

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P510/2022 & P511/2022

APPLICANT	ID Ross Watt Road Pty Ltd
RESPONSIBLE AUTHORITY	Macedon Ranges Shire Council
REFERRAL AUTHORITIES – P510/2022	Greater Western Water
REFERRAL AUTHORITIES – P511/2022	Greater Western Water, Southern Rural Water, Melbourne Water, Environment Protection Authority, Country Fire Authority, Head, Transport for Victoria, Powercor, Downer Tenix, Department of Jobs, Precincts and Regions, Department of Environment, Land, Water & Planning, Department of Education and Training
RESPONDENTS – P510/2022	Southern Rural Water, Melbourne Water, Department of Environment, Land, Water & Planning
SUBJECT LAND	89 Ross Watt Road, Gisborne
HEARING TYPE	Compulsory conference
DATE OF HEARING	5 December 2022
DATE OF ORDER	8 December 2022

ORDER

- 1 The hearing details set out in the Tribunal's order dated 10 November 2022 are confirmed.
- 2 The proceeding is listed for a hearing on the dates and for the times as detailed below.

The hearing will be at 55 King Street, Melbourne.

If there is any change to these details, the Tribunal will notify you.

Major Case Hearing:	
Date and time	20, 21, 22, 23, 27, 28, 29, 30 March 2023 10:00am – 4:30pm
Conduct	In person – 55 King Street, Melbourne



The in person hearing will be conducted at 55 King Street, Melbourne. Details will be published in the law list late on the afternoon of the day prior to the hearing.

Variation of PNPE9 – amendment of permit application and plans

- 3 By **23 January 2023**, the Responsible Authority give the following to the applicant and to the Tribunal:
- Any update to the names and addresses of occupiers and owners of the properties on the list provided under Tribunal’s Order dated 5 July 2022; and
 - Any updates to the list of any relevant referral authority that may be affected by the amended Development Plan as provided under Tribunal’s Order dated 5 July 2022.
- 4 By **3 February 2023**, the applicant must give notice of any amendments to the Development Plan (inclusive of any supporting materials) review application (P510/2022) to all those on the Responsible Authority’s updated lists provided to the applicant under Order 4 above. The notice must include a link to the following:
- a copy of the application for review (the attachments do not need to be given);
 - a copy of this order;
 - a copy of any amended Development Plan (inclusive of any supporting materials);
 - a letter that must:
 - explain that two applications for review have been made to the Tribunal;
 - include a description of the proposals in each application for review;
 - explain that a copy of the amended Development Plan (inclusive of any supporting materials) are available on the Macedon Ranges Shire Council website for a period of not less than 14 days;
 - advise that in relation to the Development Plan application proceeding (P510/2022), the Development Plan Overlay (Schedule 4) of the Macedon Ranges Planning Scheme states the following process requirement:

“The development plan and any amendment to the plan must be publicly exhibited for a period of two weeks prior to approval. The responsible authority must take into account any comments received when considering the development plan or any amendment to the plan”.



- advise that they can make any comments to the Development Plan application (P510/2022) by **20 February 2023**, which must be given to the Tribunal, Responsible Authority and the applicant;
- advise with reference to the related permit application proceeding (P511/2022), that clause 43.04-3 of the Development Plan Overlay of the Macedon Ranges Planning Scheme states as follows:

“If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act”.

5 By **3 February 2023**, the applicant must display the signs provided by the Tribunal on the land in locations identified on a map provided by the Responsible Authority to the applicant pursuant to Order 5 of Tribunal’s Order dated 5 July 2022. The applicant must maintain the sign in good order and condition for not less than 14 days from the day it is put on the land. This sign must be completed to include all the required information and must:

- explain that two applications for review have been made to the Tribunal;
- include a description of the proposals in each application for review;
- advise that in relation to the Development Plan application proceeding (P510/2022), the Development Plan Overlay (Schedule 4) of the Macedon Ranges Planning Scheme states the following process requirement:

“The development plan and any amendment to the plan must be publicly exhibited for a period of two weeks prior to approval. The responsible authority must take into account any comments received when considering the development plan or any amendment to the plan”.

- advise that they can make any comments to the amended Development Plan application (P510/2022) by **20 February 2023**, which must be given to the Tribunal, Responsible Authority and the applicant; and
- advise with reference to the related permit application proceeding (P511/2022), that clause 43.04-3 of the Development Plan Overlay of the Macedon Ranges Planning Scheme states as follows:

“If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of



this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act”

6 By **3 February 2023**, the applicant must advertise a notice within the local newspaper as advised by the Responsible Authority pursuant to Order 5 of Tribunal’s Order dated 5 July 2022. The advertisement must:

- explain that two applications for review have been made to the Tribunal;
- include a description of the proposals in each application for review;
- advise that in relation to the development plan application proceeding (P510/2022), the Development Plan Overlay (Schedule 4) of the Macedon Ranges Planning Scheme states the following process requirement:

“The development plan and any amendment to the plan must be publicly exhibited for a period of two weeks prior to approval. The responsible authority must take into account any comments received when considering the development plan or any amendment to the plan”.

- advise that they can make any comments to the amended development plan application (P510/2022) by **20 February 2023**, which must be given to the Tribunal, Responsible Authority and the applicant; and
- advise with reference to the related permit application proceeding (P511/2022), that clause 43.04-3 of the Development Plan Overlay of the Macedon Ranges Planning Scheme states as follows:

“If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act”.

7 By **22 February 2023**, the applicant must give to the Tribunal:

- a completed statement of notice;
- a list of names and addresses of all persons who were notified;
- a sample of the letter sent with the documents; and
- all other information required by the statement of notice

8 Notice under Order 4 must be provided to the people identified in the Tribunal’s orders dated 5 July 2022, as well as any person who has lodged a Statement of grounds with the Tribunal.



Administrative mention

- 9 The proceeding is listed for administrative mention on **23 February 2023**. By that date each party must advise the Tribunal in writing:
- whether the matter is resolved or is proceeding to a hearing,
 - confirming the status of the CHMP approval for the review site,
 - the time required for each party to make submissions and call evidence; and
 - an estimate of time required for completion of the hearing.

No attendance is necessary.

- 10 Any party may request that the administrative mention be converted to a Practice Day Hearing. The relevant form is available at the Tribunal's website www.vcat.vic.gov.au/documents/forms/practice-day-request-form

Circulation of expert evidence

- 11 All expert evidence must be filed and served in accordance with the Tribunal's Practice Note PNVCAT2 Expert Evidence by no later than close of business on **27 February 2023**.

Meeting of expert witnesses

- 12 The expert witnesses retained by any party to give evidence on a common field of expertise must meet prior to the hearing to narrow any points of difference between them and to identify any remaining points of difference. The parties must give the Tribunal and all other parties by no later than close of business on **6 March 2023** an electronic copy of a joint report that includes the following:
- the matters agreed and not agreed by the experts
 - the reasons for any agreement or disagreement
 - the facts and assumptions of fact on which the matters of agreement or disagreement are based

The copy for Tribunal must be sent to admin@vcat.vic.gov.au

Providing submissions and associated material before the hearing

- 13 No later than close of business on **10 March 2023**, the parties must provide an electronic copy of their submissions and associated material (such as supporting documentation, case law and photographs) to the Tribunal and all parties. The copy for the Tribunal must be sent to admin@vcat.vic.gov.au



Draft Conditions

- 14 No later than close of business on **10 March 2023** the responsible authority must give the Tribunal and all parties a draft of the conditions to which the permit should be subject if it is granted.

The draft conditions must be provided to the Tribunal in electronic Word format and must be sent to planningconditions.vcat@courts.vic.gov.au

Tribunal Book

- 15 No later than close of business on **14 March 2023**, the applicant must provide a Tribunal Book to the Tribunal and all parties. One electronic copy and one colour, paper copy of the Tribunal Book must be provided to the Tribunal. The electronic copy for the Tribunal must be sent to admin@vcat.vic.gov.au

Information on the content and format requirements of the Tribunal Book is available at www.vcat.vic.gov.au

Michael Deidun
Member



APPEARANCES

For applicant	Peter O'Farrell, of counsel instructed by Linda Choi, lawyer, Norton Rose Fulbright, with William Bromhead, Town Planner of Ratio Consultants
For responsible Authority	Barnaby McIlrath, lawyer, PE Law, with Jack Wiltshire and Leanne Khan, Town Planners of Macedon Ranges Shire Council
For respondents/referral authorities	Maria Marshall and Natalie Lukatic, Solicitors of Maddocks Lawyers appeared on behalf of Greater Western Water Matthew Townsend of counsel, instructed by Karmen Markis, Russell Kennedy Lawyers appeared on behalf of Southern Rural Water Jasmine Bartlett, Team Leader Statutory Planning of the Head, Transport for Victoria Tim Norden, Programme Manager Planning Approvals of Department of Environment, Land, Water and Planning Mish Watt, Town Planner of Melbourne Water

