

Macedon Ranges Planning Scheme Amendment  
C153macr and Planning Permit Application  
PLN/2022/359

**Planning Panels Submission PART A**

13 November 2023

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## A. INTRODUCTION

1. This submission is made on behalf of Macedon Ranges Shire Council (Council), in relation to Amendment C153macr (Amendment) and planning permit PLN/2022/359 (Permit).
  
2. This Part A submission addresses the following:
  - 2.1. Response to Panel Directions index;
  - 2.2. background to the Amendment including chronology of events;
  - 2.3. strategic context and assessment;
  - 2.4. conditions of authorisation;
  - 2.5. exhibition process;
  - 2.6. submissions; and
  - 2.7. post exhibition changes.

## B. PANEL DIRECTIONS INDEX

3. The index below outlines the location of Council response to the Direction circulated by Panels 4 October 2023.
  
4. Direction 6
  - 4.1. A) – section C8
  - 4.2. B) – section C10
  - 4.3. C) – section E15
  - 4.4. D) – section F16
  - 4.5. E) –
    - 4.5.1. (i) – section D
    - 4.5.2. (ii) – section D14.4
    - 4.5.3. (iii) – section D14.5
    - 4.5.4. (iv) – not applicable.
  - 4.6. F) –
    - 4.6.1. (i) – section D12.10
    - 4.6.2. (ii) – section D14.7
    - 4.6.3. (iii) – section C9.1.4
  - 4.7. G) – Not applicable
  - 4.8. H) – section G, section H24
  - 4.9. I) – provided in supporting attachments – see section J

## C. BACKGROUND

### 5. The proponent.

- 5.1. The Amendment is a combined planning scheme amendment and permit application and has been made at the request of the landowner – Brady Road Investments Pty Ltd and is represented by Taylors Development Strategists.

### 6. The Planning Authority

- 6.1. Macedon Ranges Shire Council is the Planning Authority for this amendment.

### 7. Land Affected by the combined Amendment and Permit

- 7.1. The Amendment applies to 3,547 square metres of land located at 101-105 Willowbank Road, Gisborne Victoria 3437 (identified as Lot 43 on Plan of Subdivision 549356W) and part of the road reserves of Willowbank Road and Brady Road including Road (R-2) on PS549356W.
- 7.2. The Permit applies to land at 101-105 Willowbank Road, Gisborne Victoria.
- 7.3. The site is contained within map 36 of the Macedon Ranges Planning Scheme maps.
- 7.4. The site is currently zoned General Residential Schedule1 (GRZ1) and is covered by Development Contributions Plan Schedule 2 (DCPO2)

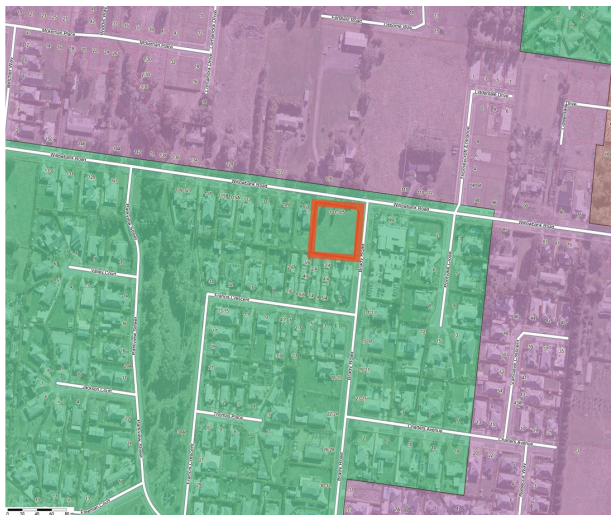
### 8. Surrounding Context

- 8.1. The site is approximately 1.5km as a direct line and 2km along the main road thoroughfare to the commercial town centre of Gisborne. See figure 2
- 8.2. The site is surrounded by GRZ1 to the north, southeast and west. See figure 3.
- 8.3. Adjacent to the Amendment site to the east is a childcare and healthcare facility (osteopathy) at 99 Willowbank Road.
- 8.4. Immediately abutting the Amendment site to the south is one healthcare facility (physiotherapy) and two single storey residential properties - units 2 and 3 of no. 4 Francis Crescent.
- 8.5. Immediately abutting the Amendment site to the east is one single storey residential property – 107 Willowbank Road.
- 8.6. North of the Amendment site and Willowbank Road are predominantly single storey residential properties on larger lots of approximately twelve hundred square metres.
  - 8.6.1. The area is covered by Development Plan Overlay 4 which is situated between Willowbank Road and Fersfield Road.
  - 8.6.2. A residential aged care facility was approved at the location of 110 – 112 Willowbank Road in 2023.
  - 8.6.3. The aged care facility is likely to incorporate 107 aged care beds subject to Federal Government registration and funding – information on this application was circulated with Panel and all parties on 12 October 2023.

Figure 1: Amendment site



Figure 3 Overlay map

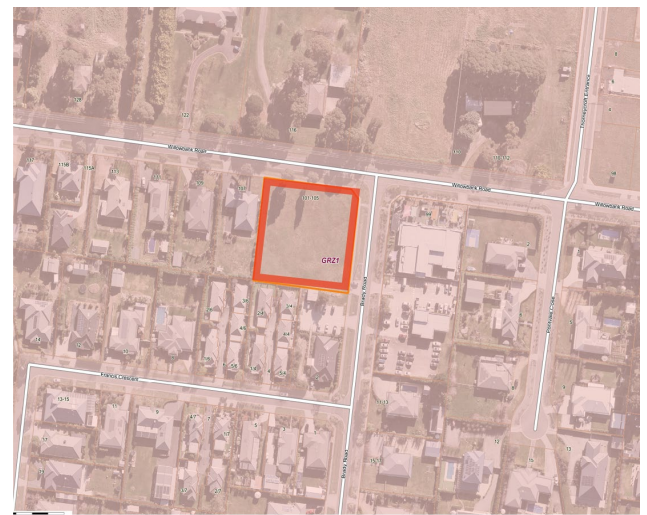


Amendment site DCPO2 DPO4

Figure 2: Amendment site in broader context



Figure 4 Zone map



Amendment site GRZ1

## 9. Key features of the Amendment and Permit

### 9.1. The Amendment proposes to:

- 9.1.1. Rezone the land identified above from the General Residential Zone, Schedule 1 (GRZ1) to the Commercial 1 Zone (C1Z).
- 9.1.2. Apply the Design and Development Overlay, Schedule 27 (DDO27) to land 101-105 Willowbank Road, Gisborne as shown on Planning Scheme Map No. 36DDO.
- 9.1.3. Amends the Schedule to Clause 34.01 (C1Z) to insert maximum leasable floor areas of 500 and 1000 square metres for shop and office respectively.
- 9.1.4. Inserts a new Schedule 27 to Clause 43.02 (DDO27) outlining design objectives and decision guidelines.
  - 9.1.4..1. The Maximum wall height controls are intended to limit the wall height to no greater than 11metres at the street edge.
  - 9.1.4..2. As the schedule is currently written, building heights greater than 11 metres would be permitted behind the street wall.



9.1.4..3. Following the review of submissions, Council will seek to have this wording amended during the Panel process to ensure building height across the site is limited to no greater than 11 metres.

9.1.5. Amends the Schedule to Clause 52.02 (Easements, Restrictions and Reserves) to insert the following in Schedule sub-section 1.0 (Under Section 23 of the Subdivision Act 1988):

Land	Easement or restriction	Requirement
Lot 43 on Plan of Subdivision 549356W, Volume 11043 Folio 423 (101-105 Willowbank Road, Gisborne)	Restrictive Covenant contained in Instrument of Transfer No. PS549356W	Vary the restrictive covenant to allow fencing other than post and wire fencing and construction of a building with a height of greater than 9 metres and two stories

9.2. The Permit seeks approval for:

9.2.1. Buildings and works to construct a supermarket, medical centre, office and food and drink premises (two cafés)

9.2.2. A reduction in the number of car parking spaces from 61 to 57 spaces.

9.3. All exhibited documentation is provided via the attachments outlined in section J

## 10. Chronology of Events

### 10.1. Formulation

10.1.1. On 27 July 2022, Taylors Development Strategists on behalf of Brady Road Investments Pty requested a combined planning scheme amendment and planning application under Section 96A of *the Planning and Environment Act 1987* for land at located at 101-105 Willowbank Road, Gisborne.

10.1.2. At the 7 December 2022 Planning Delegated Committee, it was resolved to seek authorisation from the Minister for Planning to prepare Amendment C153macr.

10.1.3. The Minister for Planning authorised Amendment C153macr on 1 March 2023 subject to five conditions.

10.1.4. Council submitted documentation containing the outlined changes, as per the condition of authorisation, to the Department for further review/comment on 6 April 2023.

10.1.5. The Department provided a response on 12 April 2023, and subject to a number of minor edits, the Amendment could proceed to exhibition.

### 10.2. Exhibition

10.2.1. Council satisfied the conditions of authorisation and exhibited Amendment C153macr for a period of five weeks from 8 May and 13 June 2023.

- 10.2.2. On 17 June 2023 Submitter 4 officially withdrew their submission.
- 10.2.3. On 05 July 2023, council officers met with the proponent and a number of submitters to discuss issues raised in their submissions – notice for the sessions was provided to submitters via email.

### 10.3. Post exhibition

- 10.3.1. Submitters to the Amendment and permit were provided the opportunity to outline their views on to the Committee at the Planning Delegated Committee of 12 July 2023.
- 10.3.2. On 3 July 2023, Council requested an exemption from the need to comply with the requirement of Ministerial Direction No. 15 - specifically request the appointment of a Panel within 40 business days of the closing date for submissions.
- 10.3.3. Amendment C150macr was gazetted on 24 August 2023 requiring Council to make post exhibition changes to align Amendment C153 to the new format planning scheme.
- 10.3.4. On August 28 2023 the proponent provided Council with additional overshadow diagrams/assessments for the acoustic perimeter fence in response to issues raised in submissions.
- 10.3.5. On 12 September 2023 Submitter 6 provided an amended submission following the resolution of a number of issues - a number of issues still remain.
- 10.3.6. At the Planning Delegated Committee of 13 September 2023 (See attachment 1) the Committee voted to:
  - 10.3.6..1. Endorse the post-exhibition change to Planning Scheme Amendment C153macr specifically the change to PLN/2022/359 and the Explanatory Report.
  - 10.3.6..2. Requests the Minister for Planning to appoint an independent Planning Panel under Part 8 of the Planning and Environment Act 1987 to consider the submissions to Amendment C153macr to the Macedon Ranges Planning Scheme.
  - 10.3.6..3. Refers all submissions to Amendment C153macr to the Panel, in accordance with Section 23 of the Planning and Environment Act 1987.
  - 10.3.6..4. Notify all submitters to Amendment C153macr and PLN/2022/359 of Council's decision.
- 10.3.7. On 14 September 2023 Council notified all submitters to Amendment C153macr and PLN/2022/359 of Council's decision.

### 10.4. Planning Panel

- 10.4.1. On 18 September Council officially requested the Minister for Planning to appoint an independent Planning Panel under Part 8 of the Planning and Environment Act 1987
- 10.4.2. On 4 October 2023 a Directions hearing was held online via Microsoft Teams.

- 10.4.3. Council Circulated material in response to Panel Direction 4a to Panel on 10 October 2023.
- 10.4.4. Council Circulated material in response to Panel Directions 5 (a) (b) (c) (d) (e) on 12 October 2023.

## D. STRATEGIC CONTEXT AND ASSESSMENT

### 11. Strategic basis

- 11.1. This section provides an overview of the Amendment's strategic basis, supplementing the detail set out in the exhibited explanatory report.

### 12. Relevant strategic documents

#### 12.1. **State and Regional strategic documents**

- 12.2. The Loddon Mallee South Regional Growth Plan and Plan Melbourne 2017–2050 identify the largest settlements — Gisborne and Kyneton — as becoming regional centres providing for population growth, employment and infrastructure.

#### 12.3. **Macedon Ranges Statement of Planning Policy (SoPP)**

- 12.4. The proposed amendment aligns with Objective 8 of the SoPP which seeks to: plan and manage growth of settlements in the declared area consistent with protection of the area's significant landscapes, protection of catchments, biodiversity, ecological and environmental values, and consistent with the unique character, role and function of each settlement.
- 12.5. The proposed amendment assists in carrying out Gisborne's designated role as becoming a regional centre.

#### 12.6. **Gisborne / New Gisborne Outline Development Plan**

- 12.7. Council adopted the Gisborne / New Gisborne Outline Development Plan (ODP) and was adopted by Council in February 2006 and updated in September 2009. See attachment
- 12.8. The ODP provides guidance for the future residential, commercial and industrial growth of Gisborne over a 20-year planning horizon.
- 12.9. The ODP provides a clear vision as to how the Amendment site should be developed – specifically that a local neighbourhood centre (with an approximate floor space of 500sqm) is to be provided on the corner of Brady Road and Willowbank Road.

#### 12.10. **Gisborne Futures Project**

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



- 12.11.1. a Structure Plan that guides future development of housing, transport, shops, parks, landscapes and infrastructure;
  - 12.11.2. an Urban Design Framework that will shape the streets and buildings in the town centre; and
  - 12.11.3. a Neighbourhood Character Study to guide new housing development.
- 12.12. At the scheduled council meeting of 23 August 2023, Council resolved to undertake a second round of community consultation on an amendment draft Gisborne Futures Structure Plan. The Structure plan is contained in attachment 2
- 12.13. Contained within the Gisborne Futures Draft structure plan – August 2023, a number of objectives, strategies and actions relate specifically to this Amendment and Permit.
- 12.14. Objective.**
- 12.14.1. Section 4.3 – Local activity centres outline the 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.
- 12.15. Strategy.**
- 12.15.1. The strategy to achieve this objective is to support the planning and delivery of a LAC on Willowbank Road, including the current proposal to rezone to Commercial 1 Zone and apply the Design and Development Overlay to guide built form outcomes.
- 12.16. Action.**
- 12.16.1. Support the rezoning of LACs with appropriate design controls.
  - 12.16.2. Prepare a streetscape master plan for the Willowbank Road LAC 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.

### 13. Macedon Ranges Planning Scheme

- 13.1. Clause 02.03-1 - Strategic Directions - Settlement, outlines the settlement hierarchy for the Macedon Ranges Shire and identifies that Gisborne and Kyneton will continue to be the major urban population and employment centres.
- 13.2. Clause 02.03-5 - Built environment and heritage - Urban design, built form and neighbourhood character. Facilitate industrial and commercial development that is attractive and has a positive impact on the amenity of the area.
- 13.3. The Amendment is supported by the following provisions of the PPF:

- 13.4. Clause 11.01-1S - (Settlement) seeking to 'Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.
- 13.5. Clause 11.01-1L - Gisborne and New Gisborne – seeks to establish two local centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs.
- 13.6. Clause 11.03-1S - Activity centres seek to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.
- 13.7. Clause 11.03-3S - Peri-urban areas seeks to manage growth in peri-urban areas, including within the established town of Gisborne, to protect and enhance their identified valued attributes.
- 13.8. Clause 11.03-6S - Regional and local places contains the following strategies to facilitate integrated place-based planning: Integrate relevant planning considerations to provide specific direction for the planning of sites, places, neighbourhoods and towns.
- 13.9. Clause 13.05-1S - Noise management seeks to assist the management of noise effects on sensitive land uses.
- 13.10. Clause 13.07-1S - Land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.
- 13.11. Clause 17.01-1S - Diversified economy contains policies to generate employment including:
  - 13.11.1. Protect and strengthen existing and planned employment areas and plan for new employment areas.
  - 13.11.2. Improve access to jobs closer to where people live.
- 13.12. Clause 17.01-1L - Diversified economy which seeks to provide sufficient commercial and industrial land to enable an increase in job containment in the shire and to facilitate economic development.
- 13.13. Clause 17.02-1S - Commercial includes the following strategies:
  - 13.13.1. Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
  - 13.13.2. Locate commercial facilities in existing or planned activity centres.
  - 13.13.3. 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.
  - 13.13.4. Provide small-scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

## 14. Ministerial directions and planning practice notes.

- 14.1. The proposed amendment has also been prepared in consideration of the relevant planning practice notes including:
  - 14.1.1. Ministerial Direction on the Form and Content of Planning Schemes;
  - 14.1.2. Ministerial Direction No. 1 – Potentially Contaminated Land;
  - 14.1.3. Ministerial Direction No. 11 – Strategic Assessment of Amendments; and
  - 14.1.4. Ministerial Direction No. 15 – Planning Scheme Amendments.
  
- 14.2. The Amendment is also consistent with the following Planning Practice Notes:
  
- 14.3. PPN22 Using the car parking provisions;
  - 14.3.1. Planning Practice Note 22 Using the Car Parking Provisions was utilised in consideration of the car parking supply for the proposed commercial centre under the Section 96A Planning Permit Application. It has been determined that a minor shortfall is required that can be appropriately considered on the basis that the centre encourages walking, cycling and other sustainable transport means and the likelihood of multi-purpose trips.
  
- 14.4. PPN58 Structure planning for activity centres;
  - 14.4.1. Planning Practice Note 58 Structure Planning for Activity Centres 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.
  - 14.4.2. This practice note has been considered as part of this rezoning application and concurrent permit application for a local Activity Centre.
  - 14.4.3. A clear vision of the purpose of the LAC is outlined in the Gisborne/New Gisborne Outline Development Plan (ODP) and Clause 21-13-1 (Gisborne and New Gisborne) to deliver basic everyday goods and services to the growing Gisborne South residential community.
  - 14.4.4. As outlined in section 12.16.02, the draft Gisborne Structure Plan 2023 proposes an action to prepare a streetscape master plan for the Willowbank Road LAC 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.
  
- 14.5. PPN60 Height and setback controls for activity centres;
  - 14.5.1. Planning Practice Note 60 Height and Setback Controls for Activity Centres provides built form guidance for the future local activity centre proposed. Considering the surrounding low scale residential environment, the proposed built form is to be in keeping with the existing character while also distinguishing itself as a commercial centre.
  - 14.5.2. PPN60 was referenced in the preparation of the proposed DDO27 schedule which includes the use of clearly defined objective terms and figures

relating to design objectives to be achieved as well as ensuring wall heights are referencing a defined point (*at the street*).

14.6. PPN96 Planning considerations for reflected sunlight glare.

14.6.1. Planning Practice Note 96 Planning Considerations for Reflected Sunlight Glare has been used in guiding the preparation of the proposed Design and Development Overlay that applies to the site and controls the built form outcome, materials and finishes of the development to minimise the potential of reflected glare.

14.7. The final design specifications outlined in the DDO27 are the result of pre-application discussions between the applicant and Council.

14.7.1. 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.

14.7.2. The purpose of the proposed DDO schedule is to embed the design response negotiated through this process in the scheme to ensure appropriate development outcomes are achieved for the current development and any future or alternative development on the site.

## E. AUTHORISATION

### 15. Conditions of authorisation

15.1. Under delegation from the Minister of Planning, Robert Rorke, (Manager, Loddon Mallee Planning Services) authorised Council to prepare the combined amendment/permit C153 in accordance with Section 8A of the Planning and Environment Act 1987, on 01 March 2023.

15.2. The authorisation was subject to the following conditions:

15.3. **Condition 1** - That the draft explanatory report be amended to:

15.3.1. *Clarify that the amendment also affects land within part of the road reserves of Willowbank Road and Brady Road.*

15.3.2. *Explain how the amendment is consistent with the objectives and strategies of the Macedon Ranges Statement of Planning Policy.*

15.3.3. *Further clarify how the amendment meets the objective and strategies of Clause 13.02-1S (Bushfire planning).*

- 15.3.4. *Further clarify how the amendment complies with the relevant ministerial directions.*
  - 15.3.5. *Provide a more balanced assessment of the potential effects, including any likely effects on the viability of existing commercial areas in Gisborne and any general environmental effects that may affect the amenity, safety and attractiveness of the immediate and surrounding land and how the proposed combined amendment/permit addresses these effects.*
  - 15.3.6. *Include responses to Clause 11.01-1S (Settlement) and Clause 11.01-1R (Settlement – Loddon Mallee South), Clause 11.03-3S (Peri-urban areas) which mention Gisborne, Clause 11.03-4S (Distinctive areas and landscapes), Clause 11.03-6S (Regional and local places), Clause 13.05-1S (Noise management), Clause 13.07-1S (Land use compatibility) and Clause 14.02-1S (Catchment planning and management) in the Planning Policy Framework section.*
  - 15.3.7. *Include responses to Clause 21.02-6 (Economic development), Clause 21.07-3 (Water), Clause 21.10-1 (Commercial and industry) and Clause 21.10-3 (Retail and services) in the Local Planning Policy Framework section.*
  - 15.3.8. *Explain the views of relevant agencies and how the amendment addresses any concerns.*
- 15.4. **Response to Condition 1** - All Changes were made to the explanatory report which include responses to clauses 21.02-6, 21.07-3, 21.10-121.10-3. Subsequently responses the removed as a part of post exhibitions changes because of the gazettal of Amendment C150 on 24 August 2023. C150 replaced the Local Planning Policy Framework of the Macedon Ranges Planning Scheme with a new Municipal Planning Strategy. Views of the relevant agencies are included in attachment 03
- 15.5. **Condition 2** - *That planning scheme maps be prepared and submitted with the draft amendment/permit, showing the Commercial 1 Zone applied to part of both Willowbank Road and Brady Road, before the amendment is exhibited.*
- 15.5.1. **Response to Condition 2**- maps were prepared and submitted to the department showing the Commercial 1 Zone applied to part of both Willowbank Road and Brady Road.
- 15.6. **Condition 3** - *That the Schedule to Clause 34.01 (Commercial 1 Zone) be amended to specify the maximum leasable floor area for office and shop to ensure that a permit is triggered for any development that exceeds the maximum leasable floor areas.*



- 15.6.1. **Response to Condition 3-** *The Schedule to Clause 34.01 (Commercial 1 Zone) was amended to specify the maximum leasable floor area for office and shop.*
- 15.7. **Condition 4 -** *That the Schedule to Clause 52.02 (Easements, Restrictions and Reserves) be amended to vary the covenant.*
- 15.7.1. **Response to Condition 4-** *The Schedule to Clause 52.02 (Easements, Restrictions and Reserves) was amended to vary the covenant to allow to allow fencing other than post and wire fencing and construction of a building with a height of greater than 9 metres and two stories.*
- 15.8. **Condition 5 -** *That the draft Schedule 27 to Clause 43.03 (Design and Development Overlay) be revised to consider the Department's comments during the preparation of the amendment for exhibition.*
- 15.8.1. **Response to Condition 5-** *draft Schedule 27 to Clause 43.03 (Design and Development Overlay) was revised to consider the Department's comments.*
- 15.9. **Additional comments and directions provided by the Department on the draft permit (PLN/2022/359) to be addressed prior to exhibition were:**
- 15.9.1. *Be consistent with Form 9 in Schedule 1 of the Planning and Environment Regulations 2015.*
- 15.9.2. *Clarify whether the address of the land should include Road (R-2) as identified on PS549356W to the north-east of Lot 43 and part of the road reserves of Willowbank Road and Brady Road.*
- 15.9.3. *Clearly describe what the draft permit allows including the construction of buildings and associated works for a supermarket (including the floor space), medical centre (including the floorspace), office and food and drink premises (two cafes) and a reduction in the number of car parking spaces under Clause 52.06 (Car Parking).*
- 15.9.4. *Ensure the conditions are written in plain English, i.e. 'Before development starts etc...' rather than 'Before the occupation of the development hereby permitted etc....'.*
- 15.9.5. *Replace unnecessary capital letters with lowercase, e.g. 'responsible authority' rather than 'Responsible Authority'.*
- 15.9.6. *Avoid any abbreviations in the conditions such as 'm', '45L/1.6mH'.*
- 15.9.7. *Delete any vague words in conditions such as 'appropriate' or reword the condition to explain what is appropriate.*
- 15.9.8. *Reword condition 3f) to "An irrigation system to all landscaped areas that includes any deep-rooted trees and shrubs around the perimeter and internal to the site."*
- 15.9.9. *Avoid relying on external documents in conditions.*

- 15.9.10. *Delete any conditions that relate to non-planning matters, i.e. an agreement about occupation of council land, asset protection permit, building permits.*
  - 15.9.11. *Confirm whether the canopy of the building can encroach Road (R-2) as identified on PS549356W to the north-east of Lot 43 or not, and revise condition 1 accordingly.*
  - 15.9.12. *Reword condition 9 to insert “and acoustically treated in accordance with condition 7.”*
  - 15.9.13. *Delete condition 13(f) requiring an agreement from council’s governance team for approval of the encroachment of building onto council land.*
  - 15.9.14. *Insert a new condition on the draft permit to construct a 2.4 metre high acoustically rated perimeter fence along the western and southern boundaries of the land.*
  - 15.9.15. *Insert a new condition on the draft permit relating to the number of car parking spaces, including disabled spaces, and whether the car park should be lit at night.*
  - 15.9.16. *Delete conditions 10, 11, 12 and part of 24 relating to the variation of the covenant.*
  - 15.9.17. *Delete the notes that relate to future owners being made aware of the permit and building permit related matters and, if required, include the notes in a covering letter.*
  - 15.9.18. Additional comments and directions – All additional comments and direction were actioned prior to submitting to the Department for further review.
- 15.10. A copy of the Authorisation Letter is contained within Attachment 4.
- 15.11. Council satisfied all conditions of authorisation and the Amendment documentation was submitted to the Department of Transport and Planning for further review on 6 April 2023.
- 15.12. The Department provided a response on 12 April 2023 that subject to a number of minor edits the Amendment could proceed to exhibition.

## F. EXHIBITION PROCESS

### 16. Consultation and Engagement

- 16.1. The combined Amendment and Permit was exhibited from 8 May to 13 June 2023 and notice was given in accordance with section 96C of the *Planning and Environment Act 1987* – this included:
  - 16.1.1. publication on Council’s website;
  - 16.1.2. publication in the Victorian Government Gazette;
  - 16.1.3. publication in the local newspaper – Midland Express;

- 16.1.4. installation of two signs on the Amendment site – fronting both Willowbank and Brady Roads in accordance with section 96C(2B) of the Planning and Environment Act 1987; See attachment 5
  - 16.1.5. letters to all owners and occupiers that may be materially affected;
  - 16.1.6. letters to all owners and occupiers of land benefited by registered restrictive covenant;
  - 16.1.7. notice to all referral authorities relevant to the Amendment and Permit; and
  - 16.1.8. notice to all prescribed Ministers.
- 16.2. All supporting Amendment and Permit documents – including Q and A documents were available via Councils website and in hard copy at Council customer service centres.
- 16.3. Included in the notice provided via post to owner and occupiers both materially affected or benefited by the restrictive covenant included:
- 16.3.1. a notice letter for of the Amendment and Permit;
  - 16.3.2. the Amendment explanatory report;
  - 16.3.3. the draft planning permit; and
  - 16.3.4. the Amendment factsheet
- 16.4. The community were given the opportunity to make enquiries about the Amendment and Permit with council officers via face-to-face meetings, direct phone calls, and writing to or emailing Council’s Strategic Planning Team.
- 16.5. A post-exhibition engagement session was held on the 5 July 2023 -between Council officers, the planning consultant representing the proponent and submitters 6 and 10 – allowing for further clarification and resolution of issues raised in submissions.
- 16.6. Submitters to the Amendment and permit were invited to present their submission to the Committee at the Planning Delegated Committee (submitters) meeting of 12 July 2023.
- 16.7. A number of issues remained unresolved and at the Planning Delegated Committee of 12 September 2023, the Committee voted to progress the matter to Planning Panels Victoria.

## G. SUBMISSIONS

### 17. Submissions received

- 17.1. A total of 15 submissions were received in response to the public exhibition of the Amendment and Permit.
- 17.2. Of the submissions received, six were in support and nine were opposed to the amendment or parts thereof.
- 17.3. Submitter no. four retracted their submission on 17 June 2023 and has not been included in the total number of submissions received.
- 17.4. Melbourne Water, the Environmental Protection Agency and the Country Fire Authority provided submissions of support for the Amendment and Permit.
- 17.5. In addition to the support, Melbourne Water and the Environmental Protection Agency provided further comment and advice.
- 17.6. The Environmental Protection Agency's advice related to wording of condition 7 of the draft condition of permit and that Council may choose to update the condition to reflect their advice.
- 17.7. Melbourne Water provided comment stating that the applicant will need to contact Council in regard to flooding from Council drainage system.

## 18. Submission themes

- 18.1. Key issues outlined in submissions not in support of the Amendment and permit are grouped under the following themes:
  - 18.1.1. Fencing height and material;
  - 18.1.2. Overdevelopment – including height;
  - 18.1.3. Strategic justification;
  - 18.1.4. Traffic, parking and the condition of Willowbank Road;
  - 18.1.5. Conditions of permit;
  - 18.1.6. Hours of operation;
  - 18.1.7. Landscape – vegetation;
  - 18.1.8. Drainage – water storage; and
  - 18.1.9. After hours security.
- 18.2. Submissions in support of the amendment and permit generally provided reasons as per the following themes:
  - 18.2.1. Strategic need – servicing the retail and medical needs of the growing residential areas in the south of Gisborne.
  - 18.2.2. Reduce traffic and parking congestion in Gisborne's central commercial areas due to alternative options for residents in the south of Gisborne.
  - 18.2.3. Support for the acoustic boundary fence in order to protect residents abutting the site from adverse noise.
  - 18.2.4. Consistent with long-term council planning policy for the site.

## 19. Submission summary

- 19.1. By way of high-level summary, the following points were raised by submitters.
- 19.2. **Fencing – submitters**

- 19.2.1. The acoustic perimeter fencing was a point of both support and opposition among submitters.
- 19.2.2. Submitters 10 and 2 expressed concern that the fence's height and non-permeable construction creates an imposing visual barrier that negatively affects the private realm of residential properties abutting the site.
- 19.2.3. Further, there was preference by submitters 10 and 2 for a low profile post-and-wire fence construction that reflects the rural character of the surrounding area.
- 19.2.4. Submitter 6 initially supported both the fencing height and timber material used in the construction however did not support the thickness (acoustic property) and suggested a thicker acoustic material to protect them from commercial noise emanating from the site. This issue was resolved – see paragraph 20.3

### 19.3. Overdevelopment-including height -

- 19.3.1. Submitters 2, 5, 6, 10 and 15 raised concerns regarding the building height and argued that the proposed development does not reflect the predominantly low-rise semi-rural character of the area.
- 19.3.2. Submitters 2, 6 and 10 suggested that the development should be limited to a single storey as it reduces the potential for overshadowing the properties abutting the rear of the site.
- 19.3.3. Submitter 10 suggested that the height should follow the natural gradient of the site and that the two-storey development would be more appropriately situated at the rear of the site.
- 19.3.4. Submitter 5 was concerned with the walls and minimal setback along Brady and Willowbank Roads, and suggested this could impede vehicle sightlines, and increase pedestrian and vehicle conflict.

### 19.4. Strategic justification – Submitters

- 19.4.1. Submitters 2, 14, 16 and 15 questioned the strategic need for the proposed LAC more broadly and included suggestions that the Willows Estate or further to the south of the current location would be a more appropriate location for a LAC.
- 19.4.2. Submitters 1, 7, 8, and 13 support the Amendment and permit on the basis that it will provide retail and medical services for the growing residential areas in the south of Gisborne.

### 19.5. Conditions of Permit

- 19.5.1. **Condition 1b** – Submitter 7 objected to the inclusion of condition 1b on the condition of permit, which requires a “No right turn” sign along Brady Road, and Submitter 5 questioned the relevance of the inclusion of this condition.
- 19.5.2. **Condition 7** – The Environment Protection Authority provided advice that the State Environment Protection Policy (Control of Noise from Commerce,



Industry and Trade) No. N-1 (SEPP N-1) had been superseded by EPA Publication 1826.4.

#### 19.6. Hours of operation

- 19.6.1. Submitter 6 was concerned about the proposed opening hours of 7am and proposed this should be changed to 8am.

#### 19.7. Landscape – vegetation

- 19.7.1. Submitter 6 objected to the type of trees proposed along the southern border due to their aggressive root systems, loss of sunlight, risks to person and property – and proposed the inclusion of smaller tree species. This issue has been resolved – see section 20.

#### 19.8. Traffic, parking and the condition of Willowbank Road

- 19.8.1. Submitters 5 and 10 were concerned with the current condition of Willowbank Road and its ability to accommodate increased traffic demand as a result of this development.
- 19.8.2. Submitter 3 suggest that upgrades are required at the intersection of Brady and Willowbank Roads to improve pedestrian safety.
- 19.8.3. Submitter 5 was concerned with the methodology employed by Traffix Group to develop the Traffic Engineering Report, specifically the type of data used to determine traffic demand.
- 19.8.4. Submitters 14 and 16 were concerned that car parking provision is inadequate.
- 19.8.5. Submitters 7, 8 and 13 expressed support for the proposal suggesting that it will act to reduce traffic and parking congestion in the central commercial areas of Gisborne.

#### 19.9. Drainage – water storage.

- 19.9.1. Submitter 5 was concerned that flooding issues associated with Council's spoon drain will be exacerbated due to the development.
- 19.9.2. Submitter 5 questioned the relevance and function of the rainwater tank due to its holding capacity.

#### 19.10. After hours security.

- 19.10.1. Submitter 6 was concerned with the possible noise impacts associated with after-hours use of the site and requests that access points into the site include lockable gates.

#### 20. Issues resolved or amended position.

- 20.1. Condition 7 - Council resolved the issue relating to Submission 12 – The Environmental Protection Agency – see section 24 below.

- 20.2. Vegetation – Following further consultation Council and the proponents landscape architect, submitter 6 withdrew the opposition vegetation along the southern border of the site.
- 20.3. Fence - submitter 6 amended their submission from opposition, to strong support, for height, material and acoustic properties of the boundary fence.

## H. POST EXHIBITION CHANGES

21. The changes were required following the advice received by the Environmental Protection Agency, and the gazettal of Planning Scheme Amendment C150macr.
22. Council endorsed two post exhibition changes to the exhibited Amendment and Permit documents at the Planning Delegated Committee of 13 September 2023.
23. Specifically, the changes were made to the PLN/2022/359 Condition of permit document and the Amendment C153 explanatory report document and are contained in *Attachment 8*

### 24. Changes to Condition of permit no. 7

- 24.1. Submission 12 – The Environmental Protection Agency provided advice that the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1) had been superseded by EPA Publication 1826.4.
- 24.2. The changes outlined in the EPA Publication 1826.4 relate to condition of permit number 7 of the draft Planning Permit, which state:
  - 24.2.1. *Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 to the satisfaction of the responsible authority.*
- 24.3. The revised wording in the draft Planning Permit reflects the post exhibition changes and now state the following:
  - 24.3.1. *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, to the satisfaction of the Responsible Authority.*

### 25. Changes to Condition of permit no. 10

- 25.1. Permit condition 10 was amended by Council following a review of submissions to ensure that the acoustic fence is installed and maintained to a sufficient acoustic standard and is fit for purpose.

- 25.2. The original condition 10 read: 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.
- 25.3. The amendment condition 10 reads: Before the occupation of the development, a 2.4 metre high acoustically rated perimeter fence must be constructed and thereafter maintained along the western and southern boundaries of the site at the cost of the permit holder, to the satisfaction of the Responsible Authority.

## 26. Changes to exhibited Amendment C153macr Explanatory Report

- 26.1. Planning Scheme Amendment C150macr was gazetted on 24 August 2023.
- 26.2. C150macr replaces the Local Planning Policy Framework of the Macedon Ranges Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11 to 19 and selected particular provisions and operational provisions consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148 and The Ministerial Direction on Form and Content of Planning Schemes.
- 26.3. The exhibited *Amendment C153macr Explanatory Report* were modified to reflect the changes outlined in Amendment C150macr.

## I. Conclusion

27. This concludes Council's Part A submission. A response to submission will be provided in Council's Part B Submission.

## J. List of Attachments

**Attachment 1:** Planning Delegated Committee of 13 September 2023 – *Agenda, Minutes and Attachments* documents.

**Attachment 2:** Gisborne Futures Draft Structure Plan August 2023 and supporting documents

**Attachment 2a:** Gisborne Outline Development Plan 2009

**Attachment 3:** Redacted Submissions (numbered)

**Attachment 4:** Amendment Authorisation letter

**Attachment 5:** Evidence of notice in accordance with section 96C(2B)

**Attachment 6:** Amendment documents – as exhibited

**Attachment 7:** Permit documents – as exhibited

**Attachment 8:** Post exhibition changes