

**Greater Geelong Planning Scheme Amendment C278ggee
Marshall Precinct Structure Plan**

Panel Report

Planning and Environment Act 1987

7 February 2025

How will this report be used?

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

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

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

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

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

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Greater Geelong Planning Scheme Amendment C278ggee

Marshall Precinct Structure Plan

7 February 2025



Lisa Kendal, Chair



Peter Edwards, Member



Michael Kirsch, Member

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Glossary and abbreviations

2024 Peer Review	<i>Marshall DCP Peer Review</i> , Urban Enterprise, 25 October 2025
ACUGA	Armstrong Creek Urban Growth Area
the Amendment	Greater Geelong Planning Scheme Amendment C278ggee
C2Z	Commercial 2 Zone
CCMA	Corangamite Catchment Management Authority
CFA	Country Fire Authority
Council	City of Greater Geelong
DCP	Marshall Development Contributions Plan
DCPO10	Development Contributions Plan Overlay Schedule 10
DDO51	Design and Development Overlay Schedule 51
DEECA	Department of Energy, Environment and Climate Action
DTP	Department of Transport and Planning
EAO	Environmental Audit Overlay

EPA	Environment Protection Authority Victoria
EPA Publication 1739.1	<i>EPA Publication 1739.1 Urban stormwater management guidelines</i> (June 2021)
ESD	Environmentally sustainable development
Fauna Surveys Report	<i>Fauna Surveys: Marshall Precinct Structure Plan</i> , Ecolink Consulting, May 2022
Framework Plan	<i>Armstrong Creek Urban Growth Area Framework Plan</i> (updated in June 2015)
GED	General Environmental Duty
GRZ	General Residential Zone
LAC	Local Activity Centre
MUZ	Mixed Use Zone
NCC	National Construction Code
NDA	Net developable area
NEIP	North East Industrial Precinct
NEIP PSP	North East Industrial Precinct – Precinct Structure Plan
NEIP Refresh	Refresh of the North East Industrial Precinct - Precinct Structure Plan with consideration of stormwater and transport infrastructure
NVPP	Marshall Native Vegetation Precinct Plan
PAO	Public Acquisition Overlay
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Greater Geelong Planning Scheme
Precinct	Marshall precinct
Preliminary Environmental Assessment Update	<i>Marshall Precinct Preliminary Environmental Assessment Update</i> , WSP, September 2023
PSP	Marshall Precinct Structure Plan
PSP Guidelines	<i>Precinct Structure Planning Guidelines</i> (Victorian Planning Authority, 2021)
Re-Grow	Re-Grow Geelong Pty Ltd
RGZ	Residential Growth Zone
the Station	Marshall Railway Station
SWMS	<i>Marshall Precinct Structure Plan: Stormwater Management Strategy</i> , Spiire, December 2022
TIA	Marshall Traffic Impact Assessment

TZ1	Transport Zone 1
UDF	Urban Design Framework
UDIA Victoria	Urban Development Institute of Australia, Victoria
UGZ7	Urban Growth Zone Schedule 7
VGED Habitat Assessment	<i>Victorian Grassland Earless Dragon, Habitat Assessment</i> , Ecolink Consulting, April 2024
the Wetlands	Sparrovale Wetlands Reserve – Ngubitj yoorree

Overview

Amendment summary

The Amendment	Greater Geelong Planning Scheme Amendment C278ggee
Common name	Marshall Precinct Structure Plan
Brief description	Implementation of the Marshall Precinct Structure Plan, Marshall Development Contributions Plan and Marshall Native Vegetation Precinct Plan
Subject land	Land in the Marshall Precinct Boundary and 137 Barwarre Road, Marshall (see Figure 1)
Planning Authority	City of Greater Geelong
Authorisation	26 February 2024, with conditions
Exhibition	24 April to 3 June 2024
Submissions	Number of Submissions: 31

Panel process

The Panel	Lisa Kendal (Chair), Peter Edwards, Michael Kirsch
Supported by	Chris Brennan, Senior Project Officer and Georgia Brodrick, Project Officer, Planning Panels Victoria
Directions Hearing	2 October 2024, online
Panel Hearing	6, 7, 8, 12, 13, 14, 15, 18, 20 and 21 November 2024 – Wurriki Nyal Civic Precinct, Geelong and online 27 November 2024, online
Site inspections	Unaccompanied, 31 October 2024 and during hearing
Parties to the Hearing	Refer to Appendix B
Citation	Greater Geelong PSA C278ggee [2025] PPV
Date of this report	7 February 2025

Executive summary

The Armstrong Creek Urban Growth Area is “*is the largest contiguous growth area in Victoria, consisting of 2,500 hectares of developable land, and is one of the largest growth fronts in the country*”.¹ The Marshall Precinct, in the northern end of the Armstrong Creek Urban Growth Area, will be a residential and commercial neighbourhood, providing for more than 1,555 dwellings for 3,000 – 5,000 residents.

The Marshall Precinct Structure Plan (PSP) is the last precinct structure plan to be prepared for the Armstrong Creek Urban Growth Area. The Marshall Development Contributions Plan (DCP) has been prepared in conjunction with the PSP to establish a framework for funding Precinct infrastructure.

Greater Geelong Planning Scheme Amendment C278ggee (the Amendment) seeks to facilitate residential and commercial development in accordance with the PSP. The City of Greater Geelong (Council) is the Proponent for the Amendment.

The Amendment applies to the:

- Marshall Precinct, comprising approximately 123 hectares of fragmented rural living land adjacent to the Marshall Railway Station
- property at 137 Barwarre Road, Marshall, located west of the railway line.

The Amendment proposes to amend the Greater Geelong Planning Scheme (Planning Scheme) to:

- apply new Urban Growth Zone Schedule 7 (UGZ7) to land in the Precinct currently zoned Urban Growth Zone, and the land at 40-60 Drews Road, Marshall currently zoned Transport Zone 1 (TRZ1)
- apply new Development Contributions Plan Overlay Schedule 10 (DCPO10) to all land in the Precinct
- apply the Environmental Audit Overlay (EAO) to potentially contaminated land
- apply new Design and Development Overlay Schedule 51 (DDO51) to 137 Barwarre Road, Marshall
- introduce the PSP, DCP and Marshall Native Vegetation Precinct Plan as incorporated documents
- make associated changes to Planning Scheme maps and other provisions.

It also seeks to introduce planning controls to safeguard future pedestrian and cycling access from Barwarre Road, Marshall to the Marshall Railway Station.

In response to the exhibition of the Amendment, 31 submissions were received, including three late submissions. Submissions from authorities generally supported the Amendment with some suggesting changes or further work.

Key issues raised in submissions included:

- land use designations, in particular the Commercial/Bulky Goods area
- residential designations and densities
- stormwater and drainage
- movement network and traffic

¹ Marshall Precinct Structure Plan, page 11

- infrastructure delivery, cost and staging, including proposed application of the Public Acquisition Overlay
- application of the DDO51 to secure future access through 137 Barwarre Road to the Marshall Railway Station
- contaminated land
- environmentally sustainable development
- drafting and plans.

The Panel considers the Amendment is well founded and strategically justified. The development and implementation of the PSP is consistent with the objectives of planning in Victoria. The PSP has been developed with consideration of the broader strategic planning objectives for the City of Greater Geelong and specifically the Armstrong Creek Urban Growth Area. The Panel is satisfied the Amendment will facilitate development which:

- provides for the fair, orderly, economic and sustainable use and development of land, and facilitates the provision of housing
- secures pleasant, efficient and safe environments for all Victorians
- enables the orderly provision and co-ordination of public utilities and community facilities.

The Panel concludes the Amendment should proceed subject to addressing the specific issues raised in submissions, as discussed in this Report.

The following summarises the Panel's findings on key issues.

Land use

A key issue before the Panel was whether the exhibited Commercial/Bulky Goods designation (and applied C2Z) should be changed to a residential designation.

In response to the submission of Re-Grow Geelong Pty Ltd (Re-Grow) to the exhibited Amendment, Council resolved to change the land use designation of some land from Commercial/Bulky Goods to residential as follows:

- property 20 to Medium/High Density Residential (Residential Growth Zone applied zone)
- properties 38 - 43 to Conventional Residential (General Residential Zone applied zone).

Properties 34 - 37 were proposed to be retained as Commercial/Bulky Goods.

The Panel concludes the Armstrong Creek Urban Growth Area Framework Plan (Framework Plan) is the overarching policy document for determining the appropriate land use designations in the Precinct, and the exhibited Commercial/Bulky Goods designation is inconsistent with the Framework Plan. The Panel assessed the proposed change in the context of policy, housing supply, walkable neighbourhoods, implications of Barwon Heads Road and North East Industrial Precinct interfaces, amenity and specific property characteristics and constraints.

The Panel concludes:

- property 20 is suitable for residential development and should have the Medium/High Density Residential designation with Residential Growth Zone as the applied zone
- properties 38 - 43 are suitable for residential development and should have the Conventional Residential designation with General Residential Zone as the applied zone

- properties 34 - 37 have design and locational constraints that warrant a departure from the Framework Plan and the exhibited Commercial/Bulky Goods designation should be retained with Commercial Zone 2 as the applied zone.

Regarding the proposed Station Precinct Urban Design Framework (Station Precinct UDF), it is appropriate that Council has discretion to determine what the Station Precinct UDF must address. The exhibited UGZ7 provisions relating to the Station Precinct UDF are appropriate, subject to including a map that identifies the Station Precinct. The PSP provides comprehensive guidance material for preparing and assessing the Station Precinct UDF, apart from the Concept Design Intention. The Concept Design Intention is not likely to assist the Station Precinct UDF process and should be deleted from the Amendment.

Regarding other land use matters, the Panel concludes the:

- other residential designations and density provisions in the exhibited PSP and UGZ7 are appropriate
- proposed changes to the Local Activity Centre provisions agreed between Council and Ample are appropriate
- proposed rezoning of the Marshall Station land owned by Department of Transport and Planning (DTP) to UGZ7 should not proceed as part of the Amendment.

Stormwater and drainage

The Panel is satisfied the Marshall Stormwater Management Strategy is appropriate and stormwater and drainage issues can be adequately addressed. The strategy satisfies the intent of *EPA Publication 1739.1 Urban stormwater management guidelines* (June 2021) and the Planning Scheme, so far as reasonably practicable. While additional meaningful stormwater volume reduction is not feasible, impacts on environmental values of 'Sparrovale Wetlands Reserve – Ngubitj yoorree' wetlands are acceptable.

The Panel concludes:

- climate change implications can be addressed during detailed design of drainage infrastructure
- the location of Marshall Creek, south of Tannery Road can be reviewed as part of the North East Industrial Precinct Refresh
- costings should be reviewed for three drainage assets.

Movement network and traffic

A key issue explored during the Hearing was whether the Marshall Traffic Impact Assessment was fit for purpose or needed to be updated. On the basis the Panel understands all of the key intersections surrounding the Precinct will be, or have been designed to accommodate future traffic conditions, the Panel agrees with Council there is little merit in updating the existing Transport Impact Assessment at this stage.

The other key traffic issue related to the layout, cost and apportionment of DI_IT_02 (the Keystone/East-West connector road between the Marshall Precinct and North East Industrial Precinct). The issue was largely resolved during the Hearing. On the basis that Council and Re-Grow have agreed that further work is required, and the work can be undertaken in a timely manner, the Panel supports the modelling investigations to resolve this being undertaken before the Amendment is finalised.

The Panel concludes the DI_IT_02 layout, cost and apportionment should be resolved by the strategic transport modelling work being prepared for Re-Grow in consultation with Council, DTP and other key stakeholders.

Infrastructure delivery, cost and staging

Some submitters sought application of the Public Acquisition Overlay to deliver drainage infrastructure. The Panel supports Council's usual practice, and considers it:

- acceptable to not apply the Public Acquisition Overlay
- not appropriate to apply the Public Acquisition Overlay at this stage of the process.

A key issue related to whether the DCP rate was adequately justified. Several submitters were concerned the development contributions levy was too high and may impact development viability. The Panel notes that ultimately need, nexus and site specific conditions determine costs. While the proposed DCP rate is high, the Committee is satisfied that Council's approach is consistent with guidance on preparing development contributions plans and infrastructure costing.

The Panel concludes the:

- DCP rate is adequately justified, subject to amendments resulting from the Panel's recommendations
- *Valuation Report – Marshall Precinct Structure Plan Development Contributions Plan – Land valuations*, CBRE, June 2023 should be updated to reflect the proposed change to land use designation
- DCP should be updated following finalisation of infrastructure costs as recommended in this Report.

There was some confusion about development staging. The Panel is satisfied the PSP was not intended to be prescriptive about development timing or staging, and has recommended changes accordingly.

137 Barwarre Road/Design and Development Overlay 51

The issues are whether future access through 137 Barwarre Road to the Marshall Station is needed, and whether DDO51 is a suitable mechanism to secure the land for the link.

While the Panel agrees with Council and DTP that there would be merit in providing a pedestrian/cycling link between Barwarre Road and the Marshall Station, it shares concerns raised in submissions and evidence about the fairness and transparency of the process for requiring land to be vested in Council in the exhibited DDO51.

The Panel concludes:

- providing a direct pedestrian/cycling link between the Marshall Station and Barwarre Road would be a positive initiative
- there has been insufficient analysis of various design, siting, funding and ownership issues to confirm how and where the link might be provided.
- DDO51 (or a version of it) should not be adopted as part of the Amendment given the need for further investigations to be undertaken.

Contaminated land

The exhibited Amendment proposes to apply the EAO to several sites in the PSP. The UGZ7 includes requirements relating to a planning permit for identified "*medium risk properties*".

The issue before the Panel was whether the planning tools proposed to manage potentially contaminated land are appropriate. The Panel considers it important to properly manage potentially contaminated land to ensure risks are appropriately managed for the benefit of human health and the environment. To achieve this the right planning controls must be in place.

The Panel concludes:

- the Amendment does not make proper use of the Victoria Planning Provisions to manage potentially contaminated land
- the EAO should be applied to all potentially contaminated land.

Environmentally sustainable development

The Amendment includes several provisions relating to environmentally sustainable development (ESD). Some submitters raised concerns about whether the provisions were justified and appropriate.

The Panel finds that while there is strong strategic support for ESD provisions, no specific studies were prepared to inform the specific provisions. There is no line of sight between the proposed ESD provisions and the background analysis underpinning the Amendment. The work has not been done to confirm the proposed ESD provisions are appropriate in the context of the PSP.

Considering the provisions on a case by case basis, the Panel concludes some provisions should be deleted and others made discretionary or amended.

Other issues

Regarding other issues the Panel concludes:

- the Marshall Native Vegetation Precinct Plan should be updated to reflect existing conditions and an accurate Precinct boundary
- the extent of conservation reserves is appropriate, a definition of conservation reserve should be included in the glossary of the PSP, amendments should be made to ensure habitat protection for the Growling Grass Frog and Latham's Snipe is acceptable
- the Victorian Grassland Earless Dragon has been adequately considered
- subject to its recommendation to amend the PSP to refer to affordable housing, including social housing, the affordable and social housing provisions are appropriate
- subject to its recommendation, open space provision is acceptable
- Council's proposed changes to bushfire provisions are acceptable.

The Panel makes a number of drafting recommendations, including to review and edit all Amendment documents for consistency and clarity before finalising the Amendment.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Greater Geelong Planning Scheme Amendment C278ggee be adopted as exhibited subject to the following:

- 1. Apply the Medium/High Density Residential designation and the Residential Growth Zone as the applied zone to property 20.**
- 2. Apply the Conventional Residential designation and the General Residential Zone as the applied zone to properties 38, 39, 30, 41, 42 and 43.**

3. Retain the land owned by Transport for Victoria (south of the Marshall Station car park) in the Transport Zone 1, and make any consequential changes to the Marshall Precinct Structure Plan and Marshall Development Contributions Plan.
4. Amend the Marshall Precinct Structure Plan in accordance with Council's Final Day version (Document 105) and make the changes shown in Appendix E and any other consequential changes resulting from the Panel's recommendations.
5. Before finalising the Marshall Development Contributions Plan, using Council's Day 1 version (Document 37b) as a base, complete the following further work and make any consequential changes resulting from this further work and other Panel's recommendations:
 - a) Review the costings for DI_DR_11 and DI_DR_14 to ensure they include allowances for the required flora and fauna, and cultural heritage assessments.
 - b) Determine the DI_IT_02 intersection configuration, cost and apportionment.
 - c) Update the *Valuation Report – Marshall Precinct Structure Plan Development Contributions Plan – Land valuations*, CBRE, June 2023.
6. Update the Marshall Native Vegetation Precinct Plan to reflect existing conditions, specifically in relation to the area affected by the Barwon Heads Road duplication.
7. Amend the Urban Growth Zone Schedule 7, as shown in Appendix D, and:
 - a) Include a plan that identifies the Station Precinct and the area to which the Station Precinct Urban Design Framework provisions apply.
 - b) Delete all references to Plan 18 Station Concept Design Intention.
8. Amend Clause 52.16 (Native vegetation precinct plan) to include the version and date of the updated Native Vegetation Precinct Plan.
9. Delete Design and Development Overlay Schedule 51.
10. Apply the Environmental Audit Overlay to all land identified as potentially contaminated.
11. Make any other consequential changes to Amend the documentation resulting from the Panel's recommendations.

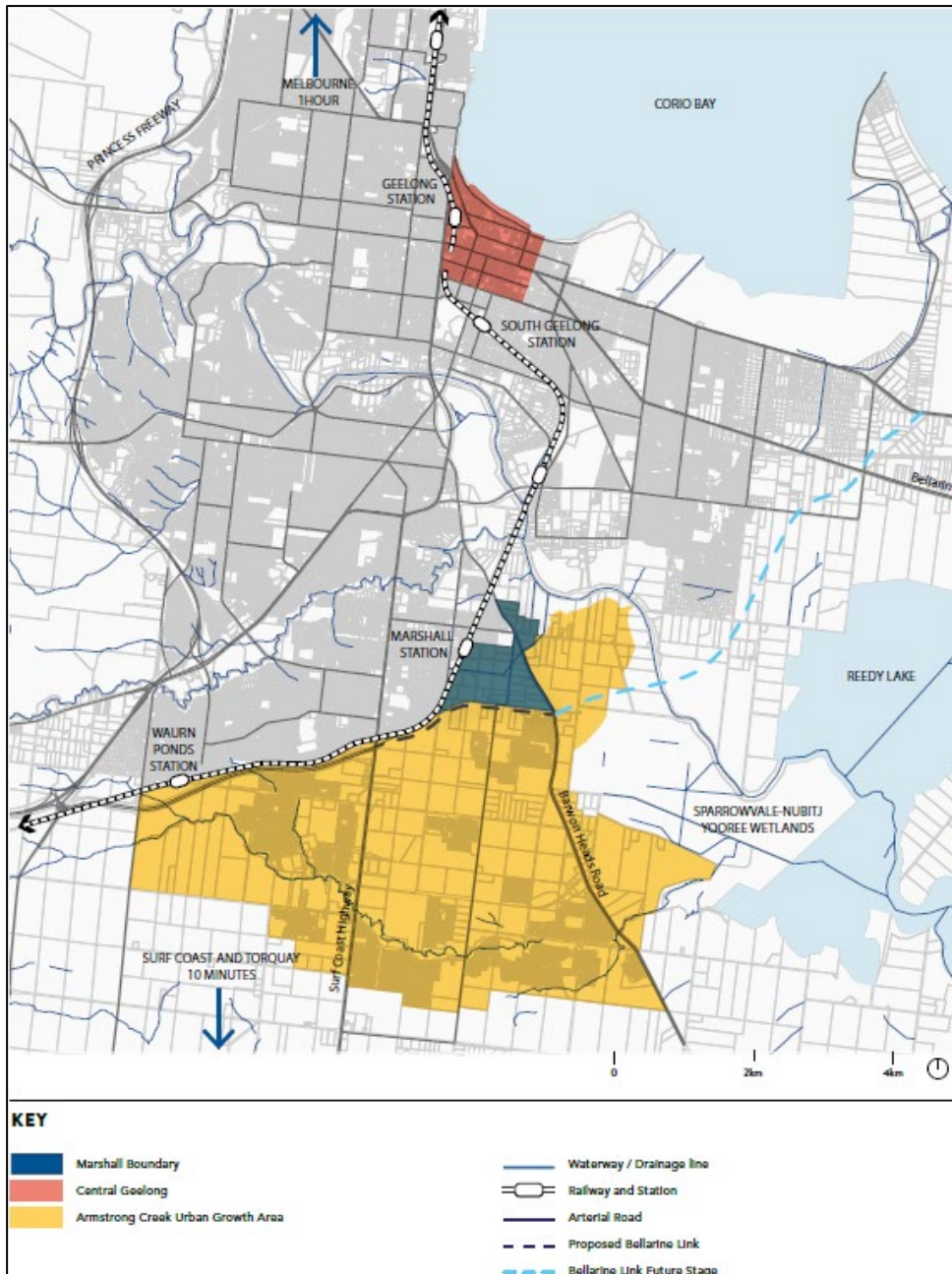
1 Introduction

1.1 The proposal

(i) Marshall precinct

The Marshall Precinct (Precinct) consists of 123 hectares of land and is located approximately 7 kilometres south of central Geelong. The Precinct is in the northern end of the Armstrong Creek Urban Growth Area (ACUGA) (see Figure 1).

Figure 1 Marshall precinct location and context

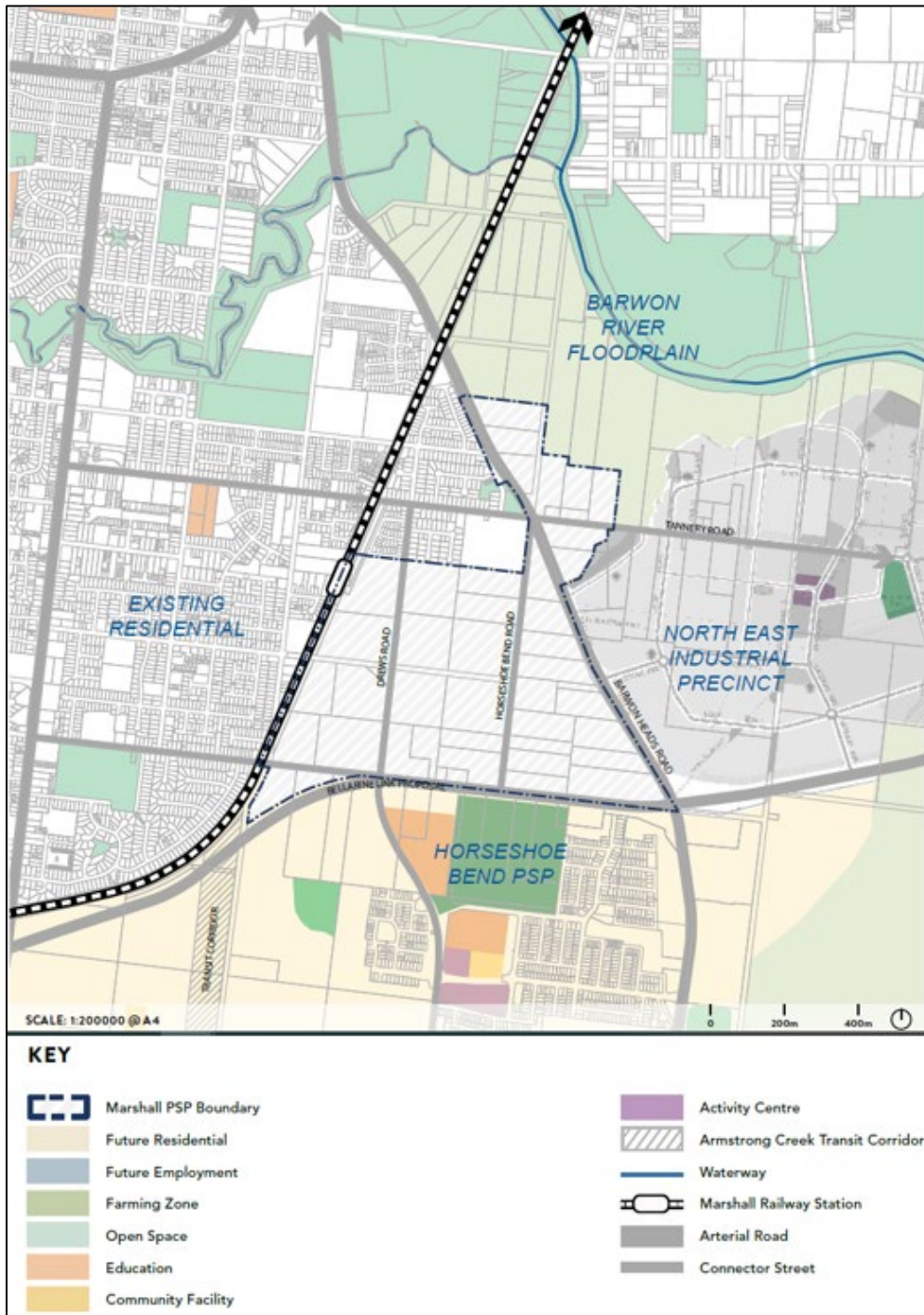


Source: Marshall Precinct Structure Plan, March 2024, page 10

The Precinct (see Figure 2) is:

- bound by the Geelong – Waurn Ponds railway line to the west, residential land to the north, Barwon Heads Road/Tannery Road and the Barwon River floodplain to the north and east, and the proposed Bellarine Link Road (currently Reserve Road) to the south
- located adjacent to the established suburbs of Grovedale to the west and Marshall to the north, the developing Horseshoe Bend Precinct to the south and undeveloped North East Industrial Precinct (NEIP) to the west.

Figure 2 Marshall Precinct context



Source: Marshall Precinct Structure Plan, page 16

(ii) Armstrong Creek Urban Growth Area and Framework Plan

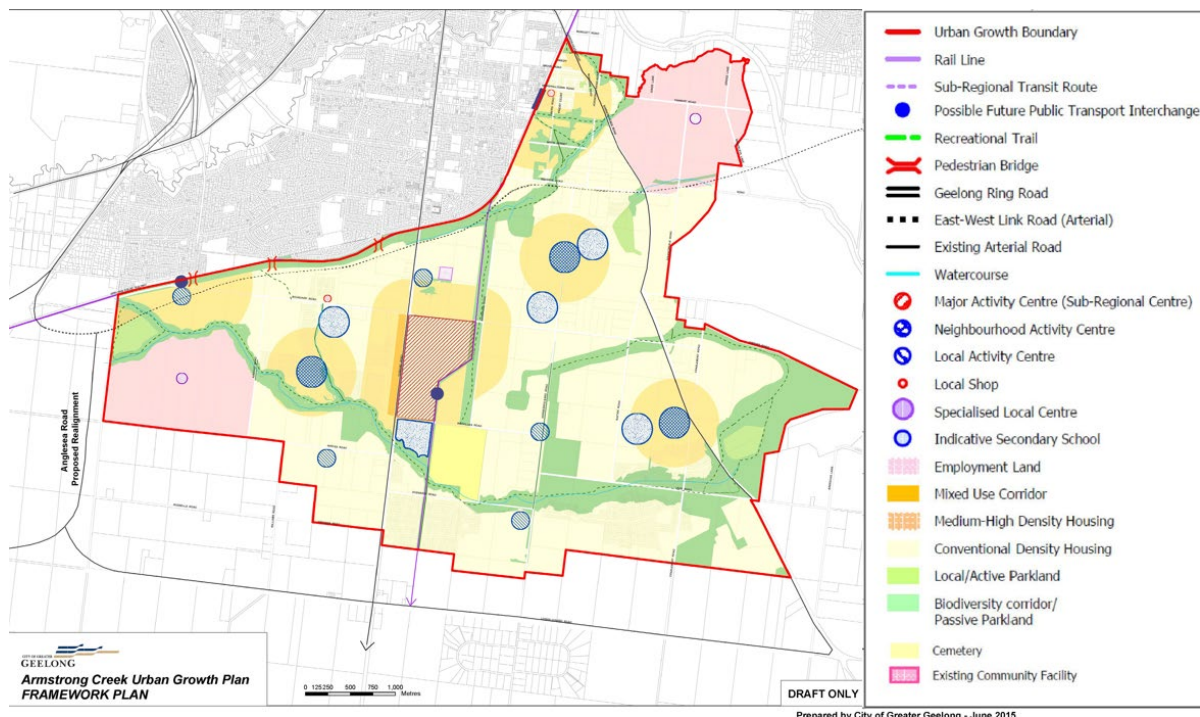
The ACUGA “is the largest contiguous growth area in Victoria, consisting of 2,500 hectares of developable land, and is one of the largest growth fronts in the country”.²

The *Armstrong Creek Urban Growth Area Framework Plan* (updated in June 2015) (Framework Plan) is an incorporated document in the Greater Geelong Planning Scheme (Planning Scheme). It guides high level strategic planning for the ACUGA and sets out the following vision:

The Armstrong Creek urban growth area will be developed into a sustainable community that sets new benchmarks in best practice urban development. Natural and cultural features will be protected and enhanced to create a distinct urban character. Armstrong Creek will become a highly sought-after location for living, working and recreation, forming an attractive addition to Geelong.

The Framework Plan includes a map which graphically depicts elements of the plan (see Figure 3).

Figure 3 Armstrong Creek Urban Growth Area Framework Plan map



Source: Armstrong Creek Urban Growth Area Framework Plan, page 5

(iii) Marshall Precinct Structure Plan

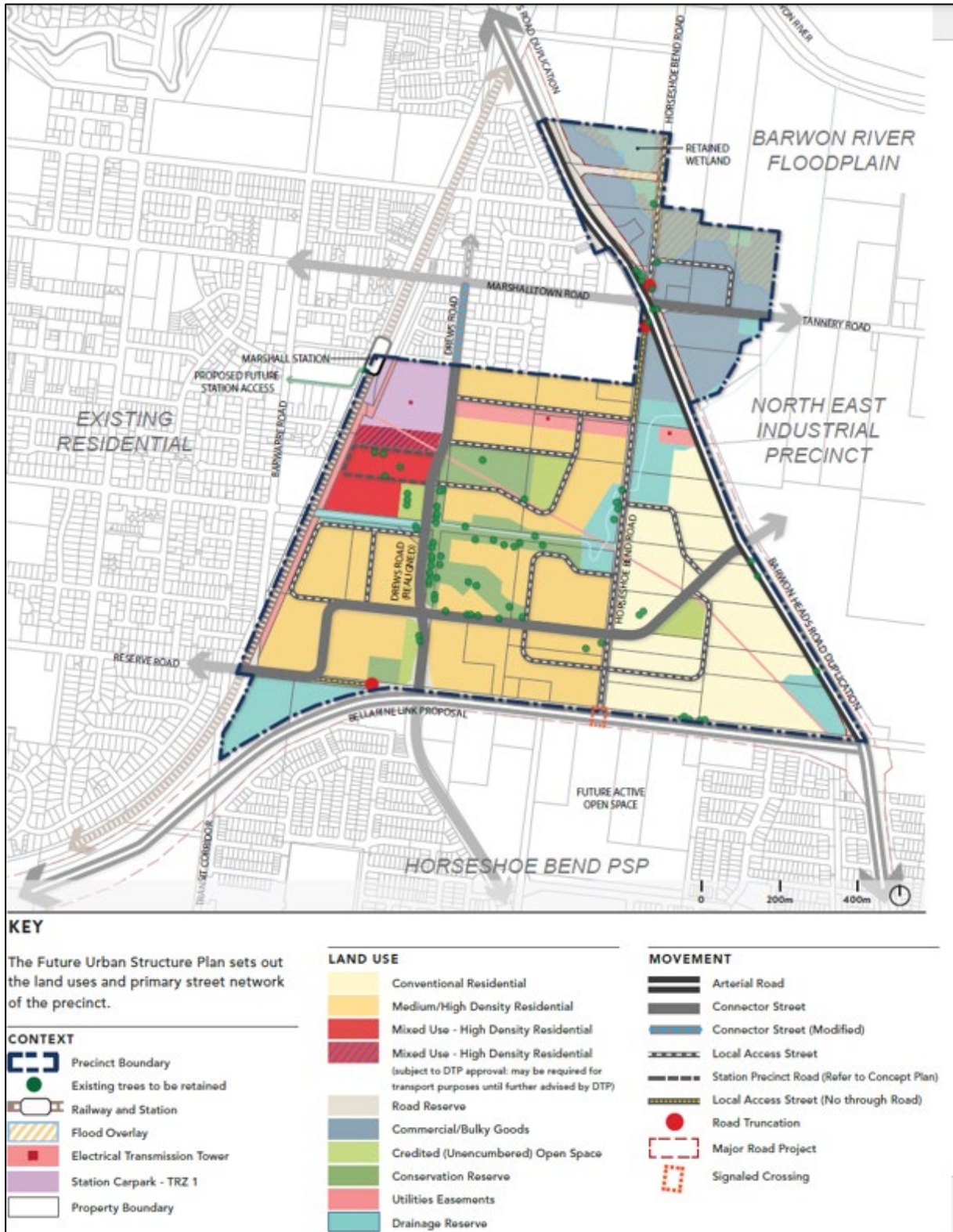
The Marshall Precinct Structure Plan (PSP) is one of eight precinct structure plans required to implement the ACUGA and is the final residential precinct structure plan. It includes the vision:

Marshall will be a distinctive residential and commercial neighbourhood that responds to its unique location. Development will capitalise on convenient access to Marshall Station and arterial roads, as well as remnant vegetation and other open space features. Marshall will become a sustainable, connected, walkable and visually interesting place set within a semi-natural environment.

The PSP anticipates more than 1,555 dwellings to accommodate approximately 3,000 to 5,000 new local residents. Figure 4 shows the Future Urban Structure Plan.

² Marshall Precinct Structure Plan, March 2024, page 11

Figure 4 Exhibited PSP Future Urban Structure



Source: Exhibited PSP, page 24

(iv) Marshall Development Contributions Plan

The Marshall Development Contributions Plan (DCP) has been prepared in conjunction with the PSP. It:

- Outlines projects required to ensure that future residents, visitors and workers in the precinct can be provided with timely access to infrastructure and services;
- Establishes a framework for development proponents to make a financial contribution towards the cost of identified infrastructure projects;
- Ensures the cost of providing new infrastructure and services is shared equitably between various development proponents and the wider community;
- Provides the details of the calculation of financial contributions that must be made by future developments towards the nominated projects; and
- Provides developers, investors and the local community with certainty about development contribution requirements and how these will be administered.

(v) The Amendment

Greater Geelong Planning Scheme Amendment C278ggee (the Amendment) seeks to amend the Planning Scheme to facilitate residential and commercial development in accordance with the PSP.

It also seeks to introduce planning controls to safeguard future access from Barwarre Road, Marshall, to the Marshall Railway Station (the Station).

The Amendment proposes to:

- apply new Urban Growth Zone Schedule 7 (UGZ7) to land in the Precinct currently zoned Urban Growth Zone, and the land at 40-60 Drews Road, Marshall currently zoned Transport Zone 1 (TRZ1)
- apply new Development Contributions Plan Overlay Schedule 10 (DCPO10) to all land in the Precinct
- apply the Environmental Audit Overlay (EAO) to potentially contaminated land
- apply new Design and Development Overlay Schedule 51 (DDO51) to 137 Barwarre Road, Marshall
- introduce the PSP, DCP and *Marshall Native Vegetation Precinct Plan (2022)* (NVPP) as incorporated documents
- make associated changes to Planning Scheme maps and other provisions.

(vi) Supporting documents

In addition to the proposed incorporated documents, the Amendment was exhibited with the following plans and background reports:

- *Armstrong Creek Urban Growth Area, Marshall & Western Employment Precincts: Post Contact Cultural Heritage Assessments*, Dr David Rowe and Wendy Jacobs, January 2014
- *Bushfire Assessment and Development Report for the Marshall Precinct Structure Plan*, Terramatrix, May 2022
- *Fauna Surveys: Marshall Precinct Structure Plan*, Ecolink Consulting, May 2022 (Fauna Surveys Report)
- *Marshall Precinct Structure Plan: Access Management Strategy*, City of Greater Geelong, May 2019 (Access Management Strategy)
- *Marshall Precinct Structure Plan: Background Report*, City of Greater Geelong, March 2024
- *Marshall Precinct Preliminary Environmental Assessment Update*, WSP, September 2023 (Preliminary Environmental Assessment Update)
- *Marshall Precinct Structure Plan: Preliminary Traffic Impact Assessment*, Cardno, July 2019

- *Marshall Precinct Structure Plan: Servicing Plan*, TGM, September 2018
- *Marshall Precinct Structure Plan: Stormwater Management Strategy*, Spiire, December 2022 (SWMS)
- *Marshall Precinct Structure Plan: Traffic Impact Assessment*, Ratio, March 2023 (TIA)
- *Providing Social Housing as Essential Infrastructure in Geelong's KSPAs*, SGS Economics & Planning, December 2021 (Social Housing Report)
- *Victorian Grassland Earless Dragon, Habitat Assessment*, Ecolink Consulting, April 2024 (VGED Habitat Assessment).

1.2 Background and chronology

City of Greater Geelong (Council) provided a detailed chronology of events, including key strategic planning milestones dating back to the designation of the ACUGA as a growth corridor in the 1980s. Table 1 includes a summary of key events, including post-exhibition notification to landholders and occupiers.

Table 1 Summary of key events

Date	Event / description
Late 2017	Council committed to leading preparation of the PSP
2018 - 2019	Informal public consultation and stakeholder engagement
2021 - 2023	Council engaged consultants to prepare reports relating to stormwater, traffic, bushfire, biodiversity, native vegetation, land contamination and social housing
October 2022	Marshall NVPP completed
July - August 2023	Council officers finalised PSP and DCP
September 2023	Council resolved to seek authorisation to prepare and exhibit the Amendment
November 2023	Environment Protection Authority Victoria (EPA) provided advice to Council in accordance with Ministerial Direction No. 19
February 2024	Minister's delegate authorised Council to prepare and exhibit the Amendment, subject to conditions
April 2024	Victorian Grassland Earless Dragon (VGED) Habitat Assessment completed and included in updated Explanatory Report Council amended the UGZ7 and PSP in response to conditions of authorisation
24 April – 3 June 2024	Public exhibition of the Amendment, 26 submissions were received
7 August 2024	In response to the submission from Re-Grow Geelong Pty Ltd (Re-Grow), Council proposed to redesignate the land identified for 'Commercial/Bulky Goods' to a combination of 'Medium/High Density Residential' and 'Conventional Residential'. Council notified all landowners of the proposal to redesignate the land, and in response six further submissions were received including four addendum submissions and two new submissions (details are included in the Council report dated 28 August 2024).
30 August 2024	Council's delegate resolved to request the Minister appoint and refer all submissions to an independent Panel

Date	Event / description
6 September 2024	Panel appointed
October 2024	Council referred three late submissions to the Panel (see Chapter 1.6), resulting in a total of 31 submissions

1.3 Issues raised in submissions

Key issues raised in submissions included:

- PSP land uses, in particular the Commercial/Bulky Goods area designation
- stormwater and drainage
- movement network and traffic
- infrastructure delivery, cost and staging, including proposed application of the Public Acquisition Overlay (PAO)
- proposed application of the DDO51 to secure future pedestrian access through 137 Barwarre Road
- drafting and plans.

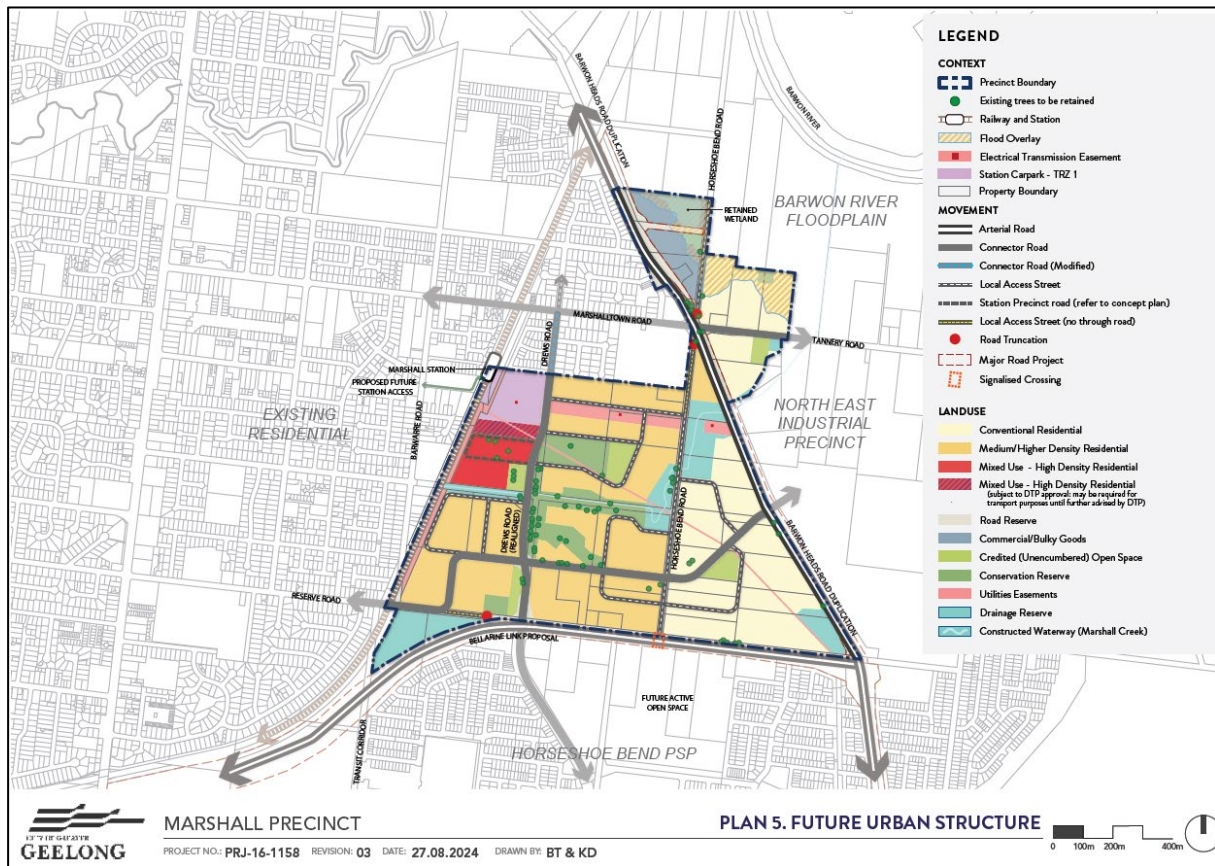
Other issues related to native vegetation and conservation areas, the VGED, environmentally sustainable development (ESD), heritage, affordable housing, contaminated land, noise and bushfire.

Submissions were received from Barwon Water, Corangamite Catchment Management Authority (CCMA), Department of Transport and Planning (DTP) (Transport), EPA, Ausnet Services, Country Fire Authority (CFA) and the Department of Energy, Environment and Climate Action (DEECA). These submissions generally supported the Amendment and suggested some changes or further work. These suggestions are discussed as relevant to issue-specific chapters in this Report.

1.4 Post-exhibition changes and consultation

Council proposed several post-exhibition changes to the Amendment documents in response to submissions and to correct errors. These proposed changes are explained and discussed as relevant to the issue-specific chapters in this Report. Figure 5 shows the post-exhibition PSP Plan 5 Future Urban Structure.

Figure 5 Updated Plan 5 Future Urban Structure



Source: Council report, 28 August 2024

1.5 Amendment documentation

The Panel issued directions for Council to circulate Day 1 versions of the Amendment documentation before the Hearing started and Final day versions with its closing submissions. Council circulated the following documents:

- Day 1 Amendment documents (Document 37)
- Final day UGZ7 (Document 103)
- Final day DDO51 (Document 104)
- Final day PSP (Document 105)
- Table documenting Final day drafting changes, and recommendations sought by Council (Document 106).

Following the Hearing:

- parties were given the opportunity to comment on Council's Final day Amendment documents
- Council was given an opportunity to respond to comments.

Marshall Dev Co Pty Ltd (a subsidiary of Ample Investments Group Pty Ltd) (Ample) and Rich and Pure Pty Ltd (Rich and Pure) provided comments on Council's Final day Amendment documents (Documents 113 and 114 respectively), and Council responded (Documents 115 and 116).

1.6 Procedural issues

(i) Notification of submitters, landholders and owners of proposed post-exhibition change

In relation to Council's proposed post-exhibition change to amend the Commercial/Bulky Goods designation for some land to residential, the Panel directed Council to:

- provide it with a copy of the letter previously provided to landholders advising of the proposed change
- advise DTP, EPA and CCMA, and if not previously advised, relevant occupiers of the proposed change and invite submission on the matter.

Council complied with the Panel's directions and advised that no further submissions were received, noting:

- the EPA indicated it did not have capacity to review the potential impact of the change in the time available; and
- DTP is represented in this Panel so Council anticipates any views held by DTP will be put to the Panel in the course of the hearing.³

Subsequently, one late submission from the owners/occupiers of 391-399 Barwon Heads Road, Marshall was received by Council and referred to the Panel (Submission 30) on 30 October 2024.

(ii) Further late submissions

Council referred further late submissions to the Panel from:

- owner of 137 Barwarre Road, Marshall (Submission 29), represented by Lisa Domaschenz (Ms Domaschenz) on 11 October 2024
- Marshall Pine Products owned by Dreart Pty Ltd (Dreart) (Submission 31) on the final day of the Panel Hearing (27 November 2024).

The Panel advised parties that it would accept further written submission from Dreart by Friday 6 December 2024, and Council may provide reply submissions by Friday 13 December 2024.

Dreart provided a further written submission on 6 December 2024 (Document 112).

(iii) DTP/Marshall Traffic Impact Assessment

DTP's initial submission requested the Traffic Impact Assessment be updated based on current traffic volumes. The Council report dated 28 August 2024 stated that the TIA should be updated.

At the Directions Hearing, Council advised it had reconsidered its position and would not be updating the TIA.

The Panel issued a direction for Council and DTP to meet before the Hearing to identify and discuss resolved and unresolved issues relating to the TIA and prepare a summary report for the Panel.⁴

(iv) EPA submission addendum and Council response

On 13 September 2024, EPA sent a submission directly to Planning Panels Victoria with a copy to Council and indicated it did not wish to participate in the Panel Hearing.

³ Document 8

⁴ Document 25

At the Directions Hearing, the Panel sought clarification from Council about whether it accepted the further submission and intended to formally refer it to the Panel. Council accepted the submission and referred it to the Panel on 8 October 2024.⁵

Following the Hearing, the Panel issued further directions for Council to respond to EPA issues by Friday 13 December 2024 noting the EPA's addendum submission states:

...EPA takes this opportunity to highlight additional risks associated with the proposed 'other appropriate measures' approach to potentially contaminated land, for the Panel's consideration. These risks have been further formalised in EPAs Panel Submission to the Victorian Planning Authority Projects Standing Advisory Committee: Referral 9 – Draft Greater Shepparton Planning Scheme Amendment C117gshe (dated 2 August 2024)".

The Panel requested Council to seek and provide a copy of the EPA's submission to draft Greater Shepparton Planning Scheme Amendment C117gshe referred to in its addendum submission.

Council:

- responded to EPA's issues in its post-Hearing submission
- provided a copy of the EPA's submission to draft Greater Shepparton Planning Scheme Amendment C117gshe.⁶

(v) Expert meetings

The Panel sought the views of parties regarding the benefit of expert meetings.

Subsequently, the Panel directed one expert meeting of drainage experts which was held on 30 October 2024 and a joint memorandum was produced dated 31 October 2024.⁷

(vi) Marshall Station Concept Plan

In response to a question during its submissions, DTP provided the Panel with a copy of a preliminary architectural concept plan for the redevelopment of Marshall Station (Station Concept Plan) (Document 90).⁸ The Concept Plan included a notation over the land at 137 Barwarre Road, Marshall regarding a proposed pedestrian link. Ms Domaschenz sought clarification from Planning Panels Victoria on the purpose of the document, noting it had not previously seen it.

As discussed at the final day of the Hearing, the Panel issued directions for:

- DTP to circulate a brief written explanation of the Station Concept Plan, and any other information that may be relevant to the Panel's consideration of DDO51
- Ms Domaschenz to provide any comments on the further information
- Council to provide any reply comments.

DTP circulated further information about the Station Concept Plan (Document 110) on 2 December 2024.

Ms Domaschenz did not comment on the further information.

⁵ Document 5

⁶ Document 115 and 116

⁷ Document 32

⁸ DTP's referred to this as a Reference Design however the plan title is Concept Plan

(vii) Submissions on the PAO

During cross examination of Mr Black, for Ample, Council raised questions regarding the Panel's legal ability to recommend applying the PAO that it had not previously raised. The Panel provided, and Ample accepted, an opportunity for Ample to make submissions on the matter. The Panel directed:

- Council to circulate a brief written summary of its position in relation to section 19 of the *Planning and Environment Act 1987* (PE Act) as it relates to the submissions on the PAO
- Ample to circulate a response to Council's written summary.

The following documents were received:

- Ample's confirmation that it wished to make submissions on the matter (Document 67)
- Council submission relating to Operation of notice provisions of the Act and PAO (Document 75)
- Ample's further submission (Document 86).

(viii) Council post hearing submission

As directed by the Panel, Council provided a post-Hearing submission (Document 115) on 13 December 2024 in response to the following:

- Dreart submission
- EPA's submission addendum
- Ample and Rich and Pure's drafting comments.

Council provided a copy of the EPA's submission to draft Greater Shepparton Planning Scheme Amendment C117gshe on 19 December 2024 (Document 117).

1.7 The Panel's approach**(i) The Panel's assessment and report**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and documents have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The Report deals with the issues under the following headings:

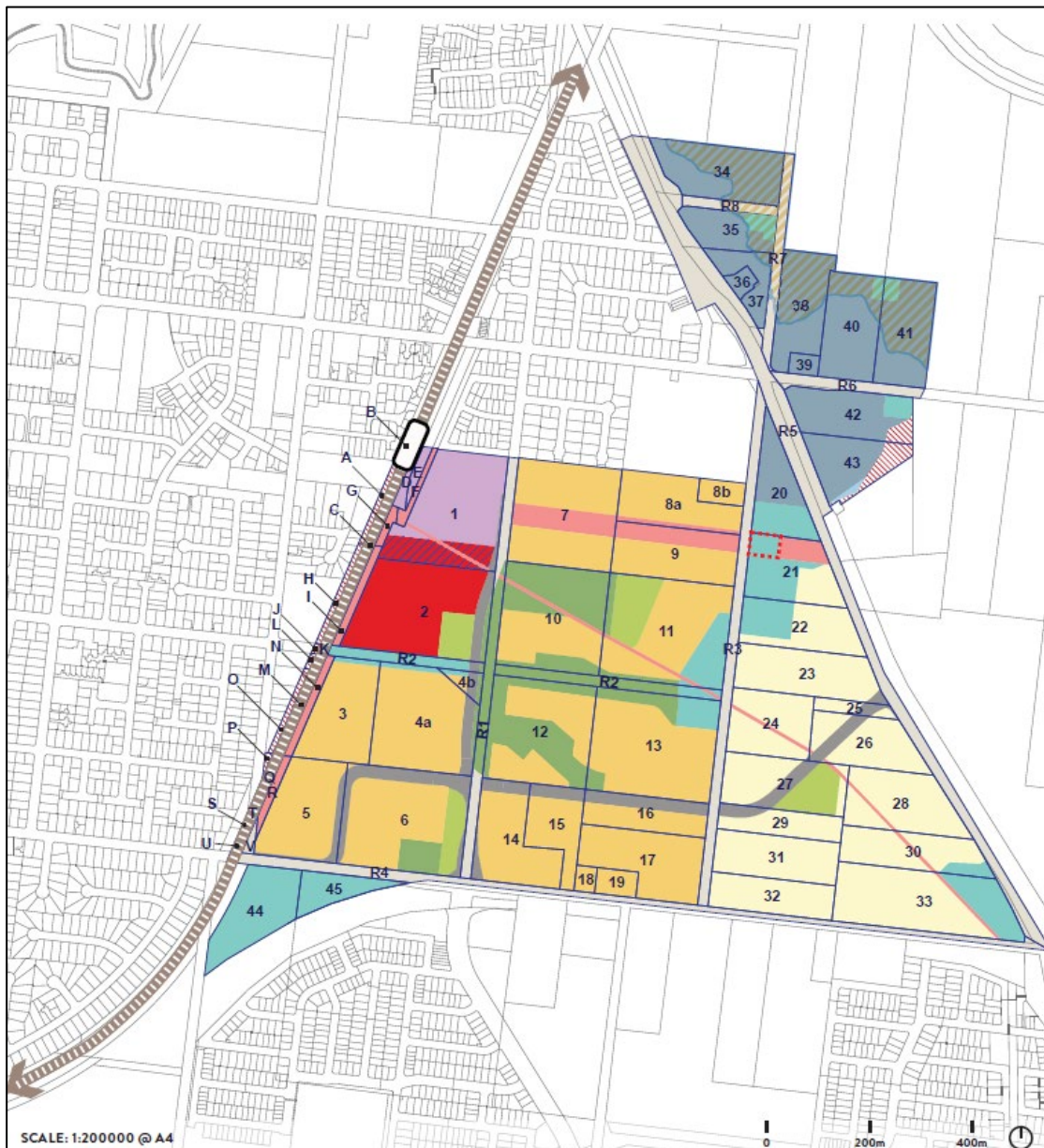
- Strategic issues
- Land use
- Stormwater and drainage
- Movement network and traffic
- Infrastructure delivery, cost and staging
- 137 Barwarre Road/Design and Development Overlay Schedule 51
- Contaminated land

- Environmentally sustainable development
- Other issues:
 - Native Vegetation Precinct Plan
 - Native vegetation, biodiversity and conservation reserves
 - Victorian Grassland Earless Dragon
 - Affordable and social housing
 - Open Space
 - Bushfire
- Form and content of the Amendment.

(ii) Terminology, property and project identification

The Panel Report refers to property numbers as shown on the PSP Plan 6 Precinct Land Use Budget plan (see Figure 6).

Figure 6 Plan 6 Precinct Land Use Budget plan showing property numbers



Source: Exhibited PSP, page 29

The Panel report refers to projects using the DCP project identification system as shown in Table 2.

Table 2 DCP project codes

Development Infrastructure (DI)	
Transport projects	IT – intersections
Open space projects	OS – local parks and linear open space
Drainage projects	DR – drainage infrastructure item
Land Items	LA – land
Community Infrastructure (CI)	
Community infrastructure	CF – community facilities
	OS – open space community infrastructure

The Panel notes the references to DCP drainage assets varies from the PSP (Table 5 Integrated water management asset summary). The Panel refers to drainage projects by their DCP project code, for example DI_DR_07 “*Construction of a Sediment Pond and Retarding Basin and associated infrastructure (SBRB03)*” rather than to just the asset ID SBRB03 as expressed in the PSP.

The Sparrovale Wetlands Reserve – Ngubitj yoorree captures and treats urban stormwater runoff from the ACUGA. The Wadawurrung people gave the reserve its co-name, Ngubitj yoorree which means wetlands. The Panel refers to ‘Sparrovale Wetlands Reserve – Ngubitj yoorree’ as ‘the Wetlands’. Figure 1 shows the location of the Wetlands.

Evidence and submissions variously referred to Hospital Swamp and Hospital Swamps. Consistent with the advice of Mr Craigie, who gave evidence for Re-Grow, the Panel uses the term Hospital Swamps.

(iii) Panel’s recommendations

The Panel has based its recommendations on the Council’s Final day versions of the PSP and UGZ7, and has provided its recommended:

- version of the UGZ7 (Document 103) at Appendix D
- changes to Council’s Final day PSP (Document 105) at Appendix E.

Unless otherwise stated in this Report, the Panel supports Council’s Final day changes to the Amendment documentation.

(iv) Limitations

The recommended changes to the exhibited land use designations are an appreciable departure from the exhibited Amendment.

Council undertook further consultation with directly affected landowners prior to resolving to make these changes (see Chapter 1.2). The Panel directed Council to undertake further consultation with affected occupiers and DTP, CCMA and EPA (see Chapter 1.6(i)). It did this to ensure that potentially affected parties were aware of and could comment on the possible changes.

The additional submissions resulting from this consultation process were considered by Council and the Panel.

Council advised that parties “*have been afforded a proper opportunity to contest this matter*”. The Panel does not comment on the adequacy of notice of the Amendment, but has satisfied itself that potentially affected parties were aware of the proposed change and there has been adequate opportunity for parties to consider and make submissions on the relevant issues.

2 Strategic issues

2.1 Planning context

Table 3 lists the key planning policy and guidance relevant to the Amendment.

Table 3 Planning context

	Relevant references
<i>Planning and Environment Act 1987</i>	- section 4 (1) and 12(1)(a)
Municipal Planning Strategy	- Clause 02.02 Vision - Clause 02.03-1 Settlement - Clause 02.03-2 Environmental and landscape values - Clause 02.03-3 Environmental risks and amenity - Clause 02.03-5 Built environment and sustainability - Clause 02.03-6 Housing - Clause 02.03-7 Economic development - Clause 02.03-8 Transport - Clause 02.03-9 Infrastructure - Clause 02.04 Strategic Framework Plans
Planning Policy Framework	- Clauses 11.01-1S (Settlement), 11.01-1R (Settlement – Geelong G21), 11.01-1L-01 (Settlement – Greater Geelong), 11.02-1S (Supply of urban land), 11.02-2S (Structure planning), 11.02-3S and 11.02-3L (Sequencing of development), 11.03-2S (Growth areas) - Clauses 12.01-1S (Protection of biodiversity), 12.01-2S (Native vegetation management) - Clauses 13.02-1S (Bushfire planning), 13.03-1S (Floodplain management), 13.04-1S (Contaminated and potentially contaminated land), 13.05-1S (Noise management), 13.07-1S (Land use compatibility) - Clause 15.012-1S (Urban design) - Clause 16.01-1S (Housing supply) - Clause 17.02-1S (Business) - Clauses 18.01-1S (Land use and transport integration) and 18.02 (Movement networks) - Clause 19 Infrastructure
Other planning strategies and policies	- Geelong G21 Regional Growth Plan - Armstrong Creek Urban Growth Area Framework Plan - Guidance Note: Applying the PSP Guidelines in Regional Areas (Victorian Planning Authority, 2021)
Planning scheme provisions	- Clause 36.04 (Transport Zone) - Clause 37.07 (Urban Growth Zone) - Clause 43.02 (Design and Development Overlay)

Relevant references	
	<ul style="list-style-type: none"> - Clause 44.03 (Floodway Overlay) - Clause 44.04 (Land Subject to Inundation Overlay) - Clause 45.03 (Environmental Audit Overlay) - Clause 45.06 (Development Contributions Plan Overlay) - Clause 52.16 (Native vegetation precinct plan) - Clause 66.04 (Referral of permit applications under local provisions)
Planning scheme amendments	<ul style="list-style-type: none"> - North East Industrial Precinct PSP proposed refresh anticipated for authorisation in mid-late 2026
Ministerial directions	<ul style="list-style-type: none"> - Ministerial Direction 1 (Potentially contaminated land) - Ministerial Direction 11 (Strategic assessment of amendments) - Ministerial Direction 12 (Urban growth areas) - Ministerial Direction 15 (The planning scheme amendment process) - Ministerial Direction 19 – Part A (The preparation and content of amendments that may significantly impact the environment, amenity and human health) - Ministerial Direction on the preparation and content of development contributions plans
Planning practice notes and guidance	<ul style="list-style-type: none"> - Planning Practice Note 30: Potentially Contaminated Land, July 2021 - Planning Practice Note 46: Strategic Assessment Guidelines, September 2022 - Planning Practice Note 91: Using the Residential Zones, July 2023 - Practitioner’s Guide to Victoria’s Planning Schemes, June 2024 - Precinct Structure Planning Guidelines, Victorian Planning Authority, 2021 - Development Contributions Guidelines, 2003 amended March 2007

2.2 North East Industrial Precinct Structure Plan and Refresh

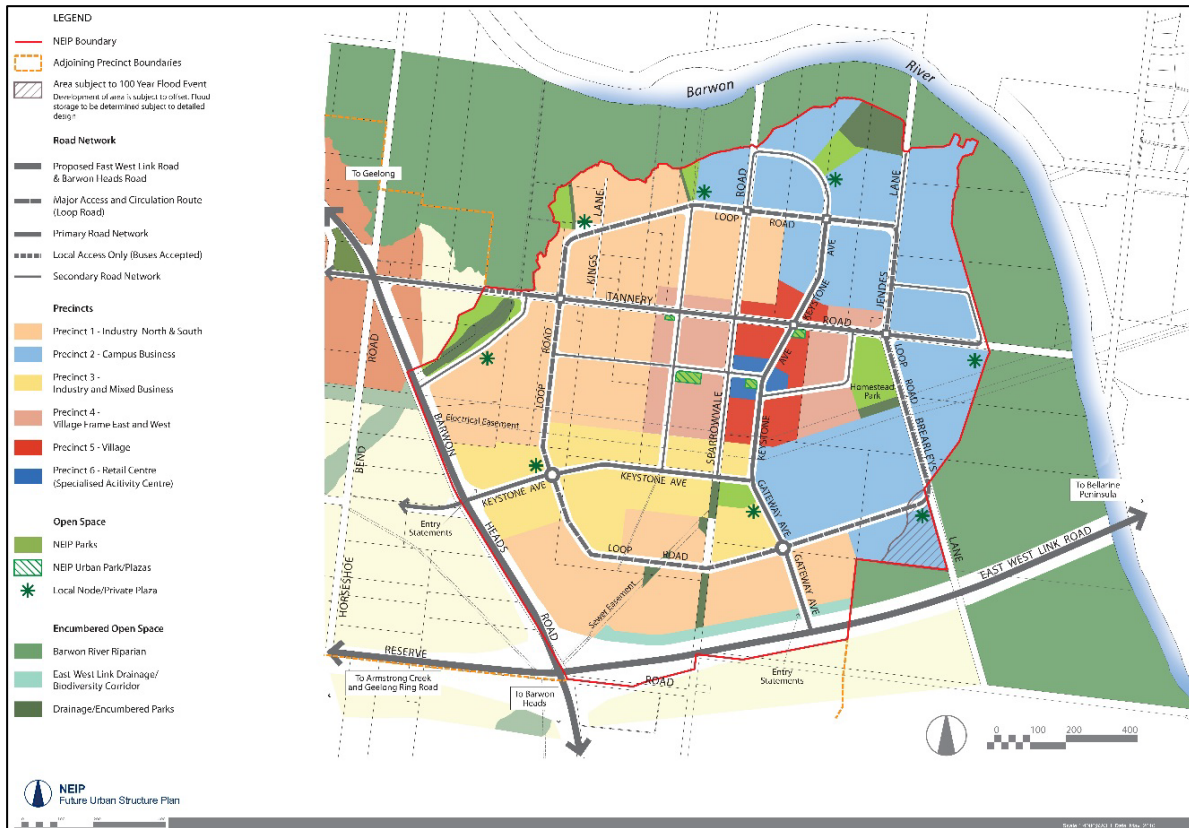
The NEIP interfaces with the PSP sharing stormwater drainage assets and a proposed new signalised intersection at Barwon Heads Road/Keystone Avenue (see Figures 2 and 7). To date there has been no development in the NEIP.

The NEIP Precinct Structure Plan (NEIP PSP) is an incorporated document in the Planning Scheme. Re-Grow has significant undeveloped landholdings in the NEIP and has partnered with Council to deliver the Refresh of the NEIP PSP with consideration of stormwater and transport infrastructure (NEIP Refresh). Council’s Part A submission explained:

Council have partnered with the major landowner in the NEIP to prepare an updated Transport & Access Strategy and Stormwater Management Strategy to inform a future Planning Scheme Amendment to update the [NEIP] PSP and DCP. The intent of this project is a limited ‘refresh’ with a scope primarily to update the [NEIP] DCP with new transport and drainage infrastructure.

...
 The Amendment has been prepared with a view to ensuring that stormwater and transport infrastructure are appropriately designed and the NEIP refresh when completed will result in overall acceptable outcomes”.⁹

Figure 7 NEIP Urban Structure Plan



Source: Planning Scheme, Clause 37.07 Schedule 1 (UGZ1)

It is not the role of the Panel to consider issues relating to the NEIP Refresh. If there are any consequential changes for PSP as a result of the NEIP Refresh this will need to be considered as part of a separate process.

2.3 Strategic justification

Council submitted the Amendment had been prepared as part of implementation of the Framework Plan which outlines the ACUGA vision. Council’s Part A submission explained how the Amendment responds to the planning policy context. It says the Amendment:

- is consistent with broad state policy objectives and aligns *“with the state policies, as established through the rezoning and introduction of a framework plan, to facilitate fair and orderly urban development within the Marshall Precinct”*
- facilitates the fair, orderly, economic and sustainable use and development of urban areas by developing a structure plan informed by the ACUGA
- supports objectives relating to settlement, urban land supply, structure planning, native vegetation management, sequencing of development, growth areas, protection of

⁹ Council Part A submission, Document 7, page 15

biodiversity, native vegetation, environmental risks and amenity, urban design, housing supply, business, land use and transport integration and infrastructure.

The submission provides a detailed overview of how the Amendment supports and is consistent with the Municipal Planning Strategy, and how the amendment meets the form and content requirements of the Victoria Planning Provisions (VPP). Further, the PSP has been prepared with consideration of the *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021) (PSP Guidelines).

Council said the Amendment closely reflects the vision for the Framework Plan, aside from the Commercial/Bulky Goods area.

While no submissions raised issues relating to the Amendment's strategic justification, some submissions raised issues relating to the justification of specific elements of the Amendment, such as the designated Commercial/Bulky Goods area.

The Panel considers the Amendment is strategically justified. The development and implementation of the PSP is consistent with the objectives of planning in Victoria. The PSP has been developed with consideration of the broader strategic planning objectives for the City of Greater Geelong and specifically the ACUGA. The Panel is satisfied the Amendment will facilitate development which:

- provides for the fair, orderly, economic and sustainable use and development of land, and facilitates the provision of housing
- secures pleasant, efficient and safe environments for all Victorians
- enables the orderly provision and co-ordination of public utilities and community facilities.

The Panel has addressed the justification of specific elements of the Amendment in other chapters of this Report.

For the reasons set out in this Report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Land use

3.1 Introduction

(i) What is proposed?

The PSP includes the following objective:

To provide medium and high-density residential development that maximises the location of Marshall Train Station, provides a high amenity interface and integration with land uses including roads, schools, parks, shopping and open space.¹⁰

This objective is reflected in Plan 5 Future Urban Structure (see Figure 4) that allocates land uses across the Precinct. More detailed guidance is provided through requirements and guidelines under various themes, including housing, open space, transport, employment, retail and community facilities, and the Station Precinct. The Station Precinct includes the Station and Local Activity Centre (LAC).

The UGZ7 includes the following applied zones based on the PSP Future Urban Structure:

- Conventional Residential - General Residential Zone (GRZ)
- Medium/High Density Residential - Residential Growth Zone (RGZ)
- Mixed Use – High Density Residential - Mixed Use Zone (MUZ)
- Commercial/Bulky Goods - Commercial 2 Zone (CZ2).

The exhibited UGZ7 requires the preparation of an Urban Design Framework (UDF) for the Station Precinct and for each of the three Commercial/Bulky Goods areas adjacent to Barwon Heads Road.

(ii) Planning and economics evidence

Table 4 lists the planning and economics experts called by parties.

Table 4 Land use planning and economics evidence

Party	Expert	Firm	Area of expertise
Planning			
Council	John Glossop	Glossop Town Planning	Planning
Costa Asset Management and Robin and Jennifer Ellis (Costa/Ellis)	Jason Black	Insight Planning	Planning
Ample	Jason Black	Insight Planning	Planning
Rich and Pure	David Barnes	Hansen Partnership	Planning
Re-Grow	Mark Woodland	Echelon Planning	Planning
Economics			
Ample	Sean Stephens	Ethos Urban	Economics
Rich and Pure	Rhys Quick	Urbis	Economics

¹⁰ Marshall PSP, objective 04, page 23

Party	Expert	Firm	Area of expertise
Re-Grow	Justin Ganly	Deep End Services	Economics

3.2 Commercial/Bulky Goods area designation

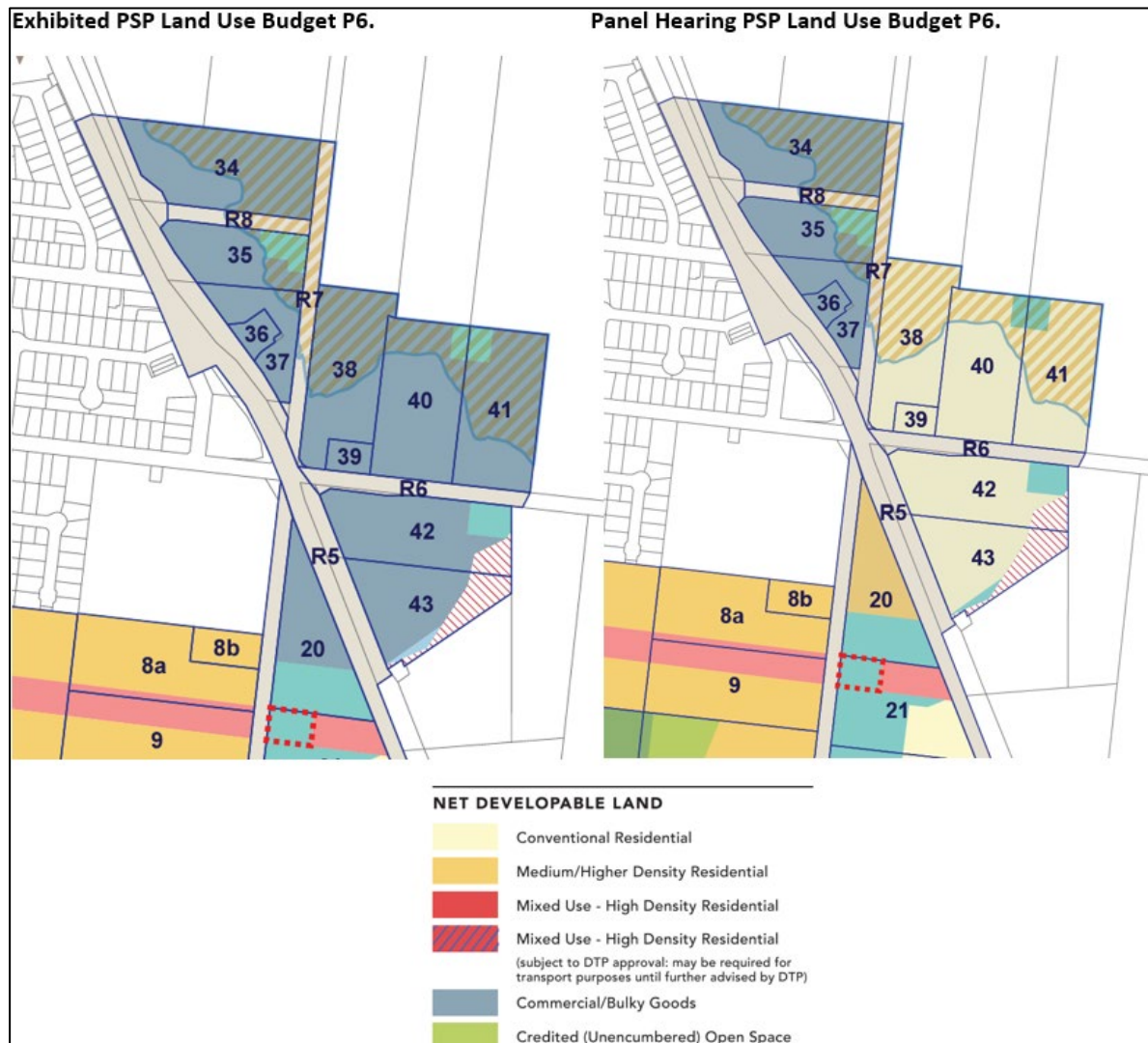
(i) Proposed post-exhibition change

In response to Re-Grow’s submission, Council resolved to change the land use designation of some land from Commercial/Bulky Goods to residential as follows (see Figure 8):

- property 20 to Medium/High Density Residential (RGZ applied zone)
- properties 38 - 43 to Conventional Residential (GRZ applied zone).

Properties 34 - 37 were proposed to be retained as Commercial/Bulky Goods.

Figure 8 Proposed post-exhibition land use designation change, properties 20 and 38 -43



Source: Document 55

Council’s Final day changes to the PSP include changes to:

- Guideline G4, Requirements R8, R9, R40, R45, R45A (new) and Table 3 to provide more flexibility in the orientation, size and development of residential lots to facilitate more

site responsive and efficient subdivision design (see Appendix D). These changes were in response to submissions and evidence relating to the creation of lots fronting arterial roads, including property 20.

- Requirement R84, and to delete R85, to reflect Council's amended position on the Commercial/Bulky Goods land.

(ii) The issue

The issue is whether the exhibited Commercial/Bulky Goods designation (and applied C2Z) should be changed to a residential designation.

(iii) Evidence and submissions

Re-Grow

Re-Grow opposed the exhibited Commercial/Bulky Goods land use designation and described it as an ad-hoc and unplanned commercial corridor that was inconsistent with the Framework Plan, the Greater Geelong Retail Strategy 2020-2036 (Retail Strategy) and other policy documents. It noted the designation had not been underpinned by an economic analysis and submitted that strategic and physical context factors supported a residential designation.

Re-Grow submitted the NEIP interface and potential buffer zones associated with existing and future industrial development did not weigh against residential development. It noted the NEIP is a 'mixed use' and 'light industrial' employment area (a permit is required for industry) and the drainage reserve between the two precincts acts as a buffer zone.

Re-Grow supported the residential designation to this area but did not specify a residential density or propose an applied residential zone.

Rich and Pure (properties 20, 42 and 43)

Rich and Pure submitted the Commercial/Bulky Goods designation should be retained and described the Council report in support of the proposed change to residential as "*superficial at best*".¹¹ It believed the residential designation in the Framework Plan should be interpreted with a degree of flexibility given its age and where there are sound planning reasons for doing so. It provided indicative plans and described proposed development for:

- property 20 with a service station/convenience shop, car wash, food and drink premises and a childcare centre
- properties 42 and 43 with a service station/convenience shop, ground floor medical/pharmacy, first floor offices, food and drink premises warehouses and a recreation facility.¹²

Rich and Pure noted it had consulted with Council and DTP about these proposals, including the proposed vehicle access from Barwon Heads Road. It submitted the proposed uses are generally not in competition with the NEIP although there is some overlap. Where there is overlap, it said competition would be a positive for the local community and not a reason to preclude development. It also noted the lack of development progress with the NEIP.

¹¹ Rich and Pure submission, paragraph 4.3, Document 62

¹² Documents 28 and 29

In relation to property 20, Rich and Pure submitted the residential yield would be limited by its triangular configuration, boundary with Barwon Heads Road and loss of land to a drainage reserve. While noting the proposed commercial uses would be discretionary in an applied residential zone, it sought certainty through the C2Z or some designation, such as a notation in the PSP that the site is suitable for “*child care, fast food, service station and car wash with access from Barwon Heads Road*”.¹³

In relation to properties 42 and 43, Rich and Pure submitted that Barwon Heads Road was a major barrier to a walkable catchment to the west. It said Tannery Road is likely to become an industrial road when NEIP is fully developed, and the land is unacceptably distant from transport and community facilities. It also raised concerns about the potential for reverse amenity impacts associated with the NEIP’s industrial development. It cited various ‘threshold’ provisions in Clause 53.10 of the Planning Scheme and referred to the Marshall Pine Products business¹⁴ as an example of a potentially incompatible land use (see Figure 9).

Noting the eastern areas of properties 42 and 43 are within NEIP Precinct 1 – Industry North and South and have the applied Industrial 1 Zone (INZ1), Rich and Pure submitted the area of these properties within the Precinct should not be designated for residential use to avoid potential land use conflicts with future industrial development.

Rich and Pure made submissions about vehicle access from Barwon Heads Road to the east and west, including discussions held with Council and DTP. In summary, it noted DTP has discretion to approve access and had previously agreed ‘in principle’ to property 20 being accessed from Barwon Heads Road.

Rich and Pure provided a ‘high level feasibility summary’ for residential development of property 20 to demonstrate the impact of various provisions that might constrain residential development.¹⁵

Rich and Pure provided drafting comments on Council’s Final day version of the UGZ7 and submitted that property 20 should retain the C2Z or have the MUZ or another residential zone applied with a notation supporting possible non-residential use.¹⁶

Costa/Ellis (properties 35, 36 and 37)

Costa/Ellis supported the exhibited Commercial/Bulky Goods designation applied to properties 35, 36 and 37. They outlined the constraints that affect the land and noted the sites have a net developable area (NDA) of approximately 2.39 hectares and a potential yield of 40 dwellings assuming a density of 17 dwellings per hectare.¹⁷

Costa/Ellis relied on Mr Black’s evidence that supported the exhibited Commercial/Bulky Goods designation.

Other submitters

Hublet Capital Pty Ltd (Hublet) (properties 38 and 39) supported the exhibited Commercial/Bulky Goods designation and either the C2Z or MUZ as the applied zone. It submitted that Council had

¹³ Rich and Pure submission, paragraph 6.8, Document 62

¹⁴ Located on Tannery Road, within the NEIP

¹⁵ Document 76

¹⁶ Document 114a

¹⁷ This includes the 0.23 hectares of property 36 that is developed with the service station

not had adequate regard to the need for C2Z land in the area and noted residential development of the sites would have a negligible impact on housing supply. Hublet cited various benefits of commercial development, including consistency with what is envisaged for the NEIP. It also highlighted various compatibility, amenity, accessibility and flooding issues associated with residential development.

Submitter 9 (property 41) lodged an initial written submission in relation to drainage and valuation matters and an addendum submission in response to Council's proposed change of land use designation. It did not object to a medium/high density residential designation or a Commercial/Bulky Goods designation of the property.

Dreart owns Marshall Pine Products, a pine and timber manufacturing business located at 63 Tannery Road, Charlemont. The site is within the NEIP and approximately 300 metres east of the Precinct boundary and property 41. The submission outlined that manufacturing takes place on the site, including timber sawing, kiln drying and moulding.

Dreart objected to the proposed redesignation of the area to residential and the proposed 'bus only' use of Tannery Road included in the NEIP PSP.

Dreart submitted the noise and dust generated on its site would likely cause amenity issues for new residents within the Precinct, increase operating costs, disrupt the business, and decrease the property's value. Dreart submitted the business is not the agent of change and should not be restricted by the threshold distances in Clause 53.10 of the Planning Scheme. The Panel notes Clause 53.10 nominates a 500 metres threshold to 'sawmill, wood products and furniture' within which an application for these uses must be referred to the EPA. It does not act as a prohibition on the nominated land uses.

DTP

DTP discussed issues related to access from Barwon Heads Road and advised "*it is unlikely to support direct access to Barwon Heads Road from proposed commercial/bulky goods areas...*".¹⁸ In this context it supported residential development in the area. In response to a question from the Panel, DTP advised there should be no direct access to Barwon Heads Road (or Bellarine Link) from abutting properties.

Experts

Mr Glossop noted the area is "*highly constrained and somewhat isolated*" and concluded it could be used for either bulky goods or residential, although he "*slightly*" favoured bulky goods.¹⁹ He did not believe the Framework Plan or NEIP PSP precluded Council from including some form of bulky goods retailing in this area.

Mr Woodland's evidence was that the exhibited designation was "*not generally in accordance*"²⁰ with the Framework Plan and there is no identified need or justification for providing commercial/bulky goods within the Precinct. He preferred residential development, consistent with the Framework Plan and in recognition of its locational advantages, including proximity to the Station Precinct. He did not believe there was any obvious benefit or need to retain the

¹⁸ S5, pages 2 and 3

¹⁹ Mr Glossop evidence statement, Document 9, paragraph 69

²⁰ Mr Woodland evidence statement, Document 17, paragraph 9

Commercial/Bulky Goods designation over properties 34-37, provided the potential residential constraints identified by Council can be addressed.

Mr Ganly provided an assessment of retail related policies and noted the exhibited Commercial/Bulky Goods designation was not supported by an economic assessment. He concluded the designation was not strategically sound from an economic/retail planning perspective and would impact negatively on Re-Grow's ability to develop its land for similar purposes as envisaged in the NEIP PSP. He did not support the retention of properties 34-37 in the Commercial/Bulky Goods designation proposed by Council.

Mr Barnes did not consider the Framework Plan precluded commercial development and believed there were sound planning reasons to support it. He did not believe the limited residential yield (approximately 10 hectares and 117 houses²¹) would have a noticeable impact on housing supply and did not justify applying a residential designation to an area not well suited for residential use. He concluded it would be poor planning to allow residential development east of Barwon Heads Road given the planned industrial activity within the NEIP and the potential upgrade of Tannery Road.

Mr Barnes added that:

- Barwon Heads Road is a “*significant barrier to walkability*”²² and residential development to its east would not be appropriate
- being located within 800 metres of the Station precinct was not sufficient justification for supporting residential development given the range of factors that militate against it.

Mr Barnes assessed various site specific planning factors and concluded:

- property 20 could have a commercial or residential applied zone, but he preferred the C2Z, as exhibited
- properties 42 and 43 could have a commercial or industrial applied zone, but he preferred the C2Z, as exhibited.

Mr Quick highlighted the area's locational advantages for commercial development. He did not consider it a preferred location for residential development compared with other parts of the Precinct. He assessed the per capita provision of C2Z land in Armstrong Creek as below the average for Geelong and did not believe the exhibited Commercial/Bulky Goods designation in Marshall would undermine the Retail Strategy. He advised that residential, instead of commercial development, would result in the loss of 145 potential job opportunities.

Mr Black stated the Framework Plan's residential designation was no longer appropriate given the changed site context, including the recent upgrade of Barwon Heads Road. He was of the view that commercial use should be preferred. He concluded that residential use would be inappropriate because:

- the sites are partially encumbered by flooding overlays and proposed drainage infrastructure
- the existing service station (property 36) could create amenity issues and land use conflicts
- there is poor pedestrian access within and to the sites.

²¹ Mr Barnes evidence statement, Document 22, paragraph 124

²² Mr Barnes evidence statement, Document 22, paragraph 150

Mr Black noted the relatively small NDA and concluded it would be highly unlikely to have any detrimental impact on the development or viability of the 180 hectare NEIP.

Mr Black did not support the exhibited UGZ7 requirement that a masterplan be prepared for each of the three Commercial/Bulky Goods areas. He believed a masterplan was unnecessary given the relatively small area designated for Commercial/Bulky Goods, the recent upgrade of Barwon Heads Road and the Divine Street intersection, and the opportunity to develop property 34 separately.

Council

During the Hearing, Council confirmed its intention to change the land use designations and submitted the rationale for the changes included:

- the lack of a demonstrated need to provide for Commercial/Bulky Goods in this area
- the need to deliver housing, consistent with Victoria's Housing Statement
- the area's proximity to transport infrastructure, jobs precincts (including NEIP) and Central Geelong
- consistency with the Framework Plan
- DTP concerns about providing direct vehicular access from Barwon Heads Road.

Council advised the proposed changes would not require a reassessment of the SWMS and the Principal Road Network, particularly Barwon Heads Road, can accommodate residential development. Council also provided a response to amenity and other impacts associated with industrial use within the NEIP.²³

Council submitted properties 34-37 should retain the Commercial/Bulky Goods designation. It noted a service station is currently operating on property 36 and the two properties north of the service station (34 and 35) are significantly flood prone and adjacent to Barwon Heads Road that acts as a barrier. It concluded that amenity and access are poor and doubted whether residential development would be viable. It said that retaining the commercial designation for this area would not undermine the orderly and economic development of the NEIP or present as unacceptable ribbon development along Barwon Heads Road.

The Panel sought further advice from Council about the background to the exhibited designation and was advised it was the result of stakeholder engagement and various factors including:

- Existing flood constraints and lower Barwon River flood investigations
- The status of Barwon Heads Road including the unsignalised roundabout intersection at Barwon Heads Road / Marshalltown Road/ Tannery Road and Horseshoe Bend Road
- Relative isolation and poor connectivity of the precinct for residential use in the context of the condition of Barwon Heads Road and proximity to the Barwon River Floodplain and North East Industrial Precinct.²⁴

Council advised it had not undertaken an economic/retail impact assessment of the exhibited Commercial/Bulky Goods designation.

²³ Council's post hearing submission, Document 115

²⁴ Council's summary of process for Commercial/Bulky Goods designation, Document 102

(iv) Discussion

Policy context

The Framework Plan is the overarching policy document to guide land use designations in the PSP. This was not contested in submissions or evidence and is the Panel's reference point for considering whether the exhibited Commercial/Bulky Goods designation is appropriate.

The Framework Plan applies the 'Conventional Density Housing' and 'Medium-High Density Housing' designations (see Figure 3). It does not designate any land within the Precinct for bulky goods or restricted retailing.

The Panel agrees there is some discretion in implementing the Framework Plan and determining the appropriate land use designations, although it notes Council's advice that the land use designations in the approved Armstrong Creek PSPs have largely been consistent with the Framework Plan.

Submissions and evidence also referred to the Retail Strategy that was implemented through Amendment C393ggee (approved in May 2021). The Retail Strategy does not designate any land for bulky goods or restricted retail in the Precinct, although it is primarily focussed on restricted retail centres with a floorspace greater than 50,000 square metres and does not specifically identify smaller areas such as proposed in the Amendment. For this reason, the Panel does not believe the Retail Strategy precludes the exhibited Commercial/Bulky Goods designation being applied.

The Panel's starting point is simply that the Precinct's land use designations should be consistent with the Framework Plan unless subsequent investigations identify the land is unsuitable for the proposed land use or there are compelling reasons to prefer a different land use.

The exhibited Commercial/Bulky Goods designation is clearly inconsistent with the Framework Plan and the exhibited Amendment documentation did little to explain or justify this inconsistency. The PSP Background Report provides little guidance on the reasons for applying the Commercial/Bulky Goods designation and notably there was no economic or retail analysis in support of the designation.

Submissions and evidence raised various issues in relation to whether the Framework Plan's residential designation remained appropriate, or whether a Commercial/Bulky Goods designation was a justifiable and preferred alternative.

The Panel's primary focus is on assessing the suitability of the land for residential use, and if it is not suitable, whether the Commercial/Bulky Goods designation might be appropriate. The Panel discusses the relevant factors below, before providing its conclusions in relation to specific properties.

Contribution to housing supply

It is agreed that residential development of these sites would not provide a significant number of dwellings in the broader Marshall, Armstrong Creek and Geelong contexts²⁵. Some argued that this was a reason for departing from the Framework Plan while others argued that providing any

²⁵ D55 indicates the NDA is approximately 10 hectares

housing would be positive considering current housing supply challenges and policy initiatives such as Victoria's Housing Statement.

While the contribution this area might make to housing supply is relatively modest, this is not a reason to support an alternative land use. As explained earlier, the Framework Plan designates the land for residential use and the Panel is satisfied this should be the starting point for planning this area.

Some submissions and evidence highlighted various PSP residential subdivision requirements and guidelines relating to lot size, configuration, and orientation that could collectively reduce potential lot yield. Property 20 was cited as an example of how these provisions might impact on subdivision design and viability. As described earlier, Council has proposed changes to those PSP provisions to provide more flexibility in subdivision design and potentially enable greater lot yield. The Panel supports those changes as shown in Council's Final day version of the PSP.

Whether individual projects will be viable is not something the Panel can usefully comment on other than to note Council's changes have the potential to increase yield and reduce development costs.

Walkable neighbourhood

There were extensive submissions and evidence about the proximity of community facilities and infrastructure including the Station and other transport infrastructure, the LAC, schools and open space. Some argued the land's proximity to many of these facilities supported a residential designation, while others argued some facilities were outside a walkable catchment and weighed against residential development.

The Framework Plan provides for a variety of housing needs by "*basing development on walkable neighbourhoods of approximately 1.6 km across, centred on local centres*".²⁶ The exhibited PSP uses a 400 metre walkable catchment as a measure for requiring different housing densities²⁷ within the Medium/Higher Density Residential area. This is shown on Plan 7 with Character, Heritage, and Housing, along with a 600 metre catchment.

Having regard to the Framework Plan and PSP, it is appropriate to define a walkable catchment based on the Station Precinct, while noting that some facilities, such as schools, are more distant. The catchment is a useful guide to determining housing density but it is not a basis for defining the outer limit of residential development as some seemed to suggest. Some residentially designated areas within the Precinct (such as in the south-east corner) are also outside the 800 metre catchment, but this is not a basis for changing their land use designation.

The Commercial/Bulky Goods land to the east of Barwon Heads Road is generally outside the 800 metre catchment. This does not preclude residential use but should inform the choice of residential designation and applied residential zone. Property 20 is within the 800 metre catchment, a factor that should also inform the preferred residential designation and applied zone.

²⁶ Armstrong Creek Urban Growth Plan, Incorporated Document

²⁷ Requirement R13 – requires a minimum of 30 dwellings per net developable hectare within the 400 metre walkable catchment of the Station Precinct

Barwon Heads Road

Barwon Heads Road was cited as a barrier between the land to its east and the Station Precinct to the west. Some submitted the road should preclude residential development to the east given the barrier effect and safety issues associated with pedestrian crossing of the road.

There is a controlled pedestrian crossing at the Barwon Heads and Tannery Road intersection that was installed as part of recent intersection upgrades. These works were undertaken after the draft PSP was prepared and have addressed Council's access concerns that contributed to the exhibited Commercial/Bulky Goods designation.

The Panel is satisfied this intersection provides a safe, convenient pedestrian crossing and removes any pedestrian barrier effect that might have been anticipated before the upgrades were undertaken. The crossing is centrally located within the eastern area of the Precinct and provides a generally direct link to the Station Precinct.

Council's Final day changes to the PSP include a range of requirements intended to manage issues relating to providing service road frontage and passive surveillance to Barwon Heads Road resulting from the residential designation. The Panel supports these changes.

Amenity

Submissions and evidence raised concerns about possible residential amenity impacts associated with proximity to Barwon Heads Road, traffic on Tannery Road, the Barwon River floodplain and the recently approved service station on property 36.

There are extensive residential areas along Barwon Heads Road within the Horseshoe Bend and Armstrong Creek East precincts. These areas demonstrate that residential development can be suitably configured along the Barwon Heads Road frontage and address any associated amenity impacts. This should be achievable in the Precinct and will be assisted by the increased flexibility provided by Council's Final day changes to the PSP subdivision requirements and guidelines. The Panel accepts these changes unless otherwise stated in this Report.

Council advised the future role of Tannery Road in the NEIP PSP is for *"buses, an off-road shared user path and for private vehicles (apart from the bus only link which will have no private vehicle access)"*.²⁸ Other than this, it is not intended to carry through traffic, although Council advised this will be reviewed as part of the NEIP Refresh.

The Panel does not believe the function of Tannery Road described in the NEIP PSP would have any negative amenity impacts on future residential development in this area. Instead, it would likely improve amenity by limiting through traffic. If the NEIP Refresh (considering the land use designations approved through this Amendment) determines that Tannery Road's function should change, then amenity impacts associated with increased traffic can be addressed in the road design and future planning and approval processes for adjacent land within the Precinct.

The Panel does not consider the Barwon River floodplain and associated flood overlays will have a negative amenity or safety impact on residential development. Rather than being a *"wasteland"* as suggested by Mr Barnes, the Panel believes the floodplain provides an attractive backdrop to the properties north of Tannery Road. This will be enhanced as the implementation of the Kitjarra-

²⁸ Council submission – Role of Tannery Road, Document 80

dja-bul Bullarto langi-ut Masterplan progresses.²⁹ Any safety issues associated with flooding in the area can be addressed during subdivision design and approval.

The Panel agrees the service station on property 36 raises amenity issues that are discussed below in relation to properties 34-37.

Interface with the NEIP

Submissions and evidence argued that residential development would be inappropriate because of the potential incompatibility with existing and future industrial development in the NEIP.

The NEIP PSP promotes a diverse range of industrial and commercial uses, including large tenancies and land uses. It is intended to be a high amenity environment with managed interfaces. The adjoining area in the NEIP is Precinct 1 – Industry North and South where the applied zone is the IN1Z, although the UGZ2 requires a permit for industrial use.

The NEIP PSP provides an open space and drainage corridor, as shown in Figure 7, that separates the Marshall and NEIP Precincts to the south of Tannery Road. The width of this open space ranges from 45 to 100 metres and is intended to have a road along its eastern boundary. To the north of Tannery Road, the Marshall and NEIP Precincts are separated by land outside the Precincts and subject to the Farming Zone. The width of that land is approximately 120 metres.

The Panel is satisfied the UGZ2 permit requirement for industry can appropriately manage this interface and any potential land use conflicts with residential development in the Precinct. This will be assisted by the buffer created from the open space and drainage corridor to the north and south of Tannery Road. In addition, industrial uses such as Dreart's are subject to the general environmental duty (GED) under the Environment Protection Act that requires:

A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable.³⁰

Dreart's operation is within an area that includes existing dwellings (as shown in Figure 9), many of which are closer to the site than the Precinct. In addition, the business is proximate to the NEIP Precinct 4 - Village Frame East, within which a dwelling does not require a permit where the ground level frontage is less than two metres. NEIP Precinct 1 – Industry North and South provides for various sensitive uses to be permissible, despite the applied Industrial 1 Zone.

The Panel agrees with Council's conclusion that:

...in eliminating or minimising the risk of harm arising from dust and noise emissions to those more proximate dwellings the harm will be minimised to acceptable levels for new dwellings substantially further away. The duty is ongoing and requires changes to operation as technologies emerge and what is reasonably practicable changes.³¹

²⁹ Document 71

³⁰ Environment Protection Act section 25(1)

³¹ D115, paragraph 21

Figure 9 Dwellings (shown in red circles) in proximity to the Marshall Pine Products/Dreart business (shown in the centre of the photograph)



Source: Council's Post hearing submission, Document D115, paragraph 18

For these reasons, the Panel is satisfied potential amenity impacts generated by existing and future industrial activity within the NEIP, including the Dreart business, can be suitably managed and do not preclude residential development to the east of Barwon Heads Road in the Precinct.

Mixed Use Zone

Submissions advocated the possible use of the MUZ as the applied zone (Rich and Pure for property 20 and Hublet for properties 38 and 39) instead of the C2Z and in preference to another residential zone.

The MUZ is within the residential suite of zones but allows a broad range of residential, commercial, industrial and other uses to be considered. Planning Practice Note 91: Using the Residential Zones, identifies the MUZ is *"Suitable for areas identified for residential development at higher densities including urban renewal and strategic redevelopment sites"*.

The Panel believes that where land is designated for residential use, the GRZ and RGZ are preferred residential zones and more clearly define the preferred land use. If a residential designation is not considered appropriate for the site or area, the C2Z would be preferred over the MUZ because it does not provide for residential use. This situation is different from the application of the MUZ to the Station Precinct, where the applied MUZ reflects the mix of land uses that are intended, consistent with the Framework Plan.

Property 20

The Panel supports Council's proposed Medium/High Density Residential designation and the RGZ as the applied zone to property 20. It also supports the deletion of R85 that applies various Commercial/Bulky Goods provisions.

A residential designation is consistent with the Framework Plan and the Panel is satisfied the land can be suitably developed for residential purposes. There is no strategic basis for applying the Commercial/Bulky Goods designation and the C2Z as the applied zone.

The Medium/High Density Residential designation and applied RGZ are appropriate given the property is mostly within the 800 metre walkable catchment of the Station Precinct. Planning Practice Note 91 provides guidance that the RGZ should be applied to well serviced areas suitable for housing diversity and increased densities, and transition areas between land uses.

The Panel does not support inclusion of a notation identifying the site as suitable for certain commercial uses. Its designated use is residential, subject to the discretion under the applied RGZ to consider other uses, and there is no apparent strategic basis to prioritise commercial uses on this or any other GRZ or RGZ site in the Precinct. While the Panel acknowledges submissions and evidence about various commercial uses on the site, it has not formed any views about the merits of specific proposals or commercial uses. These would be matters for future planning permit application processes.

In relation to allowing vehicular access from Barwon Heads Road, this is subject to DTP's discretion and the Panel has not formed a view about how or whether access might be provided. However it notes Mr Walsh's assessment³² that vehicle access could be provided, potentially with minimal disruption to through traffic and previously DTP has provided 'in principle' support.

Properties 38, 39, 30, 41, 42 and 43

The Panel supports Council's proposed application of the Conventional Residential designation and the GRZ as the applied zone.

A residential designation is consistent with the Framework Plan and the Panel is satisfied the land can be suitably developed for residential purposes. There is no strategic basis for applying the Commercial/Bulky Goods designation or the C2Z as the applied zone.

The Conventional Residential designation and applied GRZ are appropriate given the properties are mostly outside the 800 metre walkable catchment of the Station Precinct.

The Panel notes a range of commercial uses are permissible under the applied GRZ but has no views about their suitability on these properties. These would be matters for future planning permit application processes.

Properties 34, 35, 36 and 37

These properties have a residential designation in the Framework Plan, however submissions and evidence raised issues about their suitability for residential use.

This area has some positive attributes for residential use including its relative proximity to the Station Precinct and other community infrastructure. It also has a pleasant outlook to the north and east over the Barwon River floodplain and access to open space associated with the Barwon River.

However, the sites' context and characteristics provide several challenges and possible constraints on residential development, including:

- the limited scope to develop property 37 for residential purposes because of its small size and difficult configuration

³² Walsh expert witness statement, Document 24

- the amenity and visual impacts of the 24-hour service station on property 36, including noise and lighting. This is mainly an issue for property 37 given its abuttal to the service station on three sides and to a lesser extent property 35
- the amenity and visual impacts of traffic on the Narriyu Bridge (Barwon Heads Road railway overpass) associated with potentially elevated traffic noise and light issues. This is mainly an issue for property 34 given its closer proximity to the bridge
- the lack of an existing pedestrian connection to Tannery Road and the Barwon Heads Road pedestrian crossing, although this could be provided in the future
- its relative isolation and separation from the rest of the Precinct given its northern location and extensive abuttals to Barwon Heads Road and the Barwon River floodplain.

In isolation, none of these factors preclude residential development, but in combination they create more development challenges than other residential areas in the Precinct. The Panel agrees with Mr Glossop's observation that the disconnection of this area is more of a problem than its distance, and there is potential for a poorer quality residential outcome that would be difficult to integrate with the Marshall community.

As Council noted, determining a preferred land use for this area is a balancing act, and not one that is straightforward. On balance, the Panel believes the context and characteristics of this area warrant a departure from the Framework Plan's residential designation and supports the exhibited Commercial/Bulky Goods designation and applied C2Z.

In reaching this conclusion, the Panel is satisfied that retaining the Commercial/Bulky Goods designation over this relatively small area³³ will not compromise the development of the NEIP or be inconsistent with the Retail Strategy. It would be an appropriate land use in this area and there are no apparent impediments to its development.

The Panel supports the requirement that a masterplan be prepared for this area and believes the constraints and design challenges that affect it reinforce its need. The Panel supports the consequential changes to the masterplan provisions proposed by Council in its Final day version of the UGZ7.

(v) Conclusions and recommendations

The Panel concludes:

- The Framework Plan is the overarching policy document for determining the appropriate land use designations in the Precinct.
- The exhibited Commercial/Bulky Goods designation is inconsistent with the Framework Plan.
- Property 20 is suitable for residential development and should have the Medium/High Density Residential designation with RGZ as the applied zone.
- Properties 38, 39, 40, 41, 42 and 43 are suitable for residential development and should have the Conventional Residential designation with GRZ as the applied zone.
- Properties 34, 35, 36 and 37 have design and locational constraints that warrant a departure from the Framework Plan and the exhibited Commercial/Bulky Goods designation should be retained with C2Z as the applied zone.

³³ Document 55 indicates a net developable area of approximately 2.4 hectares

- In the context of the Panel's findings, Council's proposal to amend R84 and delete R85 is appropriate (as shown in Appendix D).

The Panel recommends:

Apply the Medium/High Density Residential designation and the Residential Growth Zone as the applied zone to property 20.

Apply the Conventional Residential designation and the General Residential Zone as the applied zone to properties 38, 39, 30, 41, 42 and 43.

Make the required consequential changes to Amendment documents resulting from the recommended change to land use designation.

Marshall Precinct Structure Plan

Amend Requirement R84 and delete R85, as shown in Appendix E.

3.3 Residential designations and densities

(i) Background

The exhibited PSP includes the following objective:

To provide medium and high-density residential development that maximises the location of Marshall Train Station, provides a high amenity interface and integration with land uses including roads, schools, parks, shopping and open space.³⁴

Within the PSP Medium/Higher Density Residential designation, Table 2 Residential Development Yield requires a minimum 30 dwellings per hectare within a 400 metre walkable catchment of the Station Precinct and 25 dwellings per hectare beyond that distance. These are established as minimum requirements under Requirement R13.

The preferred housing types under the Medium/Higher Density Residential designation in PSP Table 3 Location by Preferred Housing Typology are:

- Some multi-unit apartments in areas of higher amenity.
- Small lot housing including townhouses, attached, semidetached and some detached houses
- Larger lots to be provided abutting arterial roads.³⁵

(ii) The issue

The issue is whether the exhibited residential designations and density provisions are appropriate.

(iii) Evidence and submissions

The owner of properties 3, 4a, 4b and 6 raised issues about the appropriateness of residential density targets. It submitted the exhibited density targets were inflexible and did not meet market demand for larger homes in the area, including three bedroom separate dwellings. It sought a more flexible approach to setting densities through a range of density guidelines rather than a fixed minimum. It did not describe how this might be achieved and did not provide any drafting changes to the Amendment.

³⁴ Exhibited Marshall PSP, page 23

³⁵ Exhibited Marshall PSP, page 42

The owner of 91-109 Reserve Road, Marshall (property 5) opposed the site's Medium/High Density Residential designation. The submission sought a "*High Density Residential*" designation for the site to take advantage of the lack of development constraints and proximity to the Station Precinct and associated connector street. The submission supported multi-unit apartments and terraced/row housing along the railway line and major road interfaces.

Council did not support changes to the exhibited residential density provisions. It submitted that the arrangement of densities reflected the proximity of land to the Station, other transport infrastructure and the proposed activity centre.

In relation to property 5, Council noted the densities are minimum targets, and higher densities can be supported subject to acceptable design outcomes. Council advised it did not support lower densities than required by the PSP Table 2 and Requirement R13.

Although Mr Glossop did not specifically respond to these submissions, he generally supported the allocation of different residential densities and the selection of applied zones to the west of Barwon Heads Road.

In drafting comments on Council's Final day version of the PSP, Rich and Pure proposed a qualification to Requirement R13 that would provide discretion in the minimum number of dwellings per hectare where the site is constrained. Council agreed to the change.

(iv) Discussion

The Panel is satisfied the exhibited Medium/High Density Residential designation and applied RGZ are consistent with the Framework Plan. The Framework Plan applies the Medium-High Density Housing designation extensively within the Precinct, including the sites owned by the submitters. This designation provides for 30 dwellings per hectare where proximate to activity centres, open space, railway stations and areas of high amenity.

These residential elements of the Framework Plan are broadly reflected in the PSP residential objective that is focussed on "*medium and high-density residential development*" and implemented through the exhibited density provisions.

The Panel does not believe that reducing the Medium/Higher Density Residential density targets or converting them to discretionary provisions would be consistent with the intent of the Framework Plan to achieve 30 dwellings per hectare within a 400 metre walkable catchment of the Station Precinct.

In relation to market demand and housing diversity, the Panel notes the PSP provides flexibility in preferred housing types, including the opportunity for detached dwellings and larger lots within the Medium/Higher Density Residential designation. In addition, the PSP applies the Conventional Residential designation and GRZ to land in the south-east of the Precinct (see Figure 4). This designation and applied zone provide for a lower residential density, detached housing and larger lots. The Panel is satisfied these provisions provide suitable opportunities for the types of dwellings and lot sizes in the Precinct without compromising the intent of the Framework Plan.

The Panel acknowledges the development potential of property 5 but is satisfied the PSP and UGZ7 provide suitable opportunities to achieve a site and location responsive housing density and type. This includes multi-unit apartments and terraced/row housing as sought by the submitter. As Council noted, the various density provisions in the PSP establish minimum requirements and there is scope to provide higher densities and associated housing types where suitable.

For these reasons the Panel does not support any changes to the residential designations or density provisions in the exhibited PSP or UGZ7.

The Panel supports the change to Requirement R13 agreed by Council and Rich and Pure to provide additional flexibility to take account of smaller, constrained lots and has included this as a recommendation in Appendix E.

(v) Conclusion and recommendation

The Panel concludes the residential designations and density provisions in the exhibited PSP and UGZ7 are appropriate.

The Committee recommends:

Marshall Precinct Structure Plan

Amend Requirement R13, as shown in Appendix E.

3.4 Station Precinct

(i) Background

The UGZ7 requires the preparation and approval of the Station Precinct UDF. The PSP, Section 4.2 Station Urban Design Framework Requirements and Guidelines, includes the vision, objectives, requirements and guidelines for the Station Precinct UDF as well as Plan 18 Station Concept Design Intention plan (Concept Design Intention) and explanatory material. The Concept Design Intention is accompanied by Table 11 that expands on the Concept Design Intention legend and describes some of the key elements.

The UDF must:

- address all of the Station Precinct, be generally in accordance with the PSP and address relevant elements of the PSP unless otherwise agreed by the responsible authority
- be approved by the responsible authority before a permit can be granted for subdivision, buildings or works, subject to various exemptions.

The PSP requires that the UDF “...must comply and respond to the intentions prescribed in...” various documents including “*The Station Precinct Concept Plan*”. The Panel assumes this refers to the Concept Design Intention.

The UGZ7 (Clauses 2.4 and 2.5) refers to the Concept Design Intention to define the area to which the Station Precinct UDF provisions apply.

(ii) The issues

The issues are whether the:

- provisions relating to the preparation of the Station Precinct UDF are appropriate
- the Concept Design Intention and associated material should be retained.

(iii) Evidence and submissions

Ample relied on the evidence of Mr Black who said the UGZ7 should give Council discretion to grant a permit in the absence of a UDF.

Ample acknowledged the potential benefits of preparing the UDF, particularly where the Station Precinct is to be developed in different parts by different entities. However, it sought flexibility within the UGZ7 to provide the responsible authority with discretion to grant a permit without a UDF. It submitted:

If in the opinion of the responsible authority, an application satisfactorily meets the requirements of Section 4.2 of the Marshall Precinct Structure Plan, the responsible authority may waive the requirement for a UDF.³⁶

Ample also proposed the:

- reference to the Concept Design Intention as the means of identifying the location of the Station Precinct be replaced with a reference to Plan 5 Future Urban Structure
- Concept Design Intention should be deleted from the PSP because it might be given too much weight considering its *“highly indicative nature”*³⁷ and was unnecessary given the extensive design guidance material in the PSP.

Mr Black noted that Ample had developed two concept plans for the area that differed from the Concept Design Intention and indicated there would be many design options and layouts that could comply with the guidance material. He noted the uncertainty about the future use of the DTP land and implications for the Concept Design Intention if this land is not available for development. He concluded the Concept Design Intention and references to it should be deleted from the Amendment.

Council relied on the evidence of Mr Glossop who supported the UGZ7 requirements to prepare a UDF, but recommended removing discretion for the responsible authority to vary what the UDF must address. He advised this provided the responsible authority with too much discretion and would enable it to disregard the PSP.

Council did not believe preparation of a UDF was an onerous or unnecessary imposition. It noted the commercial and residential elements of the Station Precinct were likely to be progressed by different owners/applicants but submitted the UDF process was necessary to ensure an integrated and functional centre regardless of ownership.

Mr Glossop was satisfied the Concept Design Intention was useful as an example of how the area might be developed, consistent with the guidance material. However, he noted the lack of clarity about the purpose and weight to be given to the plan. He recommended the following notation be included - *“This concept plan provides an indicative example of how the Station Precinct could be developed”*³⁸. Mr Black supported this approach in the event the Concept Design Intention was retained.

Mr Glossop also acknowledged that the deletion of the DTP owned land from the area would have implications for elements of the Design Intention.

Council’s Final day PSP and UGZ7 included Mr Glossop’s recommended changes. In response to DTP’s supplementary submission³⁹ Council also included a new Station precinct movement network guideline (section 4.2) as follows:

³⁶ Ample submission, Document 57, page 23

³⁷ D57, page 8

³⁸ Document 9, paragraph 45

³⁹ Document 90

UDF should consider car parking provisions including potential consolidation to multi deck parking and to propose measures to prevent detrimental impacts to the public realm.⁴⁰

(iv) Discussion

Station Precinct UDF

The Panel is satisfied a UDF should be prepared and the exhibited UDF provisions (UGZ7 Clauses 2.4 and 2.5) are generally appropriate. It does not support the changes sought by Ample or Council.

The Panel does not agree with Ample's proposal that the responsible authority should be able to waive the requirement for a UDF. The exhibited provisions allow the responsible authority discretion to grant permits prior to the approval of the UDF and to vary what the UDF contains. This is a suitable level of discretion and does not need to be expanded.

The Panel does not agree with Council's proposal that the responsible authority's discretion to determine what the UDF must address be removed. Retaining the discretion would provide an appropriate level of flexibility in response to factors such as the future ownership of the land and whether the DTP land is included in the UDF area⁴¹. If, for example, the DTP land is deleted, the area subject to the UDF would be significantly reduced and potentially negate the need for a UDF or at least reduce the matters it might need to address.

The Panel recommends the discretion for Council to determine what the UDF must address be retained in UGZ7 Clauses 2.4 and 2.5 as shown in the exhibited Amendment.

The Panel accepts Council's new Station precinct movement network guideline in section 4.2 of the PSP.

Station Concept Design Intention

The Panel agrees there are likely to be many design approaches and layouts that could be adopted for the Station Precinct that would be consistent with the guidance material in the PSP. This material is comprehensive and will provide a sound basis for preparing and assessing the UDF required under UGZ7. The Concept Design Intention indicates one approach to developing this area (subject to the DTP land being available), but not the only possible approach. The Panel has discussed the DTP land further in Chapter 3.6 of this Report.

The purpose and function of the Concept Design Intention are not clear, including what weight it might be given. The PSP Section 4.2 requires that the UDF "*must comply and respond to the intentions prescribed in*" the Station Precinct Concept Plan (presumably the Concept Design Intention), yet it was agreed by Council that it is an indicative plan and "*an aid to interpretation – not a direction*".⁴² If this is the case, the requirement for the UDF to be compliant with the Concept Design Intention is inappropriate. Similarly, various requirements and guidelines in PSP Section 4.2 refer to the Station Precinct Concept Plan or Concept Plan, further confusing its use.

The Panel expects the uncertainty about the purpose and application of the Concept Design Intention will likely hinder rather than assist the UDF design and approval processes and is satisfied there is adequate UDF guidance in the PSP and UGZ7. For these reasons the Panel believes the

⁴⁰ Document 106

⁴¹ The DTP land is discussed in Chapter 3.6 of this Report

⁴² D96, page 2

Concept Design Intention and the associated references should be deleted from the PSP, including Table 11.

Consequently, the reference in UGZ7 to Plan 18 the Station Concept Design Intention to identify the Station Precinct should be deleted. Ample's suggestion this be replaced with reference to Plan 5 Future Urban Structure is not suitable as it does not identify the Station Precinct. Ultimately how the Station Precinct might be identified is a matter for Council and could involve a modification to Plan 5 or a new plan in PSP Section 4.2.

Finally, Ample advised that the Concept Design Intention includes an incorrect reference to a 'potential community facility' that is not intended to be provided and is not included in the DCP. Council confirmed this reference is an error. If Council resolves to retain the Concept Design Intention, this should be corrected.

(v) Conclusions and recommendations

The Panel concludes:

- It is appropriate that Council has discretion to determine what the Station Precinct UDF must address.
- The exhibited UGZ7 provisions relating to the Station Precinct UDF are appropriate, subject to including a map that identifies the Station Precinct.
- The PSP provides comprehensive guidance material for preparing and assessing the Station Precinct UDF, apart from the Concept Design Intention.
- The Concept Design Intention is not likely to assist the Station Precinct UDF process and should be deleted from the Amendment.

The Panel recommends:

Urban Growth Zone Schedule 7

Include a plan that identifies the Station Precinct and the area to which the Station Precinct Urban Design Framework provisions apply.

Delete all references to Plan 18 Station Concept Design Intention.

Marshall Precinct Structure Plan

Delete Plan 18 Station Concept Design Intention, and all references to it including in Table 11 Station Concept Design Intention.

Amend Section 4.2 to add the new car parking provision, as shown in Appendix E.

3.5 Local Activity Centre

(i) Background

The exhibited UGZ7 and the Marshall PSP include various provisions relating to the LAC within the Station Precinct, including a discretionary retail floorspace use condition and associated retail economic impact assessment requirements. PSP Requirement R83 details requirements relating to the LAC.

(ii) The issue

The issue is whether the exhibited LAC retail provisions are appropriate.

(iii) Evidence and submissions

Ample's initial written submission sought changes to various elements of the exhibited UGZ7 and PSP including requirement R83 and the retail floorspace provisions related to the LAC. At the Hearing, Ample advised that following its consideration of the Black and Stephens evidence it supported the exhibited UGZ7 drafting but sought changes to Requirement R83.⁴³ These changes were intended to provide additional flexibility and clarity and had been developed in conjunction with Council. It also sought a minor change to Requirement R89 as follows:

The local ~~convenience~~ activity centre within the Station Precinct...

Council's closing submission confirmed it had worked with Ample to reach agreement on the proposed revisions. Council's Final day PSP noted that Requirement R83 should be updated consistent with the Ample submission.⁴⁴

(iv) Discussion

The Panel agrees the proposed PSP changes will improve the framework for managing the LAC and supports their adoption. It supports the revised Requirement R83 without changes, and Council's Final day version of Requirement R89.

(v) Conclusion and recommendation

The Panel concludes the proposed changes to the LAC provisions agreed between Council and Ample are appropriate.

The Committee recommends:

Marshall Precinct Structure Plan

Amend Requirements R83 and R89, as shown in Appendix E.

3.6 Marshall Station/DTP land**(i) Background**

The exhibited PSP and UGZ7 identify public land to the immediate south of the Station car park as Mixed Use – High Density Residential (see Figure 10). It is subject to the notation "*subject to DTP approval: may be required for transport purposes until further advised by DTP*".⁴⁵

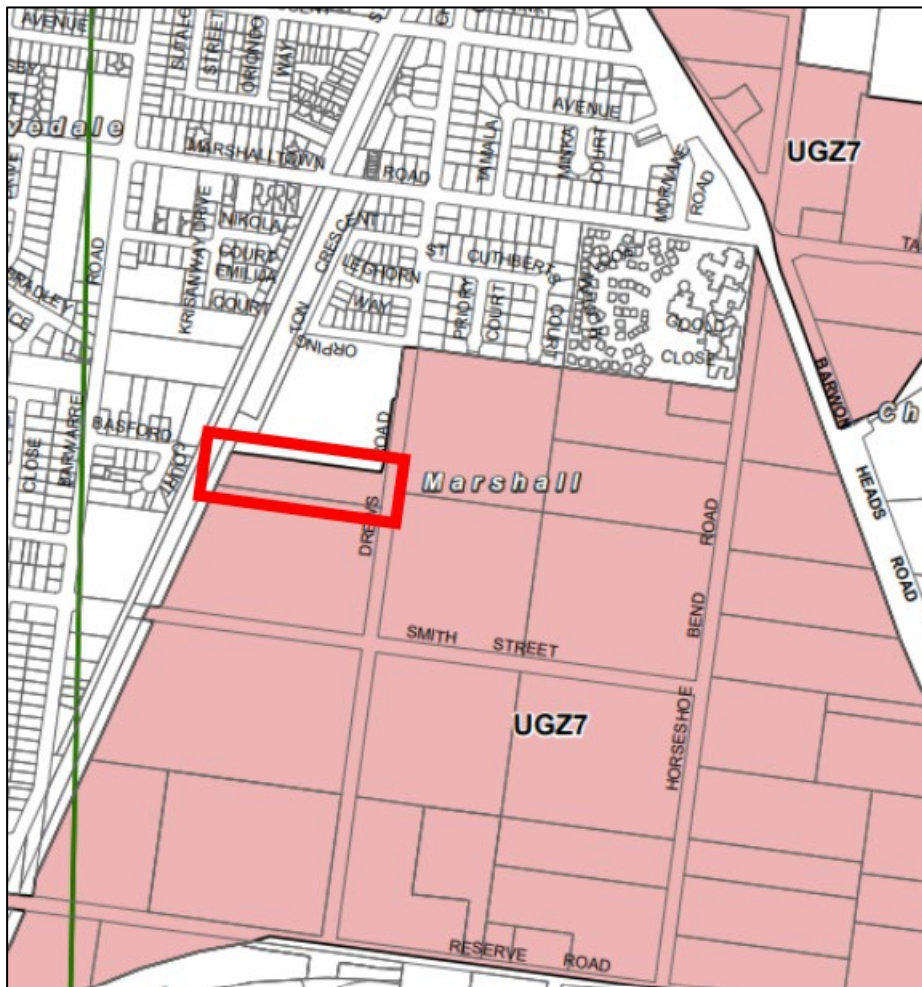
The site is owned by Transport for Victoria and managed by VicTrack under a Regional Infrastructure Lease. The Amendment proposes to rezone the site from TRZ1 to UGZ7 and use the MUZ as the applied zone.

⁴³ Ample submission, Document 57

⁴⁴ Appendix B to Ample submission, Document 61

⁴⁵ Exhibited UGZ7, Plan 1

Figure 10 Proposed rezoning of DTP land



Source: DTP submission, Document 52, page 20

(ii) The issue

The issue is whether the rezoning of the land should proceed as part of the Amendment.

(iii) Submissions

DTP advised the land had not been declared surplus to transport requirements and consequently must retain the TRZ1. DTP indicated Council should lodge a formal enquiry about the status of the land via the VicTrack website to confirm its status.

Council advised it had initiated an enquiry but had not received confirmation of the land's status by the close of the Hearing. In closing the Hearing, the Panel advised it would accept any updated information from Council on the status of DTP land following the Hearing. No further information was received.

Council met with DTP on 26 November 2024 to discuss the land's status and associated changes to the Amendment. It tabled a written summary of the meeting confirming it would not proceed with the rezoning at this time and sought the following recommendations from the Panel:

- Change planning scheme maps 66-67 to remove that part applied with UGZ7
- Consequential map changes to the UGZ7 and Marshall and other amendment documents

- Consequential land budget and other ordinance changes to the Marshall PSP
- Consequential land budget changes to the Marshall DCP.⁴⁶

Ample noted the uncertainty this issue created for the development of the Station Precinct and supported Council's efforts to resolve the issue.

(iv) Discussion

The Panel accepts the UGZ7 rezoning of the site should not proceed prior to a determination of its future ownership. This means the existing TZ1 should be retained.

The consequential changes to the Amendment resulting from this are likely to be extensive and will require careful consideration by Council. The Panel has not listed the required changes given their likely extent and possible interrelationship with other changes that have been recommended. This is a task for Council to undertake as it finalises the Amendment for adoption.

If the land is declared surplus to transport requirements and DTP withdraws its objection to the rezoning prior to Council's adoption of the Amendment, it would be open to Council to reinstate the rezoning and other relevant changes within the Amendment.

(v) Conclusions and recommendations

The Panel concludes:

- The proposed rezoning of the Marshall Station land owned by DTP to UGZ7 should not proceed as part of the Amendment.
- The proposed rezoning could proceed if the land is declared surplus to transport requirements and DTP withdraws its objection to the rezoning prior to Council's adoption of the Amendment.

The Panel recommends:

Retain the land owned by Transport for Victoria (south of the Marshall Station car park) in the Transport Zone 1, and make any consequential changes to the Marshall Precinct Structure Plan and Marshall Development Contributions Plan.

Make the required consequential changes to the Amendment documents resulting from the land owned by Transport for Victoria (south of the Marshall Station car park) being retained in the Transport Zone 1.

3.7 31-39 Tannery Road

The property at 31-39 Tannery Road, Charlemont is outside but adjacent to the Precinct. The land is also outside the NEIP and the broader ACUGA. The owner of 31-39 Tannery Road submitted their property should be included in the Precinct. They also raised various issues regarding drainage and environmental matters that are discussed in other chapters of this Report.

The property is zoned Farming Zone and subject to various environmental overlays, including flood related overlays that cover a significant area of the property.

Council advised that a recent review of flooding in the area had reduced the extent of the Land Subject to Inundation Overlay and Floodway Overlay over the property (introduced through

⁴⁶ Document 108

Greater Geelong Planning Scheme Amendment C339ggee).⁴⁷ This potentially makes an area in the south-west corner of the property, fronting Tannery Road, available for development. Council estimated the unencumbered area might be one hectare, although the potentially developable area was likely to be approximately 500 square metres.

Council submitted that rezoning some of the property to the UGZ7 would be premature and would require a concurrent subdivision permit to prevent the property being applied with two zones. It concluded further investigation would be required by the landowner.

The Panel agrees with Council that the possible rezoning of part of this property (and inclusion in the Precinct) would require further investigation and should not proceed as part of this Amendment.

⁴⁷ Council Part A submission, Document 7

4 Stormwater and drainage

4.1 Introduction

(i) What is proposed?

Marshall PSP

The PSP includes the following objective:

To deliver a sustainable integrated water management system that... reduces reliance on potable water, increase re-use of alternative water, minimises flood risk, ensures waterway health, integrates with open space, establishes connections for native fauna and human movement, and protects native vegetation.⁴⁸

It also includes the following integrated water management requirements:

- R55 – all lots must be connected to a reticulated recycled water system suitable for toilet flushing and garden watering
- R56 – the stormwater management system must be designed in accordance with Plan 12 Integrated Water Management and the SWMS including:
 - overland flow paths will be adequately contained within the road reserves
 - water sensitive urban design options to retain (storm)water in the streetscape with an emphasis on blue and green infrastructure
 - provide appropriate outfall drainage structures (such as constructed waterways) to ensure changes to stormwater flow and quality are managed and mitigated
- R58 – the final layout and design of stormwater infrastructure, to the satisfaction of the responsible authority
- R59 – stormwater runoff must meet or exceed the performance objectives of the *Best Practice Environmental Management Guidelines for Urban Stormwater Management* (1999) and the *Urban stormwater management guidance* (2021)
- R61 – street and canopy trees within open spaces and car parking areas must be passively irrigated through appropriate water sensitive urban design solutions
- R64 – the stormwater system must be designed to improve habitat conditions for native fauna
- R68 – development staging and sequencing must provide for the timely and coordinated delivery of the ultimate waterway and drainage infrastructure, in accordance with Table 9 Precinct Infrastructure Plan and the SWMS
- R69 – interim solutions may be considered, to the satisfaction of the responsible authority
- R70 – an Integrated Water Management Plan must be provided at the planning permit application stage demonstrating building scale capture and reuse, street level amenity improvement, slowing runoff, cleaning and reuse where appropriate.

SWMS and DCP

The SWMS includes a mix of piped and constructed waterways with a series of strategically located sediment ponds and retarding basins to improve water quality and control stormwater flows. It

⁴⁸ Marshall PSP, objective 09, page 23

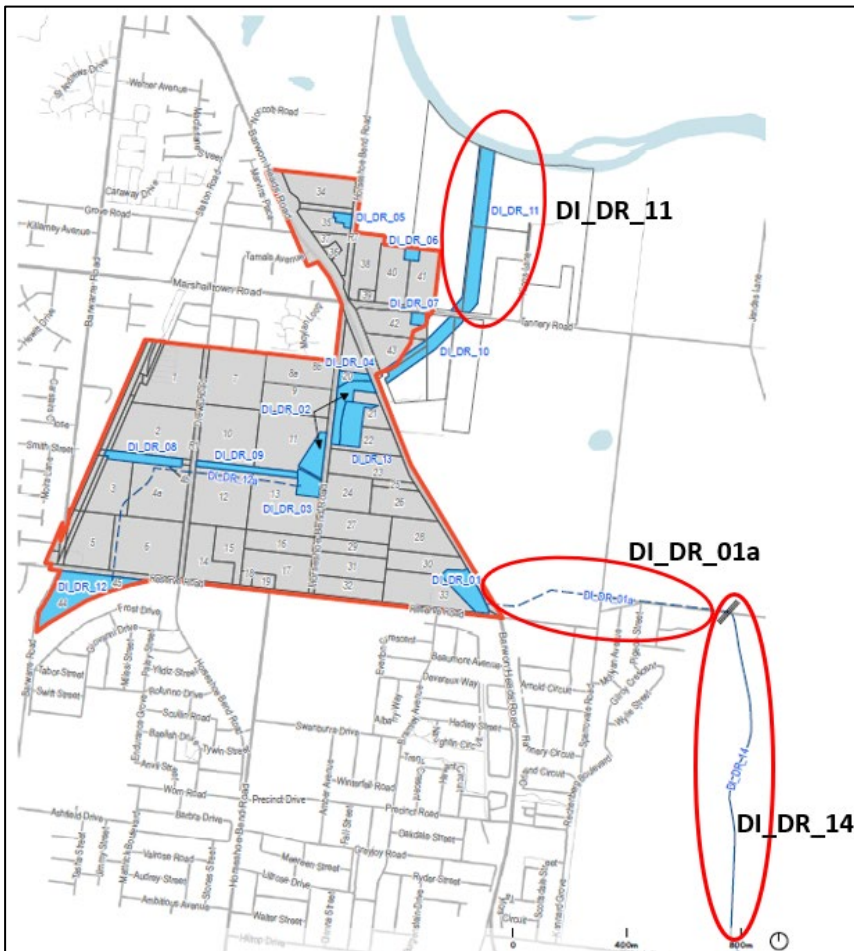
also includes preliminary designs for each major drainage element, to ensure the requirements for each asset are adequately understood to inform the DCP.

Marshall and NEIP precincts share outfall drainage projects relating to delivery of constructed waterways:

- between Tannery Road and the Barwon River (DI_DR_11)
- outfall within the Wetlands (DI_DR_14).

Both projects are located outside of the PSP boundaries (see Figure 11). The cost apportionment for DI_DR_14 is based on catchment size with 15 per cent apportioned to the Precinct and 85 per cent to the NEIP.

Figure 11 Drainage Projects



Source: DCP Plan 5, with Panel notations

(ii) Evidence

Experts

Table 5 lists the stormwater and drainage experts called by parties.

Table 5 Stormwater and drainage evidence

Party	Expert	Firm	Area of expertise
Council	Robert Swan	HARC Services	Drainage
Re-Grow	Neil Craigie	Neil M Craigie Pty Ltd	Drainage and flooding
Re-Grow	Stephen Watters	SMEC	Drainage engineering and infrastructure costings
Re-Grow	Chris White	AECOM	Biodiversity

Expert meeting

As directed by the Panel, an expert meeting for stormwater management was held on 30 October 2024. All stormwater and drainage experts attended and Mr White, who gave evidence on biodiversity for Re-Grow, attended to understand implications, if any, for his ecological assessment.

The expert meeting considered the performance of the PSP proposed stormwater measures at a local and regional scale due to potential interactions with other stormwater management measures in the surrounding area. The expert meeting report was prepared and circulated to the Panel and parties (Document 32). Notably, there was consistent agreement between experts. Principally experts agreed the stormwater drainage strategy was well informed and of a high standard.

Key findings from this meeting are discussed as relevant in the following chapters.

(iii) EPA Publication 1739.1: Urban stormwater management guidelines (June 2021)

EPA Publication 1739.1 Urban stormwater management guidelines (June 2021) (EPA Publication 1739.1) is intended to help improve the management of urban stormwater by recognising the current science and risk of harm from urban stormwater flows to waterways and bays. It provides general objectives and information to support risk assessment and minimisation, and addresses key environmental risks associated with:

- new impervious surfaces generating additional stormwater flow and volume
- pollutant loads.

A focus is minimising risks from urban stormwater so far as reasonably practicable. This is achieved by putting in proportional controls to minimise risk while considering available solutions and costs. The guide includes:

- a series of indicative stormwater management scenarios with example measures that can be considered to reduce harm relating to run-off volume, run-off flow and pollution loading
- quantitative performance objectives for urban stormwater to assist with evaluating risk of harm.

EPA Publication 1739.1 provides advice and best practice examples for stormwater management but is not a compliance document.

4.2 Climate change impacts on stormwater

(i) The issue

The issue is whether the additional UGZ7 Integrated Water Management Plan requirement relating to drainage design and climate change is appropriate.

(ii) Evidence and submissions

Council submitted climate change impacts are best dealt with during detail design. It proposed to amend the UGZ7 Clause 3.0 General Subdivision requirement as follows:

An Integrated Water Management Plan (IWMP) which must:

...

- Assess the impact of climate change on the detailed design of drainage infrastructure...

Council submitted this will allow climate change impacts to be assessed with contemporary guidance as the science evolves. In practical terms, climate change effects will be able to be managed through a combination of reduced freeboard in the retention basins and broadening spillways to accommodate excess flows.

Experts agreed:

- the PSP and the neighbouring PSP stormwater drainage strategies have not considered climate change
- there is no clear approach for designing drainage assets for climate change
- climate change effects can be resolved during detailed design but are principally managed by reducing freeboard in retention basins (equates to additional flood storage) and increasing spillway size (additional flood flow capacity)
- sensitivity testing is recommended to determine the expected impact of climate change on PSP works.

Mr Swan explained that other measures may include increasing freeboard for some residential properties where the potential for flood effects may be more pronounced such as near/along waterways and/or roads which may carry significant overland flow during extreme storm events.

During the Hearing, experts provided the following advice:

Mr Swan confirmed that the work to assess climate change impacts could be done at detailed design or through a sensitivity test now, expressing a slight preference for some sensitivity testing now.

Mr Craigie and Mr Watters considered that the appropriate time to investigate climate change impacts was as part of the detailed design process.⁴⁹

(iii) Discussion

Climate change impacts are best assessed within the context of contemporary guidance and state of knowledge. As climate science continues to evolve this will be most effective during detailed design of the various drainage elements, particularly in the context of the 10 to 20 years development timeframe for Marshall.

⁴⁹ Council closing submission, page 9 (Document 96)

While Mr Swan’s suggestion to undertake sensitivity testing now to ascertain climate change impacts on the proposed drainage infrastructure would provide a snapshot of the likely impacts, experts agreed solutions to accommodate climate change would not materially change the drainage assets. Sensitivity testing is not essential to the Amendment and ultimately solutions will be best determined during detailed design.

The Panel agrees with Council and experts that climate change impacts can be adequately considered during detail design. Council’s proposed change to UGZ7 is appropriate, and is included at Appendix D.

(iv) Conclusion

The Panel concludes the additional Integrated Water Management Plan requirement relating to drainage design and climate change is appropriate, as included in Council’s Final day version of the UGZ7.

4.3 Stormwater volumetric reduction and the Wetlands

(i) The issues

The issues are whether:

- the SWMS and PSP satisfy the intent of EPA Publication 1739.1
- additional meaningful stormwater volumetric reduction can and should be achieved
- impacts on environmental values of the Wetlands are acceptable

(ii) Evidence and submissions

Agencies

The EPA submitted that, in the context of the GED, the PSP’s requirements for integrated water management should extend to meeting EPA Publication 1739.1 volume reduction targets.

DEECA’s concerns relating to the southeast catchment included:

- reducing the volume of runoff minimises potential harm to waterways, including those of high ecological value, such as the downstream Ramsar Wetlands Hospital Swamps, and the Wetlands
- the ongoing and continual inundation of the Wetlands (the Wetlands should undergo a drying and wetting phase each year) and additional areas under inundation which previously were dry.

DEECA noted most of the land in the Precinct discharged stormwater directly to the Barwon River via Marshall Creek. This would have a negligible impact on the Barwon River, however the ecological impacts of engineering works on Marshall Creek would need to be considered.

DEECA submitted:

There is no basis to suggest, as the drainage and stormwater conclave that met on 30 October 2024 did, *“that the EPA Guideline describes that local targets should be adopted for the receiving waterways – this has been done for Hospital Swamp”*.⁵⁰

⁵⁰ DEECA submission, Document 53

DEECA provided a comparison of flow reduction targets, proposed reduction and best practice. It suggested changes, in the context of the GED, to ensure environmental risks are minimised so far as reasonably practicable.

DEECA said that while the PSP promoted recycled water use, this did not preclude the use of rainwater tanks or larger precinct scale stormwater harvesting initiatives. It recommended the:

- PSP be amended (for the southeast catchment) to either:
 - increase precinct scale stormwater treatment
 - strengthen provisions for lot scale stormwater capture and use, such as harvesting stormwater to be used for hot water supply in homes
- UGZ7 recycled water requirement be amended to require households to connect to rainwater tanks.

Barwon Water supported the Amendment but requested clarification on how appropriate stormwater volume reduction would be addressed. Barwon Water advised it had recently received its Corporate Letter of Expectations from the Minister of Water. The letter identifies the risks of stormwater management (including volume reduction) in the context of planned greenfield urban development in the Barwon and Moorabool Catchments. It includes an expectation that Barwon Water prioritise how to manage these risks with its Integrated Water Management Forum partners.

Experts

Experts agreed:

- the PSP approach to stormwater management meets Planning Scheme requirements and EPA Publication 1739.1
- discharging stormwater into the Wetlands is desirable as it provides an opportunity to achieve stormwater volume reduction through evaporation and improved water quality
- the ability to further reduce stormwater volume is limited as the proposed offset is mains recycled water (which is used throughout Armstrong Creek)
- there are no other reasonably practicable solutions to further reduce stormwater volume discharge to Barwon River
- the ACUGA that drains into the Wetlands is the only developing urban area the experts are aware of that comes close to meeting the volume reduction targets of EPA Publication 1739.1
- the primary purpose of Wetlands is to protect Hospital Swamps from urban flow, and there will be negligible impact on the Wetlands
- costs for addressing current operational issues in the Wetlands should be borne by responsible management authorities.

Mr Swan explained additional volume reduction measures are not necessary because:

- the PSP discharges to the Barwon River, which already drains significant urban areas of Geelong
- Precinct runoff is unlikely to impact the magnitude or duration of Barwon River flood events, noting the Barwon River catchment is 8,590 square kilometres
- PSP works also provide additional stormwater treatment to Grovedale's runoff, resulting in an improved water quality, in excess of the EPA Publication 1739.1 targets

- the SWMS and PSP have adopted reasonably practicable solutions that exceed the stormwater quality targets for pollution reduction while providing limited volumetric reduction.

Mr Craigie explained:

- Sparrovale properties (predominately flood prone farm land) were originally acquired to manage stormwater discharge from the ACUGA and protect downstream Ramsar Wetlands (Hospital Swamps) from excess freshwater volumes in the summer/autumn periods (when the Hospital Swamps traditionally dried out)
- in terms of stormwater quality, the Wetlands far exceeds best practice, noting the Wetlands is far larger in area (200 hectares) than required to meet normal best practice standards (7.5 hectares)
- approximately 50 (in a wet year) to 65 per cent of stormwater inflow to the Wetlands is being removed via evapotranspiration and seepage
- ACUGA treated urban stormwater (cleaner than Barwon River untreated flows) discharging into Hospital Swamps during Winter (wetting period) is a positive outcome
- the Wetlands has a series of gates/regulators that allows for flow discharge into Hospital Swamps or directly into the Barwon River, and Barwon River water can be directed to Hospital Swamps when necessary (refer to Figure 12)
- the current situation with the Barwon River offtake being left open contributes to a backup of water within the Wetlands causing its continuous inundation
- operation and management of the Wetlands should be reviewed to ensure optimal environmental outcomes are being realised (this is programmed for 2025 by the land owner/catchment authority and key stakeholders).

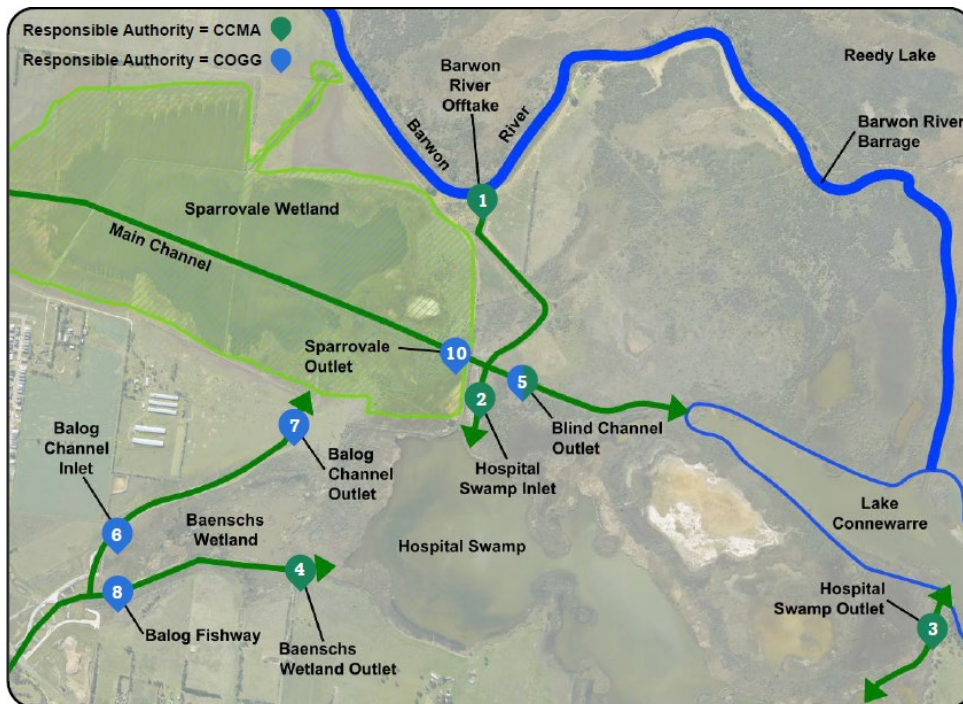
Mr Watters advised:

- given the mandate that each lot be connected to reticulated recycled water (for gardening and flushing toilets), stormwater harvesting would not be necessary
- evapotranspiration will be achieved to a limited extent by the constructed wetlands and retarding basins in the Precinct and NEIP
- “*self-watering street trees*” (utilising stormwater runoff) are possible for both Marshall and NEIP Precincts and will provide further stormwater volume reduction
- Barwon Catchment Strategic Directions Statement 2022 identified Barwon Water (as the lead agency) to investigate the feasibility of staged large scale stormwater and recycle water networks in the Barwon region, noting if a user case for harvested stormwater can be found this has the potential to further reduce the stormwater volume discharging from ACUGA catchments.

Mr White advised:

- the proposed Marshall and NEIP stormwater inputs into the Wetlands would not compromise its ecological values
- the Wetlands further improves Hospital Swamps water quality
- rectifying the Wetlands operational management will encourage improvement of indigenous vegetation and consequently improve the habitat quality for significant wetland-dependent flora and fauna species.

Figure 12 Wetlands control structures



Source: Re-Grow Submission, Appendix B (Document 74b)

Note: The blue and green circles represent gates or valves which can be open or closed to control the flow of water (for example when Gates 10 and 5 are open and Gates 1 and 2 are closed, the Wetlands discharges directly to the Barwon River/Lake Connewarre)

In response to questions from the Panel, Mr Watters said DEECA's rainwater tank proposal seemed unnecessary.

Council

Council confirmed the primary purpose of the Wetlands is for ACUGA stormwater storage and treatment to protect and enhance the Barwon River and Lake Connewarre Ramsar area's ecological values. It submitted the PSP is unlikely to cause a material change to the Wetlands. The Wetlands is anticipated to continue to operate effectively, meeting EPA Publication 1739.1 in terms of water quality and, to a lesser extent, volumetric reduction. Further volumetric stormwater reduction is not required based on the expert evidence.

Council explained:

...that volumetric reduction currently is not required by BPEM [Best Practice Environmental Management] or Clause 56.07, other than 'Maintain discharges for the 1.5 year ARI at pre-development levels'. The Marshall SWMS was scoped and commenced before the release of EPA 1739.1, and research to date indicates regional scale stormwater harvesting schemes or significant land area for stormwater retention/evaporation are the most effective methods of volume reduction. As stated in the Water Minister's Letter of Expectations, the regional IWM [Integrated Water Management] Forum is the appropriate place to advocate for regional schemes.

Overall, Council considers the Marshall PSP and Marshall SWMS measures indirectly address volumetric reduction and satisfy its general environmental duty under the Environment Protection Act 2017.⁵¹

⁵¹ Council Part A submission, page 25, Document 7

Council submitted:

- the drainage experts agreed there was no need to mandate stormwater tanks linked to hot water systems within the Precinct. This solution comes at a cost and associated affordability implications
- the Barwon Water recycled water requirement precludes other catchment based reduction methods
- in the absence of any large demands (such as sporting ovals) meaningful additional stormwater volumetric reduction is considered unfeasible.

Council said that, as the Wetlands land manager, it is acutely aware of the complex issues arising from inundation impacts on native vegetation. It acknowledged Mr Craigie's evidence that identifies steps to improve some of these impacts.

(iii) Discussion

Volumetric reduction

Achieving volumetric stormwater reduction is essential to improve environmental outcomes for waterways. A key consideration for the Panel is whether the proposal includes adequate volume reduction and whether any additional volume reduction is reasonably practicable.

The Panel notes that EPA Publication 1739.1 states:

Doing what is reasonably practicable means putting in proportionate controls to minimise the risk of harm to human health and the environment. Reasonably practicable also considers what controls are available and their cost, and considers what an industry generally knows about the risk and control options.

The southeast catchment is a small catchment with limited opportunities to further reduce stormwater volumes. Today the southeast catchment drains due east directly into the Barwon River. However, as part of the ACUGA stormwater management strategy this catchment will be diverted into the Wetlands where:

- significant stormwater quality improvement will be achieved
- importantly, around 50 to 65 per cent volumetric reduction will occur through evapotranspiration (depending on the weather).

The Wetlands makes a significant and meaningful contribution to reducing stormwater volume. It is the most significant and largest control for reducing stormwater volume and flow ultimately discharging to the Barwon River. According to the SWMS the southeast catchment is 17 hectares⁵², which makes a negligible contribution to the overall stormwater flow and volume experienced within the broader catchment (Barwon River catchment is in excess of 8,000 square kilometres).

This is further reinforced by the following:

- mandating rainwater tanks for hot water supply is likely to make a negligible contribution to reducing stormwater volume and comes with cost and affordability constraints
- there are no other meaningful large scale uses for harvested stormwater such as sporting grounds
- the requirement for recycled water for toilet flushing and garden watering diminishes the potential for rainwater reuse

⁵² Marshall Precinct Structure Plan Stormwater Management Strategy Table 1

- Barwon Water is charged with finding large scale stormwater harvesting schemes for the region, but practically this is unlikely to occur in the Precinct.

At a local level, the PSP continues to strive to achieve stormwater volume reduction through the Integrated Water Management requirements such as R56, R61 and R70 (detailed above). R70 requires an Integrated Water Management Plan which may result in the inclusion of rainwater tanks, however mandating them over and above other potential solutions is considered inappropriate at this stage of the process.

The Panel notes that Requirement R59 refers to Urban stormwater management guidance (2021). To enhance clarity and avoid ambiguity this should be updated to reference the EPA Guideline 1739.1.

The Wetlands

The PSP states:

The stormwater strategy enhances environmental flows to waterways and water bodies, including diverting water into the Sparrovale-Nubitj yoorree wetlands to prevent additional freshwater flows from impacting the salt dependant Ramsar complex.⁵³

The Panel is satisfied the Wetlands will not be compromised by accommodating stormwater run-off from the southeast catchment of the Precinct. Drainage experts confirmed the Wetlands has significant capacity to accommodate far more stormwater run-off, with the Precinct expected to generate around 2 per cent additional inflow, and Mr White was satisfied environmental values would not be compromised.

Council acknowledged the ongoing management and operational issues associated with the Wetlands. As noted by experts, the operation and timing of gates being opened and closed to ensure optimal outcomes are realised for Hospital Swamps is not occurring. While it is beyond the scope of the Panel to make recommendations about management issues associated with the Wetlands, it is noted that the management issues need to be resolved.

Requirement R56 appropriately identifies the need to provide appropriate infrastructure to the Wetlands to manage and mitigate ecological impacts. The Panel suggests the drafting of R56 be refined to improve clarity and consistency with EPA Publication 1739.1 as follows:

Provision of appropriate infrastructure between the precinct, Barwon River and Sparrovale-Nubitj yoorree Wetlands, to ensure changes to flow and quality conditions, including erosion risk, flood damage, ~~loss of~~ environmental habitat and values, access and legal rights to assets, ~~and ensuring all associated permits~~ are appropriately managed and mitigated.

(iv) Conclusions and recommendations

The Panel concludes:

- SWMS satisfies the intent of EPA Publication 1739.1 and Planning Scheme, so far as reasonably practicable
- additional meaningful stormwater volume reduction is not feasible
- impacts on environmental values of the Wetlands are acceptable.

⁵³ Marshall PSP, page 14

The Panel recommends:

Marshall Precinct Structure Plan

Amend Requirement R59 to replace 'Urban stormwater management guidance (2021) with 'EPA Publication 1739.1: Urban stormwater management guidelines (2021)', as shown in Appendix E.

Amend Requirement R56 to clearly refer to management of environmental impacts, as shown in Appendix E.

4.4 Drainage projects DI_DR_11 and DI_DR_14

(i) The issue

The issue is whether drainage projects DI_DR_11 and DI_DR_14 have been appropriately costed.

(ii) Evidence and submissions

During the Hearing, parties and experts agreed the constructed waterway DI_DR_14 was appropriately designed, scoped, and costed with an apportionment of 15 per cent to the PSP and 85 per cent to the NEIP PSP based on the catchment areas being serviced.

The Panel accepts the basis for apportionment and the issue before the Panel focuses on cost.

In its original and addendum submissions Re-Grow raised concerns with the costs and apportionment of DI_DR_14, including the potential need for additional infrastructure as part of the Sparrovale outfall that may not be included in the SWMS. During the Hearing, Re-Grow advised that DI_DR_14 was uncontroversial and resolved.

Mr Swan identified there does not appear to be any need for additional drainage infrastructure for the Sparrovale outfall to meet the pollutant reduction targets of the EPA Publication 1739.1, as the upstream retarding basin achieves these targets before discharging to the Wetlands.

Mr Watters advised that costs for DI_DR_14 should include flora and fauna and Cultural Heritage Management Plan studies (approximately \$200,000). Further, the apportionment for project DI_DR_14 appeared fair, however it should be reviewed once the NEIP Refresh has been finalised.

Council

Council submitted that drainage project DI_DR_14 did not need to be augmented to service the Precinct and for the purposes of the Amendment the Panel may consider this shared asset is appropriately sized and designed for both precincts (Marshall and NEIP). It advised:

If through a change of circumstances or as a product of the detailed drainage strategy design in the NEIP a different approach is identified then that is a matter to be considered at that time, including any implications in respect of fairness and equity that may arise from that process.⁵⁴

Council submitted the Panel should make a recommendation that:

Prior to adoption of the Amendment, the costings for DI_DR_14 and DI_DR_11 are reviewed to confirm whether the costings include allowances for flora and fauna assessments and assessment under the Aboriginal Heritage Act 2006, and if not that

⁵⁴ Council closing submission, Document 96, page 5

appropriate allowances are included in these projects in accordance with the proposed apportionment'.⁵⁵

(iii) Discussion

The Panel agrees with Council and Mr Watters that DI_DR_14 costings should be checked to confirm if an allowance has been made for flora and fauna and Cultural Heritage Management Plan assessments before adopting the Amendment. This is because it is outside of the PSP boundary, where these assessments would be automatically required. The Panel accepts Council's suggestion to extend this process to DI_DR_11 as this is also located outside the Precinct.

The Panel agrees with Council that should some fundamental change occur with this drainage element as part of NEIP Refresh it will need to be addressed at that time.

(iv) Conclusions and recommendation

The Panel concludes costings for DI_DR_11 and DI_DR_14 should include an allowance for flora, fauna, and cultural heritage assessments.

The Panel recommends:

Marshall Development Contributions Plan

Before finalising the Development Contributions Plan:

- a) **Review costings for the DI_DR_11 and DI_DR_14 to ensure they include allowances for the required flora and fauna, and cultural heritage assessments.**
- b) **Make relevant consequential changes, if needed, when the costs of DI_DR_11 and DI_DR_14 are finalised.**

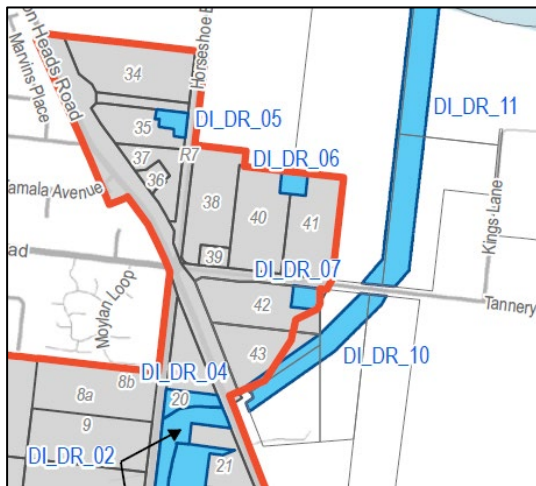
4.5 Marshall Creek channel (DI_DR_10)/Sediment and retarding basin (DI_DR_07)

(i) The issues

The issues are whether:

- Marshall Creek channel (the proposed constructed waterway south of Tannery Road) should be realigned to avoid creating a parcel of 'orphaned' NEIP land
- DI_DR_07, construction of Sediment Pond and Retarding Basin (SBRB03), should be shifted further east towards the creek (see Figure 13).

⁵⁵ Council closing submission, Document 96, page 6

Figure 13 Marshall Creek channel/DI_DR_07

Source: DCP, page 26

(ii) Evidence and submissions

Rich and Pure submitted:

- DI_DR_07 should be relocated further east towards Marshall Creek to help optimise land use outcomes
- part of its land is designated NEIP Precinct 1 Industrial, northwest of Marshall Creek, and as this land is effectively quarantined from development within the NEIP, the proposed wetland should be located here.

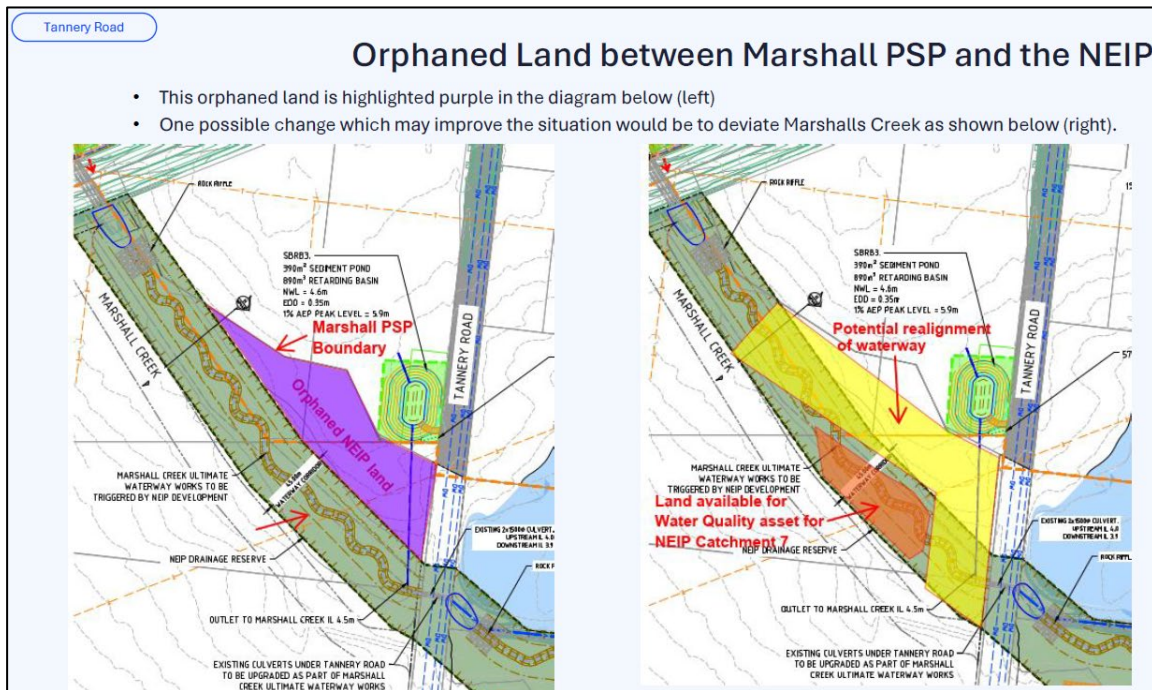
Re-Grow suggested that DI_DR_10 should be realigned to address the orphaned NEIP land as identified by Mr Watters.

Experts agreed the Marshall Creek channel, between Barwon Heads Road and Tannery Road, is in its optimal location (along the existing low point), however this creates an orphaned piece of NEIP land, adjacent to Tannery Road. Depending on how this land is considered there could be modifications to the proposed drainage works in Marshall and NEIP PSPs, or both.

Mr Watters explained, as shown in Figure 14:

- the 2010 Armstrong Creek NEIP PSP showed a retarding basin within the drainage channel, but this was modified as Council did not support on-line retardation
- this resulted in an area of land, west of Marshall Creek (shown in purple) that is within, but disconnected from the balance of NEIP PSP land
- the SWMS suggested a possible change to the drainage concept plan to utilise the orphaned land by realigning the channel (shown in yellow), which would free up land to provide an off-line water quality treatment asset to service the NEIP catchment (which was originally proposed to be within the Marshall Creek).

Figure 14 SBRB03 suggested relocation (shown in red)



Source: Mr Watters Evidence presentation slide 17, Document 83

Mr Watters recommended realigning Marshall Creek to reduce the area of NEIP orphaned land.

Council did not support Rich and Pure's suggestion that the retarding basin be relocated further east as the location of drainage assets are generally settled. It said the location of the DI_DR_07 can be resolved during detail design.

Council did not support the realignment of Marshall Creek, south of Tannery Road. It said this matter could be explored at time of development or part of NEIP Refresh, noting the realignment would most likely increase availability of NEIP land.

Council proposed the following change to PSP Requirement R58 in its response to Rich and Pure's drafting comments:

The final layout and design of stormwater infrastructure including but not limited to; constructed waterways, wetlands, retarding basins, stormwater quality treatment infrastructure, and associated paths, boardwalks, bridges, and planting, must be designed to the satisfaction of the Responsible Authority and include appropriate measures to mitigate the risk of erosion.

[Consideration of locating stormwater projects DR07/SBRB03 adjacent to Marshall Creek may be undertaken at the permit application stage having regard to the North East Industrial Precinct stormwater strategy and the consent of any affected owners.](#)⁵⁶

(iii) Discussion

The NEIP urban structure plan show the land as being used for parks and waterway purposes (see Figure 15). Consequently, it is not a critical issue exactly where the Marshall drainage channel and other drainage assets are located, as the land is designated for parks and drainage purposes.

⁵⁶ Council response to Rich and Pure drafting, Document 116

Figure 15 NEIP Future Urban Structure Plan



Source: NEIP PSP Figure 4. Note: light green is NEIP parks, olive is drainage/encumbered parks

Considering alternative land uses if necessary is best resolved as part of the NEIP Refresh.

The Panel sees merit in potentially relocating the retention basin into the NEIP parkland. This is adequately addressed by Council’s suggested amendment to R58 which states the location of this asset can be considered during the planning permit stage with regard to the NEIP stormwater strategy, consent of affected landowners, and ultimately to the satisfaction of the Responsible Authority.

(iv) Conclusions and recommendation

The Panel concludes:

- The location of Marshall Creek, south of Tannery Road can be reviewed as part of the NEIP Refresh.
- Requirement R58 should be amended as proposed by Council to allow its location to be considered at the permit application stage.

The Panel recommends:

Marshall Precinct Structure Plan

Amend Requirement R58 to provide for consideration of relocating drainage asset DI_DR_07 at the planning permit application stage, as shown in Appendix E.

4.6 Other drainage matters

(i) Location of drainage infrastructure

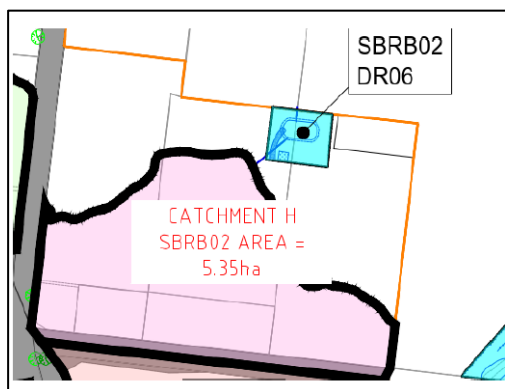
Some submitters sought flexibility in the location of drainage infrastructure. They raised site specific concerns relating to:

- siting sediment ponds, retarding basins or other drainage assets, and suggesting they be shifted to alternative locations and/or not to straddle property boundaries

- implementing drainage works around Tannery Road earlier, and potentially modifying to address existing local flooding issues.

In response to submission 9, Mr Swan advised it may be possible to shift SBRB02 (DI_DR_06) (see Figure 16) onto one property subject to detail design considerations. Council did not support relocating SBRB02 as the location of drainage assets are generally settled and informed by the SWMS.⁵⁷

Figure 16 Location of SBRB02 DR06



Source: D11 Mr Swan Evidence page 16

Ample was concerned that Requirement R56 requires the stormwater management system must be designed in accordance with Plan 12 Integrated Water Management.

During detailed design there may be a number of sound reasons why a drainage element should be shifted to generate optimal outcomes. The Panel is satisfied both Requirements R56 and R58 allow for final layout and design of stormwater to the satisfaction of the Responsible Authority.

To avoid confusion and for consistency with drafting of other requirements, Requirement R56 should be amended to state “*must be designed generally in accordance with Plan 12...*”. This addresses submitter concerns in relation to DI_DR_06 and other locations where potentially minor shifting of drainage infrastructure may be appropriate.

The Panel recommends:

Marshall Precinct Structure Plan

Amend Requirement R56 to state “*The storm water management system must be designed generally in accordance with Plan 12 Integrated Water Management...*”, as shown in Appendix E.

(ii) Property 20

Rich and Pure submitted the Ausnet Transmission easement adjacent to property 20 could be shared with a drainage reserve. This would unencumber their land and provide greater flexibility and lower DCP costs across the Precinct.⁵⁸

⁵⁷ Council Part A submission, Appendix A, Document 7

⁵⁸ Submission 22

The Panel is unable to form a position on this, principally as Ausnet may, or may not support drainage infrastructure within their easement. This reinforces the need for some flexibility, as discussed above, to facilitate alternative concepts being explored during detailed design.

(iii) Tannery Road culverts

The owners of 31-39 Tannery Road Charlemont submitted the culverts at Tannery Road were inadequate and there were associated local drainage issues along the road that needed to be resolved.

Experts agreed:

- it was unclear whether an allowance had been made in the DCP for the Tannery Road culverts to be upgraded
- the indicative costing prepared by Mr Watters for upgrading the culvert was reasonable, if not already included.

Council sought a recommendation from the Panel that:

...prior to the adoption of the Amendment, the costings for DI_DR_10 should be reviewed and if they do not include allowance for the Tannery Road culvert upgrades, appropriate allowances are included in these projects in accordance with the proposed apportionment.⁵⁹

It appears the existing Tannery Road culverts will not have the capacity to accommodate flood flows. The Panel agrees with Council and the experts that the Tannery Road culverts should be upgraded (additional pipes or culverts), generally in accordance with Mr Watters concept and costing, and the upgrade costing should be included in the DCP prior to finalising the Amendment.

Council can consider the Tannery Road local road drainage issues separately to the Amendment.

The Panel recommends:

Marshall Development Contributions Plan

Review and, if necessary, amend costings for drainage project DI_DR_10 to include allowance for the Tannery Road culvert upgrades.

(iv) Marlee Drive reservation (DI_DR_01a)

Reservation width

Mr Watters and experts were concerned there may not be sufficient space within the Marlee Road road reserve to accommodate the proposed 825 millimetre drainage pipe (DI_DR_01a). In closing, Council confirmed there was space for the infrastructure and advised:

...there is 5 metres to the north of the [road] pavement and drainage infrastructure.⁶⁰

The Panel accepts Council's confirmation that Marlee Drive has sufficient space (minimum 2.5 metres) within the road reservation along the northern nature strip and no further work is required in relation to this matter.

Apportionment

Council explained it had engaged Urban Enterprise to review the exhibited DCP (*Marshall DCP Peer Review*, Urban Enterprise, 25 October 2025) (2024 Peer Review). The 2024 Peer Review

⁵⁹ Table, Final day drafting changes, Document 106

⁶⁰ Council closing submission, page 6, Document 96

recommended the apportionment of drainage item DI_DR_01a be adjusted to account for external demand from the NEIP. Council did not agree and noted:

...the land subject of the Amendment is presently constrained by 1% ARI [Average Recurrence Interval] 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. DI_DR_01a forms part of the strategy that addresses current flows and makes land presently subject to inundation available for development.

The DCP includes no external apportionment for DI_DR_01a. Council was satisfied with this approach, and no issues were raised by other submitters in relation to this matter. The Panel accepts the apportionment is appropriate.

(v) Other Barwon Water issues

Barwon Water supported the Amendment but requested minor changes to the PSP to enhance clarity. Specifically:

- the wetland, retarding basin and outfall pipe (DI_DR_01/DI_DR_01a) in the southeast corner of the precinct must be able to be developed independently of the main outfall sewer relocation (as the timing for these works is unknown)
- it sought a six metre drainage easement adjacent to the shared user path to accommodate the future outfall sewer relocation.

Council noted the PSP includes an allowance for creation of an easement for the sewer line relocation in the southeast corner of the Precinct.

The sewer realignment will be fully explored and resolved during detail design, importantly the key information is highlighted on the preliminary design documentation and PSP associated with DI_DR_01/DI_DR_01a. The Panel is confident that preliminary designs for these assets in the SWMS include sufficient information to:

- ensure Barwon Water's concerns regarding the main outfall sewer are considered in the wetland and outfall pipe design and will not interfere with its asset
- allow for the realignment of the main outfall sewer at a future date
- include an easement for the sewer relocation, noting Table 9 Precinct Infrastructure Plan includes SL01 Sewer Line - appropriate space and land allocated for future sewer diversion alignment.

5 Movement network and traffic

5.1 Introduction

(i) What is proposed?

The PSP includes an objective *“To deliver a permeable movement network... enhance and prioritise public and active transport opportunities and reduce car dependency”*. It also includes an extensive list of requirements and guidelines relating to the road and rail network (Requirements R38 – R46, Guidelines G21-G30) and active transport (Requirements R47-R54). Figures 17 and 18 show the Road and Public Transport and the Active Transport Network plans.

The Marshall transport and movement strategy focuses on connectivity, with an emphasis on safe, convenient, and integrated active and public transport. It provides a permeable and extensive shared path network through the Precinct, connecting to the broader network to encourage walking and cycling while reducing car dependency.

A suite of typical road design and cross sections (PSP Appendix 4.3) prioritises walking and cycling to encourage a modal shift. This will be supported by dedicated bicycle lanes, bus rapid transit, and wide footpaths lined with canopy trees.

The Precinct also leverages off the recently upgraded Station, providing access through to Geelong and Melbourne. DTP advised that train frequencies of 10 minutes during peak and 20 minutes in off-peak times will ultimately be provided and complemented by a bus interchange at the Station.

The Panel notes that Horseshoe Bend Road, south of Marshalltown Road has been renamed Duve Street – however submissions have used its original name. For consistency the Panel has used Horseshoe Bend Road throughout this Report.

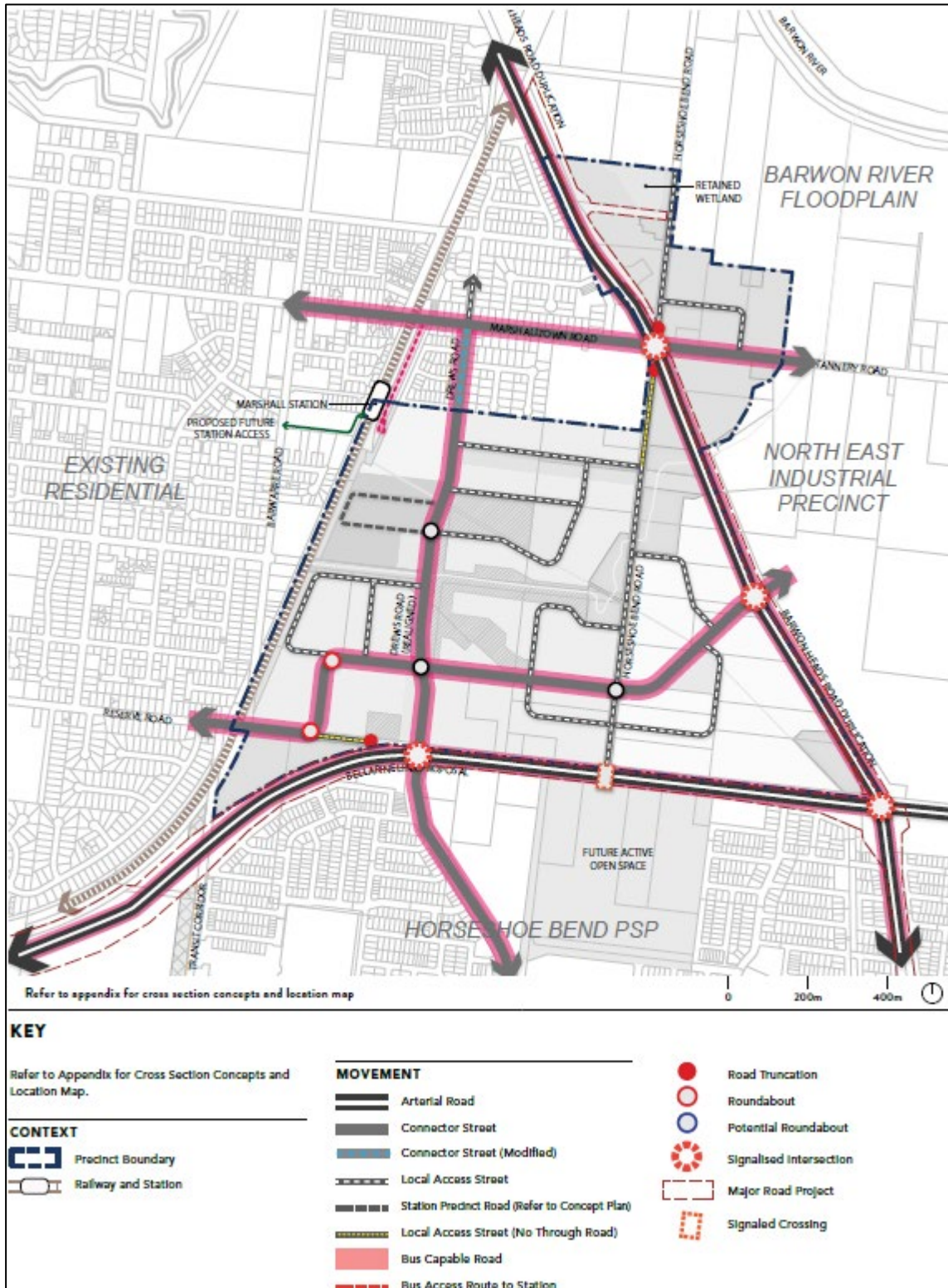
(ii) Evidence

Table 6 lists the movement network and traffic experts called by parties.

Table 6 Movement network and traffic evidence

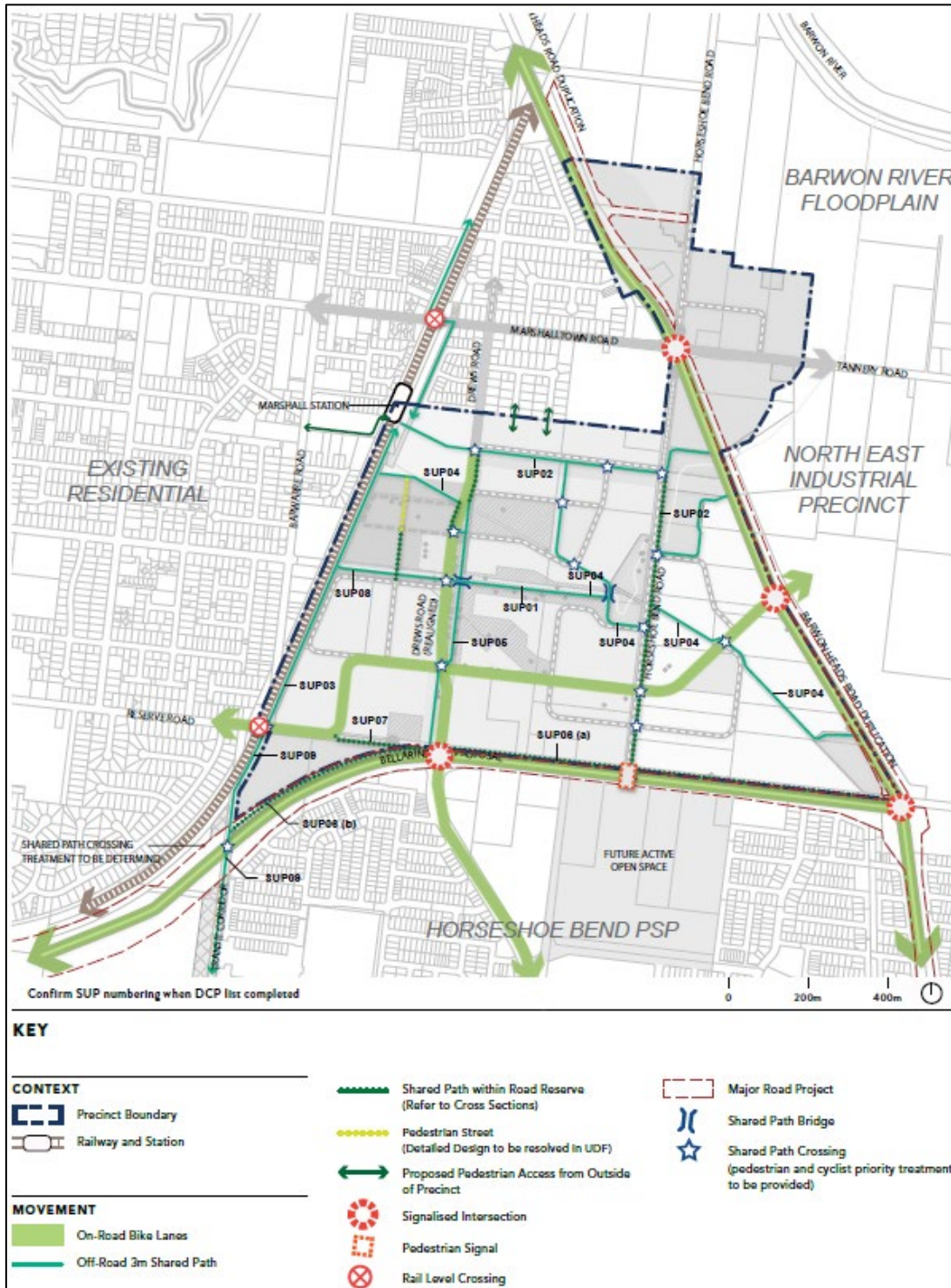
Party	Expert	Firm	Area of expertise
Rich and Pure	Jason Walsh	Traffix Group	Traffic
Re-Grow	Reece Humphreys	Stantec	Traffic and transport modelling

Figure 17 Road Network and Public Transport Plan



Source: Exhibited PSP, page 60

Figure 18 Active Transport Network Plan



Source: Exhibited PSP, page 61

(iii) Panel directions – Marshall Traffic Impact Assessment

The summary report⁶¹ prepared by Council and DTP before the Hearing, in response to Panel directions, identified the following key DTP issues:

⁶¹ Summary of traffic matters discussed between Council and DTP, Document 25

- concern the Marshall Traffic Impact Assessment (TIA) is outdated, does not consider staging and cannot be relied upon
- concern with development staging and its impact on the operation of the road network
- concern about the design and/or operation of several intersections:
 - Marshalltown Road/Drews Road intersection
 - Reserve Road/Drews Road/Realigned Horseshoe Bend Road - interim signalised intersection
 - Keystone/East-West connector road.

DTP did not oppose Council's proposal to change some of the land designated Commercial/Bulky Goods to residential.

5.2 Traffic impact assessment

(i) The issue

The issue is whether the TIA is fit for purpose.

(ii) Evidence and submissions

DTP submitted it was unable to assess the Precinct's impacts on the Principal Road Network as the TIA used 2015 traffic conditions which are not representative of current network conditions and do not reflect future traffic volumes. It said this data is essential to give certainty to the design life of the proposed intersections.

Council advised it was satisfied the PSP internal road network will accommodate traffic flows that are generally low and well within the capacity of the proposed road network. Council acknowledged there had been ongoing discussions with DTP to resolve the interface issues with the external road network and did not believe the TIA needed to be updated.

(iii) Discussion

The Panel has considered whether the TIA should be updated to reflect current and future traffic conditions. Due to the significant advancement of key transport infrastructure already provided in agreement with DTP, there is unlikely to be significant benefit in refreshing this document.

While the Panel agrees with DTP that the TIA supporting the PSP lacks rigour to determine its impact on the surrounding road network since preparation of the TIA, significant traffic infrastructure works have been delivered, including:

- the duplication of Barwon Heads Road
- two signalised intersections at Marshalltown Road/Tannery Road, and Reserve Road (DTP consider both intersections along Barwon Heads Road to be satisfactory for future conditions).

As discussed in Chapter 5.3, the Panel accepts the Keystone/East-West connector road intersection DI_IT_02 can be resolved to the satisfaction of DTP.

Similarly, as discussed further in Chapter 5.4, the other key intersections to the major road network at Marshalltown Road and Reserve Road have been resolved through the Hearing process.

The Panel understands that all of the key intersections surrounding the Precinct will be, or have been designed to accommodate future traffic conditions. This addresses DTP's key concerns about how Precinct traffic will be accommodated on the surrounding arterial road network. In this context, the Panel agrees with Council there is little merit in updating the existing TIA.

(iv) Conclusion

The Panel concludes, due to the recent delivery of key transport infrastructure, updating the TIA report is unlikely to realise significant benefits and is not considered necessary at this stage.

5.3 Keystone/East-West connector - intersection DI_IT_02

(i) The issue

The issue is whether the layout, cost and apportionment of DI_IT_02 (the Keystone/East-West connector road between Marshall and NEIP precincts) is appropriate.

(ii) Evidence and submissions

DTP was concerned with the proposed functional layout of DI_IT_02 due to the adequacy of exiting traffic modelling and traffic data inputs.

Re-Grow advised that, as part of the NEIP Refresh, it had organised for Stantec to undertake a detailed strategic traffic assessment and modelling of the road network and land uses to determine the appropriate configuration for DI_IT_02. It suggested previous layouts had been deficient, as a strategic transport modelling exercise has not been undertaken to understand:

- what are the ultimate traffic volumes
- how traffic will be distributed on the surrounding road network.

This work is required to ascertain what intersection configuration is ultimately required and would impact the TIA, PSP and DCP, which will need to be updated accordingly. Re-Grow submitted the 50:50 cost apportionment between both precincts would still be appropriate.

Re-Grow relied on Mr Humphreys' traffic evidence. During the Hearing, it was revealed that Mr Humphreys was undertaking the strategic transport modelling exercise for DI_IT_02 and was already liaising with DTP and Council officers. He anticipated the modelling work would take around 3 months to complete.

Council submitted:

31. In respect of the intersection submission, Re-Grow states:
Re-Grow invites the Panel to recommend that Council complete further work to enable the proper design of the intersection and apportionment of costs before it progresses the amendment. Based on the oral submissions which Council made on day three of the hearing, this appears to be a shared position with Council.
32. This recommendation is consistent with Council's Part B submission and is adopted by the Council. The Panel can be comfortable that this work is capable of being completed...
33. The Panel can be confident that whether it is Mr Humphries that completes the work, or a different provider engaged by Council, the work can be undertaken.

Council advised it had no preconceived view on the what the apportionment should be. It said that while 50:50 cost apportionment is common, Drews Road/Reserve Road intersection costs are shared between Precinct (30 per cent) and Horseshoe Bend Precinct (70 per cent). It said the

normal DCP process guided by the DCP Guidelines should be adopted for determining apportionment.

(iii) Discussion

The DI_IT_02 configuration, costing, and apportionment will ultimately be resolved by the Re-Grow (Stantec) strategic traffic modelling exercise.

This intersection was initially 'modelled' over 10 years ago as part of the original NEIP and Marshall plans. Significant changes and new information is available that generally makes the previous designs redundant in terms of scope, cost, and apportionment.

While the Panel notes a 50:50 apportionment between precincts is typical, it does not comment on whether this is appropriate for DI_IT_02. The actual cost distribution will be determined following further strategic transport modelling work.

On the basis that Council and Re-Grow have agreed that further work is required, and the work can be undertaken in a timely manner (3 to 6 months depending on the timing of input and feedback from agencies and other key stakeholders), the Panel supports the modelling investigations to resolve this being undertaken before the Amendment is finalised. The apportionment can be resolved at that time.

The land take requirements will need to be updated in Table 1 Summary Land Use Budget and Table 10 Property Specific land Budget when DI_IT_02 is finalised.

(iv) Conclusion and recommendations

The Panel concludes the DI_IT_02 layout, cost and apportionment should be resolved by the strategic transport modelling work being prepared for Re-Grow in consultation with Council, DTP and other key stakeholders.

The Panel recommends:

Marshall Development Contributions Plan

Before finalising the Development Contributions Plan:

- a) **Complete further work to determine the DI_IT_02 intersection configuration, cost and apportionment.**
- b) **Make any consequential changes when the details of DI_IT_02 are finalised.**

Marshall Precinct Structure Plan

Make consequential changes, including to Table 1 Summary Land Use Budget and Table 10 Property Specific land Budget, when the details of DI_IT_02 are finalised, as shown in Appendix E.

5.4 Other traffic and transport issues

(i) Local access street – Horseshoe Bend Road (north) to Tannery Road

Council advised that the local access street from Horseshoe Bend Road to Tannery Road (see Figure 19) is no longer required as a consequence of the proposed land designation change to

residential and will be deleted from Plan 5 Future Urban Structure.⁶² This addressed Hublet's (properties 38 and 39) concerns that providing a public road through its property is unwarranted, and if to be provided, should be funded by Council. The Panel notes that Council's Final day version of the PSP closing version continues to show this road.⁶³

Figure 19 Location of local access road – properties 38 and 39



Mr Humphreys identified that maintaining a Commercial/Bulky Goods designation, in particular for those properties gaining access from Devine Street, may create unforeseen issues such as commercial vehicles being unable to safely U-turn at Barwon Heads Road/Marshalltown Road/Tannery Road to head back towards Geelong and either:

- be required to take long detours on existing road network
- circulate back on the proposed local road through Hublet's property to access the signals and safely perform a right hand turn.

Council's position is consistent with sound traffic engineering practice of ensuring better residential amenity and safety by ensuring commercial traffic does not filter through local residential streets. The Panel observes that if all the land north of Tannery Road were to be residential then enhancing the local road network permeability would be desirable and the local access road should remain.

In the context that the Panel has recommended properties 34-37 should retain the Commercial/Bulky Goods designation, deleting this road link may potentially create some access issues for properties 34-37, in particular the concerns raised by Mr Humphreys.

The Panel is satisfied these matters can be reasonably resolved during the planning permit process with appropriate access management strategies resolved through the requirement for a masterplan (see Chapter 3.2). The Panel supports Council's position the local access road should be removed from properties 34-37.

The Panel recommends:

Marshall Precinct Structure Plan

Amend the Plan 5 Future Urban Structure and Plan 10 Road Network and Public Transport to remove the Local Access Street from properties 34-37, as shown in Appendix E.

⁶² Council Part A submission, Appendix A, Document 7

⁶³ Document 105

(ii) Other intersections**Marshalltown Road/Drews Road**

Mr Humphreys believed the traffic modelling may potentially have under-estimated future traffic volumes. He was concerned the proposed intersection treatment, specifically the proposed 'KEEP CLEAR' line marking, may be inadequate. In response to a question from the Panel, DTP advised this intersection may potentially need to be signalised.

Council relied on Mr Walley's assessment which identified the existing intersection will function appropriately and have spare capacity to accommodate further traffic.⁶⁴ He considered future traffic flows up to 2041, including increased train frequencies and associated traffic disruption when the boom gates were closed.

Mr Walley's assessment shows this intersection would have significant spare capacity to deal with some unexpected traffic growth either within the Precinct, or along Marshalltown Road. Based on the material before it, the Panel is satisfied that the proposed 'KEEP CLEAR' line marking solution is reasonable.

Reserve Road/Drews Road/realigned Horseshoe Bend Road

DTP submitted it was concerned the responsibility for constructing the interim future Reserve Road (future Bellarine Link)/Drews Road/realigned Horseshoe Bend Road intersection was undefined, and it should be clear that Council is the lead agency.

The Panel is satisfied the PSP (R39 and Table 9 Precinct Infrastructure Plan) make it clear that:

- Council is responsible for the Bellarine Link Road/Drews Road/Realigned Horseshoe Bend Road interim intersection upon development (PSP project number IT01), and
- the Responsible State Government Transport Authority is responsible for the ultimate intersection configuration when Bellarine Link is delivered (project number IT01A).

Council and DTP's ongoing discussions regarding design of the interim intersection to avoid sacrificial works are not an impediment to finalising the Amendment.

(iii) Public and active transport

DTP submitted it was concerned the location and design of the Station Precinct adjacent to the Marshall Station car park would create potential for the Station car park to be used by people other than public transport users. The Panel notes these matters will be resolved as part of master planning exercise for the Station Precinct and/or during detail design of facilities (see Chapter 3.4).

DTP supported the active transport initiatives in the PSP and suggested the shared path (SUP04) along the sewer easement (E01) should be continued through the conservation reserve to further enhance active transport users connecting to the Station Precinct. Council did not agree noting it would require removal of native vegetation and acceptable alternatives were available. Further, Barwon Water would not permit infrastructure to be built within its easement. The Panel agrees with Council and notes there is a proposed permeable shared path network across the Precinct.

DTP suggested that due to increased development traffic along Drews Road, the provision of off-road cycling lanes should be considered to enhance safety. The Panel observes that Drews Road is

⁶⁴ Documents 38 and 46

anticipated to carry around 3,600 vehicles per day, which is generally consistent with a lower order collector road typical traffic volumes. The proposed road cross section (1.7 metre bicycle lane, 3.5 metre traffic lane and 2.3 metre parking)⁶⁵ is commonly used and is an acceptable and safe arrangement for cyclists.

⁶⁵ Marshall PSP 4.3 Road design characteristics and cross sections

6 Infrastructure delivery, cost and staging

6.1 Public Acquisition Overlay

(i) Background

The exhibited Amendment did not propose application of the PAO.

The Practitioner's Guide to Victoria's Planning Schemes says the PAO:

...identifies land that is proposed to be acquired for a public purpose. It has the effect of reserving the land under the *Land Acquisition and Compensation Act 1986*. The authority acquiring the land and the purpose of the acquisition must be set out in the schedule.

(ii) The issue

The issue is whether the PAO should be applied to land for drainage infrastructure.

(iii) Evidence and submissions

Several submitters, including the Urban Development Institute of Australia, Victoria (UDIA Victoria), suggested the PAO be applied for drainage infrastructure to ensure land can be compulsorily acquired if necessary. Submitters raised issues of land fragmentation and were concerned Council's approach would not ensure timely land acquisition. They provided examples of where Council has applied the PAO as a second stage process.⁶⁶

The UDIA Victoria was concerned the development of a significant portion of the Precinct may be precluded from progressing due to the inability to deliver drainage infrastructure on land owned by others.

Ample acknowledged there may be additional costs associated with PAO land acquisition, with requirements of the *Land Acquisition and Compensation Act 1986*, but said *"these costs can be minimised if the PAO is applied in the short term, and the land is acquired promptly. Cost of land is known to generally increase over time, and delays in negotiations are likely to also contribute to a potential shortfall in the DCP"*.⁶⁷

During the Hearing, Ample refined its position and proposed application of the PAO to only the more critical drainage infrastructure.⁶⁸ It maintained its primary position that the PAO was needed in the context of land fragmentation, the importance of drainage assets in delivering the PSP, and risk of delay if the PAO is not applied.

Mr Black recommended that the PAO be applied to enable timely land acquisition for all land required to deliver the Precinct's waterways and drainage infrastructure. By way of example, Mr Black referred to draft Greater Shepparton Planning Scheme Amendment C117gshe which included application of the PAO as part of the Shepparton South East PSP (noting this matter was still under consideration).

⁶⁶ Greater Geelong Planning Scheme Amendments C410ggee and C290ggee

⁶⁷ Ample submission, Document 57

⁶⁸ Drainage infrastructure projects DI_LA_4, 5, 10 and 11, Ample further submission, Document 86

Mr Black said that without the PAO there was risk the development would stall or there would be significant delays. He considered the cost difference between the DCP and PAO approach would be minor.

Mr Black recommended preparing Functional Layout Plans to have greater certainty about the land areas required for the infrastructure, and to inform application of the PAO, before finalising the Amendment. Subsequently, in response to questions from Council, Mr Black explained he accepted the detail in the SWMS was satisfactory and the level of investigation and preliminary design plans of drainage assets were appropriate to inform the DCP.

Council responded to submissions saying the Amendment:

...does not include application of PAOs to any private land, as Council prefers to wait for the Marshall DCP to be implemented and allow the private development sector time to initiate infrastructure delivery. Council will monitor development progress and may consider PAOs as part of any broader priority asset acquisition program if necessary – as it did in Amendment C410ggee.⁶⁹

Council explained this was its standard approach, consistent with the surrounding ACUGA. In support of this approach, it cited the findings of the VPA Projects Standing Advisory Committee for Referral 3 Wonthaggi North East Precinct Structure Plan, and Melbourne Water’s land acquisition policies.

Council was concerned that applying the PAO at this stage would lock in the location of infrastructure and land uses for a PSP that was “*prepared to be implemented at a level of general accord*”. It said “*Inherent in the identification of a PAO is a loss of flexibility*”.⁷⁰

Council explained that while the PAO was eventually implemented to parts of the ACUGA through Planning Scheme Amendment C410ggee, 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*”⁷¹.

Council said that while the Precinct is fragmented, the PSP and drainage strategy were prepared to accommodate this. Specifically:

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.

⁶⁹ Council Part A submission, Document 7, page 23

⁷⁰ Council Part B, Document 35, page 8

⁷¹ Council Part B submission, Document 35, page 10

In closing, Council submitted that application of the PAO at this stage of the process was not cost effective, not fair and cannot be delivered. It said Mr Black was not in a position to advise on the cost implications of applying the PAO, and there was no material before the Panel to assist it in determining the cost implications *“and whether the impact on the community is acceptable”*.

As described in Chapter 1.6(vii), the Panel received submissions relating to the Panel’s role in recommending the PAO at this stage of the process, when it was not part of the exhibited Amendment.

Council submitted the Panel cannot, in the context of the PE Act and at this stage of the process, adopt a change to the Amendment that includes introducing the PAO. Further, it should not adopt this proposed change based on matters of procedural fairness that cannot *“be cured by future notice directed by the Minister”*.

Ample maintained its position that the Panel should consider the merit of applying the PAO. It said the Panel can, under section 25 of the PE Act, recommend the PAO be included in the Amendment and:

It is then, ultimately, up to the Minister to decide if and how that recommendation is implemented, if the Minister were to agree.⁷²

Ample made submissions about pathways the Council and the Minister could take to implement the recommendation, if supported.

(iv) Discussion

Submissions were put to the Panel about:

- the merit of the applying the PAO
- whether the Amendment is the proper mechanism for applying the PAO
- the Panel’s legal ability to recommend the PAO.

Regarding merit, the Panel accepts Council’s approach which does not propose to apply the PAO to secure drainage infrastructure. The Panel is satisfied this is consistent with Council’s usual practice, and considers it an acceptable approach for delivering Precinct infrastructure on the basis that:

- Council is the drainage authority, and this is its preferred approach
- the proposed approach is commonly used by Council, including across the broader ACUGA
- the approach provides some flexibility with locating drainage infrastructure, consistent with the *“generally in accordance”* approach which is supported by the Panel (see Chapter 4.6(i))
- if intervention is required to facilitate infrastructure provision, Council may consider applying the PAO at a later stage through a separate process
- while this will potentially add to the timeframe for delivery, the Panel accepts Council’s advice this will not unduly affect overall Precinct delivery
- there is likely to be additional cost to acquire land for infrastructure if the PAO is applied and timing and cashflow implications and impacts on the community have not been assessed.

⁷² Ample further submissions, Document 86, page 4

The Panel understands the desire of some submitters to have greater clarity about timeframes and process, and the benefit of transparency that would come with application of the overlay. However, it accepts Council's advice that the exhibited Amendment balances certainty, costs and timeliness, and will provide a satisfactory outcome.

The Panel notes the circumstances of the draft Greater Shepparton Planning Scheme Amendment C117gshe are not comparable with the Amendment in that it:

- was a draft planning scheme amendment referred by the Minister for Planning to the VPA Projects Standing Advisory Committee
- included the PAO in the exhibited draft amendment.

While the Panel makes no comment on the legal interpretation of provisions in the PE Act, the authorised Amendment did not contemplate the PAO and consequently no notice was provided to potentially affected parties. In this context the Panel does not have the benefit of views of potentially affected parties. If Council considers the PAO may be of benefit in delivering the PSP this will need to be progressed through a separate process.

The Panel does not support application of the PAO as a post-exhibition change to the Amendment.

(v) Conclusions

The Panel concludes:

- It is not necessary to apply the PAO to deliver drainage infrastructure.
- It is not appropriate to apply the PAO at this stage of the process.

6.2 DCP rate

(i) Background

Council engaged Urban Enterprise to undertake a peer review of the draft DCP in July 2023. Subsequently Council engaged Urban Enterprise to prepare the 2024 Peer Review to comment on the extent to which its earlier recommendations had been addressed (Document 12e).

The 28 August 2024 Council report summarised proposed post-exhibition corrections to errors identified in the DCP as follows:

POST EXHIBITION DCP ERRORS

15. Council has detected calculation and formatting errors in the exhibited Marshall DCP which will be tabled at the panel hearing. While largely inconsequential to the finances and administration of the DCP, the notable changes are:
 - 15.1 DI_DR_07 construction cost increase by \$36,324.60
 - 15.2 DI_LA_10 land cost increase by \$4,460.79
 - 15.3 DI_LA_11 land cost increase by \$3,378.57
16. The actual DCP levy is tabled below.

SUMMARY - NET DEVELOPABLE AREA (NDA) By CHARGE AREA		
CHARGE AREA	TOTAL COST OF CONTRIBUTION	CONTRIBUTION PER NET DEVELOPABLE HECTARE
Charge Area 1	\$60,338,442.90	\$990,307.45
Charge Area 2	\$8,477,634.63	\$859,452.01
Total	\$68,816,077.53	

(ii) The issue

The issue is whether the DCP rate is adequately justified.

(iii) Evidence and submissions**Submissions**

Some submitters raised concerns the development contributions levy was too high and may impact development viability. Submitters were concerned:

- the DCP rate was considerably higher than contemporary PSPs in similar contexts and the NDA (residential) was low
- the land acquisition costs were significant (approximately 35 per cent of the chargeable items)
- with specific land acquisitions, such as resulting from the realignment of Drews Road
- with the cost and apportionment of specific infrastructure items, including DI_DR_01a, DI_IT_02 and DI_DR_10 and DI_DR_11.

Submitter 9 raised concerns about the land valuation associated with drainage infrastructure project DI_LA_7 proposed for properties 40 and 41. It submitted both properties had been given the same value per hectare rate regardless of different conditions, noting property 41 contains existing structures and property 40 does not.

The UDIA Victoria submitted the DCP rate is high, and the levies for drainage and land costs extremely high, which may negatively impact housing delivery outcomes. It noted the NDA is 58 per cent and submitted there is a substantial amount of encumbered land (21.52 per cent for conservation, easement, rail and drainage purposes) that can be used passively and should be credited accordingly. Further, the total credited open space is extremely low at 2.36 per cent of the NDA, and the Clause 53.01 open space requirement of 10 per cent is too high “*with so much useable encumbered open space*”.

Council

Council submitted the 2024 Peer Review:

- was robust and had “*confirmed the approach, terms and costings of the DCP are sound*”
- recommendations were intended to “*increase the equity of the DCP; and identify minor corrections required*”.⁷³

The 2024 Peer Review made recommendations in relation to several specific items. It was satisfied issues identified on the draft Valuation Report had been addressed in the final Valuation Report.⁷⁴

In response to specific matters raised in the 2024 Peer Review, Council submitted:

- there was no rationale to depart from shared paths as developer funded infrastructure
- it disagreed that a lower open space contribution should apply to non-residential/commercial land through Clause 53.01, noting:
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.

⁷³ Council Part B submission, Document 35, page 19-21

⁷⁴ Valuation Report – Marshall Precinct Structure Plan Development Contributions Plan – Land valuations, CBRE, June 2023

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

- minor amendments/corrections needed to construction costs and land estimates could be addressed.

Council submitted an updated Day 1 version of the DCP which updated some costings and corrected errors.⁷⁵

In relation to issues raised by submitters, Council said:

- Most submissions raising concerns about the DCP rate *“fail to articulate which infrastructure items are not required or do not meet the tests of ‘need and nexus’. Nor do any of these submissions put forward alternative design and costings to support a reduction in the cost of any individual DCP item”*.⁷⁶
- The open space requirement is consistent with the Clause 53.01 schedule, and the planned 4.10 per cent credited open space *“reflects the compact nature of the PSP and planned active open space area in the Horseshoe Bend PSP, located directly south of Reserve Road”*.⁷⁷ Council noted the 2.36 per cent open space figure quoted by the UDIA Victoria was in fact the percentage of local parks in the Precinct not the NDA.
- A revaluation was not required in relation to DI_LA_7 *“as is best practice, the subject land is valued at its highest and best use within the context of land zoned for urban purposes”*.⁷⁸

(iv) Discussion

The DCP identifies shared infrastructure required to service the Precinct and calculates a development contribution rate to fund this infrastructure. The DCP explains the strategic basis and approach for determining contributions and justification for specific infrastructure projects, including, among others:

- PE Act
- Planning Policy Framework
- Ministerial direction on the preparation and content of development Contributions Plans
- Development Contributions Guidelines (2003, amended March 2007)
- PSP Guidelines
- Infrastructure Design Manual (Local Government Infrastructure Design Association)
- relevant background plans and reports.

Ultimately need and nexus, combined with site specific conditions, determine costs. No submissions or evidence challenged the underlying approach to preparing the DCP. The 2024 Peer Review was helpful for assessing whether the approach and specific DCP items are appropriate. While the proposed DCP rate is high, the Committee is satisfied that Council’s approach is consistent with guidance on preparing development contributions plans and infrastructure costing.

The Panel provides the following discussion in relation to specific issues.

⁷⁵ Council’s Day 1 version DCP, Document 37b

⁷⁶ Council Part A submission, Document 7, page 23

⁷⁷ Council Part A submission, Document 7, page 23

⁷⁸ Council Part A submission, Document 7

It is acceptable to exclude shared paths not located on DCP land from the DCP and for these to be developer funded. This is common practice and wasn't challenged by submitters.

In relation to open space, the:

- Framework Plan establishes guidelines for provision of open space in the Precinct
- PSP defines 'encumbered open space' and identifies credited and uncredited open space
- schedule to Clause 53.01 requires a public open space contribution of 10 per cent (unencumbered) for the ACUGA (map 2)
- DCP includes open space items for:
 - greenways identified in the PSP to provide linkages and protect native vegetation
 - landscaping embellishment and playground equipment in local parks.

The PSP states land for local parks will be required under the schedule to Clause 53.01 "*and subject to equalisation within the Marshall PSP*".⁷⁹

Adequate open space provision is important for the many benefits it provides to urban areas and communities. It is not appropriate to credit encumbered open space. This is not supported by Clause 53.10, nor is it desirable as encumbered land is appropriately designated for easement, drainage and conservation purposes. There were no alternative proposals to the Panel, and the proposed credited open space is acceptable (noting Council's Day 1 DCP includes 3.403 hectares of credited open space, which represents 4.84 per cent of the NDA).

The Panel agrees with Council that a lower open space contribution should not apply to non-residential/commercial land. It is appropriate for all forms of development to contribute to public open space, particularly in the context where the Station Precinct residential population will be significant and the Framework Plan seeks to achieve best practice urban development.

The 2024 Peer Review considered the land valuation 'Before and After' approach appropriate, and the Panel accepts the land valuation methodology.

The Panel notes the Valuations Report has assessed the land values of properties 40 and 41 (and other properties exhibited as Commercial/Bulky Goods) on the basis they are proposed for commercial land use. As discussed in Chapter 3.2, the Panel recommends the land use designation and associated applied zone be residential for properties 20 and 38-43. The implications of the potential change to land designation and associated applied zone for these properties on the land valuation was not addressed by Council or submitters. Before the Amendment is finalised the Valuations Report should be updated to reflect the Panel's recommendations regarding land use designations for properties 20 and 38-43, and any consequential changes made to the DCP.

The Panel accepts Council's proposed Day 1 changes to the DCP. Further, it has addressed cost and apportionment of specific infrastructure items on other chapters of this Report:

- DI_DR_10 and DI_DR_11 (see Chapter 4.5)
- Marlee Road reservation - DI_DR_01a (see Chapter 0)
- Keystone/East-West connector - intersection DI_IT_02 (see Chapter 5.3).

Finally, the PSP approach embeds flexibility in locating assets, which may ultimately assist with increasing the NDA (see Chapter 4.6(i)).

⁷⁹ Marshall PSP, page 28

(v) Conclusions and recommendation

The Panel concludes:

- The DCP rate is adequately justified, subject to amendments resulting from the Panel's recommendations.
- The Valuation Report should be updated to reflect the proposed change to land use designation, as described in Chapter 3.2.
- The DCP should be updated following finalisation of infrastructure costs as recommended in this Report.

The Panel recommends:

Marshall Development Contributions Plan

Before finalising the Development Contributions Plan, using Council's Day 1 version (Document 37b) as a base:

- Update the *Valuation Report – Marshall Precinct Structure Plan Development Contributions Plan – Land valuations*, CBRE, June 2023.**
- Make consequential changes resulting from updating the *Valuation Report – Marshall Precinct Structure Plan Development Contributions Plan – Land valuations*, CBRE, June 2023 and other Panel recommendations.**

6.3 Staging**(i) The issues**

The issues are whether the:

- development staging proposed in the PSP is appropriate
- Plan 17 Development Staging should be renamed.

(ii) Evidence and submissions

Several submitters raised concerns with the proposed development staging shown in PSP Plan 17 Staging Plan and associated requirements and guidelines. Submitters were concerned this required development to occur in a sequential fashion, shown as stages A to K, and sought greater flexibility to prevent development delays.

Two submitters suggested indicative timing (short, medium and long) for staging areas should be included on Plan 17.

Several submitters raised issues with the proposed sequence of development affecting their land, with some requesting to be included in an earlier development stage.

DTP recommended reconsidering staging in relation to traffic, noting the proposed staging relies heavily on the intersection of Drews Road and Marshalltown Road which may create significant traffic delays in the area. It suggested alternative staging that begins in the south would better utilise Reserve Road and the recently duplicated Barwon Heads Road.

Council submitted Plan 17 is sourced from the SWMS, and while the catchments are identified alphabetically it was not intended these be delivered sequentially.

Council agreed with submitters that Plan 17 should be renamed from Development Staging to Development Catchments, or similar. Council noted:

Some changes to the drafting of section 3.10.2 'Development Staging' will also be required. Indicative 'short', 'medium' or 'long' term classifications to individual development catchments was not assessed in the Marshall SWMS and is not considered necessary.⁸⁰

(iii) Discussion

It is clear that the PSP is not intended to be prescriptive about the sequencing of infrastructure delivery and development. Specifically it includes requirements:

- R113 requires infrastructure projects be delivered consistent with the 'staging priority' in Table 9 Precinct Infrastructure Plan. Table 9 includes a column 'Delivery timing/provision trigger/staging' which describes a delivery trigger, such as "*upon development of the relevant catchment, or to the satisfaction of the Responsible Authority*".
- R115 requires drainage infrastructure be guided by the sequencing outlined in the Stormwater Management Strategy and Table 9, noting the staging is not definitive and a different sequence may be appropriate.

The Panel agrees that Plan 17 should be renamed, and any other related consequential changes made to the PSP. The source of Plan 17, the SWMS, does not suggest specific sequencing of drainage infrastructure and was not intended to determine the sequence of development. Changing the name of Plan 17 to Development Catchments will clarify the intent of this plan and will help resolve the specific concerns of submitters about the anticipated order of development for their properties.

The Panel accepts Council's position that specifying indicative timing for catchment areas is not appropriate. Indicative timing (short, medium and long) for delivery of development areas was not assessed, and there is significant guidance on sequencing and delivery triggers in the PSP.

For clarity and consistency, the Panel suggests amending Table 9 and R113 to remove references to timing and staging as shown in Appendix E.

(iv) Conclusions and recommendations

The Panel concludes:

- The PSP was not intended to be prescriptive about development timing or staging.
- It is appropriate to rename Plan 17 from 'Development Staging' to 'Development Catchments', and make associated changes to the PSP.

The Panel recommends:

Marshall Precinct Structure Plan

Rename Plan 17 from 'Development Staging' to 'Development Catchment' Plan and make other consequential changes, as shown in Appendix E.

Amend Table 9 'Precinct Infrastructure Plan' and requirement R113 to remove references to timing and staging, as shown in Appendix E.

⁸⁰ Council's Part A submission, Document 7, page 24

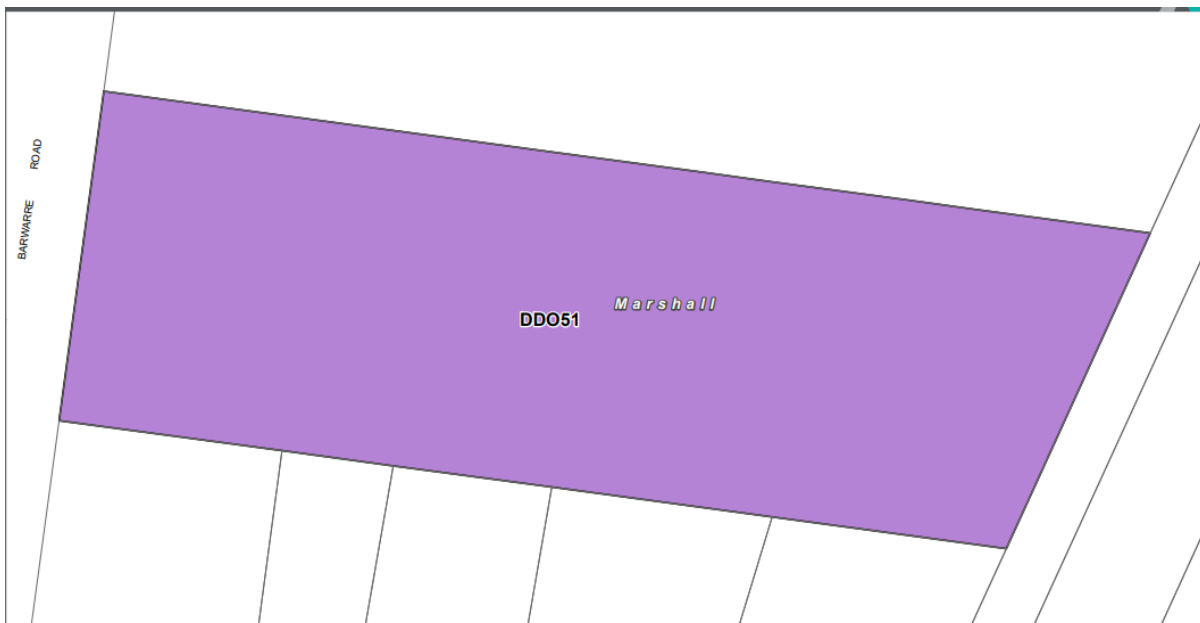
7 137 Barwarre Road/Design and Development Overlay Schedule 51

(i) Background

The Amendment proposes to apply a new DDO51 to 137 Barwarre Road, Marshall as shown in Figure 20. DDO51 is intended to facilitate the provision of a direct pedestrian/cycle link from Barwarre Road and the broader area to the west to the Marshall Station. It requires, among other things, that buildings and works applications (apart from those associated with an existing dwelling) include a subdivision application that in turn vests land for the proposed link with Council.

Although the site is outside the Precinct, the PSP includes various plans that identify a “*proposed future station access*” along the site’s southern boundary. The PSP also includes the proposed access as project RL04 in Table 9. Precinct Infrastructure Plan. The lead agencies for the project are the “*Responsible State Government Transport Authority/City of Greater Geelong*” and it is intended to be provided “*Upon subdivision/development of 137 Barwarre Road, Marshall*”. The project is not included in the DCP.

Figure 20 Exhibited DDO51 mapping



Source: Exhibited Amendment

(ii) The issues

The issues are whether:

- the link is needed
- DDO51 is a suitable mechanism to secure the land for the link.

(iii) Evidence and submissions

Ms Domaschitz objected to DDO51 because:

- it would decrease the property’s value

- there are alternative access routes that could be used.

Ms Domaschenz expanded on these concerns at the Hearing and queried various compensation and design matters. She noted the properties abutting the site to the south (3, 7, 9, 15 and 17 Basford Court) are traversed by a high voltage transmission line and associated easement. She queried whether the easement could be used for the link, thereby removing the need to locate it on 137 Barwarre Road. Council subsequently advised that the easement also extends into the southern area of 137 Barwarre Road to a depth of 8.37 metres.⁸¹

DTP supported the link and advised that preliminary investigations had confirmed it can be provided to the west of the new station infrastructure through 137 Barwarre Road. It supported the use of the DDO to provide the land and accepted that development/construction costs would be borne by Council and DTP, although the details of this were yet to be agreed.

During the Hearing the Panel directed DTP to provide “*the reference design for Barwarre Road, if available*”. DTP provided a copy of the ‘Marshall Station site plan’⁸² that applies the notation “*opportunity for future expansion*” to the rear of 137 Barwarre Road. DTP advised this indicated its intent to utilise the property for future pedestrian access. DTP also advised there had been community consultation about the Marshall Station upgrade in 2022, and the resident of 137 Barwarre Road would have received ongoing project updates via email. DTP could not confirm whether the public had been invited to comment on ‘Marshall Station site plan’.

Council relied on the evidence of Mr Glossop who supported the provision of the link but raised various issues with the use of the DDO to acquire land and the drafting of DDO51. He concluded the exhibited DDO51 was ‘unfair’ because it places a burden on the landowner to provide land for the link without a mechanism for appropriate compensation. He noted the usual mechanisms for acquiring private land were through a PSP process, applying the PAO or by agreement.

Given that the site was not in a PSP and there was inadequate information to support a PAO, Mr Glossop recommended DDO51 be revised to provide a simplified, discretionary mechanism to enable a negotiated agreement. He provided a revised schedule⁸³ in support of this and noted that future subdivision of the site might be a mechanism to provide land for the link as part of the 10 per cent open space contribution.

Council advised the PAO had not been applied because of the lack of detailed plans for the link and the uncertainty about who would be the acquiring authority. Council acknowledged the concerns raised by Ms Domaschenz about acquisition and compensation and conceded that elements of the exhibited DDO51 were problematic. It agreed with Mr Glossop that DDO51 should be redrafted as a discretionary provision to be considered at the time of development and/or subdivision. As part of its closing submission, Council provided a revised DDO51⁸⁴ based on Mr Glossop’s version and was satisfied its revised approach would promote discussion about acquisition and compensation and provide transparency to the landowner.

⁸¹ Copy of Title Plan TP959841P, Document 97

⁸² Marshall Station reference design, Document D90a

⁸³ Expert evidence of Glossop planning, Document 9, Appendix E

⁸⁴ DDO51 closing version, Document 104

(iv) Discussion

The Panel agrees there would be merit in providing a pedestrian/cycling link between Barwarre Road and the Marshall Station. Currently, the station can only be directly accessed from the east. Access from the west (Grovedale) is via Marshalltown Road (to the north) or Reserve Road (to the south). Marshalltown Road is approximately 300 metres north of the station entrance and Reserve Road is approximately 800 metres south of the station entrance. A more direct pedestrian/cycle link from Barwarre Road would benefit residential and commercial development in Grovedale.

The Panel shares the concerns raised in submissions and evidence about the fairness and transparency of the process for requiring land to be vested in Council in the exhibited DDO51. It also shares Mr Glossop's overarching concern about the use of the DDO as a mechanism to acquire land instead of the PAO. The revisions to DDO51 proposed by Mr Glossop and Council seek to address these concerns by converting the provisions from compulsory to discretionary but there is still no transparent process for acquisition and compensation. It is likely this will create a cumbersome and uncertain permit application process for the owner with no clear compensation mechanism.

The Panel also has concerns about applying the DDO51 (in whatever form) when the design, preferred location, funding and ownership of the link are yet to be determined. Despite seeking information from Council and DTP about the investigations that informed the proposal, the Panel is unsure whether the easement is an opportunity or constraint in providing the link, or whether it would be better located on the properties to the south of 137 Barwarre Road as advocated by Ms Domaschenz.

It is not clear how an application under the DDO51 could proceed without resolving these matters. This would likely impact on options for redeveloping the property creating unreasonable uncertainty for the landowner.

The Panel believes further work on the link is necessary before a decision can be made on how to achieve it. This should include:

- establishing relevant design and construction requirements
- selecting the preferred site/location
- establishing any relevant implementation and ownership responsibilities
- consulting with affected landowners
- assessing planning scheme or other options for acquiring the land.

For these reasons the Panel does not believe the exhibited or revised DDO51 should proceed as part of this Amendment. Deleting it from the Amendment will require consequential changes to the PSP to remove the link from the various maps that show it traversing 137 Barwarre Road. However, the reference to project RL04 in Table 9 should be retained as a general indication of Council and DTP support for the project.

Council and DTP expressed concern that the opportunity to provide the link might be lost if DDO51 did not proceed. Retaining project RL04 in the PSP partly addresses this concern, but ultimately it is up to Council and DTP to undertake the necessary investigations and develop a more appropriate mechanism for facilitating the project. Deleting DDO51 from the Amendment does not preclude any of this happening.

(v) Conclusions and recommendations

The Panel concludes:

- The provision of a direct pedestrian/cycling link between the Marshall Station and Barwarre Road would be a positive initiative.
- There has been insufficient analysis of various design, siting, funding and ownership issues to confirm how and where the link might be provided.
- DDO51 (or a version of it) should not be adopted as part of the Amendment given the need for further investigations to be undertaken.

The Panel recommends:

Design and Development Overlay Schedule 51

Delete Design and Development Overlay Schedule 51.

Marshall Precinct Structure Plan

Delete references to the proposed Marshall Station access from Barwarre Road, from plans and text, except for project RL04 which should be retained but edited to remove the reference to 137 Barwarre Road, Marshall, as shown Appendix E.

8 Contaminated land

(i) Background

The exhibited Amendment proposes to apply the EAO to several sites in the PSP. The UGZ7 includes requirements relating to a planning permit for identified “*medium risk properties*” to require:

- 35.1. A preliminary risk screen assessment, being a statutory assessment under the Environment Protection Act 2017 that will determine the need or otherwise for an audit; or
- 35.2. An environmental audit.⁸⁵

The exhibited UGZ7 includes Table 2 which identifies the medium risk properties.

The Amendment was informed by the Preliminary Environmental Assessment Update, prepared by WSP in September 2023.

The EPA provided early advice to Council on the Amendment in accordance with Ministerial Direction No. 19 (see Chapter 1.2) that supported the approach. It subsequently made a submission to the exhibited Amendment, and an addendum submission⁸⁶ through the Panel process.

Council:

- amended the exhibited UGZ7 in response to the EPA’s original submission
- responded to issues in the EPA’s addendum submission in its post Hearing submission (see Chapter 1.6(iv)).

(ii) The issue

This issue is whether the planning tools proposed to manage potentially contaminated land are appropriate.

(iii) Submissions

The EPA’s exhibition submission stated:

PPN30 recognises that where it is ‘difficult or inappropriate’ to meet audit system requirement at the time of the amendment, the EAO is the appropriate planning tool. It is worth noting that whilst PPN30 recommends the EAO, it also refers to ‘other appropriate measure’ to trigger the audit system requirements.

In this instance further assessment for properties identified as having a ‘medium’ potential for contamination is being required via planning controls, rather than the EAO, which EPA would normally recommend as being the appropriate planning tool. This was an oversight in the previous advice issued to Council.

In EPA’s addendum submission stated:

- applying the EAO is more transparent
- planning controls need to be carefully drafted to ensure it fully addresses the risk of potentially contaminated land, including the case where use or development does not require a planning permit and therefore does not trigger further assessment

⁸⁵ Document 115, page 5

⁸⁶ Document 5

- it is not appropriate for the responsible authority to be able to waive or reduce the requirement, as proposed in the UGZ7, as this provides opportunity to reinterrogate the determination of whether land is potentially contaminated and it is not appropriate to deviate from the environmental audit system
- the draft provisions do not allow for exemptions as currently allowed under the EAO
- the draft provisions do not accurately reflect the definition of ‘sensitive use’ as defined in Ministerial Direction 1.

EPA submitted *“if the risks identified can’t be resolved, the appropriate planning tool would be the application of the EAO to land with a medium potential for contamination”*.

Council submitted it was comfortable with the approach it had taken, while acknowledging the approach *“advanced by the EPA also represents a legitimate approach in terms of use of the [Victoria Planning Provisions]”*. Further, *“the EPA’s approach represents a new approach – seemingly devised at a point during the exhibition process given that Council implemented all of the EPA’s suggestions in its initial submission”*.⁸⁷

In relation to the specific EPA concerns Council said:

- it disagreed that application of the EAO was more transparent, and that *“a prudent purchaser of the land”* will have regard to content of the zone
- the drafting of the control had been amended in accordance with the original submission, noting that *“Council’s drafting is enlivened in respect of permit applications where as the EAO operates at large”*.

Council agreed with the EPA:

- it is not appropriate to waive the requirement given the nature of the control, and proposed further drafting changes to remove this discretion
- the definition of sensitive use should be updated to accord with Ministerial Direction 1.

Council accepted the EPA’s proposed changes to the drafting of:

- Clause 3.0 Requirement – Preliminary Site Investigation
- Clause 4.0 Condition of Environmental Audit.

(iv) Discussion

The Panel agrees with Council that the EPA’s proposed approach does represent a new approach to management of potentially contaminated land through the planning system. That said, the updated Planning Practice Note 30 was published in July 2021. The Panel appreciates the difficulty for Council with the EPA’s advice evolving throughout the Amendment process, however it is important to apply current guidance and make proper use of the VPP.

Potentially contaminated land is defined in Ministerial Direction 1. Ministerial Direction 1 does not differentiate between land with a high or medium risk of potential contamination - it is all defined as potentially contaminated land. Planning Practice Note 30 says:

Where land has been determined to be potentially contaminated, but it is difficult or inappropriate to meet environmental audit system requirements at the amendment stage, the application of the Environmental Audit Overlay (EAO) to the land allows deferment of these requirements. The EAO is a mechanism provided in the VPP and planning schemes to ensure that requirements under Ministerial Direction No. 1 are met before the

⁸⁷ Document 115, page 8

commencement of a sensitive use (or children’s playground or secondary school), or the construction or carrying out of any buildings and works associated with those uses. Applying the overlay ensures the requirements will be met in the future but does not prevent the assessment and approval of a planning scheme amendment.

It is important to properly manage potentially contaminated land to ensure risks are appropriately managed for the benefit of human health and the environment. To achieve this the right planning controls must be in place.

The Panel is satisfied the land identified as potentially contaminated formed part of the exhibited material (either through the EAO or listed in Table 2 to the UGZ7) and this is not in dispute. Affected parties have had the opportunity to review and comment on this designation through the exhibition process and submissions on this matter were received.

The Panel can see no reason to deviate from current and best planning practice. The exhibited Amendment does not make proper use of the VPP. The Panel agrees with the risks of the proposed approach identified by the EPA. A further risk relates to the disconnect of the UGZ7 from the State provisions designed to manage potentially contaminated land. Specifically, if there are any further refinements to the EAO provisions these may require consequential changes to the UGZ7 which may or may not occur.

While Ministerial Direction 1 provides for the potential to apply the EAO or another “*appropriate measure*”, there is lack of guidance on how this should be applied. Based on the information before it, the Panel considers the use of an alternative measure has not been adequately justified, particularly in the context where the EPA recommends the EAO as the preferred tool.

Consequently, the Panel does not accept Council’s proposed:

- post-exhibition changes to UGZ7 Clause 3.0 Requirement – Preliminary Risk Screen Assessment or Environmental Audit
- post-Hearing changes to 3.0 Application Requirement to remove discretion relating to requirements for contaminated land.

UGZ7 Clause 3.0 Requirement - Preliminary Site Investigation applies to land affected by the EAO with high potential for contamination. Planning Practice Note 30 states:

Where the land has been identified as having a ‘high’ potential for contamination, but a use other than a sensitive use, children’s playground, or secondary school is proposed, a planning or responsible authority may require a preliminary site investigation (PSI), to inform decision making on next steps, including whether an environmental audit is warranted.

Given the Panel recommends the EAO be applied to all potentially contaminated land, including land identified as high and medium risk of contamination, the Clause 3.0 Requirement - Preliminary Site Investigation should identify the properties identified in the Preliminary Environmental Assessment Update as having high potential for contamination, specifically 92-108 Horseshoe Bend Road and 355 Barwon Heads Road. In addition to the Council and EPA agreed changes to this provision, the Panel suggests additional wording to reflect this in its preferred version of UGZ7 at Appendix D.

(v) Conclusions and recommendations

The Panel concludes:

- The Amendment does not make proper use of the VPP to manage potentially contaminated land.

- The EAO should be applied to all potentially contaminated land, including land identified as high and medium risk of contamination.

The Panel recommends:

Environmental Audit Overlay

Apply the Environmental Audit Overlay to all land identified as potentially contaminated.

Urban Growth Zone Schedule 7

Remove the Clause 3.0 Application Requirements relating to 'Preliminary Risk Screen Assessment or Environmental Audit', as shown in Appendix D.

Amend Clause 3.0 Application Requirement relating to 'Preliminary Site investigation' to specify land identifies as having high risk of potential contamination, as shown in Appendix D.

9 Environmentally sustainable development

(i) Background

The Framework Plan states:

The Armstrong Creek Urban Growth Area will be developed into a sustainable community that sets new benchmarks in best practice urban development.

Several planning policies include imperatives for sustainable urban development including:

- Settlement - Clauses 11.02-1S (Supply of urban land), 11.02-2S (Structure planning) and 11.02-2L (Northern and Western Geelong Growth Areas) which includes a strategy to “Ensure urban development delivers carbon neutral neighbourhoods”.
- Built environment and heritage:
 - Clause 15.01-2L (Environmentally sustainable development) which includes an objective “To achieve best practice in environmentally sustainable development from the design stage through to construction and operation”, strategies to encourage ESD, and policy guidelines and documents relating to assessment and management tools.
 - Clause 15.01-3S (Subdivision design) including strategies to support uptake of renewable energy and providing all electric lots.

The PSP states:

The City’s *Climate Change Response Plan 2021-30* establishes a target of net zero community emissions by 2035. Similarly, the Framework Plan requires PSPs to deliver zero carbon and environmentally sustainable development (ESD) through ‘ESD action plans’. Rather than having a standalone action plan for Marshall PSP, ESD and zero carbon actions have been embedded throughout the PSP. The PSP proposes a range of requirements and performance based targets to achieve and maintain a net zero carbon footprint by addressing emissions across the design, construction and ongoing operations of the precinct.

Among other provisions relating to climate, sustainable energy, and zero carbon, ESD requirements and guidelines include:

- R17 – prior to certification of a plan of subdivision, Residential ESD Design Guidelines must be prepared and submitted to the satisfaction of the Responsible Authority
- R18 – details what the Residential ESD Design Guidelines must contain, including lot scale requirements for green infrastructure, electric vehicle charging and provision of solar panels for dwellings and apartment buildings
- R96 – requires an application for use, subdivision or construction to be accompanied by a Zero Carbon Operational Energy Plan
- G48 – encourages opportunities for alternative infrastructure and utility delivery models that achieve best practice ESD and support the development of a carbon neutral neighbourhood
- G49 – strongly encourages neighbourhood scale renewable energy or green energy purchasing agreements, as an alternative to the individual solar systems required under the Residential ESD Design Guidelines.

Among others, the exhibited UGZ7 includes requirements including:

- Clause 3.0 application requirements for Zero Carbon Construction and No gas
- Clause 4.0 conditions for ESD Residential Design Guidelines and ESD Requirements for Community Facilities, Commercial and Mixed Use.

(ii) The issue

The issue is whether the ESD provisions are adequately justified and appropriate, in particular requirement R18.

(iii) Evidence and submissions

Some submitters raised concerns about the proposed ESD provisions, including:

- it is unclear where the range of requirements and performance based targets at R18 derive from, and whether they align with current best practice or industry standards
- the Amendment should focus on sustainability principles, not prescribing specific design solutions, which are more appropriately addressed during detailed design.

The UDIA Victoria submitted the PSP appears to go substantially beyond current benchmarks and was concerned there would be implementation issues with the ESD requirements. It also said:

- relevant policies and standards are rapidly evolving
- it was plausible the new Plan for Victoria and PE Act reforms could include ESD policies
- the Amendment should be written in this context.

Council relied on the evidence of Ms Keddie, who broadly supported the Amendment. She was satisfied the Amendment clearly articulated Council's ambition to support carbon neutral outcomes through growth area planning, stating:

...the PSP would appropriately play a role in documenting how those principles translate to approvals that will be assessed under the relevant controls, rather than duplicating existing content.⁸⁸

While noting the approach was different to standard practice, Ms Keddie supported the PSP content, stating the proposed requirements and conditions allowed for appropriate consideration of relevant matters at key stages in the planning process. She considered the Amendment appropriately addressed climate change mitigation and adaptation, and advised the scope of the provisions is suitable for precinct scale planning based on her assessment of best practice precinct planning.

Ms Keddie relied on the Framework Plan, *Climate Change Response Plan 2021-30* and *Armstrong Creek Urban Growth Plan Vol 1* to underpin the need for the area to consider zero carbon outcomes. She said the *Armstrong Creek Urban Growth Plan Vol 1* explained the need for renewable energy generation to be a key consideration for ACUGA.

Ms Keddie supported the lot scale solar requirement in R18, noting an equivalent had not been implemented previously in planning schemes. She said the requirements provide flexibility to reassess the need for lot scale solar if an agreed alternative arrangement is made in accordance with G49. She supported the requirements relating to no gas connection and Zero Carbon Operational Energy Plan.

Regarding technology change and flexibility Ms Keddie said:

Technology and practice are evolving rapidly and it is important that controls for areas such as these provide sufficient flexibility to support alternate approaches as these emerge. I do not consider the need to maintain flexibility is a reason to not include specific and mandatory requirements at precinct planning stage – rather, this requires the framing and drafting of such requirements and conditions to have regard to this need for flexibility.

⁸⁸ Ms Keddie, Expert Witness Statement, Document 10, page 11

In response to submissions Ms Keddie explained:

- the distinction between ‘best practice’ and ‘industry standards’, and said the Amendment goes beyond industry standards to align with best practice, consistent with the vision in the Framework Plan
- many elements of R18 align with existing standards, providing specific examples of planning policy
- ESD matters should be considered at the precinct planning stage
- Council has articulated a municipal wide climate change strategy, and the Amendment is important for implementing that strategy
- concerns about lot scale requirements are valid, however she considers the proposal appropriate
- she agrees retaining flexibility is important and considers this is provided for
- the requirements address gaps, but do not duplicate or contradict other regulatory requirements
- if building regulations are updated to fill the gaps addressed by these requirements, a future planning scheme amendment is supported to remove duplication
- it is not appropriate to defer these requirements in the context the State planning reform work underway, as the system is constantly evolving
- she is satisfied there is evidence for affordability benefits for residents of the proposed lot scale requirements.

Ms Keddie accepted Council’s changes to the exhibited R18 and suggested minor drafting changes to UGZ7, including:

- Clause 3.0 Application Requirement for ‘Zero Carbon Neighbourhoods’ to apply to construction of a building with minimum 1,500 square metre floor area
- Clause 4.0 Condition to clarify drafting.

In response to questions from the Panel about the strategic basis for the R18 solar panel metrics, Ms Keddie said it was from the Elevating ESD Planning Scheme Amendment which had not progressed. Other metrics were based on other ESD standards and established practice.

Council submitted:

- Clause 01 of the Planning Scheme includes a purpose *“to support responses to climate change”*
- Requirement R18 builds on Clauses 12 and 15.01 and provides measurable targets and a more comprehensive approach to climate resilience (noting R18 is consistent, albeit possibly more onerous, than State planning provisions)
- ESD is a key objective of the PSP and the provisions are intended to provide a vision for how the area should be developed
- detailed design is often too late in the process to introduce ESD requirements.

Council explained it is a member of the Council Alliance for a Sustainable Built Environment and had been waiting for authorisation of a planning scheme amendment for 24 Councils called ‘Elevating ESD Targets’ since 2022. In the interim the State government had implemented reforms to:

- mandate all new housing developments to be electric
- introduce ESD requirements through Amendment VC216

- introduce National Construction Code's (NCCs) seven-star energy efficiency requirements for housing.

In relation to requirements that go beyond the NCC, Council referred to the recent Panel Report for Melbourne Planning Scheme Amendment C376melb⁸⁹ which said:

- it is appropriate the Melbourne Planning Scheme is able to build on and improve standards set by the NCC
- there is nothing that prevents a planning authority from requiring buildings to achieve performance standards that exceed the NCC requirements
- where a development meets the local ESD provisions it will also satisfy the relevant NCC standards.

Council said that while Melbourne Planning Scheme Amendment C376melb is not directly comparable to the Amendment in terms of drafting, it would provide *“the Panel with a level of comfort that the use of controls in this way in planning is notionally acceptable”*.⁹⁰

Council noted none of the submissions proposed alternative drafting.

Council accepted Ms Keddie’s proposed changes to the UGZ7 and proposed the following changes to R18 (shown in track changes compiled by the Panel):

The Residential ESD Design Guidelines prepared for residential subdivision must include requirements for:

- All new residential buildings to be constructed to be all electric in operation of fixed appliances (i.e. heating, cooling and cooking);
- ~~At least 75% of the development’s total site area with a combination of the following elements to reduce the impact of the urban heat island effect:~~
~~Green Infrastructure:~~
- Roof and shading structures with cooling colours and finishes that have a solar reflectance index (SRI) of:
 - For roofing with less than 15 degree pitch, a three-year SRI of at least 80 minimum 64
 - For roofing with a pitch of greater than 15 degrees, a three-year SRI of at least 40; minimum 34.
- ~~Water features or WSUD items;~~
- ~~Hardscaping materials with SRI of minimum 40;~~
- All new residential lots allow for future provision of Electric Vehicle Charging Points (EVCPs) of one per dwelling; to provide a dedicated electrical circuit terminating in a garage or carport that is capable of supporting a minimum 7kW (32A) Electric Vehicle Charging Point (EVCP).
- ~~Unless otherwise approved in writing by the Responsible Authority, all EVCPs must be in accordance with Smart City Specifications (2022);~~
- Unless it can be demonstrated that neighbourhood scale renewable energy generation will be delivered, each dwelling is to meet the below requirement (neighbourhood scale renewable energy generation is to be equal to or greater in capacity than the below):
 - All new dwellings with up to two bedrooms to have installed a 3kW minimum capacity solar photovoltaic (PV) system. An additional 1kw capacity solar photovoltaic (PV) system is required for each additional bedroom proposed; and,
 - Apartment buildings to have installed a solar PV system with a capacity of at least 25W per square metre of site coverage or 1kW per dwelling.

⁸⁹ Melbourne Planning Scheme PSA C376melb [2024] PPV, Document 99

⁹⁰ Council Closing submission, Document 96, page 11

In response to a question from the Panel to Ms Keddie, Council clarified the floor area metric in amended UGZ7 Clause 4.0 derived from local policy guidelines in Clause 15.01-2L (Environmentally sustainable development) and the definition of a large building in its Sustainable Building Policy (June 2020).⁹¹

(iv) Discussion

Are the provisions justified?

Firstly, the Panel has considered whether the ESD provisions are adequately justified.

State and local planning policy establishes a clear imperative to have regard to climate change and encourage ESD for new developments. This is not in question. Council's policies and strategies show a strong commitment to action on climate change, including targets in the *Climate Change Response Plan 2021-30* to:

- achieve net zero community emissions by 2035
- become a climate-ready municipality, with increased resilience to current and future climate risks.

This ambition is also represented in the Framework Plan's vision for the ACUGA to be a sustainable community that sets new benchmarks in best practice urban development.

The Background Report outlines the ESD initiatives proposed in the PSP and a high level summary of why the requirements are needed, with reference to Council's *Climate Change Response Plan 2021-30*.

The *Climate Change Response Plan 2021-30* includes an action to require PSPs to deliver best practice ESD plans for all new developments, along with other actions to optimise energy efficiency in new buildings, facilities and infrastructure. These include strengthening sustainable building policy, discouraging gas infrastructure in nominated developments, and supporting renewable alternatives, encouraging buildings to meet 7 star building standards.

The *Armstrong Creek Urban Growth Plan Vol 1*, relied on by Ms Keddie for justification of the provisions, includes principles for precinct structure plans to prepare an energy management plan for each precinct that "in particular, minimises greenhouse gas emissions (e.g. targets at least 20% total energy as sourced from local renewable energy electricity generation)", and envisages development of a sustainable energy policy for Armstrong Creek.

Neither the *Climate Change Response Plan 2021-30* or *Armstrong Creek Urban Growth Plan Vol 1* are incorporated documents, and while they reinforce policy and set the scene for ESD initiatives, they do not provide guidance on specific initiatives for the Precinct.

Council and Ms Keddie explained some proposed provisions and metrics were derived from the proposed Elevating ESD Targets planning scheme amendment that had not progressed, along with other relevant standards and established practice, however the details of these and how they apply to the Precinct were not explained.

While there is strong strategic support for ESD provisions, no specific studies were prepared to inform the specific provisions. Assessment of the suitability of provisions is particularly important in an evolving regulatory environment - to ensure the provisions are fit for purpose, viable in the

⁹¹ Documents 48 and 49

context of the Precinct and appropriately flexible. There is no line of sight between the proposed ESD provisions and the background analysis underpinning the Amendment. Borrowing or using generic tools from other standards may or may not be appropriate. The work has not been done to confirm the proposed ESD provisions are appropriate in the context of the PSP.

In contrast, noting it has yet been adopted, Melbourne Amendment C376melb which seeks to implement city wide ESD controls through a Design and Development Overlay Schedule 73 (DDO73) to all land in the municipality, was underpinned by a range of supporting documents including *Sustainable Building Design: Planning Scheme Amendment C376*, Hansen, 2020.

Of interest, the Panel report for that matter states the background reports underpinning the Amendment were based on contemporary analysis, research and findings which provide a sound strategic justification for the Amendment, including economic impact analysis. Proposed Melbourne Amendment C376melb also provides discretion to vary some standards based on technical or economic feasibility, and the Panel recommended amending the decision guidelines to include:

Whether the following matters impede achieving a standard:

- Site context and constraints
- Technical impediments
- Economic impacts.

Fundamentally it is not appropriate to introduce mandatory, prescriptive requirements in:

- the absence of strategic work to inform the provisions
- an evolving policy and regulatory environment, when the implications have not been assessed.

On this basis the Panel does not consider the ESD provisions, as exhibited, adequately justified.

Are discretionary provisions appropriate?

In the absence of strategic assessment justifying the specific provisions, the Panel has turned its mind to whether it can support any of the provisions in any form. In particular, whether there is adequate strategic justification to support discretionary controls.

Council's strategies and planning policies establish a clear intent to encourage ESD initiatives and respond to climate change. To achieve this, the PSP should include adequate guidance to assist with the assessment of planning permit applications and the extent to which proposals achieve planning policy and the PSP objectives.

Of note, the *Precinct Structure Planning Guidelines* explains:

- requirements must be adhered to in developing the land.
- guidelines express how discretion will be exercised by the Responsible Authority in certain matters that require a planning permit.

The Panel for Melbourne Amendment C376melb found:

- in the absence of a State-wide approach to ESD requirements in Victorian planning schemes it is appropriate for Council to contemplate the innovative application of existing provisions to implement ESD requirements
- DDO73 should include only discretionary tools because:
 - the cumulative effect of the requirements could potentially result in unintended consequences

- the DDO should provide flexibility to balance competing requirements to achieve a net result that is satisfactory
- web-based ESD assessment tools change over time and the management of updating these tools is problematic
- changes to the NCC over time may result in unforeseen conflict with DDO73 and a discretionary control provides for greater flexibility
- it is appropriate to proceed cautiously to ensure the ESD controls do not mandate unreasonable costs on development.

The Panel broadly agrees with these principles established by the Panel for Melbourne Amendment C376melb. In the context of an evolving regulatory environment:

- it is appropriate for Council to consider how it can implement locally relevant ESD provisions
- the ESD provisions should provide guidance and be enabling but not be prescriptive or mandatory, unless adequately justified.

On a case by case basis the Panel considers discretionary ESD provisions may be appropriate.

Are specific provisions appropriate?

In assessing the proposed PSP provisions, the Panel is mindful of guidance in the *Precinct Structure Planning Guidelines* which states:

A PSP is a high-level strategic plan that sets out the preferred spatial location of key land uses and infrastructure to guide decisions on staging of development, subdivision permits, building permits and infrastructure delivery.

PSPs are deliberately flexible – they cannot anticipate and control every challenge that may be encountered at detailed design and delivery phases. As a tool to guide subdivision and delivery of essential infrastructure, they provide certainty of intended outcomes and the flexibility for detailed design to respond to site-specific requirements and solutions, and innovations.

Once prepared, PSPs are incorporated documents within the planning scheme. As such, they have a specific role to address matters within the scope of the planning system—ensuring they are consistent with the regulatory environment they operate in.

Of particular concern to submitters is Requirement R18 which prescribes mandatory solutions be implemented at a lot scale. R18 is intended to guide implementation of R17 which states:

Prior to the certification of a plan of subdivision for the first stage of residential subdivision, Residential ESD Design Guidelines must be prepared and submitted to the satisfaction of the Responsible Authority. The Residential ESD Design Guidelines must be applied as a restriction on the relevant plan of subdivision.

Requirements R17 and R18 are further intended to be implemented by condition requirements in the UGZ7 which require Residential ESD Design Guidelines. Confusingly this condition is drafted as mandatory, using the word ‘must’, however is in fact discretionary as it says “*unless otherwise approved in writing by the Responsible Authority...*”.

While the Panel accepts the requirements in R18 are derived from industry best practice, it is not known whether they are technically or economically feasible in the context of the Precinct. Further, the Panel notes the exhibited version contains wide ranging requirements relating to water sensitive urban design and green infrastructure, but the Final day version is limited in scope to energy efficiency and generation, and emissions. The reason for this change in scope is not clear, and there is no obvious guidance as to what the Residential ESD Design Guidelines should address.

Given the lack of explicit strategic justification for the content of R18 and its implementation as a mandatory requirement, the Panel does not support its retention.

In the context that Clause 15.01-2L which encourages ESD and Council's *Climate Change Response Plan 2021-30* seeks for all new developments to prepare ESD plans, the Panel accepts the intent of R17 to require Residential ESD Design Guidelines. However, R17 should be expressed as a guideline that should be achieved, rather than a requirement. Discretion may be needed to determine whether a Residential ESD Design Guidelines is needed and its scope for each planning permit application.

G49 provides for neighbourhood scale renewable energy as an alternative to the lot scale solar required by R18. As a consequence of the Panel's recommendation to delete R18 and make R17 a guideline, G49 should be amended accordingly. The Panel has recommended wording in Appendix E.

An associated provision is R96 which requires a Zero Carbon Operational Energy Plan. The plan must address how an all-electric precinct will be achieved, and infrastructure and mechanisms, such as solar panels, to ensure zero carbon development. Similar to R18, there is no obvious strategic justification for its inclusion as a requirement, or guidance as to what the Zero Carbon Operational Energy Plan should contain. In the context of local policy Clause 11.02-2L which seeks to ensure carbon neutral neighbourhoods, the Panel accepts the intent of R96 to require a Zero Carbon Operational Energy Plan, but considers it should be expressed as a guideline.

As a consequence of the Panel's recommendations to delete R18 and make R17 and R96 discretionary, the Panel recommends deleting the UGZ7 requirements relating to ESD and Zero Carbon Neighbourhoods.

The Panel has not reviewed other PSP requirements and guidelines or UGZ7 requirements that fit broadly under the ESD banner as they were not raised as specific issues by submitters.

(v) Conclusions and recommendations

The Panel concludes:

- The ESD provisions are not adequately justified.
- As shown in Appendix E:
 - Requirement R18 is not appropriate and should be deleted
 - Requirements R17 and R96 should be made discretionary
 - consequential changes should be made to Requirement G49.
- The UGZ7 requirements relating to ESD and Zero Carbon Neighbourhoods have not been adequately justified and should be deleted.

The Panel recommends:

Marshall Precinct Structure Plan

Amend in accordance with the Panel's recommendations in Appendix E:

- a) make Requirements R17 and R96 guidelines rather than requirements and amend the wording to be discretionary**
- b) delete Requirement R18**
- c) amend Guideline G49**
- d) make any other related consequential changes.**

Urban Growth Zone Schedule 7

Delete Environmentally Sustainable Development and Zero Carbon Neighbourhood provisions as shown in Appendix D.

10 Other issues

10.1 Native Vegetation Precinct Plan

(i) The issue

The issue is whether the NVPP should be updated.

(ii) Submissions

DEECA supported incorporation of the NVPP into the Planning Scheme noting it outlines a strategic approach to achieving native planning policy and guidance. It recommended the NVPP be updated to:

- use more recent aerial imagery
- remove reference to native vegetation that has been lawfully removed, for example relating to the Barwon Heads Road upgrade
- consistently depict the Precinct boundary.

DTP recommended the NVPP be updated to:

- depict existing conditions, particularly where native vegetation has been removed as part of the Barwon Heads Road upgrade, including updating aerial imagery
- not show 'native vegetation to be retained' where the PAO3 applies for Bellarine Link "*as it will likely need to be removed to meet design requirements and reduce likelihood of needing additional land beyond existing PAO*".

Council explained:

- The approach to showing native vegetation as retained was developed in consultation with Major Road Projects Victoria's Planning and Environment Manager, at a time when the impacts of upgrading Barwon Heads Road were uncertain and it did not want to inadvertently allow full removal. While amending the NVPP is not absolutely necessary, it may be useful for project implementation to note in Tables 7 and 8 that the vegetation has been removed (the Panel notes the relevant NVPP tables are Tables 6 and 7).
- It did not agree with removing 'native vegetation to be retained' from the PAO3 (Proposed Road – Category 1 - Bellarine Link Stage 1) area in the absence of project design and funding, noting the State may use a planning scheme provision such as Clause 52.35 to seek a permit for native vegetation removal when needed. It said it would, however, redraft NVPP Section 5.1 to discuss this area specifically.
- Agreed to amend the NVPP to match the Precinct boundary.

(iii) Discussion

As an incorporated document the NVPP forms part of the Planning Scheme and it is important it is accurate and reflects the current situation. As some native vegetation conditions have changed since preparation of the NVPP, it should be updated to reflect this. This should include updated aerial photography and removing references to native vegetation that has been lawfully removed.

As suggested by DEECA, the Precinct boundary should also be reviewed to resolve any inconsistencies with the PSP. If boundary changes result in identification of any additional native vegetation, the NVPP will need to be amended accordingly and any consequential changes made

to Plan 9 Native Vegetation Precinct Plan. The Panel notes the additional area in the southwest of the Precinct not included in the NVPP is designated as a drainage reserve.

The schedule to Clause 52.16 (Native Vegetation Precinct Plan) should be updated to refer to the final document version and date.

The Panel agrees with Council the 'native vegetation to be removed' should be retained in the PAO3 area. The NVPP should provide accurate information about the current native vegetation conditions and in the absence of an approved design, it is not yet known which native vegetation may need to be removed for the Bellarine Link project.

The Panel does not support Council's suggestion to discuss the Bellarine Link specifically in NVPP Section 5.1. There is adequate guidance in other parts of the planning scheme for assessing a future permit application to remove native vegetation.

(iv) Conclusion and recommendations

The Panel concludes the NVPP should be updated to reflect existing conditions and an accurate Precinct boundary.

The Panel recommends:

Marshall Native Vegetation Precinct Plan

Update to reflect existing conditions, specifically in relation to the area affected by the Barwon Heads Road duplication.

Marshall Precinct Structure Plan

Update to include any consequential changes resulting from the review of the Marshall Native Vegetation Precinct Plan, as shown in Appendix E.

Clause 52.16 (Native vegetation precinct plan)

Amend Clause 52.16 (Native vegetation precinct plan) to include the version and date of the updated Native Vegetation Precinct Plan.

10.2 Native vegetation, biodiversity and conservation reserves

(i) The issues

The issues are whether:

- the extent of conservation reserves is appropriate
- habitat protection for Growling Grass Frog and Latham's Snipe is acceptable.

(ii) Evidence and submissions

Extent of conservation areas

One submitter sought expansion of the native vegetation corridor to minimise the impact on the environment.

The owner of 113-129 Reserve Road (property 6), said conservation reserve CR05 was excessive and sought consideration of its removal or reducing its size to 0.293 hectares.

The owner of 67-87 Drews Road (property 10), questioned designation of conservation reserve on areas of the land without native vegetation or significant trees.

DEECA supported the requirements in the PSP relating to conservation reserves, including the application of buffer areas. It recommended a definition for conservation reserve be included in the PSP glossary.

Council submitted the:

- NVPP identifies the native vegetation to be retained is predominantly in the conservation reserves shown in the PSP and no additional vegetation corridors are proposed
- proposal achieves the right balance between protecting native vegetation and enabling residential development.

In relation to property 6/CR05 Council submitted:

- it relied on the NVPP as a strategic tool to inform the retention and removal of native vegetation
- the proposed conservation reserve is larger than the native vegetation patch listed in the NVPP (0.508 hectares and 0.293 hectares respectively)
- it has included a buffer around the native vegetation to be retained, based on Council's experience with other Armstrong Creek PSPs where it said the lack of buffers had resulted in poor outcomes
- the DEECA submission supports the use of buffers to native vegetation for protection from construction and conflicting land uses
- specific to CR05, it has *"squared off a reserve to allow for a more logical and implementable edge road design"*.⁹²

In relation to property 10, Council submitted the land supports the best intact patch of woodland native vegetation in the Precinct, which is also subject to Environmental Significance Overlay Schedule 1.⁹³ It said the conservation reserve area *"squared off the reserve"*, included a buffer and absorbed *"small pockets that can't be logically developed"*.⁹⁴

Farm dam on the flood plain

The Johnsons raises concerns about the potential impact on significant birds and potentially Growling Grass Frog habitat within the farm dam on their property.

DEECA supported requirements such as R64 that are intended to improve or otherwise support habitat conditions.

With reference to recommendations of the Fauna Surveys Report, Council supported maintaining the existing hydraulic regime to the farm dam which provides potential habitat for the Growling Grass Frog and Latham's Snipe.⁹⁵ It submitted it would amend the PSP to *"to ensure the dam is not cut off from the relocated channel WW05 to the Barwon River, so as to prevent decline in habitat availability for GGF [Growling Grass Frog] and Lathams Snipe"*.⁹⁶

Drews Road alignment

Submitter 21 questioned the road realignment of Drews Road designed to conserve native vegetation in the existing road reserve.

⁹² Council Part A submission, Appendix A, Document 7

⁹³ ESO1 - Areas of flora and fauna habitat and of geological and natural interest

⁹⁴ Council Part A submission, Appendix A, Document 7

⁹⁵ Council Part A submission, Appendix A, Document 7

⁹⁶ Council Part A submission, Appendix A, Document 7

Council explained:

there are significant biodiversity assets within Drews Road and in the land immediately adjoining both sides of the road. Upgrade versus deviation (east or west) of Drews Road was analysed during design of the PSP. Given the status of the road a decision had to be made between retaining the current alignment and impacting the treed and wetland vegetation within and adjacent the current reservation from an upgrade, or relocation to either side and retaining the vegetation within the road reserve. Relocation to the west was ultimately preferred so as to avoid impacts to significant trees and absorb this vegetation and habitat into existing conservation areas on the east side of Drews Road (Smith Street and the core patches north and south of Smith Street).⁹⁷

(iii) Discussion

Extent of conservation areas

PSP requirement R34 states that all conservation reserves must be managed to a standard that satisfies the NVPP, including buffers around conservation areas.

Buffers around areas of native vegetation are important to protect environmental values and manage potential impacts. Management and interface edge design of conservation reserves are relevant considerations, and there was no information before the Panel to justify removing or reducing the size of the conservation reserve on properties 6 or 10.

The Panel:

- supports the areas designated for conservation reserves as exhibited
- agrees with DEECA a definition of conservation reserve should be included in the glossary of the PSP.

Farm dam on the flood plain

Growling Grass Frog and Latham's Snipe are listed as vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act). As stated in the PSP, development must comply with other statutes and approvals where relevant, including the EPBC Act.

The Fauna Surveys Report:

- identifies that habitat is present in the Precinct for both species
- recommends improving habitats for Growling Grass Frog and Latham's Snipe by developing hydrological regimes that maintain fauna habitats.

PSP requirement R64 appropriately requires hydrological conditions be maintained for habitat protection. R64 requires stormwater be designed to improve habitat conditions for native fauna, with specific reference to creating appropriate hydrology for retaining wetlands to support Latham's Snipe and Growling Grass Frog, in accordance with the Growling Grass Frog Habitat Design Standards.

Council suggested amending the PSP to ensure the farm dam's hydrology is not impacted by WW05. While details of this were not explored at the Hearing, the Panel agrees the PSP should be reviewed and, if necessary, amended to include further details to ensure WW05 is appropriately located and designed to maintain hydrological conditions for habitat protection.

⁹⁷ Council's Part A submission, Document 7

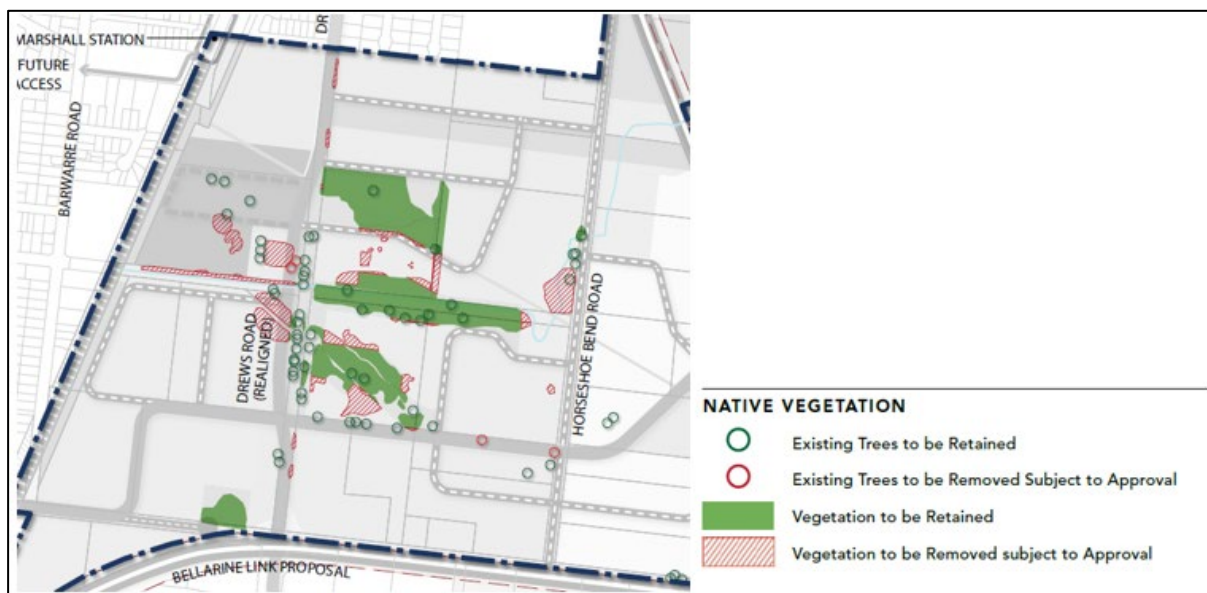
Drews Road alignment

The PSP states:

Areas of significant biodiversity value will be preserved and enhanced through the retention of native vegetation and appropriate tree planting, which will maintain and create connections for native fauna and humans. Significant trees (including Bellarine Yellow and River Red Gums) will be retained and protected in line with the NVPP.

The realignment of Drews Road to avoid native vegetation values is well considered and warranted. As shown in the exhibited PSP, the realignment and native vegetation protection will provide a linear conservation reserve along the east side of Drews Road connecting CR01, CR04 and CR03. The road reserve contains many significant trees to be retained (see Figure 21), including Bellarine Yellow-gum which is listed as Critically Endangered under the *Flora and Fauna Guarantee Act 1988*⁹⁸, and is partly identified in Environmental Significance Overlay Schedule 1.

Figure 21 Plan 9 Native Vegetation Precinct Plan, excerpt



Source: PSP (Panel modified)

(iv) Conclusions and recommendations

The Panel concludes:

- The extent of conservation reserves is appropriate.
- A definition of conservation reserve should be included in the glossary of the PSP, as agreed by Council and DEECA.
- Subject to the Panel's recommendations, requirements relating to habitat protection for Growling Grass Frog and Latham's Snipe are acceptable.

⁹⁸ According to the FFG Threatened List June 2024 the current status of the Bellarine Yellow-gum is Critically Endangered

The Panel recommends:

Marshall Precinct Structure Plan

Review and, if necessary, make amendments to ensure WW05 is appropriately located and designed to maintain hydrological conditions for habitat protection, as shown in Appendix E.

Include a definition of conservation reserve in Section 5: Glossary, as shown in Appendix E.

10.3 Victorian Grassland Earless Dragon

(i) Background

The VGED is listed as Critically Endangered under the EPBC Act and Critically Endangered under the *Flora and Fauna Guarantee Act 1988*.

The letter of authorisation said:

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.

Council engaged Ecolink Consulting to undertake a habitat assessment for the VGED in the Precinct, that was completed in June 2024 and exhibited with the Amendment. The VGED Habitat Assessment found:

- the Precinct is unlikely to provide VGED habitat due to the lack of suitable habitat features
- areas that could not be visually assessed have a low, but not zero, possibility of supporting VGED habitat, which may result in a moderate level of habitat in these areas
- an on ground assessment is required of these areas to assess the habitat with greater certainty.

(ii) The issue

The issue is whether the VGED has been adequately considered in the Amendment.

(iii) Submissions

DEECA supported the findings of the VGED Habitat Assessment, based on review of the VGED Habitat Assessment against *Conservation Advice for Tympanocryptis pingicolla (Victorian grassland earless dragon)* (Department of Climate Change, Energy, the Environment and Water, 2023) and emerging knowledge. It said:

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.⁹⁹

In June 2024, following completion of the VGED Habitat Assessment, DEECA issued and updated its habitat model for the VGED.

In response to questions from the Panel, DEECA reviewed and provided comment on Council's Day 1 version of the PSP. It recommended the VGED Habitat Assessment be included as a technical report in PSP Section 6.2.

Council submitted:

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.¹⁰⁰

(iv) Discussion

The Panel accepts Council's position that the Amendment provides a strategic planning framework to guide the assessment of future development but "*does not bypass the need for future development to consider all relevant environmental matters and, if need be, be referred for assessment under the requirements of the*" EPBC Act.¹⁰¹ As noted in Chapter 10.2, the PSP explicitly states that development must comply with the EPBC Act.

For completeness, the Panel agrees with DEECA the VGED Habitat Assessment should be listed in PSP Section 6.2 Background Studies.

(v) Conclusion and recommendation

The Panel concludes that the VGED has been adequately considered.

The Panel recommends:

Marshall Precinct Structure Plan

Amend Section 6.2 Background Studies to list the *Victorian Grassland Earless Dragon, Habitat Assessment*, Ecolink Consulting, April 2024 as a technical report, as shown in Appendix E.

10.4 Affordable and social housing

(i) The issue

The issue is whether the affordable and social housing requirements and guidelines in the PSP are appropriate.

⁹⁹ DEECA original submission

¹⁰⁰ Council's Part B submission, page 16, Document 35

¹⁰¹ Council's Part A submission, page 9, Document 7

(ii) Evidence and submissions

Several submitters were concerned the affordable housing requirements and guidelines would unnecessarily increase development cost.

The UDIA Victoria submitted the provisions of Guideline G7 are “*difficult to interpret, calculate and apply*”. While supporting the need for affordable housing, it considered the 4.5 per cent rate benchmark would be burdensome on development in conjunction with the extremely high DCP rate and when other development costs are generally high.

Submitter 21 supported Council’s Social Housing Plan 2020-41, however considered the proposed requirements overly ambitious. It said a municipal wide approach to social housing was needed, instead of “*leveraging the requirements of the PSP in isolation of a broader policy framework*”. Further, the prescriptive social housing requirements will inadvertently affect housing affordability.

Mr Glossop advised:

The PSP requires permit applicants contribute towards social and affordable housing (Requirement 16). Guidelines 7 and 8 additionally provide specific rates for contributions for different land uses, which are to be implemented by entering into a Section 173 Agreement. Proposed UGZ7 includes associated application requirements (a Social and Affordable Housing Delivery Strategy) and a condition that a development ‘must’ comply with the Social and Affordable Housing Delivery Strategy. While the use of the word ‘must’ appears to connote a mandatory requirement, it is in fact discretionary given the following wording at the commencement of Clause 3.0:

The following application requirements apply to an application for a permit under Clause 37.07, in addition to those specified in Clause 37.07 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the Responsible Authority.

If in the opinion of the Responsible Authority an application requirement listed below is not relevant to the assessment of an application, the Responsible Authority may waive, vary or reduce the requirement

Mr Glossop did not comment on the appropriateness of the specific rates for social housing, but noted there is broader policy support for including social and affordable housing in the municipality including Council’s:

- Settlement Strategy includes the principle to “*Increase the level of affordable and social housing in Greater Geelong*”
- Social Housing Plan 2020 to 2041 identifies a need for 13,500 new social housing dwellings by 2041.

Mr Glossop:

- supported including non-mandatory contributions for social and affordable housing in principle
- recommended Guideline G7 to be reworded to capture the development of land for residential purposes, as intended by Council and consistent with the requirements of the UGZ7.

Mr Black commented that the affordable housing contribution requirements in the PSP go beyond legislative requirements and may be better addressed through separate strategies.

Council explained the 4.5 per cent target in Guideline G7 is derived from the Social Housing Report which:

- found that 14 per cent of total households are in moderate or worse housing stress

- reasoned that 14 per cent of future dwellings should meet social and affordable housing requirements
- by extrapolation, concluded that one third of new dwellings are likely to be delivered through planning approvals processes, resulting in a 4.7 per cent social and affordable housing requirement (one third of 14 per cent).

Council explained that in its experience voluntary negotiations were achieving a low rate of social housing contribution, and it had 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”*.¹⁰² Combined, the requirements in the PSP and UGZ7 are intended to provide an appropriate framework for negotiation, consistent with the State government requirements.

As included in Council’s Final day version of the PSP, Council proposed amended wording of Guideline G7 to clarify exactly what the ‘Primary Obligation’ is and respond to Mr Glossop’s recommendation.

Further, Council submitted:

While affordable housing is not referenced in the above [G7], 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.¹⁰³

(iii) Discussion

It is State planning policy to deliver more affordable housing closer to jobs, transport and services. Strategies include improving housing affordability and increasing the supply of well located affordable housing. The Municipal Planning Strategy (Clause 02-03-6 Housing) includes a strategic direction to increase the level of affordable and social housing in Greater Geelong.

There is an identified need for affordable and social housing, and a commitment by Council to increasing supply. The PSP provides an opportunity to facilitate affordable and social housing in an infill residential neighbourhood that is centrally located and well serviced.

The Social Housing Report addresses affordable and social housing. Confusingly the Social Housing Report uses the terms ‘social housing’, ‘affordable and social housing’ and ‘affordable housing’ interchangeably. Section 3AA of the PE Act defines affordable housing, and states for the purposes of the PE Act affordable housing includes social housing.

The Social Housing Report assessed the need for affordable rental housing in Victoria, inclusive of social housing, at 14 per cent for all households.¹⁰⁴ It considered this metric can reasonably be applied to Geelong and states:

On this basis, need for social housing in each KSPA [Key Strategic Planning Area] has been assessed at 14 per cent of total future dwellings with one third of these reasonably expected to be delivered via the planning and development approval process.

...

When this task is spread over all anticipated development in greenfield KSPAs (commercial, retail, institutional and residential), all development would be required to include, or pay for,

¹⁰² Council Part B submission, Document 35, page 11

¹⁰³ Council’s Part B submission, Document 35, page 12

¹⁰⁴ Social Housing Report, page 16

social and affordable housing at the rate of 4.5 per cent of all marketed floorspace, assuming that each KSPA has the same representation of non-residential floorspace.

The metric in Guideline G7 is discretionary and endorsed by Council through the Social Housing Report. The Panel accepts it is appropriate on this basis. The source of wording in G7 derives from the Social Housing Report, and while potentially not the intent the wording focuses on social housing rather than affordable housing, which includes social housing.¹⁰⁵ The Panel agrees with Council that G7 should be reworded to clarify the intent is for this requirement to address affordable housing, including social housing.

(iv) Conclusion and recommendation

The Panel concludes that, subject to its recommendation, the affordable and social housing requirements and guidelines are appropriate.

The Panel recommends:

Marshall Precinct Structure Plan

Amend Guideline G7 to refer to affordable housing, including social housing, as shown in Appendix E.

10.5 Open space

(i) Local Park LP03

Submitter 21 raised issues with the size and location of local park LP03. It sought relocation of the park to improve distribution of open space, noting:

- Plan 8 Open space and Biodiversity shows gaps in the 400 metre walkable catchments
- the park, in combination with the conservation reserve, covers 22.8 per cent of property 6, which places a constraint on the site and limits development potential.

Council did not support changes to LP03 stating it was purposely located to complement conservation reserve CR05 and shared user path 05. The Panel has already concluded the conservation reserve CR05 is appropriately sized (see Chapter 10.2).

The Panel supports Council's position on the basis:

- it is good practice to co-locate conservation and open space where possible, to support protection of environmental values and provide amenity benefits
- LP03 is logically located in the central south-western part of the Precinct and includes an off-road shared pathway connecting residents in the south to the Station Precinct.

(ii) Property 42

Council's Final day PSP shows the land use designation change and area of drainage reserve and credited open space on property 42 (see Figure 22).

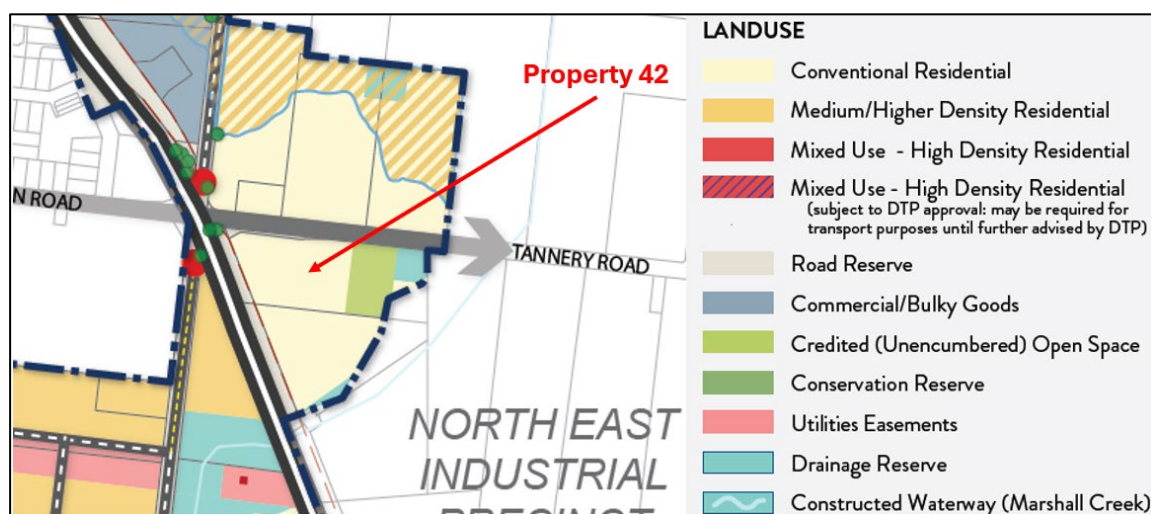
The PSP requirements state:

- unencumbered land for public open space must be provided in the locations identified in Plan 8 Open Space and Biodiversity (R21)

¹⁰⁵ Social Housing Report, Chapter 3.2 Determining an appropriate contributions rate, page 22

- the permit applicant may alter the distribution of public open space if appropriately justified to the satisfaction of the Responsible Authority (R22).

Figure 22 Post-exhibition Future Urban Structure Plan - open space shown on Property 42, excerpt



Source: Council report, 28 August 2024 (Panel modified)

In comments on the Final day documents, Rich and Pure sought flexibility in the requirements to relocate the local park on property 42 (noting the park is shown on Plan 5 Urban Framework Plan but is not shown on Plan 8 Open Space and Biodiversity).¹⁰⁶ It said if a zone other than C2Z or MUZ is applied, the local park could be more appropriate on the land to the north of Tannery Road to maximise yield as the site is already constrained by losing NDA due to the retarding basin. Alternatively, the park could be located on Property 43 to allow for a more balanced distribution of NDA across the two land parcels.

Council responded:

The location proposed is the optimal location co-located with the park with excellent visibility and accessibility from Tannery Rd.

No other park within the PSP is subject to similar relocation requirements and all public open space contributions are subject to equalisation.¹⁰⁷

In Chapter 3.2, the Panel recommends property 42 be designated Conventional Residential with GRZ as the applied zone.

In the context of the recommended land use designation for residential purposes, it is appropriate that open space be shown in the PSP. The PSP requirements provide some flexibility in locating public open space (R22), and the Panel supports the proposed location on the basis it:

- is well located with the majority of land recommended for residential to the east of Barwon Heads Road likely to be within the 400 metre walkable catchment
- has excellent access to and from Tannery Road, and potential for passive surveillance
- is co-located with a drainage reserve.

The Panel notes there are some inconsistencies on the plans in the PSP and all should be reviewed and if necessary, updated to appropriately show the location of the local park on property 42, including on Plan 8 to show the location and walkable catchment.

¹⁰⁶ Draft PSP table, Document 114b

¹⁰⁷ Council response to Rich and Pure drafting, Document 116

Recommendation

The Panel recommends:

Marshall Precinct Structure Plan

Amend Plan 8 Open Space and Biodiversity to show the location and walkable catchment for the proposed local park on property 42, as shown in Appendix E.

10.6 Bushfire

The CFA submitted it was generally supportive of the proposed bushfire protection measures and was satisfied the Amendment would satisfy bushfire policy at Clause 13.02-1S.

Submitter 21 sought amended drafting of PSP requirement R78 to provide greater flexibility and clarity for the setback from woodlands. Specifically, it sought the addition of “*dwelling setback to be determined at detailed assessment*” to allow for site specific considerations.

Council’s report of 28 August 2024 stated:

Council has no concerns with the approach of defining dwelling setbacks at detailed design, though propose that the requirement of an edge road is maintained adjacent conservation reserves. Agree to redraft R78.

Council’s Final day PSP included the following drafting changes:

R78 - Where a lot capable of accommodating a dwelling is adjacent to a ~~bushfire-hazard~~ [Bushfire Threat](#) area identified on Plan 13 Bushfire Classifications, a suitable road ~~or other low-threat design mechanism~~ must be provided between the ~~hazard~~ [Bushfire Threat](#) area and the lot on which the dwelling may be developed, to the satisfaction of the Responsible Authority.

R79 - All roads and streets within the precinct are to provide suitable access for FRV [Fire Rescue Victoria] and CFA fire response vehicles.

Residential subdivision adjacent to the ~~bushfire-hazard~~ [Bushfire Threat](#) areas shown on Plan 13 Bushfire Classifications must provide safe egress routes away from the ~~fire-hazard~~ [Bushfire Threat](#) area to the satisfaction of the Responsible Authority and the CFA.

The Panel supports Council’s Final day changes on the basis:

- the amended wording provides certainty that an appropriate setback will be provided, but maintains flexibility in how this will be achieved
- referring to ‘Bushfire Threat’ rather than ‘bushfire hazard’ is consistent with the descriptions in Plan 13 Bushfire Classifications.

11 Form and content of the Amendment

11.1 General drafting comments and consequential changes

Before finalising the Amendment all documents should be reviewed and edited for consistency and clarity. It is important to ensure that the Amendment functions as intended, avoids internal contradictions and does not require correction in the future. This review should include consideration of any other detailed drafting comments, including those suggested by DTP in its original submission.

Some Panel recommendations, if adopted, will require extensive consequential changes to various Amendment documents. The Panel has not identified the precise scope of these consequential changes and believes this is a task for Council.

11.2 Marshall Precinct Structure Plan

This chapter addresses specific PSP drafting issues.

Fencing (Guideline G4)

Rich and Pure submitted that G4 should be amended to state:

With respect to fencing:

...

Lots should not be designed with back fences facing roads, the rail line, open space, conservation areas, waterways and drainage, electricity and water easements [unless required for acoustic purposes or on triangular lots](#).¹⁰⁸

The Panel agrees with Council this change is not required. G4 is a guideline addressing the interface with the public realm interface and subject to detailed design considerations, not noise emissions.

Commercial and Station precinct (Requirement R87)

Rich and Pure proposed a qualification to R87 that development in the Station Precinct should cause “*no detriment*” instead of “*no negative impact*” given the difficulty of measuring and completely removing negative impacts. Council agreed.

The Panel does not support either approach because they are potentially impossible to achieve despite being a requirement. Instead, R87 should require that development be designed to “*minimise negative impacts on the amenity of nearby residential areas*”. This is included as a Panel recommendation in Appendix D.

Development constraints (Requirements R8, R30 and R40)

PSP requirement R30 states:

All lots must:

- ...
- Not back on to any form of open space to ensure public safety and surveillance is maintained.

¹⁰⁸ Document 114b

Rich and Pure suggested R30 be amended to state “*except where the lot is spatially constrained*”.¹⁰⁹

Council said the submitters concerns regarding lots backing onto open space are addressed in the redrafting of R8 and R40 and:

It would a particularly poor design response to have high amenity open space and wetlands without frontage roads or properties fronting them.¹¹⁰

The Panel agrees with Council that it is appropriate to require that lots front on to open space to achieve surveillance and safety. Further, it accepts Council’s Final day PSP drafting of R8 and R40, noting:

- R8 provides for flexibility where a site is practically constrained by its dimensions and an alternative design will achieve passive surveillance of the public realm
- R40 has been amended to include flexibility with road design where a lot that interfaces with Barwon Heads Road is spatially constrained.

Road frontage (Requirement R9)

In drafting comments, Rich and Pure did not suggest wording change but commented on R9 stating:

Having dwellings ‘front’ controlled arterial roads, like Barwon Heads Road, is a poor urban design outcome and not consistent with development patterns further south under other PSPs.¹¹¹

Council did not suggest changes and the Panel accepts Council’s Final day drafting of R9, noting it says lots and dwellings must front controlled arterial roads (and other things) where practical.

Property specific land budget

The PSP and DCP contain tables with details of a property specific land budget (Appendix Section 4.1 - Table 10 and Appendix A Section 7.1 -Table 11 respectively). The exhibited versions are substantially the same (the PSP contains additional columns relating to the total NDA. Council’s Day 1 DCP included changes to the table including the land take required for specific assets. These changes were not included in Council’s updates to the PSP, however the Final day PSP notes that Table 10 should be updated once the intersection land is finalised.

Table 10 in the PSP should be updated to be consistent with the DCP following completion of further work recommended by the Panel.

11.3 Clause 66.04

(i) The issue

The issue is whether Clause 66.04 should be redrafted, or any further changes should be made to the Amendment relating to Clause 66.04.

¹⁰⁹ Document 114b

¹¹⁰ Document 116

¹¹¹ Document 114b

(ii) Evidence and submissions

Mr Glossop explained the proposed Clause 66.04 includes a somewhat unusual referral requirement as follows:

Schedule 7 to Clause 37.07 (UGZ)	An application on land subject to flooding in a 1 in 100 year event identified on Plan 4 (Flood Prone Areas Flood Extent) in the incorporated Marshall Precinct Structure Plan March 2024.	Catchment Management Authority	Recommending referral authority
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He noted that while there are similar provisions relating to other UGZ schedules, the approach may result in unnecessary referrals.

In the context that the flood extent shown on Plan 4 of the PSP is existing and will be progressively reduced during development of the Precinct, Mr Glossop recommends the mapping be reviewed and updated at intervals during development *“to reflect the reduced/true flood extent”*.

The CCMA did not comment on the proposed provision.

(iii) Discussion and conclusion

Relying on the PSP Plan 4 to trigger an authority referral is an unusual approach which risks unnecessary referrals. As development progresses and flood extent changes, Plan 4 will not accurately communicate the extent and reality of flood risk.

The Planning Scheme includes several provisions relating to flooding, including:

- the Land Subject to Inundation Overlay (LSIO) which includes a purpose:
 - To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority
- Clause 66.03 which requires referral to the relevant floodplain management authority for an application under the Flooding Overlay or LSIO.

Plan 4 of the PSP shows land subject to the ‘Flood Prone Areas Flood Extent’ as well as the Flood Overlay and LSIO. According to the SWMS, this appears to be based on the flood mapping prepared by Alluvium Consulting in 2019.¹¹² It is not clear how the ‘Flood Prone Areas Flood Extent’ referral trigger, which also applies to *“an application on land subject in a 1 in 100 year event”*, relates to the LSIO. The referral relating to ‘Flood Prone Areas Flood Extent’ goes beyond the Flooding Overlay and LSIO in the Planning Scheme.

The drafting of the exhibited schedule to Clause 66.04 does not represent best practice. As explained in the Practitioner’s Guide, Clause 66.04 *“Enables a responsible authority to specify a referral authority for a particular kind of application under a local provision”*.

The exhibited schedule to Clause 66.04 relies on a plan in the PSP that will become outdated, and may become redundant if overlay maps in the Planning Scheme are updated. A more transparent and reliable approach would be for the relevant referrals to relate to flooding provisions (overlay and accurate mapping) in the Planning Scheme.

¹¹² SWMS, page 10

While Mr Glossop's recommendation has merit, it cannot be actioned through the Amendment. Council should undertake further work, as part of separate process and in consultation with DTP, to review and amend its approach to UGZ schedule referrals under Clause 66.04.

In the absence of further information, the Panel concludes the exhibited schedule to Clause 66.04 is acceptable on the basis it understands:

- Plan 4 accurately represents the existing situation
- CCMA is happy to receive referrals as specified
- the schedule currently includes similar provisions.

Appendix A Submitters to the Amendment

No	Submitter
1	Kevin and Shirley Bartlett
2	Barwon Water
3	Eddie and Bronwyn Bingham
4	Corangamite Catchment Management Authority
5	Department of Transport and Planning
6	Environment Protection Authority Victoria
7	Vito Giorgio
8	Hublet Capitol Pty Ltd
9	Brett Hungerford
10	Jaymi Davies
11	MJ & JP Johnson
12	Re-Grow Geelong Pty Ltd
13	Terry & Judith Miloi
14	Melinda Mitchell
15	Rich and Pure Pty Ltd (on behalf of Mr TP Singh)
16	Jonathan Vickers-Willis
17	Tim Margetts
18	David Nevil Tomkinson
19	Marshall Dev Co Pty Ltd (a subsidiary of Ample Investments Group Pty Ltd)
20	UDIA Victoria
21	DRD (Vic) Pty Ltd
22	Rich and Pure Pty Ltd (on behalf of TP & Kulbeer Singh)
23	AusNet Services
24	Country Fire Authority
25	Department of Energy, Environment, Climate Action
26	Drews Development Pty Ltd
27	Costa Asset Management
28	Robin and Jennifer Ellis
29	Cliff Domaschenz
30	Anne and Peter Littlewood
31	Marshall Pine Products owned by Dreart Pty Ltd

Appendix B Parties to the Panel Hearing

Submitter	Represented by
City of Greater Geelong	Greg Tobin of Harwood Andrews, calling the following expert evidence: <ul style="list-style-type: none"> - Planning from John Glossop of Glossop Town Planning - Drainage from Rob Swan of HARC - Environmentally sustainable design from Jane Keddie of Hansen Partnership
Department of Transport and Planning	Jozef Vass
Department of Energy, Environment and Climate Action	Alex Gunn
MJ and JP Johnson	Phillip Johnson
Costa Asset Management and Robin and Jennifer Ellis	Chris Taylor of Planning and Property Partners, calling the following expert evidence <ul style="list-style-type: none"> - Planning from Jason Black of Insight Planning
Marshall Dev Co Pty Ltd (a subsidiary of Ample Investments Group Pty Ltd)	Stephanie Mann of Counsel, instructed by Briana Eastaugh and Chloe Henry-Jones of Maddocks, calling the following expert evidence: <ul style="list-style-type: none"> - Planning from Jason Black of Insight Planning - Economics from Sean Stephens of Ethos Urban
Rich and Pure Pty Ltd	Mark Bartley of Russell Kennedy Lawyers, calling the following expert evidence: <ul style="list-style-type: none"> - Planning from David Barnes from Hansen Partnership - Economics from Rhys Quick from Urbis - Traffic from Jason Walsh from Traffix Group
Hublet Capitol Pty Ltd	Oska Rego of HWLE
Cliff Domaschenz	Lisa Domaschenz
Re-Grow Geelong	Paul Connor KC instructed by Charlie Wurm of Maddocks, calling the following expert evidence: <ul style="list-style-type: none"> - Planning from Mark Woodland of Echelon Planning - Economics from Justin Ganly of Deep End Services - Traffic and transport from Reece Humphreys of Stantec - Biodiversity from Christopher White of AECOM - Drainage engineering and infrastructure costings from Stephen Watters of SMEC Australia - Drainage and flooding from Neil Craigie of Neil M Craigie Pty Ltd
Marshall Pine Products owned by Dreart Pty Ltd	Robert Ciach

Appendix C Document list

No	Date	Description	Presented by
1	6 Sep 2024	Panel Directions Hearing notification letter	Planning Panels Victoria (PPV)
2	1 Oct 2024	Letter – Panel matters for discussion at Directions Hearing	PPV
3	4 Oct 2024	Panel Directions	PPV
4	7 Oct 2024	Submitter location map [for Panel’s information only]	City of Greater Geelong (Council)
5	8 Oct 2024	Late submission addendum dated 13 Sep 2024	EPA Victoria
6	10 Oct 2024	Hearing Timetable v1	PPV
7	21 Oct 2024	Part A Submission	Council
8	21 Oct 2024	Email – Notification outcomes for post-exhibition changes, enclosing: <ul style="list-style-type: none"> a) Letters to landowners and occupiers b) Letters to EPA, DTP and CCMA, and EPA response 	Council
9	25 Oct 2024	Expert evidence of John Glossop in planning	Council
10	25 Oct 2024	Expert evidence of Jane Keddie in Environmentally Sustainable Design	Council
11	25 Oct 2024	Expert evidence of Robert Swan in drainage	Council
12	25 Oct 2024	Letter providing further information following Part A submission with attachments: <ol style="list-style-type: none"> 1. CBRE Land Valuation Report (June 2024) 2. Evidence statement of Sean Stephens of Essential Economics dated October 2013 in relation to Amendment C267 3. Armstrong Creek Urban Growth Plan Economic Activity and Employment Technical Report dated 24 February 2006 4. Memo prepared by Justin Ganley of Deep End Services dated 15 October 2021 relating to ‘Marshall Station commercial development advice, phase 1’ 5. Marshall DCP Peer Review, Urban Enterprise, 25 October 2024 6. Greater Geelong Retail Strategy (Aug 2020) 7. Amended Planning Permit - PP-35-2019 A 8. Endorsed Sparrovale Wetland Monitoring and Management Plan Condition 22 - PP-35-2019-A 9. Sparrovale Wetland Operating Rules Technical Report dated 22 December 2022 10. Summary report on Sparrovale Wetland Monitoring 	Council

No	Date	Description	Presented by
		Years 1-3 dated July 2024	
		11. Armstrong Creek North East Industrial Precinct Traffic Impact Assessment prepared by GTA Consultants (August 2009)	
		12. Keystone Business Park report prepared by GTA Consultants for Amendment C207	
		13. Letter from DTP dated 2 March 2023 providing comment on traffic matters	
		14. Email chain between DTP and Council in February 2024 in relation to DDO51	
		15. Email chain between DTP and Council in January 2024 in relation to the proposed active transport path connection into Marshall Station	
		16. Email chain between DTP and Council in November 2023 in relation to the proposed Future Urban Station plans	
		17. Page 2 from the addendum to submission 9	
13	29 Oct 2024	Expert evidence of Jason Black in planning	Costa Asset Management and Robin & Jennifer Ellis (Costa/Ellis)
14	29 Oct 2024	Expert evidence of Neil Craigie in drainage and flooding	Re-Grow Geelong Pty Ltd (Re-Grow)
15	29 Oct 2024	Expert evidence of Stephen Watters in drainage engineering	Re-Grow
16	29 Oct 2024	Expert evidence of Justin Ganly in economics	Re-Grow
17	29 Oct 2024	Expert evidence of Mark Woodland in planning	Re-Grow
18	29 Oct 2024	Expert evidence of Christopher White in biodiversity	Re-Grow
19	29 Oct 2024	Expert evidence of Reece Humphreys in traffic and transport	Re-Grow
20	29 Oct 2024	Expert evidence of Jason Black in planning	Marshall Dev Co Pty Ltd (a subsidiary of Ample Investments Group Pty Ltd) (Ample)
21	29 Oct 2024	Expert evidence of Sean Stephens in economics	Ample
22	29 Oct 2024	Expert evidence of David Barnes in planning	Rich and Pure Pty Ltd (Rich and Pure)
23	29 Oct 2024	Expert evidence of Rhys Quick in economics	Rich and Pure
24	29 Oct 2024	Expert evidence of Jason Walsh in traffic	Rich and Pure
25	30 Oct 2024	Summary of traffic matters discussed between Council and Department of Transport and Planning (DTP)	Council

No	Date	Description	Presented by
26	31 Oct 2024	Letter of instruction for Justin Ganly	Re-Grow
27	31 Oct 2024	Addendum instructions for Justin Ganly	Re-Grow
28	1 Nov 2024	Indicative plans showing proposed uses on property 20	Rich and Pure
29	1 Nov 2024	Indicative plans showing proposed uses on properties 42 and 43	Rich and Pure
30	1 Nov 2024	Email chain with DTP regarding access from Barwon Heads Road	Rich and Pure
31	1 Nov 2024	PowerPoint presentation	Rich and Pure
32	1 Nov 2024	Drainage joint statement of Swan, Watters, Craigie and White dated 30 October 2024	Council
33	1 Nov 2024	Interim Part B Submission	Council
34	1 Nov 2024	Hearing Timetable v2	PPV
35	4 Nov 2024	Complete Part B Submission	Council
36	4 Nov 2024	Presentation of Jane Keddie in Environmentally Sustainable Design	Council
37	4 Nov 2024	Day 1 Amendment Documents: <ul style="list-style-type: none"> a) Marshall Precinct Structure Plan b) Marshall Development Contributions Plan c) Native Vegetation Precinct Plan (no change) d) Urban Growth Zone Schedule 7 e) Design and Development Overlay Schedule O51 f) Development Contributions Plan Overlay Schedule 10 (no change) g) Schedule to Clause 52.16 (no change) h) Schedule to Clause 66.04 (no change) i) Schedule to Clause 72.03 (no change) j) Schedule to Clause 72.04 (no change) 	Council
38	6 Nov 2024	Memorandum prepared by Aaron Walley	Council
39	6 Nov 2024	Track changes to UGZ schedule prepared by Jane Keddie	Council
40	6 Nov 2024	Response to Like Evidence prepared by Justin Ganly	Re-Grow
41	6 Nov 2024	Presentation of John Glossop in planning	Council
42	6 Nov 2024	Response to like evidence prepared by Mark Woodland	Re-Grow
43	7 Nov 2024	Email – Panel request for further information from Aaron Walley	PPV
44	7 Nov 2024	Presentation of Robert Swan in drainage	Council
45	7 Nov 2024	Response to Economic Evidence prepared by Rhys Quick	Rich and Pure

No	Date	Description	Presented by
46	8 Nov 2024	Memorandum prepared by Aaron Walley responding to Panel request for further information	Council
47	8 Nov 2024	Greater Geelong C290ggee Panel Report	Council
48	8 Nov 2024	Greater Geelong Sustainable Building Policy	Council
49	8 Nov 2024	Clause 15.01 – Built Environment	Council
50	11 Nov 2024	Submission	Costa/Ellis
51	11 Nov 2024	Presentation of Jason Black in planning	Costa/Ellis
52	11 Nov 2024	Submission	DTP
53	11 Nov 2024	Submission	Department of Energy, Environment and Climate Action (DEECA)
54	12 Nov 2024	Response to Council / DTP summary of traffic matters	Re-Grow
55	12 Nov 2024	Update to exhibited Commercial 2 Zone Redesignation Table	Council
55a	12 Nov 2024	Subdivision concept plan 11.11.24 Rev 2	Council
56	12 Nov 2024	Submission, enclosing 7 photos of Marshall Station precinct	Cliff Domaschenz
57	12 Nov 2024	Submission (including Appendix A)	Ample
58	12 Nov 2024	Planning Practice Note 47 – Urban Growth Zone	Ample
59	12 Nov 2024	Presentation of Jason Black in planning	Ample
60	13 Nov 2024	Submission	MJ & P Johnson
61	13 Nov 2024	Appendix B to submission(Document 57)	Ample
62	13 Nov 2024	Submission, with attachments: <ul style="list-style-type: none"> a) Plans showing a review of residential and commercial options on property 20 b) Plans showing traffic routes from property 20 c) Email chain with Council regarding zoning d) Plumpton and Kororoit PSP 	Rich and Pure
63	13 Nov 2024	Information related to 690 Barwon Heads Road: <ul style="list-style-type: none"> a) Permit b) Plans c) Photographs 	Rich and Pure
64	13 Nov 2024	Presentation of Rhys Quick in economics	Rich and Pure
65	13 Nov 2024	Presentation of David Barnes in planning	Rich and Pure
66	13 Nov 2024	Greater Geelong C410ggee Explanatory Report	Ample
67	13 Nov 2024	Email – Request for Panel to make directions	Ample

No	Date	Description	Presented by
68	14 Nov 2024	Submission	Hublet Capitol Pty Ltd
69	14 Nov 2024	Email – further Panel directions	PPV
70	14 Nov 2024	Email – re-issued Panel direction to DTP	PPV
71	14 Nov 2024	Kitjarra-dja-bul Bullarto langi-ut Masterplan	Council
72	15 Nov 2024	Response to matters taken on notice	DEECA
73	15 Nov 2024	Regulatory Options to Improve Stormwater Management and Cost benefit Analysis, RMCG, November 2018	DEECA
74	15 Nov 2024	Submission, enclosing: a) Appendix A – Photographs b) Appendix B – Sparrovale Control Structures	Re-Grow
75	18 Nov 2024	Submission on operation of section 19	Council
76	18 Nov 2024	High level feasibility summary for 25 Horseshoe Bend Road	Rich and Pure
77	19 Nov 2024	Final response to matters taken on notice	DEECA
78	19 Nov 2024	Presentation of Mark Woodland in planning	Re-Grow
79	19 Nov 2024	Presentation of Reece Humphreys in transport	Re-Grow
80	20 Nov 2024	Response to Panel request on the role of Tannery Road	Council
81	20 Nov 2024	Armstrong Creek North East Industrial Precinct – Precinct Structure Plan, May 2010	Council
82	20 Nov 2024	Presentation of Chris White in biodiversity	Re-Grow
83	21 Nov 2024	Presentation of Stephen Watters in drainage engineering and infrastructure costings	Re-Grow
84	21 Nov 2024	Planning Practice Note 46 – Strategic Assessment Guidelines	Re-Grow
85	21 Nov 2024	Barwon Heads Road Land Use Plan Aerial	Re-Grow
86	21 Nov 2024	Response to Council's submission on operation of section 19	Ample
87	21 Nov 2024	Biodiversity report from Ecology and Heritage Partners in response to permit conditions (document 12)	Council
88	21 Nov 2024	Redacted Stantec proposal	Council
89	21 Nov 2024	Clarification regarding property 20 in Barwon Heads Road Land Use Plan Aerial	Rich and Pure
90	22 Nov 2024	Response to Panel direction issued on 14 Nov 2024, enclosing Marshall Station reference design	DTP
91	25 Nov 2024	Letter regarding Marshall Pine	Rich and Pure
92	25 Nov 2024	Email from Robert Ciach, Marshall Pine dated 21 Nov 2024	Rich and Pure
93	25 Nov 2024	Site photographs of Marshall Pine taken 19 Nov 2024	Rich and Pure
94	25 Nov 2024	Site video of Marshall Pine frontage taken 19 Nov 2024	Rich and Pure

No	Date	Description	Presented by
95	26 Nov 2024	Panel directions regarding Marshall Station reference design	PPV
96	26 Nov 2024	Closing submission	Council
97	26 Nov 2024	Title Plan TP959841P	Council
98	26 Nov 2024	Register Search Statement - Volume 11648 Folio 628	Council
99	26 Nov 2024	Panel Report - Melbourne Planning Scheme PSA C376melb [2024] PPV	Council
100	26 Nov 2024	Amendment VC221 Explanatory Report	Council
101	26 Nov 2024	Amendment VC250 Explanatory Report	Council
102	26 Nov 2024	Summary of process for Commercial/Bulky Goods designation, enclosing: <ul style="list-style-type: none"> a) Attachment 1 - Marshall Precinct Workshop Information Booklet 2018 b) Attachment 2 - Marshall Precinct Workshop responses 2018 	Council
103	26 Nov 2024	UGZ7 closing version	Council
104	26 Nov 2024	DDO51 closing version	Council
105	26 Nov 2024	Marshall PSP closing version	Council
106	26 Nov 2024	Table - Final day drafting changes	Council
107	27 Nov 2024	Letter from Mr Craigie regarding estimated water levels within Sparrovale Wetlands	Re-Grow
108	27 Nov 2024	Summary of meeting with DTP on 26 November 2024	Council
109	28 Nov 2024	Further Panel directions	PPV
110	2 Dec 2024	Response to Panel direction (Document 95) issued on 26 Nov 2024	DTP
111	4 Dec 2024	Panel direction to Council regarding EPA submission	PPV
112	6 Dec 2024	Further submission	Marshall Pine
113	9 Dec 2024	Drafting comments	Ample
114	9 Dec 2024	Drafting comments: <ul style="list-style-type: none"> a) Draft UGZ7 b) Draft PSP table 	Rich and Pure
115	13 Dec 2024	Post hearing submission	Council
116	13 Dec 2024	Council response to Rich and Pure drafting	Council
117	13 Dec 2024	EPA submission to draft Greater Shepparton Planning Scheme Amendment C117gshe	Council

2.0 Use and development

2.1 The Land

The provisions specified in this schedule only apply to land within the Marshall Precinct shown on Plan 1 of this schedule and zoned UGZ7. This schedule must be read in conjunction with the incorporated Marshall Precinct Structure Plan (PSP).

Note: If land shown on Plan 1 is not zoned UGZ7, the provisions of this zone do not apply.

2.2 Applied zone provisions

The provisions of the following zones in this scheme apply to the use and subdivision of land, construction of a building and construction and carrying out of works, by reference to Plan 1 of this schedule.

Table 1: Applied zone provisions

Land shown on plan 1 of this schedule Conventional Residential	Applied zone provisions Clause 32.08 – General Residential Zone Schedule 1
Land shown on plan 1 of this schedule Medium/Higher Density Residential	Applied zone provisions Clause 32.07 – Residential Growth Zone Schedule 1
Land shown on plan 1 of this schedule Mixed Use – High Density Residential	Applied zone provisions Clause 32.04 – Mixed Use Zone
Land shown on plan 1 of this schedule Commercial/Bulky Goods	Applied zone provisions Clause 34.02 – Commercial 2 Zone
Land shown on plan 1 of this schedule Conservation Reserve Credited (Unencumbered) Open Space Drainage Reserves Constructed Waterway	Applied zone provisions Clause 36.02 – Public Park and Recreation Zone
Land shown on plan 1 of this schedule Utilities Easement	Applied zone provisions Underlying zone
Land shown on plan 1 of this schedule Road Reserve	Applied zone provisions Underlying zone

2.3 Specific provisions – Use of land

Section 1 - Permit not required

Use	Condition
Shop (other than Supermarket and Adult sex product shop) - where the applied zone is Mixed Use	The combined leasable floor area of all shops must not exceed a leasable floor area of 750 square metres.
Supermarket - where the applied zone is Mixed Use	The leasable floor area must not exceed 2,000 square metres.
Office - where the applied zone is Mixed Use	The combined leasable floor area of all offices must not exceed 500 square metres.
Any use listed in Clause 62.01	Must meet requirements of Clause 62.01.

Section 2 - Permit required**Use**

Any other use not in Section 1 or 3

Section 3 - Prohibited**Use**

Supermarket - where the applied zone is Commercial 2

Gaming premises

Any use listed in Section 3 in the Table of uses of the applicable applied zone**2.4 Specific provisions - Subdivision****Station Precinct Urban Design Framework**

A permit must not be granted to subdivide land within the Station Precinct shown on Plan 18 'Station Concept Design Intention' of the incorporated *Marshall Precinct Structure Plan* until an Urban Design Framework (UDF) has been prepared for the precinct to the satisfaction of the Responsible Authority.

Unless the Responsible Authority agrees otherwise, the UDF must:

- address all of the land in the Station Precinct
- be generally in accordance with the incorporated *Marshall Precinct Structure Plan*
- address and respond to Section 3.0 (Implementation) and Section 4.2 (Station Precinct Urban Design Framework Requirements and Guidelines) of the incorporated *Marshall Precinct Structure Plan*.

A permit may be granted to subdivide land within the Station Precinct prior to approval of an UDF if, in the opinion of the Responsible Authority, the granting of the permit will assist in achieving the objectives, the relevant planning and design guidelines and provisions of Section 4.2 as set out in the incorporated *Marshall Precinct Structure Plan*.

The UDF may be amended to the satisfaction of the Responsible Authority.

Subdivision applications must be generally in accordance with the approved UDF.

Commercial/Bulky Goods Precinct east of Barwon Heads Road

A permit must not be granted to subdivide land designated as Commercial/Bulky Goods on Plan 1 of this schedule until a Masterplan has been prepared to ensure integrated development, to the satisfaction of the Responsible Authority:

The Masterplan must:

- be supported and informed by any relevant technical report prepared by a suitably qualified person
- be generally in accordance with the incorporated *Marshall Precinct Structure Plan*
- address and respond to Section 3.0 (Implementation) of the incorporated *Marshall Precinct Structure Plan*
- be reviewed and approved by the Head, Transport for Victoria

Subdivision must be designed to restrict access or use of Flood Overlay land designated in the incorporated *Marshall Precinct Structure Plan, Plan 14*.

Subdivision applications must be generally in accordance with the approved Masterplan. The Masterplan may be amended to the satisfaction of the Responsible Authority.

2.5 Specific provisions - Buildings and works

Station Precinct Urban Design Framework

A permit must not be granted to construct a building or construct or carry out works within the Station Precinct shown on Plan 18 'Station Concept Design Intention' of the incorporated *Marshall Precinct Structure Plan* until an Urban Design Framework (UDF) has been prepared for the precinct to the satisfaction of the Responsible Authority.

Unless the Responsible Authority agrees otherwise, the UDF must:

- address all of the land in the Station Precinct
- be generally in accordance with the incorporated *Marshall Precinct Structure Plan*; and,
- address and respond to Section 3.0 (Implementation) and Section 4.2 (Station Precinct Urban Design Framework Requirements and Guidelines) of the incorporated *Marshall Precinct Structure Plan*.

A permit may be granted to construct a building or construct and carry out works for land within the Station Precinct prior to approval of an UDF if, in the opinion of the Responsible Authority, the granting of the permit will assist in achieving the objectives, the relevant planning and design guidelines and provisions of Section 4.2 as set out in the incorporated *Marshall Precinct Structure Plan*.

The UDF may be amended to the satisfaction of the Responsible Authority.

Buildings and works applications must be generally in accordance with the approved UDF.

Commercial/Bulky Goods Precinct east of Barwon Heads Road

A permit must not be granted to construct a building or construct or carry out works on land designated as Commercial/Bulky Goods on Plan 1 of this schedule until a Masterplan has been prepared to ensure integrated development, to the satisfaction of the Responsible Authority:

The Masterplan must:

- be supported and informed by any relevant technical report prepared by a suitably qualified person
- be generally in accordance with the incorporated *Marshall Precinct Structure Plan*
- address and respond to Section 3.0 (Implementation) of the incorporated *Marshall Precinct Structure Plan*
- be reviewed and approved by the Head, Transport for Victoria

The Masterplan must not locate any buildings on Flood Overlay land designated in the incorporated *Marshall Precinct Structure Plan, Plan 14*.

Buildings and works applications must be generally in accordance with the approved Masterplan.

The Masterplan may be amended to the satisfaction of the Responsible Authority.

Dwellings on a lot less than 300 square metres

A permit is not required to construct or extend one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code via a restriction on title, and it complies with the Small Lot Housing Code incorporated into this Scheme pursuant to Clause 72.04.

Recycled Water

All newly created lots and buildings must be connected to a reticulated recycled water supply system for toilet flushing and garden watering. Where a reticulated recycled water supply system is not available to the building, a development scale water collection, reuse and sharing strategy is encouraged. Where this is not possible, all dwellings must be connected to a rainwater tank with a minimum capacity of 2500 litres for toilet flushing, washing machines, and garden watering or an alternative grey water recycling system to the satisfaction of the Responsible Authority.

3.0 Application requirements

The following application requirements apply to an application for a permit under Clause 37.07, in addition to those specified in Clause 37.07 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the Responsible Authority.

If in the opinion of the Responsible Authority an application requirement listed below is not relevant to the assessment of an application, the Responsible Authority may waive, vary or reduce the requirement.

Subdivision – General Subdivision

For any application to subdivide land a subdivision design response must include to the satisfaction of the Responsible Authority:

- A written report that sets out how the application implements the objectives, requirements and guidelines within the incorporated *Marshall Precinct Structure Plan*.
- A Subdivision Staging Plan.
- The location of proposed planned community infrastructure, public open space areas and their recreation function where appropriate.
- A street network plan that addresses;
 - Access arrangements of properties to all existing and future arterial roads
 - Potential bus route and bus stop locations in consultation with the Head, Transport for Victoria
 - Walking catchment to activity centres, which nominates key transport stops, active and passive open space, schools and community facilities
 - Cross sections proposed in accordance with Section 4.3 (Road Design and Cross Sections) of the *Marshall Precinct Structure Plan*.
- A land use budget table in the same format and methodology as those within the *Marshall Precinct Structure Plan*, setting out the amount of land allocated to the proposed uses and expected population, dwelling and employment yield.
- A response to the incorporated *Marshall Native Vegetation Precinct Plan* (NVPP) and how the proposal addresses this including trees marked for retention and removal. If trees marked as ‘to be retained’ within the NVPP are proposed for removal, an arboricultural report prepared by a suitably qualified person must be submitted.
- A canopy cover plan that demonstrates that a proposal meets the minimum requirements set out in Section 4.4.1 (Canopy Cover Targets and Calculations) of the *Marshall Precinct Structure Plan*.
- Upon request, tree location and species data should be made available in a GIS or vector format.
- A Bushfire Management Plan that addresses bushfire risk at the site. The plan must be prepared in accordance with Section 3.6 (Climate Resilient Communities) of the *Marshall Precinct Structure Plan*.
- ~~A Zero Carbon Operational Energy Plan which addresses Section 3.9 (Energy and Technology) of the Marshall Precinct Structure Plan.~~
- An Integrated Water Management Plan (IWMP) which must:
 - Respond to the requirements and guidelines of Section 3.5 (Integrated Water Management) and the relevant requirements and guidelines of Section 3.10 (Delivery) of the *Marshall Precinct Structure Plan*;
 - Assess the existing surface and subsurface drainage conditions on the site;
 - Assess the impact of climate change on the detailed design of drainage infrastructure; and,
 - Address the provision, staging and timing of stormwater drainage infrastructure.

Subdivision – Residential Development

For an application to subdivide land into three or more lots, in addition to the above General Subdivision requirements, a subdivision design response for residential subdivision must include to the satisfaction of the Responsible Authority:

- A Density Plan or written response which applies to the entire subject site for the application. The Density Plan should include a table which identifies the land use budget, net developable area, number of lots proposed, average lot size, overall density achieved, and whether a variation is being sought.
- A Social and Affordable Housing Delivery Strategy that demonstrates how the proposal achieves the social and affordable housing requirements and guidelines in Section 3.1 (Character, Heritage and Housing) of the *Marshall Precinct Structure Plan* to the satisfaction of the Responsible Authority.

Requirement – Commercial/Bulky Goods

An application to use or subdivide land, construct a building, or construct or carry out works for land shown in Plan 1 as Commercial/Bulky Goods – Flood Overlay must be accompanied by a letter from the floodplain management authority confirming that the authority does not object to the permit application.

Requirement – Retail Economic Impact Assessment

An application to use land for a Supermarket or Shop in the applied Mixed Use Zone where the leasable floor area exceeds the figure shown in the land use table at Clause 2.3 of this Schedule must be accompanied by a retail economic impact assessment prepared by a suitably qualified person.

The Responsible Authority may waive the requirement for the submission of a retail economic impact assessment where the development is for a Shop (excluding a Supermarket) that exceeds the combined leasable floor area figure shown in the land use table at Clause 2.3 of this Schedule.

~~Requirement – Preliminary Risk Screen Assessment or Environmental Audit~~

~~An application to use, construct a building, or construct or carry out works for a sensitive use (residential use, child care centre, kindergarten, pre-school centre, primary school), children’s playground or secondary school or subdivision on land identified as having ‘Medium’ Potential for Contamination, and described in Table 2, must be accompanied by either:~~

- ~~▪ A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or~~
- ~~▪ An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.~~

Table 2: Preliminary Risk Screen Assessment or Environmental Audit

Address	Legal Description
422-430 Barwon Heads Road, Charlemont 3217	Pt CA 20 Sec 1
432-442 Barwon Heads Road, Charlemont 3217	Pt CA 20 Sec 1
444 Barwon Heads Road, Charlemont 3217	Pt CA 20 Sec 1
450-454 Barwon Heads Road, Charlemont 3217	Pt CA 20 Sec 1
470-480 Barwon Heads Road, Charlemont 3217	Lot 12 PS 849540
35 Drews Road, Marshall 3216	Lot A PS 528440
40-60 Drews Road, Marshall 3216	Lot 2 PS 631720
62-84 Drews Road, Marshall 3216	Lot 3 PS 631720

Address	Legal Description
22-30 Horseshoe Bend Road, Marshall 3216	Lot 2 LP 86080
61-69 Horseshoe Bend Road, Marshall 3216	Pt CA 20 Sec 1
62-80 Horseshoe Bend Road, Marshall 3216	CA 13 Sec 2
71-79 Horseshoe Bend Road, Marshall 3216	Lot 1 TP 19665
81-89 Horseshoe Bend Road, Marshall 3216	Pt CA 30 Sec 1
82-90 Horseshoe Bend Road, Marshall 3216	Lot 1 TP 6652
181-203 Horseshoe Bend Road, Marshall 3216	Pt CA 30 Sec 1
86-100 Reserve Road, Marshall 3216	Lot A PS 838517
91-109 Reserve Road, Marshall 3216	Lot 1 TP 84691
157-159 Reserve Road, Marshall 3216	Pt CA 20 Sec 2
161-167 Reserve Road, Marshall 3216	Lot 1 TP 947680
321-329 Barwon Heads Road, Charlemont 3217	Lot 2 PS 849540
331-343 Barwon Heads Road, Charlemont 3217	Lot 3 PS 849540
345 Barwon Heads Road, Charlemont 3217	Lot 1 PS 849519
391-399 Barwon Heads Road, Charlemont 3217	Lot 8 PS 849540
1-5 Tannery Road, Charlemont 3217	Lot 5 PS 849540
7-9 Tannery Road, Charlemont 3217	Lot 1 TP 8333
11-19 Tannery Road, Charlemont 3217	Lot 1 TP 958789 and Lot 1 TP 958845
21-29 Tannery Road, Charlemont 3217	Lot TP 958789
8 Tannery Road, Charlemont 3217	Lot 7 PS 849540

Requirement - Preliminary Site Investigation

An application to use or subdivide land, construct a building, or construct or carry out works for a non-sensitive use on land [identified as having high potential for contamination \(described in Table 2\)](#) affected by an Environmental Audit Overlay must be accompanied by a Preliminary Site Investigation prepared by a suitably qualified environmental consultant, conducted to the standard established in the NEPM, Schedule B2. It should include a recommendation as to:

- The likelihood of contamination and its potential to affect the planning proposal.
- Whether a risk-based remediation or management strategy can be derived, or further investigation such as an audit, is recommended.
- The outcome of the PSI should be translated into conditions on any permit issued for that land.

Table 2: Preliminary Site Investigation

Address	Legal Description
92-108 Horseshoe Bend Road, Marshall, 3216	Xxx?
355 Barwon Heads Road, Charlemont, 3271	xxx

Requirement - Acoustic Assessment

An application to use or subdivide land, construct a building, or construct or carry out works for accommodation, childcare centre, kindergarten or education centre (other than Tertiary institution and Employment training centre) must be accompanied by an Acoustic Assessment report, prepared by a qualified acoustic engineer or other suitably qualified person to the satisfaction of the Responsible Authority, which:

- Applies the following noise objectives:
 - Not greater than 35 dB LAeq,8h when measured within a sleeping area between 10pm and 6am.
 - Not greater than 40 dB LAeq,16h when measured within a living area between 6am and 10pm.

Noise levels should be assessed:

- Considering the cumulative noise from all sources impacting on the proposal including industry and road traffic, as well as potential other potential noise sources; and
- In unfurnished rooms with a finished floor and the windows closed and be based on average external noise levels measured as part of a noise level assessment.

For areas other than sleeping and living areas, the median value of the range of recommended design sound levels of Australian Standard AS/NZ 2107:2016 (Acoustics Recommended design sound level and reverberation times for building interiors).

- Includes recommendations for any noise attenuation measures required to meet the applicable noise level objectives, which is consistent with Clause 13.05-1 and can be implemented through subdivision with measures such as:
 - Land use separation, appropriate setback distances, use of barriers, and orientation and positioning of lots so that private open space is shielded from noise from railway line, the Marshall Train Station and Barwon Heads Road; and,
 - Clearly identifies areas where any attenuation measures are required.
- Includes additional considerations, where relevant, to address:
 - potential noise character (tonality, impulsiveness or intermittency);
 - noise with high energy in the low frequency range;
 - vibration; and,
 - transient or variable noise.

Requirement - Traffic Impact Assessment Report

An application that proposes to create or change access to any existing or planned road must be accompanied by a Traffic Impact Assessment Report (TIAR).

The TIAR, including functional layout plans and a feasibility/concept road safety audit, must be to the satisfaction of the Responsible Authority and the Department of Transport and Planning, as required.

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.

Requirement - Public Infrastructure Plan

An application to use or subdivide land, construct a building, or construct or carry out works must be accompanied by a Public Infrastructure Plan which addresses the following:

- What land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;

- What, if any, infrastructure set out in the development contributions plan applying to the land is sought to be provided as "works in lieu" subject to the consent of the collecting agency;
- The provision of public open space and land for any community facilities; and
- Any other matter relevant to the provision of public infrastructure required by the Responsible Authority.

Requirement – Public Realm

Where relevant, an application to use or subdivide land, construct a building, or construct or carry out works within the areas of Public Realm within the Station Precinct as shown on *Marshall Precinct Structure Plan, Plan 18* must be accompanied by a written report to the satisfaction of the Responsible Authority detailing how the proposal responds to the following elements:

- Built form
- Sustainable design
- Signage
- Public transport
- Public art
- Street furniture
- Public lighting
- Paving
- Street trees and landscaping
- Utility installations
- Pedestrian crossings and priority zones
- Public/private way finding
- Compliance with the *Disability Discrimination Act 1992* (Cth)
- Cycling facilities

An application to use or subdivide land, construct a building, or construct or carry out works must also outline how the proposal responds to the Station Precinct Urban Design Framework and Section 4.2 (Urban Design Framework Requirements and Guidelines) of the *Marshall Precinct Structure Plan*.

Requirement – Staging Plan

An application to subdivide land, construct a building, or construct or carry out works must be accompanied by a report which addresses how the application responds to the staging plan.

Requirement - Bicycle parking reductions

A Bicycle Parking Demand Assessment must accompany any permit application that does not provide bicycle parking, in accordance with Sections 3.1 and 3.4 of the *Marshall Precinct Structure Plan*.

~~Requirement – Zero Carbon Neighbourhoods~~

~~An application to subdivide land, or construct a building of equal to or more than 1,500 square metres gross floor area must be accompanied by a Zero Carbon Operational Energy Plan which address Section 3.6 (energy and technology) to the satisfaction of the Responsible Authority.~~

4.0

Conditions and requirements for permits

General Requirements

A planning permit must include a condition or conditions as appropriate to give effect to any requirements or conditions set out in the *Marshall Precinct Structure Plan* and the *Marshall Native Vegetation Precinct Plan*.

Condition - Subdivision permits that allow the creation of a lot of less than 300 square metres - Small lot housing code

Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:

- Prior to Certification of the Plan of Subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the Responsible Authority. The plan must identify the lots that will include a restriction on title providing for the application of the *Small Lot Housing Code* (Victorian Planning Authority, November 2019 or as amended); and
- The Plan of Subdivision submitted for certification must identify whether Type A or Type B of the *Small Lot Housing Code* (Victorian Planning Authority, November 2019 or as amended) applies to each lot to the satisfaction of the Responsible Authority.

Condition – Subdivision or buildings and works permits where land is required for community facilities, public open space or road widening

A permit for development, where land is required for community facilities, public open space or road widening must include the following conditions:

- The costs associated with effecting the transfer or vesting of land required for community facilities, public open space or road widening must be borne by the permit holder; and
- Land required for community facilities, public open space or road widening must be transferred to or vested in the relevant public agency with any designation (e.g. road, reserve or lot) nominated by the relevant agency.

Condition – Public transport

A permit for subdivision must include the following condition:

Unless otherwise agreed by the Head, Transport for Victoria, prior to the issue of Statement of Compliance for any subdivision stage, bus stop hard stands with direct and safe pedestrian access to a pedestrian path must be constructed:

- In accordance with the Public Transport Guidelines for Land Use and Development and compliant with the *Disability Discrimination Act 1992 – Disability Standards for Accessible Public Transport 2002*; and
- At locations approved by Public Transport Victoria, at no cost to Public Transport Victoria, and to the satisfaction of the Head, Transport for Victoria.

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.

~~**Condition – ESD Residential Design Guidelines**~~

~~A permit for subdivision must include the following condition:~~

~~Unless otherwise approved in writing by the Responsible Authority, prior to commencement of works or the certification of a plan of subdivision for the first stage of subdivision, all residential subdivision applications including mixed use must prepare and submit Residential ESD Design Guidelines in accordance with Section 3.1 of the Marshall Precinct Structure Plan. The Residential ESD Design Guidelines must be applied as a restriction on the relevant plan of subdivision.~~

~~**Condition – ESD Requirements for Community Facilities, Commercial and Mixed-Used Buildings**~~

~~A permit for subdivision or buildings and works for any new community facilities, commercial or mixed-use building must include the following condition:~~

~~Unless otherwise approved in writing by the Responsible Authority, prior to commencement of works or certification, the subdivision or development, commit to the use of a best practice environmental performance rating tool, such as a Green Star Buildings rating inclusive of zero carbon in operation (i.e. 4 stars from 2026 onwards), or an equivalent rating achieved through a similar tool.~~

~~The chosen tool must be applied via a restriction on the relevant plan of subdivision.~~

Condition – Environmental Audit

~~All the recommendations of the environmental audit statement must be complied with to the satisfaction of the responsible authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental consultant or other suitable person acceptable to the responsible authority.~~

~~Compliance sign-off must be in accordance with any requirements in the environmental audit statement recommendations regarding verification of works.~~

Condition – Acoustic Report

The following conditions and/or requirements apply to permits:

A permit must contain conditions which give effect to the Acoustic Assessment Report, where the land has been identified as a lot that requires mitigation measures against noise impacts.

Condition – Circular Economy

A permit for subdivision must include the following condition:

Unless otherwise approved in writing by the Responsible Authority, prior to certification of a plan of subdivision for the first stage, the permit holder must demonstrate, through ISCA Materials Calculator 2.1 or another life cycle assessment tool such as eTool or similar, how the proposal responds to the requirements within Section 3.7 (Circular Economy) of the *Marshall Precinct Structure Plan*.

Condition – Construction Management Plan

A permit to subdivide land, construct a building, or construct or carry out works must include the following condition:

Prior to works commencing, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must address Section 3.7 (Circular Economy) of the *Marshall Precinct Structure Plan*.

Condition – Construction Environmental Management Plan

A permit to subdivide land, construct a building, or construct or carry out works on or within 50 metres of land shown as a conservation area in the incorporated *Marshall Precinct Structure Plan* must include the following condition:

Before works start, a Construction Environmental Management Plan consistent with requirements for Construction Environmental Management Plans under the Melbourne Strategic Assessment (Department of Environment, Land, Water and Planning, November 2020) must be submitted to and approved by the Responsible Authority, demonstrating how the conservation area will be protected during works.

Once approved the plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority.

Condition – No Gas Subdivision and Buildings and Works

A permit for subdivision and/or buildings and works must include the following condition:

Unless otherwise approved in writing by the Responsible Authority:

- Any subdivision and/or buildings and works within the *Marshall Precinct Structure Plan* must not connect to any existing or future reticulated gas networks; and
- Prior to the issue of a Statement of Compliance for any stage of subdivision, a utilities plan showing no connection to gas must be submitted to the satisfaction of the Responsible Authority.

Condition – Functional Layout Plans

A permit for subdivision must include the following condition:

Prior to the issue of a statement of compliance, a detailed functional layout plan of that stage must be submitted to and approved by the Responsible Authority. The plan is to include locations of underground services, crossovers, tree placement (including root growth zones to achieve required canopy targets), bike racks, shared pedestrian and bicycle paths, streetlights, future bus stops, all local area traffic management items along with maintenance vehicle access points and tracks, tree

protection measures, footpaths and utility installations on or adjacent to public reserves in accordance with relevant requirements of the *Marshall Precinct Structure Plan*.

The plan should provide details of how canopy cover targets outlined in Section 4.4.1 Canopy Cover Targets and Calculations of the *Marshall Precinct Structure Plan* have been met. The functional layout plan must ensure that all reserves and vegetation to be retained are not compromised with services listed above.

Condition – Land Management Plan for Conservation Area

A permit to subdivide land containing a conservation area as shown in the *Marshall Precinct Structure Plan* must include the following condition:

Prior to the commencement of development, a land management plan for the conservation area land must be prepared by a suitably qualified consultant, submitted to, and approved by the Responsible Authority. The land management plan must outline how the biodiversity values for the land identified in the *Marshall Native Vegetation Precinct Plan* will be maintained, managed and improved, including:

- a How environmental weeds will be managed up until the securing of the conservation area.
- b How any revegetation will be undertaken in coordination with weed management activities to prevent re-colonisation of weed species.
- c How rubbish and hazards will be removed, and any contaminated material managed up until the securing of the conservation area.

Once approved the plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority.

Condition – Conservation Land

A permit to subdivide land containing a 'conservation reserve' (or any part thereof) as shown in the *Marshall Precinct Structure Plan* must include the following condition:

The owner of the land must, as part of the plan of subdivision (or the first plan of subdivision submitted for registration, in the case of any staged subdivision), create the whole of the 'conservation reserve' as a separate lot or reserve. The boundaries of the lot or reserve on the plan of subdivision are subject to the prior satisfaction of the Responsible Authority.

Condition - Protection of Conservation Areas and Native Vegetation During Construction

A permit to construct a building or carry out works or to subdivide land on land including or abutting a conservation area or patch of native vegetation or scattered tree identified for retention in the incorporated *Marshall Precinct Structure Plan* or *Marshall Native Vegetation Precinct Plan* must include the following condition:

The development allowed by this permit must be conducted to ensure that:

- Before the start of construction or carrying out of works in or around a conservation area, scattered native tree or patch of native vegetation the developer of the land must erect a conservation area/vegetation protection fence that is:
 - highly visible
 - at least 2 metres in height
 - sturdy and strong enough to withstand knocks from construction vehicles
 - in place for the whole period of construction
 - located the following minimum distance from the element to be protected:

Element	Minimum distance from element
Conservation area	2 metres
Scattered tree	Twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:

- be located not less than 15 metres from a waterway;
 - be located outside the vegetation protection fence;
 - be constructed and designed to ensure that the conservation area, scattered tree or patches of native vegetation are protected from adverse impacts during construction;
 - not be undertaken if it presents a risk to any vegetation within a conservation area; and
 - be carried out under the supervision of a suitable qualified ecologist or arborist.
- Buildings and works must not commence until written evidence that protection fencing has been erected in accordance with the approved Conservation Area Fencing Plan is provided by a suitably qualified land surveyor to the Responsible Authority, and the Responsible Authority confirms it is satisfied by the evidence.

5.0 Exemption from notice and review

None specified.

6.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.07, in addition to those specified in Clause 37.07 and elsewhere in the scheme which must be considered, as appropriate, by the Responsible Authority:

- Whether the application is generally in accordance with the incorporated *Marshall Precinct Structure Plan* including any approved Urban Design Frameworks.
- Whether the application is generally in accordance with the incorporated *Marshall Native Vegetation Precinct Plan*.
- Whether the application is generally in accordance with the incorporated *Marshall Development Contributions Plan*.
- Whether the application contributes towards the provision of affordable housing (including social housing) in accordance with the incorporated *Marshall Precinct Structure Plan*, and the Ministerial Notice under 3AA(2) of the *Planning and Environment Act 1987*, as amended from time to time.
- ~~Whether the application contributes towards the achievement of a carbon neutral neighbourhood in accordance with the incorporated *Marshall Precinct Structure Plan*.~~

7.0 Signs

Despite the provisions of Clause 52.05, signs promoting the sale of land or homes on the land (or adjoining land in the same ownership) may be displayed without a permit provided:

- The height or width of a promotion sign does not exceed 6 metres and the total advertisement area does not exceed 8 square metres.
- Only one sign is displayed per road frontage.
- The sign is not animated, scrolling, electronic or internally illuminated sign.
- The sign is not displayed longer than 21 days after the sale (not settlement) of the last lot.
- The sign is setback a minimum of 750mm from the property boundary.

A permit may be granted to display a sign promoting the sale of land or homes on the land (or on adjoining land in the same ownership) with an area greater than 10 square metres.

All other signs are subject to the permit requirements of Clause 52.05. All land located within the area on Plan 1 marked Commercial/Bulky Goods is in Category 1. All other land is in Category 3.

Appendix E Panel recommended changes to Final day Marshall Precinct Structure Plan

The Panel's recommended Marshall PSP changes are based on Council's Final day version (Document 105).

[Tracked Added](#)

~~Tracked Deleted~~

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
All plans	Nil	Review all plans for consistency with Panel recommended changes
Table 1 Summary Land Use Budget	Update with land take for intersection DI_IT_02 finalised	Agreed
Plan 5 Future Urban Structure and Plan 10 Road Network and Public Transport	Nil	Amend to remove the Local Access Street from properties 34-37
Requirement R8	All subdivisions and development abutting arterial roads and the Railway line, are required to provide an internal local road and lot fronting the Bellarine Link, Barwon Heads Road and the Geelong to Warrnambool Railway Line, unless the development site is practically constrained by its dimensions and an alternative design will achieve passive surveillance of the public realm without compromising the amenity of future building occupants.	Agreed
Requirement R9	Lots and dwellings, where practical, must front (in order of priority where a lot fronts multiple elements): <ol style="list-style-type: none"> 1. Controlled arterial roads 2. Geelong to Warrnambool Railway line and Marshall Train Station 3. Conservation areas 4. Public open space 5. Waterways and drainage reserves 6. Connector roads 7. Local access streets 	Agreed

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
	<p>8. Electricity and sewer easements</p> <p>The siding of lots to waterways, open space, conservation areas and primary street frontages must be avoided where possible.</p>	
Guideline G4	<p>With respect to fencing:</p> <ul style="list-style-type: none"> • Side fencing to public places should be at least 25% permeable and should not exceed 1.5 metres in height; and, • Lots should not be designed with back fences facing roads, the rail line, open space, conservation areas, waterways and drainage, electricity and water easements. 	Agreed
Table 3 Location by Preferred Housing Typology	Delete 'Larger lots to be provided abutting arterial roads' in relation to Medium/Higher Density Residential and Conventional Density.	Agreed
Requirement R13	Housing development for land within the Medium-Higher Density Residential Area, must achieve a minimum of 30 dwellings per net developable hectare if within the 400m walkable catchment of the Station Precinct as indicated on Plan 7 Character, Heritage and Housing, and a minimum of 25 dwellings per net developable hectare elsewhere, on appropriately designed lots. Housing on the land identified in Plan 7 must be delivered in accordance with Tables 2 and 3.	<p>Amend as follows:</p> <p>Housing development for land within the Medium/Higher Density Residential Area, must achieve a minimum of 30 dwellings per net developable hectare if within the 400m walkable catchment of the Station Precinct as indicated on Plan 7 Character, Heritage and Housing, and a minimum of 25 dwellings per net developable hectare elsewhere, on appropriately designed lots except where the lot is spatially constrained. Housing on the land identified in Plan 7 must be delivered in accordance with Tables 2 and 3.</p>
Requirement R17	Prior to the certification of a plan of subdivision for the first stage of residential subdivision, Residential ESD Design Guidelines must be prepared and submitted to the satisfaction of the Responsible Authority. The Residential ESD Design Guidelines must be applied as a restriction on the relevant plan of subdivision.	<p>Redraft and include as a new guideline as follows:</p> <p>Prior to the certification of a plan of subdivision for the first stage of residential subdivision, Residential ESD Design Guidelines should be prepared and submitted to the satisfaction of the Responsible Authority.</p> <p>The Residential ESD Design Guidelines should be applied as a restriction on the relevant plan of subdivision.</p>
Requirement R18	<p>Rephrase wording in accordance with Closing Submission and discussion on 'gas bottles':</p> <p>All new residential buildings to be constructed</p>	Delete R18

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
	to support all-electric operation of fixed appliances (i.e. heating, cooling, cooking).	
Guideline G7	Nil	Amend to include replace "social housing" with "affordable housing, including social housing"
Requirement R40	<p>With respect to Barwon Heads Road, development must:</p> <ul style="list-style-type: none"> Respond to and integrate with the road design in accordance with the cross sections shown in Section 4.3 (Cross Section M), except where the lot is spatially constrained, including the provision of an on-road cycle path and suitable pedestrian and cycling connection points into the precinct. 	Agreed
Requirement R45	Vehicle access to lots fronting arterial roads must be provided from a local service frontage road in accordance with the appropriate cross section in Section 4.3 unless the development site is practically constrained and an alternative access arrangement is appropriate.	Agreed
Requirement R45A	If vehicle access/egress is permitted from the arterial road network, development design must prevent vehicles from continuing through to the internal road network.	Agreed
Requirement R56	<p>The storm water management system must be designed in accordance with Plan 12 Integrated Water Management and the <i>Marshall Stormwater Management Strategy, December 2022</i>, to meet the following:</p> <ul style="list-style-type: none"> ... Provision of appropriate infrastructure between the precinct, Barwon River and Sparrovale-Nubitj yoorree Wetlands, to ensure changes to flow and quality conditions, including erosion risk, flood damage, loss of environmental habitat, access and legal rights to assets, and ensuring all associated permits are managed and mitigated. 	<p>Amend as follows:</p> <p>The storm water management system must be designed generally in accordance with Plan 12 Integrated Water Management and the <i>Marshall Stormwater Management Strategy, December 2022</i>, to meet the following...</p>

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Requirement R58	<p>The final layout and design of stormwater infrastructure including but not limited to; constructed waterways, wetlands, retarding basins, stormwater quality treatment infrastructure, and associated paths, boardwalks, bridges, and planting, must be designed to the satisfaction of the Responsible Authority and include appropriate measures to mitigate the risk of erosion.</p> <p>Consideration of locating stormwater projects DR07/SBRB03 adjacent to Marshall Creek may be undertaken at the permit application stage having regard to the North East Industrial Precinct stormwater strategy and the consent of any affected owners.</p>	Agreed
Requirement R59	Nil	<p>Amend as follows:</p> <p>Stormwater runoff from the development must meet or exceed the performance objectives of the <i>Best Practice Environmental Management Guidelines for Urban Stormwater Management</i> (1999) and the EPA Publication 1739.1: Urban stormwater management guidelines Urban stormwater management guidance (2021) prior to ...</p>
Requirement R78	<p>Where a lot capable of accommodating a dwelling is adjacent to a bushfire hazard Bushfire Threat area identified on Plan 13 Bushfire Classifications, a suitable road or other low-threat design mechanism must be provided between the hazard Bushfire Threat area and the lot on which the dwelling may be developed, to the satisfaction of the Responsible Authority.</p>	Agreed
Requirement R79	<p>Residential subdivision adjacent to the bushfire hazard Bushfire Threat areas shown on Plan 13 Bushfire Classifications must provide safe egress routes away from the fire hazard Bushfire Threat area to the satisfaction of the Responsible Authority and the CFA.</p>	Agreed
Requirement R83	<p>Redraft Per Document 61, as follows:</p> <p>A Local Activity Centre is provided, which must:</p> <ul style="list-style-type: none"> - Be located within the Station Precinct as illustrated in P14. Employment, Retail and 	Agreed

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
	<p>Community Facilities.</p> <ul style="list-style-type: none"> - Respond to Section 4.2 Station Precinct Urban Design Framework Requirements and Guidelines. - Permit a maximum as of right of 2,750 square metres of retail floorspace, including a maximum of 2,000 square metres of supermarket and a maximum of 750 square metres for other retail uses (excluding Supermarket). - An application that proposes to exceed the floor space maximum of either 2,000 square metres for Supermarket or 750 square metres for other retail uses (excluding Supermarket) must: <ul style="list-style-type: none"> o Be supported by a Retail Economic Impact Assessment (unless otherwise agreed by Council), which must include consideration of: <ul style="list-style-type: none"> ▪ how the additional retail floorspace fits into the Geelong Retail Centre Hierarchy as detailed in the Planning Scheme. ▪ whether there exists a need for retail to meet existing and foreseeable demand levels over a 15 year period. ▪ any likely impact of the proposed floor space on existing, planned or approved retail facilities; ▪ how the additional floorspace contributes to the provision of retail facilities to the catchment population, including the potential for retaining spending that would otherwise escape to other centres; ▪ whether the centre will improve access to services by reducing travel times for residents; and o Ensure that the provision of additional retail floor space will not prejudice the delivery of the minimum dwelling density requirements within the Station Precinct. - Support non-retail uses (excluding residential) that will not prejudice the delivery of the minimum dwelling density requirements within the Station Precinct. 	

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
	<ul style="list-style-type: none"> - 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[s] at the rear so as to present an attractive address to the street. - Ensure all goods and material, storage areas and refuse areas are not visible from public areas, including open space and street sightlines. <p>to the satisfaction of the Responsible Authority.</p>	
Requirement R84	<p>A Commercial/Bulky Goods Area is provided east of Barwon Heads Road that supports development which must:</p> <ul style="list-style-type: none"> - Provide vehicle access arrangements consistent with the approved master plan specific provision in UGZ7 - Comply with the Planning Scheme requirements for the existing Floodway Overlay. - Require all buildings to be located at the front of any site to present an attractive address to Barwon Heads Road. - Require most car parking and all loading and storage facilities to be located at the rear of any buildings to present an attractive address to Barwon Heads Road. - Require a minimum landscaped area of five metres to provide an attractive and integrated interface with Barwon Heads Road. - Comply with the Sustainability Management Plan at R17 and G8. <p>to the satisfaction of the Responsible Authority.</p>	Agreed, insofar as it should only apply to properties 34-37.

Provision	Final day version, and/or changes proposed by Council	Panel's position or recommendation
Requirement R85	Delete	Agreed
Requirement R87	The location of land uses, building design, and interface treatment in the commercial and Station Precinct areas shown on Plan 5 Future Urban Structure, must ensure there are no negative impacts on the amenity of nearby residential areas.	Amend as follows: The location of land uses, building design, and interface treatment in the commercial and Station Precinct areas shown on Plan 5 Future Urban Structure, must ensure there are no negative impacts <u>minimise negative impacts</u> on the amenity of nearby residential areas.
Requirement R89	Redraft Per Document 61, as follows: The local activity centre within the Station Precinct must: - Provide for a range of tenancies suitable for a mix of local retail, health, community and other services to meet local needs. - ...	Agreed
Requirement R96	An application to use or subdivide land or construct a building or carry out works must be accompanied by a Zero Carbon Operational Energy Plan which addresses the following, to the satisfaction of the Responsible Authority: - How the precincts layout, infrastructure and / or buildings are designed to deliver an all electric precinct; - Infrastructure and mechanisms (such as solar panels, embedded networks, PPAs etc) proposed to ensure development within the precinct is zero carbon in operation; and - Infrastructure proposed to manage and monitor energy loads (e.g. load management systems, community batteries etc).	Redraft and include as a new guideline as follows: An application to use or subdivide land or construct a building or carry out works should be accompanied by a Zero Carbon Operational Energy Plan which addresses the following, to the satisfaction of the Responsible Authority: - How the precincts layout, infrastructure and / or buildings are designed to deliver an all electric precinct; - Infrastructure and mechanisms (such as solar panels, embedded networks, PPAs etc) proposed to ensure development within the precinct is zero carbon in operation; and - Infrastructure proposed to manage and monitor energy loads (e.g. load management systems, community batteries etc).
Guideline G49	Provision of neighbourhood scale renewable energy generation or green energy power purchasing agreements are strongly encouraged as part of the pathway to achieve zero carbon. Neighbourhood scale renewable energy generation will be considered as an alternative to the requirement for individual	Amend as follows: Provision of neighbourhood scale renewable energy generation or green energy power purchasing agreements are strongly encouraged as part of the pathway to achieve zero carbon.

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	solar PV systems required under the Residential ESD Design Guidelines.	Neighbourhood scale renewable energy generation will be considered as an alternative to the requirement for individual solar PV systems required under the <u>in any</u> Residential ESD Design Guidelines.
Table 9 Precinct Infrastructure Plan	Column heading - Delivery Timing/Provision Trigger/Staging	Column heading - Delivery Timing /Provision Trigger/ Staging
Requirement R113	Infrastructure projects identified in Table 9 Precinct Infrastructure Plan, must be delivered as per the staging priority identified in the Delivery column. If the ...	Amend to: Infrastructure projects identified in Table 9 Precinct Infrastructure Plan, must be delivered as per the <u>delivery provision trigger</u> staging priority identified in the Delivery column. If the ...
Section 4.1	Update table once intersection finalised	Agreed
Section 4.2	New guideline: UDF should consider car parking provisions including potential consolidation to multi deck parking and to propose measures to prevent detrimental impacts to the public realm	Agreed
Section 6.2	Nil	Include the following technical report: <i>Victorian Grassland Earless Dragon, Habitat Assessment</i> , Ecolink Consulting, April 2024