



# Minutes

Hearing of Submissions Committee  
Tuesday, 13 October 2015

Held in the  
Council Chambers  
1 Merrijig Drive, Torquay  
Commencing at 4.00pm

**Council:**

Cr. Margot Smith (Mayor)  
Cr. David Bell  
Cr. Libby Coker  
Cr. Eve Fisher  
Cr. Clive Goldsworthy  
Cr. Rose Hodge  
Cr. Carol McGregor  
Cr. Brian McKiterick  
Cr. Heather Wellington

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MINUTES FOR THE HEARING OF SUBMISSIONS MEETING OF SURF COAST SHIRE COUNCIL  
HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY  
ON TUESDAY 13 OCTOBER 2015 COMMENCING AT 4.00PM

**PRESENT:**

Cr. Margot Smith (Mayor)  
Cr. David Bell  
Cr. Libby Coker  
Cr. Eve Fisher  
Cr. Rose Hodge  
Cr. Carol McGregor  
Cr. Brian McKiterick  
Cr. Heather Wellington

**In Attendance:**

Keith Baillie – Chief Executive Officer  
Kate Sullivan – General Manager Environment & Development  
Phil Rosevear – Co-ordinator Statutory Planning  
Cameron Hayes – Team Leader Para Planning  
15 members of the public

**APOLOGIES:**

**Council Resolution**

**MOVED Cr. Rose Hodge, Seconded Cr. Eve Fisher**

That an apology be received from Cr. Clive Goldsworthy.

CARRIED 8:0

**CONFLICTS OF INTEREST:**

Nil

**SUBMITTERS HEARD**

1. Tom Harding
2. John Morshead
3. Chubb Fadgyas
4. Torquay Bowls Club
5. John McCartney
6. Vic Teesdale
7. Richie Schultz and Tom McGrath (Applicant)

**BUSINESS:**

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## 1. ENVIRONMENT & DEVELOPMENT

### 1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408

**Author's Title:** Manager Planning & Development

**General Manager:** Kate Sullivan

**Department:** Planning & Development

**File No:** 15/0408

**Division:** Environment & Development

**Trim No:** IC15/323

**Appendix:**

1. List of Submitters who have Registered to Speak (D15/87418)
2. List of all other Submissions (D15/87448)

**Officer Direct or Indirect Conflict of Interest:**

**Status:**

In accordance with Local Government Act 1989 –  
Section 80C:

Information classified confidential under Section 77  
of the Local Government Act:

Yes

No

Yes

No

**Reason:** Nil

**Reason:** Nil

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### Purpose

To receive and note submissions in relation to the planning permit application 15/0408 which seeks a permit for the use of a temporary Pop-Up Bar on the land originally proposed to be a restaurant as part of the redevelopment of the Angling Club under planning permit 07/0736.

### Summary

This proposal commenced as an application to amend planning permit 07/0736. The assessment of the proposal has determined that a separate approval is required rather than requesting an amendment to the previous permit as that permit has expired. A new application form has now been completed and lodged by the applicant and is a fresh application for the same proposal. This change has been conveyed in writing to all objectors with the public notice of the fresh application. The proposal has now been registered with a new application number (15/0408). The objections received to the proposal will be considered to stand as objections to the new application number. All objectors have been notified of the change. This action has been taken so as to not prejudice the applicant or the objectors. Council will still be able to determine the fresh application at its meeting on the 27 October 2015.

The subject land originally obtained approval for Development of buildings & works; Use of the land for a restaurant; and waiver of standard car parking requirement which was granted on 8 September 2008. This was amended in 2011. The redevelopment of the boat club and kiosk has been completed in accordance with the endorsed amended plans which deleted the Restaurant and replaced it with a viewing platform, pergola (under construction), seating and landscaping.

The application seeks approval for a temporary pop-up bar to run during summer daylight hours (4<sup>th</sup> October 2015 to 3<sup>rd</sup> April 2016) as a trial of the use. The application also includes some modifications to the deck area to suit as well as temporary bar, toilet and seating to be installed during the operation, the application also includes live music to be performed and/or pre-recorded music to be played during the operation.

Twenty three (23) objections have been received in response to the proposal; these are from a mix of residence and commercial operators within Torquay. The Victoria Police Liquor Licence Unit is also an objector to the proposal.

The points raised by the objectors mainly relate to drinking in a public place, contrary to land use and zoning, projects a public drinking culture, potential for broken glass and litter in the foreshore, noise/disruptive behaviour, lack of demonstrated need, loss of amenity, lack of community benefit, lacking in detail, traffic management, loss in visual amenity, lack of consultation, inconsistent with planning scheme, enough licenced premises within Torquay, how is music managed, potential for underage drinking. Victoria Police also raised concerns with access to public realm and issues with people exiting the site and integration with the public and patrons.

### **1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408**

#### **Recommendation**

That Council receive and note the submissions to planning application 15/0408, which seeks approval for a temporary pop-up bar 48 The Esplanade Torquay.

#### **Committee Resolution**

##### **MOVED Cr. David Bell, Seconded Cr. Carol McGregor**

That Council receive and note the submissions to planning application 15/0408, which seeks approval for a temporary pop-up bar 48 The Esplanade Torquay.

CARRIED 8:0

## 1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408

### Report

The application seeks approval for use and development land for a temporary Pop-Up Bar. The land is within the Council Foreshore Reserve opposite Taylor Park and Torquay Bowls Club. The original permit allowed for the use and development of a restaurant on the upper level. However this was not constructed and a deck was constructed in lieu of the restaurant. The application seeks to use most of this area for the Pop-Up bar.

Site Plan



The deck area has been in existence since the redevelopment of the Fisherman's Beach in 2011 and is a public space for sitting or viewing. The site at the ground level contains a club house and kiosk. The operation of the pop-up bar is proposed by the operators of the kiosk.

The Pop-Up bar is proposed to operate from October 31 2015 until April 3 2016 with different operating hours based on the time of year. The hours proposed are as follows;

- 31/10/2015 – 25/12/2015 Thursday to Sunday 1pm until 9:30pm
- 26/12/2015 – 26/01/2016 Monday to Sunday 1pm until 9:30pm
- 28/01/2016 – 03/04/2016 Thursday to Sunday 1pm until 9:30pm

The maximum number of patrons proposed to be allowed within the site at any one time is 150, with a barrier proposed to contain patrons within the licenced area. The applicants are proposing to operate under a Limited Licence which does not require a planning permit but does require consent from Council and the relevant Public Land Manager (DELWP).

As part of this proposal, only part of the deck is proposed to be used, with the northern viewing deck not being included as part of the licenced area and a large setback from the front of the deck to ensure a buffer to the road. A portable disabled toilet and converted shipping container bar will operate on the deck area as part of the Pop-Up bar. The applicants are also seeking to have live music performed by acoustic artist as well as having pre-recorded music playing. The applicants have advised live music will be limited to no later than 8pm.

The total area proposed is similar to the originally approved restaurant however the proposed number of patrons has increased from 96 to 150. The hours of operation would be less (reduced from 1am and 11pm to no later than 9:30pm).

The applicants have received consent from DELWP and GORCC to lodge the application for Planning Permit subject to a detailed assessment by the Responsible Authority.

## 1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408

### **Discussion**

23 Objections have been received for the proposal. The hearing of submissions meeting allows an opportunity for the objectors to present their concerns to Council and for the applicant to explain their proposal.

The issues raised in objections will be considered in the overall assessment of the matter against the relevant provisions of the planning scheme and a report on the planning application will be presented to the 27 October Council meeting.

### **Financial Implications**

No direct financial implications on Council are expected as a result of this application.

Processing and assessment of the application and attendance (if required) at the Tribunal can be undertaken within the current operational budget.

### **Council Plan**

Theme 5 Development and Growth  
Objective 5.4 Transparent and responsive land use and strategic planning  
Strategy Nil

Theme 5 Development and Growth  
Objective 5.2 Encourage sustainable economic development and growth  
Strategy 5.2.3 Support and grow Surf Coast Shire's key industry sectors of Surfing, Tourism, Retail, Agriculture and Construction.

Theme 5 Development and Growth  
Objective 5.3 Develop and grow sustainable year round tourism  
Strategy 5.3.10 Lead new ways of working with the Great Ocean Road Coastal Committee (GORCC) to maximise resident / visitor benefits

### **Policy/Legal Implications**

The application has been assessed against relevant provisions of the Surf Coast Planning Scheme and the *Planning Environment Act 1987*.

### **Officer Direct or Indirect Interest**

No officer involved in the preparation of this report has any conflicts of interest.

### **Risk Assessment**

The merits of the proposal will be considered against the relevant provisions of the Surf Coast Planning Scheme and the *Planning & Environment Act 1987*.

### **Social Considerations**

Impact on the amenity, health and safety of adjoining residents will be considered in accordance with the relevant provisions of the Surf Coast Planning Scheme and the *Planning and Environment Act 1987*.

### **Community Engagement**

Public notice was provided in accordance with Section 52 of the *Planning and Environment Act 1987*.

Letters were sent to nearby land owners and occupiers and one sign was displayed on the subject land. Submitters were given a period of 14 days to provide comments to Council.

23 objections to the proposal were received in response.

### **Environmental Implications**

Environment impacts will be assessed and managed in accordance with the relevant provisions of the Surf Coast Planning Scheme and the *Planning and Environment Act 1987*.

### **Communication**

Submitters will have the opportunity to address the Hearing of Submissions Committee and Council's final decision on this matter will be provided to the applicant and all submitters.

## **1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408**

### ***Conclusion***

The submissions received in relation to this application detail a number of significant matters that need to be considered and an assessment of these will be included in the report to the Council meeting.



**1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408**

**APPENDIX 1 LIST OF SUBMITTERS WHO HAVE REGISTERED TO SPEAK**

## **REGISTERED SPEAKERS**

1. Tom Harding
2. John Morshead
3. Chubb Fadgyas
4. Torquay Bowls Club
5. John McCartney
6. Vic Teesdale
7. Richie Schultz (Applicant)

**1.1 Bomboras Pop up Bar – Application for Planning Permit 15/0408**

**APPENDIX 2 LIST OF ALL OTHER SUBMISSIONS**

## **LIST OF ALL OTHER SUBMISSIONS**

- **J & M VAN ENGELEN  
TORQUAY**
- **P & P HANSEN  
TORQUAY**
- **I COFFEY  
TORQUAY**
- **P SEEL – VIC POLICE  
GEELONG**
- **J MAYNE  
TORQUAY**
- **T GAIL  
TORQUAY**
- **H PRICE  
TORQUAY**
- **P PRICE  
TORQUAY**
- **R SALISBURY  
TORQUAY**
- **M SLATER  
TORQUAY**
- **K HARRINGTON  
TORQUAY**
- **L HARRINGTON  
TORQUAY**
- **K BOUCHER  
JAN JUC**
- **I ASTLEY  
TORQUAY**
- **J TOUHEY  
TORQUAY**
- **A SAMPSON  
TORQUAY**
- **I GRIBBLE  
BELLBRAE**
- **G & F HARDING  
TORQUAY**
- **C ORR  
ADDRESS NOT SUPPLIED**

**Close of Meeting:** There being no further items of business, the meeting closed at 5:17pm.