



**MORNINGTON  
PENINSULA**  
*Shire*

**AGENDA**

**COUNCIL MEETING**

**TUESDAY, 28 MAY 2024**

**6:30PM**

**BALNARRING COMMUNITY HALL  
3035 FRANKSTON-FLINDERS ROAD,  
BALNARRING**

## 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 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.

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# 1 OPENING AND WELCOME

Appointed Chairperson – Mayor, Cr Simon Brooks

## 1.1 Acknowledgement of Country

To be read by Cr Mar

*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***

### **2.3 Confirmation of Minutes**

#### **RECOMMENDATION**

**That the Minutes of the previous Council Meeting held on 14 May 2024, be confirmed.**

### **2.4 Councillor Briefing Sessions**

Councillor Briefing Sessions – 7 May 2024

#### **RECOMMENDATION**

**That Council receives and notes the record of Councillor Briefing Sessions for 7 May 2024.**

## 2.5 Council Decision Register

- Attachment(s)
1. 2019 Council Decision Register [⇒](#)
  2. 2020 Council Decision Register [⇒](#)
  3. 2021 Council Decision Register [⇒](#)
  4. 2022 Council Decision Register [⇒](#)
  5. 2023 Council Decision Register [⇒](#)
  6. 2024 Council Decision Register [⇒](#)

### PURPOSE

Council has requested a Decision Register for all its Council resolutions to be maintained by Shire Team Leaders and Managers.

Attached are Summaries of the 2019-2024 Decision Registers (Attachments 1-6) as at 20 May 2024.

### RECOMMENDATION

**That Council receives and notes the Decision Register Summaries for 2019-2024 (Attachments 1-6) as at 20 May 2024.**

**2.6 Public Question Time**

Questions from the public shall be dealt with at commencement of the meeting.

The aim of public question time is to provide an opportunity for the public to ask general questions at Council Meetings requiring routine responses. Questions with or without notice can be submitted.

Questions with notice are to be received in writing by 12.00pm the Friday prior to the relevant Council Meeting and can be lodged via the Shire's website. Questions received by this time will be provided with a considered response prepared by the relevant Shire officer and read by the Chief Executive Officer (CEO) at the Council Meeting.

Questions without notice must be lodged in person no later than 15 minutes prior to the commencement of the meeting. The question will be read by the CEO and taken on notice with a written response forwarded to the person asking the question within 7 days of the Council Meeting and published on the Shire's website.

This segment does not substitute for appeal or other formal business procedures with the Council.

### 3 COUNCILLORS AND DELEGATES REPORTS

At each Council Meeting, all Councillors will have the opportunity to provide an overview of any meetings attended as an appointed representative of Council.

If a Councillor chooses to provide details, the name of the conference/event and the Councillor attending will be noted in the Minutes for that meeting. If a Councillor requires additional information on the conference/event to be included in the Minutes, the Councillor must submit it in writing to Governance by 12.00 noon the day following the meeting.

Association/Committee	Representative/s	Substitute Representative/s	Shire Contact
Arts and Culture Advisory Panel	Cr Gill	Cr Dixon Cr O'Connor	Tori Hayat, Team Leader – Arts and Culture
Association of Bayside Municipalities	Cr Marsh	Cr Roper	Laura Crilly, Team Leader – Water and Coasts
Audit and Risk Committee	Cr Marsh Cr Roper	Mayor	Bulent Oz, Chief Financial Officer
Australian Coastal Councils	Cr Race	N/A	Laura Crilly, Team Leader – Water and Coasts
Bass Park Trust	Cr Marsh	N/A	Pam Vercoe, Manager – Legal and Governance
Community Consultative Committee on Gaming	Cr O'Connor	Cr Dixon	Kathleen van der Weerden, Social Planning Officer and Kate Hills, Team Leader – Community Wellbeing
Climate Emergency Community Reference Group	Cr Race	Cr Roper	Chris Yorke, Energy and Carbon Management Officer
Disability Advisory Committee	Cr Dixon	Cr O'Connor	Monica Seal, Disability Community Inclusion Officer
Friends of Lospalos	Cr Brooks	N/A	Chris Munro, Manager – Community Partnerships
Greater South East Melbourne	Mayor	Deputy Mayor	John Baker, Chief Executive Officer
Hastings Liquor Industry Accord	Cr Dixon	N/A	Katherine Cooper, Team Leader – Economic Development
Health and Wellbeing Committee	Cr Celi	Cr O'Connor	Kate Hills, Team Leader – Community Wellbeing
Hinterland Local Area Action Plan Advisory Committee	Cr Mar	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Interface Councils	Mayor	Deputy Mayor	Emma Lindsay, Coordinator – Advocacy

<b>Association/Committee</b>	<b>Representative/s</b>	<b>Substitute Representative/s</b>	<b>Shire Contact</b>
Koala Conservation Group	Cr Mar	N/A	James Rose, Team Leader – Natural Systems
Local Government Mayoral Taskforce Supporting People Seeking Asylum	Cr Brooks	Cr Race	Chris Munro, Manager – Community Partnerships
Metropolitan Transport Forum	Cr O'Connor	Cr Celi	Justine Lewis, Transport Strategy Coordinator
Mornington Liquor Industry Accord	Cr O'Connor	N/A	Katherine Cooper, Team Leader – Economic Development
Mornington Peninsula and Western Port Biosphere Reserve Foundation – Council Liaison Group	Cr Mar	Cr Race	James Rose, Team Leader – Natural Systems
Mornington Peninsula Cemetery Trust	Cr Celi Cr O'Connor Cr Roper	Cr Holland	Jenny Brown, Senior Cemeteries Officer
Municipal Association of Victoria (MAV)	Mayor	Deputy Mayor	Pam Vercoe, Manager – Legal and Governance
MAV Emergency Management Committee	Cr Mar	N/A	Andrew Joseph, Team Leader – Community Resilience and Emergency
MAV Human Services Committee	Cr Celi	N/A	Tanya Scicluna, Director – Community Strengthening
Northern Mornington Peninsula Local Area Action Plan Advisory Committee	Cr O'Connor	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Peninsula Advisory Committee for Elders	Cr Dixon	Cr Roper	Helen Ridgeway, Positive Ageing Officer
South East Councils Climate Change Alliance	Cr Race	Cr Brooks	Nicci Tsernjavski, Climate Change Partnerships Officer and Chris Yorke, Energy and Carbon Management Officer
Southern Mornington Peninsula Local Area Action Plan Advisory Committee	Cr Celi	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Southern Peninsula Liquor Industry Accord	Cr Celi	N/A	Katherine Cooper, Team Leader – Economic Development
Triple A Housing Committee	Cr Gill	Cr O'Connor	Kate Hills, Team Leader – Community Wellbeing
Victorian Local Governance Association (VLGA)	Cr Roper	Cr Mar	Pam Vercoe, Manager – Legal and Governance

<b>Association/Committee</b>	<b>Representative/s</b>	<b>Substitute Representative/s</b>	<b>Shire Contact</b>
Western Port Local Area Action Plan Advisory Committee	Cr Dixon	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment

## 4 MANAGEMENT REPORTS

### CORPORATE STRATEGY & BUSINESS IMPROVEMENT

#### 4.1 Quarterly Community Report January - March 2024

Prepared By	Adam Wenczel, Innovation and Organisational Performance Officer; Jarrod Lawson, Team Leader - Corporate Performance
Authorised By	Director - Corporate Strategy and Business Improvement
Document ID	A13035704
Briefing Note Number	BN1896 – 21 May 2024
Attachment(s)	<ol style="list-style-type: none"><li>1. Quarterly Community Report January-March 2024</li><li>2. Community Report Summary</li></ol>

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#### EXECUTIVE SUMMARY

The purpose of this report is to present the Quarterly Community Report (Attachment 1) to a meeting of the Council, which is open to the public, in accordance with section 97 of the *Local Government Act 2020* (the Act). The summary (Attachment 2) contains key service highlights, customer fast facts, financial highlights, and a key highlight from each Strategic Objective.

#### RECOMMENDATION

**That the Quarterly Community Report January – March 2024 (Attachments 1 and 2) be received and noted.**

#### COUNCIL & WELLBEING PLAN

The Quarterly Community Report outlines progress against each of the Council and Wellbeing Plan's Strategies for the second quarter of 2023-2024.

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

Theme 2: A robust, innovative and diverse economy.

Theme 3: A flourishing, healthy and connected community.

#### 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 G and I, which are:

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

Not applicable.

**4.1 (Cont.)****DISCUSSION****Purpose**

The Quarterly Community Report is a key component of our accountability to the community. It provides the community with a detailed overview of the Council's activities during the quarter, reporting items of achievement and progress in alignment with the Council and Wellbeing Plan 2021-2025 and covers the financial performance and position of the Council.

**Background**

The Quarterly Community Report outlines progress against each of the Council and Wellbeing Plan's Strategies and the actions from our Annual Plan and includes two-page Community Highlights for each Theme. The report also includes sections on community engagement, highlighting some fast facts on how the community has engaged with the Mornington Peninsula Shire (Shire) and the various 'have your say' activities for the quarter, as well as Service Highlights, Key Achievements of the Climate Emergency Plan, and updates on major projects, including Capital Works.

Presentation of the Quarterly Community Report ensures compliance with section 97 of the Act in relation to budget reporting. Financial commentary is provided in the summary Finance Report at an organisational level in a Standard Financial Statements format. The Finance Report includes a user-friendly financial highlights section for the community, financial commentary and the status of key priority projects and capital works.

**Council and Wellbeing Plan Highlights**

The activities outlined in the January – March 2024 Quarterly Community Report demonstrate the ways in which the Council has not only sought to deliver on our Council and Wellbeing Plan 2021-2025 but maintained its focus on our community. Some highlights over the quarter include:

- Celebrating the winners of our Australia Day Local Awards.
- Our 2024 Citizens' Panel meeting for the first time.
- Hosting a Fair Access Breakfast in the lead up to International Women's Day.
- Committing an additional \$150,000 to our community support centres.
- Launching a 12-month trial to hand-clean our beaches.
- Hosting the Multicultural Festival.
- Announcing successful tenderers for our Road Corridors, Open Spaces Maintenance, Bushland Management, and Tree Management contracts.
- Asking our community to help name our Southern Peninsula Youth Hub.
- Making Saturday Maternal Child Health sessions available.
- Adopting our Pedestrian Access Strategy.
- Sharing the draft Strategic Plan for the Peninsula Trail with our community for feedback.
- Completing the Flinders Civic Hall Redevelopment.

**4.1 (Cont.)**

- Resurfacing the Netball Courts at Somerville Recreation Reserve.
- Completing the Briars Culvert Bridge upgrade.
- Asking our community for contributions and feedback to help shape our 2024-25 Budget.

**Financial**

- Cash position remains strong at \$166.3 million driven by prior year Capital Works carry forwards and February 2024 being the annual payment for rates.
- Net Operating position of \$82.6 million Year to Date (YTD) – a 21% decrease to Forecast YTD.
- YTD spent on Capital Works projects is \$36.1 million (net \$20.3 million).
- \$3.4 million in grants, subsidies and sponsorships have been approved for payment YTD.
- \$1.6 million in loan repayments YTD has reduced total borrowings to \$33.9 million.
- \$105.6 million invested in term deposits, \$52.3 million held in at-call accounts and \$8.4 million of funds are held in Trust.

**Options for consideration**

Not applicable.

**ENGAGEMENT**

Not applicable.

**COMMUNICATIONS PLAN**

Once noted, the Quarterly Community Report and Summary will be made available on the Shire's website. The summary and report will also be promoted on the Shire's social media channels.

**LEGAL AND REGULATORY FRAMEWORK**

In accordance with section 97 of the Act, the Chief Executive Officer must ensure that a quarterly budget report is presented to the Council at a Council Meeting that is open to the public (as soon as practicable after the end of each quarter of the financial year).

**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.

## OFFICE OF THE CEO

### 4.2 Adoption of the 2024/2025 Annual Budget

Prepared By	Mark Schubert, Manager - Finance
Authorised By	Chief Executive Officer
Document ID	A13108222
Briefing Note Number	Not applicable
Attachment(s)	TBA

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*Late report – to be circulated separately*

## PLANNING & INFRASTRUCTURE

### 4.3 Planning Scheme Amendment C286morn - Updated Sorrento Built Form Review and Amendment Documents for Re-exhibition

Prepared By	Christian Lynch, Senior Strategic Planner
Authorised By	Director - Planning and Environment
Document ID	A13045387
Briefing Note Number	BN1866 26 March 2024 and BN1873 23 April 2024
Attachment(s)	<ol style="list-style-type: none"> <li>1. Ocean Beach Road Sorrento: Built Form Review (November 2021)</li> <li>2. Proposed DDO28 control</li> <li>3. Amendment C286morn – Submissions 1 to 35 (redacted)</li> <li>4. Amendment C286morn – Submissions 36 to 76 (redacted)</li> <li>5. Urban Design Peer Review (Kinetica Studios)</li> <li>6. Planning Peer Review (Glossop Town Planning)</li> <li>7. Supplementary Planning Advice (Glossop Town Planning)</li> <li>8. Amendment C286morn - Ocean Beach Road Sorrento Built Form Review Report (May 2024)</li> <li>9. Amendment C286morn - CI 11.03-1L-01</li> <li>10. Amendment C286morn - Revised DDO28 (May 2024)</li> <li>11. Amendment C286morn - Explanatory Report</li> <li>12. Amendment C286morn - Instruction Sheet</li> <li>13. Amendment C286morn - DDO28 map</li> <li>14. Amendment C286morn - Delete DDO map</li> <li>15. Amendment C286morn - DDO10</li> <li>16. Amendment C286morn - 72.04s</li> <li>17. Amendment C286morn - 72.08s</li> <li>18. Amendment C286morn - 74.01s</li> <li>19. Amendment C286morn - Heritage Design Guidelines: Sorrento Historic Precinct</li> <li>20. Officer response to key submission issues</li> <li>21. Officer response to individual submissions</li> <li>22. Amendment C305morn - Explanatory Report (Prescribed)</li> <li>23. Amendment C305morn - Instruction Sheet</li> <li>24. Amendment C305morn - 43.02s28</li> <li>25. Amendment C306morn - Explanatory Report - 20(4)</li> <li>26. Amendment C306morn - Instruction Sheet</li> <li>27. Amendment C306morn - 72.04s</li> <li>28. Amendment C306morn - 43.01s</li> </ol>

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### EXECUTIVE SUMMARY

The purpose of this report is to present a revised version of the Ocean Beach Road Sorrento Built Form Review (Built Form Review) for adoption and recommend that Council re-exhibit an associated updated version of proposed Planning Scheme Amendment C286morn.

Amendment C286morn is seeking to replace the existing interim Schedule 28 to the Design and Development Overlay (DDO28) that currently applies to Sorrento's Ocean Beach Road commercial precinct with a revised and permanent schedule containing mandatory building

**4.3 (Cont.)**

height and setback controls. The amendment is underpinned by the Built Form Review which was originally adopted by Council in 2021.

The purpose of the Built Form Review and Amendment C286morn is ensure that new development responds appropriately to the low-scale, coastal and historical character of the commercial precinct and protects views of significant heritage buildings and coastal dunes while allowing for reasonable growth to occur commensurate with the township's role and function.

The Built Form Review and Amendment C286morn have been revised in response to the findings and recommendations of independent peer reviews initiated by the Mornington Peninsula Shire (Shire) in 2023 due to issues raised in submissions following public exhibition of the amendment in 2022.

Re-exhibition of Amendment C286morn is recommended:

- Given the extent of changes made to the Built Form Review and associated DDO28 forming part of Amendment C286morn.
- To give landowners and submitters fair and reasonable opportunity to view and make submissions about the updated version of Amendment C286morn before Council decides next steps in the amendment process.
- To ensure Council avoids the potential for procedural defect in the planning scheme amendment process under the *Planning and Environment Act 1987*.

This report also recommends that Council submits two separate 'fast-tracked' amendment requests to the Minister for Planning seeking extensions to the expiry dates of the interim DDO28 (via Amendment C305morn) and Heritage Design Guidelines: Sorrento Historic Precinct' Incorporated Document (via Amendment C306morn) which are set to expire on 31 July 2024 and 30 June 2024 respectively.

**RECOMMENDATION**

**That Council:**

- 1. Adopts the Ocean Beach Road Sorrento – Built Form Review Report (MPS, Design Urban, Glossop Town Planning, May 2024) as at Attachment 6.**
- 2. Endorses the revised version of Amendment C286morn to the Mornington Peninsula Planning Scheme as at Attachments 8 to 19 for the purposes of re-exhibition.**
- 3. Undertakes re-exhibition of Amendment C286morn to the Mornington Peninsula Planning Scheme in accordance with Section 19 of the *Planning and Environment Act 1987*.**
- 4. Authorises the Director – Planning and Environment to make editorial and/or administrative changes to documents contained in Attachments 8 to 19 to this report as required prior to re-exhibition.**
- 5. Authorises the Director – Planning and Environment to submit a request to the Minister for Planning to extend the expiry date of Amendment C286morn to the Mornington Peninsula Planning Scheme which is set to expire on 28 July 2024.**
- 6. Requests the Minister for Planning to prepare and approve proposed Amendment C305morn to the Mornington Peninsula Planning Scheme, pursuant to Section 20A of the *Planning and Environment Act 1987*, generally in**

**4.3 (Cont.)**

accordance with the documentation in Attachments 22 to 24 of this report to extend the expiry date of the existing interim Design and Development Overlay – Schedule 28 from 31 July 2024 to 31 July 2025.

7. Requests the Minister for Planning to prepare and approve proposed Amendment C306morn to the Mornington Peninsula Planning Scheme, pursuant to Section 20(4) of the *Planning and Environment Act 1987*, generally in accordance with the documentation in Attachments 25 to 28 of this report to extend the expiry date of the Heritage Design Guidelines: Sorrento Historic Precinct Incorporated Document from 30 June 2024 to 30 June 2026.
8. Authorises the Director – Planning and Environment to make editorial and/or administrative changes to documents in Attachments 22 to 28 to this report if required prior to lodgement of Amendments C305morn and C306morn to the Mornington Peninsula Planning Scheme with the Minister for Planning.
9. Notifies all submitters to Amendment C286morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.
10. Notifies any individuals that have requested to be provided with updates of Amendment C286morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.

**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.

**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, D 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.
- D. The municipal community is to be engaged in strategic planning and strategic decision making.
- I. The transparency of Council decisions, actions and information is to be ensured.

**RELEVANT COUNCIL DECISIONS AND POLICIES**

- At the 13 December 2021 Planning Service Committee Meeting, the Committee resolved to, amongst other things:
  - Adopt the Ocean Beach Road Sorrento Built Form Review (Design Urban, November 2021)

**4.3 (Cont.)**

- Seek authorisation from the Minister for Planning to prepare Amendment C286morn to the Mornington Peninsula Planning Scheme
  - Undertake exhibition of Amendment C286morn to the Mornington Peninsula Planning Scheme
  - Submit a request to the Minister for Planning to prepare and approve Amendment C242morn to extend the expiry date of the interim DDO28 by 18 months.
- At the 4 April 2023 Council Meeting, Council resolved to:
    - Submit a request to the Minister for Planning to prepare and approve Amendment C299morn to extend the expiry date of the interim DDO28 by 12 months.

**DISCUSSION****Purpose**

The purpose of this report is to present the outcomes of a detailed review and refresh of proposed Amendment C286morn to the Mornington Peninsula Planning Scheme (Amendment C286morn) and associated Ocean Beach Road Sorrento Built Form Review (November 2021) and recommend re-exhibition of a proposed revised version of the amendment.

The report also outlines the need to submit separate planning scheme amendment requests to the Minister for Planning to extend the expiry dates of the existing interim DDO28 (Amendment 305morn) and Heritage Design Guidelines: Sorrento Historic Precinct Incorporated Document (Amendment 306morn).

Finally, the report explains the need to request that the Department of Transport and Planning (DTP) extend the overall lapse date for Amendment C286morn to complete the planning scheme amendment process.

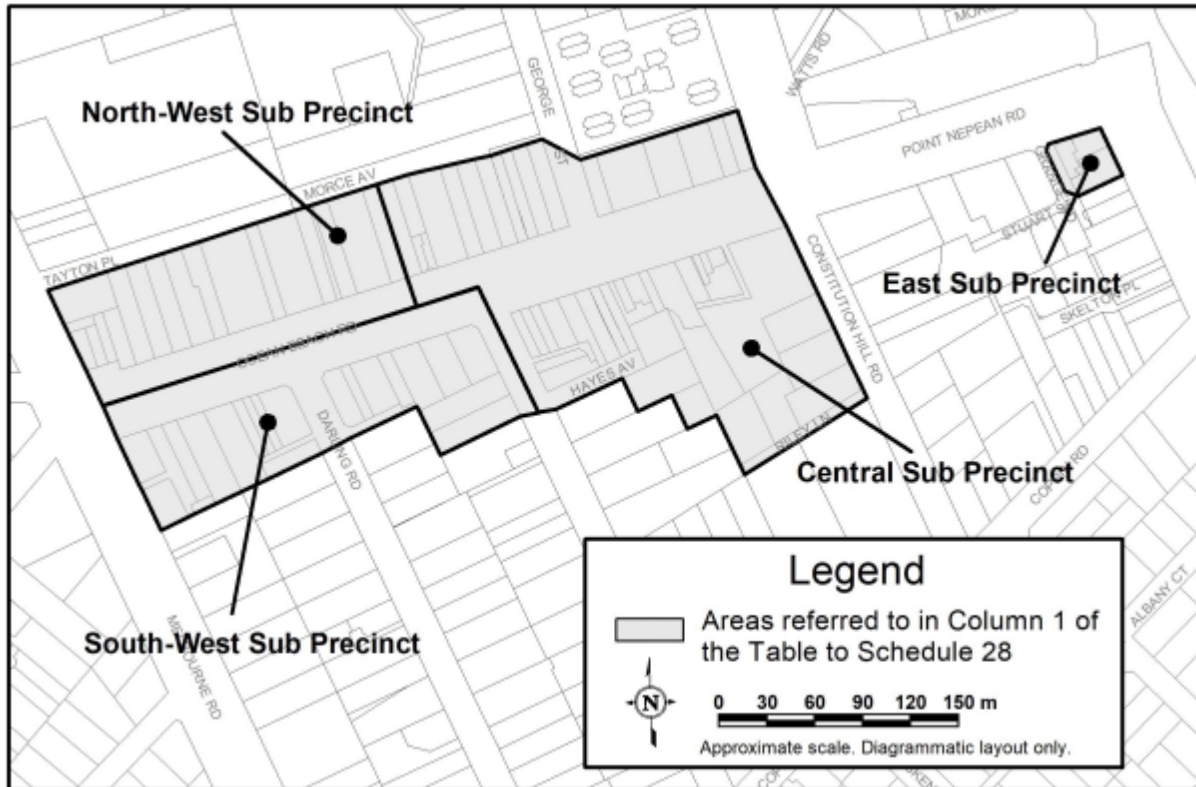
**Background**

Amendment C286morn seeks to implement the recommendations of Council's adopted Ocean Beach Road Sorrento Built Form Review (the Built Form Review) (Attachment 1). The amendment includes replacing the existing interim DDO28 that currently applies to Sorrento's Ocean Beach Road commercial precinct with a revised and permanent schedule containing mandatory building height and setback controls (Attachment 2). The extent of land to be covered by the revised DDO28 is shown in Figure 1.

The proposed controls within DDO28 are designed to ensure that new development responds appropriately to the low-scale, coastal and historical character of the commercial precinct and protects views of significant heritage buildings and coastal dunes while allowing for reasonable growth to occur commensurate with the township's role and function.

Without Amendment C286morn, the interim DDO28 will expire on 31 July 2024, meaning the Ocean Beach Road commercial precinct will cease to have mandatory design controls, leaving it vulnerable to inappropriate development (parts of the precinct will remain covered by the Heritage Overlay to protect heritage values).

Figure 1: Proposed revised DDO28 extent



The publicly exhibited version of revised DDO28 maintained the same maximum number of storeys as the existing interim DDO28 in all but the east sub-precinct but allowed for an extra metre of building height and less onerous upper-level setbacks. Key changes included:

- Maintaining a maximum two storeys at the street frontage but increasing the height from 8 to 9 metres.
- Maintaining a maximum three storeys at upper levels but increasing the height from 11 to 12 metres.
- Reducing the minimum setbacks of third storeys from 8 to 4 metres.

Increasing the maximum allowable meterage of buildings by one metre within the same number of storeys was designed to align height controls with industry standards for retail and residential floor-to-ceiling heights and the proportions of prominent existing heritage buildings in the precinct.

### **Public exhibition outcomes**

Amendment C286morn was publicly exhibited for 12 weeks between 28 July and 24 October in 2022.

Notification of the amendment was provided to the community by:

- Mailout to all landowners and occupiers directly affected by the Amendment, owners and occupiers of land close to the Amendment area and wider Sorrento township, as well as local community groups and associations. (Consistent with Council's 13 December 2021 resolution, these notices specifically called for public feedback on the proposed controls for the East sub-precinct).
- Letters to all prescribed Ministers, local members of parliament, and public authorities.

**4.3 (Cont.)**

- Notices in Victorian Government gazette and three local newspapers.
- A dedicated page on the Shire's Planning Scheme Amendments webpage (<https://shape.mornpen.vic.gov.au/planning-scheme-amendment-c286morn>).

During exhibition, members of the community could contact Shire officers and discuss the amendment by:

- direct phone call to a Strategic Planner
- the online enquiry function on the above webpage
- writing to, or emailing the Shire's Strategic Planning Team or
- booking an in-person engagement session with a Shire Strategic Planner in Sorrento.

Shire officers responded to multiple phone calls and email enquiries and conducted one in-person engagement session as requested by an affected landowner in Sorrento.

In total, 73 submissions were received from a range of stakeholders including:

- landowners of properties directly affected by the Amendment
- landowners and occupiers directly adjacent the Amendment area
- local residents in the vicinity of the Amendment area
- other interested community members from across the Shire
- various community groups and associations including the Nepean Conservation Group, Nepean Historical Society and Nepean Ratepayers Association.

The Department of Transport and South East Water also made submissions to the amendment but only to confirm that they had no comment.

A copy of all submissions is contained in Attachments 3 & 4.

Eighty percent of submissions objected to the amendment in full or in part. Thirty-six objections related to proposed controls for the east sub-precinct.

Key themes or issues raised in objecting submissions are summarised as follows:

**East sub-precinct**

- A desire to see the East sub-precinct removed from the Amendment entirely.
- Opposition to the proposed controls in the East sub-precinct, namely the increase in mandatory maximum building height to three storeys / 12 metres, and requirement for the first (ground level) and second floors to be built to the street boundary instead of set back to match adjoining properties.
- Concern that the proposed controls for the East sub-precinct – which is considered a 'gateway' to the precinct – will result in buildings that are inappropriate and out of proportion with nearby heritage buildings, and will block sightlines to existing heritage buildings (including the Stringers Store buildings and the Continental Hotel), the foreshore and for vehicles using Point Nepean Road.

**4.3 (Cont.)**Central sub-precinct

- Concern that new buildings taller than two storeys will lead to ‘overdevelopment’ of the Stringer Store sites.
- Concern that future commercial development on the north side of Ocean Beach Road could overshadow neighbouring residential properties between George Street and Point Nepean Road, with submitters calling for rear building setback requirements in this area.

Issues with other sub-precincts and the overall amendment

- Concern that the proposed building heights of three storeys / 12 metres are inappropriate and should be reduced to two storeys / 8 metres across the entire commercial precinct to maintain the existing character and streetscape of Ocean Beach Road and prevent overdevelopment.
- Concerns with requiring new buildings to be built to the street boundary instead of set back to match adjoining properties.
- Opposition to the existing 8-metre third-storey setback being reduced to 4 metres.
- The need for an additional requirement in the DDO28 for new development to be constructed using materials that are similar to heritage buildings (e.g. limestone).
- The need for signage requirements to be included in the DDO to protect the heritage and character of the street.
- Opposition to the (existing) exemption of building service infrastructure (e.g. lift overruns, air conditioner units) to exceed the maximum height limit by 10%.
- The need to exempt some named lanes from proposed setback controls.
- Concerns about increased vehicle traffic caused by new development and the need for more car parking.

Two submissions expressed support for the amendment on the grounds that the amendment would retain the existing character and streetscape of the township, while another provided support for the proposed building height and setback requirements being discretionary (if there is opposition to mandatory controls), but only on the condition that the nominated maximum building heights and minimum setbacks remained as exhibited.

Ten separate submissions stated that they did not oppose the amendment but requested that properties 19 and 21 Constitution Hill Road be exempted from the mandatory first and second floor setbacks proposed for the Central sub-precinct to ensure that future development has a similar or the same setback from the road boundary as existing buildings along the road.

***Peer review process***

On 4 April 2023, Council resolved to request the Minister for Planning to approve Planning Scheme Amendment C299morn to extend the expiry date of the existing interim DDO28. The purpose of this extension was to allow Council time to further investigate issues raised in submissions to Amendment C286morn. The Minister approved Amendment C299morn in October 2023, extending the DDO28 expiry date to 31 July 2024.

Given the range and complexity of issues raised by submissions, Shire officers commissioned independent planning and urban design peer reviews of the Built Form

**4.3 (Cont.)**

Review and amendment. A summary of the peer review findings and recommendations is outlined below.

Urban design peer review

Kinetica Studio (Kinetica) was appointed to complete an urban design peer review of the proposed DDO28 (Attachment 5). Kinetica's review generally supported the DDO28 but recommended significant changes, including making most controls discretionary (as opposed to mandatory) and increasing building heights to four storeys across the commercial precinct. Importantly, the review acknowledged that it did not consider heritage matters.

In summary, key recommended changes included:

- Making street wall heights discretionary for properties on the western end of Ocean Beach Road (170-174 and 157-163).
- Increasing the maximum building height in all sub precincts to a discretionary four storeys.
- Replacing building setback requirements above the street wall to a requirement that upper levels have limited visibility from within Ocean Beach Road, including in oblique views, and introducing a building setback requirement above the street wall from side streets.
- Moving land within the central sub precinct with rear frontage to Morce Avenue into the north-west sub precinct.
- Amending the north-west sub precinct front setback requirement to a discretionary requirement to match neighbouring setbacks and excluding the 0 metre front building setback requirement for properties fronting Constitution Hill Road.
- Deleting the Morce Avenue building setback requirements within the north-west sub precinct (including land formerly within the central sub-precinct).
- Deleting the east sub precinct third storey setback requirement.
- Introducing a definition for building height within DDO28 to be the vertical distance from the footpath at the centre of the primary street frontage to the highest point of the building, excluding rooftop services.
- Introducing a street wall façade design provision to ensure that development maintains the existing character of white or cream masonry materials featuring vertical articulation.

Planning peer review

Glossop Town Planning (Glossop) undertook an initial planning peer review (Attachment 6) which concluded that the extent of mandatory controls proposed by the Amendment did not satisfy the criteria set out in Planning Practice Notes, including PPN60 (Height and Setback Controls for Activity Centres), noting that:

- The justification for mandatory controls provided by the Built Form Review appeared to be predominantly based on the heritage significance of the precinct with the locality's sensitive coastal context relied on as a secondary justification.
- However, the overall heritage significance of the precinct was reduced when properties to the south and southwest of Ocean Beach Road were removed from the Heritage

**4.3 (Cont.)**

Overlay in August 2022 by Amendment C262morn (which implemented Council's Heritage Review – Area 3: Blairgowrie, Sorrento and Portsea).

- The reduction in Heritage Overlay extent weakens the strategic justification for mandatory controls in the centre (except where the Heritage Overlay remains on the northern side of Ocean Beach Road).

Glossop therefore recommended that Council re-visit its strategic justification for the application of mandatory controls in the precinct having regard to the changes in heritage significance, and by providing more detail about the significance of the coastal environment and associated views to and from the activity centre.

***Built Form Review and DDO28 Refresh***

Given the findings of the above peer reviews, Shire officers commissioned a refresh of the Built Form Review to ensure the document provides the robust strategic justification required to support permanent built form controls in the Sorrento Activity Centre.

The refresh has been undertaken by Glossop in partnership with Design Urban (the original author of the Built Form Review) with input from the Shire's external heritage advisor – Landmark Heritage, as well as the Shire's planning, heritage and urban design officers.

The scope of the refresh was based on supplementary advice provided by Glossop (refer Attachment 7) following a detailed site inspection of the precinct by representatives of both Glossop and Design Urban, accompanied by Shire officers. In summary, Glossop's advice concluded that mandatory controls could be supported in the precinct because of:

- The presence of significant heritage places as identified by Heritage Overlays.
- The importance of preserving views to the Continental Hotel tower which is protected by a site-specific Heritage Overlay (HO257).
- The importance of preserving significant landscape views to sand dunes located to the west of the Activity Centre which are protected by the Environmental Significance Overlay – Schedule 24: Site of Scientific Significance.
- The importance of protecting the particularly sensitive east sub-precinct given its relationship to the foreshore and abutting residential interfaces.

Glossop identified a range of other matters to be addressed in the refresh which are detailed in Attachment 7 and summarised below, including:

- Whether sub-precinct boundaries are warranted or should be revised based on identified anomalies and the proposed replication of requirements across precincts.
- Excluding the east sub-precinct from DDO28 given its remoteness from the main commercial area and sensitive coastal interface and instead applying Design and Development Overlay – Schedule 3 (Coast and Landscape Design) (DDO3) to the site consistent with immediately abutting and nearby land. This would result in a mandatory maximum building height of 8 metres / 2 storeys. Consideration is recommended, however, as to whether the mandatory single dwelling requirement of this overlay should be removed for the site.
- Drafting of a General Requirement to manage the relationship between commercial properties along Ocean Beach Road and abutting residential properties in favour of the proposed mandatory '30 degree' setback requirement.

**4.3 (Cont.)**

- Replacing the mandatory requirement for a 5 metre setback in the north-west sub-precinct with a requirement that buildings be set back at least to match the larger setback of an immediately adjacent building.
- Providing additional guidance or requirements to manage common boundary arrangements and potential visual bulk between commercial developments within the centre.
- The definition of building height, including whether building height should be measured from a point in the centre of a site's frontage or from the footpath of Ocean Beach Road.
- Refining exemptions for features above prescribed height limitations (such as architectural features, masts, building services or enclosed stairwells)
- Clearer requirements and further guidance for building materials and colours to ensure buildings respond to the coastal themes, vertical proportions and colour schemes evident in the Activity Centre.
- Ensuring that the DDO28 sufficiently acknowledges heritage buildings, particularly in height and siting specifications. This includes providing guidance around intended outcomes for sites developed with heritage buildings – particularly for the single storey former dwellings which make up part of the north-west sub-precinct.
- Removing or refining the requirement for pedestrian connections between Ocean Beach Road and Morce Avenue given the connections are not defined or spatially mapped, and the need to set aside land for such connections (especially where heritage buildings exist) may constitute inefficient use and/or inappropriate design outcomes.
- Overall redrafting of the general and mandatory requirements to more clearly communicate intended outcomes.

The above matters have subsequently informed the revision of the Built Form Review and proposed DDO28 discussed below.

***Refreshed Built Form Review***

A revised version of the Built Form Review which responds to the findings and recommendations of the peer review work is included at Attachment 8. Overall, the document has been updated to provide:

- A comprehensive analysis of the Activity Centre's planning and physical context to identify overall opportunities and constraints that inform potential growth and future built form outcomes.
- A more thorough Built Form Framework based on modelling and testing which addresses various components of the Activity Centre, including the Ocean Beach Road streetscape, heritage buildings, detailed design (i.e. building materiality), the Morce Avenue interface, the east sub-precinct site, side streets, and residential interfaces to commercial development.

The Built Form Framework affirms the following development controls for all buildings abutting Ocean Beach Road:

- A maximum street wall height no greater than 9 metres or two storeys.

**4.3 (Cont.)**

- A maximum overall building height no greater than 12 metres.
- Only three levels of the building may be visible from the footpath directly opposite the relevant land in Ocean Beach Road.
- Any third level must be set back a minimum of 4 metres from Ocean Beach Road (for upper-level additions to non-heritage buildings).

The report confirms that the buildings heights have been modelled using purposely generous floor to floor heights, which respond to the character of older style buildings.

The report states that the above scale of development represents a modest increase to the prevailing existing building line, which improves the quality and sense of spatial containment within the streetscape and is consistent with the planning policy directions for area which is a designated Small Township Activity Centre in the planning scheme. The requirements also provide for minimal change, in a form that respects the existing character of the centre and does not overwhelm, and is sympathetic to, the existing heritage fabric.

The report states that the above controls should be mandatory because modelling shows that development outside these parameters would be clearly unacceptable by impacting significant views towards the sand dunes and the Continental Hotel tower and would dominate the streetscape and its valuable historical buildings.

Importantly, additional sensitivity modelling has been carried out to test the proposed 4-metre third storey setback to ensure that views to the sand dunes to the west of the Activity Centre are sufficiently protected. The modelling, included in Appendix A of Attachment 8, shows view lines towards the dunes from the Ocean Beach Road and George Street intersection.

The modelling shows the impact of the 4-metre setback relative to the 8-metre setback of the existing interim DDO28, noting that:

- From the middle of Ocean Beach Road looking west, even a generous upper-level setback of 8 metres reduces views to a section of the dunes on the southern side of the street.
- As setbacks are reduced to 4-metres, views to the dunes from the middle of Ocean Beach Road are lessened once again, however, the shape and form of the dunes is still evident above the modelled development.

Overall, the modelling demonstrates that a 4-metre setback strikes an appropriate balance between:

- preserving reasonable views to the environmentally sensitive dune landscape,
- providing a better sense of spatial containment and enclosure to the streetscape, and
- allowing for reasonable growth opportunities within the commercial precinct based on practical floorspace proportions (noting that 4-metres equates to a standard room dimension).

The report then recommends the following additional requirements:

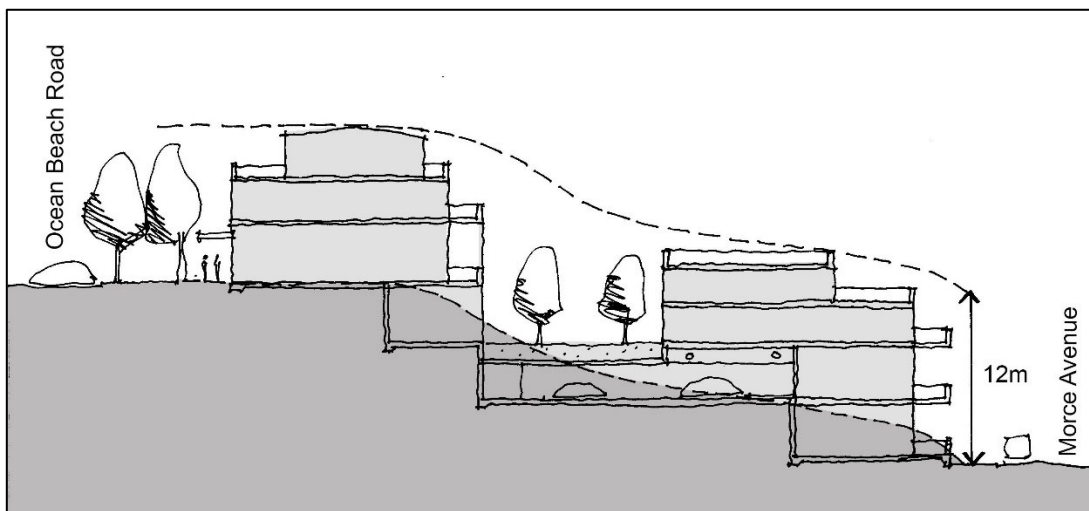
- **Heritage buildings:** Upper-level setbacks for additions or modifications to existing heritage buildings should be discretionary because, while it is important that future development does not 'crowd out' heritage fabric or compromise valued characteristics of the precinct, it is not possible to define a numerical setback given the diversity of heritage buildings. (That is, there may be some instances where an appropriate heritage outcome is achieved through varied setbacks).

## 4.3 (Cont.)

The front wall of new buildings on sites that adjoin heritage buildings should be set back to match the greater of any adjoining setbacks. As a discretionary requirement, this setback will protect the character of historically important buildings, but also provide a level of flexibility to consider design responses that reflect the diversity of heritage buildings.

- **Design detail:** Building facades should respect the verticality of the existing fabric within the streetscape and incorporate solid elements which frame windows and avoid substantial glazed components. Light, coastal colours should also be adopted to reflect the existing character of the precinct.
- **Morce Avenue:** While a 12 metre mandatory building height is required for Morce Avenue, it is unnecessary to also limit the number of building levels (i.e. storeys) because the local topography assists in allowing more development, given the land slopes steeply downwards from Ocean Beach Road to the north. This means that four level buildings in Morce Avenue can sit below the height of three level development facing Ocean Beach Road. A site section is provided below as an example of this.

Figure 2: Example cross section from Section 6.3 – Built Form Review document



- **'East sub-precinct' (3292-3295 Point Nepean Road):** Development must be limited to two storeys because of sensitive interfaces with the foreshore, abutting residential properties and heritage buildings including 'Quamby' (3317 Point Nepean Road). There is also a need to protect views to and from the foreshore and activity centre – including the Continental Hotel tower.

Further sensitivity modelling has been included in the updated Built Form Review which demonstrates the need for reasonable building setback requirements for this site. A requirement is recommended stipulating that buildings fronting Point Nepean Road should be set back from the street boundary to match the setback of a building on an adjacent lot, or the average of the setbacks of buildings on either side of a lot is also recommended. This controls allows for some flexibility so that an appropriate design response can be achieved on the site which reflects its prominent location at the 'gateway' of Sorrento.

- **Side streets:** Buildings on side streets should be subject to the following discretionary requirements which will reinforce a consistent and appropriate scale to development with some limited opportunities for growth:
  - A street wall height not exceeding two storeys or 9 metres.

**4.3 (Cont.)**

- A 4 metre setback to any level above the first floor.
- **Residential interfaces:** To address potential off-site amenity impacts on residential properties abutting Ocean Beach Road (particularly to the south), the following ResCode standards (Clause 55) should be applied:
  - Standard B17 Side and rear setbacks
  - Standard B19 Daylight to existing windows
  - Standard B20 North facing windows
  - Standard B21 Overshadowing open space
  - Standard B22 Overlooking
  - Standard B24 Noise impacts.

The document recommends that the following changes be made to the Mornington Peninsula Planning Scheme to implement the findings and recommendations of the Built Form Framework:

- Amend DDO28 to provide built form guidance in accordance with the Built Form Framework included in section 6 of the document.
- Make consequential changes to Clause 11.03-1L-01 (Activity centres – Mornington Peninsula) to exempt the Sorrento Activity Centre from the policy guidelines.

The proposed changes to Clause 11.03-1L-01 have been included in Attachment 9 to this report. The amending of DDO28 is detailed hereafter.

***Refreshed DDO28 and Amendment C286morn***

A refreshed DDO28 control reflecting the above recommendations has been prepared by Glossop and is provided in Attachment 10 to this report. Notably, the refreshed DDO28 does not contain sub-precincts. As addressed in the planning peer review by Glossop, sub-precincts were not considered necessary given the replication of requirements across precincts and a desire to simplify and clarify the expression of proposed controls with the overlay.

For clarity, below is a summary of how controls have been translated and updated in the refreshed DDO28.

**Mandatory requirements**

- Mandatory controls for buildings in the former Central, South West and North West sub-precincts remain unchanged. This includes:
  - Maximum street wall height of two storeys / 9 metres at the street boundary.
  - Maximum building height of three storeys / 12 metres.
  - Minimum 4 metre upper-level setback from Ocean Beach Road (some exemptions apply including heritage properties).
- A mandatory building height of 12 metres is now explicitly stated for properties abutting Morce Avenue, although no storey limit is given to provide design flexibility for the sloping properties to the north of Morce Avenue.

**4.3 (Cont.)**

- The 12-metre mandatory building height is also applied to properties abutting a side street or named laneway (such as Constitution Hill Road and Darling Avenue). This will reinforce a consistent scale of development across the entire commercial area and will not restrict growth opportunities to a limited number of properties fronting Ocean Beach Road.
- For the 3293-3295 Point Nepean Road site (former East sub-precinct):
  - The maximum building height has been reduced to two storeys / 9 metres.
  - The mandatory 0 metre building setback has been removed and replaced with a general requirement detailed below.

**General requirements**

- Buildings abutting side streets or named laneways now have a discretionary two storeys / 9 metre height limit and 4-metre upper-level setbacks to the street.
- Street boundary building setbacks have been altered. Buildings are no longer required to be built to the street boundary for any properties in the Activity Centre. Instead, a discretionary setback requirement is included which states that buildings abutting Ocean Beach Road should be built to the street boundary, unless they adjoin a heritage site on one or both sides where the building setback should match the heritage buildings. This provides flexibility for sites where a requirement to bring a building forward to the street wall boundary may not achieve the desired outcome for the streetscape.
- Buildings fronting Point Nepean Road (i.e. at 3293-3295 Point Nepean Road) should be setback from the front street boundary to match the setback of a building on an adjacent lot or the average of the setbacks of buildings on either side of a lot.
- An upper-level setback for development on corner sites is included although no specific measure of this setback is given to provide flexibility for different sites and contexts.
- Upper levels of buildings on heritage sites are now required to be set back behind the primary roof form of the heritage building.
- A requirement is now included which requires developments to respond to the materiality, colours and proportions of existing buildings (particularly heritage buildings) in the street.
- All buildings abutting residential land should now achieve Clause 55.04 ('ResCode') standards in relation to overshadowing and other amenity impacts.

A revised version of Amendment C286morn, reflecting the above changes to DDO28, is contained in Attachments 8-19.

***Responses to submissions***

Attachments 20 provides responses to the key submission issues and Attachment 21 provides responses to individual submissions, based on the recommendations of the refreshed Built Form Review and updated DDO28.

**Options for consideration**

Following a refresh of the Built Form Review and Amendment C286morn, below are the options available to Council regarding next steps in the amendment process.

**4.3 (Cont.)**Option 1: Adopt the refreshed Built Form Review and re-exhibit updated Amendment (recommended)

This option is recommended because:

- The refreshed Built Form Review and Amendment C286morn reflect the outcomes of a thorough independent peer review process, which takes into account the feedback received from the community through the exhibition of the amendment, resulting in a more strategically robust planning proposal to manage built form outcomes and associated sensitivities in the commercial precinct of Sorrento.
- Re-exhibition of Amendment C286morn is appropriate given the degree of proposed change to both the Built Form Review and amendment resulting from the review exercise, providing all submitters and landowners with a fair and reasonable opportunity to view and respond to the changes before Council decides next steps in the amendment process.
- Re-exhibition also ensures Council avoids the potential for procedural defect in the planning scheme amendment process under the *Planning and Environment Act 1987* (the Act).

Re-exhibition has tentatively been scheduled to occur over a 6-week period from July to September 2024, before the Council Election Caretaker period commences.

Option 2: Refer submissions to an independent Planning Panel

Having considered submissions as is required under section 22 of the Act, Council could refer all submissions to an independent Planning Panel in accordance with section 23(1)(b) of the Act because submissions remain unresolved. (That is, it is not possible for Council to make all changes requested by submitters because submissions contain differing views and requested changes).

This option is not recommended because it would not give submitters and landowners an opportunity to view and respond to the proposed revised Built Form Review and amendment documents. Proceeding with this option therefore risks a defect in the planning scheme amendment procedure under the Act.

If a defect in procedure were to occur, Council would be subject to potential legal action from submitters (and associated costs) as well as substantial delays to progressing the amendment.

Option 3: Abandon the amendment

This option is not recommended because the proposed revised Built Form Review and updated Amendment C286morn provide a strategically robust planning proposal to manage built form outcomes and associated sensitivities in the commercial precinct of Sorrento.

In addition, if Council does not proceed with the amendment, the precinct would not be subject to permanent built form controls that respond to the environmental and heritage sensitivities of the area, leaving the area vulnerable to inappropriate development.

***Extending the expiry date of existing interim DDO28***

Existing interim DDO28 is set to expire on 31 July 2024. This expiry date needs to be extended to ensure the overlay remains in place while Council completes the process for Amendment C286morn. Extending the expiry date requires a separate planning scheme amendment.

**4.3 (Cont.)**

Given the administrative nature of the proposed change to existing DDO28, a 'fast-tracked' amendment process is recommended whereby Council requests the Minister for Planning to exercise her powers under the Act to change the expiry without the usual public notice requirements of a normal planning scheme amendment (i.e. public exhibition).

This can be done as a 'Prescribed amendment' (as it is known) under section 20A of the Act. Proposed Amendment C305morn (Attachments 22 to 24) has therefore been prepared to extend the interim DDO28 expiry by 12 months, which is the maximum extension permissible for a Prescribed amendment under Regulation 8(1)(p) of the *Planning and Environment Regulations 2015* (the Regulations).

Shire officers have discussed and affirmed the Prescribed amendment approach with the DTP as the most appropriate means to extend the overlay's expiration.

***Extending the expiry date of the 'Heritage Design Guidelines: Sorrento Historic Precinct' Incorporated Document***

The 'Heritage Design Guidelines: Sorrento Historic Precinct' Incorporated Document within the Mornington Peninsula Planning Scheme is also set to expire shortly on 30 June 2024. This document applies to four different heritage precincts across the Sorrento township, including one titled the 'Sorrento Commercial Precinct' which generally applies to the area covered by existing DDO28.

Shire officers are currently undertaking a review of this Incorporated Document because it includes:

- Content that originated from the previous local policy at Clause 22.17 Sorrento Historic Precinct Policy, which was subsequently removed from the planning scheme and included in the Incorporated Document as part of the Planning Policy Framework (PPF) translation via Amendment C279morn in September 2021, and;
- Redundant references to Heritage Overlay – Schedule 1 (HO1) which has since been removed and replaced in Sorrento as part of Amendment C262morn Part 2 (which implemented Council's adopted Municipal Heritage Review – Area 3) in June 2023.

The Incorporated Document was given an expiry date by DTP as part of Amendment C279morn noting that it would need to be reviewed once the new precincts implemented by Amendment C262morn were gazetted.

Once the review is complete, any resulting updates required to the Incorporated Document can be made as part of the future planning scheme amendment to implement Council's Municipal Heritage Review – Area 4 (Westernport Region and Hinterland) which is expected to be finalised and presented for adoption later this year.

To ensure that the Incorporated Document's policy objectives and guidelines continue to apply to Sorrento's heritage precincts while the document is being reviewed, a separate planning scheme amendment is required to extend the document's expiry date. Shire officers recommend that the expiry date be extended by two years to accommodate the anticipated timeframe to complete the future planning scheme amendment for Council's Municipal Heritage Review – Area 4.

As with extending the interim DDO28, a separate planning scheme amendment is required, and a fast-tracked process is recommended because of the administrative nature of the change.

Given a two-year extension is sought, a Prescribed amendment under section 29A of the Act is not possible. However, Council can request that the Minister exercise her powers to

**4.3 (Cont.)**

extend the expiry under section 20(4) of the Act. Known as a 'Ministerial amendment', this approach also does not require public exhibition.

Shire officers have discussed and affirmed the Ministerial amendment pathway with the DTP as the most appropriate means to extend the Incorporated Documents expiration. Amendment C306morn has therefore been prepared (Attachments 25 to 28).

It is noted that, because there is currently no active planning scheme amendment to introduce a revised version of the Incorporated Document, Amendment C306morn includes the necessary strategic justification to demonstrate that exempting this amendment from public notice is appropriate.

***Amendment C286morn extension request***

Finally, it is noted that Shire officers will lodge a request with DTP to extend the lapse date for Amendment C286morn. This does not require a Council resolution.

Under section 30 of the Act, a planning scheme amendment will lapse two years after the publication date of the amendment's exhibition notice in the Government Gazette, unless the planning authority (i.e. Council) adopts the amendment within that two year timeframe.

Notice of Amendment C286morn was previously published on 28 July 2022. Given Council is yet to adopt the amendment, it will lapse on 28 July 2024.

Shire officers will request a two-year extension to the lapse date of Amendment C286morn to provide sufficient time for Council to complete the amendment process, including proposed re-exhibition and a potential Planning Panel process before Council can decide whether to adopt the amendment.

Shire officers have discussed this request with the DTP which did not indicate any concerns.

**ENGAGEMENT**

Engagement on the amendment was carried out as per the public exhibition requirements set out in the Act and directed by the Minister.

As detailed previously in this report, the amendment was publicly exhibited for a period of 12 weeks, from July to October 2022.

Public notice was given via an advertisement in the Mornington News, notice in the Government Gazette, letters to owners and occupiers of land surrounding the subject site, user groups within the amendment area, relevant authorities and Ministers, community groups and other stakeholders.

A total of 73 submissions were received from nearby owners and occupiers, local residents, Chamber of Commerce, and public authorities.

If Council accepts the Shire officer recommendation to re-exhibit the amendment, exhibition will occur as per the requirements of the Act.

**COMMUNICATIONS PLAN**

A Communications Plan is not required as all public notice during the planning scheme amendment process is given in accordance with the requirements of the Act.

Shire officers will notify all submitters of Council's decision regarding whether to re-exhibit the amendment and update the Shire's webpage.

**4.3 (Cont.)**

If Council resolves to proceed with re-exhibition of the amendment, notification will be given to the same stakeholders using the same methods as the first exhibition process, in accordance with the requirements of the Act.

**LEGAL AND REGULATORY FRAMEWORK**

If re-exhibition of Amendment C286morn is undertaken as outlined above, notice of the amendment will be undertaken in accordance with section 17, 18 and 19 of the Act.

Following exhibition, Council will consider all submissions under section 22 of the Act.

If submissions are received which request changes to the amendment, in accordance with section 23(1) of the Act, Council will then need to decide whether to:

- change the amendment in the manner requested, or
- refer the submission to a panel, or
- abandon the amendment or part of the amendment.

Alternatively, if there are no objecting submissions, or submissions requesting changes that cannot be resolved, Council will be able to adopt the amendment under section 29 of the Act.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

The amendment's Explanatory Report (Attachment 11) outlines the environmental, social and economic effects of the amendment.

**FINANCIAL CONSIDERATIONS**

The peer review process for the Built Form Review and Amendment C286morn cost **\$13,677**, including:

- Planning Peer Review – \$3,000
- Urban Design Peer Review – \$10,677.

Updating the Built Form Review cost **\$51,215**, including:

- Planning advice, recommendations and document drafting – \$42,500
- Urban design advice, recommendations and drafting – \$8,715.

Legal counsel totalling \$11,597 in costs has also been incurred.

The above costs have been funded within existing available budgets.

Re-exhibition of Amendment C286morn will incur additional standard administrative costs (including for Government Gazette notices, advertisements in local newspapers, etc) – all of which are accommodated within existing available budgets.

The following statutory fees will be incurred to proceed with:

- Amendment C305morn (Prescribed amendment to extend the expiry date of the existing DDO28) – **\$1,033.50**

**4.3 (Cont.)**

- Amendment C306morn (Ministerial amendment to extend the expiry date of the existing interim Heritage Design Guidelines: Sorrento Historic Precinct Incorporated Document) – **\$4,293**.

These costs can be accommodated within existing available budgets.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

#### 4.4 Draft Urban Forest Strategy - Public Exhibition and Community Consultation endorsement

Prepared By	Daniel Kabel, ESD Infrastructure Officer
Authorised By	Director - Planning and Infrastructure
Document ID	A12942387
Briefing Note Number	BN1887 – 7 May 2024
Attachment(s)	<ol style="list-style-type: none"> <li>1. Draft Strategy 'Our Urban Forest'</li> <li>2. Our Urban Forest - Appendix A Township Summaries</li> </ol>

#### EXECUTIVE SUMMARY

The draft strategy 'Our Urban Forest' (Attachment 1) sets out the vision, strategic objectives, targets and actions that are required to protect, manage and enhance our urban forest into the future. A thriving urban forest provides many benefits to our communities and ecosystems, and needs active stewardship by the multiple stakeholders who manage the land, including Council, community, State Government and more.

The vision of the draft strategy is:

*The future Mornington Peninsula urban forest is growing, thriving and resilient, providing the diverse ecological, social and economic benefits to all people and creatures who live in the unique Peninsula forest.*

The Peninsula is home to a significant amount of unique biodiversity, and our urban areas include and support some of our crucial ecosystems. Our urban forest includes a wide range of landscapes, development profiles and demographics, and each township has individual opportunities and challenges. Over 60% of the land in our urban areas is private, with approximately 20% under direct control of Council, so a collaborative approach is necessary.

Tree canopy cover is an important metric of our urban forest and has the largest impact in providing urban cooling. In 2020, the Peninsula had an average of 37.2% canopy cover across the urban areas, which is one of the highest rates in Victoria. This has grown from 27.8% since 2011, however there have been significant pockets of tree losses and declines across every township, and this is projected to decline significantly without active management and investment.

The draft strategy sets a target of 45% canopy cover in all urban public spaces by 2034, validating and updating the timeline of the target set in the Climate Emergency Plan (2020).

The next step in developing a final strategy for adoption is to seek community feedback and input, to ensure that the strategy aligns with, supports and empowers our community to deliver on the vision for our future urban forest.

#### RECOMMENDATION

**That Council endorses the draft strategy 'Our Urban Forest' to be released for public exhibition for a period of six weeks from 29 May to 10 July 2024.**

#### COUNCIL & WELLBEING PLAN

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

**4.4 (Cont.)**

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.

**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, E, F, G, H and I which are:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- 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.
- E. Innovation and continuous improvement is to be pursued.
- F. Collaboration with other Councils and Governments and statutory bodies is to be sought.
- G. The ongoing financial viability of the Council is to be ensured.
- 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**

Notice of Motion 372 adopted by Council on 18 October 2022:

**DISCUSSION****Purpose**

The purpose this report is to present to Council the draft strategy 'Our Urban Forest'. Mornington Peninsula Shire officers are seeking Council's endorsement of the draft strategy for six weeks public exhibition of the strategy, 29 May to 10 July.

**Overview**

The draft strategy sets out the vision, strategic objectives, targets and actions required to protect, manage and enhance our urban forest into the future.

**4.4 (Cont.)**

Our urban forest provides a myriad of benefits to the community and ecosystems on the peninsula, including urban cooling and greening, climate resilience, biodiversity values and community amenity and resilience.

The strategy provides key analysis of our current urban forest and aims to direct action and investment within the urban growth boundary, to see the highest impact. Each township has been ranked and prioritised against current canopy cover and heat vulnerability.

The existing adopted Climate Emergency Plan canopy cover target of 45% in public urban spaces has been validated and backed up with a strong evidence base, with detailed township-level targets. This is supported by additional targets around protection of the high rates of canopy cover and biodiversity we currently enjoy.

It has been estimated that a program of 5,000 trees per year will protect our existing urban forest and grow it to meet our 45% target, with ultimate targets based on the tree profile and density. There are an estimated 60,000 to 120,000 tree planting opportunities identified within public urban land (road reserves and open spaces), noting that the wide range is due to the differing size and species that could be planted. This would reflect a significant increase to the estimated 500,000 trees currently within the Shire's urban areas.

**Actions and implementation**

As our urban forest is shared across jurisdictions, delivery of the strategy and meeting our target will require collaboration from multiple stakeholders, and the actions reflect the different approaches required. This includes:

- Empowering and engaging the community to protect, manage and enhance key areas of our urban forest,
- Exploring viable and effective opportunities to leverage local laws, planning scheme and other avenues to influence private development, and
- Working with State Government organisations and landholders to establish a common approach and set of objectives and values.

The largest impact Council can have is on public land, and a direct planting program would be necessary.

**ENGAGEMENT**

In developing the strategy, Shire officers have engaged with several stakeholders, including:

- Citizens Panel – September 2023 – Developing themes, opportunities, barriers and a draft vision.
- Councillor Workshops – November 2023 and March 2024 – Refining key themes and objectives
- External organisations, including State Government departments, Country Fire Authority, Melbourne Water
- Bunurong Land Council reviewing key sections of this draft document
- Internal Shire teams.

**4.4 (Cont.)****COMMUNICATIONS PLAN**

Community engagement is planned for six weeks, from 29 May to 10 July. The primary forms of engagement will be:

- Online Shape page, with a survey and GIS feedback platform
- In-person pop-ups
- Online webinars and stakeholder workshops
- Direct engagement with key community and internal stakeholders.

**LEGAL AND REGULATORY FRAMEWORK**

Not applicable.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Our Urban Forest directly addresses climate change resilience in three key ways:

- Increases in severity and frequency of extreme weather events will impact the health of our urban forest, including extreme heat, drought, floods, storms and coastal inundation. Increasing temperatures in the future may change the species that are likely to thrive.
- Biodiversity is a crucial part of the peninsula, and our urban forest provides important support and connections between areas of high biodiversity value, as well as providing ecosystem services in and of itself.
- Our urban forest also supports the community and ecosystem resilience to climate change on the peninsula, through providing cooling and greening, biodiversity connections, shaded walking routes and open spaces and more liveable houses.

Trees and vegetation also provide carbon sequestration, and will support our Climate Emergency Plan targets.

**FINANCIAL CONSIDERATIONS**

There are direct budget implications from adopting this recommendation.

Note that adopting a final strategy will likely have budget implications, this detail will be provided in any relevant report.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## COMMUNITY STRENGTHENING

### 4.5 Compliance and Enforcement Policy

Prepared By	Merg Mikaelian, Team Leader - Community Safety; Dale Gilliatte, Manager - Community Safety, Health & Compliance; Peter O'Brien, Team Leader - Environmental Health; David Simon, Manager - Development Services
Authorised By	Director - Community Strengthening
Document ID	A12959411
Briefing Note Number	BN1892 – 7 May 2024
Attachment(s)	1. Compliance and Enforcement Policy

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### EXECUTIVE SUMMARY

The Compliance and Enforcement Policy (the Policy) (Attachment 1) is a proposed new policy that is designed to outline Council's approach to compliance and enforcement and to provide Mornington Peninsula Shire (Shire) officers with direction on these activities.

This report provides Council with the draft Compliance and Enforcement Policy for consideration and endorsement.

### RECOMMENDATION

**That Council adopts the Compliance and Enforcement Policy (Attachment 1).**

### COUNCIL & WELLBEING PLAN

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

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.

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

### RELEVANT COUNCIL DECISIONS AND POLICIES

- Council and Wellbeing Plan 2021-2025

**4.5 (Cont.)**

- Mornington Peninsula Domestic Animal Management Plan
- Engaging Legal Services Policy.

**DISCUSSION**

The Compliance and Enforcement Policy is a proposed new policy that is designed to outline Council's approach to compliance and enforcement and to provide Shire officers with clear and consistent direction on these activities.

The Shire's Policy Management Framework sets the process for developing new policies and reviewing and updating existing organisational policies.

The preparation of this Policy was completed using the Policy Management Framework and the Policy Development and Review Checklist. It was determined that a Gender Impact Assessment and Climate Change Considerations Checklist were not required.

**Background**

Shire officers are authorised under numerous Acts, Regulations and Local Laws to monitor and support community compliance. However, there is currently no overarching policy to guide Shire officers on compliance and enforcement activities, or decision making, that would be consistent with the Shire's values.

The Policy is a proposed new policy that will assist the Shire's Authorised Officers to protect the health, safety, amenity and environment of the Mornington Peninsula community and its visitors.

The proposed Policy has four key elements:

1. Monitor compliance – undertake systematic monitoring programs and activities to determine the level of compliance.
2. Inform and educate – provide information and undertake active awareness-raising activities regarding legislative responsibilities.
3. Support to comply – provide advice and guidance to ensure that the community understands how to comply.
4. Enforcement – address non-compliance with the law, by making the offender stop the activity and remedy any harm to the public, environment, or property.

The proposed Policy also reinforces the role of Councillors and the community in compliance and enforcement.

The following principles underpin the Shire's approach to compliance and enforcement. These principles have been developed with consideration of the desired experience for both customers and staff:

- *We will treat people fairly; acting fairly, impartially and without bias or unlawful discrimination and treating all parties with courtesy and respect.*
- *Our response will be timely; ensuring responses to reports alleging non-compliances, and decision making in relation to those, are timely.*
- *We will be accountable and transparent; ensuring accountability for decisions to take or not to take action, recording all actions and decisions made relating to an investigation and providing a status of the investigation to relevant customers.*

**4.5 (Cont.)**

- *We will have a consistent approach; ensuring all compliance and enforcement actions are approached in a consistent manner, proportionate to the community risk and seriousness, using reasonable resources.*

In addition to enforcement, the Shire carries out a range of proactive activities to support and encourage compliance, such as community information and education programs.

**ENGAGEMENT**

Following a Councillor Workshop held on 19 March 2024, the Community Safety, Health and Compliance Unit, in conjunction with other relevant teams across the organisation, developed and drafted the proposed Policy (Attachment 1) for consideration by Council.

Shire teams engaged and supporting the development of the Policy included:

- Planning and Asset Compliance
- Environmental Health
- Community Safety
- Statutory Building
- Legal and Governance.

As compliance and enforcement activities are a legislated and regulated function that Council is required to deliver, broader community consultation on the draft Policy is not proposed due to the limited ability for community to influence outcomes or change the direction of the policy intent.

**COMMUNICATIONS PLAN**

The Policy, once adopted, will be uploaded to the Shire's website alongside all other Council policies.

**LEGAL AND REGULATORY FRAMEWORK**

Shire officers are authorised under numerous Acts, Regulations and Local Laws to monitor and support community compliance. This Policy applies to all enforcement activities carried out by Authorised Officers, undertaken in accordance with the following Acts and their respective regulations (non-exhaustive list):

- *Building Act 1993*
- *Country Fire Authority Act 1958*
- *Domestic Animals Act 1994*
- *Domestic Building Contracts Act 1995*
- *Environment Protection Act 2017*
- *Fire Rescue Victoria Act 1958*
- *Food Act 1984*
- *Graffiti Prevention Act 2007*

**4.5 (Cont.)**

- *Impounding of Livestock Act 1994*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Public Health and Wellbeing Act 2008*
- *Road Management Act 2004*
- *Summary Offences Act 1966*
- *Tobacco Act 1987*
- *Community Amenity Local Law 2022*
- *Short Stay Rental Accommodation Local Law 2018*
- *Consumption of Liquor Local Law 2022*

This Policy does **not** apply to parking and traffic matters, managed in accordance with the *Road Safety Act 1986*.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

There is no direct financial impact of this Policy on Council's endorsed budget.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

**4.6 Mornington Peninsula Charitable Trust Terms of Reference and Guidelines**

Prepared By	Tricia Folvig, Team Leader - Community Development
Authorised By	Director - Community Strengthening
Document ID	A13018136
Briefing Note Number	BN1862 – 26 March 2024
Attachment(s)	<ol style="list-style-type: none"> <li>1. Daft Committee of Management Terms of Reference - Mornington Peninsula Community Charitable Trust</li> <li>2. Draft Mornington Peninsula Community Charitable Trust Guidelines</li> </ol>

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council adoption of the updated Terms of Reference (TOR) and Guidelines for the Mornington Peninsula Community Charitable Trust (the Trust).

**RECOMMENDATION****That Council:**

1. **Adopts Mornington Peninsula Community Charitable Trust – Draft Committee of Management Terms of Reference (Attachment 1).**
2. **Adopts the Mornington Peninsula Community Charitable Trust – Draft Guidelines (Attachment 2).**
3. **Undertakes a review of the Lord Mayor’s Charitable Trust and Mayoral Emergency Fund, with a separate report to Council as part of the next Community Investment Funding Program review.**

**COUNCIL & WELLBEING PLAN**

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

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.

**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, C, E and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.

**4.6 (Cont.)**

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- C. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- E. Innovation and continuous improvement is to be pursued.
- I. The transparency of Council decisions, actions and information is to be ensured.

**RELEVANT COUNCIL DECISIONS AND POLICIES**

- At Council Meeting on 25 February 2008, Council resolved to approve the establishment of a Mornington Peninsula Charitable Trust with the Lord Mayor's Charitable Fund.
- Community Investment Funding Policy (2020).
- Public Transparency Policy (2022).
- Governance Rules (2021).

**BACKGROUND**

At the Council Meeting on 25 February 2008 it was resolved that Council:

1. *Approves the establishment of a Mornington Peninsula Charitable through the Lord Mayor's Charitable Fund.*
2. *Approves an initial allocation to the trust of \$20,000 from the 2007/2008 budget.*
3. *Refers the balance of \$80,000 for consideration in Council's 2008/2009 budget deliberations.*
4. *Agrees to the establishment of a grants panel with the following representation:*
  - A. *The Mayor and/or one (1) Councillor;*
  - B. *The Chief Executive Officer or delegate;*
  - C. *One (1) representative of the Lord Mayor's Charitable Fund; and*
  - D. *Three (3) community representatives.*
5. *Delegates authority to the Chief Executive Officer to enter into a Deed of Gift with the Lord Mayor's Fund to give effect to the establishment of the Mornington Peninsula Charitable Trust. \*\*Note the Deed of Gift refers to the Trust as Mornington Peninsula Community Charitable Trust.*

**DISCUSSION****Lord Mayor's Charitable Fund (LMCF)**

The LMCF sets the priorities for the Fund, which is used as a guide for the Trust funding. The LMCF Strategic Plan's current priorities for 2022-2025 are:

1. Homelessness and affordable Housing

**4.6 (Cont.)**

2. Inclusive, sustainable economy and jobs
3. Healthy and climate resilient communities
4. Solution focusses to share challenges through collective and structured giving.

Following the initial establishment of the Trust in 2008 the corpus of \$20,000, and an additional Council contribution of \$80,000 from the 2008-09 budget which were matched with funds of \$100,000.00 from the LMCF made up the corpus.

The corpus has grown to **\$291,169** through interest earned. The funds are held externally within the LMCF.

The Trust is a separate legal entity to Mornington Peninsula Shire (Shire) Council, the corpus of the Trust is held in perpetuity by the LMCF and 4% of interest earned is made available annually for grant making.

Governance of the Trust is coordinated through a Committee of Management (the Committee). The Committee's role includes providing grant opportunities to eligible organisations with Deductible Gift Recipient (DGR) status. Grant assessments panels are made up of representatives from the Committee. Subject to eligibility and criteria the Committee makes funding recommendations to the LMCF Board for its approval.

The Trust's draft Guidelines have been reviewed and redeveloped and the TOR drafted for Council's adoption which are required to ensure good governance of the Trust.

**Mayoral Emergency Fund**

Following the Mayoral Charity Ball in 2001, the funds raised at the Mayoral Charity Ball used to establish the Mornington Peninsula Shire Mayoral Emergency Fund.

The fund provides 'one off' emergency assistance (up to \$500) to individuals and families on the Mornington Peninsula in times of crisis. Applications are reviewed by the Shire's Governance Unit and considered then awarded by a panel consisting of the Mayor, Manager of Governance and Director of Community Strengthening.

The fund currently has a balance of \$4,420.43 which sits within an operational account.

During the review of the Trust and, as discussed at Council Briefing on 26 March, the Mayoral Emergency Fund was identified as requiring a review to ensure alignment with Council's Community Investment Funding Policy. The Mayoral Emergency Fund will be reviewed with a separate report to come to Council.

**ENGAGEMENT**

The draft Trust TOR and Guidelines have been reviewed by the LMCF with minor changes made. The Shire's Governance Unit has reviewed the TOR.

**COMMUNICATIONS PLAN**

Council's Community Investment Funding Communication Plan will be applied, as required.

**LEGAL AND REGULATORY FRAMEWORK**

The Trust is a separate legal entity to Mornington Peninsula Shire Council. The Trust's corpus is held in perpetuity by the LMCF.

**4.6 (Cont.)**

All legal requirements are managed by the LMCF, with the Governance of the Trust meeting compliance through:

1. Council's Community Investment Funding Policy and Framework 2022
2. The Trust Committee of Management – TOR
3. The Trust – Guidelines.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

The LMCF Strategic Plan's current priorities for 2022-2025 include healthy and climate resilient communities.

**FINANCIAL CONSIDERATIONS**

Following the initial establishment of the Trust in 2008 the corpus of \$20,000 and an additional Council contribution of \$80,000 from the 2008-09 budget was matched with funds of \$100,000.00 from the LMCF to make up the corpus.

The Trust's corpus is **\$291,169**. Annual interest on the corpus is required to be awarded prior to 30 June with the financial year. Funding awarded to Mornington Peninsula Shire's community organisations, since The Trust's establishment, is **\$142,103**, itemised in Table 1 below.

**Table 1 – Distribution of the Trusts' interest**

<b>Year</b>	<b>Organisation Awarded to</b>	<b>Amount</b>
2023-2024	Frankston Mornington Peninsula Local Learning and Employment Network (FMPLLEN) <i>Pending LMCF Board decision.</i>	\$11,871.00
2022-23	Mornington Community Support Centre	\$12,584.00
2021-22	Southern Peninsula Community Support Centre	\$12,796.00
2020-21	Mornington Peninsula Foundation (MPF) on behalf of Southern Peninsula Community Support	\$71,152.00
2016-2018	Mornington Community Information and Support Centre	\$3,900.00
	Fusion Mornington Peninsula	\$10,000.00
	Western Port Community Support,	\$5,000.00
	Fight 4 Life Youth Club Inc.	\$10,000.00
	Salvation Army Western Port Mission Centre	\$4,800.00
<b>Total Awarded</b>		<b><u>\$142,103.00</u></b>

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## 5 NOTICES OF MOTION

Notices of Motion must be received 10 clear business days prior to a meeting.

### 5.1 Notice of Motion 449 (Cr Marsh) - Closed briefings and workshops

Cr Anthony Marsh has given notice of his intention to move the following motion at the meeting.

*The Council resolves to seek independent legal advice on the intended purpose of closed briefings and workshops and the appropriateness of using them to brainstorm ideas and gauge support or tacit approval from Councillors. The advice shall also consider Recommendation 22 of the Operation Sandon special report from the Independent Broad-based Anti-corruption Commission (IBAC).*

Officer Comment Prepared by	Pam Vercoe, Manager – Legal and Governance
Authorised by	John Baker, Chief Executive Officer

***Late report – to be circulated separately.***

## **6 URGENT BUSINESS**

Under Council's Governance Rules, no business may be admitted as urgent business unless it:

1. Relates to a matter which has arisen since distribution of the Agenda.
2. Cannot because of its urgency, be reasonably listed in the Agenda of the next Council Meeting.
3. Councillors by a majority vote, vote in favour of a matter being dealt with as urgent business.

## 7 CONFIDENTIAL ITEMS

### Advice to the Public

All reports, information and recommendations contained in 'Section 7 – 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 reports listed below in a meeting closed to the public in accordance with section 66 (2) (a) of the *Local Government Act 2020*:

**7.1 Social Housing Expression of Interest**

This matter is considered to be confidential under sections 3 (1) (a), (c) and (e) of the *Local Government Act 2020* as it contains information in relation to Council business information, land use planning information and legal information.

**7.2 Event Review - The Briars**

This matter is considered to be confidential under section 3 (1) (g) (ii) of the *Local Government Act 2020* as it contains information that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.