

Greater Geelong Planning Scheme
Advisory Panel
Amendment C206
Armstrong Creek East Precinct Structure Plan

Town Planning Evidence
On Behalf of Submitters
Mr. A. & Mrs. I. Balog

Property at 84 Groves Road, Connewarre

Statement of Evidence of David A. Hansen



HPS/10-03#Rpt1.1/DAH:dmh

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1. Introduction

1.1 Purpose of this Statement

I have been requested by Nevett Ford, Lawyers on behalf of Mr. Adrian and Mrs. Irene Balog, to conduct investigations and a planning assessment and prepare a witness statement and give evidence at the Advisory Committee hearing on Amendment C206 to the Greater Geelong Planning Scheme.

Mr. and Mrs. and Balog, who are the owners and occupiers of land at 84 Groves Road, Connewarre, are submitters to the Amendment, which seeks to introduce the Armstrong Creek East Precinct Structure Plan (ACEPSP).

Following the summary of opinion below, this statement provides details in accordance with Planning Panels Victoria Guideline No. 1, a description of the subject site, outlines the current planning controls and the proposed amendment, and then sets out my assessment of the proposed structure plan

1.2 Summary of Opinion

- Amendment C206 and the ACEPSP are strategically flawed in that due recognition has not been given to the Balog broiler farm and its potential amenity impacts on new residential subdivision within the buffer zoned prescribed under the Broiler Code.
- The Amendment does not take into account the buffer zone required under Section 5 (Class B farm), Section 7 (Element 1 – Approved measure E1 M1.1) and Section 11 (Establishing sensitive uses near broiler farms) of the Victorian Code for Broiler Farms 2009, an Incorporated Document in the Planning Scheme.
- The Amendment is inconsistent with Clause 11 of the State Planning Policy Framework.
- The Amendment does not contain balanced provisions with respect to the existing broiler farm and future use and development and thereby fails to satisfy the Objectives of Planning in Victoria [Section 4(1) of the Planning & Environment Act 1987].
- The Amendment fails to satisfy Section 6 of the Planning & Environment Act 1987 (What can a planning scheme provide for?).
- The Amendment fails to appropriately recognize and protect existing use rights under Section 6(3) of the Act or Clause 63 of the Planning Scheme.
- In preparing the amendment the Planning Authority has not acted in accordance with the sound planning principles set out in Section 12 (What are the duties and powers of planning authorities?)
- The Amendment should be modified with respect to the ACEPSP, Schedule 1 to the Urban Growth Zone, Clause 37.07-13 of the Urban Growth Zone and Clause 21.40 (and also existing Clause 21.11) to reflect the relevant purposes of the

Urban Growth Zone (Clause 37.07) and to recognize the existence of the Balog broiler farm, to show the 1000 buffer on relevant maps and include appropriate wording that makes reference to protecting the farm from incompatible development and avoiding land use conflict.

1.3 Expert Witness Details

1.3.1 Name & Address

My name is David Alexander Hansen. I am the principal of Hansen Planning Services. The practice conducts its business at 77 Humphries Road, Frankston South.

1.3.2 Qualifications and Experience

I am a qualified Town Planner and have practiced since 1971.

I hold the following qualifications:-

- Bachelor of Arts, Monash University, 1969; and
- Diploma of Town & Regional Planning, University of Melbourne, 1974.

My experience includes positions as Planning Assistant with the City of Doncaster and Templestowe; Town Planner, Technical Advisor and Assistant Area Scheme Controller with the Melbourne Metropolitan Board of Works; Senior Planner and Associate Director of J.S. Watson and Associates Pty. Ltd., Principal of David A. Hansen & Associates and Hansen Planning Consultants (1979-1997) Director of Statutory Planning at Ratio Consultants (1997-2003) and my current role since 1st July, 2003.

1.3.3 Relevant Expertise

For more than 30 years I have regularly provided strategic and land use planning advice and given evidence before Planning Tribunals, Panels and Advisory Committees on a wide range of use and development proposals and strategic planning issues.

My experience includes the preparation of several structure plans (e.g. Keysborough Local Structure Plan and Amendment RL166 to Springvale and Dandenong Planning Schemes, Narre Warren South Local Structure Plan, Preparation of Sandhurst Local Structure Plan and proposed amendment to Cranbourne Planning Scheme (RL164) and Gawler Town Centre Study for South Australian Department of Planning) the assessment of numerous planning scheme amendments and proposals for broiler farms (e.g. Cranbourne, Cranbourne South, Clyde, Junction Village, Lyndhurst, Lang Lang, Berwick, Kangaroo Ground, Moorooduc, Hastings, Batesford, Lethbridge) on behalf of operators, processors and Responsible Authorities.

1.3.4 Instructions

I have been requested by the Nevett Ford Lawyers, on behalf of Mr. Adrian and Mrs. Irene Balog, to undertake a planning assessment of the proposed planning scheme amendment and Armstrong Creek East Precinct Structure Plan, to prepare a

statement of planning evidence and to give evidence in this Advisory Committee proceedings.

1.3.5 Investigations and Research

In the course of preparing this statement I have:-

- Viewed the subject site and the surrounding locality;
- Reviewed the Victorian Code for Broiler Farms 2009;
- Reviewed relevant provisions of the Greater Geelong Planning Scheme;
- Reviewed relevant provisions of the Planning and Environment Act, 1987;
- Assessed the proposed Armstrong Creek East Precinct Structure Plan against the relevant provisions of the Melbourne Planning Scheme; and
- Read the initial submission made on behalf of Mr. and Mrs. Balog.

1.3.6 Identity of Persons Undertaking the Work

I have prepared this statement with the assistance of my administrative staff.

1.3.7 Other Experts Relied Upon

I do not rely upon other experts in this matter.

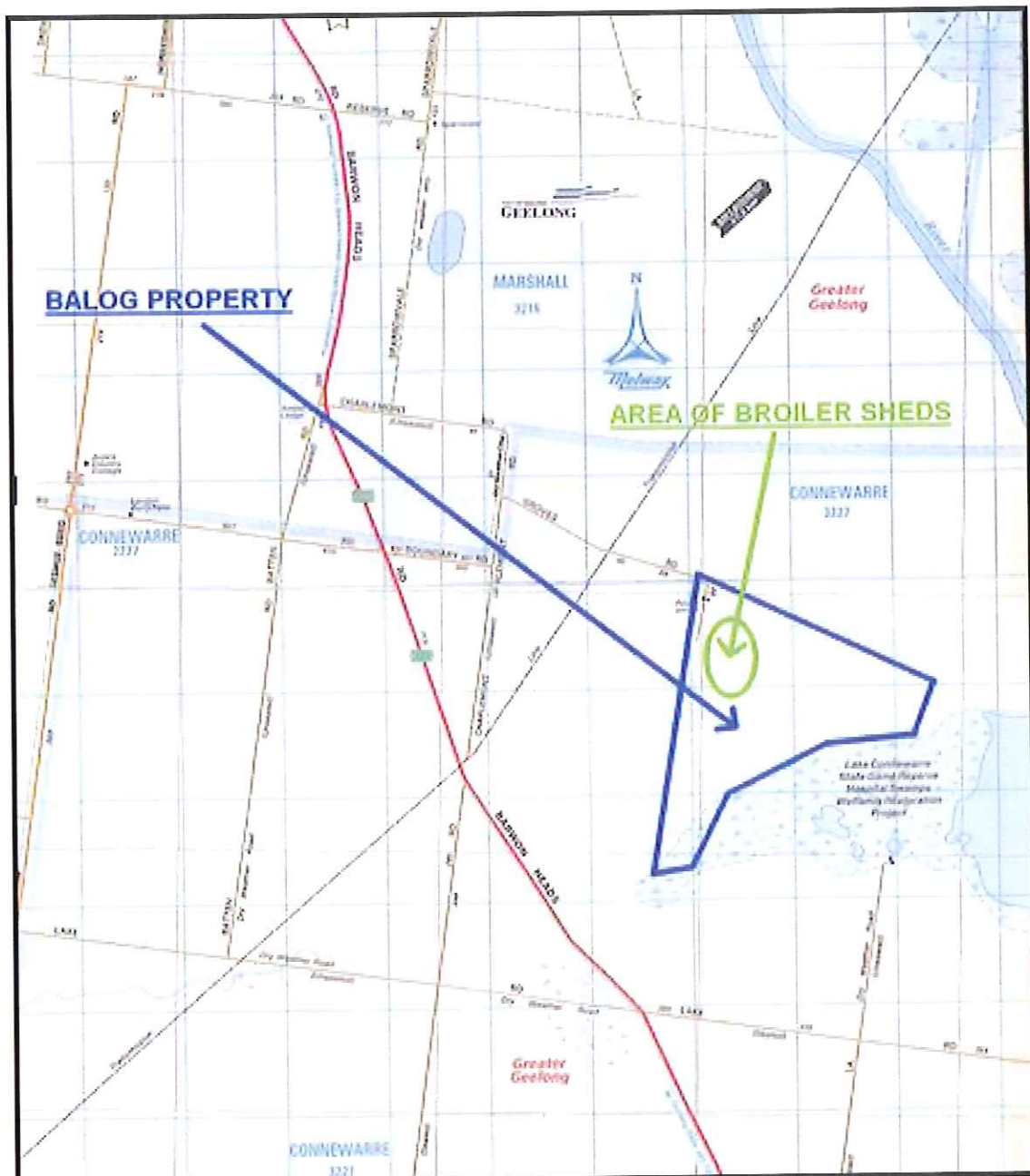
1.3.8 Declaration

I have made all the inquiries that I believe are desirable and appropriate and consider that no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Tribunal. I believe that my report is complete and accurate with respect to the town planning matters set out therein.

2. The Submitter's Property

2.1 Location of Balog Land

The Balog property is an irregularly shaped parcel of 55.53 hectares situated at 76-88 Groves Road, Connewarre. The land is located at the eastern extremity and on the south side of Groves Road and is immediately to the west and north of Hospital Swamp and adjacent to Lake Connewarre to the east. The land is approximately one kilometre to the east of Barwon Heads Road and is located within and at the south-eastern extremity of the Armstrong Creek East urban growth area.



2.2 Existing Conditions

The majority of the Balog property is subject to inundation or is marshy and is suitable only for grazing and that is the current use. An area of approximately four hectares at the northeast corner is suitable for other use and development and contains a 200,000 chicken capacity broiler farm, associated outbuildings and two dwellings. The property is mostly cleared with exotic vegetation planted around the broiler farm and dwellings and native vegetation along the abutments to Hospital Swamp.

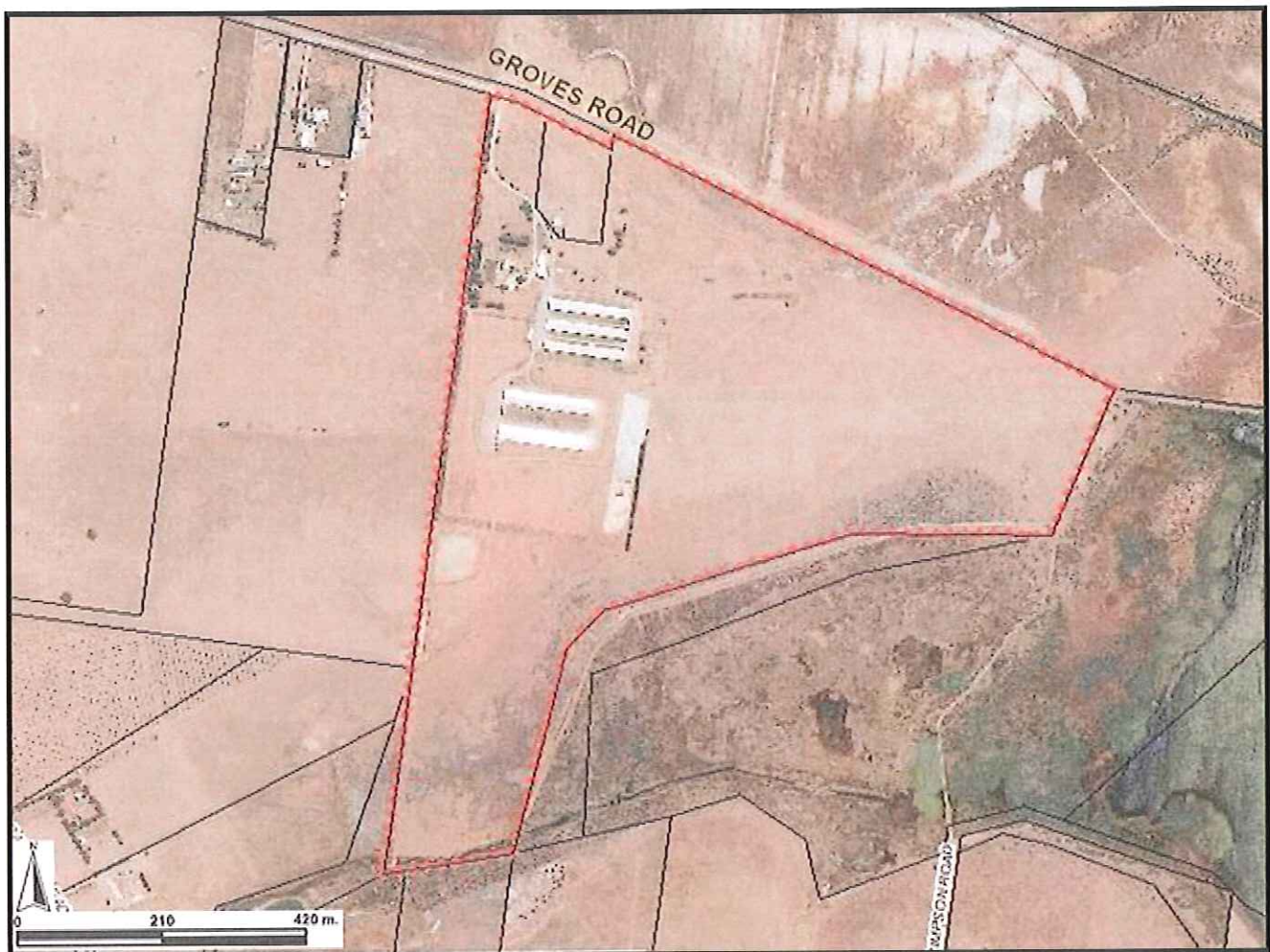
The broiler farm has been established on the land for over 15 years and was purchased by the Balogs approximately ten years ago. Since that time they have made significant capital expenditure in converting the four sheds existing at the time

of purchase to tunnel ventilation and about four years ago constructed a fifth tunnel shed in accordance with the Victorian Code for Broiler Farms.



View to east

The Balogs, who have long been in the broiler industry and previously had a farm at Hastings on the Mornington Peninsula, purchased this property having regard to its locational attributes and potential for expansion, including 10 minutes drive time to the processing plant, sealed road access to an arterial road, low level of residential development/sensitive uses on surrounding lots within the required buffer zone and abuttal to marsh/swamp land on three sides. The farm operates under a contract with a processor which runs for five years and can be rolled over for additional five years.



3. Current Planning Controls

3.1 Zoning

The Balog property and adjoining land to the west is within the Urban Growth Zone Clause 37.07. This zone, which prohibits Intensive animal husbandry (broiler farm) was introduced under Amendment C170 in December, 2008 to previous Farming Zone land in the Armstrong Creek Urban Growth Area.

Land to the north, south and east of the Balog property remains in a Farming Zone.

3.2 Overlays

The eastern and south-eastern edge of the property is covered by Schedule 2 to the Environmental Significance Overlay (High Value Wetlands and Associated Habitat Protection).

Except for a small area at the northwest corner where the broiler sheds are located, the entire property is covered by the Floodway Overlay.

3.3 Other Planning Scheme Provisions

State Planning Policy	Clause	Policy/Provision
	Clause 11	Introduction, Goal and Principles
	Clause 12	Metropolitan Development
	Clause 14	Settlement
	Clause 17.06	Intensive Animal Industries
MSS		
	Clause 21.02	City of Greater Geelong Sustainable growth Framework
	Clause 21.03	Objectives – Strategies - Implementation
	Clause 21.04	Municipal Framework Plan
	Clause 21.06	Settlement and Housing
	Clause 21.11	Armstrong Creek Urban Growth Area
Local Planning Policy		
	N/A	
Particular Provisions		
	Clause 52.31	Broiler Farm
General Provisions		
	Clause 63	Existing Uses
Incorporated Documents		
	Clause 81	Documents Incorporated in this Scheme
	Table to Clause 81.01	Victorian Code for broiler Farms 2009
	Schedule to	Armstrong Creek Urban Growth Plan Framework

4. Amendment C206

4.1 The Proposed Changes

The proposed amendment provides for the future development of the Armstrong Creek East Precinct. With relevance to the Balog property it introduces a new Schedule to the Urban Growth Zone and a Precinct Structure Plan (ACEPSP) and also applies an updated Floodway Overlay to the area. The new Schedule to the Urban Growth Zone and a Precinct Structure Plan seek to implement Clause 21.40 of the MSS.

4.2 Armstrong Creek East Precinct Structure Plan

The ACEPSP includes all of the Balog property, but only a small area at the northeast corner is nominated for residential development due to the Floodway Overlay and existing Environmental Significance Overlay. However, a significant amount of immediately adjoining and adjacent land is designated for residential development within 1000 metres of the broiler sheds.

5. Assessment of Proposed Amendment

5.1 Insufficient recognition of the Balog Broiler Farm

Amendment C206 and the ACEPSP are strategically flawed in that due recognition has not been given to the Balog broiler farm and its potential adverse amenity impacts on any new residential subdivision within the buffer zoned prescribed under the Broiler Code.

I understand that an earlier plan, being the Master Plan for the ACE Precinct showed a 1000 metre buffer zone to the Balog broiler farm, however, the exhibited version provides only passing recognition of this existing use. In this regard Plan 5 – Local Context (Section 2.2) shows local features and labels the Balog broiler farm as “Existing poultry farm”. Only passing mention is made in the text under Surrounding Land (Section 2.2.2) where it is stated:-

In 2009, the land in and around ACEP was characterised by predominantly farming-related activities with some rural residential development, a private school, a cemetery /crematorium and some broiler farms. (My emphasis)

There is no reference to the Balog broiler farm in Section 2.3 – Precinct Features, except for another reference to Plan 5. In my view it is incumbent upon the ACEPSP and the supporting Amendment C206 documents to highlight the location of existing uses with a high potential for wide ranging amenity impacts and a need for those uses to be appropriately buffered from new sensitive uses, and particularly residential development at the densities proposed.

I do not see how the planned communities or neighbourhoods can be established with appropriate levels amenity and outlook if they are built within a buffer zone set

out in a document incorporated in the planning scheme sought to be amended and designed to provide a reasonable level of protection.

5.2 Broiler Code Buffer Requirement Not Taken into Account

The Amendment does not take into account the buffer zone required under the Victorian Code for Broiler Farms 2009, an Incorporated Document in the Planning Scheme. Apart from the minor references to broiler or poultry farms in the ACEPSP referred to above there is not a single reference to buffer zones and the potential impacts over a wide area from odours, dust and noise from exhaust fans, traffic movements, late night chicken pick ups, alarms and pumping feed from delivery trucks into silos.

5.2.1 Section 5 - Class B farm

The Balog broiler farm is a Class B farm as the capacity is less than 400,000 birds (it is 200,000) and it can meet the minimum separation distance of 472 metres (measured from the external edge of a broiler shed) to the nearest sensitive use, but this distance is not fully contained within the farm boundary. This distance can be met given the sparse housing in the locality.

However, even this minimum separation distance would impact on new residential development on adjoining properties



5.2.2 Section 7 - Element 1 – Approved measure E1 M1.1

Element 1 addresses the location, siting and size of broiler farms. Approved measure E1 M1.1 specifies a 1000 metre separation distance between a broiler shed and a

residential zone, urban growth zone or other urban zone where housing is the primary purpose of the zone. The Balog broiler farm also meets this requirement, but clearly such a buffer would extend as far as Barwon Heads Road to the south west and would have significant ramifications on new residential development.

5.2.3 Section 11 – Strategic and Land Use Planning Considerations

Although the separation distances in Sections 5 and 7 apply to the location of broiler sheds in relation to existing housing and residential zones, Section 11 of the Code is intended to provide guidance on land use planning considerations for new or expanded broiler farms, farm upgrades, and for the development of new sensitive uses close to existing broiler farms, including land rezoning and subdivision.

Under the heading **Establishing sensitive uses near broiler farms** the Code provides:-

One of the duties of a planning authority under the Planning and Environment Act 1987 is to provide sound, strategic and coordinated planning of the use and development of land in its area. This duty applies not only to the development of a broiler farm, but also to a proposed residential development, subdivision or to other sensitive use development in the vicinity of an existing broiler farm.

When considering land use and development applications (including subdivisions and rezonings) that will permit the establishment of dwellings and other sensitive uses nearby an existing broiler farm, responsible authorities should consider the impacts of broiler farm emissions on potential future sensitive uses and restrict their encroachment into the separation distances required under this Code.

Although the separation distance requirements found in the 'Classification of broiler farms' section of this Code apply only to the development or expansion of broiler farms, they can be used as a guide to identify the locations where a future sensitive use may be adversely impacted by broiler farm emissions.

The separation distances should also be used as a guide when planning for urban and rural living land use and development, including subdivisions, amendments to the planning scheme, rezonings and strategic land use planning.

For farms approved and built under the Code (or under the previous 2001 Code), planning authorities should avoid encroaching on the separation distance of an existing farm and maintain the setback requirements of Element 1 for urban and rural living zones.

I consider that this the correct approach, yet the amendment ignores this key strategic and land use consideration. Although the ACEPSP area has already been rezoned for residential purposes under a previous amendment, the next step should not proceed without appropriate controls or provisions in place in the Schedule to the Urban Growth Zone and in the applicable Local Planning Policy. Once the ACEPSP is approved it will be difficult to refuse applications for subdivision within the buffer zone as none of the relevant documentation provides any strategic or land use and development guidance. It is not sound planning to provide development rights or potential in the Planning Scheme that can not be properly exercised through the

grant of a permit due to the likelihood of medium or long term constraints and adverse amenity circumstances.

Under the heading **Rezoning or subdivision** the Code provides:-

In the case of rezoning or subdivision of land for residential purposes, the proximity of this type of development near existing broiler farms has greater implications for amenity risks as they allow significantly increased residential development. For this reason the responsible authority must carefully consider the potential impact of, and in general not support:

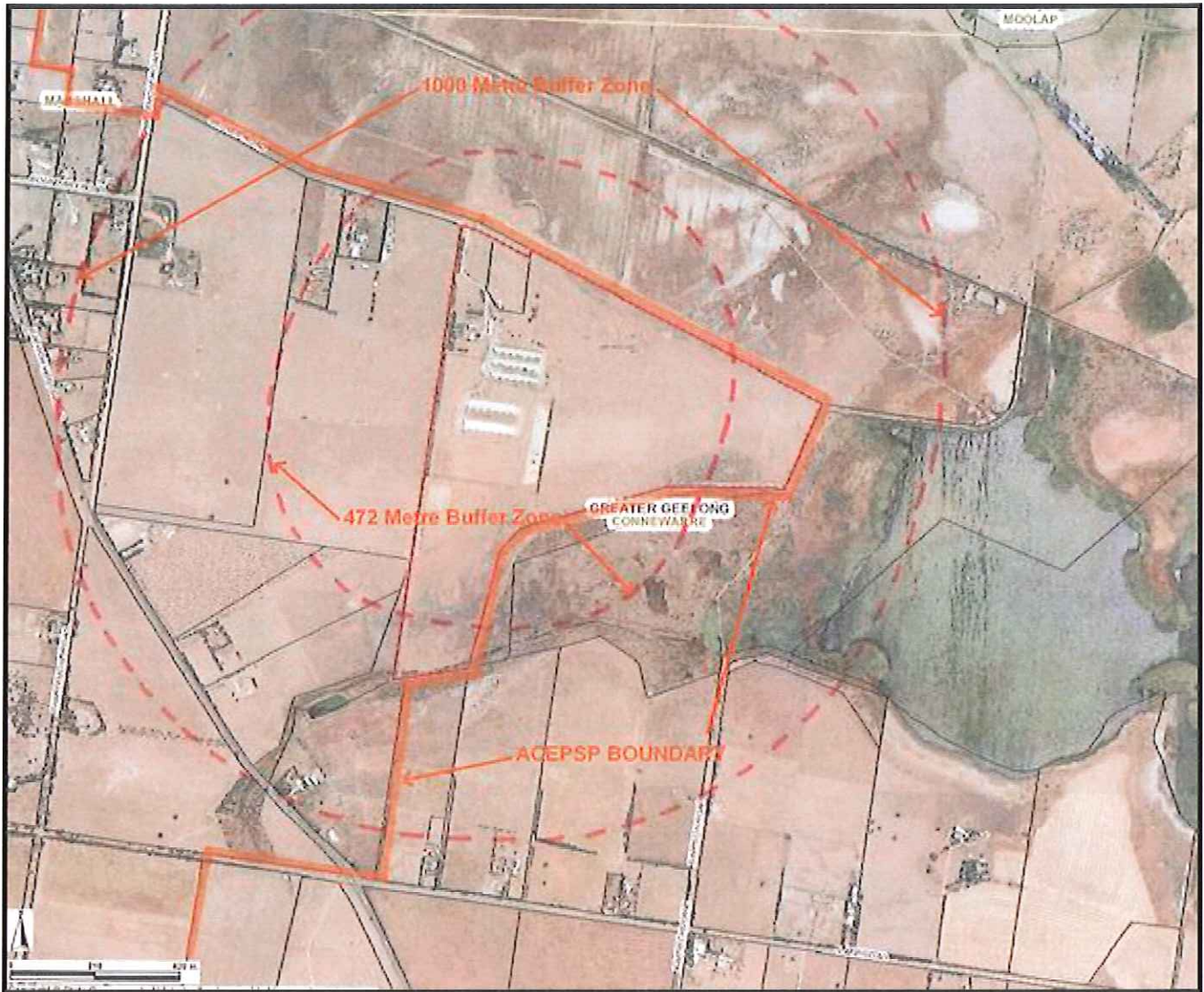
- establishing a residential zone, Rural Living Zone or other urban zone within the setback or separation distances of an existing or approved broiler farm.*
- enabling the subdivision of land for residential or rural living purposes within the setback or separation distances of an existing or approved broiler farm.*

In principle, encroachment of sensitive uses into the required separation distance or identified odour impact area should only be allowed if:

- there are sound planning reasons for the distance to be varied*
- the impact of the broiler farm on the potential sensitive use will be no greater than if the separation distance is maintained*
- a risk assessment (including odour modelling) is conducted that shows there is minimal risk of sensitive uses being exposed to offensive odour.*

The onus is on the agent of change (the permit applicant) to demonstrate that an appropriate separation between sensitive uses and an existing broiler farm is being maintained.

In this case the "agents for change" are the owners/developers of adjoining properties to the west of the Balog land and I am not aware of any risk assessment or odour modelling that has occurred. In my view there is no sound basis to waive the accepted planning principle to separate incompatible uses, to reduce or waive the 1000 metre buffer and there is no evidence to demonstrate that residential development within the buffer would be appropriate.



5.3 Clause 11 – Introduction, Goal and Principles

5.3.1 Introduction – Clause 11.01

The Amendment is inconsistent with Clause 11 of the State Planning Policy Framework. This Clause provides that the purpose of State policy is to inform, inter alia, planning authorities on the matters to be taken into account.

The Introduction to Clause 11 includes:-

Planning policies are directed to land use and development, as circumscribed by the Planning and Environment Act 1987, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

In my view, the proposed amendment through its lack of recognition and protection of the Balog broiler farm, will not provide for the fair, orderly, economic and sustainable use and development of land because it will not achieve a balanced outcome between an existing use and future development, it will cause economic hardship to

the Balogs and it will not provide for orderly planning if sensitive uses are allowed within the buffer zone.

5.3.2 Principles of land use and development planning - Clause 11.03

With respect to the Principles of land use and development planning, the amendment fails to address several key principles as set out below.

Settlement – Clause 11.03-1

This principle includes:-

Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety. (My emphasis)
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability. (My emphasis)
- A high standard of urban design and amenity. (My emphasis)
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

I consider that the absence of buffer requirement in the amendment will not achieve health and safety within the new residential area, will undermine the economic viability of the Balog broiler farm and will not enable a high standard of urban design, and particularly amenity, to be achieved.

Environment – Clause 11.03-2

This principle provides that:-

Planning is to contribute to the protection of air, land and water quality and the conservation of natural ecosystems, resources, energy and cultural heritage. In particular, planning should:

- Adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards.
- Prevent environmental problems created by siting incompatible land uses close together. (My emphasis)
- Help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity).
- Protect areas and sites with significant historic, architectural, aesthetic, scientific and cultural values.

The amendment and the ACEPSP do not contain any provisions to avoid land use incompatibility and conflicts and are therefore strategically flawed.

Economic well-being – Clause 11.03-5

This principle provides that:-

Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

The amendment does not properly balance the economic well-being of the Balogs against the economic well being of those who wish to develop their land within the necessary 1000 metre buffer. In this regard the amount of subdividable land affected needs to be looked at in the context of not only the Armstrong Creek East Precinct of 794.4 hectares, but the entire Armstrong Creek East Urban Area of several thousand hectares.

The subdividable land affected by the buffer less floodway, roads, transmission line easement, public reserves and the like is about 62.6 hectares. This represents only a small fraction of the total ACE urban Area and only 13% of the 478.6 hectares of net developable area in the ACE Precinct. Additionally, this does not represent a loss of developable area, but means that development in the area will need to be staged to coincide with the life of the Balog broiler farm, which will undoubtedly cease to operate during the 20 year planning period for this urban growth area.

Thus an appropriate balance can be achieved and at the same time land use conflicts can be avoided.

5.4 Objectives of Planning in Victoria

The Amendment does not contain balanced provisions with respect to the existing broiler farm and the proposed future use and development within the ACEPSP area and will thereby fail to implement the Objectives of Planning in Victoria at Section 4(1) of the Planning & Environment Act 1987 and also set out at the commencement of every VPP planning scheme.

(a) to provide for the fair, orderly, economic and sustainable use, and development of land;

(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

(e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;

(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);

(g) to balance the present and future interests of all Victorians. (My emphasis)

In my opinion the amendment, due to the manner in which it ignores the necessary buffer required to the Balog broiler farm, will not assist in the achievement of objectives (a), (c), (f) and (g). The matters raised in objectives (a) and (c) have already been addressed with respect to Clause 11. Objective (f) will not be achieved as objectives (a) and (c) are not satisfied. The balance sought by objective (g) will not be achieved for reasons set out in relation to Clause 11.03-5 and because of the land use conflicts that will most likely be created.

5.5 What can a planning scheme provide for?

In my assessment, the Amendment fails to satisfy Section 6 of the Planning & Environment Act 1987 (What can a planning scheme provide for?) and does so because:-

- Will not further the Objectives for planning in Victoria [Section 6(1)(a)];
- It does not contain provisions which relate to the use and development of land within the 1000 metre buffer [Section 6(1)(b)];
- It will not properly and responsibly regulate the use and development of residential land within the 1000 metre buffer [Section 6(2)(a)];
- It fails to take into account the Victorian Code for Broiler Farms 2009, a code incorporated into the Planning Scheme for the use and development of land and it is clear that the code applies to both broiler farm development that might affect sensitive uses and the establishment of sensitive uses that may affect the operation of broiler farms [Section 6(1)(a)]; and
- It fails to apply a highly relevant document (Victorian Code for Broiler Farms 2009) which related to the use and development of land.

5.6 What are the duties and powers of planning authorities?

In preparing the amendment the Planning Authority has not acted in accordance with the sound planning principles set out in Section 12 (What are the duties and powers of planning authorities?) having regard to the matters it must take into account.

These matters are:-

- For reasons already set out, the amendment will not implement the objectives of planning in Victoria [Section12(1)(a)];
- For reasons already set out, the amendment will not provide for sound, strategic and co-ordinated planning of the use and development of land [Section12(1)(b)];
- The Amendment does not have proper regard for the Victoria Planning Provisions and particularly Clause 11, Clause 63 and Clause 81 of the Greater Geelong Planning Scheme [Section12(2)(aa)];
- The Amendment does not have any regard to the Victorian Code for Broiler Farms 2009, a code that forms part of the scheme [Section12(2)(ab)];

- The amendment fails to take into account any significant effects which it might have on the environment (the Balog broiler farm) or which the environment (the Balog broiler farm) might have on any use or development envisaged by the amendment.

Additionally, the amendment does not:-

- Take into account the adverse economic effects on the Balogs if they must prematurely cease their broiler farm operation and the adverse social effects on residents living within close proximity to a broiler farm [Section12(2)(b)];
- Promote the orderly and proper use and development of the land if the need for a 1000 metre buffer to new residential development is ignored [Section12(3)(b)];

5.7 Existing Use Rights

The Amendment fails to appropriately recognize and protect the existing use rights under Section 6(3) of the Act and Clause 63 of the Planning Scheme. Approval of the ACEPSP is likely to have the effect of preventing the continuance of the lawfully established and recently upgraded and expanded broiler farm. The encroachment of residential development within the buffer may give rise to complaints and a requirement to comply with the Broiler Code with respect to the new residential development

5.8 Recommended Modifications to Amendment and ACEPSP

5.8.1 ACEPSP

I consider that the ACEPSP should be modified with respect to:-

- Section 2.2 - Local Context (Section 2 -Strategic Context) should contain a section under the heading of "constraints to development" and refer to the Balog broiler farm.
- Section 2.3 – Precinct Features under the heading of "existing uses" should include a reference to the 1000 metre buffer required to the Balog broiler farm.
- Section 3 – Vision should include a reference to avoiding land use conflicts by providing a 1000 metre buffer to the Balog broiler farm until such time as it cease operation.
- Plan 1 – Framework Plan, Plan 7 – Armstrong Creek East Precinct Urban Structure, Plan 9 – Image and Character, Plan 10 – Subdivision and Housing, Plan 12 – Public Open Space and Plan 19 – Walking/Cycling Links should all show a 1000 metre buffer to the Balog broiler farm to ensure that this constraint is taken into account.
- Section 3.1 – Integrated neighbourhood Design should include a reference to providing a 1000 metre buffer to the Balog broiler farm to ensure a high level of residential amenity is obtained.

- Section 3.2 – Land Use Budget should include in the text and tables an allowance for the land required for the 1000 metre buffer in relation to the affected properties (principally properties 34, 35, 39, 40 & 42).
- Section 4 –Elements should include constraints such as the Balog broiler farm and the required buffer under the Victorian Code for Broiler Farms 2009 as an element.
- Section 4.1.3 – Planning and Design Guidelines should include a guideline about incorporation the 1000 metres buffer with respect to the relevant properties.

5.8.2 Schedule 1 to the Urban Growth Zone

I consider that Schedule 1 to the Urban Growth Zone should be modified with respect to the following:-

- Plan 1 (Clause 1.0 – The Plan) should show the 1000 metre buffer to the Balog broiler farm.
- The Application requirements for subdivision (Clause 3.0) with respect to what the site and analysis must show should specify the Balog broiler farm and the 1000 metre buffer for properties that are affected, including staging and design to incorporate and take the buffer into account.

Inclusion of a provision that specifies that the exemption from notice and review under Clause 37.07-13 of the Urban Growth Zone does not apply to any application for a sensitive use or residential subdivision on land within the 1000 metre buffer to the Balog broiler farm. Refer to paragraph 5.8.4 below

5.8.3 Clause 21.40

I consider that Clause 21.40 should be modified with respect to:-

- Including in the seventh bullet point under Key Issue and Influences – Clause 21.40-1 reference to also protecting the Balog broiler farm from incompatible development as it already does with respect to an extractive industry area.
- The Objective and Strategies at Clause 21.40-2 should include a statement regarding protecting the broiler farm from incompatible development in accordance with Section 11 of the Victorian Code for Broiler Farms 2009.
- Further Work under Clause 21.40-3 – Implementation should include carrying out odour modelling and a risk assessment study for the Balog broiler farm.
- The Armstrong Creek Urban growth Plan – Framework Plan Map at Clause 21.40-4 should show the 1000 metre buffer to the Balog broiler farm.

5.8.4 Clause 37.07-13 to the Urban Growth Zone

Although a permit is required for subdivision, Clause 37.07-13 provides an exemption from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of

the Act where an application under clause 37.07-9 to 37.07-11 is generally in accordance with the precinct structure plan applying to the land.

As set above in paragraph 5.8.2, it is my view that this exemption should be overridden in Schedule 1 with respect to any application for a sensitive use or residential subdivision on land within the 1000 metre buffer to the Balog broiler farm. A modification to the Schedule does not affect the provisions of the state wide zone.

6. Summary and Conclusion

For the reasons set out above I consider that the proposed amendment has failed to properly and fairly recognize the circumstances of the Balog Broiler farm and the amenity impacts it will have on any new residential development within one kilometre.

The amendment needs to be modified along the lines set out above to ensure that the broiler farm can continue to operate without constraints until such time as the farm ceases to operate and that land use conflicts are reasonably avoided. This prudent action will not affect a significant area of the ACEPSP or the Armstrong Creek East Precinct or the timely development of the area in an orderly and proper fashion.

Sound land use and strategic planning principles underlie the reasons why these modifications should occur.

A handwritten signature in black ink that reads "David A. Hansen". The signature is written in a cursive style with a large, stylized 'D'.

David A. Hansen
B.A., Dip. T.R.P., M. P.I.A.