



## GREATER GEELONG PLANNING SCHEME AMENDMENT C159

Presentation to the Independent Panel appointed by the Minister  
for Planning.

PANEL: MR MICHAEL KIRSCH (CHAIR) & MR IAN GIBSON

HEARING DATES: 25 NOVEMBER – 3 DECEMBER 2009

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## 1.0 INTRODUCTION

Amendment C159 to the Greater Geelong Planning Scheme is a Council initiated amendment to give effect to the recommendations of the Barwon Heads Structure Plan adopted by Council in December 2007.

The Amendment applies to the whole of the Barwon Heads Township and surrounding areas and introduces a new policy clause into the Municipal Strategic Statement and applies some new zones and overlays as recommended in the Structure Plan.

The purpose of the Structure Plan is to identify the key strategic planning issues facing the township, including community aspirations and needs, and to articulate the preferred future directions including the location of a settlement boundary and identification of appropriate planning controls.

Barwon Heads is a seaside town located at the mouth of the Barwon River, some 18km south east of the centre of Geelong. It has a permanent population of around 3,300 people which can grow to well over 10,000 people during the peak summer holiday period.

The composition of the area is perhaps best appreciated by reference to aerial photography (**Attachment 1**) which clearly shows the major features in the town and its surrounds which are marked on the plan (Barwon River, Thirteenth Beach, Murtnaghurt Lagoon, extent of township development, Thirteenth Beach Golf resort etc).

In broad terms the two major issues which have been raised as a result of the preparation and exhibition of this amendment are:

- Overwhelming community support for the delineation of the town boundary along the western edge of the town (i.e. at the extent of the existing residential zoning) intended to prevent any extension to urban development outside the boundary, including the Macafee land; and
- The future zoning and development of the land described as Stage C of the Thirteenth Beach Resort property.

## 2.0 CHANGES INTRODUCED BY AMENDMENT C159

The changes being proposed by Amendment C159 are as follows:

- Replace the existing Municipal Strategic Statement for Barwon Heads at Clause 21.35 of the Greater Geelong Planning Scheme with a new Clause 21.35 which will include the land use directions and policies identified in the adopted Barwon Heads Structure Plan December 2007. The Structure Plan recommendations include retention of the existing urban boundary, protection of the unique character of Barwon Heads, consolidation of the town centre with a diverse mix of uses and activities and protection of the surrounding rural landscape and its coastal and river setting.
- Rezone Stage C of the Thirteenth Beach Golf Resort to Rural Conservation Zone.
- Rezone Residential 1 zoned land along both sides of Hitchcock Avenue, between Ozone Road and Clifford Parade, to Mixed Use zone.
- Rezone Residential 1 zoned properties along Stephens Parade to Low Density Residential zone.
- Apply Road Zone Category 1 to Golf Links Road – Bridge Road and remove the Road Category 1 (and replace it with appropriate surrounding zones) from Geelong Road – Hitchcock Avenue to reflect the relocation of the Declared Arterial Road through the town.
- Apply a new Significant Landscape Overlay to properties in the Barwon River environs, north of Ozone Road to the western end of River Parade.
- Apply a new Design and Development Overlay to Business 1 and existing and proposed Mixed Use zones forming part of the Barwon Heads town centre.
- Delete Design and Development Overlay 14 from those properties being rezoned from Residential 1 to Mixed Use Zone in Hitchcock Avenue.

Existing and proposed rezonings and Overlays are shown as **Attachment 2** (4 sheets).

### **3.0 THE AMENDMENT AND ACCOMPANYING MATERIAL**

The Amendment as exhibited comprised the following documents:

- The Explanatory Report.
- The various zoning and overlay mapping changes.
- A new Clause 21.35 together with the Structure Plan map.
- A new Schedule 9 to the Significant and Landscape Overlay.
- A new Schedule 19 to the Design and Development Overlay.
- A new Schedule to Clause 61.03

The Barwon Heads Structure Plan which was adopted by Council in December 2007 and which is the major reference document containing the recommendations upon which this Amendment is based, also formed part of the exhibited documentation.

### **4.0 FORMALITIES – AUTHORISATION, PUBLIC NOTICE ETC**

Council requested authorisation for preparation and exhibition of this amendment by letter dated 12 May 2008 (**Attachment 3**) Authorisation No. 1030 was received from the Minister by letter dated 26 November 2008 (**Attachment 4**)

Amendment C159 was exhibited in accordance with the provisions of the Planning and Environment Act between 5 February 2009 and 23 March 2009 as follows:

- Public notice in the Geelong Advertiser, The Echo and Talking Heads, then in the Government Gazette on 5 February 2009.
- Notification to all landowners directly affected by any zoning or Overlay changes and properties surrounding the proposed new Mixed Use zone in Hitchcock Avenue.
- Copy of the Notice of Amendment to prescribed Ministers.
- Copy of the Notice of Amendment to all relevant Government Departments, Statutory authorities and community groups.

A total of 377 submissions were received as a result of the exhibition of Amendment C159, the overwhelming majority of which expressed strong support

for the Structure Plan's designation of the proposed Settlement Boundary which is intended to limit any further westward urban growth of the township.

A more detailed breakdown of submissions indicates:

- 367 submissions support the Structure Plan, in particular the designation of the Settlement Boundary.
- 4 submissions objecting to the Amendment because it does not support the rezoning of the Macafee land.
- 25 submissions supporting the Amendment's proposal to rezone the Thirteenth Beach Resort land east of Lings Road to Rural Conservation zone.
- 3 submissions objecting to the proposed rezoning of the Thirteenth Beach Resort land as described above.
- 12 submissions about the introduction of the proposed Significant Landscape Overlay (SLO9) to properties adjoining the Barwon River (11 general support, 1 objects).
- 9 submissions generally supporting the proposed Mixed Use zone along Hitchcock Avenue.
- 8 submissions supporting the proposed rezoning of Stephens Parade properties from Residential 1 to Low Density Residential.
- 10 submissions raising a range of concerns about traffic and parking issues.
- 6 submissions about the proposed introduction of a Design and Development Overlay in Hitchcock Avenue (5 general support, 1 objects).
- A submission seeking the inclusion of land at 6 Bridge Road in a Business 1 zone.
- An objecting submission from the town's motor mechanic that the Structure Plan does not provide a site within the town for him to relocate his business.

The following documents have already been provided to the Panel:

- The exhibited Amendment documentation as described above
- A copy of all submissions
- A schedule containing a list of all the submissions with a summary of the issues raised in each submission.

- A copy of the officer report presented to the Council on 25 August 2009 which considered the submissions and which sets out Council's response to them (apart from the Thirteenth Beach land where Council did not accept the officers' recommendation).

## **5.0 STRATEGIC PLANNING POLICY BASIS FOR AMENDMENT C159**

There is a raft of policies and Strategies formulated by the State Government and Council which have specific relevance to Barwon Heads and which guided the preparation of the Structure Plan.

These are summarized on pages 44 – 65 of the Structure Plan document, the major ones being:

### **State**

- Coastal Spaces Recommendations Report 2006
- Coastal Spaces Landscape Assessment Study 2006
- Victorian Coastal Strategy 2002 (New Strategy 2008)
- Ramsar Convention of Wetlands 1971
- Siting and Design Guidelines for Structures on the Victorian Coast 1998.

### **Council**

- Geelong Urban Growth Strategy 1996
- Barwon Heads Structure Plan 1996.
- Rural Land Use Strategies 1997 & 2007
- Bellarine Peninsula Strategic Plan 2006 – 2016.
- Barwon River Land Use and Open Space Corridor Plan 2003
- City of Greater Geelong Biodiversity Strategy 2003
- Barwon Heads Urban Design Framework 2003.

These Strategies and Policies have been encapsulated into the State Planning Policy Framework and Local Planning Framework contained within the Planning Scheme and will be referred to in greater detail in the Council's' response to submissions section of this presentation.

As part of the preparation of the Barwon Heads Structure Plan upon which Amendment C159 is based, an assessment of the key State and Local Policies and their implications for the study area was undertaken and presented in a schedule format in the Structure Plan report (pages 66 – 72) – see (**Attachment 5**).

The most important strategic planning messages and directions resulting from these State Government and Council policies are:

- The Government's strong encouragement to Councils to prepare Structure Plans to provide for the future development of their coastal towns consistent with State environmental and coastal policies.
- The need to protect and enhance the coastal, riverine and wetland environment surrounding the Barwon Heads townships.
- The Barwon Heads township is not designated as a growth area.
- Maintenance of non-urban breaks between settlements by protecting rural areas and environmental features on the Bellarine Peninsula.
- Encourage urban consolidation within defined settlement boundaries.

#### **Strategic Assessment Guidelines**

The Strategic Assessment Guidelines Practice Note indicates that proponents, planning authorities and planning panels should assess planning scheme amendment applications against a range of planning policy issues.

The table at (**Attachment 6**) examines the amendment against the Strategic Assessment Guidelines.

## **6.0 BARWON HEADS STRUCTURE PLAN**

As Amendment C159 implements the recommendations contained within the Barwon Heads Structure Plan, Council wishes to provide the Panel with details about the process of its preparation, community consultation and the reasons for the major recommendations which it contains – particularly as many of the submitters to Amendment C159 have made reference to the Structure Plan and its preparation.



## **7.0 RESPONSE TO SUBMISSIONS**

This presentation to the Panel will provide a response to the major issues which have been raised in the submissions, in the following order:

- Proposed settlement boundary
- Thirteenth Beach land east of Lings Road
- Significant Landscape Overlay – river environs
- Hitchcock Avenue Mixed Use zone
- Hitchcock Avenue Design & Development Overlay
- Stephens Parade
- Parking and traffic issues
- Motor mechanic
- 6 Bridge Road

### **7.1 Proposed Settlement Boundary**

By far the most contentious issue in the preparation of the Structure Plan has been the designation of a Settlement Boundary along the western edge of the town and whether or not it should be located along the existing zone boundary (as per the adopted Structure Plan) or whether it should be moved to the west to provide for further residential expansion of the town (in particular onto the Macafee land which has been the subject of a planning scheme amendment application and referred to in the exhibited draft Structure Plan which was released for public consultation).

The township boundary is proposed to be introduced into the Planning Scheme by the proposed new Clause 21.35 Barwon Heads which makes reference to the Settlement Boundary. This clause includes the Barwon Heads Structure Plan map.

The vast bulk of submissions to Amendment C159 supported retention of the exhibited Settlement Boundary as shown on the Structure Plan map. They submit Barwon Heads is not a designated growth area, an undesirable precedent would be created along the whole western edge of the town if the Macafee development is supported, expansion would encroach on significant wetlands,

there is inadequate infrastructure in the town, township expansion provides no community benefit, it would be contrary to State coastal policies and would result in loss of village character etc.

The Macafee family and 3 other supporting submissions object to this Amendment because they consider this property is appropriate for urban development in a responsible manner and that land supply in the town is being constrained. The Macafee family submission is that the Structure Plan needs to be revised to address growth to the west of the current boundary by more thoroughly addressing a range of strategic and broad planning issues.

The issue of the location of the Settlement Boundary for Barwon Heads was the subject of extensive community consultation and Council consideration during the preparation of the adopted Barwon Heads Structure Plan.

There is no new information contained in either the Macafee family submission or the objecting submissions seeking development of this land which would warrant any change in the stance taken at the time of adoption of the Structure Plan.

The reasons for maintaining the boundary immediately west of the existing Residential 1 zone are extensively explained in the Structure Plan. The views of the submitters who are seeking retention of the Settlement Boundary as shown in the adopted Structure Plan are supported. The reasons for not identifying the land outside this boundary including the Macafee land, for urban growth include:

**1) Contrary to State planning policies including the Victorian Coastal Strategy**

The State Planning Policy Framework, in particular Clause 15.08, provides the key planning policy directives for considering development proposals in coastal townships and along the coast. It was updated in December 2008 to give effect to the Victorian Coast Strategy 2008. It sets out detailed strategies under the following headings:

- Integrated planning for the future
- Managing coastal hazards and the coastal impacts of climate change
- Population growth and sustainable development

- Sustainable use, protection and management of environmental and coastal values
- Planning for the Great Ocean Road Region.

A copy of Clause 15.08 Coastal Areas is **Attachment 7**.

The new Victorian Coastal Strategy 2008 sets a long-term vision for the coast and provides policies and actions to guide decisions about its planning and management over coming years. In particular, it responds to important issues facing coastal townships which are particularly relevant to Barwon Heads, such as pressure of future population growth and potential impacts of climate change including rising sea levels.

The following policy extract from the Victorian Coastal Strategy on page 40, Planning & Managing Use & Development provides clear planning policies relevant to Barwon Heads and Amendment C159.

### Policy

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- 1** Ensure that planners and managers have regard to the following documents when preparing coastal planning schemes and Coastal Action Plans and management plans, where appropriate:
  - Victorian Coastal Strategy (2008)
  - *Coastal Spaces* (2006)
  - Melbourne 2030: planning for sustainable growth (2005) and Planning for all of Melbourne: the Victorian Government response to the Melbourne 2030 audit.
  - Great Ocean Road Region Strategy (2004)
  - Regional Catchment Strategies
  - Approved Coastal Action Plans and management plans under the *Coastal Management Act, 1995*Other approved management plans such as management plans for Marine National Parks and Sanctuaries.
- 2** Ensure coastal planning schemes apply the appropriate provisions contained within the Victorian Planning Provisions to protect non-urban areas between settlements for their visual, environmental and biodiversity values.
- 3** Protect visually significant landscapes, views and vistas in coastal areas through the application of the recommendations of the Coastal Spaces Landscape Assessment Study 2006.
- 4** Protect non-urban areas for their visual landscape, environmental, agricultural and recreational qualities.
- 5** Encourage opportunities to restructure old and inappropriate subdivisions to reduce development impacts on the environment.
- 6** Identify and avoid development in areas susceptible to flooding (both river and coastal inundation), landslip, erosion, coastal acid sulfate soils, bush fire or geotechnical risk.
- 7** Avoid disturbing coastal acid sulfate soils (CASS) and ensure any development proposed near or on CASS demonstrates that it will avoid any disturbance
- 8** Prohibit the development of new residential canal estates to ensure the protection of coastal and estuarine environments.

The following policy extract on Page 60, Part 4.2 Coastal Settlements & Communities from the Victorian Coastal Strategy 2008 provides strong planning justification for maintaining the Barwon Heads town boundary as shown in this Amendment. It is noted that these policies form the basis of the Population Growth & Sustainable Development Strategies contained in clause 15.08-2 Coastal Areas – Strategies of the S.P.P.F.

### Policy

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- 1 Identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values protected. Where no settlement boundary is identified, the extent of a settlement is defined by the extent of existing urban zoned land and any land identified on a plan in the planning scheme for future urban settlement.
- 2 Ensure coastal settlements and growth are appropriately planned and managed by:
  - supporting a network of diverse settlements as outlined within the Coastal Settlement Framework to provide for a broad range of opportunities and diversity
  - implementing and reviewing coastal settlement boundaries as part of the settlement planning process, consistent with the Coastal Settlement Boundaries Planning Practice Note, and having regard to the best available information on sea level rise and climate change risks and impacts
  - implementing the Coastal Spaces Landscape Assessment Study, State Overview Report, 2006 into relevant planning schemes
  - directing residential, other urban development and infrastructure within defined settlement boundaries of existing settlements that are capable of accommodating growth
  - encouraging urban renewal and redevelopment opportunities within existing settlements to reduce the demand for urban sprawl.
- 3 Maintain existing non-urban brakes between all coastal settlements to support community identity, sense of place and limit urban sprawl.
- 4 Avoid linear development along the coastal edge and major transport routes and within rural landscapes to preserve areas between settlements for non-urban use.
- 5 Retain non-urban uses between settlements and protect visually significant landscapes, views and vistas.
- 6 Ensure development is sensitively sited and designed and respects the character of coastal settlements.
- 7 Ensure a sustained water supply and storm water and sewerage treatment for all development.
- 8 Promote the incorporation of ecological sustainable design techniques in developments, such as energy and materials efficiency and water sensitive urban design.
- 9 Target priorities for infrastructure and innovative solutions in environmental hotspots where the provisions for potable water and reticulated sewerage services are not present or limited.
- 10 Promote on-going regional coordination and communication mechanisms to maximize knowledge transfer and practice around coastal change management and planning.

The Coastal Settlement Framework referred to in the above policy which is Figure 12(b) in the State Coastal Strategy is **Attachment 8**. It indicates very clearly the planned growth expectations of all coastal settlements which have been categorised as having High Growth Capacity, Moderate Growth Capacity or Low Growth Capacity. In the case of the Bellarine Peninsula and the nearby Surf Coast, a number of coastal towns including Barwon Heads are designated as having Low Growth Capacity, ie “Growth contained within existing urban or appropriate zoned land primarily through infill capacity and

renewal within defined settlement boundaries:. It should also be noted that Ocean Grove, next to Barwon Heads over the Barwon River is designated as having High Growth Capacity.

The DSE Practice Note “Implementing a Coastal Settlement Boundary” identifies that the process of establishing a coastal settlement boundary should be undertaken through a strategic planning process with a 10-year planning horizon. This process should identify the:

- desired future vision for a settlement;
- role and function of the settlement in comparison with other settlements within the region;
- constraints on development such as topography, native vegetation, rural land-use activity and areas of environmental or landscape significance and sensitivity, areas with susceptibility to flooding (both river and coastal inundation), landslip, erosion, coastal acid sulfate soils, salinity, wildfire or geotechnical risk;
- supply/demand of land within a 10-year planning horizon and opportunities for future growth (if any).

**Attachment 9** is a copy of the Practice Note.

In preparing the Barwon Heads Structure Plan and establishing the location of the town’s settlement boundary, the Council has undertaken the strategic planning process as recommended in the Practice Note. In respect to each of the above issues to be addressed during the Structure Plan preparation process the Council:

- identified a desired future vision for the town in consultation with the local community
- described the role and function of the settlement in comparison with other Bellarine Peninsula settlements and urban Geelong in its strategic planning policy statements included in its Planning Scheme

- described constraints to and potential impact of urban development on the surrounding landscape and environmentally sensitive areas
- addressed the issue of long-term lot supply for the town

Pages 128-132 of the Structure Plan document provide a more detailed analysis of the above points contained in the DSE Practice Note and demonstrates the strategic planning process which Council has undertaken is completely consistent with State Government guidelines.

With respect to the impacts of climate change, both Clause 15.08 of the S.P.P.F. and the State Coastal Strategy make it very clear that:

- the precautionary principle should be applied to planning and decision making when considering the risks of climate change, and
- there is a need to plan for a sea level rise of not less than 0.8 metres by 2100 and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and impacts associated with climate change.

As part of the Future Coasts program the Dept of Sustainability & Environment has now produced detailed topographic mapping which provides high resolution (1 metre) elevation data on land, extending from the low tide water mark to an elevation of 10 metres above sea level. The aim of this program is to produce detailed mapping of the coastline to be used to assess the physical vulnerability of coastal areas to climate change.

The Future Coasts digital elevation model (DEM) dataset was completed in June 2009 and extends across the entire Victorian coastline. **Attachment 10** is that part of the mapping series which applies to the Bellarine Peninsula and Corio Bay coastlines, whilst **Attachment 11** is at a larger scale for the Barwon Heads township.

Conclusions which can be reached from the information contained in these maps are:

- there are substantial areas within the existing Barwon Heads township area and immediately outside the township boundary within and below the 1-2 metre elevation range
- the vast majority of the Bellarine Peninsula (containing all the designated growth areas) is higher than 10 metres in elevation
- Whilst these maps are not intended for use for coastal vulnerability assessment, the impacts of storm surge, sea level rise and flooding are most likely to occur on coastal land at the lowest elevations; and
- Use of the precautionary principle when applying to land at lower elevations would suggest that future risks would be minimized by discouraging the extension of township growth into such areas.

## **2) Contrary to Council's Strategic Planning Policies**

For more than 20 years the strategic planning policies for the Bellarine Peninsula have remained substantially consistent, that is:

- Ocean Grove, Drysdale/Clifton Springs and Leopold have been identified as growth areas to accommodate new residential growth on the Bellarine Peninsula
- Smaller towns such as Portarlington, Indented Head, St Leonards, Point Lonsdale and Barwon Heads are not designated growth areas.
- Retention of farming land between the townships for agricultural production and rural land use is encouraged.
- Sites and areas of environmental sensitivity including flora, fauna, wetlands and coastal areas protected from urban development
- Non-urban breaks between settlements to be retained.

Examples of these consistent policies and strategies include:

- Geelong Regional Development Strategy 1988 (**Attachment 12**)
- City Coast Country: Urban Growth Strategy, CoGG 1996 reflected in Clauses 21.07 of City of Greater Geelong Framework Plan (**Attachment 13**) and Clause 21.08 (**Attachment 14**).
- Barwon Heads Structure Plan 1996 reflected in Clause 21.35 of the M.S.S. (**Attachment 15**)
- Barwon Heads Urban Design Framework 2003 (**Attachment 16** p55 SP)
- Bellarine Peninsula Strategic Plan – 2006-2016 (**Attachment 17** p 59-60 SP)
- Barwon Heads Structure Plan 2007.

It is Council's submission that with respect to the western boundary issue there has been a long-standing and consistent policy position, backed by strong community support, that there should be no westward expansion of the town into the adjoining rural land potentially resulting in the encroachment into environmentally significant areas.

Any urban development on the land outside the long-standing township boundary would completely change its character, result in the loss of the open rural farmland setting and appearance (described as "localised flatlands" in the Coastal Spaces Landscape Assessment Study) and diminish the small-scale village character of the Barwon Heads township.

### 3) **Environmental Constraints**

The surrounding natural landscape of Barwon Heads forms an intrinsic part of the town's identity. The western edge of the town, apart from its landscape value, also forms part of a highly significant wetlands system described in the Structure Plan as follows (p. 77):

"To the **north west** of the township is Lake Connewarre which incorporates the Lake Connewarre State Game Reserve. Murtnaghurt Lagoon lies directly to the **west**, across a section of rural land, stretching down from Lake Connewarre towards the coast. This wetland area,



together with Reedy Lake and the Barwon River Estuary, are included on the RAMSAR list, within the Port Phillip Bay and Bellarine Peninsula Site Listing. This entire area provides habitat for a number of migratory birds, including nationally and internationally threatened species. A number of threatened flora species are also found within the area, which is dominated by coastal salt marsh, together with some sections of mangrove shrub land.

The Strategic Management Plan for the RAMSAR site notes that, given its location at the bottom of the catchment, this area is 'directly affected by hydrological and water quality changes due to catchment processes and land use ... the ecological character of the wetland system depends greatly on water quality and flows' (p.10).

Further to the west of the Lagoon is the Thirteenth Beach Golf Links and open rural land."

Murtnaghurt Lagoon is connected to the Barwon River Estuary and Lake Connewarre by an overflow connecting channel. The western two-thirds of the Lagoon and the overflow channel is Crown land, whilst the eastern part of the Lagoon is located on the Barwon Heads Golf Course land. Existing Planning Scheme zonings and the overlays reflect the ownership and environmental significance of the land.

It is Council's opinion that protection of the environmental values of the Lagoon and the overflow channel can best be achieved by retaining the land outside the Structure Plan Settlement Boundary in its existing rural zoning and land use.

#### **4) Undesirable Precedent**

The vast majority of submitters who support retention of the town boundary as shown in the Structure Plan expressed the view that any rezoning of the Macafee site to enable residential development would create an undesirable precedent for considering other rezoning applications outside the boundary.

The Macafee family has always argued that their land is physically capable of accommodating residential development in that it has similar topographic

features and similar or higher elevation above sea level than areas within the developed township.

The plan at **Attachment 18** showing elevations at 0.5 metre contour intervals indicates:

- 1) the Macafee land has similar topographic features and elevation as much of the developed township, and
- 2) other land outside the town boundary, north of Barwon Heads Road is also at a similar height to the Macafee land and to substantial areas which have been developed inside the township boundary.

On the basis of substantially similar land suitability, it is Council's view that any support for rezoning of the Macafee land would create a substantial precedent for similar rezoning applications on the north side of Barwon Heads Road between the existing settlement boundary and the overflow channel.

The Council has already received expressions of interest to more intensive urban development from the owners of properties to the north of Barwon Heads Road as shown on the plant at **Attachment 19**. Examples of letters of support are at **Attachment 20**.

The Macafee land and development proposal as described in pages 123-4 of the Barwon Heads Structure Plan shows a site of 36 hectares of which 23.5 hectares is proposed for housing which would yield 240 residential lots, ie approximately two-thirds of the site to be developed.

The total area of the lots shaded on **Attachment 19** is 57 hectares. If they were developed at two-third capacity, ie 38 hectares, they would yield 380 dwelling sites.

The combined additional number of dwellings on the Macafee land and the shaded land in **Attachment 19** is 620.

There are currently 1941 dwellings within the Barwon Heads township. An additional 620 dwellings would increase the town's size by about a third, a quite significant extension.

## 5) Residential Lot Supply

One of the arguments put forward by the Macafee family in support of the rezoning of their land is that it would provide a boost to the dwindling lot supply within the township.

This point of view is refuted by many of the submitters who support the Structure Plan boundary on the basis that there is no need to make provision of an on-going lot supply in Barwon Heads because it is not a designated growth area, and further, it is conveniently located between two of the municipality's largest growth areas, being Armstrong Creek and Ocean Grove.

Council agrees with these reasons and concurs there is no need to provide for an increased lot supply in Barwon Heads. Armstrong Creek, the largest designated growth area in the municipality, planned to accommodate some 55,000-60,000 persons with the first stages of development commencing in 2010, is located 10.6 km to the west of Barwon Heads. Ocean Grove, on the opposite side of the Barwon River to Barwon Heads, is one of the designated growth areas on the Bellarine Peninsula and has the capability of doubling the town's population to 21,000 persons by 2010. **Attachment 21** shows the location of these growth areas in relation to the Barwon Heads township.

For the record, there are currently 214 vacant residential lots (existing or capable of being created) in Barwon Heads. Based on an average of 47 building approvals per annum since 1997/8, there is currently a 4½ year supply of vacant residential land. This is likely to be a conservative figure because it does not account for the demolition of older houses on large sites which can accommodate multiple dwellings.

However, the important point which Council wishes to make is that as Barwon Heads is not a designated growth area, it is one of the coastal townships which will at some stage in the future exhaust its residential lot supply (the same as Point Lonsdale, Breamlea, Anglesea, Aireys Inlet/Fairhaven/Moggs Creek, Lorne, etc). In other words, there is considered to be no planning imperative to regularly make more land available by further township extensions just to achieve some pre-determined continuous (5 or 10 year) lot supply figure.

**6) Loss of “village” atmosphere and undermine the “vision” of the town**

Most of the submissions supporting retention of the town boundary as shown in the Structure Plan have put the view that any westward expansion of the town would erode the “village” atmosphere and undermine the “vision” of the town as expressed in the Structure Plan.

A vision for the township was developed during the preparation of the Bellarine Peninsula Strategic Plan and is set out in the Structure Plan as follows:

“In the year 2016 **Barwon Heads** will be a unique, sustainable, residential and environmental hub; a landlocked community surrounded by pristine river, coast and wetlands. An intimate community which supports all age groups and provides a place of belonging for residents and visitors alike; where human impact is managed to support the fragile natural surroundings by:

- Clearly defined limitations on urban development
- Protecting and nurturing natural surroundings by managing human footprint
- Supporting walking, cycling, fishing, sailing, surfing, swimming and generally enjoying what our coastal village has to offer in an environmentally sensitive way”.

The Barwon Heads Urban Design Framework also included a vision for the township, which summarised the community’s aspirations for the future of the township and helped to canvass exactly what the urban design framework should achieve:

“A place that is defined by the natural landscape features that surround it – the Bellarine Peninsula’s ‘island’ community.

A town of diverse character where development is largely nestled into the coastal vegetation, or if development is not tucked away, it is honestly expressed and well designed.

A place where the informal qualities are retained, because it is these elements that give the town its special character, and where the interface of the town with the ocean, wetlands, river and rural land demonstrates and environmental sensitivity.

A township where people can walk safely, and experience a strong sense of nearness to the water through buildings and vegetation that highlight the coastal environment and unique landforms.

A place where a diverse and environmentally aware community want to live and visit”.

The small and relatively compact size of the town, its topography and layout provide tremendous opportunities for Barwon Heads to become a town which operates as a ‘sustainable village’, where protection of the sensitive environmental features and walking and cycling are parts of everyday life.

People are attracted to the town by the surrounding landscape, its river and coastal setting and scenic pedestrian environment, which are important features that need to be protected, to ensure that the very essence of the town’s attractiveness is not lost.

The State and Local Planning Policies previously referred to are deliberately aimed at restricting growth in Bellarine Peninsula towns such as Barwon Heads to ensure they retain their small-scale coastal character. Any substantial outward expansion would erode the generally peaceful village atmosphere by physically increasing the town’s size, increasing activity both pedestrian and vehicular whilst at the same time seriously impacting on the sensitive open landscaped setting of the town’s western edge. These potential impacts are certainly not consistent with the community’s expressed vision for the town as set out above.

## **7) Structure Plan boundary vs natural boundary**

One of the points used by the Macafee family in their submissions in support of the development of their land is that it would be preferable to use a natural boundary, ie the overflow channel as the boundary of the town rather than an artificial boundary (ie edge of the existing urban zone) as per the Structure Plan.

It is acknowledged that natural boundaries, such as watercourses, catchments (ridgelines) or existing native vegetation can often be used to delineate the extent of townships and may be easier to maintain as pressure builds to expand a town.

However, these natural features do not always exist in convenient locations and there are often planning outcomes which can best be achieved by using a non-natural zone boundary such as a road or property boundary. In the case of the Barwon Heads Settlement Boundary, which delineates the border between urban and rural zones, property boundaries have been used in preference to a natural boundary for the reasons which have already been outlined, ie:

- to restrict the size of the town in accordance with State and Council planning policy objectives
- to protect the open landscape farmland setting surrounding the town
- to maintain the “village” atmosphere of the town; and
- to prevent encroachment of urban development towards environmentally significant highly-sensitive wetland areas to the west of the town.

There are many examples on the Bellarine Peninsula where property boundaries, rather than a natural boundary, have been used to define the limit of a township.

## **8) Community Benefit**

Many of the submitters who supported the retention of the settlement boundary as designated in the Structure Plan consider there would be no community benefit in extending the urban zoning of the township. On the other hand, the Macafee family has, in documentation presented to the Council during the preparation of the Structure Plan, made the argument that a broad range of community services and facilities could be provided on their land which would serve the wider township. These suggestions have included a new kindergarten/maternal health centre, additional open space including a new oval and changing room facilities, expanded publicly owned buffer area to Murtnaghurt Lagoon and the overflow connecting channel etc.

The need for these additional facilities was addressed in the Structure Plan as follows (p 133):

“Advice from internal Council departments and external servicing authorities, such as the Department of Education and Bellarine Community Health, have advised that their planning for the coming ten years does not necessitate expanded sites or the relocation of existing facilities to accommodate the expected future demands of the population. Council’s Open Space & Recreation department have also advised that there are no future improvements to open space which require the purchase of land, instead future actions are to be focused on improvements to existing facilities. This advice is reflective of the findings of recent studies into open space and its provision to the township.”

#### **9) Summary re township boundary issue**

The Council believes there are excellent strategic planning reasons for maintaining the Barwon Heads settlement as shown on the adopted Structure Plan. This boundary reflects clear and long-standing State and Council planning policies, has strong community backing demonstrated consistently over the years and is supported by logical reasons aimed at protecting the town’s open rural setting and surrounding environmentally sensitive areas.

#### **7.2 Thirteenth Beach Resort land (Stage C) east of Lings Road**

The second most contentious issue in Amendment C159, based on the number of submissions received, is the future zoning of the Thirteenth Beach Resort land east of Lings Road.

The Thirteenth Beach Resort land is within a Comprehensive Development zone in the Planning Scheme, with the detailed use and development provisions being contained within Schedule 1 to the zone (**Attachment 22**).

In addition, as required by the Comprehensive Development zone provisions, the whole of the resort land is covered by the Thirteenth Beach Resort Comprehensive Development Plan which is an incorporated document in the

scheme as listed in the Schedule to Clause 81.01 **Attachment 23** is a copy of the current Comprehensive Development Plan.

The whole Comprehensive Development zoned area comprises some 340 ha, having originally being included in the site specific Tomara Resort zone with an accompanying Tomara Concept Plan in 1994. It was included in a Comprehensive Development zone in August 2000 when the Scheme was converted to the Victoria Planning Provisions format.

Land described as Stage A of the resort has been substantially developed and includes 2 18 hole golf courses, practice facilities, 150 “golf villa” lots (for detached houses) and approval for 150 apartments.

Land described as Stage B (57ha) was the subject of Amendment C54 to the Greater Geelong Planning Scheme which was approved in June 2007 amended the previously approved Comprehensive Development to provide for:

- A golf training facility for individuals and groups (eg schools) with conference, dining, office and dormitory accommodation for up to 40 persons.
- Additional golfing facilities in the form of 4 new golf holes.
- New purpose built boutique accommodation for 60 people.
- 130 “golf villa” lots i.e. for detached houses.

Development on the Stage B land has not yet commenced and it remains substantially as vacant rural land.

The land described as Stage C comprises 68 ha and is situated on the east side of Lings Road. It is currently used for farming purposes and contains no buildings. At the time of approval of Amendment C54 for Stage B, a notation was included on the approved Comprehensive Development Plan as follows:

“Land east of Lings Road: No Development or Building to be used as Accommodation or Commercial Purpose.”

Amendment C159 proposes to rezone the Stage C land from its existing Comprehensive Development zone to Rural Conservation zone. The introduction of this zone would prevent any further golf course development on the land



together with any accompanying tourist facilities and accommodation and any form of residential development.

A total of 25 submissions support the rezoning of this land to Rural Conservation zone as exhibited essentially on the grounds that it is the most appropriate means of protecting the sensitive adjoining wetlands and providing a non-urban buffer to the Barwon Heads township.

The Planning Group (Planning Consultants) acting for the owners of the existing Comprehensive Development zoned land east of Lings Road, Thirteenth Beach Golf Links Ltd and the Committee for Geelong object to the rezoning of this land to Rural Conservation because it would be contrary to the plans to develop a further stage of the golf links resort use on the land. The 3 submitters emphasise the importance of the existing and proposed resort to regional tourism.

### **Barwon Heads Structure Plan recommendations**

By way of background, the adopted Structure Plan recommends the application of 'the appropriate rural zone applicable on the Bellarine Peninsula' to Stage C (east of Lings Road) of the Thirteenth Beach resort site. The Structure Plan refers to the adopted Rural Land Use Strategy 2007 which recommended the application of the Rural Conservation zone (RCZ) across the Bellarine Peninsula to reflect the broader open farmed rural landscape values of the Peninsula. The Structure Plan recommendations for an 'appropriate rural zone' reflects the fact that the Rural Land Use Strategy had not been implemented into the Planning Scheme.

### **Amendment C129**

The Rural Land Use Strategy will be implemented through Council's Amendment C129 which is the major review of its Municipal Strategic Statement. The Amendment C129 Panel recommended to Council that the Farming zone, rather than the RCZ, should be the zone to be applied across the Bellarine Peninsula, a position subsequently accepted by Council in its adoption of Amendment C129. Council's acceptance of this position is reflected in the Amendment C159 Explanatory Report which flags that for the Thirteenth Beach Resort Stage C land "it is intended to change the zoning of this land to Farming Zone during the processing of this Amendment."

### **Planning Scheme Amendment application – Stage C land**

A new Planning Scheme Amendment application was submitted by The Planning Group on behalf of Thirteenth Beach Resort to Council in April 2009 (well before Council considered the Amendment C159 submissions) which proposes the construction of an 18-hole golf course, additional clubhouse and well-being centre (day spa, gym, indoor pool, massage/therapeutic facilities and 30 bed accommodation), associated car parking and landscaping and provision of walking/cycling connection to the Round the Heads Trail.

This application seeks to amend the current Comprehensive Development Plan in the Planning Scheme which contains the notation preventing any development on the Stage C land. **Attachment 24** is the new plan subject of the Planning Scheme Amendment application.

### **Council's Response**

The Council report which considered the submissions contained a recommendation that the existing Comprehensive Development zone should be retained on the Stage C land, for the reasons contained in the following extract from the report:

“The new proposal for an 18-hole golf course and well-being centre, which is the subject of a current planning scheme amendment, did not form part of Council’s consideration of either Amendment C54 or the new Barwon Heads Structure Plan.

It is considered that the new proposal for the Stage C land generally meets Council’s policy objectives for the area provided a number of important requirements are included in any future amendment documentation, ie:

- demonstration of no adverse impact on Murtnaghurt Lagoon and the sensitive wetlands adjoining the southern and eastern boundary of the site;
- a guarantee (potentially Section 173 Agreement) that there will be no further development proposals on the Stage C site, particularly any form of development capable of being occupied as a permanent residence

- indication of how Stage C will integrate with the existing resort development, ie direct pedestrian/cycling/golf cart/vehicle link;
- details of Environment & Landscape Management Plans as per earlier stages of the development”

The Council did not agree with this recommendation and resolved to support application of the exhibited Rural Conservation zoning to the Stage C land of the Thirteenth Beach resort for the following reasons:

- 1) It reflects historical long-term plans for the Stage C land;
- 2) It gives effect to the decisions taken by Council and the Minister for Planning in approving the Stage B development (Amendment C54);
- 3) It provides the highest level of protection as a buffer to environmentally significant wetlands and ensures retention of the open farmland landscape; and
- 4) It provides the clearest long-term planning intention for the site and gives effect to Council’s adopted Barwon Heads Structure Plan.

Each of the above points will now be addressed in detail:

**1) Reflects historical long-term plans for the Stage C land:**

In April 1993 the original application was received by Council to rezone 340 hectares of what was then known as the Tomara property from a Rural General Farming zone to a new Tomara Resort zone to provide for the development of a tourist resort based around two new 18-hole golf courses. As part of these provisions a new Tomara Concept Plan was proposed to be inserted into the Scheme as an Incorporated Document.

This original application became Amendment R45 to the Geelong Planning Scheme. It was exhibited in November 1993, adopted by Council in February 1994 (following objecting submitters being satisfied of Amendment changes) and approved by the Minister in April 1994.

A copy of the Concept Plan is **Attachment 25**. It shows the land now described as Stage B being designated for “agriculture” and the land now described as Stage C being designated as a “model farm”.

The Tomara Resort zone remained in place until the new format (VPP) Greater Geelong Planning Scheme came into operation. At that time, July 2000, the whole of the resort land was included in the Comprehensive Development zone – Schedule 1 – Tomara resort. The new zone provisions were a translation of the former zone provisions and the Tomara Resort Comprehensive Development Plan, dated February 2000, replaced the 1993 Plan and become an Incorporated Document at Clause 81 of the Scheme. A copy of the February 2000 Comprehensive Development Plan which is **Attachment 26**, does not provide any clarity about how the Stage B and Stage C land is to be used.

In June 2003 Council received an application to amend the Planning Scheme to incorporate a new Comprehensive Development Plan into the Scheme to provide for the development of the Stage B land generally in the form as earlier described. This application became Amendment C54 which was exhibited in February 2004. Submissions received at the time raised the issue of whether such development had ever been contemplated on the Stage B land, whilst Council officers raised the issue of the need to resolve the issue of the future development of the Stage C land (letters from Council dated 13 September 2004 and 20 January 2005, **Attachment 27**.)

Council considered the submissions to Amendment C54 and resolved to refer them to an Independent Panel approved by the Minister for Planning.

The Panel recommended to Council that it adopt Amendment C54 with considerable modifications including changing the layout of the Stage B development. However, particularly relevant to the Stage C land which is the subject of Amendment C159, the Panel commented that there is no evidence of any expectation for further development beyond Stage A of the resort (pages 37-39 Panel Report **Attachment 28**).

The Amendment C54 Panel report also contains an excellent history of the zoning and development of the Thirteenth Beach Resort land, particularly pages 27-29.

It is Council's opinion, that from an historical perspective, there is no evidence that the land described as Stage C and which has always formed part of a larger Concept Plan or Comprehensive Development Plan, has ever been designated or nominated for any form of development other than continuing farming usage.

**2) It gives effect to the decisions taken by Council and the Minister for Planning in approving Amendment C54**

When the Council considered the Panel's report on Amendment C54 in October 2006, it also made its intentions about the future development of the Stage C land very clear.

The Panel had commented that for the sake of transparency and to overcome some of the problems encountered in Amendment C54, Stage C should be identified on the Comprehensive Development Plan with a notation to the effect of "subject to further development" and that there will be no "residential estate development comprising detached dwellings, apartments or units which would enable them to be occupied as residences on a permanent or part-time basis". (Page 48 Panel report **Attachment 29**).

The Panel also observed "that the retention of the break between Barwon Heads and Lings Road is a key strategic direction in the Planning Scheme" (also page 48 Panel Report).

The stance taken by Council on the Stage C land is clearly outlined in the following extract from the Council report at its meeting in October 2006 which considered the Amendment C54 Panel recommendations and resolved to adopt the Amendment:

**"Land east of Lings Road**

The land east of Lings Road, like all of the Thirteenth Beach Resort, is within the Comprehensive Development zone but its future use and development is not shown on the existing Comprehensive Development Plan incorporated into the Planning Scheme. At the time of the consideration of submissions, Council recognised this issue needed to be addressed as part of the Panel's consideration of this Amendment. The Panel also agreed that this area should be identified on the new

consolidated Comprehensive Development Plan and commented that the 'retention of the break between Barwon Heads and Lings Road is a key strategic direction in the Planning Scheme'.

At this stage it is considered that the Comprehensive Development Plan should contain the following wording 'Land east of Lings Road: no development or buildings to be used as accommodation or commercial purpose' and that an additional purpose should be added to the accompanying Schedule 1 'To ensure the development and use of the land east of Lings Road reinforces the non-urban break between the Barwon Heads township and the Thirteenth Beach Resort'.

Whilst these provisions are more stringent than recommended by the Panel, they more clearly reflect Council's planning policy framework and provide an unambiguous indication of current development expectations. It is intended that the issue of future urban development between the western edge of the Barwon Heads township and the Thirteenth Beach Resort will be reviewed as part of the preparation of the new Barwon Heads Structure Plan to which all land owners will be encouraged to contribute. It is considered appropriate that the future use of this area should be subject to a proper Strategic Planning process to determine its future (rather than through the processing of Amendment C54)."

Council sees its approval of Amendment C54 which enables development to proceed on the Stage B land very much as part of a package which at the same time clarifies the long-term planning for the Stage C land east of Lings Road.

Amendment C54 was then sent to the Minister for Planning for approval. When the Minister approved the Amendment, The Minister wrote to Council on 5 June 2007 and included in the letter:

"I agree with your Council that strict limitations are necessary to manage future use and development of Stage C of the resort to maintain the green break to the Barwon Heads township. Therefore, the approved Comprehensive Development Plan includes the following restriction: 'Land east of Lings Road – no development or buildings to be used as accommodation or commercial purpose'. I urge Council to reflect this

outcome in the revised Barwon Heads Structure Plan which is currently in preparation”.

**Attachment 30** is a copy of the Minister’s letter.

It is Council’s view that by applying the Rural Conservation zone, which prohibits any future golf course or tourist development of the form currently being proposed, is the most transparent and simplest planning mechanism to give effect to the Council’s Amendment C54 adoption and the Minister’s clear statement in approving this Amendment.

**3) Protection of environmentally significant wetlands and retention of the open farmland landscape**

As outlined in the response to submissions on the settlement boundary issue, two of the important planning objectives for the land between the existing township and Lings Road are to:

- ensure protection of the environmentally significant wetlands, ie Murtnaghurt Lagoon and the overflow channel, and
- maintain the open rural farmland setting and appearance at the entrance to the Barwon Heads township.

The importance of these planning policy objectives have, as indicated, also been recognized by the Amendment C54 Panel.

The environmental sensitivity of the area which adjoins the Stage C land has been described in our response to the settlement boundary issue. Much of the environmentally sensitive areas are in public ownership as reflected by the application of the Public Conservation & Resource zone to Murtnaghurt Lagoon and the overflow channel. Two portions of the Lagoon are in private ownership and have been zoned Rural Conservation (Schedule 10), one at the very southern end of Lings Road owned by Thirteenth Beach Golf Links Ltd and the other being the eastern portion of the Lagoon owned by the Barwon Heads Golf Club, both of which remain substantially in their natural state.

The landscape setting on the approach to Barwon Heads east of Lings Road which Council wishes to preserve, comprises open grazing farmlands with sparse vegetation other than windbreaks around paddocks and along roadsides on generally flat to slightly undulating topography (see aerial photograph). On the approach to Barwon Heads this landscape enables medium-distant views to the dunes along the coast to the south and the escarpment along the Barwon River to the north.

By contrast, the high mounds and boundary landscaping along that part of the Barwon Heads Road frontage subject to Stages A and B restrict the medium distance views, whilst glimpses of the manicured golf course are strikingly different in appearance to the rural farmlands closer to the township.

In considering the most suitable zone to be applied to the Stage C land, the Council had regard to the zone objectives of each of the options (Comprehensive Development zone, Farming zone and Rural Conservation zone) and also took into account the zone provisions and land uses which could be permitted in each of these zoning options. This information was provided in a Schedule format attached as an appendix to the Council report which considered the submissions – **Attachment 31**.

The Council's position is that:

- the objectives of the Rural Conservation zone most closely match the two planning objectives outlined above.
- the more stringent zone provisions of the Rural Conservation zone provides the highest level of protection for the surrounding wetlands and maintenance of the open farmland character by significantly reducing the opportunity for further planning approval for another golf course and accompanying tourist development being sought on the Stage C land.

The Conservation Values of the area to which Schedule 10 of the RCZ applies is described in the Scheme as follows:

“Murtnaghurt Lagoon, Barwon Heads



This is privately owned land that adjoins the publicly owned land forming the Murtnaghurt Lagoon. It is physically part of the wetland system and subject to inundation. The zone has been applied to ensure the protection of the vegetation and faunal habitat, and to ensure that the Lagoon is protected from adverse storm water run-off.”

A copy of Schedule 10 is **Attachment 32**.

It is Council’s opinion that RCZ 10 should also be applied to the Thirteenth Beach Resort Stage C land which would necessitate a broadening of the description of the Conservation Values contained in Schedule 10 as follows (the new words are in bold print).

“Murtnaghurt Lagoon **and adjoining area**, Barwon Heads

This is privately owned land that adjoins the publicly owned land forming the Murtnaghurt Lagoon. It is **either** physically part of the wetland system and subject to inundation, **or adjoins the Lagoon and overflow channel**. The zone has been applied to ensure the protection of the vegetation and faunal habitat, and to ensure that the Lagoon is protected from adverse storm water run-off. **Where land adjoins the Lagoon, the zone has been applied to protect the wetlands from encroaching development and to protect the character of the open rural farmland landscape.**”

In exhibiting a Rural Conservation zone on the Stage C land of Thirteenth Beach Resort, the Council indicated (in the Explanatory Report) it would pursue a Farming zone for this land, consistent with its decision on the Amendment C129. Having now considered the submissions and resolving to pursue the Rural Conservation zone as exhibited, Council is now seeking inclusion of the Stage C land in RCZ 10 with the consequential changes to the Schedule outlined above.

**4) Clearest long-term planning intention for the site and gives effect to the adopted Barwon Heads structure Plan**

It may be argued that the existing comprehensive zone accompanied by the current Comprehensive Development Plan incorporated into the Planning Scheme with the existing notation applying to the Stage C land achieves the

same planning outcome as the Rural Conservation zone in that any commercial or tourist-type development on the Stage C land is, or would be, prohibited.

Council's view is that retention of the existing zoning does nothing to discourage future applications to amend the Comprehensive Development Plan (similar to the application already made), on the basis that such proposals are consistent with the Purpose of the zone. Use of a notation on a Comprehensive Development Plan as a long-term means of use and development control over such a substantial and significant site is neither as transparent or potentially as permanent as application of the Rural Conservation zone.

The Farming zone, which is and which Council proposes to continue to apply to the privately owned rural land adjoining the Barwon Heads township, is another option considered by Council to apply to the Stage C land. However, the Purpose of the zone does not give sufficient recognition to the environmental significance of the area and further the zone provisions enable a planning permit to be sought for the form of development of the Stage C land which Council does not wish to encourage. The Farming zone provisions also do not give effect to the historical long-term plans for the Stage C land and more importantly, does not reflect the decisions taken in approving the Stage B development in Amendment C45.

## **8.0 Response to DPCD submission**

The Council welcomes the Department's endorsement of and recognition that the settlement boundary as proposed in the Barwon Heads Structure Plan is based on sound planning principles. It reinforces Council's submission that the settlement boundary contained within the Structure Plan is consistent with the State Planning Policy Framework, the Victorian Coastal Strategy 2008, the Coastal Spaces Recommendations Report 2006 and the Coastal Settlement Boundaries Practice Note.

The Council does, however, raise a number of concerns with the final paragraph of the DPCD submission which advocates retention of the existing Comprehensive Development zone for the Stage C Thirteenth Beach Resort land. These concerns include:

- The DPCD submission acknowledges that Councils authorization request clearly sought rezoning of the Stage C land to Rural Conservation and that authorization was granted to enable the Amendment to proceed to exhibition.

The Department does not explain the change of circumstances which has resulted in it no longer supporting the authorised exhibited Amendment.

- The DPCD submission acknowledges that in approving Amendment C54 the Minister wrote that he agreed with Council that strict limitations are necessary to manage future use and development of Stage C of the Resort land by imposing the restriction to prevent the land being used for accommodation or commercial purpose and he urged Council to reflect this outcome in the new Barwon Heads Structure Plan.

The DPCD submission provides no plausible explanation of why it has taken a position which now does not support the outcome of the work to review the future of the Stage C land as part of the Structure Plan process, precisely as requested by the Minister.

The explanation provided in the Department's submission that "there was no development proposal for the land in Stage C of the Thirteenth Beach Resort at the time" is hardly convincing. The only changed circumstance appears to be the untested new Amendment application lodged with Council on the Stage C land.

- The Department's submission recognizes the environmental significance of the Stage C land as "an environmentally sensitive location which is in close proximity to the Murtnaghurt Lagoon wetlands".

Having acknowledged the site's environmental significance, the Department should at least provide an explanation of why the Rural Conservation zone would not better protect these values than the existing zoning. The Department's submission only refers to the Farming zone as the alternative zoning option for the site and does not address Council's position that the Rural Conservation zone should be applied to the site.

- The Department's submission indicates that retention of the existing zoning "enables any future resort associate development proposal to be considered

on its merits through a planning scheme amendment process". The Department's submission does not acknowledge that this is the circumstance Council is attempting to discourage.