

Planning and Environment Act 1987

Panel Report

**Greater Geelong Planning Scheme Amendment C399ggee
Native Vegetation Precinct Plans Update – Armstrong
Creek Town Centre and Horseshoe Bend Precinct**

07 April 2021

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Greater Geelong Planning Scheme Amendment C399ggee

Native Vegetation Precinct Plans Update – Armstrong Creek Town Centre and Horseshoe Bend Precinct

07 April 2021



Annabel Paul, Chair

Contents

	Page
1 Introduction.....	1
1.1 The Amendment.....	1
1.2 Procedural issues.....	4
2 Planning context	5
2.1 Planning policy framework.....	5
2.2 Planning scheme provisions	5
2.3 Ministerial Directions	6
2.4 Discussion and conclusion.....	6
3 Updates to the Native Vegetation Precinct Plans	7
3.1 The issue	7
3.2 Relevant plan	7
3.3 Submissions	7
3.4 Discussion	7
3.5 Conclusions and recommendations	8
4 Changes to the Urban Growth Zone Schedules	9
4.1 The issues	9
4.2 Relevant provisions	9
4.3 Submissions	9
4.4 Discussion	11
4.5 Conclusions and recommendations	11
5 Other matters	13
5.1 The issues	13
5.2 Submissions	13
5.3 Discussion	13
5.4 Conclusions and recommendations	14

Appendix A Submitters to the Amendment

Appendix B Document list

List of Tables

	Page
Table 1 - Table of revised offsets, DELWP submission, 3 March 2021	1

List of Figures

	Page
Figure 1 - Horseshoe Bend Precinct Structure Plan area	3
Figure 2 - Armstrong Creek Town Centre Structure Plan area	3

Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
The Amendment	Greater Geelong Planning Scheme Amendment C399ggee
Council	Greater Geelong City Council
DELWP	Department of Environment, Land, Water and Planning
DFC	Dennis Family Corporation
MSS	Municipal Strategic Statement
NVPPs	Native Vegetation Precinct Plans
PPF	Planning Policy Framework
UGZ	Urban Growth Zone
VPP	Victoria Planning Provisions

Overview

Amendment summary

The Amendment	Greater Geelong Planning Scheme Amendment C399ggee
Common name	Native Vegetation Precinct Plans Update – Armstrong Creek Town Centre & Horseshoe Bend
Brief description	The Amendment amends the incorporated Native Vegetation Precinct Plans (NVPPs) for the Armstrong Creek Town Centre and Horseshoe Bend Precincts to update the methodology used for the calculation of native vegetation offsets.
Subject land	The Amendment applies to land within the Armstrong Creek Urban Growth Area to which the Horseshoe Bend and Armstrong Creek Town Centre Precinct Structure Plans apply.
The Proponent	City of Greater Geelong Council
Planning Authority	City of Greater Geelong Council
Authorisation	3 February 2020
Exhibition	19 March – 20 April 2020 in local newspapers, the Geelong Australia website and letters were sent to prescribed Ministers and owners and occupiers of land to which the Native Vegetation Precinct Plans apply.
Submissions	Number of Submissions: 2 Department of Environment, Land, Water and Planning (DELWP) and Dennis Family Corporation (Ashbury) Pty Ltd A further submission was made however Council was unable to contact the party via email or street address provided.

Panel process

The Panel	Annabel Paul
Panel Hearing	3 March 2021 via online hearing
Site inspections	N/A
Parties to the Hearing	DELWP and Greater Geelong City Council
Citation	Greater Geelong PSA C399ggee [2021] PPV
Date of this Report	07 April 2021

Executive summary

Greater Geelong Planning Scheme Amendment C399ggee (the Amendment) seeks to amend the incorporated Native Vegetation Precinct Plans (NVPPs) for the Armstrong Creek Town Centre and Horseshoe Bend Precincts to update the methodology used for the calculation of native vegetation offsets.

Since the NVPPs for the Armstrong Creek Town Centre and Horseshoe Bend Precincts were gazetted, the Department of Environment, Land, Water and Planning (DELWP) has updated the way offsets are calculated. The proposed changes to the NVPPs are to implement this updated methodology for the calculation of native vegetation offsets. There will be no change to the status of vegetation in either precinct, ie there will be no native vegetation that was originally to be retained that can now be removed or vice versa. On this basis DELWP submitted that the Amendment is administrative.

Key issues raised in submissions included:

- That the changes to Schedules 4 and 5 to the Urban Growth Zone (UGZ) relating to 'Subdivision - Design response' are confusing and may lead to delays in the planning assessment process
- That the reference to the 'Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013)' should be changed to the 'Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning 2017)'
- That the Amendment provides an opportunity to make some minor edits to the NVPP's to improve clarity.

The Panel agrees that the Amendment is largely administrative, and that the changes to the UGZ schedules 4 and 5 and the changes to the NVPPs to reflect the revised native vegetation accounting methodology is appropriate.

The Panel recommends that there be some further minor wording changes to schedules 4 and 5 of the UGZ to improve clarity. The Panel also accepts the proposed further updates to the NVPPs recommended by DELWP and agreed to by Council, should be made, and that the references in the Planning Scheme to the updated NVPPs should include the final revision date (month and year) of these reports.

The Panel concludes:

- The Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework (PPF), and is consistent with the relevant Ministerial Directions and Practice Notes.
- The Amendment is strategically justified and largely administrative, and the Amendment should proceed subject to some minor wording changes as discussed in the following chapters.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Greater Geelong Planning Scheme Amendment C399ggee be adopted as exhibited subject to the following:

- 1. That the revised Native Vegetation Precinct Plans are incorporated into the Planning Scheme, by:**

- a) updating the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme to reference the updated Armstrong Creek Town Centre Native Vegetation Precinct Plan, March 2014 and Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Growth Area, August 2014 with the applicable amended report dates (month and year).
 - b) Updating the Schedule to Clause 52.16 Native Vegetation Precinct Plan by reference to the updated Armstrong Creek Town Centre Native Vegetation Precinct Plan, March 2014, and Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Growth Area, August 2014, with the applicable amended report dates (month and year).
2. That Schedule 4 to the Urban Growth Zone (Clause 37.07) be updated with the following changes:
- a) That references to the 'Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan August 2014' be given an updated amended report date (month and year)
 - b) That at Clause 3.3 Subdivision applications, the fourth dot point under Design response be amended to read:
 - An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified as 'practical retention trees' in the Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan August 2014 (Amended XXX 2021).
3. That Schedule 5 to the Urban Growth Zone (Clause 37.07) be updated with the following changes:
- a) That references to the 'Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014' be given an updated amended report date (month and year)
 - b) That at Clause 3.3 Subdivision applications, the seventh dot point under Design response be amended to read:
 - An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified for as 'practical retention trees' within the Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014 (Amended XXX 2021).

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to update the methodology used for the calculation of native vegetation offsets in the incorporated Native Vegetation Precinct Plans (NVPPs) for the Armstrong Creek Town Centre and Horseshoe Bend Precincts. The update is to reflect the revised methodology developed by DELWP for calculating 'specific' offsets for removal of native vegetation comprising rare and threatened species habitat that has been used since 21 October 2015.

The Amendment to the calculation method changed the area of species habitat that is used to calculate specific biodiversity equivalence units. The calculation now only captures where the species habitat is, whereas previously the entire habitat zone was included, rather than the specific area of the habitat. This generally resulted in greater specific species offsets and lower general offsets.

In the case of the Armstrong Creek Growth Area, developers were having difficulties in identifying compliant specific offsets for Bellarine Yellow Gum losses under the old methodology. It has been DELWPs practice to offer applicants with specific offset requirements calculated before 21 October 2015 the opportunity to resubmit their proposal to have their offsets re-calculated under the new methodology. This Amendment formally changes the methodology to allow for the updated methodology to apply in these two NVPPs.

The changes to the offsets between the two methods for the applicable NVPPs are shown in Table 1.

Table 1 - Table of revised offsets, DELWP submission, 3 March 2021

Horseshoe Bend NVPP	2014 Units (old method)	2019 Units (New method)
General Offsets	0.521	2.602
Bellarine Yellow Gum Offsets	10.991	5.607
Purple Blown Grass Offsets	7.498	4.969

Town Centre NVPP	2014 Units (old method)	2019 Units (New method)
General Offsets	0.114	0.463
Bellarine Yellow Gum Offsets	5.0148	3.245

The Amendment also seeks to make some minor changes to schedules 4 and 5 to the UGZ. Council advised that it was evident that some of the current wording in these schedules did not make sense and some changes would assist to improve clarity. It appears that at the time the clauses were drafted, words appeared to have been unintentionally omitted or drafting not completed.

Overall, the Amendment proposes to alter the following schedules in the Greater Geelong Planning Scheme to refer to the revised Native Vegetation Precinct Plans:

- Schedule 4 to Clause 37.07 Urban Growth Zone (UGZ4)
- Schedule 5 to Clause 37.07 Urban Growth Zone (UGZ5)
- Schedule to Clause 52.16 Native Vegetation Precinct Plan
- Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme.

(ii) The subject land

The Amendment applies to land within the Armstrong Creek Urban Growth Area to which the Horseshoe Bend and Armstrong Creek Town Centre Precinct Structure Plans apply, as shown in Figures 1 and 2.

Figure 1 - Horseshoe Bend Precinct Structure Plan area

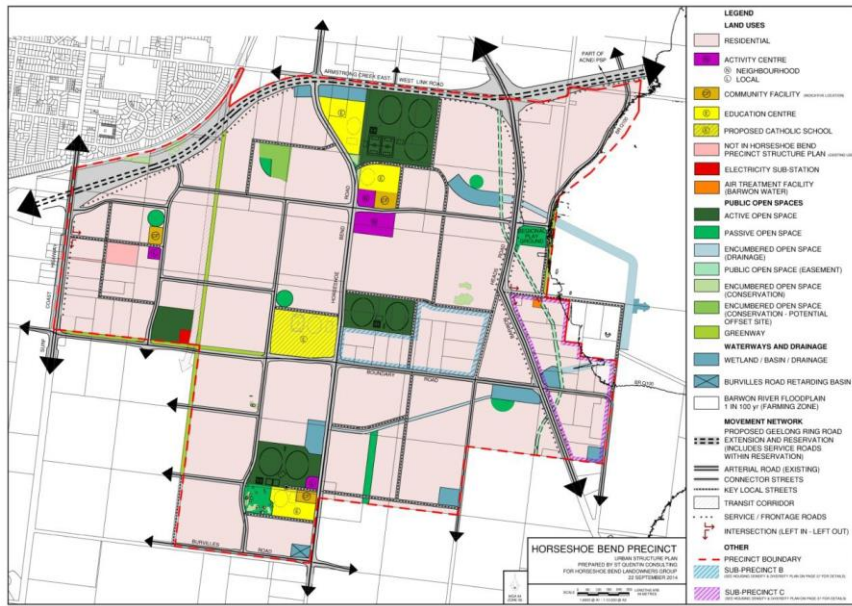
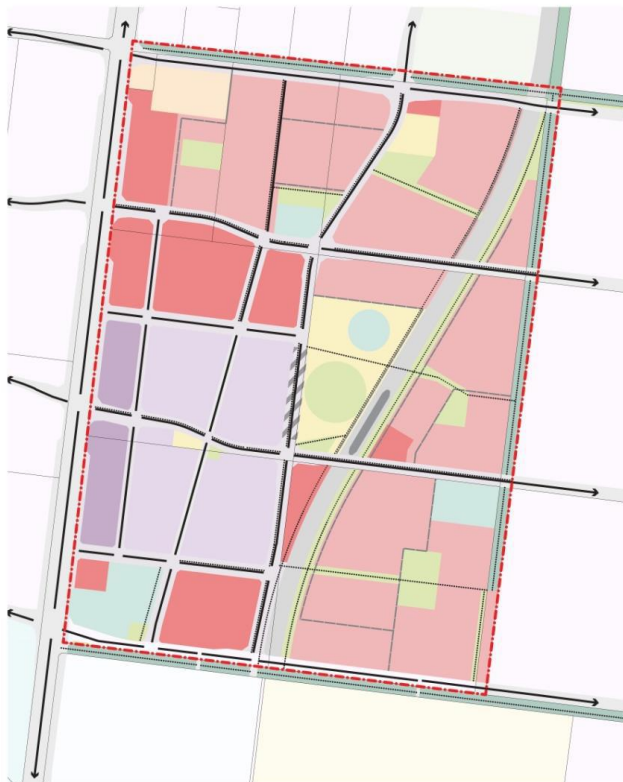


Figure 2 - Armstrong Creek Town Centre Structure Plan area



1:8000



1.2 Procedural issues

A submission was made to Council by an individual submitter. Council attempted to contact the submitter at the email address included within the submission, however the email address was not contactable. A subsequent attempt to reach the submitter at the address included with the submission resulted in the return of mail to Council.

Council obtained legal advice that where a submitter has not provided the required details to enable them to be contacted, Council is entitled to not regard the communication as a bona fide submission.

Council did however refer the submission to the Panel.

As the submission was referred to the Panel, the issues raised have been considered, however the Panel notes that the issues raised are largely beyond the scope of the Amendment.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the Act by providing for the fair, orderly and sustainable development of land where environmental, social and economic effects are recognised.

Clause 12 (Environment and Landscape Values)

The Amendment supports Clause 12 by:

- Using biodiversity information to identify important areas of biodiversity and to assist in the identification, protection and management of important areas of biodiversity (Clause 12.01-1S)
- Ensuring that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation (Clause 12.01-2S), by providing for an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

Clause 21 (the Municipal Strategic Statement)

The Amendment supports the MSS by:

- Ensuring land use and development seeks to protect, maintain and enhance the biodiversity of the municipality and ensure land use and development minimises the fragmentation of areas of native vegetation and other habitats (21.05-3 Biodiversity).
- Protecting and enhancing the natural environmental features of the Armstrong Creek area (21.11 – Armstrong Creek Urban Growth Area).

2.2 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

(i) Zones

The land is in the UGZ – Schedules 4 and 5. The purposes of the Zone include:

- To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.
- To provide for a range of uses and the development of land generally in accordance with a precinct structure plan.
- To contain urban use and development to areas identified for urban development in a precinct structure plan.

Within Schedule 4, *Armstrong Creek Horseshoe Bend Precinct Structure Plan, September 2014*, at Clause 5, Referral and Notice, it states:

Notice of an application that relates to land containing native vegetation identified by the *Native Vegetation Precinct Plan - Horseshoe Bend Precinct, Armstrong Creek Urban*

Growth Area, August 2014 as an offset site, must be given to the Department of Environment and Primary Industries.

A permit application proposing the removal of vegetation identified in the *Native Vegetation Precinct Plan - Horseshoe Bend Precinct, Armstrong Creek Urban Growth Area, August 2014* as 'retained' vegetation must be referred to the Department of Environment and Primary Industries. An application must include GIS data of the vegetation to be removed in ESRI shapefile format with the appropriate spatial attributes to the satisfaction of the Department of Environment and Primary Industries.

Within Schedule 5, *Armstrong Creek Town Centre Precinct Structure Plan*, at Clause 4.1, Native Vegetation, it states:

A planning permit must include a condition or conditions which ensure that any requirements or conditions set out in the *Armstrong Creek Town Centre Precinct Structure Plan* and the *Armstrong Creek Town Centre Native Vegetation Precinct Plan* are implemented as part of the planning permit or the plans endorsed under the planning permit.

At Clause 5.0 it states:

Notice of an application that relates to land containing native vegetation identified by the *Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014* as an offset site, must be given to the Department of Environment, Land, Water and Planning.

A permit application proposing the removal of vegetation identified in the *Native Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014* as 'retained' vegetation must be referred to the Department of Environment, Land, Water and Planning. An application must include GIS data of the vegetation to be removed in ESRI shapefile format with the appropriate spatial attributes to the satisfaction of the Department of Environment, Land, Water and Planning.

The '*Armstrong Creek Town Centre Native Vegetation Precinct Plan (March 2014)*' and the '*Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Urban Growth Area, August 2014*' are listed as Incorporated Documents at the schedule to Clause 72.04.

(ii) Other provisions

Other relevant provisions include:

- Clause 52.16 Native Vegetation Precinct Plan.
- Clause 72.04 Documents Incorporated in this Planning Scheme.

2.3 Ministerial Directions

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and Ministerial Direction No. 17 Localised Planning Statements.

2.4 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is strategically justified and largely administrative, and the Amendment should proceed subject to some modified wording in both the UGZ Schedules 4 and 5 and in the NVPPs, as raised in submissions and discussed in the following chapters.

3 Updates to the Native Vegetation Precinct Plans

3.1 The issue

No submitter opposed the changes to the NVPPs to revise the methodology for calculating the specific offsets based on the 21 October 2015 changes, however DELWP submitted that there should also be other changes made to the NVPPs to correct some anomalies.

3.2 Relevant plan

There are two NVPPs that are relevant, being:

- Armstrong Creek Town Centre Native Vegetation Precinct Plan (March 2014)
- Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Urban Growth Area, (August 2014).

3.3 Submissions

DELWP advised that in addition to updating the revised offset calculations, that the Amendment provided an opportunity to make some minor edits to the NVPPs to improve clarity. The exhibited version of the NVPP for Armstrong Creek Town Centre was dated October 2019 and included the following revisions:

- Revised offset calculations based on changes to DELWP protocol
- Updated to scattered tree retention
- Addition of Table 6.2
- Updates to Tables 1, 2, 3, and 5.1
- Deletion of Appendix 2
- Addition of note on all tables regarding property addresses.

Following discussions and questions from the Panel at the hearing, some supplementary information was prepared by DELWP outlining the further recommended changes to the NVPP's (dated 9 March 2021):

- Proposed changes to columns in Tables 5.1 and 6.1 in the Armstrong Creek Town Centre NVPP and to Tables 5 and 7 in the Horseshoe Bend NVPP. Add a column in each table headed "Minimum Strategic Biodiversity Score".
- Proposed change in Table 5 of the Horseshoe Bend NVPP. Condense the two rows for Habitat Zone GW9a-2 so that information for the specific offsets and general offsets appears in separate sub-rows within a single overall row.

Council submitted that they were generally supportive of the suggested amendments, however given the expenses involved in revising the NVPPs, have sought to refrain from undertaking the changes pending the Panel report.

3.4 Discussion

The changed offset requirements will typically result in a greater general offset requirements and a reduced specific offset requirement than the existing NVPP's, however this is consistent with the methodology for calculating offsets adopted by DELWP since 2015. Further as explained by DELWP, the revised calculations more precisely apply specific offsets for threatened species and general offsets for native vegetation patches, whereas the 2013 method applied the requirement for specific offsets across the entire native vegetation

patch, even if the extent of threatened vegetation only formed part of the overall native vegetation patch.

No submitter raised concerns with either the changed methodology or the revised changes to the NVPP's dated October 2019 as exhibited. The additional changes sought by DELWP as raised at the hearing were also supported by Council. These changes generally fixed duplicated provisions; clarified addresses of native vegetation areas; and made changes to tables to improve clarity.

The Panel is satisfied that the additional changes proposed by DELWP improve the clarity and useability of the NVPPs without changing the extent of vegetation to be retained or removed or making any other material change.

The date of the NVPPs as exhibited was October 2019 (Town Centre) and November 2019 (Horseshoe Bend), however with the further changes proposed by DELWP, a further change to the date will need to be included (ie amended month year).

3.5 Conclusions and recommendations

The Panel concludes:

- The changes to the NVPPs are appropriate and the additional changes recommended by DELWP and agreed to be Council should be made to the NVPPs, with an updated revised report date.

The Panel recommends:

- 1. That the revised Native Vegetation Precinct Plans are incorporated into the Planning Scheme, by:**
 - a) Updating the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme to reference the updated Armstrong Creek Town Centre Native Vegetation Precinct Plan, March 2014 and Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Growth Area, August 2014 with the applicable amended report dates (month and year).**
 - b) Updating the Schedule to Clause 52.16 Native Vegetation Precinct Plan by reference to the updated Armstrong Creek Town Centre Native Vegetation Precinct Plan, March 2014, and Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Growth Area, August 2014, with the applicable amended report dates (month and year).**

4 Changes to the Urban Growth Zone Schedules

4.1 The issues

The issue was whether the wording changes under Clause 4.2 of Schedule 4 to the UGZ is appropriate or could be improved.

4.2 Relevant provisions

The Amendment as exhibited contains the following (tracked changes) provisions:

Schedule 4 to Clause 37.07

Clause 4.2 Subdivision, of Schedule 4 to the UGZ, the Amendment seeks to change the fifth dot point under 'Design response' as follows:

An assessment ~~against to~~ by a suitably qualified professional to confirm that the proposed subdivision layout will minimise and offset loss pursuant to the ~~Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines~~ Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI, 2013) for all trees identified as 'practical retention trees' in the ~~Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan~~ Native Vegetation Precinct Plan, Horseshoe Bend Precinct, Armstrong Creek Urban Growth Area August 2014 (Amended November 2019).

At Clause 5.1 Referral and notice, the updated versions of the NVPP's are to be referenced, and the name of the department changed from Department of Environment and Primary Industries to Department of Environment, Land, Water and Planning. At Clause 6.3 Requirements for Native Vegetation the updated versions of the NVPP's are to be referenced.

Schedule 5 to Clause 37.07

At Clause 3.3 Subdivision applications, of Schedule 5 to the UGZ, the Amendment seeks to change the seventh dot point under 'Design response' as follows:

An assessment ~~to~~ by a suitably qualified professional to confirm that the proposed subdivision layout will minimise and offset loss pursuant to the ~~Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines~~ Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI, 2013) for all the vegetation identified for practical retention within the Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014 (Amended October 2019).

The updated versions of the NVPP's are to be referenced at Clause 4.1 Native vegetation, Clause 5.0 Referral, Clause 7.0 Decision guidelines and Clause 8.0 References. Other minor typographical errors are also to be corrected.

4.3 Submissions

DELWP submitted that the changes to the fourth dot point at Clause 4.2 Design response, that introduces the specific reference to "subdivision layout" could inadvertently narrow the focus of consideration of minimising and offsetting native vegetation loss to just the subdivision layout, rather than to all aspects of subdivision, including lot design, location of utilities etc.

DELWP also questioned whether the introduction of the reference to “suitably qualified professional” may constitute a material change to the schedules, and while DELWP anticipates that applicants are likely to engage a relevant consultant they did not consider this to be mandatory.

Accordingly, DELWP suggested the following re-wording of these dot points as follows:

- **Schedule 4:** An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified as ‘practical retention trees’ in the Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan August 2014 (Amended November 2019).
- **Schedule 5:** An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified for as ‘practical retention trees’ within the Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014 (Amended October 2019).

In the supplementary submission to the Panel, DELWP noted that if the additional minor edits are undertaken, a revised dated version of the NVPP’s should be included.

DFC (Ashbury) Pty Ltd, a related entity of the Dennis Family Corporation (DFC), while generally supportive of the Amendment, also considered that the wording somewhat confusing and may lead to delays in assessment. They submitted:

- that it is unusual to require an ecologist / arboriculturist to confirm that a subdivision layout itself was acceptable as opposed to being required to provide an assessment of the vegetation
- that an assessment of subdivision layout may not include factors outside the expertise of the ecologist that should also be considered
- that it was not clear how such an assessment is able to confirm that the subdivision layout will offset vegetation loss pursuant to the guidelines; and
- as drafted, considerable weight would be given the retention of vegetation identified for ‘practical retention’, noting that this vegetation is considered removed under both NVPPs, and retention would likely be based on aesthetic / landscape value rather than conservation.

DFC (Ashbury) Pty Ltd also queried whether the reference to the DEPI 2013 Permitted Clearing of Native Vegetation - Biodiversity Assessment Guidelines is correct.

On this basis, DFC suggested the following alternative wording:

- **Schedule 4.** An assessment against the ‘three step approach’ (avoid, minimise and offset) pursuant to the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) for all trees identified for ‘practical retention’ in the Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan (Amended November 2019).
- **Schedule 5.** An assessment against the ‘three step approach’ (avoid, minimise and offset) pursuant to the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) for all trees identified for ‘practical retention’ in the Armstrong Creek Town Centre Native Vegetation Precinct Plan (Amended November 2019).

In response to DFC’s submission, DELWP supported the inclusion of the “avoid” step in the ‘three step approach’ and considered this appropriate. DELWP however submitted that it would not be appropriate to change the reference to the current 2017 “Guidelines for the

removal, destruction or lopping of native vegetation” as the NVPPs in question were informed by survey and assessment that was undertaken in accordance with the previous guidelines, “Permitted Clearing of native vegetation – Biodiversity Assessment Guidelines” (DEPI 2013). Council also did not support this change for the same reasons as DELWP.

Council did however submit that it considered the requirement to be ‘undertaken by a suitably qualified professional’ to be a good inclusion and used elsewhere in the schedule and Planning Scheme more generally. They also noted that the requirement could be waived if not relevant, however they did acknowledge that the assessment can be undertaken by anyone with a basic understanding of avoid and minimise principles. On this basis they supported the revised wording by DELWP for each of the schedules.

4.4 Discussion

While the primary purpose of the Amendment was to update the NVPP’s and the reference to these documents in the Planning Scheme, the Amendment has allowed for corrections and clarifications to native vegetation provisions in the schedules 4 and 5 to the UGZ. It is apparent that a number of typographical errors were inadvertently gazetted and that some of the provisions were not entirely clear.

Overall, Council supported the revisions proposed by DELWP and the Panel agree that these changes are appropriate. These changes also largely address the matters raised by DFC (Ashbury) Pty Ltd, by removing references to ‘subdivision layout’ and ‘suitably qualified professional’.

The Panel accepts that while the guidelines have also been updated since 2013, to the ‘*Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017)*’, that it is not appropriate to reference this 2017 document, given that the basis of the NVPPs were developed under the 2013 guidelines.

4.5 Conclusions and recommendations

The Panel concludes:

- That the revisions as proposed by DELWP and supported by Council should be made to schedule 4 and 5 of the UGZ to include reference to both the updated NVPPs and also to improve the clarity of provisions relating to native vegetation.

The Panel recommends:

2. **That Schedule 4 to the Urban Growth Zone (Clause 37.07) be updated as exhibited with the following changes:**
 - a) **That references to the ‘Armstrong Creek Horseshoe Bend Native Vegetation Precinct Plan August 2014’ be given an updated amended report date (month and year)**
 - b) **That at Clause 3.3 Subdivision applications, the fourth dot point under Design response be amended to read:**
 - **An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified as ‘practical retention trees’ in the Armstrong Creek**

Horseshoe Bend Native Vegetation Precinct Plan August 2014 (Amended XXX 2021).

- 3. That Schedule 5 to the Urban Growth Zone (Clause 37.07) be updated as exhibited, however with the following changes:**
 - a) That references to the 'Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014' be given an updated amended report date (month and year)**
 - b) That at Clause 3.3 Subdivision applications, the seventh dot point under Design response be amended to read:**
 - An assessment to confirm that the application will avoid, minimise and offset loss pursuant to the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (DEPI 2013) for all the vegetation identified for as 'practical retention trees' within the Armstrong Creek Town Centre Native Vegetation Precinct Plan March 2014 (Amended XXX 2021).**

5 Other matters

5.1 The issues

A third submitter raised the following additional issues:

- Questions the extent of vegetation listed for removal being far greater than that proposed to be retained
- Questions why there is no consultation with the local Indigenous community
- Notes that the Bellarine Yellow Gums were declared as a threatened species, by the then Department of Environment and Sustainability in 2003, and that there has been a 95% loss of this species across the last 3-4 decades. Also states that the Purple Grown Grass is listed as a threatened species. Submits that it has been misidentified in the report's tables
- Submits that the report fails to describe what an Offset Multiplier is.

5.2 Submissions

Council responded to these matters raised by advising that Council had attempted to contact the submitter both by email and post, without success. They sought legal advice that advised that where a submitter has not provided the required details to enable them to be contacted, that Council is not required to regard the communication as a bone fide submission. Council however did forward the submission to the Panel.

DELWP responded by stating that this submitter raises issues that may be beyond the scope of the Amendment, however offered the following commentary to assist the Panel:

- Identification of the extent of native vegetation for removal and retention was a key consideration of the initial preparation and incorporation of the Horseshoe Bend NVPP in 2014. Substantial amounts of the native vegetation addressed by the NVPP has already been removed.
- Considers that the submitter may have inferred that the NVPP fails to consider the threatened species status of the Bellarine Yellow Gum and Purple Blown Grass, however notes that the Biodiversity Assessment Guidelines and their associated methodologies are designed to actively consider threatened species habitat within the assessment methodologies and offsetting arrangements. Additionally, information about threatened species and communities was a direct consideration in informing the strategic basis on which the NVPP was developed.
- The definition of an offset multiplier is set out in the Biodiversity Assessment Handbook - Permitted Clearing of Native Vegetation (DEPI 2015). The offset multiplier applies an offset risk factor to the offset amount. For Specific offsets a risk factor of 2 is applied and for General offsets, a risk factor of 1.5 is applied.

5.3 Discussion

The Panel considers that the issues raised in this submission are beyond the scope of the Amendment. The Amendment is not seeking to change the status of any native vegetation within the NVPP's or allow for a greater extent of vegetation to be retained or removed. The Amendment only changes the method for calculating offsets in accordance with the method

introduced on 21 October 2015. The other changes to the NVPP's seek to make minor corrections and clarifications.

5.4 Conclusion and recommendation

The Panel agrees with DELWP that the issues raised are beyond the scope of the Amendment and recommend no change to the Amendment.

Appendix A Submitters to the Amendment

No.	Submitter
1	Sarah Burnley
2	Department of Environment, Land, Water and Planning
3	DFC (Ashbury) Pty Ltd

Appendix B Document list

No.	Date	Description	Provided by
1	03/03/2021	Submission by the City of Greater Geelong	Mr Barry Gough
2	03/03/2021	Submission by the environment portfolio of the Department of Environment, Land, Water and Planning	Mr Geoffrey Brooks
3	09/03/2021	Supplementary information prepared by the Department of Environment, Land, Water and Planning	Mr Geoffrey Brooks
