Planning Panels Victoria

Macedon Ranges Planning Scheme Amendment C153macr Permit Application PLN/2022/359 Willowbank Road Local Activity Centre

Panel Report

Planning and Environment Act 1987

8 December 2023



How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Macedon Ranges Planning Scheme Amendment C153macr

Permit Application PLN/2022/359

Willowbank Road Local Activity Centre

8 December 2023

Sarah Carlisle, Chair

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Glossary and abbreviations

ARI Average Recurrence Interval

C1Z Commercial 1 Zone

Council Macedon Ranges Shire Council

DDO27 Design and Development Overlay Schedule 27

DELWP Department of Environment, Land, Water and Planning (former)

EPA Environment Protection Authority

EP Act Environment Protection Act 2017

GED General Environmental Duty

Gisborne ODP Gisborne/New Gisborne Outline Development Plan 2006, updated in 2009

GRZ1 General Residential Zone Schedule 1

Noise Protocol EPA Publication 1826.4 Noise limit and assessment protocol for the control of

noise from commercial, industrial and trade premises and entertainment

venues, May 2021

PE Act Planning and Environment Act 1987

Planning Scheme Macedon Ranges Planning Scheme

PPN Planning Practice Note

site 101-105 Willowbank Road, Gisborne



Overview

The Amendment and permit	Macedon Ranges Planning Scheme Amendment C153macr and Permit Application PLN/2022/359
Common name	Willowbank Road Local Activity Centre
Brief description	Amendment
	- Rezone the land from General Residential Zone to Commercial 1 Zone
	- Apply Design and Development Overlay Schedule 27
	- Vary the restrictive covenant applying to the land
	Permit
	 Buildings and works to construct a small supermarket, medical centre office and food and drink premises (two cafes)
	- Reduction in the number of carparking spaces from 61 to 57 spaces
Site	101-105 Willowbank Road, Gisborne as well as land within part of the road reserves of Willowbank Road and Brady Road
Proponent	Taylors Development Strategists for Brady Road Investments Pty Ltd
Planning Authority	Macedon Ranges Shire Council
Authorisation	12 April 2023, with conditions (mainly related to drafting matters, resolved before exhibition)
Exhibition	8 May to 13 June 2023
Submissions	Number of Submissions: 15 Opposed: 9 Withdrawn: 1

Panel process				
The Panel	Sarah Carlisle, Chair			
Directions Hearing	Online, 4 October 2023			
Panel Hearing	Planning Panels Victoria, 27 November 2023			
Site inspections	Unaccompanied, 15 November 2023			
Parties to the Hearing	Council represented by Daniel Hall, Leanne Khan and Harry Rehal			
	Proponent represented by Matthew Law of Taylors Development Strategists, with the following expert evidence:			
	- Traffic from Jason Stone of Traffix Group			
	 Economics from Julian Szafraniec of SGS Economics and Planning (not called) 			
Citation	Macedon Ranges PSA C153macr [2023] PPV			
Date of this report	8 December 2023			



Executive summary

Gisborne is one of two townships in the Macedon Ranges identified to accommodate the Shire's future growth (the other being Kyneton). The southern part of Gisborne has seen significant residential growth in recent years, with more development recently approved or underway.

Gisborne's only commercial facilities are located in the town centre, which is not within walking distance for the majority of people living in the southern parts of Gisborne. These residents do not currently have convenient access to local commercial and medical services to fulfil their daily convenience needs.

For some time, the Planning Policy Framework has identified the land at 101-105 Willowbank Road (the site) as the location of a future local activity centre. Amendment C153macr and permit application PLN/2022/359 seek to facilitate the use and development of the site for a centre consisting of a small supermarket, a medical centre, two cafes and some commercial space.

Council exhibited the Amendment and permit application in May and June 2023. It received 15 submissions, 9 of which opposed the proposal and one of which was withdrawn. Key issues raised in objecting submissions included:

- strategic justification
- overdevelopment, including height
- height and material of the proposed acoustic fence along the southern and western boundaries of the site
- traffic and parking issues, including the condition of Willowbank Road
- the appropriateness of the proposed landscaping and vegetation
- drainage and water storage issues
- the proposed hours of operation
- after hours security.

The Panel acknowledges the proactive and collaborative approach of both the Proponent and Council, resulting in some of the issues raised in submissions being resolved by the time the matter came before the Panel. Others, including the strategic justification for the proposal, remained outstanding.

Several submitters questioned the need for the proposed local activity centre, submitting it was not needed, or that there are other better locations in south Gisborne for a local activity centre. These are not the questions the Panel must consider. Rather, the questions are:

- whether the proposal is consistent with the applicable strategic policy directions
- whether the location is appropriate
- whether the proposal can deliver acceptable planning outcomes.

For the reasons set out in this report, the Panel concludes these questions can all be answered in the affirmative. The proposal is highly consistent with the key strategic policy directions for the site and for Gisborne more broadly. It is strategically justified and should proceed, subject to addressing several matters of detail.

In terms of built form, the Panel considers that the height and setbacks of the proposed development are appropriate and responsive to the site's residential setting. They provide for active street frontages along Willowbank and Brady Roads, and a transition in built form intensity

towards the directly adjacent residential properties. The proposed acoustic fence is appropriate to the setting, and fit for purpose in terms of enabling the proposed development to meet the applicable noise limits.

The proposed development will deliver acceptable outcomes in terms of traffic and parking. The access arrangements into the site (with two access points, one off Willowbank Road and one of Brady Road) will help spread development traffic more evenly across the road network. There is no need for the development to upgrade Willowbank Road or the intersection with Brady Road. Council's proposal to restrict right turn exits from the site onto Brady Road is not justified given the likely traffic volumes or the configuration of the site's Brady Road exit in relation to other surrounding developments.

Subject to careful species selections, the landscaping proposed for the site is appropriate, and will help soften the built form and add greenery to the street in a way that will not conflict with the function of the buildings or maintaining good sightlines for traffic and pedestrians. The landscaping meets the objectives of the policy framework to provide attractive commercial development that contributes to the landscape character of the township and positively impacts the amenity of the local area.

Drainage issues remained unresolved, with Council proposing changes to the drainage conditions on the permit just before the Hearing started. The Panel has carefully considered the proposed drainage conditions, including the late changes proposed by Council, and has found that while most are supported, some adjustments are required. In particular, the Panel was not persuaded that Council's proposal to set performance requirements for stormwater discharges from the site based on a 5 percent Annual Exceedance Probability event was justified. The requirements should be based on a 10 percent Annual Exceedance Probability event, as proposed in the exhibited draft permit conditions.

The Panel has reviewed the drafting of the proposed Design and Development Overlay Schedule 27 and the draft permit conditions, and considers that subject to minor adjustments, both are well drafted and suitable to ensure the proposal will deliver acceptable planning outcomes and a net community benefit.

Consolidated recommendations

Based on the reasons set out in this Report, the Panel recommends:

- Macedon Ranges Planning Scheme Amendment C153macr be adopted as exhibited, subject to amending the Design and Development Overlay Schedule 27 as follows:
 - a) amend Clause 2.0 by replacing the first dot point under the heading 'Building siting' with the following:

Buildings should have a maximum height of 11 metres (as measured from natural ground level at the street edge), and zero setback to the street edge.

- b) delete Clause 6.0 as its content is already covered by the parent clause (Clause 43.02-6).
- 2. Planning permit PLN/2022/359 be issued to allow the development of the land for a small supermarket, medical centre, office and food and drink premises and a reduction in parking, with the changes shown in Appendix D:
 - a) delete exhibited conditions 1(a) and 1(b) that seek to restrict right turn exits from the Brady Road access point

- b) delete exhibited condition 1(d) that requires the development plans to be amended to show the location of a future pedestrian crossing
- amend exhibited condition 1(e) (renumbered to condition 1(c)(ii) in Appendix D) to refer to a post-development discharge rate in a 10 percent AEP storm, rather than a 5 percent AEP storm
- amend exhibited condition 7 (renumbered to condition 8 in Appendix D) to refer to the Noise Protocol rather than the superseded State Environmental Protection Policy N-1
- e) amend exhibited condition 10 (also condition 10 in Appendix D) to require the acoustic fence to be installed and maintained to the satisfaction of the responsible authority
- f) insert a new condition 11 requiring a further noise assessment once detailed design is completed
- g) insert a new condition 12 restricting opening hours of the supermarket to between 7am and 8pm Monday to Saturday and between 8am and 8pm Sunday and public holidays
- h) insert a new condition 13 limiting delivery and waste collection to between 7pm and 8pm
- i) amend exhibited condition 14(e) (renumbered to condition 16(d) in Appendix D) to refer to a 1 percent AEP storm, rather than a 1 in 10 year ARI storm
- j) insert a new condition 15 requiring a Stormwater Management Plan
- k) minor formatting and drafting changes to meet the best practice guidance in *Writing Planning Permits*, Department of Environment, Land, Water and Planning, May 2023.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to rezone the land at 101-105 Willowbank Road, Gisborne (the site) from General Residential Zone Schedule 1 (GRZ1) to Commercial 1 Zone (C1Z) to facilitate its use and development for a local activity centre.

Specifically, the Amendment proposes to:

- rezone the land from GRZ1 to C1Z
- amend the C1Z Schedule to insert floor area caps for the site above which a permit will be required:
 - 500 square metres for shop
 - 1,000 square metres for office
- apply Design and Development Overlay Schedule 27 (DDO27) outlining design objectives, built form controls and decision guidelines for development on the site
- amend the schedule to Clause 52.02 (Easements, restrictions and reserves) to vary the restrictive covenant applying to the site to allow:
 - fencing other than post and wire fencing
 - construction of a building with a height of greater than 9 metres and two stories.

(ii) The permit application

Permit Application PLN/2022/359 seeks approval for:

- buildings and works to construct a small supermarket (the plans indicate 370 square metres), medical centre (452 square metres), office (380 square metres) and food and drink premises (two cafes at 85 square metres each)
- a reduction in the number of carparking spaces from 61 to 57 spaces.

(iii) The site

The site and its context are shown in Figure 1.

Figure 1 Site and context



Source: Council Part A submission

The site is 3,547 square metres with a slight slope down from south to north, and from east to west. The site is around 1.5 kilometres (2 kilometres along the main road thoroughfare) from the Gisborne commercial town centre.

(iv) The proposed development

Two buildings are proposed. Building A is proposed to be two storeys (just over 9.5 metres at the highest point of the roof pitch), housing the medical centre on the ground floor and commercial space on the first floor. Building B is proposed to be single storey (just over 8.3 metres at the highest point), housing the small supermarket and the two cafes, with a small mezzanine office area at the back of the building. See Figure 2 and Figure 3 below.

Other key features include:

- a 2.4 metre high timber paling acoustically rated fence along the western and southern boundaries (these boundaries have direct residential abuttals)
- carparking areas on the south and west sides, providing separation between the built form and the adjacent residences
- a pedestrian entry and plaza between the two buildings, entered from Willowbank Road
- landscaping in the carpark, pedestrian plaza and along the building frontages.

LANGE CHART THE

PERCENTION SO THE THEORY

SET EXCLUSION

SET EXCL

Figure 2 Proposed development – ground floor level

Source: Exhibited development plans (Document 8(h))



Figure 3 Proposed development – first floor level

Source: Exhibited development plans (Document 8(h))

(v) The surrounding area

Adjacent to the site is:

- a childcare and osteopathy clinic to the east (on the opposite side of Brady Road)
- a physiotherapy clinic and single storey residential properties to the south (directly adjacent)
- a single storey residential property to the west (directly adjacent).

The site is surrounded by residentially zoned land (GRZ1), with predominantly single storey residential properties:

- largely developed standard residential densities are to the east, south and west
- larger lots of around 1,200 square metres are to the north (the Fersfield Road development area), which will be redeveloped over time for standard residential density development (Development Plan Overlays are already in place)
- a large parcel of land at 75 Willowbank Road to the east has recently been approved for 49 standard residential density lots and open space, but is not yet developed
- the Willows Estate further to the east has been approved and is substantially developed for standard residential density lots and open space.

Council has issued permits for two residential aged care facilities in the vicinity:

- PLN/2020/514 was approved in September 2023 for 110 112 Willowbank Road, diagonally opposite the site in the Fersfield Road development area. The plans submitted for endorsement show a retirement village with:
 - 35 single story self-contained units with two bedrooms each
 - a two storey building containing 75 higher care beds
 - a single story community centre building.
- PLN/2021/546 was approved in January 2023 for 159 Willowbank Road. The endorsed plans show a large single storey building with 90 single-bed rooms, several internal courtyards and associated facilities such as kitchen, laundry and staff rooms.

1.2 Post-exhibition changes

Council proposed post-exhibition changes following review of submissions, advice received from the Environment Protection Authority (EPA) and the gazettal of Macedon Ranges Planning Scheme Amendment C150macr, which updated the Planning Scheme to the new format policy framework.

The changes (which were accepted by the Proponent) included:

- changes to the Explanatory Report for the Amendment, to reflect the updates to the Planning Scheme introduced by Amendment C150macr
- changes to the proposed conditions for Permit PLN/2022/359:
 - updating references to the applicable noise standards in exhibited condition 7, on advice from the EPA
 - updating exhibited condition 10 to ensure the acoustic fence is installed <u>and</u> maintained, in response to submissions.

The Panel has reviewed Council's proposed post-exhibition changes to the Explanatory Report (Document 8(i)), and supports them.

Council also produced a 'Day 1' version of the planning permit (Document 11(b)) and DDO27 (Document 11(c)) with its Part B submission. These changes are discussed in the issue specific chapters of this report.

1.3 Key issues

Key issues raised in objecting submissions were:

- strategic justification
- overdevelopment, including height
- height and material of the proposed acoustic fence
- traffic and parking issues, including the condition of Willowbank Road
- the appropriateness of the proposed landscaping and vegetation
- drainage issues
- the proposed hours of operation
- after hours security.

Submissions in support of the proposal generally provided reasons grouped into the following themes:

• strategic need – servicing the retail and medical needs of the growing residential areas in the south of Gisborne

- strategic justification the proposal is consistent with long term Council planning policy for the site
- traffic the proposal will reduce traffic and parking congestion in Gisborne's central commercial areas by providing alternative options for residents in south Gisborne
- acoustic fence support for the acoustic fence to protect adjacent residents from noise (one submitter noted the acoustic fence would also provide additional protection from visual impacts and extra security to the adjacent residential properties).

1.4 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from its site visit, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Built form
- Traffic and parking
- Other issues
- Drafting issues.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix C highlights key imperatives of relevant provisions and policies.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- Section 4 of the PE Act
Municipal Planning Strategy	 Clause 02.03-1 (Strategic Directions – Settlement) Clause 02.03-5 (Built environment and heritage – Urban design, built form and neighbourhood character)
Planning Policy Framework	 Clause 11 (Settlement), specifically Clauses 11.01-1L (Gisborne and New Gisborne), 11.03-1S (Activity centres), 11.03-3S (Peri-urban areas) and 11.03-6S (Regional and local places) Clause 13.05-1S (Noise management) Clause 15.01-1S (Urban Design) Clause 17.01-1S (Diversified economy) Clause 17.02-1S (Commercial)
Other planning strategies and policies	 Plan Melbourne Direction 7.1 Policy 7.1.2 Loddon Mallee South Regional Growth Plan Macedon Ranges Statement of Planning Policy Gisborne Outline Development Plan (Gisborne ODP) Gisborne Futures Structure Plan Aug 2023 (draft)
Planning scheme provisions	 Commercial 1 Zone General Residential Zone Schedule 1 Design and Development Overlay Schedule 27
Planning scheme amendments	- Macedon Ranges Amendment C150 (new format Planning Policy Framework)
Ministerial directions	- Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes	 Planning Practice Note 22: Using the carparking provisions Planning Practice Note 46: Strategic Assessment Guidelines Planning Practice Note 58: Structure planning for activity centres Planning Practice Note 60: Height and setback controls for activity centres Planning Practice Note 96: Planning considerations for reflected sunlight glare

2.2 Strategic justification

(i) Evidence and submissions

Council submitted a local activity centre at this location:

... represents a good planning outcome by providing local convenience and community services for an area of Gisborne that has experienced significant residential growth.

It submitted a local activity centre is supported by long term strategic planning policy for the area, dating back to 2006 with the Development Plan for the original subdivision which created the site lot (Document 2(b)). It has been contemplated since 2009 in the current strategic planning for the area (the Gisborne ODP, Document 8(c)), and remains part of the strategic planning proposed for the area going forward, in the draft Gisborne Futures Structure Plan 2023 and the economic analysis underpinning it (Document 8(b)).

The Proponent tabled an economic assessment of the proposal prepared by Mr Szafraniec of SGS Economics and Planning (Document 10).¹ Mr Szafraniec noted the site is identified for a local activity centre in the draft Gisborne Futures Structure Plan, which was supported by the Gisborne Futures – Economic Analysis background report dated 22 May 2023.

Mr Szafraniec analysed the walkable catchments of the proposed centre and the main town centre (see Figure 4). He noted:

- Gisborne residents must currently go to the main town centre for their retail, hospitality and most other service needs
- based on 2021 census data, there are around 5,000 residents in southern Gisborne that fall outside the 800 metre (10 minute) walkable catchment of the town centre
- this number will increase once the two aged care facilities and the Fersfield Road and Willows Estate development areas are developed
- the proposal would largely address this walkability catchment gap in southern Gisborne, providing "walkable access to local retail, hospitality and medical services for a significant portion of the population currently outside the Gisborne town centre walkable catchment".

The Proponent relied on Mr Szafraniec's written evidence. It did not call Mr Szafraniec at the Hearing.

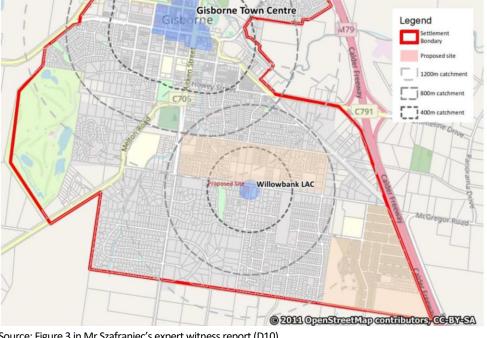


Figure 4 Walkable catchments of the proposed local activity centre and the Gisborne Town Centre

Source: Figure 3 in Mr Szafraniec's expert witness report (D10)

Mr Szafraniec noted there are no medical centres or hospitals within the local walkable catchment. The proposed development would provide walkable access to a medical centre for surrounding residents, addressing a current gap. He considered the medical centre would be supported by the existing physiotherapy and osteopathy clinics which "could enable more a more unified and holistic local health care offer", particularly beneficial for residents of the two future aged care facilities.

Mr Szafraniec undertook an analysis of the current and future population and demographics of Gisborne. The catchment of the proposed centre (800 to 1,000 metres) currently contains a population of 3,800 residents, anticipated to almost double in 15 years to 6,200. Based on the population in the catchment, Mr Szafraniec estimated the local retail expenditure and retail floorspace demand that would be supportable at the site (for the supermarket and the cafes). He concluded:

- the supermarket could be expected to capture up to 25 per cent of local grocery or supermarket expenditure, and 10 per cent of hospitality expenditure for the cafes
- based on these estimates, there is local demand for retail development of around 940 square metres by 2036
- in terms of the proposed supermarket:
 - there is current demand for around 450 square metres of grocery or supermarket floorspace, growing to 740 square metres by 2036
 - the fact that the proposed supermarket (at 370 square metres) is below the current demand is not problematic, as the additional demand would likely be diverted back to existing businesses within the main town centre and other locations as currently occurs
 - the proposed supermarket is unlikely to significantly impact any existing groceries or supermarkets within main town centre as it will be easily supported by its local catchment demand and future growth
- the same generally applies to the cafes, which will also provide a local meeting point for the community.

He concluded:

Combined with the accessibility [walkable catchment] assessment, I believe this retail demand analysis suggests that the retail component of the Amendment is appropriate and is needed by the surrounding community.

Mr Szafraniec undertook a similar demand analysis for the commercial floorspace in the proposed development, based on current and projected population, job numbers and commercial floorspace requirements per job, as well as a review of existing commercial floorspace vacancies in Gisborne. He concluded:

This analysis suggests there is sufficient local demand for a range of commercial uses that could locate at the proposed site. It is recommended that this space remain flexible to [suit a] range of non-retail/commercial uses including shared office space, community and even health services (i.e. gym or pilates studio).

Some submitters questioned whether there was a need for a local activity centre at this location in Gisborne, submitting that Gisborne already has sufficient supermarkets to service local needs. Others suggested that the Willows Estate would be a better location.

(ii) Discussion

The key policy directions applicable to the proposed Amendment and permit can be summarised as follows, with more detail provided in Appendix C:

- Gisborne (along with Kyneton) will continue to be the major urban population and employment centres in the Shire, where population growth is encouraged.
- Residents should have convenient access to jobs, services, infrastructure and community facilities, preferably within walking distance.
- Retail, commercial and community services should be located in activity centres that are highly accessible to the community, in locations close to where people live.
- Job containment within the Shire is strongly encouraged.
- New convenience shopping facilities that provide for the needs of the local population should be provided in new residential areas and within, or immediately adjacent to, existing commercial centres.

The location has been earmarked for a local activity centre in the strategic framework for south Gisborne for many years. The proposal is highly consistent with the key strategic policy directions outlined above. The Panel considers the proposal is, on its face, strategically justified.

The Panel is satisfied on the basis of Mr Szafraniec's assessment that the proposal:

- fulfils a local need for convenience retail, hospitality and medical services within walking distance for current and future residents of this part of southern Gisborne
- will not compete with or undermine the viability of commercial activity in the main town centre.

That said, it is not necessary to demonstrate a need for a development proposal in order to establish it is strategically justified. Nor is it necessary to demonstrate whether it is in the best location. Rather, the questions are:

- whether the proposal is consistent with the strategic policy directions
- whether the location is appropriate
- whether the proposal can deliver acceptable planning outcomes.

For the reasons stated above and in the following chapters, the Panel concludes these questions can all be answered in the affirmative.

2.3 Conclusions and recommendations

For the reasons set out above and in the following chapters in this report, the Panel concludes the Amendment and proposed permit are supported by the relevant parts of the Planning Policy Framework, and are consistent with the relevant Ministerial Directions and Planning Practice Notes (PPNs). The Amendment is well founded and strategically justified, and the Amendment and proposed permit will deliver net community benefit and sustainable development as required by Clause 71.02-3 (Integrated decision making) of the Planning Scheme. The Amendment and permit should be supported, subject to addressing the minor issues discussed in the following chapters.

The Panel recommends:

Macedon Ranges Planning Scheme Amendment C153macr be adopted as exhibited subject to the changes recommended in this report.

Planning permit PLN/2022/359 be issued to allow the development of the land for a small supermarket, medical centre, office and food and drink premises and a reduction in parking, with the exhibited conditions amended as shown in Appendix D.

3 Built form

3.1 Background

(i) The Design and Development Overlay

Built form on the site is proposed to be managed primarily through the DDO27, which provides:

- design objectives for the site that reference (among other things) a low rise local activity centre that provides a transition in scale to the surrounding residential areas and high quality streetscapes
- buildings that have a maximum height of 11 metres, zero street setbacks, and that address the corner, with scale, forms, materials and finishes that respect the existing character of the area
- a small plaza or gathering point for public use
- signage requirements, including that signs be integrated into the design of the building and do not intrude on the character or visual amenity of the area.

(ii) The covenant

The covenant that currently applies to the site (which is proposed to be varied) restricts (as relevant):

- fencing other than post and wire fencing
- building height that exceeds 9 metres or two stories.

3.2 General approach

(i) The issue

The issue is whether the DDO27 has been prepared generally in accordance with the guidance in applicable PPNs.

(ii) Submissions

Council submitted PPN58 and PPN60 note that a "comprehensive built form analysis" should be undertaken to provide justification for proposed built form controls in an activity centre, although detailed structure planning may not be necessary for smaller centres.

Council explained the final design specifications outlined in the DDO27 are the result of preapplication discussions between the Proponent and Council, and the application was:

... reviewed in line with best practice knowledge and advice contained in the Urban Design Guidelines for Victoria (2017) as well as against Clause 15.01-1S (Urban design) of the Macedon Ranges Planning Scheme.

It acknowledged the process did not strictly align with the methodology of a comprehensive built form analysis set out in PPN60, but submitted the DDO27 achieves similar outcomes, by:

- supporting a degree of change on the site while ensuring any development provides a high quality interface to the two street frontages as well as a transition to adjacent residential uses
- including guidance on:

- appropriate height and setbacks having regard to the role and function of a local activity centre as well as its context within a residential precinct
- how development should address the public realm both internal and external to the site
- avoiding amenity impacts to surrounding uses by encouraging built form at the street edge with carparking located to the side or rear, providing a separation between the buildings and the adjacent residential uses.

Council submitted the DDO27 includes discretionary controls, consistent with the guidance in PPN60, with scope to vary built form requirements provided a development proposal meets the design objectives, including for "a low-rise local activity centre that provides a transition in scale to the adjacent residential areas" and which supports active and attractive frontages to Willowbank and Brady Roads.

(iii) Discussion and conclusion

The Panel is satisfied that the process for preparing the DDO27 is essentially sound, and has followed the spirit (if not the letter) of the relevant PPNs. While the built form controls are not sourced from any particular strategic work (such as the Gisborne ODP), this is a small centre in which modest built form is contemplated. Detailed structure planning is not warranted for a proposal of this size and scale.

Importantly, the DDO27 (and the Amendment more broadly) meet the following key guidance in the PPNs:

- consistency with State and regional policy
- height and setback controls that are based on identifiable objectives or outcomes, including appropriate street frontages and avoiding amenity impacts to surrounding residential properties
- consistency with the preferred approach of applying discretionary controls, combined with clear design objectives and decision guidelines.

3.3 Building height and scale

(i) The issues

The issues are whether:

- a building height of 11 metres as provided for in the DDO27 is appropriate
- the proposed setbacks and street frontages are appropriate.

(ii) Submissions

Submitter 5 submitted the proposed buildings, at 11 metres, would not be 'low rise' and would be inconsistent with the low rise character of the area. He submitted:

It seems ill-logical [sic] that high quality streetscapes are detailed, yet we have concrete walls of ludicrous heights proposed for both Willowbank and Brady Roads, I would suggest the only streetscapes that would be attractive to that concept would be from graffiti vandals.

An adjacent resident raised concerns about the height of the proposed buildings, submitting they would "overwhelm" the small courtyards of the units behind the site. She submitted the height of the proposed buildings, together with the acoustic fence, will be imposing and oppressive. She submitted the buildings should be single storey, in line with other commercial buildings in the area.

Another adjacent resident supported the placement of the buildings away from the adjacent residential properties to prevent overshadowing and overlooking into backyards and windows, but considered a double storey building to be out of character with the area.

Submitter 10 was concerned the two storey buildings would interfere with the northerly and easterly aspects of the adjacent residences, and a 9 metre structure within that close proximity to the boundary "is not in keeping with the semi-rural 1/3 acre blocks which are on Willowbank Rd and should not be allowed". He submitted existing commercial premises near the site (presumably the childcare centre and osteopathy and physiotherapy clinics) are not two storey and neither should the proposed development. He submitted "consideration could be given to [the development] being single story on the Brady Rd side with two storey at the back following the gradient".

Submitter 15 submitted:

And as for multi storey buildings, we don't need another stain on the environment of our town like the Nexus centre. Goodness ...

Council acknowledged that the predominant height in the immediate surrounds is single storey, noting that the covenants that apply to land in the original subdivision which created the site as a separate lot limit dwellings to 9 metres and two storeys. However, Council submitted the 11 metre height limit proposed under the DDO27 is consistent with the height limit under the GRZ1, and is appropriate for commercial development.

The Proponent submitted the majority of built form across the site is proposed to be below the 9 metre limit in the covenant. Only a small part of the built form at the Willowbank Road frontage exceeds 9 metres, by only a small amount (just over half a metre). It submitted:

The component of roof form that is greater than 9 metres in height is relatively small and given its context within the broader commercial development, it won't be read as an element that is at odds with the character of the area. The pitched roof form which creates the minor component of non-compliance is in itself an integral part of the character of the area, noting pitched roofs are a prominent feature of the area.

The Proponent acknowledged the surrounding residential properties are generally single storey, but pointed to examples of double storey development in the immediate vicinity including the dwelling at 11 Brady Road (opposite the physio) and the approved double storey aged care facility at 110 Willowbank Road (diagonally opposite the subject site). It submitted:

A double storey built form is considered an appropriate response to the role of the neighbourhood activity centre while respecting the surrounding residential properties. It is also noted that the minor component of non-compliance is well setback from the adjoining neighbour and their sensitive area of secluded private open space to reduce any amenity impacts.

(iii) Discussion

The Panel considers the proposed height limit of 11 metres under the DDO27 to be appropriate. It is commensurate with the height limit that applies to residential buildings in the surrounding GRZ1 areas, and will assist in ensuring the scale of development on the site is consistent with the scale of development envisaged in the surrounding residential areas.

The Panel disagrees with submissions that two storeys would be not in keeping with the character of the area. This is an area that has seen substantial change in recent times. Areas to the east, south and west are now fully developed with standard residential density development, and the

site can no longer be said to be in a semi-rural area. This will continue with the development of the Fersfield Road area to the north and 75 Willowbank Road to the east.

While residential development to the immediate south and west of the site is largely single storey, the proposed development is not residential, and does not need to mimic or replicate the scale of surrounding development. As a local activity centre, it should be differentiated from the surrounding residential development, albeit in a way that respects the existing character of the area. The Panel is satisfied that the DDO27 controls, including the height limit and the zero building setbacks along the street frontages, achieves that.

The massing and distribution of built form across the site as reflected in the development plans submitted with the permit application has been thoughtfully undertaken, and creates generous setbacks to the adjacent residential properties. The zero street setbacks provide activation along Willowbank Road and Brady Road, and help to meet the DDO27 design objective that seeks a low rise local activity centre that provides a transition in scale to the adjacent residential areas, and active street frontages to Willowbank and Brady Roads. The siting of built form directly addresses the siting requirements in Clause 2.0 of the DDO27 that seek buildings that address the street and corner location with carparking located to the rear and sides of the development.

The Panel does not agree with Submitter 5 that the development would have concrete walls "of ludicrous heights" along Willowbank and Brady Roads. It regards the heights as appropriate for the reasons set out above. Both frontages are largely glazed, providing passive surveillance opportunities to the streets. While there is a section of blank wall proposed to front Brady Road at the rear of Building B, the Panel accepts the Proponent's explanation that the 'back of house' area for the supermarket has to go somewhere, and the proposed location (fronting the carpark and opposite the childcare centre and osteopath clinic) is the least sensitive part of the site. Further, the development plans show that this section of wall along Brady Road will be screened and greened with a trellis and plantings.

(iv) Conclusions

The Panel concludes:

- A building height of 11 metres is appropriate, subject to some adjustment to the wording
 of the height requirement in the DDO27 (discussed in Chapter 6.1).
- The proposed setbacks and street frontages required under the DDO27 and shown in the development plans accompanying the permit application are appropriate.

3.4 Acoustic fence

(i) The issue

The issue is whether the proposed acoustic fence is appropriate.

(ii) The Acoustic Report

The combined Amendment and permit application was accompanied by an Acoustic Report prepared by Marshall Day Acoustics (Document 5(c)). According to the Acoustic Report, the closest noise sensitive receivers are dwellings located 4 metres from the western and southern boundaries of the site. Noise sources include:

- · mechanical services such as heating and air conditioning units
- deliveries and waste collection vehicles

vehicles in the carpark.

The Acoustic Report assessed the background noise levels at the site and nearby sensitive receivers, and modelled the noise predicted to be emitted by the mechanical services and deliveries and waste collection. The modelling predicted that noise emissions from the site are likely to exceed the applicable noise limits, and mitigation will be required. It recommended:

- a 2.4 metre high solid acoustic fence along the western and southern boundaries, with a surface density of 12 kg/m²
- acoustic screening of plant located on the roof of the proposed development, which is incorporated into the design of the proposed development
- additional acoustic screening of plant if required (which was thought to be unlikely).

With these mitigations in place, the modelling predicted that the proposed development can comply with the applicable noise limits at all sensitive receiver locations.

(iii) The regulatory framework

The General Environmental Duty (GED) in the *Environment Protection Act 2017* (EP Act) requires anyone engaging in an activity posing a risk of harm to human health and/or the environment from pollution (including noise) and waste, to minimise those risks to prevent harm as far as reasonably practicable. Any residual noise remaining after actions are taken to meet the GED is then managed in accordance with the unreasonable noise definitions in section 166 of the EP Act, which requires the use to comply with EPA Publication 1826.4 *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*, May 2021 (the Noise Protocol).

Commercial premises are therefore required to continually review and eliminate or reduce the risk of harm from any emission of noise as far as reasonably practicable, even if they are compliant with the Noise Protocol.

(iv) Submissions

An adjacent resident living in one of the dwellings directly to the south of the site raised concerns about the height of the acoustic fence, submitting:

Constructing a fence other than post/wire and especially that height, with a building of multiple levels, will be overwhelming for such small blocks. It will be imposing, oppressive and prevent the natural light filtration internally and externally that we currently enjoy.

Another adjacent resident supported the proposed height of the acoustic fence, noting it would assist with blocking out the visual bulk of the proposed development and offer more privacy and security. They also considered that a timber paling fence would suit the character of the area. While they were initially opposed to the proposed density of the fence (12 kg/m 2), they put in a revised submission withdrawing this concern.

Submitter 5 submitted a 2.4 metre high boundary fence may be beneficial for the southern boundary, but the residential property on the western boundary will lose its rural views and will have "this monstrosity to look at".

Submitters 2 and 10 expressed a preference for a low-profile post-and-wire fence construction that reflects the rural character of the surrounding area. Submitter 10 also submitted there should be wider garden beds providing more space between the acoustic fence and the carpark, to minimise noise.

Council submitted:

Protecting sensitive residential areas from any adverse noise associated with the commercial use of the site is a priority for Council.

It submitted the Acoustic Report demonstrates that a solid fence is required to meet the regulatory requirements applicable to noise emissions.

Council requested the Proponent to provide further information relating to the potential for the solid fence to overshadow open space and north facing windows on the adjacent residential properties. The results (Document 5(k)) demonstrate some level of overshadowing to the rear private open space of the units in Francis Crescent throughout the day, and some overshadowing of the open space to the side and rear of the dwelling at 107 Willowbank Road in the morning. The amount of shadow cast meets the standards contained in Clause 55.04-4 (North-facing windows objective) and Clause 55.04-5 (Overshadowing open space objective) of the Planning Scheme.²

Council proposed changes to the conditions of the permit dealing with noise:

- updating exhibited condition 7 to refer to the Noise Protocol
- updating exhibited condition 10 to ensure the acoustic fence is installed and maintained
- a new condition 23 in the Day 1 version of the permit, limiting deliveries and waste collection to 7pm to 8pm, and that all ancillary motors for trucks should be turned off whilst making the delivery
- a new condition 24 in the Day 1 version of the permit, limiting commercial activity to after 7am from Monday through to Saturday and after 8am on Sunday and public holidays.

The Proponent submitted the Acoustic Report indicates that the proposed development is predicted to be able to comply with the applicable noise limits in the Noise Protocol, and enable compliance with the GED. It noted that waste collection and deliveries will occur between 7pm and 8pm after the commercial centre has closed, avoiding the night time period when more stringent noise limits apply. It explained that an objective assessment against the evening period noise limits was conducted to demonstrate the waste collection and deliveries as proposed can comply with the applicable noise limits.

The Proponent accepted Council's proposed changes to the noise conditions, subject to:

- removing the reference to ancillary motors from proposed condition 23, as this is an unclear requirement and may not be practical
- amending proposed condition 24 to refer to the supermarket rather than 'commercial activity', as the potential noise source is the supermarket (not the commercial spaces).

The Proponent also noted that the Acoustic Report recommended the following condition of any approval:

Once mechanical services design has progressed to a suitable level of detail, an acoustic assessment of the mechanical services design should be conducted by a suitably qualified and experienced acoustic consultant. Reasonably practicable noise controls should be investigated and implemented, and any noise controls required for compliance with the relevant legislative criteria should be included in the final design.

These standards are not applicable to the proposed development, as it is not residential, but they provide a useful guide as to what level of overshadowing constitutes an acceptable amenity impact.

(v) Discussion

The Panel is satisfied that noise emissions from the proposed development have been appropriately assessed and the Acoustic Report demonstrates that the development will be able to comply with the applicable regulatory requirements, including the GED.

The Panel is satisfied that a solid 2.4 metre high acoustic fence is required. A post and wire fence, as suggested by Submitters 2 and 10, would not be appropriate as it would not provide any noise attenuation. The Panel does not consider that a 2.4 metre high timber paling fence would be inappropriate in terms of the character of the area. This is only slightly higher than a standard (1.8 metre) residential timber paling fence.

The Panel supports Council's proposed post-exhibition changes to exhibited conditions 7 and 10. It does not consider that the requirement in proposed condition 23 for delivery vehicles to turn off ancillary motors is justified. Deliveries are only permitted between 7pm and 8pm, which is outside the night time period when sleep is potentially disturbed. Further, it is not clear that the requirement is practical and able to be enforced. The Panel supports proposed condition 24, subject to adjusting the wording to refer to the supermarket rather than commercial activity. The Panel also supports the addition of a condition requiring a further noise assessment once detailed design is completed, as recommended in the Acoustic Report, as this is consistent with the GED.

(vi) Conclusions and recommendations

The Panel concludes:

- The proposed acoustic fence, being a 2.4 metre high solid timber paling fence:
 - is appropriate to ensure the development can comply with the applicable regulatory requirements relating to noise emissions
 - will not cause unacceptable visual impacts, overshadowing or impacts on the character of the area.
- Council's proposed adjustments to the noise conditions on the permit are appropriate, subject to some minor adjustments and the addition of a condition requiring a further noise assessment as recommended in the Acoustic Report.

The Panel recommends:

Amend the exhibited permit conditions relating to noise as shown in Appendix D:

- a) amend exhibited condition 7 (renumbered to condition 8 in Appendix D) to refer to the Noise Protocol rather than the superseded State Environmental Protection Policy N-1
- amend exhibited condition 10 (also condition 10 in Appendix D) to require the acoustic fence to be installed and maintained to the satisfaction of the responsible authority
- c) insert a new condition 11 requiring a further noise assessment once detailed design is completed
- d) insert a new condition 12 restricting opening hours of the supermarket to between 7am and 8pm Monday to Saturday and between 8am and 8pm Sunday and public holidays
- e) insert a new condition 13 limiting delivery and waste collection to between 7pm and 8pm.

4 Traffic and parking

4.1 Traffic Impact Assessment and evidence

The request for the Amendment and permit was accompanied by a Traffic Impact Assessment prepared by Traffix Group dated July 2022 (Document 5(h)). Council requested the assessment be updated following a review of submissions received in response to the exhibition of the Amendment and draft permit. The updated assessment is in the form of a memo from Traffix Group dated 27 September 2023 (Document 5(k)). In this report, Traffic Impact Assessment refers to the initial and updated assessments collectively.

The Proponent called Mr Stone of Traffix Group to present evidence to the Panel (Document 9). Mr Stone was the author of the memo containing the updated assessment, and the approver of the initial assessment.

4.2 Traffic congestion

(i) The issue

The issue is whether the proposed development will create traffic congestion, particularly at the intersection of Willowbank and Brady Roads.

(ii) Evidence and submissions

Submitter 3 raised concerns about the future traffic demand at the intersection, and queried whether the initial Traffic Impact Assessment considered the traffic generated by the new houses in the Willows Estate. They also queried whether consideration had been given to increasing the frequency of bus services to reduce the private vehicle traffic around the area.

Council requested the updated assessment be prepared with specific focus on the intersection, as well as the entrance points to the site from both Willowbank and Brady Road (discussed below). The updated assessment reviewed the possible traffic impacts associated with the future completion of a number of nearby approved developments on the intersection, and concluded that, based on the results of the traffic modelling, the intersection would continue to operate at an excellent level and that the road network would be able to accommodate the projected traffic demand. Council submitted:

Council accepts the methodologies employed by Traffix Group in undertaking the review, and further accepts its findings regarding the Brady/Willowbank Road intersection.

Mr Stone's evidence was:

... the level of traffic generated by the proposal will be modest and can be accommodated without any adverse impacts to the operation of the nearby road network, including the intersection of Willowbank Road and Brady Road.

Mr Stone explained that the updated assessment included existing traffic volumes, traffic generated by the proposed development, and likely future traffic generated by the Willows Estate, the Fersfield Road area, 75 Willowbank Road and the retirement village at 110 Willowbank Road. He noted that the updated assessment determined:

... the intersection of Willowbank Road and Brady Road will continue to operate at a Level of Service A (Excellent), for both the AM and PM peak periods, after the inclusion of the

additional traffic generated from the various approved or upcoming developments and the proposed commercial development of the site.

He described the impact of the proposed development on the intersection as "marginal".

Mr Stone considered the proposed dual access points to the site (one on Brady Road and one on Willowbank Road) to be a benefit, as it would allow traffic generated by the proposed development to be spread between Willowbank Road (for north, east and west bound traffic) and Brady Road (for south bound traffic). This would reduce the overall traffic volumes on both roads.

Mr Stone's evidence was that both access points will operate at a Level of Service A (Excellent) for the peak periods, with exception of the right turn exit from the Willowbank Road access point, which would operate at a Level of Service of B (Very Good). He regarded this as acceptable, concluding:

There will be no detrimental impact to through traffic along Willowbank Road as a result of the access point to the site, with negligible delays due to vehicles turning into the site only needing to cross one traffic lane.

Mr Stone noted that the draft Gisborne Futures Structure Plan indicates the Willowbank Road/Brady Road intersection may be upgraded in the future from its current standard T intersection design to a roundabout, and a pedestrian crossing may be installed in the future. Willowbank Road may also be upgraded to a collector road. His evidence was:

I do not consider that any upgrades are warranted to this intersection at this point in time and that there is more than sufficient capacity in the intersection to also accommodate nearby developments.

(iii) Discussion

The traffic impacts of the proposed development have been thoroughly assessed through the Traffic Impact Assessment, and the further analysis in Mr Stone's evidence. The methodology employed by Traffix Group was appropriate and in accordance with accepted industry practice. It included a comprehensive analysis (including modelling) of the performance of the intersection of Willowbank and Brady Roads, which found the intersection has more than sufficient capacity to absorb additional traffic generated by the proposed development, as well as the future traffic generated by other developments in the area.

Further, the Panel agrees with Mr Stone's conclusions that:

- the access points to the site are appropriate, and will not have adverse effects on traffic movements on Willowbank or Brady Roads
- through traffic on Willowbank Road will not be adversely impacted
- the intersection does not require any upgrades at this point in time.

(iv) Conclusion

The Panel concludes:

• The proposed development will not cause unacceptable traffic congestion, including at the intersection of Willowbank and Brady Roads.

4.3 Pedestrian and cyclist safety

(i) The issue

The issue is whether the proposed development will create unsafe conditions for pedestrians and cyclists.

(ii) Evidence and submissions

Council submitted active transport options are anticipated to be a key mode for accessing the site from the local residential area. It explained the draft Gisborne Futures Structure Plan proposes the preparation of a streetscape master plan for the centre, which would focus on improving pedestrian and cyclist amenity, provision of safe and comfortable access between the existing and emerging activity nodes and traffic calming on Willowbank Road.

Council included conditions on the draft permit that require the plans to be amended to show:

- a driveway separation island at the Brady Road access point (exhibited condition 1(a))
- a 'no right turn' sign along Brady Road (exhibited condition 1(b))
- the location of a pedestrian crossing line on Brady Road (exhibited condition 1(d)).

Conditions 1(a) and 1(b) are to ensure traffic exiting the site onto Brady Road cannot turn right into Brady Road. Council explained that it was concerned about conflicts between right turn traffic exiting the childcare centre and osteopathy clinic and right turn traffic exiting the development, given the driveways are almost directly opposite one another. Council's main concern was that potential traffic conflicts at the exits could create unsafe conditions for pedestrians crossing Brady Road.

Regarding exhibited condition 1(d), Council explained it did not require the Proponent to deliver the pedestrian crossing as part of the development, but wanted to ensure the development was designed so as to not compromise the ability to add a pedestrian crossing in future. It submitted:

Permit condition 1(d) highlights Council's commitment to pedestrian safety at the Willowbank/Brady Road intersection by ensuring the development considers (in plans) the likely future installation of a pedestrian crossing by Council at the intersection.

Mr Stone did not support these conditions.

He did not consider it was necessary to restrict right turn exits from the site into Brady Road from either a traffic engineering or a pedestrian safety perspective. His evidence was:

- the proposed access point onto Brady Road complies with the Planning Scheme and applicable Australian Standards
- if two cars wanted to exit right from the proposed development and the childcare centre
 at the same time (which would not happen often), one would simply need to give way to
 the other
- traffic volumes in Brady Road will be low, with ample gaps into which existing vehicles could turn
- sightlines between the two exit points are clear and both drivers would have clear visibility of each other.

Further, restricting right turns from the site onto Brady Road would result in additional traffic at the intersection of Willowbank and Brady Roads, as south bound traffic would be forced to exit the site via the Willowbank Road exit, turn right onto Willowbank Road and then turn right at Brady Road. This would result in unnecessary delays and inconvenience.

In response to a question from Mr Rehal, a Council traffic engineer, Mr Stone conceded that restricting right turn exits from the site into Brady Road would be safer for pedestrians using Brady Road, but he remained of the view that it was unnecessary.

Mr Stone's evidence regarding the pedestrian crossing (exhibited condition 1(d)) was:

... I also do not consider that it is the responsibility of this development to provide for a pedestrian crossing facility. Any pedestrian crossing facility is a Major Traffic Control Item and requires thorough investigation, and any design should be incorporated into any future intersection upgrade being considered by Council (as flagged within the Structure Plan).

Council explained at the Hearing that it had undertaken further assessment in the lead up to the Hearing, and was comfortable that the proposed design would not compromise the future provision of a pedestrian crossing in Brady Road. On that basis, it did not object to exhibited condition 1(d) being removed from the permit.

Submitter 3 noted concerns around pedestrian safety, noting the childcare centre and kids walking to school. Submitter 5 submitted there are no bike paths connecting to the site, and Willowbank Road is too dangerous to ride on. He submitted:

... how can a development prioritise pedestrians/cyclists when there is no facilities for those pedestrians/cyclists to safely access the development?

Mr Stone responded that bicycle parking is being provided in line with the requirements of Clause 52.34 of the Planning Scheme, and the lack of bicycle lanes in the area is outside the scope of this application. He noted that a wider footpath/shared path is provided in some locations along the north side of Willowbank Road where recent development has occurred, and this will likely continue to be improved as development progresses, improving bicycle access in the area.

(iii) Discussion

While the Panel understands Council's desire to ensure the safety of pedestrians using Brady Road, it was not persuaded that the restriction of right turn exits from the Brady Road access point is justified. Based on its observations on its site visit, the Panel agrees with Mr Stone that sightlines between the site's Brady Road access point and that of the childcare centre and osteopathy are clear. It accepts Mr Stone's evidence that traffic volumes in Brady Road are low (and likely to remain so), and there will be sufficient gaps for exiting vehicles to turn into Brady Road without experiencing significant delays or frustration that might prompt risky rapid exit manoeuvres.

Further, forcing all south bound traffic from the development to exit via Willowbank Road would result in additional congestion at the intersection of Willowbank and Brady Roads, and increased delays. This is not justified by the marginal (if any) gains in pedestrian safety that might be achieved by restricting out-bound right turns into Brady Road.

Based on Council's further analysis, it appears that the design of the proposed development does not compromise the future provision of a pedestrian crossing in Brady Road. There seems little point in requiring the development plans to identify the future location of the pedestrian crossing, noting that this is not up to the Proponent, and would require approval from the Department of Transport and Planning.

For these reasons, the Panel does not support exhibited conditions 1(a), 1(b) or 1(d).

While the Panel notes the concerns of Submitters 3 and 5, it was not persuaded that the proposed development is likely to create safety concerns for pedestrians or cyclists, including children. The closest schools to the proposed development are located some distance from the site, and

children in the childcare centre will not be crossing the roads unaccompanied by an adult. While there may not currently be bike paths providing direct access to the site, bicycle parking should nevertheless be provided in accordance with the requirements of the Planning Scheme. Neither Brady Road nor Willowbank Road carry traffic at speeds or volumes that make them inherently unsuitable for cyclists who choose to ride along the roads.

(iv) Conclusions and recommendations

The Panel concludes:

- The proposed development will not result in conditions that are unsafe for pedestrians or cyclists.
- The restriction of right turn exits from the Brady Road access point is not justified.
- The requirement to show the location of a future pedestrian crossing on the development plans is not justified.

The Panel recommends:

Amend the exhibited permit conditions relating to traffic as shown in Appendix D:

- a) delete exhibited conditions 1(a) and 1(b) that seek to restrict right turn exits from the Brady Road access point
- b) delete exhibited condition 1(d) that requires the development plans to be amended to show the location of a future pedestrian crossing.

4.4 Willowbank Road

(i) The issue

The issue is whether the condition of Willowbank Road is able to support the proposed development.

(ii) Evidence and submissions

Submitter 5 raised concerns about the condition of Willowbank Road in proximity to the site, submitting the road is narrow and in "very poor condition" with potholes, poorly completed road repairs, uneven surfaces, no street lighting, very limited footpaths on the northern side of the road and inconsistent kerbing. He submitted the road is unsuitable for current traffic volumes, let alone the additional traffic that will be generated by the proposed development. He submitted the speed limit should be reduced to 50 km/h in Willowbank Road, and speed slowing devices should be installed every 300 metres or so along the length of Willowbank Road between Aitken Street and Bloomfield Road. Submitter 10 also raised concerns about the condition of Willowbank Road.

Mr Stone responded that based on his site visit, he did not determine any significant issues with the condition of Willowbank Road (save for minor potholes in some locations), or any reason why the current 60km/h speed limit should be reduced. He also undertook a road safety review which did not identify any existing road safety issues on Willowbank Road. His evidence was:

In any event, the condition of Willowbank Road and any potential changes to speed limits are outside the scope of the proposed re-zoning / development of the site and is a separate matter for Council to consider.

Submitter 5 disputed the Traffic Impact Assessment's conclusion that 8 percent of vehicles using Willowbank Road are commercial. Mr Stone responded that the percentage of heavy vehicles recorded during the 7-day tube counts commissioned by Traffix Group was approximately 6

percent for both Brady Road and Willowbank Road, which is "in line with expectations for this area, noting construction works in the precinct".

(iii) Discussion

The Panel is not persuaded that the condition of Willowbank Road is unsuitable to support the proposed development. Its observations on its site visit were consistent with those of Mr Stone. Any issues regarding speed limits or traffic calming measures in Willowbank Road are beyond the scope of the Amendment and draft permit.

(iv) Conclusion

The Panel concludes:

• The condition of Willowbank Road is able to support the proposed development.

4.5 Parking

(i) The issue

The issue is whether the proposed parking provision is appropriate.

(ii) Background

The statutory parking requirement for the proposed development under Clause 52.06 is 61 spaces. The Proponent proposes 57 spaces. A permit is required for the shortfall of 4 spaces.

(iii) Evidence and submissions

Submitter 16 expressed concern that the proposed parking provision was inadequate. Submitter 2 was concerned that the development would take up parking in Francis Crescent.

Council supported the proposed parking provision, noting that the Traffic Impact Assessment included a Carparking Demand Assessment which concluded that demand is likely to be met onsite through a combination of the differing peaks of the various uses and likely demands.

Mr Stone expected carparking demands will be met on-site, without having to rely on on-street parking in the surrounding area. He considered the demand for parking generated by the different uses on the site will peak at different times, noting that offices are typically closed in the evenings and on weekends, while cafes typically peak on weekends. He considered that some customers would likely visit the site for multiple purposes, and some would access the site on foot or by bike given the local neighbourhood location and the convenience nature of the shopping being offered.

Further, Mr Stone considered the demand for the supermarket is likely to be lower than the statutory rate, which tends to more accurately reflect the demand generated by large full line supermarkets where customers undertake large shops that require a car. He referred to data obtained from Traffix Group's database which demonstrated smaller 'minimarts' typically generate lower parking demands, as they are used more for daily convenience shopping and are often visited on foot or by bike.

Mr Stone also noted the number of medical practitioners for the site has been reduced from 10 (as originally proposed) to 7 as a result of condition 5 of the draft permit, reducing the carparking reduction sought from 11 to 4 car spaces.

Even if the development's carpark were full, Mr Stone noted there are 14 spaces along the site's frontages that could accommodate overflow parking. Traffix Group's parking survey demonstrated that current demand for these spaces is very low.

(iv) Discussion

The Panel is satisfied on the basis of the Traffic Impact Assessment and Mr Stone's evidence that the proposed reduction in parking is appropriate. The application was supported by a Carparking Demand Assessment and an assessment of the local parking supply, as required under Clause 52.06 of the Planning Scheme. The Panel accepts Mr Stone's evidence that small supermarkets generate less demand than larger full line supermarkets. It also notes that bicycle parking is proposed to be provided at above the statutory rate, which may further reduce the demand for carparking.

The assessments demonstrate the proposed development is unlikely to generate a parking demand that is significantly above the proposed on-site parking. Even if it were to do so, there is plenty of on-street parking available along the site's frontages that could accommodate any overflow parking demands without impacting on the parking needs of local residents.

(v) Conclusions

The Panel concludes:

- The proposed parking supply, with a shortfall of 4 spaces compared to the statutory rate, is appropriate.
- The proposed development will not have unacceptable impacts on local carparking.

5 Other issues

5.1 Landscaping and vegetation

(i) The issues

The issues are whether the proposed landscaping is appropriate having regard to:

- the character of the area
- the potential for damage to adjacent properties (for example through aggressive roots)
- the potential for excessive shadow on adjacent properties.

(ii) Submissions

Residents in one of the adjacent dwellings supported native plantings, submitting they would embrace the character of the area. However they did not want certain tree species planted along their fence, submitting that the proposed trees had aggressive root systems, would result in a loss of sunlight to their property and would risk dropping limbs in severe storms. They asked to be consulted on the trees planted directly along their boundary, and any trees whose canopies or roots could affect them. They submitted trees should be no higher than 5 metres (presumably at maturity). They also submitted the large canopy tree proposed in the southwest corner of the site should be replaced with a garden bed with native plants and a smaller tree.

Submitter 5 submitted:

Nowhere from the development will there be green lawn / open space visible from the roads giving/maintaining the country/rural atmosphere that currently exists in the area ...

Council explained that further consultation had occurred between Council, the adjacent residents and the Proponent's landscape architect, following which the residents withdrew their opposition to the vegetation species along the southern border of the site, as alternative species were agreed. The Proponent confirmed this in oral submissions, and confirmed its commitment to only use agreed species along the site boundary. Council considered this issue resolved, and no change is required to the proposed permit conditions.

(iii) Discussion

Local policy promotes:3

- protection and enhancement of the distinctive character and form of the Shire's towns
- commercial development that is attractive and positively impacts the amenity of the area
- development that respects the rural character and high landscape values of the municipality
- landscaping that integrates with the landscape character of the area and increases tree canopy coverage.

The Landscape Plan submitted with the request for the Amendment and permit show landscaping along the street frontages, internal pedestrian plaza, boundary fences and carpark area. Species are largely native, with a mix of low grasses and shrubs, canopy trees and vertical 'green screening'

Refer in particular to the Municipal Planning Strategy at Clause 02.03-5 (Built Environment and Heritage), Clause 15.01-1L (Urban Design – Macedon Ranges) and Clause 15.015L (Neighbourhood character – Macedon Ranges townships).

plants. The Panel considers the landscaping will soften the built form and add greenery to the street in a way that will not conflict with the function of the buildings or maintaining good sightlines for traffic and pedestrians. The landscaping meets the objectives of the policy framework to provide attractive commercial development that contributes to the landscape character of the township and positively impacts the amenity of the local area.

The Panel acknowledges the efforts of Council and the Proponent to work with the site neighbours to resolve concerns in relation to landscaping (and other matters), and the Proponent's commitment to continue to work with the neighbours to ensure only agrees species are used in boundary plantings.

No change is required to the permit or the DDO27 to address landscaping concerns.

(iv) Conclusion

The Panel concludes the proposed landscaping is appropriate.

5.2 Drainage and water storage

(i) The issues

The issues are whether:

- the impacts of the proposed development on localised flooding are acceptable
- the proposed 10,000 litre tank is appropriate.

(ii) Proposed conditions

Exhibited conditions 1(e) and 14(e) relate to stormwater management. Council proposed changes to these conditions in its 'Day 1' version of the permit:

- 1(e) The location design of a stormwater detention system demonstrating a 10-year ARI post-development flow restricted to the predevelopment stage so that the developed 5% AEP discharge from the entire site is reduced to the pre-developed 20% AEP discharge.
- 14(e) The flow paths of a 1 in 10 year ARI 1% AEP storm so that no private neighbouring property is inundated.

The changes propose replacing references to ARIs (Average Recurrence Interval) with AEPs (Annual Exceedance Probability). These are similar, but not identical, ways of describing flood risk:

- AEP describes how likely a given flood event is to occur each year. For example, land at
 risk of a 20 percent AEP event means the land has a 20 percent chance of flooding in any
 one year.
- ARI describes the average frequency of a flood event. A 1 in 20 year ARI means the land is likely to flood on average once every 20 years.

Both are sometimes described as a '1 in 20 year' flood, although this more closely describes the ARI than the AEP.

Council also proposed the addition of a new condition in its Day 1 version of the permit:

Before the development starts, a Stormwater Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority.

(iii) Submissions

The Proponent explained that stormwater management was outlined in the Sustainability Management Plan submitted with the request for the Amendment and permit. It submitted Water Sensitive Urban Design elements were included in the design, including a 10,000 litre water tank and 35 square metres of rain garden. These are to detain stormwater on the site and allow its controlled release into the neighbouring drainage system, so as to meet Council requirements in relation to drainage of stormwater from the site. The rainwater tank also provides opportunities for harvesting and re-use of stormwater on the site, and the rain gardens provide a way of improving the water quality of any stormwater that subsequently exits the site into the municipal drainage system.

Submitter 5 was concerned the swale drain on the southern side of Willowbank Road consistently floods during heavy prolonged rain events, and local flooding could be exacerbated by the proposed development. He also considered the proposed 10,000 litre rainwater tank to be "tokenistic" for such a large development.

Melbourne Water (Submitter 9) noted that the Proponent would need to contact Council in relation to potential flooding from Council's drainage system, but did not object to the proposal or suggest any additional permit conditions.

Council responded that it is aware of minor issues relating to the drainage system along Willowbank Road, with flooding reported to be more frequent than the 20 percent AEP, or once in 5 years. The Panel asked whether Council planned any upgrades to the drainage system in Willowbank Road to deal with this situation. Council was not aware of any immediate plans to upgrade the drainage in this area.

Regarding Council's Day 1 version of condition 1(e), the Panel noted the changes appeared to represent a more stringent standard, and asked Council whether this was a standard condition for commercial development in residential areas. Council responded in Document 15, stating:

In this case, increasing the standard is seen as appropriate in reducing the impact that this development will have on the surrounding residential drainage system due to the (developed) site's limited permeability and detention of water. When completed the permeability of this site will be heavily reduced. Council is concerned that the increase in volume and velocity of stormwater discharge into the drainage system could lead to increase the risk of localised flooding. For these reasons, Council is seeking greater detention and management of stormwater. Council's current design standard for residential areas is to reduce the post developed 10% AEP discharge to the pre-developed 20% AEP discharge. For commercial areas increasing the standard from 10% AEP to 5% AEP is standard practice, which Macedon Ranges Shire Council has done.

Regarding condition 14(e), the Panel queried whether the intent was to refer to a 10 percent AEP storm, rather than a 1 percent AEP storm, given the exhibited wording of the condition reflected a 1 in 10 year storm (not a 1 in 100 year storm). Council responded in Document 15, explaining that the 'Day 1' changes proposed to condition 14(e) were to reflect two distinct points:

- the industry preference for the use of an AEP storm over an ARI
- to correct a typographic error in the exhibited condition relating to the defined ARI value.

⁴ The Panel notes these are slightly different measures. A 20 percent AEP means a 20 percent chance of flooding in any one year, whereas 'once in 5 years' better describes the ARI of a flood event.

Council explained that the requirement for no storm water to inundate neighbouring property for events up to and including a 1 percent AEP storm comes from Australian Standard AS/NZS 3500.3 (at Clause 5.2.3). Hence, the reference to '1 in 10 years ARI' in the exhibited condition 14(e) should have been '1 in 100 years ARI', or more correctly '1 percent AEP'.

Regarding proposed condition 22, Council submitted a Stormwater Management Plan was essential for Council to understand how the engineer planning the storm water drainage for the site will decide how, and where, various storm water components will be placed and function at the site.

The Proponent indicated that it had only been made aware of the proposed changes to the drainage conditions one business day before the Hearing. It indicated it:

- had not had a chance to properly consider the proposed changes to exhibited condition
 1(e)
- accepted the changes to exhibited condition 14(e), subject to the clarification in relation to the appropriate AEP value
- accepted the addition of condition 22.

(iv) Discussion

The site is currently vacant, and is therefore able to absorb storm water more effectively than when it becomes developed (and less permeable). It will be important to ensure storm water and drainage are well managed as the site is developed, to ensure drainage problems do not occur (or existing drainage issues in the locality are not made worse).

The Panel supports Council's proposed changes to the wording of the stormwater conditions to refer to an AEP event, rather than an ARI event. Clause 53.18 (Stormwater Management in Urban Development) of the Planning Scheme sets out objectives and standards for stormwater performance for urban development. It sets performance requirements that must be met in different storm events. These are expressed as AEP events, not ARI events. The PPNs relating to the application of flood controls in planning schemes also refers to AEPs rather than ARIs.

The 'Day 1' version of condition 1(e) refers to 'AEP discharges' to be achieved by the stormwater detention system. 'AEP discharge' is not a commonly used term. The Panel assumes the intent of the condition is to set standards for the rate of stormwater discharge from the site – namely, for post-development flow rates in a 5 percent AEP event that do not exceed flow rates that currently occur (pre-development) in a (less severe) 20 percent AEP event. If this is correct, the condition requires minor rewording to better achieve the intent.

The question remains as to whether Council's proposed metrics for the AEP values in the 'Day 1' versions of conditions 1(e) and 14(e) are appropriate.

Standard W1 in Clause 53.18 states that for subdivisions in a storm event up to and including the 20 percent AEP standard:

- stormwater flows should be contained within the drainage system to the requirements of the relevant authority
- ponding on roads should not occur for longer than 1 hour after the cessation of rainfall.

For storm events greater than 20 percent AEP, up to and including 1 percent AEP storms:

 all new lots should be free from inundation unless otherwise agreed by the floodplain management authority

- provision must be made for the safe and effective passage of stormwater flows
- streets, footpaths and cycle paths that are subject to flooding must meet specified safety criteria based on depth and velocity of floodwaters.

Council's proposed changes to condition 1(e) seek to impose a more stringent standard than the exhibited condition, and a more stringent standard than for residential development in residential areas. Council's response in Document 15 states that this is "standard practice", but does not provide any reference to relevant guidance establishing this as an appropriate standard, or to any examples of a similar approach in other permits either in or outside the Macedon Ranges Shire.

The Panel is not aware of any guidance on the appropriate standard or for the rate of stormwater discharge that should be achieved by new development (unlike for stormwater quality, for which Clause 53.18 references parameters recommended in *Urban Stormwater – Best Practice Environmental Management Guidelines*, Victorian Stormwater Committee, 1999).

In the absence of Council providing any evidence that it is standard to require commercial development in residential areas to achieve a post-development rate of discharge in a 5 percent AEP event that is equivalent to the pre-development rate in a 20 percent AEP event, the Panel does not consider it is appropriate to introduce the more stringent standard. Exhibited condition 1(e) (renumbered to condition 1(c)(ii) in Appendix D) should therefore refer to a post-development discharge rate in a 10 percent AEP event, not a 5 percent AEP event.

Council's proposed changes to condition 14(e) seek to ensure no inundation of neighbouring properties in a 1 percent AEP event. This, too, is a more stringent standard than the exhibited '1 in 10 year' ARI. Nevertheless, the Panel supports the proposed change, as it is based on the applicable Australian Standard and is broadly consistent with Standard W1 in Clause 53.18. The Panel accepts Council's explanation that the intent was always to refer to a '1 in 100 year' storm, and the reference in the exhibited condition to a '1 in 10 year ARI' was a typographical error.

The Panel supports the addition of a condition requiring a Stormwater Management Plan. The condition proposed by Council does not contain much detail. The model condition in the Writing Planning Permits Guide⁵ is more detailed, and the Panel has based its recommended wording (condition 15 in Appendix D) on the model condition.

While the Panel acknowledges Submitter 5's concerns about a 10,000 litre rainwater tank being 'tokenistic', a 10,000 litre tank is recommended in the Sustainability Management Plan and the Panel was not presented with an alternative capacity that the submitter considered suitable. A larger tank may provide further opportunities for harvesting and re-use of stormwater on the site, but would have greater visual impacts. On balance, the Panel was not persuaded that a 10,000 litre tank is inappropriate.

Writing Planning Permits, (former) Department of Environment, Land, Water and Planning, May 2023

(v) Conclusions and recommendations

The Panel concludes:

- The proposed permit conditions, with the adjustments recommended by the Panel, are appropriate to ensure the development does not result in unacceptable impacts on drainage and flooding in the locality.
- There is no justification for increasing the size of the rainwater tank proposed.

The Panel recommends:

Amend the exhibited permit conditions relating to drainage as shown in Appendix D:

- amend exhibited condition 1(e) (renumbered to condition 1(c)(ii) in Appendix D)
 to refer to a post-development discharge rate in a 10 percent AEP storm, rather
 than a 5 percent AEP storm
- b) amend exhibited condition 14(e) (renumbered to condition 16(d) in Appendix D) to refer to a 1 percent AEP storm, rather than a 1 in 10 year ARI storm
- c) insert a new condition 15 requiring a Stormwater Management Plan.

6 Drafting issues

6.1 The Design and Development Overlay Schedule

(i) Submissions

No submissions were received about the drafting of the DDO27.

Clause 2.0 of the exhibited DDO27 stated:

Building siting

Buildings should have zero setbacks at the street edge and a maximum wall height of 11 metre at the street.

The Panel requested clarification from Council as to how the requirement was intended to apply to built form behind the street wall. Council explained in its Part A submission that:

- the maximum wall height controls were intended to limit the wall height to no greater than 11 metres at the street edge
- as the DDO27 is currently written, building heights greater than 11 metres would be permitted behind the street wall
- Council proposed to amend this wording to ensure building height across the site is limited to no greater than 11 metres.

Council's proposed alternative wording is set out in its Day 1 version of the DDO27:

Building siting

Buildings should have zero setbacks at the street edge and a maximum wall height of 11 metres at the street (as measured from natural ground level at the street edge), and zero setback to the street edge.

(ii) Discussion

The Panel has reviewed the drafting of the DDO27 and considers it to be appropriate. The design objectives are clear and appropriate for the site's location and setting. The design requirements specified in Clause 2.0 are clearly written (subject to the adjustment to the height control discussed below), and the requirements appropriately support the design objectives. The parent clause of the Design and Development Overlay (Clause 43.02) provides a head of power for the content of the schedule, and the drafting of the schedule generally meets the requirements of the Ministerial Direction on the Form and Content of Planning Schemes.

The Panel supports Council's proposed clarification to the building height requirement, to ensure it operates as intended to limit the overall height of built form (not just the street walls). The Panel has previously concluded that 11 metres is an appropriate height limit for the site (see Chapter 3.3).

The only further suggestion the Panel has in relation to the drafting of the schedule is in relation to the decision guidelines in Clause 6.0. These repeat the design objectives. They can be deleted, as the parent clause of the Design and Development Overlay (Clause 43.02-6) already includes the design objectives in the schedule as a decision guideline.

(iii) Recommendation

The Panel recommends:

Amend the Design and Development Overlay Schedule 27 as follows:

 a) amend Clause 2.0 by deleting the first dot point under the heading 'Building siting' and replacing it with the following:

Buildings should have a maximum height of 11 metres (as measured from natural ground level at the street edge), and zero setback to the street edge.

b) delete Clause 6.0 as its content is already covered by the parent clause (Clause 43.02-6).

6.2 The planning permit

(i) Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the responsible authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the applicable zone and overlays or other provisions
- the orderly planning of the area
- the effect on the amenity of the area
- the degree of flood hazard and the use, development or management of the land so as to minimise any such hazard.

Other matters to be taken into account include:

- the decision guidelines in the relevant zone and overlay controls
- objections
- comments and decisions of referral authorities
- other matters a responsible authority must and may take into account under section 60
 of the PE Act, including the Victorian planning objectives and the economic, social and
 environmental impacts of the proposed use and development
- adopted government policy.

(ii) Submissions

At the Panel's request, Council provided a detailed assessment of the permit application against the application requirements and decision guidelines in the C1Z and the DDO27, which is contained in Council's Part B submission (Document 11). The Proponent did the same in its submission to the Panel (Document 12). The Panel has reviewed those submissions, but has not repeated them in the interests of brevity. In short, both assessments conclude that the proposal meets the relevant decision guidelines and the design objectives in the DDO27. The Panel agrees.

Adjacent residents submitted the operating hours for the supermarket should be 8am to 7pm, not 7am to 7pm as proposed, to reduce noise and disruption. They also submitted the centre should be gated (and presumably fenced) to prevent after hours access, to improve security and minimise night time disturbance.

The Proponent agreed to delay the start time on a Sunday to 8am, but wished to maintain a 7am start on Saturdays. It explained that Foodworks is a likely tenant for the small supermarket and has specifically considered the request for an 8am opening time on Saturday. Foodworks wishes to maintain the 7am opening time on Saturday for the following reasons:

- There is typically more trade early Saturday morning as people are often up earlier for sporting and other commitments.
- The proposed hours are consistent with the Foodworks in the Gisborne town centre.
- The acoustic assessment demonstrates the proposed opening hours are compliant with EPA requirements.
- The hour of 7am to 8am on a Saturday tends to be a 'soft opening' with a handful of staff members opening the store and putting things in place for the day, but without high customer numbers (this was substantiated by Google data provided in Mr Szafraniec's evidence).

The Proponent submitted the supermarket (proposed to be in Building B) is well separated from the surrounding residential properties and is therefore not considered likely to generate unreasonable noise.

The Proponent resisted a gate to restrict after hours entry to the site, submitting that a gate is not necessary to restrict after hours entry at this centre. It submitted appropriate lighting (details of which will be provided at the detailed design stage) will achieve crime prevention through environmental design principles, and that the proposed development would not create unsafe pockets or the like that would encourage anti-social behaviour.

(iii) Discussion

On balance, the Panel considers that a permit should be granted.

The Panel has previously concluded that the proposed development is consistent with the applicable parts of the Planning Policy Framework, and is strategically justified.

The issues and impacts required to be considered in the decision guidelines have been discussed in the issue specific chapters of this Report. In addition, the Panel considers the proposed development:

- delivers an attractive low rise development that appropriately transitions to the adjacent residential development and is broadly in keeping with the character of the surrounding residential area, with attractive and appropriate landscaping that will enhance the amenity of the area
- appropriately minimises impacts on neighbouring residences such as overlooking and overshadowing
- provides a well activated street frontage along Willowbank Road and appropriately
 activated street frontage along Brady Road, given the uses proposed to front Brady Road,
 with appropriate opportunities for passive surveillance and back of house elements
 located away from the street frontages to the extent practicable

- includes appropriately designed and located carparking, and supports active transport through the pedestrian plaza and bike parking (as well as its location in a residential catchment)
- provides for suitable movements for pedestrians and cyclists, vehicles and deliveries and waste removal within the site
- appropriately addresses environmentally sustainable development requirements, as
 detailed in the Sustainability Management Plan submitted with the application (this
 details measures such as the use of energy efficient systems, solar panels, the use of
 materials with low to zero volatile organic compound content, and construction methods
 that seek to reduce environmental impacts).

Permit conditions provide for the appropriate management of potential amenity impacts of the proposed development, including through noise, illumination, waste storage and collection, deliveries and the like. The Panel was not persuaded that the proposed (varied) operating hours are unreasonable or would cause unacceptable noise or disturbance to surrounding residents. Nor was it persuaded that this centre should be fenced or gated to prevent out of hours access, noting that this would be highly unusual for a small neighbourhood centre of this nature.

The permit conditions are generally clearly drafted, although some changes to the drafting and formatting of the permit are required to meet the best practice guidance in the Writing Planning Permits Guide⁶, and to avoid unnecessary repetition. These are incorporated into the Panel's recommended permit conditions in Appendix D.

(iv) Conclusion and recommendation

The Panel concludes:

• The proposed permit is generally suitable and should be supported, subject to some drafting changes.

The Panel recommends:

Amend Permit Planning permit PLN/2022/359 as shown in Appendix D:

 make minor formatting and drafting changes to meet the best practice guidance in Writing Planning Permits, Department of Environment, Land, Water and Planning, May 2023.

⁶ Writing Planning Permits, (former) Department of Environment, Land, Water and Planning, May 2023

Appendix A Submitters to the Amendment and Permit

No	Submitter
1	Rick Arden
2	Errin Hewlet
3	Adrian Law
4	Withdrawn
5	Tony Davey
6	Carmel Gara and Andrew Macpherson
7	Brady Road Investments Pty Ltd (Proponent)
8	Shelly Wilson
9	Melbourne Water
10	Country Fire Authority
11	Environment Protection Authority Victoria
12	Nathan Letson
13	Bryan Power
14	Brett Eaton
15	Ben Lasry

Appendix B Document list

No.	Date	Description Provided by		
1	4 Oct 23	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)	
2	13 Oct 23	a. Title documents including restrictive covenant (PS549356W) and section 173 agreement	Macedon Ranges Shire Council	
	13 Nov 23	b. Development Plan referred to in section 173 agreement	(Council)	
3	13 Oct 23	Advice from Ovens and Murray Land Survey on beneficiaries to Council the covenant		
4	13 Oct 23	 a. Plan showing the land benefitting from the covenant b. Plan showing the extent of direct notification of the Amendment and draft permit 	Council	
5	13 Oct 23	 Supporting documentation or reports submitted with the combined Amendment and permit application: a. Development Plans, Clarke Hopkins Clarke Architects b. Planning Report, Taylors, July 2022 c. Acoustic Report, Marshall Day, 29 June 2022 d. Engineering information – email from Elevate Consulting Services dated 2 May 2022 providing plans and specifications for electrical, hydraulic and mechanical services e. Landscape Concept Plans, Taylors, Ref 22601/LA, 7 July 2022 f. Survey plan g. Sustainability Management Plan, Sustainable Development Consultants, June 2022 h. Traffic Engineering Assessment, Traffix Group, July 2022 i. Waste Management Plan, Traffix Group, July 2022 j. Overshadow and line of sight analysis, Taylors, undated (post-exhibition) k. Memorandum containing further traffic analysis, Traffix Group, 27 September 2023 (post-exhibition) 	Council	
6	13 Oct 23	Permit documentation for aged care facility at 110-112 Willowbank Road: a. Permit PLN/2020/514 b. Plans submitted for endorsement	Council	
7	13 Oct 23	Permit documentation for aged care facility at 159 Willowbank Road: a. Permit PLN/2021/546 b. Endorsed plans	Council	

No.	Date	Description	Provided by
8	13 Nov 23	Council Part A submission (background and context) including attachments:	Council
		 Minutes of Planning Delegated Committee of 13 September 2023 	
		b. Gisborne Futures Draft Structure Plan August 2023 and supporting documents	
		c. Gisborne Outline Development Plan 2009	
		d. Redacted Submissions (numbered)	
		e. Amendment Authorisation letter	
		f. Evidence of notice in accordance with section 96C(2B) of the PE Act	
		g. Amendment documents – as exhibited	
		h. Permit documents – as exhibited	
		 i. Proposed post-exhibition changes to permit and Explanatory Report 	
9	20 Nov 23	Expert witness report – Jason Stone, Traffic	Taylors on behalf of Brady Road Investments Ply Ltd (Proponent)
10	20 Nov 23	Expert witness report – Julian Szafraniec, Economics	Proponent
11	27 Nov 23	Council Part B submission including attachments:	Council
		 a. Overshadow and line of sight analysis, Taylors, undated (post-exhibition) (repeat of Document 5(j)) 	
		b. Day 1 planning permit	
		c. Day 1 DDO27	
		 d. Gisborne Futures Economic Analysis Update May 2023, Urban Enterprises 	
		e. Development Plan Version L (repeat of Document 2(b))	
		f. Minutes of Planning Delegated Committee of 14 June 2006	
		g. Memorandum containing further traffic analysis, Traffix Group, 27 September 2023 (repeat of Document 5(k))	
		h. Noise Protocol	
12	27 Nov 23	Proponent submission	Proponent
13	27 Nov 23	Examples of vertical landscaping options	Proponent
14	27 Nov 23	Cross section of east facade	Proponent
15	1 Dec 23	Council answers to questions on notice about drainage Council conditions	

Appendix C Planning context

C:1 Planning policy framework

The Amendment supports various clauses in the Planning Policy Framework, which the Panel has summarised below.

Clause 2 (Municipal Planning Strategy)

The Amendment supports the Municipal Planning Strategy by:

- providing for commercial development consistent with the settlement hierarchy for the Macedon Ranges Shire outlined in Clause 02.03-1 (Strategic Directions – Settlement), which outlines that Gisborne and Kyneton will continue to be the major urban population and employment centres in the Shire
- facilitating commercial development that is attractive and has a positive impact on the amenity of the area, consistent with Clause 02.03-5 (Built environment and heritage – Urban design, built form and neighbourhood character).

Clause 11 (Settlement)

The Amendment supports Clause 11 by:

- seeking to develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities – Clause 11.01-1S
- establishing one of two local centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs – Clause 11.01-1L (Gisborne and New Gisborne)
- encouraging the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community – Clause 11.03-15 (Activity centres)
- managing growth in a peri-urban area to protect and enhance the identified valued attributes of the area – Clause 11.03-3S (Peri-urban areas)
- facilitating integrated place-based planning to provide specific direction for the planning of sites, places, neighbourhoods and towns – Clause 11.03-6S (Regional and local places).

Clause 13.05-1S (Noise management)

The Amendment supports Clause 13.05-1L by managing noise effects on sensitive land uses (nearby residential properties).

Clause 13.07-15 (Land use compatibility)

The Amendment supports Clause 13.07-1S by protecting community amenity while facilitating appropriate commercial uses with potential adverse off-site impacts (primarily noise).

Clause 17.01-15 (Diversified economy)

The Amendment supports Clause 17.01-1S by facilitating employment generating development including:

- protecting and strengthening existing and planned employment areas and planning for new employment areas
- improving access to jobs closer to where people live

• providing sufficient commercial land to enable an increase in job containment in the Shire and facilitate economic development.

Clause 17.02-1S (Commercial)

The Amendment supports Clause 17.02-1S by meeting the following strategies:

- locate commercial facilities in existing or planned activity centres
- provide small-scale shopping opportunities that meet the needs of local residents and workers in convenient locations
- provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres
- ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.

C:2 Other relevant planning strategies and policies

Plan Melbourne and the Loddon Mallee South Regional Growth Plan

Plan Melbourne 2017–2050 and the Loddon Mallee South Regional Growth Plan are high level plans that identify the largest settlements in the Shire — Gisborne and Kyneton — as becoming regional centres providing for population growth, employment and infrastructure.

The Amendment supports Plan Melbourne and the Loddon Mallee South Regional Growth Plan by providing local convenience commercial facilities in Gisborne, supporting growth in one of the Shire's two townships targeted for growth.

Direction 7.1 in Plan Melbourne states:

Investing in regional Victoria will support housing and economic growth and bring significant social and lifestyle benefits to regional communities. The Victorian Government will:

- work with the nine Regional Partnerships and local governments to support the growth of housing and employment in regional cities and towns
- ensure the right infrastructure and services are available to support the growth and competitiveness of regional and rural industries and their access to global markets.

Policy 7.1.2 identifies Gisborne as one of a number of towns in peri-urban areas that has capacity for more housing and employment generating development without impacting on the economic and environmental roles that surrounding non-urban areas serve. It states:

... Most importantly, development in peri-urban areas must also be in keeping with local character, attractiveness and amenity.

Macedon Ranges Statement of Planning Policy

The Macedon Ranges Statement of Planning Policy is state policy for protecting and enhancing the Macedon Ranges, which has been identified as a distinctive area with state significant geographic and physical features, biodiversity, natural resources, cultural and tourism values, productive rural land and regional and national infrastructure assets.

Council submitted the Amendment aligns with Objective 8 of the Statement of Planning Policy which seeks to plan and manage growth of settlements in the declared area consistent with:

- protection of the area's significant landscapes, catchments, biodiversity, ecological and environmental values
- the unique character, role and function of each settlement.

Council submitted, and the Panel agrees, the Amendment assists in carrying out Gisborne's designated role under the Statement of Planning Policy as becoming a regional centre.

Gisborne Outline Development Plan

Council adopted the Gisborne/New Gisborne Outline Development Plan (ODP) in February 2006 and updated the ODP in September 2009. The ODP provides guidance for the future residential, commercial and industrial growth of Gisborne over a 20-year planning horizon. Although it has not been updated in over 14 years, it remains current to 2026, and is referenced in Clause 11.01-1L (Settlement – Gisborne (including new Gisborne)) of the Planning Scheme and listed as a background document in the schedule to Clause 72.08.

Key themes in the ODP include:

- ensure an appropriate hierarchy of activity centres is provided, particularly for new development areas
- maintain the Gisborne town centre as the commercial and retail core.

The ODP (Table 8) provides for a local neighbourhood centre with an approximate floor space of 500 square metres to be developed on the corner of Brady and Willowbank Roads. The role of the centre is described as:

To contain a general store and 3-4 other shops, community uses and medical centres.

Draft Gisborne Structure Plan 2023

The Gisborne Futures project is a sustainable vision for how Gisborne will grow and develop into the future and includes:

- a Structure Plan that guides future development of housing, transport, shops, parks, landscapes and infrastructure
- an Urban Design Framework that will shape the streets and buildings in the town centre
- a Neighbourhood Character Study to guide new housing development.

The August 2023 draft includes a Framework Plan for Gisborne, which shows a local activity centre on the corner of Willowbank and Brady Roads (see Figure 5 below). It notes the current proposal for the development of the site, and Section 4.3 – Local activity centres, includes:

- an objective that seeks to facilitate delivery of local activity centres that act as community focal points and provide walkable access to convenience retail and local services
- a strategy to support the planning and delivery of a local activity centre on Willowbank Road, including the current proposal to rezone to C1Z and apply the Design and Development Overlay to guide built form outcomes
- an action to prepare a streetscape master plan for the Willowbank Road local activity centre that focuses on:
 - improving pedestrian and cyclist amenity
 - provision of safe and comfortable access between the existing and emerging activity nodes
 - traffic calming on Willowbank Road.

The Structure Plan will eventually replace the Gisborne ODP, but is not yet part of the Planning Scheme. Accordingly, the Panel has afforded more weight to the ODP than the Structure Plan, although it notes they are consistent in terms of identifying the site as a location for a future local activity centre offering the types of services that are included in the proposal.

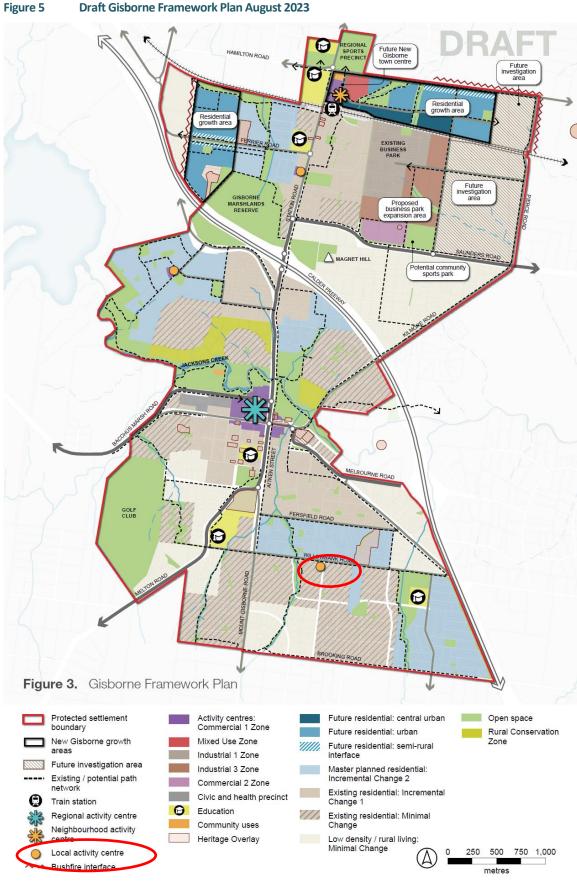


Figure 3 in the Gisborne Futures Draft Structure Plan August 2023 (Document 8(b)) with Panel annotations identifying the Source: location and role of the site

C:3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

Zones

The site is in the GRZ1, and is proposed to be rezoned C1Z. The purposes of the C1Z are:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Overlays

The land is proposed to be subject to the DDO27. The purpose of the Overlay is:

To identify areas which are affected by specific requirements relating to the design and built form of new development.

The proposed design objectives under the DDO27 are:

To provide for a low-rise local activity centre that provides a transition in scale to the adjacent residential areas.

To create an active frontage and high-quality built form outcome that uses contemporary materials, forms and finishes to Willowbank and Brady Roads.

To support development that provides high-quality streetscapes that prioritises safety, pedestrian access, active transport and public gathering spaces.

To support environmentally sustainable development with hard and soft landscaping and water sensitive urban design measures throughout the site.

Other provisions

Relevant particular provisions include:

- Clause 52.02 (Easements, restrictions and reserves)
- Clause 52.06 (Carparking).

C:4 Macedon Ranges Amendment C150macr

Amendment C150macr was gazetted on 15 November 2023. It replaced the Local Planning Policy Framework of the Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11 to 19 and some particular provisions and operational provisions, consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148 and the Ministerial Direction on the Form and Content of Planning Schemes.

Council updated the exhibited Amendment documents to reflect the changes introduced by Amendment C150macr prior to the Hearing. See Chapter 1.2 for more detail. The Panel supports these changes.

C:5 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

Council submitted the Amendment has been prepared having regard to the relevant Ministerial Directions and Planning Practice Notes including:

- Ministerial Direction on the Form and Content of Planning Schemes
- Ministerial Direction No. 1 Potentially Contaminated Land
- Ministerial Direction No. 11 Strategic Assessment of Amendments
- Ministerial Direction No. 15 Planning Scheme Amendments.

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 and PPN46. That discussion is not repeated here.

Planning Practice Note 22: Using the carparking provisions

Council submitted it had regard to PPN22 in considering the carparking supply for the proposed development under the permit application. It determined that the proposed minor shortfall in the statutory parking rate (from 61 to 57) could be considered appropriate on the basis that the proposed development encourages walking, cycling and other sustainable transport means, as well as the likelihood of multi-purpose trips.

Planning Practice Note 58: Structure planning for activity centres

PPN58 provides guidance on the development of activity centres to ensure a better distribution of business activity, jobs, housing, services and transport connections closer to where people live and work. Council submitted it had regard to PPN58, noting that:

- Clause 11.01-1L (Gisborne and New Gisborne) and the ODP outline a clear vision of the purpose of the local activity centre – namely to deliver basic everyday goods and services to the growing Gisborne South residential community
- the draft Gisborne Structure Plan 2023 proposes an action to prepare a streetscape master plan for the centre that focuses on improving pedestrian and cyclist amenity and provision of safe and comfortable access between the existing and emerging activity nodes and traffic calming on Willowbank Road.

Planning Practice Note 60: Height and setback controls for activity centres

PPN60 provides built form guidance for the proposed local activity centre. Council submitted it had regard to PPN60 when preparing the proposed DDO27, which includes:

- clearly defined objective terms and figures relating to design objectives to be achieved
- provisions to ensure wall heights reference a defined point (at the street).

It submitted that considering the surrounding low scale residential environment, the proposed built form is in keeping with the existing character while also distinguishing the development as a commercial centre.

Planning Practice Note 96: Planning considerations for reflected sunlight glare

Council submitted it had regard to PPN96 in preparing the proposed DDO27 which controls the built form outcome, materials and finishes of the development to minimise the potential of reflected glare.

Appendix D Panel preferred version of the permit conditions

Marked up against the exhibited permit conditions

Additions are tracked in blue

Deletions are tracked in red

Council's Day 1 changes have been incorporated

Conditions have been renumbered and reordered. Renumbering and reordering has not been tracked. Formatting changes are not tracked

Form 9

Section 96J

PLANNING PERMIT GRANTED UNDER SECTION 961 OF THE PLANNING AND ENVIRONMENT ACT 1987

PERMIT NUMBER:	PLN/2022/359	
PLANNING SCHEME:	Macedon Ranges Planning Scheme	
RESPONSIBLE AUTHORITY:	Macedon Ranges Shire Council	

THE PERMIT ALLOWS:

<u>34.01</u>	Use the land for a medical centre
<u>34.01</u> <u>43.02</u>	Construct_ion of a buildings or construct or carry out_and associated works for a supermarket (370m2), medical centre (452m2), office (300m2) and food and drink premises (two cafes – 170m2) and a reduction in the number of car parking spaces under Clause 52.06 (Car Parking).
<u>52.06</u>	Reduce the number of carparking spaces

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Approved and endorsed development plans

- Before the development starts, an electronic copy of amended plans must be submitted to and approved and endorsed by the responsible authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be drawn to scale with dimensions and
 - c) <u>be</u> generally in accordance with the plans prepared by Clarke Hopkins Clarke Ref. No. 210037 dated 10.06.2022 but modified to show:

- A driveway separation island with maximum 70-degree angle to Brady Road with the splay outside.
- ii. The location of a "No right turn sign" along Brady Road.
- iii. The location of a pedestrian crossing line on Brady Road.
- The location of a rainwater tank with a minimum capacity of 10,000 litres to capture stormwater from the rooftops of the buildings for harvesting and re-use.
- ii. The location design of a stormwater detention system demonstrating a 10-year ARI post-development flow restricted to the predevelopment stage that ensures the post-development rate of stormwater discharge from the site in a 10% AEP storm is no greater than the predevelopment discharge rate in a 20% AEP storm.

Layout not altered

The <u>layout of the</u> development as shown on the endorsed plans must not be altered from the layout on the approved and endorsed plans without the written consent of the responsible authority.

Landscape plan

- 3. Before the development starts, three copies of a landscape plan to the satisfaction of must be approved and endorsed by the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of this permit. The landscape plan must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be prepared by a suitably qualified person
 - c) have plans be drawn to scale with dimensions
 - d) <u>be and generally in accordance with the development plans approved and endorsed under condition 1site plan. The landscape plan must show:</u>
 - e) <u>be generally in accordance with the landscape concept plans prepared by Taylors,</u> Ref 22601/LA dated 7 July 2022 but modified to show the following details:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed and any natural features.
 - ii. The area or areas set aside for landscaping.
 - iii. A planting schedule of all proposed trees, shrubs/small trees and ground covers (including deep rooted species), including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Proposed tree species must have a minimum supply size of a 45 litre pot and 1.6 metres in height.
 - iv. The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material.

- v. Paving, retaining walls, fence design details and other landscape works including areas of cut and fill.
- vi. An irrigation system to all landscaped areas that includes any deep rooted trees and shrubs around the perimeter and internal to the site.
- vii. Landscaping along the eastern façade of the supermarket and northern façade of the medical centre in the form of groundcovers and vertical landscape climbers to create a 'green-wall'.
- viii. The removal of the two existing street trees in the road reserve of Willowbank Road to allow for the construction of a new crossover and to reduce any future building façade/tree conflicts.
- ix. The location of new street trees in the road reserves of Willowbank Road and Brady Road adjacent to the new development.
- x. The street tree species selection including small to medium size at maturity to ensure no future conflicts with the building and facade.
- xi. Trees spaced at a minimum of every 10 metres and in appropriate locations. A plant schedule for proposed tree species showing a minimum supply size of a 45 litre pot and 1.6 metres in height.
- xii. The following notations:
 - Tree planting is to occur between April and September to maximise establishment and survival.
 - Tree locations shown on this plan are a guide only and may require adjustment to coordinate with final service locations, Powercor requirements, and 'as constructed' infrastructure.
 - Before installed, street tree locations are to be set out and approved on the land by the responsible authority.
 - It is the responsibility of the contractor to confirm the location of all underground services before any excavation starts.

Completion of landscaping

4. Before the buildings are occupied, landscaping as shown on the endorsed landscape plans must be completed, unless approved in writing by the responsible authority, and must be maintained to the satisfaction of the responsible authority for a period of two (2) years from the practical completion of the landscaping. During this period, any dead, diseased or damaged plants or landscaped areas must be replaced or repaired. during the period of maintenance and Repairs and replacements must not be deferred until the completion of the maintenance period.

Limit on medical practitioners

5. No more than seven (7) medical practitioners may operate from the premises at any one time without the written consent of the responsible authority.

General amenity provision

- 6. The development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) Transport of materials, good or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.

Control of light spill

7. All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land to the satisfaction of the responsible authority.

Control of noise

- 8. Noise levels emanating from the premises must not exceed those required to be met under EPA Publication 1826.4 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (the Noise Protocol) as amended from time to time, State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 to the satisfaction of the responsible authority.
- 9. All exterior plant <u>and</u> equipment located on the rooves of the buildings must be installed in a manner to be visually obscured from nearby roads <u>and</u> surrounding properties, and acoustically treated <u>in accordance with to meet</u> condition 8, <u>both</u> to the satisfaction of the responsible authority.
- 10. Before the buildings are occupied, a 2.4 metre high acoustically rated perimeter fence must be constructed along the western and southern boundaries of the site <u>and thereafter maintained, both to the satisfaction of the responsible authority</u>.
- 11. Once mechanical services design has progressed to a suitable level of detail, an acoustic assessment of the mechanical services design should be conducted by a suitably qualified and experienced acoustic consultant. Reasonably practicable noise controls should be investigated and implemented, and any noise controls required for compliance with the relevant legislative criteria should be included in the final design.

Hours of operation - supermarket

- 12. The supermarket must not operate outside the following times:
 - a) 7am to 8pm Monday to Saturday
 - b) <u>8am to 8pm on Sunday and public holidays.</u>

Hours for deliveries and waste collection

13. <u>Deliveries and waste collection must only occur between 7pm to 8pm except with the written consent of the responsible authority.</u>

MRSC Engineering & Projects Conditions-Rainwater tank

14. Before the buildings are occupied, a potable water supply (rainwater tank) with a storage capacity of at least 10,000 litres must be provided for use by the development to the satisfaction of the responsible authority.

Stormwater management plan

- 15. <u>Before the development starts, a stormwater management plan must be approved and endorsed by the responsible authority.</u> The stormwater management plan must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) <u>include details of a stormwater management system, including drainage works</u> and detention and discharges of stormwater to the drainage system, that has been designed to meet the requirements of conditions 1(c)(ii) and 15
 - c) <u>set out how the stormwater management system will be managed on an ongoing basis</u>
 - d) demonstrate how all relevant standards set out in the planning scheme relating to stormwater management will meet the objectives in the planning scheme, including modelling and calculations.

Stormwater drainage plans

- 16. Before works-development starts, engineering plans detailing the stormwater drainage must be submitted and approved by the responsible authority and the plan and supervision fees paid. The plans must be drawn to scale with dimensions and show:
 - a) A drainage system for the whole of the development with:
 - i. <u>provision for runoff from upstream catchments and downstream works</u> necessary to manage flows from the development
 - ii. a legal point of discharge approved by the responsible authority and any other statutory authority from which approval must be received for the discharge of the relevant drainage authority.
 - b) Stormwater runoff from all buildings, tanks and paved areas drained to a legal point of discharge.
 - c) All drainage courses or outfall drainage lines required to the legal point of discharge, and which pass through lands other than those within the boundaries that is constructed at no cost to the responsible authority.
 - c) All drainage courses contained within expressed drainage easements.
 - d) The flow paths of <u>stormwater discharged from the site in a 1 in 10 year ARI 1%</u>
 <u>AEP storm so which demonstrate</u> that no private property is inundated.
 - f) The drainage system must have provision for runoff from the upstream catchments and include any downstream works necessary to manage flows from the development.
 - e) A gross pollutant trap incorporated into the drainage system.

17. No polluted and/or sediment-laden run-off is to be discharged directly or indirectly into drains or watercourses.

Construction management

- 18. Before development starts, a construction management plan must be submitted to and approved by the responsible authority. The construction management plan must show:
 - a) Measures to control erosion and sediment and sediment-laden water runoff including the design details of structures.
 - b) Measures to control air emissions including dust.
 - c) Measures to prevent the spread of environmental weeds and pathogens.
 - d) The location of any construction wastes, equipment, machinery, and/or earth to be stored/stockpiled during construction.
 - e) The location of access to the land for construction vehicle traffic.
 - f) The location of any temporary buildings or yards.
- The cConstruction works on the land must be undertaken in accordance with the endorsed construction management plan to the satisfaction of the responsible authority.
- 20. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the responsible authority.

Carpark construction and maintenance

- 21. No fewer than 57 car spaces must be provided on the land for the development including two (2) spaces clearly marked for use by disabled persons.
- 22. Before the buildings are occupied, the area(s) set aside for the parking of vehicles <u>and bicycles</u> and access lanes as shown on the endorsed plans must be to the satisfaction of the responsible authority:
 - a) Constructed.
 - b) Properly formed to such levels that they can be used in accordance with the plans.
 - c) Surfaced with an all-weather seal coat or treated to the satisfaction of the responsible authority to prevent dust and gravel from being emitted from the land.
 - d) Drained and maintained.
 - d) Clearly line marked to indicate each car space and all access lanes.
 - e) Clearly marked to show the direction of traffic along access lanes and driveways.

to the satisfaction of the responsible authority.

23. At all times cear spaces, access lanes and driveways must be drained and maintained and kept available for these purposes at all times to the satisfaction of the responsible authority.

New vehicular crossings

- 24. Before the buildings are occupied, two new crossovers within the road reserves of Willowbank Road and Brady Road must be constructed with a sealed surface and a driveway separation island to the satisfaction of the responsible authority.
- 25. Before the buildings are occupied, the driveways to the development must be constructed to meet the following requirements to the satisfaction of the responsible authority:
 - a) The driveways must be constructed to a standard so that it is they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
 - b) The driveways must have a minimum trafficable width of 3.5 metres, be clear of encroachments 4 metres vertically and have no obstructions within 0.5 metres on either side of the formed width of the driveway.
 - c) The average grade must be no more than 1 in 7 with a maximum of no more than 1 in 5 for no more than 50 metres.
 - d) Dips must have no more than a 1 in 8 entry and exit angle.

Environmental management plan

26. Before the buildings are occupied, an environmental management plan must be submitted to and approved by the responsible authority. The plan must detail how issues such as erosion prevention, temporary drainage, dust generation, and sediment control will be managed, on-site, during the operation of the use permitted. Details of a contact person/site manager must also be provided so that this person can be easily contacted should any issues arise.

Expiry of Permit

- 27. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within two years of the date of this permit.
 - b) The development is not completed within four years of the date of this permit.