



**MORNINGTON
PENINSULA**
Shire

MINUTES

PLANNING SERVICES COMMITTEE MEETING

MONDAY, 15 AUGUST 2022

5.30PM

**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 Antonella Celi Cr Kerri McCafferty Cr Debra Mar
Watson	Cr Paul Mercurio

SENIOR LEADERSHIP TEAM

Mr John Baker Ms Pauline Gordon Ms Sam Stanton Mr Mike McIntosh	Chief Executive Officer Director – Community Strengthening Director – Corporate Strategy and Business Improvement Director – Planning and Infrastructure
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RECORDING

Please note that this Planning Services Committee Meeting was livestreamed to the Mornington Peninsula Shire's YouTube channel and a recording of the meeting will be available on the Shire's website.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	OPENING AND WELCOME	4
1.1	Acknowledgement of Country.....	4
2	PROCEDURAL MATTERS.....	5
2.1	Apologies	5
2.2	Disclosure of Conflicts of Interest Pursuant to Sections 126 – 131 of the <i>Local Government Act 2020</i>	5
2.3	Confirmation of Minutes	5
3	STRATEGIC PLANNING REPORTS.....	6
4	PLANNING SCHEME AMENDMENT REPORTS.....	7
4.1	Balcombe Estuary and associated reserves, Mount Martha: Ecological and Planning Study, community and stakeholder engagement outcomes and proposed planning provisions	7
4.2	Planning Scheme Amendment C232morn - Local Environmentally Sustainable Development policy	9
5	STATUTORY PLANNING REPORTS	11
5.1	P16/0953.01 - 161 and 189 Old Cape Schanck Road, Boneo.....	11
6	NOTICES OF MOTION	15
7	URGENT BUSINESS	15
8	CONFIDENTIAL ITEMS.....	16
9	MEETING CLOSE.....	19

1 OPENING AND WELCOME

Meeting opened at 5.32pm

Appointed Chairperson – Cr McCafferty

1.1 Acknowledgement of Country

To be read by Cr Dixon

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

2 PROCEDURAL MATTERS

Present

Cr Kerri McCafferty (Chairperson)
Cr Susan Bissinger
Deputy Mayor, Cr Lisa Dixon
Cr David Gill
Cr Steve Holland
Cr Debra Mar
Mayor, Cr Anthony Marsh
Cr Despi O'Connor
Cr Sarah Race

2.1 Apologies

Cr Antonella Celi
Cr Paul Mercurio (Leave of Absence)

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

Nil.

2.3 Confirmation of Minutes

RECOMMENDATION

That the Minutes of previous Planning Services Committee held on 18 July 2022, be confirmed.

COMMITTEE DECISION

Moved: Cr Race
Seconded: Cr Dixon

That the recommendation be adopted.

Carried Unanimously

2.4 Deputations

The following submitters spoke to item 4.1 Planning Scheme Amendment Balcombe Estuary and associated reserves, Mount Martha: Ecological and Planning Study, community and stakeholder engagement outcomes and proposed planning provisions:

- Peter McMahon

That a one minute extension be granted to Mr McMahon

- Elizabeth Baraclough

That a one minute extension be granted to Ms Baraclough

- Susan Milton

The following submitters spoke to item 5.1 Statutory Planning Report P16/0953.01 - 161 and 189 Old Cape Schanck Road, Boneo:

- Ian Daniels

That a one minute extension be granted to Mr Daniels

- Jane Barfoot

That a one minute extension be granted to Ms Barfoot

- Andrew Bryant

3 STRATEGIC PLANNING REPORTS

Nil

4 PLANNING SCHEME AMENDMENT REPORTS

4.1 Balcombe Estuary and associated reserves, Mount Martha: Ecological and Planning Study, community and stakeholder engagement outcomes and proposed planning provisions

COMMITTEE DECISION

Moved: Cr Gill
Seconded: Cr O'Connor

That the Planning Services Committee:

1. Receives, notes and considers all submissions as detailed in the Balcombe Estuary and associated reserves: Ecological and Planning Study Community and stakeholder engagement outcomes report (Biosis, 2022) as at Attachment 1.
2. Adopts the Balcombe Estuary and associated reserves: Ecological and Planning Study (Biosis, 2022) as at Attachment 2 to this report.
3. Seeks authorisation from the Minister for Planning pursuant to section 8A of the *Planning and Environment Act 1987* to prepare Amendment C241morn to the Mornington Peninsula Planning Scheme generally in accordance with Attachments 2, 5, 6, 8-16 of this report subject to changing the proposed rezoning of 499 Nepean Highway from Low Density Residential Zone (LDRZ) to Public Conservation and Resource Zone (PCRZ) and making the subsequent required changes to Attachments 2,5,6,8-16.
4. Undertakes exhibition of Amendment C241morn to the Mornington Peninsula Planning Scheme in accordance with Section 19 of the *Planning and Environment Act 1987* following receipt of authorisation from the Minister for Planning.
5. Authorises the Director of Planning and Building to make editorial changes and administrative changes to Attachments 2, 5, 6, 8-16 to this report as required.

AMENDMENT

Moved: Cr Holland
Seconded: Cr Marsh

That the Planning Services Committee:

1. Receives, notes and considers all submissions as detailed in the Balcombe Estuary and associated reserves: Ecological and Planning Study Community and stakeholder engagement outcomes report (Biosis, 2022) as at Attachment 1.
2. Adopts the Balcombe Estuary and associated reserves: Ecological and Planning Study (Biosis, 2022) as at Attachment 2 to this report.

4.1 (Cont.)

3. Seeks authorisation from the Minister for Planning pursuant to section 8A of the Planning and Environment Act 1987 to prepare Amendment C241morn to the Mornington Peninsula Planning Scheme generally in accordance with Attachments 2, 5, 6, 8-16 of this report.
4. Undertakes exhibition of Amendment C241morn to the Mornington Peninsula Planning Scheme in accordance with Section 19 of the *Planning and Environment Act 1987* following receipt of authorisation from the Minister for Planning.
5. Authorises the Director of Planning and Building to make editorial changes and administrative changes to Attachments 2, 5, 6, 8-16 to this report as required.

Vote by Division (Requested by Cr Holland)

That the recommendation be adopted.

For: Cr Holland, Cr Bissinger and Cr Marsh

Against: Cr Gill, Cr O'Connor, Cr Dixon, Cr Race, Cr Mar and Cr McCafferty

Lost

The Substantive Motion was then put.

Vote by Division (Requested by Cr O'Conner)

For: Cr Gill, Cr O'Connor, Cr Race, Cr Mar and Cr McCafferty

Against: Cr Holland, Cr Dixon, Cr Bissinger and Cr Marsh

Carried

4.2 Planning Scheme Amendment C232morn - Local Environmentally Sustainable Development policy

RECOMMENDATION

That the Planning Services Committee:

1. Receives, notes, and considers in accordance with section 22 of the *Planning and Environment Act 1987*, all submissions received in response to Amendment C232morn at Attachment 2 to this report.
2. Notes and endorses the summary of submissions and Mornington Peninsula Shire (Shire) officer responses to submissions at Attachment 3.
3. Requests that the Minister for Planning appoint a Planning Panel to consider all submissions in relation to Amendment C232morn referred in accordance with section 23 of the *Planning and Environment Act 1987*.
4. Refers all submissions in relation to Amendment C232morn to the Planning Panel.
5. Endorses the proposed post-exhibition version of 'Clause 15.01-2L: Environmentally Sustainable Development' at Attachment 4 for the purpose of Council's advocacy position before the Planning Panel in addition to the Shire officer responses to submissions at Attachment 3.
6. Delegates authority to the Director of Planning and Infrastructure to determine the form of Council's submissions to the Planning Panel, with the assistance of legal representatives and expert advice (as necessary), including negotiating proposed changes to the endorsed version of Amendment C232morn in order to resolve matters between Council and submitters generally in accordance with documents contained in Attachments 3 and 4 and adopted Council policy.
7. Notifies all submitters to Amendment C232morn to the Mornington Peninsula Planning Scheme in writing of the Committee's decision.

COMMITTEE DECISION

Moved: Cr Race
Seconded: Cr O'Connor

That the recommendation be adopted.

Vote by Division (Requested by Cr race)

For: Cr Gill, Cr O'Connor, Cr Dixon, Cr Race, Cr Mar and Cr McCafferty

Against: Cr Holland, Cr Bissinger and Cr Marsh

Carried

ADJOURNMENT OF MEETING

Moved: Cr Race
Seconded: Cr O'Connor

That the meeting be adjourned at 7.07pm for a short recess.

Carried

4.2 (Cont.)

RESUMPTION OF MEETING

Moved: Cr Marsh

Seconded: Cr O'Connor

That the meeting be resumed at 7.17 pm.

Carried

5 STATUTORY PLANNING REPORTS

5.1 P16/0953.01 - 161 and 189 Old Cape Schanck Road, Boneo

RECOMMENDATION

Part A

That the Planning Services Committee resolves to issue a Notice of Decision to Amend a Permit for P16/095.01 at 161 and 189 Old Cape Schanck Road, Boneo to:

1. Amend the plans required to be endorsed under the permit by way of the following:
 - A. Removal of all existing buildings including the caretaker's house.
 - B. Expand pitch sides and associated internal access layout into 189 Old Cape Schanck Road.
 - C. Deletion of 12 motorhome sites.
 - D. Increase of 12 pitch sites.
 - E. Redesign and relocation of reception centre to the south.
 - F. Movement of recreation facilities to the east.
 - G. Removal of additional trees.
 - H. Make other alterations to comply with Condition 1 of the Permit.
2. Amend the conditions of the permit by way of the following:
 - A. Amending Condition 1 to read:
 1. Before the development starts, amended plans and documents to the satisfaction of the responsible authority must be submitted to, and be approved by, the responsible authority. When approved, the plans and documents 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 identified as TP03 Revision M, TP03A Revision K, TP03B Revision C, TP04 Revision I, TP05 Revision H, TP06 Revision I, prepared by Peter L Brown Architects Pty Ltd dated 15/01/2021 but modified to show:
 - A. Deletion of signs in the road reserve.
 - B. Deleted.
 - C. Lighting of the entrance and exit within Old Cape Schanck Road and the left and right turn treatments to the relevant Australian Standard.
 - D. Deleted.
 - E. Deleted.

5.1 (Cont.)

- F. Deleted.
- G. Cross-sections of all access roads, to the satisfaction of the Country Fire Authority (CFA).
- H. Any modifications required by the approved Operation Management Plan (refer to Condition No. 3 of this permit).
- I. Any modifications required by the approved Bushfire Management Plan (refer to Condition No. 40 of this permit).
- J. Any modifications required by the approved Waste Management Plan (refer to Condition No. 12 of this permit).
- K. Deleted.
- L. Deleted.
- M. Lighting along internal roads and footpaths.
- N. Deleted.
- O. A landscape plan in accordance with Condition No. 16 of this permit.
- P. Deleted.
- Q. Deleted.
- R. Deleted.
- S. Deleted.
- T. Deleted.
- U. Deleted.
- V. Details (including elevations) of all fences.
- W. Deleted.
- X. Barriers/bollards/fencing to restrict access to the buffer to Drum Drum Alloc Creek by vehicles other than emergency services or maintenance vehicles.
- Y. Any infrastructure features to be included in the buffer to Drum Drum Alloc Creek to be a permeable material such as gravel or grass, and constructed or supported with reinforcement to ensure that cars or motorhomes are accommodated without damage to the ground surface.
- Z. Barriers/bollards/fencing around Tree group 137.
- AA. Nominated landscape areas within each caravan and camping pitch shown in accordance with Revision J to TP 03 (dated 6 April 2021).

5.1 (Cont.)

- BB. The children's play area and barbecue area adjoining the southern property boundary of 189 Old Cape Schanck Road relocated away from the property boundary, with no resultant changes to the setbacks of the reception, community centre and facilities building.

B. Amending Condition 16 to read:

- 16. Before the development starts, three (3) copies of a landscape plan to the satisfaction of the responsible authority and the CFA must be submitted to, and be approved by, the responsible authority.

When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be generally in accordance with the landscape concept plan dated 21 December 2021 prepared by CDA Design Group Pty Ltd titled 'Illustrative Concept Masterplan' and identified as Revision B. The landscape plan must show:

- A. The existing vegetation to be retained, including Tree 106.
- B. Details of surface finishes of pathways and driveways.
- C. Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- D. Provision of mulch beneath the canopy of Tree Group 137 to discourage use or occupation of this area.
- E. Additional tree planting throughout the site, including within the area of the pitch sites and around the recreation facilities. Tree species selection must be appropriate to the use of the land as a camping and caravan park, having regard to the planting of trees adjacent to pitch sites.
- F. A notation that any excavation or digging (including for planting) within the heritage parks required under the approved Cultural Heritage Management Plan must be undertaken by hand and that there must not be any excavation below 15 centimetres.

C. Adding new Condition 44 to read:

- 44. No more than one caravan or one motorhome may be placed or parked within each caravan camping pitch site, unless with the further written consent of the Responsible Authority. Caravans or motorhomes must not be placed or parked within nominated landscape areas unless with the further written consent of the Responsible Authority.

3. Amend the conditions of the permit by way of the following:

- A. Deleting the words 'and a caretaker's house'.

Part B

That the Committee resolves that Attachment 7 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

5.1 (cont)

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

COMMITTEE DECISION

Moved: Cr Gill

Seconded: Cr Holland

That item 5.1 P16/0953.01 – 161 and 189 Old Cape Schanck Road, Boneo be deferred

Carried

6 NOTICES OF MOTION

Nil.

7 URGENT BUSINESS

Nil.

8 CONFIDENTIAL ITEMS

Advice to the Public

All reports, information and recommendations contained in 'Section 8 – 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 the Committee 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*:

8.1 P21/0438 - 8 Esplanade, Balnarring Beach - Construction of a fence - Victorian Civil and Administrative Tribunal negotiations

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

COMMITTEE DECISION

Moved: Cr Race
Seconded: Cr O'Connor

That the recommendation be adopted.

Vote by Division (Requested by Cr Gill)

For: Cr Holland, Cr O'Connor, Cr Dixon, Cr Bissinger, Cr Race, Cr Mar, Cr McCafferty and Cr Marsh

Against: Cr Gill

Carried

MEETING REOPENED TO THE PUBLIC

COMMITTEE DECISION

Moved: Cr Holland
Seconded: Cr Bissinger

The meeting re-opened to the public at 7.56pm

Carried

9 MEETING CLOSE

As there was no further business, the meeting closed at 7.58pm

Confirmed this 12th day of September 2022

.....
Mayor, Cr Anthony Marsh, Chairperson - Planning Services Committee