
AMENDMENT C441GSEE - 672-690 & 692-700 PORTARLINGTON ROAD, LEOPOLD - CONSIDERATION OF SUBMISSIONS

To: Peter Smith – Coordinator Strategic Implementation
From: Peter Schembri – Senior Strategic Planner
Subject: Resolution to prepare and exhibit a Planning Scheme Amendment under delegation
File number: Amendment C441ggee

Purpose

1. To consider submissions to Planning Scheme Amendment C441ggee and recommend all the submissions be referred to an Independent Planning Panel.

Background

1. On 20 May 2022 Council under delegation resolved to prepare and exhibit Amendment C441ggee.
2. The Amendment seeks to rezone 672-690 Portarlington Road and 692-700 Portarlington Road, Leopold, from Farming Zone to General Residential Zone Schedule 1. The rezoning is supported by overlay controls to manage future residential development.
3. The Amendment application has been made by Context Planning Pty Ltd on behalf of the owners of 672-690 Portarlington Road, Leopold.
4. The area proposed to be rezoned is shown in **Appendix 1** and the exhibited Amendment C441ggee planning controls are shown on maps in **Appendix 2**.

Key Matters

5. Exhibition of Amendment C441ggee commenced on 6 July and closed on 15 August 2022. Notices were sent to the directly affected landowners and nearby residents and appeared in local newspapers. The Amendment documentation was also made available on the Geelong Australia website.
6. Seven submissions were received. Two of the submissions objected to the Amendment, including one from Novo Planning on behalf of the owners of 692-700 Portarlington Road, Leopold. The Novo Planning submission objects to all the property being rezoned at this time and application of the Environmental Audit Overlay.
7. The other objecting submission is from a local resident raising concerns about urban impacts on the downstream municipal drainage network and lack of maintenance. Council engineers are actively engaging with the submitter to provide advice about the City's drainage maintenance program.
8. Supportive submissions were received from the proponent and Government Authorities and Agencies. Submissions from the proponent and the Environment Protection Authority recommended improvements to the Design and Development Overlay Schedule 47 drafting.
9. In accordance with the *Planning and Environment Act* Council must now either: change the Amendment in the manner requested by the submitters; refer the submissions to an Independent Panel; or abandon the Amendment.
10. Council officers have considered the submissions and recommend:

-
- 10.1 Drafting changes to the exhibited Design and Development Overlay Schedule 47 as outlined in this report.
11. Consideration of the Novo Planning submission included a follow-up meeting. It is understandable that the owners prefer the status-quo and request their property be excluded from the Amendment. The owners are currently investigating the extent of any potential contamination on their property and the results will be further considered. However, this report continues to propose that the land be rezoned.
12. A summary of all submissions and Council officer response is provided in **Appendix 3**.
13. It is recommended that all submissions be referred to an Independent Panel appointed by the Minister for Planning.

Recommendation

14. **That Council having considered all submissions to Amendment C441ggee to the Greater Geelong Planning Scheme resolves to:**
- 14.1 **Request the Minister for Planning to appoint an Independent Panel under Part 8 of the Planning and Environment Act, 1987;**
- 14.2 **Refer all submissions to the Panel; and**
- 14.3 **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:



J. van Slageren

Date: 13 September 2022

Financial Sustainability

1. There are no adverse financial implications associated with the Amendment.
2. Community infrastructure contributions (at \$40,00 per net developable hectare) will be levied on future developers via Section 173 Agreements.

Community Engagement

3. Exhibition and notice of the Amendment was conducted in accordance with the *Planning and Environment Act 1987*.
4. Council officers has held meetings with the proponent, Novo Planning and the submitter raising drainage maintenance concerns about their submissions.
5. In accordance with Clause 4(2) of Ministerial Direction No. 15 the following panel hearing dates have been set for this Amendment:
 - 5.1 Directions Hearing: in the week commencing 3 October 2022.
 - 5.2 Panel Hearing: in the week commencing 31 October 2022.
6. Planning Panels Victoria will notify all submitters of the Panel dates and invite requests to be heard at the hearing.

Social Equity and Sustainability

7. The Amendment will provide social benefits through the establishment of a new residential development conveniently located to retail, community and educational facilities. Development contributions will be allocated to community infrastructure projects within Leopold.

Relevant Law/Policy/Legal Implications

8. The proposal accords with the objectives of Planning in Victoria as set out in the *Planning and Environment Act*. It provides for the rezoning of land to achieve an orderly planning outcome consistent with the strategic direction for Leopold in the Greater Geelong Planning Scheme.
9. The C441ggee Explanatory Report and 20 May 2022 C441ggee Delegated Authority Report to prepare and exhibit the Amendment, provide a response to relevant State and Local planning policies.

Alignment to Community Plan and Vision

10. This report aligns with Our Community Plan 2021-2025 strategic priority: *Sustainable growth and environment*.
11. This report aligns with the Community led 30-year Vision, "Greater Geelong: A Clever and Creative Future" community aspiration: *Sustainable development that supports population growth and protects the natural environment*.

Conflict of Interest

12. No City officer involved in the preparation of this report has any direct or indirect interest.

Risk Assessment

13. There are no risks with proceeding with the recommendations of this report.

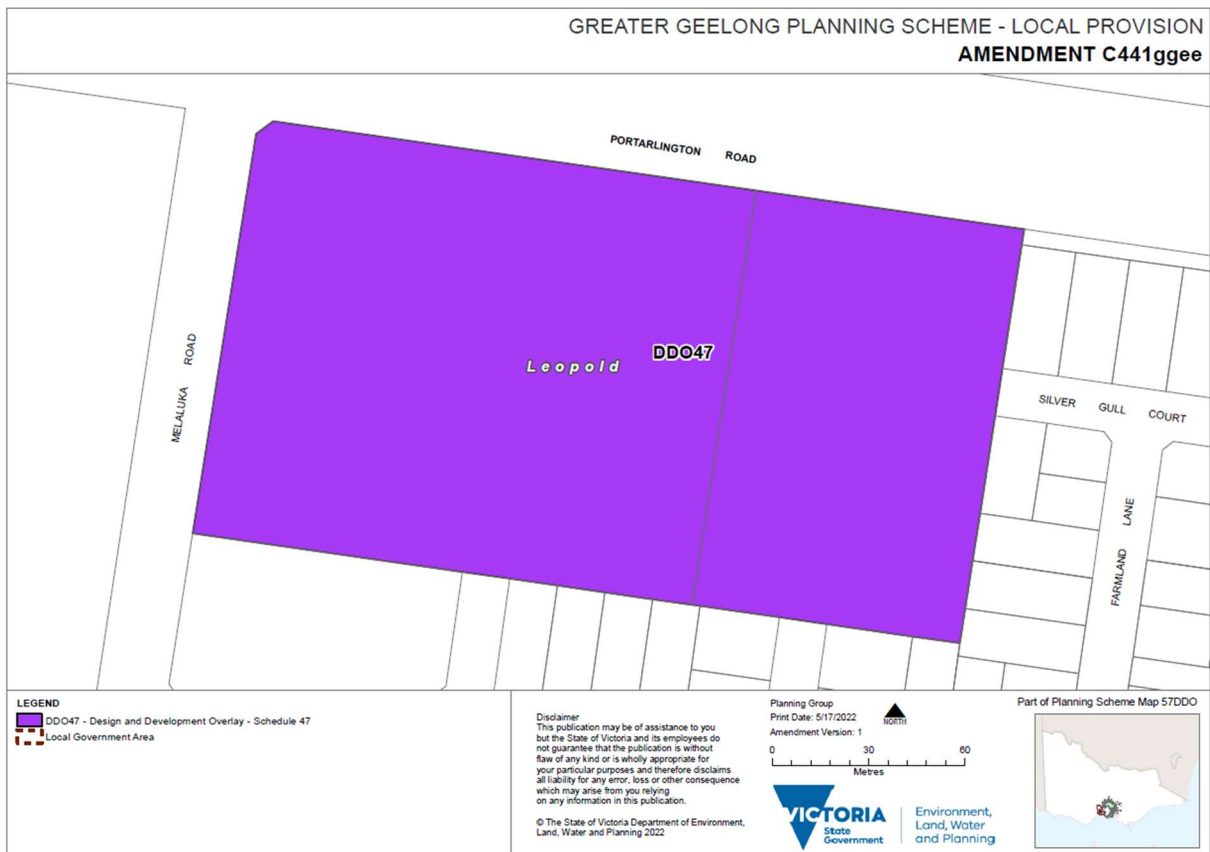
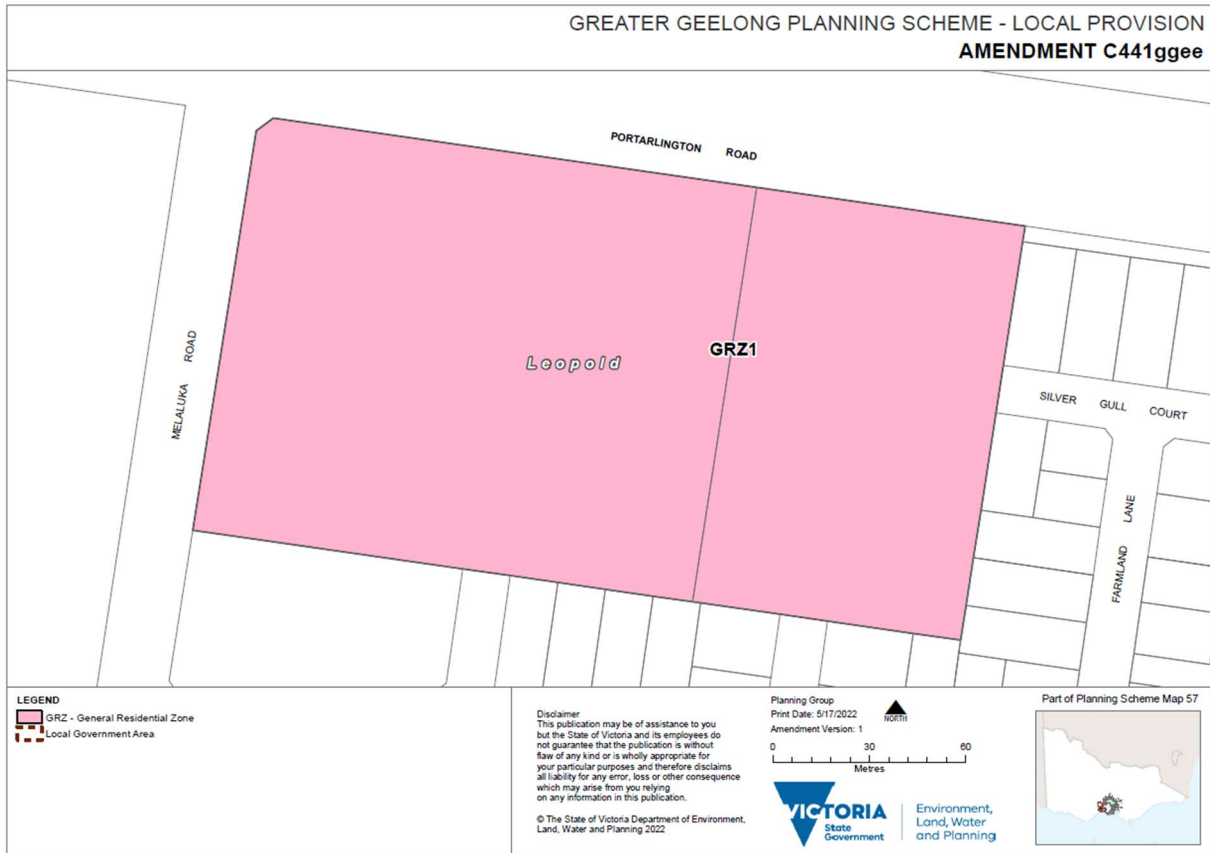
Environmental Sustainability

14. The site is located within the Leopold Settlement Boundary and can conveniently connect to the local street network and infrastructure services. Both the Leopold Sub-regional activity centre and Leopold recreation reserve are accessed from Melaluka Road one kilometre to the south, while the Bellarine Rail Trail and Leopold Sportsmans club are within walking distance.

Appendix 1 - Land to which Amendment C441ggee applies



Appendix 2 - Exhibited zone and overlay maps





Appendix 3 - Submissions and Council Officer Response

Submission 1 - Novo Planning

15. NovoPlanning acts for the owner of 692-700 Portarlington Road, Leopold and lodged a submission requesting that the land be removed from the Amendment.
16. The submission notes the owners purchased the land as Farming Zone and they seek to enjoy the ongoing use of the land within this zone, including the operation of a home-based business. The owners do not propose to subdivide their property. The submission states the Amendment would impact the use and valuation of the land, and subsequently Council rating.
17. The submission raises concerns about the impacts of the proposed Environmental Audit Overlay (EAO), requesting that, if approved, the EAO should exclude the dwelling and the land between the dwelling and Portarlington Road. However, the submission emphasises that if the land is not rezoned, there is no requirement to apply the EAO.
18. The submission also provides comments on the proposed DDO47 including that:
 - 18.1 A DDO is usually applied to manage built form outcomes and a Development Plan Overlay is used to achieve an integrated development outcome. If the amendment proceeds, a Development Plan Overlay should be the preferred planning provision and there should be consultation with the affected parties.
 - 18.2 It applies to both 672-690 and 692-700 Portarlington Road, however the subdivision requirements mostly apply only to 672-690 Portarlington Road.
 - 18.3 Further work is required to under the proposed design and feasibility, including understanding the Net Developable Area.
 - 18.4 In the absence of any details of the proposal and the relationship with the adjoining land it is unreasonable to exempt the application from notice and review requirements under the *Planning and Environment Act*.

Officer response

19. The NovoPlanning submission outlines reasons why the landowners are against the Amendment at this time. It is understandable that the owners prefer the status-quo and request their property be excluded from the Amendment. The owners did not initiate the Amendment nor were they party to the Amendment's preparation.
20. However, in the interests of orderly planning and the efficient use of Council resources, there is no justification to remove the land from the Amendment. The parcel is clearly a logical and integral part of any future subdivision layout. The current Farming Zone is an anomaly and rezoning to the General Residential Zone is supported in policy and compatible with the newly developed estate to the east and south.
21. It is considered the issues raised in the submission are satisfactorily addressed by the proposed planning overlay controls. The submission provides comments on the DDO47 but does not identify specific changes. Consideration of the Net Developable Area is premature at this rezoning phase.
22. The submission says a Development Plan Overlay (DPO) should be the preferred planning provision and there should be consultation with affected parties. The DPO request is rejected given there are only two owners and the future subdivision layout on a relatively small area of land is fairly certain. A DPO would provide an extra layer of planning control which is considered unnecessary. Furthermore, the person who

prepares the development plan (most likely the developer of 672-690 Portarlington Road) would be able to do the work without consulting the owner of 692-700 Portarlington Road.

23. The submission requests that the EAO should be removed from that part of the property that contains the dwelling and land between the dwelling and Portarlington Road. Further advice from NovoPlanning, subsequent to the submission, is that the owners have engaged an expert to investigate the extent of any potential contamination. Council supports this work and will consider the expert assessment in consultation with the EPA. However, for the purposes of this report, the EAO is proposed to apply to all of the property as exhibited.
24. The owners are able to continue living on the property should their land be rezoned. Changing the zone to a residential zone does not mean the owner is obligated to subdivide the land. The existing business can also continue subject to possession of any necessary planning permit approvals.
25. For these reasons it is considered appropriate that 692-700 Portarlington Road remain part of the Amendment.

Submission 2 - Department of Transport (DoT)

26. The DoT provide comments generally supporting the Amendment. The DoT note nearby bus routes and recommend that Council provide pedestrian connectivity to existing bus stops. The DoT highlight pedestrian/cycling connectivity with the Bellarine Rail Trail.
27. The DoT recommend the exhibited DDO47 include requirements to restrict direct vehicle access from residential subdivision to Portarlington Road. The DoT also recommend that any proposed access to Melaluka Road or consideration of any commercial activity on the corner of Melaluka and Portarlington Roads that proposes new access to these roads, is accompanied by a Transport Impact Assessment and subject to approval from the Head, Transport for Victoria.

Officer response

28. The submission is noted. It is considered the DDO47 requirements meet the advice of the Department.

Submission 3 - Environment Protection Authority (EPA)

1. The EPA provide a summary of how the Amendment has considered potentially contaminated land and Ministerial Directions 1 and 19. Other than noting that it appears Council has satisfied itself that the land is or is not potentially contaminated, the EPA make no further comments on this matter.
2. Regarding managing potential noise impacts from Portarlington Road on future noise sensitive land uses, the EPA supports the inclusion of permit application requirements in the exhibited Design and Development Overlay Schedule 47 (DDO47). However, the EPA recommended alternative drafting under section 5.0 *Application requirements*.

Officer response

3. The EPA advice is noted. The exhibited DDO47 will be changed to reflect the recommended EPA drafting and a revised DDO47 presented at the panel hearing.

Submission 4 - Context Planning

4. Context Planning submitted that it continues to represent the owner of 672-690 Portarlington Road, Leopold, and the consortium who requested the planning scheme amendment.

5. The submission supports the Amendment however requests deletion of the following DDO47 subdivision permit requirements:

Road layout and arrangement of lots should provide for lots to front Portarlinton Road and Melaluka Road.

Existing trees of medium-high arboricultural value should be retained where appropriate in conjunction with the design and location of the drainage reserve. Any trees retained should be located on land to be transferred to council as road or drainage reserve.

Officer response

6. The submission provided reasons why the provisions should be deleted.
7. Regarding lot frontage, the submission notes the small land area, busy road frontage and the matter can be considered as part of future subdivision design. Removal of this requirement is not supported. The location, at a prominent corner of Leopold, should include DDO requirements to provide for active frontages. Council is seeking to improve the urban-rural interface of its Bellarine towns and potential development of back fences for the entire length of the site's frontage to Portarlinton Road and Melaluka Road should be avoided. It is considered the requirement is drafted to allow discretion at the detailed design stage as to how the requirement can be satisfied.
8. The submission says the trees have no ecological or habitat value and highlighted the DELWP submission. The submission seeks to avoid unnecessary development costs and impacts on roads, services and layout. Removal of this requirement is supported. It is acknowledged the vegetation is planted and the advice from DELWP. Retaining trees in a future subdivision design can be considered at the permit application stage (as required by Clause 56.05-1), which is likely to require an arboricultural assessment.

Submission 5 - Department of Environment, Land, Water & Planning (DELWP)

9. The Amendment was considered against DELWP policy interests including Crown land management and biodiversity. DELWP are satisfied that no patches of native vegetation or scattered trees are present on site and native vegetation assessments within road reserves will be required as part of future permit applications.
10. The submission confirms DELWP's policy interests are not affected by the Amendment.

Officer response

11. The submission is noted.

Submission 6 - Wadawurrung Traditional Owners Aboriginal Corporation (WTOAC)

12. The WTOAC confirms its statutory role under relevant Acts and what the Amendment proposes. The WTOAC offers no advice.

Officer response

13. The submission is noted.

Submission 7 - Individual submitter, Christies Road, Leopold

14. The submitter opposes the Amendment, raising concerns that urban development in the water catchment area over the last 20 years has resulted in increased runoff, with little maintenance of downstream drainage infrastructure. This has resulted in overgrown open drains and localised flooding to the Farming Zone land to the west.

Officer response

15. Council engineers are actively engaging with the submitter to provide advice about the City's drainage maintenance program. Works are scheduled in the current financial year to the assets highlighted in the submission.
16. Future stormwater drainage from development of the land proposed to be rezoned will be managed by the requirements of the DDO47 and Greater Geelong Planning Scheme. No changes to the Amendment are required.