

**Priority Projects Standing Advisory Committee Report
Mornington Peninsula Planning Scheme
Referral 25: 211 Ocean Beach Road, Sorrento**

Planning and Environment Act 1987

23 November 2022

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report pursuant to section 151 of the PE Act

Mornington Peninsula Planning Scheme

Referral 25: 211 Ocean Beach Road, Sorrento

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Kathy Mitchell AM, Chair



Kate Partenio, Member

23 November 2022

Contents

	Page
1. Overview	1
2. Introduction.....	3
2.1 Terms of Reference and letter of referral.....	3
2.2 Proposal	3
3. Site and planning context.....	5
3.1 The subject land.....	5
3.2 Planning framework	6
3.3 Planning overview	9
4. The issues	11
4.1 Definition of key worker and the use	11
4.2 Number of beds	13
4.3 Onsite parking and bicycles	15
4.4 Site access and design	19
4.5 Noise mitigation.....	22
5. Reasons and recommendation	28
5.1 Reasons.....	28
5.2 Final form of permit conditions	29
5.3 Final form of operational management plan	29
5.4 Recommendation	29

Appendix A Terms of Reference

Appendix B Letter of Referral

Appendix C Document list

Appendix D Committee preferred version of Planning Permit P21/2501

Appendix E Committee preferred version of the Operational Management Plan

List of Tables

	Page
Table 1 Subject land permit requirements.....	7
Table 2 Noise references.....	23

List of Figures

	Page
Figure 1 Ground floor plan	4
Figure 2 Aerial view of the subject land	5
Figure 3 Existing building on the subject land	5
Figure 4 Recommended changes to the site layout	22

Glossary and abbreviations

Applicant	Sorrento Lodge Pty Ltd
Committee	Priority Projects Standing Advisory Committee
Council	Mornington Peninsula Shire Council
D	Document
DDA	<i>Disability Discrimination Act 1992</i>
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
EP Act	<i>Environment Protection Act 1978</i>
GED	General Environmental Duty
GTP	Green Travel Plan
MDA	Marshall Day Acoustics
MPS	Municipal Planning Strategy
OMP	Operational Management Plan
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Mornington Peninsula Planning Scheme
PPF	Planning Policy Framework
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

1. Overview

Referral summary	
Date of referral	1 September 2022
Members	Kathy Mitchell AM (Chair), Kate Partenio
Nature of proceeding	Call-in Victorian Civil and Administrative Tribunal (VCAT) proceedings P259/2022, P260/2022 and P262/2022
Permit application number	Mornington Peninsula: P21/2501
Description of permit	Use as a residential building (key worker housing) and associated buildings and works in accordance with the endorsed plans
Common name	Sorrento Lodge
Municipality	Mornington Peninsula Shire Council (Council)
Planning Authority	Mornington Peninsula Shire Council
Subject land	211 Ocean Beach Road, Sorrento
Site inspection	<p>Accompanied on 11 October 2022, inspecting:</p> <ul style="list-style-type: none"> - The subject site and surrounds, including inside the existing building - 209a Ocean Beach Road, Sorrento - 213 Ocean Beach Road, Sorrento - 214 Ocean Beach Road, Sorrento - 26 Queens Street, Sorrento
Parties to the Hearing	<p>Sorrento Lodge Victoria Pty Ltd (the Applicant) represented by Rupert Watters of Counsel, instructed by Planning Property Partners, calling the following expert witnesses:</p> <ul style="list-style-type: none"> - Charmaine Dunstan of Traffix Group in traffic - Kel Twite from UPco in town planning <p>Mornington Peninsula Shire Council, represented by Gerald Gilfedder of Currie and Brown</p> <p>Multiple submitters from VCAT proceeding P260/2022, represented by James Lofting of HWL Ebsworth, calling the following expert witness:</p> <ul style="list-style-type: none"> - Ross Leo of Clarity in acoustics <p>Elizabeth and Michael Tobin, represented by Nick Crawford of TP Legal</p> <p>Andrew Ambrose</p>

Hearings	Directions Hearing by video conference, 26 September 2022 Public Hearing in person at 1 Spring Street, Melbourne and by video conference (hybrid) on 24, 26 and 27 October 2022
Information relied upon	Council reports, and notice of decision to grant a permit by Council, all relevant VCAT material from files P259/2022, P260/2022 and P262/2022, lodged objections, additional submissions during the Hearing, expert evidence and views from site inspection
Date of this report	23 November 2022
Citation	Priority Project SAC Referral 25 [2022] PPV

(i) Findings

The Committee finds the proposal to provide accommodation for key workers at the subject land is well supported by State and local policy that supports diversity of housing opportunities, affordable housing and housing close to employment. The Committee is confident the impacts can be managed through the permit conditions and the Operational Management Plan (OMP).

The proposal has Council support and will provide a housing opportunity for a key demographic seeking employment in an area where there is a significant constraint in finding employment opportunities near affordable housing.

On balance, the proposal is acceptable and will provide a net community benefit to key workers in Sorrento and more broadly in Morningson Peninsula, in that key workers will be able to access affordable accommodation in a location close to a key employment area.

The Committee commends this proposal to the Minister for Planning and Council.

(ii) Recommendation

The Priority Projects Standing Advisory Committee recommends:

- 1. The Minister for Planning support the proposed development at 211 Ocean Beach Road, Sorrento, and recommend the Governor in Council issue Morningson Peninsula Planning Permit P21/2501, subject to the conditions included in Appendix D of this report.**

2. Introduction

2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the former Minister for Planning on 14 June 2020. The purpose of the Committee as set out in its Terms of Reference is to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes¹.

The Committee was provided with a letter of referral from the former Minister for Planning dated 1 September 2022 that tasked it to:

- provide advice and recommendations on whether a planning permit should be issued, and if so, the appropriate conditions that should be imposed².

This is Priority Project Referral 25. The members of the Committee who considered Referral 25 are:

- Ms Kathy Mitchell AM, Chair
- Ms Kate Partenio, Member.

The Committee was assisted by Ms Hayley Becker, Manager Major Projects from the office of Planning Panels Victoria.

2.2 Proposal

The application proposes to use the existing building on the site (which was previously used as a residential aged car facility) as a residential building to provide accommodation for key workers who are employed in Sorrento or nearby to it. Specifically, the proposal includes:

- use of 34 existing bedrooms to accommodate 75 beds for key workers³
- a one-bedroom apartment for an on-site manager
- provision of 13 car park spaces to be shared between the building manager, residents and the facility's shuttle vehicle (Condition 1 plans)
- provision of 25 bicycle spaces for residents and eight spaces for visitors (33 bicycle spaces in total)
- reception area for guests from 8.00am to 9.00pm, seven days a week
- provision of a shuttle facility for the residents
- minimum length of stay of one week, with the preference to accommodate seasonal leases (three months), up to one year
- construction of bicycle parking cages and waste area.

The Applicant is Sorrento Lodge Pty Ltd.

¹ Appendix A

² Appendix B

³ At the Hearing, it was generally discussed there would be 77 beds, however the Committee has counted 75 beds on the Condition 1 plans

The site will provide accommodation for key workers who are employed to work at least 0.5 Full Time Equivalent in or near Sorrento or within the Mornington Peninsula municipality.

It is expected that employers in the hospitality and retail sector will reserve a certain number of rooms to be allocated to their employees. It is proposed that rooms will be allocated by grouping together employees from the same employer, and in same sex groups. All linen will be provided, and the rooms will be serviced once a week or as required. All residents will pay rent, which the Committee was advised would be in the order of \$350.00 per week, per bed. The room allocation will be determined, however the Committee was advised that rooms will generally be same sex and grouped by employees from the same employer.

The layout of the site is shown as Figure 1 ⁴.

Figure 1 Ground floor plan



On 11 February 2022, Council issued a notice of decision to grant a permit for the use of a residential building (key worker housing) and associated buildings and works, subject to conditions.

On 9 March 2022, three separate appeals to Council's decision were lodged under section 82 of the *Planning and Environment Act 1987* (PE Act), including one joint application (VCAT proceedings P259/2022, P260/2022 and P262/2022).

VCAT held a practice day hearing on 13 May 2022, and a compulsory conference date was set for 7 September 2022, with the main hearing date scheduled on 14, 15, 16, 17, 21 and 22 November 2022 for six days.

At the request of the Applicant, the former Minister for Planning called in the proceedings from VCAT in May 2022 and the matter was referred to the Committee on 1 September 2022.

⁴ Document (D) 56

3. Site and planning context

3.1 The subject land

The subject site is shown in Figure 2.

Figure 2 Aerial view of the subject land



Source: VicPlan

The site is located at 211 Ocean Beach Road, Sorrento. The site is currently occupied by an existing single storey building that was previously used for a residential aged care facility, including seven car parking spaces within the front setback. The residential aged car facility accommodated up to 32 residents. The existing building is shown in Figure 3.

Figure 3 Existing building on the subject land



Source: D46

The site has a total area of approximately 2,893 square metres and is located approximately 350 metres from the main shopping precinct of Sorrento, which is designated by policy as a Small Township Activity Centre.

The site is situated within a residential area currently zoned General Residential Zone, with a mix of single and double storey dwellings on sloping sites surrounding the site.

3.2 Planning framework

(i) State policy

Relevant State policy includes:

- Clause 11 – Settlement
- Clause 13 – Environmental Risks and Amenity
- Clause 15 – Built Environment and Heritage
- Clause 16 – Housing
- Clause 17 – Economic Development
- Clause 18 – Transport.

The Committee highlights the following clauses relevant to the key issues:

- Clause 11.03-1S - Activity centres
- Clause 13.05-1S - Noise management
- Clause 15.01-4R - Healthy neighbourhoods
- Clause 16.01-1S - Housing supply
- Clause 16.01-2S - Housing affordability
- Clause 17.01-1S – Diversified economy
- Clause 18.01-11S - Land use and transport integration.

For reasons expressed in this report, the Committee finds the proposal responds appropriately to the relevant policies of the Planning Policy Framework (PPF) because it:

- facilitates diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types
- supports opportunities for a range of income groups to choose housing in well serviced locations
- increases choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities
- gives people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.

(ii) Municipal planning strategy and local policy

The relevant Municipal Planning Strategy (MPS) and Local Planning Policy associated with the proposal include:

- Clause 02.01 – Context
- Clause 02.02 – Vision
- Clause 02.03 – Strategic Directions
- Clause 02.03-1 – Settlement
- Clause 02.03-5 – Built Environment and heritage
- Clause 02.04 – Strategic framework plan

- Clause 11.01-1L – Settlement Mornington Peninsula.

The Committee highlights the following clauses relevant to the key issues:

- Clause 02.01 Context, recognises that the Mornington Peninsula includes many holiday houses, leading to a substantial increase in its population during the summer peak period.
- Clause 02.02 Vision, includes a strategic objective to facilitate opportunities for job creation and an environment for business to succeed and seeks to create thriving, accessible and inclusive place to live, work and visit.
- Clause 02.03-1 Settlement, identifies Sorrento as a Small Township Activity Centre and includes strategic directions to:
 - direct growth primarily to major activity centres, and the remainder to neighbourhood activity centres
 - encourage greater housing diversity in established areas
 - concentrate commercial and non-commercial services in activity centres to serve the needs of the community, visitors and tourists, commensurate with the role and function of that activity centre in the activity centres hierarchy on the Mornington Peninsula.

(iii) Zones and overlays

The subject land is located within the General Residential Zone Schedule 1 and is encumbered by Design and Development Overlay Schedule 2, Bushfire Management Overlay Schedule 1 and Vegetation Protection Overlay Schedule 1.

The permit triggers are listed in Table 1.

Table 1 Subject land permit requirements

Permit requirements	
General Residential Zone Schedule 1	A permit is required to: <ul style="list-style-type: none"> - use the land for a residential building - construct a building or carry out works for a section 2 use
Design and Development Overlay Schedule 2	A permit is required to construct a building or construct or carry out works

No planning permit is required under the Vegetation Protection Overlay Schedule 1 nor the Bushfire Management Overlay Schedule 1.

In relation to Clause 52.06, car parking spaces must be provided to the satisfaction of the responsible authority.

General Residential Zone

The purpose of the GRZ1 includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Pursuant to Clause 32.08-2 of the General Residential Zone, a planning permit is required to use the land for a residential building (section 2 use) as well as pursuant to Clause 32.08-9 for buildings and works associated with a section 2 use.

A residential building is “*Land used to accommodate persons, but does not include camping and caravan park, corrective institute, dependent person’s unit, dwelling, group accommodation, host farm, residential village or retirement village*”. The works required include the construction of bicycle parking cages and a 1.8-metre-high paling timber fence to enclose the waste area.

Design and Development Overlay Schedule 2 (Bayside and Village Design)

The relevant design objectives of Design and Development Overlay Schedule 2 includes:

- To ensure that the design of subdivision and housing is responsive to the environment, landform, site conditions and character of coastal and bayside residential areas and rural villages.
- To ensure that new development has proper regard for the established streetscape and development pattern in terms of building height, scale and siting.

Design and Development Overlay Schedule 2 includes several mandatory requirements relating to sewerage and drainage, maximum building heights and number of dwellings. None of these mandatory requirements apply to the proposal. Clause 2.0 specifies that an application to construct a building or carry out works should meet the General Requirements of this clause, except where it has been demonstrated to the satisfaction of the responsible authority that compliance is unreasonable, or unnecessary and no significant loss of amenity will result.

Heritage Overlay

At the time Council issued its notice of decision to grant a permit, the site was subject to Heritage Overlay HO1 (Sorrento Historic Precinct). On 26 May 2022, HO1 was deleted from the site through Mornington Peninsula Planning Scheme Amendment C262morn Part 2. There was some confusion at the Hearing whether HO4, which includes Ocean Beach Road and properties opposite the subject land, applies to the cross over and whether Council evaluated it in considering the permit application. Council and the Applicant advised it was considered but the construction of a cross over is exempt from notice and review under the Heritage Overlay. The Committee accepts that position and this aspect of the permit was not contested.

Particular provisions

Clause 52.06 (Car Parking) includes the following relevant objectives:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.

Clause 52.06 does not specify a car parking rate for a residential building. In accordance with Clause 52.06-6, car parking spaces must be provided to the satisfaction of the responsible authority. At the request of Council, the proposal provides for 13 car parking spaces.

General and operational provisions

Clause 65.01 includes Decision Guidelines for approval of an application or a plan. Relevant matters to be considered include:

- the Municipal Planning Strategy and the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- any matter required to be considered in the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area.

Clause 71.02-3 relates to integrated decision making and identifies that society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure and that planning aims to meet these needs and expectations. Responsible authorities should integrate the range of planning policies relevant to the issues and balance conflicting objectives in favour of net community benefit.

3.3 Planning overview

(i) The issue

The key issue to be resolved is whether the proposal is supported by the Mornington Peninsula Planning Scheme (Planning Scheme).

(ii) Submissions and evidence

Objectors to the proposal suggested that the proposal is inconsistent with the PPF and is an inappropriate type of use in the General Residential Zone in terms of amenity impacts.

Council provided a detailed analysis of both State and local planning policy and applicable planning controls in its submission. Council submitted the proposal provides an appropriate response to the MPS and PPF, as well as relevant zone and overlay provisions.

The Applicant referred to the specific purpose of the General Residential Zone *“to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport”*. The Applicant acknowledged the subject site is located in an area primarily developed with single detached dwellings, highlighting the proposal supported the purpose of the General Residential Zone by providing diverse housing for the area.

Mr Twite gave evidence for the Applicant and considered the proposal represented an appropriate use of land, it had strong State and local policy support, it provided diversity of housing and it met a specific housing need. He noted the proposal utilised an existing vacant building in the General Residential Zone and that so long as amenity could be managed, there should be no adverse impacts. Mr Twite contended there would be no overshadowing or overlooking impacts, however, details to be reviewed and better reconciled included intensity of use, a designated smoking area, waste management and disabled access.

In response to a question from the Committee, Mr Twite noted the land use enjoyed policy, locational and strategic support, regardless of whether the building was being repurposed from its former use.

In discussing the suitability of the land for residential purposes, Mr Crawford stated *“the land is suitable for residential land use, however the proposal is a significant shift in the type of residential land use”*. Further, Mr Crawford submitted that due to the previous use of the land as a residential age care facility *“the land has already ‘pulled its weight’ in terms of housing diversity and density in an established residential area”*.

Mr Lofting acknowledged there were strategic policies that support the proposal, however requested the Committee have regard to Clause 71.02-3 to determine whether the proposal appropriately balanced competing interests in favour of achieving net community benefit.

(iii) Discussion

The Committee has considered the key strategic imperatives of relevant State policy, the MPS and local policies and considers the proposal responds appropriately to the key directions.

The Committee considers there is clear policy support at a State and local level for the use of a residential building on the subject land. Sorrento is identified as a Small Township Activity Centre, and the subject land is located within an established residential area within close proximity to the Sorrento town centre.

At both a State and local level, housing policy encourages greater housing diversity in established areas and encourages opportunities for a range of housing in well serviced locations. The proposed land use is supported by these policies within the Planning Scheme due to the diversity of housing choice it will provide for in Sorrento.

The purpose of the General Residential Zone is to, amongst other things, implement the MPS and PPF, encourage diversity of housing types in locations close to services and ensure development respects neighbourhood character. It is clear to the Committee the proposal is consistent with the purpose of the General Residential Zone and associated decision guidelines.

The proposal will facilitate well located affordable housing in an area within proximity to an activity centre that responds appropriately to the relevant policies included in the Planning Scheme.

(iv) Findings

The Committee finds:

- The proposal is supported by State and local planning policy and the purposes of the General Residential Zone.

4. The issues

The key issues to be resolved are:

- definition of key worker and the use
- number of beds
- on-site parking and bicycles
- site access and design
- noise mitigation
- Operational Management Plan.

4.1 Definition of key worker and the use

(i) The issue

The key issue to be resolved is how a ‘key worker’ and the proposed use can be defined in the context of the Planning Scheme.

(ii) Submission and evidence

Objections and submissions raised concern with the building being defined as a ‘residential building (key worker accommodation)’.

Mr Ambrose questioned whether the use should be characterised as a ‘residential village’ for the purposes of determining the required parking provision.

Mr Crawford submitted the proposal fits within the definition of a ‘rooming house’ as the total number of people who may occupy the 34 bedrooms is not less than four.

Some objectors characterised the proposal as a backpacker’s hostel.

The Applicant did not agree with the proposed use fitting within the definition of a rooming house as it will not be falling under the provisions of the *Residential Tenancies Act 1997*, instead it would be a contract.

The Applicant submitted the use was best defined as ‘residential building (key worker accommodation)’, noting ‘key worker’ was defined in the OMP. The OMP, prepared by TRE Management Vic Pty Ltd, (updated October 2022) defined key workers as:

Accommodation for an employee who provides a service including:

- Providers of services to residents – e.g teachers, doctors, nurses, health care workers, pharmacists, Council staff
- Providers of services to visitors/ tourists – eg hospitality, tourism, retail, workers at tourist attractions
- Workers in key local industries – eg agriculture and associated industries
- Trades and specialised services.

The Applicant noted AHURA discussed key workers in 2019 and its definition was generally consistent with the OMP.

In its submission, the Council referred to the Victorian Planning Authority (in association with six south-west Victorian municipalities) *Key and Essential Worker Housing Supply Action Plan, September 2020*, which defined key worker as “An employee who provides a vital service,

especially in the essential services, health, or education sectors". The definition includes the following specific types of key workers:

- Providers of services to residents – e.g. teachers, doctors, nurses, health care workers, pharmacists, Council staff
- Providers of services to visitors/tourists – e.g. hospitality, tourism, retail, workers at tourist attractions
- Workers in key local industries – e.g. agriculture and associated industries, renewable energy, forestry, mining, construction.

The Applicant noted key worker is not defined in the Planning Scheme although rural worker is if engaged in the agricultural industry. He noted the intent of the proposal is to assist hospitality workers find reasonable accommodation but that the accommodation could be sourced by others, including trades people. It was generally agreed it would be highly unlikely doctors and medical staff would seek to live at the site, especially as most would need a car, and that the nearest hospital is at Rosebud.

(iii) Discussion

The Committee raised the issue of definitions at the Hearing and various parties provided a response, for which the Committee was appreciative.

The Council issued a notice of decision to grant a permit for the use of a residential building (key worker housing) and associated buildings and works, subject to conditions. The term 'key worker' is not defined in the Planning Scheme.

In the VPP, 'accommodation' is identified as a 'Land use term'. The definition of accommodation is 'land used to accommodate persons'. This includes land used for a 'Residential building'. A Residential building is defined in the VPP as:

Land used to accommodate persons but not camping and caravan park, corrective institution, dependent persons unit, dwelling, group accommodation, host farm, residential village or retirement village.

The VPP notes residential building includes a range of accommodation types. It considers the proposal comfortably sits within the land use term 'Residential building' that can include:

- Community care accommodation
- Residential hotel
- Rooming house
- Rural worker accommodation.

The proposal is clearly not community care accommodation nor rural worker accommodation (noting that provisions for rural worker accommodation was introduced into the VPP in September 2021).

A Residential hotel is defined as *"Land used to provide accommodation in serviced rooms for persons away from their normal place of residence"*. The Applicant advised a linen service will be provided, but residents will be required to maintain and keep their own rooms clean. Therefore, the proposed use does not fall under this definition.

A rooming house is defined as *"a rooming house as defined in the Residential Tenancies Act 1997"*. A rooming house in the *Residential Tenancies Act 1997* is *"a building, other than an SDA enrolled dwelling, in which there is one or more rooms available for occupancy on payment of rent:*

- (a) in which the total number of people who may occupy those rooms is not less than 4; or
- (b) in respect of which a declaration under section 19(2) or (3) is in force;"

The Committee agrees the proposal is not a rooming house because it will not fall under the *Residential Tenancies Act 1997*.

The use is clearly not a residential village because it does not comprise individual dwellings.

In terms of 'key worker', the Committee is comfortable with the definition included within the OMP, which is consistent with other definitions including the VPA *Key and Essential Worker Housing Supply Action Plan, September 2020* and D42 and D43 submitted by the Applicant.

The primary purpose of this proposal is to provide affordable housing for seasonal workers in the hospitality and retail sector within Sorrento and its surrounds. That accommodation for workers is required in Sorrento was not in question. It was generally acknowledged that some type of residential building is acceptable.

This proposal will provide accommodation to a different market to what already exists in Sorrento. The Committee accepts what the Applicant described as this proposal is not just a matter of desirability, but that it is addressing an accommodation crisis. It will not be a complete solution to the rental crisis in Sorrento. As it will be particularly targeted to hospitality workers, it will reduce, in a small way, the number of people competing for accommodation and will assist to address housing shortfalls, which is a benefit to the broader Mornington Peninsula community.

The definition in the OMP includes a broader range of workers including services such as teachers and health care workers as well as industries such as construction and agriculture. The Committee is satisfied that a broad range of 'key worker' is appropriate to allow the building to accommodate a range of needs to access its accommodation services.

The Applicant advised the facility would not devolve to a use such as backpackers due to the stringent rules in the OMP. The OMP is binding on the operator as it is included in the conditions.

(iv) Findings

The Committee finds:

- The proposed use falls under the definition of a 'residential building'.
- The definition of key worker, while not defined in the Planning Scheme, but provided in the OMP, is an appropriate characterisation of the target market for the residential building.

4.2 Number of beds

The key issue to be resolved is the appropriate number of beds in the 34 rooms that can be accommodated on the site.

(i) Submissions and evidence

The proposal seeks to provide 75 resident beds in the 34 rooms, with all rooms having a minimum of two single beds per room. One room is proposed to accommodate up to five single beds. The floor area of most rooms is 12 square metres which will be fitted out with two beds, a small refrigerator and an ensuite bathroom.

Following the Directions Hearing, most objectors conceded they could support the proposal, subject to there being one bed (and one person) per room.

HWL Ebsworth noted on behalf of the Objectors Group:

... we advise that our clients' formal position, following review after the site inspection and further discussion, is that they do not oppose the use of the facility for worker housing for a maximum number of residents allowed on site capped at 36 residents (plus the on-site manager) subject to a management plan and other conditions as set out in the attachments⁵.

The Objectors Group considered the 'doubling' of the population (when compared with the previous aged care facility) at the site would create unacceptable amenity impacts, including noise, traffic and general nuisance.

One objector raised the sparseness of furniture as a negative amenity issue.

In discussing amenity management, the Objector Group submitted "*the number of occupants is the most powerful of these tools and should be the starting point for any considerations*"⁶. In his closing, Mr Lofting considered the proposal to be an over-development of the site in that it was seeking to do too much. He noted the number of beds could be made to work, but with issues to be resolved, it did not instil confidence the proposal was acceptable.

In providing recommendations for conditions, Mr Ambrose noted many of the issues:

...can be ameliorated by adopting the 1 person per room policy and limiting the number of residents to 36 only. This will not only mitigate potential amenity impacts on the neighbours but will also offer a much better quality of living to the residents of Sorrento Lodge, a true win-win situation.

The Applicant, while conceding to many changes through conditions and the OMP, did not agree and submitted it sought the full bed proposal.

Council had no issue with the number of beds and noted in closing the approved OMP to regulate the site would assist to manage amenity and other effects.

(ii) Discussion

The Committee considers the issue of beds was somewhat related to concerns about "*young, transient, itinerant (potentially seasonal) seasonable workers*"⁷. One objector supported the concept but suggested the facility should be located elsewhere, away from Sorrento. Other objectors considered 'that type and age of people' are not generally appropriate to Sorrento.

It is important to note the standard of living by one group in society may not be the standard that is or can be expected by all. There is no doubt that some of the rooms will be small and compact but the important issue is whether the use proposed is acceptable on terms of amenity impacts. The Committee is not required to consider whether this is the best possible outcome, rather it is required to determine whether the outcome is acceptable.

Many residents of, and visitors to, Sorrento and its surrounds have wide range and choice in determining the type of accommodation that suits them best. Some residents, including key workers may not have that same level or extent of choice.

The proposal is providing cost effective accommodation for short term stays. Prospective residents will make a choice on whether they wish to stay there in the full knowledge of the terms, the conditions, the type of accommodation, the sharing arrangements and the rules. They will

⁵ D16

⁶ D40, para 4.2

⁷ D40, para 3.3

make that choice. They may make the choice to live in Sorrento and to enjoy the benefits of living within walking distance to a place of employment. They may seek to enjoy the other benefits of living in Sorrento for the same reasons why permanent residents and visitors do so, but as workers servicing the Sorrento community, in more affordable accommodation.

Having the opportunity to live in a residential building that provides a range of amenities, a secure room, companionship, no need to provide furnishings, linen and the like, and opportunities to meet new people may be a significant factor in whether someone accepts employment in the area.

Others who find this form of accommodation unsuitable may prefer to live elsewhere. At least there will be a choice.

It is clear to the Committee that there will be quite stringent rules and that offence of these rules will result in eviction.

Clearly, if potential residents found sharing a room too onerous, they would seek accommodation elsewhere. The 75 beds are the maximum and may not be fully occupied at all times, particularly after the summer and Easter peaks.

However, the Committee is concerned that not all rooms were shown as having wardrobe space, nor drawers for clothing or personal belongings (recognising these may be provided as part of the bed ensemble).

The Committee, while supporting a maximum of 75 beds, considers each room must provide, in addition to the single beds proposed, as a minimum:

- ensuite bathroom facilities
- wardrobe space for each bed
- at least two drawer spaces for each bed, one of which can be securely locked (may be as part of the bed).
- a small refrigerator
- one chair for each two bed bedroom and at least two chairs for each three or more bed bedrooms.

This will assist to enhance internal amenity and provide some privacy for each resident.

Additionally, the facility must provide an area for storage of suitcases external to the bedrooms.

For these reasons, the Committee supports the number of beds being a maximum of 75, subject to meeting the room requirements, as it provides an accommodation opportunity to a range of people seeking to live and work in Sorrento and surrounds.

(iii) Findings

The Committee finds:

- The total of 75 beds in 34 rooms is an acceptable outcome in the context of the proposal.

4.3 Onsite parking and bicycles

The key issue to be resolved is the layout of car parking and bicycle spaces.

(i) Preliminary matter

In opening on Day 1 of the Hearing, the Applicant sought a ruling from the Committee that the scope of its considerations should not include car parking as there was no permit trigger. The

original proposal provided for seven car spaces, but Council, in its notice of decision, conditioned 13 spaces. The Applicant accepted that condition and indicated at the Hearing it would abide by it.

Mr Gilfedder agreed and noted the issue of car parking was a matter to the satisfaction of the responsible authority.

Mr Crawford agreed that no permit was required for car parking because of the way in which the trigger worked, but the layout and extent of excavation might impact on whether all spaces could be accommodated.

Mr Lofting submitted his client had no opportunity to review this issue in detail and it was open to the Committee to consider the matters it considered important.

The Committee generally agreed with the position of the Applicant however, indicated it would examine car parking in the context of the overall site layout, rather than focusing on the actual number of spaces to be provided.

(ii) Submissions and evidence

Council submitted Clause 52.06-6 of the Planning Scheme does not specify a parking rate for the use 'residential building', and as such the provision of parking was a matter subject to the satisfaction of the responsible authority.

As a part of its internal referral process, Council sought advice on the permit application from its traffic consultant SALT3. SALT3 recommended the application be refused on parking grounds, raising concerns about the potential for overspill parking onto Ocean Beach Road and at the Sorrento Ocean Beach Car Park, should leasing conditions regarding owning and maintaining a car prove difficult to enforce.

Notwithstanding this, SALT3 recommended that if Council supported the application, the car park should be modified by centralising the driveway to enable angle parking to be provided on both sides of the drive to increase the parking supply to eleven spaces, including a shuttle bus bay (see Figures 1 and 3 that show the proposed layout and the existing cross over).

SALT3 considered the traffic impacts would be acceptable and similar to the former use, provided vehicle ownership of residents could be appropriately controlled.

Council was not satisfied the existing seven space car park on the site would be sufficient to support the change in use and required, as a Condition 1 change, the redesign of the car park to accommodate 13 spaces. Council included a permit condition requiring a bond to be provided to fund the implementation of parking controls or parking management measures in the area if, within two years of occupancy, off-site parking was not adequately managed by the operator.

Council was satisfied the traffic generated by the development would not adversely impact the area and was satisfied the front of the site could be appropriately modified to accommodate 13 car spaces with suitable access for disabled persons and the movement of waste bins to the street.

The Applicant provided a set of 'Condition 1 plans' to show how a 13 space car park could be provided in compliance the Condition 1 requirement⁸. To support its case, the Applicant called traffic evidence from Ms Dunstan of the Traffix Group.

⁸ D7 Condition 1 plans

Ms Dunstan gave evidence the proposed 13 space car park was appropriate based on:

- consideration of state and local policies
- a requirement to be employed locally as a key worker
- residents would be aware of the parking limitation through their leasing arrangements, with the OMP, Car Parking Management Plan and a Green Travel Plan (GTP) detailing permit controls
- the availability of local and regional bus services
- the provision of 25 secure resident bicycle parking spaces and eight visitor spaces (noting, Clause 52.34 does not require bicycle parking for the development), and five shared e-bikes for resident use
- access to a site operated shuttle vehicle and an on-site car share vehicle.

Ms Dunstan advised the Committee she would be satisfied with the provision of seven car spaces. Under questioning, she advised she was unaware of a comparable facility to undertake a parking demand survey, but noted worker accommodation at the snowfields could be the most comparable example.

Ms Dunstan advised residents could travel from Sorrento on public transport using bus route 788 that travels from Frankston Station to Portsea. Further, residents could cycle to employment further afield or catch one of the two buses servicing Portsea and the surrounding suburbs (routes 787 and 788). The on-site shuttle vehicle could be used for transport, including taking residents on recreational excursions or to shopping areas, if required. When questioned on how a resident might get a bicycle to Portsea, Ms Dunstan acknowledged that standard bicycles cannot be carried on buses servicing Portsea.

The Applicant advised the shuttle vehicle would not be used to collect residents from the train station at Frankston, given the distance to that station. It suggested that some share bicycles could be provided by the operator and employers could assist in the transport or provision of bicycles for their staff if they work further away from Sorrento.

In its final submission of draft permit conditions, the Applicant considered the provision of bicycles could be resolved with the responsible authority during approval of the GTP.

The Objectors Group raised concern with the supply of parking, noting that Council's local law controlling short stay accommodation requires under its Code of Conduct, all vehicles to be parked on site.⁹ Concern was expressed that any parking controls that may eventuate on Ocean Beach Road would penalise existing residents and beach goers, noting that during the peak summer period there is very high demand for parking on Ocean Beach Road.

Mr Ambrose recommended that parking be limited to the current seven spaces to avoid noise impacts caused by cars parking close to his abutting property.

Mr Lofting submitted that 75 occupants walking and riding to and from work poses a safety risk of unreasonable impact on the surrounding area.

In response to the resident's concerns regarding potential parking controls, Ms Dunstan advised that if Council was to introduce parking controls, it could issue permits exempting residents from

⁹ D54 - Mornington Peninsula Shire's Short Stay Rental Accommodation Code of Conduct

the controls. Further, she advised controls could be limited to night-time periods at which time beach goers would not be affected.

(iii) Discussion

Clause 52.06 does not include a car parking rate for a residential building and accordingly, the parking provision is a matter to be determined to the satisfaction of the responsible authority.

Of the uses included in the residential building land use group, Clause 52.06 only specifies a rate for a rooming house (one space per four rooms). While this is not the use proposed, it does provide a reference point and would, if applicable, would require eight to nine spaces.

The site is limited in its ability to provide parking on site as it is an adaptive reuse of an existing building. The initial application was for the site to maintain its former seven spaces. However, the Applicant accepted Council's decision to maximise the provision of parking with 13 car spaces.

The Committee accepts the evidence of Ms Dunstan that the proposal has several desirable attributes that will help to minimise resident parking demands at the site, including:

- a shuttle vehicle service, 25 bicycle parking spaces, and share car and share bicycles
- an OMP requiring compliance with the site's car parking management plan and a GTP
- a car parking management plan, requiring tenants to:
 - book a parking space if required
 - record the registration and ownership of any cars
 - not to park vehicles in the area on a long-term basis
- a GTP addressing:
 - availability of sustainable transport opportunities
 - provision of bicycles for shared use
 - shuttle vehicle arrangements.

The site is well located to the main Sorrento hospitably employment area to limit the need for private car transport for most purposes, with the provision of a shuttle vehicle and local bus service to support trips longer than those suitable for walking and bicycle use.

The car parking demand will be tempered by advising prospective tenants of the car parking availability. Those who do not find this form of accommodation and the conditions associated with it suitable for their needs will look at other accommodation options; noting that the style of accommodation offered may not be attractive to all key workers, and neither does it need to be.

In relation to the provision of bicycles and bicycle parking, the Committee notes the difficulty in transporting a bicycle to and from Portsea, given the present lack of ability to take non-folding bicycles on the local buses.¹⁰ The traffic evidence indicated that five shared e-bikes will be provided but this is not captured in the permit or plans.

The provision of 25 bicycle spaces for residents (one per three beds) is considered reasonable as not all residents may want or need to use a bicycle. However, to avoid the need for the private transport of bicycles to Portsea, it would be preferable for a greater provision of on-site shared bicycles.

¹⁰ PTV is currently trialling bicycle racks on some metropolitan bus routes, but it is not known if this trial will be successful and lead a roll out of the program across the network in the future.

While the Applicant postulated the employers could provide their employees with bicycles or with bicycle transport, this is not a matter that can be controlled through the permit.

It would be preferable for the permit to specify a minimum bicycle supply but allow this to be varied should the responsible authority be satisfied that a lesser number was appropriate.

To this aim, the Committee recommends a provision of 15 share bicycles, including at least five e-bikes, which equates to a provision of one bicycle per five beds, accommodating 60 per cent of the bicycle spaces.

In relation to traffic impacts, the limitation of parking will limit the traffic generation of the site. The Committee accepts the evidence of Ms Dunstan that traffic will have a negligible impact on the road network. The Committee was not provided with any evidence that the residents walking or cycling to and from the facility would result in an unacceptable impact on the community, especially as working hours will be varied and 75 residents will not be coming and going at the same time, as contended by an objector.

In relation to off-site parking impacts, the Committee notes the car parking management plan will seek to minimise the risk of off-site parking impacts. The permit includes a bond to cover the costs of the responsible authority installing parking controls should they become necessary to support the car parking management plan. On-street parking is a public asset. It is a matter for the responsible authority to best determine how to equitably manage its asset.

(iv) Findings

The Committee finds:

- The provision of 13 car parking spaces is reasonable.
- The GTP should include a requirement for the provision of 15 share bicycles, including five e-bikes.
- The off-site traffic and parking impacts are acceptable.

4.4 Site access and design

The key issue to be resolved is the overall site layout for:

- car parking
- bicycles
- waste bin movement
- *Disability Discrimination Act 1992* (DDA) compliant access
- a smoking area.

(i) Submissions and evidence

The Objectors Group raised concern with the design of the car parking spaces and pedestrian access in the Condition 1 plans. They noted, amongst other things, the SALT3 report indicted a shuttle bus could be between six and eight metres in length and that the car park was being cut into the site, requiring a retaining wall of over one metre between the car park and the building entry.

Objectors were concerned about the absence of a disabled parking space and difficulty of moving waste bins from the waste store to the street.

Ms Dunstan was satisfied the car park could be designed to meet the requirements of Clause 52.06 and the Australian Standard for disabled access.

She advised the Condition 1 plans included a 1.5 metre disabled access path which would facilitate the movement of waste bins to the street. She acknowledged the plans did not fully resolve access between the car park and the front of the building, with a plan notation that stairs would be provided, but was confident suitable access could be provided.

Ms Dunstan advised the proposed shuttle vehicle would be a small minibus similar to a Volkswagen Transporter. These vehicles are around 5.3 metres in length and can utilise a standard car space as is expected of a 99th percentile car. The Condition 1 plans allows for the shuttle vehicle to overhang the marked space, noting there was no parking bay opposite the shuttle vehicle bay.

Ms Dunstan noted it would be possible to move bay 13 next to bay 12, freeing up space in front of the bicycle parking for landscaping and access paths.

Mr Twite gave evidence that Design and Development Overlay Schedule 2 requires a planning permit to undertake excavation of more than one metre to accommodate the car park works. He was satisfied the extent of excavation was acceptable, and in character of the area, noting the significant retaining walls that exist on the site. He was satisfied the design allows retention of vegetation on the northern boundary and included new planting along the street frontage and behind the bicycle store on the southern boundary to mitigate impacts on the residence to the south. No vegetation was required to be removed.

Mr Twite was concerned about cyclist access to the bike store, advising it would be preferable for cyclists to access the store from the car park by way of a wheel ramp or a set of upstairs, rather than using the pedestrian path around the outside of the car park.

Various parties raised issues about smoking on site, noting smoking would not be permitted inside any part of the residential building.

Mr Twite recommended that smoking be allowed on the site, rather than forcing residents off site where it may create off-site issues. He considered a smoking area could potentially be located between the car park and the bathroom associated with the manager's residence. This location was supported by Mr Leo, the noise expert.

The Applicant advised the final design solution for the building access may include a lift for disabled access and bin movement rather than a ramp adjacent to the building entry to provide room for stairs from the car park.

There was no consensus about the location of a smoking area and the parties called on the Committee to make a recommendation.

(ii) Discussion

The existing car park is tiered and would not meet current disability access requirements. This would generate a need for some change to levels. The Condition 1 plans have been generated to indicate how Council's condition to provide a 13-space car park could be achieved. The Committee accepts this is not a fully resolved plan, but rather shows design intent.

The final detailed design will need to balance the desire to retain the existing olive trees along the northern boundary, appropriate disability access, waste bin access and the required 13 car parking. This can be done by condition.

Notwithstanding, the Committee considers parking bay 13 should be relocated to be adjacent to bay 12 to reduce the extent of the site required for parking and to allow additional landscaping adjacent to the neighbouring building to the south.

The Committee notes no disabled bay is required to be marked, indeed the SALT3 report recommended its removal from the application plans. However, a relocated bay 13 could be suitable for use by the mobility impaired, should it be required.

The proposed permit conditions include a requirement for a landscaping plan that includes screen planting between the bin/bicycle enclosure and the south-west boundary fence.

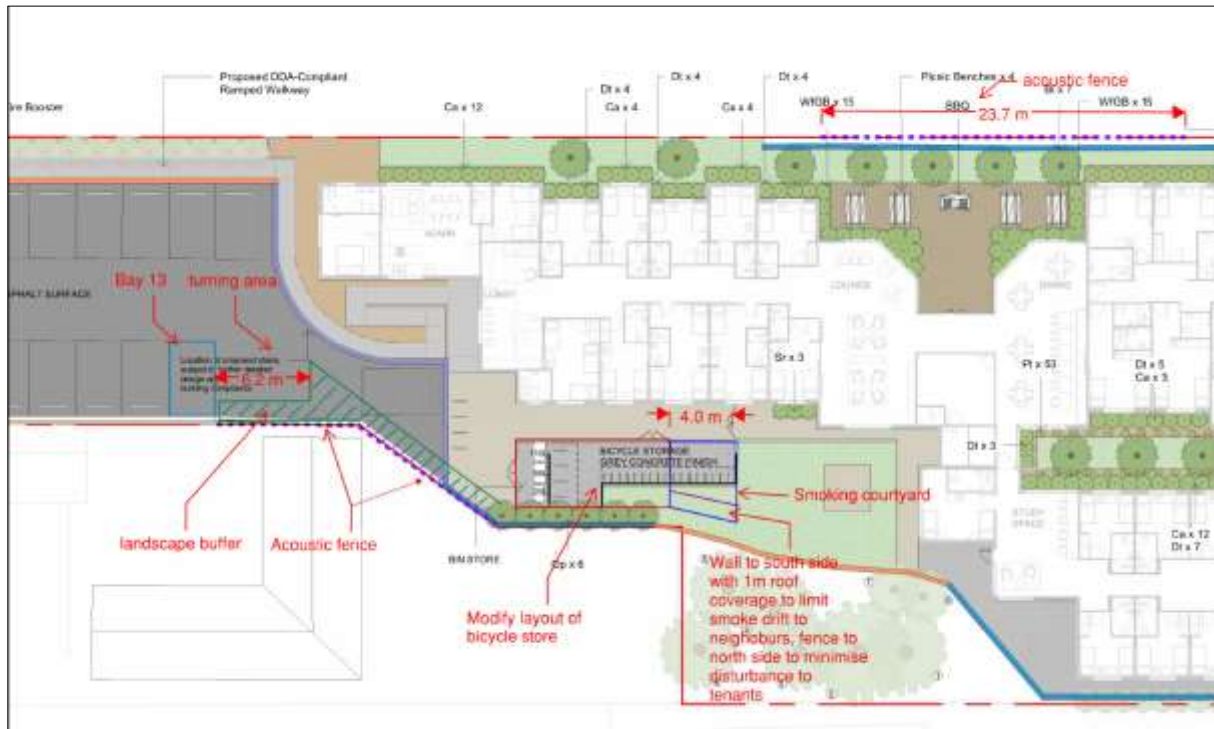
The Committee was surprised about the significant focus and extent of discussion about a designated smoking area and that there was no agreement on where it should be located. The operator is at liberty to ban smoking on its premises altogether, but that might lead to residents smoking in the street, outside various residential properties. That would be a less than desirable outcome.

The Committee considers a smoking area should be located within the southern courtyard generally within part of the area occupied by the bicycle store. This could be facilitated by widening the bicycle store to provide a double-sided parking aisle. In this way, the designated smoking area could be located in the green space created by these changes.

This area is reasonably offset from the adjacent residences to the south. Partially enclosing the southern side of the smoking area with a wall and overhang roof as well as providing a high fence along the northern side of the smoking area would provide some protection from smoke to those residences and to the adjacent bedroom windows.

This change is shown in Figure 4.

Figure 4 Recommended changes to the site layout



(iii) Findings

The Committee finds:

- A variation to Design and Development Overlay Schedule 2 to allow excavation to exceed one metre to allow for a redesign of the car park is acceptable.
- Car parking bay 13 should be located to be adjacent to bay 12.
- A partially roofed smoking area should be provided within the southern courtyard, along with a higher fence along the northern side of the smoking area.

4.5 Noise mitigation

The key issue to be resolved is whether the site design will assist to mitigate off site noise.

(i) Submissions and evidence

The Objectors Group raised concern about noise emanating from the premises from patron noise in outdoor areas, music and plant noise and noise from vehicles in the car park and the bin store use.

Mr Ambrose was particularly concerned with noise emanating from the proposed new parking spaces along the southern side of the car park close to a bedroom window on his property. He sought triple glazing on windows adjacent to his house.

Mr Lofting called noise evidence from Mr Leo of Clarity Acoustics. He advised the following legislation, standards and guidelines (Table 2) are relevant to the application.

Table 2 Noise references

Legislation/Guideline	Application
Environment Protection Act 2017 (EP Act)	Legislative framework
Environment Protection Regulations 2021 (The Regulations)	Noise levels from commercial, industrial and trade premises and indoor and outdoor entertainment venues and events are set to protect noise sensitive areas from unreasonable noise
Environment Protection Authority (EPA) Publication 1826.4 (Noise Protocol)	Part I applicable to noise from commercial, industrial or trade premises in both urban and rural areas of Victoria Part II applicable to entertainment events
Marshall Day Acoustics (MDA) patron noise targets	Patron noise target for common area
NSW EPA Road Noise Policy (NSW RNP)	Guide for sleep disturbance criteria from late night activities
EPA Publication 1973	Applicable to individual condenser units associated with the bedrooms

Source: D15, Table 3

Mr Leo advised the EP Act includes a General Environmental Duty (GED) to minimise the risk of harm to human health as far as is reasonably possible. He advised there is a requirement to consider the 'state of knowledge' when assessing noise. This includes industry standards like the NSW EPA Road noise policy for sleep disturbance criteria and the MDA patron noise targets.

He advised the MDA patron noise criteria has been applied by VCAT to childcare centres and for basketball courts.

Mr Leo advised the surrounding residential properties would be impacted by noise from a range of sources, relative to their proximity, including:

- air conditioning condensers and roof top plant
- music and patron noise in the courtyards and communal lounge
- vehicle and patron noise in the car park and bicycle parking area
- noise from the laundry use.

He recommended a range of noise controls including:

- perimeter acoustic fences ranging from two to 2.45 metres in height along the northern and eastern fence line and part way along the southern fence line (from the street to a point adjacent to the bicycle storage)
- automatic door closers on external doors to the study space and lounge/dining area
- acoustic roof and south and east facing walls on the bicycle storage
- no use of outdoor common areas after 10.00pm
- a limit of 40 people in the BBQ area until 6.00pm and 20 people between 6.00pm and 10.00pm
- the southern courtyard not used as a common area
- no music in external areas

- music in the lounge/dining area limited to background music during the night period after 11.00pm Monday to Saturday and after 10.00pm on Sundays, with a noise limit of 85 dB L_{Aeq} at other times
- replacement of the existing glass on the external lounge/dining wall with 6.76mm thick laminated glass.
- a range of noise limits for the mechanical plant and air conditioning condenser units.

Mr Leo advised, in response to a question from the Committee, that the best location for a smoking area would be at the north-eastern corner of the car park.

Mr Crawford noted there will be significant noise impacts due to a change of use on a quiet residential area.

The Applicant submitted Mr Leo had incorrectly assessed the premises as a commercial premises and an entertainment venue, therefore his recommendations should not be accepted as these were based on a false legal premise.

The Applicant advised the EP Act draws a distinction between ‘residential premises’ and ‘commercial, industrial and trade premises’, confirming the proposed use is a ‘Residential Building’ within the broader category of ‘Accommodation’.

The Applicant noted this characterisation is reflected in:

r4 of the Environment Protection Regulations which defines commercial, industrial, and trade premises as:

“commercial, industrial and trade premises” means any premises except the following: residential premises (other than common plant under the control of an owners corporation);”

and

the definition of ‘entertainment venue’ in s3 of the Environment Protection Act is:

“any premises or place where music is performed or played but does not include residential premises or a place of worship”.¹¹

On the basis the use is appropriately classified as a residential building, the Applicant submitted:

Mr Leo was simply wrong to assert in his evidence that the building ‘must’ comply with the requirements of the Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues ¹².

The Applicant contended that:

noise from residential premises is regulated by s167(2) of the EP Act, which prohibits the emission of unreasonable noise from residential premises, and r114 of the EP Regs which deems the use of certain items to generate unreasonable noise at certain times of night. Offences against this provision can be prosecuted by police, the Council, and affected persons ¹³.

The Applicant criticised Mr Leo’s assertion that the provision of acoustic fences was an appropriate way of meeting the GED test of reducing harm as far as reasonably practical, noting that no cost-benefit analysis has been undertaken by Mr Leo.

The Applicant agreed to relocate the entry to the bin store to its northern side.

¹¹ D40, paras 17 and 19

¹² D40, para 25

¹³ D40, para 29

The OMP includes a manager residing on site, surveillance cameras throughout the building and on exit doors and a list of house rules to reduce the risk of harm from noise including:

- closing the kitchen, laundry and outdoor common areas at 10.00pm
- the use of smart card access where the premises can only be accessed by residents
- a 'no Party' policy
- residents being obliged to enter and leave the property in a quiet manner to respect the amenity of neighbouring properties.

The Applicant further agreed to the inclusion of permit conditions restricting the use of outdoor areas to 40 residents during the day and 20 residents in the evening as well as limits on music levels.

(ii) Discussion

The Committee accepts the proposed change in use from an aged care facility to a more intensely used residential building will likely result in a change in the noise levels in and around the building.

The Committee acknowledges Mr Leo was called by the Objectors Group, and the Applicant did not call acoustic evidence. While not agreeing to all requests, the Applicant supported many of Mr Leo's recommendations through permit conditions.

However, the Committee agrees with the Applicant there is no requirement under the EP Act to comply with the various noise protocols put forward by Mr Leo relating to noise from patrons and patron music and the movement of vehicles.

The EP Act seeks to ensure the risk of harm to human health is minimised as far as reasonably practicable but makes a distinction between residential and other uses. The EP Act provides specific limits on noise from plant, which must be complied with. The GED imposes a general premise on everyone to minimise the risk of harm to human health as far as reasonably practical.

The Applicant further agreed to the inclusion of permit conditions restricting the use of outdoor areas to 40 residents during the day and 20 residents in the evening, as well as limits on music levels. These are found at condition 9 in the proposed permit conditions.

The Committee is concerned about the proposed blanket prohibition on the use of outdoor areas, particularly between 10.00pm and, presumably, 8.00am. This is a residential use in a residential building in a residential zone, it is not a prison or detention facility. Like all residents in Sorrento and surrounds, these residents should be able to have the opportunity to spend appropriate time outdoors later in the evening or earlier in the morning without leaving their home, providing they do so quietly as not to cause harm to the human health of others, particularly in warmer weather. Their human health must not be compromised as well.

Residents will need to be respectful of not only neighbours in the abutting dwellings but of the other residents in the building who may be sleeping at any time of the day or night. The Committee notes Part 5.3 Division 2 of the Environmental Protection Regulations deals with 'Unreasonable and aggravated noise from residential premises'. The Division includes a table of prescribed items and prohibited times and it would be appropriate to align night-time hours with the prohibited times for air conditioning units and musical equipment and televisions (item groups 4 and 5).

The Committee is further concerned about the 'No Party' policy. At the Hearing, the Committee raised concern with how this could be defined and applied. This was not addressed satisfactorily,

although the Applicant indicated his client would be willing to explore options further. The Committee notes this will be a place of residence and residents should be able to celebrate events as they might ordinarily do at their principal place of residence, subject to consideration of noise impacts. There will be limits on music noise and other controls that will temper the ability to hold parties that may disrupt neighbouring residents. The Committee has recommended a change that allows for limited parties, with conditions relating to numbers of people, keeping specific hours and providing notice to neighbouring residences. Again, there is a need to be respectful.

The Committee understands and accepts the provision of acoustic fences can be a high-cost solution. It is not satisfied these are reasonably justified to the extent suggested by Mr Leo. The Committee accepts that if noise proves to ultimately be causing harm to human health, there will be recourse available through the building management, the responsible authority and through the EPA. However, this puts significant onus on the abutting residents and the authorities to pursue complaints and a need to limit the number of people in outdoor areas.

The most vulnerable abutting residences to noise are the residences at 213 Ocean Beach Road, which is located close to southern boundary of the car park and at 209b Ocean Beach Road, which is adjacent to the northern courtyard.

A proactive installation of acoustic fencing along the barbeque area and along the southern edge of the car park adjacent to the building at 213 Ocean Beach Road, as shown in Figure 4, with the provision of walls to the waste and bicycle stores and smoking area, would limit the potential for noise intrusion to these sensitive interfaces and allow an easing of use restrictions on the courtyards.

Other abutting residences are located further away from these areas and noise impacts on those residences are expected to be more reasonably controlled by the operational controls, noting the presence of bedroom windows within the subject building opening onto the southern courtyard and around the sides and rear of the building.

The Committee considers that with the measures put in place through the conditions and the OMP, including acoustic testing once the use is operating, acoustic issues should be well managed.

The Committee does not consider triple glazing is required if all other mitigation measures are in place.

(iii) Findings

The Committee finds:

- The noise from the use can be reasonably controlled.
- The permit conditions on the use of the communal areas should be included in the Operational Management Plan, and the night-time hours should align with the prohibited times set out in Part 5.2 Division 2 of the Environmental Protection Regulations 2021 for the control of unreasonable and aggravated noise from residential premises (Monday to Thursday before 7.00am or after 10.00pm; Friday before 7.00am or after 11.00pm; Saturday and public holidays before 9.00am or after 11.00pm; Sunday before 9.00am or after 10.00pm).
- Acoustic fencing should be provided along the southern boundary of the car park in the vicinity of the residence at 213 Ocean Beach Road (from the relocated car parking bay 13 to the property corner near the bin store) and along the northern boundary in the vicinity

of the northern courtyard to the extent of the balcony at 209b Ocean Beach Road (approximately 23.7 metres) as shown in Figure 4.

- The outdoor common areas should be accessible during night-time hours for quiet relaxation and not have limits on the number of people at any particular time period as a condition of the permit.
- The 'No Party' rule should be removed unless it can be defined in the context of the use.

5. Reasons and recommendation

5.1 Reasons

This is not a case to determine whether the land use proposed is acceptable. A residential building is acceptable in the General Residential Zone in this instance. Rather, it is a case about scale, specifically the number of beds that can be provided for in the 34 available rooms.

There is no definition of key worker in the Planning Scheme, however, there is an understanding of what a key worker is.

The Committee supports the proposal to accommodate up to 75 residents at the site and considers it will provide affordable accommodation for a range of key workers that support the hospitality, tourist and entertainment industry in Sorrento and the broader Mornington Peninsula area. In providing a new housing option, it will value add to the diversity of housing on offer.

The Objectors Group in the main, were not opposed to converting a former aged care facility to residential housing for key workers. Some commented favourably about the reuse of the building.

The key objections related to scale and the number of beds proposed, in that the maximum 75 beds could result in detrimental off-site amenity impacts. Many objectors were comfortable with providing only one bed for each of the 34 rooms.

After considering the evidence and submissions, the Committee deliberated on the overall use, the number of beds, parking and access (although the Applicant indicated that parking was not a relevant consideration), site access and design (including landscaping) and noise mitigation in the context of the application being for 75 utilising the 34 bedrooms available. It has found the use is appropriate and the number of beds is sustainable, providing internal amenity and facilities in each room can be accommodated.

The onus will be on the operator to ensure impacts are managed in accordance with the conditions, including a GTP and the OMP. The permit can be amended or cancelled if these are not abided to by management.

For this proposal to work successfully, the operator must a good neighbour to its surrounding community, as well as being an excellent communicator. It must abide by the two layers of enforcement, that is, the permit and the OMP. Its residents must abide by the overall house rules and they must respect the local community. The conditions and the provisions of the OMP were significantly updated during the Hearing, largely as the result of the considered input of the objecting parties, the general willingness of the Applicant to take many suggestions on board and then further through the recommendations of the Committee.

The Applicant noted that from a strictly legal perspective, the test to grant a permit is not that it results in a net community benefit, rather he said the correct test is whether the proposal will result in an acceptable outcome. The Committee considers the proposal will result in an acceptable outcome and at the same time, achieve a net benefit for a core component of the Sorrento community.

The Committee recommends a permit should issue, subject to the conditions noted in Appendix D and the provisions of the OMP in Appendix E.

5.2 Final form of permit conditions

The Committee acknowledges the initial work undertaken by the Objector Group in providing a track change version of the permit conditions at the commencement of the Hearing. All parties agreed to use that version going forward, including the Applicant. During the Hearing, there was discussion about the conditions, and much of what was proposed by the Objector Group was agreed to by other parties and the Applicant.

The Committee has used Document 59, with all changes provided by the Applicant accepted as its base document for making its recommendations on the conditions. This is included at Appendix D.

5.3 Final form of operational management plan

During the Hearing, there was discussion about the provisions of the OMP.

The Committee supports the provision of the OMP as the guiding document to the benefit of residents of the proposal, local residents in and around the site, Council and the operators. The Committee has used Document 60, with all changes provided by the Applicant accepted as its base document for making its recommendations on the OMP provisions. This is included at Appendix E.

5.4 Recommendation

The Minister for Planning support the proposed development at 211 Ocean Beach Road, Sorrento, and recommend the Governor in Council issue Mornington Peninsula Planning Permit P21/2501, subject to the conditions included in Appendix D of this report.

Appendix A Terms of Reference

Terms of Reference

Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

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Terms of Reference | Priority Projects Standing Advisory Committee

10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme.
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

Terms of Reference | Priority Projects Standing Advisory Committee

22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Letter of Referral



Hon Lizzie Blandthorn MP

Minister for Planning

8 Nicholson Street
East Melbourne, Victoria 3002
DX210098

Ms Kathy Mitchell AM
Chair (Lead) Planning Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref: MBR047766



Dear Ms Mitchell

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL CALL IN – 206-211 OCEAN BEACH ROAD, SORRENTO (P21/2501)

I refer to the Victorian Civil and Administrative Tribunal (VCAT) proceedings P259/2022, P260/2022 and P262/2022, which relate to the proposed use and development of land at 211 Ocean Beach Road, Sorrento, for the use as a residential building (key worker housing) and associated buildings and works. The project was referred to me by the Development Facilitation Program.

I advise that I have decided to call in the proceeding from VCAT under Clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* as I consider that the proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives. I have also decided to refer the matter to the Priority Projects Standard Advisory Committee for advice and recommendations on whether a planning permit should be issued, and if so, the appropriate permit conditions that should be imposed.

On 11 February 2022, 26 objectors applied to VCAT under section 82 of the *Planning and Environment Act 1987* for a review of Mornington Peninsula Shire Council's decision to issue a notice of decision to grant a planning permit for application P21/2501. The matters raised by the objectors relate to additional traffic, insufficient parking, amenity impacts, neighbourhood character, waste management, increased number of residents and operating hours.

The cost of the advisory committee will be met by the applicant, Sorrento Lodge Vic Pty Ltd.

If you have any questions about this matter, please contact Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning by email at jane.homewood@delwp.vic.gov.au.

Yours sincerely

Hon Lizzie Blandthorn MP
Minister for Planning

1 / 9 / 22

Appendix C Document list

No.	Date	Description	Provided by
1	25 Jun 21	Terms of Reference	Minister for Planning
2022			
No.	Date	Description	Provided by
2	1 Sep	Letter of Referral	Minister for Planning
3	5 Sep	<p>Referred material VCAT Files P259/2022, P260/2022 and P262/2022 including:</p> <ul style="list-style-type: none"> a. Town Planning Report, Contour, Sept 2021 b. Transport Assessment, Traffix Group, Sept 2021 c. Waste Management Plan, Leigh Design, Sept 2021 d. Operational Management Plan, TRE Management, Sept 2021 e. Cultural Heritage Management Plan (amended), Benchmark Heritage Management, Jan 2022 f. Traffix Group Traffic Engineering Advice Memo, Oct 2021 g. Architectural Plans, Rev D, Aug 2021 h. Title i. Application for Planning Permit j. Supplementary information from Applicant to Council, Oct 2021 k. Mornington Peninsula Shire Council Delegate Report Feb 2022 l. Notice of Decision to Grant Permit m. Review of Planning Decision by Objector – Andrew John Ambrose n. Review of Planning Decision by Objector – Elizabeth Tobin o. Review of Planning Decision by Objector – Mark John Stuart Lochran and others p. VCAT Order March 2022 q. VCAT Order May 2022 	Department of Environment, Land, Water and Planning (DELWP)
4	13 Sep	Notification letter	Planning Panels Victoria (PPV)
5	27 Sep	Directions, Distribution List and Timetable	PPV
6	27 Sep	Car Parking Plan SK01 Rev. A, Dec 2021	Mornington Peninsula Shire Council (Council)
7	7 Oct	Amended Architectural Plans, 6 Oct 2022	Applicant
8	“	Landscape Plan, 6 Oct 2022	“
9	“	Amended Operational Management Plan, Oct 2022	“

No.	Date	Description	Provided by
10	"	Car Parking Management Plan, Oct 2022	"
11	11 Oct	Email – filing of expert evidence	"
12	"	Evidence Statement – Charmaine Dunstan	"
13	"	Evidence Statement – Kel Twite	"
14	13 Oct	Email regarding car parking provisions and PPVs response	Mr Ambrose
15	17 Oct	Evidence Statement – Ross Leo	HWL Ebsworth group of submitters
16	20 Oct	Email to Committee on formal position	"
17	"	Proposed permit conditions	"
18	21 Oct	Opening Submission	Applicant
19	"	Notes from Chamber of Commerce AGM, prepared by Jones Collective, Oct 2022	"
20	24 Oct	Email to Parties regarding planning permits	"
21	"	Memorandum prepared by Macro Plan, Nov 2021	"
22	"	Mornington Peninsula Planning Permit P16/2034	"
23	"	Endorsed Plans P16/2034	"
24	"	MPSC internal referral advice – Engineering	Mr Ambrose
25	"	MPSC internal referral advice – Social housing	"
26	"	MPSC internal referral advice – Health	"
27	"	MPSC internal referral advice - Transport	"
28	"	SALT review of traffic engineering implications, Nov 2021	"
28	"	SALT review of traffic engineering implications, Nov 2021	"
29	"	Jones Collective Report, EOI findings, Sep 2021	Applicant
30	25 Oct	Timetable Version 2	PPV
31	"	Submission	Council
32	"	Submission Appendices	"
33	"	Email to Parties regarding permit history	"
34	"	Flinders Planning Scheme Planning Permit 11276, Aug 1988	"
35	"	Plan of Subdivision PS307590Q	"
36	"	Flinders Planning Scheme Planning Permit 12270, Apr 1989 and plans	"
37	"	Flinders Planning Scheme Planning Permit 12252, Apr 1989 and plan	"
38	"	Flinders Planning Scheme Planning Permit 12848 amended plans, Jul 1989 and plans	"

No.	Date	Description	Provided by
39	26 Oct	Proposed permit conditions	"
40	"	Submission	HWL Ebsworth group of submitters
41	"	Certificate of title PS307590Q, Oct 2022	Applicant
42	"	Allocating intermediate homes to London's key workers, Mayor of London, Dec 2021	"
43	"	Housing key workers: scoping challenges, aspirations, and policy responses for Australian cities, Australian Housing and Urban Research Institute, May 2021	"
44	"	Renders of proposed development	"
45	27 Oct	Submission	Elizabeth and Michael Tobin
46	"	Photos	"
47	"	Closing Submission	Council
48	"	Submission	Mr Ambrose
49	"	Closing Submission	Applicant
50	"	Moreland CC v Glenroy RSL 2018	"
51	"	Ravida Properties Pty Ltd V Stonnington CC	"
52	"	New Theme Pty Ltd V Victorian Casino and Gaming Authority	"
53	"	Windsor Pod Hotel Operational Management Plan	Elizabeth and Michael Tobin
54	"	Short Stay Rental Accommodation Code of Conduct, Apr 2018	Mr Ambrose
55	"	Flinders Planning Scheme Planning Permit 2422/94, endorsed plans and PS307590Q	Council

Appendix D Committee preferred version of Planning Permit P21/2501

[Tracked Added](#)

~~Tracked Deleted~~

NOTE: this version of the permit is the 'clean' version of Document 59. Basic grammar and minor changes such as commas, spelling, formatting is not shown.

The Condition numbers should be cross checked and updated before finalisation, including with the OMP.

PERMIT PREAMBLE:

211 Ocean Beach Road, Sorrento

LOT 5 PS 307590VOL10263 FOL 185

USE AS A RESIDENTIAL BUILDING (KEY WORKER HOUSING) AND ASSOCIATED BUILDINGS AND WORKS
IN ACCORDANCE WITH THE ENDORSED PLANS

PERMIT CONDITIONS:

Amended Plans

1. Before the commencement of the development, 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) removal of the DDA accessible space designation and provision of a minimum of 13 onsite car parking spaces utilising a centralised vehicle crossing and double-sided car parking module with car parking dimensions in accordance with the car parking layout plan No. SK01 – Rev. A dated 22 December 2021 but amended to show;
 - i. provision of wheel stops for car parking spaces 8 to 12 adjacent to the south-west boundary in accordance with AS 2890.1:2004;
 - ii. swept path diagrams showing access and egress for vehicles;
 - iii. swept path diagrams demonstrating the functionality of the modified car parking arrangement, including the inbound and outbound movements of the proposed shuttle bus;

- iv. detailed design for DDA compliant access from the street to the building entrance;
 - v. detailed design for the steps from the car park to the building entrance;
 - vi. details of retaining walls to be retained, including the retaining wall on the north-east boundary and the brick wall on the south-west boundary, and reinstatement or replacement measures for retaining walls and safety rails as required;
 - vii. Car parking bay 13 should be located to be adjacent to bay 12.
- b) redesign of the bicycle and bin enclosures
- i. to incorporate solid walls to the south and east and a solid roof over;
 - ii. to provide a minimum 1m deep garden bed adjacent to the south-west boundary;
 - iii. to allow the inclusion of a smoking area at its eastern end;
 - iv. to relocate the entrance to the bin area from the north-west wall to the north-east wall.
- c) details of surface treatments of the bicycle and bin enclosures;
- d) detailed roof and elevation drawings showing all plant and equipment located on the roofing structures and annexed or attached to the building structure (including any noise attenuation or other acoustic treatment required to meet the conditions imposed by this permit); and
- e) designated smoking area, to be located at the eastern end of the redesigned bicycle shed, and which includes a solid wall and roof of at least one metre in depth to its southern side and a high solid fence on its northern side.
- f) acoustic fencing:
- i. along the southern boundary of the car park in the vicinity of the residence at 213 Ocean Beach Road from eastern edge of Bay 13 to the corner near the waste storage shed (approximately 20.7 metres), with a height of 2.35 metres to the north of the abutting dwelling, reducing to 2.00 metres on the angled boundary towards the waste shed; and
 - ii. along the northern boundary in the vicinity of the northern courtyard to the extent of the balcony at 209b Ocean Beach Road (approximately 23.7 metres), with a height of 2.20 metres along the courtyard, reducing to 2.0 metres adjacent to the abutting dwelling.

Approved development not altered

2. The layout of the land and all buildings and works as shown on the endorsed plans or detailed in the endorsed documents, must not be altered or modified except with the written consent of the Responsible Authority.

Landscaping

3. Before commencement of the development a Landscape Plan 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 Landscape Plan must include:
 - a) A survey (including botanical names) of all existing vegetation to be retained and / or removed;
 - b) 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;
 - c) Details of surface finishes of paved areas, pathways and driveways;
 - d) Areas adjacent to revised carpark and bike enclosure to be planted;
 - e) Details of outdoor seating arrangements, [including in the designated smoking area.](#)
 - f) Provision of screen planting between the bin/bicycle enclosures/[smoking area](#) and the south-west boundary fence; and
 - g) The location of the designated smoking area [located in the grassed area between the bicycle shed and the waste storage area.](#)
4. 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.
5. The landscaping referred to in Condition 4 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.

Amenity

6. All external lighting provided on the site must be designed with appropriate baffling so that no direct light is emitted beyond the boundaries of the site and no nuisance is caused to adjoining properties.
7. Noise levels emanating from the land must not exceed the noise level limits and prohibited times as set out in Environment Protection Regulations 2021 Part 5.3 – Noise.
8. Prior to the commencement of use, the following acoustic treatments and mitigation measures must be installed and /or completed to the satisfaction of the responsible authority:
 - a) Glazing and door treatments

- i. the door leading to the BBQ area must be fitted with an automatic closing device; and
- ii. the external door to the study space must be fitted with an automatic closing device.

b) Acoustic treatments to Plant and Equipment

- i. Condensers should be selected so as to achieve the following noise criteria:
 - 39 dB $L_{Aeq, 15 \text{ min}}$ (day)
 - 36 dB $L_{Aeq, 15 \text{ min}}$ (evening)
 - 28 dB $L_{Aeq, 15 \text{ min}}$ (night)
- ii. Common mechanical plant should be selected to as to achieve:
 - 47 dB L_{eff} (day)
 - 41 dB L_{eff} (evening)
 - 37 dB L_{eff} (night)

c) Bicycle and waste storage area

- i. The bike storage area ~~should~~ must incorporate solid walls to the south and east and a solid roof over.
- ii. The smoking area must incorporate a solid wall to the south and a solid wall over the southern part of the area for a depth of at least one metre.
- iii. The entrance to the bin area be relocated from the north-west wall to the north-east wall.

d) Acoustic fences

- i. The acoustic fences must have a minimum surface density of 12 kg/m² and be free from holes and gaps.

9. Use of communal areas

- ~~i. The number of patrons in each of the outdoor areas must be limited to 40 people and during the day (8am to 6pm), 2 people during the evening (8pm to 10pm) and no people after 10pm.~~
- i. Music levels within the lounge/dining area must be limited to background music only (internal level of approximately 70 dB L_{Aeq}) the external doors kept closed except for short periods for ingress and egress; ~~during the night (after 11pm Monday-Saturday and 10pm Sundays);~~
- ii. music levels in external areas, and within the lounge/dining area if the doors to the BBQ area are kept open for more than short periods for ingress/egress, must be limited to background music only;

- iii. [The night-time hours must align with the prohibited times set out in Part 5.2 Division 2 of the Environmental Protection Regulations 2021 for the control of unreasonable and aggravated noise from residential premises \(Monday to Thursday before 7.00am or after 10.00pm; Friday before 7.00am or after 11.00pm; Saturday and public holidays before 9.00am or after 11.00pm; Sunday before 9.00am or after 10.00pm\);](#)
 - iv. [The northern and southern courtyards must be designated quiet zones, with the use of a musical instrument or any electrical amplified sound reproducing equipment including a stereo, radio, television or public address system prohibited.](#)
 - ~~v. During the day and evening music within the lounge/dining area may be moderately amplified (internal level of approximately 85 dB LAeq) provided the doors to the BBQ area are closed; and~~
 - ~~vi. If the door to the BBQ area is kept open for more than short periods for ingress/egress the music levels should be limited to background only.~~
10. ~~6~~ [Six](#) months after the commencement of the use, an Acoustic Assessment is to be carried out by a suitably qualified engineer to assess compliance with the requirements in condition 8(b). Any recommendations arising from this assessment must be implemented within [one](#) ~~1~~ month of the assessment to the satisfaction of the responsible authority. [The acoustic assessment report should be made available to neighbouring residents upon request.](#)
11. The amenity of the area must not be adversely affected by the use or development as a result of:
- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works, stored goods or materials; and
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

To the satisfaction of the Responsible Authority.

Operational

12. Prior to commencement of the development, an Operation Management Plan (OMP) must be submitted to and approved by the Responsible Authority. Once approved, the OMP will be endorsed and form part of this permit.
13. The OMP must be clearly displayed in prominent locations within the building for residents to clearly read to the satisfaction of the responsible authority.

14. The OMP must be generally in accordance with the OMP prepared by TRE Management dated 10 October 2022, but amended to include:

- a) [An emergency management plan, inclusive of a written resident induction plan;](#)
- b) [A requirement that a manager be on-site from 7.00am – 7.00pm;](#)
- c) a requirement that the building manager shall cooperate with any inquiries made by Council in relation to the operation of the premises;
- d) a requirement that all residents leaving or returning to the premises must do so in a quiet manner that respects the amenity of neighbouring properties;
- e) a requirement that a register of reported issues (complaint register) be maintained to the satisfaction of the responsible authority and that the complaint register is made available immediately upon request to authorised Council officers;
- f) a requirement that all complaints are addressed or resolved to the satisfaction of the responsible authority;
- g) processes for ensuring that the building manager or other appropriate person is contactable in cases of emergency or complaints including the provision of a 24/7 phone number;
- h) waste collected in accordance with the requirements of this permit;
- i) onsite and offsite car parking and transport arrangements in accordance with the requirements of this permit.
- j) a requirement that smoking occurs only in the designated smoking area.
- k) a ~~stipulation~~ [requirement](#) that the laundry only be used between 7:00am and 10:00pm;
- l) details of WIFI access;
- m) a requirement that residents acknowledge and sign up to the House Rules, including the 'no party policy' and rules around music and noise;
- n) the provision of surveillance cameras and a stipulation that they will be maintained to the satisfaction of the responsible authority, with footage retained for at least one month; and
- o) eligibility criteria for residents staying at the premises.

15. The use of the land must comply with the endorsed OMP at all times to the satisfaction of the Responsible Authority.

16. No more than 77 residents (plus the on-site manager) may be present on site at any one time.

17. All residents must be key workers as defined in the OMP and must be an employee of a local employer to the satisfaction of the Responsible Authority.
18. Prior to the commencement of the use, a Car Parking Management Plan (CPMP) substantially in accordance with plan dated 07.10.22 must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and form part of the permit. The CPMP must address, but is not limited to, the following:
 - a) the allocation of car parking spaces to various users at the site;
 - b) how short-term leases at the site will be managed;
 - c) information on how leasing agreements will be implemented and/or enforced to limit the car ownership of residents staying at the site to no more than the available parking allocation;
 - d) the provision of a vehicle ownership register which is to be maintained for all residents, and that is kept up to date on a weekly basis;
 - e) that any resident who has a vehicle that it is required to be parked remotely be required to gain (if available) approval from their employer to have access to private off-street parking;
 - f) that long-term storage of resident vehicles be prohibited in the Mornington Peninsula National Park - Ocean Beach car park and not within public parking in the Sorrento commercial or foreshore precincts;
 - g) further detail on what measures will occur should a resident be found to be parking a vehicle off-site whilst staying at the facility.
19. The use must operate in accordance with the endorsed CPMP.
20. The vehicle ownership register required by the CPMP must be made available to the responsible authority upon request.
21. Prior to the commencement of the use the operator must provide a bond of \$10,000 to the Shire. The bond is to be for the implementation of parking control signs or any other parking management measures in Ocean Beach Rd and nearby streets, including any other necessary consultation and project costs for the signage implementation if, after an assessment by the Shire within 2 years after the occupancy of the premises commences, it is determined by the Shire that the approved CPMP is not adequately managing parking impacts of the resident in Ocean Beach Rd and nearby streets. If at or before the expiry of the 2 years, it is determined by the Shire that parking control signs or any other parking management measures are not required then the bond is to be refunded by the Shire.
22. Prior to the commencement of the use the operator must arrange for the Responsible Authority to erect street parking signage to restrict on-street parking adjacent to the property frontage in Ocean Beach Rd to parallel parking, the cost of which is to be borne by the operator.

23. Prior to the commencement of the use approved by this permit, a Green Travel Plan (GTP) must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and form part of the permit. The GTP must address, but is not limited to, the following:

- a) The provision of information to residents in relation to sustainable transport opportunities in the vicinity of the site, including walking, cycling and public transport;
- b) The provision of 'welcome packs' that include relevant transport information;
- c) The provision of 15 bicycles for shared use, including five e-bikes;
- d) Shuttle ~~bus~~ vehicle arrangements.

Waste Management

24. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must be generally in accordance with the Waste Management Plan by Leigh Design Pty Ltd dated 8 September 2021, but modified to show:

- a) Waste generation being consistent with Sustainability Victoria's online waste generation calculator or providing clear evidence to support the WMP's original waste generation rates.
- b) Estimated volumes of waste and recyclables generated from the site, number, and size of bins to be used and the associated storage area for the bins.
- c) Location of bin collection areas.
- d) Waste collection being on a different day to Council's weekly waste collection.
- e) Waste bins being placed for collection no earlier than the evening before the collection day and being collected and returned to the internal compound as soon as possible and before the end of the day of collection.

25. The WMP must be submitted to and be to the satisfaction of the Responsible Authority and when approved the plan will become the endorsed waste management plan under this permit.

26. At all times during the occupation of the approved use waste management must be implemented and operated in accordance with the endorsed Waste Management Plan to the satisfaction of the Responsible Authority.

Drainage

27. The subject land must be drained to the satisfaction of the Responsible Authority.

Retaining walls

28. Prior to the commencement of the use a structural engineering report from a certified structural engineer must be provided confirming that all onsite retaining walls are safe, fit for purpose and have relevant building permits, and must be submitted to and approved by the Responsible Authority.

Expiry

29. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within four years of the date of this permit.
- c) The use is not commenced within five years of the date of this permit.
- d) The use is discontinued for a period of two years or more.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Notes:

- A. The operator must apply for registration under the *Public Health and Wellbeing Act (2008)* prior to commencing operations.
- B. The approved use must at all times comply with the *Residential Tenancies Act 1997*.
- C. The granting of this planning permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law. Please undertake your own due diligence in regard to further approvals (e.g. Building permit from a private building surveyor, vehicle crossing permit etc) that may be required.
- D. The Mornington Peninsula Shire's 'Private Works on Nature Strips and Road Reserves Policy' and Application Form for a 'Permit to Undertake Works within a Road Reserve' is available on the internet at <http://www.mornpen.vic.gov.au/Building-Planning/Engineering/Nature-Strips>
- E. The operator is invited to be part of the Mornington Peninsula Housing Network. This can be arranged through the Shire's Community Partnership team on 5950 1911.

Appendix E Committee preferred version of the Operational Management Plan

Tracked Added

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NOTE: this version of the OMP is the 'clean' version of Document 60. Basic grammar and minor changes such as commas, spelling, formatting is not shown.

OPERATIONAL MANAGEMENT PLAN

This Operational Management Plan ('OMP') has been prepared for a proposed Residential Building (key worker housing) use at 211 Ocean Beach Road, Sorrento ('Site').

This OMP seeks to implement a range of management arrangements at the site to ensure that the use of the land is conducted in accordance with Council's planning approval for the land and ensures that the amenity of the surrounding land is protected and respected.

The Site will be used exclusively for key worker housing. Key worker housing is defined as:

Accommodation for an employee who provides a service [to the Mornington Peninsula community](#) including:

- *Providers of services to residents – e.g. teachers, doctors, nurses, health care workers, pharmacists, Council staff*
- *Providers of services to visitors/tourists – e.g. hospitality, tourism, retail, workers at tourist attractions*
- *Workers in key local industries – e.g. agriculture and associated industries*
- *Trades and specialized services.*

1. Eligibility criteria

(a) Prior to the grant of a tenancy, the applicant must demonstrate and the operator must be satisfied that the applicant for tenancy meets the eligibility criteria.

(b) To be eligible to stay at the premises, an applicant must be:

- i. A key worker;
- ii. Employed within the Mornington Peninsula municipality; and
- iii. If applying individually (as opposed to through a corporate sponsor), employed to work hours which are at least 0.5 Full-Time Equivalent.

- (c) If a tenant ceases to meet the eligibility criteria, they must immediately notify the operator and their tenancy agreement will be terminated. The tenancy agreement is directly connected with the tenant's contract of employment.

2. Hours of operation

- (a) Accommodation rooms - 24 hours a day, 7 days a week (authorised access only)
- (b) Reception – 8am to 9pm, 7 days a week
- (c) Building Manager – residing on-site

3. Bookings and Tenure

- (a) Room availability can be viewed via the website or checked by contacting reception.
- (b) Inspection can be arranged by phone and an online system.
- (c) Minimum length of stay for short stay residents is one week, with seasonal (3 months) and annual leases preferred.
- (d) No maximum will be placed on the length of stay within the building although leases will be reviewed on an annual basis.
- (e) Prospective tenants must be provided with, [and sign](#) a copy of the [terms of agreement and House Rules prior to accepting a bed, and subject to proof of employment](#) prior to a booking being accepted.

4. Supervision, ~~and security~~ [and room facilities](#)

- (a) The reception must be staffed from 8am to 9pm, 7 days a week. Outside of these hours the building manager will be contactable by mobile phone. These contact details must be available to all residents at reception and in the common lobby.
- (b) Surveillance cameras must be placed in the following locations throughout the building:
 - i. Ground floor lobby
 - ii. Reception desk
 - iii. Common area hallways
 - iv. Dining Area
 - v. Lounge Areas 1 and 2
 - vi. Entry and exit doors
 - vii. Laundry
 - viii. Kitchen
 - ix. The car park
 - x. The bicycle parking enclosure area

- (c) The onsite building manager must ensure the surveillance cameras are maintained to the satisfaction of the responsible authority. Video from the surveillance cameras must be retained for a minimum period of one month.
- (d) Residents will be issued with an electronic smart card, which will provide access to ground floor entry door. The smart card will also provide access to the common areas of the building – eg. laundry; lounge areas; kitchen. The smart card will also allow management to regulate access to these common areas (including the outdoor areas) in accordance with their hours of operation set out in the OMP.
- (e) A video intercom system will be established at the ground floor entry door, which will allow for two-way communication between the building manager and the front door. All external doors will be self-locking.
- (f) Each bedroom must provide:
 - (i) ensuite bathroom facilities
 - (ii) wardrobe space for each bed
 - (ii) at least two drawer spaces for each bed, one of which can be securely locked (may be as part of the bed).
 - (iii) a small refrigerator
 - (iv) one chair for each two bed bedroom and at least two chairs for each three or more bed bedrooms.
- (g) The facility must provide an area for reasonable storage for residents, including of suitcases, external to the bedrooms.

5. House Rules

All tenants must sign an acknowledgement that they have reviewed and agree to abide by the following House Rules:

1. The kitchen ~~may~~ must only be used between 6:00am and 10:00pm, 7 days a week.
2. The laundry ~~may~~ must only be used between 7:00am and 10:00pm, 7 days a week.
3. During night time hours (Monday to Thursday before 7.00am or after 10.00pm; Friday before 7.00am or after 11.00pm; Saturday and public holidays before 9.00am or after 11.00pm; Sunday before 9.00am or after 10.00pm):
 - i. The northern and southern courtyards must be designated quiet zones, with the use of a musical instrument or any electrical amplified sound reproducing equipment including a stereo, radio, television or public address system prohibited.
 - ii. Music within the lounge/dining area must be limited to background music only (internal level of approximately 70 dB LAeq) and the external doors kept closed except for short periods for ingress and egress.

4. During the day and evening:
 - i. music levels within the lounge/dining area may be moderately amplified (internal level of approximately 85 dB LAeq) provided the doors to the BBQ area are kept closed except for short periods for ingress and egress; and
 - ii. music levels in external areas, and within the lounge/dining area if the doors to the BBQ area are kept open for more than short periods for ingress/egress, must be limited to background music only.
5. ~~Outdoor common areas may only be accessed between 7:00am and 10:00pm, 7 days a week.~~
6. In exceptional circumstances, and with approval of the building manager, visitors to the site may be accommodated but are required to vacate the building by 10pm.
7. No alcohol is sold at the premises.
8. No smoking within the building or in external areas other than in the designated smoking area ~~in rooms, common areas or public areas within 5 metres of the site.~~
~~Smoking must only occur in designated smoking areas.~~
9. No anti-social behaviour in the foyer or common areas, e.g. corridors of the building.
10. Physical or verbal abuse towards any staff or residents will result in eviction.
11. ~~A "No Party" policy will be signed and agreed to upon booking a bed in the building, and it will be strictly enforced.~~
12. Any parties that include external visitors, or any gathering of residents of 10 or more people for a party must seek permission from the building manager and notice must be provided to neighbouring residences 48 hours beforehand and must be held in accordance with House Rules 3 and 4.
13. The building manager can evict an occupant should conditions warrant, for example:
 - Intoxication and unsavoury behaviour
 - Physical or verbal assault towards staff, residents or others
 - Wilful damage to property
 - An incident for which the police need to be called to the premises
 - A behaviour posing a safety threat to others
 - Ignoring advice to reduce excessive noise (music or other noise)
 - Smoking other than in designated areas
14. All residents ~~will be required to~~ must comply with all emergency procedures implemented for the building. Details of these procedures will be provided in each room.

15. All residents leaving or returning to the premises must do so in a quiet manner that respects the amenity of neighbouring properties.

6. Building Manager

- (a) A building manager will reside on-site 24 hours, 7 days a week and ~~They~~ will be available to deal with all matters arising during the normal operation of the building.
- (b) The building manger's mobile phone (if not answered) will forward to a 24/7 local security company to ensure all emergencies are responded to and actioned in a timely manner.

7. Conflict Management / Complaint Resolution Process

- (a) Any issues, including urgent issues, experienced by the residents of the building or neighbours can be communicated directly or in writing to the building manager. The building manager will seek to resolve the matter as soon as practically possible. All complaints are to be addressed or resolved to the satisfaction of the responsible authority.
- (b) The building manager must keep a register of any issues reported as well as a record of how and when the issue was resolved for a period of at least six months from the date of the incident. This register will be made available upon request to authorised Council officers.

8. Induction

The building manager must ensure that new tenants are provided with the following information:

- (a) The information required to be provided as part of the Green Travel Plan.
- (b) Information on how to safely evacuate the building in the event of an emergency.

9. Maintenance

The building manager will regularly inspect the interior and exterior of the building to ensure it is tidy, intact, well maintained, clean, and operational so all residents will have a high quality experience.

10. Waste Management

Waste will be collected in accordance with the requirements of the Waste Management Plan required by Condition **XXX** of Planning Permit No. **XXX** issued by the Mornington Peninsula Shire Council.

11. Car Parking & Transport

The on-site and off-site car parking and transport arrangements are to comply with the Car Park Management Plan and Green Travel Plan required by Conditions **XXX** and **XXX** of Planning Permit No. **XXX** issued by the Mornington Peninsula Shire Council.

12. Deliveries

All deliveries are to be co-ordinated with the Building Manager.

13. Cleaning

- (a) The occupants of each room are responsible for the cleaning of their accommodation.
- (b) Cleaning at the end of a lease will be the responsibility of the Building Manager.
- (c) Cleaning of common areas at a frequency that is not less than once per week will be the responsibility of the Building Manager.
- (d) Linen will be changed on a weekly basis (or as required) and will be laundered offsite.

14. Internet/ Wi-Fi

Each occupant will have restricted access to the site's internet at no additional charge, and log in details will be included in occupant manual inside each room.