

Planning and Environment Act 1987

Panel Report

Surf Coast Planning Scheme Amendment C106

Planning Permit Application 15/0485

Front page

2 November 2016

Planning and Environment Act 1987
Panel Report pursuant to section 25 of the Act
Surf Coast Planning Scheme Amendment C106
Planning Permit Application 15/0485
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A handwritten signature in black ink, appearing to read 'Michael Kirsch', with a long horizontal flourish extending to the right.

Michael Kirsch, Chair

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List of Abbreviations

CMP	Construction Management Plan
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
GRZ1	General Residential Zone Schedule 1
LPPF	Local Planning Policy Framework
MCP	Memorandum of Common Provisions
MSS	Municipal Strategic Statement
PPN59	Planning Practice Note 59 (The Role of Mandatory Provisions in Planning Schemes)
PPRZ	Public Park and Recreation Zone
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions

Executive Summary

(i) Summary

Amendment C106 and Planning Permit Application 15/0485 propose the residential rezoning and subdivision of 85 Grossmans Road, Torquay. The site is owned by Barwon Water and is a decommissioned water storage facility that is now surplus to its requirements.

The exhibition process attracted nine submissions, including eight objecting submissions from local residents. These submissions raised various concerns about the impacts of future development on the amenity of existing dwellings in the area.

Following their consideration of submissions, Council and Barwon Water conducted a mediation meeting with submitters to discuss their concerns. Following this process, Council and Barwon Water proposed various changes to the exhibited planning permit conditions, including a new condition requiring the preparation of a Memorandum of Common Provisions to regulate various built form matters.

The Panel is satisfied that residential development of the site is consistent with the general planning policies that apply to this area and that the General Residential Zone Schedule 1 is the appropriate residential zone for the site.

The Panel also generally supports the exhibited planning permit conditions, including most of the revisions proposed by Council and Barwon Water. The permit will provide the mechanism to address many of the concerns raised by submitters.

However, the Panel does not support the use of a Memorandum of Common Provisions to address built form (height) issues raised in submissions. Instead, the Panel has recommended that a new Design and Development Overlay Schedule 26, that implements discretionary height controls, be included in the Amendment. This is consistent with Council's initial intention to apply the Design and Development Overlay Schedule 1 to the site.

The Panel has also recommended a consequential change to Clause 21.08 to reflect the rezoning of the site and a number of minor changes to the planning permit conditions to improve its clarity and operation.

(ii) Recommendations

For the reasons set out in this report, the Panel recommends:

- A1 Adopt Amendment C106 to the Surf Coast Planning Scheme as exhibited, subject to:**
 - 1 Applying the Design and Development Plan Overlay Schedule 26 (included at Appendix B of the Panel's report) to the Amendment site.**
 - 2 Changing Map 2 at Clause 21.08 to include the Amendment site in the General Residential (Mixed Density) designation.**
- P1 Approve Planning Permit Application 15/0485 in accordance with the permit conditions included at Appendix C of the Panel's report.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to:

- rezone the subject land from Public Use Zone 1 to General Residential Zone Schedule 1 (GRZ1) to facilitate residential development of the land (refer to figure 1)
- amend Map 1 to Clause 22.09 (Torquay-Jan Juc Residential Framework) to include the designation of the subject land as “General Residential (Mixed Density)”.

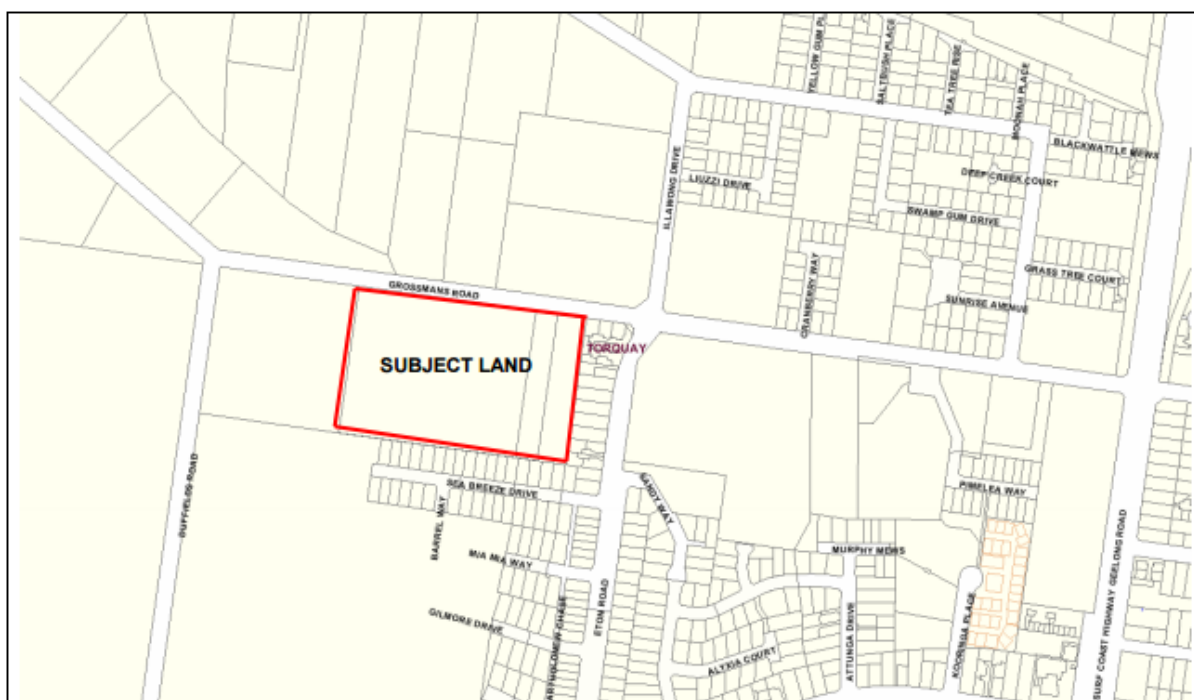


Figure 1 The subject land

(ii) Planning permit description

The Amendment was accompanied by a planning permit application under s96A of the Act. The application proposes:

- the staged subdivision of the land
- the removal of native vegetation
- associated works.

The subdivision concept plan is included at figure 2 and shows the creation of 52 residential lots, including 7 ‘superlots’, ranging in size between 301 to 2,059 sqm. The superlots will be developed with medium density housing.

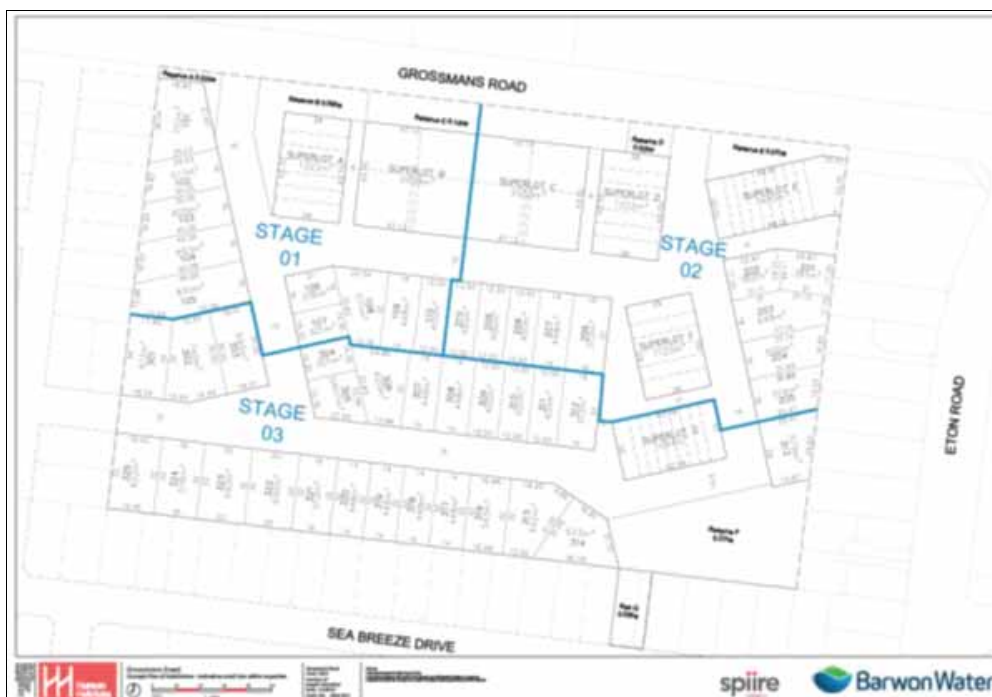


Figure 2 Subdivision concept plan

1.2 Panel process

Surf Coast Shire Council is the planning authority.

Barwon Region Water Corporation (Barwon Water) is the proponent and applicant.

The Amendment and permit application were placed on public exhibition between 11 February and 15 March 2016, and attracted 9 submissions.

A mediation meeting was held on 30 March 2016 involving Barwon Water, a council officer and the objecting submitters to discuss issues raised in submissions. This led to Council and Barwon Water agreeing to various changes to the exhibited planning permit.

At its meeting of 26 July 2016, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 10 August 2016 and comprised Michael Kirsch (Chair).

A Directions Hearing was held on 29 August 2016.

The Panel Hearing was held at the Council offices on 29 September 2016. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Surf Coast Shire Council	Karen Hose (Coordinator Strategic Land Use Planning) and Cletus Kweifio-Okai (Senior Strategic Planner)
Barwon Water	Sarah Wright (Spiire Australia Pty Ltd), Tony Belcher and Peter Palmieri (Barwon Water)

The Panel undertook an unaccompanied inspection of the Amendment site and surrounding area before the Panel Hearing.

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

1.3 Procedural issues

Following their consideration of submissions, Council and Barwon Water proposed that various design and development issues be addressed by way of 'Design Guidelines' implemented through a Memorandum of Common Provisions.¹ At the Directions Hearing, the Panel raised various issues about this approach and directed Council to draft a Design and Development Overlay Schedule (in consultation with Barwon Water) that would achieve the outcomes sought in the proposed Design Guidelines.

The Panel also directed that the draft schedule be circulated to submitters for comment. Two submitters provided comments on the draft schedule.

These matters are discussed further in chapter 3 of this report.

1.4 Background to the proposal

The Amendment applies to the site of a decommissioned water storage facility owned by Barwon Water that is surplus to its requirements (refer to figure 3).



Figure 3 Site context

¹ Section 91A of the Transfer of Land Act 1958 provides for Memorandums of Common Provisions (MCPs). They include "provisions which are intended for inclusion in instruments and plans to be subsequently lodged for Registration". The Panel understands that MCPs operate in a manner similar to covenants and agreements that are registered on titles.

Barwon Water applied for the rezoning and planning permit in order to subdivide and develop the site for 52 residential lots that it will then sell.

The 5.4 hectare site is on the north-west periphery of the existing Torquay urban area and is within a broader area that has been, or is being, developed for residential purposes. Further to the west is the Spring Creek Growth Area that is zoned Urban Growth Zone 1 and subject to Amendment C114 that proposes to implement the Spring Creek Precinct Structure Plan.

The site is in close proximity to various schools and other community facilities, and also within the catchment of the proposed neighbourhood centre in the Spring Creek precinct. Residential development in the vicinity of the site is predominantly two storeys, with a mixture of single dwellings and some multi-unit development.

The proposal was informed by a set of background reports prepared on behalf of Barwon Water, including:

- Report on Geotechnical Investigation and Preliminary Contamination Assessment, March 2015
- Traffic Impact Assessment, May 2015
- Biodiversity Assessment, 85 Grossmans Road Torquay, May 2015
- 85 Grossmans Road Torquay, Service Infrastructure Report, June 2015
- 85 Grossmans Road Torquay, Site Stormwater Management Strategy, July 2015
- 85 Grossmans Road Torquay, Planning Assessment, January 2016.

The Panel was supplied with a set of these reports.

2 Planning context

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

The Panel has reviewed Council's response and the policy context of the Amendment, including relevant policy documents.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the proposal is supported by the following clauses in the State Planning Policy Framework (SPPF):

- Clause 11.02-1 (Supply of urban land)
- Clause 11.05-5 (Coastal settlement)
- Clause 12.02 (Coastal areas)
- Clause 15.01-3 (Neighbourhood and subdivision design)
- Clause 16.01 (Residential development).

(ii) Local Planning Policy Framework

Council submitted that the proposal is supported by the following clauses in the Local Planning Policy Framework (LPPF):

- Clause 21.01 (Profile and Vision)
- Clause 21.02-3 (Settlement patterns)
- Clause 21.08 (Torquay - Jan Juc Strategy).

(iii) Policy documents

Council also submitted that the proposal is consistent with the relevant elements of the:

- Torquay and Jan Juc Structure Plan, 2007
- Sustainable Futures Plan Torquay – Jan Juc 2040, Adopted June 2014.

2.2 Discussion

The Panel is satisfied that residential development of the site is supported by and implements the relevant sections of the State and Local Planning Policy Frameworks, and is consistent with Council's policies for Torquay. The Panel is also satisfied that the exhibited GRZ1 is the appropriate zone for the site.

Submissions on the Amendment and planning permit application were focused on site-specific design issues, rather than broader strategic issues. These issues are discussed in the following chapter.

3 Issues

3.1 Residential use of the site

3.1.1 Submissions

Lucas Nutbean and Eugenie Rutherford supported continuing public ownership of the site and proposed that it be used as a public park. In this context they submitted that the site be zoned Public Park and Recreation Zone (PPRZ) instead of GRZ1.

Jorgen and Rebecca Peeters preferred that the site remain in public ownership as a means of protecting the amenity of the area. However, they acknowledged that residential development is an “*appropriate and expected*” use given that the basin is no longer required and the site is within a broader residential area.

Ms Wright (on behalf of Barwon Water) provided the background to the Amendment and permit application, and the former use of the site as a water storage basin. Ms Wright advised that Barwon Water no longer required the site and proposed to subdivide and develop it before selling individual residential lots. Ms Wright submitted that the GRZ1 was the appropriate zone in light of the existing development and zoning pattern in the immediate area. Ms Wright also submitted that applying the PPRZ would create ongoing site management issues.

Ms Hose (on behalf of Council) noted that the Amendment sought to address a site-specific zoning issue and submitted that the GRZ1 was consistent with the general policy directions for this area as well as the surrounding zoning and land use. In relation to public open space, Ms Hose noted that the Amendment site is in close proximity and accessible to a proposed public reserve to the south that would be provided as part of a recently approved subdivision. Ms Hose also noted that open space (associated with the drainage reserve) will be provided on-site.

3.1.2 Discussion

The Panel accepts that the proposed GRZ1 and residential development of the site are consistent with the broad land use policies for this area of Torquay and compatible with the existing zoning and residential land use in the immediate area.

While converting the site into public open space might be an attractive outcome for some local residents, the need for additional public open space in this area has not been demonstrated. Importantly, neither Council nor Barwon Water supports the conversion of the site into public open space.

In light of these factors, the Panel is satisfied that residential development of the site under the GRZ1 is an appropriate outcome.

3.2 Construction

3.2.1 Submissions

Submitters raised various concerns about off-site amenity impacts resulting from development of the site and construction activity. These included issues relating to noise, dust, erosion and working hours.

Ms Wright submitted that these issues would be addressed by the proposed permit conditions, particularly the requirement for a Construction Management Plan (CMP) (condition 11). She noted that following the mediation meeting, additional content had been included in this requirement.

Ms Hose submitted that the CMP provided the mechanism to address these issues and noted that EPA guidelines would also apply to site construction works.

3.2.2 Discussion

The Panel is satisfied that the requirement for a CMP provides an appropriate mechanism to address the construction issues raised in submissions. The Panel also supports the additional content proposed by Council and Barwon Water relating to:

- the parking of construction vehicles
- minimising soil erosion.

3.3 Vegetation removal

3.3.1 Submissions

Seba Aleksandrowicz sought the retention of existing vegetation on the site, particularly as a means of protecting the privacy of adjoining dwellings along Eton Road.

Ms Hose submitted:

The subdivision plan has been designed to minimise the removal of existing native vegetation, which is mainly located within the Grossmans Road reservation. The proponents have also submitted a landscape masterplan for the site which provides for the planting of new vegetation within the estate, including around the new stormwater retarding basin in the south eastern corner of the site. The retarding basin provides improved amenity at this location and some separation from existing and new development.

3.3.2 Discussion

The Tree and Vegetation Removal Plan that accompanied the planning application indicates that the existing vegetation referred to in the submission (along the eastern boundary of the site) will be removed. However, the Design Response Plan indicates that some replacement planting will occur on the proposed stormwater drainage reserve, partly addressing this issue. In addition, there is scope for supplementary planting within the rear of some of the lots fronting Eton Drive and within the new lots along the eastern boundary of the Amendment site.

Privacy issues will also be addressed by the various planning provisions, including Clauses 54 and 55, that apply to the Amendment site.

The Panel is satisfied that the proposed removal of vegetation is not an impediment to the development proceeding.

3.4 Traffic

3.4.1 Submissions

Gary and Cheryl Robinson submitted that development of the site will exacerbate school traffic congestion in the area.

Ms Hose referred to the Traffic Impact Assessment provided by Barwon Water and submitted that residential use of the local schools “*would likely generate pedestrian rather than vehicle movements*”. Ms Hose also submitted that the development will have minimal impact on the current performance and safety of Grossmans Road.

Ms Hose noted that VicRoads did not object to the proposal.

3.4.2 Discussion

The proposed subdivision layout includes two access points to Grossmans Road and a future access point to the west via a link to a future subdivision. There will be no direct vehicle access to Eton Road or Sea Breeze Drive.

The Panel agrees that access to the local schools from the site is likely to be pedestrian rather than vehicular given the proximity of these schools to the site. The Panel also notes the findings of the Traffic Impact Assessment:

- *It is concluded that the traffic generated by the proposed residential development will provide a moderate increase in traffic on Grossmans Road however is expected to have negligible impact on the operation and efficiency of the local road network.*
- *There are no traffic engineering reasons that would preclude the issue of a Planning Permit for the development, subject to the entry points at both sites (Grossmans Road) being constructed to the standard required by Austroads/VicRoads guidelines.*

The Panel is satisfied that there are no traffic issues that preclude the proposed development from proceeding.

3.5 Fencing

3.5.1 Submissions

Submissions raised various issues about the perimeter fencing of the site, including the adequacy of the existing chain wire fence, the need for a solid fence and who would fund a replacement fence.

Ms Wright advised that Barwon Water has agreed to fund the replacement of the existing chain mesh fence with a 1.8 metre high timber fence.

Ms Hose advised that a condition (condition 13) has been included in the planning permit to achieve this:

Prior to the commencement of works the developer shall remove the existing boundary fencing and provide a replacement 1.8m high timber fence at their cost.

3.5.2 Discussion

The Panel is satisfied that these submissions will be addressed by the proposed permit condition.

3.6 Fill and drainage

3.6.1 Submissions

Frank Van Dyke queried whether site fill and drainage issues would be adequately addressed.

Ms Hose submitted that these issues would be addressed through planning permit conditions that require a Stormwater Management Plan (condition 5) and a Construction Management Plan (condition 11), including an additional requirement:

Bulk earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent, mitigate and minimise soil erosion as much as practically possible.

3.6.2 Discussion

The Panel is satisfied that the Stormwater and Construction Management Plans required by the planning permit will provide suitable mechanisms to address site fill and stormwater drainage issues during the development of the site and over the longer term.

3.7 Site levels

3.7.1 Submissions

Jorgen and Rebecca Peeters raised concerns about the proposed finished ground levels on the site and the possibility of an elevated platform being constructed. They raised a number of related concerns including potential overlooking, stormwater runoff, the need for earth retaining structures and higher fencing.

In response, Barwon Water prepared a site level plan and cross sections demonstrating that the basin walls will be removed and that the finished ground level will replicate natural slope and ground level.

Ms Hose advised that these site levels will be required by way of a revised permit condition 14:

Before commencement of works a plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority detailing the finished site levels. The Plan must be generally in accordance with the Spiire plans 302257G1-1 (Rev A) and 302257G1-2 (Rev A0 and dated 11/05/2016).

3.7.2 Discussion

The Panel is satisfied that this condition is appropriate and addresses the concerns raised by the Peeters. It will also partly address concerns about the amenity impacts discussed in chapter 3 of this report.

3.8 Green wedge

3.8.1 Submissions

Lucas Nutbean and Eugenie Rutherford submitted that a “20 metre green wedge” should be provided along the southern boundary of the site to separate future dwellings from existing dwellings on the north side of Sea Breeze Drive.

Ms Wright submitted that “... *it is not considered that the creation of a 20m wide ‘green wedge’ effectively to the rear of both future and existing properties would create an appropriate outcome in terms of safety, management and usability*”.

Ms Hose advised that Council did not support this proposal because it would “... *result in on-going maintenance issues for Council and security concerns due to the proposed location at the rear of new lots*”.

3.8.2 Discussion

The Panel does not believe that the need for a 20 metre buffer along this boundary has been demonstrated, particularly in light of the building height provisions proposed by Council and Barwon Water along the southern boundary of the Amendment site. The Panel also notes Council’s concerns about maintenance and security issues associated with the proposed buffer.

3.9 Building heights

3.9.1 Submissions

Submitters raised concerns about off-site amenity impacts associated with building heights and site levels, including impacts relating to overlooking, overshadowing, views and privacy.

These concerns principally related to:

- the southern boundary of the site where it abuts the rear of properties (and existing dwellings) on the northern side of Sea Breeze Drive
- the eastern boundary of the site where it abuts the rear of properties (and existing dwellings) on the western side of Eton Road.

Council initially intended to manage building heights by applying the DDO1 (with a discretionary maximum building height of 7.5 metres) but the DDO1 was “*inadvertently*” omitted from the exhibited Amendment.

Following the mediation meeting with submitters, Barwon Water decided to address height issues in its proposed design guidelines to be implemented through an MCP. On this basis, Council decided that applying the DDO1 was no longer necessary.

Council and Barwon Water submitted that the following building height provisions should apply to the site:

- *Any element of a proposed building within 9 metres of the estate’s southern boundary must not exceed single storey to a maximum height of 4 metres above finished site levels.*
- *Dwellings on the estate’s eastern boundary are to be designed to limit overlooking of existing neighbouring dwellings at Eton Road, Torquay.*
- *A maximum building height limit of 6.5 metres above finished site level will apply to dwellings on the estate’s southern boundary and a 7.5 metre height limit will apply to all other dwellings on the balance of the estate.*
- *Medium density developments will be assessed against Clause 55 – Rescode.*

These requirements are reflected in a ‘new’ planning permit condition (proposed condition 12) that requires “*design guidelines*” to be implemented through an MCP. This condition was not included in the exhibited planning permit.

3.9.2 Discussion

It was evident from the Panel’s inspections and the aerial photography provided by Barwon Water that some dwellings on the northern side of Sea Breeze Drive have been sited and designed to take account of the ‘undeveloped’ character of the amendment site to the north (refer to figure 3). The amenity of some of these dwellings could be impacted by development on the Amendment site, particularly given the slope of the land from north to south. For these reasons, the Panel understands the concerns of residents on Sea Breeze Drive and the height and setback provisions proposed by Council and Barwon Water. However, it is arguable that these concerns could be adequately addressed by the requirements of Clauses 54 and 55, and in association with the DDO1 initially proposed by Council.

The interface with dwellings along Eton Road, is less problematic given the variation in rear dwelling setbacks, established vegetation and slightly flatter terrain through that interface (refer to figure 3). Ms Hose expressed similar views about this interface and advised that Council did not propose any specific height controls, while noting that dwellings should “*be designed to limit overlooking of existing neighbouring dwellings at Eton Road*”. The Panel is satisfied that Clauses 54 and 55 provide the mechanism to address this issue.

Council also proposed that there be a maximum building height of 7.5 metres across the remainder of the site, consistent with the DDO1 that applies in the immediate area (including Sea Breeze Drive and Eton Road). Ms Hose advised that this control responds to the “*sensitive landscape and sloping land*” in this area. Given that this control has been applied in the immediate area, the Panel has no objection to a similar control applying to the Amendment site, particularly given its higher elevation.

On balance, the Panel agrees that the southern interface warrants a specific control, beyond the existing Planning Scheme provisions, and that the proposed ‘staggering’ of building heights along the southern boundary is appropriate in the circumstances. The Panel also agrees that a 7.5 metre maximum building height is warranted over the remainder of the site.

However, the use of maximum building height controls raises issues about:

- whether these controls should be mandatory or discretionary
- how these controls should be implemented.

(i) Mandatory or discretionary height controls

Council submitted that mandatory height controls were warranted by the particular circumstances of the site and that they would be consistent with Planning Practice Note 59 - The Role of Mandatory Provisions in Planning Schemes (PPN59). PPN59 expresses a general presumption against the use of mandatory provisions (including height):

Mandatory provisions in the VPP are the exception. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements.

Nevertheless, there will be circumstances where a mandatory provision will provide certainty and ensure a preferable and efficient outcome. Although these circumstances cannot be common practice, they may include areas of high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast.

A balance must be struck between the benefits of a mandatory provision in the achievement of an objective against any resulting loss of opportunity for flexibility in achieving the objective.

The Panel is not satisfied that the application of mandatory maximum building heights to the Amendment site is warranted.

In relation to the Sea Breeze Drive interface, discretionary 4.5 metre and 6.5 metre maximum building heights will provide useful guidance about a possible design solution to address amenity issues, but there may be other acceptable design approaches that might exceed these heights. The Panel is mindful that dwellings along Sea Breeze Drive have varying setbacks from and orientation to the Amendment site, suggesting that a 'one size fits all' approach might not be warranted.

Similarly, the Panel does not believe that the need for a 7.5 metre mandatory maximum height across the rest of the site has been justified. The DDO1 that applies in the immediate area (including Sea Breeze Drive and Eton Road) has a discretionary maximum height of 7.5 metres and Ms Hose advised that this limit is "*generally accepted by the community*" and generates "*very few applications*".

(ii) Implementation

Ms Hose advised that Council preferred to use MCPs rather than Victoria Planning Provision (VPP) overlays (such as the DDO) to manage design issues in new residential development areas, noting that:

- it is common practice in Torquay for developers to apply covenants or MCPs
- Council has occasionally requested the use of MCPs in specific circumstances

- the use of MCPs reduced Council's workload in administering VPP built form controls, including enforcement
- there are 25 DDOs in the Shire (13 in Torquay) and they require a significant amount of resources to administer
- Council has commenced a project to rationalise the planning scheme by reducing permit triggers and simplifying the planning scheme.

In relation to the Amendment site, Council supported the use of an MCP instead of a DDO because:

- *The introduction of a new DDO will result in unnecessary permit triggers increasing the costs of administration of the planning scheme, delays and costs to owners.*
- *The proposed draft permit and MCP conditions proposed in Amendment C106 will enable the concerns of a few neighbours to be addressed by one permit.*
- *The preparation of Design Guidelines implemented by a Memorandum of Common Provisions, registered on property title, will enable enforcement of the design guidelines to be via the developer rather than by Council until the land is fully developed.*

Ms Hose also submitted that Barwon Water will apply an MCP, regardless of whether there is an overlay, resulting in an unnecessary and confusing duplication of controls.

In response to questions from the Panel, Ms Hose indicated that Council did not have a formal policy in relation to the use of MCPs and that the need for this approach had not been identified as part of the current or past reviews of the Surf Coast Planning Scheme. The Panel also queried whether the workload associated with using a DDO to address height issues (instead of an MCP) would create a significant workload issue, given the limited permit requirements in the draft DDO26 and Council's advice that the discretionary 7.5 metre maximum building height in the existing DDO1 generates few applications.

Ms Wright advised that the proposal for an MCP arose from the consideration of submissions and was not an approach initially sought by Barwon Water. Ms Wright noted that MCPs are used elsewhere in Torquay and that Barwon Water wants to achieve certainty about built form outcomes. Ms Wright was unsure how MCPs are amended or revoked.

Ms Wright also advised that apart from building heights, the MCP would address:

- Minimum boundary setbacks
- Maximum boundary setbacks
- Boundary fence treatments
- Landscape treatments for lots abutting exterior site boundaries, open space areas and reserves.

The Panel asked why these other built form issues had not been included in the draft DDO prepared by Council. Ms Wright advised that the specific controls had not yet been developed.

The Panel raised a number of issues related to the use of MCPs to manage built form during the Directions Hearing and Main Hearing, including:

- the established practice that built form controls reside in the planning and building systems
- the lack of transparency and scrutiny associated with built form controls that are outside these systems
- the prospect that MCP controls will need to be mandatory, unless there is some form of decision making process for discretionary controls²
- the difficulty in amending or removing MCP controls
- uncertainties about the ongoing enforcement of MCPs
- the possible disconnect and lack of alignment between ‘fixed’ mandatory controls in MCPs and evolving strategic planning for an area.

The Panel also highlighted a general concern that reliance on an MCP to address issues raised in submissions could be problematic because of the lack of certainty about whether and how these issues will be addressed. This would be particularly so where the MCP has not been drafted and has not been available for review and comment, yet is relied upon as the basis for responding to and addressing submissions.

In the case of this proposal, the key built form issues raised in submissions relate to building heights. The other built form controls intended for the MCP were not raised in submissions and are largely irrelevant to the issues before the Panel. Nevertheless, the Panel notes that there seems to be support amongst submitters for an MCP, even though most of the MCP content is yet to be developed.

In light of these factors, the Panel does not believe that an MCP is a suitable mechanism to address the building height issues raised in submissions. The Panel prefers that Council use an established VPP tool (the DDO) to address these issues.

Whether or not Barwon Water applies an MCP is a matter for Barwon Water. In terms of the Panel’s role, its recommendations need to provide certainty and transparency about the outcomes that are sought, and the appropriate means to do this is through a VPP tool and not through an MCP.

The Panel was not persuaded that the use of an MCP as sought by Council and Barwon Water is a sensible or beneficial approach, or that it is justified by a concern that there might be a minor and temporary increase in Council workloads associated with administering a DDO for the site. For these reasons, the Panel does not support the inclusion of the ‘new’ condition (condition 12) sought by Council and Barwon Water that requires an MCP to be prepared and has deleted it from the recommended permit conditions at Appendix C of this report.

(iii) Design and Development Overlay Schedule 26

As discussed earlier, the Panel directed that Council prepare a DDO schedule (DDO26) that would achieve the outcomes sought in the proposed Design Guidelines. The Panel also directed that Council circulate the schedule to submitters and invite comments.

² Barwon Water advised that an “*architectural review process*” would be established to deal with “*discretionary guidelines*”, including an “*Architectural Design Committee*”. The details of these processes are yet to be developed.

The draft DDO26 only addressed building height controls and did not include any provisions relating to the other built form issues that Barwon Water intends to regulate through its MCP.

Two submitters responded to the draft DDO26:

- The Peeters did not support the use of a DDO “*in lieu of design guidelines and/or MCP*”. They preferred mandatory controls over discretionary controls, citing concerns the uncertainty associated with discretionary controls. They also noted that design guidelines are “*common practice*” in the area.
- Lucas Nutbean and Eugenie Rutherford did not raise issues with the building height controls but sought further clarification about subdivision controls.

For the reasons outlined earlier, the Panel does not support the submissions by the Peeters and recommends that the draft DDO26 included at Appendix B be adopted by Council. The Panel has made some minor changes to the schedule drafted by Council in order to improve its clarity.

The Panel does not believe that applying the DDO26 as part of the Amendment raises any ‘transformation’ or ‘natural justice’ issues given that:

- the prospect of using a DDO was discussed with Council and Barwon Water at the Directions Hearing, and they were invited to make submissions on the use of a DDO at the Panel Hearing
- the draft DDO26 was prepared by Council in consultation with Barwon Water
- all submitters were provided with the draft DDO26 and invited to provide comment prior to the Panel Hearing.

3.10 Other issues

3.10.1 Planning permit conditions

The exhibited planning permit contained conditions relating to the use of recycled water (conditions 42 and 43) initially required by Barwon Water. Ms Hose advised that these conditions are no longer required and have been deleted from the planning permit.

The Panel supports this change and notes that the conditions have been deleted from the recommended planning permit at Appendix C.

3.10.2 Consequential changes to the Amendment

The Panel directed that Council identify whether any consequential changes (such as Map 2 in Clause 21.08 and Map 1 in Clause 22.09) should be included in the Amendment.

Ms Hose advised that consequential changes to Map 1 in Clause 22.09 were exhibited as part of the Amendment, but also proposed “*an additional change to add 85 Grossmans Road (Former Torquay Basin) or similar description to the list “General Residential/Mixed Density/Moderate Change” in Table 1 to Clause 22.09 to make its inclusion clear*”.

The Panel is satisfied that the exhibited revision to Map 1 is adequate and that there is no need to refer to the Amendment site in Table 1.

Ms Hose also advised that Council supported altering Map 2 at Clause 21.08 *“to include 85 Grossmans Road in the General Residential (Mixed Density) category to be consistent with Clause 22.09”*.

This change will ensure that the two maps are consistent and is supported by the Panel.

3.11 Recommendations

Adopt Amendment C106 to the Surf Coast Planning Scheme as exhibited, subject to:

- 3 Applying the Design and Development Plan Overlay Schedule 26 (included at Appendix B of the Panel’s report) to the Amendment site.**
- 4 Changing Map 2 at Clause 21.08 to include the Amendment site in the General Residential (Mixed Density) designation.**

Approve Planning Permit Application 15/0485 in accordance with the permit conditions included at Appendix C of the Panel’s report.

Appendix A Submitters to the Amendment

No.	Submitter
1	VicRoads
2	S Aleksandrowicz
3	G and C Robinson
4	G and C Dawson
5	F Van Dyke
6	L Nutbean and E Rutherford
7	S and R Stewart
8	A and G Gardiner
9	J and R Peeters

Appendix B Panel's recommended Design and Development Overlay Schedule

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 26 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO26**.

FORMER WATER BASIN SITE - GROSSMANS ROAD, TORQUAY

1.0 Design objectives

To encourage building design that respects and contributes to Torquay's coastal character and complements the streetscape.

To provide for the development of the site in a manner which is compatible with the surrounding residential development.

To minimise the visual prominence of development when viewed from the streetscape and adjoining properties, having regard to building height and siting.

To ensure the height of buildings is compatible with the existing scale and character of dwellings within the streetscape and neighbourhood.

2.0 Buildings and works

A permit is not required to construct a building or construct or carry out works other than to construct a building which is:

- Within 9 metres of the estate's southern boundary ~~exceeding and exceeds~~ a maximum height of 4 metres above the finished site levels ~~at that location~~.
- More than 6.5 metres above the finished site levels ~~s~~ on lots at the estate's southern boundary.
- More than 7.5 metres on the balance of the estate.

(excluding any television antenna, chimney, flue or solar panels)

Requirements

All new building and works that require a permit should meet the following requirements:

Building height

- Buildings should not exceed a height of 4 metres above finished site levels within 9 metres of the southern lot boundary (Lots 314 to 325 of the Spiire Concept Plan of Subdivision Drawing No 1014/110).
- Buildings should not exceed a maximum height of 6.5 metres above finished levels on lots at the estates southern boundary (Lots 314 to 325 of the Spiire Concept Plan of Subdivision Drawing No 1014/110).
- Buildings should not exceed a maximum height of 7.5 metres above finished site levels on the balance of the estates ~~s~~.

3.0 Subdivision

A permit is not required to subdivide land.

4.0 Decision guidelines

Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule.
- The impact of the proposed buildings and works on existing dwellings as a result of the design, siting, height, size and bulk.
- Whether opportunities exist to avoid a building being visually obtrusive by the use of alternative building designs, including split level and staggered building forms that follow the finished site levels of the land and reduce the need for site excavation or filling.

- ~~• The objectives, standards and decision guidelines of Clause 54 and Clause 55.~~

Appendix C Panel's recommended planning permit

[Tracked Added](#)

~~Tracked Deleted~~

PLANNING PERMIT

Permit No: 15/0485

Planning scheme: Surf Coast Shire
Responsible authority: Surf Coast Shire

GRANTED UNDER section 96I OF THE
PLANNING AND ENVIRONMENT ACT
1987

ADDRESS OF THE LAND: 85 GROSSMANS ROAD AND 14 SEA BREEZE DRIVE TORQUAY

THE PERMIT ALLOWS: STAGED MULTI-LOT SUBDIVISION, VEGETATION REMOVAL AND ASSOCIATED WORKS

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Overall Plan

1. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions the three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Staging of the subdivision, including the staging of the vesting of reserves and the delivery of stormwater management works (i.e. retarding basins). Any reserves must not be vested prior to the completion of all stormwater management works, in accordance with the endorsed stormwater management plan, within that area
 - b) Functional layout of carriageway, parking bays, footpaths, cycle paths/shared paths, crossovers and traffic control devices
 - c) Typical cross-sections for each street type
 - d) ~~Identify potential~~ Multi-dwelling lots
 - e) ~~Identify~~ The location for bin collection from lots with an abuttal to a rear laneway
 - f) ~~Identify~~ The location of existing native vegetation to be retained and removed.

Amended Plans

2. Before the plan of subdivision for each stage is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions ~~the~~ and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements
 - b) Easements in favour of Surf Coast Shire to the satisfaction of the responsible authority
 - c) Naming of the streets shall be in accordance with Surf Coast Shire Place Naming Policy (SCS-004, 2011) and Place Naming Guidelines (MPP-003, 2011) (or superseding documents)

Endorsed Plans

3. The layout and site dimensions of the proposed subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Staging

4. The subdivision must generally proceed in the order of stages as shown on the endorsed plans unless otherwise agreed in writing by the Responsible Authority.

Stormwater Management Plan

5. Before the plan of subdivision, for the first stage containing a lot which cannot be drained to an existing Council reticulated stormwater system, is certified under the Subdivision Act 1988, a stormwater management plan (three copies) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must ensure that stormwater and drainage discharge from the development site meets current best practice performance objectives for stormwater (Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)) and must include:
 - a) A construction site plan that incorporates the stormwater management measures to be implemented during the construction phase of the development and outlines in detail how stormwater is to be managed, including sediment controls, during both the land development phase and the building phase. The plan should have regard to the Construction Techniques for Sediment Pollution Control (EPA 1991) and Environmental Guidelines for Major Construction Sites (EPA 1995). The management controls are to be regularly monitored and maintained
 - b) Maintenance responsibilities, requirements and costs for the stormwater infrastructure installed

- c) Staging of the delivery of stormwater management infrastructure, including temporary infrastructure
- d) The temporary treatment or protection of final treatment facilities for stormwater during the construction phase of the development with the final wetland construction and landscaping completed prior to the issue of the Statement of Compliance for the last stage of the development
- e) Maintenance of the stormwater treatment facilities for 2 years after the Certificate of Practical Completion is issued for the final stage of the development, excluding hard Civil Works (i.e. concrete works, pipes and structures) that will otherwise have a maintenance period of 3 months.

Drainage

- 6. Each lot shown on the endorsed plans must be drained to the satisfaction of the responsible authority.

Landscape Plans

- 7. Before the commencement of works a Landscape Master Plan for the estate to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must include:
 - a) Street tree planting themes
 - b) Location of pathways within areas of open space
 - c) Identification of equipment/facilities to be provided within each area of public open space
- 8. Before the commencement of landscape works for each stage Detailed Landscape Plans for that stage to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the endorsed Landscape Master Plan and must include, as appropriate:
 - a) 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.
 - b) Species are to be to the satisfaction of the responsible authority.
 - c) Where the plan includes the planting of species from the family Myrtaceae, the plan must specify appropriate measures to control the introduction and spread of the disease Myrtle Rust (*Uredo rangelii*), such as quarantining of plants and inspections prior to planting.
 - d) Shade trees to be provided within open space areas.

- e) Site works specification and method of preparing, draining, watering and maintaining the landscaping.
- f) Fencing details for any lot boundary abutting a public open space reserve. The fencing style should predominantly be visually permeable.
- g) For all hard landscape elements the use of suitable sustainable materials (ie recycled, reusable and recyclable, low embodied energy).
- h) A schedule of arboricultural works to be undertaken on existing trees to be retained.
- i) For any swale drain, a typical cross section.
- j) For a stage including public open space, the location and design details of all landscape features including circulation paths, park furniture, including a shelter, access points and linkages.
- k) ~~For a stage including a~~ [A](#) drainage reserve.
- ~~i~~) Concept design of the wetland and detention basins.
- ~~i~~m) Species to be planted within the wetland to discourage people from entering the wetland and for proper functioning. This should be in accordance with Melbourne Water Guidelines.

Landscape Maintenance

- 9. The landscape plantings for each stage must be maintained for a period of 2 years after the issue of the Statement of Compliance for the relevant stage of the subdivision to the satisfaction of the Responsible Authority. Any damage to landscaping works during this time, including diseased plants and vandalism, must be rectified at the cost of the developer to the satisfaction of the Responsible Authority.
- 10. Declared noxious weeds and pest animals are to be controlled across the development site and during the 2 year maintenance period as per the responsibilities of the land owner under Section 20 of the Catchment and Land Protection Act 1994, namely that the land owner must take all reasonable steps to: prevent the spread of, and as far as possible, eradicate established pest animals; eradicate regionally prohibited weeds, and prevent the growth and spread of regionally controlled weeds.

Construction Management Plan

- 11. Prior to the commencement of works a construction management plan (three copies) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must address the following matters:
 - a) Measures to minimise the impact of construction vehicles arriving at, queuing and departing from the land

- b) Measures to accommodate the private vehicles of workers/tradespersons on site away from existing dwellings. ~~with t~~The surface of any such car park area is to be treated to prevent dust causing loss of amenity to the neighbourhood
- c) Details of the location of all construction equipment and facilities, including delivery points, storerooms, toilets, temporary offices and workers' facilities
- d) ~~To comply with~~ EPA requirements in terms of noise management
- e) Measures to minimise the generation and dispersal of dust
- f) Details of a 24 hour hotline for access to a contact person or project manager accountable for the project and compliance with the CMP
- g) Arrangements for waste collection and other services to be provided during construction. All waste and debris collected on site during the period of construction is to be removed off site. Waste, including vegetation, must not be burnt on site
- h) Bulk earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent, mitigate and minimise soil erosion as much as practically possible.
- i) Measures to control dust and sediment laden run-off.
- j) Measures to limit the importation of weeds and Cinnamon Fungus onto the site through appropriate cleaning of machinery and other vehicles prior to entering the site.
- k) Details of the haul route for transport of excess materials from the site and delivery of materials to the site.
- l) Inspection and documentation of haul route with a representative of the Responsible Authority to audit condition of haul route prior to and post construction with any damage identified to be rectified by the contractor at their expense.
- m) Protection of Council assets, including roads.
- n) Details of tree protection zones around vegetation nominated to be retained.

~~Design Guidelines~~

~~12. Prior to Certification of the Plan of Subdivision, Design Guidelines for the development of the estate to the satisfaction of the Responsible Authority shall be submitted to and approved by the Responsible Authority. When approved, the guidelines will be incorporated into a Memorandum of Common Provisions on the title. The guidelines must include, but not be limited to, identification of:~~

- ~~a) Maximum height restrictions~~
- ~~b) Minimum boundary setbacks~~
- ~~c) Maximum boundary setbacks~~
- ~~c) Boundary fence treatments~~
- ~~d) Landscape treatments for lots abutting exterior site boundaries, open space areas, reserves.~~

~~The guidelines, at a minimum, must specify the following:~~

- ~~1) Any element of a proposed building within 9 metres of the estate's southern boundary must not exceed a single storey (to a maximum height of 4 metres above finished site levels) at that location.~~
- ~~2) Dwellings on the estate's eastern boundary are to be designed to limit overlooking existing neighbouring dwellings at Eaton Road, Torquay.~~
- ~~3) Maximum building height limit of 6.5 metres above finished site levels for dwellings on the estate's southern boundary and 7.5m limit for all other dwellings on the balance of the estates.~~
- ~~4) Medium density developments will be assessed against Clause 55 – ResCode~~

Construction Plans

~~12~~¹³. Before any construction works associated with the subdivision start, detailed construction plans to the satisfaction of the Council must be submitted to and approved by the Council. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must include:

- a) Fully sealed road pavements and concrete footpaths to widths set out on the approved typical cross sections and functional layout plans
- b) Intersection treatments as determined through a Road Design Safety Audit
- c) Underground drains and stormwater treatment infrastructure (as required under the endorsed Stormwater Management Plan)
- d) Street lighting including energy efficient street lamps
- e) Street signs
- f) Fire hydrants

All works constructed or carried out must be in accordance with those plans.

Site Fencing

~~13~~¹⁴. Prior to the commencement of works the developer shall remove the existing boundary fencing and provide a replacement 1.8m high timber fence at ~~their~~ the developer's cost.

Site Levels

~~14~~¹⁵. Before the commencement of works a plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority detailing the finished site levels. The plan must be generally in accordance with the Spiire plans 302257G1-1 (Rev. A) and 302257G1-2 (Rev. A) and dated 11/05/2016.

Fill material

~~15~~¹⁶. The filling of the land using imported material must be undertaken using only clean fill that is free from contaminants at levels above standards for residential use. At the reasonable request of the responsible authority, the owner shall provide test evidence that certifies that the fill material is not contaminated to the satisfaction of the responsible authority.

Prior to Statement of Compliance

1617. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 for each stage of the subdivision, the applicant must provide:

- a) Road works, including footpaths
- b) Drainage
- c) Landscaping in accordance with the endorsed landscape plans
- d) Boundary fencing to all lots with a side or rear boundary to an open space reserve
- e) Street lighting and street signs
- f) All vehicle crossings where shown on the endorsed plans to be constructed
- g) Re-compaction of all uncompacted fill material to a minimum of 95% Standard Compaction. Testing shall be undertaken by a NATA registered laboratory with results provided to the responsible authority as soon as they become available
- h) Asset information in digital format to include drainage data as per "D-Spec" the Consultant/Developer Specifications for the delivery of drainage data to Local Government

Haul Route

1718. Prior to the issue of the Statement of Compliance for the final stage is issued the applicant must rectify any damage to the haul route to the satisfaction of the responsible authority.

Section 173 Agreement

1819. Before a statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority made pursuant to section 173 of the Planning and Environment Act 1987, and make application to the Registrar of Titles to have the agreement registered on title to the land under section 181 of the Act, which provides for the following:

- a) Any lot created by the approved subdivision shall not be further subdivided to create additional lots or developed by more than one dwelling, other than a lot identified on the endorsed plan as a potential multi-dwelling site (i.e. Super lot).
- b) Boundary fences adjoining a municipal reserve must be maintained by the owners of the said lot in good condition and without alteration to their design and/or visual appearance.
- c) Vehicle access to a lot through a municipal reserve is prohibited unless with the prior written consent of the Responsible Authority.
- d) Any lot with an abuttal to a rear laneway, in addition to any front or side street, must obtain vehicle access from the rear laneway and must not obtain vehicle access from the front street.

- e) Any lot with an abuttal to a rear laneway, on the designated collection day must place bins in the location identified on the plans endorsed under Condition 3. On any other day the bins must be stored screened from view from any street.

The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement.

Open Space Contributions

19~~20~~. Prior to the issue of a Statement of Compliance the owner of the subject land must provide a public open space contribution equivalent to ten (10) per cent comprising a combination of land and cash contribution to the satisfaction of the responsible authority.

Development Contributions

20~~21~~. A Development Infrastructure Levy must be paid to the Collecting Agency (Surf Coast Shire Council) based on the net change in demand units in accordance with the provisions of the incorporated Torquay – Jan Juc Development Contributions Plan applying to the land. The payment must be made after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued under the Subdivision Act 1988.

Telecommunication Services

21~~22~~. The owner of the land must enter into an agreement with:

- a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.

22~~23~~. 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."

CFA Conditions

23~~24~~. Operable hydrants, above or below ground, must be provided to the satisfaction of CFA.

- ~~24~~~~25~~. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.
- ~~25~~~~26~~. Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority website (www.cfa.vic.gov.au).
- ~~26~~~~27~~. 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.
- ~~27~~~~28~~. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
- ~~28~~~~29~~. Roads must have a minimum trafficable width of:
- a) 5.5m if parking is prohibited on one or both sides of the road;
 - b) 7.3m where parking is allowable on both sides of the road.
- ~~29~~~~30~~. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.
- ~~30~~~~31~~. Any road with a trafficable width (Kerb to Kerb) less than 7.3 metres, must have 'no Standing' signage and/or appropriate on-road line markings installed to clearly identify that parking is only allowed on one side of the roadway.

Powercor Conditions

- ~~31~~~~32~~. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act
- ~~32~~~~33~~. The applicant shall provide an electricity supply to all lots in the subdivision In accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
- ~~33~~~~34~~. The applicant shall, where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- ~~34~~~~35~~. The applicant shall set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease

shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

[3536](#). The applicant shall provide easements satisfactory to Powercor Australia Ltd where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of Powercor Australia Ltd for Powerline Purpose & pursuant to Section 88 of the Electricity Industry Act 2000.

[3637](#). The applicant shall obtain Powercor Australia Ltd approval for a lot boundary within any area affected by an easement for a powerline and for the construction of any works in such an area.

[3738](#). The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Barwon Water Condition

[3839](#). 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.

[3940](#). The payment of New Customer Contributions for each additional lot created and/of each additional metered connection for water supply within the subdivision.

[4041](#). Reticulated water mains are required to service the proposed development. New water mains are to connect to existing water mains in Grossmans Road.

[4142](#). The provision and Installation of Individual water services to all lots in the subdivision in accordance with Barwon Water requirements and Victorian Plumbing Regulations.

Note that tappings and services are not to be located under existing or proposed driveways.

[4243](#). The payment of New Customer Contributions for each additional lot created and/or each additional metered connection for recycled water supply within the subdivision.

[4344](#). The payment of New Customer Contributions for sewer for each additional lot created and/or each additional metered connection within the subdivision.

Expiry of Permit

[4445](#). This permit will expire if one of the following circumstance applies:

- a) The plan of subdivision for the first stage is not certified under the Subdivision Act 1988 within two years of the date of this permit.
- b) The subdivision is not completed within five years after the certification of the plan of subdivision for the first stage under the Subdivision Act 1988.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.