



**MORNINGTON
PENINSULA**
Shire

MINUTES

COUNCIL MEETING

WEDNESDAY, 14 AUGUST 2024

6:30 PM

**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 Ms Katanya Barlow Mr Derek Rotter Mr Bulent Oz	Chief Executive Officer Director – Community Strengthening Director – Corporate Strategy and Business Improvement Acting Director – Planning and Environment Acting Director - Infrastructure Chief Financial Officer
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RECORDING

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1 OPENING AND WELCOME

Meeting opened at 4.30pm

Appointed Chairperson – Mayor, Cr Simon Brooks

1.1 Acknowledgement of Country

(Read by Cr Mar)

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

2 PROCEDURAL MATTERS

Present

Cr Simon Brooks (Chairperson)
Cr Susan Bissinger
Deputy Mayor, Cr Antonella Celi
Cr Lisa Dixon
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 Steve Holland (apology)

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

Cr Marsh declared General Conflict of Interest in regard to item 4.4 – Planning Permit Application P23/1571 - 21 Skinner Street Hastings - Buildings and works associated with the Western Port Marina as he owns a property on a street nearby.

3 MANAGEMENT REPORTS

ALTER THE ORDER OF BUSINESS

Moved: Cr Dixon

Seconded: Cr Bissinger

That the items listed at 4.2, 4.6 and 4.7 on the agenda be heard before item 4.1.

Carried

PLANNING & ENVIRONMENT

- 4.1 Planning application P23/0228 - 1 and 2 Marine Drive and 1/5 Nepean Highway, Safety Beach - The use and development of a service station and convenience restaurant, alteration of access to a Transport Zone 2, waiver of bicycle facilities (shower), removal of vegetation and display of signage

Deputations

- Elizabeth Woolcock
- Bridget Allan
- Kellie O'Regan
- Nicole Lesniak
- Paul Whitaker
- Andrew Robertson
- Patrik Puszka
- Kathryn Young
- Matthew Townsend

Attendance

Cr Celi entered the meeting at 7.03pm and was present for voting on item 4.1.

4.1 (Cont.)

RECOMMENDATION

Part A

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act, 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/0228 for use and development of a service station and convenience restaurant, alteration of access to a Transport Zone 2, waiver of bicycle facilities (shower), removal of vegetation and display signage at 1 and 2 Marine Drive and 1/5 Nepean Highway, Safety Beach be supported and that a Notice of Decision to Grant a Planning Permit be issued subject to the following conditions:

Amended Plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Car parking spaces 01–03 provided with ‘staff parking’ signage.
 - b) The drive-thru waiting spaces provided with signage to remind patrons to be mindful and respectful of adjacent neighbours.
 - c) A speed hump for vehicles exiting the service station, provided immediately to the east of car space 12.
 - d) A ‘noise in area’ at the north corner of the site for use by trucks to assist with turning into the loading area consistent with the swept path diagram Sheet 01 by Traffic Group dated 16/08/2023.
 - e) The deletion or relocation of the ice box on the northern side of the crossing to ensure pedestrians stepping onto the pavement are not concealed from view of approaching vehicles.
 - f) Location and details of a secondary containment system and pollution control devices as required by the Environment Protection Authority requirements within conditions 37 and 38.
 - g) The pedestrian barrier around the curve of the southern boundary to be of open style construction to the satisfaction of the Responsible Authority.
 - h) Details of any exhaust fumes extraction devices required for the noise tunnel and kitchen, demonstrating measures to minimise potential offsite amenity impacts.
 - i) The Site Management Plans to:
 - i. Have the references to State Environment Protection Policy (SEPP) N-1 updated to refer to current Environment Protection Authority (EPA) requirements.
 - ii. A requirement that staff use the nominated staff car parking spaces before any other car space.

4.1 (Cont.)

- iii. Replace references to 'the Arup Light Spill Report' with 'the endorsed 'Detailed Lighting Design Plan'.
- iv. Aligns with restrictions specified in conditions 4.
- j) The Service Station Site Management Plan to:
 - i. Include provision of a security camera that monitors and records vehicles exiting to Nepean Highway and propping in the Nepean Highway central median when turning right.
 - ii. A requirement that the area for the fuel delivery truck be cordoned-off with cones about 30 minutes before the anticipated time of the delivery.
- k) The Convenience Restaurant Site Management Plan to:
 - i. Expand the area of litter patrols to be both within 200 metres of the subject site, including the car park area at 10 Nepean Highway.
 - ii. Include waste collection time consistent with the times stated for the Service Station.
 - iii. Include strategies (including details of any necessary filter replacements) for addressing fumes emissions, and odour emissions consistent with condition 19.
- l) A Detailed Lighting Design Plan consistent with the recommendations of the Light Spill Report by Arup, job#274753 dated 12 December 2022, which satisfies the recommendations of AS4282.

Layout Not Altered

- 2. The approved development as shown on the endorsed plans (including the number of seats within the convenience restaurant) 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. The Service Station and Convenience Restaurant uses approved by this permit are permitted to operate 24 hours 7 days a week subject to restrictions of operational elements outlined in condition 4.
- 4. The following operational elements of the uses as described below must only operate in accordance with the below:

Convenience Restaurant:

- a) The convenience restaurant dining room to only operate from 6:00am to midnight (and until 1:00am the following day during Peak Season – one additional hour).
- b) The drive-thru electronic customer ordering devices to not operate outside the below hours:
 - i. 7.00am to 10.00pm (Monday to Sunday)

4.1 (Cont.)

Deliveries and Waste Collection for the site

- a) Waste collection 7am to 6pm (Monday to Saturday). Sunday waste collection is allowed in Peak Season between 7.00am to 6.00pm.
- b) LPG Fuel deliveries 7.00am to 6.00pm (Monday to Saturday)
- c) Regular fuel deliveries 7.00am to 10.00pm (Monday to Sunday)

The definition of “Peak Season” when referenced in this permit is the period from:

- a) 1 December – 28 February (inclusive)
- b) from 7.00am Good Friday until 11:59pm on Easter Monday.

Use Operations

- 5. Prior to the occupation of the development, the Convenience Restaurant Site Management Plan and the Service Station Site Management Plan must be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit.

The uses, including:

- a) Hours of operation
- b) the requirement for daily litter patrols
- c) deliveries and waste collection.

must be undertaken in accordance with the recommendations and requirements of the endorsed Site Management Plans to the satisfaction of the Responsible Authority.

Colours, Materials and Finishes

- 6. The materials and colours of the exterior finish of the development must be in accordance with the endorsed plans unless with the further written consent of the Responsible Authority.
- 7. Prior to the initial occupation of the development, external finishes and fences must be completed to a professional standard to the satisfaction of the Responsible Authority.

Landscaping

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

Tree Protection

- 9. Prior to the commencement of any demolition, excavation or works; and during all stages of development, the Tree Protection Zones (TPZ), tree protection fencing, recommendations and tree protection measures identified in the approved Tree Assessment and Development Impact Report must be implemented and complied with

4.1 (Cont.)

to the satisfaction of the Responsible Authority.

10. All excavation for the 2 metres high acoustic fence within the TPZ of Trees 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 located on the adjoining land must be undertaken under the direct supervision of a Level 5 qualified Arborist using a method which is non-destructive to tree roots in compliance with Australian Standard AS 4970-2009 Protection of trees on development sites. Any tree roots which require pruning must be cut with a clean sharp cutting implement with a final cut to undamaged wood at an angle which minimises the size of the wound. No tree roots critical to maintaining tree health, structure or viability are to be cut. These tree roots must be retained undamaged and alternative design and construction methods used.
11. Any pruning of trees must be undertaken to the minimum extent necessary in compliance with the procedures and practices described in Australian Standard AS 4373-2007 - Pruning of amenity trees.
12. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and are advised of any obligations in relation to the protection of those trees.
13. No trenching or soil excavation is to occur within the Tree Protection Zones of retained trees during development unless shown on the endorsed plans, without the prior written consent of the Responsible Authority.

Amenity

14. The use hereby permitted must not adversely affect the amenity of the neighbourhood, including through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Vehicle access or parking.
 - c) Appearance of any stored goods or materials.
 - d) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.
 - e) Presence of vermin.

To the satisfaction of the Responsible Authority.

15. Air-conditioning, external fans or other like plant equipment as shown on the endorsed plans must be installed, screened, baffled and maintained to prevent loss of amenity to the area by its appearance, noise emission or otherwise to the satisfaction of the Responsible Authority.
16. All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service to the satisfaction of the Responsible Authority.
17. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
18. Odour emissions must be controlled in accordance with the requirements of the *Environment Protection Act 2017*. Any complaints regarding odour should be assessed in accordance with the EPA Publication 1883, June 2022 – Guidance for assessing

4.1 (Cont.)

odour. Any offensive odours must be addressed to the satisfaction of the responsible authority.

19. Any extraction of exhaust fumes must not adversely impact the amenity of adjoining properties to the satisfaction of the responsible authority.
20. The emission of noise from the use and development hereby permitted must not exceed the noise limits determined in accordance with EPA publication 1826.4, Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol).

Acoustic

21. Within 3 months of the commencement of the operation of the convenience restaurant, acoustic testing shall be carried out and a report submitted to Council by a suitably qualified person to confirm compliance with the applicable environment protection regulations. The report must be submitted to Council to be endorsed as a part of the permit.

This testing and associated report will include, but not be limited to:

- a) an assessment of noise generated by the operation of the approved uses, car doors and general patron movement at the site against the established sleep disturbance criteria
- b) details of decibel (dB) thresholds that the site is to operate under during set periods of time and what dB readings are appropriate that Council will measure to if noise complaints are received
- c) any recommended mitigation measures which may be necessary to minimise impacts.

The operator must ensure that any recommended mitigation measures are implemented to the satisfaction of the Responsible Authority. If additional works or structures are required to ensure compliance with the report the endorsed plans are to be amended.

22. In the event that it is found that the drive-thru tunnel is not operating from 10.00pm to 7.00am within the thresholds specified in the endorsed documents, then the drive-thru component of the convenience restaurant will cease operation from 10.00pm to 7.00am until alterations are made and evidence is provided to the satisfaction of the Responsible Authority to ensure that the operation of the drive-thru is in accordance with the endorsed documents.

Litter

23. Daily litter patrols must occur in accordance with the requirements of the Convenience Restaurant Site Management Plans to the satisfaction of the Responsible Authority.

Environmentally Sustainable Development

24. Prior to the occupation of the development, the Sustainability Management Plan by Frater Consulting Services dated 24 April 2023 must be approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will then form part of the permit.
25. The use and development must be undertaken in accordance with the recommendations and requirements of the endorsed Sustainability Management Plan

4.1 (Cont.)

to the satisfaction of the Responsible Authority, except where alterations to stormwater management and detailed drainage design including Sounding and Tracking Observatory for Regional Meteorology (STORM)/ Model for Urban Stormwater Improvement Conceptualisation (MUSIC) reports are approved under condition 46 of this permit.

Department of Transport and Planning

26. Prior to the commencement of works, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions must be provided. The plans must be generally in accordance with the plans DWG G29423-01-01, issue B, prepared by Traffix Group date stamped 20 April 2023 but modified to show:
- a) 'No-right turn' sign for extended vehicles more than 6m in length at Nepean Highway exit.
 - b) Location of the new Pedestrian Crossing along Marine Drive.
 - c) All the mitigation measures recommended within the Road Safety Audit (ref:15203 dated 8 December 2023).
 - d) Relocated position of an existing streetlight, side entry pit and other utilities as required.
27. Prior to commencement of works, the owner of the land must enter into an agreement with the Responsible Authority and the Head, Transport for Victoria under section 173 of the *Planning and Environment Act 1987* and make an application to the Registrar of Titles to have the agreement registered on the title of the land under section 181 of the *Planning and Environment Act 1987*. The agreement must provide that:
- a) until the concurrent use of the land for both a service station and convenience restaurant permanently cease, right turn egress movements from the land to Nepean Highway must be prohibited for vehicles more than 6.0 metres in length (including any vehicle towing another vehicle which, together, have a total length exceeding 6.0 metres
 - b) the landowner acknowledges that:
 - i. should the location become a road safety blackspot at any time in the future, the Head Transport for Victoria may decide to modify the central median, including closing the median such that all right turn egress movements from the land are permanently removed
 - ii. in the event that such works are undertaken to the central median, no compensation will be payable by the Head Transport for Victoria to the landowner, the operator of the service station or the operator of the convenience restaurant for any loss arising from the changed egress.
28. The landowner must pay for the costs of the preparation, execution and registration of the section 173 agreement of the Head Transport for Victoria.
29. Unless otherwise agreed in writing by the Head Transport for Victoria, prior to the commencement of any roadworks, functional layout plans (FLPs) and functional stage Road Safety Audit with Public Lighting Plan generally consistent with the endorsed plans must be prepared and submitted to the satisfaction of the Head Transport for

4.1 (Cont.)

Victoria.

30. Subsequent to the approval of the FLPs and prior to the commencement of any roadworks within the arterial road reserve the applicant must submit the detailed engineering design plans to the Head Transport for Victoria for review and approval. The detailed design plans must be prepared generally in accordance with the approved FLPs to the satisfaction of the Head Transport for Victoria.
31. Prior to the occupation of the development, all disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel, footpath, nature-strip to the satisfaction and at no cost to the Head Transport for Victoria.
32. Unless otherwise agreed in writing by the Head Transport for Victoria, prior to the occupation of the development, the required roadworks as per the approved detailed design plans must be constructed to the satisfaction of and at no cost to the Head Transport for Victoria.

Traffic Camera

33. Prior to the occupation of the development, a security camera must be installed to monitor and record vehicles exiting to Nepean Highway and propping in the Nepean Highway central median when turning right in accordance the Service Station Site Management Plan. Video footage from the security camera must be made available immediately upon request to authorised Council officers, the Head Transport for Victoria and Victoria Police.

Environmental Health

34. Prior to the use of the land the applicant must apply and be granted Food Act registration. This should be accompanied by a floor plan of the proposed fit out food premises which details the proposed fittings and fixtures of the premises.
35. All sewage and sullage must be discharged to the reticulated sewerage system to the satisfaction of the Responsible Authority.
36. Prior to the use of the development, the owner or occupier of the land must enter into a Commercial Trade Waste Agreement with South East Water. Any trade waste infrastructure on the land must be located to the satisfaction of the Shire's Environmental Health Team.
37. All goods and materials must be stored out of view or so as not be unsightly when viewed from nearby roads or lands to the satisfaction of the Responsible Authority.

Environment Protection Authority

38. A secondary containment system must be provided for liquids which if split are likely to cause pollution or pose an environmental hazard.
39. Pollution control devices must be installed to prevent the discharge of waste to the environment and stormwater system.
40. The permit holder must not contaminate land or groundwater.

Environmental Contamination

41. Before the commencement of the use and/or development, the owner of the land to the satisfaction of the responsible authority must:

4.1 (Cont.)

- a) Engage an environmental auditor appointed under section 53S of the *Environment Protection Act 1970* to prepare and submit to the satisfaction of the responsible authority a scope of the proposed audit.
 - b) Have the environmental auditor conduct an audit under section 53X of the *Environment Protection Act 1970* in accordance with the agreed scope.
 - c) Implement any recommendations of the audit report.
42. The development and/or use allowed by this permit must strictly comply with the directions and conditions of the statement of environmental audit issued for the land. Any amendments must be approved by the Responsible Authority prior to the commencement of any works, use and development and may require further environmental assessment of the land.
43. Prior to the commencement of use/development of the land permitted by this permit, a letter must be submitted to Council prepared by the EPA appointed Environmental Auditor to verify that the conditions of the statement of environmental audit issued for the land has been satisfied.
44. If the audit report requires ongoing management or monitoring, the owner must enter into an agreement with the Responsible Authority made pursuant to section 173 of the Planning and Environment Act 1987 prior to the commencement of use and/or development of the land permitted by this permit. The agreement must provide for the implementation of any and all ongoing requirements specified in the statement of the environmental audit.

All costs associated with the preparation, execution and registration of the 173 Agreement must be met by the permit holder

Vegetation Removal

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

Engineering

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

The plans must show:

- a) All areas of the development, other than underneath the fuelling points canopy (this area to be a separate system to capture and treat run-off prior to discharging to the sewer, subject to the appropriate authority's conditions), being drained by means of an appropriate system to discharge to one of the existing drainage pits located just outside the boundary of the property(s) via suitably sized drainage pipes and pits.

All areas of the development being drained by means of an underground drainage system to retain a post-development 1% Annual Exceedance Probability storm

4.1 (Cont.)

event for the critical storm duration. Discharge from the site must be limited to an equivalent pre-development flow based on a 0.5 Exceedances per Year storm event for the critical storm duration

- b) A drainage system on the site being designed to ensure storm water runoff exiting the site meets the current best practice performance objectives for stormwater quality, as contained in the Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).
 - c) Details, including levels of the sealed apron within the site.
 - d) All surface areas being drained by a minimum 150-millimetre diameter drainage pipe connected to the stormwater system.
 - e) The design of all vehicle movements entering and exiting the property being in a forward direction.
 - f) Reinforced concrete vehicular crossings to Department of Transport and/or Council standards, with any redundant crossing or vehicle laybacks being removed and replaced with kerb and channel, including reinstatement of the nature strip fronting the site.
 - g) Sight distance for vehicles and pedestrians not being unduly restricted at the exit from site by fencing or landscaping works.
 - h) Tree Protection Zones (TPZs) impacted by the works, or as shown on any other development plans and documents.
 - i) Drainage works designed to avoid TPZs where possible.
 - j) Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
 - k) The provision of 2 Disability Discrimination Act (DDA) compliant picnic tables, rubbish bins, bollards and connecting path, with demonstration of no impacts to existing vegetation, generally in accordance with the Proposed Site and Floor Plan TP-03 Rev C by BCAI architecture dated 2 May 2024. It must include a minimum of 1.5-metre-long concrete pad connecting the path to the pram ramp to reduce the potential for gravel to be spread onto the road and maintain safe vehicle access to the beach for authorised vehicles only.
48. Before the approval of engineering plans, drainage computations and documentation are required for:
- a) The proposed drainage system.
 - b) The consideration of any drainage catchment external to the development that may drain to the proposed drainage system.
49. Prior to the approval of engineering plans the applicant must:
- a) Demonstrate to the Responsible Authority that water quality features will be implemented in accordance with clause 53.18 of the planning scheme
- and/or

4.1 (Cont.)

- b) Subject to the approval of the Responsible Authority pay Mornington Peninsula Shire the monetary contribution calculated in accordance with the Shire's In-Lieu Stormwater Treatment Developer Contribution Scheme.
50. Prior to the commencement of any works for this development, a project specific Major Construction Management Plan (CMP) using the standard Major CMP template found on the Mornington Peninsula Shire's website must be submitted to the Responsible Authority. The CMP shall be in accordance with the Preliminary Environmental Site Assessment Project No 20194107.001A by Kleinfelder dated 2 March 2020. The CMP must address:
- a) Hours during which construction activity will take place which must not occur outside of the following hours (unless with the further consent of the Responsible Authority):
 - i. Monday to Friday: 7:00 a.m. and 5:00 p.m.
 - ii. Saturday: 8:00 a.m. and 1:00 p.m.
 - b) The location of any temporary cabins and sheds.
 - c) The location and storage of machinery on the site.
 - d) Management of noise such as from pumps and any other machinery operating outside of normal working hours.
 - e) On-site parking for worker's vehicles.
 - f) Notation in the Traffic Management Plan section that if external traffic management is required, approval shall be obtained from Vic Roads.
 - g) Discharge of dewatered groundwater is not permitted to Council's drainage system.

When approved the plans will be endorsed and will form part of the permit. The approved CMP must be implemented to the satisfaction of the Responsible Authority prior to and during construction of the works.

51. Before the initial occupation of the development drainage works within the development and public infrastructure within the foreshore land must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority.
52. Before the initial occupation of the development, vehicle crossings, areas set aside for the parking of vehicles and driveways as shown on the endorsed plans must be constructed in accordance with approved engineering plans, surfaced with reinforced concrete and drained to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must always be kept available for these purposes.

Signage

53. The location and details of signs including those of the supporting structure, as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
54. Unless no permit is required under the Planning Scheme, other signs must not be

4.1 (Cont.)

constructed or displayed without a further permit.

55. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.
56. The signs hereby permitted must not contain any flashing or intermittent flashing light.
57. The sign lighting must be designed, baffled and located to the satisfaction of the responsible authority to prevent any adverse effect on adjoining land.
58. All signage associated with the use and/or development hereby permitted must not:
 - a) Dazzle or distract drivers due to its colouring.
 - b) Be able to be mistaken for a traffic signal.
 - c) Be able to be mistaken as an instruction to driversall to the satisfaction of the Responsible Authorities and the Department of Transport.
59. The signage approved by this permit expires 15 years from the date of issue. All signage must be removed to the satisfaction of the Responsible Authority by this date.

Expiry

60. This permit will expire if:
 - a) The development is not commenced within three years of the date of the issue of this permit.
 - b) The development is not completed within five years of the date of this permit.
 - c) The use has not commenced within five 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 Attachments 12, 13, 14 and 15 to this report be retained as a confidential items pursuant to section 3 (1) (f) of the *Local Government Act 2020* they contain personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

COUNCIL DECISION

Moved: Cr Mar
Seconded: Cr Celi

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/0228 for the use and development of a service station and convenience restaurant, alteration of access to a Transport Zone 2, waiver of bicycle facilities (shower), removal of vegetation and display of signage at 1 and 2 Marine Drive and 1/5

4.1 (Cont.)

Nepean Highway, Safety Beach, not be supported and that a Notice of Refusal be issued on the following grounds:

1. The application is deemed an unacceptable response to Clauses 13.07-1S (Land use compatibility), 18.01-1S (Land use and transport integration), 32.08 (General Residential Zone), 52.29 (Land adjacent to the principal road network) and 53.04 (Convenience restaurant and take-away food premises) of the Planning Scheme, as the proposed use and development fails to:
 - a) Achieve safe, efficient vehicle movement on site and access to and egress from the land;
 - b) Avoid disruption to traffic flow on land in a Transport Zone 2;
 - c) Provide safe pedestrian movement;
 - d) Prevent inappropriate use of local residential streets;
 - e) Provide adequate car parking loading and drive through queuing spacing to accommodate customers at peak periods and employee requirements on the land.
2. The application is deemed an unacceptable response to Clauses 13.05-1S (Noise management) and 32.08 (General Residential Zone) of the Planning Scheme, as the proposed use and development fails to adequately minimise the impact from noise exposure to occupants of surrounding sensitive land uses.
3. The application is deemed an unacceptable response to Clauses 12.02-1S (Protection of the marine and coastal environment), 32.08 (General Residential Zone), and 53.04 (Convenience restaurant and take-away food premises) of the Planning Scheme, as the land is considered to have inappropriate capacity to contain significant off-site effects and the proposed use and development fails to provide adequate measures to prevent significant loss of amenity to adjoining land uses and protect the marine and coastal environment due to litter impacts.

Carried Unanimously

ADJOURNMENT OF MEETING

That the meeting be adjourned at 7.36pm for a short recess.

RESUMPTION OF MEETING

That the meeting be resumed at 7.44pm.

4.2 Planning permit application P23/0665 - 21 Balnarring Beach Road Balnarring - Development of a shed

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the Planning and Environment Act 1987, having considered all submissions received to date and all matters under Section 60 of the Planning and Environment Act 1987, hereby resolves that Planning Permit Application P23/0665 for the development of a shed, be supported and that a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Council Conditions

Amended Plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Deletion of the indicative floor plan layout.
 - b) The species of the proposed tree planting to be shown as a locally indigenous canopy tree species (Ecological Vegetation Class (EVC)- Grassy Woodland or EVC- Swamp Scrub).
 - c) All trees must to be installed at a minimum height when planted of 1.5 metres.
 - d) Vegetation along the north boundary to be marked with protection barriers.

Approved development not altered

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

Colours/Materials

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

Disturbed Surfaces

4. All disturbed surfaces on the land resulting from the development must be revegetated and stabilised to the satisfaction of the Responsible Authority.

Landscaping and Vegetation Protection

5. Within 6 months of the practical completion of the development (or other time agreed to in writing by the Responsible Authority), the landscaping works shown on the endorsed plans must be carried out and completed, to the satisfaction of the Responsible Authority.

4.2 (Cont.)

6. The landscaping referred to in Condition 5 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.
7. 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 are hereby approved.
8. Any plant equipment associated with the permitted development must comply with the noise requirements of the Environment Protection Act 2017 and the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.

Expiry

9. This permit will expire if the development is not completed within three 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 period referred to in this condition.

Notes:

- i) Any installation of wastewater fixtures will require an application to install an onsite wastewater management system to be submitted to and approved by the Responsible Authority.

Part B

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

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Race

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 under Section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/0665 for the development of a shed, be supported and that a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Council Conditions**Amended Plans**

1. **Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must**

4.2 (Cont.)

be generally in accordance with the plans submitted with the application but modified to show:

- a) Deletion of the indicative floor plan layout.
- b) The species of the proposed tree planting to be shown as a locally indigenous canopy tree species (Ecological Vegetation Class (EVC)- Grassy Woodland or EVC- Swamp Scrub).
- c) All trees must to be installed at a minimum height when planted of 1.5 metres.
- d) Vegetation along the north boundary to be marked with protection barriers.

Approved development not altered

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

Colours/Materials

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

Disturbed Surfaces

- 4. All disturbed surfaces on the land resulting from the development must be revegetated and stabilised to the satisfaction of the Responsible Authority.

Landscaping and Vegetation Protection

- 5. Within 6 months of the practical completion of the development (or other time agreed to in writing by the Responsible Authority), the landscaping works shown on the endorsed plans must be carried out and completed, to the satisfaction of the Responsible Authority.
- 6. The landscaping referred to in Condition 5 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.
- 7. 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 are hereby approved.
- 8. Any plant equipment associated with the permitted development must comply with the noise requirements of the *Environment Protection Act 2017* and the *Environment Protection Regulations 2021* to the satisfaction of the Responsible Authority.

Expiry

9. This permit will expire if the development is not completed 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 period referred to in this condition.

Notes:

- i) Any installation of wastewater fixtures will require an application to install an onsite wastewater management system to be submitted to and approved by the Responsible Authority.

Part B

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

Carried Unanimously

4.3 Planning Permit Application P23/1240 - 2083 Frankston-Flinders Road, Hastings - Development of an electronic and floodlit major promotion sign

Deputations:

- Luke Course

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves to support Permit Application P23/1240 for the development of an electronic and floodlit major promotion at 2083 Frankston-Flinders Road, Hastings and that a Notice of Decision to grant a Planning Permit be issued, subject to the following conditions:

COUNCIL CONDITIONS

Amended Plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - A. The floodlights associated with the north facing display face to be removed from the western and northern elevations.
 - B. Show the existing sign on the adjoining property to the south accurately on the site plan and elevations, including setback from Frankston-Flinders Road, height and dimensions.
 - C. The proposed sign to be setback 4 metres from the front boundary (Frankston-Flinders Road).
 - D. Any resultant reduction in width of the sign from 8.3 metres to ensure that it does not go further east into the site than the existing building line.

Approved Development not Altered

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

Maintenance

3. All signs hereby approved must be designed to a professional standard, constructed and maintained in good condition to the satisfaction of the Responsible Authority.

Illumination

4.3 (Cont.)

4. Sign illumination must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
5. The intensity of the external lighting and lighting in the signage must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area, to the satisfaction of the Responsible Authority.
6. Any wiring, cabling or anything similar must be concealed from view to the satisfaction of the Responsible Authority.
7. The signage must be wholly located within the subject property. No part of the sign may encroach into the road reserve.

Major Promotion Signs (mandatory condition)

8. The signs must not:
 - A. Dazzle or distract drivers due to its colouring.
 - B. Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.
 - C. Be able to be mistaken as an instruction to drivers.

DEPARTMENT OF TRANSPORT AND PLANNING CONDITIONS**Luminance Standard**

9. During the operation of the sign, the maximum average luminance and threshold increment values as specified in below must not be exceeded:
 - A. Maximum average luminance:
 - i. Full sun on face of signage: no limit
 - ii. Daytime luminance: 6,000 candela per metre squared
 - iii. Morning and evening twilight and overcast weather: 700 candela per metre squared
 - iv. Night time: 350 candela per metre squared
 - B. Threshold increment max percentage:
 - i. Night time: 20%
 - C. Adaptation luminance:
 - i. Night time: 5%

Brightness levels

10. The signs must be dimmable and have a suitable control system to enable maximum lighting levels to be set or adjusted if deemed necessary by the Responsible Authority and the Head, Transport for Victoria.
11. Where illuminated during the day, the sign must be fitted with Photocell/s (light sensor/s) that measure the ambient light and control system technology that enables

4.3 (Cont.)

the luminance of the sign to automatically adjust relative to the measured ambient light level.

12. Any change in brightness levels must be applied during an image transition, not while an image is being displayed.

Image transitions

13. Where the graphical content or colours can change (such as for digital/electronic signage), any changes in image must occur in 0.1 seconds or less.

Externally illuminated signage

14. Retro-reflective material or high glossy surfaces must not be used.

Compliance with Lighting effect assessment report

15. The sign must operate in accordance with the Lighting Impact Assessment Report submitted with the application prepared by Electro Light, dated 14 December 2023, Rev A to the satisfaction of and at no cost to the road manager, Transport for Victoria and the Responsible Authority.

Lighting compliance report

16. Prior to the operation of the sign, a Lighting Compliance Report must be submitted to and approved by the Responsible Authority and the Head, Transport for Victoria. The Lighting Compliance Report must demonstrate that the sign has been commissioned according to the requirements of the Lighting Impact Assessment Report. The Compliance Report must include the following:

- A. On site luminance measurements for Daytime, Evening/Morning Twilight and Night Time, based on a 100% white screen set to the maximum value for each lighting condition.
- B. Date and times of luminance measurements for the relevant lighting conditions. Details of the luminance meter used, including serial number. The luminance meter must have been calibrated by an appropriately certified Lab within the last 12 months. The date of calibration and Calibration Report Number shall be provided.
- C. A description of the luminance methodology used, including location and orientation of the luminance meter relative to sign, the image/content displayed on sign and number of measurement points taken. The signage should be measured with a 100% white image displayed, unless signage is a fixed colour/design.
- D. Photos of the sign for each sky condition measured, taken from the meter location.

Indicative elevation plans of the signage showing the values of luminance at each measurement point.

- E. A summary showing the final average luminance of the signage for each relevant sky condition.
- F. A certification signed by a suitably qualified lighting consultant to undertake luminance measurements.

4.3 (Cont.)

Compliance record

17. The operator must keep a Compliance Record of the operation of the sign. This must be provided to Transport for Victoria within 5 days of a written request. The Compliance Record must include:
 - A. The sign's luminance (cd/m² or as a percentage of its maximum luminance) in minimum 10-minute intervals.
 - B. The sign's photocell (light sensor) reading of the ambient light in minimum 10-minute intervals.
 - C. The dwell time and transition time between successive images.
All record information must be time and date stamped to show the time of measurement.

Compliance Records must be maintained for a minimum of 12 months.

Operational Parameters for Electronic Signs

18. No advertisement or message shall be displayed for less than 30 seconds.
19. The transition from one advertisement to another must be instantaneous.
20. The sign must not display content, images or text:
 - A. Giving the illusion of continuous movement.
 - B. Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.
 - C. Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.
 - D. With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.
 - E. Containing any animation.
 - F. Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.
 - G. Consisting of present time or other contemporary update information relating to news, weather or time.
 - H. Containing video, movie or television broadcasts.
21. The advertising area must not be split into two screens with different messages.
22. The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessories within or outside the permitted advertising area unless the Head of Transport for Victoria has agreed to in writing prior to its installation.
23. The use of sound or motion to activate the sign is not permitted.
24. The use of sound to interact with road users is not permitted.
25. The sign must not dazzle or distract road users due to its colouring.

4.3 (Cont.)

26. In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.

Expiry

27. This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.

Part B

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

MOTION

Moved: Cr Dixon

Seconded: Cr Marsh

That Council, being the Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the Planning and Environment Act 1987, hereby resolves that Planning Permit Application P23/1240 for development of an electronic and floodlit major promotion sign, not be supported and that a Notice of Decision to refuse to grant a permit be issued on the following grounds:

- 1. The proposal is considered unacceptable having regard to Clause 52.05 (Signs) as it would detrimentally affect the character of the area, including:**
 - A. impeded views of existing lawful signage in the immediate area;**
 - B. the cumulative impact of the proposed sign and existing major promotion signs in the vicinity on the character of an area or route, including the need to avoid visual disorder or clutter of signs;**
 - C. its proportion, scale and form relative to the site, streetscape and landscape is considered excessively disproportionate and dominant;**
 - D. the impact of illumination on the amenity of nearby residents and residential area.**

Vote by Division (Requested by Cr Bissinger)

For: Cr Gill, Cr Dixon, Cr Mar, Cr Marsh and Cr Brooks

Against: Cr O'Connor, Cr Bissinger, Cr Race, Cr Roper and Cr Celi

Tied

Motion Lost on the casting vote of the Chair

MOTION

Moved: Cr Roper
Seconded: Cr Bissinger

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 support Permit Application P23/1240 for the development of an electronic and floodlit major promotion at 2083 Frankston-Flinders Road, Hastings and that a Notice of Decision to grant a Planning Permit be issued, subject to the following conditions:

COUNCIL CONDITIONS

Amended Plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - A. The floodlights associated with the north facing display face to be removed from the western and northern elevations.
 - B. Show the existing sign on the adjoining property to the south accurately on the site plan and elevations, including setback from Frankston-Flinders Road, height and dimensions.
 - C. The proposed sign to be setback 4 metres from the front boundary (Frankston-Flinders Road).
 - D. Any resultant reduction in width of the sign from 8.3 metres to ensure that it does not go further east into the site than the existing building line.

Approved Development not Altered

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

Maintenance

3. All signs hereby approved must be designed to a professional standard, constructed and maintained in good condition to the satisfaction of the Responsible Authority.

Illumination

4. Sign illumination must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

4.3 (Cont.)

5. The intensity of the external lighting and lighting in the signage must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area, to the satisfaction of the Responsible Authority.
6. Any wiring, cabling or anything similar must be concealed from view to the satisfaction of the Responsible Authority.
7. The signage must be wholly located within the subject property. No part of the sign may encroach into the road reserve.

Major Promotion Signs (mandatory condition)

8. The signs must not:
 - A. Dazzle or distract drivers due to its colouring.
 - B. Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.
 - C. Be able to be mistaken as an instruction to drivers.

DEPARTMENT OF TRANSPORT AND PLANNING CONDITIONS**Luminance Standard**

9. During the operation of the sign, the maximum average luminance and threshold increment values as specified in below must not be exceeded:
 - A. Maximum average luminance:
 - i. Full sun on face of signage: no limit
 - ii. Daytime luminance: 6,000 candela per metre squared
 - iii. Morning and evening twilight and overcast weather: 700 candela per metre squared
 - iv. Night time: 350 candela per metre squared
 - B. Threshold increment max percentage:
 - i. Night time: 20%
 - C. Adaptation luminance:
 - i. Night time: 5%

Brightness levels

10. The signs must be dimmable and have a suitable control system to enable maximum lighting levels to be set or adjusted if deemed necessary by the Responsible Authority and the Head, Transport for Victoria.
11. Where illuminated during the day, the sign must be fitted with Photocell/s (light sensor/s) that measure the ambient light and control system technology that enables the luminance of the sign to automatically adjust relative to the measured ambient light level.

4.3 (Cont.)

12. Any change in brightness levels must be applied during an image transition, not while an image is being displayed.

Image transitions

13. Where the graphical content or colours can change (such as for digital/electronic signage), any changes in image must occur in 0.1 seconds or less.

Externally illuminated signage

14. Retro-reflective material or high glossy surfaces must not be used.

Compliance with Lighting effect assessment report

15. The sign must operate in accordance with the Lighting Impact Assessment Report submitted with the application prepared by Electro Light, dated 14 December 2023, Rev A to the satisfaction of and at no cost to the road manager, Transport for Victoria and the Responsible Authority.

Lighting compliance report

16. Prior to the operation of the sign, a Lighting Compliance Report must be submitted to and approved by the Responsible Authority and the Head, Transport for Victoria. The Lighting Compliance Report must demonstrate that the sign has been commissioned according to the requirements of the Lighting Impact Assessment Report. The Compliance Report must include the following:
 - A. On site luminance measurements for Daytime, Evening/Morning Twilight and Night Time, based on a 100% white screen set to the maximum value for each lighting condition.
 - B. Date and times of luminance measurements for the relevant lighting conditions. Details of the luminance meter used, including serial number. The luminance meter must have been calibrated by an appropriately certified Lab within the last 12 months. The date of calibration and Calibration Report Number shall be provided.
 - C. A description of the luminance methodology used, including location and orientation of the luminance meter relative to sign, the image/content displayed on sign and number of measurement points taken. The signage should be measured with a 100% white image displayed, unless signage is a fixed colour/design.
 - D. Photos of the sign for each sky condition measured, taken from the meter location.

Indicative elevation plans of the signage showing the values of luminance at each measurement point.
 - E. A summary showing the final average luminance of the signage for each relevant sky condition.
 - F. A certification signed by a suitably qualified lighting consultant to undertake luminance measurements.

Compliance record

4.3 (Cont.)

17. The operator must keep a Compliance Record of the operation of the sign. This must be provided to Transport for Victoria within 5 days of a written request. The Compliance Record must include:
- A. The sign's luminance (cd/m^2 or as a percentage of its maximum luminance) in minimum 10-minute intervals.
 - B. The sign's photocell (light sensor) reading of the ambient light in minimum 10-minute intervals.
 - C. The dwell time and transition time between successive images.
All record information must be time and date stamped to show the time of measurement.

Compliance Records must be maintained for a minimum of 12 months.

Operational Parameters for Electronic Signs

18. No advertisement or message shall be displayed for less than 30 seconds.
19. The transition from one advertisement to another must be instantaneous.
20. The sign must not display content, images or text:
- A. Giving the illusion of continuous movement.
 - B. Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.
 - C. Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.
 - D. With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.
 - E. Containing any animation.
 - F. Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.
 - G. Consisting of present time or other contemporary update information relating to news, weather or time.
 - H. Containing video, movie or television broadcasts.
21. The advertising area must not be split into two screens with different messages.
22. The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessories within or outside the permitted advertising area unless the Head of Transport for Victoria has agreed to in writing prior to its installation.
23. The use of sound or motion to activate the sign is not permitted.
24. The use of sound to interact with road users is not permitted.
25. The sign must not dazzle or distract road users due to its colouring.

4.3 (Cont.)

26. In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.

Expiry

27. This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.

Part B

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

Vote by Division (Requested by Cr Marsh)

For: Cr O'Connor, Cr Bissinger, Cr Race, Cr Roper, Cr Celi and Cr Brooks

Against: Cr Gill, Cr Dixon, Cr Mar and Cr Marsh

Carried

AMENDMENT

27. This permit expires 10 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.

Moved: Cr Gill

Seconded: Cr Dixon

Vote by Division (Requested by Cr Gill)

For: Cr Gill, Cr Dixon, Cr Bissinger, Cr Race, Cr Roper, Cr Mar, Cr Celi, Cr Marsh and Cr Brooks

Against: Cr O'Connor

Carried

The amendment became part of the substantive Motion.

COUNCIL DECISION

Moved: Cr Roper

Seconded: Cr Bissinger

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 support Permit Application P23/1240 for the development of an electronic and floodlit major promotion at 2083

4.3 (Cont.)

Frankston-Flinders Road, Hastings and that a Notice of Decision to grant a Planning Permit be issued, subject to the following conditions:

COUNCIL CONDITIONS**Amended Plans**

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - A. The floodlights associated with the north facing display face to be removed from the western and northern elevations.
 - B. Show the existing sign on the adjoining property to the south accurately on the site plan and elevations, including setback from Frankston-Flinders Road, height and dimensions.
 - C. The proposed sign to be setback 4 metres from the front boundary (Frankston-Flinders Road).
 - D. Any resultant reduction in width of the sign from 8.3 metres to ensure that it does not go further east into the site than the existing building line.

Approved Development not Altered

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

Maintenance

3. All signs hereby approved must be designed to a professional standard, constructed and maintained in good condition to the satisfaction of the Responsible Authority.

Illumination

4. Sign illumination must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
5. The intensity of the external lighting and lighting in the signage must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area, to the satisfaction of the Responsible Authority.
6. Any wiring, cabling or anything similar must be concealed from view to the satisfaction of the Responsible Authority.
7. The signage must be wholly located within the subject property. No part of the sign may encroach into the road reserve.

Major Promotion Signs (mandatory condition)

4.3 (Cont.)**8. The signs must not:**

- A. Dazzle or distract drivers due to its colouring.**
- B. Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.**
- C. Be able to be mistaken as an instruction to drivers.**

DEPARTMENT OF TRANSPORT AND PLANNING CONDITIONS**Luminance Standard****9. During the operation of the sign, the maximum average luminance and threshold increment values as specified in below must not be exceeded:****A. Maximum average luminance:**

- i. Full sun on face of signage: no limit**
- ii. Daytime luminance: 6,000 candela per metre squared**
- iii. Morning and evening twilight and overcast weather: 700 candela per metre squared**
- iv. Night time: 350 candela per metre squared**

B. Threshold increment max percentage:

- i. Night time: 20%**

C. Adaptation luminance:

- i. Night time: 5%**

Brightness levels

- 10. The signs must be dimmable and have a suitable control system to enable maximum lighting levels to be set or adjusted if deemed necessary by the Responsible Authority and the Head, Transport for Victoria.**
- 11. Where illuminated during the day, the sign must be fitted with Photocell/s (light sensor/s) that measure the ambient light and control system technology that enables the luminance of the sign to automatically adjust relative to the measured ambient light level.**
- 12. Any change in brightness levels must be applied during an image transition, not while an image is being displayed.**

Image transitions

- 13. Where the graphical content or colours can change (such as for digital/electronic signage), any changes in image must occur in 0.1 seconds or less.**

Externally illuminated signage

- 14. Retro-reflective material or high glossy surfaces must not be used.**

4.3 (Cont.)**Compliance with Lighting effect assessment report**

15. The sign must operate in accordance with the Lighting Impact Assessment Report submitted with the application prepared by Electro Light, dated 14 December 2023, Rev A to the satisfaction of and at no cost to the road manager, Transport for Victoria and the Responsible Authority.

Lighting compliance report

16. Prior to the operation of the sign, a Lighting Compliance Report must be submitted to and approved by the Responsible Authority and the Head, Transport for Victoria. The Lighting Compliance Report must demonstrate that the sign has been commissioned according to the requirements of the Lighting Impact Assessment Report. The Compliance Report must include the following:

- A. On site luminance measurements for Daytime, Evening/Morning Twilight and Night Time, based on a 100% white screen set to the maximum value for each lighting condition.
- B. Date and times of luminance measurements for the relevant lighting conditions. Details of the luminance meter used, including serial number. The luminance meter must have been calibrated by an appropriately certified Lab within the last 12 months. The date of calibration and Calibration Report Number shall be provided.
- C. A description of the luminance methodology used, including location and orientation of the luminance meter relative to sign, the image/content displayed on sign and number of measurement points taken. The signage should be measured with a 100% white image displayed, unless signage is a fixed colour/design.
- D. Photos of the sign for each sky condition measured, taken from the meter location.

Indicative elevation plans of the signage showing the values of luminance at each measurement point.

- E. A summary showing the final average luminance of the signage for each relevant sky condition.
- F. A certification signed by a suitably qualified lighting consultant to undertake luminance measurements.

Compliance record

17. The operator must keep a Compliance Record of the operation of the sign. This must be provided to Transport for Victoria within 5 days of a written request. The Compliance Record must include:
- A. The sign's luminance (cd/m² or as a percentage of its maximum luminance) in minimum 10-minute intervals.
 - B. The sign's photocell (light sensor) reading of the ambient light in minimum 10-minute intervals.

4.3 (Cont.)

- C. The dwell time and transition time between successive images. All record information must be time and date stamped to show the time of measurement.

Compliance Records must be maintained for a minimum of 12 months.

Operational Parameters for Electronic Signs

- 18. No advertisement or message shall be displayed for less than 30 seconds.
- 19. The transition from one advertisement to another must be instantaneous.
- 20. The sign must not display content, images or text:
 - A. Giving the illusion of continuous movement.
 - B. Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.
 - C. Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.
 - D. With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.
 - E. Containing any animation.
 - F. Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.
 - G. Consisting of present time or other contemporary update information relating to news, weather or time.
 - H. Containing video, movie or television broadcasts.
- 21. The advertising area must not be split into two screens with different messages.
- 22. The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessories within or outside the permitted advertising area unless the Head of Transport for Victoria has agreed to in writing prior to its installation.
- 23. The use of sound or motion to activate the sign is not permitted.
- 24. The use of sound to interact with road users is not permitted.
- 25. The sign must not dazzle or distract road users due to its colouring.
- 26. In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.

Expiry

27. This permit expires 10 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.

Part B

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

Carried

4.4 Planning Permit Application P23/1571 - 21 Skinner Street Hastings - Buildings and works associated with the Western Port Marina

Having disclosed a conflict of interest Cr Marsh, left the meeting at 8.58pm and returned to the meeting at 10.11pm, after the matter had been finalised. Cr Marsh, took no part in the discussion or voting on this item.

Deputations:

- Ray Dart
- Nina Williams
- Adele Howitt
- Warwick Howitt
- Janet Loughnan
- Rosemary Sandercock
- Stephen Danielson
- John Cannon
- Richard Harrison
- Ben Daly

Attendance

Cr Roper left the meeting at 9.33pm

Cr Roper returned to the meeting at 9.35 and was present for voting on item 4.4.

RECOMMENDATION

Moved: Cr Race
Seconded: Cr Roper

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act, 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/1571 for the development of buildings and works associated with a marina, be supported and that a Notice of Decision to Grant a Permit be issued subject to the following conditions:

Council Conditions

Amended Plans

1. Before the developments starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans

4.4 (Cont.)

must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- a) Vehicle access to the boat storage area to the satisfaction of the Responsible Authority.
- b) A notation that there will no vehicle, boat, or trailer parking outside the lease and/or licence area to the satisfaction of the Responsible Authority.
- c) Reinforced concrete surfacing to the south of the boat ramp to enable vehicle movements within the lease and/or licence area to the satisfaction of the Responsible Authority.
- d) The extent of reinforced concrete surfacing to align on all plans.

Approved Development not Altered

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

Colours/Materials

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

Disturbed Surfaces

4. All disturbed surfaces on the land resulting from the development must be revegetated and stabilised to the satisfaction of the Responsible Authority.

Department of Energy, Environment and Climate Action conditions

5. The works are to be carried out generally in accordance with:
 - a. The Marine and Coastal Act consent application titled 'WESTERN PORT MARINA' dated 2 June 2023, prepared by Tract Consultants.
 - b. Amended plans submitted via email by Tract Consultants on 25 October 2023, prepared by Search Studio CO Pty Ltd, dated 24 October 2023, drawing numbers TP-01, TP-02, TP-03, TP-04.
 - c. Plans submitted in response to the further information request titled 'PLAN – BOAT RAMP' and 'SECTION – BOAT RAMP' prepared by Search Studio CO Pty Ltd, dated 19 December 2023 and 14 December 2023, respectively.
6. Any modification to the works proposed will require further approval by the Regional Director, Port Phillip Region, Department of Energy, Environment and Climate Action (DEECA).
7. Prior to works commencing, a Construction Environmental Management Plan (CEMP) must be prepared to the satisfaction of DEECA. The CEMP must include:

4.4 (Cont.)

- a) A detailed construction methodology for the proposed boat ramp and negative launching area, with reference to excavation, fill deposition and pile installation requirements.
 - b) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction.
 - c) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures.
 - d) The location of trenching works, boring, and pits associated with the provision of services.
8. Access and egress to the boat storage area and boat ramp/launching area is only permitted via the lease and/or licence area.
9. Indigenous vegetation must not be damaged or removed as a result of the works.
10. Any clearing or construction activity associated with the works, should be carried out in accordance with the with EPA Publication No. 275 Construction Techniques for Sediment Pollution Control (May 1991).
11. The construction site must be managed in accordance with EPA Publication 1834: Civil construction, building and demolition guide (26 November 2020).
12. Construction equipment, building materials, refuse and site run-off must be contained and controlled and not permitted to impact on the marina or enter Western Port Bay.
13. All works must be completed, the site reinstated, and the works maintained to the satisfaction of DEECA.
14. This consent under the *Marine and Coastal Act 2018* will expire if the works are not completed within two years of the date of issue, unless an extension of time is applied for and granted by the Regional Director, Port Phillip Region, DEECA.

Melbourne Water condition

15. Sediment and contaminant laden runoff during construction must be contained. Such runoff is not permitted to enter the bay. Prior to commencement of construction, a Site Environmental Management Plan (SEMP) must be produced and adopted on site.

Council Conditions**Landscaping and Coastal Land**

16. Within 12 months of the issue of the permit the following must be completed:
- a) Any unauthorised infrastructure within the Council-managed coastal Crown land must be removed, including but not limited to; gates, fences, solar panels and hard stand areas (gravel and asphalt).
 - b) All landscaping works shown on the endorsed plans, including landscaping within the coastal Crown land, carried out and completed to the satisfaction of the Responsible Authority.

Once the fencing and landscaping is completed and within 12 months of the issue of the permit, the owner must arrange for Council's Planning Compliance

Officer and Coastal Planner to attend the site and inspect the works and revegetation.

17. If there is any dead or dying vegetation within 12 months of its planting, it must be replanted with the same (or similar) species by the permit holder, to the satisfaction of the Responsible Authority.

Engineering

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

The plans must show:

- a) All areas of the development being drained by means of an underground drainage system with discharge to the Western Port Marina.
 - b) Reinforced concrete surfacing to the boat storage area and boat ramp access and turning area.
 - c) A drainage system on the site being designed to ensure storm water runoff exiting the new development meets the current best practice performance objectives for stormwater quality, as contained in the Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).
19. Before the approval of engineering plans, drainage computations and documentation are required for:
 - a) The proposed drainage system.
 - b) The consideration of any drainage catchment external to the development that may drain to the proposed drainage system.
 - c) A Model for Urban Stormwater Improvement Conceptualisation (MUSIC) Report.
 20. Prior to the approval of engineering plans, the applicant must:
 - a) Demonstrate to the Responsible Authority that water quality features will be implemented in accordance with clause 53.18 of the planning scheme.

Drainage Works

21. Before the initial occupation of the new development, all drainage works associated with the new development must be constructed in accordance with approved engineering plans, and to the satisfaction of the Responsible Authority.
22. The owner must operate and maintain the drainage works including any on-site stormwater treatment system at their own cost and must allow the system to be inspected by an authorised officer of the Responsible Authority from time to time. The owner must not modify any on-site stormwater treatment system without prior written approval from the Responsible Authority.

4.4 (Cont.)

Vehicle Access

23. Before the initial occupation of the new development, all driveways and vehicle turning areas as shown on the endorsed plans must be constructed in accordance with approved engineering plans, surfaced with reinforced concrete, and drained to the satisfaction of the Responsible Authority.

Expiry

24. This permit will expire if the development is not completed within four 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 information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

Vote by Division (Requested by Cr Dixon)

For: Cr Race and Cr Roper

Against: Cr Gill, Cr O'Connor, Cr Dixon, Cr Bissinger, Cr Mar, Cr Celi and Cr Brooks

Lost

COUNCIL DECISION

Moved: Cr Dixon

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 that Planning Permit Application P23/1571 for the development of buildings and works associated with a marina in accordance with the endorsed plans at 21 Skinner Street, Hastings, be refused and that a Notice of Refusal be issued subject to the following ground:

1. The proposed development inappropriately responds to the Hastings foreshore, in terms of its height being visually prominent above the existing low lying vegetation and thereby detracting from public views to the coast. Such an outcome is inconsistent with:
 - A. the decision guidelines of the Public Park and Recreation (PPRZ);
 - B. the objectives of Clause 12.02-1S Protection of the marine and coastal environment; and
 - C. the incorporated *Siting and Design Guidelines for Structures on the Victorian Coast* (Department of Environment, Land, Water and Planning, 2020).

4.4 (Cont.)

Vote by Division (Requested by Cr Bissinger)

For: Cr Gill, Cr O'Connor, Cr Dixon, Cr Bissinger, Cr Mar, Cr Celi and Cr Brooks

Against: Cr Race and Cr Roper

Carried

PROCEDURAL MOTION

Moved: Cr Gill

Seconded: Cr Bissinger

That the meeting time be extended to 10.30pm.

Carried Unanimously

4.5 Planning Permit Application P17/1892.02 - 101 Harrisons Road Dromana - Amendment to operation and layout of host farm**Deputations:**

- Rohan White
- Gail Costanzo
- Sasha Gardiner Crossley
- Emily Snowsill
- Eliza Snowsill
- Luke Dowdle

ADJOURNEMENT OF MEETING

That the meeting be adjourned at 10.29pm on Wednesday, 14 August 2024.

RESUMPTION OF MEETING

That the meeting be resumed at 2.04pm on Tuesday, 20 August 2024.

Attendance

Cr Gill left the meeting at 10.29pm.

Cr Roper left the meeting at 10.29pm and was not present for voting on item 4.5.

Cr Holland entered the meeting 2.04pm and was present for voting on item 4.5.

Cr Gill entered the meeting at 2.10pm and was present for voting on item 4.5.

RECOMMENDATION

Moved: Cr Celi
Seconded: Cr Holland

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 amendment application P17/1892.02 at 101 Harrisons Road Dromana, be supported and that a Notice of Decision to Amend a Permit be issued as follows:

Conditions Nos. 1 to 32 inclusive

1. Prior to the commencement of any use and development approved by this permit, 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 and three copies must be provided. The Plans must include:

- A. An amended Land Management Plan (LMP) that must:
 - i. Provide additional details relevant to weed eradication within the bush regeneration area, indigenous/ riparian species recruitment and planting methods and timeframes. The bush regeneration component of the LMP must provide for a minimum 10-year timeframe to achieve goals, with ongoing maintenance in perpetuity.
 - ii. Outline details of the proposed booking system (as referenced in the planning submission) confirming the suite of farm experience activities on offer for patrons of the accommodation units.
 - iii. Provide for a reporting regime requiring the landowner to report back to Council on a regular basis (after the first 12 months and then every two years thereafter for as long as the land use continues to operate) detailing ongoing implementation of the LMP.
 - iv. Detail proposed dust suppression method(s) in instances whereby a dust nuisance may be caused by vehicles utilising the unsealed driveway access to the property between Harrisons Road and the car parking areas.
 - v. Make reference the requirements of Planning Permit P09/2621 and clarify that this LMP has been prepared to respond to the requirements of both the current permit and P09/2621 and supersedes any previous LMP endorsed under P09/2621.
- B. An updated Landscaping Plan prepared by a suitably qualified landscape professional, that must show:
 - i. The layout updated to be consistent with the planning drawings in terms of location of built form, accessways and car parking area.
 - ii. A survey (including botanical names) of all existing vegetation to be retained and / or removed in the vicinity of all buildings and works proposed under this permit.
 - iii. Details of surface finishes of pathways and driveways.
 - iv. A 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.
 - v. Screening vegetation to occur in the western setback of the permitted pod buildings without causing disturbance to approved wastewater fields.
 - vi. All selected species to be indigenous.

- vii. Vegetation marked for retention to be marked with protection barriers in accordance with the recommendations of an arborist in accordance with condition 1d of this permit.

All species selection must be to the satisfaction of the Responsible Authority.

- C. Dimensioned setbacks of all buildings and works from relevant lot boundaries, and details of any excavation/fill required to accommodate the works.
 - D. A lighting plan for any external lighting to the accommodation units, the car park, and the pathway to the accommodation units. Such lighting must be designed to have limited intrusion on the rural landscape and include details of cut-off times for externally illuminated areas associated with the approved land-use to preserve the rural amenity during evening hours.
 - E. An arborist report prepared by a suitably qualified professional demonstrating that all building and works associated with the rural industry and host farm will not impact on any vegetation and provide recommendations as to any tree protection requirements necessary to be established to ensure this during construction.
 - F. Deletion of the proposed tennis court.
 - G. Both Pod buildings and associated wastewater systems to be setback at least 30 metres from the nearby waterway without any corresponding reduction of the setback to the western boundary.
 - H. Vehicle Turning circles near Pods 1 and 2, appropriately sized and parking with the same profile of compacted gravel medium.
 - I. Pod numbering to be consistent across all plans.
- 2. The approved development, including the materials of construction and colours of the exterior finish of the buildings, as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.
 - 3. The approved land uses as detailed on the endorsed plans must not be altered without the consent of the Responsible Authority.
 - 4. Once the development has commenced under this Permit, it must be continued and completed to the satisfaction of the Responsible Authority.
 - 5. The use of the site for host farm accommodation must cease if the accommodation is not operated in conjunction with the approved agricultural and land management outcomes as detailed in the endorsed LMP to the satisfaction of the Responsible Authority.
 - 6. Unless with the further written consent of the Responsible Authority, the use of the land for rural industry are limited to the following hours:
 - A. Between 9.00am to 6.00pm on any day
 - B. Not at all on Good Friday and Christmas Day.

4.5 (Cont.)

7. All disturbed surfaces on the land resulting from the development must be revegetated, battered and stabilised to the satisfaction of the Responsible Authority.
8. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - A. Transport of materials, goods or commodities to or from the land.
 - B. Appearance of any buildings works or materials.
 - C. Emission of noise, artificial light, vibration, smell, fumes, dust, waste water or other waste products.
9. Nuisance dust must not be discharged beyond the boundaries of the premises.
10. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
11. Outdoor or external lighting including that of the buildings and car park areas must be suitably baffled to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
12. No external or internal amplified music, public address or speaker systems shall be installed or operated on the land.
13. Prior to the commencement of any of the land uses approved by this permit, the landowner/occupier must demonstrate commencement of the endorsed LMP to the satisfaction of the Responsible Authority. Once commenced, the endorsed LMP must be implemented and maintained to the satisfaction of the Responsible Authority.
14. Prior to the commencement of any works associated with the approved use and development (or other such time as approved in writing by the Responsible Authority), the owner must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*. The Agreement must be prepared and registered on the title to the land to the satisfaction of the Responsible Authority. The Agreement must require the owner or occupier to undertake the following to the satisfaction of the Responsible Authority:
 - A. Implement and maintain in perpetuity, the endorsed LMP (or other approved plan as may be endorsed under this permit) to the satisfaction of the Responsible Authority and specify that should the landowner/occupier fail to operate in accordance with an approved LMP which offers a genuine 'farm experience' to guests, then the host farm accommodation land-use must cease.
 - B. Continuously protect and enhance the indigenous native vegetation and fauna habitat on the land.
 - C. Construct fencing or freestanding walls that have a rural character and allow for the free passage of native indigenous animals.
 - D. Not plant any new hedges (with existing hedges to be managed) to ensure scenic views across the site are not obscured.

4.5 (Cont.)

- E. Not construct any bund wall or similar earthworks or artificial barriers that obstruct view lines.
 - F. The permit holder must responsibly manage farming practices including spray drift so as not to impact on neighbouring properties farming practices.
 - G. Livestock must not be permitted in remnant vegetation conservation areas at any time.
 - H. All costs associated with the drafting and registration of this Agreement on title, are to be borne by the permit holder.
 - I. This Agreement must be registered by the Applicant on title, prior to the commencement of works approved under this permit (or other such time as approved in writing by the Responsible Authority), pursuant to section 181 of the *Planning and Environment Act 1987*.
15. Within six months of the commencement of the use hereby approved (or other such time as approved in writing by the Responsible Authority), landscape works as shown on the endorsed plans must be completed and then maintained in a healthy condition, to the satisfaction of the Responsible Authority. Any dead or diseased trees or shrubs must be replaced as soon as possible.
16. Prior to commencement of the use, the applicant must submit a Waste Management Plan to the satisfaction of the Responsible Authority which addresses: the storage and disposal of waste generated through all activities carried out on the property; the control of any odour emanating from the site when undertaking any manufacturing process associated with the Rural Industry. When approved, the management plan will be endorsed and will then form part of the permit.
17. All wastewater from the proposed development must be discharged into an on-site secondary wastewater treatment and irrigation system which is approved by the Environment Protection Authority, retains all waste within the boundaries of the land, and is installed in accordance with Council's Wastewater Management Policy.
18. The wastewater system must be maintained to the satisfaction of the Responsible Authority.
19. The wastewater disposal field must be fenced or landscaped to prevent vehicle access and be kept as a grassed or vegetated area.
20. Buildings, outdoor areas and pathways to provide for all abilities access in accordance with Australian Standard (AS) 1428, including AS 1428.2-1992, AS/NZS 1428.4.1:2009 and AS 1428.5:2010 all to the satisfaction of the Responsible Authority.
21. After the endorsement of condition 1 plans and before any works associated with the development starts, detailed construction plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and two copies must be provided. Alternatively, plans in pdf format may be emailed to devengadmin@mornpen.vic.gov.au The plans must show:

4.5 (Cont.)

- A. All areas of the development being drained to the satisfaction of the Responsible Authority.
 - B. Details, including levels of all internal access aisles and parking areas.
22. Before any works associated with the development starts, drainage computations are required for the drainage system, including consideration of any drainage catchment external to the development that may drain to the drainage system.
23. Before the initial occupation of any part of the approved development or commencement of the land use, the development drainage works within the development must be constructed in accordance with approved construction plans, and to the satisfaction of the Responsible Authority.
24. Before the initial occupation of the development, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed in accordance with approved construction plans, surfaced and drained to the satisfaction of the Responsible Authority.
25. Car spaces, access lanes and loading zone must be kept available for these purposes at all times.
26. This permit will expire if either one of the following applies:
- A. The development is not completed within four years of the date of this permit.
 - B. The use is not commenced within four 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.
27. Prior to the commencement of the development, including any excavation or works; and during all stages of development, the recommendations and tree protection requirements identified in the approved arborist report must be implemented and complied with to the satisfaction of the Responsible Authority.
28. No stormwater (from any roofs and other hand stand areas) is to enter the wastewater envelopes. Diversion drains are required to ensure this objective.
29. Dedicated rainwater tanks must be provided for toilet flushing activities and must be installed prior to occupation of the permitted buildings.
30. All stormwater run-off generated must be retained on site.
31. No wine may be offered for sale and/or consumption until separate planning permission has been granted by the Responsible Authority.
32. The landowner and/or property manager must be present on the subject site whilst the accommodation buildings are being occupied.

Part B

4.5 (Cont.)

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

Vote by Division (Requested by Cr Gill)

For: Cr O'Connor, Cr Race, Cr Celi and Cr Holland

Against: Cr Gill, Cr Dixon, Cr Bissinger, Cr Mar, Cr Marsh and Cr Brooks

Lost

COUNCIL DECISION

Moved: Cr Gill

Seconded: Cr Marsh

That Council, being the 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 P17/1892.02 for amendment to the operation and layout of the host farm at 101 Harrisons Road, Dromana, not be supported and that a Notice of Decision to refuse to grant an amendment to a permit be issued on the following grounds:

1. The amendment application does not meet the definition of Host farm at Clause 73.03 of the Planning Scheme as the agricultural activities proposed are not considered sufficient, either individually or as a combination, to enable the persons accommodated away from their normal place of residence to experience living on land used for agricultural purposes. The amendment application is considered another form of Accommodation as defined by clause 73.03 and this would be prohibited pursuant to Clause 35.04-1 (Green Wedge Zone) in its current form.
2. The amended proposal is unacceptable having regard to the provisions of Clauses 35.04 (Green Wedge Zone), specifically:
 - A. The maintenance of agriculturally productive land for agricultural purposes and the impact on the rural economy.
 - B. The environmental capacity of the site to sustain the rural enterprise.
 - C. The integrated land management plan not containing sufficient justification to support the Host farm use.
 - D. The potential to impact adjoining and nearby agriculture and other land uses as a result of introducing a form of accommodation not being a Host farm.
 - E. The protection and retention of land for future sustainable agricultural activities.
3. That Council seeks further legal advice on whether the existing host farm permit remains valid now that the lavender plantation, that was the basis of the existing permit, has been removed and replaced by a large dwelling or function centre in the amended application, the horse menage removed, replaced by a tennis court

4.5 (Cont.)

and large dwelling according to the plans and that the proposed accommodation will not be used by lavender work employees.

Vote by Division (Requested by Cr O'Connor)

For: Cr Gill, Cr Dixon, Cr Bissinger, Cr Mar, Cr Marsh and Cr Brooks

Against: Cr O'Connor, Cr Race, Cr Celi and Cr Holland

Carried

4.6 Planning Permit Application P23/1995 - 1953 Frankston-Flinders Road, Hastings - Development of a floodlit major promotion sign

RECOMMENDATION

That Council, being a Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves to support Permit Application P23/1995 for the development of a floodlit major promotion sign at 1953 Frankston-Flinders Road, Hastings and that a Notice of Decision to grant a Permit be issued, subject to the following conditions:

Council Conditions

Approved Development not Altered

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

Maintenance

2. All signs hereby approved must be designed to a professional standard, constructed and maintained in good condition to the satisfaction of the Responsible Authority.

Illumination

3. Sign illumination must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
4. The intensity of the external lighting and lighting in the signage must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area, to the satisfaction of the Responsible Authority.
5. Any wiring, cabling or anything similar must be concealed from view to the satisfaction of the Responsible Authority.
6. The signage must be wholly located within the subject property. No part of the sign may encroach into the road reserve.
7. External illumination of the sign must cease between the hours of 10pm and 6am to the satisfaction of the Responsible Authority.

Major Promotion Signs

8. The sign must not:
 - A. Dazzle or distract drivers due to its colouring.
 - B. Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.
 - C. Be able to be mistaken as an instruction to drivers.

Expiry

4.6 (Cont.)

9. This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.

Part B

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

COUNCIL DECISION

Moved: Cr Dixon

Seconded: Cr Gill

That Council, being the Responsible Authority under the Mornington Peninsula Planning Scheme and the *Planning and Environment Act 1987*, having considered all submissions received to date and all matters required under section 60 of the *Planning and Environment Act 1987*, hereby resolves that Planning Permit Application P23/1995 for development of a floodlit major promotion sign, not be supported and that a Notice of Decision to refuse to grant a permit be issued on the following grounds:

1. The proposal is considered unacceptable having regard to Clause 52.05 (Signs) as it would detrimentally affect the character of the area, including:
 - A. the sensitivity of the area in terms of the natural environment, around waterways, open space and the adjoining rural landscape;
 - B. the cumulative impact of signs within the location on the character of the area, including the need to avoid visual disorder or clutter of signs having regard to the green wedge interface;
 - C. its proportion, scale and form are considered excessive relative to the streetscape and landscape setting;
 - D. the impact of illumination on the amenity of nearby residents and the amenity of the area.

Carried

4.7 Coastal Hazard Vulnerability and Risk Assessment Guidelines

RECOMMENDATION

That Council adopts the Mornington Peninsula Coastal Hazard and Vulnerability Risk Assessment Guidelines.

COUNCIL DECISION

Moved: Cr Race
Seconded: Cr Roper

- 1. That Council adopts the Mornington Peninsula Coastal Hazard and Vulnerability Risk Assessment Guidelines.**
- 2. Authorises the Director of Planning and Environment to make minor administrative and editorial corrections to the adopted Coastal Hazard Vulnerability and Risk Assessment Guidelines.**

Carried Unanimously

ADJOURNMENT OF MEETING

That the meeting be adjourned at 5.17pm for a short recess.

RESUMPTION OF MEETING

That the meeting be resumed at 6.32pm

4 MEETING CLOSE

As there was no further business, the meeting closed at 3.14pm on Tuesday, 20 August 2024.

Confirmed this 3rd day of September 2024.

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