

Agenda

Special Council Meeting for Hearing
Submissions

Tuesday, 9 November 2021

To be held via
Video Conference (Zoom)

Commencing at 6:00pm

Council:

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

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

PRESENT:

OPENING:

The Surf Coast Shire local government area spans the traditional lands of the Wadawurrung People and the Eastern Maar People. The main Council office in Torquay where this meeting is held is on Wadawurrung Country. As this meeting is also live-streamed we wish to acknowledge the Traditional Owners of the lands on which each person is viewing the meeting and pay respect to Elders past and present. Council also acknowledges other Aboriginal people that may be attending or watching the meeting today.

PLEDGE:

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

APOLOGIES:

Nil

CONFLICTS OF INTEREST:

Note to Councillors and Officers

Declaration of Interest

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

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

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

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

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

Disclosure of Interest

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

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

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

BUSINESS:

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1. PLANNING MATTERS

1.1 Planning Scheme Amendment C133Surf - Implementation of the Rural Hinterland Futures Strategy

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

General Manager: Ransce Salan
File No: F19/92
Trim No: IC21/1662

Appendix:

1. Order of Speakers - Planning Scheme Amendment C133Surf (D21/191522)

Officer Conflict of Interest:

In accordance with Local Government Act 2020 – Section 130:

Yes

No

Reason: Nil

Status:

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

Yes

No

Reason: Nil

Purpose

The purpose of this report is to hear submissions relating to Amendment C133 Rural Hinterland Futures amendment.

Summary

At its meeting held on 23 February 2021, Council resolved to publicly exhibit Amendment C133 inviting submissions. The amendment was exhibited in accordance with the *Planning and Environment Act 1987*.

Amendment C133 seeks to implement key planning policy directions from the Rural Hinterland Futures Strategy adopted by Council in 2019. The Rural Hinterland Futures Strategy provides strategic land use direction for all land zoned Farming and Rural Conservation Zone in the Surf Coast Shire hinterland area.

Summary of Submissions

A total number of twelve (12) submissions were received by Council following exhibition of Amendment C133. The submissions included seven (7) objections and five (5) submissions supporting the amendment. It is however acknowledged that three of the five supportive submissions also included statements that are to be considered as objections to the amendment. A summary of submissions is provided below. Submissions have been summarised in order of receipt by Council.

No.	Submitter	Position	Summary of Submission
1.	Individual	Objection	Submitter 1 has expressed a concern indicating that 'land management plans' are not being enforced by Council. The submitter is of the opinion that without effective enforcement the application of this requirement is of little benefit.
2.	Individual	Support	Submitter 2 supports the amendment.
3.	Individual	Objection	Submitter 3 is concerned that they will not be able to build their house if existing wording contained within the schedule to the Farming Zone (FZ) is removed. A building permit has not yet been issued for submitter's land and he has not yet commenced building a dwelling. The landowner entered into a section 173 agreement in September 2020 and a Land Management Plan was approved on 14 April 2020. If the amendment is implemented as currently exhibited, the amendment will remove the 'as of right' capacity for a dwelling currently allowed by the Schedule, however the Section 173 agreement and Land Management Plan will

1.1 Planning Scheme Amendment C133Surf - Implementation of the Rural Hinterland Futures Strategy

			<p>still burden the subject land.</p> <p>It is submitted that wording be included in the schedule to enable a house to be built 'as of right' where approval has been granted.</p>
4.	Organisation	Support and objection	<p>Submission 4 supports the removal of provisions in the Schedule to the FZ.</p> <p>This submission highlights that the Municipal Strategic Statement (MSS) is not aligned with the DAL project. The submitter is concerned that the Urban Growth Zone (UGZ) still covers land in Spring Creek.</p>
5.	Individual	Objection	<p>Submission 5 states that the proposed policy does not adequately facilitate tourism. The submission further indicates that the amendment does not implement the vision from the Rural Hinterland Futures Strategy (RHFS).</p> <p>Tourism associated with agriculture is too limited. Submission requests a policy rewrite.</p> <p>Submission 5 objects to the removal of the provision in the schedule to the FZ and submits that the Thompsons Creek Review does not justify its removal.</p>
6.	Individual	Objection	<p>Submits that the amendment does not properly implement the RHFS particularly in relation to encouraging more tourism.</p> <p>Does not support the removal of the provision in the Schedule to the FZ.</p> <p>Suggests the use of the Rural Activity Zone (RAZ) in the Bellbrae area to better activate tourism.</p> <p>Requests more work be undertaken into viable lot sizes and economic viability of niche farming. Seeks more government funding and support.</p>
7.	Individual	Objection	No grounds provided.
8.	Individual	Objection	<p>Submits that the revised policy does not adequately facilitate tourism. It does not implement the vision from the RHFS.</p> <p>Tourism associated with agriculture is too limited.</p> <p>Objects to the removal of the provision in the schedule to the FZ and submits that the Thompsons Creek Review does not justify its removal.</p> <p>Requests a policy rewrite.</p> <p>Submits that their property is in an optimum location for tourism, however the amendment provides no direction for their site.</p>
9.	Organisation	Objection	The land between Torquay and Bellbrae should be excluded from the amendment.

1.1 Planning Scheme Amendment C133Surf - Implementation of the Rural Hinterland Futures Strategy

			<p>The amendment is assuming that the settlement boundary is in the current location as shown in the PS but this may change and so the amendment should leave that area out until a decision has been made.</p> <p>Requests that entire Spring Creek be removed until DAL outcomes are known.</p>
10.	Individual	Support and objection	<p>Generally supportive of the amendment.</p> <p>Submits that there should be greater recognition of the tourism activities south of Bellbrae. Suggests it should be known as the 'Bellbrae south commercial and tourism precinct', located between roundabout, Gundrys and Addiscott Road.</p> <p>The proposed roundabout at Addiscott Road by Vic Roads should be taken into consideration. Bushfire controls are given too much weight especially where the risks can be mitigated.</p> <p>Does not want property to be considered part of the Bells hinterland but instead part of Bellbrae.</p> <p>Is concerned that the Distinctive Areas and Landscapes (DAL) project and Great Ocean Road (GOR) action plan and authority might add additional layers of controls.</p> <p>Concerned about the amendment preceding the outcome of the DAL. If the Significant Landscape Overlay (SLO10) replaces the current SLO1 it could unintentionally prevent tourism related development on the submitter's property.</p>
11.	Public authority	Support	Supports the amendment.
12.	Public authority	Support and objection	<p>Supports the general intent of the amendment.</p> <p>Raises concern that the amendment may impact on the safety of the arterial road network due to the accumulative effect of tourism activities particularly around designated clusters.</p> <p>Requests that Surf Coast Shire Council undertake a traffic impact assessment for the cluster areas and more broadly for the agri-tourism focus area to ensure transport impacts can be mitigated.</p>

The issues raised in the submissions will be considered in detail in a report to be presented to the ordinary Council meeting to be held on the 23 November 2021.

Recommendation

That Council receives and notes the submissions relating to Amendment C133 and forwards the matters raised in submissions to Council for consideration.

1.1 Planning Scheme Amendment C133Surf - Implementation of the Rural Hinterland Futures Strategy

APPENDIX 1 ORDER OF SPEAKERS



**Hearing of Submissions
9 November 2021
6:00pm
Via Video Conference (Zoom)**

ORDER OF SPEAKERS

Strategic Planning
Amendment C133 Rural Hinterland Futures

	Submitter Name
1.	Austin Swain
2.	Cameron Gray on behalf of the Neate Family
3.	Cameron Gray on behalf of Keith Grossman

2. OTHER MATTERS

2.1 Proposed Community Amenity Local Law 2021

Author's Title: Coordinator Governance Projects

General Manager: John Bertoldi

Department: Governance & Risk

File No: F20/1126

Division: Governance & Infrastructure

Trim No: IC21/1738

Appendix:

1. Order of Speakers - Community Amenity Local Law (D21/204525)

Officer Conflict of Interest:

Status:

In accordance with Local Government Act 2020 –
Section 130:

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

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to hear submissions relating to the review of Council's Community Amenity Local Law 2021.

Summary

At its meeting on 28 September 2021 Council resolved to publicly exhibit the Proposed Community Amenity Local Law 2021 and to invite submissions in accordance with the Local Government Act 2020 and Council's Community Engagement Policy. The Proposed Local Law was updated following an initial period of community consultation in July and August 2021.

Summary of Submissions

Twelve submissions were received and full copies have been provided to Councillors via the Councillor Portal. The submissions are summarised as follows:

No.	Submitter	Position	Summary of Submission
1.	Individual	Objection	<ul style="list-style-type: none"> Submitter requests a ban on burning off rubbish within residential areas and towns due to health and climate change concerns, particularly now we have landfill vouchers and green waste disposal bins.
2.	Individual	NA – not related to Local Law	<ul style="list-style-type: none"> Submission relates to speed limits and noise limits on motor bikes which do not sit within the Local Law. Speed limit issues referred to Council's Design and Traffic team. Submitter advised where to seek further assistance.
3.	Individual	Neutral	<ul style="list-style-type: none"> Submitter provides suggestions relating to planting of nature strips and granting of permits.
4.	Individual	Objection	<ul style="list-style-type: none"> Submitter objects to storage of vehicles and use of gravel surfaces on nature strips.
5.	Individual	Neutral	<ul style="list-style-type: none"> Submitter welcomes limits to caravan and trailer storage on nature strips. Believes should clarify if previous rectification works will be required on nature strips that have already been altered without a permit. Recommends educational campaign.

2.1 Proposed Community Amenity Local Law 2021

No.	Submitter	Position	Summary of Submission
6.	Organisation	Objection	<ul style="list-style-type: none"> • Submitter is disappointed that Tiny Houses not included in this review of Local Law. • Welcomes Tiny House Project and requests opportunity to participate.
7.	Individual	In support	<ul style="list-style-type: none"> • Submitter says that the change should be made to allow residents to park cars, trailers, caravans and boats on nature strips, and that this should be supported.
8.	Individual	Objection	<ul style="list-style-type: none"> • Submitter would like the 'blanket' 120 day camping rule reduced or removed due to concerns about safety eg bushfires and general safety relating to building code requirements that may not be met.
9.	Individual	Neutral	<p>Submitter believes that:</p> <ul style="list-style-type: none"> • 4.3 Open air fires and incinerators – hours should be extended from 9am to dusk. • 4.6 Shipping containers – does not agree to requiring a permit as often used for storage. • 6.7 Collection of firewood – supports ratepayers using dead branches etc from roadside as firewood.
10.	Individual	Neutral	<ul style="list-style-type: none"> • Submitter believes the Local Law should reiterate regulations already covered by other legislation eg rules against riding monkey bikes on rural roads, smoking in shopping centres and regulated chimney heights. • Recommends exclusion of cats from residences near undeveloped land, and education to help the community to understand the vulnerability of wildlife – relates to DAMP project.
11.	Organisation	Neutral	<ul style="list-style-type: none"> • Submitter asks that the Local Law includes a definition for Crown Land and Crown Land Manager • Define 'temporary structure' (as at 2.4 and 6.4) • Expand following clauses to include all Council and Crown land <ul style="list-style-type: none"> - 2.6 Use of BBQs - 4.8 Sleeping in vehicles - 4.16 Use of recreational vehicles - 5.3(b) Animal excrement - 5.4 Horse riding. • 5.1(4) DPI no longer exists • Suggests new penalties for riding a horses on a beach without a permit, and riding a horse where not permitted.
12.	Individual	Objection	<ul style="list-style-type: none"> • Submitter has long-standing concerns about a specific parking issue in their street. Previously advised by Council officers that the parking in question is legal and the Local Law cannot be amended to rectify the issue.

The issues raised in the submissions will be considered in detail in a report to be presented to the 7 December Unscheduled Council meeting.

Recommendation

That Council receives and notes the submissions relating to the Proposed Community Amenity Local Law 2021 and forwards the Local Law to a Council meeting for consideration.

2.1 Proposed Community Amenity Local Law 2021

APPENDIX 1 ORDER OF SPEAKERS



Hearing of Submissions
9 November 2021
6:00pm
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ORDER OF SPEAKERS

Governance and Infrastructure
Proposed Community Amenity Local Law 2021

	Submitter Name
1.	Representative of Sandra Jennings
2.	Peter Richards