

Planning and Environment Act 1987

Panel Report

**Greater Geelong Planning Scheme Amendment C328
Part 2 and Planning Permit Application 762/2015
Barwon Water Surplus Property – St Leonards**

Front page

9 September 2016

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Greater Geelong Planning Scheme Amendment C328 Part 2

Barwon Water Surplus Property – St Leonards

9 September 2016

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William O'Neil, Chair

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List of Abbreviations

Council	City of Greater Geelong
GRZ	General Residential Zone
GWMP	Green Wedge Management Plan
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendment	Greater Geelong Planning Scheme Amendment C328 Part 2
Common name	Barwon Water surplus property – St Leonards
Brief description of the Amendment	The Amendment seeks to rezone Public Use Zone 1 land in St Leonards that has been determined to be surplus to Barwon Water's requirements to the General Residential Zone and the Public Park and Recreation Zone. A number of related modifications to the Planning Controls are proposed.
Brief description of the Permit Application	The planning permit application proposes subdivision of Lot 1 and a portion of Reserve No. 2 (PS526864F), 38-42 Mainsail Drive, St Leonards to create two lots of 724 m ² and 524 m ² (to be zoned General Residential Zone Schedule 2). It also creates two reserves, a 1231 m ² reserve to be retained by Barwon Water and a 138 m ² parcel to be vested in Council as public open space. A copy of the proposed Permit Application is provided in Appendix A.
Subject site	38 – 42 Mainsail Drive, St Leonards and Reserve No. 1 (PS526864F)
The Proponent	The Amendment has been made at the request of the Barwon Region Water Corporation (Barwon Water). Barwon Water are the applicant for the Planning Permit.
Planning Authority	City of Greater Geelong
Authorisation	Request lodged on 19 January 2016. No response received. In accordance with section 8A(7) of the Planning and Environment Act 1987, the Amendment was prepared following expiry of notice period (3 February 2016).
Exhibition	10 March – 11 April 2016
Submissions	Eight submissions were received. Five opposed the Amendment. <ul style="list-style-type: none">• Sub 1: Anakie & District Community Group Inc (Submission relates to C328 Part 1 - Comment• Sub 2: AusNet Services – Comment• Sub 3: Barwon Water – Support• Sub 4: Josephine Coffey – Objection• Sub 5: Vicki Cole – Objection• Sub 6: Julian Ginn – Objection• Sub 7: Graeme and Angelika Hood – Objection• Sub 8: Lyn Wiles – Objection

Panel Process

The Panel William O’Neil, Chairperson

Directions Hearing City of Greater Geelong Council Offices, 20 July 2016

Panel Hearing City of Greater Geelong Council Offices, 11 August 2016

Site Inspections Unaccompanied, 20 July 2016

Appearances

- City of Greater Geelong represented by Stuart Thiele (Strategic Planner) and Leanne Stockley (Statutory Planner).
- Barwon Water represented by Chris Mason of St Quentin Consulting instructed by Tony Belcher, Strategic Projects Co-ordinator.

Note:

Mr & Mrs Hood (Submitter 7) were scheduled to appear at the Hearing. Their request to be heard was formerly withdrawn on 2 August 2016 via email to Planning Panels Victoria. They indicated that while they no longer wished to be heard, they maintain their opposition to the Amendment and Permit Application.

Date of this Report 9 September 2016

Executive Summary

(i) Summary

Greater Geelong Planning Scheme Amendment C328 Part 2 (the Amendment) and Planning Permit Application 762/2015 seek to facilitate a small residential subdivision and development of land in St Leonards that is surplus to the needs of Barwon Water.

The site contains an existing water tank. The original intention for the subject land was that it would accommodate two water storage tanks, with a second tank to be constructed in the southern portion of the site. However, Barwon Water has determined that a second tank is no longer required as it is more cost-effective to increase the size of distribution and transfer mains in the area than to provide additional storage. Accordingly, Barwon Water has identified the portion of 38-42 Mainsail Drive proposed to be rezoned to General Residential Zone Schedule 2 as being surplus to its operational requirements.

Key issues raised in submissions included:

- concern with the removal of trees
- the visual impact of housing on the subject land
- contention that the land should become public open space
- concern with the proposed bus stop relocation
- concern with the safety of the existing Barwon Water tank
- contention that restrictive covenants should be applied to the proposed residential lots.

The Panel considered all written submissions made in response to the exhibition of the Amendment and permit application; as well as further submissions and other material presented to it during the Hearing, and observations from site visits.

The Panel concludes:

- that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes.
- the visual impact from future development is able to be adequately controlled via the application and assessment of existing and proposed planning scheme provisions.
- the proposed Amendment and permit application will result in a net gain in the provision of public open space for the enjoyment of residents.
- the draft planning permit has been appropriately revised to include a new condition that will result in the relocation of the bus stop to an appropriate and safe location.
- The proximity of the water tank to the proposed development does not pose an unacceptable nor credible risk.
- the application of restrictive covenants to the land is not necessary.
- the planning permit conditions contained in the revised version of the permit circulated by Council at the Hearing appropriately respond to issues regarding the future subdivision and development of the site.
- The planning permit contained in Appendix A of this report is acceptable.

The Panel takes this opportunity to acknowledge the efforts of Council's Town Planning staff in responding to issues raised by submissions. Mr Thiele and Ms Stockley provided a thorough, well considered and fair submission that responded clearly to the matters arising. Their efforts greatly assisted the Panel in its deliberations.

Similarly the submissions advanced on behalf of the proponent were responsive matters raised and provided useful clarity.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that:

- 1. Greater Geelong Planning Scheme Amendment C328 Part 2 be adopted as exhibited.**
- 2. Planning Permit Application 762/2015 be approved as shown in Appendix A of this report.**

1 Introduction

1.1 The Amendment and Permit Application

(i) Amendment description

As exhibited, Amendment C328 seeks to rezone four surplus Barwon Water properties in St Leonards, Staughton Vale, Anakie and Lovely Banks. As a result of the exhibition of the Amendment eight submissions were received all pertaining to the St Leonards site. Council resolved to split the Amendment with all submissions relating to the St Leonards site being referred to the Panel for consideration via Amendment C328 Part 2.

Accordingly, Amendment C328 Part 2 proposes to:

- rezone a portion of 38 – 42 Mainsail Drive, St Leonards from Public Use Zone 1 (Service & Utility) to General Residential Zone Schedule 2 and apply Schedule 14 to the Design and Development Overlay to that land
- rezone a portion of 38 – 42 Mainsail Drive, St Leonards from Public Use Zone 1 (Service & Utility) to Public Park and Recreation Zone
- rezone a portion of Reserve No. 2 (PS526864F) at 38-42 Mainsail Drive, St Leonards from General Residential Zone Schedule 2 to Public Use Zone 1 (Service & Utility) and delete Schedule 14 to the Design and Development Overlay from that land
- rezone Reserve No. 1 (PS526864F) at 124 Pearl Bay Passage, St Leonards from General Residential Zone Schedule 2 to Public Park and Recreation Zone and delete Schedule 14 to the Design and Development Overlay from that land.

The subject land and proposed rezoning is reflected in Figure 1.

(ii) Planning Permit description

Planning Permit Application No 762/2015 proposes the subdivision of Lot 1 and a portion of Reserve No. 2 (PS526864F), 38-42 Mainsail Drive, St Leonards to create two lots of 724 m² and 524 m² (to be zoned General Residential Zone Schedule 2). It also creates two reserves, a 1231 m² reserve to be retained by Barwon Water and a smaller lot of 138 m² to be vested in Council as public open space.

The proposed plan of subdivision is reflected in Figure 2.

(iii) Purpose of the Amendment and Permit Application

The purpose of the General Residential rezoning is sought to facilitate a small residential subdivision and development of land that is surplus to the needs of Barwon Water. The Public Park and Residential rezoning reflects and formalises a 2004 agreement for a portion of the Barwon Water land to be managed as open space; this land is to be ceded to Council in the concurrent planning permit. The other proposed changes seek to apply appropriate zones to existing Reserves.

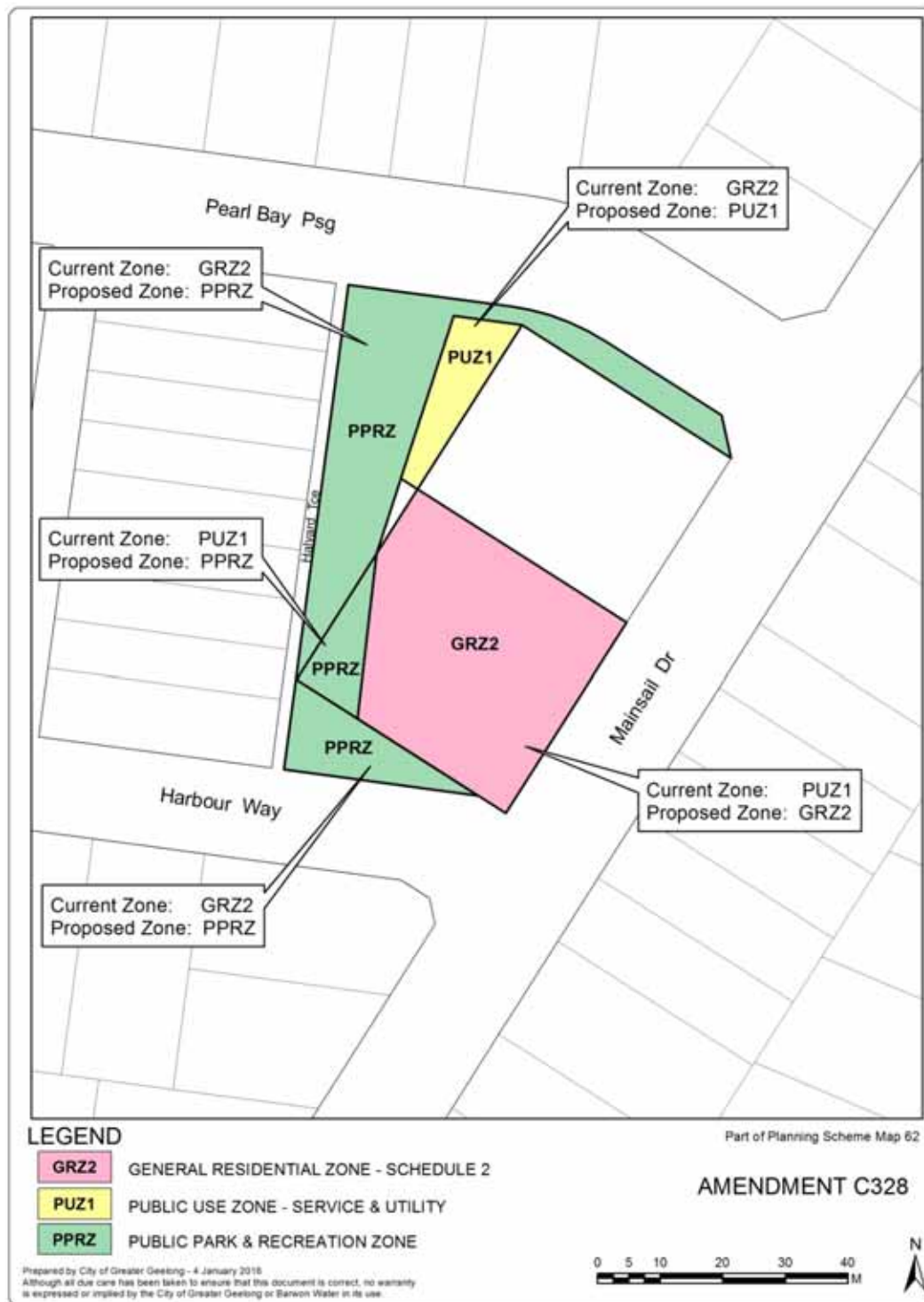


Figure 1: The subject site and proposed rezoning

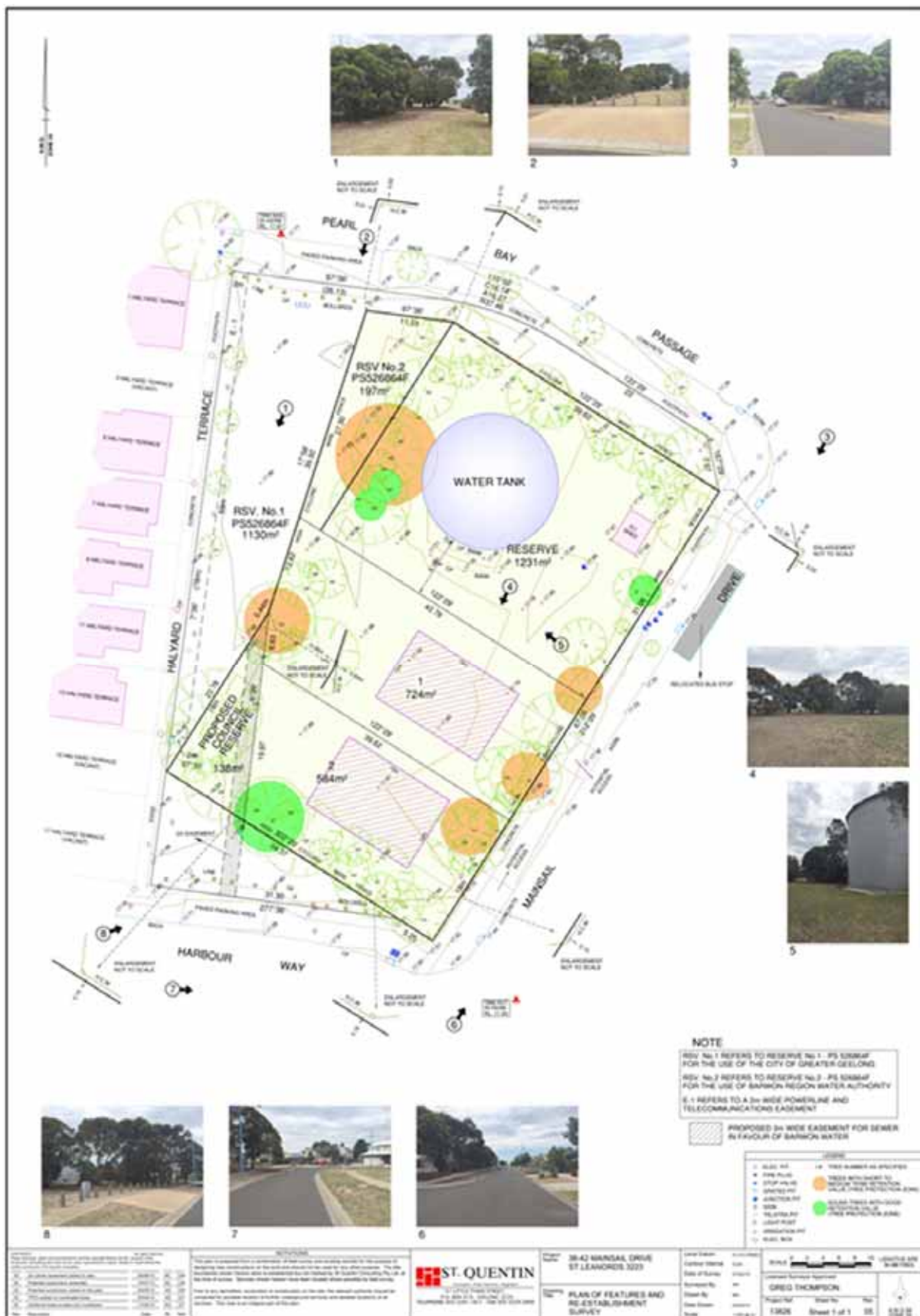


Figure 2: Proposed Plan of Subdivision (PA 762/2015)

1.2 Background to the proposal

As described by Council, Amendment C328 seeks to facilitate the rezoning and disposal of four sites that are surplus to Barwon Water's operational requirements. This is part of a wider program of property realisation program that Barwon Water is conducting for its surplus land, throughout the City of Greater Geelong and neighbouring municipalities. Amendment C328 is one of several current Amendments to the Greater Geelong Planning Scheme seeking to rezone surplus Barwon Water property.

The original intention for the subject land was that it would accommodate two water storage tanks, with a second tank to be constructed in the southern portion of the site. However, Barwon Water has determined that a second tank is no longer required as it is more cost-effective to increase the size of distribution and transfer mains in the area than to provide additional storage. Accordingly, Barwon Water has identified the portion of 38-42 Mainsail Drive proposed to be rezoned to General Residential Zone Schedule 2 as being surplus to its operational requirements.

1.3 Summary of issues raised in submissions

The key issues raised in the five objecting resident submissions are:

- concern with the removal of trees
- the visual impact of housing on the subject land
- contention that the land should become public open space
- concern with the proposed bus stop relocation
- concern with the safety of the existing Barwon Water tank
- contention that restrictive covenants should be applied to the proposed residential lots.

In response to its consideration of submissions Council proposes a number of changes to the exhibited Planning Permit 762/2015 regarding tree removal and bus stop location.

The Panel considered all written submissions made in response to the exhibition of the Amendment; as well as further submissions and other material presented to it during the Hearing, and observations from site visits.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- Planning context
- Visual impact
- Removal of trees
- Alternate use as public open space
- Bus stop location
- Safety of water tank
- Restrictive covenants.

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the SPPF:

Clause 11.02-1 (Settlement – Supply of urban land)

Council noted among the Strategies under this Clause is the following:

Planning for urban growth should consider:

- *opportunities for consolidation, redevelopment and intensification of existing urban areas ...*

Council submitted that 38-42 Mainsail Drive is within the St Leonards urban area, with residential development in the surrounding area on all sides. The subject land falls within the Settlement Boundary on the St Leonards Structure Plan map at Clause 21.14-4 of the Greater Geelong Planning Scheme. The land has been identified as surplus to Barwon Water requirements and the amendment and planning permit provide a small opportunity for new development within an existing urban area by the zoning and creation of two residential lots.

Clause 11.14-1 (Localised planning statements)

Council noted one of the policy guidelines under this clause is:

Planning must consider as relevant:

- *Bellarine Peninsula Localised Planning Statement (Victorian Government, 2015)*

Council advised that Policy Objective 4 of the Bellarine Peninsula Localised Planning Statement is to protect, preserve and enhance built heritage, cultural and urban character values and preserve the individual identity and role of townships. One of the recommended strategies to achieve this objective is:

- *Encourage development which respects the setting of coastal settlements by providing reasonable sharing of views of the coast and foreshore ...*

Council submitted that the amendment is consistent with this strategy as it applies Design and Development Overlay Schedule 14 (Dwellings Over 7.5 Metres in Areas With Access to Views) to the portion of 38-42 Mainsail Drive being rezoned to General Residential Zone Schedule 2. The design objective for this Overlay is to "ensure that the siting, height and visual bulk of dwellings achieves a reasonable sharing of views between properties to significant landscape features such as the coast (ocean and foreshore) ...".

Clause 16.01-1 (Residential development – Integrated housing)

Clause 16.01-4 sets an objective to promote a housing market that meets community needs. Council highlighted the following strategy within the Clause:

- *Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.*

Council submitted that the Amendment is consistent with this strategy. The portion of 38-42 Mainsail Drive being rezoned by this amendment is within the St Leonards urban area and is under-utilised as it is currently vacant and surplus to Barwon Water's operational requirements. The Amendment and planning permit provide for a marginal increase in housing supply within the St Leonards urban area by the zoning and creation of two residential lots.

The Panel supports Council's above analysis.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

- Clause 21.06-3 (Urban Consolidation), noting that the application of the General Residential Zone Schedule 2 to the portion of the subject land is consistent with all surrounding residential land in St Leonards.
- Clause 21.14-2 (The Bellarine Peninsula – Objectives and Clause 21.14-4 (St Leonards Structure Plan Map), noting that the subject land falls within the Settlement Boundary of St Leonards and that the proposed use and development is consistent with the Structure Plan.

The Panel supports Council's above analysis.

2.2 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The Panel is satisfied that the Amendment meets the relevant requirements of the following Ministerial Directions:

Ministerial Direction No 11 - Strategic Assessment of Amendments

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines).

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

2.3 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified. The Panel's consideration of issues raised in submissions, the adequacy of the conditions contained in the Planning Permit and its overall recommendations are discussed in the following chapters.

3 Visual impact

3.1 The issue

The issue is whether the visual impact from future development will be acceptable.

3.2 Submissions

Three of the objecting submissions referred to the visual impact of housing development on the proposed residential lots.

The submission of Mr Thiele for Council accurately summarised the submissions on this issue as follows:

Julian Ginn (#6) owns a property on Halyard Terrace with the house oriented to overlook Reserve No. 1 and the Barwon Water land. His submission noted that while his lot is narrow with houses close by on either side, he purchased the land believing the Reserve and Barwon Water land would give some reprieve from equivalent urban density by providing a buffer to residences on Mainsail Drive. The submitter contended that the two proposed properties would increase the density of development in the immediate area and “suffocate” the space he believed would be protected from development when purchasing his land. He stated that he does not want to look out a bedroom window and see rear fences and potentially two-storey homes that can look directly into his home.

Graeme and Angelika Hood (#7) expressed concern at the potential for the lots to be further subdivided, used for relocated dwellings or developed for higher density dwellings. They contended this would be detrimental to the neighbourhood character.

Josephine Coffey (#4) noted that residents chose to live in the area to escape “built-up overdeveloped suburbia”.

In response to the submissions, Mr Thiele noted that the Amendment proposes the same zoning – General Residential Zone Schedule 2 – over the surplus portion of Barwon Water’s land, as applies to the surrounding residential area. All relevant ResCode requirements will apply. He also noted that the subject land was originally proposed as the location of a second water tank, and that the visual impact of residences on the subject land may arguably be less than that of a second water tank.

With respect to overlooking, Mr Thiele noted that ResCode requirements regarding overlooking (Clause 54.04-6) only apply to secluded private open space and habitable room windows of existing dwellings within 9 metres horizontal distance of a proposed window, balcony, terrace, deck or patio. The width of the existing public open space reserve and walkway is such that no part of the proposed residential lots will be within 9 metres of existing residential lots.

Ms Stockley for Council augmented the submissions by Mr Thiele on this issue. Ms Stockley submitted that planning policy will ensure that any application for further subdivision of the

two residential lots proposed will be accompanied by plans, where appropriate response to visual impact and neighbourhood character can be determined.

Any proposal to develop the land for other than a single dwelling will be the subject of assessment under the zone purpose, and the objectives and standards of clause 55 or 56 of the planning scheme; all of which include consideration of the impact upon neighbourhood character of what is being proposed.

In addition to assessment against the relevant policies, any application for planning permission will also be subject to public notification, allowing opportunity for concerns to be raised and discussed at that time.

It is considered pre-emptive to seek to control built form in this location where no such proposal has been submitted. It is considered that the framework offered by the General Residential Zone, Schedule 2, the Design and Development Overlay, Schedule 14, and the relevant objectives and standards of Clauses 55 and/or 56 offer sufficient controls and tools for determining a satisfactory neighbourhood character response of any future application for planning approval.

The submission of Mr Mason for the proponent noted that the subdivision as proposed represents a carefully considered and appropriate response to the particular characteristics, opportunities and constraints presented by the subject land and its immediate surrounds.

3.3 Discussion

The Panel considers that the scale and nature of the proposed development will be consistent with surrounding development. The Panel is satisfied that the visual impact arising from the development of dwellings on the proposed sites will not be unacceptable in the urban context in which the land is positioned. The Panel future discusses issues of density and urban character in Section 8 of this report.

3.4 Conclusions

The Panel concludes:

- The visual impact from future development is able to be adequately controlled via the application and assessment of existing and proposed planning scheme provisions.

4 Removal of trees

4.1 The issue

The issue is whether the proposed Amendment and permit application will result in an unacceptable environmental impact arising from vegetation loss.

4.2 Submissions

All five of the objecting submissions expressed concern regarding the potential loss of trees from the subject land.

The submission of Mr Thiele for Council accurately summarised the submissions on this issue as follows:

All five submitters noted that the trees provide habitat for birds; their habitat value for animals was also mentioned in some submissions. Lyn Wiles (Submission #8) argued that the rare black cockatoo that frequents St Leonards could be affected and recommended that a bird specialist investigate impacts on birds and whether any rare or endangered species will be affected by loss of the trees. Lyn Wiles' submission also stressed the environmental value of the trees and environmental impacts of their loss.

Visual appeal of the trees and their aesthetic value to residents was cited by four of the submitters.

Graeme and Angelika Hood (#7) and Lyn Wiles (#8) disputed findings and details of the arboricultural report. Lyn Wiles contended that three arborists should have been approached for advice. Her submission objected to the loss of the six trees in the proposed 138 m² Reserve to be ceded to Council. She stated that even replacing each lost tree with two new trees would be inadequate. She also argued that removal of the trees is contrary to Council policy. Poor management of the trees to date was cited by Graeme and Angelika Hood and Lyn Wiles.

In response to these submission Mr Thiele highlighted that the planning permit application for the removal of native vegetation relates only to the scattered cover of shrubs and grasses over a small portion of the subject land. He noted that a planning permit is not required for any necessary removal of the trees on 38-42 Mainsail Drive as part of the subdivision as reflected by the provisions of Clause 52.17-2 of the Greater Geelong Planning Scheme. In this regard he stated that the Clause:

requires a permit to remove, destroy or lop native vegetation, but indicates this does not apply if the table to Clause 52.17-7 specifically states that a permit is not required. That table states that removal of planted vegetation to the minimum extent necessary does not require a permit. As the trees on the subject land were planted for aesthetic purposes, there is no permit trigger for their removal if necessitated by the subdivision.

On the portion of 38-42 Mainsail Drive proposed to be rezoned to General Residential Zone Schedule 2, Barwon Water and the future owners of the proposed residential lots can remove the trees if necessary without a permit. Barwon Water has advised it does not intend to remove any trees from the proposed Barwon Water reserve.

Mr Thiele also noted, with respect to trees in the proposed 138 m² Reserve to be ceded to Council, Condition 15 of the exhibited Planning Permit referred to trees that were to be removed due to faults being identified and incursion of tree protection zones and to the required replacement of these. He advised that this reflected the advice of Council's Parks unit from its first on-site assessment of the trees, which was required as the land is proposed to be transferred to Council ownership by the proposed subdivision. He further submitted:

Nonetheless, Council's Parks unit subsequently considered the concerns raised in submissions and inspected and assessed the trees on-site again. As a result, Council's Parks unit will accept the four trees nearest the pathway so that these can be retained (see photo below). If possible, another tree adjacent to the fence and within the proposed sewer easement will also be retained, though this will need to be determined on-site when sewer installation works are carried out under the guidance of a professional arborist.

Retention of the four trees nearest the pathway is subject to:

- some remedial work being carried out, particularly on one tree, to address tree hazard;*
- ongoing management as part of the City's tree inspection program; and*
- the use of boring rather than an open-trench mechanism for sewer installation for the proposed residential lots, as open-trench excavation would potentially render the trees structurally unsound or have a detrimental effect on their health. Barwon Water has agreed to this.*

The photo of the trees to be retained is reproduced in Figure 3.



Figure 3: Trees to be retained on proposed Council Reserve

Mr Thiele concluded on this issue that, given the intended retention of four trees (five if possible), it is recommended that Condition 15 of the exhibited planning permit be deleted.

A new condition is recommended that requires that the trees to be retained be pruned in accordance with Council's requirements using suitably qualified arborist(s). A revised Note 5 is also recommended for the planning permit confirming the required efforts to retain the trees and the required technique for sewer installation, as agreed to by Barwon Water.

Mr Mason submitted that, as detailed in the ecological assessment prepared in support of the combined Amendment and permit application, vegetation contained within the subject land comprises planted native vegetation (trees) around the boundary interspersed with exotic vegetation in cleared areas and surrounding site infrastructure. He reiterated that remnant native vegetation is limited to a scattered cover (<5 percent) of shrubs and grasses under the planted vegetation. Further, Mr Mason submitted:

The Planning Permit Application seeks approval for the removal of the scattered cover (<5%) of shrubs and grasses under the planted vegetation. While some of this native vegetation may be retained by future owners / occupiers of the 2x proposed lots, for the purpose of the Application it has been assumed that it will be removed, and therefore a Planning Permit has been sought for its' removal.

The Planning Permit Application does not seek approval for the removal of any of the planted native vegetation (trees) around the boundary of the Subject land. Rather, the Proposal (by way of subdivisional layout) provides the opportunity for the ongoing retention of this vegetation; accordingly, any decision in relation to tree removal will be made by the future owners of each proposed lot.

Submissions raised concerns that the Proposal would result in the removal of the trees around the perimeter of the Subject land. It is has been confirmed that no vegetation removal is proposed within the retained land around the existing storage tank, and Council has addressed the issue of vegetation removal and retention within the proposed Council reserve.

Having noted the above, Mr Mason observed that the key question therefore is whether the combined Amendment and permit application should require the ongoing retention and protection of the planted trees that would be contained within proposed residential allotments. In response, he submitted the following:

There are a total of 28 trees within the area that is proposed to be converted into residential allotments. As is detailed in the Arboricultural Assessment prepared to inform the Combined Application, of those 28 trees:

- *14 trees are arboriculturally unsound and recommended for removal*
- *10 trees, due to their poor health, have either no or low long-term retention value*
- *3 trees have short to medium term retention value*
- *1 tree is sound and in fair condition.*

Of the three trees identified by the Arboricultural Assessment as having short to medium term retention value:

- *Tree No. 9 has dead limbs from the lower trunk and a poor structure*

- *Tree No. 14 is a poor specimen which is stunted in growth with a high failure potential*
- *Tree No. 36 is a Bifurcated tree with a medium failure potential.*

The submission included an attachment which extracted the observations and recommendations for each of the relevant 28 trees from the arboricultural assessment. On this issue Mr Mason's submission concluded:

While it is acknowledged that surrounding residents currently enjoy a clear amenity benefit from these trees, it is submitted that it would be neither a fair or reasonable planning outcome to require future private landowners to perpetually retain and protect planted vegetation, 96% of which is either arboriculturally unsound, recommended for removal and/or has a limited useful life expectancy.

It is also submitted that it would not be a fair or reasonable planning outcome to burden future private landowners with the liability and risks associated with retaining such vegetation.

4.3 Discussion

The Panel viewed the quality of the vegetation on the subject land, and the location of the more mature trees on the subject land. Based on its own inspection; the content of the arborist report; the submission of the proponent; and Council's submissions that have been informed by its Parks unit, the Panel accepts the condition of the majority of the vegetation on the subject land is marginal at best.

The Panel considers Council has been proactive in its approach to preserve the trees that warrant protection, and supports the revised planning permit conditions and note to be included in the revised Planning Permit to achieve such an outcome.

The Panel also accepts the submission advanced on behalf of the proponent that future landowners should have the discretion to make a choice about retaining arboriculturally poor and unsound vegetation on private property, rather than be compelled to do so.

4.4 Conclusion

The Panel concludes:

- The proposed Amendment and permit application will not result in an unacceptable environmental impact arising from vegetation loss.

5 Alternate use and public open space

5.1 The issue

The issue is whether the subject land should be transformed into public open space.

5.2 Submissions

Three of the five objecting submissions indicated that the surplus portion of the Barwon Water site should become public open space or remain as public land.

The submission of Mr Thiele for Council accurately summarised the submissions on this issue as follows:

Josephine Coffey (#4) expressed concern that the portion of 38-42 Mainsail Drive being rezoned and ceded to Council as a Reserve for public open space is only 138 m². She contended that no flat parkland is available within walking distance for ageing residents in the area. She requested that at least proposed Lot 2 (538 m²) is retained by Council as public open space.

Julian Ginn (#6) stated that the surplus Barwon Water land should be purchased by Council and the public open space Reserve expanded.

Graeme and Angelika Hood (#7) indicated that 38-42 Mainsail Drive should remain public land. They contended that the Seachange estate was originally planned with a fixed percentage of public land and that changes to the ratio of public to private land would be detrimental to residents and make a mockery of the original planning process for the estate.

In response to the opposing submissions, Mr Thiele noted that the public open space provision in the estate was considered adequate when subdivision of the area was approved by Council in July 2003. He noted that Council's Recreation and Open Space unit does not support the suggestion that a portion of 38-42 Mainsail Drive be purchased for use as public open space. He further advised that Council's Recreation and Open Space unit has advised, when considered against other areas of the municipality, the shortfall of public open space in St Leonards is less significant than other areas, and therefore acquisition of land for that purpose is a lower priority.

5.3 Discussion

The Panel notes that the proposed subdivision does not incur a Public Open Space contribution under Clause 52.01 of the Greater Geelong Planning Scheme as only one additional lot is proposed. The Panel accepts the advice of Council that its Recreation and Open Space Unit has assessed the proposal, and based on that assessment Council has determined that it does not support the suggestion that more of the subject land be purchased for public open space. The Panel notes that the proposed subdivision does result in an increase in public open space via the creation of the additional 138 m² Reserve to be ceded to Council.

5.4 Conclusion

The Panel concludes:

- That the proposed Amendment and permit application will result in a net gain in the provision of public open space for the enjoyment of residents.

6 Bus stop location

6.1 The issue

The issue is whether the existing bus stop can be relocated to a safe location.

6.2 Submissions

Graeme and Angelika Hood (submitter #7) expressed concern with the proposed relocation of the bus stop in Mainsail Drive. The submitters believe that proposed location will result in a less safe outcome due to restricted view of traffic from either direction due to the closeness of the Barwon Water land and its vegetation to the corner.

Mr Thiele responded that Public Transport Victoria advised that it consulted with its stakeholder, *McHarrys Bus Lines* on the proposed relocation. They confirmed that they do not object to the proposed relocation.

Further, Mr Thiele advised that Council's engineering department has reviewed the proposal and they have determined that there are no safety concerns with proximity to the intersection so long as the bus stop flag is at least 15 metres from the intersection point of road reserve boundaries of Mainsail Drive and Pearl Bay Passage.

Mr Thiele noted that a plan showing the relocated bus stop has been given in principle approval by Public Transport Victoria and that a condition has been added to the recommended revised Planning Permit requiring the 15 metre separation as sought by Council's engineering department and approved by Public Transport Victoria.

6.3 Discussion

The Panel is satisfied that the bus stop can be relocated to a safe location based on the advice of Council's engineering department. Public Transport Victoria and the local bus operator agree that a safe outcome can be achieved. The Panel therefore supports the revised permit conditions to give effect to his outcome.

6.4 Conclusions

The Panel concludes:

- The draft planning permit has been appropriately revised to include a new condition that will result in the relocation of the bus stop to an appropriate and safe location.

7 Safety of water tank

7.1 The issue

The issue is whether the existing water tank poses an unacceptable threat to existing and future development.

7.2 Submissions

Graeme and Angelika Hood (submission #7) submitted that all of the subject land should be retained as a buffer between the existing water storage tank and residences. The submitters contended that in the event of sudden discharge of water from the tank, the proposed residential lots would be flooded, whereas the existing buffer if maintained would minimise flooding to neighbouring dwellings.

Mr Thiele responded that Barwon Water has advised that if the tank was to fail it would be highly unlikely to be a catastrophic failure, and more likely to be a slow leak. Further he noted that similar or lesser separation distances than that proposed by this planning permit application occur elsewhere. On the information provided to it, Mr Thiele advised that Council is satisfied that no change to the Amendment or planning permit is warranted in response to this issue.

Mr Mason provided useful context in response to the safety issue concern expressed by the submitted. He noted that the water tank is constructed of welded steel plate, with a thickness of 9.5mm at the base and 6mm at the top. He advised that the purpose of the tank is to provide a backup water supply for peak (summer) periods and for this reason, the tank is only filled at the start of the summer period and is otherwise empty for the rest of the year.

In response to the Panel's Direction issued at the Directions Hearing, Barwon Water prepared a risk assessment that addressed the likelihood and consequence of water tank rupture and any necessary mitigation responses. The risk assessment confirms that, while the consequences of the water tank collapsing or rupturing such that water floods surrounding area would be high, the likelihood of this actually occurring is negligible. Accordingly, Mr Mason advised that it is the submission of Barwon Water that safety concerns relating the possible tank rupture do not militate against the proposal.

7.3 Discussion

The Panel has reviewed the risk assessment that was tendered by Barwon Water that addressed the likelihood and consequence of water tank rupture. Based on its review of the risk assessment the Panel is satisfied that no change to the Amendment or planning permit is required.

7.4 Conclusion

The Panel concludes:

- The proximity of the water tank to the proposed development does not pose an unacceptable risk.

8 Restrictive covenants

8.1 The issue

The issue is whether restrictive covenants should be applied to the subject land similar to those applied in the surrounding residential estate.

8.2 Submissions

Graeme and Angelika Hood (#7) submitted that restrictive covenants should be applied to the subject land, similar to those applied to lots within the surrounding estate, in order to prevent future development buildings which do not respect the character of the neighbourhood and to ensure the site is not overdeveloped.

They noted that that the restrictive covenants applying to other lots in the Seachange estate protect neighbourhood character by preventing further subdivision, relocation of old buildings onto the land or the building of higher density dwellings.

Council opposed the submission. Mr Thiele noted that restrictive covenants affecting surrounding lots within the Seachange estate were in part applied by the subdivider of estate and that it is not Council's current practice to impose restrictive covenants limiting subdivision or development of more than dwelling on a lot.

He further submitted that Council will not require restrictive covenants on the proposed residential lots as a condition of the planning permit, because the land use and development controls applying to the General Residential Zone Schedule 2 under the Greater Geelong Planning Scheme are appropriate and sufficient for the area. The submission states:

A proposal for more than one dwelling on a lot requires a planning permit under the General Residential Zone Schedule 2, while a proposed subdivision creating a lot of less than 500 m² must be accompanied by a development application or approved planning permit plans for the site for the construction of the dwellings.

Mr Thiele concluded that the above explained planning permit processes allow for assessment of impact on neighbourhood character.

Mr Mason submitted that the existing and proposed planning framework requires housing densities that respect neighbourhood character. He noted that the 'median' lot size in the surrounding area is in the order of 525 sqm, which is smaller than the proposed size of Lot 1 (724 sqm) or Lot 2 (584 sqm). Mr Mason submitted a plan that depicts the range of lot dwelling densities immediately surrounding the subject land varies considerably (See Figure 3). He further submitted:

...the surrounding neighbourhood is characterized by a mix of lot sizes and densities; there is no apparent single lot size or dwelling density that clearly defines the character of the surrounding neighbourhood.

With proposed lot sizes of 724sqm and 584sqm, it is submitted that the Proposal is generally in keeping with range of lot sizes that can be found in, and which contribute to, the character of the surrounding neighbourhood.

Given the subject land is separated and distinct from this pocket of rear-loaded dwellings, it is our submission that densities that are generally commensurate with those to the immediate north and south, and which are responsive to the particular opportunities and constraints of the Subject land, are appropriate within an “incremental change” area where the expectation (as articulated by Council’s Housing Diversity Strategy) is that “the majority of new development will be in keeping with Geelong’s traditional suburban character”.



Figure 4: Density Analysis (provided by proponent)

8.3 Discussion

The Panel supports Council and the proponent’s position in relation to this issue. The Panel considers that the existing and proposed planning controls to be applied to the site will afford adequate protection to the existing and emerging neighbourhood character of the estate in which the subject land is situated.

Based on the density analysis submitted by the proponent, the Panel does not consider the density of development that will be facilitated via approval of the Amendment and permit application will be inappropriate.

8.4 Conclusion

The Panel concludes:

- The application of restrictive covenants to the land is not necessary.

9 Permit conditions

9.1 The issue

The issue is whether the planning permit conditions are acceptable.

9.2 Submissions

The Panel was advised that Greater Geelong City Council and the proponent have agreed to a number of modifications to the Planning Permit in response to their consideration of submissions. The suggested modifications as described by Council are presented below.

(i) Tree removal and retention

Council recommend that Condition 15 of the exhibited planning permit, which requires offset planting for trees that were to be removed, be deleted. As outlined in Section 4 of this report, after considering submissions, Council's Parks unit will accept the four trees nearest the pathway so that these can be retained, along with another tree within the proposed sewer easement if possible.

Council also recommends removal of the exhibited Note 5, as this related to the tree removals that are no longer being required.

Council recommends an additional condition be inserted into the permit to require pruning of the trees to be retained within the proposed Council Reserve. This is to address tree hazard and ensure the trees are in an appropriate condition before ownership of the land is transferred to Council. The proposed condition is as follows:

16. *The tree(s) identified by the Responsible Authority for retention within the proposed Council Reserve shown on the plan of subdivision shall be pruned in accordance with the requirements of the responsible Authority using suitably qualified arborist(s) prior to the land being transferred to Council.*

A new Note 5 is recommended by Council to confirm the required efforts to retain the trees, including the required technique for sewer installation. These matters have been agreed to by Barwon Water. Council considers it is appropriate for this understanding to be formally communicated in a note on the permit. The wording of the proposed note is as follows:

5. *Installation of services within the proposed easement should be undertaken using a 'boring' technique and under the supervision of a suitably qualified arborist. All reasonable efforts must be made to retain tree(s) in the easement and surrounding area of the works to be undertaken.*

(ii) Bus stop relocation

As discussed in Section 6 of this report, in response to concern raised with the safety of the proposed bus stop relocation due to proximity to an intersection, Council proposes an additional condition that requires adequate separation from the intersection. The condition is as follows:

Council Required Bus Stop Location

12. *Unless with prior written consent from the Responsible Authority, prior to the commencement of works to Mainsail Drive, or statement of compliance for the subdivision (whichever action proceeds first), the applicant/permit holder must relocate the existing bus stop flag to a location that is a minimum distance of 15m from the road reserve intersection point of Mainsail Drive and Pearl Bay Passage, in accordance with the requirements of Public Transport Victoria, and to the satisfaction of the Responsible Authority.*

The proponent advised that they accept the revised conditions and drafting of the Permit.

9.3 Discussion

The Council and the proponent have agreed on revised permit conditions. The Panel has reviewed the final version of the permit (see Appendix A) and accepts that the revised conditions regarding tree removal and bus stop location are responsive to submitter concerns and are supported by Panel.

9.4 Conclusions

The Panel concludes:

- The planning permit conditions contained in the revised version of the permit circulated by Council at the Hearing appropriately respond to issues regarding the future subdivision and development of the site.
- The planning permit contained in Appendix A of this report is acceptable.

10 Recommendation

For the reasons set out in this report, the Panel finds that Amendment C328 and permit application 762/2015 would achieve a net community benefit.

The Panel recommends that:

1. **Greater Geelong Planning Scheme Amendment C328 Part 2 be adopted as exhibited.**
2. **Planning Permit Application 762/2015 be approved as shown in Appendix A of this report.**

Appendix A Revised Planning Permit No: 762/2015

**PLANNING PERMIT
GRANTED UNDER SECTION 96J
OF THE PLANNING AND
ENVIRONMENT ACT 1987**

Permit No.: 762/2015

Planning scheme: Greater Geelong

Responsible authority: City of Greater Geelong

ADDRESS OF THE LAND: 38-42 MAINSAIL DRIVE, ST. LEONARDS

SUBDIVISION OF LAND TO CREATE TWO (2) LOTS AND PARTIAL REMOVAL OF RESERVE NO. 2 ON PS526864F PURSUANT TO SECTION 24A OF THE SUBDIVISION ACT 1988, AND REMOVAL OF NATIVE VEGETATION

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended Plans Required

1. Prior to the certification of the Plan of Subdivision, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application, but modified to show:
 - a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements;
 - b) All reserves to be vested to City of Greater Geelong with the notation that the creation and vesting of this reserve is at no cost to Council.

Endorsed Plans

2. The layout and site dimensions of the proposed subdivision as shown on the endorsed plan(s) shall not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plans.

Drainage

3. The site stormwater system must be designed and installed such that;
 - a) The site stormwater discharge is not increased by the proposed development. An appropriate on site detention system designed in accordance with the Infrastructure Design Manual may be required;
 - b) Runoff is to be treated to achieve current best practice pollutant removal targets by connection to an appropriate Water Treatment Facility, with capacity to treat at least a 3 month ARI storm event, unless approved otherwise by the Responsible

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

Authority. The Water Treatment Facility must be maintained to the satisfaction of the Responsible Authority.

Servicing Authorities

4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
5. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
7. The owner of the land must enter into agreements with
 - a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.

Prior to Certification

8. The Plan of Subdivision submitted for certification must include all easements deemed necessary to protect existing or future drainage lines within the subject site, and any easements required between the subject site and the nominated legal point of discharge must be created to the satisfaction of the Responsible Authority.
9. The plan of subdivision submitted for certification shall include an appropriate corner splay (nominally 3m x 3m) at the intersection of Mainsail Drive and Harbour Way, to be vested in Council as 'Road', to the satisfaction of the Responsible Authority.
10. The plan of subdivision submitted for certification must include all reserves to be vested to Council to the satisfaction of the Responsible Authority, and the creation must be at no expense to Council.

Public Transport Victoria

11. Before the commencement of the access works along Mainsail Drive, the bus stop including all associated infrastructure, must be relocated or replaced at a cost borne by the permit holder to the satisfaction of Public Transport Victoria and deemed compliant with the Disability Discrimination Act - Disability Standards for Accessible Public Transport 2002.

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

Council Required Bus Stop Location

12. Unless with prior written consent from the Responsible Authority, prior to the commencement of works to Mainsail Drive, or statement of compliance for the subdivision (whichever action proceeds first), the applicant/permit holder must relocate the existing bus stop flag to a location that is a minimum distance of 15m from the road reserve intersection point of Mainsail Drive and Pearl Bay Passage, in accordance with the requirements of Public Transport Victoria, and to the satisfaction of the Responsible Authority.

Prior to Statement of Compliance

13. Prior to statement of compliance, the developer must:
- Construct the site stormwater system including connections for each lot into the underground drain in Mainsail Drive, or other nominated point(s) as approved by the Responsible Authority. Stormwater connection(s) must be in accordance with City of Greater Geelong Standard Drawings.
 - Construct vehicular crossings in accordance with the requirements and standards of the City of Greater Geelong.
 - Remove any redundant vehicular crossings and reinstate kerb and channel and the footpath/nature strip area to match existing construction in the street;
 - Remove any existing buildings/services that traverse the lot boundaries;
- all to the satisfaction of the Responsible Authority.
14. Before the issue of Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the item; and
 - a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
15. Unless otherwise approved in writing by the Responsible Authority, prior to the issue of a Statement of Compliance the subdivider must erect a fence consisting of 1.8m high timber paling in a semi permeable form on the property boundary directly abutting Reserve No. 1 PS526864F and the Proposed Council Reserve shown on the plan of subdivision, to the satisfaction of the Responsible Authority and at no cost to Council.

Tree(s) in Reserve for Retention

16. The tree(s) identified by the Responsible Authority for retention within the proposed Council Reserve shown on the plan of subdivision shall be pruned in accordance with the requirements of the responsible Authority using suitably qualified arborist(s) prior to the land being transferred to Council.

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

BARWON WATER CONDITIONS

General

17. The owner shall create easements for Pipelines or Ancillary Purposes in Favour of Barwon Region Water Corporation over all existing and proposed sewers located within the subdivision. The width of these easements shall be 2 metres.
18. The plan of subdivision must be referred to Barwon Water in accordance with the Subdivision Act 1988 and any subsequent amendments to the plan provided to Barwon Water.

Water

19. The provision and installation of individual water services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. A dimensioned plan showing location of all services relative to the allotment boundaries, is to be submitted.
20. The payment of New Customer Contributions for each additional lot created and/ or each additional metered connection for water supply within the subdivision.
21. An additional tapping(s) is to be supplied to service the proposed development. Note that tappings and services are not to be located under existing or proposed driveways.

Sewer

22. The provision of sewerage services to all lots in the subdivision in accordance with Barwon Water's requirements and Victorian Plumbing Regulations. Individual allotment house connection drains are to be provided for and extend into each allotment. Note that if any common drain or drain from another allotment crosses under a proposed dwelling, a "modification to consent" is to be obtained from the Victorian Building Association and presented to Barwon Water with the required drainage plan.
23. The payment of New Customer Contributions for sewer for each additional lot created and/ or each additional metered connection within the subdivision.
24. A sewer main extension is required to service the proposed development.
25. The provision of a separate sewer connection branch to all lots within the subdivision in accordance with Barwon Water's requirements, Victorian Plumbing Regulations, and all relative statutory regulations. Note that sewer connection branches are to be provided by a Barwon Water approved confined space plumber and the SMS constructed by an approved Barwon Water plumbing services contractor. A list of both approved plumbers/ contractors can be provided upon request.

Note: The developer is to apply to Barwon Water for details relating to costs and conditions required for the provision of water supply and sewerage services to the subdivision. It would be appreciated if all communication between the

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

developer/agent and Barwon Water quote Barwon Water reference number **L012522**.

Subdivision Expiry

26. This permit as it relates to subdivision will expire if one of the following circumstances applies:

- a) The plan of subdivision has not been certified within two (2) years of the date of this permit.
- b) A statement of compliance is not issued within five (5) years of the date of certification.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six (6) months afterwards.

Note:

1. Construction of the site stormwater connection/s is to be inspected by Council Representative at various stages. An appropriate fee equivalent to 3.25% of total cost of civil works, excluding GST (a minimum fee of \$100 applies if the 3.25% amount is less than \$100), is to be paid to Council for inspection. Relevant evidential documentation of the cost is to be provided.
2. All internal property drainage must be designed and constructed to satisfy AS/NZS 3500.
3. A Vehicle Crossing Permit must be obtained prior to commencement of works.
4. Any applicable Council permit(s) must be taken out prior to the commencement of works within the road reserve.
5. Installation of services within the proposed easement should be undertaken using a 'boring' technique and under the supervision of a suitably qualified arborist. All reasonable efforts must be made to retain tree(s) in the easement and surrounding area of the works to be undertaken.

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

[If the permit has been amended, include the following table indicating the date and nature of amendments included in the amended permit, and the name of the responsible authority that approved the amendment —]

<i>Date of amendment</i>	<i>Brief description of amendment</i>	<i>Name of responsible authority that approved the amendment</i>

Date issued:

Date permit comes into operation:
(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the responsible authority:

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. *[insert amendment number]* to the *[insert name of planning scheme]*.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.