

Planning and Environment Act 1987

Panel Report

Greater Geelong Planning Scheme Amendment C280

Ash Road, Leopold



1 June 2015

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Panel Report pursuant to Section 25 of the Act

Greater Geelong Planning Scheme Amendment C280

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A handwritten signature in black ink that reads "Lester Townsend". The signature is written in a cursive style with a large initial 'L'.

Lester Townsend, Chair

A handwritten signature in black ink that reads "Des Grogan". The signature is written in a cursive style with a large initial 'D'.

Des Grogan, Member

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List of Abbreviations

DCP	Development Contributions Plan
DEPI	Department of Environment and Primary Industries (former)
DPO	Development Plan Overlay
EPA	Environment Protection Authority
GRZ	General Residential Zone
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
ODP	Outline Development Plan
PSP	Precinct Structure Plan
SIFP	Shared Infrastructure Funding Plan
SPPF	State Planning Policy Framework

Overview

Amendment Summary

The Amendment	Greater Geelong Planning Scheme Amendment C280
Common Name	Ash Road, Leopold
Subject Site	The western side of Ash Road in Leopold immediately south of existing residential development and to the east of the developing Estuary Estate
Planning Authority	City of Greater Geelong
The Proponent	Paisley Manor Pty Ltd
Exhibition	9 October to 10 November 2014
Submissions	<p>As a result of the exhibition of the Amendment the Council received 23 submissions as follows:</p> <ul style="list-style-type: none"> - St Quentin Consulting Pty Ltd - Barwon Water - Jennifer Black - Earl and Steve Carter - Corangamite Catchment Management Authority - Ray Colas - Department of Environment and Primary Industries - Jason Young, EPA - Fadgyas Planning Consultants for Dorothy Jones - Claire and Graham Hewitt - John and Lyn Leen - Faye and Raymond Lyons - Steve and Ronda McCurdie - Paul and Mary Mifsud - John Pohlman - Gwen Prosser - Linda Prosser - Lindley and Raelene Roberts - Kazimierz (Kas) Szakiel - Gregory Bryant - Tract Consultants Pty Ltd for the Maroulis Family - VicRoads - Wathaurung Aboriginal Corporation

Panel Process

The Panel	Lester Townsend (Chair) and Des Grogan
Directions Hearing	Geelong, 25 February 2015. Mr Grogan did not attend the Directions Hearing
Panel Hearing	Geelong, 17 and 18 March 2015
Further submissions	Further submissions on the location of the northern open space were received by the Panel on 16 April 2015
Site Inspections	Unaccompanied, 17 March 2015
Appearances	<ul style="list-style-type: none"> • City of Greater Geelong represented by Susan Williamson and Peter Smith • Paisley Manor Pty Ltd represented by Cameron Gray of St Quentin Consulting calling urban design evidence from Craig Czarny • John and Lyn Leen • Estate of the late R L Pohlman represented by John Pohlman • Graham and Claire Hewitt represented by Graham Hewitt • Gwen Prosser represented by David King • Linda Prosser represented by David King • Greg Bryant for Mr Kazimierz Szakiel attended the Hearing
Date of this Report	1 June 2015

Executive Summary

The Amendment will facilitate the residential development of an area of Leopold identified for urban growth.

The most significant submissions are from the land owners whose land will be rezoned. Council has been trying to resolve different opinions between various land owners.

It is understandable that Council has tried to resolve differences between the land owners, but in reality the distinction between the 'proponent' and other land owners is artificial. It is more appropriate to characterise all the land owners as the proponent, as development of the land will necessary include all the land or the majority of it.

As a group the land owners display internal divisions and mistrust, and Council would be unwise to take this process any further until the relevant parties reach agreement. If parties dispute our interpretation of their relationships they can simply demonstrate their cooperative approach to Council and all agree on an ODP and Shared Infrastructure Funding Plan. Council has no obligation to act as a mediator or broker in this process.

Development will require cooperation between the land owners and unless the land owners reach agreement this area of Leopold will not see development for the foreseeable future. Council should be wary of becoming the 'meat in the sandwich' in a drawn out dispute between the different land owners.

Based on the reasons set out in this Report, we recommend:

- 1. Before adopting Greater Geelong Planning Scheme Amendment C280 Council enter into a section 173 agreement with all owners (or all the owners north or south of Walkers Road) on shared infrastructure funding. This agreement should be based on an agreement between the land owners on the Outline Development Plan and cooperation on development. If agreement is not reached in a timely fashion Council should abandon the Amendment. Council could consider adopting the Amendment in parts if all owners north or south of Walkers Road reach agreement.**
- 2. Before finalising the Amendment documentation and agreements for shared infrastructure funding:**
 - **Council review the appropriate share of costs for alterations to the Bellarine Highway/Ash Road intersection that should be attributed to the subject land**
 - **Require the proponent to revise the Flora and Fauna Assessment, and Net Gain Analysis to conform to current standards**
 - **Include the full cost of acquisition of the property at 132 Ash Road in the Shared Infrastructure Funding Plan to allow sufficient land for the Walkers Road upgrade and intersection.**
- 3. Subject to the above recommendations, Greater Geelong Planning Scheme Amendment C280 be adopted as exhibited subject to the following changes:**
 - 3.1 Update the Leopold Structure Plan in the Greater Geelong Planning Scheme to show a 'strategic footpath' from the subject land to the existing residential area to the north.**
 - 3.2 Change the Development Plan Overlay Schedule 33 to:**

- a. require a pedestrian link to the north of the site – this link will require acquisition of an existing residential property
- b. address flooding contingencies during construction of the drainage infrastructure
- c. include a requirement for the design and construction of the drainage basins to include measures to discourage mosquito breeding
- d. reduce the size of the southern co-located public open space and retention basin to 1.085 ha
- e. reduce the width of the southern pathway/buffer reserve to 10 metres
- f. delete the small park for the protection of a River Red Gum Tree
- g. locate a 0.92 ha area of open space in the north-east of the subject land unless an alternative open space location is agreed by all land owners north of Walkers Road and Council.
- h. require a strategy for the upgrade and extension of Walkers Road
- i. show properties at 130 and 132 Ash Road as not included in the developable area
- j. reduce the width of roads adjoining the southern public open space and landscape buffer and both drainage reserves to 13 metres
- k. include revised language on street frontages adjacent to open space (including drainage reserves) to require road frontage to three boundaries except where open space is located adjacent to an existing rear or side boundary, in which case the open space may have frontage to two streets
- l. reflect the executed version of the Shared Infrastructure Funding Plan and associated agreement.

In addition to the above recommendations, we recommend:

- 4 Council and VicRoads undertake further investigations at the Bellarine Highway/Ash Road intersection to determine.
 - whether the current right turn queues regularly extend beyond the right turn lane
 - whether road improvements should be undertaken immediately.
- 5 Council act to acquire a property on Hazelwood Crescent to facilitate pedestrian connectivity between the subject land and the existing urban area.

1 Introduction

1.1 The subject land and surrounds

The subject land is located in the major residential growth area of Leopold on the Bellarine Peninsula 12 kilometres south-east of Geelong.

Leopold is a distinct urban community of about 12,000 people located on a hillside bounded by Lake Connewarre to the south, drainage basin and wetlands to the west, Port Phillip Bay to the north and farmland to the east.

The subject land is shown in Figure 1. It comprises 10 parcels at 90-108, 110-116, 118-128, 130, 132, 134-144, 146-158 and 160-172 Ash Road, Leopold; and 22-30 and 21-29 Walkers Road, Leopold. It has an area of 25 ha.

The land is located on the western side of Ash Road immediately south of existing residential development and to the east of the developing Estuary Estate in Leopold. The surrounding zoning is shown in Figure 2. Rural residential lots are located to the south fronting onto Lake Connewarre and Reedy Lake. These lakes form part of the Ramsar wetland site in Greater Geelong.

Land to the east of Ash Road is in the Farming Zone and is used for rural living and agriculture. This land has been designated in the Leopold Structure Plan for future urban growth.

The land is used for residential, rural living and agricultural purposes and has been substantially cleared of native vegetation.

Figure 1: Subject land



Figure 2: Current zoning



1.2 Background to the proposal

(i) The Amendment

The Amendment proposes to:

- rezone the land from Farming Zone to the General Residential Zone 1
- apply Development Plan Overlay Schedule 33 to the land.

The exhibited Amendment documentation included a draft Shared Infrastructure Funding Plan and accompanying model template Section 173 Agreement to formalise equitable developer contribution arrangements amongst all landowners.

(ii) Background

On 14 September 2012, St Quentin Consulting, on behalf of Paisley Manor, lodged a planning scheme amendment application for the subject land, seeking approval to:

Rezone land at Ash Road from Farming Zone to Residential 1 Zone, and apply a Development Plan Overlay to the whole of the subject land.

The application included the following documents:

- Town Planning Report prepared by St Quentin Consulting, dated September 2012
- Draft Amendment Documents prepared by St Quentin Consulting
- Land title search sheets
- Flora and Fauna Assessment, and Net Gain Analysis prepared by Ecology Partners Pty Ltd, dated July 2011
- Targeted Survey for the Nationally Significant Growling Grass Frog *Litoria raniformis* prepared by Ecology Partners Pty Ltd, dated December 2011
- Aboriginal Cultural Heritage Management Plan prepared by Ecology and Heritage Partners Pty Ltd dated 20 January 2012
- Ash Road S173 Contribution Calculations and infrastructure tables prepared by Urban Enterprise Pty Ltd dated September 2012
- Stormwater Management Strategy and Services Report prepared by Peter Berry and Associates Pty Ltd, dated 6 February 2012
- Traffic and Transport Assessment prepared by Cardno, dated 13 September 2012.

Subsequently, an Arboricultural Assessment and Report prepared by Shepherd Tree Management dated 28 July 2011 was provided to Council in January 2013.

(iii) Shared Infrastructure Funding Plan

The Shared Infrastructure Funding Plan (SIFP) has been prepared to guide the delivery of shared infrastructure in the study area by:

- identifying the land parcels which are to be developed and quantifying the area and likely development yield of each parcel
- identifying shared infrastructure required to support development
- identifying the specifications, costs and justification for each item
- apportioning costs to each land parcel in the study area, and calculating levies payable to ensure delivery of shared infrastructure

- identifying any additional infrastructure items that are to be provided by specific landowners
- describing the mechanisms by which the SIFP will be implemented, including collection of levies, delivery of infrastructure, responsibilities for works in-kind and administration of the document (such as indexation)
- providing clear principles regarding obligation of developers to deliver and/or facilitate works.

Section 173 Agreement

A section 173 Agreement has been prepared to accompany the Amendment. The Agreement seeks to implement the final Shared Infrastructure Funding Plan and to record the terms and conditions on which Council and the owners have agreed for the owners to pay the development contributions and facilitate the delivery of the infrastructure projects.

An individual Agreement is intended to be signed by each of the subject land owners and Council. The agreement was drafted by Maddocks lawyers acting for Council, under instruction from Council.

1.3 Submissions

A total of 23 submissions were received:

- Five submissions from public authorities (Barwon Water, Corangamite Catchment Management Authority, VicRoads, Wathaurung Aboriginal Cooperative and EPA) raising no objection to the Amendment.
- One submission from a public authority (Department of Environment and Primary Industries) requesting additional DPO provisions.
- Seven submissions from residents in the adjoining residential and rural living area either objecting to or raising concerns with the Amendment. One submission from a nearby landowner objected to the rezoning of all but the proponent's land.
- Ten from landowners in the rezoning area supporting the rezoning of land but raising concerns about some aspects of the draft Outline Development Plan, the DPO and the SIFP.

Most of the submissions from land owners subject to the Amendment process commented upon the amount and distribution of open space across the rezoning area. Some submissions state that there is sufficient open space in this area so none is required here; others have opposed the proposed positioning of open space. While one land owner is referred to as the proponent all the owners covered by the rezoning will ultimately benefit from the rezoning, though it is noted that some owners have no desire to develop.

Council response to submissions

On 10 February 2015 Council resolved to support the following changes to the Amendment:

- reduce the size of the southern co-located public open space area
- reduce the width of the southern pathway/buffer reserve
- delete the small park for the protection of a River Red Gum Tree
- make some changes to the DPO about roads adjoining public open space and drainage reserves

- seek to re-size the northern drainage basin reserve to fit onto one landholding
- remove the properties at 130 and 132 Ash Road from the SIFP
- include the full cost of acquisition of the property at 132 Ash Road in the SIFP to allow sufficient land for the Walkers Road upgrade and intersection
- re-position the northern open space so that a minimum of 0.6 hectare is located on the land at 90-108 Ash Road
- make some changes to the Outline Development Plan and the SIFP to reflect changes in response to the submissions
- make minor modifications to the DPO Schedule to require sealed transitions in upgrades to Ash Road at the time of subdivision of adjacent land, to address the design of basins for mosquito breeding reduction, address flooding contingencies during construction of the drainage infrastructure.

Concerns about the consultation Process

Some submissions from landowners in the rezoning area were critical of the lack of engagement between the proponent, Council and themselves during the preparation and consideration of the rezoning application.

Council advised that working with an applicant across an area encompassing a number of landowners has been difficult to negotiate.

This was not a precinct structure plan exercise or a strategic planning process that Council was dealing with ... Council did encourage the applicant to lodge their application affecting the whole of the subject area, and not just for their clients' land as this made strategic sense, not to mention, an efficient use of resources. There have been other more successful approaches to rezoning land across multiple smaller land ownerships such as Manzeene Avenue in Lara (C285) and Trethowan Avenue in Ocean Grove (C203). In both those cases a lot of work was put in by a single or small grouping of landowners working together to get the majority on board upfront with the rezoning application and process, and whilst time consuming, have yielded the benefit of a smoother and less acrimonious amendment process. It is fair to comment that Council would be reluctant to undertake this process again where a single landowner made a rezoning application for a wider area with multiple other landowners.

The Outline Development Plan prepared by the applicant shows all appropriate infrastructure such as open space, drainage and key roads. The location of these items was partially dictated by topography and the logical extension of the development form within the Estuary Estate.

1.4 Issues dealt with in this report

We have considered all written submissions, as well as submissions presented to us during the Hearing. In addressing the issues raised in those submissions, we have been assisted by the information provided to us as well as its observations from inspections of specific sites.

This report deals with the issues under the following headings:

- Strategic justification and interface issues
 - Strategic justification
 - Pedestrian connections
 - External roads
 - Fencing along the Southern Boundary
 - Construction management
 - Mosquito Breeding
- Internal layout
 - Features of the layout
 - Coordinated development
 - Drainage and open space
 - The subdivision collector road
 - Changes to the detailed design
- Contributions, offsets and clarifications
 - Flora assessment
 - Shared Infrastructure Funding Plan
 - Timing of payment of community infrastructure levy.

2 Strategic justification and interface issues

2.1 Strategic justification

What is the issue?

Two submissions objected to the southern part of the subject land being rezoned to Residential.

Submissions

Concerns include the loss of the rural flavour and open rural feel of this part of Leopold as it slopes down towards Lake Connewarre. It was submitted that the southern part of the subject land should be rezoned to Rural Living; this would allow subdivision but would be more sympathetic to the rural nature of the area:

The southern area of Ash Road hasn't changed much in those 50 or so years and we are concerned that this planned rezoning to General Residential and subsequent small lot development will adversely impact the amenity of this sensitive area. We do acknowledge that the current Farming zone is no longer relevant to the area generally but it is our position that the land covered by Amendment C280, at least that south of Walker's Road, should not be rezoned Residential but should be rezoned Rural Living.

It was submitted that the Amendment is really a subdivision of two essentially non compatible parts – north of Walkers Road and South of Walkers road. The land to the north of Walkers Road is largely open with little impediment to residential subdivision; the land to the south of Walker's Road has a different nature that does not lend itself to small allotments.

The proponent submitted that:

Without question the future development of the Subject Land will result in a loss of the rural residential / undeveloped amenity currently enjoyed by residents of the adjoining housing estate to the immediate west.

However, since 2006 the Subject Land has been strategically identified as being an area intended to accommodate conventional residential development.

In this context, the loss of the rural residential / undeveloped amenity currently enjoyed by adjoining residents will be an unfortunate but inevitable consequence of the implementation of the long-established strategic directions applicable to the Subject Land.

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

Council advised that a 94 hectare area of south-east Leopold was identified in the 2006 Leopold Structure Plan as a future residential development opportunity and growth location for Leopold. This designation has continued in the January 2013 Leopold Structure Plan with recommendations to rezone the area to Residential 1 Zone and accompanying relevant

overlays. Clause 21.14-2 of the Municipal Strategic Statement (MSS) within the Planning Scheme has the specific strategy for Leopold of:

Support the development of the Ash Road Growth Area and other areas identified for residential development on the Structure Plan map.

Discussion

The Leopold Structure Plan was prepared by the City of Greater Geelong and adopted in September 2011 (Amended January 2013).

Clause 21.06 'Settlement and Housing' of the Greater Geelong Planning Scheme identifies Leopold as one of the city's:

... designated primary urban growth areas' and aims to 'ensure development occurs within designated settlement boundaries.

The main policy directions relevant to the urban growth of Leopold appear in the Scheme at Clause 21.14 'The Bellarine Peninsula'. This clause sets out objectives and strategies for development of the Peninsula and each of the towns as contained in Council adopted Structure Plans. The proposed amendment is consistent with the adopted Leopold Structure Plan which identifies this area for future conventional residential development. The map at clause 21.14-8 is shown in Figure 3.

We agree with the proponent that the future development of the subject land will result in the loss of its rural nature and character as currently enjoyed by some submitters and nearby residents. However, for nine years the subject land has been strategically identified as being an area that (subject to appropriate site investigations and development planning processes) should accommodate conventional residential development.

From a strategic planning viewpoint there is strong State and Council policy justification to support this proposed rezoning. Retention of the rural feel of the area through the application of the Rural Living Zone is inconsistent with policy.

Conclusion

We conclude:

The Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

The loss of the rural nature and ambience currently enjoyed by nearby residents is an unfortunate but inevitable consequence of the implementation of the long-established strategic directions applicable to the subject land.

Figure 3: Leopold structure plan showing subject land in red



2.2 Pedestrian connections

The issue of pedestrian connection to the surrounding area was raised in the Hearing and submissions.

The existing subdivisions to the north of the subject land have made no provision for the extension of the urban area of Leopold. There is a solid line of back fences from Ash Road to Melaluka Road, a distance of 1.2 kilometres. This creates poor pedestrian connectivity between the Estuary Estate, the subject land and the existing areas of Leopold.

A number of options for connectivity were discussed at the Hearing. The ODP has relatively good connectivity into the Estuary Estate and connection to the north could be provided. However, this would require that Council purchase an existing property.

Providing a pedestrian connection to the north would assist future residents as it would provide a more direct walking (and cycling route) to shops, schools and community facilities. It would benefit existing residents by providing better access to open space areas proposed on the subject land and that already provided in the Estuary Estate. Overall it would remove a significant barrier to community integration in Leopold.

Council and the proponent supported the proposition that the opportunity for improved pedestrian links should be part of the ODP.

We recommend:

Update the Leopold Structure Plan in the Greater Geelong Planning Scheme to show a 'strategic footpath' from the subject land to the existing residential area to the north.

Change the Development Plan Overlay schedule to require a pedestrian link to the north of the site. This link will require acquisition of an existing residential property.

Council act to acquire a property on Hazelwood Crescent to facilitate pedestrian connectivity between the subject land and the existing urban area.

2.3 External roads

(i) General

Bellarine Highway, located approximately 900 metres north of the proposed subdivision, is a four lane divided road with indented left and right turn lanes. Kerbside parking is available in some locations as well as one way service roads.

The T-intersection of Bellarine Highway/Ash Road, which runs south from the highway, is signalized. Simons Road, which is located north of the highway, intersects with the highway approximately 50 metres east of Ash Road, it is also signalized.

Ash Road, the eastern boundary of the proposed subdivision, is a two lane local collector road with an urban cross section, including kerbside parking on both sides. This cross section extends approximately 600 metres south of the highway. Further to the south Ash Road has a rural cross section with a central road pavement approximately 4 metres wide and gravel shoulders on both sides.

Melaluka Road runs parallel to and 1.2 kilometres west of Ash Road. It has a sealed pavement approximately 9 metres wide with grassed verges on both sides. At the abuttal to the Estuary Estate kerb and channel has been constructed on the east side of Melaluka Road. The intersection of Bellarine Highway and Melaluka Road is signalized.

Estuary Boulevard, the major collector road for the Estuary Estate, runs east from Melaluka Road and terminates at the west boundary of the subject land. The east–west section of Estuary Boulevard aligns with Walkers Road which runs approximately 260 metres west from Ash Road.

(ii) Como Road

Submissions were made by a number of residents from Como Road relating to the need to upgrade Como Road.

Como Road, which is located approximately 280 metres south of the subdivision boundary, runs between Ash Road and Melaluka Road. No pedestrian or vehicular link is proposed between Como Road and the subdivision. There is no logical connection between the development of the land and the need to upgrade Como Road.

We conclude:

The need or desire to upgrade Como Road is a local matter and should not be considered as part of the approval of the proposed subdivision.

(iii) Intersection improvement on the Bellarine Highway

The right turn lane on the west approach of the highway intersection with Ash Road has insufficient storage capacity.

In late 2012 Council provided VicRoads with a Traffic Impact Assessment report prepared by Cardno for the proponent and requested comment on the proposal. The Cardno report contained turning movement volumes at the Bellarine Highway/Ash Road intersection collected in March 2011 and predicted peak hour volumes at the same location post development assuming a fully developed subdivision. A SIDRA analysis for the evening peak hour indicated that the right turn storage lane on the highway could not accommodate the right turn demand. This resulted in VicRoads requiring extension of the right turn lane.

VicRoads advised by letter dated 17 December 2012 that the right turn storage lane should be no less than 100 metres. On March 12, 2013 VicRoads advised Council that the 100 metre requirement could be satisfied and VicRoads had no further comment.

During a site inspection of the subdivision and its environs we observed that the right turn demand on the highway west of Ash Road could not be accommodated in the right turn lane and vehicles queuing to turn right extended into the through lane. If Cardno had undertaken a SIDRA analysis for the existing conditions using 2011 or 2012 traffic volumes, the same result as the post development scenario may have been obtained.

A single observation during the evening peak hour highlighted an existing problem at the Bellarine Highway/Ash Road intersection.

A critical issue is the amount of money the developer of the subject land should be required to pay for the upgrade of the intersection, given that it serves existing residents and will be presumably required to serve the growth area to the east of Ash Road.

We recommend:

Council and VicRoads undertake further investigations of the Bellarine Highway/Ash Road intersection to determine:

- **whether the current right turn queues regularly extend beyond the right turn lane**
- **whether road improvements should be undertaken immediately.**

Before finalising the Amendment documentation and agreements for shared infrastructure funding, Council review the appropriate share of costs for alterations to the Bellarine Highway/Ash Road intersection that should be attributed to the subject land.

2.4 Fencing along the Southern Boundary

Submitters requested the installation of solid timber paling fences along the southern boundary of the shared pathway/buffer reserve.

Concerns were raised that security and privacy of the rural residential lots to the rear of the subject land would be compromised by the development, especially as the boundary will be open space and private land.

Council does not support the installation of solid timber paling fences along the southern boundary of the shared pathway/buffer reserve. The existing reserve abutting the southern edge of the Estuary Estate has been developed without the installation of solid fencing, rather favouring the standard rural post and wire fencing. This reserve is to be landscaped with vegetation to provide screening between the private land and the reserve, whilst maintaining casual surveillance. Experience in the Armstrong Creek growth area (south of urban Geelong) is that passive open space between residential and farming areas is not fenced with solid fencing. Management of litter and boundary fencing during construction, particularly for land south of Walkers Road, will be a matter for consideration in a construction management plan.

The Proponent agreed with Council's position.

We do not see the need for a paling fence between the open space reserve proposed on the land and adjoining properties.

In effect the development will introduce a second road frontage to the adjoining land (though the lots would not have access rights across the open space). Fencing typical of rural residential road frontages is appropriate.

We conclude:

There is no need for a high solid fence along the southern boundary of the land.

2.5 Construction management

What is the issue?

Experience during development of the Estuary Estate has raised concerns about adverse impacts during construction.

Submissions

Experience with construction issues and accountability at the Estuary Estate has led some submitters to seek Council to nominate a specific person to which complaints and concerns about issues during construction can be directed. Dust suppression and control of rubbish during high wind events were mentioned as well as noise and hours of operation.

The former Department of Environment and Primary Industries (DEPI) expressed concern that, in other locations, during construction stormwater detention basins have flooded following heavy rain, prior to the basins being connected to discharge facilities. This flooding has delayed completion of the basins and floodwater treatment and disposal has posed challenges for developers. This situation is particularly of concern as the overflow water will discharge into Reedy Lake/Lake Connewarre which is a Ramsar site.

Council submitted:

With any major subdivision development dust will be generated. Development Plan approvals and planning permits for subdivision contain standard conditions for construction management plans to be prepared and implemented during the subdivision construction phase. These are to demonstrate how the construction site is to be managed and off-site impacts avoided. The plans are monitored by Council's subdivision inspectors who are regularly out in field to monitor and ensure that contractors are doing the right thing and abiding by their obligations.

Construction management plans are developed according to the site constraints, access, local issues, and local conditions and are site specific. For dust suppression, water carts are required to be on site, work is to be planned around forecast weather events, avoiding the stripping of all on-site vegetation at once and hydro-mulching are the commonly used techniques included in construction management plans. There has been ongoing improvement in this process for Council in recent years. Council has an afterhours call number for any complaints where operators are not adhering to the agreed plan. This goes to a specific Unit, Infrastructure Management Unit, rather than a specific person as requested by the submitters. Contact is also available through the enforcement officers within Council's Statutory Planning Unit.

Council advised that because development plan and planning permit approvals processes address construction management issues as standard conditions, these have not been included as specific requirements in the DPO Schedule.

Discussion

Any development will need to be undertaken in accordance with EPA and other development guidelines and comply with current construction management techniques. In addition to the Stormwater Management Plan section of the DPO Schedule there could be a requirement that the development plan outlines in detail construction and maintenance requirements for the drainage basins. Specific reference could be made while development is proceeding and to incorporate contingency measures for floodwater treatment where flooding occurs prior to all infrastructure being connected.

Conclusion and recommendation

We conclude:

Construction management is an important issue but it is most appropriately addressed as part of permit conditions.

We recommend:

Change the Development Overlay Plan schedule to address flooding contingencies during construction of the drainage infrastructure.

2.6 Mosquito Breeding

What is the issue?

Two submitters commented on the need to control mosquito breeding in the drainage basins, as this is of great concern to public health because the basins are close to surrounding residents.

Submissions

More constructed wetlands or drainage basins are being developed within residential estates and if not carefully managed, they can become mosquito breeding sites. Generally, mosquitoes will breed if there is shallow water with no wave action, so wetlands with steeper edges and deeper, open water generally do not create breeding grounds. Mosquitoes will also breed around pockets of vegetation that remain wet or marshy, so limiting the marsh like vegetation, would be a good preventative measure.

Council advised that in its experience many of the constructed wetlands around Geelong do not breed mosquitoes in the first few years after development, but manifest problems after a few years as maintenance declines, and vegetation grows to limit the wave action and access to the wetland for monitoring and maintenance. The wetland system on Melaluka Road Leopold is a good example of this.

Council monitors and treats mosquito breeding sites for mosquito larvae on a regular basis around Leopold and the rest of the Bellarine Peninsula. The major mosquito breeding sites are in the large wetland areas of Lake Connewarre, Reedy Lake and Swan Bay, and these are the targets of Council's aerial treatment program.

Council also monitors various wetlands and drainage basins around Geelong and treats them by ground based methods with larvicides as needed, this includes many sites in Leopold.

This rezoning area could be added to Council's list to monitor, but obviously, it will be best if the site did not breed mosquitoes in the first place.

Discussion

Guidelines are available on how to design and construct major drainage elements to minimise mosquito risk. Council proposes to amend the Development Plan Overlay to require the design and construction of the drainage basins to include measures to discourage mosquito breeding. Such measures could include:

- Bio retention elements designed to retain water for no longer than 72 hours, this being insufficient time to allow mosquito breeding.
- Open drainage channels and basin bottoms graded so that water drains toward an outlet and is not held for long enough to become stagnant. If wet patches do remain in other areas, this will be no worse than in parkland areas or backyards.

Recommendation

We recommend:

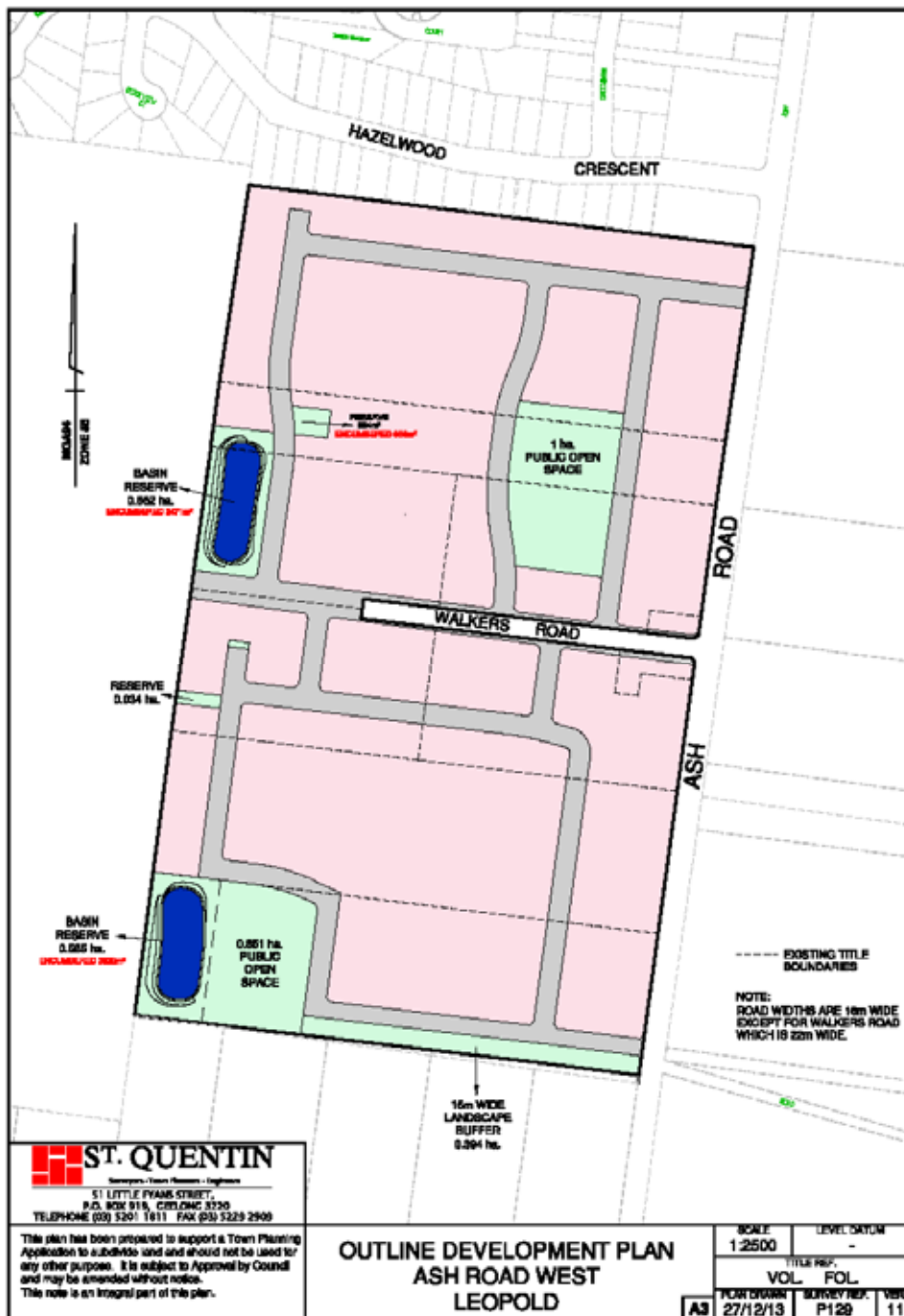
Change the Development Plan Overlay schedule to include a requirement for the design and construction of the drainage basins to include measures to discourage mosquito breeding.

3 Internal layout

3.1 Features of the layout

The subject land covers a number of individual land holdings. The exhibited Outline Development Plan that forms part of the Development Plan Overlay schedule is shown in Figure 4. A number of land owners made submissions about the features of this plan. The plan does not show all the roads that will need to be constructed as part of the subdivision.

Figure 4: Exhibited Outline Development Plan



3.2 Coordinated development

What is the issue?

The development of the land will require coordination and cooperation between the various land owners. At best there are two development parcels on the subject land: north and south of Walkers Road, but given the need to extend Walkers Road the whole of the subject land may need to be developed to affect the widening of the road.

Submissions

It is clear from submissions at the Hearing that the various land owners have not reached agreement of how the land is to be developed. The submissions from affected land owners were not essentially submissions about the best layout for the land; they were submissions about future profit, based on the notion that some other land owner was going to get a better deal.

Discussion

It is clear that most submitters are more focussed on relative financial gain than the long-term quality of development. This is despite an equalisation scheme that will ensure equal contribution to the cost of open space. One submitter described having open space on a parcel as 'being punished with open space'. Open space is a key determinant of the quality and liveability of areas and planning needs to focus on the long term liveability rather than short term issues.

It is in the land owners and future residents best interests to develop the best quality estate they can at the lowest development cost. This will require cooperation, and this cooperation will be underpinned by a fair financial arrangement. It is not up to Council to try to facilitate this. The land owners who stand to benefit from the development of this land need to work this out between themselves, and until they do rezoning the land would be premature. As a group the land owners cannot agree upon what they want to do with the land. They have no coherent proposal and may not be able to develop one.

Developing land brings a certain responsibility to future generations to deliver a quality living environment. Councils and panels are sometimes required to adjudicate between competing development projects, but not between various factions of the one project.

Given the disagreements between land owners, and according to submissions, a degree of distrust it would be premature to rezone the land. Rezoning the land may simply raise land owners expectations further and frustrate a cooperative approach. It might also lead to an ad hoc approach to development.

At the Hearing the issue was discussed as to what should happen if some owners were not prepared to enter the proposed section 173 agreement. Until all the land owners (or all the owners north or south of Walkers Road) agree to the layout and shared infrastructure approach the proposal should be held in abeyance.

The development of this land is not critical to land supply in the Geelong region and if it not developed for many years then there will be no great impact on the community.

Recommendation

We recommend:

Before adopting Greater Geelong Planning Scheme Amendment C280 Council enter into a section 173 agreement with all owners (or all the owners north or south of Walkers Road) on shared infrastructure funding. This agreement should be based on an agreement between the land owners on the Outline Development Plan and cooperation on development. If agreement is not reached in a timely fashion Council should abandon the Amendment. Council could consider adopting the Amendment in parts if all owners north or south of Walkers Road reach agreement.

3.3 Drainage and open space

(i) Southern drainage basin

What is the issue?

Tract submitted that the southern basin is too big and should be reduced, requesting that it be re-designed based on the 2008 SMEC Urban Pre-development Drainage design. This would in turn reduce the size of the southern basin and its reserve area.

The owner and resident adjoining the proposed site of the northern basin (133 Hillclimb Drive) expressed concerns about the location of the basin and its integrity over the long term.

Submissions

The proposed southern retarding basin is located on an existing dam. The location is not disputed, but there is concern that the current dam is not designed to cater for the 1 per cent annual exceedance probability event. On this basis if any land south of Walkers Road is developed before the dam is upgraded it will endanger the properties currently being developed to the west within the Estuary Estate. Under provisions of the *Water Act 1989* the owner of a private dam is liable for any damage caused by the escape of water from a dam and to maintain a safe structure.

Tract is seeking additional wording to the DPO33 to ensure that the required Integrated Water Management Plan has due regard for the potential impacts downstream of the developing properties in the southern catchment, including:

- prioritising the construction of the southern water basin
- minimising development until the southern water basin is constructed.

Tract also seeks that Council:

- writes to the owners in the Estuary Estate outlining the risks and hazards associated with the dam and how Council is mitigating this
- halts construction of these neighbouring properties until the southern drainage basin is constructed.

Council noted the concerns of the property owner relating to the capacity of the existing dam on the southern property. The open space strip on the southern boundary of the

Estuary Estate functions as an overland flow path for major flows and appears to have been configured to accept run-off from the dam's spillway.

Council advised that its engineers have held discussions in the past with the landowner about his dam and the neighbouring properties in the Estuary Estate and are aware of his concerns. The design of the Estuary Estate has allowed for both an overflow from the existing dam and a designated flow path when the southern drainage basin is constructed and this provides a path for any excess water.

Notice of exhibition of the Amendment and copy of the draft outline development plan was sent to all abutting landowners within the Estuary Estate; so they would be aware of the location of the southern drainage basin and the co-located open space.

Discussion

We are satisfied that the southern retarding basin is in a suitable location.

It is not appropriate for us to recommend the size of the retarding basin from an engineering perspective. There is a mechanism in place to consider drainage issues as the land develops and we are satisfied that a suitable drainage regime can be established as part of the detailed design process.

It is not unusual for a detention basin to be located upstream and adjacent to existing housing, provided some basic precautions are taken in siting, design and construction.

It is difficult to absolutely guarantee overflow will never occur, as there is always a chance that a greater than 1 per cent annual exceedance probability rainfall event will occur. In such an event, the risk of flooding to established housing is minimised by providing for a suitable overland flow path.

Conclusion

We conclude:

The precise size of the retarding basin should be determined as part of the detailed design process. There is sufficient land to contain a basin of adequate size.

(ii) Southern open space

The size and location of the southern open space was raised in submissions.

For the area to the south of Walkers Road, a submitter argued that the open space should not be co-located with the drainage reserve but rather should be located on neighbouring properties to allow it to be surrounded by roads on four sides and to be more fairly apportioned across other landowners.

Council submitted that it had considered open space provision south of Walkers Road and concluded that the southern open space can be reduced to 0.5 hectare as it is to be co-located with the southern drainage basin. This represents a reduction of 0.351 hectares of open space.

Council supports the co-location of open space south of Walkers Road for the following reasons as set out in a Council report:

Co-locating the open space with the southern drainage reserve allows for a substantial reduction in the area of open space required as the 2 parcels will effectively operate as a single, seamless park. If a standalone park was required, this would need to be one hectare in size; in the co-located context, it is only required to be 0.5 hectares. The requirements of clause 56.05-2 of the Planning Scheme also direct that open space should be 'integrated with floodways and encumbered land that is accessible for public recreation' and be 'integrated with urban water management systems, waterways and other water bodies'. Co-locating open space also provides benefits and efficiencies for maintenance, provides a greater sense of space and amenity for users and extends the area available for use. (10 February 2015 Council Meeting Minutes, Page 60, emphasis added).

A suggestion was made by the owners of the southernmost property for offsetting this open space to the north so that six 'prime' development lots could be achieved between the basin reserve, the open space reserve and the pathway/buffer reserve. Council is not supportive of this proposal as it would not neatly meet the requirements of the Planning Scheme for open space to be suitably dimensioned and dilutes the effect and benefits of the co-location.

We agree with Council that co-locating open space provides benefits and efficiencies for maintenance, provides a greater sense of space and amenity for users and extends the area available for use. It would not materially affect people's access to open space.

We recommend:

Change the Development Overlay Plan schedule to reduce the size of the southern co-located public open space and retention basin to 1.085 ha.

(iii) Northern open space location

What is the issue?

It was submitted that the open space to the north of Walkers Road disproportionately affects smaller landholders, favouring the proponent with the largest land parcel.

Evidence and submissions

In considering the submissions Council reviewed the open space needs for the area taking into consideration the provision of open space in surrounding developments and the proposal to locate a 2 hectare district park in the growth area to the east of Ash Road through to Mollers Lane.

Council considered that a park of about 1 hectare is still required in the rezoning area to the north of the Walkers Road to provide for local and easy access for future residents. The future location of the district park is not yet planned and the upgrade to Ash Road will provide a barrier to easy pedestrian access.

Council has resolved to relocate the northern open space so that at least 0.6 hectare is located on the proponent's land at 90-108 Ash Road with the balance located on the land at 110-116 Ash Road. The proponent sought a co-located open space adjacent to the northern drainage basin.

A number of reasons were put why the Council position was superior:

- a key intent of this change is for 10 per cent of the applicant's land to be provided as open space so that a park can be delivered on site when this land develops
- this park can be delivered in two stages, with the balance to be provided when land to the south develops. The effect of this change is that at the start of subdivision in this area a reasonable sized park will be able to be delivered for new residents with the balance provided as the next land parcel develops
- the site was inherently more suitable to open space because it is flatter
- the site would provide better access to future residents and residents of the existing area of Leopold
- it will not be on a collector road avoiding safety issues associated with traffic next to the park
- it is a 'fairer' distribution of open space.

The proponent submitted that while equity was certainly a matter that should be taken into consideration, equity should not be the overriding consideration in relation to the distribution of public open space.

The proponent submitted that Council's approach to open space equalisation complies with the standard and industry-accepted practice. That is, applying an equalization mechanism through the planning scheme amendment process such that no land owners are unfairly disadvantaged by, and no landowners inequitably benefit from, the distribution of passive open space.

The evidence of Craig Czarny was that achieving an optimum urban design outcome should be the primary consideration in relation to the distribution of public open space north of Walkers Road.

The proponent submitted that it is not possible at this stage of the planning process to confirm that the proponent's land (and, importantly, only the Proponent's land) will be the first stage of subdivision north of Walkers Road.

The trigger for the provision of the northern drainage detention basin (as detailed in Council's post-exhibition SIFP Table 5) is the '*first subdivision in catchment*', that is, first subdivision north of Walkers Road). Because of the specified trigger for the provision of the northern drainage detention basin at least part of 22-30 Walkers Road (land that is not owned or controlled by the Proponent) will need to be acquired and developed as part of Stage 1.

Another property (110-116 Ash Road – also not owned or controlled by the Proponent) sits between the Proponent's land and the site of the proposed northern drainage detention basin.

A number of arguments were put forward regarding the co-location of open space with the northern drainage basin:

- co-location with the northern detention basin will be a more efficient use of space
- the open space will be 100 per cent encapsulated within 22-30 Walkers Road
- the open space will have frontage to Walkers Road and can be part of a chain of parks

- the open space can include established vegetation as appropriate within 22-30 Walkers Road
- it may in the first part of the land to be developed allowing for creation of the park early in the development process, to the advantage of the new community and as a strong entry statement to the new development.

The quality of the vegetation on the site was disputed by the owner of the land, and Council raised concerns about locating open space adjacent to the collector road.

Discussion

We agree that in the case of a permit application there is no particular obligation for the proponent to achieve an optimum outcome from a community point of view. This is not a permit application; this is essentially a structure planning exercise for a new subdivision, and the optimum design ought to be pursued unless there is some clear reason why not.

The view that equal distribution of open space should not be an overriding consideration is supported in Growth Area amendments developed by the MPA and the Growth Area Councils, as detailed in the Growth Area Model Planning Permit Conditions – A Manual for Implementation October 2011.

With reference to Clause 52.01 Public Open Space Contributions and in particular contributions towards passive open space, that Implementation Manual specifies:

Passive open space such as neighbourhood parks is sought via the contribution requirement of clause 52.01 of the Scheme. However, because passive public open space is rarely distributed evenly across title boundaries, a mechanism is required to equalise individual landowners contributions so that no one land owner is unfairly disadvantaged in having to provide a greater proportion of passive public open space. On the other hand, landowners who need not provide any land for passive public open space should not benefit from that circumstance. Accordingly, an amendment will generally seek to give effect to an equalisation scheme (page 7).

The Manual for Implementation goes on to specify that in designated Growth Areas the equalization mechanism is typically to be found in the applicable PSP or DCP. In the case of the Amendment the equalization mechanism is to be found in the Shared Infrastructure Funding Plan and the draft S173 Agreement.

Given the approach to open space equalisation is considered appropriate, the issues of equal distribution should not be an overriding consideration in relation to the distribution of public open space.

The arguments that favour co-location north of Walkers Road mirror Council's arguments in favour of co-location south of Walkers Road. We agree with the proponent that it stands to reason that co-locating the northern open space reserve with the northern drainage reserve would facilitate the same beneficial outcomes that lead Council to support co-location south of Walkers Road.

However, fundamentally either option for open space could deliver a good outcome for the development and a more northern location has the advantages of being marginally better

located and not on the collector road. The location of the open space might also be determined by the proposed housing mix of the development and whether some higher density housing is proposed, in which case this could benefit from being located adjacent to the open space; this would favour the more northern location. The only factor driving a decision on location of the open space as part of the Amendment is the lack of agreement between the landowners north of Walkers Road, who will in reality need to reach agreement if the land is to be developed, if only to resolve drainage issues.

What is critical at this stage is that the developers – that is all the land owners – have a coherent position about what they want to do. At present they do not. Until they can agree with each other making a decision on the development plan is premature.

Conclusion and recommendation

We conclude:

Land north of Walkers Road should be developed in a coordinated fashion and not as isolated projects. The relevant land owners need to agree a mutually accepted position on the layout of the development. While there are benefits in co-locating the open space with the northern drainage basin the more northern location will result in a slightly better overall distribution of open space.

We recommend:

Change the Development Overlay Plan schedule to locate a 0.92 ha area of open space in the north-east of the subject land unless an alternative open space location is agreed by all land owners north of Walkers Road and Council.

(iv) Southern buffer open space

One submitter questioned the need for the open space buffer along the southern boundary of the site, and another considered it to be too wide and should be reduced from a 15 metre wide strip to a 6 metre wide strip.

Council advised that the southern boundary open space pathway would perform a 'linking function' and act as a buffer to the rural area to the south. It would not have a drainage function unlike the open space on the southern side of the Estuary Estate. Council submitted that the width could be reduced to 10 metres.

Reducing the width of the strip would maintain sufficient space for landscaping, a 2.5 metre wide shared path and grassed area to the road kerb. The shared path on the southern boundary of the Estuary Estate meanders within the reserve, hence uses a large portion of its 15m width.

We recommend:

Change the Development Overlay Plan schedule to reduce the width of the southern pathway/buffer reserve to 10 metres.

(v) Pocket Park

Council has resolved to delete the 594 square metre pocket park for the River Red Gum tree north of Walkers Road as the tree has been removed. It therefore no longer requires a public open space reserve.

We recommend:

Change the Development Overlay Plan schedule to delete the small park for the protection of a River Red Gum Tree.

3.4 The subdivision collector road**What is the issue?**

A number of submitters opposed the proposal to continue Estuary Boulevard eastward to join with a widened Walkers Road and intersect with Ash Road.

Submissions

Walkers Road has a gravel formation approximately 3 metres wide located within a 15 metres wide road reservation. Six properties abut Walkers Road, four of which have Ash Road addresses.

Based upon the information provided, it appears as though the centreline of the Estuary Boulevard road reservation aligns with the common title boundary of 22-30 and 21-29 Walkers Road.

Continuing Estuary Boulevard east on the alignment of Walkers Road will seriously impact on the two smallest properties within the rezoning area. The required road reservation widening will affect not only the properties, but also parts of the house structures.

Suggested alternative alignments(including diagrams) for this collector road through the rezoning area have been put forward by two submitters. These options involve diverting the through road further to the south, with Walkers Road either being truncated into a court bowl or extended and curved in a north-westerly direction to meet a planned north-south road parallel to the northern drainage basin.

Council has investigated how a widened road pavement could be achieved within the existing road reservation at the Ash Road intersection. However, despite best efforts, it has not been possible to achieve a two lane road, verge and shared pathway in the 15 metres reservation, even deleting on-street parking. To achieve the through route along the exhibited alignment and to develop an efficient intersection with Ash Road will necessitate the acquisition of both small properties at 130 and 132 Ash Road.

The owner of 132 Ash Road is willing to consider his property being purchased in the future to allow Walkers Road to connect to Ash Road. As a result the cost of purchase of 132 Ash Road is to be added to the Shared Infrastructure Funding Plan.

Discussion

The provision for separate development plans to be prepared for the areas north and south of Walkers Road is reasonable; but it is acknowledged that it leaves a question about how the upgrade and extension to Walkers Road will be delivered. To remove any concern about

this, it is proposed to require the first stage development plan to include a strategy for delivering an upgraded Walkers Road to a collector road standard.

The route of the collector road was established in the planning work done for the Estuary Estate a few years ago. In the first information session for Amendment C280, the continuation of the Estuary Boulevard through to join up with Walkers Road was outlined. The continuation of Estuary Boulevard into Walkers Road is still the favoured option as it will also provide an opportunity to continue the road further east as part of the future development east of Ash Road towards Mollers Lane.

Conclusion and recommendation

We conclude:

Walkers Road should be widened to a minimum reservation width of 20 metres and extended in a westerly direction to connect with Estuary Boulevard. The centreline of the road reserve should align with the common boundary of 22-30 Walkers Road and 21-29 Walkers Road.

We recommend:

Before finalising the Amendment documentation and agreements for shared infrastructure funding include the full cost of acquisition of the property at 132 Ash Road in the Shared Infrastructure Funding Plan to allow sufficient land for the Walkers Road upgrade and intersection.

Change the Development Overlay Plan schedule to:

- **require a strategy for the upgrade and extension of Walkers Road**
- **show properties at 130 and 132 Ash Road as not included in the developable area.**

3.5 Changes to the detailed design

(i) Road Reserve Widths

Council has agreed in part with the submissions that road reserve widths can be reduced to 13 metres where the land abuts open space. This is supported for the roads abutting the pathway/buffer reserve, the northern drainage basin and the co-located southern drainage basin and open space. This comes with a caveat that services are still to be located within the road reserve and not within the open space. Council disagrees with this approach for the northern open space where it is mid-block and changing the road reserve width along a single length of road is not supported.

We recommend:

Change the Development Overlay Plan schedule to reduce the width of roads adjoining the southern public open space and landscape buffer and both drainage reserves to 13 metres.

(ii) Roads Surrounding Open Space

The exhibited DPO Schedule 33 provided for new public reserves to have at least two street frontages. This is the minimum standard from the City of Greater Geelong's Sustainable Communities (Infrastructure Development Guidelines – October 2010).

Council submitted that it is unfortunate that this is expressed in this way as it promotes a bare minimum standard that planners believe to be less than ideal. It is the preference of strategic and open space planners for open space reserves to be bounded by roads on four sides. This is likely to be reflected in the current review of the Guidelines, at the least, the requirement for three street frontages as a minimum is expected to be strengthened.

Council supports the suggested wording proposed in the Tract submission:

Public open space areas, including the basin reserves, with street frontages on at least three boundaries. Where spaces are located adjacent to existing boundaries not fronting a street, open space areas including the basin reserves may provide not less than two street frontages. Where possible, open space should not be bordered by back fences.

This is incorporated into the post-exhibition version of DPO33.

We recommend:

Change the Development Overlay Plan schedule to include revised language on street frontages adjacent to open space (including drainage reserves) to require road frontage to three boundaries except where open space is located adjacent to an existing rear or side boundary, in which case the open space may have frontage to two streets.

4 Contributions, offsets and clarifications

4.1 Flora assessment

What is the issue?

The *Flora and Fauna Assessment, and Net Gain Analysis Ash Road, Leopold* needs to be revised to conform to current standards.

Submissions

The former Department of Environment and Primary industries (DEPI) submitted that, based upon changes brought about by approval of Amendment VC105 in the intervening period:

... the Flora and Fauna Assessment, and Net Gain Analysis Ash Road, Leopold prepared by Ecology Partners (July 2011) supporting the Amendment application, should be revised to conform to current standard. Whilst not vital to support the Amendment, early revision will ensure any required offsets and native vegetation information meets the Native Vegetation Policy Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI 2013).

This recommended course of action was fully supported by the Proponent.

DEPI has noted that since the rezoning application was prepared, Amendment VC105 has come into effect and given this, DEPI recommends that the '*Flora and Fauna Assessment, and Net Gain Analysis Ash Road, Leopold*' prepared by Ecology Partners (July 2011) to support the rezoning be revised to conform to current standards. Whilst not vital to support the Amendment, an early revision will ensure that native vegetation information and required offsets will meet the Native Vegetation Policy Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI 2013).

Discussion

We agree with the recommendation of DEPI on the need to update the environment report to ensure that it is capable of being implemented in accordance with the new native vegetation policies. This can be undertaken post panel as it will assist with the development plan and planning permit process.

Recommendation

We recommend:

Before finalising the Amendment documentation and agreements for shared infrastructure funding require the proponent to revise the Flora and Fauna Assessment, and Net Gain Analysis to conform to current standards.

4.2 Shared Infrastructure Funding Plan

Some submissions have sought changes to the items that have been included and excluded from the SIFP.

(i) Planning costs

Submissions from Tract and Simon Carter have requested that planning costs be removed as they believe the applicant had committed to funding these as part of the application to rezone.

Planning costs are a normal and reasonable cost to include in a SIFP or the alternative of a development contributions plan. The nature of the application changed during the consideration process as it was determined that the development could not be delivered without a SIFP. In this context the costs of preparing the SIFP, its supporting documents, and the S173 Agreement are to be shared by all parties.

All landowners will derive a benefit from the rezoning application that has been undertaken by one of the landowners, and it is common for both the benefit and cost to be shared. Given these costs have already been occurred it is reasonable they be included in the SIFP so they can be recovered.

We conclude:

It is appropriate to include planning costs in the Shared Infrastructure Funding Plan.

(ii) Road construction costs

The submissions from Simon Carter and Gwen Prosser request that the costs of the through collector road also be included in the SIFP similar to the costs to upgrade the Ash Road/Bellarine Hwy intersection. They submit that this is 'shared' infrastructure for the whole development and that the burden should not just fall onto the adjoining landowners.

The submission from Tract also requests that half of the cost of the roads abutting public open space be included in the SIFP as had been flagged in the Peter Berry Stormwater and Services Report accompanying the application.

Council does not support the inclusion of half the costs associated with the construction of roads adjacent to public reserves. The layout as proposed in the Outline Development Plan is dictated by contemporary design. This incorporates safety, amenity, aesthetics and casual surveillance into the design and location of open space. Council has agreed to reduce the road widths of roads adjacent to open space, especially on the southernmost lot in recognition of the costs of developing roads next to public open space and drainage reserves.

This issue relates to local roads and Council should not be drawn into a financial arrangement between the various owners which it would be if the roads were included in the Shared Infrastructure Funding Plan.

This is an issue of equity between parties, but one that needs to be resolved between the land owners. The land owners need to reach agreement between themselves on the development plan for the land and the apportionment of the costs of development.

We conclude:

It is not appropriate to include local roads in the Shared Infrastructure Funding Plan.

(iii) Land valuations

Tract submitted that the SIFP should be clarified to ensure that indexation is appropriately informed by revised land valuations and that generally this section of the SIFP be revised to clarify its intent.

Tract has challenged the Westlink Consulting Valuation Report that supports the SIFP, in particular the assumption that the southern portion of the land to be rezoned is likely to develop at a later stage, and has, therefore been attributed a lesser per hectare valuation rate of \$750,000 compared with the \$900,000 for the northern most property.

The valuations in the Westlink Report have been prepared under instruction from Council and the applicant. Westlink has used a consistent process for this report as it has in other development contribution plans in Greater Geelong (such as in Armstrong Creek and Lara West) and has been tested at planning panels.

Council submitted that if a development plan has been approved, development at the southern end of the rezoning area could proceed at any time. A factor to be considered though is that this area would need to fund the infrastructure costs to reach the property. The valuations have been underpinned by the orderly and logical consideration of how development may turn out and the bringing of land onto the market.

We conclude:

The proposed approach to valuations and indexation is appropriate.

(iv) Clarifications

In response to changes proposed to the Amendment and submissions a revised SIFP and the draft Outline Development Plan were prepared and circulated. Council notes that further changes may also be necessary as a result of any of our recommendations.

The costings prepared for the draft SIFP were internally tested by Council officers and are within the range of costings for other urban growth areas and developments. The initial subdivision plan included in the Peter Berry and Associates Stormwater Management Strategy & Services Report has changed compared with the exhibited draft Outline Development Plan. However, it is deemed to be conservative in its design, and any differences between the two versions are considered to be marginal in the context of modelling.

The SIFP should be a very clear and unambiguous document. As part of updating this document to reflect the post-exhibition changes, the clarity of the SIFP has been confirmed and all changes are outlined in a track changes format previously circulated.

A verbal suggestion arising from a meeting with Fadgyas Planning Associates was to review the draft Section 173 Agreement to use more plain English language so that it more capable of being understood by the landowners who will be asked to sign it. This is a reasonable

suggestion and Council advised that they will work with Maddocks lawyers to improve the language and legibility of the final Agreements.

We recommend:

Change the Development Overlay Plan schedule to reflect the executed version of the Shared Infrastructure Funding Plan and associated agreement.

4.3 Timing of payment of community infrastructure levy

What is the issue?

It was submitted that the \$900 community infrastructure contribution in the SIFP should be paid only at the building permit approval stage for dwellings within the area.

Submissions

Council supports the retention of the \$900 community infrastructure contribution per residential lot within the SIFP to be paid at the time of subdivision in lump sum amounts. Council's experience and preference is that this is more efficient and provides certainty of funding for Council and avoids the drip-feed of hundreds of \$900 amounts over several years.

In the last decade Council has consistently used S173 Agreements for small to medium residential rezonings to collect \$900 per lot for local community infrastructure. The Agreements all include a requirement that the \$900 per lot is paid just prior to Statement of Compliance for each stage of subdivision.

Council submitted that there are numerous such examples on the Bellarine Peninsula at Leopold, Drysdale, Ocean Grove and Portarlington.

This approach has the benefit of funds coming from the one source (the developer), is easier to administer and manage and doesn't rely on building surveyors collecting the payment at the building permit stage.

The proponent submitted:

It is our submission to the Panel that requiring payment of the Community Infrastructure Levy at the time of subdivision does not provide for the fair and equitable development of land. Specifically within other nominated Urban Growth Areas, Council requires payment of the Community Infrastructure Levy at the Building Approval Stage, in accordance with section 46(0) of the Planning & Environment Act (1987).

Discussion

While we can understand Council's preference for receiving lump sum payments, in our view the benefits to Council of applying this preference would not justify any disadvantage caused to developers that would result from the inconsistent application of payment 'triggers' within competing Urban Growth Areas.

An inconsistent approach clearly disadvantages one particular group of developers to the benefit of others, and we can see no reasonable or rationale justification for doing so.

In this case a consistent approach favours collection at the time of certification of the subdivision. The tension here is between what the practice is in Geelong compared to the clear expectations of the *Planning and Environment Act 1987*.

Conclusion

We conclude:

The timing of collection of the Community Infrastructure Levy should be consistent across developments in a growth area, and in the case of Geelong we understand this to be collection at the time of certification of the subdivision.