City of Greater Geelong, Date Received 22/09/2026

Solve Town Planning
james@solvetp.com.au
0410 706 993

SOLVE
TOWN PLANNING



PLANNING
REPORT

Variation to a Covenant

105 Valleyside Drive, Lovely Banks

City of Greater Geelong, Date Received 22/09/2026

SOLVE TOWN PLANNING

Table of Contents

Table of Contents 2
Table of Figures 3
1. Application Summary 4
1.1 Application Summary 4
1.2 The Proposal and Relevant Background 5
1.3 Permit Triggers - The reason a permit application is required 7
2. Burdened and Benefitting Land 8
2.1 Burdened and Benefitting Land 8
3. The Planning Considerations 10
3.1 Clause 52.02 10
3.2 S.60(2) of The Planning and Environment Act 1987 11
3.3 Clause 65 Decision Guidelines 12
4. Conclusion 13
4.1 Should a permit be granted? 13

City of Greater Geelong, Date Received 22/09/2026

Table of Figures

Figure 1. Subject land and benefitting parties 8
Figure 2. Subject land and benefitting parties 9

Document Control

Version	Date	Issue
V1	12/08/2026	Submission

Solve Town Planning Pty Ltd

This work remains the copyright of Solve Town Planning. No part may be reproduced or used without written permission of Solve Town Planning.

Disclaimer: Solve Town Planning Pty Ltd takes no responsibility in any way whatsoever to any person or organisation (other than that for which this report is prepared) with respect to the information contained within this report including errors or omissions. Solve Town Planning holds no liability for errors in reports, plans or any other documentation or advice not prepared by Solve Town Planning Pty Ltd.

City of Greater Geelong, Date Received 22/09/2026

1. Application Summary

1.1 Application Summary

Application Summary	
Subject Land	105 Valleyside Drive, Lovely Banks
Proposal	Variation to a Covenant
Land Description	Lot 32 on Registered Cluster Plan 001333
Land Use	Single Dwelling
Zone	• Rural Living Zone - Schedule to the RLZ
Overlays	N/A
Permit Triggers	• Clause 52.02 - Variation to a covenant/restriction

City of Greater Geelong, Date Received 22/09/2026

1.2 The Proposal and Relevant Background

This report is prepared in support of a planning permit application for a variation to a covenant/restriction under Clause 52.02 of the Geelong Planning Scheme.

The proposed variation to the covenant is to allow the use and development of the land for a small second dwelling. The covenant currently permits the use and development of the land for "one dwelling house and carport or garage" only.

The subject land is 105 Valleyside Drive, Lot 32 on Cluster Plan 001333, and is affected by a covenant created under the Cluster Titles Act which reads:

The lots specified in column 1 (lots 1-32 both inclusive) are affected by the requirements and restrictions set out opposite thereto in column 2 hereunder:

Schedule 1

1. *A member shall not erect or construct or permit any person to erect or construct any building:-*
    - *a) Other than one dwelling house and carport or garage in accordance with plans and specifications approved by the Shire of Corio;*
    - *b) outside the area delineated as hatched on the development plan on sheets 4, 5, 6 and 7 hereof;*
    - *c) with the floor level above the level 61.00 metres Australian Height Datum*
    - *d) to a height exceeding 5.5 metres above any point around the perimeter of the structure.*
2. *A member shall not construct or permit any person to erect an advertising sign on any allotment.*
3. *A member shall not further subdivide any allotment.*
4. *A member shall not erect or construct or permit any person to erect or construct offence other than of rural type timber post and wire construction*

As it currently reads, the covenant prevents the land from being used and developed for a "small second dwelling", that being;

"A building with a gross floor area of 60 square metres or less, on the same lot as an existing dwelling and used as a self-contained residence, which must include:

City of Greater Geelong, Date Received 22/09/2026

a) a kitchen sink;

b) food preparation facilities;

c) a bath or shower; and

d) a toilet and wash basin."

The intent of this application is to vary the covenant sufficiently to allow for the use and development of the land for a small second dwelling. We propose the following amendments to the covenant (*proposed amendments in red*):

---

1. A member shall not erect or construct or permit any person to erect or construct any building:-:

a) Other than one single dwelling and small second dwelling and carport, garage or outbuilding as defined by the Scheme.

e) outside the area delineated as hatched on the development plan on sheets 4, 5, 6 and 7 hereof;

f) with the floor level above the level 61.00 metres Australian Height Datum

g) to a height exceeding 5.5 metres above any point around the perimeter of the structure.

5. A member shall not construct or permit any person to erect an advertising sign on any allotment.

6. A member shall not further subdivide any allotment.

7. A member shall not erect or construct or permit any person to erect or construct offence other than of rural type timber post and wire construction

---

The variation would allow for the use and development of the land for a small second dwelling in addition to the existing dwelling.

This application is accompanied by the following submissions:

- Benefitting Parties Plan

City of Greater Geelong, Date Received 22/09/2026

1.3 Permit Triggers - The reason a permit application is required

Provision	Permit Trigger	Reason
Clause 35.03 Rural Living Zone	No	There are no permit triggers under the zone for the variation to a covenant/restriction. We note that the use and development of the land for a small second dwelling becomes as of right upon the variation of the covenant.
Clause 52.02 Easements, Restrictions and Reserves	Yes	A permit is required before a person proceeds under Section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

City of Greater Geelong, Date Received 22/09/2026

2. Burdened and Benefitting Land

2.1 Burdened and Benefitting Land

The covenant is detailed on instrument CS001333. Feigl and Newell, appropriately qualified title searchers have provided advice as to the extent of burdened and benefitting land.

Identified as per below:

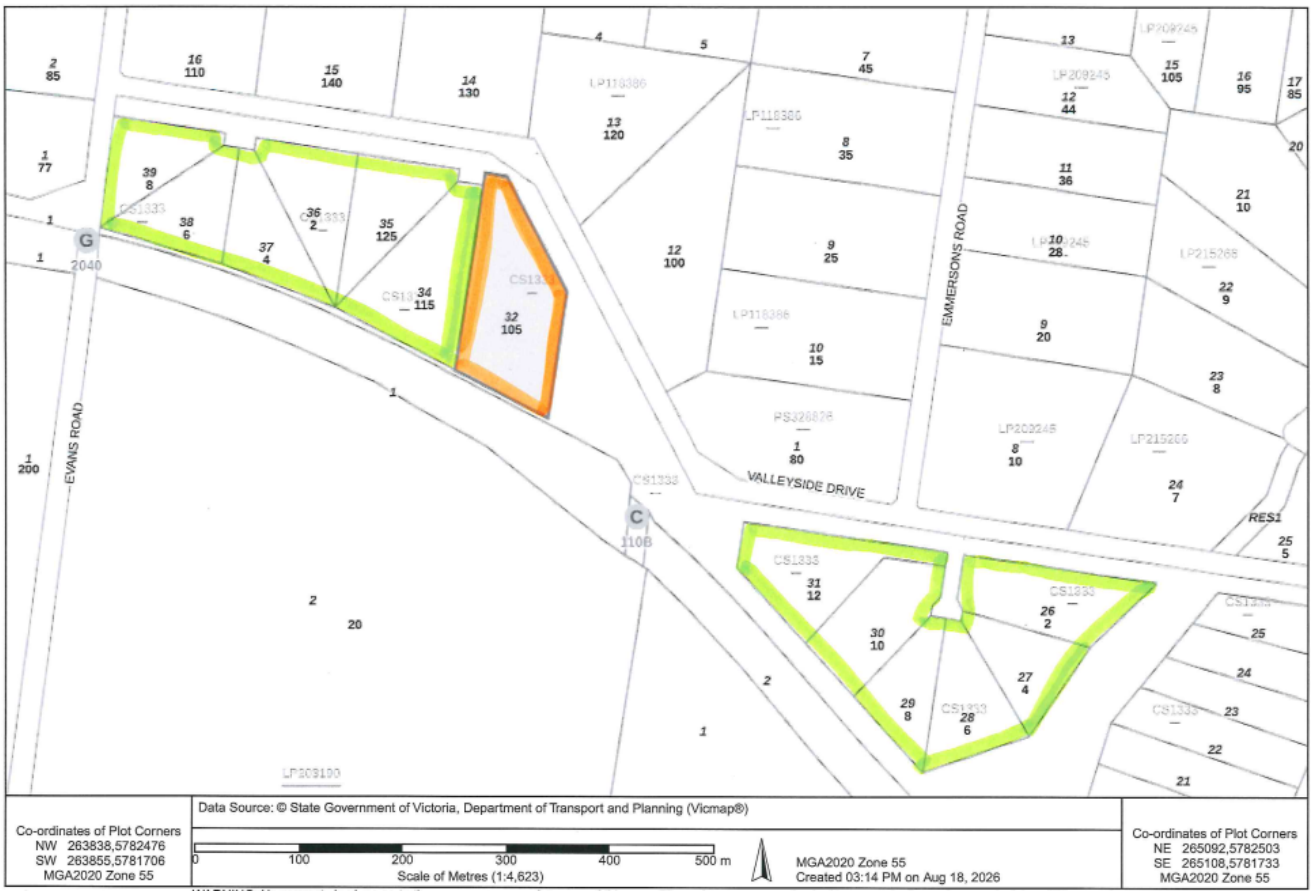


Figure 1. Subject land and benefitting parties

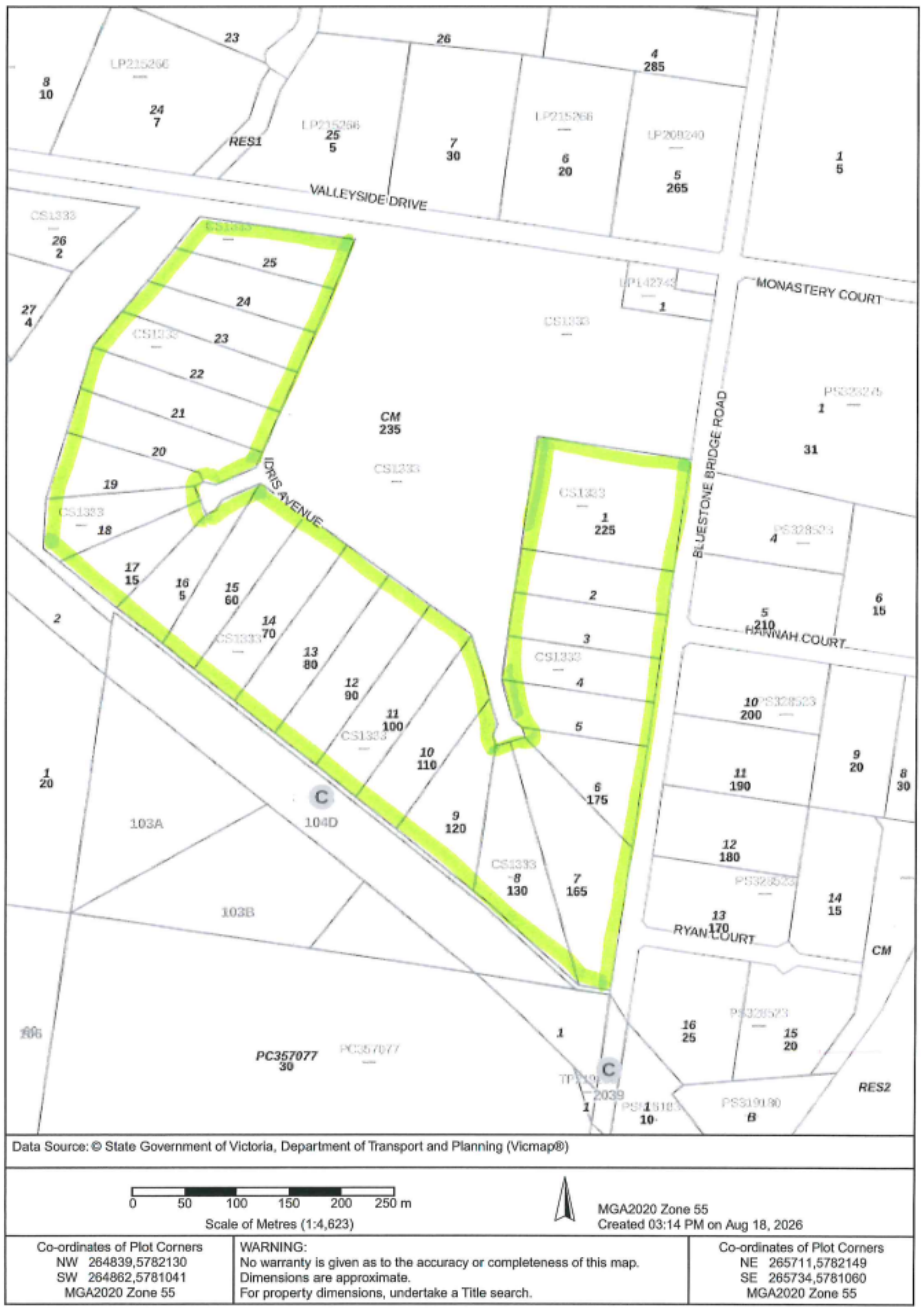


Figure 2. Subject land and benefitting parties

City of Greater Geelong, Date Received 22/09/2026

3. The Planning Considerations

The following section is a review of the relevant provisions of the Scheme as they specifically relate to the proposal.

3.1 Clause 52.02

Clause 52.02 - EASEMENTS, RESTRICTIONS AND RESERVES

Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

Response:

The intent of the Covenant was clearly to retain the low scale and low density development within the subdivision. This low scale and intensity of development in the immediate locality would not be altered under the proposal.

The remaining building limitations on the envelope and height adequately control the built environment and its impact on benefitting parties.

By limiting the use and development to a "small second dwelling" as defined by the Scheme, it intrinsically limits the extent of works and opportunity for impact as a result.

Since the subdivision and covenant was imposed, the use and development of the land for a "small second dwelling" does not require a planning permit. On the basis that the net positive effect that the small second dwelling might have on the community outweighs any negative impacts that the development might have.

City of Greater Geelong, Date Received 22/09/2026

3.2 S.60(2) of The Planning and Environment Act 1987

Section 60(2) - The Planning and Environment Act 1987

(2) The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer–

(a) financial loss; or

(b) loss of amenity; or

(c) loss arising from change to the character of the neighbourhood; or

(d) any other material detriment–

as a consequence of the removal or variation of the restriction.

Response:

Financial loss

The proposed variation permits an additional small second dwelling size limited to 60sqm.

A broader range of development outcomes traditionally leads to higher property values.

The controls relating to the building envelopes and side and rear setbacks would be maintained.

The proposal is unlikely to cause financial loss of any kind to any benefitting party.

Loss of Amenity

The subject land and surrounding land are all of sufficient size that traditional building setbacks which would be required to be adhered to for any development of the land for a small second dwelling would not cause material detriment as a result of building size, mass or siting of the small second dwelling.

Any additional occupancy is limited to the size constraints of a small second dwelling and is of no further consequence than an extension for an additional bedroom - which can occur currently without the requirement for a planning permit.

Loss arising from change to the character of the locality

The proposal represents a minor departure from existing conditions and is unlikely to cause any perceivable change to character at a locality level.

Any other material detriment

The variation to the covenant does not exempt the proponent from adherence to Building Regulations and other statutory consents which are in force to prevent off site material detriment and impacts beyond the subject land.

The proposed variation is unlikely to cause any financial loss, loss of amenity, loss arising from change to the character of the locality or any other material detriment.

City of Greater Geelong, Date Received 22/09/2026

3.3 Clause 65 Decision Guidelines

The proposal, in the general scheme of matters is exceedingly modest and allows for the occurrence of a use and development which would otherwise not require a planning permit.

The proposal would have a negligible affect on the environment. There is no vegetation removal proposed, native or otherwise.

Factors relating to land degradation, flooding, fire hazard, stormwater and native vegetation loss are not relevant to the proposal at hand.

City of Greater Geelong, Date Received 22/09/2026

4. Conclusion

The proposal anticipates a variation to a covenant which would otherwise be permissible without the requirement for a planning permit. The variation seeks only the use and development of a "small second dwelling" and not the development of a traditional second dwelling on the allotment.

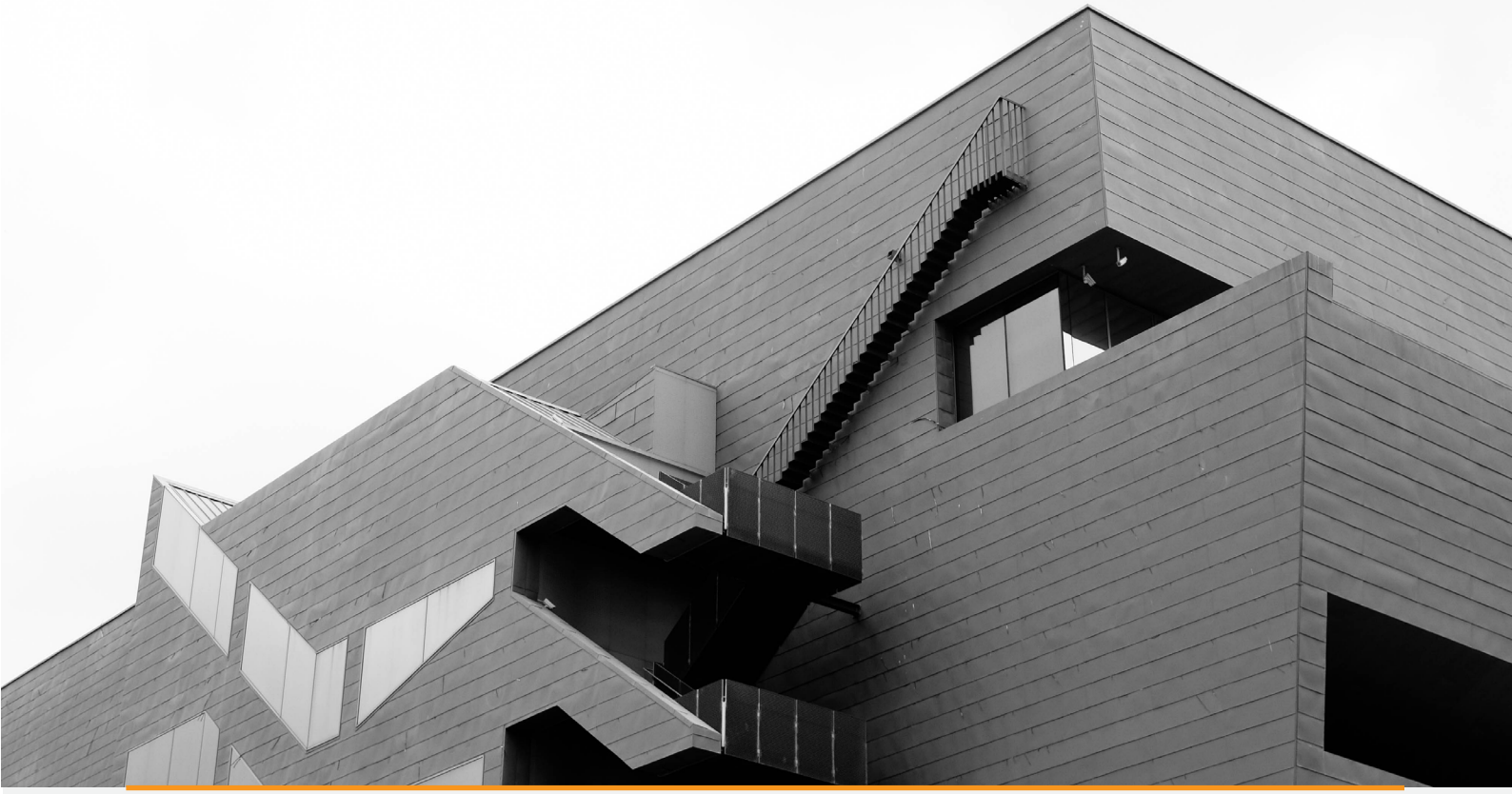
4.1 Should a permit be granted?

The proposal responds positively to the relevant provisions of the Geelong Planning Scheme and consistent with the objectives of the zone.

All relevant matters such as amenity impacts, landscape character and environmental impacts have been considered. The proposal achieves a high level of accordance with the scheme and is representative of a positive and orderly planning outcome.

Consistent with Section 60(2) of The Planning and Environment Act 1987, the proposed variation is unlikely to cause any financial loss, loss of amenity, loss arising from change to the character of the locality or any other material detriment.

City of Greater Geelong, Date Received 22/09/2026



CONTACT US

It all begins with an idea.
Contact us for an obligation free

Solve Town Planning
james@solvetp.com.au
0410 706 993

SOLVE
TOWN PLANNING