

**MORNINGTON  
PENINSULA**  
*Shire*

**AGENDA**

**COUNCIL MEETING**

**TUESDAY, 25 FEBRUARY 2025**

**6:30PM**

**PENINSULA COMMUNITY THEATRE  
91 WILSONS ROAD, MORNINGTON**

## MORNINGTON PENINSULA SHIRE COUNCIL

### WARDS AND COUNCILLORS

<b>Beek Beek</b>	<b>Cr Kate Roper</b>
<b>Benbenjie</b>	<b>Cr Max Patton</b>
<b>Briars</b>	<b>Cr Anthony Marsh</b>
<b>Brokil</b>	<b>Cr Patrick Binyon</b>
<b>Coolart</b>	<b>Cr David Gill</b>
<b>Kackeraboite</b>	<b>Cr Stephen Batty</b>
<b>Moorooduc</b>	<b>Cr Bruce Ranken</b>
<b>Nepean</b>	<b>Cr Andrea Allen</b>
<b>Tanti</b>	<b>Cr Paul Pingiaro</b>
<b>Tootgarook</b>	<b>Cr Cam Williams</b>
<b>Warringine</b>	<b>Cr Michael Stephens</b>

### EXECUTIVE TEAM

<b>Mr Bulent Oz</b> <b>Ms Tanya Scicluna</b> <b>Ms Sam Stanton</b> <b>Ms Renae Littlejohn</b> <b>Mr Davey Smith</b> <b>Mr Mark Schubert</b>	<b>Acting Chief Executive Officer</b> <b>Director – Community Strengthening</b> <b>Director – Corporate Strategy and Business Improvement</b> <b>Director – Planning and Environment</b> <b>Director – Assets and Infrastructure</b> <b>Acting 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 Anthony Marsh

## 1.1 Acknowledgement of Country

To be read by Cr Kate 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**

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 28 January 2025, be confirmed.

**2.4 Councillor Briefing Sessions**

Councillor Briefing Sessions – 4 February 2025

**RECOMMENDATION**

**That Council receives and notes the record of Councillor Briefing Sessions for the 4 February 2025.**

**2.5 Council Decision Register**

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

**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 12 February 2025.

**RECOMMENDATION**

**That Council receives and notes the Decision Register Summaries for 2019-2024 (Attachments 1-6) as at 12 February 2025**

## 2.6 Petitions and Joint Letters

### **Dangerous traffic situation on St Johns Wood Rd Blairgowrie.**

A joint letter has been received requesting that the increasingly dangerous traffic situation on the southern or Back Beach section of St Johns Wood Rd Blairgowrie be addressed.

#### ***Immediate Comment***

The Shire is aware of parking issues that occur on the southern section of St Johns Wood Road in Blairgowrie and routinely patrols the area during peak periods for any illegal and unsafe parking.

No stopping signage is currently installed around the intersection of St Johns Wood Road to Sinclair Street to ensure adequate sightlines. In January 2025, 85% of vehicles are traveling at 30km/h or less, which indicates vehicles are slowing as they approach the carparking area. No crashes have been recorded in this area for the past five years. Officers will review the current parking restrictions in the area and engage with surrounding residents prior to making any changes.

Action Officer: Brett Whitwam, Team Leader – Traffic and Transport

### **Tree Maintenance – Hampden St, Mornington**

A joint letter has been received requesting that maintenance be carried out on the trees at the rear of Leslie Moorhead Preschool, Hampden St, Mornington and the surrounding area.

#### ***Immediate Comment***

The Tree Management team has raised a request for an arborist inspection (Ref: 2025-018757), which will be conducted using the Shire's risk matrix prioritisation tool. The arborist will perform the inspection and, discuss any identified works directly with the resident(s).

It is important to note that nut, flower, and leaf drop are natural occurrences that are part of the tree's lifecycle. These are generally not grounds for tree removal unless there are health, structural, or disease concerns identified through the Shire's risk matrix tool.

Additionally, regular gutter cleaning and building maintenance are recommended practices for managing building assets, regardless of the surrounding environment—whether it is built or natural.

Trees play a vital role in our environment, and we remain committed to prioritising their long-term health and retention.

Action Officer: Samantha Dalla Santa - Team Leader - Open Space • Parks and Roadside

#### **RECOMMENDATION**

**That Council receives and notes the Joint Letters requesting the increasingly dangerous traffic situation on the southern or Back Beach section of St Johns Wood Rd Blairgowrie be addressed and that maintenance be carried out on the trees at the rear of Leslie Moorhead Preschool, Hampden St, Mornington and the surrounding area.**

**2.7 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 Patton	Tori Hayat, Team Leader – Arts and Culture
Association of Bayside Municipalities	Cr Patton	Cr Batty	Laura Crilly, Team Leader – Water and Coasts
Audit and Risk Committee	Cr Ranken Cr Batty	Cr Roper	Bulent Oz, Chief Financial Officer
Australian Coastal Councils	Cr Patton	Cr Batty	Laura Crilly, Team Leader – Water and Coasts
Bass Park Trust	Cr Gill	Cr Stephens	Pam Vercoe, Manager – Governance and Risk
Climate Emergency Community Reference Group	Cr Stephens	Cr Patton	Chris Yorke, Energy and Carbon Management Officer
Disability Advisory Committee	Cr Binyon	N/A	Monica Seal, Disability Community Inclusion Officer
Friends of Lospalos	Cr Binyon	N/A	Chris Munro, Manager – Community Partnerships
Greater South East Melbourne	Mayor	Deputy Mayor	Bulent Oz, Acting Chief Executive Officer
Health and Wellbeing Committee	Cr Williams	N/A	Kate Hills, Team Leader – Community Wellbeing
Hinterland Local Area Action Plan Advisory Committee	TBC	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Metropolitan Transport Forum	Cr Batty	Cr Williams	Justine Lewis, Transport Strategy Coordinator
Mornington Liquor Industry Accord	Cr Batty	N/A	Katherine Cooper, Team Leader – Economic Development
Mornington Peninsula and Western Port Biosphere Reserve Foundation – Council Liaison Group	Cr Patton	Cr Stephens	James Rose, Team Leader – Natural Systems

<b>Association/Committee</b>	<b>Representative/s</b>	<b>Substitute Representative/s</b>	<b>Shire Contact</b>
Mornington Peninsula Cemetery Trust	Cr Roper Cr Batty Cr Pingiaro	N/A	Jenny Brown, Senior Cemeteries Officer
Municipal Association of Victoria (MAV)	Mayor	Deputy Mayor	Pam Vercoe, Manager – Governance and Risk
MAV Emergency Management Committee	Cr Batty	Cr Pingiaro	Andrew Joseph, Team Leader – Community Resilience and Emergency Management
Northern Mornington Peninsula Local Area Action Plan Advisory Committee	TBC	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Peninsula Advisory Committee for Elders	Cr Williams	N/A	Helen Ridgeway, Positive Ageing Officer
South East Councils Climate Change Alliance	Cr Stephens	Cr Patton	Nicci Tsernjavski, Climate Change Partnerships Officer and Daniel Kabel, ESD Infrastructure Officer
Southern Mornington Peninsula Local Area Action Plan Advisory Committee	TBC	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment
Triple A Housing Committee	Cr Gill	N/A	Petrina Dodds-Buckley, Housing Projects Lead
Victorian Local Governance Association (VLGA)	Cr Roper	Cr Pingiaro	Pam Vercoe, Manager – Governance and Risk
Western Port Local Area Action Plan Advisory Committee	TBC	N/A	Jayde Hayes, Manager – Economic Development, Tourism and Investment

## 4 MANAGEMENT REPORTS

### PLANNING & ENVIRONMENT

#### 4.1 Amendment C243morn to the Mornington Peninsula Planning Scheme - Mornington Peninsula (Somerville) Technology, Industry and Business Park, 79 and 83 Bungower Road, Somerville – Exhibition and consideration of submissions

Issued By	Manager – Strategic & Infrastructure Planning
Authorised By	Director - Planning & Environment
Document ID	A13513076
Briefing Note Number	BN1961 – 10 December 2024
Attachment(s)	<ol style="list-style-type: none"> <li>1. Exhibition documents – combined</li> <li>2. Redacted submissions 001-020</li> <li>3. Redacted submissions 021-040</li> <li>4. Redacted submissions 041-062</li> <li>5. Redacted submissions 063-083</li> <li>6. Redacted submissions 084-103</li> <li>7. Redacted submissions 104-114</li> <li>8. Officer responses to submission themes</li> <li>9. Officer response to each submission</li> <li>10. Post-exhibition revised Explanatory Report (track changes)</li> <li>11. Post-exhibition revised DPO24 - Clause 43.04s24 (track changes)</li> </ol>

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#### EXECUTIVE SUMMARY

The purpose of this report is to present the outcomes of the public exhibition of proposed Amendment C243morn (the Amendment) to the Mornington Peninsula Planning Scheme (the Planning Scheme) and recommend next steps in the Amendment process.

The Amendment is a privately led proposal by Procter Investments Pty Ltd seeking to facilitate the establishment of a new Mornington Peninsula (Somerville) Technology, Industry and Business Park at 79 and 83 Bungower Road, Somerville (the land).

Specifically, the Amendment proposes to rezone the land from Special Use Zone – Schedule 1: Port related uses (SUZ1) to the Industrial 3 Zone (IN3Z); apply a new Development Plan Overlay (DPO24) to comprehensively masterplan the site; and introduce a new local planning policy to help guide decision-making about future planning permit applications for the land.

Under the current SUZ1 zoning, only port-related or marine service industry uses are permitted on the land. The proposed IN3Z provides for a broader range of industrial uses, including advanced manufacturing and technology businesses.

## 4.1 (Cont.)

**RECOMMENDATION**

That Council:

1. **Receives, notes, and considers in accordance with section 22 of the *Planning and Environment Act 1987*, all submissions received in response to Amendment C243morn to the Mornington Peninsula Planning Scheme as at Attachments 2 – 7 to this report.**
2. **Considers and endorses the officers' response to submissions in relation to Amendment C234morn to the Mornington Peninsula Planning Scheme as at Attachment 9 to this report.**
3. **Requests that the Minister for Planning appoint a Planning Panel to consider all submissions in relation to Amendment C243morn to the Mornington Peninsula Planning Scheme, as at Attachments 2 – 7 to this report, in accordance with section 23 of the *Planning and Environment Act 1987*.**
4. **Refers all submissions in relation to Amendment C243morn to the Mornington Peninsula Planning Scheme, as at Attachments 2 – 7 to this report, to a Planning Panel appointed by the Minister for Planning, including any late submissions received up until the date of the Panel Hearing.**
5. **Endorses proposed changes to Amendment C243morn to the Mornington Peninsula Planning Scheme for the purpose of Council's advocacy position before the Planning Panel:**
  - A. **Post-exhibition revised Explanatory Report (track changes) at Attachment 10**
  - B. **Post exhibition revised DPO24 - Clause 43.04s24 (track changes) at Attachment 11**
6. **Includes in its submissions to the Planning Panel the proposed changes to documentation for Amendment C243morn to the Mornington Peninsula Planning Scheme, generally in accordance with Attachments 10 and 11 to this report.**
7. **Delegates authority to the Director – Planning & Environment to determine the form of Council's submissions to the Planning Panel with the assistance of any legal representative and/or expert witness advice, including changes to the endorsed version of Amendment C243morn to the Mornington Peninsula Planning Scheme, to resolve matters between Council, submitters and the Planning Panel during the Planning Panel Hearing.**
8. **Notifies the Proponent and all submitters to Amendment C243morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.**
9. **Authorises the Director – Planning & Environment to make editorial changes and administrative changes to the attachments to this report as required.**

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

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

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

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

Theme 2: A robust, innovative and diverse economy.

- Strategic Objective 2.4: A diverse economy, with green and renewable opportunities, encouraging entrepreneurship, investment and innovation.

**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, H and I which are:

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

**RELEVANT COUNCIL DECISIONS AND POLICIES**

- 20 June 2022 Council's Planning Services Committee resolved to seek authorisation from the Minister pursuant to Section 8A of the *Planning and Environment Act 1987* (P&E Act) to prepare and publicly exhibit the Amendment and undertake exhibition following authorisation.
- Mornington Peninsula Industrial Areas Strategy (2018)
- Mornington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy (2020)

**DISCUSSION****Purpose**

The purpose of this report is to present the outcomes of public exhibition of Amendment C243morn and recommend that Council:

- Resolves to request that the Minister appoint an independent Panel to consider all submissions received in relation to the Amendment.
- Includes in its submissions to the Panel a series of proposed changes to the Amendment in response to issues raised in submissions.

#### 4.1 (Cont.)

The report includes a summary of the background to the Amendment, key issues raised in submissions during exhibition, and recommended Shire officer responses to submissions.

#### Background

The strategic justification for the Amendment is supported by a range of adopted Council strategies and State policies, including:

- The Melbourne Industrial and Commercial Land Use Plan (MICLUP) (2020) which identifies the land as future regionally significant industrial land.
- The Port of Hastings Development Strategy (Port of Hastings Authority, 2018) which identifies the land as surplus to Port needs and suitable to 'investigate for industrial uses.
- Council's adopted Industrial Areas Strategy (2018) which highlights the need to identify additional land for future industrial development to support economic growth and local employment.
- Council's adopted Mornington Peninsula Industrial Land Use & Infrastructure Assessment and Rezoning Strategy (2020) which identifies the land as potentially suitable for industrial development given the location and characteristics of the site.

Council resolved on 20 June 2022, to seek authorisation from the Minister for Planning (the Minister) to prepare and publicly exhibit the Amendment. Authorisation was granted on 8 September 2022 and the Amendment was exhibited for six weeks from April to May 2023.

In total, 114 submissions were received with supporting submissions expressing interest in the land use and employment opportunities, while many of the opposing submissions raised concerns about traffic impacts on Bungower Road and future industrial uses on the land. Submissions were also received from the Country Fire Authority (CFA) raising bushfire concerns, the Department of Transport and Planning (DTP) regarding potential impacts to the safety and efficiency of the surrounding arterial road network, and Energy Safe Victoria (ESV) and two pipeline operators regarding mitigating any impacts on the operational safety of the transmission pipeline infrastructure traversing the site.

Given the nature of submissions, and in consultation with Shire officers, the CFA and DTP, the Proponent undertook further detailed assessment to resolve traffic and bushfire related matters. While this additional work resulted in proposed improvements to the Amendment to the satisfaction of officers, issues raised in all 114 submissions received during exhibition cannot be resolved – i.e. changes cannot be made to the Amendment to satisfy all submitter objections or requests.

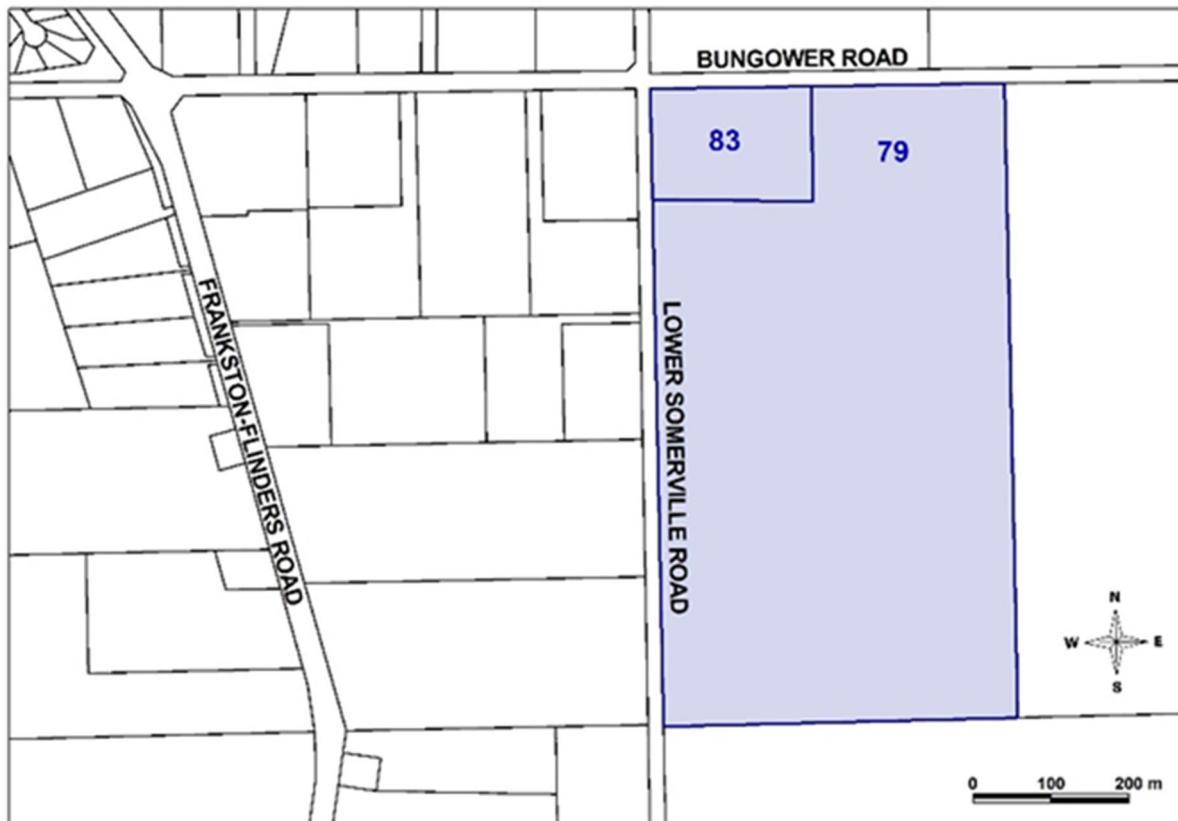
Shire officers therefore recommend that the Amendment and all submissions be referred to an independent Planning Panel (Panel) for review and recommendations as per the requirements of the *P&E Act*. In doing so, Shire officers recommend that a revised version of the Amendment be endorsed by Council to form the basis of Council's submissions to the Panel.

The proposed changes respond to some of the issues raised in submissions, including regarding traffic management, fire hazard mitigation, native vegetation management, and the pipeline easement.

Panel dates have been pre-set for a 31 March Directions Hearing and Panel Hearing in the week beginning 12 May 2025. Following the hearing, the Panel will prepare a report for Council with findings and recommendations which Council must review before deciding whether to adopt the Amendment, with or without any recommended changes, and send it to the Minister for final approval.

## 4.1 (Cont.)

The Amendment is a privately led proposal requested by Macroplan (a property advisory company) on behalf of Procter Investments Pty Ltd. It seeks to facilitate the establishment of a new Mornington Peninsula (Somerville) Technology, Industry and Business Park at 79 and 83 Bungower Road, Somerville – shown in the map at Figure 1.



*Figure 1: The subject land*

The land comprises two property titles with a total land area of about 36.82 hectares. The land is privately owned.

Land at 79 Bungower Road was previously used for horse agistment and contains several associated buildings and farm dams. Large parts of this site have now been seeded with introduced pasture grasses.

Land at 83 Bungower Road is located on the south-east corner of Bungower Road and Lower Somerville Road and contains the 'Thomas Brunnings Farm' homestead which is covered by the Heritage Overlay (HO269).

An approximately 15-metre-wide major pipeline easement runs through the north-west section of the land crossing both properties. The easement contains both oil and high-pressure gas pipelines.

#### Strategic justification for the rezoning

The land is currently zoned SUZ1 under which 'industry' is a permissible use, but it must be "dependent on or gain significant economic advantage from proximity to deep water port facilities, be directly associated with such a use or be a marine service industry". This requirement prevents consideration of the full range of industrial uses intended for the Technology, Industry and Business Park hence the need for rezoning.

The land has been identified in the State Government's Melbourne Industrial and Commercial Land Use Plan (MICLUP) (2020) as future regionally significant industrial land.

**4.1 (Cont.)**

The Port of Hastings Development Strategy (2018) identifies the land as surplus to Port needs and suitable to be considered for alternative industrial development.

Council's adopted Industrial Areas Strategy (2018) highlights the need to identify additional land for future industrial development to support economic growth and local employment on the Peninsula. In this regard, the possible rezoning of some of the land included in the SUZ1 was noted as a potential option. The Strategy highlighted the particular need for more supply of larger industrial sites, as existing industrial areas increasingly accommodate smaller scale and more service-oriented businesses.

More recently, the land, along with another larger precinct to the north of Hastings, was identified as a potential location for industrial rezoning under Council's adopted Industrial Land and Infrastructure Assessment and Rezoning Strategy (ILARS) (2020).

The proposed rezoning of the land will provide a transition and/or buffer area between remaining areas zoned for future Port related industrial use to the east (in the SUZ1 zone) and existing township and residential areas of Somerville to the west.

**Exhibited Amendment**

The exhibited version of the Amendment specifically seeks to:

- rezone the land from SUZ1 to IN3Z
- introduce and apply new DPO24 to comprehensively masterplan the site
- introduce a new local planning policy to help guide decision-making about future planning permit applications for the land.

The proposed new local policy and DPO24 will guide the future use and development of the land by:

- Ensuring long-term opportunities for the establishment of strategic industries, manufacturing, research and development, smaller start-ups and small to medium enterprises through the provision of lots and buildings of varying sizes.
- Discouraging uses that should be more appropriately located in commercial centres or that may conflict with the primary focus of the precinct.
- Providing recreational open space which will contain facilities such as a sporting oval with walking and cycling tracks for the benefit of workers, visitors to the area and residents.
- Incorporating the Brunnings homestead heritage site into the open space area to ensure the protection of the homestead and any significant trees.
- Requiring the use of a range of environmentally sustainable practices and initiatives, such as the use of renewable energy, sustainable building design and best practice water and waste management throughout the site.
- Providing well-designed landscaped and land use buffers where needed to ensure that an appropriate transition occurs between the new precinct, adjoining properties, existing pipeline infrastructure and surrounding zones.

**Proposed layout of the Technology, Industry and Business Park**

The design of the proposed Mornington Peninsula (Somerville) Technology, Industry and Business Park is based around a single main 'boulevard' entry/exit point to Bungower Road.

**4.1 (Cont.)**

No road connection is proposed to Lower Somerville Road (access for emergency vehicles excepted) as recommended by the Shire's traffic engineers.

The proposed precinct is likely to be divided into several sub-precincts, focussing on different forms of development and end-users as follows:

- a community and heritage precinct hub, comprising up to 5.5 hectare around the heritage homestead, which also incorporates open space and an active recreation area
- an anchor site fronting Bungower Road (this is the former Sealite site with existing approval for industrial uses)
- a cluster of small and medium enterprises (SME) sites for small 'start-up' companies
- an area for larger format uses
- a landscaped buffer area adjoining Bungower Road, Lower Somerville Road and the southern boundary.

The location, nature and extent of these sub-precincts will be finalised as part of preparation of a Development Plan (by the Proponents) to be approved by Council under the DPO24. In the meantime, the Proponent has prepared an indicative concept plan that shows the key layout requirements of DPO24 (see Figure 2).

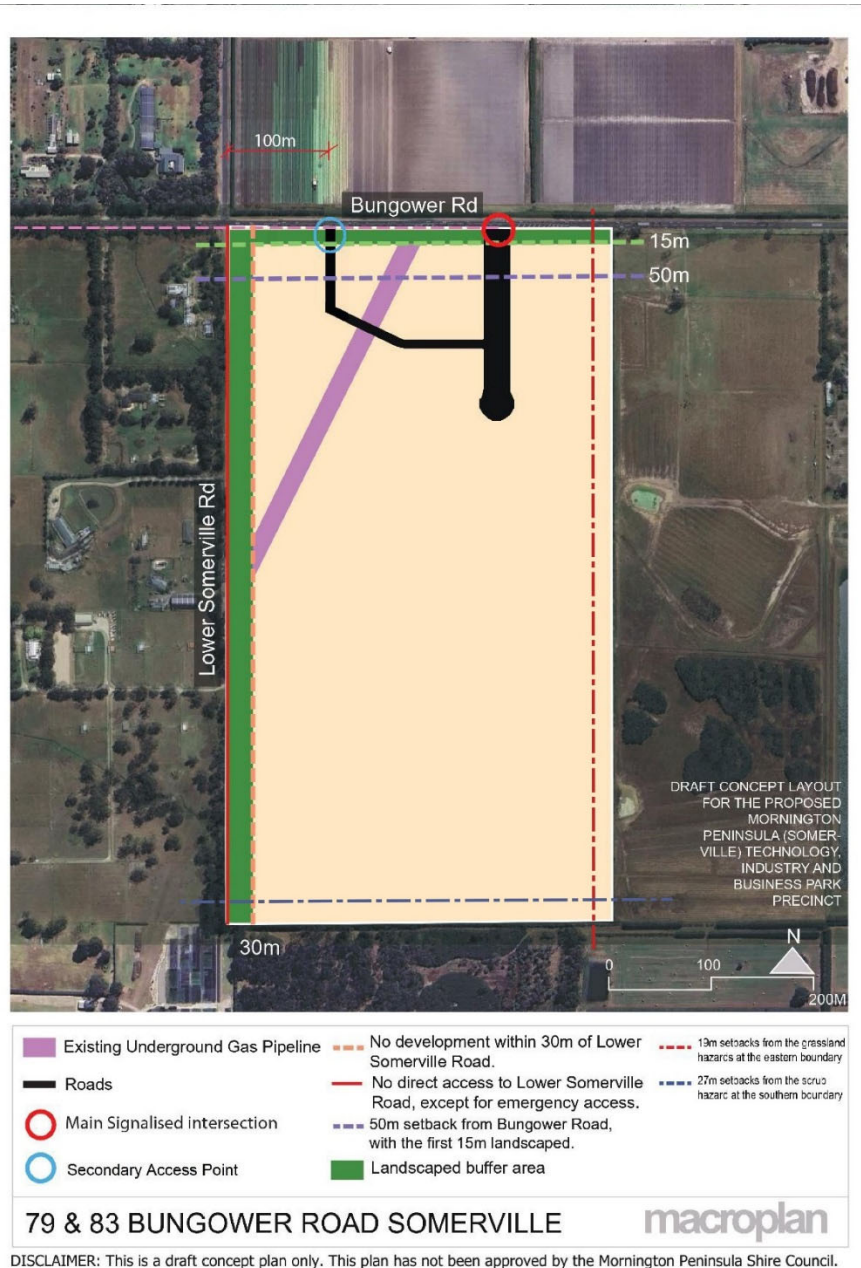


Figure 2: Indicative Concept Plan

The Proponent has also provided a conceptual render of the proposed technology, industry and business park to assist the community to visualise what the land may look like when fully developed (see Figure 3).



Figure 3: Proponent's conceptual render

#### Public exhibition

The Minister authorised Council to prepare and publicly exhibit the Amendment on 8 September 2022. Council exhibited the Amendment for 6 weeks, from 30 March until 12 May 2023. The full set of Amendment documentation placed on exhibition is contained in Attachment 1 to this report.

Public notice of the Amendment was extensive. Details are provided in the 'Engagement' section later in this report. Community members could make submissions to the Amendment in writing by letter, email or online via the submission portal on the Shire's project webpage:

[Amendment C243morn - Somerville Technology, Industry & Business Park - Mornington Peninsula Shire](#)

#### Submissions

In total, 114 submissions were received by the close of exhibition. Copies of all submissions are contained in Attachments 2-7 of this report. The names, addresses, contact details and identifying features of submitters have been redacted for privacy reasons.

In summary, approximately 33% of submissions support the proposed Amendment, 54% oppose it, and the remaining submissions suggest conditions or state no objection. The range of submissions have been categorised into themes as shown in Table 1.

Supportive submissions welcome a high-amenity business park to attract local business operators and employees. Some state that there is a need for advanced engineering / high technology jobs on the Peninsula so that employees do not have to commute to other business precincts outside the Shire. It is noted that Port of Hastings Authority made a submission supporting the proposed rezoning to IN3Z (Submission 114).

Objecting submissions contain a range of issues, but predominantly do not support an industrial precinct in this 'rural' type location at the edge of the Somerville township and

## 4.1 (Cont.)

highlight potential impacts of increased traffic on both Bungower Road and the broader township area.

*Table 1: Submission themes and key issues.*

<b>Theme</b>	<b>Issues</b>
1. Support a new high-tech industry and business park	1.1 Support the proposal for the Mornington Peninsula (Somerville) Technology, Industry and Business Park.
2. Traffic and transport planning	2.1 Bungower Road does not have the capacity to absorb the increase in traffic. 2.2 Increase in traffic and heavy vehicles travelling through Somerville's local streets. 2.3 Increased use of Lower Somerville Road. 2.4 Lack of public transport to site.
3. The industrial zone is not appropriate for this site	3.1 The land should be rezoned to Green Wedge or farming and not for industrial use. 3.2 This precinct should be in Hastings – the preferred site in Council's adopted 'Industrial Land Use and Infrastructure Assessment and Rezoning Strategy.' 3.3 There is existing supply of industrial land in Somerville. 3.4 The rezoning is premature as should wait for review of all port land. 3.5 Regional demand for industrial land. 3.6 Suggested alternative locations for industrial use(Tyabb and Crib Point) 3.7 Potential for similar rezoning requests in SUZ2 if this site is approved, which will change the character of Somerville. 3.8 The site should be rezoned for residential use.
4. Future uses in precinct	4.1 'Sealite' may not be the anchor tenant. 4.2 Control over types of industrial uses in the future.

## 4.1 (Cont.)

Theme	Issues
5. Impacts on surrounding residential and agricultural areas	5.1 Potential adverse impacts of heavy industry - noise, dust, odour and heavy traffic. 5.2 Protection of green wedge values. 5.3 Inappropriate siting near a low-density residential area. 5.4 Negative impacts of tree removal on habitat for local species. 5.5 Where will new employees live given local housing shortage. 5.6 Potential for increase in local crime in the industrial precinct. 5.7 Will the new precinct provide job opportunities for locals? 5.8 The precinct will devalue nearby properties.
6. Development of the precinct	6.1 Provision of open space and community facilities. 6.2 Management of and public access to the open space facilities and sports area. 6.3 Protection of the Thomas Brunning heritage homestead. 6.4 Impact on major oil pipeline through site. 6.5 Control of built form and heights. 6.6 Impact of security lighting on rural area. 6.7 Provision of landscape buffers. 6.8 Connection to sewer. 6.9 Stormwater management. 6.10 Environmentally Sustainable Design features.

**DISCUSSION**

Following public exhibition, Shire officers engaged with the DTP, CFA, the Proponents and their traffic consultants and fire management consultants to review traffic and bushfire issues raised in submissions. These discussions necessitated the preparation of additional traffic and fire management assessments, which required additional time to complete – accounting for the substantial gap (about 21 months) between the close of exhibition and this report to Council.

**Response to submissions**

Attachment 8 provides detailed Shire officer comments in response to the above recurring themes in submissions. Attachment 9 provides a summary of each individual submission (by submission number) and corresponding officer responses.

In addition to recurring themes, there are some matters that were only raised by a single submitter (e.g. bushfire risk by the CFA). Therefore, these matters are addressed individually in Attachment 9.

**4.1 (Cont.)**

The following commentary responds to the key objections to the Amendment that were repeated in most opposing submissions.

The industrial zone is inappropriate; it is a rural area

- It is acknowledged that the land has historically been used for agricultural purposes, some of which continue to this day. Many local residents assume the land is included in the Green Wedge Zone. However, the current SUZ1 (Port Related Uses) has been in place since the New Format Planning Scheme was gazetted in 1999. In the SUZ1, agriculture is supported only as an interim rural land use.
- This land has effectively been held in reserve for Port related uses since the 1970s when it was first identified by authorities as strategically important – it was identified in the Western Port Regional Planning Authority Planning Scheme 1981, the Shire of Hastings Planning Scheme 1982, and the Statement of Planning Policy Number 1 as amended in 1976.
- In recent years, the Port of Hastings Authority has identified that the western portion of the expanse of land zoned SUZ1 is surplus to the Port's future needs, following the State Government's decision that the Port of Hastings was not the preferred location for Victoria's second container port.
- The rezoning is consistent with State Government policy, namely the MICLUP, which identified the land as (Existing) Regionally Significant Industrial Land that will be required to meet the demand for industrial land into the future.

Hastings is the preferred site for industrial development in Council's adopted ILARS

- The ILARS study assessed three areas, namely Hastings, Tyabb and Somerville, and considered the advantages and challenges for all three areas. The ILARS recommended a large area to the north of the Hastings township (Graydens Road) as the preferred location for a major new industrial precinct, but also supported a complementary smaller industrial area to the east of Somerville (where the subject land is located).
- In relation to Hastings, separate work is underway to initiate a privately led planning scheme Amendment to rezone the Hastings area to an industrial zone.

There is an existing supply of industrial land in Somerville

- There is an industrial estate in Grant Road zoned IN3Z which has some unoccupied sites, however, given their relatively smaller size, these are likely to be taken up by businesses serving local needs, rather than a cluster of high-tech manufacturing businesses.
- More importantly, the existing Somerville industrial estate cannot be enlarged as the northern and eastern boundaries are located on the Urban Growth Boundary (UGB) and there is no policy support to extend the Somerville township into the Green Wedge Zone.

Bungower Road does not have the capacity to absorb the increase in traffic

- Detailed investigations and a considered set of development obligations have been prepared to ensure that Bungower Road would still have sufficient capacity if the subject land was rezoned and developed for industrial purposes. It is noted that Bungower Road is a two-lane road classified as Transport Zone Category 3 (TRZ3) and has an 80 kilometre per hour speed limit. The road is a Rural Arterial road that

**4.1 (Cont.)**

directly links to State Arterial roads. Therefore, the proposed business and industry park is a development that is appropriately located on this type of road. There is no current plan for duplication of this roadway.

- Following public exhibition, consultation has been undertaken with the Department of Transport and Planning (DTP), and advice received from traffic engineering consultant specialists Stantec Pty Ltd (for the Proponent) and a peer review by Salt3 Pty Ltd on behalf of the Shire. These investigations included traffic counts and projections of traffic movements over the next 10 years.
- Based on the various analyses, it is determined that, in its current single lane configuration, Bungower Road has sufficient capacity to cater for the additional traffic generated by the proposed development including a likely 20 per cent overall increase in traffic, including heavy vehicle traffic, to 2034. This is an extract from Stantec Preliminary Transport and Movement Plan, Council dated 7 June 2024:

*Adding the anticipated development traffic would equate to approximately 15,500 vehicles per day to the west of the site and 12,000 vehicles per day to the east of the site.*

*These anticipated traffic volumes are well within the indicative capacity of 18,000 vehicles per day for a single lane road. As such, based on the anticipated background traffic growth and full development of the land subject to the proposed rezoning, the anticipated 2034 traffic volumes on Bungower Road would not trigger consideration for duplication.*

- Therefore, in response to the local conditions, and in accordance with the Austroads theoretical limit and the direct access to State Arterial Roads, it has been determined that Bungower Road and the road network can absorb an increase in traffic generated by the development.
- To ensure the appropriate investigations, design and construction take place, the DPO24 requires the developer to submit a Transport and Movement Plan, a Staging Plan and a binding agreement under section 173 of *the P&E Act* (section 173 Agreement), all to the satisfaction of the Responsible Authority.
- The developer will be bound to pay all costs for the road design and road works including the addition of dedicated turn in and out lanes, median and shoulder treatments and signalisation of the main accessway into the land to be installed at the commencement of development.

**Increase in traffic and heavy vehicles travelling though Somerville's local streets**

- The land is located at the outer south-eastern fringe of the Somerville township and is approximately midway between two DTP arterial roads, namely Frankston-Flinders Road and the Western Port Highway.
- Analysis of current and projected numbers of commercial size vehicle movements has been conducted by the two traffic consultants and includes a 'heavy vehicle' component. 'Heavy vehicles' is a term with a wide definition of size or weight. For example, for these surveying purposes, all vehicles with a gross vehicle mass (GVM) of more than 4.5 tonnes were included. This includes a small 4.5 tonne GVM bus with 12 seats through to more substantial articulated vehicles including semi-trailers.
- Collectively the analysis identified that heavy vehicles account for about 5-14% of traffic generation during peak times. The Proponent's traffic consultant (Stantec Pty Ltd) concluded that Bungower Road has sufficient capacity to cater for the anticipated

**4.1 (Cont.)**

traffic generated by the proposal to access Peninsula Link to the west or Westernport Highway to the east. Salt3 Pty Ltd (peer review traffic consultant for Council) has identified a range of options that could be implemented to address the anticipated impact of heavy vehicles on the local network. These (and others) can be considered as part of the Transport and Movement Plan (TMP) which must be prepared and approved as part of any Development Plan for the site under the requirements of the DPO24. Options include:

- Banning right turns into Lower Somerville Road from Bungower Road and banning all heavy vehicle through traffic on Lower Somerville Road.
- Bypassing heavy vehicles from Somerville township via Coolart Road, which is an authorised heavy vehicle route.
- Making Bungower Road an authorised heavy vehicle route (and removing this status from Frankston-Flinders Road north of Bungower Road) to prevent or discourage heavy vehicles from travelling through Somerville township to and from Peninsula Link. (It is noted, however, that this action would be subject to the outcomes of ongoing freight planning between Council and the DTP, as well as the reclassification of Bungower Road as a State arterial road and transferring responsibility for Bungower Road from Council to DTP).
- Additional measures identified by Stantec on behalf of the Proponent include implementing works on Frankston-Flinders Road to improve amenity and safety within Somerville township, such as narrowing pavement widths, reducing speed limits, and providing additional pedestrian crossings as traffic calming measures. Because Frankston-Flinders Road is currently classified as an arterial road, which limits the traffic calming measures that can be implemented, further investigations will be required as part of the Traffic and Movement Plan process, and measures will be required for both the short and long terms (e.g. signage that prohibits through traffic, raised intersections, and mid-block pedestrian crossings).
- The DPO24 requires that the Proponent enter into a section 173 Agreement to provide works recommended by the Transport and Movement Plan at the Proponent's cost.
- Based on the above, Shire officers recommend that the requirements for the TMP in the DPO24 be updated to specifically address mitigating the impact of heavy vehicle traffic on the surrounding road network.
- Finally, it is acknowledged that while the proposed IN3Z allows for a range of industrial uses that may generate heavy vehicle traffic, the zone is specifically applied in instances such as this to provide a buffer to local communities. The IN3Z is distinct from other industrial zones (such as the Industrial 2 Zone) that allow heavy industries that require larger buffers to communities.

**Potential adverse impacts of heavy industry - noise, dust, odour and heavy traffic**

- It is recognised that, without careful planning, future industrial uses in the proposed Technology, Industry and Business Park could have offsite amenity impacts, either on the nearby market gardens or on the low-density residential area to the west of Lower Somerville Road.
- Importantly, however, any future uses in the proposed industrial precinct would need to meet amenity buffers set out in Clause 53.10 (Uses and activities with potential adverse amenity impacts) of the planning scheme to avoid unreasonable amenity impacts. Many uses with likely impacts (noise, dust, odour) require larger buffers from residential zones, for example 200, 500 or 1000 metres. Any application would be

**4.1 (Cont.)**

referred to the Environment Protection Agency (EPA) if the threshold distance is not met.

- The proposed DPO24 requires the approval of a list of preferred uses and explicitly excludes 'offensive or dangerous industries' (such as those governed by the *Dangerous Goods Act 1985* and related regulations, and those unable to meet the threshold distances specified in Clause 53.10: Uses and activities with potential adverse amenity impacts).

**Proposed post-exhibition changes to the Amendment**

In response to issues raised in submissions, officers recommend some post-exhibition changes to the Amendment documentation. These changes relate to the issues of traffic management, fire hazard mitigation, native vegetation management, and conditions regarding the pipeline easement. Officers recommend that the proposed changes form part of Council's submission to the Panel as part of the next stage in the Amendment process (as discussed later in this report).

A copy of the post-exhibition revised Amendment documentation with track changes is included in:

- Attachment 10 - Revised Explanatory Report (track changes). The revised document contains some minor text corrections, additional text addressing bushfire risk and pipeline infrastructure, and additional changes suggested by EPA in their submission.
- Attachment 11 - Revised DPO24 - Clause 43.04s24 (track changes). The proposed changes to the DPO24 are summarised below.

**Traffic management**

- The exhibited version of the DPO24 had a requirement for the provision of traffic signals at the new intersection to be installed within three years of the date of completion of the new entry road, or at any other agreed time to the satisfaction of the responsible authority. It is proposed to revise this requirement after considering the further traffic impact assessment (Stantec, June 2023) and the post-covid traffic count (Stantec, August 2024) provided by the Proponents.
- It is now proposed that the traffic lights be installed when the new main access is completed. This will avoid future discussions about when and if the traffic lights are needed. The Proponents have agreed to this proposed change.
- It is also proposed to ensure that a secondary access to be provided at 83 Bungower Road has limitations on the types of vehicles using this access so larger vehicles will need to use the signalised access from the main internal road. The Proponents have agreed to this proposed change.

**Fire hazard mitigation**

- The CFA's submission recommended a list of conditions to provide defensible space and ensure access for fire services personnel in the event of a fire within the industrial estate, or from a grass fire originating in the adjoining agricultural properties.
- The subject land is within a Bushfire Prone Area (BPA) and is not covered by the Bushfire Management Overlay. On behalf of the Proponents, an assessment of the Amendment against Clause 13.02-1S was prepared by Fire Risk Consultants which concluded that future development of the land is considered as a low bushfire risk.

**4.1 (Cont.)**

- Following further engagement between Shire officers, the Proponent and the CFA post-exhibition, the CFA supports changes to the DPO24 to:
  - identify setbacks from the hazard vegetation to the east (19 metres) and south (27 metres)
  - provide an accessway to allow for emergency vehicle access between the east and south property boundaries and proposed development
  - ensure vegetation is managed within areas identified for the purposes of defensible space to a low threat state.
- The recommended post-exhibition version of DPO24 reinforces the requirement for consideration of bushfire mitigation in subdivision, development and land management over time. Specifically, a permit for subdivision and/or development for the lots located along the eastern and southern boundaries must include a condition that each of these lots must incorporate an internal continuous accessway to enable access for emergency service vehicles.

**Future land use next to pipeline**

In response to matters raised in submissions by pipeline operators (Submissions 61 – Viva Energy Australia, 95 – Esso Australia) and Victoria’s pipeline regulator – Energy Safe Victoria (Submission 110) the recommended post-exhibition version of DPO24 includes additional requirements in section 4.0 (Requirements for development plan) of the DPO24. The proposed changes address the need to ensure that future use and development of the land includes appropriate measures to mitigate any impacts on the operational safety of the transmission pipeline infrastructure in consultation and agreement with the relevant pipeline operators. The requirements for ‘Major Pipeline Infrastructure’ are to be addressed in any approved Development Plan and must include a Safety Management Study to inform the location and development of certain land uses proposed within 200 metres of the pipeline easement. Future planning permits would need to be consistent with the approved Development Plan.

It is noted, however, that the Buffer Area Overlay (BAO) could potentially be applied to the land to address pipeline matters instead amending the DPO24 as above. Introduced in May 2020, the BAO is a relatively new control within the Victoria Planning Provisions (VPPs). According to Planning Practice Note 92: Managing Buffers for Land Use Compatibility (PPN92), the purpose of the BAO is to identify areas where there is potential for off-site impacts on safety or human health, or significant off-site impacts on amenity, from industry, warehouse, infrastructure or other uses. The BAO also ensures that use and development within buffer areas is compatible with potential off-site impacts. Importantly, PPN92 states that the BAO could potentially be applied to licensed pipelines in certain circumstances, noting that the BAO can be applied to land uses that are compliant with relevant regulations and standards but pose a risk of unintended off-site impacts on human health or safety, or significant off-site impacts on amenity.

The BAO may be the more appropriate VPP tool to use in this case, instead of the DPO24, because the BAO includes a statement of risk, objectives, permit triggers for land use, subdivision and buildings and works, as well as application requirements, exemptions from notice and review and decision guidelines. The BAO has already been used for major pipeline infrastructure in other local government areas – namely for land within Latrobe City Council containing major high pressure pipelines (as per Amendment C121latr, gazetted in December 2023).

#### 4.1 (Cont.)

Importantly, the BAO currently does not exist within the Mornington Peninsula Planning Scheme. Therefore, introducing and applying the BAO to land affected by Amendment C243morn could be considered a transformative change to the Amendment. Shire officers therefore recommend that Council seek recommendations on using the BAO for the land as part of its submissions to an independent Planning Panel (as discussed later in this report). This would assist in avoiding any potential defect in procedure in the Planning Scheme Amendment process under section 39 of *the P&E Act*. The likelihood of a Panel supporting the BAO is unknown at this stage. If supportive, a Panel may recommend that the BAO be applied to all land within the Shire that is affected by major pipeline easements. This would need to be executed as part of a separate Planning Scheme Amendment.

#### Ecological Assessment and Native Vegetation Management

- In response to matters raised by DEECA it is recommended to include additional requirements in Part 4 – Requirement of Development Plan to require the following:
  - An Ecological Assessment and Native Vegetation Management Plan to identify opportunities to avoid and minimise impacts on native vegetation.
  - A Landscape Plan to include a full flora species list from appropriate local ecological vegetation classes wherever possible.
  - an Environmental Construction Management Plan to protect native vegetation, avoid construction sediment runoff to native vegetation and waterways and weed control.

#### Potentially contaminated land

- In response to matters raised in a submission from the EPA (Submission 111), the recommended post-exhibition version of DPO24 includes a requirement in section 4.0 (Requirements for development plan) for an Intrusive Soil Contamination Assessment to inform the Development Plan. The assessment must address the potential for impacts to human health and ecological receptors and identify appropriate mitigation measures to the satisfaction of the responsible authority. The addition of this requirement ensures the Amendment complies with Ministerial Direction 19 (Amendments that may result in impacts on the environment, amenity and human health) and Planning Practice Note 30: Potentially Contaminated Land.

#### **Options for consideration**

Section 23 of *the P&E Act* sets out the following options which Council is required to choose from following consideration of all submissions received during exhibition:

1. **Option one** (not available to Council): Change the Amendment in the manner requested by submissions. This option is not possible because Council has received submissions which cannot be resolved – i.e. changes cannot be made to the Amendment to satisfy all submitter objections or requests.
2. **Option two** (recommended): Refer submissions to a Panel appointed by the Minister for independent review and recommendations.
3. **Option three** (not recommended): Abandon the Amendment. This option is not recommended by officers because the Amendment is strategically justified, delivering on adopted policies and strategies of Council.

**4.1 (Cont.)****Planning panel**

If Council resolves to proceed to the Panel stage as recommended in Option 2 above, all submitters will be notified of Council's decision and have the opportunity to address the Panel at the hearing if they wish (with or without third party representation). If any submitters do not wish to appear at the hearing, the Panel will still consider all original submissions.

The 'pre-set' dates confirmed by Planning Panels Victoria for the Amendment are:

- Directions Hearing: Week beginning 31 March 2025
- Panel Hearing: Week beginning 12 May 2025

Following the Panel hearing, the Panel will prepare a report with recommendations for Council to consider which Council must consider at a later Council meeting before deciding whether to adopt the Amendment (with or without changes).

If Council adopts the Amendment with or without changes recommended by the Panel, it must notify all submitters of its decision and then submit the Amendment to the Minister for consideration and a final decision. If Council does not accept all recommendations made by the Panel, it must clearly explain and justify why to the Minister.

If Council abandons the Amendment, the Minister will be informed of its decision, as will all submitters.

**ENGAGEMENT**

Engagement on the Amendment was carried out as per the public exhibition requirements set out in *the P&E Act* and as directed by the Minister.

As detailed previously in this report, the Amendment was publicly exhibited for 6 weeks, from 30 March until 12 May 2023. Notice of the Amendment was given by the following methods:

- public notices in the Government Gazette and Western Port News
- a dedicated webpage on the Shire's website
- individual letters to owners and occupiers of all land in the Somerville postcode
- notices sent as directed by the Minister's authorisation letter to:
  - Bunurong Land Council Aboriginal Corporation
  - Department of Transport
  - Melbourne Water
  - Owners of pipe assets - APA Group, ESSO Australia and Viva Energy Australia.
- notices to prescribed ministers and other relevant ministers, including the Minister for Employment, Minister for Industry and Innovation, Minister for Energy and Resources and Minister for Ports and Freight
- notices to other Members of Parliament at the Federal and State level, including The Hon. Zoe McKenzie MP (Federal) and local MPs Mr Chris Crewther MP, Mr Paul Mercurio MP and Mr Sam Groth MP

**4.1 (Cont.)**

- notices to all people who made submissions during consultation for Council's adopted ILARS and respondents who wanted to be kept notified of future Amendments to implement the recommendations of ILARS
- public authorities (including the CFA, EPA, Invest Victoria, Port of Hastings Authority, South East Water and Energy Safe Victoria)
- other stakeholders including:
  - Casey City Council and Frankston City Council
  - South East Melbourne Manufacturers Alliance (SEMMA)
  - Westernport Chamber of Commerce
  - local real estate agents in Somerville
  - Mornington Peninsula Ratepayers' and Residents' Association
  - Peninsula Speaks
  - Tyabb and District Ratepayers
  - Council Alliance for a Sustainable Built Environment
  - Somerville, Tyabb and District Heritage Society
  - The Committee for Mornington Peninsula and Committee for Frankston (now merged and known as the Committee for Frankston and Mornington Peninsula)
  - Pipeline easement occupants.

During the exhibition period, members of the community could enquire about the Amendment with officers from the Shire's Strategic Planning team via phone or email, or by arranging an in-person appointment at Shire offices.

Five in-person community information sessions were also held to provide further opportunities for community members to speak directly with a Shire officer in person, as well as the Proponent and representatives of the Proponent's planning consultant (Macroplan).

Set up as a series of individual one-on-one appointments, the sessions allowed community members to seek further clarity about the Amendment and the Planning Scheme Amendment process, including how to make a submission and stay updated about the Amendment's progress, and provide their initial thoughts and feedback on the proposal.

**4.1 (Cont.)**

Held at the Somerville Mechanics Hall, a total of 42 appointments were conducted with community members as summarised in Table 2 below:

Date	Time	Number of appointments
Monday, 3 April	5pm-7pm	16
Wednesday, 5 April	5pm-7pm	11
Thursday, 6 April	10am-1pm	3
Wednesday, 26 April	5pm-7pm	6
Monday, 1 May	5pm-7pm	6

*Table 2: In-person community information sessions*

**COMMUNICATIONS PLAN**

A Communications Plan is not required for the Amendment as all public notice during the Planning Scheme Amendment process is given in accordance with the requirements of *the P&E Act*.

As per the recommendations of this report, officers will notify all submitters of Council's decision, as well as all individuals who requested to be provided updates on the Amendment process. The Shire's webpage will also be updated to communicate the Council decision and any updates on the next steps of the Amendment.

[Amendment C243morn - Somerville Technology, Industry & Business Park - Mornington Peninsula Shire](#)

**LEGAL AND REGULATORY FRAMEWORK**

Exhibition of the Amendment was undertaken in accordance with section 17, 18 and 19 of *the P&E Act*.

Submissions have been received which request changes to the Amendment, therefore in accordance with section 23(1) of *the P&E Act*, Council must decide whether to:

- change the Amendment in the manner requested, or
- refer submissions to a Panel, or
- abandon the Amendment or part of the Amendment.

As stated in the report recommendations above, it is recommended that Council undertake Option 2 to refer submissions to a Panel.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

The environmental, social and economic effects of the Amendment are articulated in the Explanatory Report (Attachment 10).

**FINANCIAL CONSIDERATIONS**

This Amendment is privately led. The Proponent has paid Council the statutory fees in accordance with sections 27 and 158 of *the P&E Act* and regulation 6 of Planning and Environment (Fees) Regulations 2016. This includes a fee of \$43,359.30 for Council to consider more than 20 submissions which seek a change to an Amendment, and where

**4.1 (Cont.)**

necessary referring the submissions to a Panel, providing assistance to a Panel, making a submission to a Panel and considering the Panel's report.

Council will also require the Proponent to cover all costs associated with the Panel, unless Council determines to abandon the Amendment following consideration of the submissions.

If Council decides to refer the Amendment and submissions to a Panel, the following estimated costs will be incurred (which the Proponent will be required to pay):

- Panel appointment costs – about \$10,000-\$30,000 (depending on the number of Panel members appointed by the Minister and length of the Panel hearing)
- Representation at the Panel – about \$30,000-40,000 (including appearing on Council's behalf, preparing written submissions and instructing expert witnesses)
- Preparation and presentation of expert witness statements – likely at least for traffic matters – about \$15,000-\$30,000 (depending on how many expert witnesses are required).

**OFFICER DIRECT OR INDIRECT INTEREST**

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

#### 4.2 Planning Scheme Amendment C286morn - Sorrento Built Form Review and Updated DDO28 - Re-exhibition outcomes and next steps

Issued By	Manager – Strategic & Infrastructure Planning
Authorised By	Director - Planning & Environment
Document ID	A13522534
Briefing Note Number	BN1982 – 10 December 2024
Attachment(s)	<ol style="list-style-type: none"> <li>1. Existing DDO28</li> <li>2. Re-exhibited DDO28 (2024)</li> <li>3. Amendment C286morn Background Document</li> <li>4. Ocean Beach Road Sorrento Built Form Review (May 2024)</li> <li>5. Exhibited DDO28 (2022)</li> <li>6. Ocean Beach Road Sorrento Built Form Review (November 2021)</li> <li>7. Submissions 1 to 35 (Redacted)</li> <li>8. Submissions 36 to 77 (Redacted)</li> <li>9. Summary of Proposed Built Form and Design Controls</li> <li>10. Amendment C286morn re-exhibition documents (combined)</li> <li>11. Submissions summary and officers' response</li> <li>12. Response to key submission themes</li> <li>13. Proposed DDO28 (Post re-exhibition track changes)</li> </ol>

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#### EXECUTIVE SUMMARY

Planning Scheme Amendment C286morn (the Amendment) seeks to introduce permanent built form controls to Sorrento's Ocean Beach Road commercial precinct by revising the existing Design and Development Overlay – Schedule 28 (DDO28) that currently applies to the precinct on an interim basis.

The purpose of the Amendment is to ensure that future development protects the low-scale, coastal and historical character of the township including views of significant heritage buildings and coastal dunes, while allowing for reasonable growth to occur in line with the township's broader role and function. To achieve these objectives, the revised DDO28 comprises a mix of mandatory and discretionary requirements, including limiting building heights to 2 storeys / 9 metres at the frontage to Ocean Beach Road and 3 storeys / 12 metres overall with recessed upper levels. (This represents a 1-metre increase in building height compared to the existing DDO28).

#### RECOMMENDATION

##### That Council:

1. **Receives and considers in accordance with section 22(1) of the *Planning and Environment Act 1987*, all submissions received in response to Amendment C286morn to the Mornington Peninsula Planning Scheme as at Attachment 7 & 8 to this report.**
2. **Receives and considers late submissions No.71A and 77 to Amendment C286morn to the Mornington Peninsula Planning Scheme as at Attachment 8 to this report in accordance with section 22(2) of the *Planning and Environment Act 1987*.**

## 4.2 (Cont.)

3. Considers and endorses the officers' responses to submissions in relation to Amendment C286morn to the Mornington Peninsula Planning Scheme as at Attachments 11 & 12 to this report.
4. Requests that the Minister for Planning appoint a Planning Panel to consider all submissions in relation to Amendment C286morn to the Mornington Peninsula Planning Scheme, as at Attachments 7 & 8 to this report, in accordance with section 23 of the *Planning and Environment Act 1987*.
5. Refers all submissions to Amendment C286morn to the Mornington Peninsula Planning Scheme, as at Attachments 7 & 8 to this report, 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.
6. Endorses the proposed changes to Amendment C286morn to the Mornington Peninsula Planning Scheme, as at Attachment 13 to this report, for the purpose of Council's advocacy position before the Planning Panel.
7. Includes in its submissions to the Planning Panel the proposed changes to documentation for Amendment C286morn to the Mornington Peninsula Planning Scheme, generally in accordance with Attachment 13 to this report.
8. Delegates authority to the Director – Planning & Environment to determine the form of Council's submissions to the Planning Panel with the assistance of any legal representative and/or expert witness advice, including changes to the endorsed version of Amendment C286morn to the Mornington Peninsula Planning Scheme, to resolve matters between Council, submitters and the Planning Panel during the Planning Panel Hearing.
9. Notes that the Director – Planning & Environment will request the Minister for Planning to prepare and approve a separate Amendment to the Mornington Peninsula Planning Scheme under section 20A of the *Planning and Environment Act 1987* to extend the expiry date of the existing interim Design and Development Overlay – Schedule 28 by 12 months.
10. Notifies all submitters to Amendment C286morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.
11. Notifies all individuals that have requested to be provided updates of Amendment C286morn to the Mornington Peninsula Planning Scheme in writing of Council's decision.
12. Authorises the Director – Planning & Environment to make editorial changes and administrative changes to the attachments to this report as required.

**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.

**4.2 (Cont.)****GOVERNANCE PRINCIPLES**

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

- 13 December 2021 Planning Services Committee Meeting:
  - Adopt the Ocean Beach Road Sorrento Built Form Review (Design Urban, November 2021).
  - Seek authorisation from the Minister to prepare Amendment C286morn to the Mornington Peninsula Planning Scheme (planning scheme) and undertake exhibition following authorisation.
  - Request the Minister to prepare and approve Amendment C242morn to extend the expiry date of the interim DDO28 by 18 months.
- 4 April 2023 Council Meeting:
  - Request the Minister to prepare and approve Amendment C299morn to extend the expiry date of the interim DDO28 by 12 months.
- 28 May 2024 Council Meeting:
  - Adopt the updated Ocean Beach Road Sorrento Built Form Review Report (May 2024).
  - Endorse a revised version of Amendment C286morn for re-exhibition and undertake re-exhibition.
  - Request the Minister to prepare and approve Amendment C305morn 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 re-exhibition of proposed Amendment C286morn to the Mornington Peninsula Planning Scheme (the Amendment) and recommend that Council:

- Resolves to request that the Minister appoint an independent Planning Panel (the Panel) to consider all submissions received in relation to the Amendment.

**4.2 (Cont.)**

- Includes in its submissions to the Panel a series of proposed changes to the Amendment in response to issues raised in submissions.
- Notes that the Director – Planning & Environment will request the Minister for Planning to prepare and approve a separate Amendment to the Mornington Peninsula Planning Scheme under section 20A of the *Planning and Environment Act 1987* to extend the expiry date of the existing interim Design and Development Overlay – Schedule 28 by 12 months to ensure the current built form controls remain in place.

The report includes a summary of the background to the Amendment, key issues raised in submissions during original exhibition (2022) and re-exhibition (2024), and recommended officer responses to submissions.

**Background**

Initiated by Council in 2021, the Amendment was based on Council's adopted Ocean Beach Road Sorrento Built Form Review (November 2021). The Amendment was first exhibited in 2022 with 73 submissions received – most of which objected to the Amendment citing concerns mainly about overdevelopment and amenity impacts.

In response to submissions, Council adopted a revised Built Form Review in mid-2024 and endorsed an updated version of the Amendment for re-exhibition. Key changes included limiting development on land at the corner of Point Nepean Road to 2 storeys / 9 metres and refining building setback, materiality and amenity requirements across the broader precinct.

The updated Amendment was re-exhibited in the latter half of 2024 and a further 9 submissions were received – some of which were supplementary submissions made by submitters from the original 2022 exhibition process. While support for the revised Amendment was noted in some submissions, most raised concerns about amenity and heritage matters.

Because issues raised in all 77 submissions cannot be resolved, officers recommend that the Amendment and submissions be referred to an independent Planning Panel for review and recommendations. Officers also recommend further post-exhibition changes to the Amendment in response to submissions, and that these be referred to the Panel for consideration as part of Council's submissions. Panel dates have been pre-set for a 24 March 2025 Directions Hearing and Panel Hearing for the week beginning 5 May 2025.

Following the hearing, the Panel will prepare a report for Council with findings and recommendations which Council must review before deciding whether to adopt the Amendment, with or without any recommended changes, and send it to the Minister for Planning (Minister) for final approval.

It is noted that, throughout the Amendment process to date, Council has requested and been granted separate planning scheme Amendment approvals by the Minister to extend the expiry date of the existing DDO28 to ensure it does not lapse while Amendment C286morn is being progressed. Should the existing DDO28 expire without being replaced by a permanent DDO there will be no mandatory height, setback and design controls for the areas shown in Figures 1 and 2. Parts of the precinct will remain covered by the Heritage Overlay to protect heritage values.

The DDO28 is currently set to expire on 4 July 2025. Officers recommend that a further 12-month extension be sought to ensure sufficient time remains to finalise the Amendment process. As with previous requests, officers recommend that a 'fast-track' Amendment be sought given its administrative nature (i.e. extension of an expiration date). Officers further recommend that this Amendment be prepared and lodged under delegation as per the Instrument of Delegation: Council to Council Officers (S6) 9 September 2024.

The Ocean Beach Road commercial precinct in Sorrento is currently covered by DDO28 (see Figure 1 below). DDO28 is a planning control in the Mornington Peninsula Planning Scheme (planning scheme) that regulates how land can be developed and what specific built form outcomes should be achieved by new development (see Attachment 1).



Figure 1: Existing Design and Development Overlay – Schedule 28 in Ocean Beach Road (DDO28 shown in pink)

The primary purpose of DDO28 is to ensure that development in the precinct makes a positive contribution to the low-scale, coastal and historical character of the precinct and ensure that views of significant heritage buildings and nearby dunes are protected.

To achieve these objectives, the existing DDO28 comprises a mix of mandatory and discretionary building height and setback requirements for the various sub-precincts as identified in Figure 2. Building heights are limited to a maximum 2 storeys / 8 metres at the street frontage, increasing to no more than 3 storeys / 11 metres at recessed upper levels. Minimum setbacks of storeys vary between precincts from 0 metres at first floor (ground level) to over 8 metres for third storeys.

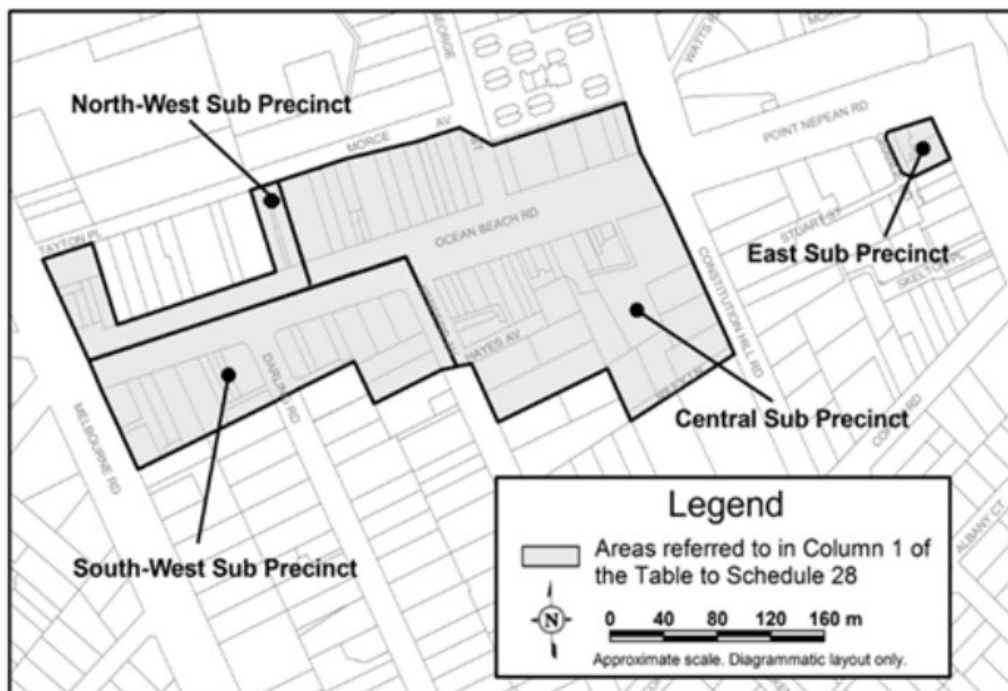


Figure 2: Existing DDO28 sub-precincts)

**4.2 (Cont.)**

When the Minister originally approved DDO28 (via Amendment C204morn on 17 June 2018), approval was granted on the condition that DDO28 was applied on an interim basis until Council provided further strategic justification to warrant permanent, mandatory controls. Following successive extension approvals throughout the process for Amendment C286morn, the DDO28 control has a current expiry date of 4 July 2025.

Should the existing DDO28 expire without being replaced by a permanent DDO there will be no mandatory height, setback and design controls for the areas shown in Figures 1 and 2. Parts of the precinct will remain covered by the Heritage Overlay to protect heritage values.

**Planning Scheme Amendment C286morn**

Amendment C286morn seeks to implement the recommendations of Council's adopted Ocean Beach Road Sorrento Built Form Review (May 2024) (the 'Built Form Review 2024'). The Amendment seeks to replace the existing interim DDO28 that currently applies to Sorrento's Ocean Beach Road commercial precinct (Attachment 1) with a revised and permanent schedule of mandatory building height and setback controls (re-exhibited version at Attachment 2).

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.

It is noted that Amendment C286morn, the Built Form Review 2024 (and previous Amendment C204morn to introduce DDO28) have a lengthy history which is detailed in the Background Document contained in Attachment 3 to this report. The following is a summary of the pertinent aspects and the planning scheme Amendment process undertaken to date.

**Ocean Beach Road Sorrento Built Form Review**

The Built Form Review 2024 (see Attachment 4) provides the strategic justification for the changes sought in the Amendment. The Built Form Review 2024 was adopted by Council on 28 May 2024 and replaced a previous version of the document adopted in November 2021.

Specifically, the document:

- analyses the commercial precinct's planning, physical and historical context
- lists the overall opportunities and constraints that inform potential growth and future built form outcomes in the precinct
- provides 3D modelling which demonstrates potential future built form outcomes within the precinct
- tests various building heights, building setbacks and development scenarios as viewed from several key vantage points throughout the commercial precinct
- analyses various components of the commercial precinct, including the Ocean Beach Road streetscape, heritage buildings, the Morce Avenue interface, the 3293-3295 Point Nepean Road site (former 'East sub precinct'), side streets, and residential interfaces to commercial development.



**4.2 (Cont.)**

The exhibited DDO28 (2022) control (see Attachment 5) was drafted based on the original Ocean Beach Road Sorrento Built Form Review which was adopted by Council in November 2021 (see Attachment 6).

The exhibited controls maintained the same maximum number of storeys as the existing interim DDO28 in all but the East-sub precinct, while allowing an extra metre of building height and less onerous upper-level setbacks. Key changes compared with the existing interim controls 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.

The Amendment was publicly exhibited for 12 weeks from 28 July to 24 October 2022 and 73 submissions were received, most of which (80%) objected to the Amendment, citing concerns about overdevelopment, amenity impacts and the restrictive nature of proposed controls in certain parts of the precinct. All submissions to the 2022 exhibition are included in Attachments 7 & 8 to this report.

After public exhibition in 2022, officers commissioned an independent peer review of the Amendment from both a planning and urban design perspective to explore how submitter issues could potentially be resolved. The peer review process concluded that several matters were worthy of further refinement within both the original Built Form Review and Amendment documentation.

The key matter to be addressed was the justification for mandatory controls provided by the original Built Form Review document, which was largely based on the heritage significance of the commercial precinct area. The peer review noted that the heritage significance in the precinct was reduced following the removal of several properties from the Heritage Overlay in August 2022 by Amendment C262morn (this implemented Council's Heritage Review – Area 3: Blairgowrie, Sorrento and Portsea). The heritage Amendment was approved after the original Built Form Review was adopted by Council. The peer review concluded that this reduction in the Heritage Overlay weakened the strategic justification for mandatory controls in the precinct and recommended that Council re-visit the strategic justification for the Amendment to ensure it remained robust.

**Refresh of Ocean Beach Road Sorrento Built Form Review**

Following the peer review process, officers commissioned a 'refresh' of the original Built Form Review document to ensure it provided a sound strategic justification to support the application of permanent mandatory built form controls. The refresh was undertaken by Glossop Town Planning, in partnership with Design Urban (the original author of the Built Form Review) and with input from the Shire's external heritage advisor, Landmark Heritage.

The scope of the Built Form Review refresh was based on supplementary peer review advice provided by Glossop Town Planning. A summary of the matters addressed in the refresh are detailed in the Background Document (Attachment 3).

In summary, the refresh produced an updated document which included:

- A comprehensive analysis of the precinct's planning and physical context to identify overlay opportunities and constraints that inform potential growth and future built form outcomes.
- A more detailed Built Form Framework based on modelling and testing which addresses various components of the precinct, 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, residential interfaces to commercial development, and long views to the southern dunes.

In response to the refreshed Built Form Review's recommendations, revised Amendment documentation (including an updated DDO28) was prepared. At its 28 May 2024 Council Meeting, Council adopted the refreshed version of the Built Form Review 2024 and resolved that Amendment C286morn should be re-exhibited to ensure that all submitters to the original exhibition process and landowners affected by the Amendment were given the opportunity to view and respond to the updated Amendment documents before Council decided whether to progress the Amendment to the next stage. As is detailed later in this report, it is recommended that the next stage is to refer the revised Amendment and all submissions to an independent Planning Panel for review and recommendations before deciding whether to adopt the Amendment.

#### **Overview of changes – exhibited DDO28 (2022) and re-exhibited DDO28 (2024)**

Attachment 9 contains a summary of changes to the controls in a graphical format with maps that show:

- the key changes between the existing DDO28 controls, the exhibited DDO28 controls (2022) and the revised re-exhibited DDO28 controls (2024)
- how development can be supported on, and next to identified heritage sites
- the impact of built form modelling on important view lines

These maps were placed on public exhibition alongside all other statutory Amendment documents as part of re-exhibition of the Amendment.

#### **Outcomes of re-exhibition (2024)**

Amendment C286morn was publicly re-exhibited for a period of 6 weeks, from Thursday, 25 July to Friday, 6 September 2024. The re-exhibited version of DDO28 is included in Attachment 2. The full set of re-exhibition Amendment documentation is combined in Attachment 10.

Notice of the Amendment was extensive as per the details provided in the 'Engagement' section later in this report.

Submissions to the Amendment could be made in writing via letter, email or online via a submission portal on the Shire's website.

#### **Submissions**

In addition to the 73 submissions received during the original exhibition of the Amendment in 2022, a further nine submissions were received during the re-exhibition period in 2024. Five of these were supplementary submissions from parties who provided a submission to the original exhibition and the remaining four were new submitters. The combined 77 submissions (including supplementary submissions) are included in Attachments 7 and 8.

**4.2 (Cont.)**New submitters

One submitter (Submission 74) who is directly affected by the Amendment was generally supportive of the overall intentions of the Amendment, while two other new submitters (Submissions 76 and 77) requested changes to the Amendment in relation to amenity impacts to residential properties north of the Amendment area.

A new submission was also received from Heritage Victoria (HV) (Submission 75) which suggested some changes to the proposed controls for sites listed on the Victorian Heritage Register (VHR). This included applying specific height controls to VHR sites to limit new development to the height of the existing heritage buildings, as well as limiting the height of new development on sites adjacent heritage sites.

Officers provided HV with a further written explanation of the proposed controls in DDO28 and how they would apply to VHR sites. Officers also advised HV that new developments next to any identified heritage buildings in a Heritage Overlay (including VHR buildings) must take into consideration the impact on the identified heritage place and often these developments are assessed by Council's independent heritage advisor when an application is received.

HV responded confirming it had a better understanding of the proposed control but later requested that the proposed DDO28 include a reference to the permit requirements of the *Heritage Act 2017* which give HV referral and decision-making authority for VHR sites. While officers appreciate the intent of HV's request, officers do not agree with the proposed inclusion as it would be referencing permit requirements under a separate statutory process which is inconsistent with planning scheme drafting rules set down by the State Government.

Previous submitters providing a further submission

One previous submitter (Submission 64A) confirmed that they are now supportive of the revised Amendment after previously being opposed to the originally exhibited controls.

Three other previous submitters (Submissions 12A, 33A and 54A) were all opposed to the originally exhibited Amendment and each of their supplementary submissions confirm that they remain opposed to the revised Amendment based on several issues discussed below.

The Country Fire Authority (CFA) (Submission 71A) also provided a supplementary submission stating no comments to make on the re-exhibited Amendment.

**Re-exhibition issues**

Most issues raised in re-exhibition submissions relate to the 3293-3295 Point Nepean Road site (former East sub-precinct) as summarised below:

- The application of Design and Development Overlay – Schedule 3 (Coast and Landscape Design) (DDO3) to the 3293-3295 Point Nepean Road site (former East sub-precinct) should be considered instead of the proposed DDO28.
- The proposed DDO28 does not reference the protection of views to other heritage buildings such as 'Quamby' (located on an adjacent site).
- Concerns that upper-level setbacks proposed for the 3293-3295 Point Nepean Road site will result in new built form that will conceal views to important landmarks.
- Further clarification of what the exact height of new development could be on the 3293-3295 Point Nepean Road site.
- New development on the 3293-3295 Point Nepean Road site and the potential amenity and view line impacts this could have on residents to the north of the site.

**4.2 (Cont.)**

Other more general issues raised in re-exhibition submissions included:

- The potential impact of future commercial development on residential land between George Street and Point Nepean Road that is directly adjacent the proposed DDO28.
- More specific requirements are needed to address issues concerning waste storage and better access for fire fighting vehicles in laneways.
- The proposed controls being excessive and diminishing the character of Sorrento.
- The removal of sub-precincts from DDO28 is problematic.
- The design objectives of the revised DDO28 are too broad and poorly drafted.
- A map-based approach to the application of the built form controls should be adopted in the DDO28 instead of the proposed written format, to avoid confusion between controls that reference buildings ‘fronting’ a road compared with ‘abutting’ a road.
- Suggestion that the exhibition process is a formality and that although submissions are received and considered, they may not be properly considered in a decision.
- The assumptions adopted in the Built Form Review 2024 which inform the proposed built form controls are faulty and incorrectly apply the literature referenced in the report.
- The increased need for car parking due to allowing three storeys of development has not been addressed.
- The impact of wind down Ocean Beach Road due to allowing three storeys of development has not been addressed.
- Improved spatial enclosure of the street would be better achieved by tree planting instead of increased building heights and setbacks.

These issues are in addition to all other issues raised in submissions to the original exhibition of the Amendment which are summarised in the Background Document (Attachment 3).

**Recommended changes in response to submissions**

As stated earlier in this report, 73 submissions were received during the original exhibition of the Amendment in 2022, with 4 new submissions and 5 supplementary submissions received during re-exhibition in 2024. Therefore, 77 submissions have been received for the Amendment in total.

The table included in Attachment 11 to this report provides a summary of officer responses and recommendations to each submission. Many of the responses can be categorised by common themes. These themes and corresponding officer responses are provided in Attachment 12 to this report.

It is noted that most of the opposing submissions will remain unresolved. However, officers have identified some instances where refinement of the controls in the proposed DDO28 are warranted. These are:

- Refinements to the wording of several buildings and works requirements to make it clear that they apply to new buildings, as well as additions or renovations to existing buildings. For example, some requirements currently reference “For all buildings...”, however the updated wording will now reference “*For all new buildings and works on sites...*”.

**4.2 (Cont.)**

- Removing the current definition of ‘abutting’ listed in DDO28 which is: “Abutting means a building on or within 200mm of a boundary.” This change will remove any potential ambiguity as a building slightly more than 200 millimetres from the front boundary would not need to comply with the mandatory height controls.
- Relocation and refinement of wording to confirm that a permit must not be granted for new buildings or the replacement of existing buildings that exceed the maximum building height, with some exemptions to this rule listed including architectural features, e.g., masts, building services (lift overruns) and stairwells. This exemption ensures that existing heritage-listed buildings with elements that already exceed the height requirements (e.g. the Continental Hotel) could be reconstructed if damaged.
- Updating the fourth Design Objective to include reference to maintaining views to the heritage listed ‘Quamby’ building (3317 Point Nepean Road).
- Updating the mandatory building height requirement for sites abutting Ocean Beach Road to clarify how the visibility of three buildings levels will be measured (see below).

“The overall building height must not exceed 12 metres and only the ground floor level, Level 1 and Level 2 may be visible when viewed from 1.6 metres above natural ground level at the street boundary of the site (or sites) directly opposite the centre of the subject site, as shown in Diagram 1. If there is no site directly opposite (if there is a road) the view line should be taken from what would be the continuation of the street boundary”

A diagram has also been included below the requirement to aid interpretation of this control.

- Adding a discretionary front setback requirement for side street sites. This states that buildings should have “A front set back the same distance of the existing building on the adjoining lot, or 4 metres, whichever is the lesser”.
- Updating a general requirement (see below) that references ResCode standards to state that sites which “abut an unnamed laneway which directly abuts land in a residential zone” should also achieve the standard listed. Additionally, reference to the side and rear setback standard (Standard B17) has been removed and replaced with a separate general requirement (below) and two accompanying diagrams, which demonstrate setbacks that should be achieved under the two scenarios.

**Updated ResCode General Requirement**

New buildings and works on sites which directly abut land in a residential zone (or directly abut an unnamed laneway which directly abuts land in a residential zone) should achieve the following standards set out at Clause 55.04 of the Planning Scheme:

- Standard B19 Daylight to existing windows
- Standard B20 North facing windows
- Standard B21 Overshadowing open space
- Standard B22 Overlooking
- Standard B24 Noise impacts.

**4.2 (Cont.)****New General Requirement for side and rear setbacks**

New buildings and works on sites which directly abut land in a residential zone (or directly abut an unnamed laneway which directly abuts land in a residential zone) should be set back from the side or rear boundary in accordance with Diagram 2 or 3, whichever is applicable.

- These refinements have been included in a marked-up post re-exhibition version of DDO28 at Attachment 13.

**Recommended changes in response to Department of Transport and Planning suggestions**

Officers recommend a further refinement to the Amendment in response to feedback received from the Department of Transport and Planning (DTP) as part of its informal review of the re-exhibited Amendment documentation prior to re-exhibition. Specifically, officers recommend accepting DTP's suggestion that the definition of 'building height' – which refers to a definition already included in the planning scheme at Clause 73.01 (General terms) – be removed. Officers agree that having the definition in the DDO28 is not required as it duplicates content of another provision of the planning scheme (i.e. Clause 73.01) which does not comply with the State Government's drafting rules for planning scheme ordinance. This refinement is noted in a marked-up post re-exhibition version of DDO28 at Attachment 13.

DTP also suggested that Council officers reconsider the inclusion of the abovementioned ResCode general requirement and instead replace it with specific design requirements that would achieve the preferred development outcomes. Officers do not recommend removing the ResCode requirements as these were recommended for inclusion by Council's adopted Built Form Review. Further, drafting specific design requirements would effectively duplicate the ResCode requirements. Officers further recommend that Council seek advice and recommendations on this matter as part of any future Planning Panel process for the Amendment (as outlined later in this report).

**Further extension to the expiry date of DDO28**

As previously noted, existing DDO28 is set to expire on 4 July 2025. Officers recommend that a further 12-month extension be sought to ensure the DDO28 does not expire before the planning scheme Amendment process for Amendment C286morn concludes. The extension will accommodate time for any Panel process, Council's consideration of the Panel's report and decision about whether to adopt the Amendment, and the Minister's final assessment and decision on the Amendment.

As with previous requests supported by DTP and approved by the Minister, officers recommend that a 'fast-track' Amendment be sought. Fast-tracked approval can occur if the Minister exercises her powers under section 20A of the *Planning & Environment Act 1987* (P&E Act) to amend the DDO28 without the usual public notice requirements (i.e. public exhibition). The Amendment would be a 'prescribed class' as listed in regulation 8 of the Planning and Environment Regulations 2015.

A 'Ministerial Amendment' (as it is known) is considered appropriate given the administrative nature of the request. That is, only the expiration date of the DDO28 is sought to be amended by 1 year – not the application or substantive content of the overlay (such as design objectives, controls, application requirements or decision guidelines).

To reduce administrative burden on Council, this Amendment request will be sought by the Director – Planning & Environment under delegation as per the Instrument of Delegation: Council to Council Officers (S6) 9 September 2024. Specifically, section 8A(3) of the Instrument which allows the Director – Planning and Environment (Director) to apply to the

**4.2 (Cont.)**

Minister to prepare an Amendment to the planning scheme, and section 20(1) which allows the Director to apply to the Minister for exemption from the public notice requirements of section 19 of the *P&E Act*.

**Options for consideration**

Following re-exhibition of the Amendment and consideration of all submissions received (including those submissions received in 2022 and 2024), below are the options available to Council regarding next steps in the Amendment process.

**Option 1: Refer submissions to an independent Planning Panel (recommended)**

Having considered submissions as required under section 22 of the *Planning & Environment Act 1987* (P&E Act), Council could refer all submissions to an independent Planning Panel in accordance with section 23(1)(b) of the *P&E Act* because submissions remain unresolved. That is, it is not possible for Council to make all changes requested by submitters because the submissions contain differing views and requested changes.

If Council resolves to proceed to the Panel stage, all submitters will be notified and will have the opportunity to address the Panel at a future hearing if they wish (with or without third party representation).

The following Panel dates have been pre-set:

- Directions Hearing: Week beginning 24 March 2025
- Panel Hearing: Week beginning 5 May 2025.

Following the Panel hearing, the Panel will prepare a report with recommendations which Council must consider at a later Council meeting before deciding whether to adopt the Amendment (with or without changes).

**Option 2: Change the Amendment in the manner requested by submissions**

This option is not available to Council because, as noted in Option 1, issues raised in submissions cannot be resolved.

**Option 3: Abandon the Amendment or part of the Amendment**

This option is not recommended because:

- The proposed Amendment is strategically justified, based on a Built Form Review informed by independent planning and urban design experts and feedback from community submissions.
- Abandoning the Amendment would mean that the existing DDO28 would expire in July 2025. Should the existing DDO28 expire without being replaced by a permanent DDO there will be no mandatory height, setback and design controls for the areas shown in Figures 1 and 2. Parts of the precinct will remain covered by the Heritage Overlay to protect heritage values.
- The Planning Panel process is the appropriate means for the views of Council and submitters to be independently heard and considered, with a subsequent report to be provided to Council to assist in deciding whether to adopt the Amendment (with or without changes) before seeking final approval from the Minister.

**4.2 (Cont.)****ENGAGEMENT**

Engagement on the Amendment was carried out as per the public exhibition requirements set out in *the P&E Act* and as directed by the Minister.

As detailed previously in this report, the Amendment was originally exhibited for a period of 12 weeks, from July to October 2022. A total of 73 submissions were received during this exhibition period.

The Amendment was then re-exhibited for a period of 6 weeks, from July to September 2024. A further nine submissions were received of which four were new submissions, while the remaining five were supplementary submissions from parties who provided a submission to the original exhibition process.

Notice of the Amendment was given by public notices in the Government Gazette and Southern Peninsula News as well as a dedicated webpage on the Shire's website.

Individual letters with Amendment notices were also sent to:

- owners and occupiers of land in the entire Sorrento township (postcode) area
- local community groups, resident associations and historical societies
- prescribed ministers, the State Member for Nepean and the federal Member for Flinders
- public authorities including the Country Fire Authority (CFA), Melbourne Water, South East Water, the Department of Transport and Planning, and Heritage Victoria
- individuals who provided a submission to the original exhibition of the Amendment in 2022 (73 submitters)
- a list of the Shire's most frequent customers to the Planning Services department (including planning permit applicants, local planning consultants, builders, drafts people, surveyors, etc.).

During the re-exhibition period, members of the community could enquire about the Amendment with officers from the Shire's Strategic Planning team via phone or email, or by arranging an in-person appointment at Shire offices.

Two in-person community information sessions were also held at the Sorrento Community Centre to provide further opportunities for community members to speak directly with a Shire officer in person. Seven community members attended across the two information sessions held on:

- Session 1: Monday, 12 August (10.00am – 2:00pm)
- Session 2: Wednesday 14 August (5:30pm – 7:30pm)

Should Council proceed to a Planning Panel process, submitters will be notified of Council's decision and later notified by Planning Panels Victoria about the opportunity to present their submissions at the Panel hearing, with or without third party representation. It is noted, however, that the Panel will consider all submissions regardless of whether submitters elect to appear at the hearing.

**4.2 (Cont.)****COMMUNICATIONS PLAN**

A Communications Plan is not required for the Amendment as all public notice during the planning scheme Amendment process is given in accordance with the requirements of the *P&E Act*.

As per the recommendations of this report, officers will notify all submitters of Council's decision, as well as all individuals who requested to be provided updates on the Amendment process. The Shire's webpage will also be updated to communicate the Council decision and any updates on the next steps of the Amendment.

[Amendment C286morn - Ocean Beach Road Sorrento Built Form Review - Mornington Peninsula Shire](#)

**LEGAL AND REGULATORY FRAMEWORK**

Re-exhibition of Amendment C286morn was undertaken in accordance with section 17, 18 and 19 of *the P&E Act*.

Following re-exhibition, Council must consider all submissions under section 22 of *the P&E Act*.

Submissions have been received which request changes to the Amendment, therefore in accordance with section 23(1) of *the P&E Act*, Council must decide whether to:

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

Extending the expiry date of the existing DDO28 by 12 months would be requested via a separate Amendment under section 20(4) of *the P&E Act* as a 'prescribed class' of Amendment listed in regulation 8 of the Planning and Environment Regulations 2015.

Officer delegation to request the Amendment would be as per the Instrument of Delegation: Council to Council Officers (S6) 9 September 2024. Specifically, section 8A(3) of the Instrument which allows the Director – Planning & Environment to apply to the Minister to prepare the Amendment, and section 20(1) which allows the Director – Planning & Environment to apply to the Minister for exemption from the public notice requirements of section 19 of *the P&E Act*.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

The Amendment's Explanatory Report (included in the combined Amendment documentation in Attachment 10) outlines the environmental, social and economic effects of the Amendment.

**FINANCIAL CONSIDERATIONS**

If Council decides to refer the Amendment and submissions to a Panel as per Option 1 above, the following estimated costs will be incurred:

- Panel appointment costs – about \$10,000-\$30,000 (depending on the number of Panel members appointed by the Minister and length of the Panel hearing)
- Legal representation at the Panel – about \$30,000-40,000 (including appearing on Council's behalf, preparing written submissions and instructing expert witnesses)

**4.2 (Cont.)**

- Preparation and presentation of Urban Design and Planning expert evidence – about \$38,000

The above costs can be accommodated within existing budgets.

The cost to extend the expiry date of the DDO28 via a planning scheme Amendment under section 20A of *the P&E Act* is \$1,061.50. This cost can be accommodated within existing budgets.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

**4.3 EPBC Act referral submission - 170 Boundary Road and 62 Collins Road, Dromana**

Issued By	Manager – Strategic & Infrastructure Planning
Authorised By	Director - Planning & Environment
Document ID	A13562804
Briefing Note Number	Not Applicable
Attachment(s)	1. Submission for EPBC Referral Project Number 2025-10100

**EXECUTIVE SUMMARY**

This report seeks retrospective endorsement of a Shire officer Submission (the Submission) to the Federal Environment and Water Minister recommending that the proposed residential subdivision and development of land at 62 Collins Road and 170 Boundary Road in Dromana be a 'controlled action' under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Submission, included at Attachment 1 to this report recommends that the proposed development be a controlled action because it is likely to have a significant impact on Swamp Skink habitat. On 25 March 2023, the Swamp Skink (*Lissolepis coventryi*) was listed in the 'Endangered' category of the threatened species list under *the EPBC Act*. As such, Swamp Skinks are a nationally threatened species and considered a Matter of National Environmental Significance (MNES).

The proposed subdivision and development of the land is being facilitated by privately led Planning Scheme Amendment C249morn (amendment) and Planning Permit P20/2355 (permit) which seeks to rezone and subdivide land for a new 250-lot residential estate, including a new 6.99-hectare conservation reserve, additional public open space areas and associated infrastructure.

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

- 1. Endorses the submission to Environment Protection and Biodiversity Conservation (EPBC) Project Number 25/10100: "Proposed residential subdivision and development of 62 Collins Road and 170 Boundary Road Dromana" made under the *Federal Environment Protection & Biodiversity Conservation Act 1999* as at Attachment 1 to this report.**
- 2. Requests the project proponents to re-consider the implications of the proposed project under the *Environment Effects Act 1978*, prepare an updated self-assessment detailing the environmental impacts of the proposed project, and provide this assessment to both the Victorian Minister for Planning for further consideration under *the EE Act* and the Federal Environment & Water Minister to assist with consideration of EPBC Project Number 25/10100.**
- 3. Refers the proposed project to the Victorian Minister for Planning for consideration under *the Environment Effects Act 1978* if a referral is not lodged by the proponents.**

## 4.3 (Cont.)

**COUNCIL & WELLBEING PLAN**

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

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

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

**GOVERNANCE PRINCIPLES**

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

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

**RELEVANT COUNCIL DECISIONS AND POLICIES**

- At the 13 July 2021 Council Meeting, Council resolved to request the Victorian Minister for Planning to authorise Council to prepare and publicly exhibit combined Amendment C249morn and Planning Permit P20/2355.
- Council's adopted Biodiversity Conservation Plan (2019) (BCP) recognises that "private land plays a critical role in conserving biodiversity. While the public reserve system provides the foundation for the conservation of biodiversity, approximately 80% of land within Mornington Peninsula Shire is within private ownership, and 57% of remnant native vegetation occurs on private land. Thus, improving land management practices and reducing threats to biodiversity on private land is essential."

The BCP includes the following strategic directions and main areas of focus for which Council can make a significant difference in the conservation of local biodiversity:

1. Engaging with the community and building stewardship
2. Facilitating biodiversity conservation on private land
3. Protecting biodiversity through planning and policy
4. Building a strong knowledge base
5. Demonstrating and leading best-practice land management
6. Building ecosystem resilience in a changing climate

The BCP references the 'Guidelines for management activities in Swamp Skink habitat' (Guidelines), an operational document, to assist with minimising impacts to this threatened species during land management works. These Guidelines acknowledge that "Urban, agricultural and industrial development" is a threat to Swamp Skinks.

[Swamp Skink management guidelines Robertson and Clemann.pdf](#)

**4.3 (Cont.)**

- Council's adopted Housing and Settlement Strategy: Refresh 2020-2036 (July 2020) identifies the land as an 'investigation area' where more housing may be suitable, subject to further detailed assessment and planning.

**DISCUSSION****Purpose**

The purpose of this report is to seek retrospective endorsement of a Shire officer submission to the Federal Environment & Water Minister recommending that the proposed residential subdivision and development of land at 170 Boundary Road and 62 Collins Road, Dromana be a 'controlled action' under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

**Background**

Council resolved on 13 July 2021 to seek authorisation from the Victorian Minister for Planning under the *Planning and Environment Act 1987* (P&E Act) to prepare and publicly exhibit the amendment and permit. Significantly, the authorisation request was made prior to the Swamp Skink being listed as Endangered under *the EPBC Act*. The request remains under assessment by the Victorian Department of Transport & Planning (DTP) and is yet to be decided.

*The EPBC Act* referral (EPBC Number 25/10100) was made by the proponents on 13 January 2025. In its referral, the proponent recommends that the proposed development be a controlled action. The referral request was open for public comment for 10 business days from 24 January until 10 February 2025. Shire officers lodged the submission contained in Attachment 1 on 10 February 2025.

Following the public comment stage, the Federal Government will determine whether the development should be a 'controlled action', 'not controlled' or 'clearly unacceptable' (and therefore refused). If deemed a 'controlled action', the Federal Environment & Water Minister will then decide how the potential impact of the 'controlled action' should be assessed before deciding whether to approve it. This process includes further opportunity for public comment on the proponent's assessment of the 'controlled action'.

In addition to endorsing *the EPBC Act* referral submission at Attachment 1, Shire officers recommend that Council requests the project proponents to re-consider the implications of the proposed development under the Victorian *Environment Effects Act 1978* (EE Act), including:

- preparing an updated self-assessment detailing the environmental impacts of the proposed project, and
- providing this assessment to both the Victorian Minister for Planning for further consideration under *the EE Act*, and to the Federal Environment & Water Minister to assist with consideration of *the EPBC Act* referral.

As outlined in Attachment 1, the above is recommended because documentation submitted by the proponent for *the EPBC Act* referral dated 2023 identifies a much larger area of Swamp Skink habitat in the project site, and that the proposed project will have a much greater impact on the species than previously assessed and advised in 2021.

As with potential outcomes of *the EPBC Act* referral, if the Minister for Planning determines that an Environment Effects Statement (EES) is required for the project under *the EE Act*, this may have significant implications for the nature and design of the project as well as the timing and assessment pathways for the amendment and permit.

4.3 (Cont.)

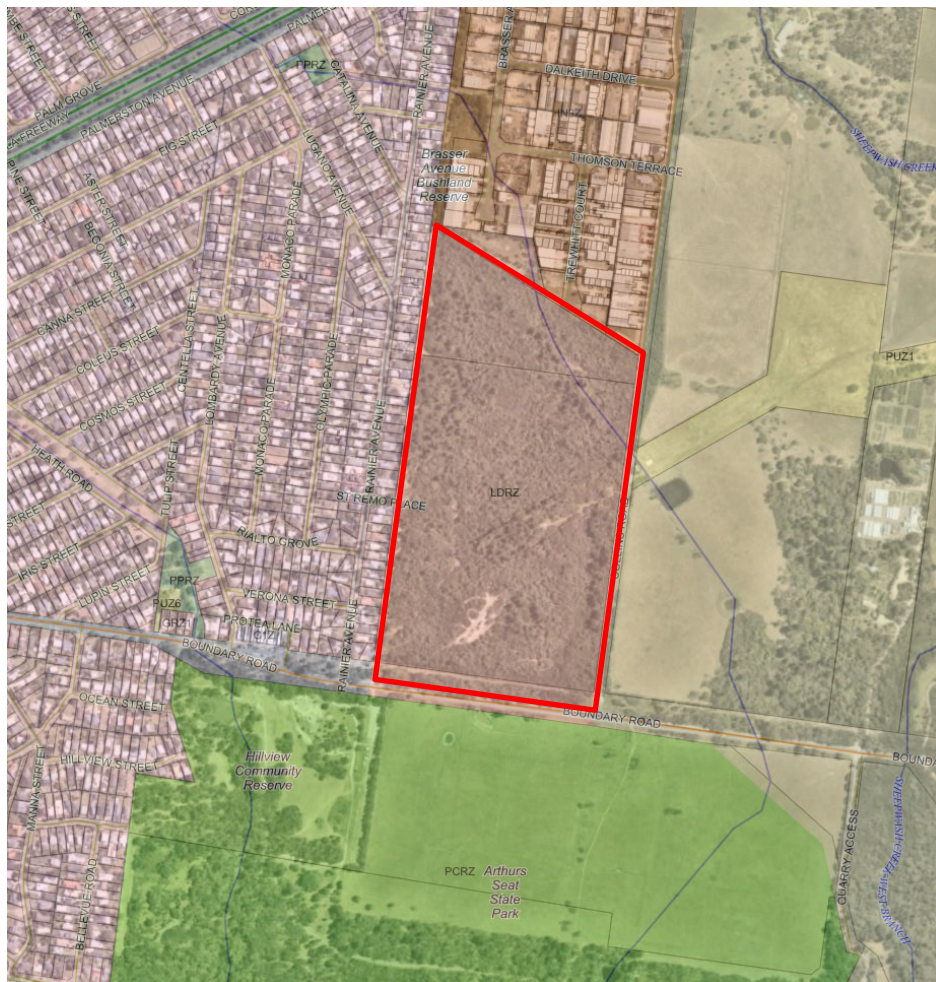
While Shire officers understand that the proponents have recently consulted with the State Government about an EES referral since the Swamp Skink was listed under *the EPBC Act*, if a formal referral is ultimately not made, Shire officers recommend that Council refer the proposal to the Victorian Government under *the EE Act*.

If assessment of the proposed development is ultimately required under both *the EE Act* and *EPBC Act*, there is an opportunity to combine the assessment processes as per the existing bilateral agreement between the Victorian and Federal governments which aims to avoid duplication of environmental assessment processes. The amendment and permit could also be considered concurrently if approved by the Minister for Planning.

Amendment C249morn and Planning Permit P20/2355

Land at 170 Boundary Road and 62 Collins Road, Dromana (the subject land) (Figure 1) is identified in Council’s adopted Housing and Settlement Strategy: Refresh 2020-2036 (July 2020) as an ‘investigation area’ where more housing may be suitable, subject to further detailed assessment and planning.

Figure 1: Location of the subject land



Combined Amendment C249morn (amendment) and Planning Permit P20/2355 (permit) is a privately led request seeking to create a new residential estate on the land. Specifically, the amendment seeks to:

- Rezone the land from the Low Density Residential Zone (LDRZ) to the Neighbourhood Residential Zone (NRZ)

**4.3 (Cont.)**

- Replacing the existing Design and Development Overlay – Schedule 6 (DDO6) on the land and adjacent Boundary and Collins Roads with new Schedule 62 (DDO62), and
- Remove Schedule 17 to the Environmental Significance Overlay (ESO17 - Streamlines) and Schedule 28 to the Environmental Significance Overlays (ESO28 – Mornington Peninsula Bushland) from the land.

The permit seeks to subdivide the land into 250 residential lots, create a new 6.99-hectare conservation area to protect existing high-value native vegetation, provide additional areas of public open space and construct associated infrastructure.

On 13 July 2021, Council resolved to seek Ministerial authorisation to prepare and publicly exhibit the combined amendment and permit under section 96(A) of the *Planning and Environment Act 1987*. Council lodged the authorisation request on 15 September 2021 which remains under consideration by the Department of Transport & Planning (DTP) and is yet to be determined.

It is noted that both the DTP and Department of Energy, Environment and Climate Action (DEECA) have issued various requests for further detailed information about the proposal, including relating to the proposed extent of native vegetation removal and associated potential impacts on native fauna. The Departments confirmed in March 2024 that the requested information was provided to their satisfaction.

Importantly, Shire officers of the DTP have previously indicated that a decision about authorisation for the combined amendment and permit may be deferred until any *EPBC Act* referral and related matters are resolved. Shire officers are actively keeping DTP updated on the progress of *the EPBC Act* referral.

**Environmental conservation status of the Swamp Skink**

The Swamp Skink species was detected on the land in 2015 during targeted fauna surveys (by remote camera) conducted by the proponents' consultants (Biosis Pty Ltd). At the time of the report being prepared the Swamp Skink was listed as Vulnerable on Victoria's *Flora and Fauna Guarantee Act 1988* (FFG Act). *The FFG Act* recognises Victoria's native flora, fauna and ecological communities recognised as being at risk of extinction.

The Swamp Skink was listed in the Endangered category of the threatened species list under *the EPBC Act* on 25 March 2023. As such, it is now a Matter of National Environmental Significance (MNES) as described below.

**EPBC Act and referral process**

*The EPBC Act* and associated regulations are Australia's main national environmental legislation, designed to protect and manage nationally and internationally significant flora, fauna, habitats and places. *The EPBC Act* refers to these matters as MNES and they include:

- World Heritage areas
- Commonwealth Heritage places
- wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and listed ecological communities
- listed migratory species (protected under international agreements)
- Commonwealth marine areas

**4.3 (Cont.)**

- Great Barrier Reef Marine Park
- nuclear actions (including uranium mines)
- water resources (relating to unconventional gas development and large coal mining development).

Any proposed project (referred to as 'an action' under *the EPBC Act*) that might have an impact on protected matters should be referred to the Commonwealth Government to determine whether it should be a 'controlled action', 'not controlled' or 'clearly unacceptable'. As explained later in this report, the Federal Environment & Water Minister then decides how the potential impact of the 'controlled action' should be assessed before deciding whether to approve the controlled action.

As the proponent for the proposed development had identified Swamp Skink habitat on site, they are now required to consider if this proposed action would have a significant impact on Swamp Skink, and if so, refer that action to the Minister. This referral was lodged by the proponent on 13 January 2025. All the details about the referral, including documentation, status and assessment timeline are available on the Commonwealth Government's website: [Referral summary · EPBC Act Public Portal](#) [EPBC Number: 2025/10100].

Significantly, the proponents submitted that the proposed development should be a 'controlled action', acknowledging that the development will have a significant impact on the Swamp Skink because of proposed removal of the specie's habitat from the subject land.

The referral was released by the Commonwealth Government for public comment on 24 January 2025 for 10 business days, until 10 February 2025. During this period anyone could make a submission regarding whether the proposal should be a 'controlled action' or is 'clearly unacceptable'.

Following the public comment period, the Federal Environment & Water Minister has 20 business days to consider the referral request, any public comments received and determine whether any further information is required to consider the proposal.

If the Federal Environment & Water Minister determines that the proposal is a 'controlled action' under *the EPBC Act*, the proponent will need to undertake certain steps before the assessment formally begins, including submitting any extra information requested by the Commonwealth Government, paying statutory fees (if applicable), responding to public comments on the referral, and potentially revising supporting assessment documents. The proponents will then be required to (in summary):

- Publish the draft assessment and seek public comment for a further minimum 10 business days. This process is to be managed by the proponents, and anyone will be able to make further submissions – including Council.
- Review and respond to any submissions received.
- Publish the final assessment documents.

Once these steps are completed to the satisfaction of the Federal Environment & Water Minister, the Minister will assess the referral and release a draft decision for the proponents to consider and respond to. The Minister will then decide whether to either approve the proposed development (with or without conditions) or refuse the development. There is no general right of appeal against the Minister's decision, unless the Minister has made an error in law, in which case a judicial review can be considered by the Federal Court.

If the Minister refuses the proposed development, the proponents may redesign the project and submit a new referral request.

## 4.3 (Cont.)

EPBC Act referral submission

Shire officers provided a submission to the initial public comment period seeking views on whether the proposed development should be a 'controlled action' under *the EPBC Act*. The submission is contained at Attachment 1 to this report. As outlined in the submission, Shire officers recommend that the proposal should be a 'controlled action' for the following reasons:

- Swamp Skinks are listed as Endangered under *the EPBC Act*, and as such are a MNES.
- The project area supports about 22.88 hectares of Swamp Skink habitat.
- The project proposes the removal of about 17.09 hectares (i.e. 75%) of the Swamp Skink habitat identified within the project area, directly impacting this species.
- The proposed removal of 17.09 hectares of Swamp Skink habitat would likely result in significant impacts to Swamp Skinks (as defined in the Commonwealth's Significant Impact Guidelines 2013).
- If significant impacts to an MNES are considered likely, as is the case for this project, a proposed action is considered a controlled action.

As detailed in the submission, Shire officers have recommended that the Minister for Environment & Water consider the following matters when reviewing the referral submission:

- Indirect impacts of the proposed development to Swamp Skink habitat within the proponent's identified "avoidance area": Shire officers note that the development will likely impact waterflow and drainage to the proposed conservation reserve within the estate, which may subsequently impact the quality of the 5.78 hectares of Swamp Skink habitat currently identified as "avoided" by the proponent. Shire officers recommend that these impacts be further assessed as part of *the EPBC Act* process.
- Consideration of opportunities for avoidance and mitigation measures for the proposed action: Shire officers note that there are opportunities for the proponent to further avoid and mitigate impacts of the proposed development within the current subdivision design (such as increasing the size of the proposed conservation reserve) which should be fully explored during *the EPBC Act* process.

Assessment under the *Environment Effects Act 1978*

Shire officers also recommend that the proponents be requested to re-consider the implications for the project under the Victorian *Environmental Effects Act 1978* (EE Act) and inform the Federal Environment & Water Minister of the outcomes of this assessment to assist with the EPBC referral. This includes:

- Preparing an updated self-assessment detailing the environmental impacts of the proposed project
- Providing this assessment to both the Victorian Minister for Planning for further consideration under *the EE Act*, and Federal Environment & Water Minister to assist with consideration of *the EPBC Act* referral.

As outlined in Attachment 1, the above is recommended because documentation submitted by the proponent for *the EPBC Act* referral dated 2023 identifies a much larger area of Swamp Skink habitat in the project site, and that the proposed project will have a much greater impact on the species than previously assessed and advised in 2021. If the Minister for Planning determines that an Environment Effects Statement (EES) is required for the

**4.3 (Cont.)**

project under *the EE Act*, this may have significant implications for the project in its current form as well as the timing and assessment pathways for the amendment and permit.

Shire officers understand that the proponents have recently consulted with the State Government about an EES referral since the Swamp Skink was listed under *the EPBC Act*, however, if a formal referral is ultimately not made, Shire officers recommend that Council refer the proposal to the Victorian Government under *the EE Act*.

It is noted that, if the Minister for Planning determines that an EES is required, and the Federal Environment Minister determines that the development is a 'controlled action' under *the EPBC Act*, there is an opportunity to combine assessment pathways for *the EES, EPBC Act* referral and planning scheme amendment process as per the existing bilateral agreement between the Victorian and Federal governments which allows both *EES and EPBC Act* assessments to undergo a single assessment process to avoid duplication environmental assessment processes.

**Options for consideration**

- Option 1: Retrospectively endorse *the EPBC Act* referral submission at Attachment 1 and request the proponents to re-consider the implications for the project under *the EE Act*. This option is recommended for the reasons outlined in this report, summarised as follows:
  - Council's adopted Biodiversity Conservation Plan (2019) seeks to protect biodiversity – including on private land – acknowledging that urban development is a threat to Swamp Skinks and seeking to minimise impacts to this threatened species.
  - The proposed development seeks to remove about 75% of existing Swamp Skink habitat on the land which would have a significant impact on the species.
  - Because Swamp Skinks are listed as Endangered under *the EPBC Act* and are therefore a MNES, the proposed development should be considered a 'controlled action' to be subject to further environmental impact assessment.
  - Lodgement of the submission ensures Council's views are considered by the Federal Environment & Water Minister when determining whether the proposed development should be a 'controlled action'.
  - Should environmental assessments be required under both *the EPBC Act* and *EES Act*, these processes could be combined for greater efficiency under the existing bilateral agreement between the Victorian and Federal governments, alongside concurrent consideration of Amendment C249morn and Planning Permit P20/2355.

It is noted that, if Council resolved to change the submission in any way, these changes may not be considered by the Federal Environment & Water Minister as the Minister is not bound to consider any comments submitted after the public comment period closes (which was on 10 February 2025).

- Option 2: Do not endorse *the EPBC Act* referral submission at Attachment 1 or request the proponents to re-consider the implications for the project under *the EE Act*. This option is not recommended for the reasons outlined above.

## 4.3 (Cont.)

**ENGAGEMENT**

*The EPBC Act* referral was made by the proponents on 13 January 2025 and was open for public comment from 24 January 2025 until 10 February 2025. During this period, anyone could make a submission regarding the proposal. The public comment period was facilitated by the Federal Government with submissions able to be lodged via an online portal: [Project Decision · EPBC Act Public Portal](#) [EPBC Number: 2025/10100].

If the Federal Environment & Water Minister determines that the proposed development is a 'controlled action' under *the EPBC Act*, the public (including Council) will be able to make a submission about the proponents' draft assessment of the controlled action during a further minimum 10-business-day public comment period. This public comment period would be managed by the proponent.

It is noted that, because proposed combined Amendment C249morn and Planning Permit P20/2355 has not yet been authorised by the Minister for Planning, it has not been formally publicly exhibited. Nevertheless, information about the amendment and permit have been available on Council's website since its decision in July 2021 to seek authorisation for the proposal: [C249morn & P20/2355 – 170 Boundary Road & 62 Collins Road, Dromana - Mornington Peninsula Shire](#). Since this time, Council has received 18 informal community submissions objecting to the proposal.

**COMMUNICATIONS PLAN**

If Council adopts *the EPBC Act* referral submission as at Attachment 1 to this report, Shire officers will:

- Publish the submission on Council's website alongside information explaining *the EPBC Act* referral process, including next steps.
- Notify the proponents, DTP, DEECA and the 18 community members that have made informal submissions about Amendment C249morn and Planning Permit P20/2355 about Council's decision, including providing a copy of the submission to each party.
- Write to the proponents requesting that they re-consider the implications for the project under *the EE Act* as outlined in this report.

**LEGAL AND REGULATORY FRAMEWORK**

- *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth)
- *Flora and Fauna Guarantee Act 1988* (FFG Act). *Environment Effects Act 1978* (Victoria)
- *Planning and Environment Act 1987* (Victoria)

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Shire officers have considered Council's adopted Biodiversity Conservation Plan (2019) when preparing *the EPBC Act* referral submission as at Attachment 1 to this report.

**FINANCIAL CONSIDERATIONS**

There are no costs to Council to make a submission to *the EPBC Act* referral.

If the Federal Environment & Water Minister decides that the proposed development is a 'controlled action', Council may require the assistance of external ecological experts to peer review any additional assessment documentation provided by the proponents to inform any

**4.3 (Cont.)**

future submissions on Council's behalf. It is anticipated that these costs may be about \$10,000-\$20,000 which Shire officers would require the project proponents to fund as this is a privately led development proposal.

There may be future costs associated with environmental assessment of the proposal under *the EE Act* and *EPBC Act* – particularly if a public hearing is held to consider submissions.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## CORPORATE STRATEGY & BUSINESS IMPROVEMENT

### 4.4 Q2 October-December 2024: Community Report

Issued By	Acting Manager - Customer & Transformation
Authorised By	Director - Corporate Strategy & Business Improvement
Document ID	A13510671
Briefing Note Number	BN2003 – 18 February 2025
Attachment(s)	<ol style="list-style-type: none"><li>1. Quarterly Community Report October-December 2024</li><li>2. Community 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. A mid-year Reforecast report to Council is scheduled for the 18 February Briefing and 11 March Council Meeting.

### RECOMMENDATION

**That Council receives and notes the Quarterly Community Report October-December 2024 (Attachments 1 and 2).**

### 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 principle B, which is:

- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

### RELEVANT COUNCIL DECISIONS AND POLICIES

Not applicable.

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**4.4 (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 a 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 October-December 2024 Quarterly Community Report demonstrate the ways in which Council has not only sought to deliver on our Council and Wellbeing Plan 2021-2025 but maintained its focus on our community. Highlights over the quarter include:

- The swearing in of our new Council for the 2024–2028 term on 19 November.
- Building a new sports pavilion at Mornington Civic Reserve.
- Upgrading Broadway Road in Capel Sound to fix drainage issues.
- Modifying existing drainage infrastructure at Kathleen Crescent in Mornington.
- Finishing Stage 2 of the Alma-Field Street footpath in Tootgarook.
- Hosting a Roundtable on opportunities to address the housing crisis on the Mornington Peninsula.
- More than 2,800 seniors participating in a variety of events at our Seniors Festival.
- Trialling our 'The Future is Reusable' trailer, a brand new, custom-built trailer designed to tackle waste at events.
- Reaching Milestone 2 in our upgrade to LEDs for all major streetlights in our network.
- Cleaning up at the 'Keep Australia Beautiful Awards'.
- Unveiling our Flinders Community Battery.
- Celebrating our Friends Groups at our 2024 Annual Friends Group Network Event.

**4.4 (Cont.)****Finance highlights**

- A cash position of \$125.6 million driven by prior year capital works carry forwards and receipt of the first two rate instalments.
- A Net Operating position of \$132.4 million year to date.
- Year to date spend on Capital Works projects of \$19.9 million.
- \$1.39 million in loan repayments, which has reduced total borrowings to \$31.6 million.
- \$75.6 million invested in term deposits, \$39.3 million held in at-call accounts and \$10.7 million of funds 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).

As per section 97 (3) of *the Act*, the Shire's Chief Executive Officer advises that a revised budget is not required.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

Not applicable.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

**4.5 Community Vision - 2025 Review - Endorsement for Public Exhibition**

Issued By	Acting Manager - Customer & Transformation
Authorised By	Director - Corporate Strategy & Business Improvement
Document ID	A13539698
Briefing Note Number	BN2002 – 18 February 2025
Attachment(s)	<ol style="list-style-type: none"> <li>1. Draft Community Vision - For Public Exhibition</li> <li>2. Community Vision Pulse Survey - Verbatim Community Feedback</li> <li>3. Community Vision - 2025 Review Report</li> <li>4. Appendix A - Current Community-Vision-Peninsula-2040</li> <li>5. Appendix B - Peninsula 2040 Wider Engagement Report</li> <li>6. Appendix C - MPS Citizens' Panel Mid-Year Check-In 2024</li> </ol>

**EXECUTIVE SUMMARY**

Under the *Local Government Act 2020* (the Act), Council is required to develop or review the Community Vision by 31 October in the year following a general election.

Council's first Community Vision was developed as part of the Peninsula 2040 project in 2021. In 2024, a pulse check was undertaken with the Community on the vision to support a review of the Community Vision as required by *the Act*.

A review of the Community Vision was undertaken (Attachment 3) which recommended some amendments to the current Community Vision based on the feedback received. This review resulted in the proposed draft Community Vision (Attachment 1).

Shire officers are seeking endorsement to put the updated draft Community Vision (Attachment 1) out for public exhibition.

**RECOMMENDATION**

**That Council endorses the draft Community Vision (Attachment 1) to be placed on public exhibition from 3 March to 31 March 2025.**

**COUNCIL & WELLBEING PLAN**

This supports the development of the next Council Plan 2025-2029.

**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 principle D which is:

- D. The municipal community is to be engaged in strategic planning and strategic decision making.

**4.5 (Cont.)****RELEVANT COUNCIL DECISIONS AND POLICIES****DISCUSSION****Purpose**

The purpose of this report is to provide an update on the Community Vision Review, undertaken to fulfil Council's legal obligations under the Act, and seek Council approval to put the draft revised Community Vision out for public exhibition for a period of four weeks.

**Background**

An extensive Peninsula 2040 engagement campaign in 2021 resulted in more than 3,000 responses from our community sharing how they wanted the Peninsula to look in 2040. These findings were shaped by an independent Citizens' Panel, empowered by Council to develop the Community Vision.

Council adopted the Community Vision and seven Principles in July 2021 and committed to use these, to guide the development of the Council and Wellbeing Plan and other key initiatives.

On 19 March 2024, the Council approved in-principle the undertaking of a pulse-check on the Vision, noting that the 20-year vision had been in place for 3 years.

The Community Vision Pulse Check was open for community input from 25 March to 31 August 2024, with 698 responses received.

The survey was structured to ensure community feedback on the Community Vision Statement and the seven Principles.

64% of the respondents said that the Community Vision still resonated with them.

Whilst the majority of respondents said the Community Vision Statement still resonated, 68% felt there was something not represented sufficiently in the Vision and/or Principles.

The top 5 themes identified as missing:

- Maintenance of infrastructure
- Regulation of development/management of the Green Wedge
- Environment and biodiversity
- Council operations
- Public transport and traffic management.

The verbatim community feedback is outlined in the Community Vision Pulse Survey report (Attachment 2).

A review report was prepared and recommended amendments to the Community Vision based on the feedback received. The recommendations from the review are outlined in the Review Report (Attachment 3). The recommendations seek to:

- Rectify the missing themes identified from the pulse check.
- Continue to acknowledge and align to the >3,000 community responses to the 2021 Vision community engagement findings.

**4.5 (Cont.)**

- Group the Principles into Themes to show overlap and synergies.

Councillors were provided with the recommendations from the review, alongside the data collected as part of the review process. Based on the information received, Councillors have proposed amended wording to the Community Vision statement to better reflect the information provided by the community.

An amended version of the Community Vision (in line with the review recommendations and with the new Vision wording proposed by Councillors) is provided in Attachment 1.

**Options for consideration**

1. Council endorses the draft Community Vision (Attachment 1) to be placed on public exhibition from 3 March to 31 March 2025 (preferred).
2. Council request further work be undertaken on the Community Vision review prior to endorsing it to be placed on public exhibition. The impact of this option would be that adoption of the Community Vision would be delayed, causing possible future delays to the development and adoption of the Council Plan 2025-2029.

**ENGAGEMENT**

A pulse-check engagement on the Community Vision was undertaken from 25 March to 31 August 2024. This included online engagement and community outreach. In total 698 responses were gathered.

**COMMUNICATIONS PLAN**

The public exhibition of the draft Community Vision will be undertaken through a survey on our online Shape Platform page for the broader Council Strategic Planning Project. It will be advertised on our social media pages, Shire website, and at community pop-up events as part of the broader project engagement.

**LEGAL AND REGULATORY FRAMEWORK**

Under the requirements of *the Act*, Council must develop or review the Community Vision in accordance with its deliberative engagement practices and adopt the Community Vision by 31 October in the year following a general election.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not Applicable

**FINANCIAL CONSIDERATIONS**

Not Applicable

**OFFICER DIRECT OR INDIRECT INTEREST**

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

**4.6 Instruments of Appointment and Authorisation**

Issued By	Manager - Governance & Risk
Authorised By	Manager - Governance & Risk
Document ID	A13550029
Briefing Note Number	Not applicable
Attachment(s)	1. Attachment 1_Instruments of Appointment and Authorisation Planning and Environment Act and Land Act

**EXECUTIVE SUMMARY**

To allow for practical, efficient and effective delivery of services, a council can delegate or authorise staff and others, to undertake functions or exercise powers on its behalf. Council is granted these powers through the delegations (clause 11) of the *Local Government Act 2020* and Authorised Officers (clause 224 (1)) clauses of the *Local Government Act 1989*.

The attached Instruments of Appointment and Authorisation (IAA) (Attachment 1) have been prepared to ensure the relevant Mornington Peninsula Shire (Shire) officers are properly authorised under the legislation.

It is recommended that Council appoints the relevant Shire officers as authorised persons under the *Planning and Environment Act 1987* and the *Land Act 1958*.

**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 (IAA), Council resolves that:**
  - A. **The members of Council staff referred to in Attachment 1 be appointed under the *Planning and Environment Act 1987* and the *Land Act 1958*.**
  - B. **The instruments come into force upon the resolution of Council.**

**COUNCIL & WELLBEING PLAN**

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

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 A and I which are:

**4.6 (Cont.)**

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- I. The transparency of Council decisions, actions and information is to be ensured.

**RELEVANT COUNCIL DECISIONS AND POLICIES**

The appointment of Authorised Officers by Council occurs regularly to ensure new employees or employees changing roles are appointed in a timely manner. The previous report was presented to Council for endorsement on 3 December 2024.

**DISCUSSION****Purpose**

To authorise the Shire officers listed for the purposes of enforcing the *Planning and Environment Act 1987* and the *Land Act 1958*. Appointments are formally made by a signed IAA (Attachment 1).

***Planning and Environment Act 1987***

When Shire officers enter a property, make observations, or gather evidence, if the matter were to proceed to enforcement, their entry, observations and gathering of evidence is only lawful if the Shire officer is an Authorised Officer under the particular Act.

In addition, there is a requirement for some administration staff to be Authorised Officers if they have a role in the issuing or review of planning infringement notices issued pursuant to the *Planning and Environment Act 1987*.

The IAA provides for Council to appoint Shire officers by a resolution, pursuant to section 147 (4) of the *Planning and Environment Act 1987*. This report recommends the following Shire officers be appointed and authorised under the *Planning and Environment Act 1987*:

- Vish Sridhar - Planner – new employee
- Beatrice Wang – Planner – new employee
- Mercedes McGhee – Planner – new employee
- Ali Asma – Planner – new employee
- Simon Petrie – Planner – new employee
- David Kotsiakos – Municipal Building Surveyor – new employee

***The Land Act 1958***

Section 188A applies to Crown land that is under the control of a Committee of Management (CoM) and provides that if a person constructs a building/works on that land, a person authorised by the CoM can demand that that person produces a current permit authorising them to keep the building. If, after 21 days, that person has not produced such a permit, then the Authorised Person may cause a complaint and a summons to appear before the Magistrates Court to be served on the person who constructed the building/works.

The Shire is appointed as a CoM for a number of Crown Land reserves within the municipality. It is in this capacity that Council can authorise Shire officers for the purposes of section 188A

**4.6 (Cont.)**

of *the Land Act 1958*. This report recommends the following Shire officers be appointed and authorised under *the Land Act 1958*:

- David Kotsiakos – Municipal Building Surveyor – new employee

**Background**

Delegations involve a council giving its powers to staff, who then act on behalf of Council. When Council authorises an individual, that person has the power of the statutory position, i.e. they are not acting as delegates or on behalf of Council.

When Shire officers enter a property, make observations, or gather evidence, if the matter were to proceed to enforcement, their entry, observations and gathering of evidence is only lawful if the Shire officer is an Authorised Officer under the particular Act.

In addition, there is a requirement for some administration staff to be Authorised Officers if they have a role in the issuing or review of Planning Infringement Notices issued pursuant to the *Planning and Environment Act 1987*.

The extent of authorisation is limited by the position description and operating procedure for each team.

**Options for consideration**

Not applicable.

**ENGAGEMENT**

Not applicable.

**COMMUNICATIONS PLAN**

Not applicable.

**LEGAL AND REGULATORY FRAMEWORK**

Not applicable.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

Not applicable.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

#### 4.7 Letters Under Seal - 2025 Australian Honours Recipients - Awarded on Australia Day

Issued By	Manager – Governance and Risk
Authorised By	Director - Corporate Strategy & Business Improvement
Document ID	A13567125
Briefing Note Number	Not applicable
Attachment(s)	Nil

#### EXECUTIVE SUMMARY

The purpose of this report is to request Council endorsement for the sealing of the documents outlined in the schedule below.

Schedule	
Sealing No.	Document Description
01/25	Congratulations and recognition letters to Mornington Peninsula residents who received Australian Honours on Australia Day 2025

#### RECOMMENDATION

**That the Common Seal of the Mornington Peninsula Shire be affixed to the documents described in the schedule of this report.**

#### 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 E, F and I which are:

- E. Innovation and continuous improvement is to be pursued;
- F. Collaboration with other Councils and Governments and statutory bodies is to be sought;
- I. The transparency of Council decisions, actions and information is to be ensured.

#### RELEVANT COUNCIL DECISIONS AND POLICIES

Acknowledgement of Special Events or Achievements of Citizens, Councillors and Mornington Peninsula Shire (Shire) Officer's Policy.

**4.7 (Cont.)****DISCUSSION****Background**

Australia honours its citizens who have made outstanding achievements and contributions to our society.

Australia's distinctive honours system began in 1975 with the creation of the Order of Australia to recognise service to the nation or humanity, as well as the Australian Bravery Decorations and the National Medal. Since then, Australia has created additional awards to recognise additional areas of service valued by Australians.

Australian honours are unique in that they were designed for the community to make a nomination. The Australian honours system is free of patronage or political influence. Anyone can nominate an Australian citizen for an honour.

On Australia Day 2025, the following five residents of the Mornington Peninsula were announced on the Australian Honours List:

- Mr Wayne John Hinton OAM of Mornington has been awarded the Medal of the Order of Australia for service to Australian Rules Football as an umpire.
- Ms Kym Jenkins AM of Sorrento has been appointed a Member of the Order of Australia for significant service to psychiatry as a clinician, academic and in executive roles.
- Ms Judith Patricia McKee OAM of Safety Beach has been awarded the Medal of the Order of Australia for service to the community of Melbourne.
- Ms Deborah Rae Mellett OAM of Rosebud has been awarded the Medal of the Order of Australia for service to the indigenous community of Victoria.
- Mr Jacques Bernard Reymond OAM of Point Leo has been awarded the Medal of the Order of Australia for service to the hospitality industry.
- Ms Judith Anne Walsh OAM of Rosebud has been awarded the Medal of the Order of Australia for service for service to the community of the Mornington Peninsula.
- Professor Kim Bennell AM of Mount Martha has been appointed a Member of the Order of Australia for significant service to medical research and education, particularly in the field of health and rehabilitation science.

In recognition of their achievements, Mornington Peninsula Shire Council will issue a letter under its seal to the 2025 Australia Day Australian Honours recipients. The recipients will also be invited to a civic reception to be held later this year.

**Options for consideration**

Not applicable.

**ENGAGEMENT**

Not applicable.

**COMMUNICATIONS PLAN**

Not applicable.

**4.7 (Cont.)**

**LEGAL AND REGULATORY FRAMEWORK**

Not applicable.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

No direct climate and sustainability considerations.

**FINANCIAL CONSIDERATIONS**

There are no direct financial considerations.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## CORPORATE STRATEGY & BUSINESS IMPROVEMENT

### 4.8 Instruments of Delegation Update

Issued By	Manager - Governance and Risk
Authorised By	Director - Corporate Strategy & Business Improvement
Document ID	A13589573
Briefing Note Number	
Attachment(s)	<ol style="list-style-type: none"><li>1. Maddocks Update - January 2025</li><li>2. Draft - S6 Instrument of Delegation from Council to Council Officers</li><li>3. Draft - S18 - Instrument of Sub-Delegation under the Environment Protection Act 2017</li></ol>

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#### STATEMENT OF CONFIDENTIALITY

Not applicable.

#### EXECUTIVE SUMMARY

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

The latest Maddocks Lawyers (Maddocks) update (Attachment 1) takes into account legislative changes which were assented to or made from 21 July 2024 to 31 December 2024 together with some miscellaneous changes and improvements identified which affect Council's powers, duties and functions.

Maddocks Lawyers recommend that all Instruments be regularly reviewed to ensure they remain compliant with current legislative requirements and reflect any organisational changes.

The draft Council to Council Officers Instrument of Delegation (S6) (Attachment 2) has been updated following consultation with managers and will be effective immediately upon the resolution of Council. As a result, the previous S6 Instrument of Delegation dated 9 September 2024 will be revoked.

The draft Council to Council Officers (S18) Instrument of Sub-Delegation under the *Environment Protection Act 2017* (Attachment 3) has been updated to reflect organisational structure changes. As a result, the previous S18 Instrument of Sub-Delegation dated 19 October 2021 will be revoked.

#### RECOMMENDATION

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

- A. That Council adopts the Instrument of Delegation from Council to Council Officers dated 25 February 2025 as shown in Attachment 2.
- B. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached S6 Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument. (Attachment 2)
- C. The Council to Council Officers Instrument of Delegation as shown in Attachment 2 comes into force immediately upon this resolution being made and is to be signed by the Chief Executive Officer (CEO).
- D. On the coming into force of the Instrument, the previous S6 Council to Council Officer dated 9 September 2024 is revoked.
- E. The duties and functions set out in the instruments must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

In the exercise of the power conferred by s 437(2) of the *Environment Protection Act 2017* and the Instrument of Delegation by the Environment Protection Authority under the *Environment Protection Act 2017* dated 4 June 2021, Mornington Peninsula Shire Council (Council) resolves:

- A. That Council adopts the Instrument of Sub-delegation from Council to Council Officers dated 25 February 2025 as shown in Attachment 3.
- B. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
- C. The Instrument of Sub-delegation as shown in Attachment 3 comes into force immediately upon this resolution being made.
- D. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

#### **COUNCIL & WELLBEING PLAN**

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

Theme 3: A flourishing, healthy and connected community.

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

#### **GOVERNANCE PRINCIPLES**

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

**4.8 (Cont.)**

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

**RELEVANT COUNCIL DECISIONS AND POLICIES**

The current (S6) Council to Council Officer Instrument of Delegation was adopted by Council on 9 September 2024 following updates provided by Maddocks.

The current (S18) Instrument of Sub-delegation under the *Environment Protection Act 2017* was adopted on 19 October 2021.

**DISCUSSION****Purpose**

The purpose of this report is to seek endorsement from Council for the attached Council to Council Officer Instruments of Delegation and Sub-delegation.

**Background**

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

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

- The decision, once made, is for all legal purposes, a decision of Council.
- The 'delegate' is in much the same position as the Council in terms of making decisions. For example, where the decision requires that opinion be formed, the delegate's opinion can be the basis for the decision.
- The fact that a delegation is being made does not affect the Council's powers in relation to the issue concerned. This is subject of course, to the rule that the delegate's decision is taken to be the decision of Council. Council is therefore bound by a decision, which it may not have made.

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

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

**Options for consideration**

The updated (S6) Council to Council Officers Instrument of Delegation includes the following changes:

**4.8 (Cont.)**

- Inserted section 12(2)(b) of the *Road Management Act 2004* to provide for Council to provide consent to the Head Transport for Victoria to discontinue a road or part of a road
- Removed the limitation for the powers in sections 19FA(1) and 19FA(3)(a)-(c) of the *Food Act 1984* being delegated “only in relation to temporary food premises or mobile food premises”
- Amended a typographical error in s 12(1) of the *Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2024*.

For a council to effectively delegate the powers, functions and duties delegated by the Environment Protection Authority under s 437(1) of the *Environment Protection Act 2017*, a council must:

- resolve to sub-delegate its delegated powers to the member of staff; and
- make an instrument of delegation.

The draft (S18) Instrument of Sub-delegation under the *Environment Protection Act 2017* has been updated to reflect changes within the organisational structure, ensuring the document accurately matches current position titles.

**ENGAGEMENT**

Not applicable.

**COMMUNICATIONS PLAN**

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

**LEGAL AND REGULATORY FRAMEWORK**

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

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

Not applicable.

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## COMMUNITY STRENGTHENING

### 4.9 Draft Wastewater Management Plan

Issued By	Manager – Community Safety, Health and Compliance
Authorised By	Director - Community Strengthening
Document ID	A13512981
Briefing Note Number	BN1994 – 4 February 2025
Attachment(s)	<ol style="list-style-type: none"><li>1. Draft OWMP - Operational Plan</li><li>2. Draft OWMP - Technical Document</li></ol>

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### EXECUTIVE SUMMARY

Wastewater poses significant public health and environmental risks on the Mornington Peninsula, particularly in townships that do not have sewerage available. The Onsite Wastewater Management Plan (OWMP) is the strategic Council plan to manage these risks.

Council is required by legislation to develop, review and update the OWMP every five years.

A draft OWMP has been prepared for community consultation, in conjunction with a stakeholder reference group including South East Water (SEW), the Environment Protection Authority (EPA), Melbourne Water and other agencies.

The draft OWMP aligns with current EPA guidance and fulfils Council's requirements under the relevant legislation. The stakeholder reference group has endorsed the draft OWMP for the purpose of community consultation.

It is proposed that Council's draft OWMP be exhibited via public exhibition for community consultation for a period of 42 days.

### RECOMMENDATION

**That Council endorses the draft Onsite Wastewater Management Plan for the purpose of proceeding to community consultation for a period of 42 days.**

### COUNCIL & WELLBEING PLAN

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

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

- Strategic Objective 1.1: An accessible and unique natural environment that helps our community to be healthy and well.

## 4.9 (Cont.)

**GOVERNANCE PRINCIPLES**

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

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

**RELEVANT COUNCIL DECISIONS AND POLICIES**

- 2018 – 2023 Mornington Peninsula Shire (the Shire's) Wastewater Management Plan, dated September 2018.
- The Shire's submission to SEW Backlog Sewer Review, July 2021 (Executive approved)
- Wastewater Management Policy adopted by Council, 5 September 2023.
- At the Council Meeting held on 5 September 2023, Council resolved that:
  1. *Council adopts the proposed Wastewater Management Policy which confirms Council's commitment to advocate for reticulated sewerage in high-risk un-sewered townships.*
  2. *Officers develop a 2024-2028 Wastewater Management Plan in line with the Environment Protection Authority Obligations for Managers of Land or Infrastructure.*

**DISCUSSION****Purpose**

The purpose of this report is to seek Council's endorsement for the draft OWMP to proceed to community consultation.

**Background**

There are over 22,000 properties on the Mornington Peninsula not connected to reticulated sewerage and wastewater is managed using on-site wastewater (septic) systems. Polluted runoff and discharge from these systems pose significant risks to waterways, groundwater, and public health. Onsite wastewater systems are of particular concern in townships with highly constrained lots where mains sewer is not available.

Since 2007, the Shire and SEW staff have worked in partnership to assess the risks posed by onsite wastewater in high-risk townships and develop proposals for the provision of backlog sewerage. This has brought sewerage to several local townships and the Nepean Peninsula, with significant environmental, economic, and public health benefits.

To manage the risks from sites without mains sewer, the Shire adopted its initial OWMP in 2007, which was updated in 2014 and 2018. The current 2018 – 2023 OWMP has specific actions to manage these risks which were assessed through a Report Card process to assist with the development of the draft OWMP.

State Government authorities have recently recognised the significant risks posed by onsite wastewater systems. As a result, Councils are required to develop and implement an OWMP every five years in accordance with the Environment Protection Act 2017 and Order for Obligations of managers of land or infrastructure (OMLI), gazetted on 7 May 2024. In

**4.9 (Cont.)**

addition, the Department of Energy, Environment and Climate Action (DEECA) has developed modelling guidance for a risk based OWMP. These documents informed the development of the draft OWMP.

At a local level, risks from onsite wastewater systems were demonstrated in the 2018-2023 OWMP and in the Shire's 2021 submission to the SEW Backlog Sewerage Review. The submission concluded that reticulated (mains) sewerage is the suitable long-term option to manage wastewater risks in Arthurs Seat, Red Hill, Red Hill South and Merricks townships.

The draft OWMP applies a risk-based approach using the DEECA modelling process to assess each property and township as Low, Medium, High or Very High Risk. This will provide clarity onsite wastewater disposal requirements and support the development of updated Shire Wastewater Guidelines

From the modelling, specific areas of interest were identified for further analysis: Arthurs Seat, Red Hill, Red Hill South, Cape Schanck, Somerville, and Tyabb. For townships classified as very high-risk (Arthurs Seat, Red Hill, Red Hill South, and Merricks), the draft OWMP has concluded that alternative sewage solutions are required to manage risks for these townships. The OMLI outlines the process for each Council to notify the water authority of this conclusion in their adopted OWMP.

The draft OWMP proposes specific actions to manage onsite wastewater systems in high-risk areas. It also recommends actions relating to data management, sewer planning and advocacy, risk-based monitoring, Onsite Wastewater Management System (OWMS) auditing, owner education, resourcing, and annual review.

**Options for consideration**

The OWMP is a legislative requirement of Council and is proposed to proceed to community consultation and engagement in line with the Community Engagement Policy.

The preferred option is for the draft OWMP to be endorsed by Council to proceed to community consultation for 42 days, as outlined in the Communication and Engagement Plan.

This option is consistent with the Order for Obligations of managers of land or infrastructure (OMLI) and Council's Community Engagement Policy.

**ENGAGEMENT**

Shire teams involved in the OWMP development include:

- Environmental Health
- Building Maintenance
- Climate Change
- Water and Coasts
- Statutory Planning
- Infrastructure Management
- GIS/IT.

**4.9 (Cont.)**

A Stakeholder Reference Group met regularly to develop the draft OWMP, including Shire staff, SEW, EPA, Melbourne Water and Southern Rural Water. This group was involved in the project brief and terms of reference and provided input into the risk assessment process, draft OWMP and proposed actions.

**COMMUNICATIONS PLAN**

A communication and engagement plan has been prepared, which is proposed for a 42-day exhibition period. Engagement will include a Shape web page, community submissions and media release. It will link to current Shire and SEW education campaigns. SEW have been forwarded the Communication Plan for coordinated engagement and education.

There will be targeted consultation and engagement with the local wastewater and development industry, wastewater consultants and drop-in sessions for wastewater/building industry and community/environment groups.

**LEGAL AND REGULATORY FRAMEWORK**

The draft OWMP aligns with comprehensive EPA guidance and fulfils Council's requirements in the gazetted Obligations for Managers of Land and Infrastructure (OMLI). The adoption of an OWMP is a legal requirement for Council to meet its obligations under the OMLI and *Environment Protection Act 2017*.

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

The draft OWMP was developed to support and integrate with the Council and Wellbeing Plan, Climate Emergency Plan, and Integrated Water Plan. The adopted Integrated Water Plan 2024 includes actions for OWMP implementation and the management of onsite wastewater systems.

**FINANCIAL CONSIDERATIONS**

The implementation of the draft OWMP is supported by the future, ongoing availability of resources including:

- proactive Wastewater Management Officer funded by SEW under a Memorandum of Understanding (MoU), with agreed objectives and Key Performance Indicators.
- permanent Wastewater Management Officer position funded by Council to support OWMP actions and enhanced wastewater data management.
- enhanced information management using the new Tech One system (Release 4)
- operational budget in the current financial year for OWMP development and implementation
- budget proposal for the 2025/2026 financial year for Year 1 OWMP actions.

**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

### 4.10 S181 - Sale of Properties with Unpaid Rates Policy

Issued By	Acting Finance Manager
Authorised By	Acting Chief Financial Officer
Document ID	A13584221
Briefing Note Number	BN1991 – 4 February 2025
Attachment(s)	1. S181 - Sale of Properties with Unpaid Rates Policy

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#### EXECUTIVE SUMMARY

The purpose of this report is for Council to adopt the updated ‘Sale of Properties with Unpaid Rates’ Policy (the Policy) and endorse the Policy to enable Shire officers to issue a Notice of Intention to Sell under section 181, including a copy of the relevant section of the *Local Government Act 1989* (the Act), notifying them of the proceedings or issue a notice of intention to bankrupt.

The purpose of this Policy is to establish a clear and concise framework in which to pursue all unpaid rates, charges and special charges which have been:

- outstanding for a period of 3 years or more and where the amount exceeds \$5,000 and,
- have no current arrangement in place, or
- have defaulted on a payment plan.
- where the ratepayer is not subject to Council’s Hardship Policy

#### RECOMMENDATION

**That Council adopts the ‘Sale of Properties for Unpaid Rates’ Policy**

#### COUNCIL & WELLBEING PLAN

This aligns with the Council and Wellbeing Plan.

#### 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.

**4.10 (Cont.)****RELEVANT COUNCIL DECISIONS AND POLICIES**

- Financial Hardship policy
- *Local Government Act 1989*
- *Local Government Act 2020*

**DISCUSSION****Background**

Under section 181 of the Act, (rate arrears three years or greater with no current arrangement in place), Council can sell a rated property or issue a Bankruptcy Notice.

The Policy will outline the steps Shire officers must take before the Act can be implemented. The Policy will provide Shire officers with the authority under the Act to write to owners informing them that Council can under section 181, sell their property and/or issue a letter for bankruptcy.

Council is entitled to sell a property under the Act, however, it does not have the power to remove its tenants without a Court Order.

Once a section 181 resolution is reached, Shire officers will inform the mortgagee. When a Notice of Intention to Sell is issued, some mortgagees are willing to pay the account in full.

The Policy was last adopted by the Council in August 2018, the revised Policy is in line with section 181 (1)(b) of the Act amendment by no. 30/2022. Which states:

“no current arrangement, including a payment plan, exists for the payment of the amount to the Council;”.

**Options for consideration**

The Policy has been developed in line with the Act.

**ENGAGEMENT**

Not applicable.

**LEGAL AND REGULATORY FRAMEWORK**

*Local Government Act 1989*

*Local Government Act 2020*

**CLIMATE AND SUSTAINABILITY CONSIDERATIONS**

Not applicable.

**FINANCIAL CONSIDERATIONS**

This policy as per the Act allows Councils to collect overdue rates when all other methods have been exhausted.

**4.10 (Cont.)**

**OFFICER DIRECT OR INDIRECT INTEREST**

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

## PLANNING & ENVIRONMENT

### 4.11 Planning application P23/0853 - Proposed development of replacement surf lifesaving club - 250 Ocean Beach Road, Sorrento

Issued By Acting Manager - Development Services

Authorised By Director - Planning & Environment

Document ID A13600419

Briefing Note  
Number

Attachment(s)

1. Attachment 1 - Delegate report
2. Attachment 2 - Decision plans
3. Attachment 3 - Permit applicant planning submission
4. Attachment 4 - Third-party submissions (confidential)
5. Attachment 5 - DEECA referral response
6. Attachment 6 - Parks Victoria response
7. Attachment 7 - Planning Scheme provisions
8. Attachment 8 - Hansen partnership memo
9. Attachment 9 - Supplementary reports

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### EXECUTIVE SUMMARY

The purpose of this report is to seek a decision from Council on planning application P23/0853, for the development of a replacement Surf Lifesaving Club at 250 Ocean Beach Road, Sorrento. Council must decide whether to approve or refuse the application, and either what conditions an approval should be subject to or what grounds the application should be refused on. The application has been 'called in' for a Council decision by Councillor Gill.

The development includes:

- Demolition of the existing Sorrento Surf Lifesaving Club and amenities building
- Development of a new clubhouse building and new amenities building
- Development of a new beach access ramp
- Removal of native vegetation (0.084 hectares).

The application was advertised and received 4 objections, and 21 letters of support. The objections can be summarised as:

- Colours and design not appropriate for the landscape/coastal location, not coastal in design, roof style and building height and bulk do not blend into the landscape
- Overdevelopment of the site/footprint, too dominant within the landscape
- Design of public amenities not discreet or accessible
- Lack of demonstrated need for access ramp
- Lack of environmental sustainability in the design/future proofing

4.11 (Cont.)

- Access to pathways during construction, no temporary toilets and showers during construction
- Vehicle access
- Environmental impacts on the flora, fauna, and geology.

The key issues for consideration are environmental impacts and siting and design.

Officers are recommending approval, subject to conditions.

**RECOMMENDATION**

**PART A**

**That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act, 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/0853 be supported and that the following be issued:**

**A permit for non-reviewable permissions with the following conditions:**

PLANNING SCHEME CLAUSE	MATTER FOR WHICH THE PERMIT HAS BEEN GRANTED
Clause 44.06-2 (BMO)	Construct a building or construct or carry out works

**Amended Plans**

1. **Before the developments starts, amended plans and documents to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, and endorsed these plans and documents will then form part of the permit. The plan must be drawn to scale with dimensions. The plans must be generally in accordance with the submitted plans, but modified to show:**
  - a) **An amended Bushfire Management Plan that includes:**
    - i. **Location of static water supply and outlet.**
    - ii. **Public toilet and showers represented as only two buildings.**
2. **The approved development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority (unless otherwise specified by a condition of this permit, consent is not required for any buildings or works which do not require a planning permit under the Mornington Peninsula Planning Scheme).**

**Department of Energy, Environment and Climate Action**

3. **The bushfire protection measures detailed in the Bushfire Development Report (Terramatrix, December 2021 updated March 2024), 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.**

## 4.11 (Cont.)

**Bushfire Protection Measures**

4. 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.
5. This permit will expire if the development is not completed before 24 February 2030.

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 –**

A Notice of Decision to Grant a Permit be issued subject to the following conditions:

<b>PLANNING SCHEME CLAUSE</b>	<b>MATTER FOR WHICH THE PERMIT HAS BEEN GRANTED</b>
Clause 36.03-2 (PCRZ)	Construct a building or construct or carry out works
Clause 42.01-2 (ESO24)	Construct a building or construct or carry out works. Remove, destroy or lop any vegetation, including dead vegetation
Clause 52.17-1	Remove, destroy or lop native vegetation, including dead native vegetation.

**Amended Plans**

1. Before the developments starts, amended plans and documents to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, and endorsed these plans and documents will then form part of the permit. The plan must be drawn to scale with dimensions. The plans must be generally in accordance with the submitted plans, but modified to show:
  - a) Further design specifications for external cladding of the clubhouse building that maintains a sustainable life cycle for the building.
  - b) Reduction in overall height of the clubhouse building by 1 metre and simplification of the roof form.
  - c) Upper floor veranda of the clubhouse building to feature timber posts of similar width to ground floor.
  - d) Trail plan that satisfies Condition 29 of this permit.

## 4.11 (Cont.)

- e) A Waste Management in accordance with Condition 32 of this permit.
- f) Details of static water supply in accordance with Condition 33 of this permit.
- g) A Storm Water Management plan in accordance with Condition 34 of this permit.
- h) Landscape plan to include:
  - i. Details of planting within the “planted divider strips” between the club house and the car park;
  - ii. A schedule of all proposed planting, including the location, species and size at maturity, and botanical names;
  - iii. All planting to be indigenous species to the local ecological vegetation class (coastal alkaline scrub or coastal headland scrub).
  - iv. Notation that all planting to be managed to defendable space requirements of the endorsed bushfire management plan.
- i) Geotechnical Report No. 1231183-1 by Civiltest Pty Ltd being amended to include consideration of the existing steep slope on the western side of the proposed development.
- j) A Peer Review of slope stability Geotechnical Report No. 1231183-1 by Civiltest Pty Ltd undertaken by an independent geotechnical consultant with expertise in slope stability, and a copy of the peer review report lodged with the Responsible Authority.
- k) The Geotechnical Report amended, if requested, to the written satisfaction of the peer reviewer, and a copy of the amended Geotechnical Report and written confirmation from the Peer Reviewer lodged with the Responsible Authority.
- l) Proposed alterations to the existing car park between the proposed development and the proposed disability car parking space.
- m) The proposed driveway access from the carpark to the board and sporting equipment storage area of the development.

**Layout not Altered**

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

**Environmentally sustainable development**

- 3. Prior to commencement of the development, a Sustainable Design Assessment (SDA) (including an assessment using Built Environment Sustainability Scorecard (BESS) and Sounding and Tracking Observatory for Regional Meteorology (STORM) / Model for Urban Stormwater Improvement Conceptualisation (MUSIC) or other methods) must be submitted to and approved by the Responsible Authority.

**4.11 (Cont.)**

4. Prior to occupation of the development, the recommendations of the endorsed SDA report must be implemented and installed to the satisfaction of the Responsible Authority.

**Colours/Materials**

5. The materials and colours of the exterior finish of the development must be in accordance with the endorsed plans unless with the further permission of the Responsible Authority.

**Finishes**

6. Prior to the initial occupation of the development finishes must be completed to a professional standard to the satisfaction of the Responsible Authority.

**Vegetation Removal**

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

**Landscaping**

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

**Department of Energy, Environment and Climate Action**

10. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
11. The total area of native vegetation proposed to be removed totals 0.084 hectares, comprised of:
  - a) 8 patches of native vegetation with a total area of 0.084 hectares [containing 0 large trees]
  - b) 0 large scattered trees
  - c) 0 small scattered trees
12. To offset the permitted clearing in accordance with Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning (DELWP) 2017), the permit holder must secure general offset of 0.0740 general habitat units:
  - a) located within the Melbourne Water Catchment Management Authority boundary or Mornington Peninsula Shire Council municipal area
  - b) with a minimum strategic biodiversity score of at least 0.6277

## 4.11 (Cont.)

13. Before any native vegetation is removed, evidence that the offset required by this permit has been secured must be provided to the satisfaction of the responsible authority. This evidence must be 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.
14. 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, a copy of the endorsed offset evidence must be provided to Planning and Environment Assessment at the Department of Energy, Environment and Climate Action (DEECA).
15. Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
16. A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DEECA on 136 186 for further advice.
17. Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
  - a) Any vehicle or pedestrian access, trenching or soil excavation, and
  - b) Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
  - c) Entry or exit pits for underground services
  - d) Any other actions or activities that may result in adverse impacts to retained native vegetation.

Department of Energy, Environment and Climate Action - *Marine and Coastal Act 2018*

18. The works are to be carried out generally in accordance with:
  - a) The plan titled 'PROPOSED CLUBHOUSE REDEVELOPMENT PRELIMINARY PLANNING SET' dated 6 June 2024 prepared by Steve Hofer Architect or the endorsed plans as approved by Mornington Peninsula Shire Council as part of the planning permit.
  - b) The recommendations made in the Coastal Hazard Vulnerability Assessment' dated 7 May 2024 prepared by Stantec.
  - c) *The Marine and Coastal Act 2018* consent application received on 5 June 2023 and the further information received on 7 June 2024, 21 August 2024 and 3 December 2024.

## 4.11 (Cont.)

19. Any modification to the works proposed will require further approval by the Regional Director, Port Phillip Region, DEECA.
20. Prior to works commencing, a construction environmental management plan or equivalent must be prepared to the satisfaction of Parks Victoria. The Construction and Environmental Management Plan (CEMP) must include measures to minimise environmental impacts during construction and ensure construction of the beach ramp is conducted outside breeding season for Hooded Plover (*Thinornis cucullatus*) in accordance with the recommendations of the Biodiversity Assessment prepared by Ecology and Heritage Partners, dated August 2024.
21. All works must comply with any DEECA conditions included in any planning permit issued in relation to planning application P23/0853 by Mornington Peninsula Shire Council.
22. Before works start, a Lighting Design Plan must be provided to the satisfaction of DEECA. The Lighting Design Plan must:
  - a) Include the location, specifications, and light spill diagrams of external light fixtures to be installed
  - b) Indicate the change in artificial lighting conditions at the site compared with current conditions
  - c) Demonstrate responsiveness to the principles of the National Light Pollution Guidelines for Wildlife (Department of Climate Change, Energy, the Environment and Water (DCCEEW), 2023).
23. Any planting or revegetation works must utilise indigenous species of an appropriate local Ecological Vegetation Class (EVC).
24. Any clearing or construction activity associated with the works, should be carried out in accordance with the Environment Protection Authority (EPA) Publication No. 275 *Construction Techniques for Sediment Pollution Control* (May 1991).
25. The construction site must be managed in accordance with EPA Publication 1834.1: *Civil construction, building and demolition guide* (12 September 2023).
26. Construction equipment, building materials, refuse and site run-off must be contained and controlled and not permitted to impact on the beach or enter Bass Strait.
27. All works must be completed, the site reinstated, and the works maintained to the satisfaction of Parks Victoria.
28. This consent under the *Marine and Coastal Act 2018* will expire if the works are not completed within five years of the date of issue, unless an extension of time is applied for and granted by the Regional Director, Port Phillip Region, DEECA.

## Parks Victoria

29. Prior to the commencement of works, a plan must be submitted to and approved by Parks Victoria (PV) clearly identifying how the trail north of the clubhouse will link via the proposed northern courtyard to the beach carpark. The proposed courtyard must not inhibit public access to the trail.

## 4.11 (Cont.)

30. Prior to the commencement of works associated with the beach access ramp, detailed engineering design and a written response prepared by suitable qualified parties demonstrating how the design responds to the submitted Coastal Hazard and Vulnerability Assessment and Geotechnical assessment recommendations must be submitted to PV for review and approval.
31. Prior to the commencement of works (including demolition), a CEMP must be submitted to and approved by Parks Victoria. The plan must address the following:
- a) details on site laydown, location of construction compounds, site buildings and amenities, and security fencing.
  - b) interim provision of suitable temporary public amenities during construction. This should factor in the potential for the redevelopment project to span a summer holiday period and the consequent peak visitor demand.
  - c) details how the Club will maintain surf lifesaving operations whilst the clubhouse is undergoing redevelopment.
  - d) public safety, amenity and site security including but not limited to:
    - i. addressing any altered visitor access to trails and parking in addition to alternant amenities during construction.
    - ii. details on project management communications including site management oversight, key contacts for community liaison and complaints management, procedures for monitoring, recording and reporting environmental issues and incidents of non-compliance, procedures for contractor induction and emergency response and incident management.
    - iii. noise and vibration controls and air and dust management.
    - iv. stormwater and sediment control.
    - v. waste management.
  - e) details on demolition and construction methodologies including details on the staging and timing of all building and works.
  - f) a traffic management plan and a pedestrian access plan which ensure minimal disruption to public access including trails and carpark closure timelines.
  - g) measures to protect the environment including vegetation to be retained, erosion management and site restoration.

The approved CEMP must be implemented.

32. Waste management plan for the operation of the new facility must be prepared to the satisfaction of PV and submitted to PV. The waste management plan must be implemented to the satisfaction of PV.
33. Prior to the commencement of works a plan must be submitted to and approved by PV clearly identifying the location, colour and dimensions of any static water supply (tank(s)).

## 4.11 (Cont.)

34. Prior to the commencement of works, a storm water management plan detailing the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater must be submitted and approved by Parks Victoria. The plan must:
- a) articulate how stormwater will be managed and discharged to protect the environmental values of the Mornington Peninsula National Park
  - b) accord with *Urban Stormwater – Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999)

The approved plan must be implemented.

35. Before the initial occupation of the development, all drainage works associated with the development must be constructed in accordance with approved engineering plans, and to the satisfaction of Parks Victoria.
36. Before the initial occupation of the development, 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 with reinforced concrete or asphalt, and drained to the satisfaction of the Parks Victoria.

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

#### Environmental Health

37. All sewerage and sullage waste from the proposed development must be discharged into the reticulated sewerage system to the satisfaction of the Responsible Authority. According with Council's Wastewater Policy.
38. No polluted waters, or any other liquid wastes shall be discharged into the stormwater system, or any other watercourse.

#### Development Engineering

39. The proposed development and retaining walls must be designed and constructed in accordance with the planning permit conditions, endorsed plans, and recommendations of the endorsed Geotechnical Report.
40. Any proposed changes to building footprints or modifications to buildings after the date of the Geotechnical Report must include a written response from the geotechnical consultant and be submitted to the Responsible Authority to be endorsed.
41. All retaining walls must be designed by a qualified structural engineer in accordance with the recommendations of the endorsed Geotechnical Report.
42. Site cut and fill batter slopes must be in accordance with the recommendations of the endorsed Geotechnical Report.
43. Prior to the commencement of any works for the development, a Form B 'Structural/Civil/Geotechnical Engineering Declaration' in accordance with the Australian Geomechanics Society (AGS) 'Practice Note Guidelines for Landslide Risk Management 2007' must be completed by a Structural Engineer Registered as a Civil or Structural Endorsed Building Engineer with the Victorian Business Licencing Authority and also a Specialist Geotechnical Engineer or a Specialist Engineering Geologist as defined in the AGS 'Practice Note Guidelines for

## 4.11 (Cont.)

Landslide Risk Management 2007', and a copy lodged with the Responsible Authority.

44. Prior to the occupation of the building, a Form G 'Final Geotechnical Certificate' in accordance with the AGS 'Practice Note Guidelines for Landslide Risk Management 2007' must be completed by a Specialist Geotechnical Engineer or Specialist Engineering Geologist as defined in the AGS 'Practice Note Guidelines for Landslide Risk Management 2007', and a copy lodged with the Responsible Authority.

## Expiry

45. This permit will expire if the development is not completed by 24 February 2030.

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.

## Notes

- a) The permitted development must be undertaken in accordance with Cultural Heritage Management Plan 19128 approved under the *Aboriginal Heritage Act 2006* on 2 December 2024.
- b) Before works start, a permit to take protected flora under the *Flora and Fauna Guarantee Act 1988* is required. To obtain a protected flora permit, please apply to [ppr.nep@deeca.vic.gov.au](mailto:ppr.nep@deeca.vic.gov.au) at the Department of Energy, Environment and Climate Action. The application must include targeted surveys for the following species:
- i. Coast Wirilda (*Acacia uncifolia*) – Endangered
  - ii. Coast Bitter-bush (*Adriana quadripartita*) – Endangered
  - iii. Coast Hollyhock (*Malva preissiana*) – Endangered
  - iv. Coast Fescue (*Poa billardierei*) – Endangered
  - v. Dwarf Coast Poa (*Poa halmaturina*) – Endangered
  - vi. Dune Poa (*Poa poiformis* var. *ramifer*) – Endangered
  - vii. Coast Bush-pea (*Pultenaea canaliculata*) – Endangered
  - viii. Coast Twin-leaf (*Roepera billardierei*) – Endangered
  - ix. Leafy Greenhood (*Pterostylis cucullata* subsp. *cucullata*) – Endangered
  - x. Dune Wood-sorrel (*Oxalis rubens*) – Endangered
  - xi. Peninsula Daisy-bush (*Olearia* sp. 2) – Endangered
- a) Prior to the commencement of any works associated with the development, approval under the *National Parks Act (1975)* is required.

## 4.11 (Cont.)

- b) It is recommended that any public art and/or landscaping associated with the facility involve further engagement with the traditional owners (Bunurong Land Council).

## Part C

That Council resolves that Attachment 4 to this report be retained as a confidential item pursuant to section 3 (1) (f) of the *Local Government Act 2020* as it contains personal information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

**COUNCIL & WELLBEING PLAN**

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

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

- Strategic Objective 1.2: A healthy ecosystem, in which our coastline, bushland, wildlife and green wedge is resilient to the climate emergency and development.
- Strategic Objective 1.3: A sustainable built environment that respects the natural environment and protects the community from the impacts of the climate emergency.
- Strategic Objective 1.4: An accessible built environment that supports diverse, current and future community needs.

Theme 2: A robust, innovative and diverse economy.

- Strategic Objective 2.3: A thriving entrepreneurial economy, with a vibrant tourism sector, that provides accessible employment to our diverse 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 A, B, F, H and I which are:

- A. Council decisions are to be made and actions taken in accordance with the relevant law.
- B. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- F. Collaboration with other Councils and Governments and statutory bodies is to be sought.
- 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.

4.11 (Cont.)

PROPOSAL

<b>Proposal</b>	<ul style="list-style-type: none"> <li>• Demolition of the existing Sorrento surf Life Saving Club and amenities building</li> <li>• Development of a new clubhouse building and amenities building</li> <li>• Development of a new beach access ramp</li> <li>• Removal of native vegetation (0.084ha)</li> </ul>
<b>Decision Documents</b>	<p>The documents assessed were those advertised with the application, including:</p> <ul style="list-style-type: none"> <li>• Plans by Steve Hofer Architect TP:01-TP:10 (various revision dates).</li> <li>• Vegetation Plan by Jane Burke dated 23 Apr 2024.</li> <li>• Bushfire Management Plan by Terramatrix, Ver 2.1, dated 17 Apr 2024.</li> <li>• Biodiversity Assessment by Ecology and Heritage Partners dated May 2024.</li> <li>• Coastal Hazard Vulnerability Assessment by Stantec, dated 31 Jan 2025.</li> <li>• Land Stability Assessment by Civil Test, Issue 5, dated 30 January 2025.</li> </ul> <div style="text-align: center; margin-top: 10px;">  <p>P23_0853 - 250 Ocean Beach Rd Sor    P23_0853 - 250 Ocean Beach Rd Sor    P23_0853 - 250 Ocean Beach Rd Sor</p> </div> <p>a)</p> <div style="text-align: center; margin-top: 10px;">  <p>P23_0853 - 250 Ocean Beach Rd Sor    Sorrento_SLSC_CHV A_REV4.obr    P23_0853 - Geotech Rev 5 LSA - 250 Oce</p> </div>

PERMIT TRIGGERS

	Clause	Trigger?	Rationale
<b>Zone</b>			
<b>Public Conservation and Resource Zone (PCRZ)</b>	36.03-2	Yes	A permit is required to construct a building or construct or carry out works.

4.11 (Cont.)

Overlays			
<b>Bushfire Management Overlay (BMO)</b>	44.06-2	Yes	A permit is required to construct a building or construct or carry out works associated with the use of land for leisure and recreation
<b>Environmental Significance Overlay (ESO)24</b>	42.01-2	Yes	A permit is required to: <ul style="list-style-type: none"> <li>• Construct a building or construct or carry out works.</li> <li>• Remove, destroy or lop any vegetation, including dead vegetation</li> </ul>
Particular Provisions			
<b>Native Vegetation</b>	52.17-1	Yes	A permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

**SUBJECT SITE**

Site Conditions	
<b>From the application:</b>	<p><i>The site is located on Crown Land, within the Mornington Peninsula National Park along the Sorrento back beach at the end of Ocean Beach Road. The Sorrento Surf Life Saving Club is positioned approximately 1km south-west of the commercial township of Sorrento to the north-east, and approximately 1.6km to Point Nepean Road. The beach carpark is accessed via a sealed road extending approximately 420metres off Ocean Beach Road.</i></p> <p><i>The broader dune coastal foreshore is mostly covered in remnant vegetation and includes walking tracks and decked pathways/lookout points, water tanks and other modest structures within the National Park. The foreshore directly adjoins residential land to the north-east, and the waters of Bass Strait to the south-west. Within proximity to the clubhouse, a restaurant/function room is positioned on the eastern side of the car park.</i></p> <p><i>The topography of the land undulates and steeply falls at the point of the beach, as well as along the cliff face. The land is relatively level at the location of the existing clubhouse and car parking area and is lower in elevation compared to the surrounding vegetated foreshore to the west, north and east, forming a natural amphitheatre. The elevated dune to the west which encompasses 'Coppins Lookout', provides a backdrop to the clubhouse as one enters the site.</i></p> <p><i>The site is a prominent local and tourist attraction, unique for its geographical, historical, cultural and environmental attributes.</i></p>

## 4.11 (Cont.)

	<p><i>The Crown Allotment is large in area and covers the entire Mornington Peninsula National Park as it fronts Bass Strait to the south-west. The Sorrento Surf Life Saving Club and associated car park is within a dune, whereby vegetated crests surround the area.</i></p> <p><i>The existing clubhouse features a double storey rendered building, with stone feature wall, positioned on the western side of the car park. The current clubhouse was constructed in 2002. A public amenities building is located on the northern side of the clubhouse. The clubhouse encompasses a patrol tower, storage area and associated training/office spaces.</i></p> <p><i>Various pathways provide access around the site and broader national park. Timber steps are positioned just south of the clubhouse and a ramp at the eastern end of the car park providing access to the beach.</i></p> <p><i>Remnant vegetation covers the undulating dune topography, with cleared areas around buildings and the car park. Planted vegetation is also established around buildings and the car park.</i></p>
<b>Surrounding Land</b>	
<b>Abutting zone(s) / overlays(s)</b>	N/A
<b>From the Application:</b>	<i>The broader dune coastal foreshore consists of mostly native vegetation, with walking tracks and decked pathways/lookout points. On the eastern side of the car park is a single storey restaurant/function room, known as 'All Smiles', commonly used for events. The foreshore directly adjoins residential land to the north-east (General Residential Zone), and the waters of Bass Strait to the south-west.</i>
<b>Site Context</b>	
<b>Cultural Heritage Management Plan (CHMP)</b>	<p>A CHMP is not required as the buildings and works are associated with a purpose for which the land was being lawfully used immediately before 28 May 2007, and the activity area has been subject to previous significant ground disturbance.</p> <p>However, the applicant has voluntarily prepared and submitted a CHMP.</p>
<b>Bushfire Prone Area:</b>	Yes
<b>Flood Prone Areas:</b>	Yes
<b>Restrictions and/or easements on title:</b>	N/A

**Permit/Site history**

The following previous decisions are relevant to the subject site:

- P00/2108 issued 13 August 2001 for USE AND DEVELOPMENT OF CLUBROOMS IN ACCORDANCE WITH THE ENDORSED PLANS



Google (May 2023)

*Aerial photos showing subject site and existing clubhouse - Nearmap July 2024*





### PUBLIC NOTIFICATION

The application was advertised by sending direct notice to adjoining properties and erecting signs on site for 14 days.

Four objections have been received to date. A summary of the objections and Council's response is set out below. 21 letters of support have been received.

### Section 52 Notifications

Person/body notified	Response	Officer Response
Parks Victoria	No objections, subject to conditions.	Conditions included

### REFERRALS

Referral	Type	Response	Officer Response
DEECA	Section 55: Determining	No objections, subject to conditions.	Conditions included (bushfire)
DEECA	Section 55: Recommending	No objections, subject to conditions	Conditions included (native veg removal)

## 4.11 (Cont.)

Coastal Planning	Internal	Concerns about design, no objection in relation to coastal hazard	Noted
Development Engineering	Internal	No objection subject to conditions	Appropriate conditions included
Environmental Health	Internal	No objection subject to conditions	Conditions included
Urban Design	Internal	Concerns about design	Provided input into conditions
Vegetation	Internal	No objection subject to conditions	Conditions included

Council's Development Engineering team provided standard conditions including engineering plans, drainage, a Construction Management Plan (CMP) etc. however as the works are entirely within Parks Victoria land, and are not Council assets, it is not appropriate or necessary to include them.

## ASSESSMENT

The relevant provisions of the Mornington Peninsula Planning Scheme are listed in Appendix 1 and contained in full in an attachment to this report.

### Use of land, public benefit and 'need'

The subject land has existing use rights for the purposes of a surf lifesaving club. The proposed redevelopment will continue that use, and therefore a permission for use is not required under the PCRZ. The additional accommodation does not change the real and substantial purpose of the existing use.

It is noted that the existing use rights reflect the specific use of 'surf lifesaving club' or 'clubrooms', and therefore there is a degree of ambiguity over whether a permission is required under the BMO. Officers, DEECA, and the permit applicant have taken a conservative approach and deemed permission under the BMO to be necessary, as buildings and works associated with 'leisure and recreation'.

As no use permission is required, insofar as some of the relevant Planning Policy Framework (PPF) and wider policy documents refer to the 'need' for the facilities and their coastal location, this is not something which is open to Council to consider. Nonetheless, it is noted that the proposed facilities will confer a substantial public benefit in terms of safety and recreation, and the immediate coastal location is functionally necessary.

### Public land manager and other consents

Parks Victoria is the public land manager for the Mornington Peninsula National Park, and has given its consent to the proposal, subject to conditions which will be incorporated into any permit issued.

This consent has included consideration of, and requirements for, the design and layout of the buildings.

**4.11 (Cont.)****Aboriginal cultural heritage**

A Cultural Heritage Management Plan (CHMP) is not required as the buildings and works are associated with a purpose for which the land was being lawfully used immediately before 28 May 2007, and the activity area has been subject to previous significant ground disturbance.

However, the applicant has voluntarily prepared and submitted a CHMP. This is a welcome additional step taken by the permit applicant which goes above and beyond any planning policy requirement.

**Car parking**

Where a use of land is not specified in Table 1 to Clause 52.06-5, before the floor area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority. Officers are satisfied with the existing car parking, as the proposal does not seek to encourage more visitors to the beach, rather to better cater to those already visiting. Clause 12.02-1L Protection of coastal areas - Mornington Peninsula seeks to avoid the extension or establishment of car parks and roads in sensitive coastal locations and ensure the provision of car parking achieves a balance between the convenience for users and the protection of the conservation and landscape values of the foreshore. In this instance, while the increased footprint of the clubhouse and amenities block and location of the access ramp will result in the loss of up to 5 parking spaces (two near the access ramp, three near the amenities block), the level of car parking provided remains satisfactory.

**Environmental impacts/considerations**

The specific purposes of the PCRZ include the protection and conservation of the natural environment, and the decision guidelines require consideration of the location of any development. With respect to development in a coastal location within the Mornington Peninsula National Park, subject to ESO24, this in turn brings into consideration a range of PPF Clauses and other policy documents referenced in the Planning Scheme:

- Clause 12.02 – Marine and Coastal Environment
- Clause 12.05 – Significant Environments and Landscapes
- Clause 13.01 – Climate Change Impacts
- *Marine and Coastal Policy* (DELWP, 2020)
- *Marine and Coastal Strategy* (DELWP, 2022)
- *Siting and Design Guidelines for Structures on the Victorian Coast* (DELWP, 2020)

Permissions are also required under the Bushfire Management Overlay and Clause 52.17 – native vegetation.

The environmental impacts and considerations relevant to this assessment have been broadly categorised and will be addressed in turn below.

**Coastal hazards**

Clauses 12.02-2S and 13.01, along with the three DELWP documents listed above, require developments on the coasts to plan for coastal hazard risk, including climate change impacts. Developments should avoid vulnerable areas and minimise any risks associated with coastal hazards.

#### 4.11 (Cont.)

Planning Scheme Amendment C271 recently introduced planning controls associated with coastal inundation and erosion around Western Port Bay. Whilst the proposed development sits inland of these controls, indicating that the siting is responsive to coastal hazards, the permit applicant has nonetheless had a Coastal Hazard Vulnerability Assessment (CHVA) prepared by an expert consultant.

The report concludes that the overall vulnerability of the site to coastal flooding and erosion ranges from insignificant to low between 2070 and 2100 (2100 being the appropriate benchmark in policy terms for future sea level rise). However, it is recommended that the proposed stairs and access ramp be designed to accommodate future erosion. This will form a condition of the permit.

Overall, coastal hazards have been well considered in this development proposal and the response to policy in this regard is acceptable and appropriate.

#### Landslip risk and geotechnical assessment

Whilst the subject land is not covered by an Erosion Management Overlay, the proposed development is located in an area which may be at high risk from a landslip susceptibility perspective. The permit applicant has provided a geotechnical assessment which addresses this issue, which can be mitigated. Council's Development Engineering team has recommended a suite of conditions to bolster this assessment, including the requirement for a peer review of that assessment.

#### Vegetation removal

Permission is required under ESO24 for the removal of vegetation, and under Clause 52.17 for the removal of native vegetation. PPF and DELWP policies and guidance add additional weight to the consideration of vegetation impacts in a coastal location.

The fundamental approach to native vegetation removal in Clause 52.17 is the avoid, minimise, offset framework. This framework helps to inform the associated consideration under ESO24.

Some naturally occurring scrub vegetation is required to be removed to facilitate the development of the new amenities block, establish defensible space to the minimum extent necessary around the clubhouse (see bushfire section below), and for the new beach access ramp which is required to enable access by emergency vehicles and to meet *Disability Discrimination Act 1992* (DDA) requirements.

The total area of native vegetation proposed to be removed totals 0.084 hectares of Coastal Alkaline Scrub and Coastal Headland Scrub. This is comprised of 8 patches of native vegetation and no large or scattered trees.

DEECA is a recommending referral authority under section 55 of the *Planning and Environment Act 1987* (the Act), as the application falls within the detailed pathway for applications to remove native vegetation.

Having been informed by a detailed biodiversity assessment provided by the permit applicant, both Council and DEECA are satisfied that the extent of vegetation removal proposed is acceptable. It is not practically possible to avoid any impacts to native vegetation associated with the development, but the impacts have been minimised. The siting of the building is confined largely to areas which have already been disturbed, and those areas which will be cleared (due to construction and defensible space) have modified ecological values. The vegetation which is to be removed will be offset in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

#### 4.11 (Cont.)

The overall impact on vegetation and ecological values, having regard to the assessment under Clause 52.17, is also considered to be acceptable with respect to the permission required under ESO24.

##### Bushfire risk

As noted in the 'use of land' section above, Council, the permit applicant, and DEECA have taken the appropriately conservative view that the development requires permission under the BMO, being buildings and works associated with a use of land for leisure and recreation.

DEECA is the relevant fire authority, and therefore the determining referral authority under section 55 of the *Act*.

The Bushfire Management Plan (BMP) has utilised Method Two of AS 3959-2018 to determine the defendable space and construction standard requirements for the proposed building. The variations made from the standard AS 3559-2018 model were a reduced fuel load of 7 tonnes/hectare, adjustment to flame width and actual values of surrounding downslope and upslope. The building will be built to a BAL-29 construction standard with a defendable space distance of 5.5m to the west and 8m to the north, south and east aspects.

DEECA, as the determining referral authority, accepts the variations and the resulting Bushfire Attack Level (BAL)-29 construction standard and defendable space calculations as shown in the BMP. Officers are comfortable with this outcome.

##### Siting and Design

The decision guidelines of the PCRZ require consideration of whether a development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines. As with environmental considerations, the application of ESO24 to the land and its coastal location draws in the following policies/guidelines to inform consideration of the design response:

- Clause 12.02 – Marine and Coastal Environment
- Clause 12.05 – Significant Environments and Landscapes
- Marine and Coastal Policy (DELWP, 2020)
- Marine and Coastal Strategy (DELWP, 2022)
- Siting and Design Guidelines for Structures on the Victorian Coast (DELWP, 2020)

The Siting and Design Guidelines (*'Guidelines'*) is a particularly helpful document, as it provides a comprehensive framework to assess siting and design on the coast, and draws together disparate elements such as sustainability, materials, public access, views, etc., which are otherwise scattered across the PCRZ, ESO24, and the Planning Policy Framework. It is therefore the framework which has been used in this report to break down the assessment around siting and design.

As this is a significant project on public land, a Design Advisory Panel (DAP) was held on 26 September 2023. While the panel considered a previous design iteration, the following key points were drawn out (design principles which are consistent with the policy documents referred to above):

- Siting the new building in and around the footprint of the existing building is appropriate, as it minimises environmental impact, allows the dunes to provide a backdrop, and maintains the direct relationship with the existing car park.

4.11 (Cont.)

- Whether there were further opportunities to reduce scale and bulk (i.e. consolidation of the amenities building and reduction of level of accommodation).
- The importance of acknowledging and responding to aboriginal cultural heritage values.
- Concerns over the ‘domestic’ architectural approach, and encouragement of a more robust architectural response which reflects policy guidance for the design of structures on the coast.

The plans which now form the application were lodged as an amendment in June 2024. Following initial consideration of the amendment and internal discussions with Council’s Urban Designer, Officers remained concerned that the architectural approach was ‘domestic’ and did not satisfactorily respond to the *Guidelines* with respect to the design detail and materials/finishes of the building.

In response to Officers’ concerns, the permit applicant commissioned the preparation of an urban design Memo by Hansen Partnership. This Memo comprehensively analysed the design response of the proposed development, including against each of the siting and design ‘fundamentals’ articulated in the *Guidelines*. The Memo provides support for the proposal.

Officers continued to work collaboratively with the permit applicant following the submission of this Memo, and agreed additional design changes which will be secured by condition. These design changes will reduce the height of the building, simplify the roof form, and ensure the design of the veranda is less ‘domestic’ and more civic.

With the added context and expert opinion provided by the Memo, and the further design changes secured by condition, Officers are satisfied that the siting and design of the proposed development represents an acceptable response to the planning controls and relevant policy. The design changes secured by condition will also directly address some of the key issues raised by the earlier DAP.

It is also noted that consent provided by DEECA under the *Marine and Coastal Act 2018* requires consideration of the *Guidelines*. DEECA has confirmed directly to Council Officers that, in granting that consent, it is satisfied the proposed development represents an appropriate response to the *Guidelines*.

A brief analysis against each of the design fundamentals set out in the *Guidelines* is provided below:

Fundamental	Officer Response
Aboriginal cultural heritage	Addressed earlier in report – voluntary CHMP has been approved and submitted.
Coastal processes	Addressed earlier in report – CHVA has been prepared and consideration of coastal hazards appropriately addressed.
Geology	There are no planning controls which require detailed consideration of geology however it is noted that the proposed building is located on the footprint of the existing building.
Morphology (form and line)	The proposed building will sit well within the topography of the dunes. The condition requiring a reduction in height

## 4.11 (Cont.)

	and alteration of the roof form will reduce the scale of the building and simplify its 'line'.
Hydrology	There are no planning controls which require detailed consideration of hydrology, but again the siting of the building on the existing footprint is the most appropriate way to respond to drainage. The inclusion of water tanks assists in responsible water management.
Vegetation and ecology	Addressed earlier in the report.
Climatic conditions	The proposal includes verandas that wrap around the southeast of the clubhouse, and the public amenities blocks also have verandas, achieving appropriate siting and design in this respect.
Views	The proposed development sits on the footprint of the existing building and sits well within the landscape and topography. There are no key views which will be interrupted by the development.
Public open space	The siting (being on the existing footprint) allows the development to maintain its relationship with the public open space, and the access ramp increases the connection to, and usability of, the foreshore.
Local character and sense of place	<p>The urban design Memo provides the rationale for achieving this fundamental, with the building drawing inspiration from Sorrento's colonial built-form history.</p> <p>Nonetheless, Officers consider that the balance between these architectural references and the building's location and purpose could be better balanced in favour of it appearing more as a public coastal building. This will be specifically addressed by condition through featuring wider timber posts on the upper floor veranda and simplification of the roof.</p>
Heritage	<p>The development responds to historic character through its architectural references to colonial buildings.</p> <p>The provision of a voluntary CHMP and the building's location on an existing footprint ensure an appropriate response to cultural and archaeological heritage.</p>
Public access	The proposed development will maintain and enhance public access to and from the beach.
Increased function and adaptability	The proposed development utilises the existing footprint and provides additional facilities within it.
Sustainability	No Environmentally Sustainable Development (ESD) report has been provided (the application was made prior to the introduction of Clause 15.01-2L-02 into the planning scheme).

## 4.11 (Cont.)

	However, a condition will be added requiring the provision of a Sustainable Design Assessment, with any requirements as a result being incorporated into the design. The permit applicant has agreed to this condition.
Materials and finishes	<p>Officers have some concern over the use of textured render on the masonry cladding and painted finishes to the cement sheet cladding, as these may require regular maintenance in the harsh environs of the coast.</p> <p>Durable and robust materials are important in the coastal environment. A condition of permit will ensure the end design specifications are appropriate in this regard.</p>

**RESPONSE TO SUBMISSIONS**

To date, four objections have been received. A summary of the issues and Council's response is detailed in the following table:

<b>Issue</b>	<b>Response</b>
<p>Colours and design not appropriate for the landscape/coastal location</p> <p>Not coastal in design, roof style and building height and bulk do not blend into the landscape</p>	See above assessment.
Overdevelopment of the site/footprint, too dominant within the landscape	Parks Victoria, DEECA, and Council are all satisfied with the development's footprint and its response to the landscape (subject to the conditions set out below).
Design of public amenities not discreet or accessible	The public amenities have been designed to be accessible, and there is no requirement for them to be discreet (on the contrary, they should be visible and easily found and accessed).
Lack of demonstrated need for access ramp	At present the only way for lifeguards and lifesavers to get vehicles down to the beach is at the other end of the beach from the clubhouse. The proposed access ramp is to increase safety and response times.
Lack of environmental sustainability in the design/future proofing	A Sustainable Design Assessment will be a conditional requirement of a permit being granted.
<p>Access to pathways during construction</p> <p>No temporary toilets and showers during construction</p>	Parks Victoria has requested a Construction and Environmental Management Plan as a condition of permit, which ensures that public access to trails is not inhibited by the construction or development, and that suitable

## 4.11 (Cont.)

	temporary public amenities be provided during construction. This falls within the remit of the public land manager
Vehicle access	There is one roller door to the existing clubhouse, with one crossover for vehicle access, and although there are several roller doors proposed in the new clubhouse, these are for lifesaving, rather than cars. There remains only one crossover from the carpark.
Environmental impacts on the flora, fauna, and geology	Council, Parks Victoria and DEECA are satisfied with the proposal from an environmental impact perspective – see above assessment.

**CONCLUSION**

The proposed development represents an acceptable response to the applicable planning controls and policy and will be recommended for approval subject to conditions.

**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

### 5.1 Notice of Motion 474 (Cr Gill) - Governance Rules

Cr David Gill has given notice of his intention to move the following motion at the meeting.

1. *That in the interest of transparency and accountability our Governance Rules be revised to enable the stating of and recording of individual councillor votes on all Council decisions.*
2. *That all such votes be made public except where the State Government Local Government Act prevents this happening because of confidentiality requirements outlined in the Local Government Act 2020.*

#### Background

Nil.

Issued By	Manager – Governance & Risk
Authorised by	Director – Corporate Strategy & Business Improvement

#### OFFICER COMMENT

Attachment 1. Operation Sandon - Council Governance Summary

The Mornington Peninsula Shire Governance Rules were adopted by Council on 24 August 2021. Governance Rules are a requirement under section 60 of the *Local Government Act 2020* (Act) that govern meeting procedures for Council and Delegated Committee Meetings.

On 11 June 2024, Council resolved as follows:

*During the next planned review of the Governance Rules a change is considered to record all individual Councillor voting decisions made in Council meetings, including confidential meetings, for transparency and public records.*

- Under section 60 of *the Act*, Council must ensure that a process of community engagement is followed when amending its Governance Rules. The review of the Governance Rules was planned for early 2025 to allow the newly elected Council an opportunity to provide input into the Governance Rules that will govern their meetings over the next four years.
- Our approach was to review the Governance Rules once Councillors had settled into their roles and gained a practical understanding of meeting procedures. This would ensure any amendments are well-informed and reflective of the Council's needs.
- On 31 December 2024, Local Government Victoria (LGV) Bulletin 24/2024 provided an update on the proposed development of Model Governance Rules and a Model Public Transparency Policy. In 2023, Independent Broad-based Anti-corruption Commission (IBAC)'s *Operation Sandon Special Report* into alleged corrupt conduct at Casey City Council made 18 recommendations to strengthen public confidence in council decisions. Seven recommendations have been addressed

**5.1 (Cont.)**

through recent reforms to the *Local Government Act 2020* and *Local Government (Governance and Integrity) Regulations 2020*.

LGV is now progressing further recommendations including the development of Model Governance Rules to enhance council meeting procedures and a Model Public Transparency Policy to promote openness and accountability. A Local Government Steering Committee comprising of representatives from peak bodies and council groups is overseeing this development.

Councils will have the opportunity to contribute through consultation in 2025 with the Model Public Transparency Policy expected by July 2025 and the Model Governance Rules by December 2025. Further engagement opportunities will be communicated throughout the year.

Sandon made several recommendations to improve Council governance (attachment 1) including:

**Recommendation 19**

*IBAC recommends that the Minister for Local Government:*

- a) *ensures that Local Government Victoria develops and publishes Model Governance Rules to operate as the minimum standards for council meeting procedures*
- b) *develops and introduces to Parliament amendments to the Local Government Act 2020, or amends relevant regulations to specify that councils must adopt the Model Governance Rules*
- c) *ensures that Local Government Victoria maintains the Model Governance Rules in a way that promotes better practices that apply to all councils, noting that councils can adopt additional rules to the extent that they are consistent with the minimum standards specified in the Model Governance Rules.*

And:

**Recommendation 24**

*IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules require council meeting minutes to state:*

- a) *the names of councillors who spoke on each motion*
- b) *the names of councillors who voted for and against each motion (regardless of whether a division was called).*

It is expected the Model Governance Rules will include recommendation 24 as outlined above.

The review of the Governance Rules has not progressed due to the work now commencing on the development of the Model Governance Rules by LGV which Council will be required to adopt later in 2025.

**Legal Implications**

There are no direct legal implications.

**5.1 (Cont.)**

**Financial and Resourcing Implications**

Costs and resourcing will be required to conduct a review of the Governance Rules along with community engagement as required, alongside the engagement for feedback on the proposed Model Rules.

**Potential Alternative Wording**

N/A.

## 5.2 Notice of Motion 475 (Cr Gill) - Fire Services Property Levy Replacement

Cr David Gill has given notice of his intention to move the following motion at the meeting.

*That Council:*

1. *Requests a report from officers on the historical increases to the Fire Services Levy (FSL) and Fire Services Property Levy (FSPL) over the past 10 years, including both fixed and variable components.*
2. *Requests an assessment of the potential financial impact of the new Emergency Services and Volunteers Fund (ESVF) on:*
  - a. *Residential Principal Place of Residence (PPR) properties and non-PPR residential properties.*
  - b. *Properties currently subject to lower differential rates, such as agricultural properties, and the implications of the non-residential fixed charge for these properties.*
3. *Requests that officers liaise with relevant state government departments to clarify any transitional arrangements and potential changes to council's administrative burden in collecting the ESVF.*
4. *Notes that there was no consultation with local government prior to the recent announcement by the State, yet it will be Council who will be asked to collect the tax on behalf of the State.*
5. *Expresses concern that this is not a local government charge but rather the State using councils to collect revenue without considering the implications on Council and its ratepayers.*
6. *That ratepayers be fully informed of the changes and be directed to the State Government for any further explanation of why these charges have substantially increased.*
7. *That Council seeks legal options not to administer this charge as the direction from the State Government is misleading to many ratepayers who wrongly believe that it is an additional Council income source.*

### Background

On Friday 13 December 2024, the Victorian Government announced that the Fire Services Property Levy (FSPL) will be replaced by the Emergency Services and Volunteers Fund (ESVF) from 1 July 2025. The ESVF will be collected by councils and included on rates notices, similar to the FSPL.

From 1 July 2026, a new category will be introduced for residential Principal Place of Residence (PPR) properties, while non-PPR residential properties will be subject to the non-residential fixed charge. The ESVF, like the FSPL, will consist of a fixed charge that varies by property type and a variable charge based on property value.

Given the significant changes to the levy structure, there is a need to understand its potential financial impact on different property types, particularly residential and agricultural properties that may currently benefit from lower differential rates for our rate payers.

**5.2 (Cont.)**

Additionally, historical increases to the FSL and FSPL should be reviewed to understand trends in levy charges and to provide context for future changes under the ESVF while the rates are subject to rate cap set by the Minister.

Issued By	Acting Chief Financial Officer
Authorised by	Acting Chief Executive Officer

OFFICER COMMENT

A. Historical Increases

Rate Type	Financial Year	Fixed	% Change Fixed	Variable	% Change Variable
Fire Service Levy Commercial	2015/16	\$210		0.000990	
Fire Service Levy Primary Production	2015/16	\$210		0.000277	
Fire Service Levy Residential	2015/16	\$104		0.000144	
Fire Service Levy Commercial	2016/17	\$213	1.4%	0.001047	5.8%
Fire Service Levy Primary Production	2016/17	\$213	1.4%	0.000260	-6.1%
Fire Service Levy Residential	2016/17	\$105	1.0%	0.000128	-11.1%
Fire Service Levy Commercial	2017/18	\$216	1.4%	0.000999	-4.6%
Fire Service Levy Primary Production	2017/18	\$216	1.4%	0.000248	-4.6%
Fire Service Levy Residential	2017/18	\$107	1.9%	0.000122	-4.7%
Fire Service Levy Commercial	2018/19	\$221	2.3%	0.000691	-30.8%
Fire Service Levy Primary Production	2018/19	\$221	2.3%	0.000164	-33.9%
Fire Service Levy Residential	2018/19	\$109	1.9%	0.000058	-52.5%
Fire Service Levy Commercial	2019/20	\$226	2.3%	0.000795	15.1%
Fire Service Levy Primary Production	2019/20	\$226	2.3%	0.000190	15.9%
Fire Service Levy Residential	2019/20	\$111	1.8%	0.000066	13.8%
Fire Service Levy Commercial	2020/21	\$230	1.8%	0.000611	-23.1%
Fire Service Levy Primary Production	2020/21	\$230	1.8%	0.000190	0.0%
Fire Service Levy Residential	2020/21	\$113	1.8%	0.000054	-18.2%
Fire Service Levy Commercial	2021/22	\$233	1.3%	0.000658	7.7%
Fire Service Levy Primary Production	2021/22	\$233	1.3%	0.000205	7.9%
Fire Service Levy Residential	2021/22	\$114	0.9%	0.000059	9.3%
Fire Service Levy Commercial	2022/23	\$238	2.1%	0.000605	-8.1%
Fire Service Levy Primary Production	2022/23	\$238	2.1%	0.000170	-17.1%
Fire Service Levy Residential	2022/23	\$117	2.6%	0.000053	-10.2%
Fire Service Levy Commercial	2023/24	\$254	6.7%	0.000565	-6.6%
Fire Service Levy Primary Production	2023/24	\$254	6.7%	0.000169	-0.6%
Fire Service Levy Residential	2023/24	\$125	6.8%	0.000046	-13.2%
Fire Service Levy Commercial	2024/25	\$267	5.1%	0.000664	17.5%
Fire Service Levy Primary Production	2024/25	\$267	5.1%	0.000287	69.8%
Fire Service Levy Residential	2024/25	\$132	5.6%	0.000087	89.1%
<b>Proposed rates on</b>					

5.2 (Cont.)

**B. FSL/ VSVL share in total Rates and Charges**

The below table compares for one property in each of the 3 rating classifications (Commercial, Primary Production and Residential) the allocation of FSPL compared to their total annual rates & charges over the last 10 years. This includes both the variable and fixed components. For each of the 3 properties their Capital Improved Value (CIV) in 2015/16 began at \$1 million:

Financial Year	Fire Service Property Levy		
	FSPL/Rates (%) - Commercial	FSPL/Rates (%) - Primary Production	FSPL/Rates (%) - Residential
2015/16	50%	51%	10%
2016/17	54%	50%	9%
2017/18	51%	41%	9%
2018/19	43%	42%	7%
2019/20	37%	45%	7%
2020/21	38%	43%	6%
2021/22	43%	47%	6%
2022/23	51%	48%	7%
2023/24	45%	44%	6%
2024/25	51%	63%	9%

Financial Year	Emergency Services and Volunteers Fund Levy		
	ESVFL/Rates (%) - Commercial	ESVFL/Rates (%) - Primary Production	ESVFL/Rates (%) - Residential
2025/26	99%	143%	15%

**C. Impact of Increase on average valued property**

In dollar terms, the impact on an average-valued property in each category—assuming CIVs remain unchanged in the following year results in the following levy increases from 2024/25 to 2025/26

	Average CIV	2024/25 Fire Services Property Levy	2025/26 Emergency Services and Volunteers Fund Levy	\$ Increase	% increase
<b>Commercial</b>	\$ 1,479,319	\$1,249	\$2,243	\$994	80%
<b>Primary Production</b>	\$ 4,330,352	\$1,510	\$3,870	\$2,360	156%
<b>Residential</b>	\$ 1,234,614	\$239	\$350	\$110	46%

**D. Increase in total collection of FLS from FY25 to FY26**

1. Collectively for the Shire, assuming no change in CIV, the total FSPL in 2024/25 was \$32.4 million, under the ESVFL, proposed rates for 2025/26, it will be a total of \$51.5 million. This means that property owners will be paying an additional \$19.1 million.
  - a. The administrative burden on council is currently unknown with the implementation of PPR and non-PPR. Currently Council cannot accurately determine between the two categories. This is a sector wide problem and clarification is being sought across the LGA's.
  - b. From 1 July 2025, active emergency service volunteers and life members will be exempt from paying the Emergency Services Volunteer Fee (ESVF)

on their primary residence. However, Council will face significant challenges in administering this exemption, as it lacks access to data on eligible volunteers and would need to establish a resource-intensive process for verification, ongoing compliance, and coordination with emergency service agencies. Ensuring accuracy and managing status changes over time would impose a substantial administrative burden.

- c. Specifically, the Fire Services Levy (FSL) for a primary production property valued at \$10 million is currently \$3,137. Under the Emergency Services and Volunteers Fund Levy, this will increase by \$5,439 to a total of \$8,576 in FY26.
2. Advocacy remains ongoing across the sector, including ongoing discussions with Revenue Management Association, Department of Treasury and Finance, the State Revenue Office, Municipal Association of Victoria and FinPro to discuss the implementation of the Emergency Services and Volunteer Fund. Council will continue to be updated throughout the budget process.
3. Work is being done across the sector to understand the process for this levy.
4. In line with the *Fire Services Property Levy Act 2012*, Council is a collection agency for these levy's.
5. Council will work with the relevant bodies to ensure clear information is provided for ratepayers.
6. Council has a requirement to collect these levy's under *Fire Services Property Levy Act 2012* including amendments 4 December 2024 includes under
  - a) Section 1 that the purpose of *the Act* is to: '(a) *impose a fire services property levy on all land in Victoria, unless specifically exempted, to fund Fire Rescue Victoria and the Country Fire Authority; and (b) provide for the appointment of each Council as a collection agency in respect of its municipal district;*'
  - b) along with section 21 "...*Council is appointed as a collection agency in respect of land in its municipal district including in respect of land owned by the Council in its municipal district.*"

### **Legal Implications**

*Fire Services Property Levy Act 2012* including amendments 4 December 2024 includes under section 1 that the purpose of *the Act* is to:

- a) *impose a fire services property levy on all land in Victoria, unless specifically exempted, to fund Fire Rescue Victoria and the Country Fire Authority; and*
- b) *(b) provide for the appointment of each Council as a collection agency in respect of its municipal district;*"

Along with section 21

- a) "...*Council is appointed as a collection agency in respect of land in its municipal district including in respect of land owned by the Council in its municipal district.*"

**5.2 (Cont.)**

**Financial and Resourcing Implications**

There will be additional administrative burden on the council for this change. Clarification across the sector is being sought and will be provided which known.

**Potential Alternative Wording**

Nil.

### 5.3 Notice of Motion 476 (Cr Gill) - Commercial Market Leases

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

*That no private commercial market leases be extended, renewed or entered into on Council managed land until a community cost benefit analysis is completed and reviewed by Council.*

#### Background

Local volunteer community markets give profits back into their communities to the benefit of worthwhile public outcomes.

Issued By	Manager - Assets Property and Building Management
Authorised by	Director – Asset & Infrastructure

#### OFFICER COMMENT

Council is currently undertaking community engagement on the draft Lease and Licences Policy (the Policy).

The Policy will provide the framework for Council entering both commercial and community leases or licences for Council owned or managed assets and ensure that these assets are used to provide the greatest benefit to the community, consistent with the Council Plan.

The draft Policy contains a process for assessing community benefit of lease/licence proposals.

Good governance practice would be for all policy positions and assessment processes pertaining to commercial and community leasing and licencing of Council owned and managed assets be included in this Policy.

#### Legal Implications

There are no legal implications arising from this Notice of Motion

#### Financial and Resourcing Implications

There is a risk of loss of prospective income in 2025/26 (approx. \$12,000), if the two private commercial market agreements currently due to expire in 2025 are not renewed.

A requirement to undertake work on a community benefit analysis, outside of the draft Lease and Licences policy process, will have an impact on internal officer resourcing.

#### Potential Alternative Wording

*That Council completes the current public engagement process for the draft Lease and Licences Policy and considers all feedback received including the option to complete a community cost benefit analysis for all private commercial markets on Council managed land.*

*Until the Leases and Licences Policy is endorsed by Council, no private commercial market leases on Council managed land will be extended, renewed or entered into.*

## **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 Audit and Risk Committee - Report on Operations**

This matter is considered to be confidential under Section 3 (1) a of the *Local Government Act 2020* as it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

**7.2 Planning Application P23/0311 - 105-113 Point Nepean Road, 3-5 Kangerong Avenue and Part 8 Joan Avenue Dromana also known as Kangerong Holiday Park - Development of 69 dwellings, vegetation removal and alter access to a road in a Transport Zone 2.**

This matter is considered to be confidential under Section 3 (1) e of the *Local Government Act 2020* as it contains Legal privileged information, being information to which legal professional privilege or client legal privilege applies.

**7.3 CN2838 Management and Operation of Recreation and Aquatic Facilities**

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

**7.4 Food Services Model**

This matter is considered to be confidential under Section 3 (1) f and g (ii) of the *Local Government Act 2020* as it contains personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs and private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.