

Date: 24 November 2022

Submission on behalf of the Planning Authority
Amendment C434ggee to the Greater Geelong Planning Scheme

Council's submission: Part B

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INTRODUCTION

1. This submission is made on behalf of Greater Geelong City Council (**Council**).
2. Council is the Planning Authority for Amendment C434ggee (**Amendment**) to the Greater Geelong Planning Scheme (**Scheme**). Council has prepared and is the proponent of the Amendment.
3. The Amendment proposes to rezone the land at Weddell Road and Thompson Road, North Geelong (**the Saleyards Precinct**) from the Industrial 1 Zone to the Comprehensive Development Zone – Schedule 4 (**CDZ4**) and make other various planning provision changes. It seeks to facilitate the use and redevelopment of the Saleyards Precinct primarily for residential as well as a limited mix of other uses generally in accordance with the *Saleyards Comprehensive Development Plan, May 2022 (Saleyards CDP)*.
4. On 4 November 2022, Council circulated what are being referred to as the Day 1 version of the Saleyards CDP and the CDZ4. Those documents include proposed changes to the exhibited documents in response to submissions. Changes have not been made formally; only recommended. All changes proposed were identified in tracked changes.
5. On 14 November 2022, Council circulated its 'Part A' submission in accordance with Direction #18 of the Panel Directions issued on 28 October 2022 (**Panel's Directions**). The Part A submission addressed the following themes:
 - 5.1.1 background to the Amendment (including chronology of events);
 - 5.1.2 strategic context and assessment;
 - 5.1.3 an explanation of the Amendment drafting having regard to relevant Planning Practice Notes, Ministerial Directions and A Practitioner's Guide to Victoria's Planning Schemes;
 - 5.1.4 other amendments that may be under preparation or recently approved that may impact on the Amendment;
 - 5.1.5 current permit applications that may impact on the Amendment;
 - 5.1.6 summary of the main issues identified in submissions;
 - 5.1.7 suggested changes to the Amendment in response to submissions; and
 - 5.1.8 any other strategic material that Council intends to rely upon in support of the Amendment that has not yet been provided, or that might assist the Panel in its consideration of the Amendment.
6. Council's Part A Submission is taken to be read and as forming part of this submission.
7. On 21 November 2022, Council circulated the expert evidence of Ms Amanda Roberts of LatStudios in accordance with Direction #23 of the Panel's Directions.
8. This submission responds to Direction #19 of the Panel's Directions which directs Council to address the following issues through its 'Part B' submission:
 - 8.1 response to submissions and evidence; and
 - 8.2 final position on the Amendment.

RESPONSE TO SUBMISSIONS AND EVIDENCE

9. As noted in the Part A submission, Council received a total of 15 submissions to the Amendment. The issues raised in the submissions were summarised in Council's Part A submission at paragraph 107 and included:
 - 9.1.1 the requirements for social housing should be removed as it is not a requirement of the Scheme and may cause negative impacts on surrounding residents;
 - 9.1.2 the introduction of sensitive land uses (such as residential) to an area with operating industrial and live music venues gives rise to concerns of noise attenuation and land use conflict;
 - 9.1.3 traffic impacts and the suitability of Weddell Road to accommodate additional traffic;
 - 9.1.4 the scale of the development within the precinct and its impact on the neighbourhood character;
 - 9.1.5 the extent of the proposed Environmental Audit Overlay (**EAO**) and whether the requirement for a preliminary risk screen assessment in the CDZ schedule duplicates the EAO requirements;
 - 9.1.6 public open space contribution;
 - 9.1.7 pedestrian and cycling connectivity through and around the Saleyards precinct;
 - 9.1.8 the design of internal road widths and the ability to cater for emergency vehicle access;
 - 9.1.9 waste management; and
 - 9.1.10 flooding.
10. Council has received and reviewed the following expert witness statements that Submitter # 7 intends to rely upon at the hearing:
 - 10.1 Planning evidence from Mr William Bromhead of Ratio Consultants;
 - 10.2 Traffic and infrastructure evidence from Mr Jason Walsh of Traffix Group; and
 - 10.3 Economics and affordable housing evidence from Mr Chris McNeill of Ethos Urban.
11. As requested by the Panel, this Part B submission will provide a detailed response to the submissions received by Council and the evidence.
12. Having regard to the issues raised in submissions and the expert witness statements, Council's Part B submission is set out under the following headings:
 - 12.1 building heights and density;
 - 12.2 noise and land use conflict;
 - 12.3 provision of affordable housing;

- 12.4 traffic, parking and road design;
- 12.5 pedestrian and cycling connectivity;
- 12.6 public open space contributions;
- 12.7 shared infrastructure funding plan;
- 12.8 application of the EAO;
- 12.9 other matters; and
- 12.10 Council's final position on the Amendment.

DAY 2 VERSION OF THE SALEYARDS CDP AND THE CDZ SCHEDULE

- 13. Council has made further changes to the Saleyards CDP and the CDZ schedule and now circulates what it calls the Day 2 version of the documents. The Day 2 version of the documents is tracked changed based on the Day 1 version. All day 2 changes are shown with comments that have yellow highlighting.
- 14. They changes are primarily related to the following:
 - 14.1.1 giving effect to what has been agreed between Council as Planning Authority and Leaf in relation to affordable housing; and
 - 14.1.2 changes and minor fix in relation to drafting of the infrastructure provisions.

REASONS FOR THE CHANGES TO THE SALEYARDS CDP AND THE CDZ SCHEDULE

- 15. Before proceeding to the issues, Council proposes to explain the main changes to the various documents.
- 16. The definition of Requirements made it clear that they must be complied with not merely taken into account.
- 17. In the Day 1 version, Plan 1 to the Saleyards CDP was identified as to change as described. The Day 2 version shows the proposed amended plan. The key change is in relation to the removal of the reference to the 2 metre high noise attenuation barrier and the change to the noise attenuation area from a precise line to an area that must be assessed.
- 18. In relation to Built Form, R5 now provides for 60% of dwellings to achieve the accessibility standard at D17 of clause 58.05-1. The normal standard is 50%.
- 19. R6 which deals with exceeding preferred height provisions has been moved to the CDZ schedule because it is a control mechanism and more properly belongs there.
- 20. G11 which relates to preferred maximum building heights was modified in the Day 1 version by the addition of exclusions relating to non-structural elements and service equipment.
- 21. R11 relating to overshadowing was complex. This was simplified as set out in the Day 1 version.
- 22. In relation to affordable housing, in the Day 1 version, the changes tried to provide a simplified form of provision for affordable housing. In the Day 2 version, the drafting reflects

what has been agreed between Submitter #7 and the Planning Authority. This comprises changes to G6 to G8, the Glossary at the end of the Saleyards CDP as well as changes within the CDZ Schedule.

23. In relation to R23, drainage, key parts of the stormwater quality objectives and the performance measures of the drainage strategy by BMT were imported into the Saleyards CDP.
24. Application requirements at G59 and G61 have been moved into the CDZ Schedule where they belong.
25. In relation to R24, the Day 1 Version did not change much but the Day 2 version splits R24 into R24 and a new R## (R25 eventually). R24 deals with local infrastructure and R25 deals with shared infrastructure. Keeping the distinction is important. Existing R25 gets renumbered eventually.

BUILDING HEIGHTS AND DENSITY

What are the issues?

26. The Saleyards CDP contains preferred building heights. They are found in G11.
27. The preferred building heights are 22 metres or 6 storeys for development located directly adjacent to the existing and proposed open spaces in and outside of the Saleyards Precinct, and 15 metres or 4 storeys for development in all other areas. It also proposes the preferred minimum setbacks of 3 metres for the part of building up to 15 metres and 7 metres for the part of building above.
28. As Guidelines (rather than Requirements), the preferred building heights are “discretionary”.
29. Initially R6 in the CDP but now clause 4.0 in the CDZ Schedule deals with applications to exceed the preferred maximum building heights. As proposed it is as follows:

A permit which exceeds a preferred maximum building height as set out in the Incorporated CDP by one storey or more must meet all of the following requirements:

 - The development must materially exceed the minimum environmentally sustainable development standard set out in the Incorporated CDP.
 - The development must demonstrate high quality architecture and urban design.
 - The building height must not exceed 34 metres or 10 storeys (whichever is lesser)
 - The development must not result in an unreasonable loss of amenity through overshadowing, overlooking and visual bulk; and
 - The development must provide a significant community benefit comprising:
 - affordable housing which is greater than the amount referred to in the Incorporated CDP; and/or
 - a higher contribution to public open space than the requirement in clause 53.01
30. The above provision is the subject of concern by Submitter #7 likely in its submissions and in the evidence of Mr Bromhead. Mr Bromhead is of the opinion that:
 - there should be no mandatory 10 storey cap; and
 - the mandatory nature of the various requirements should be made discretionary.

Council's response

31. Council does not agree with that proposal either in submission or evidence.
32. In responding to the panel's directions regarding the Council resolution that referenced 10 stories, Council's submission addressed why the amendment need not be re-exhibited. In addressing that issue, Council explained that Council's resolution did not change the amendment. All it did was confirm that there was a discretion that could be exercised under the exhibited controls and where it was to be exercised, there was a limit to the extent to which it could be exercised, namely to 10 storeys.
33. Submitter #7 made submissions in support of Council's position at that time.
34. The Panel made a ruling that (in view of the explanation in the submissions) no further exhibition was required.
35. Submitter #7's submissions, if accepted, would dramatically change the nature of the amendment and in particular the nature of built form in two ways.
36. First, it would remove the limit of building height to 10 stories. There has never been any information put out to the public that building heights within the Saleyards Precinct would exceed 10 stories. All information was predicated on 4 – 6 discretionary. The Council's resolution made it clear that taller forms were possible, but that issue was resolved on the basis that no further advertising was necessary if it was limited to 10.
37. Mr McNeil's evidence, if we understand it correctly, seeks 4 – 10 levels as the baseline. That change would be far beyond what can reasonably be considered in the context of what was exhibited.
38. In relation to the requirement to address each of the matters set out in clause 4.0 of the CDZ Schedule (previously R6 of the Saleyards CDP), Council submits that in truth, there are only two matters that are "special" requirements as it were not 5. The following requirements should not be regarded as extraordinary in any way, namely:
 - the development must demonstrate high quality architecture and urban design;
 - the building height must not exceed 34 metres or 10 storeys (whichever is lesser); and
 - the development must not result in an unreasonable loss of amenity through overshadowing, overlooking and visual bulk.
39. When these three requirements are put to the one side (as they are admittedly general requirements), the two substantive provisions that remain are:
 - the development must materially exceed the minimum environmentally sustainable development standard set out in the Incorporated CDP; and
 - the development must provide a significant community benefit comprising:
 - (a) affordable housing which is greater than the amount referred to in the Incorporated CDP; and/or
 - (b) a higher contribution to public open space than the requirement in clause 53.01

40. Council's position is that where a proposal seeks to exceed a preferred building height, there ought to be not only a benefit to the developer, but also a benefit to the community. These two bullet points provide for that benefit.
41. First, there must be an ESD approach which is better than the *minimum* requirement.
42. Secondly, there must be a significant public benefit of either additional open space or additional affordable housing.
43. Council submits that it is appropriate to seek more where exceedance of the preferred maximum building height is sought. To draft the provisions so that the applicant needs only satisfy one provision requires the public provisions to choose between things it ought not have to choose between. It ought not have to choose between better standards of ESD performance or greater affordable housing or greater open space.
44. In relation to the use of terms such as "materially better than" or "significant", Submitter #7 cannot on the one hand seek discretion and then when discretion is provided, complain that the discretion is too vague. Discretion is often vague. It allows for negotiation and even for horse trading. The key is that the objective has to be reasonably clear.

NOISE AND LAND USE CONFLICT

What are the issues?

45. Submitter #3 recommended the following to minimise the risk to harm to human health and the environment:
 - 45.1 a new provision at section 4.0 of the CDZ4 for an Acoustic Design Response report;
 - 45.2 a new permit condition/requirement to give effect to the Acoustic Design Response report, where land has been identified as a lot that requires mitigation measures against noise impacts;
 - 45.3 inclusion of an additional requirement to verify post-construction, that buildings which will accommodate noise sensitive uses have been constructed in accordance with the recommendations of any acoustic assessment; and
 - 45.4 updates to the Saleyards CDP to reflect the above recommendations.
46. Submitter #7 submits that the CDZ4 unnecessarily duplicates existing provisions in the Scheme that deal with noise (such as clause 13.05-1S and clause 53.06) and the Environment Protection Regulations under the *Environment Protection Act 2017* and the *incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020)*.
47. Submitters #10 and #11 express concern that their business operation may be hindered as a result of the introduction sensitive land uses to an area with operating industrial and live music venues.
48. Mr Bromhead supports the removal of the reference to a 2m high noise attenuation barrier in the Future Urban Structure Plan, but considers that the requirement 'area where noise attenuation measures must be implemented' should be expressed as a 'should' rather than 'must'. Further, he questions the need to refer to a noise attenuation area in the Future

Urban Structure Plan as this could be investigated and assessed at the time of a planning permit application.

Council's response

49. As the Saleyards Precinct is envisaged to accommodate primarily higher density housing, it is important to consider the impact of introducing sensitive uses such as residential use to an area with operating industrial and live music venues. Based on the acoustic assessment prepared by Renzo Tonin & Associates and the environmental land use buffer assessment prepared by Landserv, the Saleyards CDP identifies noise attention areas around existing industrial and live music venues and includes a requirement (i.e. Requirement 10) that requires acoustic attenuation measures to any noise sensitive accommodation to reduce noise levels in accordance with EPA regulations and the *incorporated Noise Protocol*. The CDZ4 also requires that an application for buildings and works must be accompanied by an acoustic report for any sensitive use in or near an area identified as Noise Attenuation Area in Plan 1 to the Saleyards CDP.
50. Council submits that the Amendment properly responds to the 'agent of change' principle and will not result in unacceptable land use conflict. The Saleyards CDP and the CDZ4 will protect both the function and operation of existing land uses, and the future amenity of sensitive uses to be introduced to the Saleyards Precinct.
51. Requirements 24 and 25 of the Saleyards CDP both required, in the exhibited document, a noise barrier to be provided by the developer along part of the northern boundary, as recommended in the acoustic report. The noise barrier was required to be 2 metres in height and meet requirements outlined in the Acoustic Report Section 6.1 Noise Barriers, including be constructed with 'a durable material with sufficient mass to prevent direct noise transmission' and should 'be sealed airtight with no gaps between the barrier and ground/building facades'. Council in response to Submission #7 has reconsidered this aspect. It now thinks that rather than necessarily providing a noise barrier, the requirement should be as set out in R10. It is also to be noted that the CDZ Schedule contains the following application requirement (which replaces G23):
- An acoustic report from a qualified professional which considers the need for acoustic measures for any sensitive use in or near an area identified as Noise Attenuation Area in Plan 1 to the Saleyards Comprehensive Development Plan. The report should have regard to the Geelong Saleyards Precinct Plan Acoustic Report (Renzo Tonin & Associates May 2022).
52. With regard to the submission that the Amendment duplicates existing provisions in the Scheme that deal with noise management and the EPA regulations, it is important to note:
- 52.1 the existing external noise level assessment conducted by Renzo Tonin & Associates shows that the existing land uses generate noise impacts on the Saleyards Precinct exceeding the relevant noise limits at various locations. It highlights the importance of ensuring that noise impact is fully considered and addressed as part of the Amendment;
- 52.2 Clause 13.05-1S (noise management) does not include any requirements and does not respond to the agent of change principle;
- 52.3 Clause 53.06 (live music entertainment venues) only protects live music entertainment venues from the encroachment of noise sensitive residential uses. It offers no protection to industrial and commercial uses;
- 52.4 whilst the EPA regulations apply independently from the planning controls and requirements, it is far more efficient to address noise issue at the planning application stage than enforcing compliance with the relevant regulations; and

- 52.5 the Saleyards CDP and the CDZ4 do not impose additional obligations on landowners as they refer to the noise criterion in the EPA regulations, but seek to ensure noise impact is considered and addressed at the planning application stage.
53. In response to the issues raised by Mr Bromhead, Council submits:
- 53.1.1 it is appropriate to retain the reference in Plan 1 of the Saleyards CDP to 'areas where noise attenuations measures must be implemented'. The acoustic assessment prepared by Renzo Tonin & Associates confirms that compliance with the relevant noise criterion will not be achieved without appropriate noise attenuations measures. Accordingly, this requirement should be expressed as a 'must' rather than 'should'. Furthermore, this requirement does not mandate the level of attenuation measures that need to be implemented and allows a flexible response having regard to the noise conditions of each site; and
- 53.1.2 the reference to noise attenuation areas in Plan 1 to the Saleyards CDP needs to be read in conjunction with the application requirement for an acoustic report in clause 4 of the CDZ4. It limits the application requirement for an acoustic report to the noise attenuation areas.
54. The changes to the CDZ4 recommended by Submitted #3 may be suitable to be included as permit conditions rather than provisions in a schedule to the CDZ.

PROVISION OF AFFORDABLE HOUSING

What are the issues?

55. The provision of affordable housing has been recognised now as a planning policy issue. The Department has made changes to the *Planning and Environment Act 1987* and provided a framework within which affordable housing is to be thrashed out in the planning system.
56. The Exhibited and Day 1 version of the CDP provided for a fairly complex system for the provision of affordable housing. Leaf raised concerns with the proposed framework, not with the concept of making a contribution.

Council's response

57. As detailed in Council's Part A submission, the provision of social and affordable housing within the Saleyards Precinct is strategically justified and consistent with:
- 57.1.1 the objectives of Planning in Victoria;
- 57.1.2 clause 02.03-6 (Housing) of the Scheme that seeks to increase the level of affordable and social housing in Greater Geelong;
- 57.1.3 clause 16.01-1S (Housing supply) that seeks ensure an appropriate quantity, quality and type of housing is provided, including social housing;
- 57.1.4 clause 16.01-2S (Housing affordability) that seeks to deliver more affordable housing closer to jobs, transport and services;
- 57.1.5 Council's Settlement Strategy (August 2020) that seeks to (amongst other things) increase the level of affordable and social housing in Greater Geelong;
- 57.1.6 Council's Social Housing Plan 2020 – 2041 which has an overarching purpose of facilitating increased supply of social housing;

- 57.1.7 the findings of SGS Economics and Planning in *Providing social housing as essential infrastructure in Geelong's Saleyards precinct* (SGS, March 2022); and
- 57.1.8 the comments made by various Panels¹ that there is strong strategic support for the provision of affordable housing as Victoria has a severe shortage of both social and affordable housing and urgent action is needed to increase the supply.
58. The Department has made it clear that provisions in relation to affordable housing cannot be made mandatory. That is to say, they must be voluntary. This is why they are shown as Guidelines and not requirements. It assumes that developers, or at least, socially responsible developers will volunteer the provision of a component of a development as affordable housing.
59. Whatever one might think about the soundness of the current voluntary system, at least in this case, Submitter #7, as one of the two major landowners has agreed to a Guideline provision of 5% of dwelling as affordable housing at a consideration of zero.
60. Submitter #7 ought to be commended for this. So to should Council as a major landowner. Provision of affordable housing does have a not insignificant cost associated with it.
61. The Day 2 Version of the documents includes text that has been agreed between Submitter #7 and the Planning Authority. It provides for a relatively simplified and familiar approach as compared with what was exhibited which although Council submits was justifiable, does also concede was different from the commonly applied approach in amendments in other municipalities. A recent amendment in Geelong adopted similar drafting but has not yet been reported.
62. There are of course many panel and advisory committee reports that have provided for different approaches to affordable housing. Contributions range from 5 – 15 % and on different basis. What has been agreed between Leaf and the Planning Authority sits comfortably in the range.
63. With regard to the concerns expressed by Submitter #3, there is no evidence to support that the introduction of social and affordable housing within the Saleyards Precinct will give rise to crime and social issues.

TRAFFIC, PARKING AND ROAD DESIGN

What are the issues?

64. Submitter #1 is concerned that any proposed unsignalised intersections accessing the Saleyards Precinct on Thompsons Road could have a detrimental effect on movement and safety. It requires the signalisation of the Thompson Road access be included as part of infrastructure delivery within the Saleyards CDP.
65. Submitter #5 questions the ability of Weddell Road to accommodate additional traffic and the accuracy of the traffic report. This submitter also suggests that speed limit should be reduced to 40km/ph in portions of Weddell Road or traffic calming measures be incorporated.
66. Submitter #8 is concerned with whether sufficient parking will be provided to accommodate the redevelopment of the Saleyards Precinct and the traffic impacts on Thompson Road.

¹ See, eg, *Manningham C127mann (PSA)* [2021] PPV 100, *Yarra C269yara (PSA)* [2022] PPV 2, *Hobsons Bay C114hbay (PSA& AC)* [2022] PPV 10, *Melbourne C309 (PSA)* [2019] PPV 55.

67. Submitter #14 recommends minimum requirements for road design and construction for emergency vehicles.
68. Submitter #15 is concerned with the increase in traffic volumes along Weddell Street and the consequential amenity impacts.
69. Mr Bromhead suggests that the road cross-sections at the end of the Saleyards CDP be amended to remove reference to building forms including 1 storey, 3 storeys and 5 storeys.
70. The issues raised by Mr Walsh, a traffic engineer, are by and large dealt with in other parts of this submission. The only issue that is a road issue per se, deals with the cross sections.
71. At paragraph 54 of his evidence report he recommends that the carriageway width of 7.0 for Park Street along the western side of central park is increased to 7.3m wide with the additional width taken from the verges.
72. The same applies in para 55 regarding Park Street south of central park.

Council's response

Increased traffic volume

73. Submissions raising concerns about the impact of the rezoning on traffic and roads is to be expected. The Saleyards Precinct is well located for infill development. There is no evidence to suggest that the increase in traffic volume in the surrounding road network will result in unacceptable traffic conditions.

Thompson Road intersection

74. The Movement & Access Strategy prepared by ESR Transport Planning (dated March 2020) suggests the intersection to Thompson Road is provided with a right turn lane within the existing widened carriageway. A potential left turn lane was suggested although not considered a necessity.
75. Mr Walsh considers that the level of traffic along Thompson is roughly equivalent to the former generation of the land as the Target Head Office. Accordingly, he considers that similar access arrangements to Thompson Road as per existing should provide appropriate access. This includes an auxiliary right turn lane, but no left turn deceleration lane.²
76. In light of the above, Council submits that it is unnecessary to include a signalised intersection on Thompson Road as part of the Amendment. This matter can be fully considered during the planning permit stage. Should signalisation of the Thompson Road intersection be required, it would be local infrastructure item and not included in the Saleyards Shared Infrastructure Funding Plan.

Road design and cross sections

77. Council accepts the recommendations of Mr Walsh and Mr Bromhead in relation to road design and cross sections.

Speed limit

78. It is considered unnecessary to reduce the speed limit along Weddell Road as part of the amendment process. The proposed intersection at Weddell Road to access the Saleyards Precinct is likely to include traffic calming measures through recommended intersection treatments. These issues will be considered at the planning permit application stage.

² See paragraphs 34 to 40 of Mr Walsh's evidence on pages 6 and 7.

Parking

79. Provision of car parking would be considered against clause 52.06 of the Scheme which sets out (amongst other things) statutory parking rates and decision guidelines for applications to reduce the car parking requirement during the planning permit application stage.

Accuracy of traffic report

80. The traffic report prepared by ESR Transport Planning is considered to be reliable and accurate. It was peer reviewed and supported by Council's Traffic Engineers, who all considered the traffic report suitable to be used to inform the preparation of the Amendment.

PEDESTRIAN AND CYCLING CONNECTIVITY

What are the issues?

81. The Saleyards CDP includes objectives that seek to enhance pedestrian and bicycle networks through the Saleyards Precincts and to connect to surrounding streets. It does this in two ways.
82. First it ensures that within the precinct, there is a well connected series of roads and paths including shared paths. Second, it ensure that external to the precinct, there is a completed and convenient system of paths and shared paths to key destinations those being the Geelong North Railway Station and the nearest bus stop to the precinct.
83. In that regard, the Saleyards Shared Infrastructure Funding Plan proposes some projects to improve or complete the path network between the precinct and the two transport destinations. It is submitted that those projects are fair and reasonable and have a direct nexus with the precinct.
84. Submitter #1 recommends relocation of the east west Strategic Cycling Corridor currently identified through 11 – 43 Ballarat Road to the proposed shared path through the Saleyards Precinct, and provision of separate cycling infrastructure through cycle lanes in Council managed roads.
85. Submitter #5 submits that the area is not currently pedestrian and cyclist friendly.
86. Submitter #7 considers the 'possible future link' to the Hepner Place industrial area to be unnecessary and should be deleted from the Saleyards CDP. It submits that Park Street could provide the future northern link to the industrial area, if and when the adjoining industrial area is rezoned and a link is required. Mr Bromhead and Mr Walsh support this submission.
87. Submitter #11 recommends increased pedestrian and cycling connectivity to Geelong Waterfront and the North Geelong Railway Station.

Council's response

88. The Saleyards CDP includes various requirements and guidelines relating to walking and cycling. For example, Requirement 22 directs the provision of a shared pedestrian and cycling path running east-west through the Saleyards Precincts, which will provide direct access for pedestrians and cyclists from Thompson Road to Weddell Road. This would enable the relocation of the east-west Strategic Cycling Corridor if necessary.
89. With regard to Submissions #5 and #7, the Saleyards CDP seeks to prioritise pedestrian and cycle movements and improve pedestrian and cyclist safety. Furthermore, the Saleyards CDP and the Saleyards Precinct Shared Infrastructure Funding Plan include a number of

infrastructure items relating to pedestrian crossing upgrade, provision of shared user paths, and footpath upgrade. Accordingly, the Amendment will improve the environment for pedestrians and cyclists and provide better connections to the North Geelong Train Station.

90. Pedestrian and cycling connectivity is considered to be adequate with connections identified to maximise access to public transportation and North Geelong station.
91. With regard to the 'possible future link' to the Hepner Place industrial area, Council agrees that this link could be a pedestrian / cycle link, rather than a public road for vehicles. Plan 1 in the Saleyards CDP and the CDZ4 could be amended to make it clear that the 'possible future link' is a pedestrian / cycle link.
92. This pedestrian / cycle link will enhance permeability of the Saleyards Precinct and provide opportunities to connect with the Hepner Place industrial area to the north as an area of employment or even in the event that it is rezoned in the future. Further, this pedestrian / cycle link will not affect the redevelopment of 8 – 14 Thompson Road because any development schedule for this site is likely to include a number of north-south links given the depth and width of that site.

PUBLIC OPEN SPACE CONTRIBUTION

What are the issues?

93. The Amendment seeks to amend the schedule to Clause 53.01 (Public open space contribution and subdivision) to specify a '10% (unencumbered)' amount of contribution for land included in the CDZ4.
94. Submitter #7 submits that the requirement to provide 10% of land as unencumbered public open space, either as land or cash, is without proper basis. It contends that the requirement should not exceed 5%. It also notes that under the shared infrastructure funding plan there is an allocation made for improvement to public open space.
95. Submitter #9 submits that as it will contribute a significant amount of public open space, no further contribution is necessary from future developers.
96. Mr Bromhead for Leaf considers that a 10% public open space (**POS**) contribution is unjustified and the contribution should revert to the standard 5%. Further, he notes the Saleyards Precinct Shared Infrastructure Funding Plan (**Saleyards SIFP**) requires a cash payment of approximately \$1.25 million for the embellishment of the Central Cultural Park.
97. Mr McNeil considers that the Saleyards SIFP and the draft section 173 agreement do not appear to deal with *equalisation* (or put another way, the notion that all people should contribute the same amount either in cash or land or a combination of both).

Council's response

98. In relation to public open space, the provision of contributions has long been established. So too have principles as to how contributions may be used. One of those principles established very early in the life of the contributions regime is that funds collected under the POS contribution may be used in any part of the municipality. The provision of an open space network in the municipality is regarded as the first order of priority and then there is a need to ensure that all parts of the municipality have reasonable access to that network. Open space contributions schemes are not subject to the same statutory regime as development contributions and any approach which tries to equate them is misconceived.
99. In the case of the Saleyards Precinct, the Saleyards CDP identifies a large area of land that needs to be provided as public open space. From the overall summary land budget at Table

2, it can be seen that the central open space is .45 ha and comprises 5% of the NDA or 3.6% of the site area.

100. However, as a proportion of the developable land of the site on which the central open space is located it is a greater amount and more than 10% of that site. There is no other unencumbered public open space shown in the Saleyards CDP per Plan 1. There is other encumbered open space for water treatment and retarding basins, heritage and the like. We can see this from the table extract below:

| Unencumbered open space | | | |
|--|---------|-------|-------|
| Central park (minus heritage elements) | 0.45 ha | 3.6% | 5.0% |
| Encumbered open space | | | |
| Heritage elements in Central park | 0.05 ha | 0.5% | 0.6% |
| Total encumbered open space | 0.05 ha | 0.5% | 0.6% |
| Drainage | | | |
| Drainage | 2.96 ha | 23.7% | 32.8% |
| Net Developable Area | 9.04 ha | 72.2% | |

101. Clause 53.01 will require a 10% contribution to be made. Where a site that has no land for public open space shown in Plan 1, that land will make a monetary contribution to public open space. If any open space land is to be offered as public open space that will have to be agreed by Council.
102. For the Council owned land, it will be expected to satisfy its open space contribution by setting aside that area as public open space on a plan of subdivision. It has not yet been determined whether Council will require any payment in respect of any amount of land that it sets aside which is greater than 10% of the site developable area of the site.
103. In any event, the system under clause 53.01 ensures that each land owner contributes the same amount for public open space. There is no need for an equalisation system in the context of this relatively small precinct. Equalisation processes are usually associated with larger areas typically, involving precinct structure plans.
104. In relation to the quantum there is reference in the evidence of Mr Bromhead to PSPs requiring 10% of land though being in greenfield areas. It should be noted that in PSP areas, (which this is not) the 10% requirement is unencumbered land and PSP areas generally speaking almost always have around 20 – 30% of encumbered land available as further open space. In that regard, noting the drainage areas north and south of the Saleyards, the provision of open space at the Saleyards is comparable to the provision of open space in PSP areas.
105. We note too that the Saleyards Precinct is envisaged to be a compact but fairly intensively developed urban village that accommodates likely *at least* 1,000 – 1,300 residents. There will be a strong need for not only green open space given the fairly intensive development proposed at the Saleyards Precinct but also publicly accessible areas that function as open space. In addition, other areas such as roads and medians and the like will need to be considered in terms of different opportunities for provision of public areas. Expenditure will be required to make those areas suitable and accessible and acceptable.

106. The improvements to the central open space (at least partly funded by the shared infrastructure funding plan) are fairly basic at \$1.25m.
107. The C139ggee Panel observed that a 10% POS contribution was a reasonable benchmark as it appeared to be the figure usually applied in the growth areas of metropolitan Melbourne. Furthermore, the requirement of a 10% POS contribution is consistent with the rates applied for similar large redevelopments, growth area developments and subdivision of land zoned for residential purposes for 10 or more lots.
108. The Saleyards SIFP estimates the cost for the landscaping and embellishment works within the Central Cultural Park to be approximately \$1.25 million.

| OPENSOURCE | | | | |
|------------|--|--|----------------|------------|
| OS_01 | Central Cultural Park Embellishment Works | To be delivered alongside the delivery of either the property 03/04 or property 01 E/W Street (whichever comes first) or as determined by Council. | \$1,255,736.11 | Appendix B |

109. Additional funds from the open space contributions will be used as Council uses all funds contributed to the POS fund; namely for the purchase or improvement of public open space. It is important to remember that open space contributions are paid into a central open space fund and not into area or precinct funds. For instance, major ovals and sporting facilities are funded by the open space contributions fund. Part of the contributions paid under the POS levy will be used for those broader open space network improvements, purchase of land, upgrades and the like.
110. The key thing to note is that the 10% requirement is not high for a new precinct and especially for an intensively developed precinct.

SHARED INFRASTRUCUTRE FUNDING PLAN

What are the issues?

111. The Saleyards SIFP has been prepared to identify key infrastructure to be provided to support redevelopment of the Saleyards Precinct. It will be implemented through s 173 agreements between Council and the landowners in the Saleyards Precinct, which formalise infrastructure delivery and infrastructure contributions agreements. The methodology being used to deal with infrastructure here is not part of the planning scheme amendment. It is a methodology that sits side by side the amendment and supports the amendment but is not part of it. Therefore, the Panel should be careful not to become involved in the matter given that it is not part of the Amendment.
112. Had this been a formal DCP, then there would be no doubt that it is part of the amendment – but it also then gets accompanied by a level of complexity that weighs down the Amendment.
113. Notwithstanding that it is not part of the Amendment, Submitter #7 addresses the matter and considers that there is a lack of nexus between redevelopment of the Saleyards Precinct and some of the items included listed in Table 5 and Figure 5 of the Saleyards SIFP (i.e. RD_02, RD_03, RD_04, TR_1, TR_2, TR_3 and TR_4).

| ROAD | | | | |
|------------------|--|---|--------------|------------|
| RD_02 | Pedestrian Crossing Upgrade – Pedestrian Refuge Island | Hepner Place triggered by early stages of the western development area fronting onto Thompson Road or as determined by Council. | \$30,317.91 | Appendix B |
| RD_03 | Pedestrian Crossing Upgrade – Pedestrian Refuge Island | Weddell Road triggered by the early stages of either the eastern or western development areas (whichever comes first) or as determined by Council. | \$30,317.91 | Appendix B |
| RD_04 | Pedestrian Crossing Upgrade – Pedestrian Refuge Island | Backwell Street triggered by the early stages of either the eastern or western development areas (whichever comes first) or as determined by Council. | \$30,317.91 | Appendix B |
| TRAILS AND PATHS | | | | |
| TR_01 | Shared user path on west side of Weddell Road between Ballarat Road and Victoria Street and Landscaping | To be delivered in early stages of the eastern development area fronting onto Weddell Road or as determined by Council. | \$871,052.49 | Appendix B |
| TR_02 | Shared user path on south side of Victoria Street between Weddell Road and North Geelong Railway Station and Landscaping | To be delivered in early stages of either the western or eastern development areas (whichever comes first) or as determined by Council. | \$397,701.51 | Appendix B |
| TR_03 | Pedestrian Path upgrade on eastern side of Weddell Road between 138 Weddell Road and Victoria Street | To be delivered in early stages of the eastern development area fronting onto Weddell Road or as determined by Council. | \$73,304.91 | Appendix B |
| TR_04 | Pedestrian Path Upgrade on the northern side of Ballarat Road from Thompsons Road to the bus stop | To be delivered in early stages of the western development area fronting onto Thompson Road or as determined by Council. | \$108,787.30 | Appendix B |

114. Mr McNeil offers his opinion on the matter to and recommends albeit without any real basis, that these items be deleted from Table 1 in the Saleyards CDP and the Saleyards SIFP.
115. He also seeks clarification for the discrepancy of the dwelling density between the *Saleyards Precinct Plan* (i.e. 80 dwellings per net developable hectare) and the Saleyards SIFP (i.e. 60 dwellings per net developable hectare).
116. Similarly, Mr Walsh considers that items RD_02, RD_03, RD_04, TR_2, TR_3 and TR_4 should be deleted from Table 1 in the Saleyards CDP and the Saleyards SIFP.
117. With regard to TR_1, he considers that it will deliver benefits for the wider community and should not be fully funded by landowners within the Saleyards Precinct. Furthermore, Mr Walsh considers that the following projects listed in Table 1 in the Saleyards CDP should be shared items and included in the Saleyards SIFP rather than being fully funded by a landowner:
- 117.1.1 delivery of a main intersection access from Thompson Road;
 - 117.1.2 delivery of a main intersection access from Weddell Road;
 - 117.1.3 potential bus stop relocation – Thompson Road; and
 - 117.1.4 upgrade of the bus stop on Weddell Road.

Council's response

Not part of the Amendment

118. The system of development contributions in this case is being put forward under an agreement between Council and each landowner. For itself, Council will need to agree to be bound by the system but cannot enter into an agreement with itself. If Council land is on-

sold to a developer, Council will ensure that the developer enters into an agreement, as a condition of any contract of sale.

119. As the contributions system is not under a formal DCP and part of the amendment, there is nothing for the Panel to formally consider in this case save to note that the contributions system for infrastructure is being addressed informally by a voluntary agreement.

120. The concerns expressed by Leaf have been considered by Council but have not been accepted. Thus the various projects are proposed to remain in the Saleyards SIFP. For completeness only but not for reporting purposes, we set out the arguments below.

Nexus

121. Whilst shared infrastructure items RD_02, RD_03, RD_04, TR_1, TR_2, TR_3 and TR_4 are located outside the Saleyards Precinct, these items are required to improve pedestrian and cycling connectivity, and connection to the North Geelong Railway Station and existing open space network. These infrastructure items are unlikely to be required but for the significant redevelopment of the Saleyards Precinct. Accordingly, it is fair and reasonable to include them in Table 1 of the Saleyards CDP and the Saleyards SIFP. Even if they are not included in Table 1 of the Saleyards DCP, they will be required in any event, by the Saleyards SIFP which must be agreed before the amendment is adopted by Council.



Figure 1: extract of F5 (location of infrastructure items) in the Saleyards SIFP

122. With respect to the above projects, below we set out extracts from streetview by Google which shows why the project are included.

- RD-01 is a crossing from the west to east side of Weddell Road to access the parklands on the east side. Refer photo below for context.



- RD02, 03 and 04 are crossings at various points as shown in the photos below as part of the improved path to the railway station or the surrounding area.



123. As for the footpaths that are being required refer to the photos below:



TR-01 is a new shared path where none exists on the west side of Weddell from Ballarat Road to Victoria Street. See also photo below.



TR-02 is an upgrade of the standard footpath to a shared path along Victoria Street to the railway station



124. With regard to Mr Walsh’s recommendation that a number of projects listed in Table 1 of the Saleyards CDP should be shared items and included in the Saleyards SIFP, that is really saying that Council should incur the cost of those projects that benefit others not within the precinct. Mr Walsh has not given a view as to what extent of external benefit exists. Council thinks that the extent is relatively low and if anything it is incidental.
125. These projects are required to enable the redevelopment of particular parcels of land. Accordingly, the costs of these projects should be borne by the particular landowners, rather than all the landowners in the Saleyards Precinct.

Discrepancy of dwelling densities

126. The discrepancy of the dwelling density between the Saleyards Precinct Plan (i.e. 80 dwellings per net developable hectare) and Saleyards SIFP (i.e. 60 dwellings per net developable hectare) is not an error. As the built form provisions set out in the Saleyards CDP are discretionary and may be exceeded, the Saleyards Precinct Plan refers to a higher density to ensure adequate infrastructure will be provided for the redevelopment of the Saleyards Precinct.

APPLICATION OF THE EAO

What are the issues?

127. The Amendment seeks to apply the EAO to the Saleyards Precinct.

128. Submitter #3 supports the application of the EAO but recommends:
- 128.1 removal of the trigger for a preliminary risk screen assessment (**PRSA**) or audit in the CDZ4 as this duplicates the EAO requirements; and
 - 128.2 strengthening the requirement for compliance with audit conditions in the CDZ4 by including conditions from the example conditions in *Planning Practice Note 30 – Potentially Contaminated Land*.
129. Submitter #9 is concerned that application of the EAO may defer remediation of the land to future purchasers / developers and affect the sale price.

Council's response

130. Applying the EAO to the entirety of the Saleyards Precinct provides consistency across the development sites. This ensures that all potentially contaminated land is captured and is justified given the previous land uses operating from the Saleyards Precinct.
131. With regard to the issues raised by Submitter #3, Council submits:
- 131.1 the trigger for a PRSA or audit in the CDZ4 is specifically intended to address microbial contamination risk of Q fever, which is not captured by the EAO requirements and as such not a duplication; and
 - 131.2 the proposed conditions to strengthen compliance with audit conditions could be included in planning permits. These conditions are not suitable to be included in a schedule to the CDZ.
132. With regard to the concern of Submitter #9, the application of the EAO does not prohibit current landowners from undertaking remediation works prior to sale of land. It is up to the landowners to determine their preferred course of action around remediation if they intend to sell their land.
133. The Panel will note that the provisions in the CDZ Schedule have been amended from what was Exhibited. We think that they read better now and ensure that requirements that are of a continuing nature are properly dealt with.

OTHER MATTERS

What are the issues?

134. Submitter #15 raises concerns with waste management and flooding.

Council's response

Waste management

135. Waste management will be addressed through the planning permit application process, typically via the requirement for a waste management plan. This would be catered specifically to the type of development proposed, as different land uses/scales of development may require differing waste solutions.

Flooding

136. The Saleyards CDP and the CDZ4 include provisions relating to stormwater management and drainage. Furthermore, as the Saleyards Precinct is partly affected by the Special

Building Overlay, flooding issues will be considered as part of the planning permit application assessment.

137. The planning permit process will deal with the staged rollout of the drainage network with a minor major system proposed as per the drainage technical report that was undertaken. The planning provisions both within the CDZ Schedule and the CDP give effect to the need to take drainage provision into account.

COUNCIL'S FINAL POSITION ON THE AMENDMENT

138. Council proposes improvements to the exhibited documents as set out in the Day 2 Version of the CDP and the CDZ Schedule.
139. We will note any reasonable arguments made for improvements to the drafting.
140. A final response to the evidence and submissions will be at the close of the Panel hearing, in Council's closing submissions.

CONCLUSION

141. This completes the 'Part B' submission for the Council.
142. Council reserves its right to respond to any new issues raised through the course of the hearing in its reply submission at the close of the hearing.

Maddocks

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Maddocks
Per Terry Montebello
Lawyers for the Planning Authority
24 November 2022