



**MORNINGTON
PENINSULA**
Shire

MINUTES

COUNCIL MEETING

TUESDAY, 19 DECEMBER 2023

6.30PM

**MUNICIPAL OFFICES
BESGROVE STREET, ROSEBUD**

MORNINGTON PENINSULA SHIRE COUNCIL

WARDS AND COUNCILLORS

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

EXECUTIVE TEAM

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

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

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

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1 OPENING AND WELCOME

Meeting opened at 6.33pm

Appointed Chairperson – Mayor, Cr Simon Brooks

1.1 Acknowledgement of Country

(Read by Cr Roper)

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

2 PROCEDURAL MATTERS

Present

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

Nil.

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

Cr Marsh, declared a General, Conflict of Interest in regard to item 5.2, Notice of Motion 428 (Cr Race) – Implementation of Transparency and Integrity Hub, as he has been developing software to enhance the transparency of information/decisions of local government which could be loosely perceived as a conflict of interest (general), given the motion seems to support procuring a specific product for this purpose which could be perceived to be in competition at a point in future.

Cr Race, declared a Material, Conflict of Interest in regard to item 4.6, CN2702 Residual Waste Processing Services – Tender Evaluation Outcome, as her husband works in the waste industry.

2.3 Confirmation of Minutes

RECOMMENDATION

That the Minutes of the previous Council Meeting held on 12 December 2023, be confirmed.

COUNCIL DECISION

Moved: Cr O'Connor
Seconded: Cr Roper

That the recommendation be adopted.

Carried

2.4 Councillor Briefing Sessions**RECOMMENDATION**

That Council receives and notes the record of Councillor Briefing Sessions for 5 December 2023.

COUNCIL DECISION

Moved: Cr Dixon
Seconded: Cr O'Connor

That the recommendation be adopted.

Carried

2.5 Council Decision Register**RECOMMENDATION**

That Council receives and notes the Decision Register Summaries for 2019-2023 (Attachments 1-5) as at 11 December 2023.

COUNCIL DECISION

Moved: Cr Celi
Seconded: Cr Race

That the recommendation be adopted.

Carried

2.6 Public Question Time

QUESTIONS WITH NOTICE

Derelict Houses

Fred Crump, a resident of Hastings asked the following question:

Background:

Derelict houses and units taking too long to get attention, i.e. renovations or demolition proceedings. On 6 December a derelict house in King Street, Hastings was finally demolished after two years of squatters and arson. No action has been taken at other properties in Salmon Street and Stalwart Avenue, Hastings.

Question:

I have been told that Mornington Peninsula Shire By-laws Officers have very little authority to invoke immediate action in order to protect people living next door to derelict houses in case of arson or disease. What is the use of employing By-laws Officers if they do not have any authority to take such actions?

Council advised that:

Council's Community Safety Officers are tasked with assessing complaints in relation to breached of the Community Amenity (Amendment) Local Law 2023, under which are clauses that relate to dilapidated buildings. A building is dilapidated if it is in a state of disrepair or has deteriorated or fallen into a state of partial ruin as a result of age, neglect, poor maintenance, or misuse.

Most properties reported to Council are in relation to unsightliness which in its definition includes 'a building which is incomplete and not currently being constructed'.

Please note, the purpose of a local law is address issues that are not captured under State and Federal legislation. Local laws are a subordinate level of legislation and would only be used where State and Federal legislation is not appropriate.

As already articulated in the question, the house in King Street, Hastings has been demolished, as has the house in Salmon Street, Hastings and concerns of a dilapidated building or unsightliness at a house in Stalwart Avenue, Hastings have never been raised with Council. A recent visual inspection of the house revealed that the property is not dilapidated and is in fact occupied.

These three outcomes would suggest that the current mechanisms in place and are appropriate.

Transparency and Integrity Hub

Joe Lenzo, a resident of Safety Beach asked the following questions:

Before spending \$300,000 on a computer system that 99% will never look at, will Mornington Peninsula Shire investigate the effectiveness with electors and undertake consultation where these 'systems' are already in place and to see what they think transparency is and how to address it?

Council advised that:

Ensuring transparency with our community is a fundamental aspect of effective governance at Mornington Peninsula Shire. The Council has adopted a Public Transparency Policy, which sets out the Council's commitment. This policy is available on Council's website. Transparency involves not only sharing the outcomes of Council decisions but also providing insights into the decision-making processes. This practice is essential for building trust within the community and encouraging increased public participation in local activities, ultimately contributing to better outcomes for the municipality.

We regularly gauge the community's satisfaction with transparency and overall governance through our Community Satisfaction Survey, underscoring our commitment to ongoing improvement. If the decision is made to establish a transparency hub, we will prioritise community consultation. Community input will be crucial in determining the types of information that should be available on this platform, ensuring that it aligns with the community's preferences and needs. We would also speak with other councils who already have these systems in place to learn from their experience.

Paid Parking Pilot

Noel Ashworth asked the following question:

Why doesn't the Shire issue a permit card with the Rates notice that can be displayed in the car and what actions will the Shire take straight away to amend the application process that unfortunately has already commenced as of 1 December?

Council advised that:

Council has opted for a technology-based solution for the Visitor Paid Parking Pilot. Permits for residents are digital and linked to your vehicle registration. This allows us to ensure all residents (including renters who are not ratepayers) are able to park without charge during the Pilot. It also prevents the sharing of cards/stickers to visitors to the Peninsula who are required to pay for their stay.

ePermits and Licence Plate Recognition Cameras are an efficient and easy way to manage paid parking. While we appreciate this is new for many in our community, there are many advantages, including no paper permits, ease of monitoring, and the ability to access real-time parking data to make well-informed decisions on the success or otherwise of the Pilot.

Our expert parking management service provider, Orikan was appointed following a thorough procurement process and has enabled Council to access an end-to-end technology solution for this Pilot that enables permits to be issued to residents and the ability for visitors to pay for parking. The need to upload resident and vehicle documents enables us to ensure that only residents have access to ePermits and that Visitors will pay for their stay.

We work closely with Orikan to respond to customer feedback, and where possible, we have amended the ePermit platform to remove or adjust any frustrating aspects of the user experience. We continue to monitor and improve where needed. There is no requirement to add credit card details when applying for a resident ePermit via the link on Council's website, and we are looking to make it clearer that this is optional.

Community Support Sessions have been held in Flinders and Mornington to assist residents who require in-person help with their applications, and a further session was held today in Flinders. Residents are also welcome to visit any Customer Service Centre with their resident and vehicle information and our staff will process and approve their permits. Since the permit system went live on 15 November, we've received approximately 8,600 permit applications.

Proposed Major Event at The Briars

Noel Ashworth asked the following question:

Background:

The issues relate to the restricted access to The Briars to accommodate the estimated thousands of cars entering and leaving this event, especially at night. Large events hosted previously at this venue have resulted in traffic chaos almost blocking Nepean Highway including vehicles turning into Yooralla Road which is one of only two roads into the residential areas of Mount Martha.

Question:

How does the Shire propose to implement a feasible traffic management plan given there has been no upgrading of the entrance into The Briars, let alone the other various impacts not appropriate in a wildlife sanctuary?

Council advised that:

A traffic management plan will be developed and signed off by the Shire's Traffic and Transport team. The plan will ensure there is minimal impact to traffic on the Nepean Highway to ensure residents are not inconvenienced.

The experience is expected to attract up to 3,000 people a night, across several hours. Arrivals will be staggered to reduce the traffic arriving at any one time. Previous events at The Briars attracted much larger numbers, most of whom arrived at the one time. Based on the flows of traffic to these events, we are confident that the proposed traffic flow for the upcoming experience will have minimal impact on the Nepean Highway.

Works undertaken a couple of years ago to widen the Briars entrance improved traffic flow and further alleviated any traffic issues.

3 COUNCILLORS AND DELEGATES REPORTS

Police Community Day (Cr Gill)

120 year Flinders Golf Club and 100 year Bass Park Trust Celebrations (Cr Gill)

Inter Council Aboriginal Consultative Committee (Cr Dixon)

4 MANAGEMENT REPORTS

PLANNING & INFRASTRUCTURE

4.1 Planning Application P23/0814 - 1002-1004 Nepean Highway, Mornington - Development of an electronic major promotion sky sign

Deputation

- Alice Maloney (Ratio Consultants)

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 to support Permit Application P23/0814 for the development of an electronic major promotion sky sign at 1002-1004 Nepean Highway, Mornington, and that Council inform the Principal Registrar that it has decided to grant a Notice of Decision to grant a Planning Permit, 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. A maximum height of 13.5 metres above natural ground level.
 - B. The height of the sign to Australian Height Datum (AHD).

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 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.

4.1 (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.
8. Additional to the Department of Transport Condition 13 below, the Maximum Vertical Illuminance(lx) to dwellings, measured in accordance with AS4282 Control of the Obtrusive Effects of Outdoor Lighting, must be no more than:
 - A. Dwellings in Environmental Zone A3 – Post curfew (11.00pm – 6.00am daily) 2 lux.
 - B. Dwellings in Environmental Zone A4 – Post curfew (11.00pm – 6.00am daily): 5 lux.

Major Promotion Signs (mandatory condition)

9. 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**

10. During the operation of the sign, the maximum average luminance and threshold increment values as specified in below must not be exceeded:
11. Maximum average luminance:
 - A. Full sun on face of signage: No limit.
 - B. Daytime luminance: 6,000 candela per square metre (cd/m2).
 - C. Morning and evening twilight and overcast weather: 700 cd/m2.
12. Threshold increment maximum %:
 - Night time: 350 cd/m2 (maximum 20%).
13. Adaptation luminance:
 - Night time: 5.
14. The sign must operate in accordance with the Lighting Impact Assessment Report submitted with the application prepared by Electro Light, (04/04/2023) to the

4.1 (Cont.)

satisfaction of and at no cost to the Head, Transport for Victoria and the Responsible Authority.

Image Transitions

15. 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.

Brightness Levels

16. 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.
17. 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.
18. Any change in brightness levels must be applied during an image transition, not while an image is being displayed.

Compliance Record

19. The operator must keep a Compliance Record of the operation of the sign. This must be provided to the Head, Transport for Victoria within five 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.
 - D. All record information must be time and date stamped to show the time of measurement.
 - E. Compliance Records must be maintained for a minimum of 12 months.

Upward Light Ratio

20. Electronic signage must have an Upward Light Ratio (ULR) of less than 50% and the design must include facilities (such as integral baffles) to mitigate upward waste light.

Operational Parameters for Electronic Signs

21. No advertisement on the electronic sign may be displayed for less than 30 seconds.
22. The transition from one advertisement to another must be instantaneous.
23. 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.

4.1 (Cont.)

- 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.
24. The advertising area must not be split into two screens with different messages.
25. The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessorisation within or outside the permitted advertising area unless the Head, Transport for Victoria has agreed to in writing prior to its installation.

Expiry (mandatory)

26. This permit will expire 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.

COUNCIL DECISION

Moved: Cr Marsh
Seconded: Cr Gill

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 not to support Planning Permit Application P23/0814 on the following grounds:

- 1. The proposal fails to satisfy relevant Planning Policy Framework Strategies at Clause 11.03-5S – Distinctive areas and landscapes, including the Mornington Peninsula Localised Planning Statement (Victorian Government, 2014); Clause 15.01-1S – Urban design and 15.01-1L - Urban design - Mornington Peninsula; and is therefore an inappropriate design response.**
- 2. The proposal fails to consider the objectives and decision guidelines of Clause 52.05 - Signs as the sign would:**

4.1 (Cont.)

- A. Be overly dominant in the streetscape.
 - B. Contribute to excessive visual clutter or visual disorder.
 - C. Not have an acceptable cumulative impact of signs on the character of the area or route, including the need to avoid visual disorder or clutter of signs and the existing or desired future character.
3. The sign is not site responsive, does not produce an acceptable built form and design outcome and is therefore contrary to the orderly and proper planning of the area.

Vote by Division (Requested by Cr Gill)

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

Against: Cr Race, Cr Roper and Cr Celi

Carried

4.2 Creswell Street East, Crib Point - Development Contributions Plan - Planning Scheme Amendments C300morn and C295morn

Deputation

- Stephen Lambert

RECOMMENDATION

That Council:

1. Adopts the revised Creswell Street East Crib Point Development Contributions Plan (Mesh, December 2023) as contained in Attachment 1 to this report.
2. Requests the Minister for Planning to prepare and approve Amendment C300morn to the Mornington Peninsula Planning Scheme, pursuant to Section 20(4) of the *Planning and Environment Act 1987* generally in accordance with the documentation as at Attachment 2 to this report.
3. Seeks authorisation from the Minister for Planning pursuant to Section 8A of the *Planning and Environment Act 1987* to prepare Amendment C295morn to the Mornington Peninsula Planning Scheme generally in accordance with Attachment 1 to this report.
4. Undertakes exhibition of Amendment C295morn to the Mornington Peninsula Planning Scheme in accordance with Section 19 of the *Planning and Environment Act 1987* following receipt of authorisation from the Minister for Planning.
5. Authorises the Director – Planning and Infrastructure to make editorial and administrative changes to Attachments 1 and 2 to this report prior to submission of Amendment C300morn for Ministerial approval and before exhibition of Amendment C295morn commences, as required.
6. Commits to voluntarily secure and pay for native vegetation offsets for the extent of native vegetation removal required to deliver infrastructure under the revised Creswell Street East Crib Point Development Contributions Plan (Mesh, December 2023) if Amendments C300morn and C295morn are approved and gazetted by the Minister for Planning.
7. Consider the costs to deliver the infrastructure under the revised Creswell Street East Crib Point Development Contributions Plan (Mesh, December 2023), as part of Council's future annual budget process, should Amendment C295morn be approved and gazetted.

COUNCIL DECISION

Moved: Cr Dixon

Seconded: Cr Race

That the recommendation be adopted.

4.2 (Cont.)

AMENDMENT

Moved: Cr Marsh

Seconded: Cr Celi

Part B

That Council retains the existing 70/30 cost split between landowners and Council.

Carried

The Amendment became part of the Substantive Motion.

SUSPENSION OF STANDING ORDERS

Moved: Cr Gill

Seconded: Cr Marsh

That Standing Orders be suspended at 7.57pm.

Attendance

Cr Roper left the meeting at 7.58pm.

RESUMPTION OF STANDING ORDERS

Moved: Cr Celi

Seconded: Cr Bissinger

That Standing Orders be resumed at 7.59pm.

Attendance

Cr Roper returned to the meeting at 8.00pm.

Cr Holland left the meeting at 8.02pm and was not present for voting on this item.

The Substantive Motion was then put.

Carried Unanimously

ADJOURNMENT OF MEETING

Moved: Cr Gill

Seconded: Cr Mar

That the meeting be adjourned at 8.17pm for a short recess.

Carried

RESUMPTION OF MEETING

Moved: Cr Marsh

Seconded: Cr Roper

That the meeting be resumed at 8.30pm.

Carried

4.2 (Cont.)**Attendance**

Cr Holland returned to the meeting at 8.30pm.

ALTER THE ORDER OF BUSINESS

Moved: Cr Marsh

Seconded: Cr Celi

That the item listed at 4.6 on the agenda be considered after the item listed as 4.2.

Carried

4.3 Planning Scheme Amendment C293morn Rezoning Transport Land in Somerville to a Commercial Zone

RECOMMENDATION

That Council:

1. Adopts Amendment C293morn as exhibited pursuant to section 29(1) of the *Planning and Environment Act 1987* (the Act), generally in accordance with Attachments 1 to 7 of this report.
2. Submits the adopted Amendment C293morn to the Minister for Planning for approval pursuant to section 31(1) of the Act generally in accordance with Attachments 1 to 7 of this report.
3. Authorises the Director of Planning and Infrastructure to make minor editorial or administrative changes to Attachments 1 to 7 to this report if required prior to submission.
4. Gives written notice of Council's decision on Amendment C293morn to the proponent of the Amendment and both submitters to the Amendment.

COUNCIL DECISION

Moved: Cr Roper

Seconded: Cr Race

That the recommendation be adopted.

Carried

4.4 Combined Planning Scheme Amendment C247morn and Planning Permits P23/2400 and P23/2402 - Woodbyne Crescent and Albany Way, Mornington – Administrative changes

RECOMMENDATION

That Council resolves to:

1. Correct an administrative error regarding proposed Planning Scheme Amendment C247morn to the Mornington Peninsula and Planning Permits P21/3339 and P22/0291 affecting land at 2, 4, 5, 6, 7, 8 and 10 Woodbyne Crescent and 1-4 Albany Way, Mornington (the Woodbyne Precinct) by:
 - A. substituting Planning Permit Application P21/3339 with new Planning Permit Application P23/2400 to correct an administrative error regarding the costs of works
 - B. substituting Planning Permit Application P22/0291 with new Planning Permit Application P23/2402 to correct an administrative error regarding the cost of works
2. Submit new Permit Applications P23/2400 and P23/2402 to the Department of Transport for consideration as part of the authorisation request for Planning Scheme Amendment C247morn, generally in accordance with the documentation in Attachments 9-12 of this report.
3. Update the Council's previous resolution of the 11 July 2023 to include the revised permit application numbers as follows:
 - A. Seeks authorisation from the Minister for Planning, pursuant to section 8A of the *Planning and Environment Act 1987* (the Act), to prepare combined Planning Scheme Amendment C247morn to the Mornington Peninsula Planning Scheme and Planning Permits P23/2400 and P23/2402 under section 96A of the Act generally in accordance with the documentation reattached as Attachments 1 to 15 to this report.
 - B. Undertakes exhibition of combined Planning Scheme Amendment C247morn to the Mornington Peninsula Planning Scheme and Planning Permits P23/2400 and P23/2402 and the Development Plan in accordance with section 96C of the Act following receipt of authorisation from the Minister for Planning.

COUNCIL DECISION

Moved: Cr O'Connor
Seconded: Cr Holland

That the recommendation be adopted.

Carried Unanimously

4.5 Update to Planning Scheme Bushfire Exemptions Mapping Review

RECOMMENDATION

That Council:

1. Adopts the Mornington Peninsula Shire Strategic Planning Bushfire Assessment (Kevin Hazell Bushfire Planning, May 2023) (SPBA), as at Attachment 6.
2. Writes to the Department of Transport and Planning (DTP) requesting a review of Bushfire Prone Area (BPA) and Bushfire Management Overlay (BMO) mapping in specific areas of Sorrento and Portsea as recommended by the SPBA.
3. Writes to the Minister for Planning outlining Council's updated advocacy positions (detailed in Attachment 7 to this report) and request that the Minister engages relevant experts to undertake the following work (also detailed in Attachment 7 to this report) using Mornington Peninsula Shire as a pilot test case:
 - A. Analyses the impact of other planning provisions and bushfire planning scheme requirements that could be resulting in vegetation loss and change.
 - B. Investigates potential changes to the Victoria Planning Provisions (VPPs) that would allow councils to consider vegetation removed under the bushfire planning exemptions (before a planning permit application for development is lodged) to prevent misuse of exemptions to gain a development advantage.
 - C. Reviews bushfire behaviour on the Mornington Peninsula to identify areas of lower risk where the mapping of bushfire controls (and associated permit exemptions) could be reduced.

COUNCIL DECISION

Moved: Cr Gill
Seconded: Cr Marsh

That Council:

1. **Adopts the Mornington Peninsula Shire Strategic Planning Bushfire Assessment (Kevin Hazell Bushfire Planning, May 2023) (SPBA), as at Attachment 6.**
2. **Writes to the Department of Transport and Planning (DTP) requesting a review of Bushfire Prone Area (BPA) and Bushfire Management Overlay (BMO) mapping in specific areas of Sorrento and Portsea as recommended by the SPBA.**
3. **Writes to the Minister for Planning outlining Council's updated advocacy positions (detailed in Attachment 7 to this report) and request that the Minister engages relevant experts to undertake the following work (also detailed in Attachment 7 to this report) using Mornington Peninsula Shire as a pilot test case:**
 - A. Analyses the impact of other planning provisions and bushfire planning scheme requirements that could be resulting in vegetation loss and change.**
 - B. Investigates potential changes to the Victoria Planning Provisions (VPPs) that would allow councils to consider vegetation removed under the bushfire planning exemptions (before a planning permit application for**

4.5 (Cont.)

development is lodged) to prevent misuse of exemptions to gain a development advantage.

- C. Reviews bushfire behaviour on the Mornington Peninsula to identify areas of lower risk where the mapping of bushfire controls (and associated permit exemptions) could be reduced.

4. That:

- A. This motion and report including all attachments be immediately sent to all major stake holder groups including emergency services entities and all incorporated township community associations for their consideration and feedback.
- B. Ongoing low cost publicity regarding this report be undertaken as soon as possible at a high level of importance including possible regular mayoral follow up and a future communications plan be considered by the Chief Executive Officer John Baker.
- C. Budget measures outlined in this report be referred to and considered in the forward 2024 – 2025 budget.
- D. The Bushfire exemptions mapping review and related issues outlined in agenda item 4.5 be reviewed by Council in April 2024.
- E. All advocacy items listed in this report be followed up and reported on in the April review.

Carried Unanimously

4.6 CN2702 Residual Waste Processing Services - Tender Evaluation Outcome

Having disclosed a conflict of interest Cr Race, left the meeting at 8.32pm and returned to the meeting at 9.07pm, after the matter had been finalised. Cr Race, took no part in the discussion or voting on this item.

PROCEDURAL MOTION

Moved: Cr Marsh
Seconded: Cr Celi

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

4.6 CN2702 Residual Waste Processing Services - Tender Evaluation Outcome**7.1 Road Discontinuance****Carried****RECOMMENDATION**

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

Part B

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

COUNCIL DECISION

Moved: Cr Marsh
Seconded: Cr Bissinger

That the item be deferred pending an updated report coming in the new year with the relevant information forming part of the report tabled for decision.

Vote by Division (Requested by Cr Marsh)

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

Against: Cr O'Connor and Cr Roper

Carried

4.6 (Cont.)**ALTER THE ORDER OF BUSINESS**

Moved: Cr Dixon

Seconded: Cr O'Connor

That the item listed at 7.1 on the agenda be considered after the item listed as 4.6.

Carried

4.7 Sorrento Foreshore Masterplan**RECOMMENDATION**

That Council resolves to endorse the Sorrento Foreshore Masterplan to allow detailed design and construction to progress subject to Council funding.

COUNCIL DECISION

Moved: Cr Bissinger

Seconded: Cr Race

That the recommendation be adopted.

Carried Unanimously

PROCEDURAL MOTION

Moved: Cr Bissinger

Seconded: Cr Celi

That the meeting time be extended to 10.30pm.

Carried

OFFICE OF THE CEO

4.8 Naming of the Southern Peninsula Youth Hub

ALTER THE ORDER OF BUSINESS

Moved: Cr Marsh

Seconded: Cr Dixon

That the item listed at 4.8 on the agenda be considered after the item listed as 7.1.

Carried

RECOMMENDATION

1. That Council endorses the three names proposed by the Bunurong Land Council Aboriginal Corporation for the naming of the Southern Peninsula Youth Hub being:
 - A. Tounnin Wominjeka (warm welcome)
 - B. Umarko Wominjeka (all, everyone welcome)
 - C. Kartnuk Bullito Wongonon (joy everywhere, all about).
2. That the youth groups and proposed users of the Southern Peninsula Youth Hub determine their preferred name from the Council endorsed list of three names.
3. That a period of public consultation for a period no less than 30 days will commence to seek feedback from the wider community on the preferred name as chosen by the youth groups.
4. That the final name, following consultation with the wider community, is the approved name for the Southern Peninsula Youth Hub and will be submitted to the Registrar of Geographic Names Victoria for consideration and Gazettal.

COUNCIL DECISION

Moved: Cr Gill

Seconded: Cr Race

That the recommendation be adopted.

Carried

5 NOTICES OF MOTION

Notices of Motion must be received 10 clear business days prior to a meeting.

5.1 Notice of Motion 426 (Cr Marsh) - Amendment to Councillor Code of Conduct re dispute mediation

MOTION

That Council resolves:

1. To amend the Councillor Code of Conduct 2022 (Code) by inserting a new clause at 5.2 (f):

“The mediator must not provide, and must not be solicited by any party or Council staff to provide, any evaluation or advice on the merits of, or seek to determine the outcome of, the dispute being mediated. This requirement applies in the lead-up to, during and after any mediation relating to the dispute (i.e. it is enduring) but does not limit the ability of the mediator to conduct further mediation between the parties.”

2. That the motion seeks only to address this identified and discrete gap in policy and does not constitute a full review of the Code. As such, the ‘Document Review Date’ shall remain as ‘February 2025’.

Attendance

Cr Roper left the meeting at 9.50pm.

Cr Roper returned to the meeting at 9.52pm.

UPDATED NOTICE OF MOTION

Moved: Cr Marsh

Seconded: Cr Celi

That Council resolves:

1. To amend the Councillor Code of Conduct 2022 (Code) by:

- A. Amending clause 5.2 (d)(i) to read:

“Engage the services of an external National Mediator Accreditation System (NMAS) accredited mediator and convene a meeting within one month”.

- B. Inserting a new clause at 5.2 (f):

“The mediator must not provide or be solicited by any party or Council staff to provide any commentary, opinion, evaluation or advice on the merits of, or seek to determine the outcome of, the dispute subject to mediation, on any related matter. This requirement applies before, during and after any mediation relating to the dispute (i.e., it is enduring) but does not limit the ability of the mediator to conduct further mediation between the parties.”

2. That the motion seeks only to address this identified and discrete gap in policy and does not constitute a full review of the Code. As such, the ‘Document Review Date’ shall remain as ‘February 2025’.

5.1 (Cont.)

Vote by Division (Requested by Cr Marsh)

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

Against: Cr O'Connor, Cr Race, Cr Roper, Cr Mar and Cr Holland

Lost

To amend the Councillor Code of Conduct a formal resolution of the Council must be passed by at least two-thirds of the total number of Councillors elected to the Council, being eight Councillors.

5.2 Notice of Motion 428 (Cr Race) - Implementation of Transparency and Integrity Hub

Having disclosed a conflict of interest Cr Marsh, left the meeting at 10.05pm and returned to the meeting at 10.26pm, after the matter had been finalised. Cr Marsh, took no part in the discussion or voting on this item.

MOTION

That Council considers allocating budget for the implementation of the Mornington Peninsula Shire (Shire) Transparency and Integrity Hub at the next budget cycle 2024. The Transparency and Integrity Hub will allow the Shire to be leaders in transparent and open government.

UPDATED NOTICE OF MOTION

Moved: Cr Race
Seconded: Cr Roper

1. That Council seeks a report for the implementation of the Mornington Peninsula Shire Transparency and Integrity Hub to be tabled at a Council meeting in March 2024.
2. That Council refers the Mornington Peninsula Shire Transparency and Integrity Hub to the 2024 budget process.

AMENDMENT

Moved: Cr Gill
Seconded: Cr Bissinger

2. That Council also considers a low cost alternative for the implementation of transparency and integrity.
3. That Council refers the Mornington Peninsula Shire Transparency and Integrity Hub and any alternative to the 2024 budget process.

Carried Unanimously

The Amendment became part of the Substantive Motion.

The Substantive Motion was then put.

Carried Unanimously

For clarity the Council Decision is repeated below.

COUNCIL DECISION

1. That Council seeks a report for the implementation of the Mornington Peninsula Shire Transparency and Integrity Hub to be tabled at a Council meeting in March 2024.
2. That Council also considers a low cost alternative for the implementation of transparency and integrity.

5.2 (Cont.)

3. That Council refers the Mornington Peninsula Shire Transparency and Integrity Hub and any alternative to the 2024 budget process.

Carried Unanimously

6 URGENT BUSINESS

Nil.

7 CONFIDENTIAL ITEMS

Advice to the Public

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

MEETING CLOSED TO THE PUBLIC

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

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

RECOMMENDATION

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

7.1 Road Discontinuance

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

COUNCIL DECISION

Moved: Cr Marsh

Seconded: Cr Celi

That the recommendation be adopted.

Carried

This item was considered after item 4.6.

MEETING RE-OPENED

Moved: Cr Dixon
Seconded: Cr O'Connor

That the meeting be re-opened to the public.

Carried

8 MEETING CLOSE

As there was no further business, the meeting closed at 10.27pm

Confirmed this 6th day of February 2024

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Mayor, Cr Simon Brooks, Chairperson - Council