



Minutes

Hearing of Submissions Committee
Tuesday, 17 January 2017

Held in the
Council Chambers
1 Merrijig Drive, Torquay
Commencing at 5.00pm

Council:

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

MINUTES FOR THE HEARING OF SUBMISSIONS MEETING OF SURF COAST SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY
ON TUESDAY 17 JANUARY 2017 COMMENCING AT 5.00PM

PRESENT:

Cr Brian McKitterick (Mayor)
Cr David Bell
Cr Martin Duke
Cr Rose Hodge
Cr Carol McGregor
Cr Margot Smith
Cr Heather Wellington
Chief Executive Officer – Keith Baillie
General Manager Environment & Development – Phil Rowland
Manager Planning & Development – Bill Cathcart
Manager Engineering Services Peter McLean
Coordinator Strategic Land use Planning – Karen Hose
Senior Strategic Planner – Jorgen Peeters
Senior Strategic Planner – Barbara Noelker

In Attendance:

9 members of the public
1 member of the press

APOLOGIES:

Committee Resolution

MOVED Cr Margot Smith, Seconded Cr Rose Hodge

That apologies be received from Cr Libby Coker and Cr Clive Goldsworthy.

CARRIED 7:0

CONFLICTS OF INTEREST:

Keith Baillie (CEO) declared a Direct Conflict of Interest under section 77A of Local Government Act 1989 due to impact on residential amenity in agenda item 1.1 Amendment Development Plan for 90 & 110 South Beach Road Torquay owns as he owns residential property in the adjacent development. Keith Baillie (CEO) remained in the room while this matter was discussed.

SUBMITTERS HEARD

Item 1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

1. Peter Taylor
2. Anthony Duffill, SMEC (applicant)

Item 1.2 Planning Scheme Amendment C85 - Waterways and Flooding

1. Ian Godfrey (AIDA)
2. Alan McKenzie (late submission)

Item 1.3 Amendment C96 – Biodiversity in the Settlements and Bushfire Update through Local Policy

1. Matt Lehmann
2. Bill Cullen
3. Ian Godfrey (AIDA)

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1. ENVIRONMENT & DEVELOPMENT

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

Author's Title: Senior Strategic Planner

General Manager: Phil Rowland

Department: Planning & Development

File No: 11/0272C

Division: Environment & Development

Trim No: IC16/1379

Appendix:

1. Summary of submissions (D16/128487)
2. Submitters who have registered to speak (D16/128539)
3. Amended Development Plan (D16/114153)

Officer Direct or Indirect Conflict of Interest:

Status:

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

Information classified confidential in accordance with
Local Government Act 1989 – Section 77(2)(c):

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to hear from submitters in relation to Application No. 11/0272C for an amended Development Plan for 90 and 110 South Beach Road, Torquay.

Summary

An application has been made to amend the previously approved Development Plan for 90 and 110 South Beach Road, Torquay (Stretton Estate). The amendment seeks to alter the land use designation for land at 90 South Beach Road to facilitate the construction of an education centre (Catholic Primary School).

The amended Development Plan was placed on public exhibition from 24 November until 23 December 2016. Two submissions were received including one from two South Beach Road residents who raised concerns with traffic on South Beach Road due to the proposed main entrance to the education centre, and one from the developer of Stretton Estate who objected to access to the site being provided from roads to be constructed by the developer.

The issues raised in the submissions will be considered in more detail in a report to be presented at the 28 February 2017 Council meeting.

Recommendation

That Council receive and note submissions received to Application No. 11/0272C for an amended Development Plan for 90 and 110 South Beach Road, Torquay.

Committee Resolution

MOVED Cr David Bell, Seconded Cr Carol McGregor

That Council receive and note submissions received to Application No. 11/0272C for an amended Development Plan for 90 and 110 South Beach Road, Torquay.

CARRIED 7:0

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

Report

Background

An application has been made on behalf of Catholic Education Melbourne (CEM) to amend the approved Development Plan for 90 and 110 South Beach Road, Torquay (Stretton Estate). The amendment is required to facilitate the construction of a Catholic Primary School, to be known as Lisieux Catholic Primary School, at 90 South Beach Road. The current development plan does not allow for this outcome as the land use designation of the site has been undefined with the notation 'owned by others'. The amendment seeks to replace this notation with 'Education Centre'.

An application for a planning permit (16/0520) has been received concurrently for the use and development of an education centre (primary school) on the subject site. A permit cannot be granted until it is consistent with an approved development plan.

The proposed Catholic school would occupy a site of 3 hectares and has been designed to accommodate a peak enrolment of 500 students and 40 staff. A long term enrolment of 360 students is predicted. Primary access will be from South Beach Road and car parking for staff, visitors and student drop-off/pick-up will be contained within the site. Secondary access points will be available from two short street reserves to be provided into the school site from the adjacent Stretton Estate. CEM intend to open the school in 2018.

Discussion

The amended Development Plan was placed on public exhibition from 24 November until 23 December 2016. Two submissions were received, including one from two South Beach Road residents and one from the developer of Stretton Estate. A summary of submissions is provided at Appendix 1.

The submission from the residents expresses concern about increased traffic on South Beach Road as a result of the proposed entrance to the school, particularly at drop off and pick up times. Drop off and pick up of school children along South Beach Road would create a dangerous situation. The submission suggests that a safer option would be for access to be provided from the internal roads (Fischer Street and Stretton Drive) within the Stretton Estate subdivision.

The submission from the Stretton Estate developer on the other hand objects to the use of the internal roads to provide access to the school site on the grounds that it would lead to an inequitable arrangement given those roads would be constructed and funded by the developer.

The issues raised in the submissions will be considered in the overall assessment of the matter against the relevant provisions of the planning scheme and a report will be presented to the 28 February Council meeting.

Financial Implications

There are no direct financial impacts to Council for processing the application which occurs via operational budgets.

Council Plan

Theme	3 Communities
Objective	3.3 Preservation of peaceful, safe and healthy environments
Strategy	3.3.6 Maintain, enhance and develop community and recreational facilities to improve community wellbeing

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

Policy/Legal Implications

The amended Development Plan is consistent with the relevant provisions of the Surf Coast Planning Scheme, including the Torquay-Jan Juc Strategy at Clause 21.08 which encourages residential growth in Torquay North up to South Beach Road and the delivery of a range of services and infrastructure in association with new development.

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

The proposal is also consistent with the five values identified in the *Sustainable Futures Plan Torquay Jan Juc 2040*, including Value 1: Places for people and Value 4: Services and infrastructure.

The Development Plan Overlay at Clause 43.04 allows for a development plan to be amended to the satisfaction of Council.

Officer Direct or Indirect Interest

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

Risk Assessment

There are no risks to Council associated with considering submissions.

Social Considerations

The proposed primary school will provide for the educational needs of the current and future population. It complements the current and planned provision of community, recreation, sporting, education and retail facilities in the Torquay North urban growth area. It will widen educational choice for young families and contribute to the creation of a sustainable neighbourhood, being within walking distance of a large population catchment. The development of the school will provide temporary construction jobs and ongoing employment upon completion for teachers and support staff. It will form a 'sister school' to the St Therese Primary School on Grossmans Road, which has reached capacity.

Community Engagement

The *Planning and Environment Act 1987* and Surf Coast Planning Scheme do not include legislated requirements to undertake public notice of applications for the approval of development plans. However, it is Council policy to undertake an exhibition process and invite submissions to inform Council's decision. This has been undertaken. A notice was placed in the Surf Coast Times and notice was given to adjacent and nearby landowners.

There is no legal obligation on Council to consider submissions received and submitters do not have any rights under the Planning and Environment Act 1987 to apply for a review of Council's decision to approve or amend a development plan. However, under section 149 of the Act, the owner or developer of the land can apply for a review of Council's decision.

Environmental Implications

Environmental matters such as site contamination, flora and fauna, and cultural heritage will be considered as part of the planning permit application for the proposed primary school.

Communication

All submitters have been invited to attend and present at the Hearing of Submissions conducted on 17 January 2017. Submitters will be advised of Council's decision on the amended Development Plan following the 28 February 2017 Council meeting.

Conclusion

The submissions received in relation to Application No. 11/0272C detail a number of matters that need to be considered and submitters have the opportunity to present to Council via the Hearing of Submissions meeting on 17 January 2017.

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

APPENDIX 1 SUMMARY OF SUBMISSIONS

11/0272C – Amended Development Plan 90 & 110 South Beach Road, Torquay

Summary of Submissions

No.	Submitter	Summary of submission
1	Bill Iro and Peter Taylor, South Beach Road	The submission expresses concern about increased traffic on South Beach Road as a result of the proposed entrance to the school, particularly at drop off and pick up times. Drop off and pick up of school children along South Beach Road would create a dangerous situation. Suggests a safer option would be for access to be provided from the internal roads (Fischer Street and Stretton Drive) within the Stretton Estate subdivision.
2	Stuart Harding, Willana Associates (developer of Stretton Estate at 110 South Beach Road)	Objects to private access to the school site being facilitated by the creation of public roads over Stretton land. Is opposed to the plan in its current form and asks Council to take steps to amend the proposed outcomes to remove the requirement on Stretton to provide access to the school site.

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

APPENDIX 2 SUBMITTERS WHO HAVE REGISTERED TO SPEAK

17 January 2017 – Hearing of Submissions

11/0272C – Amended Development Plan 90 & 110 South Beach Road, Torquay

Submitters who have registered to speak

1. Peter Taylor & Bill Iro
2. Antony Duffill, SMEC (Applicant)

1.1 Amended Development Plan - 90 and 110 South Beach Road, Torquay

APPENDIX 3 AMENDED DEVELOPMENT PLAN



SURF COAST SHIRE	
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Development Plan Amendment Application Report

90 South Beach Road, Torquay North

2 November 2016



Introduction

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SURF COAST SHIRE
7 JAN 2017
11:00 AM

1 INTRODUCTION

1.1 Background

SMEC acts on behalf of Catholic Education Melbourne (CEM) for their property at 90 South Beach Road, Torquay (the subject site).

CEM are seeking to amend the '110 South Beach Road' Development Plan (the Development Plan), which was most recently amended by Willana Associates, 28 June 2016 and includes the subject site.

The proposed amendment relates specifically to the subject site and provides clarity regarding future land use and development and supports the lodgement of a planning permit application for an education centre including a primary school.

1.2 Purpose of this Report

This purpose of this report is to detail CEM's proposed amendment to the Development Plan and provide an assessment of these changes against the relevant provisions of the Surf Coast Planning Scheme and relevant planning strategies.

1.3 Recent Amendments to the Development Plan

The Development Plan was originally prepared by Bosco Johnson Pty Ltd on behalf of Ritzcorp Pty Ltd and was approved by Council in October 2011. An amendment to the Plan was first approved on 25 January 2015, which brought about the inclusion of the primary and secondary school sites and refinements to the internal road and open space network.

The most recent amendment undertaken by Willana Associates was approved by Council on 28 June 2016 and introduced areas for medium density development, an additional neighbourhood park and further minor refinements to the internal road network. Notations were added at the intersection of Surf Coast Highway/South Beach Road and Stretton Drive/Fischer Street, which highlight that the intersection design is yet to be finalised.

SURF COAST SHIRE

17 JAN 2017

2 SITE AND CONTEXT

2.1 Subject Site

The subject site is located at 90 South Beach Road, Torquay approximately 800m east of the intersection with Surf Coast Highway.

The site is regular in shape, with a northern frontage to South Beach Road of approximately 144.93m, a southern boundary of 145.55m and depths of 208.28m (east) and 204.89m (west). The site area is approximately 3ha.

The site slopes steeply from the west to the east, with a 10m gradient difference at these boundaries, and comprises open areas (north and south-east part), an avenue of planted mature trees along the access driveway and along the western property boundary and in the general dwelling surrounds (refer to **Figure 1**).

Access to the site is provided from South Beach Road which leads to a dwelling in the south part, with associated ancillary buildings, swimming pool and tennis court. A dam is located in the north-eastern part.



Figure 1: Site Aerial (NearMap: 30 Dec 2015)

□ SITE

2.2 Surrounds

The subject site is located in the northern part of the Torquay Township, which is approximately 20km south of Geelong and 100km south-west of Melbourne CBD. The site is located within the 'Torquay North Growth Area' and is identified for significant urban development in accordance with the '110 South Beach Road' Development Plan (the Plan sought to be amended). The Plan comprises predominantly residential development (approximately 800 lots), a primary and secondary school, and associated internal road and open space networks. To the north of the site is a number of low density residential lots that also gain access from South Beach Road.

Proposed Amendment

3 PROPOSED AMENDMENT

3.1 Our Proposal

The proposed amendment seeks to nominate a future use and development for the subject site and remove the current ambiguous notation. The following changes are proposed:

- Amend the notation 'OWNED BY OTHERS, 3ha' to 'EDUCATION CENTRE 3ha'.
- Remove the internal roads from the subject site that are no longer relevant.

Refer to **Figure 2** below for the proposed amended Development Plan as it applies to the subject site and **Figure 3** for the magnified insert.

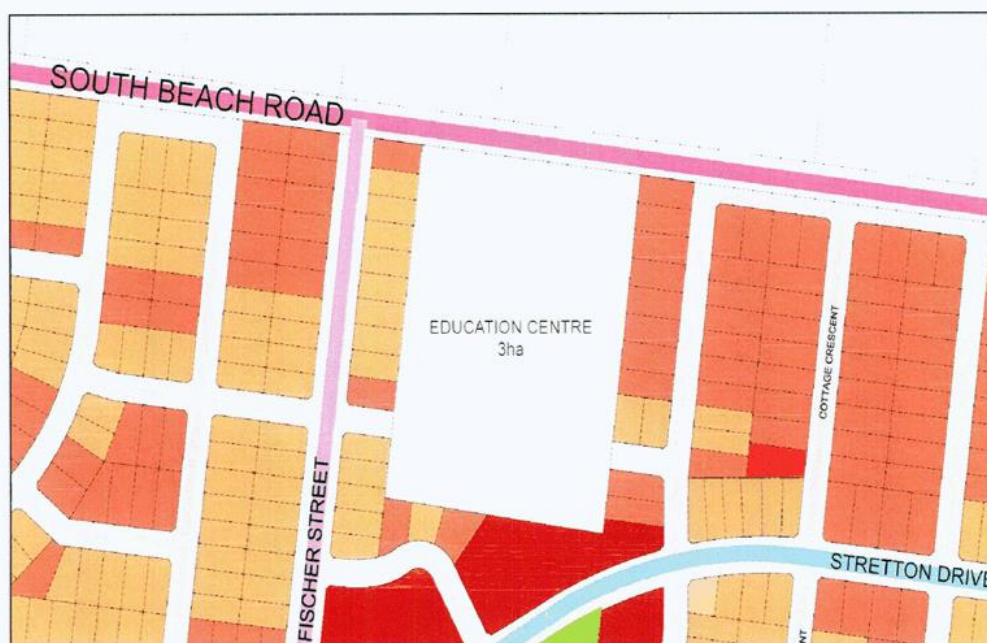
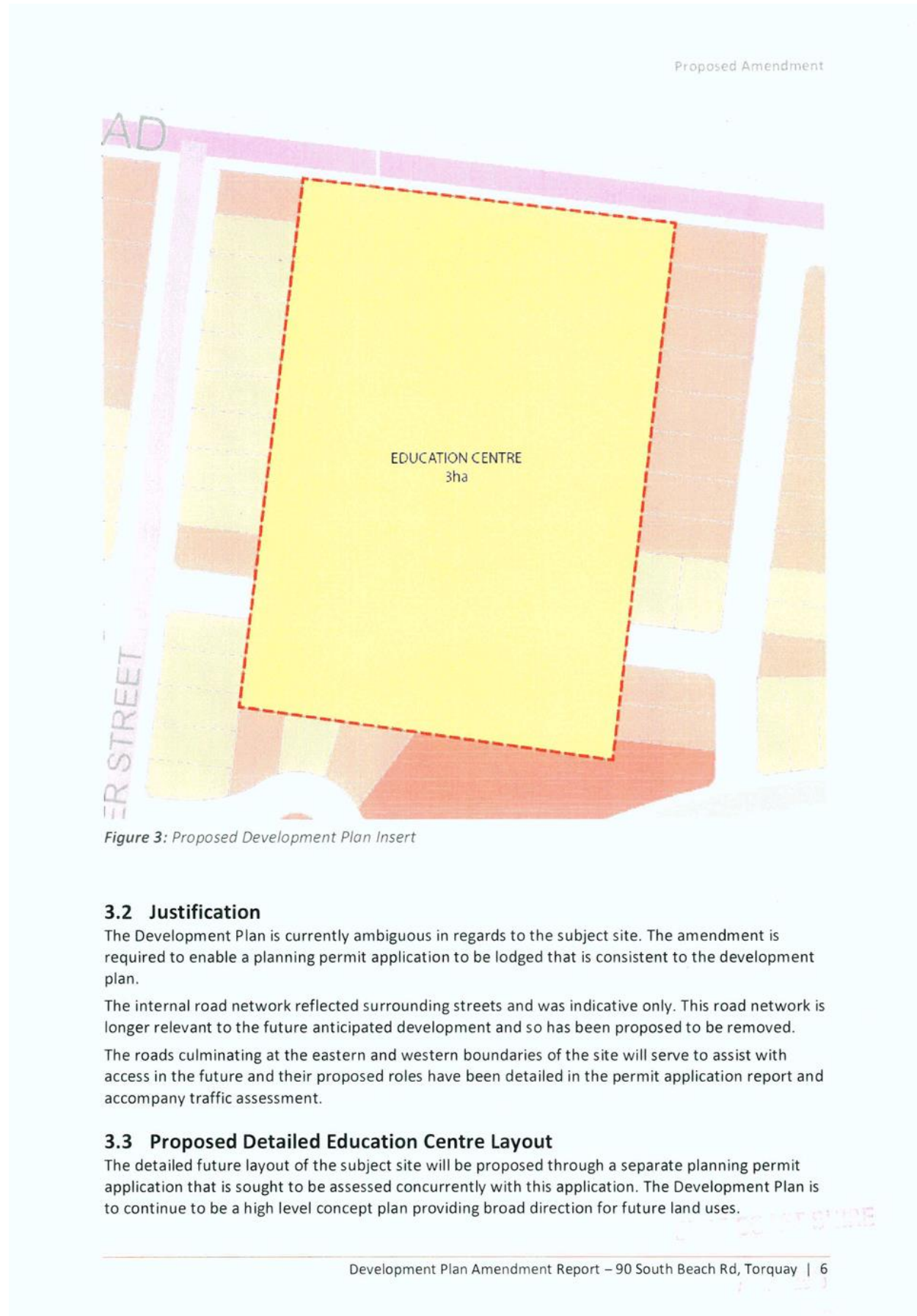


Figure 2: Proposed Amended Development Plan (relevant part of Plan shown)



3.2 Justification

The Development Plan is currently ambiguous in regards to the subject site. The amendment is required to enable a planning permit application to be lodged that is consistent to the development plan.

The internal road network reflected surrounding streets and was indicative only. This road network is longer relevant to the future anticipated development and so has been proposed to be removed.

The roads culminating at the eastern and western boundaries of the site will serve to assist with access in the future and their proposed roles have been detailed in the permit application report and accompany traffic assessment.

3.3 Proposed Detailed Education Centre Layout

The detailed future layout of the subject site will be proposed through a separate planning permit application that is sought to be assessed concurrently with this application. The Development Plan is to continue to be a high level concept plan providing broad direction for future land uses.

3.4 Land Purchase Negotiations

Ongoing discussions have been held with the developer of the broader subdivision. These have included negotiations made in good faith to purchase land and create an additional street frontage for the subject site. Unfortunately, these have not been successful and it has become apparent that the developer is unwilling to sell at a fair and reasonable price and will only entertain offers twice that of market value. We have provided a letter at **Appendix C** that briefly summarises these negotiations.

We assert that all reasonable efforts have been made to provide an additional street frontage for the subject site. On this basis, we do not believe that we should be penalised in our attempts to clarify ambiguity in the Development Plan and provide an assessment pathway to establish an education centre at the site. We understand the difficulties in predicting how a superlot may be used and developed in the future. However, we should not be disadvantaged by a historical decision to endorse a street layout that only presents one frontage to the lot.

In order to address the issue of not having multiple street frontages, we propose to utilise the road culminating at the western boundary as a secondary access linking to Fischer Street. This will help to increase traffic flow and provide additional drop off points on-site. For those living in the estate, direct access will be achievable. Our approach will be presented in our planning permit application with support from a traffic assessment report.

3.5 Informal Public Notification

On the direction of Council, informal public notification was undertaken for the proposal. This occurred through a registered mail-out to 24 private residences detailing the proposed change to the Development Plan. These were sent on 7 October 2016 and invited enquiries through SMEC (refer to **Appendix D** for a copy of the letter and a plan showing the properties advertised to).

The mail-out included all properties to the north of the site along South Beach Road and a number of properties to the south. The developer of the broader subdivision was also contacted.

In response to the informal notification, no submissions have been received and more than two weeks have now passed since the letters were posted. This indicates that the amendment is likely to be acceptable to the surrounding community.

There has been two verbal enquiries. It was clear that a school has for some time now been expected at site. The queries generally related to the broader subdivision and the impacts related to traffic and the location of shared paths. The queries indicated that the land use would be supported by the community.

4 PLANNING ASSESSMENT FRAMEWORK

This section outlines the planning assessment framework including the planning controls and policies of the Surf Coast Planning Scheme and planning strategies that are relevant to this proposal. A response has been provided under each.

4.1 Objectives of Planning in Victoria

The following objectives of Planning in Victoria are considered relevant to the proposed amendment:

- *To provide for the fair, orderly, economic and sustainable use and development of land;*
- *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- *To balance the present and future interests of all Victorians.*

ASSESSMENT

The amendment will enable an Education Centre including a non-government primary school to be established at the site following approval of a planning permit application. This is considered to be consistent with the objectives of Planning in Victoria through providing education choice and a sustainable land use that provides ongoing employment opportunities.

4.2 State Planning Policy Framework (SPPF)

The following clauses of the SPPF are considered relevant to the proposed amendment of the subject site.

Clause 11.02-1 'Supply of urban land' seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 11.02-3 'Structure planning' seeks to facilitate the orderly development of urban areas.

Clause 11.05-1 'Regional settlement networks' seeks to promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victoria Settlement Framework plan.

Clause 11.05-4 'Regional planning strategies and principles' seeks to develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable.

Clause 11.07-1 'Planning for growth' seeks to optimise infrastructure and consolidate growth.

Clause 11.07-3 'Connected communities' seeks to create unique and connected communities.

Clause 11.07-6 'Sustainable communities' seeks to allow communities to live, work and participate locally.

Clause 15.01-1 'Urban design' seeks to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Clause 15.01-2 'Urban design principles' seeks to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Clause 15.01-3 'Neighbourhood and subdivision design' seeks to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.

Clause 15.01-5 'Cultural identity and neighbourhood character' seeks to recognise and protect cultural identity, neighbourhood character and sense of place. Key strategies include:

Clause 15.02-1 'Energy and resource efficiency' seeks to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.

Clause 18.02-4 'Management of the road system' seeks to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.

Clause 19.02-2 'Education facilities' seeks to assist the integration of education facilities with local and regional communities.

Clause 19.03-1 'Development contribution plans' seeks to facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans.

ASSESSMENT

The amendment will facilitate a sufficient supply of land for educational purposes and will promote orderly development through removing current ambiguity in the Development Plan. The notation applying to the land makes application for any land use or development difficult or perhaps even impossible. Approval will allow the land to be developed to provide essential education services to the newly establishing community.

The site is considered to be appropriate for an education centre through being located on a connector road and central to an area of residential development. Access to the site will be convenient by private vehicle access and on-site car parking without disruption to the road network. However, other forms of transport including by foot and bicycle will also be encouraged, given the central nature of this location. This furthers principles of energy efficient and sustainable development and will help reduce traffic congestion.

4.3 Local Planning Policy Framework (LPPF)

The following clauses of the LPPF are considered relevant to the proposed amendment.

Clause 21.01-2 'Key Issues and Influences' summarises the elements impacting the municipality, which includes:

- *Increasing popularity of the coast and coastal towns as permanent, holiday and tourist destinations.*
- *Reconciling coastal growth with the fragile natural environment, traditional coastal town character and relaxed surfing culture.*
- *Rapid rate of growth of coastal towns and delivery of necessary infrastructure.*
- *High cost of urban land and consequent pressure to develop urban uses in rural areas.*

Clause 21.01-4 'Municipal Framework Plan' outlines the key strategic directions for sustainable land use and development, which includes:

- *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 concentrate urban growth predominantly in the towns of Torquay-Jan Juc and Winchelsea.*
- *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.*
- *To maintain a clear rural-landscape separation between Torquay-Jan Juc and the Armstrong Creek southern growth corridor of Geelong.*

Clause 21.02 'Settlement, Built Environment, Heritage and Housing' seeks:

- *To ensure that urban development minimises the impact on the environment, makes efficient use of land, infrastructure and resources, and is concentrated in accessible locations.*
- *To protect the individual coastal township character values of low urban density, recessive built form, vegetated coastal landscapes and ecological values of the natural environment from inappropriate urban development.*

Planning Assessment framework

Clause 21.08 'Torquay-Jan Juc Strategy' seeks:

- *To accommodate and manage the projected population growth and demographic change of Torquay-Jan Juc in an environmentally sustainable manner that respects and celebrates the distinct surfing identity and coastal character of the town and responds to Value 1 'Places for People' and Value 3 'The Built Environment' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).*
- *To protect and enhance significant environmental, landscape and cultural heritage features which contribute to the ecological values, coastal character and residential amenity of Torquay-Jan Juc in response to Value 2 'The Natural Environment' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).*
- *To plan and deliver a range of services and infrastructure in association with new development in response to Value 4 'Services and Infrastructure' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).*
- *To promote street design that makes a positive contribution to the urban landscape and the coastal character of Torquay-Jan Juc, and enhances walking and cycling, use of public transport and social interaction.*

Clause 22.02 'Streetscape and Landscaping Policy' seeks:

- *To protect and enhance the individual landscape character of each town.*
- *To promote the development of co-ordinated and visually pleasing streetscapes in residential, commercial and industrial areas.*
- *To encourage ecologically and economically sustainable streetscapes and landscapes.*

Clause 22.09 'Torquay-Jan Juc Residential Development and Neighbourhood Character Policy' seeks:

- *To adopt a managed approach to residential development, taking account of the differential capacity of the residential areas in Torquay-Jan Juc to accommodate housing growth and change.*
- *To ensure development achieves architectural and urban design outcomes that positively contribute to the preferred future character of the residential areas of Torquay-Jan Juc, as identified in the Torquay-Jan Juc Neighbourhood Character Study & Vegetation Assessment (2006) and Torquay-Jan Juc Neighbourhood Character Study Review (2012).*
- *To recognise the need for change in urban consolidation areas while respecting the desired future character of these areas.*
- *To ensure that landscaping and trees remain a major element in the appearance and character of Torquay-Jan Juc's residential environments.*

The site is located within *Housing Area 5 – Residential Growth* which states:

- *Residential growth areas comprise new broadhectare or greenfield subdivisions and identified future growth areas where the preferred character is yet to establish, such as the growth areas in Torquay North and Messmate Road.*
- *It will be important to establish a landscaped and built form character that reflects Torquay-Jan Juc's preferred coastal character and integrates with surrounding areas. The planting of indigenous and other typical coastal vegetation around the dwellings creates a linkage to the coastal setting. Consistent street tree planting will assist in unifying the appearance of the area and add a sense of spaciousness and leafiness.*

ASSESSMENT

The proposal is consistent with local planning policy through providing the timely provision of required education services to a newly establishing community. The population of Torquay and Jan Juc is experiencing recognised growth and Torquay North has been set aside to cater for additional housing in a greenfield setting to cater for the additional people moving to the area.

Planning Assessment framework

The site is large enough to cater for future development that will be sympathetic to finer grain policy objectives contained in the local policy framework. This includes providing enough area for landscaping to soften the built form, retain trees where possible and provide appropriate setbacks from property boundaries.

As noted previously, detailed designs will be subject to the planning permit application process. However, these have been designed by an architect to provide a positive contribution to the neighbourhood's built form. This will further the establishment of the area through providing an attractive and desirable place to live.

4.4 Zoning

4.4.1 General Residential Zone 1 (GRZ1)

The subject site is located in the **General Residential Zone 1 (GRZ1)**. The purposes of the GRZ are:

- To encourage development that respects the neighbourhood character of the area.
- To implement neighbourhood character policy and adopted neighbourhood character guidelines.
- To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

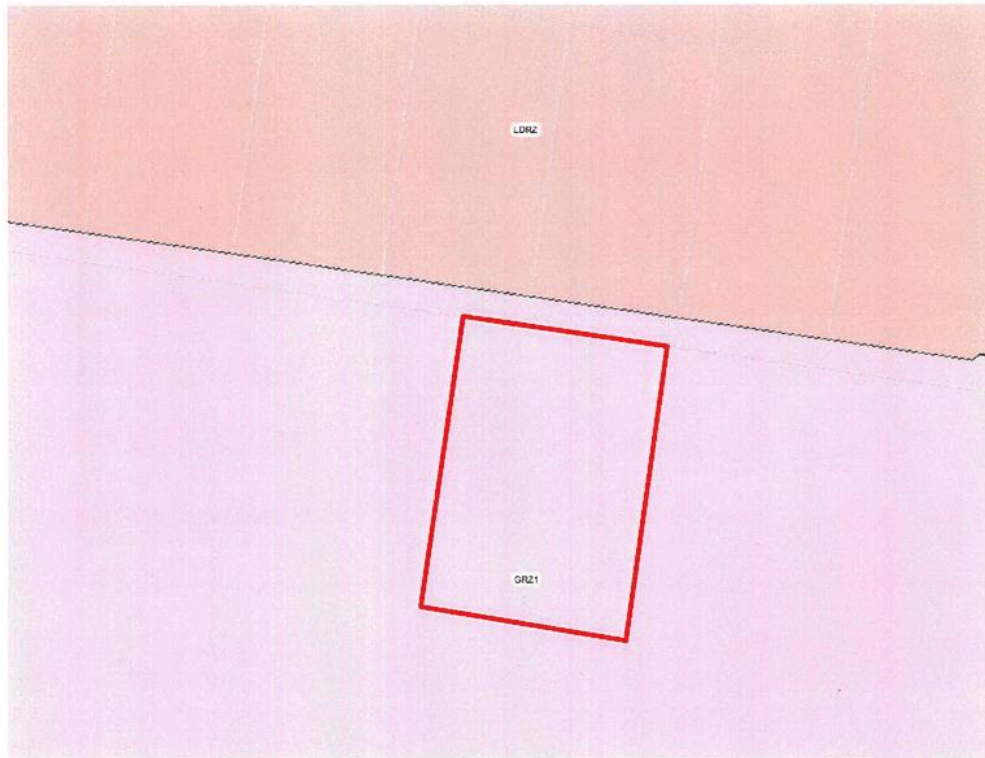


Figure 4: Zoning Map

□ SITE

ASSESSMENT

Education centres are clearly contemplated by the zone. One of the purposes is to allow educational uses to serve local community needs in appropriate locations.

As discussed previously, the location is central to an area of newly establishing residential development and has close to 150m of frontage to a connector road. It is our view that the site is wholly appropriate for an education centre. Given the size and location of the site it is highly likely that an education centre was contemplated from the inception of the Development Plan.

4.5 Overlays

The subject site is affected by the following overlays:

- Design and Development Overlay (DDO1);
- Development Plan Overlay (DPO8);
- Environmental Audit Overlay (EAO); and
- Development Contributions Plan Overlay (DCPO2).

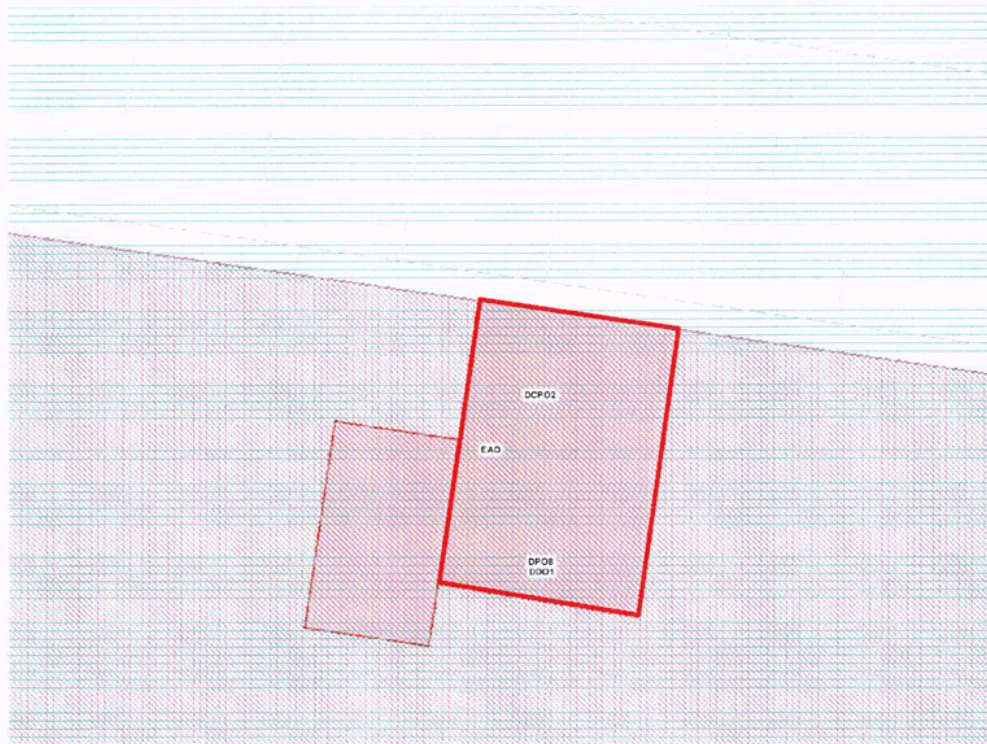


Figure 5: Overlay Map

□ SITE

4.5.1 Design and Development Overlay (DDO1)

The purpose of the DDO is:

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

Schedule 1 to the DDO relates to the 'Torquay Jan Juc Coastal Townscape Character'.

The objectives of Schedule 1 to the DDO are:

- *To protect and enhance the low rise coastal township character of Torquay Jan Juc.*
- *To minimise the visual prominence of development when viewed from the streetscape and adjoining properties, having regard to building height.*
- *To ensure the height of buildings is compatible with the existing scale and character of dwellings within the streetscape and neighbourhood.*

ASSESSMENT

The proposal is consistent to the finer grain purposes and objectives of the DDO1. There is sufficient area at the site for an education centre to be established that is sympathetic to the character of the surrounding area. The buildings are to be architecturally designed and will provide a positive contribution to the area's built form. A detailed assessment under the overlay is more appropriately undertaken under the planning permit application.

4.5.2 Development Plan Overlay (DPO8)

The purposes of the DPO are:

- *To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop land.*
- *To exempt an application from notice and review if it is generally in accordance with a development plan.*

Schedule 8 to the DPO relates to the 'Torquay North Residential Precinct'. Refer to Section 4.6.1 of this report for an assessment against the current endorsed Development Plan.

4.5.3 Environmental Audit Overlay (EAO)

The purposes of the EAO are:

- *To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

ASSESSMENT

An environment report will be provided with the planning permit application that shows that the application is suitable for an education use. The proposal is not contrary to the Overlay.

4.5.4 Development Contributions Plan Overlay (DCPO2)

The purposes of the DCPO are:

- *To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop land.*
- *To exempt an application from notice and review if it is generally in accordance with a development plan.*

Schedule 2 to the DCPO relates to the 'Torquay Jan Juc Development Contributions Plan', and provides a summary of the associated costs related to the Torquay North Growth Area, identified within Charge Area 4.

ASSESSMENT

We note that an education centre does not fit into a classification of residential, business or industry. Ministerial Direction 'Development Contribution Plans – exemption for non-government schools' states at Clause 4 that:

Planning Assessment framework

'Under section 46M of the Planning and Environment Act 1978, I direct that a development contributions plan must not impose a development infrastructure levy or a community infrastructure levy in respect of the development of land for a non-government school.' (Signed Minister of Planning, 25 January 2012).

While this is an issue that is more appropriately dealt with under the planning permit application, the Ministerial Direction is clear in its directive that a development infrastructure levy or a community infrastructure levy must not apply to the development of land for a non-government school. On this basis a DCPO is not relevant to the future intended education centre development at the subject site. It is also predicted that the land was never accounted for in the initial contribution calculations, again giving impetus for no contributions.

4.5.5 Public Open Space Contribution and Subdivision (Clause 52.01)

Clause 52.01 requires, 'a person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this Clause. If no amount is specified, a contribution for public open space may still be required under Section 18 of the Subdivision Act 1988'.

ASSESSMENT

No subdivision is proposed meaning that a public open space contribution is not applicable.

4.5.6 Car Parking

Clause 52.06 has the following purposes:

- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

ASSESSMENT

The subject site is of sufficient area to provide the appropriate number of car parks for a future education centre. A detailed assessment under the clause is more appropriately undertaken under the planning permit application and a traffic assessment has been prepared in support.

4.6 Strategic Policy

The following strategic policy documents are considered relevant to the proposed amendment:

4.6.1 110 South Beach Road Development Plan

The subject site is located within the '110 South Beach Road' Development Plan area. As previously mentioned, it is described as a site 'Owned By Others' and is located in the central-eastern part, directly south of South Beach Road. The Plan also indicates a road layout that is more reflective of the surrounding areas. Refer to **Figure 6** below for the part of the Development Plan that includes the subject site.

110 South Beach Road

Planning Assessment framework



Figure 6: Part of the 110 South Beach Road, Torquay' approved Development Plan

ASSESSMENT

The proposal is required because of the ambiguity that the Development Plan currently presents for the subject through including the notation 'Owned by Others'. Amending the plan to include the notation 'Education Centre' will enable a planning permit application to be assessed.

The use of the land for an education centre is not contrary to the Development Plan. The vision to provide a high quality living environment will be promoted through providing additional education choice. The establishment of non-government schools in new residential areas add positively to the community and will help it to quickly establish.

4.6.2 Torquay North Outline Development Plan

The subject site is located within the Torquay North Outline Development Plan, which comprises 300ha. The Plan provides the foundation for the finer grained '110 South Beach Road' Development Plan, which is detailed above.

The revised Outline Development Plan is shown in Figure 7. The subject site is shown as residential, with a connector road, South Beach Road, located to the north.

ENVIRONMENTAL
1/12/2013



Map 5 Revised Torquay North Outline Development Plan

Figure 7- Revised Torquay North Outline Development Plan (2012)

Subject Site 

ASSESSMENT

The proposal is not contrary to the Outline Development Plan, which provides broader policy context for the area. The use of land for an education centre is consistent to the residential context that has been applied. Schools are regularly found in residential areas. The General Residential Zone that is relevant to the site promotes education uses to cater for local populations.

Conclusion

5 CONCLUSION

5.1 Conclusion

Our assessments conclude that there is strong planning assessment framework support for the amendment, which effectively enables an application for an education centre to be lodged. Application for such a land use is consistent to the General Residential Zone and policies that promote education facilities to support the newly establishing Torquay North community.

The proposed amendment is relatively minor in nature and will serve to remove ambiguity in terms of how the subject site can be developed. Finer grained assessments can be made under the planning permit application in regards to design of the education centre including car parking and access. However, the site is sufficient in size and has a generous frontage to a connector road for a centre to be established.

5.2 Application

As demonstrated in this report the proposal is appropriate and warrants Council approval. On this basis it is respectfully requested that the amendment be approved by Council and the proposed Development Plan insert be incorporated into the approved Plan.

SURF COAST SHIRE

17 JAN 2017

17 JAN 2017

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

Author's Title: Senior Strategic Planner

General Manager: Phil Rowland

Department: Planning & Development

File No: F13/327

Division: Environment & Development

Trim No: IC16/1147

Appendix:

1. Summary of submissions (D16/130920)
2. Submitters who have registered to speak (D16/130895)

Officer Direct or Indirect Conflict of Interest:

Status:

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

Information classified confidential in accordance with
Local Government Act 1989 – Section 77(2)(c):

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to hear from submitters in relation to Amendment C85.

Summary

Amendment C85 seeks to:

- extend the application of the Environmental Significant Overlay Schedule 1 to include all significant waterways in the Surf Coast Shire, with coverage reduced and standardised along currently protected waterways
- modify the application of the Flood and Land Subject to Inundation Overlays based on various hydrology studies, commissioned by the CCMA.

The amendment was publicly exhibited from 9th April 2015 to 11th May 2015. A total of (22) twenty two submissions were received, summarised as follows:

- three (3) supported the amendment
- eight (8) submissions were from referral authorities
- five (5) objected to mapping, changes requested
- four (4) objected to the introduction of planning controls in general or requested changes beyond the scope of the amendment
- one (1) objected to impacts flooding changes could have on their property
- one (1) objected to the proposed reduction in controls.

The issues raised in the submissions will be considered in detail in a report to be presented to the 24th January 2017 Council meeting.

Recommendation

That Council receive and note all submissions to Amendment C85.

Committee Resolution

MOVED Cr Heather Wellington, Seconded Cr Carol McGregor

That Council receive and note all submissions to Amendment C85.

CARRIED 7:0

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

Report

Background

Flood mapping

Flood mapping was first introduced into the Surf Coast Planning Scheme in 2005, based on information provided through the 'Flood Data Transfer Project' (undertaken by the Department of Natural Resources and Environment). That project provided flood data for the whole of Victoria, enabling the risks associated with flooding to be considered.

In 2013, the Corangamite Catchment Management Authority (CCMA - the flood authority for the Surf Coast Shire) completed localised hydrological and hydraulic studies for all or sections of some of the major waterways in the Surf Coast. The CCMA translated this mapping into flood/inundation overlays in 2015 to improve the accuracy of the flood overlays in the Surf Coast Planning Scheme. The CCMA also updated the wording within the flooding overlay schedules and Clause 21.03 'Environmental Management' to bring the controls up to date with current state policy.

The proposed mapping will result in an overall increase in the number of properties subject to a flooding overlay (+75 properties), but a proportion of property owners will experience a reduction or complete removal from their property. The impacts to individual properties are outlined in table 1 below.

Flood Mapping changes	Properties currently affected	Properties affected by Amendment C85	Removal from their property	Increase on their property	Reduction on their property	Affected for first time
No of properties	1087	1162	50	134	237	125

Table 1: Changes proposed to Flood mapping through Amendment C85

For many landowners the public notification received for Amendment C85 was the first time they became aware that their property was subject to flood mapping in the planning scheme. Public notice of the previous amendment, undertaken in 2005 (Amendment C7) was through an advertisement in the local newspaper only.

Waterways and wetlands

Four major waterways and numerous wetlands are currently covered by the Environmental Significance Overlay Schedule 1 (ESO1) to protect water quality and biodiversity values associated with aquatic systems. Amendment C85 seeks to extend the coverage of the ESO1 to cover all significant waterways and wetlands.

The amendment reduces the coverage of the ESO1 where it currently applies (often up to 100m either side of a waterway) and consistently applies the schedule 50m either side of larger creeks and 30m either side of lesser creeks. The impact to individual properties is outlined in table 2 below (which includes Crown land – where most wetlands are situated).

Wetland/waterway Mapping changes	Properties currently affected	Properties affected by Amendment C85	Reduction on their property
No of properties	543	1552	248

Table 2: Changes proposed to wetland/waterway mapping through Amendment C85

Discussion

Flood and inundation mapping

A number of the submissions received to Amendment C85 related to flood mapping and a belief that the inundation mapping did not correlate to their observations of how their property floods. As mentioned previously the mapping updates provided by the CCMA were in targeted areas only and submissions primarily related to creeks where the mapping was not being changed through the amendment.

Amendment C7 (undertaken in 2005) introduced flood mapping into the Surf Coast Planning Scheme and was based on state wide flood mapping. Although new mapping across the municipality would be valuable, it is cost prohibitive and has instead only been undertaken in high priority areas. Following public exhibition of Amendment C85 and in response to the submissions received, the CCMA completed flood mapping for the Barwon River, Spring Creek and Wormbete Creek.

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

Schedule and policy changes

The exhibition documents included modified versions of the flood schedules (FO and LSIO), the Environmental Significance Overlay Schedule 1 (ESO1) and the Environmental Management Strategy. The flood and strategy changes were prepared by the CCMA.

Submissions

The amendment was publicly exhibited from 9th April 2015 to 11th May 2015. A total of (22) twenty two submissions were received, summarised as follows:

- three (3) supported the amendment
- eight (8) submissions were from referral authorities
- five (5) objected to mapping, changes requested
- four (4) objected to the introduction of planning controls in general or requested changes beyond the scope of the amendment
- one (1) objected to impacts flooding changes could have on their property
- one (1) objected to the proposed reduction in controls.

The main support for the amendment relates to the protection and enhancement of the wetlands and waterways in Surf Coast Shire.

Referral authorities either supported/had no objection to the amendment or requested minor exemptions within the overlay schedules to enable general maintenance to occur. The Country Fire Authority (CFA) objected to the amendment seeking stronger reference to the risks from bushfire within the amendment documents.

Opponents to the amendment are generally concerned with the mapping of the Land Subject to Inundation Overlay, stating that the mapping is too extensive. One submission objected to the reduction of the ESO1 within the Painkalac Valley.

The issues raised in the submissions and a thorough assessment of the proposal will be considered in a report to be presented to the 24th January 2017 Council meeting.

A more detailed summary of submissions is provided as Appendix 1.

Financial Implications

There are no costs to Council to hear and consider submissions. Sufficient funds are available within the project budget should the amendment proceed to a panel.

Council Plan

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

Policy/Legal Implications

Ministerial Direction No. 15 (The Planning Scheme Amendment Process) requires a planning authority to request the appointment of a panel within 40 business days of the closing date for submissions, unless a panel is not required. An extension was sought and has been granted by the Minister as the timelines set out under the direction could not be met.

In accordance with the Planning and Environment Act 1987 section 30, an amendment lapses two years after exhibition unless it is adopted or the Minister for Planning allows a longer period. In November 2016 Council sought and received approval from the Minister for Planning for consideration of C85. The amendment must be adopted by 9 April 2018 or it will lapse.

In accordance with Section 23 of the Planning and Environment Act 1987, after considering a submission that requests a change to the amendment Council must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

Officer Direct or Indirect Interest

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

Risk Assessment

There are no risks to Council associated with considering submissions.

Social Considerations

Submitters have raised the importance of protecting biodiversity assets and Amendment C85 recognises the importance of significant wetlands and waterways in Surf Coast Shire.

Improvements to flood mapping will assist in minimising the risks to property owners.

Community Engagement

The amendment was placed on public exhibition in accordance with the requirements of the *Planning and Environment Act 1987*. Notice was given by:

- sending notices to affected landowners
- placing notices in the Surf Coast Times and Government Gazette.

The amendment and supporting documents were available for viewing at the Council office, on Council's website and on the website of the Department of Environment, Land, Water and Planning.

Flood mapping changes

Flood mapping was amended for three waterways as a result of submissions including the Barwon River, Wormbete Creek and Spring Creek. The CCMA remodelled the flood regimes for these river systems and letters with updated mapping were sent to all affected landowners as follows:

- Letter and map sent to landowners affected by exhibited flood mapping changes for the Barwon River (north of Winchelsea) – 22nd December 2015
- Letter and map sent to landowners affected by exhibited flood mapping changes for the Wormbete Creek – 9th July 2015
- Letter and map sent to landowners affected by exhibited flood mapping changes for the Spring Creek – 22nd June 2015 and 31st July 2015.

Wetland and waterway mapping changes

- Letter sent to the landowner affected by deletion of the ESO4 and proposed application of the ESO1 in the Painkalac Valley – 12th December 2016.

Submitters will be given an opportunity to address Council's Hearing of Submissions Committee on 17th January 2017. One submitter will present to the Committee.

Environmental Implications

Amendment C85 seeks to enhance the protection of significant waterways and wetlands across the Surf Coast Shire.

Communication

All submitters have been invited to attend and present at the Hearing of Submissions conducted on 17th January 2017. Submitters will be advised of Council's decision on the Amendment following the 24th January 2017 Council meeting.

Submitters will also be contacted by Planning Panels Victoria following the appointment of a panel if relevant.

Conclusion

The submissions received in relation to Amendment C85 detail a number of matters that need to be considered and submitters have the opportunity to present to Council via the Hearing of Submissions meeting.

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

APPENDIX 1 SUMMARY OF SUBMISSIONS

Amendment C85 – Summary of submissions

1. Referral Authorities

No.	Authority/ Submitter	Type of submission	Summary of submission
1	(S2) Wathaurung Aboriginal Corporation	No objection	No objection to the amendment. Concerned that proposed changes to the ESO1 may impact on assessments of buildings and works under the Aboriginal Heritage Regulations.
2	(S3) Southern Rural Water	No objection	No objection
3	(S6) Country Fire Authority	Objection	Objects to the amendment and is seeking stronger references within Clause 21.03, the 'Environmental Management' strategy to the risks associated with bushfire.
4	(S10) Barwon Water	Support	Supports the amendment subject to modifications being made to the ESO1.
5	(S12) Corangamite Catchment Management Authority	Support	Supports the amendment and requests minor wording changes to the ESO1.
6	(S14) Vic Roads	No Objection	No objection to the amendment subject to modifications being made to the ESO1.
7	(S16) Department Environment, Land, Water and Planning	Support	Supports the amendment and requests minor wording changes to Clause 21.03, 'Environmental Management' strategy and the ESO1.
8	(S21) Vic Track	Objection (withdrawn)	Objects to / queries application of ESO1 close to railway line. Query / objection resolved and withdrawn 4/9/2015.

2. Public Submissions

No.	Submitter	Type of submission	Summary of submission
9	(S1) Bellbrae	Support	Supports the amendment
10	(S5) ANGAIR – Aireys / Anglesea district	Support	Supports the amendment
11	(S4) Jan Juc	Objection (withdrawn)	Objects to the mapping of the LSIO on the property on the grounds that it is too extensive.
12	(S7) Winchelsea	Objection	Objects to the mapping of the ESO1 on the property on the grounds that the mapped wetland was drained some years ago and is no longer present.
13	(S8) Winchelsea South	Objection	Objects to ESO1 and LSIO on the following grounds; <ul style="list-style-type: none"> ▪ Assumes that the schedules will require the landowner to fence off all land covered to an overlay. ▪ The land subject to the overlay is the most fertile part of the property and the overlay will prevent the landowner from farming the land. ▪ Concerned that the overlay will lead to the spread of vermin and noxious weeds within fenced areas. ▪ Does not agree with the need to get a planning permit for buildings/works or vegetation removal within the overlay area.
14	(S9) Bellbrae	Objection	Objects to the mapping of the LSIO on the property on the grounds that it is too extensive.

15	(S11) Bellbrae	Objection	Requests that wording be included in C85 stating that any future development of land subject to inundation can be incorporated into a calculation for public open space.
16	(S13) AIDA - Aireys Inlet district	Objection	Objects to the removal of the ESO1 from crown land and the reduction in coverage within the Painkalac valley.
17	(S15) Wensleydale	Objection	Object to the ESO1 being applied to the creek on the property because it is situated within the most fertile part of the farm. Concerned that the permit trigger for 'works' will include cropping. Concerned that any planting of native vegetation in the future may be subject to an overlay.
18	(S17) Buckley	Objection	Supports the reduction to the ESO1 over Lake Modewarre. Objects to the mapping of the LSIO over Lake Modewarre and doesn't believe flooding will occur again as a result of climate change. Objects to the SMO which was applied through Amendment C38 and believes that if the mapping of the ESO1 is being reduced through C85, the coverage of the SMO should also be reduced.
19	(S18) Winchelsea South	Objection	Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.
20	(S19) Winchelsea	Objection	Objects to the mapping of the LSIO on their property on the grounds that it is too extensive.
21	(S20) Anglesea	Objection	Objects to the increased coverage of the LSIO at the property and is worried it may restrict future development, specifically relating to access. Does not dispute that the property is potentially subject to flooding.
22	(S22) Mount Duneed	Support	Supports the amendment and the proposed reduction in coverage of the FO, LSIO and ESO1 on the property.

1.2 Planning Scheme Amendment C85 - Waterways and Flooding

APPENDIX 2 SUBMITTERS WHO HAVE REGISTERED TO SPEAK

Planning Scheme Amendment C85

Submitters who have registered to speak

1. Ian Godfrey (AIDA)

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

Author's Title: Senior Strategic Planner

General Manager: Phil Rowland

Department: Planning & Development

File No: F14/1548

Division: Environment & Development

Trim No: IC16/1198

Appendix:

1. Summary of submissions (D16/130953)
2. Submitters who have registered to speak (D16/130770)

Officer Direct or Indirect Conflict of Interest:

Status:

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

Information classified confidential in accordance with
Local Government Act 1989 – Section 77(2)(c):

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to hear from submitters in relation to Amendment C96.

Summary

Amendment C96 seeks to:

- apply an Environmental Significant Overlay Schedule 4 (ESO4) to all significant vegetation and habitat within the coastal townships of Lorne, Aireys Inlet – Moggs Creek, Anglesea and Torquay / Jan Juc including deleting current overlays applying to these areas
- align the Local Planning Policy Framework (LPPF) with the bushfire planning provisions through a series of changes to the Municipal Strategic Statement within the Surf Coast Planning Scheme.

The amendment was publicly exhibited from 9 April 2015 to 11 May 2015. A total of (16) sixteen submissions were received, summarised as follows:

- one (1) supported the amendment
- six (6) submissions were from referral authorities. Minor wording changes were requested
- one (1) supported certain aspects of the amendment but also sought clarity and requested minor wording adjustments and objected to the removal of the ESO4 from the Painkalac Valley
- three (3) objected to the introduction of the ESO4 and deletion of the VPO1, requesting that the Spring Creek Precinct Structure Planning (PSP) process be used instead to manage significant vegetation
- five (5) objected to the mapping of the ESO4 on their property and requested minor changes.

The issues raised in the submissions will be considered in detail in a report to be presented to the 24 January 2017 Council meeting.

Recommendation

That Council receive and note all submissions to Amendment C96.

Committee Resolution

MOVED Cr Margot Smith, Seconded Cr Martin Duke

That Council receive and note all submissions to Amendment C96.

CARRIED7:0

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

Report

Background

Environmental Significance Overlay Schedule 4 (ESO4)

Amendment C96 part implements the *Biodiversity Mapping Project (BMP)*, undertaken by the Surf Coast Shire in 2014 in consultation with the Department of Environment, Land, Water and Planning (DELWP) and the Corangamite Catchment Management Authority (CCMA). The BMP mapped and described all significant vegetation and habitat within the Surf Coast Shire.

Amendment C96 seeks to protect biodiversity assets in the townships of Lorne, Aireys Inlet to Moggs Creek, Anglesea, Torquay and Jan Juc. The amendment deletes a number of schedules currently protecting significant vegetation and replaces them with a single schedule, in the form of a revised Environmental Significance Overlay 4 (ESO4)

Aligning bushfire mitigation measures in Local policy with State policy

The Surf Coast Shire in conjunction with Victorian Government engaged ISIS Planning to complete a review of the inconsistencies between the Local Planning Policy Framework (LPPF) and State policy relating to bushfire mitigation measures. This followed the significant Victorian Government reforms to planning and building systems after the 2009 Victorian Bushfires Royal Commission into the Black Saturday fires. Since that time additional changes have been made to the Victoria Planning Provisions relating to bushfire.

Amendment C96 expands on the recommendations made by ISIS Planning, incorporating the recent changes to State policy and builds them into all relevant sections of the Municipal Strategic Statement (within the LPPF) and the new ESO4. The ESO4 is designed to integrate native vegetation objectives with bushfire protection to achieve consistency.

Discussion

The amendment was publicly exhibited from 9 April 2015 to 11 May 2015. A total of (16) sixteen submissions were received, summarised as follows:

- one (1) supported the amendment
- six (6) submissions were from referral authorities
- one (1) supported certain aspects of the amendment but also sought clarity or requested minor wording adjustments and objected to the removal of the ESO4 from the Painkalac Valley
- three (3) objected to the introduction of ESO4 through amendment C96 and requested that the Spring Creek Precinct Structure Planning Process be used instead to manage and highlight significant vegetation
- five (5) objected to the mapping of the ESO4 on their property and requested minor changes.

Support for the amendment relates to the ongoing protection and enhancement of native vegetation and habitat in the coastal towns. There was also support for the strengthening of controls in Aireys Inlet to protect scenic values of the Painkalac Valley.

Referral authorities either supported/had no objection to the amendment or requested minor wording changes or exemptions within the overlay schedules to enable general maintenance to occur. The Country Fire Authority (CFA) objected to the amendment seeking stronger reference to the risks from bushfire within the amendment documents.

Opponents to the amendment are generally concerned with the mapping of the ESO4, stating that the mapping also covers land with no vegetation.

There was also opposition to the application of the ESO4 and deletion of the VPO1 from land within the Urban Growth Zone adjacent to Spring Creek. Submitters suggested that the Precinct Structure Planning Process (being processed concurrently) is a more appropriate process to consider native vegetation management tools.

A more detailed summary of submissions is provided at Appendix 1.

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

Financial Implications

There are no costs to Council to hear and consider submissions. Sufficient funds are available within the project budget should the amendment proceed to an independent Panel.

Council Plan

Theme 1 Environment
Objective 1.1 Preserve and enhance the natural environment
Strategy Nil

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

Policy/Legal Implications

Ministerial Direction No. 15 (The Planning Scheme Amendment Process) requires a planning authority to request the appointment of a panel within 40 business days of the closing date for submissions, unless a panel is not required. An extension was sought and has been granted by the Minister as the timelines set out under the direction could not be met.

In accordance with section 30 of the Planning and Environment Act 1987, an amendment lapses two years after exhibition unless the amendment is adopted or the Minister for Planning grants an extension. In November 2016 the Minister for Planning granted an extension for C96, which now must be adopted by 9 April 2018.

In accordance with Section 23 of the Planning and Environment Act 1987, after considering a submission that requests a change to the amendment Council must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

Officer Direct or Indirect Interest

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

Risk Assessment

There are no risks to Council associated with considering submissions.

Social Considerations

Submitters have raised the importance of protecting the Shire's biodiversity assets and Amendment C96 seeks to protect and enhance the significant vegetation and habitats in the coastal townships.

Improvements to bushfire mitigation measures will assist in minimising the risks to property owners.

Community Engagement

The amendment was placed on public exhibition in accordance with the requirements of the *Planning and Environment Act 1987*. Notice was given by:

- sending notices to affected landowners
- placing notices in the Surf Coast Times and Government Gazette.

The amendment and supporting documents were available for viewing at the Council office, on Council's website and on the website of the Department of Environment, Land, Water and Planning.

ESO4 changes

Emails with updated mapping were sent to all landowners that requested changes to the ESO4 on their property as follows:

- Email and map sent to land manager affected by removal of the VPO1 & VPO3 and its replacement with the ESO4 – 22 July 2015.
- Letter sent to all landowners within the Urban Growth Zone (Spring Creek) affected by the Precinct Structure Plan proposing removal of the UGZ from Amendment C96 – 31 July 2015
- Letter and map sent to landowners affected by the removal of the VPO3 & SLO1 and its replacement with the ESO4 – 22 May 2015.

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

Six submissions have been withdrawn following receipt of the modified mapping and negotiated changes.

Submitters will be given an opportunity to address Council's Hearing of Submissions Committee on 17 January 2016. Three submitters have indicated they will present to the Committee.

Environmental Implications

Amendment C96 seeks to enhance the protection of significant vegetation and habitat within the coastal townships of the Surf Coast Shire.

Communication

All submitters have been invited to attend and present at the Hearing of Submissions conducted on 17 January 2017. Submitters will be advised of Council's decision on the Amendment following the 24 January 2017 Council meeting.

Submitters will also be contacted by Planning Panels Victoria following the appointment of a panel if relevant.

Conclusion

The submissions received in relation to Amendment C96 detail a number of matters that need to be considered and these are presented to Council via the Hearing of Submissions meeting.

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

APPENDIX 1 SUMMARY OF SUBMISSIONS

1. Referral Authorities

No.	Authority/Submitter	Type of submission	Summary of submission
1	(S1) Wathaurung Aboriginal Corporation	No objection	No objection to the amendment. Concerned that Clause 52.48-1 of the planning scheme (bushfire protection exemptions) could result in losses of Aboriginal scarred trees.
2	(S2) Southern Rural Water	No objection	No objection
3	(S7) Country Fire Authority	Objection	Objects to the amendment and is seeking wording changes within Local policy and overlay schedules, to strengthen and highlight the risks associated with bushfire.
4	(S10) Barwon Water	Support	Supports the amendment subject to modifications being made to the ESO4.
5	(S13) Vic Roads	No objection	No objection to the amendment subject to modifications being made to the ESO4.
6	(S14) Department Environment, Land, Water and Planning	Support	Supports the amendment and requests minor wording to local policy to improve references to significant biodiversity sites and bushfire threats.

2. Public Submissions

No.	Submitter	Type of submission	Summary of submission
7	(S3) Patrick and Ann Casey – Jan Juc	Objection (withdrawn)	Objects to the mapping of the ESO4 on their property on the grounds that it is too extensive. Does not dispute the existence of Bellarine Yellow Gums on the property but submits that the mapping covers too broad an area.
8	(S4) David Williams – ANGAIR – Aireys / Anglesea district	Support	Supports the amendment
9	(S5) Bill Cullen - Torquay	Objection (withdrawn)	Objects to the ESO4 covering an approved building envelope (approved under permit 11/0486). The permit has been acted upon, the vegetation has been cleared and a fence erected. Submission withdrawn based on mapping adjustments being approved.
10	(S6) Bill Cullen - Torquay	Objection	Objects to the removal of the SLO1 (currently applied to the property) and it's replacement with the ESO4 on the grounds that the site was historically grazed and the vegetation on the site has been planted. Verbal support for retention of the SLO1 and ESO4 not being applied.
11	(S8) Randah Jordan For Bosco Jonson – Jan Juc	Objection (withdrawn)	Objects to the application of the ESO4 to significant vegetation through amendment C96. Submits that the Precinct Structure Planning (PSP) process being undertaken for the Spring Creek valley is a more appropriate planning tool for management of significant vegetation. Submission withdrawn based on C96 not being applied to the property.
12	(S9)	Objection	Objects to the mapping of the ESO4 on the site on the

	Bill Cullen - Torquay	(withdrawn)	<p>grounds that the schedule also covers a planted native tree and a drainage pit. Does not dispute the coverage of the Bellarine Yellow Gums but requests the mapping be slightly modified.</p> <p>Submission withdrawn based on mapping adjustments being approved.</p>
13	(S11) Ian Godfrey for AIDA- Aireys Inlet district	Objection	<p>Objects to removal of ESO4 from the valley on the grounds that the valley forms an important part of the overall biodiversity of the township (with possible seed bank still present in the topsoil). If significant works were ever undertaken in the valley acid sulphate soils could be released into the estuarine system causing significant environmental damage.</p> <p>Verbal support for application of ESO1 to land where ESO4 is to be deleted.</p> <p>Supports the wording alterations to the DDO11 through amendment C96 which seeks to strengthen the scenic values of the Painkalac valley.</p> <p>Requests minor wording changes throughout local policy for clarity and strengthening of environmental/town character values.</p>
14	(S12) Amex – Jan Juc	Objection (withdrawn)	<p>Objects to the application of the ESO4 to significant vegetation through amendment C96. Submits that the Precinct Structure Planning (PSP) process being undertaken for the Spring Creek valley is a more appropriate planning tool for management of significant vegetation.</p>
15	(S15) Rae Margaret Ward – Jan Juc	Objection	<p>Objects to the application of the ESO4 to significant vegetation through amendment C96. Submits that the Precinct Structure Planning (PSP) process being undertaken for the Spring Creek valley is a more appropriate planning tool for management of significant vegetation.</p>
16	S16 Matt Lehmann - Torquay	Objection (withdrawn)	<p>Objects to the mapping of the ESO4 and submits that the coverage on the property should be modified. Submission is based on an Ecological study undertaken for the site by Beacon Ecology.</p> <p>Submission withdrawn based on mapping adjustments being approved.</p>

1.3 Amendment C96 - Biodiversity in the Settlements and Bushfire Update Through Local Policy

APPENDIX 2 SUBMITTERS WHO HAVE REGISTERED TO SPEAK

Planning Scheme Amendment C96

Submitters who have registered to speak

1. Matt Lehmann
2. Bill Cullen
3. Ian Godfrey (AIDA)

Close: There being no further items of business the meeting closed at 6.12pm.