

Submitters Committee Meeting Agenda

Wednesday 9 June 2021 at 7pm
Held online and livestreamed at mrsc.vic.gov.au

Submitters Committee:

Council established the Submitters Delegated Committee pursuant to Sections 11 and 63 of the *Local Government Act 2020* (LGA) on 26 August 2020 for the purposes of hearing from planning permit applicants, land owners and objectors; from submitters in accordance with section 223 of the *Local Government Act 1989* and from submitters on matters specified in Council's Community Engagement Policy.

Attachments:

All attachments are available for viewing or downloading from Council's website, mrsc.vic.gov.au

Recording of Meetings:

The recording of Council Meetings, or delegated committee meetings, either visually or by sound, or the taking of photographs in meetings is not permitted without first obtaining the consent of Council or the Chairperson.

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1. ACKNOWLEDGEMENT OF COUNTRY

2. RECORDING AND LIVE STREAMING OF THIS COMMITTEE MEETING

This meeting will be held online and streamed live on the internet.

The meeting will be recorded. The recording will be available on Council's website within 48 hours of the end of the meeting.

3. PRESENT

4. APOLOGIES

5. DECLARATION OF CONFLICTS OF INTEREST

6. PURPOSE OF SUBMITTERS COMMITTEE

Council established the Submitters 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 Submitters Committee is not a decision-making committee. Its purpose is to hear the views of submitters who have elected to appear to speak in support of their written material, prior to the matter proceeding to a Council meeting for decision.

7. ADOPTION OF MINUTES

Submitters Committee Meeting: **Wednesday 12 May 2021**

Recommendation:

That the minutes of the Submitters Committee of the Macedon Ranges Shire Council held on Wednesday 12 May 2021 as circulated be confirmed.

8. HEARING OF SUBMITTERS

For the purpose of hearing from those making submissions, the Delegated Submitters Committee may suspend standing orders for the purposes of allowing a member of the public to address the meeting.

In accordance with the Submitters Committee Guidelines, each speaker will be allocated a maximum of three (3) minutes to speak to their submission.

In the case of joint submissions, a maximum of three (3) minutes will be allocated per submission, up to a maximum of nine (9) minutes, and one person should be nominated to speak on behalf of the submitters.

8.1 Hearing of submitters in relation to PLN/2014/28/C – 79 High Street Woodend

9.

PLANNING PERMIT MATTER PLN/2014/28/C

Use and development of the land for the purpose of an extension to the existing brewery operation, waiver of car parking and business identification signage (Amendment sought to alter conditions)

79 High Street Woodend

Officer **Angela Hughes**
Director Planning and
Environment

Attachments **Victorian Civil and Administrative Appeals Tribunal**
Statements of Grounds (redacted for privacy)

Purpose and Overview

To hear from submitters in relation to a matter before the Victorian Civil and Administrative Tribunal (VCAT) concerning Planning Permit PLN/2014/28/C for 79 High Street Woodend.

Recommendation

- 1. That the Submitters Committee notes the submissions received in relation to the current Victorian Civil and Administrative Tribunal matter concerning Planning Permit PLN/2014/28/C (79 High Street, Woodend); and**
- 2. That recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Scheduled Council Meeting on 23 June 2021.**

Background

The application site is located on the south-west corner of High and Anslow Streets, in the Woodend town centre. The site comprises two parcels of land. One parcel contains the hotel, which has been in existence since circa 1870. The other parcel contains an extension which has recently been constructed.

A private laneway traverses the site providing access to the subject site and adjoining properties.

The site and immediately surrounding area are located within a Commercial 1 Zone. Residentially-zoned land is located in close proximity to the site. Given this, there are a variety of land uses in the surrounding area comprising cafes, restaurants, shops and residential properties.

On 18 February 2015, Council issued Planning Permit PLN/2014/28 for the use and development of the land for the purpose of an extension to the existing brewery operation, waiver of car parking and business identification signage. The 'development' referred to is the extension that has occurred on the land facing Anslow Street.

The current application before VCAT is to reinstate Conditions 6 and 9 of the planning permit. Council lodged an application under section 87 of the *Planning and Environment Act 1987* to reinstate these conditions, on the basis that:

1. A decision by a delegate of the Council involved a failure to give notice to nearby residents; and
2. A material mistake occurred, in that the delegate did not comply with the terms of the Delegations Framework, Policy and Procedure (the Framework), which requires that Councillors be given the opportunity to call the application into a Briefing or Council Meeting if they wished.

Following a preliminary hearing, VCAT agreed that there had been a failure to notify potentially affected persons and that the delegate made a mistake in failing to comply with the Framework.

As a consequence, the decision to delete the conditions was found to be unlawful.

The hearing as to the disputed conditions is listed for a full merits hearing before VCAT on 6 and 7 September 2021. Any expert evidence to be relied upon must be filed 10 business days before then.

Summary of Proposal

It is proposed to reinstate Conditions 6 and 9 of Planning Permit PLN/2014/28/C.

Conditions 6 and 9 read as follows:

6. *Other than beer for tasting and the sale of beer to be consumed off-site, there shall be no sales of food or beverage products to the public from the visitor centre or adjoining outdoor tasting garden, unless with the prior written consent of the Responsible Authority.*
9. *Unless with the prior written consent from the Responsible Authority, the visitor centre and adjoining outdoor tasting garden hereby permitted may only operate between the following hours:*

*Monday to Friday: 9.00am to 5.00pm.
Saturday, Sunday and Public Holidays: 10.00am to 6.00pm.*

Planning Permit Trigger/s

This application is being made under the provisions of Section 87 of the *Planning and Environment Act 1987* (as amended).

Summary of Submissions

Three (3) Statements of Grounds (objections) were received as a result of advertising. These are joint statements of grounds, each representing between three and six property owners/occupiers.

The grounds of objection are summarised as follows:

- Car parking issues exacerbated with more diners and tables impacting parking for other businesses;
- Not enough car parking in the area;
- Already a substantial number of tables and extension of redline plan;
- Traffic congestion;
- Visitors and tasting centre is crucial part of the facility;
- Road safety issues in relation to truck deliveries;
- No prior consultation from the permit holder for any changes and events;
- Unwelcome behaviour from customers;
- Facility will not be able to monitor COVID-19 regulations as a result of removal of conditions;
- Loss of business (to other businesses); and
- Not enough advertising of the application;

Officer Declaration of Conflict of Interest

No officers involved in the preparation of this report have any direct or indirect conflicts of interest in this matter.