

No submission was made about the municipal wide Planning Scheme Zone Map changes to reflect the minor corrections of references to the LDRZ and the Panel makes no particular findings about these changes.

In response to submissions, Council proposed a range of changes to the exhibited local policy provisions including the Inverleigh Framework Plan, Schedule 9 to the Development Plan Overlay (DPO9) and the ISP. Golden Plains Planning Scheme Amendment C90gpla involving the translation of Clauses 21 (Municipal Strategic Statement) and 22 (Local Planning Policies) of the Planning Scheme into the new Planning Policy Framework (PPF) format came into effect before the commencement of the Hearing (but after the distribution of Council's Part A submission) resulting in additional mechanical, but necessary, post-exhibition changes including:

- overarching strategic settlement directions for Inverleigh are now relocated to Clause 02.03-1
- local policy objectives and strategies proposed in Clause 21.07-5 (Inverleigh) are now relocated to Clause 11.03-6L. A version of this Clause was exhibited with the Amendment
- background documents including the ISP are now listed in the Schedule to Clause 72.08 (Background documents).

Council provided an amended version of Clause 02.03-1 and Clause 72.08 at the Hearing. The Panel supports these proposed changes, considering them minor and consistent with the ISP and exhibited intent of the Amendment. A consequence of Amendment C90gpla is the need to abandon proposed changes to Clause 21.07-5 as the clause no longer exists. Changes to Clause 11.03-6L are discussed below.

Strategic justification

The Panel concludes that the ISP has been prepared in an appropriate and robust manner, involving community engagement and informed by key background documents. It contains the key directions and strategies common to Structure Plans to manage the future growth of the town in a manner consistent with the Plan's vision and identified constraints while maintaining the town's settlement boundary. It is appropriate to be identified in the Planning Scheme as a Background document and will assist in the future consideration of rezoning and development proposals and planning of future infrastructure delivery.

The Panel concludes that the changes proposed to Clause 11.03-6L (including changes to the Framework Plan) are broadly consistent with the version exhibited with the Amendment and are consistent with the PPF and strategically justified however could be enhanced to address key localised issues regarding bushfire.

The Panel considers the changes to the LDRZ schedule are consistent with the PPF and strategically justified and will provide for a consistency in how the zone is applied across the municipality. While the LDRZ schedule sets a minimum lot size of 0.4 hectares, it is the other considerations of the Planning Scheme that ensure lot size outcomes respond to localised considerations and environmental constraints at the planning permit stage or at the rezoning stage through the application of planning tools such as the Development Plan Overlay which has been widely applied in such locations by Council.

Role of the Structure Plan and proposed changes

Council identified a series of changes to the exhibited ISP based on submissions and evidence presented during the Hearing, many of which are minor corrections or provide further explanation or guidance about key matters. The Panel considers this is an appropriate and reasonable approach. As the ISP will only be a background document and the key land use directions are translated into proposed Clause 11.03-6L and the LDRZ schedule, the Panel notes that these changes are proposed and generally supports them but makes no specific findings in relation to them. It has recommended however, that additional content be added to the ISP relating to bushfire, the biolink and future planning for Proposed Growth Area 3.

Land supply and lot diversity

The Panel considers that the population analysis is robust and supports Council's submission and the evidence of Mr Lee that the current 2005 Structure Plan and local policy accommodates only 5 to 10 years land supply. The Panel supports the identification of proposed growth areas and alignment of the minimum lot sizes for Inverleigh with the rest of the municipality. It considers the additional lot yield of up to 600 lots will provide a lot supply of between 15 and 30 years but that this is sustainable given that this supply will only be accommodated through subsequent rezoning of land following the detailed analysis identified in the ISP and planning policy. The directions of the ISP will support growth in areas previously identified for growth, maintain the urban footprint and settlement boundary and avoid pressure to expand the boundary to accommodate larger lots.

The Panel considers that the ISP and Amendment provide for an appropriate diversity and choice of lots which will; not detrimentally impact on the village and rural character of the town. Existing LDRZ provisions and policy will provide an appropriate response to localised conditions and constraints and different lot size outcomes.

Bushfire

The potential impacts of bushfire to the town were a key Amendment threshold issue for the Panel particularly given the provisions of Clause 13.02 (Bushfire) which prioritise human life over all other strategic considerations. Extensive evidence and submissions were made in relation to this issue and the Panel was aided by this material and the submission of the Country Fire Authority. The Panel considers that the ISP is supported by the Strategic Bushfire Risk Assessment but that the ISP would benefit from the inclusion of the recommendations of Ms Steel and Mr Walton, and in relation to planning for biolinks having regard to bushfire mitigation. While the Panel considers that the Amendment is generally consistent with Clause 13.02, it is not satisfied that it has demonstrated the ability to provide safe access and egress for the western portion of potential Growth Area 3 or appropriately reconciled other fire and environmental considerations. It therefore considers that this area should be identified as a 'Further Investigation Area' in the ISP and Inverleigh Framework Plan.

The additional bushfire management strategies suggested for inclusion in Clause 11.03-6L by Council do not provide additional guidance to existing state policy and are not supported, however, further policy guidance is required to identify the localised policy responses to bushfire. The Panel is reluctant to offer specific policy wording suggestions without a more considered approach by Council and guidance from DELWP. Council should pursue further

advice on the appropriate bushfire strategy content for Clause 11.03-6L from DELWP and the CFA before finalising the Amendment.

Other environmental considerations

The Panel considers that the ISP and Amendment have adequately addressed potential flooding, effluent disposal and stormwater run-off issues. Existing provisions of the Planning Scheme will ensure that issues of effluent disposal and stormwater are managed consistent with statewide guidelines and with the benefit of more detailed examination at the rezoning or planning permit stage.

Inverleigh's rural and landscape setting and environmental values contribute to its strong character and attractiveness. Many submissions were concerned that the Amendment would impact on the environmental values of the town including on flora and fauna. While the Panel does not consider that the Amendment will have a detrimental impact on these values within the parameters of the PPF, the Panel considers that the ISP and Clause 11.03-6L would benefit from greater direction relating to the planning and treatment of the biolink (including its relocation adjacent to Teesdale-Inverleigh Road) and its key interfaces and the management of land between the escarpment and the Leigh River. These are matters that should also inform the further investigation of the western extent of potential Growth Area 3.

Infrastructure

Key infrastructure issues raised in submissions related to the need to upgrade key transport infrastructure to accommodate additional traffic generation, provide adequate emergency access and to address safety. The Panel considers that the ISP appropriately considers road infrastructure (and other transport network infrastructure) and its relationship with the timing of development and funding contributions. The Panel considers that other infrastructure provision (water supply and primary school expansion) are appropriately addressed in the ISP.

The full funding of major infrastructure upgrades was identified by many submitters as a matter requiring further confirmation in the ISP including both the method of collecting developer contributions and the allocation of funds by Council. While the timely provision of infrastructure and transparent collection processes are important, the Amendment is intended to implement high level strategy based on the ISP. More comprehensive consideration of appropriate development contributions is appropriate at the detailed planning and design stage of future growth areas at both the rezoning and subdivision stage when timing, release of land and specific costs are more fully understood.

Agriculture and economic activity

The Panel concludes that the ISP and Amendment appropriately respond to interfaces with agricultural land uses but that Clause 11.03-6L would benefit from further clarification about the impacts on agriculture both within and adjoining the settlement boundary as proposed by Council in response to submissions.

The Panel considers that the growth envisaged by the ISP will create greater demand for goods and services and is likely to result in commercial and retail growth and provide employment opportunities in the town over the medium term consistent with its commercial role in the municipality. The Panel considers the ISP and existing PPF and purposes of the Farming Zone and LDRZ provide adequate direction and support for further appropriate economic activity.

Cultural heritage

The ISP and Amendment appropriately responds to issues of cultural heritage which contribute to the character and identity of Inverleigh.

Zoning anomalies and rezoning of land

A number of submissions sought the correction of various zoning anomalies relating to public land. While these were recognised by Council, they should be managed through a separate planning scheme amendment. The Panel does not support the rezoning of land to LDRZ outside the identified settlement boundary.

Proposed changes to DPO9

While the Panel understands that the changes to DPO9 for lot sizes along the town's eastern rural edge are proposed to bring it into alignment with the proposed minimum lot sizes and directions of the ISP it does not support the proposed changes being progressed through this Amendment. This change was not identified in the exhibited Amendment and has resulted from a single submission. The Panel has had inadequate opportunity to consider such a change in depth, consider the views of adjoining land owners or other parties or had the benefit of testing evidence in relation to such a change. The changes appear logical but should be progressed through a separate amendment and with the benefit of considering the Panel's recommendations regarding interface design considerations.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Golden Plains Planning Scheme Amendment C87gpla be adopted as exhibited subject to the following:

1. **Abandon the exhibited changes to Clause 21.7-5 (Inverleigh).**
2. **Amend Clause 02.03-1 under the heading 'Inverleigh' to add the following sentence consistent with Council's final version in Appendix D1:**

'The Inverleigh Flora Reserve is a grassy woodland. Its purpose is the conservation of indigenous plants and animals. It poses a modest fire risk to land adjoining the Bush Interface'.
3. **Amend Clause 11.03-6L consistent with Council's version in Appendix D2 (with the exception of the 'Bushfire management strategies' which should be replaced consistent with Recommendation 5) to:**
 - a) **Under the heading 'Settlement and residential development strategies' add the word 'moderate' before the words 'residential growth'.**
 - b) **Under the heading 'Economic development and tourism strategies' delete the words 'adjacent to the township boundary' relating to the impacts of development on agricultural land use.**
 - c) **Under the heading 'Open space and natural environment strategies' include the words 'Inverleigh Flora Reserve'.**
 - d) **Rename the 'Inverleigh Structure Plan' the 'Inverleigh Framework Plan' and insert the amended Inverleigh Framework Plan.**
4. **Amend Council's version of Clause 11.03-6L in Appendix D2 to:**

- a) **Replace the Objective with a new Objective:**
 - 'To encourage residential, commercial and tourism growth in Inverleigh while recognising its rural setting and protecting the natural landscape in and around the town'.
 - b) **Designate the western portion of Potential Growth Area 3, currently in the Farming Zone, as a 'Future Investigation Area' in the Inverleigh Framework Plan.**
5. **Following consultation with the Department of Environment, Land, Water and Planning add an additional direction in Clause 11.03-6L under 'Open space and natural environment strategies' to outline the purpose and approach to biolink(s), green links and streamside reserves prior to adoption of the Amendment.**
 6. **Following further expert advice and the guidance of Department of Environment, Land, Water and Planning and the Country Fire Authority amend Clause 11.03-6L to provide greater clarification of the localised bushfire management challenges for Inverleigh and appropriate high level policy responses prior to adoption of the Amendment.**
 7. **Amend the Schedule to Clause 72.08 (Background documents) to include reference to the 'Inverleigh Structure Plan Review (Golden Plains Shire, 2019)' and delete reference to the 'Inverleigh Structure Plan Review (Connell Wagner, 2005)' consistent with Council's final version in Appendix D4.**
 8. **Amend the Inverleigh Structure Plan 2019 to:**
 - a) **Identify the western portion of Potential Growth Area 3 as a 'Further Investigation Area' and subject to the further consideration of:**
 - **Multiple access and egress arrangements, including an access and egress point that does not require interface with the Inverleigh Flora Reserve.**
 - **Bushfire impacts on the purpose and function of the biolink, streamside areas and open space linkages.**
 - **The appropriate land use and zone for land between the escarpment and Leigh River.**
 - **Analysis and guidance for the proposed biolink, green links and streamside rehabilitation.**
 - b) **Identify a process for the planning of the biolink treatment and location, including connections with the Leigh River and Inverleigh Flora Reserve and interfaces with adjoining land, roads and the Leigh River floodplain and future open space areas.**
 - c) **Provide additional direction around the management of interfaces with the rural edge of the township and with rivers and escarpments.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment seeks to implement the key land-use planning directions of the Inverleigh Structure Plan, Golden Plains Shire, 2019 into the Golden Plains Planning Scheme (Planning Scheme).

Specifically, the Amendment proposes to:

- align Clause 21.07-5 with the Inverleigh Structure Plan 2019 (ISP) by:¹
 - replacing the objectives and strategies for Inverleigh with new objectives and strategies
 - removing redundant content
 - replacing the Inverleigh Structure Plan map with the Inverleigh Framework Plan 2019 which includes the identification of:
 - future Low Density Residential Zone (LRDZ) areas to the north, east and west of existing LDRZ areas south west of the township core, and Inverleigh Recreation Reserve when the existing use rights of the existing Broiler Farm in McCallum Road expire
 - a 'Future Investigation Area' for residential growth west of Phillips and Riverview Roads
 - key road, pedestrian and biolink connections
 - key rural and bush interfaces
- amend the Schedule 1 to Clause 32.03 Low Density Residential Zone to:
 - change the title to 'Schedule 1 to Clause 32.03 Low Density Residential Zone'
 - delete reference to minimum lot size provisions for Inverleigh
 - delete the Inverleigh Structure Plan map that appears in the Schedule
- make associated Planning Scheme map changes so that the maps read 'Low Density Residential Zone Schedule 1' instead of 'Low Density Residential Zone'.

(ii) The subject land

The Amendment applies to the Inverleigh township and all land in the settlement boundary as identified in Figure 1. Outside of Inverleigh, the Amendment also applies to all land in the Shire within the LDRZ.

Council's Part A submission² described Inverleigh and its context and pattern of development as follows:

¹ Amendment C90gpla was approved by the Minister for Planning on 9 July 2020. Amendment C90gpla translated the Municipal Strategic Statement and local planning policy of the Golden Plains Planning Scheme into the new Planning Policy Framework (PPF) format. This has affected the location of local policy content and changed clause number references. Refer to Section 1.4 (i) for details. Council exhibited a version of proposed Clause 11.03-6L which translated key elements of the exhibited Clause 21.07-5.

² Document 5

Inverleigh is one of a number of small townships in the Golden Plains Shire. It is situated at the junction of the Barwon and Leigh Rivers and is bisected east-west by the Hamilton Highway. Inverleigh is located approximately 30 kilometres west of Geelong and is one of a cluster of townships, providing a rural township alternative to suburban residential development in the regional city of Geelong.

Inverleigh's traditional 'old town' centres on the Hamilton Highway and is typical of small Victorian towns settled in the 19th century. There are substantial buildings of heritage value as well as a variety of architectural styles reflecting later periods of growth. The small business district is located along the highway and there are some limited industry and services present in the town as well as community and recreation facilities. The railway runs east-west on the southern side of the Highway. A significant amount of land in the vicinity of the river is subject to flooding, including much of the 'old town'. The 'old town' area comprises a grid layout with lots typically between 1000 – 2000 sqm.

Rural living development has occurred primarily north of the Leigh River escarpment. Lots here are typically around 1 hectare in size and can be characterized as low density housing. The most recent rezoning to Low Density Residential Zone on Common Road (Amendment C75) is subject to the default minimum lot size prescribed under the zone. There are other rural living areas with larger lot sizes on the southern and western side of the town, these are zoned Farming. The Barwon River floodplain is located to the south.

Immediately north of the township is the Inverleigh Flora Reserve and the Inverleigh Golf Course.

Figure 1 Inverleigh Structure Plan area



Source: Explanatory Report

1.2 Background

(i) Chronology of events

Council's Part A submission included a chronology of events leading to the development of the ISP and preparation of the Amendment, which the Panel has summarised in Table 1.

Table 1 Chronology of events

Date	Actions
2015	Report to Council proposing the update of the Inverleigh Structure Plan 2005
Feb - May 2017	Preliminary consultation to inform review including surveys, workshops and agency discussions
July 2017	Mesh appointed to undertake a Development Feasibility Study
June - July 2018	Draft Framework Plan published on Council website Community and stakeholder engagement on Draft Framework Plan
August 2018	Agency discussions on Draft Framework Plan
Oct 2018	Strategic Bushfire Assessment commenced
Nov 2018	Amendment C75 (Part 1) approved (385 Common Road)
February 2019	Discussions with CFA, Barwon Water and Powercor
26 March 2019	Council adopt the Inverleigh Structure Plan and resolved to prepare Amendment C87gpla
June 2019	Development Plan for 137 lots at 385 Common Road approved
July 2019	Amendment C74 approved (230 Hopes Road)
31 July 2019	Amendment authorised
16 Aug – 16 October 2019	Amendment exhibited – 91 submissions received
26 November 2019	Council resolved to refer all submissions to an independent Panel
16 January 2020	A late submission was received and accepted by Council and referred to the Panel
2nd March 2020	Planning Permit P19-008 issued for subdivision of 385 Common Road (110 lots – Stage)
9 July 2020	Amendment C90gpla approved

(ii) Golden Plains Planning Scheme Amendments C74 and C75 (Part 1)

Since Council began preparing the ISP and the Amendment, two further amendments to the Golden Plains Planning Scheme have been approved to rezone land in Inverleigh from the Farming Zone (FZ) to the LDRZ.

Amendment C74 applied to a 42 hectare parcel of land at 230 Hopes Plains Road, Inverleigh. It rezoned the subject land from the FZ to the LDRZ, applied the Development Plan Overlay

(DPO), and introduced Schedule 16 (DPO16), and applied the Design and Development Overlay Schedule 5 (DDO5). Amendment C74 was approved in July 2019.

The Panel for Amendment C74 found that it was supported by strategic directions in the Planning Scheme, which designated the site for longer term growth at 1 to 2 hectare lot sizes. It also found that the current minimum lot sizes under the LDRZ allowed for the site to be developed in a manner that reflected the character and amenity of Inverleigh. The Panel noted that Council was in the early stages of reviewing the Inverleigh Structure Plan 2005, and in particular the minimum lot sizes applied in the LDRZ, but made no further comment about this review.

Key issues raised through Amendment C74 included bushfire risk and stormwater management. The Panel concluded that bushfire risk had been considered at a strategic level and it had been demonstrated that population growth had been directed to a low risk location provided appropriate bushfire mitigation measures were enacted as set out in the DPO16. The Panel also agreed that stormwater management could be appropriately addressed through the provisions of the DPO16.

Amendment C75 (Part 1) applied to an 85 hectare area of land at 385 Common Road, Inverleigh. It rezoned the land from the FZ to the LDRZ, applied the DPO and introduced Schedule 15 (DPO15) and applied DDO5. Amendment C75 (Part 1) was approved in November 2018.

The Panel concluded that Amendment C75 was strategically supported by the Inverleigh Structure Plan 2005 and that there was no justification to delay the amendment until the structure plan review was completed. No minimum lot size restriction was applied to the land beyond the standard provisions in the LDRZ. A Development Plan for 137 future lots was approved in June 2019 and Planning Permit P19-008 was issued 2nd March 2020 for subdivision of the land.

(iii) Amendment C80 Flood Study

Golden Plains Planning Scheme Amendment C80 implemented findings from the *Flood Risk Management Study – Leigh and Barwon Rivers at Inverleigh*, Water Technology P/L, 2018 by providing more accurate and up to date flood mapping for Inverleigh. It amended the location and extent of the mapping for the Land Subject to Inundation Overlay (LSIO) and the Floodway Overlay (FO). It also introduced new schedules to these overlays which had the effect of varying planning permit exemptions. Amendment C80 was approved in September 2019.

Amendment C80 generally increased the extent of flood mapping under these overlays (and as generally shown in the 2005 Structure Plan, however there were also some decreases in flood mapping extent.

The exhibited Inverleigh Framework Plan included in Clause 21.07 identified the same flood mapping extent as Amendment C80.

(iv) Authorisation

Ministerial Authorisation to prepare the Amendment was issued on 31 July 2019. The letter of Authorisation included a number of conditions:

- In the Explanatory Report:
 - the title of 'Amendment C87' to be 'Amendment C87gpla' must be corrected throughout the document.
 - a concise description of the amendment must be provided including specifically the effect of the amendment.
 - ensure the amendment considers Ministerial Direction 1- Potentially Contaminated Land by addressing whether future areas for development are affected by potentially contaminated land.
- The Inverleigh Framework Plan in the *Inverleigh Structure Plan* (Golden Plains, 2019), in Clause 21.07 and in the Schedule to Clause 32.02 Low Density Residential Zone must reflect recently approved amendments in Inverleigh.
- The final copy of the *Inverleigh Structure Plan* (Golden Plains Shire, 2019), including attachments, and supporting documents are provided to DELWP prior to exhibition of the amendment.
- The proposed changes to the Local Planning Policy Framework (LPPF) must be drafted to take into consideration the LPPF translation into the new Planning Policy Framework (PPF) structure as part of the Smart Planning program.
- The wording of Clause 21.07-5 should be confirmed with DELWP prior to exhibition of the amendment.
- The schedule to Clause 32.03 Low Density Residential Zone is in accordance with the Ministerial Direction on the Form and Content of Planning Schemes. Ensure the planning scheme maps also reflect any changes.
- Ensure the *Inverleigh Structure Plan* (Golden Plains Shire, 2019) must be accurately and consistently referenced through the amendment documents.

Council advised at the Panel Hearing that the conditions of the Authorisation letter were met prior to exhibition of the Amendment.

In relation to Ministerial Direction No. 1 Potentially Contaminated Land, Council advised in its Part A submission that *"when Council considers a request to rezone land in Inverleigh, Council will consider if contamination is an issue through the planning scheme and amendment process"*. Following questioning from the Panel at the Hearing, Council advised that it was not aware of any potential contamination issues on land identified for future growth, that the settlement boundary was unchanged from the existing Framework Plan and that further investigation would be undertaken at such time any land was proposed for rezoning. The Panel accepts this approach.

1.3 Submissions

A total of 92 submissions were received in response to public exhibition of the Amendment. Of these submissions, 17 were in support of the Amendment, with 73 opposing either elements of the Amendment or the Amendment in its entirety. A further two submissions suggested changes to the Amendment but neither stated support or opposition to it.

Key issues raised through submissions included:

- population growth, settlement boundary and land supply (including lot size and diversity)
- township character
- bushfire risk
- environmental issues, including potential impacts on the Inverleigh Flora Reserve and waterways

- infrastructure provision, with a focus on stormwater management, sewage disposal, upgrade of roads and intersections and development contributions
- education facilities
- impacts on other land uses, particularly agriculture
- Aboriginal cultural heritage
- land use and zoning requests
- anomalies and corrections
- governance.

1.4 Procedural issues

(i) Planning Policy Framework translation and Clause 11.03-6L

On 9 July 2020, Golden Plains Planning Scheme Amendment C90gpla (Amendment C90) was approved by the Minister for Planning. Amendment C90 translated the Municipal Strategic Statement and local planning policies of the Planning Scheme into the new Planning Policy Framework (PPF) at clauses 11-19 and the Municipal Planning Strategy (MPS) at Clause 02. The PPF format was introduced into the Victoria Planning Provisions by Amendment VC148.

Specifically, Amendment C90 made the following changes to the content of Clause 21 and Clause 22 of the Planning Scheme:

- relocated the content to the appropriate headings in the MPS, PPF and local schedules of the Golden Plains Planning Scheme where the intended effect of that clause or any other clause is not changed
- clarified and improved the style, format, language or grammatical form in accordance with the principles set out in *A Practitioner's Guide to Victorian Planning Schemes* where the intended effect of that clause or any other clause is not changed
- updated clause references, department names, legislation names, document references, terminology and statistical data
- deleted or adjusted incompatible content that conflicts with State planning policy of the Victoria Planning Provisions (VPP)
- removed repetitive content
- removed or updated outdated content.

Amendment C90 affected the location of policy content formerly in Clause 21.07 Inverleigh as follows:

- overarching strategic settlement directions for Inverleigh are now located in Clause 02.03-1
- local policy objectives and strategies are now located in Clause 11.03-6L
- Background documents are now listed in the Schedule to Clause 72.08 Background Documents.

Council included a draft version of proposed new Clause 11.03-6L in a format consistent with the PPF translation as an attachment to the Explanatory Report. The PPF version was intended to avoid compromising the intent of Amendment C87 and continues to carry over the Inverleigh Framework Plan.

For the remainder of this Report and in its recommendations, the Panel refers to the proposed policy changes to Clause 11.03-6L rather than the exhibited Clause 21.07 which no longer forms part of the Planning Scheme.

The exhibited draft version of Clause 11.03-6L proposed to:

- update and replace most strategy content with new content reflecting the directions of the ISP
- replace references to the 2005 Structure Plan with the ISP
- replace the Structure Plan map with the Inverleigh Framework Plan.

(ii) Post-exhibition changes

Council advised in its Part A submission that there was a discrepancy between the exhibited Tracked Change version of the LDRZ – Schedule 1 and the ‘clean version’ which resulted from technical difficulties uploading the amendment documents into the Department’s new Keystone Authoring system. The correct version is the ‘clean version’ included within the Amendment documentation. The intention was to remove reference to any minimum subdivision area from the Schedule but to retain outbuilding permit requirements.

Through its Part A submission, Council recommended a number of changes to the exhibited Amendment documentation in response to submissions. These are summarised in Table 2 noting that Clause 11.03-6L now supersedes Clause 21.07.

Table 2 Post-exhibition changes proposed by Council’s Part A submission

Suggested changes to Clause 21.07-5 (11.03-6L)	Response to submissions
At Strategy 1.1, amend to read: Support moderate residential growth within the existing defined township Settlement boundary consistent with the Inverleigh Structure Plan 2019 in Figure 21.07-5A Inverleigh Structure Framework Plan	23, 25, 26, 27, 30, 33, 43, 48, 51, 61, 68, 69, 70, 71, 72, 78, 80, 82
At Strategy 2.4, amend to read: Locate and design development adjacent to the township boundary so that it does not impact on agricultural land use	Response to submissions relating to impacts on agriculture within the town boundaries
At Strategy, 3.1, amend to read: Protect the natural landscape and its environmental qualities, including the Inverleigh Flora Reserve , the Barwon and Leigh rivers and vegetation as fundamental elements of Inverleigh	58
Suggested changes to the Inverleigh Framework Plan 2019	Response to submissions
Delete the proposed pedestrian access from Dawber Road to the Leigh River and replace it with a pedestrian access along the extent of Bourkes Road (eastern side)	Response to discussions with community members during Amendment preparation
Remove from Legend and from plan the identification of Formal Streetscape and Informal Streetscape	Response to meeting held with community members during exhibition period

Rawson Road – incorrectly identified to the south of Mahers Road. Remove text ‘Rawsons Road’ south of the Settlement boundary where it extends south from Mahers Road	81
Railway Crossing at Newman Street does not exist and should be removed	79, 81
Use text on map to Identify Federation Bridge	79, 81, 87
Correct status of Cemetery Road/ Gallagher Road – Gallagher Road is depicted as an Unsealed Key Access Road	81
Savage Drive – remove small grey line jutting off Savage Drive as it does not exist	Resultant from meeting held with community members during the exhibition period
Identify the lookout around Savage Drive	81
Change name of The Common to Inverleigh Flora Reserve	58
Identify the extent of the Inverleigh Flora Reserve within the area between the Inverleigh-Teesdale Road and Bakers Lane	58, 79, 81
Include a notation that the exact location of green links, bridle paths, pedestrian access and Bio-Link are indicative (or subject to more detailed planning in consultation with DELWP)	37
Suggested changes to Development Plan Overlay 9 at Clause 43.04 Development Plan Overlay (DPO)	Response to submissions
Redrafting of Clause 43.04 Development Plan Overlay Schedule 9	58

During the Hearing, Council provided additional changes to Clause 11.03-6L including the Inverleigh Framework Plan for consideration by the Panel in response to issues raised during the Panel and in response to evidence. The proposed changes are outlined and discussed in more detail in Chapters 4, 5 and 7 and are contained in Appendix D.

Council suggested a number of changes to the Inverleigh Structure Plan 2019 document, which is proposed to be a background document in the Planning Scheme. These changes are outlined and discussed in Chapters 3, 4, 5 and 7.

(iii) Expert witness and representative details

The Panel directed that details of parties’ expert witnesses be provided by 20 January 2020, with expert witness reports to be circulated by 16 March 2020. On 16, 17 and 25 March 2020, expert witness reports were received from Council, Tract Consultants for Margaret and Peter McCann (McCann Family) and Minter Ellison for the Ramsey Property Group (RPG). Late witness statements were accepted by the Panel due to the deferment of the Panel Hearing as outlined in Section 1.4 (v) below. The details of the experts that provided witness statements, evidence-in-chief and were cross examined are summarised in Table 3.

RPG further advised the Panel on the 17 March 2020 that it no longer represented the owners of 385 Common Road and that the evidence of its witnesses would be amended accordingly.

Mr Walton provided an Addendum to his evidence on 6 July 2020 which was circulated consistent with the Panel's Directions.

On 24 February, Minter Ellison, for RPG, emailed Planning Panels Victoria and parties a letter addressed to the Panel Chair advising, among other things, that it would now be represented by Chris Canavan QC and Carly Robertson of Counsel.³

Table 3 Expert witnesses

Party	Expert	Witness Statement document No.
Council	- Bushfire planning from Phil Walton of XWB Consulting	6 & 31 (Addendum)
Minter Ellison, for RPG	- Strategic planning from Andrew Clarke of Matrix Planning	8
	- Land supply and economics from Matthew Lee of Deep End Services	14
	- Bushfire planning from Kylie Steel of South Coast Bushfire Consultants	11
	- Stormwater from Leigh Prosser of Cardno TGM Land	10
	- Land capability from Cameron Farrar of St Quentin Consulting	9
Tract Consultants, for Margaret and Peter McCann	- Strategic planning from Rob Milner of Kinetica	7

(iv) Country Fire Authority

Given the significance of bushfire as an issue to the future planning for Inverleigh, the relevant policy considerations of Clause 13.02-15 and the number of submissions referring to bushfire risk, the Panel invited the Country Fire Authority (CFA) to attend the Hearing to clarify their position on various bushfire matters. The CFA attended the entire Hearing, provided an additional supporting submission to their original submission and answered questions from the Panel. The Panel appreciates the time and commitment the CFA gave to participating in the Hearing and in assisting the Panel.

(v) Panel process

A Directions Hearing was held in relation to this matter on 16 January 2020 with Hearing dates set down for 24 March to 2 April 2020. On 17 March 2020 all parties were advised that the Panel Hearing was to be postponed due to the rapidly developing COVID-19 situation until further notice.⁴

³ Document 2

⁴ Document 13

The Panel further considered options for progressing the Hearing with parties, but advised on 8 April 2020 *“that the Hearing cannot be held ‘on the papers’ or through video conferencing because not all parties have the ability to access such processes effectively”*.⁵ In that letter, the Panel indicated that it sought to progress the matter at the soonest possible date through a fair and equitable process, recognising that the availability of internet in Inverleigh did not necessarily reflect what is available in individual households.

Following changes to the *Planning and Environment Act 1987* legally allowing hearings to proceed by electronic means, the Panel was requested by Council and the RPG⁶ to progress the Hearing, using video conferencing options and using teleconferencing facilities at the Golden Plains Community and Civic Centre in Bannockburn. The original Panel Chair (Mr Tsotsoros) considered it appropriate to convene a second Directions Hearing but was unable to continue with this matter due to competing time constraints. The Panel was reconstituted to comprise Tim Hellsten as Chair, with Sally Conway.

A second Directions Hearing was held on the 11 June 2020 by video conference which considered new Hearing dates and the arrangements for the Hearing to proceed by teleconferencing. The Panel’s subsequent additional directions:⁷

- confirmed the options for parties to present submissions and observe proceedings or participate in cross-examination from Council’s Bannockburn Civic Centre.
- enabled parties to provide written submissions if they were unable to present these verbally at the Hearing.
- enabled parties to submit questions in writing to witnesses.
- required the Hearing to be live streamed and recorded.

In response to further community concerns about access to the Hearing, the Panel on the 30 June 2020⁸ confirmed that the Hearing would proceed with suitable alternative options for submitters to present to the Panel and observe proceedings if local internet issues limited accessibility. This decision was supported by a commitment from the Panel to conduct a test of facilities and videoconferencing linkages with Council in the week prior to the Hearing. The Panel planned for a reserve day for the Hearing and a review of arrangements with Council two working days before the Hearing commenced in the event of changed COVID 19 response measures.

The Panel clarified during proceedings that if parties had difficulty being able to present during scheduled times that alternative options would be provided. Ultimately this was not required and all parties were able to effectively present their submissions to the Panel. The Panel thanks the parties for their preparedness to engage in the Hearing using videoconferencing.

A number of parties presented their submissions from Council’s facilities however the majority presented by videoconference from their homes or workplace. Recordings were made available to some parties on written request for the purposes of the Hearing only. Mr Hodson availed himself of the opportunity to provide written questions of four experts⁹ which were

⁵ Document 18

⁶ Documents 19 and 20

⁷ Directions Letter and Timetable Version 4 (Document 24)

⁸ Document 30

⁹ Document 34

responded to by those experts.¹⁰ He was also provided with the opportunity to ask further questions of all witnesses during cross-examination.

The Panels thanks Minter Ellison for setting up and maintaining a Panel e-Book of all documents relied on by parties and circulated.

(vi) Appearances and further written submissions

Before and during the Hearing, several parties (Glynn, Windle, Wilson and Billingham) advised that they would not be presenting to the Hearing and would be relying on their original submissions, while other parties (Inverleigh Progress Association and Irwin) provided additional written submissions rather than present verbally to the Panel. Ms Debets was unable to attend the Hearing and was provided the opportunity to provide a further written submission within two days of the Hearing's close, however subsequently advised the Panel that she intended to rely on her original submission to the Amendment. The Panel has considered these submissions along with all other submissions referred to it.

1.5 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme. It is noted that pursuant to this Clause, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations and this has been a key consideration in the Panel's examination of submissions.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Land supply and lot diversity
- Environmental issues
- Infrastructure issues
- Other Issues.

1.6 Limitations of this Report

The Amendment proposes changes to the title of the schedule to the LDRZ and related Planning Scheme zone map changes across the Shire to respond to the 2012 reforms of the residential zones and to comply with the *Ministerial Direction on the Form and Content of*

¹⁰ Document 42

Planning Schemes. No submission was made to this aspect of the Amendment. The proposed changes are considered to be minor technical or administrative corrections and the Panel makes no particular findings or recommendations about this element of the Amendment.

Many submissions raised concerns about Council's performance and governance processes including the management of the Streetscape Master Plan.¹¹ The Panel understands that the identification of such issues reflected some submitters' concerns about the veracity of the process leading up to the preparation of the ISP and confidence about future decision making in relation to it. The Panel acknowledges the challenges that exist for a planning authority, particularly for rural councils often with limited resources, in undertaking town wide strategic planning exercises that balance broad community sentiment and perspectives with strategic policy, environmental, social and economic considerations and the delivery of future infrastructure (which is often the responsibility of other agencies). However, issues of performance and governance are outside the scope of matters to be considered by the Panel and thus the Panel will provide no comment on these issues. The Panel noted however, that during the Hearing Council identified that it had taken learnings away from the ISP development process.

¹¹ Including submissions 18, 39, 40, 42, 44, 53, 58, 67 and 87.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Scheme. The Panel has summarised relevant clauses in Table 4 Planning Policy Framework clauses

00 Purpose and Vision

02 Municipal Planning Strategy

▶ 02.02 Vision

To sustainably manage land use and development within the Shire including:

- Residential development will predominantly be contained within townships.
- The natural environment will be protected and enhanced.
- The local economy will grow, particularly in township development and rural based and farming industries.

▶ 02.03 Strategic directions

▶ 02.03-1 Settlement

To encourage the consolidation of townships, including directing residential development to within township boundaries.

Maintain a clear distinction between urban and rural areas.

Avoid urban development in unserviced areas.

Direct residential development primarily to Smythesdale in the north-west and Bannockburn in the south-east.

Inverleigh

To maintain the heritage characteristics and natural qualities that make the township attractive to residents and visitors.

To encourage use and development that enhances the town centre's role as a community focus and meeting place.

▶ 02.03-2 Environment and landscape values

Biodiversity will be supported by:

- Protecting significant habitats and remnant vegetation from the encroachment of development.
- Balancing native vegetation conservation with development pressures, land use change and protection of people from bushfire.

▶ 02.03-3 Environmental risks and amenity

Mitigate bushfire risk by:

- Avoiding development in bushfire prone areas.
- Avoiding the rezoning of land that allows for settlement in areas of high bushfire risk, particularly where natural assets will be compromised.
- Minimising the impact of bushfire protection measures on vegetation with high environmental value.

Mitigate flood risk by:

- Discouraging intensification of land use and development in floodplains.
- Ensuring the future use and development of land prone to flooding minimises the consequences of inundation of life and property.
- Protecting floodways for their role in conveying floodwater.

▶ 02.03-4 Natural resource management

Agriculture

To support sustainable agriculture by:

- Protecting the role of agricultural land as an economically valuable resource.
- Minimising the potential for conflict between sensitive uses and agricultural practices.

▶ **02.03-6 Housing**

- Support a range of housing styles and types within urban areas to cater for changing household needs.
- Encourage the consolidation of sites and intensification of development in existing towns where it avoids detrimentally altering the character or quality of these areas.
- Discourage subdivision of land in the Low Density Residential Zone that does not maintain or complement the established character.
- Discourage subdivision that does not meet the requirements of the Domestic Wastewater Management Plan.

▶ **02.03-7 Economic development**

- Consolidate commercial use and development to reinforce the viability and vitality of commercial and retail centres.
- Direct commercial and retail services to Bannockburn and other district commercial and retail centres, as identified in Table 1.

Inverleigh is listed as a District commercial and retail centre in Table 1.

▶ **02.03-9 Infrastructure**

Development infrastructure

To support the community's access to infrastructure by:

- Directing development to areas with access to water and sewerage infrastructure.
- Facilitating water and sewerage infrastructure works in unsewered townships.

Planning Policy Framework

11 Settlement

11.01 Victoria

▶ **11.01-1R Settlement – Geelong G21**

Provide for settlement breaks between towns to maintain their unique identities.

Require a settlement boundary for all towns.

Protect critical agricultural land by directing growth to towns.

▶ **11.01-1L Settlement**

Maintain an urban break between Geelong, Bannockburn, Batesford and Inverleigh.

Direct population growth to urban areas provided with water, sewerage and social infrastructure.

11.02 Managing growth

▶ **11.02-1S Supply of urban land**

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

▶ **11.02-2S Structure planning**

To facilitate the orderly development of urban areas.

11.03 Planning for places

▶ **11.03-6S Regional and local places**

To facilitate integrated place-based planning.

▶ **11.03-6L Inverleigh**

To encourage sequential serviced low density residential development consistent with the 2005 Inverleigh Structure.

To create strong visual edges along township boundaries and enhance the distinctive entrance and gateways.

To maintain fire breaks at township boundaries, golf course and Flora and Fauna Nature Reserve and provide bushfire protection buffers.

To avoid development encroaching on open space corridors and floodplains.

To support development that is sensitive and sympathetic to natural features, land forms, public spaces and protects the visual amenity of the Leigh and Barwon Rivers.

To create an open space corridor for wildlife from the Nature Reserve to rivers.

To facilitate new development incorporating pedestrian, cycle and green links.

12 Environment and landscape values

12.03 Water bodies and wetlands

▶ 12.03-1S River corridors, waterways, lakes and wetlands

To protect and enhance river corridors, waterways, lakes and wetlands.

13 Environmental risks and amenity

13.01 Climate change impacts

▶ 13.01-1S Natural hazards and climate change

To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.

13.02 Bushfire

▶ 13.02-1S Bushfire planning

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

14 Natural resource management

14.01 Agriculture

▶ 14.01-1S Protection of agricultural land

To protect the state's agricultural base by preserving productive farmland.

15 Built environment and heritage

15.01 Built environment

▶ 15.01-1S Urban design

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

▶ 15.01-4S Healthy neighbourhoods

To achieve neighbourhoods that foster healthy and active living and community wellbeing.

16 Housing

16.01 Residential development

▶ 16.01-1S Integrated housing

To promote a housing market that meets community needs.

▶ 16.01-2S Location of residential development

To locate new housing in designated locations that offer good access to jobs, services and transport.

▶ 16.01-3S Housing diversity

To provide for a range of housing types to meet diverse needs.

▶ **16.01-5S Rural residential development**

To identify land suitable for rural residential development.

17 Economic development

17.01 Employment

▶ **17.01-1S Diversified economy**

To strengthen and diversify the economy.

18 Transport

18.01 Integrated transport

▶ **18.01-2S Transport system**

To coordinate development of all transport modes to provide a comprehensive transport system.

▶ **18.01-2R Transport system – Geelong G21**

Support improved transit and access within Geelong and the wider region.

18.02 Movement networks

▶ **18.02-1S Sustainable personal transport**

To promote the use of sustainable personal transport.

19 Infrastructure

19.02 Community infrastructure

▶ **19.02-2S Education facilities**

To assist the integration of education and early childhood facilities with local and regional communities.

19.03 Development infrastructure

▶ **19.03-2S Infrastructure design and provision**

To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.

▶ **19.03-2L Infrastructure design and provision**

Provide a consistent approach to the design and construction of infrastructure across the municipality.

Consider as relevant the Infrastructure Design Manual (Local Government Infrastructure Design Association, 2018) for new subdivision and development.

and updated with reference to the new PPF format.

Table 4 Planning Policy Framework clauses

00 Purpose and Vision

02 Municipal Planning Strategy

▶ **02.02 Vision**

To sustainably manage land use and development within the Shire including:

- Residential development will predominantly be contained within townships.
- The natural environment will be protected and enhanced.
- The local economy will grow, particularly in township development and rural based and farming industries.

▶ **02.03 Strategic directions**

▶ **02.03-1 Settlement**

To encourage the consolidation of townships, including directing residential development to within township boundaries.

Maintain a clear distinction between urban and rural areas.

Avoid urban development in unserviced areas.

Direct residential development primarily to Smythesdale in the north-west and Bannockburn in the south-east.

Inverleigh

To maintain the heritage characteristics and natural qualities that make the township attractive to residents and visitors.

To encourage use and development that enhances the town centre's role as a community focus and meeting place.

▶ **02.03-2 Environment and landscape values**

Biodiversity will be supported by:

- Protecting significant habitats and remnant vegetation from the encroachment of development.
- Balancing native vegetation conservation with development pressures, land use change and protection of people from bushfire.

▶ **02.03-3 Environmental risks and amenity**

Mitigate bushfire risk by:

- Avoiding development in bushfire prone areas.
- Avoiding the rezoning of land that allows for settlement in areas of high bushfire risk, particularly where natural assets will be compromised.
- Minimising the impact of bushfire protection measures on vegetation with high environmental value.

Mitigate flood risk by:

- Discouraging intensification of land use and development in floodplains.
- Ensuring the future use and development of land prone to flooding minimises the consequences of inundation of life and property.
- Protecting floodways for their role in conveying floodwater.

▶ **02.03-4 Natural resource management**

Agriculture

To support sustainable agriculture by:

- Protecting the role of agricultural land as an economically valuable resource.
- Minimising the potential for conflict between sensitive uses and agricultural practices.

▶ **02.03-6 Housing**

- Support a range of housing styles and types within urban areas to cater for changing household needs.
- Encourage the consolidation of sites and intensification of development in existing towns where it avoids detrimentally altering the character or quality of these areas.
- Discourage subdivision of land in the Low Density Residential Zone that does not maintain or complement the established character.
- Discourage subdivision that does not meet the requirements of the Domestic Wastewater Management Plan.

▶ **02.03-7 Economic development**

- Consolidate commercial use and development to reinforce the viability and vitality of commercial and retail centres.
- Direct commercial and retail services to Bannockburn and other district commercial and retail centres, as identified in Table 1.

Inverleigh is listed as a District commercial and retail centre in Table 1.

▶ **02.03-9 Infrastructure**

Development infrastructure

To support the community's access to infrastructure by:

- Directing development to areas with access to water and sewerage infrastructure.
- Facilitating water and sewerage infrastructure works in unsewered townships.

Planning Policy Framework**11 Settlement****11.01 Victoria****▶ 11.01-1R Settlement – Geelong G21**

Provide for settlement breaks between towns to maintain their unique identifies.

Require a settlement boundary for all towns.

Protect critical agricultural land by directing growth to towns.

▶ 11.01-1L Settlement

Maintain an urban break between Geelong, Bannockburn, Batesford and Inverleigh.

Direct population growth to urban areas provided with water, sewerage and social infrastructure.

11.02 Managing growth**▶ 11.02-1S Supply of urban land**

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

▶ 11.02-2S Structure planning

To facilitate the orderly development of urban areas.

11.03 Planning for places**▶ 11.03-6S Regional and local places**

To facilitate integrated place-based planning.

▶ 11.03-6L Inverleigh

To encourage sequential serviced low density residential development consistent with the 2005 Inverleigh Structure.

To create strong visual edges along township boundaries and enhance the distinctive entrance and gateways.

To maintain fire breaks at township boundaries, golf course and Flora and Fauna Nature Reserve and provide bushfire protection buffers.

To avoid development encroaching on open space corridors and floodplains.

To support development that is sensitive and sympathetic to natural features, land forms, public spaces and protects the visual amenity of the Leigh and Barwon Rivers.

To create an open space corridor for wildlife from the Nature Reserve to rivers.

To facilitate new development incorporating pedestrian, cycle and green links.

12 Environment and landscape values**12.03 Water bodies and wetlands****▶ 12.03-1S River corridors, waterways, lakes and wetlands**

To protect and enhance river corridors, waterways, lakes and wetlands.

13 Environmental risks and amenity**13.01 Climate change impacts**

▶ **13.01-1S Natural hazards and climate change**

To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.

13.02 Bushfire

▶ **13.02-1S Bushfire planning**

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

14 Natural resource management

14.01 Agriculture

▶ **14.01-1S Protection of agricultural land**

To protect the state's agricultural base by preserving productive farmland.

15 Built environment and heritage

15.01 Built environment

▶ **15.01-1S Urban design**

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

▶ **15.01-4S Healthy neighbourhoods**

To achieve neighbourhoods that foster healthy and active living and community wellbeing.

16 Housing

16.01 Residential development

▶ **16.01-1S Integrated housing**

To promote a housing market that meets community needs.

▶ **16.01-2S Location of residential development**

To locate new housing in designated locations that offer good access to jobs, services and transport.

▶ **16.01-3S Housing diversity**

To provide for a range of housing types to meet diverse needs.

▶ **16.01-5S Rural residential development**

To identify land suitable for rural residential development.

17 Economic development

17.01 Employment

▶ **17.01-1S Diversified economy**

To strengthen and diversify the economy.

18 Transport

18.01 Integrated transport

▶ **18.01-2S Transport system**

To coordinate development of all transport modes to provide a comprehensive transport system.

▶ **18.01-2R Transport system – Geelong G21**

Support improved transit and access within Geelong and the wider region.

18.02 Movement networks

▶ **18.02-1S Sustainable personal transport**

To promote the use of sustainable personal transport.

19 Infrastructure

19.02 Community infrastructure**▶ 19.02-2S Education facilities**

To assist the integration of education and early childhood facilities with local and regional communities.

19.03 Development infrastructure**▶ 19.03-2S Infrastructure design and provision**

To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.

▶ 19.03-2L Infrastructure design and provision

Provide a consistent approach to the design and construction of infrastructure across the municipality.

Consider as relevant the Infrastructure Design Manual (Local Government Infrastructure Design Association, 2018) for new subdivision and development.

2.2 Other relevant planning strategies and policies**(i) G21 Regional Growth Plan**

The G21 Regional Growth Plan provides broad direction for land use and development across the G21 region, covering the municipalities of the City of Greater Geelong, Colac Otway Shire, Surf Coast Shire, Borough of Queenscliff and the southern portion of Golden Plains Shire. The G21 Regional Growth Plan was endorsed by the five Councils in 2013 and its key objectives and strategies were introduced into the Planning Scheme in 2014.

The Plan builds on the 2013 estimated population of 290,000 and plans for a future population of 500,000 persons and beyond. It indicates that the region's smaller rural settlements, including Inverleigh, will continue to experience modest growth and play an important tourism and agricultural role to surrounding areas. It also states that "*Growth will be limited to identified structure plan settlement boundaries*".

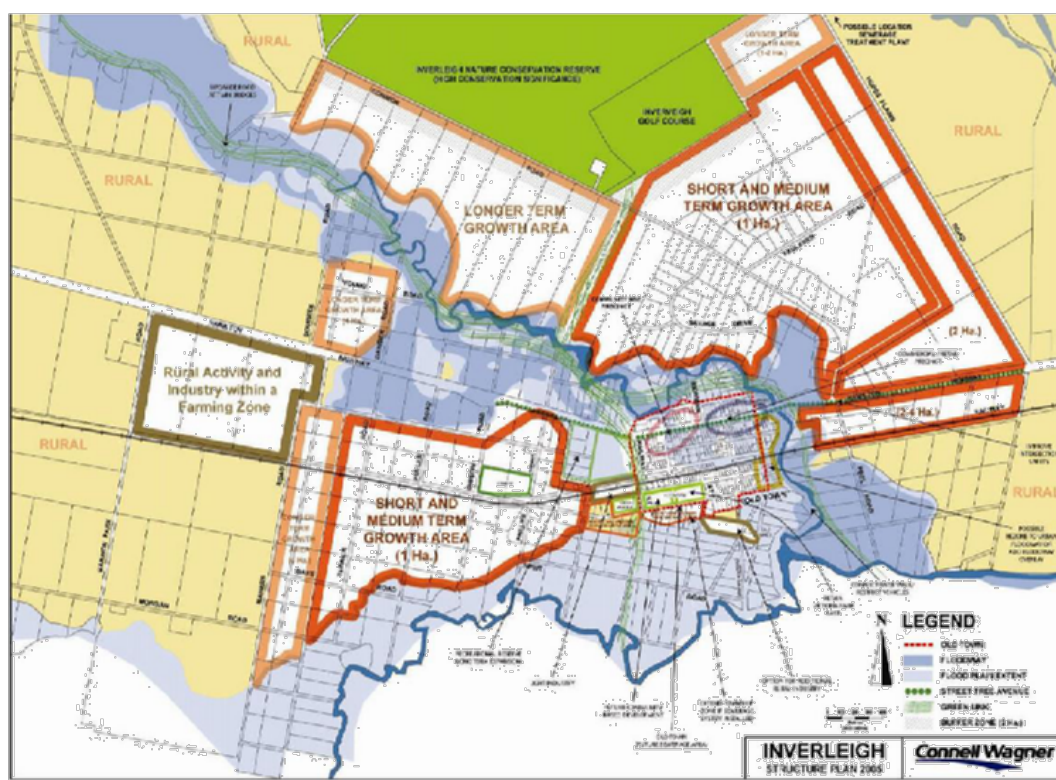
(ii) Inverleigh Structure Plan 2005

The *Inverleigh Structure Plan Review*, Connell Wagner, 2005 (2005 Plan) prepared for Golden Plains Shire evaluated the performance of the 1996 Inverleigh Structure Plan and considered emerging themes and issues and provided an analysis of land use patterns and an indication for the future direction and development of Inverleigh.

The 2005 Plan was included in the Planning Scheme through Amendment C37 and forms the basis for the content of existing local policy. Key outcomes from the 2005 Plan included:

- confirming short-medium term growth areas (1, 2 and 2-4 hectare lots) and longer term growth areas
- application of the Heritage overlay to the Inverleigh town centre
- rezoning and residential growth in accordance with the ISP 2005
- providing firebreaks between the Golf Course and residential development
- new and upgraded recreational and community facilities
- new business and commercial enterprises
- provision of caravan, trailer, bus and truck parking in the main street
- continuation of trails along the Leigh River.

Figure 2 Inverleigh Structure Plan 2005



Council's Part A submission¹² includes a useful comparison of the key differences between the 2005 and 2019 Inverleigh Structure Plans. Council submitted that the ISP was informed by the 2005 Plan, in particular by:

- retaining the township boundary
- including green links and interface treatments between residential land use and the Inverleigh Common, Golf Course and farming areas.

2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the PPF.

(i) Zones

The Amendment does not propose to rezone any land. The LDRZ is the only zone affected by the Amendment.

The purpose of the LDRZ is "to provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater".

The LDRZ requires:

¹² Pages 14-16

- a permit to subdivide land with each lot at least the area specified in the schedule to the zone
- any area specified in the schedule to be at least:
 - 0.4 hectare for each lot where reticulated sewerage is not connected.
 - 0.2 hectare for each lot with connected reticulated sewerage.

If no area is specified in the schedule, the above measures apply. Currently scheduled minimum lot sizes for land in the LDRZ in Inverleigh range from 0.4 hectares to 2.0 hectares as identified on the map in the Schedule to the LDRZ (same as Figure 2). Inverleigh is the only township in Golden Plains Shire with minimum lot sizes in excess of 0.4 hectares.

The Amendment seeks to:

- change the LDRZ Schedule, to remove reference to minimum subdivision areas in Section 1.0 and to delete Figure 1 in the Schedule which sets out the minimum subdivision areas for Inverleigh.
- change Clause 11.03-6L to include the 2019 Inverleigh Framework Plan which designates proposed LDRZ land and removes minimum lot sizes from the plan.

(ii) Overlays

The Amendment does not propose to change an existing planning scheme overlay or apply a new overlay.

A number of overlays extend across parts of Inverleigh including:

- Bushfire Management Overlay (BMO)
- Land Subject to Inundation Overlay (LSIO)
- Floodway Overlay (FO)
- Heritage Overlay
- Development Plan Overlay (DPO)
- Design and Development Overlay
- Environmental Significance Overlay (ESO)
- Vegetation Protection Overlay (VPO)
- Salinity Management Overlay.

The BMO applies to the Inverleigh Flora Reserve, the Inverleigh Golf Course and extends approximately 150 metres beyond these sites on all sides. It affects two areas of land currently zoned LDRZ and one of the areas proposed for the LDRZ on the Inverleigh Framework Plan 2019.

The purpose of the BMO is:

To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.

To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

The FO and LSIO applies to land in the vicinity of the Leigh and Barwon rivers. This includes some of the land proposed for the LDRZ and some of the land designated for future

investigation on the Inverleigh Framework Plan 2019. These overlays are generally applied to identify areas prone to flooding and flood fringe areas, to ensure that development maintains the free passage and temporary storage of floodwaters, to protect water quality and ensure development maintains or improves river, wetland and floodplain health.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments). That discussion is not repeated here.

Ministerial Direction 1 has been discussed at Section 1.2(iv) above.

The Amendment proposes changes to the title of the LDRZ Schedule and map references to comply with Ministerial Direction on the Form and Content of Planning Schemes.

Planning Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of *Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 (PPN46)*. That discussion is not repeated here.

(i) Planning Practice Note 13: Incorporated and background documents (PPN13)

PPN13 provides guidance on the use of incorporated and background documents. Background documents can be used as a basis for preparing local planning policies or requirements in a planning scheme, or can be mentioned in a planning scheme as a source of useful background information to a policy or control. Background documents have only a limited role in decision making as they are not part of a planning scheme and do not have the status of incorporated documents or carry the same weight. The key for determining if a document should be identified as a background document is whether it can provide useful background information or general advice to applicants or will assist in understanding a planning scheme.

The Amendment proposes to include the Inverleigh Structure Plan 2019 in the Planning Scheme as a background document which is considered appropriate for a document of this nature.

(ii) Planning Practice Note 37: Rural Residential Development (PPN37)

PPN37 provides guidance when planning for, or assessing proposals for, rural residential use and development. Rural residential development refers to land in a rural setting, used and developed for dwellings that are not primarily associated with agriculture. Because of its primarily residential function, rural residential development requires access to most of the normal services and infrastructure provided in urban settlements. Typically, it also generates urban residential amenity considerations. The zones usually applied to rural residential land are:

- Low Density Residential Zone
- Rural Living Zone

- Green Wedge A Zone (note – can only be applied in metropolitan fringe planning schemes – Planning Practice Note 62).

The Amendment does not propose to rezone any land. It does however, propose to identify land as “*proposed low density residential zone*”.

(iii) Planning Practice Note 90: Planning for Housing (PPN90)

PPN90 was introduced in December 2019 and although it was not available at the time of preparation of the Amendment it is considered relevant with respect to the Amendment. PPN90 provides guidance about planning for housing growth and protecting neighbourhood character to ensure a balanced approach to managing residential development in planning schemes.

(iv) Other relevant practice notes

Other planning practice notes relevant to the Amendment are:

- Planning Practice Note 64: Local planning for bushfire protection (PPN64)
- Planning Practice Note 65: Preparing and Assessing a Planning Application under the Bushfire Provisions in Planning Schemes (PPN65).

PPN64 and PPN65 are discussed in further detail in Chapter 5.¹³

¹³ The Panel notes that PPN65 no longer exists following the updating of DELWP’s guidance for planning for bushfire protection

3 Strategic justification

3.1 The issues

The issues are:

- whether the Inverleigh Structure Plan 2019 is sufficiently robust to support changes to local policy in the PPF
- whether the Inverleigh Structure Plan 2019 should be a background document in the Planning Scheme
- whether proposed changes to local policy are consistent with, and support the implementation of the PPF
- whether the proposed changes to the LDRZ Schedule are consistent with the PPF
- whether the Amendment complies with relevant Ministerial Directions and Planning Practice Notes
- whether the Amendment is strategically justified.

3.2 Inverleigh Structure Plan 2019

(i) Background

The ISP was exhibited with the Amendment as a supporting document and is proposed to be included in the Planning Scheme as a background document. The title Inverleigh Structure Plan 2019 and Inverleigh Structure Plan 2018 are both used throughout the document. It is understood, that the document was adopted by Council in March 2019 and that this date should be used in all future references, including references to the Inverleigh Framework Plan map which forms part of the document.

Council notes in its Part A submission that the ISP 2019 was undertaken to:

- Address the limited availability of suitably zoned and un-encumbered residential land in Inverleigh;
- Examine suitable lot sizes for the Low Density Residential Zone (LDRZ);
- Incorporate relevant findings of the Domestic Wastewater Management Plan 2015;
- Integrate the findings of the Inverleigh Flood Study 2018.

The ISP describes its aim to deliver a planning framework to:

facilitate moderate residential growth of a contemporary rural scale, with strong direction through the planning scheme to sustain the essence of Inverleigh as it continues to provide for and welcome new residents and businesses to the township.¹⁴

It notes that the intention was to retain the same township growth boundary as the 2005 Plan.

The ISP references a number of inputs that were considered as part of its development including:

- State and local policy context
- community and stakeholder engagement
- analysis of population statistics

¹⁴ ISP 2019, page 5

- changes in land use, settlement patterns, community and tourism activities, events, recreation and commercial precincts
- movement of freight, vehicles, pedestrians, cyclists and horse riders
- natural, cultural and heritage features of the town
- *Golden Plains Domestic Wastewater Management Plan 2015 (DWMP)*
- *Strategic Bushfire Risk Assessment for the Inverleigh Structure Plan, 2018 (SBRA)*
- *Flood Risk Management Study – Leigh and Barwon Rivers at Inverleigh, 2018*
- *Development Feasibility - Investigation Area in the Township of Inverleigh, 2017*
- a review of the Inverleigh Structure Plan 2005 and identification of outstanding outcomes.

Analysis and findings of the ISP

Chapter 5 of the ISP describes the analysis and findings which lead to the recommended Vision, objectives and strategies set out in Chapter 6 of the document.

Some of the major findings include:

- Inverleigh has experienced a faster rate of population growth than anticipated in the 2005 Plan
- population forecasting consultants .id Consulting recommend using a moderate growth rate scenario of 4.36% per year to predict future population. This scenario forecasts 2,380 persons by 2033, representing an increase of 1,177 persons and 431 dwellings, based on an average household size of 2.73 persons
- Inverleigh is not provided with reticulated sewerage and there are no plans to sewer the township in the short to medium term
- the main potential bushfire threat is from the Inverleigh Flora Reserve
- the Leigh and Barwon Rivers provide valuable environmental corridors that need to be protected from development and pollution associated with stormwater and septic seepage
- residential development in the town has been constrained by a number of factors, including flooding, lack of sewerage and the railway line, and an established broiler farm (which has since ceased operation)
- significant policy change has occurred with regard to the LDRZ, which now contains a minimum lot size of 0.4 hectare where no reticulated sewerage is present
- a 0.4 hectare minimum lot size is supported by the *Golden Plains Domestic Wastewater Management Plan 2015*
- a variety of planning tools have been used and will continue to be applied to LDRZ areas to ensure character is maintained
- the designation of land for short, medium or longer term growth has changed partly on the basis of the *Development Feasibility - Investigation Area in the Township of Inverleigh, 2017*
- infrastructure is identified that requires upgrading for the continued growth of the township.

Vision, principles and objectives

The ISP sets out a vision for Inverleigh:

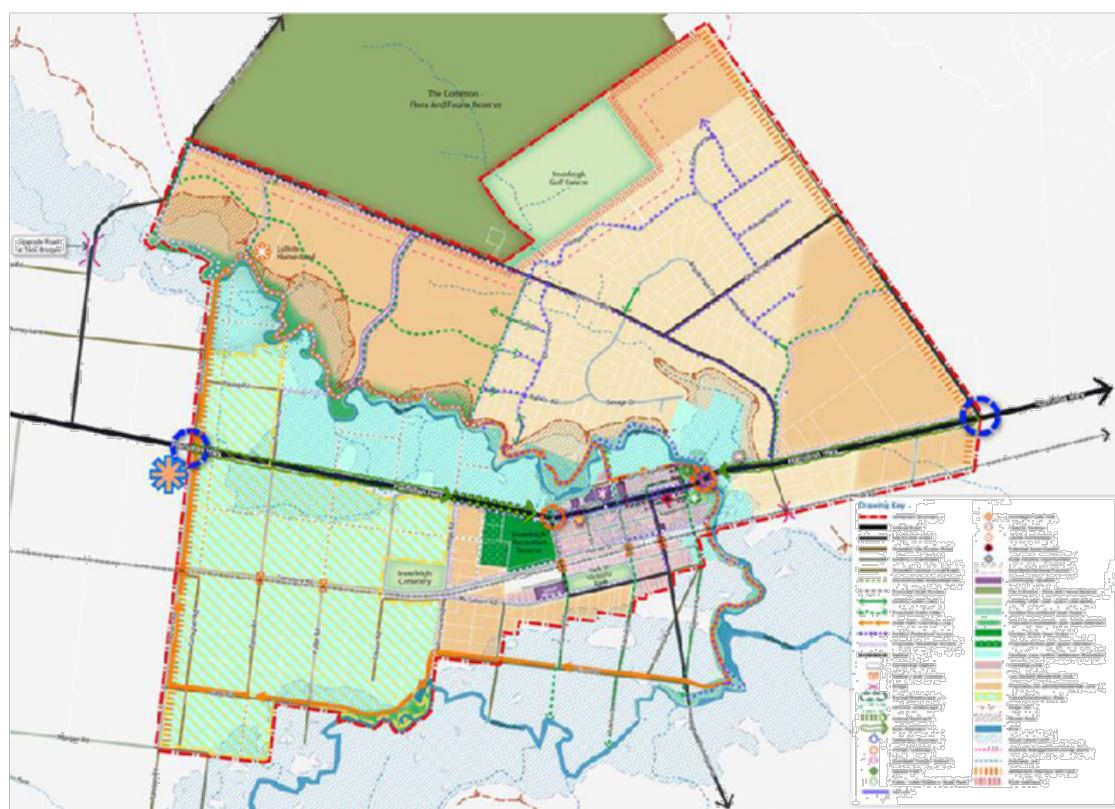
The vision for Inverleigh is to enhance its rural village atmosphere, unique riverside environmental features, heritage assets and historic and contemporary role as a regional meeting place while supporting economic development, modest residential growth and tourism opportunities. All development will be provided for within a clearly defined settlement boundary and designed to provide amenity and diversity whilst respecting the existing neighbourhood character, environmental attributes and risks. Inverleigh will be well connected by roads and trails, and well serviced by community facilities, local shops, local industry and utilities.

It establishes underpinning principles with associated objectives and detailed strategies, set out across seven themes. The themes cover: Settlement form; Built environment, heritage and character; Residential development; Open space and natural environment; Movement and access; Infrastructure and services; Economic development and tourism.

Inverleigh Framework Plan

The key directions of the ISP are identified in the Inverleigh Framework Plan (Figure 3) which was included in the exhibited Clause 21.07 and now proposed to be included in Clause 11.03-6L.

Figure 3 Inverleigh Framework Plan



Implementation

The ISP contains an implementation section which in addition to recommending amending the Planning Scheme to incorporate its vision and objectives, identifies six potential future development areas and developer responsibilities associated with each. These areas are discussed in more detail in Chapter 4.

(ii) Evidence and submissions

Seventeen submissions generally supported the Amendment.

RPG called planning evidence from Mr Clarke of Matrix Planning. The submission of RPG relied on Mr Clarke's evidence to support the strategic merits of the ISP and strategic justification for the Amendment. Mr Clarke opined:

My review of the structure plan indicates it is unextraordinary:

- It is logically structured and in my view deals with the topics of relevance to Inverleigh including population trends and growth, infrastructure, environmental risks such as flooding and bushfire, residential land supply and demand, natural environment and open space, community facilities, commercial and industrial land and agriculture.
- The structure plan deals with the policy context comprehensively.
- It sets out what consultation processes were undertaken with the community.
- It identifies objectives and strategies which can readily be converted to planning scheme objectives and strategies.
- Finally, the structure plan sets out how the structure plan is to be implemented.

Whilst there is no pre-set formula for preparing a township structure plan, the above are standard components of a township structure plan and that is why it is unextraordinary.

The next logical step in the planning process is to reference and include the findings of the structure plan into the planning scheme. This is what the Amendment does. The strategic basis for the Amendment is the structure plan and its preparation and adoption process.

Margaret and Peter McCann called planning evidence from Mr Milner of Kinetica. Mr Milner considered that the *"Inverleigh Structure Plan is a timely and responsibly prepared strategic policy document that will enable the orderly further development of Inverleigh"* and endorsed the scope and content of the ISP.

Mr Milner further identified that:

Inverleigh has demonstrated a long-term capability for sustained growth which in combination with a series of strategic, embedded, constraints and threats, presents a current need to revisit township development strategies and structure planning.

Those constraints and threats are in the form of flooding, the absence of reticulated waste treatment and bushfire / climate change considerations.

It is almost 15 years since the earlier version of the Inverleigh Structure Plan was prepared by Connell Wagner in 2005. Several of the relevant, contextual and applicable planning policy settings have been reviewed and revised since 2005, establishing a further reason why review and confirmation of direction or new settings is warranted.

Submission 45 supported the ISP and the Amendment (subject to some changes) stating that the ISP:

- Acknowledges supports and builds upon retention of the country village character and appeal of Inverleigh.
- Retains the township growth boundary established by the Inverleigh Structure Plan (ISP) 2005.
- Takes account of the higher rate of residential growth already experienced above that anticipated by the ISP 2005 and continues orderly and respectful residential and commercial development.
- Provides opportunities for new residents to become a valuable part of the desirable Inverleigh community and lifestyle.

- Continues to support the scale and form of development established by the ISP 2005 and identifies future investigation areas for residential and commercial growth.
- Facilitates sustainable development consistent with existing settlement patterns and aligns with Council and State Planning Policy in respect of minimum LDRZ lot sizes.
- Conforms to the strategic bushfire risk assessment confirmed the appropriateness of six potential residential growth areas and identified measures necessary to minimise community risk.

A number of submissions¹⁵ opposed the Amendment, or parts of the Amendment based on perceived shortcomings and consideration given to a range of broad strategic issues in the ISP, alongside more detailed development responses. Many submissions were concerned that the ISP lacked credibility due to a number of mapping errors and incorrect references.¹⁶

Ms Hyland¹⁷ considered that Mr Milner's description of the ISP as a "*pretty good plan*" was not enough and that the plan should be a competent one and not just meet minimum conventions. Ms Guijt¹⁸ reflected that many of the community's concerns were not able to be actively progressed through the development of the ISP so many submitters now found themselves at the Panel Hearing trying to address those concerns. She considered the ISP lacked vision and guidance and did not provide certainty or a framework for transition to growth or a coordinated approach to infrastructure delivery and that the process should start again as it did not have the community's interests at heart. Ms Windle considered the ISP more conceptual in detail and lacking analysis or clear direction and commitment. Like Mr McDonald¹⁹ and other submitters she considered that the ISP contained many errors.

Mr Bolitho²⁰, in his primary submission, asserted that the Amendment is not currently "*in a state of preparation where it can be responsibly considered by and endorsed by Council*" due to the further work and research required to address the range of issues raised. Submission 47 similarly considered the Amendment 'premature' and questioned its strategic merit and "*limited scope for review*" citing the ISP's consideration of the town boundary, minimum lots sizes, land supply and infrastructure priorities as 'short-sighted', 'erroneous' and lacking commitment. Submission 16 opposed elements of the Amendment stating that "*it does not demonstrate sustainable development by providing adequate infrastructure and services, specifically in relation to the educational facilities in Inverleigh*". Other submissions raised concerns about the community consultation process undertaken for the ISP and Amendment.

Council submitted that the ISP was based on:

...thorough research, technical advice and current planning policy. The Structure Plan is the dialogue which documents the findings of the background information together with the findings of extended consultation, including surveys, workshops, listening posts, conversations and written submissions".

In setting out its consultation approach for the ISP and Amendment Council, in its Part A submission and at the Hearing acknowledged that there were some errors made during the consultation process and outlined steps taken to rectify these once they were identified.

¹⁵ In particular submissions 14, 15, 16, 19, 34, 40, 42, 44, 47, 58 and 83

¹⁶ Submissions 18, 32, 53, 58, 65, 79, 81, 83 and 87

¹⁷ Documents 47 and 62

¹⁸ Document 44

¹⁹ Document 52

²⁰ Document 64

Some of these steps included producing an information video to explain how the ISP was prepared and how community feedback had been considered and included within the Plan.

Council's Part B submission noted that both officers and submitters had identified a number of errors in the ISP. Council submitted a range of proposed changes to the ISP to address errors and omissions, alongside proposed changes in response to wider submissions, and presented a tracked change version of the ISP to the Panel.²¹

(iii) Discussion

The Panel supports the position that the ISP considers a wide range of relevant and appropriate matters and concludes that the ISP was prepared in an appropriate and robust manner, involving community engagement and informed by key background documents. It responds to changes in land use and the policy framework that have occurred since the 2005 Inverleigh Structure Plan and takes into account more recent technical investigations which inform land capability, bushfire and flooding risk. It contains the key directions and strategies common to Structure Plans to manage the future growth of the town in a manner consistent with the Plan's vision and identified constraints while maintaining the town's settlement boundary. The Panel considers that the ISP seeks appropriate planning outcomes and is supported by appropriate investigations to ensure the outcomes sought can be achieved to avoid the identified challenges.

The Panel notes that the ISP is not a significant departure from the key directions of the 2005 Structure Plan and as identified by Mr Milner it is fine tuning an existing long term vision and set of directions with the benefit of further consultation and information and a changing environmental policy context.

While a number of submissions were critical of the ISP's development and directions it is not necessary or appropriate for the Panel to critique or suggest wide scale changes to it as that is not the purpose of this Amendment. Ultimately, it is for the Council to land on a final version of the ISP it considers appropriately reflects the wider aspirations of the community and that its key elements are reflected in local policy and is able to guide key planning considerations as well as provide a road map for implementation.

The Panel considers that the ISP is appropriate to be identified in the Planning Scheme as a background document, consist with the guidance of PPN13, and will assist in the future consideration of rezoning and development proposals and planning of future infrastructure delivery. This is a common practice for township structure plans after they have been adopted by a planning authority. Including the main findings in the Planning Scheme and referencing the structure plan gives greater weight in decision making rather than a structure plan just being adopted by Council.

The Panel agrees with submissions that request various corrections to the document to rectify errors and omissions and supports Council's intention to amend these as set out in its Part A and Part B submission and tracked change ICP.²²

²¹ Page 48, Council's Part B submission and Document 53

²² Part A submission (Table commencing paragraph 150, pages 51-52), Part B submission (Table commencing paragraph 46.4 pages 49-50) and amended ISP (Document 53)

In response to Planning Scheme changes introduced by Amendment C90 the Schedule to Clause 72.08 needs to be amended to include reference to the ISP. Council provided an amended tracked changes version of the Schedule²³ which is also contained in Appendix D4 to this Report.

At the broad strategic level, the Panel supports the use of the ISP to inform and support the Amendment, however the Panel has identified a number of more specific issues raised in submissions as discussed in the following chapters that should be addressed before proceeding with the Amendment.

(iv) Findings

The Panel finds that:

- The ISP is sufficiently robust to support changes to the PPF and the Schedule to the LDRZ.
- It is appropriate to include the ISP as a background document in the Planning Scheme.
- The changes to the ISP in Council's Part A and B submissions are minor but useful corrections and additions and are supported.

3.3 Policy support and net community benefit

(i) Evidence and submissions

Council and RPG considered that the Amendment supported the PPF and was strategically justified and would result in a net community benefit.

Mr Milner considered that the ISP had appropriately reflected the PPF (pre-Amendment C90 version) including:

- Protection of biodiversity (Clause 12.01-1S and 21.03-1)
- Native vegetation management (Clauses 12.01-2S and 21.03-1)
- River corridors, waterways, lakes and wetlands (Clauses 12.03-1S and 21.03-5)
- Natural hazards and climate change (Clause 13.01-1S)
- Bushfire planning (Clauses 13.02-1S and 21.03-4)
- Floodplain management (Clauses 13.03-1S, 21.03-2 and 22.11)
- Salinity (Clauses 13.04-1S and 21.03-3).

He considered that Council's precautionary approach and commissioning of studies to assess climate and environmental risks were properly understood and was appropriate.

The evidence of Mr Clarke considered PPN37 and considered that the standardisation of lot sizes within the LDRZ was consistent with the purpose of the zone and strategically justified.

Council submitted a range of proposed changes to Clause 02.03 and Clause 11.03-6L including the Inverleigh Framework Plan to address errors and omissions in addition to wider submissions responses and included in Council's post-exhibition final proposed changes at

²³ Document 59

Appendix D2.²⁴ The annotated final version of the Inverleigh Framework Plan in section form for the purposes of legibility is contained in Appendix D3.

(ii) Discussion

The Panel considers that the Amendment broadly supports and implements the key elements of the PPF, Ministerial Directions and Planning Practice Notes identified in Chapter 2. As identified above, the ISP forms an appropriate basis for the application of changes to the PPF and the Schedule to the LDRZ. The issue of minimum lot sizes is discussed in Chapter 4 however, the Panel considers that there is a strong strategic basis for a consistent approach to minimum lot sizes across the municipality and allowing the consideration of localised factors to determine appropriate lot sizes at the rezoning or planning permit stage. Such an approach is consistent with the broader objectives of planning and planning scheme reform.

The Panel considers that the Amendment at the strategic level is consistent with PPN37 as the application of the LDRZ is consistent with the state, regional (including the G21 Regional Growth Plan) and local level policy and strategy.

On balance the Panel considers that Amendment will result in a net community benefit by providing a sustainable approach to the town's growth while recognising the character and setting of the town, addressing key environmental constraints and limiting the footprint of housing activity and providing protection and enhancement of key environmental values, open space and linkage opportunities. These issues are discussed further in Chapters 4, 5 and 7.

Mr Bolitho and other submitters reflected on the challenges of understanding the impact of recent Amendment C90 changes and the apparent loss of more detailed local policy. One of the challenges in the translation of local planning policy to the PPF format is that it can be dispersed into multiple policy clauses or greatly simplified to aid interpretation, minimise duplication or contradiction between state, regional and local level policies. While this is the broader objective of the *Smart Planning Program* implemented through Amendment VC148 ensuring policies are appropriately crafted to ensure key elements are retained without being lost or duplicating the detail of other state policy, it can be challenging and frustrating for planning authorities and community members alike.

While Council's proposed changes to Clause 02.03 and 11.03-6L (including the Inverleigh Framework Plan) are generally appropriate and supported by the Panel, it considers that there is an opportunity to further enhance Clause 11.06-6L to provide direction about issues critical to Inverleigh particularly bushfire and its rural setting without replicating more detailed policy considerations elsewhere. The Panel discusses these recommended enhancements in Chapters 4, 5 and 6.

(iii) Findings

The Panel finds that the Amendment:

- is supported by, and implements, the relevant sections of the PPF.

²⁴ Clause 02.03 (Document 54), Clause 11.03-6L (Document 58), Amended Inverleigh Framework Plan – clean format (Document 57) and annotated version (Document 56)

- is consistent with the relevant Ministerial Directions and Practice Notes.
- is generally well founded and strategically justified.
- will deliver net community benefit and sustainable development as required by Clause 71.02-3, subject to changes.

3.4 Conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3.5 Recommendations

The Panel recommends:

- **Abandon the exhibited changes to Clause 21.07-5 (Inverleigh).**
- **Amend Clause 11.03-6L consistent with Council's final version of the Clause in Appendix D2 (with the exception of the 'Bushfire management strategies').**
- **Amend the Schedule to Clause 72.08 (Background documents) to include reference to the 'Inverleigh Structure Plan Review (Golden Plains Shire, 2019)' and delete reference to the 'Inverleigh Structure Plan Review (Connell Wagner, 2005)' consistent with Council's final version of the Clause in Appendix D4.**

4 Land supply and lot diversity

4.1 Population growth and land supply

(i) The issues

The issues are:

- whether the population growth forecasts for Inverleigh are appropriate
- whether the proposed lot supply is appropriate and strategically justified.

(ii) Relevant policies and studies

Planning Policy Framework

Clause 11 of the PPF provides clear guidance for the planning of settlements and the management of growth. Clause 11.02-1S sets out the following about planning for land supply:

Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.

Ensure that sufficient land is available to meet forecast demand.

Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.

Planning for urban growth should consider:

- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.
- Service limitations and the costs of providing infrastructure.

Monitor development trends and land supply and demand for housing and industry.

Maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.

Restrict rural residential development that would compromise future development at higher densities.

Inverleigh Structure Plan

The ISP was supported by population forecasts prepared by .id Consulting which identified:

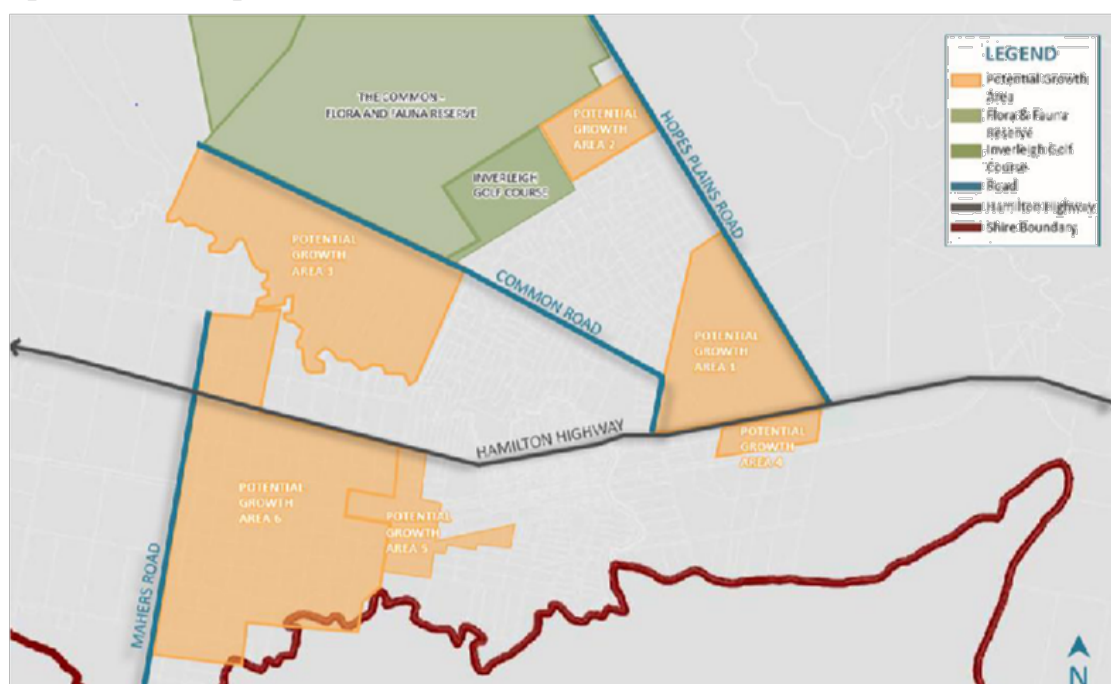
- an estimated Inverleigh population of 1,203 in 2017
- the population of Inverleigh had doubled in the last 25 years
- 2005 annual growth predictions for Inverleigh to 2012 of 1.6 percent were exceeded
- growth of 225 people (23.8 percent) from 2011-2016 representing an average annual population change of 4.36 percent
- for 2011-2017 estimated annual residential population growth rates have ranged from 7.63 percent in 2011 to 2.88 percent in 2017 reflecting reduced land supply
- three 2033 future growth scenarios:
 - Conservative - 2.88 percent annual increase to a total population of 1,895

- Moderate – 4.63 percent annual increase to a total population of 2,380
- High – 7.63 percent annual increase to a total population of 3,900
- adopting the moderate scenario representing an increase in 1,177 persons (effective doubling of current population) and a demand for 431 houses (439 dwellings existed in 2019) based on an average household size of 2.73 persons representing an average increase of 27 houses per year to 2033.

Key drivers of growth are identified as the close proximity of Geelong and Bannockburn and the low density residential lifestyle opportunities offered. In the context of projected growth rates in Geelong, the G21 region and Golden Plains, moderate growth (4.36 percent) is forecast to continue in Inverleigh.

The ISP identified that 350 hectares of unzoned land (noting some areas have now been rezoned) to the north of the town could yield 525 lots assuming an 0.4 hectare lot sizes. It noted areas to the south were constrained by flooding and areas to the west had fragmented land ownership. The ISP identifies five potential growth areas and one Further Investigation Area along the Hamilton Highway and east of Mahers Road as identified in Figure 4 informed by the Development Feasibility Study.

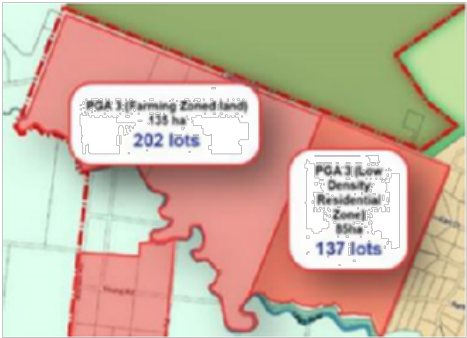
Figure 4 Inverleigh Potential Growth Areas



Source: ISP Council Part A submission

The characteristics of these areas set out in Table 5 show a potential lot yield of 669 lots under the Amendment (excluding PGA6) compared to a yield of 426 lots (excluding PGA6) under the existing LDRZ provisions based on Council's Part A submission and assuming a 0.4 hectare minimum lot size. Council estimated that the reduction in minimum lot size and some changes to the extent of potential growth areas 3, 5 and 6 due to flood extent mapping resulted in an effective doubling of lot yield from that possible under the 2005 Structure Plan and current LDRZ provisions.

Table 5 Potential Growth Areas

Potential Growth Area (PGA)	Description	Potential lot yield (Current LDRZ yield)
PGA1	120 hectares FZ and used for farming and rural living purposes	180 (54)
PGA2	42 hectares (230 Hopes Plains Road, 'Barrabool Views' (North) LDRZ and DPO16, DDO5 and Part BMO (Amendment C74) and vacant	63 (16)
PGA3	Eastern area (Berthon Park): - 85 hectares - LDRZ and DPO15 (Amendment C75 Part 1) and currently used for grazing - Planning Permit issued for stage 1 (110 lots) Western area: - 95 hectares - FZ and used for grazing	137 (137) 202 (202)
		
PGA4	20 hectares FZ and used for rural living purposes	30 (4)
PGA5	38 hectares FZ and used for rural living purposes. Previously encumbered by a Broiler Farm buffer zone (ceased operation in 2018)	57 (13)
PGA6	315 hectares FZ and partially flood prone. Used for farming and rural living purposes Identified for further investigation including identification of water supply options	493 (123)

(iii) Evidence and submissions

The submissions of RPG and the McCann Family supported the population and lot supply analysis and growth directions identified in the ISP informed by the evidence of Mr Lee, Mr

Clarke and Mr Milner. Mr Canavan for RPG set out the significant land interests of RPG (Figure 5). Mr Clements for the McCann Family identified that his client had significant land holding interests in the Maher Road Further Investigation Area.

Figure 5 RPG interest sites



Source: RPG submission (Document 40). Note: Interest sites within coloured polygons

Mr Lee's evidence identified that since the 2005 Inverleigh Structure Plan the town's growth has been faster than anticipated with the forecast 2021 population of 962 exceeded by 240 persons in 2017. His population analysis generally aligned with Council's although he identified three different growth scenarios (Historic, Moderate and High) based on average growth over time to remove variability associated with economic cycles, land release and supply representing a total population at 2033 of between 2,140 and 2,500 persons and a related annual dwelling demand of 20 to 36 dwellings.

Mr Lee's evidence included an analysis of land supply within the existing TZ and LDRZ and lot yield from undeveloped LDRZ parcels and Potential Growth Areas 1 to 5 and excluding PGA6 because of its longer term role. The analysis examined potential yield under current scheme provisions and those proposed by the Amendment but assuming a base 0.45 hectare size generally required to accommodate effluent disposal for a 3 bedroom and study sized dwelling and adjusting this for site conditions. He identified an existing scheme provision yield of 211 lots (5 to 10 years supply at most) versus 604 lots under the Amendment (15 to 30 years supply). He considered this yield "ambitious" and at the upper end given site constraints and unknown land owner development timeframes. On this basis, he considered that "if all lots are fully developed, the supply of available lots under the current planning controls would lead to an eventual residential population of around 1,960 persons when capacity is reached, compared with an estimated population of 3,500 persons under full capacity under the proposed Am C87 controls if around 600 lots are produced". He considered this a better outcome than quickly consuming supply and distributing a "relatively small population over a large area".

Mr Lee considered Council's approach of *"accommodating population growth efficiently, whilst avoiding unnecessary sprawl and distance between residential areas, commercial area and community infrastructure"* appropriate.

Mr Milner's evidence generally corroborated Mr Lee's conclusions and identified that one of the benefits of growth was an ability to support a greater range of services, the lack of which was a 'dislike' that came out of the community consultation.

The submission of RPG sought confirmation that the numbering of potential growth areas did not indicate a staged approach to land rezoning or development. Council confirmed this was not the case and proposed clarification in the ISP.

Council submitted that a clear intention in undertaking the ISP was to confirm and reinforce the settlement boundary identified in the 2005 Structure Plan and maintain that plan's footprint of the future growth. It identified that the moderate growth scenario would result in 10 percent of the Shire's growth to be accommodated in Inverleigh with the most growth (50 percent) directed to Bannockburn. Council proposed to confirm the moderate rate of growth in Clause 11.03-6L by adding the word 'moderate' under the heading 'Settlement and residential development strategies' as follows (Panel's emphasis):

Support moderate residential growth within the existing defined settlement boundary consistent with the Inverleigh Framework Plan.

Council acknowledged that there were some differences in lot yield estimates between it and Mr Lee that were a factor of different methodology and efficiency rates applied to recognise different development constraints. Regardless of these differences, Council considered that their figures and Mr Lee's evidence agreed that current land supply would accommodate 5 to 10 years supply rather than the 15 to 30 year supply enabled by the Amendment. It that accommodating this growth capacity would avoid further amendment requests or pressures to expand beyond the settlement boundary to accommodate larger lots. It considered any concerns associated with oversupply as these areas would develop over time and through separate amendment processes.

The submission of Ms Guijt included analysis of Council's anticipated growth scenarios. She considered that Council's growth figures were misrepresented by reporting them as a percentage of overall population growth and should be presented as a function of current population. She submitted that the disproportionately high growth rate of 4.63 percent should be abandoned and that the release of new lots needed to be managed and growth rates fixed to ensure slow to moderate growth levels. She identified that Bannockburn was the appropriate town to direct higher growth rates.

Several submitters rejected the interpretation of the ISP in relation to state planning policy requiring planning authorities to plan to accommodate projected population growth over at least a 15 year period.²⁵ The submission noted:

The Structure Plan fails to explain, as per Clause 11.02-1S of the Victorian Planning Scheme, that the "residential land supply will be considered on a municipal basis, rather than a town-by-town basis".

²⁵ Page 38, ISP 2019

The submission of Mr and Mrs Glynn considered that the anticipated lot numbers exceeded the moderate growth target of 431 dwellings and was inconsistent with the 15 year land supply target of Clause 11.02-15.

Mr Windle's submission did not support basing future growth planning for Inverleigh on historical growth rates asserting that *"future growth will be determined by Council decisions only"*.

The submission of Ms Windle considered the level of growth proposed too much and too rapid requiring a staged approach to manage the impact on infrastructure. The submission of Mr and Mrs Rutherford sought to keep the overall growth rate of Inverleigh as 'low' rather than 'modest'.²⁶ This perspective was consistent in a number of submissions.

The submissions of Mr and Mrs Booley suggested that extending the settlement boundary might be a better option for growth than allowing residential development in PGA3.

(iv) Discussion and conclusions

The Panel considers the population analysis and growth scenarios identified in the ISP are plausible, robust in terms of research and analysis and consistent with the subsequent evidence of Mr Lee. While the population increases identified for Inverleigh represent a doubling of its population by 2033 and the identified rates of growth are relatively high compared to rural and regional Victoria as a whole, they are based on a relatively small population base. A steady modest rate of growth to 2033 will see the town's population remain under 2,500 which in settlement terms is still small and remains consistent with its district centre role. This modest growth however will provide support for a greater range of services.

While there are some differences between the available lot supply identified by Council and Mr Lee, they are explainable in terms of methodology and ultimately not significant in terms of longer term supply. The Panel agrees with the analysis of Council and the evidence of Mr Lee that current yields will probably be exhausted in 5 to 10 years based on current growth rates.

The Amendment will provide a further 600 lots and accommodate between 15 to 30 years land supply. However, this is somewhat at odds with Clause 11.02-15 which suggests that lot supply be considered at the municipal rather than at the town level. The Panel notes that Clause 11.02-15 identifies that planning should occur for a land supply for at least 15 years and that sufficient land is available to meet forecast demand. The town sits within a hierarchy of settlements and its growth is supported by local policy and Council's broader understanding of land supply at the municipal level. The town sits uniquely close to two growing centres, Bannockburn and the regional City of Geelong which are experiencing strong growth and will continue to support demand for the lifestyle choices offered by Inverleigh.

The Panel acknowledges Mr Lee's observations that this lot yield may be at the 'higher end' given the many factors that are difficult to predict which can impact rates of supply including economic conditions, lead times for rezoning and development, land fragmentation and land owner interest in developing. Importantly, the Amendment does not rezone land, rather it

²⁶ Document 65

identifies where future growth will be accommodated, this provides Council with the planning levers to manage supply. If a lower growth rate is experienced Council is able to manage lot supply by its timing of future rezoning of potential growth areas. Conversely higher growth rates can be accommodated by facilitating rezoning consistent with the ISP without further strategic work or expansion of the settlement boundary. This provides an appropriate level of certainty. The Panel agrees with the evidence of Mr Lee and Milner that PGA6 is a longer term proposition given flooding issues and land fragmentation. Nonetheless PGA6 will provide for some balance in the location of growth rather than it all being accommodated to the north or east of the town.

Most submissions supported the importance of establishing and affirming a settlement boundary. Council's plans to accommodate additional growth and land supply to meet an increase in anticipated housing demand have reinforced the settlement boundary identified in 2005 Structure Plan and confined the application of the LDRZ or identification of the Further Investigation Area to areas largely identified in that Structure Plan's growth footprint. Expanding the settlement boundary to retain larger lots within existing LDRZ and potential growth areas is not considered a sustainable approach and is likely to significantly impact the village character of the town and create further infrastructure challenges and costs.

The Panel considers the proposed settlement boundary one of the critical strategic foundations underpinning the ISP and future growth for Inverleigh. In determining an appropriate boundary for the town, the Panel finds that Council has considered growth for Inverleigh in a municipal wide context that is consistent with both state policy and regional policy as expressed through the G21 Growth Plan, containing growth for smaller townships within 'identified structure plan settlement boundaries'. Defining the town boundary through the Inverleigh Framework Plan is supported by the Panel.

The Panel notes Council's proposed post-exhibition changes to the ISP to identify that the numbers attached to the description of potential growth areas does not reflect a staging of development. The Panel supports this change and considers that while there is some logic to expanding out from existing centres to utilise existing infrastructure and build on existing communities there are other factors that affect the ability to efficiently and effectively deliver growth areas, particularly given the various environmental constraints and considerations in play within Inverleigh. As already identified in the ISP there are a range of matters that need to be considered before the potential growth areas can be progressed. This flexible approach is supported.

The Panel supports Council's proposed change to Clause 11.03-6L to reinforce the moderate rate of growth identified in the ISP for Inverleigh (and already identified in Clause 02.03-1) however it does not consider there is any strategic justification for artificially confining growth to 'low' levels as suggested in some submissions.

The Panel concludes:

- The population growth forecasts for Inverleigh are robust and supported by appropriate research and analysis.
- Clause 11.03-6L should be amended to identify that moderate growth is proposed for Inverleigh.

- The proposed lot supply and locations for proposed growth are appropriate and strategically justified.

(v) Recommendation

The Panel recommends:

Amend Clause 11.03-6L consistent with Council's final version in Appendix D2 to:

- **Under the heading 'Settlement and residential development strategies' add the word 'moderate' before the words 'residential growth'.**

4.2 Lot size, diversity and character

(i) The issues:

The issues are:

- whether smaller LDRZ lots will impact on residential amenity and the character of Inverleigh
- whether the Amendment provides sufficient opportunity for a diversity of lot sizes and housing choice.

(ii) Evidence and submissions

Character and amenity

Many submissions²⁷ considered that the growth of the town through the provision of smaller lots would impact on the country lifestyle, feel and village character of the town.

The Rutherford's submission set out some of the unique characteristics of Inverleigh which were further explored in Ms Bolton's submission²⁸ which included a 'fly over' video and pointed out elements of character and place that were important to creating a sense of community. Similarly, Mr Thornton's submission highlighted that it is the differences that makes a place unique.

Ms Guijt's submission identified the characteristics of Inverleigh that attracted her family to move there including its peace and quiet, character and access to nature. She considered that the Amendment would result in the loss of that character which attracted residents, including herself, to Inverleigh.

Mr McDonald considered the ISP had failed to recognise that Inverleigh was different to many other towns. He pointed to its rural setting and character as a point of differentiation and considered that a minimum approach to lot sizes had the potential to impact that character. Other submissions lamented the potential for the town to look just like other larger towns such as Bannockburn.

Ms Debets was concerned that the minimum lot size would remove opportunities for people to keep horses while the Rutherford and Hyland submissions considered smaller lots would impact people's lifestyle and amenity, visually through the closer proximity of large sheds,

²⁷ Including submissions 3, 4, 6, 8, 10, 13-16, 19, 34, 43, 44, 56, 63, 74, 67, 73, 79, 87 and 88

²⁸ Document 50

water tanks and higher building density, noise transmission from sheds to nearby dwellings and the ability to keep animals.

Mr Milner's evidence identified that the character and charm of the older parts of the Inverleigh township were valued settlement attributes and justified protection and enhancement. By contrast he considered the growth areas to the north and east of the Leigh River are separated and elevated from the town centre and have been able to develop and evolve without impacting the character of the older part of Inverleigh. He considered the Maher Road Future Investigation Area allowing lots down to 0.4 hectare (acknowledging some flood impacted lots which would need to be larger) reflected the existing diversity and progression of larger lot sizes moving west of the older town. He submitted that smaller LDRZ lots would allow a further intensity and difference of character but *"would retain an overall sense of a low density with a predominance of buildings within open spaces"* and that of *"a character that was notably and appropriately distinct from the historic town"*.

Lot diversity

Many submissions²⁹ considered that a 0.4 hectare minimum would become the default lot size for new development in Inverleigh, pointing to the first stage of Berthon Park as an indicator that providing for a minimum of 0.4 hectare would not generate lot diversity with only one lot over 5,000 square metres and most at or just above 0.4 hectares. The Rutherford submission sought the retrofitting of Berthon Park to provide a greater diversity of lot sizes.

Ms Windle submitted there should be a requirement for developers to provide a range of lot sizes. She considered the minimum 0.4 hectare lot size would not retain the rural village atmosphere. Other submissions sought a mandatory minimum mix of small, medium and large lot sizes including submissions from Mr Bolitho and the Rutherfords. Ms Guijt suggested a mandatory 'bell curve' approach providing for a percentage distribution of lot sizes between 0.4 hectares and 4.5 hectares to maintain diversity and character.

The Inverleigh Progress Association considered that greater consideration was required in the ISP for the demand for residential aged care and identified that few opportunities existed for older residents to downsize and remain within their communities close to existing amenities. It suggested the ISP should support the further subdivision and the creation of second dwellings within the TZ lots. Mr Bolitho agreed considering that the ISP provide for an increasing demand for aged care facilities while Mr Thornton supported opportunities for 'aging in place'. Ms Guijt considered that 15 percent of new homes should be for retirement living.

Other submissions supported the ability to subdivide to 0.4 hectares. Mr and Mrs Billingham supported smaller lots which could be better maintained adding to the character of the town, was a more efficient use of land, avoided expanding the settlement boundaries and provided greater affordability.

Mr Milner considered that the ISP provided appropriate strategic justification for the reduced lot size applying to the low density growth areas to provide diversity of lot sizes, respond to

²⁹ Including submissions 6, 8, 10, 11, 23, 25-27, 30, 33, 35, 36, 40-42, 44, 45, 47, 50, 56, 57, 63, 66, 70, 76, 83, 88 and 90

constraints and planning policy expectations and to respect the established rural township character.

Mr Clements considered that the Amendment provided an appropriate performance-based approach that appropriately enabled the assessment of particular circumstances including soils and wastewater disposal.

Mr Clarke identified that providing larger rural residential sized lots can have environmental, social and economic costs that are significantly higher than those of other residential development including land use conflicts, demand for costly or inefficient community services or infrastructure. He considered the Amendment was consistent with the purposes of the LDRZ and that local level policy (now Clause 15.01-6L Built Environment - Low density residential subdivision) and the LDRZ decision guidelines provided for the on-site treatment of wastewaters and respect for neighbourhood character when determining lot size. He considered that final detailed subdivision and design matters were appropriately considered as part of the permit application process. He indicated that lots of 0.4 hectares were sufficient to achieve an open and spacious character, achieve setbacks and to both protect and provide vegetation to further enhance that character. Mr Clarke noted that what was proposed was a minimum lot size not a standard, an average or a maximum lot size. He concluded that a standard municipal wide performance based approach to achieving outcomes was the more desirable approach than specifying minimum prescriptive standards in the Victoria Planning Provisions.

The RPG submission drew on the evidence of Mr Clarke and other witnesses relating to bushfire, stormwater and land capability discussed in later chapters, to support the position that it was appropriate to bring the minimum lot size for the LDRZ into alignment across the Shire and that appropriate policy guidance exists on how discretion should be exercised to respond to the broad range of site considerations. Mr Canavan pointed out that existing approvals existed for Berthon Park and that it was not open to the Panel nor within the scope of the Amendment to revisit existing permits or amendments.

Council submitted that its settlement strategies focused urban residential development to be accommodated in Bannockburn allowing towns such as Inverleigh to maintain rural lifestyles. It added that the mix of TZ, LDRZ and the FZ provided for lot diversity within the town.

(iii) Discussion

Character and amenity

The Panel acknowledges submitters' appreciation of the rural lifestyle they enjoy and unique aspects of their community and environment. Their perspectives were strongly expressed through Council's early phases of community engagement when preparing the ISP. The Panel considers that the ISP sets a clear vision for Inverleigh and recognises its important and distinctive attributes and this remains largely faithful to the earlier 2005 vision.

Many submissions referred to the importance of the rural setting of the town. While the objective of Clause 11.03-6L recognises the towns natural landscape it does not acknowledge the town's rural setting and character. The Panel considers that there is value in reinforcing this quality.

The Panel is not convinced by submissions that smaller lots would diminish the character of the town, impact on the lifestyle enjoyed by residents or result in significant amenity loss. By contrast the Panel considers that retaining large lot sizes is likely to result in increasing pressure to expand beyond the existing settlement to accommodate demand for lifestyle lots and this is likely to diminish the village character of the town. The greater utilisation of existing and future LDRZ land to accommodate future housing needs is a more efficient use of land and infrastructure than 1 or 2 hectare lots and assists in retaining a more sustainable and compact urban form enhancing walkability and avoiding the further extension of the urban footprint.

The Amendment proposes to standardise minimum lot sizes in Inverleigh with those across the rest of the Shire. The PPF provides for the consideration of a broad range of environmental and built form responses which will impact on lot size outcomes. The Panel considers these best dealt with at the rezoning or planning permit stage when more detailed analysis can be undertaken.

Lot diversity

Like many towns in Golden Plains Shire, Inverleigh is not currently serviced with a reticulated sewerage system and there appears to be no prospect of this changing in the short to medium term. There appears little capacity to support smaller lots close to the centre of the township to provide for further housing diversity and choice, or opportunities for 'aging in place', because of the absence of sewerage and because of the limitations associated with flooding. In this context the use of the LDRZ is one of the few zones available to increase lot supply. While appropriate sewerage treatment options would need to be explored to facilitate medium density housing or aged care housing outcomes such housing outcomes are permissible within the TZ and LDRZ subject to a permit. As legitimate land uses the Panel does not agree that the ISP or Amendment need to mandate or direct particular housing outcomes.

The Panel considers it important to differentiate between minimum lot sizes and what will be delivered on the ground. The Amendment provides an opportunity to achieve greater lot yield but establishes a minimum not a standard starting point. Localised considerations and site conditions will continue to inform lot size outcomes consistent with the provisions of the LDRZ and the PPF including neighbourhood character, landscape considerations, environmental constraints and service limitations.

Similarly, the Panel does not support a mix of small, medium and large lots sizes. This is not a sustainable approach. There is simply no strategic planning basis for such a provision or to apply a different approach to Inverleigh than is applied across the Shire's many rural townships. Restricting or mandating larger lot sizes does not guarantee good housing or environment outcomes and is likely to restrict supply, impact affordability, curtail the town's ability to accommodate a modest portion of the Shire's growth or gain enhanced services.

The Panel agrees with Council's submission that the existing suite of zones within the settlement boundary, TZ, LDRZ and FZ (many of which are subdivided into rural residential sized lots) already provide for an appropriate range of housing choices and diversity, consistent with the housing policies in the PPF.

The Panel agrees with RPG that it is not within the scope of the Amendment for the Panel to revisit or make particular observations about previous Amendment outcomes or valid approvals. It is not appropriate for the Panel to make recommendations about 'retrofitting' lot sizes within Berthon Park for example. The Panel notes that DPO15 already provides for lots to a minimum of 0.4 hectares irrespective of whether the Amendment proceeds or not.

(iv) Conclusions and recommendation

The Panel concludes:

- Smaller LDRZ lots will not negatively impact on residential amenity and the character of Inverleigh.
- The Objective of Clause 11.03-6L should be amended to identify the importance of the rural setting of the town.
- The Amendment provides sufficient opportunity for a diversity of lot sizes and housing choice.

The Panel recommends:

Amend Clause 11.03-6L to:

- **Replace the Objective with a new Objective:**

'To encourage residential, commercial and tourism growth in Inverleigh while recognising its rural setting and protecting the natural landscape in and around the town'.

5 Environmental issues

5.1 Bushfire risk

(i) The issues

The issues are:

- whether the ISP adequately considers bush fire impacts including hazard identification, assessment and mitigation
- whether the Amendment is consistent with Clause 13.02 (Bushfire).

(ii) Relevant policies, Directions and studies

Planning Policy Framework and Bushfire prone areas

Clause 13.02-1S contains policy which must be applied to all planning and decision making under the Act for land within a designated bushfire prone area, where subject to a BMO or proposed to be used or developed in a way that may create a bushfire hazard. The objective of the clause is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that priorities the protection of human life. It sets out a detailed list of strategies designed to achieve this objective applicable at the settlement planning stage and relevant to development of the ISP and the Amendment including hazard identification and assessment, consulting with relevant emergency management and fire authorities and:

- Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959 - 2009 *Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009).
- Ensuring the availability of, and safe access to, areas assessed as a BAL-LOW rating under AS 3959 - 2009 *Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009) where human life can be better protected from the effects of bushfire.
- Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.
- Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reduce bushfire risk overall.
- Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.
- Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.
- Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2009 *Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009).

Clause 13.02-1S requires that *“settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging*

settlement growth and development in bushfire affected areas that are of high biodiversity conservation value” and to consider any approved state, regional and municipal fire prevention plan.

Clause 71.02-3 requires integrated decision making to address aspects of economic, environmental and social wellbeing affected by land use and development. Within this context, the clause requires planning authorities to balance conflicting objectives in favour of net community benefit and sustainable development, however in bushfire affected areas the clause requires the protection of human life over all other policy considerations.

Inverleigh is identified as being at Medium Risk from bushfire on the Victorian Fire Risk Register. Most of the Inverleigh township sits within a Bushfire Prone Area under the Building Regulations 2018, except for the central part of the town (Figure 6).

Figure 6 Areas of Inverleigh outside the Bushfire Prone Area

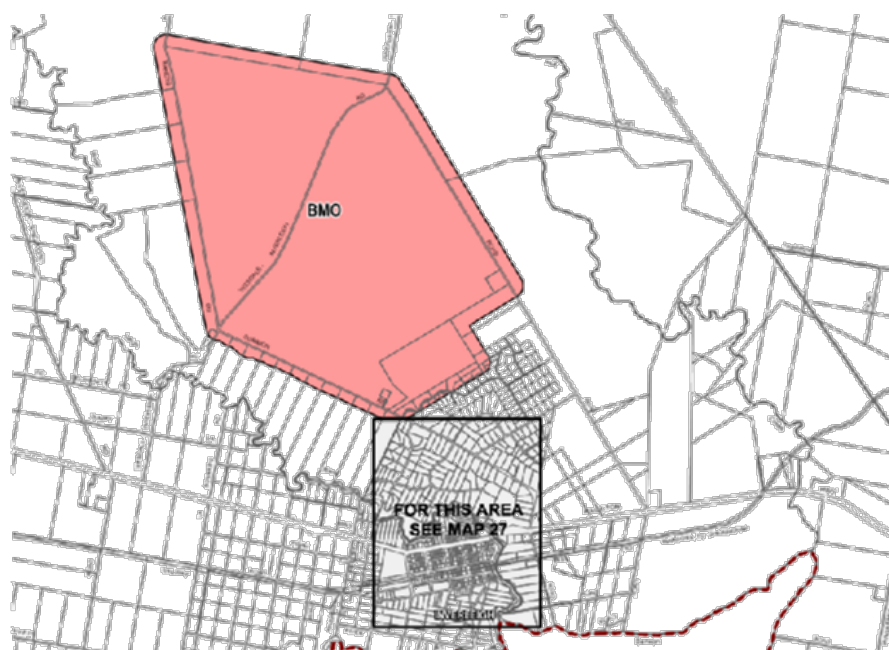


The BMO applies to all land within the Inverleigh Flora Reserve, the Inverleigh Golf Course and approximately 150 metres beyond these sites on all sides (Figure 7).

The Amendment does not propose to introduce new growth areas for Inverleigh but increases the potential for more additional dwellings than envisaged under existing Planning Scheme provisions.

Planning Practice Note 64: Local planning for bushfire protection:

- provides guidance about local planning for bushfire protection
- assists councils to tailor the Local Planning Policy Framework in response to bushfire matters where necessary
- provides guidance on how to prepare schedules to the BMO.

Figure 7 Bushfire Management Overlay extent

It notes that planning authorities need to address any relevant bushfire risk when preparing a planning scheme amendment. PPN64 outlines when it might be appropriate to use local planning policy to assist with decision making. It emphasises that local policy must not duplicate state policy already contained elsewhere in the Planning Scheme and suggests that local policy may be most effective where used to address bushfire issues spatially, identifying how bushfire affects particular locations and what the planning scheme response to this is.

Appendix 1 to PPN64 sets out a four-step approach to considering bushfire, outlining matters to be considered in determining context and risk. Appendix 3 offers tips for including bushfire matters into the Municipal Strategic Statement, which is now somewhat dated since the introduction of the PPF. Examples of objectives and strategies provided generally have a broad township focus. It is important to note that detailed planning guidelines for individual sites are not recommended for inclusion in the PPF.

Strategic Bushfire Risk Assessment, Golden Plains Shire Council, 2018

As part of the development of the ISP, Council prepared a Strategic Bushfire Risk Assessment (SBRA) to identify bushfire hazard, assess and evaluate risks, develop mitigation strategies and provide land use and urban design directions for potential growth areas. The SBRA sets out the methodology used based on PPN64 including establishing context, identifying the risks from bushfire, analysis and evaluation of risks and translating risk mitigation into the planning scheme provisions. It included the review of the 2005 Structure Plan and the *Regional Bushfire Planning Assessment Grampians Region* (DPCD, 2012) and *Golden Plains Shire Municipal Fire Management Plan 2014-17*, PPN64 and PPN65, *Australian Standard AS 3959-2009 Construction of Buildings in Bushfire Prone Areas* (AS 3959) and the *Victorian Bushfires Royal Commission Final Report, 2009*.

The SBRA notes that the *“broader landscape is inherently fire prone, and large bushfires are credible under fire weather conditions.”*³⁰ It also identifies a long history of small fires around the district noting however that *“Severe, Extreme and Code Red fire danger days could see fires spread rapidly and are very difficult to suppress, despite the best efforts of crews on the ground”*.³¹

Notwithstanding the identified risk, the SBRA concludes that:

The proposals for residential growth in Inverleigh are considered to be appropriate from a bushfire risk perspective provided that measures identified in this report are taken to minimise the risk to residents and emergency services. A moderate risk of impact from woodland and grassland fires exists at these sites, however this can be adequately mitigated in the planning and implementation of development.

It is important to note that fire risk in rural residential communities cannot be eliminated and communities may still experience significant impacts and losses on days of Severe, Extreme or Code Red fire danger. Additionally, predicted changes in weather patterns; consistent with climate change modelling predictions, have the potential to result in more high fire danger days and more intense fire events (e.g. 2018 California, Queensland and Greece fires) that are a greater threat to communities.

The planning and design response provides guidance towards achieving bushfire risk mitigation.

The SBRA undertakes a bushfire risk assessment for each of the six areas identified for potential growth in the ISP. The key recommendations arising from the risk assessments are:

- Ensure growth area layout minimises interface between higher threat vegetation and assets and appropriate allotment layout that minimises the number of properties directly exposed to fire on the interface.
- Ensure sufficient separation distances between fire fuels and development are established and can be maintained through existing Planning Scheme mechanisms (e.g. easements, building envelopes, 173 agreements) or fuel management provisions on private land (e.g. fire prevention notices).
- Ensure properly constructed access and egress to enable access by emergency services and egress by residents.
- Ensure water supply (pressure and volume) is sufficient to support firefighting operations.
- Ensure any public open space created as part of the development is able to be appropriately accessed to allow management for fire.
- Stage development to minimise exposure and risk through expansion adjacent to existing developed land.

Individual recommendations for each growth area, in line with the above recommendations, are set out and included in the Implementation section of the ISP.

The adequacy of the SBRA and its findings is one of the major issues of contention among parties to the Amendment. In particular, a number of concerns are raised in relation to the analysis and recommendations for PGA3 (refer Figure 8).

The SBRA analysis and findings in relation to PGA3 are summarised as follows:

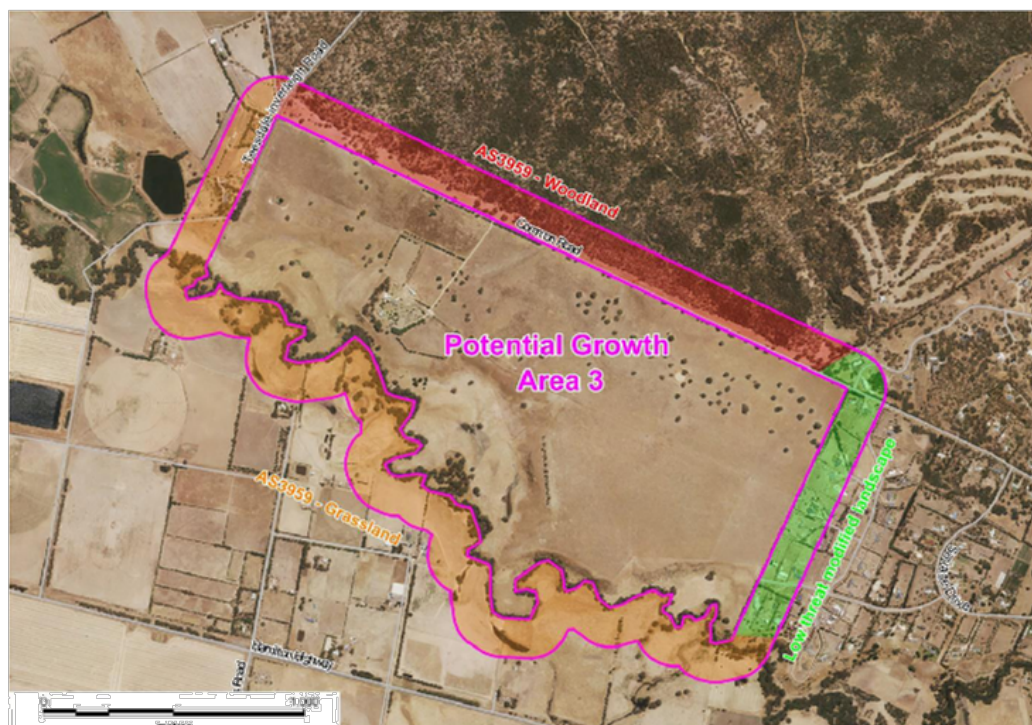
- the site is accessed from Common Road and is adjacent to the Inverleigh Flora Reserve

³⁰ Page 9, *ibid*

³¹ Page 10, *ibid*

- Common Road is likely to be utilised as a fire break between the Inverleigh Flora Reserve and the township in the event of a fire within the Reserve, and used by firefighters to maintain a line of defence
- Common Road should be upgraded to a 7 metre seal with protected lanes at all entry points into residential development
- Common Road provides access to the Hamilton Highway in the east and Teesdale-Inverleigh Road in the west
- The Teesdale-Inverleigh Road provides access back to the Hamilton Highway via a 5 tonne capacity bridge 'Twin Bridges' over the Leigh River, which would require significant upgrade to allow use by emergency services vehicles
- the area is bounded by woodland on its north-east boundary, grassland to the south-west and north-west and low threat modified vegetation on its south-east boundary
- topography is flatter in the north, with a steep river escarpment along the south-west boundary, which would enhance fire behaviour running up the slope from this direction
- where topography is flat, a fuel separation distance of 33 metres to woodland and 19 metres to grassland is required to achieve an exposure of 12.5kw/m^2 . Along the escarpment greater separation distances to dwellings would be required
- Parks Victoria manage vegetation in the Inverleigh Flora Reserve. Future development must not rely on vegetation management in the Reserve for fire risk mitigation
- major bushfire scenario modelling identifies significant potential impacts for PGA3 under two of the three likely weather conditions for highest fire danger days.

Figure 8 Strategic Bushfire Risk Assessment - Potential Growth Area 3 (PGA3)



In response, the SBRA recommended that the following planning and design bushfire responses should form part of the Implementation Measures in the ISP:

- Stage development to minimise exposure and risk through expansion adjacent to existing developed land;
- Ensure sufficient separation distances between woodland fuels and development are established and can be maintained through existing Planning Scheme mechanisms (eg. easements, building envelopes) or fuel management provisions on private land (e.g. fire prevention notices);
- Ensure well-constructed and laid out access/ egress is provided with minimum 7 metre sealed roads and fully constructed egress to Common Road;
- Upgrade the Twin Bridges on the Teesdale-Inverleigh Road to 15 tonne standard for maintenance/emergency service vehicle access;
- Undertake improvements to the Common Road/ Hamilton Highway intersection to improve road user safety when residents are evacuating from the Common Road area;
- Ensure the ability of the road network to handle rapid evacuation of most residents under high stress conditions;
- Ensure egress options for residents trying to escape from a fire bearing down on them from the north and north-west;
- Ensure water supply (pressure and volume) into the growth area is sufficient to support firefighting operations should they be needed;
- Ensure any public open space created as part of the development is able to be appropriately accessed to allow management for fire.³²

(iii) Evidence and submissions

Extensive and well researched material that was presented to the Panel on bushfire risk by Council, submitters including the CFA and expert witnesses, Mr Walton and Ms Steel, reflected the significance of this issue to submitters, existing residents and planning for the future growth of the township.

Ms Bolton, Ms Guijt, Mr McDonald, Mr Bolitho, Mr Hodson³³ and Mr Steele³⁴ provided presentations to the Hearing, which assisted the Panel's understanding of local contextual issues important for the consideration of bushfire risk in planning for Inverleigh. Ms Rutherford's written submission also raised fire risk as did numerous other submissions, including a pro-forma style submission tendered by 18 submitters.

Consideration of Bushfire Risk in the ISP

Many submissions raised concerns about the methodology and data used in the preparing of the SBRA and sought to abandon the Amendment on the basis that the SBRA was inadequate in its assessment of bushfire risk.

Ms Guijt based this view on factors including "*weather records dating back over at least 10 years*" and an "*outdated version of Planning Practice Note 64*". She asserted that the SBRA grossly underestimated high fire risk days and subsequently questioned any modelling using this data. She submitted that guidelines in the updated PPN64 are more stringent, citing

³² Page 62, ISP 2019

³³ Document 50

³⁴ Document 63

provisions from the updated version directing development to lower risk locations, avoiding areas with a single access/egress and the need to undertake landscape assessment at a larger scale.

The Panel directed Council at the first Directions Hearing to provide additional information in response to concerns raised through submissions in relation to bushfire planning methodology. The Panel asked Council to:

- 8c) explain how bushfire planning for Inverleigh has been undertaken at a settlement planning scale in line with policy provisions in Clause 13.02-1S (as distinct from individual site assessments)
- 8d) outline how the bushfire hazard identification and assessment meets the requirements outlined in Clause 13.02.1S
- 8e) describe how climate change has been considered in the assessment of potential bushfire risk
- 8f) explain any additional bushfire planning considerations resulting from changes to Clause 13.05 (now 13.02) through Amendment VC140 and advice in Planning Practice Note 64.³⁵

Council noted that Clause 13.02-1S sets out policy directions for bushfire planning and submitted that the SBRA was prepared with regard to relevant state planning policy. Council submitted further that the assessment was undertaken in accordance with guidance provided in PPN46, PPN64 (September 2015 version) and PPN65.

Council engaged Mr Walton to undertake a peer review of the SBRA, the ISP and the Amendment and submissions received to it and to make recommendations to strengthen bushfire mitigation measures proposed for the potential growth areas if necessary. He was also asked to prepare an addendum to his expert evidence to specifically address points 8c) to 8f) raised in the Panel Directions. In relation to Direction 8f), Mr Walton gave evidence that Amendment VC140 significantly strengthened state planning policy in relation to bushfire planning, prioritising the protection of human life and raising the bar in relation to settlement planning, advising that the Amendment was consistent with Clause 13.02-1S subject to appropriate bushfire mitigation measures and:

... The Strategic Bushfire Risk Assessment undertaken by the Golden Plains Shire Council and my Expert Evidence Report generally follow the approach set out in Appendix A – Considering the bushfire risk in local planning activities and Appendix B – Mitigating bushfire risk outside the Bushfire Management Overlay. In particular, the approach of utilising perimeter road to achieve an adequate separation distance between bush/grass fire hazard and residential development has been utilised.

In relation to Direction 8c) regarding settlement scale planning, Mr Walton gave evidence that the SBRA and his expert evidence report were undertaken at a settlement scale and that, subject to the implementation of recommended bushfire mitigation measures, the potential growth areas can be considered low risk locations for the purposes of state policy. He added:

The bushfire risk to the Inverleigh Township is comparable with other small towns within the Golden Plains Shire and many other areas of rural Victoria. The limitation of development within the Inverleigh Township in favour of another township would not contribute to a reduction in the overall bushfire risk at a landscape scale. In the context of the Inverleigh Structure Plan, the key question to be addressed in relation to the

³⁵ C87gpla Panel Directions Version 3

potential growth area is whether development is being directed to a low risk location where a bushfire attack level of BAL12.5 can be achieved for the construction of future dwellings. If it is not, then the potential growth area should not be developed for residential purposes. As set out above, development within the proposed growth areas is considered to be a low risk location as bushfire mitigation measures can be implemented which can achieve a separation distance sufficient to achieve a radiant heat flux of 12.5 kilowatts/square metre under AS3959 consistent with state planning policy.

In regard to the bushfire hazard identification and assessment methodology, Mr Walton considered that relevant state policy and regulations had been addressed and assessments prepared in consultation with the CFA. The evidence addendum further responded to Direction 8e) on climate change:

Arguably the changes to state planning policy in relation to bushfire planning in December 2017 as part of Amendment VC140 were a clear response to climate change and the potential for more extreme bushfire conditions. The changes to the policy require the prioritisation of the protection of human life and the direction of development to low risk locations where a bushfire attack level of BAL12.5 can be achieved under AS3959. The radiant heat exposure calculations under AS3959 on which the bushfire attack levels are based are calculated using a Fire Danger Index of 100 in Victoria. A FDI of 100 is reflective of the extreme conditions experienced on Black Saturday in 2009 or similar. Therefore low risk as defined under state planning policy is based on low risk in extreme conditions, and not just the conditions which might be experienced in a normal summer.

Submissions opposing the Amendment expressed concern that identification of bushfire hazards was inadequate.³⁶ Ms Rutherford raised concerns about previous decisions adjacent to the Inverleigh Flora Reserve and submitted that the ISP *“encourages population growth near the Inverleigh Common which has a high risk of bushfire and subsequent loss of lives”*. Ms Guijt submitted that the SBRA ‘grossly underestimates’ fire risks from the Inverleigh Flora Reserve by not properly considering:

- the elevated fuel load due to a lack of fuel reduction burns
- the presence of Acacia Paradoxa
- poor vehicle track maintenance
- climate change and increased risk of lightning strike
- increased population density adjacent to the Reserve
- the issues likely to arise from relying on Common Road as the only means of egress in the event of a bushfire
- the absence of a Neighbourhood Safer Place (Bushfire Place of Last Resort) in Inverleigh.

Ms Bolton submitted aerial footage at the Hearing showing the extent of Acacia Paradoxa infestation in the Reserve which assisted the Panel to visualise the issue. Ms Bolton submitted that many of the fire access tracks are now impassable as they are overgrown with the species or made inaccessible by fallen trees.

There was general consistency in the submissions from the CFA and evidence tabled by the expert witnesses that the *“bushfire risk to the Inverleigh Township and potential development areas in the Inverleigh Structure Plan 2019 are from a bushfire within the Inverleigh Flora and*

³⁶ Particularly submissions 19, 23, 40, 44 and 88

Fauna Reserve and from a grassfire approaching from the north / north west or south west.³⁷ There was also consensus that the Inverleigh Flora Reserve posed the most significant bushfire hazard in the study area. Ms Steel's evidence in relation to the hazard posed by the Reserve and the implications of the fuel load for bushfire risk:

The vegetation within the Inverleigh Nature Reserve at the interface of the proposed settlement boundary is consistent with woodland vegetation. The vegetation supports various species of eucalypts and has a mixed understorey of grassland species. There are isolated areas of thick acacia species that would present as a scrub fuel load that is considered similar to that of woodland (25 t/ha).

Ms Steel identified the *"thick areas of acacia found centrally within the Nature Reserve"* in her analysis, noting that assumed fuel loads for woodland and scrub are both 25 tonnes per hectare.

The CFA submitted that it agreed with the classification of Woodland for the Inverleigh Flora Reserve described by Mr Walton and Ms Steel. It submitted that the *"township is more likely to be subject to ember attack and radiant heat from a fire starting within the Inverleigh Reserve compared to a grassfire that is more likely in the other fire scenarios associated with the study area"*. It advised that it had considered the threat posed from the presence of Acacia Paradoxa and whilst acknowledging its volatility noted that it does not *"have the large quantities of volatile and flammable oils in its foliage that members of the Myrtaceae family have"*. The CFA noted that its *"advice is consistent with Ms Steel's Expert Evidence Report Appendix 1 – Radiant Heat Exposures Investigated"*.

Ms Steel opined that appropriate setbacks from bushfire and grassfire hazards are modelled under a set of weather and fuel load assumptions that do not incorporate reduced fuel loads associated with mitigation works as these cannot be relied upon to continue.

Through questioning by Mr Steele, Mr Walton advised that separation distances for bushfire mitigation on residential land should be within the development itself and not rely on fuel reduction that may or may not occur on adjoining properties.

Submitters' concerns around access and egress and increasing population density near the major fire source of the Inverleigh Reserve focused primarily on the potential development of PGA3 and to a lesser extent PGA2. Ms Guijt noted that Common Road and Teesdale-Inverleigh Road are flagged as egress routes for PGA3 in the event of a bushfire in the Inverleigh Flora Reserve. She submitted that:

Inverleigh-Teesdale road is unlikely to provide a safe egress towards Teesdale, as this will lead through the Common and hence through the fire. In a scenario of easterly winds, the north-western part of Common Road will be filled with smoke and spot fires due to ember attacks. Under bush fire conditions with northerly and north-easterly winds, the section of Inverleigh-Teesdale Road connecting Common Road with The Hamilton Highway across the Twin Bridges will be exposed to smoke and ember attack, and will not function as egress. With the likely scenario of north westerly winds, the functionality of whole of Common Road is in doubt as ember, ash and smoke are likely to travel down Common Road towards the Hamilton Highway... This means that under the most likely bush fire scenarios, Common Road will be the sole egress for all residents. This is a serious risk and lives are likely to be lost, particularly if a bottleneck

³⁷ Page 3, Expert Evidence Report, Phillip Walton, XTB Consulting

forms anywhere on Common due to fallen branches/trees, smoke or accidents due to panicking residents evacuating.

Similar concerns were raised in Glynn's submission and touched on in many other submissions, including Mr O'Connell's submission (one of 18 proforma submissions).

Council, in the attachment to its Part B submission provided the following overview regarding access along Common Road and the functionality of the Twin Bridges:

Regarding access/egress from areas north of Common Road, the Twin Bridges are currently 5 tonne load limited bridges. The major beneficiary of upgrading the bridges on a day to day basis would be farmers and transport businesses as well as the CFA during a fire event. Failure to upgrade the bridges will not affect residents' ability to use these bridges during a fire event (unless they are in a vehicle in excess of 5 tonne). However, failure to upgrade may affect the CFA's ability to access residential development in Potential Growth Area 3 to provide asset protection during a fire event. For example, if the local brigade chooses not to come along Common Road from the Hamilton Highway intersection for safety reasons, they may choose to access via the Teesdale-Inverleigh Road which would require crossing the Twin Bridges, which they are currently not able to.

Mr Walton's expert evidence statement stated:

Common Road is not a dead end road and access is available from the west and east. Measures are proposed in the Inverleigh Structure Plan to upgrade Common Road and access constraints to the west and east such as the Twin Bridges and the intersection with the Hamilton Highway. Common Road to the east passes through low density residential areas with an associated lower risk and adjoining the Inverleigh Flora and Fauna Reserve has a wide fuel reduced buffer. I would be far more concerned if the bushland vegetation came right up to the edge of the road.

Through questioning from Mr Bolitho at the Hearing, Mr Walton gave evidence that in terms of access for PGA3, there is a need to upgrade Common Road and the twin bridges on Teesdale-Inverleigh Road but that best practice in a bushfire event would be for residents to 'leave early'.

Ms Steel did not provide evidence about the suitability of traffic movement along Common Road specifically but did recommend that multiple access and egress routes be provided and that these include multiple aspects. In relation to the road network in this area, Ms Steel observed that:

Perimeter roads are a requirement for sites within the BMO and are increasingly considered in subdivisions within Bushfire Prone Areas.

Important roads within the northern section of the Inverleigh settlement are:

- Hopes Plains Road to the east,
- Common Road that runs almost parallel to the Hamilton Highway to the north of the Leigh River, and
- Teesdale-Inverleigh Road to the west of the settlement boundary.

Common Road and Teesdale-Inverleigh Road both allow egress from the Inverleigh Nature Reserve. Rankin Road at the south east interface of Berthon Park also provides an egress route.

Ms Steel's final recommendation in relation to access and egress for any potential growth area was set out in her Recommendation 3:

Ensure appropriate access and egress from all future development sites including multiple access and egress points from subdivisions in multiple aspects. Enabling

access and egress points that do not require access with the interface of the Inverleigh Nature Reserve is an important consideration.³⁸

The Panel asked Ms Steel to clarify her position on whether this recommendation in effect would require an access and egress road other³⁹ than Common Road for the development of PGA3. Ms Steel confirmed that this would be her position in relation to access and egress for fire fighting vehicles.

Mr Bolitho requested the Panel to *“make further recommendations to mandate Bushfire protections, including upgrading of Twin Bridges, before further development in Growth Area 3”*.

The CFA confirmed that its fire fighting appliances could not use the Twin Bridges.

Most parties to the Hearing accepted the need for an upgrade to the Twin Bridges should residential development be introduced in PGA3. Mr McDonald however, submitted at the Hearing that an investigation was needed for *“additional access from north to south, Common Road to the Hamilton Highway, in addition to the current Teesdale Road. We have heard much about multiple access and egress but they all rely on Common Road. If this road becomes blocked with traffic or fire, no one is safe”*.

Council, in its closing submission provided a brief desktop review of its investigations into replacing the bridges:

- If replaced, bridges would need to be upgrade to two lane structures capable of being inundated and designed in line with current applicable standards
- Any replacement of the bridges should include a realignment of the road connecting the two structures
- Any replacement of the bridges will require the removal of approximately 4 – 6 old growth trees to facilitate realignment of the bridges
- Would need to determine whether old structures are to be demolished or potentially built over.
- May not be able to achieve construction above flood levels
- Road would be closed for up to 10 months
- May be significant lead time in relation to cultural and environment requirements
- May need to acquire or transfer land to facilitate realignment of bridges

As per above a very basic desktop cost estimate of these replacements are in the order of \$2 to 3M. Other new Leigh river crossing options were also reviewed as part of this desktop assessment including a new crossing located at Bourkes Road, however these were seen to be cost prohibitive and potentially being 4 to 5 times more costly than replacement due to the required cut/fill and significant road construction.

Both Ms Guijt and Ms Rutherford raised concerns that the Amendment proposes to increase lot density in potential growth areas adjoining the Inverleigh Flora Reserve contradicting the outcomes of Amendment C74 for land at 230 Hopes Plains Road (PGA2).

Mr Walton responded to this concern and gave evidence that it *“does not stop the consideration of C87 as a separate amendment”* and that *“subject to an appropriate bushfire interface treatment and building construction standards, there is no reason why lots sizes*

³⁸ Page 44, Expert Evidence Report, Kylie Steel, South Coast Bushfire Consultants

³⁹ Panel’s emphasis

down to 0.4ha should not be considered. This zone does not mandate lots of 0.4ha and if local considerations warranted larger lots, this could be determined through a planning permit application for subdivision”.

Mr Steele requested consideration be given to larger lots on Common Road (2ha) to mitigate bushfire risk. He submitted that during the course of the Hearing the experts had been equivocal about the use of larger lots so decision making should defer to the CFA position. Mr Bolitho requested the Panel mandate minimum lots sizes of 2 hectares on land adjoining The Common for PGA3.

Both Mr Walton and Ms Steele answered questions at the Hearing on whether larger lots would aid bushfire mitigation. Both experts said that in their experience, smaller lots tend to be characterised by managed gardens with a lower threat vegetation type than larger lots.

The CFA submitted that:

Vegetation management on private lots is ultimately up to the landowner but is required in areas with a Bushfire Management Overlay and can be required on other properties if it presents as a fire hazard. Typically, smaller lots are easier and more likely to be managed to a low threat condition. Nevertheless, it is the separation from the bushfire hazard and management of vegetation in between that is most important. The feasibility of vegetation management requirements on large private allotments can be considered as a way to ensure the bushfire risk is not increased as a result of an increase in lot yield.

During the Hearing, the proposed biolinks through PGA3 and creation of open space along the Leigh River was discussed and what this would mean for bushfire risk to this area. Ms Steel’s evidence recommended the following provision be considered in future planning for potential growth areas:

Recommendation 1 - Public open space, Green Links and Bio Links within close proximity (100m) of residential areas (ie. LDRZ or TZ) be managed to Defendable Space vegetation management conditions from Clause 53.02-5 Table 6.

Ms Bolton, Mr Hodson and Mr Steele all submitted that this requirement, whilst very important in a bushfire mitigation sense would potentially conflict with the purpose of any biolinks as a wildlife corridor and habitat. Mr Steele and Mr Hodson also raised concerns in terms of impacts on streamside rehabilitation and enhancement.

The CFA acknowledged this potential conflict and submitted to Panel:

CFA suggests Council consider what bushfire policy can be developed to manage bushfire risk and how any proposed bushfire protection measures can be implemented on an ongoing basis with limited impacts on biodiversity, specifically the proposed bio-links.

There are potential issues with increasing bushfire risks as these new links could create a bushfire hazard through the area if these areas are not managed appropriately.

Unmanaged vegetation increases the potential for the bio-links and 150m around the bio-links to be added to the BMO. Development would be required to be setback from the bio-link for a distance commensurate with the end state vegetation.

The CFA further submits that Clause 13.02-15 has low tolerance for introducing new bushfire risk and that:

Unfortunately, due to the nature of these bio-links they tend to introduce more vegetation and act as wicks between two or more otherwise separate areas of fire

hazard. This results in both, more hazard and consequently risk or the number of people exposed to the hazard. These are outcomes the planning system is trying to avoid. The planning scheme does not compromise on bushfire and life safety, which is why the topic is afforded its priority in Clause 71.02-3. Biodiversity is given specific consideration under Clause 13.02-1S, where bushfire outcomes would result in unacceptable impacts on biodiversity, then this would be enough not to encourage settlement in these areas. CFA has no view on what is acceptable or unacceptable from this perspective.

This is not to say that a vegetated corridor cannot be provided. However, it must be managed to minimise bushfire risk. This can lead to lower biodiversity values but will depend on the species and the type of habitat and environments required to support those species. The level of vegetation management should be guided by standard defensible space requirements in the first instance, and then tailored to ensure a similar bushfire mitigation response. Other factors such as costs, practicality and maintenance should also be considered, to ensure the feasibility of implementing any agreed outcomes.

Planning policy should be developed to help manage those inherent conflicts and provide guidance on the desired outcomes and expectations from the outset. CFA is comfortable that the required policy links can be created, and additional bushfire protection measures can be included to further ensure risks are managed appropriately.

Mr Clements, while in support of the Amendment, noted that Mr Walton's evidence had recommended rewording of dot point 1 in the ISP (page 64) as follows:

- Stage development to minimise bushfire risk through expansion adjacent to existing developed land.

He submitted that:

During cross examination Mr. Phil Walton indicated that he was not directly asked to consider the revision of dot point 1. However, he has recommended that it be changed. I am unsure why.

Notwithstanding the above, during further cross examination Mr. Phil Walton acknowledged that bushfire risk could be minimised via means other than the staging of development from the east.

Our client therefore requests that dot point 1 on page 64 of the Structure Plan (2019) be either deleted in its entirety or reworded similar to the below:

- Ensure development minimises bushfire risk through appropriate means as outlined in the Golden Plains Planning Scheme.

Settlement policy

In addition to the matters raised above, expert witnesses, Council and the CFA presented the Panel with recommended changes to the ISP to ensure consistency with state policy to prioritise the protection of human life.

Mr Walton's overall position on the Amendment was that:

- Amendment C87gpla is consistent with state planning policy in relation to bushfire planning as expressed in Clause 13.02-1S of the Golden Plains Planning Scheme subject to appropriate bushfire mitigation measures.
- A number of changes should be made to the Inverleigh Structure Plan 2019, particularly in relation to the "planning and design bushfire responses required" in Section 7 to clarify and strengthen the bushfire mitigation measures.
- There are no issues raised in the submissions received which from a bushfire perspective would warrant Amendment C87gpla not proceeding.

Mr Walton's recommended changes were confined to the ISP, rather than the Amendment documentation. In the main, the recommended changes introduced specific separation distances to be required for future development areas as per the outcomes of the bushfire hazard assessments and other requirements from the BMO.

Ms Steel concluded in her expert evidence report that:

All land within the scope of this report is able to meet the appropriate measures within the current planning scheme as detailed in the report.

Although there is a risk identified from the Inverleigh Nature Reserve to the north, appropriate setbacks from the hazard can be achieved. The setbacks are achieved without consideration of any future or current risk mitigation works within the Inverleigh Nature Reserve.

The report recommends that appropriate design of future subdivisions must include adequate access and egress from multiple aspects, provide fire fighting capacity to the satisfaction of the relevant authorities and implement further planning tools to ensure internal areas of subdivisions do not enable spot fires to develop.

The increased density has been considered as part of the Clause 13.02-1S assessment and it is considered that smaller lots may facilitate a higher level of vegetation management. Lots managed to a low threat condition will decrease the risk from spot fires as a result of embers from the Inverleigh Nature Reserve. Highly managed lots will give greater assurance that central lots within developments will be exposed to radiant heat levels of BAL-Low. Areas of BAL-Low are important in providing areas where the protection of life can be enhanced.

A number of recommendations have been made to further mitigate the risks from spot fires developing through the management of public open space, green links, and bio links.

The interface areas of land within the scope of this report are within the BMO and the objectives of the BMO can be achieved through future planning permit applications.

Ms Steel made a number of recommendations for consideration through future subdivision:

- Public open space, Green Links and Bio Links within close proximity (100m) of residential areas (ie. LDRZ or TZ) be managed to Defendable Space vegetation management conditions from Clause 53.02-5 Table 6.
- Planning tools be implemented to ensure that properties in the Low Density Residential Zones are managed to a low threat condition. Management to a low threat condition will ensure that internal areas of a subdivision will enable radiant heat exposed to a BAL-low.
- Ensure appropriate access and egress from all future development sites including multiple access and egress points from subdivisions in multiple aspects. Enabling access and egress points that do not require access with the interface of the Inverleigh Nature Reserve is an important consideration.
- Interim hazard management during development phases should be implemented. The management of grassland hazards to a low threat condition for 50m enable mitigation during the development of each subdivision stage.
- Non-habitable buildings (ie. sheds) greater than 10m from a dwelling should not be permitted within defendable space areas. No-build zones should be created at the interface of developments to ensure they are free from ALL fuel sources. Sheds are a common feature of Low Density Residential Lots and they are not required to be constructed to a BAL level if they are greater than 10m from a dwelling. Sheds may present as a significant fire hazard is not located appropriately.

The CFA continued to support the Amendment at the Hearing in line with their original submission but provided additional comments for further consideration by the Panel. The CFA submitted that it had considered the Amendment relative to Clause 71.02-3 and Clause 13.02-1S and concluded:

CFA encourages localised bushfire protection measures that will reduce the bushfire risk and create a more bushfire resilient community.

- Supporting Ms Steel's recommendations.
- Supporting Mr Walton's assessment for each potential growth area in relation to separation distances from the fire hazard with the exception that CFA would prefer that the defendable space be provided within the future lots and not consider that road reserves or other off-site works could constitute part of this defendable space.
- Recommending that new development within 150m of the Inverleigh reserve is constructed to a minimum construction standard of BAL 29.
- Ensuring that the structure plan is updated to reflect vegetation management requirements in accordance with standard defendable space prescriptions or equivalent in any bio-link or riparian corridor.
- That landscaping restrictions and vegetation management requirements be applied to any new development across the structure plan area.
- Site management plans required to manage rolling front and bushfire risk.
- Require cross sections for road design adjacent bushfire hazards (include templates).
- Ensure requirements meet standard road design for emergency vehicles i.e. all weather.

The Victoria Planning Provisions (VPPs) set out the planning tools that can be used to implement such policy and CFA acknowledges that a variety of different provisions could be used to introduce bushfire policy relevant to a local area. In this instance CFA would consider the use of a Development Plan Overlay to assist in ensuring the bushfire risk for Inverleigh can be appropriately managed with the implementation of appropriate bushfire protection measures.

Council's closing submission supported all recommendations of both bushfire planning experts and proposed to include Mr Walton's suggested changes into the ISP. It raised some reservation about introducing construction standards over and above requirements set out by state policy as requested by the CFA due to previous experience with DELWP at the Amendment authorisation or approval stage.

Council also submitted that following discussions with Barwon Water it suggested amending the ISP to include the provision of a number of strategically placed 55,000 litre water tanks on public land to be used for fire fighting purposes.⁴⁰

During the Hearing the Panel asked Council to consider whether the Amendment adequately captured the local policy relating to bushfire mitigation as expressed in the ISP. As part of its closing submission Council tabled a 'without prejudice' version of proposed Clause 11.03-6L (updated using the new PFF structure) which included additional bushfire management strategies as follows:

Provide an interface treatment between areas of bushfire hazard and the township/residential development to mitigate bushfire risk to an acceptable level.

⁴⁰ Part B submission (Table at paragraph 46.4, page 50)

Ensure a sufficient separation between areas of bushfire hazard and dwellings under AS3959-2018 Construction of Buildings in Bushfire Prone Areas to achieve a bushfire attack level rating of BAL 12.5 for dwellings.

Support additional firefighting supplies to assist firefighting efforts.

As part of new development adjacent to the bush interface, provide for CFA firefighting vehicle access during the fire season.

Council also proposed to add an additional sentence to Clause 02.03-1 under the 'Inverleigh' subsection:

The Inverleigh Flora Reserve is a grassy woodland. Its purpose is the conservation of indigenous plants and animals. It poses a modest fire risk to land adjoining the Bush Interface.

The final version of Council's proposed post-exhibition changes to Clause 02.03-1 and Clause 11.03-6L are included in Appendix D.

(iv) Discussion

Bushfire risk is an issue of critical importance for planning for growth in Australia and its ever-present threat grows in magnitude as our climate continues to warm. It is well recognised that bushfire risk in Victoria is increasing, with climate change a prominent driver and evidenced recently with the extreme bushfire season of 2019-20. Clause 13.02-1S elevates the consideration of bushfire risk to the highest of strategic considerations. The Panel agrees with Mr Walton that bushfire state planning policy as strengthened through Amendment VC140 sets a high benchmark in order to ensure planning priorities the protection of human life.

The extensive and well researched material presented to the Panel was commendable, highlighting the concerns of submitters about risks to existing and future residents and its strategic consideration by Council. This material has been critical to the Panel's consideration of what is one of the threshold issues for the Amendment.

The Amendment proposes to implement a growth plan for Inverleigh which will guide future decisions on rezoning, development and land use change within the township. Whilst the Amendment does not propose to rezone additional land for development or alter the application of the existing BMO in any way, it does propose to confirm the designation of a number of potential residential growth areas as suitable for future development. It also proposes to modify existing minimum lot sizes in the LDRZ which has the potential to increase the number of dwellings within future growth areas.

Submissions opposing the Amendment questioned the methodology and data used in the SBRA forming the view that it was invalid on this basis. The Panel recognises that the SBRA refers to an earlier version of PPN64 and requested Council to address any additional bushfire planning considerations resulting from changes to state policy and PPN64 at the Hearing. The Panel notes Council's comment that it was "*incorrectly referenced*" in the SBRA and does not consider it necessary to take a position on this comment. The Panel agrees with Mr Walton that it is more important to demonstrate that the Amendment is consistent with state policy as expressed through Clause 13.02-1.

In considering submissions on this issue to the Amendment, the Panel's primary focus is to determine whether the Amendment is consistent with the objective and strategies of Clause 13.02-1S.

The Panel reviewed the SBRA and found that methodology used to conduct the bushfire hazard identification and assessment was generally in accordance with relevant strategies set out in Clause 13.02-1 and that for the purpose of settlement planning it appropriately considered:

- vegetation, topographic and climate conditions that create a bushfire hazard
- the best available information about bushfire hazard including the map of designated bushfire prone areas
- landscape, local and neighbourhood conditions
- the views of the relevant fire authority
- bushfire protection measures.

The Panel has some concerns with findings in relation to specific sites and these are discussed further below.

The peer review by Mr Walton confirmed for the Panel that the broader landscape around Inverleigh is consistent with the landscape assessment in the SBRA, and using larger areas of 10km and 20km in the assessment would not have produced different outcomes. Ms Steel's expert evidence report came to similar conclusions. The CFA also submitted that the SBRA provided a 'realistic assessment' of the bushfire risk around Inverleigh.

The Panel supports Mr Walton's evidence that the bushfire risk to Inverleigh is comparable with other small towns within the Golden Plains Shire and that limitation of development in Inverleigh in favour of another town would not contribute to a reduction in overall bushfire risk at a landscape scale. The Panel also support Mr Walton's view that the important question for broad settlement planning and the protection of human life to be addressed in the ISP is whether future growth has been directed to low risk locations, which are defined in the state policy as locations having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959.

The expert reports of Mr Walton and Ms Steel both contained assessments that concluded that each of the six identified potential growth areas (or in the case of Ms Steel's report the four sites assessed) could meet this requirement subject to appropriate bushfire mitigation measures being put in place.

No opposing submissions were made specifically in relation Potential Growth Areas 1, 4, 5 or 6 which were all supported as future growth areas by the bushfire experts and the CFA . The Panel finds no evidence to warrant further consideration of bushfire issues for these sites.

The Panel notes Mr Clements' request to modify wording in the ISP relating to staged development and bushfire risk for PGA6 and Mr Walton's response at the Hearing that bushfire risk could be minimised through measures other than staging. The Panel considers that this is an issue for further consideration by Council but would have no concerns with wording suggested by Mr Clements.

The Panel appreciates, as explained by Ms Steel and Mr Walton, that the Forest Fire Danger Index (FFDI) is used nationally as a measure for fire weather in bushfire assessments (alongside

other inputs determined through relevant Australian Standards) and this was used in both expert assessments.

The level of bushfire risk of the Inverleigh Flora Reserve was strongly contested by many opposing submissions. It was agreed by all parties to the Hearing that the Inverleigh Flora Reserve poses the greatest bushfire risk to settlement areas in Inverleigh and to a lesser extent surrounding grasslands. PGA2 and PGA3 are located adjacent to the Inverleigh Flora Reserve. PGA2 and the eastern section of PGA3 have both been rezoned to LDRZ in recent years.

The Panel considered all of the submissions on this issue, evidence presented at the Hearing and inspected the Reserve in person, noting the presence of *Acacia Paradoxa* infestations. While the Panel recognises that this is a real issue for reserve management, the Panel is persuaded by the evidence of Ms Steel that the presence of the *Acacia Paradoxa* does not change the overall classification of the Reserve as Woodland for the purposes of bushfire management assessments pertaining to nearby land. The Panel notes that Mr Walton and the CFA also support this view.

Importantly the Panel accepts that measures proposed to ensure further potential growth areas can meet low risk criteria do not rely on fuel mitigation works of adjoining public land.

One issue which the Panel considers not clearly addressed is the location of defensible space areas for potential growth areas that would enable PGA2 and PGA3 to meet low risk classification. Both Mr Walton and Ms Steel provided evidence that a separation distance of 33 metres from Woodland vegetation would be required in order to meet a BAL of 12.5. Mr Walton's evidence provides for the inclusion of Common Road as a perimeter road within the defensible space area with the proviso that it be managed on an ongoing basis during the fire danger period in a reduced fuel condition. Ms Steel's evidence does not specify whether this would be an appropriate inclusion. The CFA submitted that defensible space should be provided within future lots and not include road reserves within this area. Mr Steele supported the CFA position at the Hearing.

The Panel recognises that this Amendment does not include an application to rezone the land. Rezoning is the time at which planning would normally address detailed decision making around defensible space requirements and potential DPO provisions relating to lot arrangements and access etc. All evidence provided to the Panel suggests that defensible space can be provided in the potential future growth areas. The Panel also acknowledges the requirement for perimeter roads to be provided in new subdivisions on land affected by the BMO and increasingly for any subdivision within a Bushfire Prone Area. Often these are provided within development sites as an existing perimeter road on adjoining land may not exist. The Panel identifies in this case the presence of a VPO over land within the Common Road road reserve adjacent to PGA3 at the western end and explored this issue at the Hearing to determine the feasibility of ongoing management as per Mr Walton's recommendation. Council provided information that this vegetation was Plains Grassy Woodland of reasonably high quality and that the mown firebreak works to enhance the species. As such, the Panel suggests that investigation of this issue does not present any major hurdles that could not be resolved at a future stage in the planning process to rezone land.

The issue of appropriate access and egress to PGA3 was also raised as a major concern in submissions to the Amendment. In particular, this issue was considered in terms of access to the site by fire fighting vehicles and egress from the site by residents in a bushfire event.

The Panel reviewed and heard many submissions on the suitability of Common Road to provide an appropriate access and understands that access to the Hamilton Highway is either towards the east through existing LDRZ housing areas or west along Teesdale-Inverleigh Road and over the 'Twin Bridges'. The Panel notes the Amendment includes provision for the upgrade of the bridges on the Inverleigh Framework Plan, in part through development contributions.

State planning policy requires settlement planning to ensure the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire. The Panel notes that the highest bushfire risk is posed by the Inverleigh Flora Reserve adjoining Common Road and understands that it is unable to be accessed currently by fire fighting vehicles from the Hamilton Highway via the western end due to the capacity of the Twin Bridges. The Panel supports the view that if a large bushfire presented from the Inverleigh Flora Reserve, vehicle access to Common Road from the west would be critical and further that this could be complicated if all traffic were to rely on Common Road. Ms Steel recommended that an important consideration for future development would be the requirement for access and egress points that do not require access with the interface of the Inverleigh Flora Reserve, i.e. Common Road.

The Panel points to the information provided by Council in its closing submission which outlined the very real difficulties and costs that would be associated with the upgrade of the Twin Bridges and consideration of other options for crossing of Leigh River, including at Bourkes Road.

The Panel supports the inclusion of the upgrade of Twin Bridges on the Framework Plan but is not convinced that it will ultimately be feasible without much more investigation and therefore is of the view that this puts this the access point to PGA3 at risk. Nor has the Panel been presented with any evidence that there would be an alternative solution for PGA3.

For this reason, the Panel is unable to satisfy itself that PGA3 will be able to provide safe access and egress to lower risk areas in a bushfire event and therefore demonstrate compliance with this element of Clause 13.02-1. It is not considered acceptable for such a critical issue to be addressed at a later stage in the planning process as its suitability for residential development relies on being able to provide safe access and egress. It may well be that an alternative suitable access and egress can be provided for PGA3 and the Panel understands that this site is currently designated as a future long term growth area. The Panel is of the view however that this matter requires further investigation prior to designating the land for a particular style of residential development. Such a designation is unlikely to have any short-medium term impacts on land supply for the town.

The provision of a biolink(s) through the site and the open space corridor along the Leigh River also raised some concern with regard to potential bushfire risk. While the environmental values of these proposals are considered in Section 5.3, their presence in the context of bushfire risk is considered here. Council considered this potential conflict and suggested a change to the Amendment to show two potential linear links on the Inverleigh Framework

Plan. It was suggested to Panel that the central link could provide for pedestrian, emergency and wildlife access and a separate link on the western boundary of the site could become an ecological link with appropriate bushfire protection measures.

All parties were generally in agreement that the provision of one or more biolinks through PGA3 was a good proposition. Similarly, there were no objections to enhancing the streamside reserve of Leigh River and providing accessible open space. Contention centred on appropriate widths and treatment of these green spaces and how this would affect bushfire risk.

The Amendment itself is silent on the purpose of the proposed green links and biolink shown on the Inverleigh Framework Plan. The ISP provides some context for the biolink, stating that it for the purpose of a wildlife corridor between Inverleigh Flora Reserve and the Leigh River but that it should also function to provide pedestrian access, maintenance and emergency vehicle access and be wide enough for the edges to be mown and maintained in a fire-risk reduced state, without compromising the sustainability of the link as a wildlife corridor.

Ms Steel's evidence recommended that any public open space, green link or biolink within 100 metres of residential areas be managed to Defendable Space vegetation management conditions in accordance with Table 6 of Clause 53.02-5. The Panel notes that this would require:

- grass to be short cropped and maintained during the declared fire danger period
- all leaves and vegetation debris to be removed at regular intervals during the declared fire danger period
- within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building
- plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building
- shrubs must not be located under the canopy of trees
- individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres
- trees must not overhang or touch any elements of the building
- the canopy of trees must be separated by at least 5 metres
- there must be a clearance of at least 2 metres between the lowest tree branches and ground level.

The CFA submitted a similar view and suggested potential conflict if these areas were not managed properly. The CFA also noted that depending on the nature and size of these links, there may be a requirement in future to include these within a BMO which would then have further implications for defendable space setback requirements in a future development area.

Mr Steele and Mr Hodson, both through their original submissions and at the Hearing presented detailed information on the importance and function of biolinks and restoration of the riparian zone along the Leigh River. They also highlighted potential 'edge effect' problems where widths are insufficient and raised concerns about their ability to function as wildlife corridors or habitats if unable to support appropriate vegetation. The Panel supports their concerns.

The Panel also understands from the expert witness reports that there is some current fire risk from vegetation along the Leigh River to PGA3 as it is south of the site at the bottom of an escarpment.

The Panel acknowledges that the Inverleigh Flora Reserve and Leigh River environs are two of the most important assets and valued features of the Inverleigh landscape. The Panel accepts Council's position that the ISP and Amendment aim to encourage growth while protecting the natural landscape in and around town. The Panel considers that it is appropriate for settlement planning to identify future green links, biolinks and public open space through local strategy in the PPF and on a framework plan in the Planning Scheme. The Panel is concerned however that the Amendment does not provide enough guidance on the purpose of the biolink, green links or extent of streamside enhancement or how they will be considered alongside bushfire policies which must be given greater weight in planning decision making. The Panel is concerned that without further investigation and guidance in the PPF, there is no guarantee that it will be found feasible at a later stage to implement these future assets.

The final primary concern of opposing submissions in relation to bushfire relates to the proposal in the Amendment to remove the minimum lot size in the LDRZ, thereby increasing the potential for additional homes to be exposed to bushfire risk.

In particular, submitters raised the comments of the Panel in relation to Amendment C74 which rezoned land in PGA2 to the LDRZ. This Panel has carefully considered the findings of the Panel for Amendment C74 and notes that in addition to finding that lot sizes of 1 to 2 hectares would reduce the extent of population that might be exposed to fire risk, these lot sizes were also said to *"allow space on lots and between dwellings in subdivision design to manage vegetation and put in place appropriate bushfire protection measures"*.

The Panel accepts Mr Walton's view that the findings for Amendment C74 do not stop the consideration of this Amendment through further inquiry. The Panel also accepts the evidence of Mr Walton and Ms Steel that each of the potential growth areas could achieve a BAL rating of 12.5 with appropriate mitigation measures put in place and thereby meet the criteria for low risk locations. The Panel notes that the CFA supports these views subject to additional mitigation measures.

The Panel also accepts the evidence of Ms Steel that smaller lots may facilitate a higher level of vegetation management to low threat condition. The Panel notes that the CFA supported this position at the Hearing.

The Panel considers that lots of 0.4 hectare would also allow space on lots and between dwellings to manage vegetation but emphasises that this Amendment would allow for consideration of lots at 0.4 hectare but that there may be site specific reasons why a larger lot size is ultimately required at the subdivision stage.

For these reasons, the Panel finds no justification to oppose the removal of the minimum lot size provision from the LDRZ on the basis of bushfire risk.

The Panel supports Council's proposed changes to the ISP to reflect Barwon Water's advice about additional water supply for firefighting purposes. In general, it supports the inclusion of Mr Walton's suggested changes relating to bushfire but considers that this section should

be reviewed in the context of other comments from the Panel regarding PGA3, fire access and biolinks.

The Panel has considered the proposed additional bushfire planning provisions in the 'without prejudice' version of Clause 02.3-1 and Clause 11.03-6L tabled by Council at the Hearing and included in Appendix D. The Panel appreciates Council giving further consideration to whether the Amendment adequately captures local policy relating to bushfire mitigation as expressed in the ISP. While the Panel supports the inclusion of an additional sentence about the Inverleigh Flora Reserve in Clause 02.03-1 it does not find that the proposed bushfire related changes to Clause 11.03-6L provide any additional guidance in a local context to that which is already set out in Clause 13.02-1, the BMO or Clause 53.02 Bushfire Planning. However, the Panel thinks there is some value in further exploring appropriate localised policy guidance that acknowledges the challenges of managing the town's bushfire risks without replicating the policy detail of Clause 13.02-1S. The Panel is reluctant to offer specific policy words without the benefit of further submissions, evidence or the potential views of DELWP as current PPF 'gatekeepers'. The Panel recommends that Council undertake further discussions with DELWP and seek further expert guidance to provide support in appropriate policy wording. As a guide, the Panel considers that such policy should:

- articulate the localised bushfire challenges and desired interface responses
- be broad and high level.

The Panel points Council to recently released design guidelines available on the DELWP website (August 2020) 'Settlement Planning at the Bushfire Interface' for further guidance.

(v) Conclusions and recommendations

The Panel concludes:

- Through the SBRA, the ISP in general adequately considered bushfire impacts for Inverleigh through hazard identification, assessment and proposed mitigation measures.
- The recommendations of Ms Steel and Mr Walton are appropriate for further consideration by Council in amendments to the ISP and will assist future decision making for rezoning, planning permit and subdivision applications.
- The Amendment is generally consistent with Clause 13.02 (Bushfire) but the Panel is not satisfied that it has demonstrated the ability to provide safe access and egress for PGA3 (western portion).
- PGA3 should be identified as a 'Further Investigation Area' until key bushfire impacts particularly access are clearly resolved along with further investigation and guidance for the proposed biolinks, green links and streamside rehabilitation in order to ensure these future assets are not excluded from future development areas due to conflicts with required bushfire mitigation measures.
- The additional sentence regarding the Inverleigh Flora Reserve in Clause 02.03-1 is appropriate.
- The additional bushfire management strategies suggested for inclusion in Clause 11.03-6L by Council do not provide additional guidance to existing state policy and are not supported, however, further policy guidance is required to identify the

localised policy responses to bushfire. Council should pursue further advice on the appropriate content for Clause 11.03-6L from DELWP and the CFA.

The Panel recommends:

- **Amend Clause 02.03-1 under the heading 'Inverleigh' to add the following sentence consistent with Council's final version in Appendix D1:**

'The Inverleigh Flora Reserve is a grassy woodland. Its purpose is the conservation of indigenous plants and animals. It poses a modest fire risk to land adjoining the Bush Interface'.
- **Amend the Inverleigh Framework Plan in Clause 11.03-6L to show the western portion of Potential Growth Area 3, currently in the Farming Zone, as a Future Investigation Area.**
- **Following further expert advice and the guidance of Department of Environment, Land, Water and Planning and the Country Fire Authority amend Clause 11.03-6L to provide greater clarification of the localised bushfire management challenges for Inverleigh and appropriate high level policy responses prior to adoption of the Amendment.**
- **Amend the Inverleigh Structure Plan 2019 to:**
 - a) **Identify the western portion of Potential Growth Area 3 as a 'Further Investigation Area' and subject to the further consideration of:**
 - **Multiple access and egress arrangements, including an access and egress point that does not require interface with the Inverleigh Flora Reserve.**
 - **Bushfire impacts on the purpose and function of the biolink, streamside areas and open space linkages.**
 - **The appropriate land use and zone for land between the escarpment and Leigh River.**
 - **Analysis and guidance for the proposed biolink, green links and streamside rehabilitation.**

5.2 Impacts of flooding, stormwater runoff and effluent disposal

(i) The issue

The issue is:

- whether the ISP and Amendment appropriately responds to flooding and potential stormwater run off issues
- whether the Amendment will have a detrimental environmental impact⁴¹ through stormwater runoff or effluent disposal.

(ii) Relevant strategies and studies

The ISP and Amendment were based on the findings of the *Domestic Wastewater Management Plan 2015 (DWMP)* and the *Flood Risk Management Study – Leigh and Barwon Rivers at Inverleigh, 2018*.

⁴¹ This impact could be by erosion, inundation, effluent disposal on land generally and on waterways

Mapping of land at risk from flooding was updated through Amendment C80. The Amendment proposes to insert a new Framework Plan into the Planning Scheme which includes consistent flood mapping.

The DWMP focused on small unsewered towns in the Golden Plains Shire. It recommended (among other things) a monitoring and engagement program for Inverleigh to determine the need for sewerage and/or stormwater management controls. It also recommended a minimum lot size of 0.4 hectare in unsewered areas (greenfield or infill land) subject to specific criteria.⁴²

The ISP surmised that the constraints of flooding and lack of sewerage combine to limit development within the core of the town. It also noted that Barwon Water is the responsible authority for water and reticulated sewerage in Golden Plains Shire and that there are no plans in the short to medium term to provide reticulated sewerage for the town.

(iii) Evidence and submissions

Effluent Disposal

The Panel asked Council through Direction 8a) and 8b) to:

- explain the relationship between unavailable reticulated sewerage and the proposed LDRZ selection and its provisions
- explain how the ISP was informed that the extent of lots without reticulated sewerage would not negatively impact on health and environment.

Council, through its Part B submission, responded that the LDRZ is generally used to support residential development in unsewered areas and is the preferred zone of choice for rural residential land, particularly in the southern portion of the Shire.

It was noted that historically, the Shire had discouraged lot sizes below 1.0 hectare in the LDRZ, based on earlier versions of the EPA's Septic Tank Code of Practice. Council reported that recent versions of the Code of Practice have not included a minimum lot size but rather rely on a performance based approach taking into account land capability. Council revised its own policy on this basis and amended Clause 22.09 Low Density Residential Subdivision in the Planning Scheme through Amendment C64, removing the 1.0 hectare minimum.

Council undertook further work on wastewater management through the DWMP which recommended a minimum lot size of 0.4 hectare in unsewered areas and that appropriate lot size be determined through land capability assessments. Council prepared the ISP having regard to this recommendation.

Many submissions⁴³ raised concerns about potential seepage from septic systems and the potential negative impacts that might result, particularly on the Leigh River and its environs. Submission 14 (and others) submitted that there is already an existing problem with effluent run-off in the township which is noted in the ISP.

⁴² Pages 30, 31, *Domestic Wastewater Management Plan 2015*

⁴³ Submissions 6, 8, 13, 14, 23 (plus 17 submissions the same), 24, 34, 36, 39, 40, 41, 44, 45, 50, 52, 63, 64, 66, 74, 83, 84, 87, 88, 91

Council responded through its Part B submission that monitoring of water courses in Inverleigh was undertaken by environmental consultants in August 2017 in line with recommendations of the DWMP, with the primary objective to determine what impact failing septic tank systems may be having on the Leigh River. Council submitted that *“the outcome of this testing was that no obvious signs of contamination from stormwater runoff or onsite septic system failure were identified”*.

The submissions of Mr O’Connell, Mr Trevaskis and the Friends of the Barwon requested that there be an investigation into the cumulative impact from septic systems in new development and their likely impact on the Leigh River prior to approving the Amendment.

Council responded that given the outcomes of previous monitoring this was considered unnecessary at this stage and that there was already a number of local policies in addition to the DWMP to address this issue through further statutory processes.⁴⁴

Mr Collins submitted that an additional risk associated with wastewater management systems was that while they may be designed appropriately, they are not always installed or managed to ensure performance levels are maintained. It was submitted that waste sediment residue which remains in the ground presents an ongoing risk and that these factors are multiplied by the size and density of developments.

RPG called Mr Farrar of St Quentin Consulting to give evidence and to prepare a preliminary Land Capability Assessment for the development areas of interest to RPG. Mr Farrar’s brief was to provide an overview of domestic wastewater requirements, identify possible regional constraints and recommend appropriate treatments. Mr Farrar’s evidence concluded that for the development areas investigated the proposed lot size of 0.4 hectare or greater is acceptable for effluent disposal noting some constraints which would need consideration to *“enable safe and sustainable on site effluent disposal”*. The expert evidence report sets out a range of recommended performance requirements to be considered at future design stages.

Mr Hodson, also representing the Friends of the Barwon River at the Hearing, submitted that Mr Farrar’s statement identified a soil type in PGA3 with slow soil permeability and structure that is a major constraint for treatment of effluent on site. He further submitted that earlier reports prepared by St Quentin Consulting for RPG for other developments in Inverleigh recommended lot sizes of between 0.4 and 1.0 hectare. Mr Hodson questioned the inputs into Mr Farrar’s assessment, in particular daily wastewater load estimations. Mr Farrar responded that the input was based on:

- Golden Plains Domestic Wastewater Management Plan 2nd Edition Volume 2
- EPA Code of Practice Onsite Wastewater Management 891.4 July 2016
- Australian Standard AS/NZS1547:2012 On-site Domestic Wastewater Management.

Mr Farrar indicated that these documents all accept the *“principle of the estimated wastewater load, fundamentally based on AS/NZS1547:2012 Appendix H, Table H1”*.

Mr Hodson also asked Mr Farrar to *“confirm there is no additional risk to the Leigh River posed by nutrient rich run off from the proposed waste water treatment on site”*. Mr Farrar gave evidence that:

⁴⁴ Council’s Part B submission and page 8 in the attachment to Part B

It is not feasible nor practical to eliminate all risks associated with domestic wastewater. However, counter to Mr Hodson's ascertain, we have judged there is a low likelihood of nutrient rich effluent impacting the Leigh River from the proposed development, based on the high level of treatment proposed, the significant offset distance to the waterway edge and predominate clay profile that is a non-critical limitation associated with nutrient loading.⁴⁵

Stormwater Run-off

Submissions raising concerns around stormwater run-off generally fell into two categories:

- potential impacts to existing properties from future development
- potential impacts to the Leigh River and its environs and the Inverleigh Flora Reserve.

Ms Rutherford outlined many concerns with existing development and downstream impacts of stormwater run-off resulting in flooding to private property. Ms Rutherford submitted that preliminary stormwater management design for proposed development in PGA2 directs stormwater into existing drains that are already over capacity and that this Amendment will exacerbate the problem by allowing additional lots.

Ms Bolton and Mr Steele raised the current problems of stormwater run-off associated with Council's use of swale drains. Mr Steele submitted that *"vegetation is required to cover the whole width of the swale, be capable of withstanding design flows and be of sufficient density to provide good filtration"* according to guidelines produced by Melbourne Water. Both submitters provided examples of existing swale drains in Inverleigh that would not comply with this requirement and submitted that these are not functioning well.

The submission of Mr and Mrs Gibson suggested the installation of formal drainage (piped, underground) and that stormwater run-off could be directed to uses such as water for the golf course or to tanks for fire fighting purposes.

Council confirmed that stormwater drainage in Inverleigh is managed with open spoon drains and wide open road reserves *"creating a distinct difference in appearance to the typical suburban sewered residential areas"*. It submitted that historical drainage issues are outside the scope of this Amendment but provided information to the Panel on recent works undertaken by Council to alleviate some of these existing problems to demonstrate that the *"matters are not taken lightly by Council"*. Council further submitted that, due to recent growth across the region, and a greater understanding of potential impacts on assets and waterways, it has invested in continually improving policies and assessment processes to ensure proposals are robust and the *"best possible outcomes are delivered to the community"*.

The Panel asked Council whether it had considered undertaking an Integrated Water Management Plan for Inverleigh or other towns in the Shire. Council responded that it had recently applied for funding to such a project in Bannockburn but that this was unsuccessful. Council noted it remains a priority subject to funding.

Mr Steele discussed the benefits of Integrated Water Management Plans in his submission to Panel and asked the Panel to consider requiring this to be a prerequisite of any development that may impact the Leigh River.

⁴⁵ Document 42, Witness Questions Responses Document

Similar to effluent disposal concerns, many submitters raised concerns with potential impacts from stormwater run-off on the Leigh River from potential growth areas and this concern often combined the two issues in circumstances of heavy rainfall or flooding. Primarily, these concerns were raised in the context of PGA3 and the potential impacts of increased densities.

Mr Prosser from Cardno TGM was engaged by RPG to give evidence and to provide an independent assessment of stormwater management in the context of potential growth in Inverleigh, including an assessment of any potential impacts from a reduction in minimum lot sizes. Mr Prosser gave evidence that:

... there will be an increase in stormwater runoff from the predevelopment levels to the developed level, and that this increase will typically be slightly higher if the lot sizes are smaller. However, this increase would typically be required to be mitigated to reduce the total site discharge back to the predevelopment flow rate to comply with the IDM and ultimately Clause 56.07. For medium and large-scale developments in a location such as Inverleigh, this reduction in flow rate is typically achieved by the design and construction of stormwater detention basins.

Mr Hodson and Mr Steele raised questions at the Hearing about the calculations used to explain the percentage increase in impervious area of the site if 0.4 hectare lots were approved rather than 1.0 hectare lots. They provided detailed calculations to support their submission.

Mr Prosser agreed with Mr Hodson's calculations but maintained the view that the percentage increase was minor with regard to the resultant run-off from the site. Mr Prosser also gave evidence that notwithstanding this difference, *"any increase in peak flows are generally required to be mitigated to pre-development levels in accordance with Clause 56.07-4 of the planning scheme"*.

Council submitted that a reduction in minimum lot size from 1.0 hectare to 0.4 hectare will not result in adverse stormwater run-off outcomes if stormwater flows are appropriately mitigated and designed to comply with the provisions of the Planning Scheme and the *Infrastructure Design Manual*.

In regard to potential impacts on the Leigh River, Mr Prosser gave evidence that the southern portion of land adjacent to Leigh River is unlikely to be able to be developed for residential lots as it is encumbered by the flood extent of the Leigh River, with a further constraint of the steep escarpment. Mr Prosser considered that the *"extent and impact of these constraints would be further identified and defined as part of a rezoning process for this land when it is undertaken"*.

Parks Victoria⁴⁶ requested that special consideration be given to stormwater run-off into the Inverleigh Flora Reserve, both in terms of quantity and quality, as part of future development proposals. Mr Prosser gave evidence that due to the topography of the land no stormwater from any of the potential growth areas discharge into the Inverleigh Flora Reserve either currently or in a developed situation and that in all cases the reverse is true.

⁴⁶ Submission 62

(iv) Discussion*Effluent Disposal*

The Panel considers that effluent disposal has been appropriately considered in the development of the ISP and is informed by relevant state policy, the EPA Code of Practice and the locally specific DWMP.

The Panel shares the view of submitters and Council that ensuring the protection of the Leigh River and its environs from effluent seepage will be a critical consideration for any future development within the Leigh River catchment.

The Panel is satisfied that Council has conducted appropriate investigations into effluent disposal for settlement planning as proposed through the Amendment and that current provisions in the Planning Scheme ensure that additional consideration will be given to these issues with the application of any proposal to rezone, subdivide or develop land.

Stormwater run-off and flooding

Mr Prosser's evidence provided a useful overview of stormwater catchments and directions of flow north of the Leigh River. The Panel agrees with Mr Prosser that determining appropriate stormwater management treatments is an iterative process throughout the planning process.

The Panel understands that there have been existing problems with stormwater drainage in Inverleigh and appreciates the concern this is causing the Rutherfords and other affected residents. Council has made efforts to address these issues and is continually striving to improve policies and processes in this regard. The Panel commends Council's intention to pursue Integrated Water Management Plans where possible and strongly encourages its further exploration of this approach.

The Amendment is consistent with the findings of Council's DWMP and the *Flood Risk Management Study – Leigh and Barwon Rivers at Inverleigh, 2018*. The Panel accepts Council's submission and Mr Prosser's evidence that future development proposals will be required to comply with state policy under Clause 19.03-3S Integrated Water Management, Clause 19.03-2L Infrastructure Design and Provision, Clause 52.07-4 and Clause 56.07 to mitigate increase in impervious stormwater flows to predevelopment levels, meet the Infrastructure Design Manual and best practice performance objectives for stormwater quality and also consider wider environmental impacts such as erosion. Future development will also need to comply with local policy at Clause 32.03-6 Low Density Residential Zone.

(v) Conclusion

The Panel concludes:

- The ISP and Amendment have adequately addressed potential flooding, effluent disposal and stormwater run-off issues.

5.3 Flora and Fauna impacts, biolinks and the Leigh River interface

(i) The issues

The issues are:

- whether the Amendment will have a detrimental impact on flora and fauna
- whether the proposed biolinks are appropriately located or strategically justified
- whether directions for the Leigh River, including interface treatments, development incursion and the preparation of a Masterplan are appropriate.

(ii) Evidence and submissions

A number of submitters raised concerns about the potential negative impacts of new development on the environmental qualities, flora and fauna of the Inverleigh Flora Reserve and Leigh River and its environs.⁴⁷ Submitters also requested the north-western section of the reserve be rezoned from FZ to Public Conservation and Resource Zone consistent with its purpose.

Ms Bolton outlined extensive concern and data about the potential for domestic cats, dogs and other aspects of urbanisation to cause detriment to flora and fauna in the reserve and requested a number of controls be introduced through the Amendment. Mr Steele and Ms Rutherford expressed similar views at the Hearing.

Parks Victoria raised concern about urbanisation and the threats posed to biodiversity values and suggested consideration be given to a buffer around the reserve. Parks Victoria requested the inclusion of a public asset (e.g. a road) along interfaces to limit direct access considering this to be a *“simple and cost-effective approach to managing the risk to biodiversity and safety”*.

Council’s Part B submission provided information on the Inverleigh Flora Reserve. It is 1,050 hectares, located north of the township and reserved for the conservation of indigenous plants and animals, having been originally proclaimed for the collection of firewood in 1862. It is known by a few different names (The Common, the Inverleigh Nature Conservation Reserve) but was formally gazetted as the Inverleigh Flora Reserve in 1988. The reserve contains Manna Gum and River Red Gum woodlands with a number of rare plants and a large colony of Eastern Grey Kangaroos and Swamp Wallabies. It supports approximately 160 bird species and other smaller fauna species.

Council submitted that the north western section of the reserve (east of Inverleigh-Teesdale Road) should be rezoned from FZ to Public Conservation and Resource Zone, consistent with the remainder of the reserve. Council submitted that the rezoning is being undertaken as part of a general amendment to the Planning Scheme.

In response to the Parks Victoria submission about appropriate interface treatments, Council submitted that Common Road provides an appropriate interface to the south for development of PGA3. And for development of PGA2 the interface is required to include an all weather perimeter road as per DPO16.

⁴⁷ Submissions 5,19, 23 (and 17 same submissions), 23, 40, 42, 44, 56, 62, 67, 76, 83, 87

The importance of the Leigh River as both an aesthetic and environmental asset for Inverleigh was strongly supported through submissions. The Leigh River is located south of PGA3 and extends through the centre of town connecting to the Barwon River.

Mr Steele and Mr Hodson both presented extensive submissions on the features, attributes and potential risks to streamside environs. Both pointed to the 2005 Inverleigh Structure Plan which recommended the development of a Masterplan for the Leigh and Barwon Rivers to ensure appropriate management into the future. Mr Steele discussed the role of the current Barwon River Ministerial Advisory Committee (Barwon MAC), established by the Victorian Government in 2019, which facilitated a community led approach to better understand threats to the rivers, how to better manage these threats and enhance and protect the river system. The Barwon MAC also worked with Wadawurrung Traditional Owners. It was noted that the recommendations of the Committee are not available until later this year. Both Mr Hodson and Mr Steele requested that flood prone land between the escarpment and Leigh River be included as public open space in a public zone with input into its development by the local Registered Aboriginal Party.

Council submitted that it supports the preparation of a masterplan for the Leigh River through the Golden Plains Environment Strategy 2019-2027 and recommends amending the ISP to include preparation of a Masterplan as an action within the document with a 2021 timeframe.

With regard to the proposed biolink included on the Inverleigh Framework Plan, Ms Bolton submitted that *“wildlife relies on the Leigh River as their water source, most especially during the summer months when other water sources have dried up”*. Ms Bolton further submitted that to provide an effective wildlife corridor there needs to be a dedicated 400 metre wildlife corridor on the western edge of PGA3, adjacent to Inverleigh-Teesdale Road which would link the Inverleigh Flora Reserve with the Leigh River at its closest point.

Parties were generally in agreement at the Hearing that provision of a biolink along the western edge of PGA3, adjacent to the Teesdale-Inverleigh Road would provide a more plausible wildlife corridor than the proposed central link shown on the exhibited Framework Plan. Council suggested that this should be included on the Framework Plan as part of the Amendment, noting that it would *“serve as an effective buffer between residential and farm land”* and that the *“distance between the Inverleigh Flora Reserve and the Leigh River is shorter at this location, providing easier access for fauna to travel”*. Council also noted the potential conflict between biolink and bushfire objectives and submitted that there was no clear consensus on an appropriate width for a biolink.

Mr Canavan for RPG submitted that application of a specific width for any proposed biolink is *“inappropriate at this early stage of planning”* and requested a more flexible outcome subject to more detailed planning. RPG support Council’s proposal to change the wording within the ISP, subject to the inclusion of the words ‘and width’ as follows:

Include a notation that the exact location and width of green links, bridle paths, pedestrian access and Bio-Link are indicative (or subject to more detailed planning in consultation with DELWP).

Council supported the view that consideration of an appropriate width and requirements for it to be ‘fit for purpose’ are relevant at later planning stages in consultation with the DELWP.

Mr Steele submitted that a range of factors needed to be considered when determining appropriate widths for riparian corridors and biolinks. He stated that riparian corridors play a

particularly important role, as streamsides are considered preferred avenues for faunal movement, but noted that there is limited evidence in regard to their use and therefore a minimum effective width. Mr Steele submitted that it was important to include a variety of habitat patches and outlined concerns about the impact of 'edge effects' that can impact habitat patches for 150 metres or more. He added that, while the proposed 60 metre wide corridor connecting the reserve and Leigh River could have merit as a green pathway, its effectiveness as a wildlife corridor is 'diminished' due to the other elements it is proposed to accommodate (walkers, riders, vehicle access and maintained condition). For the creation of an effective biolink, Mr Steele submitted that a minimum width of 150 metres would be required with an additional area of 100 metres to satisfy bushfire concerns (with this buffer available for farming) at the western edge of PGA3. Mr Steele requested that consideration be given to including this larger link within the Green Wedge A Zone.

Friends of the Barwon River Committee and Mr Hodson questioned the ability of the proposed biolink to function as described in the ISP for a similar range of reasons including nearby residential impacts, its role as a multi-use corridor, vegetation management and impacts of domestic animals.

Mr Steele raised concern about the delineation of the extent of developable land between the escarpment on PGA3 and the Leigh River on the proposed Framework Plan. Mr Steele submitted that development within this area would create issues of visual amenity, proximity to floodplains and potential for effluent/nutrient transfer. He requested that a road delineate the extent of the LDRZ at the top of the escarpment and that land between the river and the escarpment be included in an 'Inverleigh River Biodiversity Parkland' with funded input from the Registered Aboriginal Party.

Council further noted that erosion of the escarpment is a potential risk to the waterway and that the use of a section 173 agreement may be required to restrict hard-hooved animals in this area.

The Panel queried the designation of land between the escarpment and Leigh River through the Hearing. Council in closing submitted that the appropriate zoning for this land was not clear at this stage. It therefore proposed to show land below the escarpment as 'encumbered' on the Inverleigh Framework Plan and remove an underlying proposed zone to "*identify that the land is not suited to development*".

Mr Steele questioned the proposed wording of the Amendment, and within the ISP, compared with existing provisions and submitted that '*multiple shifts in language, tone and substance*' would effectively strip environmental objectives and strategies from the Planning Scheme. He suggested that the proposed removal of numerous environmental and open space strategies that currently support protection of the Leigh River environs would be detrimental and that these objectives were not adequately captured through the proposed Amendment.

Council acknowledged that the proposed provisions in exhibited Clause 21.07-5 were "*pared back and less descriptive than the current policy*" and further that "*this is not because there is intended to be less consideration or protection, it is simply to avoid duplication with State Planning Policies within the Golden Plains Planning Scheme for the protection of Biodiversity (Clause 12.01-1S), Native Vegetation Management (Clause 12.01-2S), as well as Environmental and Natural Resources at Clause 21.03*". Notwithstanding Council submitted that there was

opportunity to specifically refer to the Inverleigh Flora Reserve within Clause 11.03-6L by amending the original Strategy 3.1 in Clause 21.07-5 as follows (emphasis added):

Protect the natural landscape and its environmental qualities, including the **Inverleigh Flora Reserve**, the Barwon and Leigh rivers and vegetation as fundamental elements of Inverleigh.

Council identified this change in its tracked change version of Clause 11.03-6L along with changes to the Inverleigh Framework Plan to identify floodways and escarpment area as encumbered areas and to identify the western biolink. Council's annotated changes to the Framework Plan were provided with its Part B submission and are reproduced (in sections for legibility) in Appendix D3.

Council submitted that detailed measures to protect the Flora Reserve and waterways could be appropriately considered under existing state and local provisions in the Planning Scheme and through the application of a DPO at the time of rezoning.

(iii) Discussion and conclusions

The Panel acknowledges and supports Council's intention to rezone the remaining portion of the Inverleigh Flora Reserve consistent with its reserved purpose as part of a general amendment. In relation to an appropriate interface buffer with any future residential development, the Panel notes the presence of Common Road as a perimeter road to the Berthon Park estate and also the requirement for a perimeter road through the DPO16 for PGA2. The Panel is satisfied that these roads will in part, provide a buffer for the Inverleigh Flora Reserve to future development and also notes there will be no build zones required as part of bushfire risk mitigation measures, thereby increasing the size of the buffer to development.

The Panel agrees with Council's position that this Amendment does not trigger referral under the *Environment Protection and Biodiversity Conservation Act 1999*.

It is acknowledged that potential development of growth areas can pose risks to nearby environmental sensitive sites through domestic pets, and other features of urbanisation. The Panel supports Council's view that 'sufficient triggers' exist within the Planning Scheme to "ensure appropriate consideration at rezoning and subdivision stages of the planning process" through measures such as section 173 agreements.

The Panel agrees with Mr Steele and Mr Hodson that planning for land adjacent to the Leigh River must include a comprehensive examination of interface issues. Whilst some of this detail may be considered at rezoning or a later stage of planning, the Panel recognises that broader Barwon catchment planning is currently underway through the work of the Barwon MAC and it will be important to understand the findings of this planning prior to moving forward for the portion of PGA3 that is currently in the FZ. The Discussion Paper produced by the Barwon MAC suggests directions around 'Planning for sustainable growth and liveability' including:⁴⁸

⁴⁸ *Our living rivers of the Barwon, A discussion paper for the future*, Barwon River Ministerial Advisory Committee, October 2019

1. Identify the rivers of the Barwon as significant rivers in Clause 12.03-1S (River Corridors, Waterways, Lakes and Wetlands) of the Victoria Planning Provisions (VPP).
2. Introduce a regional-level planning policy for the rivers of the Barwon.
3. Develop master plans to outline the vision and strategic directions to guide future land use and development along and adjoining the river corridor.
4. Strengthen methods for better implementation of integrated water management principles through planning systems for new growth areas (including through precinct structure planning).
5. Use development contribution plans and value capture options to fund integrated water management infrastructure for new growth areas.
6. Create interim and consistent overlay controls for the rivers of the Barwon.

The Panel believes it will be important to consider this work as part of growth planning for future investigation areas adjacent to the Leigh River to understand implications for development potential and design, including determining what might be an appropriate zone for encumbered land. The Panel agrees with submitters that further investigation of this land should be undertaken in consultation with the Registered Aboriginal Party for the area and that much of the western portion of PGA3 is within an Area of Aboriginal Cultural Heritage Sensitivity.

The Panel's observations of Inverleigh identify that existing LRDZ areas south of Common Road are not highly visible from the centre of the town despite their elevated location. This is generally because of a wide open space strip that sets these areas back from the river environs. There are extensive areas of PGA3 where steeper escarpments are located close to the Leigh River and provide an attractive backdrop and setting to the town. Aside from potential erosion impacts new development should be appropriately setback from the escarpment edge to minimise the potential visual intrusion within this important landscape setting. While not mentioned in submissions, PGA1 and PGA4 have a different rural interface and are likely to be strongly visible from the town's eastern entry and the ISP would benefit from some consideration as to how these interfaces are managed so as not to impact on the attractive rural setting and character of the town.

The Panel agrees with Council that there are a number of existing 'provisions, tools and requirements' in the Planning Scheme that will allow consideration of more detailed planning for these areas at the rezoning stage. However, the Panel considers that there are some broader, higher level parameters that need to be investigated prior to the designation of the western portion of PGA3 as 'proposed LDRZ'.

The Panel notes that the ISP acknowledges that the Leigh and Barwon Rivers provide valuable environmental corridors and that the extensive floodway and floodplain will assist in the protection of these river environs.⁴⁹ The ISP states that it provides for additional open space along the Leigh River as part of future residential development of adjoining land and that the Public Park and Recreation Zone should be applied to these areas. The exhibited Framework Plan shows a much lesser area of 'proposed encumbered open space extension' than land which is shown as subject to flooding or within the 'sloped' escarpment area. The proposed LDRZ designation sits underneath both the flood prone and sloped land. The Panel notes Council's closing submission that the appropriate zone for this area is not yet clear. The Panel supports Council's proposal to identify land below the escarpment as 'encumbered' on the

⁴⁹ Page 36

Inverleigh Framework Plan and to remove an underlying proposed zone. The Panel is of the view that the uncertainty around the appropriate zone for this large portion of PGA3 is further reason why the land should be shown on the Framework Plan as a 'Future Investigation Area'. The Panel notes that Green Wedge A Zone can only be applied in fringe metropolitan areas.

The Panel supports Council's post exhibition changes to Clause 11.03-6L to acknowledge the Inverleigh Flora Reserve one of the significant natural landscape and environmental elements of Inverleigh.

The Panel supports the suggestion to include a biolink on the Inverleigh Framework Plan adjacent to the Teesdale-Inverleigh Road in addition to the proposed green link through the centre of PGA3. It agrees with Mr Canavan that the exact width of the biolink can be determined at the rezoning stage.

The proposed function of the biolink needs to be clear at the settlement planning stage. It considers that the wording of the proposed Inverleigh local policy in the Amendment does not adequately capture some of the environmental intentions of the ISP in relation to future development in the western portion of PGA3. While acknowledging the intent of the PPF translation is to reduce duplication of state policy and rationalise provisions, the Panel notes there continues to be a place for specific broad local policy where it may usefully guide future land use decision making. More specifically there is no mention of future development between the Inverleigh Flora Reserve and Leigh River needing to provide a wildlife corridor. The proposed biolink appears on the Inverleigh Framework Plan without interpretation. The ISP provides more information about its purpose but it does not consider the biolink in any detail or have regard to how it will operate in the context of bushfire risk mitigation. The Panel recommends that this purpose be expressly stated in Clause 11.03-6L and be subject to further investigation in the ISP. Without this, the Panel is concerned that feasibility issues upon further investigation may result in the opportunity being lost. The Panel does not suggest appropriate wording given the recent translation of the Planning Scheme into the new PPF format, but recommends that wording be developed in consultation with the DELWP.

(iv) Conclusions and recommendations

The Panel concludes:

- The Amendment will not have a detrimental impact on flora and fauna.
- It is appropriate to rezone the western portion of the Inverleigh Flora Reserve in accordance with its purpose and acknowledges Council's intention to do so through a general amendment.
- The final recommendations of the Barwon MAC may have implications for development of the western portion of PGA3 and should be considered as part of future investigation work.
- Council's proposal to identify land between the escarpment and Leigh River as 'encumbered' on the Inverleigh Framework Plan is appropriate.
- Council's suggestion to include a biolink adjacent to Teesdale-Inverleigh Road is supported.
- As part of the further investigation of PGA3 Council should establish the appropriate land use and zone for land between the escarpment and Leigh River.

- As part of the further investigation of PGA3 additional analysis and guidance is required for proposed biolinks, green links and streamside rehabilitation in order to ensure these future assets are not excluded from future development areas due to conflicts with required bushfire mitigation measures.
- The width and detailed treatment of biolinks, green links and the streamside reserve do not need to be specified in the PFF but the purpose of these assets in the policy should be clear. Council should consider an additional strategy in Clause 11.03-6L that clearly outlines the purpose of a biolink and other environmental assets where appropriate in consultation with the DELWP.
- The ISP would benefit from additional direction around the management of interfaces with the rural edge of the township and with rivers and escarpments so as to maintain the rural and environmental landscape setting of Inverleigh.

The Panel recommends:

- **Amend Clause 11.03-6L to:**
 - a) **Under the heading 'Open space and natural environment strategies' include the words 'Inverleigh Flora Reserve' consistent with Appendix D2.**
 - b) **Following consultation with the Department of Environment, Land, Water and Planning add an additional direction under 'Open space and natural environment strategies' to outline the purpose and approach to the biolink(s), green links and streamside reserves prior to the adoption of the Amendment.**
 - c) **Amend the Inverleigh Framework Plan as generally shown in Appendix D2.**
- **Amend the Inverleigh Structure Plan 2019 to:**
 - a) **Identify a process for the planning of the biolink treatment and location, including connections with the Leigh River and Inverleigh Flora Reserve and interfaces with adjoining land, roads and the Leigh River floodplain and future open space areas.**
 - b) **Provide additional direction around the management of interfaces with the rural edge of the township and with rivers and escarpments.**

6 Infrastructure issues

6.1 Educational facilities

(i) The issue

The issue is:

- whether there has been adequate consideration in the ISP and Amendment for the provision of education facilities, including early years programs and future needs of the primary school.

(ii) Evidence and submissions

Planning for expansion of the Inverleigh Primary School to match potential growth in school aged children was raised in many submissions.⁵⁰ Submitters were concerned that the ISP did not adequately consider how future needs were to be met (i.e. specifying an appropriate location) or which agency or developer would fund future facilities. Mr Thornton at the Hearing submitted that there should be stronger direction in ISP about how schools and kindergarten will be provided.

The submission of Ms Duncalf outlined in some detail concerns about anticipated growth and possible impacts on existing facilities and services and requested that if the volume of development is not significantly reduced, then the ISP should detail an *“absolute commitment”* to funding of the:

- relocation of the tennis courts and provision of new facilities
- building of a new primary school at the McCallum Road site
- physical expansion of the Kindergarten at the existing site or the building of a new kindergarten at the Public Hall grounds or co-located with the Primary School.

Her submission highlighted the absence of any development contribution required for relocation of the tennis courts to the recreation reserve which would allow for expansion of the School.

The Inverleigh Primary School Council indicated that it was pleased the ISP had considered the impact of growth on the Inverleigh Primary School. It submitted that the *“future land needs of the school are pressing”* but objected to reference in the ISP suggesting the use of the School Woodlot on McCallum Road to provide for future needs. Instead, it requested that an amendment be prepared to rezone land west of the existing school for future expansion.

Council submitted that while it acknowledged there would be increased pressure on educational facilities as a result of future growth, planning for primary education is a State Government responsibility. Council noted that there had been engagement with the Department of Education through the structure planning process and the ISP had referenced options for future expansion without resolving the issue definitively. It identified that the preferred location adjacent to the school identified by many submissions, would require the relocation of the tennis courts.

⁵⁰ Submissions 7, 15, 22, 23 (plus 17 same submissions), 34, 35, 38, 39, 40, 41, 42, 47, 48, 50, 56, 58, 66, 67, 79, 81, 87

The Inverleigh Mechanics Institute Reserve Committee of Management Inc objected to the Public Hall on High Street being identified as having potential to be used for kindergarten services in the ISP. Reasons for its objection included the need for the ongoing use of the building for its current purpose.

Council submitted that the ISP was prepared in consultation with Council's Child and Family Services Team (responsible for the provision of kindergarten and early years services). It added that ongoing planning for such services is a separate process to the preparation of a structure plan, and that the ISP is "*only one element that informs the planning for Early Years infrastructure in Inverleigh*". Notwithstanding, Council accepted that there were concerns with proposing possible use of the Public Hall for these purposes and recommended to the Panel that the ISP be amended to remove the sentence:

"There is potential to use the Public Hall on High Street if capacity for services is exceeded at the Kindergarten site".

Mr Lee's evidence provided growth estimates for the number of:

- babies and pre-school children and potential demand for long day care places
- primary school children.

Mr Lee considered that under proposed Amendment, the number of pre-school and primary school aged children in Inverleigh would be "*significantly higher*" and that this would enable Inverleigh to meet benchmarks for the provision of local services such as a long day childcare centre. He suggested that this would "*highlight the need for additional funding to be secured to expand the existing school*".

(iii) Discussion and conclusions

The Panel considers it appropriate for a structure plan to consider broadly the impacts of potential population growth on community facilities and services within a township. The Panel agrees with submitters and Mr Lee that the potential growth that could occur from the Amendment would have significant implications for the provision of future early years services and primary school education.

The Panel notes that the ISP recognises the need for future expansion of these services and outlines some of the possible opportunities and constraints associated with these. The Framework Plan, forming part of the Amendment documentation, identifies an area for the proposed extension of the Inverleigh Recreation Reserve which it is understood could accommodate relocated tennis courts and associated facilities. It also identifies land west of the existing school site for the provision of community facilities, recognising the existing use but also allowing for future on-going community use.

Detailed planning of these services is beyond the scope of a structure plan, but the Panel agrees with Council's view that it will provide an input to future planning, particularly in regards to establishing potential growth in population cohorts. The Panel supports Council's recommendation to remove reference in the ISP to the Public Hall potentially being able to accommodate kindergarten services if this is no longer considered a feasible option.

The Panel concludes:

- That ISP and Amendment has appropriately identified the need for expanded educational facilities should the growth potential permitted under the Amendment be realised.
- That ISP and Amendment make some spatial provision for expanding community facilities in the township which opens up future options for investigation.

6.2 Traffic and transport

(i) The issue

The issue is:

- whether the ISP and the Amendment adequately considers transport issues.

(ii) Submissions

Many submissions raised issues about traffic and the condition of key roads including the Hamilton Highway (upgrade and duplication), Hopes Plains Road, Common Road and Teesdale-Inverleigh Road and the need for key upgrades including intersections and the Twin Bridges to provide for increased volumes and emergency access.⁵¹ Lack of public transport services was also identified by submissions including from Mr McDonald and Mr Bolitho. Mr Bolitho identified that twin challenges of the lack of public transport and the reliance on cars and high levels of car ownership considering the ISP lacked pathways for addressing these transport challenges.

Mr Bolitho sought a Panel recommendation for upgrades to the Hamilton Highway at Common Road and Hopes Plain Road be fully funded before further intensification of lots in PGA3. He considered such upgrades likely to be extensive and expensive and greater direction was required in the ISP to confirm his advice from Council that they would be fully funded by developers. He added that traffic count data for the Hamilton Highway was outdated and traffic activity was probably underestimated with related road safety consequences. Mr Bolitho sought recommendations that road safety direction be identified consistent with the state government's *Towards Zero* Road Strategy including the management of speed along roads such as Common Road.

In response to traffic issues, Council submitted that:

- the ISP outlines that the intersection of the Hamilton Highway and Hopes Plains Road has been identified by Transport for Victoria as requiring an upgrade which will be required as development occurs adjacent to Hopes Plains Road
- developer responsibilities in the ISP for PGA3 include contributions to the upgrade of the intersection of Common Road and Hamilton Highway and other improvements to improve road user safety and rapid evacuation
- the ISP sets out developer responsibilities for PGA1 and PGA2 before rezoning including an agreement about the funding arrangements for the construction and sealing of Hopes Plains Road and upgrades at the Hamilton Highway and Hopes Plains Road intersection

⁵¹ Submissions 1, 3, 5-8, 10, 12, 13, 29, 32, 34-36, 38, 39, 42, 44, 50, 51, 52, 56-58, 66, 67, 74, 81, 87, 88 and 90

- DPO16 requires Hopes Plains Road to be constructed and sealed from site entry to the corner of Faulkner Road and contributions made via an agreement for the upgrade treatments at the intersection of Hopes Plains Road and the Hamilton Highway and a \$95,000 maintenance payment for Hopes Plains Road
- DPO15 requires that the frontage to Common Road is upgraded and a traffic assessment be undertaken to identify any mitigation measures for local street network impacts. Planning Permit P19-008 accordingly includes a condition requiring a right turn lane treatment on Hamilton Highway for traffic turning into Common Road, widening of Common Road adjoining the site.

Council advised that it consulted with VicRoads when preparing the ISP following earlier community consultation concerns about the condition of the Hamilton Highway. VicRoads advised Council in May 2017 that it had no plan to duplicate the Hamilton Highway.

Council supported Transport for Victoria's submission to include a requirement to develop an access management plan to manage access arrangements to the Hamilton Highway in the ISP as part of developer responsibilities for PGA1 and PGA4.

Council submitted that the Movement and Access principles and Section 7 – Implementation of the ISP *"recognise the requirement for timely delivery of roads and the upgrade of the existing road network as required when new development occurs."* It identified that while the upgrade of the Twin Bridges was required as part of any rezoning of PGA3 the *"failure to upgrade the bridges will not affect residents' ability to use these bridges during normal circumstances or in a fire event, provided vehicles are under 5 tonne"*.

Council acknowledged the lack of public transport within the municipality generally not just in small towns like Inverleigh (currently one service once a week) but added this was the responsibility of state government. It submitted that the ISP continues to advocate for more regular bus services and a potential rail passenger service.

Mr Bolitho considered that that current bicycle paths were unsafe and not of an appropriate standard and that the ISP should set out how they will be funded and maintained into the future.

Council submitted that its bicycle path and trail provision was informed by its *Paths and Trails Strategy, 2017* which sets out the factors informing decisions about construction and priorities with its capital budget commitments determined annually. It submitted that the construction of bicycle paths was consistent within the IDM.

Three submissions identified the state of footpaths and safety concerns or the standard to which footpaths should be constructed. Council submitted that its standards for footpath construction were consistent with the IDM and that it does not support gravel paths for mobility reasons and that it regularly inspects footpaths for hazards as part of its Road Management Plan.

(iii) Discussion and conclusion

The ISP was informed by a community survey and a community workshop which identified key likes and dislikes about Inverleigh. The key issues identified for improvement included roads,

lack of services and the lack of public transport. Issues relating to roads including traffic volumes, condition and emergency access were frequently raised in submissions.

It is appropriate for a structure plan to identify key elements of the transport network (including pedestrian and bicycle linkages) that require provision or enhancement in order to support growth generally and in the locations where it is strategically identified to be accommodated.

It is also appropriate for a structure plan to identify key infrastructure elements that will be triggered by development activity and require development contributions to be made and may inform future Development, Infrastructure Contribution Plans or section 173 agreements. It is reasonable for a structure plan to defer the investigation of areas for future rezoning until such time as key infrastructure issues for example are addressed as suggested for the western Further Investigation Area and the Panel's recommendations for PGA3. However, it is not fair or reasonable for a structure plan to mandate infrastructure provision for major infrastructure (roads and bridges for example) to be fully funded by developers where that infrastructure may provide broader community benefit. In such circumstances Council funding or advocacy for external funding will be required to augment development contributions. The Panel considers the ISP's implementation plan align with Council's other municipal wide infrastructure strategies and advocacy strategies for arterial road upgrades and public transport provision, and provides appropriate direction and guidance around key transport infrastructure needed to support identified growth. Tools such as a DPO provide Council with an opportunity to achieve the transport infrastructure directions set out in the ISP and flexibility as to how projects are funded and delivered. Section 6.4 discusses development contributions in more detail.

The Panel concludes:

- The ISP and the Amendment adequately considers the key transport issues required to support Inverleigh's growth.

6.3 Water supply

(i) The issue

The issue is:

- whether the ISP and Amendment have adequately considered water supply issues.

(ii) Submissions

A number of submissions identified concerns about the adequacy of water supply and the impact of increased development on water supply and pressure and for firefighting.⁵²

Council submitted that it had consulted with Barwon Water during preparation of the ISP Inverleigh Structure Plan and that Barwon Water indicated that it could accommodate the increased density proposed resulting from the ISP and the Amendment. Council submitted that more recent discussions with Barwon Water identified that:

⁵² Including submissions 5-7, 13, 14, 29, 32, 34, 39, 54, 64, 66, 74 and 75.