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## **AMENDMENT C441GSEE PROPOSED REZONING – 672-690 & 692-700 PORTARLINGTON ROAD, LEOPOLD**

**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 seek a Council resolution (under delegation) to prepare and exhibit Planning Scheme Amendment C441ggee.

### **Background**

1. The Amendment applies to 672-690 Portarlington Road, Leopold and 692-700 Portarlington Road, Leopold and consists of two land Titles as shown in **Appendix 1**. The two properties are located approximate to the south-east corner of Portarlington Road and Melaluka Road.
2. The land at 672-690 Portarlington Road has a total area of 2.0545 hectares and contains a dwelling, planted vegetation and outbuildings. The neighbouring 692-700 Portarlington Road has a total area of 1.1055 hectares, contains a single dwelling, large shed, dam, and is used for a local business named Geelong Oil Supplies.
3. The Amendment application has been made by Context Planning Pty Ltd on behalf of the owners of 672-690 Portarlington Road.
4. It is proposed to rezone 672-690 Portarlington Road and 692-700 Portarlington Road, Leopold, from Farming Zone to General Residential Zone Schedule 1 (GRZ1). In addition to the rezoning, the Amendment proposes to apply a Design and Development Overlay to the land being rezoned and an Environmental Audit Overlay to 692-700 Portarlington Road.
5. The Amendment planning controls proposed to be applied are shown on the maps in **Appendix 2**.

### **Key Matters**

6. Amendment C441ggee is supported by the Greater Geelong Planning Scheme, which identifies this land as suitable for conventional residential development at Clause 21.14 *Bellarine Peninsula*.
7. Rezoning the site to GRZ1 is compatible with the adjoining urban area to the east and south. The zone will facilitate new housing in Leopold and support affordable housing opportunities. The land area is relatively small at 3 hectares, and at a standard greenfield average of 15 lots per hectare, may yield approximately 45 dwellings. The final yield is likely to be lower due to stormwater drainage encumbrances.
8. Portarlington Road is a designated arterial road (Transport Zone Schedule 2) in the planning scheme and the corner with Melaluka Road provides opportunities for a limited range of commercial uses allowed in the GRZ1. Any such use and development would be subject to permit which would involve public notice and review rights under the *Planning & Environment Act 1987*. The Department of Transport has advised that direct arterial road access for future residential development is not supported.

9. The western portion of 672-690 Portarlington Road is flood prone and confirmed by the Cardno Flood Assessment, November 2011, prepared in support of the Amendment. Council drainage engineers and the Corangamite Catchment Management Authority support the rezoning subject to further detailed assessment.
10. The proposed Design and Development Overlay Schedule will manage development, subdivision design and built form relating to access and movement, stormwater drainage, noise emissions and interface treatments.
11. It is proposed to apply the Environmental Audit Overlay to 692-700 Portarlington Road consistent with Ministerial Direction No. 1 *Potentially Contaminated Land*. The property has a history of potentially contaminating land uses that need to be appropriately managed prior to residential development.
12. Development contributions will be required for community infrastructure and allocated to community facilities in Leopold. The statutory mechanism to deliver contributions will be a Section 173 Agreement registered on Title.

## Recommendation

### That Council:

13. **Support the preparation and exhibition of Amendment C441ggee to the Greater Geelong Planning Scheme to:**
  - (a) **Rezone the land at 672-690 Portarlington Road, Leopold and 692-700 Portarlington Road, Leopold, from Farming Zone to General Residential Zone Schedule 1;**
  - (b) **Apply the Design and Development Overlay to the land being rezoned; and**
  - (c) **Apply the Environmental Audit Overlay to 692-700 Portarlington Road, Leopold.**
- 13.2 **Prepare a Section 173 Agreement to provide development contributions for 672-690 Portarlington Road, Leopold and prepare a Section 173 Agreement to provide development contributions for 692-700 Portarlington Road, Leopold.**
- 13.3 **Request the Minister for Planning to authorise the preparation and exhibition of Amendment C441ggee.**

Approved as a resolution of Council by Council's delegate:



P. Smith

Date: 25 May 2022

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### **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 development via a Section 173 Agreement registered on Title. The Agreement shall be signed prior to Council adopting the Amendment.

### **Community Engagement**

3. The owner of 672-690 Portarlington Road, Leopold is the proponent and supports the Amendment.
4. The owner of 692-700 Portarlington Road, Leopold is not party to the application and had been consulted during the preparation of the Amendment. The landowner is primarily concerned about possible detrimental impacts to the business operating on the property should the zone change to a residential zone. The planning scheme amendment provides the landowner an opportunity to fully participate in the process.
5. If Council resolves to support exhibition, the Amendment will be exhibited in accordance with the requirements of the *Planning and Environment Act 1987*. This is anticipated to occur in late June 2022. Nearby landowners and occupiers, prescribed Ministers and other relevant agencies will be directly notified during the statutory exhibition period.
6. The broader community will be notified through notices in the local newspapers and the City's website. There will be an opportunity for anyone to make a submission.

### **Social Equity and Sustainability**

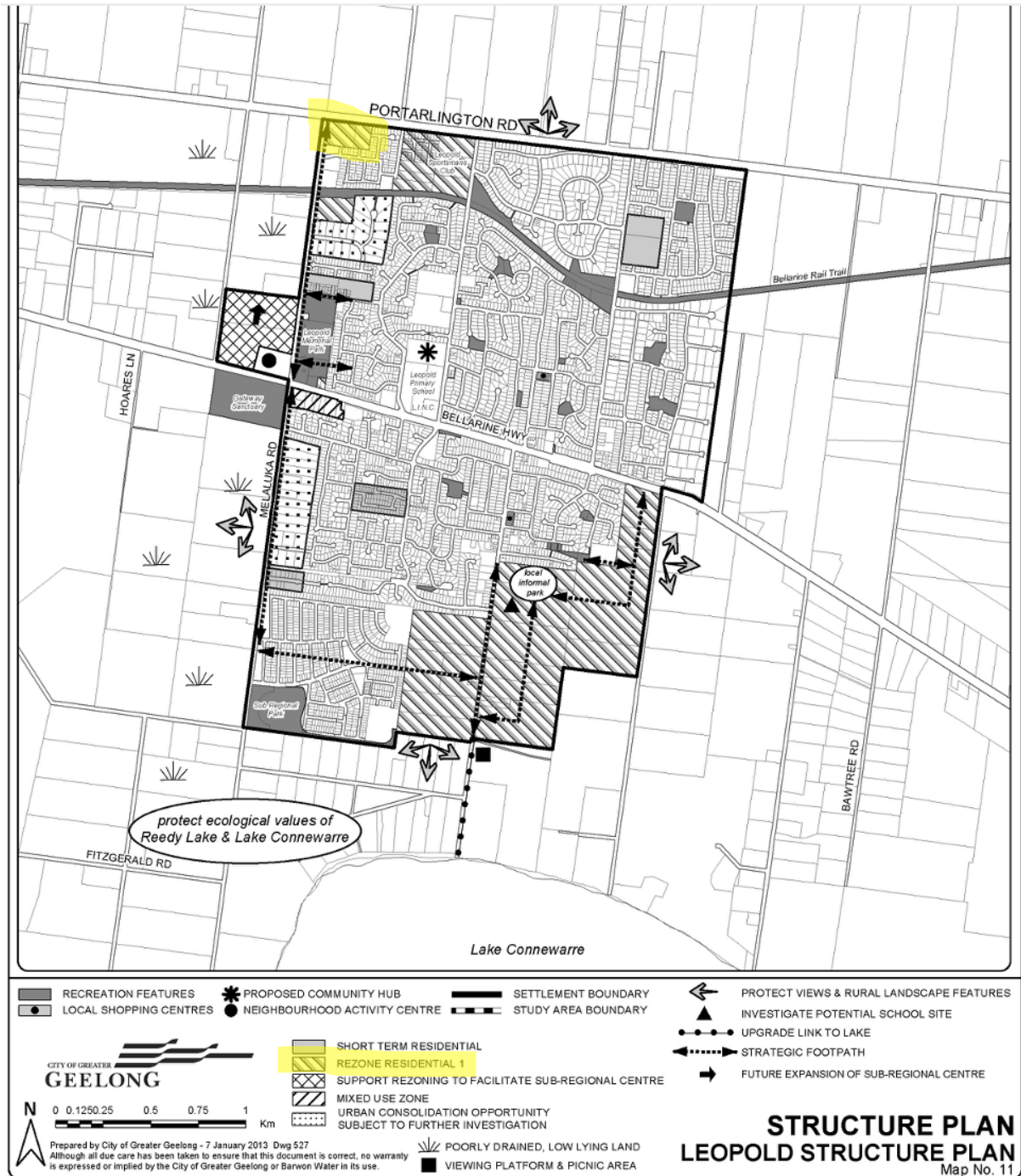
7. The Amendment will provide social benefits by facilitating new housing opportunities conveniently located to retail and community services, as well as supporting housing affordability objectives. Development contributions will be allocated to community infrastructure projects within Leopold.

### **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 proposal is consistent with the 2011 Leopold Structure Plan (amended January 2013) which identifies the land as suitable for residential development and within the Leopold Settlement Boundary, as designated at Clause 21.14-9 (see map on page 4).
10. This site represents a logical residential rezoning as it will complete the extent of urban development in the north-western corner of Leopold. The adjoining land to the east and south is used for urban purposes; zoned GRZ1 and Public Park and Recreation Zone (PPRZ). Service infrastructure can efficiently be connected to the site.
11. Council's 2020 Settlement Strategy recognises Leopold as a district town on the Bellarine Peninsula capable of accommodating population growth. The settlement strategy directs that district town boundaries will be based generally on existing urban areas and areas already identified in policy.
12. The rezoning is also consistent with the State Government draft *Bellarine Peninsula Statement of Planning Policy, June 2021*. Leopold forms part of the Distinctive Area and Landscape (DAL) under the *Act* and the declaration triggered the requirement to prepare

a Statement of Planning Policy (SPP). The draft SPP designates the site for 'incremental change' and inside the proposed Leopold Protected Settlement Boundary.

*Leopold Structure Plan, City of Greater Geelong, 2011 (amended January 2031)*



13. Section 12 of the *Planning and Environment Act* requires planning authorities to consider significant environmental effects. Council is the planning authority for this Amendment.
14. A planning authority must also consider the Planning Policy Framework of the VPP, including Clause 13.04-1S - *Contaminated and potentially contaminated land*. Clause 13.04 -1S aims to ensure that contaminated and potentially contaminated land is or will be suitable for its intended future use and development, and that this land is used and developed safely.

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15. *Ministerial Direction No.1 – Potentially Contaminated Land* contains more specific requirements for land which is determined to be potentially contaminated. Additional requirements apply for land proposed to be used for sensitive uses, defined as residential uses, child-care centres, kindergartens, pre-school centres or primary schools, even if ancillary to another use, and for secondary schools and children’s playgrounds. Where an amendment allows these uses (whether or not subject to a permit) a process under the environmental audit system, administered by the Environment Protection Authority (EPA), is required to demonstrate that the land is suitable for its intended use.
  16. Amendment C441ggee will facilitate sensitive uses and a Preliminary Site Investigation (PSI) by Provincial Geotechnical Pty Ltd was completed for 672-690 Portarlington Road. The PSI report concluded that the site does not indicate evidence of contamination and the site does not yield concentrations of the analytes tested to a level of concern in respect to human health for the proposed site use including rezoning.
  17. At the recommendation of the EPA in its referral comments on the draft Amendment, the proponent prepared further information in the form of a Site History Review for 672-690 Portarlington Road. The review concluded that there is no evidence or documented history of any commercial activity or other activity which have adverse amenity or environmental potential.
  18. The property has been used as a place of residence since the late 1960s and prior to that, aerial imagery from 1947 shows the land as vacant, cleared land. The 1959 Geelong Planning Scheme zoned the area as ‘Agricultural A Zone’ and fragmented land titles were present for this part of Leopold; south of Portarlington Road between Melaluka Road and Kensington Road. This area is also discussed for rezoning back in the 2006 Leopold Structure Plan and there was no identification of land contamination as a constraint on residential development. The property is not considered to be potentially contaminated.
  19. No land contamination report was prepared for 692-700 Portarlington Road by the proponent. Council officers have reviewed aerial imagery and historical records relating to the property. The property is currently developed with a dwelling, large shed and dam, and used as a place of residence. The owner also uses the property as a business called Geelong Oil Supplies though there are no planning permits or information to confirm the business uses on site.
  20. The property changed ownership approximately 7 years ago, and prior to the current owner, the property was also used as a business but named Dig-N-Drill. Activities on the property were first brought to the attention of the Amendment C131 planning panel in 2007 when considering the residential rezoning of adjoining land at 702-720 Portarlington Road. In 2010 the City received a letter and photographs from the 702-720 Portarlington Road developer about potential illegal uses at 692-700 Portarlington Road.
  21. The 2010 letter outlined several activities and uses including storage of earthmoving equipment and trailers, stockpiling of crushed rock, storage of tyres and used timber, and storage of ‘what appears to be’ fuel tanks.
  22. As a result of this information, it is considered the property is potentially contaminated under *Ministerial Direction No.1* (MD1). In MD1 section 4, potentially contaminated land means land [emphasis added]:
    - a) *Used or known to have been used for industry or mining;*
    - b) *used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land); or*

c) where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land.

23. Once it has been determined land is potentially contaminated, MD1 and Planning Practice Note 30, July 2021 (PPN30) outline how planning authorities should manage the land. The practice note says (p. 2):

*Where land has been determined to be potentially contaminated, but it is difficult or inappropriate to meet environmental audit system requirements at the amendment stage, the application of the Environmental Audit Overlay (EAO) to the land allows deferment of these requirements. The EAO is a mechanism provided in the VPP and planning schemes to ensure that requirements under Ministerial Direction No. 1 are met before the commencement of a sensitive use (or children's playground or secondary school), or the construction or carrying out of any buildings and works associated with those uses. Applying the overlay ensures the requirements will be met in the future but does not prevent the assessment and approval of a planning scheme amendment.*

24. In this case, given the landowner is not party to the Amendment, application of the EAO is appropriate and meets Council's obligations.

#### **Alignment to Community Plan and Vision**

25. This report aligns with Our Community Plan 2021-2025 strategic priority: *Sustainable growth and environment.*
26. 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**

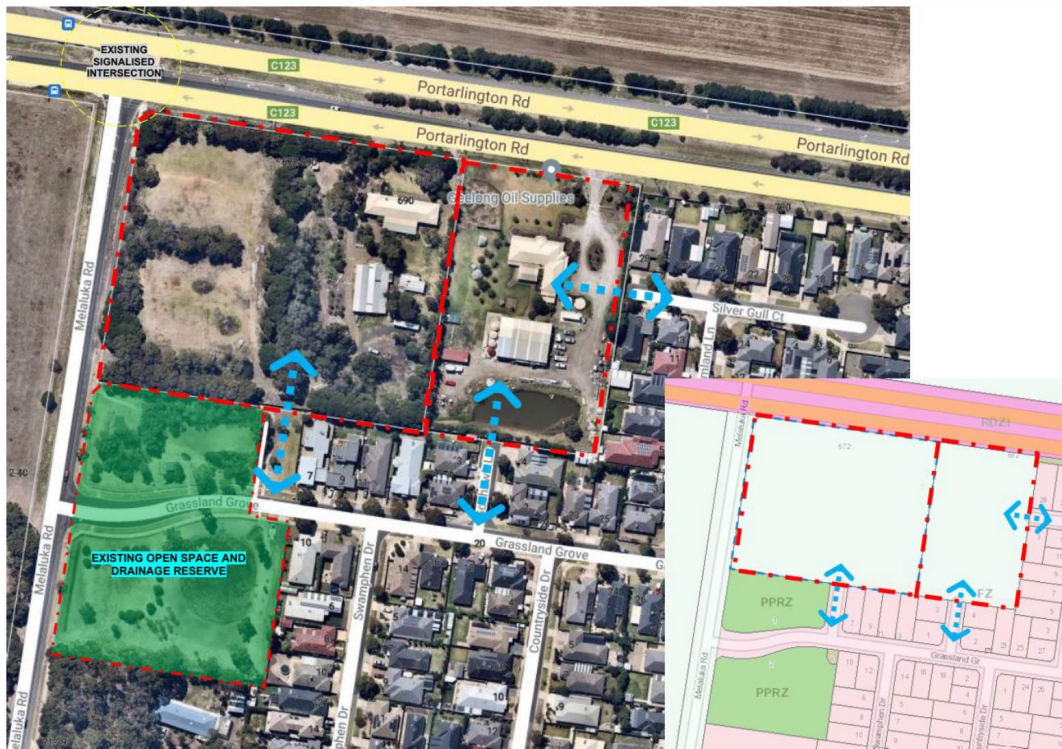
27. No City officer involved in the preparation of this report has any direct or indirect interest.

#### **Risk Assessment**

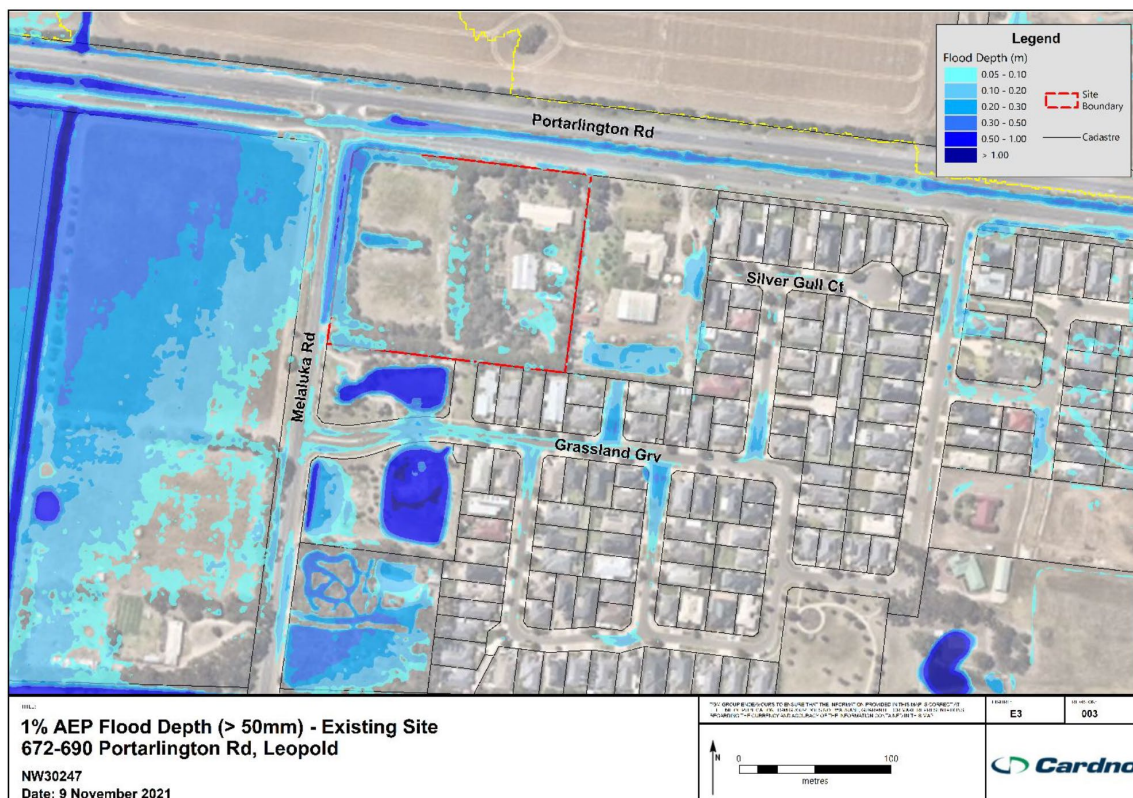
28. There are no risks with proceeding with the recommendations of this report.

#### **Environmental Sustainability**

29. The site is located within the Leopold Settlement Boundary and can conveniently connect to the local street network. 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.
30. There is a bus stop on the corner of Portarlington Road and Melaluka Road that services bus route 60 (Geelong Station – St Leonards). As part of future development, a footpath shall be constructed to the frontage of the site on Melaluka Road to connect with the existing path at the signalised intersection and the existing path that terminates on the site's southern boundary fronting the municipal drainage reserve.
31. The plan included in the application Context Planning P/L *Town Planning Report* shows the site's logical integration with the surrounding residential area:



32. The native vegetation assessment prepared by Mark Trengove Ecological Services, November 2021, found that the site is dominated by exotic and planted non-native vegetation. No areas of native vegetation were recorded and consequently, there are no implications for removal of native vegetation under the Native Vegetation Permitted Clearing Regulations. Habitat values were found to be negligible.
33. The subject land is partly flood prone and confirmed by the Cardno Flood Assessment Report, November 2011 that supported the rezoning application:



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34. The report provided an assessment of existing drainage conditions, identified likely stormwater requirements for the development and delivered a high-level strategy detailing how drainage and stormwater may be managed within the site.
  35. The flood report finds that an on-site detention basin providing approximately 500m<sup>3</sup> of storage would likely be required to be constructed in order to achieve no worsening downstream flood impacts as a result of future development. The report concludes that a Site Stormwater Management Plan is required to demonstrate that the site can be developed using best practice stormwater management principles and techniques.
  36. Council is the drainage authority for the municipality and City engineers accept the Cardno flood modelling and that residential rezoning is appropriate. Council engineers recommend the preparation of a Site Stormwater Management Plan to inform future development and note a single detention/treatment facility effectively co-located with the existing drainage reserve to the south (on Grassland Grove) would be appropriate.
  37. Referral comments from the Corangamite Catchment Management Authority (CCMA) state that the Cardno mapping is consistent with available information and indicates a known flood risk on the site.
  38. The CCMA advised:

*The authority would consider that the existing flooding risk on this property is within acceptable limit and future development on the property could be facilitated providing that the flows from the development are maintained to pre-development levels and the development area is designed so that the proposed residential lots are free from flooding during the 1% AEP flood event.*
  39. The proposed Design and Development Overlay Schedule will require the preparation of a Stormwater Management Plan to inform future subdivision and development.
  40. The EPA has raised concerns about noise and air quality impacts generated from Portarlington Road on future residents. The EPA notes that under the new *Environment Protection Act 2017*, the General Environmental Duty requires all Victorians to understand and minimise their risk of harm to human health and the environment from pollution and waste, including noise. Advice from the EPA is that developing land that will include noise sensitive uses near existing sources of noise may be regarded as an activity that may give rise to risks of harm to human health from pollution.
  41. The EPA highlighted Clause 13.05-1S *Noise abatement*, which seeks to ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions, using a range of building design and urban design techniques as appropriate to the land use functions and character of the area.
  42. The EPA considers the proposed DDO provides an opportunity to include an assessment of noise impacts, as well as design measures to mitigate noise risk. The EPA also considers the assessment should address air quality impacts from Portarlington Road.
  43. The proposed DDO Schedule includes a permit application requirement for an assessment report of noise and air quality emissions from Portarlington Road and impacts on sensitive land uses by a suitably qualified expert. Where the report recommends built form mitigation measures, appropriate building envelope conditions can be included on subdivision permits.
  44. The site is designated as a bushfire prone area in the Victorian Building Regulations, however not applied with a Bushfire Management Overlay in the Greater Geelong Planning Scheme. The Country Fire Authority (CFA) does not raise any objections or concerns to the proposed residential rezoning. The CFA advises that the site has existing separation distances provided by Portarlington Road and Melaluka Road, as well as

multiple access points. The CFA also acknowledge bushfire risk will be reduced through the removal of vegetation on the site.

45. Service infrastructure essential to support the rezoning and future urban development is conveniently located nearby. Barwon Water has advised that new development can be serviced by existing water and sewer assets surrounding the site. Electricity, gas and telecommunications are also able to be connected.

**Appendix 1 – Land to which Amendment C441ggee applies**



### Appendix 2 – Proposed zone and overlay maps

