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**8. CONSIDERATION OF APPLICATIONS FOR A PERMIT**

- Item 8.1      2/14 Anderson Street, Torquay (15/0088).....Page 3  
Construction of an Extension to the Existing Dwelling (Deck Extension)
- Item 8.2      55 Wensleydale Station Road, Wurdiboluc (15/0134).....Page 17  
Use of the Land for a Place of Assembly (Function Centre)
- Item 8.3      45 Wensleydale Station Road, Wurdiboluc (15/0108).....Page 33  
Use and Development of a Place of Assembly (Function Centre)  
& Display of Floodlit Business Identification Sign

**9. RECENT VCAT DECISIONS**

Nil

**10. POLICY ISSUES**

Nil

**11. OTHER MATTERS**

Nil

**12. CLOSE OF MEETING**

8.10 pm

**NEXT MEETING – 31 August 2015**

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ITEM NO: 8.1  
PLANNING REF: 15/0088  
PROPOSAL: Construction of an Extension to the Existing Dwelling (Deck Extension)  
APPLICANT: Taylor Garwood Designs  
DATE RECEIVED: 16-Mar-2015  
SUBJECT LAND: 2/14 ANDERSON ST, TORQUAY. (Lot: 2 PS: 337757)  
ZONE: General Residential Zone Schedule 1  
OVERLAYS: Design and Development - Schedule 20, Significant Landscape - Schedule 6, Development Contributions Plan  
PERMIT REQUIRED UNDER CLAUSES: 32.01-3  
EXISTING USE: Single dwelling  
REPORTING OFFICER: Cameron Hayes

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**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

Planning Officer recommending refusal

Objections received - Four (4)

**MOVED:** **SECONDED:**

**OFFICERS RECOMMENDATION**  **ALTERNATIVE RECOMMENDATION** ✓

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**POINTS OF DISCUSSION:**

After discussion with the applicant and the objector the Committee was satisfied that the application could be supported subject to conditions as amended below.

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**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

**Amend condition 1b, to read as follows:**

Privacy screening in accordance with Standard A15 of Clause 54 of the Planning Scheme on all elevations. This must be demonstrated by the provision of an Overlooking diagram to show compliance.

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**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 15/0088 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the provisions of Clause 32.01-3 of the Surf Coast Planning Scheme in respect of the land known and described as 2/14 ANDERSON ST, TORQUAY., for the Construction of an Extension to the Existing Dwelling (Deck Extension), subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

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- a) a 1 metre setback for the deck extension along the western side boundary; and
  - b) privacy screening in accordance with Standard A15 on all elevations which must be demonstrated by the provision of an Overlooking diagram to show compliance.
2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
  3. This permit will expire if one of the following circumstances applies:
    - a) The development is not started within two years of the date of this permit
    - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the period for commencement of the development if a request is made in writing before the permit expires or within six months afterwards.

The Responsible Authority may extend the period in which the development must be completed if the request for an extension of time is made in writing within twelve months after the permit expires and the development or stage started lawfully before the permit expired.

**CARRIED**

### **SUMMARY**

The proposal involves the addition of an outdoor deck to the first floor of the existing dwelling.

The proposed deck replacement and extension will result in a widening of the existing deck by 1.5 metres, thereby reducing the rear boundary setback to 3.09m. Setbacks to both side boundaries will not change from existing. The overall area of the deck will increase from 13.33sqm to 33.74sqm and part of the original section of deck will have a pergola roof constructed over it.

### **OFFICER RECOMMENDATION**

That Council having caused notice of Planning Application No. 15/0088 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the provisions of Clause 32.01-3 of the Surf Coast Planning Scheme in respect of the land known and described as 2/14 ANDERSON ST, TORQUAY., for the Construction of an Extension to the Existing Dwelling (Deck Extension), subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) a 1 metre setback for the deck extension along the western side boundary; and
  - b) privacy screening in accordance with Standard A14 to be in line with the neighbouring garage to the rear of the site to the satisfaction of the responsible authority.
2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit
  - b) The development is not completed within four years of the date of this permit.

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The Responsible Authority may extend the period for commencement of the development if a request is made in writing before the permit expires or within six months afterwards.

The Responsible Authority may extend the period in which the development must be completed if the request for an extension of time is made in writing within twelve months after the permit expires and the development or stage started lawfully before the permit expired.

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**OFFICER'S REPORT - 15/0088 - 2/14 ANDERSON ST, TORQUAY.**

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**Proposal**

The application seeks approval for the construction of an extension to the existing dwelling that comprises a first floor deck facing to the rear and side of the property. The existing internal access from the main living area to the deck will not change.

The proposed deck replacement and extension will result in a widening of the existing deck by 1.5 metres, thereby reducing the rear boundary setback to 3.09m. Setbacks to the eastern side boundary is reduced by 0.6m. The overall area of the deck will increase from 13.33sqm to 33.74sqm and part of the original section of deck will have a pergola roof constructed over it.

1.7m high screens will be provided to parts rear and sides of the deck extension.

The external building materials and colours would be as follows:

- Posts and handrail – Colorbond in deep ocean or similar

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**Site and Surrounding Area**



The 246sqm allotment is located as part of a unit development site situated on the northern side of Anderson Street between Payne Street and Pearl Street. The original site has been subdivided into 4 lots and developed with 4 attached double storey units. The land is well landscaped and appears as a modern coastal development with a landscape setting.

The surrounding area is a mix of new unit developments and older beach houses on large allotments. The neighbouring properties are as follows:

- Adjoining site to the north (rear) is a two dwelling development in a rear lot arrangement;
- Adjoining site to the west is a single storey dwelling on a large lot; and
- Adjoining site to the east is a construction site for two attached side by side two storey dwellings.

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**Relevant History and Background**

The subject site has no relevant planning history.

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## Registered Restrictions

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land is not affected by registered restrictions.

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## Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit cannot be granted until a copy of the approved CHMP is provided and cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site isn't within an area of cultural heritage sensitivity therefore a CHMP isn't required.

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## Referral

The application was not required to be formally referred in accordance with the Section 55 of the *Planning and Environment Act 1987* or Clause 66 of the *Surf Coast Planning Scheme*.

The application was not referred to any Council departments.

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## Public Notice

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

1. notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.

Council received a total of four (4) objections. Council's TRIM system was checked on 23 July 2015.

Copies of the objections are attached to the file, and are summarised as follows:

- *Loss of light* – objector has raised issue with potential for a reduction in light infiltration to a ground floor bedroom, causing mould. The objector has suggested a 1 metre setback of the deck from the western side common boundary, essentially a mirror image of their own upper deck which was done to keep some light coming into the lower floor.

In addition, the same objector suggested a reduction in the height of the roof to 2.7m in place of 3m in order to lessen the potential loss of light. This has already been done by the applicant in the current amended plans.

## Comment

While the ground floor of each dwelling has the ideal orientation facing due north, it is acknowledged that the objector's suggestion is a sound design amendment, particularly given that the amount of boundary wall will exceed Standard A11 of ResCode should the deck be extended all the way to the common boundary. A condition for an amended plan will be included in the permit to reflect a 1m metre setback to the western side boundary.

- *Overlooking* – objector has raised issue that the deck extension will contribute further to overlooking into their ground floor and first storey bedrooms and bathroom as well as the private open space area in their backyard. The objector adjoins the subject site to the rear.

## Comment

The objector resides in the dwelling that adjoins the subject site to the rear. However, under the requirements for Standard A15 of ResCode their private open space area within the backyard will only be marginally affected by overlooking given that the backyard is offset to the west from the proposed balcony, plus the horizontal distance of 9 metres outlined under the Standard extends to only part of their backyard

area. The objector's garage is sited directly behind the subject site, whereas the dwelling and backyard area are located towards their western boundary.

Privacy screening will be provided to the new deck extension up to a height of 1.7m in order to meet the requirements for overlooking under Standard A15 of ResCode. A condition will be included in the permit for the proposed screening to comply with the Standard.

- *Impact on views* – objector has raised issue that the proposed deck and pergola will block an existing view to “the Point”.

**Comment**

The subject site is not covered by any view sharing requirements under the Surf Coast Planning Scheme, so the issue cannot be considered in the assessment of this proposal.

- *Noise and disturbance* – objector has raised issue that the proposed deck and pergola area will increase the number of people able to use the outdoor space and, therefore, increase the potential impact of noise from the deck area.

**Comment**

While the deck will be extending and made larger, it does not necessarily transcend into the creation of additional noise to neighbouring properties.

- *Lighting impact* – objector has raised issue that lighting from the proposed deck and pergola area will have a detrimental impact upon neighbouring properties.

**Comment**

While the deck will be extending and made larger, it does not necessarily transcend into the creation of additional light spill into neighbouring properties.

- *Devalue property* – objector has raised issue that a reduction in liveability and amenity as a result of the proposed deck and pergola extension will devalue the objector's property.

**Comment**

The issue of a devaluation of property prices is not a planning ground and, therefore, cannot be considered in the assessment of this application.

- *Site cover* – objector has raised issue that the deck extension has not been included in the site cover calculations.

**Comment**

The maximum site cover under Rescode for the site is 60%, while the existing site cover is approximately 45% which will slightly increase to approximately 55%. The proposal will comply with Standard A5 of ResCode.

- Overlooking to existing dwelling under construction

**Comment**

Council cannot formally consider overlooking to a dwelling under construction, however it is noted, the existing deck would create overlooking between the dwelling under construction and the subject site, the increase in the width of the deck by 0.6m is not considered to increase overlooking, it is noted, the applicant has included screens to the front and return of the deck to provide some screening towards the dwelling.

**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned General Residential Schedule 1 and is <300sqm so is required to be assessed against the provisions of the *Surf Coast Planning Scheme* as follows:



Criteria	Standard	Proposal	Comment
Clause 32.01-3 <b>Construction and extension of one dwelling on a lot</b>	A permit is required to construct or extend one dwelling on a lot of less than 300 square metres.	Construction of an extension to the existing dwelling (deck extension)	<b>Permit required</b>

The land is also affected by the Design & Development Overlay Schedule 20, Significant Landscape - Schedule 6, Development Contributions Plan however a planning permit is not required under the schedule to these overlays.

**Planning Policy Framework**

- 12.02 Coastal Areas
- 15.01-1 Urban design
- 15.01-4 Design for safety
- 15.01-5 Cultural identity and neighbourhood character
- 15.02-1 Energy and resource efficiency
- 16.01-4 Housing diversity
- 21.01 Profile and vision
- 21.01-4 Neighbourhood character
- 21.08-2 Settlement and housing
- 22.09 Torquay-Jan Juc Residential Development and Neighbourhood Character Policy
- 54 ResCode – Lots less than 300sqm

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**Discussion of Key Issues**

The application seeks approval for the construction of an extension to an existing rear deck as well as a pergola cover over part of the deck. Whilst the application is relatively minor, given the additional area of deck being 20sqm, the application has attracted a total of four (4) objections from adjoining property owners.

Relevant issues under Clause 54 have been addressed below.

**Site Coverage**

The maximum site cover under Standard A5 Rescode is 60%. The property currently has a site cover of approximately 45% which will slightly increase to approximately 55% with the addition of the deck extension. The proposal will comply with Standard A5 of ResCode.

**Overlooking**

Overlooking to neighbouring properties is the single most raised issue by objectors. The existing deck will extend by 1.5 metres towards the rear boundary and approximately 0.5 metres towards the eastern side boundary. The properties that have the most potential for overlooking from the new deck extension are each side at No. 3/14 Anderson Street (adjoining to west) and No. 12 Anderson Street (adjoining to east).

In light of the issue raised by objectors, it is considered that the deck will need to be screened to a height of 1.7 metres above the finished floor level, along half the rear deck to prevent overlooking to existing private open space. This requirement will be included as a condition of the permit.

**Light and setback**

The adjoining landowner at No.3/14 Anderson Street has raised issue with the potential reduction in light infiltration into their ground floor habitable rooms as the deck extension is proposed to be built to the western side boundary, which also does not comply with the 1 metre setback requirement under ResCode.

However, it has since been agreed to have a 1 metre setback to the western side boundary, which will also provide additional light to the ground floor rooms. A condition will be included in the permit.

**Boundary wall**

It should be noted that the existing boundary wall along the western side boundary does not comply but this won't be increased under this current application.

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**Summary**

Generally the proposed deck extension and pergola are considered to be relatively minor. However based on consideration of the merits of the proposed development and particular issues raised by objectors, it is considered that it is an acceptable form of development for the site and, therefore, is a reasonable outcome.

It is recommended that a permit be issued subject to conditions.

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**Conclusion**

It is recommended that a permit be granted for Construction of an Extension to the Existing Dwelling (Deck Extension) subject to conditions.

**ATTACHMENT – ASSESSMENT AGAINST CLAUSE 54: ONE DWELLING ON A LOT (LESS THAN 300M<sup>2</sup>)**

<b>NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE</b>					
<b>Neighbourhood Character Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A1</b>	<b>Met?</b>	<b>Comments</b>
<i>Design respects or contributes to the neighbourhood character.</i>	Yes		<i>Design respects neighbourhood character and responds to the site features.</i>	Yes	Complies. Proposal is to rear of lot and not visible to street.
<i>To ensure that development responds to the features of the site and the surrounding area</i>	Yes				
<b>Integration With The Street Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A2</b>	<b>Met?</b>	<b>Comments</b>
<i>To integrate the layout of development with the street</i>	Yes		<i>Development should be oriented to front existing and proposed streets</i>	Yes	Complies
			<i>High fencing in front of dwellings should be avoided if practicable</i>	Yes	Complies
			<i>Dwellings should be designed to promote the observation of abutting streets and any abutting public open spaces</i>	Yes	Complies

<b>SITE LAYOUT AND BUILDING MASSING</b>					
<b>Street Setback Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A3</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</i>	Yes		<i>Walls of buildings should be setback from streets: the distance specified in Table A1.</i>	Yes	No change
			<i>Porches, pergolas and verandahs that are &lt; 3.6m high and eaves may encroach <input type="checkbox"/> 2.5m into the setbacks of this standard</i>	N/A	N/A
<b>Building Height Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A4</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the height of buildings respects the existing or preferred neighbourhood character</i>	Yes		<i>The maximum building height should not exceed 9m (Note: the Coastal Development Policy specifies a maximum height of 7.5m)</i>	Yes	Complies
			<i>Changes of building height between existing buildings and new buildings should be graduated</i>	Yes	Complies

<b>Site Coverage Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A5</b>	<b>Met?</b>	<b>Comments</b>
To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site	Yes		The site area covered by buildings should not exceed 60%	Yes	Existing – 47% Proposed - 55%
<b>Permeability Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A6</b>	<b>Met?</b>	<b>Comments</b>
To reduce the impact of increased stormwater run-off on the drainage system	Yes		At least 20% of the site should not be covered by impervious surfaces	Yes	No change to surface finishes Complies
To facilitate on-site stormwater infiltration	Yes				
<b>Energy Efficiency Protection Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A7</b>	<b>Met?</b>	<b>Comments</b>
To achieve and protect energy efficient dwellings	Yes		Buildings should be: <ul style="list-style-type: none"> <li>Orientated to make appropriate use of solar energy</li> <li>Sited and designed to ensure that the energy efficiency of existing dwellings is maximised</li> </ul>	Yes	Complies
				Yes	Complies
To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy	Yes		Living areas and private open space should be located on the north side of the development if practicable	Yes	Complies
			Maximise north-facing windows	Yes	Complies
<b>Significant Trees Objectives</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A8</b>	<b>Met?</b>	<b>Comments</b>
To encourage development that respects the landscape character of the neighbourhood	Yes		Development should provide for the retention or planting of trees	Yes	Complies
To encourage the retention of significant trees on the site	Yes		Replace any significant trees that have been removed in the 12 months prior to the application being made		N/A

<b>AMENITY IMPACTS</b>					
<b>Side And Rear Setback Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A10</b>	<b>Met?</b>	<b>Comments</b>
To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings	Yes		A new building not on or within 150mm of a boundary should be setback from the side or rear boundaries: <ul style="list-style-type: none"> <li>1m, plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m</li> </ul>	Yes	West side – 1m Complies  East side – 1.565m complies

			<p><i>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5m into the setbacks of this standard</i></p>	Yes	N/A
			<p><i>Landings having an area of not more than 2sqm and less than 1m high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard</i></p>	Yes	N/A
<b>Wall On Boundaries Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A11</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	Yes		<p><i>A new wall constructed on or within 150mm of a side or rear boundary of a lot or a carport constructed on or within 1m of a side or rear boundary of a lot should not abut the boundary for a length of more than:</i></p> <ul style="list-style-type: none"> <li><i>• 10m plus 25% of the remaining length of the boundary of an adjoining lot, or</i></li> <li><i>• where an existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is greater. Does not apply to walls less than 2m in height</i></li> </ul>	No	<p>No change</p> <p>It should be noted that the existing boundary wall along the western side boundary does not comply but this won't be increased under this current application.</p>
			<p><i>Height of boundary wall or a carport on or within 1m should not exceed:</i></p> <ul style="list-style-type: none"> <li><i>• average of 3m</i></li> <li><i>• maximum 3.6m unless abutting a higher existing or simultaneously constructed wall</i></li> </ul>	No	No change
<b>Daylight To Existing Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A12</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate daylight into existing habitable room windows</i>	Yes		<p><i>Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot</i></p>	Yes	Complies

			<p><i>Walls or carports more than 3m in height opposite an existing habitable room window should be set back from the window at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window</i></p> <p><i>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window</i></p>	Yes	Complies
<b>North Facing Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A13</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate solar access to existing north-facing habitable room windows</i>	Yes		<p><i>If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m from the edge of each side of the window</i></p>	Yes	N/A
<b>Overshadow Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A14</b>	<b>Met?</b>	<b>Comments</b>
<i>To ensure buildings do not significantly overshadow existing secluded private open space</i>	Yes		<p><i>Where sunlight to secluded private open space of an existing dwelling is reduced, <math>\square</math> 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September</i></p>	Yes	Complies
			<p><i>If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced</i></p>	Yes	Complies

<b>Overlooking Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A15</b>	<b>Met?</b>	<b>Comments</b>
To limit views into existing secluded private open space and habitable room windows	Yes		A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level	Yes	In light of the issue raised by objectors, it is considered that the deck will need to be fully screened to a height of 1.7 metres above the finished floor level, along both the rear and sides. This requirement will be included as a condition of the permit.
			A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either: <ul style="list-style-type: none"> <li>offset a minimum of 1.5m from the edge of one window to the edge of the other</li> <li>have sill heights of at least 1.7m above floor level</li> <li>have fixed, obscure glazing in any part of the window below 1.7m above floor level</li> <li>have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent</li> </ul>	Yes Yes Yes Yes	
			Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this standard	Yes	N/A
			Screens used to obscure a view should be: <ul style="list-style-type: none"> <li>perforated panels or trellis with a maximum of 25% openings or solid translucent panels</li> <li>permanent, fixed and durable</li> <li>designed and coloured to blend with the development</li> </ul>	Yes Yes Yes	Condition of permit

			<i>This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.6m high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.6m above ground level at the boundary</i>	Yes	N/A
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**ON-SITE AMENITY AND FACILITIES**

<b>Daylight To New Windows Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A16</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow adequate daylight into new habitable room windows</i>	Yes		<p><i>A window in a habitable room should be located to face:</i></p> <ul style="list-style-type: none"> <li>• <i>an outdoor space or a light court <math>\geq 3\text{sqm}</math> and minimum dimension of 1m clear to the sky, not including land on an abutting lot, or</i></li> <li>• <i>a verandah provided it is open for at least one third its perimeter, or</i></li> <li>• <i>a carport provided it has two or more open sides and is open for at least one third of its perimeter</i></li> </ul>	Yes  Yes  Yes	Condition of permit for a 1m setback to western side boundary
<b>Private Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A17</b>	<b>Met?</b>	<b>Comments</b>
<i>To provide adequate private open space for the reasonable recreation and service needs of residents</i>	Yes		<p><i>Dwelling should have private open space:</i></p> <ul style="list-style-type: none"> <li>• <i>of 80sqm or 20% whichever is less</i></li> <li>• <i><math>\geq 25\text{sqm}</math> secluded with a width of <math>\geq 3\text{m}</math> and access from a living room</i></li> </ul>	Yes	Complies
<b>Solar Access To Open Space Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A18</b>	<b>Met?</b>	<b>Comments</b>
<i>To allow solar access into the secluded private open space of a new dwelling</i>	Yes		<i>The private open space should be located on the north side of the dwelling</i>	Yes	Complies
			<i>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least <math>(2 + 0.9h)</math> metres</i>	Yes	N/A



<b>DETAILED DESIGN</b>					
<b>Design Detail Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A19</b>	<b>Met?</b>	<b>Comments</b>
<i>To encourage design detail that respects the existing or preferred neighbourhood character</i>	Yes		<i>The design of buildings, including:</i> <ul style="list-style-type: none"> <li>• <i>façade articulation and detailing,</i></li> <li>• <i>window and door proportions,</i></li> <li>• <i>roof form, and</i></li> <li>• <i>verandahs, eaves and parapets,</i></li> </ul> <i>should respect the existing or preferred neighbourhood character</i>	Yes	<i>Complies</i>
			<i>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character</i>	Yes	<i>No change</i>
<b>Front Fences Objective</b>	<b>Met?</b>	<b>Comments</b>	<b>Standard A20</b>	<b>Met?</b>	<b>Comments</b>
<i>To encourage front fence design that respects the existing or preferred neighbourhood character</i>	Yes		<i>The design of front fences should complement the design of the dwelling and any front fences on adjoining properties</i>	N/A	
			<i>A front fence within 3m of a street should not exceed:</i> <ul style="list-style-type: none"> <li>• <i>Streets in a Road Zone – 2m</i></li> <li>• <i>Other Streets – 1.5m</i></li> </ul>	N/A	

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**ITEM NO:** 8.2  
**PLANNING REF:** 15/0134  
**PROPOSAL:** Use of the Land for a Place of Assembly (Function Centre)  
**APPLICANT:** Poligot  
**DATE RECEIVED:** 14-Apr-2015  
**SUBJECT LAND:** 55 WENSLEYDALE STATION ROAD, WURDIBOLUC. (LOT: 2 PS: 422594)  
**ZONE:** Farming Zone  
**OVERLAYS:** None  
**PERMIT REQUIRED UNDER CLAUSES:** 35.07-1  
**EXISTING USE:** Dwelling – Agriculture  
**REPORTING OFFICER:** Cameron Hayes

**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

- Planning Officer recommending refusal
- Objections received 8

<b>MOVED:</b>	<b>SECONDED:</b>	<b>FOR:</b>	<b>AGAINST:</b>
<b>OFFICERS RECOMMENDATION</b>	✓	<b>ALTERNATIVE RECOMMENDATION</b>	<input type="checkbox"/>

**POINTS OF DISCUSSION:**

The Committee acknowledged that the amendments proposed by the Applicant on the night would reduce the impact of the proposal on the surrounding area but was satisfied that the application still failed to satisfy the relevant provisions of the Planning Scheme for the reasons stated in the grounds of Refusal.

**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 15/0134 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of 35.07-1 of the Surf Coast Planning Scheme in respect of the land known and described as 55 WENSLEYDALE STATION ROAD, WURDIBOLUC., for the Use of the Land for a Place of Assembly for the following reasons:

1. The use and development fails to meet the purposes of the Farming zone and will result in loss of productive agricultural land and impact on the operation and expansion of adjoining and nearby agricultural uses.
2. The proposal does not represent an orderly planning of the area as required under Clause 65.01 of the Surf Coast Planning Scheme.
3. The proposal does not meet the Decision Guidelines of the Farming Zone in regard to its incompatibility with adjoining and nearby land uses and its failure to provide an appropriate and safe vehicle access to the site.

4. The proposal would have a detrimental impact on local amenity in terms of noise, dust, traffic generation and road safety.

**CARRIED**

### **SUMMARY**

The application seeks approval for the use of land for a Place of Assembly (Function Centre), for up to 200 patrons 15 times per year. The use will operate within temporary marquees setup within one of the paddocks on the site with car parking in the front paddock.

The application was advertised to the surrounding properties and 8 objections were received which raised several issues with the proposal, such as Traffic, Inappropriate Use, Dangerous Intersection and several others.

A detailed assessment has been undertaken and it has been considered the proposed use unacceptable and permit should be refused.

### **RECOMMENDATION**

That Council having caused notice of Planning Application No. 15/0134 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of 35.07-1 of the Surf Coast Planning Scheme in respect of the land known and described as 55 WENSLEYDALE STATION ROAD, WURDIBOLUC., for the Use of the Land for a Place of Assembly for the following reasons:

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3. The proposal does not meet the Decision Guidelines of the Farming Zone in regard to its incompatibility with adjoining and nearby land uses and its failure to provide an appropriate and safe vehicle access to the site.
4. The proposal would have a detrimental impact on local amenity in terms of noise, dust, traffic generation and road safety.

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## **OFFICER'S REPORT - 15/0134 - 55 WENSLEYDALE STATION ROAD, WURDIBOLUC.**

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### **Proposal**

The application seeks approval for the use of the land for a Place of Assembly (Function Centre). The proposal does not include formal development but is to include the use within temporary marquees.

The application includes a mix of functions ranging from Weddings and Corporate Events. It is unclear specifically how the exact operations of the land will operate as the application is for 15 Events per year, however the application appears to be pre-empting expansion of the Place of Assembly to include weekly events with one wedding per week and two corporate events per month.

Functions will occur within temporary Marquees ranging in size from 10m by 12m to 10m by 30m. The site area to be used is north of the existing dwelling on the site and behind the first shelter belt with a dedicated parking area between the front boundary and first shelter belt.

The application also proposed two earth berms to limit noise and light spilling towards the east of the site.

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### **Site and Surrounding Area**



The 11.46ha site is located on the Eastern Side of Wensleydale Station Road between Cape Otway Road and Wormbete Station Road in Wurdiboluc. The site is currently developed with a dwelling and scattered outbuildings and agricultural buildings. There is an easement running through part of the property. There are several existing shelter belts on the site and what appear to be dividing the land into several paddocks.

The surrounding area is characterised by open and undulating farm land of medium scaled farming enterprises with a concentration of rural living properties further east in and around Gherang Road. Nearby, in the north, the Cape Otway Road (Road Zone Category 2) skirts the Wurdiboluc Reservoir which is zoned Public Use zone.

The town of Winchelsea lies approximately 8.5kms to the north of the subject site and Geelong around 19kms distance in the north east.

The site and surrounding land is zoned Farming with no overlays.

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## Relevant History and Background

### *Past permits:*

No record exists for any previous planning permit applications for the site.

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## Registered Restrictions

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land is not affected by registered restrictions.

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## Aboriginal Cultural Heritage

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit cannot be granted until a copy of the approved CHMP is provided and cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site isn't within an area of cultural heritage sensitivity therefore a CHMP isn't required.

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## Referral

The application was not required to be formally referred in accordance with the Section 55 of the *Planning and Environment Act 1987* or Clause 66 of the *Surf Coast Planning Scheme*.

Internal Council Referrals	Advice/Response
Infrastructure Department	Consent with conditions
Environmental Health Department	Consent with conditions

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## Public Notice

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

1. notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.
2. a sign was erected on the land for a period of 14 days.

Council's electronic storage system (TRIM) was checked on 23/07/2015.

8 objections were received. Copies of the objections are attached to the file, and are summarised as follows:

### **A. Owners of 80 Wensleydale Station Road**

- Noise Impacts – Cars, Music, Patrons, etc.
- Car Parking – Not enough spaces provided
- Use of Marquees and impacts to Power for ancillary uses
- Traffic and Road Impacts
- Use of a Marquee unsightly within the Rural Landscape
- No fire or disaster plans provided
- Existing facilities in district that can cater for functions – public halls, football clubrooms, Globe Theatre in Winchelsea and Barwon Park plus hotels in Moriac and Winchelsea

### **B. Owner of 80 Noels Lane**

- Noise – Car, Music, Patrons, etc.
- Traffic Congestion – Road Width & Number of Vehicles
- Risk – Intersection of Wensleydale Station Road & Cape Otway Road has been subject to major accidents, proposed use is likely to amplify this

- Car Parking – Insufficient
  - Farming Zone - Commercial operation with noise, litter and noise from patrons and traffic impacts – not compatible with farm operation
- C. Owners of 155 Wornbete Station Road**
- Wensleydale Station Rd a single lane bitumen road with soft edges – principle used by local resident & for moving farm equipment and machinery
  - Speed limit 100kph and peoples come off edges to overtake requiring upgrading
  - Other rural roads in area are in bad repair
  - Due to freeway expansion Cape Otway Road requires regular upgrading
- D. Owner of 95 Casboults Road**
- Given two applications adjoining each other, considerable impacts and what may be next
  - Contrary to Clause 35.07 and the Agricultural Use of the Land and would impact the future agricultural uses of the surrounding land
  - Amenity impacts onto the adjoining properties
  - Road is inadequate to support the amount of traffic
  - Levels of Noise generated by the use
- E. Owners of 95 Wornbete Station Road**
- Impacts to the General Amenity of the area
  - Increased Traffic particularly along Cape Otway Road and Wensleydale Station Road
  - Noise – Impacts to live stock but also to the adjoining properties
  - Future impacts for the area if the permit is to be granted by setting precedence
  - Contradictions within the report over number of events
- F. Owners of 7 Wensleydale Station Road**
- Noise
  - Traffic Congestion
  - What are the Dirt Mounds for?
  - Decrease in value of land
- G. Owners of 290-320 Centre Road**
- Against the purpose of the Farming Zone
  - Potential for larger marquees as no real infrastructure provided
  - How will land be managed/enforced
  - Management & General Traffic Impacts along Wensleydale Station Road
  - Dangerous Intersection with Cape Otway Road and Wensleydale Station Road
- H. Owners of 90 Wensleydale Station Road**
- Area is Farm Zone, use not in conjunction with the purpose of this zone
  - Marquees will be required to be erect longer than the time of the event, which could distract drivers along Wensleydale Station Road and Cape Otway Road
  - Traffic & Road Impacts particularly exiting the property as road is a single lane road
  - Increase in traffic to the area beyond that of the guests of these events, such as deliveries like catering, toilets, etc.
  - Currently Cape Otway Road traffic is increasing and the proposed use is likely to dramatically increase the risks of accidents on this road.
  - Number and Times of events impact on local residents and will cause amenity impacts
  - Impacts from Music
  - If alcohol is involved this may increase noise further
  - As other property has applied for permit, the potential for all of these issues to be amplified

**Comment**

The grounds of objections are address in the discussion section of this report.

**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned Farming Zone and is assessed against the provisions of the *Surf Coast Planning Scheme* as follows:

Criteria	Standard	Proposal	Comment
Clause 35.07-1 <b>Table of Uses</b>	Section 2 – permit required <ul style="list-style-type: none"> <li>▪ <b>Place of Assembly (other than Amusement parlour, Night club, Carnival and Circus)</b></li> <li>▪ <b>Function centre is nested within that use.</b></li> </ul> CI73 defines: Place of Assembly as “ <i>Land where people congregate for religious or cultural activities, entertainment, or meetings.</i> ”  Function Centre as “ <i>Land used by arrangement, to cater for private functions, and in which food and drink may be served. It may include entertainment and dancing.</i> ”	Use & development of land for Place of Assembly (Function Centre)	<b>Permit required</b>

**State Planning Policy Framework**

**11 Settlement**

11.05 Regional Development

11.05-3 Rural Productivity

**Objective**

*To manage land use change and development in rural areas to promote agriculture and rural production.*

**Strategies**

- Prevent inappropriately dispersed urban activities in rural areas.
- Limit new housing development in rural areas, including:
  - Directing housing growth into existing settlements
  - Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses
  - Encouraging consolidation of existing isolated small lots in rural zones
- Restructure old and inappropriate subdivisions.

Clause 11.07 Geelong (G21) regional growth

**11.07-5 Agricultural productivity** has the objective:

*To secure food, water and energy resources.*

**Policy guidelines**

Planning must consider as relevant:

- *G21 Regional Growth Plan* (Geelong Region Alliance, 2013).

**11.07-7 A diversified economy** has the objective:



*To build the region's economy.*

The **Strategies** include:

- Support diversity in the region's economy that builds on its competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.

## **14 Natural Resource Management**

### Clause 14.01 - Agriculture

#### 14.01-2 Protection of agricultural land

#### **Objective**

*To protect productive farmland which is of strategic significance in the local or regional context.*

#### **Strategies**

- Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.
- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.
- In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
  - The compatibility between the proposed or likely development and the existing uses of the surrounding land.
  - Assessment of the land capability.
  - Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.

In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinization) which might affect productive agricultural land against the benefit of the proposals.

## **CI 17 Economic Development**

Planning is to provide for a strong and innovative economy, where all sectors of the economy are critical to economic prosperity.

Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

### **17.03 Tourism**

**17.03-1 Facilitating tourism** has the objective

*To encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.*

**Strategies** to achieve this are:

- Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, motel accommodation and smaller scale operations such as host farm, bed and breakfast and retail opportunities.
- Seek to ensure that tourism facilities have access to suitable transport and be compatible with and build upon the assets and qualities of surrounding urban or rural activities and cultural and natural attractions.

### **Policy guidelines**

Planning must consider as relevant:

- Any relevant regional tourism development strategy

### **Local Planning Policy Framework (LPPF)**

#### **CI21.01 Profile and Vision**

##### **CI21.01-1 Surf Coast Shire**

This policy outlines:

*The Surf Coast Shire is a popular tourist and surfing area. Its economy is increasingly reliant on tourism. Employment is dominated by retail, tourism, and hospitality, construction and health and community services. Agriculture, once the dominant sector, is still growing in productive output and makes a significant contribution to the economy, but employs only a small proportion of the Shire's workforce.*

*The rural areas of the Shire are not only important for agriculture, but are increasingly valued in terms of environmental and landscape, for its contribution to the amenity and liveability of the shire and its tourism and recreation value.*

The Municipal Framework Plan (MFP) at CL 21.01-4 identifies the following key strategic directions (as relevant):

#### **Settlement Built Environment and Heritage**

- To manage population and tourist growth and development in an ecologically sustainable manner.
- To protect the rural landscape from urban intrusion and to provide clear distinction between townships.
- To support and strengthen the individual character and role of the coastal and rural towns within the Shire that contributes to the diversity of experiences, and residential, commercial, recreational and employment opportunities.

#### **Tourism**

- To promote natural resource based tourism, at a scale and form that respects its setting, the surrounding land uses and the locale.

#### **Agriculture**

- To protect and enhance the rural areas of the Shire for their diverse agricultural, environmental and landscape values and opportunities.

#### **Landscape**

- To recognise rural landscape vistas are highly valued for their contribution to the amenity and liveability of rural areas.

#### **CI21.04 Tourism**

This clause identifies key issues and influences for the tourism industry within the Shire (as relevant to the application).

- The tourism industry is underpinned by the coastal location, environmental values and scenic qualities of the Surf Coast.
- Tourism benefits the community by injecting money into the local economy, providing jobs, improving facilities, creating opportunities for business and stimulating improved transport services.

- The focus of tourism is broadening as tourist developments seek to capitalise on the environmental and landscape values of the rural hinterland for nature and farm based tourism, while providing opportunities for the diversification of struggling rural enterprises.
- The benefits of tourism needs to be balanced against the potential negative impacts including:
  - impacts on local communities through loss of amenity, overtaxing of services, pressure on infrastructure (water supply, wastewater treatment, waste disposal, roads, car parking) and environmental damage;
  - pressure for higher density and larger scale urban tourist development, which can compromise the low scale and vegetated character of the coastal townships; and
  - pressure for tourism development in rural and environmentally sensitive locations along the coast and in the rural hinterland, which has potential to compromise the natural environment, landscape values and agricultural activities.

The objective for **Tourist development** CI21.04-1 is:

*“To enhance and expand the tourism industry, whilst protecting the environmental, landscape and cultural values of the Shire and the lifestyle of its residents.”*

The strategies for achieving this objective include:

- Limit non-agricultural based tourism development to the Lorne coastal hinterland and other selected rural areas. Such development to be small scale, nature and adventure based tourist activities and accommodation that are compatible with natural processes.
- Encourage agricultural based tourism development in the rural hinterland to assist in diversification of the rural economy. Such development to be small scale and in character with the immediate rural/agricultural environment.
- Ensure new tourism development uses high quality, low intensity, unobtrusive, site responsive buildings and works based on ecologically sustainable design principles.
- Encourage use and development that will increase visitor length of stay and increase visitor numbers in the off-peak period.
- Encourage the development of a diverse range of quality tourist accommodation and facilities to meet changing visitor needs.

The clause also provides that these strategies will be implemented by:

- When deciding on applications for tourist developments in a non-urban zone, consider:
  - Tourism development in the farming areas of the Shire should generally be of a small scale that does not compromise the agricultural use of the land.
  - Tourism development should be of a nature, designed and sited to avoid conflict with existing rural uses, preserve the rural landscapes and environmental values, avoid loss of high quality agricultural land, and be within proximity of existing townships.
  - Tourism development should enhance the environmental condition of the land through protection and re-establishment of native vegetation and control of pest plants and animals, erosion, salinity, stormwater and nutrient runoff. This should be demonstrated through the development and implementation of a management plan.

- Discourage tourism development from locating in prime farming areas, particularly in areas with an open rural landscape.

### 21.05 Agriculture

This Clause provides local content to support Clause 14.01 (Agriculture) of the State Planning Policy Framework.

Key issues and influences identified by this clause include (as relevant):

- *Rural activities in the Shire are diverse but there is a continuing shift towards more intensive agricultural industries and lifestyle or part time farming. This is changing the rural landscape of parts of the Shire.*
- *While comparatively modest, the economic value of agriculture continues to grow and there is potential for further development of agricultural production, including irrigated agriculture based on the use of recycled water from the Black Rock Wastewater Treatment Plant.*
- *Hobby farming or rural residential type living, through inappropriate small lot excision and construction of dwellings unrelated to farming, impacts on the agricultural industry and the rural landscape.*
- *The significant population growth within the Shire is expected to continue and will increase pressure for inappropriate urban intrusion into productive agricultural and scenic landscape areas.*
- *There is increasing pressure for tourism and other development to locate in the rural areas, which may adversely impact on environmental, landscape, social and agricultural values.*

#### The Objectives for Agriculture (21.05-2):

- encourage sustainable agriculture to grow and support prosperous and sustainable rural communities
- seek to protect the ability of future generations to productively farm the land
- seek to avoid the loss of agricultural productivity associated with land use conflicts, particularly between farming activities and non-farm related residential development.

To do this, the **Strategies** are (as relevant):

- Support agricultural activities and associated rural industries that will maintain and build on the economic base of the Shire.
- Support the use of existing small lots for innovative or niche productive activities that are not dependent upon or associated with the development of a dwelling on the lot.
- Support infrastructure and resources that will enhance productive agriculture.
- Discourage the use and development of good quality agricultural land for activities that are not reliant on the soil
- Strongly discourage fragmentation and non-productive use of agricultural land.

### 21.06 Rural Landscape

This clause advises the following key issues and influences:

- *Ensuring that new land use and development is complementary to the highly valued rural landscapes is important for economic and social reasons.*
- *Understanding the values of the different rural landscapes is necessary to appropriately manage future use and development.*

The rural areas of the Shire have been categorised into five landscape precincts, primarily on the basis of landscape features but also taking into account land use, agricultural quality, tenement/allotment patterns and environmental values.

The site is within the Cape Otway Road to Northern Foothills and Coast Landscape Unit which is described as:

*Cape Otway Road to the Northern Foothills and Coast – visually attractive undulating landscape of open farm land, framed by dense bushland. It extends from the steepening valleys and foothills of the northern slopes of the Otway Ranges in the west, through the lifestyle bush blocks of Wensleydale and Gherang to the semi-pastoral hills of Bells Beach in the east. The gently rolling hills, with some incised creeks and gullies, and pockets of remnant vegetation contribute to a sheltered, enclosed landscape. Buildings tend to be located away from roads, often in valleys or among trees. Bells Beach is listed on the Victorian Heritage Register for its cultural and aesthetic heritage values.*

*While the main land use in the precinct is farming, it occurs predominantly for lifestyle purposes. Dairying, particularly concentrated around Deans Marsh, has declined and timber, grass seed production, vines and olive groves are emerging. There are a number of rural tourism businesses primarily around Deans Marsh and Bellbrae. The landscape and environmental values of this precinct are the primary reasons for its attractiveness for tourist and lifestyle use and development.*

Relevant **Objectives (21.06-3)** include:

- *To protect and enhance the landscape values of the rural precincts as described in Clause 21.06-2 above.*
- *To protect and maintain open and uncluttered rural landscapes, including vistas from main road corridors.*
- *To protect the rural landscape from urban intrusion and to provide clear distinction between townships.*

**Strategies** to achieve the objectives include:

- Encourage the siting and design of new buildings to complement existing farm structures, avoid locating on hilltops and ridges and nestle into the landscape where possible.
- Ensure tourism facilities are limited in their intensity and scale to avoid adverse visual impact on the natural environment and rural landscape and to retain the marketing characteristics of low key, eco-based tourist values.
- Ensure new buildings and are sited and designed in the Barrabool Hills to foster the historic rural landscape qualities of the area.
- Encourage new development, including intensive animal industries and dwellings, to adopt a clustered development pattern rather than being dispersed throughout the landscape.
- Discourage uses not associated with an agricultural activity in any rural area outside the Rural Activity Zone.

**Implementation (21.06-4)** includes the following specific development *principles* for non-agricultural use and development (but is silent on agricultural related development):

- Buildings should be of modest scale and nestle into the landscape;
- Building should be subservient to the landscape so as not to detract from its visual qualities;
- Proposals should include net gain environmental outcomes; and
- Development should be self-sufficient in the provision of infrastructure and associated costs.

**Summary:**

State and Local level policy is directing that productive agricultural land be protected, including by limiting subdivision, and use and development not related to farm based land use. Policy also recognises that small scale nature and adventure based tourist activities in select areas and agricultural based tourism development in the rural hinterland may be appropriate in the Farming zone.

**Particular Provisions**

Clause 52.06 – Car parking

This clause applies to a new use (as is the case here) and provides that before a new use commences the number of car parking spaces required under CI 52.06-5 must be provided on the land or in accordance with a permit issued under Clause 52.06-3 (*reduce or provide some on another site*).

Use for Place of Assembly, Table 1 Car Parking Requirement applies a rate of 0.3 spaces to each patron permitted. The proposal for a maximum of 160 patrons would generate a parking requirement of 48 car parking spaces.

**General Provisions**

Clause 65 Decision Guidelines

**Planning Scheme Amendments**

**Amendment C68 (Rural Landscapes and Rural Activity zone)**

Surf Coast Shire Planning Scheme Amendment C68 proposed the rural hinterland of Bellbrae and Deans Marsh be rezoned to Rural Activity zone to allow consideration of tourist and recreational activities and group accommodation and restaurants associated with tourist or recreational activities independent of agricultural use. C68 was recommended by Panel for adoption subject to a small number of changes, including clarification about the fire risk of a few properties in the Bellbrae region.

Implementation was delayed by a DPCD advised revised bushfire mapping which to date has not proceeded. Changes to the Farming zone in 2013 now allow a broader range of land uses to be considered on merit (Section 2) and not in 'in conjunction with agriculture' as previously required.

Amendment C68 has since lapsed however the Rural Activity Zone is no longer necessary but it provides a useful context for decision making for applications involving tourist related land uses that are not tied to agriculture.

The application site is not located within those rural hinterland areas of the Shire in which non-agricultural based tourism activities were to be encouraged.

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**Discussion of Key Issues**

Zoning, Use and Location

The subject land is designated as Farming Zone under the provisions of the Surf Coast Planning Scheme and a permit is required to use the land for a Place of Assembly (Function Centre).

The purpose of the Farming Zone is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

*To provide for the use of land for agriculture.*

*To encourage the retention of productive agricultural land.*

*To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*

*To encourage the retention of employment and population to support rural communities.*

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*To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

The decision guidelines are focussed on the impacts of what in this case is a non-agricultural use and whether it will affect soil quality, remove land from agricultural production or impact on surrounding agricultural uses.

The site currently is used as a mix of Lifestyle Allotment and minor Agricultural Land (Cropping), however given the size of the allotment; it is unlikely the land can be used for any sustainable agricultural use and a lifestyle/hobby farm operation.

Despite this it is noted that agricultural activities are pursued on surrounding properties and while these are mainly conducted at a hobby farm level it is likely that the proposed development will result in amenity and nuisance issues such as noise, light spill and traffic impacts.

Also, it should be noted, the area isn't considered an active area for the provision to warrant a Place of Assembly, in respect to the secondary uses within the area, the broader landscape is made up of farming allotments and rural lifestyle allotments and a large water storage reserve. Currently, there is no other non-farming/residential uses operating within this area, so all events would be dedicated by invitation rather than being incidental.

For example, if there was an existing restaurant on the site or adjoining site and the purpose of the place of assembly was to service an existing operation, the use could be considered in association, currently the site and directly adjoining sites do not include any publicly commercial uses, therefore it cannot be considered a low impact/incidental facility, rather a new facility which could potential expand beyond what has been applied for.

The proposal itself, appears to be using a site, with individuals being responsible for the management of an event, such as providing toilet facilities, catering, liquor licensing, etc. this creates its own risk as one person may operate the site appropriately whereas the next does not. Therefore long term management of noise and amenity impacts have not been guaranteed. It is noted the applicant advises the owners will be the managers of the site however, individuals will be responsible for most aspects of their event.

The applicant advises a framework & management plan will be developed, however as this has not been provided Council cannot be assured the management issues have been fully considered, such as fail safes for events that may be getting out of control or impacting the neighbouring properties.

#### Scale and Intensity of the Use

Whilst the proposed scale and intensity of the use would be considered small if considered within an urban context, the use would be considered a high intensity in the context of site and surrounding area, the broader area of the site is considerably larger allotments which have clear agricultural uses which could be impacted upon with the proposed use.

Such as late night noise impacting upon livestock. This cannot be ignored nor has this been satisfactorily responded too within the application, a patron management plan has not been included with the application, however the applicant has advised this will be undertaken.

The key issue to consider is whether a high intensity non-farming use is appropriate within a farming area; it is acknowledged the owner of the land is likely trying to offset costs of living on a property unlikely to sustain profitable agricultural enterprise. However the surrounding viable agricultural enterprises should not be detrimental affected or lost to this operation.

Another key consideration is the longer term potential for intensification of the use and the potential impacts associated. Whilst this would be subject to further applications and detailed assessment, the tyranny of small extensions to a site which (if approved) would have existing use rights, could create a larger impact than the current proposal.

The other consideration with respect to the scale of the operation is the noise impacts generated on the site, which do not appear to be adequate. Noise generated from the use can be mitigated via conditions, however

vehicle noise cannot directly be controlled via condition. If the car parking area was full being 60 car parking spaces, this would mean 60 vehicles exiting the site at a similar time, heading to the same exit point to the same intersection and this has the potential to create major noise of vehicle in an area which would be considered quieter than a suburban street late at night.

Noise impacts beyond this must also be considered, as noise attenuation is only proposed along the eastern side of the site, the potential of noise to the north, west and south cannot be ignored particularly from the marquee and the car park. It appears unreasonable to try and apply conditions to a permit, which are unlikely to be achievable with respect to noise within this area, as wind from the surrounding landscape would allow noise to travel further to areas which may not have been considered.

#### Traffic Impacts

Several objections have raised the issue of Wensleydale Station Road and the Intersection with Cape Otway Road as dangerous within their submissions.

The Wensleydale Station Road is a single lane road after the intersection with Cape Otway Road and when exiting onto Cape Otway Road the area is a 100km/h road near two main bends in the road.

Whilst Councils Infrastructure Unit have provided consent to the application, Council as a whole is not satisfied the road is adequate to provide for this use or other non-agricultural uses, the key consideration for this is vehicles passing each other need to go onto the gravel road shoulder and if unfamiliar with this there is potential for accidents as well as damage to road not designed for high volumes of traffic.



Image courtesy of Google Street View

Currently there are no plans to upgrade the road, nor would it be appropriate to require the applicant to upgrade the road, as the expense involved in this would be high, however the issues with the road cannot be ignored in considering the application.

#### Response to Objections

The objectors raised several issues with the proposal, several of which have been discussed above, however the other issues raised have been assessed as follows.

#### **Is the application lodged for the same people as planning application 15/0108**

Whilst this is not a relevant planning consideration, the owners of the land are independent of each other and it appears to be a coincidence that both applications have been lodged within the same time period.



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### **Car Parking not enough spaces**

Under Clause 52.06 – Car Parking, a Place of Assembly requires 0.3 spaces to every patron which is proposed to be a maximum of 200 patrons, therefore requiring 60 spaces, the applicant has shown provision for 60 spaces and an additional overflow area, whilst this is considered low for the number of people, in terms of the planning controls it is considered compliant.

### **Marquees unsightly within a Rural Landscape**

Whilst this is something that could be considered under the Farming Zone or broader decision guidelines, the use as a temporary marquee is not considered unacceptable and based on the merits, would be meeting the intent of low rise buildings within a rural landscape.

### **No Fire or Disaster Plan**

Generally these measures would be included within a detailed management plan for the site, given a detailed management plan has not been provided, Council has not been able to consider these, if a permit was granted a condition of the permit would require this to be submitted prior to the use being able to operate.

### **Existing Facilities within the District**

One of the submitters raised there are existing facilities within the district that would be able to cater for the proposed functions to be operated out of the site. Council agrees in principal with this and questions the appropriateness of a function centre in the Farm Zone.

### **Setting Precedence for other site**

Whilst Council cannot consider this, as each application is assessed on its own merits in the context of its site, planning controls, etc. it is a valid concern to raise, generally speaking, a Place of Assembly usually is a secondary use to another use on the site, i.e. Restaurant with Function Centre or Wedding Reception Centre at a Winery.

In the context of this site the application is trying to create a standalone use not reliant on any other use or associated to another use, therefore creating a larger impact onto the surrounding area, and new noise and impacts on the surrounding area.

### **Decrease in value of properties surrounding**

Council cannot consider this issue with planning permit applications.

### Summary

Overall the proposed place of assembly is considered inappropriate in the context of the site and surrounding areas and would create unnecessary impacts onto the broader area and it is recommended that the permit application be refused.

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### **Conclusion**

It is recommended that a permit be refused for Use of the Land for a Place of Assembly based on the following grounds:

1. The use and development fails to meet the purposes of the Farming zone and will result in loss of productive agricultural land and impact on the operation and expansion of adjoining and nearby agricultural uses.
2. The proposal does not represent an orderly planning of the area as required under Clause 65.01 of the Surf Coast Planning Scheme.
3. The proposal does not meet the Decision Guidelines of the Farming Zone in regard to its incompatibility with adjoining and nearby land uses and its failure to provide an appropriate and safe vehicle access to the site.
4. The proposal would have a detrimental impact on local amenity in terms of noise, dust, traffic generation and road safety.

**ITEM NO:** 8.3  
**PLANNING REF:** 15/0108  
**PROPOSAL:** Use and Development of a Place of Assembly (Function Centre) & Display of Floodlit Business Identification Sign  
**APPLICANT:** AJ & CL WYNHOVEN  
**DATE RECEIVED:** 26-Mar-2015  
**SUBJECT LAND:** 45 WENSLEYDALE STATION ROAD, WURDIBOLUC. (LOTS 1 & 6 PS: 422594)  
**ZONE:** Farming  
**OVERLAYS:** Nil  
**PERMIT REQUIRED UNDER CLAUSES:** 35.07-1, 35.07-4, 35.07-7  
**EXISTING USE:** Agriculture & dwelling  
**REPORTING OFFICER:** Maggie Juniper

**REASON FOR REFERRAL TO PLANNING COMMITTEE:**

- Planning Officer recommending refusal
- Objections received x 8

**MOVED:**

**SECONDED:**

**OFFICERS RECOMMENDATION**



**ALTERNATIVE RECOMMENDATION**



**POINTS OF DISCUSSION:** The Committee was not satisfied that the proposed development would not have a detrimental impact the quiet enjoyment and agricultural activities being undertaken on the surrounding land. It was resolved to refuse the Application.

**ALTERATIONS TO PLANNING OFFICER RECOMMENDATION:**

Modify Ground of Refusal as follows:

1. The use and development fails to meet the purposes of the Farming zone and will result in loss of productive agricultural land and impact on the operation and expansion of adjoining and nearby agricultural uses.
2. The proposal does not represent an orderly planning of the area as required under Clause 65.01 of the Surf Coast Planning Scheme.
3. The proposal does not meet the Decision Guidelines of the Farming Zone in regard to its incompatibility with adjoining and nearby land uses and its failure to provide an appropriate and safe vehicle access to the site.
4. The proposal would have a detrimental impact on local amenity in terms of noise, dust, traffic generation and road safety

**COMMITTEE RESOLUTION**

That Council having caused notice of Planning Application No. 14/0508 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the

provisions of 63.05 of the Surf Coast Planning Scheme in respect of the land known and described as 835 Great Ocean Road, Bellbrae for the Buildings and Works Associated with the Use of the Land for Boat and Caravan Storage in accordance with the endorsed plans, subject to the following conditions:

1. The use and development fails to meet the purposes of the Farming zone and will result in loss of productive agricultural land and impact on the operation and expansion of adjoining and nearby agricultural uses.
2. The proposal does not represent an orderly planning of the area as required under Clause 65.01 of the Surf Coast Planning Scheme.
3. The proposal does not meet the Decision Guidelines of the Farming Zone in regard to its incompatibility with adjoining and nearby land uses and its failure to provide an appropriate and safe vehicle access to the site.
4. The proposal would have a detrimental impact on local amenity in terms of noise, dust, traffic generation and road safety.

**CARRIED**

### **SUMMARY**

The application seeks approval to use and develop land at 45 Wensleydale Station Road Wurdiboluc for a Place of Assembly (Function Centre) and to Display a Floodlit Business Identification Sign.

A planning permit application (P15/0134) has also been received to use the adjoining property at 55 Wensleydale Station Road for Place of Assembly – specifically functions conducted in marquees including weddings and corporate events. The properties are in separate ownership but as both applications raise similar planning issues and have received common objections they been referred concurrently to the Planning Committee for its consideration.

It is proposed to convert and alter a woolshed at the farming property to host weddings and a range of functions. This would be supported by construction of a new access driveway entering at the northeast corner of the land in proximity to the Cape Otway Road and by an onsite carpark for 42 vehicles.

The woolstore alterations and additions include:

- A new timber deck/floor under a roofed area (*to cover the existing dirt floor*)
- New toilets, bride change room, store & kitchen
- Glazed walling/sliding doors and corrugated iron cladding to elevations

It is intended the Place of Assembly would operate:

- Fridays, Saturdays and Sundays between the hours of 11am to 11pm the same day
- New Years Eve up to 1.00am the following day
- Weekdays between 11.00am to 10.00pm on 30 occasions per year.
- With guests numbers of up to 100 persons in a standing or seated capacity.

The venue would also provide the option of self catering or the hiring of caterers to provide food and drinks for any booked function. A juke box would be offered for hire as well as options for non – amplified music and acoustic band/singers.

Alcohol would be supplied for booked functions under a Renewable Limited Licence with the land owner as the liquor licensee. This type of licence does not require a Planning Permit under Clause 52.27 Licensed Premises, of the Surf Coast Planning Scheme.

The 28.59ha site lies just south of the intersection of the Wensleydale Station and Cape Otway Roads at Wurdiboluc and is used for farming cropping/grazing and developed by a dwelling, outbuilding and a disused woolshed.

The site and surrounding area is zoned Farming with no overlays and is characterised by an open and undulating rural landscape of medium scaled farming enterprises with a concentration of rural living properties further east in and around Gherang Road. Nearby, in the north, the Cape Otway Road (Road Zone Category 2) skirts the Wurdiboluc Reservoir which is zoned Public Use zone.

The town of Winchelsea lies approximately 8.5kms north of the subject site and Geelong around 19kms distance to the north east.

The application was placed on Public Notice and eight (8) objections were received with the main issues raised being:

- Appropriateness of the use in the Farming Zone
- The intensity of the use including functions each Friday, Saturday and Sundays and at least 30 other occasions weekdays which is a significant departure from use of land for farming purposes
- Noise from amplified speakers, music, cars and people late into the evening each weekend and on weekdays affecting the rural amenity of the area and livestock
- Noise would limit agricultural choices of farmers – ie beef cattle
- The potential for noise to carry long distances in open rural areas
- Traffic management and safety including:
  - the suitability of Wensleydale Station Road to accommodate potentially 80 plus vehicles due to its narrow seal and eroding and degrading verges
  - patrons unfamiliar with local roads
  - the compressed times frames of people arriving and leaving functions including late at night
  - current safety issues at corner of Wensleydale Station Rd and Cape Otway Road
  - insufficient width of sealed section for turning off Cape Otway into Wensleydale Station Rd
  - new entry at north of property will increase congestion near intersection
- Potential security issues for adjoining farms
- Type of venue best located within local townships which have existing facilities that can cater for functions

It is acknowledged the conversion of the woolshed and construction of the new access driveway will not result in significant removal of agricultural land at the site but the key consideration is if the strategic policy and zone considerations of the Surf Coast Planning Scheme will be met.

It is noted:

- the use is intensive and is proposed to operate every Friday, Saturday and Sunday with an additional 30 weekday events per year
- events will occur daytime and night time up to 11.00pm and will include up to 100 patrons with option for juke box or acoustic music
- the woolshed adjoins a common property boundary with a small farm
- the site is not strategically located on the Great Ocean Road, or within an identified coastal hinterland or in an area earmarked for the application of the Rural Activity zone (Amendment C68)
- the function centre is not associated with agriculture nor enhances agricultural production
- the function centre is not a tourism development

It is considered the proposed function centre use fails to meet the SPPF and LPPF policy framework and the purpose of the Farming zone in that it does not support agriculture and has potential to impact detrimentally on agricultural activities in the surrounding area; it is incompatible with existing uses of surrounding land for agriculture and rural dwellings and does not provide for the long term protection of farm land.

Also, the tourism benefits are questionable given the essential commercial nature of the function centre which by definition is an 'event venue' where the focus is on the event/private event. Furthermore, the function centre is not a tourism development of the type outlined in the LPPF or in an identified location – that is small scale nature and adventure based in select areas or agricultural based tourism development in the rural hinterland.

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**RECOMMENDATION**

That Council having caused notice of Planning Application No. 15/0108 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the provisions of 35.07-1, 35.07-4, 35.07-7 of the Surf Coast Planning Scheme in respect of the land known and described as 45 Wensleydale Station Road, Wurdiboluc., for the Use and Development of a Place of Assembly (Function Centre) and Display of Floodlit Business Identification Sign for the following reasons:

1. The use and development fails to meet the SPPF and LPPF policy framework and the purposes of the Farming zone in that it does not support agriculture, will result in loss of productive agricultural land and impact on the operation and expansion of adjoining and nearby agricultural uses.
2. The use and development does not represent the type of tourism development identified in the LPPF for land within the Farming zone.
3. The use and development is incompatible with adjoining and nearby land uses and the amenity of the surrounding rural area.
4. The use and development will result in unacceptable impact on existing road infrastructure.

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**OFFICER'S REPORT - 15/0108 - 45 WENSLEYDALE STATION ROAD, WURDIBOLUC.**

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**Proposal**

The application seeks approval for Use and Development for a Place of Assembly (Function Centre) and Display of a Floodlit Business Identification Sign.

It is proposed to convert a woolshed at an existing farming property for use as Place of Assembly (Function Centre) hosting weddings and a range of functions. The use would be supported by construction of a new access driveway entering at the northeast corner of the land in proximity to Cape Otway Road and an onsite carpark for 42 vehicles, and by additions and alterations to the woolshed.

The woolstore alterations and additions would include:

- A new timber deck/floor under a roofed area (*to cover the existing dirt floor*)
- New toilets, bride change room, store & kitchen
- Glazed walling/sliding doors and corrugated iron cladding to elevations

It is also proposed to install and display a flood lit businesss identification sign at the new driveway entry off Wensleydale Road – to be floodlit on the evening of any function.

It is intended the Place of Assembly would operate:

- Fridays, Saturdays and Sundays between the hours of 11am to 11pm the same day
- New Years Eve up to 1.00am the following day
- Weekdays between 11.00am to 10.00pm on 30 occasions per year.

The number of guests would be 100 persons in a standing or seated capacity.

The venue would provide the option of self catering or the hiring of caterers to provide food and drinks for any booked funtion. A juke box would be offered for hire as well as options for non – amplified music and acoustic band/singers.

It is intended alcohol will be supplied for booked functions under a Renewable Limited Licence with the land owner as the liquor licensee. This type of licence does not require a Planning Permit under Clasue 52.27 Licensed Premises, of the Surf Coast Planning Scheme.

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**Site and Surrounding Area**

The 28.59ha site lies on the east side of Wensleydale Station Road, Wurdiboluc, just south of the intersection with the Cape Otway Road. The site is currently used for farming purposes of cropping/grazing and is developed by a dwelling, outbuilding and a woolshed.

The site comprises relatively flat open pasture with shelter belt plantings along paddock lines, to the north of the woolshed and around the dwelling and outbuilding.

As a consequence of a subdivision/boundary re-alignment undertaken in 1998, the site developments are located close to the common property boundary with the property no 55 Wensleydale Station Road – a relatively small farming property of 12.23ha that contains a dwelling and outbuilding and a disused dwelling near the boundary with the subject land. A planning permit application (P15/0134) has also been received for use of this property for Place of Assembly – specifically functions conducted in marquees including weddings and corporate events.

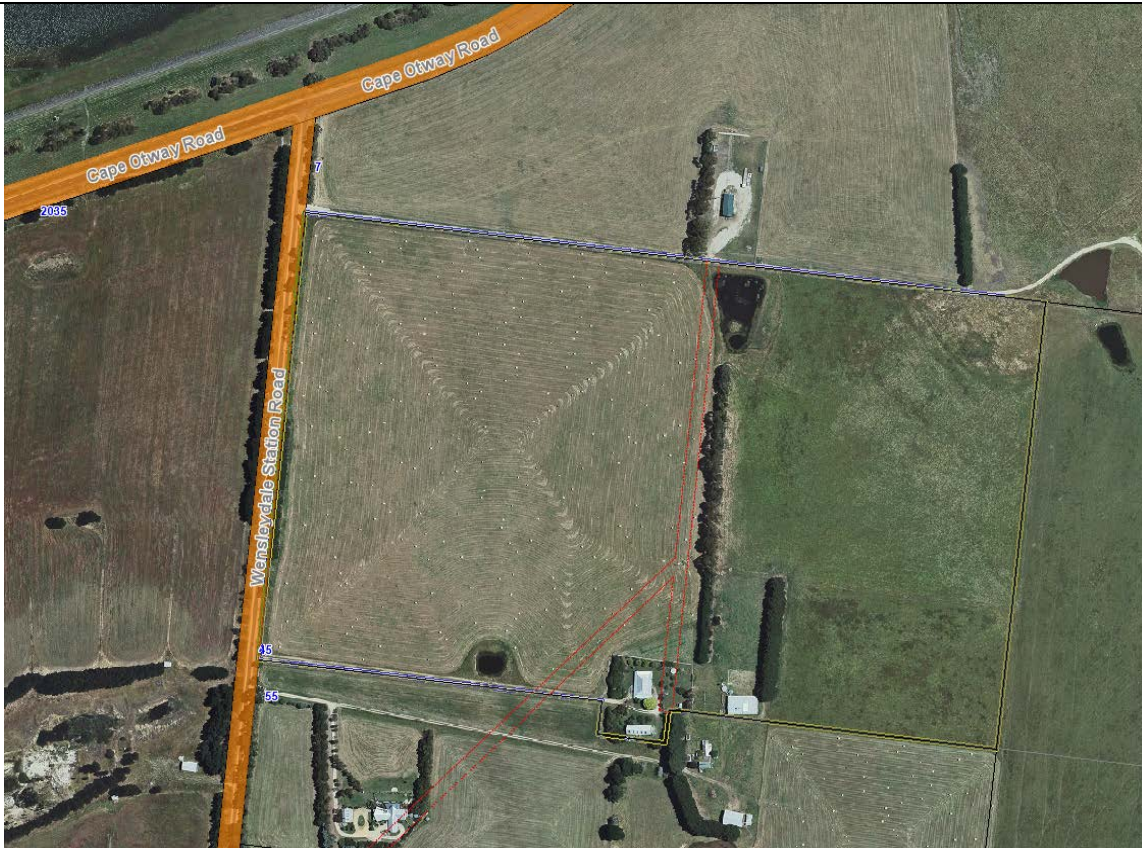
The surrounding area is characterised by open and undulating farm land of medium scaled farming enterprises with a concentration of rural living properties further east in and around Gherang Road. Nearby, in the north, the Cape Otway Road (Road Zone Category 2) skirts the Wurdiboluc Reservoir which is zoned Public Use zone.

The town of Winchelsea lies approximately 8.5kms to the north of the subject site and Geelong around 19kms distance in the north east.

The site and surrounding land is zoned Farming with no overlays.



**Detail of Subject Site – shows woolshed to east adjacent to common boundary**



**Subject Site – also shows property no 55 Wensleydale Road to south. Source: GIS 2014**

**Registered Restrictions**

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction. The subject land Lot 1 PS422594N is not affected by registered restrictions.

**Aboriginal Cultural Heritage**

Pursuant to Section 52(1) of the *Aboriginal Heritage Act 2006* if a Cultural Heritage Management Plan (CHMP) is required a planning permit cannot be granted until a copy of the approved CHMP is provided and cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject site isn't within an area of cultural heritage sensitivity therefore a CHMP isn't required.

**Relevant History and Background**

**Past permits:**

Applic'n No.	Proposal	Decision	Date
06/0039	Develop land for dwelling (relocated)	Approved	6/2/06
04/0593	Use land for 2 dwellings	Approved	24/11/04
98/7580	Boundary re-alignment	Pending	-

**Enforcement:**

Nil

**Referral**



The application was not required to be formally referred in accordance with the Section 55 of the *Planning and Environment Act 1987* or Clause 66 of the *Surf Coast Planning Scheme*.

Internal Council Referrals	Advice/Response
Infrastructure Department	Consent with conditions
Environmental Health Department	Recommended a Noise Management Program and an acoustic report be submitted to support the application. <i>*this was not provided on officer advice to applicant the application was to be recommended for refusal</i>

**Public Notice**

In accordance with Section 52 of the *Planning and Environment Act 1987*, public notice of the application was carried out in the following manner:

1. notice was sent by ordinary mail to nearby owners, who were given a period of 14 days to comment on the application.
2. a sign was erected on the land for a period of 14 days.

Eight (8) objections were received. Copies of the objections are attached to the file, and are summarised as follows:

Council's electronic storage system (TRIM) was checked on 27 July 2015.

**A. 7 Wensleydale Station Rd Wurdiboluc**

- Noise from music, cars, people etc into late evening weekends and weekdays
- Noise travels great distances in rural areas
- Driveway position – will impact on access to their property
- Rubbish and bottles
- Congestion on Wensleydale Station Road
- Decrease land value
- Impact on future subdivision
- Security
- Guests looking into property

**B. 155 Wormbete Station Rd Wurdiboluc**

- Wensleydale Station Rd a single lane bitumen road with soft edges – principally used by local residents & for moving farm equipment and machinery
- Speed limit 100kph and peoples come off edges to overtake requiring upgrading
- Other rural roads in area are in bad repair
- Due to freeway expansion Cape Otway Road requires regular upgrading
- 

**C. 290-320 Centre Road Winchelsea South**

- Changes to Farming Zone should not be an open door for abandonment of the underlying purpose of a zone
- Use and frequency of use proposed is a significant drift away from the use of land for farming purposes
- Little mention of farming use of property altogether than as backdrop for a commercial activity
- Important that complain processes put in place should a permit issue
- Key concerns traffic management to and from site
- Wensleydale Station Rd is dangerous and seal is eroding and verges degrading
- Additional traffic will worsen the problem
- If development proceeds applicants should be made to contribute to widening of the road to property entrance

- Major safety issue at corner of Wensleydale Station Rd and Cape Otway Road with insufficient width of sealed section for turning off Cape Otway Rd into Wensleydale St Rd
- Addition of potentially 80 plus vehicles at intersection will increase accident potential and especially as patrons will be unfamiliar with roads and areas
- Safety issues will be compounded by the compressed times frames of people arriving and leaving functions
- Proposed new entry at north of property will make things worse with congestion near intersection

**D. 90 Wensleydale Station Rd Wurdiboluc**

- Property is in a farming zone with all activity related to farming or rural lifestyle
- Proposed works to woolshed appear substantial; but limited works planned to create road and car parking area
- Dust problems in summer
- Major concern is entry and exit of cars attending venue – property close to fire risk areas
- Functions will result in congestion on local roads
- Besides guests there will be vehicles associated with catering etc.
- Current roadworks on Colac Highway have increased cars on Cape Otway Road and intersection at Wensleydale Station Road is difficult and dangerous
- Hours of operation will impact on the current quiet amenity of the area with cars and noise from venue
- Up to 180 functions per year will impact on amenity and against the Farming Zone and purposes
- Dispute that non amplified music will be provided with up to 100 guests
- Noise will disrupt many neighbours especially on summer evenings
- No mention of amplified speakers at functions – will disturb residents during day
- Excessive noise associated with serving of alcohol, loud cars and possible trespass
- Neighbouring property 55 Wensleydale Station Road also has a planning permit application for a similar venue and if operating at same time will magnify noise & disturbance
- Not in keeping with day to day activities of Farming Zone
- This type of venue best located within local townships.

**E. 80 Wensleydale Station Rd Wurdiboluc**

- Noise – in coming traffic and going late at nights as function centre will be operating on Friday, Saturday & Sunday night 11.00am to 11.00pm and up to 1.00am New Year's eve.
- Use on weekdays until 10pm up to 30 occasions per year
- No capping of nos of events on weekends
- Potential for traffic and patron noise 186 days of year
- Constant noise every weekend when rural and working people are resting
- Noise travels in in open rural areas
- Hear traffic from Cape Otway Road about 500m from property
- Property is in a farming zone with all activity related to farming or rural lifestyle
- Existing facilities in district that can cater for functions – public halls, football clubrooms, Globe Theatre in Winchelsea and Barwon Park plus hotels in Moriac and Winchelsea

**F. 80 Noels Lane Gherang**

Noise

- Farm located directly east of proposed venue site
- Noise from functions /music/voices will be heard and affect rural lifestyle
- Nighttime operation will affect family life and sleep
- Noise does travel significant distances in rural areas
- Option of patron management of music provides no control of type of level of noise

Traffic congestion & risk

- Wensleydale Station Rd is a rural road with capacity typically of one vehicle at a time with need to move on to verge for incoming traffic
- Venue will increase cars on roads as well as delivery vans and trucks associated with functions
- Intersection of Wensleydale Station road and Cape Otway Road high risk with past occurrence of accidents

- Risk that vehicle may park outside venue

Farming Zone

- Commercial operation with noise, litter and noise from patrons and traffic impacts – not compatible with farm operation

**G. 95 Casboults Rd Wensleydale**

- Simultaneous applications for Place of Assembly/Function Centres at nos 45 & 55
- Granting one or both will lead to precedent
- Use against Clause 35.07 – take prime agricultural land out of use and potentially impact on neighbouring properties
- Limits agricultural choices for farmers - beef cattle cannot be close to that type of noise
- Land should be kept in agricultural production
- Impact on amenity of rural farming area – large number of cars and noise
- Wensleydale Station road is effectively one lane wide and does not accommodate 2 vehicles side by side
- Road would need to be widened for safety given soft edges & patrons leaving at night
- Also a school bus drop off near corner which will be impacted by daytime functions
- Noise – a 50 metre carry of noise (to a sensitive use) is not applicable in this setting
- Noise will carry on wind across Cape Otway Road and to surrounding farms and multiply by x2 function centres

**H. 95 Wormbete Station Rd Wurdiboluc**

- Change general amenity of area forever
- Peaceful rural zoned farming community of small land medium holdings
- Function Centre with extra cars, buses and people suit the current zoning
- Cape Otway Road and Wensleydale Station Road are difficult and dangerous – several accidents on the bend near Wurdiboluc Reservoir
- Locals know the road conditions but patrons will be unfamiliar
- Buses will do a lot of damage
- Noise travels extensively across cleared farmland
- There are 2 applications for similar businesses – if one granted would have to grant the other – set precedence for all types of applications in area

**Comment**

The grounds of objections are addressed in the discussion section of this officer report.

**Planning Scheme Considerations**

**Permit Requirements**

The land is zoned Farming Zone and is assessed against the provisions of the *Surf Coast Planning Scheme* as follows:

Criteria	Standard	Proposal	Comment
Clause 35.07-1 Table of Uses	Section 2 – permit required <ul style="list-style-type: none"> <li>▪ <b>Place of Assembly (other than Amusement parlour, Night club, Carnival and Circus)</b></li> <li>▪ <b>Function centre is nested within that use.</b></li> </ul> CI73 defines: Place of Assembly as “ <i>Land where people congregate for religious or cultural activities, entertainment, or meetings.</i> ”	Use & development of land for Place of Assembly (Function Centre) & Display of Floodlit Business Identification Sign	<b>Permit required</b>

	Function Centre as “ <i>Land used by arrangement, to cater for private functions, and in which food and drink may be served. It may include entertainment and dancing.</i> ”		
<b>Clause 35.07-4 Buildings &amp; works</b>	<p>A permit is required to construct a building or construct or carry out:</p> <ul style="list-style-type: none"> <li>• A building or works associated with a use in Section 2 of Clause 35.07-.</li> </ul> <p>This does not apply to:</p> <ul style="list-style-type: none"> <li>▪ An alteration or extension to an existing dwelling with a floor area of no more than 50sqm.</li> <li>▪ An alteration or extension to an existing building used for agriculture with a floor area of no more than 100sqm. The building must not be used to keep, board, breed or train animals.</li> <li>• Earthworks which change the rate of flow or discharge point of water across the property boundary or increase the discharge of saline groundwater.</li> <li>• A building which is within any of the following setbacks:           <ul style="list-style-type: none"> <li>▪ 50m from RDZ1</li> <li>▪ 40m from RDZ2</li> <li>▪ 20m from any other road</li> <li>▪ 5m from any other boundary</li> <li>▪ 100m from a dwelling not in the same ownership</li> <li>▪ 100m from a waterway, wetland or designated flood plain.</li> </ul> </li> </ul>	<p>Use &amp; development of land for Place of Assembly (Function Centre) – section 2 use &amp; Display of Floodlit Business Identification Sign</p> <p>NA</p> <p>NA</p> <p>NA</p> <p>NA</p> <p>NA</p> <p>NA</p> <p>NA</p>	<b>Permit required</b>
<b>35.07-7 Advertising signs</b>	Advertising sign requirements are at Clause 52.05. The zone is Category 4.	Floodlit Business Identification Sign	<b>See 52.05</b>

**State Planning Policy Framework**

**11 Settlement**  
 11.05 Regional Development

### 11.05-3 Rural Productivity

#### **Objective**

*To manage land use change and development in rural areas to promote agriculture and rural production.*

#### **Strategies**

- Prevent inappropriately dispersed urban activities in rural areas.
- Limit new housing development in rural areas, including:
  - Directing housing growth into existing settlements
  - Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses
  - Encouraging consolidation of existing isolated small lots in rural zones
- Restructure old and inappropriate subdivisions.

#### Clause 11.07 Geelong (G21) regional growth

**11.07-5 Agricultural productivity** has the objective:

*To secure food, water and energy resources.*

#### **Policy guidelines**

Planning must consider as relevant:

- *G21 Regional Growth Plan* (Geelong Region Alliance, 2013).

**11.07-7 A diversified economy** has the objective:

*To build the region's economy.*

The **Strategies** include:

- Support diversity in the region's economy that builds on its competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.

## **14 Natural Resource Management**

### Clause 14.01 - Agriculture

#### 14.01-2 Protection of agricultural land

#### **Objective**

*To protect productive farmland which is of strategic significance in the local or regional context.*

#### **Strategies**

- Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.
- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.
- In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.

- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.
- Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.

In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinization) which might affect productive agricultural land against the benefit of the proposals.

### **CI 17 Economic Development**

Planning is to provide for a strong and innovative economy, where all sectors of the economy are critical to economic prosperity.

Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

#### **17.03 Tourism**

**17.03-1 Facilitating tourism** has the objective

*To encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.*

**Strategies** to achieve this are:

- Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, motel accommodation and smaller scale operations such as host farm, bed and breakfast and retail opportunities.
- Seek to ensure that tourism facilities have access to suitable transport and be compatible with and build upon the assets and qualities of surrounding urban or rural activities and cultural and natural attractions.

#### **Policy guidelines**

Planning must consider as relevant:

- Any relevant regional tourism development strategy
- 

#### **Local Planning Policy Framework (LPPF)**

##### **CI21.01 Profile and Vision**

###### **CI21.01-1 Surf Coast Shire**

This policy outlines:

*The Surf Coast Shire is a popular tourist and surfing area. Its economy is increasingly reliant on tourism. Employment is dominated by retail, tourism, and hospitality, construction and health and community services. Agriculture, once the dominant sector, is still growing in productive output and makes a significant contribution to the economy, but employs only a small proportion of the Shire's workforce.*

*The rural areas of the Shire are not only important for agriculture, but are increasingly valued in terms of environmental and landscape, for its contribution to the amenity and liveability of the shire and its tourism and recreation value.*

The Municipal Framework Plan (MFP) at CL 21.01-4 identifies the following key strategic directions (as relevant):

#### **Settlement Built Environment and Heritage**

- To manage population and tourist growth and development in an ecologically sustainable manner.

- To protect the rural landscape from urban intrusion and to provide clear distinction between townships.
- To support and strengthen the individual character and role of the coastal and rural towns within the Shire that contributes to the diversity of experiences, and residential, commercial, recreational and employment opportunities.

**Tourism**

- To promote natural resource based tourism, at a scale and form that respects its setting, the surrounding land uses and the locale.

**Agriculture**

- To protect and enhance the rural areas of the Shire for their diverse agricultural, environmental and landscape values and opportunities.

**Landscape**

- To recognise rural landscape vistas are highly valued for their contribution to the amenity and liveability of rural areas.

**CI21.04 Tourism**

This clause identifies key issues and influences for the tourism industry within the Shire (as relevant to the application).

- The tourism industry is underpinned by the coastal location, environmental values and scenic qualities of the Surf Coast.
- Tourism benefits the community by injecting money into the local economy, providing jobs, improving facilities, creating opportunities for business and stimulating improved transport services.
- 
- The focus of tourism is broadening as tourist developments seek to capitalise on the environmental and landscape values of the rural hinterland for nature and farm based tourism, while providing opportunities for the diversification of struggling rural enterprises.
- 
- The benefits of tourism needs to be balanced against the potential negative impacts including:
  - 
  - impacts on local communities through loss of amenity, overtaxing of services, pressure on infrastructure (water supply, wastewater treatment, waste disposal, roads, car parking) and environmental damage;
  - pressure for higher density and larger scale urban tourist development, which can compromise the low scale and vegetated character of the coastal townships; and
  - pressure for tourism development in rural and environmentally sensitive locations along the coast and in the rural hinterland, which has potential to compromise the natural environment, landscape values and agricultural activities.

The objective for **Tourist development CI21.04-1** is:

*“To enhance and expand the tourism industry, whilst protecting the environmental, landscape and cultural values of the Shire and the lifestyle of its residents.”*

The strategies for achieving this objective include:

- *Limit non-agricultural based tourism development to the Lorne coastal hinterland and other selected rural areas. Such development to be small scale, nature and adventure based tourist activities and accommodation that are compatible with natural processes.*
- *Encourage agricultural based tourism development in the rural hinterland to assist in diversification of the rural economy. Such development to be small scale and in character with the immediate rural/agricultural environment.*

- *Ensure new tourism development uses high quality, low intensity, unobtrusive, site responsive buildings and works based on ecologically sustainable design principles.*
- *Encourage use and development that will increase visitor length of stay and increase visitor numbers in the off-peak period.*
- *Encourage the development of a diverse range of quality tourist accommodation and facilities to meet changing visitor needs.*

The clause also provides that these strategies will be implemented by:

- When deciding on applications for tourist developments in a non-urban zone, consider:
  - Tourism development in the farming areas of the Shire should generally be of a small scale that does not compromise the agricultural use of the land.
  - Tourism development should be of a nature, designed and sited to avoid conflict with existing rural uses, preserve the rural landscapes and environmental values, avoid loss of high quality agricultural land, and be within proximity of existing townships.
  - Tourism development should enhance the environmental condition of the land through protection and re-establishment of native vegetation and control of pest plants and animals, erosion, salinity, stormwater and nutrient runoff. This should be demonstrated through the development and implementation of a management plan.
- Discourage tourism development from locating in prime farming areas, particularly in areas with an open rural landscape.

### **21.05 Agriculture**

This Clause provides local content to support Clause 14.01 (Agriculture) of the State Planning Policy Framework.

Key issues and influences identified by this clause include (as relevant):

- *Rural activities in the Shire are diverse but there is a continuing shift towards more intensive agricultural industries and lifestyle or part time farming. This is changing the rural landscape of parts of the Shire.*
- *While comparatively modest, the economic value of agriculture continues to grow and there is potential for further development of agricultural production, including irrigated agriculture based on the use of recycled water from the Black Rock Wastewater Treatment Plant.*
- *Hobby farming or rural residential type living, through inappropriate small lot excision and construction of dwellings unrelated to farming, impacts on the agricultural industry and the rural landscape.*
- 
- *The significant population growth within the Shire is expected to continue and will increase pressure for inappropriate urban intrusion into productive agricultural and scenic landscape areas.*
- 
- *There is increasing pressure for tourism and other development to locate in the rural areas, which may adversely impact on environmental, landscape, social and agricultural values.*

The **Objectives for Agriculture (21.05-2)** include:

- to encourage sustainable agriculture to grow and support prosperous and sustainable rural communities
- to seek to protect the ability of future generations to productively farm the land



- 
- to seek to avoid the loss of agricultural productivity associated with land use conflicts, particularly between farming activities and non-farm related residential development.

To do this, the **Strategies** are (as relevant):

- Support agricultural activities and associated rural industries that will maintain and build on the economic base of the Shire.
- Support the use of existing small lots for innovative or niche productive activities that are not dependent upon or associated with the development of a dwelling on the lot.
- Support infrastructure and resources that will enhance productive agriculture.
- Discourage the use and development of good quality agricultural land for activities that are not reliant on the soil
- Strongly discourage fragmentation and non-productive use of agricultural land.

### 21.06 Rural Landscape

This clause advises the following key issues and influences:

- *Ensuring that new land use and development is complementary to the highly valued rural landscapes is important for economic and social reasons.*
- *Understanding the values of the different rural landscapes is necessary to appropriately manage future use and development.*

The rural areas of the Shire have been categorised into five landscape precincts, primarily on the basis of landscape features but also taking into account land use, agricultural quality, tenement/allotment patterns and environmental values.

The site is within the Cape Otway Road to Northern Foothills and Coast Landscape Unit which is described as:

*Cape Otway Road to the Northern Foothills and Coast – visually attractive undulating landscape of open farm land, framed by dense bushland. It extends from the steepening valleys and foothills of the northern slopes of the Otway Ranges in the west, through the lifestyle bush blocks of Wensleydale and Gherang to the semi-pastoral hills of Bells Beach in the east. The gently rolling hills, with some incised creeks and gullies, and pockets of remnant vegetation contribute to a sheltered, enclosed landscape. Buildings tend to be located away from roads, often in valleys or among trees. Bells Beach is listed on the Victorian Heritage Register for its cultural and aesthetic heritage values.*

*While the main land use in the precinct is farming, it occurs predominantly for lifestyle purposes. Dairying, particularly concentrated around Deans Marsh, has declined and timber, grass seed production, vines and olive groves are emerging. There are a number of rural tourism businesses primarily around Deans Marsh and Bellbrae. The landscape and environmental values of this precinct are the primary reasons for its attractiveness for tourist and lifestyle use and development.*

Relevant **Objectives (21.06-3)** include:

- *To protect and enhance the landscape values of the rural precincts as described in Clause 21.06-2 above.*
- *To protect and maintain open and uncluttered rural landscapes, including vistas from main road corridors.*
- *To protect the rural landscape from urban intrusion and to provide clear distinction between townships.*

**Strategies** to achieve the objectives include:

- Encourage the siting and design of new buildings to complement existing farm structures, avoid locating on hilltops and ridges and nestle into the landscape where possible.

- Ensure tourism facilities are limited in their intensity and scale to avoid adverse visual impact on the natural environment and rural landscape and to retain the marketing characteristics of low key, eco-based tourist values.
- Ensure new buildings and are sited and designed in the Barrabool Hills to foster the historic rural landscape qualities of the area.
- Encourage new development, including intensive animal industries and dwellings, to adopt a clustered development pattern rather than being dispersed throughout the landscape.
- Discourage uses not associated with an agricultural activity in any rural area outside the Rural Activity Zone.

**Implementation** (21.06-4) includes the following specific development *principles* for non-agricultural use and development (but is silent on agricultural related development):

- Buildings should be of modest scale and nestle into the landscape;
- Building should be subservient to the landscape so as not to detract from its visual qualities;
- Proposals should include net gain environmental outcomes; and
- Development should be self-sufficient in the provision of infrastructure and associated costs.

**Summary:**

State and Local level policy is directing that productive agricultural land be protected, including by limiting subdivision, and use and development not related to farm based land use. Policy also recognises that small scale nature and adventure based tourist activities in select areas and agricultural based tourism development in the rural hinterland may be appropriate in the Farming zone.

**Particular Provisions**

Clause 52.05 - Advertising Signs

52.05-10 Category 4 Sensitive areas – Maximum limitation

Section 2 – Permit required

Business Identification Sign –The total advertisement area to each premises must not exceed 3sqm

Flood lit sign – nil condition

Clause 52.06 – Car parking

This clause applies to a new use (as is the case here) and provides that before a new use commences the number of car parking spaces required under Cl 52.06-5 must be provided on the land or in accordance with a permit issued under Clause 52.06-3 (*reduce or provide some on another site*).

Use for Place of Assembly, Table 1 Car Parking Requirement applies a rate of 0.3 spaces to each patron permitted. The proposal for a maximum of 100 patrons would generate a parking requirement of 30 car parking spaces which would be able to be accommodated on the site.

**General Provisions**

Clause 65 Decision Guidelines

**Planning Scheme Amendments**

**Amendment C68 (Rural Landscapes and Rural Activity zone)**

Surf Coast Shire Planning Scheme Amendment C68 proposed the rural hinterland of Bellbrae and Deans Marsh be rezoned to Rural Activity zone to allow consideration of tourist and recreational activities and group accommodation and restaurants associated with tourist or recreational activities independent of agricultural use.

C68 was recommended by Panel for adoption subject to a small number of changes, including clarification about the fire risk of a few properties in the Bellbrae region. Implementation was delayed by a DPCD advised revised bushfire mapping which to date has not proceeded. Changes to the Farming zone in 2013 now allow a broader range of land uses to be considered on merit (Section 2) and not in 'in conjunction with agriculture' as previously required.

Amendment C68 has since lapsed and although the Rural Activity Zone is no longer necessary it (C68) provides a useful context for decision making for applications involving tourist related and other land uses that are not tied to agriculture.

The application site is not located within those rural hinterland areas in which non-agricultural based tourism activities were to be encouraged.

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## Discussion of Key Issues

### ***Policy Considerations***

The strategic framework for land use planning is set out in the State Planning Policy Framework (SPPF) and refined through the Local Planning Policy Framework (LPPF) and the purposes of relevant zone and overlay provisions. At the broadest level land is required to be systematically planned and managed so as to achieve a net community benefit and sustainable development. It is a general theme of the SPPF to provide for orderly development and infrastructure, to promote a robust and diversified economy including at regional level, to protect productive agricultural land and to protect environmentally significant areas and significant landscapes.

With respect to agriculture, the strategic framework encourages the retention of productive agricultural land and discourages its loss and fragmentation through non soil based land uses, ad hoc subdivision and dwelling development. In considering a proposal to develop agricultural land the SPPF (14.01-1) requires the consideration of:

- the desirability and impacts of removing the land from primary production
- the impacts of development on the continuation of primary production on adjacent land, including regard to land values
- the compatibility between the proposed development and the existing uses of the surrounding land
- land capability.

The SPPF (17.03-1) also promotes tourism development to maximise employment and long term economic and social benefits and especially developments that are well designed and appropriately located so they build upon the assets of an area. The increasing pressure for tourism and other non-farm related development to locate in the rural areas is recognized by the LPPF (21.05 Agriculture) and, to protect agricultural production for future generations, intensive, non-agricultural based activities in the rural areas are strongly discouraged without sound strategic justification and if it can be established the activity will have minimal impact on surrounding rural uses.

The LPPF (21.04 Tourism) also recognises the broadening focus of tourism in the Shire as tourism developments seek to capitalise on environmental and landscape value of the rural hinterland for nature and farm based tourism and the opportunity this can provide for diversification of struggling rural enterprises. It cautions any benefits need to be balanced against potential negative impacts including amenity impacts on local communities, pressure on infrastructure and the natural environment, landscape values and agricultural activities.

Broadly, policy advises non-agricultural based tourism development should be limited to selected rural areas and be small scale, nature and adventure based tourist activities ..... compatible with natural processes. New tourism development that is high quality, low intensity, unobtrusive and site responsive, that uses ecologically sustainable design principles and which increase visitor length of stay and increase visitor numbers in the off-peak period is encouraged.

The changes to the Farming Zone (September 2013) now mean the application for Function Centre (Place of Assembly) can be considered and its merits tested against relevant policy and the decision guidelines of the zone. The reforms have potential to change the rural areas but the scale and type of impacts and whether a reasonable outcome will result must be considered.

Prior to the Ministerial reform, Surf Coast Shire Amendment C68 proposed the rural hinterland of Bellbrae and Deans Marsh be rezoned to Rural Activity zone to allow consideration of tourist and recreational activities and group accommodation and restaurants associated with tourist or recreational activities. Implementation of Amendment C68 was delayed by a DPCD advised revised bushfire mapping but to date this has not proceeded. In the interim, changes to the Farming zone have now removed the need for re zoning. While Amendment C68 is no longer necessary it provides a useful context for decision making for applications not tied to agriculture in the Farming zone.

In this case the subject site is not located within either of the specifically targeted rural hinterland areas.

When balancing conflicting planning objectives, Clause 10.04 SPPF advises planning authorities and responsible authorities to *"balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations"*

For a number of reasons it is considered the proposed function centre use fails to meets the policy framework in that it does not support agriculture and has potential to impact detrimentally on agricultural activities in the surrounding area; it is incompatible with existing uses of surrounding land including for rural dwellings and does not provide for the long term protection of farm land. Also, the tourism benefits are questionable given the essential commercial nature of the function centre which by definition is an 'event venue' where the focus is very much on the event/private event in contrast to tourism developments that are open to the public to appreciate or experience some particular attraction within the property or area.

In this respect it is observed the site is located within an open rural landscape typified by cropping/grazing and hobby farms with no significant heritage or environmental assets. Furthermore, the proposed function centre is not a tourism development of the type envisaged by the LPPF – that is small scale nature and adventure based in select areas or agricultural based tourism development in the rural hinterland.

### **Farming zone**

The site is zoned Farming and in addition to the SPPF and LPPF considerations, the purpose of the zone is:

- *To provide for the use of land for agriculture,*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- 

In the zone use for Place of Assembly (Function Centre) is a Section 2 - permit required use, which in turn triggers a permit for construction of building or works.

Currently, the 28.59ha subject site is used for cropping/grazing and is open pasture land with a rural dwelling, a shed and woolshed. The surrounding area includes modest sized farms with similar agricultural activities and rural lifestyle properties.

It is acknowledged the conversion of the woolshed and construction of the new access driveway will not result in significant removal of agricultural land at the site but the key consideration is if the purpose of the Farming zone will be met.

These matters are analysed in greater detail below but it is noted:

- the use is intensive and is proposed to operate every Friday, Saturday and Sunday with an additional 30 weekday events per year
- events will occur daytime and night time and will include up to 100 patrons with option for juke box or acoustic music

- the woolshed adjoins a common property boundary with a small farm
- the site is not strategically located on the Great Ocean Road, or within an identified coastal hinterland or in an area earmarked for the application of the Rural Activity zone (Amendment C68)
- the function centre is not associated with agriculture nor enhances agricultural production
- the function centre is not a tourism development

The Decision Guidelines of the Farming Zone provide further criteria by which the merits of the application must be assessed:

#### **General Issues**

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

In the context of the SPPF and LLPF there is broad support for tourism development but policy also strongly supports the retention of agricultural land for agricultural production. The tension between these policy positions is addressed by the strategies at Clause 21.04 which include:

- *Limit non-agricultural based tourism development to the Lorne coastal hinterland and other selected rural areas. Such development to be small scale, nature and adventure based tourist activities and accommodation that are compatible with natural processes.*
- *Encourage agricultural based tourism development in the rural hinterland to assist in diversification of the rural economy. Such development to be small scale and in character with the immediate rural/agricultural environment.*

As noted previously, the site does not fulfil either of these criteria and this is a threshold strategic issue which cannot be overcome by this proposal.

A recent VCAT decision [Pullin v Greater Geelong CC {2015} VCAT 652 (14 May 2015)] refused to grant a permit for use of a stables building for a function centre at a farm on land in the Bellarine Peninsula. This decision gave weight to the primary purpose of the Farming zone and the impact on a non-agricultural use on agricultural use of the land zoned for farming. It was held policy provided 'qualified support' for rural based tourism development rather than 'strong support'. The decision (refusal) also turned on the function centre use as opposed to a tourism development in that it was considered the function centre would not offer a 'tourist experience' or was of the form of 'tourist development' contemplated by policy.

A similar set of circumstances apply to this application for a function centre within the Farming zone. It is considered the site is not suitable for the intended use in that there is no policy support nor is there a specific link to agriculture carried out at the site. The proposed function centre use is intensive and clearly has potential to generate noise and increased traffic on rural roads and therefore is not compatible with adjoining and nearby land uses of small farms with rural dwellings and the continuing use of land for agriculture.

A similar application has also been received for the adjoining land and, if both applications were to be supported, off-site impacts would be intensified affecting a greater spread of farms and resulting in a cumulative impact in the area.

#### *Noise*

Noise impacts have been raised by submitters and especially as it is intended to operate the function centre for events every Friday, Saturday and Sunday and on at least 30 other occasions on weekdays during the year. The venue would also provide the option of juke box or acoustic band/singers.

By their nature rural areas are typified by quiet background noise levels especially at night time. This is not to say that agricultural activities do not generate noise as tractors, slashers and other machinery during planting and harvesting, haulage vehicles and animals all have potential to create noise. However, these activities are generally limited to certain times of the year or to certain times of day and usually have a constant background character that allows for accommodation/habituation of such noise by residents and animals/stock.

In contrast a function centre caters for an event attended by patrons at which is provided food, drink and possibly entertainment. Such events have peak attendance and departure times and as proposed by this application will run up to 11 pm on Friday, Saturday and Sunday nights.

These features will generate noise, including noise from patrons talking and yelling, from music, announcements, from cars coming and going and from car doors closing. This type of noise is likely to be impulsive and spasmodic in character and more noticeable affecting farm animals and local amenity. Apart from noise, there is a possibility of poor patron behaviour when departing the venue or trespass on adjoining farming properties.

The surrounding area is typified by cropping and grazing agriculture rather than intensive animal industries and it is expected farm noise patterns would be limited and that the area would be quiet or very quiet at night. Furthermore, in the open rural landscapes of Wurdiboluc/Wensleydale, it is expected noise would tend to travel a reasonable distance from its source.

For all of the above reasons, this highlights the poor compatibility between the proposed land use and the existing agricultural use.

#### *Road Infrastructure*

A number of submissions raised concerns about the existing road infrastructure and the traffic the function centre will generate. It appears the main access to the site would be via the Cape Otway Road - a Category 2 road with a speed limit of 100kph, with a short section along Wensleydale Station Road to the property driveway. It is noted Wensleydale Station Road is narrow rural road with a single sealed central carriageway with dirt verges and that when there is oncoming traffic one vehicle has to pull onto the dirt verge to let the other vehicle pass. Both Wensleydale Station Road and the Cape Otway Road are unlit and share a high speed intersection.

The function centre will generate both patron traffic and delivery truck traffic on this rural road and potentially additional traffic every day. There will also be a peak of vehicle movements attending events and leaving late evening which would be magnified if the other application were to be supported.

In the context of this narrow rural road which caters for local residents and the occasional agricultural vehicle(s) the level and timing of the additional traffic to be generated is considered unacceptable.

#### ***Agricultural issues and the impacts of non-agricultural uses:***

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

The function centre use is not tied to use of the land for agriculture nor does it enhance agricultural production at the site. As outlined above, the use has potential to impact adversely on agricultural production of the surrounding area and/or result in pressure to remove land from agricultural production.

### Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

No adverse environmental impacts are expected. Surf Coast Shire officers are satisfied waste water will be able to be treated on-site to the required standards and buffer distances.

### Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use and development will require traffic management measures.*

The design and siting issues identified in the Farming Zone are enhanced by Clause 21.06 Rural Landscape.

The site is within the Cape Otway Road to Northern Foothills and Coast Landscape Unit which is described as:

*Cape Otway Road to the Northern Foothills and Coast – visually attractive undulating landscape of open farm land, framed by dense bushland. It extends from the steepening valleys and foothills of the northern slopes of the Otway Ranges in the west, through the lifestyle bush blocks of Wensleydale and Gherang to the semi-pastoral hills of Bells Beach in the east. The gently rolling hills, with some incised creeks and gullies, and pockets of remnant vegetation contribute to a sheltered, enclosed landscape. Buildings tend to be located away from roads, often in valleys or among trees. Bells Beach is listed on the Victorian Heritage Register for its cultural and aesthetic heritage values.*

*While the main land use in the precinct is farming, it occurs predominantly for lifestyle purposes. Dairying, particularly concentrated around Deans Marsh, has declined and timber, grass seed production, vines and olive groves are emerging. There are a number of rural tourism businesses primarily around Deans Marsh and Bellbrae. The landscape and environmental values of this precinct are the primary reasons for its attractiveness for tourist and lifestyle use and development.*

It is considered the re-development/refurbishment of the woolshed will not adversely impact on the qualities of the surrounding rural landscape including vistas from main road corridor of the Cape Otway Road.

### Other Issues

#### *Property devaluation*

It is commonly held that property devaluation is not a relevant planning consideration.

### **Summary:**

The proposed function centre use fails to meet the Policy Framework and purpose of the Farming zone.

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The use does not support or enhance agricultural production and has potential to impact detrimentally on agricultural activities in the surrounding area and on the rural amenity of the area.

Specifically in order to protect agricultural productivity it is strategy to discourage non-agricultural based uses and tourism development outside of identified locations. In this respect the proposed function centre is not a tourism development of the type envisaged by the LPPF – that is small scale nature and adventure based in select areas or agricultural based tourism development in the rural hinterland. Also, the tourism benefits are not sustained given the essential commercial nature of the function centre which by definition is an 'event venue' where the focus is on the event/private event.

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### **Conclusion**

It is recommended that the application for Use and Development of a Place of Assembly (Function Centre) and Display of Adversting Sign be REFUSED.