

# MINUTES

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## COUNCIL MEETING

**Tuesday 25 October 2022**  
**6:00 pm**

**City Hall**  
**57 Little Malop Street, Geelong 3220**

**LIVE STREAMED ON THE CITY'S WEBSITE:**

[www.geelongaustralia.com.au/meetings](http://www.geelongaustralia.com.au/meetings)

**COUNCIL:**

Cr P Murrihy (Brownbill Ward) - Mayor  
Cr T Sullivan (Bellarine Ward) - Deputy Mayor  
Cr S Asher (Bellarine Ward)  
Cr J Mason (Bellarine Ward)  
Cr E Kontelj (Brownbill Ward)  
Cr S Mansfield (Brownbill Ward)  
Cr B Harwood (Kardinia Ward)  
Cr B Moloney (Kardinia Ward)  
Cr R Nelson (Kardinia Ward)  
Cr A Aitken (Windermere Ward)  
Cr K Grzybek (Windermere Ward)

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**Present:** Crs P Murrhiy (Mayor), A Aitken, S Asher, K Grzybek, B Harwood, J Mason, B Moloney, R Nelson, T Sullivan

**Also Present:** K Phyland (Acting Chief Executive Officer), G Smith (Director City Planning and Economy), Guy Wilson-Browne (Director City Services), R Stevens (Director Community Life), B Prosser (Acting Director Customer & Corporate Services), S McKew (Manager Governance)

## **1. PROCEDURAL MATTERS**

### **1.1. Acknowledgement of Country**

Council acknowledges the Wadawurrung People as the Traditional Owners of the Land, Waterways and Skies. We pay our respects to their Elders, past and present. We acknowledge all Aboriginal and Torres Strait Islander people who are part of our Greater Geelong community today.

### **1.2. Apologies**

Crs S Mansfield and E Kontelj (Leave of Absence)

### **1.3. Leaves of Absence**

**Cr Aitken moved, Cr Sullivan seconded -**

That Leave of Absence be granted to Cr B Harwood for the period 16 November to 28 November, inclusive.

**Carried**

**Cr Harwood moved, Cr Mason seconded -**

That Leave of Absence be granted to Cr S Mansfield for the period 10 November to 12 December, inclusive.

**Carried**

### **1.4. Declarations of Conflicts of Interest**

Nil

## 1.5. Confirmation of Minutes

**Cr Harwood moved, Cr Grzybek seconded –**

**That the Minutes of the Council Meeting held on 27 September 2022 be confirmed.**

**Carried**

**Cr Asher moved, Cr Mason seconded**

**That the Minutes of the Council Meeting held on 12 October 2022 be confirmed.**

**Carried**

## 1.6. Public Question and Submission Time

The following persons submitted questions prior to the Council Meeting on the following various subjects:

1. Kevin Krastins – Geelong Grand Final Celebrations, Support for Campaspe Shire Flood
2. Mary Ramia – Tree Removal – South Geelong Rail Corridor
3. Graham Hobbs – Highton UDF
4. Matt Goulter – Highton UDF
5. Matthew Portbury – Highton UDF
6. Jeff McFarlane – Tree Removal – South Geelong Rail Corridor
7. Erin Heer – Highton UDF
8. Katerina Izdebskaia – Urban Forest Strategy
9. Bill Marshall – Urban Forest Strategy
10. Tina Smallman – Highton UDF
11. Sally Kirner – Pakington Street UDF
12. Andrew Katos – Highton UDF
13. Jennifer Bantow – Marshall Bluestone Cottage
14. Angela Mangan – Pakington Street UDF
15. Caitlin Kirby – Pakington Street UDF
16. Claude Eagles – Highton UDF
17. Dave Speirs – Highton UDF
18. Jessica Sullivan – Pakington Street UDF
19. Simon Nardi – Highton UDF
20. Prue Beck – Highton UDF
21. Pati Seiler – Pakington UDF
22. Brendan John Quirk – Pakington Street UDF
23. Katherine Talbot – Dean Street
24. Dr Jane Mooney – Pakington Street UDF

**Kevin Krastins:**

### **Question 1:**

I'd like to thank Councillors in particular Cr Harwood, the Mayor, Cr Aitken, Cr Nelson, Cr Mansfield, Cr Kontelj, Cr Mason and other Councillors who strongly advocated and supported the Geelong Cats live site @ St Mary's oval in 2022. Well done and a big thank you. I trust there is a framework to support the live sites when Geelong makes a future grand final.

*Thank you for your submission, Kevin. We are pleased you enjoyed the game.*

## 2.8. Proposed Amendment C443ggee and Planning Permit PP-750-2022 - 4-8 Spruhan Avenue, Norlane (Norlane Community Initiatives)

**Source:** City Planning & Economy  
**Director:** Gareth Smith

### Purpose

1. To seek Council support to prepare and exhibit Amendment C443ggee to the Greater Geelong Planning Scheme under Section 96A of the *Planning and Environment Act 1987*.

### Background

2. The amendment affects the land at 4-8 Spruhan Avenue, Norlane. This land is home to the not-for-profit Norlane Communities Initiatives (NCI) which provides community services from the subject site. Operations have temporarily moved location pending this amendment and planning permit approval for redevelopment.
3. The site is affected by two restrictive covenants which prevent the construction of more than one dwelling on the site. To improve the facility and service, new development of the site is required but is not possible under the current restrictive covenants.
4. An application has been received from Ratio Consultants on behalf of NCI to amend the planning scheme to specify the removal of respective restrictive covenants and is accompanied by a Planning Permit Application for Buildings and Works, Change of Use to a Place of Assembly, Signage and Waiver of Car Parking.

### Key Matters

5. The two restrictive covenants do not reflect the historic use of the subject site as a Place of Worship and its use by NCI who operates an essential community service. Both the Place of Worship and use operated by NCI are considered to fall under the land use definition of a Place of Assembly.
6. The restrictive covenants prevent the use as a Place of Assembly and associated buildings and works for the building on site. Under section 61(4) of the *Planning and Environment Act 1987*, a planning permit cannot be granted if the permit would result in a breach of a restrictive covenant.
7. The restrictive covenant must be removed to enable the City to assess the proposal and this can be facilitated by including the land in the schedule to Clause 52.02 of the Greater Geelong Planning Scheme.
8. The continued use and offering of the NCI services from the subject site is supported and if approved, will resume weekday operations on the site post-development.

## **RESOLUTION – Item 2.8**

**Cr Aitken moved, Cr Grzybek seconded -**

**That Council:**

- 1. Support the preparation and exhibition of Amendment C443ggee to the Greater Geelong Planning Scheme to:
  - 1.1. Include the site in the Schedule to Clause 52.02.****
- 2. Consider the application for a planning permit to allow:
  - 2.1. Buildings and works;**
  - 2.2. Change of use to a Place of Assembly; and**
  - 2.3. Associated waiver of car parking and signage.****
- 3. Request the Minister for Planning to authorise the preparation and exhibition of Amendment C443ggee and Planning Permit PP-750-2022 – 4-8 Spruhan Avenue, Norlane.**

**Carried**

### ***Financial Sustainability***

9. A waiver for the planning scheme amendment and planning permit application fee has been granted as the applicant is a not for profit seeking to improve their service offering and facility. The City has also advised it will grant a waiver for the future fees for consideration of submissions and the adoption fee.

### ***Community Engagement***

10. Should Council support the preparation and exhibition of the combined planning scheme amendment and planning permit, the City will request authorisation from the Minister for Planning to exhibit the application. Exhibition will take place for a one month period and will provide the community with the opportunity to review the proposal and make a submission. Notices will be sent to affected landowners and occupiers and will be published in the local newspaper and displayed on the land.
11. Preliminary consultation with relevant authorities has taken place during consideration of the proposal and will be undertaken again formally as part of the exhibition process.

### ***Social Equity and Sustainability***

12. The amendment and planning permit will facilitate positive social benefits by enabling the continued use of the land for community related services and the completion of building and works to the site.

### ***Relevant Law/Policy/Legal Implications***

13. Amendment C443ggee is consistent with the Planning Policy Framework of the Greater Geelong Planning Scheme as outlined in **Attachment 1**.
14. The amendment is consistent with the following objectives of planning in Victoria outlined in the *Planning and Environment Act 1987*:
  - 14.1. to provide for the fair, orderly, economic, and sustainable use and development of land;
  - 14.2. to secure a pleasant, efficient, and safe working, living and recreational environment for all Victorians and visitors to Victoria;
  - 14.3. to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community; and
  - 14.4. to balance the present and future interests of all Victorians.
15. The amendment utilises the appropriate planning tool to allow for the use to occur and buildings and works to be facilitated.

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

16. This report aligns with Our Community Plan 2021-2025 strategic priority:  
Healthy, caring and inclusive community.  
Sustainable growth and environment.
17. This report aligns with the Community led 30-year Vision, “Greater Geelong: A Clever and Creative Future” community aspiration:  
An inclusive, diverse, healthy and socially connected community.

***Conflict of Interest***

18. No officer involved in the preparation of this report declared a general or material conflict of interest.

***Risk Assessment***

19. Not proceeding with the planning scheme amendment may result in the NCI service no longer operating and serving the local community from the subject site.

***Environmental Sustainability***

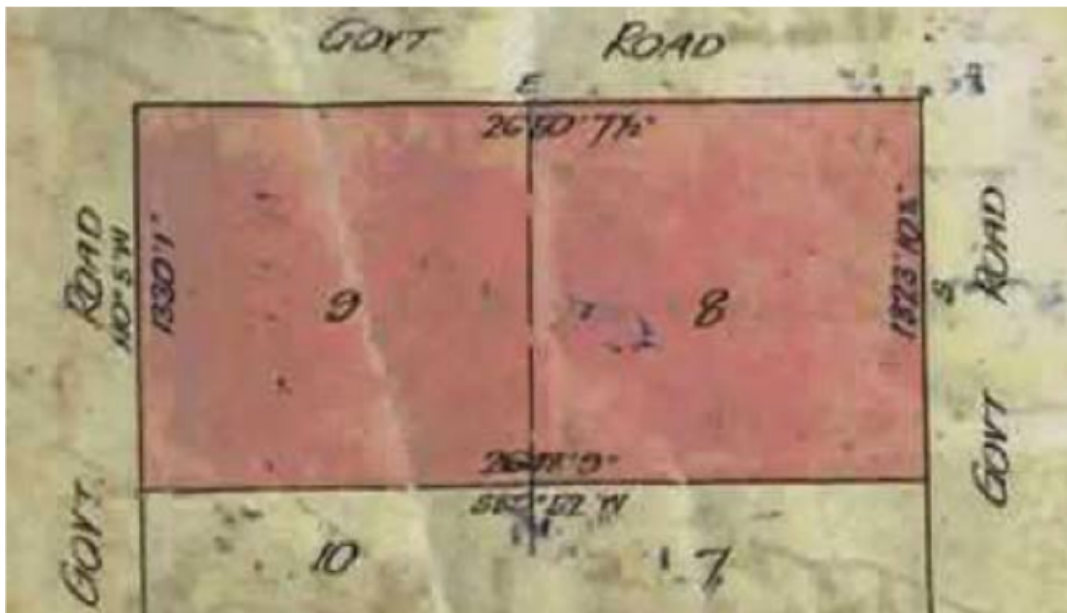
20. The amendment will not have an environmental impact on the area.

**Attachments**

1. Background report [2.8.1 - 16 pages]

**ATTACHMENT 1****Background**

1. Amendment C443ggee and permit application PP-750-2022 is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987*.
2. The land subject to the amendment and the concurrent planning permit is at 4-8 Spruhan Avenue, Norlane. See **Appendix 1** for plan of the subject site and area. **Appendix 2** shows the current zoning of the land. No planning overlays apply.
3. The land included in the application comprises the following lots and is owned by the Baptist Union of Victoria:
  - 3.1 Lots 348 and 349 plan of subdivision 113342, within Certificate of Title Volume 6100 Folio 946; and
  - 3.2 Lot 350 on plan of subdivision 113342, within Certificate of Title Volume 5084 Folio 763.
4. Two restrictive covenants are registered against the subject site, being:
  - 4.1 Restrictive covenant 1641285 created on 12 February 1937 in respect of lots 348 and 349; and
  - 4.2 Restrictive covenant 1445490 created on 31 January 1930 in respect of lot 350.
5. The restrictive covenants provide that the proprietor of the land will not, amongst other things:
  - 5.1 excavate on or in the subject site or remove or permit to be removed any soil or other material therefrom except such as building construction or the layout of a garden may necessitate;
  - 5.2 Erect or construct or allow to be erected or constructed any building or erection other than one dwelling house with usual outbuildings and fences to cost not less than five hundred pounds (including outbuildings and fences); or
  - 5.3 Carry on or permit to be carried on upon the land any trade or business and not to erect not permit to be erected or to remain erected thereon any sign hoarding or other erection used to intended to be used for advertisement.
6. The beneficiaries of the Covenants are "*Ford Estates Proprietary Limited and its transferees*" registered proprietor or proprietors for the time being of the land remaining transferred" in Certificate Of Title Volume 5084 Folio 101673.
7. Certificate Of Title Volume 5084 Folio 101673 has been cancelled. It related to the land formally described as Crown Allotment 8 and 9 at Corio, Parish of Moorpanyal, County of Grant and delineated and coloured red on a map which formed part of the certificate (refer to below plan).



Extract of Map in Certificate of title 5084 Folio 101673 (cancelled) – source: *Town Planning Application Report (Ratio)*

8. The application has been made by Ratio Consultants on behalf Norlane Community Initiatives (NCI). NCI is a not-for-profit community organisation that provides community services from the subject site. The subject site is also used as a Place of Worship.
9. The amendment proposes to amend the schedule to Clause 52.02 to remove the registered restrictive covenants 1641285 and 1445490 burdening the subject site, which prevent the construction of more than one dwelling on the site.
10. The planning permit application is sought to facilitate the use and development of the subject site. Refer to Appendix 4 for plans showing the proposed development on the site. Specifically, it proposes to allow, subject to conditions:
  - 10.1 Buildings and works associated with the existing building on site;
  - 10.2 A technical change of use from Place of Worship to a Place of Assembly;
  - 10.3 Removal of an easement, pursuant to Clause 52.02 (note that the planning scheme amendment deals with this matter);
  - 10.4 A waiver of eight car parking spaces; and
  - 10.5 Business identification signage.
11. The existing zoning of the land is General Residential Zone 1 (GRZ1). Land to the immediate north, east, south, and west is similarly zoned. (See Appendix 2.) The land is not affected by any overlays.
12. The affected land is flat. It contains a building sited towards the rear of the lot and has associated informal access and car parking. A 2019 planning permit allowed the development of a dwelling to the front of the community building on the south-eastern side of the subject site, and this appears to have been recently completed (refer to the aerial in Appendix 3).
13. The surrounding area is predominantly residential in nature. As seen on the locality plan, the street pattern follows a grid form, which runs on a light north-west to south-east axis.

14. The subject site is proximate to a range of land uses commonly associated with residential areas, including Norlane St Stephens Church, Saint Thomas Aquinas Catholic Church, Yooringa Seniors Community Centre, Diversitat Northern Community Hub, Norlane Community Centre, Norlane Child and Family Centre, Norlane Medical Centre, Labuan Square, North Shore Train Station and north and south bound bus routes servicing Corio Village and Geelong and North Shore Stations.
15. The land is owned by the Baptist Union of Victoria. NCI has been operating at the subject site for the past five years. Urban Seed had been operating from the site for the twelve years prior to this. There was a direct handover of the lease to NCI when Urban Seed ceased operations. The historical operations undertaken by NCI on the land comprise community related uses with typical activities including:
  - 15.1 Monday neighbourhood meal (50 participants)
  - 15.2 Monday peoples pantry (20 participants)
  - 15.3 Private music lessons (5 participants)
  - 15.4 Sunday congregation (15 participants)
16. At present all programs at the subject site have temporarily ceased.

#### ***Discussion***

17. The restrictive covenants do not reflect the historic use of the subject suite as a Place of Worship and its use by NCI who operates an essential community-focussed service. Both the Place of Worship and uses operated by NCI are considered to fall under the land use definition of a Place of Assembly.
18. The restrictive covenants prevent the use of the subject site as a Place of Assembly and associated buildings and works for the building on site.
19. The amendment is required to allow for the continued use of the subject site for a Place of Assembly comprising of community-related services operated by NCI, and for the buildings and works associated with the existing building on site.
20. Under Section 61(4) of the Planning and Environment Act 1987, a planning permit cannot be granted if the permit would result in a breach of a restrictive covenant, or a permit has been granted.
21. The amendment will remove the restrictive covenants, which prohibits the use and development of the subject site for a Place of Assembly. This will result in the use and development of the subject site compliant with the Planning Scheme.
22. The current beneficiaries of the restrictive covenants are not expected to experience a material detriment because of the amendment on the basis that it is seeking to formally acknowledge the use of land as a Place of Assembly and to facilitate buildings and works to the existing building on site.
23. The use of s.96a of the Planning and Environment Act 1987 provides an opportunity to formally remove the restrictive covenant by way of a planning scheme amendment, which in turn enables the lodgement of the planning permit application for buildings and works, change of use, waiver of car parking and erection of signage.
24. Planning Panel decisions have established the following principles to be applied in assessing a planning scheme amendment to authorise the variation or removal of covenants and these are relevant considerations for Council to apply to the consideration of this request:

- 24.1 *First, the Panel should be satisfied that the amendment would further the objectives of planning in Victoria. The Panel must have regard to the Minister's Directions, the Planning Provisions, MSS, strategic plans, policy statements, codes and guidelines in the scheme, and significant effects the amendment might have on the environment, or which the environment might have on any use or development envisaged in the amendment;*
- 24.2 *Second, the Panel should consider the interests of the affected parties, including the beneficiaries of the covenant;*
- 24.3 *Third, the Panel should consider whether the removal or variation of the covenant would enable a use or development that complies with the Planning Scheme; and*
- 24.4 *Finally, the Panel should balance conflicting policy objectives in favour of net community benefit and sustainable development. If the Panel concludes that there will be a net community benefit and sustainable development it should recommend the variation or removal of the covenant.*
25. The amendment is consistent with the following objectives of planning in Victoria as outlined in the Planning and Environment Act 1987:
- 25.1 to provide for the fair, orderly, economic, and sustainable use, and development of land;
- 25.2 to secure a pleasant, efficient, and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- 25.3 to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and
- 25.4 to balance the present and future interests of all Victorians.
26. The amendment furthers the objectives and strategies contained in the *Corio Norlane Structure Plan 2012* through the support for urban renewal and improving the health and wellbeing of people living in Norlane.
27. The amendment is consistent with the Municipal Planning Strategy contained in the Planning Scheme:
- 27.1 Clause 02.03-1 Corio Norlane has the strategic direction for Corio Norlane to seek to facilitate an increase in community activities. The amendment clearly facilitates this happening;
- 27.2 Clause 02.03-3 - Environmental Risks and Amenity encourages a balance between the need for goods and services that serve residents and workers and the potential for negative impacts on residential amenity. This amendment and permit facilitate the on-going local service for the community and provides certainty for their operations without detracting from the amenity of the area.
- 27.3 Clause 02.03-5 Built Environment and Sustainability seeks to ensure that development will improve the community's quality of life through renewal and good, sustainable design. The amendment and permit will implement the strategic direction to encourage all development to provide high quality urban design and landscaping.
28. The amendment is consistent with the following aspects of the Planning Policy Framework in the Planning Scheme:
- 28.1 Clause 11.01-1S Settlement which includes strategies to promote and capitalise on opportunities for urban renewal and infill redevelopment;

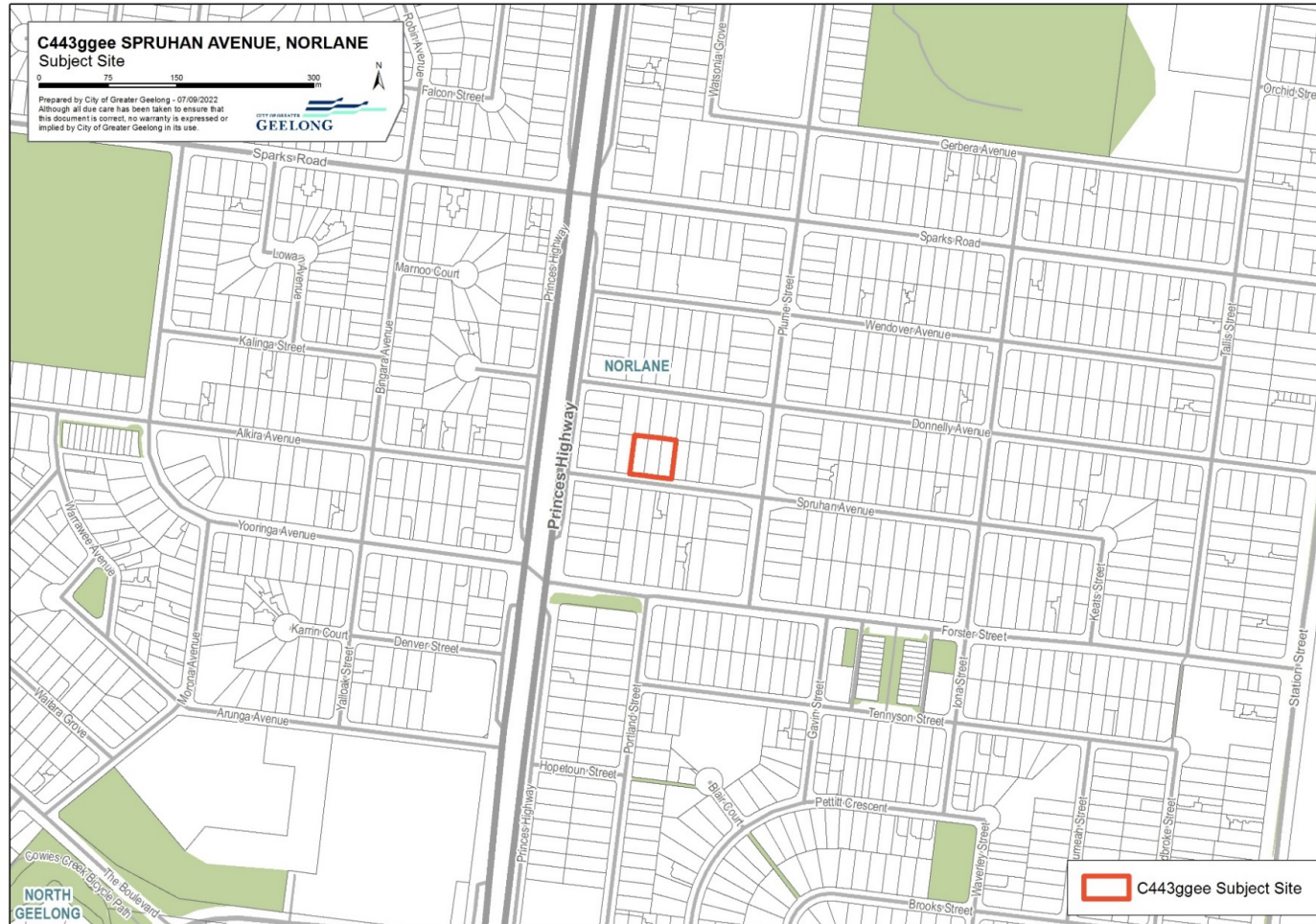
- 28.2 Clause 11.03-6L-02 – Corio Norlane includes the strategy to support the development of health and support services that will facilitate the urban renewal of the Corio Norlane area;
- 28.3 Clause 15.01-1S - Urban Design includes key strategies of ensuring development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility, and providing for inclusiveness;
- 28.4 Clause 15.01-4R Healthy Neighbourhoods which seeks to create a city of 20-minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20-minute walk, cycle, or local public transport trip from their home;
- 28.5 Clause 15.01-5S - Neighbourhood Character supports development that contributes to a preferred neighbourhood character, recognising, supporting, and protecting cultural identity and sense of place;
- 28.6 Clause 15.02-1S - Energy and Resource Efficiency seeks to promote consolidation of urban development and integration of land use and transport; and
- 28.7 Clause 19.02-4S - Social and Cultural Infrastructure includes key strategies of addressing gaps and deficiencies in social infrastructure and to design social infrastructure to be accessible. The objective is to provide fairer distribution of and access to social and cultural infrastructure.
29. Removal of the restrictive covenant by using Clause 52.02 is the correct planning tool to use and will enable the use and development of the site that complies with the scheme, namely Place of Assembly and associated buildings and works.
30. Removal of the restrictive covenant will facilitate the fair, orderly, economic, and sustainable use of the subject site by facilitating an established community use to continue servicing the local area need in a location that has good connections and wider public transport links.
31. The planning scheme amendment is supported. The amendment implements key directions of the Planning Policy Framework (PPF) through delivering a place-based community use, which directly addresses and contributes to the health and wellbeing of the residents of Norlane.
32. Non-residential uses which support the local community are supported in the PPF and this is a good example of a low-key service being integrated into a residential area.

***The Proposed Planning Permit***

33. The Planning Permit Application seeks:
- 33.1 *Buildings and works and change of use to a Place of Assembly and associated waiver of 8 car parking spaces and business identification signage.*
34. The key features of the proposal are summarised as follows:
- 34.1 Demolition of an existing multi-purpose area, access ramp, shed, deck, windows and doors and removal of existing pavements and some vegetation;
- 34.2 Buildings and works, inclusive of a new western single storey extension to replace the existing multifunction area; and
- 34.3 Provision of external storage areas associated with gardening activities;
- 34.4 Installation of rainwater tanks with 10,000 litre capacity;
- 34.5 Installation of new landscaping, including an outdoor seating area with pergola and children's play area;

- 34.6 Installation of business identification signage;
  - 34.7 A widened crossover to Spruhan Avenue and removal of two existing crossovers;
  - 34.8 Provision of a new car park with eight parking spaces and two accessible spaces;
  - 34.9 Four bicycle spaces; and
  - 34.10 Formalisation of the broader historical use of the site for community related services operated by NCI. This is through changing the use of the subject site from a Place of Worship to a Place of Assembly, noting that a Place of Worship falls under the land use definition of a Place of Assembly and continues its existing use rights.
- 35. The proposed development works with the fabric of the existing community centre on site but removes a derelict part of the building.
  - 36. The proposed extensions increase the building area (inclusive of decking) from 422 square metres to 475 square metres.
  - 37. The proposed design generally maintains the relationship of the existing and the proposed built form to adjoining sites, with a new 11 metre wall on the eastern boundary with No. 10 Spruhan Avenue.
  - 38. The proposed development is shown in Appendix 4.
  - 39. NCI delivers programs which primarily support the local community. Following approval and development, the subject site is expected to operate generally as follows:
    - Regular activities
      - 39.1 Neighbourhood meal: 50 participants (2 hrs x 1 day per week)
      - 39.2 Gardening Group: 5-10 participants (2 hrs x 2 days per week)
      - 39.3 Craft Groups: 5-10 participants (1 hr x 2 days per week)
      - 39.4 Cooking Groups: 5 participants (1 hr x 2 days per week)
      - 39.5 Leadership Workshop: 10 participants (1 hr x 1 day per week)
      - 39.6 Meditation space: 10 participants (30 mins x 2 days per week)
      - 39.7 Café: 20-30 customers (5 days per weeks 9am – 2pm)
      - 39.8 Office: 5-10 staff and volunteers
    - Hours of operation
      - 39.9 Monday to Friday 9am- 5pm
      - 39.10 Saturday and Sunday: As required
  - 40. Internal referrals were sent to Council's Engineering, Environment, Parks and Waste Services Units. Comments received have informed the initial assessment of the permit application. Barwon Water, Powercor, Downer and the Wathaurung were also consulted, and they have contributed conditions for the preparation of a draft planning permit.
  - 41. A resulting further information request was made to the applicant and updated plans and information have been supplied addressing signage, tree management and site access and car parking layout.
  - 42. The permit application is generally supported and a draft permit will be prepared for exhibition.

Appendix 1 Site Location Plan and existing photos



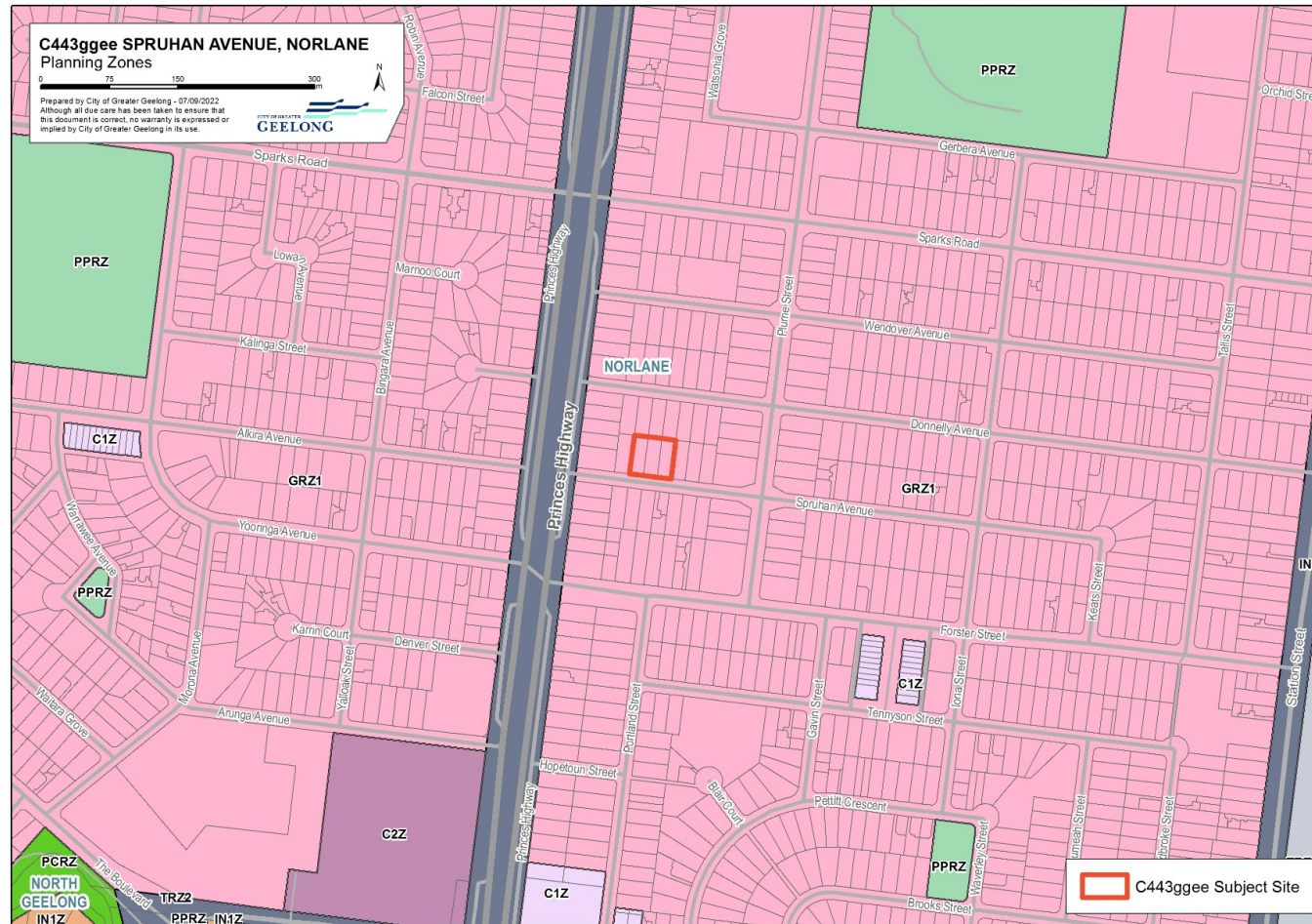


View of the entrance



View of western part of the Centre

### Appendix 2 Existing Zoning Map



Appendix 3 Aerial Images of Subject Site and Area





**Appendix 4 Proposed Development Plans**







### Appendix 5 Draft Planning Scheme Provision

GREATER GEELONG PLANNING SCHEME

19/01/2006  
VC37

**SCHEDULE TO CLAUSE 52.02 EASEMENTS, RESTRICTIONS AND RESERVES**

1.0

**Under Section 23 of the Subdivision Act 1988**

25/02/2024  
0350 Proposed C443 gg

Land	Easement Or Restriction	Requirement
64 Princes Highway, Norlane (Lot 1 on Title Plan 429809S)	Restrictive covenant contained in Instrument 1693682	Remove
4-8 Spruhan Avenue, Norlane (Lots 348 and 349 within Certificate of Title Volume 6100 Folio 946, and Lot 350 on Plan of Subdivision 011342 within Certificate of Title Volume 5084 Folio 763)	Restrictive covenants contained in Instrument 1641285 and Instrument 1445490	Remove

2.0

19/01/2006  
VC37

**Under Section 24A of the Subdivision Act 1988**

Land	Person	Action
None specified		

3.0

19/01/2006  
VC37

**Under Section 36 of the Subdivision Act 1988**

Land	Easement or right of way	Requirement
None specified		

**CLOSE OF MEETING**

**Cr Asher moved, Cr Sullivan seconded -**

**That the meeting be closed to the public.**

**Carried**

**The meeting was closed to the public at 9.26pm**

**Cr Mason moved, Cr Sullivan seconded -**

**That the meeting be re-opened to the public.**

**Carried**

**The meeting was opened to the public at 9.28pm**

**As there was no further business the meeting closed at 9.28pm on Tuesday 25 October 2022.**

**Signed: \_\_\_\_\_**

**Cr Peter Murrphy (Mayor)**

**Date: \_\_\_\_\_**