

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Geelong — 18 March 2008

Members

Mr D. Davis

Mr P. Hall

Mr P. Kavanagh

Mr E. O'Donohue

Ms S. Pennicuik

Mr B. Tee

Mr E. Thornley

Chair: Mr D. Davis

Deputy Chair: Mr B. Tee

Staff

Secretary: Mr R. Willis

Research Officer: Mr A. Walsh

Witnesses

Ms E. Ashton-Smith, secretary, and

Mr S. Wickham, vice-president, Save Barwon Heads Alliance.

The CHAIR — I declare open the public hearing the Legislative Council Select Committee on Public Land Development. Today's hearings are in relation to the proposed sale and development of public land in the Geelong-Bellarine region. I welcome Elissa Ashton-Smith, the secretary, and Steve Wickham, the vice-president of the Save Barwon Heads Alliance. 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 a privilege. The Hansard transcript will be provided to you in a short number of days after the hearing, and you will have an opportunity to make minor typographical corrections. I will ask you to make an opening statement and then we will ask a few questions.

Ms ASHTON-SMITH — I am speaking today as secretary of and on behalf of the Save Barwon Heads Alliance. It is a group that formed last July in response to a proposal to expand the town boundary for development adjacent to a publicly-owned wetland, Murtnaghurt Lagoon. I introduce also Steve Wickham, who is the vice-president of that group. The aim of the Save Barwon Heads Alliance is to ensure that the existing town boundary is retained for at least the next 10 to 15 years. This is necessary for environmental, sustainability and planning reasons.

As you can see on the map that has been provided as a handout, Murtnaghurt Lagoon is bordered by two private golf courses — one of which is also a residential estate — and a parcel of rural land owned by a would-be developer, Macafee Investments. The lagoon is connected to the Connewarre wetland system by a salt marsh corridor joining up to the Barwon River estuary. The whole estuary and wetland complex is part of the Port Philip Bay (Western Shoreline) and Bellarine Peninsula Ramsar site. The lagoon is not easily accessible and few people go there. Technically the area is accessible to duck shooters but it has not been used for this for some time.

It is important to have public land set aside primarily for the purpose of conserving native flora and fauna — areas of habitat that act as refuges for wildlife and that are not readily accessible by people. The value of Murtnaghurt as public land is primarily as a flora and fauna reserve. To ensure this value is not eroded, the health of the wetland ecosystem must be protected, and this relies on the government having control over land usage in the catchment of the wetland, and it relies on a restriction of access by humans.

Any further development adjacent to the wetland would cause severe deterioration of the ecosystem by opening it up to increased access and exposing it to more of the threats that come with urbanisation. Urban encroachment is recognised as a primary threat to wetlands, not just where developers want to plonk houses right in a wetland but where the catchment and buffer zones around wetlands are urbanised. The threat comes from urban open spaces such as parklands as well as the built environment. We submit that such a loss of natural value is a form of alienation where the value of the public land is eroded or annulled. We are aware that alienation of public land may be commonly thought of as occurring where the public loses access to a space. However, in this instance the lack of access is necessary to preserve the function and the value of this piece of public land. In this instance we believe the best way of ensuring against alienation of the wetland is for the government to acquire the Macafee Investments site for an extension of the wildlife reserve.

There are many features of Murtnaghurt that make it an important conservation area. This is not my area of expertise, but I can run through some of what has been said by the experts if it will help to fill in the picture for you. However, for now, I will just note that because of its unique natural values it is part of a Ramsar site, as noted earlier; it is listed on the register of the national estate; it is classed as a primary biodiversity zone by the Geelong council; and in its submission on this issue Birds Australia say that in two of its current projects the lagoon is being recognised as a significant site for shorebirds and as an important bird area of international significance and part of a critical network of sites for the conservation of Australian birds. The lagoon is also a place of very important indigenous heritage.

Yet for all this formal recognition of its importance and its fragility there has been a willingness by council — meaning the elected councillors, not the council staff — to sacrifice this area for the sake of a 240-lot housing estate which has no community support and no support from a strategic planning point of view. You may be aware that just 7 minutes up the road from Barwon Heads there will be a new suburb of Geelong called Armstrong Creek to house another 54 000 people, and on the other side of Barwon Heads is Ocean Grove, another designated growth area which will grow by 4000 houses within the next 10 to 15 years.

The lagoon is also under pressure through a council plan to construct a continuous walking trail that would traverse the site. The steering committee for this trail includes two representatives from Macafee Investments and at least

one from the 13th Beach Golf Resort, which wishes to expand its development. In 1985 the ecologist Jeff Yugovic studied the vegetation classes of the Connemara wetland system and wrote of Murtnaghurt that stringent protection was needed to prevent further degradation. Yet there have been no studies since that initial preliminary one, and anecdotally we understand that nothing appears to be done in the way of on-ground work to protect the ecological integrity of the wetland. For example, there are significant weed threats to the wetland.

Since we wrote our original submission to the committee council voted on the draft structure plan in December last year and agreed to revert back to the original plan prepared by its planners in which the town boundary is to be retained. Council was very reluctantly forced into this by the public scrutiny and criticism around this issue. The matter will now proceed to a panel hearing. We have engaged a senior counsel for the hearing and we expect that Macafee Investments and the 13th Beach Golf Resort will be contesting council's structure plan. We need to get an environmental study done on the lagoon to provide evidence so that we can present a strong case for retaining the town boundary. We have so far had only negative responses from DSE, council, Parks Victoria and the Corangamite Catchment Management Authority to our requests for funding assistance for the environmental study.

The CHAIR — Thank you. Did you want to add anything to that, Steve?

Mr WICKHAM — No. We are happy to take questions as they come.

The CHAIR — How does the area around the Murtnaghurt Lagoon relate to the government's coastal spaces strategy? It seems to me there may well be a crossover amongst the birds that are both on the lagoon and on the coastal strip.

Mr WICKHAM — The coastal spaces strategy would appear to cement, either as recommendation or as law, that that area is kept open in alignment with Ramsar conventions and the state conventions. What is happening is that, as the encroachment of both golf courses, by stealth and neglect really — —

It would seem logical that the rural designation of the Macafee property would stay that way but in fact council is pushing very hard for it not to be. Even though council has voted against the development going ahead, as Elissa said in the opening statement, that was with extreme reluctance, and the community does not really stand convinced of its integrity and bona fides when it comes to protecting that wetland.

The CHAIR — Who manages the wetland now?

Mr WICKHAM — Parks Victoria.

The CHAIR — Parks Victoria. Has there been correspondence between your group and Parks Victoria?

Mr WICKHAM — Yes. To date there have been conversations over the phone — naturally enough it is hard to get time with Parks Victoria. We simply wrote to them a couple of weeks ago. They have suggested that it is highly unlikely that they will have funds available to do a benchmark study for that area, but in a sideways comment the local manager said, 'Send us a letter', and said they would approach the next layer up to get funding to do that study. And, as Elissa said, there has not been a study done for nearly 20 years.

The CHAIR — Just to further understand this, who in terms of the local area actually manages this area? It is Parks Victoria but who is that, who are the people?

Mr WICKHAM — Steve McPhee is the regional manager from the Queenscliff base.

The CHAIR — To just understand this a bit further, is there any written correspondence with Parks Victoria?

Mr WICKHAM — We have just written to them as of our email yesterday. The last correspondence I had was by phone and he said, 'Please write to us', but did not seem very hopeful they would ever get any money to help us out.

Ms ASHTON-SMITH — Can I add that the planning department of council has had emails with Parks Victoria, asking for funding support for the panel hearing.

The CHAIR — When is the panel hearing?

Ms ASHTON-SMITH — We expect it to be about mid-year this year.

The CHAIR — And this is a planning panel?

Ms ASHTON-SMITH — A state government-appointed planning panel.

The CHAIR — Appointed by the minister?

Ms ASHTON-SMITH — Yes, to hear any submissions on the Barwon Heads structure plan.

The CHAIR — And the structure plan was funded, all by state government, or it is not funded by state government?

Mr WICKHAM — Through the City of Greater Geelong. They are reviewing their structure plan every 10 years to redraw their planning schemes; that is why that has happened. They are doing them right across the Bellarine, so it is part of their normal process. Obviously there has been a shift in the way structure plans are being done, which I believe state Parliament — the state government — has had some input into. That would be state funded as well as local government funded.

The CHAIR — My final question is that the coastal spaces strategy sought to draw boundaries around towns and so forth. Was that done consistent with this structure plan? How does that relate?

Ms ASHTON-SMITH — The coastal spaces in the Victorian coastal strategy have classed Barwon Heads in the category that is least capable of growth of the township — I think it is called low-growth capacity — where they say there should be no extension of the current urban boundary or very limited extensions of the urban boundary.

The CHAIR — So the current urban boundary is defined in this structure plan to include or not include this development?

Ms ASHTON-SMITH — I am sorry. The current urban boundary is that straight — —

The CHAIR — Dotted line.

Ms ASHTON-SMITH — The straight line along the west edge of the township.

The CHAIR — So this would be outside that?

Mr WICKHAM — Yes.

Ms ASHTON-SMITH — The Macafee land is outside of that. The council, when it considered the draft structure plan that had been prepared by its planning department — the planning department recommended no expansion of the town boundary — considered that it decided to include the Macafee land within that town boundary, so it would have had a little — —

The CHAIR — Dogleg sort of thing.

Ms ASHTON-SMITH — Yes.

Mr WICKHAM — It was put up as an 11th hour amendment. When that structure plan, on 24 July, was to be looked at, the local ward councillor from his back pocket drew a beautifully crafted document that was then tabled as an amendment to include the Macafee land as part of the new town boundary and then to be exhibited in the structure plan. Slowly people in Barwon Heads found out about this. I think 763 formal submissions were written by groups, organisations and individuals, which is unheard of. I believe Armstrong Creek, for something like 50 000 people, had 30, because everything the council was proposing flew in the face of the coastal spaces strategy, the hierarchy of principles — everything. The people in Barwon Heads and the local area were absolutely astounded by their complete disregard for that. It took nearly six months of incredibly hard work by the community to defend something which should be pretty much obvious that you do not do. It is local politics. I think it has been noted elsewhere that the relationship between the City of Greater Geelong and developers and businesses is a curious one, and this has been a fine example of that. It was up to public scrutiny to stop it — —

The CHAIR — Who is the local ward councillor?

Mr WICKHAM — Peter McMullin. In the end Peter has been helpful.

Mr TEE — Just to make sure that I understand it — and thank you for your submission — as I understand it then essentially there was a proposal by the developer to amend the town boundary so that the town boundary was extended to include his property, and he was going to put up a development there. The council has now met and knocked back that proposal, so the town boundary is as per the line drawn in the sand here as it were. That being the case, the panel hearing, how did that come about? Was that something that was requested by council?

Ms ASHTON-SMITH — The way that they have explained — yes, the council did request it.

Mr TEE — And do we know why? I suppose my understanding of it, and I am not an expert in this area, is that in a sense council's decision would be final unless council asks the minister to set up a panel, which seems to be what is occurring here.

Ms ASHTON-SMITH — They have said that at the moment they send all of their regular structure plan reviews through to a panel hearing, and I guess that that is because there are always contentious issues that cannot be resolved by the council modifying the structure plan to meet everybody's needs.

Mr TEE — It just seems, I suppose interesting, that council, having made the decision, then asks the community to go to the time and expense of revisiting the decision that council has made having considered all of those submissions, but so be it. In terms of the environmental study that you talked about, is that something you have approached council for in terms of trying to get funding for it? I know you approached the state government, and I will come back to that, but have you approached council?

Mr WICKHAM — We have had a conversation with the ward councillor. On the evening of the council vote the ward councillor came back to Barwon Heads and met with the community there in a very convivial and friendly atmosphere and suggested that he would in fact press council to fund the study — —

Mr TEE — Yes.

Mr WICKHAM — Then he said that if push came to shove and they were reluctant to do so, he would take it from his discretionary fund. Time has gone by, and we have asked him on a number of occasions to consider that matter. He has said that he was unable to fund it from his discretionary fund because of a recent case where — and Elissa might know the detail of that one — there has been some concern about conflict of interest where a ward councillor has made offers to support groups and then has been seen to be biased.

Ms ASHTON-SMITH — It is something to do with Hobsons Bay and Winky Pop. I do not know the case myself.

Mr WICKHAM — It seems to be the latest get-out-of-jail card for people who make a promise and then do not want to follow through.

Mr TEE — And have you formally requested funding from the council?

Mr WICKHAM — We are in the process of speaking to the chief officer, yes. We will go via that route.

Mr TEE — Just to be clear in terms of the approach that you made to the department, you have been asked to put that in writing, just to get a sense of it, a decision is yet to be made but I suppose in a sense you are being encouraged to look elsewhere. I think that is what you are saying. Would that be — —

Mr WICKHAM — We originally spoke to the senior coordinating planner at the City of Greater Geelong. That whole team has been fantastic. I would like that to be understood. The planning team have been amazing, very professional and in our view unbiased and helpful. On his recommendation and in association with us they had actually written to Corangamite catchment authority, DSE, Parks Victoria et cetera, et cetera, all of whom had some responsibility, care and oversight for that area, and all of whom backed away quicker than a freight train. They just did not want to know about it. They did not support it and have not put any money into it. This is an astounding state of affairs where the community now has to stump up another \$10 000 to do it. Parks Victoria really has said, 'We have got no money for this'.

Ms ASHTON-SMITH — Can I add that we are approaching the panel hearing in a coordinated way with the council planning department. Council planners have said, ‘Yes it is necessary to have an environmental report to be sure that we will present a really strong and successful case’. They have also been very supportive of us getting a senior counsel. We have not had any indication that they will in fact be able to provide a legal person or any environmental person outside of just their regular planning officer presenting at the panel.

Mr TEE — But in essence you are probably in the fortuitous position of having the council’s resources lined up with yourselves to try to defend the council’s decision?

Ms ASHTON-SMITH — Yes.

Mr TEE — The other issue is — and I note in the written submission we received in October last year, and there is reference to it in your submission today too — that you talk about the obligation under the Ramsar convention and you talk about the migratory bird agreements between Japan, China and Australia. I assume that both of those matters are for the commonwealth government. Is that an issue that you have taken up with the commonwealth government and sought assistance and support from there?

Mr WICKHAM — Not as yet. We have had six months to deal with local politicians, and I mean that kindly — ‘deal with’ — as well as with various levels of bureaucracy in different state agencies. We have yet to have the time to approach federal agencies directly. Conventional wisdom would say that you either go to the top of the tree or you start with your local representatives. What we have done is work with our local representatives, and had no joy so far. One of the other issues that arises here is that there are a number of agencies that have either direct or indirect responsibility for that area or take direct or indirect ownership. That is the classic situation where it just falls through the cracks. It is a federal issue, it is a Parks Victoria issue, it is a local government issue, it is a DSE issue — and they all just walk away. That is effectively what has happened here. The short answer is no, we have not directly approached the feds yet, but at some point, if time allows, we will.

Mr TEE — Just to be clear, the decision by council in relation to the boundaries was made reasonably recently — —

Mr WICKHAM — Yes, 24 July — —

Mr TEE — No.

Ms ASHTON-SMITH — December.

Mr WICKHAM — Sorry, yes.

Mr TEE — Basically you are at the stage now, I suppose, of coordinating your campaign in response, and that involves trying to get support from the department at the state level, council at the local level, and potentially from the federal level, so that you have a three-tiered approach to coordinating your response in anticipation of a panel hearing which you think will be mid-year?

Ms ASHTON-SMITH — Yes.

Mr HALL — Thank you for your presentation this morning, and thank you for the map. It is very helpful for us. It is in regard to that map that I want to ask a question. The designation on the Macafee Investments land is to protect for resource and scenic values. What does it mean by ‘resource and scenic values’, or is that a question I need to ask the council?

Ms ASHTON-SMITH — Council would be the best people to answer that question, but I know that in council’s rural land use strategy and the coastal spaces, the coastal spaces between townships on the Bellarine Peninsula are recognised as having very high scenic value and are part of the tourist product.

Mr HALL — I can understand scenic values, conservation values, ecological values, but I was not sure what they mean by ‘resource and scenic values’, so I will ask council that later on this afternoon when we speak to them. That designation also applies to land directly north of the Macafee land. Is that privately owned land as well?

Ms ASHTON-SMITH — It is, yes.

Mr HALL — And the same with the other similarly designated land to the west of the Macafee land, it is all privately developed?

Ms ASHTON-SMITH — Yes.

Mr WICKHAM — And currently with the 13th Beach golf club, which is again a private golf club, part of that is designated as rural and that was called in by the minister and designated as such a couple of years ago. They put up a very strong proposal to have that rural land rezoned so they could put a wellness centre in there and put another golf course in there and a clubhouse in there as well.

Ms ASHTON-SMITH — And ultimately possibly residential development.

Mr WICKHAM — Which is the same old, same old: residential housing, gated communities — housing estates by stealth — and I believe the state government has recently said that was something it was looking at with a slightly more critical eye. Our contention is that why we are having senior counsel and why we have the requirement to have that report done is that Philip McNaughton will go in there with serious representation, and council has so far indicated it will send an officer.

Mr HALL — On your map there, that orange-shaded diagonally striped plan, is that the area owned by the 13th Beach residential estate?

Ms ASHTON-SMITH — Yes.

Mr HALL — And was that an area proposed for the other golf course?

Ms ASHTON-SMITH — Yes.

Mr HALL — So you have said that that is now rezoned to rural zone. Is that a requirement under the structure plan?

Ms ASHTON-SMITH — Yes, it is. When that whole block of orange land was originally rezoned from rural to allow the residential estate to be developed and the golf course, that applied to that whole orange area. The bit with the diagonal stripes on it is the bit that council now want to rezone back to rural.

Mr HALL — Are they winning that battle? Is that an issue with the 13th Beach group?

Ms ASHTON-SMITH — I think it will be contested very, very strongly.

Mr WICKHAM — One of the interesting things that we have seen with the proposed Macafee development is that that was conducted in a very folksy, homey, easygoing, laid-back kind of way. It did not seem to be largely coordinated — other than by the family that were proposing this. McNaughton Investments is a totally different ballgame. These are serious, serious players, and they will proceed to the panel with representation at a very high level, including having ecologists doing studies of that area. We have got a pretty good idea of who will be doing the study for them. Michelle Quigley is acting for us, and Michelle is suggesting that without, say, Barwon Heads Alliance going in with an ecology report to really refute, which is a peer assessment, what is going to be on the table, this little bit of Murtnaghurt, as you can see from the map, can be completely enclosed, completely encircled, and that will be perhaps the end of it.

Mr HALL — So will you get public access then if it is encircled by privately owned land?

Mr WICKHAM — It is a contentious matter.

Mr HALL — The circular walking trail, is that proposed to just surround the lagoon, essentially?

Ms ASHTON-SMITH — The circular walking trail is supposed to go right around the whole of the Barwon Heads township, and at the north it follows the line down the corridor of wetland, on the edge of that, and it is proposed to cut through Murtnaghurt straight across and then up over the sand dunes.

Mr HALL — I see what you mean — down there.

Mr WICKHAM — Interestingly, even though Parks Vic have not put that in writing, I believe that across the state of Victoria that path is probably designated as one of their lowest priorities, and what they are saying is, ‘We do not want it there either’. They do not want a track through there, because again you have every problem imaginable — with dogs, with people going through throwing litter — and this is an incredibly vulnerable, physically very vulnerable, area. Unless one has a really close look at it, it is almost impossible to figure out what is going on out there, where you get hyper-saline areas that mean vegetation grows here, and then 20 centimetres away, that is it; it does not grow anywhere else, and by having increased public access, which Parks do not want, they recognise that that will also have an incredibly damaging effect on that vulnerable area.

Mr HALL — One last quick question then. I think you said your desired outcome would be for the council to actually purchase the Macafee land for public open space.

Mr WICKHAM — You always look a little bit higher than you may have to. We would see that as being one of the more visionary things that the state and the local council could do. If Baron von Mueller were alive today, he would probably think that was an excellent idea for a national park along there somewhere, another national park, or a state garden, but part of these hearings would reflect the fact that over the last century what we have seen is development at the cost of the environment. We have seen public land being gobbled up for private gain and also under the cloak of public gain. Yes, of course we would like the state government, through local council and Parks Victoria, to acquire that land, to rehabilitate that land.

Mr HALL — Similarly with the area north of the Macafee land that has the same designation?

Mr WICKHAM — Probably, yes.

Mr HALL — It just seems logical.

Mr WICKHAM — If you take one bit, why would you not take the rest?

Ms ASHTON-SMITH — That would certainly help to connect areas of habitat.

Mr KAVANAGH — On that land north of the investment land, do you expect that would be developed in the future if the present one was allowed to go ahead?

Ms ASHTON-SMITH — Yes. From what everyone has said, the professional planners in council, particularly if the Macafee land were to be developed, urban sprawl between here and Geelong would be a foregone conclusion, so there have already been expressions of interest for developing that land north of the Macafee Investments land.

Mr KAVANAGH — About how many residences are in Barwon Heads at the moment, and how many more — it is probably about, what, a 20 per cent increase, something like that?

Mr WICKHAM — Part of the structure plan was couched in terms of either/or — either the Macafee Investments is allowed to happen and there are another 240 house lots because everybody is arguing about housing lot availability, so you could either have that or you could go for medium-density housing in Barwon Heads. The fact is that medium-density housing in Barwon Heads has been happening apace for the last 5 to 10 years. Virtually every block of land in Barwon Heads that is sold now is cut in half and there is multi-use occupancy going on, which has put an amazing strain on the facilities in the town. We are not here to talk about parking, so I will not. I think we all understand that one. But even in terms of the sewerage supply, the water supply, the drainage supply et cetera, et cetera, et cetera, the and/or option — what we are going to get is both.

Ms ASHTON-SMITH — The and/or argument I think happened in the 1990s, and we have been accepting medium-density housing since that time.

Mr KAVANAGH — Do the developers or the proponents say you can protect the wetlands?

Mr WICKHAM — The proponents, in terms of that direct question, have simply said that they would guarantee. They did not say how they would guarantee. They would simply guarantee the protection of the wetlands, but they also guaranteed that they would give the community something of the order of \$5 million worth of inducements via council as well, but they prefaced that by saying, ‘Only and when we get the development approved’. I would find it very difficult to imagine how they could guarantee the integrity of the wetlands when

there has been no suggestion anywhere, either from council or the proponent, that they did a baseline study of that area, and we are the only people who seem interested in doing that at the moment. Yes, they have said that, but with respect to that, I have absolutely no trust in that as a statement. If I was proposing to develop that land, I would say I would turn it into a gold place, a gold access area only.

Ms ASHTON-SMITH — They do not appear to have any understanding of the needs of the wetlands.

Mr WICKHAM — Of what that ‘needs’ means.

The CHAIR — Thank you. That has been very helpful. It is complex, but I think we get the drift of it now. We appreciate it.

Mr WICKHAM — Okay. Thank you.

Witnesses withdrew.