

**Greater Geelong Planning Scheme Amendment C408ggee
and Permit Application PP-1247-2019
31 – 49 Melaluka Road, Leopold**

Panel Report

Planning and Environment Act 1987

3 March 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

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

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

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

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

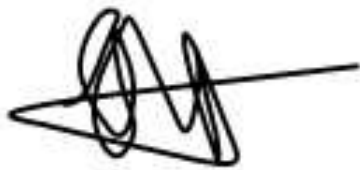
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Greater Geelong Planning Scheme Amendment C408ggee and Permit Application PP-1247-2019 PP-1247-2019

31-49 Melaluka Road, Leopold

3 March 2022



Gabby McMillan, Chair



Geoffrey Carruthers, Member

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Glossary and abbreviations

AEP	Annual Exceedance Probability (usually expressed as a percentage)
CFA	Country Fire Authority
Council	City of Greater Geelong
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
FIA	Flood Impact Assessment
GRZ	General Residential Zone
LDRZ	Low Density Residential Zone
MSS	Municipal Strategic Statement
PE Act	<i>Planning and Environment Act 1987</i>
SPP	Statement of Planning Policy
SWMP	Storm Water Management Plan
VPP	Victoria Planning Provisions
WSUD	Water Sensitive Urban Design (principles)

Overview

Amendment and Permit Application summary

The Amendment and permit	Greater Geelong Planning Scheme Amendment C408ggee and Permit Application PP-1247-2019 PP-1247-2019
Common name	31 – 49 Melaluka Road, Leopold
Brief description	Rezone 31 – 49 Melaluka Road, Leopold from Low Density Residential Zone Schedule 1 (LDRZ1) to General Residential Zone Schedule 1 (GRZ1) to allow for a multi-stage 36 lot subdivision.
Subject land	31 – 49 Melaluka Road, Leopold
The Proponent	R and A Clifton
Planning Authority	City of Greater Geelong
Authorisation	9 July 2021
Exhibition	16 September – 18 October 2021
Submissions	<p>Number of Submissions: 13 Opposed: 9</p> <p>Council originally indicated that there were 10 submissions, however following discussions prior to and during the Directions Hearing Council provided additional submissions from agencies (which the Panel has considered). Some of these agency submissions were sent to Council before the Amendment was authorised, but Council appears to have accepted them.</p> <p>List of submitters at Appendix A.</p>

Panel process

The Panel	Gabby McMillan (Chairperson) and Geoffrey Carruthers
Directions Hearing	Videoconference, 14 December 2021
Panel Hearing	Videoconference, 31 January 2022
Site inspections	Unaccompanied, 18 January 2022
Parties to the Hearing	<p>City of Greater Geelong represented by Barry Gough</p> <p>R and A Clifton, represented by Chris Marshall of Cardno TGM (now Stantec)</p>
Citation	Greater Geelong PSA C408ggee [2022] PPV
Date of this report	3 March 2022

Executive summary

The proposal is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987* (PE Act).

Greater Geelong Planning Scheme Amendment C408ggee and Permit Application PP-1247-2019ggee to the Greater Geelong Planning Scheme (the Amendment) seeks to rezone the land at 31 – 49 Melaluka Road, Leopold from Low Density Residential Zone Schedule 1 to General Residential Zone Schedule 1. The planning permit application seeks approval for a 36 lot staged subdivision of the land and the removal of native vegetation.

Key issues raised in submissions included:

- Strategic justification for the Amendment
- Infrastructure requirements, including stormwater management
- Public open space contribution
- Interface with surrounding properties and public open space
- Loss of semi-rural character in the area
- Potential traffic impacts
- Staging and potential for increased construction time
- Impact on sewer assets
- Compliance with Ministerial Directions and Practice Notes relating to contaminated land.

The Planning Policy Framework identifies Leopold as a district town and a location where development should be directed. The Leopold Structure Plan states that the subject site should be rezoned to Residential 1 Zone. In addition, the Planning Policy Framework seeks to ensure that development is appropriately integrated with the surrounding area, provides sufficient infrastructure and services and does not have an adverse effect on the environment.

Many of the issues arising in submissions appear to stem from a lack of strategic coordination between infrastructure delivery and rezoning proposals in the area. In particular, there does not appear to be a coordinated approach to the design and funding of infrastructure along the eastern side of Melaluka Road.

The Panel concludes that the Amendment is strategically justified and should proceed subject to addressing the more specific issues raised in submissions relating to the permit.

The draft planning permit, while covering most of the substantive matters necessary, requires a comprehensive re-write. Council needs to revisit the structure and drafting of conditions to ensure that the obligations and specific recommendations of the Panel are logically ordered, clear and enforceable.

The Panel concludes that:

- The background information provided by Council about the statutory processing (including agency referrals and notice) of the Amendment and Permit Application was not completely clear. It is Council's responsibility to ensure all statutory requirements under the PE Act have been met before it decides whether to adopt the Amendment or issue the Permit.
- An updated Site Stormwater Management Plan needs to be prepared that integrates all relevant considerations identified in the draft planning permit.

- Condition 4 should require an updated Site Stormwater Management Plan at the detailed design stage.
- Condition 5 should require that the WSUD outputs are monitored independently at the developer's cost, and reported annually to the Responsible Authority for two years following the issue of the final Certificate of Compliance.
- Condition 24 should require that the design and construction of stormwater drainage connections and any new Council infrastructure must accord with the final SSMP and be approved and supervised by the Responsible Authority.
- A consistent fence height and form along the eastern and southern property boundaries would be an optimal urban design outcome at these two interfaces.
- The Landscape Plan should consider the most appropriate boundary fence style to achieve an appropriate public realm interface at lots 1 to 5, 19 and 36.
- The requirement for a 33 metre footpath extension north of the property boundary be deleted from Condition 3 and replaced with a requirement for a pedestrian connection between the property and the footpath on the west side of Melaluka Road.
- The requirement for the Proponent to provide a footpath along the Melaluka Road frontage of the site should remain, and this should connect with the subdivision's internal footpath layout.
- A 5 percent public open space contribution is applicable given the timing of the original rezoning of the land for low density residential purposes
- The drainage reserves cannot be used as part of the 5 percent contribution as they are considered encumbered land, not useable from a public open space perspective.
- The draft planning permit, while covering most of the substantive matters necessary, needs a comprehensive review. Council needs to revisit the structure and drafting of conditions to ensure that the obligations are logically ordered, clear and enforceable.
- The additional substantive matters that need to be included in the permit include a reference to the Revision E plan, and a clear pathway for the preparation of functional layout plans that integrate all relevant considerations.

Recommendations

The Panel recommends that Greater Geelong Planning Scheme Amendment C408ggee and Permit Application PP-1247-2019 be issued with the following changes:

- 1 Redraft the draft Permit to:**
 - a) Ensure the preamble reflects the proposal.**
 - b) Revise the structure, sequence and drafting of conditions to ensure the obligations are logical, clear and enforceable.**
 - c) Incorporate the specific recommendations of the Panel.**
- 2 Amend Condition 3 to incorporate additional pedestrian linkages for the Functional Layout Plan to enable access to Melaluka Road (via access to the existing footpath on the west side of the road).**
- 3 Amend Conditions 3 and 4 to delete the requirement for a 33 metre footpath extension to the north.**
- 4 Amend Condition 4 to also require an updated Site Stormwater Management Plan at the detailed design stage.**

- 5 Amend Condition 5 to include a requirement that the Water Sensitive Urban Design outputs are monitored independently at the developer's cost, and reported annually to the Responsible Authority for 2 years following the issue of a Statement of Compliance for Stage 2 of the development.**
- 6 Amend Condition 7 to include a requirement to detail appropriate boundary treatments and fencing at the public realm interface, particularly in relation to Lots 1 to 5, 19 and 36 on the Revision E plan.**
- 7 Amend Condition 23 to require a 5 percent public open space contribution based on the net developable area (excluding the drainage reserves).**
- 8 Amend Condition 24 to require that the design and construction of stormwater drainage connections and any new Council infrastructure must accord with the endorsed Site Stormwater Management Plan and be approved and supervised by the Responsible Authority.**

1 Introduction

1.1 The Amendment and Permit Application

The proposal is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987* (PE Act).

(i) Amendment description

The Amendment proposes to rezone the land at 31 – 49 Melaluka Road, Leopold from Low Density Residential Zone Schedule 1 (LDRZ1) to General Residential Zone Schedule 1 (GRZ1).

(ii) Permit application

The planning permit application seeks approval for a multi-lot staged subdivision of the land and the removal of native vegetation.

More specifically the permit application includes:

- creation of 36 residential lots with a proposed lot density of 16.6 lots per hectare.
- construction of associated infrastructure, including a loop road and drainage basin.
- removal of a patch of native vegetation.

Figure 1 Exhibited plan for subdivision



Source: Document 13

(iii) The subject land

The Amendment applies to land shown in Figure 2. The site is in the north western part of Leopold. The land is immediately to the south of the Bellarine Rail Trail. Land to the north, east and south of the site is developed for residential purposes. Land to the west is used for agricultural purposes.

There is currently no footpath or kerb and channel on the eastern side of Melaluka Road. The main pedestrian access is located on the western side of Melaluka Road, which links to the Bellarine Rail Trail to the north and the centre of Leopold to the south.

Figure 2: Subject land and surrounds



1.2 Background

The Amendment and permit application was initially submitted to Council on 28 November 2019. Some of the key steps in the process were:

- March 2020 – Council indicated that it ‘referred’ the proposal internally and externally for comment.
- April – July 2020 – Referral responses were received, including an objection from Barwon Water in relation to the creation of lots over an existing gravity drain on the northern boundary of the site.
- 14 May 2021 – Council resolved to seek authorisation for the Amendment (and at the same time resolved to prepare a section 173 agreement for community infrastructure contributions)¹.
- 9 July 2021 – the Minister for Planning authorised the Amendment.
- 16 September – 18 October 2021 – Public exhibition of Amendment and permit application.
- 27 September 2021 – Barwon Water withdrew its objection to the proposal by email, on the basis of revised plans (Revision E) (see Figure 3).
- September – October 2021 – Submissions received, including a submission from the Environment Protection Authority (EPA) on 18 October 2021 that raised some concerns regarding the process and requirements for future investigation and environmental screening.

¹ Council letter dated 22 February 2022, Document 20

- 17 November 2021 – Council considered submissions and resolved to refer all submissions to a Panel.

Figure 3 Plan of subdivision (Revision E) prepared in response to Barwon Water referral response



Source: Document 13

1.3 Procedural issues

(i) Plan revisions

The Panel was provided with a subdivision plan prepared by Cardno TGM dated 22 November 2020 (Version C plan) prior to the Directions Hearing. At the Directions Hearing Council indicated that an updated version of the subdivision plan (Version E) was apparently uploaded on Council’s website part way through the exhibition process. However, upon further investigation Council advised that the Version E plan:

- has not been exhibited
- was prepared in response to a submission from Barwon Water.

The Panel considered Version C of the subdivision plan and considered the Version E plan in the context of it being a response to an authority’s comments on the proposal.

(ii) Agency comments

The sequencing of referrals and exhibition, as outlined in the Council’s chronology of events, was somewhat unclear. For example, it is not clear whether agency comments were sought as part of an informal process before the Amendment was authorised or whether it was a formal referral under section 55 of the PE Act. However, the Panel was provided with written comments from several agencies confirming their position on the proposal.

The EPA made a submission (after the exhibition of the Amendment) indicating that further information may be required, however it did not provide any specific technical advice on the Environment Assessment provided with the application. The Panel contacted EPA prior to the hearing to confirm it did not want to be a party to the proceeding. The EPA advised that it did not intend on participating.

It is Council's responsibility to ensure the Amendment and permit are processed in accordance with the PE Act.

1.4 Summary of issues raised in submissions

(i) Planning Authority

The key issues for Council were:

- strategic justification
- drainage
- public open space contribution
- interface with surrounding properties and public open space.

(ii) The Proponent

The key issues for the Proponent were:

- infrastructure requirements
- the amount of the public open space contribution.

(iii) Relevant agencies

The key issue for Barwon Water was the proposed creation of lots over its sewer asset on the northern edge of the site.

The key issues for the EPA were:

- compliance with relevant Ministerial Directions and Practice Notes relating to potentially contaminated land
- whether there was a need for additional environmental screening.

These submissions were outstanding².

The other agencies including Citipower, Ausnet, Department of Environment, Land, Water, and Planning (DELWP) and Country Fire Authority (CFA) did not object to the proposal, subject to their conditions being included in the Permit. These submissions can be resolved through the inclusion of conditions if a Permit is granted.

(iv) Individual submitters or groups of submitters

The key issues by submitters were:

- strategic justification for the Amendment
- loss of semi-rural character in the area
- stormwater management
- potential traffic impacts

² Noting that the Revision E subdivision plans were prepared during the process to address Barwon Water's concerns.

- interface issues, including treatment and fencing along the site boundaries and the impacts on adjoining low density residential properties
- staging and potential for increased construction timeframes.

The Panel notes that some of the issues raised in submissions are yet to be resolved, but they were not contested at the Hearing. The Panel has considered all issues raised in submissions; not only the issues contested during the Hearing.

1.5 The Panel's approach

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

The Panel considered all written submissions made in response to the exhibition of the Amendment and Permit Application, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and 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
- Drainage
- Interface issues
- Pedestrian and bicycle connectivity
- Public open space contribution
- The Planning Permit.

1.6 Conclusion

The Panel concludes:

- The background information provided by Council about the statutory processing (including agency referrals and notice) of the Amendment and Permit Application was not completely clear. It is Council's responsibility to ensure all statutory requirements under the PE Act have been met before it decides whether to adopt the Amendment or issue the Permit.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act by providing for the fair, orderly, economic and sustainable use and development of land.

Clause 11 (Settlement)

The Amendment supports Clause 11.01-1R Settlement G21 by building on existing and planned infrastructure to support the development of Leopold as a district town.

Clause 19 (Infrastructure)

The Amendment supports Clause 19.03-2S and Clause 19.03-3S by:

- integrating the development with existing infrastructure and services
- setting land aside for water management infrastructure.

Clause 21 (Municipal Strategic Statement)

The Municipal Strategic Statement (MSS) identifies Leopold as a district town and supports Leopold as a Sub Regional Retail Activity Centre for the Bellarine Peninsula.

Leopold has a range of services to support the local community with Geelong providing higher end services. The major services within Leopold include the sub-regional shopping centre, small retail shopping strips, recreation facilities (netball, tennis, cricket and football), a primary school, childcare and kindergartens and a neighbourhood centre incorporating a library.

Whilst Leopold is a designated district town on the Bellarine Peninsula, it is subject to constraints including drainage. Landscape values, maintaining a compact urban form and environmental values influence growth opportunities.

The Amendment supports the MSS by:

- Clause 21.05-2 (Waterways) – protecting waterways by the appropriate management of stormwater runoff from developments
- Clause 21.05-7 (Flooding) – protecting floodplains and minimising the risk of flood damage
- Clause 21.06-3 (Urban Consolidation) – consolidating existing urban areas in a managed way, encouraging an appropriate range of development densities and improving accessibility to urban services
- Clause 21.06-4 (Neighbourhood character) – ensuring new development positively responds to the established urban character of the area
- Clause 21.08-5 (Accessibility) – recognising the need to have safe access to infrastructure for all members of the community and provide shared spaces and passive surveillance of all recreational areas.

- Clause 21.14 (Bellarine Peninsula) – rezoning land for residential growth consistent with the Leopold Structure Plan³ map included in that clause (see Figure 4).

2.2 Other relevant planning strategies and policies

(i) G21 Regional Growth Plan

The G21 Regional Growth Plan provides broad direction for land use and development across the G21 region, as well as more detailed planning frameworks for the key regional centres.

Council submitted that the Amendment supports the G21 Regional Growth Plan because it directs growth towards the nominated district town of Leopold, redirecting pressure away from smaller more sensitive coastal locations.

(ii) Leopold Structure Plan

The Leopold Structure Plan provides guidance for the development of the land (Figure 4). It includes a framework plan which is now incorporated into Clause 21.14 of the Planning Scheme.

Council submitted that the Amendment supports the Structure Plan because the rezoning is consistent with the structure plan, in that it applies a more intensive residential zoning to the land.

The subject site is identified within the Leopold Structure Plan as land to be rezoned to Residential 1. The framework plan identifies Leopold as a town where growth is expected and the Leopold Structure Plan identifies the land to be zoned to the Residential 1 Zone. The application accords with the strategic direction of the Greater Geelong Planning Scheme.

Figure 4: Leopold Structure Plan



Source: Document 10, Council Part A submission

³ Leopold Structure Plan prepared in September 2011 (amended in January 2013)

(iii) Draft Bellarine Statement of Planning Policy (2019)

On 29 October 2019, the Bellarine Peninsula was declared a Distinctive Area and Landscape under the PE Act. The declaration triggers the requirement to prepare a Statement of Planning Policy (SPP). The draft SPP was released for public consultation in mid-2021 and seeks to preserve the natural, coastal, cultural and hinterland assets of the Bellarine.

The draft SPP also identifies settlement boundaries for towns on the Bellarine Peninsula (including Leopold), consistent with the existing settlement boundaries identified in Clause 21.14 of the Greater Geelong Planning Scheme. The site is within the settlement boundary for Leopold.

2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

(i) Proposed zoning

The land is proposed to be rezoned to General Residential 1 Zone (GRZ1). The purposes of the GRZ1 include:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

(ii) Native vegetation provisions

Clause 52.17 of the Planning Scheme seeks to ensure that there is no net loss in biodiversity and requires proposals to be assessed using the three step process in the *Guidelines for the removal, destruction or lopping of native vegetation*⁴. Proponents are required to avoid, minimise and offset native vegetation impacts.

Council submitted that the Proponent had met the requirements of Clause 52.17 by providing an offset for the patch of native vegetation proposed to be removed.

(iii) Clause 56 (Residential subdivision)

Clause 56 applies to a permit application to subdivide land in the General Residential Zone and is therefore applicable to the application.

The Proponent submitted a Clause 56 assessment in support of the Permit Application. Council did not raise any specific concerns regarding the Clause 56 assessment.

2.4 Ministerial Directions and Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

⁴ Native Vegetation Guidelines, DELWP, 2017

(i) Ministerial Direction 1

Ministerial Direction No. 1 – Potentially Contaminated Land identifies potentially contaminated land as land used or known to have been used for industry, mining, or the storage of chemicals, gas, wastes or liquid fuel (if not ancillary to another use of the land).

(ii) Ministerial Direction 19

Ministerial Direction 19 came into effect on 18 October 2018. It requires planning authorities to seek early advice from EPA when undertaking strategic planning processes and preparing planning scheme amendments that may significantly impact Victoria’s environment, amenity and/or human health due to pollution and waste. EPA was consulted in relation to the preparation of the Amendment.

(iii) Planning Practice Note 30

Planning Practice Note 30 is related to Ministerial Direction No. 1 and was updated in July 2021.⁵ The practice note provides guidance on how to identify potentially contaminated land, the level of assessment requirement, appropriate provisions in Amendments and permit conditions.

Planning Practice Note 30 provides guidance on how to assess a planning proposal relating to potentially contaminated land. The process is based on the following three questions:

- Is the subject land potentially contaminated?
- What assessment is required?
- Is the land suitable, or can it be made suitable for the proposed use?

2.5 Discussion

(i) Strategic intent

The Planning Policy Framework identifies Leopold as a district town and a location where development should be directed. The Leopold Structure Plan, included at Clause 21.14 of the Planning Scheme, specifically nominates that the subject site should be rezoned to Residential 1 Zone. The Panel considers that the application of the GRZ1 is an appropriate equivalent zone for the site.

The Planning Policy Framework seeks to ensure that development can be appropriately integrated with the surrounding area, provide sufficient infrastructure and services and not have an adverse effect on the environment. These are matters that are addressed in the following chapters. Many of the issues arising with this proposal appear to stem from a lack of coordination between infrastructure delivery and rezoning proposals in the surrounding area. In particular, there does not appear to be a coordinated approach to the design and funding of infrastructure along the eastern side of Melaluka Road.

(ii) Potential for contamination

Ministerial Direction No. 1 and Planning Practice Note 30 provide guidance on how to assess the risks of land contamination impacting on a new sensitive use (which includes residential development).

⁵ To coincide with the introduction of the *Environment Protection Act 2017*

An *Environment Assessment Report – 31-49 Melaluka Road Leopold* prepared by ESA Group dated 12 August 2019 (Environment Report) was submitted with the Permit Application in November 2019.

The Environmental Report included a historical assessment of the land uses on the subject land and did not identify any uses that would identify the land as potentially contaminated consistent with Ministerial Direction No. 1.⁶ The Environment Report concluded that the soil at the site has a low risk of contamination, and that the site is suitable for a sensitive use.

The Proponent submitted that some aspects of the Planning Practice Note 30 may not be relevant to the Amendment, on the grounds that:

The Amendment does not involve the introduction of a new use, or buildings and works associated with a new use as a residential use has already been established on the land which is understood to be for over 30 years.⁷

The Panel does not fully agree with the Proponent’s assertion that the proposal does not involve the introduction of a new sensitive use. When assessing risk, it is not the zoning of the land that informs the likelihood of contamination, rather it is the historic use of the land. A large portion of the site is vacant and appears to be used as a vacant paddock, despite the underlying zoning of the land. This is evident in the aerial image of the site provided by Council. Further, the proposal involves introducing a much more intensive residential use of the land.

Figure 5 **Aerial view of site**



Source: Document Application TGM FIA and SSMP

In response to the three questions posed in Planning Practice Note 30, the Panel is satisfied that:

- Notwithstanding the prior agricultural use, the subject land has a low likelihood of contamination (based on the information in the Environment Report);
- further assessment is not required at this time based on the criteria in Table 3 of Planning Practice Note 30. The Panel notes that some of the land is not currently used for

⁶ The Panel assumes this is the version of Ministerial Direction No. 1 as published in 2019

⁷ Proponent’s submission (Document 14, at paragraph 33)

‘residential purposes’ as purported by the Proponent, however given the low likelihood of contamination no further assessment is required;

- the subject land therefore is suitable for the proposed land use (being a more intense form of residential development).

2.6 Conclusion

For the reasons set out in this and the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Drainage

3.1 The issue

The issue is:

- Whether the stormwater drainage can be appropriately managed via a Storm Water Management Plan.

3.2 Relevant policies

Clause 19.03-3S (Integrated Water Management) aims to sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.

Clause 53.18-4 (Stormwater management for subdivision) aims to:

- Minimise damage to properties and inconvenience to the public from stormwater.
- Ensure that the street operates adequately during major storm events and provides for public safety.
- Minimise increases in stormwater and protect the environmental values and physical characteristics of receiving waters from degradation by stormwater.
- Encourage stormwater management that maximises the retention and reuse of stormwater.
- Encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.

3.3 Evidence and submissions

The application was supported by a Flood Impact Assessment (FIA) and Site Stormwater Management Plan (SSMP).⁸ The FIA and SSMP aimed to demonstrate that the site can be developed using best practice stormwater management principles and techniques. These would be a basis for stormwater designs that ensure that stormwater quality and quantity targets are achieved and maintained. The FIA concluded that the development, with the implementation of the SSMP, will have no adverse impacts on flood characteristics external to the site.

Council submitted that it was satisfied that the subject land can be satisfactorily drained in accordance with the relevant regulations and controls contained in the draft planning permit. It relied upon the FIA and SSMP submitted with the Application.

Council submitted that the Amendment supports the policy in Clause 19.03-3. It submitted that stormwater would be managed on the subject land via the retarding basin. Through the incorporation of Water Sensitive Urban Design (WSUD) techniques, runoff and peak flows of stormwater leaving the site would be reduced to acceptable levels. Council was satisfied that the Amendment will not cause any significant negative impact upon the regional catchment.

The Permit Application proposed that the subject site be over-filled to the 1 percent Annual Exceedance Probability (AEP) flood level, to a minimum height of 6.91 metres AHD. A general slope would be created for regional drainage across the subject land towards the southwest corner. Drainage Reserve 1 would detain surface stormwater from the development, before it

⁸ TGM FIA and SSMP November 2020, submitted with the Application

flowed into the Council swale drains along Melaluka Road. The extent of the fill above the existing ground levels would be determined when a detailed cut and fill design is compiled. But due to the relative flatness of the site, between 0.5 and 1.0 metres depth of fill is expected to be required up to the eastern boundary.⁹

Figure 6 Filled area and basin location¹⁰



Source: Document Application TGM FIA and SSMP

The subdivision's underground stormwater drainage would be piped to a 163 cubic metre detention basin wetland to be constructed in Reserve 1 for preliminary aerobic treatment, then piped to the legal point of discharge to the northwest of the site, at the west side of Melaluka Road.

⁹ Mr Marshall's verbal advice during the Hearing

¹⁰ Figure 7.5 (page 39) of FIA and SSMP (V01) (TGM, May 2019)

Figure 7 Drainage outfall from the subject land



Source: Document Application TGM FIA and SSMP

The SSMP objective is to demonstrate that the proposed development works could be undertaken without generating adverse impacts upon flood characteristics around the abutting 'Leopold World of Learning' childcare centre. The SSMP demonstrated that the proposed development would not create additional flood related risks for the childcare site.

Relying on the FIA and SSMP, the Proponent submitted that:

- The FIA indicates that the proposed development does not generate adverse impacts external to the site during flood events.
- Slight increases in flood level are observed within the swale along Melaluka Road and the reserve area within the site, however, this does not create a change in flood hazards.
- The modelling showed that safe access and egress can be achieved and no adverse impact will occur to downstream neighbouring properties.

The Proponent submitted that the hydrological and hydraulic analysis undertaken in the flood modelling by TGM demonstrated that the proposed development can meet the requirements and objectives for stormwater management, flood impact, and safety access, and safe access/egress during floods.

Figure 8 1 percent AEP Hazard Envelope at Developed conditions



Source: Document Application TGM FIA and SSMP, Figure E1, page iv

TGM compiled flood hazard mapping in accordance with the Safety and Hazard Criteria defined by ARR201623¹¹, which state that flow velocity, depths and the product of velocity and depth must not exceed safety limits for people and vehicle access egress to and from the site:

- Site Safety (People)
 - Depth must be no greater than or equal to 0.5 metres.
 - Velocity must be no greater than or equal to 3.0 metres per second.
 - The product of depth multiplied by velocity must be no greater than or equal to 0.4 square metres per second.
- Access Safety (Vehicles)
 - Depth must be no greater than or equal to 0.3 metres.
 - Velocity must be no greater than or equal to 3.0 metres per second.
 - The product of depth multiplied by velocity must be no greater than or equal to 0.3 square metres per second.

The FIA stated that once developed, the site and road access would meet the safety criteria. The increase in flood levels within the swale and Reserves 1 and 2 along the western boundary would not create an increase in flood hazards.

Submission 10 raised concern regarding the state of the existing Council drainage assets along Melaluka Road, which are already falling into the swales along the road.

¹¹ Australian Rainfall and Runoff data 2016 (TGM FIA and SSMP report, page iii)

3.4 Discussion

The purpose of Clause 53.18 in the Planning Scheme is to ensure that stormwater in urban environments, including retention and reuse, is managed to mitigate the impacts of stormwater upon the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

There are two aspects to the FIA and SSMP. Firstly, regional surface drainage generally runs across the site to the southwest corner and earthworks to fill up to the eastern boundary would be required. Reserve 2 would generally be maintained as a small grassed area when conditions allow. This allocation of land would minimise the surface water impacts upon Council's existing Melaluka Road drainage infrastructure.

Secondly, the development of residential subdivision hardstand areas would divert surface stormwater into an underground piped system to the retention wetland basin in Reserve 1, before discharge into the Council drainage system at the legal point of discharge.

These Reserve 1 and 2 assets should be constructed at Stage 1, notwithstanding that they would initially service only 20 of the 36 lots proposed in the application. This is appropriately stipulated in draft Condition 11 of the permit.

The Panel is satisfied that the FIA and SSMP can deliver the appropriate outcomes once the detailed functional design has been compiled to the satisfaction of Council. An updated Stormwater Water Management Plan (SWMP)¹² should be compiled at the design stage, and be a requirement under Condition 4.

The actual functioning WSUD water quality outputs should be monitored by the developer for two years following practical completion of the final stage of the development, with the results being reported annually to Council. This would demonstrate the efficacy of the WSUD design and should require that the WSUD outputs are monitored independently at the developer's cost, and reported annually to Council for two years after the issue of a Statement of Compliance for Stage 2 of the development.

Condition 11 makes reference to a 'Storm Water Management System' which should generally accord with the TGM 'Site Stormwater Management Plan' (May 2019) that was submitted with the Application. The Panel recommends that the term used in the Permit should be consistent, that is: Storm Water Management Plan. The SWMP should be linked to Condition 24 (Engineering Works), to the satisfaction of the Responsible Authority. Condition 24 should require that the design and construction of stormwater drainage connections and any new Council infrastructure must accord with the final functional SWMP, and be approved and supervised by Council.

The Panel is similarly satisfied that the proposed development should produce no adverse flood impacts upon the neighbours to the east and south of the site, when the required WSUD principles are included in the final detailed design. Condition 5 on the Permit is an appropriate control.

The flood hazard envelope (Figure 8 above) indicates a low risk of flooding at the proposed road access to the subdivision from Melaluka Road, and it will be critical that the finished access road level is considered with regard to a predicted 1 percent AEP event flood level. The provision of

¹² Preferred term, due to both on-site and external drainage considerations

emergency access should be maintained during such an event, as defined in the ARR 2016 'Safety and Hazard criteria' in the TGM FIA and SSMP Report.¹³

The flood hazard mapping (Figure 8 above) indicates a higher level flood risk along the interface at the Bellarine Rail Trail along the northern boundary. The existing swale between the Rail Trail and the subject land should be regularly maintained by Council to ensure that it is fit for purpose as a drainage asset during a flood event.

3.5 Conclusions and recommendations

The Panel concludes:

- An updated Storm Water Management Plan needs to be prepared that integrates all relevant considerations identified in the draft planning permit.
- Condition 4 should require an updated Storm Water Management Plan at the detailed design stage.
- Condition 5 should require that the WSUD outputs be monitored independently at the developer's cost, and reported annually to the Responsible Authority for two years following the completion of Stage 2 of the development.
- Condition 24 should require that the design and construction of stormwater drainage connections and any new Council infrastructure must accord with the final SWMP and be approved and supervised by the Responsible Authority.

The Panel recommends:

Amend Condition 4 to also require an updated Storm Water Management Plan at the detailed design stage.

Amend Condition 5 to include a requirement for the Water Sensitive Urban Design outputs be monitored independently at the developer's cost, and reported annually to the Responsible Authority for 2 years following the issue of a Statement of Compliance for Stage 2 of the development.

Amend Condition 24 to require that the design and construction of stormwater drainage connections and any new Council infrastructure must accord with an endorsed Storm Water Management Plan and be approved and supervised by the Responsible Authority.

¹³ TGM report page 40

4 Interface issues

4.1 The issue

The issue is:

- Whether the proposal addresses the relevant policies at the site boundary interfaces.

4.2 Relevant policies

56.03-4 (Built Environment) aims to create urban places with identity and character.

56.05-1 (Integrated Urban Landscape) includes the following objectives:

- To provide attractive and continuous landscaping in streets and public open spaces that contribute to the character and identity of new neighbourhoods and urban places or to existing or preferred neighbourhood character in existing urban areas.
- To incorporate natural and cultural features in the design of streets and public open space where appropriate.
- To protect and enhance native habitat and discourage the planting and spread of noxious weeds.
- To provide for integrated water management systems and contribute to drinking water conservation.

15.01 (Built Environment) contains policies relating to urban design, building design, subdivision design, healthy neighbourhoods and neighbourhood character. Objectives are to:

- Create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
- Achieve building design outcomes that contribute positively to the local context and enhance the public realm.
- Ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.
- Achieve neighbourhoods that foster healthy and active living and community wellbeing.
- Recognise, support and protect neighbourhood character, cultural identity, and sense of place.

4.3 Evidence and submissions

Council submitted that the proposed subdivision would comply with Clause 56.03-4 of the Planning Scheme because it would be similar in style and appearance to other recently subdivided parcels within the vicinity. The development will provide for made roads, kerb and channel, footpaths, and underground power. The Amendment will result in higher residential densities than would otherwise be possible under the current Low Density Residential zoning, consistent with the local policy including the Leopold Structure Plan.

The Planning Report submitted with the Application stated that the proposed subdivision is considered to accord with the policies referenced in Chapter 4.2. The subdivision would create a safe legible design that provides a positive development response to this land. Its location near Leopold amenities will encourage walking and cycling and thus contribute to the health and wellbeing of the Leopold community.

Several submitters raised concerns regarding the potential impacts of the development on the adjoining Low Density Residential estate, including the perception that the proposed staging of the

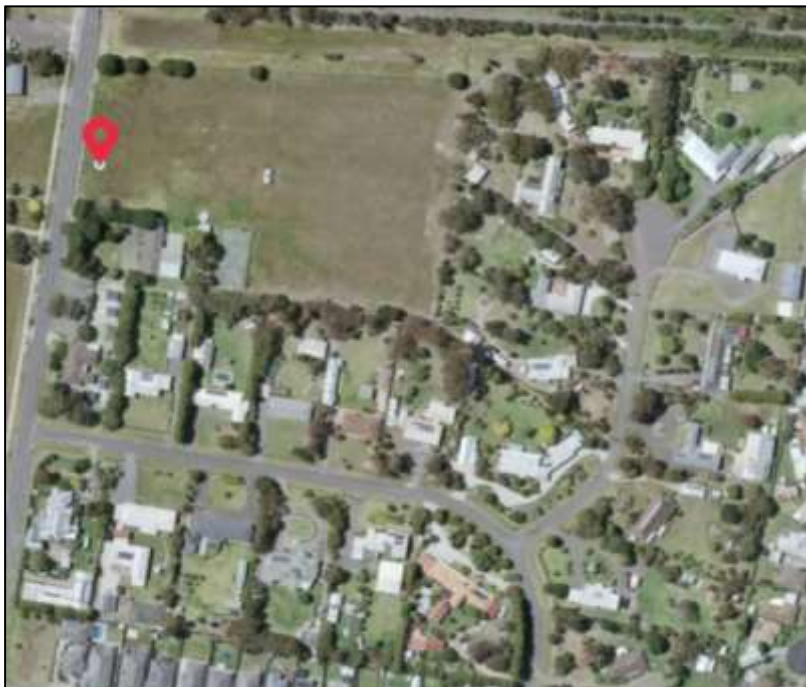
subdivision will increase the construction time. There were concerns regarding the type of fencing required due to the nature of development permitted by the change to the zoning, timing and payment for fence construction. Submitters also raised concerns in relation to overlooking and a loss of privacy, and a loss of a rural outlook once the subject land is developed.

Council’s response in the Part B submission was that:

Notwithstanding the views of adjoining residents with regard to their perceived view of the land as “semi-rural”..., the land has a long established history as residential land within the urban growth boundary of Leopold.

The Proponent’s response to concerns raised regarding the impact to the existing rural outlook was that the subject land is currently low density residential land and not rural land. The rural/farming zone land is located to the west of Melaluka Road, and a considerable distance from the submitters’ land. The Proponent disputed whether there is any clear existing visual access to a rural vista in the west, given the location of the adjoining lots and the orientation of the existing dwellings to the east and south (as shown below in Figure 9).

Figure 9 Plan showing orientation of nearby dwellings



Source: Document 14

In response to the issue of overlooking, the Proponent submitted that the dwellings will be constructed subject to ResCode requirements to prevent overlooking impacts. It noted that most adjoining properties have significant vegetation along their rear boundaries, and the existing dwellings have been located at a considerable distance from the rear property boundary.

Submitters 4, 7, 8 and 9 submitted that the developer should bear the cost of the boundary fence.

The Proponent indicated that the developer will incur the costs for new boundary fences should the Amendment and Permit receive approval. A letter to Submitter 4 (Document 18) was provided to illustrate this intent.

Council submitted that the default course of action would be to rely upon the *Fencing Act 1968* to determine the cost sharing of fencing.

4.4 Discussion

Council evidently regards this proposal as a relatively small in-fill development that would be consistent with other recent residential developments in the northern part of Leopold, along Melaluka Road.

The Panel made the observation during its site inspection that the subject site's location creates four different interfaces: with LDRZ to the east and south, a childcare centre at the Melaluka Road boundary, farming land to the west, and the Bellarine Rail Trail reserve at its northern boundary. This situation is somewhat unusual and requires a sensitive approach at each interface.

Eastern boundary

The Panel agrees with the Proponent's proposition that the existing dwellings in the abutting LDRZ properties are oriented away and some distance from the interface. The orientation of dwellings built on the proposed Lots 19 to 25 should be considered in relation to the heights and setbacks directed by ResCode. The height and form of the boundary fence should be to the satisfaction of Council.

Southern boundary

Lots 26 to 36 should be oriented similarly, to have minimal impact upon the abutting dwellings. The height and form of the boundary fence should be to the satisfaction of Council. Reserve 2 landscaping should provide a compatible interface with the childcare centre.

Western boundary

The frontage to Melaluka Road would entirely comprise Reserves 1 and 2, producing a setback to the proposed lots of approximately 23 metres from the western boundary. Whilst these reserves would primarily serve a drainage function, there would be opportunity to identify appropriate plantings within the landscape plan that would be conducive to a farmland – residential interface, whilst contributing positively to the WSUD outcome. Council should seek to achieve urban design outcomes that contribute positively to the local neighbourhood and enhance the public realm, in accordance with Clause 15.01 (Built Environment). The west facing fences of Lots 1 to 5, and Lot 36 should be considered in the context of the Landscape Plan that will be endorsed by Council. Planting trees and shrubs along the boundaries within reserves 1 and 2 may produce a better public realm interface outcome than a 1.8 metre high paling fence.

Northern boundary

Reserves 3 and 4 would be created to provide a 6 metre wide encumbered easement for the Barwon Water assets. No permanent infrastructure would occupy these reserves. The views to the Bellarine Rail Trail should be maintained to enhance this interface, in accordance with Clause 15.01. This might require less solid fencing, such a wooden post and rail that would be consistent with a semi-rural outlook. That said, the Panel notes that the flood mapping predicts a medium level of flooding risk along the swale parallel to this boundary, and that a safety fence may be required at the common boundary with the Rail Trail. Similarly, the boundary fences of Lots 5 and 19 should be considered within the Landscape Plan to achieve an appropriate public realm interface outcome.

The Panel has no reason to doubt that the developer would uphold its commitment in relation to bearing the cost of boundary fencing that is to be constructed to the satisfaction of Council. The decisions regarding height and form should involve consultation with the abutting property

owners to the east and south of the subject land. The Panel finds that a consistent fence height and form along the eastern and southern property boundaries would be an optimal urban design outcome at these two interfaces.

4.5 Conclusions and recommendation

The Panel concludes that:

- A consistent fence height and form along the eastern and southern property boundaries would be an optimal urban design outcome at these two interfaces.
- The Landscape Plan should consider the most appropriate boundary fence style to achieve an appropriate public realm interface at Lots 1 to 5, 19 and 36.

The Panel recommends:

Amend Condition 7 to include a requirement to detail appropriate boundary treatments and fencing at the public realm interface, particularly in relation to Lots 1 to 5, 19 and 36 on the Revision E plan.

5 Pedestrian and bicycle connectivity

5.1 The issues

The issue is:

- Whether the proposal accords with the Leopold Structure Plan with respect to pedestrian and bicycle linkages.

5.2 Relevant policies and strategies

The Leopold Structure Plan, under the Key Influences at section 2.5 'Transport and Physical Infrastructure', states:

Opportunity to improve pedestrian and bicycle linkages throughout the township and within the open space areas through the implementation of the Leopold Strategic Footpath Network.

5.3 Evidence and submissions

The Transport and Traffic Assessment submitted with the Application did not consider pedestrian or bicycle connectivity.

Council submitted that the Amendment supports policy at Clause 15 (Built Environment and Heritage) because the preliminary subdivision design will enable the creation of a safe and functional urban environment which will ensure integration with the Bellarine Rail Trail to the north, and improve pedestrian access on the east side of Melaluka Road.

No submissions were made by the Proponent in relation to this issue. The indicative street cross sections show footpaths on both sides, and the Proponent had agreed to the provision of a footpath along the entire Melaluka Road frontage of the site.

Council sought to extend the footpath 33 metres further north to connect with the Bellarine Rail Trail (see Conditions 3 and 4 of the proposed permit). The Proponent opposed this requirement on the grounds that it would be beyond its boundary responsibility, and involve extensive and costly civil works to accommodate the Council's drainage assets.

Submitter 5 expressed concerns regarding an increased danger to pedestrians resulting from the development occurring.

5.4 Discussion

The Panel referred to Council's 'Cycling and Trails Plan 2020-23' which states:¹⁴

Walking and cycling for recreation and transport is an affordable and easily accessible form of exercise for many people. Walking and cycling are relatively low cost, flexible in terms of timing and can be very social when done with others. Not only is it good for physical health but it also has great benefits for mental health as well.

People need safe places to walk or cycle, and even the perception of poor levels of safety can stop people from walking or cycling. The safety of facilities in terms of surface, road safety and public safety are all key to attracting people to use a path or trail.

¹⁴ City of Greater Geelong 'Cycling & Trails Network Report 2020 – 2023', February 2020 at page 4

This Plan clearly articulates Council's intent that pedestrians and cyclist be encouraged, and provided with safe accessibility. Council's statements during the Hearing appeared to focus accessibility primarily upon connecting to the Bellarine Rail Trail. Council sought to justify a 33 metre footpath extension northwards beyond the site boundary on the grounds of establishing connectivity.

The development's internal footpath should connect seamlessly with the external shared path on the west side of Melaluka Road. A footpath along the entire Melaluka Road frontage of the subject land should be provided by the Proponent, between the north and south boundaries.

The Panel notes that the commercial and service activity centre is principally to the south at the Bellarine Highway. Whilst public bus transport may be available in Melaluka Road, it would be an appropriate planning outcome for this residential development be connected to the local neighbourhood activity centre and broader pedestrian and cycling network. This could be achieved simply and safely by ensuring access to the existing footpath along the west side of Melaluka Road, which carries an average 2,462 vehicles per day.¹⁵ The Traffic Management report regarded this to be a low traffic volume.

Several alternative options for footpath connectivity were discussed during the 'without prejudice' drafting of permit conditions at the conclusion of the Hearing. One alternative discussed was a cross-over culvert over the Melaluka Road swale drain at Reserve 1, or opposite the entrance road to the subdivision. No formalised pedestrian crossing was proposed (as one already exists at the Rail Trail).

No detailed design proposals were put to the Panel. Consequently, the Panel cannot make specific recommendations, but the Panel does find that a 33 metre footpath extension at the Proponent's cost is both unwarranted and impractical. This requirement should be deleted from Conditions 3 and 4.

In the Panel's view, the proposal would be best served by (at a minimum) a safe cross-over from the east to the west sides of Melaluka Road. This is particularly relevant to the less ambulant; people using prams, wheel chairs motor scooters; particularly the elderly. At what location this should be provided can be determined at a function design plan stage, but it should be a permit requirement.

5.5 Conclusions and recommendations

The Panel concludes:

- The requirement for a 33 metre footpath extension north of the property boundary be deleted from Condition 3 and replaced with a requirement for a pedestrian connection between the property and the footpath on the west side of Melaluka Road.
- The requirement for the Proponent to provide a footpath along the Melaluka Road frontage of the subject land should remain, and this should connect with the subdivision's internal footpath layout.

¹⁵ TGM Traffic Management response report, December 2020, SCATS data, page 7

The Panel recommends:

Amend Conditions 3 and 4 to delete the requirement for a 33 metre footpath extension to the north.

The functional layout plan for the subdivision should incorporate additional pedestrian linkages to enable access to Melaluka Road (via access to the existing footpath on the west side of the road).

6 Public open space contribution

6.1 The issues

The issues are:

- Whether the public open space contribution proposed is appropriate.
- Whether the proposed drainage reserves can be counted towards the open space contribution.

6.2 Relevant policies

Clause 53.01 (Public Open Space Contribution and Subdivision) states that:

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

There are a number of exemptions listed at Clause 53.01-1 and Clause 53.01-2 but none of these are applicable to the current application.

The schedule to Clause 53.01 specifies that when subdividing land for residential purposes:

- a 5 percent contribution is required for 10 or more lots on land zoned for residential purposes prior to 31 August 2007
- a 10 percent contribution is required for 10 or more lots on land zoned for residential purposes after 31 August 2007.

Section 18(5) of the Subdivision Act states that:

A public open space requirement may be made only once in respect of any of the land to be subdivided whether the requirement was made before or after the commencement of this section, unless subsection (6) applies.

6.3 Submissions

Council did not specifically address the public open space contribution in its written submissions, but the draft Permit conditions called for:

...a sum equivalent to ten per cent of the site value of all of the land in the subdivision as a Public Open Space contribution ...

In oral submissions, Council submitted that:

- the Schedule to Clause 53.01 was relevant when determining the relevant contribution,
- the land had been used for low density residential purposes for 30 years,
- the rezoning of the land to GRZ1 would be the 'trigger' for a contribution, on the basis that under the current Low Density Residential Zone it would not be possible to subdivide the land into 10 or more lots.

The Panel understands that the latter point was a reference to the distinction in the Schedule to Clause 53.01 to the different rates that apply to land zoned for residential purposes before 31 August 2007 and after that date.

The Proponent submitted that a 5 percent open space contribution should apply given the land had previously been zoned for residential purposes (LDRZ) for around 30 years.

The Proponent submitted that the Public Open Space contribution could reasonably include encumbered land, being the drainage reserves created as part of the subdivision. The Proponent submitted that this was reasonable given the Schedule to Clause 53.01 does not differentiate between the type of open space required for 10 or more lots.

6.4 Discussion

(i) Contribution required

The Schedule to Clause 53.01 includes a sliding scale of contributions that depend on:

- the number of lots proposed to be created,
- the date upon which the land was zoned for residential purposes.

It was agreed between the parties that the land has been zoned LDRZ for around 30 years, however no specific evidence was provided to the Panel.

The Panel agrees with the submission of the Proponent. The Planning Scheme offers a discount rate for land that was zoned for residential purposes prior to August 2007. While the rezoning will intensify the residential development on the site, the provisions are explicitly drafted to discount the contribution for land that was previously zoned for residential purposes. LDRZ is a residential zone.

Council seemed to imply that a higher rate should be applied on the basis that the land could not have been subdivided into more than 10 lots under the LDRZ. Even if this was the case, it appears that the discount in the schedule is based on when the land was zoned for residential purposes, not when it is subdivided (or subdividable) into 10 or more lots.

The Schedule is clear. A 5 percent contribution applies to subdivision of land that was already zoned for residential on 31 August 2007.

(ii) Including the drainage reserves in the open space contribution

The parties agreed that the contribution should be calculated as a percentage of the land which can be developed for residential purposes (the net developable area). The parties disagreed as to whether the drainage reserves could be used as a contribution towards the overall public open space contribution.

The Panel agrees that the contribution should be calculated as a percentage of the land intended to be used for residential purposes. This is consistent with the purpose of Clause 53.01. The Panel considers that land not used for residential purposes, being the drainage reserves and reserves over the Barwon Water assets, should be deducted from the total site area. The balance, being the roads and lots should be the basis upon which to calculate the contribution.

The Panel agrees with the submission of Council with respect to the drainage Reserves. The Reserves are encumbered and not suitable for use as dedicated open space. There was no submission relating to an intention to landscape these areas, or provide any facilities. The land will not provide functional open space that could be used by the new residents.

6.5 Conclusions and recommendations

The Panel concludes:

- A 5 percent public open space contribution is applicable given the timing of the original rezoning of the land for low density residential purposes
- The drainage Reserves cannot be used as part of the 5 percent contribution as they are considered encumbered land, not useable from a public open space perspective.

The Panel recommends:

Amend Condition 23 to require a 5 percent public open space contribution based on the net developable area (excluding the drainage reserves).

7 The planning permit

7.1 Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a Responsible Authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality
- the extent and character of native vegetation, the likelihood of its destruction, and whether it can be protected, planted or allowed to regenerate
- the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Other matters to be taken into account include:

- submissions
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

7.2 Discussion

Council provided a draft planning permit as part of its submissions. Council did not provide a detailed explanation of each permit condition or a response to agency comments in its written submission. However, in a 'without prejudice' drafting discussion, Council elaborated further on its intended Permit conditions and the purpose of the conditions. The Proponent opposed several conditions and proposed alternative drafting in its submission.

The Panel directed Council to provide an updated version of the draft Permit conditions¹⁶ after the Hearing, to capture the essence of discussions in the without prejudice drafting session.

The updated draft Permit conditions provided by Council were poorly drafted and included several clerical errors and clear omissions. In addition, the sequencing and grouping of the draft permit conditions was confusing. In essence the Panel considers:

¹⁶ Document 19

- The draft planning permit, while covering most of the substantive matters necessary, needs a comprehensive re-write. Council needs to revisit the structure and drafting of conditions to ensure that the obligations are logically ordered, clear and enforceable.
- The Permit preamble needs to reflect the fact that the application relates to a staged subdivision.
- Each condition needs to be revisited to ensure the sequencing of requirements reflects any staging consideration.
- The sequencing of the Permit conditions needs to be revisited to ensure that the conditions are drafted in a logical manner. For example, any requirement to submit plans should appear at the start of the permit and the interaction between permit conditions needs to be considered.

Council can refer to guidance in *Writing Planning Permits*¹⁷ for suggestions on how to structure the permit conditions.

In addition to the substantive matters addressed by the Panel in this report, the Permit should:

- refer to the Revision E plan,
- explain a clear pathway for the preparation of a Functional Layout Plan that integrates all relevant considerations.

The issues and impacts required to be considered in the decision guidelines (and disputed between the parties to the Hearing) have been discussed at length in the issue-specific chapters of this report. On balance, the Panel considers that a Permit should be only issue having regard to the relevant considerations in the Planning Scheme.

The Panel has made only minor changes to the draft Permit submitted by Council following the Hearing (document 19), that is Appendix C of this report. These are intended to provide alignment with the Panel's Recommendations. This version at Appendix C is not recommended by the Panel.

7.3 Conclusions and recommendation

The Panel concludes:

- The draft Planning Permit, while covering most of the substantive matters necessary, needs a comprehensive re-write. Council needs to revisit the structure and drafting of conditions to ensure that the obligations are logically ordered, clear, and enforceable.
- The additional substantive matters that need to be included in the Permit are a reference to the endorsed plans generally being in accordance with the Revision E plan, and a clear pathway for the preparation of a Functional Layout Plan that incorporates all respective Panel Recommendations.

The Panel recommends:

Redraft the Permit to:

- a) Ensure the preamble reflects the proposal.**
- b) Restructure the sequence and drafting of conditions to ensure the obligations are logical, clear, and enforceable.**
- c) Incorporate the specific recommendations of the Panel.**

¹⁷ Published Department of Sustainability and Environment (DSE) and Municipal Association of Victoria, February 2007

Appendix A Submitters to the Amendment and Permit Application

No.	Submitter
1	R and A Clifton (represented by Cardo TGM [now Stantec])
2	Department of Environment Water Land and Planning
3	Barwon Water
4	Environment Protection Authority
5	Citipower
6	Ausnet
7	Country Fire Authority
8	Judith Farquhar
9	Paul Hayes
10	L and N Klæbe
11	James Koral
12	Lisa Kos
13	Timothy Meadley

Appendix B Document list

No.	Date	Description	Presented by
1	13/12/21	Email from EPA confirming it did not wish to participate in hearing	EPA
2	13/12/21	Email from Council forwarding response from Barwon Water (dated 27/9/21)	Barry Gough, Council
3	13/12/21	Email from Council responding to administrative matters raised by Council (including referral authorities and their status and reference to an earlier Dropbox link sent by the applicant) attaching the following documents: <ul style="list-style-type: none"> - Council delegated report dated 17 November 2021 - CFA submission dated 14 July 2021 - Downer Utilities (on behalf of AusNet Gas Services P/L) submission dated 15 July 2021 - EPA submission #3 response dated 18 October 2021 requesting changes to the Application. - DELWP (Planning and approvals) correspondence (which referred to earlier engagement in April 2021) dated 21 October 2021 - Citipower letter (file was corrupted) - Barwon Water submission dated 2 April 2021 – objecting to the proposal 	Barry Gough, Council
4	13/12/21	Dropbox link (originally sent from applicant to the Council) and contained the following documents: <ul style="list-style-type: none"> - Flood modelling & SSMP V01 - Clause 56 assessment - Environment Assessment - Explanatory report - Planning report - Proposal 1 context plan (Rev B) - Proposal 1 (Rev C) - Vegetation Assessment - Certificate of title 	Barry Gough, Council
5	10/1/22	Email described as '1 of 3' sent from Council with the following attached: <ul style="list-style-type: none"> - #6 Flood modelling & SSMP V01 	Barry Gough, Council
6	13/1/22	Email described as '2 of 3' sent from Council with the following attached: <ul style="list-style-type: none"> - #14 Flood modelling & SSMP V02 	Barry Gough, Council

No.	Date	Description	Presented by
7	18/1/22	<p>Email described as 'resend' of earlier email described as '3 of 3' containing a word document dated 10 January 2022 responding to Direction 6.</p> <p>This letter was a chronology that refers to a list of documents (that were sent via Dropbox link) and included:</p> <ul style="list-style-type: none"> #1 Subdivision Plan Version C #2 Planning Property Report V.2 #3 Clause 56 Assessment #4 Traffic Management Response V 1 #5 Environmental Assessment #6 Flood I.A. & Stormwater M. P. V.1 #7 Vegetation Assessment #8 Further Info Request letter #9 Powercor Response #10 CFA Response #11 Tenix Response #12 DELWP Response #13 Barwon Water Response. #14 Flood Modelling & SMPP V. 2 #15 Subdivision Plan Version E #16 Delegated Authority Report 	Barry Gough, Council
8	24/1/22	Email from Council requesting extension of time to circulate Part A submission	Barry Gough, Council
9	24/1/22	Email from Council advising of computer issues leading to delay in Part A submission	Barry Gough, Council
10	25/1/22	Council's Part A submission version 3b	Barry Gough, Council
11	27/1/22	Email from Panel to Council seeking clarification of matters in Part A submission (including need to refer to exhibited plans as reference)	
12	27/1/22	<p>Email from Nicole Dixon with Dropbox link containing:</p> <ul style="list-style-type: none"> - Submission to Panel - Extract from section 18 of the Subdivision Act 1988 - Schedule to Clause 53.01 - Proposed planning permit conditions PP-1247-2019 - Proposal plans Revision E - PPN30 – Potentially Contaminated Land 	Nicole Dixon, Cardno TGM

No.	Date	Description	Presented by
		<ul style="list-style-type: none"> - Ministerial Direction No.1 Potentially Contaminated Land - Ministerial Direction 19 - EPA advice regarding Ministerial Direction 19 - Copy of email sent from Chris Marshall to Council outlining outcome of discussion with EPA 	
13	31/1/22	Council's Part B submission to the Hearing	Barry Gough, Council
14	31/1/22	Proponent's submission to the Hearing	Chris Marshall, Cardno TGM
15	31/1/22	Proponent response to draft permit conditions (with tracked change)	Chris Marshall, Cardno TGM
16	31/1/22	Copy of correspondence confirming agreement to purchase third party native vegetation offsets	Chris Marshall, Cardno TGM
17	31/1/22	Extract from DELWP website on 'Integrating environment protection reform into land use planning' and copy of Clause 73.01	Chris Marshall, Cardno TGM
18	31/1/22	Copy of correspondence (dated 29/11/21) to one neighbouring property owner confirming Proponent would be willing to pay for the boundary fence.	Chris Marshall, Cardno TGM
19	2/2/22	Updated draft of without prejudice permit conditions	Julian Pollard, Council
20	9/2/22	Letter from Council clarifying that Council had prepared a draft section 173 agreement to collect community infrastructure contribution (included a copy of the draft agreement).	Peter Schembri, Council

Appendix C Draft permit conditions presented by Council

PLANNING PERMIT

Date Report Completed – 11/05/2021

No of Stat Days – 530

**PROPOSED CONDITIONS:
PP-1247-2019
Multi Lot Subdivision and Removal of Vegetation**

Officer to complete:	
Attach '<i>plans required by permit</i>' form? (for condition 1 plans etc)	✓
Attach Subdivision information sheet?	✓
Amended Planning Permit	
Original Issue Date:	
Description of Amendment:	
•	
The conditions have been checked and confirmed by the signing officer.	
Signed Off By Team Leader / Coordinator.....	

Endorsed Plans

1. 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.

Prior to Works Commencing

2. Unless otherwise approved in writing by the Responsible Authority, prior to the commencement of works for each relevant stage of the Plan of Subdivision, a carriageway easement must be provided over any private property that is required to facilitate a vehicle turnaround area for waste services/fire services and to create the Temporary Hammerhead Turnaround at the dead end of a street or streets. The use of private property driveways to create a hammerhead is acceptable and must be approved by the Responsible Authority unless other options are agreed to and approved by the Responsible Authority. The Temporary Hammerhead Turnarounds of each stage must be maintained by the applicant until the connecting road network is completed and the kerbside collection trucks can undertake all collections in a forward motion. The easement must be created and registered with Land Victoria, or there must be an agreement in writing to the satisfaction of the Responsible Authority.
3. Unless otherwise approved in writing by the Responsible Authority, prior to the commencement of works for each relevant stage of the Plan of Subdivision, a detailed Functional Layout Plan for each stage of the subdivision is to be submitted to and

approved by the Responsible Authority. The plan is to be in accordance with the design requirements of the City of Greater Geelong and in the Infrastructure Design Manual. The Functional Layout Plan must be submitted with the Design Engineers Checklist - Request for Functional Layout approval. Plans should detail the construction of Melaluka Road ~~from the southern boundary to the footpath, kerb and channel approximately 33m north of the Lot at the Bellarine Rail trail, adjacent to the subject land.~~ Road reserve assets including east-side road shoulder, footpath, drainage infrastructure, kerb and channel, are to match with existing Melaluka Road assets to the ~~north of the Bellarine Rail trail~~ south of the subject land. The Functional Layout Plan must include locations of the footpath on Melaluka Road frontage, street trees, substations reserves, property/National Broadband Network (NBN) services pits, all Local Area Traffic Management (LATM) items along with maintenance vehicle access points, maintenance vehicle access tracks, tree protection measures, all other footpaths, and utility installations on or adjacent to public reserves, all to the satisfaction of the Responsible Authority.

4. Unless otherwise approved in writing by the Responsible Authority, Prior to the commencement of works the developer shall submit to Council for approval engineering construction plans for new Council assets, prepared by a suitably qualified and experienced professional and at the developers expense. The plans should detail the construction of Melaluka Road ~~from the southern boundary to the footpath, kerb and channel approximately 33m north of the Lot at the Bellarine Rail trail.~~ Adjacent to the subject land Road reserve assets including east-side road shoulder (with exception of section traversing rail trail), footpath, drainage infrastructure, kerb and channel to match Melaluka Road to the north of the Bellarine Rail trail. The submitted plans must also show, but are not limited to:
 - a) Typical sections for the road reserve, finished and existing surface levels, any required drainage construction and any other works required in respect to other services located within the roadway;
 - b) Pit and pipe long-sections, 1.5m footpath, existing assets;
 - c) The design and construction of the roadworks and any other new Council infrastructure which must be approved and supervised by Council.
 all to the satisfaction of the Responsible Authority.

5. Unless otherwise approved in writing by the Responsible Authority, prior to the commencement of works for each relevant stage of the subdivision, plans which outline the WSUD landscaping elements must be submitted to and approved by the Responsible Authority. The plans must include, but are not limited to:
 - a) Construction details of all water sensitive urban design elements including materials and plantings required for effective stormwater pollutant removal in accordance with the drainage design criteria specified in the conditions of this permit;
 - b) Planting and establishment schedule for all water sensitive urban design planting, including species and densities in accordance with the drainage design criteria specified in this permit;
 - c) Q10 and Q100 levels, and associated flow rates;
 - d) Details of existing and finished surface levels; and

- e) Construction and establishment methodology and associated staging of the WSUD works specific to the site, in accordance with relevant industry standards to the satisfaction of the Responsible Authority. (reference is made to Water By Design – Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands, April 2010).

all to the satisfaction of the Responsible Authority.

- 6. Prior to the commencement of works, a Construction Environmental Management Plan prepared in accordance with the; *EPA – Guideline for Environmental Management, Doing it Right on Subdivisions, Publication 960, September 2004* and *CCF Environmental Guidelines for Civil Construction, 2010*; must be submitted to and approved by the Responsible Authority. The plan must address, but is not limited to, the following:
 - a) Hours of works, demolition or construction;
 - b) A liaison personnel for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - c) The movement of construction vehicles to and from the site must be regulated to ensure that no traffic hazards are created in and around the site;
 - d) Parking facilities for site visitors and construction workers;
 - e) Delivery and unloading points and expected frequency;
 - f) A dilapidation survey of other authority assets within and immediately adjoining the site must be documented (photos, video, notes, Dial Before You Dig map etc).
 - g) Copies of relevant Insurance certificates;
 - h) Methods to contain dirt and mud within the site, and the method and frequency of clean up procedures including but not limited to;
 - a. On site facilities for vehicle washing;
 - b. Street cleaning equipment;
 - c. Measures to be taken to ensure that no polluted water and/or sediment laden runoff is to be discharged directly or indirectly into stormwater watercourses during the construction period;
 - d. Sand bags and filters to prevent sediment and pollutant laden stormwater leaving site
 - i) Methods used for to Dust suppression which must include but not limited to the following:
 - a. Water truck to be retained on site at all times;
 - b. Soil stockpiles to be retained on site must be seeded or provide a treatment to provide a crusted surface;
 - c. Cease all works on site during high wind incidences;
 - d. Vehicle/truck movements to be limited to a reduced speed to prevent dust emissions.
 - j) The protection measures for site features to be retained (e.g. drainage basins, vegetation, retaining walls, buildings, other structures and pathways, etc.);
 - k) Measures to prevent the introduction of new weeds into the area and the further spread of existing weeds;
 - l) Maps providing the location of the works zones including;
 - a. No Go zones;
 - b. Location of bunded and lined Hydrocarbon filling area designated and spill kit available;
 - c. Location of bunded and lined Concrete washout area.
 - m) Fencing of and establishing No Go Zones as required by Environmental or Cultural heritage management plans which are clearly designated on site;

- n) An outline of requests to occupy public footpaths or roads, and anticipated disruptions to traffic on Barwon Heads Road and utility services – updated regularly to include copies of Consents, Notifications or Memorandum of Understandings from Authorities;
- o) Any other condition as required by the Responsible Authority that addresses any other issues i.e. location of earth mound / soil stockpiles, rumble grids;
- p) Any other measures that are consistent with the following publications: ‘Environmental Management Guidelines for Major Construction Sites’ and ‘Construction Techniques for Sediment and Pollution Control’.

Once the Construction Environmental Management Plan has been endorsed by the Responsible Authority under this permit it must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

7. Prior to the works commencing, a landscape plan prepared by a suitably qualified or experienced, person to the satisfaction of the Responsible Authority, must be submitted to and approved before the statement of compliance is issued. The plan(s) must be drawn to scale and show:
- a) A survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - b) Details of surface finishes of pathways and driveways;
 - c) A planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - d) Landscaping and planting within all open areas of the site;
 - e) The use of indigenous plants of the Geelong Region.

When approved, the plan will be endorsed and form part of the permit, all to the satisfaction of the Responsible Authority.

~~Note: All completed landscaping works within the street and/or reserve must be inspected by Council's Parks Unit. To arrange an inspection please contact Ian Rogers on 5272 4827~~
Prior to Certification

8. Prior to certification of each relevant stage of the Plan of Subdivision, drainage and carriageway easements in favour of the City of Greater Geelong must be shown on the Plan on Subdivision to the satisfaction of the Responsible Authority.
9. Unless otherwise approved in writing by the Responsible Authority, prior to certification of Stage 1 of the subdivision the following must occur to the satisfaction of the Responsible Authority:
- a) A Local Area Traffic Management (LATM) Plan must be developed with Council's Traffic Development Engineer, and submitted to and approved by the Responsible Authority. The LATM Plan treatments may include, but not limited to: traffic management devices, modified intersection priorities, indented car parking, signage, line marking, and vehicle crossing locations. All treatments shown on the LATM Plan on subsequent construction plans for each stage must be consistent with the approved LATM Plan.

- b) When the LATM plan has been finalised, a Road Naming Plan must be developed with Council's Traffic Development Engineer, and submitted to and approved by the Responsible Authority. The Road Naming Plan must respect the LATM Plan and the *Naming Rules For Places in Victoria* document. Pre-approved road names and descriptors shall be applied to a colour-coded length of road on the Road Naming Plan. All road naming on subsequent plans of subdivision for each stage must be consistent with the approved Road Naming Plan.

Prior to Statement of Compliance

10. Unless otherwise approved in writing by the Responsible Authority, 3 months prior to the issuing of Statement of Compliance for each relevant stage of the subdivision, flood maps will need to be submitted to Council detailing the extent of flood affected land both prior to and after the subdivision of land in order to allow Council to revoke the flood prone status of the land.
11. Prior to the issuing of a Statement of Compliance for Stage 1, the wetland and detention system works identified in the Safe Work Method Statement within the subject site must be constructed and operational.
12. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, all disturbed surfaces on the land authorised by this permit except those areas set aside for roadways and footpaths shall be dressed with topsoil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Responsible Authority to prevent any erosion or siltation either on or adjacent to the land.
13. Prior to the issuing of a Statement of Compliance for Stage 1, Melaluka Road including; kerb and channel, footpath and drainage must be constructed as per approved plans, to the satisfaction of the Responsible Authority.
14. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, roadworks and drainage including any basins, slope stabilization works and any retaining structures must be constructed in accordance with the approved plans and specifications to the satisfaction of the Responsible Authority.
15. Unless otherwise approved in writing by the Responsible Authority, prior to the issue of a Statement of Compliance for each stage of the subdivision, a fee of 3.25% of the cost of the works must be paid to the Responsible Authority for the checking and supervision of these works.
16. Unless otherwise approved in writing by the Responsible Authority, prior to the issue of a Statement of Compliance for each stage of the subdivision, a maintenance bond of 5% of the cost of the works must be paid to Council and will be returned after successful completion of a one (1) year maintenance period, all to the satisfaction of the Responsible Authority.
17. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, street lighting is to be provided within and abutting the subdivision to the satisfaction of the Responsible Authority and at the full cost of the subdivider.

18. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, any vehicular crossovers which are redundant as a result of this subdivision shall be removed, and the kerb and channel, footpath and nature strip shall be reinstated as required, at the expense of the developer and to the satisfaction of the Responsible Authority.
19. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, the subdivider shall erect a standard fence on the boundaries of all Council Reserves abutting allotments and where otherwise determined, to the satisfaction of the Responsible Authority and at no cost to Council.
20. Prior to the issuing of a Statement of Compliance for each relevant stage of the subdivision, repair and reinstatement necessitated by any damage to Council assets caused by or as a result of the subdivision construction is required to be carried out at the developer's expense to the satisfaction of the Responsible Authority.

Telecommunications

21. 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 NBN will not be provided by optical fibre.
22. Before the issue of a 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) 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 time; and
 - b) 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.

Public Open Space Contribution

23. The owner of the subject land must pay to the Council a sum equivalent to ~~ten~~ five percent ~~or 10 per cent~~ of the site value ~~of all~~ of the net developable land in the subdivision as a Public Open Space contribution pursuant to Section 18 of the Subdivision Act 1988 in land and cash payment. The land contribution cannot include land identified as encumbered land. The contribution will be payable prior to the issue of a Statement of Compliance.

Engineering Works

24. The design and construction of stormwater drainage connections and any new Council infrastructure must be approved and supervised by the Responsible Authority.

Road Names and Signs

25. Prior to the development of the Road Naming Plan and lodgement of the Functional Layout Plan for Stage 1, the permit holder must provide a list of all proposed road names within the subdivision for approval by Council's Properties and Valuations unit. The permit holder must provide and place all relevant street signs, and are consistent with the road names shown on all approved plans, to the satisfaction of the Responsible Authority.

Corner Splay

26. The Plan of Subdivision submitted for certification for each relevant stage of the subdivision must include a splay for road purposes at all internal and external intersections in accordance with the Infrastructure Design Manual and to the satisfaction of the Responsible Authority.
27. Site runoff must be limited to equivalent pre-developed levels for rainfall events up to and including the critical 1 percent Annual Exceedance Probability event in accordance with the Drainage and WSUD. The stormwater drainage system on the site must be designed such that stormwater runoff exiting the land meets the current best practice performance objectives for stormwater quality as follows:
 - a) 80 percent retention of the typical annual load of suspended solids;
 - b) 45 percent retention of the typical annual load of total phosphorous;
 - c) 45 percent retention of the typical annual load of total nitrogen; and
 - d) 70 percent retention of the typical annual load of gross pollutants.
28. The minimum surface gradient on all lots to allow for appropriate drainage must be 1 in 150 (0.67 percent).
29. The absolute minimum finished surface level (excluding access ways and paths) on all lots must be not less than 300 millimetres above the 1% AEP flood level.
30. The absolute minimum finished surface level of road pavement, kerb invert levels and paths within the development must be in accordance with relevant industry standards to the satisfaction of the Responsible Authority (reference is made to Australian Rainfall and Runoff safety design criteria).

Water Sensitive Urban Design (WSUD) Landscape Works

31. Unless otherwise approved by the Responsible Authority, the WSUD works shown on the approved landscape plan must be carried out and completed to the satisfaction of the Responsible Authority.

32. Practical Completion for the WSUD works can only be awarded when the ultimate landscape design is complete and subject to:
 - a) Civil works within the treatment device being issued Practical Completion; and
 - b) Landscape works within the treatment device being completed; and
 - c) The final stage of the development draining to that treatment device is issued Statement of Compliance; and
 - d) A relevant maintenance bond being in place for the planting works.
33. A Practical Completion inspection will be required and must be arranged by the permit holder with a two week notice period provided prior to onsite inspections. Any incomplete landscape works bond for WSUD will be returned on award of Practical Completion.

Water Sensitive Urban Design (WSUD) Maintenance

34. Unless otherwise approved by the Responsible Authority, WSUD works must be maintained in accordance with Council's Landscape Standards Manual (June 2013), or any replacement landscape standard guidelines or manual which may be adopted by the Council, to the satisfaction of the Responsible Authority until:
 - a) The end of a period of no less than two (2) years from the date of Practical Completion of the landscaping unless otherwise agreed in writing by the Responsible Authority; or
 - b) Statement of Compliance is issued for the final stage of the development draining to that treatment device; whichever is the latter.
35. A Handover inspection is required and must be organised by the permit holder with a two week notice period provided prior to onsite inspections. No handovers will be accepted during summer months from 1 December to 29 February inclusive. Any landscape maintenance bond for WSUD will be returned on award of Handover.

Filling / Bulk Earthworks

36. Excavated material, including topsoil, must not be carted off the site unless with the written approval of the Responsible Authority.
- ~~37. Unless otherwise approved in writing by the Responsible Authority, the permit holder must provide written evidence that the site of the earthworks under this Permit does not contain contaminated material, to the satisfaction of the Responsible Authority. If the site does contain contaminated material, the applicant must submit for approval to the Responsible Authority, proposed method/s of treatment on site, or proposed removal in accordance with the requirements of the EPA, and to the satisfaction of the Responsible Authority.~~
- ~~38. Unless otherwise approved in writing by the Responsible Authority, no material must be brought onto the site for use as filling within the subject area under this Permit without the written approval of the Responsible Authority. Prior to any approval being issued by the Responsible Authority for imported filling to be used on the site, the applicant must submit for approval to the Responsible Authority, samples of proposed filling, details of the source of the filling, details of proposed traffic routes to be traversed, soil testing~~

~~results and reports in regard to the presence of contaminants in the filling, and the suitability of filling to be placed on site.~~

- ~~3937~~ All areas to be filled shall be stripped of vegetation and any top soil shall be removed and stockpiled for reuse over the filled areas. Only approved filling material shall be placed on the site. The filling shall be placed in maximum 150 mm layers, or as approved otherwise by the Responsible Authority, and compacted to the applicable level for filling on allotments and within future roadways in accordance with Australian Standard AS3798, to the satisfaction of the Responsible Authority.
- 4038 At the completion of the earthworks, all disturbed areas shall be hydro-mulched with an approved seed and fertilizer mixture to the satisfaction of the Responsible Authority to suppress dust, and minimise erosion, unless approved otherwise by the Responsible Authority.
- 4139 All works must be in accordance with the recommendations of any relevant geotechnical reports and previous advice for the site.

Construction of Roadworks / Drainage

- 4240 The underground site stormwater drainage system shall be constructed within easements and/or road reserves to cater for all lots, roads, streets and courts created by the subdivision and the surrounding developed and undeveloped area all to the satisfaction of the Responsible Authority to:
- a) Install the new drains in accordance with the approved plans;
 - b) Provide to Council 'as-built' Engineering plans in PDF, and GIS-ready AutoCAD (DXF) format plans, to the satisfaction of the Responsible Authority;
 - c) Submit a C... C... T... V... (CCTV) inspection report for all new Council underground drainage pipes and pits.
43. All temporary road connections to existing roads must be maintained by the developer until the ultimate alignment is constructed, to the satisfaction of the Responsible Authority.

Council Reserves

44. The subdivider shall construct a reinforced concrete footpath, loam and sow down, landscape, etc. to the satisfaction of the Responsible Authority.
45. Suitable vehicle barrier fencing shall be provided abutting all Council Reserves to the satisfaction of the Responsible Authority. Crossings with lockable swing gates shall be provided to allow access for Emergency and Council maintenance vehicles. The location of these crossings shall be determined by the Responsible Authority.

Interim Works

46. The engineering construction plans must show with each stage the extent of any proposed interim measures associated with road, drainage or other infrastructure and must detail construction to a standard that achieves a functional design with no adverse external impacts and achieves an acceptable standard of aesthetics including landscaping and is maintainable in perpetuity to the satisfaction of the Responsible

Authority. The Responsible Authority may approve modifications to the execution of this requirement upon receipt of an application in writing that successive stages are to immediately follow on with construction and a guarantee that should this not occur within a prescribed time.

Barwon Water Conditions

General

47. The owner shall create easements for Pipelines or Ancillary Purposes and or reserves in favour of Barwon Region Water Corporation on the plan of subdivision in accordance with Barwon Water's Land Development Manual, without cost to Barwon Water, over existing and proposed water and sewerage infrastructure within the land. If further easements or reserves are required following design of water and sewerage infrastructure these must be added to the plan of subdivision prior to seeking Barwon Water's consent to the issue of a statement of compliance for the subdivision.
48. 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.

Potable Water

49. The provision and installation of individual water services to all lots in the subdivision. Note, that tappings and services are not to be located under existing or proposed driveways.
50. The payment of New Customer Contributions for water for each additional connection which includes any new lot on a plan of subdivision and/ or any apartment, unit, or premises within the development that is or can be separately metered for water supply.
51. Reticulated water mains are required to service the proposed development. This work must be designed by a Barwon Water accredited Consulting Engineer and constructed by a Barwon Water accredited Contractor following the "Developer Works" process.
52. Barwon Water's records indicate that an existing drinking water service and meter is located on this property. A dimensioned plan showing the location of existing meters, and the location of the meter relative to the existing boundaries, and its number, is to be submitted. Private water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.

Sewer

53. The provision of sewerage services to all lots in the subdivision. Individual allotment house connection drains are to be provided for and extend into each allotment.
54. The payment of New Customer Contributions for sewer for each additional connection which includes any new lot on a plan of subdivision and/ or any apartment, unit, or premises within the development that is or can be separately metered (for water supply).

55. Reticulated sewer mains are required to service the proposed development. This work must be designed by a Barwon Water accredited Consulting Engineer and constructed by a Barwon Water accredited Contractor following the "Developer Works" process.
56. Barwon Water's records indicate that a sewerage service connection is located on this property.
57. Any existing sewer house connection point that is to be utilised for additional connections or altered to serve the development is to be CCTV inspected by a licensed plumber and the 'CCTV Inspection Form' with the video footage submitted to Barwon Water. If the property connection point is not deemed satisfactory for use or is no longer required, it is to be decommissioned in accordance with Barwon Water's "Property connection decommissioning process". Details of this process are available on Barwon Water's website under the business property connections section. Also, any existing house connection drain that traverses through the proposed allotments shall be relocated so not to inhibit future development. If the existing sewer house connection point is deemed satisfactory for use by Barwon Water and where branching after the connection point is permitted to service an additional allotment then this work can also be undertaken by a licensed plumber. If the sewer connection point being replaced is greater than 4.0 metres deep, a new sewer manhole is to be constructed with the new property connection point connected to this structure.

Advisory Notes:

~~*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.*~~

Citipower

58. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
59. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

Advisory Note:

~~*Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.*~~

60. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Advisory Note

~~*Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.*~~

- ~~5761~~ The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.

Advisory Note

~~Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:~~

- ~~• RESERVES established by the applicant in favour of the Distributor.~~
- ~~• SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years. The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.~~

5862 The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.

Advisory Note

- ~~• Existing easements may need to be amended to meet the Distributor's requirements~~
- ~~• Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:~~

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In Favour Of
	Power Line		Section 88 - Electricity Industry Act 2000	Powercor Australia Ltd

AusNet

5963 The plan of subdivision when submitted for certification must be referred to AusNet Gas Services in accordance with Section 8 of the Subdivision Act 1988.

Advisory Note:

~~The owner / developer of the land may need to enter into an agreement or request a quote from a local gas retailer for provision or altering of gas services for each lot of endorsed plan.~~

CFA Conditions

6064 Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, the following requirements must be met to the satisfaction of the CFA:

- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries; and
- b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

~~43 Note:~~

~~43~~

~~43 CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)~~

~~43~~

6465 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width with:

- a) Curves having a minimum inner radius of 10 metres and have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.

DELWP – Native Vegetation

6266 To offset the removal of 0.003 hectares of native vegetation, the permit holder must secure the following native vegetation offset in accordance with *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017):

- a) A general offset of 0.002 general habitat units:
 - i) located within the Corangamite Catchment Management boundary or City of Greater Geelong municipal area
 - ii) with a minimum strategic biodiversity value of at least 0.192

6467 Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:

- a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
- b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

6568 A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning Barwon South West regional office via BSW.planning@delwp.vic.gov.au.

6669 Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

Monitoring and reporting for onsite offset implementation

6770 In the event that a security agreement is entered into as per the preceding condition, the applicant must provide the annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

Fauna Protection

6871 Unless otherwise agreed in writing by the Responsible Authority, prior to the removal or lopping of any tree, the tree must be examined by a suitably qualified zoologist with relevant permits. If native fauna species are located, they must be salvaged and relocated to the closest suitable vegetation.

Expiry of Permit

6972 This permit will expire if one of the following circumstances applies:

- a) The first stage of the plan of subdivision has not been certified within two years of the date of this permit.
- b) All stages of the plan of subdivision have not been certified within four years of the date of this permit.
- c) A statement of compliance is not issued within five years of the date of certification of a particular stage of subdivision.

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

Permit Notes

Advisory Note:

- [CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site \(www.cfa.vic.gov.au\)](#)
- [The owner / developer of the land may need to enter into an agreement or request a quote from a local gas retailer for provision or altering of gas services for each lot of endorsed plan.](#)

Advisory Note

- [Existing easements may need to be amended to meet the Distributor's requirements Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:](#)

Advisory Note

[Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:](#)

- [RESERVES established by the applicant in favour of the Distributor.](#)
- [SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years. The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.](#)

Advisory Note

- [Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works](#)

Advisory Note

Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

Advisory Notes:

- 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.
- All completed landscaping works within the street and/or reserve must be inspected by Council's Parks Unit. To arrange an inspection please contact Ian Rogers on 5272 4827 **Prior to Certification.**

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Team Leader/Coordinator