

**GREATER GEELONG PLANNING SCHEME**

**AMENDMENT C356**

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RESOLUTION TO REFER SUBMISSIONS TO A PANEL APPOINTED BY THE MINISTER  
FOR PLANNING

UNDER DELEGATION FROM COUNCIL I HEREBY RESOLVE TO:

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 5 of the Planning and Environment Act 1987 to consider submissions relating to the amendment;
- 2) Refer all submissions to the Panel; and
- 3) Submit to the Panel its response to the submissions as outlined in this report.

SIGNED:.....  .....

DATE:..... *2 June 2017* .....

**PETER SMITH  
COORDINATOR STRATEGIC IMPLEMENTATION**

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DELEGATED AUTHORITY REPORT  
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**To:** Peter Smith – Coordinator Strategic Implementation  
**From:** Ian McCartney  
**Subject:** Consideration of submissions  
**File number:** C356  
**Date of Report:** 2 June 2017

### **Purpose**

The purpose of this report is to consider submissions received as a result of exhibition of Amendment C356 which is a combined Planning Scheme Amendment and draft Planning Permit for land at 42-44 Ponds Drive and 60 Forest Road North, Lara and to refer them to an Independent Panel appointed by the Minister of Planning.

### **Summary**

- Amendment C356 is a combined Planning Scheme Amendment and Planning Permit resulting from an application made by Tract Consultants on behalf of Angelo Martucci to rezone part of land at 42-44 Ponds Drive and 60 Forest Road North, Lara from Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1) and apply a Special Building Overlay (SBO) to part of the site.
- The accompanying permit application is seeking a 5 lot subdivision and construction of 4 two storey dwellings at 42-44 Ponds Drive. It also seeks the removal of a restrictive covenant from the Titles of both properties.
- A single detached house exists on each of the properties subject of this amendment but they are not located on the area of land being rezoned.
- Amendment C356 was exhibited in the normal manner between 9 February 2017 and 13 March 2017.
- Three submissions were received of which one from an adjoining neighbour raised issues of concern including unworkable arrangements for garbage collection, danger created by additional traffic & the need for an independent traffic assessment, access arrangements and easement restrictions.
- This report addresses the issues raised in the submissions and recommends they be referred to an Independent Panel appointed by the Minister for Planning.
- The proposal is consistent with the overall thrust of State and Council planning policy including the adopted Lara Structure Plan.
- As all submissions are unable to be resolved they must be referred to an Independent Panel appointed by the Minister for Planning.

### **Recommendation**

**That Council having considered all submissions to Amendment C356 resolves to:**

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- 1) Request the Minister for Planning to appoint an Independent Panel under Part 5 of the Planning and Environment Act 1987 to consider submissions relating to the amendment;**
- 2) Refer all submissions to the Panel; and**
- 3) Submit to the Panel its response to the submissions as outlined in this report.**

***Background***

Amendment C356 is a combined Planning Scheme Amendment and Planning Permit resulting from an application made by Tract Consultants on behalf of Angelo Martucci, the owner of 42-44 Ponds Drive, Lara.

The Amendment proposes to rezone land at both 42-44 Ponds Drive and 60 Forest Road North, Lara from UFZ to GRZ1 and apply an SBO to part of the site. The owner of 60 Forest Road North has provided written support for the proposal.

The accompanying permit is for approval for a 5 lot subdivision and construction of 4 two storey townhouses at 42-44 Ponds Drive. It also seeks removal of a restrictive covenant applying to the Titles of both properties which prevents the development of the land "other than in accordance with an approved neighbourhood design plan". Tract advises the current restriction on Title prohibits the subdivision and development being proposed and submits appropriate development control measures can be applied by way of permit conditions.

Each of the two properties are occupied by an existing detached house which are located outside the portion of the sites being rezoned by this Amendment.

**Appendix 1** shows the two properties subject of this Amendment superimposed on an existing zoning plan. 42-44 Ponds Drive has a total area of 2070 sq m, approximately half of which currently falls within the UFZ. 60 Forest Road North has a total area of 7201 sq m of which approximately a quarter falls within the UFZ.

**Appendix 2** is an aerial photo of the subject land and the surrounding area. Land to the south and east is a well established residential area, whilst the Hovell Creek reserve containing an existing levee bank forms the northern boundary. On the west side of Forest Road North is the site of an ex-limestone processing plant and quarry currently being rehabilitated and subject to a current rezoning proposal (Am C320).

**Appendix 3** shows the subdivision and 4 dwelling development site layout proposed at 42-44 Ponds Drive.

The adopted 2011 Lara Structure Plan has identified the subject land as a future residential development opportunity subject to augmentation of the adjoining levee bank to enable the site to be declared flood free. The applicant is currently negotiating with Council's Engineering Services Dept re the design and funding of the levee upgrade. The applicant has been advised these works must be completed to Council's satisfaction prior to the Amendment/permit being approved.

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All of the requirements of Council's Engineering Services Dept and the Corangamite Catchment Management Authority have been included as conditions on the permit.

***Discussion***

Amendment C356 was exhibited between 9 February 2017 and 13 March 2017. Notice appeared in the Geelong Independent on 3 February 2017 and the Geelong Advertiser on 4 February 2017, with all adjoining and nearby properties individually notified.

As a result of exhibition of the Amendment a total of 3 submissions were received of which one from the adjoining neighbour at 46 Ponds Drive raised issues of concern. The submissions received were from:-

- 1) Tract Consultants on behalf of the applicant setting out reasons why Council should support the proposal;
- 2) Barwon Water offering no objection to the Amendment, its requirements having been included as conditions on the permit; and
- 3) the owner of 46 Ponds Drive raising a number of issues of concern about unsatisfactory arrangements for garbage collection, safety issues resulting from the additional traffic generated by the proposed additional 4 dwellings, impact of the existing easement on the proposed development, suitability of driveway access arrangements to cater for 5 dwellings & potential negative impact on his property valuation.

The next section of this report deals with the issues raised by the submitter at 46 Ponds Drive.

**1. Garbage bin arrangements.**

The issue of the existing somewhat rather unsatisfactory garbage collection arrangements at the western end of Ponds Drive were initially drawn to officers' attention by the owner of 38 Ponds Drive. Because of the constrained nature of the hammerhead court bowl, garbage trucks have difficulty turning & emptying the bins at Nos 42-44 and 46 which results in 8 bins having to be placed in front of No 38 on collection day.

The owner of 46 Ponds Drive has expressed concern at the initial failure to address the garbage collection issue and also the continuing prospect of a general clutter of bins at the end of their street on collection day.

Council's Waste Management Dept has suggested some minor extensions to the Ponds Drive hammerhead may enable the garbage truck to empty bins from in front of both Nos 42-44 & 46 and has also proposed a new bin collection area be provided at the northwest corner of the frontage of No 23 Lime Crescent (on the south side of Ponds Drive).

The applicant was then requested to engage a traffic engineer to design the necessary changes described above to both overcome the existing unsatisfactory garbage collection arrangements & make provision for bin collection facilities for the proposed 4 new dwellings.

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**Appendix 4** shows the proposed changes required to facilitate these arrangements, agreed to in principle by Council's engineers and which will be implemented in detail by additional permit conditions. The owner of the property at 23 Lime Crescent (Office of Housing) and the occupant have been notified of these new arrangements which will place a new bin collection area near the side boundary of this property. No response has been received to this notification.

It is considered the proposed new arrangements for the movement of garbage trucks & the proposed new bin pad, all to be undertaken at the applicant's expense, will provide a satisfactory and workable solution to the garbage collection issue.

The prospect of an increased clutter of bins in the street on collection day is not considered a sufficient reason to reject the permit for an additional 4 dwellings.

## **2. Additional traffic**

The submitter from 46 Ponds Drive is concerned that the additional traffic generated by the proposed 2 dwellings "*will create absolute mayhem and will certainly result in someone getting run over and seriously injured or even killed*"...and therefore seeks a Council/developer funded traffic report.

As the subject land is located at the end of the road, (as distinct from midway), all traffic will necessarily be travelling slowly. The access driveway to the proposed 4 new dwellings is sufficiently wide to cater for vehicles moving in opposite directions so that all vehicles entering and exiting the site will be able to do so in a forward direction.

The addition of slow and forward moving vehicles generated by 4 dwellings to the existing local traffic is considered unlikely to result in any sort of serious traffic hazard. In these circumstances an independent traffic report as suggested by the submitter is not considered necessary.

## **3. Easement and development restrictions on the subject land**

The submitter has queried the existing easement and development restrictions affecting the subject land & why they would no longer continue to apply (he indicated he had previously enquired about purchasing this property)

The 4m wide easement in favour of Barwon Water and Council which crosses the subject land will not be impacted by any of the proposed buildings on the site.

The existing zoning restrictions which limit development to part of the site continue to apply and will only change if this Amendment is approved. This is being made possible by augmentation of the flood levee so that the subject land can be declared flood free.

## **4. Single crossover**

The submitter has queried whether a single crossover is legal for 5 dwellings to use.

The proposed access arrangements comply with all planning requirements. It is very common practice for multi unit developments (far larger than being

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proposed here) to share one driveway or access point to the local road network.

**5. Loss of property value**

The submitter is concerned that the negative impacts of the proposed development will impact on his property value.

Planning panels and tribunals have generally found that the issue of property valuation is not a planning consideration and that submissions should rather be directed towards the specific impacts of a proposed development.

**Concluding Remarks**

The Council wrote to the submitter on 11 May 2017 advising of the proposed new garbage bin collection arrangements and addressing the other issues raised. The submitter has subsequently advised Council he still has concerns as outlined above.

In these circumstances, where a submission is unable to be resolved, Council must refer all submissions to an Independent Panel appointed by the Minister for Planning.

***Environmental Implications***

The Amendment and accompanying permit will result in no adverse environmental implications..

***Financial Implications***

The Amendment and permit will result in no future financial implications for Council. Discussions between the applicant and Council re funding the upgrading of the levee are on-going. Any modification of the Ponds Drive court-head to facilitate garbage collection will be funded by the applicant.

***Policy/Legal/Statutory Implications***

The Amendment is consistent with the broad theme of State and Council planning policies which support urban consolidation/infill housing in locations which have good access to existing community services and facilities

The Amendment specifically implements recommendations contained in Council's adopted Lara Structure Plan referred to in Clause 21.13 of the Planning Scheme..

***Alignment to City Plan***

The Amendment supports the overall thrust of Growing our Economy and Sustainable Built and Natural Environment Strategic Directions in that it facilitates the development of land identified as being suitable for future residential development..

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***Officer Direct or Indirect Interest***

No Council officers have a direct or indirect interest, in accordance with Section 80(c) of the Local Government Act, to which this Amendment relates.

***Risk Assessment***

No risks have been identified in processing Amendment C356 and accompanying permit as being recommended by this report.

***Social Considerations***

The proposal will have a positive social outcome insofar as it promotes the economical utilisation of existing services and facilities.

***Human Rights Charter***

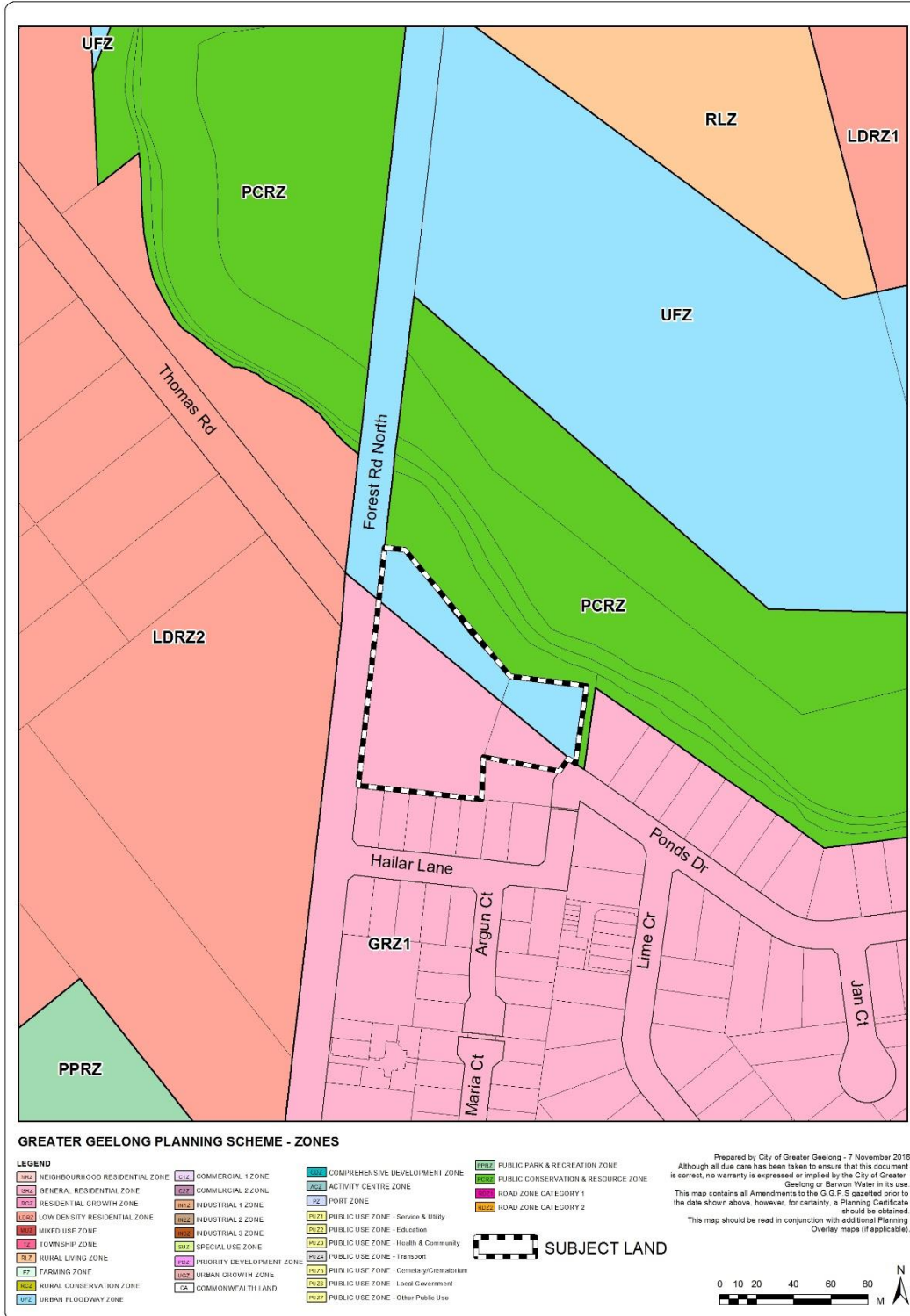
The Amendment will not impact on any basic human rights, freedoms and responsibilities as set out in the Charter.

***Consultation and Communication***

All affected persons have been notified at the time of exhibition of this Amendment to enable them to make a submission and appear before an Independent Panel appointed by the Minister of Planning if they so wish.

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**APPENDIX 1 – EXISTING ZONING MAP**



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**APPENDIX 2 – AERIAL IMAGE**





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**APPENDIX 4 – WASTE COLLECTION SWEEP PATHS**

