



**MORNINGTON
PENINSULA**
Shire

AGENDA

UNSCHEDULED COUNCIL MEETING

MONDAY, 9 SEPTEMBER 2024

6:30 PM

**MUNICIPAL OFFICES
BESGROVE STREET, ROSEBUD**

MORNINGTON PENINSULA SHIRE COUNCIL

WARDS AND COUNCILLORS

Briars	Cr Steve Holland Cr Anthony Marsh Cr Despi O'Connor
Cerberus	Cr Lisa Dixon
Nepean	Cr Susan Bissinger Cr Sarah Race
Red Hill	Cr David Gill
Seawinds	Cr Simon Brooks Cr Antonella Celi Cr Debra Mar
Watson	Cr Kate Roper

EXECUTIVE TEAM

Mr John Baker Ms Tanya Scicluna Ms Sam Stanton Ms Katanya Barlow Mr Derek Rotter Mr Bulent Oz	Chief Executive Officer Director – Community Strengthening Director – Corporate Strategy and Business Improvement Acting Director – Planning and Environment Acting Director - Infrastructure Chief Financial Officer
--	--

RECORDING

Please note that this Council Meeting will be livestreamed to the Mornington Peninsula Shire's YouTube channel and a recording of the meeting will be available on the Shire's website.

Recording of persons in the public gallery is not intended but may occur incidentally. By attending this meeting, you consent to being filmed at the meeting and the possible use of subsequent recordings in a live streaming or published video of the meeting.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	OPENING AND WELCOME.....	5
1.1	Acknowledgement of Country.....	5
2	PROCEDURAL MATTERS	6
2.1	Apologies	6
2.2	Disclosure of Conflicts of Interest Pursuant to Sections 126 – 131 of the <i>Local Government Act 2020</i>	6
3	MANAGEMENT REPORTS	7
	INFRASTRUCTURE.....	7
3.1	CN2808 - Minor Civil Works Contractor Panel	7
3.2	CN2807 - Major Civil Works Contractor Panel	13
	COMMUNITY STRENGTHENING	19
3.3	Final Community Facilities Infrastructure Strategy for Adoption.....	19
	OFFICE OF THE CEO.....	27
3.4	Property Sale - 1 Cooma Street, Crib Point - Community Consultation Submission.....	27
3.5	Instrument of Delegation	31
	PLANNING & ENVIRONMENT	35
3.6	Planning Application P04/0289.03 - 810 Boneo Road, Boneo - Use and development of a leisure and recreation facility, restaurant, function centre and caravan park expansion.....	35
3.7	Planning Application P22/2486 – 211 Sandy Point Road, Somers – Development of a Telecommunications Facility	87
3.8	Planning Permit Application - P23/0563 - 2855 Frankston-Flinders Road Balnarring - Development of a Telecommunications Facility	101
3.9	Planning Permit Application - P22/2377 - Lonsdale Street on-ramp to the Mornington Peninsula Freeway, McCrae - Development of a Telecommunications Facility and creation of access to a road in a Transport Zone 2.....	117
3.10	Planning Application P23/2644 - 100 Roberts Road, Main Ridge - Use and development of a dwelling and development of outbuildings associated with Horse Husbandry	143
3.11	Planning Application P97/1029.10 - 1385 Mornington-Flinders Road, Main Ridge - Amendment to hours of operation for existing restaurant	156
3.12	Shaping Greater Dromana Plan - Community Consultation Outcomes	177

4 CONFIDENTIAL ITEMS 192

1 OPENING AND WELCOME

Appointed Chairperson – Mayor, Cr Simon Brooks

1.1 Acknowledgement of Country

To be read by Cr Race

Mornington Peninsula Shire acknowledges the Bunurong people, who have been the custodians of this land for many thousands of years; and pays respect to their elders past and present. We acknowledge that the land on which we meet is the place of age-old ceremonies, celebrations, initiation and renewal; and that the Bunurong peoples' living culture continues to have a unique role in the life of this region..

2 PROCEDURAL MATTERS

2.1 Apologies

2.2 Disclosure of Conflicts of Interest Pursuant to Sections 126 – 131 of the *Local Government Act 2020*

3 MANAGEMENT REPORTS

INFRASTRUCTURE

3.1 CN2808 - Minor Civil Works Contractor Panel

Prepared By	Elliott Reid, Acting Manager - Infrastructure Projects
Authorised By	Acting Director - Infrastructure
Document ID	A13233022
Briefing Note Number	BN1875 – 23 April 2024
Attachment(s)	1. CN2808 - Minor Civil Works Contractor Panel - Confidential Recommendation Report (confidential)

EXECUTIVE SUMMARY

The purpose of this report is to accept tender submissions to be part of the Minor Civil Works Contractor Panel.

The Minor Civil Works Contractor Panel is being established to facilitate the delivery of minor works, including signage, concreting, landscaping, traffic management, minor drainage works, and miscellaneous tasks such as retaining walls, fencing, picnic furniture, and boardwalk repairs.

The majority of individual projects under this panel are anticipated to be less than \$20,000 each. However, to accommodate larger-scale elements, the panel could be utilised for individual projects up to \$300,000 (including GST).

The panel will be for a contract term of four years with an option to extend for a further two years plus a further option to extend again for two more years (maximum term of contract is 8 years).

RECOMMENDATION

That Council:

- 1. Having considered all tender submissions, hereby accepts the tender submissions received from Tenderers 1, 4, 5, 6, 9, 11, 12, 14, 15, 18, 19, 20, 28, 29, 31, 32, 33, 34, 36, 38, 40, 41, 42, 43 to be accepted on the Minor Civil Works Contractor Panel.**
- 2. Delegates the execution of the contract for the awarded tenderers to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.**

Part B

That Council resolves that Attachment 1 to this report be retained as a confidential item pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as it contains private commercial information, being information provided by a business, commercial or financial undertaking that if released, would reasonably expose the business, commercial or financial undertaking to disadvantage.

3.1 (Cont.)**COUNCIL & WELLBEING PLAN**

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.3: A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, E, G and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- E. Innovation and continuous improvement is to be pursued.
- G. The ongoing financial viability of the Council is to be ensured.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

At the Council meeting on 26 November 2019, Council resolved to establish a Minor Civil Works Contractor Panel. The current panel is due to expire, and this new panel will improve upon the previous panel that has been in use since 2019.

COLLABORATIVE PROCUREMENT

Not applicable.

DISCUSSION**Purpose**

The purpose of this report is to accept tender submissions to be part of the Minor Civil Works Contractor Panel.

Background

The Mornington Peninsula Shire (Shire) is bound by the terms of the Procurement Policy which includes expenditure thresholds. Currently, individual or cumulative annual expenditure in excess of \$300,000 (including GST) requires a public tender process.

For minor works in particular, it can be challenging to entice contractors to undertake works for the Shire as there is upfront costs for businesses to be registered to work and also processes in which contractors are required navigate through in order to be approved to undertake works for the Shire. This can act as a deterrent for contractors to undertaken minor or one-off projects.

3.1 (Cont.)

The Shire has had great success with panels previously, such as the current Minor Civil Works Panel and also the Building Trades and Specialist Services Panel. With pending expiry of the current Minor Civil Works Panel, procuring a new panel provides a good opportunity to maximise key benefits to the Shire.

The key benefits of creating supplier panels are outlined below:

- Increase delivery efficiency by reducing procurement and administrative timeframes for contractors to be approved to undertake works for the Shire.
- Improve relationships with Contractors by fostering collaboration opportunities.
- Increase the availability of Contractors by having a larger pool of opportunities.
- Support the development of local business and employment.
- Allow for competitive pricing from each supplier on the panel.

The Shire proposes to appoint suitably qualified and experienced contractors to the Panel to undertake Minor Civil Works on nominated sites across the Mornington Peninsula.

Individual projects could be up to the value of \$300,000 (including GST) for each project, however it is anticipated the cost for the majority of projects to be delivered will be under \$20,000 (including GST). A summary of the types of works is outlined below.

- **Signage Works** – New and relocation of regulatory, advisory, wayfinding, information, VMS, electronic signage.
- **Concreting Works** – Small pathway projects, minor kerbing works, pram ramps, *Disability Discrimination Act* (DDA) upgrades including car parking.
- **Landscaping Works** – Vegetation removal, re-vegetation, bollards, picnic furniture, fencing.
- **Traffic Management** – For events, works or communications programs (e.g. road safety)
- **Minor Roadworks** – Small Local Area Traffic Management projects, guardrail installations, minor drainage projects
- **Line marking** – Renewal of existing and/or painting of new road/carparking lines, Raised Reflective Pavement Markers.
- **Drainage works** – New drainage infrastructure including pipes, pits, soak pits, table drains etc.
- **Miscellaneous Infrastructure Works** – Retaining walls, erosion mitigation, minor earthworks, debris clean up, beach access works (staircases), boardwalks, marine structure repairs (jetties etc.)

It is important to note that previously, most of these tasks were handled by maintenance providers under the now-expired maintenance contracts. The new maintenance contracts offer limited provisions for these kinds of work. Therefore, utilising the supplier panel model is crucial for ensuring continuity of business operations.

3.1 (Cont.)

It is noted entering into these supplier panels does not commit funding from Council and any expenditure under the panels would be through individual project budgets adopted in Council’s annual budget.

TENDER INVITATION

The tender was released to the market on 27 April 2024 via The Age Newspaper, the Shire’s website and Tenderlink.

The tender closed at 3:00pm on Wednesday 29 May 2024.

43 submissions were received.

TENDER EVALUATION

Tenders were initially assessed against the below three mandatory compliance criteria:

Compliance Criteria	Pass /Fail
Compliance with the Request for Proposal (RFP) document	Pass/fail
Independent financial assessment and capability	Pass/fail
Willingness to undergo Supplier Verification	Pass/fail

All firms passed the mandatory compliance gateways, and no firm was deemed to be non-conforming. As such, all 43 submissions progressed to evaluation and were assessed against the following criteria:

Evaluation Criteria	Weighting
Demonstrated Resources and Experience	30%
Works Durations Programme and Lead Times	20%
Project and Construction Methodologies	30%
Local Procurement	20%

Evaluation was guided by an approved Evaluation Plan.

3.1 (Cont.)

EVALUATION PANEL

The Evaluation Panel consisted of:

Name and Title	Role in Evaluation Process i.e., price/non-price/independent/ financial/technical etc.	Scoring or Non-Scoring Member
Jessica Lang, Procurement Business Partner	Probity Authority and Chair	Non-Scoring
Alex Christie, Acting Team Leader – Project Delivery (Western Port)	Panel Member	Scoring
Flynn Atkins, Graduate Engineer	Panel Member	Scoring
Kye Espenschied, Coastal Risk Project Officer	Panel Member	Scoring
Brett Whitwam, Team Leader – Traffic & Transport	Panel Member	Scoring
Elliott Reid, Acting Manager – Infrastructure Projects	Technical Advice	Non-Scoring
Derek Rotter, Acting Director - Infrastructure	Technical Advice	Non-Scoring
Judy Weibrecht, Business Support Officer	Business Support	Non-Scoring
Mark Schubert – Manager - Finance	Financial Advice	Non-Scoring

PROBITY ATTESTATION

Not applicable.

CONTRACT VALUE

This is under a standing offer agreement in which contractors will quote to undertake individual projects up to the value \$300,000 (including GST).

TERM OF CONTRACT

The panel will be for a contract term of four years with an option to extend for a further two years plus a further option to extend again for two more years (maximum term of contract is 8 years).

DELEGATED AUTHORITY ASSESSMENT

It is anticipated that the value of payments under this panel could be approximately \$3 million per annum. Under the Shire's Procurement Policy, tenders for works which are estimated to exceed \$1,000,000 must be considered by Council for acceptance.

3.1 (Cont.)**VALUE FOR MONEY**

The panel will consist of multiple contractors to enable competitive pricing for each project type. To ensure value for money on individual projects, quotes will be sought from contractors deemed suitable for the relevant project category, with the number of quotes required to be sought to align with the procurement policy requirements. Quotations received will be assessed on price, ability to meet timelines and any other project specific requirements to select the preferred contractor for each project.

OPTIONS FOR CONSIDERATION

Not applicable.

ENGAGEMENT

The Panel was promoted via the Shire's communications channels and a tender information was held during the tender period to ensure contractors were aware of the panel and how to apply.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

Not applicable.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

It is noted entering into these supplier panels does not commit funding from Council and any expenditure under the panels would be through individual project budgets adopted in Council's annual budget.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

3.2 CN2807 - Major Civil Works Contractor Panel

Prepared By	Elliott Reid, Acting Manager - Infrastructure Projects
Authorised By	Future Maintenance Services Strategy Manager
Document ID	A13232335
Briefing Note Number	BN1875 – 23 April 2024
Attachment(s)	1. CN2807 - Major Civil Works Contractor Panel - Confidential Recommendation Report (confidential)

EXECUTIVE SUMMARY

The purpose of this report is to accept tender submissions to be part of the Major Civil Works Contractor Panel.

The Major Civil Works Contractor Panel is being established to support the delivery of road and open space projects, including road upgrades, drainage works, car park construction, streetscaping works, sporting facility works, playgrounds, and dredging works.

The panel will be utilised for individual projects valued up to \$1 million (including GST). The panel will be for a contract term of four years with an option to extend for a further two years plus a further option to extend again for two more years (maximum term of contract is 8 years).

RECOMMENDATION**That Council:**

- 1. Having considered all tender submissions, hereby accepts the tender submissions received from Tenderers 1, 2, 5, 6, 7, 11, 12, 13, 14, 17, 20, 21, 22, 23, 24, 26, 32, 36, 38, 41, 43, 44 and 46 to be accepted on the Major Civil Works Contractor Panel.**
- 2. Delegates the execution of the contract for the awarded tenderers to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.**

Part B

That Council resolves that Attachment 1 to this report be retained as a confidential item pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as it contains private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

3.2 (Cont.)

- Strategic Objective 1.3: A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, E, G and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- E. Innovation and continuous improvement is to be pursued.
- G. The ongoing financial viability of the Council is to be ensured.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

At the Council meeting on 26 November 2019, Council resolved to establish a Minor Civil Works Contractor Panel. The current panel is due to expire, and this new panel will improve upon the previous panel that has been in use since 2019.

COLLABORATIVE PROCUREMENT

Not applicable.

DISCUSSION**Purpose**

The purpose of this report is to accept tender submissions to be part of the Major Civil Works Contractor Panel.

Background

The Mornington Peninsula Shire (Shire) is bound by the terms of the Procurement Policy which includes expenditure thresholds. Currently, individual or cumulative annual expenditure in excess of \$300,000 (including GST) requires a public tender process.

A public tender process requires high levels of resourcing from various project officers and the Contracts and Procurement Team, and each individual tender takes approximately 6 months.

Specifically for works, the 6-month procurement timeframe increases financial exposure for contractors who offset this risk by building in higher levels of cost escalation into their price. Further, there is upfront costs for businesses to be registered to work for the Shire which can be a deterrent for one off projects.

The Shire has had great success with panels previously, particularly the current Minor Civil Works Panel, which streamlined delivery of projects such as Merricks Station Ground

3.2 (Cont.)

Reserve and Napier Street Plaza in Rye. With pending expiry of the current, procuring a new panel provides a good opportunity to maximise key benefits to the Shire.

The key benefits of creating supplier panels are outlined below:

- Increase delivery efficiency by reducing procurement timeframes.
- Improve relationships with Contractors by fostering collaboration opportunities.
- Improve design outcomes through Contractor consultation.
- Increase the availability of Contractors by having a larger pool of opportunities.
- Support the development of local business and employment.
- Allow for competitive pricing from each supplier on the panel.

The Major Civil Works Contractor Panel is being established to support the delivery of road and open space projects, with individual projects valued up to \$1 million (including GST). A summary of the types of projects is outlined below. Tenderers are able to select which activities they have expertise in delivering.

Road Activities

- Pathway works
- Kerb and Channel
- Drainage Works (including soak pits)
- Carpark Works
- Roundabout and road safety platform projects
- Minor road upgrades (road safety barriers, line marking, shoulder sealing, widening and surfacing)
- Electronic signage installation
- Lighting works
- Traffic management.

Open Space Activities

- Boardwalk works
- Streetscaping works
- Hardstand sporting facilities (cricket nets, netball courts, tennis courts)
- Sports field Lighting works
- Sporting oval works (Oval rehabilitation, irrigation, turfing, goal post or athletics equipment renewal)
- Playground works

3.2 (Cont.)

- Landscaping works (Tree planting, street furniture installation)
- Water Sensitive Urban Design (Rain gardens, retarding basins, small wetlands etc.)
- Dredging (for boat ramps and surrounding channels).

It is noted entering into these supplier panels does not commit funding from Council and any expenditure under the panels would be through individual project budgets adopted in Council’s annual budget.

TENDER INVITATION

The tender was released to the market on 27 April 2024 via The Age Newspaper, the Shire’s website and Tenderlink.

The tender closed at 3:00pm on Wednesday 29 May 2024.

46 submissions were received.

TENDER EVALUATION

Tenders were initially assessed against the below three mandatory compliance criteria:

Compliance Criteria	Pass /Fail
Compliance with the Request for Proposal (RFP) document	Pass/fail
Independent financial assessment and capability	Pass/fail
Willingness to undergo Supplier Verification	Pass/fail

All firms passed the mandatory compliance gateways, and no firm was deemed to be non-conforming. As such, all 46 submissions progressed to evaluation and were assessed against the following criteria:

Evaluation Criteria	Weighting
Demonstrated Resources and Experience	30%
Works Duration and Programme	20%
Project and Construction Methodologies	30%
Local Procurement	20%

Evaluation was guided by an approved Evaluation Plan.

EVALUATION PANEL

The Evaluation Panel consisted of:

Name and Title	Role in Evaluation Process i.e., price/non- price/independent/ financial/technical etc.	Scoring or Non- Scoring Member
Sally Potter, Coordinator - Procurement Operations	Probity Authority and Chair	Non-Scoring
Elliott Reid, Acting Manager – Infrastructure Project	Panel Member	Scoring
Jacob Piwowar, Project Manager	Panel Member	Scoring
Luke Jackson, Team Leader – Roads & Drainage	Panel Member	Scoring
Christopher Lyne, Contract Superintendent	Technical Advice	Non-Scoring
Derek Rotter, Acting Director - Infrastructure	Technical Advice	Non-Scoring
Judy Weibrecht, Business Support Officer	Business Support	Non-Scoring
Mark Schubert – Manager - Finance	Financial Advice	Non-Scoring

PROBITY ATTESTATION

Not applicable.

CONTRACT VALUE

This is under a standing offer agreement in which contractors will quote to undertake individual projects up to the value \$1,000,000 (including GST).

TERM OF CONTRACT

The panel will be established for an initial contract term of four years, with the option to extend for an additional two years. There is also a further option to extend for an additional two years beyond that, resulting in a maximum contract term of eight years.

DELEGATED AUTHORITY ASSESSMENT

It is anticipated that the value of payments under this panel could be approximately \$25 million per annum. Under the Shire’s Procurement Policy, tenders for works which are estimated to exceed \$1,000,000 must be considered by Council for acceptance.

VALUE FOR MONEY

The panel will consist of multiple contractors to enable competitive pricing for each project type. To ensure value for money on individual projects, five quotes will be sought from contractors deemed suitable for the relevant project category. Quotations received will be

3.2 (Cont.)

assessed on price, ability to meet timelines and any other project specific requirements to select the preferred contractor for each project.

OPTIONS FOR CONSIDERATION

Not applicable.

ENGAGEMENT

The Panel was promoted via the Shire's communications channels and a tender information was held during the tender period to ensure contractors were aware of the panel and how to apply.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

Not applicable.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

It is noted, entering into these supplier panels does not commit funding from Council and any expenditure under the panels would be through individual project budgets adopted in Council's annual budget.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

COMMUNITY STRENGTHENING

3.3 Final Community Facilities Infrastructure Strategy for Adoption

Prepared By	Shalyce Eastwood, Senior Community Infrastructure Planner
Authorised By	Director - Community Strengthening
Document ID	A13244193
Briefing Note Number	BN1958 – 27 August 2024
Attachment(s)	<ol style="list-style-type: none">1. Community Facilities Infrastructure Strategy 2024-20342. Community Consultation Report3. List of Editorial Changes to the Draft Strategy

EXECUTIVE SUMMARY

The purpose of this report is to present the Community Facilities Infrastructure Strategy 2024-2034 (the Strategy) (Attachment 1) to Council for adoption.

The Strategy provides the strategic framework to create, support and maintain a network of community facilities that effectively and equitably meet the community needs now and into the future. It is intended to guide decision making across all aspects of community facilities, including planning, design and operation.

The Strategy has been prepared with extensive stakeholder engagement, with input from facility users, decision makers and people responsible for managing and maintaining facilities within the Shire. Following Council's 25 June resolution, a draft of the Strategy was placed on public exhibition from 28 June to 26 July 2024. 90 survey responses and 3 written submissions were received which indicate broad community support for the Strategy. While a range of issues were raised, resolution of these issues aligns with the intended outcomes of the Strategy. Therefore, no changes are recommended to the vision, objectives or guiding principles of the Strategy as a result of community consultation. However, a series of minor editorial changes are recommended to improve clarity.

If adopted, the Strategy will be implemented via Local Area Infrastructure Action Plans for each township on the Peninsula. The Action Plans will benchmark existing community facility provision and identify options to best meet current and future community needs. They may include different management models or service delivery, improvements to user experiences of facilities, consolidation of existing facilities and, where appropriate, disposal.

RECOMMENDATION

That Council adopts the Community Facilities Infrastructure Strategy 2024-2034 (Attachment 1).

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

3.3 (Cont.)

- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.3: A community in which people from all generations, backgrounds and abilities can access local services.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles B, and E, which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- E. Innovation and continuous improvement is to be pursued.

RELEVANT COUNCIL DECISIONS AND POLICIES

25 June 2024 – Council resolved to place the draft Strategy on public exhibition.

- Council plans and strategies:
 - Community Vision 2040
 - Council and Wellbeing Plan 2021-25
 - Annual Report and Budget 2021-22
 - Annual Report and Budget 2022-23
 - Climate Emergency Plan: Ensuring Our Future 2020
 - Asset Management Strategy 2020-30 and Plan 2020
 - Disability Inclusion Plan 2018-2022
 - Gender Equality Strategy 2020-30 and Action Plan
 - Positive Ageing Strategy 2020-25
 - Property Strategy 2018
 - Pedestrian Access Strategy 2024-2034
 - Sports Capacity Plan 2019 – Volume 1 ‘Sport fields’
 - Our Arts and Culture 2024
 - Housing and Settlement Strategy Refresh 2020 – 2036
- Council policies
 - Asset Management Policy 2019

3.3 (Cont.)

- Universal Design Policy 2022
- Environmentally Sustainable Design Policy 2022
- Disposal of Council Property Deemed Excess and or Inappropriate Policy 2018
- Community Facilities Tenancies Policy 2009
- Community Facility Usage Policy
- Men's Sheds Policy

DISCUSSION**Purpose**

The purpose of this report is to present the Community Facilities Infrastructure Strategy 2024-2034 (the Strategy) to Council for adoption.

Background

Mornington Peninsula Shire (Shire) Council has a long-standing history of providing a range of services and facilities to benefit the local community, with over 90 customer facing services driven by local, State and Commonwealth policies and strategies. The Shire also has responsibility for managing and maintaining 250 community facilities across the municipality, including community and municipal facilities, recreational facilities and children's services facilities.

Many of the Shire's community facilities were built in the 1960s and 1970s, as single-purpose facilities, each operating services with differing requirements, standards and capacities. A range of facilities are in poor condition with associated escalating maintenance costs with many no longer fit for purpose and not necessarily in the best location based on community need.

The Shire has therefore prepared a draft Strategy to provide Council with a strategic framework to create, support and maintain a network of community facilities that effectively and equitably meet community needs now and into the future. The Strategy is intended to guide decision making across all aspects of community facilities, including planning, design and operation.

As detailed later in this report, the Strategy has been prepared with extensive stakeholder engagement, with input from facility users, decision makers and people responsible for managing and maintaining facilities within the Shire. Following Council's 25 June 2024 Resolution, a draft of the Strategy was placed on public exhibition for community comment. Feedback received indicates broad community support for the Strategy. While a range of issues were raised, resolution of these issues aligns with the intended outcomes of the Strategy.

The Strategy

The Strategy contains the following vision and objectives which have been informed by research, best practice, local knowledge and the community's experience:

The Mornington Peninsula Shire community will have access to affordable community facilities that support a mix of services, activities and programs. The facilities will be safe, accessible and meet the changing needs of communities over time. Community facilities will enhance health and wellbeing, resilience and social connectedness across the Mornington Peninsula.

3.3 (Cont.)

- Objective 1: Apply a collaborative people first, integrated whole-of-organisation approach to the planning, delivery and management of community facilities.
- Objective 2: Ensure decisions are transparent, evidence based and are responsive to community and service delivery needs.
- Objective 3: Achieve a balance between social, financial, and environmental sustainability.
- Objective 4: Apply innovation to explore partnerships, alternative funding streams, management models, activation and access to get the most out of our facilities.
- Objective 5: Create and manage our community facilities as a network of complementary community facilities within reasonable journey times.
- Objective 6: Create multipurpose and adaptable facilities that are shared by multiple user groups, services, programs and activities.
- Objective 7: Ensure community facilities are planned, designed, managed and maintained to be equitable, safe and accessible for all.

The following guiding principles have also been developed to support Council in delivering the Strategy:

1. People first – the needs of our community will be at the centre of our decision making
2. Integrated, whole-of-council approach – we will take a collaborative approach to the planning delivery and management of our community facilities
3. Transparent evidence-based decision making – our decision making will be informed by best available evidence and responds to community need
4. Financial, social and environmental sustainability – we will take a triple bottom line approach to decision making
5. Equitable and accessible – community facilities will be shared and accessible to all community members
6. Managed as a network – community facilities will operate as a network of shared and complementary facilities across the Mornington Peninsula
7. Working in partnership – community facilities will be funded, delivered and programmed through collaborative partnerships between council, government and other public, private and community sector providers
8. Innovative approaches – we will look for innovation in the design, delivery and management of community facilities
9. Multipurpose and adaptable – community facilities are and designed to meet the needs of multiple services and user groups.

Delivery and implementation

If adopted, the Strategy will be implemented via local area Action Plans which will be prepared for each township. The Action Plans will benchmark existing community facility provision and identify options to best meet current and future community needs. They may

include different management models or service delivery, improvements to user experiences of facilities, consolidation of existing facilities and, where appropriate, disposal.

Implementation of the Strategy will be monitored and evaluated against the outputs in the recommended actions, with the Strategy to be reviewed after 5 years to ensure that implementation priorities reflect current needs and expectations.

Options for consideration

- Option 1: Adopt the Strategy (recommended)
- Option 2: Do not adopt the Strategy

Shire officers recommend Option 1 because the Strategy:

- Provides Council with a clear and robust strategic framework to create, support and maintain a network of community facilities that effectively and equitably meet the community needs now and into the future.
- Will guide Council's decision-making across all aspects of community facilities, including planning, design and operation.
- Provides transparency and greater certainty to the community about Council's approach to providing a sustainable network of community facilities into the future.
- Has been prepared with extensive stakeholder engagement, with input from facility users, decision makers and people responsible for managing and maintaining facilities.
- Received broad community support through a public exhibition process, with issues raised by the community, aligning with the intended outcomes of the Strategy (as detailed below).

ENGAGEMENT

Throughout the development of the Strategy, extensive engagement with a range of targeted stakeholders has been undertaken including facility users, decision makers, people responsible for managing and maintaining facilities. A summary of engagement undertaken to assist with the development of the Strategy includes:

- Workshops and interviews with over 70 staff who have responsibility for planning, designing, maintaining or providing services from the facilities.
- Interviews and workshops with over 90 facility users.
- Engagement with over 200 community members through pop ups and surveys.
- Two Councillor workshops conducted in February/March 2024.
- One targeted workshop with invited non-government agencies and service providers who currently operate from Council buildings or have an interest in an arrangement in the future.
- Site visits to over 50 representative sites.
- Meetings and focus groups with council advisory boards.

Public exhibition

3.3 (Cont.)

On 25 June 2024, Council Resolved to place a draft of the Strategy on public exhibition for community comment. The Strategy was exhibited between 28 June and 26 July 2024. The Community Consultation Report provided at Attachment 2 details the methods of consultation, notification given, and feedback collected during exhibition.

In summary:

- A media release was published, accompanied by social media promotion.
- Direct notification was sent (via email) to 684 stakeholders, including community groups, government agencies, community facility users, sporting groups, trader organisations, and committees of management.
- Three in-person pop up sessions (outreach) were held – one each at Mornington Library, Balnarring Village Shopping Centre and Yawa Aquatic Centre.
- A dedicated Shape webpage was provided which received 825 visitors.
- An online survey was provided on the Shape page with 90 completed surveys received.
- Three written submissions were received via email.

Overall, survey results suggest that there was broad support for the draft Strategy, including the vision, the guiding principles, challenges, opportunities and outcomes.

The following additional themes were identified in the feedback, which align with the key themes already addressed within the draft Strategy:

- Many facilities do not meet the needs of our community in terms of accessibility, kitchen facilities and storage.
- Issues relating to maintenance, regarding ageing physical infrastructure, processes and communication.
- Inconsistent, inequitable and inefficient access to community facilities.
- There is a need to advertise which facilities are available and promote their use to a wider section of the community.
- Recognition of the need to get greater utilisation from our community facilities.
- There are opportunities for Council and community to work together to improve facilities, improve communication and enhance relationships.
- There is a willingness to share facilities and a recognition of the social benefits of groups mixing and interacting.
- Spaces need to be designed to be more flexible.
- There is a need for a transparent, easy to use booking system across all community facilities, for one off and longer-term bookings.
- Council could enhance its role of enabler rather than facility provider and manager.

Overall, no changes are proposed to the vision, objectives or guiding principles of the Strategy as a result of community consultation. However, a series of minor editorial changes are recommended to improve clarity, as listed in Attachment 3.

The recommended final version of the Strategy is provided in Attachment 1.

COMMUNICATIONS PLAN

Council's decision about the Strategy will be publicised via:

- A media release and social media promotion.
- Direct notification to the 684 stakeholders who providing input into the Strategy, including community groups, government agencies, community facility users, sporting groups, trader organisations, and committees of management.
- Direct notification to survey respondents and those who made submissions via email during public exhibition.
- An update to the Shire's webpage.

Further communications will be undertaken with key stakeholders and the broader community through the development of the Local Area Infrastructure Action Plans, as guided by a Communications and Engagement Plan to be prepared by the Shire's (Advocacy, Communications and Engagement) ACE Team, in partnership with the Project Team.

LEGAL AND REGULATORY FRAMEWORK

The Strategy has been prepared under, and informed by the following Victorian State legislation and guidelines:

- *Local Government Act 2020*
- Local Government Asset Management – Better Practice Guide
- Victorian Audit-General's Office Audit – Delivering Local Government Services
- Victoria's Infrastructure Strategy 2021-2051
- Planning for Community Infrastructure in Urban Renewal Areas (Victorian Planning Authority, 2016).

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

The Strategy incorporates strategic initiatives that address climate and sustainability considerations, both directly and indirectly, aligning with broader Council-led efforts to foster environmental stewardship and sustainable development. The Strategy specifically includes guiding principles for environmental, social, and economic sustainability.

FINANCIAL CONSIDERATIONS

Development of the Strategy was funded by \$80,000 allocated in the 2022/2023 Council Budget. A further \$150,000 has been allocated in the 2024/2025 Council Budget to prepare Local Area Infrastructure Plans to help implement the Strategy.

OFFICER DIRECT OR INDIRECT INTEREST

3.3 (Cont.)

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

OFFICE OF THE CEO

3.4 Property Sale - 1 Cooma Street, Crib Point - Community Consultation Submission

Prepared By	Adam Di Trocchio, Property Operations Coordinator
Authorised By	Chief Financial Officer
Document ID	A13293973
Briefing Note Number	
Attachment(s)	<ol style="list-style-type: none">1. Appendix A- Council Resolution dated 7 March 20232. Appendix B-Letter of Objection dated 12 June 2024 (confidential)3. Appendix C- Email from Objector dated 13 June 2024 (confidential)4. Appendix D- Property Planning Report5. Appendix E- Crib Point Township Structure Plan6. Appendix F- Victorian Government Guidance on exemptions for a planning permit

EXECUTIVE SUMMARY

This report recommends that the property at 1 Cooma Street Crib Point (Property) be sold in accordance with the Council resolution dated 7 March 2023. On 13 June 2024, Council received one objection to the sale as part of the section 223 *Local Government Act 1989* public notification process. The objection raised concerns about the environmental impact of future development of the Property and the removal of vegetation. The Mornington Peninsula Shire officer's response in support of Council's decision to sell the Property is that the Property is located within a Neighbourhood Residential Zone confirming it is set aside for the development of a residential dwelling. Furthermore, the Property is in an unsuitable location for a park and no permit is required for the removal of vegetation based on the Property's size.

RECOMMENDATION

1. That Council undertakes the statutory process under section 114 of the *Local Government Act 2020* to sell the property located at 1 Cooma Street Crib Point.
2. That the property be sold using a public process such as public auction, public tender or public Expression of Interest or Registration of Interest, with the reserve price for the property to be set in accordance with a certified valuation.
3. That the Director of Infrastructure be authorised to execute all documents necessary to complete the sale of the land parcel.
4. That the Chief Executive Officer or delegate be authorised to affix the common seal where necessary.

Part B

That Council resolves that Attachments 2 and 3 to this report be retained as confidential items pursuant to section 3 (1) (f) of the *Local Government Act 2020* as

3.4 (Cont.)

they contain personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.3: A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles B, D, G & I which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- D. The municipal community is to be engaged in strategic planning and strategic decision making.
- G. The ongoing financial viability of the Council is to be ensured.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES**Council Decision**

Council Resolution dated 7 March 2023 (Attachment 1) as Appendix A. On 7 March 2023, Council resolved to undertake and complete the statutory process under section 114 of the *Local Government Act 2020* of selling the property located at 1 Cooma Street Crib Point.

Policies

1. Disposal of Property Deemed 'Excess and/or Inappropriate' Policy
2. Community Engagement Policy

DISCUSSION**Purpose**

The purpose of this report is to obtain Council approval to undertake and complete the statutory process of selling the property located at 1 Cooma Street Crib Point VIC 3919 (Lot 28 LP006672) (Volume 10610 Folio 366) (the Property) following the completed section 223 *Local Government Act 1989* (section 223) public notification process.

3.4 (Cont.)**Background**

The Property is a 1,148 sqm (approximately) vacant parcel of land located within a Neighbourhood Residential Zone- Schedule 1. It is subject to a Development Contributions Plan Overlay-Schedule 1 and Vegetation Protection Overlay-Schedule 1.

Council authorised the sale of the Property in accordance with a Resolution dated 7 March 2023 (refer to page 17 of Attachment 1 Appendix A). On 15 May 2024 Council commenced the section 223 Public Notification Process for the sale of the Property by way of a letter to the adjoining residents, local newspaper advertisement, and a Shire website advertisement.

Pursuant to the Council Resolution dated 7 March 2023, if any submissions to the proposed sale of the Property are received, a further report must be brought to Council to consider the submissions before determining if any proposed sale should proceed.

On 13 June 2024, Council received one objection to the sale (Attachment 2) as Appendix B.

Section 223 Process and Submission

Council acknowledges the concerns outlined by the Objector in their submission received on 13 June 2024. They are summarised as follows:

1. The Property contains native trees, plants, and fauna.
2. The Property acts as a buffer between industrial and residential properties.
3. Development on the Property would result in the clearing of native trees.
4. The Property should be converted into a small park or reserve.
5. If Council proceeds with the sale, can an environmental assessment be completed to determine the impact of native fauna on the Property?

The Objector expressly stated they did not want to be heard in relation to their submission as evidenced by their email on 13 June 2024 (Attachment 3) as Appendix C. A section 223 meeting was therefore not conducted.

Officer Response and Options for Consideration

Council submits the following response to address the concerns outlined by the Objector in their submission.

1. *Neighbourhood Residential Zone*

The Property is located within a Neighbourhood Residential Zone-Schedule 1, indicating that it is intended for the development of a residential dwelling (refer to the Planning Report Attachment 4 as Appendix D). This zoning aims to ensure that development is integrated with the surrounding natural landscape of the Property and that canopy trees are retained and re-established. Any application to construct a dwelling must also have a minimum garden area of 35% of the property as this is a requirement for lots over 650 square metres (sqm). Any development that requires a permit will be assessed against a Vegetation Protection Overlay-Schedule 1 which further ensures that any development has regard to the natural landscape.

2. *Unsuitable Location for a Small Park or Reserve*

This Property is unsuitable for the creation of a small park or reserve. It was not identified in Council's 2021 Crib Point Township Plan Refresh (refer to page 33 of Attachment 5

3.4 (Cont.)

Appendix E) as a property that should be designated for the purpose of re-zoning and public open space. The Township Plan recommended Public Open Space in the vicinity of Woolleys Road and South Point Road Crib Point as these areas do not have walkable access to parks.

3. No Permit is Required for the Removal of Vegetation

This Property is exempt from the requirement of a permit to remove native vegetation due to its size. The property is approximately 1,148 sqm which is less than 0.4 hectares, or 4,000sqm required for a permit to remove vegetation. This is because native vegetation on lots smaller than 0.4 hectares or 4,000 sqm has reduced environmental value and is therefore assumed to be lost (refer to page 22 of the Victoria Government Guidance on exemptions for a permit to remove native vegetation Attachment 6 as Appendix F).

LEGAL AND REGULATORY FRAMEWORK

- *Local Government Act 2020*
- *Local Government Act 1989*
- *Transfer of Land Act 1958*
- *Sale of Land Act 1962*

FINANCIAL CONSIDERATIONS

Sale proceeds and fees associated with the sale.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

3.5 Instrument of Delegation

Prepared By	Christine Aslanidis, Team Leader - Governance Services
Authorised By	Chief Executive Officer
Document ID	A13230935
Briefing Note Number	Not applicable
Attachment(s)	<ol style="list-style-type: none">1. Maddocks Update - July 2024 ↓2. Draft Instrument of Delegation Council To Council Officers (S6) 9 September 2024 ↓

EXECUTIVE SUMMARY

Delegation of powers is generally considered essential to ensure the day-to-day operations of the Council can proceed. Without substantial and significant delegation processes, Council would not be able to manage its workload effectively or efficiently.

The latest Maddocks Lawyers (Maddocks) update (Attachment 1) takes into account legislative changes which were assented to, or made, from 1 January 2024 to 21 July 2024, together with some miscellaneous changes and improvements identified, which affect Council's powers, duties and functions.

The draft Council-to-Council Officers Instrument of Delegation (Attachment 2) has been updated following consultation with managers and will be effective immediately upon the resolution of Council. As a result, the previous S6 Instrument of Delegation dated 25 June 2024 will be revoked.

RECOMMENDATION

That in the exercise of the powers conferred by section 11 of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation, the Mornington Peninsula Shire Council resolves:

- 1. That Council adopts the Instrument of Delegation from Council to Council Officers 9 September 2024 as shown in Attachment 2.**
- 2. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached S6 Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument. (Attachment 2)**
- 3. The Council to Council Officers Instrument of Delegation as shown in Attachment 2 comes into force 9 September 2024 immediately upon this resolution being made and is to be signed by the Chief Executive Officer (CEO).**
- 4. On the coming into force of the Instrument, the previous S6 Council to Council Officer dated 25 June 2024 is revoked.**
- 5. The duties and functions set out in the instruments must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

The current Council to Council Officer Instrument of Delegation was adopted by Council on 25 June 2024 following updates provided by Maddocks.

DISCUSSION

Purpose

The purpose of this report is to seek endorsement from Council for the attached Council to Council Officer Instrument of Delegation following the latest updates provided by Maddocks.

Background

The power of delegation under section 11 of the *Local Government Act 2020* (the Act) is a power to delegate Council's powers under *the Act* or any other Act to the CEO who then may sub-delegate those powers pursuant to section 47 of *the Act*.

Delegation of powers is generally considered essential to enable day to day decisions to be made. Some general features are set out in the *Interpretation of Legislation Act 1984*. In particular the following should be noted:

- The decision, once made, is for all legal purposes, a decision of Council.
- The 'delegate' is in much the same position as the Council in terms of making decisions. For example, where the decision requires that opinion be formed, the delegate's opinion can be the basis for the decision.

3.5 (Cont.)

- The fact that a delegation is being made does not affect the Council's powers in relation to the issue concerned. This is subject of course, to the rule that the delegate's decision is taken to the decision of Council. Council is therefore bound by a decision, which it may not have made.

The Instrument provides that the delegations are subject to any conditions or limitations set out in the schedule and must be exercised in accordance with any guidelines or policies adopted by Council from time to time.

In addition, the delegate must not act if the matter has previously been designated as an issue which must be the subject of a Council resolution, or the decision is likely to be inconsistent with a policy or strategy adopted by Council.

Options for consideration

The Council to Council Officer Instrument of Delegation has been updated to reflect the following:

- Removal of sections 12(2), 12(4)-(7) of the *Road Management Act 2004*, as we recommend that Councils use the powers under *the Local Government Act 1989* instead to discontinue a road.
- Deletion of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020, as they have been revoked pursuant to regulation 4(a) of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2024. Those new regulations commenced on 29 June 2024 and have been included.
- *The Food Act 1984* was amended pursuant to the *Regulatory Legislation Amendment (Reform) Act 2024*, which commenced on 6 March 2024, the day after it received Royal Assent. As a result we have:
 - Included 19 (4)(a)(ia) and 19(4)(a)(ib), and amended 19(4)(a)(ii), which relates to Council's power to direct that a copy of an order be affixed, displayed or published.
 - Included section 19FA(1), which relates to Council's power to direct a proprietor of a food premises to revise the foods safety program for the premises or comply with any requirements specified in the food safety program.
 - Included section 19FA(3)(a), which relates to Council's power to refuse to approve an application for registration or renewal of premises, where a proprietor of a food premises fails to comply with a direction given under section 19FA(1). Please note that, adopting a conservative approach, we have inserted a comment that this is subject to ratification in accordance with s 58A(2).
 - Included section 19FA(3)(b), which relates to Council's power to revoke a registration granted in respect of premises, where a proprietor of a food premises fails to comply with a direction given under section 19FA(1).
- Included section 19FA(3)(c), which relates to Council's power to suspend a registration of premises, where a proprietor of a food premises fails to comply with a direction given under s 19FA(1).

ENGAGEMENT

Not applicable.

3.5 (Cont.)

COMMUNICATIONS PLAN

Once approved, the public register of delegations required under section 11 (8) of *the Act* will be updated on the Shire website and the Instrument of Delegation will be made available to Shire officers.

LEGAL AND REGULATORY FRAMEWORK

The power of delegation under section 11 of *the Act* is a power to delegate Council's powers under *the Act* or any other act to the CEO who then may sub-delegate those powers pursuant to section 47 of *the Act*.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

PLANNING & ENVIRONMENT

3.6 Planning Application P04/0289.03 - 810 Boneo Road, Boneo - Use and development of a leisure and recreation facility, restaurant, function centre and caravan park expansion

Prepared By Emine Gurleyen, Team Leader - Planning Services

Authorised By Acting Director - Planning & Environment

Document ID A13160504

Briefing Note Number BN1960 – 27 August 2024

Attachment(s)

1. Officer report
2. Masterplan
3. Plans
4. Planning Submission
5. Venue Operations Management Plan
6. Landscape Visual Impact Assessment
7. Traffic Impact Assessment
8. Economic and Social Assessment
9. Land Management Plan
10. Farm Management Plan
11. Biodiversity Assessment
12. Traffic Impact Assessment
13. Acoustic Report
14. Emergency Plan
15. Objections 1-20 (confidential)
16. Objections 21-40 (confidential)
17. Objections 41-60 (confidential)
18. Objections 61-80 (confidential)
19. Objections 81-93 (confidential)
20. Objections 94-107 (confidential)

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision on Planning Permit P04.0289.03 at 810 Boneo Road, Boneo to amend the permit to enhance the suite of offerings already available on site.

A series of leisure and recreation uses are proposed including mountainboarding, skateboarding, wakeboarding, snowboarding and the wheelchair equivalent of all these sports. The applicant states that this development will be the only world-class action sports facility in Australia that provides this range of facilities.

The existing camping and caravan park is proposed to be expanded from 60 sites to 105 sites. The use of group accommodation is proposed to be introduced to accommodate staff and is to occur in two new dwellings and within the existing dwelling. A replacement dwelling for the owners is proposed in a new area of the site.

A new, licensed function centre and restaurant is proposed to be attached to the indoor skateboard building. Other developments include new school camp facilities, expansion of the wastewater dam, alterations of access to Boneo Road, construction of car parking and advertising signage. Vegetation removal is required to facilitate the development.

To date, 107 objections have been received, raising a number of concerns including consistency with the Green Wedge Zone, environmental impacts, visual bulk and landscape impacts and amenity impacts. In addition, 38 letters of support have been received.

The proposal has been considered against the broad range of policy objectives, decision guidelines contained within the relevant planning controls, the specific site context and the concerns raised by objectors and is considered to be an appropriate outcome. It is recommended that Council supports the application and resolves to issue a Notice of Decision to Amend a Permit.

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P04/0289.03 be supported and a Notice of Decision to Amend a Permit be issued as follows:

Amended Preamble:

Use and development of one hundred and five (105) camping and caravan sites, use and development of a leisure and recreation facility, use and development of group accommodation (3 dwellings), development of a replacement dwelling, use and development of a restaurant/function centre, development of new buildings associated with the school camp, installation of flood-lit business identification signage, sale and consumption of liquor, alteration of access to a transport zone 2 and removal of vegetation in accordance with the endorsed plans

Amended Plans

- 1A. Before the use and development authorised under this amended permit P04/0289.03 starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, and endorsed accordingly, these plans will form part of this permit. The plans are to be in accordance with the plans submitted with the application but modified to show:**
- a) Masterplan and development plan to show internal roadways and driveways providing access to car parking areas and bus drop off areas surfaced with either asphalt or reinforced concrete.**
 - b) Masterplan and development plan to show carparking areas located west of the beginners wakeboard dam surfaced with either asphalt or reinforced concrete.**
 - c) Development plans to include details of internal accessways including material, width and maximum height of any cut or fill required.**
 - d) Dimensioned location of any works of wastewater dam from title boundaries.**
 - e) Notate existing dwelling to be repurposed for group accommodation.**
 - f) Delineation of the dwelling curtilage for the replacement dwelling.**

3.6 (Cont.)

- g) All galvanised cladding to be treated to ensure it is muted and of low reflectivity.**
- h) Details of earthworks required to facilitate a flat area for camping purposes within sites 91-98 that must not impact any vegetation outside the delineated site areas.**
- i) A Landscaping Plan consistent with the Overall Plan Proposed Planting MP303 but modified to show:**
 - a. Planting along the road frontage adjacent to the buildings.**
 - b. Planting of dam embankments as guided by consulting engineers.**
 - c. A schedule of all proposed planting, including the location, species and size at maturity of all planting, including their botanical names.**
 - d. All planting to be indigenous species to the locality.**
- j) A Tree Management and Protection Plan (TMPP) prepared by a Level V Australian Qualifications Framework (AQF) arborist in accordance with Australian Standard AS 4970-2009 'Protection of trees on development sites'. The TMPP must include all retained trees on the subject site, road reserve or adjoining land whose Tree Protection Zones (TPZ) fall within the proposed development footprint (including any associated buildings, works, excavation or fencing). The report must include a drawing, specification and certification procedure and demonstrate how the retained trees will be protected during all stages of development.**
- k) The Venue Operations Management Plan amended to show:**
 - a. Updated patron numbers as follows:**
 - i. Recreation activities: 260 patrons.**
 - ii. Function centre and restaurant: 150 patrons.**
 - iii. Accommodation cabins: 258 guests.**
 - iv. Camping and caravan park: 448 patrons.**
 - b. Up to six times per year, the number of patrons associated with the approved recreation activities may be increased to 2500 to facilitate ancillary sporting events. No functions can occur on the land at the same time as the ancillary sporting events.**
 - c. How patron number capacities will be managed.**
 - d. The method for recording patron quantities.**
 - e. Access to the site for ticketed and non-ticketed patrons.**
 - f. Method to ensure that no functions run concurrent to the 6 ancillary sporting events per year.**
 - g. Methods to ensure compliance with the endorsed red line plan approved under this permit.**

3.6 (Cont.)

- **Estimated volumes of waste and recyclables generated from the site, number and size of bins to be used and the associated storage area for the bins.**
- **Names of contractors able to provide the required service.**

Amended Plans

- 1. Before the use and development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, and endorsed accordingly, these plans will form part of this permit. Such plans are to be drawn to scale with dimensions and three copies are to be provided. The plans are to be in accordance with the plans submitted with the application but modified to show to the satisfaction of the Responsible Authority:**
 - a) The location of all electricity and other services to the camp sites placed underground.**
 - b) The accessway to the camp site constructed in a suitable crushed rock with areas where the grade exceeds 1:6 to be in an all weather seal coat or similar to prevent erosion.**
 - c) Deleted.**
 - d) Fencing that restricts access to existing vegetation in the camping area that will be retained and to prevent disturbance of erosion prone land. This must include details of the location, materials for construction and height of fences.**
 - e) The proposed earthworks, noting cross sections, existing natural ground level, proposed finished ground level details of retaining walls including heights, locations and materials of construction.**
 - f) The location of any proposed access paths for pedestrian or vehicle movements, including materials for construction and the location of bollards to restrict access solely to the proposed driveways and prevent vehicles from departing from the defined driveways.**
 - g) Any proposed advertising signage, within the boundaries of the site or otherwise. These plans must include the location, size and content of each advertising sign and elevation details.**
 - h) The location of garbage collection areas, including all rubbish bins.**
 - i) Deleted.**
 - j) The location of utilities servicing each camp site, including electricity, water and waste water. All services must be provided underground.**
 - k) The location, capacity and specifications of the proposed waste water treatment plant including its connection to each camp site.**
 - l) The maximum retention of existing vegetation and supplementary rehabilitation works to ensure the optimum environmental conditions for the retained vegetation (example rehabilitation of disturbed surfaces where tree roots have been exposed and restoration of soil).**

3.6 (Cont.)

Endorsed plans to be complied with:

2. The layout of the land, the hours of operation, size and type of the proposed buildings and works, including the materials of construction, the timing for completion of the proposed buildings and works, on the endorsed plan must be complied with and not altered or modified without the consent of the Responsible Authority.
3. The layout and activities as indicated on the endorsed plans must not be altered without the consent of the Responsible Authority.

Satisfactory continuation

4. Once the works have commenced they must be continued and completed to the satisfaction of the Responsible Authority.

Use of camp sites

5. Prior to the use of the camp sites, the owner must prepare to the satisfaction of the Responsible Authority a lease agreement that will be used for leasing the camp sites to campers. The lease agreement must include the following conditions:
 - The camp site must not be occupied for more than 59 consecutive days of occupancy and for a total of 90 days in any calendar year by any person
 - The lessee shall use the site for recreational or holiday purposes only and shall not occupy the subject land or individual camp site as their only or main place of residence
 - The lease shall not exceed a maximum term of twelve consecutive calendar months.
6. The camp sites may only be occupied for a maximum of 59 consecutive days of occupancy and a total of 90 days in any one calendar year. The owner shall ensure that an accurate register of all campers, camp sites, details of periods of occupancy and residential address of campers is maintained to the satisfaction of the Responsible Authority. The owner must make the register available to the Responsible Authority upon request.
7. Deleted.
8. Deleted.

Section 173 Agreement

9. Prior to the commencement of any works on the approved use and development, the owner must prepare an agreement pursuant to section 173 of the *Planning And Environment Act 1987*. The agreement must be prepared and registered on the land's title to the satisfaction of the Responsible Authority and at the owner's expense. The agreement must provide for:
 - a) The implementation of a master plan prepared and approved to the satisfaction of the Responsible Authority.
 - b) The operation of an environment protection authority (EPA) approved sewerage treatment plant for the total facility.

3.6 (Cont.)

- c) **The landscaping of the site and protection of vegetation in accordance with an environmental management plan approved by the Responsible Authority.**
- d) **The layout of all existing activities on the subject land including the frequency of use.**
- e) **The layout of possible future activities, including their capacity, functional integration with the existing uses, staged development options and site coverage.**
- f) **The means to restrict the use of accommodation to serve only casual holiday makers and tourists for a maximum of ninety (90) days in any calendar year and a maximum of 59 consecutive days of occupancy.**
- g) **The responsibility for the continued implementation, management and compliance with the environmental management plan required by this permit is the ongoing responsibility of the owner and/or operator of this development.**
- h) **Deleted.**
- i) **A limitation on the number of horses that can be accommodated on the site at any one time to a maximum of 50 horses.**
- j) **The owner must lodge with the Responsible Authority a bond or bank guarantee for an amount to the satisfaction of the Responsible Authority following an estimate of costs of landscaping to be submitted by the owner to the Responsible Authority and such estimate of costs must be submitted on or before 1 February 2006. The Responsible Authority may draw against the bond or bank guarantee for the purpose of carrying out any development works or maintenance works associated with the landscaping.**

Native Vegetation

- 10. **Native vegetation (except as required for development shown on the endorsed plan) must not be felled, lopped, topped, ringbarked or otherwise destroyed or removed except with the consent of the Responsible Authority.**

Sewerage

- 11. **All waste water from the approved development must be disposed to the Environment Protection Authority approved sewerage system to the satisfaction of the Responsible Authority.**

Infrastructure

- 12. **All telephone and electricity services must be installed via underground connections to the satisfaction of the Responsible Authority.**

13. – 25. Deleted.

Signage

- 26. **No sponsorship signage that is visible from outside the site may be placed on the land without the written permission of the Responsible Authority.**

3.6 (Cont.)

27. The location and details of signs, including those of the supporting structure, shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
28. Before the approved use starts, erected existing signs on the land, other than internal directional signs, must be removed to the satisfaction of the Responsible Authority.
29. All signs must be designed to a professional standard, constructed and maintained in good condition to the satisfaction of the Responsible Authority.
30. Lighting associated with the signs must be designed, baffled and located to the satisfaction of the Responsible Authority so as to prevent any adverse effect on adjoining land.
31. The signs must not be illuminated after 9.30pm, and not more than 60 minutes before the use opens to the public, to the satisfaction of the Responsible Authority.
32. Within 60 days of the associated use of the land ceasing to operate, the hereby approved signs must be removed from the land to the satisfaction of the Responsible Authority.
33. This permit as it relates to signage will expire in fifteen years after the date of issue.
34. On expiry of the permit as it relates to signage, the sign and structures built specifically to support and illuminate it must be removed.

Noise and amenity

35. Noise levels emanating from the premises must comply with obligations under *Environment Protection Act 2017* and the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.
36. Any air compressors associated with the ski jump landing pads must only be used during the operating hours of the leisure and recreation facilities.
37. Amplified music is not permitted in the outdoor areas at any time, except at a background music level within the curtilage of the Kiosk and Restaurant/Function Centre.
38. Lighting associated with the approved uses must be turned off within half an hour of the operating hours each day.

Environmental Health

39. All wastewaters generated by the site must be treated and retained by an Environment Protection Authority approved sewerage system to the satisfaction of the relevant authority.
40. Prior to occupation of any stage of development, the associated wastewater system must be installed to the satisfaction of the Responsible Authority.
41. The food facilities will be required to install a suitably sized food and oil interceptor (grease trap) to service all proposed kitchen facilities satisfaction of the relevant authority. The food and oil interceptor must be located outside of the food premises and have an accessible water supply provided.

3.6 (Cont.)**Vegetation removal**

- 42. The extent of clearing of vegetation as shown on the endorsed plans must not be altered or modified without the consent of the Responsible Authority.**
- 43. All disturbed surfaces on the land must be revegetated and stabilised to the satisfaction of the Responsible Authority.**

Protection of fauna

- 44. Prior to the removal of the vegetation, including fallen logs, hollow stumps or ground habitat, a suitably experienced person must inspect the vegetation for signs of habitation by fauna. If wildlife are present when removing vegetation, only a suitably qualified wildlife handler or zoologist can handle wildlife to ensure it is not harmed. If displaced wildlife cannot be relocated on site to an appropriate location away**

Tree protection

- 45. Prior to the commencement of any demolition, excavation or works and during all stages of development, the Tree Protection Zones (TPZ), tree protection fencing, recommendations and tree protection measures identified in the approved Tree Management and Protection Plan (TMPP) must be implemented, complied with and certified to the satisfaction of the Responsible Authority.**
- 46. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and are advised of any obligations in relation to the protection of those trees.**
- 47. No trenching or soil excavation is to occur within the Tree Protection Zones of retained trees during development unless shown on the endorsed plans, without the prior written consent of the Responsible Authority.**

Landscaping

- 48. Prior to the occupation of any stage of the development (or other time agreed to in writing by the Responsible Authority) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced as soon as practicable.**

Disturbed Surfaces

- 49. All disturbed surfaces on the land resulting from the development must be revegetated and stabilised to the satisfaction of the Responsible Authority.**

Offset requirement

- 50. To offset the removal of 0.942 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning (DELWP) 2017) as specified below:**
 - A general offset of 0.212 general habitat units:**

3.6 (Cont.)

- located within the Port Phillip and Westernport Census metropolitan areas (CMA) boundary or Mornington Peninsula Shire municipal district
- with a minimum strategic biodiversity score of at least 0.402.

51. Before any native vegetation is removed evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence is one or both of the following:

- an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
- credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

Amended section 173 Agreement

52. Prior to the occupation of the camping and caravan park authorised under this amended permit, the owner must amend the Agreement AE126036U registered on the title of the land pursuant to section 173 of the *Planning and Environment Act 1987*. The agreement must be prepared and registered on the land's title to the satisfaction of the Responsible Authority and at the owner's expense. The agreement must provide for:

- a) A limitation on the number of people that can be accommodated by the school camp and camping and caravan park on the site at any one time to a maximum of 706 persons.

Patrons Management

53. Patron management must be undertaken in accordance with the endorsed Venue Operations Management Plan.

54. No more than the number of patrons for each specified use is allowed at any one time:

- Recreation activities: 260 patrons.
- Function centre and restaurant: 150 patrons.
- Accommodation cabins: 258 guests.
- Camping and caravan park: 448 patrons.

55. Up to six times per year, the number of patrons associated with the approved recreation activities may be increased to 2500 to facilitate ancillary sporting events.

No functions can occur on the land at the same time as the ancillary sporting events.

3.6 (Cont.)**Hours of operation**

- 56. Unless with the consent of the Responsible Authority, the uses hereby permitted must not operate outside the following hours:**
- **Sports Activities**
 - **Daily – 9am to 9pm**
 - **Kiosk**
 - **Monday to Sunday – 9am to 9pm**
 - **Indoor Barn/Restaurant/café**
 - **Sunday to Thursday – 8am to 10pm**
 - **Friday and Saturday (and Sunday proceeding a public holiday) – 8am to 11.30pm**

Ancillary Use

- 57. After the use of the approved restaurant commences, the dining hall contained within the Chapel building must cease being used as a restaurant and must only be used ancillary to the existing school camping use, to the satisfaction of the responsible authority.**
- 58. If the school camps cease to operate, the dining hall must be decommissioned or demolished.**
- 59. The kiosk must only be used ancillary to the leisure and recreation use hereby approved, to the satisfaction of the responsible authority.**

Group accommodation

- 60. Group accommodation must only be used by persons employed by the permit holder in association with the use of the land.**

Sale and consumption of Liquor

- 61. The seating and extent of the approved use as it relates to the sale and consumption of liquor as shown on the endorsed plan must not be altered or modified without the consent of the Responsible Authority.**
- 62. Except with the further permission of the Responsible Authority, the approved use as it relates to the sale and consumption of liquor may only operate between the following hours:**
- **Kiosk**
 - **Monday to Sunday – 11am to 9pm**
 - **Indoor Barn Restaurant/Cafe**
 - **Sunday to Thursday – 11am to 10pm**
 - **Friday and Saturday (and Sunday proceeding a public holiday) – 11am to 11.30pm**

3.6 (Cont.)

- 63. No alcohol is to be taken outside the licensed area at any time.**
- 64. The licensing of the venue must not cause any nuisance or annoyance to persons beyond the land because of the emission of noise, or otherwise, to the satisfaction of the Responsible Authority.**

Decommissioning of existing dwelling

- 65. Within 30 days of the occupation of the new dwelling, the existing dwelling must be only used for group accommodation in accordance within the conditions of this permit.**

Land Management Plan

- 66. The endorsed Land Management Plan must be implemented and thereafter maintained to the satisfaction of the Responsible Authority.**

Farm Management Plan

- 67. The endorsed Farm Management Plan must be implemented and thereafter maintained to the satisfaction of the Responsible Authority.**

Emergency Plan

- 68. The endorsed Emergency Plan must be implemented and maintained to the satisfaction of the Responsible Authority on a continuing basis.**

Head, Transport for Victoria

- 69. Prior to commencement of Stage 1 of the development, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and electronic copies must be provided. The plans must be generally in accordance with the plans prepared by One Mile Grid, Drawing no. CLP200 Rev C and annotated Boneo Road – The Ranch Access Treatment Concept Layout Plan but modified to show:
 - a. Channelised Right Turn Lane along Boneo Road in accordance with AustRoads guidelines to access the site.**
 - b. Road markings as required for the left deceleration land and right turn lane**
 - c. Pylon Sign Lighting annotated as static lighting.****
- 70. Prior to commencement of Stage 1 of the development, a Functional Layout Plan along with a functional Road Safety Audit must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans prepared by One Mile Grid, Drawing no. CLP200 Rev C and annotated Boneo Road – The Ranch Access Treatment Concept Layout Plan but modified to show:
 - a. Channelised Right Turn Lane along Boneo Road in accordance with AustRoads guidelines to access the site**
 - b. Road markings as required for the left deceleration land and right turn lane****

3.6 (Cont.)

71. Subsequent to the approval of the Functional Layout Plan (FLP) and prior to the commencement of any roadworks within the arterial road reserve the applicant must submit the detailed engineering design plans and a detailed Responsible Service of Alcohol (RSA) to the Head, Transport for Victoria for review and approval. The detailed design plans must be prepared generally in accordance with the approved FLP to the satisfaction of the Head, Transport for Victoria.
72. Prior to the occupation of the development of Stage 1, all the roadworks as per the approved FLP must be constructed to the satisfaction of and at no cost to the Head, Transport for Victoria.
73. Lighting for the pylon sign near the entrance to the site must be converted to static lighting only.

Development Engineering

74. After the endorsement of Condition 1 plans and before any works associated with each stage of the development starts, a signed and completed 'Checklist for Development Engineering Plan Approval' along with engineering plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and shall be emailed to devengadmin@mornpen.vic.gov.au in pdf format.

The plans must show:

- a. All areas of the development being drained by means of an underground drainage system to retain a post-development 1% Annual Exceedance Probability storm event for the critical storm duration on the property and being based on a soil percolation test reports prepared by an appropriately qualified geotechnical consultant.
- b. The drainage system on the site being designed to ensure that storm water runoff from the development meets the current best practice performance objectives for stormwater quality, as contained in the Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).
- c. Details, including levels, of all driveways and parking areas within the site.
- d. A plan of the proposed wastewater storage dam showing the following:
 - i) Water surface level
 - ii) If an embankment is required, embankment crest level
 - iii) If a spillway is required, location of proposed spillway
 - iv) If a spillway is required, spillway invert level
 - v) If a spillway is required, spillway outlet channel or flow path from spillway
- e. Detailed cross-sections through the wastewater storage dam in two different directions, showing the following information, all in accordance with the recommendations of a site specific geotechnical investigation report:
 - i) Dam cut slopes

3.6 (Cont.)

- ii) Dam base level/s
 - iii) Water surface level
 - iv) If an embankment is required, top of embankment level
 - v) If an embankment is required, embankment upstream and downstream slopes
 - vi) If an embankment is required, embankment crest width
 - vii) Freeboard
 - viii) If an embankment is required, core trench to underside of embankment, including width and depth
 - ix) If an embankment is required, embankment materials
 - x) If an embankment is required, embankment compaction standards and compaction methodology
 - xi) Dam liner details
- f. If a spillway is required, a cross-section across proposed spillway to the wastewater storage dam showing spillway side slopes and spillway depth.
- g. All car parking areas and bus parking and drop off areas surfaced in accordance with the endorsed plans.
- h. All internal roadways and driveways providing access to car parking areas and bus parking and drop off areas surfaced to the satisfaction in accordance with the endorsed plans.
- i. All disability parking spaces surfaced with asphalt or reinforced concrete.
- j. All pathways providing access from disability parking spaces to an adjacent part of the development surfaced with asphalt or reinforced.
- k. Tree Protection Zones (TPZs) impacted by the works, or as shown on any other development plans and documents.
- l. Drainage works designed to avoid TPZs where possible.
- m. Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
75. Before the approval of engineering plans, drainage computations and documentation are required for:
- a. The proposed drainage system.
 - b. A Sounding and Tracking Observatory for Regional Meteorology (STORM) and/or Model for Urban Stormwater Improvement Conceptualisation (MUSIC) Report, where applicable.
76. Before the approval of engineering plans for asphalt surfaced internal roads, driveways and car parking areas, a site specific geotechnical investigation report which includes pavement design for road and car parking areas is required.

3.6 (Cont.)

77. Prior to the commencement of any works for any stage of the new development, a project-specific Major Construction Management Plan (CMP) for that part of the works must be endorsed by the Responsible Authority. This CMP is to be based on the standard Major CMP template found on the Mornington Peninsula Shire's website. When approved, the CMP will be endorsed and form part of the Planning Permit. The endorsed CMP must be implemented to the satisfaction of the Responsible Authority prior to, and during the works.
78. Prior to the commencement of any works for any stage of the new development, a project specific Construction Traffic Management Plan (CTMP) for that part of the works must be submitted to the Responsible Authority for approval. The CTMP must then be implemented to the satisfaction of the Responsible Authority prior to and during construction of the works.
79. Before the initial occupation of any stage of the approved development, all drainage works associated with that stage of the new development must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority.
80. Before the initial occupation of any stage of the new development, the areas set aside for the parking of vehicles and driveways associated with that stage of the new development as shown on the endorsed plans must be constructed in accordance with approved engineering plans, surfaced and drained to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

Expiry of amended permit

81. The amendments authorised by this amendment permit will expire if one of the following circumstances applies:
- a. The first stage of the development is not completed within five years of the date of the amendment to this permit with reference P04/0289.03.
 - b. The last stage of the development is not completed within ten years of the date of the amendment to this permit with reference P04/0289.03.
 - c. The uses within respective stages are not started within two years of completion of the respective developments of that stage.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

3.6 (Cont.)

Notes:

- Refer to Cultural Heritage Management Plan 17619 which has been issued for the use and development of the land and contains conditions relevant to Aboriginal Cultural Heritage on site.
- The proposed food facilities will require registration under the *Food Act 1984* and must comply with the Australian Food Standards – design construction and fit-out of food premises and Australia New Zealand Food Standards Code 3.2.2 and 3.2.3 to satisfaction of the relevant authority.
- The proposed caravan park must register and comply with the *Residential Tenancies Act 1997* and Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020 to satisfaction of the relevant authority.
- Alterations or additions to any the existing registered accommodation, must comply with the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020, to satisfaction of the relevant authority.
- Publicly accessible pools must be registered under the Public Health and Wellbeing Regulation 2019 to satisfaction of the relevant authority.
- The subject site must comply with the *Tobacco Act 1987*, all setback distance from children’s activities must be complied with, all signage must be displayed and updated to include e-cigarettes where required to satisfaction of the relevant authority.
- The approved use must not cause any nuisance as defined by *the Public Health and Wellbeing Act 2008* the satisfaction of the relevant authority.

EPA Notes

- The amended *Environment Protection Act 2017* came into effect on 1 July 2021. The amended *Environment Protection Act 2017* imposes new duties on individuals and/or businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

For further information on what the new laws mean for Victorian businesses go to <https://www.epa.vic.gov.au/for-business/new-laws-and-your-business>

For further information on what the new laws mean for individuals and the community go to <https://www.epa.vic.gov.au/about-epa/laws/new-laws/the-new-act-for-the-community>

- This permit is not an EPA permission/approval. Before the use or development authorised under this permit starts, the permit holder must ensure that any obligations or duties that arise under *the Environment Protection Act 2017* are met. This may include obtaining an EPA permission, approval, or exemption, in accordance with the Environment Protection Regulations 2021.
- The use of LED lighting washing down the sign and frame is not supported owing to it causing possible distraction to passing traffic.

3.6 (Cont.)

- The proposed development requires a separate approval under the *Road Management Act 2004* for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.

Part B

That Council resolves that Attachments 15, 16, 17, 18, 19, 20 to this report be retained as confidential items pursuant to section 3 (1) (f) of the *Local Government Act 2020* as they contain personal information.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 2: A robust, innovative and diverse economy.

- Strategic Objective 2.3: A thriving entrepreneurial economy, with a vibrant tourism sector, that provides accessible employment to our diverse community

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.4: A community with vibrant arts, culture, sport and recreational opportunities that foster connections and participation across generations, backgrounds and abilities.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles B, H and I which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

DISCUSSION**Purpose**

The purpose of this report is to provide a summary of:

- The relevant background of the site
- The proposal
- The key issues
- Submissions and officer response

3.6 (Cont.)

- The assessment against the relevant provisions of the *Planning and Environment Act 1987* and Mornington Peninsula Planning Scheme.

For a detailed assessment of all the relevant matters please see Attachment 1 – Officer Assessment.

The key planning considerations are summarised in the below table:

Proposal	<ul style="list-style-type: none"> • To amend the plans endorsed under the permit. • To amend the conditions of the permit. • To amend the description of what the permit allows.
Zoning and Overlays	<p>Zone:</p> <ul style="list-style-type: none"> • Green Wedge Zone Schedule 4 (GWZ4) <p>Planning Overlays:</p> <ul style="list-style-type: none"> • Environmental Significance Overlay Schedules 15, 23 and 28 (ESO15, ESO23 and ESO28) • Vegetation Protection Overlay Schedule 2 (VPO2)
Permit Triggers	<ul style="list-style-type: none"> • GWZ4 – section 2 Use (leisure and recreation) and buildings and works • ESO15, ESO23, ESO28 – Buildings and works and native vegetation removal • VPO2 – Vegetation removal • Clause 52.05 – Construct and put up for display a sign • Clause 52.17 – Remove native vegetation • Clause 52.27 – Use land to sell and consume liquor • Clause 52.29 – Alter access to a Transport Zone 2
Advertising	The application was advertised by sending direct notice to surrounding properties and erecting a sign on site for 14 days.
Submissions	One hundred and seven objections have been received to date.
Consultation	A drop-in information session was held on 9 October 2023 at the Rosebud Memorial Hall.
Key Issues	<ul style="list-style-type: none"> • Whether the proposed land uses are acceptable having regard to the broad range of policy objectives, relevant decision guidelines and the specific site context • Whether the built form is appropriate • Any adverse impacts resulting from the proposal including impacts to native vegetation, amenity, bushfire risk, traffic and wastewater. • Consideration of the matters raised in the objections.

	<ul style="list-style-type: none">• Whether the proposal represents a net community benefit.
Recommendation	Notice of decision to amend a permit, subject to conditions.

Background

SUBJECT SITE

The subject site is a lot of 80.2 hectares located on the western side of Boneo Road within Boneo. The land is located within ‘the Cups’ landform of semi-consolidated sand dunes and features an undulating topography. The land is largely clear of shrubs and trees, with scattered stands of indigenous vegetation generally located within the northern portion of the land, with other areas of indigenous vegetation scattered throughout the site. Exotic planted vegetation exists in part of the land, in particular at the south-eastern boundary.



Figure 1: Aerial Photo showing subject site and surrounding properties – September 2023

The land is accessed through a vehicle crossing to Boneo Road located at the north-eastern corner of the land. Boneo Road features left-and-right turning lanes for access to the site.

The land is presently used for an adventure park, trading as ‘the Ranch’, consisting of a mix of recreational activities including horseback riding, archery, flying fox, tennis courts, rock climbing and a rodeo arena, generally concentrated within buildings and works in the eastern portion of the property.

In addition, earthworks associated with a mountainboarding course have been constructed on the land. These works require retrospective planning permission, which is to be considered under this application.

The Ranch provides accommodation on the land with a mix of cabins and wagons, which are also used for school camps. A dining hall is present on the land, called ‘the Chapel’. A camping and caravan park (permitted under P04/0289) exists at the north-central portion of the land, with a mix of cabins and caravans, with 58 sites in use.

A single storey dwelling is located towards the front of the subject land, adjacent to the entry.

3.6 (Cont.)

The rear (western) portion of the land is generally used for horse husbandry and horseback riding tours and is largely clear of development.

SURROUNDING PROPERTIES

North	754 Boneo Road adjoins the subject site to the north. The property is approximately 35 hectares in size and contains a dwelling, extensive crops and associated agricultural and horticultural structures. A large dam is located at the northern end of the site. Native vegetation is present in patches along the western and southern boundaries.
North-west	47 Maxwell Road, Fingal adjoins the site to both the north and west. The property is approximately 71 hectares in size and predominantly consists of large grazing paddocks, a dwelling and agricultural buildings positioned relatively central to the site. Remnant native vegetation is established in patches, along the northern section of the site towards the eastern property boundary, as well as in the middle of the site.
South	100 Seascape Drive, Cape Schanck adjoins the site to the south. The property is approximately 139 hectares in size and predominantly consists of large grazing paddocks. Minimal native vegetation is established across the site. 936 Boneo Road, Cape Schanck adjoins the site to the south. The property is approximately 90 hectares in size and contains a dwelling and agricultural structures. Predominantly the site consists of large grazing paddocks. Minimal native vegetation is established across the site.
East	Boneo Road adjoins the site to the east. No. 841 Boneo Road is directly opposite the site and contains a single dwelling. Vegetation including canopy trees are scattered across the site which become denser around the dwelling and along title boundaries.

PERMIT HISTORY

Permit P04/0289 (the Permit) was issued by the Shire on 9 November 2004. The Permit allows use and development of sixty (60) caravan / camping sites for use by registrable and unregistrable moveable dwellings in accordance with the endorsed plans. The Permit relates to the camping and caravan park located in the north-central portion of the site described above.

Relevantly, condition 9 of the Permit required the landowner to enter into a section 173 Agreement which includes restrictions on the total number of patrons on the land. The applicant has lodged a request to amend this agreement to give effect to this development, which is being considered concurrently to this application.

Planning Permit 3314 issued on 28 May 1980 by the Shire of Flinders for a Horse Riding School. This permit includes a condition that horse riding must be contained within the boundaries. It also includes a condition that no more than 30 working horses are to be grazed on the property, and that up to 30 private ponies may be grazed for up to four (4) months in any twelve (12) month period.

3.6 (Cont.)

Planning Permit 3985 issued on 12 March 1981 by the Shire of Flinders for a Horse Riding Ranch and associated facilities. This permit refers to the continuation of the conditions of the previous permit.

Planning Permit 5000 issued on 2 March 1983 by the Shire of Flinders for the use and development of a restaurant with a seating capacity of 81 persons and a swimming pool and spa. A condition prescribes the hours of operation.

Planning Permit 13876 issued on 23 April 1990 by the Shire of Flinders for the construction of a dwelling.

Section 72 Amendment

There is no limit on the extent of changes that can be made to a planning permit under section 72 of the Act. In *Mondib Group Pty Ltd v Moonee Valley City Council* [2021] VSC 722, the Supreme Court of Victoria determined that section 72 of the Act does not limit the scope of amendments that can be made to a permit. Despite the significant scope of the amendments proposed to the permit, the applicant is able to facilitate the proposed uses and development through the section 72 amendment process.

Proposal

Please refer to the following for further details:

- Attachment 1 - Masterplan
- Attachment 2 - Plans
- Attachment 3 - Planning Submission
- Attachment 4 - Venue Operations Plan
- Attachment 5 - Landscape Visual Impact Assessment
- Attachment 6 - Traffic Impact Assessment
- Attachment 7 - Economic and Social Assessment
- Attachment 8 – Land Management Plan
- Attachment 9 – Farm Management Plan
- Attachment 10 – Biodiversity Assessment
- Attachment 11 – Traffic Impact Assessment
- Attachment 12 – Acoustic Report

Overall, the application has been made to amend planning permit P04/0289, proposing to redevelop the land at 810 Boneo Road, Boneo for the following:

- New leisure and recreation facilities:
 - Indoor and outdoor skateboarding facility.
 - Mountainboarding, mountain biking and BMX tracks and trails.

- Dry-ski slopes, rope tow lift conveyor belt, snow sport jumps and airbag landings.
- Two wakeboard lakes with overhead cable systems and aqua chimp course with associated buildings. It is noted that both lakes require a license to take and use groundwater under section 51 of *Water Act 1989* and thereby qualifies for exemption under clause 62.02-1 of the planning scheme.
- New accommodation facilities:
 - Existing camping and caravan park expanded from 60 sites to 105 sites.
 - Conversion of existing dwelling to staff accommodation.
 - Three new accommodation cabins for staff.
 - Construction of a new dwelling for owners.
- New function centre and restaurant.
- Associated development:
 - Alterations to existing buildings and a new storage building.
 - Expanded wastewater storage dam.
 - Alterations of access to Boneo Road and construction of car parking.
 - Vegetation removal.
 - Advertising signage.
- Sale and consumption of liquor.

Proposed buildings are highlighted below:

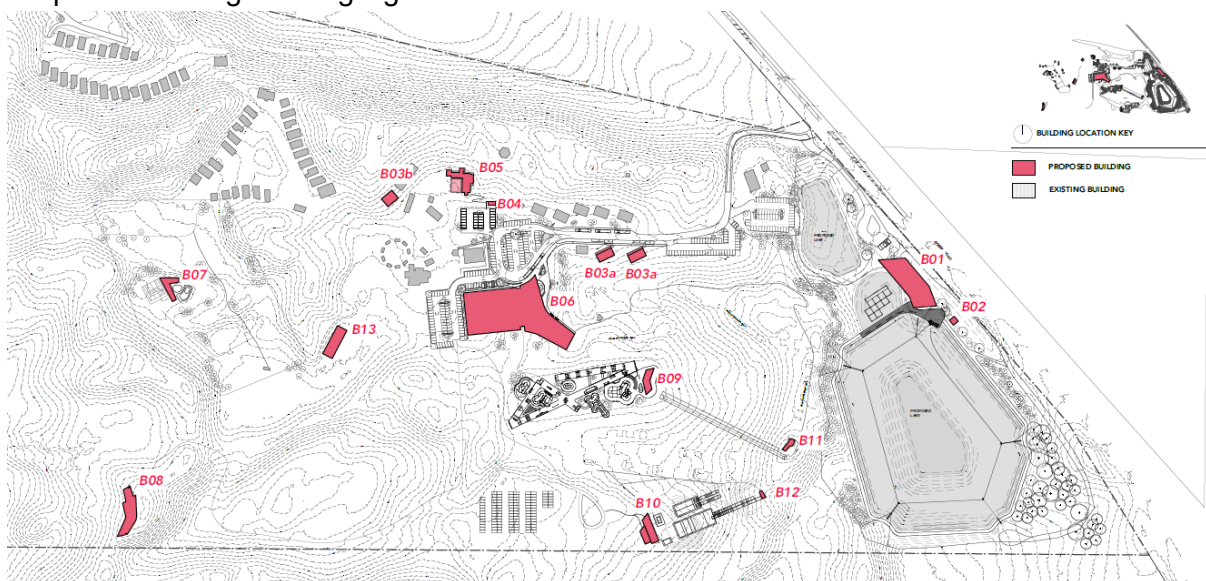


Figure 2: shows existing v proposed buildings

3.6 (Cont.)

Each component listed above is detailed below:

Skateboarding facilities

The application proposes to construct indoor and outdoor skateboarding (and BMX) facilities to the south of the existing stables on the land. The indoor facilities are proposed within a single building (B06) also containing restaurant, function centre and ancillary offices. B06 has a maximum height of 19.114 metres above natural ground level and a maximum roof level of 54.26 metres Australian Height Datum (AHD). The building's primary volume is clad in a translucent polycarbonate glazing with natural timber elements clad on the eastern portion of the building.

The outdoor facilities are proposed to the south of B06, with an associated picnic shelter (B09) located to the east of the outdoor skating facilities.

Function centre and restaurant

A function centre and restaurant are proposed within building B06 described above. The restaurant and function centre will have a combined maximum patron capacity of 150 patrons, with the following operating hours:

- Sunday to Thursday: 9:00am – 10:00pm
- Friday and Saturday: 9:00am – 11:30pm

Outdoor tracks and trails

A series of outdoor BMX, mountainboarding and mountain biking tracks and trails are proposed throughout the site.

A central mountainboarding area has been constructed on the land for which retrospective approval is required. Earthworks generally consist of grading to the land and the construction of jumps. Further additional works are proposed to this area for mountain biking, consisting of a 1.5-metre-wide trail, generally constructed at grade, with batter slopes and jumps.

A separate mountain biking track is proposed to be constructed within a northern, elevated portion of the land, within a stand of indigenous vegetation. Varying works are required to construct the trail, including elevated boardwalk where the trail is proposed within the tree protection zone of trees to be retained.

Wakeboard lakes, aqua chimp and lake cabin

Two lakes/dams are nominated to be constructed adjacent to the front property boundary. The large, southern lake is to be used for cable-towed wakeboarding and an 'aqua chimp' overwater obstacle course. The smaller, northern lake is nominated to be solely used for a cable-towed wakeboarding.

Both wakeboard lakes are exempt from planning permission under clause 62.02-1 of the Planning Scheme as a licence is required to take and use groundwater for these lakes under section 51 of the *Water Act 1989*. Consequently, the location, construction and height of these lakes do not form part of the Shire's consideration.

The buildings and structures constructed around these lakes require planning permission.

3.6 (Cont.)

A 'lake cabin' building (B01) is proposed to be constructed at the northern end of the southern lake, on its embankment, 13.46 metres setback from the front property boundary. The building is to be used for check-in, equipment hire, change rooms and storage. It features a pitched roof form with an overall height of 9.72 metres above natural ground level (7.37 metres above the wall level of the lake). The building is proposed to be finished in timber with standing seam roofing in 'charcoal'. The lake cabin building opens out onto a boardwalk adjacent to the lake, which includes a bridged area over the lake.

A separate equipment storage shed (B02) is located to the south of the lake cabin building, on the embankment of the adjacent lake, setback 14.65 metres from the front property boundary. The building has a height of 10.9 metres above natural ground level (5.5 metres above the wall level of the lake). The shed is proposed to be clad in galvanised metal.

To allow for the cable-towed wakeboarding, five lattice towers are proposed to be constructed over the southern lake and two a-frame towers are proposed to be constructed at each end of the northern lake, with a cable suspended between each tower in each respective lake. The lattice towers have a height of 13 metres above the finished surface level. The a-frame towers would have a height of 6 metres above the finished surface level. Various jumps would be positioned within the lakes.

The aqua chimp ropes course is to be constructed in the southern lake, separated from the wakeboarding area by the boardwalk.

Ski/snowboard facilities

Outdoor dry snowboard and ski facilities are provided to the site.

Aerial ski/snowboard jumps are proposed adjacent to the southern property boundary. The jumps consist of four jump structures located on a downslope. Two of the jumps are proposed to be accessed from a drop-in tower (B12) with a height of 12.8 metres. Landing areas will consist of inflatable safe landing pads.

A viewing shelter and hire kiosk (B10) is proposed to the west of the aerial jumps. The building is proposed to be setback 7.4 metres from the southern boundary with a height of 6.59 metres. The building is proposed to be finished in timber with standing seam roofing in 'charcoal'.

Between the viewing shelter and landing areas is a skateboarding halfpipe and in-ground trampoline.

A 'Neveplast' dry slope artificial snow permeable mesh surface is proposed to be laid over part of the site. The artificial snow surfacing is to be accompanied by 'Borer super-mini' at-grade tow rope and 'Magic Carpet' in-ground ski lift system.

Alterations to existing buildings

Additions and alterations to several existing buildings are proposed with the application.

An existing 'Chapel' building (B05), used as a dining hall, is proposed to be extended to include a covered outdoor space, freezer room and staff room. All these additions are single storey with a height of 3 metres.

3.6 (Cont.)

The Chapel will be used as a restaurant and function centre until building B06 is constructed. Upon completion of B06, it will serve solely as a dining hall ancillary to the existing use of the land for camps.

An existing flying fox tower is proposed to be modified to include a start gate area for the adjacent mountainboarding course.

Conversion of existing dwelling to group accommodation

The existing single storey dwelling is proposed to be converted and used for group accommodation to temporarily accommodate staff. The group accommodation would not be used as a permanent residence. No alterations are proposed to this building to facilitate its conversion.

New cabins and 'homestead'

Two new cabins (B03a) are to be constructed to the south of the main access. These single storey buildings each consist of bedrooms, a living area, kitchenette and bathrooms.

These buildings are to be used alternately for group accommodation (staff accommodation) or as an expansion to the existing use of the land for accommodation (including school camps).

A new 'homestead' (B03b) is proposed to the west of the Chapel building. This building would accommodate up to 20 guests (in bunks) in association with the existing use of the land for accommodation (including school camps).

Replacement dwelling

A replacement dwelling (B08) is proposed to the south-western edge of the development footprint, 21.37 metres from the southern property boundary. The dwelling is partially cut into a hill and presents as double storey to the west with the lower storey consisting of a garage and the upper storey consisting of living spaces.

The dwelling has a maximum height above natural ground level of 6.8 metres and is clad in timber and off-form concrete.

Expanded camping and caravan park

The existing camping and caravan park on the land (permitted under permit P04/0289) is proposed to be expanded from 60 sites to 105 sites.

The additional 45 sites consist of five sites within the northern section of the camping and caravan park (within an already cleared area of land) and a new area containing 40 sites to the south of the existing camping and caravan park.

To serve the camping and caravan park, an amenity building (B07) containing toilet facilities is proposed within the camping and caravan park. The building includes a covered picnic deck, pool area and adjacent "kick about" area for outdoor activities.

Ancillary buildings

Two new buildings ancillary to the land uses are proposed. Building B04 is a check in office proposed to the south of the 'Chapel' building.

3.6 (Cont.)

Building B13 is a 301 square metre storage shed located between B06 and the camping and caravan park. The building has a height of 7.2 metres and is proposed to be clad in galvanised metal sheet cladding.

Dam extension

An existing wastewater storage dam located within the centre of the site is proposed to be expanded to a capacity of 7.8 megalitres, with its depth increased to 4 metres. Planted vegetation surrounding the dam is to be removed as part of its expansion.

Alterations to Boneo Road access and road upgrades

The existing access to Boneo Road is proposed to be upgraded by widening the internal access road adjacent to the vehicle crossing, as well as altering Boneo Road to provide a dedicated channelised right-turn lane into the subject site.

Car parking

397 car parking spaces and 5 coach parking spaces are proposed. The car parking spaces consist of 282 spaces in formal parking areas and 115 overflow parking areas at five different parking sites. In addition, parking is to be provided at each individual camping and caravan park site.

Vegetation removal

The applicant is proposing vegetation removal generally within the footprint of the development areas, including removal of 0.942 hectares of Coastal Alkaline Scrub. The majority of individual trees (outside of patches of Coastal Alkaline Scrub) to be removed consists of Coast Tea tree.

The only exotic trees which require permission to be removed are those located within the areas of the site affected by ESO23 or VPO2. This is limited to Trees 299 and 300 (Cypress cultivars), 353 to 389 (all Radiata Pines).

Signage

Signage is proposed at the entry to the site consisting of:

- One floodlit business identification pole sign with a height of 7 metres and a display area of 4.52 metres (four total faces). The sign consists of a lattice tower structure with four circular display faces.
- Two business identification signs with a display area of 2.88 square metres each. The signs are located on each side of the entrance.

Sale and consumption of liquor

The application proposes the sale and consumption of liquor from the Chapel (B05), the restaurant, function centre and indoor skate facility (B06), the lake cabin building (B01) as well as in all existing and proposed accommodation buildings.

The lake cabin (B01) is proposed to be licenced from 11:00am to 9:00pm Monday-Sunday.

3.6 (Cont.)

The indoor restaurant/function centre (B06) will be licenced from 11:00am to 10:00pm Sunday-Thursday, and 11:00am to 11:30pm Friday and Saturday and Sunday proceeding a public holiday.

The accommodation cabins are proposed to be licenced ‘to allow for a welcome gift containing a bottle of alcohol.’ Liquor is not intended to be sold from these buildings.

Overall operating hours and patron numbers

The nominated total number of patrons proposed on the land is 1396 (excluding staff) across all activities, including a maximum of 150 patrons within the restaurant and function centre.

Patrons and operating hours are proposed to be divided in peak seasons as follows:

Activity	Patrons	Operating hours
Horse Riding	15	9:00am – 5:00pm
Existing adventure activities	20	9:00am – 5:00pm
Mountainboarding/biking	30	9:00am – 9:00pm
Snowboarding/ski jumps	10	9:00am – 9:00pm
Wakeboarding	40	9:00am – 9:00pm
Aqua Chimp and Kiosk	60	9:00am – 9:00pm
Outdoor skatepark	40	9:00am – 9:00pm
Indoor skatepark	45	9:00am – 9:00pm
Total leisure and recreation:	260	
Restaurant and function centre	150	Mon-Thu: 8:00am – 10:00pm Fri-Sat: 8:00am – 11:30pm
School Camps/Cabins	258	-
Camping and Caravan Park	448	-
Group accommodation	60*	-

* Refer to assessment

Staging

The Masterplan highlights that the proposal is to be staged as follows:

Stage	Includes
Stage 1	Mountainboarding, mountain biking and BMX tracks and trails. Dry-ski slopes, rope tow lift conveyor belt, snow sport jumps and airbag landings.

3.6 (Cont.)

	<p>Wakeboard lakes with overhead cable systems and aqua chimp course with associated buildings.</p> <p>Alterations to existing buildings and flying fox tower.</p> <p>Expanded dam.</p> <p>Alterations to existing chapel building.</p> <p>Additional cabins.</p> <p>Alteration of access to Boneo Road.</p> <p>Storage and ancillary buildings.</p> <p>Car parking (part).</p> <p>Advertising signage.</p> <p>Vegetation removal (part).</p> <p>Sale and consumption of liquor (part).</p>
Stage 2	<p>Indoor and outdoor skateboarding facility, new function centre and restaurant.</p> <p>Conversion of existing dwelling to group accommodation.</p> <p>Construction of new dwelling.</p> <p>Car parking (part).</p> <p>Vegetation removal (part).</p> <p>Sale and consumption of liquor (part).</p>
Stage 3	<p>Expanded camping and caravan park.</p>

CULTURAL HERITAGE MANAGEMENT PLAN (CHMP)

The land is subject to cultural heritage sensitivity and the proposed activity is a high impact activity pursuant to regulations 46 and 58 of the *Aboriginal Heritage Regulations 2018*. A Cultural Heritage Management Plans (CHMP) (ref: 17619) was approved by the Bunurong Land Council Aboriginal Corporation and submitted to the Shire on 26 June 2024. The CHMP requires the protection and harm avoidance of a specific Aboriginal place identified within the site.

NOTIFICATION AND CONSULTATION

Notification

The application was advertised by sending direct notice to adjoining and surrounding properties and erecting a sign on the site for 14 days.

Submissions

Please refer to Attachments 13 – 18 for a copy of the 107 Objections. The matters raised in the objections are discussed further in this report.

3.6 (Cont.)

Letters of Support

To date, 38 letters of support have been received.

Public Consultation

A drop-in information session was held on 9 October 2023 at the Rosebud Memorial Hall.

REFERRALS**External Referrals and Notices**

Authority	Referral or Notice	Response
Department of Energy Environment and Climate Action (DEECA)	Section 52 Referral - recommending	No objection.
Department of Transport and Planning (DTP)	Section 55 Referral - determining	No objection subject to conditions relating to access.
Environment Protection Authority (EPA)	Section 55 Referral - determining	No objection subject to permit notes.
Country Fire Authority (CFA)	Notice	Concerns raised, to be considered as an objection. The proposal will use and develop land in a BPA that would allow people to congregate in numbers, CFA has raised concerns about how the proposal meets the objectives of clause 13.02. See response to objections for officer commentary.
Southern Rural Water (SRW)	Notice	No objection. Works licenses are required under the <i>Water Act 1989</i> for the dams.
Victoria Police	Notice	No objection

3.6 (Cont.)

Internal Referrals

Department/Team	Response
Agribusiness Officer	Some comments related to the extent of agricultural productivity and conservation as well as impacts to farming amenity. Refer to the Green Wedge Zone assessment.
Development Engineering	No objection subject to conditions.
Emergency Management	No objection.
Environmental Health	No objection subject to conditions.
Natural Systems	No response.
Social Planning	No objection.
Traffic & Transport	No objection. Alterations to Boneo Road are DTP's responsibility and proposed parking is adequate with capacity for overflow.
Urban Designer	No objection. The site has been used for leisure for a long time and is an appropriate location for such facilities. The rolling topography of the site ensures that much of the site and development will be screened from view for most of the peninsula occupants. The dwelling is a low pavilion style which reflects existing dwellings in the area. Due to the land size, there is ample room between buildings so that landscape will be the main visual element when looking across the site from surrounding vantage points. A suggestion was made to treat the galvanised steel to mitigate its initial reflectivity.
Vegetation Officer	No objection subject to conditions relating to a Tree Management and Protection Plan, offsets, protection of fauna and landscaping.

CONSIDERATION

Please refer to Attachment 1 – Officer Assessment for full details of assessment.

The following key issues are summarised below:

1. Whether the proposed land uses are acceptable having regard to the broad range of policy objectives, relevant decision guidelines and the specific site context.
2. Whether the built form is appropriate in the landscape setting.
3. Any adverse impacts resulting from the proposal including impacts to native vegetation, amenity, bushfire risk, traffic and wastewater.
4. Consideration of the matters raised in the objections.

3.6 (Cont.)

5. Whether the proposal represents a net community benefit.
6. Whether the proposed land uses are acceptable having regard to the broad range of policy objectives, relevant decision guidelines and the specific site context.

The subject site is located within the GWZ, within which sustainable land management and the promotion of productive agriculture are key policy aims set out in the planning policy framework, along with the specific Zoning provisions. Similarly, appropriate forms of tourism and recreation are actively encouraged, and it is acknowledged that a balance must be struck in this regard. Given this policy context, it is important to establish whether the proposed land uses are appropriate for the subject site and surrounding area.

The proposal for an expanded leisure and recreation facility, expanded camping and caravan park and restaurant and function centre are all permissible within the GWZ. As noted in the policies referenced above, tourism-based leisure and recreation is a use/pursuit which is encouraged within the GWZ, however it must be of an appropriate form – that is, it cannot compromise the rural character of the area or undermine the key purpose of the Zone, sustainable land management.

In this respect, it is noted that the proposed facility will be located on an existing, longstanding leisure and recreation and camping and caravan park facility, on land exceeding 80 hectares which is a minor incursion on the land currently used for agriculture. Although the facility is large, it will not occupy a significant percentage of the overall area with the entire rear half of the site free from development. It is therefore not removing any land from primary production, is diversifying an existing commercial/tourist enterprise and has been well-sited to occupy a location which will have minimal impact on the sustainable management of the land and environmental values (discussed later in this report).

Overall, it is considered that the proposed and expanded uses are consistent with the relevant provisions of the Planning Scheme and the GWZ specifically. The subject site, and the location within the site, represent appropriate opportunities to diversify an existing commercial/tourism enterprise.

Leisure and recreation land use

The application details as per the submitted documentation encompasses a wide variety of land use definitions which are nested under 'leisure and recreation'. It is considered appropriate for the permit description to authorise 'leisure and recreation' in this instance as it covers the broad scope of uses and the permit conditions and endorsed plans will clearly explain the extent and limitations on the permission being granted.

The application documents also state that part of the leisure and recreation use of the site will include some sporting events or competitions which would generate a higher number of visitors to the site, approximately 2500 people 6 times per year. The access and car parking, as well as on-site facilities, are capable of handling this number of people on an ad-hoc basis. Therefore, the condition restricting patron numbers (see later in this report) will allow for this ancillary component of the leisure and recreation use, which will be subject to all other conditions of the permit to ensure there are no unreasonable impacts to surrounding amenity.

Agricultural considerations

The land is within the GWZ4 and the proposal must be compatible with the purpose of the zone which include 'to recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources'.

3.6 (Cont.)

The 80-hectare site is already used for a tourist purpose with a camping and caravan park and horse riding provided on the site. The camping and caravan park, recreation, storage and outdoor living spaces occupy 15 hectares of the site.

The land has portions of native vegetation cover, particularly toward the rear half of the site. Alkaline dunes occupy 4.5 hectares of the site that are fenced off and not available for grazing. Regrowth vegetation occupies around 15 hectares of the site. These areas are not fenced off, however, although stock will browse this vegetation, the Facility Management Professional (FMP) states that the contribution of this area to grazing is low. The remaining horse grazing is therefore around 45 hectares which enables the current horse stocking rate of 48.

The FMP details the soil type as 'deep sands' which has a low water holding capacity and explains that this restricts the agricultural versatility. Stock water is provided through stock troughs filled from tanks which are filled from a bore, and the FMP states that the bore water is well suited to stock use.

With the proposed use and development, the majority of the site will be retained for horse grazing and grazing animal production. The FMP explains that with the additional purchased fodder, a herd of around 35-38 horses could still be grazed on the remaining agricultural land.

It is noted that the horse related activities all fit within the broader land use term 'agriculture', despite not being a form of productive agriculture. The horse agistment contributes to the rural economy and enables people to engage with green wedge land in an agricultural manner. The existing conditions are that leisure and recreation and horse agistment coexist on the land, and this application seeks to increase the leisure and recreation component. The reduction of agricultural areas to facilitate this proposal is considered to be a minor incursion on the wider agricultural viability of the peninsula region, with the anticipated number of horses only reducing by approximately 10. The leisure and recreation facility will provide a significant contribution to the rural economy whilst retaining the majority of the site for agriculture.

The subject site is within an agricultural precinct and surrounding land is generally used for grazing or horticulture on large allotments ranging from 35-139 hectares. Some of the adjoining lots contain a dwelling, but all are setback hundreds of metres from the subject site. The proposal will not reduce the ongoing capacity of these uses.

Function centre and restaurant

The proposal seeks approval to construct and use a new restaurant and function centre within building B06.

The land benefits from Planning Permit 5000, issued by the Shire of Flinders on 2 March 1983, which approved use and development of a restaurant with seating capacity of 81 persons. The applicant asserts that, as part of their existing operations, this restaurant (known as the Chapel building, referred to as B05) currently operates with a capacity of 220 patrons.

Upon commencement of the new restaurant and function centre, the chapel building would continue to be used as a dining hall associated with school camps as an ancillary component to the existing use of the land for accommodation, rather than a distinct use for a restaurant.

The proposed new restaurant is in a new building within a new location within the subject site and is considered to be a new use of the land distinct from the existing restaurant and is subject to the current requirements of the Planning Scheme (including limitations on patron capacity).

Under the GWZ, restaurant and function centre are section 2 Uses, subject to conditions which have been met by the proposal.

- The subject site is on a lot exceeding 40 hectares in area, and the proposed combined patronage of 150 is permitted under the zone.

3.6 (Cont.)

- It is a requirement of the zone that a restaurant be carried out in conjunction with one of a number of specified uses. The restaurant and function centre would be carried out in conjunction with the use of the land for an outdoor recreation facility. While the application is being considered holistically as an application for leisure and recreation, the suite of activities proposed as part of the leisure and recreation facility includes outdoor recreation, which is a use nested within the broader leisure and recreation facility term.

Overall, the proposed restaurant is appropriate with respect to the objectives and decision guidelines of the GWZ. The site is capable of accommodating the restaurant and function centre component, due to the overall scale of the land and access to appropriate road infrastructure.

The restaurant and function centre are considered compatible with surrounding rural land uses with respect to potential adverse amenity impacts. The nearest dwelling not in the same ownership from this building is a considerable distance from the restaurant, at 450 metres. The submitted Acoustic Assessment asserts that noise impacts associated with the restaurant and function centre (and all uses as a whole) can be moderated in accordance with relevant environmental protection legislation.

It is recommended that a condition be applied to the permit requiring the Chapel restaurant to cease being used as a restaurant and be retained as a dining hall for school camps upon commencement of the new restaurant and function centre use.

Patronage

The suite of existing permits that the land already benefits from enable the accommodation of 200 persons on the site (condition 9h of Planning Permit P04/0289) and provide for 81 patrons in the restaurant (Planning Permit 5000 issued by the Shire of Flinders).

The application seeks to increase the maximum number of patrons permitted to 1396, based on the submitted Venue Operations Management Plan. However, detailed review of these patrons numbers indicates that there are some errors in how this number has been calculated:

- The 'lake cabin' kiosk has been given a separate patronage from the aquatic activities, resulting in it being double counted.
- The decommissioning of the 'Chapel' restaurant upon construction of the new restaurant has not been subtracted from the final total patron count.
- The number of people to be accommodated in staff accommodation (group accommodation) is the number of staff to be present on the land at any one time, higher than the actual capacity of the building to be used for this purpose.

On this basis, the total number of patrons actually proposed is 1116 (not including staff accommodation) consisting of:

- A maximum of 260 patrons at any one time associated with recreation activities.
- A maximum of 150 patrons at any one time associated with the function centre and restaurant.
- A maximum of 258 guests accommodated within the accommodation cabins.
- A maximum of 448 people accommodated within the camping and caravan park.

The applicant has advised that approximately 20 staff would be expected to be accommodated within the group accommodation, however, it is not considered necessary to restrict the

3.6 (Cont.)

number of staff who can stay in the accommodation as the built form already limits the extent of this use component and there may be peak times where more staff are required than others.

While it is recognised that 1116 patrons and guests is a significant increase from the existing permission, given the integration of accommodation and recreation uses, it is likely that people accommodated on-site (particularly in school camps) will also be users of the recreation facilities. With the cabins and camping and caravan park, the number of persons to be accommodated at any one time is 706.

Conversion of existing dwelling to group accommodation

The conversion of the existing dwelling to staff accommodation requires planning permission to use the land for group accommodation under the GWZ. This use is considered as a distinct and separate use of the land from the accommodation cabins and camping and caravan park. No alterations to the existing dwelling are proposed to facilitate the change in use.

Similar to the use of land for a restaurant, it is a requirement of the zone that group accommodation be carried out in conjunction with one of a number of specified uses and the group accommodation would be carried out in conjunction with the use of the land for an outdoor recreation facility. The purpose of the accommodation is to provide facilities solely for staff of the premises to be accommodated on a temporary basis. Given the purpose of this use, there is a clear continuing association between the group accommodation and the outdoor recreation facility.

As discussed above, it has been identified that the Venue Operations Management Plan erroneously identifies the number of staff to be accommodated in the building as the total number of staff to be working on the land. The applicant has confirmed that only 10 staff would be accommodated within the group accommodation. This is consistent with the existing dwelling being a 4-bedroom dwelling.

The proposed use is acceptable given it is occurring within an existing building and providing services to staff in a manner which is integrated with the recreation facility. Given the state significance of the recreation facility (discussed previously) and the limited scale of the group accommodation, the proposed group accommodation accords with policy at clause 11.01-1L-02 (Green wedges – Mornington Peninsula) which seeks to support group accommodation where the recreation elements are of overriding state significance. As the people accommodated would be limited to employees of the permit holder (by condition) and no alterations to the existing building are required, it is considered that the use remains within the capacity of the site to accommodate it.

1. Whether the built form is appropriate in the landscape setting.

Each component of the buildings associated with leisure and recreation is discussed below:

- Skateboarding/BMX facilities

There are indoor and outdoor facilities proposed. The indoor facilities are located within B06 on the plans, which also contains a restaurant, and this building has a maximum height of 19.114 metres above natural ground level. The building is clad in translucent polycarbonate glazing with natural timber elements on the eastern portion of the building. Outdoor facilities are located to the south of this building with an associated picnic shelter located to the east of the outdoor facility. Although the building has a significant height, it is well-sited and designed with consideration of the surrounding topography to ensure that it is not a dominant visual feature from outside the site. The building sits at a maximum height of 54.26m AHD whereas surrounding topography undulates up to heights of 59 AHD, with vegetation reaching heights well above this. This is well represented by the Landscape Visual Impact Assessment (LVIA) as shown below:



Figure 3: Existing landscape as viewed from Boneo Road looking north across the site.



Figure 4: Proposed landscape as depicted in the LVIA from the same location as above. Noting most built form is not visible due to a combination of topography, vegetation and siting of buildings.

A series of outdoor BMX, mountainboarding and mountain biking tracks and trails are proposed throughout the site. The central mountainboarding area has been constructed on and requires retrospective approval. Earthworks are proposed to grade the land and construct jumps. A 1.5-metre-wide trail constructed generally at-grade with batter slopes and jumps is also proposed.

3.6 (Cont.)

A separate mountain biking track is proposed to be constructed within a northern, elevated portion of the land, within a stand of indigenous vegetation. Varying works are required to construct the trail, including elevated boardwalk where the trail is proposed within the tree protection zone of trees to be retained. These works will not cause any significant landscape impacts and tree protection will form conditions of the permit.

- Wakeboard lakes, aqua chimp and lake cabin

Two lakes/dams are proposed adjacent to the front property boundary, both of which are confirmed to be exempt pursuant to clause 62.02-1. The surrounding buildings and structures do require planning permission and form part of this application's consideration.

A 'lake cabin' building (B01) is proposed at the northern end of the southern lake, on its embankment, setback 13.46 metres from the road frontage. The building is to be used for check-in, equipment hire, change rooms and storage. It features a pitched roof form with an overall height of 9.72 metres above natural ground level (7.37 metres above the wall level of the lake). The building is finished in timber with standing seam roofing in 'charcoal'. The lake cabin building opens out onto a boardwalk adjacent to the lake, which includes a bridged area over the lake.

The visual impact of the building has been lessened through the use of a pitch roof form to ensure that the maximum height is further setback from the front boundary than the walls of the building, utilising muted, natural colours and materials to blend with the landscape, and positioning behind existing vegetation on the road reserve. A setback has been provided to accommodate additional landscaping that will in time assist with screening the development. This, combined with the farm-like design of the building, will ensure that it is not a dominant feature within the landscape.

An equipment storage shed (B02) is located to the south of the lake cabin building, on the embankment of the adjacent lake, setback 14.65 metres from the road frontage. The building has a height of 10.9 metres above natural ground level (5.5 metres above the wall level of the lake). The shed is proposed to be clad in galvanised metal. Subject to conditions requiring treatment of the material or alternative material to ensure a low reflectivity, this building will be set behind existing vegetation to be retained which will screen views of the building.

To allow for the cable-towed wakeboarding, five lattice towers are proposed to be constructed over the southern lake and two a-frame towers are proposed to be constructed at each end of the northern lake, with a cable suspended between each tower in each respective lake. The lattice towers have a height of 13 metres above the finished surface level. The a-frame towers would have a height of 6 metres above the finished surface level. Various jumps would be positioned within the lakes. The aqua chimp ropes course is to be constructed in the southern lake, separated from the wakeboarding area by the boardwalk.

These buildings will be visible from outside the site while planted vegetation grows and prior to it reaching maturity. The location of planting along the frontage is shown in the Masterplan with corresponding details about the indigenous species proposed contained within the Biodiversity Assessment and Land Management Plan.

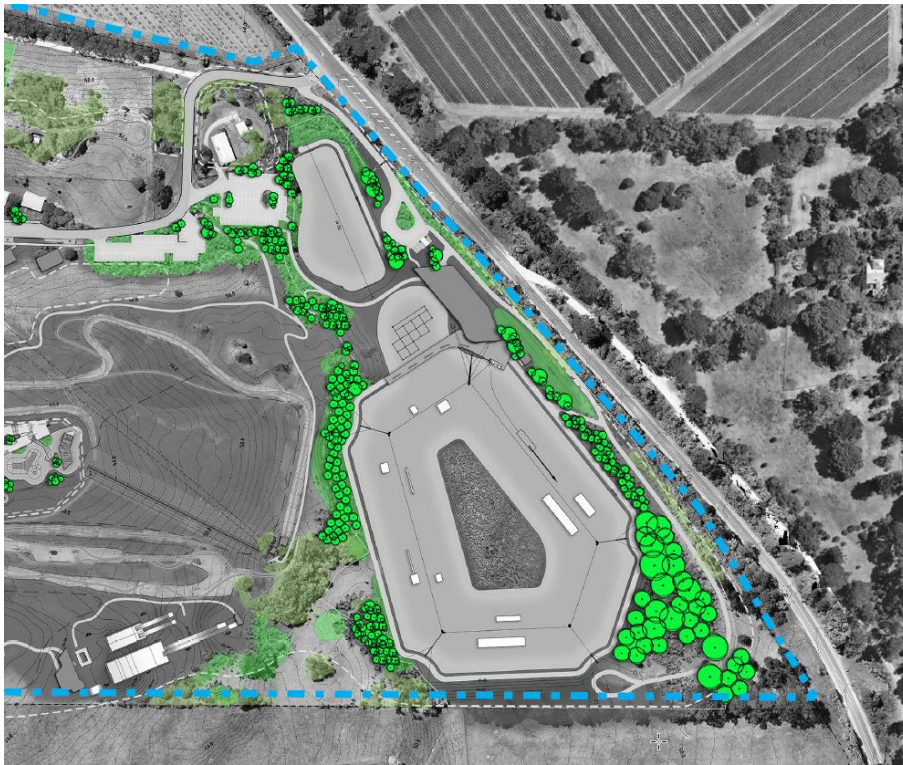


Figure 5: Conceptual planting shown in the Masterplan

Although there will still be some visibility of the buildings and structures from Boneo Road once vegetation has been established, some level of visibility is expected for a recreation facility and the buildings will not be a dominant visual feature when considering the broader landscape context.

- Ski/snowboard facilities

Aerial ski/snowboard jumps are proposed adjacent to the southern property boundary. The jumps consist of four jump structures located on a downslope. Two of the jumps are proposed to be accessed from a drop-in tower (B12) with a height of 12.8 metres. Landing areas will consist of inflatable safe landing pads.

A viewing shelter and hire kiosk (B10) is proposed to the west of the aerial jumps, setback 7.4 metres from the southern boundary with a height of 6.59 metres. The building is finished in timber with standing seam roofing in 'charcoal'. Between the viewing shelter and landing areas is a skateboarding halfpipe and in-ground trampoline.

B10 and B12 are positioned with minimal setbacks to the southern boundary. While this is not a particularly sensitive location from the neighbouring property as it adjoins expansive pasture land, there are vantage points from the south-east along Boneo Road from which B12 in particular will be visible. Given the open-sided nature of the structure, its setback from the road and the undulating topography, it will not be an intrusive visual feature in the landscape. However, it is considered reasonable to place a condition on the permit that no sponsorship branding may be displayed on the ski jumps in the event of any sports events in the future.

The Landscape and Visual Impact Assessment (LVIA) shows this perspective as follows:



Figure 6: Existing landscape as viewed from Boneo Road looking north west across the site

The following is a zoomed-in version showing B12 to the left and B11 to the right:



Figure 7: Zoomed-in proposed landscape as depicted in the LVIA. B12 is on the left and B11 is on the right.

- Alterations to flying fox tower

An existing flying fox tower (B11) is proposed to be modified to include a start gate area for the adjacent mountainboarding course. Similar to the ski jumps, this open-sided structure is not a visually intrusive feature in the landscape.

- Ancillary storage building

The proposed ancillary storage building (B13) is sufficiently setback from all boundaries and is located within a relatively level area of the land, surrounded on all sides by semi-stabilised dunes which would obscure the building, ensuring that its height and scale would not impact on the surrounding rural landscape. The ridge level of the building is below the crests of the adjacent semi-stabilised dunes. Minimal earthworks are required to facilitate this building, and it does not result in disturbance to the topslope of surrounding dunes. On this basis this building is appropriate.

Accommodation components

- Expanded camping and caravan park

The existing camping and caravan park is proposed to be expanded from 60 sites to 105 sites. The additional 45 sites consist of five sites within the northern section of the camping and caravan park and a new area containing 40 sites to the south of the existing camping and caravan park. The sites are generally located within the centre of the site and will not create any unreasonable landscape or environmental impacts. It is noted that existing topography is steep in the location of sites 91-98 and earthworks will be required to create a level platform. A condition will require details of earthworks to create a flat area on these sites which must not impact any vegetation outside of the delineated site areas.



Figure 8: Camping/caravan sites 91-98 with contours

An amenity building (B07) is proposed to serve the camping and caravan park which contains toilet facilities, a covered picnic deck, pool area and adjacent “kick about” area for outdoor activities. It triggers a permit under the GWZ. ESO15 and ESO23 for buildings and works. The building is sufficiently setback from all boundaries and is located in a trough, surrounded on four sides by sand dunes such that the building would be obscured by the surrounding topography. Minimal earthworks are required to facilitate this building, and it does not result in disturbance to the topslope of surrounding dunes. On this basis this building is appropriate.

3.6 (Cont.)

- New cabins and 'homestead'

Two new cabins (B03a) are to be constructed to the south of the main access. These single storey buildings each consist of bedrooms, a living area, kitchenette and bathrooms.

These buildings are to be used alternately for group accommodation (staff accommodation) or as an expansion to the existing use of the land for accommodation (including school camps).

A new 'homestead' (B03b) is proposed to the west of the Chapel building. This building would accommodate up to 20 guests (in bunks) in association with the existing use of the land for accommodation (including school camps).

In terms of the buildings themselves, the additional cabins (B03a) and homestead building (B03b) trigger a permit for buildings and works under the GWZ and ESO15. These buildings are clustered with existing cabin sites in an area of the site already disturbed by development, and are all structures that are of modest profile, with heights above natural ground level of below 6 metres. The cabins and homestead would be screened by surrounding topography, particularly adjacent an adjacent ridgeline to the north. These buildings require minimal earthworks and no vegetation removal to facilitate their construction and it is considered they would be of limited impact on the environmental values recognised in the zone and ESO15. Given their location and the surrounding topography, the use of galvanised roofing for these buildings is acceptable. These buildings are all centrally located on the site and unlikely to be observed from beyond the boundaries of the subject site.

Alterations to chapel

Additions to the existing 'chapel' building (B05) consist of a covered outdoor space, freezer room and staff room. These additions require planning permission under the GWZ and ESO15. These additions are relatively modest and would not impose on the surrounding rural landscape, with the additions being 3 metres in height and lower than the ridgeline of the existing building. The additions require minimal earthworks and would not impact on vegetation adjacent to the chapel building.

Replacement dwelling

The proposed replacement dwelling requires planning permission for buildings and works under the GWZ, ESO15 and ESO23. The use of the land for a dwelling is established, and the existing dwelling is proposed to be recommissioned to used for group accommodation once the replacement dwelling is constructed.

The proposed dwelling, while sited in an area of the site that is currently free from development, is acceptably located with sufficient setbacks to adjoining property boundaries and would not detract from the agricultural values of the land and its immediately surrounding properties. The location of the dwelling is not expected to interfere with agricultural practices on the adjoining land to the south, noting that the existing dwelling on the land is sited adjacent to more intensively cropped land to the north. Additionally due to existing undulating topography the replacement dwelling is unlikely to be observed beyond the boundaries of the subject site.

The dwelling is appropriately designed to moderate visual intrusion on the rural landscape, with a maximum height of 6.8 metres with a parapet level of 43.2 metres, below the crest of the dune it is to be constructed on, which has a crest level of approximately 44.2 metres. The material and colour palette, primarily consisting of timber, concrete and glazing, represents an appropriate response to the landscape.

3.6 (Cont.)

In relation to ESO23, it is noted that the dwelling is sited on the windward side of a semi-stabilised dune. The slope of the dune where works are proposed is approximately 20%, and the dwelling is located below the top slope of the dune. As such, the dwelling is appropriately site. Given the building's location within ESO23, a CMP will be required for the dwelling as well as the other buildings on the land which will address erosion and landslip during construction.

A condition of permit will seek to ensure that the dwelling curtilage is appropriately delineated and contained, as to minimise encroachment on arable land.

2. Any adverse impacts resulting from the proposal including impacts to native vegetation, amenity, bushfire risk, traffic and wastewater.***Sale and consumption of liquor***

The sale and consumption of liquor is shown within the Masterplan document set and is proposed to be limited to some accommodation, kiosk and café areas. No alcohol will be permitted in any of the action sport zones. The kiosk will be licensed from 11am to 9pm Monday to Sunday and the indoor barn restaurant/café will be licensed from 11am to 10pm Sunday-Thursday, and 11am to 11.30pm Friday and Saturday and Sunday before a public holiday.

The proposed hours are in line with the VicHealth evidence and are not associated with increased alcohol related harms. Further, there are no other venues with liquor licenses within 2 km of the proposed venue, and it is therefore not over the threshold of increased alcohol related harms. The licence is sought for an on-premises license and is unlikely that this type of premises will be associated with alcohol related harms as food will be available to eat along with the drinking of alcohol. The 'red line' denoting areas licensed for liquor consumption on drawing MP-304 are limited to The Barn, the Lake Kiosk and cabin accommodation areas. The accommodation area alcohol is stated to be for the purpose of a welcome drink being provided to guests.

It is further noted that while public transport is not easily accessible, patrons unable to drive their vehicle may still access a taxi or rideshare service.

Accordingly, there is little evidence to suggest that the introduction of an on-premises licence to the area will result in an increased risk of harm due to alcohol consumption.

Environmental Considerations

A number of controls seek to protect and conserve the environment, and protect and enhance the biodiversity of the area, including the GWZ, ESO15, ESO23, ESO28, VPO2 and clause 52.17. The application proposed to remove 0.942 hectares of native vegetation. The native vegetation is not in an area mapped as an endangered Ecological Vegetation Class, sensitive wetland or coastal area. No large trees are proposed to be removed.

The applicant has sought to avoid and minimise native vegetation loss. Higher quality areas of native vegetation in the west and north of the site have been avoided and development is generally sited adjacent to existing developed areas. The mountain bike trail in the north avoids all Moonah shrubs and a boardwalk is proposed in sections which would otherwise have a major encroachment into tree protection zones. The dwelling will impact coastal tea-tree dominated vegetation which is less than 10 years old (exempt from clause 52.17). New fences have been realigned to avoid vegetation impacts.

The majority of native vegetation impacts relate to the construction of the accessway, car park, lakes and dwelling. Third party offsets are proposed.

The applicant has also submitted a Land Management Plan (LMP) which separates the land into various management zones including activity zone, conservation zone, grazing zone and revegetation zone.

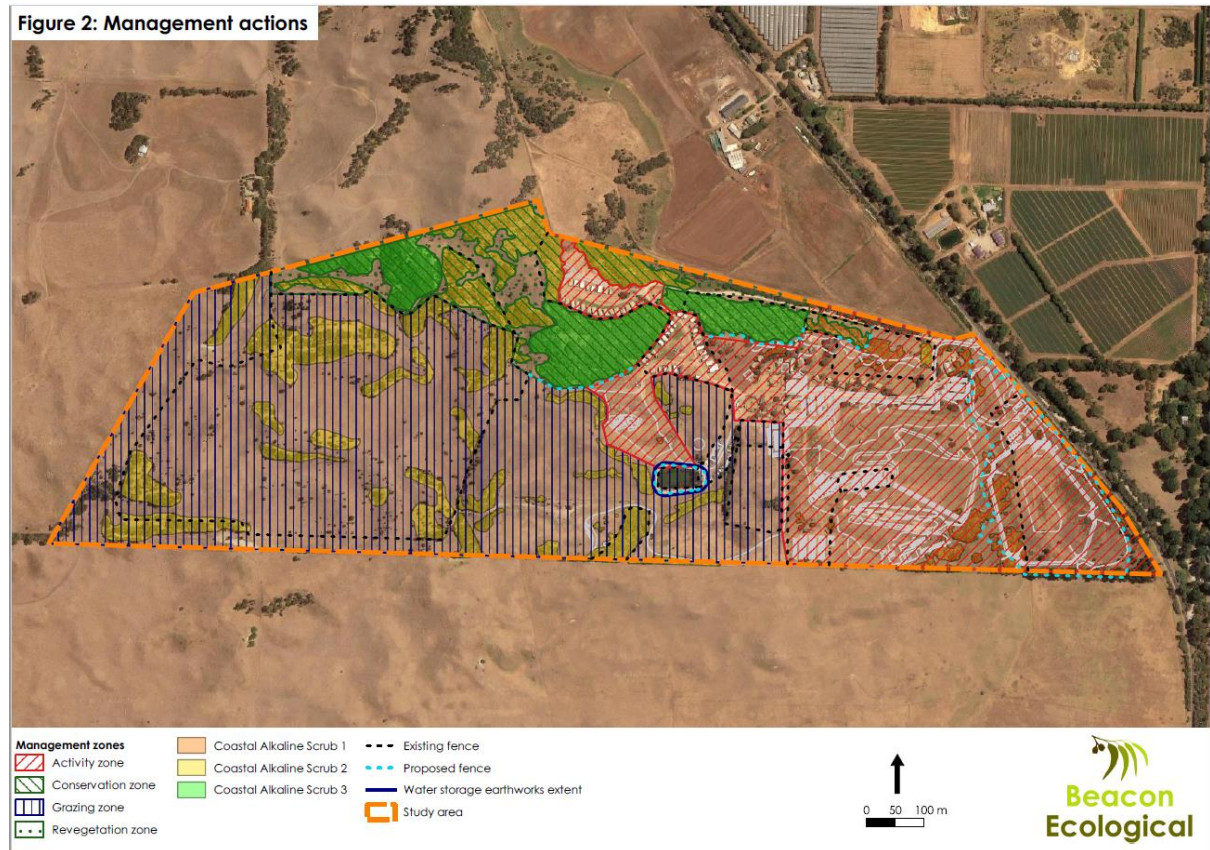


Figure 9: Land Management Plan depicting the management action areas

Within the activity zone, native vegetation will be protected and enhanced by ensuring contractors are informed of ecological values, sedimentation and erosion controls. In the conservation zone, weed control will be undertaken to control target pest plants and stock exclusion fencing will be constructed to prevent stock from entering ecological areas. Revegetation will be undertaken within 3 years and maintained over a 10 year period plan. In the grazing zone, weed management will be undertaken as well as revegetation of two erosion sites.

The planting list for revegetation is based on the Coastal Alkaline Ecological Vegetation Classes (EVC) and comprises indigenous 2720 shrubs in total across an area of 1.6 hectares.

The application has been referred to Department of Energy, Environment and Climate Action (DEECA) and Council's Senior Vegetation Officer and is supported subject to conditions.

A landscape plan will be required as a condition of the permit, which will further add to the revegetation of the site and benefit the landscape and environmental values of the site and surrounds.

Lighting

The site contains existing rodeo lights and additional lighting is proposed around the outdoor skate park and the ski/snowboard jumps. Lighting is proposed at 8-10m mounting heights and will produce illuminance below the maximum allowable value.

It is recommended that a Lighting Management Plan be provided to detail lighting to car parking areas, and a further condition is recommended for lights to be turned off within half an hour of close of operating hours to protect the amenity of the surrounding area.

3.6 (Cont.)**Noise**

Clause 13.05-1S (Noise management) seeks to ensure that community amenity and human health is not adversely impacted by noise emissions. Consideration of noise requirements under the *Environmental Protection Regulations 2021* and the *Environmental Protection Act 2017*. Environment Protection Authority (EPA) publication 1826 'Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues' determines noise limits for commercial premises.

The location of the land within a rural area and the nature of the uses and development proposed, in particular mechanical elements from the various recreation activities, patron noise, and noise from the restaurant and function centre are a relevant concern.

The application is accompanied by an Acoustic Report (by Renzo Tonin & Associates, dated 2 November 2022). The Report identifies that commercial noise limits for sensitive receptors applicable under EPA publication 1826 are 57 decibels (dB) (A) during the day, 50 dB(A) during the evening and 45 dB(A) at night. For the nearest nine (9) dwellings to the subject site, the modelled noise (accounting for all aspects of operations) impacts would be within the relevant limits.

The application has been referred to the Shire's Environmental Health Team, who have not raised any concerns with respect to noise impacts.

It is recommended that a condition be applied to the permit restricting the use of air compressors associated with the ski jump landing pads to the operating hours of the leisure and recreation facilities (9.00am to 9.00pm).

Furthermore, it is recommended that restrictions be imposed that limit outdoor amplified music.

Wastewater management

The land has no access to reticulated sewerage, as such wastewater generated by the uses must be treated and retained on-site. The expected daily wastewater flow exceeds 5000 litres per day, and consequently a development and operating licence will be required under the *Environmental Protection Act 2017* for the disposal of wastewater.

In accordance with clause 66.02-1 of the Scheme, the application has been referred to the Environment Protection Authority of Victoria (EPA). The EPA does not object to the grant of a permit, subject to a permit notation being included regarding obligations under the *Environment Protection Act 2017*. The storage and handling of wastewater output is a matter for the EPA.

Part of the works includes expansion of an existing wastewater dam at the centre of the subject site. The works to expand the dam will form a maximum depth of 8.74 metres, with an embankment area surrounding the dam. While the dam requires planning permission for the proposed buildings and works, as the wastewater flow rate is over 5000L it must be referred to the EPA. EPA has not objected to the planning permit application and has provided guidance material relating to the wastewater system and lakes.

Separately, as a mandatory requirement of the Zone, wastewater associated with the dwelling must be able to be treated and retained within the site. Officers are satisfied that is able to be achieved for the dwelling.

Signage

The application proposes the construction of three (3) signs adjacent to the Boneo Road frontage. These signs require planning permission under clause 52.05 (Signs).

3.6 (Cont.)

The proposed floodlit business identification pole sign is appropriately sited. Due to the topography of the land, adjacent bends in the road and the presence of vegetation within the road, the proposed pole sign would have limited visibility on the broader rural landscape and would not interrupt important vistas from the public realm. The sign faces are not cluttered, while the open lattice support structure moderates any visual impact from the supporting framework.

The application has been referred to the Department of Transport and Planning (DTP) in relation to alterations to access to Boneo Road (discussed below). In their response, DTP have imposed a condition requiring that lighting of the pole sign be static lighting only, with the use of LED washing down the sign and its frame not being supported. Static downlit floodlighting would ensure minimal impacts to road users. Furthermore, it is recommended that the sign cease being illuminated after 9.30pm, consistent with the operating hours of the leisure and recreation activities (as opposed to the restaurant and function centre).

The business identification signs on either side of the entrance gate are modest signs with minimal visibility and would not detract from the surrounding rural landscape or impact on road users.

Traffic

Under normal expected operations it is anticipated to generate a peak of approximately 243 vehicle trips per hour, assuming all uses are operating at capacity. The Traffic Impact Assessment anticipates that 88% of traffic will come from and head to the north. Boneo Road is a Transport Zone 2 and operates with an 80 kilometre per hour speed limit.

Additionally during special events, a higher traffic volume is anticipated with peak arrival and departure volumes estimated at 500 vehicles per hour at the start and end of the day.

To accommodate anticipated demand, the application proposes to construct a 120-metre-long channelised right turn lane into the subject site from Boneo Road.

The alteration of access of Boneo Road triggers a permit under clause 52.29. The application has been referred to the Department of Transport and Planning. The Department has not objected, subject to conditions requiring the construction of the proposed upgrades to the Boneo Road access to the land at 'Stage 1' of the development.

Neither the Shire's Traffic and Transport Team nor the Department of Transport and Planning have raised any concerns regarding traffic impacts to the surrounding road network.

It is noted that for any event, an event specific traffic management plan would require approval from Department of Transport and Planning via of Memorandum of Authorisation.

Car parking

A total of 397 car parking spaces and 5 coach parking spaces are proposed. The car parking spaces consist of 282 spaces in formal parking areas and 115 overflow parking areas at five different parking sites. In addition, parking is to be provided for each individual camping and caravan park site as those sites.

3.6 (Cont.)

The car parking requirements of the Scheme are outlined below:

Use	Car parking requirement	Car parking required	Car parking provided
Leisure and recreation	To Council's satisfaction.	N/A	397 spaces
Group accommodation	To Council's satisfaction.	N/A	
Restaurant*	0.4 to each patron permitted	60 spaces	
Function centre*	0.3 to each patron permitted		
Camping and caravan park	To Council's satisfaction.	N/A	105+ spaces
Dwelling	2 to each three or more bedroom dwelling.	2 spaces	4 spaces

*Restaurant and function centre have a combined patron capacity of 150 patrons. The relevant car parking rate for both is based on patron capacity. As capacity is shared, the higher rate for use of land for a restaurant is used for both uses.

Of the suite of uses proposed, only the restaurant/function centre and dwelling have a stipulated requirement in Table 1 to clause 52.06 of the Planning Scheme. clause 52.06-6 applies to all other uses, stating that:

...before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.

The Traffic Impact Assessment states that anticipated peak car parking demand for 326 spaces is expected, factoring staff and patrons (but not including the camping and caravan park). The Assessment recommends that providing 326 formal spaces would be an inefficient use of infrastructure, and states that 277 formal parking bays (85% of peak demand) with provision for overflow car parking would be acceptable. With 282 formal car parking spaces and 115 overflow spaces to be provided (again, not including the camping and caravan park), the total parking provision exceeds expected peak demand set out in the Traffic Assessment. An overflow carpark is shown to the south of the outdoor skate facility, however it is noted that a site of this scale has many more opportunities for any overflow parking.

The Shire's Traffic and Transport Team has advised that the car parking supply proposed is adequate. Given the size of the site and the expected variability in car parking demand, the provision of a nominated overflow parking area to handle some of the expected peak parking demand is acceptable.

Fire risk

The subject site is located within a designated Bushfire Prone Area. While the land is not within a Bushfire Management Overlay, clause 13.02-1S (Bushfire planning) applies to land within a

3.6 (Cont.)

Bushfire Prone Area that is proposed to be used in a way that would result in people congregating in large numbers.

In light of this, the CFA has been notified of the application and have requested further information of the applicant, namely:

- Evidence is required to demonstrate how the proposal meets the objectives of clause 13.02-1S.
- Evidence of how the site will meet the requirements of the Caravan Park Fire Safety Guidelines (CFA 2012).
- Further evidence is required to demonstrate how the indoor skate park will meet the requirements of the Victorian Building Regulations 2018.

Importantly, the CFA is not a referral authority (under section 55 of *the Act*) for this application and has no ability to mandate further information of the applicant. The CFA's request has been considered as an objection to the proposal.

In light of the CFA's request, the applicant has submitted legal advice to the Shire regarding the relevance of clause 13.02-1S, asserting that the clause is not a relevant consideration for the application. The advice refers to a recent Victorian Civil and Administrative Tribunal (VCAT) decision, *Booth v Strathbogie SC [2023] VCAT 782* (11 July 2023) which found that:

Despite its language, clause 13.02-1S is, and therefore should be applied as, a planning policy and not as a control that must be applied to all permit applications. Further, as guidance, planning policy cannot mandate that certain permit applications must contain anything in particular (such as risk assessments or like reports).

As planning policy, at most, it can guide decision making but only if it is relevant to the permission or permissions required under the scheme. As will be discussed later in these reasons, what makes policy relevant is the purpose and content of the control that gives rise to the need to obtain a permission under the scheme.

While the reasoning of the decision in *Booth* is understood, Shire Officers are not willing to step away from clause 13.02-1S as being a relevant policy framework to assist consideration of section 60 (1) (e) of session (which requires consideration of significant effects the environment may have on a use or development), as well as bushfire being a relevant decision guideline within the ESO. However, it is accepted that the weight given to clause 13.02-1S in determining relevant information requirements is limited and it would be unreasonable to require the applicant to supply the information requested by the CFA.

The second and third items requested in the CFA's letter relate to compliance with the requirements of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010 and the Building Regulations 2018. These matters should be addressed at relevant stages that the permit holder would interact with these regulations.

In considering clause 13.02-1S, section 60 (1) (e) of *the Act*, and the ESO decision guideline relating to bushfire, the risk to human life from fire is considered to be present due to the maximum number of people that could be present on the land at any one time. In light of this, measures to ensure bushfire risk is accounted for in the site's operations and adequate evacuation procedures are in place are necessary, although not at the same level as if the land were located within a Bushfire Management Overlay. The applicant has submitted an Emergency Plan which includes fire and bushfire procedures. The application has been referred to the Shire's Emergency Management Team who has not raised concerns with the application.

3.6 (Cont.)

It is considered appropriate to endorse the submitted Bushfire Emergency Plan and require it to be implemented and maintained.

2. Consideration of the matters raised in the objections.

107 objections have been received. Their concerns can be summarised as follows:

- Consistency with the Green Wedge Zone and protection of the Mornington Peninsula Green Wedge.
- Environmental impacts, including impacts on ecology and fauna.
- Overdevelopment of the site.
- Visual bulk of buildings and works, and impact on surrounding landscape.
- Noise impacts.
- Traffic impacts to Boneo Road and surrounding road network, and safety concerns.
- Extent of vegetation removal.
- Impact of lighting on surrounding amenity and on fauna.
- Impact on adjoining farming operations.
- On-site infrastructure capacity, including retention of wastewater.
- Amenity and social impacts associated with the sale and consumption of liquor.
- Lack of a Cultural Heritage Management Plan (at time of advertising).
- Lawfulness of amending the existing permit.
- Extent and length of notice.

Response to concerns raised

The majority of concerns have been responded to throughout this report. A brief summary is provided below, for further discussion refer to the body of the report.

- Consistency with the Green Wedge Zone and protection of the Mornington Peninsula Green Wedge.

Leisure and recreation facilities are encouraged and supported throughout local and state planning policy and the GWZ and the proposal is considered to represent an overall net community benefit when assessed against the broad range of relevant considerations.

- Environmental impacts, including impacts on ecology and fauna.

The environmental impacts are considered appropriate when considered against the proposed land management activities. Revegetation to link areas of native vegetation, weed and pest management and the provision of stock exclusion fencing are positive outcomes.

3.6 (Cont.)

- Overdevelopment of the site.

It is acknowledged that the proposed development is significant and an application of this nature does require substantial site area. It is considered that the extent of site coverage is appropriate in the context of the 80 hectare land area. The rear of the land will be retained as undeveloped land.

- Visual bulk of buildings and works, and impact on surrounding landscape.

Development has been well sited to minimise its visual prominence. The undulating landscape enables much of the development to nestle into the landscape when viewed from Boneo Road or other properties. While there will be some views of the buildings from Boneo Road, the site is along an established route used to access many of the Shire's tourism facilities, and in this context the buildings will not look out of place. Future vegetation will assist in partially screening views of the development.

- Noise impacts.

Acknowledging the distance of the proposed uses to any sensitive uses, conditions of the permit relating to hours of operation and limiting amplified music will minimise any adverse impacts as a result of noise.

- Traffic impacts to Boneo Road and surrounding road network, and safety concerns.

The application has been reviewed by DTP and Council's Traffic department and no concerns have been raised. Conditions to the permit will reflect the works to Boneo Road.

- Extent of vegetation removal.

While 0.942 hectares of native vegetation will be removed, the application has suitably avoided and minimised the loss of vegetation by locating development in disturbed areas of the site or adjacent to existing development on site, and designing pathways to avoid tree protection zones. 1.6 hectares of revegetation is proposed under the LMP in addition to weed and pest management and conservation of existing vegetation. In addition, a native vegetation offset will be purchased.

- Impact of lighting on surrounding amenity and on fauna.

Lighting complies with required illumination levels and conditions to the permit will require lighting to be turned off after 9pm, in line with the hours of operation. Areas where lighting is proposed are located away from the highly vegetated areas of the site and surrounds which will reduce impacts to fauna.

- Impact on adjoining farming operations.

Surrounding land is generally used for pasture or crop raising, and the subject site will continue to be used for horse grazing. The proposed use is considered compatible with these activities.

- On-site infrastructure capacity, including retention of wastewater.

The site is connected to reticulated electricity services. Wastewater is discussed in the environmental health referral response, however, the peak daily effluent volume is over the threshold of 5000L per day and therefore the wastewater process will require an EPA works approval (or exemption). The applicant has been working with the EPA to resolve the wastewater solution in accordance with the relevant legislation. Officers are satisfied that wastewater is capable of being treated on site.

3.6 (Cont.)

- Amenity and social impacts associated with the sale and consumption of liquor.

The hours of operation, food service alongside serving of liquor, and lack of other licensed premises in the immediate surrounds minimise alcohol related harm.

- Lack of a Cultural Heritage Management Plan (at time of advertising).

There is no requirement to advertise a Cultural Heritage Management Plan and an approved Cultural Heritage Management Plan has been submitted to Council.

- Lawfulness of amending the existing permit.

There is no limit on the extent of changes that can be made to a planning permit under section 72 of *the Act*.

- Extent and length of notice.

The extent and length of notice was deemed appropriate to meet section 52 of the *Act*.

3. Whether the proposal represents a net community benefit.

Clause 71.02-3 Integrated Decision Making highlights the various needs and expectations for land in the state. It states that:

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

The assessment of this application has considered whether the proposal achieves a net community benefit by balancing the benefits and disbenefits of the proposal. These benefits were weighed against state and local planning policy, including the Mornington Peninsula Localised Planning Statement (July 2014) referred to in the planning scheme which includes an objective 'to recognise and protect the recreational role of the Mornington Peninsula and to make provision for appropriate tourism based use and development'. Under this objective it has strategies to:

- Support appropriate recreational activities, particularly where they promote an understanding of the environment in its natural state.
- Recognise and support tourism in rural green wedge areas as a complementary role to the primary value of the rural peninsula.
- Directs that tourism based developments should be of a kind, scale and location appropriate to the natural environment and rural character of the peninsula and operate in conjunction with recreational activity on the land.
- Supports larger scale tourism based development in appropriate locations on the basis of substantial strategic justification, maintaining a low overall development footprint and demonstrating substantial net community benefit.

3.6 (Cont.)

The proposed development is necessarily located on a large site and the subject land has a longstanding recreational use which appropriately lends itself to expansion. The site is located along an established tourist route, close to the Rosebud Major Activity Centre and proximate to golf courses, the Boneo Discovery Park, two hot spring sites, walking and horse riding trails and various other leisure and recreation based uses. Whilst there may be views of some of the proposed structures, this is tempered by the distance at which they would be viewed, the undulating topography and site-responsive design.

The proposal will not have a significant impact on the agricultural land, with an overall minor reduction in horse grazing from 48 to 38 and the majority of the site area will be retained for agriculture.

Revegetation of the site with 1.6 hectares of indigenous plants, and a commitment to weed management and native vegetation conservation, weighed against the disbenefit of removing 0.942 hectares of native vegetation, are a reasonable and acceptable outcome. On balance, this is an improved land management outcome on the site where the quality and extent of native vegetation will be enhanced.

The proposal provides a significant economic and tourism contribution which will support the visitor economy and recovery from COVID-19 impacts on the local economy. The proposal will result in the creation of the only world-class action sports facility in Australia that provides facilities for mountainboarding, skateboarding, wakeboarding, snowboarding and the wheelchair equivalent of all these sports. This will contribute to enhanced inclusivity and strengthened community cohesion through partnerships and community initiatives. It will also support increased youth engagement and participation and provide a pathway of progression to professional athletes.

The submitted Economic and Social Assessment predicts that the masterplan will result in approximately \$47.7 million in construction investment, generate 300 full time equivalent (FTE) direct and indirect job years during construction and support 100 ongoing FTE positions through onsite activities, an increase of 71 ongoing jobs relative to the current activities onsite.

Consideration has included measures to ensure bushfire risk is accounted for in the site's operations and adequate evacuation procedures are in place are necessary, including that the Emergency Plan be endorsed and required to be implemented via condition.

Accordingly, considering the range of relevant matters required to be considered, the proposal is considered to provide a net community benefit.

AMENDMENT OF CONDITIONS

Some conditions of the permit have been fulfilled and do not require ongoing action. In this instance, the conditions will be retained unless they conflict with a new condition. This is to ensure that any important matters which have been considered necessary to form a condition are still accounted for if they become relevant in a future amendment, and to prevent any ambiguity around restrictions of the permit in case the amendment is not acted upon.

The conditions which will remain on the permit, but which are already fulfilled, are:

- Condition 1 – endorsed plans (except for 1c and 1i which will be deleted to avoid confusion).

Conditions which would be in conflict with or could cause confusion due to updated conditions will be dealt with as follows:

- Condition 1c – This will be deleted to avoid confusion due to new site numbering.

3.6 (Cont.)

- Condition 1i – This will be deleted as it is considered unreasonable.
- Condition 8 – The condition will be deleted, and a new land management plan condition will be added.
- Condition 9h – section 173 Agreement. The requirement has been fulfilled and the agreement has been entered into. 9h) relates to past capacity approved for the camping and caravan park which is being superseded through this amendment. A new condition will require an amended section 173 agreement to be consistent with the new number of persons to be accommodated.
- Condition 13 – Drainage has been completed for the existing development. New engineering conditions will be included in the permit.
- Condition 14 -16 – Car parking has been constructed. New car parking conditions will be included in the permit.
- Condition 17 - 25 – Works have been completed. Vicroads conditions will be deleted as new DTP conditions will be included in the permit.

A new expiry condition will be included to refer to the development and use authorised by the amended planning permit and to ensure the use and development authorised by the existing permit does not expire in the event that the amendments are not acted on.

ENGAGEMENT

Not applicable.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

If Council decides to refuse the application, the applicant will have appeal rights to the VCAT. If Council decides to issue a notice of decision, objectors will have appeal rights to the VCAT.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Should the application be appealed to VCAT by the applicant or objectors, Council would be required to defend its decision, and this would have financial and resource implications.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposal is considered acceptable having regard to the existing and established recreational and accommodation site that will provide a unique and valuable offering to the community and more broadly. Buildings and works are of a scale and form that suitably responds to the site context and the Green Wedge Zone, and adverse impacts can be appropriately managed to ensure that the proposal results in an overall net community

3.6 (Cont.)

benefit. It is therefore recommended that a Notice of Decision to Amend a Permit be issued, subject to conditions.

3.7 Planning Application P22/2486 – 211 Sandy Point Road, Somers – Development of a Telecommunications Facility

Prepared By	Emine Gurleyen, Team Leader - Planning Services
Authorised By	Acting Director - Planning & Environment
Document ID	A13199694
Briefing Note Number	BN1961 – 27 August 2024
Attachment(s)	<ol style="list-style-type: none">1. Officer Assessment2. Development Plans3. Applicant Planning Submission4. Coverage Map5. EME Report6. Surrounding Facilities Map7. Objections 1-34 (confidential)

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision on planning permit application P22/2486 for the development of a telecommunications facility at 211 Sandy Point Road, Somers. The application has been called in by Councillor Gill for a decision by Council.

On 4 November 2022 Amendment VC226 was approved by the Minister for Planning which changed the Victoria Planning Provisions (VPP) and all planning schemes in Victoria by supporting emergency recovery, telecommunications, solar energy systems and community care accommodation. VC226 amended clause 52.19 -Telecommunications facility of the Mornington Peninsula Planning Scheme (the Planning Scheme) to state that an application under any provision of this planning scheme to construct a building or construct or carry out works for a telecommunications facility is exempt from the notice requirements of section 52 (1) (a), (b) and (d), the decision requirements of section 64 (1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987* (the Act), unless certain criteria apply. This application meets the criteria for exemption from notice and review.

The application was inadvertently put to notice in February 2023 and thirty-four objections were received. Objections must still be registered against the application but are not required to be considered under *the Act*. The concerns principally relate to visual impact, heritage, Electromagnetic Energy (EME radiation) and health impacts, proliferation of towers (colocation) and impact to flora and fauna, which have been addressed in this report.

The proposal is considered acceptable having regard to the relevant provisions of the Planning Scheme and *the Act*. It is recommended that Council supports the application and resolves to issue a Planning Permit, subject to the conditions contained within this report.

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application 22/2486 for the development of a telecommunications facility, be supported and that a Planning Permit be issued subject to the following conditions:

Amended Plans Required

- 1. Prior to the commencement of the development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and submitted electronically to planning@mornpen.vic.gov.au. The plans must be generally in accordance with the plans dated 18.11.2022 but modified to show:
 - a) The existing vehicle crossover and accessway and any proposed alterations of access.**
 - b) Screening planting around the perimeter of the compound. The screening planting must:
 - i. be able to reach a maturity size of 5 metres wide and 3 metres high in general.**
 - ii. The selected species must be indigenous to the local Ecological Vegetation Class (EVC) to the satisfaction of the Responsible Authority.****
 - c) Planting of a minimum of four (4) substantial trees, approximately 15 metres high at maturity, adjacent to the compound. The tree species must be indigenous to the local EVC.**
 - d) Location, width and details of vehicle access connecting the development to Sandy Point Road. The construction of access must not require removal, destruction or lopping of vegetation unless it does not require a permit under the Mornington Peninsula Planning Scheme.****

Approved development not altered

- 2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (Unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).**

External finishes

- 3. The exterior colour and finishes of the development must be of a non-reflective nature to the satisfaction of the Responsible Authority.**

Tree Protection Zones

- 4. All excavation, trenching and fill works within 'Tree Protection Zones' of existing tree/s must be carried out in accordance with the recommendations in the Australian Standard AS4970 - Protection of trees on Development Sites, to the satisfaction of the Responsible Authority.**

Landscaping

- 5. Within three (3) months of completion of the construction of the telecommunications tower the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**

3.7 (Cont.)

6. The landscaping referred to in the condition above must be maintained to the satisfaction of the Responsible Authority for the life of the development. Any dead, diseased or damaged plants must be replaced as soon as practicable.

Earthworks

7. All works must be undertaken in a manner that minimises soil disturbance, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority. All topsoil removed during the earthworks must be stockpiled, maintained in a weed-free condition, respread on disturbed ground after completion of the earthworks and revegetated to prevent erosion, all to the satisfaction of the Responsible Authority.

Access

8. Prior to the first use/occupation of the development, the access to the telecommunications facility, as shown on the endorsed plans, must be constructed, formed, surfaced with an all-weather wearing course and drained to the satisfaction of the Responsible Authority.

Telecommunication facility

9. The telecommunications facility must comply with the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) 'Standard for Limiting Exposure to Radiofrequency Fields – 100KHz to 300GHz (RPS S-1)', or such other standard as is adopted from time to time by the Australian Communications Authority.
10. If the telecommunications facility hereby approved becomes redundant, all infrastructure associated with the telecommunication facility must be removed and the area reinstated to the satisfaction of the Responsible Authority. All works to comply with this condition must be completed within three (3) months of the facility ceasing to operate and must be at the expense of the permit holder.

Amenity

11. The development must be carried out so that the amenity of the area is not detrimentally affected, through the:
 - (a) Transport of materials, goods or commodities to or from the land.
 - (b) Inappropriate storage of any works or construction materials.
 - (c) Hours of construction activity and/or repair and maintenance activities.
 - (d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - (e) Presence of vermin.

Expiry

12. This permit will expire if the development is not completed within three (3) years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing by the owner or occupier either before the permit expires or in accordance with section 69 of the *Planning & Environment Act 1987*.

Part B

That Council resolves that Attachment 7 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, H and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

Not applicable.

DISCUSSION

Purpose

The purpose of this report is to provide a summary of:

- The relevant background of the site

3.7 (Cont.)

- The proposal
- The key issues
- Submissions and officer response
- The assessment against the relevant provisions of the *Planning and Environment Act 1987* and Mornington Peninsula Planning Scheme.

For a detailed assessment of all the relevant matters please see Attachment 1 – Officer Assessment.

The key planning considerations are summarised in the below table:

Proposal	Development of a telecommunications facility.
Zoning and Overlays	<p>Zone:</p> <ul style="list-style-type: none"> • Green Wedge Zone Schedule 2 (GWZ2) <p>Planning Overlays:</p> <ul style="list-style-type: none"> • Environmental Significance Overlay, Schedule 7 (ESO7) • Environmental Significance Overlay, Schedule 19 (ESO19) – does not affect development site • Environmental Significance Overlay, Schedule 28 (ESO28) - does not affect development site • Vegetation Protection Overlay, Schedule 2 (VPO2) - does not affect development site
Permit Triggers	<ul style="list-style-type: none"> • Clause 35.04-5 (Green Wedge Zone) – a permit is required to construct a building within 20 metres of a road. • Clause 42.01-2 (Environmental Significance Overlay Schedule 7) – a permit is required to construct a building or construct or carry out works. • Clause 52.19-1 (Telecommunications Facility) – a permit is required to construct a building or construct or carry out works for a Telecommunications facility. <p>The facility is to be located outside of the areas subject to ESO19, ESO28 and VPO2.</p>
Advertising	After the lodgement of the planning permit application, planning scheme Amendment VC226 made changes to the Victoria Planning Provisions and all and all Victorian planning schemes relating to telecommunications facilities. The effect of this amendment is that the application is exempt from the notice requirements of section 52 (1) (a), (b) and (d), the decision requirements of section 64 (1), (2) and (3) and the review rights under section 82 (1) of the <i>Planning and Environment Act 1987</i> subject to exceptions.

3.7 (Cont.)

	However, the application was advertised in error by sending direct notice to adjoining properties, properties opposite and erecting a sign on site for 14 days.
Submissions	Thirty-four objections have been received to date.
Consultation	Objectors have been notified via email that the application is exempt from notice and review and have been updated on the progress of the application.
Key Issues	<ul style="list-style-type: none"> • Whether the proposed development appropriately responds to clause 52.19 Telecommunications Facility. • Consideration of the matters raised in the objections.
Recommendation	A Planning Permit be granted subject to conditions.

Background***Subject site and surrounds***

The site is located on the southern side of Sandy Point Road, Somers, approximately 570 metres southeast of its intersection with Lord Somers Road. The rectangular shaped site has a frontage of 334.69 metres to Sandy Point Road and a depth of 606.8 metres with an overall area of 20.3 hectares. The majority of the site to its north is utilised for agricultural and equine purposes and, to its south, contains a dwelling and a number of sheds.

The area of the proposed development is relatively flat, with a gentle slope to the south west. The site of the proposed development is approximately 20 metres Australian Height Datum (AHD). The closest waterway is approximately 350 metres to the south.

The site is bordered by mature vegetation to the west, south and north, with sparse vegetation along the eastern boundary of the site. The development site is generally void of vegetation.

The surrounding area is predominantly agricultural in nature, with small and large scale horse agistments and grazing. A number of surrounding properties have residential dwellings located on them, along with a business or rural operation.

Sandy Point Road is a collector road, connecting the site and its surrounds to Balnarring Town Centre. The sealed two-way road provides a single lane in each direction. The road itself is lined by significant mature vegetation along its majority on both sides.



— Subject site

✕ Approx location of proposed development

Figure 1: Aerial Photo showing subject site and surrounding properties (GIS 2023)



— Subject site

✕ Approx location of proposed development

Figure 2: Aerial Photo showing subject site (GIS 2023)

Surrounding properties

The surrounding area is predominantly agricultural in nature, with small and large scale horse agistments and grazing. A number of surrounding properties have residential dwellings located on them, along with a business or rural operation. The nearest dwelling is approximately 270 metres to the north and another to the south east.

Sandy Point Road is a collector road connecting the site and its surrounds to Balnarring Town Centre. The sealed two-way road provides a single lane in each direction. The road itself is lined by significant mature vegetation along its majority on both sides.

Proposal

The proposed telecommunications facility is proposed by Waveconn (previously named Stilmark), a licensed carrier for the purpose of the *Telecommunications Act 1997* and operates as an infrastructure provider or 'neutral host', where new facilities are sited, designed, acquired, built and maintained by Waveconn but utilised by carriers - such as the mobile carriers – as part of their respective networks. The structure, like other Waveconn structures, are purposely designed and constructed to allow for co-location of at least two or three carriers to occur.

The proposed facility is to be located 14 metres from the northern boundary of the subject land, approximately 210 metres off the western boundary and 113 metres off the eastern boundary. It would occupy a lease area of 120 square metres (10 metres x 12 metres). The compound would be accessed via double access gates and a new vehicle access from Sandy Point Road.

The facility will consist of:

- a 35 metre high monopole with headframe mounted at the top
- up to six (6) panel antennas attached to the headframe
- an equipment shelter and equipment units located at the base of the monopole (this is exempt from a permit pursuant to clause 52.19-1)
- The shelter and units will have a maximum height of 2.98 metres (approx.)
- a security fence around the facility that will be 2.4 metres in height.

The structures and equipment will be finished in a steel grey colour except the equipment units which will be painted green.

The proposal does not require any vegetation removal.

Please refer to the following for further details:

- Attachment 2 – Development Plans
- Attachment 3 – Planning Submission
- Attachment 4 – Coverage Map
- Attachment 5 – EME Report
- Attachment 6 – Surrounding Facilities Map

NOTIFICATION AND CONSULTATION

Notification

On 4 November 2022 Amendment VC226 was approved by The Minister for Planning which changed the VPPs and all planning schemes in Victoria by supporting emergency recovery, telecommunications, solar energy systems and community care accommodation.

As a consequence of this amendment clause 52.19 (telecommunications facility) was amended to state an application under any provision of this planning scheme to construct a building or construct or carry out works for a telecommunications facility is exempt from the notice requirements of section 52 (1) (a), (b) and (d), the decision requirements of section 64 (1), (2) and (3) and the review rights of section 82 (1) of *the Act*. This application qualifies for the exemption.

The application was advertised in error in February 2023. Thirty-four objections were received to the proposal. It is also noted that eight letters of support were received.

Submissions

Please refer to Attachment 7 – Objections 1-34 (confidential).

Thirty-four objections were received. The concerns raised by objectors can be summarised as:

- Visual impact
- Electromagnetic Energy (EME) radiation and health impacts
- Contrary to the heritage significance of the area
- Proliferation of towers (possible colocation)
- Impact of the development on flora and fauna.

Consultation

No formal mediation has been undertaken.

REFERRALS

No referrals were undertaken or required.

CONSIDERATION

Please refer to Attachment 1 – Officer Assessment for full details of assessment.

The following key issues are summarised below:

- Whether the proposed development appropriately responds to clause 52.19 Telecommunications Facility.
- Consideration of the matters raised in the objections.

Whether the proposed development appropriately responds to clause 52.19 Telecommunications Facility.

Under clause 52.19, a permit is required to construct a building or construct or carry out works for a Telecommunications facility. The responsible authority must consider the following decision guidelines:

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

The height and design of the facility are specific requirements in order to achieve the desired telecommunications outcome. The proposed monopole is 35 metres high, in the mid-range of height of current telecommunications towers which are generally between 25 and 50 metres tall. The triangular headframe, together with the future antennas, will be the main visible elements from a distance. It is noted that there is no requirement for telecommunication facilities to be invisible in a landscape, and that the telecommunication tower's height is an important functional requirement. Therefore, views of some elements of the facility are unavoidable.

The proposal has sought to minimise visual impact within the landscape through the selection of a site located outside of the Significant Landscape Overlay, and siting of the development away from any surrounding dwellings, noting that the closest dwelling is over 240 metres from the facility. Although the telecommunications facility compound is setback only 14 metres from the Sandy Point Road frontage, views of the base of the monopole from Sandy Point Road would be filtered by existing vegetation (refer to Figure 2 and 3 below).



Figure 3: Photo of vegetation in the road reserve that would filter views of the facility (Source: Google – 2019)



Figure 4: Facing west towards subject site from Sandy Point Road. Facility would sit behind these established trees (Source: Google – 2019)

There is also sufficient opportunity to provide additional planting in the front setback to further reduce any visual impact whilst contributing to the landscape features of the site which will be required as a condition of the permit. Combined with the muted colouring of the development, this will ensure that it is not a visually obtrusive feature from Sandy Point Road.

In the broader landscape, views of the facility will occur at such a distance that it will not be a visually prominent feature in an otherwise broad landscape featuring scattered buildings and dwellings, open pasture, patches of native vegetation, roads and other infrastructure.

As relevant to the GWZ, the proposal's siting appropriately protects the agricultural capacity of the land. The setback from Sandy Point Road ensures that minimal area of the land is removed from agricultural availability, and the siting of the facility within a cleared area of land ensures no vegetation will be impacted. The proposed development is compatible with agricultural values of the site and surrounds as the area required is compact, fenced off and can be independently accessed from Sandy Point Road.

The proposed development achieves an acceptable balance in contributing to improved mobile services and protecting the landscape value of the site and surrounds.

The proposed facility is part of a wider project to improve mobile telecommunications coverage and services to a radius of approximately 1.2-1.5 kilometres around the site location, as is shown in Figure 5 below. The green shading indicates where indoor mobile service improvements will be made with the yellow and orange shaded areas providing improved coverage to outdoor and roadway users.

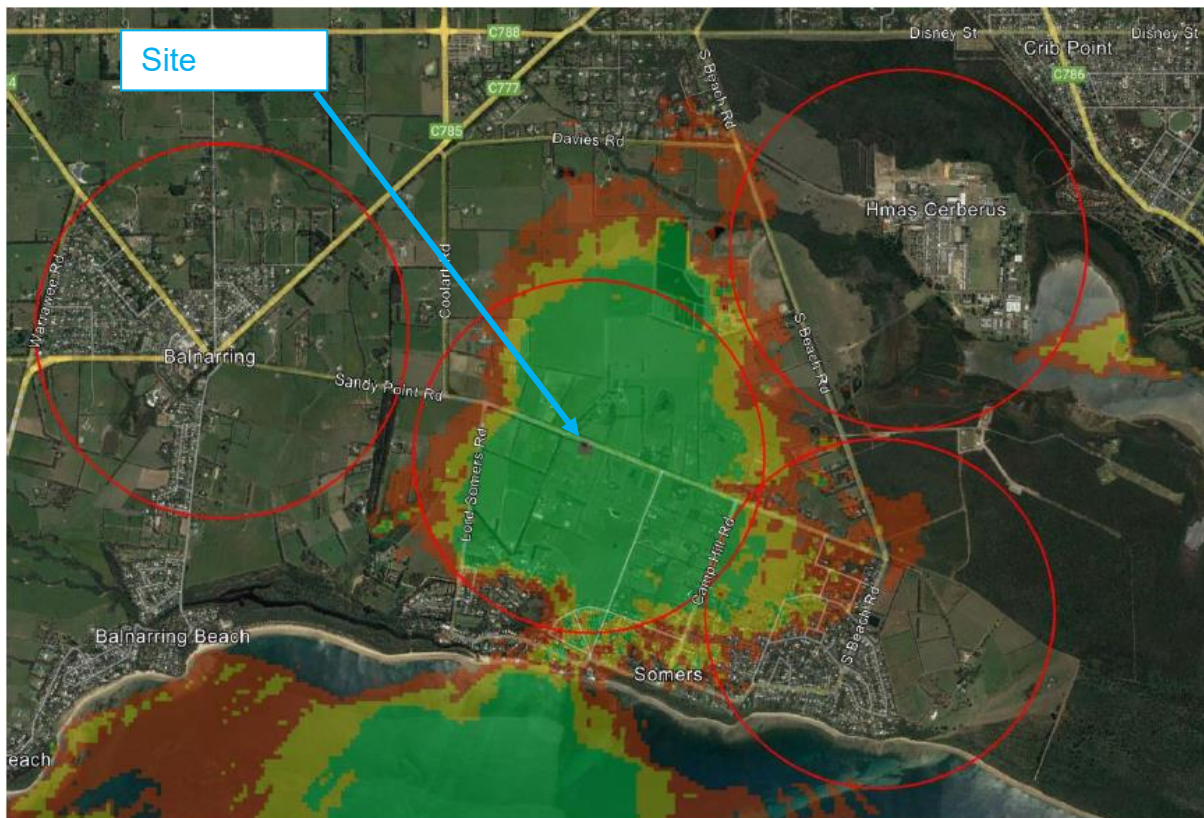


Figure 5: Proposed coverage from new facility, and radius ring around the site

The Applicant further provides that the red 'rings' in the above figure indicate a radius of approximately 1.3km around existing mobile telecommunications facilities and the central red ring as for the proposed facility. It is clear to see that there's an area of deficiency centre around the proposed facility which will fill the service gap.

Due to the lack of an existing telecommunications facilities within or in reasonable proximity of the proposed service coverage, co-location was not a viable option. Alternative locations have also been explored as demonstrated in the Applicant's Planning Statement that concluded that the site was chosen for the following reasons:

- The proposed site location provides 24/7 access, an existing unused open space for a secure site compound, appropriate elevation for a facility of as little height as possible to adequately improve mobile telecommunications services into the surrounding area and is importantly centrally located to the areas that require these improvements, with as minimal impact as possible.
- The proposed site location is also afforded a degree of mature vegetation screening, especially along Sandy Point Road, mitigating some of the potential visual impact. It (the selected site) is centrally located to the area that requires coverage improvements and will only require one facility to service a broad area.

Based on the submitted information, there is a demonstrated need for the proposed facility in order to provide improved, high-quality coverage to the Somers area, particularly mobile reception for calls and mobile data capacity and the subject site is a sensible choice for a new facility to meet the demand and needs of the locality.

As with all mobile telecommunications facilities in Australia, the proposed facility is required to comply at all times with the relevant safety standards set by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and Australian Communications and Media Authority (ACMA). A condition on any approval will require that the proposal must

3.7 (Cont.)

comply with the ARPANSA 'Standard for Limited Exposure to Radiofrequency Fields – 100 KHz to 300GHz to 300GHertz', or such other standard as is adopted from time to time by the Australian Communications Authority

The applicant is bound to follow the relevant Australian Standards during construction, which will ensure that the construction does not pose risk to any person or being. Conditions of permit ensure that trees to be retained are appropriately protected during the construction phase of the development. The installation of the proposed facility can be undertaken at any time without affecting the use of the site or the surrounding area due to the accessibility of the site. Construction of the facility is unlikely to cause any disruption to adjoining properties or public access areas.

Consideration of the matters raised in the objections.

Section 60 (3) of *the Act*, states the Council is not required to consider the objections or submission received in respect of the application before deciding the application. Additionally, no Notice of Decision (NOD) is required due to the absence of third-party appeal rights to the Victorian Civil and Administrative Tribunal (VCAT). Given this matter has been brought before Council, it is deemed reasonable that Shire officers address the concerns and submissions that have been raised.

Please refer to the following for further details:

- Attachment 7 - Objections 1-34 (confidential)

The issues below are those that have not been previously addressed in this report.

Electromagnetic Energy (EME radiation) and health impacts (including impacts to flora and fauna)

As mentioned above, the proposed facility is required to comply at all times with the relevant safety standards set by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and Australian Communications and Media Authority (ACMA).

This issue is most appropriately summarised in VCAT determination *Mason v Greater Geelong CC (Includes Summary) (Red Dot) [2013]*, that:

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

The Australian Communications and Media Authority has set a clear regulatory standard – the ARPANSA standard - under Commonwealth law, to protect the health or safety of those who may be affected by the operation of a telecommunications network or facility from the potential impacts of electromagnetic radiation. Compliance with that standard has been effectively incorporated into the Victorian planning framework through clause 52.19 of all Victorian planning schemes and the requirements of 'A Code of Practice for Telecommunications Facilities in Victoria'. VCAT cannot look behind the ARPANSA standard where it will be met, nor does it have the expertise to do so.

The amount of electromagnetic radiation emitted by a telecommunications facility may well be a legitimate issue of public concern. However, VCAT is not a forum for addressing all issues of social or community concern, nor is it an investigative body. It cannot give great weight to unsupported assertions about public health concerns in the context of an individual planning application, particularly in relation to matters outside its own expertise or beyond the limited ambit of its statutory role or discretion in relation to that application. Accordingly, VCAT is not the

3.7 (Cont.)

appropriate forum where generalised opposition to telecommunications facilities based on public health concerns can or should be raised. It is a waste of the parties' and the Tribunal's resources as, ultimately, VCAT is essentially bound to apply the ARPANSA standard.

Allowing objectors to continue to air their concerns about electromagnetic radiation at a VCAT hearing creates false expectations about the role of VCAT and the ambit of its discretion, and the extent to which it can realistically deal with such issues."

There is no science to suggest impacts to flora and fauna, nor is it a relevant consideration that can be considered within the Planning Scheme.

Contrary to the heritage significance of the area

No heritage overlay applies to the site or immediately adjoining land. The surrounding heritage precincts (Coolart Reserve, Palm Beach Estate, Lord Somers Camp, Former Royal Australian Air Force (RAAF) Training Camp) are all generally well vegetated sites which would have limited views to the subject site and any views would be at such a distance (over 1,000 metres) that the facility will not present an unreasonable visual intrusion so as to impact upon heritage values of those sites.

ENGAGEMENT

Not applicable.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

Should Council decide to refuse the application, the applicant will have appeal rights to VCAT.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Should the application be appealed to VCAT by the applicant, Council would be required to defend its decision, and this would have financial and resource implications.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposed development of a telecommunications facility is considered acceptable, subject to the recommended conditions having regard to the relevant provisions of the Planning Scheme and *Planning and Environment Act 1987*. It is therefore recommended that Council issues a Planning Permit.

3.8 Planning Permit Application - P23/0563 - 2855 Frankston-Flinders Road Balnarring - Development of a Telecommunications Facility

Prepared By	Luke Camerota, Senior Planner
Authorised By	Acting Director - Planning & Environment
Document ID	A13199703
Briefing Note Number	BN1962 – 27 August 2024
Attachment(s)	<ol style="list-style-type: none">1. Development plans2. Photomontages3. Photomontages 1, 2 and 4 (enhanced quality)4. Proposal planning submission5. Further information response letter6. Officer Assessment

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision from Council regarding Planning Application P23/0563 for the proposed development of a telecommunications facility at 2855 Frankston-Flinders Road, Balnarring. The application has been called in by Councillor Gill for a decision by the Council.

On 4 November 2022 Amendment VC226 was approved by the Minister for Planning which changed the Victoria Planning Provisions (VPP) and all planning schemes in Victoria by supporting emergency recovery, telecommunications, solar energy systems and community care accommodation. VC226 amended clause 52.19 -Telecommunications facility of the Mornington Peninsula Planning Scheme (the Planning Scheme) to state that an application under any provision of this planning scheme to construct a building or construct or carry out works for a telecommunications facility is exempt from the notice requirements of section 52 (1) (a), (b) and (d), the decision requirements of section 64 (1), (2) and (3) and the review rights of section 82 (1) of the *Planning and Environment Act 1987* (the Act), unless certain criteria apply. This application meets the criteria for exemption from public notice and from review to the Victorian Civil and Administrative Tribunal (VCAT).

The development is intended to provide an upgrade for telecommunications services for mobile telephones within the local area, including parts of Balnarring, Bittern, and Somers, and along and near Coolart Road, Frankston-Flinders Road and Davies Road. Council must decide whether the proposal is acceptable having regard to the relevant provisions of the Planning Scheme.

The proposal is considered to meet the community's needs, while protecting the amenity of the surrounding area as far as practicable through generous setbacks from residential properties and appropriate design and siting of the facility to minimise its visual impact. The proposal is considered acceptable having regard to the relevant provisions of the Planning Scheme and the *Planning and Environment Act 1987*. It is recommended that Council supports the application and resolves to issue a Planning Permit, subject to the conditions contained within this report

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme (the Planning Scheme) and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit

Application P23/0563 for the development of a telecommunications facility, be supported and that a Planning Permit be issued subject to the following conditions:

Amended Plans Required

- 1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Minimum setback to the Coolart Road boundary.**
 - b) Minimum setback to the Frankston-Flinders Road boundary.**
 - c) On the Site Plan, show the access crossover and driveway consistent and in accordance with the Site Layout Plan.**
 - d) The external colour of the monopole, which must be a muted, non-reflective colour that has a luminous reflectivity value (LRV) of less than 40%.****

Approved Development Not Altered

- 2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (Unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).**

External Finishes

- 3. The exterior colour and cladding of the monopole and building/s must be of a non-reflective nature to the satisfaction of the Responsible Authority.**

Tree Protection

- 4. Prior to the commencement of any building or works appropriate tree protection fencing must be erected in accordance with Australian Standard AS4970 – 2009 (Protection of trees on development sites). The tree protection fencing must remain in place until the completion of any works hereby approved.**
- 5. Any excavation, trenching and fill works within ‘Tree Protection Zones’ must be carried out in accordance with the recommendations in the Australian Standard AS4970 - Protection of trees on Development Sites, to the satisfaction of the Responsible Authority.**

Earthworks

- 6. All works must be undertaken in a manner that minimises soil disturbance, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority. All topsoil removed during the earthworks must be stockpiled, maintained in a weed-free condition, respread on disturbed ground after completion of the earthworks and revegetated to prevent erosion, all to the satisfaction of the Responsible Authority.**

3.8 (Cont.)

Access

7. Prior to the completion of the approved development, the internal access to the telecommunications facility must be constructed, formed, surfaced with an all-weather wearing course and drained to the satisfaction of the Responsible Authority.

Telecommunications facility

8. The telecommunications facility must comply with the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) 'Standard for Limiting Exposure to Radiofrequency Fields – 100KHz to 300GHz (RPS S-1)', or such other standard as is adopted from time to time by the Australian Communications Authority.
9. If the telecommunications facility hereby approved becomes redundant, all infrastructure associated with the telecommunications facility must be removed and the area reinstated to the satisfaction of the Responsible Authority. All works to comply with this condition must be completed within three (3) months of the facility ceasing to operate and must be at the expense of the permit holder.

Amenity

10. The development must be carried out so that the amenity of the area is not detrimentally affected, through the:
 - (a) Transport of materials, goods or commodities to or from the land.
 - (b) Inappropriate storage of any works or construction materials.
 - (c) Hours of construction activity and/or repair and maintenance activities.
 - (d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - (e) Presence of vermin.

Expiry

11. This permit will expire if the development is not completed within three (3) years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.

3.8 (Cont.)

- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, H and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

Not applicable.

DISCUSSION

Purpose

The purpose of this report is to provide a summary of:

- The relevant background of the site
- The proposal
- The key issues
- The assessment against the relevant provisions of the *Planning and Environment Act 1987* and the Planning Scheme.

For a detailed assessment of the all the relevant matters please see Attachment 6– Officer Assessment.

The key planning considerations are summarised in the below table:

Proposal	Development of a telecommunications facility.
Zone and Overlays	<p>Zone:</p> <ul style="list-style-type: none"> • Green Wedge Zone Schedule 2 (GWZ2) <p>Planning Overlays:</p> <ul style="list-style-type: none"> • Environmental Significance Overlay Schedule 7 (ESO7)

	<ul style="list-style-type: none"> Significant Landscape Overlay Schedule 3 (SLO3) – does not affect development site <p>Abutting zone:</p> <ul style="list-style-type: none"> Transport Zone Schedule 2 (TRZ2) – does not affect proposal
Permit Triggers	<ul style="list-style-type: none"> Clause 35.04-5 (Green Wedge Zone) – A planning permit is required to construct or carry out a building which is within the following setbacks: <ul style="list-style-type: none"> 100 metres from a Transport Zone 2. 20 metres from any other road. Clause 42.01-2 (Environmental Significance Overlay Schedule 7) – A planning permit is required to construct a building or construct or carry out works. Clause 52.19-1 – Telecommunications facility – A planning permit is required to construct a building or construct or carry out works for a Telecommunications facility. <p>Note: A planning permit is not required under the SLO3 as this overlay does not cover the portion of land relevant to this application.</p>
Advertising	The application was not advertised as it is exempt from advertising as per clause 52.19-3.
Submissions	No submissions have been received.
Consultation	No consultation has occurred.
Key Issues of Consideration	<ul style="list-style-type: none"> The design, siting, construction and operation of the telecommunications facility. The effect of the telecommunications facility on adjacent land. Impacts on existing and future green wedge land uses. Impacts on the environment. Impacts on the landscape.
Recommendation	A planning permit be granted, subject to conditions.

Subject site and surrounds

Subject site

The subject site is a triangular-shaped allotment located to the south-west of the intersection between Frankston-Flinders Road, Davies Road and Coolart Road. The site has an area of approximately 9.5 hectares. A dwelling and associated outbuildings are located to the south-

west of the site and are accessed via Frankston-Flinders Road. Open paddocks make up the remainder of the site and vegetation is located along the perimeter of the Frankston-Flinders Road and Coolart Road boundaries, as well as around and to the south of the dwelling.

The land is relatively flat with only very minor fall across the site. The elevation of the land is approximately 21.5 metres Australian Height Datum (AHD). There are no waterways on the land, with the closest being approximately 550 metres to the south west.



✘ Approx location of proposed development

Figure 1: Aerial photo showing subject site (in red) and surrounding properties (GIS April 2024).

Surrounds

The subject site is positioned within an established rural area where the development pattern predominantly incorporates a range of large rural green wedge properties, agriculture, typically grazing paddocks, and single dwellings. Allotments in the wider area vary in size in relation to the subject site.

North west and north east	<p>Frankston-Flinders Road – Sealed road with a significant amount of mature vegetation along the road reserve, including at the intersection of Coolart Road and Frankston-Flinders Road, and also further along Davies Road.</p> <p>2820A Frankston-Flinders Road – to the north west is a property of approximately 40.3 hectares containing two dwellings. The site contains large open paddocks.</p> <p>246 Davies Road - to the north east is a dwelling located on a Low Density Residential Zone lot, comprising the south western edge of the Bittern</p>
----------------------------------	---

3.8 (Cont.)

	Township. This dwelling is the closest residential receptor to the proposal at approximately 230 metres.
East	25 Coolart Road – Approximately 39.5 hectare property containing grazing land and a single dwelling with perimeter planting and windbreaks. The dwelling is approximately 350 metres from the proposed tower.
South	40 Coolart Road – Approximately 21.4 hectare property containing a single dwelling with large open paddocks. This site also used for grazing. The dwelling is approximately 650 metres from the proposed tower.

Proposal

The telecommunications facility is proposed by Waveconn. Submitted documentation with the application states that Waveconn offers turnkey infrastructure deployment to the Australian telecommunications industry. Waveconn is entirely independent, with no direct or indirect carrier ownership or funding. Waveconn operates as an infrastructure provider or 'neutral host', whereby new facilities are sited, designed, acquired, built and maintained by Waveconn, but utilised by carriers (including mobile phone carriers) as part of their respective networks. Waveconn structures are purposely designed and constructed to allow for co-location of at least two or three carriers to occur.

The applicant asserts that the facility will provide for an upgrade in telecommunications services within the local area (to be utilised by multiple telecommunications carriers for co-location) including areas towards the north and south along Coolart Road, north-east and south-west along Frankston-Flinders Road, and in northern parts of Balnarring and southern parts of Bittern.

The facility is proposed to be located in the north-west corner of the property at 2855 Frankston-Flinders Road, Balnarring and has the following road setbacks:

- Approximately 12.3 metres to the west of Coolart Road.
- Approximately 60 metres to the south-east of Frankston-Flinders Road.

The proposed facility consists of:

- A 32.5-metre high telecommunications monopole with triangular headframe containing up to 6 panel antennas.
- A compound that is 10 by 12 metres in size (120 square metres).
- Equipment shelters and equipment units located at the base of the facility (this is exempt from a permit pursuant to clause 52.19-1).
- Open-style security fencing surrounding the compound.

The proposed facility will be accessed from a new crossover and driveway from Coolart Road. The area required for the facility is clear of any significant vegetation, no vegetation is proposed to be removed.

Please refer to the following for further details:

- Attachment 1 – Development Plans
- Attachment 2 – Photomontages

3.8 (Cont.)

- Attachment 3 – Photomontages 1, 2 and 4 (enhanced quality)
- Attachment 4 – Proposal planning submission

NOTIFICATION AND CONSULTATION**Notification**

Pursuant to clause 52.19-3, “an application under any provision of this Planning Scheme to construct a building or construct or carry out works for a telecommunications facility is exempt from the notice requirements of section 52 (1) (a), (b) and (d), the decision requirements of section 64 (1), (2) and (3) and the review rights of section 82 (1) of the *Planning and Environment Act 1987*. This exemption does not apply to:

- An application under a Significant Landscape Overlay, a Heritage Overlay, or Neighbourhood Character Overlay.
- An application under a public land zone if the responsible authority is not the public land manager.
- An application for any of the following:
 - A telecommunications dish.
 - A telecommunications facility on a building within 100 metres of a residential zone.
 - A telecommunications facility on a building within 100 metres of a dwelling not on the same land or land in contiguous ownership.
 - A telecommunications tower in a residential zone.
 - A telecommunications tower within 100 metres of a residential zone.
 - A telecommunications tower within 100 metres of a dwelling not on the same land or land in contiguous ownership.”

This application is exempt from public notice, consideration of any objections and VCAT appeal rights by any objector as it is not within the zones or overlays listed above, nor is it any one of the other types of application.

Submissions

There have been no external submissions in relation to this application.

Referrals

No referrals were undertaken or required.

CONSIDERATION

Please refer to Attachment 1 – Officer Assessment for full details of assessment.

The following key issues are summarised below:

- The design, siting, construction and operation of the telecommunications facility.

- The effect of the telecommunications facility on adjacent land.
- Impacts on existing and future green wedge land uses.
- Impacts on the environment.
- Impacts on the landscape.

The design, siting, construction and operation of the telecommunications facility

The use of land for a telecommunications facility and the development of an equipment shelter are exempt from the requirement for a planning permit under clauses 62.01 and 62.02 of the Planning Scheme, respectively. Therefore, the proposal must be assessed against clause 35.04-5 (GWZ2), clause 42.01-2 (ESO7) and clause 52.19 – Telecommunications facility with regards to the suitability of the development itself.

The proposal seeks to provide a new telecommunications facility in a suitable location where there appears to be an evident coverage gap between existing facilities and within an area in need for improved infrastructure to provide better, affordable and reliable mobile services.

The image below, provided by the applicant, shows no existing telecommunications infrastructure in the immediate area. As such, the proposal would significantly improve telecommunications in this area.

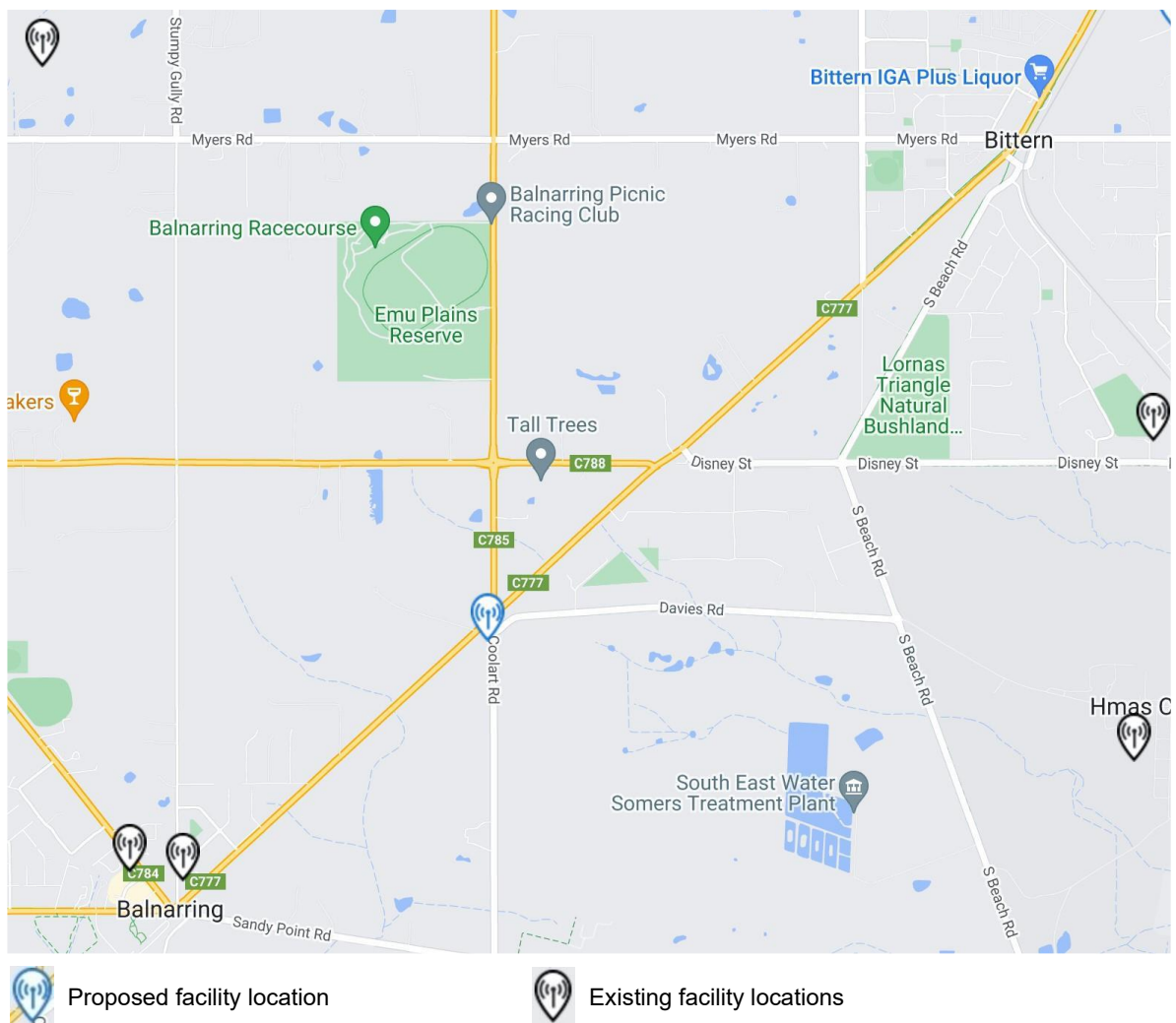


Figure 2: Proposed facility location and surrounding existing facilities (figure provided by applicant).

The new facility is well-placed in a central location to allow for improved telecommunications coverage and services to the immediate area.

The proposal has been sited to minimise visual impact within the landscape through the selection of a site located outside of the Significant Landscape Overlay, and siting of the development away from any surrounding dwellings. The closest dwelling is approximately 230 metres from the facility and does not have direct views to the facility. Although the telecommunications facility compound is setback only 12.3 metres from the Coolart Road frontage, views of the base of the monopole from Coolart and Davies Road would be filtered by existing vegetation. The siting of the proposal some 60 metres from the Frankston-Flinders Road means it will not be a dominant feature within the broader landscape when driving in either direction along Frankston-Flinders Road. If turning into Coolart Road travelling south west along Frankston-Flinders Road, the top half of the proposed facility would be visible above the existing tree line as can be seen in the photomontages.

The height and design of the facility are specific requirements in order to achieve the desired telecommunications outcome. The proposed monopole is 32.5 metres high, in the mid-range of height of current telecommunications towers which are generally between 25 and 50 metres tall. The triangular headframe, together with the future antennas, will be the main visible elements from a distance. It is noted that there is no requirement for telecommunication facilities to be invisible in a landscape, and that the telecommunication tower's height is an important functional requirement. Therefore, views of some elements of the facility are unavoidable.

In the broader landscape, views of the facility will occur at such a distance that it will not be a visually prominent feature in an otherwise broad landscape featuring scattered buildings and dwellings, open pasture, patches of native vegetation, roads and other infrastructure.

As relevant to the GWZ, the proposal's siting appropriately protects the agricultural capacity of the land. The setback from Coolart Road ensures that minimal area of the land is removed from agricultural availability, and the siting of the facility within a cleared area of land ensures no vegetation will be impacted. The proposed development is compatible with agricultural values of the site and surrounds as the area required is compact, fenced off and can be independently accessed from Coolart Road.

The proposed development achieves an acceptable balance in contributing to improved mobile services and protecting the landscape value of the site and surrounds.

The effect of the telecommunications facility on adjacent land

The proposal is not considered to have an unreasonable impact on adjacent land. The facility is located approximately 230 metres from the nearest dwelling, which is a significant buffer. Frankston-Flinders Road and Coolart Road contain existing mature roadside vegetation that also provides a buffer to nearby properties.

As with all mobile telecommunications facilities in Australia, the proposed facility is required to comply at all times with the relevant safety standards set by the ARPANSA and Australian Communications and Media Authority (ACMA). A condition on any approval will require that the proposal must comply with the ARPANSA 'Standard for Limited Exposure to Radiofrequency Fields – 100 KHz to 300GHz', or such other standard as is adopted from time to time by the Australian Communications Authority.

The applicant is bound to follow the relevant Australian Standards during construction, which will ensure that the construction does not pose risk to any person or environment. Proposed conditions would ensure that trees to be retained are appropriately protected during the construction phase of the development. The installation of the proposed facility can be undertaken at any time without affecting the use of the site or the surrounding area due to

3.8 (Cont.)

the accessibility of the site. Construction of the facility is unlikely to cause any disruption to adjoining properties or public access areas.

Impacts on existing and future green wedge land uses

The proposed facility is designed and located such that it will not unreasonably detriment the current or potential green wedge/agricultural land uses of the subject site or surrounding areas.

The proposed location, towards the north-eastern corner of the site, is on the edge of the property and on the outskirts of the northern-most paddock on the site. The area of the proposed compound is 120 square metres. The proposal, by virtue of its location and size (120 square metres on a property of approximately 95,000 square metres), respects the purposes and decision guidelines of the Green Wedge Zone Schedule 2 (GWZ2) by ensuring that the vast balance of the subject site is retained as existing open paddocks. Also, as the open paddocks are retained as is, this ensures the opportunities for future agricultural uses on the site are maintained.

Additionally, the proposed facility location and size are such that there are no anticipated impacts on any adjoining or off-site agricultural land uses, as well as any opportunities for future agricultural land uses.

Impacts on the environment

The proposed facility will not unreasonably impact the environmental values of the site or wider area. No vegetation removal or earthworks are proposed. It is anticipated that there will be no biodiversity impacts of the proposed facility. There are no nearby significant natural features that will be impacted on by the proposal. As such, the proposed facility is acceptable in relation to the Environmental Significance Overlay Schedule 7 (ESO7) and relevant environmental guidelines of the GWZ2 and Planning Scheme in general, including the environmental-related strategy of clause 19.03-4S which is to ensure a balance between the provision of telecommunications facilities and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.

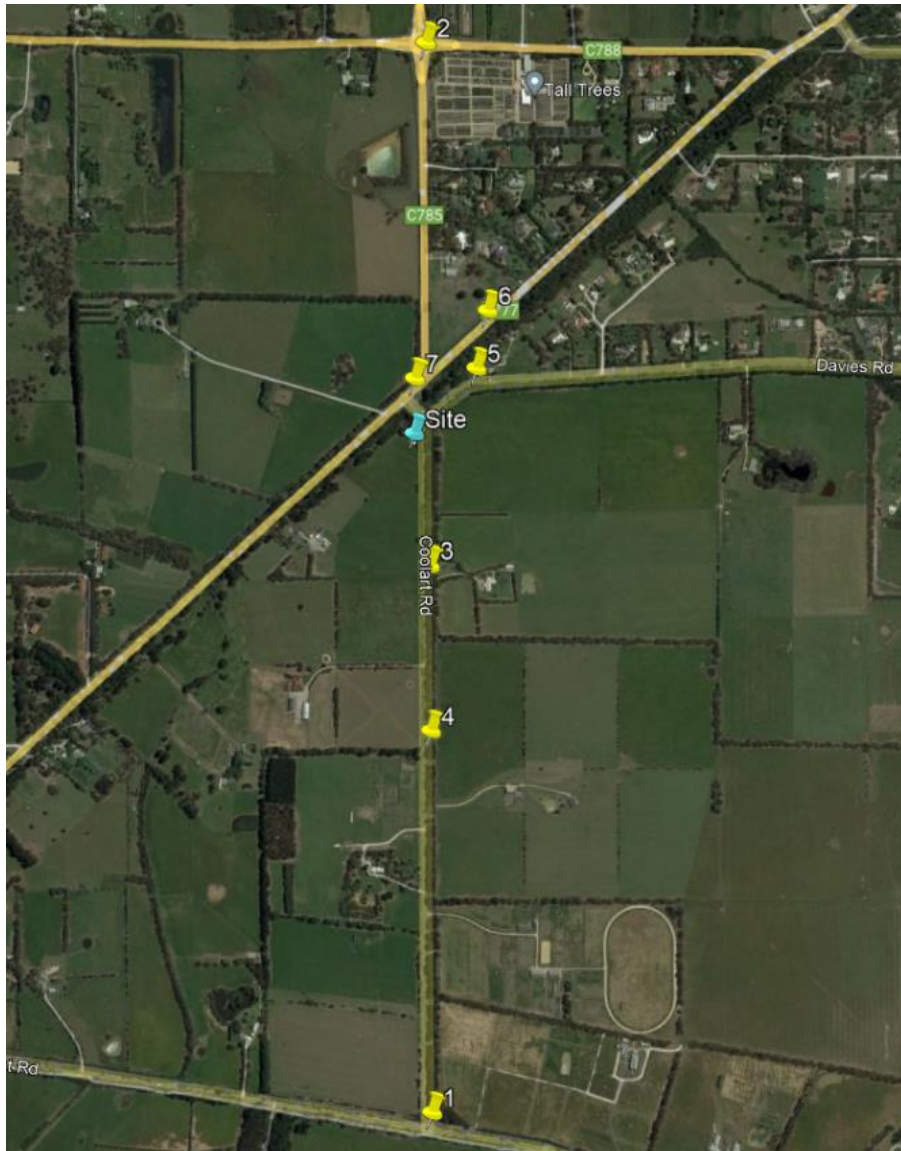
Impacts on the landscape

Whilst the proposed facility will be visible from some surrounding locations and angles, it will not unreasonably impact the landscape values of the site or wider area. While it is not disputed that the telecommunications facility will be visible from external land, this visibility does not automatically equate to the facility being inappropriate on visual impact grounds. What is necessary is to determine the extent of this visibility and the sensitivity of each respective interface whereby views are attainable and balance this alongside broader policy which supports this form of infrastructure.

The below section of the report contains an analysis of the facility details and visibility of the proposal, to help demonstrate its visual impacts. The proposed facility includes a tower and antennas that reach a maximum height of 32.5 metres. The proposal includes a transparent chain-wire fence around the compound and equipment and shelters at the ground level.

Below is a series of photomontages depicting the structure from a number of vantage points from Frankston-Flinders Road, Coolart Road and Davies Road. An analysis of the photomontages shows that the proposed facility, whilst visible, will not appear as a visually significant or dominant structure in the context of the area.

The analysis will show relevant photomontages to the assessment and these will be ordered by photomontages from nearest to furthest away from the proposal.




 Photomontage location

Figure 3: Location of photomontage depictions in the surrounding area.



Figure 4: Photomontages showing before and after shots of the proposal from Location 7.

The above photomontage shows that the upper section of the monopole will be seen to its most prominent degree in the overall set of photomontages. This view of the proposed facility

would be for a limited amount of time to motorists travelling, at up to 80 km/h, south-west and is not considered out of place to view such a facility in a location adjacent to a major roadway. Also, this imagery shows that the visibility of the monopole is similar (and from this vantage point less tall) than the light pole in the foreground. The bottom portion of the monopole and equipment compound will be fully screened by existing roadside vegetation.



Figure 5: Photomontages showing before and after shots of the proposal from Location 5.

As per the above depiction, when travelling towards the intersection of Coolart Road and Davies Road, the upper portion of the facility will be visible, however this will be a passing viewpoint and for a limited amount of time. The facility, including the lower portion, will be screened to motorists travelling along this portion of road by existing vegetation. The proposed facility in this photomontage does not appear to be significant or dominant in the overall landscape.



Figure 6: Photomontages showing before and after shots of the proposal from Location 6.

When viewed from further north-east along Frankston-Flinders Road, the impact of the surrounding vegetation and separation distance from the facility itself further reduces the significance of the monopole in the overall landscape. At a distance of around 315 metres north-east of the proposed site location, only the upper-most portion of the facility would be visible. As seen in this photomontage, the monopole is mostly screened by the mature vegetation in the immediate and surrounding vicinity, and further recedes into the background compared to the montage of Location 7. This view would be seen by motorists travelling south-west along this roadway. The proposed monopole and overall facility does not appear visually significant in the overall landscape from this view.



Before



After

Figure 7: Photomontages showing before and after shots of the proposal from Location 3.

As can be seen in the above photomontage, the upper portion of the monopole will be seen by motorists travelling north along Coolart Road. The lower portion of the facility would not be visible as it will be screened by vegetation. Other vertical elements, such as canopy vegetation, power poles and powerlines are common in this area. The proposed monopole will appear visually similar to these existing elements and will not appear as a significant or dominant structure in the overall landscape.

The other photomontages provided above (Locations 4, 2 and 1) are from further distances where the monopole appears relatively and progressively smaller, with its standing in the overall landscape minimising further and further. The monopole does not appear significant from these locations.

The vantage points in all of the above photomontages are from roads or roadsides. The below map shows the nearest dwellings in each direction and their approximate setbacks from the proposed facility. The map shows that there are significant distances from all nearby dwellings, even the dwelling on the subject site, which means there will be low visibility impacts. The map helps show that any views from these dwellings towards the monopole will be significantly or fully screened by existing vegetation in the immediate and wider area. Furthermore, not only will views contain vegetation that partially or fully screens the monopole, any views from these dwellings that do include the higher portions of the monopole will likely be softened with a backdrop of mature canopy vegetation due to the large amounts of tall vegetation in the area, especially the trees surrounding and within close proximity to the proposal.

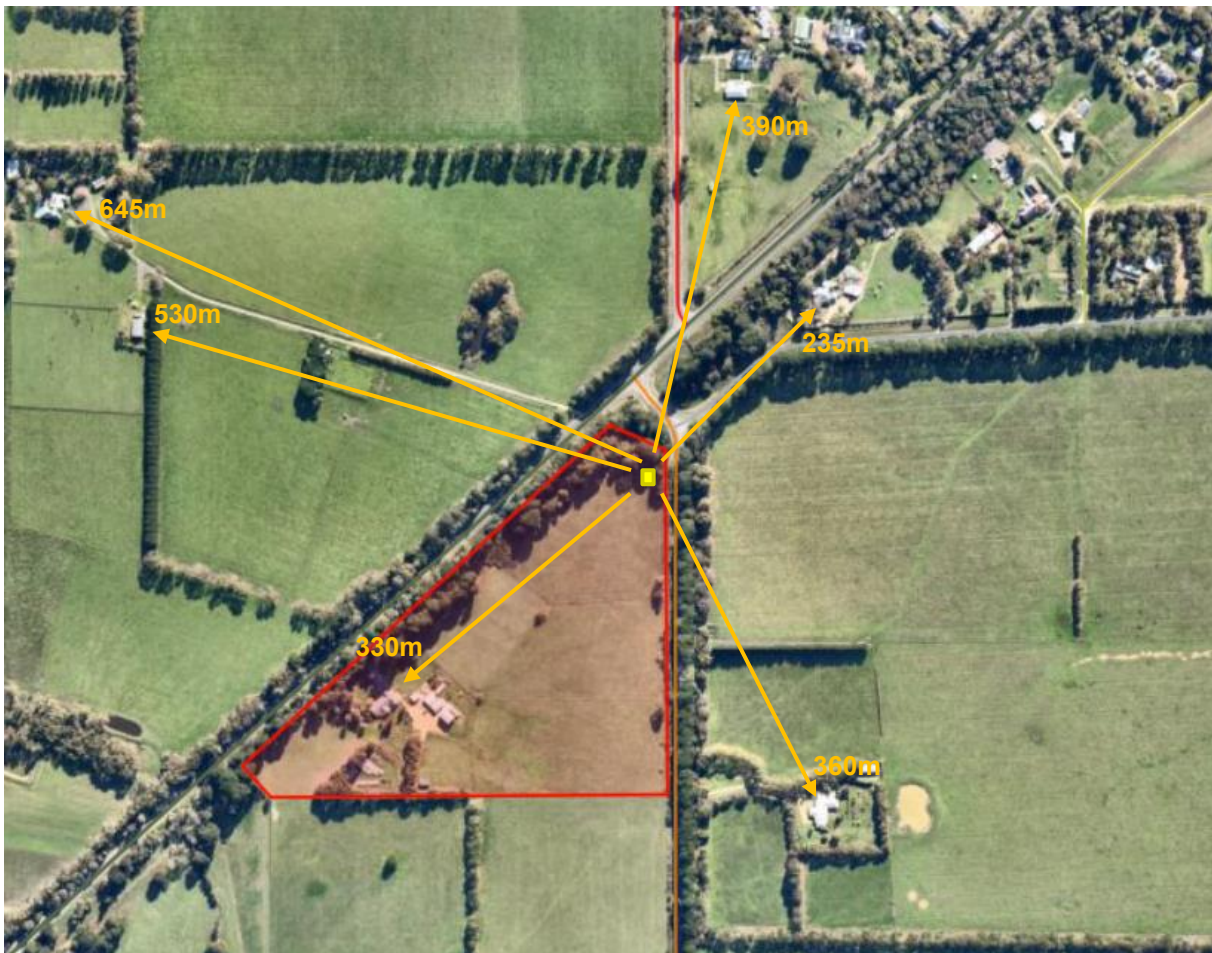


Figure 8: Map showing the nearest dwellings and their approximate distances in each direction from the proposed facility.

Overall, whilst the proposed facility will have some visibility from parts of the site and surrounding area, it will not significantly interrupt views and vistas or unreasonably detriment the overall landscape of the area. There are no significant landmarks or panoramas in the vicinity that will be unreasonably interrupted. Overall, the photomontages show that the proposed monopole will be partially visible from certain vantage points, typically along roads where motorists will briefly pass through the area. Furthermore, the separation distances from nearby dwellings and significant amounts of vegetation throughout the area and near the proposal will ensure that the facility has limited visual and landscape impacts on the surrounding area.

Notwithstanding the above, to aid in further minimising any landscape amenity impacts, a condition has been included in the decision recommendation that requires the exterior finish of the monopole to be a muted, non-reflective colour.

ENGAGEMENT

Not applicable.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

Should Council decide to refuse the application, the applicant will have appeal rights to the VCAT.

3.8 (Cont.)

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Should the application be appealed to VCAT by the applicant, Council would be required to defend its decision, and this would have financial and resource implications.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposed development of a telecommunications facility is considered acceptable, subject to the recommended conditions having regard to the relevant provisions of the Planning Scheme and *Planning and Environment Act 1987*. It is therefore recommended that Council issue a Planning Permit.

3.9 Planning Permit Application - P22/2377 - Lonsdale Street on-ramp to the Mornington Peninsula Freeway, McCrae - Development of a Telecommunications Facility and creation of access to a road in a Transport Zone 2

Prepared By	Luke Camerota, Senior Planner
Authorised By	Acting Director - Planning & Environment
Document ID	A13199699
Briefing Note Number	BN1963 – 27 August 2024
Attachment(s)	<ol style="list-style-type: none"> 1. Assessed proposal plans 2. Survey plan 3. Application cover letter 4. Applicant submission 5. Environmental electromagnetic energy (EME) report 6. Photomontages set A 7. Photomontages set B 8. Applicant letter - Objections response 9. Applicant letter - Co-location 10. Applicant letter provided after PAC - Includes coverage maps 11. Applicant letter - Alternate monopole height coverage maps 12. Objections (confidential) 13. Viewlines photos from objectors (confidential) 14. Council Officer viewlines photos 15. Officer report

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision from Council regarding planning permit application P22/2377 for the proposed development of a telecommunications facility on the land adjacent to the south of the Lonsdale Street on-ramp for the Mornington Peninsula Freeway, McCrae. The application has been called in by Councillor Mar for a decision by Council.

The proposal includes a 25-metre-high monopole with panel antennas reaching a maximum height of 27.4 metres, a compound with associated equipment and surrounding security fencing that measures 12 metres by 10 metres, and a vehicle access slip lane from the freeway entry road. The facility is intended to provide for an upgrade in 4G and 5G telecommunications services (for Optus and Vodafone) within the local area, mainly in McCrae and the northern parts of Rosebud.

The application was on public notice in accordance with section 52 of the *Planning and Environment Act 1987* (the Act) from 11 April 2023. Council received 51 objections in response to the proposal. The issues raised in objections can be summarised as:

- The need for the facility and potential for co-location
- Proposed location and height of the facility
- Visual, landscape and shared view lines impacts
- Environmental and health impacts

3.9 (Cont.)

- Devaluation of property
- Advertising and consultation process inadequate.

The proposal is considered acceptable having regard to the relevant provisions of the Planning Scheme and the *Planning and Environment Act 1987*. It is recommended that Council supports the application and resolves to issue a Notice of Decision to Grant a Permit, subject to the conditions contained within this report.

RECOMMENDATION**Part A**

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme (the Planning Scheme) and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P22/2377 for the development of a telecommunications facility and creation of access to a road in a Transport Zone 2, be supported and that a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Council conditions**Amended Plans**

- 1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
 - a) A plan of the access lane with dimensions, including the widths and setbacks to the nearest freeway entry road.**
 - b) The setback of the facility to the nearest freeway entry road.**
 - c) The external colour of the monopole and antennas, which must be a muted, non-reflective colour that has a luminous reflectivity value (LRV) of less than 40%.**

Approved Development Not Altered

- 2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (Unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).**

Exterior Finishes

- 3. The exterior colour and cladding of the monopole, antennas and building/s must be of a non-reflective nature to the satisfaction of the Responsible Authority.**

3.9 (Cont.)**Tree Protection**

4. Prior to the commencement of any building or works appropriate tree protection fencing must be erected in accordance with Australian Standard AS4970 – 2009 (Protection of trees on development sites). The tree protection fencing must remain in place until the completion of any works hereby approved.
5. Any excavation, trenching and fill works within 'Tree Protection Zones' must be carried out in accordance with the recommendations in the Australian Standard AS4970 - Protection of trees on Development Sites, to the satisfaction of the Responsible Authority.

Access

6. Before the use of the site commences, the access lane to the telecommunications facility must be constructed, formed and surfaced with an all-weather wearing course and drained to the satisfaction of the Responsible Authority.

Amenity

7. The telecommunications facility must comply with the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) 'Standard for Limiting Exposure to Radiofrequency Fields – 100KHz to 300GHz (RPS S-1)', or such other standard as is adopted from time to time by the Australian Communications Authority.
8. The construction of the development must be carried out so that the amenity of the area is not detrimentally affected, through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Inappropriate storage of any works or construction materials.
 - c) Hours of construction activity and/or repair and maintenance activities.
 - d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - e) Presence of vermin.

Redundant Facilities

9. If the telecommunications facility hereby approved becomes redundant, all infrastructure associated with the telecommunication facility must be removed and the area reinstated to the satisfaction of the Responsible Authority. All works to comply with this condition must be completed within three (3) months of the facility ceasing to operate and must be at the expense of the permit holder.

The Head, Transport for Victoria condition

10. The applicant must enter into a license agreement with the Department of Transport and Planning for the use of the road reserve for the telecommunications facility. An application for such a license must be addressed to landandproperty@roads.vic.gov.au.

3.9 (Cont.)**Expiry**

11. This permit will expire if the development is not completed within three years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

The Head, Transport for Victoria note:

- The proposed development requires roadworks within the road reserve. Separate approval under the *Road Management Act 2004* for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport and Planning prior to commencing any works.

Part B

That Council resolves that Attachments 12 and 13 to this report be retained as confidential items pursuant to section 3 (1) (f) of the *Local Government Act 2020* as they contain personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, H and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.

I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

Not applicable.

DISCUSSION

Purpose

The purpose of this report is to provide a summary of:

- The relevant background of the site
- The proposal
- The key issues
- Submissions and Shire officer response
- The assessment against the relevant provisions of the *Planning and Environment Act 1987* and the Planning Scheme.

For a detailed assessment of the all the relevant matters please see Attachment 15 – Officer report.

The key planning considerations are summarised in the below table:

Proposal	Development of a telecommunications facility and creation of access to a road in a Transport Zone 2.
Zone and Overlays	<p>Zone:</p> <ul style="list-style-type: none"> • Transport Zone Schedule 2 (TRZ2) <p>Planning Overlays:</p> <ul style="list-style-type: none"> • Nil.
Permit Triggers	<ul style="list-style-type: none"> • Clause 52.19-1 – A planning permit is required to construct a building or construct or carry out works for a telecommunications facility. • Clause 52.29-2 – A planning permit is required to create or alter access to a road in a Transport Zone 2. <p>Note: A planning permit is not required for the use of a telecommunications facility as it is exempt as per clause 62.01.</p>
Advertising	The application was advertised on 11 April 2023 by sending direct notice to all properties within a 500-metre radius of the facility.
Submissions	51 submissions have been received.
Consultation	Planning Application Conference (PAC) held on 4 October 2023.

Key Issues	<ul style="list-style-type: none">• The design, siting, and operation of the telecommunications facility.• The effect of the telecommunications facility on adjacent land.• Consideration of the objections.
Recommendation	Issue a Notice of Decision to Grant a Permit, subject to conditions.

Background

Subject site and surrounding area

The subject site is located adjacent to the Mornington Peninsula Freeway entry road near Lonsdale Street, McCrae (see Figure 1 below). There are canopy trees to the south and west of the proposed facility location. The subject site does not have a certificate of title and is located in the road reserve which is zoned Transport Zone Schedule 2 (TRZ2).

The subject site is situated on land that is approximately 14metres Australian Height Datum (AHD).



Figure 1: Aerial photo showing subject site (yellow circle) and surrounding area (GIS April 2024).

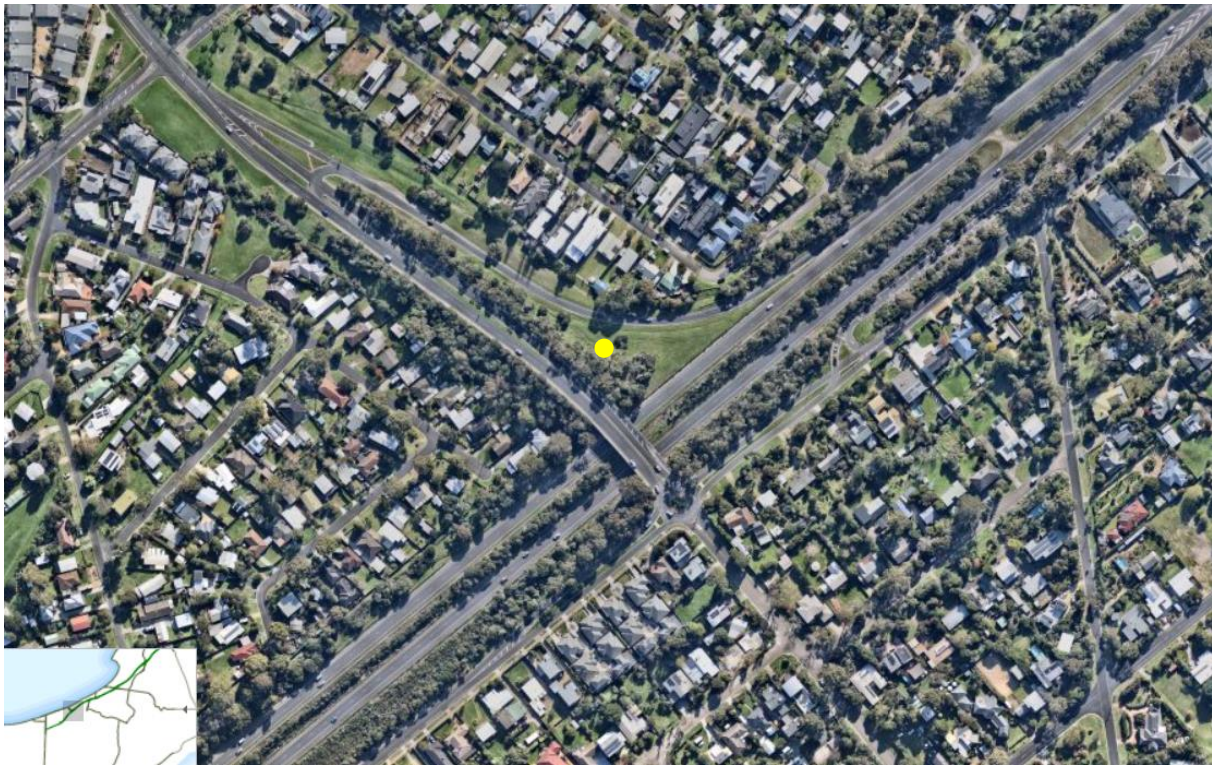


Figure 2: Aerial photo showing subject site (yellow circle) and wider surrounding area (GIS April 2024).

There are residential uses in all directions, with the nearest dwellings to the proposal located approximately 50 metres to the north-east at 34 Hilary Avenue and 36 Hilary Avenue. The subject site is part of the road corridor associated with both Lonsdale Street and the Mornington Peninsula Freeway. There are mature canopy trees along both road corridors.

The land to the north of the site flattens out approximately 200 metres to the north of the site at about 5m AHD. The land to the south and east of the Mornington Peninsula Freeway rises significantly from the proposed site and is elevated above the subject site, with views over the land.

In the surrounding area, the nearest existing telecommunications facilities are located at distances of approximately:

- 600 metres from proposed site – 725 Point Nepean Road, McCrae.
- 1,140 metres from proposed site – 2 Cornell Street, McCrae.
- 1,495 metres from proposed site – 862-864 Point Nepean Road, Rosebud.
- 1,575 metres from proposed site – 28A Hove Road, Rosebud.

Proposal

This application proposes the development of a telecommunications facility and creation of access to a road in a Transport Zone 2. The proposed facility incorporates the following elements:

- A 25-metre high monopole with a headframe and panel antennas atop the monopole that reach a maximum height of 27.4 metres.
- Atop the monopole, it is proposed to include 9 panel antennas for Optus requirements and 6 panel antennas for Vodafone requirements.

3.9 (Cont.)

- A compound that is 10 by 12 metres in size (120 square metres).
- Equipment cabinets located at the base of the facility (this is exempt from a permit pursuant to clause 52.19-1)
- 2.4-metre high security fencing surrounding the compound, with double access gates.
- Ancillary infrastructure including pits, cabling and other necessary connections.
- An access slip lane off the freeway entry road for entry to and exit from the facility.

The applicant states that all cables connecting the panel antennas to the cable trays will be internal to the monopole except where they exit it to connect to the relevant antennas. The applicant also states that the monopole does not have any provision to allow it to be climbed, and that the monopole and antennas can be coloured/painted if desired to assist in mitigating visual impact.

The area required for the facility is clear of vegetation, no vegetation is proposed to be removed.

The facility is intended to provide for an upgrade in 4G and 5G telecommunications services within the local area, mainly in McCrae and the northern parts of Rosebud. Part of the reason for the proposal is to minimise the need for additional facilities and replace the coverage loss that will occur as the nearest existing facility (with the same providers – Optus and Vodafone) at 725 Point Nepean is near the end of its lease and is anticipated to be decommissioned due to its unsuitability for expansion and coverage. The applicant states the following:

“The proposed facility is required to replace an existing facility located on top of a signage structure at 725 Point Nepean Road, McCrae. The existing structure cannot be further expanded or accommodate additional equipment and also has a very low antenna height (approximately 11 metres). This makes the existing site unsuitable for further upgrades, to include 5G services.

The proposed facility will ensure existing coverage is replaced and expanded and new services provided within the surrounding area to experience a substantial improvement to network services. New 5G services will also be introduced as part of the proposal.”

Please refer to the following for further details:

- Attachment 1 – Assessed proposal plans
- Attachment 2 - Survey plan
- Attachment 3 - Application cover letter
- Attachment 4 - Applicant submission
- Attachment 5 - Electromagnetic energy (EME) report
- Attachment 6 - Photomontages set A
- Attachment 7 - Photomontages set B

NOTIFICATION AND CONSULTATION

Notification

The application was publicly notified in accordance with section 52 of the *Planning and Environment Act 1987* on 11 April 2023. The application was notified by sending letters to properties within 500 metres of the site and displaying a sign on the land.

It is noted the application is not exempt from advertising as it does not benefit from the exemption in clause 52.19-3 as it proposes a telecommunications facility within 100 metres of a residential zone.

Submissions

Please refer to Attachment 12 – Objections (confidential)

Fifty-one objections were received. The majority of these concerns relate to visual impacts that the proposal may have on the area, including view lines to the Port Phillip Bay, negative health impacts, neighbourhood character, poor proposed location, the lack of need for the facility, proximity to residents and the overall height. The matters raised in the objections are further discussed later in this report.

REFERRALS

The Head, Transport for Victoria

The application was also referred to The Head, Transport for Victoria under section 52 of the *Planning and Environment Act 1987* as they are the public land manager, and the application must be accompanied by written confirmation that they consent generally or conditionally:

- To the application being made.
- To the application being made and to the proposed development.

The Head, Transport for Victoria has considered the application and does not object to the grant of a permit subject to a condition related to a licence agreement for the use of the road reserve for the telecommunications facility.

Transport for Victoria also provided an “accompanying note” to be added to any permit issued in relation to seeking separate approval under the *Road Management Act 2004* for the activity prior to commencing any works.

The application was referred to the Head, Transport for Victoria under section 55 of the *Planning and Environment Act 1987* as they are a determining referral authority for an application that requires a permit to create or alter access to a road in a TRZ2, as per clause 66.03. A response for this referral has not yet been received.

Shire’s Flood Officers

A referral was sent to the Shire’s Flood Officers in the Building Department to determine whether a report and consent application is required for the development as it is located on the Shire’s flood prone area mapping. The Flood Officers have stated that there is a possibility the works may be exempt from requiring report and consent to build on flood prone land, and if it is required, that data shows the proposed works will likely be approved as ‘not flood impacted’.

CONSIDERATION

Please refer to Attachment 8 – Officer Assessment.

The following key issues are discussed below:

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

The design, siting, and operation of the telecommunications facility

The use of land for a telecommunications facility and the development of an equipment shelter are exempt from the requirement for a planning permit under clauses 62.01 and 62.02 of the Planning Scheme, respectively. Therefore, the proposal must be assessed against clause 36.04-5 (TRZ2) and clause 52.19 – Telecommunications facility with regards to the suitability of the development itself and the creation of the vehicle access.

Both the design and location (siting) of the facility has been selected by the proponent based on the ability to serve the surrounding area and will therefore, by its nature need to be located close to the residential areas it proposes to serve.

The design of the monopole is proposed at 25 metres (m) high, which is in the low to mid-range of heights for current telecommunications towers that generally range between 25-50m high. The use of a slimline monopole ensures the bulk of the facility is as minimal as possible. Further, it ensures that only the upper portion of the facility may be visible in the surrounding areas, protruding above the surrounding vegetation, when not entirely screened by vegetation from certain perspectives. The monopole is proposed in shale grey colour. This will assist in minimising the visual impact of the structure when viewed from the surrounding area. The proposed design is considered acceptable having regard to the relevant provisions of the planning scheme.

The topography of the site has some moderate fall, but as previously discussed, the area downslope does flatten out about 200m to the north. The areas to the south and east of the Mornington Peninsula Freeway rise significantly above the height of the tower location. The proposed tower would not be located on a high point in the area. The subject site is not within an area that is recognised or protected by a specific control regarding landscape, heritage or neighbourhood character, even though the surrounding residential areas are. The proposed location (siting) is considered acceptable having regard to the relevant provisions of the planning scheme.

Clause 19.03-4S – Telecommunications – seeks to facilitate the orderly development, extension and maintenance of telecommunication infrastructure. The proposal seeks to provide a new facility at a suitable location within an area in need for improved infrastructure to provide fast, affordable and reliable mobile services. The design outcome achieves an acceptable balance between continuing improvement of mobile services without unreasonable adverse impacts on the environment.

Clause 52.19 – Telecommunications facility – seeks to ensure infrastructure and services are provided in an efficient and cost-effective manner, encourage an effective State-wide telecommunications network, and encourage the provision of telecommunications facility with minimal impact on the amenity of the area.

The nearest existing facilities are highlighted earlier in the report. In the absence of any existing facility for co-location, a new facility is required to meet the increasing demand of telecommunications infrastructure.

3.9 (Cont.)

Clause 52.29 requires Council to consider the potential impacts on the road network. The relevant road authority has provided conditional consent to the proposal. The proposal is considered to be acceptable having regard to the operation of the road and on public safety.

Having regard to the relevant provisions of the planning scheme, the design, location and construction of the proposed development is considered acceptable.

The effect of the telecommunications facility on adjacent land

The proposal is not considered to have an unreasonable impact on adjacent land. The proposal includes the creation of access point from the existing Lonsdale Street on ramp. The access will not adversely impact on the road operation or safety as discussed above.

The proposal is consistent with clause 02.03-2 – Environmental and landscape values - in that it has been located where the structure will not have a detrimental impact on any significant landscape, heritage item or neighbourhood character, being within an existing transport corridor.

The proposal is considered acceptable having regard to the relevant provisions of the planning scheme as they relate to consideration of the effect of the proposal on adjacent land.

The potential effect of the proposal from an Electromagnetic Energy (radiation) perspective is discussed in the consideration of objections below.

Consideration of the objections

Please refer to attachment 12 – Objections (confidential)

Matters raised in the objections are included below:

- The need for the facility and potential co-location
- Proposed location and height of the facility
- Visual, landscape and shared view lines impacts
- Environmental and health impacts
- Devaluation of property
- Advertising and consultation process inadequate.

Need for a telecommunications facility and potential co-location

The proposal seeks to provide a new telecommunications facility in a location where there appears to be a gap between existing nearby facilities, being within an area in need for improved infrastructure to provide better, affordable and reliable mobile services.

The image below shows existing telecommunications infrastructure in the immediate area, as well as the proposed facility. There is a pocket of land centrally located within existing surrounding facilities, showing there is a need for a telecommunications facility that would significantly improve telecommunications in the immediate area.

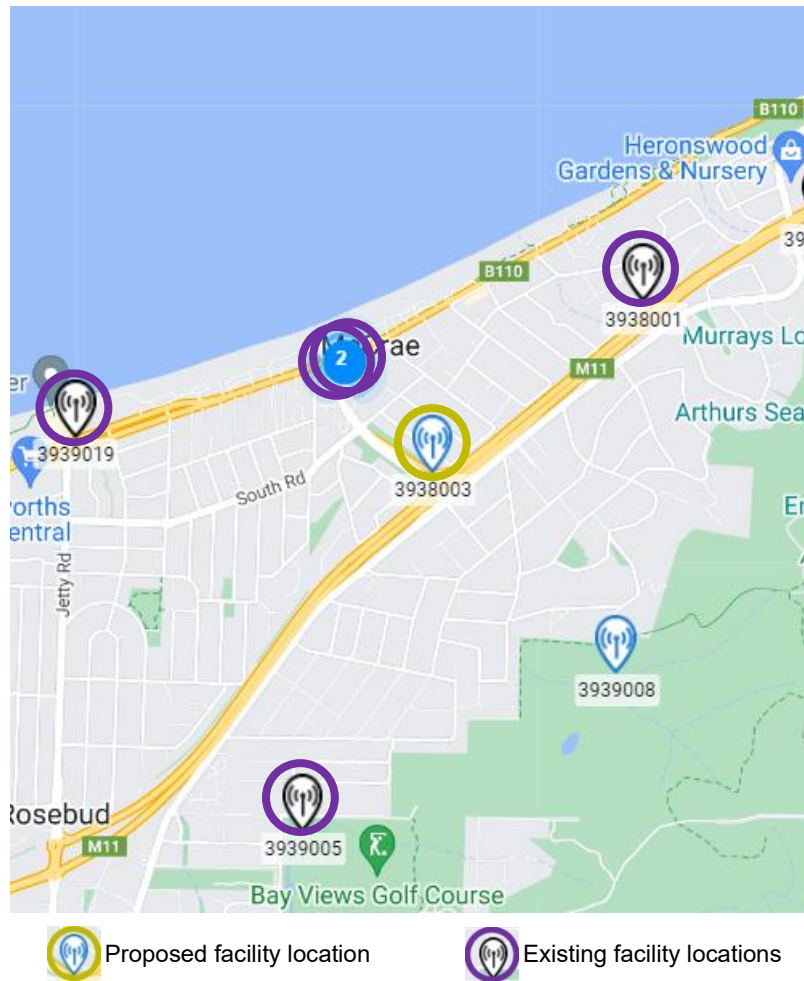


Figure 3: Proposed facility location and surrounding existing facilities.

The below map shows which carriage providers utilise the surrounding telecommunications facilities. As seen in Figure 4, the nearest facility to the proposal that has the same carriage providers is to the north-west at 725 Point Nepean Road, approximately 600m from the subject site. As previously stated, it is anticipated that this facility will be decommissioned. Additionally, this facility provides 3G and 4G services, but not a 5G service, thus highlighting the need in the immediate area for an improvement in the overall network by increasing 5G telecommunications. Additionally, the proposed location is near the midpoint of existing 3G, 4G and 5G facilities, as itemised in Figure 4 by the green circles (one is approx. 1,140m north-east of the proposal and the other is approx. 1,575m to the south-west). This again shows that the proposed facility location is in an area of need to help improve the overall telecommunications network.

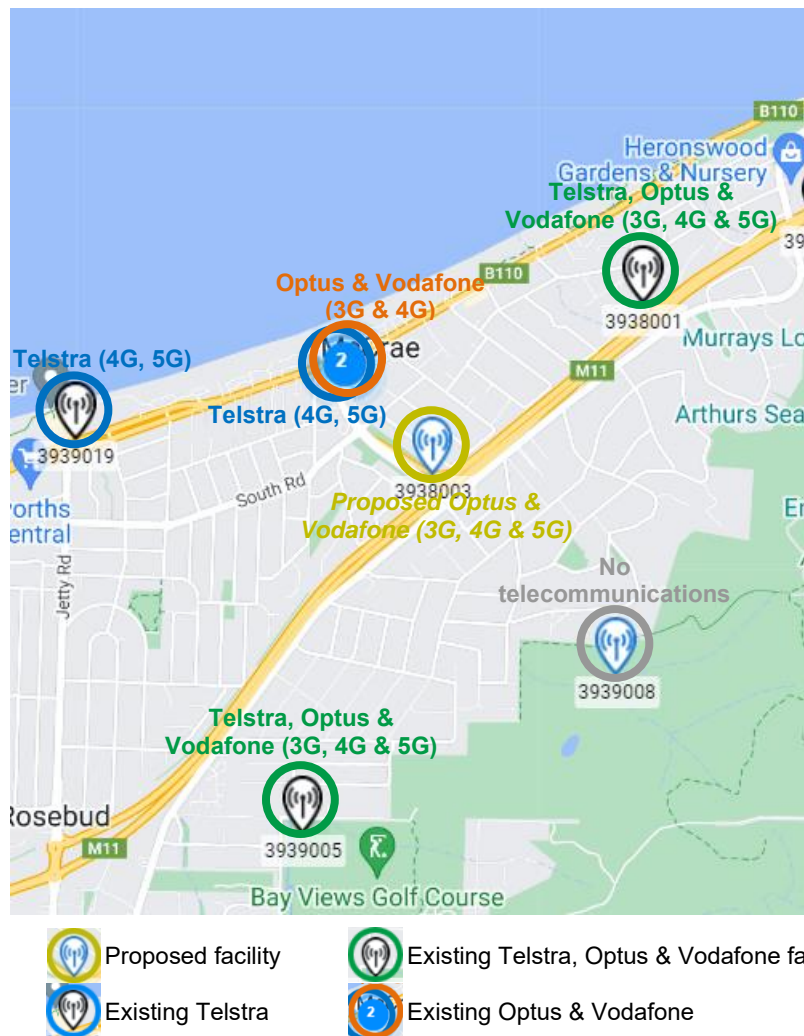


Figure 4: Proposed facility location and surrounding existing facilities colour-coded by carrier provider.

Optus 4G coverage maps have been generated and provided by the applicant. As per the applicant, the methodology for these maps is that the coverage shown “is 4G LTE1800 at -90 decibel-milliwatts (dBm), which is default frequency layer for data services and gives a good ‘real world’ indication of where data speeds will generally be reliable and typically available inside buildings (although there will be other factors they can affect predicted coverage such as dense vegetation or other obstructions). The yellow shading indicates such coverage, whereas in the grey areas the signal level falls below this level (and is therefore less reliable/useable), whilst the green area generally indicates ‘on-water’ coverage available in Port Phillip Bay”.

The coverage maps below show estimations for:

- Existing 4G coverage, with the facility at 725 Point Nepean Road retained.
- 4G coverage without the facility at 725 Point Nepean Road.
- Predicted 4G coverage with the proposed facility included and without the facility at 725 Point Nepean Road.

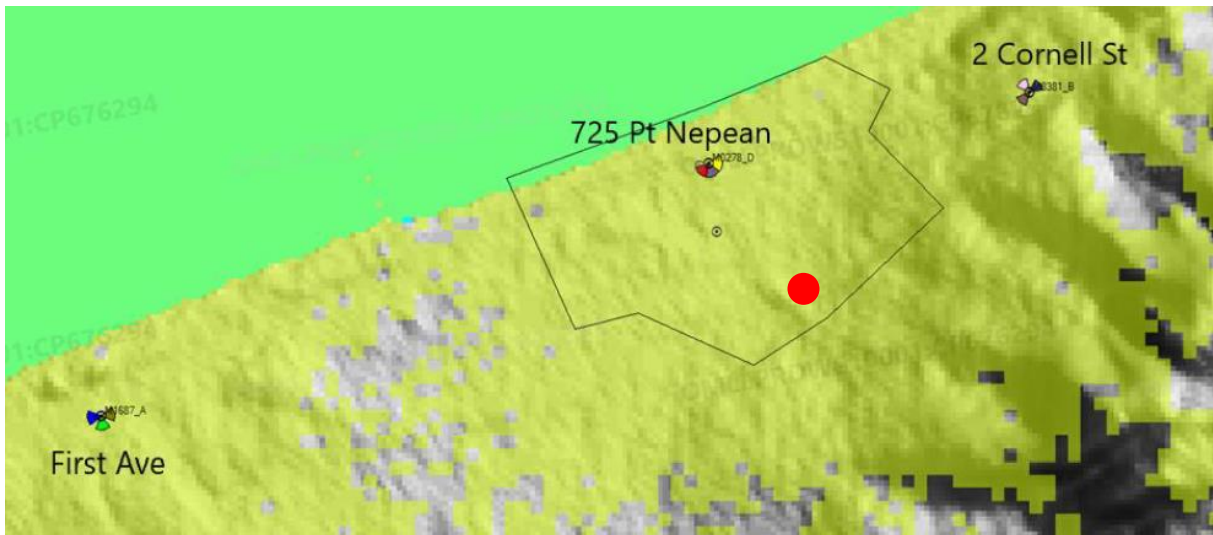


Figure 5: Estimated existing Optus 4G coverage map (provided by applicant). Red dot is proposed facility location.

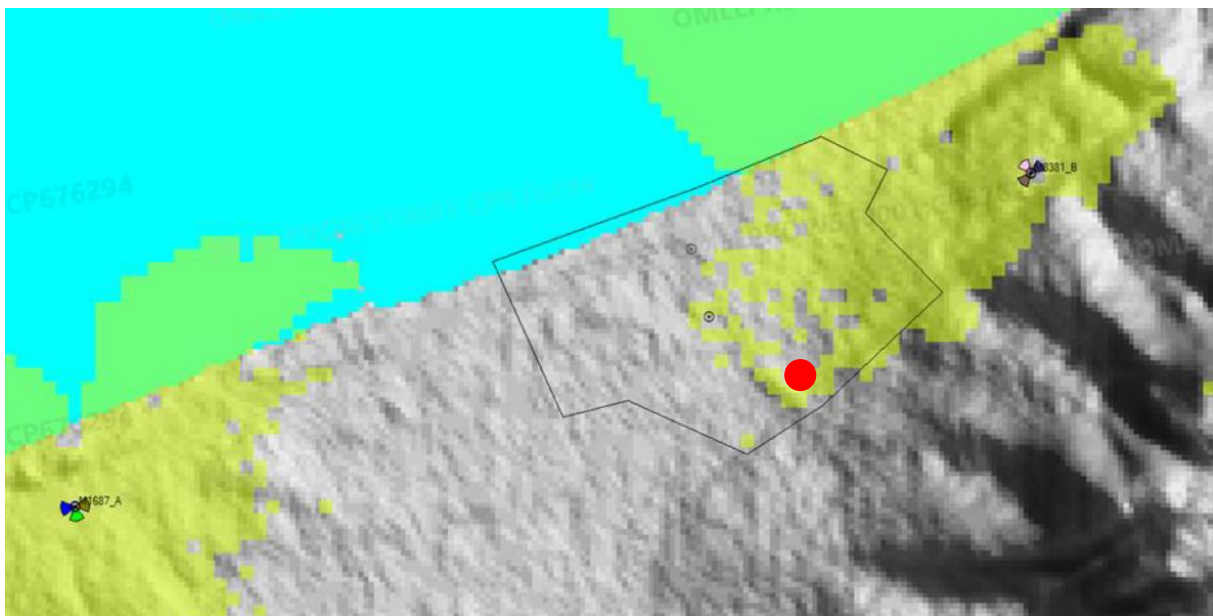


Figure 6: Estimated Optus 4G coverage map without the Optus facility at 725 Point Nepean Road (provided by applicant). Red dot is proposed facility location.

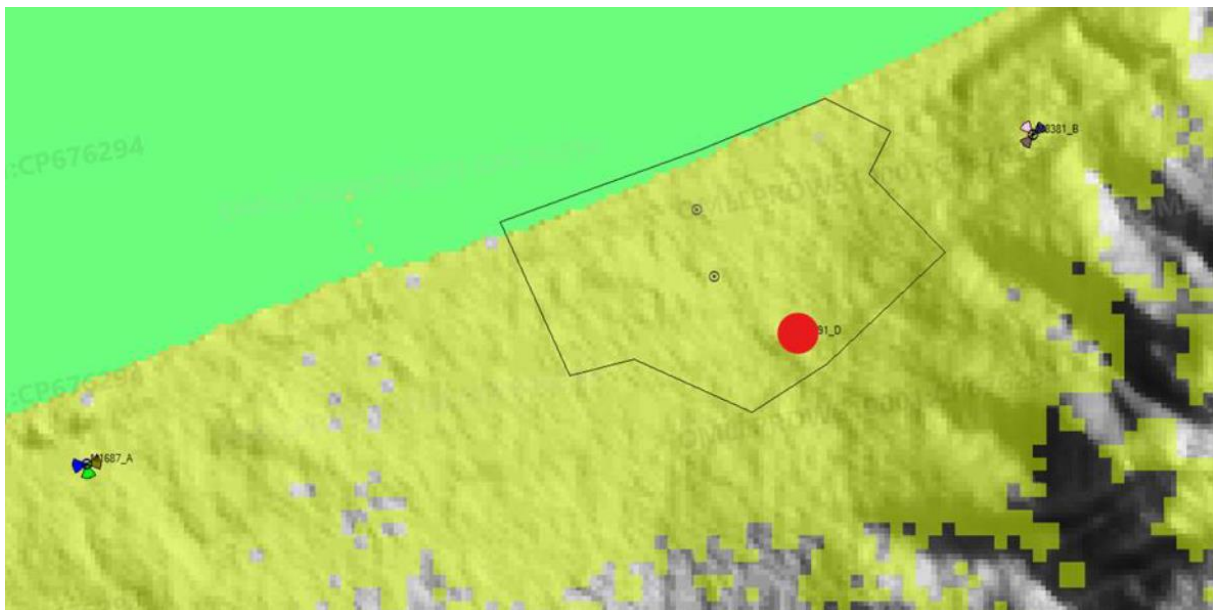


Figure 7: Estimated predicted Optus 4G coverage map with the proposed facility and without the Optus facility at 725 Point Nepean Road (provided by applicant). Red dot is proposed facility location.

The following coverage map has been provided by the applicant with the same methodology of the above maps, however the pink shown is the existing Optus 5G coverage.

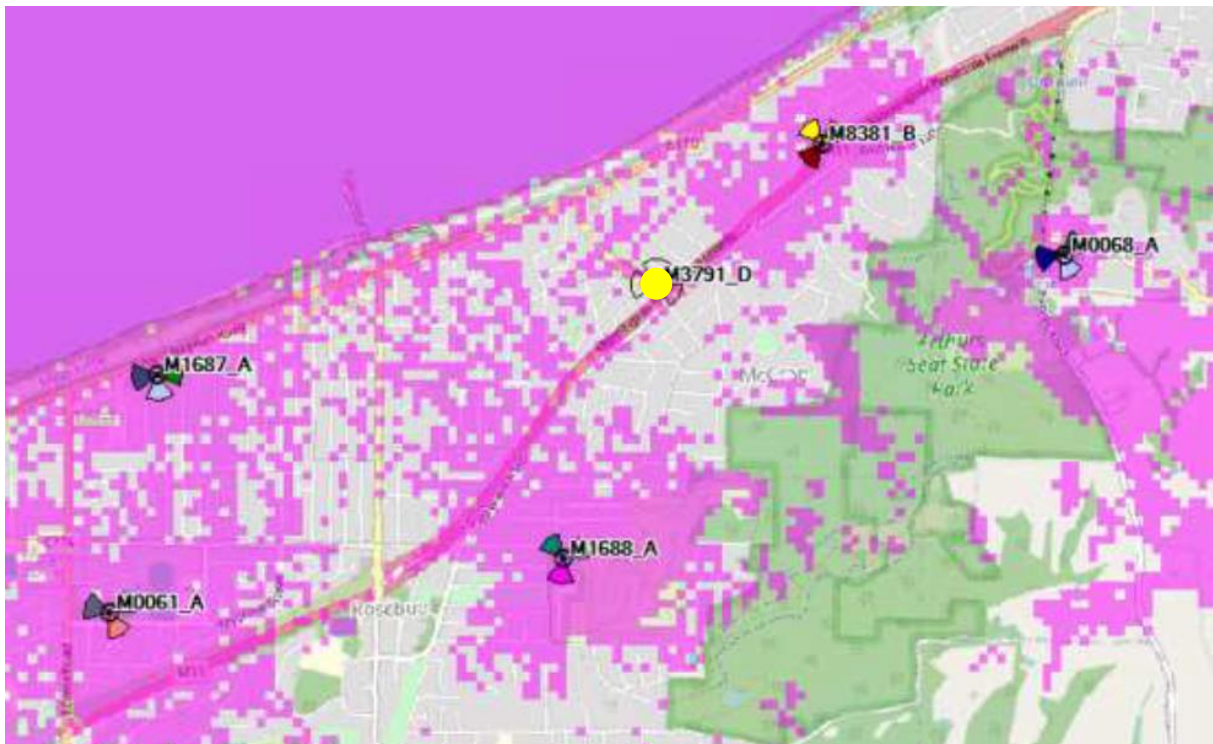


Figure 8: Estimated existing Optus 5G coverage map (provided by the applicant). Yellow dot is proposed facility location.

The applicant has stated that the analysis shown in these coverage maps apply equally to Vodafone, who will share the structure with panel antennas at the same height and use similar frequencies.

The below map shows Optus 5G outdoors coverage in the context of the immediate area. This map is readily accessible online (internet link shown below).

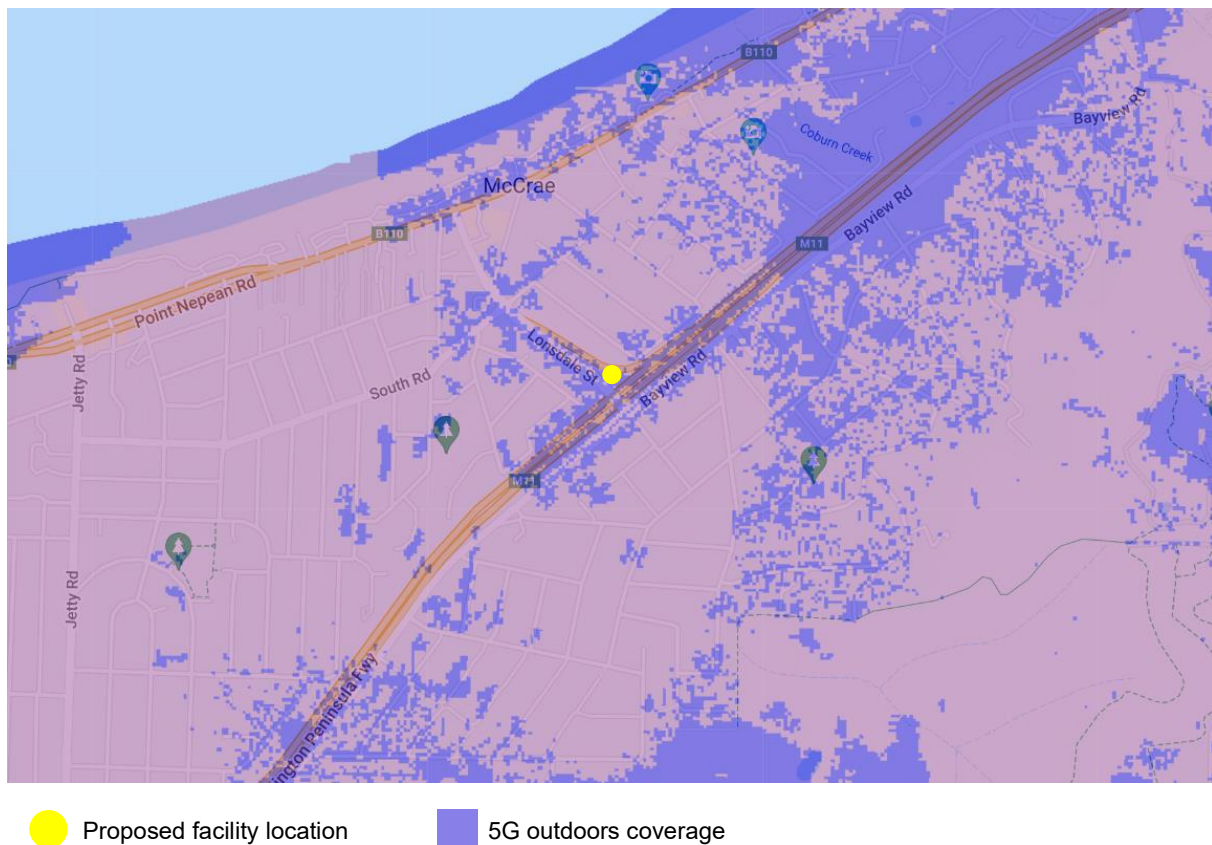


Figure 9: Optus 5G outdoors coverage. Map available at: <https://www.optus.com.au/living-network/coverage>.

The above 5G maps show that there is a gap of and a need for 5G telecommunications coverage in the areas around the proposed facility.

Overall, the proposed new facility is well-placed in a central location to allow for new and improved 4G and 5G Optus and Vodafone telecommunications coverage and services to the immediate area.

As detailed previously in this report, the facility will be visible in the landscape from certain angles and perspectives. However, it will not unreasonably inhibit shared view lines and its visual impacts are acceptable given its necessity (including the necessity of its height and location) to improve the telecommunications network.

Another strategy of clause 19.03-4S is to co-locate telecommunications facilities wherever practical. In the instance of this application and wider area, co-location with an existing facility is not an effective or viable option as extending upon existing facilities would not result in a significant improvement in telecommunications coverage in and around the proposed facility location. The applicant states that “at distances of more than 1 kilometre between base-stations, 4G services are unreliable with generally poor data performance and indoor service”. Also, the nearest existing facility, at 725 Point Nepean Road, is not able to be expanded upon due to its size, condition and lack of room for extra infrastructure.

Proposed location and height of the facility

As is discussed in detail in Attachment 15 – Officer report – the location and height of the facility directly impacts the coverage that the facility can provide. The proposed facility is required to improve service levels in the immediate area as well as to replace the coverage lost from the decommissioning of the existing facility at 725 Point Nepean Road due to its lease term and structural inadequacy for further expansion.

As can be seen in the series of coverage maps above, reducing the height of the monopole to 20 metres would result in significantly less coverage and effectiveness. Relatively few properties would benefit from a reduction in height (reduction in visual impacts) compared to the amount of properties that will benefit from improved 4G and 5G coverage in the area. Additionally, this would increase the likelihood for another similar facility being required in the area at this time or in the future.

The option of reducing the monopole by less than 5m was discussed between Shire officers and the applicant. The applicant states that monopoles traditionally come in 5-metre increments and that “it is not desirable to make any non-standard changes as this reduces the structural capacity of the pole significantly (limiting future upgrades and co-location)”.

Overall, it has been reasonably demonstrated that the proposed location and height are appropriate in providing for significantly improved 4G and 5G coverage in the area. The location is appropriate, and the height is required for significant coverage improvements. Whilst it will have impacts as it is visible from residential areas and the public realm (these impacts will be explored below), its height and location ensure that it will meet the community’s needs and is consistent with relevant policy from the Planning Scheme.

Visual, landscape and shared view lines impacts

The below image shows a closer view of the context of the subject site itself – located adjacent to the Mornington Peninsula Freeway entry road, mature canopy vegetation lies between the site and the Lonsdale Street bridge which rises above the base of the facility and the nearest residences are located north of the proposed facility.

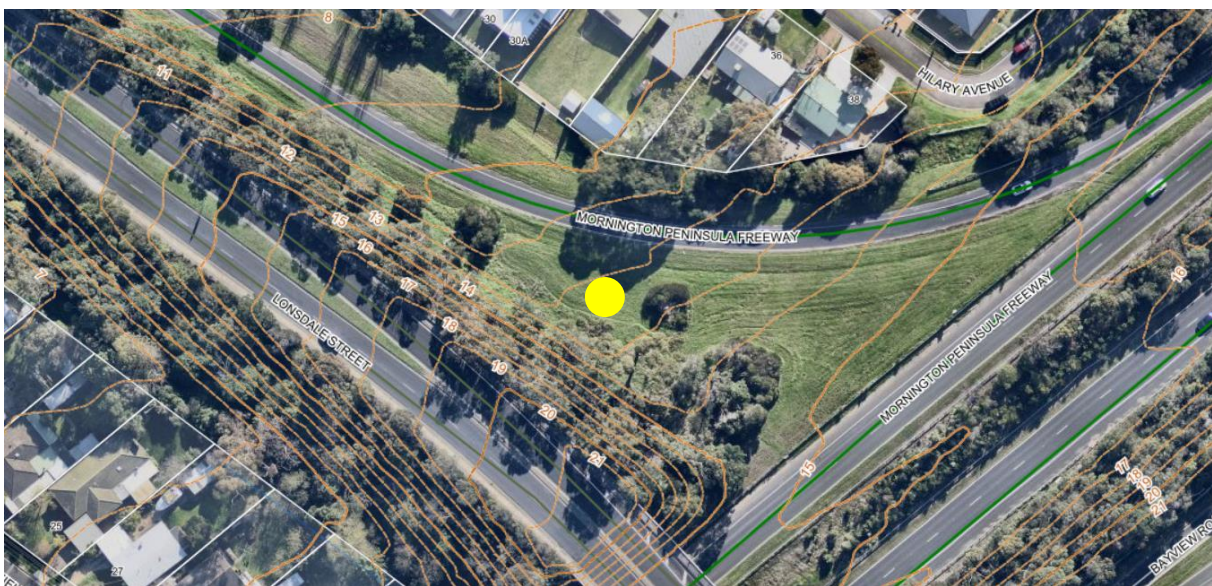


Figure 10: Aerial photo showing subject site (yellow circle), 1-metre contours and surrounding area (GIS April 2024).

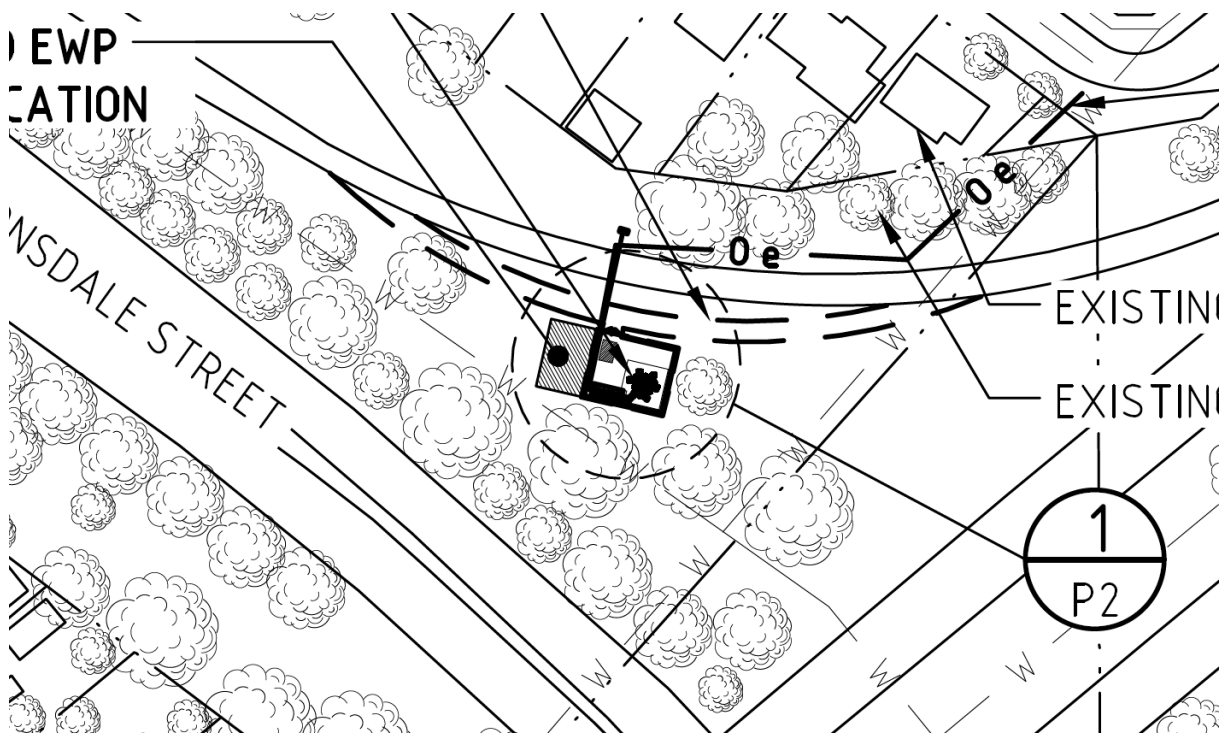


Figure 11: Proposed site plan.

Photomontages

It is important to remember the details of the proposed facility, which includes a monopole and antennas that reach a maximum height of 27.4m. The proposal also includes a chain-wire fence around the compound and equipment at the ground level. The below section of the report contains photomontages to help demonstrate its visual impacts. The locations of the photomontages are shown below.

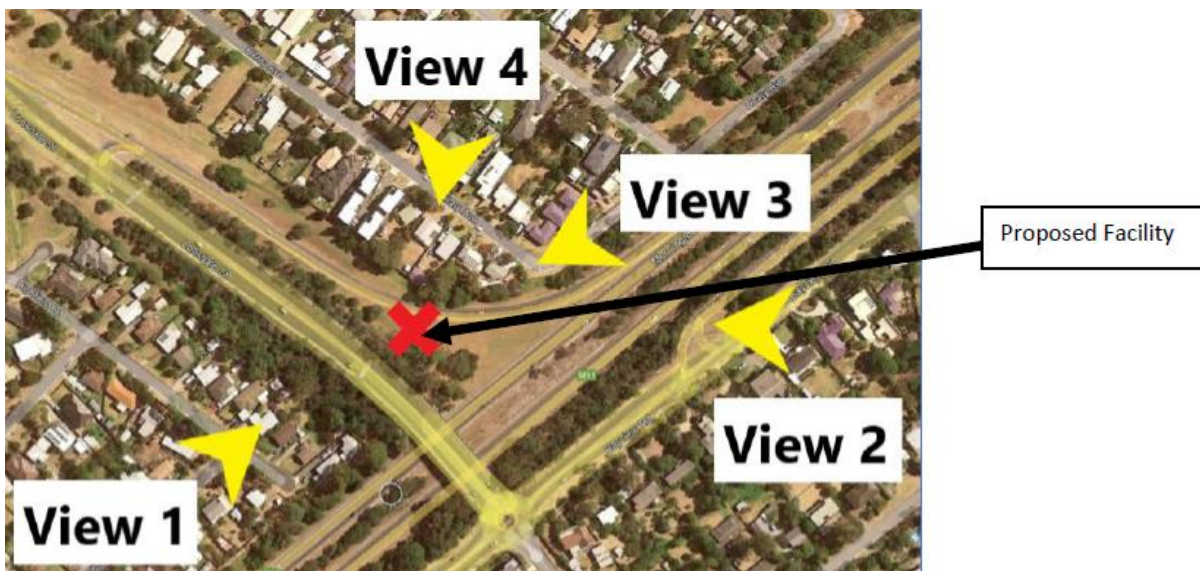


Figure 12: Map showing photomontage locations 1-4.

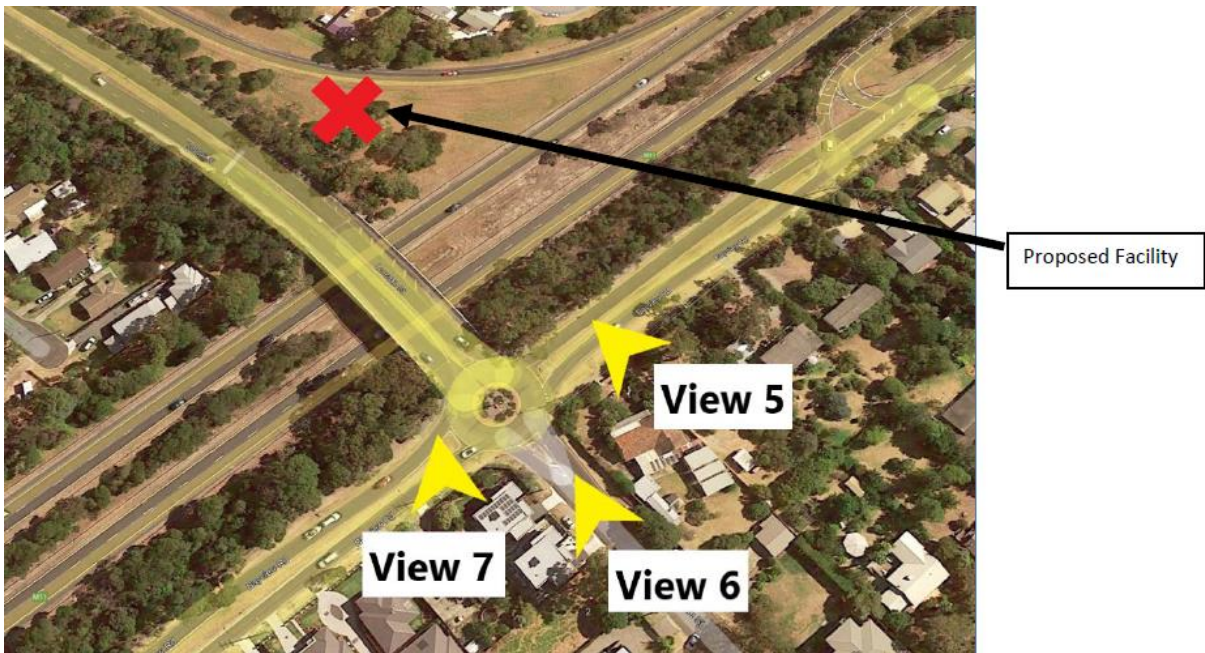


Figure 13: Map showing photomontage locations 5-7.

The photomontages, provided by the applicant, are shown below.

Refer to Attachments 6 and 7 – Photomontages sets A and B



Figure 14: Photomontage of proposed facility from photomontage location 1.



Figure 15: Photomontage of proposed facility from photomontage location 2.



Figure 16: Photomontage of proposed facility from photomontage location 3.



Figure 17: Photomontage of proposed facility from photomontage location 4.



Figure 18: Photomontage of proposed facility from photomontage location 5.



Figure 19: Photomontage of proposed facility from photomontage location 6.



Figure 20: Photomontage of proposed facility from photomontage location 7.

The photomontages give a general representation of how the proposal will be seen from several locations. As can be seen in the images, the top of the monopole facility will be visible from surrounding locations in the immediate area. The base of the facility will be largely unseen from most vantage points, except for motorists entering the freeway and potentially some properties abutting the extent of the freeway relevant to the telecommunications facility. The Lonsdale Street bridge and nearby contours rise to about the midway point of the monopole. These features, along with the mature canopy vegetation immediately adjacent to the proposal, will aid in reducing visual impacts and allowing the monopole to appear less dominant. Further, as can be seen from various images and perspectives, there are other natural and man-made features such as trees, light poles, electricity poles and powerlines, that are also relatively tall. Whilst the monopole will be the tallest structure in the immediate area, it will appear visually similar to or below these other existing elements in the area from many vantage points, due in part to the varying

topography of the surrounding area. As such, it will not appear as a dominating structure in the overall landscape.

Images from objector dwellings

Refer to Attachment 13 – View lines photos from objectors (confidential)

Several objectors have provided images of the facility location from their dwellings. Whilst these images do not have the proposed facility superimposed on them, they show views of the wider landscape where the top portion of the monopole facility will also be visible and prominent. There are many dwellings, particularly in the neighbourhood to the southeast where contours rise higher away from the Port Phillip Bay, from which the top of the facility will be visible. The bottom of the monopole and the base of the overall facility will not be overly visible from the surrounding area.

Consideration in relation to the photomontages and objector images

It is acknowledged that there will be some visual impact. Despite this, there is nothing in the Planning Scheme which requires monopole facilities to be completely screened from all view, and to try to achieve such an outcome would be unrealistic. Whilst the proposed facility will be visible from surrounding locations and vantage points, it will not unreasonably impact the landscape values of the site or wider area.

The fact that the structure will be visible is not in itself reason to form the view that its visual impact has not been minimised, or that it will have an unacceptable impact. The fact that the structure will be visible must be balanced against the policy provisions of the Planning Scheme, mentioned earlier in this report, which support this infrastructure to achieve a comprehensive telecommunications network as it benefits the wider community.

View lines assessment

View lines of the overall landscape, including views towards Port Phillip Bay, are an important element of the area, particularly for residents on a higher topography south-east of the proposed facility. Many properties within this area have taken advantage of these views through the development of double storey dwellings, second storeys, and/or the orientation of dwellings towards the bay through the use of window placement, decking and balconies.

A number of Tribunal decisions have established and refined the benchmark by which the impact of a proposed development on shared view lines should be assessed. These being the principals relating to the retention of views as set out in *Tashounidis v Shire of Flinders and Others 1 AATR 116 (Tashounidis v Shire of Flinders)* and *Clausen v Shire of Mornington and Others 4 AATR 125*, the following consideration will reflect upon these notions:

- a. there is no legal right to a view
- b. views form part of the existing amenity of a property and their loss is a relevant consideration to take into account
- c. the availability of views must be considered in the light of what constitutes a reasonable sharing of those views
- d. In addressing the concept of ‘reasonableness’, it is relevant to consider:
 - i. The importance of the view to be lost within the overall panorama available, and
 - ii. Whether those objecting have taken all appropriate steps to optimise development of their own properties.

3.9 (Cont.)

- e. added emphasis will be placed on principles (b) and (c) above if the issue of views is specifically addressed in the planning scheme.

The following quote from *Allen & Ors V Mornington Peninsula Shire (2010) VCAT 583* is also relevant to the proposal:

"I agree with Council that properties at the rear of a piece of land that is in front of the source of views cannot expect to maintain uninterrupted views in perpetuity when the land in front is not developed or underdeveloped".

With a maximum antenna height atop the monopole of 27.4m above natural ground level or 39.9m AHD, the proposed monopole will have an impact on views in the wider landscape and towards the Port Phillip Bay. A series of images have been taken by Shire officers on 20 March 2024 from properties and streets to the southeast of the proposal in order to get an understanding of the relationship between the facility and view lines to the bay. The images have been taken from the below locations:

Refer to Attachment 14 – Shire officer view lines photos (confidential)

These images have been included in this report to show that whilst the monopole will be visible from dwellings in the immediate and wider area to the southeast, particularly those with double storeys, it will not significantly restrict views to the Port Phillip Bay and wider landscape. By nature, the monopole is a thin structure and as such will not dominate the landscape to the end that important views are lost. Dwellings with views to the Port Phillip Bay and wider landscape will maintain significant amounts of their views, some of which being extensive panoramic views.

Further, regarding point e). of the *Tashounidis v Shire of Flinders* principles above, there is no issue of views specifically addressed in the planning controls covering the subject site. This, and the fact that there are no significant landscape overlays on the site, further reduces the importance of shared view lines in the area and wider landscape.

Overall, based on the principles and the assessment above, the proposed facility location and height will not unreasonably inhibit shared view lines towards the Port Phillip Bay and in the wider landscape.

Environmental and health impacts

The proposed facility will not unreasonably impact the environment, flora or fauna in the area. No vegetation removal is required and there are tree protection conditions in the recommended decision.

A telecommunications facility must be designed and installed so that the maximum human exposure levels to radio frequency emissions comply with the *ARPANSA Standard for Limiting Exposure to Radiofrequency Fields – 100KHz to 300GHz (RPS S-1)*. The applicant will be bound to follow the relevant Radiation Protection Standards.

Refer to Attachment 5 - Electromagnetic energy (EME) report

An EME report has been provided with the application for the proposed facility. This report provides a summary of levels of radiofrequency (RF) EME around the proposed facility. The levels have been calculated by Lend Lease using methodology developed by the ARPANSA. The report shows that the maximum levels of electromagnetic energy from the proposed facility at 1.5m above the ground is estimated at 4.06% of the exposure limits (exposure limits being 100%) mandated by the Commonwealth Government.

The Victorian Civil and Administrative Tribunal (VCAT) has previously considered the issue of electromagnetic energy on many occasions as it relates to planning considerations under the planning scheme. In summary, it has been established that the ARPANSA and Australian Communications and Media Authority (ACMA) are the responsible and qualified agencies for setting and enforcing the relevant safety standards for EME emissions from telecommunications facilities. Where proposals meet the safety standards established by ARPANSA, proposals are considered safe and acceptable.

The following passage in VCAT decision *Mason & Ors v Greater Geelong CC (Includes Summary) (Red Dot) [2013]* summarises a relevant issue:

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

The Australian Communications and Media Authority has set a clear regulatory standard – the ARPANSA standard - under Commonwealth law, to protect the health or safety of those who may be affected by the operation of a telecommunications network or facility from the potential impacts of electromagnetic radiation. Compliance with that standard has been effectively incorporated into the Victorian planning framework through clause 52.19 of all Victorian planning schemes and the requirements of ‘A Code of Practice for Telecommunications Facilities in Victoria’. VCAT cannot look behind the ARPANSA standard where it will be met, nor does it have the expertise to do so.

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

Allowing objectors to continue to air their concerns about electromagnetic radiation at a VCAT hearing creates false expectations about the role of VCAT and the ambit of its discretion, and the extent to which it can realistically deal with such issues.

Notwithstanding the consideration above, a condition has been included in the recommendation that ensures the proposal complies with the relevant *ARPANSA Standard for Limiting Exposure to Radiofrequency Fields – 100KHz to 300GHz (RPS S-1)* or such other standard as is adopted from time to time by the ACMA.

The facility will comply with the relevant health standards and not pose a health safety risk.

Devaluation of property

It is a well-established planning principle that depreciation of land or property values as a result of a proposed development is not a relevant planning consideration and is outside the scope of the *Planning and Environment Act 1987*.

As stated in *Skunca v Mornington Peninsula SC [2004]*:

If adjoining land is devalued because of detriment to its amenity, it is the detriment to the amenity that is considered in relation to town planning, not the resulting devaluation.

Therefore, property value is not, in and of itself, a planning consideration

Advertising and consultation process inadequate

Advertising has occurred in accordance with the *Planning and Environment Act 1987*. A Planning Application Conference (PAC) was held on 4 October 2023 in which objectors and Councillors were invited. Following the PAC, the Shire sent further correspondence to all parties which included a follow-up response from the applicant and an invitation to provide images from dwellings in relation to view lines.

ENGAGEMENT

Not applicable.

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

If Council decides to refuse the application, the applicant will have appeal rights to the VCAT. If Council decides to issue a notice of decision, objectors will have appeal rights to the VCAT.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Should the application be appealed to VCAT by the applicant or objectors, Council would be required to defend its decision, and this would have financial and resource implications.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposed development of a telecommunications facility is considered acceptable subject to the recommended conditions having regard to the relevant provisions of the Planning Scheme and *Planning and Environment Act 1987*. It is therefore recommended that Council issue a Notice of Decision to Grant a Permit.

3.10 Planning Application P23/2644 - 100 Roberts Road, Main Ridge - Use and development of a dwelling and development of outbuildings associated with Horse Husbandry

Prepared By	Peter Hampton, Principal Planner
Authorised By	Acting Director - Planning & Environment
Document ID	A13291927
Briefing Note Number	A13396061
Attachment(s)	<ol style="list-style-type: none">1. Assessment Plans2. Agricultural Land Management Plan3. Integrated Land Management Plan (Revegetation)4. Submissions (confidential)5. Officer's assessment

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision from Council regarding planning permit application P23/2644 (the Application) for the proposed use and development of a dwelling and outbuildings associated with agriculture on a large lot located in the Green Wedge Zone at 100 Roberts Road, Main Ridge. The use of the land for Horse Husbandry (Agriculture) does not require a planning permit.

The site is in the Red Hill Ward and the application was called in by Councillor Gill for a decision to be made by Council.

The application received 2 objections generally relating to:

- Overlooking.
- View lines and landscape impact.
- Effect on horse agistment on the objector's land.
- The scale of the dwelling and impact on native animal movements.
- Access gates and fencing.

The proposal is considered acceptable having regard to the objectives and purposes of the applicable planning controls, being the Green Wedge Zone (Schedule 1), Environmental Significance Overlay (Schedule 10) and Significant Landscape Overlay (Schedule 1).

It is recommended that Council supports the application and resolves to issue a Notice of Decision to Grant a Permit, subject to the conditions contained within this report.

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/2644 for the use and development of a dwelling and outbuildings, be supported and that a Notice of Decision to Grant a Permit be issued subject to the following conditions:

3.10 (Cont.)**Amended Plans**

- 1. Prior to the commencement of any use and development approved by this permit, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Plans will be endorsed and will then form part of the permit. The Plans must be drawn to scale with dimensions and three copies must be provided. The Plans must include:**
 - a) The submitted Integrated Land Management Plan (revegetation) amended to increase the conservation zones and associated revegetation to include:**
 - i. the area of the site between the proposed dwelling and Main Creek that is not shown in the Agricultural Land Management Plan as being used for horse agistment or any other agricultural pursuit (generally covered by the Erosion Management Overlay).**
 - ii. Up to a minimum of 30 metres either side of Main Creek and the western waterway.**
 - b) The submitted Agricultural Land Management Plan and areas of conservation to align with the Integrated Land Management Plan (revegetation).**
 - c) The colours and materials schedule amended to include the external finishes of the horse boxes.**
 - d) Section drawings detailing the form of the “landscaping mounds” to match levels shown on the site plan.**
 - e) A notation on the plans to detail that the new alignment of horse paddocks will utilise timber posts and railing fencing to match existing.**

Approved development not altered

- 2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (Unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).**

Colours/Materials

- 3. The materials and colours of the exterior finish of the building must be in accordance with the endorsed plans unless with the further permission of the Responsible Authority.**

Finishes

- 4. Prior to the initial occupation of the dwelling, external finishes must be completed to a professional standard to the satisfaction of the Responsible Authority.**

Vehicular access

- 5. Prior to the occupation of the dwelling, the driveway must be constructed and thereafter maintained and drained to the satisfaction of the Responsible Authority.**

3.10 (Cont.)**Environmental Health**

6. All wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.

Implementation of the Farm and Land Management Plans

7. Prior to the commencement of the development (or other such time as approved in writing by the Responsible Authority), the landowner/occupier must demonstrate commencement of the Farm Management Plan and Land Management Plan as approved (or as varied by the written consent of the Responsible Authority) to the satisfaction of the Responsible Authority. Any damaged or ineffective stock fencing must be replaced as soon as possible.

The endorsed Farm Management Plan and Land Management Plan must be implemented and thereafter maintained to the satisfaction of the Responsible Authority.

Expiry

8. The permit will expire if either one of the following applies:
 - i. The development is not completed within three years of the date of this permit
 - ii. The use is not commenced within three years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Part B

That Council resolves that Attachment 4 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

3.10 (Cont.)

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B, H and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

Not Applicable.

DISCUSSION

Purpose

The purpose of this report is to provide a summary of:

- The relevant background of the site
- The proposal
- The key issues
- Submissions and officer response
- The assessment against the relevant provisions of the *Planning and Environment Act 1987* (the Act) and Mornington Peninsula Planning Scheme.

For a detailed assessment of the all the relevant matters please see Attachment 5 – Officer Assessment.

The key planning considerations are summarised in the below table:

Proposal	The use and development of a dwelling and develop outbuildings associated with Horse Husbandry
Zoning and Overlays	Green Wedge, Schedule 1 Erosion Management Overlay, Schedule 1 (part) Environmental Significance Overlay, Schedule 10 Environmental Significance Overlay, Schedule 17 (part) Environmental Significance Overlay, Schedule 28 (part) Significant Landscape Overlay, Schedule 6

3.10 (Cont.)

	Vegetation Protection Overlay, Schedule 2 (part)
Permit Triggers	<p>Clause 35.04-1 (Green Wedge Zone Schedule 1) – To use the land for a dwelling.</p> <p>Clause 35.04-5 (Green Wedge Zone Schedule 1) – Buildings and works associated with a section 2 use (dwelling)</p> <p>Clause 42.01-2 (Environmental Significance Overlay Schedule 10 and 28) – Buildings and works.</p> <p>Clause 42.03-2 (Significant Landscape Overlay Schedule 6) – Buildings and works.</p>
Notification/Advertising of proposal	The application was advertised by sending direct notice to all adjoining properties and erecting a sign on site for 14 days.
Submissions	Two objections have been received to date.
Consultation	No Planning Application Conference (PAC) was held.
Key Issues	<ul style="list-style-type: none"> • Whether the use is appropriate. • Whether the development design is appropriate. • Consideration of objections.
Recommendation	A Notice of Decision to grant a permit be granted, subject to conditions.

BACKGROUND***Subject site and surrounds***

The site is formally described as Lot 1 on the Title Plan PS311476P. The irregularly shaped 11.89-hectare site features a frontage of 121.99 metres and combined southern boundary length of 767.36 metres and is located on the western side of Roberts Road.

The site is solely accessed via an existing gravel crossover and driveway to Roberts Road. The land has historically been used for grazing, and now contains horse paddocks towards the eastern portion of the Site.

Two dams are established on the Site, one in the middle and one within the western portion. A 130 metre long section of Main Creek flows through the lower part of the site as well as a spillway which connects to adjoining dams, multiple drainage lines run through this portion of the Site.

The site has a unique topographical context whereby the land generally slopes downwards from the south-east to the north-west. Roberts Road forms the highest elevation at the front of the site, and the land slopes westward across the existing horse paddocks. The land slightly levels at the mid-point where the first dam is located, and steeply drops in the middle which is affected by the Erosion Management Overlay (EMO1). At the point of Main Creek, the land levels and is low-lying across the western portion. A rise in elevation commences again along the western boundary. The low-lying section is classified by Council as flood prone.

An aerial of the site from July 2024 is provided below:



Subject Land: ■

N ▲

Figure 1: Aerial of subject site and surrounds (July 2024)

Proposal

The application seeks approval to use and develop a dwelling and associated works on a large lot zoned Green Wedge Zone – Schedule 1.

The dwelling is sited towards the north of the site and is setback a minimum of 7.96 metres from the northern boundary, 41.7 metres to the southern boundary, approximately 450 metres from the rear western boundary and approximately 230 metres from the front eastern boundary to Roberts Road.

The access to the dwelling is proposed via an extended all-weather driveway that is accessed from the existing crossover to Roberts Road and extends along the southern and western boundaries.

The proposed dwelling will consist of the following floorplan:

- Double garage and four open car spaces
- Four bedrooms
- An office
- Gym
- Open plan kitchen, dining and lounge area
- Lounge room
- Two bathroom

3.10 (Cont.)

- Two ensuites
- Laundry and mud room
- Cellar
- Rumpus room
- A pool and associated paving and storage shed is proposed to the north-east of the dwelling.

Earthworks are proposed in association with the dwelling consisting of a maximum site cut of 2.375 metres and maximum site fill of 1.5 metres associated with landscape mounds to the north of the dwelling.

The application documents include an Agricultural Land Management Plan which notes the landowner's intention to establish a "horse husbandry use" associated with 12 horses on the property. The dwelling is required for the occupants to manage this use. The operations of this plan are summarised as:

- Supervision
- Health checks
- Rugging
- Grooming
- Exercising
- Cleaning of stables
- Feeding

The application documents also include an Integrated Land Management Plan (Revegetation) to protect and enhance the western side of the site which includes Main Creek. The plan includes the planting of 5,817 tubestock trees, shrubs and graminoids. The operations of this plan are summarised as:

- Specified zones of management.
- Erect post and wire wildlife friendly fencing.
- Prepare revegetation zones.
- Monitor for new and emerging environmental weeds and eliminate to <5% cover.
- Order forestry tubestock from the local indigenous nursery.
- Manage pasture/hay zone as recommended in the Meridian Land Management Plan (Agriculture).
- Prepare revegetation zones with spray discs.
- Retain all aquatic plant species in dams and waterways to provide habitat.
- Plant tubestock.

3.10 (Cont.)

- Protect tubestock with tree guards.
- Exclude stock from all revegetation zones.
- Check survival and replace any plants lost.
- Monitor property for rabbits and eliminate.
- Encourage natural regeneration of Swampy Riparian Woodland species from the soil seed store.
- Monitor and record actions and standards achieved, submit results to Conservation Officer Mornington Peninsula Shire 1 year, 3 years, 5 years and 10 years after date of occupation.

Other works proposed include two 200,000 litre watertanks, fencing to each paddock and 12 square metres loose boxes and water containers to each paddock.

The proposal does not seek the removal of any existing vegetation.

Please refer to the following Attachments for further details:

- Attachment 2 – Assessment Plans.
- Attachment 3 – Agricultural Land Management Plan
- Attachment 4 – Integrated Land Management Plan (Revegetation)

Relevant permits and history

Permit P05/0384 was issued on 21 October 2005 permitting the “*Construction of a single storey dwelling, swimming pool, stables, machinery shed, dressage arena and associated works in accordance with the endorsed plans*”.

This permit was never acted on and has since expired.

NOTIFICATION AND CONSULTATION**Notification**

The application was publicly notified in accordance with section 52 of the *Planning and Environment Act 1987*. The application was advertised by sending letters to adjoining properties and erecting a sign on site for 14 days, commencing 2 February 2024.

Submissions

Refer Attachment 4 – Submissions (Confidential).

Two objections were received. The concerns raised are summarised as follows:

- Overlooking.
- View lines and landscape impact.
- Effect on horse agistment on the objector’s land.
- The scale of the dwelling and impact on native animal movements.

3.10 (Cont.)

- Access gates and fencing.

Notice was also given under section 52 of *the Act* to the National Trust who did not object to the proposal and did not provide any conditions.

REFERRALS

No external referrals were undertaken for this application.

The application was referred to internal departments including Environmental Health who supported the proposal subject to conditions.

The application was also referred to Council's Rural Business Officer who raised some minor concerns related to lack of detail related to:

- Proposed horse box structures
- Proposed landscape mound to the north of the dwelling
- What would occur between the dwelling and conservation zone.

In response to these issues conditions have been included within the recommendation and a more detailed response is provided in Attachment 1 – Officer Assessment.

CONSIDERATION

The following key issues arising from this application are discussed below:

- Whether the use is appropriate.
- Whether the development design is appropriate.
- Consideration of objections.

Is the use appropriate?

A planning permit is required for the use of the land for a dwelling, buildings and works for a dwelling, and earthworks under the GWZ.

There have been several Victorian Civil and Administrative Tribunal (VCAT) cases that have considered allowing dwellings within the Green Wedge Zone (GWZ) that have acknowledged that dwellings are not a given right within the GWZ and that they need to sufficiently support agriculture on the land and avoid fragmentation of agricultural land.

In *Wood v Mornington Peninsula SC [2024] VCAT 87 (2 February 2024)* the VCAT refused the use and development of a dwelling in the GWZ. This case included a relatively low level of agricultural productivity of 15 sheep and an olive grove as justification for use and development of the dwelling. In *Wood*, the member found that "*the benefits from a green wedge perspective from the establishment of a dwelling [was] limited and [was] not persuaded that such benefits will be significant enough to warrant support*". In effect, the member found that the proposal did not demonstrate that the proposed dwelling would be secondary to and supportive to the agricultural use.

This message was reinforced in the decision of *Proctor v Mornington Peninsula SC [2020] VCAT 312 (11 March 2020)*, where the member effectively made similar findings on a proposal that included 6 horses as part of an equine proposal. However, a new application on that same site that intensified the agricultural activity to include 24 horses was

3.10 (Cont.)

subsequently supported by the VCAT in *Proctor v Mornington Peninsula SC [2023] VCAT 251* (10 March 2023). In the subsequent decision, the member was persuaded that:

*In summary, I find that the proposed agricultural enterprise is a genuine one and can be sustainable and viable over the longer term. This therefore tips the scales in favour of granting a permit for the new dwelling. Put another way, the proposal has appropriately responded to the findings of the Tribunal in *Proctor v Mornington Peninsula SC [2020] VCAT 312*, as well as resulting in an acceptable planning outcome in terms of the applicable policies and provisions of the planning scheme.*

The current application seeks to have 12 horses on the site associated with horse assignment. The submitted Agricultural Land Management Plan details that this use requires around the clock care including supervision, health checks, rugging, grooming, exercising, cleaning of stables and feeding. There is also additional infrastructure required by way of the stable buildings to support this agricultural use. There is a need for a dwelling on site to assist in these operations and that it is likely that this use could not successfully operate on the site without a dwelling on the site. The Agricultural Land Management Plan states that there would be limitations for many other types of agriculture due to the land size/shape, soil and climate. The site is however suitable for horse assignment through opportunities for grazing and making use of the irregular shaped lot over a significant time. It is therefore considered that the agricultural use is appropriate and would be supported by a dwelling on the site.

The proposal responds to the objectives, purposes, and strategies of the Planning Policy Framework (PPF). An assessment against the rural character of the area has been undertaken and found the proposal responsive. This aligns with the directions of the PPF, as the proposed use and development of a dwelling will not prevent the proposed agricultural enterprise and conservation works, and its benefits on the rural business, landscape and environmental values of the wider area.

An assessment against the purpose and decision guidelines of this GWZ has been undertaken, and the proposal found reasonable for the following reasons:

- The dwelling would be supported by appropriate infrastructure including vehicular access, water and electricity supply, and wastewater management.
- The land size can accommodate the proposed dwelling and agricultural use. The proposed dwelling is able to co-exist with the agricultural and environmental capacity of the land.
- The use of the land for a dwelling is proposed in conjunction with a suitable agricultural land use of 'horse husbandry'.
- The use of the land for a dwelling is proposed in conjunction with a suitable land management plan of the western side of the site associated with Main Creek.
- Adjoining land is developed with rural dwellings. There are 11 properties that share a boundary with the subject site. Of these nine include a dwelling. The use is compatible with the wider area.

Further to the above Planning Scheme considerations, the application has been assessed against the Council's adopted Green Wedge Management Plan. This includes a substantial, sustainable and productive agricultural land use and/or substantial and sustainable habitat restoration on the balance of the property.

In addition to the Agricultural Land Management Plan, the proposal has included an Integrated Land Management Plan associated with conservation. This plan seeks to restore and maintain the Main Creek that runs through the rear proportion of the site through

3.10 (Cont.)

creating 3 conservation zones with a total area of approximately 2.5 hectares which includes significant planting of native vegetation (approx. 6500 tubestock trees, shrubs and graminoids), weed management and fencing off the conservation area. Whilst the proposed conservation zones along Main Creek extend for 20 metres either side, a condition of approval will require that this be increased to at least 30 metres due to clause 14.02-1S 'Catchment planning and management'. This clause seeks to retain natural drainage corridors with vegetated buffer zones of at least 30 metres wide along each side of the waterway.

The Integrated Land Management Plan shows some differing information from the Agricultural Land Management Plan in respect to the 3.47 hectares between the Main Creek with the Agricultural Plan showing this area as a 'revegetation area' whilst the Integrated Land Management Plan shows this area as a 'Hay Pasture'. A condition has been included for this Agricultural Land Management Plan to be amended to be consistent with the Integrated Land Management Plan to show this area as a hay pasture. An additional condition will be included for additional revegetation to occur between the dwelling and Main Creek to further enhance the biodiversity outcome of the site. This area is not currently proposed to be put to any agricultural use and is unlikely to be appropriate for an agricultural use being steep and subject to an EMO. With the additional planting between the dwelling and Main Creek, the total area of revegetation for biodiversity and environmental outcomes would equate to approximately 4 hectares.

Through both the agricultural use and proposed conservation and enhancement of the biodiversity value of the site, it is considered that the use of the land for a dwelling is justified.

Is the development design appropriate?

A planning permit is required for the proposed development of a dwelling under the GWZ, ESO10 and SLO6. A planning permit is also required for the proposed outbuildings associated with agricultural use under the ESO28 and SLO6. An assessment of the purpose, objectives, and decision guidelines of these overlays has been undertaken and the proposal found reasonable.

The proposed dwelling associated with the agricultural use are sited in a clear section of the site that is clear of environmentally significant areas associated with the Main Creek and away from existing paddocks which will be maintained for an agricultural use both on the site and to adjoining properties. This ensures that it will limit any loss of productive agricultural land.

The single storey dwelling has been designed to have minor impact within the surrounding landscape. It is of modest height (maximum height of 7 metres) and externally finished in tones and materials sensitive to the surrounding rural landscape (concrete (grey), metal cladding (mid grey and dark grey), stone and timber cladding). The dwelling will integrate into the site and overall landscape having only minor off-site visual impact which are further tapered by neighbouring vegetation and a proposed landscaping mound to the north of the dwelling. The area associated with the dwelling use will cover 1.1% of the site, with the balance available for agricultural and conservation purposes.

The proposed outbuildings associated with the agricultural use are sited in a clear section of the site, includes appropriate setbacks to all boundaries and have a maximum height of 5.54 metres (stables) and 5.2 metres (hay shed). The materials and colours including metal cladding (dark grey) and timber barn doors blend into the landscape.

The proposed earthworks associated with the dwelling and outbuildings which have a maximum cut of 2.3 metres and fill of 1.5 metres. This will not have a significant impact on the landscape. The earthworks have been minimised to allow the facilitation of the dwelling and sheds and are located significantly from the Main Creek and outside of the Erosion Management Overlay.

3.10 (Cont.)

No vegetation removal is proposed ensuring that the existing native vegetation, biodiversity and habitat areas are not detrimentally affected. The proposal includes an Integrated Land Management Plan (Revegetation) to protect and enhance the landscape through revegetation, weed management and fencing off a conservation zone.

Given the location is in a National Trust classified landscape, the National Trust was given notice of the application. The National Trust has no objection to the location and footprint of the proposal.

Consideration of objections

Two objections were received and are provided in confidential Attachment 4 – Submissions. A response to the key concerns is provided below.

Overlooking

Windows associated with the proposed dwelling are setback a minimum of 22.620 metres from the northern boundary. This setback allows space for new landscaping, including a proposed landscaped mound to a height of 1.5 metres which offers a degree of seclusion. The angled orientation of the dwelling also assists in avoiding direct views to the neighbouring dwelling and provides greater separation between windows and the northern boundary. This will ensure that the dwelling will not have an unreasonable overlooking impact. It is also noted that the zone and overlays which apply to the site do not call for consideration of clause 54.04-6 'Overlooking'.

Viewlines and landscape impact

The form of the dwelling is single storey which will not protrude above the prevailing canopy line, nor cause a silhouette in the skyline. The architectural response incorporates a range of features which ensures sheer massing and visual bulk is avoided. The type of external materiality and application of muted tones (grey, natural stone, timber) appropriately respond to the surrounding landscape, and are consistent with examples of cladding applied to dwellings and outbuildings in the broader area.

Effect on horse agistment on the objector's land

The proposed setbacks to the dwelling are acceptable in the context of the Green Wedge Zone and is not considered to be inconsistent with the broader rural landscape where dwellings are commonly located directly next to animals associated with agriculture.

The scale of the dwelling and impact on native animal movements

The dwelling is contained within a 2,000 square metre domestic envelope as recommended by Council's adopted Green Wedge Management Plan. The dwelling itself includes a footprint of 383 square metres and in a clear section of the site. The dwelling also aligns with the locations of dwellings on adjoining sites and therefore is unlikely to have a significant impact on the movement of native animals.

Access gates and fencing

This concern related to the potential realignment of fencing along the proposed driveway. A request was made for any new fencing to be of timber posts and railing fencing to match the existing. The applicant has since advised that they are supportive of this. A condition has been included within the recommendation for this to be demonstrated on the plans.

ENGAGEMENT

Not applicable.

3.10 (Cont.)

COMMUNICATIONS PLAN

Not applicable.

LEGAL AND REGULATORY FRAMEWORK

If Council decides to refuse the application, the applicant will have appeal rights to the VCAT. If Council decides to approve the application the objectors will have appeal rights to the VCAT.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Should the application be appealed to VCAT by the applicant or objectors, Council would be required to defend its decision, and this would have financial and resource implications.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposed use and development are considered acceptable have regarding to the relevant Planning Scheme provisions and *the Act*. It is therefore recommended that a Notice of Decision to Grant a Permit be issued, subject to conditions.

3.11 Planning Application P97/1029.10 - 1385 Mornington-Flinders Road, Main Ridge - Amendment to hours of operation for existing restaurant

Prepared By	Vivian Xu, Planner
Authorised By	Acting Director - Planning & Environment
Document ID	A13290715
Briefing Note Number	
Attachment(s)	<ol style="list-style-type: none">1. Planning Submission2. Acoustic Report3. Submissions (confidential)4. Endorsed Plans under Planning Permit P97/1029.095. VCAT decision [2011]6. Officer Assessment7. P97/1029.09 - Amended Permit NOTICE [19 December 2023]

EXECUTIVE SUMMARY

The purpose of this report is to seek a decision on Planning Permit P97/1029.10 at 1385 Mornington-Flinders Road, Main Ridge to amend the permit condition related to hours of operation, no buildings and works are proposed. The applicant has been called in by Councillor Gill for a decision by the Council.

The application proposes to amend the hours of operation of approved restaurant from:

- 9.00am to 5.00pm seven days a week
- to
- 9.00am to 11.00pm on Friday and Saturday
- 9.00am to 5.00pm on Sunday to Thursday
- All outdoor service to end at 11.00pm outside of daylight saving period and 9.00pm during daylight saving period.

However, as requested and confirmed by the permit applicant following public notification, all outdoor service would now be proposed to end at 9.00pm to further minimise any potential amenity impacts due to the proposal. This would be reflected as a condition if approved.

To date, five (5) objections have been received, raising a number of concerns including noise, traffic, outdoor service, onsite septic and wastewater treatment, disability access requirements, fire services and change of use.

Council's consideration of matters is confined to the amendment being proposed given that there is an existing permit. The proposal has been considered against the broad range of the policy objectives, decision guidelines contained within the relevant planning controls, the specific site context, previous planning history including Victorian Civil and Administrative Tribunal (VCAT) decisions, and the concerns raised by the objectors and is considered to be an appropriate planning outcome.

It is recommended that Council supports the application and resolves to issue a Notice of Decision to Grant an Amendment to a Planning Permit, subject to amended conditions contained within this report.

3.11 (Cont.)

RECOMMENDATION**PART A**

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P97/1029.10 be supported and a Notice of Decision to Grant an Amendment to a Planning Permit be issued as follows:

Amended Condition 18-19 – Hours of operation:

The hours of operation of the approved restaurant use are limited to:

- 9.00am to 5.00pm on Sunday to Thursday
- 9.00am to 11.00pm on Friday and Saturday
- All outdoor service must end at 9.00pm on Friday and Saturday.

The hours of operation of the approved cellar door use are limited to between 9.00am to 5.00pm seven (7) days a week.

New Conditions 50-55**Environmental Health**

Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), the applicant must obtain a formal permission or exemption from the Environment Protection Authority under the Environment Protection Regulations 2021 for the use and maintenance of the onsite wastewater management system. This permission or exemption must include the wastewater generated from all patrons, staff and food preparation/manufacturing onsite.

All sewage and sullage wastewater from the proposed development must be discharged into an on-site septic tank system which is approved by the Environment Protection Authority, retains all waste within the boundaries of the land, and is maintained to the satisfaction of the Responsible Authority.

Noise Management

Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), the measures and recommendations outlined in the Marshall Day Acoustics Extension of Hours Noise Assessment 12 April 2024 must be implemented to the satisfaction of the Responsible Authority.

The emission of noise from the use and development hereby permitted shall not exceed the noise limits determined in accordance with Environment Protection Authority (EPA) publication 1826.4 noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol) or equivalent.

A suitably qualified acoustic consultant must be arranged to undertake annual noise monitoring for outdoor music noise, patron noise and vehicle movements to verify compliance with the Noise Assessment completed by Marshall Day Acoustics on 12 April 2024. Noise monitoring to be conducted in accordance

3.11 (Cont.)

with EPA guidance including noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol, EPA publication 1826.4). The monitoring results and an action plan to address any non-compliances must be provided to the Responsible Authority.

Noise Management Plan

Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), a Noise Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Noise Management Plan will be endorsed and will then form part of the permit. The plan must include:

- a) Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons and discourage patrons from loitering near noise sensitive residential areas.
- b) The training of staff in the management of patron behaviour.
- c) Alcohol consumption and patron behaviour be monitored in all areas to reduce excessive noise.
- d) Instruction that the venue operator's phone number be given to any nearby land owner or occupier on request to report disturbance from patron noise.
- e) All complaints that cannot be resolved immediately by the duty manager must be recorded in a complaints log detailing all action taken to resolve the issue.
- f) Internal signage which requests patrons respect the amenity of the neighbourhood and nearby residents.
- g) At least one (1) duty manager always being present when the venue is open.

Deleting conditions 11, 12, 15 and 16 as to be replaced by the new conditions 50-55.

Full set of conditions as they would appear on the amended planning permit:

Condition Nos. 1 to 55 inclusive

Amended Plans

1. Prior to the commencement of any buildings and works, the owner must submit to the satisfaction of the Responsible Authority four complete sets of plans. The plans must be generally in accordance with the following plans by Allan Powell Architects:
 - Existing Site Plan – EX 01 dated August 2010
 - Existing Floor Plan – EX 02 dated August 2010
 - Existing Elevation – EX 03 dated August 2010
 - Proposed Site Plan – TP01 dated September 2010
 - Proposed Floor Plan – TP02 dated September 2010

3.11 (Cont.)

- **Proposed Elevations – TP 03 dated September 2010**
- **Proposed Floor Areas – TP04 dated September 2010**
- **Proposed Entire Site Plan – TP05 dated September 2010**
- **Proposed Materials – TP06**
- **Drawing no. G09960A-04 by Traffix Design dated 16 September 2010**
- **but modified to show to the satisfaction of the Responsible Authority:**
 - 1.1. The title boundary shown on the site plans and based on a boundary check survey and features survey prepared by a licensed surveyor in respect of the western title boundary and the north and southern title boundaries to a distance of 100 metres from the western title boundary**
 - 1.2. Deleted**
 - 1.3. Deleted**
 - 1.4. Deleted**
 - 1.5. Deleted**
 - 1.6. Deleted**
 - 1.7. Deleted**
 - 1.8. The location of the outdoor dining areas in outline**
 - 1.9. The location of seats in outline**
 - 1.10. A gate and signage to restrict access to the Mornington-Flinders Road southern access point to vineyard operations traffic only**
 - 1.11. The location of the bio-retention swale required by condition 9.3**
 - 1.12. Deleted**
 - 1.13. Access to all buildings and within all buildings for persons with disabilities and suitable pathways from appropriately located parking spaces for persons with disabilities**
 - 1.14. Physical barriers such as timber bollards installed along the access driveways to prevent vehicles parking or travelling along the road reserve**
 - 1.15. ‘No Parking’ signs installed along both sides of Mornington-Flinders Road for the distance of 120 metres north of the northern entrance and south of the northern entrance to the Shands Road intersection**
 - 1.16. The licensed area under each liquor licence applying to the land clearly defined**
 - 1.17. Deleted**

3.11 (Cont.)

1.18. Deleted

1.19. Deleted

1.20. Deleted

1.21. Deleted

1.22. Deleted

1.23. Deleted

1.24. Deleted

1.25. Any changes resulting from the VicRoads conditions.

Layout not altered – use and development of land

- 2. The layout of the approved use and development on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.**

Completion and implementation of buildings/works/requirements of the Amended Permit and commencement of use

- 3. Once the development has commenced under this Amended Permit, it must be continued and completed to the satisfaction of the Responsible Authority.**
- 4. Before the land is used in reliance on this Amended Permit, all buildings, works and requirements specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.**
- 5. Once the development has been completed under this Amended Permit, the land may only be used in accordance with the Amended Permit.**

Landscape Plan

- 6. Prior to the commencement of any buildings and works, the owner must submit to the satisfaction of the Responsible Authority four complete sets of landscape plans. When endorsed the plans will form part of the planning permit. The landscape plans must show:**
 - 6.1. Predominantly native indigenous species used combining an appropriate mixture of trees, shrubs and ground covers**
 - 6.2. The landscaping designed to visually integrate the car park and building areas into the landscape and reduce the prominence of the buildings and the car park areas upon the landscape, particularly as viewed from public vantage points along Mornington-Flinders Road, Shands Road and Tucks Road**
 - 6.3. Enhancement of the riparian corridor of Manton Creek running through the land with the maximum vegetation possible either side of the creek line while still allowing for the safe, efficient and practical operation and maintenance of the vineyard including any proposed extensions to the vineyard.**

3.11 (Cont.)

- 7. Unless with the consent of the Responsible Authority, the works contained in the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the land is used in reliance on this Amended Permit.**
- 8. All trees and shrubs on the land must be maintained in good order and condition to the satisfaction of the Responsible Authority and any dead or diseased trees or shrubs shall be replaced as soon as practical to the satisfaction of the Responsible Authority.**

Environmental Management Plan

- 9. Prior to the commencement of any buildings and works, the owner must prepare an Environmental Management Plan (EMP) for the entire site to the satisfaction of the Responsible Authority. When endorsed the plans will form part of the planning permit. The EMP must include:**
 - 9.1. Details as to how the riparian corridor of Manton Creek running through the land is to be enhanced to assist in the trapping of nutrients before they enter Manton Creek**
 - 9.2. Details of the size and location of any tanks used to store treated wastewater on site**
 - 9.3. The size, location and planting details of a bio-retention swale to be created to receive run-off from the car park area and improve stormwater quality and the size and location of associated weirs to facilitate uniform distribution of the stormwater across the slope**
 - 9.4. Measures to achieve the efficient and resourceful use of rain water and treated wastewater on the property**
 - 9.5. Measures to minimise waste generated by the uses authorised by this Permit**
 - 9.6. Measures for the collection of recyclables on the land**
 - 9.7. A program and timeline for the implementation of the EMP.**
- 10. The works contained in the EMP must be implemented to the satisfaction of the Responsible Authority.**

Wastewater

- 11. Deleted**
- 12. Deleted**

Stormwater

- 13. Stormwater drainage must be to the satisfaction of the Responsible Authority.**

Noise Management

- 14. Delivery and/or collection of goods (including waste collection) associated with the restaurants and cellar door sales must only occur between 8am and 9pm Monday to Saturday, and between 9am and 9pm Sundays and public holidays**

3.11 (Cont.)**Noise levels**

15. Deleted

16. Deleted

17. Deleted

Hours of operation

18. The hours of operation of the approved restaurant use are limited to:

- 9.00am to 5.00pm on Sunday to Thursday
- 9.00am to 11.00pm on Friday and Saturday
- All outdoor service must end at 9.00pm on Friday and Saturday.

19. The hours of operation of the approved cellar door use are limited to between 9.00am to 5.00pm seven (7) days a week.

20. Notwithstanding conditions 18 and 19, the restaurant and cellar door must be closed on Good Friday and Christmas Day except with the written consent of the Responsible Authority.

Amenity

21. The uses must operate to the satisfaction of the Responsible Authority so as to ensure that the amenity of the area is not detrimentally affected by the use/s, through the:

21.1. transport of materials, goods or commodities to or from the land

21.2. emission of noise, artificial light, vibration, smell, dust, fumes, smoke, vapour, steam, waste water, or waste products.

Traffic Management Plan

22. Prior to the commencement of any buildings and works, the owner must submit a Traffic Management Plan (TMP) to the Responsible Authority for approval. When approved the TMP will form part of this permit and must be complied with by the owner/occupier to the satisfaction of the Responsible Authority. The TMP must include:

22.1. Details of all signage on the land and along Mornington-Flinders Road directing employees, delivery vehicles and visitors (including visitor buses) to designated parking or loading/unloading areas within the land and prohibiting parking along Mornington-Flinders Road (including the road reserve)

22.2. Details of signage on the site identifying bus parking

22.3. Details of all lighting of the car parks, access lanes and loading areas

22.4. A requirement that staff ensure that the gate to the southern entrance is shut to patron and staff cars on Saturdays, Sundays and public holidays

22.5. A requirement that staff park only in the staff parking areas adjoining the

3.11 (Cont.)

vineyard machinery shed

- 22.6. A requirement to ensure that at least 117 car parking spaces are available at all times when the restaurant and cellar door are open for trade**
- 22.7. An outline of the methods to strictly limit the number of staff and patron car parks to 117 spaces on weekends and public holidays in order to ensure that additional cars are not parked on the site or the road reserve adjoining the site.**
- 23. Vehicles under the control of the owner of the land or operator of the uses or the operator's staff must not be parked on Mornington-Flinders Road.**

Car parking and access

- 24. The areas indicated on the endorsed plans for use as car parking spaces, access lanes and driveways must be kept available for these purposes at all times.**

Loading and unloading

- 25. The loading and unloading of goods from vehicles may only be carried out on the land.**

Number of Patrons

- 26. Except with the written consent of the Responsible Authority not more than 190 persons (not including staff) are permitted on the land at any one time to the satisfaction of the Responsible Authority. This includes not more than 150 restaurant patrons and includes all the uses and activities occurring on the land.**
- 27. Deleted**

Restaurant and Cellar Door in conjunction with a vineyard

- 28. Except with the written consent of the Responsible Authority for so long as the permitted uses operate:**
- 28.1. The land must also be used for a productive vineyard with a minimum area under cultivation of 8 hectares**
- 28.2. The majority of the wine range offered for sale in the restaurant must comprise wines made from grapes sourced predominantly from the subject land or land within the Mornington Peninsula Shire from which grapes are sourced by the owner of the subject land**
- 28.3. No alcoholic beverage other than wine which is labelled with T'Gallant as the supplier (in accordance with the Food Standards Code Australia and New Zealand) may be sold for consumption off-site.**

Licensed Area

- 29. Deleted**

VicRoads conditions

- 30. Prior to the commencement of the permitted development a functional layout plan of the access arrangement must be submitted to VicRoads and the Responsible Authority for approval. The layout must include, but not be limited,**

3.11 (Cont.)

to the following:

- 30.1. A left turn deceleration lane for a 100km/hr speed limit designed in accordance with current design standards to the satisfaction of VicRoads
- 30.2. A Type auxiliary right-turn (AUR) right turn lane for a 100km/hr speed limit designed in accordance with the current design standards to the satisfaction of VicRoads.
31. Subsequent to the approval of the functional layout plan, a detailed engineering layout in conjunction with a 'Detailed Design Stage' Road Safety Audit (RSA) must be submitted to VicRoads for approval. The RSA must be undertaken by an independent VicRoads pre-qualified audit team and be conducted in accordance with Austroads – Road Safety Audit (Second edition, 2002). When the detailed engineering plans are approved, an additional copy must be submitted to VicRoads.
32. Subsequent to approval of the detailed engineering plans, where the required road works (including drainage and nature strip) lie within private property, a widening of the road reserve will be required at no cost to VicRoads or the Responsible Authority. A licensed surveyor shall be engaged to prepare a Plan of Subdivision showing the affected land labelled "ROAD", which is to be vested in the Roads Corporation / Mornington Peninsula Shire Council (as applicable) upon certification of the Plan of Subdivision, without any encumbrances. Subsequent to the registration of the plan, the subdivider shall ensure the original certificates of title that issue in the name of Roads Corporation / Mornington Peninsula Shire Council shall be posted to the appropriate authority.
33. Prior to the commencement of works within the road reservation, approval must be obtained from VicRoads or the Responsible Authority, as applicable.
34. Prior to the commencement of road works, the developer must contact Team Leader – VicRoads Improvement Projects Department (Telephone no. 9881 8080) for the following requirements:
 - 34.1. Provide a bank guarantee (in the name of the developer) without a termination date, to VicRoads for the estimated cost of construction
 - 34.2. Provide evidence that the contractor has a public liability insurance policy for at least \$10,000,000 (ten million dollars), effective for the duration of the works
 - 34.3. Provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal road works contractor
 - 34.4. Submit to VicRoads for approval, a traffic management plan showing the proposed provision for traffic and signing for the duration of the works. The traffic management plan must meet the requirements of VicRoads Worksite Traffic Management (Road works Signing) Code of Practice which incorporates AS 1742.3 – 2002. Traffic management/control must be carried out by suitably trained personnel
 - 34.5. Arrange for the contractor to contact the VicRoads Surveillance Coordinator (Telephone no. 9881 8079), at least seven (7) days prior to the commencement of works. Note: the contractor will be charged for the actual cost of VicRoads surveillance, which may be undertaken at certain key times during the works

3.11 (Cont.)

- 34.6. Provide evidence that the contractor has developed and maintained a Quality Management System, Occupation Health and Safety System, Environmental Management System and Traffic Management System, to the satisfaction of VicRoads.**
- 35. The developer must pay the full cost of all road works, drainage, road safety devices, service relocations, civil works, signage, public lighting, and any other associated cost, i.e. all works to be completed at no cost to VicRoads.**
- 36. The design, depth and composition of pavement (new and existing) must be to the satisfaction of VicRoads.**
- 37. The standard of materials and works must be in accordance with VicRoads standard specifications for road works and to the satisfaction of VicRoads.**
- 38. The applicant must complete all road works specified, to the satisfaction of VicRoads, upon which the bank guarantee provided under condition 34.1 will be returned to the applicant.**
- 39. Prior to the commencement of the use of the land in reliance on this Amended Permit the access works must be constructed in accordance with approved/endorsed layouts, to the satisfaction of VicRoads and the Responsible Authority.**
- 40. The northern and southern access points must be sealed for a minimum of 10metres, measured from the outer edge of the through traffic lane to the satisfaction of VicRoads.**
- 41. The southern access point is to be used for vineyard operations only with no general public access, limited to left-in/left out only, signed accordingly, all to the satisfaction of VicRoads.**
- 42. The access points must be designed to allow semitrailers to enter and leave the site without traversing onto the wrong side of Mornington-Flinders Road.**

Availability of planning permit and endorsed plans

- 43. The owner must make available a copy of this permit (including endorsed plans) to the operator, lessee or licensee or any prospective purchaser, lessee, operator or licensee of any of the approved uses. The purpose of this condition is to ensure that all persons who have an obligation under this permit are aware of their obligation.**

Venue Operations Management Plan

- 44. Prior to the commencement of any buildings and works, the owner must submit a Venue Operations Management Plan to the Responsible Authority. Once approved the Plan will form part of this permit for approval. The Plan must be provided as part of the standard employee induction process and must include details of the main conditions within this permit that are intended to control the management of patrons and activities associated with the restaurant and cellar door sales. The Plan must include, but not be limited to the following:**
- 44.1. Traffic management**
- 44.2. Patron and Staff Car Parking**
- 44.3. Patron Numbers**

3.11 (Cont.)

44.4. Deleted

44.5. Deleted

44.6. Alcohol Consumption

44.7. Deleted

44.8. Waste water treatment system emergency response in the event of a malfunction or alarm.

The uses must operate in accordance with the approved Venue Operations Management Plan to the satisfaction of the Responsible Authority.

Cancellation of Existing Permits

45. Within 3 months of the date of the commencement of the use in reliance on this Amended Permit, the owner must arrange at its cost for the following permits to be cancelled:

45.1. Permit P95/1376

45.2. Permit P98/1005

45.3. Permit P00/650

45.4. Permit P00/2232

45.5. Permit P03/2141

Section 173 Agreement

46. Before using the land in reliance on this Amended Permit, the owner must enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning and Environment Act 1987* to provide for the following:

- (a) upon cancellation of the permits specified in condition 45 of this Amended Permit, and upon using the land in reliance on this Amended Permit, the owner abandons all future claims for existing use rights other than such claims that might arise under this Amended Permit.

This Agreement must be registered by the Responsible Authority pursuant to section 181 of the *Planning and Environment Act 1987* on the title of the land.

The owner/operator under this permit must pay the reasonable costs of the Responsible Authority for the preparation and registration of the section 173 agreement.

Expiry of Permit

47. This permit will expire if either one of the following applies:

47.1. The development under this Amended Permit is not completed within 24 months of the date of this permit.

47.2. The use is not commenced in reliance on this Amended Permit within 30 months of the date of this permit.

The Responsible Authority may extend the above periods if a request is made in

3.11 (Cont.)

writing before the permit expires or within three months of the expiry date.

Country Fire Authority**48. Endorsement of Bushfire Management Plan**

Before the development starts, the Bushfire Management Plan prepared by Nexus Planning, Version 1, Dated 3 August 2023 must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

Bushfire Management

49. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

Environmental Health

50. Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), the applicant must obtain a formal permission or exemption from the Environment Protection Authority under the Environment Protection Regulations 2021 for the use and maintenance of the onsite wastewater management system. This permission or exemption must include the wastewater generated from all patrons, staff and food preparation/manufacturing onsite.
51. All sewage and sullage wastewater from the proposed development must be discharged into an on-site septic tank system which is approved by the Environment Protection Authority, retains all waste within the boundaries of the land, and is maintained to the satisfaction of the Responsible Authority.

Noise Management

52. Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), the measures and recommendations outlined in the Marshall Day Acoustics Extension of Hours Noise Assessment 12 April 2024 must be implemented to the satisfaction of the Responsible Authority.
53. The emission of noise from the use and development hereby permitted shall not exceed the noise limits determined in accordance with EPA publication 1826.4, Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol) or equivalent.
54. A suitably qualified acoustic consultant must be arranged to undertake annual noise monitoring for outdoor music noise, patron noise and vehicle movements to verify compliance with the Noise Assessment completed by Marshall Day Acoustics on 12 April 2024. Noise monitoring to be conducted in accordance with EPA guidance including Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol, EPA publication 1826.4). The monitoring results and an action plan to address any non-compliances must be provided to the Responsible Authority.

3.11 (Cont.)**Noise Management Plan**

55. Prior to using the land in accordance with the amended hours of operation under this Amended Permit (P97/1029.10), a Noise Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Noise Management Plan will be endorsed and will then form part of the permit. The plan must include:
- a) Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons and discourage patrons from loitering near noise sensitive residential areas.
 - b) The training of staff in the management of patron behaviour
 - c) Alcohol consumption and patron behaviour be monitored in all areas to reduce excessive noise
 - d) Instruction that the venue operator's phone number be given to any nearby land owner or occupier on request to report disturbance from patron noise
 - e) All complaints that cannot be resolved immediately to the duty manager must be recorded in a complaints log detailing all action taken to resolve the issue
 - f) Internal signage which requests patrons respect the amenity of the neighbourhood and nearby residents
 - g) At least one (1) duty manager always present when the venue is open.

Note: Permit amended in accordance with the Victorian Civil and Administrative Tribunal Order dated 27 September 2011 (Reference P620/2011).

PART B

That Council resolves that Attachment 3 to this report be retained as confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as they contained personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 2: A robust, innovative and diverse economy.

- Strategic Objective 2.3: A thriving entrepreneurial economy, with a vibrant tourism sector, that provides accessible employment to our diverse community

3.11 (Cont.)

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles B, H, and I which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

DISCUSSION

Purpose

The purpose of this report is to provide a summary of:

- The relevant background of the site
- The proposal
- The key issues
- Submissions and officer response
- The assessment against the relevant provisions of the *Planning and Environmental Act 1987* and Mornington Peninsula Planning Scheme.

For a detailed assessment of all the relevant matters please see Attachment 6 – Officer Assessment.

The key planning considerations are summarised in the below table:

Proposal	To amend the conditions of the permit.
Zoning and Overlays	<p>Zone:</p> <ul style="list-style-type: none"> • Green Wedge Zone Schedule 1 (GWZ1) <p>Overlays:</p> <ul style="list-style-type: none"> • Bushfire Management Overlay (BMO) • Erosion Management Overlay Schedule 1 (EMO1) • Environmental Significance Overlay Schedule 10, 17 and 28 (ESO10, ESO17, ESO28) • Significant Landscape Overlay Schedule 1 and 6 (SLO1, SLO6) • Vegetation Protection Overlay Schedule 2 (VPO2)

3.11 (Cont.)

Original Permit Triggers	Original triggers in 1997: Permit required due to proposed “restaurant” use and associated buildings and works.
New Permit Triggers	N/A
Advertising	The application was advertised by sending direct notice to the surrounding properties and erecting a sign on site for 14 days.
Submissions	Five (5) objections have been received.
Consultants	N/A
Key Issues	<ul style="list-style-type: none"> • Is the assessment under clause 63 – Existing Uses relevant? • Is the proposal acceptable having regard to the amenity impacts including noise, traffic and wastewater? • Consideration of the matters raised in the objections.
Recommendations	Notice of decision to grant an amendment to a planning permit.

Background

Please refer to the following for further details:

- Attachment 4 – Endorsed Plans under Planning Permit P97/1029.09
- Attachment 5 – VCAT decision [2011]
- Attachment 6 – Officer Assessment

Subject site

The subject site operates two dining areas in conjunction with cellar door for tastings/sales of the T’Gallant wine label. The restaurant is known as La Baracca Trattoria and offers fine dining while the Spuntino Bar offers an informal dining experience based around wood-fired oven cooked pizzas.

The main building complex also includes office spaces for staff, a cellar door sales and tasting area, wine storage rooms and kitchen and bar for La Baracca and Spuntino Bar.

Customer car parking is currently available via a crushed rock car park located to the north and south of the building complex. Up to 110 customer car parks and a new bus parking are available to patrons in the area. Overflow car parking is directed to the crushed rock parking area south of the main restaurant building complex.

The public entry and exit are accessed via a crossover located on the west side of the buildings. On the east side, there is a crossover that only be used for vineyard operations traffic.

Since 1995 a winery has operated on the site producing Pinot Gris and Pinot Grigio wines. From 2006 wine production at the site cease, however the vineyard continues to operate. All

wine production made under the T'Gallant label occurs off-site at a facility owned and operated by Treasury Wines Estates utilising the grapes from the vineyard, in addition to other grapes grown on the Mornington Peninsula.



Figure 1: Aerial Photo showing subject site and surrounding properties - March 29 2024

Permit History and VCAT Decisions

Planning Permit P97/1029 was issued on the 7 August 1997, which allows:

The use of an existing building as a restaurant in association with wine tasting and cellar door sales in accordance with the endorsed plans

In 2008, the applicant sought to amend the permit (P97/1029.01) to allow an increase in seating capacity from 60 to 274 patrons, introduce a function centre use on the land, construct buildings and works, and increase the hours of operation. Council refused the application, and the decision was appealed to VCAT (the Tribunal). This decision to refuse the permit was upheld by the Tribunal.

Following on from this the applicant lodged a further application to amend the permit (P97/1029.02) based on the findings of the Tribunal and its earlier decision. The amendment was approved by the Tribunal on 7 October 2011 to allow:

The use and development of the land for a restaurant, and for the sale and consumption of liquor, reduction of the associated car parking requirements, alteration of access to a road in a road zone category 1, and construction and carrying out of buildings and works in accordance with the endorsed plans.

Which included:

- Restaurant use with 150 patrons for day time use and 110 patrons for night time use
- A patron limit of 40 patrons within the wine sales and tasting area and limited day time use
- Requires the use of outdoor areas to cease at 8:00pm
- Allows onsite car parking for 117 spaces
- Undertaking of upgrades to Mornington-Flinders Road to improve safety and function
- Undertake various buildings and works

3.11 (Cont.)

- Upgrade the wastewater disposal system
- Alter the approved area for the service and consumption of liquor on the subject site.
- The approved hours of operation are:
 - 9.00am and 5.00pm on Sunday, Monday, Tuesday, Wednesday and Thursday
 - 9.00am and 11.00pm on Friday and Saturday.

It is important to note that the approved hours of operation by the Tribunal generally align with the proposed extended hours under this application, excluding the operation of the outdoor areas.

A section 72 amendment was lodged (P97/1029.04) which including buildings and works, as well as the deletion/alteration of the conditions. In particular, the Noise Management and Noise Levels related conditions have been altered or deleted, and the proposed hours of operations have been adjusted to be limited to 9am to 5pm seven days a week.

A Planning Permit P97/1029.09 was issued on the 19 December 2024 which includes buildings and works to the approved restaurant.

Section 72 Amendment

There is no limit on the extent of changes that can be made to a planning permit under section 72 of *the Act*. In *Mondib Group Pty Ltd v Moonee Valley City Council* [2021] VSC 722, the Supreme Court of Victoria determined that section 72 of *the Act* does not limit the scope of amendments that can be made to a permit, therefore the applicant is able to facilitate the proposed extended hours of operation through the section 72 amendment process.

Proposal

Please refer to the following for further details:

- Attachment 1 – Planning Submission
- Attachment 2 – Acoustic Report

Overall, the application has been made to amend planning permit P97/1029, proposing to extend the hours of operation associated with the approved restaurant from:

- 9.00am to 5.00pm seven days a week
to
- 9.00am to 11.00pm on Friday and Saturday
- 9.00am to 5.00pm on Sunday to Thursday
- All outdoor service to end at 11.00pm outside of daylight savings period and 9.00pm during daylight savings period.

However, as requested and confirmed by the permit applicant following public notification (but without a formal amendment to the application), all outdoor service is proposed to end at 9pm to further minimise any potential amenity impacts due to the proposal. This will be reflected as a condition if approved.

3.11 (Cont.)

Under this application, no buildings and works are proposed and the maximum patron numbers remain unaltered.

NOTIFICATION AND CONSULATION**Notification**

The application was publicly notified in accordance with section 52 of the *Planning and Environment Act 1987*. The application was advertised by sending letters to adjoining properties and erecting a sign on site for 14 days, commencing 29 January 2024.

Submissions

Refer Attachment 3 – Submissions.

Five objections were received. The concerns raised are summarised as follows:

- Noise due to live and amplified music and traffic movement.
- Turning circles and road conditions.
- Outdoor services should be no later than 9pm.
- Onsite septic and wastewater treatment plant that meets the current EPA requirements.
- Disability access requirements.
- Fire services.
- Change of use.

CONSIDERATIONS

Please refer to:

- Attachment 2 – Acoustic Report
- Attachment 3 – Submissions
- Attachment 5 – VCAT decision [2011]
- Attachment 6 – Officer Assessment for full details of assessment.

The following key issues are summarised below:

- Is the assessment under clause 63 – Existing Uses relevant?
- Is the proposal acceptable having regard to the amenity impacts including noise, traffic and wastewater?
- Consideration of the matters raised in the objections.

Is the assessment under clause 63 – Existing Uses relevant?

It is acknowledged that pursuant to the current Green Wedge Zone provisions, a restaurant land use would be prohibited on the land as the subject site is less than the 40 hectares specified within the zone.

3.11 (Cont.)

However, Planning Schemes change over time to reflect the policies of Government, many uses which commenced lawfully, because of changes in policy, become uses which would be prohibited subject to subsequently introduced provisions. clause 63 - Existing Uses of the Mornington Peninsula Planning Scheme (Planning Scheme) contains provisions which enable such uses to continue if, amongst other potential options, they were lawfully carried out before the introduction of the current Planning Scheme or an amendment to the scheme.

The restaurant use commenced lawfully under Planning Permit TP97/1029, issued on 7 October 1997, prior to the introduction of the current Planning Scheme. It is therefore able to continue to operate by way of established existing use rights. The establishment of conditions and/or restrictions for which the restaurant use is subject to is therefore less complex in this instance due to the use being established by way of a planning permit with its associated conditions, as amended from time to time.

Is the proposal acceptable having regard to the amenity impacts including noise, traffic and wastewater?

It is not considered that the proposed amendment will result in a loss of the rural lifestyle currently enjoyed by surrounding residents, subject to conditions. A revised acoustic report has been prepared by Marshall Day Acoustics (MDA) who previously assessed noise impacts and tendered evidence in the previous VCAT hearing. The report assesses noise from the revised proposal based on the results of previous work and supports the proposed amendment to the acoustic conditions. Overall, the report represents that music noise, patron noise and late night activities in the car park area are predicted to be controlled to appropriate levels. Moreover, the report has been referred to Council's Environmental Health department and supports have been received subject to new Noise Management and Noise Management Plan conditions. Furthermore, outdoor service will be limited to extending no later than 9:00pm on Fridays and Saturdays, when the restaurant is proposed to operate until 11:00pm.

The proposal does not seek to alter the access to Mornington-Flinders Road or the internal driveway and car parking layout. As mentioned, noise generated from the car parking area due to the extended hours is manageable via relevant permit conditions.

As new conditions of the permit, the owner is required to obtain a formal permission or exemption from the Environmental Protection Authority (EPA). The permission must include the wastewater generated from all patrons, staff and food preparation/manufacturing onsite.

All wastewater generated by the development must be discharged into an on-site septic tank system which is approved by the EPA, retains all waste within the boundaries of the land. Subject to the conditions, the on-site wastewater treatment will be aligned with the relevant policies under Environment Protection Regulations 2021.

Overall, the amendments as proposed are considered acceptable and subject to the new conditions, the proposal would not have any unreasonable amenity impacts to the adjoining properties or surrounding land. The key obligations relating to access, parking, traffic, patron numbers remain as per the original requirements. The amendment will result in a satisfactory outcome and is therefore supported.

Consideration of the matters raised in the objections.

The majority of concerns have been responded to throughout this report. A brief summary is provided below, for further discussion refer to the body of the report.

3.11 (Cont.)

- Noise due to live or amplified music and traffic movement.

Comments: Relevant noise management and noise management plan conditions will be included on any permit issued and the submitted Acoustic Report will be endorsed to form part of the amended permit to ensure the noise levels identified will be properly and adequately managed at all times.

- Turning circles and road conditions.

Comments: The proposal does not involve any buildings and works including the alterations to the crossovers and external or internal vehicle access.

- Outdoor service should not be later than 9.00pm.

Comments: As requested by the permit applicant, all outdoor service will end at 9pm to further minimise any potential amenity impacts to adjoining properties and surrounding areas.

- Onsite septic and wastewater treatment plant that meets the current EPA requirements.

Comments: Council's Environmental Health has reviewed the proposal and recommend the relevant conditions to be included on any permit issued to ensure compliance.

- Disability access requirements.

Comments: The proposal does not involve any buildings and works including the alterations to the current parking arrangement.

- Fire services.

Comments: The proposal does not involve any buildings and works that would require considerations for fire services and bushfire risks.

- Change of use.

Comments: The proposal would not change the current use as restaurant. The amendment only seeks to amend the hours in which the existing restaurant is open and not how the restaurant use is undertaken.

ENGAGEMENT

Not applicable.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

CONCLUSION

The proposal represents an appropriate outcome for an established winery and restaurant use. Any impacts can be appropriately managed to ensure the proposal does not adversely impact adjoining properties and surrounding areas.

3.11 (Cont.)

Having regard to the relevant provisions of *the Act*, the Mornington Peninsula Planning Scheme, the previous planning permit history including Tribunal decisions related to the site, it is considered that the Application should be supported.

3.12 Shaping Greater Dromana Plan - Community Consultation Outcomes

Prepared By	Mahsa Mesgar, Senior Strategic Planner
Authorised By	Acting Director - Planning & Environment
Document ID	A12964254
Briefing Note Number	BN1951 – 13 August 2024
Attachment(s)	<ol style="list-style-type: none">1. Submissions 1-30 (redacted)2. Submissions review and officer's response3. Shaping Greater Dromana Plan - September 2024

EXECUTIVE SUMMARY

The purpose of this report is to present the Shaping Greater Dromana Plan (the Plan) to Council for adoption following community consultation on a draft of the Plan earlier this year.

The Plan provides a strategic framework and vision for the Greater Dromana area, explaining how various Council led plans, projects and initiatives are helping to shape the area's future as a well-planned and sustainable township with a healthy, thriving and connected community. The Plan incorporates the breadth of Council's current and future initiatives (including capital works), and advocacy efforts which are delivering outcomes in the following key areas:

- environmental protection and climate resilience
- sustainable transport and movement networks
- community infrastructure, public open space and recreation
- local economic development
- affordable and diverse housing.

Following Council's 14 May 2024 resolution, a draft of the Plan was released for community consultation over a 5-week period from 20 May to 21 June 2024. A total of 30 submissions were received, indicating broad community support for the draft vision, and interest in the scope of strategies and capital works projects for the area. Following consultation, minor editing and formatting improvements have been made to the Plan which is now presented for Council adoption.

It is noted that, during the consultation period on the draft Plan, the community was also invited to provide initial feedback to help inform the development of two separate but related projects also underway for Dromana: the Parkdale and Hillview Community Reserve Masterplan and the Dromana and Arthurs Seat Escarpment Management Plan. The response to submissions highlighted the importance of the natural environment, conservation of green spaces and views and suggestions for future use including mountain bike tracks, sports facilities and improved parking and walking paths. These projects are planned for completion in 2025.

RECOMMENDATION

That Council adopts the Shaping Greater Dromana Plan (Attachment 3).

3.12 (Cont.)**COUNCIL & WELLBEING PLAN**

This aligns with the Council and Wellbeing Plan, in particular:

Theme 1: A healthy natural environment and well-planned townships.

- Strategic Objective 1.1: An accessible and unique natural environment that helps our community to be healthy and well.
- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.
- Strategic Objective 1.3: A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 2: A robust, innovative and diverse economy.

- Strategic Objective 2.2: A strong food economy, promoting growth to enhance community access.
- Strategic Objective 2.3: A thriving entrepreneurial economy, with a vibrant tourism sector, that provides accessible employment to our diverse community
- Strategic Objective 2.4: A diverse economy, with green and renewable opportunities, encouraging entrepreneurship, investment and innovation.

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.1: A healthy and self-determined community where everyone feels valued, supported and safe.
- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.
- Strategic Objective 3.3: A community in which people from all generations, backgrounds and abilities can access local services.
- Strategic Objective 3.4: A community with vibrant arts, culture, sport and recreational opportunities that foster connections and participation across generations, backgrounds and abilities.
- Strategic Objective 3.5: A community that is well connected through sustainable, accessible and integrated transport options.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles B, C, D, H, and I which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

3.12 (Cont.)

- C. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- D. The municipal community is to be engaged in strategic planning and strategic decision making.
- H. Regional, state and national plans and policies are to be taken into account in strategic planning and decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

Council decisions:

- 28 October 2021 – In response to Notice of Motion (NOM) 312, Council resolved to proceed with the Dromana Precinct Plan (now known as the Shaping Greater Dromana Plan) with \$50,000 of funding allocated in the 2020/2021 Council Budget.
- 14 May 2024 – Council resolved to undertake community consultation on a draft of the Plan with relevant stakeholders, community groups and the wider community.

Council policies and plans:

- A Thriving Peninsula 2033 - Our Economic Development and Tourism Strategy (2024)
- Biodiversity Conservation Plan (2019)
- Community Facilities Infrastructure Strategy
- Council and Wellbeing Plan 2021-2025
- Dromana and Arthurs Seat Escarpment Management Plan
- Dromana Community Facilities Project
- Dromana Residential Investigation Areas Assessment (2017)
- Dromana Township Built Form Review (2017)
- Dromana Township Plan (2018)
- Housing and Settlement Strategy Refresh 2020-36
- Integrated Water Management Plan (2021)
- Mornington Peninsula Bicycle Strategy Ridesafe – 2010- 2014
- Mornington Peninsula Shire Arts and Culture Plan 2020-2024
- Mornington Peninsula Green Wedge Management Plan (2019)
- Mornington Peninsula Shire Strategic Planning Bushfire Assessment (2023)
- Mornington Peninsula Shire Music Plan (2025)
- Municipal Emergency Management Plan 2021-2024

3.12 (Cont.)

- Neighbourhood Character Study and Guidelines (2019)
- Our Positive Ageing Strategy 2020-2025
- Pedestrian Access Strategy (2024)
- Play Space Strategy 2015-2020
- Property Strategy (2018)
- Roadside Equestrian and Mountain Bike Trails Strategy 2014-2019
- Sports Capacity Plan
- Recreational Facilities for Mountain Bike and BMX Strategy (2023)
- Sustainable Transport Strategy 2015-2020
- Towards Zero Road Safety Strategy 2020-2025
- Urban Forest Strategy.

DISCUSSION**Purpose**

The purpose of this report is to outline community consultation on the draft Shaping Greater Dromana Plan (the Plan) and present a final version of the Plan for adoption.

Background

In response to a proposal by the Dromana Association Inc. in 2021, Council resolved to prepare a plan for Dromana which defines a vision and strategic directions for the locality. The Plan delivers on this objective, building on the considerable body of strategic work that Council has already adopted, or committed to deliver, at both a Mornington Peninsula Shire (Shire) wide and local level. Key strategic work that has informed the Plan includes:

- **Land use planning:**
 - Housing and Settlement Strategy Refresh 2020-36
 - Neighbourhood Character Study and Guidelines 2019
 - Dromana Township Plan 2018
 - Dromana Residential Investigation Areas Assessment 2017
 - Dromana Township Built Form Review 2017
 - Planning Scheme Amendment C219morn.
- **Community infrastructure, public open space, sport, and recreation planning:**
 - Sports Capacity Plan
 - Recreational Facilities for Mountain Bike and BMX Strategy 2023
 - Play Space Strategy 2015-20

3.12 (Cont.)

- Roadside Equestrian and Mountain Bike Trails Strategy 2014-2019
- Draft Community Facilities Infrastructure Strategy
- Dromana Community Facilities Project.
- **Access and transport network planning:**
 - Sustainable Transport Strategy 2015 – 2020
 - Pedestrian Access Strategy 2024
 - Mornington Peninsula Bicycle Strategy Ridesafe – 2010- 2014
 - Towards Zero Road Safety Strategy 2020-2025.
- **Environmental risks and mitigation plans:**
 - Mornington Peninsula Green Wedge Management Plan (2019)
 - Biodiversity Conservation Plan (2019)
 - Urban Forest Strategy
 - Mornington Peninsula Shire Strategic Planning Bushfire Assessment (2023).

Overview of the Plan

The Plan provides a strategic framework for the Greater Dromana area and explains how various Council led plans, projects and initiatives are helping to shape the area's future as a well-planned and sustainable township with a healthy, thriving and connected community.

Originally focused solely on Dromana, the Plan was expanded to cover Safety Beach as well, given the residents of Safety Beach rely on the Dromana township for retail, community facilities and personal and professional services, and are therefore invested in its future development.

The Plan includes the following overall vision for the Greater Dromana area which incorporates essential elements from various adopted Council strategies and plans:

The Greater Dromana area celebrates its unique coastal setting nestled at the base of Arthurs Seat. The large township of Dromana will provide local shops, schools, parks, jobs and services for communities living in Dromana and Safety Beach. The Greater Dromana area will continue to be a popular place for the many tourists who come to visit. Our economy will thrive, driven by diverse and innovative local businesses and industry. Future development will be carefully integrated, respecting our local character and significant landscapes, and we will ensure our local biodiversity is healthy, valued and protected.

Following the vision, the Plan provides an overview of:

- the demographic profile of the local community
- the breadth of existing and proposed strategies which are delivering outcomes in the following key areas:
 - environmental protection and climate resilience
 - sustainable transport and movement networks

3.12 (Cont.)

- community infrastructure, public open space and recreation
- local economic development
- affordable and diverse housing.

For each of the above elements, the Plan groups strategic initiatives into the following three categories with a focus on highlighting how Shire-wide initiatives are driving outcomes for Greater Dromana:

- Current Initiatives: What are we working on?
- Future Initiatives: What's on the horizon?
- Advocacy Efforts: What are we advocating for?

Each of the key themes are supported by a series of maps to spatially represent planned outcomes for Greater Dromana. The Plan also has a dashboard showing the status of relevant capital works projects.

Community consultation

On 14 May 2024, Council resolved to undertake community consultation on a draft of the Plan over a 5-week period from 20 May to 21 June.

As part of the consultation process, Shire officers sought initial community input to help guide development of the future Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan.

The proposed masterplan for the Hillview Community Reserve and the Parkdale land (also known locally as 'Pat's Paddock') will explore future use and development of the sites including the Dromana Association Inc.'s idea of creating a community forest and recreational opportunities such as a regional mountain biking facility.

The Dromana and Arthurs Seat Escarpment Management Plan aims to develop an agreed vision and key principles for the future of the escarpment that recognises the linkages into the Dromana township and surrounding green wedge hinterland.

Figures 1 and 2 below show the extent of these study areas.



Figure 1: Parkdale / Hillview Community Reserve Master Plan study area (Hillview reserve outlined in red and Parkdale land outlined in blue)



Figure 2: Dromana and Arthurs Seat Escarpment Management Plan study area (outlined in red)

Community feedback received about the Parkdale / Hillview Community Reserve and Dromana and Arthurs Seat Escarpment will be used to inform the development of the Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan. These plans are due for completion in 2025.

Consultation purpose and outcomes

The purpose of community consultation was to:

- Seek feedback on the proposed overall vision for Greater Dromana.
- Inform and educate the community about the various current, future and advocacy initiatives being delivered by Council for Greater Dromana.

3.12 (Cont.)

- Seek feedback on what people like about the draft Plan and whether they think there are any gaps in the draft Plan.
- Seek feedback on how the community currently uses the escarpment area and the Hillview Community Reserve and how they would like to see these areas and the Parkdale land used and developed into the future.

The methods of community consultation for the draft Shaping Greater Dromana Plan, the Parkdale / Hillview Community Reserve Masterplan and the Dromana and Arthurs Seat Escarpment Management Plan are included in the 'Engagement' section of this report.

A total of 30 survey responses and email submissions were received, including 16 anonymous responses, one from an organisation, and 13 named surveys. A copy of all the survey responses and submissions (with personal details redacted) is included in Attachment 1.

Below is a summary of comments raised in survey responses and submissions, while Attachment 2 provides a detailed officer response to each.

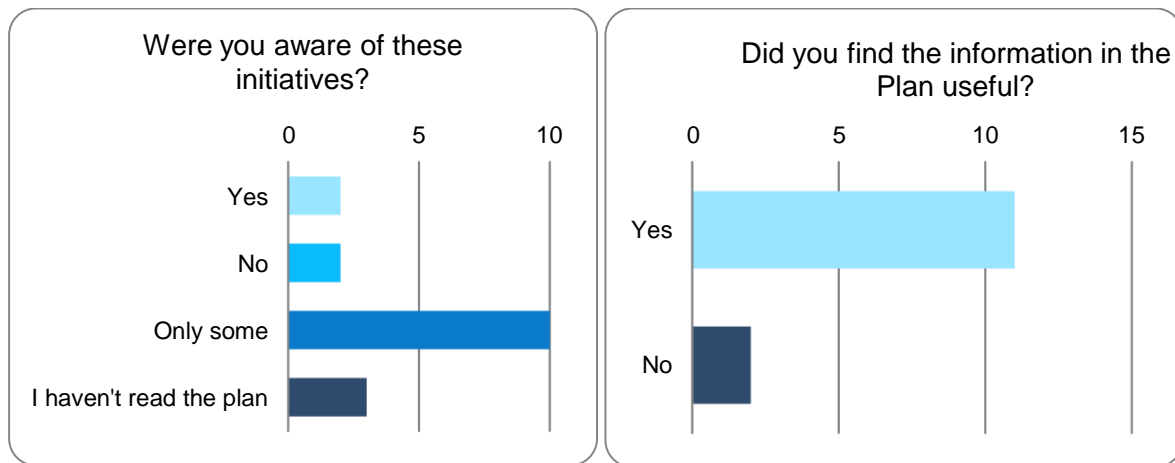
Survey responses and submissions about the draft Shaping Greater Dromana Plan

Overall, the survey results suggest that there was broad support for the proposed vision outlined in the draft Plan.

Suggested changes to the draft vision were mostly outside the scope of a vision statement and the draft Plan (such as a new basketball court facility). However, the feedback is noted and will be shared with the relevant Shire teams to be considered as part of their ongoing and future initiatives (such as preparation of the Sports Capacity Plan Volumes 2 and 3). The draft Plan does not propose new strategies or specific recommendations for actions as it serves as a strategic framework highlighting adopted and current initiatives that contribute to the area's development.

There was feedback relating to hopes and aspirations for Greater Dromana (next 10-20 years). Suggestions included developing Dromana into a sustainable town, promoting youth development, ensuring sufficient space for recreational and sporting facilities, and maintaining the area's rural character. Other aspirations included reducing weed infestation and restoring indigenous flora and fauna. There was feedback on the data sources used and that diverse data sets should be used. Diverse data sets were used in the development of the Plan including Australian Urban Observatory data and id forecast data

As shown in the following graphs, several submissions noted a lack of awareness or partial awareness of the existing initiatives outlined in the draft Plan. However, the information presented in the draft Plan was generally found to be useful by those who had reviewed it.



Some submissions referred to the negative impacts of planned population growth on the local environment and local infrastructure, namely the loss of open space, reduced biodiversity, overstretched services and less cohesive communities.

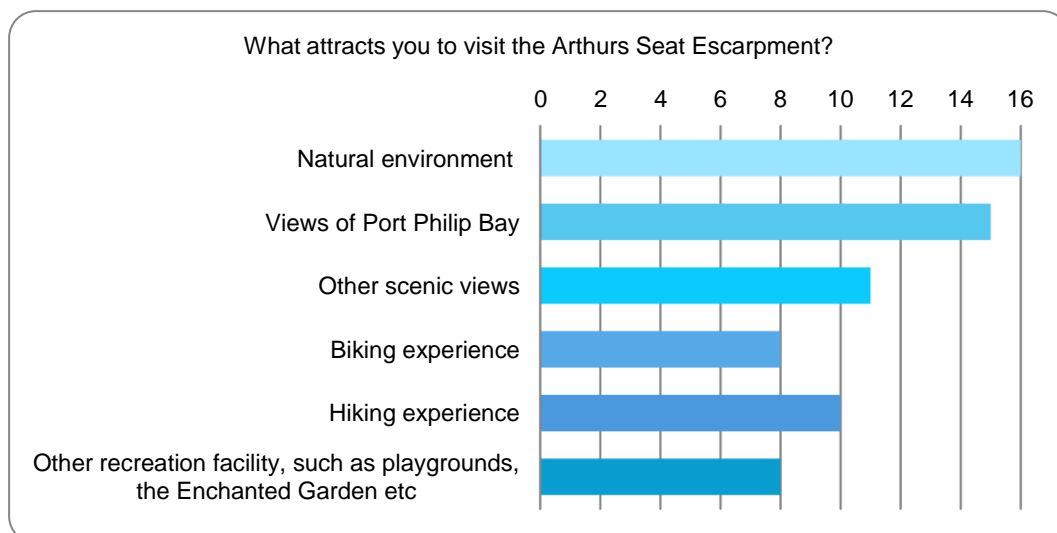
One submitter also raised objections to planning applications for the development of the service station site and the caravan park.

As noted in the detailed response in Attachment 2, most of these matters are addressed in other adopted plans and policies, and therefore it is not recommended to change the Plan in response to these comments, apart from making minor editing and formatting improvements.

A recommended final version of the Plan is provided in Attachment 3.

Survey results and submissions about the Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan

Survey results (as shown in the below graph) suggest that for most people, the natural environment and views of Port Philip Bay are among what most attracts them to visit the Arthurs Seat Escarpment.



Respondents highlighted the benefits of community spaces for recreation, exercise, and social interaction. Additional benefits mentioned included opportunities for youth engagement, carbon offsetting, and increased tourism spending.

Common suggestions for the Parkdale / Hillview Community Reserve included the addition of mountain bike tracks, community gardens, and facilities for various sports. There were also

3.12 (Cont.)

calls for improved car parking, electric vehicle charging infrastructure, and the construction of club rooms.

Suggestions for improved accessibility were frequent, including better footpaths and parking facilities. The need for spaces such as community gardens, playgrounds, and facilities for specific groups (e.g. youth, cyclists) was emphasised.

Many respondents stressed the importance of preserving native flora and fauna and reducing carbon emissions. There were also calls to avoid overdevelopment and ensure the conservation of green spaces.

The consistent feedback reflects a desire for improved awareness and engagement with existing initiatives, the importance of community-led projects, the need for sustainable and well-maintained community spaces, and a focus on environmental conservation and sustainable development.

Discussions from pop-up sessions relating to the Shaping Greater Dromana Plan

- Proposed rezoning for new residential subdivision: Residents expressed concerns about the proposed rezoning and 250-lot residential subdivision at 170 Boundary Road and 62 Collins Road, Dromana (known as Amendment C249morn and Planning Permit P20/2355). The primary issues raised include potential loss of privacy and impacts on the valuable landscape that residents currently enjoy. This amendment is still awaiting Ministerial authorisation to proceed to public exhibition.
- Housing and community dynamics – empty houses and short-term rentals: There is concern regarding the prevalence of empty houses and properties used for Airbnb. Residents feel that short-term occupants often do not respect or value the neighbourhoods, leading to a sense of community disruption.
- Major developments – The presence and potential for major developments, such as a McDonald's, have been a point of contention among residents.
- Loss of habitat – Participants highlighted the loss of natural habitats as a critical issue. This loss is attributed to ongoing developments in the area.
- Community facilities – support for parks and gardens versus sports facilities: There is a perception that parks do not receive the same level of support and facilities as sports venues. For example, the lack of toilets for people with disabilities in parks was specifically mentioned.
- Caravan Park – The community is concerned about the future of the local caravan park. Some feel its closure is a loss to the area, while others believe that caravan parks are damaging the Dromana foreshore and its valuable reserves, posing a threat to critical environmental and recreational assets.
- Public parking areas – There are concerns about the removal of public parking spaces as part of climate mitigation efforts. Residents are wary of how this might affect accessibility and convenience.

3.12 (Cont.)Discussions from pop-up sessions about the Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan

Development and land use:

- Developable land: There is confusion among residents regarding what land is available for development.
- Green Wedge area: Similar confusion exists about the Green Wedge areas, highlighting the need for better education and clarification on the Urban Growth Boundary.
- Recreational ideas and suggestions.
- Mountain bike facilities: There are ideas and suggestions for the development of mountain bike trails and related facilities to enhance recreational opportunities in the area.
- Quarry as amphitheatre: One innovative suggestion is to convert the local quarry into a natural amphitheatre. Residents noted that this space could be ideal for concerts and events due to its great acoustics and scenic views overlooking the bay.
- Dedicated dog park: Another suggestion is to use the area for a dedicated dog park, providing a designated space for dog owners and their pets to enjoy.

Options for consideration***Option 1: Adopt the updated Plan (recommended)***

This option is recommended for the following reasons:

- Submitters have identified that the Plan provides a valuable source of information about how Council led plans, projects and initiatives are helping to shape Greater Dromana's future as a well-planned and sustainable township with a healthy, thriving and connected community.
- There is strong acceptance by the community and survey participants for the proposed vision.
- Detailed submitter suggestions that fall outside the scope of the Plan can be considered as part of ongoing and future initiatives being led by the Shire, such as completion of the Sports Capacity Plan Volumes 2 and 3, Integrated Transport Strategy, Urban Forest Strategy, etc.
- Community feedback received about the Parkdale / Hillview Community Reserve and Dromana and Arthurs Seat Escarpment will be used to inform the development of the Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan.

Option 2: Do not adopt the Plan

This option is not recommended as the community consultation feedback indicates that the Plan is a valuable source of information about strategies and projects that directly impact the Greater Dromana community.

3.12 (Cont.)**ENGAGEMENT**

Preparation of the Plan has been informed by stakeholder workshops with Ward Councillors and the Dromana Association in early 2024, as well as consideration of consultation findings for other projects, including the Dromana Community Hub.

Community consultation on the draft Plan was undertaken over a five-week period beginning Monday, 20 May and concluding Friday, 21 June 2024 in accordance with a Communications and Engagement Plan prepared by the Shire's Communications and Engagement team.

During the consultation period, the draft Plan and its two allied projects were publicised through various methods. These included:

- A dedicated webpage on the Shire's website for downloading the draft Plan, FAQs, and providing feedback online. Hard copy surveys were made available at municipal offices.
- Feedback was collected via a survey hosted on the Shire's 'Shape our Future' website. The online survey included free-text fields relating to the draft Plan, proposed vision, and hopes/aspirations for the Parkdale / Hillview Community Reserve Master Plan and Dromana and Arthurs Seat Escarpment Management Plan.
- Social media promotion was carried out on Instagram and Facebook. Media releases were issued, and the Plan was promoted in Peninsula Buzz and a local newspaper notice.
- Direct email outreach targeted key stakeholder groups, including friends-groups, sports clubs, and community groups, and a request was made to the Dromana Association to circulate information among their members.
- A presentation was made to the Dromana Association Community Action Co-Design Forum on 6 June 2024.
- Two pop-up sessions were also held at Dromana Community Market and Dromana IGA, attracting over 100 participants in total:
 - 25 May 2024 - Dromana Community Market pop-up
 - 13 June 2024 - Dromana IGA pop-up

During these sessions, 50 copies of the draft Plan and 50 copies of the FAQs were distributed, and 7 surveys were collected in person. Notes from conversations at these sessions were also collected as feedback.

The diagram below provides an overview of the various methods through which the community engaged in the consultation process.

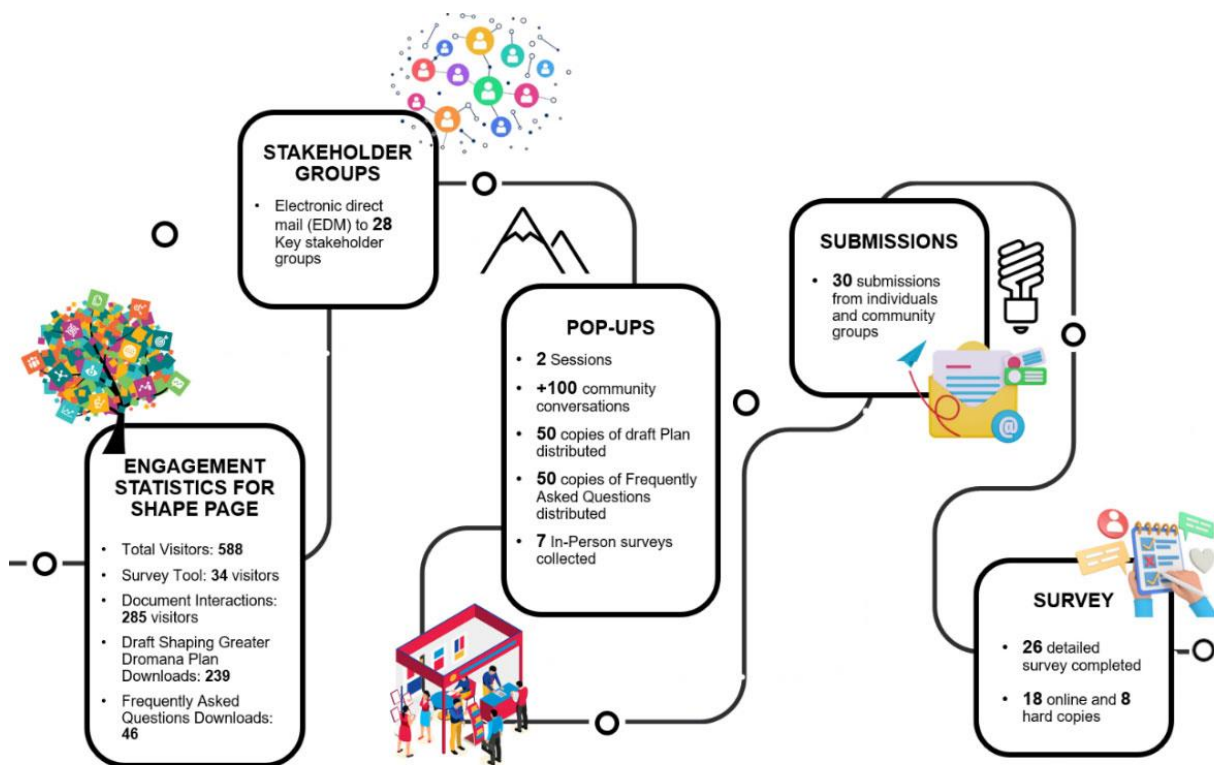


Figure 3: Overview of consultation methods

COMMUNICATIONS PLAN

If Council adopts the Plan, Shire officers will notify all registered submitters of Council's decision and update the Shire's webpage.

It is noted that, the Plan will need to be reviewed in 5 years to ensure it reflects progress on the various strategies, plans and capital projects outlined within the Plan. This will be noted on the Shire's webpage.

LEGAL AND REGULATORY FRAMEWORK

The draft Plan has been prepared having regard to the provisions of the *Planning and Environment Act 1987* and the Victorian Planning Provisions, where applicable.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

The Plan incorporates strategic initiatives that address climate and sustainability considerations, both directly and indirectly, aligning with broader Council-led efforts to foster environmental stewardship and sustainable development. The Plan includes an extensive list of existing and proposed initiatives for environmental, social, and economic sustainability.

FINANCIAL CONSIDERATIONS

Preparation of the Shaping Greater Dromana was funded by \$50,000 allocated within the Council Budget. No further costs are associated with adopting the Plan.

Implementation of the strategic initiatives, capital work projects, community capital projects and community grant projects listed in the Plan are, in some cases, funded within existing operational and capital budgets. In other cases, implementation will be subject to consideration as part of Council's future annual budget processes.

The Plan notes which projects are fully funded by State Government.

3.12 (Cont.)

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

OFFICE OF THE CEO

3.13 Instrument of Delegation

Prepared By	Christine Aslanidis, Team Leader - Governance Services
Authorised By	Chief Executive Officer
Document ID	A13230935
Briefing Note Number	Not applicable
Attachment(s)	<ol style="list-style-type: none">1. Maddocks Update - July 2024 ↓2. Draft Instrument of Delegation Council To Council Officers (S6) 9 September 2024 ↓

EXECUTIVE SUMMARY

Delegation of powers is generally considered essential to ensure the day-to-day operations of the Council can proceed. Without substantial and significant delegation processes, Council would not be able to manage its workload effectively or efficiently.

The latest Maddocks Lawyers (Maddocks) update (Attachment 1) takes into account legislative changes which were assented to, or made, from 1 January 2024 to 21 July 2024, together with some miscellaneous changes and improvements identified, which affect Council's powers, duties and functions.

The draft Council-to-Council Officers Instrument of Delegation (Attachment 2) has been updated following consultation with managers and will be effective immediately upon the resolution of Council. As a result, the previous S6 Instrument of Delegation dated 25 June 2024 will be revoked.

RECOMMENDATION

That in the exercise of the powers conferred by section 11 of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation, the Mornington Peninsula Shire Council resolves:

- 1. That Council adopts the Instrument of Delegation from Council to Council Officers 9 September 2024 as shown in Attachment 2.**
- 2. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached S6 Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument. (Attachment 2)**
- 3. The Council to Council Officers Instrument of Delegation as shown in Attachment 2 comes into force 9 September 2024 immediately upon this resolution being made and is to be signed by the Chief Executive Officer (CEO).**

4.13 (Cont.)

4. On the coming into force of the Instrument, the previous S6 Council to Council Officer dated 25 June 2024 is revoked.
5. The duties and functions set out in the instruments must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan, in particular:

Theme 3: A flourishing, healthy and connected community.

- Strategic Objective 3.2: A resilient and confident community where everyone connects and is supported.

GOVERNANCE PRINCIPLES

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This report aligns with principles A, B and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- I. The transparency of Council decisions, actions and information is to be ensured.

RELEVANT COUNCIL DECISIONS AND POLICIES

The current Council to Council Officer Instrument of Delegation was adopted by Council on 25 June 2024 following updates provided by Maddocks.

DISCUSSION**Purpose**

The purpose of this report is to seek endorsement from Council for the attached Council to Council Officer Instrument of Delegation following the latest updates provided by Maddocks.

Background

The power of delegation under section 11 of the *Local Government Act 2020* (the Act) is a power to delegate Council's powers under *the Act* or any other Act to the CEO who then may sub-delegate those powers pursuant to section 47 of *the Act*.

Delegation of powers is generally considered essential to enable day to day decisions to be made. Some general features are set out in the *Interpretation of Legislation Act 1984*. In particular the following should be noted:

- The decision, once made, is for all legal purposes, a decision of Council.
- The 'delegate' is in much the same position as the Council in terms of making decisions. For example, where the decision requires that opinion be formed, the delegate's opinion can be the basis for the decision.

4.13 (Cont.)

- The fact that a delegation is being made does not affect the Council's powers in relation to the issue concerned. This is subject of course, to the rule that the delegate's decision is taken to the decision of Council. Council is therefore bound by a decision, which it may not have made.

The Instrument provides that the delegations are subject to any conditions or limitations set out in the schedule and must be exercised in accordance with any guidelines or policies adopted by Council from time to time.

In addition, the delegate must not act if the matter has previously been designated as an issue which must be the subject of a Council resolution, or the decision is likely to be inconsistent with a policy or strategy adopted by Council.

Options for consideration

The Council to Council Officer Instrument of Delegation has been updated to reflect the following:

- Removal of sections 12(2), 12(4)-(7) of the *Road Management Act 2004*, as we recommend that Councils use the powers under *the Local Government Act 1989* instead to discontinue a road.
- Deletion of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020, as they have been revoked pursuant to regulation 4(a) of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2024. Those new regulations commenced on 29 June 2024 and have been included.
- *The Food Act 1984* was amended pursuant to the *Regulatory Legislation Amendment (Reform) Act 2024*, which commenced on 6 March 2024, the day after it received Royal Assent. As a result we have:
 - Included 19 (4)(a)(ia) and 19(4)(a)(ib), and amended 19(4)(a)(ii), which relates to Council's power to direct that a copy of an order be affixed, displayed or published.
 - Included section 19FA(1), which relates to Council's power to direct a proprietor of a food premises to revise the foods safety program for the premises or comply with any requirements specified in the food safety program.
 - Included section 19FA(3)(a), which relates to Council's power to refuse to approve an application for registration or renewal of premises, where a proprietor of a food premises fails to comply with a direction given under section 19FA(1). Please note that, adopting a conservative approach, we have inserted a comment that this is subject to ratification in accordance with s 58A(2).
 - Included section 19FA(3)(b), which relates to Council's power to revoke a registration granted in respect of premises, where a proprietor of a food premises fails to comply with a direction given under section 19FA(1).
- Included section 19FA(3)(c), which relates to Council's power to suspend a registration of premises, where a proprietor of a food premises fails to comply with a direction given under s 19FA(1).

ENGAGEMENT

Not applicable.

4.13 (Cont.)

COMMUNICATIONS PLAN

Once approved, the public register of delegations required under section 11 (8) of *the Act* will be updated on the Shire website and the Instrument of Delegation will be made available to Shire officers.

LEGAL AND REGULATORY FRAMEWORK

The power of delegation under section 11 of *the Act* is a power to delegate Council's powers under *the Act* or any other act to the CEO who then may sub-delegate those powers pursuant to section 47 of *the Act*.

CLIMATE AND SUSTAINABILITY CONSIDERATIONS

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

OFFICER DIRECT OR INDIRECT INTEREST

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

4 CONFIDENTIAL ITEMS

Advice to the Public

All reports, information and recommendations contained in 'Section 4 – Confidential Items' of this Agenda have been designated by the Chief Executive Officer as confidential pursuant to section 66 (2) (a) of the *Local Government Act 2020*.

MEETING CLOSED TO THE PUBLIC

The Council may resolve that the meeting be closed to members of the public in accordance with section 66 (5) (a) of the *Local Government Act 2020* if the meeting is discussing any of the following:

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.
- (b) Security information, being information that if released is likely to endanger the security of Council property or the safety of any person.
- (c) Land use planning information, being information that if prematurely released is likely to encourage speculation in land values.
- (d) Law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person.
- (e) Legal privileged information, being information to which legal professional privilege or client legal privilege applies.
- (f) Personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.
- (g) Private commercial information, being information provided by a business, commercial or financial undertaking that:
 - (i) Relates to trade secrets.
 - (ii) If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
- (h) Confidential meeting information, being the records of meetings closed to the public under section 66 (2) (a).
- (i) Internal arbitration information, being information specified in section 145.
- (j) Councillor Conduct Panel confidential information, being information specified in section 169.
- (k) Information prescribed by the regulations to be confidential information for the purposes of this definition.
- (l) Information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.

RECOMMENDATION

That Council considers the confidential report listed below in a meeting closed to the public in accordance with section 66 (2) (a) of the *Local Government Act 2020*:

4.1 Australia Day Local Awards Selection Panel

This matter is considered to be confidential under section 3 (1) f of the *Local Government Act 2020* as it contains personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.