



# **Planning Committee Minutes**

**Bannockburn Shire Hall**

**Tuesday 13 September 2016  
9.15am-10.51am**

# Committee Charter

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

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**1. PRESENT**

Cr Bill McArthur  
Cr Jenny Blake  
Cr Andrew Cameron  
Cr Helena Kirby  
Cr Des Phelan, Mayor  
Cr Greg Vaughan

Chairperson

Rod Nicholls  
Greg Anders  
Jillian Evans  
Richard Trigg  
Mike Barrow  
Tim Waller  
Laura Wilks  
Leigh Page  
Luke Gavin  
Sarah Fisher  
Petra Neilson (Minutes)

Chief Executive Officer  
Director Assets & Amenity  
Director Community Services  
Director Corporate Services  
Manager Executive Unit  
Development Manager  
Planning Team Leader  
Acting Planning Team Leader  
Planning Officer  
Strategic Planner  
Council Support Officer

**Gallery**

Murray Ellis  
Peter Asbury

**2. APOLOGIES**

Cr Nathan Hansford

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

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

File: 02-03-007

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

Cr Andrew Cameron declared a conflict of interest in item 4.1.3 Planning Application P16-127 for the use and development of the land for an outdoor recreation facility at Lot 2 PS 326994 Teesdale Tip Road, Teesdale as he is an objector to this application.

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

*Moved Crs Blake/Kirby*

***That the Minutes of the Planning Committee meeting held 9 August 2016, as circulated, be confirmed.***

*Carried*

## 4. REPORTS

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

#### 4.1.1 GPS approach to VCAT appeal submissions

Department	Assets and Amenity
Unit	Development Unit
Senior Manager	Greg Anders, Director of Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Author	Tim Waller, Development Manager
File References	BluePoint: 60-01-008
Council Plan Link	N/a
Relevant Council Strategies	N/a
Relevant Policies & Legislative Frameworks	Planning & Environment Act 1987 Victorian Civil and Administrative Tribunal Act 1998
Attachments	Nil

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

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

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

#### *Purpose*

This report seeks to brief Councillors on the Planning Team's current approach to the drafting and presentation of submissions to the Victorian Civil and Administrative Tribunal (VCAT). The report will review VCAT appeals from the last five year period with a focus on the identification of emerging trends and key performance statistics. The report will also address the topics of legal representation, expert evidence and the seeking of costs.

#### *Background*

At the July Planning Committee meeting Councillors sought a report from officers detailing the following:

- Council's recent track record in presenting submissions before VCAT;
- Mechanisms for keeping Councillors informed of VCAT proceedings and their outcome;
- The planning team's approach to representation and the procurement of legal counsel at VCAT, and
- Council's approach to making application for costs.

In responding to the Council's request officers have reviewed all Golden Plains Shire VCAT proceedings over the last five year period. Reference has also been made to the appeal results for comparable Councils within the Peri-Urban region. VCAT appeal statistics are published annually in the Victorian planning permit activity reporting system (PPARS).

## Discussion

### VCAT Activity

Between 2011 and 2016, 15 Golden Plains Shire planning matters went before VCAT. Two of these matters were related to enforcement orders, one sought a correction of permit conditions and another related to an application for costs.

The eleven other cases represent less than 0.5% of applications considered by Council (the Responsible Authority), which is extremely low compared to the average for comparable Councils (See table 1.3).

Interestingly Golden Plains Shire issues a larger number of planning permits than Moorabool Shire Council (with a higher population), but with Golden Plains Shire having fewer decisions appealed at VCAT. The results suggest that there may be areas where the planning scheme might be amended to reduce planning permit triggers for relatively simple development proposals, however for the most part our delegation structure appears to work well from a decision making perspective.

Table 1.1 Total applications received

Council / Region	Year				
	2010/11	2011/12	2012/13	2013/14	2014/15
Golden Plains Shire	413	448	426	494	TBC
Moorabool Shire	378	385	352	368	TBC
Peri Urban Councils (total)	5685	5221	4405	4,371	4,543

Table 1.2 Decisions made under delegation

Council / Region	Year				
	2010/11	2011/12	2012/13	2013/14	2014/15
Golden Plains Shire	387 (95%)	379 (95%)	401 (97%)	408 (95%)	TBC
Moorabool Shire	302 (86%)	272 (85%)	299 (87%)	330 (89%)	TBC
Peri Urban Councils (average)	4678 (93%)	4490 (94%)	3823 (94%)	3,824 (95%)	3,901 (96%)

Table 1.3 Review lodged at VCAT

Council / Region	Year				
	2010/11	2011/12	2012/13	2013/14	2014/15
Golden Plains Shire	9 (2%)	7 (2%)	2 (0%)	2 (0%)	TBC
Moorabool Shire	28 (8%)	21 (5%)	26 (8%)	10 (3%)	TBC
Peri Urban Councils (average)	197 (3%)	218 (4%)	141 (3%)	84 (2%)	91 (1%)

Source: <http://www.dtpli.vic.gov.au/planning/planning-applications/planning-permit-activity-in-victoria/planning-permit-activity-reporting-system-ppars>

Of the eleven Golden Plains Shire VCAT cases:

- Two were applications for review of conditions on permits.
- Five were applications for review by objectors
- One was an application for review of failure to grant a permit
- Two were applications for review against a refusal
- One was a preliminary hearing to determine if a CHMP was required.
- A summary of the 11 cases is provided in Table 1.4.

In the past our relatively low rates of appeal have been attributed to the consultation meetings and to the Committee / Council meeting structure which provided objectors with two opportunities to address their elected representatives and to explain their concerns. Following the decision to restructure the Committee to have the full delegation of Council, there has pleasingly not been a noticeable increase in the number of decisions appealed at VCAT.

Table 1.4 Summary of recent VCAT proceeding involving GPS 2011-2016

Name of case	Application	Reason for review	Outcome
Gillespie v Golden Plains SC [2011] VCAT 2444	Ancillary use of land as a motor cycle track	Enforcement order sought by neighbour	Enforcement refused
Hickleton v Golden Plains SC [2011] VCAT 63	Subdivision to create three lots	Applications for review of conditions on permits.	RA decision varied. Tribunal did not support contested conditions. Conditions changed and deleted.
All Vet Waste Pty Ltd v Golden Plains SC [2011] VCAT 758	An amendment to an existing permit is sought to allow for an increased range of prescribed industrial waste to be disposed of at an incinerator facility. An increase in the facilities storage floor area is sought to accommodate the expanded use.	Applications for review of failures to grant permits	RA decision set aside.
Brogan & Ors v Golden Plains SC [2011] VCAT 922	Use of land for a restricted recreational facility (private swimming lessons)	Applications for review lodged by objectors	RA decision varied. RA decision generally supported by Tribunal. Some variations made.
Bremner & Ors v Golden Plains SC [2011] VCAT 1261	Use and development of farm land for an extractive industry (hard rock quarry)	Applications for review lodged by objectors	RA decision varied RA decision generally supported by Tribunal. Some variations made.
Gvildys v Golden Plains SC [2011] VCAT 2366	Use and development of a dwelling on a 17.5ha lot.	Applications for review of refusals to grant permits	Refused by RA RA decision upheld.
Thompson v Golden Plains SC [2012] VCAT 429	Use and development of the land for intensive animal husbandry (goats) including the construction of a shed of 24 metres by 60 metres for a total floor area of 1440 square metres.	Applications for review of conditions on permits	Approved by RA with conditions RA decision generally supported by Tribunal. Some variations made.



Name of case	Application	Reason for review	Outcome
McClelland v Golden Plains SC [2013] VCAT 749	Construction of a telecommunications facility comprising a 40 metres high monopole and associated ground level equipment shelter and air conditioning unit within a 10 metres x 6 metres fenced compound.	Applications for review lodged by objectors	<p>Approved by RA with conditions</p> <p>RA decision generally supported by Tribunal.</p> <p>Minor variations made.</p>
Austin & Ors v Golden Plains SC (Correction) [2013] VCAT 804		Correction of mistakes	Corrections made
Golden Plains SC v Littlejohn [2014] VCAT 1096	Unlawful use of land for accommodation (caravan park and tents) in Rural Activity Zone	Enforcement order by RA	Enforcement order made
McDonald v Golden Plains SC [2015] VCAT 1858	Use and develop the land for intensive animal husbandry (free range chickens). Preliminary Hearing to determine if CHMP required	Preliminary hearing	RA decision upheld.
Rothon v Golden Plains SC [2015] VCAT 1919	Construction of an outbuilding greater than 120m <sup>2</sup> in the LDRZ.	Applications for review lodged by objectors	<p>Approved by RA with conditions.</p> <p>RA decision generally supported by Tribunal.</p> <p>Minor variations made.</p>
McDonald v Golden Plains SC [2016] VCAT 618	The application proposes to use the land for a free-range egg farm, with a total of 78,000 birds. 19,500 birds housed within each of the four sheds, with a free-range area provided for each shed, which ranges between 10-12 hectares. The size of the free-range areas is based on the calculation of 1500 birds per hectare. It is proposed that the birds will be housed within the sheds but allowed to range within the free ranged areas during daylight hours. A dwelling is also proposed as part of the application.	Applications for review lodged by objectors	<p>Approved by RA with conditions.</p> <p>RA decision generally supported by Tribunal.</p> <p>Minor variations made.</p>

Name of case	Application	Reason for review	Outcome
Rothon v Golden Plains SC [2015] VCAT 1938		Costs	No costs awarded.
Parkin v Golden Plains SC (2016) VCAT 1391	Use and development of the land for a dwelling at 2104 Meredith-Mt Mercer Road, Mount Mercer.	Application for review of refusal	RA decision set aside.  Council ordered to issue permit.

### Emerging trends

Victorian Civil and Administrative Tribunal (VCAT) findings between 2011 and 2016 have been reviewed to identify areas where the LPPF has been effective in guiding decisions and assisted VCAT in determinations, and areas where policy has been missing or has not been helpful to VCAT. Overall the LPPF is supported by VCAT. Of the 14 cases reviewed, only one resulted in the council decision being set aside. Key issues considered by VCAT appear to be consistent with issues raised by Council officers and include the following:

- Tensions regarding the approval of new intensive animal industry proposals;
- Industrial uses in the Farming Zone;
- Applications seeking to appeal Council's Public Open Space and Infrastructure contributions requirements;
- Applications for extractive industry proposals.

There were no particular issues that came up in VCAT decisions consistently, and Council's policy base was generally supported by VCAT except when there was a reliance on documents not incorporated into the planning scheme, or which placed an inequitable burden on an applicant.

A relatively high proportion of intensive animal husbandry applications (2 out of 17) went to VCAT. A recurring theme was tension between industrial, large-scale agricultural uses in the Farming Zone and 'hobby farmers' and 'rural living' uses in the Farming Zone or adjacent zones.

### Communicating outcomes

The Planning & Environment Act 1987 provides parties in the planning process with the rights to appeal permit application decisions to the tribunal for review. The person who applied for the permit may apply for review of any condition in a Notice of Decision (NOD) within 60 days of its date of issue. An objector to a proposal may lodge an appeal against the issue of a permit within 21 days of the date of a NOD. At the current point in time there is no internal procedure requiring the notification of the Planning Committee when a VCAT appeal has been lodged.

Depending on the nature and complexity of a planning matter it may take up to six (6) months for a hearing date to be confirmed at VCAT. Fortunately the vast majority of matters that appear before VCAT will be suitable for a mediation session or a short practise hearing and may not need to be considered at a full merits hearing.

The outcomes of all Golden Plains Shire VCAT planning decisions are reported regularly to Councillors through the Councillor Bulletin.

### Representation

The procurement of professional legal counsel is considered by the planning team in developing a strategy for successfully defending Council's decision with each appeal. Some appeals have the potential to raise a question of law and it is therefore generally considered to be appropriate to engage a solicitor or a barrister to present submissions. Cases which are more straightforward and focussed on a site specific planning concern provide an excellent opportunity for the statutory planners to prepare detailed submissions in defence of their recommendation.

Many appeals will test a specific condition or element of a development proposal such as drainage, traffic generation or native vegetation removal. These types of appeals provide an opportunity to work closely with referral authorities and/or other teams within Council to prepare arguments in defence of policy requirements. Where required, experts will be engaged either to provide supporting reports or to appear as an 'expert' witness at VCAT.

On the rare occasion that a decision is made by the Planning Committee which goes against the officer's recommendation the Council has sought legal representation to present submissions. This avoids the situation of having officers appearing at VCAT and attempting to discredit their own reports and advice to the Planning Committee.

### Seeking costs

In the last five years there have only been two instances where Council has sought costs at VCAT. Both matters related to applications for an enforcement order. In the matter of Gillespie Vs Golden Plains SC (2011), VCAT 2444, the applicant for the enforcement matter sought an enforcement order against their direct neighbour. The application was made in spite of the fact that Council officers had provided clear and consistent advice to the applicant on multiple occasions. Council's position was strongly supported by case law precedent.

In supporting the Council's application for costs Member Cook stated:

*'I am particularly influenced by the reasonable actions taken by the responsible authority to avoid the hearing by explaining the legal position the Tribunal ultimately adopted in determining the proceeding well in advance of the proceeding having been instituted and repeatedly since.'*

Council was awarded costs of \$2,026, representing a fraction of the actual cost of the proceeding estimated to be a total of \$11,227.52.

The second matter in which Council sought costs related to an application for an enforcement order made by the Shire against an individual illegally camping on land located within an area covered by the Bushfire Management Overlay. In applying for an order Council sought to remove an individual from an extremely high risk location before the onset of the fire season. The respondent agreed to attend mediation however failed to appear. The matter was listed for a hearing and once again the respondent failed to attend the Tribunal. At the hearing Council had engaged legal representation. In this instance Council was awarded costs totalling \$7,000.

The determination of whether or not Council should seek costs is a complex dilemma that is unlikely to be resolved through the adoption of a one size fits all policy approach. Officers do know that applications for costs are much more likely to occur in relation to enforcement proceedings, however even in these types of proceedings costs are relatively rare.

*At VCAT, parties are expected to bear their own costs, unless we order otherwise. Section 109 of the Victorian Civil and Administrative Act 1998 governs VCAT's power to award costs.*

*VCAT may only award costs if it is fair to do so. Examples of circumstances where an order for costs may be made include:*

- *where the proceedings have been brought vexatiously or frivolously, or*
- *where a party has unreasonably prolonged a hearing, or*
- *where the case for the applicant is misconceived, weak on the relative merits or not tenable in fact or law.*

*An application for costs in any proceeding must be considered on its own facts having regard to section 109 of the Victorian Civil and Administrative Act 1998.*

Source: [www.dtpli.vic.gov.au/\\_\\_data/assets/word\\_doc/0006/.../UVPS-7- Enforcement.doc](http://www.dtpli.vic.gov.au/__data/assets/word_doc/0006/.../UVPS-7- Enforcement.doc)

### *Community Engagement*

A formal consultation process was not required.

### *Cultural Heritage Implications*

There are no cultural heritage implications.

### *Financial & Risk Management Implications*

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

### *Economic, Social & Environmental Implications*

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

### *Communications*

It is considered that a communication plan is not required.

### *Conclusion*

The Golden Plains Shire Planning Team has a relatively small number of appeals which are heard before the Victorian Civil and Administrative Tribunal each year. In the last five years we have achieved an impressive record for defending Committee decisions. Performance statistics are in part a reflection of the stability and experience of the Planning Committee and its decision making processes. Success is also likely to be attributed to a strong team culture of pre-planning for the presentation of submissions and engaging legal counsel where appropriate. A review of existing procedures suggests that there is room for the improvement of communication back to the Planning Committee regarding VCAT appeal activity.

### *Moved Crs Phelan/Cameron*

***That the Planning Committee receives and notes the officers report on planning matters and decisions appearing before the Victorian Civil and Administrative Tribunal (VCAT).***

*Carried*

### *Moved Crs Phelan/Blake*

***That a report be provided to the Planning Committee on the Parkin Vs Golden Plains Shire VCAT decision and reasons behind the tribunal's decision for implications on future applications.***

*Carried*

Action: All VCAT outcomes to be advised to Councillors via email immediately following receipt of decision.

#### 4.1.2 Planning Application P16-123 Development of the land for a Dam and Native Vegetation Removal at Davies Road Meredith

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Laura Wilks, Planning Team Leader
Author	Leigh Page, Town Planner
File References	Planning Application P16-123
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The development of the land for a dam and native vegetation removal
Land Address	Davies Road, Meredith; (Crown Allotment 28E, Parish of Meredith)
Applicant	Mark Jeffrey
Zone & Overlay Summary	Rural Conservation Zone 3 Environmental Significance Overlay 1 Bushfire Management Overlay
Attachments	1. P16-123 Application 2. P16-123 Locality Plan

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

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

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

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

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

#### *Purpose*

This report relates to a planning permit application for the development of a dam and native vegetation removal at Davies Road, Meredith. The application has been referred to the Planning Committee for determination as refusal of the proposal is recommended. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes the construction of a dam and the subsequent removal of native vegetation.

The proposed dam measures 30 metres x 30 metres with a depth of 3 metres. The dam is proposed to be positioned approximately 60 metres off the unfenced eastern boundary, 324 metres from the northern boundary and 163 metres from the southern boundary.

To allow for the construction of the dam, native vegetation will be required to be removed. The applicant has provided an estimate of the tree removal being 5 trees with 600mm trunk diameter and 30 trees with a 300mm trunk diameter or smaller. This does not consider the native undergrowth that exists onsite. A biodiversity assessment report was submitted with the application, this report identifies that 1940 square metres of native vegetation would be required to be removed.

The applicant outlines that the dam will be used for recreational purposes and for emergency situations.

### *Site Description*

The subject site is located at the end of Davies Road within the Rural Conservation Zone, surrounding land is also zoned Rural Conservation Zone. A Bushfire Management Overlay and an Environmental Significance Overlay Schedule 1 also applies. The Environmental Significance Overlay 1 relates to the Barwon Water supply catchment,

### *History*

The application was received on 2 May 2016. Further information was requested 12 May 2016 requesting details relating to the need for the proposed dam. Officers also requested that the applicant review the proposal to reposition the proposed dam in a cleared or partially cleared area to avoid or reduce the amounts of native vegetation to be removed.

An onsite meeting was conducted between the applicant and Council Officers. It was observed that a large amount of native undergrowth would be required to be removed where the dam was proposed to be located. The possibility of repositioning the dam to a cleared area was discussed at this meeting, however the applicant has dismissed this option.

The application was referred to the Department of Environment, Land, Water, and Planning, The Corangamite CMA, and Southern Rural Water. Both The Corangamite CMA and Southern Rural Water, both responded and did not object to the proposal. No response has been received from DELWP. The application was also referred to Councils Natural Resource Officer who does not support the application in its current form.

### *Communications*

Notice of the application was not given to neighbours pursuant to Section 52 (1) (a) of the Planning and Environment Act 1987 ("the Act").

### *Golden Plains Planning Scheme*

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

##### **Clause 12.01-1 Protection of biodiversity**

The objective of this policy is to assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites. The purpose of this policy is to avoid and minimise the amounts of native vegetation that is removed by repositioning development to areas that are clear of native vegetation or to areas that are less densely covered by native vegetation.

##### **Clause 12.01-2 Native vegetation management**

The objective of this policy is to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. The purpose of this clause is again to avoid the removal of native vegetation and minimise the impacts on Victoria's biodiversity.

#### **Zone Provisions**

##### **Clause 35.06 Rural Conservation Zone**

The site and surrounding sites are in the Rural Conservation Zone. The purpose of the Zone is to, among other things, protect and enhance the natural environment of the area, and to protect and enhance the natural resources and the biodiversity of the area.

The decision guidelines of the Rural Conservation Zone are:

#### General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development.
- How the use or development conserves the values identified for the land in a schedule.
- Whether use or development protects and enhances the environmental, agricultural and landscape qualities of the site and its surrounds.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.

#### Rural issues

- The environmental capacity of the site to sustain the rural enterprise.
- The need to prepare an integrated land management plan.
- The impact on the existing and proposed infrastructure.
- Whether the use or development will have an adverse impact on surrounding land uses.

#### Environmental issues

- An assessment of the likely environmental impact on the biodiversity and in particular the flora and fauna of the area.
- The protection and enhancement of the natural environment of the area, including the retention of vegetation and faunal habitats and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas.
- How the use and development relates to sustainable land management and the need to prepare an integrated land management plan which addresses the protection and enhancement of native vegetation and waterways, stabilisation of soil and pest plant and animal control.
- The location of onsite effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

#### Dwelling issues

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

#### Design and siting issues

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.
- The location and design of existing and proposed infrastructure services which minimises the visual impact on the landscape.
- The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of roads and existing and proposed infrastructure services to minimise the visual impact on the landscape.

### **Particular provisions**

#### Clause 52.17 Native Vegetation

The purpose of this clause is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through avoiding the removal of native vegetation that makes significant contribution to Victoria's biodiversity, and minimising the impacts on Victoria's biodiversity from the removal of native vegetation.

The decision guidelines of the Native Vegetation provisions are:

Biodiversity considerations  
For all applications

- The contribution that native vegetation to be removed makes to Victoria's biodiversity. This is determined by:
  - The extent and condition of the native vegetation.
  - The biodiversity value of the native vegetation, including whether the native vegetation is important habitat for rare or threatened species.
- Whether the removal of native vegetation is defined as being in the low, moderate or high risk-based pathway, as defined in the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013) and apply the decision guidelines accordingly.

### *Discussion*

The general intent of the Rural Conservation Zone provisions is to conserve those areas with environmental values. The proposed development does not meet the objectives of the State Planning Policy Framework as the proposal will remove native vegetation from the land without any considerations to relocating the dam to an existing cleared area.

The application outlines that the block is used for recreational purposes, and the dam would provide a water source and safe area in an emergency situation (bushfire). There is currently no proposal for a dwelling onsite, a planning permit would be required for a dwelling in the Rural Conservation Zone.

The application also advises that the owner wishes to purchase two horses to keep on the block, this dam would be their water source. Given the undulating form of the land and the density of vegetation onsite, the land would not be suitable for horses.

The removal of the native vegetation is not considered to meet the purpose of the native vegetation provision in the planning scheme. There has been no attempt to avoid the removal of vegetation by repositioning the dam in a cleared or semi-cleared area.

The applicant has outlined that they intend to build a dwelling on the lot in 10-15 years' time. It is recommended that when the owner/s apply for a dwelling on the lot they include the dam as part of the application at that stage. The use of the dam for emergency purposes when a dwelling is onsite would be considered more suitable.

Given there are no dwellings or structures onsite, the dam would not be required to be used by the CFA in a bushfire/emergency situation nor would it present a viable place of refuge and does not serve any purpose.

### *Cultural Heritage Implications*

This proposal does not require the preparation of a Cultural Heritage Management Plan under the Aboriginal Heritage Regulations 2007.

### *Financial & Risk Management Implications*

It is considered that there are not financial or risk management implications.

### *Economic, Social & Environmental Implications*

It is considered that the application does not present any economic, or social implications. If approved, the proposal would have a negative impact on the environment

### *Conclusion*

The application fails to satisfy the provisions of the State and Local Planning Policy Frameworks or the Rural Conservation Zone. The development is therefore considered unacceptable.



***Moved Crs Blake/Phelan***

***That the Planning Committee resolves to issue a Notice of Decision to Refuse to Grant a Permit, on the following grounds:***

- 1. The proposal fails to satisfy the provisions, objectives, and requirements of the State Planning Policies for the protection of biodiversity and native vegetation management of the Golden Plains Planning Scheme.***
- 2. The proposal fails to satisfy the purpose and decision guidelines of Clause 52.17 of the Golden Plains Planning Scheme which seeks to implement Victoria's Native Vegetation Framework.***
- 3. The proposal fails to meet the purpose or the decision guidelines of the Rural Conservation Zone contained within the Golden Plains Planning Scheme.***

***Carried***

It is recorded that Cr Andrew Cameron declared a conflict of interest to this report as he is an objector to this application and left the chamber at 9.51am.

#### 4.1.3 Planning Application P16-127 for the use and development of the land for an outdoor recreation facility at Lot 2 PS 326994 Teesdale Tip Road, Teesdale

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Laura Wilks, Planning Team Leader
Author	Luke Gavin, Town Planner
File References	Planning Application P16-127
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	The use and development of the land for an outdoor recreation facility
Land Address	Lot 2 PS 326994 Teesdale Tip Road, Teesdale
Applicant	Geelong Miniature Aircraft Association
Zone & Overlay Summary	<ul style="list-style-type: none"> <li>▪ Public Use Zone Schedule 6</li> </ul>
Attachments	<ul style="list-style-type: none"> <li>3. P16-127 Application and Plans</li> <li>4. P16-127 Locality Plan</li> <li>5. P16-127 Objections (2)</li> </ul>

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

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

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

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

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

#### *Purpose*

This report relates to a planning permit application for the use and development of the land for an outdoor recreation facility (miniature aircraft facility). The application has been referred to the Planning Committee for determination as two objections to the proposal have been received. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes to use and develop the land located on lot 2 Plan of subdivision 326994 Tip Road, Teesdale for the purposes of an outdoor recreation facility; specifically for a miniature aircraft club.

The Geelong Miniature Aircraft Association (GMAA) has been operating from their current site at Dog Rocks Road, Batesford in excess of 40 years. The GMAA is seeking relocation due to a change of ownership which has seen the new owner of the leased land requesting that the club relocate by December 2016.

The proposal at lot 2 Teesdale Tip Road would see a club building constructed onsite located to the centre of the northern boundary of the site, 177 metres from the western and 5 metres from the northern boundaries. The 144 square metre shed (24 x 6) will have an overall height of 2.4 metres and a total height of 3.2 metres to the peak of the gable roof. The structure will be clad of colourbond sheet non-reflective materials and will have a concrete slab floor. Kitchen and toilet facilities will be maintained within the bounds of the shed which will be open at both ends.

The proposed operational hours of the GMAA club will remain as they are now:

- 0800 until dusk Monday to Saturday; and
- 0900 until dusk on Sunday.

The club estimated that on a fair weather day that approximately 12-15 cars may be present onsite. The club has indicated that very seldom would there be any more than 15 members participating in the activities on any given day. Provisions for car parking have been made with a carpark area to be set aside from the proposed shed and fenced off, with a minimum of 12 carparks to be provided.

The proposed flight area for the club will be contained within the bounds of the site. The current flight field being used at the Dog Rocks Road site is approximately 150 metres in length and 50 metres in width. The field and the remainder of the site is mowed on a regular basis in order to maintain the area for the proposed activity.

The club will seek access to the site along the Teesdale Tip Road which intersects with the Bannockburn-Shelford Road on the eastern outskirts of the Teesdale Township. Part of the Road will require an upgrade to enable access to the proposed site.

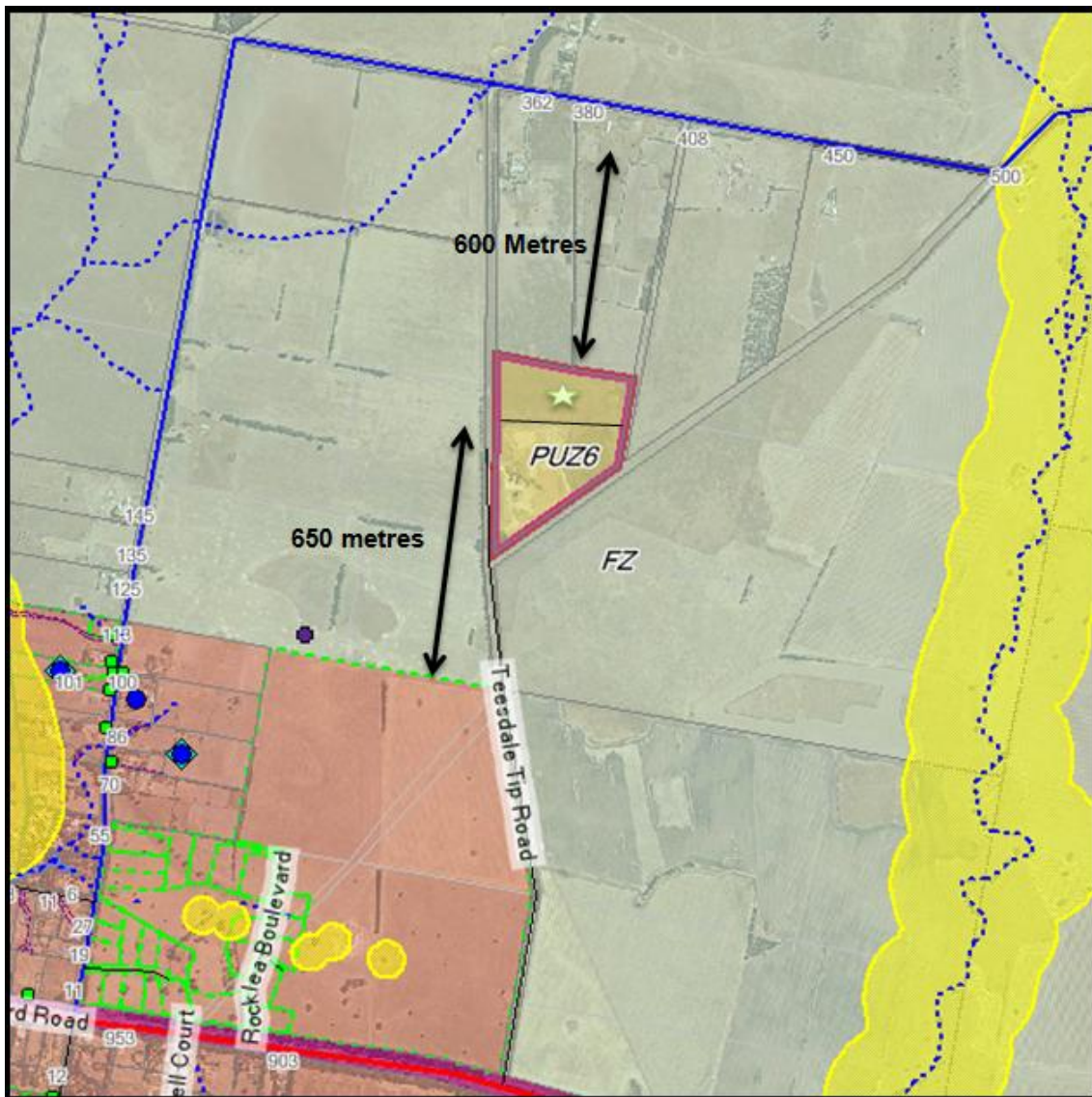
The club is affiliated with the Victorian Model Aeronautical Association (VMAA), in turn the VMAA is affiliated with the Model Aeronautical Association of Australia (MAAA) both of which have advisory regulations regarding noise levels which the club must adhere to and furthermore the club must comply with all relevant Environmental Protection Authority requirements.

### *Site Description*

The subject site is located at lot 2 on plan of subdivision 326994, Teesdale Tip Road, Teesdale. The site has a total area of 3.3 hectares, with a road frontage of 90 metres to Government Road and a depth of 380 metres along its northern boundary. The site is vacant and is currently free of any stock. A dam exists towards the eastern boundary of the site. The site does not have any formal access. Government Road which abuts the site's western boundary is a gravel all weather road which remains unmade from the entrance of the site to the old Teesdale Tip site located directly to the south.

The site is zoned Public Use Zone Schedule 6 (*the purpose of the public use for schedule 6 is listed as local government*). The site shares its southern boundary with the old Teesdale Tip site, a waste disposal site no longer in use. The site is bound to the north by two lots of approximately 20 hectares both of which contain dwellings. The closest dwelling is approximately 600 metres from the northern boundary of the site. Farming zoned land used primarily for grazing purposes bounds the remainder of the site. Land in the Low Density Residential Zone exists 650 metres from the south western corner of the site. This land is not yet developed.

A Council property lease of the land has been arranged with the specialist conditions requiring that the lessee be responsible for the control of the declared pest plants and the declared pest animals.



**History**

The application was received on 10<sup>th</sup> of May 2016. The application was referred to Council's Works Department and the EPA of Victoria both of whom have consented to issue of a permit. Only Council's Works Department require conditions to be added to any granted permit.

**Community Communication**

Notice of the application was given to neighbours pursuant to Section 52 of the *Planning and Environment Act 1987* ("the Act"). Two objections were received, a copy of each is provided at Attachment 5. The objections were made on the following grounds:

- The loss of amenity to adjoining properties caused by the noise associated with the model aircraft,
- The ability of the GMAA to maintain the upkeep of the site,
- Potential for increased fire risk
- The negative effects associated with increased traffic along Tip Road, Teesdale

A consultation meeting was held with representatives of the GMAA and one objector.

## *Golden Plains Planning Scheme*

### **State Planning Provisions**

#### 13.04 Noise and air

##### 13.04-1 Noise abatement

#### Objective

To assist the control of noise effects on sensitive land uses.

#### Strategy

Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

#### Policy guidelines

Planning must consider as relevant:

- State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (in metropolitan Melbourne).
- Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority, 1989).
- A Guide to the Reduction of Traffic Noise (VicRoads 2003)

### **Zone & Overlay Provisions**

#### Clause 36.01 Public Use Zone Schedule 6

The purpose of the Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To recognise public land use for public utility and community services and facilities.*
- *To provide for associated uses that are consistent with the intent of the public land reservation or purpose*

Pursuant to Clause 36.01-1, a permit is required to use and develop the land for an outdoor recreation facility.

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land.
- Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.

### **General Provisions**

The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines contained in Clause 65 of the planning scheme.

65.01 Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

### *Discussion*

#### **Planning Scheme**

The proposed development is considered to meet the objectives and requirements of the state and local planning policy frameworks, zoning and overlay provisions, and the relevant particular and general provisions of the Scheme.

#### **State Planning Provisions**

##### 13.04 Noise and air

The application was referred to the EPA as a Section 52 recommending referral authority. The EPA advised that it does not have applicable guidelines and it is not specifically responsible for noise emissions from model aircraft club activities.

A site visit was conducted by officers to observe the GMAA's current club site at Dog Rocks Road, Batesford. The purpose of the visit was to gather an understanding of the amenity impacts any noise emissions that could be caused by the model aircraft on neighbouring lands. It was concluded that the noise the aircraft emit is not substantial and would not impact upon any properties existing or future developments located within the close vicinity of the site.

#### **Zoning**

##### Clause 36.01 Public Use Zone Schedule 6

- The proposal meets the objectives of the zone.
- The site is appropriately sited away from any significant sensitive uses with the surrounding land uses being used primarily for agricultural pursuits and the closest dwelling over 600 metres from the site.
- The site is serviced by the Teesdale Tip Road which Council's Works department have indicated would require some minor upgrades which include suitable access to the site and car parking. The use and development proposed is not expected to cause any traffic management issues with the potential for increased use due to the GMAA club.
- A Council property lease of the land has been arranged with the specialist conditions being that the lessee be responsible for the control of the declared pest plants and the declared pest animals. The details of the lease will ensure that the property is maintained to the satisfaction of the Responsible Authority.

## **Objector's Concerns**

The objectors are primarily concerned about the impact of the proposed miniature aircraft club on the amenity of the surrounding area caused by any noise emitted, the ability of the GMAA to maintain the upkeep of the site, the potential for increased fire risk and the negative effects associated with increased traffic along Tip Road, Teesdale.

The site is appropriately sited away from any significant sensitive uses with the surrounding land uses characterised by existing agricultural pursuits and the closest dwelling located over 600 metres from the site. Considering that the flight paths of the model aircraft are to be retained primarily within the bounds of the site and after an inspection of the current operations at Dog Rocks, Council officers consider that there will be no significant impacts upon the surrounding area due to noise. Officers are recommending that a condition of permit that limits the operation of the club from 8am – 5pm Monday to Saturday and 9am – 5pm on Sundays.

The ability of the GMAA to upkeep the site is not considered to be a concern as the proposed airfield is to be maintained in order for the operational capacity of the model aircraft. An inspection of the GMAA's current site showcased the importance the club placed on maintaining the outfield and general club facilities. The Council property lease of the land that has been arranged also includes the specialist conditions being that the lessee is responsible for the control of the declared pest plants and the declared pest animals.

The GMAA has indicated that in the unlikely scenario of a fire provisions are taken in order to resolve any situation. Appropriate extinguishers and facilities will be maintained within the bounds of the clubhouse.

The site is serviced by the Teesdale Tip Road which Council's Works department have indicated would require some minor upgrades which include suitable access to the site and car parking. The use and development proposed is not expected to cause any traffic management issues with the potential for increased use due to the GMAA club. Access and provisions for any emergency vehicle services which may need to use the road will be made in accordance with Council's requirements.

## **General Provisions**

### Clause 65 Decision Guidelines

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

### *Cultural Heritage Implications*

It is considered that there are no cultural heritage implications.

### *Financial & Risk Management Implications*

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

### *Economic, Social & Environmental Implications*

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

### *Conclusion*

The proposed outdoor recreation facility; specifically the miniature aircraft club is considered to meet the objectives and requirements of the state and local planning policy frameworks, the zoning and overlay provisions, and the relevant particular and general provisions of the Scheme. The proposal is considered acceptable. It is considered that the development will not cause unacceptable material detriment to any person.

### *Recommendation*

***That the Planning Committee resolves to issue a Notice of Decision to Grant a Permit for an outdoor recreation facility at Lot 2 PS 326994 Teesdale Tip Road, Teesdale subject to the following conditions***

- 1. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the responsible authority.***
- 2. The area for the hereby approved use must be maintained to the satisfaction of the Responsible Authority.***
- 3. The model aircraft club must only operate between the hours of 8am – 5pm Monday to Saturday and 9am – 5pm on Sundays. No alterations to the operating hours may be made without prior written consent of the Responsible Authority.***
- 4. All external materials to be used in the construction of the shed must be of muted tones and be non-reflective and must not result in any adverse visual impact on the amenity of the surrounding area.***
- 5. No human habitation of the proposed shed is permitted.***
- 6. The development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.***
- 7. All run off from the proposed buildings and works must be directed to a legal point of discharge to the satisfaction of the responsible authority.***
- 8. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
  - a) transport of materials, goods or commodities to or from the land***
  - b) appearance of any building, works or materials***
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil***
  - d) presence of vermin***
- 9. This permit will expire if one of the following circumstances applies:***
  - a) The development is not started within two years of the date of issue.***
  - b) The use is not started and the development is not completed within four years of the date of issue.***

***The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months afterwards.***

### ***Works***

- 10. Prior to commencement of use access to the site shall be constructed from the existing gravel road to the proposed entry to the site such that the road construction will conform to Council's standard drawing SD600. Road design shall include drainage, service and emergency vehicle turning circle, appropriate signage and pavement detail in accordance with Council requirements and to the satisfaction of the Responsible Authority.***
- 11. Prior to commencement of use a vehicle crossing must be constructed conforming to current Infrastructure Design Manual (IDM) standard drawing SD 255 and to the satisfaction of the Responsible Authority.***



**12. Prior to commencement of use the area set aside for car parking of vehicles and access lanes as shown on the endorsed plans must:**

- a) **Have a minimum of 12 car parks.**
- b) **Be provided with an all-weather surface**
- c) **Be drained**
- d) **Be maintained in a continuously useable condition**
- e) **Be provided with a car park space for the exclusive use of persons with disabilities.**
- f) **Be line marked or otherwise signed to indicate spaces.**

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

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

**Note: A 'Works within Road Reserve' permit must be obtained from the responsible authority prior to the carrying out of any vehicle crossing works.**

*Moved Crs Phelan/Vaughan*

**That Council suspend standing orders to hear submissions from Cr Andrew Cameron and Murray Ellis.**

*Carried*

It is recorded that Council suspended Standing Orders at 10.05am.

It is recorded that Cr Andrew Cameron entered the chamber and addressed the Committee at 10.05. Cr Cameron left the chamber at 10.09am

Mr Ellis addressed the committee between 10.09am and 10.12am.

*Moved Crs Vaughan/Blake*

**That Council resume Standing Orders.**

*Carried*

It is recorded that Council resumed Standing orders at 10.12am.

*Moved Cr Blake/*

**That Planning Application P16-127 be refused.**

**Lapsed for want of a seconder**

*Moved Cr Phelan/Vaughan*

**That the Planning Committee defer making a decision on Planning Application P16-127 for the use and development of the land for an outdoor recreation facility at Lot 2 PS 326994 Teesdale Tip Road, Teesdale.**

*Carried*

**Cr Cameron returned to the chamber at 10.26am.**

#### 4.1.4 Amendment C67 -South West Landscape Assessment Study

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Laura Wilks, Team Leader
Author	Sarah Fisher, Strategic Planner
File References	BluePoint: 60-02-067
Council Plan Link	Encourage and facilitate sustainable land use and development and protect and enhance the natural environment
Relevant Council Strategies	N/A
Overlays	Significant Landscape Overlays schedule 1 and 15
Relevant Legislation	Golden Plains Planning Scheme Planning and Environment Act 1987
Attachments	6. Part 1 – SLO 1 and 15 Instruction Sheet, Explanatory Report, Submissions Received, conditional withdrawal of submissions including new map for proposed Rowsley Scarp Environs 7. Part 2 – SLO14

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

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

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

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

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

#### ***Purpose***

The purpose of this report is to seek approval from the Planning Committee to progress Amendment C67 – South West Landscape Assessment Study (SWLAS). The report provides background information and an update as a result of the exhibition process.

#### ***Background***

The SWLAS was prepared by Planisphere consultants on behalf of (the former) Department of Transport, Planning, Local Government and Infrastructure (DTPLI), now known as the Department of Environment, Land, Water and Planning (DELWP). The purpose of the study was to better understand and assess the visual character and significance of the landscapes of South West Victoria.

The study was intended to be used to inform new planning scheme policy, to assist planning decision making and to ensure landscapes of importance are adequately protected and managed into the future.

The study area comprised all non-coastal, non-urbanised areas in the south west region of Victoria from Port Phillip Bay to the Great Dividing Range. This area included 18 municipalities and complemented other landscape assessment studies that had been undertaken in the region.

Refer to the map below.



Source: *South West Landscape Assessment Study – Regional Overview Report: Executive Study, Planisphere, June 2013.*

The study's methodology built on the Coastal Spaces Landscape Assessment Study which was completed in 2006. The study looked at locations in our landscape which are significant for geological reasons. For every landscape, a range of factors combine to create an overall illustration of its value. Five landscape values were used to define landscape areas and assess their significance:

- Aesthetic
- Historic (Pre and post contact)
- Environmental/scientific
- Social
- Other contributing values (E.g. – Economic)

When looking at views, the study used a cumulative weight of evidence to consider cultural values, how iconic, exemplary and/or scarce they are.

The study did the following:

- Defined and described the landscape character of the south west region
- Determined which places, features and views are most significant and why
- Included the community's values on the character and significance of the landscape
- Assessed and evaluated various forms of development that have occurred in the landscape, both positive or negative
- Used policies and guidance in local planning schemes such as the Significant Landscape Overlay to protect and manage landscapes into the future

The most recent decision by Council in relation to Amendment C76 occurred on the 28th October 2014 where Council adopted the SWLAS and included exemptions relating to the size and height of a dwelling or building used for agriculture. It was also resolved to make application to the Minister for Planning to prepare and exhibit the amendment.

The Golden Plains Planning Scheme acknowledges the importance and diversity of the Shire's agricultural land and also notes that some areas hold aesthetic values and productive features which sets them apart, such as notable topography. The Moorabool River valley is an existing example of this. The valley, ridgelines and river plain are identified by Schedule 2 to the Significant Landscape Overlay.

The proposed Significant Landscape Overlay inclusions sought by this Amendment are seeking to similarly acknowledge two other notable landscapes, by allowing consideration of built form should a permit be required, but not altering the way these areas can be farmed or used. The use controls for these areas are set out in the relevant zones, and these controls remain unchanged.

### *Proposal*

The SWLAS identified four significant landscapes within the Golden Plains Shire Council. These were:

- Brisbane Ranges & Rowsley Scarp Environs
- Enfield State Park
- Devils Kitchen
- Barrabool Hills

The study recommended that the Significant Landscape Overlays (SLO) be applied to the Barrabool Hills and the Brisbane Ranges & Rowsley Scarp Environs landscapes and the existing SLO controls for Devils Kitchen be strengthened.

The Enfield State Park and Brisbane Ranges National Park already have statutory protection through their designation as public parks and therefore did not require additional controls and hence the scope of the proposed overlays has been reduced to exclude the Brisbane Ranges and Enfield State Park.

A description of each significant landscape is provided below:

#### **Rowsley Scarp Environs (SLO15)**

A new SLO is proposed for the Rowsley Scarp Environs, which is a long tectonic fault line that sweeps from Bacchus Marsh in the north, past Anakie in the south, and forms the eastern edge of the Brisbane Ranges. The proposed SLO15 was mapped to cover the edges of the Brisbane Ranges and Scarp, as included within the Golden Plains Shire.

It was proposed that the SLO would be applied to land within the Farming Zone and the Rural Conservation Zone, excluding land within the Public Conservation and Resource Zone.

#### **Devils Kitchen (SLO1)**

This existing SLO is proposed to be strengthened. It covers the deeply incised gorge of the Woody Yaloak River. The existing SLO has been mapped to align with cadastral boundaries and roads and covers views from the identified viewing corridor of Piggoreet Road. The existing SLO largely applies to Farming Zone land with an area of Public Conservation and Resource Zone.

No change to the extent of the SLO was proposed, however its controls are proposed to be strengthened. Specifically, to avoid built form in visually prominent locations, minimise visual impact measures such as a clustering of new and existing buildings, implementing adequate setbacks and careful siting, design and material selection.

#### **Barrabool Hills (SLO14)**

A new SLO was proposed by way of introducing the proposed SLO which has been mapped to cover the landscape setting and foreground of the Hills as are visible from the Hamilton Highway. This includes part of the Barwon River Valley.

### *Discussion*

Initially Council resolved to support the Amendment in its entirety. However, as a result of the exhibition of the amendment, submissions in opposition to the introduction of SLO14 – Barrabool Hills, were received.

Submissions regarding the proposed SLO1 (Devils Kitchen) and SLO15 (Rowsley Scarp Environs) were able to be resolved. The only change that occurred in resolving submissions was the alteration to the extent of the mapping for SLO15, Rowsley Scarp.

Specifically, a number of titles to the south of the SLO15 mapping extent were deleted, an area which is subject to two (2) Works Authorities for sand and gravel extraction. Given the highly altered physical state of the landscape associated with these works, there was no opposition from Council officers. The revised map is included as an Appendix to this report.

The remaining submissions received were to do with the proposed SLO14, Barrabool Hills. Matters raised included the practicality of the proposal given the hills are located within the City of Greater Geelong and Surf Coast Shire jurisdictions. Submitters also commented that much of the view to the Barrabool Hills from the Hamilton Highway, the area proposed to be subject to the SLO, has limited visibility on account of landowner tree planting along property boundaries and fence lines over the years. (Such plantings, are permissible without the need for a planning permit).

Further concern related to proposed permit triggers relating to dwelling and building size and height in the Farming Zone. These controls were considered too restrictive from an agricultural viewpoint.

In response, it is noted that there are permit triggers together with design and siting considerations already within the Farming zone (which applies to the proposed Barrabool Hills overlay area), which can assist with controlling built form and the potential impact on views of the Barrabool Hills.

What happens on the Hills themselves is beyond the control of the Golden Plains Shire, and hence it's considered that the proposed overlay could offer only very limited further protection.

Hence, it is recommended that Amendment C67 be split. In doing so, Council could quickly and efficiently implement the parts of the Amendment that officers and the community are supportive of, being the Rowsley Scarp and Devils Kitchen (Part 1). Council could then abandon Part 2, being the Barrabool Hills component, to which there is community resistance. This approach is considered reasonable and makes more efficient use of Council's limited resources.

### *Community Engagement*

The initial consultation process at the beginning of the study sought to engage a cross-section of individuals and groups within the community who had extensive knowledge and experience of, and connection to, the South West Victorian Landscape. Given the considerable size of the area and scope of the project, there were constraints notifying all land owners within the study area. Therefore, targeted individual groups (such as Landcare groups) and individuals were invited to participate in the project via local media, websites and direct phone or email contact.

Amendment C67 was placed on exhibition on 2 October 2015. Notice was sent to affected landowners, various external government agencies, utility and statutory bodies, including, but not limited to, Parks Victoria, Aboriginal Affairs Victoria, the Corangamite Catchment Management Authority and the Country Fire Authority. None of these agencies had any objection to the proposed Amendment.

Following the exhibition of an amendment, Council must consider all submissions made within the exhibition period and has three (3) options in dealing with submissions. Council may:

- a) Change the amendment in the manner requested
- b) Refer the submissions to the panel; or
- c) Abandon the amendment or part of the amendment.

There were a total of seven (7) submissions from landowners.

As described, the submissions regarding the proposed Devils Kitchen and Rowsley Scarp Overlays were successfully resolved, though not all were for the proposed Barrabool Hills Overlay.

As noted earlier, the Brisbane Ranges National Park and Enfield State Park aspects of the project are not required as these areas already have their own statutory protection.

### ***Cultural Heritage Implications***

There are not known to be any Cultural Heritage Implications as a result of this proposed Amendment. In fact, some of the changes may contribute to the aesthetic preservation of the traditional country of the Wathaurung people, for whom Devils Kitchen and the Woody Yaloak River holds social, cultural and spiritual significance.

### ***Financial & Risk Management Implications***

The financial implications associated with this review would be in relation to incorporating any of these proposed amendments into the scheme. However, given that it is recommended that only Part 1 of the Amendment proceed with no opposing submissions, there will be no costs associated with a Panel Hearing given there are no issues to resolve.

In relation to financial implications for any landowners that would be affected, these are considered minimal. Exemptions that apply under the relevant Farming Zone and Rural Conservation Zone are replicated in the schedules to the SLO. The purpose of the proposed SLO's is more to define key elements and character of significant landscape features and provide decision guidelines to ensure new development and subdivision (where a permit is required) is undertaken in accordance with identified values of a particular location.

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

There are not considered to be any environmental implication, rather there should be some protection afforded of these significant views and vistas.

### ***Communications***

It is not considered that a communication plan is required.

### ***Conclusion***

The South West Landscape Assessment was developed to better inform planning scheme policy and to ensure landscapes of importance are adequately protected and managed into the future.

This is in line with State Planning Policy such as Clause 12 of the Golden Plains Planning Scheme, Environmental and Landscape Values, which notes that planning should protect sites and features of nature conservation, biodiversity, geological or landscape value. Clause 12.04-2 specifically states that this clause sets out '*To protect landscape and significant open spaces that contribute to character, identity and sustainable environments*'.

One of the strategies of this policy is to recognise the natural landscape for its aesthetic value and as a fully functioning system, and ensure natural key features are protected and enhanced.

The proposed strengthening of the Devils Kitchen Significant Landscape Overlay recognises the geological significance of this area, setting out a more detailed statement of why this area is significant, including to the traditional owners of the land, the Wathaurung people.

The Significant Landscape Overlay proposed for the Brisbane Ranges & Rowsley Scarp similarly acknowledges its importance to its traditional owners and the undulating and diverse nature of the area which varies from thick tree cover and open agricultural land.

These proposed Significant Landscape Overlays acknowledge the positive contribution agriculture and sustainable land use management practices make to the character of these areas and the broader Shire.

The importance of agricultural land within the Golden Plains Shire is acknowledged and understood. Neither of these proposed SLO's set out to restrict the existing agricultural use or land practices of these areas.

It is recommended that the implementation of the South West Landscape Assessment be carried out via the application of the reinforced Devils Kitchen SLO and the application of the Rowsley Scarp SLO (Part 1). The Amendment will give statutory effect to the recommendations of the study, and assist Council in its decision making in relation to future development within the Shire's significant landscapes.

It is further recommended that the Barrabool Hills SLO be abandoned (Part 2) as discussed.

*Moved Crs Blake/Phelan*

***That the Planning Committee resolve to:***

- 1. Adopt Part 1 of Amendment C67 in the form of Attachment 6 and send to the Minister for Planning for approval in accordance with section 31(1) of the Planning and Environment Act 1987.***
- 2. Abandon Part 2 of Amendment C67 in the form of Attachment 7.***

*Carried*

#### 4.1.5 2016 Bushfire Mapping and Policy Update

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Manager Assets and Amenity
Responsible Manager	Tim Waller, Development Manager
Author	Dale Smithyman, Acting Environment Services Team Leader
File References	BluePoint: 60-01-007
Council Plan Link	Encourage and facilitate sustainable land use and development and protect and enhance the natural environment
Relevant Council Strategies	Municipal Fire Management Plan Golden Plains Shire Planning Scheme
Relevant Policies & Legislative Frameworks	State Planning Policy Framework – Clause 13.05 Bushfire
Attachments	8. BMO Review Map

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

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

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

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

#### *Purpose*

This report aims to inform Councillors of changes to be implemented by the State Government to the State Planning Policy Framework and the Bushfire Management Overlay in the Golden Plains Shire Planning Scheme.

#### *Background*

The State Planning Policy Framework – Clause 13.05 Bushfire and the Bushfire Management Overlay (BMO) were implemented in 2011 in response to Black Saturday and the recommendations of the 2009 Victorian Bushfires Royal Commission.

The State Government will update the State Planning Policy Framework – Bushfire to include reference to the Bushfire Prone Area (BPA) map in order to further integrate the planning and building systems. The BPA influences building construction standards within the Building Permit system. Golden Plains Shire is entirely encompassed by the Bushfire Prone Area with the exception of small areas in the town centres of Bannockburn and Inverleigh and so Council will see little change as a result of this amendment.

The State Government will introduce updated BMO mapping into the Golden Plains Shire Planning Scheme. Ongoing implementation of updated bushfire mapping is a key part of the Victorian Government's commitment to delivering the recommendations of the 2009 Victorian Bushfires Royal Commission and improving community safety.

The BMO requires landholders planning to live in high bushfire risk areas to provide additional bushfire protection in a sensible response to bushfire risk as part of the Planning Permit process.



The current BMO encompasses approximately 522km<sup>2</sup> (52,200 hectares) or 20% of land in Golden Plains Shire. The BMO encompasses forestry plantations and forested land. The proposed BMO expands the area of the municipality under the overlay to approximately 608km<sup>2</sup> (60,800 hectares) or 22.5%. The proposed BMO will encompass approximately 600 additional properties while approximately 70 properties will no longer be covered under the overlay.

In 2013, the Department of Environment, Land, Water and Planning (DELWP) in consultation with the state's fire authorities prepared updated hazard maps using key criteria:

- Areas of vegetation (except grasslands) 4 hectares or more in size with a 150m buffer applied to protect dwellings against embers.
- Areas where the surrounding landscape presents a significant bushfire hazard.
- Forest Fire Danger Index (FFDI) of 120 (i.e. 40 degree heat, 9% relative humidity and 56kph wind).

Fire authorities and local councils were consulted to verify the hazard mapping with suggested changes incorporated where they met the specified criteria.

The proposed BMO has now been provided to Council for final verification.

Council's Planning and Environment Services Team have considered the proposed BMO and executed a verification process to:

- Identify areas of vegetation contiguous with the updated mapping that have been overlooked
- Identify areas of vegetation of 4 hectares or greater that have been overlooked
- Identify areas of BMO that can be removed (i.e. long term harvested plantation, errors in mapping)

The verification process identified approximately 31km<sup>2</sup> of additional area to be considered for inclusion in the updated BMO and 1.3km<sup>2</sup> to be removed. These amendments mainly included small areas of vegetation that had been overlooked by DELWP.

If Council's amendments to the proposed BMO are adopted by the State Government, the changes will result in a total of 638km<sup>2</sup> (63800 hectares) or 23.5% of the municipality being encompassed by the BMO. The change will expand the BMO by 3.5% in comparison to the existing BMO. The primary impact will be on landowners and properties located within the new 150 metre buffer.

Following Council's review and verification process, the Planning Team Leader and Acting Environment Services Team Leader met with DELWP representatives to provide feedback on the proposed BMO and present the changes identified during Councils verification process. DELWP is currently considering Councils proposed amendments to the proposed BMO.

A limited competitive funding pool has been offered to Councils to assist with the roll out of the proposed BMO and any community engagement processes required.

The implementation timetable requires Council review and provide feedback by mid-September 2016 thereby precluding any broad scale Council community engagement process. The State Government intends to introduce the mapping without broad scale public consultation.

## *Discussion*

### *Community Engagement*

Councils can choose to place the BMO on public display however the State Government intends to introduce the overlay changes without broad scale public consultation. The short response timeframe precludes any broad scale community engagement by Council. It is considered that notification of properties newly affected by the overlay should be undertaken by Council to inform them of the change.

### ***Cultural Heritage Implications***

It is considered that there are no cultural heritage implications.

### ***Financial & Risk Management Implications***

The State Government will be implementing the change to the BMO with no financial commitment required by Council. Council's only resource exposure will be increased Council Officer engagement with landholders if a notification process is undertaken.

It is considered that there are no financial implications.

The updated BMO will provide additional protection against bushfire risk in the municipality. Council is exposed to reputational risk due to the lack of community engagement.

It is considered that there are no risk management implications.

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

The updated BMO will impose additional construction requirements on landholders proposing to build within the BMO with the requirement for a Planning Permit and the additional conditions contained therein.

It is considered there are some economic implications.

The updated BMO intends to provide a higher level of bushfire protection to the community. Therefore there should be an improved social outcome with decreased bushfire risk and increased community resilience to bushfire. The additional area encompassed by the BMO is likely to be viewed negatively by the community due to the actual and perceived imposition on those seeking to live within the BMO.

It is considered that there are no social implications.

The updated BMO will result in additional loss and fragmentation of native vegetation. Vegetation removal under the BMO does not require offsets to be established leading to further net loss of vegetation across the municipality.

It is considered that there are some environmental implications.

### ***Communications***

The very limited timeframe for Council consideration and feedback combined with the State Government intent to implement the update without broad scale community consultation precludes any significant community consultation.

It is considered that a communication plan is not required.

### ***Conclusion***

The State Government is updating State Planning Policy Framework – Bushfire to include reference to the Bushfire Prone Area (BPA) map in order to further integrate the planning and building systems. Council will see little change as a result of this amendment.

The Bushfire Management Overlay (BMO) is being updated by the State Government and now includes a 150 metre buffer from vegetation. Council has reviewed and verified the proposed changes and has provided feedback to the State Government with some minor changes for consideration. The updated BMO will encompass an additional 116km<sup>2</sup> or 3% of the municipality. State government timeframes preclude widespread community consultation.

***Moved Crs Phelan/Blake***

***That the Planning Committee, in regard to the State Government's proposal to introduce updated Bushfire Management Overlays (BMO's) into the Golden Plains Planning Scheme:***

- 1. Approves the submission of a funding application of \$5,000 to the Department of Environment, Water and Planning (DELWP) to support the BMO process, and***
- 2. Authorise notification to be given to all newly affected property owners informing them of the changes.***

***Carried***

Action: request for Councillors to also be notified of changes to landowners from the State Government notifications on updated Bushfire Management Overlays.

## **5. OTHER BUSINESS**

The Planning Committee were advised that the Melbourne Planning Authority has had a name change and is now the Victorian Planning Authority.

Cr Cameron raised a question on weight limits of bridges that have been changed – this was referred to Mr Greg Anders, Director Assets & Amenity.

Request for an update to be provided to Councillors on a planning permit application from over three years ago on Pioneer Ridge Road.

### **5.1. IN CAMERA MEETING**

As a Section 86 Special Committee of Council, the Planning Committee may, in accordance with Section 89 of the Local Government Act 1989, resolve to close the meeting to members of the public if the meeting is discussing:

- (a) Personnel matters;
- (b) The personal hardship of any resident or ratepayer;
- (c) Industrial matters;
- (d) Contractual matters;
- (e) Proposed developments;
- (f) Legal advice;
- (g) Matters affecting the security of Council property;
- (h) Any other matter which the Council considers would prejudice the Council or any person;
- (i) A resolution to close the meeting to members of the public.

## 6. ATTACHMENTS

Attachment 1	Item 4.1.1	P16-123 application
Attachment 2	Item 4.1.1	P16-123 locality plan
Attachment 3	Item 4.1.3	P16-127 application and plans
Attachment 4	Item 4.1.3	P16-127 locality plan
Attachment 5	Item 4.1.3	P16-127 objections (2)
Attachment 6	Item 4.1.4	Part 1 – SLO 1 and 15 Instruction Sheet, Explanatory Report, Submissions Received, conditional withdrawal of submissions including new map for proposed Rowsley Scarp Environs
Attachment 7	Item 4.1.4	Part 2 – SLO14
Attachment 8	Item 4.1.5	BMO Review Map

Attachments are available upon request.

## 7. DATE OF NEXT MEETING

To be advised.

**8. CLOSE OF MEETING**

The meeting closed at 10.51am.

**9. CERTIFICATION**

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

\_\_\_\_\_  
**Confirmed, Chair, Cr Bill McArthur**

\_\_\_\_\_  
**Date**

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