

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Port Campbell — 7 November 2007

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Witnesses

Dr M. Manifold, Port Campbell Community Group.

The CHAIR — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development. Today's hearings are in relation to the sale or alienation of public land for development, and the sale or alienation of public open space for the purposes of private development. I welcome Dr Marion Manifold. I understand Don Swanson will assist her. I indicate that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975, and further subject to the provisions of the Legislative Council standing orders. Any comment you make outside the hearing may not be afforded such privilege. Witnesses will be provided with proof versions of the transcript in the next few days. Dr Manifold, I wonder if you would be prepared to make some opening statements, and then we will follow with some questions?

Dr MANIFOLD — Thank you, Chair and committee, for coming to Port Campbell and allowing us this hearing. I speak on behalf of the Port Campbell Community Group, as a member of Protectors of Public Lands Inc. and the Victorian Coastal Alliance Inc. I understand the Department of Sustainability and Environment were invited today but declined. It is a pity, because as lead agent we understand their role for the coast is to ensure the coast is protected and ensure appropriate development on the coast. It would seem appropriate that they hear the committee's concerns. We believe the local and wider community's interest and state and national interests have been compromised. We welcome your investigation.

Overheads shown.

Dr MANIFOLD — The text for today has been slightly amended due to time limitations imposed fairly recently. I will not be showing all the slides that are in your PowerPoint demonstration, but you can go through those with the notes already supplied for you. Slide 1 - You can see the area of public park declared on 1 January 1910. You can see in the area of red on this slide that this area is declared 'nationally significant' in state government policies. In our local provisions it says 'internationally significant'.

Under the terms of reference I would like to say that the 2003 'nationally significant' coastal Crown land and public open space appear to be developed for the private development proposal — the Southern Ocean Beach House. Further 'nationally significant' coastal Crown land in 2006 and public assets — the four car parks — have been consented for use and development of the Southern Ocean Beach House.

The submission outlines issues relating to the consent for the use and development of highly sensitive coastal public land. We did not have time to show you the width of the footpath down there, which is 6 metres wide. It appears that that has been expressly made that wide for the development. Although this submission revolves around the Southern Ocean Beach House, it is the land around it that is being impinged upon by this proposal, rather than by the development itself, to meet the terms of reference.

You have already been supplied with information about the Southern Ocean Beach House. It will have 97 keys for approximately 130 rooms, 10 shops and a 200-seat restaurant, 4 storeys including ground level, and approximately 14.6 metres high. Some of the plans are up here for you to have a look at. The beach house covers an area of 6261 metres square and has approximately 97 per cent site coverage.

The proposed Southern Ocean Beach House appears to block public view lines to and from the national park and war memorial and memorial reserve. There appears to be no on-site vegetation screening adjacent to the national park, as it has a 0 metres setback. It appears to rely on public land to screen the development. The Southern Ocean Beach House proposal has approximately 106 on-site car park spaces. This is approximately 156 spaces short of the scheme's requirements. The beach house reception/drop-off relies on a roundabout/car park that was developed through the port facility and the memorial reserve in 2003. It appears this roundabout may have been developed for the Southern Ocean Beach House, going by the documents that have been provided to you from the Department of Primary Industries from our freedom of information searches.

The Southern Ocean Beach House also requires 4 out of 14 car park spaces in the port car park and further Crown land for its bus egress. In a lot of the documents you will see that DSE say it is only 4 out of 28 or 4 out of 39 car park spaces — 4 car parking spaces out of considerably more — but it is actually 4 out of 14 car park spaces that would be taken, which is a significantly higher percentage. The proposed Southern Ocean Beach House sits on a headland which has serious geotechnical problems and is of very high conservation significance. The headland is surrounded by 27 metre high limestone cliffs on the seaward side and 4 to 6-metre cliffs on the bayside. The cliffs are undermined by four large sea caverns.

This slide is one of the state government's landscape setting types for the Victorian coast, which shows that, and this is in the slides, that you should not have buildings close to cliffs. This aerial view shows you how thin a neck of land it is. This one shows you the sea caverns, and you have walked part of that site today.

This is the diagram from Dr Eric Bird's book showing how the Twelve Apostles have formed, and this is exactly what is happening on this headland, with four large sea caves running into the headland. The caves are actually formed by water draining from the land rather than the sea. There are sea caves out past Loch Ard Gorge that go in 50 metres and turn at a right angle, and Eric Bird has said that just proves that it was not caused by the sea, because the sea does not turn sharp right angles.

Regarding the tourism industry, perhaps this industry here or this development is caught between a fallen rock and a hard place. I would have liked to have shown you more, but I will show you it in the pictures anyway. The cliff can all collapse in seconds. I believe nobody can predict when it can go. All the testing in the world will not say whether it is going to collapse right now or tomorrow.

This is approximately where the sea caverns are. The 'X' on the slide shows you — and I did not show you that on the on-site tour — where they intend to excavate to approximately, I understand, 10 metres deep, which is probably twice the height of this ceiling, I would estimate. The yellow area is the land that they need for their bus egress. So you can see, if the largest sea cavern falls, that roundabout is not going to be viable, and there does not appear to be any strategic plan for the area. In fact FOI documents note that — there is no strategic plan or management plan for this area. That needs to be looked at before a \$15 million development gets built, because if the roundabout is not viable, the development will not be viable either.

This is inside one of the sea caves, and this is a cross-section of a sea cave. I can pin on the board later the actual one that this is taken from. I understand Mr Brown mapped this, and this is one of his drawings. I got it through FOI, so it does not have his name on it, but he might be able to verify that later. That sea cavern goes in 45 metres deep. The one on the right of the other one is not much different. You can see where the road edge is and more so on your own slides that you have.

This slide shows a recent rock fall just out towards Point Hesse, out near the arch, or London Bridge. You can see it goes fairly quickly. The one at the pier I showed you and the cracks that are appearing there, which are ready to collapse the sea cave. This is Mr Guy looking down the hole right next to that sea cave. The hole was caused by both water erosion from the land and also from the sea. You can also see the cracks that I pointed out earlier.

This is inward from the pier. There is another cave opening up there, and it appears that this cave may meet up with the larger cave. It appears to be on a similar lineation. That part that is cracked there has, since this slide was taken, collapsed too. This slide is taken from the water; you can see where it is in proximity to the rocket shed. If you are staying the night here, you might like to have a look around that area. This is Beacon Steps. You stood at Beacon Steps lookout, but we did not climb over the top. This has been closed because the whole left-hand section wall of Beacon Steps is likely to fall away. There are big cracks running right through that area.

In 2002 DSE recommended a full environmental assessment of the headland to attempt to realign the Great Ocean Road through the memorial reserve; however, it seems VicRoads deems that even if the Great Ocean Road was moved north — that is, through the Southern Ocean Beach House site — it would have a limited life span, as the caverns could collapse at any time, and 'immediately' was the word written in their FOI document. Although the high risk has been known since the early 1990s, the Great Ocean Road was closed very suddenly on the second day of the Southern Ocean Beach House hearing. That appears unusual because a lot of the implementation had not occurred in the streetscape, the full community consultation process had not occurred, the UDF had not come back to the community, and it seemed to be a very rushed thing that it was suddenly closed.

The FOI documents say it must be closed now because of serious geotechnical impacts, but those impacts had been known for 10 years, so why was it closed on the second day of the VCAT hearing? It appears that it was closed because that is the only way that the development would have its roundabout for its reception drop-off area. At that stage they were requesting those 14 car parks as their bus drop-off area. It is shown on maps, which I can show you or you will see later, that that is the case.

I will summarise the issues. In September 2003 an area of nationally significant, naturally vegetated public coastal Crown land appears to have been compromised and developed for the purposes of the Southern Ocean Beach House's reception and bus egress. In September 2003 the roadway to the port facility appears to be compromised

for an overly wide footpath. I would like you to look at that too — the 6-metre wide footpath. The road is significantly narrower than it used to be. We understand that the shire wanted to make it a slower area and in the end a shared zone.

The first time this shared zone was mentioned was in plans for the Southern Ocean Beach House. It appears to suit a large commercial development, but it does not appear to suit large vehicles trying to get to the pier, because in places the road is only 3 metres wide in one lane, and some of the vehicles are 3.2 metres. Being a shared zone it fundamentally becomes a footpath, and its being a footpath means that any driver on that road is liable if pedestrians jump out or run across the road and get struck.

On 8 August consent was given to the Southern Ocean Beach House for use and development of more coastal Crown land for car parks in the port facility. This compounded the 2003 problem. In 2003 and 2006 the Corangamite shire and DSE assessment process appeared to have failed to consider necessary impacts on environment, infrastructure and cultural assets in the development of this land for the Southern Ocean Beach House.

I have already said there had been no full, independent and open assessment of the Southern Ocean Beach House's potential environmental, infrastructure or cultural impacts before consent to use and develop surrounding coastal Crown land. The application for coastal Crown land appears to be incomplete. From what I have been provided in the freedom of information documents there appear to be gaps. That was also noted by DSE, which asked for more information. No more information was given to me in the FOI documents, so can I assume there was no more information given, or what?

There appear to be gaps and oversights in the consultancy process re the headland's instability before the consent for coastal Crown land was given for the 2003 large general-purpose car-park roundabout. Public view lines to and from the national park appear to be compromised. Public land appears to be further compromised to screen the Southern Ocean Beach House development — that is, it is 0 metres back from the fishermen's car park and the national park and war memorial view. The Southern Ocean Beach House balcony further appears to impact on public view lands.

I have already given the status of the land. Part of it is national park. It is 'nationally significant' and 'internationally significant'. Many of the features are about the land — a 'public purpose as a reserve' is an 'historical reserve' under the Land Conservation Council Act, and there are other adjoining Land Conservation Council registered sites: the foreshore, rocket shed, Beacon Steps, jetty and the jetty cutting, and of course it adjoins the national park, which is of national significance. There appear to be many issues regarding process which compromise the 2003 and 2006 consent for use and development of nationally significant public land for a private development.

Consent relies on documents which appear to have not met appropriate consultation. Authorities at times appear to have been misadvised. There appear to be oversights in process and assessments, including risk assessment. There appears to be no strategic plan for this significant public land. The Ombudsman appears to have been misadvised, and the Ombudsman has noted his limited investigation and restricted his time frame of the investigation. I have also added a note detailing that in this document for you. That was meant to come to you in the initial document but failed to meet it. There has been a seeming failure to take advice from the Western Coastal Board and environmental and heritage organisations.

There appear to be unsatisfactory failures in process and an inappropriate assessment and consideration of the geotechnical issues, the land zoning, the purpose for which the land was reserved and the existing land use. That fisherman's car park, as Ms Segafredo called it today, is now really a general purpose roundabout car park. It is only since the parliamentary hearing occurred that the middle section has been designated for recreational fishermen. I think we can thank you for your coming to Port Campbell for that occurring. We have been trying to get that designated to the recreational fishermen for four years and we are happy with that. But there are many impacts in the occupational health and safety issues of that area still to be addressed.

There are issues with the developer contribution to the scheme, and the impact of an increase in an already over scale private development footprint on a nationally significant landscape. There are problems with the committee of management in that they have no formal management plan. The community have been requesting that they become part of a committee of management and we are working through that with the Department of Sustainability and

Environment. However, a document from DSE shows that it appears the shire does not want the community to be part of a committee of management. Those documents are provided for you.

The Parking Strategy was implemented, we believe, without due process or consideration of the impacts on highly significant flora and fauna. If you go for a walk on the headland in the evening, you will probably hear the rufous bristlebird. This photo was not taken at this area but this is the southern brown bandicoot. They have been sighted on the headland and a mammal specialist has provided heritage council with information indicating that they are there. The metallic sun orchid also is known to be on that headland. But none of these assessments were done before that land was developed, and some were done after.

I believe Ms Bell will elaborate on the war memorial. This is part of our heritage — the Port Campbell jetty cutting in 1880 and the pier in 1880 after the *Loch Ard* shipwreck. As you can see we get big seas here and with global warming they will probably be a bit higher. The sole access to two marine protected areas — the Twelve Apostles National Park and The Arches Marine Sanctuary — is through the Port Campbell port, and it is important that it stays open.

I understand you have a letter from Ms Nina Hall — I hope that was provided to the committee — who is researching the Twelve Apostles marine protected area. This boat offloading people is from the gas offshore works, so the jetty was used in the development of the offshore gas fields, which makes it quite significant. This is a painting of the *Loch Ard* shipwreck. Sir John Holland wrote about the heritage of this area: it gives substance not just to the people of this area but to the whole of Victoria and Australia. Indeed we have visitors from all over the world coming to our Shipwreck Coast.

In your booklet is a book by Phillip Doak, which I was lucky enough to finish editing for him, that will tell you all about the shipwrecks. When Phillip died, his collection of slides was transferred to the State Library of Victoria, and it is a very significant collection. The only way to get to those areas to research the marine parks and to research the shipwrecks is through the Port Campbell port.

These are some of the features on the *Loch Ard*. This is Jack Loney, Stan McPhee and Don Charlwood at the shipwreck museum opening. Ms Segafredo pointed out the information centre, and the *Loch Ard* shipwreck museum is now housed in that. It would be a good idea if you could visit that in your short stay here and have a look at some of our heritage. They are all great historians, especially as two who have passed away. The search for the *Loch Ard* took place from this jetty as did many searches for shipwrecks in this area.

This is the 1930s rocket shed which the community, through the SES assistance program, is restoring to its original condition. This is a photo of a rocket crew at the wreck of the *Fiji*. This appears prominently in Heritage Victoria's documents but they do not actually say where it is, which is a bit of a shame, because it is the Port Campbell rocket crew and that apparatus still resides here and will be put in the shed when the shed is restored.

We have a photo of Cec Burgin, who was a member of the Legislative Assembly, ready to go down a cliff. This is a recent sea rescue — I think 2006 — and shows the need for the pier. You can see the local fishermen's boats in the foreground and the surf lifesaving club and the rubber ducky. One person died in that accident. This slide shows the way the fishermen reverse into the pier, and I would have liked to have shown you that today onsite because it is very significant; that area is needed for them to pull into their boats. This is just the rubber ducky but the fishermen's vehicles are quite large and they need a considerable area to reverse to the jetty. Having it as a shared zone, a footpath, means the local fishermen are actually going to work on the footpath.

These are the Aboriginal steps on the headland, if you want to go out there and have a look this evening. They are very narrow, so don't fall in! These are some Aboriginal artefacts from around the area. The flint core up in the top was found on the reef. This is from the local policies, and it shows what occurred in 2002 following a local amendment. That area where the fishermen's car park is now is turned into PU zone 6, and you will see from documents already provided to you the fishermen were not happy with that. They wanted a special use zone.

Also you can see there is a mistake in this where the Shire have actually turned what was the Great Ocean Road coming down into Cairns Street into PCRZ, so that is an interesting one for the council. We might be planting trees there soon in the roadway. This is a sign that was on the fishermen's car park; it says 'Car park for boat trailers only'. That was there until 2003 when the Great Ocean Road was closed and the sign was taken down. This is the "existing use" of the area for that time, for over 50 years. The port has been used, I believe, for professional fishing

for approximately 100 years. These are some of the excavations done. I told you on site that there were over 300 metres of vegetation taken from the site.

If you look up on the right hand side, on that bank, it appears there are fragments in the top layers of the soil. Those have gone now. Thirty-five years ago there were a lot of shells around the fishermen's car park. It is my understanding it was an area of midden. When you get development, you get lots of cuttings and excavations of the vegetation.

You might also note the slope that is on this development. The local police sergeant spoke at the Victorian Civil and Administrative Tribunal and vouched for the traffic problems of this development – and we did ask him to be summonsed to this hearing but he was going away. I requested Mr Willis ask him to provide a written report on his understanding of the problems with the roadway. I am not sure whether that happened or not. I pointed out at the onsite meeting that this is the absolute minimum radius for AustRoad's turning circle for 12.5m buses and that roadway does not meet it. So if the porte cochere into the Southern Ocean Beach House has a car in it, a bus will have to turn around that roundabout and basically it does not meet the requirements. It means that you would have to cut further back into the headland to get the turning circle correct. We have seen vehicles; sometimes buses get around there — if he is very smart — and sometimes they do not. We have also seen semitrailers get stuck in there and having to reverse backwards and forwards.

This slide shows the fishermen's car park on a good fishing day. These are some of the problems with buses that we have in the area. This is just to the local take-away. The Southern Ocean Beach House will have approximately 9 or 10 shops. I am sure it, and the big restaurant, will want to get buses to that area, too. You can see they are parking in all sorts of strange places. Here is a photo of a car having to go around a bus, and a bus parking out the front of a residential home, which makes it difficult for that person. We have still got our sign there saying it is for boat trailers only, but the buses came in that day and disrupted the fishermen at work. You can see that it can be a problem.

Documents are attached in the accompanying appendix — this book I gave you today is the appendix — or in the PowerPoint. Any other documents are available on request. I have not photocopied all the DSE consent forms. I am sure they are readily available to you. They are a few pages. I did request that the second DSE letter to the Ombudsman, which I am waiting for under freedom of information, is provided to you, because it appears the Ombudsman was not happy with DSE's 2006 consent for the development of those four car parks and the extra Crown land. From our understanding and the reading of the documents, there appear to be a lot of issues and a lot of problems with the document. It says there is no Coastal Strategy Plan for the area, but there is. When DSE says that, there is a bit of problem.

The table of contents, you can perhaps go through those yourselves. Our specific requests are to rescind that 2006 permit to the Southern Ocean Beach House for the use and development of coastal Crown land; a full assessment of its impact on the surrounding public land environment, infrastructure, cultural heritage and social capital of a significant national environment and heritage port; a full public and independent specialist consultation process. We request the public memorial park and reserve, and public conservation reserve, which is the other reserve up the top of the hill, be gazetted as part of Port Campbell National Park as recommended by the VNPA and also recommended, in the freedom of information documents, by the shire.

We request the community be permitted to become part of a committee of management for the headland; an environment, infrastructure and cultural impact management plan for the headland, public land with stakeholder community and specialist input; the Western Coastal Board to become a legislative part of the assessment process of coastal Crown land; a strategic plan for the headland, public land, including plans for when the caverns collapse. Also, the Southern Ocean Beach House to provide vegetated landscape screening on its own land rather than rely on public land to screen its built form from the National Park; gazettal of a safe area for port operation, including boat trailer parking separated from general-purpose car park roundabout; gazettal of a marked zone for trailer reversing to jetty, separated from any shared zone; signage for the Great Ocean Road walking trail to Beacon Steps as cliffed and undercut as publicly accessible points in the National Parks state these area may collapse without warning as the walking trail traverses sea caverns, which is the old Great Ocean Road may collapse immediately.

Our requests are for Aboriginal cultural heritage of the headland to be recorded with appropriate departments; preparation of a management planning amendment to the local planning scheme to include the area's significant

European cultural heritage; and an independent road safety audit with full, open, stakeholder and specialist consultation on the impact of the proposed Southern Ocean Beach House on public land.

In these documents you will see the CEO from VicRoads believed that the road safety audit was to be on the Southern Ocean Beach House, and yet the auditor was not advised of the Southern Ocean Beach House proposal at all. The auditor has written that, and there is a letter in there noting that. The Auditor stated that he believes an audit should be done on buildings such as that proposed.

We request an independent traffic management assessment with full, open, stakeholder and specialist consultation on the impact of the proposed Southern Ocean Beach House. Another one, which I do not have in your initial notes, is to revegetate the old Great Ocean Road from Beacon Steps to Cairns Street in line with the plans to achieve the net gain of the vegetation assessment. That is all my notes, but I will just flick through these slides. You can see on this the Southern Ocean Beach House. You can see the shared zone on the left. It says 'proposed bus drop-off area' in the vertical text: "the area is to be redesigned", "car parked by others" — meaning the shire. This is the plan that was shown to the community in 2002, which shows the roundabout outside the fishermen's car park. Possibly it could not go in that spot, because it is right over a cave anyway. In this one — you will see it in your booklet — it shows a narrow footpath all the way along the Southern Ocean Beach House side, a narrow footpath, and then suddenly it becomes a wide footpath.

This slide shows the extra natural vegetation taken to create that roundabout. It is very hard to see from here. That was the "proposed bus drop-off area". That shows support for shared drive-in — just as a starting point to that. So you have your turn into the fishermen's car park. This is their porte cochere. This is the title boundary here, right up against the porte cochere — there is no setback there at all. They are using the public land to screen the development.

This slide shows what has happened in our consultation process. We had a lot of consultation in the early days, and we got to a master plan. There are supposed to be steering committees, but I am not sure what happened to them. There does not appear to have been any public feedback at those stages, where there is supposed to be. This is the state government model for UDF design, but ours stopped way back here. And then suddenly the UDF was implemented before all these other stages occurred. That is where we think the problems lie.

These slides were in the Port Campbell parking strategy plans. This is not what the council was recommending. These are recommendations from the community. We wanted the whole middle section allocated for recreational fishing, which we have recently got. In the original document I gave you, you will see that what the council said is vastly different. The Council says that this area should be shared-use for all sorts of trailers and buses and anything else that comes along, but we have got this.

What probably needs to occur is, where that circle is, to have a roundabout before you get to the fishermen's car park, because the boat trailers actually have to pull out into the road to reverse down. That needs to be looked at by a specialist. Mr Jordan is supposed to be the top in this field. We had him on the site after our consultation with VicRoads. To get him here, and then he was not told why he was supposed to be there. That seems to be the problem.

We have this wonderful headland. If you look at the other headlands along the coast, they are going the same way. They are eroding very quickly from the geological impacts of water draining from the land. The problem is that if you put a great big cement slab into soft limestone, the water accelerates around it. It does not matter, whether you sit on pylons, if you are going to excavate a 10-metre hole to stick it in, it is going to be down quite low, and the water will accelerate around. That is likely to accelerate the collapse of the headland. We do not want to see our headland fall into the sea. Thank you very much for the hearing, and thank you for your time.

The CHAIR — First of all, again thank you for your presentation and also for the tips you gave us as we moved around earlier on. I place that on the record. I have a couple of specific questions. One of them goes to a document from the Victorian National Parks Association. It is a letter dated 29 May 2006 by the director, Charlie Sherwin, to Grant Hull, manager, coasts and land-use planning south-west region, Department of Sustainability and Environment. It talks about the car park but also, and I just want to quote from this and seek your reaction to that:

The area concerned is adjacent to the Port Campbell National Park in an area where vegetation is both limited in extent and has been identified as being of 'very high conservation significance' by an Ecology Australia report undertaken for the Corangamite Shire Council. Loss of this vegetation will lessen the viability of the narrow strip of vegetation in the national park.

It goes on to say:

We are strongly opposed to the use of vegetated Crown land for this purpose and cannot see why such development should not be able to be fully contained on its own land ...

I shall read one further sentence:

We also feel it would set a very bad precedent to supply public land in this way for the use of private developments, especially for future developers along the coastline.

Do you have anything further to add beyond what Charlie Sherwin has said there, or any reaction to his comments about the issue of vegetation and the high quality of vegetation, and what you think the development would do to the vegetation?

Dr MANIFOLD — I have the Ecology Australia report here. There appears to be a problem, in that the assessment was done on 8 October but the excavation of the vegetation and headland was done, I believe, on 29 September, because that was when the Aboriginal assessment was done, and they say the area has already had the vegetation scraped off. We have problems also with the Aboriginal assessment. They were asked ‘Could you please get here quickly? There is an urgent need for you to be here. Come and assess it quickly’.

There appears to have been no sieve testing at all of that site. The vegetation is, or was, of the highest quality, but it has been excavated and taken away and dumped up on the old Great Ocean Road, that section of road I showed you. That was closed for a while; it was a walking track, and then was reopened again. We cannot understand why.

The CHAIR — Should DSE have responded to this letter in some way more swiftly?

Dr MANIFOLD — I have not seen the response from DSE to that letter, but there were a number of people talking about the vegetation. The National Trust also is concerned about the impact on vegetation. The Western Coastal Board has written about its concerns about the vegetation. There is not, supposedly, meant to be a lot of vegetation now being taken for them to exit their porte-cochere, but going by those Austroads guides, to get the appropriate turning circle there would have to be a massive amount of vegetation taken on that headland to get a 12.5-metre radius. That is again another problem. I think that whole area needs to be reassessed, redesigned and perhaps part of it revegetated. I understand the RSL has also said it wants a 60-metre radius around its war memorial which would go approximately halfway through the fishermen’s car park of unaltered land. If it is altered without them even being asked — —

The CHAIR — I have just a further question, which is in a sense on the vegetation but slightly more broad than just on the vegetation. The Victorian government has a coastal strategy. Do you believe this is consistent with the principles and the objectives of that coastal strategy, or do you think the proposals would in any way imperil those?

Dr MANIFOLD — Somewhere here I have a list of the Victorian Coastal Strategy’s recommendations, and this proposal appears to be completely adverse to the strategy’s proposals. I pointed that out many times to DSE. I have asked, ‘How is this meeting these proposals?’, but we do not appear to get direct answers.

Mr TEE — Thank you very much for what has clearly been a long-term commitment and passion. There is no doubt this is a beautiful part of the world. I must say I am particularly concerned about the concerns you have. I am just looking at the picture regarding the sea caves and the potential for erosion or collapse. Just in terms of going through a number of the issues that you raise, I suppose in one part I am struggling to see how it fits in with our terms of reference, but I might come back to that. I read the VCAT decision, and I must say that gave me some comfort in terms of the environmental concerns, in particular the collapse of sea caves and so on; and I got particular comfort from its decision dealing with the requirement for a further detailed geotechnical assessment to be undertaken before approval for the commencement of construction.

A couple of questions that I have flow on from that, and then I would not mind canvassing a couple of other matters. Should that not give me comfort? I am not expert on these areas, and I am sure there are competing views as there are about most things, but I suppose I am comforted by that. Are you able to give me a sense as to where that process is up to?

Dr MANIFOLD — The developers have been asked to provide further geotechnical plans. The detailed geotechnical plans are said to be similar or the same as those they have already provided. The initial geotech plans

they provided in the first report were approximately 2-metre bore holes in about seven positions. One or two in an area of filled land – where their septic tanks are.

I understand 2-metre bore holes are what you would expect for a small suburban house that sits lightly on the land, not for a large development that is likely to have a 10-metre deep excavation and over 6000 metres of concrete foundation. I did speak to John Ginivan from DSE about this, and I believe he said to me that VCAT does not have the model to assess geotechnical impacts.

The CHAIR — What was the name of that DSE officer and his position?

Dr MANIFOLD — John Ginivan, senior coastal planner with the DSE. I would be happy for you to confirm that. After speaking to him he suggested that I speak to Environmental and Earth Sciences, which I did. You can see there is also a letter from that organisation, in which Mark Stuckey states he agrees with the other four specialists in that area that this is a high-risk development — 6000 metres of concrete on that site, which apparently is not good. But what we have been told by the shire council, and there is a letter there from Mrs Grainger, our planning officer, is that they are not considering off-site impacts. We believe part of the Victorian Coastal Strategy — it is in the notes I have provided to the committee — state that they must consider off-site impacts. I spoke to Ms Genevieve Overell, who is secretary of DSE, and she seemed to believe that off-site impacts should be assessed, but we have had no guarantee of that.

Mr TEE — I take it from that that the process is still under way and you have a number of concerns about the process, but that process is yet to be completed?

Dr MANIFOLD — The process is yet to be completed, but looking at all the processes that have occurred before, the community want it out there, open, and we want specialists to come in and have a full environmental impact assessment of this. We do not want the doors closed, and we do not want some of us to have to put in another four years work trying to fix up the mistakes, or whatever happens. There may not be any time for mistakes, because the whole headland could collapse.

Mr TEE — I just want to be clear: the public land involved in this is not so much the hotel which is currently a hotel and has been an hotel — do you know how long that hotel has been there?

Dr MANIFOLD — There is one photo there, and Ms Overell said to me, ‘But there has been a hotel there for 100 years’. There is one slide of the sea cave, I will put it out here, Mr Davis has it. If you look at that one you can see where the largest section of the plate is. In this photo you can see the end section. This photo was taken in 1977. There is a photo in the general store and I knew it was 1970s but I did not know that it was 1977. It shows the two-storey part of the motel was put on after that, so maybe it was about 1980. It seems sensible that that area was not developed because if this collapses, it would seem the roundabout or whatever would have to go, through the development site. There was a larger beach house there called Ocean House.

The CHAIR — I suspect you are wreaking havoc for the transcribers.

Dr MANIFOLD — There was a beach house there but its size was on a scale of one-seventy second — about one-hundredth the size of this development. It was much smaller, it was two storey, it had set-backs, it had a lot of land around it, it did not take up the whole site.

Mr TEE — One of the other things that I want to confirm that you mentioned: the car park currently does have buses coming through, commercial buses coming through and using that car park to turn in, is that right?

Dr MANIFOLD — They have to, if they drive into that section of the street, and that is an important point.

The CHAIR — But that is a recent development, is it not?

Dr MANIFOLD — Yes, that is 2003, when suddenly the Great Ocean Road was closed without all the planning processes occurring first, that is what had to happen, and this design was suddenly made. But if you look at the road safety audit — I think it is 4.1 in that audit — Phil Jordan notes to put a sign at the corner of Cairns Street, to limit traffic going down towards the jetty, but he was not told that there was going to be a massive development there. His understanding was that this was going to be a little quiet nook of the street. There would not

be any need for buses to go down there, there would not need to be 6 to 10 buses a day, as mentioned in VCAT, for this development. There would not need to be 156 cars going there for the shops or whatever.

Mr TEE — I have one more point that I want to clear up in my own mind and then a final question. I want to be clear that the car park is currently managed, as I understand it, by the council, is that right? And according to the VCAT decision again, there ought to be, or there will be, or there should be, or there are discussions with the council as the relevant authority in relation to the use of the car park, including any suggestions of compensation. Do you have a sense as to where those discussions are up to, or going?

Dr MANIFOLD — Nothing has come back to me as a spokesperson of a community group. Later you have the professional fishermen's secretary speaking and they may have some notice on that, but I would have thought that it would be notified to all the community to be part of a say on what occurs there.

Mr TEE — I suppose again, it is about VCAT having had a look at the car park, and the use of the car park, and essentially the council now being involved in discussions. My question is: what is the role of the committee in revisiting or overseeing that process, essentially?

Dr MANIFOLD — I think our requests are clear, that really we need a strategic plan for that area. There is none. If those sea caves collapse tomorrow, which they may well do, then the port will, maybe, be unviable, and the Southern Ocean Beach House is going to be unviable. I think that is what strategic planning is about — having a plan; and if you could ensure that we have the strategic planning now, not after something is built. Who is going to be liable for it? If they spend \$15 million building a beach house, or a hotel, or reception, and then the next day it is not viable, it will just fall down.

Mr O'DONOHUE — Dr Manifold, thank you for your comments this afternoon. You spoke before about the fact that you would like to have some input as a community group as part of the community management plan.

Dr MANIFOLD — Yes.

Mr O'DONOHUE — How would you describe your relationship with DSE at the moment? What ongoing discussions are you having with DSE?

Dr MANIFOLD — Mr Noelker from Anglesea has been very helpful in getting back to me, and you will see some of his letters there. Initially our talks were with Mr Grant Hull from Ballarat. Mr Hull came down and had an on-site talk to us about DSE's reason for doing what it has done. We requested DSE to come, and we sent it what we wanted on our agenda, but I believe it just decided what it wanted done.

Mr Brown also came to that on-site meeting to talk to DSE, and to tell them of the risks, but it appears that none of his concerns have been taken into account. Also our committee representative, Dr Helen Arundel, on the Western Coastal Board, also came to that meeting. I think she is speaking later today. We are still trying to work out what is a good way to go with the committee of management. Apparently you cannot sit on the council committee of management. There might have to be an advisory board to that committee of management. But we have had lots of advisory boards before, such as with the streetscape focus group. We requested the focus group, because of all the problems with the streetscape. We got it going, we had one questionnaire given to us, we were told there was to be a follow-up meeting, but that meeting did not occur. It was just presented to council without anyone in the focus group being told that it was going to be presented to council. It was only that I read the minutes the night before and thought, 'This is being presented, why haven't we been told?'. This is the way it seems to have happened a little too often.

Mr O'DONOHUE — I suppose, in that context, it is regrettable DSE refused to attend today and present before us.

Dr MANIFOLD — It is very regrettable. We requested them. I requested Mr Kim McGough to come to the VCAT hearing and be a witness, and he refused.

Ms PENNICUIK — I would just like to say thank you for your very comprehensive information presented to us, both written and verbal. It has been so comprehensive I really do not have any big questions to ask, but going back to the wide footprint, I am still struggling to know where that actually is, so that I can visualise it.

Dr MANIFOLD — From the corner of Cairns Street to the pier on the left-hand side; so if you are walking down there — —

Ms PENNICUIK — Walking down towards the jetty?

Dr MANIFOLD — Yes. If you measure the footpath you will find it is about 6-metres wide. They have made it so that it is flat and they have not got a guttering like this, so it would not be hard to just pull the bollards out, move it another metre or so and make the road another metre or so wider. I have quite a few photos I could have put in, of the take-away on the corner, and they have buses, or trucks, parking on the footpath because it is so wide. It is a delightful parking spot maybe, but that is not what it is there for.

Ms PENNICUIK — Perhaps you could send us those photos

Dr MANIFOLD — Yes, I would be happy to do that.

Ms PENNICUIK — I was puzzled a little bit about the closing of the Great Ocean Road, where we went for our site visit. I am wondering about your opinion as to whether that is even safe as a walking track in the future?

Dr MANIFOLD — No, we have written to the Corangamite CEO requesting that the lease be signed. I would have thought it would be better to have a bit of a zigzag where it goes over the largest sea cave so that you are not right out on that edge. We know what happened at London Bridge. Those people were lucky to be stuck on the other side and not on the span when it went. If a big development like this starts up and they have tourist buses arriving, it could be a busload of international tourists just going for their evening stroll up the hill when it disappears. It is definitely a danger, and we have requested that there be at least signs there; preferably the track should be re-routed, it is obvious. In the national park they have re-routed and closed tracks, I believe, on Mr Brown's instigation or his investigations, rather.

Ms PENNICUIK — I am not sure if you can answer this, Marion, but it is about the impact of actual construction, so if you are going to construct a very large development with the amount of footprint you have described and the amount of concrete you have described and the amount of excavation you have described, as to whether that has an impact in terms of disturbance — and somebody else may be answer this; if you cannot, maybe Mr Brown can — and exacerbating the risk that is there. That is what I am asking.

Dr MANIFOLD — I am not an engineer, but in reading the FOI documents, there is one part where it requests as little disturbance to that headland as possible, and when they mention about bringing the road 40 metres in, which I believe would have run through the development site anyway, with re-routing the road they were concerned about the vibration of the machinery potentially setting off cavern collapse. It is possible. I have done a lot of reading on this, and it is really quite an interesting subject, but I think maybe there needs to be horizontal inclinometers there, something like maybe even tsunami warning set-ups because it is right in our town; it is not way out in the national park. A lot of people use that track. Going by council documents, they say 1 million people walk up there each year. It sounds like a bit of an overestimation but a lot of people do.

Ms PENNICUIK — Maybe some people walk there often.

Dr MANIFOLD — Often, yes, I think.

Mr KAVANAGH — Dr Manifold, thank you for your presentation. I just wanted your response to an argument that might be put that a company has decided to invest \$15 million in this development. Does that not indicate that they are pretty confident that the headland is not about to collapse and make their investment unviable?

Dr MANIFOLD — I do not think so, because I think the person that will be liable will be the shire. So if they lose \$15 million it appears the shire is responsible for that liability, so they will not lose out really anyway. We have asked that question of the shire many times: whose liability is it? But the answers are a bit roundabout, or appear to be roundabout.

Mr KAVANAGH — So there have already been a lot of procedures of investigating this proposal. How come it has got through so far? Why has everyone else not seen these dangers?

Dr MANIFOLD — Council did. They objected to it, but we are a small country council and we do not have the resources. I know Minister Madden stated on Jon Faine radio that a lot of councils do not have the resources to investigate all these things. For the VCAT hearing we should have had a traffic assessment, but we did not have a traffic assessment. They could not afford it. We should have had a geological specialist. It was only the community that funded its money together to do that. The council could not afford it. There should have been lots of other specialists look at this issue, but I think there is just that problem there. We are a small country shire and that I think is the problem.

The CHAIR — Does state government have a role there?

Dr MANIFOLD — It would be nice if the state government did. DSE did not come to assist us with this one. Actually in the first VCAT hearing DSE did put in a submission. It is quite a formidable submission and that slide of the landscape setting-type is in it. There is some information on DSE that I would like to submit confidentially later. Because of ill health I have not been able to put that together, but I would like to —

The CHAIR — We would certainly appreciate the report you have there.

Dr MANIFOLD — Would I be able to make a copy and give that to you?

The CHAIR — Sure.

Dr MANIFOLD — That is for the 2003 hearing. They were very much against this proposal. In the second proposal there are issues there, and I will describe those in the letter. I do not want to speak about them in public, but that will explain, I think, the situation.

Mr THORNLEY — Thank you, Dr Manifold, for your extensive work. It has been very thorough and very helpful. I guess I share Mr Tee's concern about how many of the issues you raise are actually within our purview because the job of this committee is to look into the sale and alienation of public land, and in this case that is sort of a small amount in terms of these car parks compared to all of the other planning issues which you understandably raise, but which unfortunately is not what we have been asked to look at. But regardless of the legal formalities of the committee, I am obviously extremely concerned about the public safety issues that are raised by your submissions. I wanted to follow up more — and obviously I will ask the council folks the same questions in a little while — but can you take me through again where the council's position has been on this because those are issues that go beyond frankly just even this development and the related issues? I just wanted to understand, again, have there been geotechnical assessments elsewhere and how have your discussions with the council, either the elected councillors or the paid staff of the council, gone on this question, because it seems like it is a pretty big issue that I would think everyone would want to feel some confidence about?

Dr MANIFOLD — Another Port Campbell community representative and myself had a meeting with the CEO and the mayor, or the previous mayor, showing the documents and giving them copies of the geological documents and all the concerns from the environmental boards, national trusts and heritage boards, and we went through those with them. I did not hear back from them for quite a while, so I wrote asking what is their response to those documents. It is a very short letter which I can provide you, if you like, from the mayor at that time saying that they were just geological opinions, and the next line said something to the effect that council objected to this proposal, as you know, and there was nothing they could do. But we believe they do not seem to be taking these geotechnical issues seriously. It sounds like they think, because VCAT has said this is what needs to be done, it just seems to need a rubber stamp or something on it. I do not know. You would have to ask them. But VCAT has made it clear — and that is written in these documents and in the ones provided — that council and DSE did not have to provide those four car parks and that extra Crown land for that development. They said if it is not provided, then the development does not have to go ahead or it can be modified. We understand that council have been given the option of saying, 'Yes, it is appropriate to give this fragile coastal land to the development, or it is not appropriate', but in our talks with them they have said, 'We are just the committee of management, we are not the landowner so we do not make the decision', but then when you read the documents from DSE they say, 'We were advised by the council'. So one seems to be saying the other has sort of advised or is responsible. It just seems to be shifting who has made the decision a little bit.

Mr THORNLEY — That is what I am trying to understand. You will forgive me, I am new to the issue and I have tried to read everything that has been put in front of us. But is council against this development or in favour of it?

Dr MANIFOLD — I think the understanding now is that, because VCAT has issued a permit, they are there as the responsible authority which just ensures that the permit conditions are conducted.

The CHAIR — Adhered to.

Dr MANIFOLD — Yes.

Mr THORNLEY — So they are sort of neutral, are they?

Dr MANIFOLD — No, it appears to us that they are just saying, ‘Well, it will go ahead once they meet these conditions’. We do not believe the geological conditions can ever be met — not safely.

Mr THORNLEY — I guess, to be honest, I am asking you your opinion. What do you think is really going on there?

Dr MANIFOLD — That is what I think is really going on, and I think there is a problem there in that I think they feel a higher authority has said, ‘Okay, the permit’s there. Now it’s your job to ensure that permit is fulfilled’. But that is perhaps not it.

Mr THORNLEY — But if the council did not want this to go ahead — you yourself, I think, cleverly amassed a whole array of possible objections — presumably the council would be able to pursue those or other forms of objection? I am trying to get an understanding. Are we sort of getting close?

Dr MANIFOLD — Yes. We have been trying to understand it for a while.

Mr THORNLEY — Right. It was not a very robust objection, I suppose, is what I am hearing from you.

Dr MANIFOLD — It appears that they do not feel they can say anything now. I do not know why.

Mr THORNLEY — And that is both the elected folk and the staff at the council? Because I presume there is obviously a fair bit of community concern about it, and I am presuming quite a number of the people here — possibly all of them — share your concerns, so I would have thought that, at a minimum, the elected councillors would be sensing that and would want to explain their positions.

Dr MANIFOLD — At the first VCAT hearing there was a petition of 900-and-something signatures to council saying they did not want any more than a two-storey development in the town, which was what our planning policies have said we would have. And then there has been a recent one to the Legislative Assembly with 600-and-something signatures saying that they did not want that Crown land to be given away. I have had some feedback from a councillor — which I would rather put into a confidential letter to you — which I am not happy about. But there have just been quite a few difficult situations along this track; it has not been smooth sailing.

Mr THORNLEY — And I guess that is what I am trying to get an understanding of.

Dr MANIFOLD — I will supply you with the mayor’s letter and the geological advice. We put quite a lot of effort into that meeting with him, but it was a very basic two-line letter.

Mr THORNLEY — Would you say that the whole of the community here is opposed to the development, or are there sections of interest that are in favour and others that are against? I can imagine some of the traders might think it would bring more traffic; others might consider it a bit of a death star in terms of competition to their own businesses elsewhere. I do not know how it is perceived here. How would you describe the sort of make-up of the community as a whole and its position on the issue?

Dr MANIFOLD — I really cannot speak for the entire community. The Port Campbell Community Group is not the entire community, but there are certainly, I would have thought, the greater percentage of people who are concerned. There are people who have spoken expressively for this development who are very pro-anything, it seems, without any regard for the environment or for the heritage of the area.

Mr THORNLEY — Or for public safety.

Dr MANIFOLD — Or for public safety, yes.

Mr THORNLEY — So there are vocal proponents within the community for this development as well?

Dr MANIFOLD — Yes.

Mr THORNLEY — This is one of those very polarising issues.

Dr MANIFOLD — And I think those people do not perhaps understand all the issues. They have not read all these geological letters. Not many people have read the whole lot. Not many people have read what the Western Coastal Board, the National Trust of Australia, the VNPA, the Australian Conservation Foundation, the Friends of the Earth and whatever have written. They have not read the body of evidence against this development that shows that it is a high risk. If they had read everything, then they could speak with more legitimacy, perhaps.

The CHAIR — Can I thank you, Marion, for your presentation and material and for your assistance today. Thank you very much.

Dr MANIFOLD — Thank you, Chair. Thank you for listening.

Witness withdrew.