

Minutes of the meeting of HBVA CCB May 27th 2017 in Erowal Bay Hall

19 members attended the meeting. Apologies were received from 20 members and from Cllr Jo Gash.

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

Vicki Fortescue informed the meeting of the death of 93 year old Joyce Jenson, a long-term and much valued member of the Hyams Beach community. Joyce had always worked very hard supporting the village, particularly the fire brigade as an auxiliary member. It was agreed that the HBVA should send her family a card with their condolences.

1 Minutes of Previous meeting.

Motion to approve the minutes: moved Rob McKinnon; seconded Julianne McKay

Mr Theo van Veenendaal objected to the motion and referred to an email that he had sent to the Secretary. In this email he had asserted that correspondence contained in attachments to the previous minutes should not have been so attached. He also asserted that the minutes should have contained statements that he attributed to certain people who were present at the meeting. The Secretary explained that the attachments had been included to provide members with information about an issue that Mr van Veenendaal had raised. It was also pointed out that his proposed amendments incorrectly attributed several statements.

A heated discussion took place and Mr van Veenendaal proposed a motion of no confidence in the president and the secretary seconded by Mrs Catherine van Veenendaal. There was no support from the floor and the motion was defeated. The minutes of the previous minutes were passed with two votes against.

2 Matters Arising

At the previous Lois Sparkes had suggested that we prepare guidelines as to when and how the HBVA or the executive or the CCB should comment on Development Applications. Cllr Jo Gash had asked the committee to contact Ms Jessica Rippon (Council officer responsible for CCBs) to discover if there were already guidelines. This had been done and we had been informed that there were no such guidelines. Ms Rippon further indicated to the President that she would be happy to receive and consider a set of guidelines currently being prepared by the Secretary.

The Secretary then presented a draft discussion paper on *"HBVA Policy on Responding to Development Applications"*. (See Attachment 1)

Following discussion the President proposed that the draft paper be sent on to Ms Rippon for comment prior to it being brought back for approval at the next General Meeting. The proposal was contested and it was put as a formal motion, moved by the President, seconded by Mr Rob McKinnon, passed with 14 in favour and 2 against.

3 Treasurers report

Given by the Treasurer, Vicki Fortescue.

Cash at the bank	\$2180.60
Hall hire expenses (April and May)	\$76.80
Cash balance 27.5.2017	\$2103.80
Term deposit	\$10,585.89
Total assets of	\$12,689.69

The term deposit earned \$56 99 and was rolled over again in May at 2.10%.

Moved: Vicki Fortescue seconded: Rob McKinnon

4 Strategic Plan

The President introduced the first draft of the strategic plan and reminded the meeting that this process had been continuing since the October 2016 meeting. The plan has been designed for the Hyams Beach community to express its needs and wishes and to inform Council of its needs.

David Campbell then took the meeting through the draft document. He emphasised that the exceptional natural values of the village and its surrounds underpin the whole document. Following a brief vision statement the plan addresses five themes that had been presented at previous meetings.

In the ensuing discussion:

- Janet Statham commented on what an incredible document it was for a first draft.
- Paul Gandell thought we should prioritize actions.
- The President noted that it is important to identify possible points of dissent

The meeting agreed that members would be urged to provide feedback in the next week to be followed by a meeting on Sunday June 3rd at 2.00pm at 2 Silver Strand Circle to consider amendments to the draft plan and to identify priorities.

5 Correspondence

Two letters have been sent to affected residents by Daniel Dunstan (Council's Traffic Investigation Officer) re traffic/parking issues

1. Lotus St central reserve will be made safer and clearer with lines painted on the road indicating the direction of traffic.
2. The southern side of Silver Strand Circle is proposed to have a parking bay painted all along the southern boundary. This was designed to prevent parking on the bank which has led to erosion. Rob McKinnon pointed out this would not work as the road was not wide enough.

6 Other Business

1. Jenny Rutherford spoke about Mynah Birds. She had been to a meeting in council where the Canberra Mynah bird action group had had a very successful trapping campaign and had eliminated 60 000 birds. She suggested that a similar campaign in Hyams Beach could eliminate the problem here. Traps had to be the correct size with a hole small enough to prevent possums and bandicoots getting trapped. There are some in the village but we could get a Men's Shed to make us more. The RSPCA-approved euthanasing method is to feed car exhaust into a plastic bag around the cage. She will coordinate an eradication program.

2. Mark Crowther gave an update on broadband. The final stages involve installation of some equipment on the new telco tower (noting that the old tower is to be removed). The extra height may extend coverage of the system within Hyams, including possibly to Ilowra Lane residents. Those who have exchanged contracts are expected to be on line in about two weeks.

3. A letter has been received from the Bay and Basin Forum about the proposed development of 15 four-storey residential buildings in St Georges Basin on Anson Street with an implied dramatic increase in population (possibly up to 1400). Neighbouring CCBs had been asked to support the Bay and Basin Forum in opposing the development.

The meeting decided that this request be placed on the HBVA web site so that individuals could write to the Forum offering their support for its position.

4. Vicki Fortescue read out a letter she had received from council. She had emailed the Mayor informing her that nothing had happened to stop the cleaners of the carpark toilets hosing toilet paper and garbage into the creek, creating both an eyesore and a health hazard to the children who swim in the lagoon. The letter informed Vicki that the toilet paper was blown down the bank by the wind and barriers would be erected to prevent this happening.

Next Meeting: the AGM will be on September 2nd

The meeting closed at 4.45pm

Attachment 1

DRAFT DISCUSSION PAPER
HBVA POLICY ON RESPONDING TO DEVELOPMENT APPLICATIONS

Draft of 23 May 2017

Draft for internal HBVA discussion only

KEY ELEMENTS OF PROPOSED DA POLICY

1. HBVA should always approach with caution any consideration of whether to lodge a submission to Council in relation to any private DA, recognising the financial and emotional issues typically involved with a major DA

- Are the concerns substantial enough to warrant a submission?
- Are there other ways of seeking to have the concerns addressed, ways that might be less stressful for the parties involved?

2. HBVA should only consider making a submission on a DA if one of the following applies:

- The DA would contravene existing development guidance, especially if approval might set a precedent that could lead to compounding impacts from future approvals, or
- The DA raises concerns regarding detrimental impact on, or threat of possible impact on, the public spaces of Hyams Beach and its associated beaches, surrounding national parks and Jervis Bay – or the amenity and values of Hyams Beach from or in those public spaces

3. A submission will most commonly raise concerns about possible detriment to Hyams Beach, and request that Council bring its technical capabilities to bear in ensuring that these concerns are addressed in the course of weighing the arguments for and against approval

- For such a submission, there is likely to be little value in a process that seeks to present a majority HBVA view to Council – it is not about numbers, but rather the strength of argument
- A submission of this type might appropriately be made by the Executive, or other group within HBVA – in which case the nature of the person or group making the submission needs to be clearly spelled out
- The proponent seeking Council approval for a development that might trigger concerns under item 2 above is encouraged to talk to HBVA as early as possible
- The proponent should always be notified of a submission of this type

4. In the probably extremely rare event of HBVA seeking to make a submission that absolutely opposes the DA, as opposed to just raising concerns to be assessed by Council, great care would be needed in justifying the position – especially as HBVA is not addressing private benefits to the proponent of the DA, whereas Council will be seeking to bring these into the balance

- If feasible, the proponent of the DA should always be consulted in advance if such a submission is being considered, and be given an opportunity to speak to the issues and concerns, and it is likely that the proposed submission should be taken to a meeting of members – allowing the strength of community view to be communicated to Council

The issue

HBVA is routinely notified, by Shoalhaven Council, of all new DA applications received – including any that propose development activity in Hyams Beach. Also, sometimes, one or more members of the village community contacts us with concerns about a specific DA.

HBVA has a range of options for responding to a DA, should the proposed development raise concerns about potential detriment to the environmental, amenity or other values of Hyams Beach. Commonly, DAs involve proposals that may cause concern to near neighbours of the proposed development site – for example, as a result of potential impact on the visual amenity from, or shadowing off, neighbouring private blocks. HBVA has explicitly chosen not to make submissions on behalf of near neighbours, relying instead on the rights of those neighbours to make submissions to Council, and on Council processes for weighing competing arguments.

On rare occasions, wider concerns can arise. For example, the proposals may have implications for amenity and environmental values as viewed from public land – beaches, parks etc. The nature of the proposed development may raise concerns for impacts on water flows within and out from the village in a way that could have wider detrimental impacts. A proposal, if approved, may set a precedent – where a single approval may have had minor detrimental effect, but should it open up scope for further approvals, the cumulative impact on village values could be high. It is these concerns/issues that might lead to HBVA, in some capacity, seeking to make a submission to Council in relation to a DA.

This draft policy has been prepared, for discussion with the HBVA membership, as providing guidance in relation to questions of whether and how HBVA might make a submission on a specific DA.

In what capacity might HBVA make a submission?

HBVA might seek to make a submission to Council with any of a range of ‘hats’ on:

1. Presenting, as the villagers’ association, a position to Council based on a majority decision taken by the membership at a general Meeting or Special Meeting.
2. Presenting, as the formally recognised Community Consultation Body, a position to Council based on a majority decision taken by the membership at a general Meeting or Special Meeting, or a position that emerged out of some other form of membership-wide consultation on the specifics of a DA – such as a survey
3. A submission agreed to, and submitted as representing the views of, the Executive Committee, or other group of members operating within HBVA, that highlights that a DA does not comply with existing development controls and urging caution about any relaxation in those controls that might set a precedent that could prove damaging in the longer term.
 - a. Such a submission would not be intended to reflect the whole of community views on the issue – many in the community may be quite unaware of the DA – but would be intended to convey to Council the views of the nominated group operating within and for the HBVA.
4. A submission agreed to, and submitted as representing the views of, the Executive Committee, or other group of members operating within HBVA, that sets out for Council concerns raised by a DA but does not seek to attach to the submission the authority of the membership as a whole
 - a. Again, such a submission would not be intended to reflect the whole of community views on the issue and would not normally reach a position of recommending that a DA be rejected on the grounds of community resistance.
 - b. Almost always such a submission would be intended to provide additional information to Council to support a balanced assessment, by Council, through its approval processes.

- c. For example, it could seek to present concerns regarding how the DA might impact on the community values as seen from the public spaces in Hyams Beach – the beaches, parks, streets etc.; it might raise aspects of a DA where those making submissions are not convinced that the proposal would not create unacceptable risks of future damage, and accordingly ask that Council pay particular attention to these matters, using the technical expertise it has to evaluate such issues
- d. Such a submission would be unlikely to justify a position of total objection to a DA, but would rather seek to ensure that some perspectives, that might otherwise be overlooked or underappreciated, are adequately factored into a balanced assessment.

The first two approaches would imply a submission with a lot of authority to speak for the whole of the Hyams Beach community – and would be supported by documentation of the strength of the support. For example, such a submission could (and typically should) document votes for and against the position being presented. Were this done, circumstances might arise where a submission would go to Council formally objecting to the proposed development and asking that Council reject the application, or approve it only with certain proposed modifications to address some of the concerns. Such submissions would be valid. No such submission has been made in the time since HBVA was reconstituted, nor has such a submission even been considered by the Executive Committee.

The distinction between HBVA as a community organisation, and HBVA as a CCB is real but probably not of great significance in relation to DA matters. As a CCB, HBVA is routinely sent a list of all DAs received by Council, but the same DAs are public information, available off the Council's website. The first two approaches certainly entail broadly-based community consultation in support of a position taken to Council. Council could reasonably be approached on either basis, and the views would presumably be weighed on the basis of the information provided on how the decision was taken by the community.

As of end-April 2017, no DA submissions have been made by HBVA under either of these first two models since the revival of HBVA and the associated CCB in 2015. Indeed, no such submission has even been considered by the Executive Committee. Whether a DA should be approved or not will depend not just on the 'public impact' matters that HBVA might concern itself with, but also on the 'private impact' aspects of benefits to the applicant and costs to neighbours. Given that HBVA has chosen not to deal with those private matters, it would be unusual for HBVA to be in a position to justify such outright opposition, unless the plausible public impacts were very potentially very large.

Substantial lead time would be needed to make these two approaches work – and DAs would need to be assessed early to allow for such time.

The Executive has not so far encountered any DA where it might seek to convey to Council the majority community view, as opposed to highlighting concerns and asking that Council take these into account. The only two DAs where a submission has been made were ones where the Executive felt that there were important perspectives that needed to be highlighted with Council, to allow Council to weigh the evidence, and where submissions from affected neighbours might not provide adequate coverage of these wider perspectives. The DA process is not one designed to satisfy the majority view at each stage.

A key feature of the revival of HBVA in 2015, the subsequent major changes to its constitution and its successful application to again be recognised as a CCB was the intention to move to an operating model where the Executive could interact on an ongoing basis with Council without needing to develop a refined position on an issue, approved by a general meeting, before discussing it with Council.

Specifically, the new constitution, passed at a general meeting of HBVA in 2016, specified that:

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association,...

The changes were seen as supporting more productive engagement with Council – recognising that Council then has its own formal requirements for consultation with parties who might be especially effected before it will decide on significant changes. This process of ongoing engagement with Council allows HBVA to work with Council in refining feasible approaches to addressing concerns. Engagement typically involves a mix of face to face meetings and correspondence, backed up where appropriate by drawing in additional information gained via surveys or research undertaken by smaller groups within the HBVA structure.

This policy has been drafted *assuming that the same principles will apply in respect of the Executive Committee making submissions – verbal or written – to Council in respect of DA matters.* We have assumed that the Executive Committee, or indeed the President, is entitled to raise with Council concerns triggered by a DA and to ask that Council address these concerns, and bring its technical expertise to bear in assessing and weighing these concerns, as part of a wider process for determining if a DA should be approved. The basic principal that such submissions would not address private impacts, but focus only on threats to values associated with public assets, is retained.

Clarity as to whose submission it is

For the reasons set out above, it is expected that most submissions would be made by the Executive Committee, or other clearly designated group (such as one of the focus groups dealing with strategy issues in the village). It is crucial that any submission clearly specify the person or persons making the submission. If they seek to indicate that their submission brings the authority of a larger group of members, or the whole membership, of HBVA, then the basis for claiming such authority must be documented.

What criteria might trigger submission from HBVA?

We propose that the criteria that have so far been used, fairly explicitly but perhaps not clearly enough stated, remain as grounds for HBVA considering submission on a DA.

HBVA may consider preparing a submission on a DA if one of the following conditions is satisfied:

- The DA would contravene existing development guidance, especially if approval might set a precedent that could lead to leading to compounding impacts from future approvals.
- The DA raises concerns regarding impact on, or threat of possible impact on, the public spaces of Hyams Beach and its associated beaches, surrounding national parks and Jervis Bay.

Should the proponent of a DA be consulted by HBVA?

Council's submissions process in relation to DAs is not dependent on the parties seeking to make a submission consulting, in advance, with the DA proponent. The DA typically includes detailed specifications of what is planned, and may include expert reports designed to address possible concerns. Submissions are sought on the written proposal, not on a proponent's verbal interpretation of what is meant, and permission would apply to the written proposal.

Provided the proposal is well understood, in relation to the aspects of the DA that the submission is to cover, there would seem no automatic requirement for HBVA to consult with the proponent. Of course, if such consultation might reasonably clarify something and avoid the need for a submission, or might feasibly lead to a very different submission, then prior consultation with the proponent would be highly desirable. But the focus of any submission would remain on the written DA, not an explanation of what is intended that is not clear from the written DA. The purpose of a submission will typically be to raise concerns that emerge from the written DA; indeed it might be appropriate to lodge a submission asking that a condition of approval would be clarity as to what would actually happen were the DA to be approved.

In saying that there may not be a need to consult, it is still important that HBVA, and its Executive, act in a way that is seen to be fair to all parties. The two submissions on DAs so far lodged by the Executive were triggered when members of HBVA raised concerns, and consideration of those concerns prompted the Executive or the President to act. Any owner lodging, or proposing to lodge, a DA that might prove controversial, and prompt resident concerns, should be encouraged to approach HBVA and discuss what is being proposed and how. All parties approaching HBVA should be given a fair hearing. As above, if technical aspects of the proposal leave uncertainty as to what it is that the DA is seeking approval to do, then it would commonly be sensible for the Executive to invite the proponent to help with an explanation.

Were there ever to be a case where consideration was being given to HBVA lodging an outright objection to a DA proceeding, other than on the grounds of non-compliance or the setting of precedent, then the case for talking to the proponent would be much stronger. To seek to argue that a proposal should not be allowed to proceed, ignoring the private benefits being sought by the proponent, would be a strong call, even if the public impacts were fully understood. The proposed policy requires such consultation with the proponent if this can be achieved within the available timescale. In practice, we consider it unlikely that such a submission would be seriously considered.

In all cases where a submission is to be lodged on a DA, the policy does require that the proponent be informed, and supplied with a copy of the submission.

Sensitivity to member concerns

Typically, a lot of time, money and effort goes into the development of a DA – and the works for which permission is being sought can be, and commonly are, of great financial and emotional importance to the proponents. HBVA and its Executive should always approach the question of whether and how to make a submission on a DA with caution. Are the concerns substantial enough to warrant a submission? Are there other ways of seeking to have the concerns addressed?

HBVA seeks to operate in a collaborative, non-adversarial way. It is important that these sentiments extend to DA submissions.

However, once a DA has been lodged, HBVA's role, if any, can only be reactive and it needs to react to the written DA for which approval is sought rather than to any explanation provided by the proponent of what is intended. In doing this, HBVA is not engaging in debate with the proponent, but rather communicating to Council a view in relation to the written DA.

This reinforces the point that proponents should be encouraged to talk to HBVA early, even in advance of formally lodging a DA, if they believe that HBVA might choose to make a submission to Council, triggered by the criteria listed earlier. Such discussions, held early enough, might provide to the proponent feedback that helps the proponent to build into their DA enough coverage of issues of potential concern to HBVA to allay those concerns.