



# Minutes

Hearing of Submissions Committee  
Tuesday, 17 October 2017

Held in the  
Council Chambers  
1 Merrijig Drive, Torquay  
Commencing at 4.00pm

**Council:**

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

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MINUTES FOR THE HEARING OF SUBMISSIONS MEETING OF SURF COAST SHIRE COUNCIL  
HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY  
ON TUESDAY 17 OCTOBER 2017 COMMENCING AT 4.00PM

**PRESENT:**

Cr Brian McKitterick (Mayor)  
Cr David Bell  
Cr Martin Duke  
Cr Rose Hodge  
Cr Carol McGregor  
Cr Margot Smith  
Cr Heather Wellington

**In Attendance:**

Chief Executive Officer – Keith Baillie  
General Manager Environment & Development – Ransce Salan  
Coordinator Statutory Planning – Michelle Watt

15 members of the public

1 member of the press

**APOLOGIES:**

Cr Clive Goldsworthy  
Cr Libby Coker

**Committee Resolution**

**MOVED Cr Margot Smith, Seconded Cr Carol McGregor**

That Council receive apologies from Councillors Libby Coker and Clive Goldsworthy.

CARRIED 7:0

**CONFLICTS OF INTEREST:**

Nil

**SUBMITTERS HEARD**

1. John Morshead
2. Mick O'Dwyer
3. Rodney Ianna
4. Tom Harding
5. Mark Teasdale
6. Mark Teasdale (on behalf of Vic Teasdale)
7. John McCartney
8. Andrew Rogers on behalf of Leanne McCartney
9. Adrian Paddington
10. Greg Harding
11. Tom and Dianne McGrath (applicant)
12. Thomas McGrath (submitter)
13. Thomas McGrath (applicant)

**BUSINESS:**

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## 1. ENVIRONMENT & DEVELOPMENT

### 1.1 Planning Permit Application 17/0258 - 48 The Esplanade, Torquay

**Author's Title:** Coordinator Statutory Planning

**General Manager:** Ransce Salan

**Department:** Planning & Development

**File No:** 17/0258

**Division:** Environment & Development

**Trim No:** IC17/1204

#### Appendix:

1. Order of Speakers - Hearing of Submissions - 48 The Esplanade, Torquay (D17/116675)

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

#### Status:

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

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

Yes

No

Yes

No

**Reason:** Nil

**Reason:** Nil

#### Purpose

The purpose of this report is to hear submissions in relation to Planning Permit Application 17/0258 for the Use and Development of the land for a Tavern with On Premises Licence and Waive the Car Parking Requirements of Clause 52-06-5 and Waive the Loading Requirements of Clause 52.07 at 48 The Esplanade, Torquay.

#### Summary

An application has been received to allow a tavern to operate from the land.

A total of 16 submissions (as at 26 September 2017) have been lodged with Council. Fourteen of the submissions are objections to the application, while two submissions have been lodged in support of the application, with one of these submissions being a petition which included approximately 1,300 signatures.

Most of the submitters are concerned about the use of public land, amenity related impacts including noise and light, lack of car parking, impact on the public viewing platform and matters which relate to the Building Code.

#### Recommendation

That Council receive and note the submissions to Planning Permit 17/0258 for 48 The Esplanade, Torquay.

#### Committee Resolution

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

That Council receive and note the submissions to Planning Permit 17/0258 for 48 The Esplanade, Torquay.

CARRIED 7:0

## 1.1 Planning Permit Application 17/0258 - 48 The Esplanade, Torquay

### Report

#### **Background**

An application has been made to allow a tavern to operate from the land at 48 The Esplanade, Torquay.

#### **Discussion**

48 The Esplanade, Torquay is zoned Public Park and Recreation Zone. The land has been developed with a building and the area in which the tavern is proposed is currently a public viewing deck area.

Coastal Management Act consent for the development of the land has been obtained from the Department of Land, Environment, Water and Planning. The Public Land Manager, Great Ocean Road Coastal Committee, also supports the application.

The application has been referred to the Victoria Police and Council's Environmental Health Unit for advice. Council's Environmental Health Unit have not objected to the issue of a Planning Permit and at the time of writing this report, the response from the Victoria Police was outstanding.

The application is seeking permission to operate a tavern from the land. It is proposed that a maximum of 150 people would be accommodated within the venue and that it would operate:

- September School Holidays until Easter Monday – 7 days – 12pm until 10pm
- Easter Monday until September School Holidays – Thursday to Sunday – 12pm until 10pm
- Public Holidays and School Holidays – 12pm until 10pm.

Previously, a Planning Permit was issued through the Victorian Civil and Administrative Tribunal (VCAT), which allowed a Pop-Up Tavern to operate from the land. The permit expired on 17 April 2017. One complaint was made to Council about the operation of the tavern during this time.

The permit was issued by the Victorian Civil and Administrative Tribunal and allowed 96 patrons with the following hours:

- 31 October 2016 until 25 December 2016 – Thursday to Sunday – 1pm until 9:30pm
- 26 December 2016 until 26 January 2017 – Monday to Sunday – 1pm until 9:30pm
- 28 January 2017 until 16 April 2017 – Thursday to Sunday – 1pm until 9:30pm.

The permit restricted music as follows:

- Live musical entertainment by not more than two performers using acoustic instruments at levels no higher than background music
- Live musical entertainment must not be provided after 8pm and for more than three hours in total in any one day.

Approval is sought to allow pre-recorded and live music at background levels during opening hours.

No car parking is provided on site for the development. An on premises liquor licence is proposed. The application also involves the following development:

- Installation of a converted shipping container bar
- Installation of a portable disabled toilet
- Construction of barrier to enclose the tavern area.

A previous Planning Permit was issued to allow a pop-up tavern to operate from the land. This permit expired on 17 April 2017.

Public notification of the application was required and as a result of these processes a total of 16 submissions were lodged with Council. Two of the submissions support the proposal, with one submission being a petition containing approximately 1,300 signatures.

Objectors have raised a range of concerns, including: use of public land, concerns about car parking, noise, lighting, consumption of liquor, and future compliance with the Building Code.

## 1.1 Planning Permit Application 17/0258 - 48 The Esplanade, Torquay

### **Financial Implications**

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

### **Council Plan**

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

### **Policy/Legal Implications**

The application has been assessed against relevant provisions of the Surf Coast Planning Scheme in accordance with the requirements of the *Planning & Environment Act 1987*.

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

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

### **Risk Assessment**

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

### **Social Considerations**

The submissions received raise a number of matters which may be classed as social impacts including the visual impact of the development and amenity impacts, as well as the loss of a public viewing deck. These social impacts will be assessed in the context of relevant planning policies and decision guidelines.

### **Community Engagement**

Public notice of the application has been carried out in accordance with the requirements of the *Planning & Environment Act 1987*. A total of 16 submissions (as at 26 September 2017) have been lodged with Council. Fourteen of the submissions are objections to the application, while two submissions have been lodged in support of the application, with one of these submissions being a petition which included approximately 1,300 signatures.

Most of the submitters are concerned about the use of public land, amenity related impacts including noise and light, lack of car parking, impact on the public viewing platform and matters which relate to the Building Code.

### **Environmental Implications**

Environmental implications will be assessed in the context of relevant planning policies and decision guidelines.

### **Communication**

The application was subject to public notice; all submitters have been invited to this meeting. A list of speakers is attached to this report.

### **Options**

Option 1 – That Council receives and notes the submissions to Planning Permit Application 17/0258 for 48 The Esplanade, Torquay

This option is recommended by officers as this is the purpose of the Hearings of Submissions Meeting.

Option 2 – That Council refuses to receive and note the submissions to Planning Permit Application 17/0258 for 48 The Esplanade, Torquay

This option is not recommended by officers as it is contrary to the purpose of the meeting.

### **Conclusion**

The objections received detail a number of matters that must be considered by Council before deciding on planning permit application 17/0258.

**1.1 Planning Permit Application 17/0258 - 48 The Esplanade, Torquay**

**APPENDIX 1 ORDER OF SPEAKERS - HEARING OF SUBMISSIONS - 48 THE ESPLANADE,  
TORQUAY**



**Hearing of Submissions**  
**Tuesday 17 October 2017, 4.00pm**  
**Council Chambers**  
**1 Merrijig Drive, Torquay**

**ORDER OF SPEAKERS**

**1. ENVIRONMENT AND DEVELOPMENT**

**1.1 Planning Permit Application 17/0258 – 48 The Esplanade, Torquay**

Use and Development of the land for a Tavern with on Premises Licence and Waive the Car Parking Requirements of Clause 52-06.5

Item	Time	Submitter
1.	4.00pm	John Morshead
2.	4.05pm	Mick O'Dwyer
3.	4.10pm	Rodney Ianna
4.	4.15pm	Tom Harding
5.	4.20pm	Mark Teasdale
6.	4.25pm	Mark Teasdale (on behalf of Vic Teasdale)
7.	4.30pm	John McCartney
8.	4.35pm	(Representative on behalf of) Leanne McCartney
9.	4.40pm	Adrian Paddington
10.	4.45pm	Greg Harding
11.	4.50pm	Tom and Dianne McGrath (Applicant)

**Close:** There being no further items of business the meeting closed at 5.43pm.