

# Agenda

Special Council Meeting for Hearing  
Submissions

Tuesday, 9 February 2021

To be held via Video Conference  
(Zoom)

Commencing at 6:00pm

**Council:**

Cr Libby Stapleton (Mayor)  
Cr Gary Allen  
Cr Paul Barker  
Cr Mike Bodsworth  
Cr Kate Gazzard  
Cr Rose Hodge  
Cr Liz Pattison  
Cr Adrian Schonfelder  
Cr Heather Wellington

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AGENDA FOR THE SPECIAL COUNCIL MEETING FOR HEARING SUBMISSIONS  
TO BE HELD VIA VIDEO CONFERENCE (ZOOM)  
ON TUESDAY 9 FEBRUARY 2021 AT 6:00PM

**PRESENT:**

**OPENING:**

The Surf Coast Shire Local government area spans the traditional lands of the Wadawurrung People and the Eastern Maar People. The main Council offices in Torquay are on Wadawurrung Country. Being an online meeting today, we wish acknowledge the Traditional Owners of the lands on which each person is attending and pay respect to Elders past and present. Council also acknowledges other Aboriginal people that may be attending the meeting today.

**PLEDGE:**

As Councillors we carry out our responsibilities with diligence and integrity and make fair decisions of lasting value for the wellbeing of our community and environment.

**APOLOGIES:**

**CONFLICTS OF INTEREST:**

**Note to Councillors and Officers**

***Declaration of Interest***

*In accordance with Section 130 of the Local Government Act 2020 (the Act), there is an obligation to declare a conflict of interest in certain situations including matters being considered by Council.*

*A conflict of interest can be a general conflict of interest under section 127 of the Act, or a material conflict of interest under section 128 of the Act.*

*A Councillor, a non-Councillor member of a delegated committee or member of Council staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner contrary to their public duty.*

*A Councillor, a non-Councillor member of a delegated committee or member of Council staff has a material conflict of interest in respect of a matter if they or another affected person (as defined in section 128(3)) would gain a benefit or suffer a loss depending on the outcome of the matter.*

*Please note that some general exemptions apply and are set out in section 129 of the Act.*

***Disclosure of Interest***

*A Councillor must make full disclosure of a conflict of interest by either advising Council at the meeting immediately before the matter is considered at the meeting, or advising the Chief Executive Officer in writing prior to the meeting. While the matter is being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that they are doing so. This notification must include the nature of the conflict and whether the interest is a general or material conflict of interest.*

*A Council officer must disclose the conflict of interest when providing information and before the information is considered.*

*Councillors and Council staff will also be required to complete a conflict of interest declaration form.*

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**BUSINESS:**

<b>1. PLANNING MATTERS.....</b>	<b>4</b>
1.1 <i>Planning Permit Application - 14/0187-1 - 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road) aka Chocolaterie - Amend the Permit Preamble to Allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant'. Delete Condition 2, Amend Conditions 17 and 24, and add new conditions. ....</i>	<i>4</i>
1.2 <i>Planning Permit Application - 19/0292 - 1200 Ghazepoore &amp; 350 Coombes Road Freshwater Creek - Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision (Resubdivision) and Earthworks Which Change the Rate of Flow Across a Property Boundary .....</i>	<i>7</i>
1.3 <i>Planning Permit Application 20/0042 - 1200 Ghazepoore &amp; 350 Coombes Road Freshwater Creek - Use of the Land for Storage of Caravans, Boats, Trailers and Containers, and Associated Works, and Display of Business Identification Signage.....</i>	<i>9</i>

## 1. PLANNING MATTERS

### 1.1 Planning Permit Application - 14/0187-1 - 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road) aka Chocolaterie - Amend the Permit Preamble to Allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant'. Delete Condition 2, Amend Conditions 17 and 24, and add new conditions.

**Author's Title:** Senior Statutory Planner  
**Department:** Planning  
**Division:** Environment & Development

**General Manager:** Ransce Salan  
**File No:** 14/0187-1  
**Trim No:** IC21/141

**Appendix:**

Nil

**Officer Conflict of Interest:**

In accordance with Local Government Act 2020 – Section 130:

Yes

No

Reason: Nil

**Status:**

Defined as confidential information in accordance with Local Government Act 2020, Section 3(1):

Yes

No

Reason: Nil

#### Purpose

The purpose of this report is to hear submissions relating to planning permit application 14/0187-1 – amend the permit preamble to allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant', delete Condition 2, amend Conditions 17 and 24, and add new conditions at 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road Bellbrae).

#### Summary

In December 2020 the application was publicly exhibited in accordance with the *Planning and Environment Act 1987*.

#### Summary of Submissions

A total number of 12 submissions were received including 12 objections against the proposed changes with no submissions received in support. The grounds of objection are summarised as below:

No.	Submitter	Position	Summary of Submission
1.	Individual	Objection	<ul style="list-style-type: none"> <li>increased traffic issues and accidents, including for cyclists</li> <li>waste management is currently insufficient</li> </ul>
2.	Individuals	Objection	<ul style="list-style-type: none"> <li>increased traffic issues and accidents</li> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>proposal is a precursor to other incremental/undesirable changes, including an extension of hours</li> <li>the economic impact from COVID-19 is insufficient grounds to allow a permanent change</li> </ul>
3.	Individual	Objection	<ul style="list-style-type: none"> <li>changed nature of the business would result in decreased amenity</li> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>the economic impact from COVID-19 is insufficient grounds to allow a permanent change</li> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>proposed hours are more in keeping with a pub</li> <li>increased traffic issues and accidents</li> <li>contrary to the purpose of the green break between settlements</li> </ul>
4.	Individual	Objection	<ul style="list-style-type: none"> <li>noise pollution is detrimental to wildlife</li> <li>increased traffic issues and accidents</li> <li>waste management is currently insufficient</li> </ul>

**1.1 Planning Permit Application - 14/0187-1 - 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road) aka Chocolaterie - Amend the Permit Preamble to Allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant'. Delete Condition 2, Amend Conditions 17 and 24, and add new conditions.**

			<ul style="list-style-type: none"> <li>fundamental change in business is not in keeping with a family-friendly environment</li> </ul>
5.	Individual	Objection	<ul style="list-style-type: none"> <li>proposal is a precursor to other incremental/undesirable changes, including an extension of hours</li> <li>increased traffic issues and accidents</li> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> </ul>
6.	Individuals	Objection	<ul style="list-style-type: none"> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>the current conditions are already not being adhered to</li> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>adverse noise impacts</li> <li>the S173 represents mediation from the original permit and should not be discarded</li> <li>the proposal adversely affects neighbourhood character</li> </ul>
7.	Individuals	Objection	<ul style="list-style-type: none"> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>there are already many other better suited options for alcohol consumption</li> <li>waste management is currently insufficient</li> </ul>
8.	Individual	Objection	<ul style="list-style-type: none"> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>the economic impact from COVID-19 is insufficient grounds to allow a permanent change</li> <li>adverse noise and traffic impacts</li> </ul>
9.	Individual	Objection	<ul style="list-style-type: none"> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>proposal is a precursor to other incremental/undesirable changes, including an extension of hours</li> </ul>
10.	Individual	Objection	<ul style="list-style-type: none"> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>the economic impact from COVID-19 is insufficient grounds to allow a permanent change</li> </ul>
11.	Individual	Objection	<ul style="list-style-type: none"> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>the economic impact from COVID-19 is insufficient grounds to allow a permanent change</li> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>there are already many other better suited options for alcohol consumption</li> <li>proposal is a precursor to other incremental/undesirable changes, including an extension of hours</li> </ul>
12.	Individual	Objection	<ul style="list-style-type: none"> <li>proposal is contrary to the intent of the original permit and resultant Section 173 agreement</li> <li>fundamental change in business is not in keeping with a family-friendly environment</li> <li>proposal is a precursor to other incremental/undesirable changes, including an extension of hours</li> <li>proposal is detrimental to wildlife</li> </ul>

**1.1 Planning Permit Application - 14/0187-1 - 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road) aka Chocolaterie - Amend the Permit Preamble to Allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant'. Delete Condition 2, Amend Conditions 17 and 24, and add new conditions.**

The issues raised in the submissions will be considered in detail in a planning report to be presented to the 23 February 2021 Council meeting.

**Recommendation**

That Council receives and notes the submissions relating to planning permit application 14/0187-1 - amend the permit preamble to allow for the sale and consumption of liquor and inclusion of the land use term 'restaurant', delete Condition 2, amend Conditions 17 and 24, and add new conditions at 1200 Great Ocean Road Bellbrae (formerly 15 Elkington Road Bellbrae) and forward to a future Council meeting for consideration.

## 1.2 Planning Permit Application - 19/0292 - 1200 Ghazepoore & 350 Coombes Road Freshwater Creek - Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision (Resubdivision) and Earthworks Which Change the Rate of Flow Across a Property Boundary

**Author's Title:** Senior Statutory Planner  
**Department:** Planning and Development  
**Division:** Environment & Development

**General Manager:** Ransce Salan  
**File No:** 19/0292  
**Trim No:** IC21/140

**Appendix:**

Nil

**Officer Conflict of Interest:**

In accordance with Local Government Act 2020 – Section 130:

Yes

No

**Reason:** Nil

**Status:**

Defined as confidential information in accordance with Local Government Act 2020, Section 3(1):

Yes

No

**Reason:** Nil

### Purpose

The purpose of this report is to hear submissions relating to Planning Permit Application 19/0292 – 1200 Ghazepoore Road and 350 Coombes Road, Freshwater Creek – Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision (Re-subdivision) and Earthworks which Change the Rate of Flow Across a Property Boundary.

### Summary

In December 2019 the application relating to use and development for camping and caravan park, two lot subdivision (re-subdivision) and earthworks which change the rate of flow across a property boundary was publicly exhibited in accordance with the *Planning and Environment Act 1987 (the Act)*.

The use, development and subdivision are proposed for the properties addressed 1200 Ghazepoore Road and 350 Coombes Road in Freshwater Creek which have a combined area of 52.7ha.

Key elements of the proposal are:

- A re-subdivision of the land which will realign the property boundaries and consolidate a former water channel reserve (Lot 2 of PS406859) into the two new lots;
- Provide for the use and development of the following elements in relation to the camping and caravan park:
  - 33 one, two and three bedroom cabins;
  - 15 powered “glamping/safari” tents;
  - 65 powered caravan sites, powered and unpowered camping sites and unpowered overnight stay sites;
  - A manager’s residence;
  - Range of recreational and leisure facilities which include:
    - Café, office and general store;
    - Flexible cinema space;
    - Swimming pool with gym;
  - Amenities (toilet/shower blocks, laundry, indoor and outdoor BBQ’s/kitchen);
  - Creation of turning lane from Coombes Road

### Summary of Submissions

A total number of 171 objections were received (as of 13 February 2020).

The issues raised by objecting submissions are summarised in the following table:

Issue
At odds with the green wedge/non-urban break area of Thompson Creek (Local Planning Policy – Clause 21.08)
Inappropriate use and development of Farming Zone land

**1.2 Planning Permit Application - 19/0292 - 1200 Ghazepoore & 350 Coombes Road Freshwater Creek - Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision (Resubdivision) and Earthworks Which Change the Rate of Flow Across a Property Boundary**

Out of character development and use
Against strategic policy in that the application is outside of the Torquay town boundary
Landscape impacts (visual impacts to the landscape vista)
Existing infrastructure unable to cater for proposal
Potential for permanent residency within cabins
Devaluation of property
Traffic impact on condition and safety of Coombes Road and congestion to Torquay road network
Noise, odour and dust emissions
Environmental impact on flora and fauna
No net community benefit
Safety/Security impacts

The objections have been received from 169 individuals and two organisations (special interest community groups).

Most of the objections provided a residential address. It is estimated that the majority of the objectors are located within a 5km radius of the subject site which includes parts of Torquay, Jan Juc, Freshwater Creek and Bellbrae. The majority of the objections were received from the residents of the Kithbrooke Park Country Club.

It is noted that there is no provision within the Act which alters the consideration that must be given to an objection based on proximity to the application site. Section 60(1)(c) of the Act directs that the responsible authority must consider “*all objections and other submissions which it has received...*”. However, the relevant factor in considering an objection in relation to proximity may be the extent to which someone may be affected by a proposal or a certain aspect of the proposal.

In deciding the application, Section 60(1)(f) requires the responsible authority to also consider “*any significant social effects and economic effects which the responsible authority considers the use or development may have*” and in considering this matter, Section 60(1B) directs that “*the responsible authority must (where appropriate) have regard to the number of objectors in considering whether the use or development may have a significant social effect*”. As such, there may be some circumstances in which it is relevant to consider the number of objections in determining if the proposal may have a significant social effect (positive or negative).

The issues raised in the submissions will be considered in a detailed report to be presented to a Council meeting scheduled for the 23<sup>rd</sup> February 2021.

**Recommendation**

That the Council receives and notes the submissions relating to Planning Permit Application 19/0292 – Use and Development of the Land for Camping and Caravan Park, Two Lot Subdivision (Re-subdivision) and Earthworks which Change the Rate of Flow Across a Property Boundary at 1200 Ghazepoore Road and 350 Coombes Road, Freshwater Creek and forward the consideration of the submissions to the Ordinary Council on the 23 February 2021.



**1.3 Planning Permit Application 20/0042 - 1200 Ghazepoore & 350 Coombes Road Freshwater Creek - Use of the Land for Storage of Caravans, Boats, Trailers and Containers, and Associated Works, and Display of Business Identification Signage**

**Author's Title:** Principal Statutory Planner  
**Department:** Planning & Development  
**Division:** Environment & Development

**General Manager:** Ransce Salan  
**File No:** 20/0042  
**Trim No:** IC21/50

**Appendix:**

Nil

**Officer Conflict of Interest:**

In accordance with Local Government Act 2020 – Section 130:

Yes

No

**Reason:** Nil

**Status:**

Defined as confidential information in accordance with Local Government Act 2020, Section 3(1):

Yes

No

**Reason:** Nil

**Purpose**

The purpose of this report is to hear the submission relating to Planning Application 20/0042. The application seeks approval for Use of the Land for Storage of Caravans, Boats, Trailers and Containers, Associated Works and The Display of Business Identification.

**Summary**

In July/August 2020 the application was publicly exhibited in accordance with Section 52 of the *Planning and Environment Act 1987*.

**Summary of Submissions**

One objection was received, summarised as follows:

No.	Submitter	Position	Summary of Submission
1.	Consultant on behalf of an individual	Objection	<ul style="list-style-type: none"> <li>• Proposal would cause unacceptable levels of traffic movement</li> <li>• Issues regarding the alternative access through adjoining land if situations changed. Application is deficient as this is unacceptable.</li> <li>• Application unclear and vague statements, and responsible authority cannot fully determine the impacts of the proposal, especially with regards to intended maximum caravan/boat storage</li> <li>• No turning circle or swept paths provided</li> <li>• No information to determine if sheds are structurally sound</li> <li>• The intention of the overflow area, and the intended use of the storage containers</li> <li>• Why is additional parking required</li> <li>• Width of access way not sufficient for two way passing of vehicles</li> <li>• No information about the washing area or waste water to be treated and disposed of with the washing area.</li> <li>• Insufficient information about stormwater provided</li> <li>• Will result in the removal of farming land, will have impact on potential agricultural activity or production.</li> </ul>

The issues raised in the submissions will be considered in detail in a report to be presented to the 23 February 2021 Council meeting.

**1.3 Planning Permit Application 20/0042 - 1200 Ghazepoore & 350 Coombes Road Freshwater Creek - Use of the Land for Storage of Caravans, Boats, Trailers and Containers, and Associated Works, and Display of Business Identification Signage**

**Recommendation**

That the Council receives and notes the submission relating to Planning Permit Application 20/0042 - Use of the Land for Storage of Caravans, Boats, Trailers and Containers, Associated Works and The Display of Business Identification at 1200 Ghazepoore Road and 350 Coombes Road Freshwater Creek and forwards the submission for consideration to the Council Meeting on 23 February 2021.



**Special Council Meeting for Hearing Submissions  
Tuesday 9 February 2021 – 6:00pm  
Via Video Conference (Zoom)**

**ORDER OF SPEAKERS**

<b>Item 1: Planning Permit 14/0187-1</b>	
1.	Chris Hordern
2.	David & Carmel Radbourn
3.	Will Robinson
4.	Carolyn Grills-Harte
5.	Claire Marum (Applicant)
<b>Item 2: Planning Permit 19/0292</b>	
6.	Drusilla Bremner
7.	Graham Higgin
8.	Mark Mathews
9.	Graeme Jacobs (AREP Partners) - Applicant
<b>Item 3: Planning Permit 20/0042</b>	
10.	Drusilla Bremner
11.	Andrea Tomkinson - on behalf of the Applicant