



# Minutes

Special Meeting of Council  
Tuesday, 12 September 2017

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

**Council:**

Cr Brian McKitterick (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

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MINUTES FOR THE SPECIAL COUNCIL MEETING OF SURF COAST SHIRE COUNCIL  
TO BE HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY  
ON TUESDAY 12 SEPTEMBER 2017 COMMENCING AT 5.00PM

**PRESENT:**

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

**In Attendance:**

Chief Executive Officer – Keith Baillie  
General Manager Governance & Infrastructure – Anne Howard  
General Manager Environment & Development – Ransce Salan  
Team Leader Governance – Candice Holloway (minutes)  
Manager Governance & Risk – Wendy Hope  
Coordinator Governance & Corporate Planning– Danielle Foster  
Coordinator Communications & Community Relations – Darryn Chiller  
Manager Information Management – Neil McQuinn  
Manager Finance – John Brockway  
Manager Planning & Development – Bill Cathcart  
Principal Planner – Michelle Warren

34 members of the public

1 members of the press

**OPENING:**

**Cr Brian McKitterick, Mayor opened the meeting.**

Council acknowledge the traditional owners of the land where we meet today and pay respect to their elders past and present and Council acknowledges the citizens of the Surf Coast Shire.

Due to the public agenda being issued with an incorrect time, the Special Council Meeting will be as follows:

5:00pm – Public Question Time

6:00pm – Consideration of formal agenda

**PLEDGE:**

**Cr Rose Hodge recited the pledge on behalf of all Councillors.**

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:**

Cr Margot Smith

**Council Resolution**

**MOVED Cr Rose Hodge, Seconded Cr Libby Coker**

That an apology be received from Cr Margot Smith.

CARRIED 8:0

**CONFLICTS OF INTEREST:**

Manager Information Management – Neil McQuinn (present in the gallery) declared an Indirect Conflict of Interest in item 2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae under section 78E of the Local Government Act 1989 due to residential amenity.

## **PUBLIC QUESTION TIME:**

### **Questions with Notice:**

All questions received relate to agenda item 2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae

Question 1 and 2 received from Peter Brighton of Bellbrae:

#### **Question 1:**

Are the Councillors aware that Ericsson's response to the rejection of their proposal stated that their RF modelling (which approximates how the tower is likely to perform) had confirmed only one residence will definitely be impacted, but that the other 25 residents may (and by implication, may not) be impacted?

General Manger Environment & Development – Ransce Salan responded:

This information has been provided to all Councillors. Ericsson's response letter is also identified in the body of the report.

#### **Question 2:**

A refusal of this permit by Council will deny 4000 residents in the northern part of the shire access to high speed wireless internet. What activities does Council have planned to ensure that these 4000 residents will be provided with access to a reliable, affordable and effective telecommunications network in as short a time as possible following their actions?

General Manger Environment & Development – Ransce Salan responded:

The matter before Council is to determine a planning application and not to determine what other activities Council may undertake. Council's Advocacy program includes the "Improve Mobile Phone and Internet Coverage" as an initiative. Council may wish to include a commitment to establishing a reliable, affordable internet service to businesses, residents and students within the Surf Coast Shire as an advocacy priority in response to the concerns being raised by many residents throughout this planning process.

Question 3 and 4 received from Geoff Winkler of Bellbrae

#### **Question 3:**

With regard to the planning application for a fixed wireless facility at 1435 Anglesea Road, Bellbrae are Council aware of and will due consideration be given to the fact that the same Bellbrae West residents who were advocated for, and due to their existing handicaps were used publicly as the impetus for the Bellbrae NBN rollout, are forming the bulk of the 56 premises, as quoted by NBN, (which accounts for more than 1 in 3 of all premises in that area), which are unlikely to receive a fixed wireless service?

General Manger Environment & Development – Ransce Salan responded::

This is not a Statutory Planning consideration. Council has to act as the Responsible Authority under the Planning and Environment Act 1987 and must decide on this application on planning grounds.

#### **Question 4:**

Has Council acknowledged and given due consideration to the evidence earlier provided, that proves NBN's modelling database to be flawed and as a result provides coverage figures which are incorrect and cannot be relied upon?

General Manger Environment & Development – Ransce Salan responded:

The planning assessment has considered all application information provided by all parties. It is not a planning function to question the coverage provided by the facility. However, Council did have a Hearing of submissions process and have heard from all parties in relation to the NBN's modelling.

Question 5 and 6 received from John Slykhuis of Bells Beach

#### **Question 5:**

The motion on the table tonight talks about a Net Community benefit. Can Council explain how a decision to support a small group of local residents at the expense of 4000 other residents meets nett community benefit?

General Manger Environment & Development – Ransce Salan responded:

The principles of Net Community Benefit are applied to seek an 'on balance' outcome where various competing interests are weighted and balanced. This forms part of Council's consideration. Council is yet to make a decision on this matter.

**Question 6:**

If Councillors decide tonight to refuse the NBN permit application, what activities is Council going to engage in to ensure the equitable telecommunications that they so passionately embrace are distributed across the rest of the shire?

General Manger Environment & Development – Ransce Salan responded:

As noted earlier, this is not a statutory planning consideration. The matter before Council is to determine a planning application and not to determine what other activities Council may undertake.

Question 7 and 8 asked by Ann Bullen of Mount Duneed

**Question 7:**

Council's Planning Department received on 4th April 2017 a Planning Report "Proposed Fixed Wireless Facility" 1435 Anglesea Road, Bellbrae authored by David Hughes approved and owned by Auecon/NBN. Did any Councillor read this Planning Report and if so what consultation has there been with communities (other than Bellbrae) regarding the NBN preferred site at Bellbrae and its critical importance in their ability to access NBN by mid 2018?

General Manger Environment & Development – Ransce Salan responded:

The NBN Planning Report was submitted with the Planning Permit Application and is attached to the Council report. Consultation with other communities is beyond the obligations associated with this planning process. However, it needs to be noted that extensive notification has been carried out by Council with Planning Permit notifications going out to all residents within a 2 kilometre radius of the proposed site, sign posting on the actual site and various meetings with concerned residents throughout the process. This resulted in 65 submissions being received in response to this proposal.

**Question 8:**

We understand that one reason Council rejected NBN's proposals is on the equity and economic considerations. Have the Councillor's taken into account the economic impact of delay, or switch to satellite technology on the other 1700 impacted residences and their businesses?

General Manger Environment & Development – Ransce Salan responded:

This is a relevant consideration in determining the Net Community Benefit.

Question 9 and 10 asked by Rob Bullen of Mount Duneed

**Question 9:**

In their Planning report received by Council on 4<sup>th</sup> April 2017 NBN stated dependencies on this tower for 1700 other residences. Should the impacts of all the impacted residences and their businesses be taken into account when considering the NBN proposal?

General Manger Environment & Development – Ransce Salan responded:

As noted earlier, this is a relevant consideration in determining the Net Community Benefit.

**Question 10:**

The NBN stated deployment end date is 2020. Design, construction deployment and activation typically takes a year once infrastructure (like towers) have been commissioned. Accordingly the Ericsson letter on 4<sup>th</sup> September 2017 states rejection of the NBN proposal may result in "delaying or jeopardizing NBN connectivity" for all 1700 impacted residents. Does Council acknowledge there is a real chance all 1700 premises may end up on satellite as a consequence of the Council decision today, as NBN are forced to triage (by offering satellite rather than fixed wireless) in order to meet their target deployment numbers?

General Manger Environment & Development – Ransce Salan responded:

As noted earlier, this is a relevant consideration in determining the Net Community Benefit.

Question 11 asked by Debbie Myers also on behalf of Noel Myers of Bellbrae

**Question 11:**

If we were to withdraw our objection to the proposed tower site, how will NBN address that our tourism business, Spring Creek Horse Rides and Accommodation, will not continually be disadvantaged due to poor access to fixed wireless broadband, as satellite is both slower and much more expensive and not a fair option?

General Manger Environment & Development – Ransce Salan responded:

This is beyond the ambit of the statutory planning process and would be a question for NBN not Council. If an objection is withdrawn, there are no rights under the Planning and Environment Act 1987 to remain party to the process.

Question 12 asked by Jean Ross of Bellbrae

**Question 12:**

Is it possible for the Mayor and the Surf Coast Councillors to advocate for an EQUITABLE Telecommunications Solution for Bellbrae West?

General Manger Environment & Development – Ransce Salan responded:

Council can decide to advocate. As noted earlier, the matter before Council is to determine a planning application. This is beyond the ambit of the statutory planning process although at a high level, it would be relevant under the broader Net Community Benefit consideration where competing interest must be weighted.

Question 13 asked by Rob Bullen on behalf of Matt Freeman of Freshwater Creek

**Question 13:**

It appears that residents in the 50 square kilometre rectangle bounded by Reservoir Road, Hunts Road, Blackgate Road, and Anglesea Road, Bellbrae are destined to have satellite coverage according to the NBN tracker site. This represents in excess of 100 premises. Given the willingness of the Council to ensure equitable coverage of NBN fixed radio services in protecting the between 1-26 premises not covered by the Bellbrae tower (at the expense of the 1700 that are covered), what are the Council doing about the 100+ residences of Freshwater Creek that are planned to receive satellite?

General Manger Environment & Development – Ransce Salan responded:

As noted earlier, this is beyond the ambit of the statutory planning application although at a high level, this matter would be relevant under the broader Net Community Benefit consideration where competing interest must be weighted.

Question 14 asked by Laurie Hasas of unknown

**Question 14:**

Should Council continue to oppose the proposal for the NBN fixed wireless facility, could Council members please explain how NBN connectivity will be achieved by the broader population of Bellbrae and Bells Beach. How long will residents have to wait if the construction is delayed?

General Manger Environment & Development – Ransce Salan responded:

This question has been previously addressed earlier.

**Adjournment of Meeting**

**Council Resolution**

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

That Council agree to adjourn the meeting at 5:21pm until 6:00pm.

CARRIED 8:0

**Resumption of Meeting**

**Council Resolution**

**MOVED Cr Libby Coker, Seconded Cr David Bell**

That Council agree to resume the meeting at 6:02pm.

CARRIED 8:0

Question 15 asked by Adrian Schonfelder of Barrabool

**Question 15: NBN Tower Bellbrae**

Cr Heather Wellington abstained from voting previously, as she provided assistance to the 26 residences in preparing the case against the proposal. I am sure this group of residents is appreciative of that assistance and it fulfils the Councillor's obligations in representing her constituents. However, If Cr Heather Wellington were to consider the impacts on the other 1700 impacted residences within her constituency and were to support NBN's proposal by vote for it, how could this be interpreted as a conflict of interest, given abstaining will in effect be equivalent to voting against NBN's proposal (as happened with the previous vote), and will result in the proposal being rejected?

Cr Heather Wellington responded:

It is part of the role of Councillors to advocate for groups in their community and I assisted residents in Bellbrae West, as a minority group, to prepare their cases to object to the application. I have not necessarily adopted their views, however I do believe the group had some legitimate questions that were not answered.

A conflict of interest differs from a apprehension of bias and I do not have a conflict of interest as defined in the Local Government Act 1989.

My abstention from voting at the last Council meeting had no impact on the outcome. I will also refrain from voting on the item tonight and to ensure this does not impact the outcome, I intend to leave the Council Meeting before the matter is considered.

Cr Heather Wellington left the meeting at 6:12pm.

**Move Item Forward**

**Council Resolution**

**MOVED Cr Libby Coker, Seconded Cr Martin Duke**

That Council consider item 2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae at this point in the Agenda for the benefit of the gallery present.

CARRIED 7:0

**BUSINESS:**

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## 1. ENVIRONMENT & DEVELOPMENT

### 2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae

**Author's Title:** Statutory Planner

**General Manager:** Ransce Salan

**Department:** Planning & Development

**File No:** 17/0106

**Division:** Environment & Development

**Trim No:** IC17/977

**Appendix:**

1. Planning Report (D17/50760)
2. Site Plans (D17/50775)
3. Officer Report (D17/94071)
4. Submitters List (D17/93645)

**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 determine Planning Permit Application 17/0106 for 1435 Anglesea Road, Bellbrae.

#### **Summary**

Council considered this item at its meeting on 22 August 2017 but did not make a decision on the application as under the *Planning and Environment Act 1987* Council must either determine whether to approve or refuse the application.

Since the August meeting, information has been made available by the permit applicant that provides context to the role of the telecommunications facility in the broader network. As set out in the discussion below, this facility is one part of a network servicing over 1,700 properties and based on the information provided.

A refusal of the application must include Council's grounds of refusal in clear and understandable terms. The grounds must be specific enough so that the permit applicant, objectors and the Victorian Civil and Administrative Tribunal (VCAT) can understand the true basis on which the refusal was determined upon.

It is noted that the application has been with Council for more than 60 statutory days. It is possible the applicant may appeal Council's failure to determine. In the event that an appeal is lodged with VCAT before the Council meeting date due to Council's failure to decide on the application within the prescribed time (60 statutory days), Council will still need to make a decision as to whether it intends to pursue approval or refusal of the application should the matter proceed to VCAT.

Council now needs to make a determination on this Planning Permit Application and two options have been prepared, with the first option setting out the grounds for the refusal of the application. This is on the basis that the officer recommendation for approval was not supported at the last Council meeting. However, a second option for the approval has also been included should Council not determine to refuse. This second option is in line with the original officer recommendation.

#### **Recommendation**

That Council make a determination on Planning Permit Application 17/0106 for a Telecommunications Facility at 1435 Anglesea Road, Bellbrae.

#### **Council Resolution**

##### **MOVED Cr Carol McGregor, Seconded Cr Clive Goldsworthy**

That Council:

1. Note that Council's Advocacy program includes the "Improve Mobile Phone and Internet Coverage" project.
2. Write to NBN Co. seeking a commitment to establishing a reliable, affordable internet service to those businesses, residents and students within the Surf Coast Shire who will not be able to access



the internet, through an additional tower or affordable, quality satellite service.

3. Having caused notice of Planning Permit No. 17/0106 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of the Surf Coast Planning Scheme in respect of the land known and described as for 1435 Anglesea Road, Bellbrae for Use and Development of the Land for a Telecommunications Facility subject to the following conditions:

Endorsed Plans

1. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Expiry

2. This permit will expire if one of the following circumstances applies:
  - a) The use and development is not started within two years of the date of this permit
  - b) The development is not completed within four years of the date of this permit
  - c) The use is discontinued for a period of two years or more

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

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

Cr David Bell foreshadowed an alternate motion should the motion be lost.

CARRIED 5:2

Cr David Bell voted against the motion.

Cr Libby Coker left the meeting at 6:29pm.

## **Report**

### ***Background***

The land at 1435 Anglesea Road is zoned for farming and is currently developed by a dwelling and associated outbuildings. An application has been received to develop the land for a telecommunications facility comprising of a 46m high tower (including antennae) and associated ground level buildings within a 10m x 10m compound. The facility will form part of the NBN network.

### ***Discussion***

A detailed assessment of the application against the relevant provisions of the Surf Coast Planning Scheme is contained in the attached officer's report.

The State wide provisions with the Surf Coast Planning Scheme for a Telecommunications Facility are contained within clause 52.19. Under this provision the planning objectives for Victoria contained within the *Planning and Environment Act 1987* (the Act) have to be considered. The objectives have been included below.

*(1) The objectives of planning in Victoria are—*

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (g) to balance the present and future interests of all Victorians.*

There is some scope for Council to consider the effectiveness of the coverage as a relevant matter to be considered (when making decisions) amongst other matters as the Act requires Council to consider, environmental, social, economic and issues. Through the provisions of 52.19 Council is being asked to consider the benefit to the community and to balance present and future interests of Victorians.

Council can only consider the proposal on the site that is the subject of this application. It is not open to Council to be considering the merits of an alternative site. Therefore the "public interest test" is limited to this site.

Since the August meeting, information has been made available by the permit applicant that provides context to the role of the telecommunications facility in the broader network.

In summary, the facility provides coverage to approximately 453 premises in Bellbrae and parts of West Bellbrae and through connection to four other NBN facilities, forms part of a network servicing at least 1,700 premises. Other serviced properties are located in Moriac, Gherang, Mt Duneed and parts of Torquay. The applicant advises that this equates to approximately 4,000 people that are reliant on the facility for access.

Sixty-five submissions were received and the applicant analysed 51 of these; these being the ones that were available at the time of the assessment. Forty (40) of the referenced objections raised coverage as a principal concern; the 40 objections were from 26 properties. Ericsson's radio engineers advise that 14 of the 26 properties are likely to receive the Fixed Wireless Service. For a further 11 properties, the planned technology has yet to be determined as it is on the periphery of modelled coverage. The applicant has advised only one (1) of the submitters property will certainly not receive coverage from the Fixed Wireless facility although NBN connectivity would be available via satellite.

### ***Financial Implications***

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

### ***Council Plan***

Theme 3 Balancing Growth

Objective 3.2 Ensure infrastructure is in place to support existing communities and provide for growth

Strategy 3.2.6 Advocate for supporting infrastructure

### **Policy/Legal Implications**

The application will be assessed against relevant provisions of the Surf Coast Planning Scheme in accordance with the requirements of the *Planning and Environment Act 1987*.

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

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

### **Risk Assessment**

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

### **Social Considerations**

The objections received against the application raise matters which may be classed as social impacts including the impact of the development on visual amenity.

### **Community Engagement**

Public notice of the application has been carried out in accordance with the requirements of the *Planning and Environment Act 1987*. Sixty four objections and one letter of support were received. A list summarising the concerns has been appended to this report.

### **Environmental Implications**

There are no foreseen environmental implications in approving or refusing the proposed use and development.

### **Communication**

In accordance with the requirements of the Act, a copy of Council's decision will be provided to the applicant and objecting parties (and other submitters as relevant) by mail.

### **Options**

Council has two options available at this time:

#### Option 1

If Council determines this option (refusal) is most appropriate, then appropriate wording for a motion will be as follows:

*That Council having caused notice of Planning Application No. 17/0106 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to refuse to Grant a Permit under the provisions of the Surf Coast Planning Scheme in respect of the land known and described as 1435 Anglesea Road, Bellbrae for Use and Development of the Land for a Telecommunications Facility for the following reasons:*

- 1. The telecommunications facility will not result in net community benefit and due to its siting will disadvantage some members of the community who will not have access to a reliable, affordable and effective telecommunications network.*
- 2. The telecommunications facility has not been sited to minimise visual impact and has an unacceptable visual impact on neighbouring properties and when viewed from the Anglesea Road gateway to the Great Ocean Road.*

#### Option 2

If Council determines this option (approval) is most appropriate, then appropriate wording for a motion will be as follows:

*That Council having caused notice of Planning Permit No. 17/0106 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of the Surf Coast Planning Scheme in respect of the land known and described as for 1435 Anglesea Road, Bellbrae for Use and Development of the Land for a Telecommunications Facility subject to the following conditions:*

#### **Endorsed Plans**

- 1. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.*

*Expiry*

2. *This permit will expire if one of the following circumstances applies:*

- a) The use and development is not started within two years of the date of this permit*
- b) The development is not completed within four years of the date of this permit*
- c) The use is discontinued for a period of two years or more*

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

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

**Conclusion**

As with all planning permit applications, a decision on this application requires a balancing of policy objectives. The facility will provide the infrastructure needed for the fixed wireless component of the National Broadband Network (NBN) which is an upgrade to Australia's existing telecommunications network.

There has been concern raised by objecting parties about the appropriateness of the site with respect to visual amenity and suitable coverage in particular. The visual impact is considered to meet the relevant tests of the scheme and while coverage must be considered by the provider in designing the broader network, it is not a specific planning consideration. It is, however, noted that the application information suggests that a greater number of properties will be serviced by the tower in its proposed location. Council's decision should aim to achieve a net community benefit. The public interest test in this instance would favour the greater number of properties able to be reached by the facility as submitted in this location. The officer recommendation remains unchanged as the second option in the report.

## 2. GOVERNANCE & INFRASTRUCTURE

### 1.1 Annual Financial Statements 2016 - 2017

**Author's Title:** Manager Finance

**General Manager:** Anne Howard

**Department:** Finance

**File No:** F16/895

**Division:** Governance & Infrastructure

**Trim No:** IC17/1030

#### Appendix:

1. Surf Coast Shire Annual Financial Report for the Year Ended 30 June 2017 (D17/104251)

#### 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 present the 2016 – 2017 Financial Statements to Council for its in-principle approval, as recommended by the Audit and Risk Committee and in accordance with section 132 of the *Local Government Act 1989* (the Act).

#### Summary

Section 132 of the Act requires Council to pass a resolution approving in principle the financial statements, standard statements and performance statement prior to submitting the statements to the Victorian Auditor-General for issue of an audit opinion. The audit was conducted on-site at Council's headquarters by the Victorian Auditor-General's Office during the week commencing 21 August 2017.

The Audit and Risk Committee considered the statements at its meeting held on Thursday, 7 September 2017. The Committee recommended that Council adopt in principle the 2016/2017 financial statements, and authorise two Councillors to sign the statements in accordance with the Act.

Council's approval of the statements is required to enable the in principle statements to be signed, submitted to the Auditor-General to issue an audit opinion and included in the annual report to be lodged with the Minister by the due date on 30 September 2017.

#### Recommendation

That Council:

1. Approve in principle to the financial statements and submit the statements to the auditor for reporting on the audit.
2. Authorise Cr Smith and Cr Goldsworthy to sign the 2016/2017 Financial Statements in accordance with section 132(5) of the Local Government Act 1989.
3. Require the 2016/2017 Financial Statements be referred back to Council if there are significant changes prior to signing.
4. Require that any minor changes to the 2016/2017 Financial Statements be reviewed by the two authorised Councillors prior to signing.

#### Council Resolution

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

That Council:

1. Approve in principle to the financial statements and submit the statements to the auditor for reporting on the audit.
2. Authorise Cr Brian McKitterick and Cr Clive Goldsworthy to sign the 2016/2017 Financial Statements in accordance with section 132(5) of the Local Government Act 1989.
3. Require the 2016/2017 Financial Statements be referred back to Council if there are significant changes prior to signing.
4. Require that any minor changes to the 2016/2017 Financial Statements be reviewed by the two authorised Councillors prior to signing.

CARRIED 6:0

## 1.1 Annual Financial Statements 2016 - 2017

### Report

#### **Background**

The Local Government Act 1989 (the Act) requires Council to pass a resolution giving its approval in principle to the financial statements prior to submitting the statements to the Auditor-General for issue of an audit opinion.

Section 132 of the Act states:

- (1) A Council must submit the performance statement and financial statements in their finalised form to the auditor for auditing as soon as possible after the end of the financial year.
- (2) The Council, after passing a resolution giving its approval in principle to the performance statement and financial statements, must submit the statements to the auditor for reporting on the audit.
- (3) The auditor must prepare a report on the performance statement.  
*Note: The auditor is required under Part 3 of the Audit Act 1994 to prepare a report on the financial statements.*
- (4) The auditor must not sign a report under subsection (3) or under Part 3 of the Audit Act 1994 unless the performance statement or the financial statements (as applicable) have been certified under subsection (5).
- (5) The Council must ensure that the performance statement and financial statements, in their final form after any changes recommended or agreed by the auditor have been made, are certified in accordance with the regulations by—
  - (a) 2 Councillors authorised by the Council for the purposes of this subsection; and
  - (b) any other prescribed persons
- (6) The auditor must provide the Minister and the Council with a copy of the report on the performance statement as soon as is reasonably practicable.  
*Note: The auditor is required under Part 3 of the Audit Act 1994 to report on the financial statements to the Council within 4 weeks and to give a copy of the report to the Minister.*

The Audit and Risk Committee considered the statements at its meeting held on Thursday, 7 September 2017. The Committee made a series of recommendations to Council, which are consistent with those outlined in this report. Council is required to consider the statements to enable an approved set to be signed and submitted to the Victorian Auditor-General for issue of an audit opinion. The audited statements can then be included in the annual report and lodged with the Minister by the due date of 30 September 2017.

#### **Discussion**

In accordance with its Charter, the Audit and Risk Committee is required to provide Council with the minutes of every meeting of the Committee, as well as a report explaining any specific recommendations and key outcomes. Due to the timing of both the audit process and Committee meeting, the full Minutes of the Committee meeting are not included in the Council Meeting agenda, however an extract of the relevant section of the Committee resolution is provided as follows:

“That the Audit and Risk Committee:

1. Recommend that Council:
  - a) Adopt ‘in principle’ the 2016/2017 Financial Statements, subject to further adjustments required by Council’s auditor, in accordance with Section 131(7) of the Local Government Act 1989.
  - b) Authorise two Councillors to sign the 2016/2017 Financial Statements in accordance with Section 132(5) of the Local Government Act 1989.
  - c) Require the 2016/2017 Financial Statements be referred back to Council if there are significant changes prior to signing.
  - d) Require that any minor changes to the 2016/2017 Financial Statements be reviewed by the two authorised Councillors prior to signing.”

The Committee considered the 2016/2017 statements at its meeting held on 7 September 2017. Council staff and representatives of the Auditor-General’s office attended the Committee meeting to present and answer any questions.

## **1.1 Annual Financial Statements 2016 - 2017**

It was the consensus of the Committee that the statements present fairly the financial position of Surf Coast Shire Council at the conclusion of the 2016 - 2017 financial year, and that the financial performance and cash flows of Surf Coast Shire Council are in accordance with applicable Australian Accounting Standards and requirements of the Act. Any recommended changes need to be made prior to submitting the statements to the Auditor-General for an audit opinion and lodgement of Council's annual report to the Minister by the due date of 30 September 2017.

The minutes of the Committee held on 7 September 2017 will be provided for Council's information at the 24 October 2017 Ordinary Council Meeting.

### ***Financial Implications***

The financial statements are prepared by Council officers and are completed with resources available within operating budgets.

### ***Council Plan***

Theme 5 High Performing Council  
Objective 5.1 Ensure Council is financially sustainable and has the capability to deliver strategic objectives  
Strategy 5.1.1 Establish long-term financial principles and incorporate into the long-term financial plan

### ***Policy/Legal Implications***

Section 139 of the Local Government Act 1989 requires Council to establish an Audit and Risk Committee as an advisory committee of Council. The recommendation provided with this report ensures that Council is compliant with its statutory obligations.

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

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

### ***Risk Assessment***

Council's financial statements are subject to a rigorous audit process to ensure their accuracy and for Council to be advised through these reports of any areas of concern. The Committee also has a responsibility to review the statements prior to Council adoption of the statements in principle, and to raise any matters of concern.

### ***Social Considerations***

Not applicable.

### ***Community Engagement***

The financial statements will be published in the Annual Report.

### ***Environmental Implications***

Not applicable.

### ***Communication***

Council's financial statements are published in Council's annual report, which is available for the public to view at Council's offices or on Council's website.

### ***Conclusion***

The annual financial reporting cycle provides a good opportunity for Council to reflect on its performance during the previous financial year. The process of compiling the financial statements is a lengthy one, and involves a number of Council officers who have committed considerable effort during this busy period. This effort ensures that financial reporting to the community continues to support Council's objective of maintaining sound financial practices.

## 1.2 Performance Statement 2016 - 2017

**Author's Title:** Coordinator Governance & Corporate Planning  
**General Manager:** Anne Howard

**Department:** Governance & Risk

**File No:** F16/849

**Division:** Governance & Infrastructure

**Trim No:** IC17/1028

### Appendix:

1. Performance Statement 2016-2017 (D17/59055)

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

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

Yes

No

#### Status:

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

Yes

No

**Reason:** Nil

**Reason:** Nil

### Purpose

The purpose of this report is to present the 2016 – 2017 Performance Statement to Council for its in-principle approval, as recommended by the Audit and Risk Committee and in accordance with section 132 of the *Local Government Act 1989* (the Act).

### Summary

Section 132 of the Act requires Council to pass a resolution approving in principle the financial statements, standards statements and performance statement prior to submitting to the Victorian Auditor General for issue of an audit opinion. The audit was conducted on-site at Council's municipal office by the Victorian Auditor General's Office during the week commencing 21 August 2017.

The Audit and Risk Committee considered the statements at its meeting held on Thursday 7 September 2017. The Committee recommended that Council adopt in principle the 2016 – 2017 Performance Statement, and authorise two (2) Councillors to sign the statements in accordance with the Act.

Council's approval of the statements is required to enable the "in principle" statements to be signed, submitted to the Auditor-General to issue an audit opinion and included in the Annual Report to be lodged with the Minister by 30 September 2017.

### Recommendation

That Council:

1. Approve in principle to the performance statement and submit the statement to the auditor for reporting on the audit.
2. Authorise Cr Margot Smith and Cr Clive Goldsworthy to sign the 2016 - 2017 Performance Statement in accordance with Section 132(5) of the Local Government Act 1989
3. Require the 2016 - 2017 Performance Statement be referred back to Council if there are significant changes prior to signing.
4. Require that any minor changes to the 2016 - 2017 Performance Statement be reviewed by the two authorised Councillors prior to signing.

### Council Resolution

#### MOVED Cr Rose Hodge, Seconded Cr Martin Duke

That Council:

1. Approve in principle to the performance statement and submit the statement to the auditor for reporting on the audit.
2. Authorise Cr Brian McKitterick and Cr Clive Goldsworthy to sign the 2016 - 2017 Performance Statement in accordance with Section 132(5) of the Local Government Act 1989
3. Require the 2016 - 2017 Performance Statement be referred back to Council if there are significant changes prior to signing.
4. Require that any minor changes to the 2016 - 2017 Performance Statement be reviewed by the two authorised Councillors prior to signing.

CARRIED6:0



## 2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae

### Report

#### **Background**

The Local Government Act 1989 (the Act) requires Council to pass a resolution giving its approval in principle to the performance statement prior to submitting the statement to the Auditor General for issue of an audit opinion.

Section 132 of the Act states:

- (1) A Council must submit the performance statement and financial statements in their finalised form to the auditor for auditing as soon as possible after the end of the financial year.
- (2) The Council, after passing a resolution giving its approval in principle to the performance statement and financial statements, must submit the statements to the auditor for reporting on the audit.
- (3) The auditor must prepare a report on the performance statement.
- (4) The auditor must not sign a report under subsection (3) or under Part 3 of the Audit Act 1994 unless the performance statement or the financial statements (as applicable) have been certified under subsection (5).
- (5) The Council must ensure that the performance statement and financial statements, in their final form after any changes recommended or agreed by the auditor have been made, are certified in accordance with the regulations by -
  - (a) 2 Councillors authorised by the Council for the purposes of this subsection; and
  - (b) any other prescribed persons
- (6) The auditor must provide the Minister and the Council with a copy of the report on the performance statement as soon as is reasonably practicable.

The Audit and Risk Committee considered the statements at its meeting held on Thursday 7 September 2017. The Committee made a series of recommendations to Council, which are consistent with those outlined in this report. Council is required to consider the statements to enable an approved set to be signed and submitted to the Victorian Auditor-General for issue of an audit opinion. The audited statements can then be included in the Annual Report and lodged with the Minister by the due date of 30 September 2017.

#### **Discussion**

In accordance with its Charter, the Audit and Risk Committee is required to provide Council with the minutes of every meeting of the Committee, as well as a report explaining any specific recommendations and key outcomes. Due to the timing of both the audit process and Committee meeting, the full minutes of the Committee meeting are not included in this Council meeting agenda. An extract of the relevant section of the Committee resolution is provided as follows:

“That the Audit and Risk Committee recommend that Council

- (1) Adopt ‘in principle’ the 2016 - 2017 Performance Statement, subject to further adjustments required by Council’s auditor, in accordance with Section 132 of the Local Government Act 1989.
- (2) Authorise two Councillors to sign the 2016 - 2017 Performance Statement in accordance with Section 132(5) of the Local Government Act 1989.
- (3) Require the 2016 - 2017 Performance Statement be referred back to Council if there are significant changes prior to signing.
- (4) Require that any minor changes to the 2016 - 2017 Performance Statement be reviewed by the two authorised Councillors prior to signing.”

The Committee considered the 2016 - 2017 statements at its meeting held on 7 September 2017. Council staff and representatives of the Auditor-General’s office attended the Committee meeting to present and answer any questions.

It was the consensus of the Committee that the Performance Statement presents fairly the position of Surf Coast Shire Council at the conclusion of the 2016 - 2017 financial year.

Any recommended changes need to be made prior to submitting the statements to the Auditor-General for an audit opinion and lodgement of Council’s annual report to the Minister by the due date of 30 September 2017.

The minutes of the Committee held on 7 September 2017 will be provided for Council’s information at the November 2017 Ordinary Council Meeting.

## **2.1 Planning Permit Application 17/0106 - 1435 Anglesea Road, Bellbrae**

### ***Financial Implications***

The Performance Statement is prepared by Council officers and completed within approved operating budgets.

### ***Council Plan***

Theme 5 High Performing Council  
Objective 5.2 Ensure that Council decision-making is balanced and transparent and the community is involved and informed  
Strategy Nil

### ***Policy/Legal Implications***

Section 139 of the Local Government Act 1989 requires Council to establish an Audit and Risk Committee as an advisory committee of Council. The recommendation provided with this report ensures that Council is compliant with its statutory obligations.

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

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

### ***Risk Assessment***

Council's performance statement is subject to a rigorous audit process to ensure accuracy. The Audit and Risk Committee also has a responsibility to review the statements prior to Council adoption of the statements in principle, and to raise any matters of concern.

### ***Social Considerations***

Not applicable.

### ***Community Engagement***

The Performance Statement will be published in the Annual Report.

### ***Environmental Implications***

Not applicable.

### ***Communication***

Council's Performance Statement is published in Council's Annual Report, which is available for the public to view at Council's offices or on Council's website.

### ***Conclusion***

The annual end of financial year reporting cycle provides a good opportunity for Council to reflect on its performance during the previous financial year.

**Close:** There being no further items of business the meeting closed at 6:35pm.