

IN PLANNING PANELS VICTORIA**NORTHERN AND WESTERN GEELONG GROWTH AREAS STANDING ADVISORY COMMITTEE****GREATER GEELONG PLANNING SCHEME****DRAFT AMENDMENT C450GEE: CREAMERY ROAD PRECINCT STRUCTURE PLAN AND DEVELOPMENT CONTRIBUTIONS PLAN****SUBSTANTIVE SUBMISSION ON BEHALF OF THE CITY OF GREATER GEELONG****A. INTRODUCTION**

1. These substantive submissions (**Part B Submissions**) are made on behalf of the City of Greater Geelong (**Council**), the Responsible Authority and the Planning Authority under the *Planning and Environment Act 1987 (the Act)* for administering and enforcing the Greater Geelong Planning Scheme (**Planning Scheme**).
2. They are supplementary to the Part A and Opening Submissions and are made before the response of other parties to the evidence. They again therefore reflect a point in time in the preparation of draft Amendment C450ggee (as defined in Council's Part A Submission (**draft Amendment**)).
3. Council relies on the evidence of:
 - 3.1. Mr Mark Woodland on town planning;
 - 3.2. Mr Mark Sheppard on urban design;
 - 3.3. Ms Jane Keddie on environmentally sustainable design;
 - 3.4. Mr Reece Humphries on traffic and transport;
 - 3.5. Ms Jo Noesgaard on open space planning; and
 - 3.6. Mr Bernhard Funke on quantity surveying / transport infrastructure costings.

Structure of submission

4. In this submission, Council:
 - 4.1. First, seeks to address the Committee on the scope of its task and the relationship of this referral with the previous round table process conducted in April 2025;
 - 4.2. Secondly, addresses the matters on which the Committee has raised in its directions dated 2 April 2026; then
 - 4.3. Turns to its consideration of and response to the evidence and, where appropriate, submissions to the advertised draft Amendment process.

Matters to be addressed — directions of 2 April 2026

5. By its directions letter dated 2 April 2026, the Committee has directed that Council's substantive submissions address the following:¹

Precinct Structure Plan (PSP) Future Place-Based Plan

- 5.1. Extent of developable land:
- a. Confirm whether Community Park (CP_04) is proposed to be reduced in size or relocated to another location (submission 25). Outline any consequential implications resulting from the change on the extent of developable land or the layout of the future place-based plan.
- 5.2. Transport network:
- a. Provide a more detailed response to the questions raised in the Eukai transport report, relating to matters raised in the Adbri submission (Submission 20).

Biodiversity and EPBC Act Strategic assessment, Native Vegetation Precinct Plan (NVPP) and PSP/Urban Growth Zone Schedule 8 (UGZ8) provisions

- 5.3. Explain the legal basis for imposing conditions and application requirements in the UGZ8 (or other parts of the draft Amendment) that relate to the incomplete strategic assessment process under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)*.
- 5.4. Explain the implications of coupling State planning process and Commonwealth EPBC Act, including a consideration of:
- a. Alignment of process timelines
 - b. Duplication or overlap of State and Commonwealth considerations
 - c. Any process uncertainty.
- 5.5. Explain how any existing EPBC Act approvals have been integrated into the draft Amendment/PSP/UGZ8 (e.g. 200 Ballan Road).
- 5.6. Explain the relationship between offset obligations arising under the NVPP and EPBC Act process.

Native Vegetation Precinct Plan

- 5.7. Clarify the requirements at Clause 52.16 and in the NVPP:
- a. Is there a requirement to seek approval to remove native vegetation that is identified after the NVPP is introduced?
- 5.8. Explain whether the NVPP is intended to deal with State matters and/or matters of national environmental significance (**MNES**) under the EPBC Act, including any offsetting obligations.

PSP/UGZ8 provisions

- 5.9. Regarding potentially contaminated land

¹ Letter from the Committee dated 2 April 2026, direction 26.

- a. Explain whether the application requirements (Clause 3.0 of the UGZ8) in relation to contaminated land duplicate or overlap with EP Act requirements e.g. Clause 3.0 appears to prescribe when a Preliminary Risk Screen Assessment (**PRSA**), Audits and Preliminary Site Investigation is required.
- b. Whether the approach (including the deferral of the PRSA) is consistent with Ministerial Direction 1 and Planning Practice Note 30 (Potentially contaminated land)

General matters

- 5.10. Council's response to submissions and evidence
- 5.11. Council's updated position on the draft Amendment.

The Committee's task

6. It has been put to the Committee that its task is a limited one, with a significant number of issues having been addressed and resolved during the roundtable process in April 2025. It is true that this proceeding provides the opportunity examine how the outputs of Referral 1 have been implemented by the Council. It is also true that, to an extent, Referral 2 builds upon those outputs. Equally though, Referral 1 was a proceeding of a different character and process.²
7. The roundtable process conducted last year was of a narrow scope and focus, with the Committee's task to provide early advice to the Minister for Planning as outlined in the first referral letter, as extracted below:³

... early advice of the committee [is sought] on whether the draft amendment will provide for a balanced development outcome, including consideration of its ability to provide for efficient land use, maximise development opportunities and provide for the timely delivery of development.

I ask the committee to focus on the following specific matters:

- *The extent of developable land in the draft Creamery Road PSP, having regard to land required for active and passive open space, conservation reserves, schools and community facilities, transport infrastructure, and drainage assets (a net developable area of 57 per cent is proposed).*
 - *The development infrastructure levy, including the design, cost and apportionment of infrastructure items, (in particular, the 'Clever and Creative Corridor' and drainage assets), as proposed in the draft Creamery Road DCP (a development infrastructure levy of approximately \$1.6 million per net developable hectare is proposed).*
8. The focus of that roundtable process was a limited assessment targeting predominantly an increase in the NDA and a reduction of the Development Infrastructure Levy (**DIL**). Referral 1 was a limited inquiry into the scope, number and nature of infrastructure items to be included in the Precinct Structure Plan (**PSP**) and Development Contributions Plan (**DCP**). The roundtable process was conducted over the course of a week and included input from some 19 experts called by various parties. Through that process, given time constraints, there

² The Batesford Development closing submissions to Referral 1 (Document 163 in that proceeding) state when framing the Committee task 'Thus, the work that the Committee has been asked to do here is plainly not a traditional PSP strategic assessment at Paragraph 2 and stated that 'Villawood accepts that the details of land use layout and configuration would expect to be further refined and resolved following exhibition' at 11.

³ First referral letter from the Minister for Planning dated 4 January 2025, p 2.

was limited opportunity and scope to fully interrogate the submissions and expert reports tabled at the Committee beyond the narrow scope included in the referral letter dated 4 January 2025. The resulting two volume report of the committee was similarly focused in its scope.

9. The Referral 1 process was successful.
10. How so? The draft Amendment advanced by the Council provides for an increased NDA with only a small difference between the position of the Council, Batesford Developments Project Pty Ltd (**Villawood**), and it is understood the other submitters. The DIL is substantially reduced and no party has advanced expert evidence to be tested that would suggest that development of the land is unviable. Notwithstanding, the Council joins with all parties in the pursuit of identifying appropriate optimisation and efficiencies, albeit that at the stage of resolution these will be incremental in nature.
11. The Council considers that the Draft Amendment is capable of approval but recognises that the PSP process and the application of attention will inevitably identify changes and opportunities for improvement. The Council welcomes this process.
12. The task before the Committee on this occasion is informed by the referral of the Minister for Planning dated 3 March 2026. The referral letter states:⁴

To support an efficient and timely hearing process, I have decided to refer specific matters listed in the attachment to this letter to the committee for consideration and advice. The specific matters are consistent with the key issues identified by the council in its review of submissions. The committee only needs to consider submissions and the council's response to the extent that they address specific matters of referral.

⁴ Second referral letter from the Minister for Planning dated 3 March 2026, p 2.

13. The referred items are extracted below:⁵

Attachment 1: List of specific matters of referral

Topic	Key issue
PSP Future Place-based Plan	<p>Whether the following matters in the exhibited Future Place-based Plan are appropriate:</p> <ul style="list-style-type: none"> • Extent of developable land • Location and size of the neighbourhood activity centre • Local convenience centres • Location of the active open space reserve (SR-02) • Quantum and distribution of public open space • Size of the community hub (CF-01) • Residential areas, including amenity area • Transport network • Drainage infrastructure, specifically the size, configuration and location of WLRB-06 and WLRB-07 • Extent of Cowies Creek conservation area and buffer
DCP	<p>Whether the following matters in the exhibited DCP are appropriate:</p> <ul style="list-style-type: none"> • Project costings • Intersection and road designs • Apportionment of BR-01 (Batesford South PSP bridge) • Overall rate of the Development Infrastructure Levy
PSP / UGZ8 provisions	<p>Whether the requirements, guidelines and provisions in the exhibited PSP and UGZ8 are appropriate in relation to:</p> <ul style="list-style-type: none"> • Applied residential zones and densities • Affordable housing • Acoustic treatment / noise • Activity centres • ESD, smart cities, zero carbon • Potentially contaminated land • Quarry buffer • Bushfire • Biodiversity and EPBC Act Strategic Assessment • Integrated water management
NVPP	<p>Whether updates are required to the NVPP.</p>

14. The task before the Committee on this occasion has a wider scope and the process adopted to the review of submissions and interrogation of expert evidence across the nearly three-week period of this hearing has allowed a much more in-depth review of the broader draft Amendment.

15. The Committee has heard the relevant evidence and received submissions from a wide ranging group of stakeholders and should form its own view.

How should the Committee approach its task?

16. Planning Scheme Amendments are assessed against Ministerial Direction 11, the purpose of which is *‘to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces’*.⁶ Ministerial Direction 11 is supported by Practice Note PPN46 which provides guidance on the application of Ministerial Direction 11.

⁵ Second referral letter from the Minister for Planning dated 3 March 2026, p 3.

⁶ Ministerial Direction 11, Clause 2.

17. The Ministerial Direction seeks, *inter alia*, to ensure that there exists an appropriate level of strategic justification for a proposal advanced by a planning authority. Neither Ministerial Direction 11 nor the practice note seek to establish any particular test beyond the need to provide strategic justification.
18. It has been put to the Committee in openings that it ought to identify, determine and implement a theoretical best or the ideal outcome. This is not reflected in the *Planning and Environment Act 1987* (Vic) (**PE Act**), nor Ministerial Direction 11. Notwithstanding, the Council position is supported by evidence that its approach to the layout of the Place Based Plan is both strategically justified and preferable.
19. Council submits that the proper approach to evaluating the draft Amendment is to test whether the draft Amendment is strategically justified and would (relatedly) result in a net community benefit and an acceptable outcome.
20. In the draft Melbourne Planning Scheme Amendment C407melb Arden Structure Plan Advisory Committee Report dated 2 May 2022,⁷ the Committee concluded that:

The fundamental test of an Amendment is the net community benefit and sustainable outcomes, and the Amendment needs to deliver acceptable outcomes on all its elements

The Committee should generally accept the technical solutions proposed by authorities unless:

- *there is no strategic justification of the specific proposal on the proposed site*
- *the land is inherently unsuitable for the proposed use or development, or the proposal is likely to be unworkable*
- *the offsite impacts including amenity and environmental effects are unacceptable.*

21. A similar approach was taken in the Officer South Employment Precinct Structure Plan Draft Amendment C274card Victorian Planning Authority Project Standing Advisory Committee Referral 8 Report dated 6 June 2024. That committee considered the prerogative of authorities in relation to the arrangement of land uses within a PSP and selecting locations for infrastructure items. That Committee concluded:⁸

- *It is not the role of the Committee to revisit the strategic choices made by public authorities unless those choices can be shown to be lacking in strategic justification or unacceptable.*
- *It is the role of the Committee to:*
 - *provide advice on whether the selected strategy has been implemented in an appropriate way when considering All of the relevant strategic planning factors, including for instance maximising the efficient use of land*
 - *assess where the planning controls give proper effect to the selected strategy and that the drafting achieves the objectives of the control.*

22. The Committee's task here is to evaluate the draft Amendment and to determine whether the draft Amendment is acceptable. If the Committee concludes that, in all of the circumstances,

⁷ At pp 29 – 31, drawing upon cases such as *Western Water v Rozen & Anor* [2010] VSC 583.

⁸ Officer South Employment Precinct Structure Plan Draft Amendment C274card Victorian Planning Authority Project Standing Advisory Committee Referral 8 Report dated 6 June 2024, p 32.

the draft Amendment is acceptable, it should adopt and endorse the draft Amendment, subject to any recommendations it considers may be required to achieve an acceptable outcome.

23. Council's primary position is that the advertised draft Amendment provides superior outcomes when compared to the proposal put forward by Villawood. However, even if the Committee does not agree that the Council's approach is superior in every way, Council's approach to the draft Amendment is acceptable. This has not been challenged by any party or expert.
24. Indeed, the opposite is true.
25. The Committee will recall the careful questioning of the key experts called by Villawood in respect of the spatial issues concerning the location of the Neighbourhood Activity Centre (**NAC**) and the location of SR_02. Each of Mr Bainbridge, Ms Jordan, Mr Campbell and Mr Walsh all agreed the Council Place Based Plan would result in an acceptable planning outcome.
26. This is important. The experts for the principal agent of change in the proceeding have agreed that the draft Amendment is acceptable. Where their views have differed, it has been a result of differing focuses or priorities, and differences of opinion on what they view as a preference rather than what is or is not acceptable.
27. Subject to the adoption of certain recommendations outlined in this Part B Submission, Council considers the draft Amendment, including the PSP and DCP, has been prepared in a robust and thorough manner.
28. The resulting outcomes are acceptable and the Committee should recommend to the Minister for Planning that the draft Amendment should be adopted and gazetted.

B. PRECINCT STRUCTURE PLAN (PSP) FUTURE PLACE-BASED PLAN

Extent of developable land and treatment of Community Park (CP_04)

29. As set out at Appendix 2 of Council's Part A Submission,⁹ Council accepts Submitter 25's request that Community Park (CP_04) be reduced in size to 0.5ha (though Council acknowledges a typographical error in that response, which erroneously references 'CP_05').
30. An overall open space contribution of 8.64% NDA will still be required, leading to potential consequential changes to secure open space land elsewhere within the Place Based Plan.
31. Potential consequential changes include to:
 - 31.1. support proposal to reorient the 1ha open space across adjoining property; or
 - 31.2. relocate 0.5ha of open space to elsewhere in the precinct based on an open space network approach to be resolved.
32. Prior to receiving the submissions of other parties, it is Council's preference to identify an alternate area of 0.5ha of land to be delivered to ensure the overall provision of local open space remains at 8.64% of NDA.

Transport network – response to Eukai transport report

33. Council provided a response to the Eukai transport report on matters raised by Submission 20 at Appendix 2 to its Part A Submission.¹⁰ Council restates and elaborates on that response below.

⁹ Council Part A Submission, PDF p 72.

¹⁰ Council Part A Submission, PDF p 70.

How many Moorabool River bridges are ultimately proposed within the Batesford South PSP?

34. The more recent network testing undertaken by Stantec indicated that a single crossing west of the quarry (DI_BR_01) could support the strategic network in the 2051 timeline. Bridges DI_BR_02 and DI_BR_03, to the extent they were previously considered, have been removed and this single bridge DI_BR_01 on the western side of the quarry will be a part of the CCC network.

If only one bridge is now intended, can Council confirm that no future funding obligation will arise for a second bridge crossing?

35. Council continues to work through long-term minor network planning across the WGGA as PSPs are prepared and traffic modelling is updated. Any infrastructure not currently in the DCP will not be funded by the Creamery Road precinct.
36. Council notes the scope of this referral does not include future PSPs or DCPs. The Stantec Review of NWGGA Bridges (July 2024) tested, as noted by Eukai, the removal of the costly eastern bridge within Batesford South. It was determined that a second bridge was not required for the network to function and therefore a second bridge is not a justified 'global DCP item'.
37. As future PSPs and DCPs are prepared, local development infrastructure requirements will be determined through the respective precinct planning and DCP development. This includes any consideration of future technical reports / subject matter expertise that may supersede or support existing documents and advice. Accordingly, Council is unable to rule out or rule in a second bridge crossing required to support for example the Batesford South PSP. Council can confirm that the extent of the Creamery Road precinct's obligations are to be set out in the PSP and DCP under consideration by the Committee.

If two bridges remain planned, what is the intended funding mechanism for the second bridge, and which PSPs or agencies will contribute?

38. Only one bridge is planned so currently no funding mechanism is required for a second bridge as part of the draft Amendment.

What modelling evidence supports the 7.8% apportionment for BR-01 under the current exhibited network configuration?

39. Appropriate apportionment for BR_01 should be in accordance with the NWGGA Bridges Review (Stantec, 2024), which models the volumes without the second/eastern bridge considered in earlier versions. The apportionment of DI_BR_01 to the CRDCP is proposed at 12%.
40. Council notes the DCP previously incorrectly provided a 7.8% apportioned contribution to DI_BR_01. This has since been corrected in the Day 0 and Day 1 versions.

Why has earlier modelling assuming two bridges been relied upon where the exhibited PSP identifies only one?

41. Council has conceded this was in error. The correct reference document is the NWGGA Bridges Review (Stantec, 2024), which provides modelling sufficient for the purposes of identifying strategic infrastructure and cost apportionment for the PSP. Council notes that the road configuration is generally in accordance with what was originally modelled and that no major land use changes or population increase has occurred.
42. Further VITM modelling will occur as part of future precinct planning with NWGGA, including Batesford South and North.

Can Council clearly confirm the final alignment and functional role of the CCC beyond the Creamery Road PSP and its interface with Batesford South?

43. Council refers to the Day 0 Version of the Western Geelong Growth Area Plan.
44. The construction cost of DI_IN_06 (Clever and Creative Boulevard (**CCB**)/Midland Hwy intersection) is to be apportioned fully to Creamery Road Precinct. This is now a three-leg intersection with signals to be apportioned to the Creamery Road DCP, as per the public consultation draft of that document.
45. *Table 15. Precinct Infrastructure* of the Creamery Road PSP contains reference to the earlier, four-legged intersection version, which apportioned 50% of the intersection to Creamery Road Precinct and the other 50% to the Batesford South Precinct. This has been corrected.

Maximise NDA

46. The further work streamlined the land takes for drainage, transport, and open space infrastructure. Community infrastructure land take was reduced during the April 2025 Committee process. This resulted in a total addition of almost 15-hectares to the NDA. Further reductions in land take will be difficult to achieve without compromising the delivery and quality of the relevant assets.
47. However, Council remains open to considering increases to NDA where responses to various submissions may facilitate increased developable land availability without compromising infrastructure outcomes.

Matters beyond scope of draft Amendment C450ggee

48. Council notes the below matters raised by Submitter 20 but reiterates they remain beyond the scope of the draft Amendment and the Committee's task:
 - 48.1. Preparation of development feasibility assessments for future NWGGA precinct DCPs.
 - 48.2. Impacts of development feasibility of including state infrastructure items in the DCP.
 - 48.3. Resolution and adoption of a global strategic document such as the GGATIS.

C. BIODIVERSITY AND EPBC ACT STRATEGIC ASSESSMENT, NATIVE VEGETATION PRECINCT PLAN (NVPP) AND PSP/URBAN GROWTH ZONE SCHEDULE 8 (UGZ8) PROVISIONS

Legal basis for imposing conditions and application requirements in the UGZ8 (or other parts of the draft Amendment) that relate to the incomplete strategic assessment process under the EPBC Act.

49. As will be familiar to the Committee, s 6(1) of the *Planning and Environment Act 1987* (Vic) (**PE Act**) provides that:
 - (1) *A planning scheme for an area—*
 - (a) *must seek to further the objectives of planning in Victoria within the area covered by the scheme; and*
 - (b) *may make any provision which relates to the use, development, protection or conservation of any land in the area.*
50. Section 6(2) then elaborates on specific things a planning scheme may do, without limiting the scope of the s 6(1), including:
 - (a) *set out policies and specific objectives;*
 - (b) *regulate or prohibit the use or development of any land;*

...

(d) include strategic plans, policy statements, codes or guidelines relating to the use or development of land;

...

(h) require specified things to be done to the satisfaction of the responsible authority, a Minister, public authority, municipal council or referral authority;

(ha) require specified information to be provided with an application for a permit;

(hb) set out different procedures for particular classes of applications for permits;

...

(j) apply, adopt or incorporate any document which relates to the use, development or protection of land;

51. This demonstrates the broad spectrum of matters which the planning scheme may use or do to further the objectives of planning in Victoria and it is on this basis that the draft Amendment will impose conditions and application requirements on development proponents consistent with the approval anticipated to be granted under Part 10 of the EPBC Act (**Part 10 Approval**).

52. As identified by Mr Woodland:¹¹

State policy creates is a clear expectation that planning should identify areas of high biodiversity value, strategically plan for their protection and avoid development impacts on such areas.

There are a number of ways that this could be achieved in planning for urban development in greenfield settings, and in the case of Creamery Road precinct, it is proposed to achieve these policy objectives in part via the creation of a corridor-wide Strategic Assessment, Biodiversity Conservation Strategy, EPBC Plan and funding strategy.

These instruments serve a dual purpose of satisfying both the relevant State biodiversity policies contained within the Greater Geelong Planning Scheme as well as satisfying Commonwealth requirements to protect Matters of National Environmental Significance under the EPBC Act (via a Part 10 approval).

53. The draft Amendment, in seeking to amend the planning scheme, has sought to ensure consistency with the currently ongoing but soon to be finalised Strategic Assessment informing the referral for the Part 10 Approval and the Northern and Western Geelong Growth Areas EPBC Plan, which will soon be adopted by Council.

54. As at the Day 1 version of the draft Amendment, the requirements do not seek to impose legal obligations under the EPBC Act that would not otherwise apply — that is to say, the obligations under the EPBC Act stand on their own. Rather, the Part 10 Approval, once granted, provides authorisation for a class of development to occur within the relevant area, subject to the conditions of the approval. It does not preclude a landowner or developer seeking an individual approval under the EPBC Act if it saw fit, however once in place, the Part 10 Approval requires Council to ensure that the use and development of the land within the approval area is developed in a manner consistent with that approval, unless that development proceeds under a separate individual approval under the EPBC Act.

¹¹ Written evidence of Mark Woodland dated 15 April 2026, paras 33 – 35.

55. Where a developer seeks to rely upon the Council's Part 10 Approval (and not a separate EPBC Act approval), it must demonstrate the proposed use or development is consistent with that approval and the underlying Northern and Western Geelong Growth Areas EPBC Plan.
56. As an example of the draft Amendment's treatment of this issue, Clause 4 of the UGZ8 requires:

Condition – Commonwealth Biodiversity Developer Implementation Plan

A permit to subdivide land, construct a building, or construct or carry out works on land within the biodiversity levy area as shown in the Northern and Western Geelong Growth Areas Strategic Assessment Funding Program, must include the following condition:

Prior to the certification of a plan of subdivision or the commencement of buildings or works (whichever comes first), a Commonwealth Biodiversity Developer Implementation Plan detailing all applicable requirements under the Northern and Western Geelong Growth Areas EPBC Plan and supporting documents must be submitted to, and approved, by the responsible authority.

The plan must demonstrate that the development pursuant to the permit is consistent with the Northern and Western Geelong Growth Areas EPBC Plan and supporting documents, including applicable timeframes and any staging arrangements.

The Developer Implementation Plan must include:

- The area the implementation plan applies to;
- The net developable area staging and development activity;
- Any land, works and or offsets in kind to be undertaken in lieu of payment of the levy liability;
- The extent of impacts to Matters of National Environmental Significance (MNES)

Once approved, the plan must be implemented to the satisfaction of the responsible authority.

57. However, under the heading 'General Requirements' within that same Clause 4 of the UGZ8, it states:

A permit must include a relevant condition or conditions as appropriate to give effect to any requirements or conditions set out in the Creamery Road PSP and the Creamery Road NVPP. The responsible authority may waive or vary the requirements of the following conditions.

58. This provides a mechanism through which application requirements may be waived or varied as appropriate, including where a property such as 200 Ballan Road is not subject to the Part 10 Approval (necessitating the waiver of the related requirements).
59. UGZ Clause 3 Application Requirements may be similarly waived or varied if in the opinion of the responsible authority that requirement is not relevant to the assessment of the application.

Implications of coupling State planning process and Commonwealth EPBC Act

60. The draft Amendment seeks to implement through the planning scheme mechanisms to ensure that both the State and Commonwealth environmental protection requirements are addressed. There is a clear policy benefit to ensuring that, at the point of application for use or development, both State and Commonwealth approval requirements are considered and met.
61. Through the Part 10 Approval process, Council has sought to streamline this process and to ensure that a consistent approach is adopted to the protection and conservation of both Matters of National Environmental Significance (MNES) and local environmental significance. The coupling of the Part 10 Approval with the draft Amendment is central to this.

Alignment of process timelines

62. Council has progressed the draft Amendment and the EPBC Act Part 10 Strategic Assessment process concurrently. The Part 10 Strategic Assessment was advertised for public comment from 6 November to 8 December 2025 and, per its website, the Department of Climate Change, Energy, the Environment and Water expects the Part 10 Strategic Assessment to be in place soon (as at 6 November 2025 this was expected in 'early 2026').
63. For its part, Council anticipates adopting the finalized Strategic Assessment and associated funding and conservation strategies in late July 2026, with a view to then submit the same to the Commonwealth in August. Council expects the Part 10 Approval to be granted in late 2026.
64. Subject to any unforeseen circumstances, Council anticipates the Part 10 Strategic Assessment and the draft Amendment will be approved and gazetted temporally close to one another.
65. If the gazettal of the draft Amendment precedes the granting of the Part 10 Approval, developers within the precinct will still need to satisfy the requirements of the EPBC Act by either:
 - 65.1. waiting until the Part 10 Approval is granted, then proceed in accordance with that approval; or
 - 65.2. referring their own proposed development actions to the relevant Commonwealth Minister and proceed through the formal individual EPBC Act assessment process. Council considers that if a developer was to lodge such a referral today, by the time such a process concludes, the Part 10 Approval will have been in place long before.
66. If the Part 10 Approval is granted ahead of the gazettal of the draft Amendment (as is intended), development may proceed in accordance with the Part 10 Approval and ancillary requirements imposed under the then approved planning scheme.
67. Any residual process uncertainty may be addressed through these approaches and, where necessary, the application of waivers to relevant landowners or developers seeking to progress their developments in accordance with separate approvals under the EPBC Act.

Duplication or overlap of State and Commonwealth considerations

68. The Commonwealth EPBC Act deals with the regulation of Matters of National Environmental Significance (**MNES**). This includes the protection of MNES and, where avoidance is not possible, the imposition of offsets for the affected MNES. Accordingly, it has a limited, albeit very important, scope. It does not consider locally significant environmental matters, land use planning, impacts on or from adjacent land uses or development, or intensification of those processes.
69. The planning scheme, as proposed to be amended by draft Amendment and the implementation of the PSP and NVPP under the PE Act is the appropriate mechanism through which to manage the impact of competing and abutting land uses — e.g. the need for conservation of the environment vs competing or nearby residential development.
70. Both the State and Commonwealth regimes have a role to play. The draft Amendment seeks to appropriately align these two regimes to further the objectives of planning and environmental protection in Victoria.

How existing EPBC Act approvals have been integrated into the draft Amendment/PSP/UGZ8 (e.g. 200 Ballan Road)

71. Recognising some properties within the precinct have pursued individual EPBC Act approvals, Council has amended the drafting of R56 prior to public consultation to remove reference to Part 10 Approval specifically, and instead to approvals under the EPBC Act

generally. This enables reliance upon EPBC Act approvals other than the Part 10 Approval if required or considered desirable by landowners.

R56. The Cowies Creek Conservation Masterplan Area as shown in *Plan 17 Biodiversity & Threatened Species* and identified in *Table 10 Conservation Area Attributes* must be created and managed in accordance with the following documents:

- ~~Part 10~~ Approvals under the EPBC Act 1999;
- NWGGA Biodiversity Conservation Strategy;
- Creamery Road Native Vegetation Precinct Plan (June 2024) or as amended;
- Cowies Creek Landscape Masterplan (June 2024) or as amended; and
- Cowies Creek Growling Grass Frog Conservation Management Plan (June 2024) or as amended.

72. Council understands that 200 Ballan Road is the only development with a separate approval granted under EPBC Act in the precinct. While that approval for 200 Ballan Road is understood to apply to the necessary federal offsets, it has not influenced a change to the area identified for conservation use in the Creamery Road PSP, which also draws upon State environmental considerations.
73. As a result of securing its individual EPBC Act approval, 200 Ballan Road will be excluded from the Geelong Growth Areas Strategic Assessment and the associated levy. 200 Ballan Road will not contribute to Council's obligations under the Part 10 Approval and vice versa. 200 Ballan Road will be specifically identified as having its own approval through updates to the strategic assessment documentation (inclusive of mapping) and the funding program will remove the NDA associated with that land from the levy. The relationship between 200 Ballan Road and the approach to Growling Grass Frog will also be documented in the to be prepared Cowies Creek CMP.

Explain the relationship between offset obligations arising under the NVPP and EPBC Act process.

74. Offsets under the NVPP (Victorian) and EPBC Act (Commonwealth) are distinct requirements under separate legislative regimes. The NVPP is established to identify vegetation that may be removed without a permit in accordance with Clause 52.16. Under Clause 51.16-3, a permit is required to remove native vegetation unless (relevantly):

If the removal, destruction or lopping of native vegetation is in accordance with a native vegetation precinct plan incorporated into this scheme. Any conditions or requirements specified in the plan must be met.

75. The NVPP contains a range of conditions and requirements that must be complied with prior to the removal of vegetation identified in that plan. These include:
- 75.1. Offset Requirements for identified properties at Section 4.1.
- 75.2. Timing of the Offset Requirements at Section 4.2.
76. Native vegetation removal outside of this will require a planning permit under Clause 52.16.
77. The Part 10 Approval will include requirements facilitating improvements to the Cowies Creek environs, including delivery of various features associated with the Growling Grass Frog. Commonwealth offsets to be acquired by Council in accordance with its Part 10 Approval are to be decoupled from state offsets. This means they will not count toward state offsets required to be obtained by individual proponents through the NVPP.
78. The Cowies Creek environs does include native vegetation to be retained. This is not inconsistent with the proposed Part 10 Approval under the EPBC Act, as both statutory regimes must be complied with.

D. NATIVE VEGETATION PRECINCT PLAN

Clarification of the requirements at Clause 52.16 and in the NVPP

79. Where vegetation is identified for removal under the NVPP and the conditions for removal under the NVPP (i.e. the obtaining of offsets) are complied with, then no permit is required (subject to compliance with the EPBC Act / Part 10 Approval, if applicable).
80. If vegetation is identified for removal that is additional to that identified by the NVPP, a proponent has an obligation to obtain a permit under Clause 52.16 to remove it. This is relevant in this particular instance, given the presence of grassland EVC communities and their ability to regenerate or recolonise between the gazettal of the NVPP and when the land is ultimately developed (in some cases possibly in excess of 10 or more years). The key aspect of Clause 52.16 is the first point of 52.16-3 (permit requirement) which states a permit is required if the removal, destruction or lopping of native vegetation is not in accordance with the NVPP. Removal of Native vegetation not mapped by the NVPP can't be in accordance with the NVPP.
81. Existing wording to that effect is already present in the NVPP, following feedback from DEECA (Submitter 6) provided through the submission process. The below changes to the NVPP are among those actioned in response to Submitter 6
82. Wording in Section 3.2 amended for clarity:

For native vegetation that appears following approval of this NVPP, and all other native vegetation in the NVPP area that is not identified as 'to be retained', advice should be sought from the relevant responsible authority as to whether a permit is required for its removal, destruction or lopping. Unless an exemption under Clause 52.16 applies, a permit under that clause is required to remove, destroy or lop any native vegetation not accounted for in the NVPP. This includes native vegetation that may have been missed during surveys undertaken for the NVPP, as well as native vegetation that establishes within the precinct following gazettal of the NVPP.

83. Following consultation with DEECA it has been agreed that this NVPP shall remain valid for a period of 10 years. This should reduce (but not eliminate) the potential of such additional permits being required.

~~*The vegetation removal is done within the period of validity of this report. This NVPP shall remain valid for a period of 10 years from the date of its incorporation into the Geelong Planning scheme under Clause 52.16. After this period, the NVPP will expire unless reviewed and endorsed by the DEECA and the responsible authority. Upon expiry:*~~

— Any proposed removal, destruction or lopping of native vegetation within the precinct will require a new planning permit application under Clause 52.17, supported by current site assessments and offset calculations in accordance with the Guidelines for the removal, destruction or lopping of native vegetation, or its successor.

— Offset obligations identified within this NVPP will no longer be applicable unless secured prior to the ~~sunset~~ expiry date.

— Landowners and developers must provide offset evidence to the responsible authority for all offsets secured under this NVPP.

Explain whether the NVPP is intended to deal with State matters and/or matters of national environmental significance (MNES) under the EPBC Act, including any offsetting obligations.

84. As noted above, the NVPP is intended to deal with the protection and, if required, offsetting of native vegetation which does not otherwise fall within a category of MNES. It does not and is

not intended to address or regulate MNES, which will be subject to the EPBC Act regime and the Part 10 Approval.

E. PSP/UGZ8 provisions regarding potentially contaminated land

Application requirements (Clause 3.0 of the UGZ8) in relation to contaminated land do not duplicate or overlap with Environment Protection Act 2017 (Vic) requirements

85. The application requirement stipulated in Clause 3.0 of the PSP UGZ8 in relation to the Potentially Contaminated land (PRSA, PSA and Environmental Audit Statement) does not duplicate the corresponding requirement under the *Environment Protection Act 2017 (Vic) (EP Act)* because it does not impose parallel obligations, rather it provides a sequencing requirement. Further, the investigations required by Clause 3.0 do not exceed EP Act requirements. The requirement acts as a gateway to ensure that the EP Act processes and conclusions are met through the planning permit process. The UGZ8, in relation to potentially contaminated land, determines what evidence must be included as part of a planning permit, and requires confirmation of audit, where relevant.
86. There is the need for some overlap for the Council to ensure that applicants have undertaken the required assessment in relation to the EP Act and to ensure that the proposed uses are duly considered during the permit assessment. The wording proposed is standard.
87. Other PSPs that have similar requirements include but are not limited to East of Aberline, Bannockburn South East and Melton East.
88. The addition of an exclusion in instance where a PRSA has already been undertaken in relation to a proposed land use could be considered, or properties which can complete a PSI or PRSA prior to the gazettal could be removed from the area to which these provisions apply.

Whether the approach (including the deferral of the PRSA) is consistent with Ministerial Direction 1 and Planning Practice Note 30 (Potentially contaminated land)

89. The approach is consistent with Ministerial Direction 1 and Planning Practice Notes 30 because it does not allow sensitive uses to proceed without the provision of evidence at the permit stage.
90. It actively references EP Act process and outcome, with the aim of confirming whether the appropriate approvals have been obtained.
91. A PRSA is only triggered where new sensitive uses are proposed, providing a proportionate and risk-based approach to decision-making.
92. Both the Ministerial Direction 1 and Planning Practice Note 30 do not explicitly mandate the completion of the PRSA at the PSP preparation stage. Rather, they recognise that there may not be definite land use for all the lands within the precinct boundary. In other words, at the PSP stage, land use certainty may not exist hence the need for it to be deferred to the planning permit stage.

F. APPROACH TO SUBMISSION / COUNCIL'S RESPONSES TO EVIDENCE

93. In the balance of this submission, Council outlines its responses to the evidence presented to the Committee and, where relevant, responds to particular submissions to the public advertising process. It has at Appendix 2 of its Part A submissions outlined its general response to submissions in response to the public consultation process for the draft Amendment and will as part of its closing submission address any further matters raised by submissions that will be made to the Committee following the presentation of these Part B Submissions.

G. NEIGHBOURHOOD ACTIVITY CENTRE

Size and location

Relevant planning principles

94. The preparation of the draft Amendment does not occur in a vacuum. Rather, it has been carefully prepared to respond to the strategic planning framework (including Plan for Victoria (Department of Transport and Planning, 2025 (**Plan for Victoria**)) and the VPA's Precinct Structure Planning Guidelines (October 2021) (**PSP Guidelines**)), and existing conditions, opportunities and constraints of the precinct to provide future residents with quality liveable neighbourhoods and good place-based outcomes.

95. The Place Based Plan has been prepared with regard to Clause 11.02-2L. The Objectives of that policy include to:

To provide a network of activity centres that support employment, retail, commercial, entertainment and community uses for local residents.

To provide light industrial employment areas that minimise impacts on surrounding neighbourhood amenity and provide direct access to the external transport network.

To promote mode shift from private vehicles to active and public transport throughout and between the growth areas and extending into the balance of urban Geelong.

To develop the Clever and Creative Corridor as a consistent and unifying design element of the growth areas to ensure development is sustainable, self-sufficient, distinctive and connected by active and public transport options.

96. The Strategies under this Clause include to:

Ensure the number, location, size and function of activity centres within the growth areas provides for the needs of local residents within walkable catchments without adversely impacting on the broader Geelong activity centre network, particularly Central Geelong, Lara, Corio and Waurn Ponds.

Develop the Clever and Creative Corridor as a tree-lined, boulevard style transit corridor that prioritises public transport, walking and cycling between activity centres and education, community and recreation facilities, and provides a focal point for the design of sustainable neighbourhoods that are interconnected and support housing diversity.

97. Both Ms Jordan and Mr Woodland agree that the references to the CCC in the policy apply to the Clever and Creative Boulevard (**CCB**) in respect of Creamery Road.

98. The Planning Scheme user is directed to consider as relevant, the Northern and Western Geelong Growth Areas Framework Plan (City of Greater Geelong, August 2020) (**Framework Plan**). If there was any doubt that, as depicted on the Framework Plan Map at the Clause 11.02-2L, activity centres are to be located upon the CCC (or in this case the CCB), clarity of the intent of the policy is provided where the Framework Plan identifies the direct interface intent:

ACTION W3.1.12

Five neighbourhood activity centres will be delivered throughout the Western Geelong Growth Area located to provide convenient, walkable access to their respective catchments.

Neighbourhood activity centres will be provided and distributed within the growth area to serve neighbourhood catchments up to 10,000 people in a central location. Each neighbourhood town centre will be highly accessible by active and public transport with direct interface to the Clever and Creative Corridor. The network of centres includes:

- Five neighbourhood activity centres with an estimated retail floor space of approximately 7,000-8,000m², restricted retail space of approximately 3,000-4,000m²
- Potential to deliver a transit-orientated neighbourhood activity centre at the northern-most centre on the Geelong-Ballarat railway line as part of future upgrades to public transport services.

ACTION W3.1.14

Neighbourhood activity centres will be developed with safe and accessible pedestrian environments and a high quality public realm.

The design of each centre will acknowledge its importance as centre of community life by providing a high amenity public space that creates an identifiable heart of the community and provides an attractive setting for people to meet, linger and engage in local events. The design of the centre will always prioritise pedestrian movement, amenity and safety and create easy access points from the active and public transport network. The neighbourhood activity centres in the Western Geelong Growth Area should capitalise on their surroundings including:

- Lakeside view lines at the neighbourhood activity centre located to the west of Batesford Quarry
- Potential co-location with waterways and potential regional open space opportunities at the neighbourhood activity centre to the south-east of Batesford Quarry.

99. This approach of a direct interface with the CCB is consistent with the plan identified by Mr Campbell in his evidence concerning Figure 17 of the PSP Guidelines:¹²

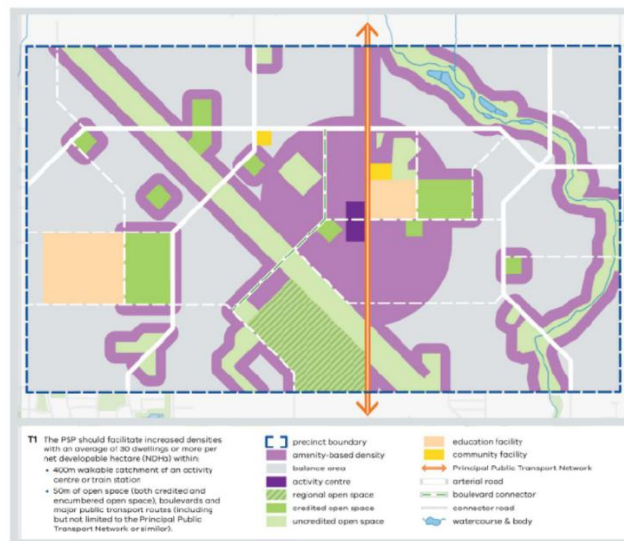


Figure 17. Amenity-based density model (Source: VPA)

Note: this figure is for illustrative purposes only and should be applied in each PSP based on the particular opportunities and constraints of the area

100. This plan indicates an activity centre on the Principal Public Transport Network (in the metropolitan context) which Council considers is the appropriate comparison to the CCB in the Creamery Road context. The experts have agreed that the CCB is the main public transport and active transport link in the PSP.

101. As noted by Mr Sheppard, the PSP Guidelines encourage 20 minute neighbourhoods that must:

- *be safe, accessible and well connected for pedestrians and cyclists to optimise active transport*
- *offer high-quality public realm and open space*
- *provide services and destinations that support local living*
- *facilitate access to quality public transport that connects people to jobs and higher-order services*
- *deliver housing/population at densities that make local services and transport viable.*¹³

102. The concept of 20 minute neighbourhoods is woven throughout the PSP Guidelines, informing many aspects of PSP preparation. For instance:

102.1. **PSP Feature F1 — Housing diversity** aims to provide *'Diversity of housing, including lot size and built form, to meet community needs, increased housing densities and integrated housing located close to existing and/or proposed services, transport and jobs'*¹⁴ and its general principles support this aim. PSP Feature F1 outlines an amenity based density model, noting:

*'At the heart of the 20-minute neighbourhood policy is the provision of local centres, services and facilities such that people are able to meet most of their daily needs within a 20-minute return walk from home. The Guidelines enable this objective by aligning increased density to key locations within the PSP structure to support walkable neighbourhoods and the viability of local services and transport.'*¹⁵

102.2. While balancing design, commercial and policy impacts, this amenity-based density model seeks to guide density to within 400m of activity centres and train stations and 50m (i.e. one lot depth) of open space and the Principal Public Transport Network (or similar).

102.3. **PSP Feature F5 — Movement and Place** seeks to create *'A transport network that balances the role of the movement of goods, people and places.'*¹⁶ Its supporting general principle F5.1 states:

Adopt a 'movement and place' approach to identifying an arterial and connector road network that provides a supportive context for the proposed type and intensity of land uses.

The transport and movement network should:

provide a road classification and design that supports the purpose of the place and preferred urban form

prioritise the needs of pedestrians and cyclists

facilitate access to public transport modes and emergency services

balance the access needs of waste collection vehicles with the amenity impacts on the place.

¹³ PSP Guidelines, p 11.

¹⁴ PSP Guidelines, p 41.

¹⁵ PSP Guidelines, p 42.

¹⁶ PSP Guidelines, p 57.

102.4. **PSP Feature F6 — Walkability and safe cycling networks** emphasises the need to provide ‘A high amenity, safe, accessible, direct and comfortable walking and cycling environment.’

102.5. PSP Feature F6 is supported by its general principle 6.1, which most relevantly provides that:

Streets should be carefully and deliberately designed (in terms of their scale, design speeds, configuration and landscaping treatments) to respond to the site context (i.e. topography, natural features), proposed land use context (i.e. future urban form, intensity of activity) and to support early habits for walking and cycling.

This includes:

- direct, comfortable and legible off-road footpaths, shared paths, cycle paths and lanes that connect open spaces and key destinations
- *pedestrian crossings on key pedestrian routes, all legs of signalised intersections in activity centres, and at appropriate bus stops*
- *ensuring design of road and traffic management devices minimise impediments to safe and comfortable pedestrian cyclist movement, (such as slip lanes, cross overs and roundabouts) on high volume routes*
- greater access to walking and cycling options in areas anticipated to support high trip generating uses (for example, activity centres, schools, community facilities).

102.6. **Feature F16 — Thriving local communities** seeks ‘Activity centres that can accommodate the range of jobs, services, amenities, activities and housing that support their role and function, have strong transport links and meet the changing economic, climate and social needs of a place’.¹⁷ This is supported by General Principle F16.1, which states:

Activity centres should provide for a full range of employment opportunities to support a diverse, sustainable local economy.

- *New activity centres should be located, scaled and designed to:*
 - *prioritise pedestrian movement and access to public transportation*
 - *create a sense of place through high-quality, human-scale urban design, including maximised activation of uses at ground level*
 - *be sustainable, adaptable and responsive to local conditions and forecast climate change conditions*
 - *designate land for an appropriate and viable amount of retail, civic and commercial floorspace and appropriately located public open space.*

¹⁷ PSP Guidelines, p 93.

103. While couched in slightly different terms, Plan for Victoria carries forward this approach, with three of its five pillars for action being ‘Accessible jobs and services’, ‘Great places, suburbs and towns’ and ‘Sustainable environments’.
104. Pillar 2 — Accessible jobs and services relevantly aims to decentralise employment opportunities and essential services, provide more jobs closer to home and ensure communities have *‘the public transport, facilities and services they need to lead healthy, productive lives, including schools and kinders, TAFEs, emergency services, health care, active transport and open space.’*¹⁸
105. Pillar 3 — Great places, suburbs and towns relevantly seeks to:
- 105.1. provide *‘good access to local public facilities and services (such as parks, libraries, community centres and cultural facilities) where you can meet your daily needs close to home. We’ll prioritise designs that encourage social interaction and active lifestyles and put you at the centre’;*¹⁹
 - 105.2. *‘enhance public safety by designing streets and public places that encourage you to stroll, gather, be social and spend time with family, friends and neighbours’;*²⁰
 - 105.3. *‘make sure you can enjoy great parks, reserves and other green public areas, we’ll make sure they are suitable for all Victorians and close to homes’;*²¹
 - 105.4. *‘prioritise active transport, including cycling and pedestrian pathways, so you have more environmentally friendly and healthy commuting options and safer, better connections to public transport.’*²²
106. Pillar 4 — Sustainable Environments supplements Pillars 2 and 3 by seeking to enable climate resilient urban planning in which the community will *‘live more sustainably and with a reduced carbon footprint as more homes are built closer to public transport, there are more pedestrian and cycling options, more trees are planted, urban sprawl is limited and natural habitats are protected’.*²³
107. As noted by Mr Sheppard, the Planning Scheme adds its support to the shift towards active transport and 20 minute neighbourhoods in relevant objectives and strategies such as those in clause 11.02-2L, clause 56.03 and clause 56.06.²⁴ Clause 11.02-2L in particular implements the Framework Plan, which as Mr Sheppard notes provides the following key urban design considerations:²⁵
- *Establishing the CCC (now partly renamed the CCB) which seeks to drive a mode shift away from the use of private vehicles in favour of active and public transport modes. The CCC also seeks to concentrate cultural and community facilities, activity centres and higher residential densities along its length, providing a direct, safe and comfortable corridor;*
 - *20-minute neighbourhood design principles for urban development patterns, including higher residential densities surrounding the CCC;*
 - *Prioritisation of walking and cycling for local trips;*

¹⁸ Plan for Victoria, p 33.

¹⁹ Plan for Victoria, p 38.

²⁰ Plan for Victoria, p 38.

²¹ Plan for Victoria, p 38.

²² Plan for Victoria, p 38.

²³ Plan for Victoria, p 43.

²⁴ Written evidence of Mark Sheppard dated April 2026, para 33.

²⁵ Written evidence of Mark Sheppard dated April 2026, para 24.

- *Designing public spaces to be safe, comfortable and inviting;*
- *Orientating streets to key destinations and to connect the open space network; and*
- *Providing an integrated public and active transport network that connects to the broader city network, as well as providing for local trips.*

108. In their joint statement dated 24 April 2026, though they had differing views on the weight to be given to the co-location of the NAC and CCB and the early delivery of the NAC, the planning experts in the proceeding agreed that:²⁶

The purpose of the Creamery Road NAC is to be a focal point to the precinct and to deliver the core convenience retail, commercial and community services to the Creamery Road community, co-located with a diverse mix of housing and other uses.

The PSP layout should ensure that the NAC is located to prioritise its accessibility by walking, cycling and public transport, supporting a true 20-minute neighbourhood.

Discussion on NAC size and location

109. Council adopts and supports the evidence of Mr Sheppard and Mr Woodland in this respect, including the recommendation of Mr Sheppard to relocate the NAC north to abut the east-west connector road and the CCB.
110. This location appropriately responds to the objectives and strategies within the Planning Scheme, the Features and General Principles of the PSP Guidelines and the Pillars of Plan for Victoria.
111. Siting the NAC on the corner of the CCB improves its interface and connection to the prioritised active and public transport corridor and locates the NAC more centrally within the precinct to maximise access and walkability to and from the NAC for future residents.
112. It is a superior response linked by two connector roads, the east-west road and the CCB.
113. The two positions are represented diagrammatically below (Sheppard recommended location in purple, Villawood proposed location in pink):

²⁶ Planning joint expert statement dated 24 April 2026, section 1.1.1.



114. Notably, Council considers:
- 114.1. With the removal of Figure 11 from the PSP (the framework plan for the NAC) on the advice of Mr Sheppard and Mr Campbell, the layout of the Council NAC is guided purely by planning scheme directives – if not constrained as to any specific footprint arrangement.
 - 114.2. If a larger NAC is warranted, as suggested by Mr Shipp, to accommodate footprint requirements such as car parking, there is opportunity to expand the NAC to the south or the west. The Committee will recall the evidence from Mr Walsh that the north south connector road to the west of the Council NAC could be relocated to the west in this event with satisfactory offset intersection arrangements to the south. Council is not opposed to a larger NAC footprint being depicted on the Place Based Plan in the order to 3.5ha to 4.0ha as noted by Mr Shipp. As a result, however, as noted by Mr Woodland, the area of two Local Convenience Centres (**LCCs**) in the precinct should be reduced. Council suggests the reduction of the LCCs could appropriately be from the current 1,745sqm each to 1,000sqm each.
 - 114.3. The Council NAC would achieve excellent vehicular access from both the west and the CCB and superior access for active and public transport.
115. Conversely, the Future Urban Structure proposed by Batesford Developments Project Pty Ltd (**Villawood**) sites the NAC to the east of Geelong-Ballan Road and at the intersection of an east-west connector road and north-south connector road. This location separates the NAC from the CCB, disconnecting it from the primary public and active transport corridor within the precinct. This shift to the west also reduces walkability by moving the NAC to the periphery of the precinct, further away from the residential land in the east of the precinct and towards the future Batesford North precinct.
116. While it is correct that the two plans place the activities centres adjacent to each other, the Council plan is superior in this regard – not relying on place finding measure to link to the CCB.

117. This is best shown by Mr Sheppard's figure 1 (extracted below), which overlays Council's proposed NAC location and Villawood's proposed NAC location, and the 400m and 800m radii for each:²⁷



118. Villawood has rationalised its proposed location with an argument that it will enable the NAC to be developed earlier, utilising visibility and passing traffic from the nearby (but not abutting) Geelong-Ballan Road. Council does not contest that the Villawood location might deliver the NAC earlier by some unspecified time period. It might, although there are no guarantees. The Villawood proposed location does not interface with Geelong-Ballan Road and Council queries whether this proximity without interface would lead to that result in any event.
119. Even accepting the evidence of Mr Shipp, it is a complete unknown how much earlier the NAC would possibly be delivered under the Villawood plan. None of the evidence adduced on behalf of Villawood suggested how much earlier the NAC would be delivered. This places the Committee in the invidious position of being asked to give weight to a proposition that runs against best planning placement principles without any guidance on the timing and therefore the weight to be given to the assertion.
120. Prominence can be achieved in multiple ways, including by signage, and will regardless be established once a user knows that the NAC is in the almost equally convenient position identified by Council — the evidence before the Committee being that they will know. Retail shoppers form habits.
121. Council notes that Ms Jordan's opinion was influenced primarily by early delivery of the NAC. There is no criticism that Ms Jordan was not aware of Mr Shipp's evidence at the time of filing her report. Ms Jordan however gave weight to a verbal instruction from her client that it might be as much as 5 – 10 years earlier in the development cycle, which she understood to be based on economic studies. Ms Jordan did not request or have opportunity to review any material that supported this proposition. It is not referred to in her report. To be clear, Council understands that key driver of Ms Jordan's position on the NAC was influenced by a verbal instruction not supported by the tested evidence. In Council's submission, this fundamentally undermines Ms Jordan's position on the location of the NAC.
122. Equally Ms Jordan proceeded on the basis that a location on the CCB was inferior because of low levels of traffic on the CCB. She assumed something less than or in the order of a 1,000

²⁷ Written evidence of Mark Sheppard dated April 2026, figure 1, p 12.

vehicles per day. The evidence of Mr Walsh and Mr Humphries on this issue was consistent. Volumes in and around the NAC will be in the order of 5,000 vehicles per day. This is material evidence that undermines the assumption made by Ms Jordan, and by extension her position on this issue.

123. Mr Campbell also gave weight to the 'early delivery of the NAC'. In his oral evidence he mentioned 10 years earlier — a figure that appeared nowhere in his evidence statement. Also absent from the evidence statement was any analysis that would support this proposition. Again assumptions, untested by evidence, contaminate the evidence presented. Mr Campbell's urban design evidence on this matter was influenced by his assumption. It is not clear what Mr Campbell thought the traffic volumes along the CCB would be – he indicated that they would be low, but also mentions 1,000 vehicles per hour.
124. The Committee should give limited weight to the planning and urban design evidence presented by Mr Campbell and Ms Jordan. It is driven by assumptions that are not borne out by the evidence called by Villawood.
125. Regardless, there is a significant trade-off to this potential (and Council notes, only potential) earlier development of the NAC. If the Villawood location is supported, the NAC will ultimately be located closer to the periphery of the precinct, aiming to serve passing trade catchment outside the precinct rather than the future residents of the precinct as envisioned by the PSP Guidelines, Framework Plan and relevant Planning Scheme provisions and the background report. This is despite the NAC being sized to deliver a facility for this community and Mr Shipp's acknowledgement that the population within the precinct would comfortably support the delivery of a full line supermarket. It is possible there are commercial advantages to the developer of the NAC having a passing trade in addition to the viable population within the PSP — effectively , however, Council is planning for the ultimate delivery of the Place Based Plan, which is the proper basis upon which to plan for delivery of a PSP community that will be in situ well beyond the planning horizon.
126. What we do know is that the Creamery Road precinct will not include an employment precinct and is the first of all precincts in the NWGGA. People will necessarily need to travel to work whether that is in Geelong, Melbourne or elsewhere. There will be ample opportunity and access to retail services while the community develops and before more convenient retail is delivered within the precinct. This is consistent with the traffic evidence of both Mr Humphries and Mr Walsh. Of course, a NAC established from day 1 would be more convenient but it is unrealistic. The early residents will travel for work and utilise other shopping facilities in the intermediate period.
127. Council refers to and adopts the evidence of Mr Woodland, noting his commentary at para 110 in particular:²⁸
- 'the broader purpose of the Creamery Road PSP is to facilitate the delivery of a town centre that will service the community in which it is located over the long term. It is therefore important that the NAC is located so as to achieve the best and most orderly outcome above any shorter-term considerations.'*
128. This is common sense on first principles when considering PSPs are meant to *'facilitate planning for new neighbourhoods, guiding the form of subdivision and development of land over the long term.'*²⁹
129. This is reflected in the PSP Guidelines, which place an emphasis on:³⁰
- *aligning the outcomes and structure of a PSP around Plan Melbourne's 20-minute neighbourhood framework and the UN Sustainable Development Goals (SDGs)*

²⁸ Written evidence of Mark Woodland dated 15 April 2026, para 110.

²⁹ PSP Guidelines, p 8.

³⁰ PSP Guidelines, p 3.

- *requiring a greater purpose and place-based focus with a clear line of sight from the vision and place-making through to implementation*
- *articulating general planning principles and setting performance targets that deliver improved outcomes in the following ways:*

...

» *provision of local employment opportunities and the facilitation of regional, state and nationally significant employment areas*

» *improving accessibility to high-quality public realm, jobs and services, aligning with the hallmarks of 20-minute neighbourhood framework*

» *integration of the Movement and Place Framework for designing streets that keep people and goods moving and creating places to live work and enjoy*

130. Then Minister for Planning, the Hon. Richard Wynne MP, went so far as to state in his foreword to the PSP Guidelines that '*The Government wants new communities to be designed, built and serviced in ways that suit the long-term interests of local residents and businesses rather than the short-term profits of developers.*'³¹
131. These factors show a clear priority of long-term place-based community design over short term considerations. The PSP must take a long-term view when considering the location of the NAC, as it cannot easily be later moved.
132. The Villawood proposed location neither sites the NAC on Geelong-Ballan Road to capitalise on passing vehicle traffic (which Council emphasises should not be the priority of the PSP for reasons stated above), nor on the CCB where it would be best located to serve the precinct on a long-term basis. The Villawood proposed location would undermine or at least weaken the connection between the NAC, the CCB and the precinct it is intended to serve, weaken access by public and active transport and detract from the place making approach sought to be prioritised by the PSP Guidelines and other strategic planning guidance.
133. Ms Sophie Jordan considers that because the Villawood proposed NAC location is 200m away from the CCB, it is within a '*convenient and accessible walkable catchment*'.³² Yes, possibly, but it does not perform as well as the Council location on the CCB. This also assumes that the relevant catchment *is* the CCB, not the homes future residents within the precinct who may seek to travel within their walkable catchment along the CCB to the NAC. Council considers this assumption is misplaced.
134. The PSP Guidelines treat 400m to be a relevantly walkable catchment.³³ As the Villawood proposed location is approximately 200m west of the CCB, that is 200m further that a large percentage of future residents will need to travel — a 50% increase of the walkable catchment distance. One result would be that residents in the east that were 400m away from the NAC will now be 600m away, outside that acknowledged 400m walkable catchment. Shifting the NAC from the central location proposed by Council to near the western boundary of the precinct moves it further away from a greater proportion of Creamery Road precinct residents than it will be moved closer to — resulting in a net reduction in the proportion of residents within its walkable catchment. The main geographic beneficiary of this shift would

³¹ PSP Guidelines, p v.

³² Written evidence of Ms Sophie Jordan dated 15 April 2026, para 95.

³³ PSP Guidelines, p 39.

be the future planned Batesford North precinct. Council again refers to Mr Sheppard's figure 1 extracted above at para 117 to demonstrate this shift.

135. The Batesford North precinct will be planned with its own activity centres. The purpose of the NAC is to provide for the future residents of the Creamery Road precinct and it must be located for that purpose.
136. Council commends the location recommended by Mr Sheppard, which maximises the walkable catchment within the precinct, provides seamless connection to the CCB and best responds to the PSP Guidelines.

Size and layout of the NAC

137. Council acknowledges the evidence of Mr Woodland that the size of the NAC is appropriate and sufficient to cater for the retail and commercial needs of the future residents of the precinct and his recommendation that Plan 11 should be conditional on the following:
 - *'the plan should be clearly characterised as being an illustration of one way in which R22 and the accompanying Design Principles (tables 23 and 24) can be addressed.*
 - *If the future UDF must be generally in accordance with plan 11 (as per the current wording of R22 contained within the draft PSP) then what is shown on that plan should be cross referenced to the Design Principles so that it is clear that an alternative plan can be said to be in general accordance with that plan if it addresses the relevant Design Principle that each element of the plan shows. This could be achieved by annotating the concept plan and cross referencing it to it relevant corresponding Principle from tables 23 and 24.'*
138. Council considers the inclusion of Plan 11 is a useful reference point for an approach that is likely to meet the requirements and guidelines of the PSP, but acknowledges that other layouts may equally meet these requirements and guidelines.
139. As communicated Council's position is to delete Plan 11 and rely on provisions of the PSP that provide for a NAC at the corner of the connector roads which actively interacts with the CCB.
140. There is no fault in the Council position on the NAC. It will provide a strategically justified location for a NAC in a superior location for the longer term.
141. As noted above at 114, Council supports increasing the size of the NAC to 3.5ha or 4ha, with a resulting decrease of the size of the two LCCs in the precinct to 1,000sqm.

H. OPEN SPACE PROVISION AND LOCATION

142. Council advocates for the open space locations and layout in the advertised draft PSP. Council notes that there is potential for refinement as noted by its experts in respect of credited open space. In this respect, Council relies on the evidence of Mr Sheppard, Mr Woodland and Ms Noesgaard (except insofar as Ms Noesgaard recommends that open space be provided at a rate of 10% of net developable area).
143. Following the NWGGA Standing Advisory Committee Round Table process, Council engaged SGS Economics and Planning (**SGS**) to undertake a peer review of the PSP open space network. The resulting peer review report has informed the open space network set out in the PSP currently before the Committee.

144. Ms Noesgaard of SGS has undertaken an assessment of the PSP and Villawood proposed open space networks against the relevant service standards across three key attributes:³⁴

Quantity: the amount of land required and recreation infrastructure service needs on the land

Quality: the size and configuration of this land to ensure it is able to meet best practice guidelines and diversity of uses

Accessibility: the location of the land to ensure it provides access to all households and supports a network of open space.

145. As she considered Villawood has not put forward a formalised active open space proposal for its proposed Myers Reserve extension, for the purposes of this assessment, Ms Noesgaard assessed the conceptual plan provided by Villawood to Council in August 2025 (Ms Noesgaard's figure 1),³⁵ which was referenced in Villawood's submission in response to the public consultation process in February 2026.

146. Council extracts below and refers to Table 9 of Ms Noesgaard's written evidence, which summarises her assessment of the PSP and Villawood proposals against the relevant service standards.

Component	Service standard	Villawood Properties		Creamery Road PSP 2025		
		Proposed	Assessment	Proposed	Assessment	
Quantity	Land	10% NDA	8.33%	Does not meet standard (-1.67%)	8.64%	Does not meet standard (-1.36%)
		3-5% local parks	2.97%	Does not meet standard (-0.03%)	2.99%	Does not meet standard (-0.01%)
		5-7% sports fields	5.36%	Meets standard however at the lower end	5.66%	Meets standard
	Population ratio	21.8sqm per capita	14.89sqm per capita	Does not meet standard (-6.91sqm per capita)	15.4sqm per capita	Does not meet standard (-6.4sqm per capita)
Infrastructure needs	Needs based on service standards: 2 x AFL ovals 3 x cricket ovals 3 x netball courts 2 x soccer pitches	SR-01: 1 x AFL 1 x cricket <u>Myers Reserve Nth Extension: (rectangle version)</u> 4 x soccer 2 x cricket 4 x netball	Surplus of 2 x soccer, 1 x netball however the netball courts do not include a supporting pavilion. To provide a pavilion additional land will be needed or less netball courts delivered. Shortfall of 1 x AFL	SR-01: 1 x AFL 1 x cricket <u>SR-02: (rectangle version)</u> 4 x soccer 2 x cricket 2 x netball	Surplus of 2 x soccer Shortfall of 1 x AFL, 1 x Netball	
Quality	Size	Active recreation: between 8-10ha	SR-01: 3.25ha Myers Reserve Nth Extension: 8.185ha	Myers Reserve Nth Extension meets standard however at the lower end. *SR-01 is an addition to an existing reserve	SR-01: 3.25ha SR-02: 8.644ha	SR-02 meets standard. *SR-01 is an addition to an existing reserve
		Passive open space Pocket parks: <0.5ha Local/neighbourhood parks: 0.5-2ha	7 x pocket parks (one in the activity centre) 5 x local parks	Does not meet size requirements with pocket parks located outside of activity centres. Limited larger passive open space available.	1 x pocket park within activity centre 6 x local parks	Meets size standards however limited diversity in types of parks with most being local

Component	Service standard	Villawood Properties		Creamery Road PSP 2025		
		Proposed	Assessment	Proposed	Assessment	
Configuration	Alignment with sustainable sports club model	Myers Reserve Nth Extension size does not enable all suggested sports infrastructure (cannot fit 4 netball courts and pavilion)	Does not meet size requirements	SR-02 size enables sports infrastructure and supporting infrastructure.	Meets standards. SR-02 also provides flexibility to be able to provide for a range of alternative sports	
Accessibility	Distance	Active recreation: at least 8ha within 1km of 95% of all dwellings	The location of active open space does not provide 95% of dwellings with access to active recreation within 1km.	Does not meet standard	Achieved	Meets standard
		A local park within a 400m safe walkable distance of each dwelling	Achieved	Meets standard however residents in the north west region of the PSP are reliant on pocket parks or encumbered land.	Achieved	Meets standard

147. As can be seen across the three key components, the PSP performs better against the relevant service standards.

³⁴ Written evidence of Ms Jo Noesgaard dated 15 April 2026, p 10.

³⁵ Written evidence of Ms Jo Noesgaard dated 15 April 2026, p 24.

148. Where the PSP does not meet a service standard, the Villawood proposal falls further short, e.g. in relation to the 10% NDA, 3 – 5 % local parks, population ratio and infrastructure needs service standards (see above).

149. Council deviates from Ms Noesgaard's evidence where she recommends that open space be provided at a rate of 10% NDA. Council has through engagement with various stakeholders agreed to a reduced rate of 8.64% as a variation to the standard requirement reflecting the relatively small PSP area. As noted in the Creamery Road Precinct Background Report (CoGG, 17 December 2025):³⁶

While the PSP 2.0 Guideline target for 10% open space delivery remains the in-principle position of the City and was supported by the Peer Review: Creamery Road PSP Open Space Network (SGS Economics & Planning, November 2025), the constraints of the Creamery Road Precinct have meant that only 8.64% open space can be delivered. The location and size of these various sports reserves and parks is considered to maximise equitable access to usable open space across the precinct. Given the changing nature of sports demand, planning for flexibility of design is critical. Under provision of open space will have to be accounted across existing and future open spaces.

150. Accordingly, Council does not pursue open space to be provided at a rate of 10% NDA.

151. At paras 94 – 96, Ms Noesgaard concludes that, while each the Council and Villawood proposals have their pros and cons:³⁷

Overall, based on my open space assessment the proposed open space network in the Creamery Road PSP November 2025 provides a greater level of quantity, quality and accessibility compared to the Villawood Properties proposal.

Creamery Road PSP November 2025 proposal provides a greater amount of open space, appropriate size and configuration of open space and well located open space (Table 10).

Precinct structure planning provides an opportunity to provide quality planning outcomes for future residents. In my view, the open space network proposed in the Creamery Road PSP November 2025 provides the better network to meet future community needs.

152. Council notes no other expert report has been tabled to the Committee which undertakes a dedicated open space assessment against the relevant service standards. Where open space is addressed by other experts, it is within the scope of their own evidence in the context of a broader assessment. For this reason, significant weight should be placed on Ms Noesgaard's evidence.

153. Below, Council addresses the position of other experts insofar as they address open space.

Quantum of open space

154. Council considers the quantum of open space is not an item in respect of which the parties are significantly apart.

155. The planning experts in the proceeding agree that:

155.1. The provision of 8.64% of unencumbered open space proposed by the PSP is appropriate;³⁸

³⁶ Creamery Road Precinct Background Report (CoGG, 17 December 2025), p 35.

³⁷ Written evidence of Ms Jo Noesgaard dated 15 April 2026, p 32.

³⁸ Planning joint expert statement dated 24 April 2026, section 2.1.1.

- 155.2. The provision of 2.9% of unencumbered passive open space proposed by the PSP is appropriate; and³⁹
- 155.3. The active open space provision should be determined by reference to the needs assessment together with the characteristics of the land, which is a task that falls outside their collective expertise though they noted the relevant PSP Guidelines target and that open space, economic and urban design evidence provided by others contributes to that assessment.⁴⁰
156. Council considers Ms Noesgaard has undertaken this needs assessment and, while other factors may be relevant, commends Ms Noesgaard's evidence to the Committee as being the most comprehensive and robust on that topic.

Distribution of open space

157. The planning experts in the proceeding agree that:
- 157.1. *The proposed distribution of local parks shown in the 'Day 0' PSP satisfies the PSP guideline T11 for provision of a local park within a 400m safe walkable distance of each dwelling.*⁴¹
- 157.2. *The distribution of active open space within the PSP should satisfy the PSP guideline T12, namely that that a sports reserve or open space larger than 1 hectare should be located within an 800m safe walkable distance of each dwelling.*⁴²
158. However, the planning experts have differed on:⁴³
- 158.1. the weight to be given to Clause 56 (Standard C3);
- 158.2. the distribution of active open space under each active open space proposal;
- 158.3. the extent of residential land located within overlapping active open space catchments under the 'Day 0' PSP;
- 158.4. the weight to be given to the future provision of Active Open Space within the adjacent Batesford North PSP; and
- 158.5. the weight to be given to fragmented land holdings under the Villawood Alternative AOS proposal.

Standard C3

159. With respect to Standard C3, Council adopts the evidence of Mr Woodland that the PSP should seek to enable compliance with the standard, and does not support Ms Jordan's view that the open space within the PSP should appropriately be located and distributed for the purpose of servicing residents outside of the precinct. While it is to be expected that residents outside of the precinct may benefit from and utilise services within the precinct, this should not be the primary purpose or aim of the PSP.

³⁹ Planning joint expert statement dated 24 April 2026, section 2.2.1.

⁴⁰ Planning joint expert statement dated 24 April 2026, section 2.4.1.

⁴¹ Planning joint expert statement dated 24 April 2026, section 2.3.1.

⁴² Planning joint expert statement dated 24 April 2026, section 2.5.1.

⁴³ Planning joint expert statement dated 24 April 2026, section 2.5.2.

Distribution of active open space / the matter of the SR-02 — Northern sports reserve

160. The size and location of SR-02, the proposed northern active open space area, is supported by Ms Noesgaard, Mr Sheppard and Mr Woodland.
161. In his written evidence, Mr Campbell included catchment plans showing the 1km radius around active open space facilities in two scenarios:
- 161.1. Option 1: retention of SR-02, also known as the Northern Sports Reserve (**Option 1**); and
- 161.2. Option 2: the Myers Reserve Northern Extension (**Option 2**).

Location of the Active Open Space Reserve (SR-02)

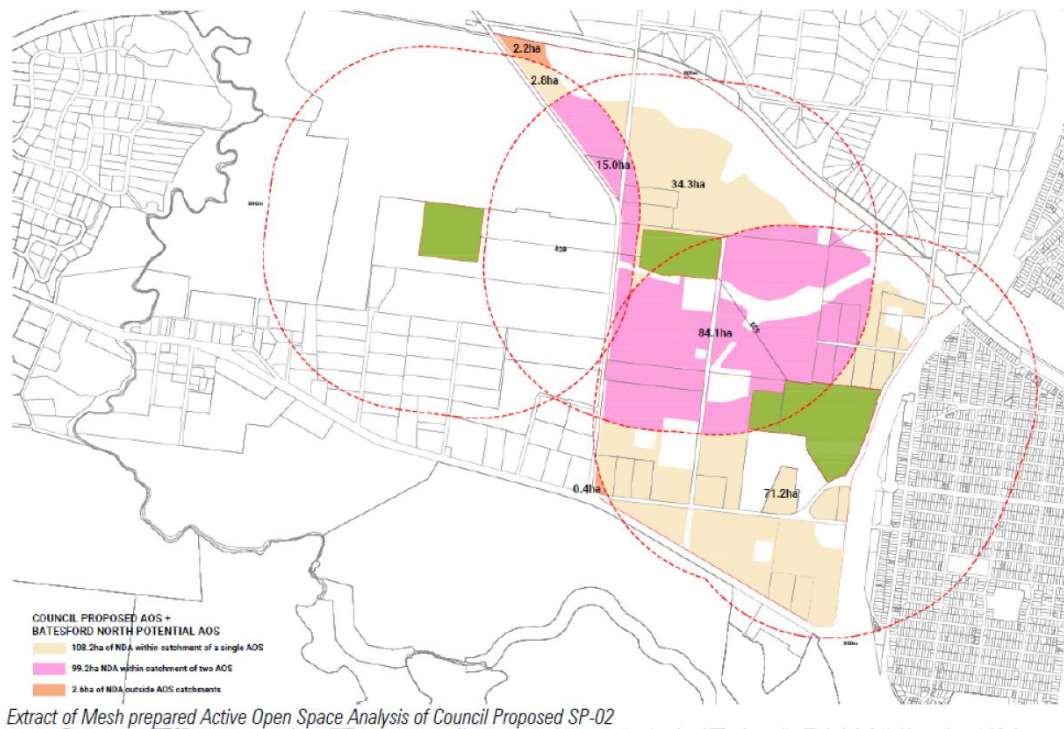


Figure 1: Mr Campbell's analysis of the exhibited PSP active open space catchments (1km radius) (Option 1)

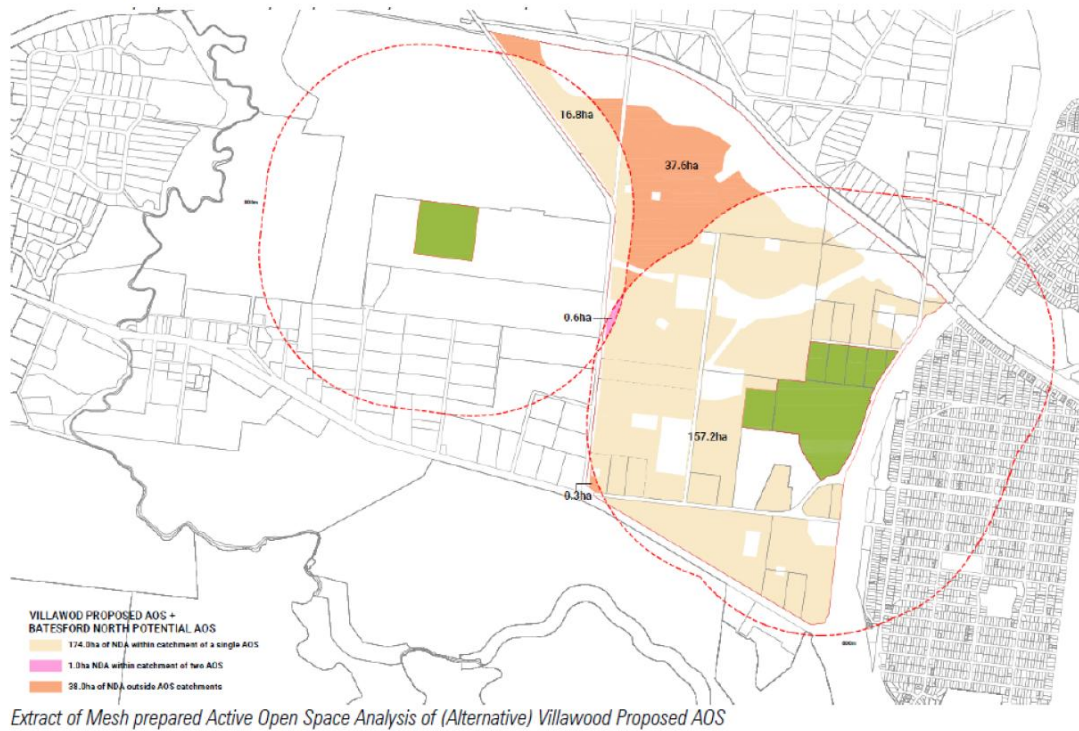


Figure 2: Mr Campbell's analysis of the Villawood proposed active open space catchments (1km radius) (Option 2)

162. In each plan prepared by Mr Campbell, Council understands green denotes the open space, tan the NDA within the 1km catchment and orange NDA outside of any open space 1km catchment.
163. These plans reflect Figure 32 in the Creamery Road PSP Open Space Network Report (CoGG, October 2025), which shows the indicative locations of the proposed active open space reserves in the Batesford North Precinct, extracted below:

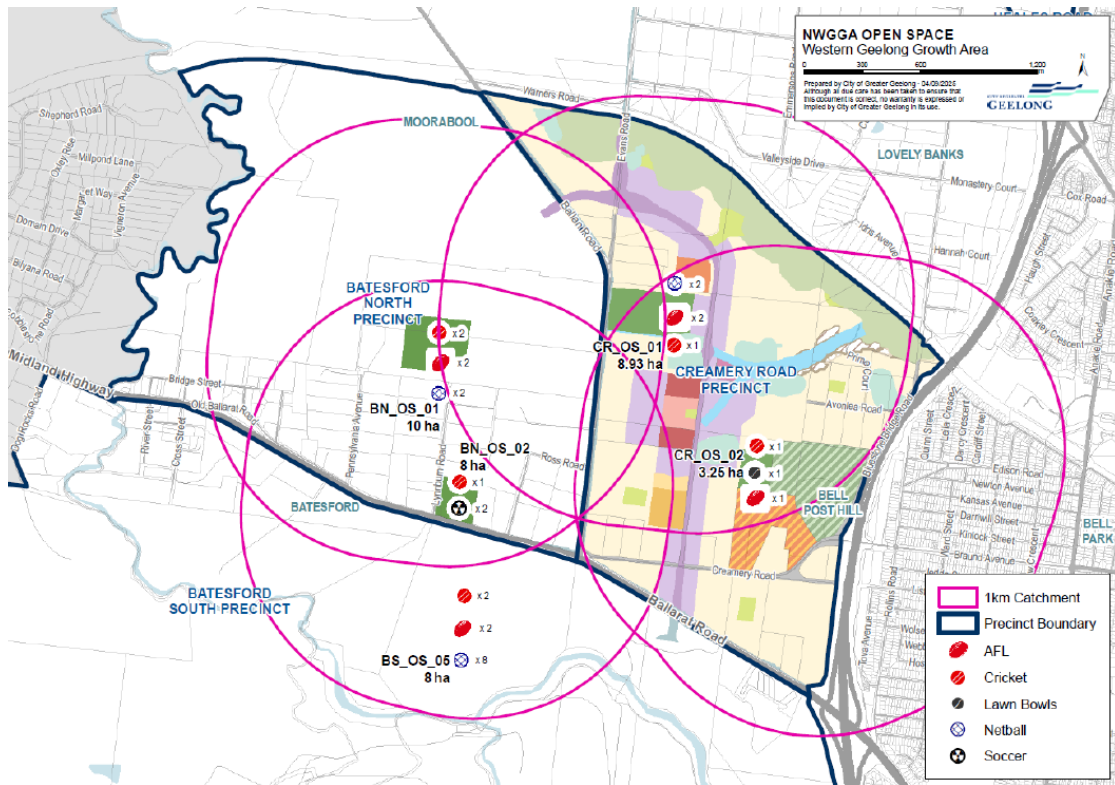


Figure 3: Extracted figure 32 from Open Space Network Report (CoGG, October 2025)

164. Mr Campbell has, in Council's submission, relied in error on these catchment plans to support a position that Option 2 is preferred.
165. First, where Mr Campbell has adopted a 1km catchment radius, Target 12 of the PSP Guidelines recommends calculations on an 800m catchment area in growth area precincts. As a result, adopting the Target 12 catchment areas, the NDA within each catchment area will be substantially less than depicted by Mr Campbell, and NDA outside of the catchments will be correspondingly larger. While Council's own Open Space Network Report also adopts 1km catchments, this demonstrates the need for SR-02 to provide walkable access to active open space for the north-west of the precinct.
166. Secondly, Mr Campbell asserts that because there is some overlap of these catchment areas, the location is inefficient or surplus to the needs of the community. The notion that an overlap of catchments is to be avoided does not make sense. The quantum of active open space for this precinct is calculated to be acceptable for this precinct. The distribution of that open space should be equitable and spread. It particularly does not make sense in circumstances where the Villawood proposal results in a complete overlap of facilities and a catchment that 'serves' a community that is existing and on the other side of a freeway.
167. The Council proposal responds both to the regional suggestion of adapting the distribution of open space to existing features (the eastern extension of Myers Reserve) and to distribution guidelines. Notably, the Villawood proposal is advanced on a premise that includes efficiency gains for Council. Council is advancing the plan to distribute open space across the precinct. The reserves will be under Council's management and it accepts the arrangements. Council flatly rejects the notion that no additional sporting club will establish on SR-02. Is it seriously asserted that this is what happens in metropolitan areas where reserves of the same size establish?

168. Council refutes the position advanced by Mr Campbell on two bases:

168.1. The PSP Guidelines seek to create walkable neighbourhoods. Target 12 aims to maximise the NDA within these walkable catchments (setting a target of 95% of dwellings) and does not concern itself with overlaps. It is not unusual within Greater Geelong for active open space areas to fall within 600-700m and significantly 'overlap' the walkable catchment areas, as shown by the plan at figure 4 below.

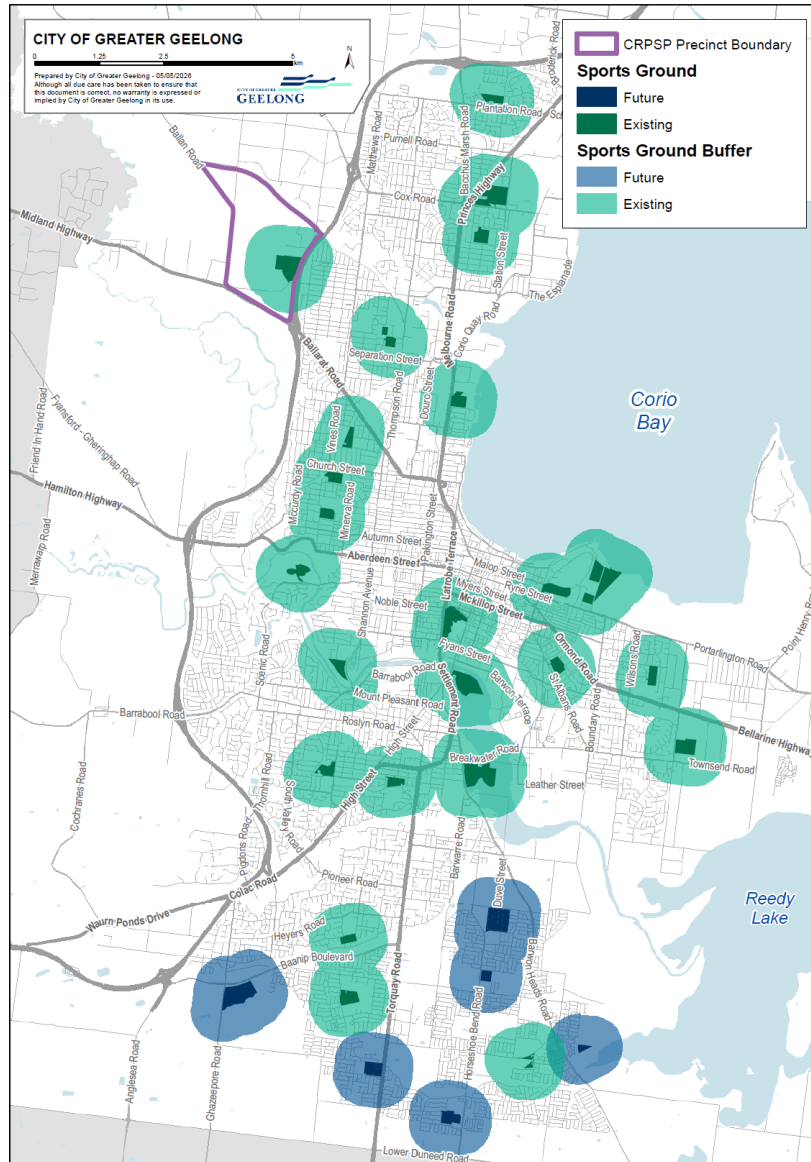


Figure 4: Plan prepared by Council showing 600m radii around existing and future open space.

168.2. Even if overlap of walkable catchment areas was a valid ground on which to oppose the retention of SR-02, the true extent of overlap when adopting the Target 12 800m catchments instead of 1km as adopted by Mr Campbell would substantially reduce this overlap.

169. Council has assessed Options 1 and 2 by applying NDA and dwelling densities proposed within the PSP to ascertain the percentage of dwellings within the catchment areas assessed by Mr Campbell. This approach takes the NDA quantified in the submission and expert evidence and correlates it to the number of affected dwellings and populations.

170. At Table 1 below:
- 170.1. Option 1 (advertised PSP) has been assessed on the basis of the existing 210ha NDA.
- 170.2. Option 2 (Villawood proposal) has been assessed against two cases:
- a. Assuming NDA of 212.5ha as shown graphically at figure 1 above (**Case A**); and
 - b. Adopting NDA of 210ha to enable a like for like comparison with Option 1 percentages, and treating the differential of 2.5ha NDA in Case A as being encumbered for the purposes of comparison (noting, the 2.5ha is removed from the total of land in the 'no access to active open space' category. Council considers this to be a favourable assumption for Option 2 for the purposes of comparison with Option 1. (**Case B**))

Table 1. Percent of dwellings with access to active open space

	Option 1.	Option 2. (Case A.)	Option 2. (Case B.)
Access to any active open space within the Creamery Road Precinct	97.43%	75.14%	75.14%
Access to any active open space (incl. Batesford North Precinct)	98.76%	83.14%	83.14%
No access to active open space	1.24%	18.05%	16.86%
Meets Target 12 of the PSP Guidelines (95%)	Yes	No	No
Total NDA	210ha	212.5ha	210ha

171. Notwithstanding the discussion above in relation to Target 12 of the PSP Guidelines, both Option 1 and Option 2 have been assessed using a 1km catchment area to keep consistent with the assessments done by Villawood and Mr Campbell.
172. The calculations in Table 1 show that should Option 2 be adopted and should the Batesford North active open space facility remain in its indicative location, up to 83.14% of dwellings in Creamery Road Precinct will be within a 1km catchment of an active open space facility, in both Case A and Case B. This leads to an outcome in which upwards of 16.86% of future dwellings in the Creamery Road Precinct will not be within 1km of an active open space facility. Council considers this is unacceptable.
173. Further, the confirmation of the location, size, and catchment of an active open space facility in the Batesford North Precinct is a matter that will be determined during the preparation of the relevant structure plan in the future. The precinct cannot and should not be reliant on indicative locations of facilities or services external to the precinct to meet its needs.
174. Excluding the indicatively located open space within the Batesford North Precinct, the guaranteed percentage of dwellings within a 1km catchment of active open space in Option 2 (Case A and Case B) falls to just 75.14% — nearly 20% short of Target 12 in the PSP Guidelines.
175. Conversely, excluding consideration of the indicative Batesford North active open space facility location, Option 1 provides 97.43% of dwellings in the Creamery Road precinct with access to active open space within 1km. This 22% differential translates to up to an additional 924 dwellings with walkable access to active open space when compared with Option 2 in the same scenario, equivalent to at least 2,585 future residents.
176. Council notes that, calculated based on Mr Campbell's graphics at figure 2, the catchment of Myers Reserve (assuming western extension only) provides access to approximately 155.3ha of NDA. Assuming the Villawood proposed northern and western Myers Reserve Extensions, that catchment increases only to approximately 157.8ha of NDA. While being of a comparable size to the Northern Sports Reserve, the Villawood proposal would only deliver

an increase to the active open space access catchment by an additional 2.5ha of NDA compared to an option without the proposed Myers Reserve Northern Extension.

177. Meanwhile, the Northern Sports Reserve provides access for approximately 34ha which are not within the catchment of Myers Reserve or the proposed indicative Batesford North active open space location.
178. The provision of 8+ hectares of active open space adjoining Myers Reserve to the north will provide access for only an additional 2.5ha, or 50 dwellings, while the provision of the same relative area of open space in PSP proposed location at SR-02 will provide access for at minimum an additional 34.3ha, or 686 dwellings that would not otherwise fall within the Myers Reserve catchment or the proposed indicative Batesford North location.
179. Council expects that significant weight will be placed by Villawood on the 'opportunity' identified at Page 74 of the PSP Guidelines which include to:
- Enhance and optimise the role, function and use of existing open space land (for example, existing sports reserves within the catchment) and encumbered land to be set aside for natural systems (for example, conservation, waterways) landscape values or utilities easements.*
180. It will not be lost on the parties that the Council plan already does this through the eastern extension of the active open space. The difference is that the Council plan does not seek to put all of its eggs into a single basket. It prioritises both enhancement of the existing facility next to Covenant College and seeks to achieve a broader distribution of active open space across the precinct.
181. The position advanced by Villawood in respect of the open space has received careful evaluation in the background Creamery Road Open Space Report. While the indicative locations consider that there may be some limited overlap from future, but not yet planned facilities in Batesford North, strategically the Council has considered and adopted an approach that each precinct must provide its own requirements. For example, at Page 71, the background Creamery Road Open Space Report states:
- While some of these gaps may be partially addressed by future active recreation facilities in the Batesford North Precinct, the contribution is expected to be limited. Furthermore, it is important to note that the use of a simple radius based accessibility measure tends to overstate actual access. Once the site is developed, true accessibility, based on the road and footpath network, is likely to be lower than indicated in this assessment. Each PSP will ensure that it maintains adequate provision to meet its own populations recreational needs.*
182. The available materials demonstrate that the separation of the Northern Sports Reserve from Myers Reserve provides much greater access to active open space within the precinct through the provision of a substantially similar area of open space in a superior location.
183. Council also rebuts the assertion that Myers Reserve provides meaningfully superior access for schools to active open space. Such access is unchanged regardless of the option or scenario adopted. Covenant College will enjoy direct access to Myers Reserve, while the new school will need to travel to the Northern Sports Reserve or Myers Reserve in either scenario. There is an abundance of land at Myers Reserve which will be improved under the master planning exercise.
184. The Committee walked the short distance to the western extension of the Myers Reserve. It is entirely appropriate.
185. Suggestions that the football oval is insufficiently close to the pavilions are again either wrong or overstated. The distance is approximately 200 metres from the uncontested western extension of Myers reserve to the main pavilions. Regardless of which plan is adopted, pavilions would be required to independently serve the northern extension.

186. Similarly, the concept that there will be an overwhelming benefit for parents dropping off multiple children at the same ground appears sound until scrutinised. The reality of this will be completely dependent on multiple children in the family having sporting events at the same ground, at the same time, not playing away from home etc. This argument sounds logical but in reality the benefit will be limited. This is the Council's open space and it has determined to prioritise access and locational benefits for all of the community over any minor efficiencies that may or may not arise.
187. The Council has advanced a sound and careful open space strategy that is supported by the independent evidence of Mr Woodland and Mr Sheppard as being superior. The experts for Villawood agree that the location is at least acceptable. There is no need, or justification to relocate SR02 to Myers reserve.
188. The proposed relocation of the active open space to the north of Myers Reserve would create significant implementation difficulties with realising that open space, and would give rise to inequities.
189. Under the Villawood plan, Properties 24–28 would be entirely lost from development. That is, 100% of their Net Developable Area as identified in Appendix A1 and the Property Specific Land Use Budget would be lost. This is an unfair outcome for those properties. Council has submitted plans which illustrate that development of these parcels is possible in accordance with PSP densities. The plans presented are mock-ups — they are not the only way development could proceed — but they are one way that demonstrates road and housing could be delivered.
190. By comparison, the proposed Property 12, with an area of 36.968 hectares, will retain a Net Developable Area of 22.794 hectares with SR-02 delivered. It is a large parcel that will be delivered for housing. This will result in the earlier vesting of the active open space to serve the community in a location where development is likely, based on what is understood to be developing in the early stages of the precinct. This is important, and it is fair.
191. The draft Amendment does not include the imposition of a Public Acquisition Overlay, and Council does not support one. The evidence of Ms Jordan confirms that the costs in the DCP will not cover any future compulsory acquisition, as it relates to land value only. Of course, it is possible, albeit difficult, lengthy and costly, to coordinate the realisation of the Villawood proposal. However, it is not the preferable outcome. 'Not insurmountable' does not mean easy. In fact, it is likely to be a difficult planning process over fragmented land.

I. ENVIRONMENTALLY SUSTAINABLE DESIGN

192. On the issue of ESD requirements, Council relies on the evidence of Ms Keddie.
193. It is a strategy at Clause 11.02-2L to:
- Ensure urban development delivers carbon neutral neighbourhoods.*
194. Ms Keddie has a long history in the matter having prepared background information in respect of the draft Amendment. It is not understood, at the time of writing, the extent to which Ms Keddie's evidence is challenged nor the precise changes to the PSP and ordinance that parties continue to pursue.
195. Council considers that it has struck a balance with the draft amendment that is appropriate and implementable. Ms Keddie's evidence suggests the use of design guidelines as one mechanism by which ESD matter can be implemented at the lot scale and the Council agrees.⁴⁴ Council's submissions attach an example of a design guideline which includes a sustainable design section which could be adapted to achieve lot scale implementation.

⁴⁴ Such examples include Schedule 47 to the DPO, Jetty Road Part 2, Exhibited Ballarat North PSP, G45 and Marshall PSP G50-A.

196. Amendment C376 to the Melbourne Planning Scheme Panel Report considers the inclusion of the various ESD initiatives in the Melbourne Planning Scheme advocates for some matters that go beyond the current requirements of National Construction Code. The Panel in C376 stated:

The NCC standards are applied at the National level, and the ability for the City of Melbourne to deliver outcomes at a local level is very different from those which might exist elsewhere, for example, at a regional level. The Amendment will deliver ESD and sustainable transport objectives which are tailored to the specific context and needs of the municipality.

Where a development meets the DDO73 requirements and standards, it will also satisfy the relevant NCC standards (where there is an overlap in subject matter). This should not result in any confusion or unnecessary duplication.

It is appropriate that the Planning Scheme is able to build upon and improve standards set by the NCC and there is nothing that prevents a planning authority from requiring buildings to achieve performance standards that exceed the NCC requirements.

197. However, C376 is different in substance to the draft Amendment. Council considers the approach of the Panel in that matter should provide a level of comfort about what Council is endeavouring to achieve in the present matter supported in this instance with specific work relating to the Creamery Road precinct and supported by gazetted planning policy. It is a different circumstance to the Marshall PSP where the Panel did not support ESD initiatives.
198. Council notes the zero carbon operational energy plan referenced in the PSP is a basic plan which serves as a trigger for a relevant applicant to consider how they will contribute to zero carbon outcomes. It is not intended to be an onerous report or a process that requires significant resourcing or legal drafting.
199. In fact, the opposite — the provisions ask only for a response, which can be populated in house by the applicant using the guidelines and templates prepared by Council. Council has no intent to monitor or lock developers in with agreements in relation to zero carbon matters. The only outcome Council pursues through this plan is a demonstration the applicant has considered zero carbon approaches in their development.

J. DRAINAGE

Conversion of WLRB7 TO SB07

200. In principle, Council does not oppose the conversion of the WLRB7 wetland asset to a sediment basin, designated SB07.
201. The experts are unanimously agreed that this conversion can occur without prejudicing the overall treatment performance for the PSP land. Council accepts in principle that while the Melbourne Water MUSIC Guidelines 2024 do not account for nitrogen removal in the modelling process for a sediment basin, as a matter of fact some removal will occur through nitrogen attached to sediment.
202. Accepting that principle, the remaining question is one of detail — specifically, the appropriate size and cost of the asset for the purposes of the DCP.
203. The Creamery Road Day 0 PSP nominates a drainage reserve of 2.14 hectares for the WLRB7 asset. Mr Craigie's evidence is that the original Alluvium asset concept envisaged a reserve area of 1.6 hectares, but when properly accounting for embankment battering the actual reserve requirement for WLRB7 as a wetland would be at least 2.3 hectares. Against

that context, the conversion to a sediment basin offers a sensible optimization in drainage reserve land-take.

204. Ms Barich proposes a sediment basin with a drainage reserve size of 1.27 hectares. Mr Craigie's evidence estimates the total land take at approximately 1.385 hectares, comprising 0.285 hectares within Property 20 and 1.100 hectares within Property 21. The conclave statement records agreement that the land-take for the SB07 asset should be reflective of the revised design as stated in the evidence of Ms Barich. Council does not accept this position.
205. Arising from cross-examination, Ms Barich's MUSIC model and concept plan (Documents 77a–d) were provided and are under review by Water Technology on behalf of Council. That review has been in the context of Council seeking to achieve appropriate outcomes within optimized areas. Water Technology has raised concerns with the sufficiency of Ms Barich's 1.27 hectare footprint. The basin battering has only been designed with no embankment battering outside of the volume required for detention. The base allowed for the sediment basin area and dry-out area is very tight, with no areas provided for access tracks and turn-around areas. In short, it is a conservatively small footprint that leaves little room to move for variances that might arise during design development.
206. Council's position is that a slightly larger asset size is warranted for the DCP but one that is smaller (and less expensive) than the consultation draft asset. Additional space is required to allow for the inclusion of ancillary assets including access tracks, battering, and turn-around areas.
207. Council submits it is far easier to reduce an asset footprint at detailed design stage than it is to require a larger asset and the consequential removal of net developable area through the permit process. Council considers that the appropriate footprint is likely to be slightly larger than the 1.385 hectares advanced by Mr Craigie, which will in turn reduce the cost of construction compared to the consultation draft of the DCP and increase, by a modest amount more than 0.5ha, the net developable area within the precinct.

WLRB6

208. Council's preference is that WLRB6 remains on the land controlled by 305 Bat Pty Ltd (**305 Bat**) and that, if feasible, the asset drains to the Geelong Ring Road reserve. This is likely to be a more cost efficient means of delivering drainage compared to the outfall pipe along Bluestone Bridge Road.
209. The expert evidence of Mr Holmes of Spiire raises concerns regarding the costing of the proposed outfall pipe along Bluestone Bridge Road. That evidence suggests that the costings presently adopted in the DCP are insufficient to reflect the complexity of construction within an existing road reserve subject to multiple constraints, including depth of excavation (up to 6 metres), existing services, overhead power, vegetation and road reinstatement requirements. Mr Holmes recommends that the DCP allowance for WLRB6 be increased from approximately \$3,797,000 to \$4,774,000, representing an uplift of approximately \$976,000.
210. Council does not adopt this increase — it is not clear that Mr Holmes' calculations do not include costs that should otherwise be managed through the existing project contingency.
211. Council understands that Creo Civil and the relevant expert are intending to meet or have met to discuss the costings of the outfall in the event that the outfall along Bluestone Bridge Road is ultimately required.
212. Council accepts the proposition that it is desirable for the WLRB6 asset to remain on the 305 Bat land (properties 43, 44 and 45) to ensure that the submitter can control the timing of development of its land. Council agrees that retention of the asset on the 305 Bat land enables 305 Bat to manage the sequencing of its own development without dependence on third-party land. This is consistent with the desirability of infrastructure delivery being within the control of the party responsible for that delivery and avoid the situation where Council

must intervene in the process through land acquisition. As a matter of equity, it also avoids sterilizing the parcels to the north at properties 41 and 42.

213. Council therefore opposes placing the retarding basin on properties 41 and 42.
214. Mr Craigie's evidence appears to recognize that the drainage preference on this issue may need to be compromised for other orderly planning matters.
215. Council acknowledges Document 72, being the as-built plans for the Geelong Ring Road drainage system, and the evidence of Mr Craigie on this topic. Mr Craigie's evidence is that the existing natural catchment outfall from WLRB6 is via a swale going north from the east end of Bingley Court to a large deep grille pit at the Creamery Road crossing of the Geelong Ring Road discharging into the Ring Road drainage system. Mr Craigie's strong opinion is that the existing Creamery Road pipe outlet to the Ring Road should be used if feasible. Council agrees.
216. Council agrees that discharge into the Ring Road reserve is an appropriate outcome if it can be realised at a lower cost than the Bluestone Bridge Road pipe option. To this end, Council has met with the DTP and is working cooperatively with DTP to facilitate assessment of this option.
217. This will firstly involve the preparation of a design. Council understands that Mr Holmes and/or Mr Craigie and Creo are working on this with an objective of presenting a design to Council. Once reviewed by Council, this design will be submitted to DTP to ensure that the design is appropriate having regard to the existing Ring Road drainage infrastructure, or that infrastructure as augmented.
218. There are therefore two options on foot. The first and preferred option is discharge into the Geelong Ring Road reserve, which on Mr Craigie's evidence is the existing drainage situation for the WLRB6 catchment. In the alternative, there is a need for verification of the costings of the DN900 pipe along Bluestone Bridge Road as addressed in Mr Holmes' evidence.
219. Council does not expect this matter to be completely resolved during the hearing process, but the direction is clear and Council will continue to finalise a suitable outcome for the drainage outfall for WLRB6. Council will be pursuing an option that achieves the best optimisation of this cost.

Bisinella Developments

220. This response addresses the submission on behalf of L. Bisinella Developments Pty Ltd, the owner of land at 30-35 Avonlea Road and 165 Bluestone Bridge Road, Bell Post Hill (the **Bisinella Land**). The Bisinella Land comprises approximately 20 hectares in the north-eastern corner of the Creamery Road Precinct.
221. Council notes that the submitter has only involved itself in the evidence period of the hearing through the drainage matters. Council further notes that the submission raises other issues, however in the absence of an opening submission it is not possible to understand what issues remain in dispute until the submitter delivers its submissions. Council anticipates that the issues in dispute are relatively narrow.

Drainage

The Drainage Strategy

222. Council acknowledges that the drainage strategy for the draft Amendment comprises a range of documents, including work undertaken by Alluvium Consulting Australia Pty Ltd, Mr Craigie, Creo Pty Ltd and Water Technology Pty Ltd. Council proposes an updated definition

within the PSP to clarify what is meant by references to the drainage strategy by reference to the above materials.

Treatment of the Bisinella Land

223. Council acknowledges that the primary treatment of the Bisinella Land includes areas to be managed by gross pollutant traps (**GPTs**) rather than retarding basins, on the basis that an overall treatment outcome for the Precinct is achieved. The Alluvium 2024 report identifies that parts of the Bisinella Land are denoted as local isolated catchments or associated with Catchment GPT01, which are proposed to only be serviced by GPTs prior to discharge to the outfall.
224. To the extent the evidence of the submitter suggests that not all potentially developable land within the holding can be served by proposed DCP-funded GPTs or assets, then further GPTs will comprise developer works. To this extent, Mr Hundt was not able to particularise or identify areas, absent future detailed design that would support additional assets within the DCP to service the land. Mr Hundt's evidence acknowledges that the Alluvium reports take the view that the areas involved are small in nature and have little impact on the overall Development Services Scheme.

EPA Publication 1739.1

225. Council relies on its Day 1 PSP drafting of the drainage provisions of the PSP, which include consideration of EPA Publication 1739.1 (Urban Stormwater Management Guidance, June 2021). The Council position does not elevate consideration of these guidelines above their role in the manner suggested by the submitter.
226. Publication 1739.1 is expressly stated not to be a compliance document and does not impose compliance obligations. It is guidance designed to provide information to help duty holders understand their obligations under the EP Act and subordinate instruments. The guidance itself states that it '*contributes to the state of knowledge — the general body of knowledge about the harm or risks of harm to human health and the environment, including the controls for eliminating or reducing those risks.*'⁴⁵ Council's inclusion of consideration of this publication in the drainage provisions of the PSP reflects an appropriate acknowledgement of the contemporary material, noting that through detailed design parties may elect to provide alternative solutions to the DCP funded solutions that require consideration of how assets respond to the guideline.
227. The Council awaits the submitter's proposed drafting.

Other Issues

228. Council notes that the submission raises a number of other issues beyond drainage, including matters relating to the Cowies Creek Conservation Area, staging, development feasibility, affordable housing, ESD requirements, acoustic reports, the Biodiversity Strategic Assessment, and geotechnical assessments. In the absence of an opening submission from the submitter, it is not possible to understand what issues remain in dispute until the submitter delivers its submissions. Council reserves its position in relation to those matters accordingly.

Yi-Sheng Investments

Part 9 Approval and Excision from the Strategic Assessment

229. Council acknowledges the approval obtained by the submitter under Part 9 of the EPBC Act (EPBC 2023/09498) in respect of the land at 200 Ballan Road, Moorabool (**Part 9 Approval**). The effect of this Part 9 Approval is that the submitter's land will be excised from the Part 10 Strategic Assessment under preparation by Council under the EPBC Act. As a consequence,

⁴⁵ EPA Publication 1739.1, p 5.

Council will not have funds to manage the offset area unless other arrangements are made with the submitter.

230. There are three issues that arise in respect of the submitter's land. These are:
- 230.1. The implementation of the Part 9 Approval, which on the evidence contemplates a mixed offset and stormwater treatment asset to be vested in Council;
 - 230.2. The treatment of Victorian biodiversity issues; and
 - 230.3. Practical matters of implementation.
231. Each of these is addressed in turn below.

Implementation of the Part 9 Approval – Ongoing Conditions

232. The Part 9 Approval has effect until 31 December 2050. It includes substantial ongoing conditions relating to the following matters:
- 232.1. Reporting requirements: There are substantial obligations under the approval including that the approval holder must prepare an annual compliance report for each Annual Compliance Report period, including details of compliance and non-compliance with each condition and all commitments made in each plan. An independent audit of compliance with the conditions must be conducted for every three-year audit period.
 - 232.2. Offset management: Prior to commencement of the action, the approval holder must submit an Offset Management Plan (**OMP**) for approval by the Minister and works must not commence the action unless the OMP has been approved in writing. The approval holder must continue to implement the approved OMP at least until the expiry date of the approval (31 December 2050) and as confirmed by Mr Organ, those obligations would pass to the Council as it is intended.
 - 232.3. Vesting requirements: The approval holder must not vest the area unless the Minister has approved in writing the proposed transfer. The conditions expressly contemplate that the entity to assume responsibility for the Offset Area may be the City of Greater Geelong Council. In the case of a dual purpose asset there is no logical alternative.

Council's Position on the Dual Purpose Stormwater and Offset Asset

233. Council's preliminary view is that it is unlikely to support delivery of and vesting of a dual purpose stormwater and offset asset such as that described by Mr Organ. There are several reasons for this.
234. First, as agreed by Mr Mathios, the arrangement is unusual and unlike the types of GGF offset assets he has designed in the Melbourne Strategic Assessment area. Council accepts Mr Mathios is an experienced engineer within established growth area precincts. His evidence addresses the design of WLRB8 as a conventional stormwater treatment asset, and his proposed concept design is directed at reducing the footprint of that asset while maintaining hydraulic and treatment performance. The proposed arrangement of a combined stormwater treatment and ecological offset function is not consistent with the types of drainage infrastructure that form the basis of his experience or his evidence.
235. Second, it is inconsistent with the Growling Grass Frog Habitat Design Standards (DELWP, 2017). The Habitat Design Standards are a document referenced in the conditions of the Part 9 Approval, which requires that the Growling Grass Frog Construction Management Plan be consistent with them. The Habitat Design Standards are clear that Growling Grass Frog wetlands are a usually distinct asset from stormwater wetlands. The standards expressly state that they '*do not provide design specifications for stormwater wetlands or other types of*

waterbodies such as lakes built for amenity purposes, but may provide useful advice in cases where the proponent wishes to provide Growling Grass Frog habitat as a secondary objective.⁴⁶ Figure 1 in the Habitat Design Standards depicts Growling Grass Frog wetlands as separate and distinct features from stormwater wetlands within a conservation area.

236. In relation to the use of treated stormwater as a water source for Growling Grass Frog wetlands, the Habitat Design Standards consider the use of treated stormwater for habitat, not untreated stormwater. The standards identify that treated stormwater is *'likely to contain predatory fish', 'may be high in nutrients and contaminants'* and is *'relatively fresh (non-saline) so may be less effective for reducing the incidence of chytrid'*.⁴⁷ The standards further note that *'Stormwater treated to current 'best practice' standards may still contain levels of nutrients that promote a proliferation of undesirable plants or algal blooms, particularly in the warmer waters required in 'anti-chytrid' wetlands'*.
237. Critically, the Habitat Design Standards contemplate that Growling Grass Frog wetlands may receive treated stormwater as a water source (delivered to the wetland from a separate treatment asset), not that the Growling Grass Frog wetland should itself function as a stormwater treatment asset.
238. In summary the language of the Habitat Guidelines suggests a drainage asset with its own primary function and GGF wetlands that may receive drainage output.
239. Third, the Offset Management Plan provided (the Growling Grass Frog Conservation Management Plan prepared by Ecology and Heritage Partners, July 2024) does not disclose or adequately describe a dual purpose pond in the manner suggested by Mr Organ that would support breeding habitat. The Conservation Management Plan describes the stormwater facility as a separate feature, noting that *'[c]urrently, a stormwater facility is proposed for the area to the west of Cowies Creek in the northern extent of the study area'*. It describes the stormwater treatment pond as an asset that will *'decrease the velocity of the water moving through the corridor and allow suspended particles to settle out of suspension'* with *'[s]tormwater will be initially treated within a primary stormwater wetland facility before discharging into the Growling Grass Frog habitat corridor'*.⁴⁸
240. Indeed, Mr Organ's conclusions in his evidence state that that *'The priority for the protection and enhancement of Growling Grass Frog habitat within the Project Area is to ensure instream habitat conditions are enhanced (Offset Area 1) and the proposed stormwater wetland and off-stream habitat (Offset Area 2) are suitable for future breeding opportunities by the species.'*⁴⁹

Dedicated Stormwater Asset and DCP Funding

241. Satisfaction of the Part 9 Approval is beyond the scope of this Committee. However, Council's position in respect of the approval has spatial implications for the PSP.
242. Council will require a dedicated stormwater asset outside of any offset area that does not add to its maintenance obligations. Accordingly, WLRB-08 should be identified within the area marked for residential development on the Part 9 Approval plan. The stormwater asset will be funded through the DCP for both construction and land as is presently the case in the DCP. Like other drainage assets (and the current depiction of the asset) the PSP will not identify the asset land as developable.
243. Council does not wish to assume maintenance obligations that combine a complex ecological offset (with Commonwealth reporting, monitoring and audit obligations extending to 31

⁴⁶ At p 5.

⁴⁷ At p 15.

⁴⁸ Draft Offset Plan, Ecology and Heritage Partners (2024), at 25.

⁴⁹ Document 48, p 16.

December 2050) with a conventional stormwater treatment function performed by the drainage authority.

244. In the event that the Committee is to support the submitter's position in relation to the draft Amendment and that all of the requested land is identified as developable, that land will be included within DCP land use budget. If Council then does not ultimately accept the asset in the location of the offset and the stormwater asset is required to be located within the residential area, a DCP levy will still be charged for this land to avoid a shortfall in the DCP. The DCP charges levies in accordance with the tables in the DCP identifying Net Developable Area.

Victorian Biodiversity – Clause 12.03-1S Setback

245. In respect of the second issue concerning State biodiversity, Council notes that the policy guidelines in Clause 12.03-1S of the Planning Scheme support a setback from waterway systems. The policy guidelines state: '*Locating development a minimum of 50 metres from the banks of waterway systems*'. However, the EPBC Act approval does not displace State planning policy. Clause 12.03-1S is a policy of the Planning Scheme and is a relevant consideration in the exercise of any planning discretion in respect of development on this land.
246. Council supports the application of this 50 metre setback from the top of bank of Cowies Creek in accordance with the Planning Scheme. This will result in a marginal reduction in the developable land area compared with that contemplated under the Part 9 Approval, which is understood to apply a 50 metre setback from the centreline of the creek.

Practical Matters — Access and Left In – Left Out Arrangements

247. Lastly, on practical matters, Council does not object to the identification of an arrow indicating an access area for the north-eastern part of the land in the event that the land is identified as developable.
248. Council does not support the application of left in left out locational arrows on the Clever and Creative Corridor (**CCC**), which is a matter for detailed design to be determined at the time of a permit application having regard to traffic detailed design and the state of development of adjacent land. While occasionally a left in, left out arrangement is supported in Precinct Structure Plans, equally it is not the usual approach. These are matters properly deferred to detailed design at the planning permit stage. The common approach is that adopted in the Sunbury South and Lancefield Road PSPs where the Panel rejected a proposal for a left in left out arrangement.⁵⁰
249. A 20 metre conservation interface road (or alternative) will need to be delivered in the developable land around the offset area) and creek environs (north and south) in accordance with Requirement 7 of the PSP. Where a shared path is not required, this can be replaced with a grassed vegetated buffer.
250. Council does not support Mr Mathios' revised drainage design as it relies upon the offset footprint under the Part 9 Approval. The PSP should proceed with an asset sized and costed in accordance with the draft Amendment.
251. Council acknowledges that updates to the PSP and DCP that arise from this submission are:
- 251.1. Drafting to acknowledge that the provisions of the UGZ7 relating to the Part 10 Approval do not apply to other EPBC Act approval holders (e.g. approvals granted under Part 9 of the EPBC Act).
 - 251.2. Increases in the NDA of the precinct.

⁵⁰ Hume Planning Scheme Amendments C207 and C208 Panel Report at 5.3, from p 129.

- 251.3. Identification of notations within the PSP for access to the northern parcel.
252. Council is preparing updated drafting in this respect for circulation and will consider the submissions of the submitter in finalising this position.

Use of section 173 agreements

253. Council opposes the position of the stormwater and hydrology conclave on the use of section 173 agreements under the Act for interim drainage arrangements.
254. The conclave's agreed opinion 14 states that *'the reference to a section 173 agreement in relation to interim drainage solutions as stated in requirement R100 of the PSP Day 0 (9 April 2026) should be removed as a S173 is not required for an interim drainage solution.'*⁵¹ The conclave further stated, at agreed opinion 15, that if the requirement for a section 173 agreement *'is not removed from R100 of the PSP Day 0 (9 April 2026), it should be reworded as per the evidence of Mr Holmes.'* Mr Holmes proposed the following revised criteria:

The asset must be delivered through an agreement made under Section 173 of the Planning and Environment Act 1987 unless it can be justified it is sequencing of ultimate infrastructure. The proposal shall aim to comply with the best practice requirements or as agreed by the relevant authority.

255. While the position of opposing such agreements was universally held among the conclave witnesses, Council considers that the answers given in cross-examination provided a fair acknowledgement of the advantages of a section 173 agreement to secure appropriate management and removal of assets.
256. Interim assets require active management by the developer and can remain in situ for many years. It is important that interim assets are appropriately regulated to provide certainty that they are removed at a stage of development when there is sufficient balance land to develop, that obligations for management run with the land, and that maintenance and rehabilitation occur. This is particularly important in the context of subdivision permits, where the regulatory mechanism that would otherwise govern such obligations may no longer be operative.
257. The imposition of an agreement requirement for this purpose is not, in fact, onerous. Agreements can be prepared relatively inexpensively and can be drafted such that they fall away from child lots as stages of development progress. The administrative burden is therefore proportionate to the risk that an unregulated interim asset poses to Council and the broader community.
258. Council submits that these agreements are an important means of protecting both Council and the community where a concession to deliver, or a need to deliver, an interim asset arises — for instance, in respect of land tenure arrangements that may necessitate an interim solution.
259. The conclave itself acknowledged in agreed opinion 16 that *'temporary / interim works that form part of an ultimate drainage asset can be funded by the DCP, and that requirement R100 of the PSP Day 0 (9 April 2026) should be reworded as such.'*
260. Section 173 agreements provide the most appropriate and reliable mechanism for ensuring that obligations attach to the land and endure beyond the life of any individual permit or approval.
261. Council's position in respect of the active open space locations, the other matter raised in this submission, remains unchanged and is discussed elsewhere above. Council supports retention of SR-02 in the advertised location and size.

⁵¹ Document 65.

K. TRANSPORT MATTERS

262. In this matter the transport conclave is detailed. Council has recorded its response to the conclave findings in the attached document.
263. Council observes the proposal of Villawood to include or replace the Council Complete Streets package with its own alternate package. Council agrees with Mr Walsh that the Villawood Package contains more detail than normal and in Council's view it is more than is necessary. Mr Walsh observes that the Council package is acceptable.
264. Of the two approaches canvassed with Mr Walsh to manage street formations, Council prefers the approach that provides for greater flexibility in the control provision, R25 of the PSP, compared to the heavily detailed approach of the Villawood Street package.
265. R25 provides:
- The design of subdivisions must be consistent with the movement network nominated in Plan 12 Street Network and must only utilise alternative street cross sections in accordance with Appendix 3.1 - Table 18 Street Types & Attributes and Appendix 3.2 Street Types & Cross Sections, to the satisfaction of the responsible authority.*
266. Council is considering a redrafting of this provision to make it clear that there is a discretion to adopt alternative cross sections where appropriate rather than mandating the strict application of the cross sections. While arguably the words '*to the satisfaction of the responsible authority*' provide some flexibility, its scope is not sufficiently clear.

L. DCP MATTERS

267. Council submits that the overall DCP cost is appropriate. While open to optimisation where possible, the Council does not consider the DCP requires wholesale change. Council spent some time examining Mr Shipp and in particular his illustrative materials indicating the proposed cost of the DCP against other DCPs. Mr Shipp agreed that the Melbourne development market is more closely aligned with the Geelong market than other more regional locations.
268. The ICP system commenced in 2016. Since that time a different contribution regime has evolved in Melbourne, being one that emphasises a capped contribution rather than full cost contributions, together with various standard levies. In Melbourne, drainage is not included in contributions as it is managed by Melbourne Water, although Council agrees that Mr Shipp took account of this fact.
269. What this means is that there are no recent comparable DCPs in the most comparable market. In effect, there have been no greenfield DCPs in Melbourne for 10 years. While an exercise in indexation to compare historic DCPs is interesting, Mr Shipp agreed that, as a generality, the gap between DCPs and cost coverage widens with time.
270. So what does the Committee do with the evidence on this matter? Council is certainly not submitting it is irrelevant — just that it is not like for like. To that extent it is not a useful comparator. The DCP has been reduced, carefully, by the exclusion of a number of eligible projects to manage costs. At this point, outside of a change to the treatment of IN07 and the BR01 project in Batesford South, there is no argument with the projects included.
271. Mr Shipp indicated that he would like to see costing information that has been prepared better referenced and implemented into the DCP. Council agrees with this constructive suggestion and invites a recommendation that the appendices to the DCP document be updated accordingly.
272. On the issue of community facilities, the Council submits that the projects have been costed through the background work undertaken by Hill PDA. The issue in dispute is that areas of the

single community facility are said to be too large. Mr Shipp's evidence, based on all of Geelong data, is not necessarily representative of growth areas and that demographic. The Council prefers the arrangements that it has advanced with respect to community facilities and requests that the Committee endorse its position of a 1.3 hectare facility supporting a Level 2 community centre.

On Bridge BR-01

273. Council has considered the submission from the McCann family on the scope of the referral to the Committee as it relates to BR-01. The referral letter dated 1 March 2026 refers specific matters relating to the DCP to the Standing Advisory Committee. On the topic of the DCP, the referral asks:

*Whether the following matters in the exhibited DCP are appropriate: · Project costings
· Intersection and road designs · Apportionment of BR-01 (Batesford South PSP
bridge) · Overall rate of the Development Infrastructure Levy*

274. The referral letter states:

Referral of specific matters

To support an efficient and timely hearing process, I have decided to refer specific matters listed in the attachment to this letter to the committee for consideration and advice. The specific matters are consistent with the key issues identified by the council in its review of submissions. The committee only needs to consider submissions and the council's response to the extent that they address specific matters of referral.

275. Where the Minister intended to exclude items from the Committee's consideration, the referral letter does so. The referral addresses only the apportionment of BR01. To this extent, the submissions and evidence led by Villawood, and to a lesser extent by the McCann family, appear to go to the form of the project itself and whether or not it should be included in the DCP, rather than the narrower question of apportionment.

276. Council considers that the better view is that the scope of this Committee's role is confined to the issue of apportionment. The Committee should therefore provide the Minister with advice on this issue and is not required to formulate a concluded view on issues concerning the form or quantum of the bridge project itself.

277. On the issue of apportionment, Mr Shipp prefers a net developable area approach, while Council relies on the evidence of Mr Humphries on the question of how best to apportion the cost of BR-01. Mr Shipp states at his paragraph 40 (Document 46):

Although traffic demand and 'usage' is one way that apportionment can be calculated, I prefer cost apportionment based on simpler metrics (such as Net Developable Area, which can be easily applied and understood), over more detailed transport modelling units and apportionments.

278. Mr Shipp accepted that his approach of relying on net developable area, while his preference, was not a rule or the only approach.

279. Council considers the select link analysis to be preferable and superior given that it focuses on trip generators rather than simple net developable area, which is merely a proxy for population. Employment areas generate traffic differently to shops, which generate differently to housing. Distance is also a factor. All of these matters produce an apportionment which Council prefers to rely upon, and which is consistent with the DCP Guidelines' direction that:

Infrastructure costs must be apportioned on the basis of projected 'share of usage'

280. Mr Humphries, as Council's traffic engineer, has undertaken precisely this exercise. His select link analysis demonstrates that the Creamery Road PSP would contribute '2,022 vehicles per day out of a total of 16,905 vehicles per day using BR_01. This equates to 11.96% or 12% rounded up which is consistent with the SAC report.' This approach directly responds to the Guidelines' requirement for expert assessment by a traffic engineer for road infrastructure.
281. In respect of external apportionment, Council does not support external apportionment to persons outside of the growth area precincts. The DCP Guidelines acknowledge that external usage 'represents the proportion of the infrastructure project costs that will not be charged through the DCP' and that 'this proportion of the cost must be funded by another source such as general rates, taxes or grants.'⁵² However, applying an external apportionment to persons outside of the growth area precincts would effectively leave an unfunded portion for the project. This is in the context where the Minister has already rejected external apportionment for IN05. 'But for' the growth areas, the bridge would not be required. It is the growth areas that should pay for the bridge.
282. If the Committee disagrees with Council that the sole question before it is apportionment, then Council needs to respond to two further matters.
283. First, the Council position is to rely on the Stantec July 2024 bridge review. That is the project costed and included within the DCP. The Referral 2 DCP identifies a cost of \$27,066,269 for BR-01. The alternate version advanced by the McCann family has no formal status, albeit that its location is likely generally in accordance with the gazetted framework plan.
284. Second, the costings in the DCP are conservatively low. They include a P50 allowance rather than the P90 that the ICP Guidelines would adopt, and they make contribution to only the bridge structure. That is because it is up to the planning authority to make decisions about what projects are included in a DCP. Rationally, as supported by each witness asked, the standard practice is not to externally apportion arterial roads. They are a matter for the specific DCP.
285. While the form of the Framework Plan has evolved, and will be the subject of a future Planning Scheme Amendment, the gazetted and proposed plan have always had a bridge in the location of BR-01. It is not a matter that is novel or that has changed through the iterations of the plan. There are no shifting sands in respect of BR-01.
286. Timing, Council acknowledges that the DCP Guidelines provide for a certain timeframe. However, the guidelines are just that – they are not a rule and should be applied flexibly. A flexible application will ensure that Creamery Road as the first precinct does not take the benefit of the BR01 without the cost in circumstances where later precincts could not rely on that temporal relationship. It is appropriate that this single global item is fairly apportioned through the western growth area.
287. Council supports the apportionment of BR-01 as reflected in the Day 0 and subsequent versions, being an allocation of 88.04% to external usage and 11.96% attributed to the Creamery Road DCP.

M. Costings — Evidence of Mr Bernhard Funke

288. Council relies on Mr Funke in respect of costings. Mr Funke is a professional Chartered Quantity Surveyor engaged by Slattery Australia Pty Ltd, who prepared an independent expert report dated 15 April 2026 and an addendum dated 5 May 2026.
289. Council's approach on costings has been to work closely with Villawood and its civil engineer, Creo, to try and resolve appropriate costs for development infrastructure and in particular intersections. This has been largely, but not completely, successful.

⁵² DCP Guidelines, p 65.

290. Council briefed Mr Funke not to endorse Council's position but to provide an independent review and assessment of the issues in dispute. Council approaches costings pragmatically. It is a matter of technical detail that the DCP must fund enough to cover the reasonable expectation of delivery of infrastructure by any developer or the Council itself. This is important. Efficiencies in delivering multiple intersections over long-standing contracts for a particular developer are not appropriate for this type of assessment.
291. Consistent with a pragmatic approach, Council supported arranging Mr Funke to meet with Creo to discuss costs. Mr Funke met with Mr Mitch Trounce of Creo Civil on Friday 1 May 2026 and discussed the contents of the Creo Memorandum dated 27 April 2026 and the benchmark data provided. This discussion has resulted in a reduction in the cost of projects. Following that engagement, Mr Funke revised his rates downward, having considered a percentage rate reduction across all calculated rated activities which can be self-performed, such as excavation, filling, concrete and geotextile, to account for Tier 2 local and regional contractors who self-perform a greater portion of works.
292. Mr Funke's position remains between that of the Council and Villawood. His addendum concludes that the DCP rates average at 9.5% above his revised benchmark, while the Creo rates average at 10.73% below his revised benchmark when delivery costs are excluded. Council adopts Mr Funke's costs but not his updated contingency of 18%. Contingency should remain at 15% as per the existing Council position.
293. The following table compares the Council (DCP), Creo and Funke costs across the two reports, excluding delivery:

Intersection	DCP (Council)	Creo	Funke — Report 1 (15 April 2026)	Funke — Addendum (5 May 2026)
DI_IN_06 — North-South CCB & Midland Hwy	\$7,177,492.98	\$5,659,806.95	\$6,556,193.62	\$6,445,767.26
DI_IN_01 — Geelong-Ballan Road & North- South CCB	\$7,237,508.48	\$5,841,809.70	\$6,661,695.27	\$6,561,224.47
DI_IN_03 — Geelong-Ballan Road & East- West Connector	\$7,525,963.48	\$6,123,896.86	\$6,972,560.28	\$6,866,429.38
DI_IN_04 — Geelong-Ballan Road & East- West Connector Road	\$10,479,676.79	\$8,853,836.06	\$9,895,728.51	\$9,767,559.93
DI_IN_05 — Geelong-Ballan Road & Midland Hwy	\$8,153,321.37	\$6,709,495.51	\$7,592,368.05	\$7,483,730.67
Total (Excluding Delivery)	\$40,573,963.10	\$33,188,845.08	\$37,678,545.73	\$37,124,711.71

294. Mr Funke is the only tested expert evidence on this issue. His evidence is independent, having been instructed not to support rates adopted by Council but to form his own views and opinion. His methodology is evidence-based, employing internal Slattery benchmark datasets derived from tenders and projects delivered, VPA Design Rates and Rawlinson's cost guide 2025. In his addendum, Mr Funke further engaged with the benchmark data provided by Creo and adjusted his rates downward where appropriate, demonstrating intellectual rigour and good faith.

295. Council requests that the Committee recommend that the Funke "Before Delivery" (Excluding Delivery) numbers identified in Document 89 — the Addendum to Expert Report dated 5 May 2026 — are adopted.

N. OTHER MATTERS

Bushfire

296. Amendment VC248, gazetted on Tuesday 5 May 2026, introduced measures which update the application of Clause 53.02 (Bushfire planning) to apply to:
- 296.1. An application under any provision of this planning scheme to subdivide land in a bushfire prone area that is not in a Bushfire Management Overlay.
 - 296.2. An application under any provision of this planning scheme to construct a building or construct or carry out works associated with the use of land for accommodation, education centre, hospital, indoor recreation facility, major sports and recreation facility or place of assembly in a bushfire prone area that is not in a Bushfire Management Overlay.
 - 296.3. The drafting of bushfire provisions in the draft C450ggee amendment documentation is currently being reviewed to avoid redundancies and duplications introduced with the new VC amendment.

O. COUNCIL'S UPDATED POSITION ON THE DRAFT AMENDMENT

297. Council commends the draft Amendment to the Committee and seeks recommendations to the Minister for Planning that support the prompt approval of the draft Amendment, subject to any changes the Committee sees fit to recommend.

7 May 2026

HARWOOD ANDREWS
on behalf of
THE CITY OF GREATER GEELONG