

**GREATER GEELONG PLANNING SCHEME  
AMENDMENT C332  
PP 1303-2015**

---

RESOLUTION TO REFER SUBMISSIONS TO A PANEL APPOINTED BY THE  
MINISTER FOR PLANNING

Having considered all submissions to Amendment C332 and Permit 1303-2015,  
under delegation from Council, I hereby resolve to:

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 8 of the *Planning and Environment Act, 1987*;
- 2) Refer all submissions to the Panel; and
- 3) Submit to the Panel its response to the submissions generally as outlined in this report.

SIGNED: .....

*Peter Smith*

DATE: .....

*23 May 2017*

**PETER SMITH  
COORDINATOR STRATEGIC IMPLEMENTATION**

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

---

**To:** Peter Smith - Coordinator Strategic Implementation  
**From:** Peter Schembri - Strategic Planner, City Development  
**Subject:** Consideration of Submissions Under Delegation  
**File number:** Amendment C332 & Permit 1303/2015  
**Date of Report:** 19 May 2017

### **Purpose**

This report considers submissions to Amendment C332 and draft Permit 1303-2015 and recommends the submissions be referred to an Independent Planning Panel.

### **Summary**

- Amendment C332 seeks to reorganise Barwon Water owned land in Breakwater by rezoning that part fronting Leather Street to the Industrial 1 Zone and other parts to the Public Use Zone 1 and the Public Conservation and Resource Zone.
- The Amendment shall also apply the Design and Development Overlay Schedule 20 to the land being zoned Industrial 1 Zone.
- The Amendment is concurrent with draft Permit (no. 1303/2015) to allow a 10-lot industrial subdivision and associated buildings and works. Lots 9 and 10 will be retained by Barwon Water and lots 1-8 sold to the private sector.
- The Amendment is supported by a Section 173 Agreement consistent with Ministerial Direction No. 1 *Potentially Contaminated Land*.
- Exhibition of the Amendment, Permit and associated reports commenced on 23 March 2017 and closed on 24 April 2017.
- Council received a total of 5 submissions; 4 in support or not objecting; and 1 being an objection from the landowner at 106 Tanner Street, Breakwater.
- The objector is concerned that the rezoning and development of industrial land at 42 Leather Street will cut off public access and viewing opportunities to the heritage significant ovoid sewer aqueduct structure – shifting amenity impacts to Tanner Street.
- In accordance with the *Planning and Environment Act 1987*, Council must now either: change the Amendment in the manner requested by the submitter; refer the submissions to an Independent Panel; or abandon the Amendment or part of the Amendment.
- The objecting submission is not supported. The proposed infill Industrial 1 Zone and permit will further consolidate the Breakwater Industrial Estate and is an inappropriate location to access a future public park.
- This report responds to the objecting submission and recommends it be referred to an Independent Panel appointed by the Minister for Planning. For the benefit of the Panel, all submissions will be referred.

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

---

### **Recommendation**

**That Council having considered all submissions to Amendment C332 to the Greater Geelong Planning Scheme and Permit 1303-2015, resolves to:**

- 1) Request the Minister for Planning to appoint an Independent Panel under Part 8 of the Planning and Environment Act, 1987;**
- 2) Refer all submissions to the Panel; and**
- 3) Submit to the Panel its response to the submissions generally as outlined in this report.**

### ***Background***

In October 2015 TGM Group Pty Ltd on behalf of the Barwon Region Water Corporation submitted a combined Planning Scheme Amendment Application in accordance Section 96A of the *Planning and Environment Act 1987* for the rezoning and subdivision of land at 42 Leather Street and 350 Boundary Road, Breakwater.

Barwon Water is seeking to reorganise and better utilise the land for asset storage and infrastructure maintenance. This includes subdivision and the creation of 10 new lots with access to Leather Street. 8 of the lots are proposed to be rezoned to the Industrial 1 Zone for sale to the private sector.

An aerial map of the subject land is shown at **Appendix 1** and the zoning map is shown at **Appendix 2**. The proposed subdivision plan is shown at **Appendix 3**.

On 2 February 2017, Council resolved under delegation to support the preparation and exhibition of Amendment C332 to the Greater Geelong Planning Scheme, subject to authorisation by the Minister for Planning. Authorisation was granted on 15 February 2017.

Public exhibition commenced on 23 March 2017 and closed on 24 April 2017. Notices were published in local newspapers and letters were sent to surrounding landowners and Government agencies.

The Amendment and permit documents were available for viewing at the Council offices, 100 Brougham Street, Geelong and on the Geelong Australia website.

Unrelated to the Amendment, Barwon Water is progressing the Barwon River Ovoid Sewer Aqueduct Park project:

<http://www.yoursay.barwonwater.vic.gov.au/aqueduct-park>

### ***Discussion***

As a consequence of exhibition a total of 5 submissions were received, including one objecting submission. None of the submissions refute the strategic basis of the amendment. The location of the objecting submitter is shown in **Appendix 4**.

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

---

The submissions are summarised in the table at **Appendix 5** together with an officer response.

Pursuant to the *Planning and Environment Act 1987*, the Council is required to consider all submissions made to an Amendment and must either: (1) change the Amendment as requested by the submissions; or (2) refer the submissions to an Independent Panel; or (3) abandon the Amendment.

The next section outlines the issues raised in the objecting submission and provides an officer response. In the event the submissions are referred to an Independent Panel, as recommended, the responses in this report will form the basis for Council's presentation to the Panel.

**Objecting submission from landowner at 106 Tanner Street, Breakwater**

An objecting submission was received from Kings Lawyers on behalf of the landowners of 106 Tanner Street, Breakwater. The property is developed with an historic homestead used as the submitter's residence.

The submission notes another dwelling is located at 112 Tanner Street, thereby forming a small residential enclave in an industrial area which residents have fought over many years to maintain a reasonable standard of amenity.

The landowner is concerned that the rezoning and development of industrial land at 42 Leather Street will cut off public access and viewing opportunities to the heritage significant ovoid sewer aqueduct structure – shifting amenity impacts (notably noise and dust) to Tanner Street.

The submission refers to the Barwon River Aqueduct Park project and a lack of connection between the rezoning and permit (which would bring about the amenity conflicts) and the development of the park. The submission suggests a section 173 agreement conditioned in Permit 1303-2015 to construct suitable road access at the end of Tanner Street.

**Officer response**

The submission is not supported.

The proposed rezoning and industrial subdivision at 42 Leather Street is entirely compatible with the use of the surrounding land for industrial purposes. It will strengthen the role of the Breakwater Industrial Precinct and provide added economic and employment opportunities. Barwon Water will retain a depot in the newly created Lots 9 & 10 at the southern end of the subdivision.

42 Leather Street is located in the heart of the industrial estate and is not a suitable location to access the proposed Barwon River Ovoid Sewer Aqueduct Park. The park plan is unrelated to Amendment C332 and shows new access points (to the park) from Boundary Road, Tanner Street and Tucker Street. No access to Leather Street is envisaged.

The proposed park covers over 66 hectares of the Barwon River floodplain and is zoned Public Conservation and Resource Zone. The rezonings forming part of Amendment C332 are limited to the land at 42 Leather Street and land directly south; to include the new depot and main sewer asset in the Public Use

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

---

Zone 1. Neither the submitter's land nor the Tanner Street road reserve form part of the Amendment land. The land south of Tanner Street will remain in the Public Conservation and Resource Zone.

The Aqueduct Park plan identifies the bottom end of Tanner Street as a viewing point and access point to a new walking path. This section of Tanner Street is unsealed and its construction has been the subject of a long-running dispute between the submitter and the owner of the large vacant industrial property opposite (95-97 Tanner Street). Amenity standards for residents in an industrial zone are significantly lesser than in a residential zone.

After the Aqueduct Park plan is finalised and during the implementation phase, Barwon Water will work with Council and relevant stakeholders to upgrade the park access points. This process is independent of Amendment C332.

Council and Barwon Water officers met with the landowner and David King from Kings Lawyers on Tuesday 9 May. David King suggested at the meeting that Council consider applying a Development Plan Overlay to require the sealing of Tanner Street to accommodate future park visitors.

Changing the Amendment to include a Development Plan Overlay is not supported. Amenity issues related to park visitors using the unsealed section of Tanner Street south of Leather Street are not considered to be related to the Amendment.

Permit 1303-2015 will create carriageway easements in favour of the City of Greater Geelong within the Public Conservation and Resource Zone. Access to these easements will be from the end of Tanner Street however the impact to Tanner Street residents will be negligible.

***Environmental Implications***

The environmental site investigation did not identify soil contamination or groundwater conditions that would prevent use of the site for commercial/ industrial purposes. The assessment makes recommendations to prepare a Soil Management Plan which can be conditioned on the permit.

No native vegetation will be removed as a consequence of this application.

A drainage basin is located within the floodplain which shall be the point of discharge for the industrial subdivision. This basin has naturally evolved into a wetland and is in reasonably good health. The TGM Site Stormwater Management Plan adequately addresses stormwater management.

***Financial Implications***

No impact to budget.

***Policy/Legal/Statutory Implications***

The proposed amendment and permit are consistent with a range of State and Local policies as outlined in the Amendment C332 Explanatory Report.

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

---

***Alignment to City Plan***

The Amendment supports the 'Growing our Economy' strategic direction of City Plan by providing additional industrial land in a serviced estate.

***Officer Direct or Indirect Interest***

No Council officer involved in the report has any direct or indirect interest, in accordance with Section 80(c) of the Local Government Act.

***Risk Assessment***

There are no notable risks associated with implementing the recommendation contained in this report.

***Social Considerations***

There are no directly relevant social considerations. The proposed future floodplain parkland which encompasses the Amendment land will be a significant public asset for the Geelong region.

***Human Rights Charter***

The Amendment will not impact on any basic rights, freedoms and responsibilities as set out in the Charter. Planning legislation ensures an open community consultation process occurs, enabling people to freely express their views and if necessary obtain a fair hearing before an Independent Panel.

***Consultation and Communication***

The Amendment and Permit were exhibited in accordance with the provisions of the *Planning and Environment Act 1987*.

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

- Directions Hearing: in the week commencing 19 June 2017.
- Panel Hearing: in the week commencing 17 July 2017.

Planning Panels Victoria will notify all submitters of the Panel dates and invite requests to be heard at the Panel Hearing.

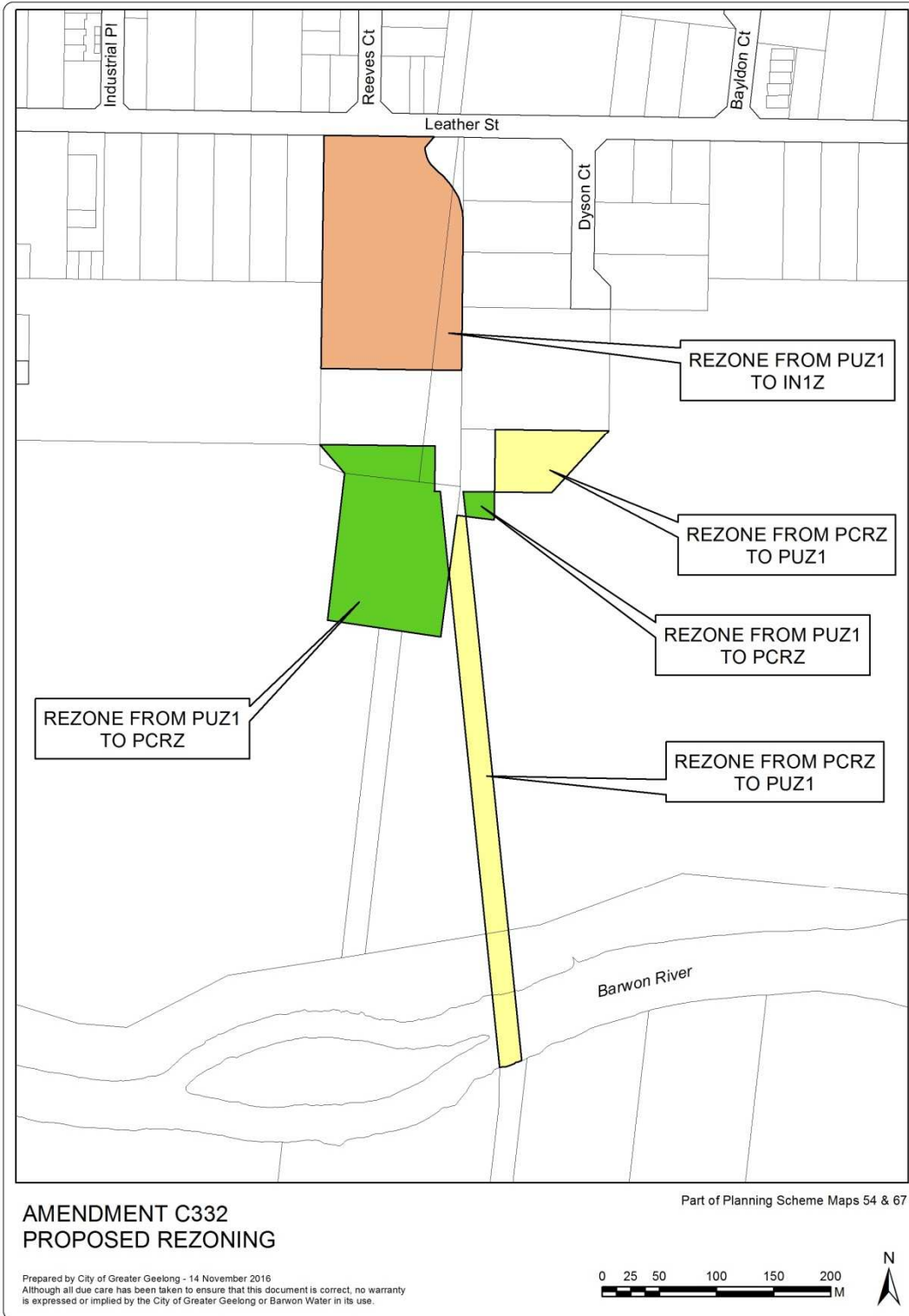
**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

**Appendix 1 - Aerial Map**



**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

**Appendix 3 - Proposed Rezoning Map**





**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

**Appendix 4 - Location of objecting submitter highlighted in red**



**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

**Appendix 5 - Summary of Submissions and Officer Response**

No	Name	Address	Type	Summary of Submission	Response
1	Barwon Water (Proponent)	T Belcher Strategic Projects Coordinator PO Box 659 Geelong VIC 3220	Support	<p>The submission says:</p> <p>The amendment proposes to rezone land at 42 Leather Street Breakwater to enable the subdivision and development of land for industrial purposes as per the surrounding land use and to correct historic anomalies regarding land zoning within the Barwon River floodplain.</p> <p>The exhibited Planning Scheme Amendment supports the planning assessment framework and will facilitate additional economic activity in the Breakwater industrial precinct.</p> <p>The amendment allows the disposal of surplus Government owned land in accordance with Government policy and will result in a net community benefit.</p>	Noted
2	Barwon Water	B Richards Mgr Development Services PO Box 659 Geelong VIC 3220	No Objection	Barwon Water does not object to the Amendment or Permit 1303/2015 subject to conditions.	Noted
3	Dept. of Environment, Land, Water & Planning	C Tesselaar Barwon SW Region PO Box 103 Geelong VIC 3220	No Objection	DELWP policy interests are not affected by the Amendment or Permit.	Noted
4	S & L Knight	5 Dyson Crt Breakwater 3219	No Objection	The submission says:	At a meeting held on 12 May 2017 involving Council and Barwon Water

**GREATER GEELONG PLANNING SCHEME  
DELEGATED AUTHORITY REPORT TO CONSIDER SUBMISSIONS  
AMENDMENT C332 & PLANNING PERMIT 1303/2015**

No	Name	Address	Type	Summary of Submission	Response
				<p>We have no major objections, but would like some clarifications with some of the plans.</p> <ol style="list-style-type: none"> <li>1. Will this new road/court give us the availability to access the rear of our property know as 5 Dyson Crt, Breakwater. Providing we have approved Water Board crossovers/bridges, over the sewer pipe easement, and City of Greater Geelong crossover permits. As we would like to utilize rear access.</li> <li>2. What measures will be in place to control parking or vehicles driving over the pipe to causing damage?</li> <li>3. Is the road/court then changing the landscape of the area. Previously the area was lined with trees and mulch over and beside the 'hump' of the pipe, maintained by Barwon Water Authority. Will the making of the new road/court then create a grassed nature strip to which we are then responsible to maintain.</li> </ol>	<p>officers and S Knight, S Knight confirmed that the submission is not an objection.</p> <p>The submission has been resolved and Barwon Water and Council will work with the landowner to grant access to 5 Dyson Court from the new subdivision road.</p> <p>The permit will also include additional conditions to address protection of the BW pipe asset, landscaping and maintenance.</p>
5	Kings Lawyers on behalf of M & C Bath	D King, Kings Lawyers, PO Box 270 Geelong VIC 3220	Objection	Refer to a summary of the submission in the 'Discussion' section of this report.	Refer to response in the 'Discussion' section of this report.