



**MORNINGTON  
PENINSULA**  
*Shire*

**MINUTES**

**COUNCIL MEETING**

**TUESDAY, 30 APRIL 2024**

**6:30PM**

**TYABB COMMUNITY HALL  
1535 FRANKSTON-FLINDERS ROAD, TYABB**

## 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 Infrastructure Director - Infrastructure Chief Financial Officer</b>
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### RECORDING

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

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

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# 1 OPENING AND WELCOME

Meeting opened at 6.30pm

Appointed Chairperson – Mayor, Cr Simon Brooks

## 1.1 Acknowledgement of Country

(Read by Cr Roper)

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

## 2 PROCEDURAL MATTERS

### Present

Mayor, Cr Simon Brooks (Chairperson)  
Cr Susan Bissinger  
Deputy Mayor, Cr Antonella Celi  
Cr Lisa Dixon  
Cr David Gill  
Cr Anthony Marsh  
Cr Despi O'Connor  
Cr Kate Roper

Mr John Baker, Chief Executive Officer

### 2.1 Apologies

Cr Steve Holland (Apology)  
Cr Debra Mar (Apology)  
Cr Sarah Race (Apology)

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

Nil

### 2.3 Council Decision Register

#### RECOMMENDATION

That Council receives and notes the Decision Register Summaries for 2019-2024 (Attachments 1-6) as at 22 April 2024.

#### COUNCIL DECISION

Moved: Cr Roper  
Seconded: Cr Celi

That the recommendation be adopted.

Carried

**2.4 Petitions and Joint Letters**

**RECOMMENDATION**

That Council receives and notes the above “petition / joint letter”.

**COUNCIL DECISION**

**Moved: Cr O'Connor**

**Seconded: Cr Dixon**

**That the recommendation be adopted.**

**Carried**

## 2.5 Public Question Time

### QUESTIONS WITH NOTICE

#### **Cultural Heritage Management Plan – Harry Potter Forbidden Forest Event at The Briars**

Andrew Coghill, a resident of Moorooduc asked the following:

*Can the Council address this issue of not preparing the required Cultural Heritage Management Plan (CHMP) for the Harry Potter event and will this be standard practice for the Council in the future to ignore its responsibilities regarding the Aboriginal Heritage Act and not prepare the required CHMPs for required works, in particular for projects such as the Peninsula Trail?*

Council advises:

When the experience was proposed for the Sanctuary, the Mornington Peninsula Shire (the Shire) was working to ensure that we were compliant with the requirements of the *Aboriginal Heritage Act 2006*. A cultural heritage advisor was engaged early in the process to provide the Shire with expert advice, including whether a CHMP would be required for this activity. Initial heritage advice confirmed that a CHMP would not be required as no triggers would be activated, including no digging in the activity area and ensuring that any identified cultural heritage sites were protected. A Cultural Heritage Permit may have been required and was being sought, with consultation with the Bunurong Land Council Aboriginal Corporation and heritage experts.

With the relocation of the event to the Community Forest, Council sought further advice from heritage experts. Again, this advice confirmed that neither a CHMP nor Cultural Heritage Permit would be required in the new location. The new location does not sit within the Aboriginal Cultural Heritage Overlay and the Shire complied with all requirements for this site. The scope of works delivered in the new location absolutely minimised the risk to any unidentified cultural heritage by minimising ground disturbance and laying geocloth in many areas as an extra protective measure. The Shire would have complied with the *Aboriginal Heritage Act 2006* by ceasing works and following the correct protocols should cultural heritage items have been identified however none were discovered.

Risks including the inability to deliver the required permits are always included in project risk assessments to ensure all parties are aware that these items are a requirement for the progression of the experience and to implement measures to meet these requirements. Including these risks in the assessment is not an indication that this is what would have occurred, it is a standard project management practice to identify all potential risks and implement mitigation measures to ensure successful and compliant experiences.

### QUESTIONS WITHOUT NOTICE

#### **Planning Scheme Amendment C219morn**

Leigh Eustace, a resident of Mount Eliza submitted the following:

*Following the release of the C219 Planning Panel report in May 2023, the report recommended additional strategic planning was needed. With State Government Planning Policy changes since the release of the C219 Planning Panel Report what is the outline for the future of the C219 Planning Scheme Amendment? How is Council approaching the future of C219? What should submitters to this amendment know and expect?*

**Clothing Bins in Hastings**

Frederick Crump, a resident of Hastings submitted the following:

*A photo was sent to this Council showing rubbish dumped at three locations at Ultra Tune, Coles and Woolworths clothing bins. Has Council ever considered ect cameras as well as on the spot fines for culprits?*

These questions were taken on notice. A written response will be provided and published on the website with the minutes.

### 3 COUNCILLORS AND DELEGATES REPORTS

#### Health and Wellbeing Committee (Cr Antonella Celi)

I would like to speak my delegates report as Chair of the Health and Wellbeing Committee on behalf of the Health and Wellbeing Advisory Committee and highlight the Mornington Peninsula Shire's (the Shire's) longstanding commitment to continually raise awareness and drive meaningful actions and outcomes in the prevention of gendered violence against women and children.

A sensitive topic for many so trigger warning on the content of this report.

As a community we are increasingly becoming aware that violence against women and children – societal, family, and domestic violence - is real in anecdotal and statistical representation, it is alarming, it is concerning and it is happening right here and right now and the topic is gathering an unprecedented level of attention from government, the media, and communities across Australia.

So far in Australia, 33 women – 12 more than this time last year - have been killed because of gendered violence.

Here on the Mornington Peninsula between 2022 and 2023, there were 1,950 police recorded cases of family violence and according to the Family Violence Dashboard Crime Statistics Agency Victoria an alarming, 919 of our residents required access to homelessness services due to family violence with 302 using general services and 617 using specialist family violence services

The impact of gendered violence overall is devastating for women, their children, families, friends, colleagues, and the whole community.

The Shire is committed to reduce the impact of gendered violence through our well researched Gender Equality Strategy that identifies the key drivers of violence against women and children and highlights the imperative to work in partnership to address and reduce the gendered drivers of violence by:

- Challenging the condoning of violence against women in our society
- Empowering and promoting women's independence and decision-making
- Challenging gender stereotypes and roles of unequal power in our society and
- Strengthening positive, equal, and respectful relationships for all genders – men, women, and children.

I will add that the role of men and boys in strengthening positive, equal, and respectful relationships is so important – it's a task that we must work through together as a community to achieve.

I would like to commend the work of Shire officers from the Community Strengthening and Partnerships team who are doing tremendous proactive work across the Shire with

- Ongoing delivery of the Frankston Mornington Peninsula Family Violence Prevention Collaboration in partnership with Frankston City Council.
- The Delivery of Upstander Training for community members to learn essential skills to help make our community more safe, equal, and respectful.
- Undertaking more than 20 Gender Impact Assessments on new and revised Shire programs, services, and policies.
- The Launch of our Gender Inclusive Sports Clubs Toolkit aimed at building the capability of our local sports clubs to achieve gender equality with the Inclusion of incentives for increasing women and girl's participation through our Sports Club Management Policy.
- The Shire has also secured 3 years of State Government "Free from Violence" funding to support enhancement of Shire policy and staff capability
- and have also Partnered with Women's Community Shelters to establish crisis accommodation as well as release of Shire land for social housing for women and children adopted by Council.
- Shire Support also continues for community groups and organisations to deliver:
  - The 16 Days of Activism and International Women's Day events.
  - The Know Her Name exhibition at the Mornington Peninsula Regional Gallery and Noa Smith Fletcher's Portrait of a Sea Wolf Exhibition at Yawa Aquatic Centre.
  - The delivery of STEM programs for girls and women through Our Library.
  - Opening Referral pathways to Orange Door and other support services via our Child and Family Health, Community Care and Youth Services.

I could go on, but I am very proud to say that this Shire has and will continue to uphold our commitment to achieving gender equality, welcome opportunities to work alongside our local community and commit to be part of the solution to end the prevalence of gendered violence against women and their children on the Mornington Peninsula

**Tyabb Air show** (Cr Anthony Marsh)

**Rotary Club of Mount Martha** (Cr Anthony Marsh)

## 4 MANAGEMENT REPORTS

### PLANNING & INFRASTRUCTURE

#### 4.1 Planning Scheme Amendment C241morn (Balcombe Estuary and associated reserves) - Public exhibition outcomes

##### PROCEDURAL MOTION

That item 4.1 be deferred.

##### RECOMMENDATION

That Council:

1. Receives, notes and considers in accordance with Section 22(1) of the *Planning and Environment Act 1987*, all submissions received in response to Amendment C241morn to the Mornington Peninsula Planning Scheme as at Attachments 1, 2 and 3 to this report.
2. Notes and endorses the summary of submissions and Shire officers' response to submissions in relation to Amendment C241morn to the Mornington Peninsula Planning Scheme as at Attachment 4 to this report.
3. Requests that the Minister for Planning appoint a Planning Panel to consider all submissions in relation to Amendment C241morn to the Mornington Peninsula Planning Scheme referred in accordance with Section 23 of the *Planning and Environment Act 1987* as at Attachment 1, 2 and 3 to this report.
4. Refers all submissions as at Attachment 1, 2 and 3 to this report to Amendment C241morn to the Mornington Peninsula Planning Scheme to a Planning Panel pursuant to Section 23 of the *Planning and Environment Act 1987*, including any late submissions received up until the date of the Panel Hearing.
5. Endorses and includes in Council's submission to the Planning Panel proposed changes to documentation generally in accordance with Attachments 5 - 18 to this report for Amendment C241morn to the Mornington Peninsula Planning Scheme.
6. Delegates authority to the Director of Planning & Infrastructure to determine the form of Council's submissions to the Planning Panel, with the assistance of legal representatives and expert advice (if required), including requesting recommendations for proposed changes to the endorsed version of Amendment C241morn to the Mornington Peninsula Planning Scheme in order to resolve matters between Council and submitters.
7. Notifies all submitters to Amendment C241morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.
8. Notifies all individuals that have requested to be provided updates of Amendment C241morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.
9. Authorises the Director - Planning & Infrastructure to make minor editorial and administrative changes to Attachments 5 - 18 to this report if required.

#### 4.2 Planning Application P20/2280 - 185 Maxwell Road, Fingal - The use and development of the land for a winery, native vegetation removal and the sale and consumption of liquor

##### Deputations

- Jarad Curwood
- Sue Hamilton
- Katalin Sunner
- Charlie Nairn
- John Sunner
- Anna Haeberts

##### RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under Section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P20/2280 for the use and development of the land for a winery, native vegetation removal and the sale and consumption of liquor, be approved and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

##### Amended plans required

1. Before the development and/or the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans/document must be generally in accordance with the plans and supportive document submitted on 18 October 2021 but modified to show:
  - (a) Relocation of the staff carparks to the cleared area west of the orchard and retention of native vegetation in Patch H.
  - (b) Redesign of the loop driveway to avoid any removal of native vegetation.
  - (c) Firefighting water tanks to be relocated to an area clear of native vegetation.
  - (d) The extent of defendable space around the Winery building in accordance with the revision Q plans by Bradley architects dated 13 September 2022.
  - (e) Retention of Native Vegetation Patch G1 with the exception of accessways and defendable space areas.
  - (f) Except for the above conditions, vegetation removal and/or retention to be modified in accordance with revision Q plans by Bradley architects dated 13 September 2022.
  - (g) An updated Native Vegetation Removal Report in accordance with the Guidelines for the removal, destruction or lopping of native vegetation accurately identify the

**4.2 (Cont.)**

- extent and details of native vegetation to be removed to reflect the revised development layout as required by the above conditions.
- (h) Replanting of suitable vegetation of indigenous species to the local Ecological Vegetation Class (EVC 858 Coastal Alkaline Scrub) immediately beyond the south side of the defensible space to connect the existing habitat corridor from the east to the west, with a 4 metre clearance for tractor access, to the satisfaction of the Responsible Authority.
  - (i) The location and dimensions of a minimum of two visitor car parking spaces.
  - (j) Deletion of the Cellar Door building and associated works around this building from all plans.
  - (k) Amendment of the finish of the building to be non-reflective.
  - (l) Deletion of the signage and associated illumination from the site frontage.
  - (m) Revision to the Winery building and associated hardstand surfaces around this building in accordance with revision Q plans by Bradley architects dated 13 September 2022.
  - (n) The extent of wastewater treatment area generally shown in accordance with the revision Q plans by Bradley architects dated 13 September 2022.
  - (o) A minimum 6.0 metre wide crushed rock vehicle crossing between the road and the property boundary.
  - (p) A Land Management Plan to provide:
    - i. The intended use and development at the site generally in accordance with the details provided in Section 3 'The Proposal' of the 'without prejudice' Planning Report dated May 2023.
    - ii. The anticipated timing of the planting and harvesting of each proposed vineyard as shown on the overall site plan.
    - iii. Details of irrigation for the operation.
    - iv. Details of the Winery operation which must, at least, include details reflective of the remaining conditions of this permit.
    - v. Measures to be implemented to ensure the customer present at the site not to exceed the specified number at any time.
    - vi. Emergency evacuation plan.
    - vii. The land management strategy including weed management of the native vegetation patches on the land.
    - viii. Maintenance and management of the replanting area required by Condition 1 (h).
  - (q) A Bushfire Management Plan (BMP) for the Winery in its revised layout as required by the above conditions. The BMP must be generally in accordance with the revised BMP dated 17 March 2022 prepared by Nature Advisory comprises of the Plan sheet and the Schedule of Conditions, but amended to show:

**4.2 (Cont.)**

- i. The Schedule of conditions – Bushfire Protection Measures consistent with and reflective of the Nature Advisory Report 19132 dated June 2022;
- ii. The 'Water supply for fire-fighting purposes' section revised to delete reference of the use of the building 'for industry or retail premises'.

Use and development not altered

2. The approved use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (Unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).
3. The sale and consumption of liquor may only occur within the designated area shown as 'red line area' on the endorsed plans

Sourcing

4. Unless with the further consent of the Responsible Authority, no wine can be produced or provided or sold for on-site or off-site consumption, other than wine that incorporates a component of grapes that are grown on the subject land or land held in common ownership.

Vine maintenance

5. The sale of vineyard products must only occur in conjunction with the growing of grapes on the subject land.
6. The land must also be used as a productive vineyard with a minimum area under cultivation of 2 hectares.

Sale

7. No alcoholic beverage other than wine sourced from the grapes of the subject land may be sold for consumption off-site.
8. No food of any type or form may be provided for on-site consumption.

Use conditions

9. Unless with the further written consent of the Responsible Authority, no more than four (4) staff members in association with the approved use may present at the site at any one time.
10. Unless with the prior written consent of the Responsible Authority, the approved Winery must not be open to public for more than one day per calendar month.
11. Further to Condition 11 above, unless with the prior written consent of the Responsible Authority, the approved Winery must not be open to public outside the hours of 9.00am – 5.00pm.
12. No more than five (5) customers may present at the site at any one time.
13. No customers may be present at the site outside the day/date and hours referred to in Conditions 11 and 12 above.

**4.2 (Cont.)**

14. Deliveries in association with the approved use may only occur within the hours of 9.00am – 5.00pm Monday to Friday.

## Finishes

15. The exterior colour and cladding of the building/s must be of a non-reflective nature to the satisfaction of the Responsible Authority.
16. Prior to the occupation of any building, finishes must be completed to a professional standard to the satisfaction of the Responsible Authority.

## Disturbed surfaces

17. All disturbed surfaces on the land must be revegetated and stabilised to the satisfaction of the Responsible Authority.

## Vegetation removal

18. The extent of vegetation removal must be in accordance with the endorsed plans without the further written consent of the Responsible Authority.

## Native vegetation offset

19. To offset the approved removal of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified in the approved Native Vegetation Removal Report referred to in Condition 1(g).
20. Before any native vegetation is removed evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence is one or both of the following:
  - A. an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
  - B. credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
21. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

## Tree protection

22. The trees retained on the subject site and adjoining land must be protected from damage during development in compliance with the tree management process, tree protection zones and tree protection measures (including the erection of tree protection fencing) contained in Australian Standard AS 4970-2009 Protection of trees on development sites.
23. All excavation within the Tree Protection Zones (TPZ) of retained trees on the subject site and adjoining land must be undertaken using a method which is non-destructive to tree roots in compliance with Australian Standard AS 4970-2009 Protection of trees on development sites. Any tree roots which require pruning must be cut with a clean sharp cutting implement with a final cut to undamaged wood at an angle which minimises the size of the wound. No tree roots over 40mm in diameter are to be cut unless under the

**4.2 (Cont.)**

direct supervision of a Level 5 qualified Arborist. No tree roots critical to maintaining tree health, structure or viability are to be cut. These tree roots must be retained undamaged and alternative design and construction methods used.

24. Any pruning of trees must be undertaken to the minimum extent necessary in compliance with the procedures and practices described in AS 4373-2007 Australian Standard pruning of amenity trees.
25. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and are advised of any obligations in relation to the protection of those trees.
26. No trenching or soil excavation is to occur within the Tree Protection Zones of retained trees unless shown on the endorsed plans without the prior written consent of the Responsible Authority. No vehicular or pedestrian access, storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

**Replanting**

27. Prior to the occupation of the development building and/or the commencement of the use/s (or other time agreed to in writing by the Responsible Authority) the replanting of native vegetation as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
28. The replanting referred to in the above condition must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced as soon as practicable.

**Bushfire Protection**

29. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

**Engineering Plans**

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

The plans must show:

- (a) All areas of the development being drained by means of an underground drainage system to retain a post-development 1% AEP storm event for the critical storm duration on the property and being based on a soil percolation test report prepared by an appropriately qualified geotechnical consultant.
- (b) Details, including levels of the driveways and car parks within the site.
- (c) The crushed rock vehicle crossing being a minimum width of 6.0 metres between the road and the property boundary.

**4.2 (Cont.)**

- (d) Sight distance for vehicles and pedestrians not being unduly restricted at the exit from site by fencing or landscaping works.
  - (e) Tree Protection Zones (TPZs) impacted by the works, or as shown on any other development plans and documents.
  - (f) Drainage works designed to avoid TPZs where possible.
  - (g) Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
31. Before the approval of engineering plans, drainage computations and documentation are required for the proposed drainage system.
32. Prior to the commencement of any works, a project-specific Major Construction Management Plan (CMP) must be endorsed by the Responsible Authority. This CMP is to be based on the standard Major CMP template found on the Mornington Peninsula Shire's website. When approved, the CMP will be endorsed and form part of the Planning Permit. The endorsed CMP must be implemented to the satisfaction of the Responsible Authority prior to, and during the works.
33. Before the initial occupation of the development drainage works within the development must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority.
34. Before the initial occupation of the development, vehicle crossings, areas set aside for the parking of vehicles and driveways as shown on the endorsed plans must be constructed in accordance with approved engineering plans, surfaced and drained to the satisfaction of the Responsible Authority.
35. Car spaces, access lanes and driveways must always be kept available for these purposes.

**Waste management**

36. Waste must be regularly managed, stored and collected by the permit holder to the satisfaction of the Responsible Authority.
37. Prior to the initial occupation of the development and/or the commencement of the uses hereby permitted and for the life of the development/uses, the permit holder must arrange for private waste collect to regularly remove solid waste from the site to the satisfaction of the Responsible Authority.
38. Waste collection may only occur within the hours of 9.00am – 5.00pm Monday to Friday unless with the further written consent of the Responsible Authority.

**Health**

39. Prior the commencement of the use/s, an on-site septic tank system approved by the Environment Protection Authority must be installed and connected to the development in accordance with the Council's Wastewater Management Policy. The system must be maintained thereafter to the satisfaction of the Responsible Authority for the life of the development and/or the use remains on site.
40. The premises must have a Food and Oil Interceptor (FOI) provided for wastewater treatment from food processing and manufacturing and must be located to the satisfaction of the Shire's Environmental Health Team

**4.2 (Cont.)**

41. Any external areas used for the storage or cleaning of waste receptacles, equipment or vehicles must be connected to the onsite wastewater management system to the satisfaction of the Responsible Authority.
42. The amenity of the area must not be detrimentally affected by the use or development, through the:
  - (a) Transport of materials, goods or commodities to and from the land;
  - (b) Appearance of any buildings, works or materials;
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

## Noise

43. No external sound amplification equipment, loudspeaker, siren or other audible signalling device may be installed on the land unless with the written permission of the Responsible Authority.
44. No live music may occur within the site in association with the use/s unless with the written permission of the Responsible Authority.
45. Noise levels emanating from the land must not exceed those set out in Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol), EPA publication 1826.4 or any other subsequent standard.

## Lighting

46. All lighting in unenclosed areas of the site must be designed, baffled, and directed in a downwards position to prevent upward light spill and any direct light being emitted beyond the boundaries of the site and so that no nuisance is caused to adjoining lands to the satisfaction of the Responsible Authority.

## Permit expiry

47. This permit will expire if either one of the following applies:
  - The development is not completed within four years of the date of this permit.
  - The use is not commenced within four and a half years of the date of this permit.

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

## Part B

That Council resolves that Attachment 8 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

**COUNCIL DECISION**

**Moved: Cr Gill**

## 4.2 (Cont.)

Seconded: Cr Celi

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under Section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P20/2280 for the use and development of the land for a winery, native vegetation removal and the sale and consumption of liquor, be approved and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Amended plans required

1. Before the development and/or the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans/document must be generally in accordance with the plans and supportive document submitted on 18 October 2021 but modified to show:
  - A. Relocation of the staff carparks to the cleared area west of the orchard and retention of native vegetation in Patch H.
  - B. Redesign of the loop driveway to avoid any removal of native vegetation.
  - C. Firefighting water tanks to be relocated to an area clear of native vegetation.
  - D. The extent of defensible space around the Winery building in accordance with the revision Q plans by Bradley architects dated 13 September 2022.
  - E. Retention of Native Vegetation Patch G1 with the exception of accessways and defensible space areas.
  - F. Except for the above conditions, vegetation removal and/or retention to be modified in accordance with revision Q plans by Bradley architects dated 13 September 2022.
  - G. An updated Native Vegetation Removal Report in accordance with the Guidelines for the removal, destruction or lopping of native vegetation accurately identify the extent and details of native vegetation to be removed to reflect the revised development layout as required by the above conditions.
  - H. Replanting of suitable vegetation of indigenous species to the local Ecological Vegetation Class (EVC 858 Coastal Alkaline Scrub) immediately beyond the south side of the defensible space to connect the existing habitat corridor from the east to the west, with a 4 metre clearance for tractor access, to the satisfaction of the Responsible Authority.
  - I. The location and dimensions of a minimum of two visitor car parking spaces.
  - J. Deletion of the Cellar Door building and associated works around this building from all plans.
  - K. Amendment of the finish of the building to be non-reflective.

**4.2 (Cont.)**

- L. Deletion of the signage and associated illumination from the site frontage.**
- M. Revision to the Winery building and associated hardstand surfaces around this building in accordance with revision Q plans by Bradley architects dated 13 September 2022.**
- N. The extent of wastewater treatment area generally shown in accordance with the revision Q plans by Bradley architects dated 13 September 2022.**
- O. A minimum 6.0 metre wide crushed rock vehicle crossing between the road and the property boundary.**
- P. A Land Management Plan to provide:**
  - i. The intended use and development at the site generally in accordance with the details provided in Section 3 'The Proposal' of the 'without prejudice' Planning Report dated May 2023.**
  - ii. The anticipated timing of the planting and harvesting of each proposed vineyard as shown on the overall site plan.**
  - iii. Details of irrigation for the operation.**
  - iv. Details of the Winery operation which must, at least, include details reflective of the remaining conditions of this permit.**
  - v. Measures to be implemented to ensure the customer present at the site not to exceed the specified number at any time.**
  - vi. Emergency evacuation plan.**
  - vii. The land management strategy including weed management of the native vegetation patches on the land.**
  - viii. Maintenance and management of the replanting area required by Condition 1 (h).**
- Q. A Bushfire Management Plan (BMP) for the Winery in its revised layout as required by the above conditions. The BMP must be generally in accordance with the revised BMP dated 17 March 2022 prepared by Nature Advisory comprises of the Plan sheet and the Schedule of Conditions, but amended to show:**
  - i. The Schedule of conditions – Bushfire Protection Measures consistent with and reflective of the Nature Advisory Report 19132 dated June 2022;**
  - ii. The 'Water supply for fire-fighting purposes' section revised to delete reference of the use of the building 'for industry or retail premises'.**

**Use and development not altered**

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

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**4.2 (Cont.)**

3. The sale and consumption of liquor may only occur within the designated area shown as 'red line area' on the endorsed plans

**Sourcing**

4. Unless with the further consent of the Responsible Authority, no wine can be produced or provided or sold for on-site or off-site consumption, other than wine that incorporates a component of grapes that are grown on the subject land or land held in common ownership.

**Vine maintenance**

5. The sale of vineyard products must only occur in conjunction with the growing of grapes on the subject land.
6. The land must also be used as a productive vineyard with a minimum area under cultivation of 2 hectares.

**Sale**

7. No alcoholic beverage other than wine sourced from the grapes of the subject land may be sold for consumption off-site.
8. No food of any type or form may be provided for on-site consumption.

**Use conditions**

9. Unless with the further written consent of the Responsible Authority, no more than four (4) staff members in association with the approved use may present at the site at any one time.
10. Unless with the prior written consent of the Responsible Authority, the approved Winery must not be open to public for more than one day per calendar month.
11. Further to Condition 11 above, unless with the prior written consent of the Responsible Authority, the approved Winery must not be open to public outside the hours of 9.00am – 5.00pm.
12. No more than five (5) customers may present at the site at any one time.
13. No customers may be present at the site outside the day/date and hours referred to in Conditions 11 and 12 above.
14. Deliveries in association with the approved use may only occur within the hours of 9.00am – 5.00pm Monday to Friday.

**Finishes**

15. The exterior colour and cladding of the building/s must be of a non-reflective nature to the satisfaction of the Responsible Authority.
16. Prior to the occupation of any building, finishes must be completed to a professional standard to the satisfaction of the Responsible Authority.

## 4.2 (Cont.)

**Disturbed surfaces**

17. All disturbed surfaces on the land must be revegetated and stabilised to the satisfaction of the Responsible Authority.

**Vegetation removal**

18. The extent of vegetation removal must be in accordance with the endorsed plans without the further written consent of the Responsible Authority.

**Native vegetation offset**

19. To offset the approved removal of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified in the approved Native Vegetation Removal Report referred to in Condition 1(g).
20. Before any native vegetation is removed evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence is one or both of the following:
  - A. an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
  - B. credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
21. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

**Tree protection**

22. The trees retained on the subject site and adjoining land must be protected from damage during development in compliance with the tree management process, tree protection zones and tree protection measures (including the erection of tree protection fencing) contained in Australian Standard AS 4970-2009 Protection of trees on development sites.
23. All excavation within the Tree Protection Zones (TPZ) of retained trees on the subject site and adjoining land must be undertaken using a method which is non-destructive to tree roots in compliance with Australian Standard AS 4970-2009 Protection of trees on development sites. Any tree roots which require pruning must be cut with a clean sharp cutting implement with a final cut to undamaged wood at an angle which minimises the size of the wound. No tree roots over 40mm in diameter are to be cut unless under the direct supervision of a Level 5 qualified Arborist. No tree roots critical to maintaining tree health, structure or viability are to be cut. These tree roots must be retained undamaged and alternative design and construction methods used.
24. Any pruning of trees must be undertaken to the minimum extent necessary in compliance with the procedures and practices described in AS 4373-2007 Australian Standard pruning of amenity trees.
25. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site

**4.2 (Cont.)**

are advised of the status of trees to be retained and are advised of any obligations in relation to the protection of those trees.

26. No trenching or soil excavation is to occur within the Tree Protection Zones of retained trees unless shown on the endorsed plans without the prior written consent of the Responsible Authority. No vehicular or pedestrian access, storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

**Replanting**

27. Prior to the occupation of the development building and/or the commencement of the use/s (or other time agreed to in writing by the Responsible Authority) the replanting of native vegetation as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
28. The replanting referred to in the above condition must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced as soon as practicable.

**Bushfire Protection**

29. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

**Engineering Plans**

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

**The plans must show:**

- A. All areas of the development being drained by means of an underground drainage system to retain a post-development 1% AEP storm event for the critical storm duration on the property and being based on a soil percolation test report prepared by an appropriately qualified geotechnical consultant.
- B. Details, including levels of the driveways and car parks within the site.
- C. The crushed rock vehicle crossing being a minimum width of 6.0 metres between the road and the property boundary.
- D. Sight distance for vehicles and pedestrians not being unduly restricted at the exit from site by fencing or landscaping works.
- E. Tree Protection Zones (TPZs) impacted by the works, or as shown on any other development plans and documents.

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4.2 (Cont.)

- F. Drainage works designed to avoid TPZs where possible.
  - G. Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
31. Before the approval of engineering plans, drainage computations and documentation are required for the proposed drainage system.
  32. Prior to the commencement of any works, a project-specific Major Construction Management Plan (CMP) must be endorsed by the Responsible Authority. This CMP is to be based on the standard Major CMP template found on the Mornington Peninsula Shire's website. When approved, the CMP will be endorsed and form part of the Planning Permit. The endorsed CMP must be implemented to the satisfaction of the Responsible Authority prior to, and during the works.
  33. Before the initial occupation of the development drainage works within the development must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority.
  34. Before the initial occupation of the development, vehicle crossings, areas set aside for the parking of vehicles and driveways as shown on the endorsed plans must be constructed in accordance with approved engineering plans, surfaced and drained to the satisfaction of the Responsible Authority.
  35. Car spaces, access lanes and driveways must always be kept available for these purposes.

**Waste management**

36. Waste must be regularly managed, stored and collected by the permit holder to the satisfaction of the Responsible Authority.
37. Prior to the initial occupation of the development and/or the commencement of the uses hereby permitted and for the life of the development/uses, the permit holder must arrange for private waste collect to regularly remove solid waste from the site to the satisfaction of the Responsible Authority.
38. Waste collection may only occur within the hours of 9.00am – 5.00pm Monday to Friday unless with the further written consent of the Responsible Authority.

**Health**

39. Prior the commencement of the use/s, an on-site septic tank system approved by the Environment Protection Authority must be installed and connected to the development in accordance with the Council's Wastewater Management Policy. The system must be maintained thereafter to the satisfaction of the Responsible Authority for the life of the development and/or the use remains on site.
40. The premises must have a Food and Oil Interceptor (FOI) provided for wastewater treatment from food processing and manufacturing and must be located to the satisfaction of the Shire's Environmental Health Team
41. Any external areas used for the storage or cleaning of waste receptacles, equipment or vehicles must be connected to the onsite wastewater management system to the satisfaction of the Responsible Authority.

**4.2 (Cont.)**

42. The amenity of the area must not be detrimentally affected by the use or development, through the:
- A. Transport of materials, goods or commodities to and from the land;
  - B. Appearance of any buildings, works or materials;
  - C. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

**Noise**

43. No external sound amplification equipment, loudspeaker, siren or other audible signalling device may be installed on the land unless with the written permission of the Responsible Authority.
44. No live music may occur within the site in association with the use.
45. Noise levels emanating from the land must not exceed those set out in Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol), EPA publication 1826.4 or any other subsequent standard.

**Lighting**

46. All lighting in unenclosed areas of the site must be designed, baffled, and directed in a downwards position to prevent upward light spill and any direct light being emitted beyond the boundaries of the site and so that no nuisance is caused to adjoining lands to the satisfaction of the Responsible Authority.

**Permit expiry**

47. This permit will expire if either one of the following applies:
- A. The development is not completed within four years of the date of this permit.
  - B. The use is not commenced within four and a half years of the date of this permit.

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

**Part B**

That Council resolves that Attachment 8 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

**Carried Unanimously**

**4.2 (Cont.)**

**ADJOURNMENT OF MEETING**

**That the meeting be adjourned at 8.06pm for a short recess.**

**RESUMPTION OF MEETING**

**That the meeting be resumed at 8.17pm.**

### 4.3 Mornington Peninsula Planning Scheme Review Report 2023

#### RECOMMENDATION

That Council:

1. Adopts the 2023 Mornington Peninsula Planning Scheme Review (Attachments 1, 2, 3 & 4)
2. Submits the 2023 Mornington Peninsula Planning Scheme Review to the Minister for Planning without delay as required under section 12b of the *Planning and Environment Act 1987*.
3. Publishes the findings and recommendations of the 2023 Review and encourages the community to support Council's advocacy initiatives as identified in the review.

#### COUNCIL DECISION

Moved: Cr Gill  
Seconded: Cr Celi

That the recommendation be adopted.

**Carried**

**4.4 New land use planning regulations for animal production - submission to Agriculture Victoria**

**RECOMMENDATION**

That Council:

1. Adopts the Shire officer submission to Agriculture Victoria's proposed new land use planning regulations for animal production (known as 'Clause 53.AA Animal production') contained in Attachment 2 to this report.
2. Notifies Agriculture Victoria that the submission has been adopted by Council.

**COUNCIL DECISION**

**Moved: Cr Roper**

**Seconded: Cr O'Connor**

**That the recommendation be adopted.**

**Carried Unanimously**

#### 4.5 Register of Public Roads Policy and Protocol

##### RECOMMENDATION

That Council adopts the Register of Public Roads Policy (Attachment 1) and the associated Protocol (Attachment 2).

Part B

That Council resolves that Attachment 3 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information of residents .

##### COUNCIL DECISION

Moved: Cr Celi

Seconded: Cr Gill

That the recommendation be adopted.

**Carried Unanimously**

#### 4.6 CN2642 Cleaning Services Tender Recommendation

##### RECOMMENDATION

That Council:

1. Having considered all tender submissions, hereby accepts the tender submission received from Tenderer 11 for the annual contract sum of \$XXX plus \$XXX GST being for CN2642 – Cleaning Services contract.
2. Approves further expenditure under the contract up to the annual growth allowance identified within Attachment 2 of this report.
3. Delegates authority to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*:
  - A. to execute the Contract for the awarded tender, and
  - B. to vary the contract sum within the terms and conditions of the Contract.
4. Receives a report on the Contractor's performance as part of the decision-making process for the granting or otherwise of any contract extensions.

##### Part B

1. That Council resolves that Attachments 1, 2 and 3 to this report be retained as confidential items pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as they contain private commercial information that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
2. That Council resolves that the contract sum and identity of the successful tenderer be retained as confidential pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* until such time as the contract has been executed and unsuccessful tenderers notified.

##### COUNCIL DECISION

Moved: Cr Marsh  
Seconded: Cr Gill

That the recommendation be adopted.

**Carried Unanimously**

## OFFICE OF THE CEO

### 4.7 Maintenance Contract - Depot Lease - 140 Watt Road, Mornington

#### RECOMMENDATION

That Council:

1. Enters into a lease with Citywide for the premises at 140 Watt Road Mornington, in line with the Open Spaces contract (CN2639), for a term of six years, commencing on 1 July 2024.
2. Applies a market rent review at the expiry of the term.
3. Requires the tenant to be responsible for all outgoings, including rates, taxes, Fire Services Property Levy, building insurance, and public liability insurance to the value of \$20,000,000.
4. Requires a security bond equivalent to three months' rent.
5. Authorises the affixing of the Common Seal of the Mornington Peninsula Shire Council where necessary and relevant documents signed by an authorised officer.

#### COUNCIL DECISION

Moved: Cr O'Connor

Seconded: Cr Roper

That the recommendation be adopted.

**Carried Unanimously**

#### 4.8 Instruments of Appointment and Authorisation

##### RECOMMENDATION

1. That Council in the exercise of the powers conferred by section 224 of the *Local Government Act 1989* and the other legislation referred to in the attached Instruments of Appointment and Authorisation, Council resolves that:
  - A. The members of Council staff referred to in Attachment 1 be appointed under the *Planning and Environment Act 1987*.
  - B. The Instruments come into force upon the resolution of Council.

##### COUNCIL DECISION

Moved: Cr Celi  
Seconded: Cr O'Connor

That the recommendation be adopted.

**Carried Unanimously**

## 5 NOTICES OF MOTION

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

### 5.1 Notice of Motion 443 (Cr O'Connor) - Increased traffic on Hopetoun Avenue, Mount Martha

#### PROCEDURAL MOTION

**Notice of Motion 443 was withdrawn at the meeting.**

#### MOTION

1. That the Council calls for a report outlining the impacts of increased traffic on Hopetoun Avenue, Mount Martha.
2. That the report considers:
  - A. The current impacts of increased traffic, including the cost of increased grading and dust suppression treatments.
  - B. All possibilities to alleviate traffic safety issues and dust suppression, including road closure, paving the road, installing traffic calming devices, implementing local traffic only signage, and/or reducing speed limits.
  - C. The impact of the upgrade to Nepean Highway and Forest Drive and determines the best outcome for Hopetoun Avenue.

**5.2 Notice of Motion 444 (Cr Gill) - Wildlife road safety program****MOTION**

1. That Council continues with advocacy and report back to Council in May 2024, after discussion with relevant authorities, about the growing number of wildlife deaths on our major arterial roads and tollway with regard to the growing number of wildlife deaths on our major arterial roads and tollway with regard to the background information below and with possible solutions to the problem.
2. That Council refers the allocation of a budget sum to start a Wildlife Road Safety program for discussion as part of public budget considerations.
3. That the State Government be asked to reconsider their lack of a Wildlife Road Protection program as part of their biodiversity and wildlife protection programs.

**COUNCIL DECISION**

**Moved: Cr Gill**  
**Seconded: Cr Marsh**

1. **That Council continues with advocacy and report back to Council in June 2024, after discussion with relevant authorities, about the growing number of wildlife deaths on our major arterial roads and tollway with regard to the growing number of wildlife deaths on our major arterial roads and tollway with regard to the background information below and with possible solutions to the problem.**
2. **That Council refers the allocation of a budget sum to start a Wildlife Road Safety program for discussion as part of public budget considerations.**
3. **That the State Government be asked to reconsider their lack of a Wildlife Road Protection program as part of their biodiversity and wildlife protection programs.**

**AMENDMENT**

**Moved: Cr Celi**  
**Seconded: Cr Bissinger**

1. That Council continues with advocacy and reports back to Council in June 2024, after discussion with relevant authorities, about the growing number of wildlife deaths on our major arterial roads and tollway with regard to the background information below and with possible solutions to the problem.
2. That the State Government be asked to reconsider their lack of a Wildlife Road Protection program as part of their biodiversity and wildlife protection programs.

**Vote by Division** (Requested by Cr Marsh)

**For: Cr O'Connor, Cr Bissinger and Cr Celi**

**Against: Cr Gill, Cr Marsh, Cr Dixon, Cr Roper and Cr Brooks**

**Amendment Lost**

**The substantive motion was then put.**

**Carried Unanimously**

**5.3 Notice of Motion 445 (Cr Gill) - Hearing of called-in planning applications before Caretaker period**

Cr O'Connor left the meeting at 9.17pm

Cr O'Connor returned to the meeting at 9.18pm and was present for consideration and voting on this item.

**MOTION**

- 1. That Council schedule all Town Planning application call-ins to date to be decided by Council before the election caretaker period commences and if necessary holds unscheduled public Council Meetings to ensure timely decision making on behalf of Town Planning applicants and our community, except due to extenuating planning circumstances beyond our control.**
- 2. All other planning applications that Shire officers plan to bring to a public Council Meeting also be dealt with as soon as possible.**

**COUNCIL DECISION**

**Moved: Cr Gill**  
**Seconded: Cr Marsh**

**That the recommendation be adopted.**

**Vote by Division** (Requested by Cr Marsh)

**For: Cr Gill, Cr Marsh, Cr Dixon, Cr Roper and Cr Brooks**

**Against: Cr O'Connor, Cr Bissinger and Cr Celi**

**Carried**

Cr Roper left the meeting at 9.39pm.

**EXTENSION OF MEETING TIME**

**Moved: Cr Marsh**  
**Seconded: Cr Dixon**

**That the meeting time be extended to 10.30pm.**

**Carried**

**ALTER THE ORDER OF BUSINESS**

**That the item listed at 7.1 on the agenda be considered after the item listed as 5.3.**

Cr Roper returned to the meeting at 9.41pm.

**5.4 Notice of Motion 446 (Cr Gill) - Public Transparency Policy review****MOTION**

That an urgent review of Council's Public Transparency policy due for review last December be undertaken to explore making all briefing and workshop information publicly available - where possible under the *Local Government Act 2020*, with the report brought to Council on the 28 May 2024.

**COUNCIL DECISION**

**Moved: Cr Gill**  
**Seconded: Cr Marsh**

**That a review of Council's Public Transparency policy due for review last December be undertaken to explore making all briefing and workshop information publicly available – where possible under the *Local Government Act 2020*, with a report to consider the draft Policy brought to Council by the end of July 2024.**

**Vote by Division (Requested by Cr Marsh)**

**For: Cr Gill, Cr O'Connor, Cr Marsh, Cr Dixon, Cr Bissinger, Cr Roper, Cr Brooks and Cr Celi**

**Against: Nil**

**Carried**

## **6 URGENT BUSINESS**

Nil.

## 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 report listed below in a meeting closed to the public in accordance with section 66 (2) (a) of the *Local Government Act 2020*:

**7.1 Community Care Reform**

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

**COUNCIL DECISION**

**Moved: Cr O'Connor**

**Seconded: Cr Dixon**

**That the recommendation be adopted.**

**Carried**

7.1 Community Care Reform

RECOMMENDATION

That Council:

- 1. Ceases to be a direct service provider of the State Government Home and Community Care Program for Younger People (HACC PYP) effective by end December 2024.
- 2. Notes that this change includes a commitment to transition all eligible clients to alternative service providers, in partnership with the Victorian Department of Health (DoH) and that services will continue to be provided by Council until supported transition is confirmed.
- 3. Continues to take a strong advocacy role to ensure residents of the Mornington Peninsula Shire are supported appropriately by both the HACC-PYP and National Disability Insurance Scheme (NDIS) programs and that in advocating for this support, Council will continue to emphasise the State Government has the responsibility for its own program to support people under 65 years of age who are not eligible for the NDIS.
- 4. Continues to consult and engage with people with a disability through relevant advisory committees and deliver a range of programs and supports that are complementary to HACC PYP and NDIS.
- 5. Implements a communication and engagement plan for existing HACC PYP service users regarding the change.
- 6. Authorise the Chief Executive Officer and Director of Community Strengthening to enter into discussions with the State Government regarding the exit and supported transition of HACC PYP services and clients to a provider/s to be determined by the State Government.
- 7. Authorises the Chief Executive Officer to disclose information, in full or in part, in these resolutions and report (at their discretion) to:

- [Redacted]
  - [Redacted]
  - [Redacted]

- b) Undertake notification of all active Mornington Peninsula Shire HACC PYP clients, in relation to the exit of HACC PYP services and the impact of the changes.
- 8. Authorises the Chief Executive Officer to determine, at the appropriate time, that the information in these resolutions and this report is no longer confidential information (in part or in full).
- 9. Notes that Shire officers will provide Councillors with regular updates regarding the implementation of the above resolutions.

Part B

That Council resolves that the report, Council decision and attachments to this report be retained as a confidential item pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as it contains information that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage and also section 3 (a) that relates to

**7.1 (Cont.)**

council business information around commercial negotiations that could prejudice Council's position if prematurely released.

**COUNCIL DECISION**

**Moved:** [REDACTED]

**Seconded:** [REDACTED]

**That the recommendation be adopted.**

**Carried**

**PROCEDURAL MOTION**

**MOVED: Cr Marsh**

**SECONDED: Cr Bissinger**

**That the Meeting be re-opened to the public.**

## **8 MEETING CLOSE**

As there was no further business, the meeting closed at 10.27pm

**Confirmed this 14<sup>th</sup> day of May, 2024**

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