

**GREATER GEELONG PLANNING SCHEME  
AMENDMENT C441ggee  
EXPLANATORY REPORT**

**Who is the planning authority?**

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

The amendment has been made at the request of Context Planning Pty Ltd.

**Land affected by the amendment**

The amendment applies to 672-690 Portarlinton Road, Leopold and 692-700 Portarlinton Road, Leopold as shown on the map below:



**What the amendment does**

The amendment proposes to rezone the land from Farming Zone to General Residential Zone Schedule 1 in accordance with the Leopold Structure Plan at Clause 21.14-9 of the Greater Geelong Planning Scheme.

Specifically, the amendment proposes to amend the Greater Geelong Planning Scheme as follows:

#### Mapping changes

- Amend Map 57 to rezone the land from Farming Zone (FZ) to General Residential Zone Schedule 1 (GRZ1).
- Amend Map 57DDO to apply Design and Development Overlay Schedule 47 to the land proposed to be rezoned.
- Insert Map 57EAO to apply the Environmental Audit Overlay to 692-700 Portarlington Road, Leopold.

#### Ordinance changes

- Insert a new Schedule 47 to Clause 43.02 Design and Development Overlay that will apply to the land proposed to be rezoned.

Model draft Section 173 Agreements, proposed to be registered on the property land title, accompanies the exhibited amendment. The Agreements will formalise community infrastructure contributions to be allocated towards improvement of facilities in Leopold.

### **Strategic assessment of the amendment**

#### **Why is the amendment required?**

The amendment is required to rezone land to facilitate urban growth in Leopold in accordance with the Leopold Structure Plan at Clause 21.14 of the Greater Geelong Planning Scheme.

The proposal is appropriately supported by the state and local planning policy framework and achieves a net community benefit, particularly through the site's access to services and infrastructure within the town's settlement boundary.

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

The amendment implements the objectives of planning in Victoria (sections 4(1) and 12(1)(a) of the Act) by:

- *Providing for the fair, orderly, economic and sustainable use, and development of land.*

The amendment seeks to align the zoning of the land with the strategic intent as outlined in the Leopold Structure Plan.

- *Providing for the protection of natural and human-made resources.*

The amendment demonstrates that future development will not negatively on natural systems including vegetation and flood storage.

- *Securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*

The amendment contributes to a planning framework that will minimise risks to life and property from flooding (by using high-quality flood data).

- *Protecting public utilities and other assets.*

The amendment ensures that future development does not exacerbate flood risks to these assets.

- *Facilitating development in accordance with the above objectives.*

The amendment establishes clear provisions that allow for different solutions to address potential flooding issues.

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

It is considered the amendment addresses any environmental, social and economic effects given that the proposal is considered to achieve a net community benefit for the reasons outlined as follows:

- The amendment is not anticipated to have any significant adverse environmental effects.
- The site has historically been used for residential purposes and there are no ecological values applicable to the site.
- The **Ecological Assessment** prepared by Mark Trengrove (Nov 2021) confirms that the site is 'dominated by exotic and planted non-native vegetation' and that there are no Local State or National significant plant species were recorded.

The results show that no native vegetation condition is recorded for the study area. Consequently, there would be no implications for the removal of native vegetation under the Native Vegetation Permitted Clearing Regulations.

The assessment considers the Ecological Vegetation Classes (EVCs), Flora, Vegetation Condition and Flora. Consideration was also given to the Native Vegetation Permitted Clearing Regulations and the Greater Geelong Planning Scheme.

The Assessment at Part 5 concludes: *"the subject of this report, has been subjected to past disturbance and contains vegetation that is relatively degraded and dominated by exotic plant species and planted specimens. Habitat values within these areas are negligible. No areas of native vegetation were recorded."*

- The **Environmental Site Assessment** prepared for 672-690 Portarlington Road confirms the land is suitable for residential development and states:

*"Based on the physical site investigation undertaken this site does not indicate evidence of contamination or historical contaminating activities that would prevent development of the existing site for the proposed use."*

*Based on the laboratory analysis program undertaken, this 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."*

An environmental site assessment for 692-700 Portarlington Road, Leopold, has not been undertaken and therefore consideration is deferred to a later planning process at the time the landowner wishes to consider development of their site.

- The **Flood Assessment prepared by Cardno** (November 2021) supports the rezoning of the land subject to the preparation of a Site Stormwater Management Plan (SSMP) at the subdivision and development stage.

Future Planning Permits issued for development and/or subdivision of the land should include appropriate engineering conditions including the preparation of a Site Stormwater Management Plan (SSMP). This assessment would include the presentation

of appropriate stormwater designs and evidence that the stormwater quality and quantity targets are met. This has been addressed as a requirement in the Draft DDO.

- There are no traffic or access issues as both sites are well services with road connections and the road network can easily accommodate additional traffic and pedestrian movements. The site also benefits from a public bus stop located on the intersection of Portarlington and Melaluka Road.

### **Does the amendment address relevant bushfire risk?**

The proposal would ultimately result in a decrease to the risk to life and property from bushfire. The land is currently grassland and planted trees which currently represents a potential risk and as such is in a designated bushfire prone area. The development of the site would remove this risk through several measures including improved access and all new development will need to comply with AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).

The state policy at Clause 13.02-1S relates to Bushfire planning. This policy must be applied to all planning and decision making under the Planning and Environment Act 1987 relating to land that is:

- Within a designated bushfire prone area;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

The site is within a designated bushfire prone area (not Bushfire Management Overlay) therefore consideration to the policy at Clause 13.02-1S is required. The broader area is also within the designated bushfire prone area. Although the broader residential area within the settlement boundary is not located within a bushfire prone area.

In relation to existing and potential bushfire hazards, the proposal is not considered to represent a significant risk particularly given its access to a major road and internal road connections in the event of evacuation. The access arrangements, including future internal accessways, can be designed to enable the safe and efficient movement of vehicles in and around the site. It is also likely that new buildings can easily achieve a BAL-12.5 rating under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009). Importantly it is submitted that:

- The risk of bushfire to people, property and community infrastructure as a result of this amendment is negligible given the surrounding residential uses and arterial roads.
- The implementation of appropriate bushfire protection measures to address the identified bushfire risk can be addressed at the Planning or Building Permit stage as required.
- Any bushfire protection measures can be implemented without unacceptable biodiversity impacts.

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

The proposed amendment complies with the requirements of the Ministerial Direction – The Form and Content of Planning Schemes (section 7(5) of the Act) and Ministerial Direction No. 11 (Strategic Assessment of Amendments).

The amendment is consistent with the Ministerial Direction No.17 – Localised Planning Statements. To ensure lots within the Bellarine Peninsula consider the relevant adopted Localised Planning Statement, this Direction seeks to ensure discussion and implementation

of the Amendment and that its relationship with this Localised Planning Statement is addressed within an explanatory report.

As outlined within the Bellarine Peninsula Localised Planning Statement, the proposal appropriately facilitates residential growth as designated by the Leopold Structure Plan, to be contained within the settlement boundary. The amendment ensures urban growth is contained to protect and enhance the non-urban (rural) break to the north and west of Leopold.

The amendment complies with Ministerial Direction No.1 (MD1) – Potentially Contaminated Land.

MD1 contains 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.

The amendment will facilitate sensitive uses and a Preliminary Site Investigation (PSI) by Provincial Geotechnical Pty Ltd was completed for 672-690 Portarlinton 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.

At the recommendation of the EPA in its written comments on the draft amendment, the proponent prepared further information in the form of a Site History Review for 672-690 Portarlinton 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.

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 Portarlinton 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.

No land contamination report was prepared for 692-700 Portarlinton 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.

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 Portarlinton Road. In 2010 the City of Greater Geelong received a letter and photographs from the 702-720 Portarlinton Road developer about potential illegal uses at 692-700 Portarlinton Road.

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.

As a result of this information, it is considered the property is potentially contaminated under MD1. In MD1 section 4, potentially contaminated land means land [emphasis added]:

1. *Used or known to have been used for industry or mining;*
2. *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*
3. *where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land.*

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.*

The proposed EAO to 692-700 Portarlington Road, Leopold, ensures compliance with MD1.

In consideration of Ministerial Direction No. 19, the Environment Protection Authority (EPA) written advice about potential impacts of the amendment, including on amenity and human health, have informed the proposed planning controls.

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

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

- Clause 11 Settlement – The amendment supports this policy as it will facilitate residential growth in an orderly manner within the established township of Leopold with access to recreational, community, schooling and retail services. The amendment is delivering on the planned extension to the township identified in the Leopold Structure Plan.
- Clause 11.07 Geelong (G21) Regional Growth – As Leopold is identified as an area to 'Support planned growth and reinforce the role of distinct towns', the amendment is implementing this policy.
- Clause 13.04-1S – Contaminated and potentially contaminated land: part of the site is determined to be potentially contaminated, and the amendment seeks to apply the Environmental Audit Overlay consistent with Ministerial Direction No. 1.
- Clause 16 – The amendment accords with this policy as it facilitates a serviced housing development within the town boundary and provides a range of lot sizes to meet the varying needs of the community.

- Clause 19.03-3 Stormwater – The amendment supports this policy as it will manage stormwater from the site through the subject land and via incorporation of water-sensitive urban design techniques to reduce run-off and peak flows and integrate stormwater treatment.

### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The proposal is consistent with and will implement the following elements of the Planning Policy Framework (PPF):

- 21.06-2 Urban growth seeks to retain development within defined urban growth areas and provide a mix of housing suited to the needs of a diverse range of household types.
- Clause 21.05-7 Flooding seeks to protect floodplains and minimise the risk of flood damage.
- Clause 21.06-3 – Urban Consolidation – provides for the consolidation of existing urban areas in a managed way, encourages an appropriate range of development densities and improves accessibility to urban services.
- 21.08-3 Development Contributions – Encourages development to proceed in a contiguous manner which maximises the use of development and community infrastructure.
- 21.08-5 Accessibility – Recognises the need to have safe access to infrastructure for all members of the community and provide shared spaces and passive surveillance of all recreational areas.
- Clause 21.14 Bellarine Peninsula – The amendment implements the urban growth policies for Leopold. The Leopold Structure Plan map at Clause 21-14-9 identifies the land for rezoning. In relation to Clause 21.14-4 (Implementation) the policy says:

*Leopold: Apply the General Residential Zone Schedule 1 and the Development Plan Overlay or the Design and Development Overlay to land designated for future residential growth shown on the Leopold Structure Plan map included in this clause.”*

The amendment implements Council’s 2020 Settlement Strategy (Clause 21.06), which seeks to direct residential development to designated Bellarine Peninsula district towns – which includes Leopold. The site represents a logical residential rezoning within the Leopold Settlement Boundary.

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

This strategic consideration only applies if the planning scheme includes the Municipal Planning Strategy at Clause 02. The Municipal Planning Strategy does not form part of the Greater Geelong Planning Scheme at the time of this report.

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

The Amendment makes proper use of the Victoria Planning Provisions by:

#### Rezoning the land to the General Residential Zone Schedule 1 (GRZ1)

The GRZ1 encourages a diversity of housing types and housing growth and considered to be the most appropriate planning tool to facilitate residential development. The zone provides

opportunities for some commercial uses, subject to planning permit, when abutting an arterial road (Portarlington Road). Application of the GRZ1 is consistent with the surrounding residentially zoned land.

#### Applying a Design and Development Overlay (DDO) to the land being rezoned

The purpose of a DDO is to identify areas which are affected by specific requirements relating to the design and built form of new development. In this instance, the overlay control will manage development, subdivision design and built form relating to access and movement, stormwater drainage, noise emissions and interface treatments.

#### Applying the Environmental Audit Overlay (EAO) to 692-700 Portarlington Road, Leopold

The purpose of the EAO is to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination. The property has a history of potentially contaminating land uses that need to be appropriately managed prior to future residential subdivision and development.

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

Preliminary comments from relevant authorities have confirmed that there are no foreseeable issues with the serviceability or infrastructure provision to the site. Barwon Water, the Country Fire Authority, the Catchment Management Authority and Roads Authority raise no objection to the rezoning.

The Environment Protection Authority (EPA) provided written comments, raising issues about potential land contamination, as well as noise and air emissions impact from Portarlington Road on sensitive land uses. The proposed amendment planning controls have appropriately responded to the EPA advice.

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

The amendment is not likely to have an impact on the transport system, as defined by section 3 of the Transport Integration Act 2010.

#### **Resource and administrative costs**

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

The amendment will have minimal impact on Council's resource and administrative costs as it represents an expected strategic planning outcome for this land.

#### **Where you may inspect this amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

'Amendments' section of the City's website <a href="http://www.geelongaustralia.com.au/amendments/">www.geelongaustralia.com.au/amendments/</a>
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The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

## **Submissions**

Any person who may be affected by the amendment may make a submission to the planning authority.

Submissions about Amendment C441ggee should be received by Monday 15 August 2022 and addressed to:

The Coordinator  
Strategic Implementation  
City of Greater Geelong

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

## **Panel hearing dates**

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

- directions hearing: in the week commencing 3 October 2022
- panel hearing: in the week commencing 31 October 2022