

IN PLANNING PANELS VICTORIA**GREATER GEELONG PLANNING SCHEME AMENDMENT 278ggee****Marshall Precinct Structure Plan****COLLATED INTERIM AND SUPPLEMENTARY
PART B SUBMISSIONS ON BEHALF OF CITY OF GREATER GEELONG****INTRODUCTION**

1. These interim Part B Submissions are made on behalf of the City of Greater Geelong (**Council**), the planning authority for Amendment 278ggee (**Amendment**) to the Greater Geelong Planning Scheme (**Planning Scheme**).
2. The Panel's directions dated 4 October 2024 require Council's Part B submission to address the following matters:
 - a) *an explanation of the strategic work and justification for the exhibited and post exhibition proposed land use designations relating to the exhibited commercial/bulky goods land*
 - b) *an update on the proposed drainage infrastructure for DCP drainage item DI_DR_14 including any changes to design or cost, and/or any additional infrastructure required*
 - c) *the strategic background and justification for the proposed Local Activity Centre and associated floorspace provisions, including consistency with the City of Greater Geelong Retail Strategy 2020-36 and associated Greater Geelong Planning Scheme provisions*
 - d) *consideration of applying the Public Acquisition Overlay (PAO) to facilitate land acquisition for necessary infrastructure, and explain:*
 - i. *why this is not proposed, in contrast with the surrounding Armstrong Growth Area where a PAO has been applied*
 - ii. *how timely land acquisition will be managed*
 - e) *an explanation of the targets and mechanisms for achieving social and affordable housing provision, and the implications for the Development Contribution Plan rate*
 - f) *the Council report dated 28 August 2024 states "Following advice from the [Environment Protection Authority] EPA on the planning tools to manage potentially contaminated land, it was agreed to apply the Environmental Audit Overlay (EAO) as shown on the exhibited EAO Map". Provide an overview of consultation with the EPA in preparing the Amendment and a copy of any relevant correspondence from the EPA*
 - g) *in the context of the letter of authorisation of the Amendment and submission 25 from the Department of Energy, Environment and Climate Action, explain any implications of the Victorian Grassland Earless Dragon habitat assessment report and any future Environment Protection and Biodiversity Conservation Act 1987 process for the PSP and development of the area*
 - h) *explain how the Amendment addresses EPA Publication 1518 - Recommended separation guideline distances for industrial residual air emissions*

- i) provide an update, if available, on any relevant State government planning reform relating to Environmentally Sustainable Development (ESD)*
 - j) its response to submissions and evidence*
 - k) its final position on the Amendment.*
3. By email on 1 November 2024, the Panel directed that Council provide:
 - 3.1. an interim Part B submission by 4:00pm on 1 November 2024; and
 - 3.2. a supplementary Part B submission, as required, and Day 1 Amendment Documents be provided by 12 noon on Monday 4 November 2024.
4. Accordingly, Council addresses some, but not all of the matters set out above, in this interim Part B submission, with the balance of matters to be addressed in the supplementary Part B submission to be circulated on Monday 4 November 2024.
5. Council notes the majority of submissions and evidence in this Panel proceeding supports the Amendment, subject to differences of opinion in relation to a limited number of matters. These remaining matters are broadly as follows:
 - 5.1. the designation of properties #20, #34, #35, #36 #37, #38, #39, #40, #41, #42 and #43 as 'Conventional Residential', 'Medium/High Density Residential' or 'Commercial/Bulky Goods'
 - 5.2. whether PAOs should be applied to public infrastructure (particularly drainage assets) as part of the Amendment;
 - 5.3. the wording of requirements in the UGZ7;
 - 5.4. the functioning of particular intersections within the proposed and road network, and the need for further work to be done in this area;
 - 5.5. the implementation mechanisms for the town centre;
 - 5.6. the application of the DDO to properties outside of the PSP area.
6. In addition to addressing the matters required to be included as noted at paragraph 2 above, to the extent possible in this interim Part B submission, Council focuses its submissions on these outstanding matters to be resolved in the paragraphs that follow.
7. In addition to this interim Part B Submission, Council relies upon:
 - 7.1. its Part A Submission;
 - 7.2. the expert evidence and other documents on which it intends to rely filed on 25 October 2024;
 - 7.3. the Council supplementary Part B Submission to be filed on 4 November 2024; and
 - 7.4. the Council Part C (closing) Submission to be filed one business day before it is to be presented.
8. All circulated evidence in the matter will be tested before the Panel. The views expressed in these submissions in respect of the evidence reflect an interim position subject to this important process.

SUBMISSIONS

A Strategic work and justification for the exhibited and post exhibition proposed land use designations relating to the exhibited commercial/bulky goods land

9. Council has previously outlined communication with submitters, occupiers, landowners and agencies regarding a potential change to the exhibited zoning of land along Barwon Heads Road. The designation of this land as either commercial or residential is not a planning decision that is obvious or clear. This much is demonstrated by the competing evidence on the issue that has been advanced by various parties. Importantly the approach of the parties demonstrates that they have been afforded a proper opportunity to contest this matter.
10. At the time the Access Management Strategy was prepared (final version 2 May 2019) to inform the preliminary Cardno Transport Infrastructure Assessment, the finalised design for the Barwon Heads Road upgrade were not complete.¹ The initial decision to designate the exhibited commercial/bulky goods land in that manner was in part informed on the level of road and pedestrian infrastructure and connectivity across Barwon Heads Road and in-progress Barwon River flood mapping, but was not supported by economic analysis. As set out in the officer delegate report:²

By way of background, stakeholder engagement commenced in 2018 and the draft Marshall PSP was released for public consultation in May 2019. The draft version designated the area for 'Commercial/ Bulky Goods' and did not result in any objecting submissions. Council's designation at the time was mainly based on poor road and pedestrian infrastructure and connectivity across Barwon Heads Road, as well as in-progress Barwon River flood mapping. The designation was not supported by an economic assessment report or other analysis.

11. All submissions and addenda received in response to Council's invitation to comment on the proposed change from commercial / bulky goods to residential were considered. After a site inspection and detailed consideration of the responses received, Council considers the following designations to be appropriate:
 - 11.1. 'Conventional Residential' designation: Properties #38, #39, #40, #41, #42 and #43
 - 11.2. 'Medium/High Density Residential' designation: Property #20
 - 11.3. 'Commercial/Bulky Goods' designation: Properties #34, #35, #36 #37 (no change)
12. The rationale for these changes is as follows:
 - 12.1. In the absence of a demonstrated need for the commercial bulky goods in this area. It is not a case where the designation of bulky goods will address an underlying identified need.
 - 12.2. The need to deliver housing, of all types within Victoria to address the current and likely ongoing housing shortage in Victoria. This is consistent with Victoria's Housing Statement which emphasis the delivery of housing in regional Victoria.
 - 12.3. The area is well located relative to jobs precincts and central Geelong. The officer report states:³

The area is located very close to the public transport network, including Marshall Station within 800m, bus stops on Barwon Heads Road and future planning for the redevelopment of Tannery Road to accommodate buses.

¹ Access Management Strategy, Page 8.

² Delegate report, para 44.

³ At 46.

Pedestrian and cycle paths service the area, as will the planned Barwon River Trail in the longer term.

- 12.4. The position is consistent with the incorporated Armstrong Creek Urban Growth Plan - Framework Plan.
13. No agency has objected the residential designation, while the DTP hold concerns about direct access from Barwon Heads Road compromising the operation of this road. Council commentary on the evidence concerning this matter is considered below.

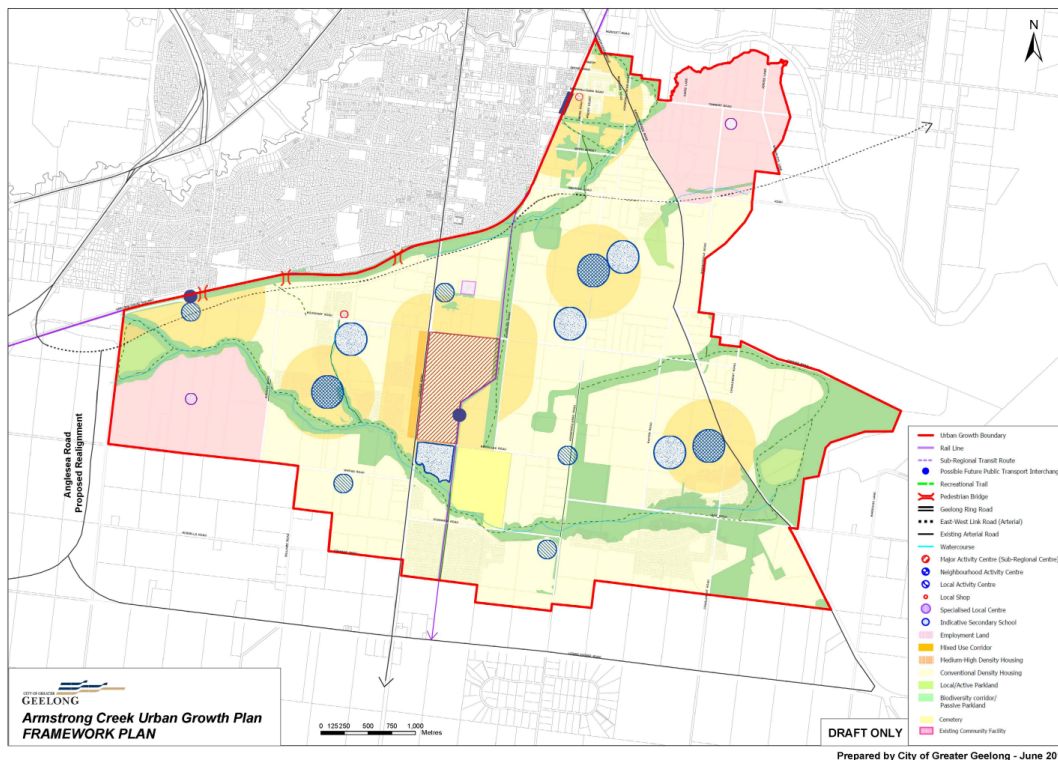
B Update on the proposed drainage infrastructure for DCP drainage item DI_DR_14

14. Council confirms that there has been no change to the proposed drainage infrastructure for DCP drainage item DI_DR_14. This is consistent with the evidence of Mr Swan and the consolidated position expressed by the drainage conclave.

C Strategic background and justification for the proposed Local Activity Centre and associated floorspace provisions

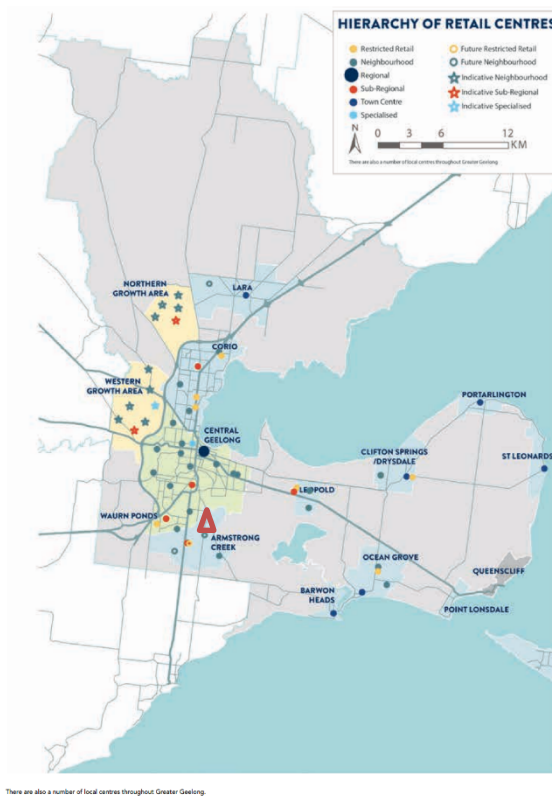
Strategic background and justification

15. The strategic justification for the proposed Local Activity Centre (**LAC**) is grounded in:
 - 15.1. The Greater Geelong Retail Strategy 2020-2036 (Aug 2020) (**Retail Strategy**), tabled as Panel Document 12f;
 - 15.2. The memo prepared by Justin Ganly of Deep End Services dated 15 October 2021 relating to 'Marshall Station commercial development advice, phase 1', tabled as Panel Document 12d (**Ganly Memo**); and
 - 15.3. Insofar as a background document, given the passage of time, the Economic Activity & Employment Technical Report (24 February 2006), tabled as Panel Document 12c.
16. The Retail Strategy defines and sets parameters for each of the retail centre classifications ranging from the Regional centre in Geelong CBD (more than 100,000sqm of indicative retail floor space) to Local Activity Centres (up to 5,000sqm of indicative retail floor space).
17. On page 25 of the Retail Strategy, Figure 6: 'Location of retail centre' (extracted below) marks the location of each of the various higher order retail existing centres: Restricted Retail, Neighbourhood, Regional, Sub-Regional, Town Centre and Specialised, as well as the locations of future higher order retail centres. The footnote beneath Figure 6 reads "*There are also a number of local centres throughout Greater Geelong.*"
18. Council has marked the approximate Marshall PSP area on the Retail Strategy's Figure 6 below with a red triangle. There are no higher order retail centres marked within the Marshall PSP area, with the nearest being the 'future neighbourhood' retail centre associated with the Horseshoe Bend precinct. A higher order retail centre was therefore not contemplated by the Retail Strategy in this location.
19. Similarly, the Armstrong Creek Growth Area Framework Plan (**Framework Plan**) includes reference only to a 'local shop' within the Marshall PSP area, being co-located with the Marshall Train Station.
20. As the PSP must be generally in accordance with the Framework Plan, there needs to be a demonstrated need or opportunity for something more substantial than the indicated 'local shop' in that location.
21. Given the location of and upgrades to the Marshall Train Station, Council considered that the PSP would be well served by a Local Activity Centre in accordance with the Retail Strategy.



Armstrong Creek Growth Area Framework Plan

FIGURE 6: LOCATION OF RETAIL CENTRE



Retail Strategy Figure 6: Location of retail centre, from the Retail Strategy

22. Council was provided with a memo prepared by Mr Justin Ganly for Mr Gareth Bellchambers, who Council understands is associated with Ample Investments Group (the parent company of

Marshall Dev Co Pty Ltd), to provide his assessment of commercial development advice for Ample's landholdings near the train station (Ganly Memo).

23. The Ganly Memo, which included consideration of the then draft PSP, concluded that ultimately a supermarket of 2,000sqm plus 500sqm of specialty shops, 300-400sqm of medical, 300-500sqm for a gym and 800-1,000sqm for childcare could be supported in that location and serve the Marshall PSP area. At the time, the draft PSP provided for a LAC of a maximum of 2,500sqm of retail floorspace, comprising a 1,500sqm supermarket and 1,000sqm + of other retail and commercial tenancies.
24. The PSP was subsequently updated to reflect the proposed LAC in its current configuration described by R83 in the PSP as:

A small scale, convenience style Local Activity Centre is provided, which must:

- *Be located within the Station Precinct.*
- *Comply with Section 4.2 Station Precinct Urban Design Framework Requirements and Guidelines.*
- *Permit a maximum as of right of 2,750 sqm of retail floor space that includes no more than 2,000 sqm for a supermarket and the balance for specialty shops and food and drink premises. An application that proposes to exceed the floor space maximum of 2,750 sqm must be supported by an Economic Impact Assessment that responds to Clause 17.02-1L. Council may waive the requirement for the submission of an Economic Impact Assessment where the development is for a shop use (excluding supermarket) that results in the development exceeding the maximum retail floor space for the Local Activity Centre of 2,750 sqm.*
- *Support up to 2,250 sqm of non-retail uses (excluding residential) including a mix of small-scale office, medical, gym, childcare uses, etc.*
- *Provide a maximum overall Local Activity Centre floor area of no more than 5,000 sqm.*
- *Support ground level retail co-location with high density residential development in a Main Street structure that provides for activated street frontages, prioritises pedestrian connections, facilitates diverse architecture and provides on-street parking in discrete locations.*
- *Demonstrate the relationship and connectivity of the Centre with co-located and surrounding land uses, including the train station and open space.*
- *Not permit electronic gaming machines.*
- *Provide all car parking and loading facilities to all commercial building at the rear so as to present an attractive address to the street.*
- *Ensure all goods and materials, storage areas and refuse areas are not visible from public areas, including open space and street sightlines.*

To the satisfaction of the Responsible Authority.

Consistency with Greater Geelong Planning Scheme Provisions

25. Council had regard to the Planning Scheme when proposing the LAC to be co-located with the Marshall Train Station.
26. The retail hierarchy set out in the Retail Strategy has been transposed into Clause 2.03-1 of the Planning Scheme with the following five strategic directions:
 - *Ensure that new retail development is consistent with the Geelong Retail Centre Hierarchy.*
 - *Ensure that Central Geelong remains the primary activity centre in the municipality.*
 - *Encourage expanding existing centres over developing new centres in out-of-centre locations.*
 - *Ensure the transition of retail centres to activity centres with a diverse range of uses.*
 - *Ensure that out-of-centre development provides net community benefit.*
27. Clause 2.03-1 confirms the boundaries of all retail centres included within the hierarchy are delineated in the Retail Strategy. Again, it is noted there is no higher order retail centre in the Marshall PSP, but this does not preclude a LAC.
28. Clauses 17.02-1L, 17.02-2S and 17.02-2L deal with retail expansion and out of centre development. The relevant clause is Clause 17.02-1L. The import of the policy is to assist in the assessment of proposals that seek to exceed an identified floorspace cap. Inherent in this policy is that the Council approach to use a 'soft cap' is endemic to Council operations and that expansions above the nominated level will be supported where a net community benefit can be delivered. Specifically, the strategies for clause 17.02-1L – Retail Expansion are:
 - *Assess any likely impact on existing, planned or approved retail facilities.*
 - *Ensure any new centres provide benefits to the community (whether or not these can be monetised).*
 - *Encourage new or expanded centres to provide for net employment benefits.*
 - *Ensure that any new or expanded retail floorspace fits into the Geelong Retail Centre Hierarchy as detailed in Clause 02.03-1.*
 - *Discourage new or expanded centres where the existing supply of retail floorspace is adequate to meet existing and foreseeable demand levels over a 15 year period.*
 - *Allow centres where they will fill any existing retail gaps in merchandise/services.*
 - *Ensure any new centres minimise detrimental impacts on the catchment of nearby centres and the effect on centres within those catchments.*
 - *Ensure any new or expanded centres lead to an overall improvement in the provision of retail facilities to the catchment population, including the potential for retaining spending that would otherwise escape to other centres.*

- *Ensure any new centres improve access to services by reducing travel times for residents.*
- *Ensure any use that exceeds the maximum floorspace area specified in the schedule to the Commercial 1 Zone does not impact on the timing, delivery and viability of other retail centres including planned centres.*

29. The Retail Strategy is a policy document within the Planning Scheme in respect of these issues.
30. The use of soft caps is commonplace in metropolitan PSPs. Examples include Minta Farm PSP, Plumpton and Koroit PSPs, Donnybrook Woodstock PSPs, Mount Aktinson and Tarneit Plains PSPs. There is frequently an argument about what the soft cap might be but Panels have routinely supported their use in a growth area context. A soft cap permit merely calls up an additional permit requirement at the time of development.
31. Council considers the proposed LAC is in accordance with the Retail Strategy and Planning Scheme. While there are no higher order retail centres listed within the Marshall PSP area, this does not preclude the siting of a LAC co-located with the Marshall Train Station. The Marshall area will benefit from its proximity to the Horseshoe Bend PSP Neighbourhood Activity Centre approximately 1.2km to the south.
32. The evidence of Mr Stephens supports the position that a full line scale supermarket and retail centre in this location will more than be supported by the anticipated demand in the local area and of commuters, minimising potential impact on existing retail centres. Additionally, the siting of a LAC including a full line supermarket in this location also reduces travel times for residents in the Marshall PSP area where they would otherwise be required to travel outside the PSP area for their grocery shopping needs.
33. These matters tend towards a finding a LAC in this location should be supported in accordance with clause 17.02-2L, provided the required Economic Impact Assessment is prepared to the satisfaction of the Responsible Authority and supports the development at the relevant time.
34. Council concludes a soft cap should be maintained, with the potential for something additional to be considered at the relevant time, subject to consideration of an Economic Impact Assessment.

D Public Acquisition Overlays considered unnecessary to facilitate land acquisition for infrastructure, and:

- a. why this is not proposed, in contrast with the surrounding Armstrong Growth Area where a PAO has been applied**
- b. how timely land acquisition will be managed**

35. The Amendment does not propose the application of Public Acquisition Overlays (**PAO**) to any private land. Submissions raise concerns in relation to the delivery of public infrastructure in the PSP area due to the fragmentation of ownership in the area.
36. Council's approach to infrastructure delivery is to implement the Marshall DCP and provide time for the private sector to initiate infrastructure delivery as development occurs. This approach particularly lends itself to the Marshall PSP and DCP due to the comparatively small PSP area (123ha). This is not a novel approach — it is consistent with how growth area planning proceeds in the main throughout metropolitan Melbourne. Proceeding without a PAO is the routine approach and Council submits that there must be a demonstrated need to progress a PAO at this point of the planning process.
37. Council considers the use of the PAO at the precinct scale of planning is a tool to be used sparingly, if at all. Applying a PAO locks in the location of infrastructure and land uses in a document, the PSP, that is prepared to be implemented at a level of general accordance. Inherent in the identification of a PAO is a loss of flexibility. In [Victorian Planning Authority](#)

[Projects Standing Advisory Committee - Referral 3 Final Report \(AC\) \[2022\] PPV 54 \(22 August 2022\)](#) similar arguments in relation to drainage were advanced. The AC summarised the issue:⁴

Various submissions including submission 14, Wallis Watson, Kilgour, LandGipps and Stuart Edden considered that Council as the drainage authority should take a more proactive role in securing critical drainage infrastructure. This included securing easements under the Subdivision Act 1988, applying a PAO or including finance arrangements within the DCP to forward fund projects. The evidence of Mr Fleming supported the application of the PAO as a mechanism for the early acquisition of land.

Council was of the view that developers would resolve the solutions through negotiation. It did not support the use of a PAO over any land at the present time, noting that a PAO could be applied if required but at a time when it had the funds to deal with the implications of triggering the obligation to pay compensation.

The VPA agreed. It did not support the application of PAOs noting that they are not generally used to secure land for infrastructure that is funded via a DCP. The VPA submitted that the use of PAOs is not recommended because it may result in higher land values, affect Council's timing and cashflow management, and limit the flexibility in the design and delivery of drainage infrastructure items which has been an issue raised by many submitters throughout the Hearing.

38. The AC went on to state that:

The Committee agrees that it is not appropriate to propose the application of PAOs over major drainage infrastructure land areas unless and until all other processes fail in securing land for key assets. Council as drainage authority does have a key responsibility to endeavour to broker on ground outcomes to implement the Drainage Strategy. It appears to be taking a lead in this regarding DR-01 and the VPA's agreement to include the costs of land acquisition in the DCP is appropriate. Council acknowledged that it needed to work with landowners and as a priority explore ways to secure DR-02 and WL-01. The key actions for Council as drainage authority will be to work with individual landowners and developers to implement interim solutions and supporting outfall mechanisms whether this be through negotiating easements or applying PAOs if necessary.

39. This approach is consistent with the approach in Melbourne where Melbourne Water is the drainage authority and drainage is subject to Development Service Schemes. Melbourne Water's approach is set out in its policy on land acquisition:⁵

Acquisition

Where we require land for a specific purpose, the transaction must ensure we either become the registered proprietor or hold alternative tenure which entitles it to receive rights consistent with its intended use of the land. The land must be capable of being zoned in the planning scheme for the appropriate usage.

Where freehold ownership is not appropriate we may consider alternatives, including easements, covenants, leases, licences and legal agreements. Collectively these are regarded as acquisitions of an interest in the land. For example, where land affected by flooding has been recognised with an appropriate zone in the planning scheme, a drainage and floodway easement would normally suffice.

⁴ At Page 54.

⁵ <https://www.melbournewater.com.au/building-and-works/developer-guides-and-resources/conditions-and-policies/land-acquisition-111#:~:text=Land%20acquired%20must%20be%20suitable,guidelines%2C%20and%20relevant%20environmental%20regulations.>

Where we require a reserve to maintain absolute control over the land, and other parties wish to use the land for compatible purposes, they'll be encouraged to set aside easements over the land or to incorporate other arrangements to facilitate future maintenance (such as maintenance agreements). Examples include, but are not limited to, council shared pathways.

Acquisition of land or interest in land should be undertaken by voluntary negotiation. When voluntary acquisition is not successful, we may consider compulsory acquisition using the legislative procedures established for this purpose.

40. The approach adopted by Council in not supporting the application of PAOs at first instance is also entirely consistent with the surrounding Armstrong Creek Growth Area. Council acknowledges that PAOs were eventually implemented in the Horseshoe Bend, Armstrong Creek West and Armstrong Creek Town Centre PSPs (**Other Armstrong Creek Growth Area PSPs**) through Amendment C410ggee, however this was only after 30% of the ultimate development had occurred within Armstrong Creek Growth Area and the private sector had initiated development of a considerable portion of the required public infrastructure through appropriate agreements.
41. While the Marshall Precinct is fragmented, it is also small and benefits from already containing internal infrastructure such as Horseshoe Bend Road and Drew Road. The import of this is that development can commence in a number of places. The PSP and drainage strategy has also been prepared to accommodate this. The PSP operates on a catchment basis with assets tied to catchments,⁶ which are not sequential with the timing for assets derived from the Precinct Infrastructure Plan.⁷ Further, this PSP specifically contemplates that interim infrastructure may be delivered in interim formats where this is required, at R116.⁸
42. Adopting this approach in the other Armstrong Creek Growth Area PSPs allowed:
 - 42.1. Developers more flexibility to develop in response to the market and adapt to physical conditions/constraints as they arose, while providing the infrastructure required to support the developing area; and
 - 42.2. Council to be targeted with the application of PAOs where development had not yet provided the necessary infrastructure, rather than adopting a more rigid blanket approach that may have resulted in lesser outcomes.
43. Council proposes to adopt the same approach in this instance to:
 - 43.1. Manage acquisition and provision of public infrastructure through engagement with developers as they develop; and
 - 43.2. Only if necessary and appropriate, consider the application of PAOs to key public infrastructure sites if they have not been provided/developed in a timely manner, having regard to the pace of development within the PSP area.
44. Council acknowledges the position put by Mr Black in both his planning evidence statements before this Panel; that he considers PAOs will be necessary to enable the acquisition of land for and construction of drainage infrastructure to enable development in a timely manner. However, given the small size of the PSP area, Council's preferred approach is to enable the private sector to initiate development of these assets as and when they are needed in association with the relevant developments in accordance with the relevant trigger points built into the PSP.
45. If in future it becomes necessary that PAOs be applied to these assets, this can occur in a subsequent amendment, as occurred with Amendment C410ggee.

⁶ P17 Development Staging, Page 100.

⁷ Page 86.

⁸ Page 98.

E Targets and mechanisms for achieving social and affordable housing provision, and the implications for the Development Contribution Plan rate

46. The target for social housing has been set within the PSP at Guideline G7. The basis for the 4.5% target is derived from the report *Providing social housing as essential infrastructure in Geelong's KSPAs* prepared by SGS Economics & Planning dated 21 December 2021 (**SGS Social Housing Report**).
47. The SGS Social Housing Report undertook an assessment of the need for social housing in Geelong, which also reflected the same need in other municipalities. Drawing upon ABS 2016 and VIF 2016 data, it concluded that 14% of total households are in moderate or worse rental stress. Accordingly, it reasoned that 14% of all future dwellings are needed to meet the affordable and social housing requirements of the municipality and wider state. The report considered that approximately one third of these dwellings can reasonably be expected to be delivered through the planning approvals process, resulting in an assessed social and affordable housing requirement of 4.7%.
48. Council's work on the strategic justification conducted in 2020/2021 for Marshall PSP on social housing contribution occurred at a time when there was little precedence and a lack of policy guidance from the State government on inclusionary zoning, except that negotiation with developers will be on a voluntary basis and be captured with s 173 agreements. Council's experience at the time showed that attempts at voluntary negotiations had been ad-hoc, inefficient, time consuming and achieved a very low rate of contributions due to a lack of framework.
49. Having received the SGS Social Housing Report, Council adopted a middle ground of a 4.5% target for the Marshall PSP to provide with certainty and clarity in the PSP and providing different equivalent forms the contribution may take. The PSP's approach is intended to trigger negotiations with certainty and allow an appropriate framework for negotiations without stepping away from the hard yardstick set by the State government that negotiations must only be voluntary and not mandatory.
50. Overall, Council's purpose is to redirect a percentage of total dwellings to be delivered in the new precinct for the purposes of social and affordable housing. The PSP guidelines are not in a form of a levy, and Council's preference is that partnerships with Registered Housing Associations can be established to deliver the agreed percentage and quantum of social and affordable housing without a cash contribution.
51. The mechanisms for the delivery of social and affordable housing are contained in the proposed PSP Requirements R15 and R16, Guidelines G7 and G8, and within the proposed UGZ7 at clause 3.
52. R15 requires that, subject to certain exceptions:

Permit applications for subdivision of land, or development of land for residential or mixed-use purposes, must submit a Social and Affordable Housing Delivery Strategy.

...

The Strategy must address the following:

- *The contribution towards social housing and affordable housing to be provided, including the amount and form of the contribution;*
- *How the contribution towards social housing and affordable housing will be achieved and secured, including the identification of intended agencies, the owner/s of land and the Responsible Authority entering into an agreement pursuant to section 173 of the Planning and Environment Act 1987, timeframes, built form, and a response to each of the matters specified by*

the Minister by notice published in the Government Gazette in accordance with section 3AA(2) of the Planning and Environment Act 1987;

- *The location of the social housing and affordable housing, ensuring that social housing and affordable housing are dispersed across residential areas;*
- *A summary of the range of housing types, densities and sizes;*
- *Staging requirements to ensure that social housing and affordable housing are provided in a timely manner as development occurs; and,*
- *Principles to ensure that the social housing and affordable housing dwellings are well designed, provide for a range of housing types to respond to local housing needs, and are integrated with the remainder of the development.*

53. R16 then provides that the social and affordable housing contribution must be within Marshall Precinct, physically and functionally tenure blind and in a form that is to the satisfaction of the Responsible Authority.

54. Guideline G7 sets out the target rates of social and affordable housing contribution as follows:

Permit applications for subdivision of land, or development of land for residential, commercial or mixed-use purposes, should provide a contribution towards social housing to:

- *Include social housing units in the project at the rate of 0.045 sqm (or 4.5%) for each square metre of commercially saleable or leasable floorspace (GFA) in the building(s) in question, with these social housing units being delivered at zero consideration to a registered community housing provider, or;*
- *Provide any other delivery model of the contribution, such as transfer of serviced lots or a monetary contribution to the Geelong Affordable Housing Trust or which is of equal value (as independently assessed) to the Primary Obligation or;*
- *Provide a cash-in-lieu payment into the Geelong Affordable Housing Trust at the rate of \$117, indexed annually to movements in relevant dwelling prices in Geelong, for each square metre of saleable or leasable floorspace, or;*
- *Provide a cash-in-lieu payment into the Geelong Affordable Housing Trust at the rate of \$696,604, indexed annually to movements in relevant dwelling prices in Geelong, per net developable hectare for subdivision projects, or;*
- *A combination of the above to reflect the value of partial dwellings indicated by the formula.*

55. While affordable housing is not referenced in the above, Council's intention is that both social and affordable housing be included in the 4.5% target, to be provided through the various mechanisms in the PSP. Council acknowledges an amendment to the PSP may be required to clarify that intention.

56. Guideline G7 is intended to capture all developments with a residential component, be they solely residential or mixed use developments, but it is not intended to include developments which do not include a residential component. This is reflected in the wording of the corresponding requirement in clause 3 of the UGZ7, which provides:

Requirement - Social and Affordable Housing Delivery Strategy

An application for buildings and works for residential purposes must submit a Social and Affordable Housing Delivery Strategy that demonstrates how the proposal achieves the social and affordable housing requirements and guidelines, in accordance with Section 3.1 (Character, Heritage and Housing) of the Marshall Precinct Structure Plan and to the satisfaction of the Responsible Authority.

57. And the mandatory permit condition provided in clause 4 of the UGZ7, which provides as follows:

Condition – Social and Affordable Housing

A permit for subdivision, buildings or works for land to be used for residential purposes must include the following condition:

A permit for subdivision, buildings or works associated with a residential land use must comply with the Social and Affordable Housing Delivery Strategy for the land as outlined and approved by the Responsible Authority.

58. Council accepts Mr Glossop's recommendation that G7 should be reworded to reflect its intention for the guideline. While there are different ways to address this, one option to amend Guideline G7 may be as follows:

*Permit applications for subdivision of land, or development of land, for residential, ~~commercial or mixed-use~~ purposes, **or commercial or mixed-use purposes that include a residential component**, should provide a contribution towards social housing to:*

59. Guideline G8 then provides that contributions should be achieved by entering an agreement under s 173 of the *Planning and Environment Act 1987* (Vic) (**P&E Act**) with the Responsible Authority and, where applicable, a registered housing agency, to the satisfaction of the Responsible Authority.
60. Council considers there are no implications for the DCP arising from the affordable housing requirements noting that the Ministerial Guidelines prevent the levying of housing provided by or on behalf of the Department of Health and Human Services.

F Overview of consultation with the EPA in preparing the Amendment and a copy of any relevant correspondence from the EPA

61. In accordance with Ministerial Direction 19, Council engaged early with the EPA by seeking its views on the preparation of the Amendment through emails exchanged between 15 May 2023 and 2 November 2023 (attaching the EPA's formal Ministerial Direction 19 response discussed below) (Attachment 1 to this Part B Submission) and a meeting on 29 May 2023 referred to within those emails.
62. By response dated 2 November 2023, the EPA provided its written views (Attachment 2 to this Part B Submission). This response included a table of comments and recommendations. The key risks the EPA identified and addressed in its response were:
- 62.1. Potentially contaminated land;
 - 62.2. Interface and separation distances; and
 - 62.3. Potential risks from key transport routes in relation to noise and air quality.
63. Council had regard to the comments and recommendations provided by the EPA and made changes to the Amendment documentation accordingly.

64. Following exhibition of the Amendment, on 3 June 2024, the EPA provided a submission (6) which updated previous table of comments and recommendations, noting where previous issues raised had been resolved and where matters remained outstanding.
65. Council's Part A Submission addresses the EPA's Submission (6). In summary Council has accepted the EPA's suggested changes to the UGZ7 to:
- 65.1. address medium risk potentially contaminated land by requiring a Preliminary Risk Screen Assessment or Environmental Audit;
 - 65.2. amend requirements for Preliminary Site Investigations for high and medium risk potential contaminated land proposed for 'Other' non-sensitive uses; and
 - 65.3. deletion of text from clause 4 which duplicates the requirements within the balance of the UGZ7.
66. The balance of the EPA's Submission (6) notes its comments and recommendations have been addressed.
67. The EPA has not substantively responded to the proposed change in designation from Commercial 2 one (applied) to residential use along Barwon Heads Road. The Commercial 2 Zone permits sensitive uses ('Education Centre' which includes child care centres) while obviously the residential zoning would also permit a sensitive use to establish. The planning system is structured. Table 2 of the Urban Growth Zone 7 already includes properties from within the (formerly proposed) C2Z and therefore the designation change in zoning will not, in Council's view, be material to the need or otherwise for a site assessment.

G Implications of the Victorian Grassland Earless Dragon habitat assessment report and any future EPBC Act process for the PSP and development of the area

68. While not expressed as a condition, the letter of authorisation for the preparation of the Amendment dated 26 February 2024 (**Authorisation Letter**) included the following discussion:
- The precinct is within the modelled distribution area of the Victorian Grassland Earless Dragon, which is listed as critically endangered under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The Fauna Surveys report prepared by Ecolink Consulting in support of the PSP did not consider this species. It is understood that following discussions with DTP and the Department of Energy, Environment and Climate Action (DEECA), the council has committed to engage a consultant to undertake a 'habitat refinement exercise' to inform or rule out likelihood of habitat and impacts to the species. This exercise will inform the need for targeted surveys and any revisions to the PSP and/or proposed UGZ7 and will be undertaken during exhibition of the amendment.*
69. Since the Authorisation Letter, Council engaged Ecolink to undertake work to:
- *Identify the likely presence of Victorian Grassland Earless Dragon habitat within the study area;*
 - *Recommend appropriate mitigation measures to minimise impacts to this species within the study area (if relevant); and*
 - *Discuss the implications of the assessment, based on relevant legislation and policies.*
70. This work resulted in the Victorian Grassland Earless Dragon, Habitat Assessment, Marshall Precinct Structure Plan area, Victoria (Ecolink, April 2024) (**Ecolink VGED Report**). The Ecolink VGED Report concluded that:

the study area is unlikely to provide Victorian Grassland Earless Dragon habitat due to an absence of suitable habitat features. It is unlikely that Victorian Grassland Earless Dragon will constrain the gazetting of the Marshall PSP.

The areas that could not be visually assessed have a low, but not zero possibility of supporting Victorian Grassland Earless Dragon habitat, and some of those areas may contain the higher-quality vegetation than what was assessed elsewhere (Figure 1). As mentioned, Geelong City Council inform us that the areas within 67-87 Drews Road and 89-109 Drews Road support embedded rocks, this, and the likely higher quality vegetation in these areas, may result in a moderate level of habitat for Victorian Grassland Earless Dragon in these areas. An on-ground assessment of those areas would be required to assess the habitat with greater certainty. It is recommended that access from the landholders be sought, and on-ground assessments conducted to rule out this possibility.

71. The submission by Department of Energy, Environment and Climate Action (**DEECA**) (25) provided the following commentary in relation to the Ecolink VGED Report as against its own *Conservation Advice for Tympanocryptis pingicolla (Victorian grassland earless dragon)* (Department of Climate Change, Energy, the Environment and Water, 2023):

Victorian Grassland Earless Dragon, Habitat Assessment, Marshall Precinct Structure Plan area, Victoria (Ecolink, April 2024)

DEECA has reviewed this report against the current published Conservation Advice for Tympanocryptis pingicolla (Victorian grassland earless dragon) (Department of Climate Change, Energy, the Environment and Water, 2023) and with consideration for our emerging knowledge of this species and habitat requirements.

DEECA supports the report's finding that areas containing embedded rock and higher quality vegetation may result in a moderate level of habitat. We agree that if development is required in these areas, greater clarity via on-ground assessments may be required.

72. Since the date of the Authorisation and following the DEECA submission, in late October this year, DEECA issued an updated habitat model for the Victorian Grassland Earless Dragon (**VGED**) dated 17 June 2024 (**Updated VGED Habitat Model**).
73. DEECA's website helpfully explains the nature and purpose of the Updated VGED Habitat Model, as follows:⁹

What does the updated VGED habitat distribution model tell us?

The updated VGED HDM depicts the areas of potential habitat for the VGED, to inform identification, conservation and recovery efforts across the landscape.

The VGED HDM enables the planning and development sectors to understand where the species may occur so that this can be factored into strategic planning and conservation efforts.

VGEDs are a cryptic species and difficult to detect through survey. The VGED HDM, in conjunction with other spatial tools, can help guide survey to inform planning and development decisions.

Over time, an additional VGED HDM will be developed to complement DEECA's standard HDM products.

⁹ Victorian Grassland Earless Dragon habitat distribution model: New habitat distribution model to guide assessment and support recovery of the Victorian Grassland Earless Dragon, <https://www.environment.vic.gov.au/conserving-threatened-species/victorian-grassland-earless-dragon-habitat-distribution-model>, accessed 31 October 2024.

...

How will the VGED habitat distribution model support the planning system?

The VGED HDM is one of several tools to help planners, developers and decision-makers identify potential location of VGEDs and consider the potential impacts of land use changes on the species.

*Environmental assessments are prepared based on field surveys and analysis of environmental data. When environmental assessments are being undertaken in locations of potential habitat, these assessments should include consideration of VGED within their scope. The Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW) have published survey guidance for VGED to support field surveys available here: Survey guidelines for four Grassland Earless Dragons (*Tympanocryptis* spp.) of Southeast Australia - DCCEEW*

The VGED HDM will help target effort in environmental assessments, providing greater confidence and clarity to the planning and development sectors.

The Victorian Planning Authority will facilitate advice to landowners in Precinct Structure Plan areas that include potential VGED habitat.

Environmental assessments under national environmental law

In addition to being protected under the Victorian Flora and Fauna Guarantee Act 1988, VGED are also protected as a critically endangered species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

They are just one of many listed threatened species that must be considered for any activity that could have a significant impact on matters of national environmental significance.

*DEECA and DCCEEW have collaborated on the application of the VGED HDM. It can be used in conjunction with other information available in the species profile for the *Tympanocryptis pinguicollis* – Victorian Grassland Earless Dragon to determine whether an activity should be referred for assessment under the EPBC Act.*

- 74. Council understands the approach taken to date in preparing the Updated VGED Habitat Model has been conservative, given the stakes and importance of protecting the VGED as one of Australia's most critically endangered animals, with areas included if there is the *potential* for VGED to be present.
- 75. The Updated VGED Habitat Model has mapped no VGED habitat within the PSP area.
- 76. Accordingly, while Council acknowledges the changing state of knowledge in this area and that site specific environmental assessments conducted on the ground for other purposes may identify potential habitat, Council considers it likely that the development of the PSP area will not be constrained by identified VGED habitat.

H How the Amendment addresses EPA Publication 1518 - Recommended separation guideline distances for industrial residual air emissions

- 77. Separation distances in accordance with EPA Publication 1518 - *Recommended separation guideline distances for industrial residual air emissions (EPA Publication 1518)* are addressed within the Explanatory Report exhibited with the Amendment, as follows:

The EPA note there is a priority when planning for land use and development to, wherever possible, avoid land-use conflicts. EPA are concerned that there may be limited industrial land uses that can establish within the NEIP. EPA encourage

consideration of EPA Publication 1518 – recommended separation guideline distances for industrial residual air emissions and state policies Clause 11 Settlement, Clause 13 Environmental Risks and Amenity, and Clause 13.07-1S Land Use Compatibility.

The amendment has appropriately considered this issue and avoided potential land-use conflicts. The NEIP and Marshall Precinct are separated by Barwon Heads Road which has a 50 metre wide reservation. The Marshall PSP designates drainage reserves along part of the frontage to Barwon Heads Road and therefore extends the distance from future residential land within Marshall to the NEIP by a further 100-150 metres. Local roads will also be required to access residential lots in the Marshall PSP as no private lot access is permitted to Barwon Heads Road.

The NEIP PSP contains several precincts and the precinct with most frontage to Barwon Heads Road (and facing Marshall PSP residential land, not Marshall drainage reserves) is Precinct 3 – Mixed Business and Industry. The UGZ1 applied zone for Precinct 3 is the Commercial 2 Zone and specific provisions apply to the use of land for industry. It is highly unlikely Precinct 3 will be used for industry types listed in EPA Publication 1518 Table 1 or Clause 53.10.

The EPA considers its 'noise and vibration' changes to be necessary in order to progress the amendment. The amendment has adopted the EPA recommended wording for the UGZ7 application requirements section to include preparation of an acoustic assessment report. The UGZ7 provision appropriately responds to Clause 13.05-1S Noise Management.

78. Council understands EPA Publication 1518 has since been replaced by the EPA Separation distance guideline (August 2024), published on 12 August 2024 (**Separation Distance Guideline**). However, Council's position that Precinct 3, in combination with the width of Barwon Heads Road, will provide an effective buffer and separation distance between the potential amenity impacts of industrial uses in the NEIP and sensitive uses in the residential areas.
79. The present controls in the NEIP identify Precincts 1 and 3 with frontage to Barwon Heads Road. Precinct 1 has an applied Industrial 1 Zone, the terms of which are modified by the UGZ1 to require a permit for industry.¹⁰ In this context and in the context where the NEIP is established under the incorporated Armstrong Creek Growth Area Plan, there is appropriate control and regulation to manage interface uses and issues. The NEIP refresh is occurring in the context (and against the backdrop) of the residentially based Marshall Precinct (with Re-Grow agitating for more proximate residential use). Accordingly, the Panel should not be concerned that the refresh process will result in changes that give rise to future amenity issues.

I Update on relevant State government planning reform relating to Environmentally Sustainable Development

80. The Victorian Government has been working through its 'Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system' since it was released in 2020.
81. Council is a member council of the Council Alliance for a Sustainable Built Environment and was among the 24 councils that submitted for authorisation to prepare a planning scheme amendment called 'Elevating ESD Targets' on 21 June 2022. While that authorisation remains pending, other amendments and reforms have been implemented to improve ESD outcomes, including:
- 81.1. State government's mandate that all new housing developments triggering a planning permit be all-electric and not reliant on gas;
 - 81.2. the State's ESD reforms under Amendment VC216 in 2022; and

¹⁰ Clause 2.3, Specific Provisions, Use of Land.

- 81.3. the National Construction Code's seven-star energy efficiency requirements for housing.

Climate Change and Energy Legislation Amendment (Renewable Energy and Storage Targets) Act 2024 (Vic) doesn't strictly apply to the Amendment

82. From a legislative perspective, the *Climate Change and Energy Legislation Amendment (Renewable Energy and Storage Targets) Act 2024 (Vic) (CCEL Amendment Act)*, which received royal assent on 26 March 2024, amends:

- 82.1. the *Climate Change Act 2017 (Vic)* (now *Climate Action Act 2017 (Vic)*) (**Climate Action Act**) to, among other things:

- a. Bring forward Victoria's long-term target for net zero greenhouse gas emissions to 2045 (previously 2050);
- b. Provide for interim emissions reductions targets; and
- c. Bring forward the preparation of certain documents required under that Act.

- 82.2. the *Renewable Energy (Jobs and Investment) Act 2017 (Vic)* (**RE Act**) to:

- a. increase the renewable energy target for 2030 to 65%; and
- b. provide for a new renewable energy target of 95% for 2035; and
- c. introduce energy storage targets and offshore wind energy targets.

- 82.3. upon commencement of the relevant Part 3 of the CCEL Amendment Act and subject to transitional provisions, the P&E Act to expressly require consideration of climate change during the preparation of planning schemes and amendments to planning schemes under that Act.

83. However, insofar as the CCEL Amendment Act will introduce mandatory requirements for the consideration of climate change in the preparation of planning scheme amendments, these requirements do not strictly apply to the Amendment.

84. First, as at the date of these written submissions, Council notes Part 3 of the CCEL Amendment Act has not yet commenced so the P&E Act currently remains unchanged.

85. Secondly, even if Part 3 commenced tomorrow, as noted above, the commencement of Part 3 of the CCEL Amendment Act, relevant to the P&E Act, is subject to transitional arrangements. Section 19 of the CCEL Amendment Act exempts amendments in relation to which one or more of the listed steps have already been taken immediately prior to the commencement of s 17 of the CCEL Amendment Act.

86. Relevantly, as the Amendment has been prepared and exhibited, and is now before this Panel, it is well past the date on which Council gave notice of the preparation of the Amendment under s 19 of the P&E Act, being one of the steps listed as triggering the CCEL Amendment Act transitional arrangements. As Part 3 of the CCEL Amendment Act has not yet commenced and this Amendment is well advanced, s 19 of the CCEL Amendment Act exempts the Amendment from the strict application of the climate consideration requirements.

Evidence of Jane Keddie confirms ESD matters have been well addressed by the Amendment

87. Notwithstanding Council's commentary as to the CCEL Amendment's application above, ESD has been at the fore of Council's attention in the preparation of the Amendment. As evidenced

by the report prepared by Jane Keddie, the design, mitigation and adaptation controls sought to be implemented by the Amendment have a clear planning policy basis and have had appropriate consideration of ESD issues.

J DCP preparation and peer review process

88. The Amendment has been prepared internally by Council officers, drawing upon their collective strategic and statutory planning and environmental experience, as well as external consultant reports and consultation undertaken, including through the Ministerial Direction 19 process and otherwise.
89. In preparing the Amendment, Council has engaged with Mr Paul Shipp, Director of Urban Enterprise, to undertake a staged peer review of the DCP. The purpose of the peer review process was to ensure the DCP was sound, including as to its strategic planning approach, apportionments and calculations.
90. Mr Shipp has a Bachelor of Urban Planning and Development, University of Melbourne and a Master of Commerce, RMIT, and draws from 17 years of consulting experience in urban economics and strategic planning, specialising in and demand and supply assessments, infrastructure funding, strategic planning and economic assessments.
91. The staged peer review occurred through the following process:
- 91.1. Council engaged Urban Enterprise to review the draft DCP dated June 2023;
- 91.2. Urban Enterprise provided its comments on the draft DCP dated June 2023, which were reviewed by Council and incorporated into the exhibited version of the DCP as appropriate;
- 91.3. Council requested that Urban Enterprise undertake a review of the exhibited DCP against its initial round of comments and recommendations to prepare a memorandum setting out where these have been adopted and where matters remain outstanding; and
- 91.4. Urban Enterprise produced the requested memorandum dated 25 October 2024.¹¹
92. Mr Shipp's peer review memorandum has been provided as a document on which Council seeks to rely and has been tabled as Panel Document 12e, *CoGG – Attachment 5 – Urban Enterprise – Marshall DCP Peer Review October 2024 (UE Peer Review)*.
93. The UE Peer Review endorses the exhibited DCP and identifies at part 4.2 that:
- Overall, most issues identified in the 2023 Peer Review have been satisfactorily addressed. The remaining recommendations shown in Table 2 and the following sub-sections of this report are intended to:*
- *Increase the equity of the DCP; and*
 - *Identify minor corrections required.*
94. The remaining recommendations provided by the UE Peer Review are paraphrased as follows:
- 94.1. In respect of the construction costs for shared user paths not presently included as DCP items, these should be included (recommendation on UE Peer Review's issue 4e);

¹¹ *CoGG – Attachment 5 – Urban Enterprise – Marshall DCP Peer Review October 2024.*

- 94.2. The apportionment for drainage item DI_DR_01a should be adjusted to account for external demand from the updated NEIP stormwater management strategy (recommendation on UE Peer Review's issue 5b);
- 94.3. A lower open space contribution should apply to non-residential/commercial land through clause 53.01 (recommendation on UE Peer Review's issue 6c);
- 94.4. Non-fixed element costs should be removed from library costings (recommendation on UE Peer Review's issue 7);
- 94.5. Minor amendments/corrections to be made to construction cost estimates and land valuations (recommendation on UE Peer Review's issues 9 and 10); and
- 94.6. The scope and basis for cost apportionment of item IT02 as between the Marshall and NEIP DCPs should be assessed, confirm intention to revise NEIP DCP (recommendation on UE Peer Review's issue 11).

95. Council has considered these outstanding matters and wishes to address the Panel on them, as follows:

95.1. Shared user path costs

The DCP includes as DCP items all shared user paths which are to be sited on land which is to be vested through the DCP for other purposes (e.g. drainage, open space etc). Shared user paths which are not to be sited on DCP land are noted as developer works to be delivered when the corresponding development is undertaken.

This is consistent with contemporary PSPs and DCPs both in Geelong and in metropolitan Melbourne. For example:

In the Horseshoe Bend PSP walking and cycling paths are treated as follows:¹²

As part of land development works, new development by a developer must provide and fully fund the cost of delivering the following infrastructure on or where abutting or related to the land:

- *land and construction of the interim condition of Council controlled roads including related culverts, intersection works and traffic management measures (excluding components funded by DCP) as listed in Appendix 7;*
- *landscaping of all relevant roads and streets as listed in Appendix 7; local walking / cycling paths along streets in accordance with Appendix 7 and the relevant road cross-sections;*

95.2. The Craigieburn West PSP provides:¹³

Subdivision of land within the PSP must provide and meet the cost for all local infrastructure, other than that provided for within the Craigieburn West ICP. This includes (but is not limited to):

.....

- *Shared pedestrian and bicycle paths along local arterial roads, connector roads, utilities easements, local streets, waterways and within local parks including bridges, intersections,*

¹² Horseshoe Bend PSP, 5.1.1 at Page 85.

¹³ Craigieburn West PSP, R38 at Page 39.

.....

95.3. There is no rationale to depart from shared paths as a developer funded piece of infrastructure.

95.4. Apportionment for drainage item DI_DR_01a

Council acknowledges the UE Peer Review's recommendation but notes that the land subject of the Amendment is presently constrained by 1% ARI flows through the precinct. The present impost of drainage prior to the implementation of the drainage strategy is best depicted in the PSP on Plan 4 Precinct Features.¹⁴ DI_DR_01a forms part of the strategy that addresses current flows and makes land presently subject to inundation available for development.

95.5. Commercial land lower open space contribution

Noting the nature of the PSP area as an 'infill' urban growth zone for predominantly residential purposes, Council disagrees with the UE Peer Review's recommendation that commercial development should benefit from a lower open space contribution. Given the small PSP area, Council considers all forms of development will need to contribute to public open space to ensure such space is adequate to service the Marshall precinct.

The station precinct area is presently identified for densest level of dwellings at 50 dwellings per Ha.¹⁵ It is important that this area contributes to the open space requirements for the precinct.

95.6. Library costings

Council considers this recommendation has been made for completeness and confirms 'loose furniture and other non-fixed elements not related to the construction' are not included in the relevant DCP item.

95.7. Minor amendments/corrections

The required minor amendments/corrections can be easily addressed.

95.8. Scope and basis for cost apportionment of item IT02

Council accepts the UE Peer Review's recommendation. The scope and basis for cost apportionment of item IT02, being the intersection of Barwon Heads Road / Keystone Avenue that sits on the boundary of the Marshall PSP and NEIP PSP areas, is a matter to be addressed through traffic analysis and design as part of the NEIP PSP refresh process currently underway.

96. The peer review process conducted by Urban Enterprise has been robust and has confirmed the approach, terms and costings of the DCP are sound. As set out above, any outstanding matters are of a minor nature and can be/are in train to be addressed.

K Response to balance of submissions and evidence

97. Council's Part A Submission directly addressed the submissions to the exhibited amendment, including through tabulated responses to each submission. We don't propose to repeat that process in this Part B Submission. Rather, the following addresses the matters raised in relation to each of the themes that emerged from the submissions received, and the evidence tabled in this Panel proceeding.

¹⁴ Page 18.

¹⁵ PSP Page 28.

98. Council refers to its earlier submissions where matters have been addressed earlier in this Part B Submission, as necessary.

Drainage and Sparrovale Wetlands

99. Council builds upon its Part A Submissions in relation to the Sparrovale Wetlands.
100. As the Sparrovale Wetlands Land Manager, Council is acutely aware of the complex environmental issues arising within Sparrovale in relation to impacts on native vegetation, and water inundation. Indeed, Mr Craigie's evidence identifies these impacts to a certain degree and notes there may be steps that may be taken to ameliorate some of these impacts.
101. Tabled Panel Document 12h (attachment 8 to the documents relied upon by Council) is the plan endorsed under Planning Permit 35-2019-A being the Sparrovale Wetland Monitoring and Management Plan (**SWMMP**). The SWMMP establishes a process for the monitoring of conditions within Sparrovale and testing and responding to the assumptions in the hydraulic modelling undertaken for the system. The SWMMP states:¹⁶

Over time the appropriate level of monitoring will refine longer term project objectives for the management of the site based on the data collected and analysed. The main key ecological attributes to monitor function of Sparrovale will be:

- *Water regime and quality (set parameters)*
- *Native vegetation (quality and extent of ecological vegetation classes (EVC), changes in composition, quality and extent of native vegetation in addition to EVC benchmarks)*
- *Birds (number and diversity)*
- *Macroinvertebrates (diversity) • Frogs (species and distribution)*
- *Fish (species)*
- *Threats to (high priority species and distribution)*

102. The overarching objectives for Sparrovale in the SWMMP are:¹⁷

- *The floristic communities of the Ramsar wetlands of Hospital Swamps and Lake Connewarre are not impacted by poor water quality, including through inappropriate freshwater intrusion, from the Armstrong Creek and Horseshoe Bend Development precincts.*
- *Sparrovale wetlands will continue to provide suitable habitat values for significant faunal species (waterbirds, frogs and fish) based on 2019/2020 baselines through the abatement of threatening processes. 12*
- *Maintain, and where possible, improve the extent, floristic diversity, structural complexity and ecological function of native vegetation (including mapped ecological communities as identified in Biodiversity Assessment: 1-87 Groves Road, Armstrong Creek, and 109-215 Sparrovale Road, Charlemont, Victoria (Sparrovale Wetland)).*
- *Contain the distribution and abundance of high priority invasive weed species, restrict new introductions, and eradicate outlying occurrences of WONS so that the impacts on native species are reduced.*

¹⁶ At Page 8.

¹⁷ At Page 11-12.

103. What can be taken from this is that while it is the primary purpose of the SWMMP 'to provide the end of line stormwater storage and treatment for the Armstrong Creek Urban Growth Area in order to protect and enhance the ecological values of the Barwon River and Lake Connewarre Ramsar area',¹⁸ the ecological characteristics of Sparrovale itself are to be protected and managed through the identified process of assessment monitoring and resultant management based upon the above feedback.
104. The Part A observes that such protection was an objective of the Marshall PSP SMS.¹⁹ Mr Swan's evidence (along with the evidence of Mr Craigie), as well as the ongoing work Council's environmental team is undertaking with Deakin University, Council considers the Marshall PSP is unlikely to cause a material change to the Sparrovale Wetlands. The Wetlands are anticipated to continue to operate effectively, meeting EPA Guideline 1739.1 and offering water quality treatment potential far in excess of best practice in the longer term before discharge.
105. Council's position in respect of drainage from the Marshall PSP area to the Sparrovale Wetlands does not pre-empt its position on drainage and stormwater volumes entering Sparrovale from the NEIP in future stormwater management strategies and expectation that the NEIP Refresh process will yield a future planning scheme amendment for this area. Work is presently ongoing in respect of the NEIP Refresh and this will include the preparation of an appropriate proposal and associated stormwater management plan for the precinct and provide for its implementation. It is neither necessary nor appropriate for the Council to pre-empt the outcome of the NEIP process as part of a separate amendment. Put simply the NEIP Refresh is in its infancy. This does not indicate that a different approach has been determined for the NEIP, only that the NIEP process remains to be determined. Council will form its view in relation to the impact, if any exists, arising from the future SWMS utilising the Sparrovale Wetlands at the appropriate time.
106. Otherwise, Council welcomes the evidence of Neil Craigie, Stephen Watters and Chris White, which support the operation of the Sparrovale Wetlands and the broader drainage solutions in the SWMS, subject to minor recommendations.
107. Council notes the Panel has directed that the drainage experts in this matter, Robert Swan (called by Council), Neil Craigie, Stephen Watters and Chris White (all called by Re-Grow Pty Ltd) conduct a subject matter expert meeting and produce a statement of agreed facts and opinions. This was received at 11:05am on the date of this submission and Council is still considering the implications of the small number of recommendations contained within that document. What is clear is that all of the evidence supports a conclusion that:
- 107.1. the approach within the Marshall SWMS meets the requirements of EPA Guideline 1739.1; and
- 107.2. the apportionment of costs between the NEIP and Marshall is appropriate.
108. Council is considering the balance of other recommendations of the conclave.

Traffic

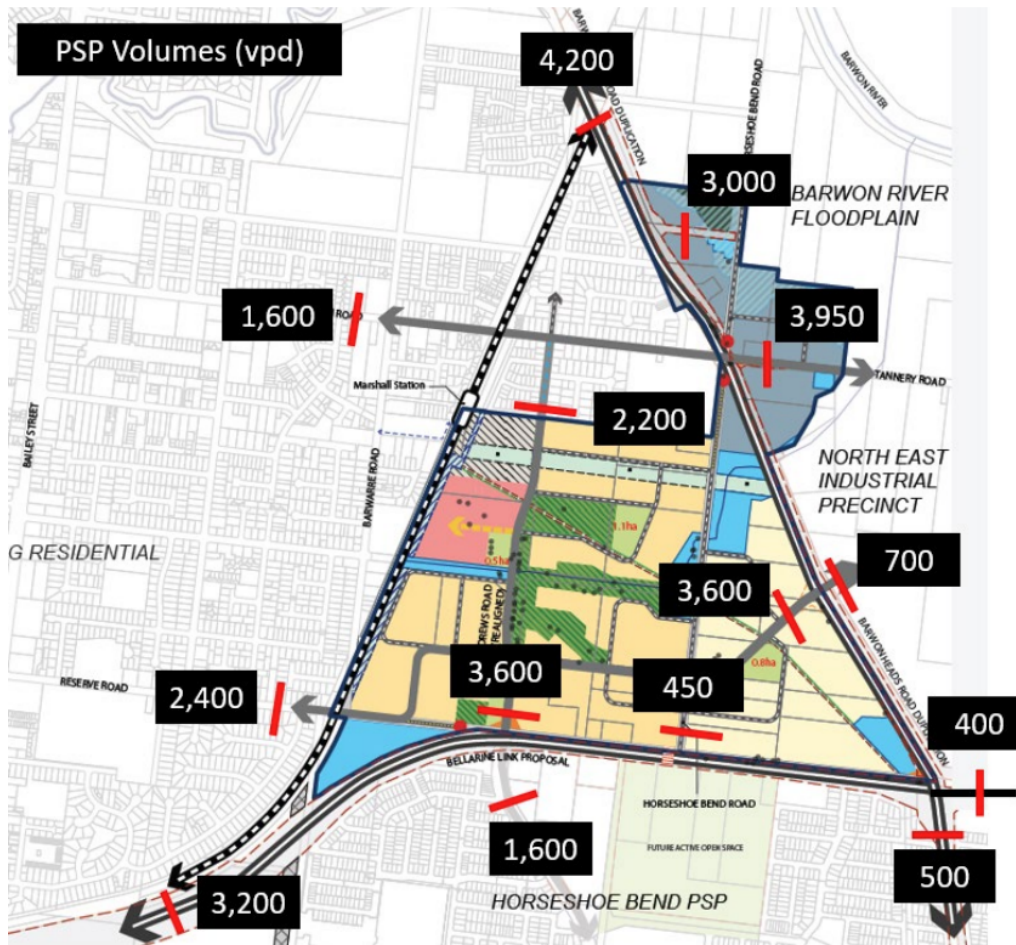
109. In accordance with the Panel's direction 14, Council met with DTP to discuss matters arising from the Traffic Impact Assessment undertaken for the purposes of preparing the Amendment. A summary of those matters discussed, including where they have been resolved as between DTP and Council, was provided to the Panel (**Summary of Discussions**).
110. Council has considered the submission of the DTP carefully. It is informed by the experience and expertise of the DTP officers but is not informed by independent expert opinion. It is the Council's view that the internal arrangements of the PSP will work satisfactorily and there is no basis to conclude that they will function inappropriately. The traffic generation within the PSP is calculated having regard to the land use assumptions within the PSP and attractors. The

¹⁸ Page 7.

¹⁹ Part A Paragraph 119.

internal road network will generate volumes that are generally low and well within the capacity of the roads proposed within the PSP. Figure 6 within the traffic report confirms that the level of traffic internally generated is low.²⁰

Figure 6-1: PSP-Generated Daily Volumes



111. Whatever criticisms the DTP may have regarding the modelling of the external network, Council submits that there is no basis not to accept that the internal network will function appropriately.
112. The DTP has also raised a concern about the interim road conditions before the full network is delivered. This is an age-old dilemma within the growth areas. Indeed, this area has seen substantial traffic disruption associated with the delivery of Armstrong Creek works (along with the Barwon Heads Road duplication). As the [Minta Farm Panel](#) (Casey C228 (PSA) [2018] PPV 67 (11 July 2018)) stated in respect of the City of Casey:²¹

The Panel accepts that traffic volumes on parts of the existing road network are higher than desirable and that there is a relatively high level of congestion, particularly at some key intersections. As noted by the VPA, however, growth areas, including the southeast corridor, are undergoing “transformational change” and it was inevitable that infrastructure, including the capacity of the road network, would be under some stress. With existing levels of development, the level of congestion on the road network in the City of Casey will continue to worsen with or without the development of Minta Farm.

113. The same situation applies in Geelong, albeit that the situation within Geelong is far less congested than the situation within the City of Casey. This PSP has the benefit of existing

²⁰ Page 45, Traffic Impact Assessment, Ratio (8 March 2023).

²¹ Page 39.

connections to the external road network which means that areas can be developed effectively and that a large number of the relatively fragmented PSP can be developed with ultimate road frontage. This will assist in the delivery of the PSP.

114. Council does not share the view of the DTP that the interim situation will be unacceptable.
115. It follows that the key considerations for traffic relate to how the PSP area interacts with the surrounding road network.
116. There are six key intersections on the boundary of or just outside of the Marshall PSP area. The following outlines Council's position in respect of each of them:

116.1. Drews Road / Marshalltown Road

- a. DTP has provided further traffic volume data in relation to Marshalltown Road and the expected peak and off-peak train frequencies along the rail alignment through Marshall Train Station. Council is presently considering and assessing the implications of these counts and whether and what further work is required in respect of traffic.
- b. As part of that process, Council engaged Aaron Walley of Ratio Consultants to undertake an assessment of the functioning of the intersection, having regard to the further information provided by DTP and Ratio's own counts. Mr Walley has concluded that the intersection will function appropriately including when train frequencies increase at Marshall.
- c. This is not surprising. The SIDRA analysis in the Traffic Impact Assessment confirmed that the intersection would function with a low degree of saturation in the AM and PM peak period (0.484 and 0.311 respectively). This also supports the approach of the DCP which is to not include intersection improvements at this location as having a nexus to PSP. It is possible that upgrade may be required of this intersection at some time into the future however this is a matter that is for consideration by the road manager.
- d. Based on the advice of Aaron Walley, Council considers this intersection can be considered resolved.

116.2. Barwon Heads Road / Horseshoe Bend Road / Marshalltown Road / Tannery Road

- a. Per the Summary of Discussions (where it is referred to as Barwon Heads Road / Marshalltown Road), DTP and Council agreed this intersection is satisfactory.

116.3. Barwon Heads Road / Keystone Avenue (new NEIP connector road) / new Marshall Precinct Connector Road

- a. Per the Summary of Discussions:

This intersection is the key intersection impacted by DTPs concern with the modelling and traffic data underpinning the TIA.

DTP and Council discussed the uncertainty involved in the development of the ultimate functional layout plan of future Barwon Heads Road / NEIP Connector Road intersection due to the age of TIA data and the ongoing NEIP PSP refresh.

Council is considering a design recently provided by the majority landowner in the NEIP with contemporary traffic SCATS counts provided to Council by DTP.

- b. This intersection is addressed in greater detail below.

116.4. Barwon Heads Road / Reserve Road (future Bellarine Link)

- a. Per the Summary of Discussions:

This intersection was constructed as part of Barwon Heads Road duplication.

It is not included in the DCP and the ultimate state upon construction of the future Bellarine Link is considered State responsibility.

116.5. Horseshoe Bend Road / Reserve Road (future Bellarine Link)

- a. Per the Summary of Discussions:

'This pedestrian crossing intersection is not included in the DCP and remains the responsibility of the State to be delivered as part of the future Stage 1 of the Bellarine Link, which is subject to Government funding.'

- b. DTP and Council consider this intersection resolved.

116.6. Drews Road / Reserve Road (future Bellarine Link)

- a. Per the Summary of Discussions:

This intersection is to be delivered in 2 stages:

Interim signalised intersection to be delivered by Council through the DCP; and

Ultimate intersection to be delivered by DTP as part of Bellarine Link, with land provided through the DCP but not construction costs.

DTP questioned whether sacrificial works can be avoided by re-design and whether a partial solution can be provided. Whether the interim intersection can be redesigned to be more closely aligned with the ultimate remains an ongoing matter, however insofar as an assessment of its traffic impacts, this intersection is considered resolved.

- b. The timing of the Bellarine Link is not clear. The Bellarine Link is presently not funded. Should the Bellarine Link be funded prior to the construction of the interim intersection then it may be that there is real overlap between the State works and the DCP. The P&E Act includes ways to manage funds that are not expended under a DCP.
- c. It would however be premature in the present climate to assume that the Bellarine Link will be delivered at the same time as the PSP works are required.

Barwon Heads Road / Keystone Avenue (new NEIP connector road) / new Marshall Precinct Connector Road — greater detail

117. While Council has not engaged a traffic expert to provide evidence in this proceeding, it has provided the evidence of Mr Humphries and Mr Quick to Mr Aaron Walley of Ratio Consulting, who is undertaking a further assessment of the Barwon Heads Road / Keystone Avenue (new NEIP connector road) / new Marshall Precinct Connector Road intersection (NEIP Access Intersection).
118. Mr Walley broadly agrees with evidence presented by Mr Humphries that, based on traffic counts undertaken in 2024 and the design for the proposed intersection provided to Mr Humphries by his client for assessment, the proposed intersection will exceed degree of saturation thresholds, indicating it is likely to function poorly.
119. Council considers a redesign of this intersection, and an assessment as to the drivers of demand through the intersection, is warranted to ascertain DCP costings and appropriate apportionment as between the Marshall DCP and the NEIP DCP. It is not clear that the proper apportionment between the two precincts is 50%. Council considers that a process of intersection traffic and land take assessment will be necessary to finalise the design of this intersection before adoption and submission of the PSP and DCP to the Minister for approval. The Council will engage with the NEIP developer (Re-Grow Pty Ltd) through this process to ensure that relevant inputs to the design of the intersection are provided.

Recommendation sought

120. Accordingly, Council considers it would be appropriate for the Panel in its report to make recommendations that:
- 120.1. the intersection of Barwon Heads Road / Keystone Avenue, being the intersection at the entrance to the NEIP be redesigned, including with input from DTP and as available NEIP information; and
- 120.2. the design of the Barwon Heads Road / Keystone Avenue intersection is to consider and inform the proper apportionment of DCP costings between the Marshall DCP and the NEIP DCP.

Planning

121. The Panel has the benefit of 5 expert reports prepared on behalf of Council and submitters in relation to the planning merits of the Amendment, being:
- 121.1. Expert evidence statement of John Glossop (Glossop Town Planning), engaged by Hardwood Andrews on behalf of Council;
- 121.2. Expert evidence statement of Jason Black (Insight Planning), engaged by Planning and Property Partners on behalf of Costa Management;
- 121.3. Expert evidence statement of Jason Black (Insight Planning), engaged by Maddocks on behalf of Marshall Dev Co Pty Ltd (Ample);
- 121.4. Expert evidence statement of Mark Woodland (Echelon Planning) engaged by Maddocks on behalf of Re-Grow Pty Ltd; and
- 121.5. Expert evidence statement of David Barnes (Hansen Partnership) engaged by Russell Kennedy on behalf of Rich & Pure.
122. While the views of each of these experts vary on some aspects of the PSP, all have written in support of the Amendment as a whole. The Panel should take significant comfort from this fact.

Commercial / bulky goods or residential land

123. Three differing perspectives have been put forward by submitters and experts to this Panel as to the appropriate designation of properties #20, #34, #35, #36 #37, #38, #39, #40, #41, #42 and #43 as 'Conventional Residential', 'Medium/High Density Residential' or 'Commercial/Bulky Goods'. Unsurprisingly, these perspectives are divided along the vested interests of the parties:

123.1. Costa Management Pty Ltd (**Costa**), the owner of sites #35, #36 and #37 agree with Council's proposal that sites #35, #36 and #37 should be retained as 'Commercial/Bulky Goods' land. Costa's position is supported by Mr Black's planning evidence;

123.2. Re-Grow Pty Ltd (**Re-Grow**), a substantial landowner/developer for the NEIP, considers that all land previously designated 'Commercial/Bulky Goods' should be redesignated to be residential (conventional or medium/high density). Re-Grow's position is supported by planning evidence from Mr Woodland and economic evidence from Mr Ganly.

a. In summary, Mr Woodland argues:

- i. Victoria's Housing Strategy supports the addition of residential land in good locations wherever possible to meet its targets;
- ii. the 'Commercial/Bulky Goods' area is not generally in accordance with the ACUGA Framework Plan;
- iii. the ACUGA Framework Plan makes provision for commercial areas within MAC, LAC and 2 employment precincts, but not elsewhere;
- iv. the unplanned allocation of land for Commercial/Bulky Goods purposes will prejudice the early realisation of the NEIP commercial outcomes;
- v. the permitted land uses are likely to overlap, thereby introducing competing land for the same prospective tenants/occupiers; and
- vi. the relevant land is close to the Marshall Train Station so would benefit from the amenity of walkable access to the station.

b. In summary, Mr Ganly provides economic evidence supporting Mr Woodland's presumed position that the NEIP is likely to be negatively impacted by the designation of additional unplanned 'Commercial/Bulky Goods' to the PSP area.

123.3. Rich & Pure Pty Ltd (**Rich & Pure**), the owner of sites #20, #42 and #43, consider their land should maintain the exhibited 'Commercial/Bulky Goods' designation. Their position is supported by planning evidence from Mr David Barnes and economic evidence from Mr Rhys Quick.

a. In summary, Mr Barnes argues:

- i. The sites could be used for residential, but are poorly located with an abuttal to Barwon Heads Road on one side and the NEIP on the other leading to poor amenity;

- ii. The dimensions of the sites do not lend themselves to effective residential development; and
 - iii. Any possible benefit in being within 800m of Marshall Train Station as the crow flies is undone by the intervening Barwon Heads Road, which requires a significant detour and impedes walkability.
 - b. Mr Quick advances a position that this area of Geelong would be relatively undersupplied with C2Z land if the area transferred to residential use. He further contends that the area along Barwon Heads Road is 'secondary residential' because of its attributes arising from its position along Barwon Heads Road.
- 124. Council maintains the position it has put in the Part A Submissions, applying the following designations:
 - 124.1. 'Conventional Residential' designation: Properties #38, #39, #40, #41, #42 and #43
 - 124.2. 'Medium/High Density Residential' designation: Property #20
 - 124.3. 'Commercial/Bulky Goods' designation: Properties #34, #35, #36 #37 (no change)
- 125. Council's initial designation was mainly based on poor road and pedestrian infrastructure and connectivity across Barwon Heads Road, as well as in-progress Barwon River flood mapping. The designation was not supported by an economic assessment report or other analysis.
- 126. The overriding policy objective to facilitate more housing consistent with Victoria's Housing Statement is important and, while planning evidence presented to this Panel indicates the contribution of this residential area will be relatively modest, every little bit will help.
- 127. Given the need for more housing and given the NEIP is already planned for employment and industry, it would be a poor outcome to forgo the opportunity to increase housing supply in the Marshall PSP. The Marshall precinct is strategically recognised in policy as a residential growth area and this is consistent the Framework Plan.
- 128. It is not clear what the practical implication of the asserted undersupply (if one exists) is in this location of C2Z land. Is it the case that there will be an absence of services delivered, or indeed local jobs, given the development and focus of Armstrong Creek being the Armstrong Creek Town Centre. These are matters to be tested through evidence.
- 129. DTP's opposition to direct vehicle access from Barwon Heads Road will be a significant impediment to commercial development of the land.
- 130. Council considers the proposed re-designated residential areas would result in similar impervious surfaces to a commercial designation, meaning no reassessment of the Marshall SWMS will be required. The Swan evidence has confirmed this assumption. Drainage design and retardation calculations can be reassessed with site specific stormwater management plans at the permit application stage. Likewise, Council considers the Principal Road Network will accommodate the residential uses.

Other matters raised by Mr Black

- 131. Mr Black raises the following additional matters in his evidence:
 - 131.1. He considers the masterplan requirement should be removed from the UGZ7, on the basis that the reduced Commercial / Bulky Goods area no longer requires master planning prior to development;

- 131.2. He recommends functional layout plans be prepared for all drainage assets prior to gazettal of the Amendment on the basis that drainage asset areas need to be ascertained with certainty to cost the DCP properly; and
- 131.3. He recommends that PAOs be applied over all drainage assets to enable acquisition of assets to occur when required. In doing so, Mr Black puts forward the argument that Council may constrain or inhibit development due to drainage assets not being vested/constructed when required to enable development at other sites within the same catchment.
132. Council:
- 132.1. Considers a masterplan is still required to ensure the proper integration of development across the sites along Barwon Heads Road;
- 132.2. Opposes the preparation of functional layout plans (**FLPs**) prior to the approval of the Amendment. While Council acknowledges that FLPs could potentially to reduce the area requirements and refine the costings for drainage infrastructure, preparation of FLPs is more appropriately completed at the detailed design, rather than precinct planning, stage. Proper functional designs will require specific site investigations, and assumptions. This is impractical at this point in time. Should 'lean assumptions' inform the DCP then individual developers providing infrastructure will bear the cost of the shortfall in funding available through the DCP.
- 132.3. Submits that the level of design is commensurate with the stage of development and what is known at this stage of the PSP.
- 132.4. Opposes the application of PAOs at this time, for the reasons set out in Part D of these submissions above.

Station Concept Plan

133. It is the evidence of Mr Glossop that there should be greater flexibility in the implementation of the Station Concept Intention Plan. Mr Glossop suggests a change to make it clear that the Intention plan is a tool that demonstrates how the station land could be developed. Council accepts Mr Glossop's recommendations.
134. Mr Black suggests that the plan should be deleted in its entirety along with the requirement for an Urban Design Framework.
135. Given that the plan is an intention plan, Council is content that the plan remain within the PSP. The plan and its use, as appropriate, to inform an Urban Design Framework is an appropriate means of ensuring development within the local activity centre is coordinated, particularly where there presently exists some attendant doubt regarding the availability of land within the area. It follows that Council does not support the suite of changes advanced by Mr Black on this issue.
136. Council relies on the evidence of Ms Jane Keddie on this point.

LAC at Marshall Train Station

137. In his economics evidence tabled at this Panel on behalf of the landowner, Ample, Mr Sean Stephens notes as part of a broader discussion at [2.26] that the Retail Strategy:

identifies the potential for actual centre development outcomes to depart from the framework laid down in the policy at the time of its implementation – where justified. In my own professional view this is a sensible and realistic policy position and

generally reflects a continuation of the rationale applied in the preceding Geelong Retail Strategy 2006.

138. The balance of Mr Stephens' evidence seeks to support his conclusions at [4.1(viii)]–[4.1(ix)] that:

The delivery of a full-line supermarket at the Marshall Station mixed use area would reflect an enhanced role and function to the current Local Centre status. A full-line supermarket could deliver an outcome equivalent to what might be considered a 'small' Neighbourhood Centre within the centres hierarchy subject to the overall level of retail floorspace provided. However, I consider this to be a response to an opportunity for Marshall Station which has economic justification, strategic merit and is consistent with a net community benefit as relates to my expertise.

What I consider most important is that at the relevant time in the future, a suitably detailed Economic Impact Assessment can be prepared to support a full-line supermarket application at the Marshall mixed use area. This will ensure that the level of economic demand is accurately assessed (on the basis of the contemporary information available at that future time), and for Council issues of impact and hierarchy arising from a full-line supermarket at the Marshall mixed use area can be appropriately assessed and managed.

139. Council notes this eventuality is already built into the PSP, where under R83 an applicant may support their application to exceed the 2,000sqm cap by providing an Economic Impact Assessment.

140. Mr Stephens notes at [3.67] that he considers a full line supermarket can be provided in a manner that respects the operation of the centres hierarchy including by:

- *A proportionate increase in the scale of retail in the Marshall mixed use area to include a full-line supermarket, while retaining an overall scale of development below that of the nearby Charlemont Rise Centre both in terms of the size of the supermarket (4,000m² at Charlemont Rise) and the overall scale of the centre (a Shop cap of 7,000m² applies at Charlemont Rise) .*
- *Recognising that it will be some period of time before a full-line supermarket can be delivered at the Marshall Station mixed use area in both economic and practical terms, and that this provides a period in which ongoing population and demand (sales) growth will occur at existing centres and Charlemont Rise*
- *Any appropriate planning policy settings, potentially including the requirement for an Economic Impact Assessment at the relevant time.*

141. Council refers to its submissions at Part D of these submissions and considers this to be a matter to be assessed as or when an application for use and development of land for a supermarket is made, but otherwise agrees with Mr Stephens that the scale of any future proposal that exceeds the 'soft cap' will need to be justified through an Economic Impact Assessment. Obviously, this is an analysis for another day when an actual proposal is advanced.

DDO51- Barwarre Road – Marshall Station connection

142. Council has consulted directly with the landowner through the process of the Amendment. This has included an in-person meeting with the affected landowner on 13 October 2023 and provision of other information by email. In the absence of a submission from the landowner, Council then recontacted the submitter on 10 October 2024. Following that further contact,

Council received Submission 29, in which the landowner objects 'strongly' to the application of DDO51 over their land.

143. The potential future linkage to the west of the Marshall Station addressed by the proposed DDO51 seeks to preserve the capacity for a link to the station that would maximise the benefit from the State's investment in this location and best facilitate alternative modes to car based transport into the future. It is planned that during the peak hours trains to Geelong will pass through Marshall Station at 10–12 minute intervals. Quite clearly, the objective that underpins the preservation of an opportunity for a pedestrian link to the station represents a positive planning outcome — a point endorsed by Mr Glossop.²²
144. However, both Council and Mr Glossop (in his evidence) also recognise that the outcomes proposed by the planning systems need to be fair, both as a matter of principle and a matter referred to in the objectives within the P&E Act. It is Mr Glossop's view that the present arrangement does not achieve the balance between the broader planning interest and the interests of Submitter 29. Council accepts this position in principle, with regard to the absence of either VicTrack and/or Council committing to the delivery of the linkage at the present time.
145. Therefore, the question arises, what is the appropriate planning balance?
146. In the event that this Amendment takes no action to preserve the linkage, it will have failed to take an opportunity to preserve a future walkable connection from Grovedale to the west of the Marshall Precinct, reduce reliance on cars to get to the station and improve the amenity of residents in the area. As noted above, the pedestrian link is endorsed by Mr Glossop to be an outcome with 'clear strategic and community value',²³ a benefit Council considers will also be enhanced by the co-location of the proposed LAC near the train station.
147. On the other hand, Council acknowledges the concerns raised by the landowner of 137 Barwarre Road as to the nature of the proposed DDO51 control — primarily a design control — providing a subdivision permit requirement that land be vested to provide for the connection.
148. This balance has been closely considered by Mr Glossop, who has proposed amendments to DDO51 as part of his evidence. Council accepts and adopts Mr Glossop's recommendations that the exhibited DDO51 should be amended to include design requirements for subdivision, or buildings and works (as applicable), to provide for the pedestrian link to accommodate safe and convenient pedestrian and cycling access between Barwarre Road and Marshall Train Station. These would operate in a non-mandatory way. If at the relevant time of development a planning assessment did not support the provision of the walkway (for instance if there was no demonstrated intent to a linkage to be provided by DTP), then the 'should' requirement will not prevent subdivision or development progressing.
149. This approach both preserves the positive planning outcome provided by the pedestrian link and provides the landowner more flexibility to subdivide or develop the land as they see fit. This allows development to incorporate the connection in a manner that is unlikely to be possible if another more rigid control, such as a PAO, is applied to preserve the potential for the linkage. Council notes that a direct link to the station may be an advantage should the land be redeveloped for more intense housing as is expected.
150. Under clause 53.01 and its schedule, 137 Barwarre Road is required to provide a 10% contribution to public open space. When the time comes, this contribution can be utilised in part or whole to create the proposed connection in compliance with the proposed design requirements, if or when the landowner chooses to develop or subdivide the land.

ESD

151. Mr Black raises a concern that the that environmentally sustainable design requirements included in the Amendment are new or go beyond current legislative requirements.

²² Glossop Evidence Page 34, Paragraph 71.

²³ Glossop Evidence Page 34, Paragraph 71.

152. Ms Keddie's evidence frames the issue as follows:

36 Development facilitated by the Marshall Road PSP and associated controls will guide the evolution of new neighbourhoods over the coming decades. The resulting housing and development facilitated by this amendment will be experienced by residents in a different climate than the one we experience today. The most recent report of the Intergovernmental Panel on Climate Change finds the Earth is likely to reach global warming of 1.5°C from pre-industrial levels in the 2030s. This will result in further changes to our climate, with temperatures and extreme weather we have not experienced before affecting these areas.

37. It is my opinion that there are a number of key issues or questions that need to be considered:

- *Is the scope of 'ESD' matters addressed at PSP stage appropriate and strategically justified?*
- *What is the strategic justification for the ESD elements addressed by the amendment and is the level of detail and / or prescription in the proposed controls appropriate?*
- *Are the mechanisms proposed appropriate?*

153. The Amendment has been prepared in the middle of a period of progress and reform in the ESD regulatory space. As set out in Council's Part A Submission and this submission, new requirements are being introduced as part of the 'Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system' and in response to broader political, environmental and planning pressures.

154. While not directly applicable to this Amendment due to transitional provisions, the CCEL Amendment Act is further changing the landscape by requiring planning authorities to consider impacts of climate change when preparing planning scheme amendments.

155. In this context, Council has sought to adopt what it considers are sound and robust Environmentally Sustainable Development provisions in a forward thinking approach to ensure the development of the Marshall PSP is ready to adapt to the potential of climate change and the challenges that may come with it. Ms Keddie's evidence on this matter confirms:

Council has a clear policy position, which is supported by state planning policy, as to the role that growth area precincts / neighbourhoods can play in mitigation and adaptation of the City's urban areas, to ensure they contribute to council's adopted emissions reduction target and to the climate resilience of residents.

I believe that the requirements embedded in the PSP are appropriate having regard to the context, operation the planning system and current regulatory environment.

It is my opinion that the mechanisms proposed, and the level of detail required, is acceptable and will not place an undue burden on applicants.

L Final position on the Amendment

156. As amended, Council considers the Amendment is robust and provides the strategic planning basis and development contributions mechanism for the development of the Marshall Precinct generally in accordance with the broader Armstrong Creek Urban Growth Framework Plan.

157. Council commends the Amendment to the Panel, however noting some room for improvement, seeks recommendations as part of the Panel's report that, prior to approving the Amendment:

- 157.1. the intersection of Barwon Heads Road / Keystone Avenue, being the intersection at the entrance to the NEIP be redesigned, including with input from DTP and as available NEIP information; and
- 157.2. the design of the Barwon Heads Road / Keystone Avenue intersection is to consider and inform the proper apportionment of DCP costings between the Marshall DCP and the NEIP DCP.

4 November 2024
HARWOOD ANDREWS
on behalf of
GREATER GEELONG CITY COUNCIL