

# Minutes

Special Council Meeting for  
Hearing Submissions  
Tuesday 14 March 2023

Video Conference

Zoom

Commenced at 6:00 pm

**Council:**

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

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# 1 Procedural Matters

## 1.1 Present

Cr Liz Pattison (Mayor)  
Cr Gary Allen  
Cr Paul Barker  
Cr Mike Bodsworth  
Cr Rose Hodge  
Cr Libby Stapleton

Chief Executive Officer - Robyn Seymour  
General Manager Place Making & Environment - Chris Pike  
Manager Planning and Compliance - Kate Sullivan  
Coordinator Statutory Planning - Ben Hynes  
Principal Statutory Planner - Ben Schmied  
Principal Statutory Planner - Jennifer Davidson  
Active Manager Integrity and Governance - Jake Brown  
Governance Officer - Stacey Ylstra  
Governance Officer - Jess Menzel

### Speakers

Magdalena Wheatland  
Kasia Kucypera from CPS Technology  
Andrew McLane from Indara  
Ben Porteous from URBIS

### Not in attendance

Cr Kate Gazzard  
Cr Adrian Schonfelder  
Cr Heather Wellington

## 1.2 Opening

**Mayor Pattison opened the meeting.**

The Surf Coast Shire local government area spans the traditional lands of the Wadawurrung People and the Gulidjan and Gadubanud Peoples of the Eastern Maar. The main Council offices in Torquay are on Wadawurrung Country. We wish to acknowledge the Traditional Owners of the lands on which each person is attending or viewing this meeting today, and pay respect to Elders past and present. Council also acknowledges other First Nations People that may be attending the meeting today.

### 1.3 Pledge

**Mayor Pattison recited the 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.

### 1.4 Apologies

#### **Council Resolution**

**Moved Cr Stapleton, Seconded Cr Bodsworth**

That an apology be received from Cr Schonfelder.

CARRIED 5|0

#### **For**

Cr Allen  
Cr Bodsworth  
Cr Hodge  
Cr Pattison  
Cr Stapleton

#### **Against**

Nil

#### **Abstained**

Nil

### 1.7 Conflicts of Interest

Nil.

**Cr Barker entered the meeting at 6:07pm.**

**Cr Hodge left the meeting at 6:09pm.**

## 2 Reports

### 2.1 Planning Permit Application 22/0427 - Construction of a telecommunications facility - 460 Grossmans Road Bellbrae

<b>Council Plan</b>	<b>Theme Seven - Accountable and Viable Council</b>
	Strategy 19 - Improve Council's credibility as a trusted decision maker through meaningful engagement.
<b>Author's Title:</b>	Coordinator Statutory Planning
<b>General Manager:</b>	Chris Pike, General Manager Placemaking & Environment
<b>Division:</b>	Placemaking and Environment
<b>Department:</b>	Planning and Compliance
<b>Attachments:</b>	Nil

**Officer Conflict of Interest:** No officer declared a conflict of interest under the *Local Government Act 2020* in the preparation of this report.

**Status:** This report and attachments contains no confidential information under section 66(2) of the *Local Government Act 2020*.

#### **Purpose**

The purpose of this Special Council Meeting is to hear from submitters to the application and consider submissions made to Planning Permit Application 22/0546 for the construction of a telecommunications facility at 460 Grossmans Road Bellbrae.

#### **Background**

The application seeks approval for the construction of a 30m high concrete monopole tower on top of which is to be installed an array of antennas for mobile phone communications, reaching a maximum overall height of 32.5m above ground level (or 113.5m AHD).

460 Grossmans Road is an irregularly shaped lot of approximately 49 hectares. The lot has frontages in the southwest to Grossmans Road and Anglesea Road and to the north to Coombes Road. It is developed with a house with associated outbuildings sited close to Grossmans Road. Near to the house is a shed used for motor vehicle repairs (unauthorised). Within the northeast corner of the lot is an existing mobile phone tower which will remain with no change. The balance of the land is used for agriculture. The land is zoned Farming (FZ).

The proposed tower is to be sited in the northeast corner approximately 55m south of the existing tower. It will be setback 77m from Coombes Road, 29m from the east side boundary and a minimum of 37m from the southern boundary. The land to be developed is currently grazing land. The tower and associated equipment cabinet and compound will occupy 73m<sup>2</sup>.

Adjoining land to the east is a rural residential sized lot in the Farming zone that contains a dwelling that is approximately 133m from the proposed tower. Land to the southeast is used for utility purposes, adjoining is an electricity substation and east of this is a large water storage tank. South - southwest of the proposed tower is land in the low density residential

zone. Nearest the tower there are two lots accessed from Dillwynia Lane, one (No. 19) of which is developed with a dwelling. Further to the south is the Kithbrooke retirement village.

Public notice resulted in 32 objections being received. Issues raised include:

- The tower duplicates existing infrastructure
- Disruption of view and aesthetic of the area
- Impact on amenity
- Electromagnetic emissions
- Accuracy of information in the application

### **Issues**

The application is required to be assessed against the Surf Coast Planning Scheme. The requirement for a permit arises from clause 52.19, the particular provision for telecommunications facilities. A planning permit is not required under the FZ to use or develop the land for a telecommunications facility or under any other provision of the planning scheme.

Clause 52.19-3 provides an exemption from the third party notice and review provisions of the *Planning and Environment Act 1987* however they do not apply to this application as the proposed tower is within 100m of a residential zone and within 100m of a dwelling not on the same land.

The decision guidelines of clause 52.19-5 requires the following matters must be considered:

- *The design, siting, construction and operation of the telecommunications facility.*
- *The effect of the telecommunications facility on adjacent land.*

The general decision guidelines of clause 65.01 must also be considered, as appropriate. These include:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*

Relevant policy includes clause 19.03-4S Telecommunications which has the objective:

*To facilitate the orderly development, extension and maintenance of telecommunications infrastructure.*

Stated strategies of this clause to achieve this objective are:

*Facilitate the upgrading and maintenance of telecommunications facilities.*

*Ensure that modern telecommunications facilities are widely accessible and that the telecommunications needs of business, domestic, entertainment and community services are met.*

*Encourage the continued deployment of telecommunications facilities that are easily accessible by:*

- *Increasing and improving access for all sectors of the community to the telecommunications network.*
- *Supporting access to transport and other public corridors for the deployment of telecommunications networks in order to encourage infrastructure investment and reduce investor risk.*

*Ensure a balance between the provision of telecommunications facilities and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.*

*Co-locate telecommunications facilities wherever practical.*

*Planning should have regard to national implications of a telecommunications network and the need for consistency in infrastructure design and placement.*

Applications for telecommunications facilities frequently agitate concerns over the impact of electromagnetic radiation. VCAT has frequently found on review that the issue of electromagnetic radiation is not a relevant planning consideration. The Tribunal considered these matters in detail in *Mason v Greater Geelong CC (Red Dot)* [2013] VCAT 2057. The summary to that decision notes:

*Public health concerns about electromagnetic radiation are often raised in planning cases about a telecommunications facility. However, it is not the role of VCAT to second-guess the expert authorities that regulate the area.*

*The amount of electromagnetic radiation emitted by a telecommunications facility may well be a legitimate issue of public concern. However, VCAT is not a forum for addressing all issues of social or community concern, nor is it an investigative body. It cannot give great weight to unsupported assertions about public health concerns in the context of an individual planning application, particularly in relation to matters outside its own expertise or beyond the limited ambit of its statutory role or discretion in relation to that application. Accordingly, VCAT is not the appropriate forum where generalised opposition to telecommunications facilities based on public health concerns can or should be raised. It is a waste of the parties' and the Tribunal's resources as, ultimately, VCAT is essentially bound to apply the ARPANSA standard.*

The same principles apply to Council's decision on the planning permit application.

## **Recommendation**

That Council:

1. Receives and notes the submissions relating to Planning Permit Application 22/0427 for the construction of a telecommunications facility at 460 Grossmans Road Bellbrae.
2. Considers the submissions in a report regarding Planning Permit Application 22/0427 at its 28 March 2023 meeting.

## **Council Resolution**

### **Moved Cr Bodsworth, Seconded Cr Stapleton**

That Council:

1. Receives and notes the submissions relating to Planning Permit Application 22/0427 for the construction of a telecommunications facility at 460 Grossmans Road Bellbrae.
2. Considers the submissions in a report regarding Planning Permit Application 22/0427 at its 28 March 2023 meeting.

CARRIED 5|0

<b>For</b>	<b>Against</b>	<b>Abstained</b>
Cr Allen Cr Barker Cr Bodsworth Cr Pattison Cr Stapleton	Nil	Nil



## 2.2 Development Plan Application - 22-0546 - Hearing of Submissions - 1 Merijig Drive Torquay

### Council Plan

### Theme Two - Healthy Connected Community

Strategy 3 Facilitate the provision of social infrastructure and open space to enable healthy lifestyles.

Strategy 4 - Improve access to local services and programs that support people to be healthy and well.

### Author's Title:

Principal Statutory Planning

### General Manager:

Chris Pike, General Manager Placemaking & Environment

### Division:

Placemaking and Environment

### Department:

Planning and Compliance

**Officer Conflict of Interest:** No officer declared a conflict of interest under the *Local Government Act 2020* in the preparation of this report.

**Status:** This report and attachments contains no confidential information under section 66(2) of the *Local Government Act 2020*.

## Purpose

The purpose of this Special Council Meeting is to hear from submitters to the application and consider submissions made to the application for approval of a development plan (application reference 22/0546) for the Surf Coast Aquatic and Health Centre at 1 Merrijig Drive Torquay.

## Background

The Development Plan Overlay (Schedule 8) was applied to the Torquay North Residential Precinct as part of Planning Scheme Amendment C131 to the *Surf Coast Shire Planning Scheme* in June 2019. The Development Plan Overlay requires a development plan to be prepared prior to the issue of a permit for use or development.

A development plan has been submitted to establish an overarching masterplan for the Surf Coast Aquatic and Health Centre to be located at 1 Merrijig Drive, Torquay.

The Development Plan Overlay – Schedule 8 requires that the plan must provide for: Liveable and Sustainable Communities

- *A comprehensively planned residential subdivision generally in accordance with the Torquay-Jan Juc Structure Plan 2007, but modified to incorporate the Torquay Community and Civic Master Plan and consequential design impacts.*
- *Housing that will achieve a density in the order of 15 dwellings per hectare (exclusive of open space, schools, community facilities, roads, public utilities, drainage reserves and the like) to the satisfaction of the responsible authority. Medium density nodes should be located adjacent to community activity areas, open space areas, and/or within close proximity to community facilities and potential future bus routes.*

- *The location for a neighbourhood shopping centre to accommodate up to 5,000 square metres of retail floor area.*
- *The location for a primary school and a secondary school.*

#### Lot Design

- *A lot design that ensures no direct access to lots fronting the Surf Coast Highway.*

#### Urban Landscape

- *An archaeological field survey and report and how it informs the layout and land use recommended in the Development Plan.*
- *A flora and fauna assessment carried out by a suitably qualified and experienced person/s. The assessment must have regard to the Torquay Jan Juc Structure Plan (2007) and must:*
  - *Identify the vegetation communities, the quality of habitat, the actual indigenous flora and fauna species that inhabit the site, threats to the indigenous flora and fauna species including pest plant and animal species; and the conservation status of any threatened flora and fauna species and communities under local, regional, state and national legislation or policies;*
  - *Recommend enhancement and protection of remnant vegetation located on the site and takes account of vegetation adjacent the site; and inclusion of these areas, as appropriate, as biolinks traversing through and connecting outside of the development area including*
    - *along the Deep Creek tributary drainage line, and*
    - *the provision of a minimum 15m wide vegetation/plantation reserve along the length of the Surf Coast Highway, incorporating a pathway linkage.*
- *Public open space areas that include opportunities for the provision of community gardens which include edible landscaping.*

#### Access and Mobility Management

- *A road network that is designed to reduce traffic speeds and promote community interaction and use of the road reserve. In particular it shall comprise a predominantly grid based layout modified for topographical and other conditions. (Court bowls should not be provided except where they create a pedestrian linkage to adjoining streets.)*
- *Any provision to be made for a public transit route from Geelong on or adjacent to the site following consultation with the Department of Transport.*

#### Utilities

- *Stormwater systems that provide opportunities for re-use for immediate or future implementation.*
- *Use of sustainable lighting technologies as appropriate.*

#### Site Management

- *A construction management plan which includes among other things:*

- *an implementation strategy for removing and disposing of soil, including measures to ensure the retention and management of topsoil.*
- *measures to minimise the impact of construction on neighbouring properties and uses including schools.*
- *measures to protect council assets, including access roads.*

Whilst neither the Surf Coast Shire Planning Scheme nor the *Planning and Environment Act 1987* include requirements for referral or public notice requirements for development plans, it is Council's policy to informally refer development plans to relevant authorities and place development plan applications on public exhibition for a period of at least 28 days.

A total of two (2) submissions were received, supportive of an aquatic centre however expressing that the proposal does not cater for the needs of the community in that the facility only provides a seasonal pool for squad and lap swimming, rather than an indoor 25 metre or outdoor heated 25 metre or 50 metre pool and that the facility as proposed will provide a health centre rather than an aquatic centre, which is not required with the surrounding number of allied health facilities in Torquay and Jan Juc.

### **Recommendation**

That Council:

1. Receives and notes the submissions relating to the Development Plan approval application 22/0546 for the Surf Coast Aquatic and health Centre.
2. Considers the submissions in a report regarding the Development Plan approval application 22/0546 at a future Council meeting.

### **Council Resolution**

**Moved Cr Stapleton, Seconded Cr Allen**

That Council:

1. Receives and notes the submissions relating to the Development Plan approval application 22/0546 for the Surf Coast Aquatic and health Centre.
2. Considers the submissions in a report regarding the Development Plan approval application 22/0546 at a future Council meeting.

CARRIED 5|0

For	Against	Abstained
Cr Allen Cr Barker Cr Bodsworth Cr Pattison Cr Stapleton	Nil	Nil

### **3 Close of Meeting**

The Special Council Meeting for Hearing Submissions - 14 March 2023 closed at 6:44pm.