Planning and Environment Act 1987

MACEDON RANGES PLANNING SCHEME

AMENDMENT C153macr PLANNING PERMIT APPLICATION PLN/2022/359

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Macedon Ranges Shire Council which is the planning authority for this amendment.

The amendment has been made at the request of the landowner being Brady Road Investments Pty Ltd represented by Taylors Development Strategists.

Land affected by the amendment

The amendment applies to 3,547 square metres of land 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. The site is contained within map 36 of the Macedon Ranges Planning Scheme maps



Figure 1: Amendment site Source: *MRSC Intramaps*

What the amendment does

The amendment proposes to rezone the land from the General Residential Zone, Schedule 1 (GRZ1) to the Commercial 1 Zone (C1Z) to facilitate the development of a future local activity centre. The amendment will also apply a Design and Development Overlay, Schedule 27 (DDO27) to guide the future development of the site and ensure an appropriate built form outcome is achieved. Specifically, the proposed amendment:

- Rezones approximately 3,547 square metres of land, known as Lot 43, PS549356W, at 101-105 Willowbank Road, Gisborne and part of the road reserves including R-2 on PS549356W from the General Residential Zone, Schedule 1 (GRZ1) to the Commercial 1 Zone (C1Z) as shown on Planning Scheme Map No. 36.
- Applies the Design and Development Overlay, Schedule 27 (DDO27) to land at 101-105 Willowbank Road, Gisborne as shown on Planning Scheme Map No. 36DDO.
- Amends the Schedule to Clause 34.01 (C1Z) to insert maximum leasable floor areas of 500 and 1000 square metres for both shop and office respectively.
- Inserts a new Schedule 27 to Clause 43.02 (Design and Development Overlay) to guide the future development of the land, ensure that the character of the area and features are considered, and implement good quality architecture and urban design on the site.
- 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
	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

The amendment is a combined planning permit application and planning scheme amendment under Section 96A of the Act.

The planning permit application seeks approval for:

- The construction of buildings and works associated with a supermarket, medical centre, office and food and drink premises (two cafés); and
- A reduction in the number of car parking spaces from 61 to 57 spaces;

on land known as at 101-105 Willowbank Road, Gisborne and part of the road reserve including R-2 on PS549356W.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to facilitate a future local activity centre on the land to provide for everyday shopping, commercial and medical needs of the surrounding residential community. Since 2009, the site has been earmarked as a local activity centre in the Gisborne/New Gisborne Outline Development Plan, 2009 (2009 ODP). The site is located within the township boundary and is identified as proposed neighbourhood retail within the Gisborne/New Gisborne Framework Plan at Clause 21.13-1 (Gisborne and New Gisborne) of the Municipal Strategic Statement of the Macedon Ranges Planning Scheme.

The Gisborne south area has experienced considerable housing growth, and this is anticipated to continue with the development of the Willow Estate at the eastern end of Willowbank Road. Residents in the nearby area are still required to travel into Gisborne Town Centre (typically by car) to access

basic services and everyday shopping needs. Delivering on the vision of the 2009 ODP and Clause 21.13-1 will bring a much-needed local service and amenity to the surrounding residential community. The proposed local activity centre also seeks to reduce car dependency for the surrounding area, providing a more proximate centre that prioritises pedestrian/cyclists in its design while also being well serviced by a bus route for alternative sustainable transport options.

The subject site is currently within a General Residential Zone. The current zoning greatly restricts the ability of the site to be developed into a local activity centre as envisioned in local planning policy for the area, as it prohibits most commercial uses or applies stringent conditions to a limited variety of uses. The rezoning of the land at 101-105 Willowbank Road to the Commercial 1 Zone appropriately facilitates the commercial vision of the site to create a local activity centre. It is noted that the Schedule to the Commercial 1 Zone will identify a maximum leasable floor area of 500 square metres for Shop and 1000 square metres for Office for which a permit can be granted to vary such requirements.

The inclusion of the Design and Development Overlay will ensure particular built form outcomes are achieved at the site that is consistent with the character of the surrounding area and appropriately responds to its features and implements good quality architecture and urban design. If this proposed development does not occur, Schedule to Clause 34.01 will trigger a permit for any new development if the maximum floor area sizes are exceeded.

How does the amendment implement the objectives of planning in Victoria?

The proposed amendment implements the objectives of planning in Victoria as outlined in Section 4(1) of the *Planning and Environment Act 1987* (the Act). The relevant objectives are:

(b) to provide for the fair, orderly, economic and sustainable use, and development of land;

The proposed amendment provides for the fair, orderly, economic and sustainable use and development of the land by rezoning the affected land to facilitate a local activity centre that will provide basic services and everyday shopping, commercial and medical needs for the surrounding residential communities.

(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

The amendment proposes to create a pleasant, efficient and safe working environment and a place for the local community to meet and interact during their daily activities. The proposed amendment provides opportunities for employment and working close to home while encouraging sustainable modes of transport.

How does the amendment address any environmental, social and economic effects?

The proposed amendment rezones the affected land to facilitate a local activity centre, which will create considerable environmental, social and economic benefits by providing essential services in a location that is closer to home for the growing population within the Gisborne south area. The concurrent Section 96A permit application includes specific measures that address the environmental, social and economic effects as detailed below.

Environmental effects

The proposed amendment/permit facilitates a centre that prioritises walking (through upgrade of pedestrian crossing), cycling and other sustainable modes of transport to reduce car dependency for the surrounding residential area in accessing everyday goods and services.

Furthermore, the proposed built form includes a range of sustainable measures to reduce its carbon footprint. The development has a range of environmentally sustainable design features including onsite power generation through roof top solar, use of recycled materials and storm water capture and retention, green lattice and areas for EV charging.

The built form has been designed to be of a scale that is comparable with the surrounding development which is predominantly single storey residential dwellings. The building is at a height of two storeys which exists in the surrounding residential area and is appropriate given the commercial nature of the site. The built form includes elements that are representative of and compatible with the surrounding area such as a pitched roof form and materials and colours.

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Whilst the proposal is commercial in nature and is a more intensive development of the site compared to the rest of the area, the proposal is not considered to have any other environmental impacts including air emissions and light spill and glare. Noise and hours of operation of the proposal are dealt with through standard planning permit conditions. Similarly, waste removal and recycling, truck movements, goods delivery and car parking amenity is also addressed by standard planning permit conditions. All these matters will be considered at the detailed engineering design stage and will be designed to comply with the various requirements.

Social effects

The proposed amendment/permit facilitates a centre that will provide social interaction and a meeting point for the community. Proposed uses such as the medical centre also contribute to the medical precinct which includes an Osteo and Physio within the immediate environs.

The amenity of the surrounding area will be protected through a number of measures including building design and siting that maximise separation with the adjoining residential properties and contains plant equipment within the roof form to conceal and acoustically treat these services. The proposal also includes a 2.4-metre-high acoustic fence along the residential interfaces to ensure compliance with the relevant noise guidelines. Hours of operation are also proposed to be restricted to Monday to Sunday 7am to 7pm with the medical centre operating on reduced hours. Deliveries and waste collection will occur outside of these times. However, these are restricted to be between the hours of 7pm to 8pm which are within the recommended times detailed in the Environmental Protection Authority (EPA) publication 1254.

A traffic impact assessment and car parking demand assessment have been undertaken by the Traffic Engineers (Traffix Group) to consider the impact on the surrounding road network, and on-street car parking availability. The local activity centre will provide close to all car parking requirements within the dedicated car park to the rear of the proposed building. The remaining car parking demand is anticipated to be fulfilled through a combination of multi-purpose trip and sustainable transport alternatives including walking and cycling from the surrounding residential catchment (with bike racks provided at the centre), and to a lesser extent public transport. The surrounding road network has been assessed as able to comfortably cater for the additional vehicles utilising the local activity centre and will not result in any unreasonable queuing at intersections.

Economic effects

The proposed amendment/permit facilitates commercial activity within the local activity centre, which will generate ongoing employment for the surrounding community. It will also provide people with the opportunity to work close to home, as well as stimulating investment in the immediate and surrounding areas.

Distinct from the main town centre in Gisborne, the local activity centre provides for the local everyday needs of the immediately surrounding residential community. Only basic goods and services are available with higher order needs continuing to be serviced by the Gisborne town centre. The amendment provides for a gross leasable floor area (GLFA) floor space cap of 1000 square metres for an office and a cap of 500 square metres for a shop. - If a proposed office or shop use exceeds the maximum (GLFA), a planning permit for such use would be required which will need to consider the overall retail/commercial hierarchy for Gisborne/New Gisborne in any decision making.

Does the amendment address relevant bushfire risk?

Gisborne and the land affected by the amendment are identified as having a low-bushfire risk rating under the Victoria Fire Risk Register while land to the east has a moderate-bushfire risk rating and areas further south of Gisborne have a very high to high-risk rating. The *Regional Bushfire Planning Assessment – Loddon Mallee Region* (DPCD, 2011) does not show the affected land and the immediate area as an 'identified area' with urban/bushfire hazard issues.

The affected land is located in an area with characteristics aligning with broader landscape type 1 [low risk location] as described in the department's *Planning Permit Applications Bushfire Management Overlay Technical Guide*, September 2017.

Some low threat vegetation exists on land to the north and within the Willowbank Estate Reserve, which contains Howey Creek approximately 200 metres to the west of the site. The closest risk to the land and its surrounds is from the grasslands in low-density area to the east and south, the rural living areas to the south and the extensive forested areas to west and south-west, which are located approximately 2.8 kilometres away (nearest land affected by the BMO).

The land affected by the amendment is not covered by the Bushfire Management Overlay (BMO) and is not in a designated Bushfire Prone Area and is not considered to be at threat of bushfire within the immediate context.

The amendment directs development to a low-risk location and to land assessed as having a BAL-LOW rating under *AS3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2018). The land affected by the amendment is located in an environment where there is good proximity and access to locations where human life can be protected from bushfire including the centre of Gisborne. No alternative locations have been considered for the development.

As such, the amendment is consistent with Clause 13.02-1S as the bushfire risk has been assessed and is considered to be low.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Ministerial Direction - The Form & Content of Planning Schemes

The proposed amendment complies with the form and content requirements through the use of the correct ordinance templates, appropriate maps and through the provision of the documentation required for an amendment.

Ministerial Direction 11 Strategic Assessment Guidelines

The proposed amendment is supported by reports that have been prepared to aid in the strategic evaluation of the amendment as per Ministerial Direction 11 *Strategic Assessment of Amendments*. There is also existing strategic work within the Macedon Ranges Planning Scheme which supports this amendment, namely the Gisborne/New Gisborne Outline Development Plan (ODP) and Clause 21-13-1 (Gisborne and New Gisborne) To assist with preparing a comprehensive strategic evaluation, Planning Practice Note 46: *Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments* was relied upon for guidance. The strategic assessment guidelines provide a consistent framework for preparing and evaluating a proposed amendment and its outcomes.

Ministerial Direction 15 The Planning Scheme Amendment Process

This ministerial direction sets out the timing for completion of the various steps in the planning scheme amendment process, which will be followed for this amendment. The explanatory report includes the panel hearing dates below.

Ministerial Direction 17 Localised Planning Statements

Ministerial direction 17 has been superseded by the Macedon Ranges Shire Council Statement of Planning Policy – see the below section for relevant details.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The proposed amendment aligns with objectives 8 of the Macedon Ranges 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, protection of catchments, biodiversity, ecological and environmental values, and consistent with the unique character, role and function of each settlement.

Through the application of schedule 27 to clause 43.02 (DDO27), the proposed amendment will
ensure built-form and design outcomes for any future development will appropriately respond to
the areas character and environmental values. Specifically, the objectives of DDO27 encourages
outcomes that provide a transition in scale to the residential areas and employ sustainable design
measures of hard and soft landscaping and water sensitive urban design to help protect that
ecological and environmental values of the site.

The proposed amendment/permit supports and gives effect to the following relevant state and regional policies in the Planning Policy Framework:

• Clause 11.01-1S *Settlement* seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

The proposed amendment will facilitate a local activity centre that will generate employment opportunities for the local area, as well as providing convenience shopping facilities and other services to meet the needs of the local population and is facilitate walking and cycling to these services.

• Clause 11.01-1R *Settlement – Loddon Mallee South* seeks to manage and support sustainable growth within the Loddon Mallee South region.

The proposed amendment to facilitate a local activity centre will service the established residential community of Gisborne South and meet the demand of the growing population.

 Clause 11.03-1S Activity centres seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

The amendment proposes to facilitate a local activity centre that meets the needs of the existing community that require such services.

• 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.

The amendment proposes to facilitate a local activity centre within an established residential area of Gisborne South that will provide a range of facilities to meet the community's needs.

• Clause 11.03-5S *Distinctive areas and landscapes* identifies the importance of distinctive areas and landscapes to the people of Victoria and protect and enhance the valued attributes of identified or declared distinctive areas and landscapes.

The amendment proposed will not detract from the distinctive landscape of Gisborne with development proposed over a clear site that is located within an existing residential area.

• 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.

The proposed amendment will facilitate a local activity centre to meet the needs of the existing and future community within the immediate area that is considerate of the existing character of the Gisborne South area.

 Clause 13.05-1S Noise management seeks to assist the management of noise effects on sensitive land uses.

The proposed amendment will allow for commercial and office development which will not produce a significant amount of noise in a residential context. Hours of operation and acoustic measures (an acoustic fence) have been incorporated into the design to ensure there are no unreasonable levels of noise.

• 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.

The proposed amendment will facilitate a local activity centre within an established residential area that is not envisaged to create any amenity, human health and safety issues.

• Clause 14.02-1S *Catchment planning and management* seeks to protect and restore catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.

The proposed amendment facilitates a future development on site that responds to the relevant objectives and strategies under this provision. The proposal uses 'best practice' water sensitive urban design (WSUD) to retail and reuse stormwater on the site and to avoid negatively impacting the catchment with stormwater runoff.

• Clause 15-.01-1S *Urban design* which seeks to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

The amendment proposes to facilitate a local activity centre that will create a quality local scale retail and commercial space for the surrounding community that is attractive and functional.

- Clause 17.01-1S Diversified economy contains policies to generate employment including:
 - Protect and strengthen existing and planned employment areas and plan for new employment areas.
 - Improve access to jobs closer to where people live.

The proposed amendment strengthens and diversifies the local economy by facilitating a local activity centre that creates jobs close to home and encourages investment in the surrounding area.

- Clause 17.02-1S *Commercial* includes the following strategies:
 - Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
 - Locate commercial facilities in existing or planned activity centres.
 - 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.
 - Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

The amendment proposes to facilitate a local activity centre that will meet the communities needs for retail, entertainment, office and other commercial services by facilitating the day-to-day convenience shopping and service needs close to where people live.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The proposed amendment/permit implements the following local policies in the Local Planning Policy Framework:

- Clause 21.01 *Municipal Profile* and Clause 21.04 *Settlement* identifies that Gisborne will continue to be the major population and employment centre within the municipality, recognising it provides an important source of employment for the local economy with growth to occur within the defined settlement boundaries. The amendment proposes to facilitate a local activity centre that will service an established residential community that will continue to grow within the immediate area.
- Clause 21.02-6 *Economic development* identifies the key infuences and opportunities for the local economy. The proposed amendment/permit facilitates a local activity centre that will generate employment opportunities for the local community and provide basic goods and services proximate to the growing residential area of Gisborne South. The proposed amendment is consistent with the retail/commerical hierarchy of the Gisbourne/New Gisbourne area and doesn't undermine the leading regional retail and commercial role of the Gisbborne Town Centre. Proposed office and retail floorspace triggers of 1000 and 500 square metres respectively (included in the Schedule to the Commerial 1 Zone) ensure future office and retail development is cogsignant of the retail/comercial hierarchy.
- Clause 21.07-3 *Water* seeks to protect the water quality and management of local and regional water catchments within the municapality, recognising the increasing demand and development pressures which can have adverse impacts. The amendment will provide for retail, entertainment, office and other commercial services in an established residential area that is already connected to a reticulated sewerage system. Water sensitive urban design and stormwater quality management plans will be required as part of any future development.
- Clause 21.08-3 *Built Environment* promotes sustainable development that respects the character of an area. The proposed amendment will facilitate a local activity centre with a built form outcome that respects the surrounding residential properties through the use of appropriate built forms and materials and colours that reflect the palette of the surrounding area.
- Clause 21.10 *Economic Development and Tourism* seeks to generate employment and investment within the Shire. The proposed amendment facilitates a local activity centre will generate employment for the local area and encourage investment from different business types and sizes to contribute to a more robust economy of the Shire.
- Clause 21.10-1 Commercial and industry seeks to generate employment through the provision of improved commercial and industry services and facilites. The proposed amendment faciliates a local activity centre will generate employment opportunities for the local community and reduce the reliance on commuting outside of the Shire.
 - Clause 21.10-3 *Retail and services* seeks to improve the provision of retail development within the Shire to meet the growing demand and strengthen the local economy. The proposed amendment facilitates a local activity centre that will meet the communities needs for retail, entertainment, office and other commercial services by facilitating the day-to-day convenience shopping and service needs in proximity to the established residential community within the immediate area.

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• Clause 21.13-1 *Gisborne* and *New Gisborne* – includes the strategy to provide for two local local activity centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs. The area to the 'south' of the Gisborne area specifically relates to the site at 101-105 Willowbank Road, Gisborne.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions by:

- Applying a Commercial 1 Zone to the land to be used for commercial purposes to facilitate the development of a local activity centre. This is the most appropriate zone as it allows for a range of commercial activities akin to the purpose of the local activity centre. The proposed amendment makes appropriate use of the Scheule to Clause 34.01 (Commercial 1 Zone) by including a cap on the square metres gross leasable floorspace for office and shop (unless otherwise approved through a planing permit), to ensure the development provides for local and convienence commercial opportunities.
- Applying the Design and Development Overlay (DDO27) to inform the key development outcomes for the land. This is the most appropriate overlay for the site as it establishes the expectations and requirements of the built form and landscaping so that it is consistent with the character of the area.
- The amendment appropriately uses the Schedule to Clause 52.02 (Easements, Restrictions and Reserves), to vary a restrictive covenent that applies to the land.

The proposed amendment has also been prepared in consideration of the relevant planning practice notes including:

- Planning Practice Note 22 Using the Car Parking Provisions
- 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

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.

Planning Practice Note 58 *Structure Planning for Activity Centres* provides guidance on the development of activity centres and has been considered as part of this rezoning application and concurrent permit application for a local Activity Centre. 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.

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. This practice note 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.

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.

How does the amendment address the views of any relevant agency?

The views of all relevant agencies will be sought through the exhibition of the amendment.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment is not expected to have a significant impact on the transport system or the objectives or decision-making principles of the *Victorian Transport Integration Act 2010*. The combined amendment/application/permit includes a traffic impact assessment by Traffix Group which demonstrates that the local activity centre will not have an unreasonable impact on the surrounding road network and adequate parking is provided on site to meet the anticipated needs of the centre.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The cost of the combined amendment/application/permit will be covered by the proponent. The amendment will not pose unreasonable resource and administrative costs on the Macedon Ranges Shire Council in its normal capacity as the responsible authority.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Macedon Ranges Shire Council website at https://www.mrsc.vic.gov.au/About-Council/News/Have-Your-Say.

The amendment is available for public inspection, free of charge, during office hours at the following places:

Macedon Ranges Shire Council Offices and Service Centres at:

- Gisborne Council Office, 40 Robertson Street, Gisborne
- Kyneton Council Office, 129 Mollison Street, Kyneton

The amendment can also be inspected free of charge at the Department Transport and Planning website at <u>http://www.planning.vic.gov.au/public-inspection</u> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person who may be affected by the amendment and/or planning permit may make a submission to the planning authority. Submissions about the amendment and/or planning permit must be received by Tuesday, 13 June 2023. A submission must be sent to:

Macedon Ranges Shire Council PO Box 151 Kyneton VIC 3444

or can be made via Macedon Ranges Shire Council's 'Have your say' webpage at https://www.mrsc.vic.gov.au/About-Council/News/Have-Your-Say or can be sent via email to Macedon Ranges Shire Council at mrsc@mrsc.vic.gov.au.

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions Hearing: Monday, 2 October 2023.
- Panel Hearing: Monday, 20 November 2023.