

Statement of Recommendation from the Executive Director, Heritage Victoria

Bells Beach Surfing Recreation Reserve VHR H2032
Coastal Reserve, Bells Beach, Surf Coast Shire
Wadawurrung Country



Executive Director recommendation

I recommend to the Heritage Council of Victoria (**Heritage Council**) that Bells Beach Surfing Recreation Reserve located at Coastal Reserve, Bells Beach, Surf Coast Shire in the Victorian Heritage Register (**VHR**) be amended.

In accordance with section 62 of the *Heritage Act 2017* (**the Act**), I suggest that the Heritage Council:

- determine that Bells Beach Surfing Recreation Reserve, to the extent of the place shown hatched on Diagram 2032, is of State-level significance and is to be included in the VHR in accordance with section 49(1)(a) of the Act.
- determine that the categories of works or activities which may be carried out in relation to the place for which a permit is not required (specific permit exemptions) would not harm the cultural heritage significance of the place, in accordance with section 49(3)(a) of the Act.



STEVEN AVERY
Executive Director, Heritage Victoria
Date of recommendation: 17 March 2025

The process from here

1. The Heritage Council publishes the Executive Director's recommendation (section 41)

The Heritage Council will publish the Executive Director's (ED) recommendation on its [website](#) for a period of 60 days.

2. Making a submission to the Heritage Council (sections 44 and 45)

Within the 60-day publication period, any person or body may make a written submission to the Heritage Council. This submission can support the recommendation, or object to the recommendation and a hearing can be requested in relation to the submission. Information about making a submission and submission forms are available on the [Heritage Council's website](#).

3. Heritage Council determination (sections 46, 46A and 49)

The Heritage Council is an independent statutory body. It is responsible for making the final determination to include or not include the place, object or land in the VHR or amend a place, object or land already in the VHR.

If no submissions are received the Heritage Council must make a determination within 40 days of the publication closing date.

If submissions are received, the Heritage Council may decide to hold a hearing in relation to the submission. The Heritage Council must conduct a hearing if the submission is made by a person or body with a real or substantial interest in the place, object or land. If a hearing does take place, the Heritage Council must make a determination within 90 days after the completion of the hearing.

4. Obligations of owners of places, objects and land (sections 42, 42A, 42B, 42C, 42D and 43)

The owner of a place, object or land which is the subject of a recommendation to the Heritage Council has certain obligations under the Act. These relate to advising the ED in writing of any works or activities that are being carried out, proposed or planned for the place, object or land.

The owner also has an obligation to provide a copy of this statement of recommendation to any potential purchasers of the place, object or land before entering into a contract.

5. Further information

The relevant sections of the Act are provided at **Appendix 3**.

Background

Surf Coast Shire Amendment Application

On 21 December 2021, Surf Coast Shire, in collaboration with the Wadawurrung Traditional Owners Aboriginal Corporation lodged an amendment application for the Bells Beach Surfing Recreation Reserve (VHR H2032). On 25 February 2022, the ED accepted the application.

The application was written by Dr David Rowe, Heritage Advisor, Surf Coast Shire. It was prompted by discussions between Surf Coast Shire and the Wadawurrung Traditional Owners Aboriginal Corporation, the Registered Aboriginal Party (RAP) under the *Aboriginal Heritage Act 2006* for the reserve and adjacent coastal waters.

Summary of amendment application and ED response

Amendment requested by Surf Coast Shire	ED Response
Statutory elements	
<p><i>Amend written extent</i></p> <p>1. Remove in the written extent of registration 'F2' Mural as a feature of cultural heritage significance.</p> <p>The Surf Coast Shire provided a comprehensive report with evidence about why this mural should not be recognised as a feature of cultural heritage significance in this registration. See Appendix 1.</p>	<p>The ED supports and has recommended this amendment.</p>
<p>2. On 12 February 2025, Surf Coast Shire clarified that the Mindii and Warnjarrah stone markers should not be identified separately as features of significance. Like the Koori mural, reference should be removed in the registration extent.</p> <p>This is on the basis that: 'The separate stories and cultural importance of Mindii and Warnjarrah relate to different parts of Wadawurrung Country'.</p> <p>Please note that the Mindii and Warnjarrah stone markers are different to the three Spirit of Surfing stone markers.</p>	<p>The ED supports and has recommended this amendment.</p>
<p><i>Amend permit exemptions</i></p> <p>3. Request a specific Permit Exemption to remove the F2 mural from the side of the toilet block where it is located.</p>	<p>The ED supports and has recommended this amendment.</p>
<p><i>Amend reasons for registration</i></p> <p>4. Consider registration under Criterion E (Aesthetic Significance) as well as Criterion A (Historical Significance) and Criterion G (Social Significance) for which it is currently registered.</p>	<p>The ED does not support and has not recommended this amendment.</p> <p>See Assessment under Criterion E later in this report.</p>

Non-statutory elements	
<p><i>Place name</i></p> <p>5. Change the primary name of the place to Djarrak (Bells Beach)</p>	The ED supports this and has proposed this name change.
<p><i>Statement of significance</i></p> <p>6. Remove the Koori Mural as a feature of significance in the statement of significance</p>	The ED supports this and has proposed changes to the Statement of Significance.
<p>7. Recognise the Wadawurrung as the Traditional Owners of the land and the cultural significance of the place to them in the statement of significance.</p>	The ED supports this and has proposed changes to the Statement of Significance.
<p>6. The registration provides no basis for the registration of F1 (Wave Sign) and F3 (Three Spirit of Surfing sandstone markers) in the 'how' and 'why' sections of the statement of significance.</p>	The ED supports this and has proposed changes to the Statement of Significance.

Place name

This place was registered in 2003 as the Bells Beach Surfing Recreation Reserve (VHR H2032). The ED proposes to change this name to **Djarrak (Bells Beach)** as part of this amendment. The place is popularly known as 'Bells Beach' and 'Djarrak (Bells Beach)' is the name now used by Surf Coast Shire and Rip Curl International. Names of heritage places often change over time. The full name 'Bells Beach Surfing Recreation Reserve' is a historically important name and can still be searched in the Victorian Heritage Database.

Within the rest of this report, the place will be referred to as Djarrak (Bells Beach).

Aboriginal traditional cultural heritage values

Djarrak (Bells Beach) has Aboriginal cultural heritage values, see **Appendix 1**. Under s.8 of the *Heritage Act 2017* there are limits on the degree to which Aboriginal traditional associations may be considered in relation to the VHR.

Description

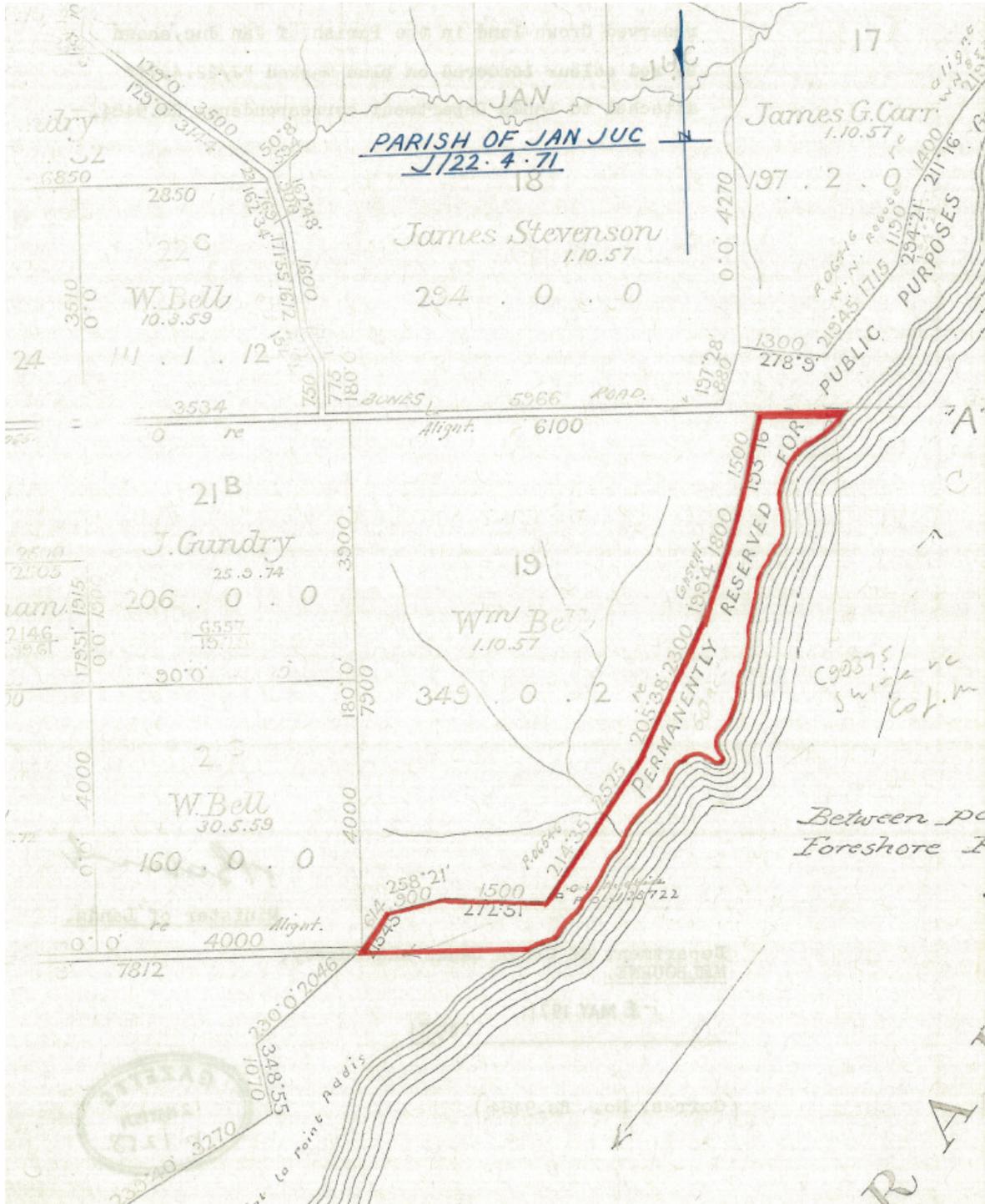
The following is a description of Djarrak (Bells Beach) (VHR H2032) at the time of the site inspection by Heritage Victoria in November 2024.

Djarrak (Bells Beach) is located on the traditional land of the Wadawurrung people.

Djarrak (Bells Beach) is a 2-kilometre stretch of coastline of 112 hectares (277 acres) to the south-west of Torquay and Jan Juc. It comprises 38 hectares (94 acres) of coastal heathland and beach, and 74 hectares (183 acres) of sea, being Bass Strait. The beach known as 'Bells Beach' is one part of the place. It is formed by a natural amphitheatre of limestone cliffs with an unnamed freshwater creek to the south.

The place is mostly comprised of environmental elements, but there are three carparks for surfers and other visitors. The northern Waves car park contains the Wave sign, the central Winki Pop car park contains a toilet block onto which is painted a Koori mural. Nearby the mural there is the Mindii sandstone marker and Warnjarrah's Journey Initiation marker. This carpark is the site of temporary infrastructure for the annual Rip Curl Pro competition, including a judges' platform. The main stairs to Bells Beach run off this car park. The Spirit of Surfing markers are located near these stairs. The Southside car park (south) is located near Jarosite Road. Across the place there are interpretative panels, fences, hard landscaping elements and plantings.

Description diagrams



May 1971, Extract from Department of Crown Lands and Survey showing reserved Crown Land at Bell's Beach. This area was assigned the name 'Bells Beach Surfing Recreation Reserve' in November 1971. Source: Surf Coast Shire.



The main elements at Djarrak (Bells Beach).



Detail of Bells Beach (the main beach) with surfing breaks and locations used during the annual Rip Curl Pro event

Description photos



October 2024, Djarrak (Bells Beach), view south to north



October 2024, Stairs to Djarrak (Bells Beach)



October 2024, Toilet block with mural, located on the south side of the Winki Pop carpark (main carpark)



One of the three Spirit of Surfing sandstone markers, 'Respect the land' (depicted in the photo above), 'Respect the ocean', 'Respect each other'



October 2024, Main carpark where infrastructure is temporarily installed for the annual Rip Curl Pro



October 2024, Wave carpark path to viewing platform



2024, Wave sign, located in the Wave carpark at the north

History

Djarrak (Bells Beach Reserve)

The Bells Beach Reserve is known to the Wadawurrung people as Djarrak (the place of the bent arm and possibly the Tjorriong/Djorriong, the Southern Rock Lobster). The place was first recorded by Europeans on a 'Survey of Rivers and Creeks from The Barwon Heads to Point Roadknight' by the English surveyor, GD Smythe, in 1847.¹ The location is part of the Country of the Tjuraaltja clan, their territory (as presently understood) extending along the rugged coastline to Painkalac Creek, Airey's Inlet to the south-west, to Spring Creek to the north, and to Lake Modewarre.

The Bells (1850s – early 1900s)

The arrival of European pastoralists and squatters to Victoria in the 1830s brought about the dispossession of Country from First Nations Peoples, including the Wadawurrung. In 1840, a license was issued to Elias Harding for a large tract of land that took in Torquay and Jan Juc, together with a narrow portion that extended to Point Addis.² From 1857, William Bell acquired subdivided allotments directly behind Bells Beach and built 'Bells Homestead'. This allotment and those adjacent changed hands several times. In April 1905, John Calvert Bell (no relation to William Bell), purchased several of these together with the license of 700 acres of coast reserve.

John Calvert Bell's family lived on this coastal reserve and grazed sheep. Recreation on their 'private beach' formed part of the unique experiences for the family. Bell's Beach was soon accessed by the public with Calder's Reef being reported in 1914 as 'one of the best fishing spots on the Torquay coast.'³ In 1917, a flight of steps was proposed to be constructed.⁴ In 1918, the southern portion of the Bells Beach Reserve was leased to mine Jarosite (a red oxide used in paints) but the company went into liquidation in 1927.⁵ After the death of Bell in 1937, the coast reserve leasehold was bequeathed to his daughter.

Surfing at Bells (1940s-1970s)

The road to a competition

By the mid-1940s, Bells Beach became a popular surfing location, but the roads were winding sand tracks, and impossible for the heavy cars and long boards of the day. Pioneer surfers struggled to access it from both land and sea. In 1960 Joe Sweeney, ex-Olympic wrestler and Torquay Surf Lifesaving Club member, organised the construction of an access track. The first Bells Beach contest was supposed to be held in late 1961 but was delayed until the Australia Day weekend of 1962. From then the contest was held every Easter taking advantage of the consistent autumn conditions and the full moon high tides.

In 1965 Bells Beach came to the attention of surfers across Australia after photos of the huge waves were published in the magazine *Surfing World*. Surfers from Australia and around the world flocked to catch a 'Bells Boomer'. In 1966, the Council set up a Committee of Management for Bells Beach and acquired 42 acres to allow construction of a through road from Bones Road to Jarosite Road. In 1967 the Victorian Surfing Championships were held at the beach, attracting 10,000 spectators.

Local surfing industry

From the 1960s, Bells Beach became a place where new surfboard designs and advances in wetsuit technology were tested by surfers. By then Torquay and Bells Beach had become major surfing locations in Australia, which created a demand for surfboards in the area. A surfboard shop owned by Fred Pyke opened in Torquay in 1967, followed by others owned by Pat Morgan, Rip Curl, Klemm-Bell and Quicksilver.

World surfing titles

In 1970 Bells Beach became the venue for the World Surfing Titles. A year later the area was designated the 'Bells Beach Surfing Recreation Reserve', the first reserve of its kind in the world. In 1973 the event was included on the professional World Competitive Tour and has since been known as the 'Rip Curl Pro Bells Beach'. In 1971 the local

¹ Djarrak is the preferred spelling. Alternatives include 'Tarruc'.

² R.V. Billis & A.S. Kenyon, *Pastoral Pioneers of Port Phillip*, Macmillan & Co. Ltd, London, 1932.

³ *Geelong Advertiser*, 26 January 1914, p.3.

⁴ *Geelong Advertiser*, 5 March 1917, p.5.

⁵ *Geelong Advertiser*, 25 July 1918, p.2; 16 November 1918, p.5; 29 January 1921, p.3; 17 November 1927, p.7.

council contacted the Gordon Institute of Technology in Geelong to ask whether its art students could develop a design for a sign at the reserve, and the ['Wave sign'](#) was installed in 1972.

Growing recognition (1990s-2020s)

In 1991 the Bells Beach competition was recognised as 'the longest running national surfing event on the world calendar' (1962-1991). It also included the richest women's surfing tournament in Australia. Infrastructure had been built to accommodate the growing number of national and international visitors.

The mural

In 1996 a mural was painted on the toilet block in the main central car park by Glenn Romanis and Mark Trinham.⁶ It sought to raise awareness of Aboriginal culture. The mural draws upon a number of Aboriginal legends, stories and symbols, not all are directly associated with this part of Wadawurrung Country. For example, the location and size of some of the figures in the artwork (such as the wedge-tailed eagle and the bat) do not align with the Wadawurrung Creation Story, and some imagery relates to Bengala Country (the Wadawurrung clan territory of the Bengalat, the Bellarine Peninsula), rather than Bells Beach.⁷ In light of these concerns, the Surf Coast Shire in collaboration with the Wadawurrung Traditional Owners Aboriginal Corporation has applied to remove the mural as a significant feature in the VHR extent. See **Appendix 1** for more detailed information.

Spirit of Surfing stone markers

In 2000, the Spirit of Surfing Trust initiative was launched at Bells Beach promoting 'the traditions of free surfing, respect for the ocean, the land and indigenous culture, and a harmonious relationship with the natural environment.'⁸ In consultation with the Wathaurong Aboriginal Co-operative, local artists Glenn Romanis and Mark Trinham proposed the installation of tablets with key messages leading down the steps at Bells Beach.⁹ Three stone cultural markers entitled Respect the Ocean, Respect each Other and Respect the Land were unveiled on World Environment Day 2002 by Joe Sweeney.¹⁰

Rip Curl Pro

In 2024 the annual Rip Curl Pro at Bells Beach is part of the World Surf League (WSL) world championship tour and is highly regarded by the professional surfing fraternity. Surfers travel from around the world to attend the event, and it is managed in a way that leaves minimal impact on the place. Measures are taken to protect the cliffs, beach and sea, and flora and fauna.¹¹ During 2020 and 2021, the Rip Curl Pro contests were cancelled due to the COVID-19 pandemic, breaking its continuous run since 1962. The contest resumed in 2023.

Environmental significance

Djarrak (Bells Beach) has both environmental (natural) and cultural heritage values. Until 1971, when the Shire of Barrabool was appointed as the Committee of Management, the beach and foreshore were unregulated areas. There was no infrastructure or rubbish collection to support daily visitation by surfers, some of whom camped overnight, and annual surfing contests resulted in damage to the fragile cliffs and trampling of vegetation. There were issues with parking and waste disposal as visitor numbers increased.

Over time, the collaborative efforts of community groups, local surfing businesses and local and state governments have improved the ecological condition of Bells Beach. The Australian Surfriders' Association started a Conservation Contest in 1971 where entry involved planting a native tree or shrub to address 'bare' areas. Since 1988 members of SANE (Surfers Appreciating Natural Environment) have ensured that the vegetation is healthy, and the place retains a high ecological integrity. Rip Curl have held many of their Planet Days there for more than 20 years where up to 200 staff volunteer with

⁶ Ibid.

⁷ Summary of material in **Appendix 1**. See David Rowe for Surf Coast Shire (in consultation with the Wadawurrung Traditional Owners Aboriginal Corporation) Application to Amend the Registration of Bells Beach Surfing Recreation Reserve 2021 (with minor amendments 2025).

⁸ 'Spirit of Surfing: Brief history of the development of Spirit of Surfing at Bells Beach, brochure prepared by Bells Beach Spirit of Surfing & Spirit of Surfing Trust, 2002.

⁹ Ibid.

¹⁰ Ibid.

¹¹ See *Rip Curl Pro Management Plan*.

local conservation groups. Accordingly, the physical development of Bells Beach has remained low-key, and a high value placed on the protection and regeneration of the landscape.¹²

Social significance

Djarrak (Bells Beach) is socially significant to the surfing community in Victoria and Australia. 'Bells' is not just a tourist destination but is the 'spiritual home of surfing' in Victoria, much like the MCG is the 'spiritual home of football'. It is an iconic place with its own history and folklore. Expressions of surfers' enduring connection to it are widely available on the Internet: 'This reserve is unlike anywhere else in the world - the first surfing reserve ever created and the spiritual home of all our local surfers and a Mecca for surfers worldwide'.¹³

In 1993 the Australian National Surfing Museum opened in Torquay. Its collection documents over 100 years of the surfing story along the Bells coast and celebrates Australia's surfing heritage and rich beach culture. It also charts Australia's significant contribution to the development of surfing around the world.

Key references

- Surf Coast Shire Amendment Application (2021) authored by Dr David Rowe with input from the Wadawurrung Traditional Owners Aboriginal Corporation
- Mark Trinham and Glenn Romanis, artists of the mural
- Reg Abrahams, Wathaurong Aboriginal Co-operative
- Rip Curl Pro Management Plan
- Material provided by Gabrielle O'Shea, Biodiversity Officer, Environment and Community Safety, Surf Coast Shire.

ED acknowledgements

The ED thanks the following people for their contribution to this report:

- Corrina Eccles, Cultural Strengthening General Manager, Wadawurrung Traditional Owners Aboriginal Corporation
- Dr David Rowe for developing the Surf Coast Shire's comprehensive Amendment Application (2021)
- Mark Trinham and Glenn Romanis, artists of the mural, and Reg Abrahams, Wathaurong Aboriginal Co-operative, for sharing their cultural and historical knowledge to support the amendment application
- Jesse Parsons-Jones, Acting Climate Action and Resilience Manager and colleagues, Great Ocean Road Coastal and Parks Authority (GORCAPA)
- Gabrielle O'Shea, Biodiversity Officer, Environment and Community Safety, Surf Coast Shire.

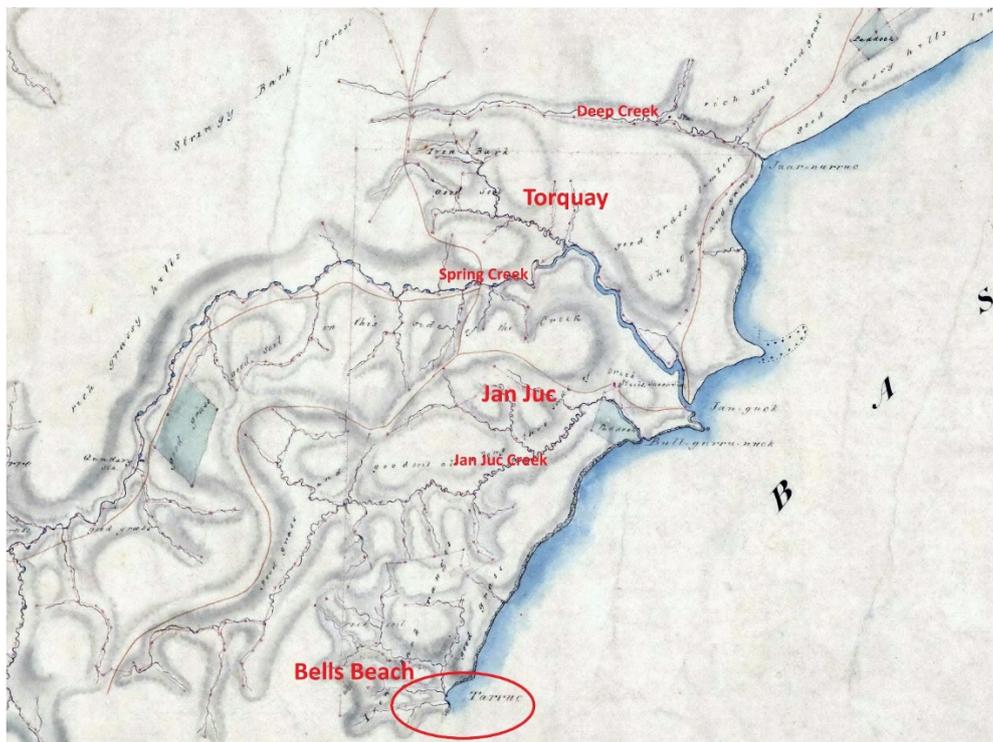
¹² Thanks to Gabrielle O'Shea, Surf Coast Shire for providing the information.

¹³ 'Our Beaches: from Jan Juc to Bells Beach', in *History Matters: Torquay Museum without Walls Quarterly Magazine*, pp.28-31.

Historical images



Bird Rock and limestone bluffs south-west along Tjuraaltja clan territory of the Wadawurrung at Jan Juc looking towards Bells Beach, c.1854-62. Source: Accession no. H2009.84/61, State Library of Victoria.



G.D. Smythe, Part 'Survey of Rivers and Creeks from The Barwon Heads to Point Roadknight', 20 September 1847 showing the location of Bells Beach – 'Tarruc' is circled & current place and creek names are shown in red. Source: VPRS 8168/P1, CS30B1, Public Record Office Victoria.



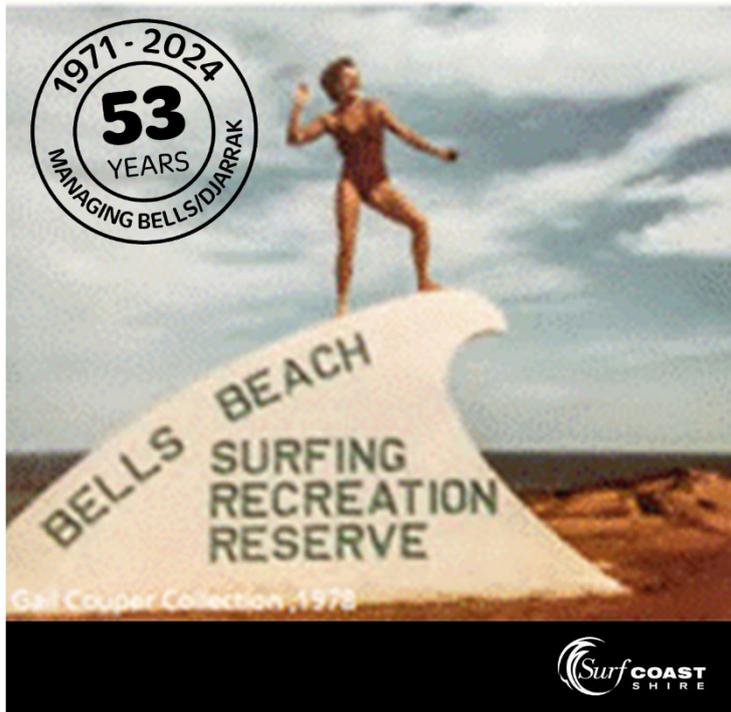
Bell family, Addiscot [Bells] Beach at Rocky Point, 1916. Source: Late Miss Mary K.A. Bell collection.



1970, Bells Beach champs [championships], Easter / Rennie Ellis, Source: SLV



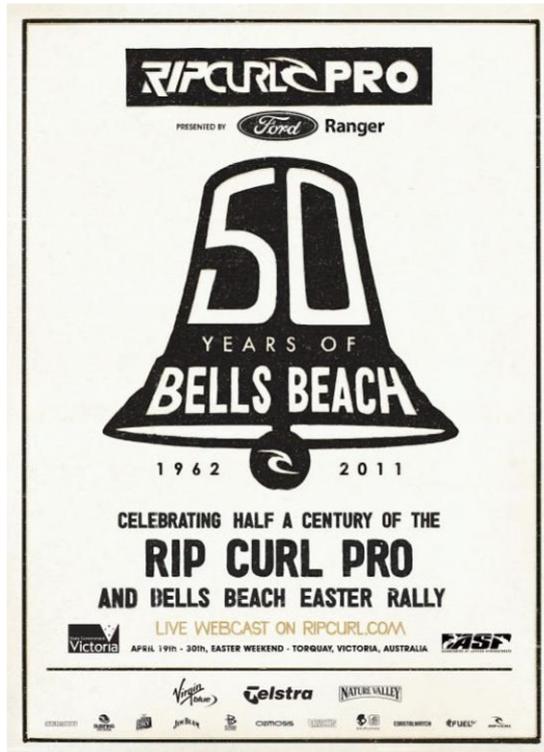
1983, Bells, the Surfing Festival, Rennie Ellis, Source: SLV



1978, The wave sign installed in 1972, Source: Surf Coast Shire



c.1980-1999, Bells contest, Rennie Ellis. Source: SLV



2011, Rip Curl Pro Poster, Source: Sales image from Etsy



April 2013, Bells Beach Women's Final 2013 won by Carissa Moore of Hawaii, Source: Sydney Morning Herald



28 July 2020, 'Revegetation Project a Community Effort' Surf Coast Times. Photograph and article about a working bee by Surfers Appreciating the Natural Environment (SANE) and Parks Victoria at the Southside carpark.

Further information

Traditional Owner Information

Djarrak (Bells Beach) is located on the traditional land of the Wadawurrung people. Under the *Aboriginal Heritage Act 2006*, the RAP is the Wadawurrung Traditional Owners Aboriginal Corporation.

Native Title

Native title is the recognition in Australian law that some Aboriginal and Torres Strait Islander people continue to hold rights and interests in land and water. Native title is not granted by governments. It is recognised through a determination made by the Federal Court of Australia under the *Native Title Act 1993* (Cth).

In 2010, acknowledging the difficult nature of having native title determined under the Native Title Act, the Victorian Government developed an alternate system for recognising the rights of Victorian traditional owners. The *Traditional Owner Settlement Act 2010* (Vic) allows the government and traditional owner groups to make agreements that recognise traditional owners' relationship to land and provide them with certain rights on Crown land.

In early 2024, the Wadawurrung people submitted an application for a native title determination to the Federal Court, covering an area around the Bellarine, Surf Coast, Geelong and Ballarat in Victoria. This area, including parts of Bass Strait and Port Phillip Bay, spans approximately 12,511 km². This matter has not yet been determined.

Victorian Aboriginal Heritage Register

The place is in an area of Aboriginal cultural heritage sensitivity associated with the coastal area and waterways. There are also numerous Aboriginal heritage sites in the vicinity.

Integrity

The integrity of the place is excellent. The cultural heritage values of Djarrak (Bells Beach) can be easily read in the extant fabric. (November 2024)

Intactness

The intactness of the place is excellent. (November 2024)

Condition

The condition of the place is very good.

The condition of built and natural elements varies, but overall, the place is in very good condition. There are ongoing measures to maintain the natural landscape, through erosion management and planting of indigenous vegetation. There are some drainage issues relating to the toilet block. (November 2024)

Note: The condition of a place or object does not influence the assessment of its cultural heritage significance. A place or object may be in very poor condition and still be of very high cultural heritage significance. Alternatively, a place or object may be in excellent condition but be of low cultural heritage significance.

Criterion E (Aesthetic significance)

The Surf Coast Shire suggested that Djarrak (Bells Beach) meets Criterion E at a State level. The ED is not in agreement with this. The following is an assessment of the place against the tests set out for Criterion E in [The Victorian Heritage Register Criteria and Thresholds Guidelines \(2022\)](#).

It should be noted that registrations are made on the basis of each Criterion individually, not on the perceived collective strength of multiple Criteria.

CRITERION E: Importance in exhibiting particular aesthetic characteristics.

Step 1 Test for Criterion E

No.	Test	Yes/No	Reason
E1)	Does the physical fabric of the place clearly exhibit particular aesthetic characteristics?	Yes	The physical fabric of Djarrak (Bells Beach) clearly exhibits aesthetic characteristics particular to a coastal landscape.

If E1 is satisfied, then Criterion E is likely to be relevant (but not necessarily at the State level)

Executive Director's Response:	Yes	Criterion E is likely to be relevant.
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Step 2 State-level test for Criterion E

No.	Test	Yes/No	Reason
SE1)	Are the aesthetic characteristics 'beyond the ordinary' or are outstanding as demonstrated by: <ul style="list-style-type: none">Evidence from within the relevant discipline (architecture, art, design or equivalent); and/orCritical recognition of the aesthetic characteristics of the place within a relevant art, design, architectural or related discipline within Victoria; and/orWide public acknowledgement of exceptional aesthetic qualities of the place in Victoria expressed in publications, print or digital media, painting, sculpture, songs, poetry, literature, or other media?	No	<p>There is no evidence that the aesthetic characteristics at the place are 'beyond the ordinary' or are outstanding.</p> <p>All beaches in Victoria, including those along the Surf Coast, have aesthetic characteristics as beaches, and are typically places of natural beauty.</p> <p>Djarrak (Bells Beach) is a place of natural beauty, but not 'beyond the ordinary' when compared with other coastal landscapes around Victoria.</p> <p>The 'wide public acknowledgement' of the place relates to the annual surfing event, not the aesthetic characteristics of the place. This acknowledgement reflects the historical and social significance of the place.</p> <p>On balance, there are more social media posts and online photography depicting surfers at Bells Beach, when compared with it without surfers or the annual Rip Curl Pro infrastructure.</p>

If SE1 is satisfied, then Criterion E is likely to be relevant at the State level

Executive Director's Response:	No	Criterion E is not likely to be relevant at the State level.
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Amendment recommendation

State-level cultural heritage significance of the place

The State-level cultural heritage significance of Djarrak (Bells Beach) was recognised in 2003 by its inclusion in the VHR. The existing registration details can be found at **Appendix 2**.

Statutory requirements under section 40

Terms of the recommendation (section 40(3)(a))

The ED recommends that the registration of Djarrak (Bells Beach) in the VHR is amended.

Information to identify the place or object or land (section 40(3)(b))

Number: VHR H2032

Category: Registered Place

Name: Djarrak (Bells Beach)

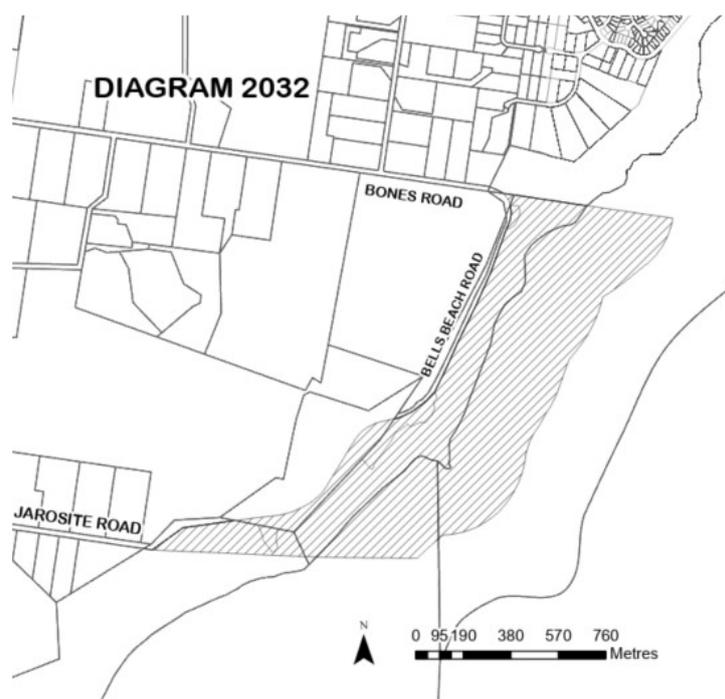
Location: Coastal Reserve, Bells Beach

Municipality: Surf Coast Shire

Proposed extent of registration

The ED recommends that the extent of registration for Djarrak (Bells Beach) be gazetted as:

All of the place shown hatched on Diagram 2032 encompassing parts of Crown Allotments 2014, 2001, 2059 and 2064 Parish of Jan Juc and parts of Lot 1 on Title Plan 106529 and Lot 1 on Title Plan 857350 and a coastal strip from the Local Government Boundary 300m seaward



Non-statutory information about the proposed extent of registration

In short, the ED proposes to 'tidy up' the extent by:

- Mapping the existing extent boundary with greater GIS accuracy in the State cadastre.
- Clarifying the seaward extent and express it in current terminology.



Comparison between current extent (shaded in gold) and proposed (red) extent.

The **gold area** shows the extent as it was mapped in the Victorian Mapping System in July 2003.

- Sections are incorrectly mapped.
 - The extent veers off considerably at points from the southern boundary of the Bells Beach Road.
 - It is unclear whether the seaward mapping into Bass Strait is accurately plotted.
- Such imprecisions are not uncommon in computer mapping of the early 2000s, particularly in regional Victoria when relatively little aerial photography had been uploaded into the system.

The **red line** shows the proposed extent.

1. The proposed extent is mapped as accurately along the southern boundary of the Bells Beach Road, clearly excluding that road.
2. The proposed extent includes a coastal strip from the Local Government Boundary 300m seaward. The Victorian Government mapping system no longer measures points from 'the low water mark'.
3. The proposed northern extent commences at a fixed point, being the intersection of Bones Road and the southern boundary of the driveway of 275 Bones Road.
4. Due to point 3, the northern extent takes in slightly more land as it extends seaward.

The recommended extent of registration comprises all elements and features of State-level cultural heritage significance, at Djarrak (Bells Beach), including the Spirit of Surfing sandstone markers and the Wave sign.

It should be noted that everything included in the proposed extent of registration including all of the land, all soft and hard landscape features, vegetation, all buildings (exteriors and interiors) are proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

Aerial photo



Comparison between current extent (shaded in gold) and proposed (red) extent.

Note: This aerial view provides a visual representation of the place. It is not a precise representation of the recommended extent of registration. Due to distortions associated with aerial photography some elements of the place may appear as though they are outside the extent of registration.

Planning Scheme Overlays

This place is included in the following overlays of the Surf Coast Planning Scheme:

- Environmental Significance Overlay (ESO)
- Floodway Overlay (FO)
- Land Subject to Inundation Overlay (LSIO)
- Salinity Management Overlay (SMO).

Other designations

All of the place is on Crown land and within the Lorne-Queenscliff Coastal Reserve.

Summary of cultural heritage significance (section 40(4))

Statement of significance

What is significant?

Djarrak (Bells Beach) is on the land of the Wadawurrung people.

Djarrak (Bells Beach) is a 2-kilometre stretch of coastline of 112 hectares to the south-west of Torquay and Jan Juc, comprising 38 hectares of coastal heathland and beach; three Spirit of Surfing sandstone markers, the Wave sign; and 74 hectares of sea.

How is it significant?

Djarrak (Bells Beach) is of historical and social significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

Criterion A

Importance to the course, or pattern, of Victoria's cultural history.

Criterion G

Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.

Why is it significant?

Djarrak (Bells Beach) is historically significant as the location of the world's longest running competitive surfing event and the first beach internationally to be designated as a surfing reserve in 1973. 'Bells' became popular with surfers during the 1950s, and in 1962 the Bells Beach Easter Rally was held. By 1973 this annual event had been included on the World Competitive Tour and a large Wave Sign had been installed. The beach is now the location of the 'Rip Curl Pro', one of the most prestigious and iconic surfing events globally, commonly referred to as the 'Wimbledon of surfing'. The place is also significant for its associations with the development of Victoria's surfboard and wetsuit industries from the 1960s, as a location where innovative designs and materials were tested by local companies, some of which, including Rip Curl and Quiksilver, have become global brands. [Criterion A]

Djarrak (Bells Beach) is socially significant for its strong and enduring connection with Victoria's surfing communities. Sometimes described as a 'Mecca' or 'spiritual home' of surfing, this place continues to draw surfers from around Victoria and beyond to enjoy the landscape and waves. The three Spirit of Surfing markers (2002) are reminders of the traditions of free surfing, respect for the ocean, the land and Wadawurrung culture, as well as a harmonious relationship with the natural environment. The beach is valued nationally and internationally as part of Australia's surfing culture. [Criterion G]

Recommended permit exemptions under section 38

Introduction

A [heritage permit](#) is required for all works and activities undertaken in relation to VHR places and objects. Certain works and activities are [exempt from a heritage permit](#), if the proposed works will not harm the cultural heritage significance of the heritage place or object.

Permit Policy

It is recommended that a Conservation Management Plan is utilised to manage Djarrak (Bells Beach) in a manner which respects its cultural heritage significance.

Permit Exemptions

General Permit Exemptions

General exemptions apply to all places and objects included in the VHR. General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which don't harm its cultural heritage significance, to proceed without the need to obtain approvals under the *Heritage Act 2017*.

Places of worship: In some circumstances, you can alter a place of worship to accommodate religious practices without a permit, but you must notify the ED before you start the works or activities at least 20 business days before the works or activities are to commence.

Subdivision/consolidation: Permit exemptions exist for some subdivisions and consolidations. If the subdivision or consolidation is in accordance with a planning permit granted under Part 4 of the *Planning and Environment Act 1987* and the application for the planning permit was referred to the ED as a determining referral authority, a permit is not required.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions [here](#).

Specific Permit Exemptions

The works and activities listed below under the heading 'Exempt works and activities' are not considered to cause harm to the cultural heritage significance of Djarrak (Bells Beach). These are subject to the following guidelines and conditions:

Guidelines for specific permit exemptions

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the Act and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.
5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.
6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works

or activities in accordance with this category. Approvals under Part 5 of the Act must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.

8. All works should be informed by a Conservation Management Plan prepared for the place or object. The ED is not bound by any Conservation Management Plan and permits still must be obtained for works suggested in any Conservation Management Plan.

General conditions for specific permit exemptions

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.
2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006*.
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Aboriginal Heritage Council (as defined in the *Aboriginal Heritage Act 2006*).

Exempt works

- Removal of the Koori Mural painted on the toilet block in the main carpark.
- Removal of the toilet block in the main carpark.
- Internal alterations to the toilet block in the main car park.
- Repair and resurfacing of road surfaces and paths in the same or similar materials.
- Installation, repair or removal of regulatory signs, warning signs and directional signs.
- Removal, maintenance, repair or replacement of fencing, gates and posts in the same or similar materials.
- Planting, pruning, maintenance and removal of vegetation.
- Ground level works to maintain, repair or reconfigure the existing carparks provided that the area is not expanded. This includes the repair or resealing of carpark surfaces; the repair, removal, installation or maintenance of kerbing, drains, bollards, and speed humps; and the repair, removal or installation of directional signage and line marking.

Exempt activities

Surfing Victoria Rip Curl Pro Bells Beach annual surfing event

- All works and activities related to this event as specified in the *Rip Curl Pro Management Plan* by Surfing Victoria in consultation with the World Surf League.

Appendix 1: Evidence from the Surf Coast Shire (2021) to support the amendment of the registration by removing the Mural (F2) as an identified feature of significance

Summary

1. The Statement of Significance says that that Koori Mural (F2) was painted by local artists and is a significant cultural marker. This mural was not painted by Wadawurrung People.
2. Not all the images and stories depicted on the Koori Mural (F2) are directly associated with Wadawurrung People. There is a disconnect in some of the symbolism in the Koori mural and local Wadawurrung stories specific to Bells Beach recognised by the Wadawurrung Traditional Owners Aboriginal Corporation, particularly the association with the Bellarine Peninsula (this not being Bells Beach). The location and size of some of the figures in the artwork (such as the wedge-tailed eagle and the bat) do not align with Wadawurrung Creation Story.
3. The location of the Koori Mural (F2) on a toilet block is also not considered culturally sensitive by the Wadawurrung Traditional Owners Aboriginal Corporation. While the intentions in raising awareness of Indigenous culture were sincere at the time the artwork was applied, it is not appropriate today.
4. The registration provides no basis for how Koori Mural (F2) is significant as part of the place. No explanation is provided in the 'how' and 'why' in the Statement of Significance.
5. The creation of the mural was considered to be ephemeral, and the marine environment presents significant conservation challenges in its retention.

Consultation

The Shire's application involved extensive research by Dr David Rowe who consulted with the following people to gain historical and cultural information which informed its preparation:

- Wadawurrung Traditional Owners Aboriginal Corporation
- Mark Trinham and Glenn Romanis, artists of the mural
- Reg Abrahams, Wathaurong Aboriginal Co-operative.



Wadawurrung
Traditional Owners
Aboriginal Corporation

18 December 2021

Gabrielle O'Shea
Biodiversity Officer
Surf Coast Council
PO Box 350
Torquay VIC 3228 Australia
go'shea@surfcoast.vic.gov.au
cc. rowe@ah-services.com.au

Dear Gabrielle,

Reference No: VHR H2032

Land At: Parcel 26359, Rs09484, Bells Beach Surfing Recreation Reserve and a coastal strip from the high water mark 400m seaward

This is to confirm that Wadawurrung Traditional Owners and Corporation officers have participated in a collaborative process with Dr David Rowe from Authentic Heritage Services Pty Ltd towards revisiting the existing historic heritage registration for the extant Bells Beach toilet block as is currently included within the VHR as # H2032.

As part of this journey we have been exceedingly pleased with the respectful engagement, and clear evidence that Dr Rowe was listening and seeking towards re-aligning the historic heritage registration having regard to careful consideration of Wadawurrung intangible living cultural heritage values and stories pertinent to this place and the mural representations extant on the four walls of the toilet block.

We therefore support his conclusions, and the argument contained in his report tabled to you on 17 December 2021.

Should you require clarification or additional information to the above, please contact me directly at the Corporation.

Yours sincerely,

Dr David Jones

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Djarrak (Bells Beach) and the Koori Mural (F2)

Bells Beach Reserve Environmental Context

The Bells Beach Reserve is a two kilometre stretch of coastline to the south-west of Torquay and Jan Juc.¹⁴ Comprising 48 hectares of coastal heathland, the sandy beach below the Bells Beach car park is formed by a natural amphitheatre of limestone cliffs. These cliffs are punctuated by an unnamed freshwater creek. The southern foreshore area is known as Addiscot Beach. The vegetation indigenous to the Bells Beach Reserve includes coastal alkaline scrub (Moonah *Melaleuca lanceolata*, Ironbark *Eucalyptus tricarpa*, Coast Pomaderris *ferruginous paniculosa*, Coast Beard-heath *Leucopogon parviflorus*, Thyme Rice-flower *Pimelea serpyllifolia* and Seaberry Saltbush *Rhagodia candolleana* and several groundcover species); Coastal Headland Scrub (Silver Banksia *Banksia marginata*, Common Heath *Epacris impressa*, Slender velvet-bush *Lasiopetalum baueri*, Prickly tea-tree *Leptospermum continentale* and Thatch Saw-sedge *Gahnia radula*) and Shrubby Dry Forest (dominated by Red Ironbarks and some Messmate Stringybark *Eucalyptus obliqua*). Growing wild on the Bells Beach cliffs is the dicotyledon, Small-leaf Clematis *Clematis microphylla* while also known to be indigenous to the reserve (but not recently identified) is Blushing Bindweed *Convolvulus erubescens*. Areas of the reserve have undergone revegetation and modified vegetation is also present.



Djarrak (Bells Beach) looking south, n.d. Source: Surf Coast Shire.

¹⁴ Information on the flora and fauna at Bells Beach Reserve has been gained from the references listed in the references section of this document.



Djarrak (Bells Beach) looking north, 24 February 2010. Source: Surf Coast Shire.



Djarrak (Bells Beach) foreshore looking south to mouth of creek, n.d. Source: Surf Coast Shire.



Djarrak (Bells Beach) foreshore looking south, 11 June 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



View to ocean showing the landscape of the Djarrak (Bells Beach) Reserve, 11 June 2021.

Source: Gabrielle O'Shea, Surf Coast Shire.



View looking south showing the beach foreshore and landscape, 11 June 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



Detail of Djarrak (Bells Beach) landscape, 11 June 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



Detail of Djarrak (Bells Beach) landscape, 11 June 2021. Source: Gabrielle O'Shea, Surf Coast Shire.

The Bells Beach Reserve is habitat to four types of indigenous mammals: short-beaked Echidna, Eastern Grey Kangaroo, Black (Swamp) Wallaby, Bush Rat and Gould's Wattled Bat. It is also home to the White-lipped Snake. The Reserve is habitat to several bird species including the Wedge-Tailed Eagle, Spotted Dove, Sugar Glider, White-faced Heron, Crimson Rosella, Eastern Rosella, Blue-winged Parrot, Horsfield's Bronze-Cockatoo, Superb Fairy-wren, Rufous Bristlebird, White-browed Scrubwren, Brown Thornbill and the Red Wattlebird.

The Reserve is punctuated by sealed car parks. There is a later 20th century toilet block with artwork depicting indigenous flora and fauna (dominated by snakes), together with two adjacent interpretive stones. Three 'Spirit of Surfing' markers line the access to the beach while a 'Wave' sign represents the importance of surfing at this location.



The Wave sign, Bells Beach Reserve, 11 June 2021. Source: Gabrielle O'Shea, Surf Coast Shire.

Warning: Aboriginal and Torres Strait Islander readers should be aware that this work contains names and details of Wadawurrung people who have since passed away. The WTOAC has approved the use of these names and details. This work contains some quotes from earlier publications by non-Indigenous people that may be confronting and may be considered inappropriate today.

History of the place

Wadawurrung Country

The carbon-dating of a midden in the Bells Beach Reserve has found that the Wadawurrung People have occupied this site for at least 2000 years.¹⁵ The name for the Aboriginal People, Wadawurrung, traditionally means ‘the people who belong to the water’ in reference to the rivers, creeks, lagoons and coastal waters within Wadawurrung Country.¹⁶ As previously outlined, Wadawurrung are part of the Kulin Nation of five communities in central and southern Victoria who speak a related language and share the same belief system in that they were created by the all-power Bundjil spirit (wedge-tailed eagle) with another ancestral deity being Waa (the crow).¹⁷ Wadawurrung Country, as recognised presently, comprised a cluster of 25 clans across a territory extending from the Bellarine Peninsula to Airey’s Inlet and inland to the west between Beaufort and Lismore and the north east as far as Ballan, Bacchus Marsh and the Werribee River.¹⁸



¹⁵ D. Mathews, Unearthed Heritage Australia Pty Ltd, Report, 8 September 2020.

¹⁶ Lane, ‘The Wathaurung’, op.cit.

¹⁷ A.W. Howitt, *The Native Tribes of South-East Australia*, Macmillan & Co., Ltd, London, 1904, p.41.

¹⁸ Victorian Aboriginal Heritage Council, *Wadawurrung Traditional Owners Aboriginal Corporation*, <https://www.aboriginalheritagecouncil.vic.gov.au/wadawurrung-traditional-owners-aboriginal-corporation>

Bird Rock and limestone bluffs south-west along Tjuraaltja clan territory of the Wadawurrung at Jan Juc looking towards Bells Beach, c.1854-62. Source: Accession no. H2009.84/61, State Library of Victoria.

The Bells Beach Reserve formed part of the Country of the Tjuraaltja clan, their territory extending along the rugged coastline to Painkalac Creek, Airey's Inlet to the south-west, to Spring Creek to the north, and to Lake Modewarre.¹⁹

'Tarruc' (Djarrak): Wadawurrung Name for Bells Beach Reserve – the place of the bent arm and the Tjorriiong/Djorriiong (lobster)

The Bells Beach Reserve is traditionally known to the Wadawurrung People as 'Tarruc' (Djarrak). Its first European recording was on a 'Survey of Rivers and Creeks from The Barwon Heads to Point Roadknight by the English surveyor, G.D. Smythe, in 1847. Smythe had travelled by sea along the coast from Barwon Heads to Cape Otway in May and June of 1846 'to make a complete survey, both geographical and hydrographical, of all creeks, inlets, and other natural features of the intervening country.'²⁰ George Douglas Smythe (1808-1858) was the brother of Henry Wilson Hutchinson Smythe, surveyor and later Crown Land Commissioner and Gold Commissioner.²¹ They were relatives by marriage of Captain William Lonsdale, Sub-Treasurer and former Police Magistrate of Port Phillip (Victoria). In 1829, the Smythe family emigrated from England to Western Australia where G.D. Smythe found work in the Surveyor General's Department.²² Except for G.D. Smythe, the Smythe family relocated from Tasmania in 1833 before G.D. and H.W.H. Smythe relocated in Victoria in late 1837.²³ H.W.H. Smythe was responsible for the layout of the Town of Geelong at this time. As directed by the Colonial Governor of N.S.W., Sir George Gipps, Wadawurrung nomenclature was to be applied to the town name (Geelong as a derivation of Djilang) and principal streets. They were also applied to parish names. G.D. Smythe was tasked with surveying the Victorian coast: first the eastern side of Port Phillip in 1840; then the eastern side of Port Phillip and Westernport Bay in 1843 before being commissioned to survey the coast from Barwon Heads to Cape Otway²⁴. Smythe's survey of the coast to Cape Otway was by whale boat. It is evident from Smythe's Survey Map of 1847 that he was accompanied by Wadawurrung People given the names shown on the map for different localities between Barwon Heads and Djarrak (Bells Beach).



¹⁹ L. Lane, 'Kuaka Dorla', text of an address to the Anglesea Historical Society, on 3rd February 1990, typescript, p.31, Special Collections Library, Deakin University. I.D. Clark in *Aboriginal Languages and Clans: An Historical Atlas of Western and Central Victoria, 1800-1900*, Monash Publications in Geography No. 37, Department of Geography and Environmental Science, Monash University, Melbourne, 1990, p. 311 listed the Tjuraaltja clan as Geralture (with a question mark for the location west of Lake Modewarre to the ocean). See also L. Lane, 'Anglesea: Notes for Glenn Romanis', op.cit. Lane stated that the Tjuraaltja clan was identified by H.C. Wedge in 1835, their base being Lake Modewarre.

²⁰ G.D. Smythe, 'Survey of Rivers and Creeks from The Barwon Heads to Point Roadknight', 20 September 1847, VPRS 8168/P1, CS30B1, Public Record Office Victoria.

²¹ See I. Stuart, 'Biography of George Douglas Smythe & William Henry Hutchinson Smythe, Surveyors' in Forth, G., *The Biographical Dictionary of the Western District of Victoria*, Hyland House, Melbourne, 1989, pp.147-148 & 'Henry Wilson Hutchinson Smythe b.1815', Design & Art Australia Online, accessed June 2021, <https://www.daao.org.au/bio/henry-wilson-hutchinson-smythe/biography/>

²² Ibid.

²³ Ibid.

²⁴ Ibid.

G.D. Smythe, *Part 'Survey of Rivers and Creeks from The Barwon Heads to Point Roadknight', 20 September 1847 showing the location of Bells Beach – 'Tarruc' is circled & current place and creek names are shown in red.* Source: VPRS 8168/P1, CS30B1, Public Record Office Victoria.

Smythe's associations with the Wadawurrung were documented in newspapers in 1846. During disembarkation at Cape Otway, the Country of the Gadubanud, Smythe engaged two Gadubanud men as guides.²⁵ While the Gadubanud share Painkalac Creek at Aireys Inlet as a territorial boundary with the Wadawurrung, there were hostilities between the two Language Groups. This suggests that Smythe had not engaged a Wadawurrung guide during his initial survey of the coast between Barwon Heads and Point Roadknight. At Cape Otway, one of Smythe's survey party was killed by the Gadubanud People.²⁶ In retaliation, Smythe returned to Geelong and recruited ten Wadawurrung men (from different clans) (under sanction of the Government) that eventually traced the relevant Gadubanud clan to the mouth of the Aire River.²⁷ G.D. Smythe listed the ten Wadawurrung men in his fieldbook: Porl-a-cannuk, Durrun-nuck, Woolea, Baungie, Morradung, Boodhar Murrun-nuck, Murrang Murrug, Deedarnuck (Dan Dan Nook), Warraictaaneet and Woordahry Murruag.²⁸ It is likely to have been on the return journey along the coast in July/August 1846 when the geographic and landscape features between Barwon Heads and Djarrak (Bells Beach) were identified. Wadawurrung men had previously worked as guides and Native Police for the Police Magistrate, Foster Fyans, who was stationed at Fyansford from 1837 on Watha wurrung balug Country.²⁹ They were likely to have known this stretch of coast: possibly as members of the Tjuraaltja clan; or as members of the neighbouring Bengalat balug clan of the Bellarine Peninsula (this being the Country of Dan Dan Nook); or as members of other Wadawurrung clans who had previously been invited to Tjuraaltja Country; and from congregations at 'Jaar-nurruc'³⁰ (meaning 'place of conference'),³¹ the mouth of Deep Creek at Torquay (as shown in the upper right portion of Smythe's Survey plan).

The traditional Wadawurrung meaning for 'Tarruc' (Djarrak) is 'arm'. The natural amphitheatre of Bells Beach – Tarruc/Djarrak³² – is in the form of a partly bent arm. A number of 19th and early 20th century sources confirm this definition. One of the earliest and most relevant is by Mrs Davenport in c.1842.³³ She was the daughter of Charles Sievwright, Assistant Protector of Aborigines. Between 1839 and 1841, Sievwright had established a Protectorate station near Fyansford. It is likely to have been during this time when Mrs Davenport recorded 'Specimens of the Barrabool Dialect' which included 'Turook.' In 1856, Daniel Bunce, well-known botanist and soon to be curator of the Geelong Botanic Gardens, published *Language of the Aborigines of the Colony of Victoria and other Australia Districts*. He listed 'Thirrock' as Arm, the limb of the body.³⁴

This meaning was further reinforced in 1917 by R.A. Keble, geologist and palaeontologist, who collected Aboriginal names for locations on his geological maps. He defined an arm (of the body) as 'ter ruk'.³⁵

Keble's spelling connected the term to plant life. 'Ruk' expressed the whole tree economy.³⁶ Turuk/Tharook/Darruk represented Pink Bindweed (*Convolvulus erubescens*) which was indigenous to the Bells Beach area. The roots were cooked as part of a balanced diet, particularly when the Murnong Daisy (*Microseris lanceolata*) was not in season or available. The availability of this vegetarian part of the Wadawurrung diet in the Bells Beach reserve, together with the abundance of marine life (see following for further details) and the water supply from the creek, provided an ideal place for occupation and recreation. It was also an importance place for baierr (trade).

²⁵ *Geelong Advertiser & Squatter's Advocate*, 2 May 1846, p.1, *Port Phillip Patriot & Morning Advertiser*, 4 June 1846, p.2 & S. Wesson, *Aboriginal Flora and Fauna Names of Victoria: As extracted from early surveyors' reports*, Victorian Aboriginal Corporation for Languages, Northcote, 2001, p.3.

²⁶ *Geelong Advertiser & Squatters' Advocate*, 15 August 1856, p.2, 26 August 1846, p.2 & 29 August 1846, p.2.

²⁷ *Ibid.*

²⁸ G.S. Smythe, 'Coast C. Otway &c.', Historic Crown Fieldbook, 1841, blank ink series, 86/1197 part 3, Landata online at https://www.landata.vic.gov.au/tpc_plan_records.aspx The spelling of the names of the Wadawurrung men is indicative only. Further analysis is required to correctly determine the names of these men and the clans they belonged to.

²⁹ D.F. Cahir, 'The Wathawurrung People's Encounters with Outside Forces 1797-1849: A History of Conciliation and Conflict', M.A. Thesis, School of Behavioural & Social Sciences & Humanities, University of Ballarat, October 2001, p.86. See also F. Cahir, *My Country All Gone, The White Men Have Stolen It: The Invasion of Wadawurrung Country 1800-1870*, Australian History Matters, Ballarat, 2019, p.84 & M. Cannon & I. MacFarlane, *The Aborigines of Port Phillip 1835-1839*, Historical Records of Victoria Foundation Series, Victorian Government Printing Office, Melbourne, vol.2A, 1982.

³⁰ The Wadawurrung prefer the Language spelling 'Jan Jook'.

³¹ C.F. Belcher, *The birds of the district of Geelong*, Australia, W.J. Griffiths, Geelong, 1914, p.40.

³² The Wadawurrung prefer the Language spelling 'Tarruc'.

³³ Davenport, *op.cit.*

³⁴ Both editions of Bunce's publication include the term 'Thirrock'. See Bunce, *op.cit.*

³⁵ R.A. Keble, 'Aboriginal Plant Names', *Victorian Naturalist: The Journal & Magazine of the Field Naturalists' Club of Victoria*, vol. 34, 1917-18, p.66.

³⁶ *Ibid.*



Marriane Collinson Campbell, *Artwork of Convolvulus erubescens*, 22 March 1845 as part of a collection of wildflowers, fruit and butterflies of Australia. Source: National Library of Australia, id. 3544922.

Another derivative of Turrac/Djarrak may also be Tjorriiong/Djorriiong, the Southern Rock Lobster. The shallow reefs off the shoreline were the habitat of the lobster in great numbers (see the later section on Addiscot Homestead and John Calvert Bell). The arched form of the carapace, abdomen and tail of the lobster reflects a bent arm.

Bells Beach: A Wadawurrung Place for Congregation, Manufacture and Trade

Bells Beach also includes archaeological evidence of quartz, silcrete and some quartzite and coastal flint. It was collected along the beaches as far as Painkalac Creek, Aireys Inlet.³⁷ These materials were used for the manufacture of blades for knives and scrapers, and spear points and barbs.³⁸ They assisted the way of life of the Tjuraaltja clan and also contributed to the clan's economy as tradeable commodities.

Nearby Bells Beach in the Bells Beach reserve was a substantial deposit of ochre in hues from crimson-red (Haematite and Magnetite) to nasturtium-yellow (Limonite). Evidence of Wadawurrung occupation is shown in stone midden chips and small tools. Red ochre is the colour representing life to the Wadawurrung people.³⁹ Yellow ochre was rare. Ochre is highly significant to Wadawurrung culture used as body paint for ceremony and dance. It was another important commodity of the Tjuraaltja clan's economy at baierr (trade) and for gift exchange, and was traded and exchanged for other commodities across Wadawurrung Country.

Further investigations are required to determine the ceremonial function of the Djarrak (Bells Beach) Reserve to the Wadawurrung. In the Bells Beach Surfing Recreation Reserve Cultural Heritage Management Plan (2011), TerraCulture Pty Ltd identified the dominant raw materials in their artefact analysis to be 'shared almost equally by quartz (n = 44) and silcrete (n = 42).'⁴⁰ Lesser numbers of quartzite and coastal flint and unspecific artefacts were also noted.⁴¹ It cannot be determined whether the quartz represented quartz crystals associated with initiation ceremonies. Additional analysis into the substantial presence of ochre (used as part of initiation in addition to other ceremonies and for trade) and the associational meanings of the Wadawurrung nomenclature applied to this coastal part of Tjuraaltja clan Country is required. It is noted that the Djadjawurrung People refer to the rainbow as the 'arm of sky' by the term 'tharuk [turu/tarruc]:a: wurwur' meaning 'arm of sky.'⁴²

³⁷ L. Lane, "'The Nature of Stone Artifacts'" – Notes for lecturettes to the Archaeological Society, Wollongong, 1967 ... With additional notes on Rock-types of Geelong & District and Illustrations of stone', manuscript no. 46, 1991, Special Collections library, Deakin University.

³⁸ Ibid.

³⁹ L. Lane, 'Earths and Ochres', manuscript, 1998, Special Collections, Library, Deakin University.

⁴⁰ J. Hyett, TerraCulture Heritage Consultants, 'Bells Beach Surfing Recreation Reserve, 300 Bones Road, Bells Beach, Cultural Heritage Management Plan Number: 10062', prepared for the Surf Coast Shire, 28 March 2011, p.47.

⁴¹ Ibid.

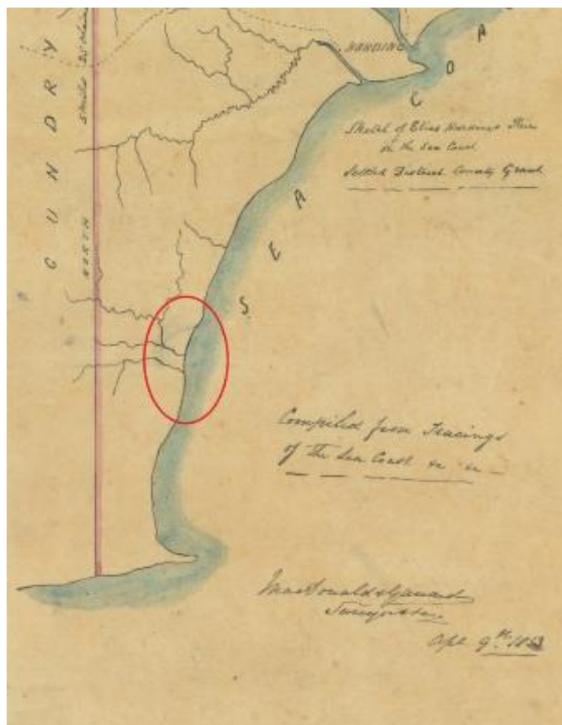
⁴² Blake (ed.), *Wathawurrung and the Colac Language of Southern Victoria*, *op.cit.*, p.48.

Djarrak: A Wadawurrung Food Source

Djarrak was a place for marine recreation for the Wadawurrung but it especially held importance as a food source from the abundant marine life. The reserve includes archaeological evidence of abalone (*Haliotis*) which could only be caught below the low tide mark, indicating the particular Traditional Ecological Knowledge of the locality. There is also archaeological evidence of three shellfish types: *Subinella*, *Cellana* and *Dicathas*, all rock platform shellfish available for harvesting at low tide (Southern Rock Lobster does not appear to have been identified in the midden investigated).

Dispossession of Country

The arrival of European pastoralists and squatters to Victoria in the 1830s brought about the dispossession of Country to the First Nations People's. Although Governor Charles La Trobe had requested in 1842 that grazing licenses should 'not disturb the natural right of occupation of the Aboriginal inhabitants',⁴³ this was not to be realised and, in any case, came too late for the Tjuraaltja clan. In 1840, a license was issued to Elias Harding for a large tract of land that took in Torquay and Jan Juc, together with a narrow portion that extended to Point Addis.⁴⁴ In the northern part of his landholdings near the Jan Juc Creek, he built a homestead and woolshed (now Jan Juc), fenced the land and grazed sheep. In 1853, he applied for the pre-emptive right of 640 acres which included his homestead section.⁴⁵ The balance of Harding's Run and neighbouring land was subdivided into 19 allotments in 1857. A plan by F.G. Gilbert described the landscape of the Bells Beach area (which comprised allotment 19 of 349 acres) as including 'cliffs of soft sandstone', with iron bark and densely timbered gullies with good timber.⁴⁶ The projecting cliff outcrop adjoining allotment 19 was described as 'Rocky Point' (this not being Rocky Point at Torquay).



MacDonald & Garrard, Surveyors, Sketch of Elias Harding's Run on the Sea Coast, settled District, Country Grant, 9 April 1853. The location of the Bells Beach Reserve today is circled in red. Source: VPRS 8168/P5, item RUN 412, Public Record Office Victoria.

⁴³ P. Nelson & L. Alves, *Lands Guide: A guide to finding records of Crown land at Public Record Office Victoria*, Public Record Office Victoria in association with Gould Genealogy and History, Melbourne, 2009, p.147.

⁴⁴ R.V. Billis & A.S. Kenyon, *Pastoral Pioneers of Port Phillip*, Macmillan & Co. Ltd, London, 1932.

⁴⁵ Kellaway, C (Context Pty Ltd) & Rowe, D. (Authentic Heritage Services Pty Ltd), *Farmland, Forest & Surf: Environmental History*, Surf Coast Shire, 2009.

⁴⁶ F.E. Gilbert, Plan of Country Lots in the Parish of Jan-Juc in the County of Grant, Crown Lands Office, Melbourne, 15 September 1857, State Library of Victoria.



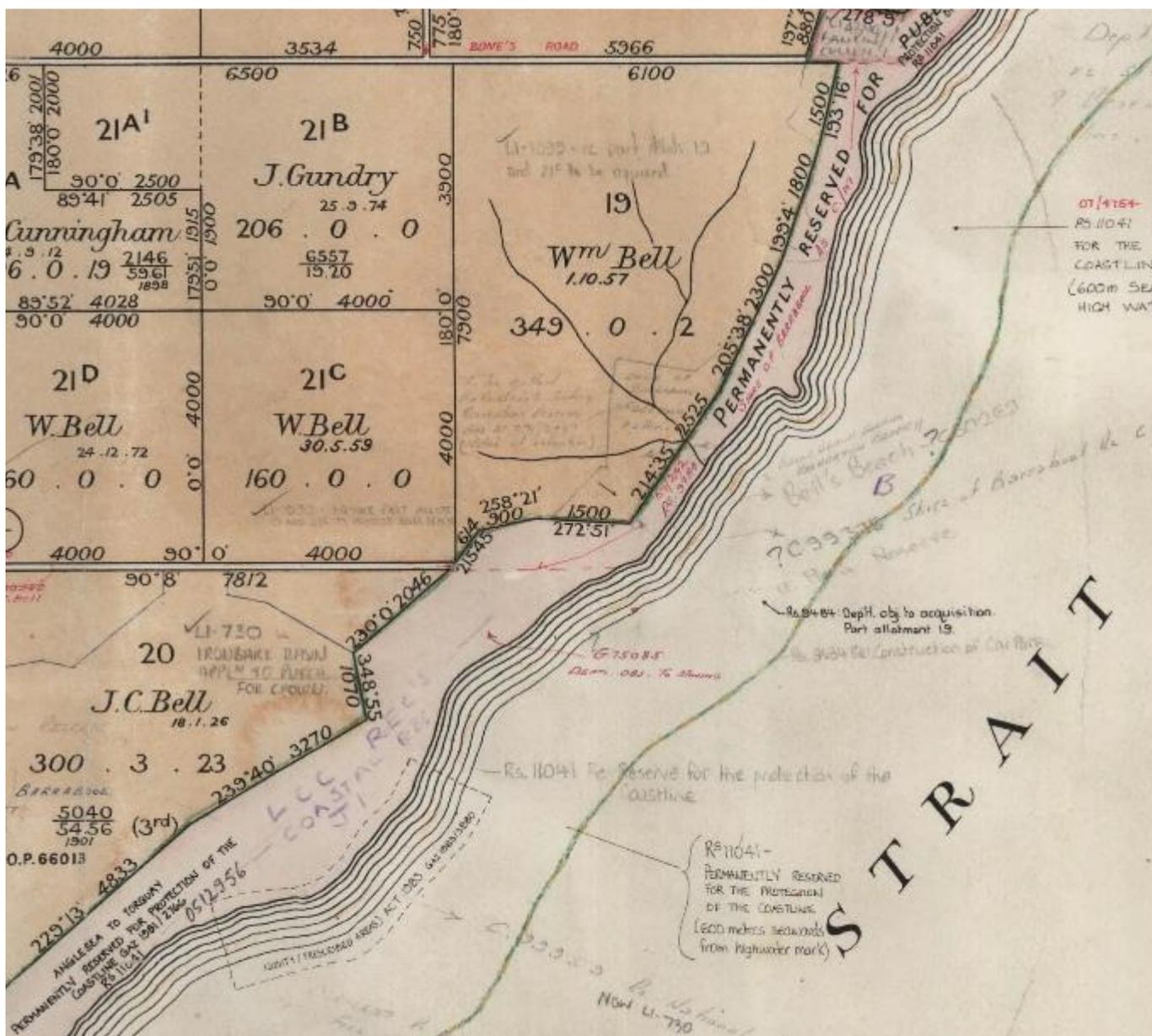
F.E. Gilbert, Plan of Country Lots in the Parish of Jan-Juc in the County of Grant, Crown Lands Office, Melbourne, 15 September 1857, showing the Bells Beach Reserve (and Rocky Point) circled. Source: State Library of Victoria.

William Bell acquired allotment 19 in 1857.⁴⁷ He increased his landholdings in 1859 and 1872 respectively with the purchase of adjoining allotments 21C and 21D to the south-west of allotment 19.⁴⁸ He appears to have built a homestead on allotment 21C or 21D in the 1870s, and possibly a timber house on allotment 19, as these buildings are identified in the Shire Rate Books in later years of the 19th century. Anecdotal evidence suggests that the first dwelling was built by Colonel Edwin Addis, surveyor, at an earlier time. It is more likely that the name of the homestead, "Addiscot" was named after Colonel Addis, as opposed to Addis constructing the dwelling.⁴⁹

⁴⁷ Ibid.

⁴⁸ D. Rowe & W. Jacobs, Surf Coast Shire Heritage Study Stage 2B, prepared for the Surf Coast Shire, 2009.

⁴⁹ Ibid.



Part Jan Juc Parish Plan showing William Bell as owner of Lot 19 in 1857. Source: VPRS 16171/P1, Public Record Office Victoria.

By 1889-91, allotments 19 and 21 had been sold to Joseph Henry Grey.⁵⁰ His landholdings included 875 acres (allotments 19 and 21) with a 'wood house' and 'Bells Homestead', together with 107 acres on allotment 21a and 741 acres on allotments 26 and 27. It was also in 1889 when Grey became a partner in the legal firm of Taylor Buckland and Gates.⁵¹ In 1893, he was Mayor of Geelong. On 22 February 1897, the *Geelong Advertiser* newspaper reported that Grey's "marine residence" was the venue of the Geelong Protestant Orphanage Asylum picnic.⁵²

⁵⁰ Ibid.
⁵¹ Ibid.
⁵² *Geelong Advertiser*, 22 February 1897.

European Occupation of the Bells Beach Foreshore Area

In 1899, Grey sold the homestead property to D. Cyril Lewis, then comprising 1871 acres.⁵³ It was leased to J. Gardner Mack in 1899-1900. By 1903-04, Lewis - with Mack as lessee - had acquired considerable landholdings in addition to the original 'Addiscot' allotment 19 and neighbouring allotment 21. It was in 1900-01 when the Rate Books first list Mack as the licensee of 700 acres of coast reserve, including the stretch of beach now known as Bells Beach. Reasons for the license of the coastal reserve have not been ascertained, but it is of interest given that the narrow strip of foreshore land between Point Roadknight and Point Lonsdale had been reserved for public purposes as the "Ocean Park Reserve" in 1875.

Addiscot Homestead and John Calvert Bell

In April 1905, a considerable portion of Lewis's landholdings had been purchased by John Calvert Bell (no relation to William Bell), including a house, together with the license of 700 acres of coast reserve. By 1912, the earlier homestead was either extended or replaced to a design by the Geelong architectural firm, Laird and Buchan. The dwelling is shown in an historical photograph of c.1912.



Addiscot Homestead, c.1912. Source: Dianne Hughes, Teesdale.

The 700 acres of privately licensed coast reserve was recognized and enjoyed by the Bell family even though of it was exploited for sheep grazing purposes. Recreation on the 'private beach' formed part of the unique experiences for the family. In 1911, J.C. Bell's daughter, Kathleen, noted that the pink and white heath was used to decorate the dining room. The abundance of crayfish – Southern Rock Lobster (first caught by the Wadawurrung People prior to European colonization) was exploited by J.C. Bell.⁵⁴ In 1912, the *Geelong Advertiser* reported that he 'got about forty crayfish in as many minutes.'⁵⁵ Bell's Beach was soon accessed by the public with Calder's Reef being reported in 1914 as 'one of the

⁵³ Rowe & Jacobs, op.cit.

⁵⁴ *Geelong Advertiser*, 10 January 1912, p.4.

⁵⁵ *Ibid.*

best fishing spots on the Torquay coast.⁵⁶ In 1917, a flight of steps was proposed to be constructed, the *Geelong Advertiser* reporting that the steps would 'eliminate the danger of being caught at high tide' and that the Torquay Association had placed a notice board warning the public of the danger of the [Calder] reef at the rising of the tide.⁵⁷



Bell family, Addiscot [Bells] Beach at Rocky Point, 1916. Source: Late Miss Mary K.A. Bell collection.

Jarosite Mine

In 1918, Messrs. G.F. Affleck and A.V. Hobelius made application for a lease of a southern portion of the Bells Beach Reserve.⁵⁸ Affleck had discovered 'an immense deposit of double sulphate of jarosite' at this location in 1909,⁵⁹ the earlier prized commodity of the Tjuraaltja clan. A company was formed known as Jarosite Products Limited and in 1925 the mining plant commenced operations. There, jarosite was mined near the cliffs between Rocky Point and Point Addis. According to Rae and Williams, 'the jarosite-rich beds ... were said to be up to ten feet thick and to average four feet in thickness, extending for approximately two miles as outcrops in the cliffs.'⁶⁰ The red oxide was used for the manufacture of high grade Indian red and Venetian red paint. However, the promise of a successful and enduring mine operation was not to be realized as the Jarosite Products Pty Ltd company went into liquidation in 1927.

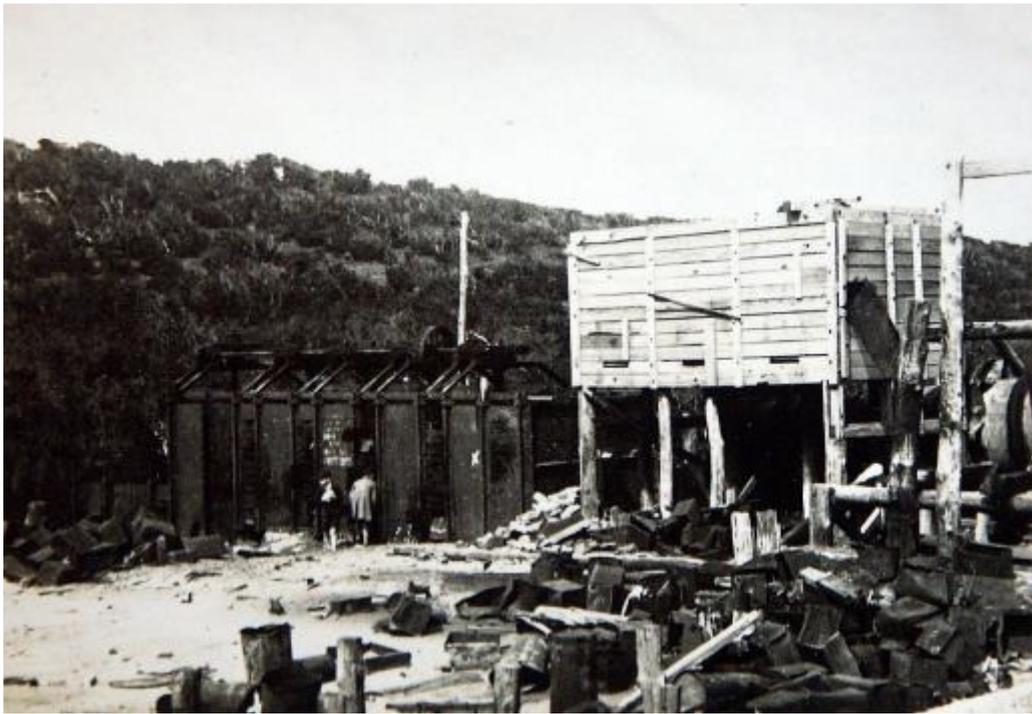
⁵⁶ *Ibid.*, 26 January 1914, p.3.

⁵⁷ *Ibid.*, 5 March 1917, p.5.

⁵⁸ Information taken from *Geelong Advertiser*, 25 July 1918, p.2, 16 November 1918, p.5, 29 January 1921, p.3, 14 July 1924, p.6, 25 November 1925, p.1, 18 June 1926, p.1 & 17 November 1927, p.7.

⁵⁹ I.D. Rae & M. Williams, 'Mining and Processing of Jarosite near Torquay in the 1920s', *Victorian Historical Journal*, vol. 68, no.1, April 1997, p.55.

⁶⁰ *Ibid.*, p.56.



Remnants of the Jarosite factory at Addiscot Beach, 20 November 1930. Source: Holmes collection, Authentic Heritage Services.

Surfing at Bells Beach

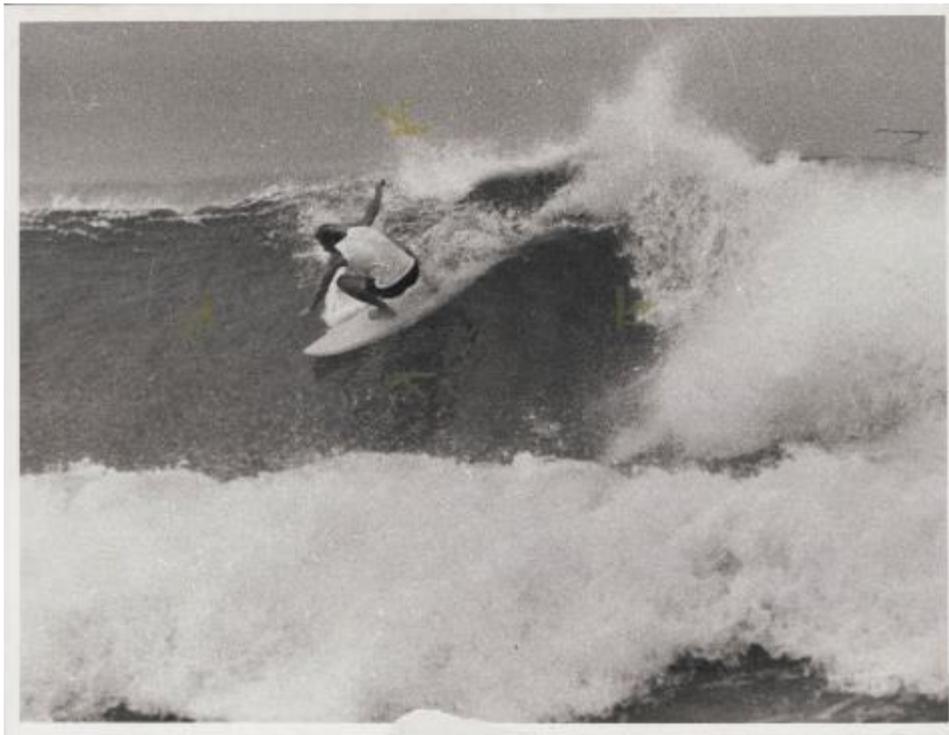
The following is largely taken from *Farmland, Forest & Surf: Environmental History* (together with other references listed):

After the death of J.C. Bell in 1937, the coast reserve leasehold was bequeathed to his daughter, Mary. She held it until 1940-41. By the mid-1940s, Bells Beach became a popular surfing location begun by Vic Tanau, a pioneer Torquay surfer. At that time, according to one account:

‘The roads then were winding sand tracks to the now famous cove, impossible for the heavy cars and long boards of the day. To get there involved paddling from Torquay and then making sure the surf didn’t take the brittle boards and smash them on the rocks.’

In 1953, three surfers, Peter Troy, Owen Yatemau and George Smith, rode through the scrub to Bells Beach on their motorbikes. They were among a number of surfers who found their way to Bells Beach in those early years, sometimes paddling their boards and at other times arriving by bike. Dick Garrard was another who drove a jeep down to the beach in the early 1950s. However, it was Jo Sweeney who in 1960 hired a bulldozer and carved a rough track from the main road to the beach.

A first surfing contest was held at Bells Beach in January 1962. The following year, 1963, the First Easter Contest was held. It attracted many interstate surfers. This Easter Contest has become a tradition and was held annually at Bells Beach until 2019. During this time, it has attracted top professional athletes. In 1966, the Council set up a Committee of Management for Bells Beach and acquired 42 acres from the Addiscot Pastoral Company. In 1967 the Victorian Surfing Championships were held at the beach, attracting 10,000 spectators. Four years later, Bells Beach was officially named the world’s first surfing reserve and Bells became the venue for the world surfing titles. A grant of \$35,000 was used for sealing Bones and Jarosite Roads. The Australian Surfriders Association planted 300 trees and shrubs in the reserve as a conservation project and the Bells Beach Recreation Reserve was officially opened in March 1973.



Terry Fitzgerald during the surfing championships at Bells Beach, Herald, 5 May 1970. Source: Accession H2004.101/493, Herald and Weekly Times Limited collection, State Library of Victoria. In Copyright – provided for information exchange purposes only.

By 1991 the Easter Classic at Bells Beach was recognised as ‘the longest running national surfing event on the world calendar’. It also included the richest women’s surfing tournament in Australia.

In 2000, the Spirit of Surfing Trust initiative was launched at Bells Beach.⁶¹ It emanated from a concept developed by long-time surfer, Peter Cuming, in 1995, resulting in the Margaret River Classic, Western Australia, in 1996. Spirit of Surfing promotes ‘the traditions of free surfing, respect for the ocean, the land and indigenous culture, and a harmonious relationship with the natural environment.’⁶² The launch at Bells Beach on World Environment Day in June 2000 involved the production of a poster designed by the Spirit of Surfing Trust and Western Australian artist, Rosco Kermode and was funded by Coast Action, Coast Care and the Surf Coast Shire. In consultation with the Wathaurong Aboriginal Co-operative, local artists Glenn Romanis and Mark Trinham proposed the installation of tablets with key messages leading down the steps at Bells Beach.⁶³ Three stone cultural markers entitled Respect the Ocean, Respect each Other and Respect the Land were unveiled on World Environment Day 2002 by Joe Sweeney (surfing legend and a founder of surfing at Bells Beach), Glenn Romanis, and Graeme Stocktan (Surfers Appreciating the Natural Environment member and environmentalist).⁶⁴

The Local Surfing Industry

The following is taken from *Farmland, Forest & Surf: Environmental History*:

The most successful Shire manufacturing industry in the post-Second World War years has been the manufacturing of surfboards at Torquay. When surfing became popular in Australia in the post-war years, Torquay and Bells Beach became major surfing locations. And, as more surfers frequented the area, the need arose for a readily available supply of surfboards. Fred Pyke was the first to realise this and started his own surfboard shop in Torquay in 1967. Since then, three other manufacturers opened surfboard making premises in Torquay. They were Pat Morgan, Rip Curl and Clam-Bell Surfboards.

⁶¹ ‘Spirit of Surfing: Brief history of the development of Spirit of Surfing at Bells Beach, brochure prepared by Bells Beach Spirit of Surfing & Spirit of Surfing Trust, 2002.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

Fred Pyke, before coming to Torquay, worked from the garage at his home in Sydney Road, Brunswick. He was a cabinet maker by trade, who developed his own board-making techniques. His Torquay premises were in Boston Road, where at first, with a friend, Pyke made about six boards a week. By 1968, they were making 20 a week and by 1969, 50 per week. By this time, he was employing six full-time workers at shaping, glassing and sanding his boards. The boards sold at \$100, a sum Pyke maintained over the years despite rising costs of materials and labour. In 1969 Pyke expanded his workshop from its original 60x50 feet to 170 feet x 50 feet, making it the largest surfboard factory in Torquay. Pyke also made wetsuits, employing six women full-time by 1973. These wet suits, called 'Dive and Surf' were based on suits Pyke has seen in the United States. Pyke Surfboards were promoted by professional surfers, such as Alan Aikens, who surfed in competitions using Pyke boards. Another top Victorian surfer, John Law, also surfed for Pyke. Pyke only allowed himself the modest salary of \$20 per week, going down to \$10 per week in hard times. Fred Pyke's former shop and factory remains at 35 Boston Road, although it no longer has associations with the surfing industry.

Rip Curl Surfboards was started in about 1969 by Brian Singer and Doug Warbrick, at first from a garage in Geelong Road. The firm later purchased the Torquay bakery. A new factory was opened on the Geelong Road site in 1973 with large and modern showrooms. The firm also owned two surf shops in Melbourne (at Hampton and Frankston), another factory on Phillip Island, and a warehouse in Sydney. Warbrick originally worked for Fred Pyke. Rip Curl surfboards were sold mainly in Victoria but their wetsuits were sold in Surf shops throughout Australia. The firm sponsored the 1973 Bells Beach Easter Open Surfing Contest.

Pat Morgan's surfboard business dated from about 1966 and was located in the former butcher's shop at 17-19 Anderson Street. Morgan, who was particularly interested in the craftsmanship of the business, only made ten boards per week. Each was custom built and, 'Because of the personal craftsmanship which goes into Morgan boards,' their price in the early 1970s was \$105, five dollars more than that charged by other manufacturers.

The fourth Torquay surfboard manufacturing firm, Klemm Bell was started by Terry Klemm and Reg Bell in 1965, at shops in Williamstown and Gardenvale. They opened the Torquay shop in Geelong Road in December 1970. By the 1970s, Klemm Bell was producing more surfboards than any other Torquay manufacturer. The firm's boards were tested by professional surfers. The success of this local industry was confirmed by the sale in 1973 of about 1800 surfboards for about \$180,000.

Another important development in the 1970s was the establishment of Quicksilver International by John Laws, the professional surfer earlier associated with Pyke. The new firm located at Baynes Court, Torquay, was founded by Laws and businessman Alan Green. This is one of the largest surfing firms in Australia and has an international reputation. Surfworld's Surfing Museum in Beach Road contains many heritage items related to this important Shire industry as does Surfing Australia in the Surf Coast Plaza.

History of the mural

In early 1996, the Surf Coast Shire had been approached by Surfers Appreciating Natural Environment (SANE) to paint a mural on the walls of the toilet block at the Bells Beach Reserve car park.⁶⁵ The Bells Beach Surfing Recreation Reserve Advisory Committee supported themes regarding water, nature and vegetation at the reserve and a 'semi-historical theme regarding surfing and a preservation theme – sea life – save the planet.'⁶⁶ The artists, Glenn Romanis and Mark Trinham were commissioned to devise and prepare the artwork and they were assisted by Tom Gittings and Flip Ernest.⁶⁷ The project was funded by SANE. The concept was to illustrate a hybrid of Indigenous mythology in the depiction of the Wanji spirit represented by the snake (Mindii) on land and the eel in the sea.⁶⁸ These mythical legends were surrounded by flora and fauna local to the area.

The narrative of the artwork was informed by Evan McKenzie. Although not a First Nation's person (he was avid supporter of reconciliation), at five years of age in 1921 a young First Nation's man from the Swan Hill area came to McKenzie's parent's farm at Clunes.⁶⁹ This visitor:

... told the stories his Grandfather had told him regarding trips his Ancestors had made to an area beyond Geelong for initiations and trading, also inter-marriage of the three tribes, the Watt-Watti [sic. Watti Watti] from what is now the Swan

⁶⁵ Minutes of the Meeting of the Bells Beach Surfing Recreation Reserve Advisory Committee, 12 February 1996, Surf Coast Shire & information on the explanatory panels on the toilet block.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Glenn Romanis & Mark Trinham, artists in phone discussion with David Rowe, 3 September 2021.

⁶⁹ E. McKenzie, 'Aboriginal History of the Bellarine Peninsula', manuscript, 1986, GRS 1147, Unit 3, Geelong Heritage Centre collection.

Hill area, the Joh-Jowerong [Djadja Wurrung] from the north central area (Clunes being near the centre) and the Watharwurong [sic. Wadawurrung] on the Bellarine.⁷⁰

In 1925, McKenzie visited the Bellarine Peninsula with a First Nation's person and found evidence of a cave and off shore rock where he had been told ceremonies were held.⁷¹ In later years, McKenzie had contact with many Indigenous people on large properties in the Riverina of New South Wales. In particular, he spent 'some time' with an elderly man on Yanga Station, Balranald, N.S.W.⁷² This man was a descendant of the Watti Watti people.⁷³ He told McKenzie of similar stories of initiation and ceremony. In 1961, McKenzie met another elderly Indigenous man at Tinley [sic. Finley], N.S.W., who gave him 'sacred items which had been used in ceremonies' on the Bellarine Peninsula (they were handed over to the Wathaurong Aboriginal Co-operative in 1992).⁷⁴ The cave and offshore rock associated with these ceremonies was claimed to have been known as "the home of "Wanji" the spirit who controlled life."⁷⁵

Further in relation to the story of Wanji, Evan McKenzie also stated:

When on land "Wanji" was said to take the form of a giant black snake, in the water a giant eel and travelled up into the sky on the rainbow.⁷⁶

The information passed to McKenzie was a basis for his fable, 'Warnjarrah's Journey Initiation'.⁷⁷ It features as one of the stone markers adjacent to the toilet block. The stone marker reads:

Warnjarrah's Journey Initiation
The old man sat in a distant camp, near the end of his lifetime
span. His mind wandering again down the Dreamtime track,
to the place where life began.
With men of his tribe he had travelled when young, to the
faraway Sacred Place, where from water and stone, sun, moon
and the stars, came the first of the human race.
The journey began over desert and plain, along river and
mountain stream. Seldom pausing for food, shelter or rest,
drawn on as though in a dream.
He saw once again the eagle on high, watch over Jahjowerong
Then a welcoming call was heard from afar, came from men
of the Watherwurong.
As they stood on the shore of the waters blue, the first he had
ever seen. Their leader said you may rest in peace,
we have reached the "Bellarine".
Refreshed and eager near Wanji Rock, they came to the
sacred cave. Where elders had gathered to help him prepare,
for the blessing the Wanji gave.
He lay on the rock where no shadows fall, through the heat of
the burning sun. Then as the light of the moon gave way to
dawn, he knew Wanji and he were one.
Though his eyes were dim his mind was clear, and recalled
the pride and joy. When he came back to his people with head held high.
As a man no longer a boy.

In recognition of Evan McKenzie for his contribution to reconciliation.

⁷⁰ Ibid.

⁷¹ Ibid. The specific location of the cave and rock have deliberately not been given in this analysis for cultural reasons.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ 'Artefacts returned to their rightful owners', *The Echo* newspaper, 5 February 1992 in McKenzie, op.cit.

⁷⁵ McKenzie, op.cit.

⁷⁶ Ibid.

⁷⁷ McKenzie had been an advocate for reconciliation and recognising the significance of the First Nation's people. For many years, he had 'fought for many years to win Government recognition and protection for archaeologically significant midden areas' on the Bellarine Peninsula. See *Geelong Advertiser*, 24 January 1979.



Warnjarrah's Journey Initiation' interpretive stone marker, 2018. Source: David Rowe

The artwork concept followed consultation with Reg Abrahams and Allan Browning of the Wathaurong Aboriginal Co-operative.⁷⁸ The Co-operative was then overseeing the administration of cultural heritage matters prior to the establishment of the Registered Aboriginal Party (now known as the Wadawurrung Traditional Owners Aboriginal Corporation), the imagery designed with their consent.⁷⁹ In addition to the stories by Evan McKenzie, particularly influential was information from Mrs Lou Lane, amateur archaeologist and expert in documenting Wadawurrung culture from the 1960s.⁸⁰ The aim of the artists was to try and 'make an ugly building look better' and to raise public awareness of Indigenous culture at this significant coastal reserve.⁸¹ Attached above the artwork on each wall are explanatory panels.⁸²

McKenzie's translation of the stories passed on to him in relation to the Wanji spirit as the snake and eel, and of an initiation journey, are subliminal and complex. The central narrative is of the rainbow serpent which ties together legends from Wadawurrung, Watti Watti and possibly the Jeithi and Wiradjuri Peoples (the area for the latter taking in the Riverina district, whose southern boundaries include the Murray River at Albury and Corowa and the Yorta Yorta, Baraba Baraba and Wemba Wemba Peoples, and nearby neighbours of the Watti Watti),⁸³ the Jeithi and Wiradjuri being the Countries of the elderly First Nations men referenced by McKenzie.

Wanji is the central and prominent figure in the artwork on the toilet block, and in addition to local flora and fauna, are supplemented by a central image of the rainbow on the rear (west) wall and the stories of Mindii the snake and of the initiation journey associated with the Wanji in the marine environment on the Bellarine Peninsula. Each of the Language Groups connected to the rainbow serpent legend in this narrative have some language affinities.⁸⁴ The Wadawurrung People, as part of the central Kulin Nation, is a language from the Geelong-Ballarat area. The Watti Watti People form part of the Western Kulin Nation of languages defined by the Mathi (Madimadi) group (being 'a group of tongues' spoken in the northwest of Victoria, the southwest of New South Wales and across the border in South Australia').⁸⁵ While the Mathi languages are distinguished from other languages, they shared a common Kulinic vocabulary known to have been

⁷⁸ R. Lucas, Surf Coast Shire, 'Outtakes from today's meeting' with Glenn Romanis and Mark Trinham, 25 July 2018, email, Surf Coast Shire.

⁷⁹ Ibid.

⁸⁰ *The Age*, 5 April 2015.

⁸¹ Ibid. & phone discussions by Glenn Romanis and Mark Trinham with David Rowe, 3 September 2021.

⁸² Mark Trinham, op.cit.

⁸³ D.R. Horton, *Map of Indigenous Australia*, Australian Institute of Aboriginal and Torres Strait Islander Studies, 1996 at <https://aiatsis.gov.au/explore/map-indigenous-australia>

⁸⁴ B.J. Blake, L. Hercus, S. Morey with E. Ryan, *The Mathi group of languages*, Pacific Linguistics, School of Culture, History and Language, College of Asia and the Pacific, The Australian National University, 2011, p.1.

⁸⁵ Ibid.

44% based on 100 words.⁸⁶ More direct associations with Wadawurrung creator spirits and legends have been identified with the Wiradjuri Nation. This area takes in the Riverina district referred to by McKenzie.

The rainbow serpent narrative connecting the Wadawurrung, Watti Watti and Wiradjuri is evidenced through 19th and early 20th century literature. In 1926, A.R. Radcliffe-Browne, anthropologist, published a short paper on the rainbow-serpent myth in Australia.⁸⁷ This was followed by further research and fieldwork, culminating in the paper entitled 'The Rainbow-Serpent Myth in South-East Australia.' This reference gives an insightful overview of the over-arching importance of the rainbow serpent relevant to the narrative of the artwork at Bells Beach:

This myth is a belief in a gigantic serpent which has its home in deep and permanent waterholes and represents the element of water which is of such vital importance to man in all parts of Australia. The serpent is often regarded as being visible to human eyes in the form of the rainbow. The rainbow-serpent as it appears in Australian belief may with some justification be described as occupying the position of a deity, and perhaps the most important nature-deity. In some tribes it is the object of a definite cult either as part of the totemic cult or as apart of the cult of the initiation ceremonies. In a considerable number of tribes it is the chief source or one of the chief sources of the magical powers possessed by the medicine-men. There is a very widespread association of quartz-crystals with the rainbow-serpent, and through Australia quartz-crystals are amongst the most important of the magical substances used by the medicine-men.

... In Wiradjeri, Wongaibon and Weilwan the rainbow-serpent was called wawi. The rainbow itself is called yulubirgi in Wongaibon, but is described as all the same as wawi. In the Kamilaroi and Yualarai tribes the name was karia, the rainbow itself being called yuluwiri. The same name karia also appears in the Kwiambal tribe. The Anedwan tribe of New England the rainbow-serpent was called kabulgan or abulgan.

... The rainbow-serpent lives in deep permanent lagoons and waterholes. In the New England tableland it is particularly associated with waterfalls, possibly because at such places rainbows may frequently been seen.

... Throughout these tribes there is a belief that the serpent will devour human beings who approach its home unless they are medicine-men. An informant in New England compared the kabulgan to a shark.

In all the tribes mentioned it was believed that the medicine-men derived their power from the rainbow-serpent. A man who had already obtain some magical power would go into the pool inhabited by the serpent.

... The most interesting point, however, is that a cult of the wawi or karia was often an element of the Bora or initiation ceremonies of the New South Wales tribes. Many of the sacred Bora grounds had a representation of the serpent in the form of a sinuous mound of earth up to forty feet or more in length. In preparation for the ceremony the serpent was painted. A ceremony took place at the spot and the beliefs about the rainbow-serpent were explained to the younger men who were attending the initiation.

... A Kamilaroi legend about a man who tried to kill a karia that lived in the Boobnera Lagoon near the Barwon River [New South Wales], and it is described as a snake-like monster of enormous proportions.

... The belief in the rainbow-serpent did, however, exist in the Victorian tribes. The name in this area is mindi, spelled Myndie or Mindii.

... It is clear however, from the above, that the myth was an important element of the native beliefs in this region. The rainbow-serpent may be said to be the most important representation of the creative and destructive power of nature, principally in connection with rain and water. It is apparently as such that it played a consideration part in the initiation ceremonies of some of the tribes in this region.⁸⁸

⁸⁶ Ibid., p.6.

⁸⁷ A.R. Radcliffe-Brown, 'The Rainbow-Serpent Myth of Australia' in *The Journal of the Royal Anthropological Institute of Greater Britain and Ireland*, vol. 56, 1926.

⁸⁸ A.R. Radcliffe-Brown, 'The Rainbow-Serpent Myth in South-East Australia', *Oceania*, vol.1, no.3, October – December 1930, Wiley, University of Sydney pp.342-347. Wanji (to which Wawi appears to have been derived by the Wiradjuri People), has an affinity in name and meaning with 'Wanjina', the source of Law for the Ngarinyin, Worrorra and Wunambul People in the north-west Kimberley coast of Western Australia ('Wandjina Spirit Images' in W. Fisher, Towards Global Protection for Traditional Knowledge, *Centre for International Governance Innovation (CIGI) Papers* No. 198, November 2018, p.6). 'Wandjina' is 'a powerful Rain Maker spirit', the 'most significant Creation Spirit associated with rain and therefore the seasonal regeneration of the land and all natural resources' (<https://japingkaaboriginalart.com/articles/wandjina/>) However, unlike the rainbow-serpent legend outlined, 'Wanjina' is depicted as a human-like figure and is a religious symbol specific to the the Ngarinyin, Worrorra and Wunambul People (Fisher, *op.cit*). Nevertheless, both Wanji and Wanjina are associated with water. Daisy Bates, in *The Passing of the Aborigines* in 1944, gave a detailed account of Wanji-wanji dance that made its way by 'a great aboriginal trade route' that 'circles the continent.' Bates further states that 'the Wanji-wanji came down along the river-heads' and 'was an ancient dream dance' which sometimes coincided with initiation ceremonies (p.125). The song associated with the Wanji-wanji dance traversed language groups and while Bates claimed it had petered out in the early 20th century, there is evidence of it continuing (either as song or discussion) through Western Australia, South Australia Northern Territory and central western New South Wales at Wilcannia (see Aboriginal Australia's smash hit that went viral, *The Conversation*, 20 March 2019 at <https://theconversation.com/aboriginal-australias-smash-hit-that-went-viral-112615>).

Further insight into the Wawi spirit of the Wiradjuri People (the spelling also having an affinity with 'Wanji') – claimed to be the longest continuing religious belief in the world⁸⁹ - is given by R.H. Mathews in *Ethnological Notes on the Aboriginal Tribes of New South Wales and Victoria* in 1905. This description included:

The Wawi is a serpent-like creature which lives in deep waterholes, and burrows into the bank, where he makes his den. He has a wife and children who camp close to him, but in a different place. A "doctor" or clever man can go and see the Wawi, but must not go near his family. When a man is going on a visit to this monster he must paint his body all over with red ochre. He then follows after the rainbow some day when there is a thunder-shower; and the end of the rainbow rest over the waterhole which is the Wawi's abode. The man then dives under the bank, where he finds the Wawi, who conducts him into his den and sings him a new song for the corroboree. The man repeats the song after the Wawi until he has learnt it sufficiently, and then starts back to his own people. When they see him returning, painted red and singing, they know he has been with the Wawi. The bard then takes a few of the other clever men with him into the bush and they strip pieces of bark off trees, and paint different devices upon them with coloured clays. The pieces of bark ornamented in this way are taken to the corroboree ground, and all the men dance, and sing the new song. This is how new songs and dances are obtained. The Wawi has the magic power of varying his size from a few inches up to prodigious proportions. The black streak in the Milky Way, towards the Southern Cross, is one of the ancestors of the Wawi. He encourages snakes and adds to bite the ... people.⁹⁰

Ultimately, the message portrayed on the Bells Beach toilet block in the Wanji as a marine spirit (although not necessarily an eel) about respecting the marine environment is consistent with the Wiradjuri legend that continues to the present day. As out in 'Wiradjuri Heritage Study':

Stories associated with the Rainbow Serpent are told to children at a young age to teach them where there is water in the landscape for drinking but also about the dangers of water and the respect needed to be shown for it and the creatures which inhabit it.⁹¹

The Wattt Wattt People of the Lower Murray region near Swan Hill also held similar beliefs in an aquatic legend associated with law keeping, the rainbow, medicine or 'clever' men, songlines and possibly initiation. In 1861, Peter Beveridge of Tyntyndyer Homestead near Swan Hill described this water spirit.⁹² For over ten years Beveridge had studied the culture and lifestyle of the Wattt Wattt people and neighbouring Language Groups⁹³ He claimed:

The [Wattt Wattt and other People of the Lower Murray] speak of a Water Spirit as well, whose presence is death to the beholder, unless he be one of the initiated, two or three of whom are to be found in each tribe. The initiated are termed Bungals, signifying doctors; occasionally these learned men disappear for two or three days together, and come back with bleared eyes and humid garments, and tell extraordinary stories of the wonders they beheld in the water spirit's domicile in the bottom of the river ...⁹⁴

Although the animal form of the Wattt Wattt water spirit was not described by Beveridge, in 1889 in his publication, *The Aborigines of Victoria and Riverina*, he referred to it as 'Konikatnie'.⁹⁵ Yet, 28 years earlier in 1861, W.E. Stanbridge in 'Some Particulars of the General Characteristics, Astronomy, and Mythology of the Tribes in the Central Part of Victoria' referred to astronomical names passed to him by the Boorong People in the Mallee Country near Lake Tyrell, west of Swan Hill (this being known as Wergaia Country today). 'War-ring' (Galaxy), partly represented 'two Mindii, enormous snakes which made the Murray (Millee) [River].'⁹⁶

The legend of the Mindii associated with First Nation's People in the Riverina was affirmed by Luise Hercus in 1970. In 'A Note on Madimadi' she stated:

A recently published work, *The Languages of Victoria: A Late Survey* contains a grammatical sketch of the Madimadi language, as well as some short texts and a vocabulary. Madimadi, called Mutmut by Tindale, was spoken in Western Victoria and in parts of the Riverina, and it is closely related to the other Western Kulin languages that were recorded, namely, Wembawemba and the Djadjala dialect of Wergiaia (from the Lake Hindmarsh area). Our main informant, Mr.

⁸⁹ Go Green Services, 'Wiradjuri Heritage Study', prepared for the Wagga Wagga Local Government Area of New South Wales, November 2002, p.62. The restored Wiradjuri name for the short-finned eel was not known to the authors of this study.

⁹⁰ R.H. Mathews, *Ethnological Notes on the Aboriginal Tribes of New South Wales and Victoria*, F.W. White, Sydney, 1905, p.162.

⁹¹ Go Green Services, op.cit., p.62.

⁹² P. Beveridge, 'Arts. VII. – A Few Notes on the Dialects, Habits, Customs, and Mythology of the Lower Murray Aborigines, *Transactions and Proceedings of the Royal Society of Victoria during the Years 1861 to 1864 inclusive*, vol. 6, 9 September 1861, p.10.

⁹³ D. Rowe & W. Jacobs, 'Tyntyndyer Homestead' Conservation Management Plan, prepared for Tyntyndyer Homestead Inc. on behalf of the Traditional & Title Owners, the Wattt Wattt Peoples, February 2018.

⁹⁴ Beveridge, op.cit., p.19.

⁹⁵ P. Beveridge, *The Aborigines of Victoria and Riverina, as seen by Peter Beveridge*, L.M. Hutchinson, Melbourne, 1889, pp.99-101.

⁹⁶ W.E. Stanbridge, 'Some Particulars of the General Characteristics, Astronomy, and Mythology of the Tribes in the Central Part of Victoria', *Transactions of the Ethnological Society of London*, vol.1, 1861, p.302.

Jack Long, is the last full-blood Madimadi man; he now has little practice in using his language and his recollections, though excellent are fragmentary. During a recent visit he recorded some more linguistic material ...

Jack Long related a Madimadi version of the story of mindai, the 'maned snake'. This creature is well-known in legends from many parts of Victoria and is variously called 'myndie', 'mindii', 'murndi' in earlier records, and its is described as having a huge long body and large head. The Madimadi version of the story of mindai is interesting for its linguistic content, and for the way it combines the old legend with newer material. Such adaptations are usually made by people to whom the mythology is still a reality that has to be reconciled with changed circumstances. This version of the mindai story also indicates that Bagjundi (Darling River) type of moiety system with the division into Bilgara and Magware extended into the Madimadi area. It had previously been known to exist among the neighbouring Dadidadi and Wadiwadi [Watti Watti].⁹⁷

Mindii is also known to be part of the legend of the Djadja Wurrung People whose territory shared a boundary with the Wadawurrung as part of the central Kulin Nation. Mindii was described as a 'large serpent'.⁹⁸

The legend of the Mindii is outlined in the nearby stone marker at the Djarrak (Bells Beach) Reserve (which is not included as a significant feature in the heritage registration). It reads:

Mindii.

A great powerful snake with a long body, giant head and three pronged tongue. A law keeper under the command of BUNJIL, the mighty wedge-tailed eagle.

Here within the KULIN nation, tribes feared the disease and death inflicted by MINDII's poisonous hiss. Coming from the north west, MINDII and/or its smaller helpers would hunt down those who broke tribal law. MINDII knew of everyone and could stretch long distances to find them.



Detail of 'Mindii' interpretive stone marker, 2018. Source: David Rowe.

⁹⁷ L.C. Hercus, 'A Note on Madimadi', *The Victorian Naturalist*, vol. 87, no.2, February 1970, pp.43, 45.

⁹⁸ Radcliffe-Brown, 'The Rainbow-Serpent Myth in South-East Australia', *op.cit.*, p.346.

Documentary evidence exists of the legend of the Mindii associated with the Wadawurrung. In 1878, Robert Brough Smyth, geologist, mining engineer, social commentator and Honorary Secretary to the Board for the Protection of Aborigines,⁹⁹ published *The Aborigines of Victoria* he gave the following on the Mindii:

The [Indigenous People] of the Melbourne district say that Myndie is a great snake – very long, very thick in the body, and very powerful ... He is known to all tribes, and all tribes are known to him; and when any tribe is very wicked, or when any tribe fails to overtake and kill wild blackfellows, then Pund-jel [Bundjil for Wadawurrung] makes Myndie give them diseases, or kills them, as he thinks fit. Myndie is not quite like a snake. He has a large head, and when he hisses and ejects poison, his tongue appears, which has three points ... Myndie has several little creatures of his own kind, which he sends out from time to time to carry diseases and afflictions into tribes which have not acted well in war or in peace. These little ones are very troublesome, but their visits are not so much dreaded as the visits of Myndie himself, who is very large, very powerful, and from whom no one can escape.¹⁰⁰

Many years prior to 1878, A.J. Skene, Surveyor-General, noted that when he pitched his camp near a water-hole near Pitfield (west of Rokewood), the Wadawurrung fled, as the Mindii had his abode in the waterhole, the close proximity of Skene's camp near the 'dreadful serpent' leading the Wadawurrung prophesise 'disasters to him and his party.'¹⁰¹

The most revealing local stories of Wadawurrung legends associated with respect, songs and possibly male initiation are those given by William Buckley in 1837. In reminiscing to George Langhorne, he stated:

There are however two imaginary Beings whom they [Wadawurrung] treat with a certain degree of respect. One of these is supposed to reside in a certain marsh and to be the author of all the songs which he makes known to them through his sons. The other is supposed to have charge of the Pole or Pillar by which the sky is propped - Just before the Europeans came to Port Phillip this personage was the subject of general conversation - it was reported among them that he had sent a message to the Tribe to send a certain number of tomahawks to enable him to prepare a new prop for the sky as the other had become rotten and their destruction was inevitable should the sky fall on them ...¹⁰²

As part of Wadawurrung story is the rainbow. It represents Binbeal, the son of Bundjil, the Creator Spirit who 'made the mountains and the rivers, and man and all the animals.'¹⁰³ Binbeal's wife represents the second rainbow which is sometimes more faint than the first.¹⁰⁴ In Wadawurrung Language, rainbow is known as 'Birnbial',¹⁰⁵ contemporary nomenclature for Binbeal To the Djadja wurrung, rainbow was known as 'tharakawuruw' (other versions being 'tharuk [turu/turuc]: a: wurw' meaning 'arm of sky'.¹⁰⁶ Further research may reveal further associations of Bells Beach – as 'Turrac/Djarrak – with the rainbow.

A key focus of the south wall is the eel identified as the Wanji spirit. Whether this is intended as a reimagining of the Wawi legend as an eel, or to reinforce the symbolism of the eel with journey and initiation (as told by the elderly indigenous men of the Riverina to Evan McKenzie), has not been explained. To the Wadawurrung, the eel is known as 'buniya'.¹⁰⁷ At Fyansford on the Barwon River is 'Bunniya Willock' (near Buckley's Falls), a feasting place of eels during their annual migration (this has also been confirmed by Hall in his description of the abundance of eels there in 1905). This terminology following Colonisation was first recorded by John Helder Wedge, surveyor and explorer, as the location of a waterfall. In 1835, Wedge explored the Geelong and the Barwon River in 1835 with William Buckley and two Wadawurrung males, Joan Joan and Diabering. It was at this location where Wedge also named the river Barwon, and the water fall, Buckleys Falls.¹⁰⁸ 'Bunniya Willock' was also marked on a Plan of Suburban Allotments in the

⁹⁹ M. Hoare, 'Smyth, Robert Brough (1830-1889)', *Australian Dictionary of Biography*, National Centre for Biography, Australian National University, <https://adb.anu.edu.au/biography/smyth-riber-brought-4621/text7609>, published first in hardcopy 1976, accessed online 5 September 2021.

¹⁰⁰ R.B. Smyth, *The Aborigines of Victoria: with Notes Relating to the Habits of the Natives of other Parts of Australia and Tasmania*, vol.1, J. Ferres, Melbourne, 1878, pp.444-445.

¹⁰¹ Ibid.

¹⁰² 'Reminiscences of James [sic. – William] Buckley who lived for Thirty Years among the Wallawarro or Watourong tribes communicated by him to George Langhorne', 1837, manuscript, MS 13483, State Library of Victoria. Langhorne was a missionary who arrived in Melbourne in January 1837. He incorrectly gave the Buckley's name as James Buckley.

¹⁰³ A. Massola, *Bunjil's cave: myths, legends and superstitions of the Aborigines of south-east Australia*, Landsdowne Press, Melbourne, 1968, p.60.

¹⁰⁴ Ibid.

¹⁰⁵ See Uncle Bert Fagan, Sean Fagan and Tammy Gilson, Wadawurrung Language App., Victorian Aboriginal Corporation for Languages, 2012 (recently updated). See also 'Specimens of the Language of the Barrabool Tribe, and List of the Members of the Tribe, collected about 1842, by Mrs. Davenport, daughter of the Late Capt. Sievwright, Assistant-Protector of Aborigines' in T.F. Bride (ed.), *Letters from Victorian Pioneers*, Trustees of the Public Library, Robt. S. Brain, Govt. Printer, Melbourne, 1898 where 'Tyerm' was given for rainbow.

¹⁰⁶ B.J. Blake, I.D. Clark & S.H. Krishan-Pillay, 'Wathawurrung: the language of the Geelong-Ballarat Area' in B.J. Blake (ed.), *Wathawurrung and the Colac Language of Southern Victoria*, *Pacific Linguistics*, Research School of Pacific & Asian Studies, The Australian National University, Canberra, 1998, p.48.

¹⁰⁷ Fagan et.al., op.cit. See also L. Lane, 'Aboriginal Place Names: Geelong & District', manuscript, Special Collections Library, Deakin University, 1991, p.6. See also Blake, Clark & Krishan-Pillay, op.cit., p.106 & Morgan, op.cit., pp.74-75.

¹⁰⁸ J. Bonwick, *Port Phillip Settlement*, Sampson Low, Martson, Searle & Rivington, London, 1883, p.251, 254, J. Morgan, op.cit. & I. Wynd, *Balla-wein: A history of the Shire of Bellarine to 1993*, 2nd ed., Bellarine On-Line for Bellarine Historical Society Inc., 2005.

Neighbourhood of Geelong in February 1839 by H.W.H. Smythe, surveyor,¹⁰⁹ the location aligning with Wedge's fieldbook.

'Bunniya Willock', located near waterfalls, has synergies with the rainbow-serpent stories of the New England tableland in New South Wales (see later subsection). Yet, no connection to the symbolism of the Wanji spirit as an eel with the Watti Watti People and other Madimadi Language Groups on the Murray River and Riverina has been identified. This is likely due to eels not inhabiting the Murray River (they were not known to inhabit the river by Traditional Owners).¹¹⁰ This is because the erratic eddy currents splits off from the main east Australian current and transport developing eel larvae through Bass Strait, the currents breaking down before reaching the mouth of the Murray River in South Australia. Hence, the natural absence of eels in the river.¹¹¹ The Murray River is known for lamprey, another serpentine fish.¹¹² Like Wadawurrung Country, eels are present in creeks and springs in Wiradjuri Country but like the Wadawurrung, were a food source.¹¹³

The portrayal of the eel as a spirit in the artwork of the Bells Beach toilet block seems to be symbolic as a literal expression of the cultural importance of the spiritual journey to Wadawurrung People. The spirit has been represented as a legend reimagined as Mindii the snake on earth and as an eel in water. In this latter form, the eel seems to represent resilience, being able to transition from the saltwater of the ocean into freshwater, and traverse swampy ground; and to transition in bodily form. It therefore seems to also symbolise the 'journey' narrative of the initiation story. Specific to Wadawurrung Country, T.S. Hall in 1905 'The Distribution of the Fresh-Water Eel in Australia and its Means of Dispersal' noted the journeys taken by eels:

I remember, as a boy, seeing an eel-fare at the rapids on the Barwon ['Bunniya Willock'], known as Buckley's Falls, a few miles out of Geelong. We caught dozens of them with our hands as they wriggled up the rocks in the damp places where the current was weak. They were ravenously hungry, and though only a couple of inches long, and as thin as a leather bootlace, we caught them on hooks baited with worms as large as themselves. I regret that I cannot say the time of the year when this took place.

Passing up the streams in these numbers they can in wet weather find their way all over the country, and it is doubtless in this manner that isolated holes are frequently reached. However, the larger eels will also travel over swampy ground for great distances. I quote another observation of my own. At Moolap [the western portion of the Bellarine Peninsula], some five miles east of Geelong, in a paddock I knew as a boy, was a slight depression, which in very wet weather was covered for about an acre with water up to one's knees. The water drained away along a furrow in a ploughed field, and two miles further on, over almost level country, entered a small drain about two feet deep. This, after a mile or so, entered the Reedy Lakes, which are a series of large swamps along the lower Barwon. Two small waterholes on the course of this drain were inhabited by two species of Galaxias, the small red-finned perch (*Microperca*), and an occasional eel. During one wet winter we caught an eel 18 inches long in the furrow near the swamp. This was three miles from the lakes, and the eel was in a plough furrow, a quarter of a mile from the nearest waterhole, in a mere trickle of water six inches broad and one or two deep. Naturally, in pouring rain, it could travel more widely and more easily.¹¹⁴

Ultimately, a lack of interpretation giving the specific cultural and historic context of the Koori mural on the toilet block – and in the heritage registration - confuses the intended meaning of the dominating central snake and eel figures. According to the artists, the focus of Mindii the snakes, and the eel, were to highlight the need for surfers and visitors to the Bells Beach Reserve to respect the environment: the land, sea, animals and vegetation; otherwise there would be consequences.¹¹⁵ This worthy meaning continues to be valued by Traditional Owners.

Analysis of the Koori Mural North Wall

As outlined in the explanatory panel, the central figure is the Wanji spirit represented by the red-bellied snake (known as Ka, Kaan or Kurn to the Wadawurrung), which, along with other flora and fauna depicted, is indigenous to the Djarrak (Bells Beach) Reserve.¹¹⁶ Centrally located is the wedge-tailed eagle (Bundjil) with the common bent-wing bat (Balayang) in the top left corner. In the bottom left corner is the echidna (mon.garrk), the red-browed firetail to the right. Also featured are southern right whales, grass trees (*Xanthorrhoea australis*) and black-anther flax lily (*Dianeella revoluta*)

¹⁰⁹ H.W.H. Smythe, Plan of Suburban Allotments in the Neighbourhood of Geelong, 10 February 1839, showing 'Bunniya Willock' at the Fyansford Village Reserve, VPRS 8168/P5, item Sydney B39A, Public Record Office Victoria.

¹¹⁰ 'Eels in the Murray', *The Argus*, 7 July 1905, p.7.

¹¹¹ Short-finned eel: A Guide to the Inland Angling Waters of Victoria online at <https://vfa.vic.gov.au/education/fish-species/short-finned-eel>

¹¹² T.S. Hall, 'The Distribution of the Fresh-Water Eel in Australia and its Means of Dispersal', *The Victorian Naturalist*, vol. 22, 1905, pp.81-82.

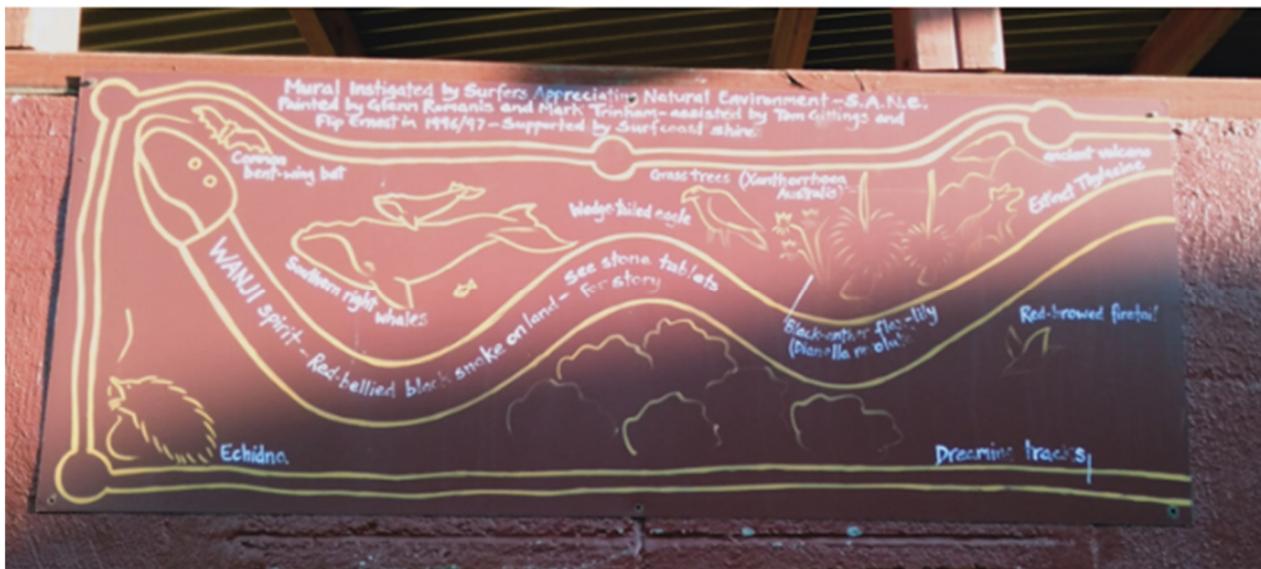
¹¹³ Go Green Services, op.cit., p.47.

¹¹⁴ Hall, op.cit., pp.80-81.

¹¹⁵ Romanis & Trinham, op.cit.

¹¹⁶ Wadawurrung nomenclature applied to the flora and fauna has been taken from L. Lane, 'Anglesea: Notes for Glenn Romanis', manuscript, 1998, Special Collection Library, Deakin University.

(Murm: Bal).¹¹⁷ In the upper right is the extinct Thylacine (*Thylacinus cynocephalus*). Commonly known as the Tasmanian Tiger, archaeological evidence of the Thylacine was discovered in the cliff face at Portarlinton in the late 20th century.¹¹⁸ It had been extinct from mainland Australia for at least 1000 years. Prior to then, it had been common across Australia.¹¹⁹ Framing the top, bottom and left side of the panel are Dreaming tracks.



North wall, detail of explanatory panel, 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



Bells Beach Car Park toilet block, north elevation, 2018. Source: David Rowe.

¹¹⁷ Ibid.

¹¹⁸ L. Lane, 'Tale-endings to the Beangla-stories, text of an address to the Queenscliff Historical Society on October 27th, 1994, Special Collection library, Deakin University.

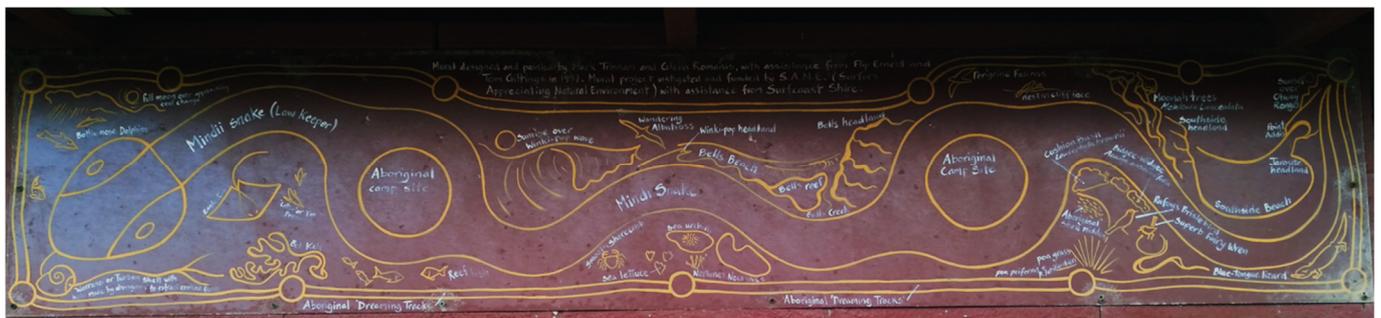
¹¹⁹ Ibid.



Detail of artwork on north elevation of the toilet block, 2018. Source: David Rowe.

East Wall

Mindii the snake (law keeper) is the central figure in the east panel. It is surrounded by marine flora and fauna including sea lettuce, Neptunes Necklace, Kelp, poa grass, Cushion Bush, Moonah trees, wandering albatross, smooth shore crack, sea urchin, reef fish, Rufous Bristlebird, Superb Fairy Wren, Bottle-nose dolphins, Blue-tongued lizard, and Peregrine Falcons. Within the snake are two circles. They represent the two known camp sites (identified by the middens) near the toilet block. Symbolically, these circles represent meeting and feasting places surrounded by the snake to ensure the law is kept. Other imagery includes a geographical map of the coastline from the Winki-pop headland, Bells Reef, Bells headland, southern side headland, southside beach, jarosite headland, Point Addis and the sunset over the Otway Ranges, the whole panel being framed by Dreaming tracks (the nearby Ironbark forests being a physical connection of the Dreaming on Country, these trees being known to the Wadawurrung as Yirip).



East wall, detail of explanatory panel, 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



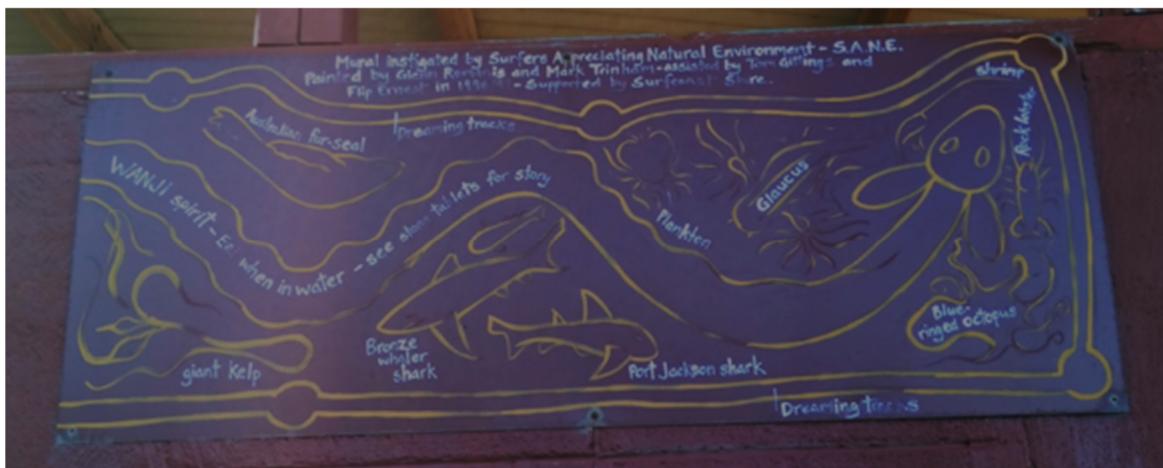
Detail of the artwork on the east wall. Source: Surf Coast Shire.



Bells Beach Car Park toilet block, east elevation, 2018. Source: David Rowe.

South Wall

The dominant figure of the south panel is Wanji the Spirit eel. Framed by Dreaming tracks at the top, bottom and right, the eel is surrounded by bronze whale and Port Jackson sharks (banip),¹²⁰ giant kelp, Australian fur seal, plankton, glaucous rock lobster, shrimp and blue-ringed octopus.



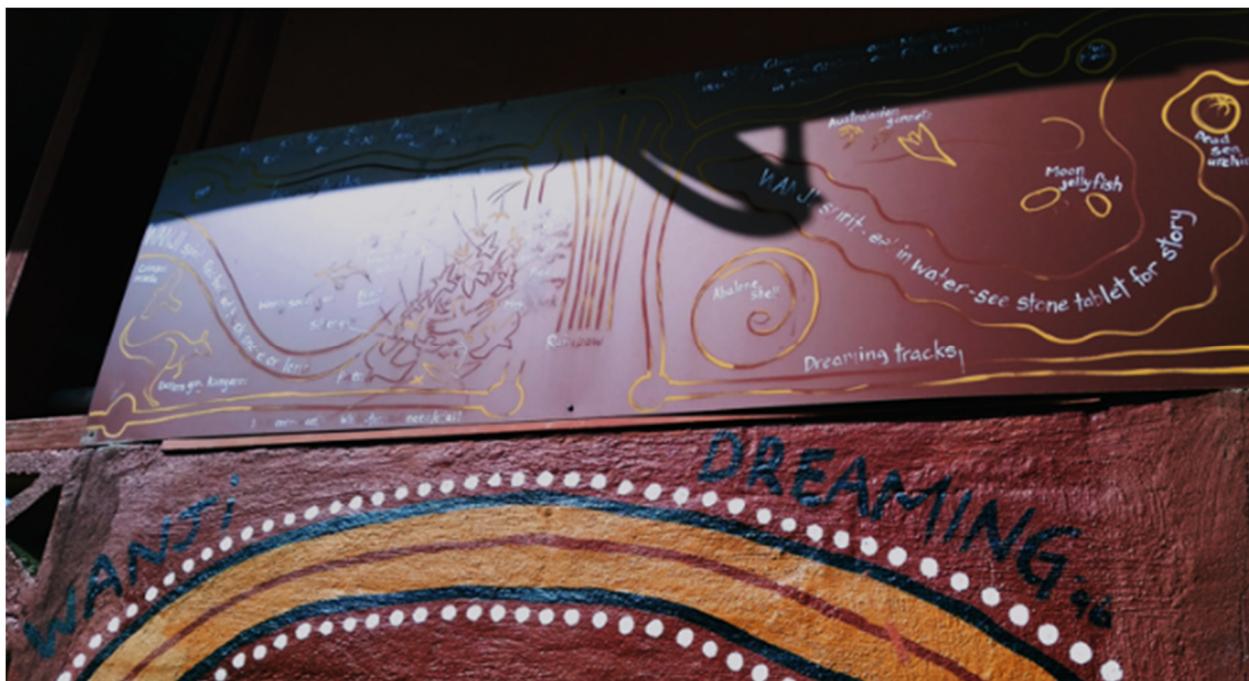
Explanatory panel, south wall, 2021. Source: Gabrielle O'Shea, Surf Coast Shire.

West Wall

The rear panel is comprised of two narratives separated in the centre by the rainbow culminating at the top with the words WANJI DREAMING. Both scenes are framed by Dreaming tracks. The northern (left) portion has Wanji spirit the red-bellied black snake on land as the central figure. This scene also includes the Eastern Grey Kangaroo, Crimson rosella, Weedy sea dragon, Silver gull, black swan, Yellow-tailed black cockatoo, pelican, Australasian gannet, Albatross, White-

¹²⁰ Blake, et.al., *op.cit.*, p.39. Other names for the shark are given in D. Bunce, *Language of the Aborigines of the Colony of Victoria, and other Australian Districts*, Slater, Williams, and Hodgson, Melbourne & Castlemaine, 1856 & 2nd edn., Thomas Brown, Geelong, 1859 & L. Lane, 'History with some echoes of a lost local language', Kardinia Prehistoric Society, 1999-2001, Special Collections Library, Deakin University.

bellied sea gulls and Pied currawong. The southern (right) portion has Wanji spirit – eel in water as the central feature. The scene also includes Abalone shell, moon jellyfish, Australasian gannets and Dead sea urchin.



Explanatory panel, west wall, 2021. Source: Gabrielle O'Shea, Surf Coast Shire.



Bells Beach Car Park Toilet Block, west elevation, north end, 2021. Source: Gabrielle O'Shea.



Bells Beach Car Park Toilet Block, west elevation, south end, 2021. Source: Gabrielle O'Shea.

Public Perceptions of the Artwork

According to the artists, during painting in the 1990s they experienced criticism and abuse from members of the public for the Indigenous focus of the artwork.¹²¹ An aim had been to raise awareness of the significance of Indigenous culture. In 2018, a Pop Up Survey of the Bells Beach Recreation Reserve was undertaken and involved 502 participants.¹²² The results formed the basis for a 'Survey Report: Bells Beach Surfing Recreation Reserve Coastal Management Plan Review' by Dee Johnson. In relation to the demolition of the existing toilet block (and therefore the removal of the artwork) there was a majority of responses (34.9% to demolish and construct a new facility on the same site, and an additional 32.1% to demolish and construct a new facility in a new location).¹²³ Eleven participants liked the mural and/or sought its preservation. Importantly, 53% (266) of the respondents highly supported 'improving knowledge of the indigenous, surfing and environmental values of Bells Beach Reserve.'¹²⁴ The type of interpretation material supported included on-site story telling (15.2%), on site signage (12.2%), site creative works such as symbols in stone and wood (26.7%), and materials at the Australian National Surfing Museum, Torquay (16.6%).¹²⁵ Twenty-one of the respondents commented that the 'Wadawurrung community should decide' on any new interpretation.¹²⁶ This Survey has revealed a greater respect and appreciation for acknowledging Wadawurrung culture at the Bells Beach Reserve, the existing artwork having been a catalyst for raising public awareness as well as highlighting the need for Wadawurrung content specific to Bells Beach Country.

Condition and Conservation Issues with the Artwork

The artists, Glenn Romanis and Mark Trinham, have carried out maintenance on the painted artwork since it was completed 22 years ago.¹²⁷ The exposure to the marine environment, lateral movement in the brick walls, salt build up behind the paint, and paint having been applied to a utilitarian brick structure not intended for this purpose have also created challenges in retaining the integrity of the existing artwork. The continuous peeling of paint and cracks in the

¹²¹ Trinham, op.cit.

¹²² D. Johnson, 'Survey Report: Bells Beach Surfing Recreation Reserve Coastal Management Plan Review', prepared for the Surf Coast Shire, October 2018.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Lucas, op.cit.

walls necessitates conservation measures or the deliberate neglect artwork, allowing it to disintegrate over time. GHD Engineers prepared a structural inspection of the toilet block in 2016. Its findings were:

- Horizontal cracking in the mortar bed of masonry walls. In some cases, this appears to be a result of corrosion propagation to the base plates of the roof tie down bars that are embedded into the brick wall.
- Vertical cracking of wall on eastern wall due to ground settlement of the north-east corner.
- Minor corrosion observed in steel lintel of doorway on west side and resultant cracking to the brick joints at the side of lintel.
- There is evidence of previous crack repair prior to painting of the wall mural which was completed in 1996. This indicates that cracking from movement is not a recent occurrence and there are no signs of further cracking in recent years, which suggests that the cracking is a result of seasonal soil movements.¹²⁸

While conservation measures might be considered in mitigating ongoing deterioration in the artwork caused by the marine environment, this will not overcome the issues of lateral movement and resultant cracking in the walls. Allowing the artwork to fade and peel over time is considered to be culturally insensitive to the Wadawurrung Traditional Owners Aboriginal Corporation. The artists, Romanis and Trinham consider the artwork to be ephemeral, and so measures for the ongoing protection of the mural do not align with the views of the artists.¹²⁹

Wadawurrung Traditional Owners Aboriginal Corporation

The Wadawurrung Traditional Owners Aboriginal Corporation recognises that the intention of the artists and others involved in its preparation was to highlight respect for the local environment and celebrate a hybrid of Indigenous culture relating to spirit legends and initiation stories. However, this has created some confusion in the cultural meaning specific to the Djarrak (Bells Beach) Reserve as recognised by the Wadawurrung Traditional Owners Aboriginal Corporation.

The wedge-tailed eagle, white-lipped and red-bellied snakes, rat (*Rattus fuscipies*), echnida and other fauna depicted in the artwork are indigenous to the Djarrak (Bells Beach) Reserve, the illustrations of flora and marine life also being indigenous to this coastal area. This gives evidence of the knowledge of the Traditional Owners as part of the concept, and is not in dispute. The prominence of the snakes (Mindii) is symbolic in Wadawurrung legend but when combined with other figures and their locations, the narrative may be misleading. On the north wall, Bundjil the wedge-tailed eagle is shown as a small figure sitting on Mindii (red-bellied snake). Bundjil is the all-powerful Spirit who created the mountains and streams and the stories of all living things, and is one of two principal Moieties (Balluk) of the Wadawurrung People (the other being Waa the crow).¹³⁰ The diminutive scale of Bundjil is not considered to sufficiently reflect the cultural significance of this Creator Spirit. Caught in the tongue of the snake is a bat. To the Wadawurrung, the bat is the brother of Bundjil and the Spiritual Protector of Wadawurrung men and creator of the first women.¹³¹ The image of the bat (a Spiritual male protector) about to be devoured by the snake does not align with Creation Story (it was placed there by the artists solely as a design feature), and given the symbolism associated with Mindii, can give an allusion of male wrongdoing associated with the Bells Beach Reserve rather than ensuring respect for Country, and possibly initiation. Although the Creation Story is that Balayang was in opposition to Bundjil (Balayang being associated with the crow, Waa, and the opposite moiety to the eagle, Bundjil), the symbolism of Balayang as a Spiritual Protector of Wadawurrung men is undermined in the image. The dominance of the snake imagery can imply that the Bells Beach Reserve is a place of punishment given that there is no explanatory interpretation of the original symbolic message intended. This has led to the artwork having multiple symbolism, some of which is not recognised as part of the significance of the place by the Wadawurrung Traditional Owners Aboriginal Corporation.

The Wanji story is highly significant to Wadawurrung story. However, the narrative of the rainbow-serpent and initiation outlined in the artwork and in the stone markers is more specific to the Bellarine Peninsula. It is not suggested that the Bells Beach Reserve does not share similar associations with Wadawurrung spirit legends, but they have not been confirmed. While the serpent figure depicted on land – Mindii – is an accurate depiction known to Wadawurrung People, the spirit legend shown as an eel is more fully recognised in other parts of Wadawurrung Country. This depiction varies from the other amphibious legend, Bunyip, which devoured humans and took the form of ‘an ursine seal which lowed like

¹²⁸ J. Kersten, Site Surveillance Form', GHD, 22 April 2016, Surf Coast Shire collection.

¹²⁹ Lucas, op.cit.

¹³⁰ L. Lane, 'The Wathaurung: Geelong's earliest inhabitants', text of an address to the Geelong Historical Society, 22 March 1988, public reading room shelves, Geelong Heritage Centre & Lane, 'The Inhabitants of Terra Nullius', *Investigator: Magazine of the Geelong Historical Society*, vol. 29, no.4, December 1994.

¹³¹ B. & M. Nicholson, "Wurundjeri's Cultural Heritage of the Melton Area", manuscript, 2016 online at [file:///C:/Users/User/Downloads/Bill-and-Mandy-Nicholson-January-2018%20\(1\).pdf](file:///C:/Users/User/Downloads/Bill-and-Mandy-Nicholson-January-2018%20(1).pdf) See also Mudrooroo, *Aboriginal mythology: An A-Z spanning the history of the Australian Aboriginal people from the earliest legends to the present day*, Thorsons, London, 1994, p.10 in 'Balayang', Wikipedia at <https://en.wikipedia.org/wiki/Balayang> & A. Massola, *Bunjil's Cave: Myths, legends and superstitions of the Aborigines of south-east Australia*, Landsown Press, Melbourne, 1968.

a calf' and was claimed to inhabit Lake Modewarre, Waurin Ponds Creek and the Moorabool River in Wadawurrung Country.¹³²

The lack of interpretation also alludes to symbolism of punishment as opposed to symbolism of respect, particularly given the key figures and sizes and locations of some of these figures. An accurate photographic record of the existing artwork, together with supporting interpretation for public display at an agreed location in the Surf Coast Shire (as part of the contemporary story of Bells Beach) is suggested. Equally importantly, consideration should be given to interpreting a new version of the Wanji story in its more accurate location of the Bellarine Peninsula. Ultimately, this should be determined the Wadawurrung Traditional Owners Aboriginal Corporation as part of self-determination.

Opportunities are available for the meaningful interpretation of the cultural significance of the Bells Beach area that is supported and developed by the Wadawurrung Traditional Owners Aboriginal Corporation.

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¹³² Lane, 'History with some echoes of a lost local language', op.cit. See also Morgan, op.cit., p.48. William Buckley described the Bunyip as 'a very extraordinary amphibious animal' being 'about the size of a full grown calf.'

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Appendix 2: Existing registration details

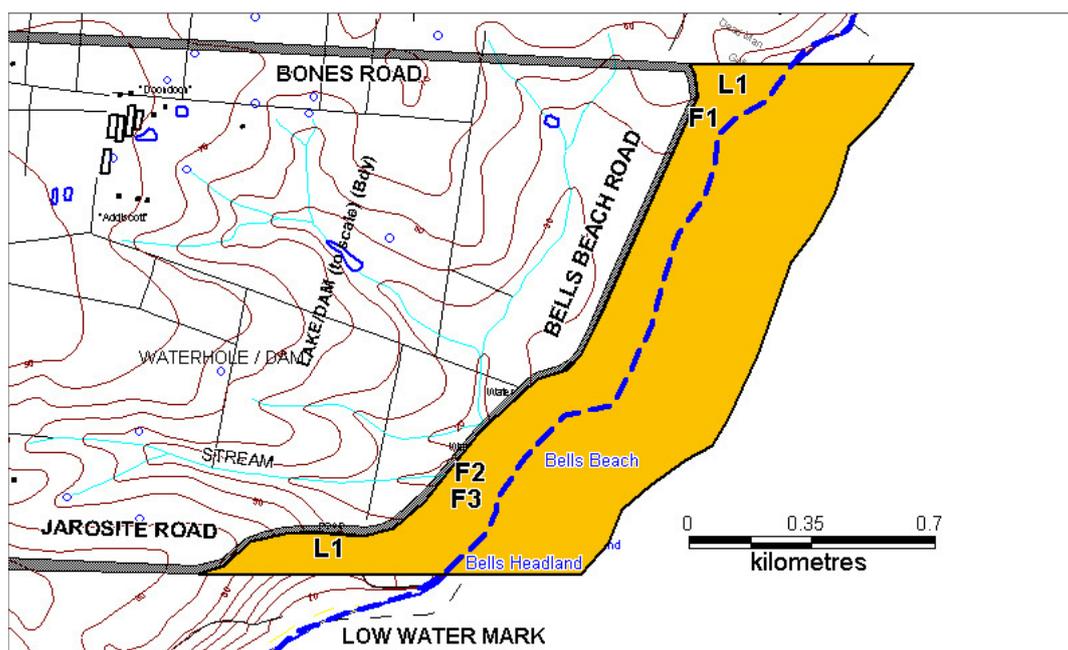
Existing extent of registration

1. All the land marked L1 being Crown land included in the Bells Beach Surf Beach Reserve RS09484, and a coastal strip from the low water mark 400m seaward, as shown on diagram 2032 held by the Executive Director.

2. All the features marked as follows on diagram 2032 held by the Executive Director: F1 Wave sign; F2 mural; F3 three Spirit of Surfing sandstone markers.

(10 July 2003)

Existing extent diagram



Existing statement of significance

What is significant?

Bells Beach Surfing Recreation Reserve, located about five kilometres southwest of Torquay, comprises a high concentration of quality surfing spots from Southside to Steps Reef including Centreside, Bells (Rincon, The Bowl) and Winki Pop (Uppers and Lower). Swells from the southern ocean slow and steepen over the reef strewn shallows to form consistent, rideable waves and the surrounding environment provides excellent viewing from a natural amphitheatre. The roots of surfing in Victoria are in the Torquay/Surf Coast area beginning at Lorne in 1920. From as early as 1939 pioneer surfers from the Torquay Surf Lifesaving Club struggled to the inaccessible Bells Beach from the sea and the land until in 1960 Joe Sweeney, ex-Olympic wrestler and Torquay SLSC member, organised the bulldozing of an access track.

In January 1961 the first surfing event was held, and in 1962 the first annual Bells Beach Easter competition took advantage of the consistent autumn conditions and the full moon high tides. Photographs of the six metre waves for the 1965 competition were widely distributed and established Bells Beach's international reputation as a world class big wave venue such that surfers from Australia and around the world flocked to catch 'Bells boomers'. In 1970 Bells Beach was the first Australian venue for the World Surfing Titles. In 1981 surfing professional Simon Anderson won the Bells Beach Easter competition in testing six metre swells on a radical three-finned 'Thruster' performance enhancing board. This type of board has remained accepted internationally as the standard for high performance surfboards. Since 1991 the Bells Beach Easter competition has been recognised as the world's longest running surfing competition.

The physical development of Bells Beach has remained low key with a high value placed on the protection and regeneration of the indigenous landscape. The 'Wave' sign, the 'Spirit of Surfing' sandstone markers and the Koori mural by local artists are significant cultural markers. The creation of the Bells Beach Surfing Recreation Reserve (a world first) in 1973, the recognition of its environmental excellence, and even the creation of the Surf Coast Shire 1995 bear testimony to the special place of surfing and Bells Beach in Victorian social history.

How is it significant?

Bells Beach Surfing Recreation Reserve is of social and historical significance to the State of Victoria.

Why is it significant?

Bells Beach Surfing Recreation Reserve is a landscape that is socially significant as an international icon of Australian surfing culture. Bells Beach Surfing Recreation Reserve is socially and historically significant as the location of the world's longest continuous running surf competition. The Bells Beach Easter competition has world-renown and in terms of prestige and aura is often referred to as 'the Wimbledon of surfing'.

Bells Beach Surfing Recreation Reserve has historic significance to the development of surfboard and wetsuit technology. The Bells Beach conditions led to important developments in the surfing industry which now makes the nearby town of Torquay the home to the multi-million dollar surf manufacturing industry, and the site of the headquarters of major surfing companies.

Existing permit policy and permit exemptions

- Management and works in accordance with *Environmental Management Plan for the Rip Curl Pro*.
- Removal of plants listed as noxious weeds in the *Catchment and Land Protection Act 1994*.
- Repairs, conservation and maintenance to hard landscape elements, buildings, structures, monuments, roads and paths.

Appendix 3: Important information for owners and interested parties

Heritage Council determination (section 49)

The Heritage Council is an independent statutory body that will make a determination on this recommendation under section 49 of the Act. It will consider the recommendation after a period of 60 days from the date the notice of recommendation is published on its [website](#) under section 41.

Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the [Heritage Council's website](#). The owner can also make a submission about proposed permit exemptions (Section 40(4)(d)).

Consideration of submissions to the Heritage Council (section 46)

(1) The Heritage Council must consider—

- (a) any written submission made to it under section 44; and
- (b) any further information provided to the Heritage Council in response to a request under section 45.

Conduct of hearings by Heritage Council in relation to a recommendation (section 46A)

(1) The Heritage Council may conduct a hearing in relation to a recommendation under section 37, 38 or 39 in any circumstances that the Heritage Council considers appropriate.

(2) The Heritage Council must conduct a hearing if—

- (a) a submission made to it under section 44 includes a request for a hearing before the Heritage Council; and
- (b) the submission is made by a person or body with a real or substantial interest in the place, object or land that is the subject of the submission.

Determinations of the Heritage Council (section 49)

(1) After considering a recommendation that a place, object or land should or should not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing, the Heritage Council may—

- (a) determine that the place or object is of State-level cultural heritage significance and is to be included in the Heritage Register; or

(ab) in the case of a place, determine that—

- (i) part of the place is of State-level cultural heritage significance and is to be included in the Heritage Register; and
- (ii) part of the place is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

(ac) in the case of an object, determine that—

- (i) part of the object is of State-level cultural heritage significance and is to be included in the Heritage Register; and
- (ii) part of the object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (b) determine that the place or object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (c) in the case of a recommendation in respect of a place, determine that the place or part of the place is not to be included in the Heritage Register but—
 - (i) refer the recommendation and any submissions to the relevant planning authority or the Minister administering the Planning and Environment Act 1987 to consider the inclusion of the place or part of the place in a planning scheme in accordance with the objectives set out in section 4(1)(d) of that Act; or
 - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place or part of the place; or
 - (ca) in the case of a recommendation in respect of an object nominated under section 27A, determine that the object, or part of the object, is to be included in the Heritage Register if it is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register; or
 - (d) in the case of a recommendation in respect of additional land nominated under section 27B, determine that the additional land, or any part of the additional land, is to be included in the Heritage Register if—
 - (i) the State-level cultural heritage significance of the place, or part of the place, would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
 - (ii) the additional land or any part of the additional land surrounding the place, or part of the place, is important to the protection or conservation of the place or contributes to the understanding of the place.
- (2) The Heritage Council must make a determination under subsection (1)—
- (a) within 40 days after the date on which written submissions may be made under section 44; or
 - (b) if any hearing is conducted, within 90 days after the completion of the hearing.
- (3) A determination made under subsection (1)(a), (ab), (ac), (ca) or (d)—
- (a) may include categories of works or activities which may be carried out in relation to a place, object or land, or part of a place, object or land, for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place, object or land; and
 - (b) must include a statement of the reasons for the making of the determination.
- (4) If the Heritage Council determines to include a place, or part of a place, in the Heritage Register, the Heritage Council may also determine to include land that is not the subject of a nomination under section 27B in the Heritage Register as part of the place if—
- (a) the land is ancillary to the place; and
 - (b) the person who owns the place, or part of the place—
 - (i) is the owner of the land; and
 - (ii) consents to its inclusion.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

Obligations of owners (section 42, 42A, 42B, 42C, 42D)

42 Obligations of owners—to advise of works, permits etc. on foot when statement of recommendation given

- (1) The owner of a place, object or land to whom a statement of recommendation has been given must advise the Executive Director in writing of—

- (a) any works or activities that are being carried out in relation to the place, object or land at the time the statement is given; and
- (b) if the place, object or land is a place or additional land, any application for a planning permit or a building permit, or any application for an amendment to a planning permit or a building permit, that has been made in relation to the place or additional land but not determined at the time the statement is given; and
- (c) any works or activities that are proposed to be carried out in relation to the place, object or land at the time the statement is given.

(2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.

42A Obligations of owners before determination or inclusion in the Heritage Register—to advise of permits

(1) This section applies if—

- (a) an owner of any of the following is given a statement of recommendation—
 - (i) a place or object nominated under section 27;
 - (ii) an object nominated under section 27A;
 - (iii) land nominated under section 27B; and
- (b) any of the following occurs within the statement of recommendation period in relation to the place, object or land—
 - (i) the making of an application for a planning permit or a building permit;
 - (ii) the making of an application for an amendment to a planning permit or a building permit;
 - (iii) the grant of a planning permit or building permit;
 - (iv) the grant of an amendment to a planning permit or building permit.

(2) The owner must advise the Executive Director in writing of—

- (a) the making of an application referred to in subsection (1)(b)(i) or (ii), within 10 days of the making of the application; or
- (b) a grant referred to in subsection (1)(b)(iii) or (iv), within 10 days of the owner becoming aware of the grant.

42B Obligations of owners before determination or inclusion in the Heritage Register—to advise of activities

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period it is proposed that activities that could harm the place, object or land be carried out.

(2) The owner, not less than 10 days before carrying out the activities, must advise the Executive Director in writing of the proposal to do so.

42C Obligations of owners before determination or inclusion in the Heritage Register—to advise of proposal to dispose

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period a proposal is made to dispose of the whole or any part of the place, object or land.

(2) The owner, within 10 days after entering into an agreement, arrangement or understanding for the disposal of the whole or any part of the place, object or land, must advise the Executive Director in writing of the proposal to do so.

42D Obligations of owners before determination or inclusion in the Heritage Register—requirement to give statement to purchaser

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) the owner proposes to dispose of the whole or any part of the place, object or land within the statement of recommendation period.

(2) Before entering into an agreement, arrangement or understanding to dispose of the whole or any part of the place, object or land during the statement of recommendation period, the owner must give a copy of the statement of recommendation to the person who, under the proposed agreement, arrangement or understanding, is to acquire the place, object or land or part of the place, object or land.

Owners of places and objects must comply with obligations (section 43)

An owner of a place, object or land who is subject to an obligation under section 42, 42A, 42B, 42C or 42D must comply with that obligation.

Penalty: In the case of a natural person, 120 penalty units;
 In the case of a body corporate, 240 pena