

GREATER GEELONG PLANNING SCHEME

AMENDMENT C360

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 to Amendment C360 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 C360
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 661-669 Barwon Heads Road and 619-639, 641-655 and 657-669 Boundary Road, Charlemont.
Date of Report: 25 May 2017

Purpose

The purpose of this report is to consider submissions made to Planning Scheme Amendment (C360) and to recommend submissions be referred to an independent Planning Panel.

Summary

- The proposed Amendment seeks approval a Public Acquisition Overlay (PAO) to be applied to facilitate the acquisition of land for the purposes of drainage within the Horseshoe Bend Precinct Structure Plan (HBPSP) area. The affected land is at 661-669 Barwon Heads Road and 619-639, 641-655 and 657-669 Boundary Road, Charlemont.
- The HBPSP and associated Horseshoe Bend Development Contributions Plan (HBDCP) identify drainage infrastructure which is required across the four affected land parcels on the eastern edge of the precinct boundary.
- Part of the affected land is required for the construction and commissioning of the end-of-line storm water infrastructure and an open watercourse as identified in the Horseshoe Bend Precinct Storm Water Management Strategy. These drainage facilities are part of a larger package of drainage works (other parts of which have been delivered or are still to be delivered) that comprise an overall drainage scheme for Horseshoe Bend.
- Council is the relevant Drainage Authority for the area and it is ultimately Council's responsibility to ensure that the various elements of the drainage scheme are delivered either by developers (as works in kind under the HBDCP) or by Council stepping in and providing the facilities itself. This is especially the case for land parcels which are required to be acquired and for the larger drainage infrastructure assets that have to be constructed.
- The Amendment was exhibited from 12 December 2016 to 15 February 2017.
- Eight (8) submissions were received, three (3) of which comprised objections.
- Key issues raised in the submissions relate to the amount of land proposed to be acquired and the subsequent loss of land able to be used, the alignment of the proposed PAO boundary in terms of its boundary configuration and issues

around safety due to future public access in the area to be acquired. These issues are addressed in the report below and in **Appendix 5**.

- After consideration of all points raised in submissions, it is recommended that Council pursue the Amendment. The purpose of the PAO is necessary to facilitate the acquisition of land and subsequent development of critical drainage infrastructure, as identified 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 to Amendment C360 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. Land for the purposes of Sparrovale Wetlands is the subject of a separate planning scheme amendment namely Amendment C357.

Equally important is the establishment of drainage infrastructure to convey storm water from the urban development occurring within the Horseshoe Bend Precinct to the Sparrovale Wetlands. It is the securing of land for the retardation and then conveyance of stormwater that forms the basis of the proposed application of a PAO on the land parcels that are the subject of this report and Amendment C360.

The HBPSP identifies land forming part of the affected land as being required to construct a retarding basin and an open watercourse. For the purpose of raising funds via development contributions, the HBDCP nominated the following land areas as required for drainage purposes:

Property address	Total land area	Land area to be acquired for drainage purposes (hectares)	Percentage of total land area to be acquired
661-669 Barwon Heads Road	2.349	0.498	21%
619-639 Boundary Road	2.029	0.927	45%
641-655 Boundary Road	2.024	0.372	18%
657-669 Boundary Road	2.014	0.356	17%

Total Area		2.153	
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The HBDCP necessarily had to identify the amount of land required so that it could strike an appropriate levy for the purpose of raising funds for the land acquisition.

The HBPSP was incorporated into the Greater Geelong Planning Scheme in November 2014 as was the HBDCP. Since that time, a number of Planning Permits have been issued in the HBPSP area for residential development as well as for setting land aside 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 approved Storm Water Management Strategy (SWMS) and various provisions within the HBPSP, development of the Horseshoe Bend precinct is limited to 25 per cent of the total net developable area until the acquisition and commissioning of the land parcels that make up the future 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.

Council has proposed, in a separate Planning Scheme amendment (no. C357), the application of a PAO on the two (2) land parcels that will become the Sparrovale Wetlands.

The application of the PAO over the areas required for drainage on the east side of Barwon Heads Road is critical to the establishment of the drainage infrastructure required to store and convey stormwater into the Sparrovale Wetlands. The infrastructure is part of the overall infrastructure assets required to make the drainage scheme for Horseshoe Bend operate properly and within design criteria. By reference to the planning scheme map for the PAO, it can be discerned that at the north east corner of Barwon Heads Road and Boundary Road, where there is a large expanse of PAO proposed (approximately half the entire lot) a retarding basin is proposed. When full, stormwater will flow out of the retarding basin through properly designed outlets into an open water channel.

The open water channel will be aligned within the diagonal section of the PAO as proposed. The width of the channel will be subject to final detailed design but is approximately 35 metres and it will gently meander along its path until it reaches Harriot Road. The *Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013)* (Stormwater Management Strategy) explains this at Part 6.2 (page 35). It will then flow under Harriot Road and into drainage infrastructure where it will be conveyed into the Sparrovale Wetlands. An example of this type of drainage infrastructure is readily seen in the Warralily Development. The affected land is already affected by drainage infrastructure in the form of a linear open watercourse and a small dam.

The location and alignment of the drainage infrastructure has been designed to not affect existing buildings but it does affect land which is currently used for grazing or similar.

Discussion

Exhibition

The Amendment was exhibited from 12 December 2016 to 15 February 2017. Eight (8) 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 5** and are briefly summarised below.

Key issues - Objections

The amount of land proposed to be acquired and the subsequent loss of land able to be used.

Officer response:

The submitters are concerned about the amount of land proposed to be acquired, particularly 619 Barwon Heads Road (located on the corner of Barwon Heads Road and Boundary Road) due to the location of the storage basin. While it is acknowledged that it is unfortunate that a significant area is proposed to be acquired, the areas are fundamental in order to deliver the drainage outcomes contemplated by *The Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013)* and the Horseshoe Bend Precinct Structure Plan. The area requirements for all retarding basins are found in the Stormwater Management Strategy at pages 31 and 32.

The alignment of the proposed PAO boundary in terms of its boundary configuration.

Officer response:

The alignment of the PAO has been determined as a result of Stormwater Management Strategy although it must be noted that the Stormwater Management Strategy makes the clear point at page 35 that “the open waterways proposed to be constructed within the HBP are shown as straight lines on Figure 9. The design intent for future subdivisional design however is for every opportunity to be taken to meander the sections through urban areas.” Reference has been had to design through the preparation of preliminary engineering plans. It may be possible to make some adjustments to the ultimate boundary and recent discussions between officers from Urban Growth department within Council and Council Engineers has revealed that it may be possible to straighten certain PAO boundary to make for a more regular fence line. Discussions to ascertain to what extent this is possible remain ongoing but depend upon the final detailed design. Another matter which will also need to be considered is the area budget set aside under the HBDCP and it will be important to ensure the PAO area is not increased should the alignment be altered. This is because a levy has only been struck based on the earlier assessed land requirements for each stormwater basin as set out in the Stormwater Management Strategy.

Safety due to future public access in the area to be acquired

Officer response:

The area within the PAO will be accessible to the public with a new shared path being included as part of the ultimate design. At this stage it is not known how the space will be designed in terms of the location of paths, landscaping, fencing etc. Any design of this space which encouraged public access should be designed

having regard to the Safer Design Guidelines although the management of antisocial behaviour is not a matter that is able to be considered as part of this process. The Stormwater Management Strategy identifies the various variables in terms of design and depth.

Key Points raised in submissions supporting the Amendment

As noted above, of the eight (8) 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 submitted that the PAO proposed by the Amendment remains sound. As most of the points raised in submissions objecting to the amendment remain unresolved, it is recommended that submissions be referred to an independent Panel. However, Council officers will try and work with submitters to find resolution within the defined parameters even as we are required to work towards a panel hearing.

Environmental Implications

The establishment of an effective storm water management system in accordance with the Stormwater Management Strategy will provide significant positive environmental outcomes including controlling storm water flows which and the area will also be allocated for future passive open space.

Financial Implications

Funding for the purchase of the land for drainage has been nominated in the HBDCP.

Future budget proposal.

It is envisaged that a future proposal for a capital works budget allocation will be requested to fund the timely delivery of the drainage infrastructure. However, much of that will be funded from the HBDCP account.

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 acquisition costs against funds collected as future development occurs.

Policy/Legal/Statutory Implications

The planning scheme amendment to incorporate the PAO on 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 under the Planning and Environment Act 1987 to deliver each of the infrastructure items (land and civil works) nominated in the HBDCP and HBSP 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

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 the land proposed to be acquired under C360 (together with the land required by Amendment C357 – Sparrovale Wetlands 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 HBPSP 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 HBPSP 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 HBPSP 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.

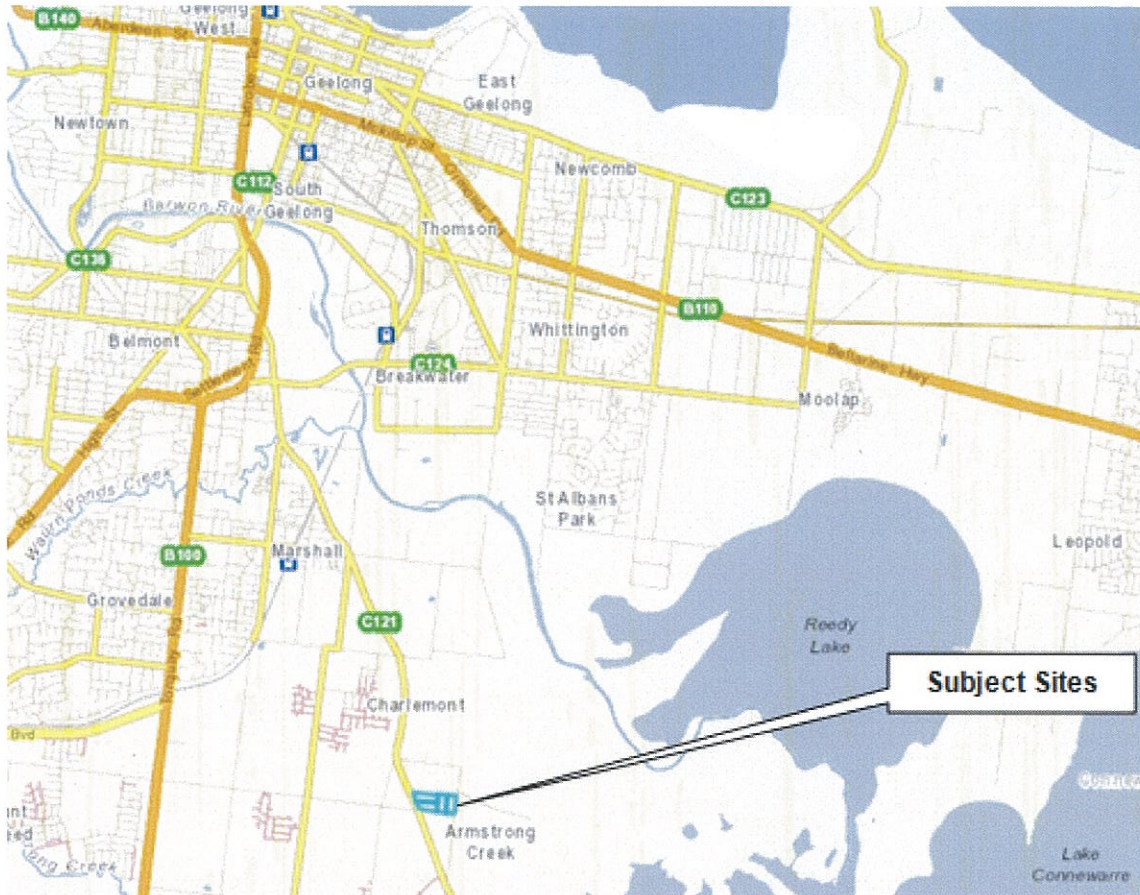
Human Rights Charter

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.

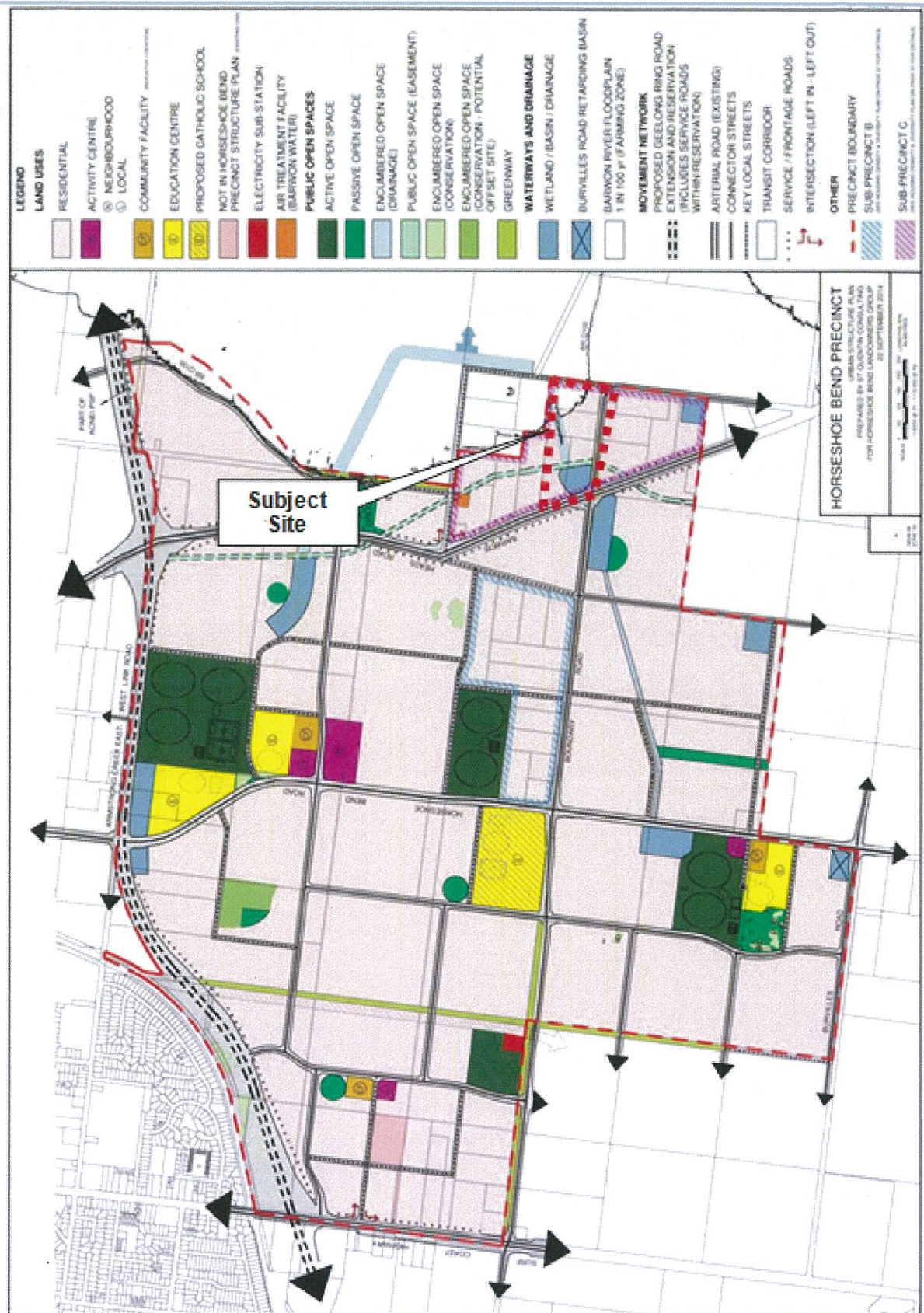
Appendix 1 – Location plan



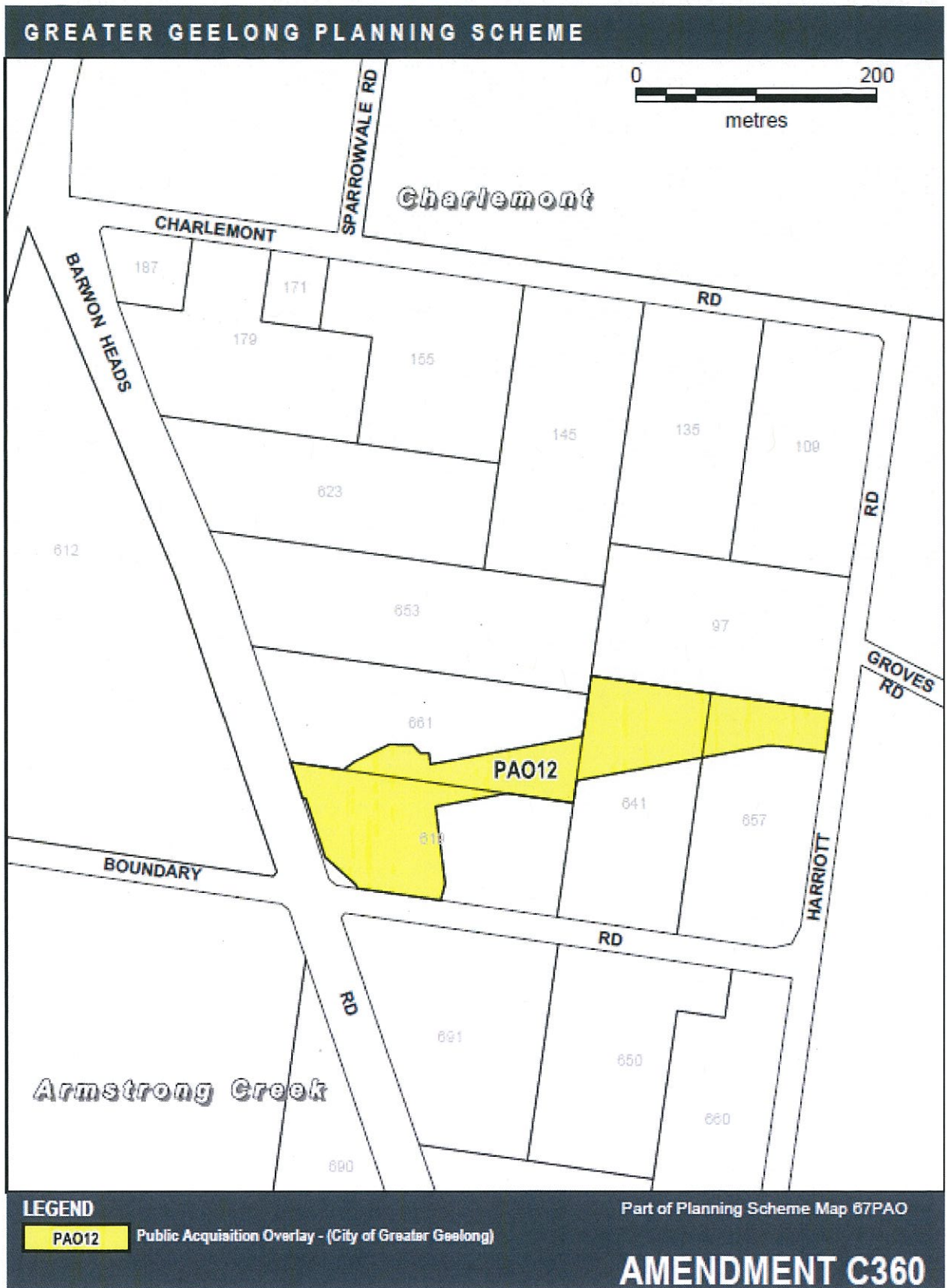
Appendix 2 – Aerial Photo with PAO Highlighted



Appendix 3 – PSP



Appendix 4 – Proposed PAO



Appendix 5 – Summary of submissions

Summary of Submissions for Amendment No C360

Sub. No.	Name	Status	Ref.	Issues	Response	Discussion	Document changes required
1	Barwon Water	No objection	1.1	The site at Boundary Road contains Barwon Water's Main Outfall Sewer. This sewer is the most important strategic asset in Geelong and must be protected as part of any proposed drainage works. Consultation with Barwon Water will be required when more is known about the works proposed. Any modifications to this sewer would involve significant costs. The figure attached shows the proposed sewer within the PAO area.	Noted.		
2	Department of Economic Development, Jobs, Transport & Resources	No objection	2.1	Coordinated response from the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), Public Transport Victoria (PTV) and VicRoads.	Noted.		
			2.2	The Department has no objection in principle to this amendment and offers the following comment for note: <i>There is a PAO3 (for VicRoads use) at the north east corner of Barwon Heads Road at Boundary Road, this appears to abut the proposed drainage PAO, but not overlap it. There does not appear to be any conflict.</i>	Noted.		
3	G. & L Pohl	Objection	3.1	Would like to propose that the land acquired be straightened along the objectors boundary as per enclosed plan (PAO12).	The alignment of the PAO boundary is irregular and the submitters have suggested that the boundary be straightened in order to create a more orderly outcome and ultimate fence line. The alignment of the PAO has been determined by having regard to the Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013) and through the preparation of preliminary engineering plans however recent discussions between officers from Urban Growth and Council Engineers has revealed that it may be possible to straighten the boundary. These discussions remain ongoing. Another matter which will also		

Sub. No.	Name	Status	Ref.	Issues	Response	Discussion	Document changes required
4	EPA Victoria	No objection	4.1	EPA have no objection to the proposed PS Amendment	Noted.		
5	S. O'Hara	Objection	5.1	Would prefer to see the drainage placed underground with the creation of easements extending across the submitters boundary.	<p>The drainage design and associated cost of land acquisition and construction is based on an above ground swale drain. There are a number of reasons why an open swale is proposed including existing topography, sustainability to carry flows, aesthetics and landscaping, which include a proposed shared path all of which is consistent with the outcomes sought by the PSP.</p> <p>The Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013) also confirms 'the intent is to establish a "naturalised" waterway environment which is capable of evolving with time as vegetation communities become established under the changing hydrologic regime associated with catchment urbanisation'. At page 35 of the Strategy, the key design objectives are as follows in no specific order of priority:</p> <ul style="list-style-type: none"> • Channel stability and sustainable capacity to carry flows, • maintainability (gentle batters and access trails where mowing is needed), • accessibility and safety (again resolved to gentle batter slopes especially where free public access is available, plus low velocities), • landscape appeal (diversity of batter slopes and plantings and pools/runs/riffles plus some open views), • environmental values (sediment control, plantings and habitat diversity-pools/runs/riffles), 		

Sub. No.	Name	Status	Ref.	Issues	Response	Discussion	Document changes required
			5.2	Underground drainage is consistent with the rest of the drainage and the cost could be recovered from developers and will cause the least disruption of their property.	It is true that an underground drain would cause less disruption to the use of the property however open drains are both common in the growth area and appropriate for the reasons outlined above. The Horseshoe Bend PSP proposed an above ground water course and the DCP is costed on that basis.		
			5.3	The diagonal alignment is a major concern and will result in an unnecessary loss of amenity. Ideally, the acquisition area should be squared off in a manner so that the southern boundary line of the acquisition area is moved further north creating a smaller area of acquisition and leave a regular rectangle for the remaining property.	The alignment of the PAO boundary extends diagonally across the submitters land. The alignment of the PAO has been determined as a result of preliminary engineering plans however recent discussions between officers from Urban Growth and Council's Engineering Unit has revealed that it may be possible to move the boundary north as suggested by the submitter. These discussions remain ongoing and at this stage the alignment remains unchanged. Another matter which will also need to be considered is the area set aside under the DCP and it will be important to ensure the PAO area is not increased should the alignment be altered.		
			5.4	A solution could be a meandering stream which could be accommodated in a changed acquisition area in the northern aspect of the submitter's property.	Recent discussions between officers from Urban Growth and Council's Engineering Unit has revealed that it may be possible to move the boundary north as suggested by the submitter. These discussions remain ongoing and at this stage the alignment remains unchanged. The Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013) also confirms at page 35, "the open waterways proposed to be constructed within the HBP are shown as straight lines...The design intent for future subdivisional design however is for every opportunity to be taken to meander the section through urban areas."		

Sub. No.	Name	Status	Ref.	Issues	Response	Discussion	Document changes required
			5.5	The acquisition area will affect the area available to grow feed for the submitters horses.	It is true that the area currently available for use by the submitter will be reduced however in order to apply a PAO and facilitate drainage works this is unavoidable.		
			5.6	Security concerns particularly the attraction of antisocial behaviour and therefore request that no public access be permitted in the area.	The area within the PAO will be accessible to the public. At this stage it is not known how the space will be designed in terms of paths, landscaping, fencing etc. Any design of this space which encouraged public access should be designed having regard to the Safer Design Guidelines although the management of antisocial behaviour is not a matter that is able to be considered as part of this process.		
6	Dennis Family Corporation Pty Ltd	No objection	6.1	DFC support the proposed PS Amendment	Urban Growth Response: Noted.		
7	S. & L. Lim	Objection	7.1	Too much of the land is proposed to be acquired and will impact on their lifestyle which includes the keeping of four horses.	A significant area of this submitter's property is proposed to be acquired, particularly given the location of the storage basin on the corner of Barwon Heads Road and Boundary Road. While it is acknowledged that it is unfortunate that a significant area is proposed to be acquired, the area is fundamental in order to deliver the drainage outcomes contemplated by the Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013)		
			7.2	The cost of relocating will be too high in terms of finding 5 acres of land for their horses close to Geelong.	Following the application of the PAO, the formal acquisition process will commence which will include compensation under the various headings provided for in the Land Acquisition and Compensation Act.		

Sub. No.	Name	Status	Ref.	Issues	Response	Discussion	Document changes required
			7.3	Request to reconsider alternative location. or as an alternative, the extent of the PAO be reduced (refer to attached mark up plan showing reduced area)	The alignment of the PAO has been determined as a result of preliminary engineering plans and the Horseshoe Bend Precinct Stormwater Management Strategy (Oct 2013) however recent discussions between officers from Urban Growth and Council's Engineering Unit has revealed that it may be possible to move the north eastern section further north as suggested by the submitter. These discussions remain ongoing and at this stage the alignment remains unchanged. Another matter which will also need to be considered is the area set aside under the DCP and it will be important to ensure the PAO area is not increased should the alignment be altered.		
8	Department of Environment, Land, Water and Planning	No objection	8.1	Together, the stormwater management arrangements that are proposed for the land which is the subject of this amendment and C357 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.		