

AMENDMENT C437ggee, CONSIDERATION OF SUBMISSIONS

To: Peter Smith – Coordinator Strategic Implementation
From: Rowan Farmer – Strategic Planner
Subject: Resolution to consider submissions to an amendment under delegation
File number: C-437

Purpose

This report considers submissions to Amendment C437ggee and recommends that Council resolves (under delegation) to refer the submissions to an Independent Panel, in relation to land at 135 Staceys Road Lovely Banks. The subject land is shown outlined in blue in the aerial photograph below.



Summary

- The proposed amendment seeks to rezone the land at 135 Staceys Road, Lovely Banks (and unmade road reserve adjacent to the south) from Farming Zone to Urban Growth Zone. The land is in the Northern Geelong Growth Area, but was accidentally omitted from rezoning in amendment C395ggee, which implemented the *Northern and Western Geelong Growth Areas Framework Plan (August 2020)* into the planning scheme.
- The land is shown in the Framework Plan to be used for largely residential use and therefore it is important to rezone the land as soon as possible, to facilitate its consideration in the Elcho Road East precinct structure planning process.

- The land is subject to a number of constraints, including being partly within the land use buffer of the Lara Energetic Material Manufacturing Plant (Chemring) at 230 Staceys Road, Lovely Banks. The constraints were considered in amendment C395ggee and will be further considered in the precinct structure planning process, separate to this amendment.
- The proposed amendment was exhibited from 18 November 2021 to 20 December 2021. Three submissions were received, of which two requested changes.
- The matters raised in submissions are the possibility of sensitive uses being approved within land use separation distances and requests to update the Explanatory Report to address the updated Ministerial Direction 1 – Potentially Contaminated Land. It was requested an additional lot be included in the amendment, to also be rezoned to the Urban Growth Zone.
- Responses to the matters raised are outlined in the body of this report under the heading Discussion. The responses will form the basis of the City's position to the independent Panel, scheduled to be held from 4 April 2022.

Recommendation

That Council having considered all submissions to Amendment C437ggee to the Greater Geelong Planning Scheme, resolves to:

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 8 of the Planning and Environment Act 1987;**
- 2) Refer all submissions to the Panel; and**
- 3) Submit to the Panel its response to the submissions generally as outlined in this report.**

**Approved as a resolution of Council by Council's delegate: P.Smith
Date: 14 January 2022**

Background

The subject land is located on the south side of Staceys Road, approximately 1 km west of Bacchus Marsh Road in Lovely Banks. The site is within the Northern Geelong Growth Area and is largely planned for residential use in Plan 03 (Future Urban Structure - Northern Geelong Growth Area) in the *Northern and Western Geelong Growth Areas Framework Plan (August 2020)*. The land is also within the Elcho Road East precinct, which is the first precinct structure plan to be commenced in accordance with Plan 40 (Development Sequencing) of the Framework Plan.

The Framework Plan was implemented in the planning scheme in Amendment C395ggee on 6 May 2021 and is now included as a background document under Clause 21.20 (Northern and Western Geelong Growth Areas) of the Municipal Strategic Statement, as well as the schedule to Clause 72.08 (Background documents).

Other land shown for residential use in the Framework Plan was rezoned to the Urban Growth Zone in Amendment C395ggee 6 May 2021. The subject land, however, was accidentally omitted from being rezoned in the application for Amendment C395ggee. It is therefore proposed to rezone the subject land to Urban Growth Zone as a correction. This will facilitate the further consideration of the land for residential use, as part of the Elcho Road East precinct structure planning process.

Council resolved (under delegation) 30 September 2021 to support preparation and exhibition of Amendment C437ggee.

Discussion

Amendment C437 was exhibited from 18 November 2021 to 20 December 2021. Three submissions were received, of which two request changes.

EPA

The submission from the EPA requests the Explanatory Report be updated in response to the updated Ministerial Direction 1 (Potentially contaminated land). This direction includes requirements for amendments that would allow land to be used for a sensitive use, children's playground or secondary school. EPA further comments, under the heading 'Separation Distances' that sensitive uses may be allowed in the Urban Growth Zone.

Sensitive uses (as defined in Planning Practice Note 92 – Managing buffers for land use compatibility) include a dwelling, residential aged care facility, child care centre, hospital, place of assembly and school. Table 1 below summarises the permit requirements for these uses in the current Farming Zone and proposed zone.

Table 1 – Permit requirements for sensitive uses

Land use	Farming Zone (current zone)	Urban Growth Zone (proposed zone)
Dwelling	Permit not required for one dwelling, provided on a lot of minimum 80ha. If this condition is not met, a permit is required. No limit is specified for the number of dwellings.	Permit not required for one dwelling, provided on a lot of minimum 40ha. If this condition is not met, a permit is required. A limit of two dwellings on a lot applies.
Residential aged care facility	Prohibited	Prohibited
Child care centre	Prohibited	Prohibited
Hospital	Permit required	Permit required
Place of assembly	Permit required	Permit required
School	Permit required	Permit required

As shown in Table 1, there is little difference in permit requirements between the Farming and Urban Growth Zone. In the case of the subject land, which is 35.2ha in size, the Urban Growth Zone is more restrictive, given it is below the minimum lot size for which a permit is not required to use land for a dwelling. There is also a limit placed on the number of dwellings for which a permit can be granted. Under the current zone, the number of dwellings is not limited.

EPA notes its response to the previous amendment C395ggee was supportive, recommending buffers be translated into planning controls during the precinct structure plan stage. It further notes the proposed amendment does not implement a residential use, but instead this will be considered during the precinct structure planning process.

Risk from major hazard facilities to use and development is required to be considered under Clause 13.07-2S (Major hazard facilities) regardless of whether it is in a Farming or Urban Growth Zone. Similarly Clauses 13.05-1S (Noise abatement), 13.06-1S (Air quality) and 13.07-1S (Land use compatibility) require responsible authorities to ensure use and development is compatible with nearby land uses and apply to all zones.

There is therefore very little difference in the planning scheme for how sensitive uses will be treated for the subject land under the proposed Urban Growth prior to the precinct structure planning process and the current Farming Zone. It is recommended the Explanatory Report be updated to respond to the updated Ministerial Direction, but it is considered no significant changes or further assessment are required, as the amendment will not allow for additional sensitive uses. Soil contamination and buffers were assessed in amendment C395ggee (at a high level) and the appropriate stage for further assessment will be during the precinct structure planning process.

It is further noted the Explanatory Report should also be updated to address Ministerial Direction 20 – Major Hazard Facilities. The amendment does not propose to vary the 1 km buffer distance from the Lara Energetic Material Manufacturing Plant (Chemring). Input from Worksafe was made during amendment C395ggee, recommending against rezoning within the buffer. Discussions with Worksafe have occurred as part of the precinct structure planning process regarding future uses within the buffer. The subject amendment was also exhibited to Worksafe and Chemring, but no submissions were received. As discussed earlier, the amendment does not propose any sensitive uses within the buffer and the precinct structure planning process is the appropriate stage for this to be further considered.

165 Staceys Road, Lovely Banks

The submission from 165 Staceys Road, Lovely Banks requests inclusion of their land in the rezoning. This lot, as well as the subject land and two others (195 and 225 Staceys Road) were not rezoned to Urban Growth Zone as part of Amendment C395ggee. The panel in Amendment C395ggee recommended the four lots (including the subject land) all be rezoned during or before the precinct structure planning process.

This amendment seeks to rezone only 135 Staceys Road only, as it is the only lot containing land planned for residential use in the *Northern and Western Geelong Growth Areas Framework Plan (August 2020)*. It is also largely outside of the Chemring buffer, whereas the other lots are located almost entirely within the buffer. They are also not planned for residential use in the Framework Plan. The potential rezoning of these lots will be addressed at a later stage, subject to resolving issues (such as the Chemring buffer) in the precinct structure planning process.

The subject land is also the only lot within the Elcho Road East precinct, which as discussed earlier is the first precinct structure plan to be commenced in accordance with Plan 40 (Development Sequencing) in the Framework Plan. The other lots are located in the Echo Road West precinct, which is a medium term precinct in the Framework Plan. Therefore while there is an immediate need for the subject land to be rezoned, to facilitate the precinct structure planning process, the need is not as urgent for the other lots including the submitters land. To meet the timeframe and simplify the amendment process, the proposal is to rezone the subject land only at this stage.

Wadawurrung Traditional Owners Aboriginal Corporation

The submission from the Wadawurrung Traditional Owners Aboriginal Corporation states it has no objection for the rezoning application and does not request changes. It includes some commentary regarding development, which is not proposed as part of the proposed amendment, noting in the case of development a Cultural Heritage Management Plan is required.

While the proposed amendment does not include a development proposal, it is relevant that assessment of cultural heritage is part of the precinct structure planning process. This process is separate to this amendment and will require a further planning scheme amendment to be implemented in the planning scheme.

Financial Implications

There are no significant financial implications to Council.

Stakeholder Consultation and Communication

The Amendment and Permit were exhibited in accordance with the provisions of the *Planning and Environment Act 1987*.

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

- Directions Hearing: in the week commencing 7 March 2022.
- Panel Hearing: in the week commencing 4 April 2022.

Planning Panels Victoria will notify all submitters of the Panel dates and invite requests to be heard at the Panel Hearing.

Policy/Legal/Statutory Implications

The Amendment is consistent with the State Planning Policy Framework as follows:

- Clause 11.01-1S Settlement – by achieving the objective and relevant strategies including:
 - Focus investment and growth in places of state significance in Metropolitan Melbourne and the major regional cities of Ballarat, Bendigo, Geelong...
 - Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.
 - Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.
 - Create and reinforce settlement boundaries.
 - Limit urban sprawl and direct growth into existing settlements.
 - Ensure land that may be required for future urban expansion is not compromised
 - Consider as relevant...G21 Regional Growth Plan (Geelong Region Alliance, 2013)
- Clause 11.01-1R Settlement Geelong G21 - the amendment implements the following strategy:
 - Provide for long term growth options that build on existing infrastructure, including two further investigation areas north and west of Geelong.
- Clause 11.02-1S Supply of urban land – meets the objective “To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses” and strategies including:

- Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.
- Clause 11.02-3S Sequencing of development – by meeting the objective “To manage the sequence of development in areas of growth so that services are available from early in the life of new communities”.
- Clause 13.02-1S Bushfire planning – by meeting the objective “To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life” and strategies including:
 - Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).
- Clause 13.03-1S Floodplain management – by meeting the objective and strategies including “Avoid intensifying the impact of flooding through inappropriately located use and development”.
- Clause 13.07-1S Land use compatibility – by meeting the objective “To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts” and strategies including:
 - Ensure that use or development of land is compatible with adjoining and nearby land uses.
 - Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
 - Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
 - Protect existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.
- Clause 13.07-2S Major hazard facilities – by meeting the objective “To minimise the potential for human and property exposure to risk from incidents that may occur at a major hazard facility and to ensure the ongoing viability of major hazard facilities” and strategies including:
 - Consider the risks associated with increasing the intensity of use and development within the threshold distance of an existing major hazard facility. Apply appropriate threshold distances from sensitive land uses for new major hazard facilities and between major hazard facilities.
 - Apply appropriate threshold distances from sensitive land uses for new major hazard facilities and between major hazard facilities.
 - Protect registered or licenced major hazard facilities as defined under Regulation 5 of the Occupational Health and Safety Regulations 2017 from encroachment of sensitive land uses.

The Amendment is consistent with the Local Planning Policy Framework as follows

- Clause 21.02 City of Greater Geelong Sustainable Growth Framework – in particular element 1. Managing Urban Growth.
- Clause 21.04 Municipal Framework Plan – the subject land is shown as part of the future growth areas in the Municipal Framework Plan.
- Clause 21.05-7 Flooding – the amendment meets the relevant objectives: to protect floodplains; and to minimise the potential for damage and risks to public safety and property from flooding.
- Clause 21.05-8 Wildfire – the amendment meets the objective to minimise the impacts of wildfire.
- Clause 21.06-2 Spatial distribution of growth and land supply – the amendment implements the objective to “Contain growth within identified locations across the municipality” and strategies including:
 - Direct the majority of future housing needs to urban Geelong (urban infill, Armstrong Creek and the Northern and Western Geelong Growth Areas).
- Clause 21.06-3 Managing future growth – by meeting the objective to “Manage the release of new growth areas to make sure infrastructure, services and facilities are provided in a timely and efficient way”.
- Clause 21.20 Northern and Western Geelong Growth Areas – by directly implementing the direction of Clause 21.20-4 (Implementation) to “Apply the Urban Growth Zone to most land in the Northern and Western Geelong Growth Areas...” and strategies including:
 - Land use and development should have regard to the Northern and Western Geelong Growth Areas Framework Plan (City of Greater Geelong, August 2020).

Alignment to City Plan

The proposed Amendment C437 supports both the Planned sustainable development and Effective environmental management strategic priorities of the Council Plan.

Conflict of Interest

No Council officer involved in the preparation of this report has any direct or indirect interest, in accordance with Section 80(c) of the Local Government Act.

Risk Assessment

Land use buffers

As discussed earlier there are nearby land uses that require buffers affecting the subject land. EPA has provided a submission regarding this, which has been discussed earlier. No submissions were received from Worksafe or the operator of the nearby major hazard facility (Chemring), but this was addressed in the panel report for C395ggee, in which it was noted Worksafe recommended against residential rezoning within the buffer.

Action N1.7.7 of the *Northern and Western Geelong Growth Areas Framework Plan (August 2020)* provides that no residential development will be permitted within the 1 km buffer.

The proposed amendment will apply only the Urban Growth Zone to the subject land. It does not propose residential use, as this is determined through the precinct structure

planning process. This is consistent with the recommendation of the panel report in C395ggee.

The Framework Plan also provides directions for the gas pipeline, including a 570 m buffer within which land uses are to be planned carefully to minimise risk to community safety (Action N1.6.8). The APA Group are the licensee of the pipeline and in their submission to amendment C395ggee, the preferred position was for a number of land uses, including higher density residential uses, be located outside the buffer area. As noted, the application of the Urban Growth Zone will not itself provide for residential use, but instead allows for this to be further considered as part of the precinct structure planning process. The proposed amendment has also been exhibited to the APA Group and no submission was received.

Bushfire

The subject land is in a bushfire prone area, although it is not in a Bushfire Management Overlay. Action N1.7.2 of the *Northern and Western Geelong Growth Areas Framework Plan (August 2020)* provides 'fire risks associated with non-urban interfaces to new neighbourhoods will be identified and managed as part of urban development'.

The Country Fire Authority (CFA) was consulted for amendment C395ggee and a high level bushfire planning assessment report was prepared, which included the subject land in the study area. The report concluded there was 'no potential for extreme fire behaviour due to the lack of larger, non-grassland areas of vegetation and the relatively flat terrain'. It further advised the proposal (for the Northern and Western Geelong growth areas) was consistent with the bushfire planning scheme policies, subject to implementation of the report recommendations in precinct structure planning. This conclusion was supported in evidence presented to the C395ggee panel by a different consultant.

There is a further issue regarding combustible material stored at the materials recycling facility at 225 Staceys Road, which is subject to ongoing planning enforcement action by the City. The amendment was therefore exhibited to CFA, who did not provide a submission. It is considered this matter, as well as the broader bushfire risk addressed in amendment C395ggee, can be dealt with in the precinct structure planning process.

Flooding

A small part of the site, along the waterway corridor at the northern end, is designated as flood prone. A Floodway Overlay and Land Subject to Inundation Overlay are proposed to cover this area in Amendment C339ggee, which is currently on exhibition.

The flood prone area is also shown in the Framework Plan and directions for flood prone land are included in actions N1.2.2, N1.2.3, N1.2.5 and N1.2.6. A flood impact assessment and stormwater management strategy was prepared for the Northern Geelong growth area in amendment 395ggee, of which the study area included the subject land.

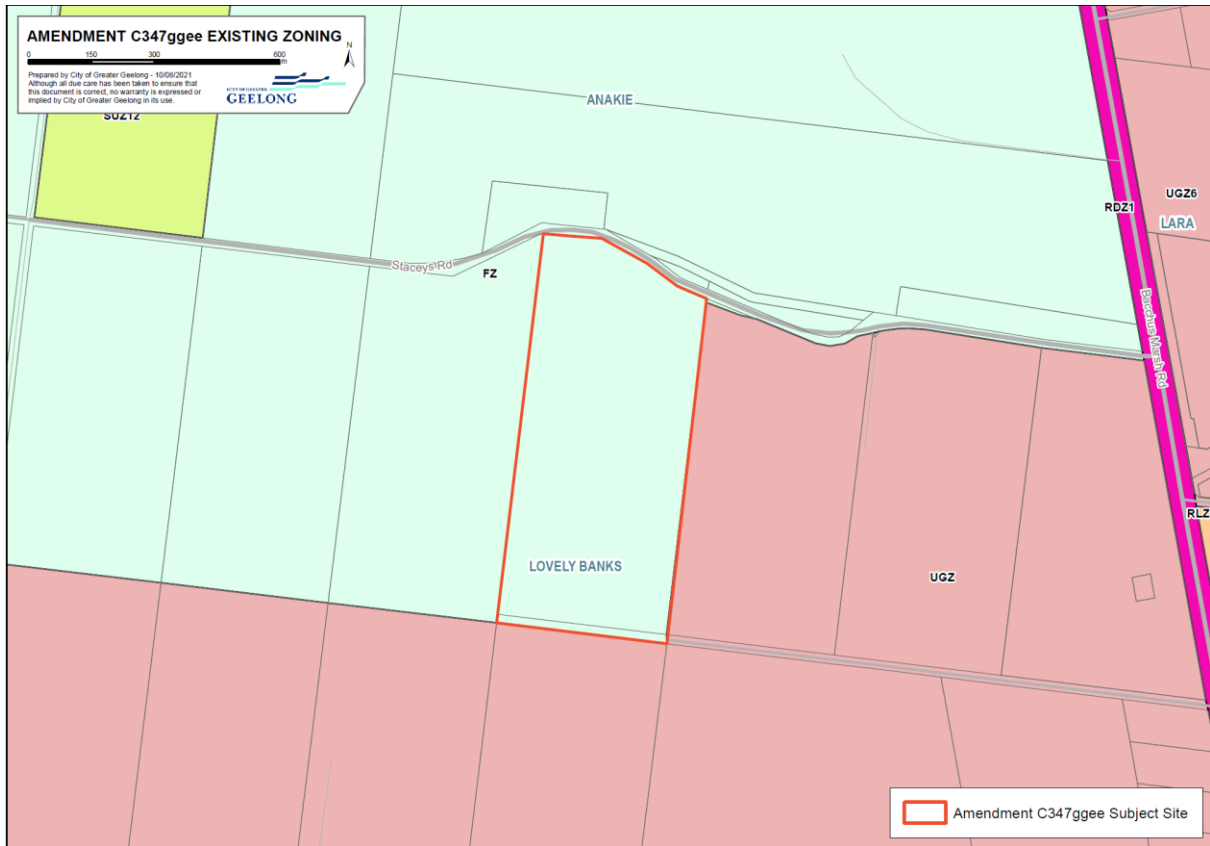
The study included a conceptual site stormwater management strategy for the subject land and other land within the subcatchment. It included hydrologic modelling and recommendations for future development. It is considered flood risk has been sufficiently considered in amendment C395ggee and will be further covered in the precinct structure planning process. The proposed amendment was exhibited to the floodplain manager (Corangamite Catchment Management Authority). No submissions were received regarding this matter.

It is considered the risks presented by rezoning the subject land to the Urban Growth Zone have been appropriately addressed in Amendment C395ggee and will be further dealt with in the precinct structure planning process. There are no additional risks associated with implementing the recommendation contained in this report.

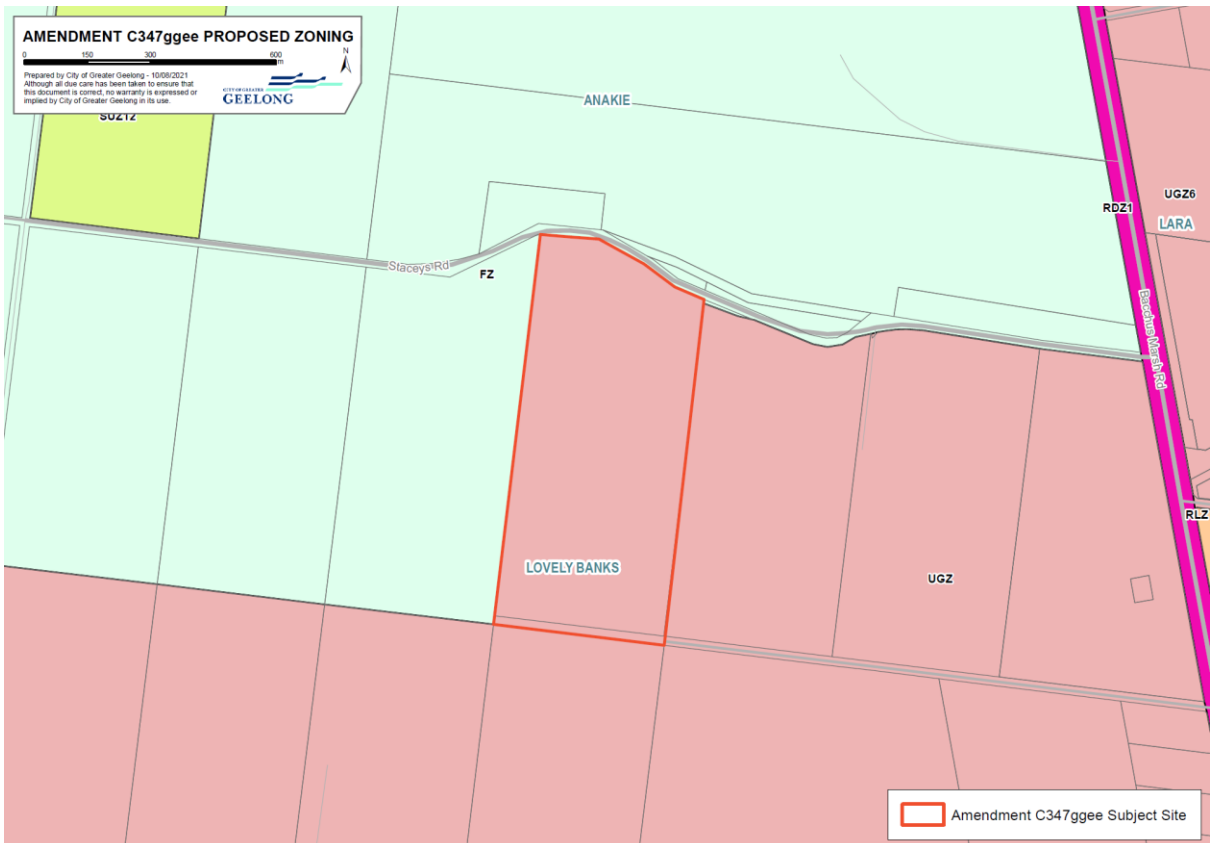
Environmental Implications

The *Northern and Western Geelong Growth Areas Framework Plan (August 2020)* is based on a series of expert technical reports and assessments covering issues such as flora and fauna, stormwater management, integrated water cycle management, cultural heritage, groundwater, geotechnical and soils. As a result the plan recognises environmental constraints and guides development to ensure environment impacts are managed. Environmentally sustainable development (ESD) principles are being applied and there is a policy to design urban development in the Northern and Western Geelong growth areas to achieve carbon neutral neighbourhoods.

Appendix 1 – Existing and proposed zoning

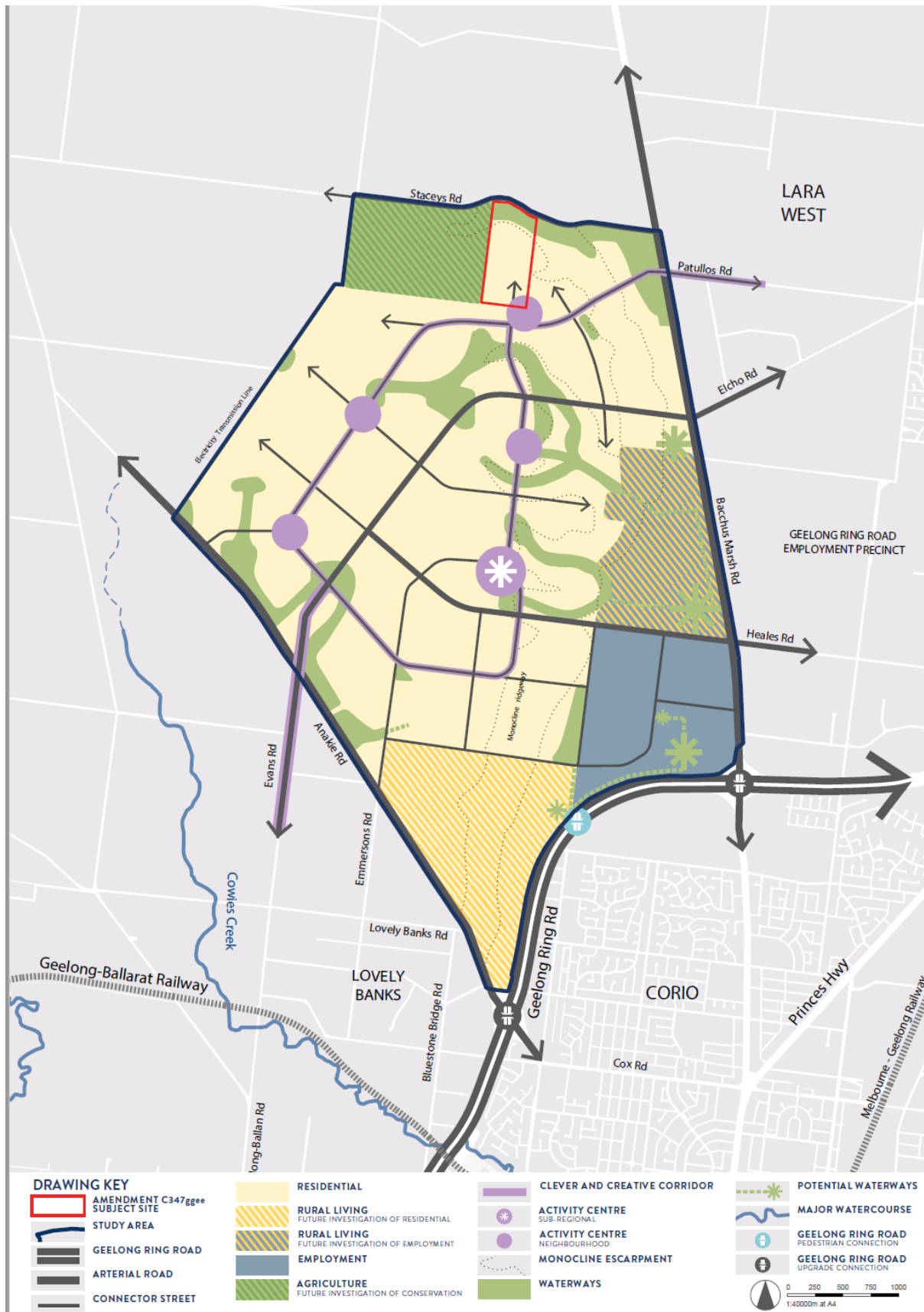


Existing Zoning – Farming Zone



Proposed Zoning – Urban Growth Zone

**Appendix 2 – Northern Geelong Growth Areas Framework Plan map
(subject land outlined in red)**



Appendix 3 - Summary of Submissions and Officer Response

No	Submitter	Address	Submission	Response
1	Individual submitter	165 Staceys Road, Lovely Banks	Requests inclusion of 165 Staceys Road, Lovely Banks in the amendment, to also be rezoned from Farming zone to Urban Growth Zone.	See report – under headings: Discussion – 165 Staceys Road, Lovely Banks
2	EPA		<p>No objection, recommends consideration be given to the possibility of sensitive uses being established within the 1000 metre buffer of the Lara Energetic Material Manufacturing Plan (Chemring), as well as within proximity to a material recycling facility at 225 Staceys Road, Lovely Banks.</p> <p>Also recommends the explanatory report for the amendment be updated to reflect recently updated Ministerial Direction 1 - Potentially contaminated land.</p>	See report – under headings: Discussion – EPA
3	Wadawurrung Traditional Owners Aboriginal Corporation		No objection, supports rezoning to the Urban Growth Zone. Notes 'subsequent rezoning...may trigger the requirement to complete an approved Cultural Heritage Management Plan'.	See report – under headings: Discussion – Wadawurrung Traditional Owners Aboriginal Corporation