



**MORNINGTON  
PENINSULA**  
*Shire*

**MINUTES**

**COUNCIL MEETING**

**MONDAY, 15 JULY 2024**

**6:30 PM**

**MUNICIPAL OFFICES  
BESGROVE STREET, ROSEBUD**

## MORNINGTON PENINSULA SHIRE COUNCIL

### WARDS AND COUNCILLORS

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

### EXECUTIVE TEAM

<b>Mr John Baker Ms Tanya Scicluna Ms Sam Stanton Mr Mike McIntosh Mr Derek Rotter Mr Bulent Oz</b>	<b>Chief Executive Officer Director – Community Strengthening Director – Corporate Strategy and Business Improvement Director – Planning and Environment Acting Director - Infrastructure Chief Financial Officer</b>
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### RECORDING

Please note that this Council Meeting was livestreamed to the Mornington Peninsula Shire's YouTube channel and a recording of the meeting is 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.

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# 1 OPENING AND WELCOME

Meeting opened at 6.32pm

Appointed Chairperson – Mayor Brooks

## 1.1 Acknowledgement of Country

(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

### Present

Mayor, Cr Simon Brooks (Chairperson)  
Cr Susan Bissinger  
Deputy Mayor, Cr Antonella Celi  
Cr Lisa Dixon  
Cr David Gill  
Cr Sarah Race  
Cr Kate Roper  
Cr Debra Mar  
Cr Anthony Marsh  
Mr John Baker, Chief Executive Officer

### 2.1 Apologies

Cr Steve Holland (Apology)  
Cr Despi O'Connor (Apology)

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

Cr Roper, declared a general, Conflict of Interest in regard to item 3.1, Planning Application - P22/1433 - 530 Stumpy Gully Road, Balnarring - Development of telecommunications facility, as Cr Roper lives within the green wedge area the tower is proposing to service.

### 3 MANAGEMENT REPORTS

#### PLANNING & ENVIRONMENT

##### 3.1 Planning Application - P22/1433 - 530 Stumpy Gully Road, Balnarring - Development of telecommunications facility

###### Attendance

Having disclosed a conflict of interest Cr Roper, left the meeting at 6.34pm and returned to the meeting at 7.08pm, after the matter had been finalised. Cr Roper, took no part in the discussion or voting on this item.

###### Deputations

- Simon Howd
- Paul Rosenblum
- Andrew Dewhurst
- Chris Hayes

###### **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 P22/1433 for the development of a telecommunications facility, at 530 Stumpy Gully Road Balnarring, be supported and that a Planning Permit be issued subject to the following conditions:

###### Amended plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority (RA) must be submitted to and approved by the RA. 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. All external finishes of the facility (including monopole) to be muted in tone and detailed on the development plans.

###### Development layout not altered

2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the RA (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 Planning Scheme).

###### External Finishes

**3.1 (Cont.)**

3. The exterior finishes must be of a non-reflective nature to the satisfaction of the RA.

## Telecommunications facility

4. The telecommunications facility must comply to the satisfaction of the RA with the ARPANSA 'Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300GHz (2002)', or such other standard as is adopted from time to time by the Australian Communications Authority.
5. 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 RA. 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.
6. Noise levels generated by the approved telecommunications facility must 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).

## Construction Management

7. A construction management plan (CM plan) must be submitted to the RA. The CM plan must be prepared to the satisfaction of the RA and include measures to minimise soil disturbance, erosion and sediment control during construction to protect the adjoining creek. The CM plan must be endorsed prior to buildings and works commencing.

## Internal Access

8. 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 RA.

## Earthworks

9. 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 RA. 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 RA.

## Expiry

10. This permit will expire if the development is not completed within four 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 RA for an extension of the period referred to in this condition.

## Part B

That Council resolves that Attachments 4 and 6 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, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

## 3.1 (Cont.)

**COUNCIL DECISION**

Moved: Cr Gill

Seconded: Cr Bissinger

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 P22/1433 for the development of a telecommunications facility, at 530 Stumpy Gully Road Balnarring, be supported and that a Planning Permit be issued subject to the following conditions:

**Amended plans**

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority (RA) must be submitted to and approved by the RA. 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. All external finishes of the facility (including monopole) to be muted in tone and detailed on the development plans.
  - B. Amending the location of the telecommunications tower and its ancillary components to approximately 200 metres north east of the current proposed location. The tower must be a minimum of 30 metres from the vegetation line or Warringine Creek (whichever is the lesser).

**Development layout not altered**

2. The approved development as shown on the endorsed plans must not be altered without the prior written consent of the RA (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 Planning Scheme).

**External Finishes**

3. The exterior finishes must be of a non-reflective nature to the satisfaction of the RA.

**Telecommunications facility**

4. The telecommunications facility must comply to the satisfaction of the RA with the ARPANSA 'Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300GHz (2002)', or such other standard as is adopted from time to time by the Australian Communications Authority.
5. 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 RA. 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.
6. Noise levels generated by the approved telecommunications facility must not exceed the noise limits determined in accordance with Environment Protection

**3.1 (Cont.)**

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).

**Construction Management**

7. A construction management plan (CM plan) must be submitted to the RA. The CM plan must be prepared to the satisfaction of the RA and include measures to minimise soil disturbance, erosion and sediment control during construction to protect the adjoining creek. The CM plan must be endorsed prior to buildings and works commencing.

**Internal Access**

8. 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 RA.

**Earthworks**

9. 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 RA. 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 RA.

**Expiry**

10. This permit will expire if the development is not completed within four 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 RA for an extension of the period referred to in this condition.

**Part B**

That Council resolves that Attachments 4 and 6 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, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

**Carried Unanimously**

### 3.2 Structure Plan Progress Reports

#### RECOMMENDATION

That Council:

1. Receives and notes the progress report relating to the Structure Plans for Balnarring, Baxter, Somerville, Crib Point, Hastings Town Centre, Mornington Activity Centre, Rosebud Activity Centre, Rye and the Western Port Coastal Villages and Surrounding Settlements Strategy, as contained in Attachment 1 of this report.
2. Receives future progress reports on all adopted Structure Plans every two years as part of Council briefings and that these reports are published on Council's website following the Council briefing.

#### COUNCIL DECISION

Moved: Cr Gill  
Seconded: Cr Celi

That Council :

1. Receives and notes the progress report relating to the Structure Plans for Balnarring, Baxter, Somerville, Crib Point, Hastings Town Centre, Mornington Activity Centre, Rosebud Activity Centre, Rye and the Western Port Coastal Villages and Surrounding Settlements Strategy, as contained in Attachment 1 of this report.
2. Receives future pre-budget progress reports on all adopted Structure Plans yearly after a Council briefing and that these briefing reports are published in full on Council's website.

#### AMENDMENT

Moved: Cr Race  
Seconded: Cr Mar

3. Amends the progress report for the Rye Township Plan, as contained in Attachment 1 of this report, to note the following:
  - A. Action A12 – Compact roundabouts have been constructed at Ozone Street, Field and Shirlow Avenue and Government Road and Waratah Street.
  - B. Action A13 – Following a trial, the pop-up outdoor dining space within on-street carparking areas was removed.
  - C. Action A16 – A compact roundabout has been constructed at Hygeia and Bimble Streets.

**Carried Unanimously**

The Amendment then became part of the Substantive Motion.

The substantive motion was then put.

**Carried Unanimously**

### 3.3 C256morn and CP22/002 - DPO and Subdivision, 4 Bundara Crescent, Mount Eliza - Post-exhibition

#### Deputations

- David Bergin

#### **RECOMMENDATION**

That Council:

1. Receives, notes, and considers in accordance with sections 96B and 22 of the *Planning and Environment Act 1987*, all submissions received in response to Amendment C256morn and Planning Permit CP22/002 at Attachment 1.
2. Notes and endorses the summary of submissions and Shire officer responses to submissions in relation to Amendment C256morn and Planning Permit CP22/002 at Attachment 2.
3. Requests that the Minister for Planning appoint a Planning Panel to consider submissions in relation to Amendment C256morn and Planning Permit CP22/002 referred in accordance with section 23 of the *Planning and Environment Act 1987*.
4. Refers all submissions in relation to Amendment C256morn and Planning Permit CP22/002 to the Planning Panel.
5. Endorses the following documents, which include those that have been revised to accommodate potential post-exhibition changes, for the purpose of Council's advocacy position before the Planning Panel:
  - A. Revised Explanatory Report at Attachment 3
  - B. Revised Schedule 21 to the Development Plan Overlay at Attachment 4
  - C. Revised draft Planning Permit CP22/002 at Attachment 5
6. Delegates authority to the Director of Planning & Environment to determine the form of Council's submissions to the Planning Panel, including negotiating proposed changes to the endorsed version of Amendment C256morn and Planning Permit CP22/002, in order to resolve matters between Council, the proponent, and submitters generally in accordance with the officer's response at Attachment 2 and adopted Council policy.
7. Notifies the proponent and all submitters to Amendment C256morn and Planning Permit CP22/002 in writing of Council's decision.

#### **COUNCIL DECISION**

**Moved:** Cr Marsh

**Seconded:** Cr Race

**That the recommendation be adopted.**

**Carried Unanimously**

**3.4 TAC Infrastructure Grant Program 2024- Dundas Street Pedestrian Safety Improvements**

**RECOMMENDATION**

That Council:

1. Endorses a grant application for Dundas Street, Rye Pedestrian Improvements in the Transport Accident Commission (TAC) 2024 Local Government Grant Program.
2. Contributes up to \$100,000 of road safety budget already funded within Council's FY24/25 capital works budget to meet the matched funding requirements of the grant.

**COUNCIL DECISION**

**Moved: Cr Race**

**Seconded: Cr Bissinger**

**That the recommendation be adopted**

**Carried Unanimously**

## COMMUNITY STRENGTHENING

### 3.5 Draft We All Belong: A Strategy for an Inclusive Mornington Peninsula - Public Exhibition

#### RECOMMENDATION

That Council endorses the draft 'We All Belong' Strategy for the purpose of commencing a three-week period of public exhibition period.

#### COUNCIL DECISION

Moved: Cr Celi

Seconded: Cr Mar

That the recommendation be adopted .

**Carried Unanimously**

### 3.6 Housing and Homelessness Update

#### RECOMMENDATION

That Council

1. Notes the housing and homelessness update report.
2. Continues to advocate to the State and Federal Government to support crisis housing, social housing and funding for additional services urgently needed.

#### COUNCIL DECISION

Moved: Cr Gill  
Seconded: Cr Race

That Council

1. Notes the housing and homelessness update report.
2. Continues to advocate to the State and Federal Government to support crisis housing, social housing and funding for additional services urgently needed.
3. Considers another promotion at Queens Hall Parliament House as soon as possible promoting urgent action to assist homeless people on the Mornington Peninsula including a short stay accommodation levy.
4. Asks the State Government to review, in light of their demand to increase the number of houses to be built on the Mornington Peninsula to 31,000 new homes by 2051:
  - A. The functioning of small secondary dwelling legislation and how this may better be used to help with affordable housing rather than left to increase the number of dwellings available for short term accommodation.
  - B. Surplus Government land on the Mornington Peninsula being sold to the highest bidder that may be used in conjunction with the building industry to increase the proportion of affordable housing in their development mix.
  - C. The long-term stagnation of Port of Hastings surplus land to help with industry related economic development and low-cost housing for employees.
5. That Council writes to each of our local State and Federal members, both upper and lower house, with a copy of this report. Noting the power of work we've undertaken to support our community and asking for their support and commitment to alleviate the housing crisis on the Mornington Peninsula.

**Carried**

## **CORPORATE STRATEGY & BUSINESS IMPROVEMENT**

### **3.7 Play Our Way Program - Recommended Grant Submission**

#### **RECOMMENDATION**

That Council:

1. Endorses the project, Sorrento Netball Courts, for submission to the Play Our Way Program if invited to proceed to full grant application.
2. Contributes at least the \$395,000 already funded within Council's current capital works budget, if the Play Our Way grant submission is successful.

#### **COUNCIL DECISION**

**Moved: Cr Race**  
**Seconded: Cr Bissinger**

That Council:

1. **Endorses the project, Sorrento Netball Courts, for submission to the Play Our Way Program if invited to proceed to full grant application.**
2. **Contributes at least the \$395,000 already funded within Council's current capital works budget, if the Play Our Way grant submission is successful.**
3. **That Council notes and refers the Elsie Dorrington , Truemans Road Reserves and R,J Rowley Reserve Netball Courts upgrade and repairs to future budget process and for consideration in grant opportunities.**

**Carried**

## INFRASTRUCTURE

### 3.8 CN2739 - Mornington Community Animal Shelter

#### RECOMMENDATION

That Council:

1. Having considered all tender submissions, hereby accepts the tender submission received from Tenderer D for the lump sum value of \$XXX plus \$XXX GST being for CN2739 Mornington Community Animal Shelter upgrade.
2. Approves the contingency sum identified within the confidential section of this report, which is not to be disclosed to the tenderer until and if required by a contract variation.
3. The additional funding required to complete the project as identified in the confidential section of this report is to be allocated in FY2025/2026 financial year budget as part of the Capital Works budget process.

Delegates the execution of the contract for the awarded tender to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.

Part B

That Council resolves the 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.

#### COUNCIL DECISION

**Moved: Cr Gill**  
**Seconded: Cr Bissinger**

That Council:

1. **Having considered all tender submissions, hereby accepts the tender submission received from Devco Project & Construction Management Pty Ltd for the lump sum value of \$4,491,960.00 plus \$449,196GST being for CN2739 Mornington Community Animal Shelter upgrade.**
2. **Approves the contingency sum identified within the confidential section of this report, which is not to be disclosed to the tenderer until and if required by a contract variation.**
3. **The additional funding required to complete the project as identified in the confidential section of this report is to be allocated in FY2025/2026 financial year budget as part of the Capital Works budget process.**
4. **That there be a budget cap of \$6 million on the total capital expenditure for the delivery of the Mornington Community Animal Shelter Project.**

**3.8 (Cont.)**

**Delegates the execution of the contract for the awarded tender to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.**

**Part B**

**That Council resolves the 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.**

**Carried Unanimously**

**3.9 CN2599 Flinders Civic Hall Redevelopment - Contract Over Expenditure Variation Request**

**RECOMMENDATION**

That Council:

1. That Council approves a Contract Over Expenditure of \$88,497.53 plus \$8,849.75 GST to finalise CN2599 Flinders Civic Hall Redevelopment contract.

**COUNCIL DECISION**

**Moved: Cr Gill**  
**Seconded: Cr Roper**

**That the recommendation be adopted.**

**Carried Unanimously**

## 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 Review of the Audit and Risk Committee Charter and Independent Member Re-appointment.**

This matter is considered to be confidential under Section 3 (1) f of the *Local Government Act 2020*. 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.

**COUNCIL DECISION**

**Moved: Cr Celi**  
**Seconded: Cr Race**

**That the recommendation be adopted.**

**Carried Unanimously**

## **5 MEETING CLOSE**

As there was no further business, the meeting closed at 9:04pm

**Confirmed this 23<sup>rd</sup> day of July 2024.**

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**Mayor, Simon Brooks, Chairperson - Council**