

# Minutes

**Planning Delegated Committee Meeting  
Wednesday 12 July 2023 at 7pm  
Held online and livestreamed at [mrsc.vic.gov.au](https://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 Annette Death (Mayor), Cr Jennifer Anderson (Deputy Mayor), Cr Dominic Bonanno, Cr Rob Guthrie, Cr Anne Moore, Cr Geoff Neil, Cr Janet Pearce, Cr Mark Ridgeway, Cr Bill West

**IN ATTENDANCE**

Bernie O'Sullivan (Chief Executive Officer), Rob Ball (Acting Director Planning and Environment), Patricia Clive (Coordinator Governance), Lucy Olson (Senior Governance Officer), Haneef Mohammed (Service Desk Officer), Andy Bhatia (Service Desk Officer)

**4 APOLOGIES**

Nil

**5 CONFLICTS OF INTEREST**

Cr Ridgeway declared a general interest in relation to item 8.1 due to a being an acquaintance of parties involved.

**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 Anne Moore

**That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 14 June 2023, as circulated.**

**CARRIED**

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## **8 HEARING OF SUBMITTERS**

**Procedural note:** Having previously declared a conflict of interest in relation to this item, Cr Mark Ridgeway left the meeting at 7:04pm.

Eleven (11) speakers addressed the Committee on DP/2022/3 - 88A and 90 Wedge Street Kyneton Development Plan.

- Rachel Herbert - Zoom
- Geoff and Meg Beynon - Zoom
- Marcus Mead - Zoom
- Ben Taylor - Zoom
- Peter Donegan - Zoom
- Gwen Egan - Zoom
- Joe Rutecki - Phone
- Carole Meade - Zoom
- Michael Long - Zoom
- Kenneth Gray - Zoom
- Sam Hockly (On behalf of applicant) – Zoom

**Procedural note:** At 8:02 pm, Cr Mark Ridgeway returned to the meeting.

One speaker addressed the Committee on PLN/2022/353 - use and development of the land for a second dwelling for lot 1 on PS837821Q, 90 Weatherly Road, Bolinda.

- Robert Ford (On behalf of applicant) - Zoom

Three speakers addressed the Committee on Amendment C153MACR and PLN/2022/359 - Willowbank Road Local Activity Centre.

- Errin Hewlett Strahan - Phone
- Carmel Gara - Zoom
- Matthew Law (On behalf of the applicant) - Zoom

**8.1 HEARING OF SUBMITTERS IN RELATION TO DP/2022/3 - 88A AND 90 WEDGE STREET KYNETON DEVELOPMENT PLAN**

**Procedural note:** Having previously declared a conflict of interest in relation to this item, Cr Mark Ridgeway left the meeting at 8:35pm.

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**Recommendation**

**That the Committee:**

- 1. Notes the submissions received in relation to DP/2022/3; and**
  - 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Planning Delegated Committee Meeting on 9 August 2023.**
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Cr Janet Pearce moved an amended officer recommendation.

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**Committee Resolution**

Moved: Cr Janet Pearce  
Seconded: Cr Jennifer Anderson

**That the Committee:**

- 1. Notes the submissions received in relation to DP/2022/3; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Planning Delegated Committee Meeting on 13 September 2023.**

**CARRIED**

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**Procedural note:** At 8:36pm, Cr Mark Ridgeway returned to the meeting.

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**8.2 HEARING OF SUBMITTERS IN RESPECT OF APPLICATION FOR A PLANNING PERMIT PLN/2022/353 - USE AND DEVELOPMENT OF THE LAND FOR A SECOND DWELLING FOR LOT 1 ON PS837821Q, 90 WEATHERLY ROAD, BOLINDA****Committee Resolution**

Moved: Cr Geoff Neil  
Seconded: Cr Mark Ridgeway

**That the Committee:**

- 1. Notes the submissions received in relation to PLN/2022/353 - Use and Development of the land for a Second Dwelling; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Planning Delegated Committee Meeting on 9 August 2023.**

**CARRIED**

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**8.3 HEARING OF SUBMITTERS IN RESPECT OF AMENDMENT C153MACR AND PLN/2022/359 - WILLOWBANK ROAD LOCAL ACTIVITY CENTRE****Recommendation****That the Committee:**

- 1. Notes the submissions received in relation to Amendment C153macr; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Planning Delegated Committee Meeting on 11 September 2023.**

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Cr Rob Guthrie moved an amended officer recommendation.

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**Committee Resolution**

Moved: Cr Rob Guthrie  
Seconded: Cr Dominic Bonanno

**That the Committee:**

- 1. Notes the submissions received in relation to Amendment C153macr and PLN/2022/359; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the Planning Delegated Committee Meeting on 13 September 2023.**

**CARRIED**

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## 9 REPORTS

### 9.1 PLN/2022/384 - 3 SOMERVILLE LANE, RIDDELLS CREEK

The application seeks approval for the development of ten (10) dwellings. It is currently being appealed at VCAT under Section 77 Of The Planning and Environment Act 1987 – Refusal To Grant A Permit Key issues to be considered relate to the suitability of the site for increased density and infill development, and the design and layout of the proposed dwellings to demonstrate that amenity impacts on adjoining dwellings have been appropriately managed.

The application was advertised and eight (8) submissions were received

The application has been assessed against the relevant provisions of the Macedon Ranges Planning Scheme and it is found to be consistent with the objectives and provisions of the Planning Scheme. Accordingly, it is recommended that Committee determine that had it decided the application, it would have issued a Notice of Decision to Grant a Permit subject to conditions.

#### Recommendation

**That the Committee determine that had it decided on the application it would have supported the issuing of the Notice of Decision to Grant a Permit PLN/2022/384 for the Development of the Land for Ten (10) Dwellings at 3 Somerville Lane, Riddells Creek subject to the conditions outlined in Attachment 1.**

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Cr Rob Guthrie moved an alternative motion.

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#### Committee Resolution

Moved: Cr Rob Guthrie  
Seconded: Cr Anne Moore

**That Committee determine that had it decided on the application it would have supported the issuing of the Notice of Decision to Refuse to Grant a Permit PLN/2022/384 for the Development of the Land for Ten (10) Dwellings at 3 Somerville Lane, Riddells Creek, on the following grounds:**

- 1. The proposal will be inconsistent with the Statement of Planning Policy (SOPP) objectives in not providing an adequate response to townships' character or adequate housing diversity.**
  - 2. The proposal will be contrary to Clause 15.01-1S and Clause 15.01-5S of the Planning Policy Framework of the Macedon Ranges Planning Scheme as it will detract from the existing and preferred character of the area.**
  - 3. The proposal will be contrary to Clause 21.13-5 (Riddells Creek) particularly with Objective 5 which seeks to increase the range of housing options available to cater for the longer term needs of the Riddells Creek community. It will result in 10 three bedroom dwellings next to 5 three bedroom dwellings approved on the adjoining land at 1 Somerville Lane, Riddells Creek.**
  - 4. The proposal will be contrary to Clause 21.08-3 of the Local Planning Policy Framework of the Macedon Ranges Planning Scheme as the proposed development will present an inappropriate built form density and limited**
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landscaping opportunities that will detrimentally impact the existing surrounding neighbourhood character.

5. The proposal will be contrary to Clause 32.09 Neighbourhood Residential Zone (Schedule 8) of the Macedon Ranges Planning Scheme in not respecting the identified neighbourhood character and landscape characteristics.
6. The proposal will be unable to to achieve the maximum site coverage of 40% in accordance with Schedule 8 of the Neighbourhood Residential Zone thereby resulting in overdevelopment.
7. Lighting from the development will cause adverse amenity impacts on the amenity of the adjoining properties and the animals.
8. The proposal will be contrary to Standard B1 of Clause 55.02 (Neighbourhood Character and Instructure) and Standard B34 of Clause 55.06-4 (Site Services Objectives) of the Macedon Ranges Planning Scheme in not responding to the neighbourhood character and not providing appropriate locations for bin collection.
9. No area has been shown towards the front of the property in relation to bin collection which will result in a poor outcome in terms of amenity and character.

**CARRIED**

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## **9.2 PLN/2013/144/A - 26 MARSHALL AVENUE, MACEDON**

The amendment to Planning Permit PLN/2013/144 seeks approval to broaden the functions of the land in conjunction with the currently operating Medical Centre (Wellness Centre) to include the Use of the subject land as a Place of Assembly (Function Centre) to accommodate two (2) large functions per year (comprising a maximum of 100 people) and ten (10) moderate sized functions a year comprising fifty (50) people.

The application was advertised. Nineteen (19) objections were received as a result of the advertising.

Key issues to be considered relate to the suitability of a Function Centre in an established rural area on the outskirts of the Macedon Township, in close proximity to established residential properties and amenity impacts.

The application has been assessed against the relevant provisions of the Macedon Ranges Planning Scheme and is found to not constitute an acceptable response to the objectives and provisions of the Planning Scheme. It is recommended that Council resolve to issue a Notice of Decision to Refuse to Grant to Amend a Permit.

### **Recommendation**

**That the Committee issues a Notice of Decision to Refuse to Grant to Amend a Permit for Planning Permit Application PLN/2013/144/A at LOT 2 LP 133259 P/Gisborne, 26 Marshall Avenue MACEDON on the following grounds:**

1. The proposal does not comply with the objectives of Clause 11.03 (Planning for Places) of the Planning Scheme by failing to concentrate commercial entities in designated activity centres, and failing to avoid the use of the land that could undermine distinctive areas and landscapes.
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2. The proposal does not comply with the objectives of Clause 13.07-1S (Land Use Compatibility) by seeking to locate a function centre use in an area that will result in detrimental off-site impacts to sensitive residential uses including noise.
3. The proposal does not comply with the objectives of Clause 17.02-1S (Business) by failing to locate a function centre in activity centres.
4. The proposal does not comply with the objectives of Clause 21.13-6 (Macedon) which seeks to ensure that the rural and landscape character of the township is preserved.
5. The proposal is inconsistent with the purpose and provisions of the Rural Living Zone and fails to appropriately manage the impact of the use on the residential properties within the Rural Living Zone and the Low Density Residential Zone.
6. The proposal does not comply with the decision guidelines of Clause 65.01 of the Planning Scheme with regard to the purpose of the zone, orderly planning of the area and the effect on the amenity of the area.

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Cr Dominic Bonanno moved an alternative motion.

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**Procedural note:** At 9:18pm, Cr Bill West left the meeting, he returned to the meeting at 9:25pm.

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### **Committee Resolution**

Moved: Cr Dominic Bonanno

Seconded: Cr Geoff Neil

**That Council resolve to issue a Notice of Decision to Grant to Amend a Permit for the Change of Use from Dwelling to Wellness Centre/Medical Practice (Amendment sought to add Use for a Place of Assembly (function centre) at 26 Marshall Avenue MACEDON subject to the conditions below (as circulated)**

**CARRIED**

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### **9.3 PLN/2022/388 - MOUNT MACEDON WAR MEMORIAL CROSS RESERVE, 409 CAMERON DRIVE, MOUNT MACEDON 3441**

The application is to remove vegetation within the Environmental Significance Overlay, Schedule 5 (ESO5).

The application is being made by Parks Victoria to reinstate the Mount Macedon Memorial Cross viewscape which has been lost due to significant vegetation regrowth and lack of maintenance.

Parks Victoria has decided to pursue 'Option 1', shown on the plans submitted with the application, to remove native vegetation from an area measuring 0.79 hectares, being smallest area of the three (3) options considered thus achieving a balance between competing heritage and environmental objectives.

The key issue to consider is whether the proposal is consistent with the environmental objectives of the Environmental Significance Overlay, Schedule 5 (Other Water Supply Catchments). The Environmental Significance Overlay, Schedule 5 is the only statutory

control in the Macedon Ranges Planning Scheme that triggers a planning permit requirement.

### Recommendation

**That the Committee determines to approve the Planning Permit Application PLN/2022/388 and to issue a Notice of Decision to Grant a Permit for the removal of vegetation within the Environmental Significance Overlay (ESO5) on the land at Crown Allotments 33 & 33A, Section 2 P/Macedon, Mount Macedon War Memorial Cross Reserve, 409 Cameron Drive MOUNT MACEDON VIC 3441, subject to the conditions outlined in Attachment 1.**

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Cr Jennifer Anderson moved an alternative motion.

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### Procedural Motion

Moved: Cr Rob Guthrie  
Seconded: Cr Mark Ridgeway

That the speaking time for mover (Cr Anderson) is extended for three minutes.

**CARRIED**

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### Procedural Motion

Moved: Cr Jennifer Anderson  
Seconded: Cr Rob Guthrie

That the speaking time for Cr Moore is extended.

**CARRIED**

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### Committee Resolution

Moved: Cr Jennifer Anderson  
Seconded: Cr Rob Guthrie

**That the Committee determine to issue a Notice of Decision to Refuse to Grant a Permit for the removal of vegetation on the land at Crown Allotments 33 & 33A, Section 2 P/Macedon, Mount Macedon War Memorial Cross Reserve, 409 Cameron Drive MOUNT MACEDON VIC 3441 on the following grounds.**

1. **The extent of vegetation removal proposed is not supported by the Municipal Planning Strategy or the Planning Policy Framework. It does not reflect integrated, sustainable, or orderly planning for the purposes of clause 71.02-3 of the Macedon Ranges Planning Scheme, and is contrary to:**
    - **Clause 12.01-1S (Protection of biodiversity), Clause 12.01-2S (Native vegetation management) and Clause 21.05-1 (Biodiversity and native vegetation management) of the Macedon Ranges Planning Scheme as it will not result in the protection and enhancement of native vegetation and will not result in no net loss to biodiversity.**
    - **Clause 12.05 (Significant Environments and Landscapes) and 21.05-2 (Significant environments and landscapes) of the Macedon Ranges Planning**
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Scheme as it will result in the clearing of significant amount of native vegetation in an environmentally sensitive landscape area.

- Clause 21.07-3 (Water) of the Macedon Ranges Planning Scheme as insufficient information has been provided to demonstrate how the application will retain and improve water quality and yield in the Special Water Supply Catchments.
2. The proposal responds poorly to the decision guidelines at Clause 65.01 (approval of an application or plan) of the Macedon Ranges Planning Scheme.
  3. The proposal is contrary to the Clause 42.01 Environmental Significance Overlay (Schedule 5) of the Macedon Ranges Planning scheme.
  4. No adequate justification has been provided for the extent of native vegetation removal proposed. The benefit of restoring a view does not outweigh the negative impacts on biodiversity and water catchment quality. The proposal is not supported by an adequate view shed analysis.
  5. The proposal fails to demonstrate conservation and enhancement of the character of significant landscapes under clause 42.03 (Significant Landscapes Overlay)
  6. The proposal is contrary to the landscape character objectives, decision guidelines and application requirements under the Clause 42.03 (Significant Landscape Overlay) Schedule
  7. The proposal does not satisfy the application requirements at clause 52.17 (Native Vegetation) which requires the vegetation removal to be to the minimum extent necessary to manage Crown land and in accordance with guidelines for Removal, Destruction and Lopping of Native Vegetation (DELWP 2017) and Procedure for the removal, destruction or lopping of native vegetation on Crown Land (DELWP May 2018), which must be applied to meet the exemption requirement to obtain a permit under this clause. The proposal will result in an unreasonable impact on biodiversity and environmental values of the area without demonstrating the avoid and minimise approach for the removal of native vegetation.
  8. The proposal is inconsistent with the Macedon Ranges Statement of Planning Policy as required under Clause 51.07 of the Macedon Ranges Planning scheme and section 46AZK of the Planning and Environment Act 1987. The extent of vegetation removal proposed does not give highest priority to the significant landscapes that define the declared area as represented in the landscape domain, the biodiversity and environment domain and the water catchments and supply domain.

In Favour: Crs Annette Death, Jennifer Anderson, Rob Guthrie, Anne Moore, Janet Pearce and Bill West

Against: Crs Dominic Bonanno, Geoff Neil and Mark Ridgeway

**CARRIED 6/3**

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The Meeting closed at 10.06pm.