



# Maddocks

## Email Letter

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**From**  
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**Date**  
28/09/2007

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**To**  
Nicole Maloney

**Council/Department**  
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Our Ref MYM:MOS:5172424

Dear Ms Maloney

**East Gippsland Shire Council  
Ocean Access Boat Ramp, Bastion Point, Mallacoota**

We refer to the letter sent to Planning Panels Victoria from the Environment Defenders Office Victoria (EDO) dated 28 September 2007 regarding our client's request for an adjournment.

This process has been underway for a long time. The EES hearing will result in a full public hearing on all of the issues that have surrounded this controversial subject for many years. It is in the interests of that process that all parties present their case to the best of their ability.

By letter dated 27 September 2007, our client indicated that, upon further reflection, it requires more time than originally anticipated to prepare its case. The need for that extra time will put at risk the achievement of the Timetable dated 26 September 2007. It is neither fair, nor in the interests of the process, for any party to seek to take advantage of that fact.

The adjournment has been sought by the Council, which is the proponent in this matter. It is the proponent's position that, after considering a range of matters

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(logistic and substantive), it is unlikely to be in a position to be ready to commence its case in mid November.

If the Council was to be pressed to attempt to comply with the timetable set by the Panel and ultimately fails (as it expects it will) to achieve those deadlines, it is almost certain to throw the whole timetable into disarray, causing all parties much greater inconvenience.

The decision of the Council to request an adjournment of this case was not taken lightly and is intended to completely avoid the risk of disturbance that would be caused if an adjournment becomes inevitable closer to the scheduled hearing time at the end of this year.

By making this request at this time, the Council is attempting to give all parties (including the Panel) ample notice to adjust their affairs accordingly with a minimum of inconvenience.

Apart from opportunistically (and we would say incorrectly) criticising the Council's approach to the EES process to date, the EDO, in its letter, points to no discernible prejudice to its client arising from an adjournment, other than that its client "has already devoted considerable time and effort to preparing for a hearing for late 2007".

We respectfully suggest that none (or at most very little) of that preparation is wasted if the hearing is to be adjourned to a future date.

It is our submission that:

- Refusing the request for adjournment would likely:
  - Irreparably prejudice one of the main parties to the hearing (the Council and the Proponent) in the preparation of its case; or
  - More than likely result in an adjournment of the hearing in any event as deadlines are not met in the lead up to the hearing, causing greater inconvenience to all parties at a later time;
- Whereas, granting the adjournment will:
  - Ensure that the proponent places before the Panel all relevant evidence in support of its case;

- Avoid the likely risk of future adjournment; and
- Only cause minor inconvenience (if any) to other parties.

We therefore respectfully request that the Panel accede to our clients request and set a date for a further directions hearing

Yours faithfully  
Maddocks

A handwritten signature in black ink, appearing to read 'mmarshall', written in a cursive style.

Transmission authorised by:  
Maria Marshall  
Partner