

Wellington Planning Scheme

Amendment C122well

Explanatory Report

Overview

The amendment proposes to apply the Public Acquisition Overlay (PAO2) to the frontages of 37A, 49 and 65 Cobains Road, Sale, for the purposes of road widening to service the North Sale growth area. The amendment will allow Wellington Shire Council to compulsorily acquire a 10-metre strip of land north of Cobains Road, Sale, for the purposes of facilitating infrastructure upgrades for the growth area, including road widening, underground infrastructure and shared pedestrian pathways.

This requirement has been identified within the *North Sale Development Plan (2018)* and *North Sale Infrastructure Funding Arrangement (November 2022)*.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Wellington Shire Council website at <https://www.wellington.vic.gov.au/>

And

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

Wellington Shire Council
18 Desailly Street
Sale VIC 3850

Office hours: 8.30am – 5.00pm, Monday to Friday

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment. Submissions about the amendment must be received by **22 December 2025**.

A submission must be sent to:

Post: PO Box 506, SALE VIC 3850 or

Email: strategicplanning@wellington.vic.gov.au

Panel hearing dates

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

- Directions hearing: 23 March 2026
- Panel hearing: 20 April 2025

Details of the amendment

Who is the planning authority?

This amendment has been prepared by the Wellington Shire Council, which is the planning authority for this amendment.

The amendment has been made at the request of Wellington Shire Council.

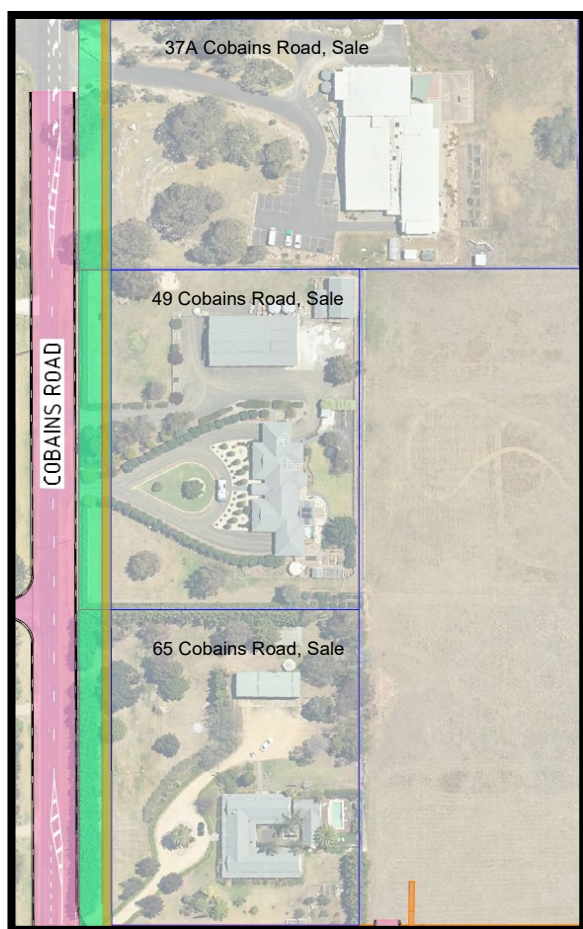
Land affected by the amendment

The amendment applies to three properties within the *North Sale Growth Area* (see figure 1), located on the northern side of Cobains Road, Sale. An approximated total of 3,000 square metres of land is required to be acquired.

Details regarding the three properties are as follows:

1. The land at 37A Cobains Road, Sale (Lot 1, PS 607826P) is 12,098.231 square metres in area, and is in a Farming Zone (FZ) and Design and Development Overlay Schedule 6 (DDO6 – RAAF). The land is currently developed with an education facility (Gippsland TAFE) and is fenced. The area proposed for acquisition is 780.26 square metres (6.45% acquisition of site). Although the acquisition area is less than the 10% specified under the *Land Acquisition and Compensation Act 1986*, it has been included in this amendment for clarity and transparency.
2. The land at 49 Cobains Road, Sale (Lot 1, PS 748267L) is 9,301.186 square metres in area and is also in a Farming Zone (FZ) and Design and Development Overlay Schedule 6 (DDO6 – RAAF). The land appears to be currently used and developed with a dwelling. The area proposed for acquisition is 1,069.11 square metres (11.49% acquisition of site).
3. The land at 65 Cobains Road, Sale (Lot 1, TP 567132) is 9,331.145 square metres in area and is also in a Farming Zone (FZ) and Design and Development Overlay Schedule 6 (DDO6 – RAAF). The land is currently developed with a dwelling, outbuildings, and is fenced. The area proposed for acquisition is 1,069.11 square metres (11.34% acquisition of site).

Figure 1: Subject sites. The Green area is proposed PAO2 area.



What the amendment does

The amendment proposes to apply the PAO2 (road) to the frontages of 37A, 49 and 65 Cobains Road, Sale to allow Wellington Shire Council to compulsorily acquire land to facilitate the delivery of the *North Sale Development Plan (2018)* and *North Sale Infrastructure Funding Arrangement (November 2022)*.

The amendment makes the following changes to the Wellington Planning Scheme:

Overlay Maps

- Inserts Planning Scheme Map No. 90PAO, to show PAO2 applying to the land to be acquired.

Planning Scheme ordinance

- Amends the schedule to Clause 72.03 – *What does this planning scheme consist of?* to reference planning scheme map number 90PAO.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to apply a PAO2 (road) to reserve land for compulsory acquisition by Wellington Shire Council for public purposes including road widening, shared pedestrian pathways and underground services. The need for this infrastructure is identified in the *North Sale Development Plan (2018)* and *North Sale Infrastructure Funding Arrangement (November 2022)*. The project is identified as: 'Road - RD_01_' and described as 'Cobains Road widening - 10m road widening to the north of Cobains Road. A total of 2.8 hectares of land is required' (Source: *North Sale Infrastructure Funding Arrangement November 2022*).

As the acquisition area exceeds 10% (or 10% of the total value) of the total area of the individual allotments, the *Land Acquisition and Compensation Act 1986* specifies that the land must be reserved through the application of a PAO.

The PAO is required to initiate the compulsory acquisition process. Applying the PAO2 to land reserves the land in the planning scheme and allows for a compulsory acquisition process to be undertaken by the identified Acquiring Authority (Wellington Shire Council) to be initiated at a future date.

This project is critical to the ongoing development of a key development area and the application of the PAO2 to three properties will facilitate the land acquisition for this project. The PAO2 will only cover part of the identified properties, reflecting the planned location of the necessary infrastructure.

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

The amendment implements the objectives of planning in Victoria pursuant to Section 4 of the *Planning and Environment Act 1987* as follows:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land.*
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*

The amendment ensures the fair, orderly and sustainable development of the land by acquiring land for future use for the community. It will ensure that land is provided for road widening, underground services and shared pedestrian pathways in accordance with the *North Sale Development Plan (2018)* and *North Sale Infrastructure Funding Arrangement (November 2022)*.

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

Environmental

The land acquisition will not have any additional environmental impact beyond what has already been identified by the *North Sale Development Plan (2018)* and the *North Sale Infrastructure Funding Arrangement (IFA)*. Construction activities for IFA projects, following the land acquisition, will proceed as development advances within the North Sale Development Plan area. All works will be conducted in accordance with the Infrastructure Design Manual (IDM) and relevant industry standards.

Social

The *North Sale Development Plan (2018)* and IFA were developed through extensive research and consultation to ensure that the identified growth areas will meet future needs. They provide a plan to create a considered and well-planned approach to the development of new residential areas in the Wellington Shire.

The intent of the IFA is to ensure that the infrastructure required to service the new communities is provided in a timely manner and will meet the communities' needs and expectations.

Economic

Any land acquisition made possible under this amendment will be undertaken in accordance with the *Land Acquisition and Compensation Act 1986* to ensure a fair and equitable process for all parties occurs and that a fair compensation is provided.

Does the amendment address relevant bushfire risk?

The Objective of Clause 13.02-1S Bushfire Planning is to '*strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*'

The amendment is unlikely to increase the risk to life, property, community infrastructure or the natural environment. The amendment only seeks to apply the PAO to properties that are critical to the provision of road infrastructure, in a key development area.

The subject sites are within a designated bushfire prone area (BPA), as prepared under the *Building Act 1993*. This identifies the presence of risk factors such as the presence of vegetation, local landscapes, historical fire data and climate conditions. To mitigate this risk, properties within a BPA are subject to regulations such as the national AS-3959 construction standard, which require building modifications to increase resistance to bushfire attack.

The amendment secures land required for infrastructure which underpins the ultimate delivery of North Sale's growth area. Bushfire risks associated with subdivisions are addressed through the planning permit process.

The amendment is consistent with the Planning Policy Framework objectives and strategies that apply to the risk of bushfire.

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

Ministerial Direction – The Form and Content of Planning Scheme

The amendment is consistent with Ministerial Direction *The form and content of Planning Schemes* by making changes to the Scheme that are consistent with this direction and utilises the relevant templates.

Ministerial Direction No. 11 - Strategic Assessment of Amendments

The amendment is consistent with the *Ministerial Direction 11 Strategic Assessment of Amendments* under *Section 12(2)* of the *Planning and Environment Act 1987*. An assessment of the planning scheme amendment has been made against the guidelines and details have been provided within this explanatory report.

Ministerial Direction No. 15 - The Planning Scheme Amendment Process

The amendment is consistent with the *Ministerial Direction 15 The Planning Scheme Amendment Process* under *Section 12(2)* of the *Planning and Environment Act 1987* by meeting timeframes set out by this direction. If timeframes cannot be met, exemptions will be sought.

Ministerial Direction 22 – Climate Change Consideration

The amendment does not require consideration of the above ministerial direction, as per section 4. (b) (application) which reads “...an amendment which does not do any of the things specified in paragraph (3)(b) and (c).” It meets this exemption due to the following reasons:

- The proposal is not seeking to rezone land from a non-urban to an urban zone,
- It will not result in the intensification of use and development of urban land,
- The proposal will not introduce a new use or development that may be exposed to natural hazards relating to climate change, and
- The amendment is not being prepared on behalf of the Minister for Planning.

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

The amendment supports the Planning Policy Framework. In particular it supports:

- **Clause 11.01-1L Sale, Wurruk and Longford:** The amendment is in accordance with identified land uses in the *Sale, Wurruk and Longford Strategy Plan*.
- **Clause 18.01-1S Land use and transport integration:** The amendment supports the provision of an improved transport network which will facilitate

walking and cycling options and road widening as identified in the IFA.

- **Clause 18.01-2S Transport system:** The amendment facilitates the delivery of road projects identified in the IFA as being required to avoid negative impacts to the existing transport networks.
- **Clause 18.01-2R Transport system – Gippsland:** The amendment facilitates the delivery of road projects identified in the IFA which will be of particular benefit to the Gippsland road network.
- **Clause 18.02-4S Roads:** The amendment facilitates development which will provide an upgrade to the roads on the edge of town which were historically of a lower standard due to being located in non-urban areas.
- **Clause 19.03-1S Development and infrastructure contributions plans:** This amendment is the logical next step to action the IFA.
- **Clause 19.03-2S Infrastructure design and provision:** This amendment seeks to reserve land to ensure it can be provided in a timely and cost-effective manner if the planning permit and subdivision processes fail to do so.
- **Clause 19.03-2L Infrastructure design and provision:** This amendment will allow Council to reserve land for the provision of infrastructure identified in the IFA when development activity in the growth area/s require it. The IFA outlines contributions to be made by developers (at the time of development) to fund required infrastructure in the North Sale growth area.

The amendment is consistent with these objectives as it facilitates the development of community infrastructure in the Wellington Shire. This will enable the construction of new shared path/s, underground services and improved transport outcomes to support growth in the surrounding North Sale area. This work will be implemented in accordance with relevant industry standards and the Infrastructure Design Manual (IDM), improving community health and wellbeing.

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

The amendment is consistent with the following clauses of the Municipal Planning Strategy:

- **Clause 2.03-1 (Settlement)** - as it will facilitate development in existing growth area/s identified within the Planning Scheme.
- **Clause 2.03-6 (Economic Development)** - as it will facilitate the delivery of infrastructure updates necessary for the future residential development of the growth area.
- **Clause 2.03-7 (Infrastructure)** - as it seeks to protect the delivery of future

infrastructure and ensure coordinated open space networks and drainage infrastructure can be delivered as planned.

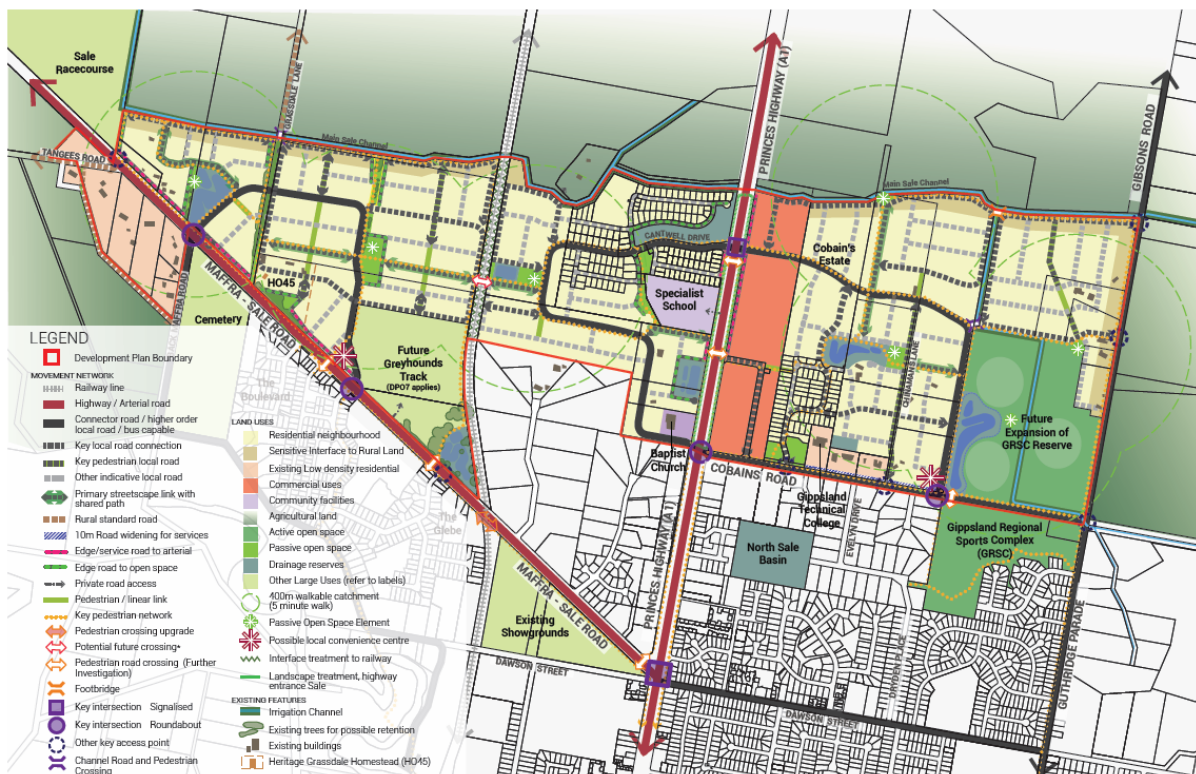
Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions and is consistent with the *Ministerial Direction: The Form and Content of Planning Schemes*.

The *North Sale Development Plan (2018)* is an existing background document in the Schedule to Clause 72.08 Background Documents of the Wellington Planning Scheme. It was introduced by Amendment C109well Pt1 (4 August 2023).

The *North Sale Development Plan (2018)* directly identifies Cobains road, and the subject land along it as a key local road connection and key pedestrian local road. The subject land is highlighted on the plan for '10 metre road widening for services'.

Figure 2: North Sale Development Plan.



The Public Acquisition Overlay, specifically the PAO2 (road) is therefore the most appropriate planning tool under the Victoria Planning Provisions to facilitate the acquisition of the land for the purposes of the project.

The purpose of the overlay is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify land which is proposed to be acquired by a Minister, public authority or municipal council.*
- *To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.*
- *To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.*

Applying the PAO2 places the 'reservation' for a road in the planning scheme and allows for a future compulsory acquisition process to be initiated by Wellington Shire Council as the designated Acquiring Authority under the local PAO schedule.

The proposed PAO2 is being applied in accordance with the *Land Acquisition and Compensation Act 1986*, which requires the responsible authority to apply a Public Acquisition Overlay (PAO) to the affected land before it proceeds to formally compulsorily acquiring it. Under this Act the application of the PAO will ensure that the Council as the Acquiring Authority has an undeniable right to acquire the reserved land, even if the landowners at the time of acquisition do not want to sell.

After applying the PAO2, the land will be acquired using Section 112 of the *Local Government Act 2020*, which empowers a council to purchase or compulsorily acquire land for required purposes.

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

The views of relevant agencies will be considered during the exhibition of the amendment.

The Department of Transport and Planning (DTP) and its predecessors were consulted during the preparation of the North Sale Development Plan and IFA to determine the required road infrastructure improvements and treatments.

Gippsland Water (GW) were also consulted during the preparation of the North Sale Development Plan and IFA to ensure the water/sewer infrastructure would meet their standards. The adopted North Sale Development Plan and IFA reflect the requirements of the agencies at the time Council adopted these documents.

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

The upgrades to the road network proposed by the IFA meet the transport system objective 11-3 of the *Transport Integration Act 2010*.

Without limiting the generality of subsection (1), the transport system and land use should be aligned, complementary and supportive and ensure that—

(a) transport decisions are made having regard to the current and future impact on land use;

(b) land use decisions are made having regard for the current and future development and operation of the transport system;

Application of the PAO2 will ensure that objective 11-3(c) under the *Transport Integration Act 2010* can be achieved by allowing Wellington Shire Council to secure land identified in the IFA, where objective 11-3(c) requires that:

(c) transport infrastructure and services are provided in a timely manner to support changing land use and associated transport demand.

This amendment will ensure that the transport planning identified in the IFA can be delivered as intended.

Resource and administrative costs

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

The proposed application of the PAO2 is not expected to increase the number of planning permit applications. Council may experience a minor increase in written planning advice applications due to a new planning control being applied. However, this anticipated increase will be manageable with current resources.

Council, by supporting this amendment, understands this is critical infrastructure that is required for servicing growth and ensuring community safety, and will therefore allocate resources accordingly.

The PAO represents the most effective method for the Council to obtain the necessary land for implementing these vital projects, providing a legislated mechanism for reservation of the land for future acquisition. Land acquired through the PAO process will likely cost Council more than land transferred through the planning permit process due to the requirements to pay compensation in accordance with the *Land Acquisition and Compensation Act 1986*. Should this amendment be approved, Council will make appropriate provision in its budget for the purchase of the land.

Attachment 1 – Mapping reference table

Location	Land /Area Affected	Mapping Reference	Address	Proposed Zone changes	Proposed Overlay changes	Proposed deletion changes
Sale	Land fronting Cobains Road, between Chinaman's Lane and Gibson's Road, Sale.	Wellington C122well PAOMAP90 Exhibition	37A, 49 & 65 Cobains Road	Nil	Insert PAO2	Nil