

Frankston Planning Scheme Amendment C167fran
Corrections Amendment

Panel Report

Planning and Environment Act 1987

22 July 2026

How will this report be used?

The planning authority must consider this report before deciding whether to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the Planning Scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Frankston Planning Scheme Amendment C167fran

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22 July 2026



Jonathan Halaliku, Chair

Contents

	Page
1 Introduction	8
1.1 The Amendment.....	8
1.2 Background	9
1.3 Procedural issues.....	10
1.4 The Panel's approach.....	11
1.5 Limitations	11
2 The subject land	12
3 Strategic issues.....	14
3.1 Planning context.....	14
3.2 Strategic justification	14
4 620 McClelland Drive, Langwarrin	16
Appendix A Document list.....	22
Appendix B Amendment subject land	23
B.1 Mapping reference table with property addresses.....	23
B.2 Mapping zone changes - From Business 1, Business 2, Business 4 and Business 5 Zone to Commercial 1 Zone or Commercial 2 Zone	26

List of Tables

	Page
Table 1 Chronology of events.....	9
Table 2 Planning context.....	14

List of Figures

	Page
Figure 1 620 McClelland Drive, Langwarrin (May 2026)	12
Figure 2 Zoning configuration of the McLelland Drive site and surrounds	13

Glossary and abbreviations

Amendment	Frankston Planning Scheme Amendment C167fran
BMO	Bushfire Management Overlay
Council	Frankston City Council
DPO7	Development Plan Overlay Schedule 7
DTP	Department of Transport and Planning
ESO1	Environmental Significance Overlay Schedule 1
GRZ1	General Residential Zone Schedule 1
GRZ2	General Residential Zone Schedule 2
HO39	Heritage Overlay Schedule 39
Management Plan	Frankston Green Wedge Management Plan
McClelland Drive site	620 McClelland Drive, Langwarrin
PAO2	Public Acquisition Overlay Schedule 2
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Frankston Planning Scheme
PPN46	Planning Practice Note 46: Strategic Assessment Guidelines, April 2026
PUZ1	Public Use Zone Schedule 1
RCZ3	Rural Conservation Zone Schedule 3
SLO1	Significant Landscape Overlay Schedule 1
SLO6	Significant Landscape Overlay Schedule 6
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment summary

The Amendment	Frankston Planning Scheme Amendment C167fran
Common name	Corrections Amendment
Brief description	Amend the Frankston Planning Scheme to: - amend Clause 15.01-5L and correct spelling errors and inconsistencies - delete redundant overlays, controls and incorporated documents - update zone and overlay maps - correct spelling and typographical errors
Subject land	Various properties across the City of Frankston municipality (Appendices B:1 & B:2)
The Proponent	Frankston City Council
Planning Authority	Frankston City Council
Authorisation	19 December 2025, with conditions
Exhibition	29 January to 2 March 2026
Submissions	Six submissions: 1. Viva Energy (support) 2. Melbourne Water (support) 3. South East Water (support) 4. Leadon Group Pty Ltd, 620 McClelland Drive, Langwarrin (unresolved) 5. William Winters Solicitors (withdrawn) 6. Country Fire Authority (support)

Panel process

The Panel	Jonathan Halaliku
Directions Hearing	By video conference, 25 May 2026
Panel Hearing	By video conference, 25 June 2026
Site Inspection	29 June 2026 (unaccompanied)
Appearances	Frankston City Council represented by Brooke Whatmough Leadon Group Pty Ltd represented by Ashley Thompson of Clause1 Planning, who called planning evidence from Ms Sandra Rigo of Hansen Partnership
Citation	Frankston Planning Scheme PSA C167fran [2026] PPV
Date of Panel Report	22 July 2026

Executive summary

Frankston Planning Scheme Amendment C167fran (the Amendment) proposes the following changes to the Frankston Planning Scheme:

- correct technical and mapping errors
- update zoning and overlay maps
- improve the accuracy and consistency of ordinance provisions.

In particular it proposes to:

- amend Clause 15.01-5L (Preferred Neighbourhood Character) to rectify omissions, remove duplication and improve consistency
- rezone land at the Frankston Foreshore Reserve (570N Nepean Highway, Frankston South) to the Public Conservation and Resource Zone (PCRZ) to align with the adjacent foreshore zoning and because the Special Use Zone Schedule 3 has been deleted from the Planning Scheme
- rezone land at 13N Jeremy Way, Frankston South from Public Use Zone Schedule 1 (PUZ1) to PCRZ to align with the adjacent zoning of the Frankston Nature and Conservation Reserve
- partially rezone land at 90 Bardia Avenue, Seaford and 39 Wells Road, Seaford so each property is within a single zone reflecting its current use
- rezone land at 620 McClelland Drive, Langwarrin from PUZ1 to Rural Conservation Zone Schedule 3 (RCZ3) to reflect its private ownership
- rezone land from the superseded business zones to the corresponding commercial zones
- delete the Development Plan Overlay Schedule 1 and Specific Controls Overlay Schedule 2 from land where these controls are now redundant
- delete the Development Plan Overlay Schedule 7 from land at 495 Cranbourne-Frankston Road, Langwarrin
- remove redundant provisions and incorporated documents
- correct typographical and spelling errors in various zone and overlay schedules.

Frankston City Council (Council) prepared and exhibited the Amendment.

Correction amendments are typically undertaken to address minor irregularities including mapping inconsistencies, zoning anomalies, spelling mistakes and outdated or redundant provisions. These updates are necessary to ensure the Planning Scheme remains an effective and accurate statutory planning tool.

The majority of the changes proposed by the Amendment are sensible, logical and consistent with planning guidance. Six submissions were received, and all but one were resolved before the Hearing.

The Council tabled a Day 1 version of the Amendment that differed from the exhibited version in two respects – the application of Development Plan Overlay Schedule 7 (DPO7) and the content of the Explanatory Report relating to Bushfire.

The exhibited Amendment had proposed deleting DPO7 from all affected land. Council's Day 1 changes narrowed the proposed deletion of the DPO7 to just 495 Cranbourne-Frankston Road, Langwarrin and retaining it on 1-8 Brabham Way and 14-43R Hafey Way.

This was because. Council advised full deletion of the control was premature as several lots remain undeveloped and the subdivision controls should continue to apply.

Council revised the bushfire section of the Explanatory Report to address Clause 13.02-1S in response to the Country Fire Authority's submission.

The key issue for the Panel was the proposed rezoning of 620 McClelland Drive, Langwarrin (McClelland Drive site) from PUZ1 to RCZ3. The central question was whether this rezoning is a genuine correction, or a substantive change to planning controls requiring the fuller strategic assessment contemplated by Planning Practice Note 46: Strategic Assessment Guidelines (PPN46).

The Panel accepts that the continued application of the PUZ1 to privately owned land with no public land manager is anomalous and warrants resolution. However, the choice of replacement zone for the McClelland Drive site as a corrective change is not self-evident. The rezoning would produce a different land use and future development outcomes for the property and is not supported by a clear strategic justification.

The Panel was advised that a concurrent proceeding before the Victorian Civil and Administrative Tribunal concerning a permit application for the McClelland Drive site (P110/2026) remains unresolved, and its outcome bears directly on the lawful site use against which the rezoning should be assessed.

While the merits of the permit application before the Tribunal are not before the Panel to consider the appropriate course of action is to remove the McClelland Drive site from the Amendment rather than defer the Amendment as a whole. The balance of the Amendment is uncontested, well founded and should proceed. A more considered approach to the appropriate zoning for the McClelland Drive site should follow a more robust strategic assessment consistent with PPN46.

Subject to the removal of the McClelland Drive site and inclusion of Council's Day 1 changes, the Amendment is consistent with relevant Ministerial Directions and Planning Practice Notes, is well founded and strategically justified.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Frankston Planning Scheme Amendment C167fran be adopted as exhibited subject to the following:

- 1. Delete the rezoning of 620 McClelland Drive, Langwarrin.**
- 2. Delete Development Plan Overlay Schedule 7 from 495 Cranbourne-Frankston Road and retain it on 1 to 8 Brabham Way and 14 to 43R Hafey Way, Langwarrin.**

1 Introduction

1.1 The Amendment

(i) The amendment description

The purpose of the Amendment is to make various corrections to the Frankston Planning Scheme. Specifically, the Amendment proposes to:

- amend Clause 15.01-5L (Preferred Neighbourhood Character) to rectify precinct omissions, remove duplication and improve consistency
- delete the Development Plan Overlay Schedule 1 and Specific Controls Overlay Schedule 2 from land that has been developed, and delete the Development Plan Overlay Schedule 7 (DPO7) from land at 495 Cranbourne-Frankston Road, Langwarrin, which is now in public ownership
- delete the redundant Schedule 7 to Clause 43.04 (Development Plan Overlay) and remove the redundant incorporated document 'Kristen Close, Frankston South (February 2011)' from the Schedules to Clauses 45.12, 51.01 and 72.04
- partially rezone land at 90 Bardia Avenue, Seaford from Industrial 1 Zone to Public Park and Recreation Zone so the land is in a single zone reflecting Council ownership of the Frankston Basketball and Gymnastic Stadium
- partially rezone land at 39 Wells Road, Seaford from Public Park and Recreation Zone to Industrial 1 Zone so the land is in a single zone reflecting its current use
- rezone land at the Frankston Foreshore Reserve/570N Nepean Highway, Frankston South from Special Use Zone Schedule 3 to Public Conservation and Resource Zone (PCRZ) to align with the adjacent foreshore zoning
- rezone land at 13N Jeremy Way, Frankston South from Public Use Zone Schedule 1 (PUZ1) to PCRZ to align with adjacent zoning forming part of the Frankston Nature and Conservation Reserve
- rezone land at 620 McClelland Drive, Langwarrin from PUZ1 to Rural Conservation Zone Schedule 3 (RCZ3) to reflect its private ownership and align with Council's Green Wedge Management Plan strategies and adjacent zoning
- rezone land from the superseded Business Zones 1, 2 and 5 to Commercial 1 Zone, and from Business Zone 4 to Commercial 2 Zone
- rezone land listed in Appendix B:1 from Business Zones 1, 2 and 5 to Commercial 1 Zone as the Business Zones have been superseded by the Commercial Zones are no longer in the Frankston Planning Scheme
- rezone land listed in Appendix B:2 from Business Zone 4 to Commercial 2 Zone as the Business Zones have been superseded by the Commercial Zones are no longer in the Frankston Planning Scheme
- correct typographical and spelling errors in various zone and overlay schedules, including the General Residential Zone Schedule 1, Activity Centre Zone Schedule 1, Significant Landscape Overlay Schedules 5 and 6, and Design and Development Overlay Schedules 4 and 8.

Frankston City Council (Council) prepared the Amendment.

(ii) Post exhibition changes

Development Plan Overlay Schedule 7

Council advised it had identified an error to DPO7 during exhibition and that further advice confirmed the removal of DPO7 from all affected land was premature. Council's revised position is to delete DPO7 from 495 Cranbourne-Frankston Road only, which is Crown land, and to retain the overlay on the Brabham Way and Hafey Way properties. This is because those properties remain undeveloped and the subdivision controls in DPO7 should continue to apply. The Day 1 changes included consequential changes to the Amendment Explanatory Report and instruction sheet.

Bushfire assessment

The exhibited Explanatory Report addressed bushfire risk in a single sentence, stating that the Amendment meets the bushfire policy at Clause 13.02 because it does not change land use or development controls in a manner that increases risk to life, property or community infrastructure.

On 22 April 2026 the Country Fire Authority (CFA) provided referral commentary on the Amendment about the application of bushfire policy.

In response, Council prepared revised bushfire text for the Explanatory Report, which it advised was approved by the CFA on 5 May 2026. The revised text identifies that:

- 495 Cranbourne-Frankston Road is within the Bushfire Management Overlay
- 13N Jeremy Way, Frankston South and 620 McClelland Drive, Langwarrin are within both the Bushfire Management Overlay and the Bushfire Prone Area
- the Amendment does not intensify land use or enable additional development on land affected by those controls
- the proposed rezoning of 620 McClelland Drive adjoins the Langwarrin Flora and Fauna Reserve managed by Parks Victoria, and that the rezoning does not alter bushfire prone area mapping, overlay controls or existing vegetation and fire management for the site or the adjoining reserve.

There are no consequential changes to the Amendment.

The Panel is satisfied that the Councils revised Explanatory Report, together with Recommendation 1 of this Report, sufficiently addresses the matters raised by the CFA referral comments.

1.2 Background

The Amendment has generally progressed in accordance with Councils timeline, as follows:

Table 1 Chronology of events

Date	Event
17 November 2025	Council resolved to request authorisation from the Minister for Planning to prepare and exhibit Amendment C167fran.

Date	Event
19 December 2025	The Minister for Planning's delegate authorised Council to prepare and exhibit the Amendment, subject to five conditions. These included removing the proposed rezoning of 495 Cranbourne-Frankston Road, Langwarrin from the Amendment and deleting redundant controls and incorporated document references.
29 January - 2 March 2026	Public exhibition of the Amendment. Six submissions were received, including one late submission.
2 March 2026	The Victorian Civil and Administrative Tribunal (VCAT) ordered a preliminary hearing in proceeding P110/2026, concerning Council's refusal of permit application 256/2025/P for the use and development of the McClelland Drive site as a store.
20 April 2026	Council considered the submissions to the Amendment and resolved to request the Minister for Planning appoint an independent planning panel to consider the one unresolved submission.
13 May 2026	The Minister for Planning appointed a Panel to consider the submissions to the Amendment on 7 May 2026.
27 May 2026	VCAT preliminary hearing in proceeding P110/2026.
June 2026	The Tribunal issued its decision on the preliminary questions: <i>Leadon Group Pty Ltd v Frankston CC [2026] VCAT 439</i> .

1.3 Procedural issues

The Panel held an online Directions Hearing on 25 May 2026. Two parties requested to be heard - Council and Submitter 4 (the landowner of the McClelland Drive site).

The parties advised the Panel of the concurrent VCAT proceeding *Leadon Group Pty Ltd v Frankston CC (P110/2026)*, a review under section 77 of the *Planning and Environment Act 1987* (PE Act) of Council's refusal to grant a permit for the use and development of the Subject Site as a store.

A preliminary hearing before the Tribunal addressing questions concerning the operation of Clause 36.01-3 of the Public Use Zone was held on 27 May 2026, and the Tribunal's decision was tabled with the Panel during the Hearing. The Panel's approach to the concurrent proceeding is set out in Chapter 1.4.

The Panel Hearing was held by video conference on 25 June 2026. At the close of the Hearing, the Panel directed that any further comments from the parties on the Day 2 version of the Amendment be limited to drafting matters and provided by 1 July 2026. No additional comments were received from parties.

1.4 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, as well as submissions and evidence presented at the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in this Report.

1.5 Limitations

The Panel's task is to consider the Amendment, not to determine permit application 256/2025/P. The merits of that application are before the Tribunal. The Panel has had regard to the existence and status of the VCAT proceeding only insofar as it is relevant to the strategic assessment of the proposed rezoning of the Subject Site and the appropriate sequencing of the two processes.

The Panel has not considered issues raised in submissions that were resolved and withdrawn before the Hearing.

2 The subject land

The Amendment applies to multiple properties across the Municipality. The specific land affected, including current and proposed zones and overlays, is summarised in Appendices B:1 and B:2.

The McClelland Drive site is the subject of the only unresolved submission and is shown in Figure 1. That site is privately owned, was formerly owned by Telstra and its predecessors and is affected by:

- Bushfire Management Overlay
- Environmental Significance Overlay Schedule 1 (in part)
- Heritage Overlay Schedule 39 (in part)
- Public Acquisition Overlay Schedule 2 (PAO2) (in part)
- Significant Landscape Overlay Schedule 1.

The Amendment does not propose any change to the overlay controls affecting the McClelland Drive site.

Figure 1 620 McClelland Drive, Langwarrin (May 2026)



Source: Nearmap – Property located within dashed yellow outline

3 Strategic issues

3.1 Planning context

This chapter identifies planning context relevant to the Amendment.

Table 2 Planning context

	Relevant references
Victorian planning objectives	Section 4 of the PE Act
Municipal Planning Strategy	Clause 02.03 (Strategic directions)
Planning Policy Framework	Clause 11.01-1R (Green Wedges - Metropolitan Melbourne) Clause 12.01 (Biodiversity) Clause 12.05 (Significant environments and landscapes) Clause 15.01-5L (Preferred Neighbourhood Character)
Planning scheme provisions	Public Use Zone (Clause 36.01) Rural Conservation Zone (Clause 35.06) Commercial 1 and Commercial 2 Zones Public Conservation and Resource Zone Public Park and Recreation Zone Industrial 1 Zone Significant Landscape Overlay Environmental Significance Overlay Design and Development Overlay Development Plan Overlay Specific Controls Overlay Clause 51.02 (Metropolitan Green Wedge Land)
Ministerial directions	Ministerial Direction 11 (Strategic Assessment of Amendments) Ministerial Direction 15 (The planning scheme amendment process)
Planning practice notes	Planning Practice Note 46: Strategic Assessment Guidelines, April 2026 (PPN46)
Other relevant documents	Frankston Green Wedge Management Plan

3.2 Strategic justification

(i) The issue

The issue is whether the Amendment is appropriate and strategically justified as a corrections amendment.

(ii) Submissions

Council submitted the purpose of a corrections amendment is to improve the operation of a planning scheme and ensure decisions are made within a clear and accurate statutory framework. In its closing submission, Council described a corrections amendment as one that addresses errors, anomalies, inconsistencies, omissions or unintended outcomes in a planning scheme, rather than introducing new strategic direction. It said the Amendment will:

- resolve inconsistencies within the Planning Scheme, including properties in multiple zones
- apply the correct zones to land based on its current use, ownership and conditions
- replace superseded business zones with the corresponding commercial zones
- remove redundant overlays, controls and incorporated documents
- correct spelling, typographical and drafting errors in ordinance provisions.

Council submitted the Amendment does not introduce new strategic policy. It gives effect to the established strategic planning framework and aligns planning controls with it. Council noted it maintains a running list of planning scheme anomalies and progresses corrections amendments regularly, citing Amendments C152fran and C165fran as recent examples involving the review and rezoning of Public Use Zone land where the zone no longer reflected the ownership or strategic role of the land.

Submitter 4 contended that, insofar as it applies to the McClelland Drive site, the Amendment is not a corrections-based amendment and instead represents a strategic rezoning exercise that required a full strategic assessment under PPN46. That submission, and the evidence of Ms Rigo called in support of it, is addressed in Chapter 4.

No submission opposed the balance of the Amendment. The submissions that raised other matters were resolved before the Hearing and withdrawn.

(iii) Discussion

The Amendment proposes numerous changes to the Planning Scheme to correct mapping and text errors, remove redundant controls and update superseded zone references. These changes will improve the efficiency, accuracy and usability of the Planning Scheme.

The 'corrections' label itself has no statutory force. It is not a category recognised by the PE Act or PPN46. What matters is that the strategic assessment supporting an amendment is proportionate to the impact of the changes it proposes. PPN46 recognises that minor amendments, including the rezoning of land to reflect its current use or ownership, do not require detailed analysis against the strategic assessment guidelines and are generally not supported by detailed strategic studies. The majority of the changes proposed by this Amendment sit comfortably within that description.

The replacement of the superseded business zones, the resolution of split zoning at 90 Bardia Avenue and 39 Wells Road, the rezoning of public reserve land to PCRZ, the deletion of spent overlays and the correction of typographical errors are all

straightforwardly corrective. They involve no change in policy intent and attracted no opposition.

The exhibition of the Amendment met the requirements of Ministerial Directions 11 (Strategic Assessment of Amendments) and 15 (The planning scheme amendment process). The Amendment was authorised subject to five conditions, which Council implemented before exhibition, and the Day 1 version of the Amendment documentation appropriately narrows the deletion of the Development Plan Overlay Schedule 7 to land at 495 Cranbourne-Frankston Road, Langwarrin following the internal error identified by Council officers during exhibition.

The Panel supports the Day 1 change to DPO7. The lots at 1-8 Brabham Way and 14-43R Hafey Way remain undeveloped, and DPO7 continues to serve its intended purpose of managing subdivision on this land. Deleting the overlay as exhibited would have removed an operative control. That outcome would not have been a correction. The deletion of DPO7 from 495 Cranbourne-Frankston Road, Langwarrin is appropriate because the overlay is redundant on that parcel. The Day 1 change confines the Amendment to removing a control that no longer serves a purpose, while retaining controls that do. This is consistent with the corrections basis of the Amendment.

The position is different for the McClelland Drive site. Whether the proposed rezoning of 620 McClelland Drive, Langwarrin from PUZ1 to RCZ3 is a genuine correction, or a substantive change to planning controls requiring the fuller strategic assessment contemplated by PPN46, is the central contested issue in this matter and is considered in Chapter 4. The Panel's conclusion on that issue does not disturb the strategic justification for the balance of the Amendment, which is capable of proceeding independently.

(iv) Conclusions and recommendation

For the reasons set out in this Report, the Panel concludes that the Amendment is:

- Consistent with the relevant Ministerial Directions
- With the exception of the proposed rezoning of 620 McClelland Drive, Langwarrin, well founded and strategically justified as a corrections amendment
- Should proceed generally as exhibited and modified by the Day 1 version of the Amendment documentation, subject to the Panel's conclusions in Chapter 4.

The Panel recommends:

Delete Development Plan Overlay Schedule 7 from 495 Cranbourne-Frankston Road and retain it on 1 to 8 Brabham Way and 14 to 43R Hafey Way, Langwarrin. 620 McClelland Drive, Langwarrin

4 620 McClelland Drive, Langwarrin

(i) The issue

The issue is whether it is appropriate to rezone the 620 McClelland Drive, Langwarrin from PUZ1 to RCZ3 as part of a corrections amendment.

(ii) Background

The McClelland Drive site is a single parcel of approximately 5 hectares on the eastern side of McClelland Drive, Langwarrin and:

- adjoins the Langwarrin Flora and Fauna Reserve
- is located within the Green Wedge, outside the Urban Growth Boundary
- contains buildings, extensive hardstand areas of approximately 24,000 square metres and associated infrastructure established during its former occupation by Telstra and its predecessors as a depot and storage facility.

The buildings and works are understood to have been lawfully constructed while the land was in public ownership.

The land was sold into private ownership in 1992 following the privatisation of Telstra, with Telstra continuing to occupy the site for a period under a leaseback arrangement. The land was later used in association with the redevelopment of the Peninsula Private Hospital.

The current owner, Leadon Group Pty Ltd, has occupied the site since about 2017 and became registered proprietor in April 2018. The PUZ1 applying to the land was never reviewed following the change in ownership. The land is used for storage purposes by multiple businesses, and the Panel was told approximately 20 people are employed on the site.

The land use term 'store' is nested under 'warehouse' in Clause 73.04-15 Warehouse (other than freezing and cool storage and rural store) is a Section 3 prohibited use in the RCZ. The effect of the proposed rezoning is that the use of the land for a store would be prohibited.

The zoning of the McClelland Drive site has a contested statutory history:

- The submitter's material records, and Council did not dispute, that in 2021 Council advised the landowner that the existing use was in breach of the Planning Scheme and directed that a planning permit application be lodged to rectify the breach.
- An application for a certificate of compliance was refused in 2021 and upheld by VCAT in 2022.
- Permit application 256/2025/P, seeking permission to use and develop the land as a store, was lodged on 23 April 2025 and refused by Council on 19 January 2026. One ground of refusal was that the mandatory application requirement of Clause 36.01-3, requiring the written consent of the public land manager, was not met.

- The landowner sought review of the refusal in *Leadon Group Pty Ltd v Frankston CC* (VCAT proceeding P110/2026). A preliminary hearing addressing five questions concerning the operation of Clause 36.01-3 was held on 27 May 2026.
- In its preliminary decision (*Leadon Group Pty Ltd v Frankston CC* [2026] VCAT 439), the Tribunal found that Clause 36.01-3 applied to the permit application notwithstanding the private ownership of the land and the absence of a public land manager, and that the application did not comply with that requirement.
- The merits of the review remain before the Tribunal, with a hearing listed for August 2026.

(iii) Evidence and submissions

Submitter 4 opposed the rezoning and submitted:

- the rezoning is not a correction but a substantive strategic rezoning that would produce a different land use and development outcome, requiring a full strategic assessment under PPN46
- the rezoning would prohibit a use that has been conducted on the land in substantially similar form for much of the last four decades
- the Explanatory Report's statement that the Amendment has no negative economic or social impacts is not sustainable, given the businesses and employment on the site
- the PAO2, associated with a potential future railway station, is relevant to the appropriate long-term planning outcome for the land
- alternative controls, including a Specific Controls Overlay or a Special Use Zone, should have been considered through a transparent process
- progressing the rezoning while the VCAT review remains on foot would undermine or render futile an active statutory process that the landowner commenced at Council's own direction, contrary to the objective of fair and orderly planning in section 4(1)(a) of the PE Act.

The submitter called expert planning evidence from Ms Sandra Rigo of Hansen Partnership. Ms Rigo's evidence was that:

- PPN46 contemplates brief strategic assessments for minor amendments, including rezoning land to reflect its current use or ownership, but requires a full assessment where an amendment would introduce a zone producing a different or new land use or development outcome
- had the rezoning occurred at or shortly after the land's sale into private ownership in the 1990s, it may well have met the description of a minor amendment, but a significant period has since transpired, and the strategic context has materially changed
- the application of RCZ3 is not self-evident, and the level of strategic justification provided is not proportionate to the impact of the rezoning on the previous and future use of the site
- the Green Wedge Management Plan mapping of Precinct 6 (which includes the site and its surrounds) does not specifically address the McClelland Drive site

- the McClelland Drive site is inappropriate for inclusion in the Amendment and should be withdrawn, with the appropriate controls determined through a separate and more detailed strategic assessment.

Ms Rigo accepted that the PUZ1 is no longer appropriate for the land and should have been changed many years ago, that the land is outside the UGB and that those strategic characteristics remain regardless of the current operation. It was also Mr Rigo's evidence that the RCZ is generally consistent with the zoning pattern for privately owned land in Precinct 6 of the Frankston Green Wedge Management Plan¹ and that the status of the current activities is a matter for the permit process.

Council submitted:

- the Amendment addresses a clear zoning anomaly arising from the continued application of the PUZ1 to land that is no longer publicly owned and no longer used for a public purpose
- the rezoning does not introduce new strategic policy but gives effect to the established framework, including Clause 11.01-1R (Green Wedges), Clause 35 (Rural Zones), Clause 51.02 (Metropolitan Green Wedge Land) and the Management Plan, under which the surrounding privately owned land in Precinct 6 is predominantly zoned RCZ3
- the existing use has no lawful status. There are no existing use rights, a certificate of compliance was refused, and the permit application was refused. A use without lawful status cannot be relied on to justify a zoning outcome
- the fact that the rezoning results in a different suite of permissible uses is an inherent consequence of replacing an outdated zone and does not alter the corrective character of the Amendment
- the PAO2 cannot justify retaining an inappropriate zone, as the reservation has not progressed beyond a notional designation in more than two decades
- alternative controls were considered, including an Industrial zone suggested by the proponent in March 2024 and a Specific Controls Overlay proposed in August 2024, and were not supported by Council or the Department of Transport and Planning having regard to the land's location outside the UGB
- the permit and amendment processes are separate statutory processes serving distinct functions, and the existence of a permit application does not constrain the planning authority's ability to amend the planning scheme
- the rezoning is consistent with Council's established approach in previous corrections amendments, citing Amendments C152fran and C165fran.

(iv) Discussion

There is no dispute that the current zoning of the Subject Site is anomalous. All parties and the submitter's own expert agree that the continued application of the PUZ1 to privately owned land is a defect in the Planning Scheme that should be resolved. The question before the Panel is not whether the anomaly should be fixed, but whether this Amendment, framed and exhibited as a corrections amendment, is the appropriate

¹ With the exception of the Peninsula Private Hospital, which is in a Special Use Zone

vehicle for fixing it, and whether RCZ3 has been shown to be the appropriate replacement zone.

PPN46 draws a distinction that is central to this question. Minor amendments, including the rezoning of land to reflect its current use or ownership, warrant only a brief strategic assessment. A full assessment is required where an amendment would introduce a zone that would produce a different or new land use or development outcome.

The proposed rezoning falls within the later. It would:

- move the McClelland Drive site from a zone under which a store use is permit required to a zone under which it is prohibited
- prohibit further subdivision of the land
- recast the development potential of a 5-hectare site containing substantial lawfully constructed infrastructure.

The Panel has considered Council's response that the changed suite of permissible uses is simply the inherent consequence of correcting an outdated zone. On Council's approach, any rezoning of anomalously zoned land would be corrective regardless of its consequences, and the distinction drawn by PPN46 would have no work to do. The scale of the change effected by a rezoning is precisely what PPN46 directs planning authorities to consider in calibrating the depth of strategic assessment.

The Panel accepts that the weight to be given to the disruption of the existing use is qualified by its lawful status. Ms Rigo's conclusion that the rezoning is not corrective rests substantially on treating the long-standing store use as the operative baseline. That use has not been lawfully established. There are no existing use rights, a certificate of compliance was refused, and a merits appeal is currently before VCAT. A planning scheme amendment is not required to preserve, and should not be assessed against, a use without lawful status. To that extent the Panel prefers Council's submission, and the economic and social impacts associated with discontinuing the use carry less weight than the submitter contends.

The lawful status of the existing use does not resolve the separate question of whether RCZ3 is the right zone. The choice of RCZ3 is supported at a high level by the Green Wedge framework and the surrounding zoning pattern. But the strategic justification presented in the Explanatory Report is brief, and the site-specific considerations are not trivial. The site contains substantial lawfully constructed infrastructure, is partly affected by the PAO2, reserved for a potential future railway station, is partly affected by the HO39, and is not specifically addressed in the Management Plan.

Council's submissions disclosed that alternative controls were canvassed with the proponent and the Department over an extended period, which itself indicates the appropriate outcome was not treated as self-evident. Those discussions occurred outside any exhibited strategic assessment, and the community and the Panel have not had the benefit of a transparent analysis of the alternatives.

The Panel does not place significant weight on Council's precedent examples. Amendments C152fran and C165fran involved the rezoning of public reserve land or uncontested anomalies, materially different circumstances from a contested rezoning of private land that would prohibit its current use.

The Panel accepts Council's submission that the permit and amendment processes are separate, and that a planning authority is not prevented from progressing an amendment while a permit application is under review. But the fact that Council may proceed does not mean that it should. Its outcome bears directly on the baseline against which any rezoning of the McClelland Drive site should be strategically assessed. Rezoning the land now, in a corrections amendment carrying only a brief justification, risks pre-empting that outcome and sits uneasily with the objective of fair and orderly planning in section 4(1)(a) of the PE Act.

The Panel makes no criticism of Council's reasons for progressing the Amendment and does not accept the suggestion that the Amendment was initiated to frustrate the permit process, but the practical effect of the sequencing is a relevant planning consideration.

Ms Rigo's recommendation was that the McClelland Drive site be withdrawn from the Amendment and its controls determined through a separate and more detailed strategic assessment. The Panel agrees that this is the appropriate course of action. It resolves the tension between the two statutory processes without deferring the balance of the Amendment, which is uncontested and should not be held up. It does not leave the anomaly unaddressed but requires the anomaly to be addressed properly, through a site-specific or other amendment process, supported by a strategic assessment proportionate to the change proposed.

For the avoidance of doubt, the Panel expresses no view on what the appropriate zone for the McClelland Drive site is. The RCZ3 may well prove to be the correct outcome but that requires further assessment. The Panel's conclusion is that this has not yet been demonstrated to the standard PPN46 requires, and that this corrections amendment is not the vehicle through which to demonstrate it.

(v) Conclusions and recommendation

The Panel concludes:

- The continued application of the Public Use Zone Schedule 1 to the Subject Site is an anomaly that should be resolved.
- The proposed rezoning to Rural Conservation Zone Schedule 3 would produce a different land use and development outcome and requires a full strategic assessment under PPN46. The justification presented does not meet that standard.
- The Subject Site should be removed from the Amendment and its zoning resolved through a separate, site-specific amendment supported by a strategic assessment consistent with PPN46.
- The balance of the Amendment should not be delayed and should proceed.

The Panel recommends that Frankston City Council:

Appendix A Document list

No.	Date	Description	Provided by
Referred documents – Amendment C167Fran			
1	11 May 26	Council report seeking amendment authorisation	Council
2	11 May 26	Authorisation letter from DTP	Council
3	11 May 26	Amendment documents: a. Explanatory Report b. Instruction sheet c. Ordinance d. Map Sheets	Council
4	11 May 26	List of Submitters	Council
Tabled documents – Amendment C167Fran			
5	2 June 26	Submitter location map - provided to Panel only	Council
6	3 June 26	Council Part A (Background and Context) Planning Panel Submission	Council
7	3 June 26	Council Part A Planning Panel Appendices	Council
8	9 June 26	Submission on behalf of Mr Guy Leatham (Submitter 4)	G. Leatham
9	9 June 26	Appendices to Mr Leatham's submissions	G. Leatham
10	9 June 26	Expert Evidence Statement (Planning) - 620 McClelland Drive, Langwarrin	G. Leatham
11	15 June 26	Council Part B (Main) Planning Panel Submission	Council
12	15 June 26	Council Part B Appendices (Redacted)	Council
13	18 June 26	Council Day 1 version of the Amendment documentation	Council
14	25 June 26	Frankston Green wedge Management Plan (updated June 2021)	G. Leatham
15	25 June 26	<i>Leadon Group Pty Ltd v Frankston CC [2026] VCAT 439</i>	G. Leatham
16	25 June 26	Frankston City Industrial Strategy (July 2025)	Council
17	30 June 26	Council Part C submission	Council

Appendix B Amendment subject land

Source: Exhibited Explanatory Report Attachments 1 and 2.

B:1 Mapping reference table with property addresses

Location	Land /Area Affected	Mapping Reference	Address	Proposed Zone changes	Proposed Overlay changes	Proposed deletion changes
All B1Z, B2Z and B5Z	All B1Z, B2Z and B5Z	Frankston C167fran 001znMaps1_2_4_5_6_7_8_9 Exhibition	All properties in these zones	Rezoned to C1Z	N/A	N/A
All B4Z areas	All B4Z areas	Frankston C167fran 002znMaps2_4 Exhibition	All properties in these zones	Rezoned to C2Z	N/A	N/A
Carrum Downs	1 - 23 April Grove, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 23 April Grove, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 58 Bronzewing Drive, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 58 Bronzewing Drive, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 54 Hillview Drive, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 54 Hillview Drive, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 52 Pagett Road, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 52 Pagett Road, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 30 Pippa Way, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 30 Pippa Way, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 74 Shoreline Crescent, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 74 Shoreline Crescent, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 9 Spinebill Lane, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 9 Spinebill Lane, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 67 Surfers Crescent, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 67 Surfers Crescent, Carrum Downs	N/A	Delete DPO1	N/A

Location	Land /Area Affected	Mapping Reference	Address	Proposed Zone changes	Proposed Overlay changes	Proposed deletion changes
Carrum Downs	40 - 64 Trafford Road, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	40 - 64 Trafford Road, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 16 Wallagoot Walk, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 16 Wallagoot Walk, Carrum Downs	N/A	Delete DPO1	N/A
Carrum Downs	1 - 16 Wineglass Walk, Carrum Downs	Frankston C167fran 009d-dpoMap2 Exhibition	1 - 16 Wineglass Walk, Carrum Downs	N/A	Delete DPO1	N/A
Frankston South	34 Mountain Avenue, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	34 Mountain Avenue, Frankston South	N/A	Delete SCO2	N/A
Frankston South	4 Kristen Close, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	4 Kristen Close, Frankston South	N/A	Delete SCO2	N/A
Frankston South	4C Kristen Close, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	4C Kristen Close, Frankston South	N/A	Delete SCO2	N/A
Frankston South	4D Kristen Close, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	4D Kristen Close, Frankston South	N/A	Delete SCO2	N/A
Frankston South	4E Kristen Close, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	4E Kristen Close, Frankston South	N/A	Delete SCO2	N/A
Frankston South	4F Kristen Close, Frankston South	Frankston C167fran 006d-scoMap7 Exhibition	4F Kristen Close, Frankston South	N/A	Delete SCO2	N/A
Frankston South	13N Jeremy Way, Frankston South	Frankston C167fran 006znMap7 Exhibition	13N Jeremy Way, Frankston South	Rezone to PCRZ	N/A	N/A
Frankston	Frankston Foreshore Reserve/570 N Nepean Highway, Frankston	Frankston C167fran 003znMap4_7 Exhibition	Frankston Foreshore Reserve/570 N Nepean Highway, Frankston	Rezone o PCRZ	N/A	Delete any reference to Frankston Safe Boat Harbour on all Government

Location	Land /Area Affected	Mapping Reference	Address	Proposed Zone changes	Proposed Overlay changes	Proposed deletion changes
						mapping platforms.
Langwarrin	1 – 8 Brabham Way, Langwarrin	Frankston C167fran 010d-dpoMap6 Exhibition	1 – 8 Brabham Way, Langwarrin	N/A	Delete DPO7	N/A
Langwarrin	495 Cranbourne-Frankston Road, Langwarrin	Frankston C167fran 010d-dpoMap6 Exhibition	495 Cranbourne-Frankston Road, Langwarrin	N/A	Delete DPO7	N/A
Langwarrin	14 – 43R Hafey Way, Langwarrin	Frankston C167fran 010d-dpoMap6 Exhibition	14 – 43R Hafey Way, Langwarrin	N/A	Delete DPO7	N/A
Langwarrin	620 McClelland Drive, Langwarrin	Frankston C167fran 007znMap8 Exhibition	620 McClelland Drive, Langwarrin	Rezone to RCZ3	N/A	N/A
Seaford	39 Wells Road, Seaford	Frankston C167fran 003znMap4 Exhibition	39 Wells Road, Seaford	Partially rezone to IN1Z	N/A	N/A
Seaford	90 Bardia Avenue, Seaford	Frankston C167fran 003znMap4 Exhibition	90 Bardia Avenue, Seaford	Partially rezone to PPRZ	N/A	N/A

B:2 Mapping zone changes - from Business 1, Business 2, Business 4 and Business 5 Zone to Commercial 1 Zone or Commercial 2 Zone

Table 1: Mapping Updates – Business Zones to Commercial Zones		
Current	New Zone	Address
B1Z	C1Z	110 - 116 Ashleigh Avenue, Frankston
B1Z	C1Z	136 - 158 Austin Road, Seaford
B1Z	C1Z	317 - 335S Ballarto Road, Carrum Downs
B1Z	C1Z	41 - 53H Beach Street, Frankston
B1Z	C1Z	129 - 247A Beach Street, Frankston
B1Z	C1Z	1 Broughton Street, Seaford
B1Z	C1Z	330 - 338 Cranbourne Road, Frankston
B1Z	C1Z	115 - 121 Cranbourne-Frankston Road, Langwarrin
B1Z	C1Z	230 - 246 Cranbourne-Frankston Road, Langwarrin
B1Z	C1Z	301 - 311 Cranbourne-Frankston Road, Langwarrin
B1Z	C1Z	385 - 387 Cranbourne-Frankston Road, Langwarrin
B1Z	C1Z	2 - 4 Culcairn Drive, Frankston South
B1Z	C1Z	6 Culcairn Drive, Frankston South
B1Z	C1Z	121-125 Dandenong Road East, Frankston
B1Z	C1Z	1-9R Dandenong Road East, Frankston
B1Z	C1Z	43 - 57A Excelsior Drive, Frankston North
B1Z	C1Z	2 - 24 Fairway Street, Frankston
B1Z	C1Z	105C Fleetwood Crescent, Frankston South
B1Z	C1Z	13 Fleetwood Lane, Frankston South
B1Z	C1Z	30 - 57 Foot Street, Frankston
B1Z	C1Z	117 Franciscan Avenue, Frankston
B1Z	C1Z	1095 Frankston - Dandenong Road, Carrum Downs
B1Z	C1Z	366 Frankston - Dandenong Road, Carrum Downs
B1Z	C1Z	493 Frankston - Dandenong Road, Carrum Downs
B1Z	C1Z	136 Frankston - Flinders Road, Frankston South
B1Z	C1Z	145 - 147 Frankston - Flinders Road, Frankston South
B1Z	C1Z	192 Frankston - Flinders Road, Frankston South
B1Z	C1Z	1 - 7 Golf Links Road, Frankston
B1Z	C1Z	100 Hall Road, Carrum Downs
B1Z	C1Z	90 Hall Road, Carrum Downs
B1Z	C1Z	300 - 300E Heatherhill Road, Frankston
B1Z	C1Z	44 - 54 Heatherhill Road, Frankston

B1Z	C1Z	47 - 61 Kareela Road, Frankston
B1Z	C1Z	40 - 58 Mahogany Avenue, Frankston North
B1Z	C1Z	6 - 14B McCulloch Avenue, Seaford
B1Z	C1Z	14 - 15 Nepean Highway, Seaford
B1Z	C1Z	31 - 34 Nepean Highway, Seaford
B1Z	C1Z	110 - 132 Nepean Highway, Seaford
B1Z	C1Z	164 - 165 Nepean Highway, Seaford
B1Z	C1Z	166 - 175 Nepean Highway, Seaford
B1Z	C1Z	42 - 60 Norman Avenue, Frankston South
B1Z	C1Z	176 North Road, Langwarrin
B1Z	C1Z	2/2 Omaroo Lane, Frankston
B1Z	C1Z	2/3 Overport Road, Frankston
B1Z	C1Z	1 Petrie Street, Frankston
B1Z	C1Z	103 - 115 Railway Parade, Seaford
B1Z	C1Z	274 - 290 Seaford Road, Seaford
B1Z	C1Z	19 Shaxton Circle, Frankston
B1Z	C1Z	2 - 34 Skye Road, Frankston
B1Z	C1Z	2A - 20 Station Street, Seaford
B1Z	C1Z	1 - 6 The Mall, Frankston
B1Z	C1Z	143 Warrandyte Road, Langwarrin
B2Z	C1Z	1 Cadles Road, Carrum Downs
B2Z	C1Z	15 Cadles Road, Carrum Downs
B2Z	C1Z	19a Cadles Road, Carrum Downs
B2Z	C1Z	25 Cadles Road, Carrum Downs
B2Z	C1Z	9 Cadles Road, Carrum Downs
B2Z	C1Z	113 - 129 Hall Road, Carrum Downs
B2Z	C1Z	71 - 71B Hall Road, Carrum Downs
B2Z	C1Z	2 - 22 Protea Street, Carrum Downs
B2Z	C1Z	80 William Road, Carrum Downs
B4Z	C2Z	111 Cranbourne Road, Frankston
B4Z	C2Z	80 - 94 Cranbourne Road, Frankston
B4Z	C2Z	34 - 44 Dandenong Road West, Frankston
B4Z	C2Z	60 - 76 Dandenong Road West, Frankston
B4Z	C2Z	17 - 19 Fletcher Road, Frankston
B4Z	C2Z	574 - 590 Frankston - Dandenong Road, Carrum Downs
B4Z	C2Z	12 - 24 Lathams Road, Carrum Downs
B4Z	C2Z	6S - 8S Levida Drive, Carrum Downs

B4Z	C2Z	10 - 40S McMahons Road, Frankston
B4Z	C2Z	24S - 30S Yazaki Way, Carrum Downs
B5Z	C1Z	7 Broughton Street, Seaford
B5Z	C1Z	1 - 9 Chevalier Place, Frankston
B5Z	C1Z	328 Cranbourne Road, Frankston
B5Z	C1Z	5 - 5S Culcairn Drive, Frankston South
B5Z	C1Z	190 - 228 Karingal Drive, Frankston
B5Z	C1Z	30 Lizardet Crescent, Frankston
B5Z	C1Z	133 - 134 Nepean Highway, Seaford
B5Z	C1Z	5 - 26 Union Road, Langwarrin