



**MORNINGTON
PENINSULA**
Shire

MINUTES

COUNCIL MEETING

TUESDAY, 6 FEBRUARY 2024

6:30PM

**MUNICIPAL OFFICES
BESGROVE STREET, ROSEBUD**

MORNINGTON PENINSULA SHIRE COUNCIL

WARDS AND COUNCILLORS

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

EXECUTIVE TEAM

Mr John Baker Ms Tanya Scicluna Ms Sam Stanton Mr Mike McIntosh Mr Bulent Oz	Chief Executive Officer Director – Community Strengthening Director – Corporate Strategy and Business Improvement Director – Planning and Infrastructure Chief Financial Officer
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RECORDING

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

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

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1 OPENING AND WELCOME

Meeting opened at 6.34pm

Appointed Chairperson – Mayor, Cr Simon Brooks

1.1 Acknowledgement of Country

(Read by Cr Race)

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

1.2 Vale

On behalf of my councillor colleagues, Shire staff and the broader community, I would like to pay my respects to Rae Riley, a stalwart of the Sorrento and Nepean community.

Fondly referred to as 'the Mayor of Sorrento', Rae served her community for more than 40 years in many different capacities, but all with equal passion and ability.

She was instrumental in the success of many projects and community initiatives, including the Nepean Ratepayers Association, which she was a member of for more than 30 years; the restructure of the Sorrento Community Centre; the New Year's Eve Committee; and the Sorrento Township Consultative Planning Committee.

Just last year, Rae was awarded a Certificate of Appreciation by Council for her role on the Police Point Shire Park Recreation and Conservation Plan committee, with particular mention of her contribution to the success of the Artists-in-Residence program.

Other notable commendations included a Community Services Award in 2008 from the Rotary Club of Sorrento for Outstanding Community Service and a well-deserved Mayoral Commendation from Council in April 2013 for her dedicated and distinguished voluntary service to the community and the Nepean Ward.

It was Rae's ability to work and liaise with other community groups and Shire officers that enabled so many projects come to fruition.

During her lifetime, Rae worked passionately to maintain the natural beauty and charm of Sorrento and the Nepean Ward and to ensure the area's history was preserved.

We take this opportunity to thank Rae for her incredible dedication to the Nepean community.

And we extend our condolences to her family: husband Ian, sons Rohan and Mason and four granddaughters.

Vale, Rae Riley.

2 PROCEDURAL MATTERS

Present

Mayor, Cr Simon Brooks (Chairperson)
Cr Susan Bissinger
Deputy Mayor Cr Antonella Celi
Cr David Gill
Cr Debra Mar
Cr Anthony Marsh
Cr Despi O'Connor
Cr Sarah Race
Cr Kate Roper

Mr John Baker, Chief Executive Officer

2.1 Apologies

Cr Lisa Dixon
Cr Steve Holland

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

Cr Race disclosed a material and general Conflict of Interest in relation to item 4.2 CN2702 Residual Waste Processing Services - Tender Evaluation Outcome as her husband works in the waste industry.

Cr Marsh disclosed a general conflict of interest in relation to item 7.1 CN2702 Residual Waste Processing Services - Tender Evaluation Outcome due to an active engagement with one of the vendors, unrelated to local government/governance issues.

2.3 Confirmation of Minutes

RECOMMENDATION

That the Minutes of the previous Council Meeting held on 19 December 2023, be confirmed.

COUNCIL DECISION

Moved: Cr Roper
Seconded: Cr Celi

That the recommendation be adopted.

Carried Unanimously

2.4 Councillor Briefing Sessions

RECOMMENDATION

That Council receives and notes the record of Councillor Briefing Sessions for 19 December 2023.

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Race

That the recommendation be adopted.

Carried

2.5 Council Decision Register

RECOMMENDATION

That Council receives and notes the Decision Register Summaries for 2019-2023 (Attachments 1-5) as at 30 January 2024.

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr O'Connor

That the recommendation be adopted.

Carried

2.6 Petitions and Joint Letters

RECOMMENDATION

That Council receives and notes the above petition.

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Marsh

That the recommendation be adopted.

Carried

2.7 Public Question Time

QUESTION WITH NOTICE

Rye Carnival

Jordan Vonarx, a resident of Cranbourne East asked the following:

The operator of the Rye carnival have been charged with over 100 child employment charges this month. In 2017, they have been accused of killing a 6 year old boy also at Rye. Why did the Shire allow this operator to come back after this death and what oversight into their operations were stipulated as part of their permit to operate?

Council advises that the Shire does not oversee the day to day operations of the Rye carnival, however ensures that the operator is in compliance with the conditions of their licence, including the submission of the following documentation:

- Plans for evacuating the site in case of emergency
- Plans for managing environmental impacts
- Plans for identifying and reducing risks
- Evidence of electrical safety and inspections, and a
- Report of a pre-event inspection by WorkSafe.

Under the conditions of the licence the operator must also follow all the relevant laws, standards and codes that apply to carnivals, such as the Australian Standards for Amusement rides, the *Occupational Health and Safety Act*, all Local Laws, the Environmental Protection Authority noise standards and all applicable federal and state awards for employees.

The Shire is not in a position to comment on any possible charges or take action until legal proceedings conclude.

Dogs on Beaches

Andrea Allen, a resident of Blairgowrie asked the following:

Council adopted new rules for dogs on beaches in May 2023. Restrictions were changed to summer, instead of daylight savings. At this stage, the new rules have only been implemented at leash free beaches. Could the new rules be implemented at on leash beaches by the end of summer?

Council advises:

As previously advised at the Council Meeting on 28 November 2023 to your Public Question Time question, as there are no changes to the conditions of on lead beaches, they remain on lead all day every day as has previously been the case, therefore, there is no need to change the signage at this stage. The signage will be updated as part of phase 2 of the Implementation Plan as scheduled.

The Briars

Craig Thomson a resident of Rye asked the following:

Question:

Has Council started planting broad acres at The Briars for the expansion of the wildlife sanctuary?

Council advises that the team at The Briars have begun revegetating the Broad Acres for the expansion of the wildlife sanctuary. So far approximately 4,000 trees and shrubs have been planted in this area over the last two years. In 2024 the team plans to plant a further 8,000, mostly smaller understory species.

Craig Thomson asked another question:

Has the council started to work with indigenous groups to create the perfect place for telling stories from Traditional Owners?

Council advises that Shire officers have connected and worked with a number of Indigenous groups to tell stories on country at The Briars since the development of the Master Plan. The Bunurong Land Council and the Mornington Peninsula Shire have also developed a Cultural Values Assessment which identifies the stories Bunurong Elders would like shared at The Briars.

Harry Potter Experience at the Briars

We have received 27 public questions with notice and 25 without notice in relation to the Harry Potter Forbidden Forest Experience at the Briars. In accordance with our procedural guidelines they will not be read out individually, however we will be addressing the following themes outlined in the public questions:

- *Wildlife and wildlife carers at The Briars questions from:*
 - Katrina Larsen
 - Karen Lloyd
 - Carloyn Harbord
 - Fay Sickker
 - Julia Pickwick
 - Pia Spreen
 - Melissa Vezelici
- *The Briars Sanctuary*
- *Council decision to host the event questions from:*
 - Sue Boggan
 - Jack Knobel
 - Louise Page

- Karen Lloyd
- *Keith old*
- *Contract Requirements*
- *Relocation of the event questions from:*
 - Janet Street
 - Sue Boggan
 - Angela Squair
 - Donna Morabito
- *Community consultation*
 - Pia Spreen
 - Donna Morabito
 - David Smith
- *Access to the ecology report*
 - *Heather McKeon*
 - *Donna Morabito*
 - *Keith Old*
 - *Fay Sicker*
 - *Pia Spreen*
- *Traditional owners of the land.*
 - *Heather McKeon*
 - *Pia Spreen*

Wildlife at The Briars

It is of the utmost importance and priority to the Shire that the care and wellbeing of our local fauna and flora is protected.

The Shire has worked extensively with an experienced consultancy ecologist – Practical Ecology to assess and mitigate any potential impacts. They were engaged to provide the Shire with an Environmental Impact Assessment. This report included a series of mitigation measures for the event organiser to implement to minimise the impact to wildlife. These measures have been and will continue to be implemented into the event design and operations. The ecologists' report is available on our website.

The Shire continues to undertake extensive ecological surveys and are working with experts in ecology and zoology. These experts will work closely with all parties, prior to, during and

after the event to ensure all relevant measures are taken to protect our valuable natural landscape. These measures will absolutely minimise the impact on wildlife.

Wildlife carers

Ecologists and Zoologists have been engaged to monitor and report on any impacts to wildlife. All the research suggests that the impact on wildlife will be minimal.

The Briars Sanctuary

The Woodland Walk and an additional loop trail will be open to the public during the event. Fencing will not be installed to restrict public access to the Harry Potter area. Any paths with restricted access will be sectioned off with the minimum of equipment. The Harry Potter areas will be managed by trained security staff who will be able to ensure people stay in the designated areas, which are already used by the community.

The experience will occupy only seven per cent of the 90-hectare sanctuary, leaving space for animals to move away.

All ticket purchasers can choose to donate a tree to The Briars. To date, funds for up to 1,000 trees have been donated by ticket holders. The Shire are aiming to source many of these trees from local indigenous nurseries, and only indigenous species will be planted, having a very positive impact on the overall environment at The Briars.

Funds raised will also be put back into The Briars on things such as path improvements, more nature education opportunities for school and community groups, and improvements to our carparks to make the site more accessible. The additional path improvements will improve disability and visitor access.

Many local businesses will benefit from increased visitation to the region in off-peak season. Benefits to locals include a focus on employing locals to staff the event; engagement of local businesses to provide event food and beverage; engagement of local charitable nurseries to provide the trees for donation; and increased visitation in the off-peak season to accommodation, food and other businesses. This will bring in the order of \$25 million.

Council decision to host the Harry Potter Experience

The Briars was ultimately chosen as the event organisers' preferred location due to its forested appearance which suits the experience they are wishing to create. The nature of the experience as well as the risks and benefits were presented to Council for consideration. Council carefully considered these and ultimately voted to proceed with the experience at The Briars.

Councillors are compelled by Section 125 of the *Local Government Act 2020* to maintain confidentiality on matters which they know, or should reasonably know, to be confidential. Council can close a meeting from the public if the information being discussed is deemed to be confidential under the definitions as prescribed by The *Local Government Act 2020*.

As the item contained commercial in confidence information, it was heard as a Confidential Business Item under S66 (2) (a) of the *Local Government Act 2020*. Accordingly, as a confidential item, the details of voting of individual Councillors is unable to be released.

Relevant Shire officers at The Briars were consulted about the event from the start of conversations with the event organisers. The expertise of those involved was sought throughout the period in which the event was explored. Shire officers worked alongside the ecologists to identify the risks involved and to understand the benefits to the site and broader region. Following Council's decision to hold the event, Shire officers have continued to work

alongside event organisers to ensure that the design of the experience minimises the risk to the environment.

Contract Requirements

At this time, specific details cannot be given for legal reasons, however we can assure the public that there are extensive provisions in place to ensure the protection of the nature landscape.

Relocation of the Harry Potter Experience

We explored alternative locations with the event organisers, and through a thorough and investigative process that The Briars was chosen for the event, and we are satisfied and confident that all risks are satisfactorily addressed and have mitigation strategies in place.

Community Consultation

It is not unreasonable or unusual for a Council to enter into agreements without community consultation. Sometimes commercial in confidence matters prevent Council from undertaking public consultation.

Confidentiality is a part of normal business arrangements where the intellectual property and the business of other third parties must be protected.

However, transparency is important, and we listen to public concerns such as in this forum today.

Ecology Report and Environmental Impact Assessment

Much of the content of the ecologists' report is in the publicly available FAQs [Forbidden Forest Experience - FAQs - Mornington Peninsula Shire \(mornpen.vic.gov.au\)](https://www.mornpen.vic.gov.au/forbidden-forest-experience-faqs). Out of consideration to the authors of the ecology report, the Shire sought their permission before releasing their details. Having obtained their approval, this report is now available online.

Traditional Owners of the land

Heritage advisors were engaged early in the event design process to provide expert advice to ensure no harm is done to cultural heritage. The advisors and Shire officers are working with the Bunurong Land Aboriginal Council to ensure our compliance with the Aboriginal Heritage Regulations 2018. This is extremely important to the Shire.

QUESTIONS WITHOUT NOTICE

Southern Pitch Strategy

Harley Freeman, a resident of Frankston asked the following:

What is Council's position on the feasibility study 'Study Pitch Strategy' that Council contributed \$6,256 in February 2023?

Glass and Bottle Recycling

Frederick Crump, a resident of Hastings asked the following:

At the Council meeting in May last year a question was asked about a separate recycling bin for glass bottles following the West Wimmera Shire's decision to give residents an extra bin. I was told that the Shire was going to make a statement in November pending the approval from State Government. It is now 2024, four months later and no feedback. What is going on?

Kerbside Maintenance

Frederick Crump asked another question:

Grass left long along fence lines, long grass at the back of Kmart, no use of edging machine and no use of a brush cutter. This would never be allowed in my days at the City of Casey, especially at the height of fire season. When is this Council going to employ qualified groundsmen instead of useless contractors?

Harry Potter Experience at the Briars

Janet street, a resident of Mornington asked the following:

Please provide a hardcopy of the non-disclosure agreement which was presented to and signed by nine of the Councillors with regard to the ' Harry Potter : Forbidden Forest ' experience to be held within the Briars Wildlife Sanctuary ?The hardcopy to be provided will be the original copy, unsigned.

Julie Gunn, a resident of Dromana asked the following:

With research partnerships with The State Government and universities underway regarding rare bandicoot breeding at the Sanctuary, how do you manage the loss of faith by the partnerships with this event, which will compromise the partnerships and the success of the introduction of endangered species there.

Sally Baillieu, a resident of Boneo has asked the following:

Why has the Environmental Impact Assessment not been made public, and how could it possibly have been completed with any rigour in the short time between Council learning of the Harry Potter project and then voting for it?

Lee (Gidgja) Walker, a resident of St Andrews Beach asked the following:

Does the Shire have a planning permit for sheds, vegetation clearance and land disturbance which is in contravention of ESO 3, ESO 17, ESO 28 and PCRZ.

Sarah Sampson, a resident of Flinders asked the following:

Did the 'ecology report' used to permit this event include the entomolgy of the Briars upon which the birds, mammals and reptiles rely on as a food source?

Sarah Sampson asked another question:

Who is responsible for the traffic management for the duration of this event? And what hours/days will it be in place?

Ann Scally, a resident of Mount Martha asked the following:

A grant of \$1.53 million from Vic Gov Regional Tourism Investment Fund was given to the Shire for extra and 40 ha of sanctuary with 2.5km of connecting pathways and boardwalks, to be used 2024. Has any of this money been used, or is going to be used, for the Harry Potter event?

Trish Barr, a resident of Cape Schanck asked the following:

What is the contingency plan on the damage caused by this event and will the funds that the Shire has been paid to hold the event cover the monitoring of this damage to nature.

Trish Barr asked another question:

Why would Council wish to destroy a precious environment for local flora and fauna for dollars, which will never replace the destruction such events will cause? Did you not research the previous such events, e.g. Belgium?

Ann Robb, a resident of Mornington asked the following:

How will the event be powered? In view of Council's commitment/declaration of a climate emergency.

Ann Robb asked another question:

Can the public see the environmental assessment and risk assessment and when?

Carolyn Hine, a resident of Cape Schanck asked the following:

What financial benefit, incentive, inducement or dollar arrangement did Warner Bros and their subsidiary offer to agree with the Mornington Peninsula Shire Council, individual Council members and their families for holding Harry Potter event at The Briars? Did National Trust agree to this?

Carolyn Hine asked another question:

Who conducted the ecology study on the impact on The Briars of set up, performance and pack down of Harry Potter Event?

How long did this process take and what is the relationship of the ecologist to Warner Bros and their subsidiaries, Mornington Peninsula Shire Council and individual Council members?

Anne Pollard, a resident of Safety Beach asked the following:

Who is liable for the costs of relocating this event?

Ann Pollard asked another question:

What steps were made to advise public of this event taking place?

Rosemary Race, a resident of Moe asked the following:

Has the Council adhered to the Environmental Overlay 1 (EO1) and EO2 Amendments and legislation of the Briars sanctuary?

Sue Scholey, a resident of Tootgarook has asked the following:

Is there anyone here tonight that is representing the Warner Bros Group or Fever, as they need to understand the concerns raised by the Mornington Peninsula community. It is in their interest to be present as it will affect their ongoing marketing campaign and public relations, not only in Australia, but for the rest of the world.

Sue Scholey asked another question:

Did Council sign a contract that had a clause that allows or prohibits changes after signing? Does it specify a process for making changes such as a written notice, mutual consent or arbitration?

Verity Mapp, a resident of Rosebud asked the following:

Who is conducting the wildlife welfare check, who is paying them to do so and if they should provide evidence of harm, what steps will be taken?

Anne Bridges, as resident of Blairgowrie has asked the following:

Does the Shire have a planning permit for the Harry Potter event?

Anne Bridges asked another question:

Does the Shire have a Cultural Heritage Management Plan and did they contact the Bunurong Land Council before signing off on the Harry Potter experience?

Leonie Schween, a resident of Mount Martha has asked the following:

What planning permits are required for the proposed development that involves removal of vegetation, construction of dwellings and use of land contrary to the Zone and the Briars Master Plan approved by Council and what planning permits have been obtained and how long did it take?

Council advises:

All questions taken on notice were not responded to at the meeting and written responses will be provided and uploaded to the Shire website.

3 COUNCILLORS AND DELEGATES REPORTS

Midsumma Pride March (Cr Race)

On Sunday, 4 February Cr O'Connor and Cr Race attended the Midsumma Pride March alongside the Frankston and Mornington Peninsula LGBTIQA+ Collaborative. The St Kilda march was a triumph of community spirit, featuring fabulous banners and outfits, with enthusiastic smiles and waves from both marchers and spectators. It really is unusual for a Councillor to get so much love thrown their way.

Hundreds of groups from across Victoria, representing various sectors, paraded with music, dancing, singing, and glitter, creating a joyful atmosphere. Shout out to members of the Community Strengthening Directorate, who did an outstanding job in bringing it all together – I'm so proud to represent the Mornington Peninsula Shire, where we truly do believe that #weallbelong.

Beach Patrol Groups (Cr Race)

Cr Race gave a special mention to the Peninsula's Beach Patrol groups. Cr Race attended Rye on Saturday, 3 February and Mount Martha on Sunday, 4 February. These volunteer run groups do a wonderful job in spreading awareness about the impact of litter on the Peninsula's coastline. Special shout out to Mount Martha and their coordinator Amy Westbridge, as this group were celebrating their 5th anniversary. In that time they group have picked up over 2,000 kilograms of rubbish, what a phenomenal effort!

Mornington Peninsula Koala Conservation Group (Cr Mar)

The group had their first meeting for the year last week.

Discussions included:

The group will be working closely with the Western Port Biosphere Foundation for funding opportunities to put towards 2024 projects and collaborating with Landcare groups.

Grants and funding raised through membership and sales of merchandise will go towards propagation of indigenous plants and trees, free tree give-aways, promoting work the group does and educating communities.

Planting days for the upcoming winter months will have a focus on the Hastings, Tyabb and Pearcedale areas which is currently proving to be a bit of a challenge with the uptake.

Furthermore, there are general concerns around the loss of tree canopy and understory that are removed to make way for new builds and lack of knowledge about our flora and fauna within the Green Wedge. The group do contact owners of these properties to consider volunteers help re-vegetate their land.

Since August 2023 there has been a report of 18 koala hits with only 3 surviving with a majority of vehicle strikes being over the holidays period. Forest Drive, Mount Martha which is currently an 80 km per/hour speed limit, had a couple of koala deaths during that time. Locals are putting together a petition seeking action and are working closely with the Shire and the Koala Conservation Group for advice around better signage and the possibility to decrease the speed limit. State MP for Mornington, Chris Crewther is also involved in the petition.

3.1 (Cont.)

President of the group, Dirk Jensen is continuing to work with Shire officers to place appropriate roadside signage in high wildlife activity areas ensure safety for our native wildlife and motorists.

Domestic dog attacks in residential blocks and farming properties are on the increase and pose a constant threat to koala population.

And lastly, it would be remiss of me not to mention the concerns the conservation group have around the upcoming Harry Potter event held at the Briars Sanctuary which were documented in the meeting.

Concerns include:

1. What is being done to mitigate the impact on wildlife and minimize disruption, particularly during the nesting season of the Powerful Owl.
2. The displacement of animals.
3. Light, noise and foot traffic on fauna and flora, spreading of weeds and possible changes to soil.
4. Generators running every night.
5. What level of monitoring of wildlife is being documented and reported.
6. The sheer volume of visitors every night for four months in a sanctuary.

Local wildlife carers have stepped up in preparation to handle an increase of wildlife displacements if needed.

Bass Park Trust (Cr Gill)**Letter to Council from Bishop of Greek Orthodox Church, Red Hill (Cr Gill)****Peninsula Advisory Committee for Elders (PACE) (Mayor Brooks on behalf Cr Dixon)**

Cr Dixon attended the PACE Positive Ageing Community Conversations, that took place in November 2023. There was input and rich discussion from this group on issues that impact on our ability to age well on the Mornington Peninsula

A Positive Ageing Community Conversation Report has been developed which was compiled by Conversation Co. and the Positive Ageing Team of the Shire. This Report is a guiding document to help inform the Shire, relevant organisations and community members regarding priority areas and issues for ageing well.

The Positive Ageing Team are always interested in collaborative opportunities and can support ideas that can help to create age-friendly communities.

4 MANAGEMENT REPORTS

PLANNING & INFRASTRUCTURE

4.1 Planning Application P22/1752 - 82 Inga Parade, Mount Martha - Change of use from chicken farm to store, buildings and works and reduction in car parking

Deputations

- Lynda Sharp
- Bernice Wearne

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 P22/1752 - Use of a store, building and works and reduction in car parking, at 82 Inga Parade, Mount Martha, be supported and that a Notice of Decision to Grant a Planning Permit be issued subject to the following conditions:

Amended plans

1. Prior to the commencement of any use and development approved by this permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application by Ratio Consultants dated 24 April 2023 but modified to show:
 - A. No external storage of vehicles to the north of Shed 1 or within the front setback, reducing the overall number of storage spaces by 12 external spaces to a maximum of 154 on-site.
 - B. Clearly delineate property boundaries and existing vegetation within the site, particularly along the southern boundary.
 - C. Provision of screen landscaping along the northern and southern boundaries of the site in that part of the site that is used to store vehicles, boats or caravans (not the eastern dwelling area). The landscaping along the northern and southern boundary is to be a minimum of three (3) metres wide and consisting of indigenous plants to the Mornington Peninsula, to the satisfaction of the Responsible Authority.
 - D. Any resultant reduction in the width of accessway adjoining the southern boundary or reduction in storage spaces to facilitate vehicles, caravans or boats being able to be manoeuvred into the spaces along the southern boundary without impacting the landscape strip and existing vegetation.
 - E. Dimensions and materials of all vehicle accessways and storage spaces.

4.1(Cont.)

- F. Delineated waiting areas for customers adjacent to Shed 1, contained wholly within the site boundaries and marked as 'Drop off' and 'Pick up' locations, including a turnaround area.
- G. Delete vegetation shown between Sheds 1 and 2 that does not exist.

Layout and Use not Altered

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

Hours of Operation

- 3. Unless with the further written consent of the Responsible Authority no customers are to drop off or collect vehicles outside of the following hours:
 - 8.30am to 6.00pm.
- 4. Except on public holidays and school holidays, no customers are to drop off or collect vehicles between the following times on Monday to Friday:
 - 8.00am to 9.30am, or
 - 2.30pm to 4.00pm.

Number of Vehicles

- 5. The maximum number of vehicles, caravans or boats stored on site must not exceed 154.

Operation of the Use

- 6. Customers are not to access the site except for the drop off and pick up locations marked and the turning area.
- 7. The site manager must advise all customers that drop off and pick up may only occur by appointment between the hours specified within this permit.

Environmental Health and Amenity

- 8. The management of the premises approved by this permit must be such that the amenity of the area must not be affected by the development and/or use through the:
 - A. Transport of materials, goods or commodities to or from the land.
 - B. Appearance of any buildings, works or materials.
 - C. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour.
 - D. Steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - E. Presence of vermin.
- 9. Noise levels emanating from the land must not exceed those set out in Noise limit and assessment protocol for the control of noise from commercial, industrial and trade

4.1(Cont.)

premises and entertainment venues (Noise Protocol), Environment Protection Authority publication 1826.4.

Landscaping

10. Prior to the commencement of the use (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.
11. The landscaping referred to in Condition 10 above 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.
12. Prior to the commencement of any building or works appropriate tree protection fencing must be erected in accordance with Australian Standard AS4970 – 2009 (Protection of trees on development sites). The tree protection fencing must remain in place until the completion of any works hereby approved.

Engineering

13. If there are any additional accessway and storage works, a drainage plan must be submitted to the Responsible Authority and be to the satisfaction of the Responsible Authority showing any amendments required. This is to be in accordance with the requirements under section 173 agreement AH178354K dated 22 April 2010.

Drainage Works

14. Prior to commencement of the use if there are any additional works associated with the development, they must be constructed in accordance with the plan approved under section 173 agreement AH178354K, and to the satisfaction of the Responsible Authority.

Vehicle Access and storage

15. Prior to commencement of the use, areas set aside for drop off/pick up, accessways or storage as shown on the endorsed plans must be constructed, to the satisfaction of the Responsible Authority.

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

Expiry

16. This permit will expire if either one of the following applies:
 - The development is not completed within two years of the date of this permit.
 - The use is not commenced within two years of the date of this permit.

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

Part B

That Council resolves that Attachment 44 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

4.1(Cont.)

information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

MOTION

Moved: Cr O'Connor
Seconded: Cr Gill

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 to refuse to grant a planning permit in the matter of Planning Permit Application P22/1752 on the following grounds:

- 1. The proposal would result in an increased volume of traffic, which would have a detrimental impact on the amenity of the area. This increase in vehicle movements on a local single lane gravel road, and in close proximity to a local school, is of greater detriment to the amenity of the locality than the existing use, which is contrary to Clause 63.08 of the scheme.**

Vote by Division (Requested by Cr Gill)

For: Cr Gill, Cr O'Connor, Cr Marsh and Cr Roper

Against: Cr Bissinger, Cr Race, Cr Mar, Cr Brooks and Cr Celi

Lost

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr Bissinger

That the recommendation be adopted.

Vote by Division (Requested by Cr O'Connor)

For: Cr Bissinger, Cr Race, Cr Mar, Cr Brooks and Cr Celi

Against: Cr Gill, Cr O'Connor, Cr Marsh and Cr Roper

Carried

ADJOURNMENT OF MEETING

That the meeting be adjourned at 8.36pm for a short break.

RESUMPTION OF MEETING

That the meeting be resumed at 8.46pm.

4.2 CN2702 Residual Waste Processing Services - Tender Evaluation Outcome

RECOMMENDATION

1. That Council, having considered all tender submissions, hereby accepts the tender submission received from Tenderer B for the total value of \$XXX plus \$XXX GST being for CN2702 Residual Waste Processing Services.
2. That Council delegates the execution of the contract for the awarded tender to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.

Part B

That Council resolves that Attachments 1, 2, 3 and 4 to this report be retained as confidential items, pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as they contain private commercial information, being information provided by a business, commercial or financial undertaking that if released would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Attendance

Cr Race, having declared a conflict of interest, left the meeting at 8.46pm and returned to the meeting at 9.07pm, after the matter had been finalised. Cr Race took no part in the discussion or voting on this item.

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr O'Connor

1. That Council, having considered all tender submissions, hereby accepts the tender submission received from Maryvale Energy from Waste for the total value of \$237,969,936 plus \$23,796,993 GST being for CN2702 Residual Waste Processing Services.
2. That Council delegates the execution of the contract for the awarded tender to the Chief Executive Officer pursuant to section 11 of the *Local Government Act 2020*.

Part B

That Council resolves that Attachments 1, 2, 3 and 4 to this report be retained as confidential items, pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as they contain private commercial information, being information provided by a business, commercial or financial undertaking that if released would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Vote by Division (Requested by Cr Bissinger)

For: Cr Gill, Cr O'Connor, Cr Roper, Cr Mar and Cr Celi

Against: Cr Marsh, Cr Bissinger and Cr Brooks

Carried

CORPORATE STRATEGY & BUSINESS IMPROVEMENT

4.3 Response to Notice of Motion 360 (Cr Gill) - Gateway signage

RECOMMENDATION

That Council notes:

1. The status of the current gateway signs, and opportunities for new designs when the signs are due for renewal.
2. Illuminated/electronic signs are not permitted as municipal boundary signs.

COUNCIL DECISION

Moved: Cr Race
Seconded: Cr Bissinger

1. The status of the current gateway signs, and opportunities for new designs when the signs are due for renewal.
2. Illuminated/electronic signs are not permitted as municipal boundary signs.
3. Refer to the 2024-25 budget for consideration a gateway sign for the Sorrento and Stony Point Ferry Terminal entrances/exits.

Carried Unanimously

4.4 Peninsula Trails - Strategic Plan - Public Exhibition

RECOMMENDATION

That Council endorses the Peninsula Trails Strategic Plan and supporting documents (Peninsula Trails Attractions and Activity Mapping, and Peninsula Trails Exemplars) (Attachments 1-3) to be released for public exhibition for a period of four weeks commencing in February 2024.

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr Race

That the recommendation be adopted.

Carried Unanimously

Attendance

Cr Gill left the meeting at 9.19pm.

Cr Gill returned to the meeting at 9.23pm.

OFFICE OF THE CEO

4.5 Instruments of Appointment and Authorisation

RECOMMENDATION

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

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Marsh

That the recommendation be adopted.

Carried Unanimously

4.6 Appointed Committee Representative - Health and Wellbeing Committee

RECOMMENDATION

That Council appoints Councillor Despi O'Connor as the Substitute Representative to the Health and Wellbeing Committee for the period 6 February 2024 to 24 September 2024.

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Marsh

That the recommendation be adopted.

Carried Unanimously

5 NOTICES OF MOTION

5.1 Notice of Motion 429 (Cr Gill) - Road Safety

MOTION

1. That Council alters its position to only advocate to the State Government for five or six roads a year for speed reduction consideration, to allow for further advocacy for roads considered dangerous, after the statement from Road Safety Minister Melissa Horne concerning a “government commitment to reduce speed limits on country roads”. Minister Horne has used the Mornington Peninsula experience of restricting speed on dangerous country roads as evidence of effective road toll reduction.
2. That in April 2024 a workshop for Councillors and VicPol be convened to discuss road speeds, particularly on dangerous country roads, on the Peninsula.

UPDATED MOTION

Moved: Cr Gill
Seconded: Cr Roper

1. That Council advocates to the State Government to apply flexibility and discretion in assessing Mornington Peninsula Shire speed limit applications, taking into account Mornington Peninsula’s unique natural and built environments and significant increase in visitors using our road network. After the statement from Road Safety Minister Melissa Horne concerning a “government commitment to reduce speed limits on country roads”. Minister Horne has used the Mornington Peninsula experience of restricting speed on dangerous country roads as evidence of effective road toll reduction.
2. That in April 2024 a workshop for Councillors and VicPol be convened to discuss road speeds, particularly on dangerous country roads, on the Peninsula.

AMENDMENT

Moved: Cr Bissinger
Seconded: Cr Marsh

1. That Council alters its position to only advocate to the State Government for five or six roads a year for speed reduction consideration, to allow for further advocacy for roads considered dangerous, after the statement from Road Safety Minister Melissa Horne concerning a “government commitment to reduce speed limits on country roads”. Minister Horne has used the Mornington Peninsula experience of restricting speed on dangerous country roads as evidence of effective road toll reduction.
2. That in April 2024 a workshop for Councillors and VicPol be convened to discuss road speeds, particularly on dangerous country roads, on the Peninsula.

Vote by Division (Requested by Cr Bissinger)

For: Cr Bissinger

Against: Cr Gill, Cr O'Connor, Cr Marsh, Cr Race, Cr Roper, Cr Mar, Cr Brooks and Cr Celi

Lost

5.1 (Cont.)

The substantive motion was then put.

COUNCIL DECISION

Moved: Cr Gill

Seconded: Cr Roper

1. That Council advocates to the State Government to apply flexibility and discretion in assessing Mornington Peninsula Shire speed limit applications, taking into account Mornington Peninsula's unique natural and built environments and significant increase in visitors using our road network. After the statement from Road Safety Minister Melissa Horne concerning a "government commitment to reduce speed limits on country roads". Minister Horne has used the Mornington Peninsula experience of restricting speed on dangerous country roads as evidence of effective road toll reduction.
2. That in April 2024 a workshop for Councillors and VicPol be convened to discuss road speeds, particularly on dangerous country roads, on the Peninsula.

Vote by Division (Requested by Cr Bissinger)

For: Cr Gill, Cr O'Connor, Cr Marsh, Cr Race, Cr Roper, Cr Mar, Cr Brooks and Cr Celi

Against: Cr Bissinger

Carried

PROCEDURAL MOTION

Moved: Cr Marsh

Seconded: Cr Celi

That the meeting be extended to 10.30pm.

Carried

5.2 Notice of Motion 430 (Cr Gill) - Transparency and public access to information

MOTION

Moved: Cr Gill
Seconded: Cr Roper

That the current investigation into ways to increase Council transparency include easy public access to information and will inquire into releasing the minutes of Council Community Advisory Committees and Panels and making this information available on the Council website.

PROCEDURAL MOTION

Moved: Cr Celi
Seconded: Cr Roper

That this item be put to the vote.

Carried

Attendance

Cr Marsh left the meeting at 10.17pm, was not present for voting on this item and did not return to the meeting.

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Roper

That the motion be adopted.

Carried

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.

This item was considered after 7.1 on the agenda.

6.1 Council decision and report confidentiality - legal review

PROCEDURAL MOTION

Moved: Cr Celi
Seconded: Cr Bissinger

That this item be heard as urgent business.

Carried

Attendance

Cr Roper left the meeting at 10.26pm and was not present for voting on this item.

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr Gill

That Council designate the Council decision and report on item 7.1 considered on 22 August 2023 non-confidential, either in part or in full, subject to legal review.

Carried Unanimously

7 CONFIDENTIAL ITEMS

Advice to the Public

All reports, information and recommendations contained in 'Section 7 – Confidential Items' of this Agenda have been designated by the Chief Executive Officer as confidential pursuant to section 66 (2) (a) of the *Local Government Act 2020*.

MEETING CLOSED TO THE PUBLIC

The Council may resolve that the meeting be closed to members of the public in accordance with section 66 (5) (a) of the *Local Government Act 2020* if the meeting is discussing any of the following:

- (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.
- (b) Security information, being information that if released is likely to endanger the security of Council property or the safety of any person.
- (c) Land use planning information, being information that if prematurely released is likely to encourage speculation in land values.
- (d) Law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person.
- (e) Legal privileged information, being information to which legal professional privilege or client legal privilege applies.
- (f) Personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.
- (g) Private commercial information, being information provided by a business, commercial or financial undertaking that:
 - (i) Relates to trade secrets.
 - (ii) If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
- (h) Confidential meeting information, being the records of meetings closed to the public under section 66 (2) (a).
- (i) Internal arbitration information, being information specified in section 145.
- (j) Councillor Conduct Panel confidential information, being information specified in section 169.
- (k) Information prescribed by the regulations to be confidential information for the purposes of this definition.
- (l) Information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.

RECOMMENDATION

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

7.1 CN2735 – Legal Services Panel

This matter is considered to be confidential under Section 3 (1) (g) (ii) of the *Local Government Act 2020* as it contains 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.

COUNCIL DECISION

Moved: Cr O'Connor

Seconded: Cr Celi

That the recommendation be adopted.

Carried

PROCEDURAL MOTION

Moved: Cr Celi
Seconded: Cr Roper

That the meeting be re-opened to the public at 10.24pm.

Carried

8 MEETING CLOSE

As there was no further business, the meeting closed at 10.28pm

Confirmed this 20th day of February 2024

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