

**Priority Projects Standing Advisory Committee Report  
Golden Plains Shire Planning Scheme  
Referral 33: Dardel Drive, Bannockburn**

*Planning and Environment Act 1987*

**4 October 2023**

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Priority Projects Standing Advisory Committee Report pursuant to section 151 of the *Planning and Environment Act 1987*

Referral 33: Dardel Drive, Bannockburn

*Members of the Priority Projects Standing Advisory Committee who considered this referral:*



Sarah Raso, Chair



Annabel Paul, Member

**4 October 2023**

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## Glossary and abbreviations

Amendment	draft Golden Plains Planning Scheme Amendment C103gpla
Bannockburn Growth Plan	Bannockburn Growth Plan (Victorian Planning Authority, May 2021)
Council	Golden Plains Shire Council
DFP	Development Facilitation Program
DPO17	Development Plan Overlay Schedule 17
Minister	Minister for Planning
NRZ	Neighbourhood Residential Zone
NRZ1	Neighbourhood Residential Zone Schedule 1
PE Act	<i>Planning and Environment Act 1987</i>
Permit	draft Planning Permit PA2302111
PPN70	Planning Practice Note 70 Open Space Strategies
PPRZ	Public Park and Recreation Zone
PSP	Precinct Structure Planning
Recreation Strategy	Golden Plains Shire Sport and Active Recreation Strategy, 2020-2030
subject land	Dardel Drive, Bannockburn (formally described as Reserve 1 on Plan of Subdivision 631696N)

# 1 Overview

## 1.1 Referral summary

Referral summary	
Referral	Referral 33
Subject land	Dardel Drive, Bannockburn (formally described as Reserve 1 on Plan of Subdivision 631696N)
draft Amendment	Draft Golden Plains Planning Scheme Amendment C103gpla
draft Permit	Draft Planning Permit PA2302111
Brief description	<p><b>Draft Amendment:</b></p> <ul style="list-style-type: none"> <li>- rezone the subject land from Public Park and Recreation Zone to Neighbourhood Residential Zone Schedule 1</li> <li>- apply a new Development Plan Overlay Schedule 17</li> <li>- make the Minister for Planning the Responsible Authority for matters relating to the Permit</li> </ul> <p><b>Draft Permit:</b></p> <ul style="list-style-type: none"> <li>- subdivide the subject land into 51 lots</li> <li>- remove the reserve status from the northern portion of the subject land</li> <li>- provide for a drainage basin.</li> </ul>
Municipality	Golden Plains Shire
The Proponent	Golden Plains Shire Council
Planning Authority	Minister for Planning
Public consultation	The Department of Transport and Planning undertook consultation under section 20(5) of the <i>Planning and Environment Act 1987</i>
Submissions	Number of Submissions: 29 Oppose: 27

Committee process	
The Committee	Sarah Raso (Chair) and Annabel Paul (Member)
Supported by	Anne-Marie Edgley, Senior Project Officer, Planning Panels Victoria
Directions Hearing	Video conference, 16 August 2023
Committee Hearing	Bannockburn Customer Hub, 2 Pope Street, Bannockburn and by video conference, 11 September 2023
Site inspection	Unaccompanied, 10 September 2023 and 11 September 2023
Parties to the Hearing	Golden Plains Shire Council, represented by Chris Marshall of Planit Consulting

	Joshua Trowell, Maureen Lapsley, Chris Balis and Stuart Hall represented by Joshua Trowell calling expert planning evidence from Sally Jeavons of @leisure Planners Pty Ltd
Citation	Priority Projects Standing Advisory Committee Referral 33 [2023] PPV
Date of this report	4 October 2023

## 1.2 Findings

The Committee finds:

- The Council process in relation to declaring the subject land surplus is a separate matter to the consideration of the draft Amendment and draft Permit.
- The proposed subdivision of the subject land for future medium density housing and social and affordable housing will not unreasonably impact the amenity of surrounding neighbours.
- Further strategic work is required to demonstrate whether the proposed rezoning of the subject land from Public Park and Recreation Zone to Neighbourhood Residential Zone and the consequential loss of public open space is an appropriate planning outcome.

## 1.3 Recommendations

The Committee recommends the Minister:

- 1. Abandon draft Golden Plains Planning Scheme Amendment C103gpla.**
- 2. Not issue Draft Planning Permit PA2302111.**

### Further recommendations

The Committee makes the following further recommendations. Council should:

- Prepare an open space strategy to assess the existing open space supply within Bannockburn, identify future open space needs, and identify whether there are any existing gaps or an existing surplus supply of open space.
- Prepare a master plan for the Bannockburn Recreation Reserve to guide its future use and development in the short and long term.

## 2 Introduction

### 2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the former Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference dated 9 September 2023<sup>1</sup>:

... provide timely advice to the Minister for Planning on projects referred by the Development Facilitation Program (DFP), or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

The revised Terms of Reference for the Committee were approved by the Minister for Planning part way through the Hearing process. The Committee advised all parties of the updated Terms of Reference on 13 September 2023. The revised Terms of Reference did not alter the task of the Committee for this referral.

This is Priority Project Referral 33. The letter of referral for Referral 33 was dated 21 July 2023, and asked the Committee for advice and recommendations on whether to:

- prepare, adopt and approve draft Golden Plains Planning Scheme Amendment C103gpla (the Amendment)
- grant draft Planning Permit PA2302111 (the Permit).

The Minister requested the Committee constrain its specific advice to the following themes:

- loss of public open space
- amenity impacts from potential future medium density housing and social and affordable housing
- lack of consultation on the decision to declare the land as surplus.

The members of the Committee dealing with Referral 33 were:

- Sarah Raso, Chair
- Annabel Paul, Member.

The Committee was assisted by Anne-Marie Edgley, Senior Project Officer, of the office of Planning Panels Victoria.

### 2.2 The subject land and planning context

#### (i) The subject land

The subject land is shown in Figure 1. It is:

- around 3.5 hectares on the corner of Mowbray Way and Dardel Drive, Bannockburn
- vacant and undeveloped open space which forms part of the 13.2 hectare Bannockburn Recreation Reserve
- zoned Public Park and Recreation Zone (PPRZ).

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<sup>1</sup> Appendix A

**Figure 1** Subject land**(ii) The surrounding area**

The southern half of the Bannockburn Recreation Reserve is developed with soccer grounds, the YMCA Bannockburn Recreation Club, the Golden Plains Youth Hub, the Bannockburn Tennis Club and undeveloped land.

The subject land adjoins Mowbray Way to the west, Dardel Drive to the northeast, residential development to the southeast and open undeveloped parkland to the south. More broadly, the subject land sits within an established residential setting which consists predominantly of single storey brick dwellings.

Additional open space reserves and the Bannockburn Central Business District are located a short distance to the southeast of the subject land.

**(iii) The planning context****Table 1** Planning context

	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the PE Act
<b>Municipal Planning Strategy</b>	- Clause 2
<b>Planning Policy Framework</b>	<ul style="list-style-type: none"> <li>- Clauses 11.01-1S (Settlement), 11.01-1R (Settlement – Geelong G21), 11.01-1L (Settlement), Clause 11.03-6L-01 (Bannockburn)</li> <li>- Clause 12.01-2S (Native vegetation management)</li> <li>- Clause 13.04-1S (Contaminated and potentially contaminated land)</li> <li>- Clause 15.03-2S (Aboriginal cultural heritage)</li> <li>- Clause 16.01-1S (Housing supply), 16.01-1L (Housing supply in Golden Plains), 16.01-2S (Housing affordability)</li> </ul>



	<ul style="list-style-type: none"> <li>- Clauses 18 (Transport), 18.01-1S (Land use and transport planning)</li> <li>- Clauses 19.02-6S (Open Space), 19.03-3S (Integrated water management)</li> </ul>
<b>Other planning strategies and policies</b>	<ul style="list-style-type: none"> <li>- Plan Melbourne Direction 4, Policies 4.1, 4.2</li> <li>- Golden Plains Strategic Framework Plan</li> <li>- G21 Regional Growth Plan</li> <li>- Bannockburn Growth Plan (Victorian Planning Authority, May 2021)</li> <li>- Golden Plains Sport and Active Recreation Strategy, 2020-2023</li> <li>- Golden Plains Open Space Strategy, 2013-2017</li> </ul>
<b>Planning scheme provisions</b>	<ul style="list-style-type: none"> <li>- Public Park and Recreation Zone</li> <li>- Neighbourhood Residential Zone</li> <li>- Development Plan Overlay</li> </ul>
<b>Ministerial directions</b>	<ul style="list-style-type: none"> <li>- Ministerial Direction Form and Content of Planning Schemes</li> <li>- Ministerial Direction 11 (Strategic Assessment of Amendments)</li> </ul>
<b>Planning practice notes</b>	<ul style="list-style-type: none"> <li>- Planning Practice Note 46: Strategic Assessment Guidelines, September 2022</li> </ul>

## 2.3 The proposal

### (i) The Amendment

The Amendment proposes to:

- rezone the subject land from PPRZ to Neighbourhood Residential Zone Schedule 1 (NRZ1)
- apply a new Development Plan Overlay Schedule 17 (DPO17)
- amend the Golden Plains Planning Scheme to make the Minister the Responsible Authority for matters relating to the planning permit application.

The Minister is considering preparing, adopting and approving the Amendment under section 20(4) of the *Planning and Environment Act 1987* (PE Act).

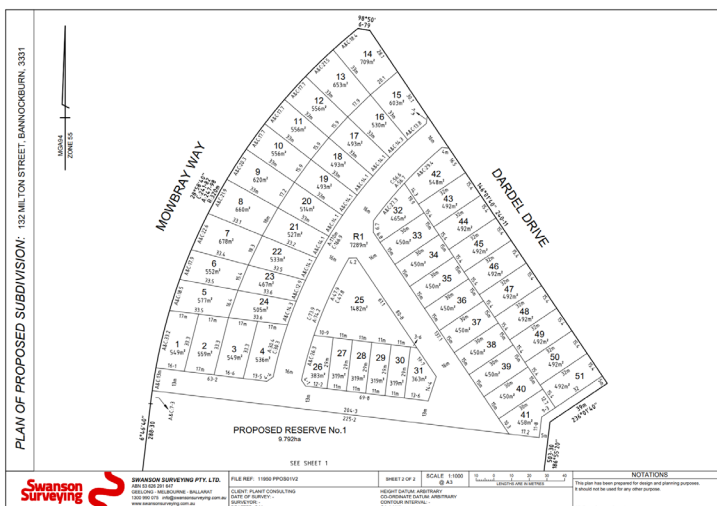
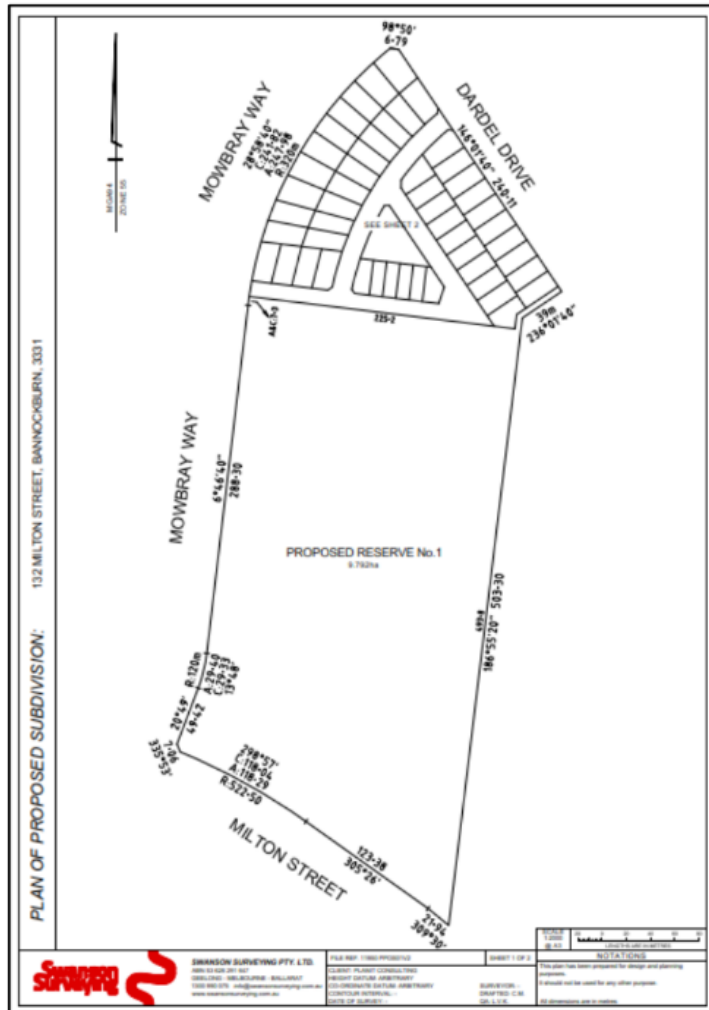
### (ii) The Planning Permit

The Permit proposes to:

- subdivide the subject land into 51 lots
- remove the reserve status from the northern portion of the subject land
- provide for a drainage basin.

The proposed subdivision layout is shown in Figure 2.

Figure 2 Proposed subdivision layout



Source: Proposed Plan of Subdivision (Document 3g)

## 2.4 Background

Council provided a background to the Amendment and Permit in its Part A submission, including a chronology of events which the Committee has summarised in Table 2.

**Table 2** Chronology of events

Date	Event
23 September 2004	Bannockburn North West Development Plan endorsed – shows subject land as residential
8 September 2005	Planning Scheme Amendment C19 gazetted – rezone subject land from Township Zone to Residential 1 Zone
12 January 2010	Bannockburn North West Development Plan amended to show subject land as “Recreation Reserve/Playground”
25 February 2016	Planning Scheme Amendment C70 gazetted – rezone subject land from General Residential Zone to PPRZ
23 March 2021	Council declared the subject land as surplus to Council’s needs and requested the initiation of a rezoning and subdivision request with a view to sell the land to fund future recreational improvements across the Shire
28 October 2022	Combined Amendment and Permit request lodged with the Development Facilitation Program (DFP) of the Department of Transport and Planning
24 February 2023	DFP endorsed the combined Amendment and Permit request
10 to 24 March 2023	DFP undertook consultation in relation to the Amendment and Permit on behalf of the Minister for Planning under section 20(5) of the PE Act. It consulted with the community and government agencies by letter dated 10 March 2023 and received 29 submissions. 27 submissions objected to the Amendment and Permit
21 July 2023	Minister for Planning referred the combined Amendment and Permit to the Committee All submissions were referred to the Committee

## 2.5 Scope of Committee’s remit

The Committee appreciates that for the community, the proposed rezoning and future sale of the subject land are matters that are inextricably linked and that the rezoning advances the possibility of sale. However, while this may be the case, it is not the role of Committee to review any intention of Council to dispose of the subject land.

The Minister requested the Committee constrain its specific advice to the following themes:

- loss of public open space
- amenity impacts from potential future medium density housing and social and affordable housing
- lack of consultation on the decision to declare the land as surplus.

The letter of referral makes it clear that the Committee is to only consider these matters referred. This means that the Committee has confined its review to these issues only. In doing so, the Committee considered all written submissions received during the consultation period as well as

submissions and evidence presented to it during the Hearing. The Committee has been assisted by the information provided to it as well as its observations from an unaccompanied inspection of the subject land.

## 3 The issues

### 3.1 Loss of public open space

#### (i) The issue

The issue is whether the proposed rezoning of the subject land from PPRZ to NRZ1 and the consequential loss of public open space is an appropriate planning outcome.

#### (ii) Background

The Committee asked the Council to address it on the strategic justification to rezone the subject land from PPRZ to NRZ1, including the justification for the loss of public open space.

The Committee sought submissions on the strategic justification more generally given the Bannockburn Growth Plan (Victorian Planning Authority, May 2021) (Bannockburn Growth Plan) identifies significant areas for residential growth within the proposed Bannockburn Growth Boundary but nominates the subject land as 'recreation'. See Figure 3 which shows the subject land circled in navy blue and identified as 'recreation'.

The Bannockburn Growth Plan is a high-level and broad strategy that:

- sets a vision for Bannockburn
- guides sustainable growth and development over the next 30 years
- identifies the steps needed to manage growth
- defines key projects and infrastructure required to support growth
- provides certainty for public and private investment decision making.

The subject land is located inside the Bannockburn Growth Boundary.

The Bannockburn Growth Plan identifies three growth precincts for short and medium growth (see Figure 4) and major features to be delivered within each precinct, including a secondary arterial route, a constructed waterway corridor, a local activity centre, and an array of community facilities and services.

Figure 3 Bannockburn Growth Plan – Framework Plan

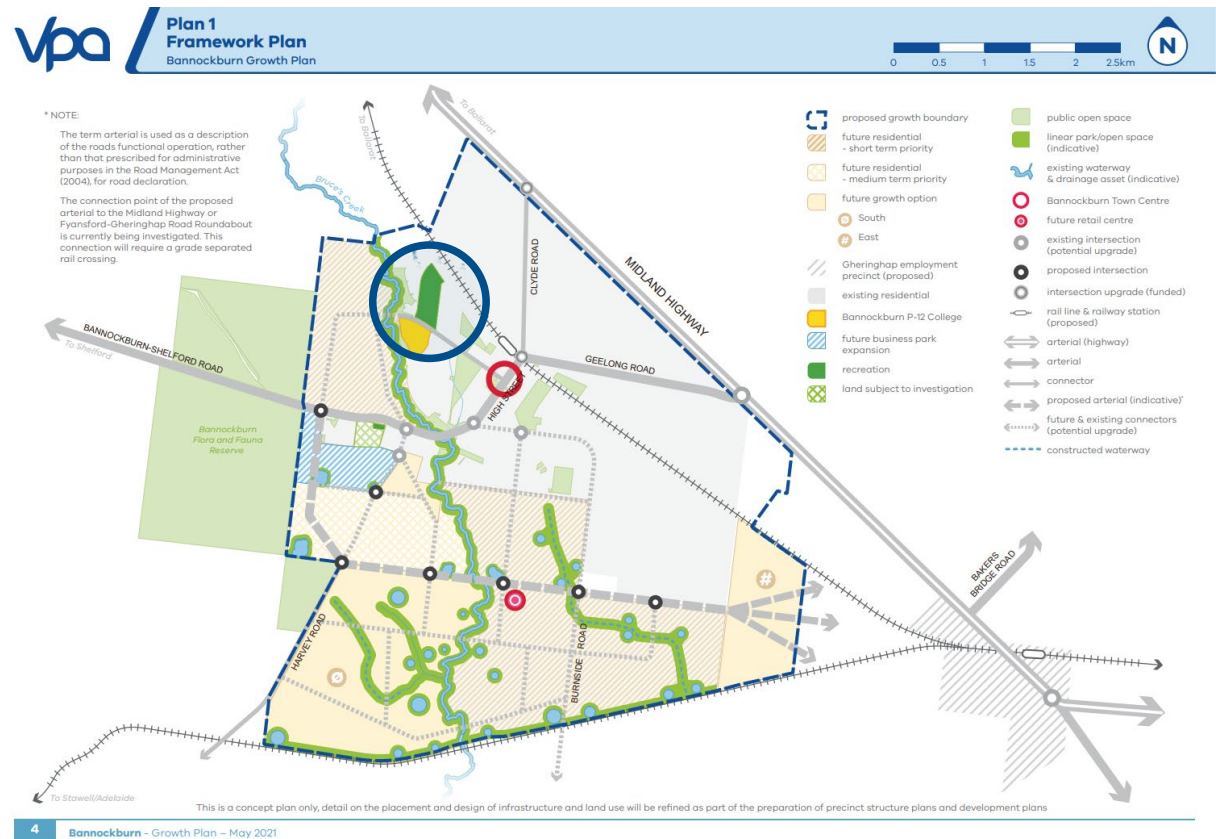
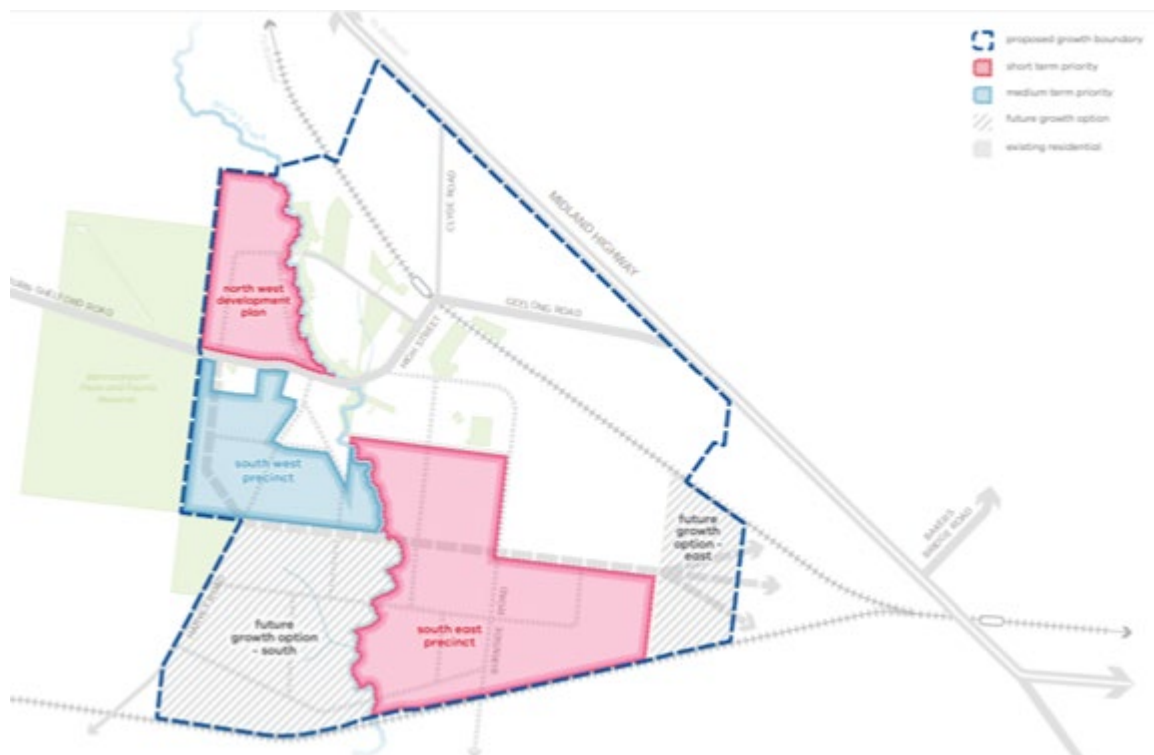


Figure 4 Bannockburn Growth Plan – Proposed Growth Areas



**(iii) Evidence and submissions**

Council submitted the subject land falls within the Bannockburn Growth Plan which identifies that all residential growth is to occur within the proposed growth boundary. This will include growth within both the identified growth areas and infill development within the established township.

Council submitted:

The Bannockburn Growth Plan is not a static document and only confined to deliver residential development solely via greenfield development sites as the Bannockburn Growth Plan also encompasses existing developed areas of Bannockburn till 2050.

Thus, it is reasonable that changes of use and new developments can occur outside of the larger greenfield sites over the period of the Growth Plan.

Therefore, the location of residential growth as proposed in the Amendment is consistent with the direction for residential growth in the Bannockburn Growth Plan which is inside the Growth Boundary.

The Bannockburn Growth Plan is a framework plan that provides a high-level direction for the growth of Bannockburn and as such lacks the sufficient detail needed to enable the land to be rezoned without further detailed work.

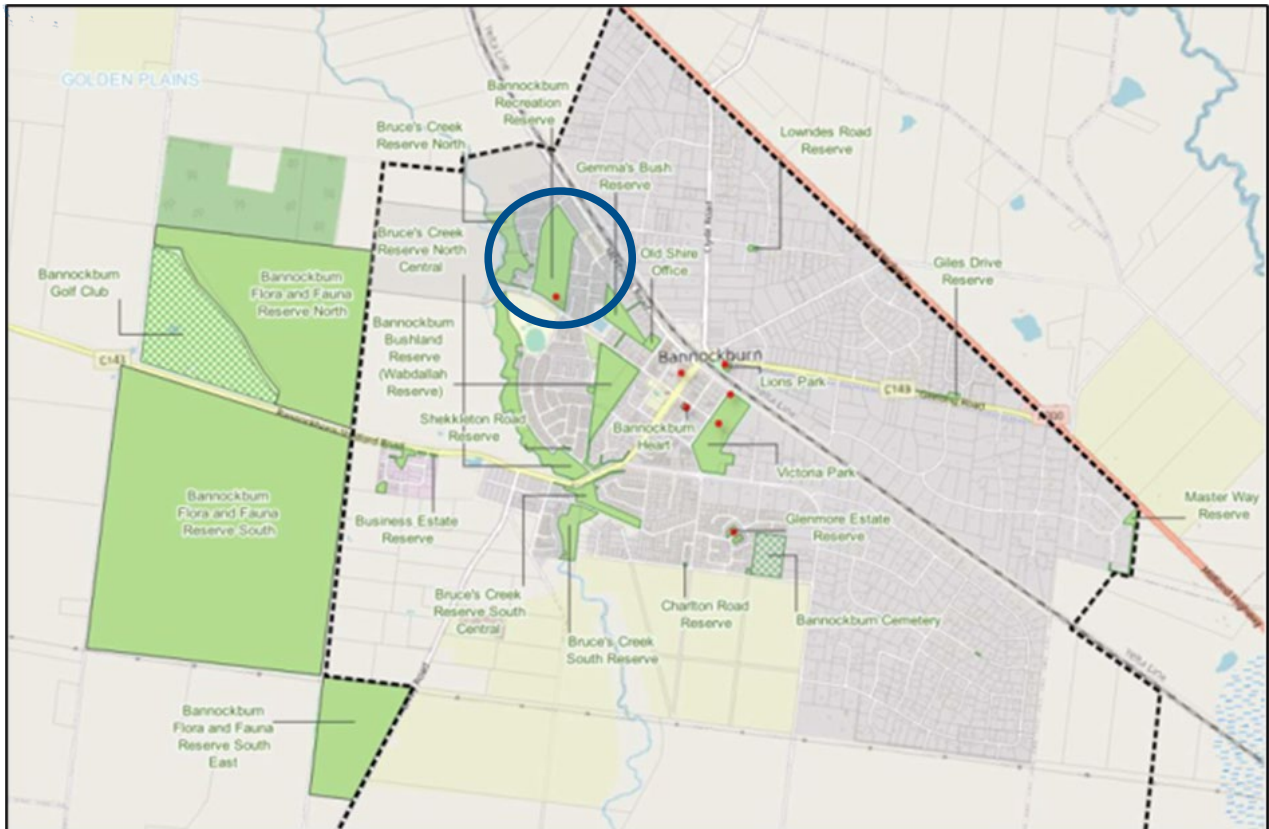
Council submitted that just because the subject land is currently shown as ‘recreation’ in the Bannockburn Growth Plan, that this does not preclude more detailed design work which might suggest changes to facilitate new uses, such as residential housing. Council submitted the Amendment and Permit provide a detailed development plan response for the subject land, supported by reports and assessments, *“that validate that a residential development can be facilitated at this site”*.

In relation to the loss of public open space, Council submitted there are substantial areas of passive and active public open space opportunities located in and surrounding the Bannockburn Recreation Reserve to service the needs of residents located in the north and north/western parts of Bannockburn. Council said the loss of 3.5 hectares of open space was appropriate and would not negatively impact the open space distribution and accessibility outcomes for Bannockburn residents.

Council relied on Figure 5 to illustrate the extent of existing open space. This includes Victoria Park to the southeast of the township which provides active recreational open space including football grounds and netball courts.



**Figure 5** Current distribution of open space (subject land circled)



Source: Council Part B Submission (Document 23)

**Council submitted:**

- its open space resources are being directed to reflect the strategic long-term growth of the town, namely the future growth areas to the south, southeast and northwest of the town as shown on the Bannockburn Growth Plan
- future active open space reserves in the southeast growth area will include two AFL grounds, multiple netball courts and other recreational uses such as athletics and baseball facilities that can't be accommodated on the subject land
- while the precise nature and location of these future reserves is unknown, the Victorian Planning Authority is undergoing Precinct Structure Planning (PSP) for the southeast and northwest growth area precincts (with consultation on these draft plans expected to commence next year)
- it would replace the 3.5 hectare reserve with a commensurate sized reserve if the Amendment was prepared and approved, to ensure no net loss of public open space.

**Mr Trowell on behalf of himself and other residents submitted:**

- there was no clear strategic justification to rezone the subject land
- the proposed rezoning failed to align with any strategic study or report, including the Bannockburn Growth Plan.

Mr Trowell referred to Planning Practice Note 70 Open Space Strategies (PPN70) that states:

...All open space planning and action should be based on the preparation of a comprehensive Open Space Strategy (OSS)...

Mr Trowell submitted this had not been done it was premature to rezone the subject land in the absence of future strategic work, including the future growth area planning.



Mr Trowell referred to the dynamic role of open space, referring to PPN70 where it states:

Preserving existing open space is also important as it can be modified over time to perform different open space roles in response to changing community needs. Land that may appear to be of marginal benefit to one generation may be of critical importance to the next.

Ms Jeavons provided expert evidence in relation to recreation and open space planning on behalf of Mr Trowell and other submitters.

Ms Jeavons said the proposal to dispose of part of the reserve and rezone the subject land needs additional research to substantiate any benefits. She said:

- the proposed rezoning lacked necessary detail about what alternative infrastructure is to be provided and funded from the sale of the reserve
- no assessment of costs and benefits had been provided or detail around how the remaining reserve was to be developed
- the proposed rezoning was a poor outcome given both the loss of open space and the potential for future sports facilities
- the disposal of this open space would reduce flexibility in the provision and distribution of open space, the likely sustainable mix and layout of sports facilities to serve the area, and the diversity of open space experiences possible and green infrastructure outcomes in an area of increasing density.

Ms Jeavons did not consider there was justification to rezone the open space, in the absence of a master plan or other documentation assessing the impacts of the reduction to the size of the reserve. In her view the reserve is well positioned to be able to cost-effectively enable growth of sports on site, accommodate summer and winter codes, provide canopy trees and a trail around its perimeter, and to provide for informal and social recreation activities.

Ms Jeavons said:

Generous-sized parks typically provide better experiences for a broader range of people. They are more resilient, most easily retrofitted and more likely to be attractive, enhance biodiversity and enable social, physical and environmental activities that may not be possible in smaller or multiple pocket parks.

Ms Jeavons recommended a range of further steps be taken before proceeding with the proposed rezoning and subdivision, including the preparation of:

- an independent assessment of the recreational and open space demands for both the Shire and Bannockburn to determine implications for future open space provision and future facilities by nature and distribution
- a master plan for the reserve showing the nature, quality and layout of facilities required to service specific sports and recreation activities in the long term.

#### **(iv) Discussion**

The Committee acknowledges that Council, like other landowners, have changing priorities over time that can include the need or desire to sell land. Council considers the loss of public open space in Dardel Drive justified as a proactive step to provide funding for alternative open space in their growth areas.

While the Committee understands these changing priorities, it agrees with Mr Trowell and Ms Jeavons that the appropriate strategic justification for the proposed rezoning and subdivision, has not been demonstrated. There has been no analysis of the nature and distribution of existing open space in Bannockburn or the municipality more broadly, to determine how this currently

services the needs of residents and how it is projected to in the future. While Council submitted their open space and recreation planners have internally assessed this, no documentation was provided when requested by the Committee.

As noted by Ms Jeavons, typically as private open spaces associated with dwellings reduce in size, our urban areas become denser and population increases, there is increasing demand for larger areas of public open space that can provide for diverse functions and respond to changing demands. As such, the decision to reduce the size of an existing reserve should not be taken lightly, or without strategic justification.

At Clause 19.02-6S Open Space of the Planning Scheme, the objective is:

- To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.

Strategies include:

- Improve the quality and distribution of open space and ensure long-term protection.
- Ensure that where there is a reduction of open space due to a change in land use or occupation, additional or replacement parkland of equal or greater size and quality is provided.

PPN70 states that all open space planning should be based on the preparation of a comprehensive Open Space Strategy which should:

- provide an overview of existing open space resources and future needs
- provide a basis for decision making about future open space provision and development
- assist financial and resource planning and asset management
- identify areas of under-provision of open space and articulate strategies for how land could be acquired or disposed of for the purpose of open space
- facilitate a co-ordinated approach to open space planning
- articulate community and local government aspirations in relation to open space provision and development.

It is this work that Ms Jeavons said is required to be undertaken before a decision rezone the subject land is made. The Committee agrees.

The Golden Plains Shire Sport and Active Recreation Strategy, 2020-2030<sup>2</sup> (Recreation Strategy) has undertaken some of this work, however it does not include any assessment of under-provision (or over-provision) of open space, nor strategies to acquire or dispose of land.

Rather, the Recreation Strategy confirms the need to provide clear evidence-based justification in making decisions around open space, stating:

Our decisions around where to invest resources will be strongly guided by demonstrated community needs, our strategic principles, a clear evidence base and an awareness of current issues and trends impacting physical activity at a local, regional, state, national and international level.

Part 7 of the Recreation Strategy sets out a series of planning principles that are to be used as the basis to assess capital works priorities and investments in programs and services, including developing or renewing and upgrading facilities.

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<sup>2</sup> Document 11.

The Committee accepts the evidence of Ms Jeavons that without a proper assessment of recreational and open space demands in the municipality, there is inadequate justification to rezone the subject land and subdivide it for residential purposes.

The Committee also has concerns about the lack of information about the nature and location of the alternative open space to be provided.

The exhibited draft Permit<sup>3</sup> includes a condition requiring a section 173 agreement to be registered on title with the agreement providing for:

All income received from the sale of the land must be transferred to Councils Recreation Reserve Account and be spent on recreation infrastructure and facilities within the municipality.

In response to questions from the Committee during the hearing, Council included an additional requirement in the proposed section 173 agreement for *“delivery of an open space reserve of an equivalent size”*.

Council submitted that the income would be spent on a future active open space area(s) within one of their growth areas, with the location to be determined through the PSP process, that is not publicly available at this time. Council referred to its plan of *“future indicative open space locations”* (Figure 5) and submitted it is proposed that the future open space reserves will accommodate two AFL grounds, multiple netball courts and other recreational uses such as athletics and baseball.

The Committee agrees with Council that the PSP process will provide for new open space areas to service the new communities, in line with the principles of the Precinct Structure Planning Guidelines: New Communities in Victoria. This planning work is also likely to be accompanied by a Development Contributions Plan or Infrastructure Contributions Plan to detail funding mechanisms for the delivery of open space (and other community infrastructure). However, in the absence of this information, including the location, nature, quality and type of open space to be delivered, the catchment it is likely to serve, funding sources including works in kind by developers, development contribution funds and/or Council funding, there can be no cost benefit analysis of the proposed rezoning. There can be no assessment against the strategic planning principles outlined in the Recreation Strategy, and no certainty as to whether the replacement land will be of equal or greater size and quality.

Some of this work could have been done through expert evidence called on behalf of Council which the Committee would have benefited from. However disappointingly (and unlike the resident submitters) the Council choose not to call any evidence.

More generally, the Planning Scheme sets out a clear obligation for planning to anticipate and respond to future residential needs of the Bannockburn township. However, the Committee cannot determine if the Amendment would deliver a net community benefit and sustainable development as required by Clause 71.02-3, because important information that would inform that assessment is not available.

While the Committee does not in principle have any significant concerns with the proposed rezoning (as discussed further in Chapter 3.2), it considers that further work is required before the Amendment is progressed. Further strategic work is required to determine whether the subject land is surplus and should be rezoned, including an assessment of the replacement open space

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<sup>3</sup> Document 3(h).

needs. This analysis will enable a fulsome assessment of the relative benefits and disbenefits of taking the subject land out of the public open space land supply equation.

**(i) Findings**

The Committee finds:

- Further strategic work is required to demonstrate whether the proposed rezoning of the subject land from PPRZ to NRZ1 and the consequential loss of public open space is an appropriate planning outcome. This might include:
  - preparation an open space strategy to assess the existing open space supply within Bannockburn, identify future open space needs, and identify whether there are any existing gaps or an existing surplus supply of open space
  - preparation of a master plan for the Bannockburn Recreation Reserve to guide its future use and development in the short and long term.

## **3.2 Amenity impacts**

**(i) The issue**

The issue is whether the proposed rezoning and subdivision of the subject land for future medium density housing and social and affordable housing will unreasonably impact the amenity of surrounding neighbours.

**(ii) Evidence and submissions**

Council submitted there are limited growth opportunities in the smaller towns within the Golden Plains Shire, primarily due to lack of reticulated sewerage and bushfire risk. Therefore, Bannockburn has been identified as the primary location able to deliver medium density development and provide for social and affordable housing. Council identified that the subject land was a location where a mix of new housing could be provided including some smaller lots and the provision of social housing.

Council submitted:

- the subdivision layout and design respond appropriately to the surrounding neighbourhood, by providing for larger lots around the perimeter of the subdivision opposite established housing, and smaller lots and the opportunity for medium density housing located internally to the subject land
- the NRZ1 would appropriately restrict new housing to a maximum of two storeys and nine metres to reflect the surrounding scale of development
- the traffic generated by the subdivision could be readily accommodated by the surrounding road network
- future housing could be adequately serviced by infrastructure.

In relation to affordable and social housing, Council submitted:

- subdivisions within the municipality are subject to a minimum six per cent contribution to social and affordable housing
- this would equate to four lots in the proposed subdivision
- the proposed affordable and social housing lots would be located internally to the subdivision and would not adversely impact the character and amenity of the surrounding area.

Resident submitters submitted:

- Bannockburn does not have the social facilities or services to support social housing
- there is a lack of frequent public transport to and from Geelong and Ballarat to enable residents to access work or support services locally
- many residents have purchased their homes because the subject land was a recreational reserve and this was a valued part of the amenity of their homes
- there is other land in Bannockburn available to be developed for housing
- the rezoning is not consistent with the rural character of Bannockburn and higher density housing was more appropriate in areas such as Geelong.

Ms Jeavons said the loss of an area open to the sky and with the potential for greening would have an adverse impact on surrounding landowners, by reduced convenience and accessibility to open space, reduced land values, and loss of amenity.

### **(iii) Discussion**

The Committee agrees with Council that generally the proposed subdivision layout has been designed to respond to the prevailing pattern of development in the surrounds, with similar sized lots fronting the established road network and smaller lots internally to the subject land. The slightly increased density and diversity of lots proposed is consistent with housing policy.

The layout has provided for vehicular and pedestrian connections through the subject land to the reserve to the south and the Landscape Master Plan<sup>4</sup> submitted as part of the proposal provides for the provision of street trees to assist with integrating new housing with surrounds.

While the provision of housing on the subject land would provide for a different outlook for existing residents and slightly reduced proximity to open space, it will not result in an unacceptable amenity impact. There are no apparent physical constraints to the development of housing, with the subject land being flat and devoid of infrastructure and trees or other established vegetation and there are no identified environmental or other constraints.

The provision of several lots for social housing is an appropriate planning outcome in an established residential community having regard to housing policy promoting a diversity of and more affordable housing. There is no reason this housing would cause unacceptable amenity impacts.

The Committee does have some questions around the proposed drainage reserve to service the subdivision, noting that this is not proposed to be provided within the subject land, but on reserve land to the south. While a Stormwater Management Plan<sup>5</sup> was provided with the application, the Committee consider there is a lack of detail around the area of land required, the nature and design of the basin and associated wetlands, and of the implications for the future use of the reserve. However, given the Committee was not asked to consider this particular issue, it makes no further findings in relation to this matter.

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<sup>4</sup> Document 28.

<sup>5</sup> Document 3.

#### (iv) Finding

The Committee finds:

- The proposed subdivision of the subject land for future medium density housing and social and affordable housing will not unreasonably impact the amenity of surrounding neighbours.

### 3.3 Consultation on the decision to declare the land surplus

#### (i) Background

At the Council meeting on the 23 March 2021, Council declared the subject land as surplus to Council's needs and requested that a rezoning and subdivision be initiated with the view to sell the land to fund future recreational improvements across the Shire. No consultation was undertaken in relation to this decision.

#### (ii) Evidence

Many submitters were concerned with the lack of community consultation in relation to Council's decision to declare the subject land surplus.

Council submitted:

The decision to also identify the land as surplus was determined after consideration of the future recreational needs of the Bannockburn community, the inability of the land to meet those needs due to its size and location, and Council's ability to fund existing and future open space in the growth areas of Bannockburn and other towns of the shire.

Given the imperative to deliver these broader community benefits in a timely manner, particularly to meet affordable and social housing funding opportunities, and to fund other recreational improvements, Council has sought to rely on the current process to consult with the community.

Council submitted the process to resolve matters at Council meetings without public consultation is not unusual in circumstances where future consultation is to occur through the amendment process. Council said the consultation process for the Amendment and Permit, which included notices to all adjacent landowners, *"sufficiently informed the community of this process which is evident by the number of submissions received"*.

In response to this, the submitters 1, 8, 11 and 15 referred to the *Golden Plains Shire Council's Community Engagement Policy, 2021* (Document 25k) which provides:

... Golden Plains Shire Council is committed to engaging with residents and stakeholders when making decisions that impact the community. The provision and consideration of community feedback and reviewing and improving engagement processes is integral to empowering communities, building relationships and informing and improving Council operations...

They submitted:

The decision made by the Council on 23 March 2021 to declare a significant public asset as surplus, and to plan for the rezoning, subdivision, and ultimate removal of that land, was strategic in nature, and in no way a standard operational-based decision.

The decision required input from the local community, which would have informed the outcome. Instead, the Council has continued to dismiss its role to consult with the community, suggesting on several occasions that this responsibility lies with the planning authority, and not the Council.

Submitters 1, 8, 11 and 15 referred to numerous projects where Council has consulted the community before making a decision, including the Lethbridge Lake Toilet Block Re-Location, Ross Creek Recreation Reserve Masterplan, Have Your Say on the Future of Vacant Council (2,496 square metres) Land in Batesford, Woody Yaloak Recreation Reserve Lighting Project, Three Trails Project, Bannockburn Skate Park Upgrade, Bakes Lane Reserve Management Plan and the Leighdale Equestrian Centre Masterplan.

**(iii) Discussion and finding**

The Committee is surprised by the actions of Council not to consult in relation to its decision to declare the subject land surplus. However, Council's decision and process to declare the subject land surplus is separate to the consideration of whether both the Amendment and Permit are appropriate planning outcomes. The role of the Committee is to consider whether the Amendment is strategically justified having regard to the Planning Scheme (as discussed in Chapter 2.1). It is not the role of Committee or the Planning Authority to review any decision of Council to declare the subject land surplus. The Committee has therefore not considered the lack of consultation undertaken in relation to the surplus declaration.

The Committee finds:

- The Council process in relation to declaring the subject land surplus is a separate matter to the consideration of the Amendment and Permit.

## 4 Reasons and recommendations

### 4.1 Reasons

The Committee is satisfied the proposed subdivision of the subject land for future medium density housing and social and affordable housing will not unreasonably impact the amenity of surrounding neighbours. However, the strategic justification for the proposed rezoning and subdivision has not been demonstrated. There has been no analysis of the nature and distribution of existing open space in Bannockburn or the municipality more broadly to determine how the subject land currently services the needs of residents and how it is projected to in the future. Without a proper assessment of recreational and open space demands in the municipality, there is inadequate justification to rezone the subject land and subdivide it for residential purposes.

The Committee does not in principle have any significant concerns with the proposed subdivision and acknowledges the subject land can provide for a level of housing diversity and affordability. However, further strategic work is required to determine whether the subject land is no longer required for open space and should be rezoned, including an assessment of the replacement open space needs. This analysis will enable a fulsome assessment of the relative benefits and disbenefits of taking the subject land out of the public open space land supply equation.

#### **Possible permit conditions**

The parties participated in a 'without prejudice' discussion about appropriate permit conditions. The Committee directed Council to provide a 'Day 1' version of the permit conditions before the Hearing (Document 22). Council provided an updated set of permit conditions for discussion during the Hearing (Document 26).

Given the Committee was not asked to consider the appropriateness of the proposed permit conditions, and its recommendation for further work be undertaken before the subject land is rezoned and a permit issued, it has not reviewed the proposed Permit conditions in detail and makes no specific findings in relation to this matter.

The Committee generally endorses the proposed changes to the Permit as proposed by the Council, including an update to condition 18 to include the requirement for six per cent of dwellings to be allocated for social housing through a section 173 agreement.

However, the Committee notes sub-conditions 18(a) and 18(c) could not be enforced through a section 173 agreement in the event Council disposes of the subject land prior to acting on the Permit.

Sub-condition 18(a) and 18(c) require the section 173 agreement to provide for:

- a) All income received from the sale of the land must be transferred to Council's Recreation Reserve Account and be spent on recreation infrastructure and facilities within the municipality.
- b) ...
- c) Delivery of a public open space reserve of an equivalent size to the land subject to this permit within the Golden Plains Shire municipality.

When questioned by the Committee in relation to this condition it was clear Council had not given it appropriate consideration or reflected on its operation and validity. Mr Trowell submitted the use of a restrictive covenant might be a better tool to capture these matters. The Committee



considers both restrictions are appropriate and important and recommends further consideration should be given to how they might be achieved should a Permit issue.

More generally, the Committee notes the Permit should be updated to reflect the Department of Transport and Planning's 'Writing Planning Permits', May 2020. The Committee has produced an updated version of the Permit in Appendix E to generally reflect matters raised in submissions and the Department of Transport and Planning's 'Writing Planning Permits', May 2020.

## 4.2 Recommendations

The Committee recommends the Minister:

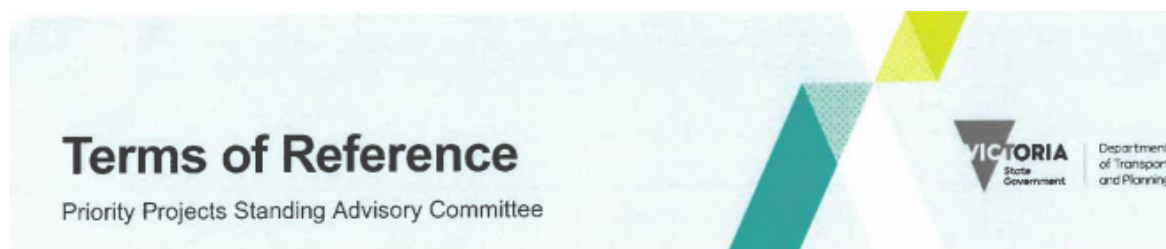
- 1. Abandon draft Golden Plains Planning Scheme Amendment C103gpla.**
- 2. Not issue Draft Planning Permit PA2302111.**

### Further recommendations

The Committee makes the following further recommendations. Council should:

- Prepare an open space strategy to assess the existing open space supply within Bannockburn, identify future open space needs, and identify whether there are any existing gaps or an existing surplus supply of open space.
- Prepare a master plan for the Bannockburn Recreation Reserve to guide its future use and development in the short and long term.

## Appendix A Terms of Reference



Version 2: Amended June 2023

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

### Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
  - a. statutory and strategic land use planning
  - b. land development and property economics
  - c. urban design and architecture
  - d. heritage
  - e. civil engineering and transport planning
  - f. social impacts
  - g. environmental planning
  - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

### Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Development Facilitation Program (DFP), or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

### Background

5. The Victorian Government is committed to streamlining the assessment and determination of projects that inject investment into the Victorian economy, keep people in jobs and create homes for people. The planning system is an important part of supporting investment and economic growth in Victoria.
6. The DFP focusses on new development projects in priority sectors and/or projects that are in the planning system that face undue delays. These can include (but are not limited to) housing, mixed use, retail, employment, tourism, industrial and other opportunities.

### Method

7. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
8. The referral letter must specify:
  - a. the specific issues the Minister for Planning seeks advice about
  - b. the mechanism of intervention being considered (for example, but not limited to, draft planning scheme amendment, call-in from the Victorian Civil and Administrative Tribunal, planning permit application)
  - c. whether submissions are to be considered by the Committee, and if so, how many are being referred, and
  - d. how the costs of the Committee will be met.
9. The letter of referral will be a public document.
10. In making a referral, the Minister for Planning or delegate must, either:
  - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria

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**Terms of Reference | Priority Projects Standing Advisory Committee**

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Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or

- b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
- 11. The Committee may inform itself in anyway it sees fit, but must consider:
  - a. The referral letter from the Minister for Planning
  - b. referred submissions
  - c. the comments of any referral authority
  - d. the views of the project proponent
  - e. the views of the relevant Council and
  - f. the relevant planning scheme.
- 12. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority, or government agency.
- 13. The Department of Transport and Planning (DTP) will be responsible for any further notification required. New submissions, if required, will be collected by DTP.
- 14. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
- 15. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
- 16. The Committee may:
  - a. assess any matter 'on the papers'
  - b. conduct discussions, forums, or video conferences when there is a quorum of:
    - i. a Chair or Deputy Chair, and
    - ii. at least one other member.
- 17. The Committee may apply to vary these Terms of Reference in any way it sees fit.

**Submissions are public documents**

- 18. The Committee must retain a library of any written submissions or other supporting documentation provided to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
- 19. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

**Outcomes**

- 20. The Committee must produce a concise written report to the Minister for Planning providing the following:
  - a. a short description of the project
  - b. a short summary and assessment of issues raised in submissions
  - c. a draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral
  - d. any other relevant matters raised during the Committee process
  - e. its recommendations and reasons for its recommendations
  - f. a list of persons or authorities/agencies who made submissions considered by the Committee and
  - g. a list of persons consulted or heard, including via video conference.

**Timing**

- 21. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
  - a. the date of receipt of referral, if no further submissions or information are to be sought, or
  - b. receipt of the final submission of material or final day of any public process in respect of a referral.

**Terms of Reference | Priority Projects Standing Advisory Committee**

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**Fee**

22. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
23. The costs of the Committee will be met by each relevant proponent.

  
**Sonya Kilkenny MP**  
**Minister for Planning**

**Date:**

9/9/2023

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**Terms of Reference | Priority Projects Standing Advisory Committee**

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The following information does not form part the Terms of Reference.

**Project Management**

1. Administrative and operational support to the Committee will be provided by Priority Projects, Department of Transport and Planning ([priority.projects@delwp.vic.gov.au](mailto:priority.projects@delwp.vic.gov.au)).
2. Day to day liaison for the Committee will be managed by Planning Panels Victoria ((03) 8624 5714 and [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)).

## Appendix B Letter of Referral



The Hon Sonya Kilkenny MP

Minister for Planning  
Minister for Outdoor Recreation

8 Nicholson Street  
East Melbourne, Victoria 3002 Australia

Ref: BMIN-1-23-1015

Ms Kathy Mitchell AM  
Panel Chair  
Priority Projects Standing Advisory Committee  
Planning Panels Victoria  
[planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)

Dear Ms Mitchell AM

### DEVELOPMENT FACILITATION PROGRAM – DARDEL DRIVE, BANNOCKBURN

I refer to draft Planning Scheme Amendment C103gpla to the Golden Plains Planning Scheme and draft planning permit PA2302111 affecting land at Dardel Drive, Bannockburn. The proposal has been considered by the Development Facilitation Program (DFP), which has deemed that it meets relevant criteria and should be prioritised for accelerated assessment and determination.

I am considering whether to prepare, adopt and approve draft Amendment C103gpla to the Golden Plains Planning Scheme and to grant draft planning permit PA2302111 and exempt myself under section 20(4) of the *Planning and Environment Act 1987* (PE Act) from the requirements of section 17, 18 and 19 of the PE Act and the Regulations.

Draft Amendment C103gpla proposes to rezone land at Dardel Drive, Bannockburn, from Public Park and Recreation Zone to Neighbourhood Residential Zone Schedule 1 and to apply the Development Plan Overlay Schedule 17. It is also proposed to subdivide the land into 51 lots, to remove the reserve status from the northern portion of the land and provide for a drainage basin.

The matter was subject to consultation under section 20(5) of the PE Act and resulted in 31 submissions, including 29 objections being received. The main objector concerns relate to loss of public open space, amenity impacts from potential future medium density housing and social and affordable housing, and lack of consultation on the decision to declare the land as surplus.

I have determined to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations on whether I should approve draft Amendment C103gpla



and grant Planning Permit PA2302111. I request that the committee's specific advice be constrained to the themes summarised above.

The cost of the committee process will be met by the proponent, Golden Plains Shire Council.

If you have any questions, please contact [REDACTED]

Yours sincerely



**The Hon Sonya Kilkenny MP**  
Minister for Planning

21/7/2023

## Appendix B Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Maureen Lapsley	16	Brian O'Shannassy
2	Robin O'Connell	17	Stef and Jordan Carruthers
3	Justine Singline	18	Tania Rae and Caine O'Neil
4	Melinda Hampshire	19	John O'Shannassy
5	Sonia Najda	20	Julie Slattery
6	Jon Zabiegala	21	Simone Collins
7	Bree and Bozidar Alavanja	22	Garry and Debbie Jackson
8	Stuart Hall	23	Craig Collins
9	Shirley Lucas	24	Jacqueline Slattery
10	Haydn Bethune	25	Amy Pickford
11	Chris Balis	26	Barwon Water
12	Kelvin Altmann	27	Scott Leeson
13	Shaun Ryan	28	Aaron and Ashleigh Lazzarich
14	Katie Love	29	Department of Transport and Planning
15	Josh Trowell		



## Appendix C Document list

No	Date	Description	Presented by
1	14 Jun 2020	Initial Terms of Reference	Minister for Planning
2	21 Jul 2023	Letter of Referral of matter to the Priority Projects Standing Advisory Committee	Minister for Planning
3	21 Jul 2023	Referred material including: <ul style="list-style-type: none"> <li>a) Town Planning Report, Planit, Sep 2022</li> <li>b) Certificate of Title</li> <li>c) Infrastructure Servicing Assessment Report, Planit, October 2022</li> <li>d) Vegetation Assessment, Mark Trengrove Ecological Services, October 2022</li> <li>e) Storm Water Management Plan, Planit, October 2022</li> <li>f) Clause 56 Assessment, Planit 2022</li> <li>g) Proposed Plan of Subdivision</li> <li>h) Draft Planning Permit</li> <li>i) Exhibited draft planning scheme amendment - C103gpla - Explanatory report</li> <li>j) Exhibited draft planning scheme amendment- C103gpla - Instruction Sheet</li> <li>k) Bannockburn Growth Plan (May 2021).</li> <li>l) Exhibited draft planning scheme amendment- C103gpla - 002 Development Plan Overlay Map29</li> <li>m) Exhibited draft planning scheme amendment - C103gpla - Schedule 17 to DPO</li> <li>n) Exhibited draft planning scheme amendment - C103gpla - Plan of Subdivision</li> <li>o) Cultural Heritage Management Plan, Terra Culture Heritage Consultants, March 2023</li> <li>p) Traffic Engineering Report, Traffix Group, November 2022</li> </ul>	Department of Transport and Planning (DTP)
4	21 Aug 2023	Committee Directions and Hearing Timetable Version 1	Planning Panels Victoria (PPV)
5	12 Aug 2023	Supplementary submission	Submitter 3
6	22 Aug 2023	Amended Directions and Timetable Version 2	PPV
7	22 Aug 2023	Bannockburn Locations Map	Council

No	Date	Description	Presented by
8	24 Aug 2023	Email from PPV seeking strategic documents from Council	PPV
9	28 Aug 2023	Email from Council to PPV with link to strategic documents	Council
10	28 Aug 2023	The Geelong Region Plan - A Sustainable Growth Strategy	Council
11	28 Aug 2023	Golden Plains Shire Council Sport and Active Recreation Strategy 2020-2030	Council
12	28 Aug 2023	Housing in G21 - Regional taskforce final report (12 December 2022)	Council
13	28 Aug 2023	Golden Plains Shire Open Space Strategy 2013-2017 Final Report (Jul 2013)	Council
14	28 Aug 2023	Golden Plains Shire Paths and Trails Strategy 2013-2017 Final Report (Jul 2013)	Council
15	28 Aug 2023	Golden Plains Play Space Strategy 2019-2029	Council
16	28 Aug 2023	Victorian Planning Authority Precinct Structure Planning Guidelines - New Communities in Victoria (October 2021)	Council
17	1 Sep 2023	Council Part A submission	Council
18	1 Sep 2023	Confirmed Council Meeting minutes	Council
19	1 Sep 2023	Council meeting agenda	Council
20	1 Sep 2023	Victorian Planning Authority PSP Guidelines Part 3	Council
21	1 Sep 2023	Statement of evidence of Sally Jeavons	Submitters 1, 8 11 and 15
22	6 Sep 2023	Day 1 version of permit	Council
23	6 Sep 2023	Council Part B submission	Council
24	7 Sep 2023	Council Fact Sheet	Council
25	8 Sep 2023	Submission, enclosing attachments: <ul style="list-style-type: none"> <li>a) Attachment 1 - Bannockburn Growth Plan 2021</li> <li>b) Attachment 2 - Bannockburn UDF 2011</li> <li>c) Attachment 3 - Council Meeting Report 23-03-2021</li> <li>d) Attachment 4 - Ministerial Direction 11</li> <li>e) Attachment 5 - Practice Note 70</li> <li>f) Attachment 6 - IBAC Operation Sandon Special Report</li> <li>g) Attachment 7 - Dourahalis v Monash CC 2008</li> <li>h) Attachment 8 - Friends of Merri Creek v Whittlesea CC 2018</li> <li>i) Attachment 9 - Section 20 Subdivision Act 1988</li> </ul>	Submitters 1, 8 11 and 15

No	Date	Description	Presented by
		j) Attachment 10 - Section 55 Local Government Act 2020	
		k) Attachment 11 - GPSC Community Engagement Policy 2021	
		l) Attachment 12 - Good Governance Guide	
		m) Attachment 13 - Somerset Estate – Plan to Purchases	
26	11 Sep 2023	Day of Hearing draft permit	Council
27	11 Sep 2023	Staged Plan of Subdivision	Council
28	11 Sep 2023	Landscape Masterplan	Council
29	11 Sep 2023	Development Plan	Council
30	13 Sep 2023	Updated Terms of Reference	PPV

## Appendix D Recommended permit conditions

Tracked against the Council version of the permit provided during the Hearing (Document 26).

Tracked Added

~~Tracked Deleted~~

### Draft Permit Preamble

This permit allows: Staged m~~M~~ulti-lot subdivision of the land, in accordance with the endorsed plans.

### Address of the land

132 Milton Street, Bannockburn Vic (Reserve 1 on Plan of Subdivision 631696N).

### Conditions

#### Formal Plan of Subdivision

1. The formal plan of subdivision lodged for certification of each stage must be in accordance with the approved plan and must not be modified except to comply with statutory requirements or with the further written consent of the Responsible Authority.

The plan of subdivision must generally be in accordance with the approved Development Plan.

#### Mandatory conditions

2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with section 8 of that Act.

#### Staging Plan

5. Prior to the approval of a Functional Layout Plan for the first stage of the subdivision, a sequential Staging Plan identifying the order of the subdivision and corresponding timing of works external to the site, must be submitted to the satisfaction of the Responsible Authority. The Staging Plan will then be endorsed under the permit.

#### Sequencing

6. Development sequencing must proceed in the order of stages as identified on the endorsed Staging Plan, unless otherwise agreed upon in writing by the Responsible Authority.

### Functional layout plan

7. Prior to the Certification of the relevant Plan of Subdivision for each stage, and prior to the submission of detailed engineering plans, a Functional Layout Plan for the subdivision or stage of subdivision, must be submitted to and approved by the Responsible Authority.

When approved, the Functional Layout Plan will form part of the permit. An electronic copy of the functional layout plan must be drawn at a scale of 1:500 to acceptable drafting standards.

### Social Housing

8. A minimum 6% of the proposed dwellings must be allocated for social housing as defined by the *Planning and Environment Act 1987*.

### **Telecommunications**

9. The owner of land must enter into an agreement with:
  - a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
10. Before a Statement of Compliance is issued for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
  - a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

### **Landscaping Master Plan (Staged subdivision)**

~~Before any works starts, a Landscaping Master Plan to the satisfaction of the Responsible Authority and prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The master plan is broadly conceptual and must include:~~

11. Before any works associated with the subdivision start, a landscape master plan must be approved and endorsed by the responsible authority. The landscape plan must:
  - a) be prepared to the satisfaction of the responsible authority
  - b) be prepared by a suitably qualified person
  - c) have plans drawn to scale with dimensions

d) be submitted to the responsible authority in electronic form

e) include the following:

- i. An accurate survey of the entire subdivision showing all existing vegetation, topography title boundaries, surrounding roads etc;
- ii. Proposed stages with road and lot layouts;
- iii. A detailed vegetation assessment survey showing all existing vegetation, vegetation to be retained and/or protected and vegetation to be removed;
- iv. Locations sizes, title designation of all public reserves (E.g. drainage, recreational, liner etc);
- v. Proposed major features and concepts for reserves (E.g. playgrounds, water features, retention basis, footpaths, offset plantings etc);
- vi. Concepts and locations for street tree plantings and landscaping treatments within road reserves (including roundabouts, centre medians etc);
- vii. Proposed planting 'styles' and locations for all plantings in public reserves and streets;
- viii. Location of footpaths and pathway linkages through the subdivision and public reserves;
- ix. Street trees must be selected from the Golden Plains Shire Council Approved Street Tree Guide 2020.

### Landscaping plans

~~12. Before the commencement of each stage, a detailed landscaping plan for all land within that particular stage, to the satisfaction of the Responsible Authority and prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and with dimensions and must include:~~

Before any works associated with each stage of the subdivision start, a detailed landscape plan must be approved and endorsed by the responsible authority. The landscape plan must:

- a) be prepared to the satisfaction of the responsible authority
- b) be prepared by a suitably qualified person
- c) have plans drawn to scale with dimensions
- d) be submitted to the responsible authority in electronic form
- e) include the following:

~~13.~~

- i. Appropriate street trees and appropriate landscaping of the proposed drainage reserve;

- ii. Street trees must be selected from the Golden Plains Shire Council Approved Street Tree Guide 2020, and must be a minimum of 1.8 metres in height at the time of planting;
- iii. Species including botanical names;
- iv. Pot size;
- v. Size at maturity;
- vi. Quantity of each plant;
- vii. Site preparation detail;
- viii. mulching and watering detail;
- ix. All existing vegetation, built structures and landscape features to be retained, protected and/or removed;
- x. All landscaping in public reserves, including lawn areas, street trees;
- xi. Details of any playgrounds, paths, fencing, park furniture, boardwalks, etc.

All landscaping works must be carried out and completed in accordance with the approved landscaping plan. [The responsible authority may consent in writing to vary any of these requirements.](#)

#### **Landscaping prior to statement of compliance**

14. Prior to the issue of the Statement of Compliance under the *Subdivision Act 1988*, [at each stage](#) landscape works must be completed, or a bond lodged with the Council for the value of 150% of uncompleted landscape works. The bond will be held until the landscaping has been satisfactorily completed. The landscaping and street trees as shown on the approved plans must be maintained for a period of twenty-four (24) months from the date when the Statement of Compliance was issued for that stage or from when the landscaping bond was refunded, whichever is the greater.

#### **Maintenance**

15. The landscaping as shown on the endorsed [landscaping](#) plans must be maintained to the satisfaction of the Responsible Authority, including replacing any dead, diseased or damaged plants.

#### **Street trees**

16. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the street trees must be planted within the road reserve in accordance with the approved plan. The trees must be advanced trees (E.g. 1.8m in height) and maintained to the satisfaction of the Responsible Authority.
17. A bond amount of \$500 per street tree must be provide to the Responsible Authority. The tree/s must be maintained for a period of twelve (12) months from planting to the satisfaction of the Responsible Authority. The bond will be returned twelve (12) months after completion of planting and maintenance works to the satisfaction of the Responsible Authority.

## Section 173 Agreement

**Committee note:** This condition requires further consideration as to how sub-conditions (a) and (c) might be achieved should a Permit issue. They would be unenforceable through a section 173 agreement in the event Council disposes of the subject land prior to acting on the Permit.

18. Prior to [a](#) statement of compliance being issued under the *Subdivision Act* 1988, the owner of the land must enter into an agreement under section 173 of the *Planning and Environment Act* 1987 with the Responsible Authority. The agreement must provide for the following:
  - a. All income received from the sale of the land must be transferred to Council's Recreation Reserve Account and be spent on recreation infrastructure and facilities within the municipality.
  - b. Delivery of a minimum [of](#) 6% of the proposed dwellings allocated for social housing as defined by the *Planning and Environment Act* 1987 ~~(The Act)~~. [The Agreement must specify the mechanism or model through which dwellings will be provided as social housing.](#)
  - c. Delivery [of a](#) ~~public~~ open space reserve of an equivalent size [to the land subject to this permit within the Golden Plains Shire municipality.](#)

The owner must pay the Responsible Authority's reasonable costs for the preparation, review, execution and registration of the section 173 agreement.

Once the obligation under this s173 Agreement is completed, the owner of the land can apply to Council to have this s173 Agreement removed in accordance with the requirements and fees outlined in the *Planning and Environment Act* 1987. The owner must pay all costs associated with the removal of the s173 Agreement.

## Endorsed Engineering Plans

19. Before the plan of subdivision is certified for each stage of the subdivision, detailed engineering plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be in accordance with the requirements of the Infrastructure Development Manual and to the satisfaction of the Responsible Authority. The plans must generally be in accordance with the Proposed Development Plan J7556 - Dardel Drive - Staging Plan dated 28/10/22 and endorsed Site Stormwater Management Plan J7556 – SWMP – REVB.

## Detailed Construction Plans

20. Before the plan of subdivision is certified for each stage of the subdivision and before any construction works associated with the development or subdivision start, detailed construction plans, drainage computations, specifications to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The construction plans must be to Council standards and specifications in the Infrastructure Design Manual (IDM). The plans must include:



- a. Earthworks;
- b. Detail of proposed filling;
- c. Fully sealed bituminous surface pavement with full-depth crushed rock shoulders (internal roads);
- d. Open, underground, and culvert drains;
- e. Specifications, notations, and schedules for all stormwater pit lids in the public realm to require the lightweight, composite, locking type of appropriate load rating;
- f. Concrete footpaths;
- g. Provision for shared /cyclist path;
- h. Drive entries;
- i. Major Storm overland flow paths;
- j. Signage details;
- k. Pavement details;
- l. Line marking detail;
- m. Fencing details;
- n. Retarding basin details to be contained in Council reserves inclusive of pedestrian access and maintenance tracks with direct access from road reserve, easily accessible by maintenance vehicles including access to the inlet and outlet;
- o. Provision of circular all-weather trafficable turning area of minimum 10m radius (excluding shoulders) at road ends;
- p. Detailed construction notes;
- q. Other as detailed in Infrastructure Design Manual (IDM) Appendix D.

All to the satisfaction of the Responsible Authority and must be submitted to and approved by the Responsible Authority. Construction plans shall be to Golden Plains Shire standards and specifications as detailed in Infrastructure Design Manual Version 5.30.

## **Drainage**

21. Before the plan of subdivision is certified for each stage of the subdivision under the *Subdivision Act 1988*, provide piped underground drainage generally in accordance with the approved Site Stormwater Management Plan and provide to each allotment in the subdivision a drainage discharge point. Drainage shall be in accordance with the requirements of Golden Plains Shire Council contained in Infrastructure Design Manual Version 5.30 and to the satisfaction of the Responsible Authority including:
- a. Provide piped underground drainage discharging to the nominated legal point of discharge
  - b. Provide to each allotment in the subdivision a discharge point.

- c. Provide drainage retardation to limit peak flow rates to pre-development levels, or as agreed, and generally in accordance with the endorsed Site Stormwater Management Plan J7556 – SWMP – REVB.
  - d. Provide erosion control in the form of rock beaching where required.
  - e. Upgrade of existing downstream drainage where required.
  - f. Provide stormwater treatment in accordance with current best practice performance as contained in Urban Stormwater – Best Practice Environmental Management Guidelines.
22. Before the plan of subdivision is certified for each stage, detailed drainage plans to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. The drainage plans must be in accordance with the approved Stormwater Management Plan. Once approved, the drainage plans will be endorsed and will then form part of the permit. The plans must be in accordance with Council's Infrastructure Design Manual (IDM) and provide:
- a. a full drainage analysis and design of minor (5 year) and major storm (100 year) events considering all contributing external and internal catchment areas detailing how the site is to be drained.
  - b. a full drainage analysis of all contributing external and internal catchment areas and detailing how peak flow rates from the development are retarded to pre-development levels.
  - c. Flows can be safely and effectively managed within proposed easements and downstream drainage infrastructure.
  - d. Hazard classification is to not exceed H2 within any privately accessed easements.
  - e. an analysis and computations demonstrating storm water discharge quality from the development meets current best practice performance as contained in the Urban Stormwater – Best Practice Environmental Management guidelines.
  - f. independent Risk Assessment Report for drainage retardation and treatment infrastructure, e.g. basins, in accordance with principles of AS/NZS 31000.
23. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must enter into an agreement with the responsible authority made pursuant to section 173 of the Planning and Environment Act 1987, and make an application to the Registrar of Titles to have the agreement registered on title to the land under Section 181 of the Act, which provides for the following:
- a. The owner of the land must preserve and maintain in operational order, all drainage features, and structures, excluding underground drainage assets vested in Golden Plain Shire Council but including open drains and basins.
  - b. The owner of the land must, for any new dwelling to be erected on any lot created, provide a rainwater tank for the collection and re-use of roof-collected stormwater for toilet flushing and garden irrigation and for the dwelling to be plumbed accordingly.

All in accordance with the Stormwater Management Plan and Drainage Design.

Prior to the issue of the Statement of Compliance under the *Subdivision Act 1988*, the application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner/operator under this permit must pay the reasonable costs of the preparation, execution, and registration of the section 173 agreement.

### **Street Lighting**

24. Before the plan of subdivision is certified for each stage of the subdivision under the *Subdivision Act 1988*, a street lighting plan to the satisfaction of the Responsible Authority and prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. The street lighting plan must be generally in accordance with the applicable sections of AS1158, having regard to the classification of the road unless otherwise approved by the Responsible Authority. Once approved, the street lighting plan will be endorsed and will then form part of the permit. Before the statement of compliance is issued for each stage, the street lighting as shown on the plan must be installed and completed to the satisfaction of the Responsible Authority.
25. Where non-standard (decorative) poles and lanterns are installed, before the statement of compliance is issued for each stage, payment of a cash contribution must be made to Council for future replacement and maintenance of these assets. Cash contribution must be 10% of purchase price of total number of poles and lanterns installed.

### **Environmental Management Plan**

26. Before any construction works start, an Environmental Management Plan (EMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the EMP will be endorsed and will then form part of the permit. The plan must include, but is not limited to:
  - a. An outline how issues such as runoff, mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction and post construction phase.
  - b. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise.

Management measures are to be in accordance with EPA guidelines for Environment Management, 'Doing It Right On Subdivisions' Publication 960, September 2004.

### **Construction Management Plan**

27. Before the development starts, a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of permit. The plan must detail, the following matters:
  - a. Measures to minimise the impact of construction vehicles arriving at and departing from the subject site and ensuring suitable off-site parking arrangements;
  - b. Measures to accommodate the private vehicles of workers and tradespeople;

- c. discharge of any polluted water, disposal of site waste and any potentially contaminated materials;
  - d. Details of the location of construction equipment and facilities;
  - e. Noise attenuation measures to protect the amenity of nearby residents during construction having regard to the EPA guidelines on construction noise;
  - f. Measures to minimise the generation and dispersal of dust and/or mud;
  - g. Contact details of the person or project manager accountable for the project and compliance with the CMP; and
  - h. Arrangements for waste collection and any other services provided during construction.
28. Before the development starts, a construction Gantt chart shall be submitted for the construction works, demonstrating prioritization of the drainage retardation basins as early as practicable and other works within the site not commencing until the basin has progressed to the satisfaction of the Responsible Authority.

### **Soil Erosion**

29. All works must be undertaken in a manner that minimises soil erosion. Soil erosion control measures must be employed through the construction and post construction phase of the development and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.

### **Filling**

30. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988* all filling must be placed in accordance with requirements of Golden Plains Shire Council contained in Infrastructure Design Manual Version 5.20 and AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments and to the satisfaction of the Responsible Authority. At the completion of works, a report is to be provided from NATA approved laboratory confirming that works have been constructed in accordance with approved plans and specifications.

### **Vehicle Crossing**

31. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, vehicle access to each lot must be provided in accordance with the requirements of the Infrastructure Design Manual (IDM) and to the satisfaction of the Responsible Authority.

Any disused or redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of the Responsible Authority.

### **Footpaths**

32. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 for the relevant stages of the subdivision provide:
- a. 1.5m wide concrete footpath along both sides of all internal roads and pedestrian access ways.

- b. 1.5m wide concrete shared path for the full frontage of Mowbray Way and Dardel Drive.

in accordance with the requirements of Golden Plains Shire Council contained in Infrastructure Design Manual Version 5.3 Standard Drawing SD205 and SD206 and to the satisfaction of the Responsible Authority.

- 33. Before the statement of compliance is issued for the relevant stage of the subdivision under the Subdivision Act 1988, any damage to the footpath or other council assets must be reinstated to match existing, to the satisfaction of the Responsible Authority.

#### **Pavement Investigation and Design**

- 34. Before construction plans are approved, a Pavement Investigation and Design Report must be submitted to and approved by the Responsible Authority. The report must:
  - a. determine whether proposed pavement subgrade is expansive as defined in VicRoads Publication Code of Practice 500.20;
  - b. be undertaken in accordance with requirements of Council's Infrastructure Design Manual (IDM) including geotechnical testing which must be undertaken by a NATA registered testing laboratory; and
  - c. be to the satisfaction of the Responsible Authority.

#### **Naming of Streets**

- 35. Before the plan of subdivision is certified under the *Subdivision Act 1988*, or any other such time as agreed by the responsible authority, proposed road name/s within that stage must be submitted to the responsible authority in accordance with the *Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities – 2022*. The submission of the road name/s to the responsible authority must be accompanied by an assessment detailing its compliance against the general principles contained at Section 2 of the *Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities – 2022*. Once approved, name/s will not be altered without the written consent of the responsible authority.

#### **Street Name Signs**

- 36. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, street name signs for each road intersection must be provided in accordance with requirements of the Infrastructure Design Manual (IDM) and to the satisfaction of the Responsible Authority.

#### **Fencing**

- 37. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, appropriate fencing must be constructed on the rear and side boundaries of all lots, where such boundaries are in common with public reserves in accordance the Infrastructure Design Manual (IDM) and to the satisfaction of the Responsible Authority.
- 38. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, provide fencing of areas impacted by flooding including stormwater control structures e.g. detention basins. The fencing must demonstrate:

- a. Compliance with the Department of Environment, Land, Water and Planning 2015. Guidelines for riparian fencing in flood-prone areas East Melbourne, Victoria.
- b. That overland flows or public safety are not adversely impacted.

All in accordance with the requirements of Golden Plains Shire Council contained in Infrastructure Design Manual (IDM) and to the satisfaction of the Responsible Authority.

### Reserves

39. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, the following must be carried out and completed:
- a. bollards must be installed along the road frontage to the reserve;
  - b. the reserve must be cleared of all rubbish, noxious weeds, debris and spoil;
  - c. all to the satisfaction of the Responsible Authority.

### Utility Services

40. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, all existing and proposed easements, and sites for existing or required utility services, drainage, and roads on the land must be set aside in the Plan of Subdivision submitted for certification in favour of the relevant authority for which the easement or site is created.

### Construction

41. Before the statement of compliance is issued for the relevant stage of the subdivision under the *Subdivision Act 1988*, all road works, drainage and other civil works must be constructed in accordance with approved plans and specifications and to the satisfaction of the Responsible Authority.

### As Constructed Plans

42. Before the statement of compliance is issued under the *Subdivision Act 1988* for the relevant stage of the subdivision, 'as constructed plans' must be provided to and be to the satisfaction of the Responsible Authority.

### Defects Liability Period

Committee note: This is not an appropriate permit condition.

- ~~43. Twelve month Defects Liability Period shall apply to all assets that are to be vested in Council.~~

### Maintenance Bond

44. Before the statement of compliance is issued under the *Subdivision Act 1988* for the relevant stage of the subdivision, a Maintenance Bond of 5% of the cost of work must be lodged with Council for the term of the Defects Liability Period.

### Fee for Supervision

45. Pursuant to Section 17(2)(b) of the Subdivision Act 1988 and Clause 8 of the Subdivision (Permit and Certification Fees) Regulations 1989, the prescribed maximum fee for

supervision of work shall be 2.5 percent of the cost of constructing those works, which are subject to supervision. Such a fee shall be paid to the Responsible Authority prior to the issue of a Statement of Compliance.

### **Fee for Checking Engineering Plans**

46. Pursuant to Section 43(2)(a)(iv) of the Subdivision Act 1988 and Clause 9 of the Subdivision (Permit and Certification Fees) Regulations 1989, the prescribed maximum fee for checking engineering plans shall be 0.75 percent of the estimated cost of constructing the works proposed on the engineering plan. Such a fee shall be paid to the Responsible Authority prior to the issue of a Statement of Compliance.

### **Expiry of Permit Staged Subdivision**

~~47. Where the subdivision is to be developed in stages, the time specified for the commencement of the first stage is two (2) years from the date of this permit. The time specified for the commencement of any subsequent stage is five (5) years from the date of this permit and the time specified for the completion of each stage is five years from the date of its commencement.~~

~~The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards.~~

~~Note: The starting of a subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan under Section 6 of the Subdivision Act 1988. Completion is regarded as registration of the subdivision.~~

48. This permit as it relates to development (subdivision) will expire if one of the following circumstances applies:

- a. The plan of subdivision for the first stage has not been certified under the Subdivision Act 1988 within 2 years of the issued date of this permit.
- b. All stages of the plan of subdivision have not been certified within 5 years of the issued date of this permit.
- c. A statement of compliance is not issued within 5 years of the date of certification of a particular stage of subdivision.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.