

# Minutes

**Planning Delegated Committee Meeting  
Wednesday 9 August 2023 at 7pm  
Held online and livestreamed at [mrsc.vic.gov.au](https://mrsc.vic.gov.au)**



**Order of business**

<b>1</b>	<b>Acknowledgement of Country</b> .....	<b>3</b>
<b>2</b>	<b>Recording and Livestreaming of this Committee Meeting</b> .....	<b>3</b>
<b>3</b>	<b>Present</b> .....	<b>3</b>
<b>4</b>	<b>Apologies</b> .....	<b>3</b>
<b>5</b>	<b>Conflicts of Interest</b> .....	<b>3</b>
<b>6</b>	<b>Purpose of Planning Delegated Committee</b> .....	<b>3</b>
<b>7</b>	<b>Adoption Of Minutes</b> .....	<b>3</b>
<b>8</b>	<b>Hearing of submitters</b> .....	<b>4</b>
8.1	HEARING OF SUBMITTERS IN RESPECT OF APPLICATION FOR A PLANNING PERMIT PLN/2004/429/A - USE OF THE LAND FOR THE PURPOSE OF FARM PRODUCE MARKET (AMENDMENT SOUGHT TO EXPAND THE AREA OF OPERATION, THE PERMIT PREAMBLE AND HOURS OF OPERATION) - SERVICE ROAD BETWEEN AITKEN AND HAMILTON STREETS .....	4
8.2	HEARING OF SUBMITTERS IN RESPECT OF APPLICATION FOR A PLANNING PERMIT PLN/2022/417 - PARTIAL DEMOLITION, USE AND DEVELOPMENT OF THE LAND FOR A CHILD CARE CENTRE AND REDUCTION OF NINE (9) CAR PARKING SPACES FOR CA 2, SECTION 17, PARISH OF GISBORNE, 41 HAMILTON STREET GISBORNE.....	5
<b>9</b>	<b>Reports</b> .....	<b>5</b>
9.1	PLN/2021/616 - 89 Ross Watt Road, Gisborne - Planning Permit application .....	5
9.2	PLN/2022/353 - 90 Weatherly Road, Bolinda .....	6

**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), Rebecca Stockfeld (Director Planning and Environment), Patricia Clive (Coordinator Governance), Cherry Stojanovic (Senior Governance Officer), Mwai Mashunga (Systems Administrator)

**4 APOLOGIES**

Nil

**5 CONFLICTS OF INTEREST**

Cr Guthrie declared a material conflict of interest in relation to item 9.1 due to living opposite the property.

**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 Jennifer Anderson  
Seconded: Cr Dominic Bonanno

That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 12 July 2023, as circulated.

CARRIED

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## 8 HEARING OF SUBMITTERS

Two (2) speakers addressed the Committee on PLN/2004/429/A - service road between Aitken and Hamilton Streets.

- Alison Joseph - Phone
- Rick Arden (Applicant) - Zoom

Two (2) speakers addressed the Committee on A PLN/2022/417 - 41 Hamilton Street Gisborne.

- Maree Ivey - Phone
- Robert Williams (Applicant) – Zoom

### 8.1 HEARING OF SUBMITTERS IN RESPECT OF APPLICATION FOR A PLANNING PERMIT PLN/2004/429/A - USE OF THE LAND FOR THE PURPOSE OF FARM PRODUCE MARKET (AMENDMENT SOUGHT TO EXPAND THE AREA OF OPERATION, THE PERMIT PREAMBLE AND HOURS OF OPERATION) - SERVICE ROAD BETWEEN AITKEN AND HAMILTON STREETS

#### Committee Resolution

Moved: Cr Dominic Bonanno

Seconded: Cr Mark Ridgeway

#### That the Committee:

1. Notes the submissions received in relation to PLN/2004/429/A; and
2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 13 September 2023.

CARRIED

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**8.2 HEARING OF SUBMITTERS IN RESPECT OF APPLICATION FOR A PLANNING PERMIT PLN/2022/417 - PARTIAL DEMOLITION, USE AND DEVELOPMENT OF THE LAND FOR A CHILD CARE CENTRE AND REDUCTION OF NINE (9) CAR PARKING SPACES FOR CA 2, SECTION 17, PARISH OF GISBORNE, 41 HAMILTON STREET GISBORNE**

**Committee Resolution**

Moved: Cr Dominic Bonanno

Seconded: Cr Anne Moore

**That the Committee:**

- 1. Notes the submissions received in relation to PLN/2022/417; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 13 September 2023.**

**CARRIED**

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**9 REPORTS**

**9.1 PLN/2021/616 - 89 ROSS WATT ROAD, GISBORNE - PLANNING PERMIT APPLICATION**

**Summary**

Development Plan DP/2020/1 – 89 Ross Watt Road, Gisborne has been approved and endorsed at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 18 July 2023. The planning permit PLN/2021/1 which applies to the first three stages of the development plan has yet to be determined and currently sits with VCAT for a decision.

A resolution is sought to allow officers and Council representatives to be delegated to negotiate and try to settle the planning permit if it is generally in accordance with the approved development plan DP/2021/1. Council officers would maintain its objection to the proposal if it was found any revised planning permit application was not generally in accordance with the approved development plan.

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**Procedural note:** Having previously declared a conflict of interest in relation to this item, Cr Guthrie left the meeting at 7:37pm.

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**Committee Resolution**

Moved: Cr Anne Moore

Seconded: Cr Mark Ridgeway

**That the Committee grants officers and Council representatives delegation to negotiate for the grant of planning permit PLN/2021/616 at the Victorian Civil and Administrative Tribunal if PLN/2021/616 is found to be generally in accordance with the endorsed development plan DP/2021/1.**

**CARRIED**

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**Procedural note:** At 7:38 pm, Cr Rob Guthrie returned to the meeting.

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## **9.2 PLN/2022/353 - 90 WEATHERLY ROAD, BOLINDA**

### **Summary**

Planning Application PLN/2022/353 seeks approval for the construction of a second dwelling on the land. In this instance the primary function of the additional dwelling is to provide accommodation for business associates of the agricultural operation (such as overseas owners of the horses).

The application was advertised and no objections were received in response to the proposal. Four (4) letters of support were received from neighbouring properties.

Key issues to be considered by Council relate to the need for an additional dwelling in the day-to-day operation of the existing agricultural operation and the detrimental impact of the proposed dwelling on current and future agricultural opportunities.

The application has been assessed against the Macedon Ranges Planning Scheme and does not demonstrate an acceptable response to the relevant objectives and provisions of the Scheme.

The proposed use and development of the land for a second dwelling is contrary to the purpose of the Farming Zone, and does not adequately demonstrate an enhancement of the existing agricultural operation.

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It is recommended that Council resolve to issue a Notice of Decision to Refuse to Grant a Permit for the reasons outlined in this report.

### **Recommendation**

**That the Committee issues a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application PLN/2022/353 – Use and Development of the Land for a Second Dwelling at Lot 1 on PS 837821Q, 90 Weatherly Road BOLINDA on the following grounds:**

- 1. The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework, as it does not protect agricultural land due to inappropriate fragmentation which will compromise the long-term capacity of the land to be used for agriculture.**
  - 2. The proposal is contrary to Clause 21.07 (Agriculture) of the Local Planning Policy Framework as it fails to demonstrate and provide adequate justification that the dwelling is required for sustainable agricultural pursuits, avoids fragmentation of productive agricultural land and minimises potential land use conflicts.**
  - 3. The proposal is contrary to Clause 21.09-2 (Rural Residential) of the Local Planning Policy Framework as it will result in rural residential development which would adversely impact current and future agricultural and economic activities.**
  - 4. The proposal is contrary to the purposes and decision guidelines of the Farming Zone as the dwelling will exacerbate the fragmentation of existing farming land and holdings; remove land from agricultural use; and facilitate an**
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opportunity of a non-agricultural use (dwelling), that would be incompatible with and adversely affect the adjoining and nearby land uses for agriculture.

5. The proposal is contrary to Clause 51.07 (Macedon Ranges Statement of Planning Policy) as it will be unable to support and encourage agricultural land use.

The business plan submitted with the application is not sufficient to justify the need for a second dwelling on site. It fails to provide an adequate justification to warrant a permanent second dwelling on the site for management.

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**Procedural note:** Cr Geoff Neil moved an alternative motion.

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### **Committee Recommendation**

Moved: Cr Geoff Neil  
Seconded: Cr Bill West

**That the Committee resolve to issue a Planning Permit for the Use and Development of the Land for a Second Dwelling and Development of an Outbuilding at Lot 1 on PS 837821Q, 90 Weatherly Road BOLINDA subject to the conditions below:**

1. Before the commencement of the development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - (a) The area set aside for the domestic envelope;
  - (b) Provision of wastewater infrastructure in the domestic envelope with appropriate fencing;
  - (c) Farm Management Plan in accordance with Condition 2 of this permit.
2. Before the commencement of the development, a farm management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show but not limited to:
  - (a) A detailed business and farm management plan;
  - (b) Land capability for the agricultural practices;
  - (c) Number of animals currently on site and details of future capacity to be carried out;
  - (d) Land management practices for the protection and enhancement of the environmental values of the land;
  - (e) A site plan showing:
    - (i) All the existing and proposed buildings;
    - (ii) Agricultural areas including paddocks and internal fencing;
    - (iii) Dams;
    - (iv) The allotment divided into zones (i.e agricultural zone and residential/domestic zone);

- (f) The number of current clients as well as future clients;
- (g) The number of employees currently in the business, as well as expected employment numbers for future;
- (h) Details of the current and projected capital expenditures and gains for the agricultural operation;

All to the satisfaction of the Responsible Authority.

3. The use and development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
4. Before the development commences, the owner of the lot must enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987. The agreement must provide for:
  - (a) The owner of the land must implement all the recommendations and requirements of the Farm Management and Business Plan endorsed under Planning Permit PLN/2022/353 on an ongoing basis to the satisfaction of the Responsible Authority.
  - (b) The dwelling hereby approved must only be used in conjunction with the approved farm management plan and ongoing agricultural activity on the land.
  - (c) No further subdivision of the land.
  - (d) The dwelling hereby approved under the Planning Permit PLN/2022/353 must only be used for the owners of the horses and the business partners in association with the agricultural enterprise.
  - (e) The Owner acknowledges and accepts that the possibility of nuisance from adjoining or nearby agricultural operations may occur. The possible off-site impacts include but are not limited to (dust, noise, odour, waste, vibration, soot, smoke or the presence of vermin), from animal husbandry, animal waste, spraying, agricultural machinery use, pumps, trucks and associated hours of operation. In acknowledging the existence of the agricultural operations being conducted from adjoining or nearby land, the owner shall not make complaint against lawful agricultural activities on the adjoining or nearby land.

An application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act prior to the commencement of the development.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.

5. Prior to occupation of the dwelling, the following must be provided to the satisfaction of the responsible authority:
    - (a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
    - (b) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.
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(c) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

6. At all times, all external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the satisfaction of the Responsible Authority.
7. The amenity of the locality must not be adversely affected by the activity on the site, the appearance of any buildings, works or materials, emissions from the premises or in any other way, to the satisfaction of the Responsible Authority.
8. The outbuilding hereby approved must not be used for human habitation, to the satisfaction of the Responsible Authority.
9. The outbuilding hereby approved shall only be used for purposes incidental to the residential and agricultural use of the property and shall not be used for any commercial or industrial purposes, to the satisfaction of the Responsible Authority.
10. Prior to the occupation, the dwelling shall be fitted with a wastewater treatment and disposal system to a design approved by Council's Environmental Health Officer and such that all effluent is disposed of within the boundaries of the allotment.

A separate permit must be obtained from Council's Environmental Health Department prior to its installation.

11. Prior to the commencement of works, an "Asset Protection Permit" must be obtained from Council for any of the following circumstances:
    - (a) Entering a building site by means of a motor vehicle having a gross weight exceeding two tonnes;
    - (b) Occupying a road for works;
    - (c) Connecting any Council land to a stormwater drain;
    - (d) Opening, altering or repairing a Council road;
    - (e) Opening, altering or repairing a Council drain;
    - (f) Accessing a building site from a point other than a crossover;
    - (g) Construct/repair/widen/remove any crossover.
  12. Storm water runoff from the development must be dissipated as normal un-concentrated overland flow clear of property boundaries and buildings in adjacent properties.
  13. No polluted and/or sediment-laden run-off is to be discharged directly or indirectly into drains or watercourses. Soil erosion control measures must be employed throughout the works to the satisfaction of the Responsible Authority.
  14. Prior to the commencement of use, a new crossover must be constructed within Weatherly Road for the development to the satisfaction of the Responsible Authority.
  15. Prior to the commencement of use, the driveway to the dwelling must be constructed to meet the following requirements to the satisfaction of the Responsible Authority:
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- (a) The driveway, including any waterway crossing, must be constructed to a standard so that it is accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
  - (b) The driveway must have a minimum trafficable width of 3.5m, be clear of encroachments 4 metres vertically and have no obstructions within 0.5m on either side of the formed width of the driveway.
  - (c) Curves must have a minimum inner radius of 10 metres.
  - (d) The average grade must be no more than 1 in 7 with a maximum of no more than 1 in 5 for no more than 50 metres.
  - (e) Dips must have no more than a 1 in 8 entry and exit angle.

16. This permit will expire if one of the following circumstances applies:

- (a) The development is not commenced within two (2) years of the date of this permit.
- (b) The development is not completed within four (4) years of the date of this permit.
- (c) The use is not commenced within two (2) years of the completion of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

#### Permit notes

- Future owners of the land must be made aware of the existence of this permit.

Cr Anderson moved an amendment to motion For the addition of a new item 5 in the motion as outlined below and an increase in of all numbering by 1 digit from that point onwards.

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#### Amendment

Moved: Cr Jennifer Anderson

Seconded: Cr Anne Moore

5. Prior to the commencement of the development, Lot 1 and Lot 2 PS837821 must be consolidated, to the satisfaction of the Responsible Authority.

**CARRIED**

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#### Committee Resolution

Moved: Cr Geoff Neil

Seconded: Cr Bill West

**That the Committee resolve to issue a Planning Permit for the Use and Development of the Land for a Second Dwelling and Development of an Outbuilding at Lot 1 on PS 837821Q, 90 Weatherly Road BOLINDA subject to the conditions below:**

1. Before the commencement of the development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and
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will then form part of this permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- (a) The area set aside for the domestic envelope;
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- (c) Farm Management Plan in accordance with Condition 2 of this permit.

2. Before the commencement of the development, a farm management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show but not limited to:

- (a) A detailed business and farm management plan;
- (b) Land capability for the agricultural practices;
- (c) Number of animals currently on site and details of future capacity to be carried out;
- (d) Land management practices for the protection and enhancement of the environmental values of the land;
- (e) A site plan showing:
  - (i) All the existing and proposed buildings;
  - (ii) Agricultural areas including paddocks and internal fencing;
  - (iii) Dams;
  - (iv) The allotment divided into zones (i.e agricultural zone and residential/domestic zone);
- (f) The number of current clients as well as future clients;
- (g) The number of employees currently in the business, as well as expected employment numbers for future;
- (h) Details of the current and projected capital expenditures and gains for the agricultural operation;

All to the satisfaction of the Responsible Authority.

3. The use and development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.

4. Before the development commences, the owner of the lot must enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987. The agreement must provide for:

- (a) The owner of the land must implement all the recommendations and requirements of the Farm Management and Business Plan endorsed under Planning Permit PLN/2022/353 on an ongoing basis to the satisfaction of the Responsible Authority.
  - (b) The dwelling hereby approved must only be used in conjunction with the approved farm management plan and ongoing agricultural activity on the land.
  - (c) No further subdivision of the land.
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- (d) The dwelling hereby approved under the Planning Permit PLN/2022/353 must only be used for the owners of the horses and the business partners in association with the agricultural enterprise.
  - (e) The Owner acknowledges and accepts that the possibility of nuisance from adjoining or nearby agricultural operations may occur. The possible off-site impacts include but are not limited to (dust, noise, odour, waste, vibration, soot, smoke or the presence of vermin), from animal husbandry, animal waste, spraying, agricultural machinery use, pumps, trucks and associated hours of operation. In acknowledging the existence of the agricultural operations being conducted from adjoining or nearby land, the owner shall not make complaint against lawful agricultural activities on the adjoining or nearby land.

An application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act prior to the commencement of the development.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.

- 5. Prior to the commencement of the development, Lot 1 and Lot 2 PS837821 must be consolidated, to the satisfaction of the Responsible Authority.
  - 6. Prior to occupation of the dwelling, the following must be provided to the satisfaction of the responsible authority:
    - (a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
    - (b) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.
    - (c) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
  - 7. At all times, all external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the satisfaction of the Responsible Authority.
  - 8. The amenity of the locality must not be adversely affected by the activity on the site, the appearance of any buildings, works or materials, emissions from the premises or in any other way, to the satisfaction of the Responsible Authority.
  - 9. The outbuilding hereby approved must not be used for human habitation, to the satisfaction of the Responsible Authority.
  - 10. The outbuilding hereby approved shall only be used for purposes incidental to the residential and agricultural use of the property and shall not be used for any commercial or industrial purposes, to the satisfaction of the Responsible Authority.
  - 11. Prior to the occupation, the dwelling shall be fitted with a wastewater treatment and disposal system to a design approved by Council's Environmental Health
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Officer and such that all effluent is disposed of within the boundaries of the allotment.

A separate permit must be obtained from Council's Environmental Health Department prior to its installation.

12. Prior to the commencement of works, an "Asset Protection Permit" must be obtained from Council for any of the following circumstances:
    - (a) Entering a building site by means of a motor vehicle having a gross weight exceeding two tonnes;
    - (b) Occupying a road for works;
    - (c) Connecting any Council land to a stormwater drain;
    - (d) Opening, altering or repairing a Council road;
    - (e) Opening, altering or repairing a Council drain;
    - (f) Accessing a building site from a point other than a crossover;
    - (g) Construct/repair/widen/remove any crossover.
  13. Storm water runoff from the development must be dissipated as normal un-concentrated overland flow clear of property boundaries and buildings in adjacent properties.
  14. No polluted and/or sediment-laden run-off is to be discharged directly or indirectly into drains or watercourses. Soil erosion control measures must be employed throughout the works to the satisfaction of the Responsible Authority.
  15. Prior to the commencement of use, a new crossover must be constructed within Weatherly Road for the development to the satisfaction of the Responsible Authority.
  16. Prior to the commencement of use, the driveway to the dwelling must be constructed to meet the following requirements to the satisfaction of the Responsible Authority:
    - (a) The driveway, including any waterway crossing, must be constructed to a standard so that it is accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
    - (b) The driveway must have a minimum trafficable width of 3.5m, be clear of encroachments 4 metres vertically and have no obstructions within 0.5m on either side of the formed width of the driveway.
    - (c) Curves must have a minimum inner radius of 10 metres.
    - (d) The average grade must be no more than 1 in 7 with a maximum of no more than 1 in 5 for no more than 50 metres.
    - (e) Dips must have no more than a 1 in 8 entry and exit angle.
  17. This permit will expire if one of the following circumstances applies:
    - (a) The development is not commenced within two (2) years of the date of this permit.
    - (b) The development is not completed within four (4) years of the date of this permit.
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- (c) The use is not commenced within two (2) years of the completion of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

**Permit notes**

- Future owners of the land must be made aware of the existence of this permit.

**CARRIED**

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**Procedural note:** At 8:03 pm, Cr Anne Moore left the meeting. At 8.05pm Cr Anne Moore returned to the meeting.

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**The Meeting closed at 8.13pm.**