

# Minutes

**Planning Delegated Committee Meeting  
Thursday 9 November 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>4</b>
<b>8</b>	<b>Hearing of submitters</b> .....	<b>4</b>
8.1	HEARING OF SUBMITTERS - PLN/2022/314 - SUBDIVISION OF LAND INTO THREE (3) LOTS AND REMOVAL OF VEGETATION (TWO (2) NATIVE TREES) - 35 CHERRY LANE GISBORNE .....	4
<b>9</b>	<b>Reports</b> .....	<b>5</b>
9.1	PLN/2023/17 - 7 Regan Drive, Romsey.....	5
9.2	PLN/2023/4 - Lot 2 Weatherly Road, Bolinda VIC 3432 .....	8
9.3	LANCEFIELD DEVELOPMENT PLAN – AREA 1, PART 1 – 128 AND 132 HIGH STREET LANCEFIELD - DP/2020/2/A .....	13
9.4	DP/2009/12/C - 75 Willowbank Road, Gisborne - Development Plan amendment.....	13
9.5	DP/2022/3 - 88A and 90 Wedge Street Kyneton, Development Plan Application .....	14

**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, present and emerging.

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 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), Lucy Olson (Senior Governance Officer)

**4 APOLOGIES**

Cr Dominic Bonanno

**5 CONFLICTS OF INTEREST**

Cr Ridgeway declared a general interest in relation to item 9.5.

**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 Jennifer Anderson

**That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on Wednesday 11 October 2023, as circulated.**

**CARRIED**

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**8 HEARING OF SUBMITTERS**

Three (3) speakers addressed the Committee on PLN/2022/314 - subdivision of land into three (3) lots and removal of vegetation (two (2) native trees) - 35 Cherry Lane, Gisborne.

- Ray Thompson – Zoom
- Dean Markham – Zoom
- Robert Ford (on behalf of the applicant) – Zoom

**8.1 HEARING OF SUBMITTERS - PLN/2022/314 - SUBDIVISION OF LAND INTO THREE (3) LOTS AND REMOVAL OF VEGETATION (TWO (2) NATIVE TREES) - 35 CHERRY LANE GISBORNE****Committee Resolution**

Moved: Cr Rob Guthrie  
Seconded: Cr Mark Ridgeway

**That the Committee:**

- 1. Notes the submissions received in relation to Planning Permit PLN/2022/314, Subdivision of land into three (3) lots and removal of vegetation (Two (2) Native Trees).**
- 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 6 December 2023.**

**CARRIED**

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## 9 REPORTS

### 9.1 PLN/2023/17 - 7 REGAN DRIVE, ROMSEY

#### Summary

The proposal is for the use of the land for domestic animal Husbandry (5 dogs). The application was advertised and five (5) objections have been received in response to the proposal.

Key issues to be considered relate to appropriateness of the use within the General Residential Zone and the amenity impacts of the proposed use upon adjoining residential land.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered to be inconsistent with the relevant provisions and objectives of the Scheme. Accordingly, it is recommended that a Notice of Decision to Refuse to Grant a Permit be issued.

#### Recommendation

**That the Committee issue a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application PLN2023/17 at 7 Regan Drive, Romsey on the following grounds:**

- 1. The proposal is inconsistent with Clause 13.05-1S of the planning scheme that relates to noise abatement and the control of noise effects on sensitive land uses.**
- 2. The proposal is contrary to Clause 13.07-1S as it fails to safeguard community amenity while facilitating a use having potential off-site effects.**
- 3. The proposal is inconsistent with the zoning of the land (General Residential Zone) as the proposed use will not be compatible with residential uses and it will adversely affect the amenity of nearby residential uses in relation to noise.**
- 4. The submitted acoustic report does not detail how the proposal will meet the EPA Noise Control Guidelines in relation to such uses.**
- 5. The proposal is contrary to Clause 65.01 as it will not result in orderly planning and will have impact on the amenity of the area.**

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Cr Geoff Neil moved an alternative motion.

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#### Committee Recommendation

Moved: Cr Geoff Neil  
Seconded: Cr Mark Ridgeway

**That the committee resolves to issue a Notice of Decision to Grant a Permit for the Use of the land for domestic animal husbandry (5 dogs) at 7 Regan Drive, Romsey subject to the conditions below:**

- 1. Before the use starts, an additional Site Plan must be approved and endorsed by the Responsible Authority. The plan must be prepared to the satisfaction of the Responsible Authority, be drawn to scale with dimensions, submitted in**
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electronic form and be generally in accordance with the plans forming part of the application but must:

- (a) Indicate the existing fencing on site with material details, transparency and height from natural ground level;
- (b) Detail any noise abatement measures (including the addition of any building materials for the reduction in the emission of noise).

When approved the plans will be endorsed and will form part of the permit.

2. Before the use starts, an additional Floor Plan must be approved and endorsed by the Responsible Authority. The plan must be prepared to the satisfaction of the Responsible Authority, be drawn to scale with dimensions, submitted in electronic form and be generally in accordance with the plans forming part of the application but must:

- (a) Be sufficiently legible;
- (b) Show the layout of all buildings applicable to the use with labelled rooms;
- (c) Detail any noise abatement measures (including the addition of any building materials for the reduction in the emission of noise).

When approved the plans will be endorsed and will form part of the permit.

3. Before the use starts, a Management Plan of the use must be approved and endorsed by the Responsible Authority. The plans must be prepared to the satisfaction of the Responsible Authority, be drawn to scale with dimensions, submitted in electronic form and be generally in accordance with the plans forming part of the application and must include:

- (a) Details of staffing including numbers and availabilities;
- (b) Details of any electronic masking noise devices or other measures to reduce audible stimuli to the dogs (if any);
- (c) Details of working hours and time schedules including dog feeding and exercise times;
- (d) Details of solid waste management and wastewater treatment;
- (e) Detail any noise abatement measures (including the addition of any building materials for the reduction in the emission of noise);
- (f) Details of short term emergency accommodation of dogs on-site due to temporary, limited loss of facilities (if any);
- (g) Methods of food storage, and;
- (h) Measures to address complaints including:
- (i) Names and telephone numbers for out of hours contact, and;
- (j) A complaint resolution mechanism so that any concerns raised by the local community can be appropriately addressed.

When approved the plans will be endorsed and will form part of the permit

4. The layout and operation of the use must not be altered from the layout on the approved and endorsed plans and documents without the written consent of the Responsible Authority.
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5. The number of dogs allowed by the use is limited to, unless with the prior written consent of the Responsible Authority:
    - (a) Five (5) breeding dogs, inclusive of adults and puppies over twelve (12) weeks of age at any one time;
    - (b) Two (2) litters up to twelve (12) weeks of age at any one time;Pet/companion dogs (even if de-sexed) are included in the total number of dogs permitted).
  6. All dogs three (3) months of age or older must be registered with Macedon Ranges Shire Council.
  7. The use must be managed so that the amenity of the area is not detrimentally affected to the satisfaction of the Responsible Authority through the:
    - (a) Transport of materials, goods or commodities to or from the land;
    - (b) Appearance of any building, works or materials;
    - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, and;
    - (d) Presence of vermin.
    - (e) Baffling of external lighting.
  8. The buildings in which the approved use is to occur must be kept in good condition to the satisfaction of the Responsible Authority.
  9. Any external fencing applicable to the land must sufficiently screen stimuli such as other dogs, animals, traffic or passers-by and be kept in good condition to the satisfaction of the Responsible Authority.

**Permit Expiry:**

10. This permit as it relates to use will expire if the use does not start within 2 years after the issued date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

**PERMIT NOTES:**

- The permitted use may need to comply with, or obtain the following further approvals:
  - A building permit under the Building Act 1993.
  - Any relevant approvals/permissions under the remit of the Environmental Protection Authority.
  - Any relevant approvals/permissions under the remit of the Macedon Ranges Shire Council's Local Laws department.
- Future owners of the land (including the owners of any lots created as a result of any approved subdivision) must be made aware of the existence of this permit.

**LOST**

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Cr Jennifer Anderson moved the Officer recommendation.

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**Committee Resolution**

Moved: Cr Jennifer Anderson

Seconded: Cr Rob Guthrie

**That the Committee issue a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application PLN2023/17 at 7 Regan Drive, Romsey on the following grounds:**

- 1. The proposal is inconsistent with Clause 13.05-1S of the planning scheme that relates to noise abatement and the control of noise effects on sensitive land uses.**
- 2. The proposal is contrary to Clause 13.07-1S as it fails to safeguard community amenity while facilitating a use having potential off-site effects.**
- 3. The proposal is inconsistent with the zoning of the land (General Residential Zone) as the proposed use will not be compatible with residential uses and it will adversely affect the amenity of nearby residential uses in relation to noise.**
- 4. The submitted acoustic report does not detail how the proposal will meet the EPA Noise Control Guidelines in relation to such uses.**
- 5. The proposal is contrary to Clause 65.01 as it will not result in orderly planning and will have impact on the amenity of the area.**

**CARRIED**

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**9.2 PLN/2023/4 - LOT 2 WEATHERLY ROAD, BOLINDA VIC 3432****Summary**

The proposal is for the use and development of the land for a dwelling and outbuilding (carport). The application did not provide a farm plan to demonstrate the need for a dwelling in association with an agricultural use.

The application was advertised pursuant to Section 52 (1A) of the Planning and Environment Act 1987.

Key issues to be considered relate to the impact of the proposal on surrounding agricultural land uses and the genuine need for a dwelling on the land given the limited agricultural use carried out on a small lot.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered to be non-compliant with relevant policies and provisions. It is recommended that a Notice of Decision to Refuse to Grant a Permit be issued.

**Recommendation**

**That the Committee issue a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application PLN/2023/4 at Lot 2 Weatherly Road, Bolinda on the following grounds:**

- 1. The proposal fails to provide adequate justification for the use and development of a dwelling on the land to support productive agricultural use that would be compatible with surrounding farming activities.**
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2. The proposal would facilitate rural residential development in an area planned for farming purposes, contrary to Clause 02.03-1 (Settlement) and Clause 02.02-6 (Housing) of the Planning Policy Framework.
3. The proposal would not protect agricultural land, contrary to Clause 02.03-4 (Natural Resource Management) of the Planning Policy Framework.
4. The proposal will not facilitate productive agriculture, contrary to the Rural Framework Plan at Clause 02.04 (Strategic Framework Plans) of the Planning Policy Framework.
5. The proposal for rural residential development is inappropriate in rural areas prioritised for agricultural land use, contrary to Clause 11 (Settlement) and Clause 16 (Housing) of the Planning Policy Framework.
6. The proposal would result in the fragmentation of agricultural land and does not provide justification that the dwelling is required for productive agriculture, contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework.
7. The proposal would extend the fragmentation of existing agricultural land, would remove the land from agricultural use, and would adversely affect adjoining and nearby agricultural land use, contrary to the purpose and decision guidelines of the Clause 35.07 (Farming Zone).
8. The proposal does not support agricultural land use and would conflict with settlement planning, contrary to Clause 51.07 (Macedon Ranges Statement of Planning Policy).
9. The proposal would not constitute orderly planning of the area which is contrary to Clause 65 (Decision Guidelines).

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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 Planning Permit PLN/2023/4 – Use and Development of the Land for a Dwelling at Lot 2 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) Access driveway to the dwelling from Weatherly Road;
  - (b) 10,000 litres Potable water supply for domestic use and fire- fighting purposes and
  - (c) A domestic envelope designed to minimise domestic use and maximise and maintain the use of the land for agriculture.When approved the plans will be endorsed and will form part of the permit.
2. The use and development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. 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:

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- (a) 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.

4. All domestic development is to be contained within the domestic envelope as shown on the endorsed plans to minimise domestic use and maximise and maintain the use of the land for agriculture.
5. Prior to occupation of the dwelling, the following must be provided to the satisfaction of the responsible authority:
  - (a) 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.
  - (b) 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.

#### MRSC Health Conditions

8. Prior to occupation of the dwelling, 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.

9. Prior to the occupation of the dwelling the primary and secondary wastewater areas for the dwelling is to be appropriately buffered and fenced to exclude stock, in accordance with the land capability report recommendations.

#### MRSC Engineering Conditions

10. Prior to the commencement of works, an "Asset Protection Permit" must be obtained from Council for any of the following circumstances:

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- (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.
11. 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.
  12. Storm water runoff from the dwelling must be dissipated as normal un-concentrated overland flow clear of property boundaries and buildings in adjacent properties.
  13. Prior to occupation of the dwelling, the existing crossover within Weatherly Road must be upgraded to a gravel standard to the satisfaction of the Responsible Authority.
  14. Prior to occupation of the dwelling, 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.

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.
    - (b) Curves must have a minimum inner radius of 10 metres.
    - (c) 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.
    - (d) Dips must have no more than a 1 in 8 entry and exit angle.

#### Permit Expiry

15. 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 note**

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

LOST

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Cr Jennifer Anderson moved the Officer recommendation.

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**Committee Resolution**

Moved: Cr Jennifer Anderson

Seconded: Cr Rob Guthrie

That the Committee issue a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application PLN/2023/4 at Lot 2 Weatherly Road, Bolinda on the following grounds:

1. The proposal fails to provide adequate justification for the use and development of a dwelling on the land to support productive agricultural use that would be compatible with surrounding farming activities.
2. The proposal would facilitate rural residential development in an area planned for farming purposes, contrary to Clause 02.03-1 (Settlement) and Clause 02.02-6 (Housing) of the Planning Policy Framework.
3. The proposal would not protect agricultural land, contrary to Clause 02.03-4 (Natural Resource Management) of the Planning Policy Framework.
4. The proposal will not facilitate productive agriculture, contrary to the Rural Framework Plan at Clause 02.04 (Strategic Framework Plans) of the Planning Policy Framework.
5. The proposal for rural residential development is inappropriate in rural areas prioritised for agricultural land use, contrary to Clause 11 (Settlement) and Clause 16 (Housing) of the Planning Policy Framework.
6. The proposal would result in the fragmentation of agricultural land and does not provide justification that the dwelling is required for productive agriculture, contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework.
7. The proposal would extend the fragmentation of existing agricultural land, would remove the land from agricultural use, and would adversely affect adjoining and nearby agricultural land use, contrary to the purpose and decision guidelines of the Clause 35.07 (Farming Zone).
8. The proposal does not support agricultural land use and would conflict with settlement planning, contrary to Clause 51.07 (Macedon Ranges Statement of Planning Policy).
9. The proposal would not constitute orderly planning of the area which is contrary to Clause 65 (Decision Guidelines).

CARRIED

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**9.3 LANCEFIELD DEVELOPMENT PLAN – AREA 1, PART 1 – 128 AND 132 HIGH STREET LANCEFIELD - DP/2020/2/A****Summary**

Application DP/2020/2/A seeks the approval of an amendment to Part 1 of the Development Plan for Area 1 under the Development Plan Overlay Schedule 24 (DPO24) for the land at 128 and 132 High Street, Lancefield.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered that it is consistent with the requirements of DPO24. It is recommended that application DP/2020/2/A be supported and the attached proposed Development Plan be approved.

**Committee Resolution**

Moved: Cr Geoff Neil  
Seconded: Cr Bill West

**That the Committee approves the amended Lancefield Development Plan – Area 1 Part 1 by Chris Smith and Associates dated July 2023, Revision 1 covering the land situated at Lot 1 LP 143486 and Lot 2 LP 143486, 128 and 132 High Street, Lancefield, prepared for the purposes of Clause 43.04, Schedule 24 of the Macedon Ranges Planning Scheme.**

**CARRIED**

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**9.4 DP/2009/12/C - 75 WILLOWBANK ROAD, GISBORNE - DEVELOPMENT PLAN AMENDMENT****Summary**

Application DP/2009/12/C seeks the approval of an amendment to an approved development plan for Area 4a under the Development Plan Overlay Schedule 4 (DPO4) for the land at 75 Willowbank Road and 51 Coop Drive, Gisborne.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered that it is consistent with the requirements of DPO4. It is recommended that application DP/2009/12/C be supported and the attached Development Plan be approved.

**Committee Resolution**

Moved: Cr Rob Guthrie  
Seconded: Cr Mark Ridgeway

**That the Committee approves the amended Development Plan for Area 4a covering the land at 75 Willowbank Road and 51 Coop Drive Gisborne prepared for the purposes of Clause 43.04, Schedule 4 of the Macedon Ranges Planning Scheme.**

**CARRIED**

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**9.5 DP/2022/3 - 88A AND 90 WEDGE STREET KYNETON, DEVELOPMENT PLAN APPLICATION**

Having previously declared a conflict of interest in relation to this item, Cr Ridgeway left the meeting. At 8:11 pm, Cr Mark Ridgeway left the meeting.

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**Summary**

Application DP/2022/3 seeks the approval of a Development Plan for 88A and 90 Wedge Street, Kyneton. The application is made under Development Plan Overlay Schedule 17 (DPO17) which allows more than one development plan.

The application has been assessed against the Macedon Ranges Planning Scheme and it is deemed to be consistent with the requirements of DPO17. It is recommended that application DP/2022/3 be supported and the attached proposed Development Plan be approved.

**Recommendation**

**That the Committee approves the 88A and 90 Wedge Street Kyneton Development Plan prepared by Tomkinson dated July 2022 covering the land situated Crown Allotment 25, 26 & 27 Wedge Street, Kyneton and Lot 1 and 2, on PS635086Q 88A and 90 Wedge Street Kyneton prepared for the purposes of Clause 43.04, Schedule 17 of the Macedon Ranges Planning Scheme.**

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Cr Jennifer Anderson moved an alternative motion.

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**Committee Resolution**

Moved: Cr Jennifer Anderson

Seconded: Cr Janet Pearce

**That the Committee defer the consideration of 88A and 90 Wedge Street Kyneton Development Plan prepared by Tomkinson dated July 2022 covering the land situated Crown Allotment 25, 26 & 27 Wedge Street, Kyneton and Lot 1 and 2, on PS635086Q 88A and 90 Wedge Street Kyneton prepared for the purposes of Clause 43.04, Schedule 17 of the Macedon Ranges Planning Scheme to the 6 December 2023 Planning Delegated Committee.**

**CARRIED**

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**The Meeting closed at 8:15pm.**