



Planning Evidence Statement

Amendment C375 to the Greater Geelong Planning Scheme

Statement prepared by John Glossop, Director
Glossop Town Planning Pty Ltd
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1. INTRODUCTION

1. I received instructions from the Greater Geelong City Council (the 'Council') to prepare a statement of planning evidence in relation to Amendment C375 (the Amendment) to the Greater Geelong Planning Scheme (the Planning Scheme).
2. The Amendment seeks to implement the *Barwon Heads Structure Plan 2017* (the '2017 Structure Plan') by altering the residential zones, applying new overlays, amending local planning policies and inserting, replacing and amending schedules to the zones and overlays that apply to the residential areas of Barwon Heads.
3. I was not involved in the preparation of the Amendment and I was engaged by Council following the completion of the exhibition of the Amendment. I provided comments to Council on the Amendment after exhibition, which informed post-exhibition changes to the Amendment.

My Evidence

4. I am instructed to review the Amendment material, relevant background documents and submissions and provide my opinion on the Amendment and Council's proposed post-exhibition changes and prepare a statement of planning evidence outlining my opinion.
5. A copy of my instructions is attached at **Appendix A**.
6. My evidence will also provide a strategic assessment of the Amendment, having regard to Planning Practice Note 46: Strategic Assessment Guidelines.
7. I have not been asked to consider, nor am I qualified to consider, the merit or accuracy of the ecological advice upon which the Amendment is partly based. I have also not undertaken an urban design or landscape architecture assessment of the appropriateness of the specific requirements proposed to be set down in the new schedules.



8. In preparing this statement, I have:

- Inspected the amendment area and its surrounds.
- Read the *Barwon Heads Structure Plan 2017*.
- Reviewed the exhibited Amendment documentation.
- Reviewed the agenda and minutes to the Council meeting of 22 August 2017, where it was resolved to adopt the Barwon Heads Structure Plan 2017, and to prepare and exhibit a planning scheme amendment. Council also resolved to request the Minister for Planning to exercise his powers under Section 20(4) of the Planning and Environment Act 1987 by applying an interim Environmental Significance Overlay, while the formal Planning Scheme Amendment was prepared and considered.
- Reviewed the agenda and minutes to the Council meeting dated 26 June 2018 where submissions were reviewed and post-exhibition changes adopted.
- Considered the relevant aspects of the Planning Scheme, including the Planning Policy Framework and relevant reference documents¹.
- Considered relevant Practice Notes (including PPN46: Strategic Assessment Guidelines, PPN07: Vegetation Protection in Urban Areas, PPN10: Writing Schedules, PPN13: Incorporated and Reference Documents, PPN36: Implementing a Coastal Settlement Boundary and PPN53: Managing Coastal Hazards and the Coastal Impacts of Climate Change).
- Considered relevant Ministerial Directions (including the Ministerial Direction on the Form and Content of Planning Schemes, Ministerial Direction No. 9 – Metropolitan Strategy and Ministerial Direction No. 11 – Strategic Assessment of Amendments).

¹ I have also had regard to this amendment in the context of Amendment VC148 and the changes to the planning scheme as a result of this amendment.



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9. My evidence is based on the Council's adopted position in respect of the amendment, including the post-exhibition changes it adopted on 26 June 2018.
 10. My opinion on the Amendments is in Section 2 of my statement and my conclusion in Section 3 summarises my opinion.



2. PLANNING EVIDENCE

Overview

11. Having regard to the strategic planning context for the Barwon Heads township, I have framed my assessment and evidence around the following questions:

- Is the Amendment strategically justified?
- Is the settlement boundary appropriate?
- Are the proposed controls for the Increased Housing Diversity Area appropriate?
- Are the proposed controls for the balance of residential land appropriate?
- Are the proposed controls for Warrenbeen Court appropriate?

12. These matters are addressed within this section of my statement.

What is the strategic planning context for the Barwon Heads township?

13. Barwon Heads is a coastal township located on the Bellarine Peninsula. It is located approximately 23 kilometres south east of the Geelong Central Business District and approximately 5 kilometres west of Ocean Grove.

14. The township is a popular holiday and tourist destination. In more recent times, it has been home to a growing resident population and has an increasing commuter population to Geelong and surrounds.

15. Geographically, the township is constrained by its environmental features. The Barwon River and the Lake Connewarre system lie to the north and east of the township, while the coastline is located to the immediate south. Ramsar wetlands, Murtnaghurt Lagoon and the Lake Connewarre State Game Reserve are located to the west of the township.



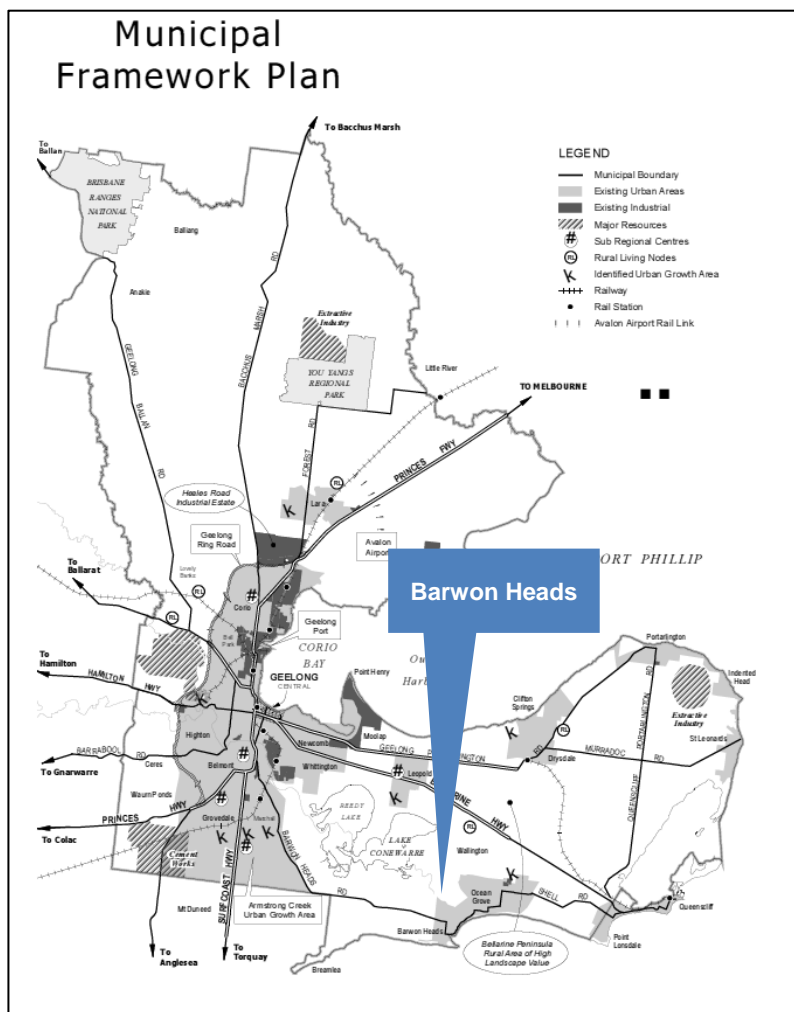
16. At a regional level, the G21 Regional Growth Plan identifies growth and land use pressures for the region, including the City of Greater Geelong. Barwon Heads township is identified as a 'town' and it is not identified as having any significant growth function.
17. The Bellarine Peninsula Localised Planning Statement (LPS) is a relevant document and a policy document that is to be considered as relevant at Clause 11.03-5S.
18. The Framework Plan within the LPS identifies Barwon Heads as an urban area, with the designation to "maintain non-urban breaks with open farmed landscapes between settlements. Relevantly, the framework does not designate Barwon Heads as an identified urban growth area.



Bellarine Localised Planning Statement Framework Map (page 11)



19. Strategies within the LPS relevantly seek to ensure that urban development does not encroach into coastal or rural environments.
20. At the local level, the Municipal Framework Plan at Clause 21.03 classifies Barwon Heads as an existing urban area.



Excerpt from Clause 21.04 Municipal Framework Plan

21. In terms of its economic development, Clause 21.07 classifies Barwon Heads as a 'Town Centre', which is at the lower end of the retail hierarchy, where service needs are encouraged.

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Is the Amendment strategically justified?

22. I have reviewed the strategic justification for the Amendment in accordance with the framework provided by Planning Practice Note 46: Strategic Assessment Guidelines. The salient points of my consideration of these issues are as follows:

Why is the Amendment required?

23. The Amendment is required to implement the *Barwon Heads Structure Plan 2017* (the '2017 Structure Plan').
24. The development of the 2017 Structure Plan arises from an action in the 2010 Barwon Heads Structure Plan (the '2010 Structure Plan'). That Plan identified a need for future strategic work and sought '*a full review in ten years to examine the Settlement Boundary, planning policy and controls, and impacts of stormwater flooding and climate change*'. The development of the 2017 Structure Plan is also supported by Clause 21.14 of the Planning Scheme, which identified a general need to review township structure plans.
25. The preparation of the 2017 Structure Plan was informed by a *Residential and Landscape Character Assessment* undertaken by Hansen Partnership, which identified characteristics of the township's coastal design character. In light of these findings, the 2017 Structure Plan says that changes are required to the planning controls that affect the urban residential areas of Barwon Heads.
26. In turn, this Amendment is required to implement the 2017 Structure Plan and respond to changes in planning controls that have occurred since the 2010 Structure Plan was implemented.

Objectives of Planning in Victoria

27. Section 4(1) of the *Planning and Environment Act 1987* sets out the objectives of planning in Victoria. Relevantly, the Amendment implements and advances the following objectives:

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(a) To provide for the fair, orderly, economic and sustainable use and development of land.

(b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

(c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

(f) To facilitate development in accordance with the objectives [outlined above].

(g) To balance the present and future interests of all Victorians.

28. The Amendment will clarify the design and development objectives for the subject areas and enhance protection of the natural and environmental characteristics which are locally valued, for the benefit of existing and future residents of, and visitors to, the Barwon Heads township. I also consider that the Amendment will facilitate development in appropriate locations.

29. In this respect, the Amendment is consistent with the objectives of planning in Victoria.

Environmental, Social and Economic Effects

30. The Amendment achieves a benefit in that it will result in the protection and preservation of the environment. This is achieved in several ways. Maintaining the settlement boundary will prevent development encroaching on the coastal and wetland environments adjacent to the township. Moreover, existing vegetation in the Warrenbeen Court area is proposed to be protected by planning controls and enhanced landscaping outcomes are encouraged by the proposed planning controls associated with new development within the township².

² I discuss the appropriateness of these controls later in my evidence.



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31. The Amendment achieves social benefits in that it provides for additional housing in a manner consistent with the unique township character of Barwon Heads. In this regard, the preservation of that character provides a social benefit to existing and future residents as well as visitors to the township.
 32. In terms of economic effects, the amendment facilitates development consistent with the area's anticipated growth and its preferred character. While the amendment does not affect the township's core commercial area, I anticipate that the development achievable under the controls will have positive effects in terms of residential and visitor accommodation that would complement its tourism and township role.
 33. On balance, I consider that the Amendment will have neutral or positive environmental, social and economic effects overall.

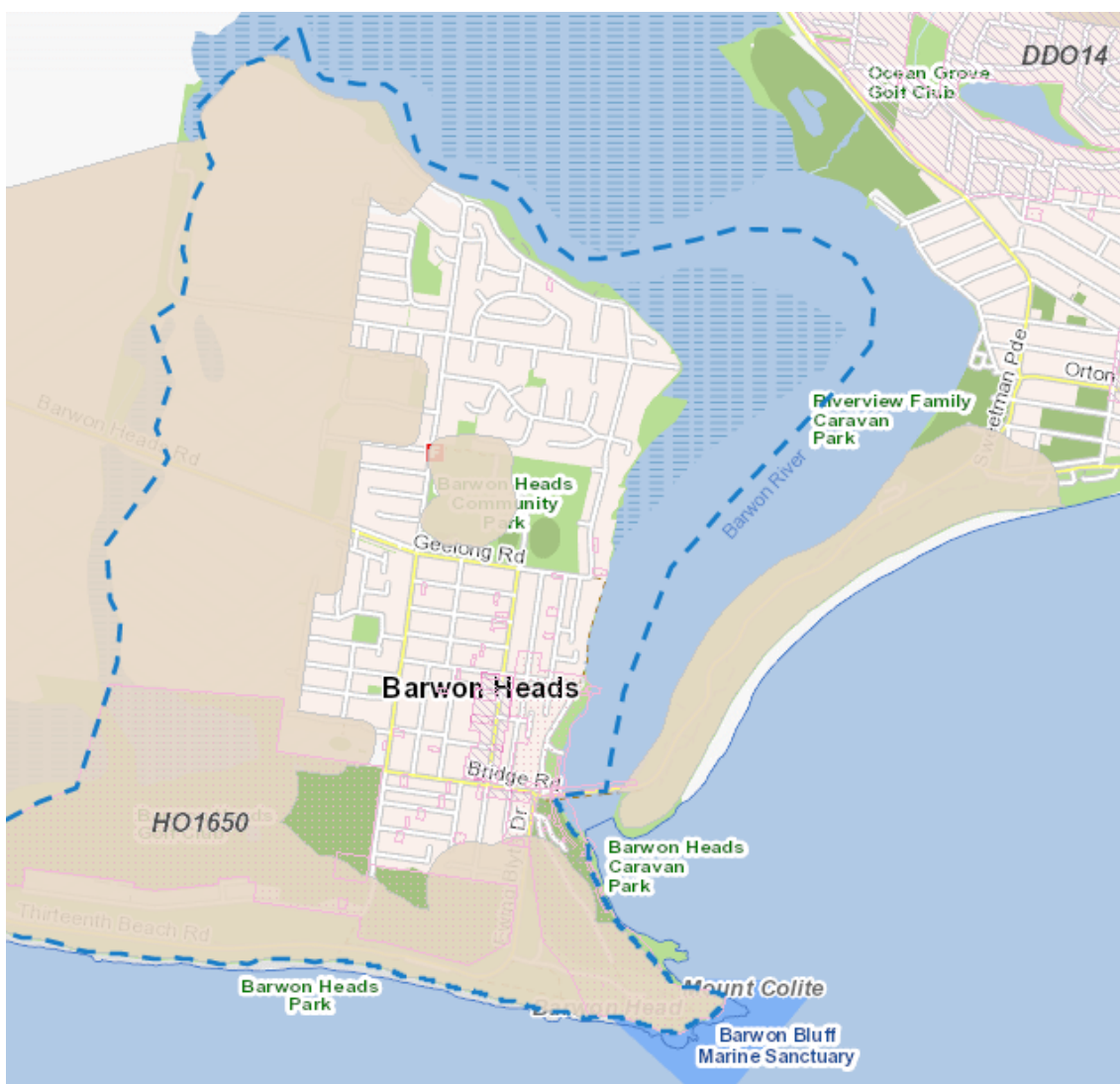
Bushfire Risk

34. Part of the Barwon Heads township (Barwon Heads Golf Club and the foreshore) is affected by the Bushfire Management Overlay, although this is not within the amendment area.
35. However, some of the land within the amendment area (i.e. immediately east of the township boundary along Mooroopna Court and Hopgood Place, Warrenbeen Court and also some land south of Bridge Road) is within a designated bushfire prone area.
36. Planning policy at Clause 13.02-1S applies to land that is within a designated bushfire prone area. It seeks to prioritise the protection of human life over competing policy considerations by means which include directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
37. The requirements for settlement planning seek to ensure there is no net increase in risk to existing and future residents, property or community infrastructure and that strategic



planning documents, local planning policies and planning scheme amendments should not be approved if they will result in an introduction or intensification of development in an area that has a BAL-12.5 rating or greater.

38. This is further reinforced by the integrated decision-making provisions at Clause 71.02-3, which seek to ensure that the protection of human life is prioritised above all other policy considerations when making an integrated decision.



Extent of land that is identified as bushfire prone (shown highlighted) (source: VicPlan)



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39. Relevantly, while the amendment does not propose to rezone any non-urban land for residential purposes, one submitter (Submission 50) seeks to expand the settlement boundary to include land that is within a bushfire prone area.
 40. The proposed amendment seeks to rezone some bushfire prone areas from the Residential Growth Zone and General Residential Zone to the Neighbourhood Residential Zone. These changes are accompanied by the introduction of a Schedule to the Design and Development Overlay which encourages low scale development outcomes (i.e. development with a site coverage of 40%).
 41. From a town planning perspective, I consider that the amendment is either neutral to or positively addresses bushfire risk, in that it encourages a lower scale of development within bushfire prone areas, by virtue of its rezoning to a zone where minimal change is encouraged.
 42. To the limited extent that I am qualified to comment, I consider that the amendment appropriately manages bushfire risk.

Compliance with Ministerial Directions

43. I have reviewed the proposed changes to the Planning Scheme in the context of the Ministerial Direction on the Form and Content of Planning Schemes. In general, my assessment is that the controls and schedules have been drafted in a manner that is consistent with the Ministerial Direction.
44. The Amendment was exhibited with an explanatory report that met the requirements of *Ministerial Direction No. 11 – Strategic Assessment of Amendments*.
45. The Amendment and the proposed provisions comply or can comply with all relevant Ministerial Directions.



The Planning Policy Framework

46. I note that Amendment VC148 restructured the Greater Geelong Planning Scheme. Notably, that Amendment introduced the Planning Policy Framework, which replaced the State and Local Planning Policy Frameworks.
47. This Amendment broadly supports and implements a number of relevant objectives in the Planning Policy Framework.
48. In particular, the Amendment advances the objectives and strategies of Clause 11 (Settlement), Clause 12 (Environment), Clause 15 (Built Environment and Heritage) and Clause 16 (Housing).
49. I discuss its consistency with State and regional policy in detail later in this statement.
50. In terms of the relevant local policy at Clauses 21 and 22, I note that the strategic work that underpins this Amendment was envisaged as “further work” at Clause 21.14, including the directions to:
- Review township structure plans as schedule (in structure plans) to meet emerging needs of communities.*
- Undertake a Landscape Assessment Study for the Ewing Blyth/Golf Links/Bridge Road and the Warrenbeen Court residential areas with the intention to apply an overlay to protect the existing character and vegetation.*
51. In this regard, the Amendment supports the need to develop and implement the further work identified.
52. The Amendment is also supported by a broader review of the objectives of the Local Planning Policy Framework, including the following policies:
- Clause 21.02 (City of Greater Geelong Sustainable Growth Framework), which identifies that Council will set clear settlement boundaries and consolidate



development and also protect, restore and enhance Geelong's biodiversity and natural systems.

- The Strategic Framework Map at Clause 21.04, which identifies Barwon Heads as an existing urban area.
- Clause 21.05 (Natural Environments), which identifies that the municipality includes significant natural environments, although retains only approximately 5% of remnant vegetation which existed pre-European settlement. The clause seeks to protect and enhance the natural environment and provide for more sustainable development.
- Clause 21.06 (Settlement and Housing), which identifies that there is an environmental, economic and social imperative to consolidate development and improve accessibility to urban services. This clause also identifies that development should contribute positively to the quality of the urban environment so that it may be enjoyed and respected by the existing and future community.
- Clause 21.06-2 (Urban Growth), which seeks to limit urban sprawl by directing urban growth to designated urban growth areas and to improve housing affordability. Relevantly, Barwon Heads is not identified as a 'primary urban growth area' and a relevant strategy is to ensure development occurs within designated settlement boundaries.
- Clause 21.06-3 (Urban Consolidation), which seeks to consolidate urban areas and improve access to urban services. This clause establishes the concept of Increased Housing Diversity Areas, which are defined at Clause 22.63 (refer below). Within the GRZ1, Clause 21.06 seeks to provide for medium density housing, while limited change is anticipated in NRZ areas.
- Clause 21.06-4 (Neighbourhood Character), which seeks to manage the impact of urban change, ensure development responds to the existing neighbourhood character and to protect areas with a significant garden character and areas with



views to significant landscape features. Strategies include to acknowledge that neighbourhood character will adapt and evolve within Increased Housing Diversity Areas and to ensure that development is responsive to existing neighbourhood character.

- Clause 21.06-5 (Heritage and Identity), which seeks to ensure that the use and development of a heritage place contributes to its heritage significance and longevity.
- Clause 21.07 (Economic Development), which identifies a retail hierarchy in which the Town Centre of Barwon Heads sits below Neighbourhood Centres and has between 1,500sqm and 15,000sqm of retail floor space.
- Clause 21.14 (Bellarine Peninsula), which includes the following objectives:
 - *To protect and enhance the rural and coastal environment on the Bellarine Peninsula and maintain non-urban breaks between settlements.*
 - *To facilitate the development of Ocean Grove, Drysdale/Clifton Springs and Leopold as hubs of development and service provision on the Bellarine Peninsula. In all other townships on the Bellarine Peninsula provide retail, commercial and community uses and facilities that serve the daily needs of the community and encourage street based activity.*
 - *To provide for sustainable industrial, commercial, retail, agricultural and tourism development in designated locations, to service the wider Bellarine community.*
 - *To preserve the individual character, identity and role of each Bellarine township.*

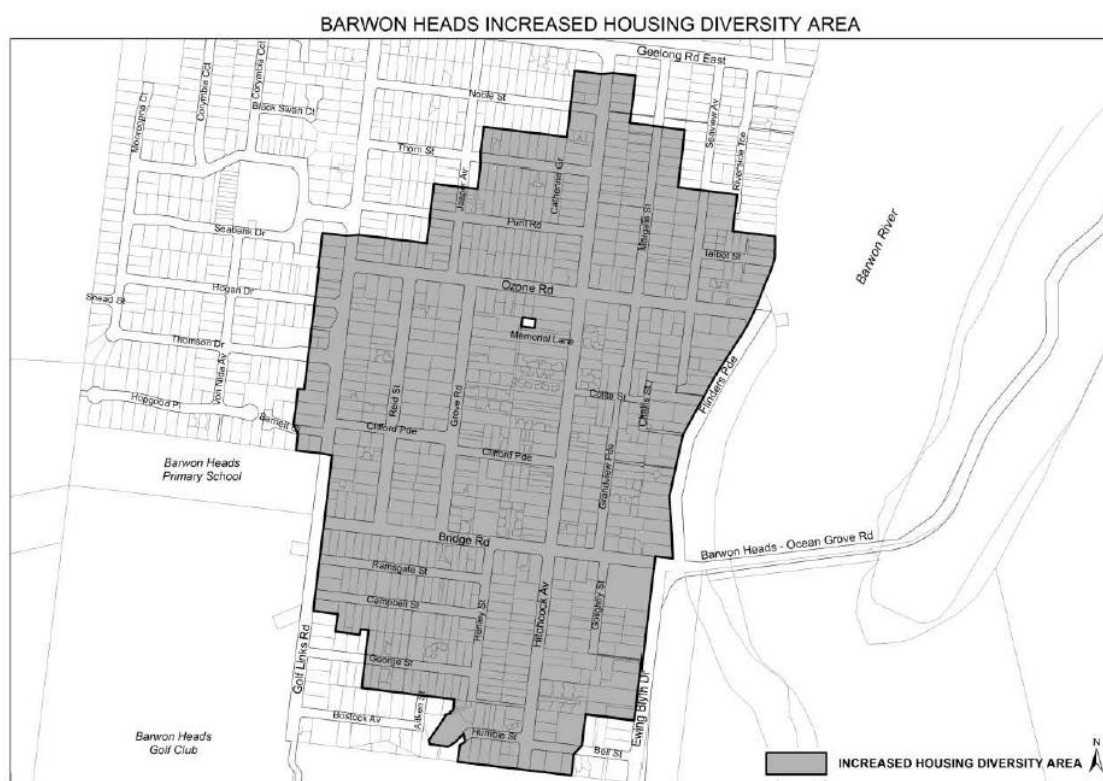
Strategies seek to direct the bulk of residential growth and retail development to Ocean Grove, Drysdale/ Clifton Springs and Leopold consistent with the relevant Structure Plan maps. Other strategies also seek to protect rural and coastal environments from inappropriate urban encroachment and to ensure that



development outside of settlement boundaries does not compromise rural, environmental and landscape values.

Strategies specific to Barwon Heads set down in Clause 21.14 include (but are not limited to) the following:

- *Maintain a compact urban form and avoid outward sprawl.*
 - *Protect the unique character of Barwon Heads as a coastal village located within a sensitive environment and significant landscape setting.*
 - *Ensure new housing development complements the character of Barwon Heads and provides for a variety of housing sizes and types.*
 - *Support development of appropriate tourist accommodation around the Barwon Heads town centre.*
- Clause 22.63 (Increased Housing Diversity Areas), which identifies areas where more intensive development is sought. Design objectives for these areas include to encourage innovative, high quality, site responsive medium density housing and to encourage two and three storey development. Objectives specific to coastal areas include to encourage landscaping, including planting of a canopy tree and / or large shrubs within front setbacks.



Excerpt from Clause 22.63 Increased Housing Diversity Areas

- 53. I note that this amendment proposes to reduce the extent of the Increased Housing Diversity Area by excluding land south of Bridge Road, as identified in the structure plan.

Use of the Victoria Planning Provisions

- 54. I discuss the appropriateness of the proposed controls as an implementation tool later in my evidence.

Views of Relevant Agencies

- 55. Relevant agencies such as DELWP and the CFA have been consulted as part of the exhibition of the Amendment.



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56. These agencies have made submissions to the planning authority and I have had regard to these submissions.

Resourcing and Administrative Costs

57. I have not been presented with any evidence relating to the resource and administrative costs of the Amendment by the Council.
58. The Amendment will result in additional permit triggers in some circumstances and at times more complex assessment processes. The Council will need to balance these costs and its ability to meet them, against the benefit of the new controls.

Summary of Assessment

59. It is my view that, overall, the Amendment is strategically justified, subject to the recommendations I make in my evidence. The implementation of the *Barwon Heads Structure Plan 2017* will provide appropriate guidance for land use and development within the residential areas of the Barwon Heads township, consistent with policy and community expectations.
60. That said, I have identified several issues, which warrant further scrutiny by the Panel and may require changes to the Amendment or more detailed justification.

Is the proposed settlement boundary appropriate?

61. The extent and location of the settlement boundary is a key issue in the consideration of this Amendment.
62. The settlement boundary for Barwon Heads is predominantly based on the settlement boundary that was adopted in the 1996 Barwon Heads Structure Plan (the '1996 Structure Plan').
63. There was considerable debate as part of the development and implementation of the 2010 Structure Plan about the westward expansion of the settlement boundary.

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Ultimately, the amendment that implemented the 2010 Structure Plan did not include the expansion of the settlement. The Panel examined many issues concerning the potential expansion of the settlement boundary. It ultimately concluded:

The Panel is satisfied that planning policy does not preclude an extension to the Barwon Heads settlement boundary, but also acknowledges that there is no policy imperative to do so.

Barwon Heads has not been identified as a location for growth, and retaining the current settlement boundary is a legitimate option. The situation would be different in a settlement that had been identified for growth and where there was a local or regional imperative to provide for that growth.

This is not the case in Barwon Heads, and because of that, it is not the role of the Panel to dictate that Barwon Heads should accommodate further growth. This is an issue that should be determined by Council and the Barwon Heads community. The Panel is satisfied that there is substantial community opposition to any development of the Macafee land and this is not something that the Panel can dismiss.

For these reasons the Panel does not recommend that the settlement boundary be extended.³

64. The 2017 Structure Plan (and this amendment) seeks to maintain the existing settlement boundary, save for the excision of 44 River Parade and 14 Eddystone Court from the urban area, on the basis that the inclusion of the land in the settlement boundary was an error and that the land is flood prone.
65. In considering the appropriateness of the settlement boundary, I have had regard to Planning Practice Note No. 36 'Implementing a Coastal Settlement Boundary'. Relevantly, that Practice Note identifies that any change to a coastal settlement boundary should be the product of a review which considers other planning issues

³ Amendment C159 to the Greater Geelong Planning Scheme Panel Report, page 44.



arising in the municipality and that there needs to be adequate recognition of the *Victorian Coastal Strategy 2014* (the 'VCS')⁴.

66. The VCS says that settlement planning should direct growth to areas suitable for accommodating sustainable growth. One of the key mechanisms for achieving sustainable population management along the coast is the protection of the environment and non-urban breaks through the implementation of settlement boundaries.
67. Particularly, the VCS identifies that reviewing a settlement boundary should consider:
- *The desired future vision for a settlement.*
 - *Its role and function in comparison with other settlements on a regional⁵ basis.*
 - *Constraints of development such as topography, natural geomorphic features, native vegetation, rural land use activity and areas of environmental or landscape significance and sensitivity.*
 - *Areas with susceptibility to flooding (both river and coastal inundation), landslip, erosion, coastal acid sulphate soils (CASS), salinity, wildfire or geotechnical risk.*
 - *The supply/demand of land within a 10 year planning horizon and opportunities for growth (if any).⁶*
68. Relevantly, the VCS also highlights that the Regional Growth Plans for each region set out the framework for coastal settlement planning and that there is a need to maintain non-urban breaks.

⁴ The VCS is a policy document at Clause 12.02-1S.

⁵ My emphasis.

⁶ Victorian Coastal Strategy 2014, pages 54-55.



69. Having regard to the criteria and the framework set out in the Practice Note and the VCS, I consider that the proposed settlement boundary is appropriate. I say this for the following reasons:

- The role and function of Barwon Heads is clearly defined in regional and local policy. It is not a township identified for urban growth or expansion in the G21 Regional Growth Plan, the Bellarine Peninsula Localised Planning Statement or in local policy under the Greater Geelong Planning Scheme. Instead, policy directs growth in this region to locations such as Ocean Grove and Armstrong Creek. Logically, this makes sense as these areas do not have the same topographic or environmental constraints as Barwon Heads.
- Significantly, the ‘settlement and employment growth directions’⁷ in the G21 Regional Growth Plan does not support planned growth within Barwon Heads (like it does for neighbouring Ocean Grove), but rather seeks modest growth “limited to identified structure plan settlement boundaries”. I note that these directions were formulated in the context of the existing settlement boundary from 2010.
- The Barwon Heads township is constrained topographically and environmentally, by the headwaters of the Barwon River (to the north and east), the coastal foreshore (to the partial east and south) and Ramsar wetlands (to the west).
- In respect of the Ramsar wetlands, its status as wetlands of international significance require changes in land use and development to be appropriately managed, as per the strategies at Clause 12.01-S. To this extent, I note that the Structure Plan nominates that land immediately west of the township boundary is of scenic and environmental interest.
- The area to the west of the settlement boundary is identified as being bushfire-prone. While I do not know (nor am I qualified to comment on) the extent to which the

⁷ See the map on page 27.



bushfire risk may affect its potential for urban use and development, Clause 12.01-1S requires this risk to be adequately quantified and assessed before any expansion of the township boundary can be considered.

- A consideration of the supply and demand for residential lots over a 10 year time horizon is relevant. I am not an urban economist, nor am I qualified to undertake that analysis. However, I note that it is State policy at Clause 11.02-1S to plan to accommodate projected population growth over a 15 year period and that land supply should be considered on a municipal basis, rather than a town-by-town basis.

The Structure Plan identifies that land supply (based on vacant lots) was in the realm of 4-5 years. This figure does not include opportunities for infill development, which can be realised based on the existing and proposed planning controls. I would expect that some infill development will contribute to future supply. In the context of local and regional policy that does not designate Barwon Heads as a location for urban growth, I would expect that the policy settings would need to be tuned in a manner that supported that proposition based on infill development, rather than any extension to the settlement boundary.

In any event, the need to consider land supply on a municipal level is relevant. At a regional level, Barwon Heads is not a township that is designated for growth and the Structure Plan identifies that there is sufficient supply available in other parts of the municipality, such as Armstrong Creek and Ocean Grove.

70. I cannot find a compelling justification in the Structure Plan material that would justify the expansion of the settlement boundary.
71. It follows that I do not support the extension of the settlement boundary to the west of the township. I do not consider that the extension of the boundary can be favourably assessed against the VCS or Planning Practice Note No. 36. Lastly, I have not been



presented with any detailed investigations on the impact of the township extension on the Ramsar wetlands or its impact on bushfire risk.

The Increased Housing Diversity Area

72. The Amendment proposes several changes to the Increased Housing Diversity Area (as identified at Clause 22.63 of the planning scheme). In general, these changes are as follows:
- Rezoning land within the Increased Housing Diversity Area from the Residential Growth Zone – Schedule 3 to the General Residential Zone – Schedule 1 and introducing the Design and Development Overlay – Schedule 42.
 - Removing land south of Bridge Road and west of Golf Links Road from the Increased Housing Diversity Area and rezoning this land to the Neighbourhood Residential Zone – Schedule 6. It is also proposed to apply the Design and Development Overlay – Schedule 41 to this land.
73. The application of these controls arises from the *Barwon Heads Residential and Landscape Character Assessment* report, that is a background document to the 2017 Structure Plan⁸.
74. The Residential and Landscape Character Assessment makes a number of recommendations concerning the proposed height and site coverage provisions. Notably, it recommends the application of a 9 metre height limit within the Increased Housing Diversity Area, a 60% site coverage and 20% site permeability.
75. These are significant changes to the current policy and statutory context.
76. The key questions in relation to the Increased Housing Diversity Area are centred around the appropriateness of:

⁸ I note that the Structure Plan has been guided by many of the outcomes suggested by this report.



- The rezoning of the land.
- The application and content of the Design and Development Overlay.
- The reduction in the Increased Housing Diversity Area.

77. To appropriately answer the first two questions, I have reviewed the proposed planning scheme changes in the context of the existing context and what is recommended by the Residential and Landscape Character Assessment.

78. I summarise these requirements in the table below.⁹

	Current IHDA Control	Residential and Landscape Character Assessment Recommendation	Structure Plan Recommendations and Amendment C375 IHDA Controls
Zone	Residential Growth Zone – Schedule 3 ‘Coastal Increased Housing Diversity Areas’	General Residential Zone	General Residential Zone – Schedule 1 ‘General Residential Area’
Overlay	None for IHDA areas, some land in HO areas	Design and Development Overlay	Design and Development Overlay – Schedule 42 ‘Barwon Heads Increased Housing Diversity Area’
Height Limit	10.5 metres (mandatory)	9 metres (mandatory)	11 metres / 3 storeys (mandatory)
Front Setback	5.5 metres or average of walls on abutting lots Average of walls on abutting lots or 9 metres in HO areas (in the zone schedule)	6 metres.	6 metres or 4 metres if abutting RDZ1 (in the DDO schedule)
Site Coverage	70% (in the zone schedule)	60%	60% (in the DDO schedule)
Permeability	20% (ResCode default)	20%	20% (ResCode default)

⁹ Notably, the Residential and Landscape Character Assessment recommends changes predominantly take the form of a DDO control.



Landscaping	None specified	25% of land available (free from hard surfaces) for soft landscaping	20% of the site is available (free from hard surfaces) for soft landscaping (in the DDO schedule)
Side and Rear Setbacks	None specified	A single, 'generous' setback from one side boundary to provide room for landscaping	2 metres from at least one side boundary (in the DDO schedule)
Private Open Space	An area of 20 sqm SPOS, or 8 sqm balcony, or 10 sqm rooftop area	None specified	None specified
Garage and Access	None specified	A sliding scale which sets a maximum percentage of the frontage, along with requirements for garages to be behind the building line	The width of a garage door is to be no more than 5.6 metres or 35% of the lot frontage if the lot is greater than 16 metres A garage is to be set at least 1 metre behind the main building line (in the DDO schedule)
Fencing	1.5 metres (ResCode default)	1 metre in height and 80% permeable	1.5 metres in height and 50% permeable (RDZ1) 1 metre in height and 50% permeable (all other land) (in the DDO schedule)

79. My assessment of these changes is that, broadly, the proposed controls for the Increased Housing Diversity Areas implement the findings of the *Barwon Heads Residential and Landscape Character Assessment*. This includes the selection of the General Residential Zone and the Design and Development Overlay as tools to guide development in these areas.

80. The main difference is the 11 metre height limit in the General Residential Zone, which is 2 metres taller than recommended in the character assessment. I also observe that



the nominated height limit is 0.5 metres taller than the existing Residential Growth Zone Schedule that applies to this land.

81. This is the practical implication of the changes introduced by Amendment VC110, which were gazetted after the character assessment was undertaken and means that the General Residential Zone cannot adopt a lower height than 11 metres and 3 storeys. In turn, the Residential Growth Zone cannot adopt a lower height limit than 13.5 metres and 4 storeys.
82. While I accept that the Purpose of the General Residential Zone is different to that of the Residential Growth Zone, I consider that the rezoning of land within the Increased Housing Diversity Area to the General Residential Zone is logical and acceptable in the Barwon Heads context. I say this for the following reasons:
- The existing and emerging scale of development within the Increased Housing Diversity Area is of 1-3 storeys in height.
 - The height limit in the Schedule to the Residential Growth Zone as it currently applies is 10.5 metres. This is more akin to three storey development, which is allowed in the General Residential Zone.
 - The policy direction for Increased Housing Diversity Areas at Clause 22.63 in relation to building height *'encourages two and three storey development'*, which is consistent with the height and storey limits in the General Residential Zone.
 - The Barwon Heads township is not nominated for growth within the Municipal Strategic Statement or in regional policy.
 - The Purpose of the General Residential Zone achieves greater alignment with local policy at Clause 21.14, which places an emphasis on the need to *'protect the unique character of Barwon Heads as a coastal village'* and to *'ensure new housing development complements the character of Barwon Heads and provides for a variety*



of housing sizes and types'. In this regard, I think that the absence of neighbourhood character in the Purpose of the existing Residential Growth Zone is unhelpful in resolving the need to balance neighbourhood character with the maintenance of a compact urban form.

83. It follows that I consider the rezoning of the land within the Increased Housing Diversity Area to the General Residential Zone is appropriate.

84. I also consider that the Design and Development Overlay is an appropriate tool to set out built form requirements. In this respect, I note that the Purpose of the overlay is:

To identify areas which are affected by specific requirements relating to the design and built form of new development.

85. While there is no practice note which guides the application of the Design and Development Overlay, *Using Victoria's Planning System* (which the Department's website says is a "technical guide about planning schemes"¹⁰) makes the following comment about the Design and Development Overlay:

This overlay is principally intended to implement requirements based on a demonstrated need to control built form and the built environment. The intended built form outcome must be clearly stated, as must the way in which the imposed requirements will bring this about. Where possible, performance-based requirements should be used rather than prescriptive requirements.¹¹

86. In terms of the built form requirements specific to this area, the 2017 Structure Plan identifies the need to have regard to siting, design and landscaping in all development.

87. Many of these requirements relate to matters which could traditionally be considered as 'ResCode variations', such as site coverage, side setbacks and landscaping. In this regard, I note that the Schedule to the General Residential Zone could apply these

¹⁰ See <https://www.planning.vic.gov.au/guide-home/using-victorias-planning-system>

¹¹ Using Victoria's Planning System, Chapter 1, page 19.



variations, but that they would be limited in their application to where a permit is triggered under the zone.

88. Both the Residential and Landscape Character Assessment and the 2017 Structure Plan acknowledge that the threats to the character of Barwon Heads in part arise from a lack of planning control over single dwellings on a lot.
89. The Design and Development Overlay schedule seeks to address this, by requiring a permit for all development, including single dwellings. Single dwellings are only exempt from a permit under the Design and Development Overlay where the built form outcomes in the schedule are met.
90. In this regard, the Design and Development Overlay provides a workable response to the limitations of the statutory architecture of the residential zones and their schedules. The use of the Design and Development Overlay provides an opportunity to control aspects of single dwelling development that are identified as threats to character, while not overly burdening landowners with unnecessary regulation.
91. The design responses in the Design and Development Overlay are measurable and clear, so that it can be determined if a single dwelling meets the exemption and, conversely, what is required to be met in development if a permit is required.
92. Having regard to the content of the schedule, I find that it is generally consistent with the Ministerial Direction on the Form and Content of Planning Schemes and that it generally reflects the requirements set out in the Structure Plan.
93. I consider that the new controls for the Increased Housing Diversity Area are appropriate.



The reduction in the Increased Housing Diversity Area

94. The amendment proposes to reduce the extent of the Increased Housing Diversity Area, by excising land south of Bridge Street and west of Golf Links Road from the policy area.¹²
95. In turn, it is proposed to designate this area as an Incremental Change Area and apply the Neighbourhood Residential Zone and a Design and Development Overlay which provides for (among other things) development of two storeys and a site coverage of 40%.
96. The rationale for deleting the Increased Housing Diversity Area from land south of Bridge Street is explained in the Structure Plan and Residential and Landscape Character Assessment on both character and stormwater management grounds. The Residential and Landscape Character Assessment recommends:

Delete the area to the south of Bridge Road from the IHDA. This area has a particularly strong informal coastal character through the unformed nature of roadside and vegetation which would be significantly compromised by more intensive development.

Delete the area on the west side of Golf Links Road. Golf Links Road is a main entry into the Barwon Heads. Development along the road will impact on the overall impression of the character of Barwon Heads when entering the town along this route. Ensuring that the 'open' and less intensive style of coastal development is visible along this key entry route is noted as important to the overarching 'identity' of the township. The road also forms a key 'barrier' for pedestrian movement into the Town Centre.

97. Firstly, I accept the findings of the Residential and Landscape Character Assessment about the need to remove these areas from the Increased Housing Diversity Area on character grounds.

¹² The deletion of the Increased Housing Diversity Area from the west side of Golf Links Road is a post-exhibition change made by Council in response to submissions from landowners within this precinct.



98. I also accept that the 'default' application of the Residential Growth Zone to the Increased Housing Diversity Area is not appropriate within the context of the Barwon Heads township. This proposition is also supported by the Residential and Landscape Character Assessment.
99. However, I question whether this outcome is an appropriate response to the future planning of Barwon Heads.
100. Particularly, I note that this Amendment will effectively rezone land from the most "facilitative" residential zone to the most "restrictive". This results in changes to the development potential of the land, such as:
- The introduction of a mandatory garden area.
 - A reduced height limit of 9 metres (down from 10.5 metres).
 - A reduced preferred site coverage of 40% (down from 70%).
 - An increased private open space requirement (60 square metres).
101. The Residential and Landscape Character Assessment also recommended that the Increased Housing Diversity Area be extended further north to Geelong Road. This recommendation was not adopted in the final Structure Plan.
102. My assessment of the area recommended for inclusion north of the existing area is that it would have effectively 'offset' the loss in area to the south of Bridge Road. By this I mean that a similar number of lots would have been excluded as those which were proposed to be removed. On the other hand, the area north of Geelong Road is further away from Barwon Heads' commercial centre and the Increased Housing Diversity Area policy is designed to deliver increased housing within a 400 metre walkable catchment of that centre.



-
103. Nevertheless, my concern with the proposed reduction of the Increased Housing Diversity Area is that it has the potential to restrict the ability to achieve a consolidated urban form within the settlement boundary. This is particularly pronounced given that the Increased Housing Diversity Area is not proposed to be extended to the north.
104. The Structure Plan does not appear to quantify the impact of this change on land supply in an infill sense.
105. In my view, this aspect of the Amendment needs further resolution before I can support it.
106. Regardless of the implications of these changes, I would not support an extension to the settlement boundary on the basis that supply is constrained within the township. As I expressed earlier, I think that there are significant policy barriers to the expansion of the township boundaries that have not been resolved.

The Incremental Change Areas

107. The Amendment proposes several changes to the Incremental Change Areas, which is broadly the land within the settlement boundary that is not within the commercial core or the Increased Housing Diversity Area at Clause 22.63. In general, these changes are as follows:
- Rezoning land from the General Residential Zone – Schedule 2 to the Neighbourhood Residential Zone – Schedule 6, except for Warrenbeen Court, which is rezoned to Neighbourhood Residential Zone – Schedule 7.
 - Introducing and applying the Design and Development Overlay – Schedule 41 to all land in the Incremental Change Area, except for land in Warrenbeen Court, Midden Terrace, Eddystone Court and the Seabank Estate.
108. Other changes to planning controls are proposed to the Warrenbeen Court area, which I consider later in my evidence.



109. The selection of the Design and Development Overlay to guide development is a recommendation within the *Barwon Heads Residential and Landscape Character Assessment* report.

110. Notably, that assessment does not make any specific recommendations around changing the zone that applies to the Incremental Change Areas (unlike its recommendations for the Increased Housing Diversity Areas). However, I note that under Key Issues and Threats, the Housing and Landscape Character Assessment makes the following comments:

The character of residential development that eventuates from the application of the default standards is very different to the existing or preferred character of residential development in Barwon Heads. Application of the default standards over time, would lead to a very significant change to the existing character of the township.

Given the strong coastal township character of Barwon Heads, justification exists to vary the default provisions of the General Residential Zone to achieve a less intense form of development than would eventuate by application of the default statewide requirements.

Note: The State government has recently introduced new residential zones which include a new 11m mandatory height limit in the GRZ, a mandatory 9m height limit in the NRZ and the introduction of mandatory 'garden areas' (noting these may be paved). This may require reconsideration of the current zoning regime across the 'incremental change' areas of the broader Barwon Heads township¹³.

111. I understand that the character assessment report was completed prior to the gazettal of Amendment VC110. The Structure Plan considers the implications of those changes and recommends that land in the Incremental Change Area be rezoned to the

¹³ See Section 3 of the Barwon Heads Residential and Landscape Character Assessment. Emphasis is in the original document.



Neighbourhood Residential Zone on the basis that this zone better aligns with the outcomes sought in this location.

112. The Residential and Landscape Character Assessment also makes numerous recommendations around the proposed height and site coverage provisions. These recommendations have been adopted within the Structure Plan.

113. It appears to me that the key questions in relation to the Incremental Change Area are centred around the appropriateness of:

- The rezoning of the land; and
- The application and content of the Design and Development Overlay.

114. In answering these questions, I have considered the proposed controls in the context of what is currently allowed and what is recommended in the Residential and Landscape Character Assessment. I summarise these requirements in the table below. Notably, the Residential and Landscape Character Assessment recommends changes primarily in the form of a DDO control.

	Current Incremental Change Area Control	Residential and Landscape Character Assessment Recommendation	Structure Plan Recommendation and Amendment C375 Incremental Change Area Controls
Zone	General Residential Zone – Schedule 2 Residential Growth Zone – Schedule 3 (IHDA south of Bridge Street)	None specified, although recognition that changes to zones may be required	Neighbourhood Residential Zone – Schedule 6
Overlay	None for built reasons, some land in HO areas	Design and Development Overlay (except for land in the Seabank Estate, Midden Terrace and Eddystone Court)	Design and Development Overlay – Schedule 41 'Barwon Heads Incremental Change Area' (except for land in the Seabank Estate, Midden Terrace and Eddystone Court)



Height Limit	11 metres (mandatory) (Previously 9 metres)	2 storeys	9 metres / 2 storeys (mandatory)
Front Setback	9 metres or average of walls on abutting lots (ResCode default)	6 metres.	6 metres or 4 metres if abutting RDZ1 (in the DDO schedule)
Site Coverage	60% (ResCode default)	40%	40% (in the DDO schedule)
Permeability	20% (ResCode default)	40%	20% (ResCode default)
Landscaping	One canopy tree per dwelling	40% of land available (free from hard surfaces) for soft landscaping	30% of land available (free from hard surfaces) for soft landscaping At least two existing and/or new canopy trees per site, with one in the front yard (in the DDO schedule)
Side and Rear Setbacks	None specified	2 metre setback	2 metres from at least one side boundary (in the DDO schedule)
Private Open Space	An area of 60 sqm, with 40 sqm of SPOS	None specified	An area of 60 sqm, with 40 sqm of SPOS
Garage and Access	None specified	A sliding scale which sets a maximum percentage of the frontage, along with requirements for garages to be behind the building line	The width of a garage door is to be no more than 5.6 metres or 35% of the lot frontage if the lot is greater than 16 metres. A garage is to be set at least 1 metre behind the main building line (in the DDO schedule)
Fencing	1.5 metres (ResCode default)	1 metre in height and 80% permeable	1.5 metres in height and 50% permeable (RDZ1) 1 metre in height and 50% permeable (all other land) (in the DDO schedule)



115. In a broad sense, I consider that the proposed controls achieve a high degree of alignment with what is sought by the Structure Plan and the Residential and Landscape Character Assessment that underpins it.
116. In terms of the zone selection, there is a high degree of alignment between the Structure Plan ultimately seeking to privilege a consideration of neighbourhood character and provide for development up to two storeys and the selection of the Neighbourhood Residential Zone.
117. While I note that the Purpose of the Neighbourhood Residential Zone is more restrictive than the General Residential Zone, I note that development in Barwon Heads needs to be balanced with what policy and the Structure Plan seek in relation to the protection of the village and landscape character. My reading of the policy settings is that the protection of character is privileged as a central requirement in development.
118. The Neighbourhood Residential Zone is the most appropriate zone for the following reasons:
- Existing development in the Incremental Change Areas is generally of 1-2 storeys in height.
 - The Residential and Landscape Character Assessment recommends that a two storey scale be adopted in Incremental Change Areas. To this extent, the height and storey limits of the Neighbourhood Residential Zone align with the strategic outcomes sought in this location.
 - In a hierarchical sense, it is logical that the Neighbourhood Residential Zone is applied in an Incremental Change Area in circumstances where the General Residential Zone is applied to the Increased Housing Diversity Area.
119. It follows that I consider the proposed Neighbourhood Residential Zone is acceptable for the Incremental Change Areas.



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120. The Design and Development Overlay is an appropriate tool to guide the built form requirements of the Structure Plan. My reasons are consistent with my support for its application to the Increased Housing Diversity Areas.
121. I also acknowledge that the Neighbourhood Character Overlay would also be an appropriate tool to protect an identified character.
122. I have reviewed the content of the schedule in the context of the requirements of the Structure Plan and the Ministerial Direction on the Form and Content of Planning Schemes. I generally find that the schedule has been appropriately drafted to implement the requirements of the Structure Plan.

The Warrenbeen Court Area and the Rural Significant Tree Area

123. The amendment proposes to apply the Environmental Significance Overlay – Schedule 6 to two distinct areas that are generally identified as the Warrenbeen Court area and land north of Taits Road, west of the settlement boundary.
124. The Environmental Significance Overlay is proposed to be applied to implement the findings of the:
- *Significant Residential Tree Assessment: Warrenbeen Court, Barwon Heads Victoria, October 2016.*
 - *Rural Significant Tree Assessment: Barwon Heads, Victoria, February 2017.*
125. The Environmental Significance Overlay is currently applied on an interim basis to this area, as identified on the map below.
126. The amendment also proposes to apply the Neighbourhood Residential Zone – Schedule 7 to the Warrenbeen Court area. The Schedule nominates a minimum lot size requirement of 4,000 square metres.



127. Both Tree Assessments identify that the study areas contain indigenous vegetation of State significance that are threatened under the *Flora and Fauna Guarantee Act* and endangered within the Otway Plain bioregion.



ESO6 Map, Barwon Heads

128. My assessment of this aspects of the proposal is framed around the following key questions:

- Is the proposed Environmental Significance Overlay control appropriate?
- Is the proposed Neighbourhood Residential Zone for Warrenbeem Court appropriate?



Is the proposed Environmental Significance Overlay appropriate?

129. The two Tree Assessments note that the land is not subject to vegetation protection controls where the lot size is 0.4 hectares or less and Clause 52.17 is not triggered.
130. Accordingly, both Tree Assessments recommend that planning controls be introduced to:
- *Protect and ensure the long term future of Moonah woodlands.*
 - *Protect and improve the diversity of vegetation within Moonah woodlands, including understorey vegetation (eg. Shrubs, scramblers/climbers, grasses and herbs).*
 - *Encourage natural regeneration of Moonah and indigenous understorey vegetation.*
 - *Promote the use of locally indigenous plants for regeneration and revegetation.*
131. The reports conclude that the proposed control should be in the form of either a Significant Landscape Overlay, Vegetation Protection Overlay or Environmental Significance Overlay.
132. *Planning Practice Note PPN07: Vegetation Protection in Urban Areas* provides guidance on how to protect significant vegetation in the planning scheme.
133. The Practice Note relevantly highlights the ineffectiveness of Clause 52.17 in protecting vegetation in urban areas, given the small lot size and recommends the application of one of four overlays (including the Heritage Overlay) to provide appropriate protection for vegetation identified as significant.
134. The Vegetation Protection Overlay controls vegetation removal, but cannot trigger a planning permit for buildings and works. Its purposes seek to protect areas of significant vegetation and to minimise the loss of vegetation in development.



135. The Environmental Significance Overlay can control buildings and works and vegetation removal. Its purpose relates primarily to identifying environmental constraints and ensuring that development is compatible with identified environmental values. PPN07 identifies that the ESO may be appropriate where important ecological values are identified, including coastal habitat.

136. The Significant Landscape Overlay, like the Environmental Significance Overlay, can control both buildings and works and vegetation removal, but not subdivision. The Significant Landscape Overlay includes three key purposes, which predominantly seek to identify and conserve and enhance the character of significant landscapes.

137. I note that Planning Practice Note PPN07: Vegetation Protection in Urban Areas makes the following comment about the application of the SLO that distinguish it from other controls:

The SLO also has a broader applicability than the VPO. Its function is to identify and conserve the character of a significant landscape. The SLO is appropriate when vegetation is primarily of aesthetic or visual importance in the broader landscape and should be used where vegetation is identified as an important contributor to the character of an area.

138. On balance, the Environmental Significance Overlay is the most appropriate 'primary' control to protect the vegetation in the areas nominated in the reports for the following reasons:

- The Overlay has a purpose which is explicit about the need to ensure development is compatible with identified environmental values.
- It can require a permit for buildings and works. This addresses one of the key matters of siting and design of built form within a landscape setting raised within the Tree Assessments.



- It can require a permit for vegetation removal. This addresses a key matter raised in the Tree Assessments.
 - The decision guidelines provide an explicit and clear consideration of the environmental significance (i.e. the ecological value) of the vegetation.
139. It follows that I consider that the Environmental Significance Overlay is an effective and appropriate mechanism to protect the identified vegetation.
140. In terms of the Schedule to the Environmental Significance Overlay, it is my opinion that the Statement of environmental significance accurately reflects the ecological values described in the Tree Assessments that are sought to be protected.
141. The permit triggers have been drafted in a manner that protects identified vegetation and ensures buildings and works in proximity to the vegetation community will be considered against the health of the vegetation.
142. I support the application of the Environmental Significance Overlay.

Is the proposed Neighbourhood Residential Zone for Warrenbeen Court appropriate?

143. The Warrenbeen Court area is within an Incremental Change Area and is currently zoned General Residential.
144. I have already accepted that the Neighbourhood Residential Zone is an appropriate zone for Incremental Change Areas in Barwon Heads and, in principle, support its application to Warrenbeen Court.
145. The proposed NRZ7 schedule for Warrenbeen Court includes a minimum lot size restriction for subdivision of 4,000 square metres. In practice, this means that most lots cannot be further subdivided.



146. I am instructed that land within Warrenbeen Court is affected by two restrictive covenants – a single dwelling covenant that expires in 2020 and a building envelope control that runs in perpetuity (unless removed or varied).
147. Notwithstanding these requirements, there is currently no requirement in the planning scheme that would require a minimum lot size for subdivision for land within this precinct.
148. I note that some submissions have raised concerns about the mandatory nature of the subdivision requirements.
149. In considering the appropriateness of adopting minimum lot sizes in this context, I have reviewed the Structure Plan and the proposed controls in the context of Practice Note PPN59: *The Role of Mandatory Provisions in Planning Schemes*. In summary, the practice note establishes the following principles:
- Fundamentally, the Victoria Planning Provisions should provide discretion to allow applications to be tested against objectives and performance criteria, rather than mandatory requirements.
 - ‘Performance based’ controls are preferred, in order to allow for variation, innovation, unforeseen uses and development or circumstances peculiar to particular sites (such as slope, site area and interfaces, for instance).
 - Mandatory provisions may be a preferable outcome to discretionary provisions in limited situations, particularly where:
 - An area displays high heritage values that warrant protection.
 - An area has a strong and consistent neighbourhood character.
 - An area is environmentally sensitive or constrained.



- Even where those limited situations apply, mandatory provisions will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve desired outcomes.
- Mandatory provisions must be informed by a sound strategic basis that demonstrates that discretionary controls would not achieve the desired outcomes and/or that the majority of proposals not in accordance with the mandatory requirements would fail to meet the objectives of the control.

150. I have assessed the proposed mandatory minimum lot size in the context of the Structure Plan and its supporting material.

151. Particularly, I note that the *Significant Residential Tree Assessment* identifies that planning controls are required to protect vegetation. The recommendations in the tree assessment highlight the need to protect vegetation, but are silent on the impact of built form and subdivision on its impact on the retention of the protected vegetation.

152. In recommending that either a Significant Landscape Overlay or Environmental Significance Overlay could be applied, it highlights that both of these overlays have advantages over the Vegetation Protection Overlay in that they control buildings and works. The report does not then seem to draw a preference for the Environmental Significance Overlay, which is the only of the three controls that can control subdivision.

153. The *Residential and Landscape Character Assessment* identifies (within the 'Managing Change' section) that Warrenbeen Court is an area that "require[s] a different approach". Specifically, it identifies that:

Warrenbeen Court has a distinctly different character to other residential areas throughout Barwon Heads and warrants site specific planning controls in recognition of that character. The features that distinguish Warrenbeen Court include:

- *Large lot size – generally greater than 0.4 hectares;*



- *Very low site coverage.*
- *Low density, landscaped character.*
- *Covered by a restrictive covenant.*

Council is further investigating the zoning and planning controls applicable to Warrenbeen Court through the Structure Plan Review. A Low Density Residential Zone or Neighbourhood Residential Zone may be appropriate, along with vegetation controls.¹⁴

154. The summary of recommendations then says:

Rezone the area known as Warrenbeen Court to a Neighbourhood or Low Density Residential Zone, apply vegetation controls (specific controls to be determined by Council) and do not permit further subdivision¹⁵.

155. My assessment of the Residential and Landscape Character Assessment report is that there is no analysis that justifies why allowing further subdivision would necessarily preclude an outcome that respects the unique character of the area.

156. The 2017 Structure Plan synthesises the tree and character assessments and highlights that:

There is strong justification to support the need for planning controls within the Warrenbeen Court area and the area north of Tait's Road, which is supported by significant tree assessments that have been prepared by Ecology Heritage Partners¹⁶.

¹⁴ See page 42 of the Residential and Landscape Character Assessment.

¹⁵ See page 47 of the Residential and Landscape Character Assessment.

¹⁶ See page 21 of the Structure Plan.



157. After noting that the covenants have delivered a low scale outcome in the area, it notes that:

The whole uniqueness of the area is dependent on the retention of large allotments and retention of vegetation is the primary component of the character. The ability to subdivide or undertake further development would seriously risk this.

...

The General Residential Zone is the incorrect zone for the area in the context of the zone purpose, the significance of the vegetation community and the unique character of the area. Therefore the Warrenbeen Court Area should be rezoned to Neighbourhood Residential Zone. A schedule should be added to the zone that restricts the size of allotments in the area to 4,000m² and limits development to one dwelling per lot.

158. I accept that the Structure Plan and the accompanying assessments identify that the Warrenbeen Court area has a unique, low scale character that warrants protection.

159. I also accept that there is nothing inherently wrong (from a town planning perspective) with the application of mandatory controls, where they are justified. In this regard, I note that the Practice Note supports the application of mandatory controls in areas that display a strong, intact or unique character or are environmentally sensitive or constrained. These factors provide support to the Council's approach.

160. However, on balance, I cannot find a compelling justification within the Structure Plan for the 4,000 square metre mandatory minimum lot size. There is an absence of an assessment that demonstrates that a performance based approach would not deliver the outcomes sought by the Structure Plan.

161. It is my opinion that the absence of any overt justification for the mandatory minimum lot size warrants further scrutiny.



3. CONCLUSION

162. My conclusions are summarised below:

- The Amendment is strategically justified.
- The proposed schedules to the zones and overlays generally implement the recommendations of the Barwon Heads Structure Plan.
- The extent of the Increased Housing Diversity Area requires resolution.
- The proposed minimum lot size for the Warrenbeen Court area requires resolution.
- The Amendment should be supported, subject to the considerations I have outlined above.

163. I have made all inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

John Glossop (B.A Hons.) MPIA
Director
Glossop Town Planning Pty Ltd
August 2018



4. REQUIREMENTS UNDER PPV'S GUIDE TO EXPERT EVIDENCE

164. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, 1/182 Capel Street, North Melbourne. I am a Director of the firm. The firm has been in business since 1997.
165. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:
- Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
 - Strategic and Social Planning Manager, Shire of Melton until 1997.
 - Sessional member, Planning Panels Victoria between 1997-2012.
 - Member of the ResCode Advisory Committee 2000.
166. I have sat as a Chairman or member on a number of planning scheme amendments, dealing with a broad range of issues from high-rise housing in Williamstown, the redevelopment of Pentridge Prison and the application of flooding overlays in the Mornington Peninsula Shire.
167. I was a sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02). I am currently a sessional lecturer in Statutory Planning and Environment at the Royal Melbourne Institute of Technology University.
168. I have considerable experience in statutory and strategic planning and new format planning schemes.
169. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site and my experience as a planner in both the private and public sectors. I have been instructed by Great Geelong City Council to provide an opinion on the planning merits of Amendment C375. I have previously been engaged by the Council to provide evidence in relation to Amendment C349, which implemented the Ocean Grove Significant Tree Study.



170. I have relied on the documents referred to in the introduction section of my statement. There were no tests undertaken in the preparation of this statement. I was assisted in this statement by Matthew Gilbertson, Senior Associate.



5. APPENDIX A: MY INSTRUCTIONS

John Glossop
Director
Glossop Town Planning Pty Ltd
Level 1, 182 Capel Street
NORTH MELBOURNE VIC 3051

16 April 2018

Doc No: D18-124725
Our Ref: Amendment C375

By email to: john@glossopco.com.au

Dear John,

**Re: Amendment C375 Barwon Heads Structure Plan
Project Brief & Request for Fee Proposal**

I refer to our recent discussions in relation to Amendment C375 to the Greater Geelong Planning Scheme (**Amendment**).

The Amendment seeks to implement the *Barwon Heads Structure Plan August 2017*.

I kindly request that you provide a Fee Proposal for the services outlined in this brief.

As a town planning expert you are briefed to:

- a) Review the Amendment documentation and submissions¹ to the Amendment, and provide advice to Council officers as to the appropriateness of the documentation. Your advice will assist the preparation of a Council Report to consider submissions.
- b) Prepare an expert witness statement in relation to the pre-set Panel Hearing for the Amendment (the hearing is scheduled for the week commencing 20 August 2018).

The particulars of your brief are outlined in further detail below.

Background

Council is the Planning Authority for the Amendment, which seeks to implement the Barwon Heads Structure Plan (BHSP), adopted by Council at its meeting of 22 August 2017. The preparation phase of the BHSP included extensive community consultation.

The BHSP is an update of the 2010 BHSP that appears in Clause 21.14 of the Greater Geelong Planning Scheme

The Amendment was exhibited from 1 February to 13 March 2018. Over 900 submissions were received. Of these submissions:

¹ Due to the high number of submissions a selective sample will be provided shortly representing the range of issues.

- 764 on-line Google AP submissions (pro-forma) support retention of the current Settlement Boundary.
- Submissions were received from 2 planning consultants on behalf of landowners outside the Settlement Boundary seeking to include additional land within the boundary.
- Overwhelmingly, objecting submissions question whether the Increased Housing Diversity Area (IHDA) is appropriate for Barwon Heads. Others suggest the extent of the IHDA should be reduced.
- Objections were received from landowners in Warrenbeen Court and the residential area south of Bridge Road. The proposed zone changes in these areas will limit owners ability to subdivide and/or redevelop.

The submission key themes are: Settlement Boundary, IHDA (and associated 11m height limit), Warrenbeen Court, residential land south of Bridge Road, NRZ, traffic & parking, 'village character' and drafting (particularly the proposed DDO41 & DDO42).

We are currently considering submissions to the Amendment and a report will be listed for the 26 June 2018 Council Meeting. In accordance with City of Greater Geelong procedures, a report by responsible officer Peter Schembri, Senior Strategic Planner, will need to be completed by 25 May 2018.

Brief

The key objectives of your brief are to:

1. Review the Amendment material, relevant background documents and key submissions.
2. Form an opinion on the Amendment and Council officers proposed changes to any Amendment documents as a result of the consideration of submissions. We will provide you drafting track-changes to the exhibited Amendment documents by Friday 27 April. The intention will be to include revised clauses in the 26 June Council Report and present these as Council's position at the Panel Hearing.
3. Meet with Peter Schembri and Stuart Thiele (Strategic Planner), as Council's representatives, at the 100 Brougham Street Geelong Council office in the second week of May. The purpose of the meeting will be to discuss your opinions and advice.
4. Inspect the area affected by the Amendment and surrounds. Ideally, this would be on the same day as the meeting (and preferably prior to the meeting). Peter or Stuart can accompany you on the visit if you wish.
5. After Council has considered the submissions and resolved to request a panel, prepare an expert witness report in accordance with the Planning Panels Victoria expert evidence guidelines and in particular having regard to:
 - a) the appropriateness of the BHSP and planning scheme implementation tools to reflect the BHSP, including any Council-initiated post exhibition changes;
 - b) the matters raised in submissions to the Amendment; and
 - c) any other matters which you consider arise from the Amendment documentation and background material.

6. Review other expert witness reports prepared on behalf of other parties (as the case may be).
7. Present your evidence at the Panel Hearing in the week commencing 20 August 2018.

The Amendment documentation and supporting documentation are available electronically on this webpage:

<https://www.geelongaustralia.com.au/amendments/item/8d56887c2c4a98e.aspx>

If you have any queries or require further information, please contact Peter Schembri by email pschembri@geelongcity.vic.gov.au or telephone 03 5272 4496. Please contact Peter to arrange a meeting time.

Yours sincerely

A handwritten signature in blue ink that reads "Peter Smith". The signature is written in a cursive style with a small dot above the 'i' in Smith.

**PETER SMITH
COORDINATOR STRATEGIC IMPLEMENTATION**

CITY DEVELOPMENT



6. APPENDIX B: THE AMENDMENT

171. Amendment C375 to the Greater Geelong Planning Scheme proposes to implement the Barwon Heads Structure Plan 2017.

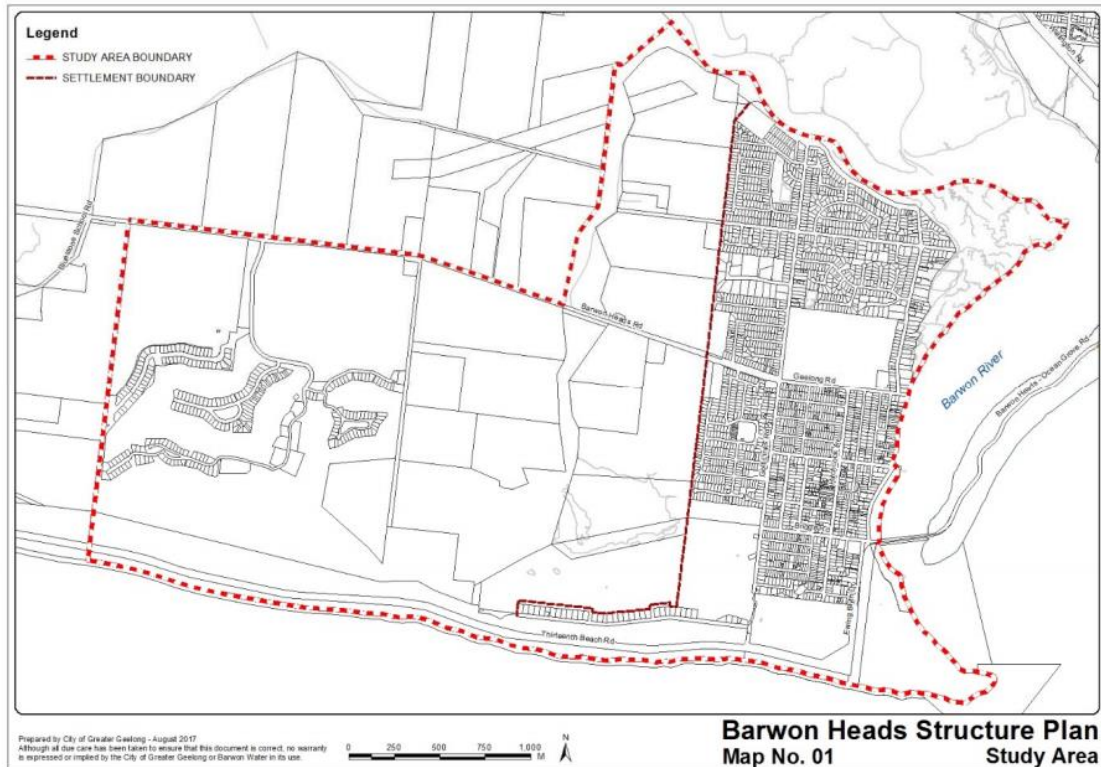
172. The exhibited version of the Amendment proposed to:

- Amend Clause 21.14 *Bellarine Peninsula* to add the key strategies of the Barwon Heads Structure Plan 2017 including an updated Barwon Heads Structure Plan Map.
- Rezone all the land in the Residential Growth Zone Schedule 3 (except land south of Bridge Road) to the General Residential Zone Schedule 1.
- Rezone all the land in the General Residential Zone Schedule 2 (except Warrenbeen Court properties) and the land in the Residential Growth Zone Schedule 3 south of Bridge Road, to the Neighbourhood Residential Zone Schedule 6.
- Rezone all the properties in Warrenbeen Court from the General Residential Zone Schedule 2 to the Neighbourhood Residential Zone Schedule 7.
- Insert a new Schedule 6 *Barwon Heads Incremental Change Area* to Clause 32.09 Neighbourhood Residential Zone.
- Insert a new Schedule 7 Warrenbeen Court Residential Area, Barwon Heads to Clause 32.09 Neighbourhood Residential Zone.
- Insert a new Schedule 41 to Clause 43.02 Design and Development Overlay that will apply to the majority of the land being rezoned to the Neighbourhood Residential Zone Schedule 6.
- Insert a new Schedule 42 to Clause 43.02 Design and Development Overlay that will apply to all the land being rezoned to the General Residential Zone Schedule 1.



- Replace Schedule 6 to Clause 42.01 Environmental Significance Overlay that applies to all the properties in Warrenbeen Court, nine Saratoga Avenue properties, part of Tait's Road and fragments of farming zoned land north of Tait's Road, with a new Schedule 6 on a permanent basis.
- Amend Schedule 9 to Clause 42.03 Significant Landscape Overlay (*Barwon River Environs*) to ensure consistency with the proposed new Design and Development Overlays.
- Amend Schedule 25 to Clause 43.02 Design and Development Overlay (*Barwon Heads Town Centre*) to provide building form consistency within the Barwon Heads Increased Housing Diversity Area.
- Amend Clause 22.36 Heritage Overlay 1649: Flinders Heritage Area to ensure consistency with the proposed new Design and Development Overlays.
- Replace the Barwon Heads Increased Housing Diversity Area map in Clause 22.63 with a new map to reflect the removal of residential land south of Bridge Road from the increased housing diversity area.

173. The Amendment area is shown on the map below. The area comprises the urban parts of Barwon Heads and extends west to include the rural interface and Thirteenth Beach Resort.



Barwon Heads Structure Plan Map No. 01

174. The Amendment was exhibited from 1 February 2018 to 13 March 2018. A total of 940 submissions were received by Council, of which 772 were pro forma submissions, supporting the retention of the current settlement boundary location. Overall of the submissions lodged; 788 are supporting and 152 objecting to the Amendment.

Barwon Heads Structure Plan

175. The Barwon Heads Structure Plan was adopted in August 2017 and forms the strategic justification for the amendment.

176. The Structure Plan identifies principles and directions relating to:

- Urban Growth.
- Infrastructure.

p.51



- Settlement and Housing.
- Natural Environment.
- Town Centre and Economy.
- Rural Areas.

177. The Structure Plan seeks to ensure development does not occur outside the defined Settlement Boundary, as shown on the map below.

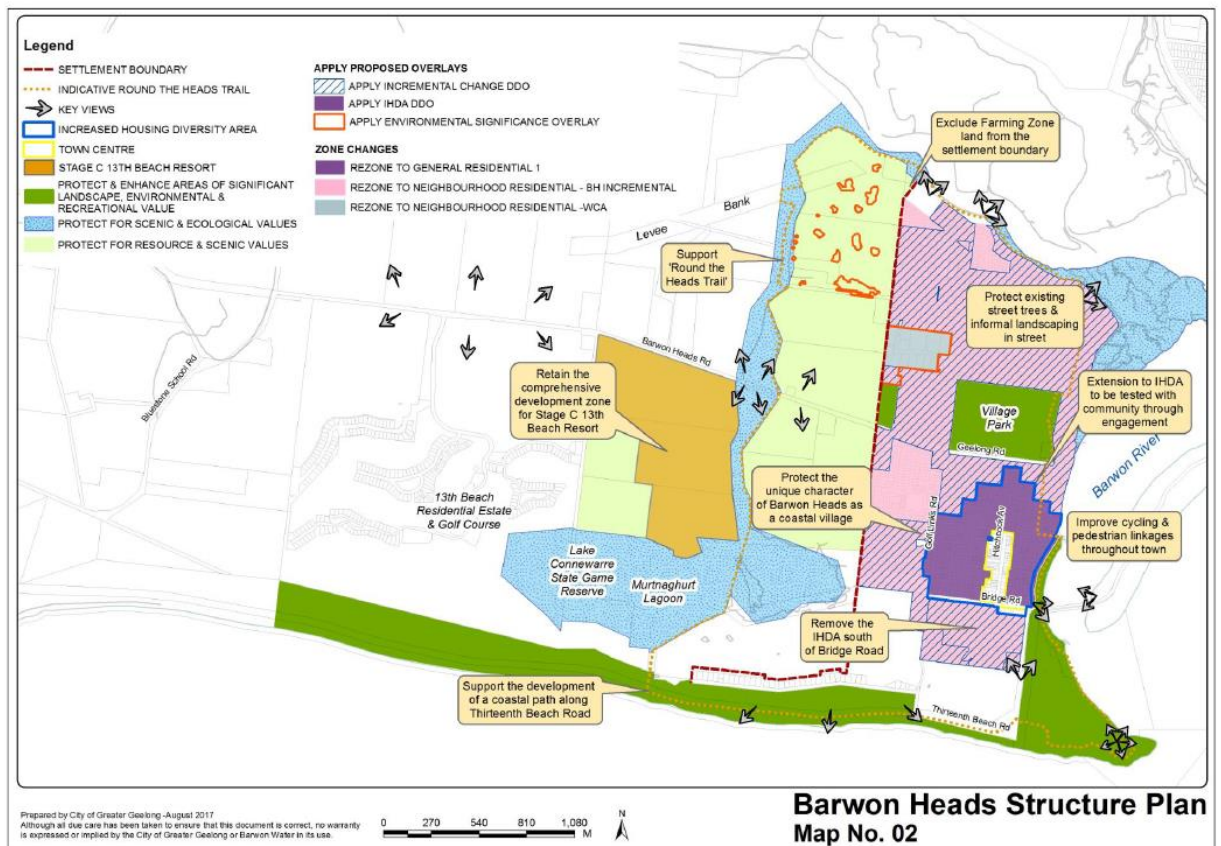


Figure 1 Excerpt from Barwon Heads Structure Plan p.27

178. The Structure Plan Implementation identifies the following actions:

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- Apply a Planning Policy reflecting the directions and principles of Part A of the Barwon Heads Structure Plan, incorporating the Structure Plan as a reference document in the Greater Geelong Planning Scheme

179. Incremental Change Residential Areas:

- Change zone from General Residential Zone – Schedule 2 to Neighbourhood Residential Zone – Schedule: Barwon Heads Incremental Change Residential Area;
- Apply a Design and Development Overlay (DDO) – Schedule: Barwon Heads Incremental Change Residential Area; and
- Undertake consequential amendments to Significant Landscape Overlay – Schedule 9 and Clause 22.63 – Increase Housing Diversity Areas.

180. Increased Housing Diversity Area (IHDA):

- Change the zone from Residential Growth Zone Schedule 3 to General Residential Zone Schedule 1;
- Apply a Design and Development Overlay – Schedule: Barwon Heads Increased Housing Diversity Area;
- Retain the IHDA designation for most areas within close proximity to the town centre and remove the designation south of Bridge Road;
- The area south of Bridge Road to be rezoned from Residential Growth Zone Schedule 3 to Neighbourhood Residential Zone – Schedule: Barwon Heads Incremental Change Residential Area; and
- Undertake consequential amendments to Significant Landscape Overlay – Schedule 9 and Clause 22.63 – Increase Housing Diversity Areas and Design and Development Overlay – Schedule 25: Barwon Heads Town Centre.



181. Environmental Areas:

- Apply Environmental Significance Overlay to the Warrenbeen Court Area and the land north of Taits Road; and
- Change the zone from General Residential Schedule 2 to Neighbourhood Residential Schedule: Warrenbeen Court Area.

182. Retain the Comprehensive Development Zone over Stage C of 13th Beach Resort.

Background Reports

183. The Barwon Heads Structure Plan has been informed by the following background reports.

184. Hansen Partnership prepared the *Barwon Heads Residential and Landscape Character Assessment March 2017* to identify the residential and landscape (built form) qualities of private property within the Barwon Heads township. The assessment sought to identify the characteristics which are unique and of particular significance to the context of Barwon heads and Greater Geelong. The Assessment recommended the Residential Growth Zone be removed from Barwon Heads, built form controls in the form of Design and Development Overlays be introduced across the township area and new residential development provides sufficient space for substantial landscaping, both in the front and rear yards. The key recommendation of the IHDA have been summarised below:

- Delete the area to the south of Bridge Road from the IHDA on the basis this area has a particularly strong informal coastal character through the unformed nature of roadsides and vegetation;
- Delete the area on the west side of Golf Links Road from the IHDA as it the main entry into Barwon Heads; and



- Extend the IHDA north to Geelong Road, to recognise the change in character from new infill residential development.

185. Other specific areas recommendations include:

- Warrenbeen Court has a distinctly different character and warrants site specific planning controls in recognition of the larger lot sizes, very low site coverage and restrictive covenant. A Low Density Residential Zone or Neighbourhood Residential Zone may be appropriate, along with vegetation controls;
- New residential areas including the Seabank Estate, Midden Terrace area and Eddystone Court display a different character, where it is not appropriate to apply a Design and Development Overlay;
- Significant Landscape Overlay Schedule 9 identifies the Estuary Edge and applies specific design objectives. To ensure consistency between SLO9 and the proposed DDO, consideration needs to be given to drafting a separate Design and Development Overlay or identifying this area as a sub-precinct in the DDO;
- Flinders Heritage Overlay Precinct applies to older parts of the town between the Town Centre and the Barwon River, the DDO which supports increased housing diversity be applied to the area covered by the Heritage Overlay;
- The proposed DDO control would only trigger a planning permit if certain 'baseline' standards are not met. The permit triggers will serve as benchmark for all development, and variations to them will need to demonstrate how a specific design response to site context achieves the character objectives contained in the Schedules;
- Building heights are proposed 2 storeys and inside the IHDA a 9m height limit to allow some flexibility to accommodate the desired diversity;



- Site coverage is proposed at 40% for most residential areas to recognise the unique context of the settlement and associated 'coastal' character. A higher site coverage is proposed of 60% for the IHDA; and
 - Permeability rate of 40% serves to deter the excessive water use.
186. Two significant tree assessments have been undertaken in the study area to inform the Barwon Heads Structure. Both *Rural Significant Tree Assessment: Barwon Heads, Victoria February 2017* and *A Significant Residential Tree Assessment: Warrenbeen Court, Barwon Heads, Victoria October 2016* have been undertaken by Ecology and Heritage Partners Pty Ltd. Both assessments identified indigenous vegetation (Moonah Woodland and scattered Moonah) of State Significance, listed as threatened and endangered under the Flora and Fauna Guarantee Act 1988, within the Otway Plain bioregion. The report recommended Council protect remnant vegetation within the study area through planning controls as well as public education with landowners to encourage better awareness and management.
187. To mitigate the risks to ecological values within the study area, it is recommended that additional planning controls are implemented to:
- *Protect and ensure the long-term future of Moonah woodlands;*
 - *Protect and improve the diversity of vegetation within Moonah woodlands, including understorey vegetation (eg. shrubs, scramblers/climbers, grasses and herbs);*
 - *Encourage natural regeneration of Moonah and indigenous understorey vegetation; and,*
 - *Promote the use of locally indigenous plants for regeneration and revegetation.*
188. The report recommended this is may be in the form of a Vegetation Protection Overlay, Environmental Significance Overlay or Significant Landscape Overlay.