

Minutes

**Planning Delegated Committee Meeting
Wednesday 12 October 2022 at 7pm
Held online and livestreamed at [mrsc.vic.gov.au](https://www.mrsc.vic.gov.au)**



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1 ACKNOWLEDGEMENT OF COUNTRY

Macedon Ranges Shire Council acknowledges the Dja Dja Wurrung, Taungurung and Wurundjeri Woi Wurrung Peoples as the Traditional Owners and Custodians of this land and waterways. Council recognises their living cultures and ongoing connection to Country and pays respect to their Elders past, and present.

Council also acknowledges local Aboriginal and/or Torres Strait Islander residents of Macedon Ranges for their ongoing contribution to the diverse culture of our community.

2 RECORDING AND LIVESTREAMING OF THIS COMMITTEE MEETING

This meeting was recorded and streamed live on the internet, in accordance with Council's 'Live Streaming and Publishing Recordings of Meetings' policy, which can be viewed on Council's website.

3 PRESENT

Cr Jennifer Anderson (Mayor), Cr Rob Guthrie (Deputy Mayor), Cr Annette Death, Cr Anne Moore, Cr Geoff Neil, Cr Janet Pearce, Cr Mark Ridgeway, Cr Bill West

IN ATTENDANCE

Bernie O'Sullivan (Chief Executive Officer), Rebecca Stockfeld (Director Planning and Environment), Evert Grobbelaar (Manager Statutory Planning), Lucy Webb-Wilson (Senior Governance Officer – Council Business), Amila Sumanasingha (Service Desk Officer)

4 APOLOGIES

Cr Dominic Bonanno (on leave)

5 CONFLICTS OF INTEREST

Cr Guthrie had previously advised the Chief Executive Officer in writing of a Material conflict of interest in relation to item 9.4 DP/2021/1 - 89 Ross Watt Road, Gisborne - Development Plan & PLN/2021/616 - 89 Ross Watt Road, Gisborne - Planning Permit as he lives opposite the site.

6 PURPOSE OF PLANNING DELEGATED COMMITTEE

Council established the Planning Delegated Committee to provide a regular forum for hearing from people who have made a submission to Council or who are an applicant or objector in relation to a planning permit application.

The Committee is authorised to determine statutory planning applications and Planning Scheme amendments only in relation to the Planning and Environment Act 1987. Its purpose is to hear from applicants/land owners and objectors/submitters on statutory and strategic planning matters, planning applications and to determine other planning matters.

7 ADOPTION OF MINUTES**Committee Resolution**

Moved: Cr Mark Ridgeway
Seconded: Cr Geoff Neil

That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 14 September, as circulated.

CARRIED

SUSPENSION OF STANDING ORDERS**Committee Resolution**

Moved: Cr Rob Guthrie
Seconded: Cr Annette Death

That Council suspend standing orders in order to hear from submitters on items on the agenda.

CARRIED

One submitter addressed the Committee on DP/2022/1 - 176 SAUNDERS ROAD, NEW GISBORNE - DEVELOPMENT PLAN:

- Alex Winfield (presenting on behalf of Applicant) – Zoom

No submitters addressed the Committee on AGR/2022/5 - END OF SECTION 173 AGREEMENT AU829337V - 52B MURPHY STREET, ROMSEY.

RESUMPTION OF STANDING ORDERS**Committee Resolution**

Moved: Cr Rob Guthrie
Seconded: Cr Mark Ridgeway

That Council resumes standing orders in order to consider the officer's recommendation on the item on the agenda.

CARRIED

8 HEARING OF SUBMITTERS**8.1 DP/2022/1 - 176 SAUNDERS ROAD, NEW GISBORNE - DEVELOPMENT PLAN****Committee Resolution**

Moved: Cr Rob Guthrie
Seconded: Cr Anne Moore

That the Committee

1. Notes the submissions received in relation to Development Plan Application DP/2022/1; and
2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 9 November 2022.

CARRIED

8.2 AGR/2022/5 - END OF SECTION 173 AGREEMENT AU829337V - 52B MURPHY STREET, ROMSEY**Committee Resolution**

Moved: Cr Geoff Neil
Seconded: Cr Mark Ridgeway

That the Committee:

1. Notes no submissions have been received in relation to application AGR/2022/5 for Ending the Section 173 Agreement AU829337V; and
2. Endorses that recommendations be prepared, based on all relevant information, for consideration and determination at the next scheduled Council meeting on 26 October 2022.

CARRIED

9 REPORTS**9.1 REQUEST AUTHORISATION FOR A PLANNING SCHEME AMENDMENT C155MACR - 9-35 MOLLISON STREET, MALMSBURY - REZONE FROM COMMERCIAL 2 ZONE TO NEIGHBOURHOOD RESIDENTIAL ZONE****Summary**

Council received a request on 27 November 2019 to rezone 9-35 Mollison St, Malmsbury from Commercial 2 Zone to the Neighbourhood Residential Zone. The application implements the Malmsbury Structure Plan (2006), which identifies that the current zone, Commercial 2, is no longer the most appropriate zone.

Committee Resolution

Moved: Cr Janet Pearce
Seconded: Cr Mark Ridgeway

That the Committee:

1. Seeks authorisation from the Minister for Planning to prepare Planning Scheme Amendment C155macr to the Macedon Ranges Planning Scheme pursuant to section 9 of the *Planning and Environment Act 1987*.
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2. **Authorises Council officers to prepare amendment documents for authorisation and exhibition of Amendment C155macr, and**
 - (a) **Upon receipt of authorisation from the Minister for Planning, make any changes necessary to comply with conditions of authorisation**
 - (b) **Upon satisfaction of any conditions of authorisation, exhibit Amendment C155macr pursuant to section 19 of the *Planning and Environment Act 1987*.**

CARRIED

9.2 APPLICATION FOR A SECTION 96A PLANNING SCHEME AMENDMENT C154MACR AND PLANNING PERMIT PLN/2022/198 - 1 WILLS STREET MALMSBURY

Summary

Council has received a request from the owners of 1 Wills Street, Malmsbury to rezone the land from the Farming Zone to the Neighbourhood Residential Zone and to remove Heritage Overlay 148. The request also seeks a planning permit for subdivision of the land into nine lots. Section 96A of the *Planning and Environment Act 1987* provides the ability for a planning permit application to be considered concurrently with a planning scheme amendment. The proposal also seeks to remove a Section 173 Agreement that applies to the land, which was a condition of a previous permit PLN/2009/227.

Committee Resolution

Moved: Cr Anne Moore
Seconded: Cr Janet Pearce

That the Committee:

1. **Requests the Minister for Planning to authorise the preparation of Planning Scheme Amendment C154macr and Planning Permit PLN/2022/198 to the Macedon Ranges Planning Scheme pursuant to section 9 of the *Planning and Environment Act 1987*.**
2. **Authorises Council officers to prepare amendment documents for authorisation and exhibition of Amendment C154macr and Planning Permit PLN/2022/198, and**
 - (a) **Upon receipt of authorisation, make any changes necessary to comply with conditions of authorisation**
 - (b) **Upon satisfaction of any conditions of authorisation, exhibit Amendment C154macr and Planning Permit PLN/2022/198 pursuant to section 19 of the *Planning and Environment Act 1987*.**

CARRIED

9.3 DP/2019/1 - BENNETT ROAD, GISBORNE - DEVELOPMENT PLAN**Summary**

A Development Plan (DP) application for the land covered under the Development Plan Overlay Schedule 18 – Bennett Road, Gisborne Rural Living Area (DPO18) is ready for Council's consideration. Officers are recommending approval of the application which proposes 48 lots, including a 'superlot' that has further subdivision potential, and the creation of a substantial new creek reserve.

The Bennett Road Development Plan (DP/2019/1) documentation is found at Attachment 2 to this report

The application was advertised to adjoining landowners on 13 April 2022 for fourteen days. Four (4) submissions were received. No objection to the proposal was received from referral authorities.

Committee Resolution

Moved: Cr Geoff Neil
Seconded: Cr Janet Pearce

That the Committee:

- 1. Approve the Development Plan prepared by G2 Urban Planning (December 2021) covering the Development Plan Overlay Schedule 18 - Bennett Road, Gisborne Rural Living Area, prepared for the purposes of Clause 43.04 Schedule 18 of the Macedon Ranges Planning Scheme.**
- 2. Notify the applicant and submitters of Council's decision.**

In Favour: Crs Jennifer Anderson, Annette Death, Geoff Neil, Janet Pearce, Mark Ridgeway and Bill West

Against: Crs Rob Guthrie and Anne Moore

CARRIED 6/2

Procedural Note: At 7:36 pm, Cr Rob Guthrie left the meeting due to his conflict of interest and did not return to the meeting.

9.4 DP/2021/1 - 89 ROSS WATT ROAD, GISBORNE - DEVELOPMENT PLAN & PLN/2021/616 - 89 ROSS WATT ROAD, GISBORNE - PLANNING PERMIT

Summary

The application is for a Development Plan (DP) for land known as 89 Ross Watt Road, Gisborne (DP/2021/1). The application has been appealed at VCAT due to Council not having made a decision within a reasonable time. A Council decision is required to form a position to give direction to Council's legal representation and officers at an upcoming VCAT hearing.

A planning permit application PLN/2021/616 has also been submitted but a permit cannot be granted before a development plan has been prepared to the satisfaction of the responsible authority.

The development plan application, DP/2021/1 is provided at Attachment One. The planning permit application, PLN/2021/616 is provided at Attachment Two.

The application was advertised to adjoining landowners in accordance with the Development Plan Overlay Schedule 4 – Gisborne Residential Areas at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Key issues to be considered relate to the overall quality of the application provided including the response to the further information requested, appropriateness of lot sizes, traffic considerations, layout, response to Statement of Planning Policy, landscape considerations, open space provision and design, cultural heritage considerations and native vegetation impact. A number of referral authorities including Melbourne Water (MW), Greater Western Water (GWW), Southern Rural Water (SRW), Department of Transport (DoT), Department of Environment, Land, Water and Planning (DELWP) have also either requested further information or objected to the current proposal.

Recommendation**That the Committee:**

- 1. Notes that the application for approval of the Development Plan is subject to VCAT proceedings to be determined in 2023.**
- 2. Resolves to advise VCAT that Council opposes the approval of the Gisborne Area 1 Development Plan (8 July 2022) prepared by Collie Pty Ltd covering the Development Plan Overlay area affecting the land at 89 Ross Watt Road Gisborne, prepared for the purposes of Clause 43.04, Schedule 4 of the Macedon Ranges Planning Scheme.**
- 3. Resolves to advise VCAT that it opposes the Development Plan on the following grounds :**
 - (a) The Development Plan is an unacceptable response to:**
 - (i) The following provisions within the Planning Policy Framework and the Local Planning Policy Framework:**
 - i. Clause 12.01 (Biodiversity)**
 - ii. Clause 12.03 (Waterways and wetlands);**
 - iii. Clause 14.02-1S (Catchment planning and management)**
 - iv. Clause 15.01 (Built Environment)**

- v. Clause 21.05 (Environment and Landscape Values)
 - vi. Clause 21.06 (Environmental Risks)
 - vii. 21.08-3 (Built Environment)
 - viii. 21.12 (Community Development and Infrastructure)
 - ix. Clause 21.13-1 (Gisborne and New Gisborne)
 - x. Clause 15 (Urban design)
- (ii) The key principles and objectives of the Development Plan Overlay Schedule 4.
 - (iii) The natural environment and character of the area; and
 - (iv) The interface to the Jacksons Creek;
- (b) The Development Plan is accompanied by insufficient information to make an informed decision in consideration of relevant referral authority objections to the proposal.
 - (c) The Development Plan does not provide for the delivery of necessary traffic infrastructure to effectively integrate the development into the arterial road network.
4. Resolves to oppose the grant of planning permit application PLN/2021/616 for the following reasons:
- (i) Council is not satisfied that the subdivision is exempt from the requirement for an approved Cultural Heritage Management Plan;
 - (ii) The proposed subdivision is not generally in accordance with an approved development plan;
 - (iii) The subdivision responds poorly to the DPO4 for the same reasons that the proposed development plan is opposed;
 - (iv) The proposal responds poorly to policy for urban design and neighbourhood character at clause 15 and 21.13-1 of the Macedon Ranges Planning Scheme.
 - (v) The proposal fails to provide an adequate response to clause 52.17 of the Macedon Ranges Planning Scheme.
 - (vi) The proposal fails to include an adequate response to clause 53.18 of the Macedon Ranges Planning Scheme.
5. Allows officers and Council's representative delegation to negotiate improved outcomes at any upcoming VCAT compulsory conference, for ratification by Council if appropriate.

Cr Ridgeway moved an amended Officer recommendation.

Committee Resolution

Moved: Cr Mark Ridgeway

Seconded: Cr Geoff Neil

1. Notes that the application for approval of the Development Plan is subject to VCAT proceedings to be determined in 2023.
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2. Resolves to advise VCAT that Council opposes the approval of the Gisborne Area 1 Development Plan (8 July 2022) prepared by Collie Pty Ltd covering the Development Plan Overlay area affecting the land at 89 Ross Watt Road Gisborne, prepared for the purposes of Clause 43.04, Schedule 4 of the Macedon Ranges Planning Scheme.
 3. Resolves to advise VCAT that it opposes the Development Plan on the following grounds :
 - (a) The Development Plan is an unacceptable response to:
 - (i) The following provisions within the Planning Policy Framework and the Local Planning Policy Framework:
 - i. Clause 12.01 (Biodiversity)
 - ii. Clause 12.03 (Waterways and wetlands);
 - iii. Clause 14.02-1S (Catchment planning and management)
 - iv. Clause 15.01 (Built Environment)
 - v. Clause 21.05 (Environment and Landscape Values)
 - vi. Clause 21.06 (Environmental Risks)
 - vii. 21.08-3 (Built Environment)
 - viii. 21.12 (Community Development and Infrastructure)
 - ix. Clause 21.13-1 (Gisborne and New Gisborne)
 - x. Clause 15 (Urban design)
 - (ii) The key principles and objectives of the Development Plan Overlay Schedule 4.
 - (iii) The natural environment and character of the area; and
 - (iv) The interface to the Jacksons Creek;
 - (b) The Development Plan is accompanied by insufficient information to make an informed decision in consideration of relevant referral authority objections to the proposal.
 - (c) The Development Plan does not provide for the delivery of necessary traffic infrastructure to effectively integrate the development into the arterial road network.
 4. Resolves to oppose the grant of planning permit application PLN/2021/616 for the following reasons:
 - (i) Council is not satisfied that the subdivision is exempt from the requirement for an approved Cultural Heritage Management Plan;
 - (ii) The proposed subdivision is not generally in accordance with an approved development plan;
 - (iii) The subdivision responds poorly to the DPO4 for the same reasons that the proposed development plan is opposed;
 - (iv) The proposal responds poorly to policy for urban design and neighbourhood character at clause 15 and 21.13-1 of the Macedon Ranges Planning Scheme.
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- (v) The proposal fails to provide an adequate response to clause 52.17 of the Macedon Ranges Planning Scheme.
- (vi) The proposal fails to include an adequate response to clause 53.18 of the Macedon Ranges Planning Scheme.

5. Allows officers and Council's representative delegation to negotiate improved outcomes at any upcoming VCAT compulsory conference, for consideration and decision of Council if appropriate.

CARRIED

The Meeting closed at 7:38pm.