

GREATER GEELONG PLANNING SCHEME

AMENDMENT C427ggee

EXPLANATORY REPORT

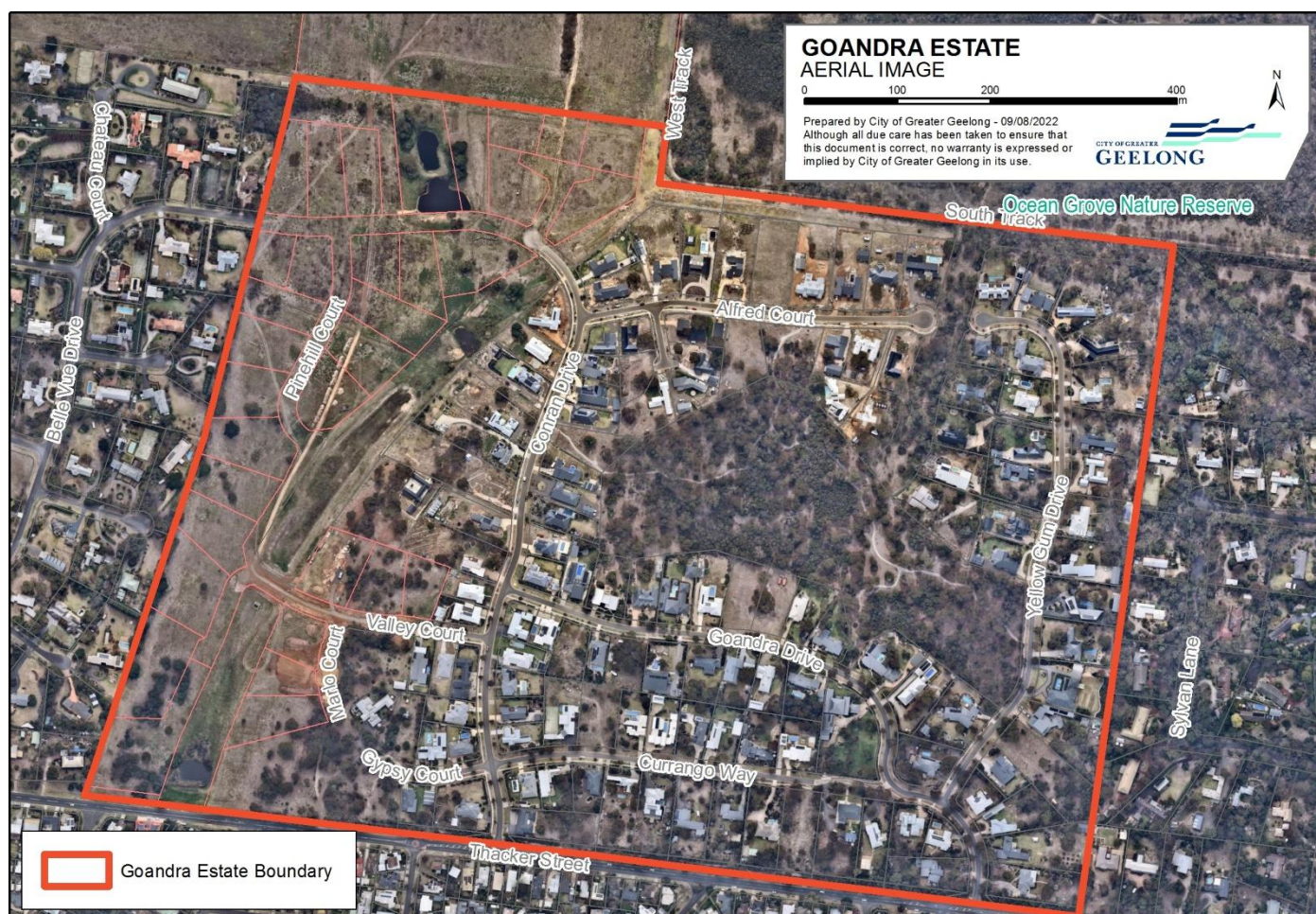
Who is the planning authority?

This amendment has been prepared by the City of Greater Geelong, which is the planning authority for this amendment.

The amendment has been made at the request of the City of Greater Geelong.

Land affected by the amendment

The amendment applies to the Goandra Estate located on the northern side of Thacker Street, Ocean Grove as shown on the map below:



What the amendment does

The amendment proposes changes to the Greater Geelong Planning Scheme to correct inconsistent planning provisions for fences at the Goandra Estate, Ocean Grove, and to provide guidance for appropriate new fencing.

The amendment makes the following changes to the planning scheme:

- Amends Schedule 8 to Clause 37.01 Special Use Zone to remove the reference to the need for a planning permit for a fence other than a post and wire fence.
- Introduces a new Design and Development Overlay Schedule 47 that sets out clearer planning permit requirements for fences within the Goandra Estate based on new Fence Design Guidelines.
- Amends the Schedule to Clause 52.02 to include the properties allowing a variation to the restriction on the construction of a fence outside a building envelope on the relevant land titles.
- Amends the Schedule to Clause 72.08 to include the *Goandra Estate Fence Design Guidelines (Hansen Partnership, February 2022)* as a background document.

Strategic assessment of the amendment

Why is the amendment required?

Fencing (front, side, and rear) in the Goandra Estate is an issue for the City and landowners. There are inconsistencies for the control of fencing across the current planning and land controls for the estate which means that Council is unable to approve applications to construct a fence. This has been a concern for those landowners seeking to erect fencing at their property and has led to uncertainty on the type, form, and appropriate location of fencing within the estate. This has also caused landowner concerns about privacy, security, and amenity for their properties.

Fences have been constructed within the estate that do not have planning permission. Boundary fencing has also been erected that is contrary to a restriction on many of the land titles that limits buildings (including fencing) to a defined building envelope. Some residents have applied for retrospective planning approval. However, it is not open to the City to grant a planning permit that is at odds with the restriction. Equally, the City is not able to enforce the restriction as it is not a beneficiary.

There are some enforcements and planning permit applications on hold pending resolution of a planning framework for fences. The conflict between the restriction and the ability to consider permit applications has created a vacuum for Council to be able to deal with fencing through the planning system and has created uncertainty for landowners. Correcting this situation and providing guidance for future fencing will give landowners clear direction on future fencing for their properties.

How does the amendment implement the objectives of planning in Victoria?

Consistent with the objectives set out in Section 4 of the *Planning and Environment Act 1987*, the amendment:

- Provides for the fair, orderly, economic and sustainable use and development of land as it corrects planning and land restriction inconsistencies affecting fencing at the Goandra Estate in Ocean Grove.
- Provides for the protection of the natural and man-made resources and the maintenance of ecological processes and genetic diversity through proposed fencing guidelines which ensure the free movement of wildlife within the Estate.
- Balances maintaining a pleasant living and recreational environment with providing for a safe and secure properties for landowners.
- Provides planning provisions to ensure the orderly and logical development of the land.
- Supports the aesthetic values of the Goandra Estate whilst not compromising any places of known scientific, aesthetic, architectural, historical interest, or otherwise of special cultural value.
- Balances the interests of the current and future residents of the Goandra Estate.

How does the amendment address any environmental, social and economic effects?

The Fencing Design Guidelines and accompanying Design and Development Overlay Schedule have been prepared taking into account the need to protect the habitat of the Bellarine Yellow Gums and the bushland character of the low-density residential area. Provision is also included for 200mm clearance from ground level for fences adjoining the Yellow Gum Reserve to ensure for the passage of small native wildlife.

The inability for the City to consider and issue permits for fencing in the Goandra Estate has created uncertainty for landowners. Correcting this situation and providing guidance for future fencing will give landowners clear direction on fencing for their properties.

The review and proposed planning provisions have taken an approach that places primary focus on managing front fences and fences adjoining the Yellow Gum Reserve. The guidelines allow for more fencing in other locations that will provide privacy and security without compromising the character of the estate.

Does the amendment address relevant bushfire risk?

The whole of the Estate is designated as a Bushfire Prone Area with the majority of the Estate covered by the Bushfire Management Overlay, and this is not affected by this Amendment.

The amendment does not increase the bushfire risk of the area. The changes to the provisions are in part administrative and in part provide guidance for decision making on future planning permits for fencing.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with the requirements of the Ministerial Direction -The Form and Content of Planning Schemes (section 7(5) of the Act). The correct templates and format of the amendment documents are used.

The amendment is also consistent with the Ministerial Direction No. 11 Strategic Assessment of Amendments with this explanatory report including all requirements to be met and outlining the strategic considerations.

The amendment is also consistent with Ministerial Direction No. 15 on the Planning Scheme Amendment Process.

The amendment is consistent with the Ministerial Direction No.17 – Localised Planning Statements.

As outlined within the Bellarine Peninsula Localised Planning Statement, the proposal appropriately manages development within the settlement boundary of Ocean Grove. The amendment focuses on an existing established, low density residential estate and addresses technical problem with the current planning and land provisions and provides guidance for future fencing.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment is consistent with the intent of the Planning Policy Framework (PPF) and supports its implementation by:

- Clause 12.01-1S Protection of biodiversity – The strategy of supporting links between important areas of biodiversity through networks of green spaces and native vegetation corridors is supported by the Fencing Guidelines. These require fencing adjoining the bushland reserve to provide a 200mm clearance from ground level to allow for the passage of small native wildlife.
- Clause 12.01-2S Native vegetation management – The amendment implements the strategies for avoiding and minimising impacts of the removal of native vegetation through the combination of the objectives of the Fencing Guidelines and decision guidelines within the proposed DDO. These seek to ensure the protection and visual dominance of native vegetation from the public realm and provide for an appropriate interface with the bushland

reserve, and to consider whether a fence will result in the removal or destruction of vegetation and will allow for the safe passage of wildlife.

- Clause 15.01-1S Urban Design – The amendment addresses the objective of ensuring urban environments are safe, healthy, functional, and enjoyable through providing guidance for fencing that responds to the character, context, features and surrounding landscape. The guidelines will also ensure that development supports the amenity, attractiveness, and safety of the public realm, and minimises detrimental impacts on the natural and built environment.
- Clause 15.01-5S Neighbourhood Character – The proposed Fencing Guidelines respects the low-density bushland character of the Goandra Estate.
- Clause 15.01-5L Neighbourhood character seeks to ensure that new development positively responds to the established urban character of the area and protects areas with a significant garden character. The Fencing Guidelines and proposed DDO are based on protecting the established bushland character of the Goandra Estate and guiding new front fencing to be low or visually permeable maintaining the sense of openness.

In addition to current State Policy, on 29 October 2019, the Bellarine Peninsula was declared a Distinctive Area and Landscape under the *Planning and Environment Act 1987*. The declaration triggers the requirement to prepare a Statement of Planning Policy (SPP).

The SPP will include a 50-year vision and land use strategies to better protect the unique features of the Bellarine Peninsula for current and future generations. It also provides the opportunity to designate long term settlement boundaries.

A draft SPP has gone through a public consultation phase and recently been through a Ministerial Advisory Committee Hearing. Amendment C427ggee does not conflict with the draft SPP which identifies that the Goandra Estate is a low-density residential area within the proposed protected settlement boundary and provides housing choice and a transitional urban-edge treatment. The area will continue to provide for the retention of significant environmental and landscape attributes and experience minimal change.

How does the amendment support or implement the Municipal Planning Strategy?

The amendment is consistent with the intent of the Municipal Planning Strategy and supports its implementation by:

- Clause 02.03 Bellarine Peninsula – The amendment implements the strategic direction of supporting and preserving the individual character, identity, role and function of each Bellarine Peninsula township through applying design guidelines for fencing that are responsive to the character of the Goandra Estate in Ocean Grove.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions to resolve the existing technical problem for fencing and to address future fencing by:

- Removing the fencing requirement from the Special Use Zone
- Using the schedule to Clause 52.02 to allow for a variation to a restrictive covenant
- Applying a new schedule to the Design and Development Overlay to guide the future development of fencing within the Goandra Estate
- Using the Schedule to Clause 72.08 (Background Documents) to include the Goandra Estate Fence Design Guidelines 2022 as a background document.

How does the amendment address the views of any relevant agency?

The views of relevant agencies will be sought during the exhibition phase of this amendment.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment has no impact on the local transport system defined by the Transport Integration Act.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

Council has 37 outstanding planning permit applications and 11 breaches of the Planning Scheme / s173 Agreement for fencing within the Goandra Estate. These will need to be addressed following the amendment.

The change proposed to the Schedule to Clause 52.02 will allow for a landowner to lodge an application with the Titles Office to vary the Restriction applying to their lot. This will require the owner to commission a surveyor to prepare a 'text plan' which could be certified and lodged with the Titles Office. Council is unable to make the application on behalf of landowners.

The timing for this process will vary from landowner to landowner and this will spread out the pursuit of either pending or new permit applications.

Council expects this relatively small number of outstanding applications can be readily managed within existing resources and budgets.

Where you may inspect this amendment

The amendment is available for public inspection, free of charge:

'Amendments' section of the City's website www.geelongaustralia.com.au/amendments/

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection or by contacting 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about Amendment C427ggee must be received by **Monday 17 October 2022**.

A submission must be sent to:

The Coordinator
Strategic Implementation
City of Greater Geelong

- either by mail to: PO Box 104, GEELONG VIC 3220
- or by email to: amendments@geelongcity.vic.gov.au
- or lodged online at: www.geelongaustralia.com.au/amendments

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: **Week commencing 3 April 2023**
- panel hearing: **Week commencing 1 May 2023**