on-site advertising.

#### The impact on road safety

The signs are not expected to have an impact on road safety.

### **52.06 Car Parking**

A balance must be struck between providing excessive car parking, which could lead to excessive areas of car parking and thus adversely affect the appearance of the site being altered, and providing sufficient car parking thus avoiding having potential customers park on-street.

The Works Department has no objection to the proposed number of car parking spaces.

Three visitor surveys have been carried out. The two nurseries below have a smaller propagation area than the proposed use. The Teesdale nursery has a similarly-sized sales area and provides approximately four car parking spaces. The other nurseries would likely benefit more from passing trade than the subject site, due to their prominent locations.

#### North Valley Road Nursery, Highton

Survey Time: 12:30 – 12:50, Thursday 8 October, 2015  
Conditions: Warm, sunny day during term time  
Visitors: One

Bannockburn-Shelford Road Nursery, Teesdale

Survey Time: 15:00 – 15:20, Thursday 22 October, 2015  
Conditions: Cool, partly cloudy day during term time  
Visitors: One

North Valley Road Nursery, Highton

Survey Time: 10:12 – 10:32, Saturday 24 October, 2015  
Conditions: Partly cloudy, pleasant day  
Visitors: 20 in 12 vehicles (max. number of cars parked at any time was six)

It is considered that eight car parking spaces should be sufficient at the busiest of times. There are other areas on the front driveway where overflow parking could be directed in such circumstances.

**52.07 Loading and Unloading of Vehicles**

It is considered that there will be a relatively low number of trips to supply new stock, given the nature of the business. The car park provided is expected to be suitable for loading and unloading.

**GENERAL PROVISIONS****Clause 65**

The proposal is likely to affect the amenity of the area to a degree. This part of the report aims to determine whether the amenity of the area would be affected to an unacceptable degree.

The act of propagating and raising trees and plants is not expected to have a detrimental effect on amenity. If anything, it would be considered to have a positive impact on amenity. There may be occasional issues experienced with the application of fertiliser but, on balance, it is considered that such an action is generally positive in terms of improved visual amenity and improved environmental amenity. Appropriate screening should be sought for the front of the site to ensure that views of the car parking area are obscured.

The main impact from the proposed use would be from the additional vehicles and pedestrians attending the site, both customers and suppliers. The weekends are expected to be the busiest times given that the majority of people use the weekends for home improvements and hobbies. More particularly, weekends during the planting season in spring are expected to be busy.

The operation of the nursery during weekdays is not considered to be a particular problem. This would be during times when most people could be expected to be at work or at school (despite the prevalence of shift workers in the area). The bigger issue would be the weekends, when people have an expectation to the quiet enjoyment of their home.

In the absence of proposed visitor and vehicle movement figures, it is considered that the proposal may have an unacceptable impact on amenity. The weekend visit to North Valley Road revealed that there is continuous noise from car doors and boots closing. People generally visit in pairs so that there is some noise associated with conversations. Although these acts alone have little impact on amenity, it is considered that the potential cumulative noise impact would be unacceptable for this particular locality. Were the property abutting a Road Zone, the impact on amenity would be negligible given the greater traffic and noise to which such sites are subject.

***Response to grounds of objections*****Loss of amenity caused by noise from the additional traffic generated by the nursery and the additional comings and goings to the site.**

There would be some loss of amenity from the additional traffic generated by the nursery and from the additional comings and goings to the site.

Loss of amenity caused by the display of advertisements for the nursery.

The proposed advertisements are small-scale and a relatively tasteful appearance. It is not considered that they would have an undue effect on amenity.

Loss of amenity caused by odours from fertilisers.

It is considered that odour issues are balanced-out by the positive effect that additional greenery can have on the local environment.

Potential for expansion of the nursery in the future.

Any further expansion would require an additional town planning permit. Such issues could be dealt with in that forum.

Precedent for other businesses to open in the area.

It is considered that, while a plant nursery opening in the area may have a small but not unacceptable impact on amenity, further businesses opening in the area would be likely to result in a cumulative loss of amenity that would be unacceptable. In any event, it is considered that the business is not located in an appropriate location, as the site is tucked away in a small residential street in Bannockburn.

Loss of property value.

The loss of property value is not a planning consideration.

Adverse effect on safety from additional traffic.

The application has been referred to the Council's Works Department and no road safety issues have been raised.

Decrease in security from additional persons in the area

Increased traffic to and from the site is intended to go directly into the site. Any loss of security is expected to be negligible.

Increased water run-off from the property

Although it is expected that water on the site will be used efficiently, a condition can be applied to any permit granted requiring that no loss of amenity occur as a result of water run-off from the site.

***Financial & Risk Management Implications***

It is considered that there are no financial or risk management implications.

***Economic, Social & Environmental Implications***

It is considered that the application does not present any economic, social or environmental implications.

***Conclusion***

The application fails to satisfy all the provisions of the State Planning Policy Framework and the decision guidelines of the zone and the Planning Scheme. The development is therefore considered unacceptable.

***Conditions to be applied in the event of a permit being issued***

The following conditions are recommended should the application be approved:

1. Before the use starts, 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. The plans must show (the plans must be generally in accordance with the latest plans submitted with the application but modified to show):
  - a) the siting of all works proposed to be constructed, including access lanes, car parking areas and driveways proposed;
  - b) elevations of the front fence and proposed business identification sign, including materials, lettering and colouring;
  - c) landscaping and planting proposals at the front of the site and to the western side of the proposed selling area, together with details of water storage tanks and any excavations, embankments, retaining walls and the like and treatments proposed to be adopted to beautify such works and to prevent soil erosion.
2. The plant nursery shall only open from the hours of 9-5 on weekdays, and 12-4 on weekends and public holidays.
3. Loading and unloading of goods shall only occur on the site and during opening hours.
4. The use shall not commence until eight car parking spaces have been provided on the site to the satisfaction of the responsible authority. Such spaces shall remain accessible at all times. The car parking area is to be a minimum of 100mm class 2 crushed rock and be adequately drained. All car parking and internal access must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
5. The layout of the site and works as shown on the endorsed plans must not be altered or modified without the written consent of the responsible authority.
6. The development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.
7. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any building, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or,
  - d) presence of vermin.
8. This permit will expire if the use is not started within two years of the date of this permit. The responsible authority may extend this period if a request is made in writing before the permit expires, or within six months afterwards.

***Note: The location of the proposed works must not interfere with or be detrimental to the operation of the effluent disposal system or associated irrigation lines. It is the applicant's responsibility to ensure that this requirement is complied with.***

***Moved Crs Blake/Phelan***

***That Council suspend Standing Orders to hear three submissions.***

***Carried***

It is recorded that Council suspended Standing Orders at 10.21am.

It is recorded that Catherine Vest-Gerdtz, Leanne Hensall and Peter Moore addressed Council between 10.21am and 10.34am

***Moved Crs Blake/Vaughan***

That Council resume Standing Orders.

***Carried***

It is recorded that Council resumed Standing Orders at 10.34am.

***Moved Crs Blake/Hansford***

***That the Planning Committee resolves to issue a Notice of Decision to Refuse to Grant a Permit for the use of land for a plant nursery at 151 Yverdon Drive, Bannockburn, for the following reasons:***

- ***the proposal fails to accord with Clause 17.01-1 the State Planning Policy Framework and Clauses 21.03-2 and 21.07 of the Local Planning Policy Framework, in that the use is not situated in an appropriate location.***
- ***the proposal fails to accord with Clause 65 of the Planning Scheme, in that the use would have an unacceptable impact on the amenity of the area.***

***Carried***



#### 4.1.2 Planning Application P15-104 for removal of an existing covenant at 20 Fleurs Lane Batesford

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Leigh Page, Acting Planning Team Leader
Author	Luke Gavin, Town Planner
File References	Planning Application P15-104
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The removal/variation of existing covenant
Land Address	Lot 3 PS 523081 (20) Fleurs Lane, Batesford
Applicant	Neil Buttigieg
Zone & Overlay Summary	<ul style="list-style-type: none"> <li>▪ Low Density Residential Zone</li> <li>▪ Design and Development Overlay Schedule 5</li> <li>▪ Development Overlay Schedule 2</li> </ul>
Attachments	<ul style="list-style-type: none"> <li>4. P15-104 Locality Plan</li> <li>5. P15-104 Objections</li> <li>6. P15-104 Restrictive Covenant AD057539H and copy of title</li> </ul>

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Leigh Page: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Luke Gavin: In providing this advice as the author, I have no disclosable interests in this report.

#### *Purpose*

This report relates to a planning permit application for the removal/variation of an existing covenant. The application has been referred to the Planning Committee for determination as three objections to the proposal have been received. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes to vary the existing covenant AD057539H affecting the land located at 20 Fleurs Lane, Batesford, to allow two dwellings on the lot.

The applicant is seeking to remove section (i) of part (a) which states:

*(a) shall not at any time hereafter erect or build or cause to suffer to be erected or built on the lot or any part thereof:-*

*(i) any more than one single dwelling house*

The removal of section (i) of part (a) of covenant AD057539H would allow for another dwelling to be constructed on the land if it were to be subdivided in the future.

### *Site Description*

The subject site is located at 20 Fleurs Lane, Batesford. The site has a total area of 1.2 hectares, and is of a rectangular nature. The site has a road frontage of 108.32 metres to Fleurs Lane and a depth of 130.38 metres on its eastern boundary. The site currently contains a dwelling and an associated outbuilding, there is existing landscaping located between the dwelling and the property boundary. The existing outbuilding is used for domestic purposes. The northern boundary of the site bounds the Midland Highway. The site is accessed by an existing crossover located on Fleurs Lane.

The site is situated within the Dog Rocks Estate located on the western outskirts of the Batesford Township. The estate is characterised by larger lots typically with an area of around 1 hectare. Most properties are developed with dwellings and outbuildings.

The land is located within the Low Density Residential Zone and is covered by Design and Development Overlay Schedule 5 and Development Plan Overlay Schedule 2. Road Zone Category 1 exists to the north of the site in the form of the Midland Highway.

### *History*

The application was received on the 21<sup>st</sup> of May 2015. Following further information requests the application was placed on advertising on 3<sup>rd</sup> of September to all beneficiaries of the covenant.

### *Community Communication*

Notice of the application was given to beneficiaries of the covenant pursuant to Section 52 of the *Planning and Environment Act 1987* ("the Act"). Three objections were made to the proposal, a copy of each is provided at Attachment 3. The objections were made on three main grounds: The loss of amenity caused by the proposed additional smaller lot (i), Infrastructure issues relating to drainage/water and electricity (ii) and increased traffic flow along Fleurs Lane (iii). A consultation meeting was held on the 7<sup>th</sup> of October 2015. The consultation was unable to resolve the concerns of the objectors who maintained their objection to the proposed development.

### *Golden Plains Planning Scheme*

#### **Particular Provisions**

##### Clause 52.02 – Easements, restrictions and reserves

A planning permit is required under Clause 52.02 to create, vary or remove and easement of restriction.

- Before deciding on an application, the responsible authority must consider the interests of affected people.

### *Discussion*

#### **Planning Scheme**

The application seeks to vary the restrictive covenant only and therefore there are limited relevant policy provisions within the planning scheme to be considered.

#### **Particular Provisions**

The interests of the affected people must be considered as outlined in Section 60 of the Act below.

## Section 60 of the Planning & Environment Act 1987

Section 60 of the Act specifies a number of matters that the responsible authority must consider before deciding an application. Under Section 60(2) of the Act Council must satisfy itself that the owners of any land benefited by a covenant will be unlikely to suffer detriment of any kind. Section 60(2) states the following:

*The responsible authority must not grant a permit which allows the removal or variation of a restriction unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer–*

- (a) financial loss; or*
- (b) loss of amenity; or*
- (c) loss arising from change to the character of the neighbourhood; or*
- (d) any other material detriment– as a consequence of the removal or variation of the restriction.*

Therefore if an objection is received from a person benefited by the covenant, Council must not grant a permit, as Council cannot be satisfied that the grant of a permit is unlikely to cause detriment to that person.

There have been numerous VCAT cases which directly speak about the powers that the responsible authority have when determining an application against the above criteria. The majority of the cases all make the same conclusions, one such decision is ***Uzunovski v Wyndham CC [2014] VCAT 494 (1 May 2014)*** In this decision, the tribunal discusses impacts of allowing a second dwelling on a lot in respect to neighbourhood character and states;

*1. The Restrictive Covenant was intentionally put over the subject site and benefits some of the other properties in the immediate surrounds in order to create low density character. I find that the development proposal will change this established low density character of the immediate surrounds.*

*2. To allow a second single storey dwelling will actually impact on the neighbourhood character of the beneficiaries to the covenant and so the benefitting owners or affected persons will suffer loss or detriment as a consequence.*

It is considered in this application that Council cannot be convinced that the variation of the restrictive covenant will not result in any loss arising from change to the character of the neighbourhood. Therefore it is not considered Council cannot issue a planning permit based on the decision guidelines of Section 60 under the Planning and Environment Act 1987

### Clause 65 Decision Guidelines

It is considered that the proposal is supported by the Planning Policy Frameworks, the zoning and overlay provisions and the particular provisions.

#### *Financial & Risk Management Implications*

It is considered that there are no financial or risk management implications.

#### *Economic, Social, Cultural Heritage & Environmental Implications*

It is considered that the application does not present any economic, social, cultural heritage or environmental implications.

#### *Conclusion*

The proposed covenant variation is not considered to meet the objectives and requirements of the state and local planning policy frameworks, the zoning and overlay provisions, and the relevant particular and general provisions of the Scheme. The proposal is not considered acceptable. It is considered that the development will cause material detriment to beneficiaries of the covenant.

***Moved Crs Vaughan/Blake******That Council suspend Standing Orders to hear a submission.******Carried***

It is recorded that Council suspended Standing Orders at 10.40am.

It is recorded that Neil Buttigieg addressed Council between 10.40am and 10.45am

***Moved Crs Blake/Kirby******That Council resume Standing Orders.******Carried***

It is recorded that Council resumed Standing Orders at 10.45am.

***Moved Crs Blake/Phelan******That the Planning Committee resolves to issue a Notice of Decision to Refuse to Grant a Permit to vary restrictive covenant AD057539H at (20 Fleurs Lane, Batesford), on the following grounds:***

- 1. The application fails to meet subsection (b) and (c) of Section 60 (2) of the Planning and Environment Act 1987.***

***Carried***

#### 4.1.3 Planning Application P14-328 for the Use and Development for Intensive Animal Husbandry (Free Range Egg Production) and Associated Sheds, Office, Workshop and Caretakers Dwelling at Crown Allotment 71A, Parish of Carrah, 890 Meredith-Shelford Road, Bamganie.

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets and Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader and Author	Leigh Page, Acting Planning Team Leader
File References	P14-328
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The use and development of land for Intensive Animal Husbandry (Free Range Egg Production) and associated sheds, office, workshop, and caretakers dwelling
Land Address	Crown Allotment 71A, Parish of Carrah, 890 Meredith-Shelford Road, Bamganie
Applicant	Scolexia Pty Ltd
Zone & Overlay Summary	Farming Zone (FZ)
Attachments	7. P14-328 – Application and plans 8. P14-328 – Locality Map 9. P14-328 – Copy of objection

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Leigh Page: In providing this advice as the responsible team leader and author, I have no disclosable interests in this report.

#### *Purpose*

This report relates to a planning permit application for the use and development of four (4) free range layer sheds, amenities/workshop, generator/mains power shed, car parking and roads at Crown Allotment 71A, 890 Meredith-Shelford Road, Bamganie. The application has been referred to the Planning Committee for determination as an objection to the application was received. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes the use and development of the land for an egg layer farm (four sheds) with the capacity of 74,000 birds (refer to Attachment 1 – copy of application and plans). The proposal consists of four (4) sheds (each shed housing 18,500 birds), silos, an amenities/workshop, generator/main power shed, car parking and internal roads. Each sheds will be clad with a 4.3 metre high concrete wall with openable hatches to allow chickens to access the outside area and a double sided curtain with bird proofing mesh above the concrete wall. Each shed will have a length of 148 metres by 15.5 metres wide (2294 square metres). Nesting boxes will be located in the centre of the shed, with removable plastic slats on the floor. The chickens will have access to an outdoor area either side of the shed. The free range areas will

be within the 35 hectare fenced area surrounding the development that keeps the birds from escaping.

The proposal will comprise two (2) stages with two (2) sheds being constructed in each stage to ensure that the development proceeds in an efficient manner. The other buildings and dwelling will be built in Stage 1.

An internal roadway will provide access to the sheds from Meredith-Shelford Road. This internal road system will provide access to the end of each shed to enable the eggs to be picked up and delivered to the processor, supply feed to the birds and the removal of manure.

A new amenities/workshop building will be located on the site to provide amenities and a lunch room for staff. The building will have a floor area of 170 square metres and is to be placed in the centre of the development next to the entrance road. There will be car parking provided next to the amenities building. A septic tank system will be installed to treat wastewater from the amenities building.

The site is currently connected to reticulated power, this will need to be upgraded at a later stage. A standby generator will be housed in a shed as a backup in the event of a power failure. The shed will have a floor area of approximately 60 square metres and is located next to the amenities/workshop building.

The proposal will employ two full time staff, plus casual staff would be required to operate the sheds at selected times when each batch of birds are removed and when cleaning out of the sheds is required. The production cycle involves layer birds being reared off site and are delivered to the site at the age of 16 weeks and remain on the site until 54 weeks. At the end of each batch, the birds will be removed, during the night and the sheds will be cleaned out and all litter removed from the sheds and the site. The eggs are conveyed from the nest boxes and then placed on egg trays. Any dead or diseased birds will be collected on a daily basis, stored in a freezer and then taken off site for disposal.

There will be landscaping provide along all boundaries of the site to minimize any visual amenity of the rural area.

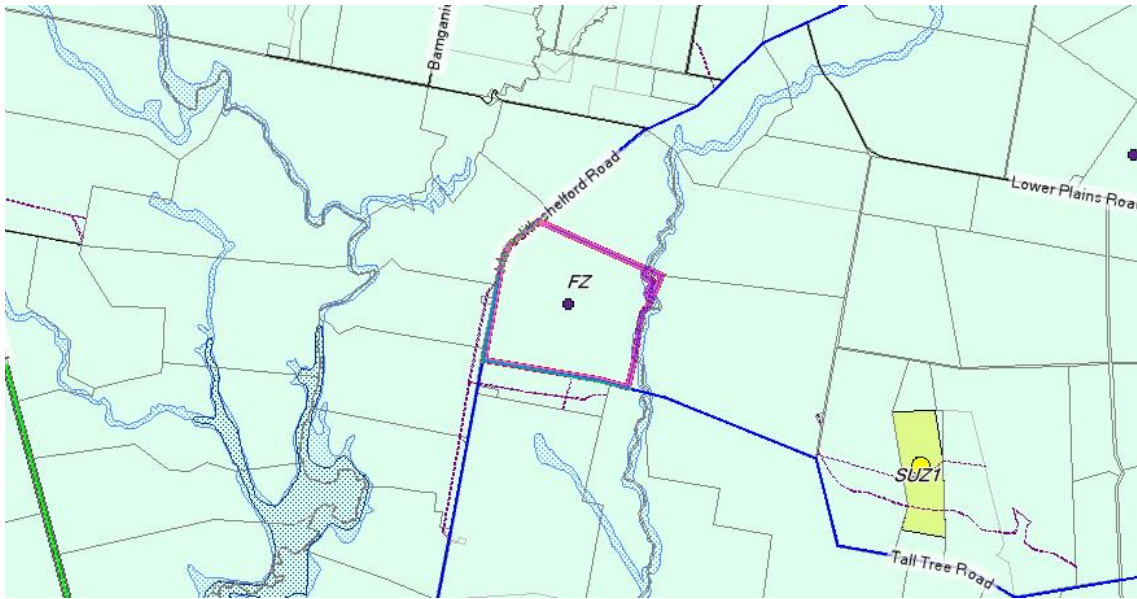
The proposed dwelling is to be located towards the north western corner of the site. The dwelling will be 17.4 metres x 8.6 metres and comprises three (3) bedrooms, ensuite and walk in robe to bedroom 1, separate bathroom, study, separate toilet, laundry, dining and living rooms. A verandah is proposed along the southern side of the proposed dwelling. The setback of the proposed dwelling will be approximately 600 metres from Meredith-Shelford Road.

### *Site Description*

The subject land is situated on the north east corner of Meredith-Shelford Road and Tall Tree Road (refer to Attachment 2 – locality map). The land is not affected by any restrictive covenants. The site is located in a rural area. The site has an area of 249.5 hectares and is used for agriculture and cropping purposes. The proposed facility is located centrally on this site.

Surrounding land is predominantly used for agricultural purposes. Access to the site is from Meredith-Shelford Road which is a sealed road. A Special Use Zone 1 is located approximately 3km to the east zoned for Refusal Disposal, this site currently contains the previously approved incinerator.





Zoning map

There are five (5) dwellings located in the immediate area of the site, however these dwellings are situated outside the 500 metre buffer as required for chicken farms.



500 metre buffer from existing dwellings

**History**

The application was received by Council on 19 December 2014, at the time a preliminary assessment of the application was undertaken. The application was not referred as there are no referral authorities specified in the planning scheme for an application of this type. However, Council sought advice of the Corangamite Catchment Management Authority (CCMA) and the Environment Protection Authority (EPA) in regard to the application.

The application was also internally referred to Council's Works Unit in regard to use of Meredith – Shelford Road and Council's Environmental Health Department

### *Communications*

This application was advertised in accordance with the Planning and Environment Act 1987.

Notice of the application was given in accordance with Section 51(1)(a), (b) and (d) of the Planning and Environment Act 1987. Notice was provided by mail to adjoining and neighbouring owners and occupiers within a 1.0 kilometre radius of the site. Notice was also carried out by placing a sign on the site and by publishing notices in the Geelong Adviser. As a result of public notice one objection was received. A copy of the objection is provided at Attachment 3.

The objector and the applicant were invited to a consultation meeting held on the 29 September 2015. There was no resolution or agreement reached as a result of the meeting.

### *Summary of Objections*

The grounds of objections are summarized as follows:

1. Inappropriate Sighting - The objector was concerned that the positioning of the facility was located away from the owners dwelling and closer to existing dwellings surrounding the site.
2. Inaccurate Information - Concerns were raised in relation to the details contained within the documents submitted to Council.
3. Traffic Issues - The objector had concerns relating to the frequency of vehicles to and from the site and the types of roads the trucks will be using.
4. Storm Water and Effluent Treatment - The objector had concerns relating to storm water disposal and effluent treatment onsite.

At the consultation meeting it appeared that the objectors main concern was in relation to overland flow and retention of stormwater on the land as well as the drainage network once water hits the roadside drains.

## **Golden Plains Planning Scheme State Planning Policy Framework (SPPF)**

### Clause 11.05 Regional Development

The State Planning policy for regional development includes particular policies related to Melbourne's hinterland areas and rural productivity. The policy for Melbourne's hinterland areas (Clause 11.05-2) applies to the area within 100 kilometres of Melbourne's Central Activities District and aims to manage growth by preventing dispersed settlement and providing for development in selected settlements having regard to, among other things, agricultural activities in the area. The policy for rural productivity (Clause 11.05-3) aims to manage land use change and development in rural areas to promote agriculture and rural production.

### Clause 13.04 Noise and Air

The objective of the State Planning Policy for noise abatement (Clause 13.04-1) is to assist the control of noise effects on sensitive land uses. The policy seeks to ensure that amenity is not reduced by noise emissions, using a range of design and land use separation techniques as appropriate to the land use functions and character of the area. Planning must consider as relevant the Interim Guidelines for Control of Noise from Industry in Country Victoria, EPA 1989.

The state planning policy for air quality (Clause 13.04-2) aims to assist the protection and improvement of air quality by ensuring that there is suitable separation between land uses that



reduce amenity and sensitive land uses. Planning must consider as relevant the State Environment Protection Policy (Air Quality Management).

#### Clause 14.01 Agriculture

The State Planning Policy for agriculture includes particular policies for the protection of agricultural land and sustainable agricultural land use. The policy for the protection of agricultural land (Clause 14.01-1) 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. The policy for sustainable agricultural land use (Clause 14.01-2) supports effective agricultural production and facilitates the establishment and expansion of poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

#### Clause 14.02 Water

The objective of the State Planning policy for catchment planning and management (Clause 14.02-1) is to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment. This policy seeks to retain natural drainage corridors with vegetated buffer zones at least 30m wide along each side of a waterway to maintain the natural drainage function, stream habitat and wildlife corridors and landscape values, to minimise erosion of stream banks and verges and to reduce polluted surface runoff from adjacent land uses. It also seeks to undertake measures to minimise the quantity and retard the flow of stormwater runoff from developed areas, encourage measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins. The policy also seeks to ensure that works at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses and require the use of appropriate measures to restrict sediment discharges from construction sites.

### **Local Planning Policy Framework (LPPF)**

#### Clause 21 Municipal Strategic Statement

The Municipal Strategic Statement (MSS) recognizes maintaining and encouraging viable agricultural industries as a key affecting the Shire's land use planning and development (Clause 21.02). Agriculture is the major land use in the Shire and whilst the Shire does not have a substantial amount of high quality agricultural land there has been growth of intensive agriculture including specialist livestock industries. The strategic direction and vision statement for the Golden Plains Shire (Clause 21.03) states that the Shire, in partnership with the community and through its decisions and actions, will work for the sustainable development of the Shire based on, among other things, facilitating productive agricultural activities. The Council Plan contains objectives and actions to encourage economic development and recognizes a prosperous agricultural industry supporting sustainable practices.

The agricultural policy (Clause 21.04-3) emphasises the economic importance of agricultural industries to the Shire, including poultry and recognizes that an important land use management issues is the potential for conflict between sensitive uses and agricultural practices. The objectives of agriculture policy seeks to ensure that the use and development of rural land is both compatible and complementary to agricultural activities and to encourage agricultural diversity and promote opportunities for new farming enterprises.

The Golden Plains Rural Land Use Strategy is a reference document to the planning scheme. The Strategy is designed to guide future land use and development across the Shire's rural areas. The Strategy recognizes that there has been significant growth in intensive animal industries in the Shire. The Strategy found that the industry has been attracted to the region by extensive areas of large farms in the central and south east areas where settlement is dispersed and substantial buffers to rural dwellings exist. The objectives of the Strategy include, among other things, to provide for value adding rural industries, including intensive animal industries, where

they can be sited so as to avoid conflicts and impacts on towns and settlements, residential uses, other agricultural uses and identified environmental values.

#### Clause 22.03 Intensive Animal Husbandry

This policy provides siting and design guidelines for intensive animal husbandry. The policy recognizes that there are many intensive animal husbandry uses located in the Golden Plains Shire that represent an important local industry.

The primary objective of this clause is to ensure appropriate siting of facilities so as to not impact on the environment, maintain the amenity of any nearby residential area and achieve consistency with state policy.

A more detailed assessment against this clause is found in the discussion section of this report.

#### Zone Provisions

The site and surrounding land is in the Farming Zone (FZ). The primary purpose of the Farming Zone is to provide for the use of land for agriculture. Intensive animal husbandry (egg layer farm) is a Section 2 use (Permit required) subject to a condition that it meets the requirements of Clause 52.31 of the planning scheme. Before deciding on an application Council must consider the relevant decision guidelines of the farming Zone which include the following:

##### General Issues

- The State Planning Policy Framework and the Local Planning policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land;
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

##### Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

##### Environmental issues

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on 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.

### *Discussion*

The application is considered to satisfy the provisions of the State Planning Policy Framework, the Local Planning Policy Framework, Farming Zone, Clause 52.31 (Broiler Farm) and Clause 65 of the Victorian Planning Provisions (VPPs). The proposed use and development is consistent with state and local agriculture policies and the Rural land Use Strategy which seek to facilitate the establishment of intensive animal industries in suitable locations.

### **Intensive Animal Husbandry**

<b>Policy</b>	<b>Response</b>
That part of the site area which is developed with enclosures, yards or buildings used for the holding of animals should be suitably located and designed.	<b>All free range areas will be fenced and located adjacent to the sheds. The sheds are sited in a cluster.</b>
No enclosures, yards or buildings in which animals are raised on an intensive raising system should be located within 200 metres of any river, creek, water course or pondage, within 500 metres of a dwelling on any other property, or within 30 metres of any road (whether or not such road forms the frontage).	<p><b>The proposed buildings are located at least 500 metres from the nearest dwelling.</b></p> <p><b>The proposed buildings are located outside 200 metres of the existing water course along the eastern boundary of the site. The application was referred to Corangamite CMA for comment, who have indicated that they do not object to the granting of a permit.</b></p> <p><b>The development is located at least 30 metres from any road.</b></p>
The site used should have an area of not less than 4 hectares, and the total area for buildings, yards, or enclosures used for the enclosure of animals should not exceed 10 percent of the area of the site.	<b>The subject site has a total area of 249 hectares. The developed area will not exceed 10 percent of the area of the site. There are no enclosures or yards associated with the development, only buildings. The proposed buildings occupy approximately 2.0 hectares of the site (less than 1%).</b>
Buffer areas should be contained wholly on the property where practical.	<b>The 500 metre buffer will encroach adjoining property to the south. It is considered that this setback does not restrict the use of the adjoining land, nor does it extend to the location of existing dwellings.</b>
Landscaping of the site should be undertaken so as to remove any adverse visual impact of the development on the surrounding area.	<b>Conditions of the planning permit seek landscaping around all boundaries of the site to provide an effective visual screen. The appearance of the sheds is not inconsistent with other existing agricultural developments within the surrounding landscape.</b>
All manure and polluted run-off water from any enclosures, yards or buildings used in conjunction with any intensive animal husbandry, or any water otherwise contaminated as a result of such use, shall be treated and disposed of either within the boundaries of the site or in an alternative manner to the satisfaction of the responsible authority.	<b>An environmental management plan has been submitted with the application and details proposed surface run-off methods for detention. The development is outside the 200 metres of the watercourse to the east and appropriate fencing and landscaping will be provided to remove any potential of contamination into the creek.</b>

Policy	Response
Measures should be taken to the satisfaction of the responsible authority to ensure that the use and development proposed does not prejudicially affect the amenity of the locality by reason of appearance or emission of noise, smell, fumes, waste water, waste products or otherwise.	<b>Conditions of the permit seek to protect the amenity of the closets adjoining and adjacent properties from dust, noise, odour and traffic.</b>
Infrastructure (such as roads and water supply) should be paid for and provided for by the proponent.	<b>Conditions on the permit seek construction of internal roads, drainage, etc...</b>

It is considered that the development is in accordance with Council’s Intensive Animal Husbandry Policy and the proposed conditions on the permit will address amenity, traffic, internal road and drainage construction and landscaping.

**Objections**

**Inappropriate Sighting**

The proposed development meets the setbacks as required by Council’s Local Planning Policy 22.03 which relates to Intensive Animal Husbandry for buffer distances of 500 metres from the development to any sensitive land uses (dwellings). It also just falls short on the southern boundary to wholly contain the buffer areas within the property.

**Inaccurate Information**

It has been deemed that the application contains all relevant information relating to this development. The application does not contain reference to the Land Subject to inundation Overlay as the building and works are located outside this overlay.

Additional plans were also submitted that showed the details that the objection had sought clarification over.

**Traffic Issues**

The application has outlined the following vehicle movement:

- birds would be delivered/removed once annually,
- feed would be delivered 6 times monthly
- egg pick occurs once weekly
- deceased chickens would be removed once weekly
- staff vehicles would move to and from the site twice daily

Given the agricultural operations in the area it would be deemed that the vehicle movements to and from the site would not be deemed to be excessive and would be in keeping with other agricultural operations.

The proposed development has been assessed by Council’s works department for a review of any requirements for road upgrade works. They have determined that no conditions for upgrading works of the road are required.

**Storm Water and Effluent Treatment**

All stormwater runoff from the newly constructed buildings will be directed to the retention basin located onsite. The basin will be capable of holding enough water if a major rain event were to occur.

Stormwater retention should not be an issue given the size of the retention basin to be constructed onsite. The applicant demonstrates that the proposed basin is capable of holding over 2 times the retention capacity required for a major rain event.

The sheds are cleaned in cycles, the design of the shed ensures that waste does not run off into the soils.

### *Cultural Heritage Implications*

The proposed development sits outside of the area shown for Aboriginal Cultural Heritage Sensitivity.

No Cultural Heritage Management Plan is required.

### *Financial & Risk Management Implications*

It is considered there are no financial or risk management implications.

### *Economic, Social & Environmental Implications*

It is considered that there are no economic, social, or environmental implications.

### *Conclusion*

The application satisfies the provisions of the State and Local Planning Policy Frameworks, the Farming Zone, Clause 22.03 (Intensive Animal Husbandry) and the decision guidelines of the planning Scheme (Clause 65). The site is considered to be appropriate as it will facilitate the establishment of an important and productive agricultural industry in a manner that is consistent with the orderly and proper planning and the protection of the environment. It is therefore considered that the grant of a permit will not cause material detriment to any person.

### *Moved Crs Cameron/Hansford*

**That Council suspend Standing Orders to hear a submission.**

**Carried**

It is recorded that Council suspended Standing Orders at 10.59am.

It is recorded that Craig Lord addressed Council between 10.59am and 11.01am

### *Moved Crs Cameron/Hansford*

That Council resume Standing Orders.

**Carried**

It is recorded that Council resumed Standing Orders at 11.01am.

### *Moved Crs Blake/Cameron*

**That the Planning Committee resolve to issue a Notice of Decision to Grant a Permit for the use and development of the land for intensive animal husbandry (Free Range Egg Production) and associated sheds, office, workshop and caretakers dwelling in accordance with the endorsed plans at Crown Allotment 71A,, Parish of Carrah, 890 Meredith-Shelford Road, Bamganie subject to the following conditions:**

#### **Intensive Animal Husbandry**

- 1. Before the development starts, 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 planning permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plan must generally in accordance with the plans submitted with the application but modified to show:**
  - a) 3 copies of an amended site plan drawn in accordance with the plan submitted with the application but modified to show the whole site including all proposed buildings (including driveways/access ways) that are proposed.**

- b) **Amended landscaping additional planting of trees, shrubs and grasses around the boundaries of the site. All plants must be indigenous to the locality in accordance with the revised species list provided by Council's Natural Resources Officer.**
  - c) **The location and type of all proposed screening and other plantings and landscaping.**
  - d) **Anticipated tree or shrub height and width of maturity.**
  - e) **Timetables for plantings and arrangements for maintenance of landscaped areas.**
2. **The layout of the site and the 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.**
  3. **Before the development commences, an Environment Management Plan (the EMP) for the operation of the layer farm to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the EMP will be endorsed and will then form part of the permit. The EMP must provide for annual reviews.**
  4. **Reviews of the EMP must be undertaken in accordance with the endorsed EMP. Any revision to the EMP must be to the satisfaction of the responsible authority and must be submitted to and approved by the responsible authority. When approved, the revised EMP will be endorsed and will then form part of the permit.**
  5. **The development must at all times be undertaken in accordance with the most current version of the endorsed EMP.**
  6. **The use and development approved by this permit must at all times be conducted in accordance with the requirements of:**
    - a) **The Code for Accepted Farming Practice for the Welfare of Poultry (December 2003) (as amended); and**
    - b) **Each of the Permit Documents to the satisfaction of the responsible authority.**
  7. **Before the development commences all internal access roads must be constructed, formed and drained to the satisfaction of the responsible authority.**
  8. **Before the development commences vehicle crossing must be provided conforming to requirements of Golden Plains Shire Council contained in the Infrastructure Design manual (IDM) standard drawing SD 265 and to the satisfaction of the responsible authority.**
  9. **No polluted or sediment laden runoff is to be discharged directly and indirectly into drains or watercourses.**
  10. **Before the development commences, all stormwater for areas not associated with the farm shall be diverted away from the farm and discharged to the satisfaction of the responsible authority.**
  11. **Before the development commences, engineering plans and details for the design of the internal access roads, drainage, stormwater detention and diversion systems shall be prepared and submitted to the responsible authority for approval. The stormwater detention and diversion system must be designed to collect, treat and store all runoff from the sheds, sealed, traffic areas and associated buildings for the critical 1:10 ARI event. Discharge from the stormwater detention system must not exceed the flow from the predeveloped critical one-in-ten year storm event. The stormwater detention dam design must be provided for a clay lined or equivalent non-permeable base and walls.**
  12. **The applicant must ensure that appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimize mud, crushed rock or other debris being carried onto public roads from the subject land, to the satisfaction of the responsible authority.**



- 13. The applicant must ensure that throughout the construction stage of the development dust suppression is undertaken to ensure that dust does not cause a nuisance to surrounding properties to the satisfaction of the responsible authority.**
- 14. All trees, shrubs and grasses included in the endorsed Landscape Plan must be planted prior to the completion of the development or within six months of the commencement of the use whichever is the earlier, and must thereafter be maintained to the satisfaction of the responsible authority.**
- 15. No advertising sign shall be located on any part of the site unless it conforms with the provisions of the Golden Plains Planning Scheme.**
- 16. All stormwater retention dam/basin shall be constructed by a suitably qualified and experienced contractor in accordance with Southern Rural Water's guidelines for dam construction. The dam shall be clay lined and non-permeable and have the capacity to retain run-off from a one-in-ten-year storm event and be maintained to the satisfaction of the responsible authority.**
- 17. All litter and associated waste must be removed from the subject land in accordance with the endorsed EMP unless otherwise approved by the responsible authority.**
- 18. Dead birds must be collected at least daily and promptly chilled/frozen and subsequently removed from the subject land, or composted in accordance with EPA Victoria's Environmental Guidelines for Composting and Other Organic Recycling Facilities and the endorsed Environmental Management Plan. Dead birds must not be incinerated or buried on-site, except in an emergency situation and with the approval of the responsible authority.**
- 19. The removal of litter from the sheds by use of machinery must occur between the hours of 7.00am & 8.00pm only and no removal may be undertaken on Sundays and Public Holidays including Christmas Day and Good Friday.**
- 20. 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.**
- 21. The poultry sheds and all feed stores must be vermin and bird proof to the satisfaction of the responsible authority.**
- 22. The manner of discharge of all water from the site must be to the satisfaction of the responsible authority.**
- 23. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into drains or watercourses.**
- 24. Construction and post-construction activities associated with the development of the site must be carried out in accordance with Construction Techniques for Sediment Pollution Control (EPA Publication 275).**
- 25. Other than the loading and placement of live birds, no deliveries to or removal from the site must take place after 8.00pm or before 7.00am on any day without the prior written approval of the responsible authority.**
- 26. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried out entirely within the site.**
- 27. The surface of the car parking, loading areas and access lanes must be constructed and maintained to the satisfaction of the responsible authority to prevent dust and drainage run-off.**

28. ***Security lighting or external floodlighting (if required) must be installed in such a manner that it does not create amenity problems outside the site.***
29. ***The layer farm must be designed and operated to ensure that noise emissions from the premises meets the requirements of the Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority (EPA), 1989) and the EPA Guideline Noise from Industry in Regional Victoria (NIRV).***
30. ***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.***
31. ***The permit holder must use its best endeavours to avoid sanitizing sheds with odorous chemicals which give rise to offensive odours being detectible off site. Airborne sprays or chemical odours must not be transmitted beyond the site to the detriment of any person to the satisfaction of the responsible authority.***
32. ***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.***
33. ***All goods and materials must be stored out of view or so as not to be unsightly when viewed from nearby roads to the satisfaction of the responsible authority.***
34. ***The development must be managed so that the amenity of the area is not detrimentally affected, through the:***
- a) ***transport of materials, goods or commodities to or from the land***
  - b) ***appearance of any building, works or materials***
  - c) ***emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot,***
  - d) ***ash, dust, waste water, waste products, grit or oil***
  - e) ***presence of vermin***

#### **Corangamite Catchment Management Authority**

35. ***A 20 metre vegetated buffer shall be maintained between any works area and the applicable existing drainage line to the east of the subject site.***
36. ***All stormwater runoff from the developed area is to be intercepted, stored and appropriately treated in line with best management practice.***

#### **Environment Protection Authority**

37. ***The Environment Protection Authority requires the following conditions:***
- a) ***Offensive odours must not be discharged beyond the boundaries of the premises.***
  - b) ***Nuisance dust must not be discharged beyond the boundaries of the premises.***
  - c) ***Noise emitted from the premises must not exceed the recommended levels set out in Noise from Industry in regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.***
  - d) ***Stormwater contaminated with waste must not be discharged beyond the boundary of the premises***
  - e) ***The applicant must install bunds and/or cut off drains around the boundary of operational area to prevent contaminated run-off entering into any waterway.***
  - f) ***A secondary containment system must be provided for liquids which if split are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.***
  - g) ***Storage areas/pads for manure, spent litter or dead animals must be bunded and appropriately drained to onsite storage/tanks to prevent potentially contaminated water entering any surface water resources/channel infrastructure.***
  - h) ***There must be no discharge or seepage of waste, be it feed, effluent, dead animals or other organic or chemical matter from the premises to the land or water (including stormwater) environments.***



- i) Deposit of animal or organic wastes to and must not adversely affect the land.***
- j) All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled.***

#### **Dwelling**

- 38. 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 to the satisfaction of the responsible authority.***
- 39. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the responsible authority.***
- 40. The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the State Environment Protection Policy (Waters of Victoria) and Code of Practice – Onsite Wastewater Management under the Environment Protection Act 1970.***

#### **Expiry of permit**

- 41. This permit will expire if one of the following circumstances applies:***
  - a) The development and use are 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 six months afterwards.**

**Note: This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.**

#### **Works within Road Reserve Permit Required**

**A works within road reserve permit must be obtained from the responsible Authority prior to the carrying out of any vehicle crossing works**

***Carried***

#### 4.1.4 Planning Application P15-144 – for a dwelling at 2104 Meredith-Mt Mercer Road, Mt Mercer

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Leigh Page, Acting Planning Team Leader
Author	Adrian Peggie, Town Planner
File References	Planning Application P15-144
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The use and development of the land for a dwelling
Land Address	2104 Meredith-Mt Mercer Road
Applicant	James Parkin
Zone & Overlay Summary	Farming Zone
Attachments	10. Committee Report for Planning Application no. P15-144 11. Workshop report 13 October 2015

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Leigh Page: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Adrian Peggie: In providing this advice as the author, I have no disclosable interests in this report.

#### *Purpose*

This report relates to the Planning Committee report tabled on 13 October 2015 for the above described planning application and the subsequent Committee workshop on 27 October 2015. The matter is now returned to the Planning Committee for a decision. The Committee further considered the officer's recommendation and reasoning at the workshop. The reasoning for that decision was accepted at the workshop.

#### *Conclusion*

The Planning Committee is now required to make a determination on the application as agreed to at the workshop.

***Moved Crs Blake/Kirby******That Council suspend Standing Orders to hear a submission.******Carried***

It is recorded that Council suspended Standing Orders at 11.09am.

It is recorded that Peter Cameron addressed Council between 11.09am and 11.13am

***Moved Crs Cameron/Blake******That Council resume Standing Orders.******Carried***

It is recorded that Council resumed Standing Orders at 11.13am.

***Moved Crs Phelan/Blake******That the Planning Committee resolves to issue a Notice of Decision to Refuse to Grant a Permit for the use and development of the land for a dwelling at 2104 Meredith-Mt Mercer Road, Mount Mercer, for the following reasons:***

- ***the development fails to accord with the State and Local Planning Policy Framework, in that the dwelling may lead to the loss of productive agricultural land; and,***
- ***the proposal is contrary to the Local Planning Policy Framework, in particular Clauses 21.01-2, 21.02, 21.03 & 21.04-3, which seek to protect agricultural land, by discouraging use and development that is inconsistent with agricultural activities and the development of dwellings on small lots in rural areas; and,***
- ***the proposal does not satisfy the objectives and decision guidelines of the Farming Zone; in particular, it has the potential to lead to the loss of productive agricultural land and a proliferation of dwellings in the surrounding area.***

***Carried***

## 5. OTHER BUSINESS

## 6. ATTACHMENTS

Attachment 1	Item 4.1.1	P15-133 plans
Attachment 2	Item 4.1.1	P15-133 locality plan
Attachment 3	Item 4.1.1	P15-133 objections
Attachment 4	Item 4.1.2	P15-104 locality plan
Attachment 5	Item 4.1.2	P15-104 objections
Attachment 6	Item 4.1.2	P15-104 Restrictive Covenant AD057539 H and copy of title
Attachment 7	Item 4.1.3	P14-328 application and plans
Attachment 8	Item 4.1.3	P14-328 locality map
Attachment 9	Item 4.1.3	P14-328 copy of objection
Attachment 10	Item 4.1.4	P15-144 Committee report for PPA P15-144
Attachment 11	Item 4.1.4	P15-144 Workshop report from 27 October 2015

Attachments are available upon request.

## 7. DATE OF NEXT MEETING

To be advised.

**8. CLOSE OF MEETING**

The meeting closed at 11.30 am.

**9. CERTIFICATION**

In accordance with Section 93(5) of the Local Government Act 1989, I hereby certify that the minutes of this Planning Committee meeting have been confirmed as a true and correct record.

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**Confirmed, Chair, Cr Bill McArthur**

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**Date**