



Minutes

Ordinary Meeting of Council
Wednesday, 26 April 2017

Held in the
Council Chambers
1 Merrijig Drive, Torquay
Commencing at 6.00pm

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 ORDINARY MEETING OF SURF COAST SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY
ON WEDNESDAY 26 APRIL 2017 COMMENCING AT 6.00PM

PRESENT:

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

In Attendance:

Chief Executive Officer – Keith Baillie
General Manager Governance & Infrastructure – Anne Howard
General Manager Culture & Community – Damian Waight (Acting)
General Manager Environment & Development – Phil Rowland
Manager Planning & Development – Bill Cathcart
Coordinator Communications and Community Relations – Darryn Chiller
Manager Governance & Risk – Wendy Hope
Team Leader Governance – Daniella Vasiloski

49 members of the public
2 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.

PLEDGE:

Cr David Bell 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:

Council Resolution

MOVED Cr Carol McGregor, Seconded Cr Margot Smith

That an apology be received from Cr Heather Wellington.

CARRIED 8:0

CONFIRMATION OF MINUTES:

Council Resolution

MOVED Cr Carol McGregor, Seconded Cr Libby Coker

That Council note the minutes of the Ordinary meeting of Council held on 28 March 2017 as correct record of the meeting.

CARRIED 8:0

LEAVE OF ABSENCE REQUESTS:

Cr Margot Smith requested a leave of absence from the 12 May 2017 – 12 June 2017.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Libby Coker

That the leave of absence request from Margot Smith be accepted.

CARRIED 8:0

CONFLICTS OF INTEREST:

Cr Libby Coker - Item 3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet and 3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction. This is on the basis that Cr Libby Coker believes she has a conflicting personal interest.

Keith Baillie (CEO) declared a Direct Conflict of Interest under section 77A of Local Government Act 1989 in item 7.3CEO Employment Matters Committee – NOM-133 as it relates to his employment interests. Keith Baillie (CEO) left the room while this matter was discussed.

PRESENTATIONS:

Cr Clive Goldsworthy acknowledged the passing of Michael Callanan, (Camel) and remembers him for his contribution in the community and region. Camel will be sadly missed by the communities of Deans Marsh, Lorne and the wider Surf Coast communities.

PUBLIC QUESTION TIME:

Questions with Notice:

Questions 1 & 2 received from Tony Le Deux of Paraparap.

Question 1: NBN Connection Bellbrae

Will Council ask NBN Co to provide written evidence to CETAB that its modelling of 261 Vickerys Road was carried out appropriately and at UTM 55 257950E 5753704 N (Latitude 38°19'55.66"S Longitude 144°13'50.90"E) and not near the property gate?

Phil Rowland General Manager – Environment & Development responded:

I am aware that this issue is causing concern in the Bellbrae community. The answer is yes, Council can write in the interests of transparency and in Council's role as an advocate on local community issues. However, I note that this matter was discussed at the community consultation meeting initiated by the NBN on 1 March 2017 and that the NBN regard this information to be commercially confidential and have refused to make it available on that basis.

A nine page response from the NBN on these and other issues has been received as part of the Town Planning process and the community will have access to that response through the Public Notice phase of the Planning Application for the Bellbrae Tower which has now been received and registered as of today. I am aware that the information being sought is of a more detailed and technical nature than what's contained in the information we've received from the NBN.

Question 2: NBN Connection Bellbrae

Will Council ask NBN Co to provide written evidence to CETAB that the proposed wireless tower sector facing northeast toward North Torquay, which already enjoys quality telecom and broadband services, is essential, and accommodating it does not compromise services available to Bellbrae West?

Response provided in question three.

Questions 3 & 4 received from David Picken of Bellbrae.

Question 3: NBN Connection Bellbrae

With the aim of achieving the best possible outcome for the whole of Bellbrae and its surrounding hinterland, will Council ask NBN Co to share and openly discuss its modelling for its proposed wireless tower at 1435 Anglesea Road as well as CETAB's alternative site, which is located more centrally, East of Vickerys Road.

Response provided in question three.

Question 4: NBN Connection Bellbrae

If (as suggested by NBN Co) the site at 1435 Anglesea Road is important for the establishment of an integrated broadband network, will Council ask NBN Co to give proper consideration to the provision of a second 'relay' wireless facility west of Bellbrae.

Response provided in question three.

Question without Notice:

Question asked by Laura Connor of Torquay.

Question 1: Council Resources

I would be interested to know which members of our community would Cr Heather Wellington consider worthy of spending Council resources on?

Cr Heather Wellington was an apology for tonight's meeting. Question taken on notice.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Libby Coker

That Council move items 7.2 IDAHOT Day Flag - NOM-1323.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet, 3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction.

CARRIED 8:0

7.2 IDAHOT Day Flag - NOM-132

Appendix:

Nil

Surf Coast Shire Council

Notice of Motion

IDAHOT Day Flag

NOM-132

I, Councillor Rose Hodge give notice that at the next Ordinary Meeting of Council to be held on Wednesday 26 April 2017, I intend to move the following motion:

Notice of Motion

That Surf Coast Shire Council flies the Rainbow Flag continuously from 17 May 2017 (IDAHOT Day) until formal acceptance of marriage equality by the Federal Government.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr David Bell

That Surf Coast Shire Council flies the Rainbow Flag continuously from 17 May 2017 (IDAHOT Day) until formal acceptance of marriage equality by the Federal Government.

Division

Councillor *Rose Hodge* called for division and votes were recorded as follows:

<u>For</u>	<u>Against</u>	<u>Abstained</u>
Cr Bell	Mayor McKitterick	Nil
Cr Coker	Cr Goldsworthy	
Cr Duke	Cr McGregor	
Cr Hodge		
Cr Smith		

CARRIED 5:3

Rationale

At the Ordinary Council meeting on 26 August 2014 Surf Coast Shire Council publicly pledged support for marriage equality. To continue this support I propose that following on from IDAHOT Day on 17 May 2017 Council flies the flag continuously until the federal parliament recognises marriage equality.

Numerous local councils in Australia and many countries in the world already support marriage equality including Canada, Belgium, France, Sweden, Ireland, United States and many others.

I commend this Notice of Motion to Council.



Cr Rose Hodge
Councillor

Date: 13 April 2017

Cr Libby Coker requested that in accordance with Section 79B of the Local Government Act 1989, Council approves her from being exempt from voting on item 3.1 OA2558 - Amend A Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet and item 3.2 16/0402 115 Bimbadeen Drive Fairhaven And 23-79 Bambra Road Aireys Inlet -Re-Subdivision Of The Land (Boundary Re-Alignment) And Variation Of Restriction. This is on the basis that Cr Libby Coker believes she has a conflicting personal interest due to the following:

- her daughter's horse is agisted on the land proposed for re-subdivision,
- she has a close friendship with applicant, and
- she owns a separate property with applicant and eight other people

Council Resolution

MOVED Cr Hodge, Seconded Cr Bell

That Council grant Cr Libby Coker an exemption from voting due to conflicting personal interest as per Section 79B of the Local Government Act 1989 on items:

1. 3.1 OA2558 - Amend A Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet.
2. 3.2 16/0402 115 Bimbadeen Drive Fairhaven And 23-79 Bambra Road Aireys Inlet -Re-Subdivision Of The Land (Boundary Re-Alignment) And Variation Of Restriction.

CARRIED 7:0

Cr Libby Coker to left the meeting 6.40pm and returned at 6.49pm.

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

Author's Title: Coordinator Statutory Planning
Department: Planning & Development
Division: Environment & Development

General Manager: Phil Rowland
File No: OA2558
Trim No: IC17/200

Appendix:

1. Section 173 Agreement (D16/121136) ⇨
2. Title Documents (D16/121137) ⇨

Officer Direct or Indirect Conflict of Interest:

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

Yes

No

Reason: Nil

Status:

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

Yes

No

Reason: Nil

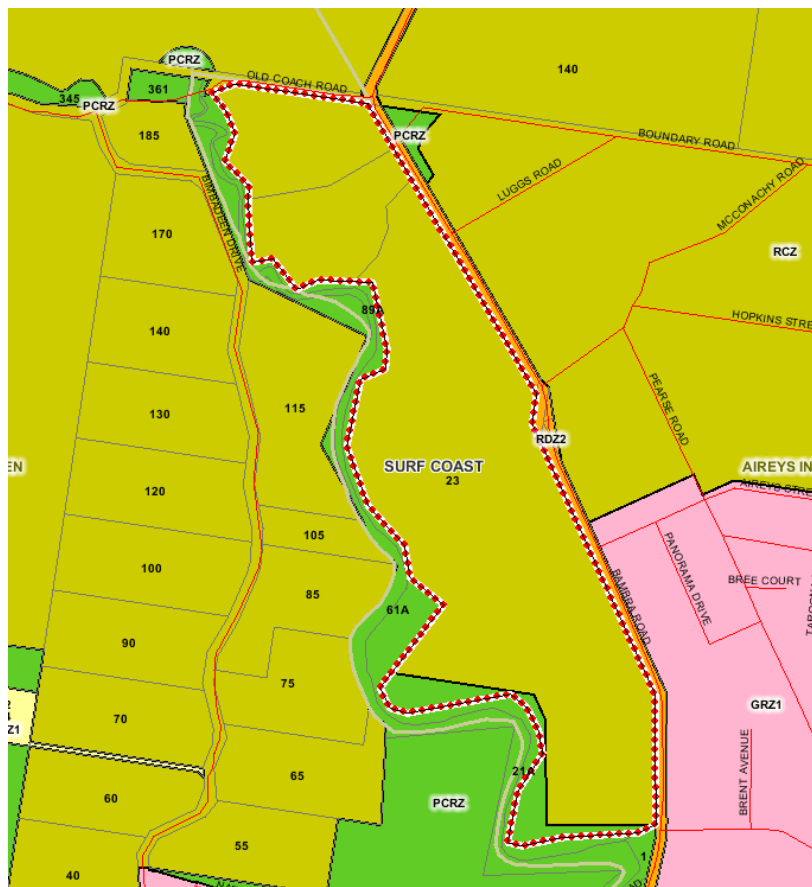
Purpose

The purpose of this report is to consider application OA2558 which seeks approval to amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet, by:

- changing Clause 4.1 to allow the re-subdivision of Lot 3 of PS431010T with adjoining land
- deleting Clause 4.6 which restricts the wall height of buildings to 3 metres
- deleting Clause 4.11 prohibiting any dogs on the lots.

Summary

The site is located at 23-47 Bambra Road, Aireys Inlet. The site comprises three parcels of land which were subdivided via Planning Permit 97/7281. The subdivision layout also created a creek reserve area along the alignment of the Painkalac Creek. The site can be seen in the image below:



3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

The site is currently used for the grazing of horses and continues to contain open pasture land along the valley floor. It includes a number of horse shelters and fenced paddocks. Two grand gate entrances have been developed for the two lots at the northern end of the site. The low lying land is subject to flooding from Paikalac Creek.

The site is an irregular, elongated shape with a total area of 48.35 hectares. The site is bounded to its west by the Paikalac Creek, to its east by Bambra Road and to its north by Boundary Road. At its southern end it terminates at a point opposite the end of Beach Road.

Residential development is located on the eastern side of Bambra Road, with dwellings having an outlook over the subject site. To the west are further open creek flats and rising hills which include scattered residential development. Open creek flats extend to the south of the site beyond the Great Ocean Road.

Planning Permit 97/7281 approved the development of three dwellings on the land and a three lot re-subdivision. This permit has been extended over the years and is still valid, expiring on 24 April 2018 if the development has not commenced by that date.

Planning Permit 97/7281 was approved by the Victorian Civil and Administrative Tribunal (VCAT). Initially approval was sought for four dwellings and a four lot re-subdivision, with VCAT ultimately approving a three lot re-subdivision and the development and use of three dwellings after giving detailed consideration to landscape values, flooding, tenement provisions, flora and fauna and the ongoing management of the site. In approving the Planning Permit VCAT required the consolidation of Lots 3 and 4 (on that proposed plan) and endorsed building envelopes for each of the lots.

A Section 173 Agreement was required to provide for ongoing requirements for the development of the land and included requirements that:

- none of the lots created on the plan of subdivision shall be further subdivided and not more than one dwelling will be constructed on each lot
- the setting aside of an area of public open space to vest in the Council upon registration of the plan of re subdivision of such land as may be necessary to ensure a minimum width of public open space of 10 metres along the Paikalac Creek
- creation of building envelopes set back a minimum of 40 metres from Bambra Road having an area not greater than 500 square metres
- no buildings to be constructed outside the building envelopes
- no buildings to exceed a maximum wall height of 3 metres and an overall height of 5 metres above natural ground level
- that no development may commence on any of the lots unless the planting as shown on the landscape plan endorsed to this permit has been established for a period of at least two years prior to the commencement of any development
- that the planting on the endorsed landscaping plan be carried out and maintained to the satisfaction of the Council
- that, save for the establishment of garden beds within a 10 metre radius of any buildings, no planting shall be undertaken on the subject land other than in accordance with the endorsed landscaping plan, without the written consent of Council
- that no dogs shall be kept on the land
- that all stormwater run off from any buildings and hard surfaces shall be treated to the satisfaction of the Council prior to discharge into the creek
- to pay Council's reasonable legal costs associated with the negotiation, preparation, execution and registration of the Agreement.

The Agreement has been executed and applies to the land.

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Council has also received an application to allow the re-subdivision of the land and the variation of a restriction. That application is for the re-subdivision of land in lot 3 with a parcel of land in separate ownership on the western side of the Painkalac Creek. The two applications are being processed concurrently. Effectively, if the application to amend the Section 173 Agreement as it relates to re-subdivision fails, the re-subdivision application must also fail as the re-subdivision is prohibited.

There is significant community concern around the amendment of the Agreement. A total of 120 objections have been lodged with Council, one objection has since been withdrawn, with 119 remaining. Seven submissions in support of the application have been made. It is noted that the proposal is of significant concern to the community.

Recommendation

That Council having considered all of the matters required to be considered under Section 178B(1) of the Planning and Environment Act 1987, refuse to amend the Section 173 Agreement which applies to 23-79 Bambra Road, Aireys Inlet as:

1. There are no changes in circumstances to necessitate the amendment.
2. The purpose of the agreement and the reasons why Council entered into the agreement continue to remain valid and seek a planning and environmental outcome which is supported by the Planning Scheme.
3. The amendments sought have the potential to disadvantage persons who are not party to the agreement.

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Carol McGregor

That Council:

1. Notes concerns raised by objectors as to the validity under Section 178A(1) of the Planning and Environment Act 1987 of the application to amend the Section 173 Agreement, however agrees that this matter should be considered.
2. Having considered all of the matters required to be considered under Section 178B(1) of the Planning and Environment Act 1987, refuse to amend the Section 173 Agreement which applies to 23-79 Bambra Road, Aireys Inlet as:
 - a. There are no changes in circumstances to necessitate the amendment.
 - b. The purpose of the agreement and the reasons why Council entered into the agreement continue to remain valid and seek a planning and environmental outcome which is supported by the Planning Scheme.
 - c. The amendments sought have the potential to disadvantage persons who are not party to the agreement.

CARRIED 7:0

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

Report

Background

OA2558 seeks approval to amend a Section 173 Agreement by:

- changing Clause 4.1 to allow the re-subdivision of Lot 3 of PS431010T with adjoining land
- deleting Clause 4.6 which restricts the wall height of buildings to 3 metres
- deleting Clause 4.11 prohibiting any dogs on the lots.

Council also has an application to allow the re-subdivision of the land and the variation of a restriction. The two applications are being processed concurrently. Effectively, if the application to amend the Section 173 Agreement as it relates to subdivision fails, the re-subdivision application must also fail as the subdivision is prohibited.

Discussion

As noted, the Section 173 Agreement was required by VCAT as part of the approval of Planning Permit 97/7281. The Agreement applies to the land known as 23-79 Bambra Road, Aireys Inlet and applies to the three titles which make up the land.

The Section 173 Agreement was an integral part of the VCAT approval of 97/7281, with VCAT deliberately limiting the number of dwellings which can be built on the land, along with limiting the number of lots that the land could be subdivided into. A range of other controls were required under the Agreement to ensure that the environmental values of the land were respected and continued into the future.

Pursuant to Section 178A(1) of the *Planning and Environment Act 1987* an owner of land, or a person who has entered into an agreement under Section 173 in anticipation of becoming an owner of the land may apply to the responsible authority for agreement to a proposal to amend an agreement in respect of that land.

The owner of the land did not directly make the application to amend the Section 173 Agreement, however the owner did provide explicit written consent as part of the application. Subsequently the owner has also advised Council of an intention to amend the name of the applicant to the owner of the land however such a change is not possible.

Council provided the applicant with the necessary form to complete this application. It is noted that the requirements of this form are consistent with those of several other councils, although among the samples reviewed there is some variation and lack of clarity about the role of the applicant and land owner. Council intends to improve the clarity and procedures regarding this form.

Council sent a letter to the owner of the land under Section 178A(3) of the *Planning and Environment Act 1987* notifying the owner that it agreed in principle to the application. Providing this in-principle agreement allows for the application to be advertised.

During the Hearing of Submissions, some objectors presented that they believed the application was invalid as the applicant was not the landowner and therefore did not satisfy the requirements of Section 178A(1) of the *Planning and Environment Act 1987*. Council officers have reviewed this and consider the point is a matter of form (not of substance) and the land owner has been adequately included in the application process. Council believes that should the application proceed to the Victorian Civil and Administrative Tribunal (VCAT) for a decision, it is likely the Tribunal would disregard the failure to comply with section 178A(1) of the Act to enable it to deal with the substantial merits of the case by relying on the power set out in Clause 62 of schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*. This section states:

The Tribunal has jurisdiction to determine a proceeding under a planning enactment despite any failure to comply with the planning enactment or any other enactment and, in doing so, may determine to disregard that failure if the Tribunal considers it in the interests of justice to do so.

Presenters at the Hearing of Submissions also noted that a decision to not agree in-principle to an application ends the process, with the applicant not having a right to appeal this decision.

Officers assess that the application form was completed and submitted to Council's satisfaction. Officers consider it a reasonable expectation for an application duly completed to be appropriately assessed.

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Council's decision to provide in-principle agreement has been completed under officer delegation and subsequent processes have been undertaken.

As such, it is considered that this application should proceed to a decision.

Pursuant to Section 178B of the *Planning and Environment Act 1987* Council is required to consider the following issues when deciding whether to amend an Agreement:

- a) the purpose of the agreement
- b) the purpose of the amendment
- c) whether any change in circumstances necessitates the amendment
- d) whether the amendment would disadvantage any person, whether or not a party to the agreement
- e) the reasons why the responsible authority entered into the agreement
- f) if the amendment is to remove land from the application of the agreement, whether the land is subject to any further liability under the agreement
- g) any relevant permit or other requirements the land is subject to under the Subdivision Act 1988
- h) any other prescribed matter.

The application has been assessed against Section 178B of the *Planning and Environment Act 1987* as follows:

The purpose of the agreement

VCAT's consideration of 97/7281 outlined that the planning policies which apply to the land have applied for over 15 years, identifying that the landscape of the area is highly valued and worthy of protection. VCAT found that the operative words of the zone's purpose at the time are, in relation to the valley of the Painkalac Creek, "*to provide for the conservation, maintenance and enhancement of ... significant landscape features ... of ... importance and which form an essential component of the heritage and character of the area*".

VCAT also found that *the Victorian Coastal Strategy has a number of relevant principles: retention of "open or wooded landscapes to provide a variety of coastal experiences"; to "recognise the needs (for) housing opportunities"; to "minimise adverse visual impacts on significant viewsapes, particularly along major routes". Although this development will increase housing opportunities, this does not appear to be significant in the scale of things. The important issue, discussed further below, is whether the proposal will conflict with the requirement to maintain a variety of coastal experiences or intrude into significant views.*

The Agreement was required to ensure that the environmental values and significant views were protected. In deciding to support the permit application VCAT stated:

It is with considerable reluctance that we depart from the consistent patterns of refusal of any residential development on the subject land that has until now resulted from every firm development application. However, those previous refusals have not resulted in an ultimate planning solution for the valley.

We believe that the policy context in which we must decide this application is a mature expression of planning strategy for the area; and that the decision to which we have come will implement that policy, through both protecting the true value of the protected landscape as we have identified it, providing for ongoing management of the landscape and conservation values, and also providing for the future public use of the creek environs.

We do not consider that the houses which we are permitting will have any precedent value. As far as the subject land is concerned, the requirement for consolidation will mean that there will be no remaining substandard lots that can be sold separately, or form the basis of future arguments about "separate tenements", without resubdivision. No more boundary realignments into sub-standard lots will be possible under Clause 42-2.3, because the number of lots will be tied down at three.

As far as any other property may be concerned, we have tried to describe clearly the area which we identify as that part of the valley landscape which is the objective of the preservation controls. This decision therefore follows the precedent that there should not be any rural residential development in that area which is valued for its significant landscape features.

The above quotations set out a very clear intention from VCAT in requiring the Agreement.

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

The purpose of the amendment

None of the lots which are subject to the Agreement have been developed.

The amendment seeks to delete the wall height restriction to allow a range of dwelling designs to be developed on the land. The amendment also seeks to allow the keeping of dogs on the land, where previously this was prohibited, providing this potential for future purchasers of the land.

A further amendment to the agreement seeks to allow the resubdivision of Lot 3 which would allow the Building Envelope within Lot 3 to be contained within a small lot, consolidating the balance of the land onto the property at 115 Bimbadeen Drive, Fairhaven.

Whether any change in circumstances necessitates the amendment

The applicant has not demonstrated that there are any changes in circumstances which necessitate the amendment.

The applicant has set out that there would be some benefit to the landowner/ future land owner through the amendment of the Agreement, including providing more flexibility for the development of the land and allowing the Blazing Saddles business to continue to operate from the land.

The circumstances of the site have not markedly altered since the decision was made. The zoning of the land and planning policy framework has evolved, but generally reflects the Planning Scheme at the time the Agreement was entered into by restricting the development potential of the land via a Rural Conservation zoning and seeking to ensure the environmental values of the land are continued.

When making its decision on the re-subdivision of the land, VCAT provided the following statements around wall heights and the keeping of dogs:

While we note that other property owners in the area may have dogs, we do not consider that this means dogs should be allowed on the subject land. Dr Meredith expressed concern about the impact of dogs on specific species in the area. Our concern for the protection of habitat remnants, and the ongoing habitat value of the creek and wetlands, lead us to conclude that whatever we can do by way of minimising further hazard to surviving fauna in these areas should be done.

We have also accepted the Council's argument about the specification of a maximum wall height as well as an overall building height as well as an overall building height. We do not think it would be appropriate to enable walls in excess of three metres, possibly on a large scale and with a flat roof, to be built on the subject land.

It is not considered that the environmental circumstances of the site have changed since the Agreement was entered into and it is considered that the Clauses 4.6 and 4.11 were applied to ensure that the site was appropriately developed and that fauna would be protected. It has not been demonstrated that there has been a change in circumstances on the land which would make a 3 metre wall height unviable. Instead, a preference for a higher wall height and more flexibility has been expressed.

In relation to the subdivision of the land, it is noted that the specifics of the land have changed, in that it is now sought to consolidate the bulk of Lot 3 onto land located on the other side of the creek, which creates a large parcel of land and allows for a viable horse riding operation to continue to operate from the township, with horse grazing undertaken on the Bambra Road land.

While the re-subdivision creates an additional lot within the valley floor, it does not result in the creation of an opportunity for an additional dwelling to be developed. Lot 1 will contain a dwelling approved by Planning Permit 97/7281 and Lot 2 will contain the existing dwelling which has been developed on the land at 115 Bimbadeen Road, Fairhaven. The provisions of the Rural Conservation Zone set out that only one dwelling can be approved on a lot. The amendment of the Agreement will not allow the construction of additional dwellings on the valley floor.

The VCAT determination outlines the decision to reduce the lots from four to three on the basis that the number of dwellings approved would be reduced to three, and sought to protect views from the south of the valley which were identified as being particularly valuable. The ability to re-subdivide Lot 3 is not considered to erode, or impact on the important views of the valley from the south given that there will not be an

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

opportunity to develop an additional dwelling on the land. There is no change to the location of the approved building envelope for the dwelling on the relevant lot.

However, there are inherent difficulties with the proposal. While there are potential economic benefits associated with amending the Agreement, it is a fact that the two parcels of land are separated by land which is in public ownership and which is zoned Public Conservation and Resource Zone (PCRZ).

Currently a bridge has been developed across Painkalac Creek to allow access between the two parcels of land. An investigation of whether appropriate permissions are in place for the bridge has revealed that there are no permits for the bridge. Without the bridge in place there are practical difficulties in managing the transit of horses between the two properties. If the amendment to the Agreement was approved and the subsequent re-subdivision application approved, it would be appropriate to include a permit condition which required removal of the bridge prior to the issue of a Statement of Compliance. It cannot be assumed that a new bridge to allow access between the two properties would be approved by the appropriate agencies.

The PCRZ land which separates the two parcels of land is considered to be a significant impediment to the approval of the application. While the addition of the land at 115 Bimbadeen Drive results in a change in circumstances for the land, the current situation is there is no legal access between the two parcels and this impacts on the viability of the use of the land as intended in the proposal.

It is not considered that there have been any changes in circumstances which necessitate the amendments. The amendments to the Agreement will undermine the intent of VCAT when requiring the Agreement when it approved the subdivision and development of the land.

Whether the amendment would disadvantage any person, whether or not a party to the agreement.

Pursuant to Section 178C of the Planning and Environment Act 1987 public notification of the application was undertaken. A total of 120 objections have been lodged with Council, one objection has since been withdrawn, with 119 remaining. Seven submissions in support of the application have been made. It is noted that the proposal is of significant concern to the community.

Objectors to the application have outlined a number of concerns with the proposal, including that:

- the amendments satisfy commercial interests only and will jeopardise the interests of the wider community and the environmental values of the Painkalac Valley
- the protections provided by the Section 173 Agreement have worked well and there is no compelling reason to change them
- the terms of the Agreement continue to be relevant to the land
- the Agreement was entered into at the direction of VCAT which gave considerable weight to the impacts of the proposed use and development and the environmental values of the valley
- Council argued at VCAT that a wall height in excess of three metres was not appropriate and the restriction remains relevant as it limits the visibility of dwellings permitted on the land from views into the valley. An increased wall height would intrude on, rather than enhance, the landscape qualities of the area
- VCAT expressed concern for the protection of habitat remnants, the ongoing habitat value of the creek and wetlands and the impact that dogs may have on specific species of the area such that the restriction on dogs should remain.

While the Agreement applies to the three titles, it has impacts beyond the three titles. There was significant community concern with the Permit Application ultimately approved by VCAT, with the Agreement including restrictions in relation to further subdivision, dogs and wall heights as a result of community concerns and to achieve legitimate planning outcomes.

The amendments to the Agreement could disadvantage the objectors who have set out clear concerns with the proposal. Allowing dogs to be kept on the land could compromise wildlife, including kangaroos and birds, which are valued by much of the community, while the ability to re-subdivide the land could result in a sub-optimal land management outcome, introducing more landowners into the valley floor, which could impact on the environmental values of the land.

The reasons why the responsible authority entered into the agreement

Council entered into the Agreement at the direction of VCAT. The Agreement was intended to achieve a planning and environmental outcome, as detailed above.

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The Agreement was seen as an important component of the approval of Planning Permit 97/7281 as it provided the community with certainty about the manner in which the land could be developed in the future. The amendments to the Agreement seek to scale back the restrictions on the land.

It is considered that the above assessment of the application demonstrates that there was a clear purpose for the agreement, the circumstances of the site have not changed and there is no basis for Council to support the amendments to the Agreement. It is recommended that the application be refused.

As noted, pursuant to Section 178C of the Planning and Environment Act 1987 public notification of the application was undertaken and 127 objections remain in place, with three submissions in support of the application also received. The key concerns raised by objectors are summarised in italics and commented on below. The community have raised a range of concerns and many have outlined a feeling of deep connection to the land.

There will be no community benefit associated with the approval of the amendments

This concern is noted. The assessment of the application is confined to a discrete set of issues outlined in Section 178B of the Act; net community benefit is not included.

The amendments satisfy commercial interests only and will jeopardise the interests of the wider community and the environmental values of the Painkalac Valley

It is clear that the wider community feels a connection to the Painkalac Valley. As detailed above, the Agreement was entered into in order to protect the environmental values of the valley. It is not considered that the circumstances of the site have changed since the Agreement was entered into.

The protections provided by the Section 173 Agreement have worked well and there is no compelling reason to change them

The officer recommendation is to refuse to amend the Agreement.

The terms of the Agreement continue to be relevant to the land

As outlined above, it is agreed that the purpose of the Agreement and the reasons why the parties entered into the Agreement continue to be valid and relevant.

The Agreement was entered into at the direction of VCAT which gave considerable weight to the impacts of the proposed use and development and the environmental values of the valley

A detailed assessment of the issues resulted in the VCAT order creating PP 97/7281. Some extracts from the VCAT decision are included in the report above. In essence, it is considered that VCAT saw the Agreement as a safeguard to protect the valley, ensuring its environmental values were maintained, by restricting future development of the land which is a significant part of the valley.

Council argued at VCAT that a wall height in excess of three metres was not appropriate and the restriction remains relevant as it limits the visibility of dwellings permitted on the land from views into the valley. An increased wall height would intrude on, rather than enhance, the landscape qualities of the area.

An extract from the VCAT assessment is included earlier in this report. Certainly, VCAT deliberately sought to limit wall height and expressed concern that a higher wall height could result in a flat roof form which would be inappropriate.

VCAT expressed concern for the protection of habitat remnants, the ongoing habitat value of the creek and wetlands and the impact that dogs may have on specific species of the area such that the restriction on dogs should remain

It is agreed that the VCAT decision expressed these concerns.

The further subdivision of land could increase the number of dwellings developed in the valley

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

The lot size which is sought via the associated subdivision application does not provide an opportunity for the development of an additional dwelling on the valley floor.

An amendment which allows the further intrusion of the business Blazing Saddles into the Painkalac Valley should be opposed in the strongest possible terms. The environmental impact of this business is readily visible, with native habitat reduced by the business

The application does not seek to change the use of the land, but rather an indication has been made that it is intended to continue to allow horses to graze on the land in much the same way as they have been for at least the past ten years. The land has been used for grazing for many years and has existing use rights.

The applicant is not entitled to make application to amend the Section 173 Agreement

A response to this issue has been provided earlier in the report.

The bridge which provides connection between the properties is illegal

The required permissions are not in place for the bridge.

The amendment of the Agreement would result in the Shire contradicting its own Agreement and demonstrating negligence of its responsibility to the community.

It is recommended that the application be refused.

No justification has been provided for the proposed amendments

It is agreed that there has not been a justification which outlines that a change in circumstances necessitates the amendments.

The proposal to join one of the subdivided lots out of Lot 3 23-79 Bambra Road with 115 Bimbadeen Drive to form a single lot separated by the Painkalac Creek and the Council conservation reserves along each bank of the creek will not provide an operational property as is stated as the reason for the subdivision.

This is a key concern with the proposal.

Pursuant to Section 178E of the *Planning and Environment Act 1987* it is open to Council to:

- (a) decide to amend the Agreement in accordance with the proposal
- (b) decide to amend the Agreement in a manner that is not substantively different from the proposal
- (c) propose to amend the Agreement in a manner that is substantively different from the proposal
- (d) refuse to amend the Agreement.

If Council decides to amend the Agreement in a manner which is substantively different to the proposal there would be a need for re-notification of the application as outlined in Section 178C and E of the *Planning and Environment Act 1987*. Council understands that if Council was to amend the Agreement in accordance with only part of the proposal (ie support dot point 1 only), Council is effectively proposing to amend the agreement in a manner which is substantively different from the advertised proposal. This view was taken having regard to the ordinary meaning of the word 'substantive' as 'meaningful or considerable'.

Council understands that Section 178E of the *Planning and Environment Act 1987* doesn't provide Council with an option to agree to part of a proposal to amend an agreement but refuse another part. Council is unable to identify any Tribunal decisions discussing the application of Section 178E in this context, so further guidance on this matter is limited.

The applicant has an express right of review in respect of Council's ultimate decision in Section 184A (1)(A) of the Act. It provides that the person who applied to amend an Agreement may apply to the Tribunal for review of Council's decision under Section 178E 'to amend the Agreement in a manner that is different to the proposal.'

3.1 OA2558 - Amend a Section 173 Agreement: 23-79 Bambra Road, Aireys Inlet

Financial Implications

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

Council Plan

Theme	1 Environment
Objective	1.1 Preserve and enhance the natural environment
Strategy	Nil
Theme	2 Governance
Objective	2.4 Transparency in decision making and access to information
Strategy	2.4.1 Communicate decisions clearly and in a timely manner.
Theme	5 Development and Growth
Objective	5.1 Protect productive farmland and support rural business
Strategy	5.1.2 Work with local businesses

Policy/Legal Implications

There are no legal implications for the consideration of this application.

The *Planning and Environment Act 1987* guides the decision making process.

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 application are yet to be determined.

Social Considerations

Key themes raised in objections include the impact of the amendments on the Painkalac Valley which is valued by the Aireys Inlet community.

These issues will be considered in the analysis of the proposal and the recommendation to Council.

Community Engagement

The planning permit application was placed on public notification. Public notification of the proposal has generated a total of 120 objections; one objection has since been withdrawn, with 119 remaining. Seven submissions in support of the application have been made.

Environmental Implications

Objectors have highlighted the importance of the Painkalac Valley from an environmental perspective. This is reflected in Planning Policy.

Communication

A copy of the Council's decision will be provided to the applicant and all submitters.

Conclusion

When assessed against Section 178B of the Planning and Environment Act 1987, it is recommended that the application be refused.

The purpose for which the Agreement was entered into is still relevant and the reasons why Council entered into the Agreement continue to be important.

While it could be argued that allowing the re-subdivision of the land would result in little physical change to the land, it has not been demonstrated that the changes to the Agreement would not disadvantage any person. The physical characteristics of the two parcels of land are such that there is public land in between, resulting in difficulties in achieving a practical connection between the two parcels of land.

In addition, VCAT was clear in its intention to prohibit the further subdivision of the land when it stated "No more boundary realignments into sub-standard lots will be possible under Clause 42-2.3, because the number of lots will be tied down at three".

It is understood that Blazing Saddles is an important business within the Aireys Inlet Township, it is hoped that there are other alternatives available to ensure the ongoing viability of the business within the Township.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

Author's Title: Coordinator Statutory Planning
Department: Planning & Development
Division: Environment & Development

General Manager: Phil Rowland
File No: 16/0402
Trim No: IC17/201

Appendix:

1. Applicant's Submission (D16/88844) ⇒
2. Title (D16/88835) ⇒
3. Plan of Subdivision (D16/88841) ⇒

Officer Direct or Indirect Conflict of Interest:

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

Yes

No

Reason: Nil

Status:

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

Yes

No

Reason: Nil

Purpose

The purpose of this report is to consider planning permit application 16/0402 which seeks approval to re-subdivide the land and to vary a restriction on title which prohibits the further subdivision of the land at 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet.

Summary

The application seeks approval to re-subdivide the land, creating a separate lot for a dwelling on an existing approved building envelope which was approved via Planning Permit 97/7281 and to consolidate the balance of the land with the property at 115 Bimbadeen Road, Fairhaven, located on the opposite side of the Painkalac Creek. The lot sizes created are as follows:

- Lot 1 – 3.276 hectares, designed to include the existing building envelope approved under Planning Permit 97/7281
- Lot 2 – 30.23 hectares to be annexed to the land on the opposite side of the river which has an area of 6.53 hectares; total area 36.76 hectares.

The Plan of Subdivision which relates to the property at 23-79 Bambra Road, Aireys Inlet contains the following restriction:

The owners of lots on this plan shall not allow the erection of more than one dwelling on any allotment. In accordance with Planning Permit No. 97/7281 no lot on this plan shall be further subdivided.

The owners of lots on this plan shall not erect a building other than in the building envelopes shown on the endorsed neighbourhood design plan in Planning Permit No. 97/7281.

The application seeks to amend the restriction as follows:

In accordance with Planning Permit 97/7281 no lot on this plan, other than Lot 3, shall be further subdivided and Lot 3 shall only be subdivided on the basis that any further subdivision does not create any additional dwellings.

A Section 173 Agreement also applies to the land. Approval is sought via a separate application to amend the Section 173 Agreement to allow the re-subdivision of the land. Council's decision on the application to amend the Section 173 Agreement will inform the processing of this application. The officer recommendation for this application is one of refusal.

In the event that Council decides to amend the Agreement in a manner which is substantively different to the proposal there would be a need for re-notification of the application as outlined in Section 178C and E of the *Planning and Environment Act 1987*. Such a decision would likely result in the need to defer consideration of this re-subdivision application.

The site is located at 23-47 Bambra Road, Aireys Inlet and 115 Bimbadeen Drive, Fairhaven. The site comprises three parcels of land which were subdivided via Planning Permit 97/7281 and are known as 23-79 Bambra Road, Aireys Inlet. The subdivision layout also created a creek reserve area along the alignment of the Painkalac Creek. The site also comprises a lot at 115 Bimbadeen Drive which has been developed with a dwelling and stables.

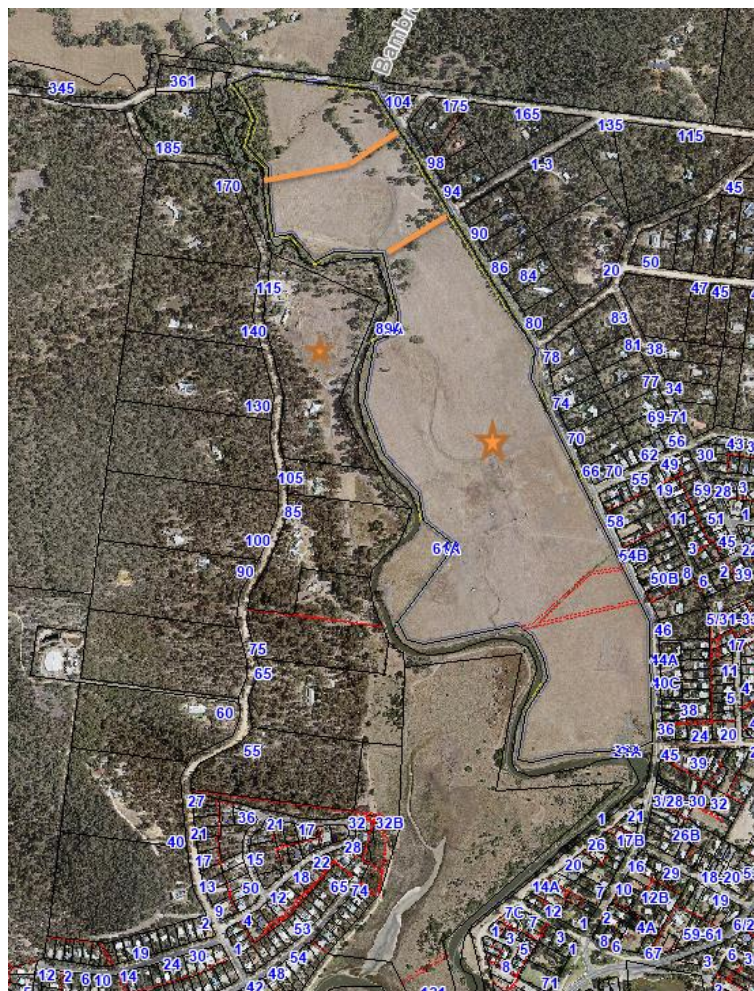
3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

The site at 23-79 Bambra Road is currently used for the grazing of horses and continues to contain open pasture land along the valley floor. It includes a number of horse shelters approved by Planning Permit 10/0570 and fenced paddocks. A bridge has been developed to provide for access between the two lots, allowing for horses to be moved between the two properties. Two grand gate entrances have been developed for the two lots at the northern end of the site. The low lying land is subject to flooding from Painkalac Creek.

The site at 23-79 Bambra Road is an irregular, elongated shape with a total area of 48.35 hectares. The site is bounded to its west by the Painkalac Creek, to its east by Bambra Road and to its north by Boundary Road. At its southern end it terminates at a point opposite the end of Beach Road.

Residential development is located on the eastern side of Bambra Road, with dwellings having an outlook over the subject site. To the west are further open creek flats and the hills of Eastern View which include a low intensity of residential development. Open creek flats extend to the south of the site beyond the Great Ocean Road.

The site can be seen in the image below. The stars indicate the two lots which are the subject of this Planning Permit application.



Planning Permit 97/7281 approved the development of three dwellings on the lots at 23-79 Bambra Road. This permit has been extended three times and is still valid, expiring on 24 April 2018 if development has not commenced by that date.

Planning Permit 97/7281 was approved by the Victorian Civil and Administrative Tribunal (VCAT). Initially approval was sought for four dwellings and a four lot subdivision, with VCAT ultimately approving a three lot subdivision and the use and development of three dwellings after giving detailed consideration to landscape values, flooding, tenement provisions, flora and fauna and the ongoing management of the site. In approving the Planning Permit VCAT required the consolidation of Lots 3 and 4 and endorsed building envelopes for each of the lots.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

A Section 173 Agreement was required to provide for ongoing requirements for the development of the land and included requirements that:

- none of the lots created on the plan of subdivision shall be further subdivided and not more than one dwelling will be constructed on each lot
- the setting aside as an area of public open space to vest in the Council upon registration of the plan of re subdivision of such land as may be necessary to ensure a minimum width of public open space of 10 metres along the Painkalac Creek
- creation of building envelopes set back a minimum of 40 metres from Bambra Road having an area not greater than 500 square metres
- no buildings to be constructed outside the building envelopes
- no buildings to exceed a maximum wall height of 3 metres and an overall height of 5 metres above natural ground level
- that no development may commence on any of the lots unless the planting as shown on the landscape plan endorsed to this permit has been established for a period of at least two years prior to the commencement of any development
- that the planting on the endorsed landscaping plan be carried out and maintained to the satisfaction of the Council
- that, save for the establishment of garden beds within a 10 metre radius of any buildings, no planting shall be undertaken on the subject land other than in accordance with the endorsed landscaping plan, without the written consent of Council
- that no dogs shall be kept on the land
- that all stormwater run-off from any buildings and hard surfaces shall be treated to the satisfaction of the Council prior to discharge into the creek
- to pay Council's reasonable legal costs associated with the negotiation, preparation, execution and registration of the Agreement.

The Agreement has been executed and applies to the land. Council will make a decision on whether to allow an amendment to the Agreement to facilitate the subdivision of the land prior to the consideration of this application. The officer recommendation is one of refusal.

Particular Provision 52.02 – Easements, Restrictions and Reserves requires Council to consider the interests of affected people. There is significant community concern around the subdivision application. Public notification of the application was undertaken and 98 objections have been lodged, with one withdrawn, and 97 objections remaining. Three submissions in support of the application have been received. Some of the main issues raised in the objections are:

- further subdivision of the land should not be permitted
- approval of the subdivision would provide for a lot size which is less than the minimum lot size in the zone
- the approval of four lots in the valley is in direct opposition to the Shire's refusal of Planning Permit 97/7281 in 1988
- the subdivision is prohibited
- the subdivision threatens an environmentally and ecologically significant area with further damage and erosion
- the application seeks to satisfy the commercial interests of one person over the interests of the community
- the existing horse riding business has degraded the land and created a dust bowl, further damage and erosion is likely
- the subdivision will allow the construction of four dwellings
- the subdivision of the land is prohibited by the Section 173 Agreement and the restriction
- the proposal contravenes the Aireys Inlet Eastern View Structure Plan which highlights the importance of the valley's open landscape
- the number of horses allowed on the beach will increase and this threatens enjoyment of the beach and local bird species
- the door should not be opened to further subdivision by varying the restriction
- the environmental values of the land and its scenic qualities will be threatened
- an oval should not be permitted on the land
- the construction of a bridge over the creek will impact on the environment and the creek
- the land should be returned to the community as park land.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

The application has been referred to the Country Fire Authority, the Corangamite Catchment Management Authority and the Department of Environment Land and Water. None of these statutory authorities have objected to the issue of a Planning Permit.

Recommendation

That Council having caused notice of Planning Application No. 16/0402 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*, refuse to grant a Planning Permit in respect of the land known and described as 115 Bimbadeen Drive, Fairhaven and 23-79 Bambra Road, Aireys Inlet for a two lot re-subdivision and variation of restriction, on the following grounds:

1. The subdivision is prohibited by the Section 173 Agreement which applies to the land and Council is not inclined to amend the Section 173 Agreement to facilitate the subdivision of the land;
2. The variation of restriction would facilitate the subdivision of the land contrary to legitimate expectations of affected people who have understood that the land cannot be further subdivided;
3. The subdivision of the land is contrary to orderly planning principles in that Crown land, a Council reservation and a creek separate the two parcels of land; and
4. There is no direct legal point of access established to facilitate pedestrian, stock or vehicle movement between the two parts of the proposed Lot 2.

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Carol McGregor

That Council having caused notice of Planning Application No. 16/0402 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*, refuse to grant a Planning Permit in respect of the land known and described as 115 Bimbadeen Drive, Fairhaven and 23-79 Bambra Road, Aireys Inlet for a two lot re-subdivision and variation of restriction, on the following grounds:

1. The subdivision is prohibited by the Section 173 Agreement which applies to the land and Council is not inclined to amend the Section 173 Agreement to facilitate the subdivision of the land;
2. The variation of restriction would facilitate the subdivision of the land contrary to legitimate expectations of affected people who have understood that the land cannot be further subdivided;
3. The subdivision of the land is contrary to orderly planning principles in that Crown land, a Council reservation and a creek separate the two parcels of land; and
4. There is no direct legal point of access established to facilitate pedestrian, stock or vehicle movement between the two parts of the proposed Lot 2.

CARRIED 7:0

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

Report

Background

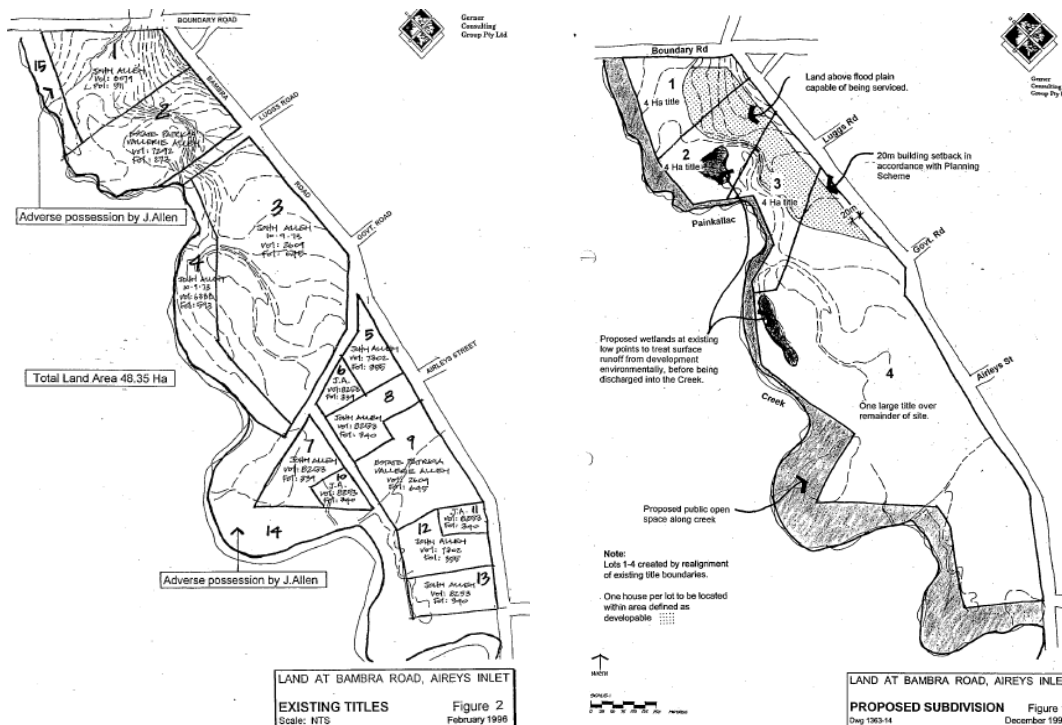
The land was purchased in 1973. At the time the land comprised approximately 60 lots created in 1888 under Plan of Subdivision No. 1757. The lots were consolidated into 13 lots.

In 1984 two applications for a planning permit were made, seeking approval for a house on each of the two lots fronting the northern end of the holding. These permits were refused by the Town Planning Appeals Tribunal with the Tribunal raising concern that a precedent would be created in terms of future subdivision/development in the valley.

An Amendment application, RL34, was made which sought to subdivide the land into 21 residential lots sites in the north east corner of the land, and to rezone the land to Residential A, and transfer the balance of the land into public ownership. This Amendment was abandoned, with the Panel hearing the Amendment concluding that the proposal was at odds with the planning policy for the area. It was determined that the visual significance of the valley as a whole is of major importance and this landscape character should be retained.

In 1990 a proposal was prepared for a 102 lot subdivision. This was rejected by the Painkalac Creek Wetlands Floodplain Environment Study (1990).

Planning Permit 97/7281 sought approval for the re-subdivision of the land into four lots and the development of four dwellings. The plans below show the existing titles and the proposal at that time:



Council refused the application as being contrary to the zone and planning policy. An appeal was lodged against Council's refusal and ultimately VCAT supported a three lot re-subdivision and the use and development of three dwellings. VCAT considered the following issues in detail:

- House 'entitlements' under the tenement clause
- The social value of the site and the pleasure the community derives from the contrast between the valley's open pastures and the vegetated hillsides to either side. It was concluded that the views of the valley from the south are particularly valuable
- Visual intrusion
- Flooding
- Flora and fauna impacts
- Siting.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

A concurrent application was lodged with Planning Permit 97/7281 to use the northern part of the site for a caravan park. This permit application was refused by Council. An application for the review of the decision with the Tribunal was withdrawn.

Over the years controversy has continued within the township about the potential for a football oval on the land. The *Aireys Inlet to Eastern View Structure Plan* (November 2015) contains a key action (2) stating to:

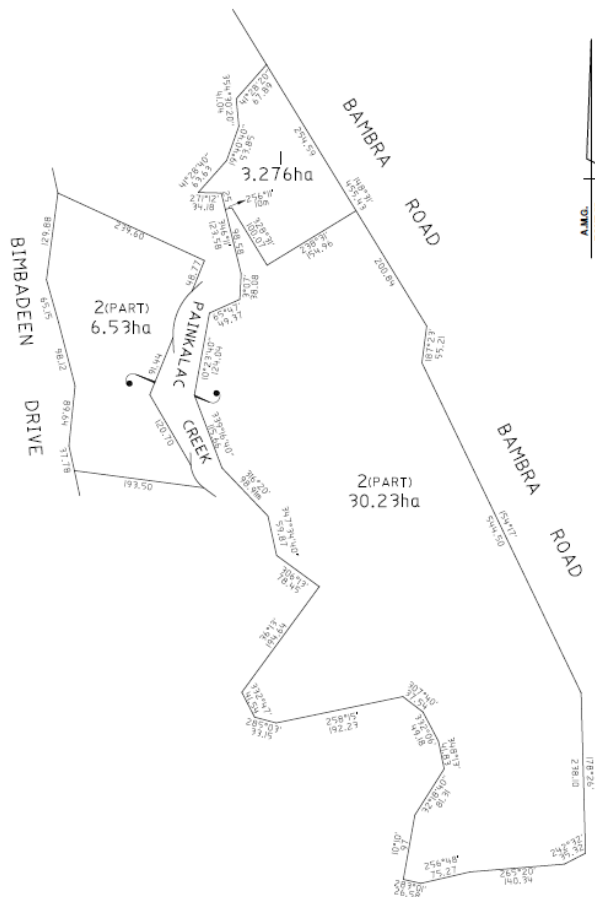
Not progress the development of an active recreation space in the Painkalac Valley, but investigate the opportunity for enhancement of the primary school oval for recreational use and continue to facilitate the sharing of sports facilities in Lorne, Anglesea, Bellbrae and Torquay.

It is noted that a bridge has been developed across the creek to provide access between the land at 115 Bimbadeen Road and the land at 23-79 Bambra Road, Aireys Inlet. The required permissions are not in place for the bridge. Legal access by road is available to both lots, however the bridge provided for ease of access between the two lots and without the bridge in place there are difficulties in managing the transit of horses between the two properties. In the event that this application is supported by Council it is recommended that any approval be conditioned requiring the removal of the bridge prior to the issue of a Statement of Compliance. It cannot be assumed that a new bridge to allow access between the two properties would be approved by the appropriate agencies.

Planning Permit 16/0402 seeks to re-subdivide the land to allow:

- Lot 1 – 3.276 hectares, designed to include the approved building envelope
- Lot 2 – 30.23 hectares to be annexed to the land on the opposite side of the river which has an area of 6.53 hectares.

The proposed subdivision is shown below.



3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

Permission is also sought to amend the restriction which applies to the land, allowing for the land to be re-subdivided. The proposed amended restriction is as follows:

In accordance with Planning Permit 97/7281 no lot on this plan, other than Lot 3, shall be further subdivided and Lot 3 shall only be subdivided on the basis that any further subdivision does not create any additional dwellings.

The site is zoned Rural Conservation Zone. The site is subject to a number of overlays, including: Bushfire Management Overlay (part); Design and Development Overlay – Schedule 11, Environmental Significance Overlay – Schedule 1; Environmental Significance Overlay – Schedule 4; Environmental Significance Overlay – Schedule 5 (part); and Land Subject to Inundation Overlay.

The re-subdivision of the land can be approved pursuant to Clause 35.06-3 of the Planning Scheme which states:

A permit is required to subdivide land. Each lot must be at least the area specified for the land in a schedule in this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- the subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*

Discussion

Planning Permit Triggers

A Planning Permit is triggered by the following clauses of the Surf Coast Shire Planning Scheme:

- Clause 35.06-3– Subdivision in the Rural Conservation Zone
- Clause 42.01-2 –Subdivide land in the Environmental Significance Overlay
- Clause 44.04-2 – Subdivide land in the Land Subject to Inundation Overlay
- Clause 44.06-1 – Subdivide land in the Bushfire Management Overlay
- Clause 52.02 – Variation of restriction.

The provisions of the Rural Conservation Zone allow only one dwelling per lot.

Referrals

The application has been referred to the Corangamite Catchment Management Authority, the Country Fire Authority and the Department of Environment, Land, Water and Planning. None of the statutory referral authorities have objected to the grant of a planning permit.

The application was also referred to Council's Environmental Health Unit. Toward the end of October a request was made for a Land Capability Assessment from the applicant. A Land Capability Assessment was submitted to Council on 5 April 2017. Due to the timelines associated with this report, there has not been an opportunity to have the report assessed.

Planning Policy Framework

The planning policy framework contains a number of clauses which are relevant to the consideration of this application, including:

- 11.07-4 – Environmental Assets;
- 11.07-6 – Sustainable Communities;
- 11.07-7 – A Diversified Economy;
- 12.01-1 – Protection of Biodiversity;
- 12.02-4 – Coastal Tourism;
- 12.02-6 – The Great Ocean Road Region;
- 12.04-2 – Landscapes;
- 13.02-1– Floodplain Management;
- 13.05-1 – Bushfire Planning Strategies and Principles;
- 15.01-5 – Cultural Identity and Neighbourhood Character;
- 17.01-1 – Business;

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

- 17.03-1 – Facilitating Tourism;
- 21.01 – Profile and Vision;
- 21.03-2 – Environmental Assets;
- 21.03-3 – Environmental Risks;
- 21.04-2 – Tourist Development;
- 21.06-3 – Landscape Outcomes;
- 21.12 – Aireys Inlet to Eastern View Strategy.

The following themes are relevant to the assessment of the application and are derived from the above policy framework: environmental risk from flooding and fire; landscape; environment; and business and tourism.

Broadly, it is considered that the subdivision is consistent with the themes outlined above given that the subdivision will not allow the development of additional dwellings which would impact on the landscape values of the area. In addition, approval is not sought to undertake any new buildings and works on the lots. However, the fact that no additional dwellings can be constructed within the valley floor is just one element of Council's consideration of this application. It would be simplistic to suggest that the application should be supported because of this fact alone.

There are inherent weaknesses with the proposal, including difficulties associated with practical land management and a lack of a legal connection between the two parcels of land. While there are potential economic benefits associated with allowing the resubdivision of the land which would facilitate the Blazing Saddles business to continue operating from the land, it is a fact that the two parcels of land are separated by land which is in public ownership and which is zoned Public Conservation and Resource Zone (PCRZ).

Currently a bridge has been developed across Painkalac Creek to allow access between the two parcels of land. The required permits are not in place for the bridge. Without the bridge in place there are practical difficulties in managing the transit of horses between the two properties. The PCRZ land is considered to be a significant impediment to the approval of the application. The addition of the land at 115 Bimbadeen Drive provides an opportunity, which would otherwise be unavailable, to resubdivide the land. Given the lack of a legal physical connection between the two parcels of land and the separation of the land by the Painkalac Creek, any assessment has to be made on the basis that the opportunity to traverse over this land is not available. The issue has not been addressed by the applicant.

It is noted that the community values the Painkalac Valley, particularly its scenic/ landscape qualities and the habitat it provides for a range of birds and wildlife. The re-subdivision of the land is not considered to compromise these outcomes, and will allow horses to continue to graze on the land. However it is noted that the fragmentation of the land could result in a sub optimal land management outcome, with more land owners within the valley floor on the eastern side of the creek alignment.

Although not documented with the application, it is understood that Blazing Saddles is a local employer and tourist attraction, playing an important role in the economic diversity of the Aireys Inlet township. The approval of the application is intended to ensure that the business can continue to operate effectively from the township, providing benefit to the local economy.

The Aireys Inlet – Eastern View Structure Plan provides specific direction within Clause 21.12 for this site as follows:

- the open valley landscape of the Painkalac Creek, separating the timbered hillsides of Aireys Inlet and Fairhaven, has high environmental, geomorphological, scenic and cultural values and contains flora and fauna of high State ecological significance
- managing the extreme bushfire risk of this coastal area while protecting neighbourhood character, vegetation cover and landscape values
- the local economy is strongly focused on tourism, and benefits from the association with the Great Ocean Road, surfing/beaches and Great Otway National Park
- discourage the removal of native vegetation, require the planting of locally indigenous vegetation species to compensate for the removal of native vegetation (without increasing bushfire risk) and encourage the removal and management of environmental weeds
- restrict subdivision and development of private land outside the settlement boundaries to protect the vegetated landscape setting and maintain buffers to the Great Otway National Park

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- protect the scenic open landscape character and environmental values of the Painkalac Creek valley by restricting development and earthworks and avoiding vegetation removal close to the creek and wetlands
- to promote economic development and tourism opportunities that are compatible with the towns' low key coastal village character and natural environment.

The Structure Plan also provides direction on the potential for a sports oval on the land. Key action (2) states to:

Not progress the development of an active recreation space in the Painkalac Valley, but investigate the opportunity for enhancement of the primary school oval for recreational use and continue to facilitate the sharing of sports facilities in Lorne, Anglesea, Bellbrae and Torquay.

The approval of the re-subdivision of the land does not imply any approval for a sports oval on the land. Such approval would be contrary to a specific action within the Structure Plan.

As noted above, the re-subdivision is not considered to result in any discernible visual impacts on the open valley landscape of the Painkalac Creek. A dwelling has already been approved on the proposed Lot 1, while the property at 115 Bimbadeen Drive, Fairhaven is also developed with a dwelling. The provisions of the Rural Conservation Zone only allow one dwelling per lot. However, this is not the only issue for consideration with this application.

Again, it is implied, but detail is not provided around the economic and tourism benefits of the Blazing Saddles operation to the township. Such a business is supported by the Structure Plan and the wider policy context of the local policy framework.

Zone

The site is located in the Rural Conservation Zone which seeks:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- to conserve the values specified in a schedule to this zone
- to protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values
- to protect and enhance natural resources and the biodiversity of the area. To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality
- to provide for agricultural use consistent with the conservation of environmental and landscape values of the area
- to conserve and enhance the cultural significance and character of open rural and scenic non-urban landscapes.

Overlays

The land is subject to three different Environmental Significance Overlays. Broadly, the overlays are designed:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- to identify areas where the development of land may be affected by environmental constraints
- to ensure that development is compatible with identified environmental values.

Each overlay contains specific direction and decision guidelines and these will be addressed in further detail in the Council report.

The land is subject to a Land Subject to Inundation Overlay, the purpose of which is:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- to identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

- to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity
- to reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made
- to protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria)
- to ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The overlay contains specific direction and decision guidelines and these will be addressed in further detail in the Council report.

The land is subject to a Bushfire Management Overlay, the purpose of which is:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- to ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire
- to identify areas where the bushfire hazard warrants bushfire protection measures to be implemented
- to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Section 173 Agreement

Pursuant to Section 60(1A)(i) of the Planning and Environment Act a responsible authority considering a permit application may, if the circumstances so require, consider any Section 173 Agreement affecting the land which is the subject of the application. The existence of a Section 173 Agreement is a clearly a relevant consideration and the subdivision of the land would contravene the Agreement if Council refuses to amend the Agreement.

The Planning and Environment Act does not mandate that a responsible authority must refuse a permit application that would contravene a Section 173 Agreement, although this will commonly be the outcome. In some cases a planning permit could be issued in anticipation of a Section 173 Agreement being amended, where there is a clear and reasonable expectation of that occurring. Council's decision on the Agreement will heavily influence the decision making on this subdivision application. If Council doesn't support the amendment of the Agreement, then this subdivision application should not be approved.

Particular Provisions

As noted, the Plan of Subdivision for the property at 23-79 Bambra Road, Aireys Inlet contains the following restriction:

*The owners of lots on this plan shall not allow the erection of more than one dwelling on any allotment.
In accordance with Planning Permit No. 97/7281 no lot on this plan shall be further subdivided.
The owners of lots on this plan shall not erect a building other than in the building envelopes shown on the endorsed neighbourhood design plan in Planning Permit No. 97/7281.*

Section 60(2) of the Planning and Environment Act 1987 sets out considerations for Council for the removal or variation of a restriction. The Act details that Council must not grant a permit which allows the removal or variation of a restriction unless it is satisfied that the owner of any land benefited by the restriction is unlikely to suffer a) financial loss, or b) loss of amenity, or c) loss arising from change to the character of the neighbourhood, or d) any other material detriment. In this case the beneficiaries of the restriction are the lots on Plan of Subdivision PS431010 T and there are no objections from the owner of these lots.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

In *Hill v Campaspe SC (Red Dot)* [2011] VCAT 949 the Tribunal established that:

With respect to the first issue relating to objections and the status of objectors as parties, there is nothing in the planning scheme that limits the right of third parties to object to a permit application to remove or vary a restrictive covenant. The scheme incorporated into the Planning and Environment Act 1987 and the planning scheme regarding the removal or variation of a restrictive covenant establishes three categories of potential objectors:

- *Those who own land that has the benefit of the covenant;*
- *Occupiers of land that has the benefit of the covenant; and*
- *Other affected people.*

It is therefore open to persons other than the owners of land benefited by the covenant to lodge objections to the permit application and to be parties to the proceeding. What weight should be placed on their grounds of objection is a different issue to whether they have a right to object and hence participate in the proceeding.

The objectors to this application fall into the category of 'other affected people'.

Clause 52.02 – Easements, Restrictions and Reserves is relevant to the consideration of this application which seeks approval to vary a restriction. The provision requires Council to consider the interests of affected people when deciding to vary a restriction. Council has discretion whether or not to grant a permit under Clause 52.02 independent of the provisions of Section 60(5) of the Act. The need to exercise discretion arises when the grant of a permit is not prohibited under Section 60(5).

In this case, the public notification phase of the application has led to significant community concern and 98 objections have been lodged, with one since withdrawn, resulting in 97 objections remaining. Three submissions in support of the application have been received.

The purpose of the restriction was clear and had the intention of restricting the further subdivision of the land. Landowners in the general area may have formed legitimate expectations that with the restriction and Section 173 Agreement in place it would not be possible for another lot to be created on the eastern side of the Painkalac Creek within the valley floor. It is considered that the variation of the restriction would negatively impact on the interests of affected people.

The key objections received have been summarised and commented on below.

Objections

Further subdivision of the land should not be permitted

The Section 173 Agreement which applies to the land seeks to prohibit the further subdivision of the land with VCAT stating that *no more boundary realignments into sub-standard lots will be possible under Clause 42-2.3, because the number of lots will be tied down at three.*

Approval of the subdivision would provide for a lot size which is less than the minimum lot size in the zone

The subdivision will allow the construction of four dwellings

The provisions of the Rural Conservation Zone, Clause 35.06-3, allow Council to grant a permit to create smaller lots if *the subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*

The application seeks to add the balance of land within Lot 3 to the land at 115 Bimbadeen Road. This lot contains a dwelling. The zone table for the Rural Conservation Zone sets out that only one dwelling on a lot can be approved.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

The approval of four lots in the valley is in direct opposition to the Shire's refusal of Planning Permit 97/7281 in 1988

It is noted that VCAT determined to reduce the number of lots on the valley floor from four to three, reducing the number of dwellings from four to three. The reduction in lots and dwellings seemed to be connected to the visual impact of the dwellings on key viewing areas particularly the impact at the southern end of the land. However, as noted above, VCAT was clear in its intention that the land would not be further subdivided, nor would there be further boundary realignments as it has limited the number of lots on the valley floor to three within the land contained in that proposal, being the eastern side of the creek alignment.

The subdivision of the land is prohibited by the Section 173 Agreement and the restriction

Without Council's consent to amend the agreement and the restriction which apply to the land, the subdivision cannot proceed.

The subdivision threatens an environmentally and ecologically significant area with further damage and erosion

It is considered that this concern is linked to the horse grazing operation which is currently undertaken on the land. The horse grazing operation could continue with a lease arrangement in place (as it currently does). Any decision for or against the subdivision will not necessarily change this situation.

The application seeks to satisfy the commercial interests of one person over the interests of the community

The applicant has not demonstrated that there would be net community benefit from the proposal.

The existing horse riding business has degraded the land and created a dust bowl, further damage and erosion is likely

This is a concern that was raised by many people. A permit has not been sought for a land use. It is understood that it is anticipated that horses would continue to graze on the land.

The number of horses allowed on the beach will increase and this threatens enjoyment of the beach and local bird species

As noted, no application has been made to change the use of the land. Horses already graze on the land and Blazing Saddles currently operates from the site at 115 Bimbadeen Drive.

The door should not be opened to further subdivision by varying the restriction

The officer recommendation is one of refusal.

The environmental values of the land and its scenic qualities will be threatened

In many respects, approving the subdivision of the land would not impact on the scenic qualities of the area. The subdivision would not allow an additional dwelling to be constructed on the valley floor and it would allow for the horses which already graze on the land to continue to graze on the land.

As noted, the fragmentation of land within the valley floor could result in a sub-optimal land management outcome.

An oval should not be permitted on the land

Approval of this application would not permit an oval on the land. Approval has not been sought for an oval on the land.

As noted above, the Structure Plan does not support an oval on this land.

The construction of a bridge over the creek will impact on the environment and the creek

Currently a bridge is in place to provide a link between the two parcels of land. The appropriate permissions are not in place for this bridge. No application has been made to construct a bridge across the creek and it is not known what decision would be made on such an application.

The land should be returned to the community as park land.

The land has been in private ownership for many years. The land owner handed over the creek frontage area as a public reserve as part of the development of the three lots. This, with the existing Crown land, has created a public ownership area for the creek and its immediate environs for the benefit of the community.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

Financial Implications

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

Council Plan

Theme	1 Environment
Objective	1.1 Preserve and enhance the natural environment
Strategy	Nil
Theme	2 Governance
Objective	2.4 Transparency in decision making and access to information
Strategy	2.4.1 Communicate decisions clearly and in a timely manner.
Theme	5 Development and Growth
Objective	5.1 Protect productive farmland and support rural business
Strategy	5.1.2 Work with local businesses

Policy/Legal Implications

There are no legal implications for the consideration of this application.

The Planning Scheme and the *Planning and Environment Act 1987* will guide the decision making process.

Officer Direct or Indirect Interest

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

Risk Assessment

Not applicable.

Social Considerations

Key themes raised in objections include concerns about the environmental values of the land and the creation of an additional lot in the Painkalac Valley, which is a landscape valued by the community.

Additional social issues for consideration include the opportunity for a tourism based, local employer to continue to operate from the township.

Community Engagement

The planning permit application was placed on public notification. Public notification of the proposal has generated 98 objections, with one objection since withdrawn. Three submissions in support of the application have been made.

Environmental Implications

Objectors are concerned about the environmental implications of the proposal.

Communication

A copy of the Council's decision will be provided to the applicant and all submitters.

Conclusion

As noted, the site is subject to a Section 173 Agreement which does not allow the further subdivision of the land. A restriction on the Plan of Subdivision imposes a similar limitation on the land.

The officer recommendation for the application to amend the Section 173 Agreement is one of refusal. If this recommendation is adopted by Council, this application should also be refused.

While there are some benefits associated with approving the subdivision of the land, there are inherent difficulties with access between the two parcels of land given that the land is separated by Crown land and a Council reserve.

3.2 16/0402 115 Bimbadeen Drive Fairhaven and 23-79 Bambra Road Aireys Inlet - Re-Subdivision of the Land (Boundary Re-alignment) and Variation of Restriction

Having regard to the VCAT decision which allowed a three lot subdivision of the land and the development of three dwellings it is considered that it is clear that VCAT intended to prohibit the further subdivision of the land.

Adding the land at 115 Bimbadeen Drive into the equation has opened up the potential for a resubdivision application to be made under the Rural Conservation Zone. In many respects, adding the land at 115 Bimbadeen Drive to the land in Bambra Road is not well considered, particularly as there is no legal connection and no real relationship between the two parcels of land given the creek separation, traversing the road network to transport livestock between the properties would be difficult in a semi urban setting.

The concerns raised by the objectors are significant and set out that objectors had legitimate expectations that the land would not be further subdivided because of the Section 173 Agreement and restriction which apply to the land. It is considered that approval of the amendment to the restriction would impact on the interests of affected people, which is a key consideration under Clause 52.02.

It is recommended that the application be refused.

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1. OFFICE OF THE CEO

Nil

Cr Libby Coker returned to the meeting at 06:49 pm.

2. GOVERNANCE & INFRASTRUCTURE

2.1 Project Budget Adjustments and Cash Reserve Transfer - April 2017

Author's Title: Manager Finance

General Manager: Anne Howard

Department: Finance

File No: F16/1381

Division: Governance & Infrastructure

Trim No: IC17/366

Appendix:

1. Project Budget Adjustments and Cash Reserve Transfers - April 2017 (D17/44155) →

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 receive and approve the Project Budget Adjustments and Cash Reserve Transfers report for April 2017.

Summary

The Project Budget Adjustments and Cash Reserve Transfers report for April 2017 is attached.

Recommendation

That Council approves the Project Budget Adjustments and Cash Reserve Transfers listed in the April 2017 report:

1. Allocating funded project budgets (no cost to Council).
2. Transferring a net of \$4,018 (funds movements < \$5,000) to projects from the Accumulated Unallocated Cash Reserve
3. Transferring a net of \$65,826 (funds movements > \$5,000) from projects to the Accumulated Unallocated Cash Reserve.
4. Transferring a net of \$13,000 to from the Adopted Strategy Implementation Reserve from projects.

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Libby Coker

That Council approves the Project Budget Adjustments and Cash Reserve Transfers listed in the April 2017 report:

1. Allocating funded project budgets (no cost to Council).
2. Transferring a net of \$4,018 (funds movements < \$5,000) to projects from the Accumulated Unallocated Cash Reserve.
3. Transferring a net of \$65,826 (funds movements > \$5,000) from projects to the Accumulated Unallocated Cash Reserve.
4. Transferring a net of \$13,000 to from the Adopted Strategy Implementation Reserve from projects.

CARRIED 8:0

2.1 Project Budget Adjustments and Cash Reserve Transfer - April 2017

Report

Background

Council receives a monthly Project Budget Adjustments and Cash Reserve Transfers report to authorise transfer of project budgets.

Discussion

The proposed Project Budget Adjustments and Cash Reserve Transfers are outlined in the attachment.

Financial Implications

The proposed Project Budget Adjustments and Cash Reserve Transfers are outlined in the attachment.

Council Plan

Theme 2 Governance
Objective 2.4 Transparency in decision making and access to information
Strategy 2.4.2 Provide relevant and easy to understand financial information to the community.

Policy/Legal Implications

Not applicable.

Officer Direct or Indirect Interest

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

Risk Assessment

Not applicable.

Social Considerations

Not applicable.

Community Engagement

Not applicable.

Environmental Implications

Not applicable.

Communication

Not applicable.

Conclusion

It is recommended that Council approve the Project Budget Adjustments and Cash Reserve Transfers for April 2017.

2.2 December 2016 Quarterly Finance Report

Author's Title: Manager Finance

General Manager: Anne Howard

Department: Finance

File No: F16/1381

Division: Governance & Infrastructure

Trim No: IC17/377

Appendix:

1. December 2016 Quarterly Finance Report (D17/5557) [⇨](#)

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 receive and note the December 2016 Quarterly Finance Report.

Summary

The December 2016 Quarterly Finance report includes the Comprehensive Income Statement, Balance Sheet, Statement of Cash Flows, Statement of Changes in Equity and Statement of Capital Works.

Recommendation

That Council notes the financial results for the 6 months ended 31 December 2016.

Council Resolution

MOVED Cr Martin Duke, Seconded Cr Clive Goldsworthy

That Council notes the financial results for the 6 months ended 31 December 2016.

CARRIED 8:0

2.2 December 2016 Quarterly Finance Report

Report

Background

Council reports quarterly on its financial results in accordance with section 138 of the Local Government Act.

Discussion

Quarterly financial statements that are included with the attached report include:

- Comprehensive Income Statement:
 - Comparison of Council's actual versus budget income and revenue for the quarter ending 31 December 2016,
- Balance Sheet:
 - Comparison of Council's assets and liabilities as at 31 December 2016,
- Statement of Cash Flows:
 - Statement of cash flows related to Council operations and activities, and reconciliation to Council's total cash holdings for the quarter ending 31 December 2016,
- Statement of Changes in Equity:
 - Council's equity position as at 31 December 2016,
- Statement of Capital Works:
 - Statement of Council's capital works expenditure for the quarter ending 31 December 2016.

Council's year to date net surplus is \$30.9 million, which is \$7.4 million ahead of budget. This is mainly due to the timing of asset contributions by developers and the timing of costs related to materials and services.

Financial Implications

Council is on track to deliver its full year budget.

Council Plan

Theme 2 Governance
Objective 2.4 Transparency in decision making and access to information
Strategy 2.4.2 Provide relevant and easy to understand financial information to the community.

Policy/Legal Implications

Section 138(1) of the Local Government Act states that:

'At least every 3 months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure is presented to the Council at a Council meeting which is open to the public.'

The Quarterly Finance Report fulfils this requirement.

Officer Direct or Indirect Interest

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

Risk Assessment

Not Applicable.

Social Considerations

Not Applicable.

Community Engagement

Not Applicable.

Environmental Implications

Not Applicable.

Communication

Not Applicable.

Conclusion

Council remains in a sound financial position with all variances between the actual and budgeted results explained in this report.

2.3 March 2017 Quarterly Finance Report

Author's Title: Manager Finance

General Manager: Anne Howard

Department: Finance

File No: F16/1381

Division: Governance & Infrastructure

Trim No: IC17/369

Appendix:

1. March 2017 Quarterly Finance Report (D17/44283) [↔](#)

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 receive and note the March 2017 Quarterly Finance Report.

Summary

The March 2017 Quarterly Finance report includes the Comprehensive Income Statement, Balance Sheet, Statement of Cash Flows, Statement of Changes in Equity and Statement of Capital Works.

Recommendation

That Council notes the financial results for the 9 months ended 31 March 2017.

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Clive Goldsworthy

That Council notes the financial results for the 9 months ended 31 March 2017.

CARRIED 8:0

2.3 March 2017 Quarterly Finance Report

Report

Background

Council reports quarterly on its financial results in accordance with section 138 of the Local Government Act.

Discussion

Quarterly financial statements that are included with the attached report include:

- Comprehensive Income Statement:
 - Comparison of Council's actual versus budget income and revenue for the quarter ending 31 March 2017,
- Balance Sheet:
 - Comparison of Council's assets and liabilities as at 31 March 2017,
- Statement of Cash Flows:
 - Statement of cash flows related to Council operations and activities, and reconciliation to Council's total cash holdings for the quarter ending 31 March 2017,
- Statement of Changes in Equity:
 - Council's equity position as at 31 March 2017,
- Statement of Capital Works:
 - Statement of Council's capital works expenditure for the quarter ending 31 March 2017.

Council's year to date net surplus is \$28.4 million, which is \$14.1 million ahead of budget. This is mainly due to the timing of asset contributions by developers and the timing of costs related to materials and services.

Financial Implications

Council is on track to deliver its full year budget.

Council Plan

Theme 2 Governance

Objective 2.4 Transparency in decision making and access to information

Strategy 2.4.2 Provide relevant and easy to understand financial information to the community.

Policy/Legal Implications

Section 138(1) of the Local Government Act states that:

'At least every 3 months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure is presented to the Council at a Council meeting which is open to the public.'

The Quarterly Finance Report fulfils this requirement.

Officer Direct or Indirect Interest

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

Risk Assessment

Not Applicable.

Social Considerations

Not Applicable.

Community Engagement

Not Applicable.

Environmental Implications

Not Applicable.

Communication

Not Applicable.

Conclusion

Council remains in a sound financial position with all variances between the actual and budgeted results explained in this report.

2.4 Report Outlining Councillor Allowances and Expenses

Author's Title: Manager Governance & Risk

General Manager: Anne Howard

Department: Governance & Risk

File No: F11/786

Division: Governance & Infrastructure

Trim No: IC17/343

Appendix:

1. Councillor Allowances and Expenses Report - 3 November 2016 to 31 March 2017 (D17/42511) ⇨

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 outline the Councillor allowances and expenses for the period of this Council from 3 November 2016 to 31 March 2017.

Summary

In order to ensure the highest levels of transparency and accountability, it is proposed that Councillor allowances and expenses be made available to the public through a quarterly statement reported at Ordinary Council meetings and published on Council's website.

The initial report is attached at Appendix 1 and covers the period of this Council from 3 November 2016 to 31 March 2017.

Some payments eg travel costs are included at the time they are paid out rather than when incurred therefore figures quoted may include expenses from outside this reporting period.

Future reports will be presented to Ordinary Council meetings on a quarterly basis.

Recommendation

That Council:

1. Note the attached summary of Councillor allowances and expenses (Appendix 1).
2. Resolve to publish the summary on Council's website.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Libby Coker

That Council:

1. Note the attached summary of Councillor allowances and expenses (Appendix 1).
2. Resolve to publish the summary on Council's website.

CARRIED 8:0

2.4 Report Outlining Councillor Allowances and Expenses

Report

Background

The Local Government Act 1989 provides that the Mayor and Councillors are paid an allowance and provided with appropriate tools and support to enable them to properly undertake their statutory obligations.

The provision of efficient communications equipment, reimbursement of official travel and telephone expenses and, if applicable, child care expenses is generally provided by municipalities across the state in order to assist Councillors to maximise their responsibilities.

The Local Government Act 1989 requires that Councils must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors. Council has therefore adopted the Councillors Entitlements (Facilities & Expenses) Policy which sets out the level of resources and support that are provided to Councillors to enable them to effectively discharge their official duties.

The policy also sets out the procedures that apply in circumstances where Councillors require reimbursement of expenses incurred, and those circumstances where prior approval is required. A copy of the policy is available on Council's website.

Discussion

The attached report outlines Councillor allowances and expenses that have been paid during the period of this Council from 3 November 2016 to 31 March 2017 in the following categories:

- **Councillor Allowances** includes statutory allowances for the Mayor and Councillors
- **Parking Costs** includes reimbursement of parking fees whilst on official business
- **Travel Expenses** includes public transport costs and reimbursement to Councillors for kilometres travelled in their private vehicles associated with Council related travel
- **Motor Vehicle** includes costs associated with use of the mayoral vehicle
- **Mobile Phone** includes the costs associated with official Councillor mobile phone usage
- **Internet** includes cost of official internet provision and usage.

Any contributions that are paid by Councillors towards phone and internet usage are also included in the report.

It is proposed that future reports will be provided on a quarterly basis and posted on Council's website to increase transparency and accountability. This is in addition to other reporting requirements such as the requirement to report in Council's annual report.

It should be noted that some payments eg travel costs are included at the time they are paid rather than when incurred, therefore figures quoted may include expenses from outside the reporting period.

Financial Implications

Councillor allowances and expenses are covered within Council's operational budget.

Council Plan

Theme 2 Governance
Objective 2.4 Transparency in decision making and access to information
Strategy Nil

Policy/Legal Implications

The Local Government (Planning and Reporting) Regulations 2014 require Councils to disclose in the Annual Report the details of allowances and expenses for each Councillor, divided into certain defined categories. Council would be exceeding this requirement by making quarterly disclosures at the Ordinary meeting and posting these on the website.

Officer Direct or Indirect Interest

There are no conflicts of interest associated with this report.

Risk Assessment

Not applicable.

2.4 Report Outlining Councillor Allowances and Expenses

Social Considerations

Not applicable.

Community Engagement

Not applicable.

Environmental Implications

Not applicable.

Communication

The quarterly reports would be published on Council's website in addition to being included on the Ordinary Council meeting agenda.

Conclusion

Quarterly reporting of Councillor allowances and expenses provides an opportunity for transparency and openness in relation to these costs.

2.5 Review of Instrument of Delegation - Hearing of Submissions Committee

Author's Title: Manager Governance & Risk

General Manager: Anne Howard

Department: Governance & Risk

File No: F17/284

Division: Governance & Infrastructure

Trim No: IC17/344

Appendix:

1. Hearing of Submissions Committee - Instrument of Delegation (D17/19201) →

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 review Council's delegation to the Hearing of Submissions Committee, as required following an election, pursuant to section 86(6) of the Local Government Act 1989 (the Act).

Summary

Council is required to review delegations to special committees within a period of 12 months after a general election. This report relates to a review of the Hearing of Submissions Committee which was formed in 2009 under Section 86 of the Act. This was to avoid the need to call Special meetings of Council to hear submissions in accordance with Section 223 of the Act, or other publicly exhibited matters, prior to being formally considered at a Council meeting.

The instrument of delegation has been slightly updated to add provision for hearing submissions relating to the review of Mayoral and Councillor Allowances (Section 74), and to clarify that a person can request that a named representative speaks to the submission.

A review of the instruments of delegation for the remainder of Council's special committees is currently ongoing.

Recommendation

That Council:

1. Note that a review of the delegation to the Hearing of Submissions Committee has been undertaken in accordance with the Local Government Act 1989.
2. Note that the instrument of delegation has been slightly updated to add hearing submissions relating to the review of Mayoral and Councillor Allowances (Section 74) and to clarify that a person can nominate a named representative to speak to their submission.
3. Adopt the Instrument of Delegation for the Hearing of Submissions Committee, as attached to this report.
4. Authorise the Chief Executive Officer to execute the document in accordance with Local Law No. 2 Council Meeting Procedures and Common Seal.
5. Note that upon execution of this document previous delegations to the Hearing of Submissions Committee are revoked.

Council Resolution

MOVED Cr Clive Goldsworthy, Seconded Cr Libby Coker

That Council:

1. Note that a review of the delegation to the Hearing of Submissions Committee has been undertaken in accordance with the Local Government Act 1989.
2. Note that the instrument of delegation has been slightly updated to add hearing submissions relating to the review of Mayoral and Councillor Allowances (Section 74) and to clarify that a person can nominate a named representative to speak to their submission.
3. Adopt the Instrument of Delegation for the Hearing of Submissions Committee, as attached to this report.
4. Authorise the Chief Executive Officer to execute the document in accordance with Local Law No. 2 Council Meeting Procedures and Common Seal.
5. Note that upon execution of this document previous delegations to the Hearing of Submissions Committee are revoked.

CARRIED 8:0

2.5 Review of Instrument of Delegation - Hearing of Submissions Committee

Report

Background

Council as a legal entity can only act in one of three ways, by resolution or through a person or special committee acting on its behalf. To enable effective and efficient functioning of local government, decision making powers are allocated by formal delegation.

Council is required to review any delegations to special committees within 12 months after a general election. Section 86(6) of the Act places a requirement upon Council that "The Council must review any delegations to a special committee in force under this section within the period of 12 months after a general election."

Council may delegate its powers, duties and functions to special committees of Council formed under section 86 of the Act. Section 86 (1) states "In addition to any advisory committees that a Council may establish, a Council may establish one or more special committees of the following:

- a) Councillors
- b) Council staff
- c) other persons
- d) any combination of persons referred to in paragraphs (a), (b) and (c).

Section 86(3) allows Council to "(3) a Council may by instrument of delegation delegate any of its functions, duties or powers under this or any other Act to a special committee, with the exceptions that Council cannot delegate to a committee the following powers:

- a) this power of delegation
- b) to declare a rate or charge
- c) to borrow money
- d) to enter into contracts for an amount exceeding an amount previously determined by the Council
- e) to incur any expenditure exceeding an amount previously determined by the Council
- f) any prescribed power.

Discussion

The Hearing of Submissions Committee was established under Section 86 of the Act in 2009. The Committee was formed to hear and report to Council on submissions received by Council in accordance with section 223 of the Act or other publicly exhibited matters.

As a Section 86 Committee, the Hearing of Submissions Committee is governed by Local Law No. 2 - Council Meeting Procedures and Common Seal.

The Committee membership is made up of all Councillors, with a required quorum of five Councillors. Meetings are held as required.

The Committee was established to avoid the need to call Special meetings of Council to hear submissions in accordance with section 223 of the Act or other publicly exhibited matters, prior to being formally considered at a Council meeting.

The Hearing of Submissions Committee provides Council with an opportunity to engage with submitters in a less formal and more interactive environment than a Council meeting.

The instrument of delegation has been slightly updated to add hearing submissions relating to the review of Mayoral and Councillor Allowances (Section 74) and to clarify that a person can request that a named representative speaks to their submission.

A review of the instruments of delegation for the remainder of Council's special committees is currently ongoing.

Financial Implications

Not applicable. The Committee does not have financial delegation.

2.5 Review of Instrument of Delegation - Hearing of Submissions Committee

Council Plan

Theme 2 Governance
Objective 2.4 Transparency in decision making and access to information
Strategy Nil

Policy/Legal Implications

This review is in accordance with Section 86(6) of the Act ie that "The Council must review any delegations to a special committee in force under this section within the period of 12 months after a general election". This review is also compliant with Local Law No. 2 – Council Meeting Procedures and Common Seal.

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has a conflict of interest.

Risk Assessment

There are no risks associated with this report.

Social Considerations

Not applicable.

Community Engagement

Not applicable.

Environmental Implications

Not applicable.

Communication

A delegations register is available for public inspection.

Conclusion

The review is a requirement of Section 86(6) of the Local Government Act 1989. It is therefore recommended that Council adopt the Instrument of Delegation for the Hearing of Submission Committee as attached, with the minor amendments as outlined in the report.

2.6 Off-Site Ordinary Council Meeting Dates, Times and Locations for 2017

Author's Title: Team Leader Governance

General Manager: Anne Howard

Department: Governance & Risk

File No: F17/287

Division: Governance & Infrastructure

Trim No: IC17/290

Appendix:

1. Ordinary Council Meeting Dates and Locations for 2017 (D17/29408) ⇨

Officer Direct or Indirect Conflict of Interest:

Status:

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

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

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to amend the Ordinary Council meeting schedule for 2017 to include identification of off-site meeting dates and locations.

Summary

Section 83 of the Local Government Act 1989 states that Council may hold two types of meetings, being Ordinary meetings at which the general business of Council may be transacted and Special meetings at which the business specified in the notice calling the meeting may be transacted.

It is therefore prudent for Council to resolve the date, time and location of future Ordinary meetings.

The changes to locations are as outlined below:

- Tuesday 23 May 2017 - Moriac Community Centre
- Tuesday 22 August 2017 - Aireys Inlet Community
- Tuesday 28 November 2017 - Deans Marsh Public Hall.

The updated 2017 Ordinary Council Meeting Dates and Locations schedule is attached at Appendix 1 and includes the amendments outlined.

Recommendation

That Council adopts the off-site Ordinary Council meeting dates and locations for 2017 as at Appendix 1 and note the meetings to be held at 6pm for the following locations:

1. Tuesday 23 May 2017 - Moriac Community Centre, Newling Reserve, 830 Hendy Main Road, Moriac.
2. Tuesday 22 August 2017 - Aireys Inlet Community Centre, 6 Great Ocean Road, Aireys Inlet.
3. Tuesday 28 November 2017 - Deans Marsh Public Hall, Pennyroyal Valley Road, Deans Marsh.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Clive Goldsworthy

That Council adopts the off-site Ordinary Council meeting dates and locations for 2017 as at Appendix 1 and note the meetings to be held at 6pm for the following locations:

1. Tuesday 23 May 2017 - Moriac Community Centre, Newling Reserve, 830 Hendy Main Road, Moriac.
2. Tuesday 22 August 2017 - Aireys Inlet Community Centre, 6 Great Ocean Road, Aireys Inlet.
3. Tuesday 28 November 2017 - Deans Marsh Public Hall, Pennyroyal Valley Road, Deans Marsh.

CARRIED 8:0

2.6 Off-Site Ordinary Council Meeting Dates, Times and Locations for 2017

Report

Background

Section 83 of the Local Government Act 1989 states that Council may hold two types of meetings being Ordinary meetings at which the general business of Council may be transacted and Special meetings at which the business specified in the notice calling the meeting may be transacted.

To ensure that the legislative requirements in regard to the conduct of an Ordinary meeting can be met, it is prudent for Council to resolve the date, time and location of future Ordinary meetings.

Discussion

On 22 November 2016 Council adopted meeting dates for 2017. In accordance with Council Plan objectives and strategies, it is now proposed that three meetings be held outside Torquay and the amended schedule including off-site meeting dates and locations is therefore being presented.

The changes to locations are as outlined below:

- Ordinary Council meeting - Tuesday 23 May 2017 - Moriac Community Centre
- Ordinary Council meeting - Tuesday 22 August 2017 - Aireys Inlet Community
- Ordinary Council meeting - Tuesday 28 November 2017 - Deans Marsh Public Hall.

The updated 2017 Ordinary Council Meeting Dates and Locations schedule is attached at Appendix 1 and includes the amendments outlined.

Financial Implications

Not applicable.

Council Plan

Theme 2 Governance
Objective 2.4 Transparency in decision making and access to information
Strategy 2.4.4 Ensure Council meetings are held across the Shire.

Policy/Legal Implications

Section 89(4) of the Local Government Act 1989 requires that:

- (4) Unless subsection (4A) applies, a Council must at least 7 days before the holding of—
- (a) an ordinary council meeting; or
 - (b) a special council meeting; or
 - (c) a meeting of a special committee comprised solely of Councillors give public notice of the meeting.

Local Law No. 2 – Council Meeting Procedures and Common Seal, Clause 14 - Attendance & Notice of Meetings requires that:

- 14.1 The Chief Executive Officer must give notice to the public of any meeting of the Council by public notice at least seven days prior to the meeting and via Council's website.
- 14.2 The date, time and place for all Ordinary Council meetings shall be fixed by the Council from time to time.

Officer Direct or Indirect Interest

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

Risk Assessment

Not applicable.

Social Considerations

Not applicable.

Community Engagement

Provides clarity for the community as to when and where Council meetings will be held.

Environmental Implications

Not applicable.

Communication

Meeting times, dates and location will be advertised in the local press and available on Council's website.

Conclusion

It is recommended that Council adopt the updated Ordinary Council meeting off-site dates, times and locations for 2017.

3. ENVIRONMENT & DEVELOPMENT

3.3 Summary of Winchelsea RV Friendly Trial

Author's Title: Coordinator Business & Tourism Strategy

General Manager: Phil Rowland

Department: Economic Development & Tourism

File No: F16/618

Division: Environment & Development

Trim No: IC17/222

Appendix:

1. Minutes - Winchelsea RV Monitoring Group February 2017 (D17/14574) ⇨

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 report on the findings of the 12 month Winchelsea RV Friendly trial and consider the continuance of RVs on the designated area.

Summary

Under Community Amenity Local Law 1 of 2011, the Barwon Riverbank area in Winchelsea between Mercer Street and the Railway Bridge was designated to allow sleeping in self-contained recreational vehicles, self-contained caravans or self-contained motorhomes overnight for a maximum of 48 hours during the trial period which commenced on 1 April 2016 for 12 months.

A monitoring group was established during the trial period to establish a monitoring program testing whether the trial would achieve the following key outcomes:

- a) Attract more tourists and generate economic benefit to Winchelsea.
- b) Increase the perception of Winchelsea being friendly and welcoming, particularly to RV vehicles.
- c) Not result in a reduction in public amenity due to noise, access, damage to the area and litter.

The monitoring group has ceased on 31 March 2017 with the cessation of the trial. The generous time contribution of the group over the past 12 months is acknowledged.

It was found that the Winchelsea RV trial generated a modest economic benefit, increased the perception of the town as more friendly and welcoming and there was not a significant increase in impact on the local amenity of the trial area on the Barwon Riverbank. Resident support for RVs staying short-term in the Barwon River Reserve increased, however a small number of local residents surveyed during the trial remain unsupportive.

A major factor limiting the trial's ability to generate more visitors and spending was an extended site closure of five months due to flooding.

The range of options available to Council include:

- Cease trial and don't permit RV overnight stays in the Barwon River Reserve
- Designate the Barwon River Reserve as a year-round RV Friendly 48 Hour Stop
- Designate the Barwon River Reserve a seasonal RV Friendly 48 Hour Stop
- Create an RV Friendly Winchelsea through partnership with local businesses and cease to provide an RV Site on the Barwon River Reserve.

It is likely that regular flood events will limit year round vehicle access in future making it an unsuitable site for year-round access. Providing a seasonal site may reduce the potential for damage to the reserve. The continued use of the river for RVs over a longer term may need to be reviewed as the population of Winchelsea grows.

3.3 Summary of Winchelsea RV Friendly Trial

Although an improved perception of the town doesn't have a value in economic terms, positive perception can translate to future visitation. There is merit in considering a 3-5 year designation allowing RVs and Caravans to stay short term overnight on a seasonal basis from 1 December to 30 April.

Recommendation

That Council:

1. Note the report summarising the Winchelsea RV Friendly trial.
2. Receive and note the minutes of the Winchelsea Monitoring Group February 2017 meeting.
3. Acknowledge the cessation of the Winchelsea RV Trial and monitoring group and the contribution of the community members.
4. Under Community Amenity Local Law 1 of 2011, designate the Barwon River Reserve, Winchelsea in the area between Mercer Street and the Railway Bridge to allow sleeping in self-contained recreational vehicles, self-contained caravans or self-contained motorhomes overnight for a maximum of 48 hours on a seasonal basis between 1 December and 30 April commencing December 2017.
5. Review the designation of use in April 2020 with recommendations on whether the use continues or not.
6. Allocate \$10,000 in the 2017/18 Budget for the maintenance of the Barwon River Reserve and review annually while RV usage continues.

Council Resolution

MOVED Cr Carol McGregor, Seconded Cr Libby Coker

That Council:

1. Note the report summarising the Winchelsea RV Friendly trial.
2. Receive and note the minutes of the Winchelsea Monitoring Group February 2017 meeting.
3. Acknowledge the cessation of the Winchelsea RV Trial and monitoring group and the contribution of the community members.
4. Indicates its intention to designate the Barwon River Reserve, Winchelsea in the area between Mercer Street and the Railway Bridge to allow sleeping in self-contained recreational vehicle, self-contained caravans or self-contained motorhomes overnight for a maximum of 48 hours and on a year-round basis.
5. Notes that the site is subject to periodic river inundation and wet soil conditions at which time access to the site needs to be restricted.
6. Requests Officers to analyse appropriate operational arrangements and budgetary implications for this to occur and to report this back for consideration at the 23 May 2017 Council meeting.

CARRIED 8:0

3.3 Summary of Winchelsea RV Friendly Trial

Report

Background

On 23 February 2016 Council approved a one year trial allowing short term stays for RVs in a section of the Barwon River Reserve. This was done in response to a petition from Growing Winchelsea Inc. requesting Council declare “Winchelsea an RV friendly town by allowing free camping along our beautiful Barwon River, thus attracting tourists and contributing to the economy of our town.”

Under Community Amenity Local Law 1 of 2011, the Barwon Riverbank area in Winchelsea between Mercer Street and the Railway Bridge was designated to allow sleeping in self-contained recreational vehicles, self-contained caravans or self-contained motorhomes overnight for a maximum of 48 hours during the trial period which commenced on 1 April 2016 for 12 months.

Council also resolved to work with Growing Winchelsea Inc. and interested stakeholders to establish a monitoring program during the trial period, including quarterly meetings and key triggers for early cessation of the trial, if required.

At the completion of the trial, Council requested that a report be provided to the April 2017 Council meeting with recommendations on whether the use continues or not. This report summarises the findings from the monitoring program during the trial period and proposes a recommendation moving forward.

Discussion

The Winchelsea RV Friendly Trial provided an opportunity to test the notion that Winchelsea would attract tourists and benefit economically by allowing a free RV site on the Barwon River.

Following the Council meeting, a Monitoring Group was established under an agreed Terms of Reference. The Group met quarterly and group membership consisted of:

- Two Winchelsea Ward Councillors: Cr McGregor & Cr Wellington
- One Growing Winchelsea Representatives: Stuart Fountain (President)
- One business representative: Jacqui Doyle (Café La Hoot)
- Two Community Representatives (one for and one against the proposal).

The minutes of the February 2017 meeting are attached for reference.

The purpose of the group was to establish a monitoring program and review data collected during the trial period and assess status of the trial against expected outcomes.

The envisaged outcomes from the original petition by Growing Winchelsea and previous Council Reports can be summarised in three key sections as seen below. These will be discussed in more detail in the report.

- a) Attract more tourists and generate economic benefit to Winchelsea
- b) Winchelsea would be perceived as more friendly and welcoming, particularly to RV vehicles
- c) Potential reduction in public amenity due to noise, access, damage to the area and litter.

A major factor limiting the trial’s ability to generate more visitors and spending was an extended site closure due to flooding. As can be seen in Table 1 below, the site was open for 3 months from 1 April 2016 and then closed for a period of nearly five months. The trial site was closed on 22 July, open for a period of three days in September and then closed again until 2 December 2016. The Corangamite Catchment Management Authority (CCMA) previously advised the area is subject to flooding 1 in every 2 years.

Timing	2016									2017		
	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Status	RV Site Open			Closed due to flooding						RV Site Open		
Estimated use	1 vehicle per night	1 vehicle every 2 nights	No access to site						1 vehicle per night			

Table 1: Timeline of Winchelsea RV Site Opening / Closure and estimated usage

3.3 Summary of Winchelsea RV Friendly Trial



Figure 1: Barwon River Reserve flooded September 2016

Other broader factors relevant to changes in visitation patterns to Winchelsea to be considered include:

- an extended period of roadworks and road closures on the Great Ocean Road from September 2016 diverting traffic inland or discouraging coastal visitation
- completion of road works in Winchelsea and the duplication of the Princes Highway to Geelong completed in December 2015 providing better access to Winchelsea
- a growing number of commercial tour operators ‘reversing’ their traditional Great Ocean Road tour route along the coast in the morning and travelling through Winchelsea in the morning en-route to the 12 Apostles.

Key Trial Findings

a) Attract more visitors and generate economic benefit

It was estimated in the 23 June 2015 Council report that the site may attract visitor numbers in the range of 10 – 35 vehicles per week provide a modest economic benefit in the order of \$49,000 to \$175,000 per annum. This range was calculated based on an average of five RVs using the site for two nights on a weekend or if an average of five RVs used the site per night for the duration of the trial.

Monitoring of usage by RV vehicles indicates that in the first month of the trial an average of one vehicle per night used the site. In May 2016 this reduced to one vehicle every two nights. From December until the cessation of the trial period, the average was estimated at one vehicle per night. Using the averages above, it is estimated that around 185 self-contained RVs and caravans used the site for the trial period, generating an economic return in the order of \$17,760 (185* \$96 per RV).

This level of usage is supported by reports from Local Laws officers who observed the site 4-5 times per week and reported intermittent usage of the site by 1-2 vehicles for a night. The maximum number of vehicles observed staying overnight was six during the peak Christmas period.

The monitoring group established a business survey to measure whether the trial provided a noticeable increase in trade. The survey was conducted three times during the trial period at the end of June, September and February. The third survey was extended to cover the full summer period. A broad cross-section of Winchelsea businesses were selected including accommodation, hospitality and services.

In response to the question, “Have you noticed any change in turnover attributable to the RV trial?” the majority of businesses (73%) reported no noticeable change in turnover.

“Have you noticed any change in turnover attributable to the RV trial?”	
Yes	9%
No	73%
Don’t know	18%

Table 2: Winchelsea RV Trial business survey question

3.3 Summary of Winchelsea RV Friendly Trial

Some businesses who responded 'no' knew that users of the trial site purchased goods at their business but commented this did not affect their turnover to any real extent. The strong majority of businesses who responded to the survey were supportive of the trial.

Several common comments from business responses were:

- Extra customers coming from the site to purchase a coffee
- No extra income, but other shops appear busier
- Think it's busier because the Great Ocean Road is closed
- No, because it's been closed since July.

During the trial, a nearby Hotel continued to provide a small area for RVs and caravans to park on their property as has been done for a number of years. They allow visitors to stay for \$10 per night or for free if a main meal is purchased in the bistro. Over 95% of visitors paid for a meal instead of paying the \$10 site fee and the average expenditure was around \$50 per couple. This service was well used year round attracting at least two vehicles per week on average and several (3 - 4) on most weekends.

The Hotel RV area was not affected by inclement weather or flooding. The nearby dump point was seen as convenient. An analysis of Wikicamps found that RV travellers rated the Hotel site as 4.7 out of 5 and the then manager confirmed this initiative has managed to attract more people to the Hotel and to Winchelsea. Visitors planned to stay for one night but often stayed for several after arriving as they realised there was a secure place to leave any belongings, and Winchelsea was a good base to do daytrips along the Great Ocean Road. The Hotel has recently changed management. The previous management commented that she was considering expanding the number of spaces for RVs to use within their property. This would require a planning permit amendment. It is unclear whether the new management will pursue this.

The Caravan Park responded twice during the trial period to the business survey indicating a noticeable change in turnover attributable to the RV trial. From the June survey, they reported a reduction in visitation since the commencement of the trial period. In the September survey they reported an increase in "one night stayers" at their park since the middle of July when the site was closed. In response to the final survey, they stated their objection against the proposal alleging misuse of the area by RVs staying longer than 48 hours and contributing to an increase in rubbish and degradation of the reserve. In the "ten week period surrounding Christmas and New Year, [their] night-stay rate fell by 32% on last year and 22% on the year before."

An indicator of RV visitation to Winchelsea is the RV Dump Point near the Barwon Hotel. The local supermarket provided a record of usage. From August 2014 to February 2016, the Dump Point was used 18 times, or on average once a month. During the trial period, the Dump Point was used 86 times, or seven times per month, a significant increase in usage of this facility.

Surf Coast Visitor Information Centres received several enquiries about whether the trial site was open or closed during the 12 months. In general fewer visitors were aware of the Barwon Riverbank site when enquiring about free camping options on the Great Ocean Road. Many were aware of the Hotel site in Winchelsea and its 'main meal deal'.

Based on the information above, the trial generated a very modest economic benefit to Winchelsea below the lower end of the envisaged economic benefit. While some businesses noticed some customers were users of the RV site, their expenditure did not provide a noticeable increase in trade. A local Hotel was able to cater for RVs year round and generated a similar level of economic benefit for Winchelsea as the trial site, use of the RV dump point increased significantly, while the Caravan Park reported a reduction in visitation during the trial.

b) Visitor-friendly perception

Community consultation prior to the commencement of the trial identified many positive aspects of low-key visitation that is already occurring in Winchelsea. It was expected that formalising a site may provide a perception that Winchelsea is welcoming to travellers.

The RV Trial had a noticeable impact on the visitor friendly perception of Winchelsea. During the trial period, three letters of appreciation were received for providing an RV friendly site.

3.3 Summary of Winchelsea RV Friendly Trial

The RV Trial site was promoted on Wikicamps, an online app used by RV travellers to find and rate free camps. The site was rated as 4.1 out of 5 stars. Comments were mostly positive including:

- Lovely free camp area
- Great spot
- Great spot for big rig
- Had lunch at Café La Hoot – very good
- Thanks Winchelsea much appreciated
- Great spot...shops and pub in walking distance
- Wonderful site, plenty of space. Suits self-contained vehicles. Easy walk to IGA, butcher, cafes, pool, medical practice and pubs. Brekky and coffee at the old shire hall tea rooms very good.

Beyond supporting the RV friendly trial, the comments also point to the nature of expenditure taking place.

There were several comments attempting to clarify the definition of 'self-contained' for other users, a few complaints about Cockatoos and early morning trains and advice on accessing the dump point and drinking water.

Local nearby resident perception of the RV site improved during the trial period. The level of support for the allowing an RV site on the riverbank was 58% support prior to the trial. During the trial, resident approval increased to 79% support. 21% remained not supportive during the trial. Several comments from resident' responses were:

- Good to see people spending money in the town.
- I walk my dog twice a day, and often the people staying say what a lovely area it is
- Personally, I think it is a great idea and should continue
- We had people staying down the river comment on the fact it's the cleanest park they have stayed in
- People staying here is good for the businesses in town, their favourable comments attract more people to the area
- Lots of caravans using the site, they are quiet & respectful, met some lovely people on my walks.
- The parishioners attending St John Baptist Church heavily endorse the use of the Barwon River reserve for RV camping
- There were several comments that allowing RVs to use the site has discouraged undesirable behaviour of hoons doing 'burn-outs' or 'wheelies' in the area.

Based on the information above, the free RV Trial site had a positive impact on resident and visitor perception of Winchelsea and made the town perceived as more 'visitor friendly'.

c) Potential reduction in public amenity

Community consultation prior to the commencement of the trial also identified a number of concerns in relation to allowing an RV friendly site in the Barwon River Reserve including the unsuitability of the site, an increase in rubbish, a desire to keep it beautiful and untouched and feeling uncomfortable about sharing public space with campers.

Table 2 below provides a summary of nearby resident opinion on whether the RV Trial had affected the amenity of the area. The responses show that most residents did not believe the trial contributed to an increase in rubbish, noise or degradation of the Barwon River Reserve.

Impact on amenity	Yes	No	Don't know
Increased rubbish	7%	76%	17%
Increased noise	7%	83%	10%
General degradation of the site	14%	76%	10%
Any other impacts	21%	38%	41%

Table 3: Summary of 'amenity' responses from Winchelsea RV Trial Resident Survey

3.3 Summary of Winchelsea RV Friendly Trial

Noise and rubbish were not a major concern with 7% responding that RVs contributed to these issues, however double the number of residents (14%) were concerned about general degradation of the site by RVs. A summary of comments on this aspect of the trial include:

- It's lovely that people can camp, but they are in the park where we walk everyday and our rates go to maintain the park. I'd prefer it's kept as a park and no RV campaign even though the travellers are nice. I moved here for space
- Whole area is slowly losing grass
- Encourage day visitors to beautiful Barwon River, how can people enjoy walk along river, kick football or play games when area is being ploughed up by RV vehicles?
- Degradation especially occurred before the site was closed in winter
- Large vehicles tyres cutting up and muddying grassland
- Visually awful
- I feel like the park is now a camp ground and people stay longer than 48 hours
- Visual impact.

During the trial, caravans and RVs were observed in the Barwon River Reserve in winter when the ground was particularly wet (see Figure 2 below for some images taken by the monitoring group). There were numerous reports of tyre tracks through the reserve particularly during the wetter months of the year. The images were taken just prior to the extended site closure.

It is unclear whether the RV trial contributed to an increase in the number of tyre/vehicle tracks made in the Barwon River Reserve. Prior to the trial commencing, large wheel ruts were visible in several areas of the reserve and resident surveys expressed concerns with this area being used by 'hoons' for 'wheelies and burnouts'. Additionally, RVs and Caravans have historically stopped along the Barwon River during the day for lunch stops, tea breaks or access to the shops. The amount of damage from wheel ruts and tyre tracks did not appear to be any worse during the twelve months of trial compared to previous years.



Figure 2: Examples of wheel ruts and tyre tracks in the Barwon River Reserve (July 2016)

3.3 Summary of Winchelsea RV Friendly Trial

The matter of degradation of the reserve through the creation of large wheel ruts seems to be more an issue of all vehicle access to the reserve during wet periods as opposed to singling out RVs as only one user group. Possible solutions are to consider seasonal access for RVs, increase the amount of 'hard stand' areas to cater for all users of the reserve, or to consider ways to restrict access to vehicles during the wetter months when all vehicles might damage the grassed areas.

As mentioned earlier, 21% of local residents remain unsupportive of the trial. Council received a number of complaints from local residents indicating that there is still a level of negative feelings against the trial in parts of the local community.

Local laws visited the trial site approximately 4-5 times per week during the period of the trial and aside from a complaint on the first day reported no additional complaints of any inappropriate behaviour or usage of the site caused by RV users. Anecdotally the site is well patronised with regular usage and numbers have varied from single campers up to six campers using the site on any single occasion. There were no reports of the 'Wicked Camper' type of patronage, noting these seem to be more of an issue along our coastal areas. Rangers spoke to numerous campers and the response to the site has been good with plenty of favourable comments. The trial did not significantly increase the use of local laws resources. They have been able to integrate inspections of the site into their current commitment to other services to the Winchelsea community.

Monitoring Group

The valued contribution of the monitoring group should be noted. In particular the contribution of local community members who regularly attended meetings, provided feedback, visited the site to take regular photos, and assisted in survey formulation. Group members consisted of those who had initially raised concerns, voiced support and had a neutral position towards the trial. The monitoring group performed their role to a very high level. The function of the group ceased on the 31st March 2017.

The trial and monitoring group ceased on 31 March 2017. There are now a number of options for consideration, each with pros and cons:

	Pros	Cons
Don't permit RV overnight stays in the Barwon River Reserve	<ul style="list-style-type: none"> • Addresses some resident's concern about RVs • Caravan park does not experience loss in visitation • Reduction in officer time and resources • Avoids problems with seasonal flooding 	<ul style="list-style-type: none"> • Winchelsea not seen as strongly as 'RV Friendly' • Negative 'word-of-mouth' feedback amongst RV travellers • RVs likely to continue 'historic' use and park illegally • No increase in accommodation capacity for Winchelsea • Little potential for increase in visitation & expenditure over time from RVs
Designate the Barwon River Reserve as a year-round RV Friendly 48 Hour Stop	<ul style="list-style-type: none"> • Winchelsea perceived as friendly & welcoming • Increased visitation to Winchelsea • Modest economic benefit • Positive word-of-mouth • Some control over RV usage of site • Increased accommodation capacity for Winchelsea 	<ul style="list-style-type: none"> • Problems with flooding and year round access • Possible negative impact on caravan park • Possible increased use of Council resources (officer time and maintenance budget) • Need for budget allocation to address vehicle access • May create an opportunity-cost as Winchelsea grows in terms of less accessible public space

3.3 Summary of Winchelsea RV Friendly Trial

<p>Designate the Barwon River Reserve a seasonal RV Friendly 48 Hour Stop from 1 December to 30 April</p>	<ul style="list-style-type: none"> • Winchelsea perceived as friendly & welcoming • Increased visitation to Winchelsea • Modest economic benefit • Positive word-of-mouth • Some control over RV usage of site • Possible reduction in vehicle damage to site • lessens seasonal flooding • Less impact on caravan park than year-round operation • Increased accommodation capacity for Winchelsea 	<ul style="list-style-type: none"> • Need for budget allocation to address vehicle access • Possible confusion and complaints about when the site is open • Possible negative impact on caravan park • Possible increased use of Council resources (officer time and maintenance budget) • Need for budget allocation to address vehicle access • May create an opportunity-cost as Winchelsea grows in terms of less accessible public space
<p>Create an RV Friendly Winchelsea through partnership with local businesses and cease to provide an RV Site on the Barwon River Reserve</p>	<ul style="list-style-type: none"> • Low cost to Council with less staff involvement and no requirement for budget • Supporting existing businesses who cater for RV travellers • Possible reduction in damage to Barwon River Reserve • Modest economic benefit • Existing services are rated highly and supports perception of Winchelsea as friendly • Supports increase in visitation and expenditure • Avoids problems with seasonal flooding • Businesses have more control over site conditions and usage • Businesses can promote other aspects of Winchelsea to visitors • Caravan park does not experience loss in visitation 	<ul style="list-style-type: none"> • Possible negative 'word-of-mouth' feedback amongst RV travellers for closing a 'free' site • Does not achieve expected outcome from Growing Winchelsea petition • No increase in accommodation capacity for Winchelsea • RVs likely to continue 'historic' use and park illegally

Table 4: Options for consideration relating to RV Overnight Stays in Winchelsea

Financial Implications

There is currently no provision in the draft 2017/2018 budget to formalise an RV Friendly Parking Area in Winchelsea. If supported, the proposal represents the provision of a new service to be provided by Council.

If RV usage of the Barwon River Reserve is to continue as it did during the trial period; with no establishment of a defined parking area, monitoring has shown that it may require a small budget allocation. It may be prudent to allocate a budget towards maintenance and improvements to the Barwon River Reserve including but not limited to: repairs to gravelled areas, signage, ground repairs, prevention of root compaction near large trees and beautification of the area. An ongoing allocation consistent with the duration of the use should be considered. It is recommended that \$5,000 to \$10,000 be allocated to the Barwon River Reserve maintenance for 2017/18. This figure may be revised down after the first year.

Council Plan

Theme 5 Development and Growth
Objective 5.1 Protect productive farmland and support rural business
Strategy 5.1.2 Work with local businesses

3.3 Summary of Winchelsea RV Friendly Trial

Theme	5 Development and Growth
Objective	5.3 Develop and grow sustainable year round tourism
Strategy	5.3.2 Facilitate product development to enhance the visitor experience and in particular develop off beach products both infrastructure and business.

Policy/Legal Implications

The entire site is Crown land (back to the alignment of Barwon Terrace) reserved for Public Purposes and is under the control of Surf Coast Shire (SCS) as the appointed Committee of Management (CoM). All Crown land regulations relating to the reserve were revoked in 2000 so there is no impediment from a regulation perspective that would conflict with the proposed RV Parking use.

The Department of Environment, Land, Water & Planning (DELWP) has no objection to the proposed use and Council is the CoM. No further approval is required from DELWP and if Council chooses to proceed, it can utilise local laws to control the activity.

The Corangamite Catchment Management Authority (CCMA) have provided in principle support for the proposal.

No planning permit is required to create an RV Friendly parking area for self-contained vehicles in this instance.

Regulatory Considerations

Staying overnight in car parks and on the roadside is illegal and has been identified as an issue in Surf Coast Shire between Torquay and Lorne. Policing of illegal roadside camping and sleeping in vehicles is undertaken via Community Amenity Local Law 1 of 2011: 4.6 and 4.8.

An area can be designated under resolution of Council to be available for camping under section 4.6 of the Local Law. In deciding whether to grant a permit under this clause, Council must consider the following:

- a) The location of the land
- b) The statutory planning requirements relevant to the land
- c) The suitability of the land for camping
- d) The number of persons or other structures to be located or accommodated on the land
- e) The length of time the tents and other structures will be erected on the land
- f) The availability of sanitary facilities to the land
- g) The likely damage to be caused
- h) The likely impact on nearby residents
- i) Council policy
- j) Any other matter relevant to the circumstances of the application.

If there are significant concerns or complaints received by Council in relation to RV use of the site, then Council may remove the designation by resolution.

Other Regulations that need to be considered prior to implementing a facility are below:

- Crown Land (Reserves) Act 1978.
- The Land Act 1958.
- The Local Government Act 1989.
- The Country Fire Authority Act 1958.
- The Occupational Health and Safety Act 2004.
- The Environment Protection Act 1997.

Officer Direct or Indirect Interest

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

Risk Assessment

Some risks identified in proceeding with the proposal and declaring an RV Friendly short-stay parking area in Winchelsea include the potential for complaints from local residents about the amenity of the area (noise, litter, access), additional maintenance and enforcement costs and an issue of competitive neutrality in relation to the existing caravan park operating in Winchelsea.

3.3 Summary of Winchelsea RV Friendly Trial

Given that the proposed area has a history of informal, self-contained vehicles staying overnight the risks are seen as relatively low as Council would be formalising a practice that has occurred for some time.

The degradation of the site that occurs by vehicle access needs to be considered as a broader aspect of planning for appropriate access to the reserve for all vehicles, not just RVs and caravans.

Social Considerations

Research on the RV & Caravan market suggests travellers choose a mix of commercial and free campsites during their travels. Providing a free RV Friendly short-stay overnight parking area in Winchelsea could increase the capacity for the town to appeal to all types of travellers.

Monitoring has shown the positive impact on the perception that Winchelsea is friendly and welcoming by providing a space for RVs to stay overnight in the short term. It is expected that allowing continued use of the site will continue to provide a moderate boost to the local economy in terms of increased spend in the local shops and a perception that Winchelsea is welcoming to travellers. It is possible that this may grow over time.

Other social considerations such as litter – caused by people camping, noise – caused by inappropriate gatherings (parties) or generators or lighting need to be factored into a decision.

The trial indicated that the presence of RV travellers in the Barwon River area had potential to moderate the social impacts listed above. It was reported that many RV travellers are responsible, respectful and aim to leave the area in the same or better state than they found it.

There may be a point in future as the Winchelsea population grows when there is more pressure placed on the site from competing uses. At this point, it may no longer be appropriate to allow RV users to stay at this location.

Community Engagement

Businesses and local residents were encouraged to provide feedback during the trial in the form of business and resident surveys conducted through the trial period. Any emails, letters or comments on Wikicamps relating to the Barwon River Reserve, Winchelsea RV Dump Point were also considered in the summary of this report.

Environmental Implications

Given the desire of the community for minimal infrastructure or changes to the Barwon River Reserve, and given this area has been used frequently by RV vehicles as a rest point it is considered that there are no environmental implications.

The Barwon Land and River Care Group did not report any significant concerns in relation to the proposal.

Communication

Growing Winchelsea Inc. will receive a letter advising of the outcome of Council decision. Winchelsea residents and the general public will be informed by a media release. If the use is to continue, new signage will need to be erected and Wikicamps will be updated.

It is proposed a letter of thanks be sent to the participating community members on the monitoring group.

Conclusion

This report has summarised the findings and observations of the Winchelsea RV Friendly monitoring group against the following envisaged outcomes:

- a) Attract more tourists and generate economic benefit to Winchelsea
- b) Winchelsea would be perceived as more friendly and welcoming, particularly to RV vehicles
- c) Potential reduction in public amenity due to noise, access, damage to the area and litter.

It has been shown that the RV Trial has attracted more tourists and generated a modest economic benefit, Winchelsea was perceived as more friendly and welcoming and there was not a significant increase in impact on the local amenity of the area.

3.3 Summary of Winchelsea RV Friendly Trial

Although an improved perception of the town doesn't have a value in economic terms, positive perception can translate to future visitation. There is merit in considering a 3-5 year designation allowing RVs and Caravans to stay short term overnight on a seasonal basis from 1 December to 30 April. This will require a maintenance budget of up to \$10,000.

It is likely that regular flood events will limit year round vehicle access in future making it an unsuitable site for year-round access. Providing a seasonal site may reduce the potential for damage to the reserve and increase the accommodation capacity for Winchelsea in the short term. The continued use of the river for RVs over a longer term may need to be reviewed as the population of Winchelsea grows.

3.4 Winchelsea Common Future Use Plan

Author's Title: Coordinator Environment
Department: Environment & Community Safety
Division: Environment & Development
General Manager: Phil Rowland
File No: F14/866
Trim No: IC17/251

Appendix:

1. Winchelsea Common Future Use Plan - April 2017 (D17/47667) ⇨

Officer Direct or Indirect Conflict of Interest:

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

Yes

No

Reason: Nil

Status:

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

Yes

No

Reason: Nil

Purpose

The purpose of this report is to present the Department of Environment, Land, Water & Planning Winchelsea Common Future Use Plan for Council review and support.

Summary

The Department of Environment, Land, Water and Planning (DELWP), with Council's support, has now concluded community engagement on the Future Use Plan for Winchelsea Common. Development of the Plan is a requirement of the Clean Up Notice issued by the Environment Protection Authority to DELWP for remediation of the Common.

The draft Plan was considered at the Council Briefing on 24 January 2017 and was made available for public comment for four weeks from 7 February 2016 via DELWP's project web page. Copies of the draft Plan were sent to neighbouring residents and key stakeholders. DELWP & Council staff attended the Winchelsea Farmers Market on 5 March 2017 to present and discuss the Plan with the community. The draft Plan was also promoted through local media by DELWP.

The majority of the community feedback has been supportive of the draft Plan. Some community members have continued to advocate for the resumption of gun club and go kart activities, even though it was made clear through the consultation materials that these activities are no longer compatible with the site and surrounds. Under the proposed Plan, the primary use of the site will be passive recreation and protection of high value native vegetation on site. The Plan provides for other potential uses such as a perimeter running track and active recreation area, subject to future demand, funding and development of Eastern Reserve. DELWP is now finalising costing and staging for remediation and improvement works. When this work has been completed, Council will be able to consider its financial contribution to the Plan's implementation.

Recommendation

That Council:

1. Support the DELWP Future Use Plan for Winchelsea Common.
2. Defer decisions on Council's financial contribution to implementation of the Future Use Plan until detailed costing and staging have been provided by DELWP.

Council Resolution

MOVED Cr Carol McGregor, Seconded Cr Libby Coker

That Council:

1. Support the DELWP Future Use Plan for Winchelsea Common.
2. Defer decisions on Council's financial contribution to implementation of the Future Use Plan until detailed costing and staging have been provided by DELWP.

CARRIED 8:0

3.4 Winchelsea Common Future Use Plan

Report

Background

Council was briefed about the development of the Future Use Plan for Winchelsea Common on 6 July 2016 (proposed community engagement approach to develop Future Use Plan) and 24 January 2017 (draft Plan for public consultation).

Council had most recently considered Winchelsea Common at the 24 November 2015 Council meeting (remediation and open space planning update) and at the 28 January 2016 Council meeting (community petition to retain the go kart track at the Common). At the January 2016 meeting, Council resolved to:

1. Continue to work with DELWP on planning for the future remediation of the Winchelsea Common.
2. Defer discussion on the future uses of the Winchelsea Common site until a remediation plan is approved by the EPA and advise the main petitioner of the deferral of this discussion.
3. Note the Growing Winchelsea strategy identifies future residential land adjacent to the Winchelsea Common and that the location of a go kart track in this area is not consistent with the strategy.
4. Note that Council officers are working with a Youth Advisory Group in Winchelsea to identify and address the needs of young people in the township.
5. Remain open to proposals from community organisations to establish a go kart track in alternative locations in the Winchelsea area.

Discussion

Site Background

Winchelsea Common was home to the Winchelsea Gun Club shooting operations from the 1950s. The site is contaminated with lead, antimony and polycyclic aromatic hydrocarbons as a result of the Gun Club activities. The site comprises approximately 11 hectares of Crown Land, with the designated former Gun Club site managed by DELWP (Crown Allotment 33) and the remainder of the site managed by Council as Committee of Management (Crown Allotment 34). The Common contains federally protected Plains Grassy Woodland vegetation. A portion of the land managed by Council was licensed to the Winchelsea Fund Kart Club Inc. for use as a go kart (or fun kart) track from 1995.

The state government and Council have recognised the contamination as a public health risk and the site has been closed to public access since 2013. Gun Club and Go Kart activities ceased at the Common in 2013.

Winchelsea Common is listed on the Environment Protection Authority (EPA) Priority Site Register. The EPA issued a Clean Up Notice to DELWP in May 2015 and approved DELWP's Clean Up Plan for the site in June 2016. Development of a Future Use Plan for the site is a key action in the Clean Up Plan.

Community Engagement – Future Use Plan

Initial community engagement to develop the Future Use Plan for the Common was run jointly by DELWP and Council in July and August 2016. Four key engagement options were used – DELWP Have Your Say website, printed survey distributed at various sites in Winchelsea and Open Shed and Site Tours at the Common on 6 August. A broad range of potential uses were identified for the site.

In developing the scope of the engagement, shooting and go-karting were identified by DELWP and Council as no longer suitable uses for the Common due to nearby residential areas and noise requirements. Council had also noted that the location of a go kart track in this area was inconsistent with the Growing Winchelsea strategy. In response to initial community feedback suggesting electric go karts could be used instead, independent expert advice was obtained regarding noise requirements. The acoustic expert concluded that electric go karts would not meet acoustic requirements without the construction of a noise berm, acoustic fence or other barrier. Electric karts have a distinct whine and under race conditions are predicted to exceed the noise limits of the Noise in Regional Victoria Guidelines.

A draft Future Use Plan was developed based on the initial community feedback. Under the draft Plan, the primary use of the site will be passive recreation and protection of high value native vegetation on site. Key proposed features included interpretative walks, picnic area, dog off leash area and active recreation area at the former go kart track (potentially available for a use such as a bike park, subject to funding and community need).

3.4 Winchelsea Common Future Use Plan

Engagement Results

Community feedback on the draft Plan has been generally positive and supportive of the focus on passive recreation and protection and enjoyment of the Common's natural values. Desired features highlighted by the community from the draft Plan included a perimeter running track with drinking fountains, dog off leash area, interpretative signs about site history and vegetation, revegetating degraded areas and activities for children. There is also support for using the former go kart site as an active recreation area, especially for youth. A copy of the final Future Use Plan is attached (Appendix 1). DELWP is now developing more detailed costing and staging to remediate the site and deliver the Future Use Plan.

Financial Implications

Costs associated with remediation and staging of works to deliver the Future Use Plan have still to be developed by DELWP. Council will be briefed on this information once available.

Council Plan

Theme 2 Governance
Objective 2.1 Robust risk management framework and processes
Strategy 2.1.2 Stocktake of leases, licences and agreements with a risk focus.

Theme 4 Infrastructure
Objective 4.1 Allocation of infrastructure according to need
Strategy 4.1.2 Utilisation of community demographics to determine future infrastructure needs.

Theme 1 Environment
Objective 1.1 Preserve and enhance the natural environment
Strategy 1.1.3 Protect and enhance biodiversity in Nature Reserves

Policy/Legal Implications

Remediation of the site and decisions regarding future use are subject to the requirements of the Environment Protection Act 1970. The EPA will review and approve the final Future Use Plan.

The Future Use Plan is consistent with Council's Growing Winchelsea Strategy, Open Space Strategy, Eastern Recreation Reserve Master Plan update and Playground Strategy.

Officer Direct or Indirect Interest

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

Risk Assessment

Currently, the site is closed to the public by a fence and warning signs. As a listed site on Victoria's Priority Sites Register for contaminated land, the Common is known to have public health risks associated with the contamination. The remediation of the site must address the public health risks to the satisfaction of the EPA. Implementation of the Future Use Plan (which will require remediation and improvement works), will mitigate the current public health risks to an acceptable level.

Social Considerations

There is concern with the adequacy of activities for young people in Winchelsea. Community feedback on the draft Future Use Plan supported using the former go kart site for active recreation for youth (e.g. bike/BMX track). The Growing Winchelsea Strategy recommended that the opportunity to include a bike park at the go kart site be further explored.

Community Engagement

Two rounds of community engagement were conducted to develop the Future Use Plan. Initial engagement was undertaken in July and August 2016 to inform development of the draft Plan. The draft Future Use Plan was advertised for public comment for four weeks from 7 February via DELWP's project web page, at various locations in Winchelsea and a mail out to registered stakeholders. DELWP and Council officers also attended the Winchelsea Farmers Market on 5 March 2017 to present and discuss the Plan with the community. DELWP has indicated once the Plan has been finalised, community members will be invited to continue working with the project team on designing detailed elements, including interpretative material and the location of park features like signage.

3.4 Winchelsea Common Future Use Plan

Environmental Implications

The contamination issues are the main environmental concern on the Common. Under the Future Use Plan, the natural values of the site will be celebrated and protected. High conservation areas of the site (which are also some of the most contaminated areas) will be fenced off, but visible.

Communication

Communication about the development of the Future Use Plan has been led by DELWP, with support from Council. The primary ongoing communication tool is DELWP's project webpage

Conclusion

Winchelsea community members are keen to have Winchelsea Common re-opened for public use. Community feedback on the draft Plan is supportive of passive recreation and protection of natural values at the site. Implementation of the Plan (remediation and site improvement) will address the current public health risks at the site. It is recommended that Council support DELWP's Future Use Plan for Winchelsea Common and defer decisions on Council's financial contribution to Plan implementation until detailed costing and staging have been provided by DELWP.

3.5 Summer Peak Period Debrief - 2016 to 2017

Author's Title: Coordinator Business & Tourism Strategy

General Manager: Phil Rowland

Department: Economic Development & Tourism

File No: F17/231

Division: Environment & Development

Trim No: IC17/221

Appendix:

Nil

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 provide Council with a snapshot of the various Council activities across departments over the 2016-2017 summer peak period in the Surf Coast Shire.

Summary

Favourable weather combined with several major events, increased occupancy and higher day visitation has contributed to a significant upturn for Lorne businesses in particular over the summer period and gone a long way to easing the challenging January 2016.

Across other towns, trade was generally positive although it was stronger in hospitality and accommodation sectors than retail. Torquay retailers in particular suggested a changing trend in visitor demographics to lower yield day-trip visitors which now represents 61.9% of annual visitor numbers to the Surf Coast. A survey by Torquay Commerce and Tourism revealed strong increases in trade.

Estimated attendance figures were significantly down at local beaches possibly attributable to the number of shark sightings and milder weather. In general though, this did not appear to impact overall trade.

There were few emergency incidents this year and no 'extreme' weather days, in contrast to the bushfires and 7 Extreme rated days from the 2015/2016 summer period.

Council services such as rubbish collection, local laws and customer service all remained busy for the period with trends pointing to an increased form of information search via mobile devices and online compared to the previous year.

Recommendation

That Council notes the Summer Peak Period Debrief 2016-2017 for the various activities over the summer period from 1 December 2016 - 31 January 2017.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Clive Goldsworthy

That Council notes the Summer Peak Period Debrief 2016-2017 for the various activities over the summer period from 1 December 2016 - 31 January 2017.

CARRIED 8:0

3.5 Summer Peak Period Debrief - 2016 to 2017

Background

The summer peak period from 1 December to 31 January is a very busy time annually for Surf Coast Shire with thousands of visitors coming to Surf Coast townships during the Christmas period and the school holidays.

The previous summer peak period was marred by the Wye River Jamieson Track Fire and subsequent Great Ocean Road closures which had a significant impact on the trade in many of the Surf Coast towns, delivery of some events and Council services.

Discussion

This report is a snapshot providing facts and statistics for information purposes and builds a picture of the summer period from 1 December 2016 to 31 January 2017 along the Surf Coast considering a range of different measures and, where possible, making comparisons with previous years' data.

Tourism Visitation

Tourism represents a major factor in the peak summer period. Our beautiful beaches, natural bush and hinterland, local businesses and activities provide a great drawcard from Melbourne and beyond. Historic repeat visitation has created a nostalgia and tradition of tourism to our popular coastal towns.

Tourism Research Australia data as at year's end June 2016 estimates over 2.161 million visitors came to Surf Coast Shire and spent more than \$430M in the local economy. Of those visitors, 36% stayed overnight, down from 49% for a total of 2.37 million visitor nights. The number of day trip visitors increased with 61.9% of all visitors to the Surf Coast Shire being day visitors. At the time of writing this report, the visitation figures to year end December 2016 were not available.

Summer periods dominate visitation patterns with the March Quarter accounting for 41% of annual visitation to year end June 2016.

During peak visitation periods, the population of Surf Coast Shire is estimated to increase from its usual population of approx. 29,000 to over 85,000. This does not include day trippers to the area or those people attending festivals or other activities which can significantly increase these numbers to approximately 100,000.

The influx of people returning to their beach houses, visitors, events and business activities requires increased resources and focus.

Events

Between the 1 December - 31 January period a total of 42 public events and a further 19 markets held across Winchelsea, Torquay, Anglesea, Aireys Inlet and Lorne attracting approximately 137,570 people which is well over figures reported from last summer season.

The number of events per township for these events is indicated below. The type of events typically involves markets, lifesaving, swimming, running, exhibitions and music.

An unexpected feature of this season's events calendar was the abundance of shark sightings especially around Fairhaven and Lorne. Two water based events scheduled for Fairhaven were relocated to Torquay while the Lorne SLSC took additional measures to ensure the Pier to Pub proceeded safely.

Vic Roads worked hard to secure the Great Ocean Road following numerous landslips in September 2016 leading into summer. The road remained stable which allowed the safe passage of the Great Victorian Bike Ride early December with 5,500 bike riders. Importantly, the Cadel Evans events continue to garner community support and grow in international significance.

This year, Council hosted a Women's Wave to officially welcome the elite female cyclists competing in the event. Other major events such as the Pier to Pub and Night Jar Market, Falls Festival, Barwon Park Mansion' Night Life' exhibition combined with good weather to injected millions of dollars into the host communities.

3.5 Summer Peak Period Debrief - 2016 to 2017

A summary of events over December - January is below.

Township	No. Events in 2014/15	No. Events 2015/16	No. Events 2016/17
Torquay	19	18	17 events plus the weekly Torquay Farmers market
Anglesea	7	12	15
Aireys Inlet	0	5	2 plus 5 markets
Fairhaven	1	2	1 with 2 SLSV events relocated to Torquay due to shark activity
Lorne	6	4	4 plus the Lorne foreshore market
Deans Marsh	0	1	2
Winchelsea	2	1	1 plus 2 Farmers Markets
Total	35	43	42

Table 1: Number of Events per Town

A list of major events held between 1 December 2016 to 31 January 2017 and their event population figures are summarised in the table below.

Event	Township	People Attending
Falls Festival	Lorne	16,500
Great Victorian Bike Ride	Anglesea	5,500
Cadel Evans Road Race and participant event	Torquay and surrounds	17,500
Roo Run	Anglesea	700 plus 500 spectators
Rock to Ramp Swim	Anglesea	870 plus 500 spectators
Mountain to Surf Run	Lorne	2,000 plus 2,000 spectators
Pier to Pub	Lorne	5,000 plus 15,000 spectators
Night Jar Festivals (* 4 events)	Torquay	45,000
Bells Bash Cliff Run	Torquay	600
Danger 1000	Torquay	1,000
Anglesea River Markets (*3 markets)	Anglesea	7,500
Cowrie markets	Torquay	11,000
Torquay Farmers Markets (every Saturday *8)	Torquay	2,000
Aireys Inlet Markets (*5)	Aireys Inlet	3,000
Winchelsea Farmers Market (first Sunday monthly *2)	Winchelsea	1,400
Total		137,570

Table 2: Major Event Summary & Attendance Figures

Council has worked with event organisers and our business community to leverage benefits from events. The business community embraced the Cadel Evans Great Ocean Road Race event this year with more promotions of 'Cheer Here' sites. This encourages more people to visit Torquay businesses and enjoy the atmosphere during the event. This work has lifted the profile of Council's events management to be considered best practice by Visit Victoria.

Markets continue to be a firm fixture with the welcome addition of the Winchelsea Farmers Market. Markets across the townships provide a key focal point for all sectors of the community to engage and build relationships with each other.

New Year's Eve

Council, in collaboration with partner agencies including the Victoria Police, has seen another successful harm minimisation approach to New Year's Eve.

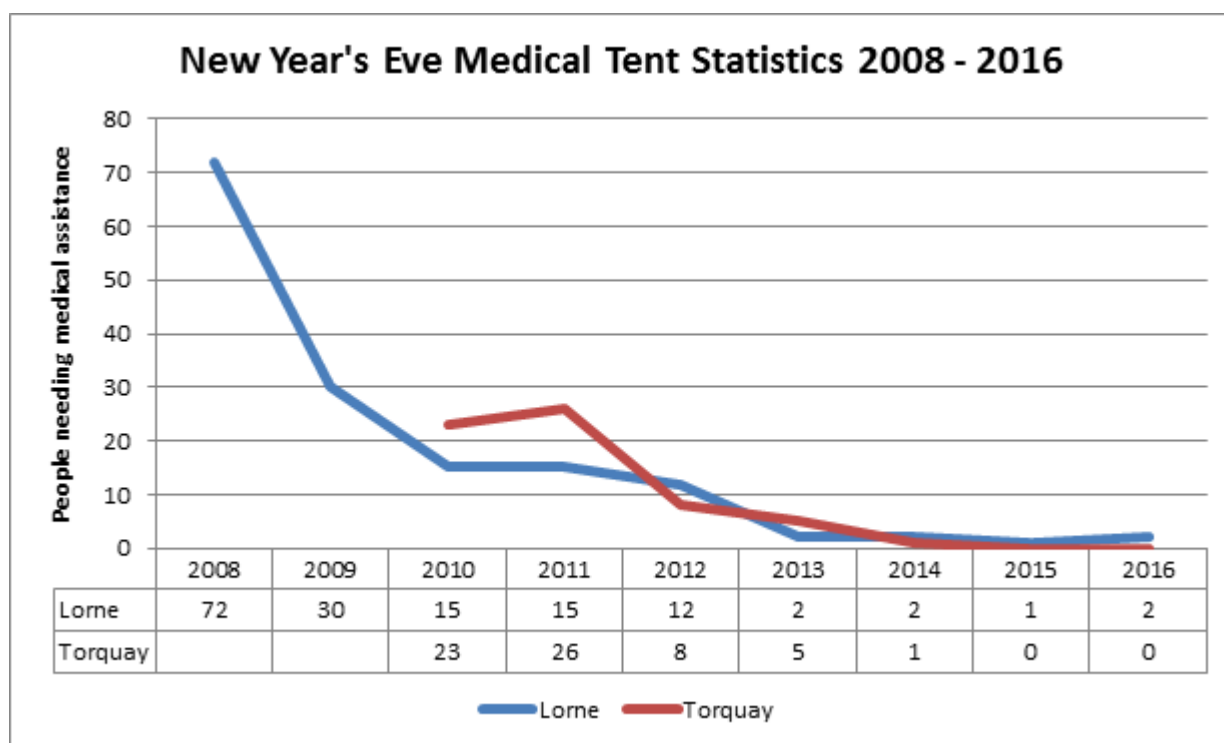
3.5 Summer Peak Period Debrief - 2016 to 2017

New Year's Eve is not treated as an event, but a series of measures put in place to minimise the harm that can be a by-product of public gatherings during New Year's Eve.

Harm minimisation strategies usually include the provision of extra lighting at known gathering points, medical hubs and crowd control barriers to control issues with glass, litter and illegal fireworks. Variable Message Signs and other temporary signage convey key messages and fireworks displays are used to signal an end to festivities and encourage crowds to disperse.

A key indicator of the success of harm minimisation is the decrease in numbers of patients that present during an evening at the temporary medical hubs. Graph 1 below shows the number of people requiring medical assistance in Torquay and Lorne during New Year's Eve. This information has been provided by medical contractors and reflects the great success harm minimisation has in reducing injury in coastal towns over the past decade.

In Lorne, there were only two presentations to the medical tent this year which has reduced from 72 only eight years ago. Torquay has shown a similar trend in reduction of matters requiring medical treatment reducing from 23 to 0 in five years.



Graph 1: Presentations to temporary medical tents - A key indicator of harm minimisation effectiveness for New Year's Eve

Crowds were extremely well behaved in both the towns of Torquay and Lorne this year. Crowds viewed the fireworks displays and quickly dispersed at their completion. Public reserves remained litter and glass free.

There were reports from Victoria Police in Torquay of double the number of usual people gathering to view the fireworks in areas not equipped with extra lighting and security. This may need consideration for future planning.

Beaches and Surf Lifesaving

Surf Lifesaving Victoria Report a total of 48 rescues conducted by either paid lifeguards or volunteers during the peak summer period. This represents 20% fewer rescues than last year. There were 15,633 preventative actions (29% more) taken on the beach and a total of 334 first aid presentations (29% more) for treatment.

3.5 Summer Peak Period Debrief - 2016 to 2017

The combined attendance figures from Lifeguards and volunteers show a total attendance of 150,275 people to Surf Coast patrolled beaches with Torquay receiving the highest combined visitation of (45,749) followed by Lorne (42,590), Anglesea (22,448), Jan Juc (16,515), Surf Coast (2,763), Fairhaven (12,215) and Point Roadknight (7,995).

Surf Life Saving Victoria reported beach attendance figures dropped by 51% overall on the Surf Coast compared to the same period last year. The largest decrease in attendance figures at key beaches were: Torquay (60%), Fairhaven (59%), Anglesea (53%), Point Roadknight (42%), Jan Juc (40%) and Lorne (26%) respectively.

The data is collected by paid life savers and volunteers who estimate the beach attendance figures at each location for each day. The figures should be used as a guide only as the data collection method has a large margin for error, although it has been collected and reported in the manner consistent with previous years. Such a large difference does suggest a trend that fewer visitors or locals to the Surf Coast went to the beach this summer.

**Date Range 01/12/2016 –
31/01/2017**

	Preventative Actions	First Aid		Rescues	Attendance
		Minor	Major		
Anglesea Lifeguards	1,383	18	1	6	12,078
Anglesea Volunteers	491	26	2	0	10,370
Fairhaven Lifeguards	1,911	14	2	3	3,413
Fairhaven Volunteers	1,329	7	2	2	8,802
Jan Juc Lifeguards	997	12	1	5	5,530
Jan Juc Volunteers	803	8	0	5	10,985
Lorne Lifeguards	2,162	76	2	4	18,180
Lorne Volunteers	399	16	2	6	24,410
Point Roadknight Lifeguards	1,199	15	1	4	7,995
Surf Coast Lifeguards	1,562	1	0	5	2,763
Torquay Front Beach Lifeguards	1,109	16	1	2	6,743
Torquay Lifeguards	1,460	41	2	1	18,564
Torquay Volunteers	828	64	4	5	20,442
Total	15,633	314	20	48	150,275

Table 3: Surf Lifesaving Actions and Beach Attendance Figure

Shark sightings

While there were no reported attacks, the increased presence of sharks along the Surf Coast has been a notable theme of this summer. There were 20 shark sightings reported to Life Saving Victoria, 13 of which were confirmed. The numerous shark sightings became a news story which received local and national television coverage and international spread via social media. The sightings were also reported via the VicEmergency App & website, particularly for a number of beach closures at Aireys Inlet, Fairhaven, Torquay and Jan Juc. It is likely this activity combined with mild weather (as opposed to really hot 'beach days') contributed to the reduction in beach attendance figures.

Visitor Information Centre Statistics

The Surf Coast Visitor Information Centres of Torquay, Lorne, Anglesea and Winchelsea assisted 58,873 visitors to the Surf Coast during the peak period. VIC visitation was below previous year but interestingly phone enquiries either increased or remained consistent with previous years. Torquay recorded an increase in after-hours material being taken. Cultural attractions including the Australian National Surfing Museum (ANSM) and the Great Ocean Road Story Exhibition at the Lorne Visitor Centre received increased visitation. Barwon Park contributed to increased visitation at the Winchelsea VIC. Specific VIC data is discussed below.

3.5 Summer Peak Period Debrief - 2016 to 2017

Lorne Visitor Information Centre

Lorne	Dec-15	Jan-16	Totals:	Dec-16	Jan-17	Totals:
Walk-ins	14,042	18,098	32,140	14,763	18,060	32,823
Phone	2,076	1,780	3,856	1,331	1,320	2,651
A/H	342	526	868	178	192	370
Totals	16,460	20,404	36,864	16,272	19,572	35,844

Table 4: Lorne Visitor Centre Enquiry Numbers

The Lorne VIC reports that Lorne itself seemed very busy, but visitor numbers were down in the VIC all summer. Retail sales were generally up which and the spend-per-visitor increased. There was a noticeable reduction of visitors seeking accommodation, this could be due to online bookings and visitors now using the internet for finding information on accommodation and things to see and do. There were more volunteers on this summer than any other year. Most shifts had two volunteers am and pm, a huge help during busy periods. Extending in to February some shifts were cancelled as there weren't the number of visitors to warrant the staffing. Overall there were only 1,020 less visitor enquiries than last year and it was a busy summer.

Great Ocean Road Story/Heritage Centre

The Great Ocean Road Story exhibition in the Lorne Visitor Centre received very positive feedback over summer. The exhibition tells the construction story of the Great Ocean Road and the efforts of the World War I returned soldiers and sailors. Many visitors enjoyed the couches and reading material, some staying in there for up to two hours. The Great Ocean Road story adds significantly to the visitor experience.

Torquay Visitor Information Centre

Visitor numbers in the Torquay Visitor Centre were down by 10%, with phone enquiries up by 6.48%. It is not clear what factors contribute to this change, however increases in use of online bookings and/or visitors bypassing Torquay may be the main reasons. Accommodation enquiries via the Torquay VIC were less than previous years. Anecdotally, smaller accommodation operators reported they were not as busy in comparison other years. This could be attributable to increased competition by online providers such as 'Air B&B'. The figures for Torquay VIC visitation are below.

Torquay	Dec-15	Jan-16	Totals	Dec-16	Jan-17	Totals
Walk ins	9,216	10,830	20,046	8,339	9,857	18,196
Phone	514	1,027	1,541	760	881	1,641
A/H	133	252	385	127	207	334
Totals	9,863	12,109	2,1972	9,226	10,945	20,171

Table 5: Torquay Visitor Centre Enquiry Numbers

Winchelsea/Anglesea Visitor Information Centres

The smaller, volunteer run Visitor Centres of Winchelsea and Anglesea recorded the following visitation.

Period	Winchelsea	Anglesea
Dec 15 – Jan 16	74	2,159
Dec 16 – Jan 17	226	2,632

Table 6: Winchelsea/ Anglesea Visitor Centre Enquiry Numbers.

Winchelsea experienced an increase in visitor enquiries attributed to the completion of road works, duplication of the Princes Highway, exhibitions at Barwon Park and the introduction of the trial 48 hour Winchelsea RV site.

Anglesea visitor centre enquiries increased by 22%, this could partly be due to the centre being open more frequently due to improved rostering and potentially visitors bypassing Torquay to use Anglesea as a first stop. The people counting system in the Anglesea Visitor Centre has also changed this year.

3.5 Summer Peak Period Debrief - 2016 to 2017

Australian National Surfing Museum (ANSM)

ANSM visitation increased by 6.85% in this comparison of peak periods, mainly as a result of an increase in general admission entry. In the context of tours/school/hire component in 2015/16 there were 431 visitors while in 2016/17, it reduced to 325. This was directly related to fewer school groups being booked in during the period.

There was also a noticeable change in visitors having prior knowledge of the Museum and coming specifically to visit it. This is most apparent for the international visitor segment and is a result of an active advertising and awareness building campaign.

The 2016/17 Surf Film Festival numbers were up on the previous year.

ANSM	Dec-15	Jan-16	Totals:	Dec-16	Jan-17	Totals:
Visits	1,139	1,812	2,951	1,333	1,820	3,153

Table 7: ANSM Visitation Comparisons.

Business Activity

As part of gathering business intelligence, each of the Local Tourism & Trader Groups and a selected number of businesses in Torquay, Anglesea, Aireys Inlet and Lorne were contacted. The information provides a brief township based narrative as follows.

Torquay

Torquay Commerce & Tourism (TCT) report that the business sentiment is that this summer was slightly better than last year. TCT has released a summer trading survey with results not available at the time of writing this report. Initial figures indicate that 38% of respondents to their survey reported an increase in trade greater than 10%.

The occupancy rates for major accommodation businesses and caravan parks in Torquay were high at levels of around 90% during the peak period. Overall occupancy figures improved slightly on last year and generally achieved the best results when looking a four year period. There was a reported increase in bookings coming via online travel accommodation wholesalers and via involvement in corporate marketing campaigns.

Discussions with some retail businesses reported fewer shoppers with a flat to negative trend in trade from last year. Businesses indicated a change in visitor demographic and suggested a new type of customer emerging such as residents from Geelong and surrounding suburbs like Armstrong Creek having a coffee and smaller purchases becoming more common. This is a change from historical higher yielding visitors.

Anglesea

Business & Tourism Anglesea are conducting a business sentiment survey and similar to TCT the results of were not available at the time of writing this report. Observations from local businesses are: retail was not as strong as previous years due to only mild weather and shark sightings. Cafes and hospitality businesses were more positive and traded strongly. Accommodation businesses suggested that there was a slightly longer (5 week) peak season and occupancy rates were up by more than 10%. There were very mixed views in relation to the new Anglesea roundabout and access to/from the Anglesea shopping centre with reports that it took more than 45 minutes to get out of the car park on some days.

The newly established Great Ocean Road Chocolaterie reported good levels of visitation.

Aireys Inlet

Aireys Inlet businesses contacted confirmed this summer was "definitely better" to last summer. There are several new businesses in town which seem to have attracted more visitors to town due to an increased number of food outlets and more variety. The Trader Group is already focused on planning for 'Winter in Aireys' and the associated marketing campaign.

Lorne

After a significant decline in trade last year due to the fires, Lorne traders reported many positives from this summer period and "definitely better trade". The mild weather was considered a positive increasing visitor length of stay. A late night Thursday night trading initiative was successful in attracting visitors to Lorne from surrounding areas which contributed to an increase in retail trade.

3.5 Summer Peak Period Debrief - 2016 to 2017

Hospitality venues reported the first 15 days of the trade after Christmas as “fantastic” and the following two weeks as very good with trade up by 30%-40% from last year. An increase in international visitors was noticed, particularly with the Australia Day falling on a Thursday to create a long weekend.

Large accommodation venues and caravan parks reported occupancy rates were “definitely better” and “back to normal trading levels for this time of year” with estimates of a 7% increase in trade from last year and 2% above a normal trading season. While the occupancy rate does not represent a huge increase from last year, the 2015/16 high occupancy rate was only achieved by cutting room rates for visitors looking for short stay, cheap deals. It was reported that yield per room significantly improved this year and has returned to better than normal levels which helped to offset large losses last year.

Winchelsea

Businesses in Winchelsea reported that overall trade was better than last summer by around 10%-15%. The completion of the duplication of the Princes Highway prior to Christmas 2015 was seen as a major factor in providing an increased flow of traffic and more positive trade.

There has been a noticeable increase in morning tour bus traffic this summer period with some tour operators re-routing their travel to the 12 Apostles via Winchelsea in the morning and a return along the Great Ocean Road in the afternoon.

The return of the Falls Festival to Lorne was welcomed by Winchelsea traders as a positive (after it was relocated to Mt Duneed last summer) creating a significant boost in trade around the New Year period.

Weather Patterns

Average daytime temperatures were warmer than usual in most parts of Victoria during summer 2016–2017. Overnight temperatures were warmer than usual in the east. Summer rainfall was drier than normal in parts of the southeast but generally close to average elsewhere.

The mean maximum temperature for Victoria over summer 2016–2017 was 1.13 °C above average.

The CFA declared the Fire Danger Period in the Surf Coast Shire from 17 December 2016 until 1 May 2017, 38 days later than last year. The season so far has seen 2 days declared severe and no days as ‘extreme’.

The Table below reveals significantly less ‘severe’ rated days and no ‘extreme’ rated days taking place this summer period.

Fire Danger Rating	2016-17	2015-16	2014-15	2013-14
Extreme	0	2	1	1
Severe	2	7	1	5

Table 8: Extreme & Severe Rated Fire Days 2016/ 2017 Summer Period

Emergency Management

Council has provided assistance to response and relief agencies to a number of single incidents, such as house fires and accidents. The Municipal Emergency Coordination Centre (MECC) has not been activated this summer season.

Incidents:

- Falls Festival crowd crush
- Shark sightings
- Local business fire Torquay
- Bambra fire on Christmas day
- Car into house Torquay

Waste Collection

Managing waste over this period is elevated through the visitation of part time residents and tourists to the townships.

3.5 Summer Peak Period Debrief - 2016 to 2017

There were significant volumes of waste deposited at the part time residents drop off points causing overflowing issues due to illegally dumped hard waste.

Extra kerbside recycling services were provided to all householders in the first couple of weeks in January to capture both permanent and non-permanent residents which were well used.

Transfer stations were busy as per normal during this period. Extended operating hours at Lorne was well received by the community.

Local Laws Infringements

Local Laws Officers patrolled the Shire more heavily over December - January to ensure safety and compliance was maintained. A focus on having a visual presence and providing advice, support and education to people within the Shire was a high priority.

During this time, officers issued many verbal and written warnings and, issued infringement notices for parking and traffic related matters, animal management, litter and illegal camping. Numerous "Notices to Comply" to slash grass (fire prevention) and remove unsafe hazards (for the safe keeping of vacant land) were issued.

In total the Local Laws Unit responded to 352 Customer Requests for assistance. In terms of infringements the following activity was recorded:

- 118 Infringements were issued for Illegal camping, litter
- 10 animal related infringements issued
- 2,335 parking infringements issued
- 58 long grass/hazard inspections
- 34 after hours calls, an increase of 4 from last year
- 38 impounded and returned animals, an increase of 11
- 174 infringement penalty reviews
- 6 court prosecutions.

There was an increase in parking infringement notices issued due to the high volume of vehicles in coastal towns and proactive enforcement by the local laws officers in the interest of public safety and access.

Customer Service Enquiries

This summer period Customer Service experience increases in both calls and counter assists on a very diverse range of requests. Counter assists in particular rose sharply with almost 2,000 extra enquiries. This is most likely a result of a change in the data collection method and does not allow for a proper comparison.

	2015 - 2016 Summer Peak Period	2016 - 2017 Summer Peak Period	Increase/Decrease
Calls per phone line	2,402	2,436	1.42% increase
Counter Assists	2,418	4,375	Nb. Change in data collection method

Table 9: Customer Service Enquiries

Winchelsea Swimming Pool & General Recreation Participation

The Winchelsea Pool received 4,603 people over the December – January period, which is comparable to the previous summer period. The Winchelsea Health Club membership has increased to 162 members, which is a 10% increase from last year.

Across all of our sporting competitions (Basketball, Netball, Soccer, Touch Football) 130 team entries were received; an increase of 8 teams on last year. Of particular note is the addition of a new beginner's girls basketball competition.

Media and Internet

Total number of users to visit the www.surfcoast.vic.gov.au was 44,930 and the total number of web sessions was 64,600, up from 56,834 in the same period last year.

3.5 Summer Peak Period Debrief - 2016 to 2017

There were 143,131 unique page views with an average of 2.22 pages visited per web visit. The average time spent on the website per session was 1 minute 36 seconds. This represents an 8.6% increase in unique page views from last year.

Of the total web visits made during December and January, 52% were from a mobile phone, 10.6% from a tablet and 37.4% from a desktop computer depicting the changing nature of device trends. The previous year's report showed 43% access by phone, 12.7% from a tablet and 44.1% desktop computer respectively.

The most popular web pages were:

	Surf Coast Web Page title	Page Views	Unique Page Views
1	Home	11,172	8,228
2	Markets	7,896	7,198
3	Employment	5,524	4,568
4	Applications on Public Exhibition	4,463	2,180
5	Dogs on Leash Controls	4,426	3,820
6	Waste Disposal Sites	4,242	3,605
7	Contact Us	3,908	3,626
8	Events Calendar	3,691	3,001
9	Building Planning	3,649	2,690
8	Waste Collection	3,379	3,081

Table 10: Nature of Website Enquiries

Media Enquiries

Council received 15 media enquiries over the summer period. A series of shark sightings at Surf Coast beaches generated a number of media and public inquiries. A development proposed for the broader Bells Beach area attracted several media inquiries as did local discussion on a national story regarding the date on which Australia Day is celebrated. Several media outlets inquired whether Council was considering applying for a rate cap exemption. Enquiries came from local press and radio outlets as well as 774 ABC radio.

Key proactive communications activity for the two months included the Cadel Evans Great Ocean Road Race which also included a civic reception held for elite women competitors; community engagement opportunities for the Torquay Structure Plan project; the engagement on Council Plan; Australia Day and the Citizen of the Year awards; Aireys Inlet master plans; Winchelsea township entrance sculptures; Council's Towards Environmental Leadership program; the summer fire season including local fire planning sessions; Amendment C106 which relates to a rezoning application for a site in Grossmans Road Torquay and investigations into a regional motocross facility.

Financial Implications

All activities over this period form part of Council's normal operating budget.

Council Plan

Theme 5 Development and Growth
Objective 5.3 Develop and grow sustainable year round tourism
Strategy 5.3.4 Maximise the benefits of all events for community and business.

Theme 5 Development and Growth
Objective 5.3 Develop and grow sustainable year round tourism
Strategy 5.3.6 Continue to operate the Visitor Information Centres and create integrated destinations to increase length of stay and expenditure in Surf Coast Shire.

Theme 3 Communities
Objective 3.1 Communities that plan for, and recover from, disasters
Strategy 3.1.1 Dedicate resources to provide effective and efficient planning for management of, and recovery from, disasters.

3.5 Summer Peak Period Debrief - 2016 to 2017

Policy/Legal Implications

The Council plan vision is “working towards an engaged, innovative and sustainable community”. The range of services provided by Council during this period reflects the intent of this Vision statement.

Officer Direct or Indirect Interest

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

Risk Assessment

Particular activities and service provision over this period have been subjected to individual risk assessments.

Social Considerations

The summer period presents many social opportunities for the community. The way in which Council is able to facilitate positive outcomes and respond to issues will greatly influence the social aspects of people’s summer experience.

Community Engagement

This report is for Councillor information only. Various key stakeholders external to Council were conducted such as local tourism & trader groups, businesses or non-profit organisations for comment.

Environmental Implications

Direct environmental implications during this period include waste management and the attempt to minimise any environmental degradation and /or vandalism.

Communication

The local media sources such as the Surf Coast Times promote the range of services provided by Council throughout this period.

Conclusion

The summer period for 2016/2017 was once again a very busy time for the Surf Coast. Overall in terms of business sentiment and emergency incidents the 2016/ 2017 summer was far more positive.

Council services remained busy with online platforms experiencing higher levels of usage.

3.6 Planning Scheme Amendment C121 - Bells Beach Hinterland Review

Author's Title: Senior Strategic Planner

General Manager: Phil Rowland

Department: Planning & Development

File No: F16/1611

Division: Environment & Development

Trim No: IC16/1296

Appendix:

1. Explanatory Report (D17/30821) ⇨
2. Schedule to Rural Conservation Zone (D17/30816) ⇨
3. Rural Landscape Policy (D17/30818) ⇨
4. Coastal Development Policy (D17/30813) ⇨
5. Significant Landscape Overlay Schedule 1 (D17/30819) ⇨

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 request the Minister for Planning to authorise the preparation and exhibition of Planning Scheme Amendment C121.

Summary

Planning Scheme Amendment C121 seeks to implement the findings from the Surf Coast Planning Scheme Review report 2014 (adopted on 26 August 2014 Council meeting) and the Bells Beach Taskforce report (noted at 27 October 2015 Council meeting). The amendment implements the strategic land use directions of these reports by updating policy, zone and overlays in the Surf Coast Planning Scheme to better recognise the importance of Bells Beach and its hinterland and improve the operation of the Significant Landscape Overlay Schedule 1 related to coastal rural land.

Recommendation

That Council:

1. Seek Ministerial authorisation to prepare Amendment C121 to modify policy, zone and overlays provisions applying to the Bells Beach hinterland to better recognise the important landscape, environmental and cultural role of Bells Beach and its environs.
2. Place Amendment C121 on public exhibition for one month following authorisation.

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Libby Coker

That Council:

1. Seek Ministerial authorisation to prepare Amendment C121 to modify policy, zone and overlays provisions applying to the Bells Beach hinterland to better recognise the important landscape, environmental and cultural role of Bells Beach and its environs.
2. Place Amendment C121 on public exhibition for one month following authorisation.

CARRIED 8:0

3.6 Planning Scheme Amendment C121 - Bells Beach Hinterland Review

Report

Background

The Surf Coast Planning Scheme Review 2014 included an analysis of the operation of zones and policy related to the hinterland of Bells Beach. The review report confirmed opportunities to improve the recognition of Bells Beach and its surrounding hinterland through modification to the Surf Coast Planning Scheme and these were supported by Council in August 2014.

Since 2014 Surf Coast Shire has undertaken a project to develop a vision for the Bells Beach Surfing Recreation Reserve and development of a new Coastal Management Plan for the land. This project has involved collaboration with the Bells Beach Taskforce, established to help provide recommendations to Council on these issues, and involved extensive community consultation. The recommendations of the Bells Beach Task Force were presented to Council at its meeting in October 2015 and included support for the improved protection of the Bells Beach hinterland through the Surf Coast Planning Scheme.

Amendment C121 builds on the directions of the Surf Coast Planning Scheme Review 2014 and the Bell Beach Task Force report and outlines changes to the Surf Coast Planning Scheme to recognise Bells Beach and its hinterland appropriately in a land use planning context.

The amendment identifies the Bells Beach hinterland as being all land bounded by Bones, Addiscott, Jarosite and Bells Beach Road but also includes the approach to Bells Beach from Bells Boulevard, as shown in figure 1.



Figure 1: Map of Bells Beach hinterland

Discussion

Amendment C121 emphasises the importance of Bells Beach as an iconic area through a number of changes to the Surf Coast Planning Scheme as follows:

- amends Clause 21.06 'Rural Landscape' to define the Bells Beach hinterland, strengthen reference to the scenic, environmental and cultural values of the Bells Beach hinterland and to detail the expectations for development
- amends Clause 22.04 'Coastal Development Policy' to strengthen policy applying to land of high scenic values along the Great Ocean Road and Bells Beach. The policy also ensures land within the Bells hinterland covered by the Vegetation Protection Overlay has clearer decision making guidelines

3.6 Planning Scheme Amendment C121 - Bells Beach Hinterland Review

- amends the Schedule to the Rural Conservation Zone (RCZ) to strengthen the conservation values that apply to the Bellbrae, Bells Beach and Point Addis areas
- extends the RCZ to 155 and 185 Bones Road and part of 615 Addiscott and 81 Bones Road, in recognition of their visual prominence from the Bells Beach Reserve and hinterland and biodiversity values
- amends Schedule 1 to Clause 42.03 Significant Landscape Overlay (SLO1) to provide clearer guidance for decision making through wording changes and inclusion of relevant criteria from Clause 22.01 Coastal Development Policy.

The changes do not introduce any new or altered permit triggers with the exception of land proposed to be rezoned, as the Rural Conservation Zone includes additional permit triggers not included within the Farming Zone. The changes to the strategies, zone and overlay schedules aim to improve reference to the importance of Bells Beach and its hinterland and ensure any development in the area is responsive to that context. The changes to the Significant Landscape Overlay Schedule 1 and the Coastal Development Policy aim to shift operational elements from the Coastal Development Policy to the Significant Landscape Overlay Schedule 1 to provide for more targeted and transparent controls and align with changes made to the Surf Coast Planning Scheme through township based controls in recent years.

An overview of the proposed amendment is outlined in the Explanatory Report at Appendix 1. The draft amendments to local policy, Rural Conservation Zone and SLO1 are appended as Appendices 2, 3, 4 and 5.

The amendment is consistent with State Planning Policy and all applicable Ministerial Directions.

The amendment will have a number of benefits, including:

- informing decision-making for applications within the Bells Beach Hinterland Area
- providing clarity on existing policy in line with recent Victorian Civil and Administrative Tribunal decisions in the Bells Beach Area which highlighted areas for improvement for decision guidelines
- expanding the area where policy applies to protect the approach to the Bells Beach Hinterland area
- removing redundant material from the planning scheme and updating where relevant
- providing more certainty for the community who highly value the Bells Beach reserve and its surrounds.

The Acting Minister for Planning on 2 February 2017 wrote to Council advising of the Minister's support for Council's proposed amendment to the planning scheme to *"protect this iconic coastal area with its significant environmental, landscape and cultural values. More than ever we need to manage tourism and other forms of development in this sensitive location"*. The Acting Minister also offered the assistance of officers from the Department of Environment, Land, Water and Planning (DELWP) in the development of the amendment. Accordingly, Council officers have worked with planning officers from the DELWP Regional Office who have assisted in the drafting of the amendment as appended to this report.

Financial Implications

Funds for the preparation and processing of the amendment have been allocated in the 2016/17 budget. The amendment will not increase the resource and administrative costs of Council.

Council Plan

Theme 1 Environment

Objective 1.1 Preserve and enhance the natural environment

Strategy Nil

Theme 3 Communities

Objective 3.3 Preservation of peaceful, safe and healthy environments

Strategy Nil

Theme 5 Development and Growth

Objective 5.4 Transparent and responsive land use and strategic planning

Strategy 5.4.6 Maintain a clear rural-landscape separation between settlements to protect landscapes and environmental qualities.

3.6 Planning Scheme Amendment C121 - Bells Beach Hinterland Review

Policy/Legal Implications

The amendment must be prepared, exhibited and considered 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

There are no perceived risks associated with seeking authorisation to prepare the amendment.

Social Considerations

The amendment is expected to have positive social effects and will result in net community benefit by reinforcing the strategic importance of Bells Beach and its associated hinterland and help manage the area considering the landscape, environmental and cultural context of the area.

In addition the amendment updates current planning controls and policy related to coastal rural land and makes the controls more relevant and contemporary and provides clearer and more practical controls for land owners and users of the planning system.

Community Engagement

Recognising the values of Bells Beach and the surrounding hinterland has been a key element discussed in the broad consultation undertaken as part of the Bell Beach Bells Beach Coastal Management Plan and Implementation Plan project in 2014. This project included consultation over an 18 month period and a range of techniques were employed to maximise community input. The findings of the Bells Beach Taskforce, that were noted by Council in October 2015, included reference to updating planning controls to better reference Bells Beach and its hinterland.

The vision and principles within the CMP has provided the platform for the amendment.

Information about the development of the planning scheme amendment has been made available to the community as follows:

- outline of project and brochure presented to the Bells Beach Committee - February 2017
- brochure mailed out to all landowners within the hinterland area - March
- outline of project on Council website - March.

Environmental Implications

The amendment strengthens policy direction to protect and enhance the significant environmental assets and coastal landscapes as articulated in Clause 21.03 and 21.06 in the Surf Coast Planning Scheme and as identified in the Bell Beach Bells Beach Coastal Management Plan and Implementation Plan project.

Communication

Pre exhibition consultation has been undertaken to re-engage with key interest groups via Council's website, presentation to the Bells Beach Committee in February 2017 and information brochure to landowners and key stakeholders.

Public notice of the amendment will be given in the following manner:

- notices will be sent to all owners/occupiers in the identified hinterland of Bells Beach and to all owners/occupiers of land impacted by the Significant Landscape Overlay Schedule 1
- notices will be sent to relevant interest/community groups
- notices will be placed in the Surf Coast Times and Government Gazette.

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

Conclusion

Amendment C121 has been prepared to implement the findings of the Surf Coast Planning Scheme Review 2014 and the outcomes of the Bell Beach Bells Beach Coastal Management Plan and Implementation Plan project. Ministerial authorisation is required before Council can formally prepare and publicly exhibit the amendment. It is therefore recommended that Council seek authorisation from the Minister for Planning and upon authorisation place the amendment on public exhibition for a period of one month.

4. CULTURE & COMMUNITY

Nil

5. MINUTES

5.1 Section 86 Committee Minutes

Author's Title: Administration Officer

General Manager: Chris Pike

Department: Governance

File No: F17/285

Division: Governance & Infrastructure

Trim No: IC17/338

Appendix:

1. Stribling Reserve Committee of Management Meeting Minutes – 13 February 2017 (D17/40299) ⇨
2. Modewarre Memorial Hall & Reserve Committee Meeting Minutes - 15 February 2017 (D17/40304) ⇨
3. Deans Marsh Public Hall and Memorial Park Committee Meeting Minutes – 23 February 2017 (D17/40303) ⇨
4. Anderson Roadknight Reserve Committee Meeting Minutes – 6 March 2017 (D17/40300) ⇨
5. Globe Theatre Committee of Management Meeting Minutes – 6 March 2017 (D17/40302) ⇨
6. Connewarre Hall and Reserve Committee Meeting Minutes – 14 March 2017 (D17/41213) ⇨
7. Anglesea Bike Park Committee of Management Meeting Minutes – 15 March 2017 (D17/41219) ⇨
8. Planning Committee Meeting Minutes - 20 March 2017 (D17/42990) ⇨
9. Stribling Reserve Committee of Management Meeting Minutes – 20 March 2017 (D17/42700) ⇨

Officer Direct or Indirect Conflict of Interest:

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

Yes

No

Reason: Nil

Status:

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

Yes

No

Reason: Nil

Purpose

The purpose of this report is to receive and note the minutes of the Section 86 Committee meetings as appended.

Summary

The minutes provided in this report are draft unless otherwise identified. Committees do not re-issue minutes if any corrections are made at the time of adoption, rather note these corrections in the agenda item confirming adoption of the minutes at the following committee meeting.

Any corrections to draft minutes of material significance made by the committees will be provided to Council for noting in a subsequent report.

Recommendation

That Council receive and note the following minutes of the Section 86 Committee meetings:

1. Stribling Reserve Committee of Management Meeting Minutes – 13 February 2017
2. Modewarre Memorial Hall & Reserve Committee Meeting – 15 February 2017
3. Deans Marsh Public Hall and Memorial Park Committee Meeting Minutes – 23 February 2017
4. Anderson Roadknight Reserve Committee Meeting Minutes – 6 March 2017
5. Globe Theatre Committee of Management Meeting Minutes – 6 March 2017
6. Connewarre Hall and Reserve Committee Meeting Minutes – 14 March 2017
7. Anglesea Bike Park Committee of Management Meeting Minutes – 15 March 2017
8. Planning Committee Meeting – 20 March 2017
9. Stribling Reserve Committee of Management Meeting Minutes – 20 March 2017

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Clive Goldsworthy

That Council receive and note the following minutes of the Section 86 Committee meetings:

1. Stribling Reserve Committee of Management Meeting Minutes – 13 February 2017.
2. Modewarre Memorial Hall & Reserve Committee Meeting – 15 February 2017.
3. Deans Marsh Public Hall and Memorial Park Committee Meeting Minutes – 23 February 2017.
4. Anderson Roadknight Reserve Committee Meeting Minutes – 6 March 2017.
5. Globe Theatre Committee of Management Meeting Minutes – 6 March 2017.
6. Connewarre Hall and Reserve Committee Meeting Minutes – 14 March 2017.
7. Anglesea Bike Park Committee of Management Meeting Minutes – 15 March 2017.
8. Planning Committee Meeting – 20 March 2017.
9. Stribling Reserve Committee of Management Meeting Minutes – 20 March 2017.

CARRIED 8:0

5.2 Advisory Committee Minutes

5.2 Advisory Committee Minutes

Author's Title: Administration Officer

General Manager: Phil Rowland

Department: Governance

File No: F17/285

Division: Governance & Infrastructure

Trim No: IC17/295

Appendix:

1. Municipal Emergency Management Planning Committee Minutes – 16 February 2017 (D17/21661) ⇒

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 receive and note the minutes of the Advisory Committee meetings as appended.

Summary

The minutes provided in this report are draft unless otherwise identified. Committees do not re-issue minutes if any corrections are made at the time of adoption, rather note these corrections in the agenda item confirming adoption of the minutes at the following committee meeting.

Any corrections to draft minutes of material significance made by the committees will be provided to Council for noting in a subsequent report.

Recommendation

That Council receive and note the minutes of the following Advisory Committee meetings:

1. Municipal Emergency Management Planning Committee – 16 February 2017

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Libby Coker

That Council receive and note the minutes of the following Advisory Committee meetings:

1. Municipal Emergency Management Planning Committee – 16 February 2017 .

CARRIED 8:0

6. ASSEMBLIES OF COUNCILLORS

6.1 Assemblies of Councillors

Author's Title: Administration Officer

General Manager: Anne Howard

Department: Governance

File No: F17/289

Division: Governance & Infrastructure

Trim No: IC17/333

Appendix:

1. Assembly of Councillors - Meeting with Grossmans Road South Landowners - 20 March 2017 (D17/41468) ⇨
2. Council Plan Workshop - 28 March 2017 (D17/39292) ⇨
3. Assembly of Councillors - Council Briefing - 4 April 2017 (D17/43343) ⇨
4. Assembly of Councillors - Council Briefing - 11 April 2017 (D17/45321) ⇨

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 receive and note the Assembly of Councillors records received since the previous Council Meeting.

Summary

The Local Government Act 1989 section 80A(2) states that the Chief Executive Officer must ensure that the written record of an assembly of Councillors is as soon as practicable reported at an Ordinary Meeting of Council and incorporated in the minutes of that Council Meeting.

Recommendation

That Council receive and note the Assembly of Councillors records for the following meetings:

1. Meeting with Grossmans Road South Landowners - 20 March 2017.
2. Council Plan Workshop - 28 March 2017.
3. Council Briefing - 4 April 2017.
4. Council Briefing - 11 April 2017.

Council Resolution

MOVED Cr Carol McGregor, Seconded Cr Martin Duke

That Council receive and note the Assembly of Councillors records for the following meetings:

1. Meeting with Grossmans Road South Landowners - 20 March 2017.
2. Council Plan Workshop - 28 March 2017.
3. Council Briefing - 4 April 2017..
4. Council Briefing - 11 April 2017.

CARRIED 8:0

7. URGENT BUSINESS/PETITIONS/NOTICES OF MOTION

7.1 Petition Requesting the creation of a Sanctuary at the Point Impossible/Thompsons Creek Estuary with the current dog off-lead status replaced by a protection zone with No Dogs or Horses.

Author's Title: Executive Assistant

General Manager: Phil Rowland

Department: Environment & Development

File No: F15/51

Division: Environment & Development

Trim No: IC17/383

Appendix:

1. Petition - Creation - Sanctuary - Point Impossible Thompsons Creek Estuary - Removing Dog Off Lead Status - Redacted (D17/46624) ⇨

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 receive and note the petition requesting that Council create a Sanctuary at the Point Impossible/Thompsons Creek Estuary, with the current dog off-lead status replaced by a protection zone with No Dogs or Horses.

The petition consists of 115 signatures.

Recommendation

That Council, in accordance with its Local Law No. 2 – Meeting Procedure:

1. Receive and note the petition requesting the current dog off-lead status be replaced with No Dogs or Horses at the Point Impossible/Thompsons Creek Estuary.
2. Refer the petition to the General Manager Environment and Development for consideration
3. Require a report on the petition be presented to the 23 May 2017 Ordinary Council Meeting.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Libby Coker

That Council, in accordance with its Local Law No. 2 – Meeting Procedure:

1. Receive and note the petition requesting the current dog off-lead status be replaced with No Dogs or Horses at the Point Impossible/Thompsons Creek Estuary.
2. Refer the petition to the General Manager Environment and Development for consideration.
3. Require a report on the petition be presented to the 23 May 2017 Ordinary Council Meeting.

CARRIED 8:0

Keith Baillie (CEO) declared a Direct Conflict of Interest under section 77A of Local Government Act 1989 in item 7.3 CEO Employment Matters Committee – NOM-133 as it relates to his employment interests. Keith Baillie (CEO) left the room while this matter was discussed. Keith Baillie, CEO left the meeting at 7.27pm.

7.3 CEO Employment Matters Committee - NOM-133

Appendix:

Nil

Surf Coast Shire Council

Notice of Motion

CEO Employment Matters Committee

NOM-133

I, Councillor Rose Hodge give notice that at the next Ordinary Meeting of Council to be held on Wednesday 26 April 2017, I intend to move the following motion:

Recommendation

That Surf Coast Shire updates the CEO Employment Matters Committee Charter to include all Councillors in the membership.

Council Resolution

MOVED Cr Rose Hodge, Seconded Cr Libby Coker

That Surf Coast Shire updates the CEO Employment Matters Committee Charter to include all Councillors in the membership.

Division

Councillor *Rose Hodge* called for division and votes were recorded as follows:

<u>For</u>	<u>Against</u>	<u>Abstained</u>
Cr Bell	Mayor McKiterick	Nil
Cr Coker	Cr Goldsworthy	
Cr Duke	Cr McGregor	
Cr Hodge		
Cr Smith		

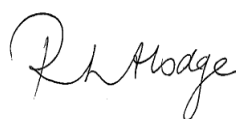
CARRIED 5:3

Rationale

As Councillors we employ only the CEO and it is therefore important that all Councillors have an opportunity to be directly involved in discussions relating to the CEO's employment.

Currently four Councillors are members of the Committee and I propose that this is increased to include all nine Councillors.

I commend this Notice of Motion to Council.



Cr Rose Hodge
Councillor

Date: 13 April 2017

Keith Baillie, CEO returned to the meeting 7.33pm.

Cr Rose Hodge left the meeting at 07.33pm.

8. CLOSED SECTION

Council Resolution

MOVED Cr Margot Smith, Seconded Cr Libby Coker

That Council pursuant to section 89(2)(h) other matters of the Local Government Act 1989, close the meeting to members of the public at 7.33pm to resolve on matters pertaining to the following items:

- 8.1 Assemblies of Councillors
- 8.2 Proposed Great Ocean Road Authority

CARRIED 7:0

Cr Hodge returned to the meeting 07.34pm

Council Resolution

MOVED Cr Libby Coker, Seconded Cr Carol McGregor

That:

1. The resolution and report pertaining to Confidential item 8.1 remain Confidential.
2. The resolution and report pertaining to Confidential item 8.2 remain Confidential.
3. Council open the meeting to the public at 7.45pm.

CARRIED 8:0

Close: There being no further items of business the meeting closed at 7.45pm.