



## **Appendix 3b**

**15.2 Planning Scheme Amendment C33 and Planning Permit Application 2018-079, 81 Nelson Road, Queenscliff**

*Draft Planning Permit 2018/079*

# **Ordinary Meeting of Council**

Wednesday 28 July 2021 at 7:00pm

Via videoconference (Zoom)

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# PLANNING PERMIT

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

Permit No.: 2018/079

Planning scheme: Queenscliffe Planning Scheme

Responsible authority: Borough of Queenscliffe

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**ADDRESS OF THE LAND:** 81 Nelson Road, Queenscliff (As described in Certificate of Title Volume 10341 Folio 172)

**THE PERMIT ALLOWS:** Subdivision of the land into seven (7) lots, removal of vegetation and works associated with the subdivision in accordance with the endorsed plans.

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

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**Endorsed Plans**

1. The subdivision as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

**Engineering**

2. The site must be drained to the satisfaction of the Responsible Authority and no stormwater, sullage, sewerage or polluted runoff may drain or discharge from the land to adjoining properties.
3. The proposed stormwater outfall for common property into Nelson Road must be piped through to the open swale that exists in Murray Road rather than the discharge proposed to the swale in Nelson Road.
4. Before Statement of Compliance for the plan of subdivision under the *Subdivision Act 1988*, the applicant must provide a vehicle crossing at the location of the common access. This will require a piped culvert (300mm diameter) to the satisfaction of the Responsible Authority.

**Powercor**

5. 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.
6. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.  
Notes: 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.
7. 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).  
Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

8. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.  
 Notes: 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 caveat prior to the registration of the plan of subdivision.

9. 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.

Notes: 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 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

**Barwon Water - General**

10. 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.
11. The owner shall create easements for Pipelines or Ancillary Purposes in Favour of Barwon Region Water Corporation over all existing and proposed sewer mains located within the subdivision.
12. The certified plan must create implied easements under Section 12(2) of the Subdivision Act, over all proposed and existing private potable water (including recycled water where applicable) and sewerage services within the subdivision.
13. The creation of a limited Owners Corporation to encumber Lots 6 and 7 within the subdivision for the purpose of the common water supply service.
14. The developer is to apply to Barwon Water for details relating to servicing requirements and costing for the provision of a potable water supply and where applicable, recycled water and/or sewerage services to the proposal. It would be appreciated if all communication between the developer/agent and Barwon Water quote Barwon Water reference number L013440.

**Barwon Water – Potable Water**

15. The provision and installation of potable water supply to the development.
16. Reticulated potable water mains are required. This work must be undertaken by a Barwon Water accredited Consultant and accredited Contractor following the “Developer Works” process.
17. Barwon Water’s records indicate that an existing potable water service and meter is located on this property. Private potable water service pipes are not permitted to cross allotment boundaries and must be plugged and abandoned at the boundaries of such allotments.
18. An existing Barwon Water potable water asset is to be abandoned as part of development works. Further details will be provided in the relevant servicing requirements and costing.
19. The payment of a standardised New Customer Contribution is required for any new connection or any upsize to an existing connection. The number of standardised charges applied will be determined on the

basis of an equivalent lot calculation and is based on potable domestic water meter size or water service size (where a meter is not being fitted). An equivalent lot is a measure of the additional demand a connection will place on the infrastructure in terms of the water consumption and sewage discharge for an average connection utilising a 20mm tapping and/or meter. If there is more than one meter within a single meter assembly, the size of the largest meter (excluding the fire service meter) will determine the number of equivalent connections.

### **Barwon Water – Sewer**

20. The provision and installation of a sewerage service to the development.
21. Reticulated sewer mains are required. This work must be undertaken by Barwon Water accredited Consultant and accredited Contractor following the “Developer Works” process.
22. The provision of a new sewer connection(s) point is required.

### **Downer Utilities**

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

### **Subdivision permit compliance**

24. Prior to Statement of Compliance being issued for the Plan of Subdivision under Section 21 of the *Subdivision Act 1988*, screening of the upper level of fill across the site to remove waste materials shall occur and a 0.5m layer of clean fill placed on the site with clean fill meeting the requirements for “fill material” as provided by the *EPC Victorian Publication IWRG 621 Soil Hazard Categorisation and Management*, in accordance with the recommendation of the Environmental Site Assessment prepared by Coffey dated 08/09/2016.
25. Prior to Statement of Compliance being issued for the Plan of Subdivision under Section 21 of the *Subdivision Act 1988*, a detailed acid sulfate soil assessment shall be undertaken in accordance with Stage B detailed assessment requirement of the *Victorian Best Practice Guidelines for Assessing and Managing Coastal Acid Sulfate Soils* (DSE 2010) in accordance with recommendation of the Environmental Site Assessment prepared by Coffey dated 08/09/2016.

Implementation of the recommendations outlined in the detailed acid sulfate soil assessment that is required under Condition 25 of this planning permit. This may include the development of an acid sulfate management plan in accordance with the VIC BPMG, to mitigate any risks proposed by the disturbance of acid sulfate soils as a part of the proposed development and the specific construction activities planned.

Note: EPA Publication 655.1 provides guidance to landowners, developers, consultants and other people involved in the disturbance of soil, sediment, rock and/or groundwater about identifying, classifying and managing acid sulfate soils and rock.

Note: Waste acid sulfate soils and rock must be managed in accordance with the requirements of the Industrial Waste Management Policy (Waste Acid Sulfate Soils) 1999.

26. Prior to the earlier of:
  - a Statement of Compliance being issued under the Subdivision Act 1988 for the subdivision permitted under this permit; or
  - the transfer of land at 61-75 Murray Road, Queenscliff into new ownership,

The owner of the land at 81 Nelson Road Queenscliff must enter into an agreement with the responsible authority and the owner of the land at 61-75 Murray Road, Queenscliff under section 173 of the Planning and Environment Act 1987. The agreement must:

- Require the owner of the land at 61-75 Murray Road, Queenscliff to provide and maintain fire break for a width of 19 metres measured from and parallel to the south eastern boundary of the land

- at 61-75 Murray Road, Queenscliff in a minimum fuel condition until the land at 61-75 Murray Road, Queenscliff is subdivided and developed for residential use;
- Provide that the land at 81 Nelson Road, Queenscliff must not be used for dwellings unless the fire break required by the agreement is provided and maintained in accordance with the agreement;
- Provide that the agreement ends when the land at 61-75 Murray Road, Queenscliff is developed for residential use.

The definition of ‘developed for residential use’ is when 50% of residential lots created on the land at 61-75 Murray Road Queenscliff have a constructed dwelling in progress or completed.

The owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

Prior to the issue of a Statement of Compliance for the subdivision permitted under this permit the owner of the land must enter into, and register on title, an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987, which amongst other things, provides that:

- The Borough of Queenscliff Council shall maintain a 19 metre wide fire break on land at 61-75 Murray Road, Queenscliff abutting the western boundary of the land at 81 Nelson Road Queenscliff (owned by the Borough of Queenscliff) until such time the land at 61-75 Murray Road is subdivided and developed. The vegetation in the 19 metre wide fire break on 61-75 Murray Street shall be maintained to be consistent with Table 6 of Clause 53.02 Bushfire Planning in the Queenscliff Planning Scheme.

The cost of the preparation or review of the agreement and its registration on the title to the land must be borne by the owner of the land.

27. Prior to Statement of Compliance being issued for the Plan of Subdivision under Section 21 of the *Subdivision Act 1988* a non combustible fence along the north west boundary of 81 Nelson Road shall be constructed to the satisfaction of the Responsible Authority.
28. Prior to a Statement of Compliance being issued for the Plan of Subdivision under Section 21 of the *Subdivision Act 1988*, all conditions of this planning permit must be complied with or otherwise be to the satisfaction of the Responsible Authority.

#### **Mandatory conditions**

29. The owner of the land must enter into an agreement with:
  - A telecommunications network or service provided 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
  - 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 will not be provided by optical fibre.
30. 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 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
  - A suitably qualified person that fibre ready telecommunication 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.

### **Completion of development**

31. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

### **Permit Expiry**

32. This permit will expire if:
- (a) the plan of subdivision is not certified within two years of the date of this permit; or
  - (b) the registration of the subdivision is not completed within five years of the date of this permit.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within three months afterwards.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires; or

- (a) Within six (6) months after the permit expires where the use or development has not yet started; or
- (b) Within twelve months after the permit expires, where the development allowed by the permit has lawfully commenced before the permit expiry.

## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

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The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. C33 to the **Queenscliffe Planning Scheme**.

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### WHEN DOES THE PERMIT BEGIN?

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

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### WHEN DOES A PERMIT EXPIRE?

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

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