

**GREATER GEELONG PLANNING SCHEME**

**AMENDMENT C357**

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RESOLUTION TO REFER SUBMISSIONS TO A PANEL

UNDER DELEGATION FROM COUNCIL I HEREBY RESOLVE TO:

- 1) Request the Minister for Planning to appoint a Panel under Part 8 of the Planning and Environment Act 1987;
- 2) Refer all submissions on Amendment C357 to the Panel; and
- 3) Submit to the Panel its response to the submissions generally as outlined in this report.

SIGNED:.....

DATE:.....2/6/17.....

**PETER BETTESS  
DIRECTOR  
PLANNING & DEVELOPMENT**

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT  
AMENDMENT C357  
CONSIDERATION OF SUBMISSIONS**

**To:** Peter Bettess – General Manager Planning & Development  
**From:** Urban Growth  
**Subject:** Consideration of submissions  
**File number:** Proposed Planning Scheme Amendment to apply a Public Acquisition Overlay on land at 1-87 Groves Road, Armstrong Creek and 109-215 Sparrovale Road, Charlemont  
**Date of Report:** 25 May 2017

**Purpose**

The purpose of this report is to consider submissions made to Planning Scheme Amendment C357 and to recommend submissions be referred to an independent Planning Panel.

**Summary**

- The proposed Amendment seeks the application of a Public Acquisition Overlay (PAO) to facilitate the acquisition of land substantially for the purposes of drainage and wetlands at 1-87 Groves Road, known as 'Cold Winds' and approximately 420 hectares of the land parcel at 109-215 Sparrovale Road, known as 'Sparrovale'. Parts of the land are also required to create an associated environmental biodiversity conservation area as part of the broader Barwon River Parklands. Broadly speaking, the land west of the existing levy is required for drainage and wetlands while the land east of the existing levy is required for the associated environmental biodiversity and conservation purposes.
- The combined total acquisition area of both land parcels is approximately 523 hectares and is commonly known as the 'Sparrovale Wetlands' project.
- The Horseshoe Bend Precinct Structure Plan (HBPSP) and associated Horseshoe Bend Development Contributions Plan (HBDCP) nominate drainage infrastructure across the two land parcels which are located on the outer eastern edge of the precinct boundary.
- Part of the land is required for the construction of a wetland system which is nominated in the *Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013)* (Stormwater Management Strategy).
- The Amendment was exhibited from 12 December 2016 to 15 February 2017.
- Nine (9) submissions were received, including three (3) objections.
- Key issues raised in submissions include the concern that the PAO is not in accordance with the relevant State and Local Planning Policy and there is no strategic support for the proposed PAO. It is considered that there is strong strategic support for the proposed amendment. These issues are addressed in the report below and in **Appendix 4**.

- After consideration of all points raised in submissions, it is recommended that Council continue with the Amendment. The underlying purpose of the PAO is essentially to facilitate the acquisition of land and subsequent development of wetlands and associated infrastructure, as nominated in the HBPSP and HBDCP.
- As a number matters raised in submissions remain unresolved, it is recommended that submissions be referred to an independent Panel.

### **Recommendation**

**That Council's delegate resolves to:**

- 1) Request the Minister for Planning to appoint a Panel under Part 8 of the Planning and Environment Act 1987;**
- 2) Refer all submissions on Amendment C357 to the Panel; and**
- 3) Submit to the Panel its response to the submissions generally as outlined in this report.**

### ***Background***

The establishment of the Sparrovale Wetlands is critical to the continued development of the land within the HBPSP area.

Without the two parcels in public ownership, and being commissioned as a functioning wetland, only 25 per cent of the developable area identified nominated within the HBPSP area can be developed.

Funding for the purchase of the Sparrovale Wetlands comprising both Sparrovale and Cold Winds properties is identified in the HBDCP.

Council officers entered into negotiations with the land holders in an attempt to purchase the land via private treaty. Council approved a budget to pursue purchase of the two land parcels in '15-'16. These negotiations have been unsuccessful and remain at an impasse.

The HBPSP was incorporated into the Greater Geelong Planning Scheme in November 2014 along with the HBDCP. Since that time, a number of Planning Permits have been issued in the HBPSP area which make provision for residential development and the setting aside of land for future retail, education and community purposes.

Significant civil works are currently being undertaken to support the residential development of the HBPSP area. However, in accordance with the Storm Water Management Strategy development of the HBPSP area is limited to 25 per cent of the total net developable area in the absence of the acquisition and commissioning of the land parcels that make up the Sparrovale Wetlands.

The HBDCP also nominates a trigger for the purchase and commissioning of the Sparrovale Wetlands: The upgrade of culverts under Barwon Heads Road (being the outlet from Barwon Heads Road south retarding basin) or at the discretion of the Responsible Authority. The requirement for the upgrade of the culverts is very likely to occur prior to the construction of 25 per cent of the developable land, given a planning permit has been granted for the land on which the construction of the Barwon Heads Road retarding basin is required.

### *Amendment C259 – Horseshoe Bend Precinct*

Preparation of the HBSP and the HBDCP along with a Native Vegetation Precinct Plan (NVPP) for the precinct commenced in 2012 and was approved and gazetted in 2014. As with other precincts a key focus when developing the HBSP was the development of a strategy for the management of storm water.

The Stormwater Management Strategy for Horseshoe Bend noted that the bulk of existing pre-development run off from the area that defines the Horseshoe Bend precinct runs easterly across Barwon Heads Road into the Sparrovale Farm then onwards into the Barwon River. In addition to storm water from the west, Sparrovale Farm and Cold Winds are also subject to inundation from the Barwon River during major flood events.

The following extract is taken from Page 3 of the Stormwater Management Strategy:

*It is clear from Figures 2-4 inclusive that Sparrovale Farm is and has historically been subject to extensive inundation from both its local catchment and the Barwon River.*

*Development of the HBP lands will further increase volumes and frequency of surface runoff discharging to the farm area which is of critical concerns [sic.] for the affected landowners.*

Acknowledgement of the poor outcomes for both Cold Winds and Sparrovale from both the Barwon River and the development of the Horseshoe Bend precinct resulted in their inclusion in the HBSP and then the HBDCP to fund the purchase of both properties with the aim of rehabilitating them into a high quality wetland to receive urban runoff.

During the preparation, exhibition and incorporation of the HBSP, HBDCP and the NVPP at least one development company was negotiating with the land owners of Sparrovale Wetlands regarding the purchase of both properties. Council officers were also actively attempting to mediate the purchase of the land for the Sparrovale Wetlands. These attempts were unsuccessful.

#### *Funding for land acquisition*

In the 2015-2016 and 2016-2017 budgets, Council approved funds for the purchase of both Sparrovale (in part) and Cold Winds. Council officers have been liaising with the land owners and their legal representatives regarding a negotiated purchase of both properties on agreed terms. To date, no such agreement has been reached resulting in the need to apply the PAO so that if necessary a compulsory acquisition process can proceed.

The application of a PAO will provide the mechanism to compulsorily acquire the two parcels within a timeframe that allows for the establishment of the Sparrovale Wetlands and facilitate continued development within the precinct. The acquisition of the land east of the existing bund being the land required for the biodiversity environmental conservation purposes would be carried out at the same time given that this land has no development potential.

#### *Minister for Planning as the Planning Authority*

As noted above, the Horseshoe Bend PSP, HBDCP and the NVPP were incorporated into the Greater Geelong Planning Scheme in November 2014.

The amendment was formally exhibited between the 5<sup>th</sup> December 2013 and the 27<sup>th</sup> January 2014 with a total of 42 submissions received. No submissions were

received objecting to the purchase of the two land parcels for the establishment of the Sparrovale Wetlands.

A Panel Hearing was conducted on the 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> and 18<sup>th</sup> June 2014 in an attempt to resolve outstanding issues in the submissions. The Panel Report was issued on 29<sup>th</sup> July 2014. The extent of land shown in the mapping for the PAO being applied under Amendment C357 is identical to the mapping shown as part of the HBDCP.

The Panel accepted the Stormwater Management Strategy and the proposal to purchase the two properties for the Sparrovale Wetlands.

The lack of any objection to the proposed acquisition at that time of both properties and the rigour applied to the development, exhibition and notice, Panel Hearing and ultimately the Gazettal of the HBSP, HBDCP and the NVPP, is of some significance to the current proposal.

### ***Discussion***

#### Exhibition

Amendment C357 was exhibited from 1 December 2015 to 15 February 2017. Nine (9) submissions were received, including three (3) objections from land owners affected by the proposed Amendment.

The key issues raised in submissions are outlined in **Appendix 4** and are briefly summarised below.

#### Key issues raised in objections to the amendment

**The application of a Public Acquisition Overlay (PAO) is not in accordance with the relevant State and Local Planning Policy and there is no strategic support for the proposed PAO.**

#### *Officer response:*

Officers respectfully disagree with the submitters. There is ample strategic support and underpinning for the amendment. The application of; the PAO is directly consistent with the area envisaged in the HBDCPO which is a strategic document that underwent extensive assessment at a panel hearing. The same applies to the strategic underpinning given by the HBSP. Furthermore, there is a stormwater management strategy relevant to the drainage purposes of the land proposed to be acquired. Many elements of state and local policy are relevant to the purpose of the amendment. Furthermore, the submitters have shown a willingness to sell the land but for a price that would be paid by a willing but not anxious purchaser.

The objectors land has been nominated for drainage purposes since at least 1988 when the *Geelong Regional Development Strategy* was released. The development of the 'Armstrong's Creek - Mt Duneed sector' as the preferred corridor for urban growth was Action Program No: 2 in the Land Use pillar.

Since 1988, further refinement of the land use for storm water management has occurred in the *Mount Duneed Armstrong Creek Urban Development Study* (August 1994), the *Urban Growth Strategy* (1996), the *Armstrong Creek Urban Growth Plan - Volume 1* (Amended September 2012) and then subsequently in the HBSP and the HBDCP and the associated background reports.

**There is no strategic support for the proposed PAO.**

This ground raises the same issues as the above ground.

**The Horseshoe Bend Precinct Structure Plan anticipates that the land proposed to be subject to the PAO will be purchased by the developers who will benefit from the drainage infrastructure that the developers intend to construct on the land to be subject to the PAO, by negotiation and private treaty. Accordingly the proposed PAO does not facilitate and [sic.] acquisition for public purpose, but to benefit private developers**

The acquisition of the land is addressed by the HBDCP. Under the HBDCP, Council is the Development Agency. Therefore, Council has the statutory responsibility of delivering the land project. Many projects in the HBDCP are envisaged to be delivered by landowners consistent with the provisions of the Act at section 46P(2). While it may be the case that developers are encouraged to carry out works and obtain land which is required for infrastructure projects, ultimately the Development Agency is responsible for that task.

The primary purposes of the acquisition of the land are quintessentially public purposes. The provision of drainage for the whole of the HBPSA area is a critical public obligation bestowed upon a drainage authority (being Council) and a responsible authority (being Council) as part of its planning functions in implementing the HBPSA.

**The application for a PAO on the land is futile. Greater Geelong City Council does not have the power to compulsorily acquire the land because the works to be undertaken on it are works to be undertaken by private developers, for the benefit of private developers and are not for municipal purposes.**

This issue raises that same matter addressed in the last issue although in a slightly different way. There is nothing further to add other than what is set out above.

**The Horseshoe Bend Development Contributions Plan significantly underestimates the value of the land that is proposed to be subject to the PAO. Accordingly, there will be no, or insufficient funds to enable Council, acting on behalf of the developers, to acquire the land to be subject to the PAO, assuming that the Council has the power to do so, which is denied.**

Even if the submitter is correct, then this is not relevant. If Council compulsorily acquires the land, then it will be required to pay a price assessed pursuant to the Land Acquisition and Compensation Act. Whether Council raises enough from the HBDCP is not to the point although clearly, Council will seek to ensure that the HBDCP does continue to raise the correct amount for the acquisition of the land. In this regard it is to be noted that land values are adjusted annually. The actual acquisition price would be reflected in an annual adjustment and the levy would then reflect an actual purchase price for the balance of the land to be developed.

Key Points raised in submissions supporting the Amendment

As noted above, of the nine (9) submissions received during the exhibition of the amendment five (5) supported the proposed PAO. In summary the submissions supporting the PAO either raised no concerns, because the submitter was not directly affected by the proposal, or supported the amendment as a necessary response to environmental concerns, timely delivery of infrastructure and

management of orderly development of the Horseshoe Bend Precinct Structure Plan area.

### Conclusion

After consideration of all points raised in submissions, it is still the officer view that the Amendment is soundly based. As most of the points raised in submissions remain unresolved, it is recommended that submissions be referred to an independent Panel.

### ***Environmental Implications***

The establishment of the Sparrovale Wetlands will provide significant positive environmental outcomes including the potential to divert storm water volumes from Hospital Swamps and the subsequent protection of several habitat zones surrounding the Hospital Swamps;

- the creation of new wetlands and stormwater retention/evaporation areas;
- the installation of drainage infrastructure to prevent poor quality stormwater entering into environmentally sensitive areas;
- the creation of a new environmental biodiversity conservation area in the vicinity of the Barwon River on land that is heavily affected by flooding.

In addition, the amendment will address the potential environmental implications of the continued development of the Armstrong Creek Urban Growth Area through the protection of the Ramsar listed Lake Connewarre Wetland Complex.

### ***Financial Implications***

Funding for the purchase of the land for drainage has been nominated in the incorporated HBDCP, however, if the amount eventually paid or ordered to be paid as compensation for acquisition exceeds the amount set out in the HBDCP, Council will be required to fund that overage amount until it is able to recoup that higher amount from the HBDCP area through higher levies.

### ***Future budget proposal.***

It is envisaged that a future proposal for capital expenditure budget will be requested to fund the timely delivery of the drainage infrastructure.

As noted above, the costs for land acquisition for these drainage projects are included in the HBDCP. As a result, there is an opportunity to offset the purchase costs against funds collected as future development occurs.

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

The planning scheme amendment to apply the PAO on the relevant properties is in accordance with the intent for the land as nominated in both the HBSP and HBDCP .

The HBSP and HBDCP are incorporated documents in the Greater Geelong Planning Scheme and have been prepared in accordance with the *Planning & Environment Act 1987*, including direct notification to relevant property owners. Council is required to deliver each of the items nominated in the two incorporated documents to facilitate the orderly development of the HBSP area .

The amendment is also considered to meet the relevant requirements of both State Government and Council

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### ***Alignment to City Plan***

The Armstrong Creek Urban Growth area is one of Council's priority projects in the City Plan.

The application of a PAO to both the Sparrovale Wetlands (as well as the land required to convey storm water flows to Sparrovale as proposed under C360) will ensure that the continuing needs of the growing community will be met in a timely manner.

### ***Officer Direct or Indirect Interest***

In accordance with Section 80C of the Local Government Act no Council officers involved in this report have a direct or indirect interest.

### ***Risk Assessment***

In the absence of the implementation of the Stormwater Drainage Strategy for Horseshoe Bend the development of the HBSP area is limited to 25 per cent of the nominated net developable. Depending on timing, the absence of the implementation of the various projects forming part of the Stormwater Management Strategy will ultimately impact upon land supply and potentially land price in the event of a shortage of available land.

Should the Sparrovale Wetlands not be in public ownership at the time that the 25 per cent threshold is reached, or if the various the culverts are upgraded, development within the Horseshoe Bend Precinct will be required to cease. This represents a potentially significant reduction in the availability of residential house lots available to the new community and significantly impacts on the ability of Council to facilitate the supply the land required for urban growth. There could also be flow on effects caused by a stall in land development by resulting in a lag in the development of key community and physical infrastructure to serve the existing residents of the Horseshoe Bend precinct.

When the Sparrovale Wetlands are secured there remains a requirement for drainage infrastructure to feed storm water from the Horseshoe Bend Precinct area into the wetland area. As a result, both the acquisition of the two land parcels that will become the Sparrovale Wetlands under Amendment C357 and the land for conveyance of flows from the west side of Barwon Heads Road (as per this Amendment C360) are inseparable.

Further to the above, there is a further (and more primary) risk involved with not securing the drainage infrastructure required to convey flows to the Sparrovale Wetlands. Development occurring in the upper catchment (which is where the permitted development is currently being constructed) requires downstream flow path to ensure that there is no flooding impact through these properties beyond what is currently being experienced.

### ***Social Considerations***

The HBSP is a considered and well planned approach to the development of additional residential communities within the Armstrong Creek Urban Growth Area. The intent of the HBSP and the HBDCP is to ensure that the infrastructure required to service the community meets their needs and expectations and is provided in a timely manner.

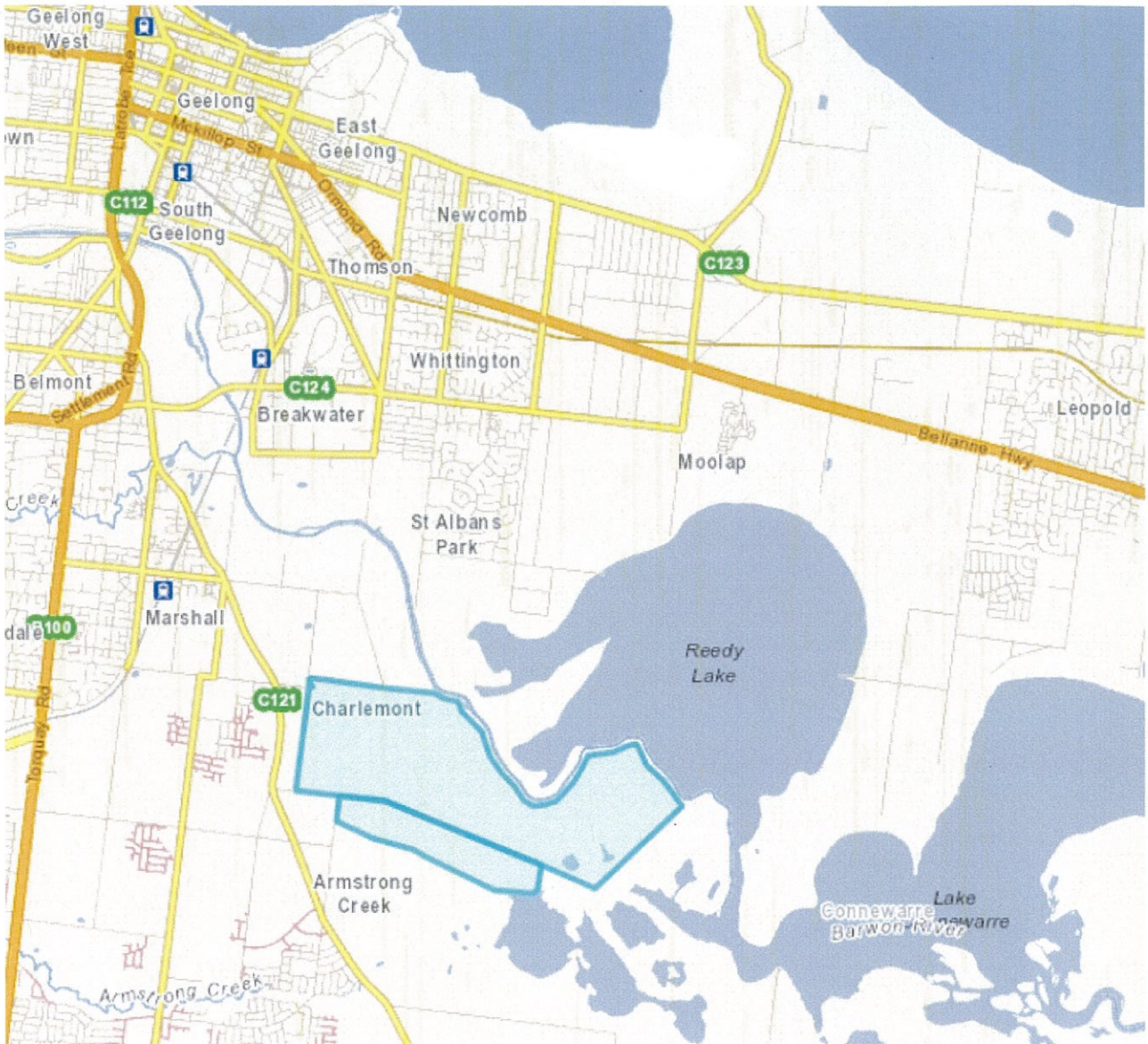
### ***Human Rights Charter***

Council officers have taken into consideration the Human Rights Charter relative to the application of the PAO . This includes 'ratepayer's property rights' and a 'right to a fair hearing'.

***Consultation and Communication***

The Amendment was exhibited in accordance with statutory requirements. Discussions were conducted with some submitters prior to receipt of, or on issues raised in, their submissions.

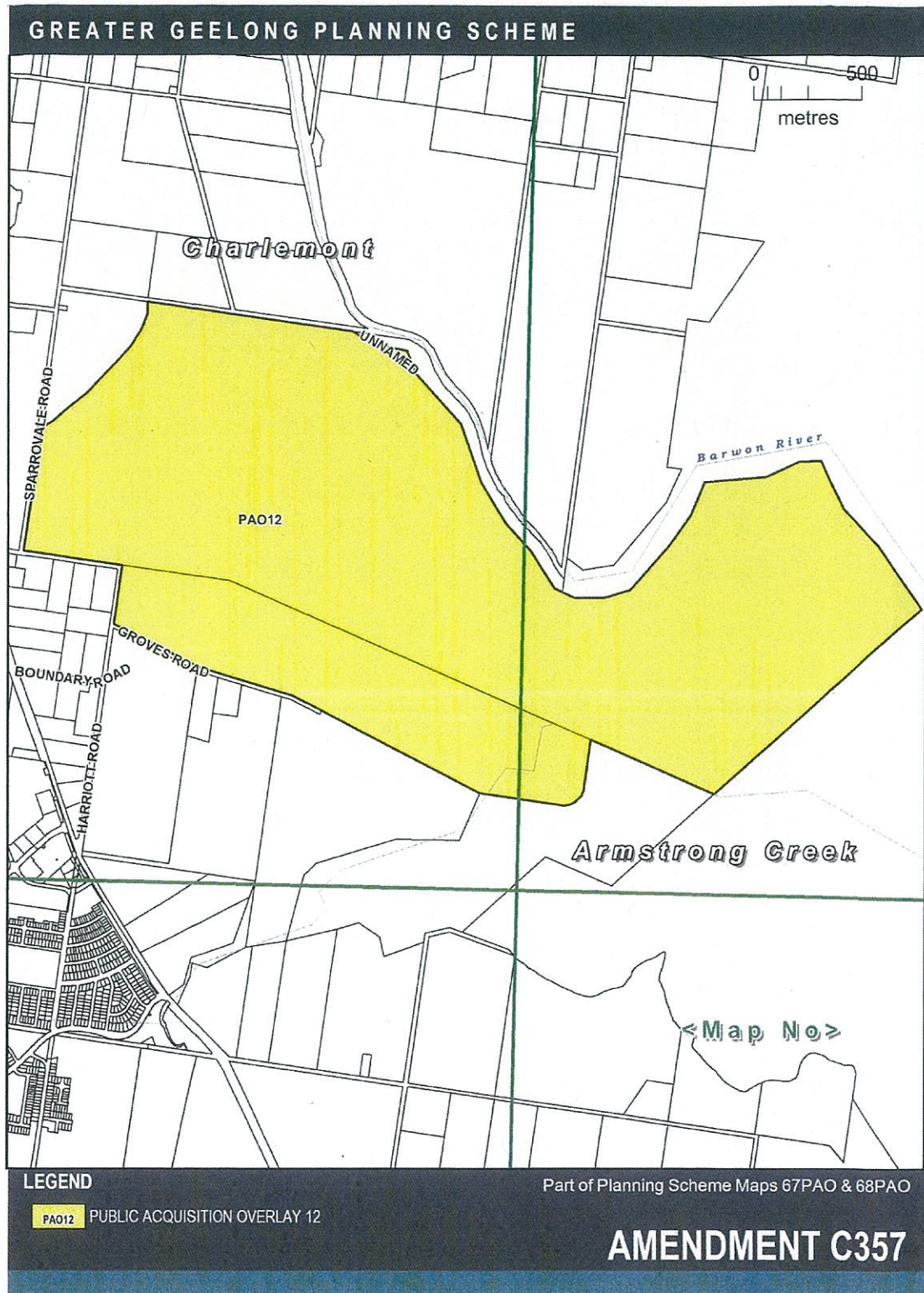
**Appendix 1 – Location plan**



Appendix 2 – Aerial Photo



Appendix 3 – Proposed PAO



| Planning Mapping Services |  
| Planning Information Services |  
| Planning |



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Appendix 4 – Summary of submissions

Summary of Submissions for Amendment No C357

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
1	Mr and Mrs Devlin	<b>Objection</b>	1.1	Impact on neighbouring property	Noted	Further information on the exact nature of the submission is required.	None
2	Barwon Water	<b>No objection</b>	2.1	There are no Barwon Water assets within the subject area	Noted		None
3	Department of Economic Development, Jobs, Transport and Resources	<b>No objection</b>	3.1	Coordinated response from the Department of Economic Development, Jobs, Transport and Resources (DEDJTR)	Noted		None
			3.2	No objection to the amendment as the proposed PAO does not conflict with the planning for Barwon Heads Road	Noted		None
4	EPA Victoria	<b>No objection</b>	4.1	EPA has no concerns with the proposed amendment.	Noted		None
5	Dennis Family Corporation	<b>No objection</b>	5.1.1	Introduction of a Public Acquisition Overlay (PAO) over floodprone land is a necessary and appropriate strategy to facilitate the acquisition of land necessary for drainage purposes.	Noted		None
			5.1.2	The acquisition is consistent with the Precinct Structure Plan (PSP).	Noted		None
			5.1.3	The implementation of drainage and associated works will produce important environmental benefits for the region as documented in a number of reports including the PSP Stormwater Management Strategy prepared by Neil Craigie.	Noted		None
			5.1.4	As the drainage authority, it is appropriate that the City of Greater Geelong takes action to implement its strategies which will: a) Ensure that adequate infrastructure is provided to mitigate any potential flooding impacts and, b) Address any increasing demands on existing infrastructure by providing new assets in the region	Noted		None
			5.1.5	The Armstrong Creek Horseshoe Bend PSP and associated Storm Water Management Strategy incorporate a retarding facility and associated drainage infrastructure on the land proposed to be affected by the PAO.			

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
			5.1.6	The PSP's, which are incorporated into the planning scheme, also discuss the importance of establishing drainage infrastructure within affected properties in accordance with the drainage strategy.	Noted		None
			5.1.7	The drainage strategy identifies the Sparrovale lowlands will be converted to a freshwater wetland system to: a) Manage runoff from development areas and, b) Constrain development within the OSO areas until such time the Sparrovale wetlands system is delivered and downstream drainage infrastructure is in place.	Noted		None
			5.1.8	As development in the PSP areas is advancing the necessity for new drainage infrastructure which will be facilitated by the PAO is becoming more significant.	Noted		None
			5.1.9	Urban development in the region would be significantly constrained until the new drainage assets are in place.	Noted		None
			5.2	The introduction of the PAO directly responds to the adopted objectives of the respective PSP's.	Noted		None
			5.2.1	The proposal will not only attend to an identified objective in the local planning policy framework and in a number of PSP's but will also ensure that development in the region can continue to occur in an orderly manner, and necessary infrastructure is provided for future residents.	Noted		None
6	Rennick & Gaynor on behalf of Robertson	<b>Objection</b>	6.1.1	The application of the Public Acquisition Overlay (PAO) over the objectors land is not in accordance with the relevant State and Local Planning Policy.	Disagree. There are a number of relevant Clauses nominated within the Greater Geelong Planning Scheme that support the application of a PAO on the objectors land. The relevant Clauses include, but are not limited to, the following:  <b>State Planning Policy Framework (SPPF)</b>  Clause 11.02-1 <i>Supply of urban land</i> identifies a number of strategies relating to the ongoing provision of land to both meet forecast demand and provide supporting infrastructure for sustainable urban development.  The objectors land has been nominated for drainage purposes since at least 1988 when the <i>Geelong Regional Development Strategy</i> was released. The development of the 'Armstrong's Creek - Mt Duneed sector' as the preferred corridor for urban growth was Action Program No: 2 in the Land Use pillar.		

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
					<p>Since 1988, further refinement of the land use for storm water management has occurred in the <i>Mount Duneed Armstrong Creek Urban Development Study</i> (August 1994), the <i>Urban Growth Strategy</i> (1996), the <i>Armstrong Creek Urban Growth Plan - Volume 1</i> (Amended September 2012).</p> <p>Clause 11.02-3 Structure Planning speaks directly to the orderly development of urban areas through the inclusion of logical and efficient provision of infrastructure within Precinct Structure Plans. The drainage infrastructure that will be made available through the application of a PAO will ensure continued timely development in accordance with the Horseshoe Bend PSP. Clause 11.09 specifically relates to Geelong (G21) and requires consideration of G21 Regional Growth Plan. There re many aspects of clause 11.09 relevant to the overall strategic underpinning of the amendment.</p> <p>Clause 12 of the SPPF relates to Environmental and landscape values. Clause 12.01 relates to Biodiversity and requires all decision making to take into account the impacts of land use and development on biodiversity values.</p> <p>Clause 12.04 relates to significant environments and landscapes and the objective is to protect and conserve environmentally sensitive areas. Clause 19.03-1 Development contribution plans requires the preparation of Development Contributions Plans to facilitate the timely provision of planned infrastructure. The acquisition of the objectors land is a component of the incorporated Horseshoe Bend Development Contributions Plan (September 2014). Clause 19.03 also identifies policy in relation to the impact of stormwater on bays and catchments.</p> <p><b>Local Planning Policy Framework (LPPF)</b></p> <p>Clause 21.11 <i>Armstrong Creek Urban Growth Area</i> nominates a responsibility to ensure both orderly and controlled development within the Armstrong Creek Urban Growth Area.</p>		

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
			6.1.2	There is no strategic support for the proposed PAO.	See comments above. Furthermore, the Horseshoe Bend PSP and Horseshoe Bend DCP provide a sound strategic underpinning for the amendment.		
			6.1.3	The Horseshoe Bend Precinct Structure Plan anticipates that the land proposed to be subject to the PAO will be purchased by the developers who will benefit from the drainage infrastructure that the developers intend to construct on the land to be subject to the PAO, by negotiation and private treaty. Accordingly the proposed PAO does not facilitate and [sic.] acquisition for public purpose, but to benefit private developers.	The land which is subject to the PAO is nominated and funded through the Horseshoe Bend DCP. The DCP is an incorporated document and is therefore part of the planning scheme. Council is the Development Agency and therefore responsible for the provision of all works, services and facilities including land projects.  Should a developer or developers have secured the purchase of both properties the developers would have been credited the value nominated in the DCP for purchase as 'Works in Kind'. This is contemplated by the Horseshoe Bend DCP and by the Planning and Environment Act 1987		
			6.1.4	The application for a PAO on the land is futile. Greater Geelong City Council does not have the power to compulsorily acquire the land because the works to be undertaken on it are works to be undertaken by private developers, for the benefit of private developers and are not for municipal purposes.	The City of Greater Geelong is nominated and enabled as an acquiring authority through both the <i>Planning and Environment Act 1987</i> and the <i>Local Government Act 1989</i> . The land is required for public purposes which are to facilitate the implementation of the Horseshoe Bend Precinct Structure Plan as well as to provide proper drainage for the area.		
			6.1.5	The Horseshoe Bend Development Contributions Plan significantly underestimates the value of the land that is proposed to be subject to the PAO. Accordingly, there will be no, or insufficient funds to enable Council, acting on behalf of the developers, to acquire the land to be subject to the PAO, assuming that the Council has the power to do so, which is denied.	The land value nominated in the Horseshoe Bend DCP is based on a sworn valuation from a registered valuer with an annual revaluation undertaken in accordance with Section 7.1 of the Horseshoe Bend DCP. In any event, even if there is a shortfall of funds in the Horseshoe Bend DCP, this is irrelevant to the process of acquisition as the acquiring authority will be required to pay whatever compensation is agreed or assessed according to law.		
7	Rennick & Gaynor on behalf of Perkins	<b>Objection</b>	7.1.1	The application of a Public Acquisition Overlay (PAO) over the objectors land is not in accordance with the relevant State and Local Planning Policy.	Disagree. There are a number of relevant Clauses nominated within the Greater Geelong Planning Scheme that support the application of a PAO on the objectors land. These relate to both the drainage and environmental/open space purposes of the application of the PAO. The relevant Clauses include, but are not limited to, the following:  <b>State Planning Policy Framework (SPPF)</b>  Clause 11.02-1 <i>Supply of urban land</i> identifies a number of strategies relating to the ongoing provision of land to both meet forecast demand and provide supporting infrastructure for sustainable urban development.		

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
					<p>The objectors land has been nominated for drainage purposes since at least 1988 when the <i>Geelong Regional Development Strategy</i> was released. The development of the 'Armstrong's Creek - Mt Duneed sector' as the preferred corridor for urban growth was Action Program No: 2 in the Land Use pillar.</p>		
					<p>Since 1988, further refinement of the land use for storm water management has occurred in the <i>Mount Duneed Armstrong Creek Urban Development Study</i> (August 1994), the <i>Urban Growth Strategy</i> (1996), the <i>Armstrong Creek Urban Growth Plan - Volume 1</i> (Amended September 2012).</p> <p>Clause 11.02-3 Structure Planning speaks directly to the orderly development of urban areas through the inclusion of logical and efficient provision of infrastructure within Precinct Structure Plans. The drainage infrastructure that will be made available through the application of a PAO will ensure continued timely development in accordance with the Horseshoe Bend PSP. The policy at clause 11.04 in relation to open space is also relevant and underpins the preparation of the Horseshoe Bend PSP and DCP. The policy at clause 11.0-9 of the Planning Scheme is relevant in many respects. G21 is a document that must be considered. Clause 12 of the Scheme which contains policy on biodiversity and coastal areas is also relevant.</p>		
					<p>Clause 19.03-1 Development contribution plans requires the preparation of Development Contributions Plans to facilitate the timely provision of planned infrastructure. The acquisition of the objectors land is a component of the incorporated Horseshoe Bend Development Contributions Plan (September 2014).</p>		
					<p>Clause 19.03-2 Water supply, sewerage and drainage requires planning for services that are efficient and effective, meet State and community needs and protect the environment.</p>		
					<p><b>Local Planning Policy Framework (LPPF)</b></p>		
					<p>Clause 21.11 <i>Armstrong Creek Urban Growth Area</i> nominates a responsibility to ensure both orderly and controlled development within the Armstrong Creek Urban Growth Area.</p>		

Submission No.	Name	Status	Ref.	Issue(s)	Response	Discussion	Document changes required
			7.1.2	There is no strategic support for the proposed PAO.	See comments above. In addition the Horseshoe Bend PSP and Horseshoe Bend DCP provide strong strategic underpinning for the amendment. The underpinning of the application of the PAO is both the urban land, drainage and environmental benefits that would flow to the community through the acquisition of the land.		
			7.1.3	The Horseshoe Bend Precinct Structure Plan anticipates that the land proposed to be subject to the PAO will be purchased by the developers who will benefit from the drainage infrastructure that the developers intend to construct on the land to be subject to the PAO, by negotiation and private treaty. Accordingly the proposed PAO does not facilitate and [sic.] acquisition for a public purpose, but to benefit private developers.	The land which is subject to the PAO is nominated and funded through the Horseshoe Bend DCP. The Horseshoe DCP is an incorporated document and part of the Planning Scheme.		
			7.1.4	The application for a PAO on the land is futile. Greater Geelong City Council does not have the power to compulsorily acquire the land because the works to be undertaken on it are works to be undertaken by private developers, for the benefit of private developers and are not for municipal purposes.	Should a developer or developers have secured the purchase of both properties they would have been credited the value nominated in the DCP for purchase as 'Works in Kind'. The City of Greater Geelong is nominated and enabled as an acquiring authority through both the <i>Planning and Environment Act 1987</i> and the <i>Local Government Act 1989</i> . With regard to the argument about the land not being required for public or municipal purposes see above.		
			7.1.5	The Horseshoe Bend Development Contributions Plan significantly underestimates the value of the land that is proposed to be subject to the PAO. Accordingly, there will be no, or insufficient funds to enable the Council, acting on behalf of the developers, to acquire the land to be subject to the PAO, assuming that the Council has the power to do so, which is denied.	The land value nominated in the Horseshoe Bend DCP is based on a sworn valuation from a registered valuer with an annual revaluation undertaken in accordance with Section 7.1 of the Horseshoe Bend DCP. In any event, even if there is a shortfall of funds in the Horseshoe Bend DCP, this is irrelevant to the process of acquisition as the acquiring authority will be required to pay whatever compensation is agreed or assessed according to law.		
8	Spiire on behalf of Gary Smith	No Objection	8.1.1	Spiire has no concerns with the proposed amendment.	Noted		
			8.1.2	PAO is the appropriate mechanism to secure the provision of the infrastructure.	Noted		
9	Department of Environment, Land, Water and Planning	No Objection	9.1	The stormwater management arrangements will provide a positive and effective response to past DELWP advocacy in respect of stormwater drainage impacts from Armstrong Creek Growth Area Precincts on the Ramsar listed Lake Connewarre complex.	Noted		None