

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL  
PLANNING AND ENVIRONMENT DIVISION**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P337/2019

<b>APPLICANT</b>	ID-FLK Gisborne Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Macedon Ranges Shire Council
<b>SUBJECT LAND</b>	39 Willowbank Road GISBORNE VIC 3437
<b>WHERE HELD</b>	Melbourne
<b>BEFORE</b>	J A Bennett, Senior Member
<b>HEARING TYPE</b>	Compulsory conference
<b>DATES OF HEARING</b>	9 and 17 July 2019
<b>DATE OF ORDER</b>	18 July 2019

**ORDER**

- 1 This order is made as an outcome of a compulsory conference. At the compulsory conference, the parties agreed to the following partial settlement of the proceeding.
  - (a) The development plan be amended to show:
    - (i) The width of Rothschild Road (between the western property boundary and the north-south connector road, being the extension of McGeorge Road) to be 18m at the western boundary of the site, widening to 20.9 at the boundary of the drainage waterway reserve and school site, and further widening to 23.1m on the approach to the Rothschild Road and north-south connector roundabout (being approximately 35m from alignment of the eastern boundary of the school site);
    - (ii) The north-south connector road reserve to be 24m between Willowbank Road and Brooking Road;
    - (iii) Partial upgrade to the south side of the centreline of Willowbank Road fronting the site to accommodate a 3.7m wide sealed pavement with kerb and channel and a 1.5m wide footpath;
    - (iv) Partial upgrade of the northern side of the centreline of Brooking Road fronting the site to accommodate a 3.7m wide sealed pavement with kerb and channel and a 2.5m wide footpath;



- (v) A roundabout at the intersection of Willowbank Road and the north-south connector road generally in accordance with the layout plan marked 'A' attached to these orders and within the land area depicted on that plan;
  - (vi) A roundabout at the intersection of Brooking Road and McGeorge Road generally in accordance with the layout plan marked 'B' attached to these orders and within the land area depicted on that plan;
  - (vii) The layout of Willowbank Road and Sheedy Road intersection to accommodate bus movement, generally in accordance with the layout plan marked 'C' attached to these orders and within the existing road reserve;
  - (viii) The provision of 2m wide footpaths around the frontage of the school site, being along Rothschild Road and the north-south connector road;
  - (ix) The extension of the cycle path along Willowbank Road from the site frontage to the east side of the intersection with Bloomfield Road;
  - (x) The timing for the vesting of the school land to be in stage 1 of the development;
  - (xi) The staging of drainage including interim drainage solutions.
- (b) The applicant confirms that the development plan will include the acoustic treatment along the Calder Freeway interface to be shown with a 3m high mound with a 1m high wall on top of the mound as depicted in the Gisborne Area 4B Development Plan dated 21 December 2018 on page 33.
  - (c) The amended development plan is to be filed with the Tribunal and served on the Council by **26 July 2019**.
  - (d) Upon receipt of the amended development plan that includes the changes listed in paragraph 1(a) of these orders, Council must revise its grounds of refusal to be limited to matters relating to character and local policy arising from the size and configuration of the proposed lots by **4pm on 2 August 2019**.
  - (e) Expert evidence is to be circulated by the close of business on **19 August 2019**.
  - (f) The hearing is confirmed for **28 August 2019** with an estimate of 2 days (see below).



## Hearing

Item	Action	Date	Time	Duration	Number of members
A	Hearing	<b>28 August 2019</b>	10:00am	2 Days	1

- 2 This proceeding is listed for a hearing in accordance with the details set out in **item A** above. No further hearing notice will be sent.
- 3 Any changes to the hearing details will be notified by further order of the Tribunal.
- 4 Please read the information included in Appendix A and observe any directions included in the Appendix.
- 5 All hearings will be conducted at 55 King Street, Melbourne.

J A Bennett  
**Senior Member**

### APPEARANCES:

For Applicant Ms Jennifer Trewhella, Barrister instructed by Ms Tamara Brezzi, Solicitor of Norton Rose Fulbright Australia.

For Responsible Authority Mr Darren Wong, Solicitor of Planology and Ms Leanne Khan, Coordinator Strategic Planning of Macedon Ranges Shire Council

### REASONS

- 1 Parties in attendance at the second session of the compulsory conference agreed to partially settle the proceeding. My orders are made at their request and with their written consent.

J A Bennett  
**Senior Member**



## APPENDIX A

### INSTRUCTIONS ABOUT HEARINGS

#### Hearings

##### What happens if you do not appear?

If you do not appear or are not represented at the hearing, the Tribunal may determine the matter in your absence or make other orders affecting your interests.

##### Room number

Please check the ground floor list or VCAT website for your room number. Proceed directly to that room and sign the appearance sheet. Do not wait for your name to be called.

##### Time allocated for hearing

If you believe the length of hearing time allocated is not sufficient, you should notify VCAT in writing indicating why you believe more time is required within 14 days of the date of this order and send a copy of your communication to the other parties. Unless you send a copy to other parties and provide evidence that you have done so, your request will not be considered.

If a request for more time is made more than 14 days after the date of this order, you must make an application for adjournment following the procedures on VCAT's website *'How to apply for an adjournment'*.

##### What should you bring to the hearing?

You should bring all documents, plans, photographs and other material you wish to rely upon that have not been previously filed. If you are making a written submission, please bring six copies. Guidance about preparing submissions is available on the VCAT website *Planning and Environment List Guidelines for Submissions in Hearings, Guidelines for Submissions by Responsible Authorities and Guidelines for Submissions in the Short Cases List*.

Except where otherwise directed by the Tribunal, expert witness reports must be received by VCAT and other parties at least 10 business days before the hearing. Witness statements should be filed in A4 size, stapled not bound and two-hole punched.

##### What happens at the hearing?

Information about the hearing and hearing procedures is available on VCAT's website. All hearings are recorded. Hearings are open to the public and are conducted as informally as possible. The typical procedure for the final hearing of an application is for parties to speak in the following order:

- the responsible authority;
- referral authorities (if any);
- third parties or objectors (if any); and
- the permit applicant

Each party will be given a reasonable opportunity to respond to the case put by the other parties. A right of reply is not an opportunity to simply repeat submissions, which a party has already made; rather it should be confined to matters arising from the submissions of the other party(s), which have not already been addressed by the replying party.

##### Hearing fees

If you are the applicant in this proceeding, you may be required to pay a daily hearing fee. This includes accompanied site visits. The daily hearing fee must be paid by the person(s) responsible for its payment by 9.30am on the day of the hearing.

Payment of hearing fees can be made by:

- credit card via an online portal located on the VCAT website if the hearing is listed at a venue other than 55 King Street, Melbourne or 222 Exhibition Street, Melbourne; or
- credit card, EFTPOS or cash payment on the day of hearing

If the hearing is likely to take two or more days and more than one Tribunal Member has been appointed to hear the proceeding, the matter will be deemed complex and higher hearing fees will be applicable.

Practice Note - PNVCAT 6 Hearing Fees sets out the procedures that apply to the charging of daily hearing fees in proceedings before the Tribunal, including who is liable to pay the daily hearing fee. This Practice Note and other information is available on the Tribunal's website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au). For the latest fee information or further information regarding this process, please check the VCAT website or phone (03) 9628 9777.

### **Fee waiver or reduction of hearing fees**

The Principal Registrar has the power to waive or reduce a daily hearing fee in certain circumstances. A *Guideline and Application for Waiver of Fee* document and application form is available on the Tribunal's website.

Any application to waive or reduce the daily hearing fee should be made as soon as possible in order to avoid any delay in the hearing.

### **Site inspections**

The member hearing the case may wish to undertake a site inspection. The time allocated for the hearing usually includes an allowance of time for a site inspection, depending on the location of the site. Parties should be prepared to make their properties available for inspection where appropriate at the conclusion of the hearing and on the same day or as otherwise arranged by the member at the hearing.

### **Exhibits**

Any exhibits or material tendered as evidence at the hearing will normally be placed on the file and kept by VCAT. If you want an exhibit to be returned, or in the case of bulky exhibits such as models, you must clearly mark the exhibit with the VCAT reference number and the name, address and phone number of the party tendering the exhibit. All exhibits remain the property of VCAT for 30 days after the date of determination. You may then collect the exhibit from VCAT. VCAT will allow a further 30 days for the collection of exhibits after the determination before they are disposed of.

### **Decisions/orders**

The approximate waiting time for a written decision is 4-6 weeks.

## **General instructions**

### **Room number**

Please check the ground floor list or VCAT website for your room number. Proceed directly to that room and sign the appearance sheet. Do not wait for your name to be called.

### **Adjournments**

All adjournment requests must be made immediately you become aware of the basis for a request. To request an adjournment, you should follow the procedures on VCAT's website – see *Planning and Environment List Adjournment Applications* and *Practice Note PNVCAT1 – Common Procedures*. Adjournment requests will not always necessarily be granted.

### **Withdrawals**

If you wish to withdraw an application, follow the procedures on VCAT's website – see *Planning and Environment List Withdrawal of Applications* and *Practice Note PNVCAT1 – Common Procedures*. A withdrawal brings a proceeding before VCAT to an end and restores the status quo that existed immediately before the application was lodged.



**Consent orders**

If parties reach agreement before the hearing or mediation, they may obtain an order from VCAT without the need for a hearing. Follow the instructions on VCAT's website – see *Consent orders: Checklist for a consent order* and *Practice Note PNVCAT1 – Common Procedures*

**Enquiries and information**

If you have any further enquiries, please contact VCAT on the numbers below. Please quote VCAT's reference number. Guidelines and information about VCAT's procedures are on VCAT's website at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) or can be obtained from VCAT on request.

