

*Planning and Environment Act 1987*

# Panel Report

Greater Geelong Planning Scheme  
Amendment C203


**23 December 2014**



*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Greater Geelong Planning Scheme Amendment C203

A handwritten signature in black ink that reads "Andrew Clarke". The signature is written in a cursive style with a prominent initial 'A'.

Andrew Clarke, Chair

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## Amendment Summary

<b>The Amendment</b>	Greater Geelong Planning Scheme Amendment C203
<b>Subject Site</b>	22 properties totalling 43.6 ha north of Shell Road, west of Banks Road and east of the Parks Estate, Ocean Grove, including all properties in Trethowan Avenue and Ocean Grand Drive.
<b>Purpose of Amendment</b>	Rezone the subject site from Rural Living Zone (RLZ) to General Residential Zone Schedule 1 (GRZ1) and apply a Development Plan Overlay to the land being rezoned.
<b>The Proponent</b>	North East Ocean Grove Subdivision Group
<b>Planning Authority</b>	Greater Geelong City Council
<b>Authorisation</b>	DTPLI advised Council by e-mail dated 30 June 2014 that the Amendment could be prepared without authorisation.
<b>Exhibition</b>	7 August – 7 September 2014

## Panel Process

<b>The Panel</b>	Andrew Clarke, Chair
<b>Directions Hearing</b>	City of Greater Geelong Municipal offices in Geelong, 28 November 2014
<b>Panel Hearing</b>	City of Greater Geelong Municipal offices in Geelong, 15 December 2014
<b>Site Inspections</b>	Accompanied, 28 November 2014
<b>Submissions</b>	12 submissions including one petition.
<b>Date of this Report</b>	23 December 2014

# 1 Introduction

Greater Geelong Planning Scheme Amendment C203 (the Amendment) was prepared by the Greater Geelong City Council as Planning Authority. As exhibited, the Amendment proposes to rezone the subject site from Rural Living Zone (RLZ) to General Residential Zone Schedule 1 (GRZ1) and to apply a Development Plan Overlay to the land being rezoned.

The site subject of the Amendment comprises 22 properties totalling 43.6 ha north of Shell Road, west of Banks Road, immediately east of the Parks Estate, Ocean Grove, including all properties in Trethowan Avenue and Ocean Grand Drive.

The Amendment was prepared at the request of the North East Ocean Grove Subdivision Group (the proponent), comprising the owners of the 22 properties. The Department of Transport, Planning and Local Infrastructure (DTPLI) advised Council by e-mail dated the 30 June 2014 that Council may prepare the Amendment without authorisation.

The Amendment was placed on public exhibition between 7 August and 7 September 2014, with four opposing submissions (including a petition) concerned with:

- Destruction of native vegetation and wildlife habitat
- Loss of amenity and coastal township character.

At its meeting of 28 October 2014, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 6 November 2014 and comprised Mr Andrew Clarke (Chair).

A Directions Hearing was held in relation to the Amendment on 28 November 2014. Immediately following the Directions Hearing, the Panel undertook an accompanied inspection of the subject site and its surrounds.

The Panel then met in the offices of Greater Geelong City Council on 15 December 2014 to hear submissions in respect of the Amendment. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Greater Geelong City Council	Mr Ian McCartney, Senior Strategic Planner, Greater Geelong City Council
North East Ocean Grove Subdivision Group	Mr Cameron Gray of the firm St Quentin Consulting who called Mr Mark Trengove as an expert witness in flora and fauna issues
Ms Lynette Shanahan	
Ms Ann Bacon	
Mr Gavin Mahoney	

## **2 The subject site and surrounds**

The subject site contains 22 lots comprising 43.6 ha located immediately east and north of the existing Ocean Grove township. It is bound by Shell Road to the south beyond which there is conventional residential development, Banks Road to the east beyond which is farmland, vacant farmland to the north and conventional residential development to the west. All but one of the 22 lots is developed with a dwelling.

Topographically, the land is relatively flat.

The subject site is contiguous with the existing urban area of Ocean Grove.

Mr McCartney pointed out that the subject site is well located to necessary urban services with a neighbourhood shopping centre anchored by a Woolworths supermarket located 400m west from the south-west corner of the subject site. In addition, Mr McCartney directed the Panel's attention to the site's walking distance from three schools, Ocean Grove's main recreation reserve with indoor basketball courts, netball courts and a proposed new pavilion, and a community centre including a kindergarten, toy library and meeting rooms.

### **3 Identification of Issues**

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of the subject site and its surrounds.

This report deals with the issues under the following headings:

- Strategic planning context;
- Neighbourhood character and flora and fauna issues;
- Other secondary issues.

## 4 Strategic Planning Context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

### 4.1 Policy framework

#### 4.1.1 State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the SPPF:

- Clause 11.02: Urban Growth
- Clause 11.02-3: Structure Planning
- Clause 11.05: Regional Development
- Clause 11.07: Geelong (G21) Regional Growth
- Clause 15: Built Environment and Heritage
- Clause 16: Housing
- Clause 19: Infrastructure.

In particular, the Amendment implements an approved Structure Plan referenced in the Municipal Strategic Statement and Ocean Grove is identified as one of eight district towns where urban growth is supported.

#### 4.1.2 Local Planning Policy Framework

The Amendment implements the Ocean Grove Structure Plan (2007, amended 2008) which is referenced in the Greater Geelong Planning Scheme.

Clause 21.14: The Bellarine Peninsula, seeks to direct the bulk of residential development on the peninsula to Ocean Grove, Drysdale/Clifton Springs and Leopold consistent with relevant Structure Plans. In particular, the Ocean Grove Structure Plan Map reproduced at Clause 21.14-7 identifies the Ocean Grove township boundary as Banks Road with the subject site designated as “future residential”.

Both the proponents through Mr Gray and Council through Mr McCartney identified that an earlier Ocean Grove Structure Plan (adopted in 1993) also recommended the residential rezoning of the subject site.

### 4.2 Planning scheme provisions

#### (i) Zones

Under the Greater Geelong Planning Scheme the subject site is zoned Rural Living. The minimum subdivision lot size is 1 ha with a minimum average lot size of 1.5 ha. This is why a planning scheme amendment is required.

#### (ii) Overlays

There are no planning scheme overlays currently applying to the subject site.

### **4.3 Strategic Assessment**

The Panel concludes that the Amendment is supported by, and implements the relevant sections of the State and Local Planning Policy Framework. In particular it implements part of the Ocean Grove Structure Plan which recommends the residential rezoning of the subject site.

## **5 Neighbourhood Character and Flora and Fauna Issues**

### **5.1 The Issue**

Some submitters were concerned that the Amendment would lead to a loss of native vegetation and that the higher density of development would affect their current semi-rural outlook and residential amenity both during the construction phase and in the longer term.

### **5.2 Evidence and submissions**

Ms Bacon in her written submission and presentation to the Panel was primarily concerned with the loss of trees and vegetation which serve as habitat for a variety of birds, frogs, bats, reptiles and mammals. She considered that there was already an abundance of urban land in Ocean Grove. Nevertheless, her written and verbal submission was that she had no objection to the rezoning of the land to an urban residential zone, but there should be stronger tree protection controls.

Ms Shanahan stated that she bought her property which is in a residential zone bordering the subject site because of the peace and quiet of the area and that with the Amendment this peace and quiet would be lost both during the construction phase and in the longer term. Ms Shanahan's position was that there should be no further development and all the land should be used as a recreational park with all of the trees retained.

Mr Mahoney was concerned that the General Residential Zone was inappropriate to a coastal town such as Ocean Grove and advocated for a Neighbourhood Residential Zone (Schedule 2).

Mr McCartney reiterated that Ocean Grove had been designated as a growth town since 1998 and that the subject site has been identified for conventional residential development since 1993. Whilst he acknowledged that conventional residential development would result in the loss of some native vegetation, he pointed to examples, including the adjoining Parks Estate where there has been a significant increase in vegetation in private yards, open space areas and road reserves. He tabled an aerial photo to demonstrate that there was virtually no significant vegetation on that site prior to its conventional residential development and pointed out to the Panel on its accompanied site inspection the volume of vegetation that now exists.

Mr Gray on behalf of the proponents relied on the evidence of Mr Trengove that the subject site has a long history of agricultural, rural residential and grazing disturbance; the vast majority of the site is therefore devoid of native vegetation or dominated by exotic vegetation. There is little native vegetation remaining, and what remains is small in area. In addition, the DPO schedule requires the retention of significant trees and roadside vegetation. Mr Trengove indicated that a small offset would be required, and was most likely to be provided off-site.

### 5.3 Discussion

The Panel concurs with both Mr McCartney and Mr Gray that there is a long history of designating the subject site for conventional residential purposes. That designation is included in the planning scheme. There is extremely clear and unambiguous strategic planning support for rezoning the land which predates the development of most of the adjoining Parks Estate where the three objectors who addressed the Panel reside. There is good reason for this strategy:

- Ocean Grove is a designated growth town;
- Banks Road is a defensible urban boundary and the site is within that boundary;
- The site adjoins residential development to the west and south across Shell Road;
- The site is proximate to neighbourhood shopping facilities, open space, schools and community facilities;
- The site has some vegetation but much of it is planted and exotic. There is provision in the DPO schedule to retain some remnant vegetation and at the permit application stage to seek offsets for removed vegetation;
- All of the landowners in the Amendment area support the Amendment and none have objected to the exhibited infrastructure funding plan and draft Section 173 agreement that will implement the funding plan.

It is inevitable that landowners at the current urban fringe will be affected by construction activity during the development phase and a loss of rural or semi-rural outlook as towns and cities grow beyond their existing limits. However, in this case this is a reasonable expectation having regard to the history of successive Ocean Grove Structure Plans which have advocated the residential rezoning of the subject site.

In terms of Mr Mahoney's submission that the land should be included in a Neighbourhood Residential Zone, the Panel finds that there is no existing or preferred residential neighbourhood character at present that would warrant such an approach. In greenfield or almost greenfield areas such as the subject site, the General Residential Zone should be applied to new conventional residential areas except in very exceptional circumstances.

### 5.4 Conclusions

The Panel considers there is strong strategic planning support for the Amendment and that there is adequate provision for retention of significant stands of vegetation or offsetting any loss of vegetation.

### 5.5 Recommendation

The Panel recommends:

**Adopt Amendment C203 to the Greater Geelong Planning Scheme as exhibited, subject to the recommendation made in Section 6.4.**

## 6 Other Secondary Issues

There were a number of secondary issues raised in submissions relating to the content of the DPO schedule.

### 6.1 The Issues

The Department of Environment and Primary Industries (DEPI) and VicRoads both made submissions requesting additional provisions to the DPO schedule,

### 6.2 Native Vegetation (DEPI)

#### (i) Evidence and Submissions

DEPI did not attend the Panel Hearing. In its written submission, DEPI requested two additional points under the heading “Urban Design Masterplan” of the DPO schedule:

- *A subdivision layout which shows by distribution of public open space how significant impacts on biodiversity have been avoided and minimised.*
- *A roadside native vegetation management plan which shows how impacts on remnant native vegetation on roadsides can be avoided and minimised through location and design of new roads and crossovers.*

Whilst accepting the second addition, Mr McCartney suggested a better wording for the first addition as follows:

- *A subdivision layout [which] demonstrates how impacts on biodiversity values identified in the Vegetation Assessment report dated June 2014 can be avoided and minimised.*

Mr McCartney also considered these additions should be included under the heading “Open Space and Landscape Masterplan”. According to Mr McCartney, who discussed the matter with the author of the original DEPI submission, DEPI was “satisfied” with this wording, but had not conveyed this satisfaction in writing.

Mr Trengove in his expert report supported both additions. Mr Gray on behalf of the proponents also supported them.

No other parties commented on them.

#### (ii) Discussion and Conclusion

The Panel is satisfied Council’s amended wording is clearer.

### 6.3 Traffic - VicRoads

#### (i) Evidence and Submissions

VicRoads did not attend the Panel Hearing but in its written submission sought:

- The Infrastructure Funding Plan should also include an item for the upgrading of the Shell Road/Banks Road intersection, and
- An additional requirement in the DPO schedule to prevent direct property vehicular access to Shell Road.

Council did not support the additional infrastructure funding item on the basis that the subject site would contribute only a minute proportion of the future traffic generated through the Shell Road/Banks Road intersection, and at the time of rezoning the growth area north of the subject site in 2010, the decision was then taken not to seek development contributions for major intersection upgrades.

Council advised VicRoads of its position, and VicRoads advised in turn it would not be taking the matter any further.

Council supported the second change on the basis that direct access to Shell Road was not envisaged. However, a live permit exists for a retirement village at 181-189 and 191-195 Shell Road that provides for direct access to Shell Road. Council therefore recommended this additional requirement be included in the DPO schedule noting the exception for the retirement village permit.

Mr Gray on behalf of the proponent landowners endorsed Council's position on both matters.

No other submitter commented on either matter.

## **(ii) Discussion and Conclusion**

The Panel agrees with Council on both the DEPI and VicRoads matters. Prior to the Panel Hearing Council circulated a revised DPO schedule to accommodate the agreed DEPI and VicRoads additions and it is included at Appendix B to this report.

## **6.4 Recommendation**

The Panel recommends:

**Amend Schedule 31 to the Development Plan Overlay as set out in Appendix B to this report.**

## **7 Summary of Conclusions and Recommendations**

### **7.1 Summary of Conclusions**

The Panel concludes:

- There is clear and unambiguous strategic support for the Amendment.
- The DPO schedule as proposed to be amended makes adequate provision for minimising native vegetation removal.

### **7.2 Consolidated Recommendations**

For the reasons outlined in this report, the Panel recommends that:

**Amendment C203 to the Greater Geelong Planning Scheme be adopted as exhibited, subject to the following modification:**

- **Schedule 31 to the Development Plan Overlay be amended as set out in Appendix B to this report.**

## Appendix A List of Submitters

No.	Submitter
1	J & A Bacon
2	Barwon Water
3	P Carland
4	E Crespi
5	Department of Environment and Primary Industries
6	Department of Transport, Planning & Local Infrastructure
7	EPA Victoria
8	G Mahoney
9	J O'Shannessy
10	L Shanahan
11	VicRoads
12	E B Wilson

## **Appendix B Panel Recommended DPO Schedule 31**

## SCHEDULE 31 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO31**

### TRETHOWAN AVENUE/OCEAN GRAND DRIVE OCEAN GROVE

This Schedule applies to the area generally north of Shell Road, west of Banks Road incorporating properties in Trethowan Avenue and Ocean Grand Drive, Ocean Grove.

The aim of this Schedule is to ensure that development occurs in accordance with broad development principles as shown in the Trethowan Avenue/Ocean Grand Drive Outline Development Plan 2014 and to ensure delivery of essential community infrastructure as set out in the Trethowan Avenue Final Shared Infrastructure Funding Plan.

#### 1.0 Requirement before a permit is granted

A permit may be granted before a development plan has been prepared for the following:

- The construction of one dwelling and associated out buildings on any lot existing at the approval date provided it is the only dwelling on the lot.
- Any buildings and works associated with the use of the land for agriculture.
- Extensions or alterations to existing buildings and works.

#### 2.0 Conditions and requirements for permits

A permit must contain conditions or requirements which give effect to the provisions and requirements of the approved development plan including the Trethowan Avenue Final Shared Infrastructure Funding Plan.

A permit for subdivision must contain a condition which requires the owner to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to provide development contributions for:

- Road and Drainage Works;
- Open Space Works;
- Community Infrastructure;

as outlined in the approved Development Plan and Trethowan Avenue Final Shared Infrastructure Funding Plan.

#### 3.0 Requirements for development plan

Separate development plans may be prepared and approved for Catchments 1 & 3 combined and Catchment 2 as shown in the Trethowan Avenue Final Shared Infrastructure Plan.

The Development Plan must be generally in accordance with Trethowan Avenue/Ocean Grand Drive Outline Development Plan as shown in Clause 5.0, and include the following:

An **Urban Design Masterplan** that includes:-

- The location of all proposed land uses including roads, public open space and drainage reserves.
- Contours of land at 0.5m intervals.
- The general subdivision layout including location and distribution of lots showing a variety of lot sizes and densities to encourage a range of housing types and other compatible land uses.
- A subdivision design which provides a positive identity and contributes to the amenity and safety of Banks Road and Shell Road by ensuring all development addresses these road frontages (and does not back onto or provide screen fencing along these roads).

- A walking and cycling network which will:
  - Provide a pedestrian and cycle access through the development from established residential areas to the west connecting to proposed walking and cycling tracks in future residential areas to the north.
  - Within the development area, provide an interconnected and continuous network of safe, efficient and convenient footpaths, shared paths and cycle lanes.
  - Provide a continuous pedestrian/cycle path along the Banks Road/Shell Road frontages of the site.

A **Road Network and Traffic Management Plan** complying with any VicRoads requirements that includes:-

- An internal road network that provides for a high level of access within the development for all vehicular and non vehicular traffic and which responds to the topography of the site.
- No new road access to Banks Road [or Shell Road](#) and the creation of no new lot access to Banks Road [or Shell Road \(other than already approved by permit 447/2011\)](#).
- Details of the Trethowan Avenue/Banks Road and Ocean Grand Drive/Banks Road upgraded intersection treatments.
- Proposed future road connections between the development area and residential areas to the north and west.
- A road layout and alignment, subject to detailed design, that is consistent with the engineering standards applied in the existing subdivisions in the area.
- Traffic Management controls for the internal road network.
- Removal of the temporary road barrier which prevents vehicular access through to Daintree Way.

An **Integrated Water Management Plan** that takes an integrated approach to flooding, stormwater and drainage management, is designed with reference to the whole of the catchment and includes:

- Reference to:
  - *WSUD Engineering Procedures: Stormwater, CSIRO Publishing, 2005;*
  - *Clause 56.07 of the Greater Geelong Planning Scheme.*
  - *City of Greater Geelong Stormwater Management Plan, 2002.*
  - *The Infrastructure Design Manual and associated Design Notes.*
- A Drainage Feasibility Study which analyses the sub-catchment with appropriate hydrological and hydraulic modelling, to determine urban stormwater management strategies to the satisfaction of the Responsible Authority. Strategies shall be based on limiting flows and runoff volumes to the downstream drainage system, drainage lines, waterways and water bodies to ensure no adverse impact.
- A Water Sensitive Urban Design that:
  - Demonstrates the methods of collection, treatment and disposal of stormwater run-off in an environmentally acceptable manner including as appropriate, provision of detention and water quality treatment.
  - Utilises the MUSIC (Model for Stormwater Improvement Conceptualisation) program to measure the benefits and performance outcomes incorporated into the plan.
  - Provides for the safe overflows paths for the 1% ARI and considers the impact of the >1% ARI event.

An **Open Space and Landscape Masterplan** that includes:

- An Open Space Contribution equal to 10% of the developable residential land or in-lieu cash payment or combination of both. Encumbered land shall not be credited as Public Open Space including land required for the future retarding basins.
- [A subdivision layout which demonstrates how impacts on biodiversity values identified in the Vegetation Assessment report dated June 2014 can be avoided and minimised.](#)
- [A roadside native vegetation management plan which shows how impacts on remnant vegetation on roadsides can be avoided and minimised through local and design of new roads and crossovers.](#)
- Details of all existing vegetation to be retained and those trees to be removed.
- Details of protection measures to be applied to all individuals species of indigenous Swamp Gum, Manna Gum and Drooping Sheoak.
- Details of plant species to be used to create distinctive precincts for public open space areas (including shared pathways) and road reserves including extensive use of local indigenous species within open space areas and where suitable, within nature strips as streets throughout the development.
- Landscaping treatments to provide an attractive entrance to Ocean Grove along the Shell Road and Banks Road frontages using local indigenous species which complements and enhances the existing indigenous vegetation.
- Plans for all open space areas showing the location of proposed improvements including playgrounds, pedestrian and cycle paths, earthworks, seats, bollards, fencing, landscaping, irrigation systems, drinking fountains, drainage lines and detention basins.
- Provision for the early construction of a park utilising the southern portion of the Trethowan Avenue retarding basin site and the existing road reserve, incorporating a children's playground.

A **Final Shared Infrastructure Funding Plan** (to be identified as the Trethowan Avenue Final Shared Infrastructure Funding Plan) which updates as necessary the Draft Shared Infrastructure Funding Plan.

#### **4.0 Decision Guidelines**

In considering whether or not to approve or amend a development plan, the responsible authority must consider:

- The requirements of this schedule.
- The State and Local Planning Policy Framework.
- The Trethowan Avenue/Ocean Grand Drive Outline Development Plan 2014 in Clause 5.0.
- The Trethowan Avenue Draft Shared Infrastructure Funding Plan.
- The views of any relevant Government Department, Statutory or servicing authority.

5.0 Trethowan Avenue/Ocean Grand Drive Outline Development Plan



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This plan has been prepared to support a Town Planning Application to subdivide land and should not be used for any other purpose. It is subject to Approval by Council and may be amended without notice. This note is an integral part of this plan.

**DEVELOPMENT PLAN  
 N-E OCEAN GROVE  
 OCEAN GROVE**

SCALE 1:4000	LEVEL DATUM -
TITLE REF.	
VOL. FOL.	
PLAN DRAWN 26/02/14	SURVEY REF. 9467
<b>A3</b>	VER. 11