

Amendment C295morn: Creswell Street, Crib Point Development Contributions Plan

Expert Evidence Statement, Josephine Fisher, Director, Mesh Planning Pty Ltd

Prepared for Jackson Lane Legal on behalf of Mornington Peninsula Shire Council

4 August 2025

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Project	Amendment C295morn: Creswell Street, Crib Point Development Contributions Plan
Prepared By	Jo Fisher
Date	4 August 2025

Acknowledgement

Mesh acknowledges and celebrates the Traditional Owners of the land and waters on which this project is located. We pay our respects to their Elders past, present, and emerging, whose profound knowledge systems can teach us much about how we care and design for Country. As committed learners and active listeners, we seek opportunity to integrate the wisdom of First Nations peoples into our policy and place making work.

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1. INTRODUCTION

1.1 Name and Qualifications

1.1.1 Name and Address

1. Josephine Fisher, Director, Mesh Planning, Level 2, 299 Clarendon Street, South Melbourne, VIC 3205

1.1.2 Qualifications

2. I hold a Bachelor of Science (Geography) and a Masters in Regional and Resource Planning (Distinction) from the University of Otago. A copy of my CV is included in Appendix 1.

1.2 Area of Expertise

3. I have over 20 years' experience in strategic land use planning and infrastructure planning in Local and State Government and the private sector.
4. My involvement with DCPs and infrastructure planning more generally began when I was a strategic planner at Whittlesea City Council where I prepared and implemented several Development Contribution Plans (DCP).
5. At the Victorian Planning Authority (VPA) I was responsible for the preparation and implementation of Precinct Structure Plans and DCPs for various Melbourne growth areas and I played an integral role in establishing the VPA DCP document and table templates.
6. During my time at the VPA and at Mesh I have had lengthy direct involvement in conceptualising and implementing the new Infrastructure Contributions Plan (ICP) system. This involved assisting in the preparation of the ICP Guidelines and translating two of the first approved ICPs into the new ICP template which included the new land contribution model.
7. I have a detailed knowledge of the implementation complexities associated with DCPs and strategic infrastructure planning. I regularly assist Councils in building their internal knowledge of infrastructure planning and establishing internal policies and procedures to effectively manage their DCPs/ICPs. I prepared the Regional DCP Toolkit which involved the creation of a DCP Manual, series of templates and policies for the 16 regional Councils involved in the project.
8. I have assisted in the preparation of numerous expert evidence statements regarding DCP/ICP matters including completing independent peer reviews, attendance at panel hearings and providing expert evidence advice.

1.3 Instructions

9. I have been instructed by Jackson Lane Legal to prepare an expert witness statement to present at the Panel Hearing in relation to this matter on behalf of Mornington Peninsula Shire Council.
10. My written instructions were to prepare an expert witness statement, in accordance with Practice Note 1 – Expert Evidence (Practice Note), that sets out and provides:
 - a. a summary of the work that Mesh has previously been engaged to complete with respect to the DCPO and DCP;
 - b. the differences between the current version of the DCP, the exhibited version of the DCP and Council's 'advocacy position' version of the DCP; and
 - c. my opinion on the changes proposed to the DCP by the Amendment, which, among other things, should include how the proposed changes comply with any applicable guidelines.

11. A copy of my written instructions is included in Appendix 2.

1.4 Other Contributors

12. I have prepared this statement; my colleague Derrick Lim has prepared Figures 1-3.

1.5 Completion of Test or Experiments

13. No additional tests or experiments have been completed.

1.6 Information Reviewed

14. I have reviewed the amendment documentation and other relevant documents, including: -
- a. The Amendment C295morn documentation released for public exhibition (the **Amendment**);
 - b. Creswell Street East, Crib Point Development Contributions Plan (April 2018, Amended June, 2024) (**Current DCP**);
 - c. Creswell Street East, Crib Point, Development Contributions Plan (December, 2023) (**Exhibited DCP**);
 - d. Creswell Street East, Crib Point, Development Contributions Plan (July, 2025) (**Day 1 DCP**);
 - e. Submissions made to the Amendment which raise issues relevant to the DCP;
 - f. Mornington Peninsula Shire Council Agenda & Minutes, Council Meeting 20 May 2025, item 4.1 (**Council report**);
 - g. Harlock Consulting Cost Estimate, May 2023, and revised estimate of costs (July 2025) (**cost estimate**);
 - h. Civil drawings for Creswell Street, Crib Point road, drainage and associated services, JCA Land Consultants, June 2025 (**civil drawings**);
 - i. JCA Land Consultants letter regarding rear easement drainage between Creswell Street and Disney Street, dated 25 July 2025;
 - j. The Ministerial Direction on the Preparation and Content of Development Contributions Plans, April 2025 (**Ministerial Direction**);
 - k. Development Contributions Plan Guidelines, Department of Environment, Land, Water and Planning, March 2007 (**DCP Guidelines**); and
 - l. The Planning and Environment Act 1987 (as relevant to development contributions) (the **Act**).

1.7 Structure of Statement

15. My statement includes the following sections: -

Section 2 - Background in relation to the current DCP;

Section 3 - Previous involvement & purpose of Amendment;

Section 4 – Overview of Amendment;

Section 5 – Assessment of Exhibited DCP;

Section 6 - Response to Submissions; and

Section 7 – Summary of Opinion and Recommendations

2. BACKGROUND IN RELATION TO THE CURRENT DCP

2.1 Creswell Street East Development Contributions Plan

1. Amendment C210morn to the Mornington Peninsula Planning Scheme rezoned land located within Creswell Street, Crib Point (between 1 and 73 Creswell Street, except 2 Creswell Street) and Cooma Street, Crib Point (including 1 and 3 Cooma Street) from Industrial 3 Zone to Neighbourhood Residential Zone Schedule 1 and applied the Development Contributions Plan Overlay Schedule 1 to the above-mentioned properties.
2. Amendment C210morn was subject to a Panel Hearing where the principles of need and nexus were tested.
3. Amendment C210morn was gazetted in June 2019 and Development Contributions Plan Overlay Schedule 1 gives effect to the Current DCP.
4. The Creswell Street East, Crib Point Development Contributions Plan (June 2024) is the Current DCP which is implemented via Development Contributions Plan Overlay 1.
5. The purpose of the Current DCP is to fund the upgrade of Creswell Street and (part of) Cooma Street within the C210morn Amendment area;
6. The key components of the Current DCP include: -
 - a. It applies to approximately 10.2 hectares of land, comprising 64 lots located between 1 and 73 Creswell Street, excluding 2 Creswell Street and 1 and 3 Cooma Street as shown in Figure 1;
 - b. It funds the road and drainage costs associated with delivering 860 linear metres of road and drainage upgrade including 770 linear metres along Creswell Street and 90 linear metres along Cooma Street¹. Council has advised that the total project length of 860 linear metres included in the Current DCP is incorrect and the correct extent is 880 linear metres;
 - c. It came into operation in June 2019 when the DCP was gazetted as part of Planning Scheme Amendment C210morn and has been amended on three separate occasions since its introduction:
 - i. in January 2024, via Amendment VC249, which had the effect of inserting an exemption for small second dwellings;
 - ii. in June 2024, via Amendment C300morn, which had the effect of extending the expiry date until 6 June 2026; and
 - iii. in July 2024, via Amendment C305morn, which had the effect of re-inserting the exemption from small second dwellings that was inadvertently omitted via Amendment C300morn.
 - d. It includes a single charge area which is all of the residential land;
 - e. It apportions 70% of the total project cost to the benefitting catchment/charge area and 30% of the total project cost to Council;
 - f. It includes a Development Infrastructure Levy (DIL) of approximately \$26,841 (March 2025 \$) per 20.12m of frontage across the single charge area;

¹ Creswell Street East, Crib Point Development Contributions Plan (June, 2024), page 12

- g. New residential development within the precinct will be required to pay the respective DIL charge;
 - h. The DIL charge is payable per 20.12m of frontage, i.e. the existing 64 lots are equivalent to 72 lots based on a frontage of 20.12m;
 - i. Council is nominated to deliver the DCP project; and
 - j. It is to operate until the works are completed in June 2026 and I understand that Council is of the opinion that it does not have the ability to continue to collect development infrastructure levies after the project is constructed.
7. The apportionment approach was considered at the Amendment C210morn Panel Hearing.
 8. The C210morn Panel Report (April 2018) notes that the apportionment approach is not based on a detailed assessment but the Panel noted that given the small, localised nature of the DCP project that the apportionment approach is "a pragmatic and reasonable solution"²

Figure 1: Current DCP Area and Project Extent



Source: Mesh Planning

² Amendment C210morn Planning Panel Report, 208, page 30

3. PREVIOUS INVOLVEMENT & PURPOSE OF AMENDMENT

3.1 Peer review process and key findings

9. Prior to preparation of this evidence statement Mesh was commissioned in 2022 by Council to undertake a peer review of the Current DCP.
10. Council officers requested a peer review due to concerns about the DCP project cost estimates and implementation. Since the Current DCP requires the plan to end once the project is delivered, slow development rates mean Council would recover minimal funds through development infrastructure levies.
11. Mesh completed the peer review of the Creswell Street East, Crib Point, Development Contributions Plan (April, 2018) in November 2022.
12. The purpose of the peer review was to focus on implementation matters and outline a way forward for Councils consideration.
13. The peer review identified that indexation of the Current DCP infrastructure project had not kept pace with the rise in construction costs and as a result Council would be required to fund significantly more than 30% of the DCP project cost.
14. The peer review process also identified potential to explore (in summary):
 - extending the DCP project to address missing road links;
 - updating the demand units to reflect site area rather than lot frontage;
 - inclusion of the cost of finance as Council will deliver the project in advance of development;
 - extending the project delivery date beyond 6 June 2024³;
 - inclusion of plan preparation costs;
 - attribute 100% of the project costs to the DCP area; and
 - several drafting improvements.
15. Subsequent to completion of the peer review, Mesh was commissioned by Council to:
 - prepare a revised DCP (the Exhibited DCP);
 - prepare a revised Development Contributions Plan Overlay - Schedule 1 (the exhibited schedule);
 - assist with preparation of the Explanatory Report for Amendment C295morn; and
 - assist with the preparation of frequently asked questions.
16. Following the Council resolution of 20 May 2025 Mesh was engaged to prepare the Day 1 DCP and Development Contributions Plan Overlay – Schedule 1.
17. In terms of my specific role and involvement in these processes, I was the primary author of the abovementioned documents and I have provided advice to Council throughout the process.

³ Mornington Peninsula Council facilitated Amendment C300morn to extend the DCP project delivery timeframe two years to 6 June 2026 to complete the current Amendment C295morn which proposes to deliver the project by 30 June 2028.

18. Notwithstanding my extensive involvement in the peer review process, provision of advice in relation to the DCP and preparation of the relevant documents, there are two matters that I was not involved in, including: -
 - a. aspects of the proposed Amendment in relation to vegetation removal to deliver the road and drainage infrastructure and associated changes to the Schedule to Clause 52.17 (Native Vegetation) exemptions; and
 - b. preparation of the detailed design and finance, planning and construction cost estimates.

3.2 Purpose of the proposed Amendment

19. The purpose of the proposed Amendment is to replace the current DCP and Development Contributions Plan Overlay -Schedule 1 with a revised DCP and revised Development Contributions Plan Schedule – Overlay 1 (the Exhibited documents).
20. The proposed Amendment (as exhibited) also sought to modify Schedule 1 to Clause 52.17 (Native Vegetation) to exempt native vegetation required to be removed as shown in the Creswell Street East, Crib Point Development Contributions Plan (Mesh Planning, December 2023) incorporated document.
21. The proposed Amendment generally responds to the peer review that Mesh completed in 2022.

4. OVERVIEW OF PROPOSED AMENDMENT (C295MORN)

4.1 Exhibited Development Contributions Plan

22. The Exhibited DCP applies to 76 properties illustrated in Figure 2 which includes land between 1 and 77 Creswell Street (inclusive), 1, 3 and 6 Cooma Street, 90 and 92 Disney Street, 4 Glossop Street, and 58 and 62 Disney Street, Crib Point.

23. Figure 2: Amendment Area and Infrastructure Project



Source: Creswell Street, Crib Point Exhibited DCP (December, 2023)

24. The important features of the Exhibited DCP are summarised as follows: -

- Infrastructure Items:** The Current DCP project type and scope comprising of a road cross-section including the construction of a 5.5 metre asphalt pavement (from the invert of each kerb) and stormwater drainage is retained;
- The Current DCP project extent:** is increased to include the upgrade of Cooma Street and Glossop Street between Creswell Street to Disney Street and extends the western edge of Creswell Street so it meets the existing road pavement;
- Infrastructure Project Cost:** Increases the total costs included in the Exhibited DCP due to:
 - the extended length of the road and drainage infrastructure,
 - updated costs prepared by Harlock Consulting based on detailed design plans,
 - inclusion of finance costs to deliver the DCP infrastructure by 30 June 2028; and
 - inclusion of plan preparation costs.

- d. **Cost Apportionment:** The Current DCP apportionment approach whereby 70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs is retained;
 - e. **Charge Area:** The area subject to the DCP is increased to include all abutting lots adjacent to the DCP project;
 - f. **Demand Units:** The demand units based on lot frontage as per the Current DCP is replaced with square metres of lot area;
 - g. **DCP timeframe:** The DCP is intended to operate for 20 years rather than finish once the project is delivered as per the Current DCP;
 - h. **Project Delivery:** The Exhibited DCP updates the delivery timeframe to 30 June 2028; and
 - i. **Implementation:** Given the fragmentation within the DCP area, Council, as the Development Agency continues to commit to deliver the project.
25. The paragraphs below address the Exhibited DCP components in more detail and a summary comparison between the Exhibited DCP and Current DCP is set out in Table 1.

4.1.1 Strategic Justification

- 26. The Exhibited DCP extends the Current DCP project to a minor extent so that the future upgrade of Creswell Street will extend to the existing pavement to the east and that Cooma Street and Glossop Street, which form two important north south local links are upgraded between Creswell Street and Disney Street.
- 27. The Exhibited DCP project will enable upgrade of the unmade local roads that is required to provide safe access and the necessary drainage required to facilitate residential development of the adjoining lots or address existing drainage matters.

4.1.2 Infrastructure Project

- 28. The Exhibited DCP retains the project scope of the Current DCP and proposes to enable construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), associated public lighting, stormwater drainage and optic fibre ready pit and pipe infrastructure.
- 29. The Exhibited DCP works also include service conduits for future service connections.
- 30. The extent of the DCP project has been increased from 880⁴ linear metres in the Current DCP to 1,147 linear metres in the Exhibited DCP⁵, resulting in an additional 267 linear metres which includes: -
 - a. 50.3 linear metres of Creswell Street so that the DCP project meets the edge of the existing road pavement and does not leave this small section of concrete road;
 - b. 82 linear metres of Cooma Street which extends the DCP project through to Disney Street rather than just delivering the initial 90 linear metres; and
 - c. 134.7 linear metres to upgrade Glossop Street between Creswell Street to Disney Street.

⁴ As noted the earlier the Current DCP incorrectly states that the current road project length is 860 linear metres

⁵ The Exhibited DCP (2023) incorrectly stated that the total road length was 1,138 linear metres

4.1.3 Calculation of Costs

31. The Exhibited DCP includes a total project cost of \$5,559,668 in June 2023 \$ which comprises: -
 - a. \$4,720,000 for the construction of the road and drainage infrastructure. This construction cost has been determined via a cost estimate prepared by Harlock Consulting based on detailed design;
 - b. \$520,428 for finance costs. The Exhibited DCP states that Mornington Peninsula Shire Council as the Development Agency will deliver the project by 30 June 2028. Given Council is delivering the project upfront and recouping development levies over time as the land develops. As a result, Council will need to borrow funds to deliver the project in accordance with the Exhibited DCP, therefore the cost of finance has been included. The finance cost included in the Exhibited DCP assumes a 5 year loan period at 4.07% interest, with interest and principle paid quarterly; and
 - c. \$319,240 for plan preparation costs. The Exhibited DCP includes the cost to prepare the Exhibited DCP and supporting technical documentation.
32. The cost estimate is based on a detailed design and includes a 10% contingency.
33. The inclusion of finance and planning costs is in accordance with both the Ministerial Direction and DCP Guidelines.

4.1.4 Apportionment

34. The Exhibited DCP apportions 70% of the total project costs to the DCP charge area and therefore to be paid for by landowners and Mornington Peninsula Shire Council will fund the remaining 30% of the total project cost. This apportionment approach is consistent with that adopted in the Current DCP.

4.1.5 Charge Area

35. The DCP project is local in nature and will be to the direct benefit of the adjoining properties and therefore the DCP charge area is limited to the properties adjoining the DCP project.
36. The DCP charge area is zoned for residential development and currently includes 11.45 hectares comprising 76 lots.
37. The DCP applies a single charge area to the subject land.
38. The application of a single charge area to include all properties adjoining the DCP project is considered appropriate given the DCP project relates to the upgrade of the local unmade road and associated drainage to service the adjacent lots.

4.1.6 Demand Units

39. It is acknowledged that the current planning controls allow for subdivision with a minimum lot size of 650m², therefore many of the parcels within the DCP can be further subdivided. However, the ultimate yield of future potential subdivision is unknown and therefore the DCP demand units are based on total site area.
40. A parcel specific land budget is included in Table 3 of the Exhibited DCP clearly showing the area of each lot in square metres.
41. The application of lot area as the basis for the demand units is considered reasonable as it aligns with common practice.

4.1.7 Administration and Implementation

42. The Exhibited DCP nominates Mornington Peninsula Shire Council as both the Collecting Agency and Development Agency which is consistent with the Current DCP. This approach is supported.
43. The Exhibited DCP sets out the triggers for payment of the development infrastructure levy. The wording included in the Exhibited DCP provides further detail around the different payment triggers and enables deferral of payment subject to approval of the Collecting Agency.
44. The Exhibited DCP includes a list of exemptions that are consistent with the current Ministerial Direction and clearly sets out that land owned by South East Water, land that has existing Section 173 Agreement which requires payment of a levy and land that has already paid the levy under the Current DCP are not required to make any further contributions.
45. The exemption wording is considered appropriate and provides clarity to landowners that have already paid the levy under the Current DCP.
46. The Exhibited DCP confirms that that Mornington Peninsula Shire Council, the Development Agency, will deliver the DCP project by 30 June 2028 and will subsequently recoup funds via the DCP. Therefore, no works in kind, in lieu of the amount of levy payable, will be accepted.
47. The Exhibited DCP retains the same indexation methodology as the Current DCP being the Australian Bureau of Statistics Producer Price Indexes, Road and Bridge Construction Index, Victoria. The Exhibited DCP adds further details regarding the ABS table and catalogue number of this index.
48. The Exhibited DCP includes a provision for a review every 5 years which is consistent with the Current DCP. The Exhibited DCP adds the following additional explanation "*the review may result in no changes at all. Alternatively, it may require an amendment to the Mornington Peninsula Planning Scheme to replace this DCP with an alternative, revised DCP*"⁶.
49. The Exhibited DCP includes a section on funds administration that aligns with the Current DCP wording and it extends the DCP lifetime to 20 years to allow for development of the area and ensuring Council as the Collecting Agency has the ability to recoup the funds after delivery of the DCP project.

⁶ Creswell Street East, Crib Point, Development Contributions Plan, Mesh (December 2023), page 20

Table 1: Comparison of Current DCP and Exhibited DCP key components

Key Component	Current DCP	Exhibited DCP
Project Scope	Construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), stormwater drainage, public street lighting and optic fibre ready pit and pipe infrastructure	Construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), stormwater drainage, public street lighting, optic fibre ready pit and pipe infrastructure and service conduits for gas and water
Project extent	880 ⁷ linear metres Comprising 790 ⁸ linear meters along Creswell Street and 90 linear metres of Cooma Street	1,147 linear metres. ⁹ Includes 267 metres of additional road compared to the Current DCP
Costing basis	Project cost estimate prepared by Watsons. The costs are in October 2017 dollars.	Project cost estimate prepared by Harlock Consulting. The costs are in May 2023 dollars.
Road and Drainage Construction Cost	\$2,796,974 in June 2025 \$ (\$2,091,053 in October 2017 \$ indexed to June 2025 \$)	\$4,985,245 in June 2025 \$ ¹⁰ (\$4,720,000 in May 2023 \$ indexed to June 2025 \$)
Finance Costs	Not included	\$520,428 in total finance costs has been included in the DCP of which \$364,300 is attributed to the DCP.
Planning Costs	Not included	\$319,240 in total plan preparation costs has been included in the DCP of which \$223,468 is attributed to the DCP.
Apportionment	70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs	70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs
Demand Unit	The demand unit is 20.12 linear metres of lot frontage. The DCP states that this results in a "total of 72 equivalent demand units in the DCP". The DCP notes that "Lots with frontage greater or less than the demand unit of 20.12m will be required to contribute on a pro rata basis." ¹¹	The demand units are based on m2 per total site area, therefore there are 114,503.8 total demand units.
Charge Area	It applies to approximately 10.2 hectares of land, comprising 64 lots	It applies to approximately 11.5 hectares of land comprising 76 parcels. Includes 12 additional properties compared with the Current DCP
Area to which the DCP applies	Land between 1 and 73 Creswell Street, excluding 2 Creswell Street and 1 and 3 Cooma Street.	Land between 1 and 77 Creswell Street (inclusive), 1, 3 and 6 Cooma Street, 90 and 92 Disney Street, 4 Glossop Street, and 58 and 62 Disney Street, Crib Point.

⁷ As mentioned earlier there was an error in the Current DCP which references 860 lm not 880 lm

⁸ The error in the Current DCP relates to the Creswell Street extent being identified as 770lm when it is actually 790lm

⁹ The Exhibited DCP (2023) incorrectly stated that the total road length was 1,138 linear metres

¹⁰ I understand the project costs have been further refined since exhibition to \$5,272,000 to accord with the Harlock Cost Estimate, July 2025, Appendix 1

¹¹ Creswell Street East, Crib Point, Development Contributions Plan (Watsons, 2024) page 7

Key Component	Current DCP	Exhibited DCP
Total DCP Project Cost 2025 \$	\$2,796,974 in June 2025 \$ (\$2,091,053 in October 2017 \$ indexed to June 2025 \$)	\$5,824,913 in June 2025 \$ (The construction cost of \$4,720,000 in May 2023 \$ has been indexed to June 2025 \$ being \$4,985,245). Finance and planning costs are not subject to indexation.
Total Project Cost apportioned to DCP 2025 \$	\$1,957,882 (\$1,463,737 in October 2017 \$ indexed to June 2025 \$)	\$4,077,439 (\$3,891,768 in May 2023 \$ indexed to June 2025 \$)
Charge Rate March 2025 \$	\$27,193 per 20.12 linear metres of lot frontage or \$1,352 per linear metre frontage \$20,330 per 20.12 linear metre in October 2017 \$ indexed to June 2025 \$	\$35.61 per m2 \$33.98 per m2 of lot area in May 2023 \$ indexed to June 2025 \$.
Timing of Payment of levies	Section 12 sets out that payment must be made prior to commencement of development on the land unless agreed to by the Collecting Agency in a Section 173 Agreement.	Section 5.3.2 sets out the various triggers for payment of development infrastructure levies and also enables deferral of payment at the discretion of the collecting agency.
Exemptions	Section 12 sets out that the development of the land for a small second dwelling is exempt from payment of development infrastructure levies.	Section 5.5. sets out the development exempt from payment of development infrastructure levies.
Collecting Agency	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council
Development Agency	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council
Implementation	Council, as the Development Agency commits to deliver the project. The trigger for delivery is set out in Section 7 as the earlier of (a) 50% of landowner contributions or (b) within seven years from the date upon which this DCP was first incorporated into the Mornington Peninsula Planning Scheme. Given the DCP was gazetted on 6 June 2019, the project would have to be delivered by 6 June 2026.	Council, as the Development Agency continues to commit to deliver the project. The Exhibited DCP states that Council as the Development Agency will deliver the DCP project by 30 June 2028
Adjustment of Infrastructure Scope	None specified	Section 5.10 sets out how adjustment of infrastructure scope will be addressed.
Funds Administration	Section 13 sets out the funds administration details	Section 5.7 sets out the fund administration details.
DCP Timeframe	Section 15 states that the DCP is to be removed from the Planning Scheme if the works are completed. Given Section 7 notes that the project is to be delivered by 2026 this would mean that the DCP would end in 2026.	Sections 5.9 notes the DCP timeframe is 20 years from gazettal. This timeframe considers planned future development of the area and this DCP will end when it is removed from the Mornington Peninsula Planning Scheme.

Key Component	Current DCP	Exhibited DCP
DCP Review Period	The DCP is expected to be revised and updated every 5 years (or more frequently if required).	This DCP is expected to be reviewed and updated every five years.
Indexation	All construction projects are to be indexed quarterly using Australian Bureau of Statistics Producer Price Indexes, Road and Bridge Construction Index, Victoria.	Road and drainage construction project is to be indexed quarterly using Australian Bureau of Statistics Producer Price Indexes Road & Bridge Construction Index, Victoria (Catalogue 6427.0, Table 17 Output of the Construction Industries). Once project RD01 has been delivered the project cost will be indexed by applying CPI (All Groups Melbourne) to ensure the charges keep pace with inflation.

5. ASSESSMENT OF EXHIBITED DCP

50. Part 3B of the Planning and Environment Act 1987 (the Act) relates to development contributions.
51. Section 46J of the Act states that a development contributions plan may provide for either or both of the following –
 - a) The imposition of a development infrastructure levy;
 - b) The imposition of a community infrastructure levy.
52. In relation to the development of land in the area to which the plan applies. Section 46K of the Act sets out what a DCP must include.
53. Part 3B of the Act is accompanied by a Ministerial Direction on the Preparation and Content of Development Contributions Plans (under Sections 46M(1) and 46QD of the Act) and Development Contributions Plan Guidelines (2007).
54. I have had extensive experience in preparation of DCPs that respond to the requirements of the Act and are in accordance with the definitions and other aspects of the relevant Ministerial Direction and the general direction that is provided by the Guidelines.
55. I am satisfied that the Exhibited DCP meets the requirements of the legislative framework and is in accordance with the underlying principles of the DCP system which are need, nexus accountability and transparency.
56. In this context I note the following:
 - a. the nexus between the project and the land that was rezoned (the benefitting catchment) was established via a previous process via Amendment C210morn;
 - b. the project scope has not changed significantly from the Current DCP as the Exhibited DCP project includes logical extensions of the Current DCP project that will deliver a consistent local road network;
 - c. the road and drainage works are in accordance with the definition of development infrastructure as per the Ministerial Direction and DCP Guidelines and other aspects of the project such as the conduits are secondary to the road and drainage;

- d. however I note that it is proposed to include costs associated with water mains, these costs are typically not included in DCPs however there have been exceptions;
- e. Council has committed to delivery of the project in order to overcome the land fragmentation constraints and this approach is consistent with the Current DCP;
- f. the delivery of the DCP project is of shared benefit to the area and therefore it is appropriate that a single charge area including all properties adjoining the DCP project is appropriate;
- g. updating of the project costs and inclusion of finance costs will increase the likelihood that the project will be delivered;
- h. the inclusion of finance costs and plan preparation costs is in accordance with both the Ministerial Direction and DCP Guidelines;
- i. the finance costs have been determined for a 5 year term, however based on current development rates it is likely that Council will not have recouped the project cost apportioned to the Exhibited DCP within 5 years of completion of the project and therefore it is probably that Council will bear this cost for a longer term;
- j. the Exhibited DCP apportions 70% of the total project costs to the DCP charge area and therefore to be paid for by landowners and Mornington Peninsula Shire Council will fund the remaining 30% of the total project cost. It is considered reasonable that the Exhibited DCP maintains the Current DCP apportionment approach which reflects the C210morn Panel position;
- k. the application of lot area as the basis for the demand units is considered reasonable as it aligns with common practice;
- l. the timeframe for the Exhibited DCP is 20 years which allows sufficient time for Council as the collecting agency to recoup funds for the delivery of the DCP project; and
- m. the Exhibited DCP includes updated administration and implementation sections that reflect current practice.

6. RESPONSE TO SUBMISSIONS

6.1 Summary of Submissions

- 57. Seven submissions were received during the public exhibition period and one late submission was received on 25 July 2025 resulting in a total of eight submissions.
- 58. The submissions include three from public authorities including South East Water, the Country Fire Authority and the Department of Energy, Environment and Climate Action (DEECA) and five (including one late) submissions from landowners.
- 59. South East Water (Submission 1) and the Country Fire Authority (Submission 4) offer no objection to the Amendment.
- 60. Of the eight submissions, six, including the late submission object to the Amendment including DEECA.
- 61. DEECA (Submission 3) note in their submission that they do not support the proposed exemption for native vegetation removal under the Schedule to Clause 52.17. This matter is outside my area of expertise and therefore I have not had regard to it. However, I understand

that Council is no longer pursuing the proposed exemption under the Schedule to Clause 52.17.

62. Submission 7 is from a landowner located outside the proposed DCP area who requests that a tree, located within their property but earmarked to be removed due to nearby construction works, be retained as part of any future construction works. I have not had regard to this submission as it is outside my area of expertise.
63. The remaining four submissions, including the late submission, raise several common matters regarding: -
 - a. Strategic justification and the extent of the infrastructure project included in the Exhibited DCP;
 - b. Benefitting catchment and determination of the DCP charge area;
 - c. Apportionment; and
 - d. Level of consultation.

6.2 Revised Exhibited DCP Project Cost

64. Following receipt of submissions, I understand that Council have reviewed the cost estimate in light of the detailed design prepared for the reduced project scope. This review identified some changes to the quantities applied to specific items and that the road extent of 1,138 linear metres was incorrect and the correct length is 1,147 linear metres.
65. As a result, Council commissioned Harlock Consulting to prepare an updated project cost for the Exhibition DCP which amends certain quantities, adds in the cost of the rising sewer main and adjusts the costs to June 2025 \$.
66. The revised Exhibited DCP project construction cost is \$5,272,000 excluding GST in June 2025 \$¹².
67. The revised Exhibited total project cost is \$6,111,668, assuming the revised project construction cost set out above and the exhibited finance and planning costs.
68. Internal apportionment of 70% is retained and therefore \$4,278,168 of the total project cost is apportioned to the DCP area resulting in a revised DCP charge of \$36.36 per square metre of site area in June 2025 \$.

6.3 Day 1 DCP

69. Prior to responding to the key matters raised in submissions it is important to understand the proposed Day 1 DCP which reflects the Mornington Peninsula Shire Council resolution dated 20 May 2025 that sets out Council's response to the seven submissions received during public consultation (excluding the late submission). This is referred to as Councils 'advocacy position'.
70. The Council's advocacy position is based on its resolution to endorse the summary and response to submissions regarding Amendment C295morn, as prepared by Council officers.
71. However, the resolution includes a specific amendment to the Council officer position to acknowledge that the Council "...support the removal of 6 Cooma Street, 90 and 92 Disney Street, Crib Point, and associated infrastructure from Amendment C295morn, as requested by submitters 2, 5 and 6..."¹³.

¹² Harlock Consulting Cost Estimate, July 2025, Appendix 1.

¹³ Mornington Peninsula Shire Council Meeting Minutes, 20 May 2025, page 18

72. In summary, Council resolved to: -
- a. remove the proposed inclusion of vegetation removal as a part of the Amendment and prepare a Planning Permit Application separately; and
 - b. remove a section of the DCP road infrastructure project located within Cooma Street and the adjoining properties that were proposed to be added to the DCP area by the Amendment. This resolution resulted in the following changes that are reflected in the Day 1 DCP., including removal of:
 - i. three properties including 6 Cooma Street, 90 and 92 Disney Street from the DCP charge area; and
 - ii. the upgrade of 63 linear metres of Cooma Street between Disney Street and the edge of the Current DCP, as illustrated in Figure 3.
 - c. update the DCP infrastructure costs to reflect the reduction in road length for Cooma Street.
73. Table 2 provides a summary of the changes made and reflected in the Day 1 DCP compared to the Current DCP and Exhibited DCP.
74. The key changes include: -
- a. A reduction of the 63 linear metres from Cooma Street resulting in a total road length of 1,084 linear meters;
 - b. Removal of three properties from the DCP charge area, resulting in a reduction of 2,947 square metres of land area;
 - c. Update of the cost estimate resulting in a total construction cost of \$5,210,000 which is a reduction of \$62,000 compared to the revised Exhibited DCP construction cost estimate¹⁴;
 - d. The updated construction cost includes a sewer rising main, I note that these costs are typically not included in DCPs;
 - e. No change to the finance cost and plan preparation costs; and
 - f. A decrease in the charge per demand unit based on the revised 2025 Exhibited construction cost estimate.

¹⁴ Harlock Consulting have updated their May 2023 costing following adjustments of quantities and prepared an updated 2025 cost estimate for the same project extent which is the revised Exhibition cost of \$5,272,000 excl. GST in 2025 \$.

Figure 3: Day 1 DCP project extent and charge area



Source: Creswell Street, Crib Point Day 1 DCP (2025)

Table 2: Summary of the Current DCP, Exhibited DCP and Day 1 DCP

Key Component	Current DCP	Exhibited DCP	Day 1 DCP
Project Scope	Construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), stormwater drainage, public street lighting and optic fibre ready pit and pipe infrastructure	Construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), stormwater drainage, public street lighting, optic fibre ready pit and pipe infrastructure and service conduits for gas and water.	Construction of a 5.5 metre wide asphalt pavement (from the invert of each kerb), stormwater drainage, public street lighting, optic fibre ready pit and pipe infrastructure and service conduits for gas, water and rising sewer main.
Project extent	880 ¹⁵ linear metres comprising 790 ¹⁶ linear meters along Creswell Street and 90 linear metres of Cooma Street	1,138 ¹⁷ linear metres. Includes 267 metres of additional road compared to the Current DCP	1,084 linear metres. Includes 204 metres of additional road compared to the Current DCP
Costing basis	Project cost estimate prepared by Watsons. The costs are in October 2017 dollars.	Project cost estimate prepared by Harlock Consulting. The costs are in May 2023 dollars.	Project cost estimate prepared by Harlock Consulting for the reduced project extent. The costs are in June 2025 dollars
Road and Drainage Construction Cost	\$2,796,974 in June 2025 \$ (\$2,091,053 in October 2017 \$ indexed to March 2025 \$)	\$4,985,245 in June 2025 \$ ¹⁸ (\$4,720,000 in May 2023 \$ indexed to March 2025 \$) The revised Exhibited DCP cost is \$5,272,000 in June 2025 \$	\$5,210,000 in June 2025 \$
Finance Costs	Not included	\$520,428 in total finance costs has been included in the DCP of which \$364,300 is attributed to the DCP.	\$520,428 in total finance costs has been included in the DCP of which \$364,300 is attributed to the DCP.
Planning Costs	Not included	\$319,240 in total plan preparation costs has been included in the DCP of which \$223,468 is attributed to the DCP.	\$319,240 in total plan preparation costs has been included in the DCP of which \$223,468 is attributed to the DCP..
Apportionment	70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs	70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs	70% of the total project costs are apportioned to the DCP and Council funds the remaining 30% of total project costs
Demand Unit	The demand unit is 20.12 linear metres of lot frontage.	The demand units are based on m2 per total site area, therefore there are	The demand units are based on m2 per total site area, therefore there

¹⁵ As mentioned earlier there was an error in the Current DCP which references 860 lm not 880 lm

¹⁶ The error in the Current DCP relates to the Creswell Street extent being identified as 770lm when it is actually 790lm

¹⁷ The revised Harlock Consulting Cost Estimate identified that there is in fact 1,147 linear metres of road.

¹⁸ I understand the project costs have been further refined since exhibition to \$5,272,000 to accord with the Harlock Cost Estimate, July 2025, Appendix 1

Key Component	Current DCP	Exhibited DCP	Day 1 DCP
	The DCP states that this results in a "total of 72 equivalent demand units in the DCP". The DCP notes that "Lots with frontage greater or less than the demand unit of 20.12m will be required to contribute on a pro rata basis." ¹⁹	114,503.8 total demand units.	are 111,557 total demand units. The removal of 3 properties from the charge area has reduced the total demand units by 2,947 m2.
Charge Area	It applies to approximately 10.2 hectares of land, comprising 64 lots	It applies to approximately 11.5 hectares of land comprising 76 parcels. Includes 12 additional properties compared with the Current DCP	It applies to approximately 11.2 hectares of land comprising 73 parcels. Includes 9 additional properties compared with the Current DCP.
Area to which the DCP applies	Land between 1 and 73 Creswell Street, excluding 2 Creswell Street and 1 and 3 Cooma Street.	Land between 1 and 77 Creswell Street (inclusive), 1, 3 and 6 Cooma Street, 90 and 92 Disney Street, 4 Glossop Street, and 58 and 62 Disney Street, Crib Point.	Land between 1 and 77 Creswell Street (inclusive), 1, 3 and 4 Cooma Street, 4 Glossop Street, and 58 and 62 Disney Street, Crib Point.
Total DCP Project Cost 2025 \$	\$2,796,974 in June 2025 \$ (\$2,091,053 in October 2017 \$ indexed to June 2025 \$)	\$5,824,913 in June 2025 \$ (The construction cost of \$4,720,000 in May 2023 \$ has been indexed to June 2025 \$ being \$4,985,245). Finance and planning costs are not subject to indexation. The revised Exhibited DCP cost is \$6,111,668 in June 2025 \$. Finance and planning costs are not subject to indexation.	\$6,049,668 in June 2025 \$
Total Project Cost apportioned to DCP 2025 \$	\$1,957,882 in June 2025 \$ (\$1,463,737 in October 2017 \$ indexed to June 2025 \$)	\$4,077,439 in June 2025 \$ (\$3,891,768 in May 2023 \$ indexed to June 2025 \$) The revised Exhibited DCP total project cost apportioned to the DCP is \$4,278,168 in June 2025 \$	\$4,234,768 in June 2025 \$
Charge Rate 2025 \$	\$27,193 per 20.12 linear metres of lot frontage or	\$35.61 per m2 in June 2025 \$	\$37.96 per m2 in June 2025 \$

¹⁹ Cresswell Street East, Crib Point, Development Contributions Plan (Watsons, 2024) page 7

Key Component	Current DCP	Exhibited DCP	Day 1 DCP
	\$1,352 per linear metre frontage \$20,330 per 20.12 linear metre in October 2017 \$ indexed to June 2025 \$	\$33.98 per m2 of lot area in May 2023 \$ indexed to June 2025 \$. The revised Exhibited DCP charge rate is \$37.36 per m2 in June 2025 \$	
Timing of Payment of levies	Section 12 sets out that payment must be made prior to commencement of development on the land unless agreed to by the Collecting Agency in a Section 173 Agreement.	Section 5.3.2 sets out the various triggers for payment of development infrastructure levies and also enables deferral of payment at the discretion of the collecting agency.	Section 5.3.2 sets out the various triggers for payment of development infrastructure levies and also enables deferral of payment at the discretion of the collecting agency.
Exemptions	Section 12 sets out that the development of the land for a small second dwelling is exempt from payment of development infrastructure levies.	Section 5.5. sets out the development exempt from payment of development infrastructure levies.	Section 5.5. sets out the development exempt from payment of development infrastructure levies.
Collecting Agency	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council
Development Agency	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council	Mornington Peninsula Shire Council
Implementation	Council, as the Development Agency commits to deliver the project. The trigger for delivery is set out in Section 7 as the earlier of (a) 50% of landowner contributions or (b) within seven years from the date upon which this DCP was first incorporated into the Mornington Peninsula Planning Scheme. Given the DCP was gazetted on 6 June 2019, the project would have to be delivered by 6 June 2026.	Council, as the Development Agency continues to commit to deliver the project. The Exhibited DCP states that Council as the Development Agency will deliver the DCP project by 30 June 2028	Council, as the Development Agency continues to commit to deliver the project. The Day 1 DCP states that Council as the Development Agency will deliver the DCP project by 30 June 2028
Adjustment of Infrastructure Scope	None specified	Section 5.10 sets out how adjustment of infrastructure scope will be addressed.	Section 5.10 sets out how adjustment of infrastructure scope will be addressed.
Funds Administration	Section 13 sets out the funds administration details	Section 5.7 sets out the fund administration details.	Section 5.7 sets out the fund administration details.
DCP Timeframe	Section 15 states that the DCP is to be removed from the Planning Scheme	Section 5.9 notes the DCP timeframe is 20 years from gazettal. This timeframe considers planned future	Section 5.9 notes the DCP timeframe is 20 years from gazettal. This timeframe considers

Key Component	Current DCP	Exhibited DCP	Day 1 DCP
	<p>if the works are completed.</p> <p>Given Section 7 notes that the project is to be delivered by 2026 this would mean that the DCP would end in 2026.</p>	<p>development of the area and this DCP will end when it is removed from the Mornington Peninsula Planning Scheme.</p>	<p>planned future development of the area and this DCP will end when it is removed from the Mornington Peninsula Planning Scheme.</p>
DCP Review Period	The DCP is expected to be revised and updated every 5 years (or more frequently if required).	This DCP is expected to be reviewed and updated every five years.	This DCP is expected to be reviewed and updated every five years.
Indexation	All construction projects are to be indexed quarterly using Australian Bureau of Statistics Producer Price Indexes, Road and Bridge Construction Index, Victoria.	<p>Road and drainage construction project is to be indexed quarterly using Australian Bureau of Statistics Producer Price Indexes Road & Bridge Construction Index, Victoria (Catalogue 6427.0, Table 17 Output of the Construction Industries).</p> <p>Once project RD01 has been delivered the project cost will be indexed by applying CPI (All Groups Melbourne) to ensure the charges keep pace with inflation.</p>	<p>Road and drainage construction project is to be indexed quarterly using Australian Bureau of Statistics Producer Price Indexes Road & Bridge Construction Index, Victoria (Catalogue 6427.0, Table 17 Output of the Construction Industries).</p> <p>Once project RD01 has been delivered the project cost will be indexed by applying CPI (All Groups Melbourne) to ensure the charges keep pace with inflation.</p>

6.4 Response to Submissions

6.4.1 Strategic justification and the extent of the DCP infrastructure project

75. Submissions 2, 5 and 6 request that the extent of the Exhibited DCP infrastructure project is reduced and that the proposed upgrade of Cooma Street included in the Exhibited DCP reflects the project extent in the Current DCP.
76. Submission 8 (late submission) notes that they already have access to services including water, power and drainage and a concrete road and requests that 77 Creswell Street be either: -
 - a. Exempt under the proposed Exhibited DCP;
 - b. Be removed from the Exhibited DCP; or
 - c. That the need for resurfacing the road pavement outside 77, 77a, 74, 72 Creswell Street be justified and that this upgrade be costed separately.
77. The Exhibited DCP road and drainage project delivers a network that will benefit the adjoining residential lots through the provision of sealed roads and improved local drainage.
78. Council's advocacy position has removed 63 linear metres of the Cooma Street upgrade in response to submissions 2, 5 and 6 as reflected in the Day 1 DCP.

79. If implemented, the Council advocacy position leaves a portion of unconstructed road and drainage infrastructure along Cooma Street.
80. Submission 8 was received after the Council Meeting on 20 May 2025 and therefore Council have not considered this submission.
81. If Submission 8 were supported, it would have the impact of Creswell Street not comprising of a continuous upgraded asphalt pavement as a small section concrete pavement would be retained.
82. I am not an engineer so cannot comment on the extent of the drainage works but I note that the Council officer response to submissions²⁰ makes the following statement in relation to the specific drainage improvements relevant to the Cooma Street properties: -
 - a. *"The revised DCP infrastructure will provide a logical new drainage connection between the existing pipe and a proposed pipe which will run up to Creswell Street and discharge stormwater further north. This will improve how stormwater is directed and reduce potential flooding risks for existing residential lots and dwellings, including the subject property. In addition to this, the DCP infrastructure will provide the subject property with a legal point of discharge (LPD) which it does not have currently."*²¹
83. With regard to the impact on the road network if Council's advocacy position were supported and if the late submission were supported, I am concerned that the impact would be a discontinuous constructed road network in Cooma Street and an inconsistent road cross-section in Creswell Street.
84. This outcome in my opinion would be inconsistent with the intent of the exhibited Amendment which I note is the substantive difference between the Current DCP and what is proposed in the Exhibited DCP.

6.4.2 Benefitting catchment and determination of the charge area

85. Submissions 2, 5, 6 and 8 request that 6 Cooma Street, 90 and 92 Disney Street and 77 Cresswell Street be removed from the Amendment. The reasons outlined in the submissions include: -
 - a. These four properties are already serviced in terms of water, sewer and drainage;
 - b. 90 and 92 Disney Street already have sealed road frontage via Disney Street, 77 Cresswell Street has access to a single lane of concrete;
 - c. The owners do not want Cooma Street or the eastern portion of Cresswell Street to be upgraded due to already having access to their properties and they are concerned about an increase in traffic generation if these portions of local roads are sealed
86. Submission 6 requests that all other properties that are proposed to be added to the Exhibited DCP area via the proposed Amendment which have existing services be removed from the Amendment in addition to the properties specifically listed above.
87. I note that at the Council meeting on 20 May 2025, Council resolved to remove 6 Cooma Street, 90 and 92 Disney Street from the proposed DCP along with construction of the 63 linear metres of Cooma Street that adjoins these properties.

²⁰ Mornington Peninsula Shire Council Meeting Agenda, 20 May 2025, Appendix 4

²¹ Mornington Peninsula Shire Council Meeting Agenda, 20 May 2025, Appendix 4, page 94

88. The outcome of this resolution is a reduced DCP project extent and charge area, the details of which are set out above in Section 6.3.
89. The Day 1 DCP results in a gap in the local road network that will need to be funded via other sources.
90. As discussed previously, I am concerned that the impact of the Day 1 DCP changes will result in an inconsistent road network that conflicts with the objective of the Exhibited DCP as it does not deliver a continuous local road network that is of shared benefit to the DCP area.
91. There are three potential responses to the submissions: -
 - a. Not support the matters raised in submission and proceed with the DCP as Exhibited;
 - b. Amend the Exhibited DCP to reduce the project extent and remove the adjoining properties from the DCP charge area; or
 - c. Retain the project extent as per the Exhibited DCP but remove the sites listed in the Submissions (DCP parcels 57, 58, 59 and 76).
92. Of these options I'm of the opinion that insufficient justification has been provided to exclude the submitter properties from the DCP and reduce the DCP project extent noting the disbenefit to other landowners that would arise due to the delivery of a discontinuous/ inconsistent road network.
93. If an alternative to the Exhibited DCP position is considered and the Panel determines that there is no demonstrated benefit to these submission sites, given that Council is already contributing 30% of the project costs, it is recommended to maintain the scope of the Exhibited DCP project and allocate the associated project costs to the remaining DCP area.

6.4.3 Apportionment

94. Submissions 5 and 6 raise concern regarding the level of apportionment of the project to the DCP and requests Council consider apportioning 100% to the DCP area.
95. I note that the Mesh Peer Review (2022) recommended that 100% apportionment to the DCP area be explored.
96. Council resolved on 19 December 2023 to maintain the Current DCP apportionment approach.
97. Accordingly, the Exhibited DCP and Day 1 DCP maintain the same level of external apportionment as per the Current DCP, whereby 70% of the project costs are attributed to the DCP charge area and the remaining 30% will be funded by Council.
98. I note that Council could have pursued 100% apportionment however Council's acceptance of 30% effectively deals with any external benefit that would be associated with the proposed DCP project and therefore I consider this approach reasonable in the circumstances.

6.4.4 Level of engagement

99. I note that this is not a DCP matter, however Submission 5 raises concern regarding the level of communication and consultation with landowners.
100. The Amendment was placed on public exhibition for seven weeks between 31 October to 20 December, 2024. Mornington Peninsula Shire Council ensured Notice of the Amendment was given by way of public notices in the Government Gazette, Western Port Newspaper and on Council's website. Individual letters were also sent to owners and occupiers of the land in the

immediate area, along with local real estate agents, community groups and Ministers and public authorities as prescribed under the Act.

101. In addition to the above I understand that Council officers held several dedicated in-person sessions and also spoke to several members of the public and answered their questions.

7. SUMMARY OF OPINION AND CONCLUSION

102. The Exhibited DCP seeks to vary the Current DCP to increase the extent of the local road and drainage project, update the project costs, include finance and planning costs and extend the area to which the Current DCP applies.

103. The Exhibited DCP is not fundamentally different to the Current DCP, it extends the project scope slightly to deliver a more complete road network outcome, updates the project costs and includes practical measures such as incorporating finance costs that provide greater certainty of delivery which I support.

104. I am satisfied that the Exhibited DCP meets the requirements of the legislative framework and is in accordance with the underlying principles of the DCP system which are need, nexus accountability and transparency.

105. However, I note that it is proposed to include water mains construction.

106. I also note that the revised Exhibited DCP construction costs include the provision of both water mains and a rising sewer main and that these costs are not typically included in a DCP however there have been exceptions.

107. The Exhibited DCP provides certainty as Council is committing to deliver the project by 30 June 2028 that will result in a shared benefit to the DCP area.

108. No submissions received question the overall intent of the Amendment, most are site specific, from landowners of parcels that are proposed to be included in the Exhibited DCP.

109. I am of the opinion that insufficient justification has been provided to exclude the properties of the submitters from the Exhibited DCP and that the most beneficial outcome to be achieved would be if the Exhibited DCP were implemented without change.

110. I support the proposed Amendment subject to: -

- a. Updating the construction costs to reflect the updated Harlock Consulting July 2025 cost estimate, however I note that the inclusion of costs associated with water mains and rising sewer mains in a DCP is not typical.

111. I do not support the Day 1 DCP for the following reasons: -

- a. Insufficient justification to remove the properties of the submitters; and
- b. The project extent has been reduced which results in an inconsistent and discontinuous road network.

112. I also note that the Day 1 DCP project costs include the provision of water mains and a rising sewer main and that these costs are not typically included in a DCP.

8. DECLARATION

113. I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

A handwritten signature in blue ink, appearing to read 'J Fisher', written in a cursive style.

Josephine Fisher
Director, Mesh Planning

9. APPENDIX 1: CIRRICULUM VITAE



Jo Fisher

Director - Planning
Stream Lead - Infrastructure + Plan Tech

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email. jo@meshplanning.com.au
office. New Zealand
website. meshplanning.com.au

Jo's extensive knowledge affords her the ability to review and prepare implementation models in a fair and equitable manner.

Jo is a strategic planner with over 20 years experience in the public (local and state) and private sectors.

Jo has a particular interest in the "on-the-ground" outcomes of the various strategic plans she has worked on and she has extensive experience in the development and implementation of development contribution plans.

Specialising in infrastructure funding implementation and review, high level strategic plans, development plan preparation and review, planning scheme amendments. Her knowledge affords her the ability to review and prepare implementation models to support projects to get off the ground in a fair and equitable manner.

education.

- + Masters in Regional and Resource Planning
- + Bachelor in Science (Geography)

industry recognition + contributions.

- + UDIA Victoria PropTech Award 2024 Winner – Parsel

employment.

- + 2024 – Mesh, Director - Planning
- + 2012 – Mesh, Principal Consultant Urban Planning
- + 2008 – Growth Areas Authority (now VPA) Structure Planning Manager
- + 2004 – Whittlesea City Council Multiple Strategic Planning Roles
- + 2003 – Ratio Consultants, Strategic Planner

key projects.

A selection of major projects Jo has worked on include:

- + Peri Urban Councils of Victoria Funding Framework
- + Caulfield Major Activity Centre, Funding Framework, City of Glen Eira
- + Fishermans Bend DCP, DTP-Precincts
- + Fishermans Bend Infrastructure Funding Case Studies, City of Port Phillip
- + Peer review of City of Yarra Municipal DCP, City of Yarra
- + Peer Review of the Stonnington Municipal DCP, City of Stonnington
- + Peer review of the Josephs Road DCP, Maribyrnong City Council and VPA
- + Regional DCP Toolkit, 16 Victorian Regional Councils
- + North Sale Development Plan and Infrastructure Funding Arrangement, Wellington Shire Council
- + Huntly DCP, City of Greater Bendigo
- + DCP Implementation - City of Hobsons Bay, Macedon Ranges, Bass Coast Council, City of Melton, City of Bendigo, Rural City of Wangaratta, Golden Plains Shire Council

mesh

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10. APPENDIX 2: WRITTEN LEGAL INSTRUCTIONS

1 July 2025

TO

Jo Fisher
Director
Mesh
jo@meshplanning.com.au

FROM

Jack Chiodo
Principal Town Planner
Jackson Lane Legal
jack.chiodo@jlqp.com.au

Dear Jo,

**Mornington Peninsula Planning Scheme Amendment C295morn
Creswell Street East, Crib Point Development Contribution Plan**

Instructions to prepare expert witness statement and appear at panel hearing

We are instructed to act for Mornington Peninsula Shire Council (**Council**), the Planning Authority and Proponent for Amendment C295morn (Amendment), which is subject to an upcoming hearing at Planning Panels Victoria (**Panels**).

In brief terms, the Amendment seeks to vary the Creswell Street East Crib Point Development Contributions Plan (**DCP**) that forms part of the Morning Peninsula Planning Scheme (**Scheme**) as to include additional properties within the DCP and increase the scope of, and anticipated costs for, works financed by the DCP.

It is understood that your office has previously assisted Council with a review of the DCP and preparation of the updated DCP as part of the Amendment.

Background

The Land

The Amendment relates to the land along and surrounding Creswell Street, Crib Point. In particular, it applies to the land between 1 and 77 Creswell Street (inclusive) along with the following surrounding properties (collectively, **Land**):

- 1, 3 and 6 Cooma Street, Crib Point;
- 90 and 92 Disney Street, Crib Point;
- 4 Glossop Street, Crib Point; and
- 58 and 62 Disney Street, Crib Point.

The Land:

- includes Creswell Street running east-to-west through its centre;

- is intersected by Demark Street, Cooma Street and Glossop Street, that all run north-to-south from or through Creswell Street;
- along with the road reserves of the aforementioned roads, draws in a total of 76 parcels of land;
- is generally arranged in a rectangular subdivision pattern with allotments of between approximately 1,200 and 1,600 square metres;
- is 114,503.8 square metres in total.

Of the 76 parcels of land that fall within the Land, 68 of these have their primary frontage to Creswell Street, with the remaining 8 parcels deriving their access from either Cooma Street, Glossop Street or Disney Street (to the south).

With the exception of the easternmost properties within Creswell Street and those properties that have primary frontages to other streets, the parcels that form part of the Land are generally undeveloped.

The road reserves that fall within the Land are currently unmade.

In your accompanying electronic brief, **Tab 1** provides a map that identifies the boundaries of the Land, along with a more recently generated aerial image showing the Land and the surrounding context.

Existing Scheme Provisions

In your accompanying electronic brief, **Tab 2** includes maps and controls that currently apply to the Land under the Scheme.

You will see from this material that the bulk of the Land is currently within the Neighbourhood Residential Zone, Schedule 1 (**NRZ1**) and is subject to the following overlays:

- Vegetation Protection Overlay, Schedule 1 (**VPO1**); and
- Development Contributions Plan Overlay, Schedule 1 (**DCPO1**).

The DCPO1 relates to the *Creswell Street East Development Contributions Plan*. The relevant incorporated document under the DCPO1 is the *Creswell Street East, Crib Point Development Contributions Plan* (June 2024).

The VPO1 relates to *Township Vegetation* and is broadly applied throughout the municipality.

Conversely, the part of the Land that constitutes the three southernmost properties along both Cooma Street and Glossop Street (along with that section of the Cooma Street road reserve) falls within the General Residential Zone, Schedule 1 (**GRZ1**); and, along with VPO1, is also subject to the Design and Development Overlay, Schedule 19 (**DDO19**).¹

The DDO19 relates to the *Bittern and Crib Point Township Residential Area*.

More broadly, we draw your attention to the [Scheme](#) for the broader policy context applicable to the Land.

History

¹ Under Council's adopted version of Amendment C219morn, those properties within the Land that are currently subject to the GRZ1 are proposed to be rezoned to the Neighbourhood Residential Zone, Schedule 32.

That part of the Land that is currently subject to the DCPO1 was previously zoned for industrial purposes. In 2019, [Amendment C210morn](#) came into effect, rezoning that part of the Land from the Industrial 3 Zone to the NRZ1 and introducing the DCPO1.

The DCP initially had an expiry date of 6 June 2024.

The DCP has previously been amended on three separate occasions since its introduction:

- in January 2024, via [Amendment VC249](#), which had the effect of inserting an exemption for small second dwellings;
- in July 2024, via [Amendment C300morn](#), which had the effect of extending the expiry date until 6 June 2026; and
- in June 2024, via [Amendment C305morn](#), which had the effect of re-inserting the exemption from small second dwellings that was inadvertently omitted via Amendment c300morn.

The current form of the DCP describes the 'infrastructure projects' that it funds as follows:²

6 Infrastructure Projects

The project to be included in the DCP is the construction of Creswell Street/Cooma Street, Crib Point within the C210 Amendment area (refer to Plan 2).

This project includes road, drainage, water supply, public street lighting and optic fibre ready pit and pipe infrastructure construction within the existing unmade Council road reserves. The project is fully funded by a 70% contribution by land owners and a 30% contribution by Council.

Contribution is triggered upon development of land and further subdivision within the Amendment C210 area.

'Plan 2' within the DCP shows construction of Creswell Street from between the mid-point of Denmark Street (west) to its eastern 'paper' termination point and construction of Cooma Street from between Creswell Street and the southern boundary of 39 Creswell Street / 1 Cooma Street.³ This constitutes 770 metres of road to Creswell Street and 90 metres of road to Cooma Street.

In terms of timing, the DCP includes:⁴

7 Project Timing

The Council, as Development Agency will monitor and assess the required timing for the Project with regard to its capital works program and development within the Amendment C210 area.

The DCP project will be delivered as soon as practicable. The trigger for delivery is the first of either of the following events to occur:

- (a) 50% of the landowner contributions necessary to deliver the project have been collected by Council; or
- (b) Within seven years from the date upon which this DCP is first incorporated into the Mornington Peninsula Planning Scheme.

² DCP, 5.

³ Ibid 6.

⁴ Ibid 7.

This acknowledges the Development Agency's capacity to provide the balance of funds not recovered by this DCP in the short term.

The DCP estimated a total cost for the infrastructure of \$2,091,053 (pre-indexation).⁵ Accounting for an apportionment rate of 70% to the cost of development, the existing DCP establishes a means by which to recover a total of \$1,463,737 (pre-indexation) of the total development cost.

To date, Council has collected \$66,738.13 in contributions from the development of three properties currently included under the DCP.

The Amendment

The exhibited explanatory report describes the Amendment in the following terms:⁶

The amendment replaces the Creswell Street East Crib Point Development Contributions Plan (Watsons, June 2024) incorporated document with the revised Creswell Street East, Crib Point Development Contributions Plan (Mesh Planning, December 2023) incorporated document, to provide for the funding and delivery of access and drainage infrastructure required to support the urban development of the 76 parcels within the DCP area.

And, more specifically:⁷

This amendment replaces the existing:

- Schedule 1 to Clause 45.06 (Development Contributions Plan Overlay) with the revised DCPO1; and
- Creswell Street East Crib Point Development Contributions Plan (Watsons, June 2024) incorporated document with the revised Creswell Street East, Crib Point Development Contributions Plan (Mesh Planning, December 2023) incorporated document.

As to why the Amendment is required, the Explanatory Report includes:⁸

The Mornington Peninsula Shire Council recently completed a review of the Original DCP which identified several issues, the most significant being that the project costs included in the existing Development Contributions Plan do not reflect the current construction costs.

Specifically, Council identified in July 2023 that that total cost of its portion of the infrastructure set out under the DCP would come to approximately \$1,814,986.23, as distinct from \$794,447.51 set out in the DCP (adjusted for indexation).⁹

In relation to the specific changes set out under the revised DCP, the Explanatory Report includes:¹⁰

As a result, a revised Development Contributions Plan has been prepared which:

- Extends the local road and drainage works to include the eastern edge of Creswell Street so it meets the existing road pavement and upgrade Cooma Street and Glossop Street between Creswell Street and Disney Street. As a result, the total length of unmade local roads to be upgraded has increased from 860 linear metres in the Original DCP to 1,138

⁵ Ibid 12.

⁶ Explanatory Report, 1.

⁷ Ibid 4.

⁸ Ibid.

⁹ Council Meeting Agenda – 19 December 2023, 5-6.

¹⁰ Explanatory Report. 4-5.

linear metres in the revised DCP. The extension of the road and drainage upgrades will provide an improved outcome for the local residents and deliver two upgraded north-south local access roads.

- Retains the project type and scope i.e. the road cross-section remains the same as that in the Creswell Street East Crib Point Development Contributions Plan (Watsons, June 2024) incorporated document and includes the construction of a 5.5 metre wide asphalt pavement and stormwater drainage but does not include construction of a footpath.
- Increases the DCP area as the extent of the upgrade of the local unmade roads has increased. The DCP area has been increased to include all properties immediately adjacent to the unmade local roads that will be upgraded, as a result 12 additional properties are included in the revised DCP.
- Increases the total costs included in the DCP to account for the extended road length, updated construction costs based on detailed design plans, Quantity Surveyor estimates, includes finance costs to deliver the project by 30 June 2028, and plan preparation costs.
- Increases the DCP charges required due to the increase in total DCP costs.
- Apportions 70% of all DCP projects including the road and drainage infrastructure construction, plan preparation and finance costs to the landowners benefiting from the localised infrastructure. This level of apportionment was applied to the Original DCP which funded road and drainage infrastructure construction only. Council will fund the remaining 30% of the total DCP project costs.
- Increases the delivery timeframe of the project to 30 June 2028.
- Revises the demand units from linear metre of lot frontage as defined in the Original DCP to metre square of lot area.
- Includes a vegetation removal plan identifying the vegetation to be removed from private and public land, to allow for the construction of the road and drainage infrastructure required to be delivered by the DCPO1.

Further, the Schedule 1 to Clause 52.17 (Native Vegetation) is amended to exempt vegetation required to be removed as shown in the Development Contributions Plan. This provides an exemption for the Development Agency (the Mornington Peninsula Shire) from requiring a planning permit to remove, destroy or lop native vegetation.

In effect, in addition to altering the costings and works funded by the DCP, the Amendment proposes to increase the extent of the DCPO by:

- 12 additional properties; and
- 278 metres of additional road.

The material exhibited as part of the Amendment is included in **Tab 3** of your accompanying electronic brief.

Council's position with respect to the need for, and the specific content to be updated within, the Amendment was informed by:

- *Review of the April 2018 Development Contributions Plan* (Mesh, November 2022); and
- *Cost Estimate* (Harlock Consulting, May 2023).

Copies of these documents are included at **Tab 4** of your accompanying electronic brief.

Processing of the Amendment

On 19 December 2023, Council resolved adopt the revised DCP and seek authorisation from the Minister to prepare the Amendment.

On 26 February 2024, the Minister requested the provision of further information prior to authorisation.

On 8 April 2024, Council responded to the Minister's request.

On 21 May 2024, the Minister provided authorisation to prepare the Amendment (subject to conditions)

The Amendment was placed on public exhibition between October 2024 and December 2024. In response to exhibition, a total of 7 submissions were received.

On 20 May 2025, Council resolved to refer all submissions to a panel and resolved to advance certain changes to the Amendment as Council's 'advocacy position' for the purposes of the Panel proceeding.

Included in your accompanying electronic brief at **Tab 5**, **Tab 6** and **Tab 7** are copies of the relevant Council meeting agendas and minutes, documents related to the authorisation of the Amendment and full copies of all submissions received in respect of the Amendment.

Council's 'advocacy position'

As noted, Council's 'advocacy position' for the purposes of the Panel proceeding involves proposed changes to the Amendment. Included within the resolution of Council from 20 May 2025 were the following:

2. Notes and endorses the summary of submissions and Shire officers' response to submissions in relation to Amendment C295morn to the Mornington Peninsula Planning Scheme as at Attachment 4 to this report but amended to support the removal of 6 Cooma Street, 90 and 92 Disney Street, Crib Point, and associated infrastructure from Amendment C295morn, as requested by submitters 2, 5 and 6, consistent with recommendations 5 and 7 below.

...

5. Endorses the proposed changes to Amendment C295morn to the Mornington Peninsula Planning Scheme, generally in accordance with Attachment 5 to this report, but amended to remove 6 Cooma Street, 90 and 92 Disney Street, Crib Point, and associated infrastructure from the amendment, consistent with recommendation 7 below for the purposes of Council's advocacy position before the Planning Panel.

...

7. Includes in its submission to the Planning Panel the proposed changes to documentation for Amendment C295morn to the Mornington Peninsula Planning Scheme, generally in accordance with Attachment 5 to this report, but amended to:

- A. Remove 6 Cooma Street, 90 and 92 Disney Street, Crib Point from the amendment.
- B. Remove associated infrastructure immediately adjacent 6 Cooma Street, 90 and 92 Disney Street, Crib Point.
- C. Update DCP infrastructure costs as a consequence to the above changes.

The Agenda of 20 May 2025 meeting further included as it relates to proposed changes to the Amendment:

Attachment 4 contains a more detailed summary of each individual submission and associated Shire officer responses to issues raised. Overall, Shire officers recommend that all submissions be referred to a Planning Panel for independent review (as detailed later in this report). Shire officers also recommend that the below post-exhibition changes (as shown in Attachment 5) be presented as part of Council's submissions to the Planning Panel to resolve issues raised in DEECA's submission and one of the private landowner submissions:

- Delete the proposed Schedule to Clause 52.17: Native Vegetation, which exempts Council from needing a planning permit to remove, destroy or lop native vegetation from the DCPO1 area to accommodate the roads and drainage infrastructure works.
- Delete the 'Vegetation Removal Plan' currently forming part of the revised DCP Incorporated Document (and any reference to the appendix identifying the vegetation removal plan) because it is referenced in the Schedule to Clause 52.17 exemption.
- Update remaining Amendment documentation (i.e. Explanatory Report, Instruction Sheet, etc.) as a consequence of the above changes.

In effect, Council's 'advocacy position' for the purposes of the Amendment is the Amendment as exhibited, save for the following changes:

- removal of the proposed inclusion of vegetation removal as a part of the Amendment;¹¹ and
- removal of additional properties and infrastructure along and within Cooma Street that was sought to be added to the DCPO by the Amendment, constituting removal of:
 - 3 additional properties; and
 - 67 metres of additional road.

The infrastructure sought to be delivered by Council's 'advocacy position' version of the DCP is informed by an updated Quantity Surveyor Costings (JCA Land Consultants, 23 Jun 25).

Copies of this document, along with updated maps that show the extent of the DPO that forms Council's 'advocacy position', are included at **Tab 8** of your accompanying electronic brief.

It is understood that your office has been asked to prepare an updated version of the DCP to reflect Council's 'advocacy position'.

Panel Hearing

The Panel hearing is scheduled to commence on 11 August 2025 and anticipated to go for one day (though 12 August 2025 has been set down as a 'reserve day' in the event that further time is required).

Two submitters have indicated a desire to participate in the hearing (Submitter 5 and Submitter 6).

The hearing is to be held in Council's Hastings Office (21 Marine Parade, Hastings).

Your instructions

Subject to our client accepting your fee estimate, you are instructed to prepare an evidence statement and appear as an expert witness in this proceeding.

¹¹ Noting that this will be separately pursued as a planning permit application.

Should the fee estimate be acceptable to our client, we are instructed to engage you to:

1. review these instructions, the documents in your accompanying electronic brief and any other material relevant to your area of expertise;
2. prepare an expert witness statement that, among other things:
 - 2.1. sets out, and provides a summary of, the work that your office has previously been engaged to complete with respect to the DCPO and DCP;
 - 2.2. clearly sets out the differences between the current version of the DCP, the exhibited version of the DCP and Council's 'advocacy position' version of the DCP;
 - 2.3. clearly sets out your opinion on the changes proposed to the DCP by the Amendment, which, among other things, should include how the proposed changes comply with any applicable guidelines;
 - 2.4. is prepared in accordance with *Practice Note 1 – Expert Evidence (Practice Note)*, including by appending a copy of these instructions to your statement; and
3. appear as an expert witness at the Tribunal hearing.

A copy of the Practice Note is included at **Tab 10**.

Key dates

As noted, the hearing is scheduled to be held on **11 August 2025**.

As per the enclosed directions, expert witness statements are due to be filed with the Panel and served on all parties by **4 August 2025**.

We kindly request that you provide your evidence statement to us by no later than **28 June 2025**.

Fee proposal and invoices

Before commencing any work, we kindly ask that you provide us a fee proposal for the work outlined in these instructions for our client's consideration and approval in the first instance.

We also ask that you include a schedule of fees and rates in the event that you are required to perform additional tasks in future relating to this matter.

Your fee proposal should be addressed to:

Mornington Peninsula Shire Council

c/- Jackson Lane Legal, via jack.chiodo@jlqp.com.au

Conversely, your invoices in this matter should be addressed directly to our client, as follows:

Mornington Peninsula Shire Council

via email to janine.smith@mornpen.vic.gov.au

and copied to legal@mornpen.vic.gov.au

Maintaining client legal privilege and confidentiality

The advice and other work you are being asked to provide may be relied on for any future hearings or litigation and for the purposes of providing legal advice to our client. You must, as far as legally possible, treat all communications relating to the scope of works as confidential and subject to client legal privilege.

Electronic brief

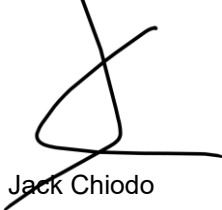
The briefing material referred to throughout these instructions can be accessed through the following link:

 [Electronic Brief for Expert Witness](#)

Further, enclosed is an indexed brief of the document that are provided within the above link.

Please contact me on 0480 664 413 or via email at jack.chiodo@jlgp.com.au should you have any queries or require any further information.

Yours sincerely



Jack Chiodo

Principal Town Planner
Jackson Lane Legal

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