



Mildura Rural City Council

# AGENDA

## Planning Delegated Committee Meeting

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**5:30pm Thursday 18 January 2024**

**VENUE:**

**Committee & Council Room  
76 Deakin Ave, Mildura**

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can be obtained online at [www.mildura.vic.gov.au](http://www.mildura.vic.gov.au)

# Prayer

Almighty God,

We who are gathered together in Council,  
pledge ourselves to work in harmony for  
the welfare and development of our Rural City.

Guide us, we pray, in our deliberations,  
help us to be fair in our judgement and  
wise in our actions,  
so that prosperity and happiness  
shall be the lot of our people.

Amen.

# Acknowledgement of Country

“Mildura Rural City Council would like to acknowledge the Traditional Owners and Custodians of the land, which now comprises the Mildura Rural City municipality. We pay our respects to Elders past and present and celebrate and respect their continuing cultures and acknowledge the memories of their ancestors”.

# Note to Councillors

## Declaration of Interest

Councillors should note that in accordance with section 130 of the *Local Government Act 2020*, there is an obligation to declare a conflict of interest in a matter before Council.

A conflict of interest can be *general* or *material* in nature.

A Councillor has a *general conflict of interest* if an impartial, fair-minded person would consider that the Councillor's private interests could result in that Councillor acting in a manner that is contrary to their public duty.

- Private interests means any direct or indirect interest of a Councillor that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
- Public duty means the responsibilities and obligations that a Councillor has to members of the public in their role as an elected representative.

A Councillor has a *material conflict of interest* if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

The benefit may arise or the loss incurred –

- (a) directly or indirectly; or
- (b) in a pecuniary or non-pecuniary form.

An *Affected Person* includes:

- (a) the relevant person;
- (b) a family member of the relevant person;
- (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
- (d) an employer of the relevant person, unless the employer is a public body;
- (e) a business partner of the relevant person;
- (f) a person for whom the relevant person is a consultant, contractor or agent;
- (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
- (h) a person from whom the relevant person has received a disclosable gift.

## Disclosure of Conflict of Interest

A Councillor must make full disclosure of a conflict of interest by advising the type and nature of the interest immediately before the matter is considered at the meeting. Following the disclosure and prior to the matter being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that he or she is doing so.

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**MARTIN HAWSON**

**CHIEF EXECUTIVE OFFICER**

**1 PRAYER AND ACKNOWLEDGEMENT OF COUNTRY**

**2 OPENING AND WELCOME**

**3 PRESENT**

**4 APOLOGIES AND ABSENCES**

## 5 PLANNING REPORTS

### 5.1 MARINA HOTEL DEVELOPMENT

**File Number:** 005.2021.00000332.001  
**Officer:** General Manager Strategy & Growth

#### 1. Summary

- Planning permit 005.2021.00000332.001 was approved at Council's Planning Delegated Committee on 11 May 2023.
- The applicant has appealed 4 conditions contained in the permit at VCAT.
- Following a Tribunal Compulsory Conference, the applicant has requested Council agree to a consent order amending three (3) conditions and adding a new condition.

#### 2. Recommendation

**That Council approve entering into a consent order to amend conditions six (6), fourteen (14) and twenty-eight (28) and add condition twenty-six (26).**

#### 3. Discussion

Please see table below listing those conditions requested to be changed.

Condition 6
<p><b><u>Current:</u></b></p> <p>Concurrent with the endorsement of plans, a Facade Strategy must be submitted to and approved by the Responsible Authority. The Facade Strategy must include:</p> <ul style="list-style-type: none"> <li>a) A detailed description and assessment by a qualified architect or urban designer of the building design concept for the Hotel / Conference Centre and the dwellings.</li> <li>b) A detailed assessment of how the façade of the Hotel and Conference Centre will be viewed from George Chaffey Bridge, and whether façade is appropriate response to the sites gateway location.</li> <li>c) A schedule of colours, materials and finishes, including the colour, type and quality of materials identifying their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints with clear coding linking back to the schedule and elevations.</li> <li>d) Information about how the facade will be accessed for maintenance and cleaning, including planting upkeep where proposed.</li> <li>e) Examples of precedents that demonstrate the-intended design outcome and how a high quality built outcome will be achieved in accordance with the design concept</li> </ul>

**Proposed**

Concurrent with the endorsement of plans, an updated Façade Strategy must be submitted to and approved by the Responsible Authority. The Façade Strategy must be submitted to and approved by the Responsible Authority. The Façade Strategy must be general in accordance with the Façade Strategy prepared by GSD Architects, dated 22 November Ref 21-047 Sheet 1 – 4 and include:

- a) How the plant equipment on the roof of the building will be screened from view to the satisfaction of the Responsible Authority.

**Comment**

Proposed changes would recognise the proposed development as being acceptable with the only the view lines to the roof from the elevated position of the George Chaffey bridge to be addressed.

**Condition 14**

**Current**

At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the site with readings taken at times and locations specified by the Responsible Authority. The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with an acoustic engineer, or activities and noise sources on the premises regulated at the direction of and to the satisfaction of the Responsible Authority. The frequency of this request will be at the discretion of the Responsible Authority.

**Proposed**

At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the site with readings taken at time and locations specified by the Responsible Authority. The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with the acoustic engineer, or activities and noise sources in the premises regulated at the direction of and to the satisfaction of the Responsible Authority. The frequency of this request will be at the discretion of the Responsible Authority but cannot exceed more than twice in any calendar year.

**Comment**

The applicant has requested the condition is amended to limit the number of times that Council may request the owner and/or occupier supply an acoustic report to a maximum of twice a year.

**Condition 26**

**Current**

No live entertainment, live music or amplified music (other than background music) is permitted.

<p><b><u>Proposed</u></b></p> <p>Any live entertainment, live music or amplified music (other than background music and acoustic performances) must comply with requirements of Clause 53.06-3 'Live Music Entertainment Venue' of the Mildura Planning Scheme.</p> <p>No live entertainment, live music or amplified music is permitted outside of the building.</p> <p><b><u>Comment</u></b></p> <p>Proposed changes will allow for live music in a controlled manner.</p>
<p><b>Condition28</b></p>
<p><b><u>Current</u></b></p> <p>No gambling or gambling activities are to take place or be permitted on the premises.</p> <p><b><u>Proposed</u></b></p> <p>No gambling, gambling machines or gambling activities (other than TAB, Keno or similar) are to take place or be permitted on the premises.</p> <p><b><u>Comment</u></b></p> <p>Current condition allows for no gambling at the facility at all, proposal will allow for traditional "betting" on external activities to occur.</p>

**4. Time Frame**

Outline key dates

Request Received	Post 14 December 2023 compulsory conference
Application Referred	n/a
Application Notified	n/a
Objector Consultation Meeting	n/a
Amended Plans Received	n/a
Amended Plans Notified	n/a

The hearing for the application is to be held on the 23 February 2024, a decision must be made prior to this date.



**5. Strategic Plan Links**

This report relates to the Council Plan 2021-2025 in the Strategic Direction:

Place

Outcome to be achieved:

- A well-developed long-term land use vision.

**6. Asset Management Policy/Plan Alignment**

This is not relevant to the subject application.

**7. Implications - Assessment of the Application****Policy**

The State Planning Policy Framework (SPPF), Local Planning Policy Framework (LPPF) and the Planning Scheme Provisions were discussed in the original attached delegation report with the current request still being compliant with these policies.

**Legal/Statutory**

Council approved planning permit 005.20221.00000332.001 of which is subject to a conditions appeal at VCAT. This report is seeking Council's approval to enter into a Consent Order. Council's decision is subject to review by the Victorian Civil and Administrative Tribunal (VCAT).

**Financial**

This request is not subject to any fees being paid. Generally in the event of an application for review by VCAT, each party will be required to bear their own costs.

**Environmental**

Detailed in the original attached assessment of the application, this request does not change the overall assessment.

**Social**

Detailed in the original attached assessment of the application, this request does not change the overall assessment.

**Economic**

Detailed in the original attached assessment of the application, this request does not change the overall assessment.

**8. Risk Assessment**

The Consent Order will be reviewed by VCAT. The Tribunal may decide not to allow the consent order and go to a full hearing. Possible outcomes may include refusal to amend conditions, approve the applicants' application or to cancel the permit.

**9. Conflicts of Interest**

No conflicts of interest were declared during the preparation of this report.

**Attachments**

There are no attachments for this report.

**6 URGENT BUSINESS**

**7 CLOSURE**