

**GREATER GEELONG PLANNING SCHEME
AMENDMENT C110**

GEELONG GOLF LINKS REDEVELOPMENT

PANEL REPORT

MAY 2006

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COMPLETION OF HEARING

ACRONYMS

The following is a list of acronyms used in this report.

Departments, Organisations and Businesses

DSE Department of Sustainability and Environment

EPA Environment Protection Authority

Zones

CDZ Comprehensive Development Zone

R1Z Residential 1 Zone

Overlays

DPO Development Plan Overlay

Other Terms

LPPF Local Planning Policy Framework

MSS Municipal Strategic Statement

SPPF State Planning Policy Framework

VPP Victorian Planning Provisions

1. OVERALL CONCLUSIONS & RECOMMENDATIONS

1.1 OVERALL CONCLUSIONS

The Panel has considered all the submissions referred to it and all the material presented at the hearings and has reached the following conclusions.

Housing Policy

The type of housing provided will support housing policy by adding to the diversity of housing options available in Geelong, but the proposed development will only make a modest contribution to State and local policies which support a range of more intensive housing forms on the site. It is recognised, however, that the development outcomes reflect a balancing of planning policy directions with Council and community objectives to reinstate a golf course use and maintain a landscaped interface with adjoining roads, as well as responding to site constraints.

Heritage Values

The Panel finds that, on the basis of the assessment by Heritage Victoria, the condition of the golf course and associated infrastructure and the interruption to the continuous use of the land for golf, there are no significant issues of conservation of heritage values that impact on the Amendment. The provisions of the Development Plan Overlay will adequately address Aboriginal cultural heritage issues and the retention of the Gallipoli 'Lone Pine', while the Section 173 agreement should ensure that memorabilia of the former golf club will be appropriately preserved and displayed.

Open Space

The Amendment site is not publicly owned and the Panel was advised that there are no plans to acquire the land for public open space or other public purposes. The Panel is satisfied that the proposal incorporates the usual level of provision of public open space, very generous areas of other open space and important linkages to the regional bicycle network. The Panel is of the view that the proposed nine hole golf course is a practical outcome for the site. It will present a challenging layout, particularly for recreational golfers, and the design can meet accepted safety standards. There is no reason to conclude that the course will not be a viable long term venture, but if the golf course use should cease, the obligation to transfer the golf course and associated facilities to Council provides an assurance that the recreation asset and the site's contribution to the landscape of the locality would be maintained.

Habitat values

Fauna will be disturbed during the development phase, habitat values will be subject to urban edge effects and some existing mature habitat trees will be lost as a result of the proposed development. Nevertheless, the proposal maintains a much greater vegetated area than would be achieved under alternative development scenarios for this privately owned land. The Panel

is satisfied that the proposed DPO requirements for development to maximise the preservation of mature and significant trees, to make extensive use of locally indigenous plants and the incorporation of water bodies are an appropriate means of protecting and enhancing the site's habitat values. An additional requirement for a staging plan for removal and replacement of mature trees is recommended to achieve optimum outcomes for both amenity and habitat values in the longer term.

External Impacts, Character and Design

Provided that interface treatments are managed well, the Panel concludes that adjoining uses will not be adversely affected and there is considerable scope to enhance the contribution the site makes to the locality's streetscapes. The Panel does not agree with submissions that the Amendment provides for an overdevelopment of the site. The combination of the Residential 1 zoning, which limits the scope of options for that land, the proposal for retirement village housing to the north of the site, and the assessment of specific development proposals against ResCode objectives and standards, all limit the potential for adverse external impacts from the development. It is also noted that the operation of nearby industrial and saleyards uses are already constrained by residential development closer to these uses, and new residents of the subject site are not likely to be subject to unacceptable impacts.

Planning policy indicates that it would not be appropriate on this site to attempt to replicate the low density form of the housing nearby, but the development should be respectful of other development in the locality. The combination of the housing located within the body of the site, non residential uses adjoining much of the site, the landscaped setting provided by the golf course, together with generational differences with the styling of the residential fabric surrounding the site, all lead the Panel to the view that the development will inevitably establish its own character as a new neighbourhood. Despite some reservations, the Panel accepts that the proposed process of design control is a method by which the developer has achieved high quality, if standardised housing results. The Panel is satisfied that the scale and form of housing at the interface of the retirement village with existing housing to the north will be compatible. However, the treatment of the southern portion of the boundary of the site with the Grace MacKellar Centre should be reviewed to ensure that views from the west on Ballarat Road are attractive. This could involve reconfiguring the southern most lot(s) and/or consideration of fencing details.

While it is recognised that the development proposed will be distinctive in the locality and is likely to be perceived as an enclave, the design should ensure that perceptions as a 'gated community' are not reinforced. The planning framework, together with changes recommended by the Panel: should ensure that all roads and shared paths are publicly accessible; the potential for greater connection with the Grace MacKellar site is foreshadowed; and the external boundary treatments provide view corridors to increase the visual permeability of the subject site. Where safety fencing is necessary to restrict access to the golf course, it should be an integral part of the landscape design so as to minimise its prominence.

The Panel has also recommended the deletion of energy efficiency requirements in relation to individual buildings, as the building code addresses these requirements in a comprehensive manner.

Traffic and Parking

The Panel finds that the provision for car parking and traffic management associated with the proposal has been dealt with adequately, with the exception of the egress from the Ballarat Road entrance where the Panel recommends that right turns out of the site be banned. Whilst a concern of some submitters has been addressed by not allowing vehicle access to The Fairway, the issue of entry to the maintenance depot for the proposed golf course still remains unsolved and will need to be addressed.

Flooding

The Panel finds that the Proponent has taken adequate steps to ensure that stormwater and flooding issues on the site can be adequately addressed to preserve the existing flood regime, have no adverse impact on existing flooding elsewhere in the catchment, improve storm water quality and meet the statutory authorities requirements. A Special Building Overlay over those portions of the site subject to inundation within the Residential 1 zone provides the most appropriate mechanism to ensure that the floodplain manager has a key role in the assessment of actions that may impact on flooding, including after completion of the development. It is noted that Council's 2006/2007 Capital Works Budget provides for improvements on the drainage infrastructure to improve the management of overflow land problems in the vicinity of the site.

The Planning Framework

With some redrafting and the inclusion of a number of additional matters, the revised Development Plan schedule the Schedule will provide an effective framework for the development of the site. The iterative process leading to the revised schedule has responded to a number of concerns raised in submissions. The Panel considers that the removal of third party rights by the Development Plan Overlay is justified due to the limited potential for unacceptable direct impacts on third parties, the extensive exposure of the issues as part of the Amendment process, and the commitment that is formalised in the proposed Section 173 agreement that the development plan to be submitted will generally accord with the plan considered as part of the Amendment C110 process. As the integration of the site with the Barwon Health facility to the west has not been finally resolved, the DPO should require consideration of their views when the development plan is assessed.

The proposed Section 173 agreement also fulfils a useful role in: providing an assurance that the development of the golf course and retirement village are progressed; requiring public open space and wetlands to be transferred to Council; establishing long term obligations if the golf course use ceases to operate; and addressing issues beyond the Amendment site such as access to The Fairway, and the construction of shared pathways. However, the Panel does not consider that the specification of maximum numbers of allotments and units is necessary or justified. Rather, the Agreement requirement for the development to be generally in accordance with the draft development plan tabled at the hearing, together with the additional specification of the broad housing type in specific areas, would strike a reasonable balance that ensures key planning issues are addressed while maintaining flexibility to respond to expressed housing needs and market conditions.

Overall, the Panel concludes that the Amendment will provide an appropriate planning framework for a development that will result in a net community benefit by supporting planning policy to consolidate established areas with good access to infrastructure and

services, increasing the diversity of housing options in Geelong, maintaining recreational golfing opportunities on the site, enhancing the streetscape of adjoining major roads, providing linkages to regional bicycle and pedestrian networks and providing some short and long term multiplier effects for the local economy. The material presented to the Panel demonstrated that: the development envisaged will provide an appropriate built form that does not have adverse impacts on adjoining uses; the site's habitat values can be protected; and traffic, parking and flooding are capable of being adequately addressed.

1.2 RECOMMENDATIONS

Based on the reasons set out in this report, the Panel makes the following recommendation to the planning authority.

Amendment C110 to the Greater Geelong Planning Scheme should be adopted subject to the following changes.

1. The revised Schedule to the Development Plan Overlay, tabled on the final day of hearing, be adopted with further revisions generally in accordance with the discussion in Section 6.2.2. The further revisions include:
 - Restructuring to clearly distinguish between objectives and requirements to achieve objectives.
 - Deleting:
 - References to the land east of Thompson Road;
 - Provisions relating to the floor levels, energy efficiency and water conservation features of dwellings as these matters are addressed in the building code; and
 - The requirement to purchase green energy for use in common areas within the development.
 - Extending open space objectives, other than seeking linkages to existing networks, to open space that is to be managed by the body corporate;
 - Modifying the Urban Design Master Plan requirements to include:
 - Indicating the location and the method of display of memorabilia and artefacts of the former golf club in the future clubhouse facility;
 - The preservation of opportunities for road and pedestrian access to Barwon Health to the north and west of the site;
 - Specifying that a retirement village should be located in the north of the site;
 - Details of the retirement village development, including on-site communal facilities to be provided for residents;
 - Reference to both public roads, and private roads with a right of public carriageway; and
 - A requirement that barriers or other devices are not installed to preclude public access to roads within the development.
 - Modifying the Landscape Master plan requirements to include:
 - Landscaping, fencing and gateway treatment requirements along both Thompson and Ballarat Roads with view corridors into the site from these roads. The boundary treatments adopted should be recessive elements in the streetscape that do not reinforce perceptions of exclusion or enclosure;
 - Increased visual permeability of the subject site, specifically in the matter of mounding and landscape screening in areas of the site perimeter;

-
- The 'Lone Pine' tree to be identified, its condition to be assessed and, if practical, its retention in landscape planning for the new golf course. The tree should be identified with a commemorative plaque; and
 - The staging of necessary removal of trees and the associated supplementary planting to be specified.
 - A requirement for a staging plan. The staging plan should provide for 40 units within the retirement village to be available for occupation not later than the title registration of the 150th residential lot and that the remainder of units within the retirement village be completed on the title registration of the 200th residential lot; and
 - Requiring consideration of the views of: the former golf club members regarding the display of memorabilia; the floodplain management authority; and Barwon Health when deciding whether the development plan is satisfactory.
2. Approval of the Amendment subject to Council and the Proponent entering into an agreement generally in accordance with the draft Section 173 Agreement circulated on 6 March 2006, but with further revisions to the following effect:
- Clause 3 and the definition of 'the Development' in Clause 1.4 should be modified to:
 - Delete the reference to maximum number of allotments and units; and
 - Require development to be generally in accordance with the draft development plan tabled at the hearing.
 - Clause 4.1 should not nominate the width of shared pathways;
 - Clause 6.3 should be deleted and requirements for a staging plan be included in the DPO schedule;
 - Clause 6.4 of the revised agreement, which requires the Development Plan to include details of the retirement village development (including on-site communal facilities to be provided for residents), should be included in the DPO schedule rather than the Agreement;
 - Clause 6.8 provide for the transfer of *'the facilities and appurtenance necessary for the continued conduct of golf, including: a nine hole golf course, clubhouse including changing facilities, professional shop, maintenance depot and associated facilities.'*;
 - A new clause be included that requires the conservation of memorabilia of the former Geelong Golf Club and the display of the club memorabilia. The means of conserving and display of the memorabilia should be to the satisfaction of Council after consultation with representatives of the former club;
 - The inclusion of a new clause that no vehicle access will be provided from The Fairway to the golf course or to the area proposed to be rezoned Residential 1;
 - The apportioning of costs for works associated with the development within the road reserves bounding the perimeter of the site should be included in the Section 173 Agreement; and
 - Reconciliation of site areas with revised Draft Development Plan.
3. The Special Building Overlay apply over those portions of the site subject to inundation in the proposed Residential 1 zone.
4. Before approval of Amendment C110, an assessment of historical use by an appropriately qualified professional be carried out to address the General Practice Note for Potentially Contaminated Land, and the assessment be submitted to Council.

OTHER RECOMMENDATIONS

- 5. Development applications for the land to be rezoned in the south east precinct should not provide for right turns out of the site onto Ballarat Road.**
- 6. The entry to the maintenance depot be the subject of further discussion between the Proponent and Council.**
- 7. Kerbs and channel be installed on those sections Ballarat Road adjoining the site where they do not currently exist. This matter should be taken up with the road management authority and the cost of these works should be borne by the relevant authorities.**

2. WHAT IS PROPOSED?

2.1 THE SUBJECT SITE AND SURROUNDS

The site has an area of approximately 45 hectares and is located at the intersection of Thompson and Ballarat Roads, North Geelong, approximately 3 kilometres from Geelong's central activity district. Thompson Road bisects the site with the two precincts linked by a pedestrian underpass for golfers.



Figure 1 **Locality Plan**

The uses in the vicinity of the north-west precinct are:

- To the west - Grace MacKellar Centre for Rehabilitation & Extended Care.
- To the north - residential uses and a small park.
- To the east:
 - north of Victoria Street the use is residential comprising single storey weatherboard and brick homes.
 - south of Victoria Street the land is zoned industrial and comprises mixed uses including a service station, office complex, and a large hotel.
- To the south - on the opposite south side of Ballarat Road the land is zoned Residential with predominantly single storey detached dwellings.

Thompson and Ballarat Roads are in a Road Zone. Ballarat Road is a dual carriageway primary arterial road with a grassed centre median and is the principle access to the Midland Highway connecting Ballarat and Geelong. Thompson Road is a two-lane carriageway secondary arterial road. Both roads are managed and maintained by VicRoads.

Bus Route Nos 12, 30, 40, 41, 42 service the site. The North Geelong railway station is located 1.5 km to the east of the site and provides a commuter service to Melbourne.

2.2 BACKGROUND

An 18 hole golf course operated on the site until July 2004. It included a pro-shop and a clubhouse with a bar, a bistro and a gaming room (30 machines).

The Council rejected two earlier rezoning applications:

- In September 2003, Council refused to exhibit an application to rezone the whole of the golf course land to provide for over 400 dwelling sites, 3 commercial sites, a relocated Clubhouse and a new 9 hole golf course.
- Amendment C77 proposed the rezoning of the western portion of the golf course site (west of Thompson Road) to Residential 1 to provide for 200 dwelling sites, retention of a 9 hole golf course. Changes to the eastern portion of the land were not proposed. Council abandoned Amendment C77 in July 2004 following consideration of submissions.

The Panel directions letter advised

The Panel advised at the directions hearing that it will consider all submissions and material presented to it. However, it was noted that the Panel assessment relates to the planning merits of the Amendment before it and matters such as alternative proposals, issues associated with the sale of the land, issues that are internal to the golf club and effects on property values are beyond the scope of the matters to be considered by the Panel.

The limits on the scope of the Panel assessment were confirmed during the course of the hearing.

The Panel is aware that the closure of the golf course, the demise of the golf club and the sale of the club land have been highly contentious for an extended period and many of the submitters who were members of the club continue to hold strong concerns about those processes. However, the Panel's role is confined to evaluating the town planning issues associated with the Amendment C110 and the assessment in the report does not address other matters.

2.3 THE AMENDMENT

The amendment proposes to:

- Rezone the 32.5 hectares of the former Golf Club land west of Thompson Road from Special Use 3 (Private Golf Course) zone to Residential 1 zone and apply a new Development Plan Overlay Schedule 8.
- Rezone a 5000 square metre portion of the land fronting Ballarat Road adjoining the golf clubhouse car park from Special Use 3 (Private Golf Course) zone to Residential 1 zone.

The Amendment does not propose any changes to the Local Planning Policy Framework (LPPF).

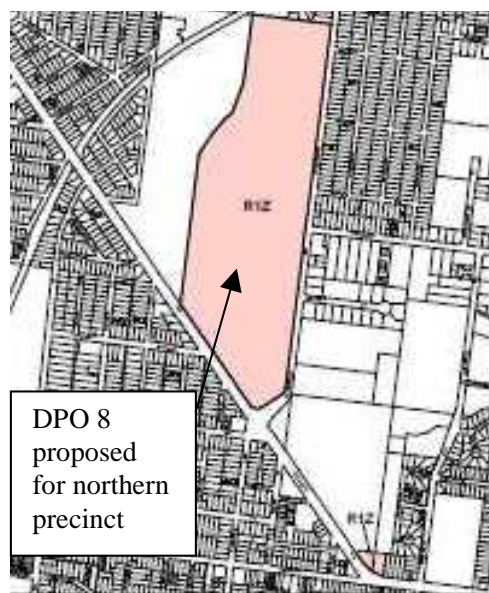


Figure 2 Exhibited Rezoning

Section 173 Agreement

The Amendment Explanatory Report described the key requirements of the Section 173 Agreement exhibited with the Amendment as follows:

- Transfer of the land utilised for the operation of the golf course (excluding any clubhouse or other buildings or improvements) as it will exist at the completion of the development in the event that it ceases to operate as a golf course or other recreational operation;
- Transfer of land identified on the Development Plan to Council for public parkland;
- Manage the wetlands and sedimentation basins for a period of three years before transferring them to Council;
- Construct footpaths and bicycle paths within the former Geelong Golf Course Land;
- Improve and maintain the pedestrian underpass on the land in a manner to be agreed by the Owner and the Responsible Authority;
- Consult with the Wathaurang Aboriginal Co-Operative in relation to any proposed Aboriginal archaeological survey of the land and any proposed requirements for the monitoring of construction works to protect Aboriginal archaeological sites; and
- Incorporate energy efficiency, water conservation and recycling principles in the development of the land.

Council resolved on 11 November 2005, after considering submissions, to support revision of the Draft Section 173 Agreement to achieve the following Council's objectives for the redevelopment of the site:

- The development of the site to be generally in accordance with the draft development plan including a maximum of 200 residential lots, a retirement village of a maximum of 120 lots, and the golf course and associated facilities;
- The retirement village shall be available for occupation upon completion of 50% of the residential development. The developer is to provide detailed development plans of the retirement village including, but not limited to, the on-site communal facilities to be provided for the residents;

-
- An enforceable obligation on the developer to develop the nine hole golf course and associated facilities, generally as depicted on the draft development plan. The developer is to provide detailed development plans of the golf course to be approved by Council. The plans must show a high quality course, associated facilities and landscaping;
 - An enforceable obligation on the developer to develop the nine hole golf course and associated facilities prior to the completion of the first stage of the residential development;
 - An enforceable obligation on the developer for the on-going maintenance of the land containing the golf course and associated facilities;
 - In the event that the golf course ceases to operate the land occupied by the course shall be transferred to Council;
 - In the event that the golf course ceases to operate the clubhouse and other buildings and improvements associated with the golf course shall be transferred to Council; and
 - Identification of the land to be transferred to Council for public parkland and wetlands.

A revised Section 173 Agreement prepared by the Proponent was circulated to all parties on 6 March 2006 and provided the basis for discussion during the hearing. A without prejudice discussion of the scope of the Section 173 agreement occurred at the end of the hearing. The Panel's evaluation of a potential agreement is provided in section 6.3.

Exhibited Indicative Development Plan

A Draft Development Plan shown in Figure 3 was exhibited with the Amendment for information purposes. The Draft Development Plan illustrates the key components of potential development as follows:

- A residential development in a variety of forms, including a retirement village;
- Approximately 5,000 m² of the land with an abuttal to Ballarat Road, to allow for applications for uses permitted within a residential zone such as medical centres;
- A nine-hole golf course spread over the north-west and south-east precinct; and
- A series of wetlands and water bodies, a centrally located community recreation facility and a bicycle path through the site which connects to the existing bicycle network along the disused rail line to the north of the subject land.

Figure 3 Exhibited Draft Development Plan

Revised Indicative Development Plan

A revised Draft Development Plan was submitted by the Proponent after the exhibition process. The Panel directed that this revised plan should be forwarded to all parties scheduled to appear at the Panel hearing. This revised Draft Development Plan provided the basis for discussion during the hearing. The revised plan is shown in Figure 4 below.

Council described the post exhibition changes to the configuration of the land uses and activities in the revised plan as follows:

- The proposed retirement village is more regular in shape and has an indicative configuration of independent living units and retirement village communal facilities area;
- The layout of the central residential area has changed with segments of land along the interface with the Grace MacKellar centre now proposed to be developed with residential sites;
- The wetlands have been re-aligned and expanded;
- Designated location for areas of public open space (one area south of the retirement village and one area within the central residential area);
- The provision of a recreation centre and cafe, and tennis court on the western site;
- A revised second entrance alignment between Galway Avenue and Kendra Street; and
- Revised alignment of the bicycle pathway. The bicycle path is now proposed to be located within the site running parallel with Thompson Road (2.5 metres wide), connecting to the trail in the north via the west side of the proposed retirement village.

A further minor change was tabled at the hearing to achieve golf course safety design standards.

In the revised proposal the south east portion of the site retains the golf course function unchanged but reconfigured in layout; it contains the course maintenance and the existing clubhouse facilities; and proposes to create a site (5000m²) for uses such as a medical centre, allowable in a residential zone.

The north west portion contains part of the golf course, in combination with development of the site for residential and related purposes.

Uses proposed within the development include a nine hole golf course; residential units (max 200 lots, area 4.47ha); retirement village (max 120 lots, area 2.38ha); recreation centre and tennis court (area 0.31ha); and medical centre. In addition it proposes two areas of public open space to be transferred to Council - in the north adjoining the secondary access road (area 0.41ha¹) and mid site adjacent to the main access road (area 0.14ha).

Main access to the site is off Thompson Road, opposite Victoria Street via a signalled intersection, with a secondary access road off Thompson Road between Galway Avenue and

¹ Note, this area was nominated in the accompanying notes to the amended Draft Development Plan but does not appear correspond to areas in the 173 Agreement which specifies an area of 0.2 hectares. The Panel has adopted the area nominated in the documentation circulated to parties prior to the hearing and tabled at the hearing.

Kendra Street. A system of public and private roads provides internal access to areas of the site.

A bicycle path (2.5m wide) is proposed along Thompson Road, extending north from the Ballarat Road intersection, along the internal road south of the retirement village, and connecting to the regional bike trail at the north end of the site.

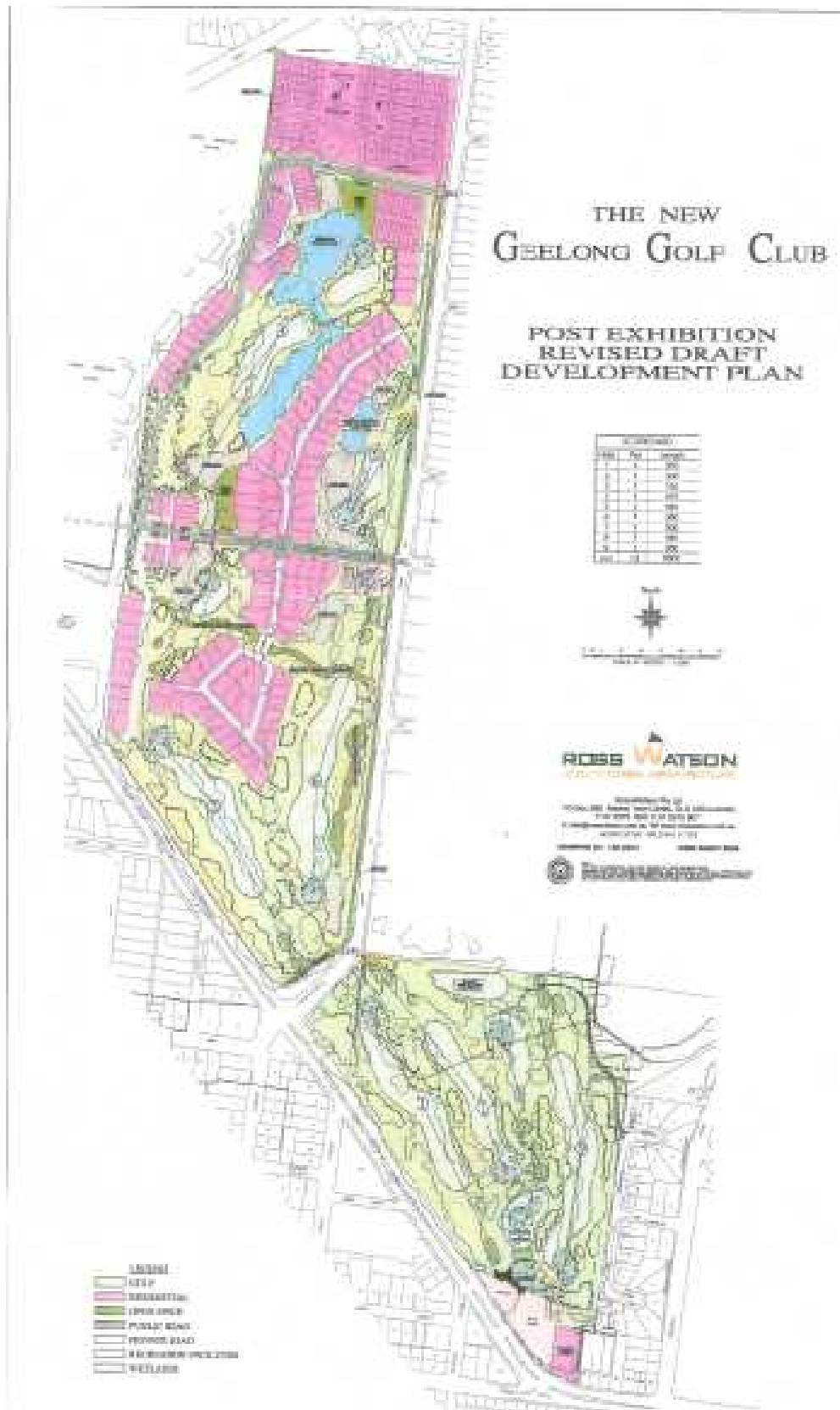


Figure 4 Revised Development Plan (post exhibition changes circled)

Status of the Draft Development Plan

The Draft Development Plan does not form part of the Amendment and a separate approval process for the Development Plan would apply if the Amendment proceeds.

Submitters were concerned that there was no assurance that the Draft Development Plan that underpinned the assessment at the Amendment stage, would in fact be the plan subsequently approved by Council without recourse to third parties.

The Panel hearing process and the Panel's assessment accorded significant weight to the concepts presented in the revised Draft Development Plan for the following reasons:

- The draft development plan is a relevant consideration as it has informed the consultative process associated with the Amendment process, and if a Development Plan Overlay is introduced, third party rights to participate in subsequent approval processes for the northern precinct would be removed; and
- There was agreement between Council and the Proponent that the proposed Section 173 Agreement should include a provision to the effect that the development of the site would be generally in accordance with the Draft Development Plan. Therefore, a legal commitment to the Draft Development Plan associated with the Amendment process is envisaged.

The Panel is satisfied that the Draft Development Plan establishes the scope of the Development Plan to be submitted if the Amendment is approved as both Council and the Proponent have foreshadowed legal commitments to that effect. However, it is recognised that further refinement may occur in order to respond to issues that may arise during the more detailed design development phase.

Exhibition and Submissions

Amendment C110 was exhibited for a 5 week period between 4 August and 12 September 2005.

A total of 380 submissions were received, 21 of which either supported the amendment or offered no objection and 359 of which objected to the amendment.

A submission was also received that requested consideration as part of this panel process, of the petition received to the previous rezoning application (Amendment C77), with 6,500 signatories. Mr Pitt referred the Panel to the VCAT case *Annie De Beer & Mark Stokes v Greater Geelong City Council* VCAT 384 (31 January 2000) regarding the weight to be given to petitions. The petition is indicative of the fact that there has been significant public controversy surrounding the future of the Amendment site. This is the extent of the consideration given to the petition by the Panel, because it related to a different proposal and it is not known what knowledge the signatories had of that proposal. Further, the Panel's assessment is based on the planning merits of the proposal, rather than the number of objections or signatories to a petition.

3. STRATEGIC & STATUTORY CONTEXT

3.1 STRATEGIC PLANNING FRAMEWORK

This section identifies the existing strategic context within which issues associated with Amendment C110 must be considered.

The relevant documents that provide the context for considering Amendment C110 are set out below. The relevant aspect of these documents are addressed in the Panel assessment of issues.

The relevant clauses of the State Planning Policy Framework (SPPF) are:

- Clause 11.04 Principles of land use and development planning
- Clause 14 Settlement
- Clause 15.02 Floodplain management
- Clause 15.05 Noise abatement
- Clause 15.06 Soil contamination
- Clause 15.10 Open space
- Clause 15.11 Heritage
- Clause 16 Housing
- Clause 17.03 Industry
- Clause 18.09 Water supply, sewerage and drainage
- Clause 19.01 Subdivision
- Clause 19.03 Design and built form

The relevant **LPPF** clauses are:

- Clause 21.04 Geelong's vision and guiding principles
- Clause 21.05 Planning principles
- Clause 21.06 City of Greater Geelong integrated planning framework
- Clause 21.07 Strategic directions
- Clause 21.08 Urban growth
- Clause 21.10 Environmental management
- Clause 21.12 Flood management
- Clause 21.14 Conservation of native flora and fauna
- Clause 21.15 Open space
- Clause 21.18 Housing

Other relevant policies are:

- *Study of Open Space Networks* Tract Consultants Pty Ltd and HM Leisure Planning September 2001
- The Ripplside Catchment Stormwater Management Plan

- Recommended Buffer Distances for Industrial Residual Air Emissions (Publication No AQ 2/86) (EPA 1990).

The amendment does not propose any changes to the strategic framework.

3.2 EXISTING ZONES AND OVERLAYS

The Site

The subject site is currently zoned Special Use (Private Golf Courses) which provides for as of right use for agriculture, golf course, golf driving range and informal outdoor recreation, with a permit required for uses such as food and drink premises, function centre, minor sports and recreation facility and restricted place of assembly. Other uses, including dwellings, are prohibited in the zone. A permit is required for development.

The site is not affected by any overlays.

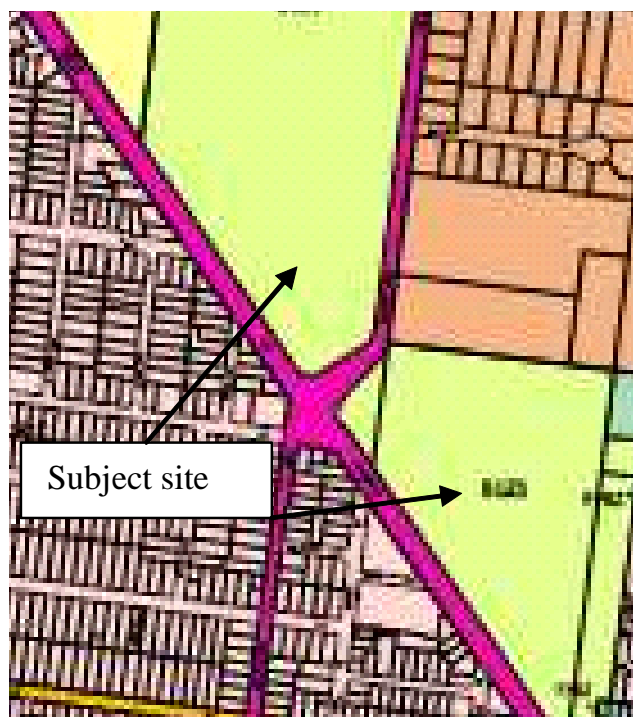


Figure 5 Existing Zoning

The Surrounding Area

The land surrounding the site is zoned as follows:

- Residential 1 to the north, north-west, south-west and the south;
- Public Use – Health and Community adjoins to the west;
- Industrial 1 to the east;
- Public Park and Recreation to the north and south-east.

4. SUBMISSIONS

4.1 NATURE OF SUBMISSIONS

The Planning Authority, the City of Greater Geelong, supported Amendment C110 on the basis that:

- The amendment is consistent with the relevant State and local planning policies, particularly policies relating to settlement, urban growth, housing, open space and infrastructure;
- The site is well positioned to provide urban development that takes advantage of localised physical and social infrastructure, including public transport;
- The proposed development will offer a mix of residential living options from single dwellings to medium density and elderly person's accommodation, not readily available within the local area. The development represents an appropriate transition from adjoining residential areas and the Grace MacKellar site, in terms of land use mix and built form;
- The site constraints, such as flooding and stormwater drainage, can be appropriately managed;
- The Schedule to the DPO, including recommended revisions, will ensure that the development respects the landscaped setting of the land, provides for a modest scale residential component and the re-instatement of a recreational use on the land that will be a community asset and facility;
- Industrial land use issues are considered to have minimal impacts on the site and, conversely, the development will have minimal or no detrimental impacts on existing industrial uses, including the saleyards; and
- The development facilitated by the amendment would result in an overall community benefit.

The key issues raised in the objecting submissions were:

- The land requires a long-term strategic review and plan to achieve the greatest benefit to the community. The golf course is being exploited for commercial gain and the proposal is not in the community's interest;
- The loss of open space and green belt is unacceptable in an intensively developed area with inadequate open space;
- The development is inconsistent with the existing neighbourhood character and would create a gated community;
- Environmental impacts associated with the loss of a large area of open space with mature vegetation;
- Loss of an historical golf course;
- A nine hole golf course not financially viable and will lead to future rezoning applications or the acceptance of maintenance of a space designed for optimum benefits for the residential development rather than the best public open space outcome;
- Stray golf balls will pose a safety hazard to residents and those using the adjoining roads;

- The capacity of the road network is inadequate to safely accommodate increased traffic from the development;
- Impacts on the adjacent Barwon Health facility;
- The existing infrastructure will not cope with the development;
- The separation from the Saleyards, which is less than 500 metres, is inadequate;
- The proposed rezoning for a Medical Centre in the south-eastern portion of the eastern site;
- Developers are taking advantage of the golf club's financial plight without due regard for the rights of the members of the Golf Club. The Golf Club Board and the Links Group has acted improperly and Council has an obligation to investigate the selling of the land; and
- There will be a loss of property values in the area.

The Panel has summarised the Proponent's argument in support of the Amendment as follows:

- The Amendment would facilitate development which would clearly result in a net community benefit compared to the outcome of Amendment C110 being abandoned;
- The proposal contributes to meeting housing needs and makes a modest contribution to urban consolidation on land that has full infrastructure and is close to Geelong's CBD. This is achieved without adverse impacts on the amenity of surrounding residents;
- Required improvements to stormwater management, which would otherwise be at public cost, would be achieved at developer cost;
- The development reinstates the golf course use with provision for public use, together with other recreation opportunities;
- The proposal would result in the ongoing maintenance of the land, including an enhanced landscape;
- Significant economic benefits would be realised as a result of construction of the project and the establishment of a new residential area and recreation facilities;
- Issues raised in submissions have not been substantiated:
 - The development will not be gated. Planning policy supports higher density infill development, together with the different development eras, mean that it is inevitable that the new development will be different to the existing development. The site configuration, objective to maintain a golf course use and limited access to the north and west, will reinforce the differentiation of the site within the locality;
 - There is not a lack of public open space in the neighbourhood and there has been no interest by public sector agencies to purchase the land for open space or other public purposes;
 - Building regulations provide the appropriate mechanism to address energy efficiency; and
 - Habitat values for some birds and landscape amenity values will be maintained or enhanced but the site has not been identified as having significant biodiversity values.
- Some concerns raised in submissions are not relevant planning grounds eg. Relating to the demise of the golf club and the sale of the land.

4.2 ISSUES IDENTIFIED BY THE PANEL

The following Panel assessment of the issues raised in submissions is structured on the following basis:

- Whether the amendment supports planning policy and strategies;
- The loss of a historic golf course;
- Open space including the potential loss of golf course use and the provision of accessible public open space;
- Impacts on surrounding uses, including the development's relationship to the Barwon Health facility, potential impacts on residential uses, separation between industrial and sensitive uses, and separation from the saleyards;
- Urban design including: development planning; design and built form; whether the proposal would be a gated community; and landscape design;
- Golf course design;
- Traffic and parking;
- The protection of vegetation and fauna habitat;
- Flooding; and
- Other issues including infrastructure capacity and potential contamination.

The Panel then evaluates the proposed planning framework mechanisms, namely the zoning proposed, the Development Plan Overlay and the Section 173 Agreement.

The Panel's evaluation of the Amendment against the Strategic Assessment Guidelines is provided in the Appendices, generally with cross referencing to the relevant sections within the body of the report.

5. ISSUES

5.1 DOES THE AMENDMENT SUPPORT STRATEGIC PLANNING DIRECTIONS?

This section focuses on broader strategic policy directions with more specific issue based policy guidance being addressed in subsequent sections dealing with particular issues such as open space provision, urban design, heritage and flooding. Key themes to be addressed in this section relate to:

- The need for a strategic review before Amendment C110 is considered; and
- Strategic directions for settlement, particularly housing, and urban growth.

Planning Policy

There is a consistent policy theme in both the SPPF and Geelong's MSS to promote urban consolidation.

State settlement policy directs planning authorities to, amongst other things, encourage consolidation of existing urban areas while respecting neighbourhood character, take account of opportunities for redevelopment and intensification of existing urban areas, and to encourage higher density and mixed use development near public transport routes (SPPF Clause 14.01).

State housing policy also includes objectives to encourage:

Opportunities for increased residential densities to help consolidate urban areas. (SPPF Clause 16.01)

and

To encourage the development of well-designed medium-density housing which:

- *respects the neighbourhood character.*
- *improves housing choice.*
- *makes better use of existing infrastructure.*
- *improves energy efficiency of housing. (SPPF Clause 16.02)*

The SPPF (Clause 12.03-2) promotes the growth of regional cities, including Geelong, as part of a 'networked cities' model to provide viable alternative urban locations to Metropolitan Melbourne. This involves, amongst other things, planning to deliver an adequate supply of land for housing to meet forecast growth while reinforcing the distinctive character of each city.

Geelong's MSS foreshadows changing requirements in terms of service provision and urban form due to the increased proportion of retired baby boomers and smaller household size. The MSS, like the SPPF, encourages urban consolidation, a broader variety of medium density housing options. Increased densities are sought to enable existing urban area boundaries to be maintained, to use surplus infrastructure capacity and to justify the provision

of additional services (Clause 21.05 Planning Principles - settlement). Clause 21.18 Housing has the objective of providing a diversity of residential opportunities across the municipality to cater for the range of housing needs within the community. Further it supports strategies of:

- An increase in the availability of residential accommodation in the inner city areas to provide more opportunities to live within walking distance of employment services and entertainment; and
- Increases in housing densities where the integrity of the locality is not prejudiced and where there is available capacity in the infrastructure.

In addition to broader statements promoting higher densities and medium density housing, MSS Clause 21.08 nominates a target density of 15 dwellings per hectare in new residential growth areas. The MSS recognises the community's concern about some aspects of higher density development and has identified key characteristics, a preferred character statement, and design guidelines for existing residential precincts, while also indicating support for *'increases in housing densities where the integrity of the locality is not prejudiced and where there is available capacity in the infrastructure.'* (Clause 21.18 Housing).

Submissions and Evidence

A number of objecting submissions argued that, rather than reacting to the proposal to be facilitated by the Amendment, the planning authority has a responsibility to undertake a strategic review to achieve the greatest long term benefit to the community from the use and development of such a substantial landholding. Ms Nyssen suggested that the review of the planning scheme for North Geelong should be completed before a decision is made about this proposal. At the hearing Mr Demetrious suggested that Council has had 4-5 years to conduct its own strategic review rather than responding to a series of opportunistic proposals. He advocated an evaluation from first principles of the full range of options for the land.

Many submitters sought the retention of all, or a major part, of the site as open space. Greening Geelong West Inc. articulated the view in other submissions that the benefits of retaining the site, which is in one of Geelong's most densely developed areas, for large scale open space to meet community needs far outweigh the benefits from the Proponent's development. It was emphasised that this opportunity will not be repeated if the proposed development proceeds.

Submitters, including Mr Nyssen and Mr Hill, argued that the retirement village would not meet the needs of the local residents as the sale of homes in the area would not provide the resources necessary to buy into the new accommodation. It was also suggested the price of the new housing provided in the development would reinforce perceptions of a separate 'enclave' with adverse social implications.

Both Council and the Proponent submitted that the Amendment meets planning objectives and strategies by providing for increased residential land and urban consolidation within an existing area served by a range of infrastructure and services. Council considered that the proposed development, as shown in the revised Draft Development Plan, achieves these planning objectives without undermining the character of the wider area. (see discussion in 5.5). Town planning evidence from Ms Katz supported this view.

With regard to the need for a strategic review, Council responded that:

Council must consider the application under the existing Planning Scheme provisions which did not envisage the course being sold nor the closure of the golf course. It is submitted that a review of the land, in the context of its location and the relevant State Planning policies, is likely to support the land being developed with a mix of residential and recreational uses, a balance between the community aspirations for the land and the reality of the closure of the course. A proposal which combines these uses considers the site's proximity to surrounding residential uses, the proximity to community facilities and services, and optimises the use of existing infrastructure.

It is considered there is sufficient policy justification in the State and Local Planning Policy Framework of the Planning Scheme to support the proposal, as assessed under the Strategic Assessment Guidelines of this presentation.

The Proponent also argued that:

The future of the Subject Land has been the subject of debate for a significant period of time and the authorisation of the exhibition of the Amendment by the Minister is consistent with the proposition that there is no need for a further strategic review as a condition precedent to considering the merits of the development contemplated by the Amendment.

Panel Assessment

The Panel agrees that the site presents a rare opportunity in an established urban area. A systematic strategic review by the planning authority of the optimum use of the site, rather than responding to proposals presented to it, would have been desirable. However, the Panel was not convinced that consideration of the Amendment should be deferred pending such a review. The planning system often needs to respond to proposals that are not specifically anticipated in the planning scheme and assessment is then based on the guidance provided by the planning policy framework, together with evaluation of the merits of proposal. The proposal has been extensively ventilated through a series of amendment processes and the opportunity has been provided for consideration of a range of options for site, including the option advocated by many submitters for the land to be purchased for public use (see discussion in 5.3.1).

The Panel agrees with Council and Ms Katz that both State and local planning policy indicate a policy predisposition in favour of urban consolidation within established areas and achieving greater housing diversity in response to changing housing needs, particularly associated with the aging of the population. These policies support the range of housing options proposed. They also support a more intensive form of development than occurred in the past and it is noted that the LPPF nominates a target lot yield of 15 lots/per hectare.

Although some submissions expressed concerns about the intensity of the development proposed, the Panel notes that the post exhibition revisions to the proposed Section 173 Agreement limited the number of residential lots to 200 and retirement village lots to 120. This overall density is much lower than would normally be sought for an infill development in a location such as this, which is within 3km of central Geelong, on bus routes and with good access to commuter train services.

At the hearing the Panel queried the intensity of the development envisaged, which provides for a net yield in the order of 2/3 of the planning policy target density. Specific justification of the proposed limits on lot numbers was not provided. Council's submission, and Ms Katz

acknowledged that it could be argued that the relatively low intensity of the development proposed does not fully meet the objectives of the urban consolidation policy, but the modest density is the product of:

- Incorporating planning authority and community concerns to maintain the landscape setting;
- Reinstating a golf course use in the development design; and
- Incorporating best practice water management measures to address recognised water quality and flooding constraints.

The Panel recognises that the residential yield achieved reflects a trade off in response to Council objectives and apparent community concern during the formulation of the proposal to preserve a golfing use on the site and the 'green' street interface. The limit on lot numbers appears to be intended to provide some certainty to the community about the parameters for subsequent Council decisions but the Panel does not support the nomination of arbitrary requirements that have little policy or technical justification (see further discussion in section 5.5.2).

Although broad concerns were expressed, submitters did not detail their concerns about adverse social impacts from the development.

The Panel acknowledges that the price of dwellings and retirement units in the development may well be a barrier to access to residents of the immediate area.

The planning system has limited capacity to ensure that privately developed housing is affordable. The key planning tools available include ensuring that the planning system does not unreasonably restrict the capacity to supply a wide range of housing types and ensuring that planning requirements do not impose excessively costly requirements. It is noted that the Grace MacKellar facility, which adjoins the site, provides significant existing and future opportunities for a range of accommodation types for older people, including residents of the immediate area.

The Panel considers that the cost of the private housing facilitated by the Amendment will almost inevitably be higher than in the immediate area. This is partly a reflection of the fact that the housing will be new and will incorporate features now expected by home buyers, as well as reflecting the cost implications associated with reduced yields to meet community and/or planning authority objectives to incorporate a golf course and environmental management measures. The Panel is satisfied that, while the housing resulting from the development will not meet the needs of all, it will extend the range of housing options available in Geelong, including housing for small households and older people.

Findings and Conclusions

The Panel finds that urban consolidation and housing policy support a range of more intensive housing forms on the site. The Panel recognises that the development outcomes envisaged reflect a balancing of planning policy directions with Council and community objectives to reinstate a golf course use and maintain a landscaped interface, as well as responding to site constraints.

This conclusion that there is broad policy support for the Amendment is subject to the evaluation of specific issues in subsequent sections.

5.2 LOSS OF HISTORICAL GOLF COURSE

5.2.1 Background

Geelong Golf Club was officially formed on 4 August 1892, with members playing at 'Balliang' estate on the banks of the Barwon River until 1893, when the club moved to the current site.

The club demonstrates a significant aspect of Victorian history in that it remained in continuous use as an eighteen hole golf course from 1893 to its closure in 2004. At that time it was the second oldest golf club, and the oldest course in continuous use in Australia. It was further important in that it demonstrated the evolution of golfing in Geelong and the broader region, including the Bellarine Peninsular.

The first clubhouse, a timber framed building, was built in 1898. It was extended in 1937, and in 1963-64 underwent major reconstruction, with the addition of a number of facilities. In recent years there has been a further addition to the building at the east or car park end of the site.

5.2.2 Heritage Issues

Heritage Victoria undertook an assessment of the golf course in 2003.² It found that the course was of historical significance at a State level (AHC A.4 and H.1), as one of the earliest courses surviving in Australia; it was significant at a local level (AHC G.1) in that it is recognised and valued by sections of the Geelong and more widely the Victorian community, as an important recreational and sporting landscape.

The Heritage Council determined on 1 July 2004 that the Geelong Golf Course was not of sufficient cultural heritage to warrant inclusion in the Victorian Heritage Registrar. It further resolved to recommend that the place be included in the heritage overlay to the local planning scheme.

Subsequent to Heritage Victoria's assessment, the Council's heritage planner in consultation with their heritage advisor, further considered the matter in the context of Australian Heritage Commission criteria and revised practices relating to the application of heritage overlays, including VPP Planning Practice notes. The advice suggested that, while it was

² Heritage Victoria, Assessment of the Geelong Golf Club; 2003

acknowledged the site has social and cultural significance as an early golf course, the site has low integrity due to the substantial alterations made to the early clubhouse and landscaping in the golf course. It was determined that application of a heritage overlay would be difficult as there was insufficient physical fabric that embodied the significance of the site, and meet the threshold tests.

Relevant Planning Policy

SPPF Clause 15.11 Heritage seeks to assist the conservation of places of natural, environmental, aesthetic, historical, cultural, scientific or social significance. This requires that planning and responsible authorities to identify, conserve and protect places of natural or cultural value from inappropriate development, including:

- *Important buildings, structures, parks, gardens, sites, areas, landscapes, towns and other places associated with the historic and cultural development of Victoria....*

It further requires that planning and responsible authorities take account of the findings and recommendations of the Victorian Heritage Council and provisions of the *Heritage Act 1995* (SPPF 15.11-2).

Evidence and Submissions

For the most part, the Proponent and Council did not address the issue of golf course heritage. Two submitters (Mrs Rayma Agg and Ms Jenny Hovey) argued in their presentation that development of the site as proposed would result in the loss of a historical golf course. These submitters raised the issue of the loss of the club honour board, sporting memorabilia and artefacts in the transition of the property from the Geelong Golf Club to the Links Group. In response, Mr Ian Pitt SC indicated these materials were in safe keeping and currently in the process of being catalogued. In written submissions the Proponent had indicated its intention to display such material in a future clubhouse facility.

In a further comment to the Panel a submitter (Mr Hector MacDonald) sought retention of the 'Lone Pine' tree from Gallipoli. It is believed to be located on the left hand side of the old first hole, and the commemorative plaque removed. It is not possible to identify the tree from the site vegetation survey undertaken by Earth Tech or from the supplementary information provided in expert evidence on arboricultural issues.

Panel Assessment

In assessing issues related to golf club heritage the Panel notes that in the period since the Heritage Victoria assessment, the site has ceased to be an operating golf course and further that the Geelong Golf Club has ceased to be an operating entity.

In addition, on the basis of an inspection of the site by the Panel, there is a significant deterioration in the condition of the course, elements of its infrastructure and club house facilities. This deterioration is of an extent, that other than in name, the site might no longer be considered to be a golf course.

The Panel assessed that ex-members of the Geelong Golf Club, have a legitimate and continuing interest in the future destination of the honour board, memorabilia and artefacts, and their incorporation in the development of the new golf course.

Panel Findings on Heritage Issues

The Panel finds that on the basis of the assessment by Heritage Victoria, and the realities pertaining to the site at this time, there are no significant issues of conservation of heritage values that impact on the Amendment.

Recommendations

The Panel recommends that:

- The developers of the site consult with representative ex members of the Geelong Golf Club, on the location and the method of display of memorabilia and artefacts, to be included in the future clubhouse facility. This requirement should be incorporated in the Schedule to the Development Plan Overlay, under Urban Design Master Plan and the views of the members of the former golf club regarding memorabilia be in the matters to be considered be the responsible authority when the Development Plan is assessed.
- The 'Lone Pine' tree be identified, its condition assessed and if practical its retention be incorporated in landscape planning for the new golf course with the commemorative plaque reinstated or replaced. This requirement should be incorporated in the Schedule to the Development Plan Overlay under Landscape Master plan.

5.2.3 Aboriginal Cultural Heritage

The Heritage Victoria assessment³ of the Geelong Golf Course noted that in accordance with Aboriginal development protocol, an agreement has been entered into between Council and the Wathaurang Aboriginal Co-operative in July 2000. It recommended that the applicant consult with the Wathaurang Aboriginal Co-operative in regards to development of the site.

No submissions were made on the matter of Aboriginal cultural heritage.

Relevant Planning Policy

SPPF Clause 15.11 Heritage requires that planning and responsible authorities identify, conserve and protect places of natural or cultural value from inappropriate development, including:

Places of Aboriginal cultural heritage significance, including historical and archaeological sites.

This policy requires planning and responsible authorities take account of the views of local Aboriginal communities in providing for the conservation and enhancement of places, sites and objects of Aboriginal cultural heritage value.

Panel Assessment and Findings on Aboriginal Cultural Heritage

On the matter of Aboriginal cultural heritage, the Panel endorses the inclusion of a requirement in Schedule 8 to the Develop Plan Overlay, that in deciding whether the Development Plan is satisfactory, the views of the Wathaurang Aboriginal Co-operative must consider.

The Panel finds that the provision within Schedule 8 to the Development Plan Overlay adequately addresses Aboriginal cultural heritage issues.

³ Heritage Victoria, Assessment of the Geelong Golf Club 2003

5.3 OPEN SPACE

Relevant Planning Policy

The MSS open space strategies in Clause 21.15, are intended to provide a network of open spaces that serve multiple functions of enhancing amenity, catering for the community's physical and social recreation needs, and maintaining the environmental integrity of vegetation corridors and wildlife habitats. The MSS also acknowledges the need to preserve resources for future generations, and that open space provision should adapt to changing needs. The objectives in this clause are:

Objective 1

To maintain existing open space and enhance its quality through redevelopment and the provision of appropriate equipment and infrastructure.

Objective 2

To provide a network of open spaces that enhances the amenity of the municipality and maintains the environmental integrity of vegetation, waterway corridors and wildlife habitats.

Objective 3

To provide new open spaces that respond to the community's physical and social recreation requirements and which maximise the diversity of activities, setting types and functions provided.

The MSS states:

As Geelong continues to expand and develop, the preservation and enhancement of existing open space and the optimal provision, location, size and quality of proposed open space in new subdivisions becomes of paramount importance. (Emphasis added)

The application of the open space policies in the MSS is not restricted to publicly owned or managed spaces. Clause 21.15 states:

Responsibility for managing the open spaces of the municipality lies not only with the City of Greater Geelong, but also with the Department of Natural Resources and Environment, various foreshore committees, private individuals and companies, and community organisations. (Emphasis added)

5.3.1 PROVISION OF ACCESSIBLE PUBLIC OPEN SPACE

The development concepts shown on the revised Draft Development Plan include the following open space and recreation elements:

- Reinstatement of a nine-hole golf course spread over the north and south consisting of 4 holes and a practice fairway comprising most of the southern precinct and 5 holes surrounding the residential component on the west side of Thompson Road. The golf course use would adjoin the site boundaries to Thompson and Ballarat Roads;
- Public open space located on the public road and bike path link south of the retirement village and within the central residential area. These areas are intended to coincide with existing significant vegetation and the existing floodway;
- A recreation centre with a cafe and tennis court on the western site; and

- A bicycle path running parallel with Thompson Road connecting to the trail in the north via the west side of the proposed retirement village connecting to the existing bicycle network along the disused rail line just north of the subject land.

A Section 173 Agreement is proposed and discussed in section 6.3. It is proposed that the agreement would, amongst other things, require the developer to:

- Transfer land identified as public open space at no cost to Council, for public parkland;
- Transfer wetlands (including watercourses and sedimentation basins but not including any water bodies used predominantly for golf course irrigation) to Council three years after titles are registered;
- Transfer the 9-hole golf course land and supporting facilities to Council in the event that the golf course ceases to operate or the land is not used for some other recreational operation. If transferred to Council the Agreement requires the land to be used for the purpose of public parkland or public golf course; and
- Construct footpaths and bicycle paths within the site and adjoining the site. These paths are to be transferred to Council.

Evidence and Submissions

The loss of open space (and the associated environmental benefits addressed in section 5.7) as a result of the proposed development was a central concern in many submissions. There was a consistent view in submissions that the open space lost could never be recovered.

Submitters emphasised the value to the wider community from the expansive 'green space' provided by the site in an area developed for industry and housing.

Mr Demetrious submitted that the area has been identified as amongst the most intensively developed areas in Geelong and extensive dual occupancy development has occurred without a commensurate increase in public open space. He suggested that planning processes have assumed the existence of the golf course and if this was not the case requirements to put aside greater areas of parkland may have been imposed. He considered that the club members had managed the land as stewards and that the golf course had been well used and was widely available to the community for reasonable green fees.

Council's submission noted that the site is not in public ownership, is not public open space and has never been open to recreational pursuits other than golf. Private ownership of the golf course has meant that public access has been limited to people playing a round of golf. The reinstatement on the site of the previous golf course use, albeit at a smaller scale than the previous course, was supported by Council as a satisfactory outcome that maintains a recreation asset providing public access to golfers on a green fee basis.

Council acknowledged that the land provides a substantial attractive open landscaped area at an inner city location that is otherwise characterised by suburban housing and industrial development. It considered that the retention of fairways adjacent to the adjoining roads will assist in retaining the contribution made by the site to a 'green belt character' associated with open space

Council also highlighted that:

- Areas are to be set aside on the site for accessible, viable public open space suitable for passive and active recreation;

- An integrated system of bicycle and pedestrian paths will be incorporated into the road and public open space system that connects to the regional bike path system to the open space network. This will allow for increased public access to the land and ensure links within the site to the wider network; and
- The limits placed on the scale of residential development in the revised Section 173 Agreement provide for long term golf course or recreational use of a major part of the site and ensure the retention of the landscape attributes of the land.

Ms Katz was of the view that the past use did not provide substantial benefit to residents in the locality. She considered the proposal:

- Is consistent with the Study of Open Space Networks by reopening the golf course on the site and by creating links to the regional bike path;
- Provides a golf course that is accessible to the community;
- Creates a permeable environment with a new local park in the north west of the site, links to regional bike paths, access to recreational facilities such as the proposed health club/café/tennis court, and enhanced landscape values; and
- Retains open space without placing any undue burden on Council.

Mr Pitt SC suggested that, while there may be a shortage of local parks, there is a wide range of facilities in close walking distance that included the oval south of Ball St, Rippleside Park with links to eastern beach park, and five active parks. Further, he argued that nothing has countered the proposition that no public agency is prepared to put up the substantial amount of money required to purchase the land, and develop it for public open space (or some other public purpose).

Panel Assessment and Findings on Open Space Provision

The Panel recognises that members of the North Geelong community place a high value on the open spaces in the area and, like planning policy objectives, aim to preserve existing open space.

While planning policy to preserve existing open space extends to private land, the private ownership of the land is clearly relevant to the viable options for the site and therefore the Panel's assessment.

The Panel found in section 5.1 that there is policy support for more intensive housing development than envisaged in the current proposal. While there may have been some redevelopment in the locality at slightly higher densities than in the past, the material presented to the Panel did not indicate that that this warrants substantial additions to regional public open space.

The *Study of Open Space Networks Tract Consultants Pty Ltd and H M Leisure Planning, September 2001* showed the amendment site under sports and identified a broad lack of quality recreation, linkage and informal open spaces in northern Geelong but, unlike in other areas, did not identify any actions for this area. This implies that actions in other areas were seen as a higher priority, although it is recognised that the study predated the closure of the golf course on the subject site. The study also indicated that there is a lack of scenic spaces compared to other parts of Geelong.

Even if the acquisition of additional public open space was warranted, it would not be equitable for the costs of meeting this broader community requirement to be imposed on the development of an individual privately owned site.

Council made it clear that its open space strategies and priorities do not include the purchase of the site for public open space. The Panel was not presented with analysis indicating that there is an urgent need for additional public open space in the area and it is not the Panel's role to dictate priorities in resource allocation to the planning authority. There was no indication that any other public agency intends to acquire the land for public open space. Therefore, purchase and development of the land for public open space does not appear to be a viable option for the land.

The Panel agrees with Mr Pitt SC, that it would be contrary to the thrust of the objectives of planning policy for the subject land not to be put to a viable use, and that in the absence of a viable use, the contribution it makes to the locality would continue to decline.

The experience of the former golf club supports the view that exclusive use of the site for a golf course may not be viable. This suggests that the incorporation of some development of the land is necessary. The issue then, is the extent and type of development and open space.

The development of the proposal has proceeded on the basis that there is broad support for reinstatement of a golf course use on the site and that this is reflected in submissions. The vast majority of the southern precinct is maintained as a golf course and the golf course use at the northern precinct's interface with major roads will also enhance the function of the site as a 'scenic space' which was identified as lacking in the *Study of Open Space Networks*. The proposal also appears to satisfy the normal requirements to provide public open space when land is subdivided for residential purposes and this can be confirmed during subsequent approval processes. Further, significant areas of the site that are devoted to water management will also add to the open space on the site.

The Panel is satisfied that the proposal incorporates the usual level of provision of public open space, very generous areas of other open space and important linkages to the regional bicycle network.

5.3.2 GOLF COURSE DESIGN

Given there were a number of submissions made to the Panel on the viability of a nine hole golf course compared to a standard eighteen hole course, and questions of safety both from an internal pedestrian viewpoint and outside the proposed course due to errant balls, the proposed golf course design is seen by the Panel to be a key issue in consideration of the proposal. Issues surrounding the viability of the proposed course as well as safety considerations will be dealt with in this section as of the report.

In his submission to the Panel Mr Ross Watson, golf course architect appearing on behalf of the Proponent, indicated the proposed nine hole golf course would consist of four holes (1,7,8 and 9) south east of Thompson Road and the remaining holes (2,3,4,5 and 6) on the north west side of Thompson Road. These latter holes would be required to intertwine with the residential component with multiple tees included in the routing to provide a different experience for players wanting to play 18 holes. Mr Watson indicated the golf course has been designed to meet necessary design safety standards. On some holes (eg 2nd and 6th) a narrow corridor of teeing ground had been included in the design to ensure safety to bordering

residential property and roadways, and in the case of hole 4 the proposed tee had been relocated to additional from housing behind the 4th green.

The routing plan had also identified areas for wetland and water catchment corridors, and the land would be contoured to meet these needs.

He indicated the proposed course measured 2605 metres (par 33) and with the various water bodies meandering throughout the site will provide a challenging layout to test golfers of all levels of skill.

5.3.3 THE VIABILITY OF A NINE HOLE GOLF COURSE

A number of questions were raised by the Panel and submitters, including Mrs Agg, regarding the viability of a nine hole versus an eighteen hole course. Mr Watson indicated that nine hole courses were becoming popular as people dealt with restrictions on time and the physical constraints of walking an 18 hole course.

In answer to a question as to when the course would be available for play, Mr Watson indicated a construction period of 6 months and a further 4-6 months for grass to establish, making a total of 12 months from start of construction.

Whilst noting there will be ongoing debate on the question of a recreation golf course versus a competition course and the long term financial viability of the course, the Panel finds that there is a role for different types of golf courses to meet community needs. A nine hole golf course is a practical outcome given alternative tees are being provided, together with a challenging layout including water, and that a number of players will be of a mature age from the proposed retirement village. Furthermore, the Panel notes the Links Group have been successful in a number of other life style type developments and there is no reason to believe the proposed development will not be successful.

Panel Assessment and Conclusions on the Viability of a Nine Hole Golf Course

The Panel is of the view that the proposed nine hole golf course is a practical outcome for the site and there is no reason to conclude it will not be a viable long term venture.

5.3.4 GOLF COURSE SAFETY

Evidence and Submissions

In his submission to the Panel Mr Watson outlined to the Panel that the proposed golf course on the subject land had been designed in accord with *Technical Bulletin 70 Golf Course Developments* produced by the Urban Land Institute of America in 1974 and a later publication *Golf Course Developments and Real Estate* in 1994 as these were seen as an industry standard. As indicated earlier in this report, the tee to hole 4 had been relocated to cater for additional housing behind the 4th green.

The Panel and submitters raised a number of questions on the safety aspects of the course ranging from sliced balls landing outside the golf course and endangering motorists, to the safety of pedestrians within the development crossing the course and cyclists using the bicycle path along Thompson Road.

Mr Hellsten from Greater Geelong City Council and Mr McFarlane raised the question of stray golf balls leaving the course and whether safety fencing was required on the boundaries of some holes. Mr Watson assured him this was not required given the design standards used.

Mr Hill made comment that the nine hole course was designed to maximise real estate frontage to the course and questioned the width of fairways and the safety of pedestrians wandering onto the golf course. He also questioned the American design standards being used, but alternatives were not presented to the Panel or put to Mr Watson.

Mr Watson indicated a range of techniques would be employed along the boundaries of the proposed private roads to alert pedestrians that they were entering the golf course.

Mr MacDonald raised issue with the proposed removal of trees along the Thompson Road frontage as the trees had provided protection in the past from stray golf balls and users of the proposed cycle path would be placed in danger. He was assured by Mr Galbraith that there would be a staged removal of trees and the proposed bicycle path would meander through the trees with a safety fence being provided on the golf fairway side of the pathway.

Issues were raised that in the case of some proposed course holes the standard width of 70 metres was not met by the design. Mr Watson provided an assurance that the design had met accepted safety standards and safety would not be compromised.

The Panel were informed that perimeter security fencing would be provided along the Ballarat Road frontage of the golf course and the existing earthen mounds would be partially removed to cater for cross country stormwater flows. The option remained open to retain the mounding at the rear of the new greens and to plant on top of the mounding to increase safety from mishit golf balls leaving the course area.

Mr Pitt SC for the Proponent in his questioning of Mr Watson indicated the Cranbourne Golf Club case at VCAT presided on by Justice Morris provided past case history of the acceptance of golf course design using the appropriate standards.

The Panel acknowledges submissions that there have been changes in golfing equipment since the safety standards presented were prepared, but a more recent alternative was not presented

or tested at the hearing. It is also noted that public liability issues will mean that it is in the golf course operators interests to ensure the course operates safely.

The Panel is of the view the proposed nine hole golf course will present a challenging layout for golfers and will meet accepted safety standards for golf course design.

5.3.5 PUBLIC USE IF GOLF COURSE USE CEASES IN THE LONGER TERM

Evidence and Submissions

As noted above, a number of submissions questioned the financial viability of a nine-hole golf course and expressed concern that future rezoning applications or applications to develop the whole of the site are likely.

Mr McFarlane suggested that the proposal has been designed with the primary objective to enhance the value of the land and the residential component of the proposal. He foreshadowed a scenario whereby:

- The course would not be viable and/or it would not be in the interests of the body corporate owners to incur costs of more than \$2,000/annum to maintain the golf course;
- The land would then be transferred to Council; and
- Council would be obliged to accept the costs of maintaining either the golf course or a park designed to benefit the adjoining residents (rather than optimising the benefit to the community).

Mr Demetrious also suggested that the integrity of the land transferred to Council would be eroded by the form of development proposed as the internal development produces a doughnut of remaining open space.

Mr Pitt SC countered these arguments by indicating that the proposal and proposed agreement were developed in response to the majority of submitters seeking a golf course use/ or open space and the desire for an assurance that these uses would remain in the long term. He suggested that it is not reasonable to then oppose the transfer of the land to Council should the golf course fail. He emphasised that the Proponent only operates in the golf course – residential development sector and has substantial expertise in this form of development.

Council responded to questions from the Panel that the Council resolutions indicate a preparedness to accept maintenance obligations in the event of the land being transferred to Council. As noted above, Council had taken the view that it was obliged to respond to the proposal lodged rather than evaluating a range of alternatives such as the one proposed by Mr McFarlane.

Panel Assessment and Conclusions on Long Term Golf Course Use

The Panel accepts that the proposal and provisions of the proposed agreement represent a balancing of a range of factors, including the objective to reinstate a golf course use on the site. This outcome appears to have wide support in the community.

It is acknowledged that the design would be different if planning was on the basis of use as a public park from the outset. There is a multitude of alternative design solutions but the Panel's role is to assess the proposal before it and whether that proposal is acceptable.

The Panel is not convinced that the golf course use will inevitably fail and does not consider that the proposal should be evaluated on the basis this will occur. It is noted that the Proponent is an experienced developer of golf courses in conjunction with housing and it is unlikely that they would embark on such a development with an expectation that it would not be viable. The Panel accepts that the proposed agreement provides an assurance that the long-term use of a substantial proportion of the land will be for golfing or other recreation uses. It is also accepted that Council is prepared to take over the ongoing maintenance obligations in the event that the land is transferred.

Clause 6.8 of the revised Section 173 Agreement provides for the transfer of *'any facility or appurtenance used exclusively for the continued conduct of golf'*. Council submitted that this does not meet Council's requirements because it does not require the transfer of the clubhouse with the golf course. Mr Pitt SC questioned the viability of refurbishing the existing clubhouse and indicated that there may be potential to provide the necessary ancillary facilities to support the golfing use, in a more central location within the proposed recreation centre in the western precinct. The Panel recognises that this may be a preferable outcome but it also considers that the Agreement should provide for the transfer of the golf course land to Council with the ancillary facilities necessary to operate the course, even if they are no longer provided in the former clubhouse.

Recommendations

Clause 6.8 of the revised Section 173 Agreement be further modified to provide for the transfer of *'the facilities and appurtenance necessary for the continued conduct of golf, including: A nine hole golf course, clubhouse including changing facilities, professional shop, maintenance depot and associated facilities'*.

5.4 IMPACTS ON SURROUNDING USES

This section of the report addresses the relationship between uses on the site and uses in the adjoining area. The effects of built form, interface treatments and the integration of the amendment within the neighbourhood are considered in section 5.5.

5.4.1 IMPACTS ON ADJOINING USES

THE GRACE MACKELLAR CENTRE

The site adjoins the Barwon Health facility, known as the Grace MacKellar Centre to the west, which is a large site with an array of structures and substantial future development potential. The centre provides rehabilitation and extended care for older people. A service road runs parallel to the Amendment site boundary to access car parking areas adjoining the boundary and service facilities, including a large commercial laundry. Barwon Health currently occupies part of the north-western portion of the Amendment site, which is used for informal car parking.

Evidence and Submissions

A submission raised potential amenity impacts of the development on the residents of the Grace MacKellar Centre.

Barwon Health's written submission supported the project but identified the need for consultation regarding overall traffic management to avoid amenity impacts. Barwon Health did not appear at the hearing but the Panel was advised that further meetings with Barwon Health have occurred and they do not object to the Revised Draft Development Plan. Further consultation will occur, particularly in relation to the relationship between the north west portion of the Amendment site and the Grace MacKellar complex.

The Proponent suggested that the proposed development on the Amendment site provides opportunities for different forms of residential development to complement the service and facilities provided at the Grace MacKellar complex and there is a potential opportunity to better integrate that site into the public road network. The Panel was advised that Barwon Health is exploring the possibility of providing a link through the subject land to the rear of the Grace MacKellar centre, which Council and the Proponent viewed as a positive option to enhance permeability and integration of the development on the Amendment site (and the Grace MacKellar complex) with the locality.

Panel Assessment and Finding Relating to Impacts on the Grace MacKellar Centre

The Panel considers that the use proposed on the Amendment site will not have adverse impacts on the amenity of the Grace MacKellar Centre, provided that interface treatments are managed well. The Panel agrees that the proposed uses on the Amendment site, particularly the provision of housing for older people, could compliment the accommodation provided on the Barwon Health site. The development concepts shown on the Draft Development Plan would not have any adverse traffic impacts on the adjoining complex.

The Panel also agrees that there is potential for greater integration of these sites and this should be foreshadowed in the Schedule to the Development Plan Overlay and shown on the approved Development Plan. As the means of integration of the sites has not been resolved, the Development Plan Overlay should specifically require the Council to consider the views of Barwon Health as part of the development plan approval process.

Recommendation

The Schedule to the Development Plan Overlay include:

- **The preservation of opportunities for road and pedestrian access to Barwon Health to the north west of the site in the 'Requirements for development plan'; and**
- **The views of Barwon Health in the matters to be considered by the Responsible Authority, in deciding whether the Development Plan is satisfactory.**

IMPACTS ON THE AMENITY OF ADJOINING RESIDENTIAL USES

Impacts on the amenity of the adjoining residential area from the proposed development in the north-western precinct were not a contentious issue. There were no submissions from adjoining residential properties to the north which would adjoin the proposed retirement village housing. This housing is likely to be single storey and, in any event, the form of development would be subject to the requirements of Clause 56 of the planning scheme.

The Panel notes that the only portion of the south-eastern precinct affected by the Amendment is the 5000m² site proposed for rezoning to residential. The golf course use under the existing Special Use Zone would be reinstated. Although the existing permit requirements for buildings and works under the Special Use Zone continue to apply, the Proponent agreed to delete access for maintenance vehicles from the residential streets to the east of the southern precinct.

Some concern was expressed in submissions that the medical centre use foreshadowed for the land proposed to be rezoned to Residential 1 in the eastern precinct, was a 'ruse' and a range of other uses, such as commercial uses or fast food outlets, could occur.

Panel Assessment

The Panel finds that the impacts from the golf course and residential components of the proposal on residential uses in the immediate area, would be minimal.

The Amendment process does not restrict the potential uses of the land proposed for rezoning in the eastern precinct, to use and development as a medical centre. However, the scope for non-residential uses on that land is limited by the application of the Residential 1 zone, and impacts from proposals would be considered through the planning permit process that would apply to the discretionary non-residential uses.

The Panel is satisfied that the Amendment would not create unacceptable impacts on residential uses in the locality.

5.4.2 SEPARATION FROM INDUSTRIAL USES AND THE SALEYARDS

The western precinct of the Amendment site is located opposite the North Geelong Industrial 1 zoned area, which includes a range of industrial activities such as service businesses, machinery equipment retailers, small factories and engineering premises, and the Geelong Saleyards. Land zoned Industrial 1 on the east side of Thompson Road, is currently the head office of Target, the Sphinx Hotel complex and a service station. The Geelong Saleyards are located in Weddel Road within 500 metres of the site.

At the directions hearing, the Panel asked the Council and/or the Proponent to address *'the separation of sensitive uses facilitated on the Amendment site from industry. Consideration should be given to state planning policy, the EPA Recommended Buffer Distances for Industrial Residual Air Emissions and Clause 52.10 of the planning scheme.'*

Relevant Planning Policy

SPPF Clause 17.03 Industry addresses the separation of industry from sensitive uses as follows:

Industrial activity in industrial zones should be protected from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.

and

Adequate separation and buffer areas must be provided between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards. Planning and responsible authorities must have regard to Recommended Buffer Distances for Industrial Residual Air Emissions (EPA 1990) and promote best practice risk and environmental management.

Planning policy relating to the separation of industrial uses from sensitive uses is directed at both minimising constraints on industry and protecting the amenity for residential area and other uses.

Evidence and Submissions

The EPA's original written submission on the previous scheme amendment (C77) noted that the land proposed to be rezoned is in close proximity to a "General Industrial 1 zone" and also noted that this zone contained the Geelong Saleyards. The EPA directed Council to the EPA Publication "*Recommended Buffer Distances for Industrial Air Emissions*" (Publication No AQ 2/86) and advised that this:

"may be of assistance to the Responsible Authority when examining permit applications for industrial uses. The buffer distances listed in the publication should be used as a guide to determine if a particular operation requires further investigation for off-site residual impacts on sensitive land uses".

The EPA noted that the distance for saleyards is not listed in Clause 52.10 of the Planning Scheme (or its document referred to above) but advised that:

"The saleyards in particular have amenity reducing off-site effects for nearby residential areas. As a guide, we recommend that land not be zoned for residential purposes within 500 metres of a saleyards".

Many resident submissions raised concern about the proximity of the proposed residential uses on the Amendment site to the saleyards.

In response to notice of Amendment C110, in their letter of 26 August 2005, the EPA stated that their previous comments had "*been incorporated in the Geelong Golf Course Development Plan*" and that the "*EPA has no further comment about the proposed amendment*".

Council and the Proponent submitted that:

- The industrial area to the east is surrounded to the west, south and east by established Residential 1 zoned areas;
- Similarly, although the Amendment site is within the 500 metres buffer distance from saleyards recommended by the EPA, there much closer existing Residential 1 zoned land to the north, south and east of the saleyards;
- The proximity to residential zones has limited the establishment of amenity reducing industrial activities in the industrial zone. The existing uses within the Industrial 1 zone can be characterised as light industry and are not uses specified as requiring buffers in either Clause 52.10 of the planning scheme or the EPA *Recommended Buffer Distances for Industrial Residual Air Emissions*. Further, the industrial zone does not present significant redevelopment opportunities for industry with substantial off site impacts;
- The existing presence of sensitive uses closer to the Industrial 1 Zone and saleyards than the proposed Amendment site would determine the constraint on those activities, rather than the more remote residential component of the proposal; and
- The residential development on the western precinct is on the edge of the recommended 500 metre separation from the saleyards and landscaping and golf course activities, together with existing buildings along Thompson Road, would provide a buffer from adverse impacts. Any potential amenity impacts on the future residents on the Amendment site would be minimal.

Panel Assessment and Conclusions

Although the Panel notes that new residents may be more sensitive to unexpected impacts on amenity and could be a new source of complaints about industrial and saleyard operations, it accepts that residential uses closer to the industrial zone and the saleyards impose a greater constraint on their operations.

It is noted that:

- **Management of the saleyards will need to address offsite impacts, including odour management and noise from stock held on the site, to protect the amenity of existing residential uses;**
- **Traffic from industry would not affect residential uses within the site;**
- **The Amendment site is unlikely to be affected by noise from the industrial zone given the nature of the uses in the zone and ambient noise levels from the adjoining main roads; and**
- **The design of the proposed development, which includes substantial landscaped areas, would mitigate any visual impact.**

The Panel agrees with submissions from Council and the Proponent. It does not consider that the proposal should be rejected due to its proximity to industrial uses, including the saleyards.

5.5 URBAN DESIGN

5.5.1 Development Planning And Development Form

Development Proposal and Form

The revised draft development plan proposes development across two adjoining land parcels and is described in section 2.

The form of development is one of housing and related facilities, integrated within a recreational precinct.

The residential component is configured in two parts. Residential 'islands' float within the landscaped body of the site, and are serviced by access roadways. In addition there are housing lots along the west boundary backing on to the Barwon Health site, and addressing the interior. This siting allows landscaped corridors or edges to extend along the boundaries of Ballarat and Thompson Roads, maintaining in part the experience and image of the site as a landscape precinct.

Adjoining existing residential uses at the north of the site, is the proposed retirement village. It is orthogonal in its layout, and proposes individual retirement units and a communal facilities area.

Relevant Planning Policy

Planning policy in SPPF Clause 19.03 Design and Built Form requires planning and responsible authorities to have regard to design principles, including consolidation of sites and empty sites and the public realm. Specifically, Clause 19.03-2 indicates:

- The development process should be managed so that sites are not in an unattractive or neglected state for excessive periods, and that impacts from vacant sites are minimised;
- New development should contribute to the complexity and diversity of the built environment; and
- The public realm, which includes pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

Housing policy in SPPF Clause 16.01 encourages:

- Subdivisions in locations with access to physical and community infrastructure, and providing a range of lot sizes, a convenient and safe road network, appropriate pedestrian and cycle paths, sufficient useable public open space and low vulnerability to fire;
- Residential development that is cost effective in infrastructure provision and use, energy efficient, incorporates water sensitive design principles, and encourages public transport use.

Similarly, for medium density housing SPPF Clause 16.02-1 encourages:

- Residential development that respects neighbourhood character; improves housing choice; makes better use of existing infrastructure; and improves energy efficiency of housing.

In relation to energy efficiency, SPPF Clause 15.12-2 requires planning and responsible authorities to:

- Promote consolidation of urban development and the integration of land use and transport; and
- Promote energy efficient building and subdivision design.

The Greater Geelong Planning Scheme, Clause 21.30 Design and Built Form, notes that urban design initiatives can be used as a catalyst to revitalise and encourage a change of land use and private investment in degraded and poorly performing parts of urban centres.

As noted in section 5.1, the Greater Geelong Planning Scheme, Clause 21.18 Housing, has the objective to provide a diversity of residential opportunities across the municipality to cater for the range of housing needs within the community. Further, it supports strategies of:

- An increase in the availability of residential accommodation in the inner city areas to provide more opportunities to live within walking distance of employment services and entertainment; and
- Increases in housing densities where the integrity of the locality is not prejudiced and where there is available capacity in the infrastructure.

Panel Assessment and Findings on Development Planning and Development Form

The Panel has highlighted the policy predisposition in favour of more intensive development of sites such as the subject site, which is well located in terms of access to Geelong's services and infrastructure. It has also found in section 5.4 that development of housing on the site within the regulatory framework provided by ResCode, would not have unacceptable off site effects. The Panel considers that, even given the shared occupancy of the site for housing and the recreational function of a golf course, the proposed development represents an intensification of development within urban Geelong, and this is in line with the planning scheme objectives for urban consolidation.

It is noted that maximum dwelling numbers were incorporated in the draft of the Section 173 Agreement as a result of Council resolutions in November 2005.

On the matter of maximum numbers of residential units, and the residential mix proposed for the development, the Panel observes that there appears to be no rational planning basis for arriving at the figures. The numbers nominated appear to be arbitrary or the accidental outcome of the processes of development approval. The Panel considers that there could actually be benefits in meeting housing needs if the number of dwellings was increased, and there is no justification for imposing an artificial limit on the yield of dwellings.

It is the scale and location of the residential development that could be a more significant consideration than the number of units achieved. In this case however, the Panel considers that ResCode standards, the nomination of the retirement village form of housing at the northern interface with existing residential uses, and the landscaped buffer provided by the golf course use, will ensure that the form and scale of development are not excessive. The proposed form of the development, together with the configuration of the Barwon Health use to the west, mean that the development of up to 3 storey (other than at the northern interface) can be absorbed without adverse impacts on the amenity of adjoining properties or the site's contribution to streetscape values (see further discussion in section 5.5.2).

The Panel is of the view that some flexibility in the numbers and the mix of housing type might provide a better design outcome for the site; one that is more responsive to housing needs and conditions in the market, at the time such decisions are taken.

The Panel considers that maximum dwelling numbers specified in the draft of the Section 173 Agreement are not justified and should be deleted. However, the DPO schedule should include a requirement that the retirement village use is located at the northern boundary of the site which adjoins existing residential development.

In relation to energy efficiency and subdivision layout of dwelling allotments, when assessed against the standard it was found to be marginal in meeting the requirement for allotments to have appropriate solar orientation (ResCode Clause 56.06-2).

The Panel accepts however that: this is not a residential sub division on a green field site; that site and sub division planning are necessarily constrained by shared occupancy with the golf course, existing landscaping of the site, constraints on site access etc; and that the process of siting design in such circumstances is about optimising the planning of these various elements.

The Panel is also of the view, that within a comprehensively planned development, there is a greater possibly of, and flexibility within the design of individual buildings, to achieve sunlight capture and the balancing of heat loss and gain within a dwelling.

The Panel finds that:

- **The development proposal is consistent with State and local planning policies in relation to urban design, built form and housing; and**
- **The development proposal does not satisfy Clause 56 standard C19 relating to the orientation of lots to achieve energy efficiency however the comprehensively planned nature of the development should allow related objectives to be met despite the less than optimum orientation of some lots.**

Recommendations

The Panel recommends that:

- **Schedule to the Development Plan Overlay be amended to require the Development Plan to designate the land adjoining the northern boundary of the north-western portion of the site, as a retirement village; and**
- **Reference to maximum numbers of residential allotments and retirement village units should be deleted, instead the planning framework for the site should refer to areas for housing and retirement village units.**

5.5.2 Housing: Design And Built Form

Evidence and Submissions

In submissions, the Proponent put to the Panel, that a range of densities and residential types were proposed for the site, including individual houses, town houses (terraces), and retirement village units.

The number of stories or heights of proposed buildings was not indicated, however on the basis of the sub division layout and lot sizes indicated in the Draft Development Plan, single, two and three storey dwellings and units can reasonably be expected.

In documentation provided to the Panel in relation to built form and architectural character, the Proponent variously proposed: *‘Residential built form in a manner that provides a distinct neighbourhood character’ ‘Street furniture, including lighting, will be above standard specification and co coordinated to provide a consistent theme’ ‘Built form themes have yet to be determined, and are subject to further assessment of the market, however the architectural vernacular is likely to be contemporary in form drawing on elements and materials that are complimentary to the landscape setting’.*

To ensure the quality of residential development, it proposed that building design be guided by residential design controls, overseen by an architecture review committee, in turn administered by the body corporate.

From this it can be inferred that building form, architectural expression and materiality within the development, will be highly controlled with a view to an integrated and cohesive development, consistent throughout and uniform in its image. It is expected that this in itself will be an element in the marketing and sale of the development.

On the issue of energy efficiency of individual housing units, the Proponent put to the Panel that the Building Code of Australia (BCA) was the appropriate means of regulating energy saving measures, and the thermal performance of buildings.

The draft Schedule to the Development Plan Overlay, requires submission of an environmental management plan including provision for proposed energy conservation measures for each dwelling. It specifies a minimum requirement that each new dwelling shall have a 5 star energy rating and also that accredited green energy for use in common areas, is purchased.

The issue of building height control was raised by a submitter (Mr Christopher Scarlett). The Council response was to note that the planning scheme Schedule 14 to the Design and Development Overlay, requires a permit for dwellings over 7.5 metres but this was primarily intended to apply to residential areas of established character, that it was ‘not a limit but a trigger’ for a permit, and that the schedule had a sunset clause of 30 June 2007. The Council position was that it did not seek to apply the schedule in this instance, instead relying on the existing limit of 9 metres under ResCode.

Relevant Planning Policy

State planning policy, housing requires that medium density housing development: respects neighbourhood character; improves housing choice; makes better use of existing infrastructure; and improves energy efficiency of housing (SPPF 16.02-1).

The Greater Geelong Planning Scheme Clause 21.30 Design and Built Form, seeks to incorporate residential design principles, into residential subdivisions that:

- Create strong neighbourhood focal points;
- Contribute to energy conservation through ‘smart lot design’ and solar orientation;
- Integrate public open space into subdivision design;
- Promotes permeability and accessibility for residents through interconnected street networks;
- Connects new subdivisions with old;
- Promotes a mix of compatible uses and higher densities;

-
- Promotes public transport use;
 - Places less emphasis on the movement of cars and more on the movement of pedestrians and cyclists; and
 - Enables ease of movement from one community to another.

Panel Assessment and Findings on Housing Design and Built Form

In the matter of design control of buildings within the development, the Panel is ambivalent. On one hand it understands the advantages to be derived from comprehensive planned development, on the other it is of a view that rigid design controls serve to limit design exploration, and innovation in building and construction processes. Further, such controls may contribute to a perceived image of 'exclusiveness' on the part of the development.

On balance the Panel accepts that the process of design control is integral to the rationale underlying the particular development proposal, and is the method by which the developer has in the past in other development projects, achieved a high quality, if standardised result.

On matters of energy efficiency, specifically in relation to individual buildings, the Panel's assessment is informed by a recent VCAT decision⁴ on the issue of sustainable energy conditions and the merits of regulation via the *Planning and Environment Act*, or the *Building Act* and Building Code of Australia (BCA). This leads the Panel to the view that the building code is the appropriate mechanism for regulation in this instance.

Further, the requirement within the development plan overlay for the purchase of green energy for use in common areas, is in the view of the Panel, neither fair to those concerned or equitable. Such a requirement would also be difficult to enforce.

The Panel found that:

- **The built form of the housing proposed in the development is consistent with State and local planning policies.**
- **On the matter of height of buildings, the Panel agrees with the Council position that the provisions of ResCode provide appropriate mechanisms for regulation, and will be applied to the site.**

Recommendations

The Panel recommends that:

- **The Schedule to the Development Plan Overlay be amended to delete references to the energy efficiency of individual buildings, and the requirement for purchase of green energy for use in common areas within the development.**

⁴ Victorian Civil and Administrative Tribunal *Hasan v Moreland City Council*, VCAT 1931; 2005

5.5.3 Residential Enclave Or Gated Community

Evidence and Submissions

A number of issues associated with the nature and form of the development as a residential enclave or alternatively viewed as a 'gated community', arose during the course of the hearing.

The Proponent's position was that it was not a gated community in that none of the public or private roads were to have gates or other mechanisms to restrict physical access to, or movement within the site. In addition the proposed development makes provision for public access ways for pedestrians and cyclists.

Further, it was acknowledged that the location of residential development within the interior of the site separates it from its neighbours on adjoining sites and contributes to perceptions of the development as an enclave, but this layout was a direct response to objections seeking to maintain the landscape and the image of the site.

The Panel noted that some submitters had anticipated the inclusion of security measures within the development, and one submitter (Mr John Hill) suggested there would be six gated communities if access was precluded from private roads.

A number of submitters however were of the view that physical gating does not of itself define a gated community. A range of design elements, such as entrance structures, limited access to the built fabric in the centre of the site, and branding and imaging of the development via continuity of build form and architectural expression, all contribute to the likely experience of separation or detachment from its surroundings and the local community.

Specific issues deriving from these broader positions, and subject of submission and discussion, included:

- Neighbourhood Character, Access and Permeability;
- Public and Private Roads; and
- Site Fencing and Site Perimeter

- **Neighbourhood Character, Access and Permeability**

On the issue of neighbourhood character, it was put to the Panel by the Proponent that the area of the site is sufficient for the development to create its own neighbourhood character. It was submitted that the importance, if not the relevance, of this issue is reduced by a combination of the non residential use of a number of the properties adjoining the site, the age of the residential fabric in those areas that do adjoin the site and the decision to locate the residential subdivision within the body of the site while retaining the landscape edges. Further, it was argued that the proposed housing would not be materially different to existing housing within the Fairway development, abutting the south east portion of the site, which is also an enclave of newer development and without integrated street connections.

Discussion on the issue of site accessibility centred on: the number and location of vehicular access points to the site; pedestrian entry points and movement within the site; bicycle movement and connection to surrounding networks; and movement along and around the perimeter of the site, including access to transport stops.

On the matter of vehicular access, the possibility of the roadway reservations for the primary and secondary access roads extending west to the boundary of the Barwon Health site was raised during the course of the hearing. The effect of this would be to leave open the possibility of future connection, for both vehicles and pedestrians, to the Barwon Health site and to the north south service road within its area.

On the issue of visual permeability and the site, the role of mounding and landscape screening, particularly where these elements were continuous or used in combination, was discussed. The desire here was to open the site to view within its depth, to provide longer views and animate the experience of the site by viewing the activity of golfing within.

▪ **Public and Private Roads**

The draft Development Plan proposes public access roads from points of site entry, and circumnavigating the site. The treatment of the primary access road is that of a linear boulevard; the secondary access road is meandering in its route. From these, private roads provide access both within the retirement village, and to allotments in the residential 'islands' within the body of the site. The Proponent stated the reason for the proposed mix was to allow golf cart access to individual allotments via the roadway system. Also raised was the possibility of special or above standard roadway treatments and the issue of Council maintenance of them.

The alternative position, that all roadways within the development - perhaps with the exception of roads within the retirement village - should be public roads, was put forward by the Panel for consideration.

In closing submissions for the Proponent Mr Ian Pitt SC suggested private or public roads would be acceptable, if this was seen as an issue of importance within the proposal. Based on the Proponent's advice that formalised gating is unlikely to be used at the entry to each private street, Council advised that it saw limited need for Council ownership of the roads.

▪ **Site Fencing and Site Perimeter**

Discussion took place on matters of fencing including: security fencing to the perimeter of the site; safety screening for errant golf balls; and internal site fencing and or other barriers, to limit pedestrian access to the playing area of the golf course.

Contrary views were expressed in expert evidence called by the Proponent, however, by the end of the hearing the proponent's position was that perimeter security fencing of the golf course was necessary, but:

- this need not of necessity follow the line of the site boundary;
- it was not envisaged that safety screens would be required as part of the reconfigured golf course;
- internal fencing of the course playing area was not necessary, rather soft landscaping, surface treatments and other methods would be used to demark the perimeter.

In short the image of an open course was the desired outcome.

In the specific case of the boundary with Thompson Road, it was proposed that the bike and pedestrian footpath would be meandering in form to take account of the position of mature

trees. In some locations this would require more than the 2.5 metres width specified in the Draft Section 173 Agreement.

Relevant Planning Policy

SPPF Clause 19.03-2 requires that:

- Developments achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impacts on neighbouring properties;
- Landmarks, views and vistas be protected and enhanced or, where appropriate, created by new additions to the built environment.

Panel Assessment and Findings on Enclave or Gated Community

On the matter of a 'gated' community the Panel assessed that there are legitimate arguments both for the position that the nature of the development is one of a residential enclave, and the perception that the development will result in a 'gated' community. Despite assurances about physical access, there is a basis for concerns that characteristics of the proposed development and the 'lifestyle' emphasis in the development would separate it from its physical and social context.

On the other hand, the decision to maintain a golf course, pressures to retain the landscape character of the site, and processes of planning application and consultation preceding the current development proposal, all contribute to the housing being concentrated within the body of the site, wrapped by the playing area of the golf course. In addition there are characteristics of the site that are major determinants on the current proposal.

In the case of neighbourhood character, the Panel considers that it was not necessary or appropriate to benchmark 'character' in the context of the site and the proposed development, nor is it necessarily either desirable or possible to attempt to replicate the character of the immediate locality. **The combination of the housing located within the body of the site, non residential uses adjoining much of the site, the landscaped setting provided by the golf course, together with generational differences with the styling of the residential fabric surrounding the site, all lead the Panel to the view that the development will inevitably establish its own character as a new neighbourhood. The Panel is satisfied that the scale and form of housing at the interface of the retirement village with existing housing to the north will be compatible. However, the treatment of the southern portion of the boundary of the site with the Grace MacKellar Centre should be reviewed to ensure that views from the north on Ballarat Road are attractive. This could involve reconfiguration of the southern most lot(s) and or consideration of fencing details. The Panel recognises that the practicalities of maintenance of landscape treatments would need to be considered.**

In assessing the merits or otherwise of public or private roads, the Panel starts from a position that in normal circumstances roadways should be public roads. It accepts however that there are practical or functional reasons for proposing private roads within the residential precincts, such as golf cart requirements and the potential to adopt alternative road treatments. Further, it notes the Proponent's assurances that it is not intended to restrict physical access to these roads/ streets and considers that guaranteed rights of public access over the longer term, can be achieved through the Development Plan Overlay and the Section 173 Agreement.

In relation to fencing and other barriers to access within the site, the Panel is in agreement with the final position of the Proponent. In summary, that perimeter fencing of the site is required to restrict access to the playing areas or the golf course; that the Thompson Road edge be configured to take account of mature trees; that the proposed layout of the golf course does not necessitate the use of safety screening as an integral part of the design; and that within the site, measures other than fencing are preferred for purposes of control of movement onto the playing area of the course.

Recommendations

The Panel recommends that the Schedule to the Development Plan Overlay be amended to:

- **Include reference to both public roads, and private roads with a guaranteed right of carriageway on the part of the public and ensure that barriers are not installed to preclude public access to roads within the development.**
- **Provide for the extension of both the primary and secondary access road reserves, within the north western portion of the site, to the west boundary ie to the boundary of the Barwon Health site.**
- **Under the heading Landscape Masterplan, to make provision for increased visual permeability of the subject site, specifically in the matter of mounding and landscape screening in areas of the site perimeter.**

5.5.4 Landscape

The draft development plan provides only an indicative basis on which to assess issues in relation to the proposed landscaping of the site. It does not represent a landscape design, even in a preliminary form, in that it does not for example indicate landscape within the public realm of residential precincts or the retirement village.

It is noted that if development of the site were to proceed, the Schedule to the Development Plan Overlay requires that a landscape masterplan be submitted.

The Panel did have information in the form of aerial photography, and site photographic and mapping material, covering existing planting on the site. In addition, it had access to a vegetation survey⁵ and heard expert evidence on arboriculture issues from Mr Rob Galbraith and a net gain assessment from Mr Brett Lane.

Existing landscaping of the site might be described as the remnant landscape of over one hundred years of planting and replanting of the site, reworking of landforms, redesign and reconfiguring the course layout.

Relevant Planning Policy

State planning policy on Landscape Architecture requires that:

- Recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture (SPPF Clause 19.03-2); and
- Planning and responsible authorities should encourage retention of existing vegetation and revegetation as part of subdivision and development proposals (SPPF Clause 15.12-2).

⁵ Geelong Golf Club Vegetation Survey; Earth Tech, November 2002

Evidence and Submissions

In summary the Panel heard expert evidence from Mr Galbraith that:

- The only self sown indigenous trees of local prominence are a couple of dying She-oaks mid way along the west boundary of the site;
- There is considerable tree species diversity on the course though few if any are rare or of unusual types;
- A number of copses and individual trees have merit for retention in any development as they have long useful life expectancies, and given the tree sizes within them, significant time would have to elapse before newly planted trees would have similar amenity impact; and
- There are no particularly old trees; the oldest trees are probably the Monterey Cypresses along the Ballarat Road frontage and the boundary with the Barwon Health site.

Discussion within the hearing on landscape issues, centred on the following areas:

- The experience and image of the site as a landscape precinct within the fabric of urban Geelong; specifically the amenity it provided, the historical associations and the environmental benefits;
- The value placed on, and intention of the Proponent in regard to existing significant trees identified in consultants reports;
- The value placed on, and the intention of the Proponent in regard to existing mature trees and copses;
- The possible retention of existing mature trees was explored in particular in: landscape areas retained within the new golf course; perimeter zones of planting; public open space; and in areas within the housing development, where and if this is possible;
- The possible staging of the removal of mature trees, and the supplementary planting and or later replanting required in association with this;
- The possible integration of the landscape design, treatment and planting on the road reserves bounding the perimeter of the site, with the landscaping of the site proper; and
- It was noted that while this was desirable as an outcome, dual responsibilities were involved on the part of the developer, and local authority.

Panel Findings on Landscape

The Panel finds that:

- **In addition to significant trees identified, existing mature trees and copses contribute in large measure to the experience and image of the site as a landscape precinct, in an area of Geelong with limited plantings of large trees. The Draft Schedule to the DPO requires the retention of existing vegetation where possible, and this should ensure that the landscaping of the site capitalises on the legacy of mature vegetation and that the contribution the site makes to the streetscapes of the locality will be maintained.**
- **As well as retaining existing vegetation, the Landscape Master Plan to be approved through the development plan processes should provide for view corridors into the site.**
- **The range of measures to manage pedestrian access identified by Ms Katz, which included strategic use of landscape treatments, were far superior to the solution of extensive fencing suggested by Mr Watson.**

- **The treatment of areas of road reserve bordering the site, is qualitatively important for the realisation of an integrated landscape outcome for the site.**
- **It is in the interests of the Proponent to undertake high quality landscape treatments and this has been their practice in other projects. The Panel is satisfied that landscaping issues are capable of being effectively addressed through the Development Plan process.**

Recommendations

The Panel recommends that:

- **The Schedule to the Development Plan Overlay, Landscape Masterplan, be amended to include provision for the staged removal of both significant and mature trees, and the supplementary planting and or later replanting required by this.**
- **The schedule to the Development Plan Overlay, include provision for a coordinated approach by the developer and Council to landscape design and the planting of the road reserves bounding the perimeter of the site. The apportioning of costs of these works should be included in the Section 173 Agreement.**
- **The installation of kerbs and channel be undertaken on those sections Ballarat Road adjoining the site where they do not currently exist. This matter should be taken up with the road management authority. The cost of these works should be borne by the relevant authorities.**

5.6 TRAFFIC AND PARKING

Given the proposed development is bounded by two major arterial roads in Thompson Road and Ballarat Road each carrying quite large volumes of traffic a number of submitters raised issues regarding traffic access to the development, the Panel views traffic matters are seen as a key issue in consideration of the proposal.

5.6.1 CAR PARKING AND ACCESS ARRANGEMENTS

Mr Turnbull of the Traffix Group in his presentation to the Panel indicated it was proposed to provide parking for the various components of the development at the following rates:

Residential:

- 1 space for each one and two bedroom units
- 2 spaces for each three or more bedroom units (studies or studios as separate rooms are counted as bedrooms)

Retirement Village:

For independent living units parking is provided at:

- 2 resident spaces for every 3 dwellings
- Where a garage is provided as part of a dwelling -1 space for each dwelling.

Club house and Golf Course

In accord with the Greater Geelong Planning Scheme 4.0 car spaces per hole which equates to 36 spaces overall.

Bistro

For a bistro associated with the club 0.3 car spaces per seat.

Recreation Centre

As this is located within the development on the extension of Victoria Street it is assumed people will walk or cycle to the facility.

Medical Centre

An allowance of 4 car spaces per practitioner.

Panel Assessment and Conclusion Regarding Parking

The Panel finds the provision for parking meets common traffic engineering standards and accordingly provides a sound basis for use in determining parking generated by the development.

5.6.2 TRAFFIC GENERATION AND DISTRIBUTION

North-West Section of the Site

Mr Turnbull indicated the critical periods for assessing the traffic generation is typically during the am and pm commuter periods. He indicated that each residential dwelling proposed will generate in the order of 8 to 10 vehicle trip ends per day and of these trip ends 10% are likely to be generated by each dwelling during each commuter peak hour. Working on a conservative estimate of 10 vehicle trip ends per day for each dwelling, 1 trip end would be generated by each dwelling during each commuter peak hour.

His estimation of traffic generation from the aged accommodation was 3 vehicle trip ends /unit/day of which 0.3 vehicle trip ends would be generated during each commuter peak hour.

Table 2 from Mr Turnbull's report indicates the am and pm Peak Hour Splits and Generation for the (north-west section of the site)

Table 2: AM and PM Peak Hour Splits and Generation (north-west precinct)

Use	Quantity	Splits				Generation			
		AM		PM		AM		PM	
		In	Out	In	Out	In	Out	In	Out
Residential	200 lots	0.02	0.8	0.6	0.4	40	160	120	80
Independent Living Units	120 units	0.06	0.24	0.18	0.12	7	29	22	14

Mr Turnbull indicated that based on the figures presented in Figure 3 there will be 236 vehicle movements generated by the development during each commuter peak hour and 80% or 190 vehicles will use the main entrance via the Thompson Road/Victoria Street intersection and traffic signals and 20% or 46 vehicles utilising the unsignalised intersection to the north.

In terms of direction of traffic entering and leaving the site, Mr Turnbull estimates 57% of traffic will travel to and from the north and 43% to and from the south.

The direction of traffic is shown in Figure 6 and volumes in Figure 7.

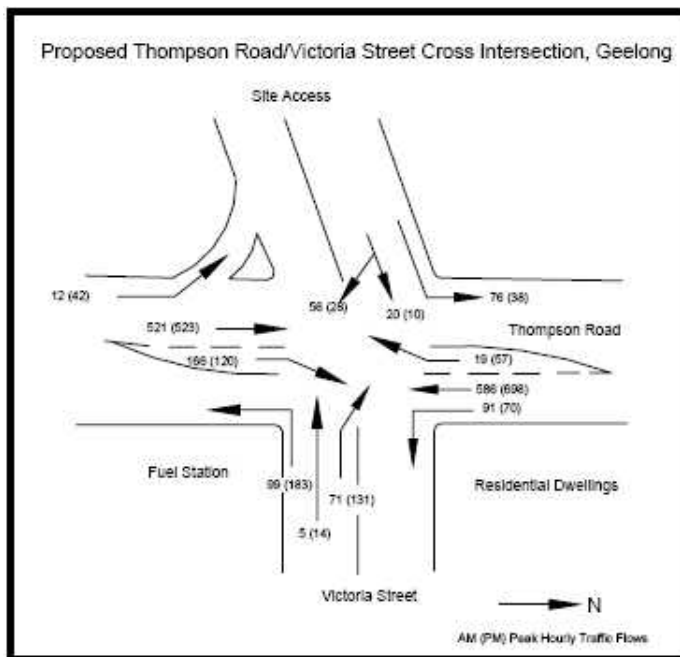


Figure 6 Predicted post development volume (Thompson/Victoria Roads) (Traffic Report)

Figure 7 shows the estimated traffic volumes for the second unsignalled access to Thompson Road.

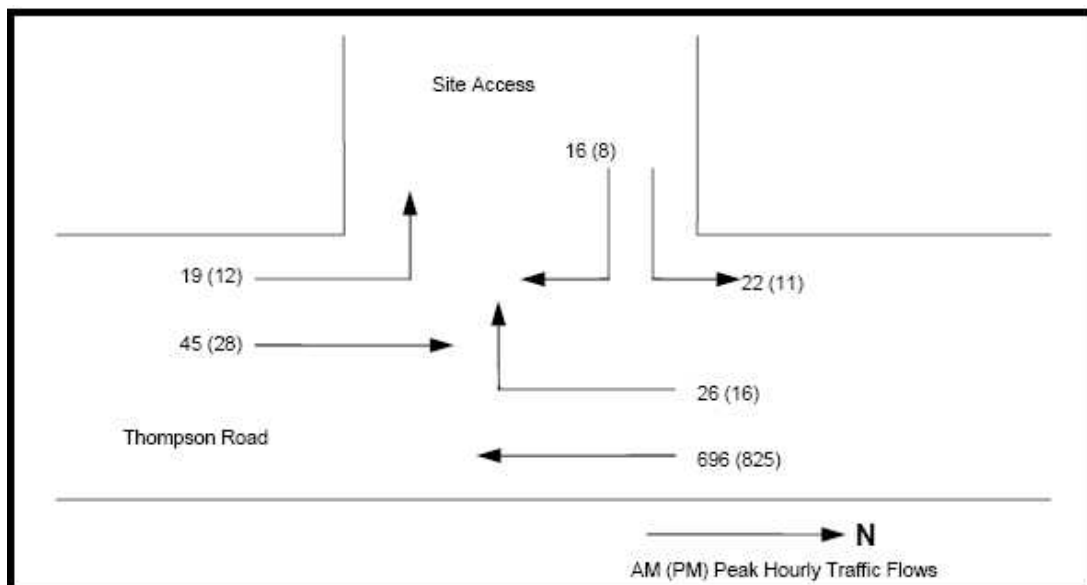


Figure 7 Predicted Post Development Volume-Unsignalled T Intersection Thompson Road (Traffic Report)

South East Section of the Site

In terms of the South East section of the site Mr Turnbull has assumed four groups of four people will play each golf hole per hour which generates 32 vehicle trip ends, plus a small number of visitors to the clubhouse making a total of 50 vehicle trip ends per hour.

In terms of the medical centre he assumes six vehicle trip ends per consulting room per hour which for a 5000m² centre indicates 30 consulting rooms and a predicted peak hour traffic generation of 200 vehicle trip ends.

Mr Turnbull has assumed that peak hour traffic generation associated with the golf course and medical centre corresponds with the existing pm peak hour traffic conditions along Ballarat Road and that traffic generation will be split evenly between vehicles entering and exiting the site at this time.

The prediction for the am peak hour indicates significantly less due to less medical consultations and fewer patrons using the course. The assumption is the am peak hour will be 50% of the generation during the pm peak hour with 90% entering and 10% exiting the site during this time.

Figure 8 shows the predicted post development volumes for the Ballarat Road access.

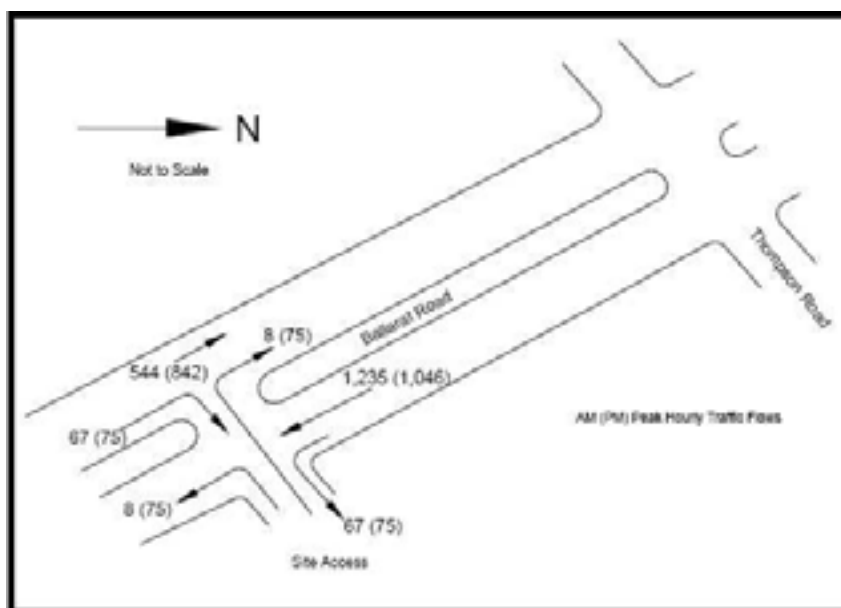


Figure 8 Predicted Post Development Volume (Ballarat Road Access) (Traffix Report)

A number of traffic generation questions were raised during the hearing including from Council: Whether all elements of the proposal were taken into account in the traffic assessment? The answer given being yes, whether previous traffic movements to the former golf course were accounted for? The answer was counts were based on 2002 traffic figure when the previous course was operating and these figures were not deducted. A further question was whether it was reasonable to assume higher traffic movements for an independent course? The answer given was commuter peaks are the controlling design factor.

The Panel finds the traffic generation and distribution of traffic assumptions associated with the proposed development are within the parameters of accepted traffic management practice.

5.6.3 TRAFFIC ACCESS ANALYSIS

Thompson Road/Victoria Street Intersection

The phasing of traffic signals at the Thompson Road/Victoria Street intersection consists of:

- A through traffic phase along Thompson Road allowing filtered right turns;
- A through traffic phase along Victoria Street and access into the site allowing filtered right turns; and
- An all movement phase for the south approach of Thompson Road also including the auxiliary left turn from Victoria Street. Pedestrians will also be catered for at the intersection within the phases.

Mr MacDonald questioned whether the design of the Thompson Road/Victoria Street intersection had taken account of the bicycle path along Thompson Road and he received assurance it has been taken into account.

Mrs Agg commented that cars from the proposed estate would add to the congestion in Thompson Road and she was assured there was sufficient capacity to cover the increase.

The Panel accepts that an analysis of the intersection capacity for each approach shows capacity is well within acceptable operating conditions.

Thompson Road Unsignalised T Intersection

Mr McFarlane raised the issue of elderly motorists having to access Thompson Road via an uncontrolled intersection and he was advised that other intersections in the area were similar and had not had problems.

The Panel accepts that an analysis of the intersection indicates it will operate well below capacity and will not result in congestion in Thompson Road.

Ballarat Road

An intersection capacity analysis of the entry and exit from the south-east portion of the site into Ballarat Road which allows for separate left turn and right turn lanes and a short 20 metre left turn merging lane has been carried out.

This indicated a 6 second critical gap and 4 second follow-up headway is required to meet established engineering practice for vehicles turning right out of the site and a 4 second critical gap and 2 second follow-up headway for vehicles turning left.

The analysis showed, whilst there was no problem with right turn into the site or left turns out of the site during am and pm peaks, however there were significant delays to right turns and out of the site during the pm peak with right hand turning vehicles sometimes having to pause in the median opening before completing their turn.

Mrs Agg commented there had been accidents in the past involving vehicles exiting the golf club car park and this would be exacerbated by greater numbers of vehicles. Mr Turnbull indicated confidence in his design and explained the median pause would help the situation.

Whilst Mr Turnbull indicated he is confident that current arrangement will work due to the platooning effect of traffic in Ballarat Road the Panel is of the opinion there is a danger at this ingress and egress point and thought should be given to banning right turns out of that entrance.

A number of general questions were asked by Mr Hill and Ms Hoy regarding access to the machinery shed off Thompson Road particularly near the Sphinx Hotel which Mr Turnbull was unable to answer, however, Mr Pitt indicated the machinery access from The Fairway would not be proceeding.

Panel Assessment and Conclusion Regarding Intersection Capacity

The Panel accepted that:

- **An analysis of the intersection capacity shows for each approach capacity is well within acceptable operating conditions.**
- **An analysis of the Thompson Road and signalised 'T' intersection indicates it will operate well below capacity and will not result in congestion in Thompson Road.**
- **There is a potential danger at the Ballarat Road ingress and egress point and thought should be given to banning right turns out of that entrance.**

In summary the Panel finds the provision for traffic management associated with the proposal has been dealt with adequately with the exception of the egress from the Ballarat Road entrance where the Panel recommends that right turns out of the site be banned.

Recommendation

Right turns out of the site onto Ballarat Road should be banned.

Access to The Golf Course Maintenance Depot And Access During Construction

Whilst they are not subject to the proposed amendment the Panel noted during the inspection a number of additional gate way entries to the course, aside from the main entrance. These entries were located off Ballarat Road, Thompson Road and The Fairway and had obviously been used for equipment entry into the course, and in one case access to the Maintenance Depot, a use which will be required for the proposed nine hole course proposal.

A number of submitters raised concerns about the location of the main entry to the Maintenance Depot and in answer to a question from Mrs Biscan from The Fairway as to future plans for the existing entry off The Fairway Mr Pitt gave an undertaking this entrance would not be required.

Panel Assessment and Conclusion regarding access to the Golf Course Maintenance Depot at access during Construction.

Whilst the submitters concerned has been addressed, the issue of entry to the Maintenance Depot for the proposed Golf Course still remains unsolved and will need to be addressed.

Likewise a Construction Management Plan will be required to be agreed between the Proponent and The Greater Geelong City Council which should address the issue of ingress and egress from the site for heavy construction equipment which could be dealt with under the planning permit conditions.

Recommendation

The Panel recommends the entry to the maintenance depot and the Construction Management Plan be the subject of further discussion between the Proponent and Council.

5.6.4 FOOTPATH ACCESS BALLARAT ROAD

During the site inspection the Panel noted a bus stop and shelter located on the Ballarat Road frontage of the site opposite Quamby Avenue which will obviously be used by residential property occupiers on that side of the proposed development. The Panel also noted in discussions with nearby residents the bus stop is also well used by people living on the north-west side of Ballarat Road and there is no footpath to provide access from the Grace MacKellar end of the development.

Clearly a future footpath will be required and the Panel recommends its provision form part of any agreement between the Proponent and Council.

5.7 FLORA AND FAUNA – ENVIRONMENTAL VALUES

This section addresses the impacts of the proposal on flora and fauna. The aesthetic and functional impacts of proposed planting and removal of vegetation are addressed in section 5.5.4.

Relevant Planning Policy

The SPPF **Clause 15.09 Conservation of native flora and fauna** aims to protect and conserve biodiversity, including native vegetation retention and provision of habitats for native plants and animals. Planning authorities are required to have regard to The National Strategy for the Conservation of Australia's Biological Diversity, relevant Strategies, orders and Action Statements prepared under the *Flora and Fauna Guarantee Act 1988*, *Victoria's Native Vegetation Management – A Framework for Action 2002*⁶ (the 'Framework') and any relevant provisions of regional catchment strategy plans, particularly regional vegetation plans. This clause states '*Planning authorities should utilise mapped information available from the Department of Sustainability and Environment to identify areas of significant native vegetation and biodiversity.*'

Clause 21.14 - Conservation of native flora and fauna. This policy seeks to preserve and protect the City's existing flora and fauna communities and encourages their re-establishment.

Evidence and Submissions

Many of the objecting submissions expressed concern about the impact of the development on the environment which will include the removal of an excessive number of established trees on the course and loss of bird habitat. For example Mrs Helen Biscan, Mrs June Dawson and Mr Scarlett noted that the site provides a sanctuary for fauna, including Black Cockatoos,

⁶ *Victoria's Native Vegetation Management – A Framework for Action* (Department of Natural Resources and Environment 2002) requires firstly, as a priority, the removal of native vegetation to be avoided; secondly, if the removal of native vegetation cannot be avoided, the loss of native vegetation should be minimised through appropriate consideration in planning processes and expert input into project design or management; and thirdly, appropriate offset actions should be identified (Clause 15.09).

rosellas, other parrots, possums and bats, and expressed concern that an environmental assessment had not been undertaken of the loss of trees up to 100 years old, and green space. Mr Scarlett suggested that a full survey of use of the site in both day and night periods, which takes account of seasonal patterns of use, should be undertaken.

Ms Holt and the Geelong Environment League emphasised the importance of the whole golf course in providing fauna habitat, citing at least 20 species of birds that use the trees on the golf course. They argued that it is simplistic to dismiss the site's habitat values because it includes a mix of exotic and Australian species. The loss of sources of food, protection and nesting sites, particularly associated with large old trees, would take many years to recover through new planting.

Council's response to these concerns, acknowledged that approval of the amendment is likely to lead to the removal of the thick band of established vegetation through the central portion the land which is proposed to be rezoned, but there will be limited losses in the south eastern precinct. The DPO Schedule requires preparation of a Landscape Masterplan for Council's approval which will involve the identification of trees to be retained and removed, species to be used in new planting and the retention of established trees in road reserves, as a habitat and landscape feature. It was noted that the inherent landscaped nature of the golf course will be retained and there will be considerable opportunities for new planting to be undertaken.

Mr Rob Galbraith provided a statement of evidence on arboricultural issues which included an assessment of the relative worth of trees for retention based on the following criteria:

- Structure, health, form and safe useful life expectancy;
- Size, prominence in the landscape;
- Whether indigenous to the site;
- Species rarity; and
- Importance for habitat of native wildlife.

He found that there is considerable tree species diversity on the course although few if any are rare or unusual types under accepted scales of assessing conservation significance⁷.

He suggested that a number of copses and individual trees have merit for retention in any development as they have a level of maturity, have long useful life expectancies and provide some wildlife benefits as well as contributing to amenity. However, he also noted that many trees within the better copses are in poor condition.

Sugar Gums (*Eucalyptus cladocalyx*), Giant Honey Myrtle (*Melaleuca armillaris*) and Prickly Paperbark (*Melaleuca styphelioides*) dominate the course. Mr Galbraith agreed with the earlier Earth Tech assessment in documentation lodged with Amendment that the Sugar Gums and Honey Myrtles are of low significance because of their non indigenous nature and poor structure but he was of the opinion that there is considerably more tree species diversity on

⁷ Examples of species present which are not commonly found in the Geelong and Melbourne areas are:

- one poor example of *Eucalyptus steedmannii* (Steedman's Gum) in group 52A (common in W.A.);
- a semi mature tree in good condition of *Eucalyptus megacornuta* (Warted Yate) at the southerly end of group 38 (common in W.A.), and
- several small MacNab's Cypress (*Cupressus macnabiana*) at the northerly end of group 13 (common in California).

the course than inferred and a number of the Sugar Gum dominated copses could be responsibly retained provided certain treatments were undertaken.

Mr Brett Lane undertook a net gain assessment of the site which concluded that state policy under the Framework does not apply because the subject land does not support intact native vegetation or remnant indigenous trees⁸. Photographs that show the site was largely devoid of vegetation in the mid 1890's support this conclusion. It is noted that trees have been planted and the understorey is largely exotic with only small patches of (less than 20 sq m) of indigenous grasses and grass-like species occur at less than 10% cover.

Mr Lane concluded that the site has minimal conservation significance which is limited to local conservations significance for common indigenous bird species. It provides habitat opportunities for more mobile birds but offers few habitat niches such as hollows or protection from predators and is significantly affected by urban edge impacts. He considered that extensive areas of vegetation are retained and plantings with indigenous species may outweigh removal of some of the trees. The proposed plantings and waterbodies to be addressed in the landscape masterplan would maintain, and possibly enhance habitat values on the site.

Panel Assessment & Conclusions on Flora and Fauna Impacts

The Panel accepts the evidence that the site does not contain native vegetation as defined in the planning scheme and net gain policy under the Framework does not apply. Nor does it contain rare or threatened species protected under State and Commonwealth legislation or listed on DSE's *Advisory List of Rare and Threatened Species 2005*.

Therefore the focus in this section of the report is the impact of the proposal on the broader habitat values of the site.

It is recognised that fauna will be disturbed during the development phase and existing mature habitat trees will be lost as a result of the proposed development. Nevertheless, the retention/establishment of an extensive area of vegetation, including more water bodies and more extensive use of indigenous plants, provides for the maintenance of habitat values, albeit on a smaller area and with interface impacts on fauna associated with an extended urban edge. However, the proposal maintains a much greater vegetated area than would be achieved under alternative development scenarios for this privately owned land.

The Panel is satisfied that the proposed DPO requirements for design of the proposal to maximise the preservation of mature significant trees and extensive use of locally indigenous plants provides an appropriate recognition of the intention to protect and enhance the site's habitat values. This will be the basis for assessment by the Responsible Authority of the more detailed plans. An additional requirement for a staging plan for removal and replacement of mature trees was canvassed at the hearing, and the Panel considers this would be a useful mechanism to achieve optimum outcomes for both amenity and habitat values in the longer term.

Recommendations

The exhibited DPO be modified to include an additional requirement for a staging plan for the removal and replacement of trees.

⁸ The only self sown indigenous trees of local provenance are likely to be a couple of old dying Drooping She-oaks near the northerly end of Group 61.

5.8 DRAINAGE AND FLOODING

Relevant Planning Policy

SPPF Clause 15.02 Floodplain Management indicates that:

‘Land affected by flooding, including floodway areas, as verified by the relevant floodplain management authority, should be shown on planning scheme maps’.

The VPP *‘Applying The Flood Provisions In Planning Schemes - A Guide For Councils’* indicates:

The flood provisions do not address the cause of flooding, but the way future land use and development will impact on the flooding problem or be impacted themselves by flooding. The cause needs to be dealt with by separate means. This may include other actions of council and/or the floodplain management authority, such as flood mitigation measures, that may be linked to a corporate plan or a floodplain management strategy.

The Practice note also indicates:

With the redevelopment of existing urban areas and the proposed development of new areas, there will be pressure to develop within overland flow-path areas. The purpose of the SBO is to manage development in these areas.

5.8.1 FLOODING ON THE SITE

Evidence and Submissions

The Geelong Golf Club site is located in the Rippleside Drainage Catchment and from reports supplied to the Panel by the Council (*The Rippleside Catchment Stormwater Management Plan*), the Earth Tech Report commissioned by the Links Group, evidence by Dr McCowan and Mr Chartres on behalf of the Proponent and submissions from various submitters, flooding and stormwater management are a key determinant in the future of this site. In addition an opportunity is presented to improve stormwater volume and quality downstream of the subject site.

Dr McCowan in his submission to the Panel indicated there were four main flood corridors across the Golf Course and these are shown on Figure 5 of his report which is reproduced below.



Figure 9 Main Flood Corridors
(Source: Geelong Golf Course Site Review of Flooding & WSUD Issues)

Dr McCowan went on to explain these floodpaths as:

- **Flowpath A** - Generally in a south to north direction off Ballarat Road at Church Street and through the unsealed car park at surface level and into an underground drainage system adjacent to the proposed Medical Centre. Much of the flooding in this area is caused by cross country flows along Ballarat Road from higher in the catchment, which due to the existing earthen embankments along the Ballarat Road frontage of the golf course direct the flow into the car park area near the intersection of Ballarat Road and Thompson Road. The fact the existing underground pit lids blow off during periods of heavy flow indicates the drain is flowing under head and requires increased capacity;
- **Flowpath B** - Generally an easterly flow across the South East portion of the course from the intersection of Ballarat Road and Thompson Road from overland flows higher in the catchment. A sedimentation basin is proposed at the downstream end of Flowpath B;
- **Flowpath C** - A shallow flowpath of less than 0.1m in depth of water across the course entering from Ballarat Road opposite Quamby Avenue and flowing northeast to the outlet structure connecting to the drainage system in Hepner Place at Thompson Road. This flowpath will require the removal of the earth bank along Ballarat Road; and
- **Flowpath D** - This provides the main flowpath across the northern part of the North-West portion of the site flowing from west to east and discharging to Hepner Place at Thompson Road.

Dr McCowan indicated the aims of the drainage design on site are to cater for the 100 year Average Recurrence Interval (ARI) flood level with augmentation of the drainage system proposed for the area to be rezoned to Residential 1 to address existing flooding problems. He indicated support for the proposed development because it preserves the existing flood regime, will have no adverse impact on existing flooding elsewhere in the catchment.

A number of questions were raised in regard to flooding including, from:

- Council Floodpath A with a flood flow of 0.1 – 0.25 metres in depth was that proposal the appropriate mechanism for that section? The answer being yes.
- Mr MacDonald made a point that water from Floodpath A forms a lake at the drainage outlet which takes several days to drain away. Mr McCowan indicated this would be dealt with by drainage improvements down stream and an improved inlet structure.
- Mr McFarlane indicated he had never seen water flow along Floodpath C. It was indicated that flow would only take place in a 1 in 100 year storm and the flow would be quite shallow. The present flow is also impacted by the earthen embankment along Ballarat Road.
- Mr McFarlane also indicated that the initial drainage report had indicated that saline water pumped from the limestone quarry upstream in the catchment during low flows in the Moorabool River could be harmful to the wetlands and the golf course if used for irrigation. Dr McCowan indicated that further information had come to hand which showed the water to be less saline than originally thought and with dilution would not harm the wetlands and could be used for irrigation purposes. He also indicated the use of the wetlands would lead in improved quality to downstream stormwater.

A number of questions were raised by the Panel, including the implications of a revised sedimentation basin at the downstream end of Flowpath B on the Development Plan Concept which we were told could be accommodated within the existing plan.

As a result of a question as to who would manage a Special Building Overlay (SBO) for the South Eastern portion of the site the Panel were informed the Corangamite Catchment Management Authority (CCMA) is the floodplain manager and would be the Referral Authority on flood catchment matters under the SBO. This would provide for greater powers than that proposed under the Development Plan Overlay (DPO).

A question was raised on the implications of restoring cross course water flow along Floodplain C and indications were given the flow would be quite shallow during major storms and that earth mounding along Ballarat Road would require removal.

The question of nominating floodways in the Schedule to the Development Plan Overlay (DPO) was raised and it was indicated that a mechanism would be incorporated in the DPO to protect floodway capacity in the North West component of the site. It was noted that Council had also considered addressing the flooding issue in the South West Precinct using the DPO but the Proponent considered a SBO would be a preferable option.

The siting of onsite stormwater storage and residential development was raised and whether this should be addressed in the Development Plan Overlay and it was indicated this would be reviewed during the more detailed design phases.

Other questions were asked as to the effect of saline water on the proposed wetlands and the possibility of long term salinity build up on the course. The question of salinity effect on the wetlands was answered on the basis that in periods of low flow when there would be higher levels of salinity the saline water would be diverted and in high flow periods there would be sufficient dilution to prevent problems. No answer was provided on the long term build up effect.

With regard to stormwater runoff from Ballarat Road into the site, the Panel were informed there were no plans at this time to install kerb and channel or underground drainage along that section of road. Dr McCowan indicated the proposed aims of the drainage design on site is to cater for the 100 year Average Recurrence Interval (ARI) flood level with augmentation of the drainage system proposed for the area to be rezoned to Residential 1 to address existing flooding problems. He indicated the proposed development, because it preserves the existing flood regime, will have no adverse impact on existing flooding elsewhere in the catchment.

In a late submission to the Panel the Corangamite Catchment Management Authority had indicated they would object to the rezoning if a floodway is not provided along the line of Flowpath A in the South East portion of the course to cater for floodwater flowing along the eastern boundary of the site.

Panel Assessment and Conclusions on Flooding

The Panel finds the most appropriate approach would be to apply a Special Building Overlay (SBO) over those portions of the site which are subject to inundation within the Residential 1 Zone. This mechanism ensures that the floodplain manager has a key role in the assessment of actions that may impact on flooding, including after completion of the development currently proposed. While a comprehensive, catchment wide approach to the mechanisms to ensure flooding issues are addressed is clearly desirable, this does not mean the issue should not be addressed in the planning scheme until such an approach is feasible.

In terms of capital improvements to the drainage infrastructure on the site, in a late submission to the Panel Mr Hellsten from Greater Geelong City Council indicated Council had allocated

funds in the 2006/2007 Capital Works Budget to carry out major improvements on the drainage infrastructure which serves the site to improve the management of overflow land problems.

In summary the Panel finds the Proponent has taken adequate steps to ensure that stormwater and flooding issues on the site can be adequately addressed to meet the statutory authorities requirements and that a Special Building Overlay (SBO) apply over those portions of the site subject to inundation within the Residential 1 zone.

Recommendation

The Special Building Overlay (SBO) apply over those portions of the site subject to inundation in the proposed Residential 1 Zone.

5.9 OTHER ISSUES

During the Panel Hearing a number of issues arose outside the scope of key issues listed. These issues are dealt with below.

5.9.1 INFRASTRUCTURE

During presentations to the Panel by both the Proponent and the City of Greater Geelong, the Panel were informed the site boundary roads contained water, gas and electricity mains and Telstra cables, all capable of being extended into the site. A sewer main crossed the site and had the capacity to service the site requirements.

Drainage from development on the site was to be dealt with in conjunction with external flows onto/ into the site.

Panel Assessment and Conclusions on Infrastructure

The Panel finds the site can be adequately serviced by all required utilities.

5.9.2 POTENTIAL CONTAMINATION

The Panel in its deliberations notes the former use of the land as a golf course would have involved the storage and use of various herbicides in maintaining the course or possible contamination of material which had been transported to the site for use as mounding etc.

The Panel also notes the Environment Protection Authority were a Referral Authority and that authority has recommended the Responsible Authority, in this case Greater Geelong City Council, satisfy itself the land is not contaminated from previous uses.

The Panel notes the proposed DPO for the North Western portion of the Amendment area addresses the issue of potential contamination by requiring “a preliminary soil assessment demonstrating the extent of any contaminated soils that may exist on the subject land”, and if detected, a more detailed assessment.

Panel Assessment and Conclusions on Potential Contamination

The Panel is satisfied that this provision provides an appropriate mechanism to ensure that potential contamination is identified and addressed, provided the assessment is undertaken by an appropriately qualified person in accordance with the General Practice Note for Potentially Contaminated Land.

In noting no such requirement applies to the South Eastern portion of the site the Panel finds that either the same assessment is carried out on that land before the Amendment is approved or an Environmental Assessment Overlay (EAO) is applied to the land.

Panel Recommendation

Prior to the approval of Amendment C110, an assessment of historical use by an appropriately qualified professional be carried out to address the General Practice Note for Potentially Contaminated Land, and be submitted to Council.

6. ARE THE PLANNING FRAMEWORK MECHANISMS APPROPRIATE?

6.1 THE RESIDENTIAL 1 ZONE

At the directions hearing, the Panel asked the Council and/or the Proponent to address whether the proposed R1Z in the south-eastern portion of the eastern site is appropriate given its location, likely use and attributes.

Council submitted that:

- The Manual for the Victoria Planning Provisions states that the Residential 1 Zone is: *“the main zone to be applied in most residential areas. It provides for a range of dwellings and dwelling density and for a limited range of other uses usually associated with residential development”*.
- In regard to the north western precinct, the proposed Residential 1 Zone with an accompanying Development Plan Overlay provides for residential uses, with an ancillary golf course use, which facilitates the intended outcome for the site. Council and the Proponent argued that, as the areas to be used for residential, golf course and public parkland cannot be precisely delineated at this stage, it is not appropriate to apply a number of zones to fit each of the intended uses. Council rejected the possible alternative of applying the Comprehensive Development Zone on the basis that: two main uses are proposed (rather than a range of uses); the proposal does not satisfy the criteria in *The Manual for the Victoria Planning Provisions* that *“only large or complex development would warrant the use of this zone”*; and incorporation of a plan for the site would be unacceptably inflexible given that the form of the development requires finalisation;
- The proposed rezoning of the land adjacent to the clubhouse to Residential 1, was considered appropriate to allow for an activity which is ancillary to the residential uses, such as a medical centre or veterinary clinic, while precluding commercial uses allowed under an alternative Business or Mixed Use zoning.

Panel Assessment

The Panel agrees with submissions that the adoption of a series of zones for the north western precinct would require a level of precision in defining boundaries that is not currently possible. It also considers that such an approach would impose a planning framework with little flexibility.

The Panel agrees that site specific zones, such as the CDZ should only be used where the complexity of a proposal cannot be accommodated by the planning framework provided by the generic VPP zones. In this case the R1Z provides for consideration of all the features of the use and development proposed. It is consistent with adjoining zones (other than the Industrial zoning to the east which is discussed in section 5.4.2).

The R1Z also establishes an appropriate limit on the range of uses that could be contemplated in the future. It is recognised that the land proposed for rezoning in the south eastern portion of the site may not be developed for residential purposes or the medical centre use

foreshadowed in the Amendment documentation. The Panel accepts submissions that the range of uses that may be considered for this area should be limited to ensure that commercial uses more appropriately located in activity centres are not attracted to the site, as well as limiting potential impacts on the amenity of nearby residential uses. The requirement for a planning permit for the limited range of uses (and the associated development) allowed in the Residential 1 zone, provides an appropriate mechanism for evaluation of whether proposals are appropriate.

The Panel accepts that the Residential 1 Zone establishes a reasonable planning framework for the Amendment site.

6.2 THE DEVELOPMENT PLAN OVERLAY

The proposed Development Plan Overlay (DPO) requires a plan to be prepared to the satisfaction of Council in accordance with overlay provisions and the site specific schedule.

The Panel agrees that the Amendment is consistent with the Planning Practice Notes on writing schedules in terms of language and format and the Schedule to the Development Plan Overlay has been drafted to avoid duplication with other provisions within the Planning Scheme.

The Proponent has provided assurances that the exhibited Draft Development Plan is indicative of its intentions for the site and only development of the design / fine tuning is envisaged. This is reflected in the proposed Section 173 Agreement (see discussion in section 6.3). The Panel considers that this Section 173 Agreement provisions do not remove the desirability of including site specific provisions in the schedule.

6.2.1 Third Party Rights

The DPO exempts a planning permit application from notice and review if it is generally in accordance with an approved plan. Third party rights would continue to apply to the proposed Residential 1 zone in the eastern precinct, as a DPO is not proposed for that part of the Amendment area.

At the directions hearing, the Panel indicated that Council and/or the Proponent should address the implications of the proposed Development Plan Overlay for third party rights.

Many submitters expressed concern that:

- The proposal had changed significantly during the planning processes to date;
- They had been put in the position of responding to ‘a moving feast’; and
- The opportunity for input by those affected in subsequent approval processes would be removed although there is no assurance that the proposal considered in subsequent approval processes would not undergo further major change.

Council submitted that the removal of third party rights in the north western precinct is appropriate because:

- The site is self contained and does not contain an existing residential population;
- The proposed residential and golf course uses will not significantly affect third party interests. The scale of the proposed uses, the indicative layout of these uses shown on the

Draft Development Plan and the absence of vehicle access to adjoining residential areas are all factors that limit potential impacts;

- The intention of the redevelopment is widely known, as is the likely layout of the uses; and
- The exhibited DPO comprehensively considers all requirements for the final development of the land, to ensure all issues are adequately considered by Council.

Panel Discussion and Conclusions

The VPP Practice Note *Applying the Incorporated Plan and Development Plan Overlays* indicates DPO's should be underpinned by a strategic framework and states:

The strategic framework should be prepared before the overlay is applied to:

- *identify and address any opportunities and constraints that will affect the development of the land*
- *provide direction about the desired development outcomes and the overall form of development*
- *provide certainty to landowners and third parties about the form of development*
- *assist in choosing the appropriate planning tools to achieve the desired development outcomes and form of development*
- *ensure the schedule to the overlay is drafted to achieve the desired development outcomes and facilitate the development.*

The strategic framework should be set out in the planning scheme or form part of the amendment introducing the overlay into the planning scheme.

.....

Because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third-party interests, self-contained sites where ownership is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas. (Emphasis added)

The issues for the Panel are:

- Whether third parties who may be affected by the proposal have had an adequate opportunity to assess potential impacts and present any concerns at the Amendment stage;
- Whether the strategic framework established by the planning policy framework, the zone and the Schedule to the DPO ensures that the relevant issues are addressed in the subsequent assessment of the development plan by Council; and
- Whether the greater certainty associated with the Incorporated Plan Overlay is warranted.

Firstly, it is noted that the potential for significant direct impacts on third parties are restricted to the residents of adjoining properties to the north and the Grace MacKellar Centre to the west. These impacts are discussed in section 5.4.1, where the Panel concluded that the impact on residents to the north adjoining the proposed retirement village would be minimal and ResCode establishes appropriate standards for that component of the development. Submissions were not received from property owners or occupiers to the north, which implies

that there is a level of comfort with the Amendment and the form of development foreshadowed as part of the exhibition process.

The Panel was advised that the Proponent intends to continue consultation with Barwon Health regarding the potential for greater integration between the sites. **The Panel considers that the Development Plan Overlay schedule should explicitly require consideration of Barwon Health's views as part of the Development Plan approval process.**

The Panel considered whether the greater certainty should be provided by adopting an Incorporated Plan Overlay or Comprehensive Development Zone instead of the R1Z with a DPO⁹. The VPP allow a range of mechanisms to achieve similar ends. It would be possible to maintain some flexibility under either the CDZ or the IPO by preparing a 'conceptual' plan with performance criteria to address key issues for incorporation into the planning scheme. This model would ensure that significant departures from the plan could not occur without further public scrutiny through the amendment process.

Nevertheless, **provided that key issues are adequately addressed in the Schedule to the DPO, the Panel considers that the DPO provides an acceptable alternative to the CDZ or IPO, because the potential for unacceptable direct impacts on third parties is limited, there has been extensive exposure of the issues as part of the Amendment process, and there is a commitment that is formalised in the proposed Section 173 agreement that the development plan when submitted, will generally accord with the plan considered as part of the Amendment C110 process.**

The removal of third party rights in subsequent approval processes means that it is particularly important that the planning scheme establishes a transparent basis for assessment of the development plan, and the framework ensures that the plan is consistent with the material that formed the basis of the assessment of Amendment C110. The Panel's assessment of specific DPO provisions and some suggested modifications are discussed in section 6.2.2 below.

6.2.2 THE PROPOSED OVERLAY SCHEDULE

The proposed DPO requires any permit to subdivide the land or carry out works to be *in association with the use of the land as a golf course*. This requirement is appropriate as it reflects the basis for Council support of the proposal and the assessment that has occurred as part of the Panel process.

The exhibited Amendment included a detailed Schedule to the DPO which addressed:

- Community Design to achieve a mix of lot sizes, preservation of the large tree canopy character and open landscape values, integration with the surrounding area through links to existing networks retention of existing vegetation in public open spaces and road reserves, acknowledgment of the site's historic values, public access to the site from Thompson Road, and attractive interfaces with adjoining roads.
- Public open space that provides links into the existing network, contributes to the character of the local area, assists with stormwater management, uses local indigenous plant species and is efficient and easy to maintain;

⁹ The IPO and CDZ would require an Amendment to the planning scheme if the use or development was not consistent with the incorporated plan or zone provisions.

- Movement network objectives to achieve an integrated, safe and connective system of roads, bicycle and pedestrian paths incorporated into the road & public open space system that connects the regional bike path system to the open space network. The opportunity for connections to the Barwon Health site should be provided;
- Safe, convenient and legible subdivision design that enables development to front streets and public open space;
- Environmental management to include a best practice stormwater quality management system, subdivision layout and building construction that promotes water sensitive urban design and reuse, energy efficiency and reduction of all wastes, golf course and residential siting that maximises the preservation and protection of significant mature vegetation, extensive use of local indigenous plants in landscaping and revegetation works, use of environmentally preferred construction materials and construction techniques; and
- Drainage systems and management to ensure habitable buildings are protected from flooding, flooding is not a regular nuisance in minor storms, and new development has no adverse impact on downstream properties and environments.

The Development Plan must include:

- An **Urban Design Masterplan** that includes a range of lot sizes, sites for higher density development with convenient access to public open space, a bicycle and pedestrian network with links to the existing network, land to be transferred to Council for public parkland, wetland and retardation/sedimentation basins treatments, a street network that facilitates public movement through the site with a minimum of two permanent access points to Thompson Road, public parkland bounded by roads, details of all fencing, landscaping and other entrance treatments along Ballarat Road and Thompson Road, and safety control measures associated with golf course activities;
- A **Landscape Masterplan** for all areas of public open space and the golf course that includes identification of trees to be retained and removed and the species of plants to be used, extensive use of local indigenous species, retention of existing mature trees (where appropriate and consistent with the proposed road layout and road reserves);
- A **Water Sensitive Urban Design Masterplan** which demonstrates ‘zero flood impact’ on other properties, incorporates relevant elements of the Rippleside Catchment Stormwater Management Plan, and adopts best practice collection, reuse, disposal and treatment of stormwater and includes suitably sized wetlands incorporating public safety measures, vegetated swales, bioretention systems, gross pollutant traps and water detention/sedimentation basins. Compliance with State Environment Protection Policy (Waters of Victoria) and CSIRO Urban Stormwater Best Practice Guidelines is to be assessed using the MUSIC (Model for Urban Stormwater Improvement Conceptualisation) program; and
- An **Environmental Management Plan** providing assessment of contaminated soil and measures to de-contaminate affected areas, the construction management measures to control erosion and silt discharged from the site methods to protect and enhance tree retention areas during and after construction, water and energy conservation measures for each dwelling.

Council’s submission to the Panel included revisions to the DPO schedule in response to objecting submissions. These revisions were intended to:

- Reinforce the integration of the development with the wider community and avoid ‘gating’ of the development;
- Require interface treatments to be specified along boundary roads;

- Ensure a public road was provided through the site;
- Specifically foreshadow the opportunity for connections to the Barwon Health site; and
- Address flooding issues in the south eastern precinct through the application of the DPO to that land with provisions of the schedule to address flooding of that land.

At the end of the hearing, Council put forward further potential revisions to the DPO schedule in response to issues raised during the course of the hearing. These changes are tracked in the version of the DPO schedule in Appendix C.

Panel Discussion and Conclusions Regarding the DPO Schedule

As there is a clear intention for the development plan to be generally in accordance with the draft development plan exhibited with the Amendment, and the DPO removes third party rights, the Panel considers that it is both possible and appropriate to specify key requirements in the schedule to the overlay.

An overall comment on the drafting of the schedule is that the provisions which purport to be objectives are not drafted as objectives¹⁰. However, they do serve a useful role in setting out the overall planning intent to be met by the development plan. At the hearing, the Panel queried whether more specific direction could be provided in the Schedule to the DPO. The Council responded in a revised schedule tabled at the end of the hearing, by including additional requirements in the ‘objectives’. The Panel considers that a clearer distinction should be drawn between the objectives and the requirements for matters to be included in the components of the development plan. For example:

- The objective ‘*Safe, convenient and legible subdivision design that enables development to front streets and public open space.*’ includes the means of achieving the desired end - ie development to front streets and public open space. This is a sound requirement but the requirement would be more appropriately included under ‘Urban Design Masterplan’;
- It would be better to include the additional provisions relating to landscaping in the Landscape Master Plan requirements rather than under the community design objectives.
- An environmental objective is to ensure there is no off-site impact to stormwater quality, with water sensitive urban design techniques and construction procedures and practices providing the strategy to achieve this objective. The requirements associated with the strategies to achieve the storm water quality objectives are more appropriately located in the proposed Water Sensitive Urban Design Masterplan and the Environmental Management Plan;
- An implied environmental objective is to preserve and enhance biodiversity and habitat values. The strategies to achieve this, which should be included in the development plan requirements rather than the objective, include maximising the preservation of mature vegetation throughout the site and extensive use of local indigenous plants in landscaping and revegetation works.
- The Drainage system objectives could be redrafted to the following effect:

To ensure that new development and construction activity has no adverse impact on downstream properties & environments in terms of major flooding, minor flooding or water quality & quantity.

¹⁰ Objectives should begin with the infinitive form of the verb and they should allow for a variety of strategies to achieve the objective. (see pages 21-22 *Using Victoria's Planning System* DSE 2001)

To ensure the flooding is not a regular nuisance and reasonable access to properties is maintained in minor storms.

It is not clear what the intention is in relation finished surface levels for lots, and this should be clarified. Reference to dwelling floor levels should be removed as this matter is addressed in the building code and does not need to be repeated in the schedule.

The Panel comments in the table below take account of potential revisions identified by Council. The Panel's comments are based on both its earlier assessment of issues plus a detailed review of the specific provisions of the various iterations of the schedule.

The Panel considers that an SBO would be more appropriate than applying a DPO to the south eastern precinct (see section 5.7); therefore there is no need for either references to the north- west portion of the site, or Clause 3 in the revised DPO which relates to the land east of Thompson Road.

EXHIBITED DPO8 SCHEDULE	PANEL COMMENT
Community Design	
<i>Preservation of the open landscape values of the <u>north west site</u></i>	<p>The Panel endorses the revision tabled at the end of the hearing which would extend this objective to refer to the maintenance of the large tree canopy character of the site. The reference to <u>north west site</u> is unnecessary as the DPO does not relate to any other land. The objective could be redraft as follows:</p> <p><i>To preserve the open landscape and large tree canopy character of the site.</i></p>
<i>Retention of existing vegetation in <u>public open spaces & road reserves</u></i>	<p>Material presented to the Panel suggested that retention of existing vegetation, which is in sound condition, would also be maximised in the golf course and other open space areas managed the body corporate. The objective should extend to these areas which makes up a large proportion of the site.</p>

EXHIBITED DPO8 SCHEDULE	PANEL COMMENT
<p><i>New development that integrates with the surrounding community & urban environment by providing links within the development & to existing networks.</i></p> <p><i>Safe & convenient access for <u>residents</u> between the existing & new community.</i></p>	<p>The exhibited schedule addresses integration with the surrounding area. However, the Panel considers that the following clarification would address public access as well as aims for resident access ‘<i>To provide <u>publicly accessible links</u> within...</i>’</p> <p>Post exhibition revisions addressing this issue are considered more appropriately address in requirements of the relevant sub-plans and are discussed below.</p>
<p><i>Landscaping, fencing and gateway treatments <u>adjacent to the main vehicle access points to Thompson Road</u> which avoids a sense of site enclosure and <u>encourages</u> a sense of visual openness and <u>public access</u> to the road network and <u>open space areas</u>.</i></p>	<p>The design intent apparent in this requirement should apply along Thompson and Ballarat Roads boundaries, rather than being limited to the Thompson Road main vehicle access points. The reference to ‘open space’ could be interpreted as relating to the golf course use but the Panel recognises that golf course safety issues will need to be taken into account and design measures to prevent and/or manage public access. However, the achievement of view corridors into the site from these roads should be possible and the boundary treatments adopted should be recessive elements in the streetscape that do not reinforce perceptions of exclusion /enclosure.</p>
<p><i><u>Public open space</u> that:</i></p> <ul style="list-style-type: none"> ▪ <i>provides links into the existing network.</i> ▪ <i>contributes to the character of the local area.</i> ▪ <i>assists with stormwater management.</i> ▪ <i>uses local indigenous plant species.</i> ▪ <i>is efficient & easy to maintain.</i> 	<p>The open space objectives element of the exhibited schedule only refers to public open space and makes no reference to the open space to be managed by the body corporate. All the points, except the first, apply to all of the open space proposed and this should be reflected in the schedule.</p>

EXHIBITED DPO8 SCHEDULE	PANEL COMMENT
Movement Network Objectives	
<p><i>(Final day revision)</i></p> <p><i>Pedestrian & bicycle path network that promotes community safety & provides convenient links to public transport <u>and minimises impacts on significant vegetation.</u></i></p>	<p>The underlined revision suggested on the final day was proposed to address concerns regarding vegetation loss along Thompson Road. It is appropriate to address this concern in the schedule but the issue of vegetation retention is addressed in other objectives and the specific requirement would be more appropriately located under the Landscape Masterplan.</p>
Environmental Management Objectives	
<p><i>Subdivision layout & <u>building construction</u> that promotes water sensitive urban design and reuse, energy efficiency & reduction of all wastes.</i></p>	<p>As noted in section 5.5.2, the building code provides a consistent regulatory framework to implement environmentally sustainable built form. The Panel considers that the references to buildings should be deleted from the second objective (as shown). The 6th and 7th objectives and the 5th and 6th requirements¹¹ of the Environmental Management Plan should also be deleted for the same reasons.</p>
Urban Design Masterplan	
<p><i>A range of lot sizes to suit a variety of household types.</i></p>	<p>Rather than leaving the mix of lots sizes types open, the schedule should specify that a retirement village should be located in the north of the site. This was a key element of the draft Development Plan exhibited with the Amendment and has implications for the form of development and therefore potential impacts on adjoining residential uses.</p>

¹¹ The requirements commencing:

- The proposed water conservation measures for each dwelling
- The proposed energy conservation measures for each dwelling.....

EXHIBITED DPO8 SCHEDULE	PANEL COMMENT
<p><i>Final Hearing day Revision.</i></p> <p><i>Public access to the site via the main vehicle access points to Thompson Road, <u>with no gates or other barriers</u></i></p>	<p>The revised draft development plan provided for a public road functioning as a collector for the development with private roads from it providing access to dwellings. The underlined addition to this requirement was proposed at the end of the hearing in response to concerns that physical barriers within the development could reinforce the perceptions of a series of ‘gated community’ and that public access could be excluded from the development.</p> <p>The Panel has commented in section 5.5.3 that the perception of a series of ‘gated ‘enclaves’ should be avoided. It considers that the proposed wording should be revised further to refer to all roads within the development, rather than just the main access points to Thompson Road.</p>
<ul style="list-style-type: none"> • <i>the provision of a public roads route which traverses within through the main part of the site and <u>that</u> facilitates public movement through the site.</i> 	<p>The Panel considers that the deleted words are unnecessary.</p>
<p><i>(Final Day Revision)</i></p> <p><i>location and details of internal safety control measures associated with golf course activities including fencing and gate treatments abutting</i></p>	<p>Landscaping should also be specified as a potential means of managing access to the golf course.</p>
	<p>The Panel also considers that the Urban Design Master Plan should include the following matters as discussed in sections 5.5 and 5.2.</p> <ul style="list-style-type: none"> ▪ View corridors into the site from Thompson and Ballarat Roads. ▪ Acknowledgment of the historical significance of the golf course use on the site and protection of the Gallipoli pine. This includes transferring requirements of Clause 6.2 in the Draft Section 173 (as revised) relating to consultation with the Wathaurang Aboriginal Co-operative in relation to any proposed aboriginal archaeological survey (It is noted that the display of the proposed club memorabilia board would be more effectively addressed through the S173 Agreement than the DPO).

EXHIBITED DPO8 SCHEDULE	PANEL COMMENT
<i>Landscape Master Plan</i>	<p>The Panel endorses the revisions put forward on the final day with the following minor changes:</p> <ul style="list-style-type: none"> ▪ The staging plan should refer to replacing significant trees rather than replanting them. ▪ Requiring the planting of <u>some</u> advanced height trees.
<i>Matters to be considered when deciding whether the Development Plan is satisfactory</i>	As recommended in sections 5.4.1 and 6.2.1, the views of Barwon Health should also be taken into account.

Panel Conclusion on the Schedule to the Development Plan Overlay

The Panel has recommended some redrafting and the inclusion of a number of additional matters which are set out in the discussion above. Overall, the Panel finds that the iterative process leading to the revised Development Plan schedule, tabled on the final day of the hearing, has responded to a number of concerns raised in submissions and the revised schedule will provide an effective framework for the development of the site.

Panel Recommendations

The revised Schedule to the Development Plan Overlay, tabled on the final day of hearing, be adopted with further revisions generally in accordance with the discussion in section 6.2.2 which include:

- Restructuring to clearly distinguish between objectives and requirements to achieve objectives;
- References to the land east of Thompson Road, ie the north west portion of the site and Clause 3, should be deleted;
- Specifying that a retirement village should be located in the north of the site;
- Landscaping, fencing and gateway treatment requirements should also apply along both Thompson and Ballarat Roads with view corridors into the site from these roads, and the boundary treatments adopted should be recessive elements in the streetscape that do not reinforce perceptions of exclusion/enclosure;
- Ensuring barriers or other devices are not installed to preclude public access to roads within the development;
- Open Space objectives, other than seeking linkages to existing networks, should extend to open space that is to be managed by the body corporate.;
- Delete provisions relating to the floor levels, energy efficiency and water conservation features of dwellings as these matters are addressed in the building code. note also;
- Requiring consideration of the views of the floodplain management authority and Barwon Health when deciding whether the development plan is satisfactory; and
- All references to the north west portion of the site and the land east of Thompson Road should be deleted from the revised schedule.

6.3 THE PROPOSED SECTION 173 AGREEMENT

Council resolved, after considering submissions, to support a number of changes to the Draft Section 173 Agreement which were set out in section 2.3.

At the directions hearing, the Panel asked the Council and/or the Proponent to address the justification for substantial reliance on a Section 173 Agreement to establish key elements of the planning framework for the site.

Council submitted that the agreement was necessary to provide a level of statutory commitment for the development of the land to: accord with the principles of the proposal that established the basis for Council's support of the Amendment; to progress the development of the golf course and retirement village; and to establish long term obligations should the golf course use cease to operate in the future.

While the first justification could be achieved through use of the CDZ (see discussion in section 6.1), the Panel accepts that a Section 173 agreement is an appropriate mechanism to achieve some of the other purposes, and to ensure that the obligations extend to the land east of Thompson Road which is not subject to the proposed DPO¹².

It was conceded that staging of the project may be capable of being addressed through the DPO schedule, as could archaeological survey consultation and energy efficiency and water conservation measures. The Panel agrees that the DPO schedule, rather than the Agreement, should include these requirements.

The Panel notes that the post development operation of the Agreement is addressed and it would not apply to land intended for residential or urban purposes (Clause 15.1). After the transfer of land to Council (eg public open space, wetlands, shared pathways), this would have the effect of focusing ongoing obligations after development of the land on the land owned by the body corporate, notably the golf course.

The following table addresses specific elements of the revised agreement circulated on 6 March 2006 that were contentious.

¹² Extension of the DPO to include the whole of the proposed golf course would be another option but it was not part of the Amendment, was not canvassed at the hearing and would have implications for third party rights.

Section 173 Agreement Revisions & Panel Comment	
New Clause in Section 173 Agreement	Panel Comment
<p>Council is satisfied that the following new Clause 3 Desired Outcome satisfies Council's resolution (See below):</p> <p>The parties acknowledge that the outcome sought for the Development is to integrate an operating golf course and appurtenant facilities comprising not less than 9 holes and a facility to provide clubhouse services on the Subject Land with a maximum of 200 new residential allotments, a retirement village with a maximum of 120 units and an additional site with an area of approximately 5000m² together with associated infrastructure in a manner which is:</p> <ol style="list-style-type: none"> 3.1 consistent with the provisions of the Planning Scheme; 3.2 in accordance with best water conservation and management principles; 3.3 which preserves and protects publicly accessible open space; 3.4 consistent with the operation of the 9 hole golf course and appurtenant facilities; 3.5 safe for users of the facilities on the Subject Land; 3.6 consistent with the effective and economical management of risks associated with the integration of different facilities on the Subject Land. <p><i>(Council resolution - The development of the site to be generally in accordance with the draft development plan including a maximum of 200 residential lots, a retirement village of a maximum of 120 lots, and the golf course and associated facilities.)</i></p>	<p>Although both Council and the Proponent were comfortable with this clause, the Panel is not satisfied that there is any justification for the maximum numbers of lots/units specified. The Panel would not be concerned if a greater number of dwellings were achieved within the areas identified for residential development on the revised Draft Development. This may well support urban consolidation policies without compromising other objectives that influenced the form and evaluation of the proposal. It has already been noted that:</p> <ul style="list-style-type: none"> ▪ ResCode would provide the framework for assessment of the scale and form of residential development; and ▪ If the DPO schedule requires the northern portion of the site adjoining existing residential uses to be identified for retirement village housing, the scale of development at this interface is likely to be further constrained. <p>The Panel considers that the new Clause 3 should be modified to:</p> <ul style="list-style-type: none"> ▪ Delete the reference to maximum allotments and units; ▪ Require development to be generally in accordance with the draft development plan tabled at the hearing.
<p>Clause 4.1 - The Owner agrees to transfer to the Council, at no cost other than the agreements in this Agreement, an estate in fee simple in 0.20 hectares of land south of the retirement village; 0.15 hectares north of the main bridge across the waterway on that internal road being generally aligned as an extension of Victoria Road; and the 2.5metre wide bicycle pathway that runs north-south on the west side of Thompson Road and the 2.5 metre wide bicycle pathway that runs north-south on the west side of the retirement village connecting to the internal road to be used as public open space.</p>	<p>The Panel agrees with Council that the width of the shared pathways should not be nominated and this is a matter capable of being resolved between Council and the Proponent.</p> <p>The Panel also notes that the areas specified do not correspond with those in documentation circulated prior to the hearing.</p> <p>The areas specified in the Agreement should be revised to be consistent with the circulated documentations</p>

Section 173 Agreement Revisions & Panel Comment	
New Clause in Section 173 Agreement	Panel Comment
<p>Summary of Council Comment</p> <p>Council is broadly satisfied with the new Clause but noted on the final day of the hearing that, except that width of the shared path along Thompson Road should not be specified as it was the alignment of the path to minimise the loss of vegetation would mean that the width would vary and would exceed 2.5 metres in some places.</p>	
<p>Clause 6.1.3 (The Owner will:) incorporate energy-efficiency, water and conservation (sic) and recycling principles in the Development to the satisfaction of Council.</p>	<p>Although this matter was not opposed by parties to the hearing. As discussed in section 5.5.2, the Panel considers that the Building Code addresses these issues in relation to buildings, and the DPO schedule should address these issues in relation to the proposed subdivision of the land. This clause should be deleted.</p>
<p>Clause 6.3 - The Owner will ensure that the Development will proceed in accordance with a Staging Plan satisfactory to the Council, which may be varied from time to time with the consent of the Council, it being the intention of the parties that 40 units within the retirement village will be available for occupation not later than the title registration of the 150th residential lot and that the further 80 units within the retirement village be completed on the title registration of the 200th residential lot.</p> <p>Clause 6.4 - The Development Plan to be approved under the Development Plan Overlay must include detailed development plans of the retirement village including, but not limited to, on-site communal facilities to be provided for residents.</p> <p>Summary of Council Comment</p> <ul style="list-style-type: none"> ▪ Although clause addresses Council's intention to achieve timely development of the retirement village, Council still seeks that the retirement village is available for occupation, prior to completion of 50% of the residential development, to ensure an 	<p>The Panel considers that staging should be addressed in the Schedule to the DPO (and subsequent planning permits), rather than through the agreement. This clause should be deleted and a similar requirement should be included in the DPO schedule, possibly under a new requirement 'Staging Plan'.</p> <p>It is reasonable to provide for staging of the retirement village units linked to the staging of the residential development and for that staging to be capable of being varied with the consent of the Responsible Authority.</p> <p>The Panel accepts the timing of the provision of retirement village housing proposed in the revised clause on the basis that it recognises that the lead time for the registration of lot titles is likely to be substantially shorter than the lead time for the completion of retirement village units. Further, the requirement maintains an assurance that this form of housing will be provided but allows some flexibility to respond to market conditions.</p>

Section 173 Agreement Revisions & Panel Comment	
New Clause in Section 173 Agreement	Panel Comment
<p>appropriate timeframe for the development.</p> <ul style="list-style-type: none"> ▪ The requirement for submission of detailed development plans as part of the Development Plan is endorsed. <p>Submitters Concerns</p> <ul style="list-style-type: none"> ▪ Submitters were concerned that adequate profit could be realised from a lesser number of lots without the need to provide the retirement village. 	<p>Clause 6.4 of the revised agreement specifies a matter to be included in the development plan submitted which should be addressed in the DPO schedule.</p>
<p>Clause 6.8 - "In the event that the golf course ceases to operate as a golf course the Owner must transfer to the Council an estate in fee simple, unencumbered other than a restriction that the land be used by the Council for the purpose of a public golf course or public parkland, in the land comprised in the golf course and in any facility or appurtenance used exclusively for the continued conduct of golf, when the golf course was last used for the regular playing of golf, at no cost other than the agreements in this Agreement".</p> <p>Summary of Council Comment</p> <p>In the event that the golf course ceases to operate, the transfer to Council of the clubhouse and other buildings and improvements associated with the golf course was sought. This Clause provides no requirement to transfer the clubhouse to Council, therefore does not meet Council's requirements.</p>	<p>The Panel agrees that the necessary ancillary facilities should be transferred with the golf course if that use ceases. While it accepts that those facilities may not be accommodated in the former clubhouse, they may be jointly operated with some other activity, such as a health or recreation facility or café. If this was the case, the criteria in the revised draft agreement that the facilities transferred be limited to those <u>used exclusively</u> for the golf when the course was last regularly played, could exclude necessary ancillary infrastructure.</p> <p>This issue is also discussed in section 5.3.5 where the Panel recommended that this clause be modified further to provide for the transfer of 'the facilities and appurtenance necessary for the continued conduct of golf, including: a nine hole golf course, clubhouse including changing facilities, professional shop, maintenance depot and associated facilities'</p>
<p>Access From The Fairway</p> <p>Given the concerns raised and to avoid impacts of traffic and noise within The Fairway, Council considers that it may be appropriate to include an additional Clause within the Agreement to require that no vehicle access is provided from The Fairway, either to the golf course or to the area proposed to be rezoned Residential 1.</p> <p>Mr Pitt advised that the Proponent is willing to accept such a limitation.</p>	

Section 173 Agreement Revisions & Panel Comment	
New Clause in Section 173 Agreement	Panel Comment
<p>The Panel agrees that:</p> <ul style="list-style-type: none"> ▪ There is some potential for impacts on streets to the east of the south eastern precinct as a result of the proposal if vehicle access is not constrained. ▪ The Section 173 is the appropriate mechanism to achieve the agreed outcome as the access point from The Fairway is not on land affected by the proposed rezoning or DPO in the Amendment and a planning permit may not be required for the rehabilitation of the golf course in this precinct. 	
<p>Other Matters</p> <p>Concern was expressed by submitters that memorabilia from the former golf club should be protected and appropriately displayed. Mr Pitt advised that this is the Proponent's intention (see section 5.2.). The Panel considers that a new clause should be included in the Section 173 Agreement to require the conservation of memorabilia of the former Geelong Golf Club and the display of club memorabilia. The means of conserving and display of the memorabilia should be to the satisfaction of Council after consultation with representatives of the former club.</p>	

Panel Recommendation in Relation to Section 173 Agreement

Approval of the Amendment be subject to Council and the Proponent entering into an agreement generally in accordance with the Draft Section 173 Agreement circulated on 6 March 2006, but with the following further revisions:

- **Clause 3 and the definition of ‘the Development in Clause 1.4 should be modified to:**
 - **Delete the reference to maximum number of allotments and units;**
 - **Require development to be generally in accordance with the draft development plan tabled at the hearing.**
- **Clause 4.1 should not nominate the width of shared pathways.**
- **Clause 6.3 should be deleted and requirements for a staging plan be included in the DPO schedule. The staging plan should provide for 40 units within the retirement village to be available for occupation not later than the title registration of the 150th residential lot and that the remainder of units within the retirement village be completed on the title registration of the 200th residential lot.**
- **Clause 6.4 of the revised agreement, which requires the Development Plan to include details of the retirement village development (including on-site communal facilities) to be provided for residents), should be included in the DPO schedule rather than the Agreement.**
- **Clause 6.8 be modified to require the transfer of ‘the facilities and appurtenance necessary for the continued conduct of golf, including a nine hole golf course, clubhouse including changing facilities, professional shop, maintenance depot and associated facilities.’**
- **A new clause be included that requires the conservation of memorabilia of the former Geelong Golf Club and the display of the club memorabilia. The means of conserving and display of the memorabilia should be to the satisfaction of Council after consultation with representatives of the former club.**
- **The inclusion of a new clause that no vehicle access will be provided from The Fairway to the golf course or to the area proposed to be rezoned Residential 1.**
- **Reconciliation of site areas with revised Draft Development Plan.**

APPENDICES

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A. THE PANEL PROCESS

THE PANEL

This Panel was appointed under delegation on the 10 January 2006 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of Amendment C110. This amendment is intended to facilitate the redevelopment of the former Geelong Golf Course.

The planning authority is the City of Greater Geelong and the Proponent is Links Investco No 1 Pty Ltd.

The Panel consisted of:

- Chairperson: Cathie McRobert
- Member: Ken McNamara
- Member: Ross Ramus

HEARINGS, DIRECTIONS AND INSPECTIONS

A Directions Hearing was held on 8 February 2006 at Geelong. A number of directions were made, which provided guidance for the conduct of the hearing and identified matters that should be addressed in submissions.

The Panel Hearings were held on 27 – 30 March 2006 at Geelong.

The Panel members inspected the site and surrounding areas, making accompanied visit to the site on the 27 March 2006 plus unaccompanied site visits before and during the hearing.

SUBMISSIONS

A list of all written submissions to Amendment C110 is included in Table A.1 below.

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table below.

Submitter	Represented By
The Links Group	Mr Ian Pitt SC of the firm Best Hooper. He called the following witnesses: <ul style="list-style-type: none"> ▪ Dr Andrew Duncan McCowan, Hydraulic Engineer of Water Technology Pty Ltd ▪ Ms Julie Katz, Town Planner, The Planning Group ▪ Mr Robert Cameron Galbraith, Arboriculturist, Galbraith & Associates ▪ Mr Ross Watson, Golf Course Architect, Ross Watson Pty. Ltd. ▪ Mr Henry Turnbull, Traffic Engineer, Traffix Group
Mrs Helen Biscan	
Mrs Lyn Nyssen	
Mr Christopher Scarlett	
Mr Robert Nyssen	
Geelong Environment Council	Ms J Lindros
Mr Tom Cleary	
Mrs June Dawson	
Mrs Bev Holt	
Mr John Hill	
Mr Clyde McFarlane	
Mr Jim Demetrious	
Ms Kirstin Demetrious	
Ms Jenny Hovey	
Mrs Rayma Agg	
Ray Abikhair	
Hector MacDonald	

LIST OF SUBMITTERS

Ray Abikhair	Bernard Armstrong	John Aziz
F W Agg	Susan D Arnott	M Bain
G G Agg	Jane Avery	Geoffrey Baker
Joan M Agg	Martin Avery	T Ball
Raywa Agg	Mathew Avery	B I Barlow
Anne Allen	H Avery	Brian Barrett
Marjorie F Anderson	C Avery	Margaret Barrett
Peter Anderson	Thomas Avery	Kate Bartlett

Barwon Health	R F Clifford	Department of Sustainability & Environment
Barwon Water	Brian Close	
P Baylis	M Clough	Renee Dimitrijeviski
R Baylis	Shirley Code	Gwen Dixon
A W Bell	Michael Coghlan	Ronald Arthur Dixon
Jacqueline Bennett	M Collins	Norma Downes
Peter & Helen Benning	James Combe	Gaic Du
Corrine Biscan	J Connoley	Betty & Arthur Dunk
Helen Biscan	Constitutional Rights Group	R Duplain
Robert Biscan	Dean Cook	S Ebbels-Bence
Zlatko Biscan	M E & H G Cook	Veronica Echter
Alison Black	A S Cooke	Barry Edwards
O P Black	B E Cooke	Environmental Protection Authority
Lynne Blomfield	John Cooper	
Gary Bourke	Ian Coots	Darren Evans
Kirsty Bourke	Anoula Costa	Dawn Fechner
Marie Bourke	Elsbeth M Crane	Lester Fechner
Shaun Bourke	Gene & Eric Crutch	John Fellows
Angela Bowden	Thais Dadswell	R & D Findlay
Irene Boyd	Peter Dalitz	Lynette Finn
Edward John Brasier	Graeme D'Altera	A E Firth
G Bromley & B Durling	Alan Darker	C J Fisher
Rhonda Bunbury	Barbara Darker	R H Fisher
R Burge	Andrea Davey	Maddy Fox
David & Annie Burrell	M Davis	Lorraine Franklin
Mark Burrows	R Davis	Lyn Franklin
Janene Campbell	June Dawson	P Fraser
Margaret Campbell	Patricia Dean	John Fursland
Ian & Judy Campbell-Stewart	Lester Deans	Wayne Fusea
Sheila Carew	Marie Deans	Victoria Gaidin
A P Carmody	John Demetriou	Margaret Galvin
Marjorie Carroll	Jannes Demetrious	Janet Gardiner
J R Charles	Jim Demetrious	Phillip Gardiner
Margaret Clark	Kristin Demetrious	S Gardner
Valda Clarke	Minister for Planning	Yvonne Gdak
		Geelong Environment Council

Geelong Golf Club	Ian Hobbs	Terri Klein
Geelong Table Tennis Association Inc.	J Hobbs	T & J Korn
Barry Gillard	Raymond Hole	B & C Laffy
Georgia Gillard	Grant Holliday	Ellen Lander
Susan Gillard	B I Holt	A Langdon
C Gillespie	Jenny Hovey	B Lawrence
Bill Goggin	Robyn Howard	F J Lawrence
Terry Golding	Loma Howell	David Leary
Gerald David Gorman	N F Hudson	Ron Lee
Allan Grassick	Patrick Hughes	Ruth Lee
C Grassick	Joan Hunter	Stephen Lee
Geoff Grayling	Constance Jackson	Barry & Judith Loader
K F Grinter	N H Jackson	T Louatt
Sandra Guiney	V M Jackson	R Lovelock
Ron & Jie Gully	John James	P M Lucas
Lynne Hamill	A Jarman	Hector MacDonald
Robert Hamilton-Jones	Claire Jelbert	Neil R MacDonald
A S Hand	Wallis & Ruth Jenkyn	Ruth MacDonald
G Hand	Mark Johnson	Lilian Irene MacDougall
Raewyn Hansen	Gabrielle Jones	Kevin MacKenzie
B & R Harley	Colin Jordan	Caroline Madin
David Harris	Lyn Jordan	Audrey Mancour
Rheachel Harris	John Julian	S Manolitsas
N J Harry	Wally Katny	D Mawson
Graeme Hawkins	Jeff Kay	Geoff McCurdy
Edna Heard	R Keenan	C McCusker
Joanne Heatlie	D J Kelly	Anthony McDonald
L M Henshaw	J M Kelly	Geoff McDonald
Judith Hewat	J T Kelly	M McDonald
Margaret Hewat	M J Kelly	C J McFarlane
M W Hickey	Jane Kerry	M P McFarlane
Gavin Hill	Jeffrey Kerry	P McGlone
John Hill	David King	Shane McGrath
Margaret Hill	H M King	T McGuinness
Stephen Hill	Bronwyn Kirby	P McKinnis
	Ashley Klein	Emma McLaren

J McLaren	G A Page	P Scarlett
Robert J McLaren	Lynette Palmer	Debbie Scholfield
T McLean	John Paton	Mark Sewart
J McPhail	Andrew Patrick	Greg Sharp
Lynette McPhail	J Patterson	J M Shaw
Jennifer Messen	M H Payne	S Sheedy
Liz Micazeli	Bruce & Shirley A Peake	Kate Emily Sheehan
Brett Middleton	James Pevill	M J Sheehan
Eileen Moore	Michelle Pike	Natalie Sheehan
P J Moore	Pinky's Partners in Golf	Pam Sheehan
Beryl Morris	Bradford J Porter	Catriona Simmonds
Greg Morrison	Stephen Quinn	Vaughan Simonton
Michelle Morrison	Diedre Quinn-Allan	Lorna Simpson
Sonia Moss	Russell Ralph	John Sizeland
John Mullen	Irene Ramsay	Michael Skene
C F & W Muller	Peter & Glenys Ramsey	Yvonne Slee
Patti Murfitt	Valma Rastas	Margret Allen Smith
Sue Murnane	F N Reeve	Kate Speirs
Dave Murphy	Margery Rix	Darren Spence
Frank Murphy	John S Robertson	Bernice Stacey
Cath Musselwhite	B Robinson	Doug Stacey
F Mustey	L E Robinson	Mavis Stafford
Deidre Mutton	Debbie Rodda	Valma Stalevski
G Neerhut	M A Ross	Govan Stamenic
Adrian Nelis	Clare Rowe	Susan Stamenic
Jess Neskovski	David Ruffin	Mary Anne Suhan
James Newman	George Ruffin	Anne Sutherland
Mary Newman	Nalina Ruffin	T A Sutherland
Peter & Ann Nicholls	Shirley Ruffin	T G Sutherland
L & R Nyssen	Genine Rusek	Robert Tantau
Maureen O'Beirne	Hilda Rusek	C A Taylor
Michael O'Beirne	K Rusek	Natalia Telegina
P O'Bree	E A Ryan	Melissa Thomas
Barbara O'Dwyer	Patsy Salathiel	Ray Thomas
Wendy O'Halloran	A & A Saldukas	Hugh & Virginia Todd
Gerard O'Reilly	Christopher Scarlett	Simon Tomlinson

Marjorie B Tozer	Megain Vokic	Beth Williams
Gerry Travaille	Peter Vokic	Inge E Williams
Graeme Tribe	Johanne Walker	Keith Williams
Wilma Tribe	Andy Walsh	Robert Williams
Ricky Troy	Bethwyn Warren	Williams
Anthony Turner	Carlo Werzak	John Wilson
Mark Tweg	Denis & Julie Westhorpe	A Wilson
Melissa Verecondi	David Wetherell	S Wilson
H M Vermeeren	Paul S M White	Adrian Windt
Vic Roads	Anne Wielens	N J Woolnough
J Viggers	Carolyn Wielens	Jenny Wright
Josie Vine	Derek Wielens	V Wright
Gemma Vokic	Paul Wielens	George Zanne
Gini Vokic	Tracey Wielens	
Kylie Vokic	William Wielens	

B. STRATEGIC ASSESSMENT GUIDELINES

The table in this appendix examines the Amendment against the Strategic Assessment Guidelines. Where relevant matters raised in the guidelines have been raised in submissions or where the Panel considers that the guidelines have not been responded to, this is discussed in the text of the report above. The presence of such discussion is indicated in the table below, with a reference to the section where the relevant response(s) may be found. Where relevant matters raised in the guidelines have not been responded to in the text above, because they were not referred to in submissions and do not appear to raise significant issues, a summary response is provided here.

Table B.1

Strategic Issue	Response or Reference
Is an amendment necessary?	An Amendment is necessary to facilitate redevelopment of the site which is currently zoned Special Use No 3
Does the amendment comply with the requirements of the <i>Planning & Environment Act</i> ?	The amendment complies.
Does the amendment support or implement the SPPF and the LPPF, specifically the MSS?	Considered in Section 5 above.
Does the amendment make proper use of the VPP?	Considered in Section 6 above.
How does the amendment address the views of relevant agencies?	The recommended application of the Special Building Overlay requires referral to the floodplain manager which is considered appropriate to ensure that they have an appropriate role in determining how flooding issues are addressed (see section 5.8).
Have the resource and administrative implications of the amendment for the responsible authority been properly considered?	The planning authority has considered the resource and administrative implications of the amendment. The costs incurred relate to the administration of the development approvals process for a substantial site. It is noted that the Council would accept ongoing responsibility for the maintenance of the golf course if the use ceases and the land is transferred to Council.

C. AMENDMENT DOCUMENTATION

REVISIONS PROPOSED BY COUNCIL TO DEVELOPMENT PLAN OVERLAY SCHEDULE AT COMPLETION OF HEARING

SCHEDULE 8 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO8**

GEELONG GOLF COURSE DEVELOPMENT

This schedule applies to Certificates of Title, Volume 10462 Fol 241, Volume 10058 Fol 441 and Volume 8942 Fol 837, being the former Geelong Golf Club north of Ballarat Road, North Geelong zoned Residential 1. It is required to ensure a range of detailed planning, environmental and infrastructure issues are resolved prior to development of the area.

1.0 Requirement before a permit is granted

A permit may be granted to subdivide land or construct and carry out works provided it is in association with the use of the land as a golf course.

2.0 Requirements for development plan for land west of ~~Thomspen~~ Thompson Road

Community Design objectives

A mix of lot sizes to suit a variety of dwelling & household types.

Preservation of the open landscape values of the north west site.

New development that integrates with the surrounding community & urban environment by providing links within the development & to existing networks.

Safe & convenient access for residents between the existing & new community.

Retention of existing vegetation in public open spaces & road reserves.

Acknowledgment of the historical significance of the site.

~~Unhindered p~~Public access to the site via the main vehicle access points to Thompson Road, with no gates or other barriers.

Landscaping, fencing and gateway treatments adjacent to the main vehicle access points to Thompson Road which avoids a sense of site enclosure and encourages a sense of visual openness and public access to the road network and open space areas.

Landscapeeing and fencing adjacent to the Ballarat Road frontage of the site which provides an attractive interface with the road

Landscape treatments which maintain the large tree canopy character of the site and provides for habitat values.

Open space objectives

Public open space that:

- provides links into the existing network.
- contributes to the character of the local area.

- assists with stormwater management.
- uses local indigenous plant species.
- is efficient & easy to maintain.

Movement network objectives

An integrated & connective system of bicycle & pedestrian paths incorporated into the road & public open space system that connects the regional bike path system to the open space network.

Pedestrian & bicycle path network that promotes community safety & provides convenient links to public transport [and minimises impacts on significant vegetation](#).

A street network that connects with the surrounding environment to encourage use of streets by pedestrians and cyclists and provides access to public transport.

The street network must provide internal accessibility & good external connections for local vehicle traffic, pedestrian & bicycle movements & be designed to minimise through traffic.

Safe, convenient and legible subdivision design that enables development to front streets and public open space.

A street and pedestrian network which provides the opportunity for connections to the Barwon Health site to the west.

Environmental management objectives

A stormwater quality management system that integrates best practice treatment and reuse into the landscape & ensures stormwater quality meets the objectives required in the State Environment Protection Policy (Waters of Victoria) and Urban Stormwater Best Practice Guidelines.

Subdivision layout & building construction that promotes water sensitive urban design and reuse, energy efficiency & reduction of all wastes.

Construction procedures and practices to ensure there is no off-site impact to stormwater quality during the construction phase.

Design of golf course and residential siting that maximises the preservation and protection of significant mature vegetation throughout the site.

Extensive use of local indigenous plants as part of any landscaping and revegetation works.

Use where possible of environmentally preferred construction materials and construction techniques.

Use and promotion of energy efficiency methods to reduce greenhouse gas emissions and water conservation methods to minimise the use of potable water.

Drainage system objectives

Existing habitable buildings are protected from flooding in major storms when drainage and flood protection works are constructed.

A drainage system that has sufficient capacity to ensure the flooding is not a regular nuisance in minor storms.

All new habitable buildings or lots have floor levels or finished surface levels at least 300mm above the 100 year ARI flood level.

New development has no adverse impact on downstream properties & environments in terms of major flooding, minor flooding or water quality & quantity.

2.1 The Development Plan must include:

An **Urban Design Masterplan** that responds to all of the objectives and includes –

- a range of lot sizes to suit a variety of household types.
- sites for higher density development located to provide convenient access to public open space.
- an interconnected bicycle & pedestrian network providing links to the existing network (all open space links must provide paths that are trafficable at all times including times of flooding).
- land to be transferred to Council for public parkland.
- areas forming part of the stormwater management system including wetlands and retardation/sedimentation basins.
- a street network ([which is trafficable at all times, including times of flooding](#)) that connects to the surrounding environment including:
 - a minimum of two connected permanent access points to Thompson Road.
 - areas of public parkland that are bound by roads. The roads must be addressed by residential development.
- an assessment of whether the existing pedestrian underpass under Thompson Road is capable of being safely incorporated into the bicycle and pedestrian network for the area or whether it should be closed and the land rehabilitated.
- details of all fencing, landscaping and other entrance treatments along Ballarat Road and Thompson Road.
- the provision of a public road route which traverses ~~through~~ [within](#) the main part of the site and facilitates public movement through the site.
- [location and details of internal safety control measures associated with golf course activities including fencing and gate treatments abutting proposed dwelling lots, public open space areas and internal roads.](#)

A **Landscape Masterplan** [that responds to the objectives and includes –](#)

- [Landscaping details](#) for all areas of public open space [and the golf course](#) including identification of trees to be retained and removed and the species of plants to be used throughout the development.
- [A staging plan for removal and replanting of significant trees.](#)
- ~~Council will require~~ [The extensive use, where possible, of local indigenous species throughout the site development and the use of advanced height tree specimens.](#)
- The ~~proposed road layout and road reserves shall provide for the~~ retention of existing mature trees as a landscape and habitat feature [where appropriate and consistent with the proposed road layout and road reserves.](#)

A **Water Sensitive Urban Design Masterplan** which –

- Provides a detailed written description and concept plans of the proposed system of stormwater quality treatment measures. This should include suitable sized areas to be set aside for features such as wetlands, vegetated swales, bioretention systems, gross pollutant traps & water detention/sedimentation basins.
- Provides for the collection, treatment and disposal of stormwater runoff which reflects best practice in water sensitive urban design. There is a requirement that water reuse will form a feature of the overall development including reuse at the household level.

- Provides for all the stormwater quality treatment measures to be assessed using the MUSIC (Model for Urban Stormwater Improvement Conceptualisation) program to determine whether the proposed treatments meet the water quality objectives listed in the State Environment Protection Policy (Waters of Victoria) and CSIRO Urban Stormwater Best Practice Guidelines.
- Outlines which elements of the Rippleside Catchment Stormwater Management Plan are to be incorporated into the redevelopment of the site. The provision of any wetlands on the site must be suitably sized and modelled to ensure they are of sufficient size to treat both inflows external to the site as well as stormwater runoff from the development. The wetlands shall also be designed addressing the issue of public safety utilising key elements contained within the guidelines developed by Melbourne Water and the Royal Lifesaving Society.
- Ensures that the proposed stormwater measures are underpinned by a full flood impact assessment that demonstrates 'zero flood impact' on other properties.
- Outlines in detail the construction & maintenance requirements of the wetland & detention/sedimentation basins, in particular while the development is proceeding and post construction when the wetland plants are establishing.
- Outlines what works are proposed or agreements to be established which address the saline water currently being pumped into the drainage network from the former Geelong Cement quarry.

An **Environmental Management Plan** providing:

- A preliminary soil assessment demonstrating the extent of any contaminated soils that may exist on the subject land, and if detected, a more detailed assessment outlining the location of the contaminated soil, the types of contaminants detected, and strategies and procedures required to be undertaken to de-contaminate affected areas.
- The measures to be undertaken for the management and control of erosion and silt discharged beyond the site during the construction phase of the development.
- Construction techniques that incorporate the provisions within the *Construction Techniques for Sediment Pollution Control (EPA Publication 275)* & *Environmental Guidelines for Major Construction Sites (Publication 480 of the Best Practice Environmental Management Series)*
- The methods employed to ensure the protection & enhancement of tree retention areas during & after construction.
- The proposed water conservation measures for each dwelling (i.e. rain water tanks, use of tankwater for toilet flushing, installation of dual flush toilets, water efficient taps and shower roses).
- The proposed energy conservation measures for each dwelling. It is a minimum requirement that each new dwelling shall have a 5 star energy rating and accredited green energy for common areas is purchased.

3.0 Requirements for development plan for land east of Thompson Road

The Development Plan must include:

Water Quality and Flood Management Masterplan which -

- Provides for a stormwater quality management system that integrates best practice treatment and reuse into the landscape & ensures stormwater quality meets the objectives required in the State Environment Protection Policy (Waters of Victoria) and Urban Stormwater Best Practice Guidelines.
- Provides for a subdivision layout & building construction that promotes water sensitive urban design and reuse, energy efficiency & reduction of all wastes.
- Identifies construction procedures and practices that ensure there is no off-site impact to stormwater quality during the construction phase.
- Which ensures that existing habitable buildings are protected from flooding in major storms when drainage and flood protection works are constructed.
- Provides for the provision of floodway and drainage systems which allows for the 100 year average recurrence interval flood flow.
- Identifies that all new buildings or lots have floor levels or finished surface levels at least 300mm above the 100 year ARI flood level.
- Ensures that new development has no adverse impact on downstream properties & environments in terms of major flooding, minor flooding or water quality & quantity.
- Ensures that the proposed stormwater measures are underpinned by a full flood impact assessment that demonstrates 'zero flood impact' on other properties.

In deciding whether the Development Plan is satisfactory the responsible authority must consider:

- whether the Plan is consistent with the objectives.
- the views of the Wathaurang Aboriginal Co-operative.
- the [views of the relevant floodplain management authority](#).
- whether the Plan incorporates best practice design and standards.