

Minutes of HBVA CCB April 8th 2017 in Erowal Bay Hall

23 members attended the meeting, along with Ann Sudmalis, Federal member for Gilmore, and Councillor Jo Gash from Shoalhaven City Council. Apologies were received from 26 members.

The President, Morgan Sant, opened the meeting at 3.00pm.

1 Minutes of Previous meeting.

The minutes were approved, moved Frank Smith and seconded by Marie Ellis. There were no matters arising.

2 Presidents report

The foreshadowed meeting with Council Traffic Planners and other relevant areas of Council (tourism, waste and ranger services) took place on Monday April 3rd. Morgan Sant, David Campbell, Kate Friis, Pam Stanley and Chris Allison represented various village interests.

- This season's outcomes were discussed. The improvements to traffic flow at the southern end of the village were acknowledged, with thanks from residents and owners. However, it was also noted that congestion north of Booderee had continued to worsen – with amenity, safety and continuing environmental damage consequences.
 - To find acceptable solutions to these problems Daniel Dunston agreed to an on-site meeting on Thursday 7th April. Following the meeting, he will develop concept plans and these will be sent to residents for comment.
 - Council responded favourably to a suggestion that the signs at the bottom of Booderee include an indication that that is the way out of town – to address added congestion from motorists looking for the way out. Council also suggested extending the sign currently pointing to toilets in one direction only, to show toilets in both directions along Cyrus.
 - There was some discussion of the potential benefits in restricting access down the road to the old boat ramp on Hyams Beach – possibly to provide access only for people living with disabilities – to remove the bottleneck now occurring at the entrance to that road
- The arrangements for this Easter were also considered.
 - Waste management would be as at other peak periods - large bins and daily collection. Morgan reported concerns expressed by Council that not all the rubbish in the street bins was from tourists. Items of furniture etc., which would appear to originate from holiday houses, is not acceptable.
 - 4 ranger staff would be on duty and shared between, the Blessing of the Fleet at Ulladulla, Bendalong, Hyams Beach and Huskisson
 - As an experiment, a barrier would be placed across the entrance road to Hyams Beach (ramp beach)
- At the Council meeting on March 28th a report was presented outlining the costs of providing additional services to Hyams Beach over the holiday period and requesting a budget of \$50,000 to deliver similar services next year. The figures included: ranger services, traffic signs, waste management and tourism services. Tourism services benefit the whole of the

Shoalhaven not just Hyams Beach – and especially in view of the limited scale of shop front services (no supermarkets, fuel etc) in the village. The report also stated that \$25,000 had been issued in fines for traffic offences, nominally more than covering the cost of ranger services.

3 Treasurers report - given by David Campbell in the absence of the Treasurer

The cash at the bank had been boosted by a \$500 grant from Keep NSW Beautiful for conducting a litter survey over the week leading up to Clean Up Australia Day. Thank you to Bush care for organising this which could be the genesis of more grants in the future.

Cash at the bank is now \$2,180.60

The term deposit earned \$56 and will be rolled over again in May.

at 7 April the TD stood at \$10,528.98

Giving a total assets of \$12,709.58

Moved: David Campbell seconded: Bridget Sant

4 Strategic Plan

The President reiterated the time line of the process which had started with the approval of the general meeting in October. Focus groups had been established and a survey of visitors conducted in January. The input of residents and non-resident home owners was constantly being sought. The issues papers provided were presented for further comment.

Lois Sparkes suggested that comments should focus on omissions, as there was clearly plenty of overlap between the different focus areas.

The proposed contents of the Plan which would include both negative and positive issues would be:

- Natural Environment
- Residential Amenity and sustainable tourism
- Public spaces and assets
- Traffic Management
- Legal framework

The President pointed out that the group focusing on residential amenity and sustainable tourism had been away and it was thus less well advanced so further input would be appreciated. Julianne McKay noted that input could either be on the hard copy provided or directly onto the relevant web page via Comments.

Chris Allison, in response to the traffic management issues, stated that he would strongly oppose any proposition to introduce paid parking to Hyams Beach as an isolated experiment – i.e., introduced to Hyams but not nearby villages, such as Huskisson, that are also experiencing severe congestion.

The President spoke of the proposed Community Hub at the Leisure Centre as a new proposal for improving residential amenity with public meeting places, library, community garden and improved active leisure facilities.

The meeting supported the approach being taken to the strategic plan, and now moving to produce a substantial draft report, to be made available to all residents and owners for comment.

5 Other Business

1. The President invited Theo van Veenendaal to address the meeting re his concerns about the process used by the Executive Committee in raising concerns with Council about his DA proposal for 52 Cyrus Street. The applicant maintained there was no natural justice provided in the process and that it contravened the guidelines for CCBs.

The Secretary responded that although the process may have been less than ideal, this was partly due to time constraints as submissions on the DA had to be in within days of the matter being raised with HBVA. He made it clear that the Committee had explicitly stated in its submission that it was taking no position in relation to the concerns of immediate property owners (in line with previously stated HBVA policy) and was raising concerns only in relation to risks to amenity and environmental values as seen from the public land – the beach below the property and the creek and land along the northern edge of the property. He stated that his submission did not oppose the development, but did ask Council to give due consideration to our concerns for the visual impact from the beach and the potential impact of coastal sand movement flowing from those aspects of the DA that would involve construction near the beach.

It was made quite clear that HBVA did not get involved in disputes between neighbours but only reacted to DAs which had wider implications for the whole community. This was why the Executive Committee had written this letter. The Secretary also indicated that the letter made it clear that it was from the Committee, and was not presented as reflecting the views of the community as a whole. He did offer to again clarify this with Council if Theo felt there was any misunderstanding.

Lois Sparkes suggested that we should clarify the process and principles as to when and how the committee responded to DAs.

Cllr Jo Gash noted that, although other CCBs have made submissions on DAs, she was unaware of the process issues raised by Theo. She agreed that the President should talk to the relevant Council officer (Jessica Rippon) and stated that an opportunity for public comment at the hearing of the DA would be a possibility. It was noted that there were possible implications for other organisations in the Shoalhaven that have been recognised as CCBs.

The President added that the action in sending the submission to Council was consistent with the powers of the committee of HBVA under the constitution (as revised last year) – Theo indicated that he disagreed with this. The President agreed he would consult with the CCB

officer in Council at the first opportunity to clarify the issues and responsibilities and to ensure sound arrangements are in place in the future.

Note the following attachments:

- A the extract from the minutes of the Committee meeting which led to the writing of the letter
- B the letter sent to Council by the HBVA executive
- C the response by the applicant to the letter

2. The President invited the local Federal member, Ann Sudmalis, to address the meeting re our telephone and internet communications black hole.

She stated that we would probably get fixed wireless broadband. We would not get fibre to the node or to the home. Some would get satellite, depending on where their house was. She passed around a pad for people to write their email and a home address to assess what delivery system would be provided – and that she would arrange for people to be notified as to the likely method of delivery to their properties (fixed wireless or satellite).

Lois Sparkes thanked her office for ensuring that our landlines were reconnected after Telstra had been less helpful.

There was some discussion on the naval ships not turning off their radar when in the bay, which they are meant to do to stop interference with domestic communications and television.

Next Meeting will be on May 27th

The President reminded the meeting that elections for positions on the Committee will be held at the AGM, probably in August. He also noted that the constitution stated that he could not stand again and a new one would have to be found.

Meeting closed at 4.30pm

Attachment A

Extract of Minutes of the HBVA Executive meeting March 1st 2017

Members present

M. Sant, D.Campbell, V. Fortescue, B. Sant, L. Johnson

Apologies

R. McKinnon, C. McIntosh

The open meeting was called to discuss

The progress of the Strategic Plan

An additional matter (Item 2) was raised as a matter of urgency

A response on behalf of the HBVA to the development proposals for 52 Cyrus Street

Extract: Item 2.

It was made clear that the HBVA does not take a position on Development Applications where the impact is predominantly on the surrounding houses. However if the impact has broader implications and/or may set a precedent on future planning decisions, the HBVA may take a position. This is particularly important during the period that the Strategic Plan is being formulated so that current decisions do not compromise our aims. Hence a submission was made re the proposed subdivision of 1 Tulip St as the new lot sizes would be less than the permitted minimum under the current LEP. The minimum lot size is an essential prerequisite for maintaining village character and as an aid to minimise hard surfaces and the consequent run off into the bay, threatening the environmental values that are the key attraction of the village, to residents and tourists.

Details of the proposed boat shed and concrete wall 3.7 metres high by 23 metres long on the southern boundary of 52 Cyrus St were examined. The construction would extend towards the existing beach and have a very serious impact on visual amenity from the beach. A very large concrete structure would also be out of character with the amount of setback of most waterfront homes in Hyams Beach. In recent storm events (e.g. June 2016) large waves and the raging storm water creek have caused the beach (directly exposed to easterly swells through the entrance to the bay) to severely erode. Projected climate change is very likely to increase the number of such storm events and overtime to increase sea levels and storm surges. It is for these reasons and the environmentally sensitive nature of the eastern part of this block that the HBVA executive decided to adopt a position on this DA.

It was decided:

- To write a submission to council noting our reservations on the likely impact of the boatshed and huge concrete wall.*
- To write a courtesy letter to the applicants explaining why it was necessary to adopt this position*

Attachment B

4 March 2017

Shoalhaven City Council Attention: General Manager PO Box 42 Nowra NSW 2541

DA APPLICATION: 52 Cyrus Street

I am writing on behalf of the Hyams Beach Villagers Association (HBVA) to express some deep concerns in relation to the DA reapplication made in relation to 52 Cyrus Street.

HBVA is the recognised CCB in relation to Hyams Beach issues. Members of its Executive Committee have been contacted, in relation to this DA application, by a range of owners and residents of Hyams Beach. In almost all cases, the residents sought to express their deep reservations about the work that is being proposed.

HBVA does not normally take a strong position on individual property DA applications. Property owners and immediate neighbours have access to established procedures for working through Council towards an approved development that takes into account Council requirements and concerns, the concern of neighbours and the aspirations of the property owners. However, HBVA may make an exception – and has done so in the recent past – where the proposal is likely to have significant implications that extend well beyond the applicants and their immediate neighbours – who will have had the opportunity to make their own submissions. In this case, we see the potential ramifications of approval as extending well beyond the immediate neighbours. The DA application covers a new main residence, a proposed new boatshed at the edge of the beach and a major concrete wall to be constructed between 52 and 54 Cyrus Streets. We are not raising any objections in relation to the proposed house construction, and we have not sought to work through in detail the specific compliance matters that Council (and immediate neighbours) will want to probe in some detail. But we do want to make several points in relation to the proposed wall and boatshed in terms of implications for the wider Hyams Beach community and the visitors – who underpin commercial tourism as the major economic activity in town. Approval could also impact on the current strategic planning process in Hyams Beach and reduce its forward impact.

- The boatshed and wall will, we believe, fundamentally alter the character of Hyams Beach (as in the small but iconic beach immediately in front of the proposed development), becoming the only instance of buildings located right on the edge of the beach – and planned to stand several metres above the beach*
 - And, as proposed, appearing to imply a building that would seem remarkably stark by village standards, viewed from the beach side, and that must loom over that part of the beach, in a manner not seen anywhere else in the village – cutting across the natural landscape values currently there*
 - All other buildings along the Hyams waterfront are set well back on their blocks, and we see these setbacks as contributing to the character of the village while also limiting direct adverse impacts on the coastal environment.*
 - The considerable height, extent and type of construction proposed for the wall also raises concerns for impact on the visual amenity from the beach and potential for altering natural water surge flows, and sand movement, in ways that could have a direct impact on the beach itself.*
 - The effect of the proposed boatshed and wall, from the beach, will be at odds with the natural and low level development attributes of the present site and its surrounds – the very things that attract residents and visitors to Hyams Beach, and underpin its major economic activities that are based around these natural values*
 - The areas proposed for the construction of the boatshed involve fragile environments that are prone to major impacts from extreme storm and tidal surge events – of the type seen twice in 2016, and that have occurred frequently over recent years.*
 - These events can very substantially alter the landscape, even in a matter of hours – and have done so in the proposed construction area, with beach levels rising and falling through some metres of height, and with the vegetation being forced back several metres in recent years, at the bottom edge of 52 Cyrus and along the dunes of both Hyams and immediately adjacent Seamans Beaches.*
 - An effect of this receding is that, while the boatshed is proposed for location a few metres back from the bottom legal boundary, it would in fact be located much closer to the edge of the beach (now well within the legal boundary)*
 - this would place it just back from the current edge of the beach itself – because the beach now extends well into the surveyed boundary of the property*

- *and there are real risks that near- and longer-term weather events could shift the edge of the beach closer to, and even under, the proposed site of the boatshed*
 - *Given the scale of tidal surges seen last year, and the exposure of the site to substantial waves accompanying easterly swells (against which the bay offers little protection at that site), it seems highly likely that the proposed wall would have the effect of diverting and channelling the strong seas in ways that would fundamentally alter the hydrology and sand movement in that corner of the beach – with unpredictable, but potentially quite undesirable consequences.*
 - *Approval of construction of this type has the potential to establish a dangerous precedent that would be of concern to HBVA at any time;*
 - *However, we would be particularly concerned that such a precedent not be set at the very time we are working actively, with strong Council encouragement, to develop a Hyams Beach Strategic Plan, as a foundation for ongoing engagement with Council.*
 - *The strategic planning is in the process of working through specific issues in relation the values that underscore Hyams Beach as somewhere to live, visit and conduct sustainable tourism-focused economic activities; threats to these values, including environmental threats, amenity and landscape values – and associated implications for forward development and for redress of existing problems*

We are aware of the earlier application, lodged in March 2016 – that failed to obtain approval for a range of reasons. Indeed, we did not seek to make a submission on the original DA in part because it appeared to be one that could not reasonably be approved given the concerns that have been highlighted. The applicants were asked to consider the Council's reasons for not approving the application in its original form and to submit a modified proposal, as has now happened. As best we can establish, the modified plans do not go to the heart of either our concerns with the original application or Council's, but given the new application we have determined that it would be appropriate for us to make a submission.

The proposal is for major construction works on highly sensitive and fragile land immediately adjacent to the beach (with a moving inland edge), the Marine Park and an ever moving creek bed (as it wraps along the beach) that can become a raging waterway in the extreme storm conditions that seem to be increasingly common.

In our opinion, the 'boatshed' cannot really operate as a boatshed from that site – a view supported by its character and orientation – and we understand that the principle purpose would be for the storage of kayaks. For that purpose, it appears to be grossly over-engineered, given the implications for landscape and amenity values at the beach, while viable storage for kayaks could be accommodated by a facility set many metres back from this sensitive edge.

The above documents our major concerns and they are substantial. Approval would cut across our strategic planning process and would alter Hyams Beach forever, in a manner that would diminish the key values attracting residents and visitors. The potential for major detriment to the local environment – and for it to extend to wider damage to the Bay – appears high.

We can also fully appreciate that nearby residents would have even more immediate concerns – and we expect that you will be receiving a number of submissions. We can well understand that in some cases approval would prove detrimental to the amenity value of neighbouring properties and their associate rental businesses. Water channelling as a result of the proposed wall could also threaten direct damage to the property at 54 Cyrus Street. However, our focus is on broader Hyams Beach values. We see our submission as probably complementary to individual resident and owner submissions – different ways of looking at the impacts of the proposed wall and boatshed.

We strongly urge that you approach the proposal with great caution.

Attached as an addendum is a brief discussion of a different issue of some concern, relating to the boundary to the north of the property, with public land, and the access to that public land. This submission was prepared after discussion of the proposed DA, and its implications, with a meeting of the Executive Committee of HBVA, and the representatives from the community who

are working on specific themes of the strategic plan. It also broadly reflects concerns expressed to HBVA by others in the village.

Regards

Morgan Sant President HBVA

4 / 4 ADDENDUM: Issues in Relation to the Northern Boundary of 52 Cyrus

As a separate, but related issue, a number of our members have expressed concern that the Council land to the north side of the house, adjoining the creek, is effectively closed to the public as it appears to be part of the garden of number 52. We understand that this has caused complications for the local Bushcare Group, as it has sought to work on this small parcel of Council land which is part of the community agreed Bushcare Plan. The watercourse that passes below 52 Cyrus Street can serve to distribute weeds along its course and the immediately surrounding bushland, so that regular maintenance is important.

We believe that Council commonly now attaches to a DA approval a condition requiring that the boundary with public land be fenced. We ask that Council consider whether such a condition, or other means of ensuring the public land can be accessed and maintained, might be attached to any DA approval eventually issued.

Attachment C

52 Cyrus Street
Hyams Beach NSW 2540
5th April 2017
The Secretary
Hyams Beach Village Association
Attention Mr. David Campbell
By email hbvaccb@gmail.com

Dear David

Re: 52 Cyrus St, HYAMS BEACH - Lot 58 - DP 577627 - DA16/1341

I refer the HBVA letter to Shoalhaven City Council dated 4 March 2017 regarding Catherine and my Development Application for 52 Cyrus Street, Hyams Beach. I understand that the Shoalhaven Council recognises Hyams Beach Villagers' Association (HBVA) as the Community Consultative Body for the Hyams Beach area and as such has regard for any submission made by the HBVA. The HBVA Committee has a duty to ensure that a proper procedure is undertaken to accurately report on the HBVA members' concerns and that they are accurately recorded and that the HBVA members are not misled or misrepresented on any issues that surround any submission.

As the recognised Community Consultative Body, the HBVA committee should deal with matters fairly and equitably. The following is an excerpt from the Shoalhaven City Council Code of Conduct policy which I believe applies to a recognised Community Consultative Body:

- You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a nondiscriminatory manner.
- You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- You must ensure that decisions regarding development applications are properly made and that parties involved in the development process are dealt with fairly.
- You must avoid any occasion for suspicion of improper conduct in the development process.
- You must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Both Catherine and I have not on any occasion been approached by any member of the Committee or any member of the HBVA to discuss this application prior to this submission being made by the Committee. We were not aware that what is largely a dispute with our neighbour would be of interest to the HBVA Committee or members particularly when the President has made it clear, on several occasions including the HBVA General Meetings that the HBVA does not enter into matters that only concern neighbours.

I do not believe that the HBVA Committee has assessed our application in a fair and equitable manner and in particular the Committee has not taken all relevant facts into consideration in the preparation of the submission.

In the Guidelines for the Conduct of Community Consultative Bodies "Guidelines" prepared by the Shoalhaven City Council states in Section 5.2

“If a CCB wishes Council to act on any specific recommendation or decision adopted at a meeting this should be conveyed to Council in the form of a letter or e-mail. The correspondence should be addressed to the General Manager and include:

- a) the recommendation/decision passed at the meeting*
- b) comments made for and against the proposal during the meeting (if appropriate)*
- c) details of voting (i.e. number for and against, or if unanimous).”*

Further in Section 5.3 of the Guidelines

“A CCB wishing to respond to an issue on which Council is inviting public comment, must respond within the specified time where practicable. Council shall take into account time constraints when consulting with CCBs. This is one reason why it is important for CCB meetings to be held regularly, and to maintain an ability to call a special meeting if necessary. Council will acknowledge correspondence from CCBs within 28 days.”

I do not understand why the submission by the HBVA Committee has now become such an important issue that a submission had to be made with such haste before:

- any discussions at any General Meeting of the HBVA;*
- consultation with either Catherine or I; and.*
- Catherine or I being given the opportunity to address the Committee or members of the HBVA.*

This is particularly concerning considering that this application was lodged in 22nd March 2016 and has been through two previous formal notification processes (6th April 2016 and 10th October 2016). At no stage was this application raised as an issue in any previous HBVA General Meetings in the past year.

The Guidelines also state that the role of the Committee is as follows:

- a) To communicate decisions adopted at the CCB meeting in accordance with the direction given at the meeting;*
- b) To determine the items to be included in the agenda for the subsequent CCB Meeting;*
- c) To represent the functions of the CCB and resolve urgent items that may require a response before the next CCB meeting. The position taken on such items will need to be ratified at the next CCB meeting.*

As this submission was prepared after discussion of the proposed DA, and its implications, with a meeting of the Committee of HBVA, and the representatives from the community who are working on specific themes of the strategic plan, I request that you provide me with the following information:

- Confirmation of the oral or written notice of the meeting of the Committee given by the secretary to each member of the committee;*
- A copy of the notice of a meeting specifying the general nature of the business to be transacted at the meeting;*
- The date on which the meeting was held;*
- The minutes of that meeting including the names of those committee members, HBVA members and the representatives from the community in attendance.*
- The record of the voting on the submission made.*

I believe that the actions taken by the HBVA Committee in making this submission:

- does not comply with the Guidelines for the Conduct of Community Consultative Bodies;*
- is not in accordance with the Constitution of the HBVA;*

- *has not assessed this application in a fair and equitable manner;*
- *could have a detrimental effect on the credibility and integrity of the HBVA in its dealings with Shoalhaven City Council and other organisations and institutions as it could be seen that it does not properly represent the interests of the community, assess the application fairly and equitably and has not followed the published guidelines of the Guidelines for the Conduct of Community Consultative Bodies prepared by the Shoalhaven City Council.*
- *Could result in the HBVA not being recognised by Shoalhaven City Council in the event where a CCB operates or adopts functions which substantially conflict with its ability to represent the whole community.*

I also believe that the actions taken by the HBVA Committee now sets a precedent in determining what action it takes in relation to all development applications lodged at Hyams Beach in particular ones which are in compliance with the statutory requirements.

In accordance with the Guidelines the submission should be included in the agenda for the subsequent CCB Meeting. I note that the agenda provided as part of the notification of the General Meeting does not include this as an agenda item and I request that this item be added to the meeting agenda.

Catherine and I would request that we have the opportunity to address the HBVA members at the next HBVA General Meeting on 8th April to address any issues the community has in relation this application and understand the community concerns.

*Yours faithfully
Theo van Veenendaal*