

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

19 June 2018

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Planning and Environment Act 1987

Panel Report

Greater Shepparton Planning Scheme Amendments C192
and C193/Planning Permit Application 2016-269
Commercial Strategy and Lascorp proposal

9 October 2017



Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Greater Shepparton Planning Scheme Amendments C192
and C193/Planning Permit Application 2016-269

Commercial Strategy and Lascorp proposal

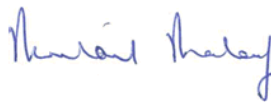
9 October 2017



Kathy Mitchell, Chair



Con Tsotsoros, Member



Michael Malouf, Member

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List of Abbreviations

ACZ	Activity Centre Zone
CACS	Commercial Activity Centres Strategy 2015
CBD	Central Business District
DEDJTR	Department of Economic Development, Jobs, Transport and Resources
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
PAO	Public Acquisition Overlay
PPN	Planning Practice Note
SNAC	Shepparton North Activity Centre

Overview

Amendment C192 summary

The Amendment	Greater Shepparton Planning Scheme Amendment C192
Brief description	Implements the findings of the Greater Shepparton Commercial Areas Centres Strategy, 2015
Subject site	Land within the commercial/business areas of Greater Shepparton
The Proponent	Greater Shepparton City Council
Planning Authority	Greater Shepparton City Council
Authorisation	A03364 on 7 June 2016
Exhibition	7 July to 8 August 2016
Submissions	13 – See Appendix A

Amendment C193 and permit summary

The Amendment and permit	Greater Shepparton Planning Scheme Amendment C193 and planning permit application 2016-269
Brief description	Rezones land at 221-229 Numurkah Road and 10 Ford Road, Shepparton from Commercial 2 Zone to Commercial 1 Zone, and applies a Public Acquisition Overlay to part of 221-229 Numurkah Road, part of 38-50 Ford Road and 25 Hawkins Road
Subject site	221-229 Numurkah Road and 10 Ford Road, Shepparton
The Proponent	Lascorp Development Group Pty Ltd
Planning Authority	Greater Shepparton City Council
Authorisation	A03539 on 5 April 2017
Exhibition	20 April to 30 May 2017
Submissions	20 – See Appendix A

Panel Process

The Panel	Kathy Mitchell (Chair), Con Tsotsoros, Michael Malouf
Directions Hearing	Shepparton: 27 June 2017
Panel Hearing	Shepparton: 24, 25, 26 July 2017 Planning Panels Victoria, Melbourne: 31 July, 1, 2, 3, 4, 10, 11 August 2017
Site Inspections	Unaccompanied, 23 July 2017 and other times during Week 1
Appearances	See Appendix B
Date of this Report	9 October 2017

Executive summary and recommendations

(i) Summary

Shepparton is the fourth largest regional city in Victoria where growth has been increasing at a steady rate in recent years, particularly to the north of the Central Business District. The Shepparton North area is a major growth front where existing infrastructure will be complemented and supplemented by new initiatives. The State Government has announced funding for the Shepparton Bypass Stage 1, and with the assistance of the Victorian Planning Authority, Council is in the process of undertaking growth plans for new residential development.

The area is home to the major regional sports precinct, where significant funds have been invested to ensure an acknowledged first class precinct that caters for a wide range of sports and activities. Two new schools have been constructed and are now operational and numerous areas have been earmarked for future residential development.

Over the years, the City of Greater Shepparton has undertaken a number of strategic planning projects that have resulted in ongoing opportunities for growth in residential areas and for supporting infrastructure. Retailing and commercial development is one of these areas now under review. Council has recognised that extensive retail and commercial growth has occurred, retail trends have changed, new zones have been introduced and there is a need to provide a new strategy that provides for commercial development in the expanding activity centres in the municipality.

This work resulted in the Council adopted Commercial Activity Centres Strategy 2015 that is broad in its scope and defined in its direction. This strategy is the subject of Amendment C192 and through exhibition it attracted 13 submissions. Most of these were concerned with a new retail proposal at Shepparton North and to a lesser extent, some aspects of the controls proposed at the Shepparton Marketplace and the Benalla Road Enterprise Area.

The key and unequivocal direction for Shepparton is to maintain the primacy of the CBD to encourage further development in that important precinct.

In reviewing the Strategy, the Panel finds that in the main, it is a robust and comprehensive document that, subject to some minor recommendations, should be supported and adopted.

While the exhibition period for Amendment C192 was in mid-2016, Council opted to hold off referring that Amendment to a Panel for resolution until Amendment C193 was exhibited. Amendment C193 relates to a proposal by Lascorp to rezone land in Shepparton North near the corner of Numurkah Road and Ford Road from the Commercial 2 Zone to the Commercial 1 Zone. It was accompanied by a planning permit application that sought to develop a supermarket (Woolworths), with an associated packaged liquor store, retail specialty shops, car parking, and advertising signs.

Additionally, Amendment C193 proposed a Public Acquisition Overlay for drainage purposes on land nearby and adjacent to the Lascorp site. This aspect of the Amendment is generally supported, and should be adopted as it would assist to reconcile drainage issues in the Shepparton North area.

The exhibition of Amendment C193 attracted 20 submissions and both Amendments were referred to a Panel on 2 June 2017.

The retail component of Amendment C193 was hotly contested. The proposed site is near but not adjacent to an existing IGA supermarket, where a planning permit has been issued for its expansion, and where a new permit application was lodged more recently to provide for a second supermarket on the site. The current permit has not been acted upon. The site of the existing retail centre and that proposed by Lascorp both abut Numurkah Road and are some 370 to 400 metres apart. The land between the two sites is currently in the Commercial 2 Zone and has a number of light industrial and semi-commercial uses.

While parties and the economic witnesses generally agreed that Shepparton North could support a second full line supermarket in the short term future, there was significant debate at the Hearing about the location of that supermarket. The key issue related to whether the supermarket should be co-located with the existing supermarket, or on the Lascorp site as part of a potential activity centre.

There is merit in both arguments and ultimately the Panel finds that in terms of what is best for the long term future of the Shepparton North community, and what represents good planning, an opportunity should be provided for Council to:

- properly define a Shepparton North Activity Centre
- prepare a considered Structure Plan for the centre
- provide the opportunity to re-think the existing IGA site so that it can develop as a catalyst for a co-located supermarket site.

However, this opportunity has a time imperative. Lascorp is ready to go with its proposal and former owner (Metcash) has pontificated on its existing planning permit. The new property owner (18 Pty Ltd) seeks a new permit to allow for a second supermarket – but without an identified tenant. A likely reason is because the second supermarket does not have main road frontage or clear access. If 18 Pty Ltd is willing to re-think its site development, be open to re-siting its supermarket to share the main road (Numurkah Road) frontage and access, and be involved in the Structure Plan process, then the Panel considers adoption of the retail component of Amendment C193 should be deferred to allow these considerations and work to be undertaken.

This work should be undertaken within a reasonable time period, otherwise the Panel recommends that Amendment C193 be adopted and a permit issued for the Lascorp site and proposal.

Planning Schemes are dynamic working documents that are subject to a process of continual revision and update. There will always be a cycle of strategic review that seeks to update and balance policy and controls in order to respond to current and emerging land use and development imperatives. Schemes are not static and must be able to address these emerging changes to respond to social, environmental and economic drivers.

The recommendations made by the Panel are unusual in that they direct Council to undertake work that should have occurred before considering Amendment C193. Given that the permit for the IGA land has not progressed since 2012, and given the timing of the Lascorp proposal, there is time for Council and the landholders to undertake the level of

strategic work required to ensure that the Shepparton North Activity Centre – however defined – results in a centre that will complement emerging growth. Rather than being a collection of land uses on unlinked opportunity sites, the Activity Centre should be a dynamic and living centre that serves its local community in a positive and integrated manner to deliver sustainable development and net community benefit.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends:

1. **Adopt Amendment C192 to the Greater Shepparton Planning Scheme, in accordance with the modifications in Appendix D (Clause 21.06) and Appendix E (Activity Centre Zone Schedule 1).**
2. **Review the provisions and schedules of Amendment C192 and Amendment C193 during finalisation of the Amendments to ensure they are consistent with the *Ministerial Direction on the Form and Content of Planning Schemes (May 2017)*.**
3. **Amend Clause 21.06, as shown in Appendix D, to:**
 - a) **add the following strategic action under 21.06-7:**
 - Prepare structure plans for the Mooroopna, Riverside and Shepparton North activity centres.*
 - b) **remove reference to the Shepparton North Activity Centre in the relevant strategic action regarding an urban design framework.**
4. **Split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal).**
5. **Defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 until the Shepparton North Activity Centre is defined through a structure planning process. Reconsider Amendment C193 Part 2 and planning permit application 2016-269 pending these outcomes.**
6. **Amend Planning Permit 2016-269, as shown in Appendix F, to update Condition 14 (Time for Starting and Completion).**
7. **Adopt Amendment C193 Part 1.**

PART A BACKGROUND



1 Introduction

1.1 Amendment C192

The Amendment applies to land generally within the commercial/business areas of Greater Shepparton.

The Amendment seeks to implement the recommendations of the *Commercial Activity Centres Strategy, November 2015* (CACs), specifically to:

- amend the Municipal Strategic Statement to:
 - update the activity centre hierarchy
 - encourage expansion of retail and commercial convenience facilities in the Commercial 1 Zone, subject to detailed planning and development assessment criteria
 - discourage the location of cinema and department stores outside the retail core
- rezone Shepparton Marketplace, land along Benalla Road (Enterprise Corridor) and Wyndham Street (Wyndham Street North) from the Commercial 1 and 2 Zones to the Activity Centre Zone Schedule 1
- rezone approximately 55,000 square metres of General Residential Zone land abutting Shepparton Marketplace to Activity Centre Zone Schedule 1
- amend Activity Centre Zone Schedule 1 to increase the permit threshold at Shepparton Marketplace from 15,500 square metres of Shop floor area to 22,500 square metres of Retail premises
- delete Design and Development Overlay Schedule 3 from land in the Wyndham Street North Precinct and update the overlay maps accordingly
- amend the Commercial 1 Zone Schedule to remove reference to Shepparton Marketplace
- amend Clause 21.06-7 (Strategic Work Program) to reflect work undertaken and include the preparation of Structure Plans/Urban Design Frameworks for relevant activity centres
- amend Clause 21.08 (General Implementation) to reflect the recommendations of the Commercial Activity Centres Strategy November 2015
- amend Clause 21.09 (Reference Documents) to reference the Commercial Activity Centres Strategy November 2015.

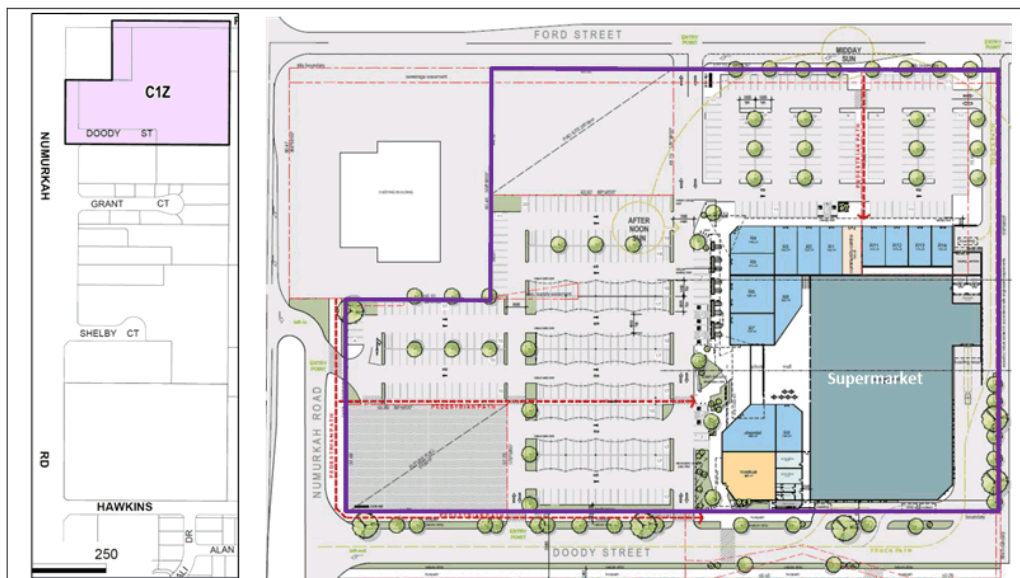
Amendment C192 has been prepared by Council who is the Planning Authority for this Amendment. In accordance with section 8A (7) of the *Planning and Environment Act 1987* Council was advised by DELWP on 7 June 2016 that it may prepare Amendment C192 without authorisation.

1.2 Amendment C193 and planning permit application 2016-269

The Amendment and planning permit application apply to land at 221-229 Numurkah Road and 10 Ford Road shown in Figure 1. The land comprises an L-shaped parcel of approximately 37,000 square metres, with frontages to Ford Road (north), Numurkah Road (west) and Doody Street (south).

The subject site forms part of the Gateway North (Numurkah Road) enterprise corridor that extends along both sides of Numurkah Road.

Figure 1 Subject site for Amendment C193 and planning permit and proposal



Amendment C193 forms part of a combined planning scheme amendment and planning permit application (PPA 2016-269), pursuant to section 96A of the *Planning and Environment Act 1987*.

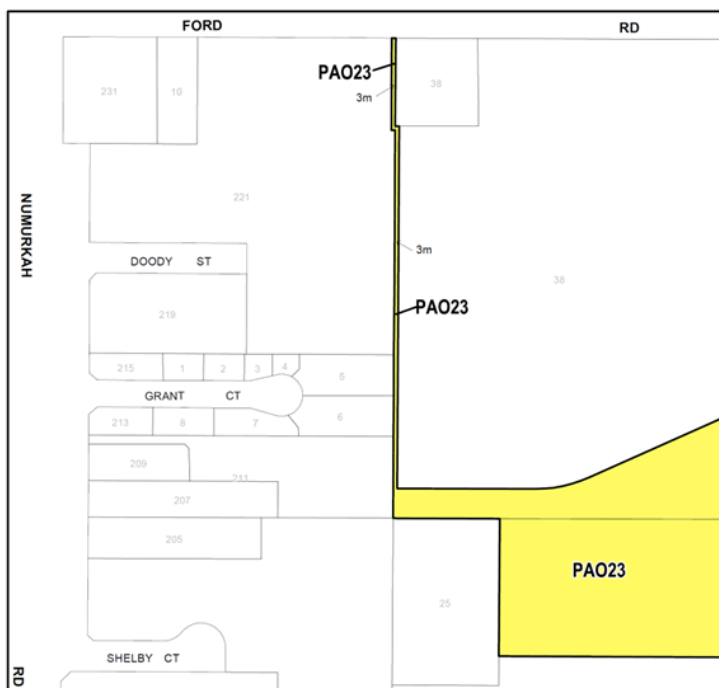
Amendment C193 seeks to:

- rezone land at 221-229 Numurkah Road and 10 Ford Road, Shepparton from Commercial 2 Zone to Commercial 1 Zone
- apply the Public Acquisition Overlay to part of 221-229 Numurkah Road, part of 221-229 Numurkah Road, part of 38-50 Ford Road and part of 25 Hawkins Road, Shepparton, as shown in Figure 2
- amend the Public Acquisition Overlay Schedule to reserve land for drainage purposes (Figure 2)
- amend planning scheme maps.

The planning permit application seeks to allow:

- buildings and works for a supermarket with a 3,960 square metre leasable floor area, additional retail space for shops of 2030 square metres, medical centre of 300 square metres
- community meeting space (100 square metres)
- packaged liquor licence
- creation and alteration of access points to a road in a Road Zone Category 1
- erection and display of advertising signs.

Figure 2 Proposed Public Acquisition Overlay



The Amendment was prepared by Council as the planning authority in response to a request by Lascorp Development Group Pty Ltd (Lascorp). The Department of Environment, Land, Water and Planning (DELWP), under delegation from the Minister for Planning, authorised Amendment C193 (AO3539) subject to the follow conditions being met before it was exhibited:

- *The amendment document and draft planning permit are to be amended to the satisfaction of the department.*
- *Demonstrate that council has considered State Planning Policy regarding urban design and built form at Clause 15.01 and local strategies at Clause 21.06-5 of the Greater Shepparton Planning Scheme.*
- *Given further consideration to the layout of the proposed development against the Activity Centre Design Guidelines; Interim Design Guidelines for Large Format Retail Premises and the assessment criteria outlined in the Commercial Activity Centres Strategy to ensure the design and built form of the development meets best practice and the future needs of residents of Shepparton North and the wider community.*

1.3 Procedural issues

There were several matters during the course of the Hearing that raised procedural issues that related to:

- declarations
- amendment to the Explanatory Report

- late circulation of planning evidence on behalf of Lascorp
- extent of consultation
- request for confidential documents.

(i) Declarations

At the Directions Hearing, the Chair advised that the author of the planning report for the Lascorp proposal (Debra Butcher of Debra Butcher Consulting) is a sessional member of Planning Panels Victoria, and that she is a member of a Standing Advisory Committee with the Chair. The Chair noted that Ms Butcher was not being called to give evidence for Lascorp. All parties were invited to respond to this and to advise if this declaration raised any concerns. All parties responded and advised there were no issues.

At the commencement of the Hearing on Day 1, the Chair made a second declaration. She advised that the owner of the property subject to the Lascorp land was in the process of selling it to Lascorp, and that (Senior) sessional member (Sarah Carlisle) was the daughter-in-law of the property owner. Ms Carlisle is also on the same Standing Advisory Committee with the Chair and Ms Butcher (and five other members).

Ms Carlisle had called the Chair to advise of a potential matter regarding land in Shepparton, and that her father-in-law had asked for her assistance with some legal issues. The Chair advised that she told Ms Carlisle that the Panel for Shepparton had already been appointed, and that the Chief Panel Member was the Chair. The Chair told Ms Carlisle that she would have to declare the conversation and that she wanted no further part in the discussion. She advised Ms Carlisle to speak further about this matter with Mr Wimbush, who acts as Deputy Chief Panel Member. This discussion occurred and Mr Wimbush provided a File Note to that effect. Ms Carlisle advised Mr Wimbush that she would not assist in this matter any way and she would have no role in any further discussion about the subject land.

Each party was invited to respond to the declarations and no party raised an issue.

(ii) Amendment to Explanatory Report

In its submission, Department of Economic Development, Jobs, Transport and Resources (DEDJTR) expressed concern that the Amendment C192 Explanatory Report did not identify the proposed Shepparton Marketplace permit threshold change to 22,500 square metres of Retail premises floor area. It added that given this expansion, there will be an impact on future transport needs and the Explanatory Report should include an assessment with regard to the *Transport Integration Act 2010*.

Council responded that the explanatory report was changed to align it with suggested ordinance changes and assist with describing Amendment C192. It submitted that it did not expect the Panel to comment or make recommendations on these changes. Mr Humphreys, a traffic expert witness for Council, stated that the Explanatory Report changes support the objectives of the *Transport Integration Act 2010* and the Municipal Strategic Statement.

The Panel notes the responses from Council and Mr Humphreys on this matter.

(iii) Late circulation of planning evidence by Lascorp

The Panel's letters dated 30 June and 3 July 2017 reflected the outcomes of the Directions Hearing held on 27 June 2017 which was attended by many parties, including Lascorp. Both letters directed that expert witness reports be circulated by 12.00noon on Monday 17 July 2017. No party raised concern with this date at the Directions Hearing.

On 13 July 2017, Lascorp emailed Planning Panels Victoria seeking to submit expert witness statements of two planning experts, Mr Twite of SJB Planning and Mr Clarke of Matrix Planning Australia by 19 July 2017. Both experts were engaged after Lascorp's original planning expert witness, Mr McGurn of Urbis, advised Lascorp that he was no longer available.

The Panel considered the request and responded that all parties were working to the same timetable and in the interests of procedural fairness and to ensure all parties and the Panel have the opportunity to review the evidence before the Hearing commenced on 21 July 2017, the request for Lascorp to submit late evidence on 19 July 2017 was not granted.

Lascorp did not comply with the Panel's direction and provided late expert witness statements on 19 July 2017. Panel directions are not at the discretion of any party and they must be met to avoid procedural consequences in accordance with section 169 of the *Planning and Environment Act 1987*.

The Panel raised the submission of late evidence as a preliminary matter on the first day of the Hearing. Ms Brennan submitted that no expert witness statements were provided to Mr Twite or Mr Clarke until their evidence was finalised. She added that it would assist her case if the Panel accepted their late evidence. She tendered an Affidavit from Lascorp's in-house legal counsel, Ms Golvan, which detailed the process which led to this outcome. It was supported by comprehensive supporting information including correspondence and related documents.

The Panel provided each party with an opportunity to respond to this matter. No party formally objected to the Panel accepting the late evidence but Mr Jolly indicated that he believed Mr Twite may have benefited from the extended deadline.

The Panel appreciated that Lascorp understood the implications of not following the Panel's direction and found Ms Brennan's submission to provide reasonable grounds to accept the late evidence. Accordingly, the Panel accepted Ms Brennan's submission and the late evidence.

(iv) Extent of consultation

The Panel questioned the extent of consultation for both amendments, but in particular Amendment C192. Given that many parcels of land are proposed to be rezoned through this process, the Panel was somewhat surprised by the relatively submissions in this regard. The Panel raised this at the Directions Hearing and Council responded to this in its Part A submission, as well as verbally at the Hearing.

As a result of questions raised at the Directions Hearing, Council addressed the matter at paragraphs 3.22 to 3.25 in its Part A submission. The Panel notes letters were sent to local

real estate agents, 'market players', prescribed authorities, Ministers, as well as through newspapers and web pages. At paragraph 3.23, Council said:

Following discussions with DELWP on 22 June 2016, it was determined that direct notification to all land owners affected by Amendment C192 (over 700 properties) was too onerous, and as such Council determined to give notice in the manner set out in 3.5 (sic) above.

Further, at the Hearing, the Panel raised the point that the Explanatory Report to Amendment C192 did not say under "What the amendment does" that it proposed to rezone a quite extensive area of land to the rear of the Shepparton Marketplace from the General Residential Zone 1 to the Activity Centre Zone. This was shown in the maps to the Amendment but it was not made explicit or clear. Nor was this mentioned in the Part A submission at paragraph 1.3.

Council admitted that this was a mistake in the documentation.

In its closing submission, Council addressed this by stating:

In relation to the application of the ACZ to the general residential zone land at the rear of the marketplace, it is clear that both the exhibited zone maps and the exhibited schedule to the ACZ show that the land was to be rezoned from C1Z and GRZ to ACZ. There is clearly an error that the explanatory report misses reference to the GRZ1.

Given the area proposed to be rezoned is extensive, and covers numerous precincts and properties, the Panel is perplexed by this. Further, in relation to the Marketplace, there is an extensive residential precinct to its east and an emerging residential precinct to its south where direct notification could have been provided.

(v) Request for confidential documents

On Day 6 of the Hearing (2 August 2017), Ms Brennan for Lascorp, submitted that copies of certain documentation should be made available from 18 Pty Ltd (the owner of the land on which the Fairley's IGA is located). In summary, the information sought included:

- any Heads of Agreement, Contract of Sale or other contracts between 18 Pty Ltd and IGA Retail Services
- copies of all Agreements or Leases permitted by the existing permit or the proposed amendment to the permit
- copies of correspondence between the relevant parties that indicates a willingness or intention by a prospective tenant to occupy the supermarket premises or other retail floor spaces permitted under the Stage 2 application
- copy of the existing lease between the owner and the tenant
- copy of any written consent by Marl Enterprises and/or the tenant regarding the redevelopment of the site in accordance with the existing or proposed permit.

Ms Brennan argued that the purpose of seeking this information was to get important information about the feasibility of a second supermarket on the IGA site. She submitted that:

- 18 Pty Ltd does not have a tenant - and there is no interest from Woolworths or Coles
- if Coles has an interest, it is likely to want to locate on that part of the land site abutting Numurkah Road
- such information would help determine whether the developer has the capacity to deliver a second supermarket or whether the land owner/IGA has the ability to allow this or influence this.

At the Hearing, Ms Brennan said:

In the absence of these documents then an adverse inference should be drawn that there is no intention or capability to deliver on any existing/future permissions being sought.

Parties were invited to respond to this request. Mr Canavan for 18 Pty Ltd submitted that “every instinct is that we shouldn’t have to provide this information” and that he was “not comfortable” providing confidential contracts to commercial competitors. He did however, agree to abide by any Panel direction in this regard.

The Panel asked all parties whether they were aware if these type of documents had ever been requested or provided at a Panel or VCAT Hearing. No party could affirm if this had occurred, or could give any examples of such a request or response.

The Panel sought the Lascorp request in writing, which Ms Brennan provided on 3 August 2017 (Document 65).

The Panel issued a Direction in response by email dated 3 August 2017 (Document 77). In summary, the Panel noted it was not prepared to seek the requested information as a formal direction. It invited 18 Pty Ltd and Marl Enterprises to “provide all or some of the information sought by Lascorp”. The Panel noted that this information could “... be provided in confidence, or with redaction, and to restricted parties”.

Further, the Panel directed 18 Pty Ltd and Marl Enterprises to respond to, or speak to, each of the points raised by Lascorp as part of their submissions.

No party took issue with this Direction.

The Panel affirmed that the case before it is about planning for a site to be rezoned to Commercial 1 with a planning permit, as well as a new commercial centre strategy. The Panel reiterated that the planning permit application in relation to the IGA site is not before the Panel and that it has no role in considering it.

On 8 August 2017, Mr Canavan advised the Panel that he would be prepared to provide some of the documents in the strictest of confidence to the Panel and Ms Brennan only (but not directly to her client or any other party).

Lascorp submitted an email dated 9 August 2017 (Document 88) that it had concerns with the suggestion that the abovementioned documentation be made available to the Panel and Ms Brennan, and not to Lascorp’s representatives on a potentially incomplete, confidential and limited circulation basis. It instead requested the Panel to invite 18 Pty Ltd to answer a series of questions.

On Day 9 (10 August 2017), Mr Canavan verbally responded to some of the information requests made by Lascorp regarding some of the commercial arrangements pertaining to their involvement in the IGA site. This information related to matters such as the existing and head lease, conditions of purchase, adjustments to tenancy, conditions precedent to settlement, intent to develop a full line supermarket, rights of refusal, provisions for fit out, and commencement issues.

1.4 Approach to this report

The Panel considered all written submissions made in response to the exhibition of the Amendments and planning permit application, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has reviewed a large volume of material, with numerous documents submitted during the course of the hearing (Appendix C). All submissions, evidence and other material have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

The Panel notes that these are two separate amendments and that Council originally indicated that it preferred two separate reports. However, as Amendment C193 is closely dependant on the outcomes of Amendment C192, that would have been difficult.

Given the extent of these Amendments and the planning permit application, the Panel is surprised at the very few submissions. The focus of the submissions and Hearing generally related to the CACS, the proposed Lascorp development at Shepparton North, Shepparton Marketplace and Benalla Road Enterprise Corridor. For these reasons, the Panel has focussed its report on the issues raised in submission and evidence. It has not reviewed other aspects of the Amendments that relate to various other precincts in the Activity Centre Zone, or aspects of the CACS that attracted no commentary.

As these Amendments deal with a range of issues, the Panel has structured its report in the following way:

Part A: Background, this includes the introductory material and strategic planning context

Part B: Amendment C192, which focusses on the CACS

Part C: Amendment C193 and planning permit application.

In making its conclusions and recommendations, the Panel notes the iterative process that occurred during the course of the Hearing, in that various parties and Council raised issues that led to Council providing a final version of its preferred position on Amendment C192 in a revised Clause 21.06 and Activity Centre Zone Schedule 1, and Ms Brennan provided revised permit conditions.

The Panel has therefore used the following documents as the basis of its considerations and recommendations – these include:

- City of Greater Shepparton Commercial Activity Centres Strategy, prepared by Essential Economics Pty Ltd in association with Spiire, dated November 2015, and as amended and updated by Council before the Hearing

- Document 104 – the revised version of Clause 21.06 (Appendix D) and Activity Centre Zone 1 (Appendix E) provided by Mr Bartley on 11 August 2017
- Documents 102(b) and 113 – the revised version of the planning permit conditions provided by Ms Brennan on 11 August 2017 (Appendix F).

For completeness, the Panel recommended versions of Clause 21.6, the Activity Centre Zone Schedule 1 and the planning permit conditions (which are provided on a without prejudice basis) are provided in full in Appendices D, E and F.

The conclusions and recommendations of the Panel should be read with these documents in mind.

2 Planning context

2.1 Policy framework

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report. The Panel considers the key imperatives for state and local policy are provided for in Table 1:

Table 1 Planning Policy Framework

State Planning Policy Framework	
Clauses	
11	Settlement
	▶ 11.02 Urban growth
	▶ 11.02-1 Supply of urban land To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
	▶ 11.02-2 Structure planning To facilitate the orderly development of urban areas.
	▶ 11.03 Activity centres
	▶ 11.03-2 Activity centre planning To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.
15	Built environment and heritage
	▶ 15.01 Urban environment
	▶ 15.01-1 Urban design To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.
16	Housing
	▶ 16.01 Residential development
	▶ 16.01-2 Location of residential development To locate new housing in or close to activity centres and in urban renewal precincts and sites that offer good access to jobs, services and transport.
17	Economic development
	▶ 17.01 Commercial
	▶ 17.01-1 Business To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. <i>Strategy:</i> A five year time limit for commencement should be attached to the planning approval for all shopping centres or expansions of over 1,000 square metres in floorspace.
18	Transport
	▶ 18.02 Movement networks
	▶ 18.02-1 Sustainable personal transport To promote the use of sustainable personal transport.

▶ **18.02-5 Car parking**

To ensure an adequate supply of car parking that is appropriately designed and located.

19 Infrastructure

Planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely.

Local Planning Policy Framework

Clauses

21 Municipal Strategic Statement

▶ **21.04 Settlement**

▶ **21.04-4 Urban design**

To ensure development implements the "Urban Design Framework- Shepparton North and South Business Areas".

To improve the amenity and image of the Shepparton CBD through the quality of its streetscape design, thereby creating an attractive CBD in which to work, study and live

▶ **21.05 Environment**

▶ **21.06 Economic development**

▶ **21.06-5 Commercial/Activity Centres**

Support a hierarchy of retail centres that promotes the primacy of the Shepparton CBD as a multi-function centre complemented by local centres for convenience shopping.

Consider the expansion of the Shepparton Marketplace subject to an Economic Impact Assessment but only if such expansion would not adversely impact on the relative role of this centre and the Shepparton CBD.

Facilitate the expansion of the neighbourhood centre in the north at the Fairley's supermarket site subject to an Economic Impact Assessment.

▶ **21.06-7 Strategic work program**

Prepare urban design guidelines for development and signage of visitor services, particularly future highway service precincts at the access points to the Goulburn Valley Highway Shepparton Bypass.

It includes the Shepparton Business Framework Plan.

▶ **21.07 Infrastructure**

2.2 Relevant planning strategies and policies

(i) Activity Centre Design Guidelines (2005)

The Activity Centre Design Guidelines were prepared by the former Department of Sustainability and Environment (now DELWP) to support councils and developers in creating well designed activity centres. The Guidelines aim to:

- develop a good-quality public environment
- promote street-based patterns of connection
- improve community safety
- encourage a mix of uses
- improve pedestrian and cycling amenity
- promote a public transport focus
- increase accessibility and integration
- encourage environmental sustainability.

The guidelines are structured arounds eight design elements (urban structure; stations and interchanges; street design; public spaces; building design; malls and large stores; higher density housing; and car parking). Each element includes design objectives and suggestions.

(ii) Interim Design Guidelines for Large Format Retail Premises (2007)

The Interim Design Guidelines for Large Format Retail Premises were prepared by the former Department of Planning and Community Development (now DELWP), and provide councils, designers, and developers *“best practice design advice for restricted retail premises and trade supplies premises to promote high quality public and private amenity and good design.”* The guidelines are structured around four design elements (urban context; equitable access; public amenity; and environmental sustainability). Each element includes design objectives and suggestions.

(iii) Hume Regional Growth Plan (2014)

The Hume Regional Growth Plan was prepared in May 2014 and provides a regional approach to land use planning in the Hume Region. It recognises that:

- major urban growth and development in the Goulburn Valley sub-region will be focused in Shepparton
- significant public investment will be needed in the Shepparton Central Business District (CBD) to support this growth and stimulate private sector investment
- Shepparton will continue to develop its role as a business, retail and services hub for the region and CBD, and infill housing development will reinvigorate the centre of the city.

(iv) Greater Shepparton 2030 Strategy (2006)

The Greater Shepparton 2030 Strategy was adopted by Council in October 2006 as its 25 to 30 year vision for five themes relating to settlement and housing; community life; environment; economic development; and infrastructure. It is supported by six background reports, including those based on the five themes.

Background Report 5 (Economic Development) has six objectives for activity centres:

- Objective 1: To provide increased opportunities for local job creation.
- Objective 2: To develop the Shepparton CBD as the regional centre for commerce and entertainment.
- Objective 3: To revitalise the CBD and improve the urban design and architectural standards of retail/commercial areas.
- Objective 4: To develop and maintain a hierarchy of viable activity centres by retaining local and visitor spending in the municipality.
- Objective 5: To encourage and promote the location of bulky goods/peripheral sales and highway services in locations which are accessible and appropriately serviced.
- Objective 6: To revitalise and sustain the centres of Mooroopna and Tatura for a range of commercial and business functions.

The Strategy includes the Shepparton, Mooroopna and Kialla Business Structure Plan which is reflected in Clause 21.06 of the Planning Scheme, and is proposed to be revised through Amendment C192.

(v) Greater Shepparton Housing Strategy (2011)

The Housing Strategy provides further strategic direction on housing and residential development following the adoption of the Greater Shepparton 2030 Strategy. Greater Shepparton's population is forecast to increase from 59,235 in 2006 to 79,065 in 2031, representing 19,830 additional people or nearly 800 more people each year.

Strategy B.S4 (Achieve integrated transport/land use planning of neighbourhoods) states:

Instead of creating driveable, dispersed forms of development, land use and transport planning efforts should concentrate on creating walkable, compact forms. Planning mixed-use living environments which provide for a range of local uses such as schools, shops, jobs, recreation and entertainment opportunities within residential areas will help allow people to meet their needs locally through a number of transport options. These non-residential uses should be planned in neighbourhoods at a sufficient density and diversity to allow for a significant portion of trips to be made locally.

(vi) Shepparton CBD Strategy (2008)

The Shepparton CBD Strategy includes a vision, 11 key priorities and associated themes, objectives and activities. One of the key priorities is:

Consolidating the CBD as the principal retail centre in the region and creating an active, vibrant and safe CBD.

The Strategy states that the CBD is the most appropriate location for entertainment uses. While it acknowledges that these uses may locate elsewhere, it seeks to focus them in the CBD. It specifically refers to having major anchor stores, cinemas, entertainment, clothing and national brands in Precinct 1 (Retail core).

Many provisions in the Greater Shepparton Planning Scheme were changed on 10 December 2015 through Amendment C92, primarily in the Municipal Strategic Statement, to implement the Strategy.

(vii) Greater Shepparton Freight and Land Use Study (2013)

The Freight and Land Use Study identifies and assesses relevant industry, freight and land use trends in the Greater Shepparton municipal area to inform infrastructure network planning decisions and priorities. It includes information about the Shepparton Bypass, including its alignment and major interchanges near the Mooroopna and Shepparton North activity centres.

(viii) Industrial Land Review (2011)

The Industrial Land Review forms the background work for an industrial land strategy. Regarding Shepparton North (Ford Road to Hawkins Street), it identified the industrial/residential interface as a "planning anomaly". The review recommended that the

Industrial 1 Zone between Ford Road to Hawkins Street be rezoned to Business 4 (for land with existing businesses) and Residential 1 Zone (for the remainder of the land).

(ix) Other relevant strategic work

Other relevant strategic work includes:

- Shepparton North Growth Corridor: Outline Development Plan (2003 and 2009)
- Shepparton North East Precinct Structure Plan (not complete).

2.3 Relevant Planning Scheme Amendments

Council submitted that the following planning scheme amendments are relevant to the consideration and context of Amendments C192 and C193.

(i) Amendment C93 (Housing Strategy)

Amendment C93 changed the Municipal Strategic Statement to implement the recommendations of the Greater Shepparton Housing Strategy 2009 on 21 June 2016. The Housing Strategy seeks to guide future residential development, including the provision of framework plans and investigation areas for future residential growth.

(ii) Amendment C98 (Shepparton North Low Density Residential rezoning)

Amendment C98 applied to 125 hectares of land in Shepparton North and rezoned land from the Farming Zone to the Low Density Residential Zone. Amendment C98 was separated into Parts 1 and 2 and introduced into the Planning Scheme on 6 August 2015 and 1 September 2016 respectively.

(iii) Amendment C119 (Shepparton North rezoning) and planning permit 2008-436

The combined Amendment and permit application applied to 177-193 Numurkah Road, Shepparton (the site of the IGA). Amendment C119 rezoned the land to Business 1 Zone (now Commercial 1 Zone) on 5 April 2012 and applied a permit threshold of 8,000 square metres of Shop floor area. The associated planning permit for a supermarket and shops was granted concurrently at the IGA site, which has not yet been acted upon. That Panel considered that Amendment C199 was strategically justified, and supported by Shepparton 2030 Strategy of 2006 to provide a Neighbourhood Activity Centre in Shepparton North.

(iv) Amendment C188 (North Growth Corridor rezoning)

Amendment C188 proposed to rezone approximately 37 hectares of land comprising 320 Verney Road, 430 Goulburn Valley Highway, part of 420A Goulburn Valley Highway, Shepparton North, from Farming Zone to General Residential Zone. Council adopted Amendment C188 on 18 April 2017 after a Panel recommended that the Amendment be adopted as exhibited. Amendment C188 has not been introduced into the Greater Shepparton Planning Scheme at the time of this Hearing.

(v) Amendment C196 (Urban Design Framework Addendum)

Council requested Planisphere to prepare an addendum to the existing Urban Design Framework: Shepparton North and South Business Areas 2006 so that it included Commercial 2 Zone land in Shepparton North on both sides of the Numurkah Road Corridor.

Amendment C196 proposes to implement the Addendum to the Urban Design Framework: Shepparton North and South Business Areas July 2017 which was adopted by Council on 18 July 2017. The exhibition period was from 3 August to 4 September 2017.

2.4 Planning scheme provisions

The Commercial 2 Zone applies to land in business corridors throughout Shepparton. Amendment C192 seeks to rezone areas of land to Activity Centre Zone Schedule 1 while Amendment C193 seeks to rezone land in the Commercial 2 Zone in the Shepparton North corridor to Commercial 1 Zone. The purposes of these zones are outlined in Table 3.

Table 2 Zone purposes

Zones		
Activity Centre	Commercial 1	Commercial 2
Common purpose		
To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.		
Other purposes		
<ul style="list-style-type: none"> - To encourage a mixture of uses and the intensive development of the activity centre: <ul style="list-style-type: none"> - As a focus for business, shopping, working, housing, leisure, transport and community facilities. - To support sustainable urban outcomes that maximise the use of infrastructure and public transport. - To deliver a diversity of housing at higher densities to make optimum use of the facilities and services. - To create through good urban design an attractive, pleasant, walkable, safe and stimulating environment. - To facilitate use and development of land in accordance with the Development Framework for the activity centre. 	<ul style="list-style-type: none"> - To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. - To provide for residential uses at densities complementary to the role and scale of the commercial centre. 	<ul style="list-style-type: none"> - To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services. - To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

Amendment C192 does not propose to apply any planning scheme overlay. Part of Amendment C193 proposes to apply the Public Acquisition Overlay, the purposes of which are:

- *To identify land which is proposed to be acquired by a Minister, public authority or municipal council.*
- *To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.*
- *To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.*

2.5 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The Amendments are required to meet the relevant requirements of the following Ministerial Directions:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes (s7(5)).

The revised version of the *Ministerial Direction on the Form and Content of Planning Schemes* under section 7(5) of the *Planning and Environment Act 1987* was released on 24 May 2017 and neither Amendment addressed these directions.

(ii) Planning Practice Note 58 (PPN58) Structure Planning for Activity Centres 2015

PPN58 guides councils on the activity centre structure planning process. It covers the reasons for structure planning in activity centres, the policy context, and possible inputs and outputs of the process. While the advice focusses on principal and major activity centres, the structure planning process can be tailored to all types of centres. For reasons expressed in this report, in the case of Shepparton North, which is proposed as a subregional centre, the Panel considers PPN58 should be given some weight.

Some of the key aims of structure planning stated in PPN58 are to develop a shared vision for the activity centre and to identify, manage and facilitate the type and scope of change projected in the centre over time in accordance with State planning policy. The Panel includes the following discussion as it is relevant to its findings and recommendations in subsequent chapters.

Structure planning should:

- articulate the shared vision for the centre
- define the activity centre boundary to allow for future growth and manage impacts beyond the centre – it is likely that the activity centre boundary will be larger than the existing commercial areas
- be consistent with regional and local transport, retail, economic, social, environmental, demographic and housing roles of the centre
- identify precincts, themes and a preferred future character for the centre that facilitates growth and change over time
- provide for housing choice and diversity taking into account housing development data and housing capacity and State planning policy
- provide opportunities for further retail, entertainment, office and other commercial and business services in accordance with activity centre policy in the Victoria Planning Provisions
- provide for well-designed and well-located passive and active public spaces that serve the needs of all the community and visitors to the centre
- facilitate a pedestrian environment
- support greater transport mode choice
- provide a mobility network and traffic and car parking management that encourages and supports sustainable transport mode choices

- address and identify public realm and capital improvement opportunities
- be developed together with the community and stakeholders
- be developed with guidance from the activity centre policy of the Victoria Planning Provisions and Activity Centre Design Guidelines (DSE, January 2005)
- outline appropriate built form outcomes in accordance with the objectives of the design and built form policy of the Victoria Planning Provisions
- lead to the development of a detailed implementation program of statutory and strategic initiatives, including a Statutory Framework.

Regarding the potential location of the **activity centre boundary**, PPN58 advises to consider:

- the location of existing:
 - commercial areas and land uses
 - government and institutional areas and land uses
 - areas of public open space
- commercial and residential needs
- environmental, flooding and heritage constraints
- availability of existing and potential strategic redevelopment sites
- the location of residential areas, including whether they provide significant redevelopment opportunities or constraints for the centre
- physical barriers and opportunities for their improvement
- proximity to public transport
- the location of existing and potential transport infrastructure
- opportunities to provide for and improve walkability within 400 to 800 metres from the core of the centre
- consistency with State and local policy and the Municipal Strategic Statement
- impacts of the boundary on other activity centre boundaries.

Regarding the **boundary being set**, PPN58 advises to consider:

- sufficient land to provide for the commercial (retailing, office, fringe retailing and support activities such as entertainment) activities needed over a 15 to 20 year time frame and then into the 30-year horizon
- residential areas that are integrated into the activity centre or surrounded by other uses that have a strong functional interrelationship with the activity centre even where limited development opportunities exist
- key public land uses that have or are intended to have a strong functional interrelationship with the activity centre even where there are no or limited redevelopment opportunities
- public open space areas that have or are intended to have a strong functional interrelationship with the activity centre.

PPN58 includes a model seven step process, including a comprehensive implementation program.

2.6 Discussion

The Hume Regional Growth Plan directs major urban growth and development in the Goulburn Valley region to be focused in Shepparton. Shepparton's role as a business, retail

and services hub for the region is expected to develop to meet growing demand. This is reflected in the Victorian Settlement Framework at Clause 11.01-2 of the State Planning Policy Framework which identifies Shepparton as a regional city where major growth will be facilitated. Greater Shepparton 2030 Strategy provides more detail about the planning, infrastructure and development needed to respond to this growth.

As outlined in the State Planning Policy Framework, sufficient and available land supply will be needed to support, among other uses, additional commercial and retail activity. It encourages the concentration of highly accessible uses such as major retail, commercial and residential in activity centres with high-quality development, activity and living. Collectively, Clauses 11 and 21.06-5 seek to support a hierarchy of viable activity centres. A commercial activity centres strategy can provide the policy framework to guide activity centre development to achieve these planning policy outcomes.

In presenting the overview of strategic work for Council, Mr Kalms noted the evolution of retail, commercial and planning policy over a 15 to 20 year period, and highlighted the long term and ongoing implementation of these policies.

At the specific activity centre level, Clause 11.02-2 recognises the importance of structure planning to facilitate the orderly development of urban areas. It includes matters that should be considered such as broad area planning, walkable neighbourhoods, and the logical and efficient provision of infrastructure.

The Activity Centre Guidelines, PPN58 and Interim Design Guidelines for Large Format Retail Premises provide useful guidance to ensure that activity centres can achieve relevant outcomes in State and local planning policy. Shepparton's activity centre planning needs to respond to a common key principle sought through the Shepparton CBD Strategy and existing local planning policy – to confirm the primacy of Shepparton's CBD.

The Ministerial Direction on the Form and Content of Planning Schemes (s7(5)) was released after the Amendment was exhibited. Neither the Council nor the Panel has undertaken a full review of the Amendments in accordance with the revised Direction. This should be undertaken by Council in conjunction with DELWP following consideration of the recommendations of the Panel.

The Panel considers the Amendments' strategic justification and policy support in Chapter 4.

PART B AMENDMENT C192



3 Shepparton Commercial Activity Centre Strategy

3.1 Background

The Shepparton CACS seeks to provide a policy framework which:

- provides a clear understanding of the role and function of activity centres in Greater Shepparton
- identifies future retail/commercial floorspace requirements for activity centres
- identifies the relationship between economic activity, population levels, demographics, and social sustainability of activity centres.

The Strategy's catchment population is projected to increase from 171,600 people in 2015 to 199,690 people in 2036, representing 17 per cent growth. The primary sector which includes Shepparton and Mooroopna is expected to increase from 52,180 people to 70,150 people over the same period.

CACS seeks to meet the future retail needs of Greater Shepparton's growing population while achieving the following vision:

Greater Shepparton is a dynamic regional city with a network of activity centres serving both local residents and people from across north-central Victoria and southern New South Wales, as well as serving tourists and other visitors from further afield.

Greater Shepparton will consolidate and enhance its role as a sophisticated regional City, with a hierarchy of activity centres that provide the full range of modern, well-designed and well-integrated retail, commercial, administrative, cultural and other facilities in high-quality physical environments at easily accessible locations.

CACS sets out the following objectives for activity centres:

1. *Support the activity centres hierarchy*
2. *Maximise the regional service role of Shepparton through the provision of a dynamic and efficient activity centre hierarchy*
3. *Consolidate a diverse range of activities in centres*
4. *Confirm the primacy of the Shepparton CBD*
5. *Support the Regional Retail Role of Shepparton Marketplace in a manner complementary to the Shepparton CBD*
6. *Support the growth of existing centres and the development of new centres to meet urban growth*
7. *Support retail and commercial businesses in smaller towns so that they continue to serve as important focal points for their communities*
8. *Closely monitor out-of-centre development, and only allow such development at appropriate locations*

9. Apply Appropriate Planning and Development Assessment Criteria for Relevant Proposals.

CACS includes detailed actions for identified activity centres, including strategic planning guidance which are referred to throughout this report.

The current version of CACS (November 2015) was adopted by Council on 16 February 2016 after it extensively reviewed the draft version prepared by Essential Economics in July 2015. The review process involved public consultation during August and September 2015, including further workshops, meetings with key stakeholders and consideration of submissions. Council's Part A Submission Annexure 8 identified changes resulting from the review.

3.2 Submissions and evidence

The Panel notes that there were very few submissions regarding CACS, and these were mainly associated with Shepparton North and Shepparton Marketplace.

Most of the evidence and discussion related to the proposed Shepparton North Activity Centre (SNAC) in terms of its structure, extent of land, the existing IGA site and its current and proposed planning permit application, and the proposed rezoning of the Lascorp site and the associated planning permit application.

The following economic expert witnesses were called:

- Mr Stephens of Essential Economics and Mr Hrelja of Hill PDA Consulting for Council
- Mr Ganly of Deep End Services for Dexus Property Group
- Mr Dimasi of Dimasi & Co and Mr Quick of Urbis for Lascorp
- Mr Duane of Location IQ for 18 Pty Ltd.

The Panel directed that economic expert witnesses meet before the Hearing, as part of a conclave to confirm matters they were in agreement with, and matters that remained in dispute as well as key assumptions. The experts met on 19 July 2017 and prepared an economic expert conference statement which was circulated to all parties on 21 July 2017.

All economic experts at the conclave generally agreed that CACS:

- was informed by an appropriate level of analysis at a strategic level
- has generally adopted a sound approach for analysing the activity centre hierarchy and distribution of retail and commercial floorspace
- focuses on supporting development outcomes consistent with the adopted hierarchy that seeks to ensure that centres achieve their intended role.

While Mr Duane agreed that CACS was appropriately analysed at a strategic level, he considered there it did not provide a centre-specific trade area analysis.

The points of difference related to:

- the CACS recommended permit threshold of 22,500 square metres of floor area at Shepparton Marketplace and whether it should be increased to 25,000 square metres
- whether locating department stores or cinemas outside the Shepparton CBD should be assessed to consider any impact on the activity centre hierarchy

- the timing of a second supermarket in Shepparton North
- whether the existing Shepparton North supermarket should be measured as 3,500 square metres (excluding the café, liquor shop and lotto agency), 4,000 square metres (include these shops) or 5,000 square metres (including the warehouse behind the supermarket) when measuring the economic impact of a second supermarket.

3.3 Key themes in CACS

(i) Activity Centre hierarchy

CACS provides guidance on activity centre growth throughout the municipality. It was adopted by Council at its 16 February 2016 meeting. The CACS objective is to ensure that the Shepparton CBD remains the primary focus for retail and commercial investment in the region, which is reflected in its activity centre hierarchy, shown in Table 3.

Table 3 Activity Centre Hierarchy for Shepparton

Level in Hierarchy	No. of Centres in Shepparton	Centre
Shepparton Central Activities District	1	Shepparton CBD
Regional retail centre	1	Shepparton Marketplace
Subregional centre	3	Riverside, Mooroopna CBD, Shepparton North
Neighbourhood centre or Town centre	3	Echuca Road (Mooroopna North), Rowe Street East (Shepparton Plaza), Tatura
Local centre or Township centre	29	Branditt Ave, Graham St, Parkside Drv, King St, Dunkirk Ave, Conifer St, Parker St, Macintosh St, Swallow St, Michel St, Poplar Ave, Archer St, Colliver Rd, Guthrie St, Longstaff St, Kialla Lakes, Joseph St, MacIsaac Rd, St Georges Road, Murchison, Dookie, Toolamba, Tallygaroopna, Undera, Shepparton East, Lemnos, Congupna, Katandra West, Merrigum
Enterprise corridor	3	Benalla Road, Gateway North (Numurkah Road), Gateway South (Melbourne Road)

CACS includes, among other matters, a defined study area which is divided into primary, secondary and tertiary sectors, general activity centre objectives and actions and detailed actions for specific centres.

(ii) The Central Activities District

The CBD is Shepparton's highest-order activity centre with the dominant retail, commercial, administrative and cultural location (including hotels, restaurants and cafes) serving the region. CACS includes references to Objective 4 which seeks to "Confirm the primacy of the Shepparton CBD".

Not only is the CBD the key focal point for retail and commercial activity but also for the headquarters of industry such as SPC. The Panel notes that a new law court complex is being constructed and some retail places are being redeveloped.

(iii) Regional retail centre

Shepparton's only regional retail centre, Shepparton Marketplace, has a mix of major traders such as a supermarket, discount department store and a range of retail shops focussed on serving the surrounding region. Its function complements the CBD's more diverse range of retail, commercial and community uses. Approximately 55,000 square metres of General Residential Zone land, abutting Shepparton Marketplace to the south, is proposed to be rezoned to Activity Centre Zone Schedule 1 to enable the centre to expand.

(iv) Subregional centres

Three subregional centres (Mooroopna, Riverside and Shepparton North) are identified and have retail and commercial activity that serve an immediate residential catchment in the surrounding urban area, as well as a broader rural and regional hinterland that is highly accessible from regional road networks. All have potential for growth.

(v) Other centres

Neighbourhood, town and local centres provide localised convenience needs and vary depending on range and scale of retail and commercial uses and the trade catchment area which they serve.

(vi) Enterprise corridors

Enterprise corridors are mixed-business areas that have a mix of homemaker retail, showroom and other commercial businesses which rely on significant exposure to passing traffic and are accessible to the regional road network. The three enterprise corridors about Shepparton Marketplace, Shepparton North and Riverside Plaza.

(vii) Criteria for assessing relevant applications

CACS provides planning and development assessment criteria which are detailed under the following headings:

- When does a proposal need planning approval?
- Information applicants must provide when seeking planning approval for a proposal
- Considerations in the assessment of planning applications
 - Accessibility and urban design
 - Retail demand/need
 - Retail supply.

CACS requires new or expanded Retail premises to be assessed against this criteria.

3.4 Discussion

CACS identifies the need for additional commercial and retail floor area to meet demand from Greater Shepparton's growing population. Council is commended for proactively implementing the necessary strategic planning framework to guide this growth.

The Panel accepts the points of agreement between economic expert witnesses regarding the CACS strategic analysis, methodology and support for development outcomes. This includes the primary and secondary trade area definitions which the Panel considers have been appropriately justified. The Panel agrees that centre-specific trade analysis may have been useful to better understand what proportion of the estimated nine percent (high growth figure) of floor area growth estimated for subregional centres by 2036 will be absorbed in the expanded SNAC. The Panel notes the disclaimer under Table 4.10 of CACS associated with the indicative retail floor area growth figures:

However, this forecast should not be used as a prescriptive policy tool in making planning decisions about new retail facilities, as the forecast is presented as a scenario for future retail development and, as such, it is dependent on the underlying available data and the assumptions which have been described.

Economic expert witnesses disagreed about the degree of assessment for proposals to locate department stores and cinemas outside the Shepparton CBD, however, they agreed that any outcome should not adversely impact on the primacy of the Shepparton CBD. This matter is discussed further in Chapter 4.4 of this report.

The Panel notes that CACS responds to the need for a second supermarket in Shepparton North in response to demand without a specific timeframe. It does not include a specific floor area for the existing Shepparton North supermarket for the purposes of an economic impact assessment.

The 1,056 square metre warehouse and office at the back of the IGA supermarket is significantly larger than similarly sized supermarkets. This may be because of the relatively affordable industrial land at the time the warehouse was added. While there was considerable disagreement between experts about the size of the existing supermarket, the new supermarket for the IGA site is proposed to be 4,000 square metres. The Panel accepts expert evidence that the IGA supermarket should be measured as a 4,000 square metre supermarket for the purposes of an economic impact assessment.

Any disagreement about these matters therefore do not pose any misalignment with CACS.

In further considering the CACS, the Panel notes there are several key threshold issues that need to be addressed, as well as site specific issues.

The key threshold issues relate to:

- methodology and analysis
- strategic justification and policy support
- activity centre development
- cinemas and department stores
- implementation in the Greater Shepparton Planning Scheme.

The site/area specific issues relate to:

- Shepparton Marketplace
- Benalla Road Enterprise Area
- Shepparton North.

These issues are addressed in subsequent chapters.

4 Key threshold issues

The key threshold issues to be considered in relation to the CACS relate to:

- methodology and analysis
- strategic justification and policy support
- activity centre development
- cinemas and department stores.

4.1 Methodology and analysis

The key issue is whether CACS has been prepared using a sound methodology and appropriate level of analysis.

(i) Submissions and evidence

In his evidence, Mr Hrelja for Council analysed retail benchmarks, based on Victoria in Future 2016 population figures and a supportable floorspace figure of 2.2 square metres for each person in 2016 rising to 2.27 in 2031 to reach his conclusion.

Mr Jolly of the Centre for Independently-Owned Retail Research prepared a submission on behalf of Ms Thomas. Mr Jolly took a different view to the economic witnesses and submitted that CACS and associated changes to Clauses 21.05, 21.08 and 21.09 should not be accepted, primarily because of their response to Shepparton North and the impact it would have on the Shepparton CBD. He considered that CACS did not examine supermarket catchment areas, had insufficient economic analysis and incorrect floor area estimates.

Mr Jolly estimated that Shepparton has approximately 27,000 square metres of existing or approved vacant retail floor area, particularly at the Shepparton CBD and at Riverside. He referred to CACS which specifies the need for an additional 35,700 to 55,300 square metres and noted that the vacancy figure represents approximately half of the CACS demand figure. When adding the vacancy floor area with the upper demand figure, Mr Jolly submitted that CACS would effectively enable 83,000 square metres of retail floor area over 20 years, representing an overdevelopment throughout Shepparton. He considered that Shepparton had sufficient retail offer, and further expansion would result in more of the same offer. Mr Jolly was concerned about moving 'foot traffic' from the Shepparton CBD to other locations such as Shepparton North.

Mr Milner considered CACS to be carefully researched and developed strategic work.

(ii) Discussion

The Panel accepts the statements that were commonly agreed to by the economic experts. CACS provides an economic perspective of Shepparton's activity centres hierarchy based on a sound methodology and appropriate level of analysis. Its community survey results provide a human view about shopping and doing business in Shepparton and its CBD beyond the desktop statistical analysis. The Planning and Development Assessment Criteria provides a comprehensive and useful guide for assessing future retail proposals.

CACS is founded on the Shepparton CBD being at the top of the activity centres hierarchy, with actions and strategies to protect its primacy. These include discouraging certain retail

uses in activity centres outside the CBD and requiring a planning permit when a specified total Shop floor area at these centres is exceeded. The Panel considers these measures will be effective in protecting the primacy of the CBD. The Shepparton CBD, which is considerably larger and more diverse than the regional and subregional centres, will have sufficient point of difference to attract visitors, shoppers and employees without adversely changing its role. The Panel therefore does not agree with Mr Jolly's submission on this matter.

As outlined in Chapter 2, there are considerable existing policies and strategies to support Amendment C192. This includes existing policy at Clause 21.06-5 which recognises the challenge for the Shepparton CBD to maintain its attraction and Council's commitment to limit free standing centres to specified locations. Implementing CACS will provide a clearer strategic foundation for future planning scheme amendments and permits with retail related proposals.

(iii) Conclusions

The Panel concludes:

- The Shepparton Commercial Activity Centres Strategy has been prepared using a sound methodology and appropriate level of analysis.

4.2 Strategic justification and policy support

The key issue is whether CACS and Amendment C192 is supported by relevant planning policy and is strategically justified.

(i) Submissions and evidence

Mr Clarke and Mr Barnes agreed that Amendment C192 seeks to implement recommended actions in CACS. Mr Clarke stated that Amendment C192, as far as it relates to the Lascorp land, is strategically justified and supported by existing and proposed policy. Mr Barnes referred to Clause 21.06-5 which supports an additional 40,570 square metres of retail floor area to support anticipated population growth to 2030.

Mr Milner expressed his qualified support of the CACs and noted:

- *It is a carefully researched and developed piece of work.*
- *It builds upon and reinforces the evolution of activity centre policy ...*
- *The elevation of Shepparton North to that of a Sub-regional centre is understandable and justified given its growth corridor context and the better understanding of the potential of this locality.*
- *It retains the status quo on the patterns of zoning and the floor space limits in the schedule to the Commercial 1 Zone pending furthermore detailed justification.*

(ii) Discussion

Amendment C192 is supported by State planning policy which seeks to ensure sufficient supply of land is available for commercial and retail activity. In line with Clause 21.06-5, CACS identifies the need for additional commercial and retail floor area to meet demand

from Greater Shepparton's growing population. Council is commended for proactively implementing the necessary strategic planning framework to guide this growth.

The Panel considers that Amendment C192 will provide the framework to assess and consider net community benefit. The proposed restrictions on regional and subregional centres intend to facilitate sufficient growth to serve the future growth area population without adversely impacting the Shepparton CBD. The net community benefit would be derived through offering the Shepparton community and its broader retail catchment a number of diverse and (with appropriate planning guidance) attractive centres close to their home, where they can meet, shop and work.

Amendment C192 responds to CACS, the Shepparton CBD Strategy and existing local planning policy while aligning a key principle throughout all of these documents to confirm the primacy of Shepparton's CBD.

(iii) Conclusions

The Panel concludes:

- Amendment C192 is supported by relevant planning policy and is strategically justified, and will enable net community benefit to be considered.

4.3 Activity Centre development

As exhibited, Amendment C192 proposed to include the following strategic action at Clause 21.06-7:

Prepare Structure Plans/Urban Design Frameworks for activity centres where further development is likely to occur.

Since exhibition, Council reviewed this aspect of the clause and argued that structure plans for various activity centres were not required. At the Hearing, Council submitted:

Upon reflection, Council has now formed the view that the broad nature of the wording inserted into this clause is confusing and ambiguous.

Council proposed to replace it with specific strategic actions at Clause 21.06-7 to reflect recommendations in CACS for each centre:

- *Implement the South East Precinct Structure Plan in relation to Shepparton Marketplace.*
- *Prepare/implement an Urban Design Framework/ landscape masterplan for Mooroopna CBD, to provide a high quality street based shopping environment.*
- *Implement the DPO/DCP and DDO for Riverside to ensure long term planning and design framework for the centre.*
- *Prepare/adopt an Urban Design Framework to guide built form and development outcomes in Shepparton North, in particular the Shepparton North Enterprise Corridor.*

The issue is whether the proposed strategic work program will sufficiently guide the ultimate development of Shepparton's regional and subregional activity centres. The focus of the following discussion primarily relates to Shepparton North.

(i) What does CACS say?

In the Preface to CACS, it states:

Ultimately, it is envisaged that this Strategy will be an overarching document that informs – but does not prescribe – future-decision making by Council and relevant stakeholders.

Section 9 of CACS provides specific direction for activity centres (other than the Shepparton CBD) that includes strategic planning guidance for the subregional centres summarised as follows:

- Mooroopna – an urban design framework so that the Mooroopna CBD provides a high-quality street-based shopping environment
- Riverside – a structure plan or similar assessment to guide on appropriate long-term planning and design framework for centre including public and private realm improvements
- Shepparton North – initiate a process with landowners and developers to identify the appropriate location to expand the Commercial 1 Zone. A preferred (but not necessary) outcome is an extension of the existing Commercial 1 Zone, although another location in the area between Ford Road and Hawkins Street. Once a preferred location is identified, an urban design framework or similar, will be urgently required so that expansion of the centre occurs in a manner that meets best-practice centre design principles.

Appendix A of CACS includes comprehensive planning and development criteria to help assess retail related planning proposals such as Amendment C193 and the associated permit application. It includes, among other criteria, that the proposed centre:

- be an accessible focal point for the community
- be consistent with any relevant structure plan or development plan
- indicate the extent to which the proposal is to be transit-based, suitably integrated with public transport and accessible by cycling and walking
- integrate architecturally and functionally into the surrounding urban areas
- ensure that, where commercially viable, retailing is integrated with non-retail commercial and community facilities and activities
- include opportunities to promote residential development in or adjacent to existing and proposed activity centres.

(ii) Submissions and evidence

Council tabled a map (Document 41) which showed that potential area referred to in CACS for a second supermarket in Shepparton North. The total area of 174,000 square metres comprises 44,000 square metres of existing Commercial 1 Zone, 37,000 square metres of Lascorp land and 93,000 square metres of Commercial 2 Zone between them. The map also shows an additional 507,000 square metres of Commercial 2 Zone land in the surrounding Enterprise Corridor. The Panel has adopted these figures for the purposes of this report.

During the Hearing, it wasn't clear whether the land bounded by Ford Road, Goulburn Valley Highway, Hawkins Street and industrial land to the east was the broader candidate area from which to select land for an activity centre or whether it was the full extent of the

centre. Mr Canavan submitted that the latter area of approximately 180,000 square metres puts the centre into the Chadstone (Shopping Centre, Melbourne) class.

Council submitted that *“CACS provides strategic direction by putting a geographic boundary on the SNAC.”* It said it considered many of, if not all, of the activity centre boundary criteria outlined in PPN58. Council explained that existing commercial areas and land uses were considered through CACS and the Shepparton CBD Strategy and outlined how other matters were considered. In this context, it submitted:

Council considers a structure plan is not useful, at least until after the decision is made as to whether Amendment C193 can proceed. However, the Council’s view is that once the two retail anchors are determined, policy guidance can be used to discourage large floorspace restricted retail land uses and encourage a mix of smaller retail and related community uses.

Council did not call any planning expert witness.

In line with Council’s view, Lascorp submitted that a structure plan was unnecessary before further retail floor area and associated Commercial 1 Zone land was approved. It added that PPN58 *“provides that structure planning is generally not required for neighbourhood or lower order centres.”* 18 Pty Ltd highlighted that Shepparton North is proposed to be a subregional centre which is higher in the activity centres hierarchy than a neighbourhood centre. When questioned by Mr O’Farrell representing 18 Pty Ltd, Mr Clarke took a similar view to Council that a structure plan was not needed for Shepparton North.

Mr Clarke stated that a structure plan is normally required for Major or Principal Activity Centres where the mix of land uses is more complex. Mr Clarke contended that a Structure Plan for the SNAC is not necessary due to the lack of complexity of the area and noted the key issues, such as ‘functional linkages’ can be addressed through the *Addendum to the Urban Design Framework – Shepparton North & South Business Areas*.

18 Pty Ltd, Marl Enterprises, Metcash Ltd, Mr Jolly and most planning experts considered a structure plan was needed to guide planning in this area of Shepparton. 18 Pty Ltd added that the draft Urban Design Framework Addendum is not a substitute to a structure plan.

At the Hearing, 18 Pty Ltd tendered indicative staged development plans and elevations for the existing Commercial 1 Zone land as part of its planning permit application (Figures 4 and 5).

In supporting the direction of the CACS and the Lascorp proposal, Mr Stephens advised the Panel in response to a question about whether a Structure Plan should be prepared, that *“the last thing this matter needs is another process”*. He did observe however, that it is appropriate to consider the boundaries and to make a decision where a new retail centre should go.

Mr Milner supported the exhibited strategic action in Clause 21.06 to require structure plans/urban design frameworks for activity centres. He highlighted that Shepparton North is proposed to be a future subregional centre and considerable change is expected over a large area comprising diverse ownership, uses, development and vacant land. He stated:

A detailed structure plan process needs to be completed in order to consider and evaluate the circumstances of these constraints and the objectives and preferred features for the centre.

It would provide a forum to test options and feasibilities regarding the more sustainable development and appropriate net community benefit.

He referred to relevant State planning policy in Clauses 11.02-2 (Structure planning) and 11.03 (Activity centres) of the Victoria Planning Provisions. Clause 11.03-2 includes:

Objective *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*

Strategies *Undertake strategic planning for the use and development of land in and around the activity centres.*

Give clear direction in relation to preferred locations for investment.

Mr Milner stated that a structure plan establishes the range and nature of uses, layout and structure of the centre, vehicle and sustainable movement networks, connections within the centre and to its urban context and the public spaces and facilities. He added that without a structure plan, the SNAC would be *“anything but a high quality, vibrant and attractive activity centre”*. He said that it would more likely be a loose agglomeration of disaggregated, poorly located and inadequately integrated activities. Mr Milner said that locating Commercial 1 land on land abutting Ford Road would be ‘out of centre development’, as identified by Clause 17.01-2 of the Victoria Planning Provisions.

Mr Jolly submitted:

Planning in this Amendment seems to be in the hands of economists and follows the lead of economists. This subjugation of the planning principles of structure planning and or strategic planning to those of an economic needs analysis seems flawed and a dereliction of planning duty.

He referred to Council’s reliance on the Urban Design Framework for Shepparton North without a structure plan as *“cart before the horse planning”*. He noted that that the Urban Design Framework is in its early days and only relates to an economics driven strategy.

Mr Jolly submitted that a structure plan should underpin activity centre development and form the basis for sound planning. He added that land south of Hawkins Street should have been considered as an option for expanding the SNAC because it has contiguous retail and associated uses, a major sports precinct directly opposite on Numurkah Road and vacant land to meet identified floor area needs. In response to questions about whether the area south of Hawkins Road should be included within the Activity Centre, Mr Stephens refuted that suggestion and said *“there will always be a range of uses that bleed into the adjacent zones”*.

Centrum Town Planning on behalf of 18 Pty Ltd submitted that exhibited changes to Clause 21.06-5 (Strategies – Commercial/Activity Centres) related to the expansion of retail and commercial facilities in Shepparton North do not include a clear objective for the need to

provide shopping facilities in subregional activity centres. It considered that the proposed strategy (dot point 14 - un-numbered) of the clause to be unclear about the expansion of retail and commercial facilities and did not commit to where the SNAC should be located. Further, 18 Pty Ltd argued at the Hearing that it did not consider the planning and development assessment criteria at Appendix A of CACS to be a substitute for “*proper strategic planning*”.

(iii) Discussion

General

PPN58 outlines reasons for structure planning in activity centres of the scale envisaged by CACS for subregional centres. It includes aims related to matters such as a shared vision, activity centre boundary, connectivity for pedestrians and vehicles, built form, public spaces and housing choice and diversity.

The Riverside, Shepparton North and Mooroopna Activity Centres do not have structure plans. The Panel accepts Mr Milner’s evidence on the need for structure plans, which is supported by Clause 11.03-2. The Panel finds the exhibited strategy proposed for Clause 21.06-7 seeking structure plans for activity centres to be clear and supported by State planning policy. It does not agree with Council’s reasons for its deletion. Irrespective, there is considerable existing State policy and practice advice to support the need for structure plans for activity centres of this scale, especially for emerging centres in areas of population growth.

The Panel therefore does not agree with submissions that a structure plan is not needed for centres such as Shepparton North. PPN58 advises on matters that should be resolved to support orderly activity centre planning and development. For Shepparton North, key matters that should be addressed include:

- how much activity centre land is needed
- how and where should this be accommodated
- how will land uses and built form function together as one centre.

The Panel raises the issue that if a structure plan for the Shepparton North area was contemplated without knowledge of the Lascorp proposal, would it have resulted in two discrete Commercial 1 Zone areas some 400 metres apart? This is hardly likely. Recognising the need for additional retail floorspace, which CACS fairly does, the key issue for the Panel is how that should be realised through this current process. A structure plan will not guarantee delivery, but is essential for the overall long term development of this significant activity precinct. Planning can assist to facilitate this.

How much activity centre land is needed?

CACS and the Greater Shepparton Planning Scheme do not clearly define the SNAC area. Without this information, it is not possible to confirm that the SNAC boundary (however defined) meets the criteria in PPN58.

CACS states that, from an economic perspective, a second preferred location for second supermarket could be somewhere along Numurkah Road between Hawkins Street and Ford Road. This does not mean that the entire area between these two roads is required or that

it automatically defines the entire area as a subregional activity centre. The Panel considers that this simply states that, from an economic perspective, a second supermarket which meets this parameter would align with CACS.

There are other structure planning issues which will determine the ultimate location and scale of land required for the additional retail floor area. The need to accommodate 14,000 square metres of Shop floor area and other centre land uses would determine the area required for the subregional centre. The Panel considers that approximately 42,000 square metres of Commercial 1 Zone land would be needed to accommodate this floor area (based on the rule of thumb ratio of 1:3) and it notes that 44,000 square metres of Commercial 1 Zone land already exists. Additional land would be needed for other land uses.

There is insufficient evidence to support approximately 174,000 square metres of Commercial 1 and 2 Zone land. However, without a structure plan, it is unclear how much land is actually required for the centre.

How and where should this land be accommodated?

The extent of justified activity centre land will help determine how and where it should be accommodated. For example, if a future structure plan includes the existing Commercial 1 Zone land, then additional land will be measured from that point. The extent of additional land required will determine how far the activity centre will span. On the basis that 174,000 square metres of land is not justified, land abutting Ford Road would fall outside the SNAC. As stated by Mr Milner, this could be considered out of centre development.

The form and location of the Commercial 1 Zone within the activity centre area would then need to be established. Retail anchors are generally located at either end of the commercial core within an activity centre. It is not common to have them located on the edges of the overall activity centre with non-Commercial 1 Zone land uses between them. Land uses such as higher density residential development or lower order retailing are more commonly located on the boundary inside the centre to buffer surrounding sensitive residential land uses from the commercial activity.

However, where a Commercial 1 Zone is proposed to be separated into two nodes, then additional location issues need to be considered. The further proposed Commercial 1 Zone land is separated from the existing Commercial 1 Zone land, the more difficult it will be for a structure plan to have the two retail areas functioning as the one centre. One reason is because the existing Commercial 2 Zone which would exist between two separated Commercial 1 Zone areas is the same zone which flows through the entire Shepparton North corridor.

As referenced through CACS, a key objective of the Greater Shepparton 2030 Strategic Plan for retail use located in Commercial 2 Zone is:

To agglomerate peripheral sales and highway services nodes in accessible and appropriately serviced locations, including encouraging and promoting the location of peripheral sales, bulky goods and restricted retail.

Locating Commercial 2 Zone land between two Commercial 1 Zone nodes would not align with this objective because it would disaggregate approximately 97,000 square metres of this zone from the remainder of the highway corridor.

A structure plan would (amongst other things):

- determine whether the existing Commercial 1 Zone should be expanded
- guide whether the centre should have one or more Commercial 1 Zone areas
- clarify how and where the Commercial 2 Zones should be located and developed
- where relevant, define the maximum separation distance between two Commercial 1 Zone areas to ensure that other structure planning objectives can be met.

The Panel is unclear how Council would discourage large floorspace restricted retail uses between the two anchors, and encourage smaller retail and community uses. The Commercial 2 Zone enables land to be used for Restricted retail premises without the need for a permit. Industry and Warehouse also do not need a permit if they meet specified conditions.

In the absence of a structure plan, locating two Commercial 1 Zone areas at the most extreme ends of an activity centre is likely to result in two independently operating shopping nodes with some bulky retail, industrial and other uses between them.

Consolidating the retail and commercial uses into one integrated area would remove the need to connect two disjointed commercial areas separated by land uses normally found on the periphery of an activity centre.

How will land uses and built form function together as one centre?

There is no strategic direction to guide how the different land uses and built form will ultimately function together as one centre.

Council submitted that the role of an activity centre extends beyond the retail land uses, therefore a structure plan would need to address internal connectivity between the different land uses and external connectivity with surrounding land uses. Vehicular and pedestrian connectivity would help guide the location and orientation of built form proposed in any future development proposal.

The Panel has briefly reviewed the plans which form part of the IGA permit applications for Shepparton North. While the Lascorp proposal orientates towards the highway, developing the childcare centre and other buildings on the south side of Doody Street without strategic foresight would restrict the ability to expand south with good connectivity and functionality. The 18 Pty Ltd plans orientate back walls and loading bays to the remainder of activity centre land to the north. Approved and proposed plans for the existing Commercial 1 Zone land should be reconsidered because they threaten the ability to have an integrated functional activity centre.

It is not clear how vehicles and pedestrians would interact within a single functioning activity centre without needing to exit and re-enter the centre by motor vehicle along the hostile highway environment. Consolidating the retail and commercial uses into one area would go a long way to address connectivity issues, reduce the extent of infrastructure required and benefit shoppers seeking to choose their preferred supermarket or shop by walking.

A structure plan would provide strategic direction on such matters. The draft Shepparton North Urban Design Framework Addendum provides broad-level structure design objectives and requirements but it is no substitute for a properly prepared structure plan.

The Panel therefore supports the exhibited Clause 21.06-7 strategy to prepare structure plans for activity centres where development is expected. Implementing this strategy would encourage and promote appropriate development of opportunity sites, and encourage particular land use outcomes and development certainty.

(iv) Conclusions

The Panel concludes:

- there is insufficient strategic direction to guide development in Shepparton North and other subregional activity centres
- robust structure plans would provide strategic direction to guide future development in the Mooroopna, Riverside and Shepparton North subregional centres
- two separate supermarket precincts, separated by a range of uses in a Commercial 2 Zone, in an uncoordinated and inhospitable access environment is not in the best interest of the long term future of Shepparton North.

4.4 Cinemas and department stores

The issue is whether department stores and cinemas should be discouraged outside of the Shepparton CBD.

(i) What does CACS say?

CACS states that department stores and cinemas should be discouraged outside the Shepparton CBD to support its primacy in the activity centres hierarchy.

Amendment C192 proposes to change Clause 21.06-5 by:

- revising an objective to: *“To consolidate the traditional retail core (Precinct 1) including a continued focus of providing specialty retailing and entertainment, particularly cinema based facilities and department stores”*
- revising an associated strategy to: *“Encourage national brand retailers, and specialty retail, department stores and cinema operators to locate in the CBD core area (Precinct 1)”*
- adding the following new policies:
 - *Discourage department stores from locating outside of the retail core (Precinct 1), particularly in regional, sub-regional or neighbourhood activity centres*
 - *Discourage development of cinema outside of the retail core (Precinct 1).*

It also proposes to change Activity Centre Zone Schedule 1 by:

- adding a new objective *“To discourage department stores and cinemas from locating outside of the retail core (Precinct 1), particularly where this may change the role and function of the activity centre or that part of the activity centre”*
- not requiring a permit to use land for a cinema in Precincts 1 or 2 or for a department store in Precinct 1
- prohibiting land being used for a cinema and department store in Precincts 3, 4, 7 and 10.

(ii) Submissions and evidence

In its submission, Council emphasised that the changes to Clause 21.06-5 seek to protect the primacy of Shepparton's CBD (Precinct 1). It removed reference to Precinct 2, which relates to the Office precinct after its audit found that there was no suitable site for additional cinemas in that precinct.

At the economic conclave, Mr Stephens and Mr Hrelja supported the CACS policy intent for the Shepparton CBD to be an entertainment destination and for Council to assess the suitability of department stores (if any) proposed outside the CBD area.

Mr Ganly considered that the second policy related to discouraging cinemas outside of the retail core should be deleted.

Mr Ganly stated that the "rule of thumb" in the Australian cinema industry was one screen for every 10,000 residents within a 30 minute drive catchment. He highlighted that Shepparton provided 0.54 cinema screens for every 10,000 people. His evidence compared Shepparton's screen ratio with 30 other regional locations throughout Australia and found that Shepparton provided the third least number of screens for every 10,000 people. Based on its population catchment, Shepparton would need eight screens. Mr Ganly considered the existing three screen Village cinemas were a relatively 'poor' cinema offer.

Council agreed that the Village cinemas were in a "tired state". At the Hearing, Council tendered correspondence (Document 105) from the Village Cinemas Australia advising that it is preparing plans for a \$3 million redevelopment of the cinemas, which includes an additional screen.

In response to submissions and evidence, Council proposed the following alternative Clause 21.06-5 policy wording:

Discourage the development of large department store retailers and cinema operators unless an Economic Impact Assessment establishes that such uses will not have an unacceptable adverse impact on the Shepparton CBD.

During the Hearing, Council further revised Clause 21.06-5 to read:

Ensure the location of any new department stores or cinemas outside of the retail core (Precinct 1) will not change the role and function of that centre and the primacy of the retail core as justified by a detailed planning assessment, including an economic impact assessment.

(iii) Discussion

The Panel agrees with the logic and principles in CACS regarding department stores and cinemas in the Shepparton CBD. During the Hearing, there was a strong focus on whether enabling department stores and cinemas outside of the CBD would change its role in the activity centres hierarchy. This is reflected in Council's changes to Clause 21.06 shown in Document 104 and should be considered in context with Shepparton CBD Strategy Priority 2, as referred to in CACS:

Consolidate the CBD as the principal retail centre in the region and creating an active, vibrant and safe CBD.

CACS made the following key insight into the role and function of the Shepparton CBD:

Night Economy – *a vibrant night-time economy in the Shepparton CBD is lacking, despite the growing success of areas such as Fryers Street for dining and entertainment. This represents a ‘time lag’ relative to changes being experienced elsewhere in regional cities in Australia where casual night-time dining and entertainment, including attractions for families, is increasingly popular.*

The word ‘vibrant’ applies in both instances. Department stores and cinemas are important for supporting the role *and* vibrancy of the Shepparton CBD. However, there may be circumstances where these land uses can operate outside the CBD without an unreasonable impact on the CBD. The Panel supports an appropriately drafted policy which:

- meets the CACS policy intent for the Shepparton CBD as the primary centre in the activity centres hierarchy
- enables opportunities to consider circumstances where department stores and cinemas can locate outside the CBD without unreasonably impacting the role and vibrancy of the Shepparton CBD.

Any proposal seeking to locate department stores and cinemas outside the Shepparton CBD should be supported by evidence-based information. For example, an economic impact assessment, as proposed in Council’s revised clause, would help assess whether an out-of-CBD proposal can achieve the relevant policy outcomes.

(iv) Conclusions

The Panel concludes that the revised Clause 21.06-5 (Appendix D):

- provides an appropriate policy assessment framework for considering new department stores or cinemas outside the CBD retail core
- achieves the policy intent in the Commercial Activity Centres Strategy of maintaining the primacy of the CBD.

5 Shepparton Marketplace

5.1 Key issues

Shepparton Marketplace is in the Commercial 1 Zone with a schedule which specifies that a planning permit is required for Shop (other than Restricted retail premises) that exceeds 15,000 square metres of total leasable floor area.

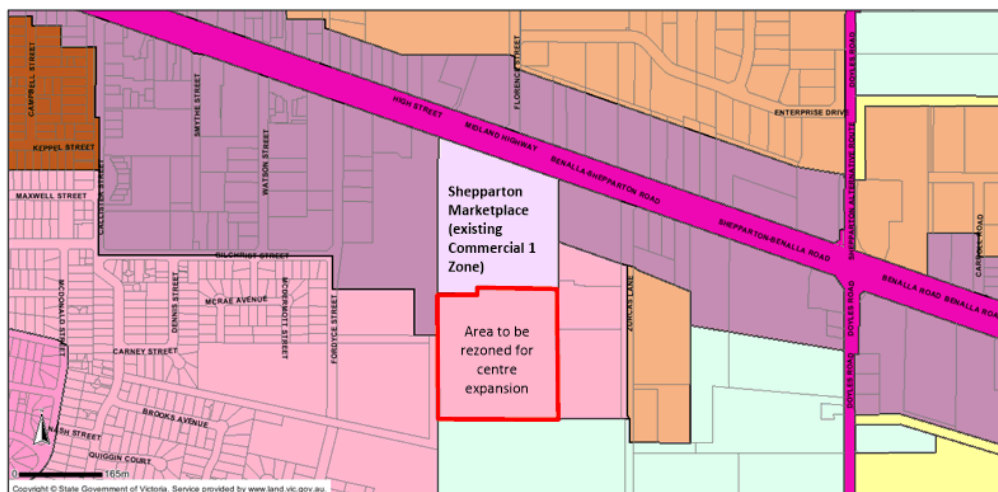
Amendment C192 proposes to:

- rezone the Shepparton Marketplace from the Commercial 1 Zone to Activity Centre Zone Schedule 1
- rezone 55,000 square metres of General Residential Zone land south of the existing Shepparton Marketplace to Activity Centre Zone Schedule 1, as shown in Figure 3
- designate the expanded land area within Precinct 9
- increase the permit threshold to 22,500 square metres of floor area for retail premises (with specified exceptions).

The key issues relate to whether:

- increasing the permit threshold in Shepparton Marketplace from 15,000 square metres of Shop floor area to 22,500 square metres of Retail premises floor area is appropriate and justified
- Shepparton Marketplace should be identified as a single precinct (Precinct 9), when it could be considered as part of the overall Benalla Road Enterprise Precinct 10
- Preferred street wall height and setback provisions should be applied.

Figure 3 Shepparton Marketplace



5.2 What does CACS say?

Shepparton Marketplace is located at 110 Benalla Road, Shepparton, approximately 2.3 kilometres from the Shepparton CBD centre. Owned by Dexu, the centre has a Woolworths

supermarket, Big W discount department store and specialty shops. The Shepparton Marketplace has a floor area of 16,599 square metres.

CACS recognises that Shepparton Marketplace, the CBD, Benalla Road Enterprise Corridor and Rowe Street East have a relatively close functional relationship. Actions for Shepparton Marketplace are summarised as:

- Action 1: The centre will expand and any expansion will be supported by a detailed retail-economic analysis which identifies implications for the CBD and balance of the activity centres hierarchy.
- Action 2: Prevent the centre from undermining the role and function of the CBD by implementing appropriate planning provisions including:
- continue to apply a floor area permit threshold (currently 15,000 square metres)
 - potential office floor area permit threshold
 - potential limits on cinema and cinema-based entertainment uses
 - potential cap on new tenancies
 - future application of the Activity Centre Zone.
- Action 3: Without prejudice to Actions 1 and 2, approach the Shepparton Marketplace owners to collaboratively fast-track a planning scheme amendment which implements the Activity Centre Zone.

5.3 Evidence and submissions

Council explained that it had been discussing high level concept plans with Dexu which varied roughly between 26,500 to 30,000 squares metres of ultimate floor area. Council noted that since exhibition, it changed the permit threshold floor area measure from Retail premises to Shop to better align with the intent in CACS. This would enable Shepparton Marketplace to have non-shop Retail premises that exceeded 22,500 square metres with a planning permit. Council did not support increasing the permit threshold beyond 22,500 square metres.

In its submission, DEDJTR expressed concern about the impact the proposed Shepparton Marketplace Retail premises floor area expansion would have on future transport needs and noted that this was not explained in the Explanatory Report. It added that increasing the threshold to enable up to 22,500 square metres of floor area to be used without a planning permit conflicted with an existing Clause 21.06-5 strategy which requires an economic impact assessment when considering such an expansion.

Mr Stephens acknowledged that applying any floor area measure was, at some level, arbitrary but considered that 22,500 squares provided a “*strong sense of certainty*” that additional development would be consistent with the objectives of CACS.

Mr Hrelja stated that enabling 22,500 square metres of floor area to be used without requiring a permit would give Shepparton Marketplace about 16 per cent of the market share and would not cause “*critical damage to the CBD for the 2016 to 2031 period*”. He used high-level quantitative benchmarks to support his statement.

Dexus supported an increase in the permit threshold but preferred it set at 25,000 square metres of Shop floor area. Dexus provided a supplementary submission dated 29 September 2016 prepared by Mr Ganly. It noted that permit thresholds are applied in growth areas in Melbourne and regional Victoria using Shop floor area to establish the permit threshold. It described the Retail premises permit threshold as “*most unusual*” and suggested that Shop floor area be used as the measure.

Following the original Dexus submissions, Council reviewed CACS and sought independent third party advice from Hill PDA Pty Ltd, who advised that it was likely that CACS intended to apply Shop floor area as the permit threshold measure. Council subsequently supported changing the permit threshold to a Shop instead of Retail premises in Activity Centre Zone Schedule 1. At the Hearing, Council submitted:

The increase in “shop” floorspace from 15,000 to 22,500 will allow the Marketplace to utilise additional floorspace above the existing cap for office and other retail premises, such as food and drink premises.

Mr Ganly stated that Shepparton Marketplace retailers generally trade very strongly “*partly as a result of the centre’s small size, but also because of its unique nature within the region.*” Mr Ganly considered that expanding Shepparton Marketplace to 25,000 square metres would not threaten the primacy of the Shepparton CBD. He added that this larger permit threshold would allow a scale comparable with modern centres in similar regional locations in Australia, optimise development of the land, appropriately provide for future residents and give certainty to the centre owner to expand the centre.

At the Hearing, Dexus disputed the CACS reliance on industry benchmarks for setting the permit threshold floor area and submitted:

Instead, the key question is whether a cap of 25,000 square metres, as opposed to a cap of 22,500 square metres, will change the role of the Shepparton CBD as the primary retail centre.

On the evidence of Mr Ganly and Mr Hrelja, the answer is unequivocally – no.

Council responded that Mr Ganly did not provide technical justification to support a permit threshold with a greater floor area. It added that he offered a different methodology using other regional centres as examples without supporting detail. Council said that it had not seen justification to support a permit threshold greater than 22,500 square metres, but it is not opposed to the centre expanding in the future beyond this area, subject to justification and approval through a permit process.

Dexus queried the rationale for applying preferred street wall height and setback provisions. It submitted that a permit application to expand the centre should be based on a first principles assessment. Council responded that the preferred built form provisions are flexible and can be varied to respond to individual merits and the built form contribution to the overall streetscape.

During the Hearing, the Panel questioned Council about why Shepparton Marketplace (Precinct 9) was separated from the Benalla Road Enterprise Corridor (Precinct 10). Council responded that each precinct served different functions, with the enterprise corridor focussed on bulky goods.

5.4 Discussion

The Panel acknowledges that Shepparton Marketplace is located about five minutes' drive from the Shepparton CBD, and as noted by Mr Ganly, trades very strongly because of its size and unique nature within the region, as well as adequate and accessible car parking. It is located next door to the second largest Bunnings in Victoria, interestingly with no direct or formal car or pedestrian connectivity.

The Panel has no doubt that CACS intended to apply the 22,500 square metres to Shop floor area. Council's post-exhibition change to apply Shop floor area (instead of Retail premises) as a permit threshold would enable Shepparton Marketplace to use additional floor space for other Retail premises (other than those specified in Activity Centre Zone Schedule 1) without a permit. This would effectively enable it to achieve a Retail premises floor area greater than 22,500 square metres.

The Panel agrees that any expansion to the centre which significantly changes the role of the Shepparton CBD would be an unacceptable outcome. However, the key question is whether a proposal greater than 22,500 square metres of Shop floor area should be assessed by Council through a planning permit application.

The Panel accepts Mr Stephens' evidence on this matter and considers that CACS provides sufficient justification to require a permit for Shop floor area greater than a 22,500 square metres. A more detailed and focussed economic impact assessment supporting the permit application would help to consider whether it is appropriate for Shepparton Marketplace to increase its floor area beyond 22,500 square metres and to better understand the potential impact it would have on other centres within its primary and secondary trade area, most particularly the Shepparton CBD.

The Panel agrees with Council that Mr Ganly's evidence does not provide sufficient technical information to exempt a Shop floor area greater than 22,500 square metres from requiring a planning permit. As highlighted by Council, a centre beyond this figure could be considered through a permit application when details are available. For example, a proposal beyond 22,500 square metres which includes only specialty shops may have a different impact to one which includes a supermarket or department store.

The Panel supports the 22,500 square-metre Shop floor area being applied as a permit threshold.

The Panel acknowledges Council's submission regarding the separation of Precincts 9 and 10 which are identified in Activity Centre Zone Schedule 1 as precincts the Shepparton CBD. According to CACS, Shepparton's CBD, Shepparton Marketplace and the Benalla Road Enterprise Corridor are three different centres. The Panel understands that combining all three centres into one schedule may have been done for administrative purposes, however, it may also create the impression that they form part of an expanded CBD area. Council should consider how Activity Centre Zone Schedule 1 can better clarify that Precinct 9 is an activity centre, and designated as a Regional centre, in its own right.

The Panel accepts Council's submission on the built form provisions and considers they should be included in Activity Centre Zone Schedule 1 to guide future built form.

5.5 Conclusions

The Panel concludes:

- the rezoning of the existing land and that to the rear of its site to Activity Centre Zone 1 should be supported
- increasing the permit threshold for Shepparton Marketplace from 15,000 square metres of Shop floor area to 22,500 square metres is appropriate and justified
- any Retail premises floor area greater than 22,500 square metres should be considered through a planning permit application process
- the preferred street wall height and setback provisions for Precinct 9 should be included in Activity Centre Zone 1
- Shepparton Marketplace should remain in Precincts 9 as a separate entity, however, Council should consider a notation in the Activity Centre Zone 1 which better clarifies it is a Regional Centre.

6 Benalla Road Enterprise Corridor

6.1 The issue

The issues are whether:

- there is sufficient strategic basis for Activity Centre Zone Schedule 1 to prohibit a Supermarket, Office and Medical centre within this corridor (Precinct 10)
- the built form provisions are clear and appropriate.

6.2 What does CACS say?

The Commercial 2 Zone currently applies to the Benalla Road Enterprise Corridor. The Commercial 2 Zone requires a permit for Shop (which includes a supermarket) and does not require a permit for Office. The Amendment proposes to designate the Benalla Road Enterprise Corridor as Precinct 10 in Activity Centre Zone Schedule 1. Activity Centre Zone Schedule 1 proposes to change land use provisions in Precinct 10 to prohibit a Supermarket, Office and Medical centre.

Detailed actions for Enterprise Corridors are summarised as:

- Action 1: Encourage Enterprise Corridors as locations for a wide range of businesses seeking large sites with high exposure to passing trade and which are not necessarily appropriate for an activity centre. Support the growth and development of homemaker retail, trade supplies and complementary uses which reflects an appropriate urban design outcome standard.
- Action 2: Recognise the popularity of homemaker retail and their specific site criteria in terms of site size, location, exposure and access. Encourage homemaker development which integrates with adjacent land uses and contributes to the overall attractiveness of enterprise corridors for homemaker retail shopping.
- Action 3: Council will actively enforce planning policy to ensure that the primary purpose of all homemaker retailers is to sell merchandise consistent with the planning scheme definition for Restricted retail. The sale of goods and services outside this definition will be ancillary only.
- Action 4: Consider options to discourage office and cinemas through measures such as applying the Activity Centre Zone.

6.3 Submissions

Council acknowledged that the Benalla Road Enterprise Corridor has a wide range of retail and non-retail uses, and previously comprised the Business 3 and 4 Zones. It submitted that Amendment VC100 replaced these zones in July 2013 with the Commercial 2 Zone which enabled land uses which could potentially compromise and dilute Shepparton's activity centres hierarchy.

Aventus Property Group (Aventus) owns Shepparton Home Central which is at 290 Benalla Road, Shepparton in Precinct 10. It submitted that a Supermarket, Office and Medical centre should not be prohibited in this precinct because the Benalla Road Enterprise

Corridor is identified as a mixed-used business area with retail and non-retail land uses. Aventus added that prohibiting an Office use ignores this context and that such a use could establish in Precinct 10 with a specified floor area cap or permit threshold to manage any potential impact on higher order centres. It requested that a Supermarket continue to be permitted and that an Office (including Medical centre) not require a permit, subject to a floor area cap.

Council responded that the Activity Centre Zone Schedule 1 land use changes proposed by the Amendment align with CACS and it did not support these changes.

Aventus further submitted that the reference to Precinct 2 at Activity Centre Zone Schedule 1 Clause 5.10-3 is an error and should have referred to Precinct 10. It was unclear whether the preferred 11.5-metre (three storey) street wall height, 20-metre front setback and three-metre rear setback provisions at Clause 5.10-3 are intended to be applied as minimums or in some other form. Aventus added that the proposed street wall height does not correspond to the existing Benalla Road built form, which is typically single storey and six to 10 metres.

Council responded that the built form provisions are relatively flexible because they are preferred rather than mandatory planning provisions. It submitted that the built form provisions are intended to reflect the general existing built form in the precinct and are expected to vary based on each site's merits.

Aventus did not seek to be heard by the Panel at the Hearing.

6.4 Discussion and conclusion

The Panel agrees with Council's submissions on land use and built form provisions for Precinct 10. Shepparton's only regional centre (Shepparton Marketplace at Precinct 9) is centrally located to Precinct 10 and can satisfactorily service the entire corridor for Shop uses. CACS clearly states the intent of concentrating certain retail uses to Precinct 9 so that the activity centres hierarchy is not adversely impacted. There is insufficient strategic basis to depart from CACS by enabling a supermarket or office land uses in Precinct 10.

The Panel considers that Clause 5.10-3 built form provisions clearly express their intent. The preferred building height refers a maximum which means any height up to that height. The preferred street wall height and setbacks do not refer to a maximum which means that Council prefers that future built form meets the specified measures. Being preferred provisions, they can be varied for individual circumstances.

The Panel concludes:

- there is sufficient strategic basis for Activity Centre Zone Schedule 1 to prohibit a Supermarket, Office and Medical centre in Precinct 10
- the built form provisions are clear and appropriate.

7 Shepparton North

This chapter considers strategic justification for the Shepparton North Activity Centre, as defined by Council and the extent of proposed Shop floor area, including two supermarkets, and associated Commercial 1 Zone land.

Part C of this report considers issues directly related with Amendment C193 and planning permit application 2016-269.

7.1 Background

To set the context for consideration of the Amendments, it is necessary to understand the chain of events to this point in time. The site of the existing IGA and the land proposed for the Lascorp development has a long history, as detailed in Table 4. This information has been derived from submissions.

Table 4 Background

1978	A 4,000 square-metre supermarket began operating at 177-193 Numurkah Road, Shepparton (Fairley's IGA supermarket); a predominantly industrial corridor
1985	An approximately 1,000 square-metre warehouse was added to the rear of the supermarket
2011	Metcash (a wholesale distribution and marketing company specialising in grocery, fresh food, liquor and hardware) purchased the supermarket centre from the Gaylard Family
12 April 2012	In response to a request from Gordon Undera Pty Ltd, the supermarket centre land: <ul style="list-style-type: none"> - was rezoned to the Business 1 Zone (now Commercial 1 Zone) with an 8,000 square-metre permit threshold for Shop (Amendment C119) - was granted a permit for the first stage of a shopping centre development, comprising a new 4,000 square metre supermarket and speciality shops (which has not been acted upon)
2012	Marl Enterprises (part of the Lorenz Group of companies) purchased the Fairley's Supa IGA business
2015	Metcash advised Marl Enterprises that since changing its policy to developing its sites, it would sell the supermarket centre to an experience retail property developer
15 September 2016	Council approved Metcash's permit application to extended the planning permit – see revised dates below
17 January 2017	Planning permit 2008-436/A – Council endorsed further plans (Figure 4)
January 2017	A new permit application was lodged for revised development plans (Figure 5)

12 April 2017	Planning permit 2008-436/A – original expiry date if development did not commence
30 May 2017	Marl Enterprises, through its Aeroten Pty Ltd company name, made a submission in response to the exhibition of Amendment C193 and PPA 2016-269
11 August 2017	18 Pty Ltd (part of the Herzberg family companies), previously a prospective purchaser, purchased the supermarket site (44,000 square metres of Commercial 1 Zone land)
11 August 2017	Panel Hearing final day
12 April 2018	Planning permit 2008-436/A – extended expiry date if development did not commence
12 April 2019	Planning permit 2008-436/A – original expiry date if development was not completed
12 April 2020	Planning permit 2008-436/A – extend expiry date if development was not completed

Figure 4 Planning permit 2008-436/A plans endorsed by Council in January 2017

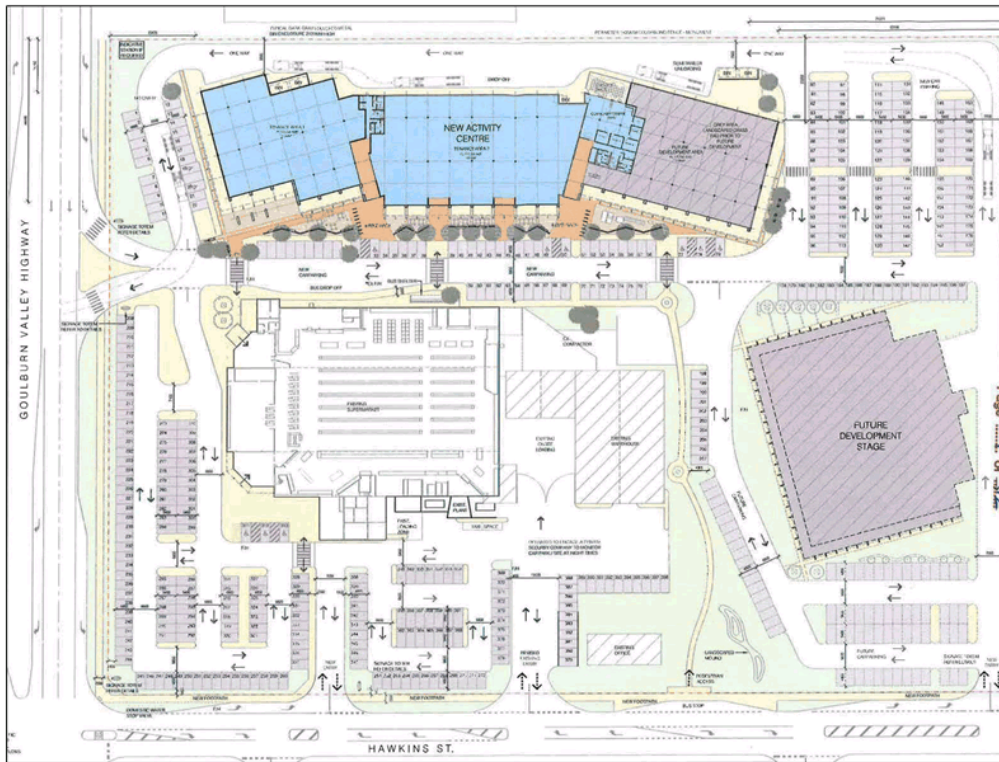
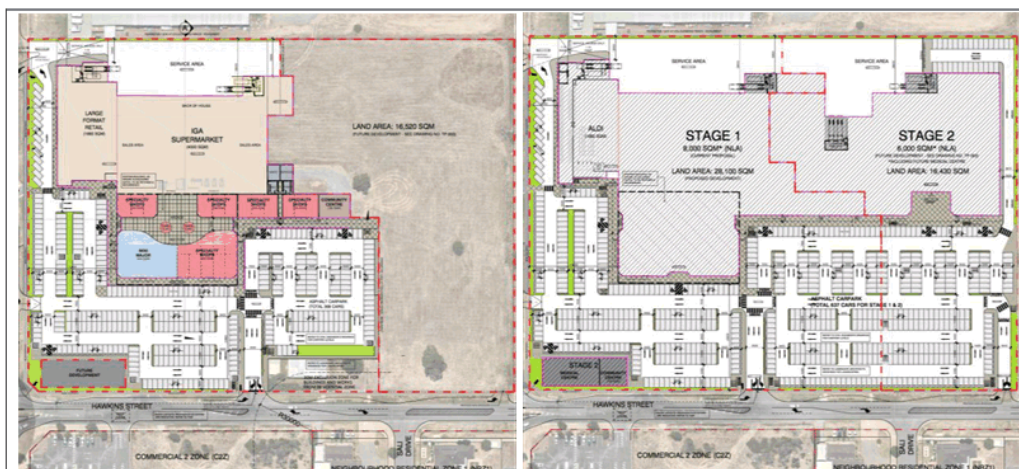


Figure 5 Planning permit application 2017-177 plans lodged in January 2017



7.2 Key issues

The issues are:

- the extent of the SNAC and how it is defined
- whether increasing the permit threshold for the SNAC from 8,000 square metres of Shop floor area to 14,000 square metres is appropriate and justified
- if justified, whether the 14,000 square metres of Shop floor area with two supermarkets and associated Commercial 1 Zone land should be in one or more locations, each with a supermarket within, adjacent to, or at either end of the activity centre.

7.3 What does CACS say?

Detailed actions for Shepparton North are summarised as:

- Action 1: Encourage retail and commercial facilities to expand in the existing Commercial 1 area.
- Action 2: Expand the centre to provide a range of retail and non-retail facilities consistent with its subregional status in the activity centres hierarchy – could include a second supermarket but excludes major non-food retail anchor such as a discount department store.
- Action 3: Ensure the centre's future development is supported by appropriate urban design and planning guidance and subject to a detailed assessment using the Planning and Development Assessment Criteria. An additional 6,000 square metres of shop floor area may be supported on land outside the existing Commercial 1 Zone but within the area fronting the Goulburn Valley Highway between Ford Road in the north and Hawkins Street in the south.
- Action 4: Consider applying a maximum shop tenancy size which restricts a discount department store or other major non-food based shop tenants.

Action 5: After identifying the location of an expanded Commercial 1 Zone, develop an urban design framework or similar assessment that provides appropriate guidance on how the centre can develop to provide a high-level of amenity to shoppers and is consistent with best-practice activity centre development guidelines.

Action 6: Allow a small local centre to develop in association with the new North-East residential growth area.

Regarding the SNAC, CACS states:

- only half of the 8,000 square metres of Shop floor area enabled without a permit presently exists on the existing Commercial 1 Zone land
- while being identified as a subregional centre in the hierarchy, the centre currently has a limited role, dominated by a single supermarket without retail and commercial diversity
- in indicative terms, an additional 6,000 square metres of Shop floor area is supported.

Regarding the location of additional commercial land, CACS states:

Although at present the Shepparton North activity centre is dominated by the Fairley's IGA site, it is appropriate that opportunities for further expansion are considered. This could represent an extension of the existing Commercial 1 Zoned land or, if required, a new area within the Commercial 1 Zone located elsewhere in that part of the Shepparton North Gateway between Ford Road and Hawkins Street in which a range of commercial uses are currently concentrated.

7.4 Submissions and evidence

(i) Additional Shop floor area

In response to economic expert witness statements, Council noted that most experts agreed that a second supermarket is appropriate in Shepparton North. It considered issues related to the second supermarket to be confined to location and timing.

In the economic expert conclave statement, all witnesses agreed that CACS supports additional retail floor area at the SNAC. While methodologies between each expert were different, four experts agreed that they were appropriate for each statement, except for Mr Duane's floor area calculation for the existing IGA supermarket. Mr Duane included the 1,056 square-metre building behind the existing IGA supermarket which includes warehouse and office use. There was agreement among other experts that the supermarket should be calculated at no more than 4,000 square metres.

(ii) Location of supermarkets

Council submitted that it preferred the Commercial 1 Zone area at the SNAC expand on the existing Commercial 1 Zone land. This preference was expressed by several planning and economic expert witnesses. In response to inactivity on this land over several years, it supported a separate commercial area at Ford Road. Council submitted that co-location of

supermarkets is not necessary because Shepparton North, like much of Shepparton, is a car based regional centre and visitors will drive there. This opinion was shared by a number of advocates.

All experts generally agreed that consolidation of two full line supermarkets will provide a higher level of net community benefit.

Mr Clarke stated that separating the commercial area into two supermarket based centres at Hawkins Street and Ford Road would be a disadvantage and may result in *“a dilution of the ability to make multi-purpose trips and create business synergies.”* Mr Jolly submitted this separation would result in community disbenefit. Notwithstanding, Mr Clarke added that advantages associated with having additional retail and associated uses at the Ford Road end outweighed the disbenefit. These include an additional full-line supermarket, associated retail and community facilities, increased retail competition and increased employment opportunities.

Mr Clarke noted that the provision of retail facilities at Ford Road would be *“more proximate than the existing offer to the residents north of Ford Road”*. Mr Clarke concluded that a second supermarket on the Ford Road site would provide improved access, choice and competition, which represented a better outcome for Shepparton North residents.

Mr Barnes took a different view and stated:

Given the 14,000 sqm of retail floorspace identified as being required in Shepparton North, I do not believe that there is any prospect of effectively integrating a supermarket based centre at the corner of Ford Road, with the existing / redeveloped Fairley Site, to function as single, a well-planned and conveniently designed activity centre.

Regarding the most suitable location to co-locate the two supermarkets, Mr Barnes and Mr Jolly both recognised the existing critical mass comprising the supermarket directly north of Hawkins Street and smaller scaled shops, restaurants and associated uses directly south of the street. Mr Barnes stated:

Council has recently granted a number of planning permits for shops to the south of Hawkins Street, on either side of Pine Road, some of which are nearing completion.

Mr Barnes and Mr Jolly further recognised the major Shepparton Sports precinct directly opposite the shops south of Hawkins Street and south-west of the existing supermarket which could be integrated into future planning of the SNAC.

Mr Barnes included a map (at page 22 of his evidence) illustrating the extent of existing activity in the Hawkins Street/Pines Road area, as shown in Figure 6.

Figure 6 Extent of existing activity in the Hawkins Street / Pines Road area



Mr Milner gave evidence that two commercial areas at either end of the activity centre, each with a supermarket and shops, would be separated by approximately 600 metres (measured from the centre of each centre) of partially used and developed industrial land (Figure 7). Taking into account that the existing Commercial 1 Zone forms part of the activity centre, he said a proposal to locate more Commercial 1 Zone land at the Ford Road end to be an “*out of centre development*”. Mr Milner based this view on the manner and distance of the separation. He argued that irrespective of the academic exercise of drawing a line around the whole area and calling it an activity centre, in reality and to the lay person, it will present itself as two centres.

Mr Jolly added that locating anchors at either end of the Activity Centre was “*not orderly or proper planning*” because it did not consider concentrated retailing and walkability. He referred to extracts from several VCAT decisions where a supermarket and speciality shops were proposed at a distance from an existing supermarket and shops, and said:

two major activity centre nodes at either end of (a) centre with an underutilized ... building between them ... is not an acceptable outcome.
(Fabcot Pty Ltd v Latrobe CC [2007] VCAT 354)

and

The Strathfieldsaye Township Plan 2009 aims to stimulate development of an intimate shopping environment that can be easily navigated by walking. This involves discouraging disconnected commercial developments that would

compromise the vision for an intimate walkable ... centre. In my view, the proposed plan will not achieve this vision. *Maverston Property Pty Ltd v Greater Bendigo CC [2013] VCAT 1244*

Figure 7 Context of site subject to Amendment C193 and existing IGA site



Mr Hrelja agreed with Mr Kane that one location for two supermarkets in one viable centre is the best outcome for the consumer. Further, such a consolidated walkable centre co-located with the existing Commercial 1 Zone land would be a “*typical optimal outcome*”. He added:

However ... CACS takes a pragmatic approach to stimulate competition in the land and retail market and this has had the effect of generating two proposals in the Shepparton North area.

7.5 Discussion

(i) Additional Shop floor area

All experts agreed that 14,000 square metres is the correct amount required for two supermarkets with specialties, the key point of difference is the timing and location of a second supermarket.

The Panel supports the 14,000 square-metre leasable retail floor area which CACS seeks for the SNAC. On the commonly applied ratio of 3:1, roughly 42,000 square metres of Commercial 1 Zone land would be required to meet this objective. The Council defined that the SNAC has approximately 174,000 square metres of commercial zoned land including 44,000 square metres of the existing Commercial 1 Zone.

As evident in the area south of Hawkins Street which presents itself as an extension of an activity centre, the Commercial 2 Zone permits shops such as Chemist Warehouse to locate outside the Commercial 1 Zone. This example demonstrates how existing planning scheme provisions permit land uses that conflict with what Action 3 for Enterprise Corridors in CACS seeks to achieve.

There would have to be compelling reasons to add considerably more Commercial 1 Zone land beyond what currently exists. Council's post-exhibition change to Clause 21.05 to consider the Activity Centre Zone for the SNAC and the Shepparton North Enterprise Corridor would:

- enable additional Shop floor area to be better managed in the SNAC and its immediate environs
- implement a recommended CACS action.

There was a general view that if the Lascorp proposal was successful in gaining approval, the 14,000 square metres of Shop floor area would be spread across a very large geographic area.

However, this does not mean that another planning scheme amendment proposal to rezone further Commercial 1 Zone land cannot be considered because there may be reason to relocate the Commercial 1 Zone to another part of the Activity Centre.

Part C of this report considers Amendment C193 in further detail and proposes 6,000 square metres of the total 14,000 square metres of Shop floor area and 37,000 square metres of the Commercial 1 Zone for the Lascorp land at 221-229 Numurkah Road and 10 Ford Road, Shepparton.

(ii) Location of supermarket and shops

The Panel acknowledges that Council, CACS, several planning expert witnesses and submitters prefer to have additional Shop floor area in the one consolidated location – on or abutting the existing Commercial 1 Zone land. It does not agree with Council that co-location is not necessary because of Shepparton's reliance on cars. This does not align with State and local planning policies and concedes to a serious issue.

The SNAC is relatively undeveloped and provides a unique opportunity to shape a new centre that better aligns with planning policy and more contemporary planning principles. Consolidating the supermarkets and shops into one location would encourage economic activity and business synergies, provide a focus for shopping, business and community facilities to locate around, and improve walkability. This is where a structure plan is critical. All of these are consistent with strategies for activity centre planning in Clause 11.03-2 of the Victoria Planning Provisions.

The two centres, if used by consumers for different reasons, will most likely preclude walking between the two centres. While Council acknowledged that Shepparton is heavily car dependent, opportunities for walkability must be pursued. Currently the Shepparton North area is not a highly walkable area. It has unconstructed roads and few walking/cycling paths. While Mr Clarke agreed that planning policy encourages more cycling, public transport and pedestrian activity, he said this is less likely to be achieved in a regional centre. The Panel

considers every opportunity should be explored to encourage the achievement of these policies through good planning.

The Panel has already acknowledged that retail anchors such as supermarkets are effective when located at either end of a single commercial area within a broader activity centre. However, locating two separate and independently operating commercial areas at polar ends of the overall activity centre may potentially result in a dysfunctional and disconnected activity centre.

The Panel agrees with the opinion of Mr Clarke that the Lascorp may be more proximate to an emerging population to the north. Separating the Commercial 1 Zone land into two areas of some 400 metres apart without upfront strategic planning could result in an irreversible and more inferior planning outcome and would not provide the planning benefits sought through State and local planning policy. For example, internal pedestrian, cycle and traffic connectivity between the two supermarkets may not be possible if new buildings are constructed within their path in the meantime. While this outcome would provide some economic benefit, from a planning perspective, it may result in net community disbenefit.

7.6 Conclusions

The Panel concludes:

- the Commercial Activity Centres Strategy supports 14,000 square metres of Shop floor area proposed for the Shepparton North Activity Centre (however defined) in a Commercial 1 Zone
- there will be sufficient demand to support a second full-line supermarket in the Shepparton North Activity Centre by 2019
- the location of the Shepparton North Activity Centre is not fully resolved and it requires further work.

8 Implementation

(i) Amendment C192

Amendment C192 proposes to change the provisions in the Greater Shepparton Planning Scheme to implement CACS and make it a reference document. As a reference document, CACS will have less weight than an incorporated document.

The Panel has determined that CACS is founded on a sound methodology. CACS meets the criteria in Planning Practice Note 13 (Incorporated and reference documents) to be included as a reference document in the Planning Scheme because it is sufficiently robust and provides useful background information which will assist to better understand the context for policy changes proposed by Amendment C192. While not a formal recommendation, CACS should be further reviewed to ensure that it continues to align with the planning policy and provisions which will ultimately be introduced into the Greater Shepparton Planning Scheme, as well as updating the report based on the outcomes of this hearing process and the Panel recommendations to ensure consistency.

While Amendment C192 establishes a new local activity centres strategic framework, it cannot be solely relied upon to implement the strategic direction sought through CACS. CACS provides further recommended actions such as the preparation and implementation of structure plans, urban design frameworks, and the possible application of the Activity Centre Zone in Shepparton North and the Shepparton North Enterprise Corridor to better manage land uses between the two. The Panel considers that these actions will provide the necessary clarity and detail to help implement the vision sought through CACS.

There is considerable advice and guidance to support Council to implement these actions including the Activity Centre Guidelines, Interim Design Guidelines for Large Format Retail Premises and Planning Practice Note 58.

(ii) Amendment C193

In closing at the end of the Hearing, Mr Bartley urged that the Panel not recommend the abandonment of Amendment C193 if that was its thinking. He requested that the Panel propose a way forward to allow Council time to progress the issue and suggested the Panel might submit an interim report in this regard. The Panel has considered this matter very carefully and rather than submit an interim report, it supports the part of Amendment C193 (Part 1) relating to the Public Acquisition Overlay and proposes a path to advance the strategic planning of the SNAC (however ultimately defined).

The Panel agrees that Shepparton North offers an opportunity to develop and shape a new activity centre, and the Panel provides some comments on a possible way forward.

The Panel accepts it has taken an unusual approach in trying to reconcile Amendment C193. Whether it can play out in the way proposed could be debated, but it is an attempt to confer a further process that may assist in achieving a more considered outcome for the future of this important precinct.

In this regard and for the further reasons set out in Part C of this report, the Panel recommends that Amendment C193 Part 2 be deferred to allow the opportunity for a

further review of the 18 Pty Ltd planning permits and to undertake a structure planning process.

The form and layout of the current 18 Pty Ltd proposal does not lend itself to being part of an integrated structure plan for the SNAC. It turns its back on the land to the north and does not seem to be designed in a way that encourages a second supermarket on the site to have 'equal billing'. In saying this, the Panel recognises that 18 Pty Ltd is entitled to progress its permit application irrespective of any comments and recommendations made by this Panel.

(iii) Structure Plan

The Panel considers that Council should prepare a structure plan for the SNAC in accordance with PPN58. It should define the extent of the Activity Centre and provide guidance on how it should develop. This should be undertaken in consultation with relevant landowners and submitters to this current process. Given the current zoning and nature of the existing development in the area, this would be mainly land and business owners. In summary, this could include the following:

1. Council work with 18 Pty Ltd to revisit approved and proposed permits for the existing Commercial 1 Zone land to explore whether the activity centre should expand towards, and be integrated with, land to its north.
2. 18 Pty Ltd engage with potential supermarket operators within a reasonable timeframe specified by Council.
3. Council prepare a robust structure plan which includes an urban development framework and details how the existing Commercial 1 Zone land will integrate with the Commercial 2 Zone land to its north.
4. Council investigate how the drainage basin will form part of the broader open space network and how the open space will connect with the activity centre and surrounding existing and emerging residential areas.
5. If 18 Pty Ltd is unwilling to meet the actions above, Council consider land directly north of the existing Commercial 1 Zone land.
6. If land contiguous to the existing Commercial 1 Zone land is not possible, consider additional Commercial 1 Zone land in a location not contiguous to the existing Commercial 1 Zone land.

The Panel considers the timeframe for completing this work should be 12 months from the date of release of this report.

However, this can only occur if Council is willing, and 18 Pty Ltd is proactive in reviewing its permit and actively seeking a committed and signed up tenant for a second supermarket. This commitment by 18 Pty Ltd should be made in writing to Council within six months from the date of release of this report. If this commitment is unable to be made, the Panel considers the Lascorp rezoning and permit application should be approved and permitted.

(iv) Timing and notification

Council can complete this work through three different implementation paths.

Given that the Panel has issued what could be termed as ‘interim findings’, the Panel could remain ‘live’ until Council refers any further matters to it in relation to this outcome.

Alternatively, Council could seek that the Panel members be appointed as an Advisory Committee under section 151 of the *Planning and Environment Act 1987* by the Minister for Planning at an appropriate time.

Council may also determine that the current Panel have no further role.

In terms of timing and further notification, the Panel considers all land owners (and other submitters to the two amendments) in the area generally considered to be part of or adjacent to the SNAC should be notified of this outcome and be invited to contribute to the further process. If a structure plan is prepared and is proposed to be included in the Greater Shepparton Planning Scheme, Council should determine whether formal notification will be required and in what form.

Irrespective of this outcome, the Panel has assessed the merits of Amendment C193 and planning permit 2016-269 on a without prejudice basis in Part C. Its primary recommendation is that consideration of the Amendment be deferred on the basis of the previous discussion but the Panel recognises that Council may not accept that outcome. If that is the case, the Panel has included Part C of its report to assist guide Council in this regard. Equally, if Council embarks on a structure plan process and it does not eventuate, or if 18 Pty Ltd is not able to review its current and revised planning permit application, the Panel considers the Lascorp proposal should proceed.

Part C of this report considers the detail of Amendment C193 and the planning permit application.

(v) Conclusions and recommendations

The Panel concludes:

- the Greater Shepparton Commercial Activity Centres Strategy should be further reviewed to ensure that it reflects the outcomes and recommendations of policy and provisions which will ultimately be introduced into the Greater Shepparton Planning Scheme
- adopting Amendment C192 to the Greater Shepparton Planning Scheme, subject to modifications, will establish the strategic framework for implementing the recommended actions of the Greater Shepparton Commercial Activity Centres Strategy.

The Panel recommends:

1. **Adopt Amendment C192 to the Greater Shepparton Planning Scheme, in accordance with the modifications in Appendix D (Clause 21.06) and Appendix E (Activity Centre Zone Schedule 1).**
2. **Review the provisions and schedules of Amendment C192 and Amendment C193 during finalisation of the Amendments to ensure they are consistent with the Ministerial Direction on the Form and Content of Planning Schemes (May 2017).**
3. **Amend Clause 21.06, as shown in Appendix D, to:**
 - a) **add the following strategic action under 21.06-7:**

- *Prepare structure plans for the Mooroopna, Riverside and Shepparton North activity centres.*
- b) remove reference to the Shepparton North Activity Centre in the relevant strategic action regarding an urban design framework.
 4. Split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal).
 5. Defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 until the Shepparton North Activity Centre is defined through a structure planning process. Reconsider Amendment C193 Part 2 and planning permit application 2016-269 pending these outcomes.

**PART C AMENDMENT C193 AND
PERMIT APPLICATION 2016-269**



9 Rezoning of Lascorp land

Part C of this report is relevant to highlight the key issues relating to Amendment C193 and to provide a framework for Council to adopt and approve the Amendment and issue a permit for the supermarket on the Lascorp site if it does not accept the findings and recommendations made by the Panel in Part B.

The planning permit application seeks permission to use the land for a place of assembly (community meeting space), buildings and works, erection and display of business signs, a packaged liquor licence and creation of access to a Road Zone 1. Specifically, it seeks permissions for:

- supermarket of 3,960 square metres
- medical centre of 300 square metres
- specialty retail shops, including 14 tenancies of 2030 square metres
- medical centre of 300 square metres
- community meeting place of 100 square metres.

Car parking for 446 cars is proposed, as well as separate pedestrian paths through the car park. Loading and unloading will be from a dedicated route from Ford Road along an access road to the rear on the east side of the site and south of the building.

9.1 Key issues

The key issues relate to whether:

- there is a sufficient economic basis to justify the Amendment
- there is a sufficient strategic planning basis to justify the Amendment
- traffic and access, and other infrastructure issues can be reconciled
- amenity impacts.

9.2 Economic issues

(i) Evidence and submissions

Mr Duane, Mr Quick, Mr Hrelja and Mr Dimasi stated:

- the methodology applied in all consultant reports was appropriate for each respective statement except for estimating supermarket floor space
- there is a need for more floorspace including a full-line supermarket, mini majors and specialty shops
- a second supermarket could be sustained and delivered by late 2019.

The economic experts agreed that there is no market demand to support further large format major anchors such as a third supermarket or department store which would anchor a Shop floor area over 14,000 square metres. Mr Duane qualified that there may be retail market changes in the longer term which change this circumstance.

Ms Brennan noted CACS has very clear intent to pursue a site as an endorsed alternative to the IGA site that has been the subject to a series of criteria to demonstrate no adverse impact on the CBD. Her client's preferred site is located at the corner of Numurkah Road and Ford Road (with the exception of a portion at the front that is currently owned and

occupied by Shepp City Fencing). Ms Brennan advised that her client has a contract of sale with the owner of the land and has an anchor tenant (Woolworths), who is signed up and ready to go.

She contended that the Lascorp site offers a series of key locational advantages, including it:

- is already in a commercial precinct
- is proximate to the growth catchment
- enjoys excellent access to main roads
- is supported by Council's Urban Design Framework
- has sufficient area to support a suite of retail and commercial uses
- is proximate to existing and approved supporting uses
- has the capacity to connect to the IGA site by a footpath and cycle track
- has available infrastructure, and has identified further infrastructure improvements.

When Mr Canavan asked Mr Stephens if it would be a superior outcome for Shepparton North to have two supermarkets on the existing Commercial 1 Zone land, he unequivocally agreed, based on first principles of town planning. Mr Stephens noted the IGA site is the preferred site, but as the landowner had not progressed its permit, the Lascorp option should be permitted to proceed. He confirmed that CACS is quite clear that in a pure planning policy sense, Council's preference is for co-location on the one site. Mr Canavan referred to "*the mild dilution of policy*" in the CACS.

Mr Canavan contended that on the basis of the economic conclave, it would be fair to acknowledge that a second supermarket is supportable. He agreed that currently, the Lascorp site is a more attractive proposition. He further agreed that a third supermarket would not be supportable until at least 2031. He indicated that in his opinion, the differences between the economic experts related to timing, and to some adjustments in floor area. On Day 3 of the Hearing, Mr Canavan suggested the economic witnesses not be called (this was after Council's case).

Ms Brennan disagreed and submitted that all economic evidence be called to establish beyond doubt the timing of development and area of floor area required.

Ms Brennan noted that if the Panel did not support the Lascorp rezoning and permit, IGA would control the only Commercial 1 Zone land in Shepparton North, which would mean there is no commercial imperative for IGA to advance its planning permit. Ms Brennan confirmed with Mr Hrelja that if the Panel did not support the Lascorp proposal, there would be nothing to compel IGA to proceed with Stage 2 – he agreed with her point.

In addressing questions from the Panel about whether an activity centre typically has one core, Mr Dimasi agreed, but noted a core can take many forms. He further responded to a question about trying to consolidate an activity centre that extends several hundred metres, and indicated that facilitating integration could include various other non-retail uses to fill the gaps.

(ii) Discussion

The Panel accepts that there will be sufficient demand to support 14,000 square metres of Shop floor area at the SNAC, including a second full-line supermarket by late 2019. The Panel understands that the existing Commercial 1 Zone land is in the order of 44,000 square

metres and can comfortably accommodate this additional floor area. Rezoning the Lascorp land would:

- result in 81,000 square metres of Commercial 1 Zone land within an area of approximately 174,000 square metres where other Retail premises can establish in the Commercial 2 Zone
- enable an opportunity for a third full line supermarket which, according to economic experts, would have insufficient demand to be economically feasible in the foreseeable future.

The Panel notes that CACS identifies there is an unmet demand for specialty shops in the region which is limiting the ability to meet the needs of the local community. Importantly, establishing a second supermarket in either location would provide support for a range of specialty shops, of which there are none in the IGA centre.

When considering what CACS envisages for the SNAC (a subregional centre), the Panel considers that there is sufficient demand to use the full extent of the existing Commercial 1 Zone land to make it economically feasible.

(iii) Conclusion

The Panel concludes:

- there is insufficient economic basis to justify Amendment C193 while there is an opportunity to accommodate 14,000 square metres of Shop floor area on the existing 44,000 metres of Commercial 1 Zone
- there is sufficient justification to support a second full line supermarket in Shepparton North
- if a second supermarket was not able to be located on the existing Commercial 1 Zone land (or contiguous with it), from an economic perspective, the community would be better served if it was located on the Lascorp site.

9.3 Planning issues

(i) Evidence and submissions

Council submitted that, while it preferred to see the second supermarket and expansion of Shop floor area on the existing Commercial 1 Zone land:

18 Pty Ltd (and its predecessor Metcash) has been reluctant to provide competition in the area, with many businesses ideal for co-location with the existing supermarket developing elsewhere in close proximity to the IGA Site ...

At the Hearing, Council expressed its frustration over inaction on the existing Commercial 1 Zone land since it issued a planning permit for a new supermarket and shops in 2012. Council submitted that it supported Amendment C193 and permit application 2016-269 because of Lascorp's commitment to develop its land.

Mr Bartley argued that if the two centres were developed, the strip between them would develop or redevelop over time. Mr Twite agreed. Mr Bartley confirmed the opinion of Mr Clarke that PPN58 will provide additional guidance, noting that if Lascorp proceeded, it is

likely more people will use that centre due to its 'newness' and supporting retail specialties if the IGA remains undeveloped.

Ms Brennan highlighted the Lascorp proposal resulted in good land use outcomes for a growing community that delivers clear planning direction in an appropriate location by a willing owner with interested tenants and stakeholder cooperation. Further, there is a lease agreement with a childcare operator for the childcare centre permitted and proposed on Doody Street, and her client has been approached by BP with interest to lease land for a service centre. Lascorp *"is ready, willing and able to construct the proposed development under permit application 2016-269 and to open within 18 months – 2 years of the date of the permit"* she said.

Ms Brennan supported the aggregation of activities in and around the Lascorp site to support a broader activity centre role and function, and further noted the Numurkah Road Enterprise Corridor already brings people to the centre. She observed that this case is a lesson in how planning must work in concert with the market to achieve the objectives of planning.

Mr Clarke stated that the proposal meets the relevant requirements of State Planning Policy Clause 17.01 and 17.02. He said that if the Lascorp proposal proceeds, the intervening land would become an area of interest where there may be a series of urban improvements. Mr Clarke conceded that Council should turn its mind to developing further policy guidance to enable the establishment of more complementary land uses. He noted that work remains to be done to get the planning right in the broader area, and that may be the issue requiring resolution that could be undertaken through a structure plan process. He said that aspect is not necessary to approve the Lascorp proposal.

Mr O'Farrell contended the opinion of Mr Clarke in this regard was out of touch with contemporary and orderly planning. He put to Mr Clarke that the disbenefit of splitting activity centre nodes was *"pretty big"*, a position with which Mr Clarke disagreed. He further suggested to Mr Clarke that in town planning terms, five years is not a lengthy horizon, especially when residents can access two full line supermarkets. Mr Clarke refuted that proposal and said *"in planning and amendment processes, the ducks don't always line up simultaneously"*. Mr Clarke conceded however, that in an ideal world, one centre that is contiguous is the more desirable outcome. Mr Barnes observed that he did not think there is a way to integrate the two centres as there may not be a critical mass to join and integrate the whole of the area between Ford Road and Hawkins Street into an activity centre.

Mr Milner was consistent in his opinion that a structure planning process needed to be undertaken before the Amendment is approved. He said Amendment C193 advances one possible response, and not the preferred one to deliver a new supermarket based centre, and argued that the following considerations should be taken into account:

- *The preferred structure, layout and overall design of the Sub-regional centre between Ford Road and Hawkins Street;*
- *The mix and preferred location of various land uses;*
- *The location for non-retail/community uses;*
- *The preferred location of public spaces;*
- *The access egress and location of public transport services;*

- *If and where higher densities of residential development will be encouraged;*
- *The pedestrian and cycle network to, from and within the centre;*
- *How the expansion of the existing settlement pattern and more particularly the established retail facilities in the centre should be managed; and*
- *How the existing land use, road network and tenure patterns will be managed through an implementation strategy to deliver the preferred activity centre outcome.*

The Panel finds it difficult to find against these arguments. At the same time, Mr Milner recognised the challenges in undertaking this work and said:

The diversity of ownership, lot sizes, uses, development and vacant land north of the Hawkins Street site presents constraints on how the larger activity centre might be developed and presents part of the challenge that a structure plan should address.

Further, Mr Milner noted that zoning gives effect to strategic policy and the timing of zoning affects the order and process of urban development. He questioned the effect of rezoning the Lascorp site to the Commercial 1 Zone and asked:

... what it implied about the role and future of the land between Ford Road and Hawkins Street that is in a Commercial 2 Zone or is zoned Commercial 1 with a floor space cap?

In the absence of a structure plan it suggests uncertainty and a confusing range of roles for different pieces of neighbouring land.

When asked by Ms Brennan if he supported the evidence of Mr Milner regarding the need for a structure plan in the subject precinct, Mr Clarke responded by saying the need for such a plan is normally required for activity centres higher up in the order, such as Principal or Major Activity Centres where the mix of land uses is much more than what exists at Shepparton North. He cited the Shepparton CBD as one such centre, and opined that the Urban Design Framework would be an appropriate alternative to a structure plan.

Mr Twite considered the majority of trips to either centre would be made by car and consumers would only go to one centre. He indicated that the location of the Lascorp centre could engender multi-purpose trips and that it has the potential for this to grow as other complementary uses emerge. Mr Barnes observed that integrated transport opportunities is a critical tenet of State policy, and is often lost or taken for granted. He argued that planning policy is very strong about making a difference in modal patterns and is clearly directed at making places more accessible and sustainable by reducing car based travel.

Ms Brennan proposed a process which would enable the new purchaser of the existing Commercial 1 Zone land with an opportunity to secure a tenant and construct the second supermarket within a defined timeframe prior to Lascorp acting on its permit. She tendered two options (Documents 100, 101, 102) for implementing this process, as summarised by the Panel in Table 5.

Table 5 Planning permit options proposed by Lascorp

	Option 1	Option 2
Commercial 1 Zone		
Permit threshold		Require a permit for all shop floor area
Permit application 2016-269		
Development commencement	No condition	Must not commence for two years from the permit date
Permit expiry	If the development is not commenced within six months from permit date If completed within two years from the date of commencement of the development	If the development is not commenced within two years and six months from permit date If completed within two years from the date of commencement of the development
Permit extension	If a request is made in writing before the permit expires or within: - six months after the permit expires to extend the commencement date - 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.	Same as Option 1

Mr Canavan advised that 18 Pty Ltd is part of the Herzberg family companies and, like Lascorp, is a retail developer and lessor. He highlighted that 18 Pty Ltd recently became the new owner of the Commercial 1 Zone land and it cannot be associated with any inaction from the previous owners. Mr Canavan acknowledged that a second supermarket in Shepparton North is desirable and confirmed that his client intends to provide a second supermarket, specialty and other retail offers and community facilities on its land to align with the centre's strategic subregional role and function.

Mr Canavan submitted that until that occurs, the existing IGA supermarket provides the Shepparton North community with a full range of goods and services. He submitted "*Council's frustration is no cause to panic*" and "*What is needed is orderly planning.*" He said the case before the Panel was about planning outcomes and activity centre policy in the Shepparton North area, a point with which Ms Brennan disagreed, who argued that what is before the Panel is judging the best place for a second supermarket. She reiterated the concern of the Panel should be about not the best outcome, but an acceptable outcome.

Mr Kane explained the success of the IGA and the important role it plays in the local community for consumers, many of whom have been loyal in their patronage over many years.

(ii) Discussion

The Numurkah Road corridor is a strategically significant area of Shepparton that in time, must be developed to its full potential. Good town planning outcomes need clear vision and strategy, and these take time to be realised. The Shepparton North area is one of existing and emerging residential growth and it will require a vibrant activity centre to support its

community. To the Panel, that is precisely why a structure planning process needs to be undertaken as soon as possible.

The Panel considers this case is not just about where a second retail centre should be located, but ensuring that good town planning outcomes can be achieved. In saying this, the Panel recognises that planning can create opportunities, but not outcomes. Ms Brennan addressed this and argued that planning is about providing acceptable outcomes where ideal outcomes are unable to be achieved. She accepted that the IGA site is the better and preferred outcome, but that *“doesn’t make the Lascorp site a bad planning outcome”*. She said the sufficient threshold is acceptability. The Panel accepts that to a degree, but is not inclined to fully support her position if there is opportunity to realise a better outcome in the short to medium term.

Ms Brennan noted the 400 metres separation distance of the two sites is a walkable ‘rule of thumb’ distance in planning terms, and that her client would contribute \$40,000 to assist Council provide a direct functional and physical link for pedestrians between the two book-ends. The Panel notes that this contribution is a small proportion of the overall cost but accepts that it will help kick-start footpath works. PPN58 refers to providing for and improving walkability *“within 400 to 800 metres from the core of the centre”* and not intended as a measure between two commercial cores. It is doubtful whether shoppers would appreciate an 800-metre round trip walk between the two nodes along Numurkah Road (there is further discussion about this in Chapter 9.5).

The Panel considers that the Lascorp proposal applies several good planning principles for a free standing centre, if there was no other retail centre nearby. However, the complicating reality is that the Lascorp land forms part of a potentially larger subregional centre with considerable existing and underutilised Commercial 1 Zone land.

The Panel remains concerned that if the Lascorp proposal proceeds at this point, the potential for an integrated activity centre may be compromised and may result in a disengaged and fragmented centre. There will be no identified core and very little synergy. In effect, it will be a centre with two retail nodes separated by a range of disparate uses. Given the significance of the centre, now and in the future as residential growth continues, a considered structure plan is required to bring these challenges together. The Panel agrees with Mr Clarke who said that in an ideal world, one contiguous centre is the more desirable outcome.

However, the Panel disagrees with his evidence that the subregional centre is not high enough in the order to warrant structure planning. The hierarchy proposed in CACS lifts this centre from Neighbourhood to Subregional, which is a higher order classification in the Greater Shepparton context, which will be the most significant centre in this emerging growth area.

Contrasting the opinion of Mr Clarke, the Panel considers there is complexity in this matter. Eleven days of contested hearing is testament to that, as well as the extent of evidence and strong advocacy reflecting differing opinions.

Ms Brennan offered amended conditions to the permit that would delay commencement of the Lascorp works for a two year period. The Panel understands the rationale for Lascorp’s

proposal to provide 18 Pty Ltd with an opportunity to develop two supermarkets and speciality shops on the existing Commercial 1 Zone. Those in support of the Lascorp proposal generally agreed that it would be very difficult to get a second supermarket on the IGA site due to its location 'behind' the re-sited IGA supermarket as part of the Stage 2 plans.

The Panel accepts the principle of Ms Brennan's position to apply a time limit on 18 Pty Ltd to allow the IGA to progress its permit and if that did not occur, then Lascorp should be able to progress its application. The Panel considers that it would be a poor outcome to allow the Lascorp land to be rezoned without an effective permit. It is both or nothing, as a Commercial 1 Zone site isolated by no development approval would create many issues. If the land was rezoned and ultimately not required, it would require a planning scheme amendment to back zone it at a later date.

The two year timeframe is intended to commence from the date that planning permit 2016-269 is approved. This poses practical difficulties when considering that 18 Pty Ltd has only recently purchased the land, a planning permit application for revised Stage 1 plans was lodged in January 2017 and is awaiting a decision, and a further permit application will have to be prepared and lodged for a second supermarket. Council provided Metcash with five years to start constructing a supermarket and it was proposing to offer the same to Lascorp. It would be unfair to 18 Pty Ltd, which had no involvement in Metcash's pontification, to be offered a significantly truncated construction period. Likewise, the five year timeframe should apply to the Lascorp permit if Council determines to issue it.

The Panel may have taken a different view to the degree of urgency to this matter if the Shepparton North community had no existing supermarket to meet its needs.

The heart of this conundrum is what is the ideal solution as opposed to what is possible or whether one developer can construct a centre more expediently than another.

Applying a Commercial 1 Zone that is made ineffective within a specified timeframe and with the possibility of it needing to be rezoned back again is not considered good planning process.

The implementation discussion in Chapter 8 of this report provides such a process without using the Commercial 1 Zone or permit in an unintended manner. This process would help address planning issues related to the future of the existing Commercial 1 Zone land if the Lascorp land is rezoned and if 6,000 square metres of Shop floor area, including a full line supermarket, is developed at this location.

From a planning perspective, the Panel is unequivocal that Amendment C193 should be deferred until further strategic work is completed. The Urban Design Framework is not a substitute for a structure plan.

Some might question why the Panel did not recommend Amendment C193 to be abandoned outright. The Panel considers it has some merit and could provide net community benefit if the IGA site is not developed and if a structure planning process clarified how the Lascorp land could be integrated with land to its south.

(iii) Conclusions and recommendations

The Panel concludes:

- it is a long held tenet of planning policy that there should be a concentration of land uses to serve as much as possible, the retail and business needs for the benefit of consumers in agglomerated locations
- while it accepts that a second supermarket can be located on the Lascorp land, opportunity should be provided to fully explore other options though a structure planning process before final approval is granted
- approval of Amendment C193 in its current form would create two separate retail nodes where neither would achieve critical mass in terms of the full range of supporting specialty shops, or provide convenience and choice without a linking car trip.

The Panel recommends:

6. **Amend Planning Permit 2016-269, as shown in Appendix F, to update Condition 14 (Time for Starting and Completion).**

9.4 Traffic and access

Condition 8 of the exhibited planning permit application 2016-269 specifies that the Numurkah Road/Ford Road/Wanganui Road intersection needs to be signalised and other mitigating road works in the area need to be completed before development commences on the Lascorp land.

The key issues to be addressed include whether:

- the proposed signalised intersection is an acceptable outcome in the circumstances, including the probable impacts of the Shepparton Bypass
- the intersection and associated mitigation works can be designed and located without unreasonably impacting adjoining properties and existing traffic conditions
- the requirements of VicRoads have been satisfactorily addressed
- there are acceptable transport linkages to and within the broader and neighbouring precincts
- footpaths and other infrastructure can be accommodated and provided for.

(Note: Numurkah Road is sometimes referenced as Numurkah Highway or Goulburn Valley Highway – all are the same road)

(i) Evidence and submissions

Traffic Group Pty Ltd prepared a Traffic Impact Assessment Report for Lascorp to support the planning permit application. Council engaged GTA Consultants Pty Ltd to peer review that report. VicRoads, the relevant road authority, did not object to the exhibited traffic solution as exhibited. Condition 8(a) of the draft planning permit specified:

The construction of traffic signals and street lighting at Numurkah Road/Ford Road/Wanganui Road intersection.

VicRoads advised that \$10.2 million was allocated in the State budget to prepare works and land acquisitions for the Shepparton Bypass over three years. The first stage of the 36-kilometre bypass includes the Numurkah Road/Ford Road/Wanganui Road intersection upgrade and signalisation, which is expected to commence in the 2018/19 financial year.

While VicRoads did not initially provide a submission because it was satisfied with the proposal, after considering Lascorp's suggested service road alterations, it provided a late submission and requested the opportunity to be heard at the Hearing.

The Panel directed that a conclave of the traffic expert witnesses be convened. The conclave included Mr Humphreys from GTA Consultants, Mr Turnbull from Traffix Group, and Mr Hunt from Ratio Consultants. VicRoads was invited to attend but was unable to. All witnesses agreed:

- *The signalisation of the Numurkah Road/Wanganui Road/Ford Road Intersection will be delivered as either a temporary treatment funded in part by the contribution of the developer of 221-229 Numurkah Road as set out in the Section 173 Agreement, or as part of the VicRoads Ford Road upgrades which were the subject of the recent funding announcements, noting the following:*
 - *Steve Hunt and Reece Humphreys are of the view that signalisation is required as part of the development*
 - *Henry Turnbull is of the view that signalisation would be desirable for the development*
- *The remaining access arrangements proposed for the development are suitable.*

The service road exit adjacent to 228-238 Numurkah Road will be closed in line with VicRoads' treatment reproduced in the GTA report dated 17 July 2017.

In response to the conclave, VicRoads submitted that:

- it did not agree with Lascorp's assessment that the proposed development did not trigger a controlled mitigation treatment at the intersection
- it did not support Traffix Group's proposed interim design solution
- it agreed with the section 173 agreement entered into by Lascorp and Council to co-fund the mitigation treatment
- it was working on an interim solution for the intersection which considers the ultimate configuration and realigns the Wanganui leg
- while the interim solution will upgrade the intersection to a signalised configuration, the ultimate intersection is unknown at this stage while the merits of traffic signals or a roundabout are assessed.

VicRoads subsequently submitted the following revised planning permit conditions:

In addition to the contribution to the mitigation treatments for the intersection of the Goulburn Valley Highway, Ford Road and Wanganui Road agreed to in the Section 173 agreement, VicRoads proposes the following amended conditions:

Conditions

1. *Prior to the development coming into use the following mitigating works generally in accordance with Drawing No. G19863-04F prepared by Traffix Group must be undertaken to the satisfaction of and at no cost to the*

Roads Corporation unless otherwise agreed by the Roads Corporation as follows:

- (a) Extend the right turn lane on Numurkah Road and construct an auxiliary left turn lane at the northern entrance to the service road fronting the subject land.*
- (b) Closure of the entrance to the service road on the eastern side of Numurkah Road located approximately 30 metres north of Grant Court.*
- (c) The proposed access from the subject land to the service road fronting Numurkah Road must be constructed to the satisfaction of the Responsible Authority (Greater Shepparton City Council) and the Roads Corporation.*
- (d) Construct a median island to the south of the right turn lane from Numurkah Road into Ford Road.*
- (e) Construct the proposed service road exit on the eastern side of Numurkah Road located approximately 60 metres north of Grant Court including extending median island adjacent to right turn lane opposite the proposed service road exit.*

At the Hearing, Ms Stratton appeared for VicRoads with Mr Ridgewell. Ms Stratton submitted that VicRoads no longer sought an interim solution, and now preferred to build the ultimate solution. Regarding condition 8(a) of the exhibited permit, Ms Stratton said that VicRoads was comfortable with leaving it as exhibited or deleting it.

Council, VicRoads and Lascorp met after Ms Stratton appeared at the Hearing. VicRoads provided a supplementary submission (Document 87) which stated that it:

- understood that Lascorp has committed to contribute \$250,000 for either the ultimate or interim intersection irrespective of the timing of the Lascorp development
- understood that a new planning permit condition would be added to require a new section 173 agreement which reflects the above agreements
- agreed to Council constructing the interim intersection and related works
- confirmed that it no longer requires the exhibited condition 8(a) subject to a revised section 173 agreement.

Lascorp submitted the revised VicRoads related permit conditions to reflect these outcomes. Council submitted a copy of the previously executed section 173 agreement (Document 44) which specified Lascorp's obligations for the intersection works. It called expert evidence from Mr Humphreys who stated:

The proposed access arrangements suggested by VicRoads access to 236-238 Numurkah Road should be included as a suitably worded condition.

Under cross examination, Mr Humphreys supported the post-exhibition planning permit conditions 8(a) to (e), however he questioned why the exhibited condition 8(a) was no longer required.

Lascorp called evidence from Mr Turnbull of Traffix Group. In contrast to the other traffic experts, Mr Turnbull stated that there was no need to signalise the intersection.

Lascorp agreed with the permit conditions proposed by VicRoads in its correspondence dated 17 July 2017 and submitted that its development would not, in isolation, necessitate the intersection to be fully signalised. It added that there must be a nexus between the works and the contribution to justify the work requirements. Lascorp highlighted that it agreed to enter into a section 173 agreement with Council which requires a contribution of \$250,000 to the interim intersection if VicRoads has not commenced the intersection upgrade and added:

the amended draft permit conditions submitted by VicRoads without the original condition 8(a) are appropriate and together with the Section 173 agreement, the traffic requirements are appropriately met.

The North End Bakery, Shepp City Fencing and Advance Fitness submitted that their businesses would be disadvantaged because the proposed road alignment would restrict their existing multi-directional access arrangements. At the Hearing, Mr Mildren of Onley Consulting Pty represented Mr and Ms Sinclair, owners of Advance Fitness centre at 228-238 Numurkah Road. He submitted:

Currently it seems that accessibility to and from the west side of Numurkah Road to Clayton and Tash Sinclair's gym will be substantially diminished in favour of creating good and convenient access to the proposed development.

Mr Mildren submitted that the exhibited planning permit does not have sufficient detail to understand future traffic arrangements for Numurkah Road and the impacts on his client's business.

(ii) Discussion

The Panel undertook several unaccompanied site visits to this Shepparton North location and observed the Numurkah Road/Ford Road/Wanganui Road intersection and existing access arrangements identified in submissions. It travelled as far as practicable within the proposed Shepparton Bypass route area.

The Panel understands that the imminent Shepparton Bypass (Stage 1A) would:

- designate the Ford Road and Wanganui Road link as one of the primary east-west transport linkages
- the intersection with the Numurkah Road becoming one of Shepparton's most significant intersections.

The Lascorp site is located close to established residential areas and proposed residential growth areas. Traffic volumes at the Numurkah Road intersection with Ford Road/Wanganui Road would therefore substantially increase irrespective of Lascorp's proposal.

The Panel considers that the traffic volume and movements expected from a supermarket, shops and other uses on the Ford Road land would accelerate the need for roadworks at and around the intersection. The uncertainty arising from the continually changing view about how the intersection should be treated has made it difficult to confirm an accurate

proportion of payment attributable to Lascorp, and clarify what it would be contributing towards.

The Panel was initially unclear whether VicRoads was seeking an interim or ultimate intersection upgrade and whether it would be signalised or a roundabout. This was further complicated by the exhibited Condition 8(a) specifying a signalised intersection.

However, VicRoads' post-exhibition proposal to delete the exhibited Condition 8(a) from the draft planning permit resolves this issue. The Panel supports this more flexible approach which enables a flat rate of \$250,000 to be spent on roadworks irrespective of the final form.

The Panel agrees with the other points accepted by the experts at the traffic conclave. The conclave supported the proposed revised access arrangements to 236-238 Numurkah Road as shown in Figure 6.6 of Mr Humphreys' evidence and Drawing G19863-04F prepared by the Traffix Group attached to the VicRoads submission. The Panel understands that both documents are two versions of the same plan.

Figure 8 Revised access arrangements to 236-238 Numurkah Road (Traffix Drawing G19863-04F)



The Panel supports Mr Humphrey's evidence that noted:

My review of the layout has suggested that such an arrangement would provide an alternate and appropriate outcome for motorists existing and entering the site and is supported.

The Panel supports planning permit 2016-269 specifying that mitigating works be generally in accordance with Drawing G19863-04F prepared by Traffix Group.

One of the primary issues for the Panel is to ensure that the requirements of VicRoads are adequately covered, given the arterial road status of the Numurkah Road and the impending importance of its intersection with Wanganui and Ford Roads. The draft planning permit conditions submitted by VicRoads needed to be read in conjunction with the section 173 agreement between Council and Lascorp.

The Panel was initially concerned that a number of inconsistencies and ambiguities appeared between these two related documents. Of particular interest is how the documents dealt

with the removal of the exhibited Condition 8(a) and specifically how the intersection configuration, whether interim, ultimate, signalised or roundabout, is to proceed in relation to the Lascorp's development.

Subsequent discussions between Council, VicRoads and Lascorp largely mitigated the Panel's concerns.

An amended planning permit together with a revised section 173 agreement reflecting these agreements is an appropriate approach to accommodate the agreements reached. The Panel notes VicRoads acceptance to delete the exhibited Condition 8(a) subject to these revisions occurring satisfactorily.

The Panel further notes VicRoads acceptance for Council to undertake the construction of any interim intersection and related works.

The Panel considers that the draft amended planning permit (Document 101) submitted by Lascorp satisfactorily brings together all of the traffic related matters raised in this discussion, save for a few minor changes discussed at the Hearing:

Condition 1(p) and Condition 3 (u) to be as follows (including changes):

Closure details of the northern access point to 228 Numurkah Road, through the western median, to create a two-way service road and modifications to the central median to allow south bound egress from the service road.

(iii) Conclusions and recommendations

The Panel concludes:

- there are no traffic and parking reasons why the development should not proceed
- the permit conditions as proposed and modified, and provided in Appendix F, are appropriate.

9.5 Other Infrastructure issues

(i) Drainage

Several documents related to the strategic drainage of the Shepparton North area were provided to the Panel. Spiire's North Shepparton Drainage Strategy identified high level drainage works required within the broader catchment, their estimated costs and apportionments based on the area of land contributing to the Yakka and Hawkins basins. Another document was Council's peer review of Spiire's strategy undertaken by Rural Works Pty Ltd.

The exhibited planning permit did not reference the regional drainage scheme or any impact resulting from the Lascorp development. The previously executed section 173 agreement includes quite specific clauses.

It identified a specified value for the drainage contribution of \$266,000 (as of December 2016), which equates to a 13.3 per cent contribution, equivalent to the Lascorp site area as a percentage of the total catchment.

Lascorp subsequently tabled later versions of an amended planning permit which included a condition that the amended section 173 agreement should include a requirement for a \$266,000 contribution to the drainage scheme.

The Panel supports this change to the exhibited planning permit, as shown in Appendix F.

(ii) Footpath

During the course of the Hearing, the Panel heard from various parties regarding the desirability of a structure plan and the applicability of the Urban Design Framework process as a means to determining the suitability of the Lascorp development. Within this context, one issue raised was the 'walkability' of the 370 metre distance (at its closest point) between the proposed Lascorp retail node and the IGA retail node.

The Panel, in its site visit, saw evidence of an informal walking track within the Numurkah Road reserve leading from Ford Road to Hawkins Road. The Panel noted the safety issues that would be an inevitable outcome should there be no formal footpath linkage between the two retail nodes, if the Lascorp development were to proceed.

Lascorp submitted that it would make a contribution of \$40,000 towards a footpath on the east side of Numurkah Road, between Ford Road and Hawkins Street and:

That the Addendum to the Urban Design Framework should be further amended to address public linkages across the Activity Centre and that as a permit condition, Lascorp would be prepared to enter into a Section 173 agreement providing a contribution towards the construction of the pedestrian footpath along the length of Numurkah Road between Doody Street and the northern edge of the Fairley's Land (noting it is only partially complete).

The Panel supports this change to the exhibited planning permit where a section 173 agreement has been included to the effect that the owner will contribute \$40,000 to construct a footpath on the east side of Numurkah Road between Hawkins Street and Ford Road. This change is shown in Appendix F.

9.6 Amenity impacts

The amenity impacts arising from the permit application relate to built form, noise, traffic and access. In the main, there were few issues raised by submitters about these, with traffic and access, as well as other infrastructure issues raised and addresses in the preceding chapters.

The development is proposed to be in a single building with a building height at the eastern interface of 6.125 metres, set back approximately 6.5 metres from the eastern boundary. As Mr Twite noted:

The proposal presents a fairly typical, rural-based retail centre development for the site. I am satisfied with this layout, as it is a formula that has proven to be successful and is one that centres itself around an external town square.

The proposed built form aesthetic and design, with a dynamic roof treatment and range of high quality materials, will introduce a high quality built form to the area.

The siting and design of retail tenancies to the north and west of the supermarket, with frontage to the proposed car park, provides for a “fine grain” public realm response with a strong pedestrian focus.

During the course of the Hearing, Ms Brennan advised that the site occupied by Shepp City Fencing was now being made available to her client for purchase and that it would be incorporated into future plans for development. The Panel sees this as a positive outcome and questioned whether it may result in amending the current plans. Ms Brennan did not think so at this stage, but if the process outlined by the Panel is taken up by Council, it may provide the opportunity to re-think the ultimate layout of the site, should the Amendment C192 recommendations not be realised.

The Panel heard concerns from the adjacent property owner to the east about loading and unloading. It notes the draft permit conditions has different times for waste collection and loading, and it questioned whether these times should be consistent. Ms Brennan informed the Panel that the times noted on the permit were consistent with Environment Protection Authority guidelines. The Panel notes the permit application included an acoustic report (Acoustic Consulting Australia Pty Ltd, 23 January 2017) which made various recommendations for noise mitigation, which have been included in Condition 3 of the draft permit. These include design details of acoustic treatments including:

- an acoustic fence along the entire eastern boundary of the land with a height of 2.8 metres above the roadway height
- acoustic screening of the condenser platform
- supermarket refrigeration compressors be located inside a dedicated and acoustically treated plant room
- the supermarket loading dock acoustically treated.

Mr Twite responded to the amenity impacts of the permit in his evidence and provided a fair summary on a range of matters. He indicated he was comfortable with the physical separation between the house and the loading area, a distance he said was approximately 30 metres. The Panel observes there were few issues raised about the detail of the permit in terms of physical layout and site conditions.

The Panel considers that if developed in accordance with the permit conditions, the proposal will not unduly impact on the neighbouring property to the east of the site.

10 Public Acquisition Overlay

10.1 Key issues

Amendment C193 proposes to apply the Public Acquisition Overlay 23 (Figure 2) to part of 221-229 Numurkah Road, part of 38-50 Ford Road and part of 25 Hawkins Road, Shepparton North. The overlay reserves land which would ultimately be acquired by Council to construct drainage infrastructure for the Southdown Street Redevelopment Area.

The key issue is whether it is appropriate and justified to apply the Public Acquisition Overlay.

10.2 Evidence and submissions

Biofilta Pty Ltd prepared the Shepparton North Shopping Centre Stormwater Management report for Lascorp. Biofilta advised that Lascorp's site represented 13 per cent of the Yakka Basin catchment, of which 32 per cent had been developed. The Yakka Basin catchment is located to the south west of the Lascorp site and is approximately 35.68 hectares in size. Flow from the Yakka Basin was pumped in an existing 100 millimetre rising main to the north and along the eastern boundary of the subject site towards Ford Road.

Council engaged Spiire to complete, in part, a drainage strategy for the Yakka drainage catchment. Spiire concluded that the existing Yakka Basin is "*significantly undersized for its current drainage catchment*".

Rural Works Pty Ltd peer reviewed the Spiire report and noted that the design proposes a new pump station and rising main from the Yakka Basin. While this report was tabled as evidence, no party indicated that they wished to test it. The Rural Works report identified several matters in the Spiire report that needed to be addressed before plans were approved and stated:

No details of the proposed new pump station and associated rising main are provided. Hence this component of the design could not be checked.

Council submitted that the Public Acquisition Overlay is required irrespective of the outcome of the Lascorp development proposal, and requested the Panel to recommend applying the Public Acquisition Overlay on land proposed for the basin expansion.

On 17 August 2017, Council through Mr Bartley in response to matters raised by the Panel, emailed further information (Document 114) which stated:

- Council had not surveyed existing drainage assets on the western side of the Lascorp boundary and therefore "*it was determined to avoid these assets all together*". *By locating the new drainage infrastructure within Conte's land it will result in ease of construction and therefore a reduction in costs"*
- the new rising main diameter is 160 millimetres
- given typical drainage easements are 2 to 2.5 metre-wide, a 3 metre-wide Public Acquisition Overlay was considered appropriate.

Council noted in response to a question from the Panel about the synergy of the two components of this Amendment:

It just so happens that Woolworths was the first to go and provided Council an opportunity (via an amendment) to include the PAO. Had this not happened Council would have attempted to negotiate the same outcome via other means with relevant parties or eventually sought the PAO in the event this failed.

Three submissions referred to the proposed Public Acquisition Overlay, including a property owner who opposed it being applied to 25 Hawkins Street.

At the Hearing, Mr Halfpenny for Mr Conte, submitted that the three metre-wide Public Acquisition Overlay is predominantly on Mr Conte's property, representing one hectare of land. He added:

It is submitted that the PAO on the boundary has arisen due to the drainage needs created by the subject site, yet Mr Conte is bearing most of the burden of the PAO.

Mr Halfpenny identified an existing drainage easement running the full length of Mr Conte's property on the other side of the western boundary.

Council responded that:

The PAO seeks to formalise the existing east-west easement that runs inside the south boundary of Mr Conte's land (4,986 sqm). It is submitted that the proposed PAO goes significantly further than this almost doubling the encumbered area of the land (9,673sqm).

10.3 Discussion

The Panel found it difficult to understand the full rationale for the proposed Public Acquisition Overlay alignment based on information provided to it. A document with quality engineering plans that specifically addressed the Public Acquisition Overlay and how it spatially coincided with the proposed North Shepparton Drainage Strategy would have been helpful. It could have also addressed existing easements and existing infrastructure.

The Panel considers the Public Acquisition Overlay as two components - the planned Yakka Basin extension and the three-metre width connecting the Yakka basin running north south to Ford Street.

Council's additional information of 17 August 2017 included an engineering plan that, to some degree, assisted the Panel to better understand the rationale for the three metre easement.

Council's primary rationale for including the Public Acquisition Overlay in Amendment C193 is inconsistent with its submission. The Explanatory Report for the Amendment identifies the proposed development on the Ford Road land as the trigger for acquiring land to upgrade the regional drainage system. Council later submitted that the Panel should support the Public Acquisition Overlay irrespective of the Lascorp development proceeding.

In its closing submission, Council concluded that the Lascorp development provided it with an opportunity to include the Public Acquisition Overlay and that it could have negotiated the same outcome through other means.

The Panel accepts Spiire's advice that the existing Yakka Basin is significantly undersized for its developed catchment and that if the Lascorp development, which represents 13 per cent of the catchment, was to proceed, it would be unlikely to cope with the increased drainage.

The Panel notes that the land owned by Mr Conte has been rezoned to the General Residential Zone and is to be developed for traditional residential purposes. This will add significant pressure for drainage issues to be fully resolved in the near future.

The Panel agrees with Council that the Public Acquisition Overlay should be required irrespective of the outcome of the Lascorp development proposal. The Panel supports the Public Acquisition Overlay being applied to the full Yakka Basin extension, but considers that Council should further clarify the route selected for the three-metre north-south Public Acquisition Overlay easement. The Panel agrees with Council that the route alignment should be founded on construction ease and cost reduction. However, this should be supported with a service location survey to identify the capacity of existing easements to accommodate the proposed rising main. Council should further investigate options which deliver the same outcome for comparative purposes.

Council should further investigate whether it requires the entire extent of the three-metre easement to accommodate the suggested 160 millimetre rising main from the extended Yakka Basin to the Ford Road drainage system. One reason that the Panel can surmise is that the width is required to allow a vehicle to traverse the easement. The outcome of this investigation may result in less land being required from Mr Conte's land.

The Rural Works report and its peer review identified details of the new pump station and the rising main that presumably would be located within the three-metre Public Acquisition Overlay were not provided. These details would help justify the need for this part of the Public Acquisition Overlay.

10.4 Conclusions and recommendation

The Panel concludes:

- there is a need to upgrade the drainage infrastructure in the Southdown Street Redevelopment Area
- Council should confirm whether it requires the three metre easement for the overlay to the north
- applying the Public Acquisition Overlay over the land planned to expand the Yakka Basin and north-south easement from Yakka basin to Ford Street is justified and appropriate.

The Panel recommends:

- 7. Adopt Amendment C193 Part 1.**

Appendix A Submitters to the Amendments

Amendment C192

No.	Submitter
1	Department of Environment, Land, Water and Planning
2	Environment Protection Authority
3	Fairley's IGA
4	Dexus Property Group
5	Ms Thomas
6	Metcash Supermarkets
7	Aventus Property Group Pty Ltd
8	Goulburn Broken Catchment Management Authority
9	Department of Economic Development, Jobs, Transport and Resources
10	Goulburn Valley Water
11	Lascorp Development Group (Aust) Pty Ltd
12	Goulburn-Murray Water
13	18 Pty Ltd

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Amendment C193 and planning permit application No 2016-269

No.	Submitter
1	North End Bakehouse Pty Ltd
2	Advance Fitness Pty Ltd
3	Shepp City Fencing Pty Ltd
4	McCamish Properties Pty Ltd
5	Environment Protection Authority
6	Goulburn-Valley Water
7	Goulburn Broken Catchment Management Authority
8	APA Group
9	Metcash Supermarkets
10	Lascorp Development Group (Aust) Pty Ltd
11	Ms Thomas
12	Mr Conti
13	Aeroten Pty Ltd (known as Marl Enterprises Pty Ltd)
14	18 Pty Ltd
15	Department of Environment, Land, Water and Planning
16	Mr Giuliani
17	Fairley's IGA
18	Country Fire Authority
19	Boulevard Corporation Pty Ltd
20	VicRoads

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Appendix B Parties to the Hearing

Submitter	Represented by
Greater Shepparton City Council	Mark Bartley, Eliza Minney and James Lofting of HWL Ebsworth, with Colin Kalms and Elke Cummins of Greater Shepparton City Council, with evidence from: <ul style="list-style-type: none"> - Reece Humphreys of GTA Consultants on traffic - Alex Hrelja of Hill PDA Consulting on retail economics - Sean Stephens of Essential Economics on economics - <i>John Dunn of Rural Works Pty Ltd on civil engineering and drainage (evidence tabled but not called)</i>
18 Pty Ltd	Chris Canavan QC with Peter O'Farrell of Counsel, instructed by Stephanie Gale of Minter Ellison, with evidence from: <ul style="list-style-type: none"> - Rob Milner of 10 Consulting Group on planning - Stephen Hunt of Ratio of traffic - Gavin Duane of Location IQ on economics
Mr and Ms Sinclair	Ron Mildren of Onley Consulting Pty Ltd
Dexus Property Group	Andrew Walker of Counsel, instructed by James Bryce of King and Wood Mallesons, with evidence from: <ul style="list-style-type: none"> - Justin Ganly of Deep End Services on economics
Lascorp Development Group (Aust) Pty Ltd	Susan Brennan SC and Jane Sharp of Counsel, instructed by Amy Golvan of Lascorp, with evidence from: <ul style="list-style-type: none"> - Anthony Dimasi of Dimasi & Co on economics - Rhys Quick of Urbis on economics - Henry Turnbull of Traffix Group on traffic engineering - Andrew Clarke of Matrix Planning on planning - Kel Twite of SJB Planning on planning
Marl Enterprises	Jason Kane of Counsel, instructed by Rob McGirr of Wisewould Mahony Lawyers, with evidence from: <ul style="list-style-type: none"> - David Barnes of Hansen Partnership on planning
Ms Thomas	Robert Jolly of the Centre for Independently Owned Retail Research
Mr Conti	Craig Halfpenny of Counsel, instructed by Dean and Associate Lawyers
VicRoads	Raelene Stratton (Team Lead Integrated Transport and Land Use) and Ian Ridgewell (Senior Planning Engineer)

Appendix C Document list

No	Description	Presented by
4 July 2017		
1	email – Request for information in relation to any supermarket lease agreements from Marl Enterprises or 18 Group Pty Ltd	Ms Minney of HWL Ebsworth for Greater Shepparton City Council
7 July 2017		
2	Letter - Request to alter hearing dates consistent with discussion at Directions Hearing	Ms Gale of Minter Ellison for 18 Group Pty Ltd
10 July 2017		
3	email – Response to Council request for lease agreement information	Planning Panels Victoria
4	email – Request for late circulation of Part A	Ms Minney
5	email – Response to late circulation of Part A	Planning Panels Victoria
12 July 2017		
6	Submission - Part A	Ms Minney
7	Submission - Council response to Panel directions (2 x folders)	Ms Minney
13 July 2017		
8	email - request for extension of time in distributing evidence statements on planning	Ms Golvan of Lascorp
9	email - response to request for extension of time	Planning Panels Victoria
14 July 2017		
10	email - Plans for Permit Application 2016 269	Ms Golvan
17 July 2017		
11	email – Expert Witness Statement from Justin Ganly on economics	Ms Searle of King & Wood Mallesons for Dexus
12	email – Expert Witness Statements from: Rob Milner, on planning, Gavin Duane on economics and Stephen Hunt on traffic	Ms Gale
13	email – Expert Witness Statements from: Anthony Dimasi, on economics, Mr Rhys Quick on economics and Mr Henry Turnbull on traffic.	Ms Golvan
14	email – VicRoads submission and plans of intersection of Goulburn Valley Highway (Numurkah Road) and Ford Road intersection	Ms Stratton of VicRoads
15	email – Expert Witness Statements from: Sean Stephens on economics, Alex Hrelja on retail economics, Reece Humphries on traffic and John Dunn on civil engineering/drainage	Ms Minney
16	email – Expert Witness Statement from David Barnes on planning	Mr McGirr of Wisewould Mahony for Marl Enterprises
17	email – Site visit suggested route for Panel, prepared by Council	Ms Cummins of Greater

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No	Description	Presented by
Shepparton City Council		
18 July 2017		
18	email – Expert Witness Statement from Andrew Clarke on planning	Ms Golvan
20 July 2017		
19	email – Expert Witness Statement from Kel Twite on planning	Ms Golvan
21 July 2017		
20	email – Expert Witness Conclave Statement on economics	Ms Minney
21	email – Expert Witness Conclave Statement on transport	Mr Reece Humphries of GTA Consultants
24 July 2017		
22	Panel booklet – architectural plans and elevations, landscape and traffic plans	Ms Brennan
23	Submission – Preliminary issue	Ms Brennan
24	Affidavit – Amy Golvan	Ms Brennan
25	Submission – Opening	Mr Bartley
26	Presentation – Open submission	Mr Kalms
25 July 2017		
27	Draft Shepparton North East Precinct Structure Plan, November 2016, pp14-15	Mr Bartley of HWL Ebsworth for Greater Shepparton City Council
28	Submission – Part B	Mr Bartley
29	Submission – Annexures 17 to 23	Mr Bartley
30	email – From Ms Minney to Mr Bisset, 5 July 2017	Mr Bartley
31	email – From Ms Minney to Mr Bisset, 6 July 2017	Mr Bartley
32	Letter – Minter Ellison to Ms Minney, 20 July 2017	Mr Bartley
33	Letter – Department of Environment, Land, Water and Planning to Greater Shepparton City Council, 5 April 2017	Mr Bartley
34	Report – Urban design peer review for Amendment C193 prepared by Planisphere, June 2017	Mr Bartley
35	Revised Draft Planning Permit 2016-019 with revised Condition 8 (VicRoads requirements)	Mr Bartley
26 July 2017		
36	Submission – VicRoads	Ms Stratton
37	Plan – Greater Shepparton City Council Cycling Strategy, 2013-2017	Mr Bartley
38	Plan – Shepparton North Growth Corridor Outline Development, 29/03/2011	Mr Bartley
39	Submission – Ms Thomas	Mr Jolly

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No	Description	Presented by
40	Submission – Mr and Ms Sinclair	Mr Mildren
41	Map – Shepparton North Subregional Centre and Corridor zones and land areas	Mr Bartley
42	Plan – Shepparton North Infill Development, 11/11/2016	Mr Bartley
43	Article – Multi-million dollar Village cinema upgrade development stalled, The Adviser, 27 July 2016	Mr Bartley
44	Section 173 agreement 221-229 Numurkah Road and 10 Ford, Shepparton	Mr Bartley
27 July 2017		
45	Plan – IGA floor plan, 12/10/78	Ms Minney
31 July 2017		
46	Letter – From Ms Thomas	Mr Jolly
47	Panel question response to point 2.13 of Submission	Mr Jolly
48	Submission – Mr Conte	Mr Halfpenny
49	Plan – 38 Ford Road, Shepparton North: Proposed plan of overall development	Mr Halfpenny
50	Submission – Marl Enterprises Pty Ltd	Mr Kane
51	Media articles – Fairley IGA supermarket	Ms Brennan
1 August 2017		
52A	Plans – 117-193 Numurkah Road endorsed plans, August 2016	Mr Canavan
52B	Plans – Indicative staged plans elevations and perspectives, 28 February and 9 March 2017	Mr Canavan
52C	Plans – Stage 2, May 2017	Mr Canavan
53	Letters – Woolworths group, 18 and 25 July 2017	Ms Brennan
54	Data – Readjusted retail figures	Mr Dimasi
55	Estimated resident population figures, Shepparton North trade area for 2011 and 2016	Mr Quick
56	Data – Readjusted retail figures	Mr Quick
57	Plans – VicRoads Wanganui Road and Ford Road Investigation Study extract	Mr Bartley
58	email – VicRoads response	Ms Stratton
2 August 2017		
59	Map – Shepparton North key distances	Mr Bartley
60	Map – Shepparton North linkages plan	Mr Clarke
61	Addendum to Urban Design Framework: Shepparton North & South Business Areas, July 2017	Ms Brennan
62	Bus routes – Shepparton to Connolly Park	Mr Clarke

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No	Description	Presented by
63	Plan – Numurkah Road / Ford Road Shepparton Road Layout Concept, Traffix Group, 30 November 2016	Mr Turnbull
64	Plan – Numurkah Road Shepparton Road Functional Layout – Option 4, Traffix Group, 8 June 2016	Mr Turnbull
3 August 2017		
65	Letters – From Ms Golvan to Minter Ellison and Wisewould Mahoney Lawyers requesting documentation, 2 August 2017	Ms Brennan
66	Email – From Mr McGirr of Wisewould Mahoney to Ms Minney of HWL Ebsworth	Mr McGirr
67	Plans – Proposed child care centre, Numurkah Rd, 7 October 2016	Mr Bartley
68	Submission – Lascorp Development Group Australia Pty Ltd	Ms Brennan
69	Report – Lonsdale Golf Course Redevelopment Environment Effects Statement, Greater Geelong Planning Scheme Amendment C67, Permit Application 1313 2009, Inquiry Report, 30 May 2012	Ms Brennan
70	Glen Eira Planning Scheme Amendment C67 and Permit Application GE/PP20913/2008, Glen Huntly Supermarket, Panel Report, September 2009	Ms Brennan
71	Flemington Hill and Epsom Road Advisory Committee Report	Ms Brennan
72	Planning Practice Note 58	Ms Brennan
73	Plans – North Shepparton Childcare Centre, Doody St	Ms Brennan
74	Report – Greater Geelong Planning Scheme Amendments C65 and C100 and Planning Permit Application 907/2002 Panel Report, June 2005	Ms Brennan
75	Letter – From Mr Krelle of Centrum Town Planning to Mr Kalms of Greater Shepparton City Council, 14 September 2016	Ms Brennan
76	Revised Draft Permit 2016-269	Ms Brennan
77	Email – Panel Direction	Ms Harwood
78	Mr Gavin Duane Economic Evidence Addendum Report, 3 August 2016	Ms Gale
4 August 2017		
79	Submission – Ms Thomas	Mr Jolly
80	Report - Commercial and Industrial Zones, Reformed Zones Ministerial Advisory Committee, February 2013	Ms Brennan
81	Letter – From Centrum to Council, 15 May 2017	Ms Brennan
82	Commercial & Industrial Zones Report, Reformed Zones Ministerial Advisory Committee, February 2013, pp37-38	Ms Brennan
83	Greater Shepparton Planning Scheme Amendment C119 and Planning Permit 2008-436 Panel Report, March 2011	Ms Brennan
84	Clause 74 of the Victoria Planning Provisions p11 and p19	Ms Brennan
85	Clause 34.02 (Commercial 2 Zone) of the Victoria Planning Provisions	Ms Brennan
86	Retail document	Ms Brennan

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No	Description	Presented by
9 August 2017		
87	VicRoads emails (7/8/2017 and 9/8/2017) further comments with attached road layout	Ms Stratton
88	Letter – emailed to PPV and other parties requesting documents	Ms Golvan
10 August 2017		
89	Photos - Aerials	Mr Milner
90	Revised planning Scheme clauses	Mr O'Farrell
91	Submission – 18 Pty Ltd	Mr Canavan
92	Revised Clause 21.06	Mr Canavan
93	Mildura Planning Scheme Amendments C63, C67 and C68 and Permit Applications, Panel Report, February 2012	Mr Canavan
94	Article	Mr Canavan
95	Submission - Dexus	Mr Walker
11 August 2017		
96	Closing Submission – Lascorp Development Group Australia Pty Ltd	Ms Brennan
97	In principle agreement including concept plan	Ms Brennan
98	Aerials	Ms Brennan
99	Letter – From Mr McCamish to Mr Lasky	Ms Brennan
100	Letter – From Lascorp to Panel Members	Ms Brennan
101	Revised draft Permit Application 2016-269 – Option 1	Ms Brennan
102	Revised draft Permit Application – Option 2 (A – hard copy handed up at A Hearing, B – soft copy emailed which was slightly different) &B	Ms Brennan
103	Closing submission - Council	Mr Bartley
104	Revised clauses	Mr Bartley
105	Letter – From Village Cinemas Australia to Greater Shepparton City Council, 9/07/2017	Mr Bartley
106	Email – Malcolm Bamford to Colin Kalms of Greater Shepparton City Council	Mr Bartley
107	Langmore v LaTrobe CC [2015] VCAT 690	Mr Bartley
108	[2005] VSC 422	Mr Bartley
109	Plan – Existing drainage infrastructure / easements	Mr Bartley
110	Shepparton-Mooroopna Investigation Plan, 10/08/17	Mr Bartley
111	Vacancy rates and dwelling numbers	Mr Bartley
112	Greater Shepparton Amendment C11 Interim Panel Report, August 2002	Mr Bartley
113	Permit Application 2016-269 option 2 revisions comments	Ms Brennan

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No	Description	Presented by
17 August 2017		
114	PAO further information by Council	Mr Bartley

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Appendix D Panel recommended Clause 21.06

Panel version of Clause 21.06 is based on Document 104.

Any variations from this document are shown as:

Tracked Added

~~Tracked Deleted~~

21.06 ECONOMIC DEVELOPMENT

...

21.06-5 Commercial/Activity Centres

The city’s commercial and retailing centres fulfil both local shopping and discretionary shopping needs, and provide services at the regional level. The Greater Shepparton 2030 Economic Development Report noted that no foreseeable demand exists in the long term for new major freestanding centres, other than in the north and south growth corridors, and for suitably accommodating bulky goods activities. The *Commercial Activity Centres Strategy, November 2015* identified that retail floorspace in Greater Shepparton is forecast to increase by between 35,000 and 55,000 square metres between 2015 and 2036. The *Commercial Activity Centres Strategy November 2015* identifies the following updated Activity Centre Hierarchy:

Activity Centre Hierarchy Description

Level in Hierarchy	No. of Centres in Shepparton	Centre
Shepparton Central Activities District	1	Shepparton CBD
Regional Retail Centre	1	Shepparton Marketplace
Sub-Regional Centre	3	Riverside, Mooroopna CBD, Shepparton North
Neighbourhood Centre or Town Centre	3	Echuca Road (Mooroopna North), Rowe Street East (Shepparton Plaza), Tatura
Local Centre or Township Centre	29	Branditt Ave, Graham St, Parkside Drv, King St, Dunkirk Ave, Conifer St, Parker St, Macintosh St, Swallow St, Michel St, Poplar Ave, Archer St, Colliver Rd, Guthrie St, Longstaff St, Kialla Lakes, Joseph St, MacIsaac Rd, St Georges Road, Murchison, Dookie, Toolamba, Tallygaroopna, Undera, Shepparton East, Lemnos, Congupna, Katandra West, Merrigum
Enterprise Corridor	3	Benalla Road, Gateway North (Numurkah Road), Gateway South (Melbourne Road)

Source: Essential Economics

Both the *Shepparton CBD Strategy October 2008* and *Commercial Activity Centres Strategy November 2015* identify Shepparton CBD as the principal retail centre in the region. The primary issue confronting the CBD’s retail sector is competition from regional and sub-regional centres, principally Shepparton Marketplace, and from land outside the traditional retail core (Precinct 1) that is commercially zoned. In particular, the location of uses such as supermarket and cinema within the Shepparton North and South Enterprise Corridors (Commercial 2 Zone land) could potentially undermine the retail hierarchy and the primacy of the retail core. To address this issue in the Benalla Road Enterprise Corridor, the Activity Centre Zone has been applied.

The challenge for the Shepparton CBD is to maintain its attraction as a retail centre and the range and mix of retail offer including national brand retailers, boutique retailing, and enhance the offer of fresh food, specialty and convenience food and the dining/café experience. A continued focus of specialty retailing and entertainment within the traditional retail core will be important to achieving the objectives of the *Shepparton CBD Strategy October 2008* and the *Commercial Activity Centres Strategy November 2015*.

Council is committed to limiting the development of free standing centres to specified locations in the municipality’s urban growth corridors and in a number of limited locations which also meet the requirements of the dynamic retail sector (such as bulky goods retailing).

Further expansion of retail and commercial facilities may be needed to serve the residents in the north to reflect the sub-regional role of the Shepparton North activity centre. Riverside will continue to serve as the sub-regional centre for the south with a focus on

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'core' retail uses, including supermarkets and speciality shops. An additional convenience local shopping centre or mixed use precinct may be suitable for development on the aerodrome site, if the aerodrome is relocated and this location is redeveloped for residential purposes. Peripheral sales (bulky goods) uses are directed to existing highway locations. The activity centre hierarchy identified in the *Commercial Activity Centres Strategy November 2015* recognises the role and function of different activity centres and provides a framework for the growth of existing centres and the development of new centres to meet urban growth.

Objectives - Commercial/Activity Centres

- To support the hierarchy of viable activity centres.
- To reinforce the Shepparton CBD as the principal retail centre in the region, in accordance with the provisions of Schedule 1 to the Activity Centre Zone, the *Shepparton CBD Strategy October 2008* and *Commercial Activity Centres Strategy November 2015*.
- To strengthen the Shepparton CBD's role as an office and commercial location, and provide appropriate retail opportunities in supporting locations.
- To consolidate the traditional retail core (Precinct 1) including a continued focus of providing specialty retailing and entertainment, particularly cinema based facilities and department stores.
- To maximise the regional service role of Shepparton through the provision of a dynamic and efficient activity centre hierarchy.
- To ensure the provision of adequate sub-regional retail facilities to serve local communities.
- To strengthen the image of Shepparton CBD as a regional community and cultural hub, and as a 'university city'.
- To attract more people to live in the Shepparton CBD as a means of providing a greater range of housing choices, and supporting the vibrancy and economy of the CBD.
- To continue the revitalisation and activation of the Maude Street Mall.
- To create a movement network that is convenient, connects key destinations and precincts, and prioritises walkability, cycling and public transport use.

To enhance the role of the Shepparton CBD as a 'university city' by creating an attractive CBD in which to study and live.

Strategies - Commercial/Activity Centres

- Support a hierarchy of retail centres that promotes the primacy of the Shepparton CBD as a multi-function centre complemented by local centres for convenience shopping, as identified in the *Commercial Activity Centres Strategy November 2015*.
- Provide for the continued growth of the Shepparton CBD as a multi-purpose retail, business, commercial, community, entertainment and tourism centre, as identified in the *Shepparton CBD Strategy October 2008* and the *Commercial Activity Centres Strategy, November 2015*.
- Encourage national brand retailers, specialty retail, department stores and cinema operators to locate in the CBD core area (Precinct 1).
- Encourage boutique and specialty retailing, and the range and mix of retail offer, including fresh food stores, specialty and convenience food, in the CBD.
- Focus attractions that generate pedestrian movement (such as shops, cafes, banks and other financial institutions, travel agents and take-away food outlets) and create active street frontages in the retail core (Precinct 1).

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- Encourage the redevelopment of peripheral areas of the Shepparton CBD including expansion to Sobraon Street.
- Encourage the implementation of a best practice model for the activation of the Maude Street Mall.
- Encourage cafes, restaurants and alfresco dining in a dining and entertainment precinct in Fryers Street.
- Provide for quality commercial development within the CBD, particularly properties with river frontage along Welsford Street.
- Allow higher scale buildings in appropriate locations and encourage site consolidation where necessary to support large-scale commercial development.
- Encourage smaller offices to locate in the office precincts and at upper levels of retail uses in the CBD.
- Facilitate the further expansion of the Shepparton Marketplace beyond 22,500 square metres, subject to a policy framework that ensures any expansion is complementary to the role and function of the Shepparton retail core, including an economic impact assessment detailing the impact on the relative role of this centre and the Shepparton CBD.
- Support the growth of existing centres and the development of new centres to meet urban growth in line with the *Commercial Activity Centres Strategy November 2015*.
- Facilitate and support the expansion and concentration of additional retail and commercial facilities for the Shepparton North Activity Centre, between Ford Road and Hawkins Street on the eastern side of Numurkah Road, to reflect the designated sub-regional role and function of the centre.
- Encourage the development of non retail and retail uses that complement the dual retail nodes, within the Shepparton North Activity Centre.
- Provide neighbourhood commercial and retail centres that are accessible to the local community, especially by public transport and bicycle, and that also have adequate car parking provisions.
- Encourage and promote the location of peripheral sales, bulky goods and restricted retail as shown on the Framework Plan.
- In the event of the re-location of the aerodrome within the next 20 years, and subject to an economic impact assessment, identify a potential neighbourhood centre in the southern growth corridors on the site of the existing aerodrome.
- Encourage shops to front the road, be built in line with other buildings, and have regard to the location of car parking, landscaping and pedestrian areas.
- Discourage uses such as display yards or service stations which disrupt pedestrian connections in shopping streets.
- Ensure residential uses do not occupy ground floor retail street frontages in commercial core areas, to prevent disruption to commercial activity.
- Consider the potential for a rezoning land in McLennan Street, Mooroopna, adjacent to the former Mooroopna Hospital to provide for development/uses which complement the proposed retirement complex.

Policy Guidelines – Development outside of the Central Activity District

It is policy to:

- Ensure the location of any new department stores or cinemas outside of the retail core (Precinct 1) will not change the role and function of that centre and the primacy of the retail core as justified by a detailed planning assessment, including an economic impact assessment.
- Discourage buildings and works that facilitate cinema, supermarket, shop (other than restricted retail) and office uses outside of designated activity centres in the

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Shepparton South and North Enterprise Corridors, and do not undermine the primacy of the retail core (Precinct 1).

21.06-6 Tourism

Another important industry is tourism which contributes significantly to the region's economic output. The tourism industry is mainly focused on shopping for locally produced and manufactured products (particularly canned foodstuffs), the meetings and business events markets, and people visiting family and friends. Council recognises the importance of the tourism industry within the municipality. Accordingly, it is appropriate to encourage the provision of facilities and services that generally support the ability to experience Greater Shepparton's natural and cultural recreational values, including the provision of short term and home hosted accommodation, host farms and similar facilities.

Objectives - Tourism

To encourage the provision of tourism facilities and services including short term and home hosted accommodation, host farms and similar facilities (from overview).

To strengthen the attraction of the Shepparton CBD as a tourist destination.

Strategies - Tourism

- Promote the unique tourism opportunities of the irrigated rural landscape and the food growing and processing industries.
- Encourage examples of landmark architecture for the Shepparton CBD.
- Encourage the integration of tourist and agricultural activities where there are no adverse impacts on the operation of rural industries.
- Improve the amenity and image of the CBD through the quality of its streetscape design.
- Support the role of retail as a significant attraction for tourists to Shepparton.
- Develop the food and wine offer of Shepparton - the 'food bowl of Australia' - and promote the CBD as a gastronomic centre of the region.
- Celebrate the cultural diversity of Shepparton through related retail offer and dining opportunities in the CBD.
- Support public art in the Shepparton CBD that projects the character and uniqueness of Shepparton.
- The river environment in the periphery of the CBD should be acknowledged and the feel of a 'river city' created thorough landscaping, access and necessary directional signage.

21.06-7 Strategic Work Program

Undertaking further strategic work - Economic Development

- Update the Economic Development Strategy, incorporating a review of the Tourism Strategy and analysis of trends in the agribusiness sector.
- Update and review as appropriate, the Greater Shepparton Industrial Development Guidelines 1998.
- Undertake regular monitoring of industrial land supply and demand to maintain a 15 year supply.
- Work with existing industrial land stakeholders to facilitate improvements to existing industrial areas and developments and to consider strategic issues.

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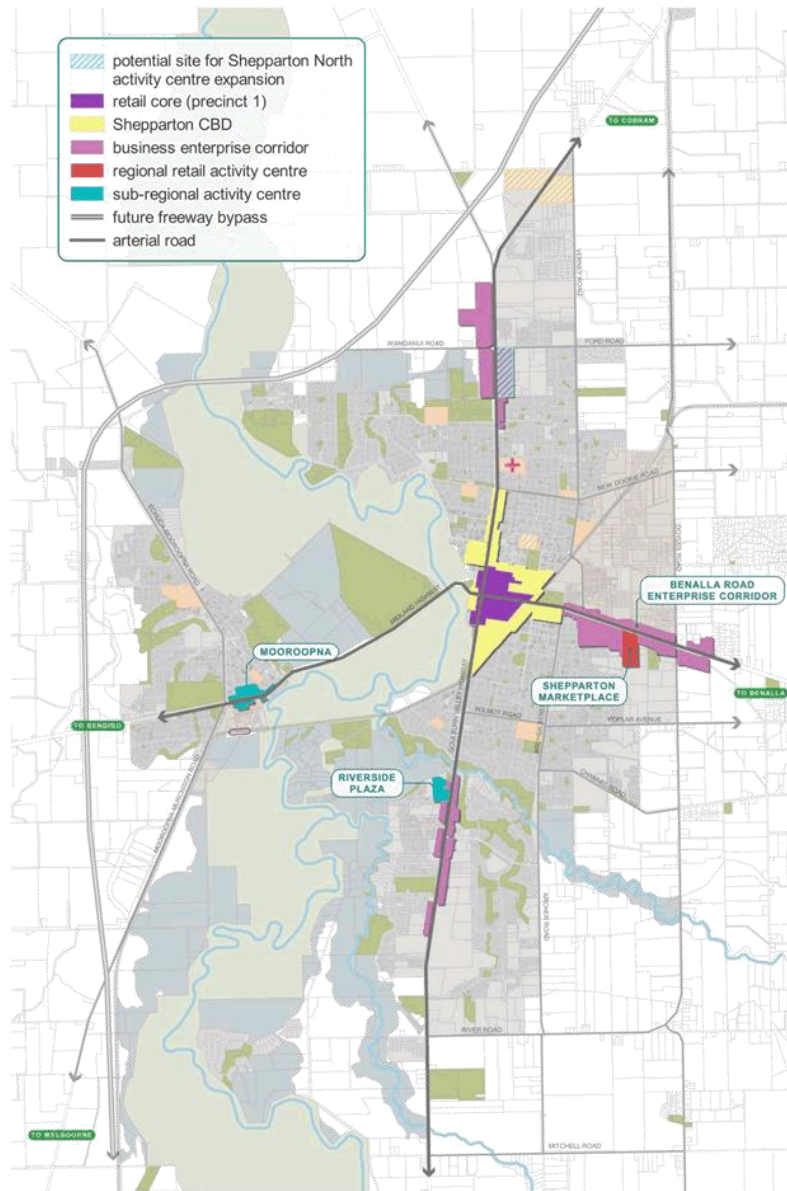
- Prepare urban design guidelines for development and signage of visitor services, particularly future highway service precincts at the access points to the Goulburn Valley Highway Shepparton Bypass.
- Prepare a series of broad urban structure plans to guide future development of the municipality's urban areas with a focus on improved road connectivity and reduced interface issues between potentially conflicting land uses.
- Investigate the possibility of establishing a resource recovery precinct or precincts.
- Investigate opportunities for the revitalisation and activation of Maude Street Mall.
- Investigate application of noise attenuation controls surrounding industrial sites in Tatura.
- Implement the South East Precinct Structure Plan in relation to Shepparton Marketplace.;
- Prepare and implement an Urban Design Framework/ landscape masterplan for Mooroopna CBD, to provide a high quality street based shopping environment.;
- Implement the DPO/ DCP and DDO for Riverside to ~~to~~ ensure long term planning and design framework for the centre.;
- Prepare and implement an Urban Design Framework to guide built form and development outcomes in the ~~Shepparton North Activity Centre and~~ Shepparton North Enterprise Corridor.
- [Prepare and implement structure plans for Mooroopna, Riverside and Shepparton North Activity Centres which include urban design frameworks.](#)
- Review the application of the Activity Centre Zone for the Shepparton North Activity Centre and the Shepparton North Enterprise Corridor to reinforce the retail hierarchy.
- Develop a corridor access strategy to guide decision making along all main roads.
- Undertake a Rural Living review.

DRAWING KEY

-  CBD
-  Highway business - consolidate and redevelopment
-  Major activity centre
-  Future / expanded neighbourhood centres
-  Potential local centre (subject to resolution of airport)
-  Hospital / medical precinct
-  Rivers / Creeks
-  Arterial road network
-  Limit of urban development
-  River corridor environs



Appendices



Shepparton Business Framework Plan

Appendices

Appendix E Panel recommended Activity Centre Zone Schedule 1

Panel version of Activity Centre Zone Schedule 1 is based on Document 104.

Any variations from this document are shown as:

[Tracked Added](#)

~~Tracked Deleted~~

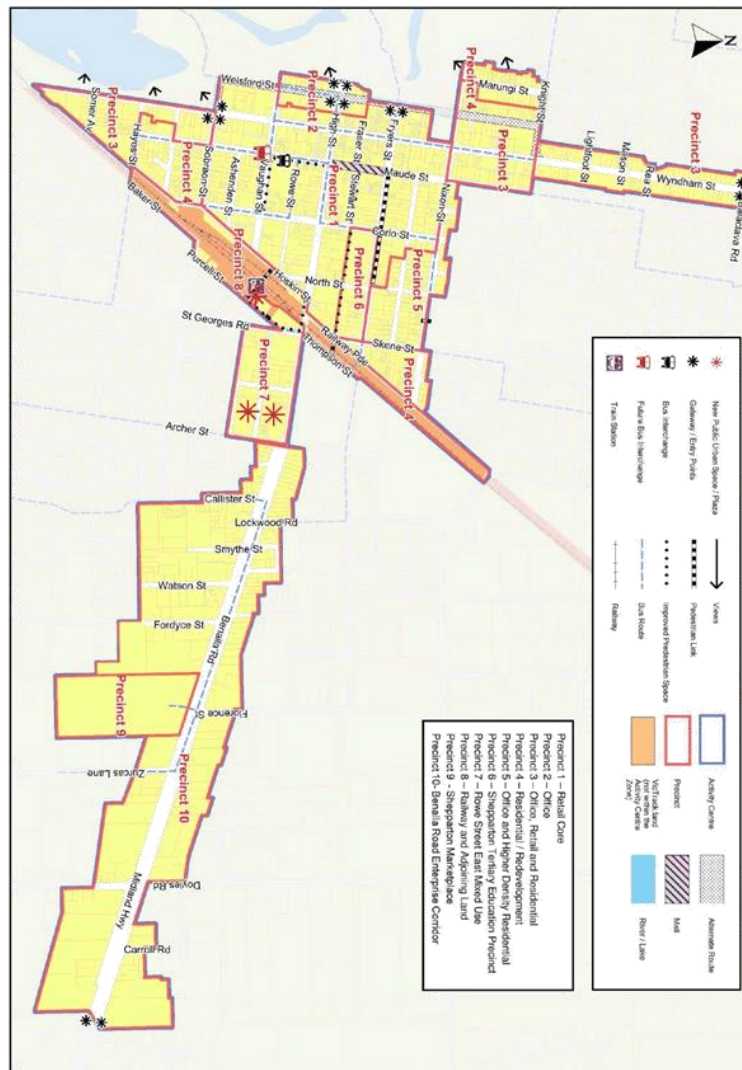
NOTE: Where there is no change to the Precinct provisions, the Maps have been removed.

SCHEDULE 1 TO CLAUSE 37.08 ACTIVITY CENTRE ZONE

Shown on the planning scheme map as **ACZ1**.

SHEPPARTON CENTRAL BUSINESS DISTRICT (CBD)*

1.0 Shepparton CBD Framework Plan



* The Panel notes that the area referred to as the Shepparton Central Business District in Activity Centre Zone Schedule 1 is designated as three separate activity centres in CACS:

- Shepparton Central Business District (Precincts 1-7)
- Shepparton Marketplace Regional Centre (Precinct 9)
- Benalla Road Enterprise Corridor (Precinct 10)

2.0 Land use and development objectives to be achieved**Land use**

- To reinforce Shepparton as the principal retail centre in the region.
- To maximise the regional service role of Shepparton through provision of a dynamic and efficient activity centre hierarchy.
- To consolidate the traditional retail core (Precinct 1) including a continued focus of providing specialty retailing and entertainment.
- To support the Regional Retail role of Shepparton Marketplace in a manner complementary to the retail core (Precinct 1).
- To ensure any proposal to locate new department stores or cinemas outside of the retail core (Precinct 1) will not change the role and function of that centre and that the primacy of the retail core (Precinct 1) will be maintained as justified by a detailed planning assessment, including an economic impact assessment.
- To strengthen the Shepparton CBD's role as an office and commercial location.
- To strengthen the image of Shepparton CBD as a regional community and cultural hub and strengthen its attraction as a tourist destination.
- To attract more people to live in the Shepparton CBD as a means of providing a greater range of housing choices and supporting the vibrancy and economy of the CBD.
- To enhance the role of the Shepparton CBD as a 'university city' by creating an attractive CBD in which to study and live.
- To strengthen links with the indigenous and cultural communities in Shepparton through expanding cultural-related activity in the CBD and working with the River Connect project.

Built form

- To encourage innovative and sustainable contemporary design.
- To promote the principles of environmentally sustainable design.
- To promote best practice urban design principles in the layout of activity centres.
- To make better use of available land by allowing higher scale built form in appropriate locations.
- To protect the amenity of residential areas and places of cultural heritage significance.

Public realm

- To enhance outdoor life in the city through the quality of its open spaces, within and immediately surrounding the CBD.
- To integrate the CBD and river spaces through improved visual connections and linkages to attract pedestrians, cyclists and tourists to the riverine areas.
- To improve the amenity and image of the CBD through the quality of its streetscape design.
- To design buildings and spaces to improve the level of actual and perceived safety throughout the CBD.
- To support public art in the CBD that projects the character and uniqueness of Shepparton, enlivens public spaces and raises awareness of the indigenous and post-settlement history of Shepparton.

Access

- To refocus the Shepparton CBD as a place for pedestrians and local traffic.
- To manage the operation of the CBD road network to redirect freight and through traffic to alternative routes prior to development of the Shepparton bypass.

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- To improve access to and within the Shepparton CBD by a variety of sustainable transport modes including foot, bicycle and public transport with new linkages that are efficient and connect key destinations.
- To create a high-quality pedestrian environment in the Shepparton CBD.
- To encourage safe and convenient access to the river and public spaces, including the railway station.

3.0

Table of uses

Section 1 - Permit not required

Use	Condition
Accommodation (other than Corrective institution and Dwelling)	Must not be at ground floor level, except for entry foyers.
Animal keeping (other than Animal boarding)	Must be no more than 2 animals.
Bed and breakfast	In Precinct 1, 2, or 7 or Sub-precinct 3B any frontage at ground floor level must not exceed two metres. No more than 6 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
Bus terminal	Must be in Precinct 1, 7 or 8 or 10.
Child care centre	Must be in Precinct 1, 2, 6, 7 or 9 or Sub-precinct 3B, or 8A. Any frontage at ground floor level must not exceed 2 metres.
Cinema	Must be in Precinct 1. In Precinct 1 must not front a road at ground floor level, except for entry foyers.
Department Store	Must be in Precinct 1.
Display home	Must be in Precinct 4 or 5.
Dwelling (other than Bed and breakfast)	In Precinct 1, 2 or 8 or Sub-precinct 3B any frontage at ground floor level must not exceed two metres.
Education centre (other than Primary school or Secondary school)	Must be in Precinct 1, 2, 6, 7 or 8 or Sub-precinct 3B. If in Precinct 1, 2 or 7 or Sub-precinct 3B any frontage at ground floor level must not exceed 10 metres and access must not be shared with a Dwelling (other than a Caretaker's house).
Home occupation	
Industry (other than Materials recycling and Transfer station)	Must be in Precinct 10. Must not be a purpose shown with a Note 1 or Note 2 in the table to Clause 52.10. The land must be at least the following distances from land (not a road) which is in a residential zone, Commercial 1 Zone, Capital City Zone, Docklands Zone, land used for a hospital or an education centre or land in a Public

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Use	Condition
	<p>Acquisition Overlay to be acquired for a hospital or an education centre:</p> <ul style="list-style-type: none"> ▪ The threshold distance, for a purpose listed in the table to Clause 52.10. ▪ 30 metres, for a purpose not listed in the table to Clause 52.10.
Informal outdoor recreation	
Minor utility installation	
Office	<p>Must not be in Precinct 9 or 10 or Sub-precincts 4A, 4B, 4D, 8B or 8C.</p> <p>In Precinct 1 or 7, any frontage at ground floor level must not exceed 2 metres and access must not be shared with a dwelling (other than a Caretaker's house), unless the office is a Bank, Electoral office, Real estate agency, Travel agency, or any other Office where the floor space adjoining the frontage is a customer service area accessible to the public.</p>
Place of worship	<p>The gross floor area of all buildings must not exceed 250 square metres.</p> <p>The site must adjoin, or have access to, a road in a Road Zone.</p>
Railway station	
Restricted retail premises	Must be in Precinct 1,2, 7, 9 or 10.
Retail premises (other than Adult sex book shop, Hotel and Tavern, Restricted retail premises, Supermarket or Trade supplies)	Must be in Precinct 1, 2, 7 or 9 or Sub-precincts 3B or 8A.
Shop (other than, Adult sex book shop, Department store, Restricted retail premises, Supermarket)	<p>Must be in Precinct 1,2 or 9 or Sub-precincts 3B or 8A.</p> <p>In Precinct 9, the total shop floor area (including department store and supermarket must not exceed 22,500 square metres.</p>
Supermarket	Must be in Precinct 1,2,7 or 9
Trade supplies	Must be in Precinct 1, 2, 7 or 10
Tramway	
Warehouse (other than Mail centre)	<p>Must be in Precinct 10.</p> <p>Must not be a purpose shown with a Note 1 or Note 2 in the table to Clause 52.10.</p> <p>The land must be at least the following distances from land (not a road) which is in a residential zone, Commercial 1 Zone, Capital City Zone, Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre:</p> <ul style="list-style-type: none"> ▪ The threshold distance, for a purpose listed in the table to Clause 52.10. ▪ 30 metres, for a purpose not listed in the table to Clause 52.10
Any use listed in Clause 62.01	Must meet requirements of Clause 62.01.

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Section 2 - Permit required

Use	Condition
Adult sex book shop	Must not be in Precinct 2, 4, 5 or 9 or Sub-precinct 3A, 3C, 3D, 8B or 8C. Must be at least 200 metres (measured by the shortest route reasonably accessible on foot) from a residential zone or Activity Centre Zone Precincts 2, 4, 5 or 9, or Sub-precinct 3A, 3C, 3D, 8B or 8C, land used for a Hospital, Primary school or Secondary school or land in a Public Acquisition Overlay to be acquired for a Hospital, Primary school or Secondary school.
Amusement parlour	Must not be in Precinct 4.
Animal keeping (other than Animal boarding)	Must be less than 5 animals.
Cinema	Must not be in Precinct 3, 4, 7 or 10
Community market	
Convenience restaurant	Must not be in Precinct 4.
Convenience shop	In Sub-precinct 4A, 4B, 4D or 8C the leasable floor area must not exceed 80 square metres.
Department Store	Must not be in Precinct 3, 4, 7 or 10
Emergency services facility	Must not be in Precinct 4.
Food and drink premises (other than Convenience restaurant, and Take away food premises) – if the Section 1 condition for Retail premises is not met	
Industry	Must be in Precinct 1, 2, 7, 10 or Sub-precincts 3B or 8A. In Precinct 1, 2, or 7 or Sub-precinct 3B or 8A it must not be a purpose listed in the table to Clause 52.10 (with the exception of food and beverage production in Precinct 7).
Landscape gardening supplies (other than Plant nursery)	Must not be in Precinct 4 or 5 or Sub-precinct 3A, 3C, 8B or 8C
Leisure and recreation (other than Informal outdoor recreation and Motor racing track)	
Mail centre	Must not be in Precinct 4 or Sub-precinct 8B or 8C.
Medical centre – if the Section 1 condition for Office is not met	Must not be in Precinct 10.
Motor vehicle, boat or caravan sales	Must not be in Precinct 4, 5 or 9 or Sub-precincts 3A, 3C, 3D, 8B or 8C.
Nightclub	Must not be in Precinct 3,4, 5 or 10.
Office (other than Medical centre) – if the section 1 condition is not met	Must not be in Precinct 10 or Sub-precincts 4A, 4B, 4D, or 8C.
Place of assembly (other than Amusement parlour, Cinema, Nightclub and Place of worship)	
Plant nursery	
Restricted retail premises	Must not be in Precinct 3, 4, 5 and 6

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Use	Condition
Retail premises (other than Community market, Food and drink premises, Landscape gardening supplies, Motor vehicle, boat or caravan sales, Restricted retail premises, Shop and Trade supplies) – if the Section 1 condition is not met	Must not be in Sub-precinct 4A, 4B, 4D, 3D or 8C.
Service station	Must not be in Precinct 3D. The site must either: <ul style="list-style-type: none"> Be in Precincts 1, 2, or Sub-precinct 3B, or Have direct access to a road in a Road Zone.
Shop (other than Adult sex book shop, Convenience shop and Restricted retail premises) – if the Section 1 condition is not met	Must not be in Precinct 4 or 5 or Sub-precincts 3A, 3C, 3D or 8C.
Supermarket	Must not be in Precinct 3, 4 or 10.
Take away food premises	Must not be in Sub-precinct 4A, 4B, 4D or 8C.
Trade supplies	Must not be in Precinct 4 or 5 or Sub-precincts 3A, 3C, 8B or 8C.
Transfer station	The land must be at least 30 metres from land (not a road) which is in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.
Transport terminal (other than Bus terminal, and Railway station)	Must not be in Precinct 4 or 5 or Sub-precinct 3D.
Utility installation (other than Minor utility installation)	
Warehouse (other than Mail centre)	Must not be in Precinct 3, 4 or 5 or Sub-precinct 8C. Must not be a purpose listed in the table to Clause 52.10 (with the exception of food and beverage production in Precinct 7).
Any other use not in Section 1 or 3	

Section 3 – Prohibited

Use
Agriculture (other than Animal keeping)
Animal boarding
Brothel
Cemetery
Corrective institution
Crematorium
Saleyard
Stone extraction

4.0 Centre-wide provisions**4.1 Use of land**

A permit is not required to use land for the public purpose of Health and Community, Local Government, Service and Utility, Transport or Education providing the use is carried out by, or on behalf of, the relevant public land manager.

4.2 Subdivision

Applications for subdivision that do not support the objectives of this schedule are discouraged.

The consolidation of land to facilitate the creation of viable development sites is encouraged.

Encourage the retention of those features that contribute to an appreciation or understanding of places of cultural heritage significance on one lot.

4.3 Buildings and works

A permit is not required to:

- Install an automatic teller machine.
- Alter an existing building façade provided:
 - The alteration does not include the installation of an external roller shutter.
 - At least 80 per cent of the building facade at ground floor level is maintained as an entry or window with clear glazing.
- Construct an awning that projects over a road if it is authorised by the relevant public land manager.
- Construct or extend a dwelling on a lot of more than 300 square metres. This exemption does not apply to:
 - Construction of a dwelling if there is at least one dwelling existing on the lot;
 - Extension of a dwelling if there are two or more dwellings on the lot;
 - Construction or extension of a dwelling if it is on common property;
 - Construction or extension of a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building, and the fence exceeds the maximum height specified in Clause 55.06-2;
 - The development of a caretaker's house or a bed and breakfast.
- Construct or carry out works normal to a dwelling.
- Construct or extend an outbuilding (other than a garage or carport) on a lot provided the gross floor area of the outbuilding does not exceed 10 square metres and the maximum building height is not more than 3 metres above ground level;
- Construct one dependent person's unit on a lot.
- Construct a building or to construct or carry out works for the public purpose of Health and Community, Local Government, Service and utility, Transport or Education providing the building or works is carried out by, or on behalf of, the relevant public land manager.

4.4 Design and development**Dwellings**

- On a lot of less than 300 square metres, an application must meet the requirements of Clause 54 if it proposes to:

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- Construct or extend one dwelling; or
- Construct or extend a front fence within 3 metres of a street if the fence is associated with one dwelling.
- An application must meet the requirements of Clause 55 if it proposes to:
 - Construct a dwelling if there is at least one dwelling existing on the lot.
 - Construct two or more dwellings on a lot.
 - Extend a dwelling if there are two or more dwellings on the lot.
 - Construct or extend a dwelling if it is on common property.
 - Construct or extend a residential building.
 - Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building, and the fence exceeds the maximum height specified in Clause 55.06-2.

This does not apply to a development of four or more storeys, excluding a basement.

Built form

- The height and setbacks of buildings should be designed in accordance with requirements and guidelines specified in the precinct provisions in this schedule.
- The Preferred Maximum Building Heights does not apply to service equipment including plant rooms, lift overruns, solar collectors and other such equipment provided the following criteria are met:
 - No more than 50% of the roof area is occupied by the equipment;
 - The equipment is located in a position on the roof so as to minimise additional overshadowing of neighbouring properties and public spaces;
 - The equipment does not extend higher than 3.6 metres above the Preferred Maximum Building Height as specified in the precinct provisions of this Schedule; and
 - The equipment is designed and screened to the satisfaction of the responsible authority.
- Street wall height refers to the height of a building at the street frontage as measured from ground level.
- Any application which is not in accordance with the preferred building height, street wall height and setback requirements specified in the precinct provisions to this schedule will be subject, as relevant, to specific performance requirements as follows:
 - Demonstrating compliance with the design objectives of this schedule;
 - Implementing environmentally sustainable principles;
 - Achieving conservation and adaptive re-use of places of cultural heritage significance;
 - Enhancing public and private amenity; and
 - Protecting the development potential of adjoining sites.
- Minor buildings and works such as verandas, architectural features, balconies, sunshades, screens, artworks and street furniture may be constructed within the setback areas specified in the precinct provisions of this Schedule provided they are appropriately designed and located.
- New buildings around Maude Street Mall and the station, and gateway sites should be designed to allow higher scale buildings achieving innovative, distinctive architectural designs.
- New buildings should promote architectural excellence throughout the CBD by encouraging contemporary building styles for new developments that create a unique identity for the CBD and to improve its image as a regional centre.

- New development should incorporate principles of Ecological Sustainable Design (ESD) and encourage the retrofitting of existing buildings including orientation and shading of windows to maximise heat gain in winter and minimise in summer, optimum thermal performance to reduce heating and cooling demands and choice of energy-efficient and water-saving appliances.
- New developments should incorporate sustainable water use in buildings by implementing measures to collect rain water runoff from roof areas. Water storage tanks should be located away from public view, and not impact on neighbours' visual amenity. Opportunities for achieving reductions of impervious surfaces, re-use of grey water and collection and re-use of stormwater should be utilised
- New buildings should create good 'street architecture' with articulated façades, fenestration, parapet treatment, other detailing and materials that give a sense of human scale and interest to the streetscape.
- New buildings should avoid expanses of blank walls on all street frontages and pedestrian spaces. Provide visual interest through a range of colours or textures, installing displays or through variations in the form of the building and on all sides of buildings.
- Large trees should be planted within car parks.
- Ensure places of cultural heritage significance are integrated into new development.
- Conserve or reveal views that contribute to the appreciation and understanding of places of cultural heritage significance.
- Buildings on sites adjacent to a places of cultural heritage significance should provide a transition in height and should complement the front setbacks of adjacent places of cultural heritage significance, where appropriate.
- New developments should consider overlooking and overshadowing, so as not to impact on the amenity of neighbouring buildings.
- Plant equipment, vents, service and utility areas and any other mechanical equipment should be carefully integrated into the design of new buildings, including incorporated into the roof design so as to avoid visibility from the street, surrounding spaces and buildings.
- Advertising signs should be integrated into building design and landscaping that contributes to a consistent and coordinated suite of signage for the CBD that is designed to serve a range of purposes, such as way finding, marking historical locations or announcing entry points.
- New multi-deck car parking buildings should be constructed to the rear of lots to reduce the visual impact.
- New development should where possible include public art on or nearby to the site.

Vistas

- New development on sites adjacent to or with views towards the Goulburn River should maximise this orientation by means of balconies, verandahs, upper building setbacks, fenestration and other architectural features.

Movement networks, transport and access

- New development along main corridors should respond to any corridor access strategy prepared for that area.
- To manage car parking demand and supply to support the economic competitiveness of the Shepparton CBD.
- New proposals should minimise the width of driveway entrances and the visual impact of garage doors on building frontages and provide access from rear laneways wherever possible.

- Laneways should provide safe and efficient access to the site and be constructed and sealed.
- New development should provide a high level of accessibility at the principal front entry for any development.
- Future transport planning for the Shepparton CBD encourages cycling access and facilities.

5.0 Precinct provisions

5.1 Precinct 1 – Retail Core

5.1-1 Precinct map



5.1-2 Precinct objectives

- To encourage major anchor stores, shops, cinemas, entertainment, clothing and national brand retailers to locate within the core retail area in Sub-precinct 1A.
- To encourage the Maude Street Mall to function as a true 'centre' of town and facilitate higher scale, mixed-use development that includes residential to bring more people to the mall and increases activity on the street.
- To encourage the implementation of a best practice model for revitalisation and activation of Maude Street Mall.
- To encourage redevelopment of vacant or underused sites with buildings that create a well-defined street edge. Specifically, this includes:
 - improving the function and appearance of Vaughan Street through a stronger built form and architectural quality to define the streetscape and improve pedestrian amenity.
 - encouraging a higher density of building around the mall, including the vacant sites or surface car parks of Stewart Street, to improve its appearance and safety.
- To encourage the location of cafes and dining, food outlets, entertainment, and residential (above ground level) in Fryers Street and the Maude Street Mall.
- To improve the function and appearance of the mall as the principal open space of the CBD's retail core and the heart of CBD activity.

5.1-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
1A	None specified.	11.5 metres	No front or side setbacks, except for: <ul style="list-style-type: none"> ▪ the site on the north-west corner of Sobraon and Wyndham Streets where a front setback should accommodate dining areas. ▪ any additional levels above 11.5 metres to be setback 5 metres from the building frontage.
1B	7 metres.	None specified.	Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.

5.1-4 Precinct guidelines**General**

- Core retail activities, particularly anchor department stores and entertainment uses in the retail core, should be consolidated and clustered.
- Encourage cinema and department stores to locate in the retail core.
- Building frontages in the core retail areas and along main pedestrian streets should be designed to have 75 per cent 'active' frontage to add to the activity and vitality of the streets. This can be achieved through clear glazing, locating entrances off principal street spaces and providing balconies or terraces at the upper levels.

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Maude Street Mall

- Uses that operate outside normal business hours (such as restaurants, bookshops and convenience stores) should be located in the Maude Street Mall.
- Higher buildings accommodating office or residential uses above ground level and ground level active retail frontages should be constructed adjacent to the Maude Street Mall.
- Existing blank walls should be converted to active retail frontages or include windows.
- Tower Arcade should be opened as a key pedestrian link.

Stewart Street

- Stewart Street should be upgraded as a key pedestrian link.
- The multi deck car park should be upgraded to improve access, presence, appearance and safety.
- Pedestrian access to “Target” Arcade should be upgraded to include active retail frontages, public art and lighting.
- Mixed use retail, office and residential uses should be constructed on vacant land north of Stewart Street.
- Three storey buildings should be located north and south of Stewart Street.

Vaughan Street

- Improve the function and appearance of Vaughan Street through a stronger built form and architectural quality to define the streetscape and improve pedestrian amenity.
- Any new development should include ground level active retail frontage and rear parking especially on key corner sites.

Wyndham Street

- Wyndham Walk should be upgraded with active frontages, lighting, consistent materials, signage and public art to promote pedestrian use and increase safety.
- New pedestrian links to Welsford Street should be created.

5.2 Precinct 2 – Office**5.2-1 Precinct map****5.2-2 Precinct objectives**

- To consolidate the precinct’s office role with above-ground residential uses.
- To encourage development with a mix of office, cafe and residential uses (on upper levels) on land in the riverine environment between Welsford Street and the River’s open space.
- To encourage active frontages along the riverfront and on Welsford Street.
- To encourage zero setbacks and higher built form along Welsford Street.

5.2-3 Precinct requirements

Precinct	Preferred building height	Preferred street wall height	Preferred setbacks
2	None specified.	11.5 metres.	Zero metre front and side setbacks except for any additional levels above 11.5 metres to be setback 5 metres from the building frontage.

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5.2-4 Precinct guidelines

- New development on the west side of Welsford Street should be sited to ensure views are available between buildings and public pedestrian access is provided for to the open space beyond.

5.3 Precinct 3 – Office, Retail and Residential**5.3-1 Precinct map****5.3-2 Precinct objectives**

- To encourage a compatible mix of medium-density residential and commercial/office uses that complement retail, commercial and office uses in Precinct 1 and 2.
- To encourage lower-scale built form with office/commercial uses incorporating a small landscaped setback to complement the setback of residential uses in the area.
- To reinforce the gateway role of this precinct by encouraging gateway features at specific localities that signify entrance points to central Shepparton.

5.3-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
3A	Minimum of 7 metres and maximum of 11.5 metres .	None specified.	<p>Minimum of 1 metre and maximum of 3 metres from the front lot boundary with an average setback of 1.5 metres.</p> <p>Minimum of 14 metres from the rear boundary.</p> <p>A zero metre setback to the south boundary to 10 metres plus 25% of the remaining boundary length.</p> <p>If a zero metre setback is not used to the south boundary, a minimum 1 metre side setback to north and south boundaries.</p> <p>Where vehicular access is provided to the rear of the site, there should be a minimum of 1.5 metres for landscaping and pedestrian refuges. The setback may be transferred to the building side of the laneway for a maximum of 50% of the laneway length.</p>
3B	None specified.	11.5 metres.	<p>Zero metre front or side setbacks to Wyndham Street.</p> <p>Any additional levels above 11.5 metres (3 storeys) to be setback 5 metres from building frontage.</p>
3C	Minimum 11.5 metres and maximum 20.5 metres.	None specified.	Minimum of 5 metres and a maximum of 10 metres from the front boundary with an average of 6-7 metres over the width of

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Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
			<p>the building frontage</p> <p>Any additional levels above 11.5 metres to be setback 3 metres from building frontage.</p> <p>Where new developments have a rear boundary with a residential lot:</p> <ul style="list-style-type: none"> ▪ a minimum building setback of 14 metres from the rear should be provided; and ▪ any additional levels above 11.5 metres to be setback 3 metres at the rear of the building. <p>A zero metre setback to the south boundary to 10 metres plus 25% of the remaining boundary length. For the remainder of the south boundary length, a minimum of 1 metre side setback.</p> <p>If a zero metre setback is not used to the south boundary a minimum 1 metre side setback to north and south boundaries.</p> <p>Where vehicular access is provided to the rear of the site, there should be a minimum of 1.5 metres for landscaping and pedestrian refuges. The setback may be transferred to the building side of the laneway for a maximum of 50% of the laneway length.</p>
3D	Maximum of 9 metres	6.9 metres	<p>Front setback a minimum of 4 metres and a maximum of 10 metres from the front lot boundary with an average of 5-6 metres over the width of the lot.</p> <p>Building setbacks must be a minimum of 14 metres from the rear boundary to avoid a dominating built form interface with adjoining residential lots and to provide opportunities for long term parking.</p> <p>A zero setback to the south boundary is permitted to 10 metres plus 25% of the remaining boundary length. For the remainder of the south boundary length, a minimum 1 metre side set back is required.</p> <p>If a zero setback provision is not utilised to the south boundary a minimum 1 metre side setback is required to each of the north and</p>

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Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
			<p>south boundaries.</p> <p>Where vehicular access is provided to the rear of the site, there should be a minimum of 1.5 metre setback from the side boundary to allow for the provision of a landscaped buffer and pedestrian refuges. The setback may be transferred to the building side of the laneway for a maximum of 50% of the laneway length.</p>

5.3-4 Precinct guidelines

- A mix of medium density residential, small office and peripheral retail uses should be located in the precinct.
- New development should clearly define the southern and northern 'entry' to the Shepparton town centre and provide legibility, gateway style architecture. Development should contain innovative landmark built form and landscape treatment that is reflective of the gateway locations.
- New uses should complement retail, commercial and office uses in Precincts 1 and 2.
- In Sub-precinct 3A and 3D, building design should reflect a civic and community character. This may include the use of flat roofs or parapets which are characteristic of the area.
- In Sub-precincts 3A and 3C, new developments should incorporate the following into building design so as to ensure a cohesive streetscape character is achieved:
 - External walls of developments should display materials and finishes such as quality textured paint coating, timber or metal cladding, and glass. The use of rendered concrete may be used where it is complemented by use of specific claddings such as timber and metals that highlight façade definition.
 - Reflective glass, PVC, unrelieved painted render, unarticulated concrete surfaces and unarticulated cladding systems should be avoided.
 - External walls of buildings may consist of large expanses of glass at ground floor levels. The glass should be clear or lightly tinted, and non-reflective.
 - Colour schemes of all external surfaces of new developments should be coordinated and consistent with the building design intention. Bright extravagant colour schemes that do not contribute to an integrated streetscape should be avoided.
- In Sub-precinct 3C:
 - New development should promote mixed commercial / residential uses, protect the large trees along the east side of Victoria Park Lake and sensitively deal with residential interface areas;
 - Multi deck car parking may be constructed to the rear boundary of lots if there is laneway access or setback 1.5 metres if there is a residential property adjacent.
 - Development should provide design feature entries to buildings that are easily visible and identifiable from streets and other public places.
 - Buildings should be orientated towards the Victoria Park Lake and express a prestigious boulevard character through the use of appropriate architectural

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features such as balconies, verandas, porticos, ‘book ends’ and upper building setbacks.

- Flat or innovative roof forms that are proportional to the building should be provided.
- Building facades of large developments should be modulated and articulated by horizontal and vertical elements. The facade should allow for some interaction between the public streetscape and the building interior.
- Encourage paving materials that provide texture, patterns and subtle colour to the building frontage.
- In Sub-precinct 3D:
 - New development should encourage an appropriate transition between commercial and residential precincts. Development should include articulation of building facades and provision of a greater setback for any upper storey to reduce the apparent height and mass of buildings to street frontages.
 - Incorporate the following into building design so as to encourage an appropriate transition between commercial and residential precincts:
 - Roof form and pitch that complement prevailing roof forms and incorporate gables, half gables and hipped roofs.
 - Building facades must maintain door and window proportions that reflect a residential character.
 - Building frontages must be articulated to reduce the impact of their visual bulk on the streetscape. Large blank or uniform front facades should be avoided.
 - Access to the rear of development should provide passing or staging bays to ensure that vehicles do not bank up on Wyndham Street and present a dangerous situation to passing traffic.
 - The front building setback should be landscaped to include a variety of shrubs, groundcovers, and small to medium sized trees to provide scale, aesthetic relief and shade to front entrances. Plant species should be suitable to this area and to the satisfaction of the responsible authority.
 - Paving materials that provide texture, patterns, subtle colour and permeability to the lot frontage should be used. Large expanses of grey cement or asphalt should be avoided.
 -
 - Signs should form an integral part of the building façade or landscaped front area and be in keeping with the scale of the building.

5.4 Precinct 4 – Residential / Redevelopment

5.4-1 Precinct map

5.4-2 Precinct objectives

- To retain the high level of amenity of established residential areas surrounding the CBD.
- To encourage medium-density housing in the peripheral residential areas.
- To accommodate higher density residential development along Maude Street in Precincts 4C and 4D.

5.4-3 Precinct requirements

Sub-	Preferred building	Preferred street	Preferred setbacks
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precinct	height	wall height	
4A	11.5 metres.	None specified.	Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme..
4B	None specified.	11.5 metres.	Any additional levels above 11.5 metres (3 storeys) to be setback 3 metres from building frontage. Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.
4C	Minimum of 11.5 metres and maximum of 20.5 metres.	None specified.	Any additional levels above 11.5 metres (3 storeys) to be setback 3 metres from building frontage. Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.
4D	Maximum of 15 metres .	None specified.	Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.

5.4-4 Precinct guidelines

- Medium density housing should be designed appropriately to ensure ongoing residential amenity.
- Higher built form should be encouraged in Marungi Street.
- Existing setbacks should be maintained where possible. Some potential for reduced side setbacks may be considered.
- In Sub-precinct 4A:
 - New development on Marungi Street should include a higher built form (up to 3 storeys) to maximise views to the river.
- In Sub-precincts 4C and 4D:
 - Building heights should be related to lot size, using the 'podium principle' to ensure adequate upper level setbacks are achieved.
 - Built form should be setback from the street to preserve the existing street character.
 - Larger front setbacks should be encouraged to allow for landscaping and street trees of suitable and consistent species.
 - Tree-lined streets and boulevards with high quality and appropriate long-term planting are encouraged.
 - Bicycle and pedestrian linkages, amenity and access should be strengthened and improved where possible.
 - Higher density development with a high level of residential amenity should be prioritised, particularly along Maude Street.

5.5 Precinct 5 – Office and Higher Density Residential**5.5-1 Precinct map****5.5-2 Precinct objectives**

- To encourage a compatible mix of small offices, higher density residential, service businesses and small peripheral retail uses.
- To support higher built form including office or secondary retail uses at ground floor and residential uses at upper levels.
- To improve pedestrian links across Nixon Street to Deakin Reserve.

5.5-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
5A	None specified.	11.5 metres.	Front setbacks of 3-5 metres.
5B	7 metres.	None specified.	Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.

5.5-4 Precinct guidelines

- New medium density residential development should be located within 400 metres to 600 metres from the CBD.
- Front setback areas should provide areas for landscaping
- Existing setbacks should be maintained where possible. Some potential for reduced side setbacks may be considered.

5.6 Precinct 6 – Shepparton Tertiary Education Precinct (STEP)**5.6-1 Precinct map****5.6-2 Precinct objectives**

- To establish the Shepparton Tertiary Education Precinct (STEP) as the preferred precinct for the development of post-secondary and tertiary education facilities.
- To create a vibrant education precinct within and around the STEP site that revitalises the eastern end of the CBD and provides opportunities for educational, community, high-density residential and student-related activities.
- To prioritise pedestrian movement and access around the STEP site.
- To ensure bicycle and pedestrian routes link STEP to the activity nodes, public transport services and existing bicycle network throughout the CBD.

5.6-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
6	15 metres.	None specified.	Setbacks to meet the objectives

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of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.

5.6-4 Precinct guidelines

- New development should enhance the educational opportunities provided by Goulburn Ovens TAFE and La Trobe University.
- A pedestrian link should be provided to the railway station.
- To encourage redevelopment of sites with buildings that creates a well-defined street edge. This includes introducing higher scale buildings of a range of architectural treatments to this area, with Stewart Street developed as a campus boulevard space.
- Existing setbacks should be maintained where possible. Some potential for reduced side setbacks may be considered.

5.7 Precinct 7 – Rowe Street East Mixed Use

5.7-1 Precinct map

5.7-2 Precinct objectives

- To develop Shepparton Plaza to address street frontages and mark the entrance to the CBD.
- To encourage redevelopment of the Shepparton Plaza with buildings that create a well-defined street edge.
- To facilitate the redevelopment with uses that will take advantage of the precinct's location next to the railway station and with buildings that provide active frontages to the street.
- To upgrade Purcell Street as a key pedestrian link between the CBD and the railway station.
- To ensure that buildings provide improved interfaces to open spaces and surrounding residential uses.
- To upgrade Karibok Park with a focus on pedestrian access to Shepparton Plaza.

5.7-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
7	None specified.	11.5 metres.	Zero metre front or side setbacks.

5.7-4 Precinct guidelines

- New development at the Shepparton Plaza site should include active retail frontages to High Street and parking to the rear. New buildings should provide improved interfaces to open spaces and surrounding residential uses.

5.8 Precinct 8 – Railway and Adjoining Land

5.8-1 Precinct map

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5.8-2 Precinct objectives

- To provide for commercial and residential buildings that address street spaces.
- To provide for higher scale built form adjacent to the railway line.
- To improve pedestrian access and amenity to the station and bus terminal, including:
 - From the west including the CBD and STEP.
 - Along Purcell Street from High Street.
 - From Hayes Street to Purcell Street.
- To develop angle car parking on land owned by VicTrack along Railway Parade between High Street and Fryers Street to provide long-stay parking for event goers, students, workers and CBD traders.
- To create a new pedestrian rail crossing connection linking the showgrounds (Thompson Street) with Stewart Street.

5.8-3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
8A	None specified.	11.5 metres.	Zero metre front or side setbacks except for any additional levels above 11.5 metres to be setback 5 metres from the building frontage.
8B and 8C	11.5 metres .	None specified.	None specified.

5.9 Precinct 9 – Shepparton Marketplace

5.9-1 Precinct Map



5.9-2 Precinct Objectives

- To support the designated regional role of the Shepparton Marketplace as a retail specific centre.
- To support the role of the Shepparton Marketplace in a manner complementary to operation of Precinct 1, as the highest-order centre serving Shepparton and the surrounding region.
- To ensure any proposal to locate new department stores or cinemas will not change the role and function of Precinct 9 or the primacy of the retail core (Precinct 1) as justified by a detailed planning assessment, including an economic impact assessment.
- To ensure appropriate retail floorspace is provided to enable a range of retail operations at the centre in a manner complementary to the operation of the retail core (Precinct 1).
- To encourage car parking provision and design to support the activity, streetscape amenity and economic capacity of the precinct.

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5.9-3 Precinct requirements

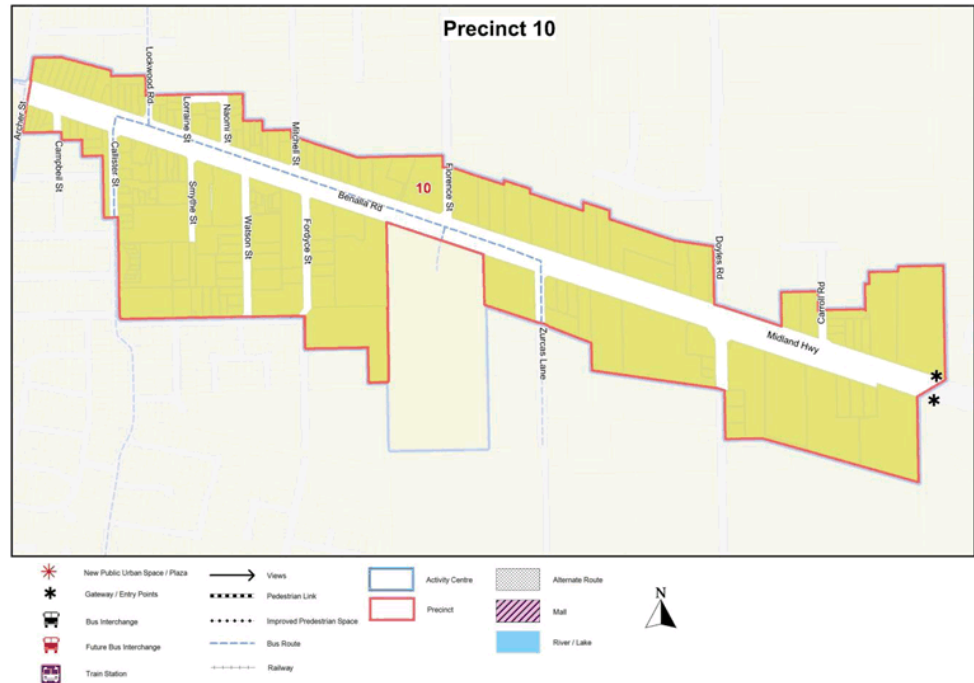
Precinct	Preferred height	building	Preferred street wall height	Preferred setbacks
9	None specified.		11.5 metres.	20 metres from the front lot boundary. 3 metres from the rear boundary to ensure a suitable interface with adjoining residential properties.

5.9-4 Precinct guidelines

- Provide some limited non retail uses, such as offices and some other personal and professional services where these are directly ancillary to retail operations at the centre and where such uses would not be more appropriately located in the retail core or other activity centres.
- New use and development needs to be carefully monitored to ensure that the Marketplace does not detract from its sub-regional role in the hierarchy. Future land uses should complement the balance of activities within the retail core and the Benalla Enterprise Corridor.
- Discourage department store retailers or cinema operators where this may impact on the retail core role and function of Precinct 1.
- Opportunities exist to enhance the address of the site to Benalla Road and improve the public realm appearance of the precinct, including pedestrian and cycling access.

5.10 Precinct 10 – Benalla Road Enterprise Corridor

5.10-1 Precinct Map



5.10-2 Precinct objectives

- To encourage a range of non-retail and large format retail land uses, including restricted retail uses such as trade supplies stores, automotive stores and homemaker centres.
- To encourage higher built form lots fronting onto Benalla Road.
- To consider the role of other corridors leading into the retail core when planning for land use outcomes along Benalla Road.
- To support opportunities to enhance the appearance of the Precinct, improve the public realm appearance and include pedestrian and cycling access.
- To encourage other linkages by improving the safety, quality and amenity of the existing pedestrian environment.

5.10-3 Precinct requirements

Precinct	Preferred building height	Preferred street wall height	Preferred setbacks
10	None specified.	11.5 metres.	20 metres from the front lot boundary. 3 metres from the rear boundary to ensure a suitable interface with adjoining residential properties.

5.10-4 Precinct guidelines

- Implement design guidelines to ensure that buildings are of high quality and appropriate in scale.
- Protect established residential and industrial areas adjacent to the precinct from inappropriate commercial uses and development.
- Any new use or development, particularly on boundaries adjoining industrial, residential and farming zoned land, must be carefully considered in order to reduce any potential amenity impacts.
- New development should provide public realm improvement including public footpath treatments, landscaping and lighting, to reflect the entrance experience and address of the buildings to the streetscape.

6.0 Application Requirements

In Precinct 9, any expansion of shop floor space (including additional supermarkets and department stores) above 22,500 square metres should be justified by a detailed economic impact assessment.

7.0 Notice and review

An application to construct a building that exceeds the maximum preferred building height is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act in accordance with Clause 37.08-8 of the Activity Centre Zone.

8.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.08, in addition to those specified in Clause 6537.08 and elsewhere in the scheme, which must be considered, as appropriate, by the responsible authority:

Use

Whether the proposal:

- Contributes to an appropriate mix of uses within the CBD to complement and support the strategic role of the Shepparton CBD.
- Contributes to the achievement of residential population targets as set out in the Greater Shepparton 2030 Strategy Plan.
- Creates active uses and pedestrian generating activity at ground level that contribute to a vibrant public realm.

Design and built form

Whether the proposal:

- Creates a strong visual interest by providing unique building types based on innovative, contemporary architecture, urban design and ecologically sustainable development.
- Provides overhead weather protection adjoining key pedestrian walkways and nodal points.
- Complements, where relevant, the form, scale, materials, colour and lighting of a place of cultural heritage significance on the same or adjoining site.

Access

Whether the proposal:

- Incorporates provisions for pedestrians, cyclists and people with a disability demonstrating how access needs are accommodated.

- Limits the number of vehicle crossings to each development.

Subdivision

Whether the subdivision is associated with a development proposal that supports the objectives promoted by this Schedule and does not result in the fragmentation of sites.

How the subdivision assists in the consolidation of land to facilitate the creation of viable development sites.

Encourage the retention of those features that contribute to an appreciation or understanding of places of cultural heritage significance on one lot.

9.0 Advertising signs

Advertising sign requirements are at Clause 52.05. All land within Precincts 1 or 7 or Sub-precincts 3B or 8A is in Category 1. All other land is in Category 3.

10.0 Other provisions of the scheme

The following provisions of the Greater Shepparton Planning Scheme do not apply to land affected by Clause 37.08:

- An application under Clause 52.04, Clause 52.05 or the schedule to Clause 52.05, Clause 52.06 or the schedule to Clause 52.06, Clause 52.07, Clause 52.08, Clause 52.11, Clause 52.14, Clause 52.16 or the schedule to Clause 52.16, Clause 52.17 or the schedule to Clause 52.17, Clause 52.19, Clause 52.21, Clause 52.29, Clause 52.33, Clause 52.34 and Clause 52.36 is exempt from the notice requirements of Section 52(1)(a), (b) and (c), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
- An application in Precincts 9 or 10 under Clause 52.12, 52.13 and Clause 52.20 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

11.0 Reference documents

Commercial Activity Centres Strategy November 2015

Shepparton CBD Strategy October 2008

Urban Design Framework – Shepparton North and South Business Areas, July 2006

Greater Shepparton 2030 Strategy Plan 2006

Appendix F Panel recommended permit conditions

Panel version of permit conditions for Planning Permit Application 2016-269 is based on Documents 102 and 113.

Any variations from these documents are shown as:

[Tracked Added](#)

~~Tracked Deleted~~

DRAFT PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE
PLANNING AND ENVIRONMENT ACT 1987

Permit No.: 2016-269

Planning Scheme: Greater Shepparton

Responsible Authority: Greater Shepparton City Council

ADDRESS OF THE LAND:

221-229 Numurkah Road and 10 Ford Road
SHEPPARTON VIC 3630

THE PERMIT ALLOWS:

Use of land for a (place of assembly) community meeting space, buildings and works in the Commercial 1 Zone, erection and display of business identification signs, a packaged liquor licence and creation of access to a Road Zone Category 1

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Amended Plans Required

Before development starts, 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 the permit. The plans must be drawn to scale with dimensions and a minimum of two copies (or as specified) must be provided. The plans must be generally in accordance with the plans submitted with the application and placed on public exhibition being plans TP02 Rev B, TP03 Rev A, TP05 Rev A, TP06 Rev A, TP07 Rev A, TP08 Rev A, TP09 Rev A, TP10 Rev A prepared by i2C dated 17.01.17, but modified to show:

- a) Existing site conditions, generally in accordance with Plan TP01 Rev A dated 17.01.17;
- b) Location of the liquor store within the supermarket, road works, drainage pipes, public transport stops and taxi parking bays generally in accordance with TP02 Rev C and TP03 Rev B dated 26.06.17;
- c) Roof plan generally in accordance with TP04 Rev B dated 26.06-17;
- d) Modifications to the southern elevation facade facing to the carpark generally in accordance with TP06 Rev B dated 26.06.17;
- e) Modifications to the facade to the medical centre generally in accordance with TP10 Rev B dated 20.06.17;
- f) Pylon sign details generally in accordance with TP11 Rev A;
- g) Survey to locate sewers under the land and all structures to be setback one metre from any Goulburn Valley Water asset as required by Goulburn Valley Water;
- h) 2 metre wide footpaths along the lands frontage to Ford Road, Numurkah Road and the northern side of Doody Street;
- i) Correction of the location of the left turn arrow on Ford Road to the entries eastern most vehicle access to the land;
- j) Further details to show that pedestrian and cyclist movement to and within the development will be clearly demarcated;

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- k) Modifications to the southern elevation to Doody Street to show greater opportunities for passive surveillance and an active frontage;
- l) Modifications of the loading and unloading areas to ensure safe pedestrian and cyclist movement along Doody Street;
- m) Provide a greater landscape buffer along the eastern boundary;
- n) Lower the height of the high-wall sign on the southern elevation to reduce its visual impact in close proximity to Doody Street;
- o) Details of the road management works to Numurkah Road as detailed in Condition 8; and
- p) Closure [details](#) of the northern access point to 228 Numurkah Road through the western median to create a two-way service road and modifications to the central median to allow south bound egress from the service road.

2. Layout Not Altered

The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. Civil Construction Requirements

Before any of the development starts, detailed plans with computations 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 the permit. The information submitted must show the details listed in Council's Infrastructure Design Manual (IDM) and be designed in accordance with the requirements of that manual as well as show:

Drainage

- a) details (and computations) of how the buildings and works on the land is to be drained including underground pipe drains conveying stormwater to the legal point of discharge;
- b) a litter trap at the drainage outfall from the site to prevent any litter from entering Councils drainage system;
- c) documentation demonstrating how drainage will be designed so neighbouring properties are not adversely affected by the development, including water flow to and from neighbouring properties;

Car Parking

- d) detailed plan of the car park with no less than 309 on site car parking spaces, including eight disabled bays and long vehicle parking bays unless a lesser number of car parking spaces is approved in writing by the responsible authority on account of accommodating landscaping pursuant to the landscape plan requirements under this permit;
- e) provision of at least 29 bicycle spaces on the land and one end of trip facility for employee use including a change room and showers;
- f) carparking areas, circulation lanes and access shall be designed and constructed to the satisfaction of the responsible authority;²
- g) all areas associated with car parking, circulation lanes and access be surfaced with an

all-weather seal coat, line marked to indicate each car space and access lane and traffic control signs installed including signage directing drivers to the area(s) set aside for car parking;

- h) provision of a signage and line marking plan for the internal accessways;
- i) location of trolley bays and rubbish bins within the car park;
- j) proper illumination with lighting designed, baffled and located to the satisfaction of the responsible authority to prevent any adverse effect on adjoining land;
- k) detailed intersection layout of the cross intersection at the lands entry from the Numurkah Road service road.

Road Works

- l) construction plans of the extension of Doody Street in accordance with the IDM;
- m) construction details of the intersection treatments to Ford Road including right, left and through lanes, swept path movements for single articulated vehicles and intersection lighting;
- n) construction details of kerb and channel incorporating underground drainage along the lands frontage to Ford Road;
- o) removal of all redundant vehicle crossings and replacement with concrete kerb and channel along the sites frontage;
- p) traffic details including swept paths to show that the revised access arrangements to the Numurkah Road service road continue to provide for over size heavy vehicle movements that access 219 Numurkah Road;
- q) lighting of the intersections of Ford Road and entries to the land;
- r) no standing signs abutting the site on the southern side of Ford Road;
- s) construction details of the loading area and Click and Collect bays abutting Doody Street including measures to manage conflicts between vehicles and pedestrians;
- t) construction details of the vehicle access from the land to Doody Street;
- u) Closure [details](#) of the northern access point to 228 Numurkah Road through the western median to create a two-way service road and modifications to the central median to allow south bound egress from the service road;

Footpath Works

- v) a 2 metre wide footpath on the northern side of the street);
- w) a 2 metre wide footpath along the lands frontage to Ford Road and across the frontage of 231 Numurkah Road to the western boundary of 231 Numurkah Road;

Noise Control

- x) design details of acoustic treatments as recommended in the Acoustic Consulting Australia Pty Ltd report dated 23 January 2017 including:
 - o an acoustic fence along the entire eastern boundary of the land with a height of 2.8 metres above the roadway height;
 - o acoustic screening of the condenser platform;

- supermarket refrigeration compressors be located inside a dedicated and acoustically treated plant room;
- the supermarket loading dock acoustically treated.

Other

- y) underground power connection to the buildings and screened electrical substation;
- z) fencing design of the common boundaries with 231 - 237 Numurkah Road, Shepparton;
- aa) construction details of the proposed shade sails.

to the satisfaction of the responsible authority.

Before the occupation of the development all civil works as shown on the endorsed plans must be constructed and be in accordance with the endorsed plans to the satisfaction of the responsible authority.

Before the occupation of the development, the extension to Doody Street must be vested to Council as a Road.

Within two months of the development being occupied a full set of as constructed plans must be provided to Council of the completed civil works.

4. Loading and Unloading Times and Operation

The loading and unloading of goods from delivery vehicles must only be carried out in the allocated loading and unloading bays and must only be made:

- **7:00am to 10:00pm** on Monday to Saturday;
- **9.00am to 10.00pm** on Sundays and public holidays;

to the satisfaction of the responsible authority, unless otherwise agreed to in writing by the responsible authority. These requirements do not apply to the Click and Connect loading bays.

Waste collection must only be carried out in the allocated waste collection areas and waste collection must only be made during the following times:

- **7:00am to 6:00pm** on Monday to Friday;
- **7:00am to 1:00pm** on Saturdays;

No waste collection on Sunday or public holidays.

to the satisfaction of the responsible authority, unless otherwise agreed to in writing.

5. Landscaping Plan

Before construction works commence (or as otherwise agreed in writing by the responsible authority) a revised landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The revised plan must be drawn to scale with dimensions and two copies must be provided and show:

- a) a schedule of all proposed trees, shrubs and ground cover in accordance with the *Landscape Plan Guide for Developments in the Shire of Campaspe, City of Greater Shepparton and Moira Shire Council (December 2016)*, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be

- covered by grass, lawn or other surface materials;
- b) increased areas of landscaping within the car park to allow for understorey and canopy plantings and shade and canopy plantings to the outdoor dining area;
 - c) the method of preparing, draining, watering and maintaining the landscaped area;
 - d) garden bed heights above car-park surface;
 - e) specific details of any filter mediums to be used in associated with water quality treatment facilities;
 - f) the provision of street trees in Ford Road and Numurkah Road;
 - g) interim landscape treatment of the pad site and future fuel site.

All species selected must be to the satisfaction of the responsible authority.

The landscape plan must be consistent with the endorsed drainage plans associated with the development.

All trees planted as part of the landscape works must be a minimum height of 1.2 metres at the time of planting.

Before the occupation of the buildings or by such a later date as is approved by the responsible authority in writing, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority. Any dead, diseased or damaged plants and/or trees must be replaced to the satisfaction of the responsible authority.

6. Construction Phase

Before the development starts, a construction management plan shall be submitted to and approved by the responsible authority. The plan must detail measures to be employed for the effective management of matters including, mud on roads, dust generation and erosion and sediment control on the land, during the construction phase. When approved the plan will be endorsed and form part of the permit. The construction management plan must provide contact details of the site manager.

During the construction of buildings and/or works approved by this permit, measures must be employed to minimise mud, crushed rock or other debris being carried onto public roads from the land, to the satisfaction of the responsible authority.

Dust suppression must be undertaken to ensure that dust caused on the land does not cause a nuisance to neighbouring land to the satisfaction of the responsible authority.

7. Council Assets

Unless identified in a written report, any damage to public infrastructure adjacent to the land at the conclusion of construction on the land will be attributed to the land. The owner/operator of the land must pay for any damage to the Council's assets/Public infrastructure by way of the development.

8. VicRoads Requirements

Prior to the development coming into use the following mitigating works generally in accordance with Drawing No. G19863-04F prepared by TraffixGroup must be undertaken to

the satisfaction of and at no cost to the Roads Corporation unless otherwise agreed by the Roads Corporation as follows:

- a) Extend the right turn lane on Numurkah Road and construct an auxiliary left turn lane at the northern entrance to the service road fronting the subject land.
- b) Closure of the entrance to the service road on the eastern side of Numurkah Road located approximately 30 metres north of Grant Court.
- c) The proposed access from the subject land to the service road fronting Numurkah Road must be constructed to the satisfaction of the Responsible Authority (Greater Shepparton City Council) and the Roads Corporation.
- d) Construct a median island to the south of the right turn lane from Numurkah Road into Ford Road.
- e) Construct the proposed service road exit on the eastern side of Numurkah Road located approximately 60 metres north of Grant Court including extending median island adjacent to right turn lane opposite the proposed service road exit.

Section 173

Prior to the commencement of the development, the owner must enter into an agreement with the responsible authority, pursuant to Section 173 of the Planning and Environment Act 1987. This agreement must be registered on the title to the land pursuant to Section 181 of the Planning and Environment Act 1987. The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement. The agreement must provide that unless otherwise agreed between the parties, prior to the commencement of the use of the supermarket, the owner will make the following contributions to Council:

9.
 - (a) \$250,000 for the development of interim traffic management works at the intersection of Numurkah Road and Ford Road, Shepparton;
 - (b) \$266,000 for the construction of drainage works which form part of the regional drainage solution to service the land; and
 - (c) \$40,000 for the construction of a footpath on the east side of Numurkah Road between Hawkins Street and Ford Road.

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

10. Goulburn Broken Catchment Management Authority Requirements

The finished floor levels of all proposed buildings must be constructed to a level not less than 111.8 metres AHD.

11. Goulburn Valley Region Water Corporation Requirements

- a) Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.

All works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section;

- c) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;
- d) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement

The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;

- e) The plan of Consolidation to be lodged for certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the Subdivision Act, 1988.
- f) As there are live sewers in the property, any structure to be built must be clear of any easement in favour of the Corporation and one metre laterally clear of any assets of the Corporation. The location of any Corporation assets will need to be proven at the developer's expense.
- g) An upgrade of the Corporation sewer and water infrastructure which may include, but not be limited to the construction of a sewerage pumping station, rising mains, gravity mains and water mains.
- h) The operator under this permit shall be obliged to enter into an Agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the format of the Agreement will be provided on request;
- i) Please note, should the applicant wish to subdivide each tenement onto separate titles in the future, provision of appropriate servicing arrangements to facilitate a future subdivision proposal should be investigated as part of this development.

The applicant should contact the Corporation to discuss current and future proposals for this development.

12. Goulburn Murray Water Requirements

- a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
- b) No works are to be constructed on Goulburn Murray Water easement, freehold or reserve without approval. It is the responsibility of the developer to locate the easement or reserve boundary.

13. Powercor Requirements

The applicant shall:-

- a) Provide an electricity supply to all properties within the development in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work may be required).
- b) Where buildings or other installations exist on the land and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- c) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- d) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- e) Set aside on the property for the use of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways where an electric substation (e.g. indoor) is required to service the development.

Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat.

- f) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the development and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- g) Obtain for the use of Powercor Australia Ltd any other easement external to the development required to service the development.
- h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.

14. Time for Starting and Completion

The development authorised under this permit must not commence for two years from the date of this permit.

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

- a) the land at 177-193 Numurkah Road, North Shepparton has been developed and the use has commenced for two full-line supermarkets within two years of the date of this permit;
- b) the development ~~has~~is not ~~started~~commenced within ~~five~~two years ~~and six months~~ from the date of this permit; and
- c) completed within ~~seven~~two years from the date of ~~this~~ permit ~~commencement of the development~~.

~~The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or;~~

- a) ~~within six months after the permit expires to extend the commencement date.~~
-) ~~within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.~~

NOTATIONS

Vic Roads Notes

1. Separate consent for works within the road reserve and the specifications of these works will be required under the Road Management Act.
2. It should be noted that the consent application will be treated as a developer funded application which requires fees and detailed plans and specifications.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193

Disclosures of conflicts of interest in relation to advice provided in this report
Under section 80C of the *Local Government Act 1989* officers and persons engaged under a contract providing advice to Council must disclose any conflicts of interests, including the type and nature of interest.

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Council Officers involved in producing this report

Author: Principal Strategic Planner

Proof reader(s): Team Leader Strategic Planning, Manager Building and Planning

Approved by: Acting Director Sustainable Development

Executive Summary

Amendment C192 implements the general recommendations of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* (CACS), updating the Municipal Strategic Statement and Activity Centre Zone, rezoning Commercial 2 Zone land along Wyndham Street and Benalla Road to Activity Centre Zone, and rezoning Commercial 1 Zone, Commercial 2 Zone and General Residential Zone land to Activity Centre Zone, to facilitate the redevelopment of Shepparton Marketplace.

Combined Amendment C193 implements the recommendations of CACS in relation to Shepparton North, facilitating a second full-line supermarket in Shepparton North, and applying a Public Acquisition Overlay over land to allow for the Shepparton North Regional Catchment Basin and infrastructure.

Amendment C192 was exhibited from 7 July to 8 August 2016. Council received 13 submissions. Submitters were in relation to specific recommendations within CACS regarding Shepparton North. In particular, the submissions were in relation to the recommendation in CACS that the current retail and commercial offerings in the north were insufficient, and additional retail, in the form of a second full line supermarket was required. The submissions focussed on the proposed timing and location of any additional retail in Shepparton North.

In July 2016, Council received a request from Lascorp Pty Ltd, to prepare and exhibit Combined Amendment C193 rezoning land in Shepparton North near the corner of Numurkah Road and Ford Road from Commercial 2 Zone to Commercial 1 Zone. It was accompanied by a planning permit application that sought to develop a supermarket (Woolworths), with an associated packaged liquor store, retail specialty shops, car parking, and advertising signs. Additionally, Amendment C193 proposed a Public Acquisition Overlay for drainage purposes on land nearby and adjacent to the Lascorp site. At its Ordinary Council Meeting on 16 August 2016, Council resolved to prepare and exhibit the combined amendment and planning permit.

Amendment C193 was exhibited from 20 April to 30 May 2017. Council received 20 submissions.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

In light of the similarity in many submissions between Amendment C192 and C193, Council officers considered that significant cost savings would be achieved if the Independent Planning Panels for both amendments were combined. A request was made to the Minister for Planning for these Panel hearings to be combined and this request has subsequently been granted.

The Independent Planning Panel was held from the 24 July to 11 August 2017, in Shepparton and Melbourne, and the Panel Report was received on 9 October 2017 (see *Attachment 1 – Amendment C192 & C193 Panel Report, 9 October 2017*).

The Panel recommended that Amendment C192 be adopted with post exhibition changes as discussed at Panel, subject to relevant modifications detailed in the 'Background' section of this report.

The Panel recommended that Amendment C193 be split into Part 1 – Application of the PAO and Part 2 – Rezoning of the proposed Woolworths site, and that Part 2 be deferred until Council is satisfied this is the best location for a second full line supermarket in Shepparton North.

Panel Recommendations

1. Adopt Amendment C192 to the Greater Shepparton Planning Scheme, in accordance with the modifications in Appendix D (Clause 21.06) and Appendix E (Activity Centre Zone Schedule 1);
2. Review the provisions and schedules of Amendment C192 and Amendment C193 during finalisation of the Amendments to ensure they are consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* (May 2017).
3. Amend Clause 21.06, as shown in Appendix D, to:
 - a. add the following strategic action under 21.06-7:
 - i. *Prepare structure plans for the Mooroopna, Riverside and Shepparton North activity centres.*
 - ii. Remove reference to the Shepparton North Activity Centre in the relevant strategic action regarding an urban design framework.
4. Split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal);
5. Defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 until the Shepparton North Activity Centre is defined through a structure planning process. Reconsider Amendment C193 Part 2 and planning permit application 2016-269 pending these outcomes;
6. Amend Planning Permit 2016-269, as shown in Appendix F, to update Condition 14 (Time for Starting and Completion); and
7. Adopt Amendment C193 Part 1.

The Panel made a further recommendation that if the owners of the IGA site were unwilling to participate in a process to determine their capacity to provide an additional supermarket on their site, Amendment C193 Part 2 should be approved.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Council is now required to consider the recommendations of the Independent Planning Panel Report and to make a decision on Amendment C192 and C193.

RECOMMENDATION

That, having considered the Independent Planning Panel Report for Amendments C192 and C193 to the Greater Shepparton Planning Scheme, in accordance with Section 27 of the *Planning and Environment Act 1987*, Council:

1. adopt the recommendations of the Independent Planning Panel for Amendment C192 as outlined in the Panel Report dated 9 October 2017;
2. adopt Amendment C192 with post-exhibition changes in accordance with Section 29 of the *Planning and Environment Act 1987*;
3. adopt the recommendation of the Independent Planning Panel for Amendment C193 as outlined in the Panel Report dated 9 October 2017 to:
 - split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal).
4. adopt Amendment C193 Part 1 in accordance with Section 29 of the *Planning and Environment Act 1987* with changes to align with Ministerial Direction 13 and relevant recommendations of the Independent Planning Panel;
5. submit Amendment C192 and Amendment C193 Part 1 to the Minister for Planning for approval in accordance with Section 31 of the *Planning and Environment Act 1987*;
6. defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 by six months, to allow the owners of the IGA site an opportunity to work with Council to determine the capacity of the site to provide a second full line supermarket and integration with surrounding land uses;
7. delegate to the Chief Executive Officer the power to adopt Amendment C193 Part 2 and planning permit application 2016-269 (including revisions to condition 14 of the draft permit as shown in the attached copy of the draft permit, in variance to the version of condition 14 as recommended by the Panel for the reasons outlined in the Officer's report) and submit it to the Minister for Planning for approval, should Shepparton Pty Ltd (formerly known as 18 Pty Ltd) not confirm in writing that a tenant has been secured for a second full line supermarket at 177-193 Numurkah Road, Shepparton, and/or Shepparton Pty Ltd not confirm that the second full line supermarket will be fully operational by 21 May 2020, and/or Shepparton Pty Ltd not demonstrate appropriate integration within the regional context, to the satisfaction of the Chief Executive Officer, by no later than 21 May 2018;
8. delegate to the Chief Executive Officer the power to adopt Amendment C193 Part 2 and planning permit application 2016-269 (including revisions to condition 14 of the draft permit as shown in the attached copy of the draft permit, in variance to the version of condition 14 as recommended by the Panel for the reasons outlined in the



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Officer's report) and submit it to the Minister for Planning for approval, should Shepparton Pty Ltd provide written advice to the Council on or before 21 May 2018, to the effect that it is not seeking to secure a tenant for a second full line supermarket at 177-193 Numurkah Road, Shepparton, and/or should Shepparton Pty Ltd provide written advice to the effect that a second full line supermarket at 177-193 Numurkah Road, Shepparton, would not be fully operation by 21 May 2020; and

9. should Shepparton Pty Ltd satisfactorily confirm to the Chief Executive Officer that a tenant has been secured for a second full line supermarket at 177-193 Numurkah Road, Shepparton, and satisfactorily confirm to the Chief Executive Officer that the second full line supermarket will be fully operational by 21 May 2020, and satisfactorily confirm to the Chief Executive Officer that there is appropriate demonstration of integration within the regional context, by no later than 21 May 2018, Amendment C193 Part 2 and planning permit 2016-269 must be referred back to Council for reconsideration.

Background

Over the years, Greater Shepparton City Council has undertaken a number of strategic planning projects that have resulted in ongoing opportunities for growth in residential areas and for supporting infrastructure. Retailing and commercial development is one of these areas now under review. Council has recognised that extensive retail and commercial growth has occurred, retail trends have changed, new zones have been introduced and there is a need to provide a new strategy that provides for commercial development in the expanding activity centres in the municipality.

This work resulted in the adoption of the *Commercial Activity Centres Strategy 2015* (CACS) on 16 February 2016 that is broad in its scope and defined in its direction. This strategy is the subject of Amendment C192 and through exhibition it attracted 13 submissions. Most of these were concerned with a new retail proposal at Shepparton North and to a lesser extent, some aspects of the controls proposed at the Shepparton Marketplace and the Benalla Road Enterprise Area.

The key and unequivocal direction for Shepparton is to maintain the primacy of the CBD to encourage further development in that important precinct.

In reviewing the Strategy, the Panel found that, *'in the main, it is a robust and comprehensive document that, subject to some minor recommendations, should be supported and adopted.'*

While the exhibition period for Amendment C192 was in mid-2016, Council officers opted to hold off referring that Amendment to a Panel for resolution until Amendment C193 was exhibited. Combined Amendment C193 relates to a proposal by Lascorp to rezone land in Shepparton North near the corner of Numurkah Road and Ford Road from the Commercial 2 Zone to the Commercial 1 Zone. It was accompanied by a planning permit application that sought to develop a supermarket (Woolworths), with an associated packaged liquor store, retail specialty shops, car parking, and advertising signs. Additionally, Combined Amendment C193 proposed a Public Acquisition Overlay for drainage purposes on land nearby and adjacent to the Lascorp site.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

At its Ordinary Council Meeting on 16 August 2016, Council resolved to prepare and exhibit the combined amendment and planning permit.

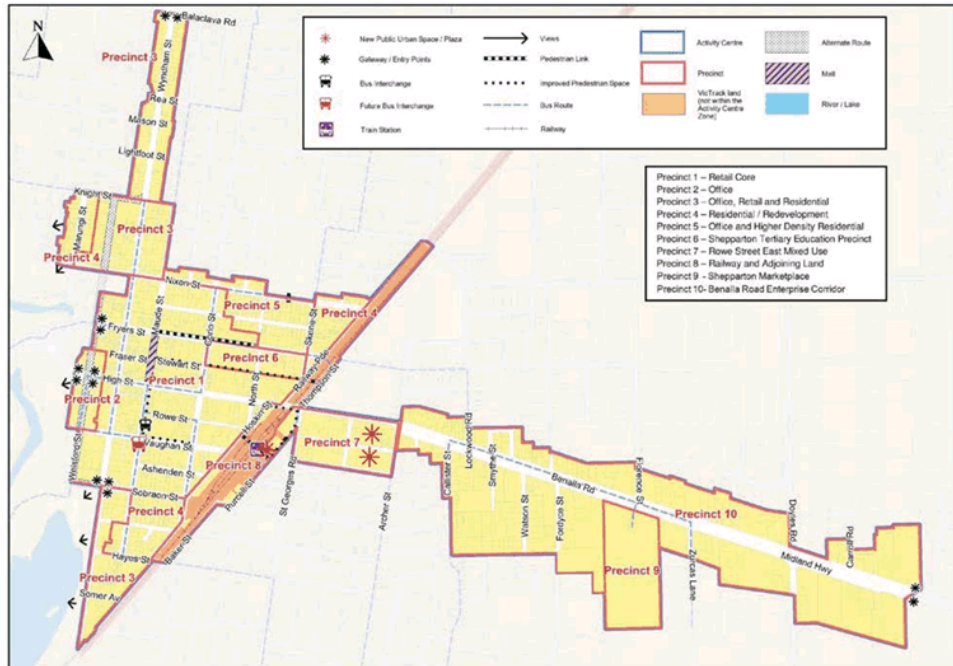


Figure 1 - Amendment C192 applies the Activity Centre Zone to additional land in Shepparton.

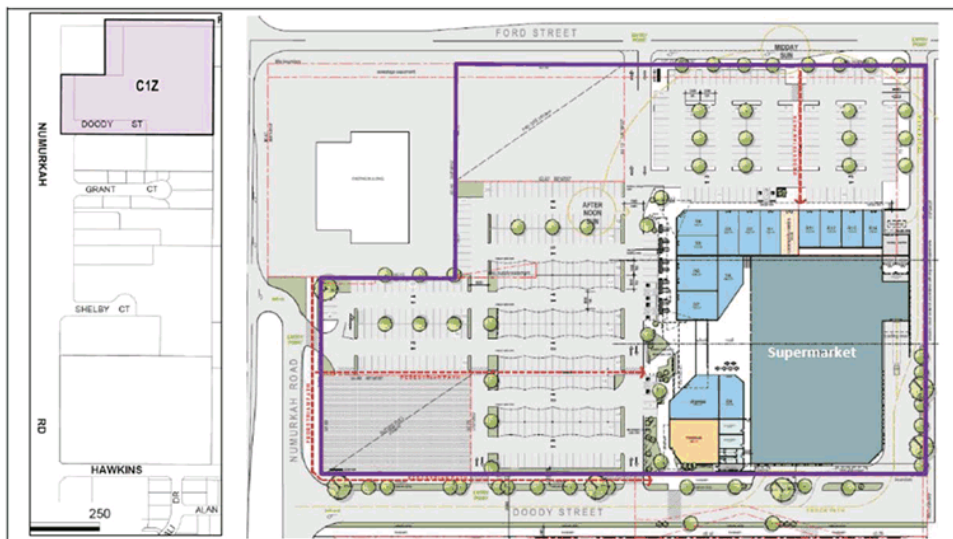


Figure 2 - Amendment C193 forms part of a combined planning scheme amendment and planning permit application (PPA 2016-269), pursuant to Section 96A of the Planning and Environment Act 1987.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

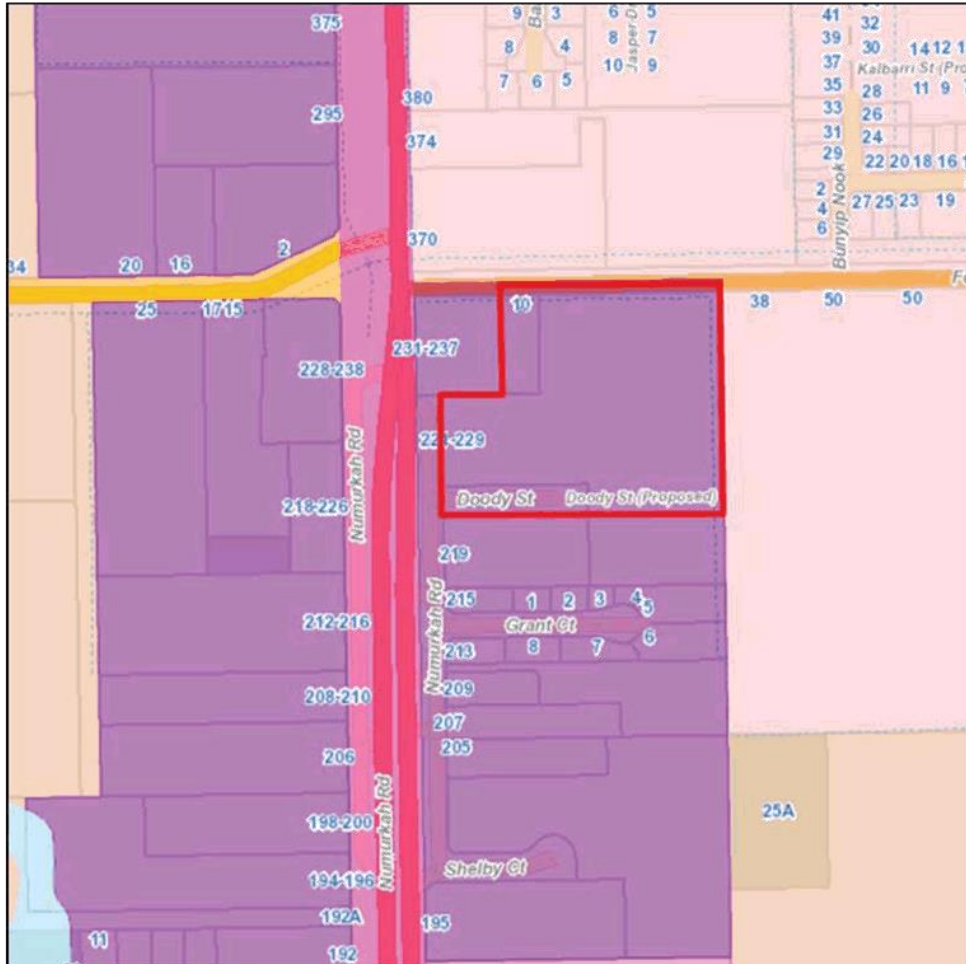


Figure 3 - Land proposed to be rezoned.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

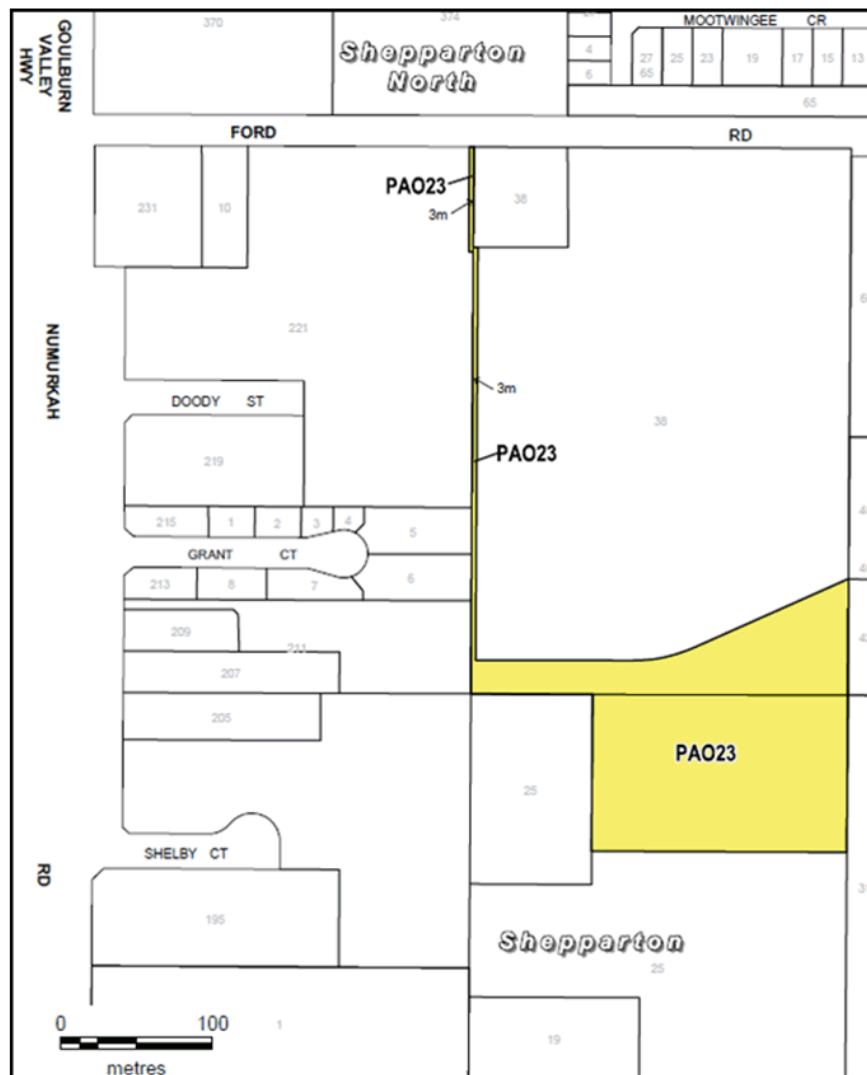


Figure 4 - Land affected by proposed Public Acquisition Overlay.

Independent Planning Panel Report

The Independent Planning Panel Report was received on 9 October 2017. The Panel Report recommends:

1. Adopt Amendment C192 to the Greater Shepparton Planning Scheme, in accordance with the modifications in Appendix D (Clause 21.06) and Appendix E (Activity Centre Zone Schedule 1);
2. Review the provisions and schedules of Amendment C192 and Amendment C193 during finalisation of the Amendments to ensure they are consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* (May 2017);



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

3. Amend Clause 21.06, as shown in Appendix D, to:
 - a. add the following strategic action under 21.06-7:
 - i. Prepare structure plans for the Mooroopna, Riverside and Shepparton North activity centres.
 - ii. Remove reference to the Shepparton North Activity Centre in the relevant strategic action regarding an urban design framework.
4. Split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal);
5. Defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 until the Shepparton North Activity Centre is defined through a structure planning process. Reconsider Amendment C193 Part 2 and planning permit application 2016-269 pending these outcomes;
6. Amend Planning Permit 2016-269, as shown in Appendix F, to update Condition 14 (Time for Starting and Completion) and
7. Adopt Amendment C193 Part 1.

The Panel made a recommendation that Council undertake additional strategic work to determine the best location for the Shepparton North Activity Centre. However, Panel also stated that if the owners of the IGA site were unwilling to participate in a process to determine their capacity to provide an additional supermarket on their site, Amendment C193 Part 2 should be approved.

Consideration of the Panel Recommendations

The Independent Planning Panel is an independent body appointed by the Minister for Planning, who makes the final decision on whether or not an amendment will be approved. Under Section 27 of the *Planning and Environment Act 1987*, Council must consider the recommendations of the Panel and make a decision on the Amendment.

Amendment C192

The proposed Amendment C192 seeks to introduce the required planning controls and policy into the Planning Scheme to implement key priorities of the CACS, particularly, to ensure the primacy of the CBD as a key regional retail and commercial centre, providing a hierarchy of activity centres and defining their role in supporting retail growth in Shepparton.

The ACZ is a flexible control that allows for a mix of uses and development and can be tailored by councils to meet the particular needs of a centre through the Schedule to the Zone and simplifies the planning process by replacing zones and overlay controls into one single set of use and development provisions.

The proposed Amendment has been prepared to provide Council with a framework to highlight where private sector investment and new business activity is encouraged, to identify priority locations for new public infrastructure, to support the productive and efficient use of land, and to support liveability for the community, while advancing the development and economic viability of all commercial activity centres in the municipality.

The version of the amendment documentation recommended by the Panel does differ from the documentation that was exhibited, as well as that which was presented at the Panel Hearing as "post-exhibition changes".



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

The Amendment applies to land generally within the commercial/business areas of Greater Shepparton. The Amendment seeks to implement the recommendations of the *Commercial Activity Centres Strategy, November 2015* (CACs), specifically to:

- amend the Municipal Strategic Statement to:
 - update the activity centre hierarchy;
 - encourage expansion of retail and commercial convenience facilities in the Commercial 1 Zone, subject to detailed planning and development assessment criteria; and
 - discourage the location of cinema and department stores outside the retail core.
- rezone Shepparton Marketplace, land along Benalla Road (Enterprise Corridor) and Wyndham Street (Wyndham Street North) from the Commercial 1 and 2 Zones to the Activity Centre Zone Schedule 1;
- rezone approximately 55,000 square metres of General Residential Zone land abutting Shepparton Marketplace to Activity Centre Zone Schedule 1;
- amend Activity Centre Zone Schedule 1 to increase the permit threshold at Shepparton Marketplace from 15,500 square metres of Shop floor area to 22,500 square metres of Retail premises ;
- delete Design and Development Overlay Schedule 3 from land in the Wyndham Street North Precinct and update the overlay maps accordingly;
- amend the Commercial 1 Zone Schedule to remove reference to Shepparton Marketplace ;
- amend Clause 21.06-7 (Strategic Work Program) to reflect work undertaken and include the preparation of Structure Plans/Urban Design Frameworks for relevant activity centres;
- amend Clause 21.08 (General Implementation) to reflect the recommendations of the Commercial Activity Centres Strategy November 2015; and
- amend Clause 21.09 (Reference Documents) to reference the Commercial Activity Centres Strategy November 2015.

The Panel Report commended Council for proactively implementing the necessary strategic framework to guide commercial and retail growth and stated that, 'Amendment C192 responds to CACS, the Shepparton CBD Strategy and existing local planning policy...'

With regard to the Municipal Strategic Statement, the Panel Report recommends the adoption of a modified version of the 'post-exhibition' documentation that was the subject of discussion at Panel. The modification is the inclusion of a revised action at Clause 21.06-7 *Strategic Work Program – Undertaking further strategic work – Economic Development*;

- *Prepare and implement structure plans for Mooroopna, Riverside and Shepparton North Activity Centres which include urban design frameworks.*



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Council officers do not consider that there is any significant imperative to prepare a structure plan for Riverside, given the site has been fully developed. In relation to Shepparton North and Mooroopna, Council is currently undertaking the Shepparton Mooroopna Strategic Framework Plan 2050, which will provide a long term vision for land use planning throughout Shepparton and Mooroopna, including existing urban areas such as Shepparton North and Mooroopna. Strategic planning undertaken for Shepparton North is discussed later in this report.

The Panel Report recommends the adoption of Schedule 1 to the Activity Centre Zone with post exhibition changes, following discussions with all parties at Panel. Council officers have considered the recommendations and support the adoption of the amendment documentation.

Amendment C193

At the Ordinary Council Meeting held on 16 August 2016, Council resolved to prepare and exhibit a planning scheme amendment to facilitate a second full-line supermarket in Shepparton North.

Amendment C193 proposes to rezone land at 221-229 Numurkah Road and 10 Ford Road, Shepparton from the Commercial 2 Zone to Commercial 1 Zone and apply the Public Acquisition Overlay (PAO) to part of 221-229 Numurkah Road, part of 38-50 Ford Road and part of 25 Hawkins Road, Shepparton Under the provisions of the Commercial 2 Zone, the use of the land for a supermarket with a floor area of greater than 1800 square metres is prohibited. Therefore, the land must be rezoned to Commercial 1 Zone to facilitate the development.

The Amendment was accompanied by a planning permit application to use the land for a community meeting space, buildings and works in the Commercial 1 Zone, erection and display of advertising signs, a packaged liquor licence and creation of access to a Road Zone Category 1.

The drainage requirements for this site trigger an upgrade to the regional drainage structure (Yakka Basin) servicing this catchment. As such, a PAO is proposed to be applied to part of the land adjacent to the eastern boundary of the proposed development site and over the northern portion of land at 25 Hawkins Road to ensure appropriate drainage infrastructure is provided to this land and surrounding properties serviced by the Yakka Basin.

The majority of submissions to Amendment C193 and C192 related to the proposed location and timing of a second full line supermarket in Shepparton North. In effect, the Panel was tasked with deciding:

- whether a second full line supermarket and associated commercial and community facilities was required in Shepparton North; and
- what was the most appropriate location for this second supermarket?



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

The Panel Report provides a succinct summary of issues that influenced their discussion:

Table 4 Background

1978	A 4,000 square-metre supermarket began operating at 177-193 Numurkah Road, Shepparton (Fairley's IGA supermarket); a predominantly industrial corridor
1985	An approximately 1,000 square-metre warehouse was added to the rear of the supermarket
2011	Metcash (a wholesale distribution and marketing company specialising in grocery, fresh food, liquor and hardware) purchased the supermarket centre from the Gaylard Family
12 April 2012	In response to a request from Gordon Undera Pty Ltd, the supermarket centre land: <ul style="list-style-type: none"> - was rezoned to the Business 1 Zone (now Commercial 1 Zone) with an 8,000 square-metre permit threshold for Shop (Amendment C119) - was granted a permit for the first stage of a shopping centre development, comprising a new 4,000 square metre supermarket and speciality shops (which has not been acted upon)
2012	Marl Enterprises (part of the Lorenz Group of companies) purchased the Fairley's Supa IGA business
2015	Metcash advised Marl Enterprises that since changing its policy to developing its sites, it would sell the supermarket centre to an experience retail property developer
15 September 2016	Council approved Metcash's permit application to extended the planning permit – see revised dates below
17 January 2017	Planning permit 2008-436/A – Council endorsed further plans (Figure 4)
January 2017	A new permit application was lodged for revised development plans (Figure 5)
12 April 2017	Planning permit 2008-436/A – original expiry date if development did not commence
30 May 2017	Marl Enterprises, through its Aeroten Pty Ltd company name, made a submission in response to the exhibition of Amendment C193 and PPA 2016-269
11 August 2017	18 Pty Ltd (part of the Herzberg family companies), previously a prospective purchaser, purchased the supermarket site (44,000 square metres of Commercial 1 Zone land)
11 August 2017	Panel Hearing final day
12 April 2018	Planning permit 2008-436/A – extended expiry date if development did not commence
12 April 2019	Planning permit 2008-436/A – original expiry date if development was not completed
12 April 2020	Planning permit 2008-436/A – extend expiry date if development was not completed



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

The Panel Report notes that:

While parties and the economic witnesses generally agreed that Shepparton North could support a second full line supermarket in the short term future, there was significant debate at the Hearing about the location of that supermarket. The key issue related to whether the supermarket should be co-located with the existing supermarket, or on the Lascorp site as part of a potential activity centre.

The Panel Report had great difficulty in attempting to resolve the ultimate location for a second full line supermarket and associated activity centre, and ultimately did not provide a concrete recommendation in this regard.

The Panel Report acknowledged that the, 'retail component of Amendment C193 was hotly contested. The proposed site is near but not adjacent to an existing IGA supermarket, where a planning permit has been issued for its expansion, and where a new permit application was lodged more recently to provide for a second supermarket on the site. The current permit has not been acted upon.'

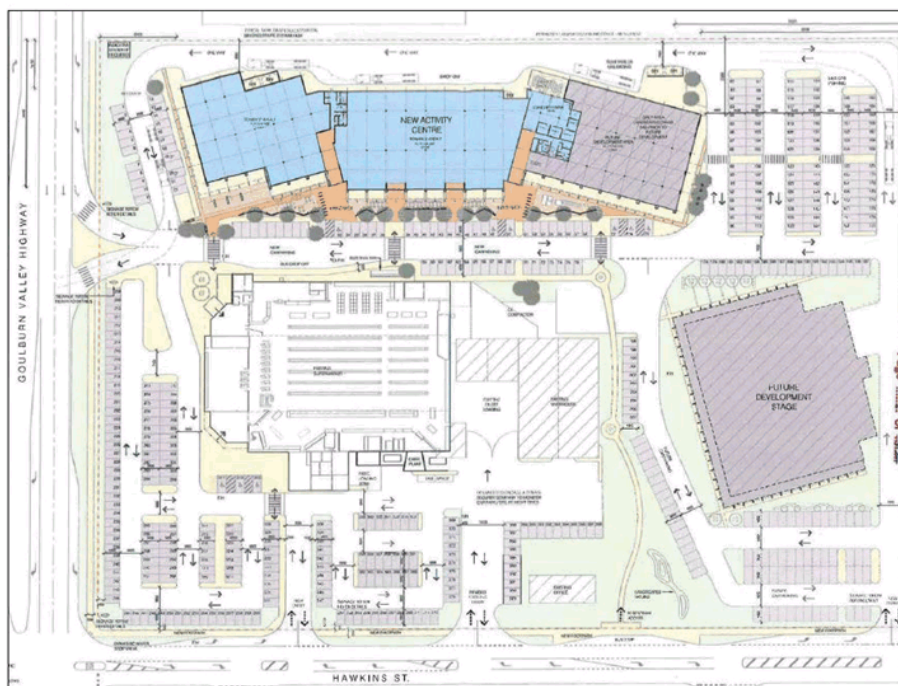


Figure 5 - Approved plans for the IGA redevelopment.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

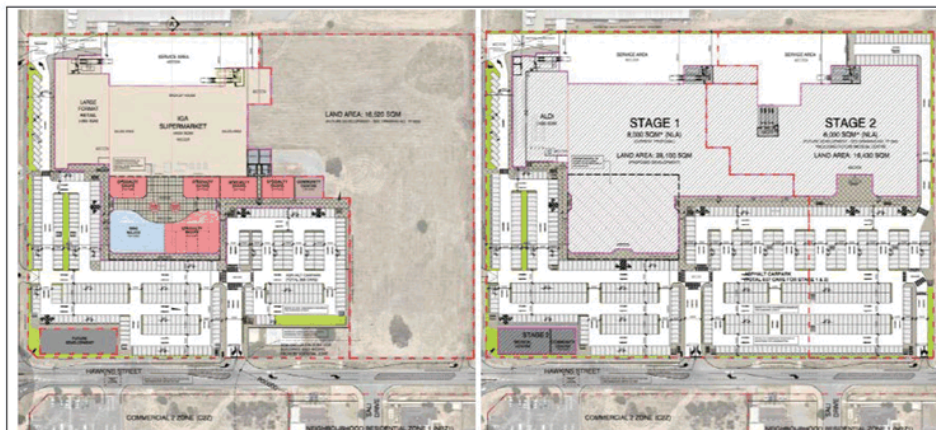


Figure 6 - Revised plans for the IGA redevelopment Stage 1 (left) and proposed Stage 2 (right) plans, submitted January 2017.

Taking into consideration the history of Shepparton North, the Panel stated;

There is merit in both arguments and ultimately the Panel finds that in terms of what is best for the long term future of the Shepparton North community, and what represents good planning, an opportunity should be provided for Council to:

- *properly define a Shepparton North Activity Centre*
- *prepare a considered Structure Plan for the centre*
- *provide the opportunity to re-think the existing IGA site so that it can develop as a catalyst for a co-located supermarket site.*

In reaching this decision, the Panel report accepts the following:

However, this opportunity has a time imperative. Lascorp is ready to go with its proposal and former owner (Metcash) has pontificated on its existing planning permit. The new property owner (18 Pty Ltd) seeks a new permit to allow for a second supermarket – but without an identified tenant. A likely reason is because the second supermarket does not have main road frontage or clear access. If 18 Pty Ltd is willing to re-think its site development, be open to re-siting its supermarket to share the main road (Numurkah Road) frontage and access, and be involved in the Structure Plan process, then the Panel considers adoption of the retail component of Amendment C193 should be deferred to allow these considerations and work to be undertaken.

Importantly, the Panel recommends that, *'this work should be undertaken within a reasonable time period, otherwise the Panel recommends that Amendment C193 Part 2 be adopted and a permit issued for the Lascorp site and proposal.'* In making this recommendation, the Panel *'agrees...that the Lascorp may be more proximate to an emerging population to the north.'*



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

The Panel recommends that Amendment C193 Part 2 be deferred to allow the opportunity for a further review of the 18 Pty Ltd planning permits and to undertake a structure planning process.

The Panel concluded that the current proposal by 18 Pty Ltd for the IGA site, while not part of these amendments, did not, 'lend itself to being part of an integrated structure plan for the SNAC. It turns its back on the land to the north and does not seem to be designed in a way that encourages a second supermarket on the site to have 'equal billing'.

The Panel Report outlines a recommended process for delivering a second supermarket in Shepparton North, requiring Council to consider the integration of the proposals with surrounding land uses. In order to do this, Council will need to defer Amendment C193 Part 2 and work further with 18 Pty Ltd to determine whether a second full line supermarket can be realised on their site.

Panel states, 'this can only occur if Council is willing, and 18 Pty Ltd is proactive in reviewing its permit and actively seeking a committed and signed up tenant for a second supermarket. If this commitment is unable to be made, the Panel considers the Lascorp rezoning and permit application should be approved and permitted'.

Equally, if Council embarks on a structure plan process and it does not eventuate, or if 18 Pty Ltd is not able to review its current and revised planning permit application, the Panel considers the Lascorp proposal should proceed. P.56

Council officers have considered this recommendation in the Panel Report and consider there is some merit in allowing 18 Pty Ltd to finally resolve many of the issues surrounding the development on their site. The Panel Report provides some time frames to allow this to occur, stating 18 Pty Ltd could engage with potential supermarket operators within a reasonable timeframe specified, noting that 18 Pty Ltd should be given a time period to actively seek a , 'committed and signed up tenant for a second supermarket'. The Panel Report states that a reasonable time for seeking a commitment to a tenant is six months, and should Council undertake further structure planning this might require a time period of 12 months. Given the passage of time and work already undertaken, allowing 18 Pty Ltd six months to undertake a structure planning process for its site, including securing the lease of a commercial supermarket tenant, is considered appropriate, to ensure that all parties have been given adequate opportunity to provide a viable centre for the Shepparton North community.

In regard to the recommendation to prepare a structure plan for Shepparton North, in assessing Combined Amendment C193, Council officers undertook a number of accompanying strategic assessments. This was to ensure the proposal integrated with the surrounding land uses, any impacts on Numurkah Road were mitigated and that the proposal allowed for coordinated, well thought out growth of the centre in the future, and is considered appropriate long term planning for the area. In addition, Council is undertaking a framework for growth, in partnership with the Victorian Planning Authority, which will provide direction for land use and planning throughout Shepparton and Mooroopna towards 2050.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

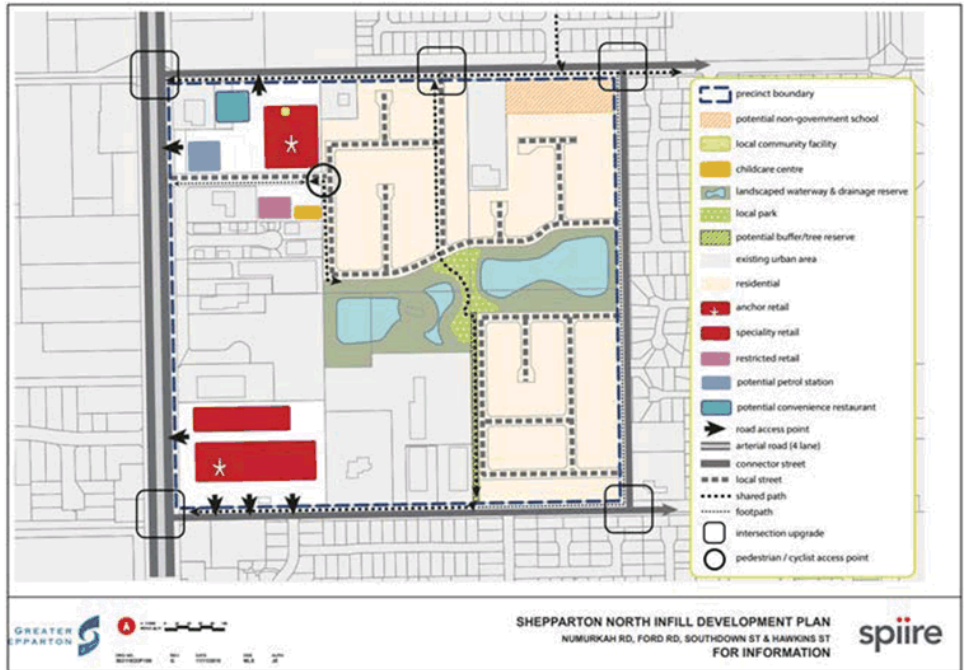


Figure 7 - Structure Plan for Shepparton North.

Council officers are therefore confident that this proposal is appropriate and aligns with the recommendations of the CACS, and state and local policy. In deferring Amendment C193 Part 2, Council seeks to give the IGA site an opportunity to demonstrate a similar compatibility with recommendations and policy frameworks that has, until now, not been realised. This information will give Council an opportunity to view both proposals in a similar light, and determine how to proceed. Should 18 Pty Ltd decide not to provide this information, Council officers consider there has been significant opportunity, over the past two decades and particularly over the past 5 years, for this centre to have developed to a centre capable of servicing the surrounding community. In order to provide this service to the residents in Shepparton North, the Lascorp proposal will be supported, in accordance with Panel recommendations.

The Panel also recommended that planning permit 2016-269 be amended, to delay the starting date for development on the site by two years. It is considered that the deferral of the Amendment for 6 months is sufficient to achieve the intended outcome of this recommendation, which is to ensure 18 Pty Ltd have sufficient time to provide information to Council in relation their site, without influence from any decision on the Lascorp site (see Attachment 2 – proposed permit 2016-269 for changes to the permit provided by the Panel).



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Council Plan/Key Strategic Activity

The Amendment is supported by the *Greater Shepparton Council Plan 2017-2021* as follows:

Economic

Build a thriving resilient economy where Greater Shepparton is recognised as a competitive place to invest and grow business.

Objective 3.1: Shepparton is the regional city centre supported by well-planned and designed existing and emerging commercial activity centres

Built

Provide and support appealing relevant infrastructure that makes Greater Shepparton and attractive, liveable regional city.

Objective 4.1: Growth is well planned and managed for the future

Objective 4.2: Urban and rural development is sustainable and prosperous.

Objective 4.4: Quality infrastructure is provided and maintained to acceptable standards.

Objective 4.8: Active transport (walking cycling) is encouraged through safe, connected and improved linkages.

Risk Management

A risk associated with the proposed Amendments is not meeting the timelines required by Ministerial Direction No. 15 "The Planning Scheme Amendment Process". This Ministerial Direction requires each stage of the planning scheme amendment process to be undertaken within set timeframes.

In accordance with Minister Direction No 15, Council must decide to either abandon or adopt the Amendments within 40 days of receiving the Panel's report.

Another risk associated with adopting the Panel's recommendations is that in deferring Amendment C193 Part 2, the proponent will decide to withdraw their investment and no second full line supermarket will be provided in Shepparton North.

Policy Considerations

The Amendments are consistent with existing Council policy, and support Council policy on economic development.

Financial Implications

The costs of the proposed Amendment C192, including the cost of an Independent Planning Panel, must be met by the proponent, which is Greater Shepparton City Council.

The costs of the proposed Amendment C193, including the cost of the Independent Planning Panel, will be met in part by Lascorp Pty Ltd, as proponents for this Amendment.

While the Panel Hearings were combined in order to produce cost efficiencies, the Independent Planning Panel costs totalled \$84,647. Of this a portion will be met by Lascorp Pty Ltd. Additional costs for legal representation and coordination of expert witness statements cost \$200,000. These costs have already been included in the 2016/2017 and 2017/2018 Strategic Planning budgets.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

The application of a PAO requires Council to compensate landowners required for land to provide drainage infrastructure, and facilitate the development of the infrastructure, which will cost up to \$4 million. Council will recoup much of this cost via developer contributions, however an initial upfront cost to Council has been budgeted in the 2017/2018 and 2018/2019 capital works budgets.

A Planning Scheme Amendment includes fees of \$453 for the Minister for Planning to consider a request to approve an Amendment.

Legal/Statutory Implications

All procedures associated with this proposed Amendment comply with the legislative requirements of the Act. The Amendment has been assessed in accordance with the Act and the Planning Scheme. The assessment is considered to accord with the *Victorian Charter of Human Rights and Responsibilities Act 2006* (the Charter) – no human rights have been negatively impacted upon throughout the process.

The Charter recognises that reasonable restrictions may be placed on the use and development of land, and that there may on occasion be reasonable and acceptable offsite impacts on others. Provided these issues are properly considered, it would be a rare and exceptional case where the exercise of a planning decision in accordance with the regulatory framework is not Charter compatible.

Environmental/Sustainability Impacts

The proposed Amendments aim to put in place guidance for the future land use and development of Shepparton's activity centres, and it is not envisioned that there will be any significant adverse environmental impacts. The proposed Amendments include requirements to consider environmentally sustainable design principles in the construction of any new land use or development.

Social Implications

The proposed Amendment C192 is not expected to have any significant adverse social impacts, rather it will strengthen the role of the Shepparton CBD to ensure it continues to serve the community's needs. A proposal to increase retail floorspace or for other use or development within the ACZ will be subject to planning and development assessment utilising the criteria provided in the CACS, including an assessment of the benefits of any proposals to the community.

The proposed combined Amendment and Planning Permit Application will provide a larger activity centre with improved access to a diverse range of services for the wider community. The proposed combined Amendment and Planning Permit Application includes an area for community meeting space and a childcare centre. The deferment of this Amendment will allow 18 Pty Ltd an opportunity to demonstrate their site can provide the same community benefit to the surrounding area.

It is not expected that there will be any negative social impacts on adjoining land as a result of this proposed combined Amendment and Planning Permit Application. The proposal will result in a net community benefit by providing a pleasant and safe working and recreational environment in the northern corridor of the city.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Economic Impacts

The proposed Amendment seeks to provide greater certainty for business and community regarding what kind of future land use and development can occur and where. The proposed Amendment also limits the amount of retail shop floor space in certain activity centres, based on the existing and anticipated retail catchment and the strategic importance of the activity centres within the hierarchy. The proposed Amendment also discourages the location of uses such as cinema or department store outside of the retail core. There is strong strategic logic for this guideline, however uses and floorspace caps are discretionary and can be changed subject to the appropriate planning and development assessment criteria, which includes the requirement for an economic impact assessment and retail assessment to be prepared.

The proposed Amendment will help to stimulate investment within the additional Precincts in the ACZ by reducing application and permit requirements for use and development and providing additional planning certainty about what use is preferred.

The Panel Report accepted statements that were commonly agreed to by the economic experts that CACS provides an economic perspective of Shepparton's activity centres hierarchy based on a sound methodology and appropriate level of analysis.

Further, the Panel found that, 'implementing CACS will provide a clearer strategic foundation for future planning scheme amendments and permits with retail related proposals.'

In relation to Shepparton North, CACS found that there was currently an undersupply of retail and commercial facilities available for the area, and its recommendations were aimed at ensuring the provision of a sub-regional sized centre in the near future. Following the adoption of CACS Council received two applications for retail floor space in Shepparton North, and in that manner the implementation of CACS will continue to provide an environment for economic growth throughout Shepparton.

Amendment C193 Part 2 will provide additional supermarket floor space in the North, which has been identified as a requirement in the CACS. The supermarket will provide an additional 252 ongoing jobs and cost approximately \$10 million to develop.

The provision of an additional supermarket in Shepparton North will also ensure that the area continues to serve a sub-regional function with the Shepparton Activity Centre hierarchy, servicing the wider northern region.

The deferment of Amendment C183 Part 2 will postpone the economic investment in Shepparton North. In order to ensure this is not an undue delay, Council officers will limit 18 Pty Ltd to a time of six months, during which they are invited to demonstrate that the IGA site is both capable and, more importantly, shovel ready, in terms of providing a second full line supermarket and associated retail and commercial facilities on their site that will accord with a subregional status.

If this does not eventuate, and 18Pty Ltd cannot provide a tenant and appropriate structure plan for the site within six months, Council officers recommend the approval of Amendment C193 Part 2, in line with Panel's recommendations, in order to continue the economic prosperity and investment in the north.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Consultation

Amendments C192 and C193 implement the findings of the *Commercial Activity Centres Strategy, November 2015*, which was prepared with extensive input from relevant authorities, key stakeholders and members of the community.

Amendment C192

Amendment C192 was exhibited from 7 July 2016 to 8 August 2016 in accordance with the *Planning and Environment Act 1987*.

Exhibition included the following notice:

- Direct notice to real estate, planning and engineering professionals;
- Direct notice to prescribed Ministers;
- Notice in the Shepparton News;
- Notice in the Victoria Government Gazette;
- Notice on the Greater Shepparton City Council website;
- Notice on the Department of Environment, Land, Water and Planning website, and
- Copy of exhibition documentation in the foyer of the Council offices at 90 Welsford Street, Shepparton.

Council received thirteen submissions. Five submissions were received from referral authorities that did not object to the proposed Amendment. One submission was received from a referral authority that supported the proposed Amendment subject to conditions. Six submissions were received that objected to the proposed Amendment. One submission was received that supports the proposed Amendment subject to minor changes.

Council officers met with objecting submitters in an effort to resolve concerns raised in submissions. The majority of the outstanding submissions relate to the proposed changes to the Greater Shepparton Planning Scheme to facilitate a second full-line supermarket in Shepparton North. Other outstanding submissions related to:

- Planning controls and retail floor space caps at the Shepparton Marketplace; and
- The impact of implementing the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* on the Central Business District of Shepparton.

Council officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Amendment C193

Amendment C193 was exhibited from 20 April 2017 to 30 May 2017 in accordance with the Act. Exhibition included the following notice:

- Direct notice to affected landowners and occupiers;
- Direct notice to submitters of Amendment C192;
- Direct notice to prescribed Ministers and referral authorities;
- Notice in the Shepparton News;
- Notice in the Victoria Government Gazette;
- Notice on the Greater Shepparton City Council website;
- Notice on the Department of Environment, Land, Water and Planning website, and
- Copy of exhibition documentation in the foyer of the Council offices at 90 Welsford Street, Shepparton.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)

Council received twenty submissions. Five submissions were received from referral authorities that did not object or provided support for the proposed Amendment. Two submissions were received that support the proposed Amendment. Ten submissions were received that objected to the proposed Amendment.

The submissions that objected or requested changes could not be resolved and, as such, all submissions were referred to an Independent Planning Panel appointed by the Minister for Planning for consideration. A request was made to the Minister for Planning, and granted, for the Independent Planning Panel for proposed Amendment C192 and proposed Amendment C193 to be combined as similar submissions and concerns were raised.

The Independent Planning Panel Directions Hearing was held the week of 26 June 2017 and Panel Hearing held over 10 days between 24 July and 11 August 2017.

Council officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy, 2006

Topic: Settlement and Housing

Theme: Growth

To provide convenient access to a range of activity centres and employment opportunities that can serve the expanded municipality.

Topic: Economic Development

Theme: Retail/Commercial Centres

To have a hierarchy of viable commercial/retail centres by retaining local and visitor spending within the municipality.

b) Other strategic links

Greater Shepparton Commercial Activity Centres Strategy, November 2015

The proposed Amendment implements the recommendations of the CACS, which was adopted by Council at the Ordinary Council Meeting held on 16 February 2016.

Conclusion

Amendment C192 implements the general recommendations of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* (CACS), updating the Municipal Strategic Statement and Activity Centre Zone, rezoning Commercial 2 Zone land along Wyndham Street and Benalla Road and rezoning Commercial 1 Zone, Commercial 2 Zone and General Residential Zone land to Activity Centre Zone, to facilitate the redevelopment of Shepparton Marketplace.

Amendment C193 implements the recommendations of CACS in relation to Shepparton North, facilitating a second full-line supermarket in Shepparton North, and applying a Public Acquisition Overlay over land to allow for the Shepparton North Regional Catchment Basin and infrastructure.

In light of the similarity in many submissions between Amendment C192 and C193, Council officers considered that significant cost savings would be achieved if the Independent Planning Panels for both amendments were combined. The Independent Planning Panel was held from the 24 July to 11 August 2017, in Shepparton and Melbourne and the Panel Report was received on 10 October 2017.

**10. SUSTAINABLE DEVELOPMENT DIRECTORATE****10.6 Implementation of Commercial Activity Centres Strategy - Amendments C192 and C193 (continued)**

Council officers support the recommendations in regard to Amendment C192, and recommend its adoption with post exhibition changes as discussed at Panel, subject to relevant modifications detailed in the 'Background' section of this report.

The Panel recommended that Amendment C193 be split into Part 1 – Application of the PAO and Part 2 – Rezoning of the proposed Woolworths site, and Part 2 deferred until Council is satisfied this is the best location for a supermarket in Shepparton North. This location is a choice between two sites within 400 metres of each other in Shepparton North. One comprises an existing supermarket, with an unacted upon permit for redevelopment and a proposal to enlarge the centre however with no documents that support the direction or timing of this growth. The other, a proposal for a brand new centre, with significant strategic documents prepared to support the proposal, including a confirmed tenant and direction for growth.

In assessing Combined Amendment C193, Council officers undertook a number of accompanying strategic assessments, to ensure the proposal integrated with the surrounding land uses, any impacts on Numurkah Road were mitigated and that the proposal allowed for coordinated, well thought out growth of the centre in the future.

In deferring Amendment C193 Part 2, Council seeks to give the IGA site an opportunity to demonstrate a similar compatibility with surrounding land uses, planning recommendations and policy frameworks that has, until now, not been realised. This information will give Council an opportunity to view both proposals in a similar light, and determine how to proceed. Should 18 Pty Ltd decide not to provide this information, Council officers consider there has been significant opportunity, over the past two decades and particularly over the past 5 years, for this centre to have developed to a centre capable of servicing the surrounding community. In order to provide this service to the residents in Shepparton North, the Lascorp proposal will be supported, in accordance with Panel recommendations.

Attachments

1. Greater Shepparton C192 and C193 Panel Report 9 October 2017
2. Variation to Planning Permit 2016-269



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1

Disclosures of conflicts of interest in relation to advice provided in this report
Under section 80C of the *Local Government Act 1989* officers and persons engaged under a contract providing advice to Council must disclose any conflicts of interests, including the type and nature of interest.

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Council Officers involved in producing this report

Author: Principal Strategic Planner

Proof reader(s): Team Leader Strategic Planning, Manager Building and Planning

Approved by: Director Sustainable Development

Executive Summary

At the Ordinary Council Meeting held on 21 November 2017, Council resolved to adopt the recommendations of the Independent Planning Panel for Amendment C192 to the Greater Shepparton Planning Scheme (see *Attachment 1 – 21 November 2017 Ordinary Council Meeting minutes extract*). At this time, Council also resolved to split Amendment C193 into two parts, known as Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp Proposal), in accordance with the recommendation of the Panel and to submit both Amendments C192 and C193 Part 1 to the Minister for Planning for approval. It was resolved to defer the consideration of Amendment C193 Part 2 for six months and to delegate to the Chief Executive Officer the power to make a decision on Part 2 at a future date.

Amendment C192 implements the general recommendations of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* (CACS), updating the Municipal Strategic Statement and Activity Centre Zone, rezoning Commercial 2 Zone land along Wyndham Street and Benalla Road to Activity Centre Zone, and rezoning Commercial 1 Zone, Commercial 2 Zone and General Residential Zone land to Activity Centre Zone to facilitate the redevelopment of Shepparton Marketplace.

Amendment C193 Part 1 applies a Public Acquisition Overlay to land to allow for the Shepparton North Regional Catchment Basin and infrastructure.

Amendment C193 Part 2 rezones land from the Commercial 2 Zone to the Commercial 1 zone to facilitate a second full-line supermarket in Shepparton North. Amendment C193 includes Planning Permit Application 2016-269, to develop the land for a supermarket, with associated packaged liquor store, retail speciality shops, car parking and advertising.

The hearing of the independent Planning Panel was held from 24 July to 11 August 2017, in Shepparton and Melbourne, and the Panel Report was received on 9 October 2017 (see *Attachment 2 – Amendment C192 & C193 Panel Report, 9 October 2017*). The recommendations of the Planning Panel are summarised below.

The Panel recommended that Amendment C192 be adopted with post exhibition changes to the Municipal Strategic Statement and Activity Centre Zone, as discussed at Panel. The version to be adopted is included as Appendix D and Appendix E to the Panel Report.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

The Panel recommended that Amendment C193 be split into two parts, being:

- Part 1 (Application of the Public Acquisition Overlay); and
- Part 2 (Rezoning of the proposed Woolworths site).

The Panel recommended that Part 1 be adopted and that Part 2 be deferred until Council is satisfied this is the best location for a second full line supermarket in Shepparton North, defined through a structure planning process.

The Panel also recommended that Council amend the planning permit 2016-269 (Woolworths site).

Specifically, the Panel Report lists the following recommendations:

Panel Recommendations

1. Adopt Amendment C192 to the Greater Shepparton Planning Scheme, in accordance with the modifications in Appendix D (Clause 21.06) and Appendix E (Activity Centre Zone Schedule 1);
2. Review the provisions and schedules of Amendment C192 and Amendment C193 during finalisation of the Amendments to ensure they are consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* (May 2017).
3. Amend Clause 21.06, as shown in Appendix D, to:
 - a. add the following strategic action under 21.06-7:
 - i. *Prepare structure plans for the Mooroopna, Riverside and Shepparton North activity centres.*
 - ii. Remove reference to the Shepparton North Activity Centre in the relevant strategic action regarding an urban design framework.
4. Split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal);
5. Defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 until the Shepparton North Activity Centre is defined through a structure planning process. Reconsider Amendment C193 Part 2 and planning permit application 2016-269 pending these outcomes;
6. Amend Planning Permit 2016-269, as shown in Appendix F, to update Condition 14 (Time for Starting and Completion); and
7. Adopt Amendment C193 Part 1.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

At the Ordinary Council Meeting on 21 November 2017, Council resolved:

That, having considered the Independent Planning Panel Report for Amendments C192 and C193 to the Greater Shepparton Planning Scheme, in accordance with Section 27 of the *Planning and Environment Act 1987*, Council:

1. adopt the recommendations of the Independent Planning Panel for Amendment C192 as outlined in the Panel Report dated 9 October 2017;
2. adopt Amendment C192 with post-exhibition changes in accordance with Section 29 of the *Planning and Environment Act 1987*;
3. adopt the recommendation of the Independent Planning Panel for Amendment C193 as outlined in the Panel Report dated 9 October 2017 to:
 - split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal).
4. adopt Amendment C193 Part 1 in accordance with Section 29 of the *Planning and Environment Act 1987* with changes to align with Ministerial Direction 13 and relevant recommendations of the Independent Planning Panel;
5. submit Amendment C192 and Amendment C193 Part 1 to the Minister for Planning for approval in accordance with Section 31 of the *Planning and Environment Act 1987*;
6. defer consideration of Amendment C193 Part 2 and planning permit application 2016-269 by six months, to allow the owners of the IGA site an opportunity to work with Council to determine the capacity of the site to provide a second full line supermarket and integration with surrounding land uses;
7. delegate to the Chief Executive Officer the power to adopt Amendment C193 Part 2 and planning permit application 2016-269 (including revisions to condition 14 of the draft permit as shown in the attached copy of the draft permit, in variance to the version of condition 14 as recommended by the Panel for the reasons outlined in the Officer's report) and submit it to the Minister for Planning for approval, should Shepparton Pty Ltd (formerly known as 18 Pty Ltd) not confirm in writing that a tenant has been secured for a second full line supermarket at 177-193 Numurkah Road, Shepparton, and/or Shepparton Pty Ltd not confirm that the second full line supermarket will be fully operational by 21 May 2020, and/or Shepparton Pty Ltd not demonstrate appropriate integration within the regional context, to the satisfaction of the Chief Executive Officer, by no later than 21 May 2018;
8. delegate to the Chief Executive Officer the power to adopt Amendment C193 Part 2 and planning permit application 2016-269 (including revisions to condition 14 of the draft permit as shown in the attached copy of the draft permit, in variance to the version of condition 14 as recommended by the Panel for the reasons outlined in the Officer's report) and submit it to the Minister for Planning for approval, should Shepparton Pty Ltd provide written advice to the Council on or before 21 May 2018, to the effect that it is not seeking to secure a tenant for a second full line supermarket



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

at 177-193 Numurkah Road, Shepparton, and/or should Shepparton Pty Ltd provide written advice to the effect that a second full line supermarket at 177-193 Numurkah Road, Shepparton, would not be fully operation by 21 May 2020; and

9. should Shepparton Pty Ltd satisfactorily confirm to the Chief Executive Officer that a tenant has been secured for a second full line supermarket at 177-193 Numurkah Road, Shepparton, and satisfactorily confirm to the Chief Executive Officer that the second full line supermarket will be fully operational by 21 May 2020, and satisfactorily confirm to the Chief Executive Officer that there is appropriate demonstration of integration within the regional context, by no later than 21 May 2018, Amendment C193 Part 2 and planning permit 2016-269 must be referred back to Council for reconsideration.

On 21 December 2017, MinterEllison Pty Ltd, on behalf of Shepparton Pty Ltd, lodged an application with the Victorian Civil and Administrative Tribunal (VCAT) under Section 39 of the *Planning and Environment Act 1987* (the Act). The application was on the basis of alleged procedural defects with regard to resolutions 2, 4, 7 and 8.

Specifically, the VCAT application stated that Council had failed to identify specific post exhibition changes in adopting Amendments C192 and C193 Part 1.

The VCAT application also alleged that the resolution to delegate power to the Chief Executive Officer to adopt Amendment C193 Part 2 at a later date did not comply with the Act. In relation to this part of the VCAT application it was sought that the original resolution concerning C193 Part 2 be set aside and the matter remitted back to Council for reconsideration. It is appropriate that the resolution regarding Amendment C193 Part 2 be set aside and remade. Consistent with the timing intended by Council and Council officers' interpretation of the Panel Report, it is proposed that Amendment C193 Part 2 be dealt with at a later Council meeting.

With regard to Amendments C192 and C193 Part 1, although, for reasons of convenience, it may be common practice for resolutions regarding the adoption of planning scheme amendments to be in a similar form to the resolutions of 21 November 2017. However, in strict legal terms it is appropriate that any post exhibition changes to an amendment to be adopted be specifically identified.

In order to expedite the approval of Amendments C192 and C193 Part 1 and avoid delays that may affect third parties and not to incur potentially avoidable legal costs, the most efficient and timely manner for dealing with the Section 39 application is to remit the matter back to Council to make fresh resolutions.

It is recommended that Council sets aside the previous resolutions 1 to 5 from 21 November 2017 and make fresh resolutions regarding those matters. With regard to resolutions 2 and 4 of 21 November 2017, the orders of the Tribunal set those resolutions aside.

A redrafted resolution is provided to Council, explicitly stating what is being adopted having regard to the exhibited version of the amendments.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

RECOMMENDATION

That, further to resolutions 1 to 5 of the Council in relation to Item 10.6 of the Agenda of the Ordinary Meeting of the Council of 21 November 2017, and in substitution of those resolutions, and having regard to the application by Shepparton Pty Ltd concerning resolutions 2 and 4 in VCAT proceeding reference P2930/2017, and having regard to the orders of the Tribunal in that proceeding, having further considered the report of the Planning Panel appointed for Amendments C192 and C193 to the Greater Shepparton Planning Scheme dated 9 October 2017 ("**Panel Report**"), in accordance with sections 27 and 29 of the *Planning and Environment Act 1987* ("**Act**"), Council in its capacity as the planning authority under the PE Act resolves to:

1. adopt recommendations 1, 2, and 3 of the Planning Panel at pages 57 and 58 of the Panel Report with regard to Amendment C192;
2. adopt Amendment C192 with post exhibition changes consistent with the recommendations of the Planning Panel as identified in *Attachment 3 – showing tracked changes between the exhibition version and adopted version and Attachment 4 – being the adopted version*;
3. adopt recommendation 4 of the Planning Panel at page 58 of the Panel Report to split Amendment C193 into Part 1, relating to the Public Acquisition Overlay and Part 2 relating to the land known as 221-229 Numurkah Road and 10 Ford Road, Shepparton, described in the Panel Report as the Lascorp proposal;
4. adopt recommendations 2 and 7 of the Planning Panel at pages 57 and 58 of the Panel Report with regard to Amendment C193 Part 1;
5. adopt Amendment C193 Part 1 in the form exhibited; and
6. submit Amendments C192 and C193 Part 1, as adopted by Council, to the Minister for Planning for approval in accordance with section 31(1) of the Act.

Moved by Cr Giovanetti Seconded by Cr Summer

That, further to resolutions 1 to 5 of the Council in relation to Item 10.6 of the Agenda of the Ordinary Meeting of the Council of 21 November 2017, and in substitution of those resolutions, and having regard to the application by Shepparton Pty Ltd concerning resolutions 2 and 4 in VCAT proceeding reference P2930/2017, and having regard to the orders of the Tribunal in that proceeding, having further considered the report of the Planning Panel appointed for Amendments C192 and C193 to the Greater Shepparton Planning Scheme dated 9 October 2017 ("**Panel Report**"), in accordance with sections 27 and 29 of the *Planning and Environment Act 1987* ("**Act**"), Council in its capacity as the planning authority under the PE Act resolves to:

1. adopt recommendations 1, 2, and 3 of the Planning Panel at pages 57 and 58 of the Panel Report with regard to Amendment C192;



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

2. adopt Amendment C192 with post exhibition changes consistent with the recommendations of the Planning Panel as identified in *Attachment 3 – showing tracked changes between the exhibition version and adopted version and Attachment 4 – being the adopted version*;
3. adopt recommendation 4 of the Planning Panel at page 58 of the Panel Report to split Amendment C193 into Part 1, relating to the Public Acquisition Overlay and Part 2 relating to the land known as 221-229 Numurkah Road and 10 Ford Road, Shepparton, described in the Panel Report as the Lascorp proposal;
4. adopt recommendations 2 and 7 of the Planning Panel as stated in *the Executive summary and recommendations* of the Panel Report with regard to Amendment C193 Part 1;
5. adopt Amendment C193 Part 1 in the form exhibited; and
6. submit Amendments C192 and C193 Part 1, as adopted by Council, to the Minister for Planning for approval in accordance with section 31(1) of the Act.

CARRIED.

Background

Over the years, Greater Shepparton City Council has undertaken a number of strategic planning projects that have resulted in ongoing opportunities for growth in residential areas and for supporting infrastructure. Retailing and commercial development is one of these areas now under review. Council has recognised that extensive retail and commercial growth has occurred, retail trends have changed, new zones have been introduced and there is a need to provide a new strategy that provides for commercial development in the expanding activity centres in the municipality.

This work resulted in the adoption of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* (CACS) on 16 February 2016 that is broad in its scope and defined in its direction. This strategy is the subject of Amendment C192 and through exhibition it attracted 13 submissions. Most of these were concerned with a new retail proposal at Shepparton North and to a lesser extent, some aspects of the controls proposed at the Shepparton Marketplace and the Benalla Road Enterprise Area.

The key and unequivocal direction for Shepparton is to maintain the primacy of the Shepparton CBD to encourage further development in that important precinct. The proposed implementation of the CACS is described in *Attachment 1 – Ordinary Council Meeting Minutes 21 November 2017*.

VCAT Hearings

Shepparton Pty Ltd lodged an application with VCAT in 23 November 2017, to review Council's resolution in relation to Amendment C192, Amendment C193 Part 1 and Amendment C193 Part 2.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

Consideration of the Panel Recommendations

The Independent Planning Panel is an independent body appointed by the Minister for Planning, final decision on whether or not an amendment will be approved. Under Section 27 of the *Planning and Environment Act 1987*, Council must consider the recommendations of the Panel and make a decision on an Amendment.

Council provided information supporting their resolution, as shown in the background section of Attachment 1. The VCAT application by MinterEllison Pty Ltd on behalf of Shepparton Pty Ltd states Council failed to identify all changes to the documentation in their resolution. Council officers consider there was sufficient information to enable anyone reading the entire report to understand what decisions had been made. Council officers have decided that the best course of action is to reword the resolution to respond to the VCAT application and VCAT order. This will limit further delay and cost associated with arguing the matter at VCAT.

Council Plan/Key Strategic Activity

The Amendments are supported by the Greater Shepparton Council Plan 2017-2021 as follows:

Economic:

Build a thriving resilient economy where Greater Shepparton is recognised as a competitive place to invest and grow business.

Objective 3.1: Shepparton is the regional city centre supported by well-planned and designed existing and emerging commercial activity centres

Built:

Provide and support appealing relevant infrastructure that makes Greater Shepparton and attractive, liveable regional city.

Objective 4.1: Growth is well planned and managed for the future

Objective 4.2: Urban and rural development is sustainable and prosperous.

Objective 4.4: Quality infrastructure is provided and maintained to acceptable standards.

Objective 4.8: Active transport (walking cycling) is encouraged through safe, connected and improved linkages.

Risk Management

This action addresses the risk created by the Section 39 application. In rewording Council's resolution, the matter will be resolved to VCAT's satisfaction.

A risk associated with the proposed action is that Shepparton Pty Ltd determine to further obfuscate the proceedings by taking the appeal further to the Supreme Court. Council officers are satisfied all attempts have been made to satisfactorily address their issues in order to prevent this happening.

Another risk associated with adopting the Panel's recommendations is that in deferring Amendment C193 Part 2, the proponent will decide to withdraw their investment and no second full line supermarket will be provided in Shepparton North.

Policy Considerations

The Amendments are consistent with existing Council policy, and support Council policy on economic development.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

Financial Implications

Council officers have sought to limit the costs associated with an ongoing legal process by consenting to remit the matter to Council for resolution.

Legal/Statutory Implications

Council officers consider that although the procedures associated with proposed Amendment C193 Part 1 complied with the legislative requirements of the Act, given there was arguably strict non-compliance with Amendment C192 and arguably ambiguity with Amendment C193 Part 1, the appropriate cost efficient and effective manner to dispose of legal action in P2930/2017 is to remit a redrafted resolution to Council and put the matter beyond doubt.

Environmental/Sustainability Impacts

The Amendments put in place guidance for the future land use and development of Shepparton's activity centres, and it is not envisioned that there will be any significant adverse environmental impacts. The Amendments include requirements to consider environmentally sustainable design principles in the construction of any new land use or development.

Social Implications

Amendment C192 is not expected to have any significant adverse social impacts, rather it will strengthen the role of the Shepparton CBD to ensure it continues to serve the community's needs. A proposal to increase retail floorspace or for other use or development within the Activity Centre Zone will be subject to planning and development assessment utilising the criteria provided in the CACS, including an assessment of the benefits of any proposals to the community.

Amendment C193 Part 1 will result in a net community benefit, providing a useable and effective regional drainage infrastructure for the Shepparton north area.

Economic Impacts

The Amendments seek to provide greater certainty for business and community regarding what kind of future land use and development can occur and where. The Amendments also limit the amount of retail shop floor space in certain activity centres, based on the existing and anticipated retail catchment and the strategic importance of the activity centres within the hierarchy. The Amendments also discourage the location of uses such as cinema or department store outside of the retail core. There is strong strategic logic for this guideline, however uses and floorspace caps are discretionary and can be changed subject to the appropriate planning and development assessment criteria, which includes the requirement for an economic impact assessment and retail assessment to be prepared.

Amendment C192 will help to stimulate investment within the additional Precincts in the Activity Centre Zone by reducing application and permit requirements for use and development and providing additional planning certainty about what use is preferred.

Consultation

Amendments C192 and C193 Part 1 implement the findings of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015*, which was prepared with extensive input from relevant authorities, key stakeholders and members of the community.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

Amendment C192

Amendment C192 was exhibited from 7 July 2016 to 8 August 2016 in accordance with the *Planning and Environment Act 1987*.

Exhibition included the following notice:

- Direct notice to real estate, planning and engineering professionals;
- Direct notice to prescribed Ministers;
- Notice in the Shepparton News;
- Notice in the Victoria Government Gazette;
- Notice on the Greater Shepparton City Council website;
- Notice on the Department of Environment, Land, Water and Planning website, and
- Copy of exhibition documentation in the foyer of the Council offices at 90 Welsford Street, Shepparton.

Council received 13 submissions. Five submissions were received from referral authorities that did not object to the proposed Amendment. One submission was received from a referral authority that supported the proposed Amendment subject to conditions. Six submissions were received that objected to the proposed Amendment. One submission was received that supports the proposed Amendment subject to minor changes.

Council officers met with objecting submitters in an effort to resolve concerns raised in submissions. The majority of the outstanding submissions relate to the proposed changes to the Greater Shepparton Planning Scheme to facilitate a second full-line supermarket in Shepparton North. Other outstanding submissions related to:

- Planning controls and retail floor space caps at the Shepparton Marketplace; and
- The impact of implementing the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* on the Central Business District of Shepparton.

Council officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Amendment C193

Amendment C193 was exhibited from 20 April 2017 to 30 May 2017 in accordance with the Act. Exhibition included the following notice:

- Direct notice to affected landowners and occupiers;
- Direct notice to submitters of Amendment C192;
- Direct notice to prescribed Ministers and referral authorities;
- Notice in the Shepparton News;
- Notice in the Victoria Government Gazette;
- Notice on the Greater Shepparton City Council website;
- Notice on the Department of Environment, Land, Water and Planning website, and
- Copy of exhibition documentation in the foyer of the Council offices at 90 Welsford Street, Shepparton.

Council received 20 submissions. Five submissions were received from referral authorities that did not object or provided support for the proposed Amendment. Two submissions were received that support the proposed Amendment. Ten submissions were received that objected to the proposed Amendment.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)

The submissions that objected or requested changes could not be resolved and, as such, all submissions were referred to an Independent Planning Panel appointed by the Minister for Planning for consideration. A request was made to the Minister for Planning, and granted, for the Independent Planning Panel for proposed Amendment C192 and proposed Amendment C193 Part 1 to be combined as similar submissions and concerns were raised.

The Independent Planning Panel Directions Hearing was held the week of 26 June 2017 and Panel Hearing held over 10 days between 24 July and 11 August 2017.

Council officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy, 2006

Topic: Settlement and Housing

Theme: Growth

To provide convenient access to a range of activity centres and employment opportunities that can serve the expanded municipality.

Topic: Economic Development

Theme: Retail/Commercial Centres

To have a hierarchy of viable commercial/retail centres by retaining local and visitor spending within the municipality.

b) Other strategic links

Greater Shepparton Commercial Activity Centres Strategy, November 2015

The proposed Amendment implements the recommendations of the CACS, which was adopted by Council at the Ordinary Council Meeting held on 16 February 2016.

Conclusion

Amendment C192 implements the general recommendations of the *Greater Shepparton Commercial Activity Centres Strategy, November 2015* (CACS), updating the Municipal Strategic Statement and Activity Centre Zone, rezoning Commercial 2 Zone land along Wyndham Street and Benalla Road and rezoning Commercial 1 Zone, Commercial 2 Zone and General Residential Zone land to Activity Centre Zone, to facilitate the redevelopment of Shepparton Marketplace.

Amendment C193 Part 1 implements the recommendations of CACS in relation to Shepparton North drainage requirements, applying a Public Acquisition Overlay over land to allow for the Shepparton North Regional Catchment Basin and infrastructure.

Council officers support the recommendations by the Independent Planning Panel in regard to Amendment C192, and recommend its adoption with the post exhibition changes as shown at Appendix D and Appendix E of the Panel report.

The Panel recommended that Amendment C193 be split into Part 1 – Application of the PAO and Part 2 – Rezoning of the proposed Woolworths site. The Panel recommended that Part 1 be adopted and that Part 2 be deferred.

Amendment C193 Part 1 implements the recommendations of the Independent Planning Panel and will apply a Public Acquisition Overlay over land to allow for the Shepparton North Regional Catchment Basin and infrastructure.

**10. SUSTAINABLE DEVELOPMENT DIRECTORATE****10.8 Implementation of Commercial Activity Centres Strategy November 2015 - Amendments C192 and C193 Part 1 (continued)**

Planning permit 2016-269 (Woolworths site) will be considered in conjunction with Amendment C193 Part 2 (Woolworths site), at a later date, amongst other things, pending the outcome of an ongoing VCAT process involving the land at 177-193 Numurkah Road (known as the IGA site).

Council officers have reworded the resolution to address the matters listed in Shepparton Pty Ltd's Section 39 Application to VCAT and are satisfied all attempts have been made to prevent further litigation on this matter.

Attachments

1. Extract of Minutes of Ordinary Meeting - 21 November 2017
2. Greater Shepparton C192 and C193 Panel Report 9 October 2017
3. Track changes between exhibition version and adoption version
4. Adopted version of C192 and C193 Part 1



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road

Disclosures of conflicts of interest in relation to advice provided in this report
Under section 80C of the *Local Government Act 1989* officers and persons engaged under a contract providing advice to Council must disclose any conflicts of interests, including the type and nature of interest.

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Council Officers involved in producing this report

Author: Statutory Planner

Proof reader(s): Manager Building and Planning

Approved by: Director Sustainable Development

Executive Summary

177 – 193 Numurkah Road, Shepparton (the land) is currently occupied by an IGA supermarket. The land is subject to two development applications both of which are before the Victorian Civil and Administrative Tribunal (VCAT).

In relation to these applications Council at the 21 November 2017 Ordinary Council Meeting (OCM) resolved to not support the proposed re-development of the land to accommodate a retail development.

Since the November 2017 OCM, and subsequent Council resolution, officers have held further detailed discussions with the applicant.

Officers have also participated in two VCAT compulsory conferences which have assisted in arriving at an acceptable development proposal that has led to a single revised development proposal.

The revised plan (known as the Third Amended Plan Revision B) now provides for:

- A two staged development
- Approximately 14,225sqm of floor space of which about 13,675sqm is retail floor space
- Provision of two 4000sqm supermarkets one of which is for IGA
- Five practitioner medical centre
- Car parking spaces as required by 52.06
- Traffic lights at the intersection of Hawkins Street and Goulburn Valley Highway
- Drainage to an upsized regional basin which is known as the 'Yakka Basin'
- Removal of three Grey Box trees

Officers consider that the revised layout provides an improved design outcome to Hawkins Street, appropriately locates loading docks, delivers improved visibility of the two proposed supermarket tenancies and provides community floor space in the form of a medical centre and community centre.

Additionally it is acknowledged that the land is within a Commercial 1 Zone (C1Z). The C1Z seeks to create vibrant mixed use commercial centres for retail, business, entertainment and community uses. Officers are satisfied that the revised proposal supports the purpose of the C1Z.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Officers recommend that the Council conditionally support the proposed revised development, however officers have informed VCAT that a new Council resolution is required in relation to the revised proposal as the existing Council resolution is outdated due to the substantially altered design.

RECOMMENDATION

In relation to Planning Application 2017-177, on the basis of the information before Council and having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council resolves to support the proposed revised development (Third Amended Plan Revision B) subject to conditions as deemed necessary by officers and authorities.

Moved by Cr Giovanetti Seconded by Cr Summer

In relation to Planning Application 2017-177, on the basis of the information before Council and having considered all relevant matters as required by the *Planning and Environment Act 1987* ("Act"), Council resolves to support the proposed revised development as generally shown in the Doig Architecture Job No. 21712 Revision B plans (third amended plans) subject to conditions, as deemed necessary by officers and authorities, and subject to an agreement under section 173 of the Act between the owner of the subject land and the Council, as deemed necessary by officers, that restricts certain uses of shop floorspace and provides for infrastructure and a community centre.

CARRIED.

Property Details

Land/Address	177 – 193 Numurkah Road, Shepparton (the land) is currently occupied by an IGA supermarket. The land is about 4.4ha in size. The land is not within an area of aboriginal cultural heritage sensitivity.
Zones and Overlays	Commercial 1 Zone. Land Subject to Inundation Overlay The land abuts a Road Zone Category 1, Commercial 2 Zone and the Industrial 1 Zone
Why is a permit required	34.01-1 Use of the land for retail centre which is greater than 8,000m ² including two supermarkets, a bottle shop and gym 34.01-4 Buildings and works in the Commercial 1 Zone 44.04-1 Buildings and works in the Land Subject to Inundation Overlay 52.02 removal of easement 52.05 advertising signage 52.17 removal of three Grey Box trees



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Proposal in Detail
Locality Plan



Approved Plans for Stage 1

On 12 April 2012 a combined planning scheme amendment (C-119) and planning permit (2008-436) was issued for the subject land.

The planning scheme amendment rezoned the land to the Business 1 Zone (now C1Z) with an 8,000m² floor space cap for shop.

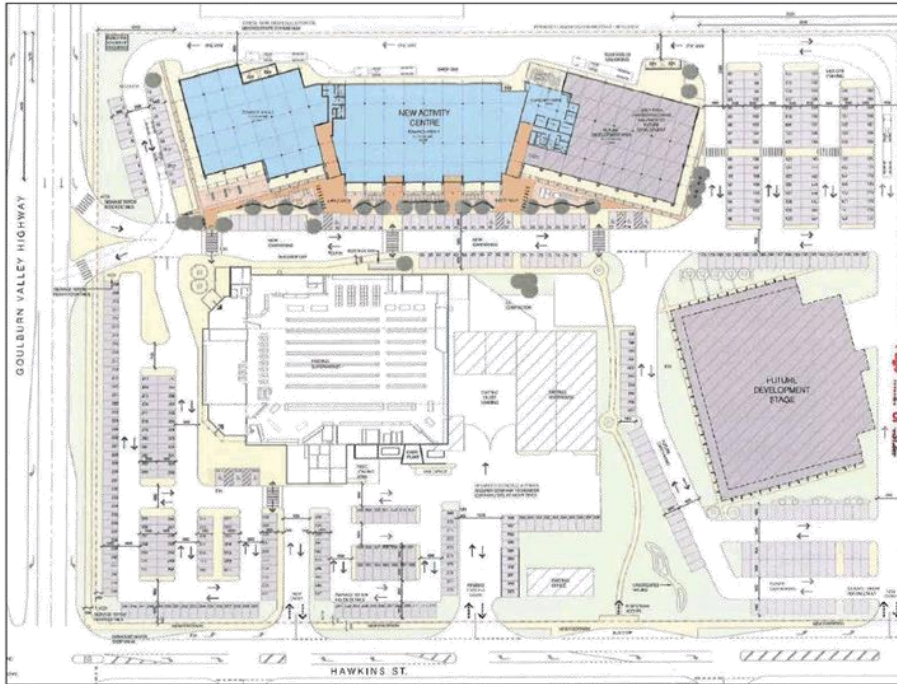
The planning permit allowed for a 4,000m² supermarket and supporting speciality shops.

The endorsed layout plan is shown below.

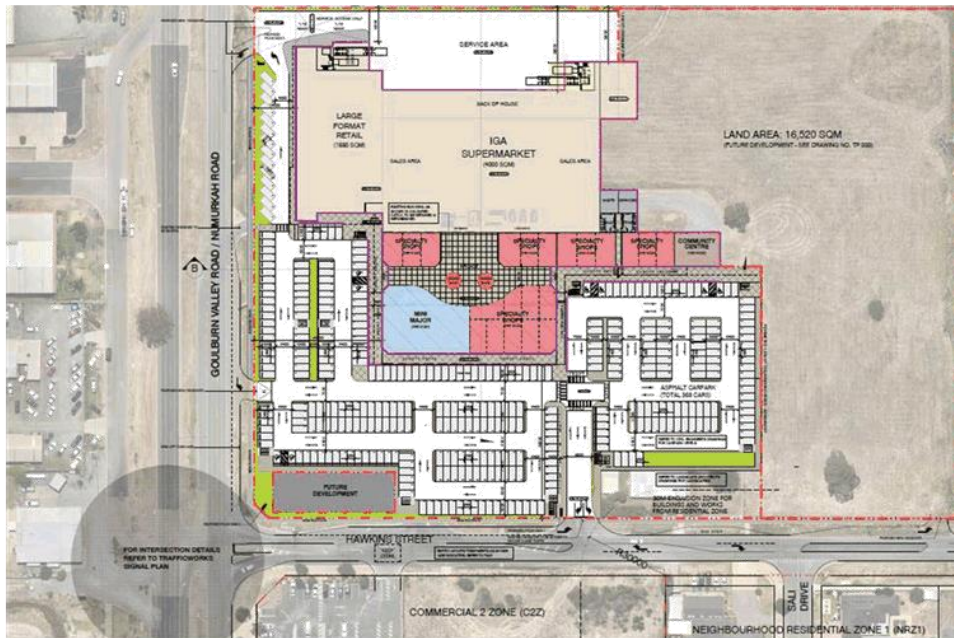


10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)



The first amended plans (superseded)

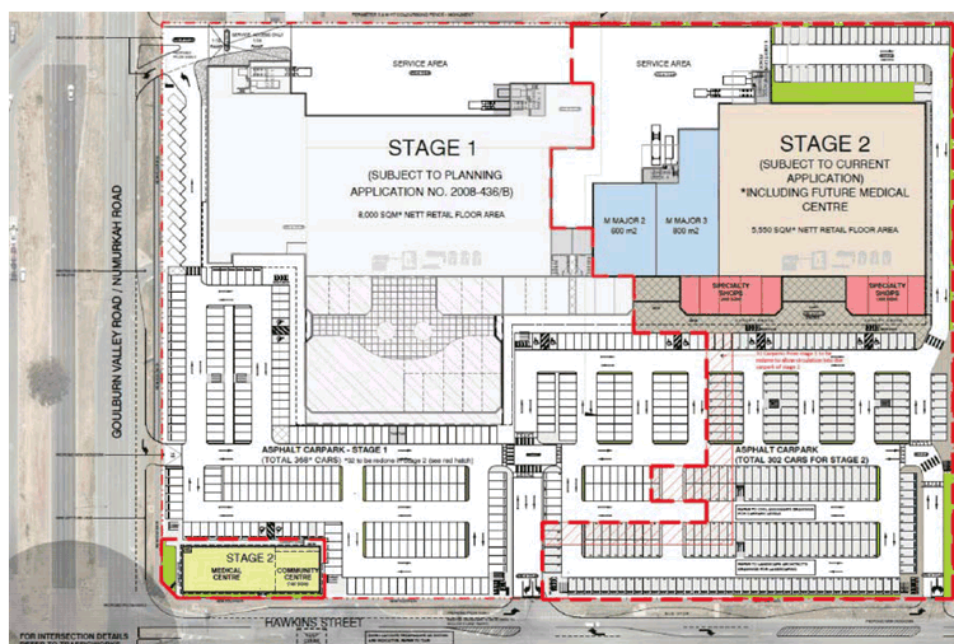




10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Stage 2 Application Plan (superseded)



The above proposal for a two staged development is currently before VCAT. If Council maintained its decision making ability with regard to the application, subject to an infrastructure agreement, officers would have supported the stage one proposal.

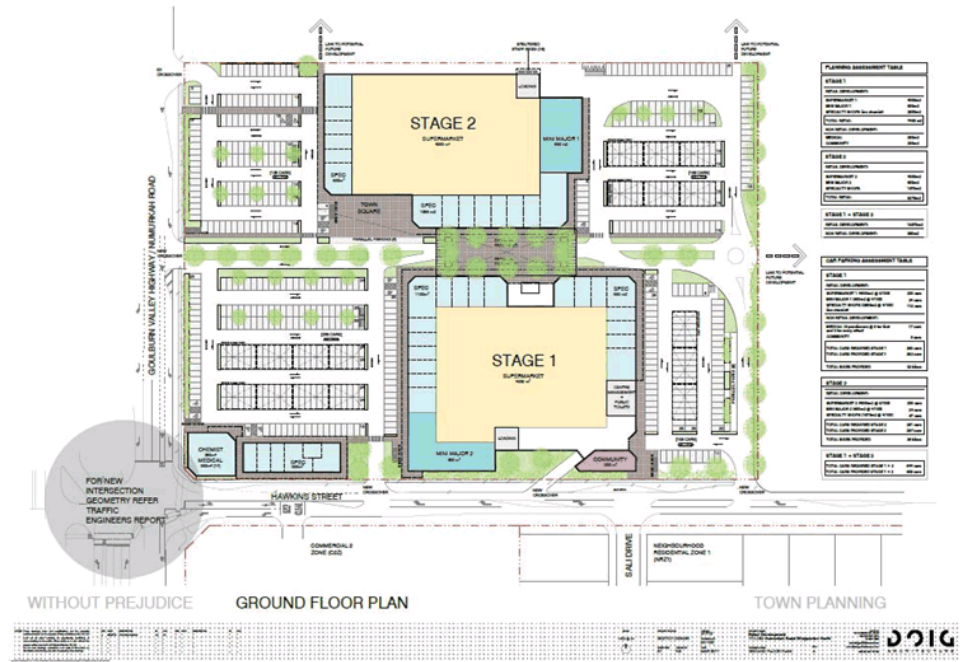
The Stage 2 proposal as originally put to Council was not supported by officers. Following various meetings and discussions with the permit applicant the combined Stage 1 and Stage 2 proposal has been revised to the extent that officers are able to support the revised proposal.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

The second amended plans (Revision A superseded)



1 SOUTH ELEVATION SCALE 1:500 @ A1



2 SOUTH ELEVATION (PART 1) SCALE 1:200 @ A1



3 SOUTH ELEVATION (PART 2) SCALE 1:200 @ A1

TOWN PLANNING 21712 Retail Development 177-193 Numurkah Road Shepparton North SK001 SOUTH ELEVATION A

AS SHOWN MAR 18 SK

DOIG ARCHITECTURE

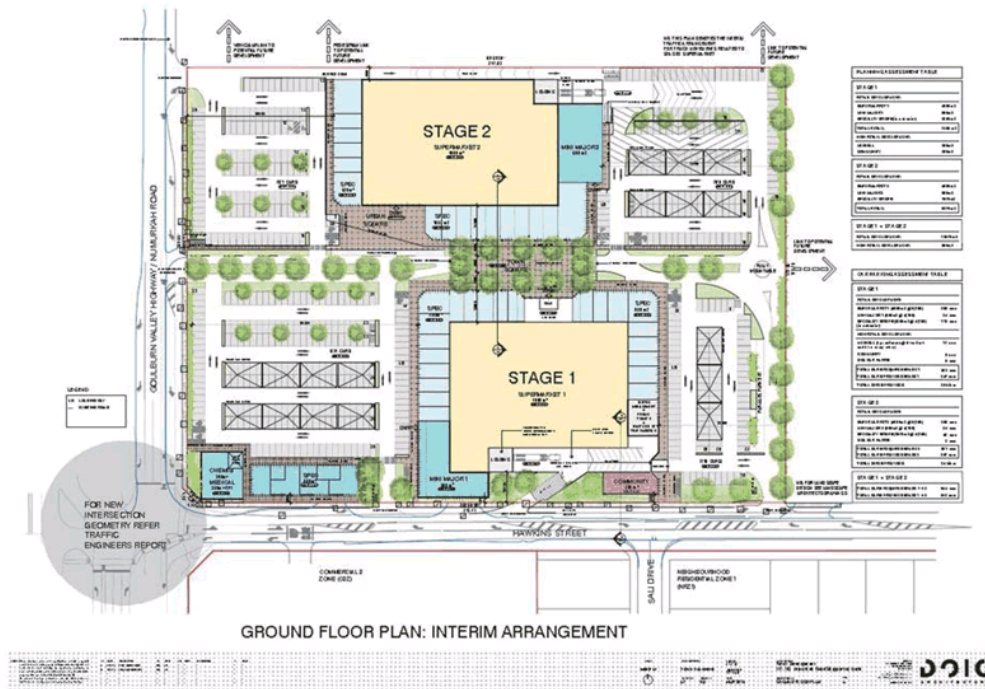


10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)



Third Amended Plans (Revision B)





10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Summary of Key Issues

- The land is within a C1Z and currently developed with an IGA supermarket.
- Infrastructure agreements have been reached with the developer in relation to contributions towards a regional drainage solution and traffic lights at the intersection of Hawkins Street and Numurkah Road.
- Officers are generally satisfied that the revised design appropriately responds to Hawkins Street and will produce an acceptable design response to the neighbourhood
- Officers note that the proposed amended development provides an improved outcome and officers no longer oppose the proposal subject to conditions
- Officers be directed to make submissions to VCAT in support of the proposed revised development

Background

A detailed background of this revised development proposal is set out below.

Date	Event
12 April 2012	Planning permit 2008-436 issued to allow the development of a neighbourhood centre
19 January 2017	An amended application was lodged with Council which proposed an 8000sqm shopping centre. This application is known as the stage 1 proposal
16 June 2017	An application was lodged with Council for an additional 5500sqm of retail floor space (the stage 2 application)
17 November 2017	Failure to grant permit applications lodged in VCAT by the permit applicant
21 November 2017	<p>Council resolved that it would of refused the stage 2 application for the following reasons:</p> <p>The Application is inconsistent with the strategic direction in the Greater Shepparton Commercial Activity Centres Strategy because approval of the Application would likely result in a third full line supermarket in Shepparton North.</p> <p>The potential for the use and development of a third full line supermarket would have a detrimental impact on Shepparton's central business district by diverting retail spend out of Shepparton's central business district.</p> <p>The responsible authority is not reasonably satisfied that a supermarket tenant has committed to occupy the floor space proposed by the Application.</p> <p>If the Application is approved without a tenant, the Application is unlikely to achieve a net community benefit because the approval of the Application would militate against approval of the supermarket currently proposed pursuant to Amendment C193 to the Greater Shepparton Planning Scheme and Planning Application 2016-269, which, if approved, appears highly likely to proceed.</p>
7 February 2018	The applicant provides a revised development proposal to Council for review



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

13 February 2018	Vic Roads subject to the submission of a traffic impact assessment report support the amended plans
21 February 2018	Further amended plans are provided to officers for review
28 February 2018	Planning officers meet with the applicants for the stage 1 and 2 proposals. At this meeting officers in detail outline their concerns with the application, which mainly relate to the interface with Hawkins Street
5 March 2018	Amended plans provided which includes additional details including elevation drawings
6 March 2018	<p>The first VCAT conference was held in which the main issues were discussed at length. The issues officers raised included:</p> <ul style="list-style-type: none"> • Treatment of Hawkins Street and turning lane impact on existing access arrangements to McDonalds • Conflicts associated with the loading dock arrangements • Hawkins Street elevation and the possibility of an inactive frontage to Hawkins Street • Landscaping of the site including the planting of canopy trees in the site • Need for onsite loading for the non-supermarket floor space • The need for an infrastructure agreement to ensure contributions are made to Council <p>It was agreed that a new set of revised plans would be prepared and submitted to officers. The applicant also agreed to provide traffic and noise report for review.</p> <p>It was generally agreed by all at the conference that subject to improved plans being provided there was no good planning reason to oppose the new application.</p>
13 March 2018	Amended plans provided which amongst other things show improved loading arrangements to Stage 2 supermarket.
15 March 2018	Officers participated in a second VCAT conference to agree on a set of Council conditions in relation to the proposal. VCAT and the parties acknowledge that Council will consider the revised proposal at the March Ordinary Council Meeting.

Further background and context discussion

It should be noted that this section of the report is for background and context only and does not form part of the basis upon which Council could make a decision regarding the current applications (if it was in a position to do so).

Consistent with Commercial Activity Centre Strategy in strategic planning terms it is appropriate that Council facilitate a second full line supermarket in Shepparton North.

The approval of the current proposal is consistent with that strategy.

However, the grant of the permit sought does not guarantee that a second full line supermarket will in fact be constructed and operated at the land. For example, amongst other things, it is possible that the approval may not be acted upon for commercial reasons, such as to protect the existing IGA supermarket at the land.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

In any event, in the current case the responsible authority must deal with the permit application on its planning merit. For the reasons outlined in this report, it is considered that following the revisions to the proposal and subject to an infrastructure agreement and conditions as proposed the proposal is acceptable.

Consistent with the interpretation of the report of the Panel in relation to C-193 Part 2, in November last year officers recommended that Council defer a decision regarding the adoption C-193 Part 2 until May 2018, to allow the proponent for a second full line supermarket at the land the opportunity to confirm that it in fact had a full-line supermarket tenant.

It is understood that the Panel recommendation is intended to avoid an outcome whereby there ends up being three full-time supermarkets in Shepparton North before the market can accommodate them. The Panel in effect confirms that both the Lascorp site and the IGA site are suitable for a second full-line supermarket.

For practical commercial reasons, it is considered unlikely that this would eventuate, amongst other things, given the rigorous market analysis undertaken by supermarket operators prior to establishing a new store.

Depending on the actual context, facts and circumstances at the date of the ordinary council meeting in June 2018, if no full-line tenant is it is confirmed, Council adopting C193 part 2, and then should the Minister approve the amendment, would allow the opportunity for the Lascorp site to be used and developed for the purpose of a full-line supermarket.

This would result in there being two sites that have the potential to be used for a second full-line supermarket in Shepparton North. Whichever site ultimately ends up being used for the purpose of a second full-line supermarket is left to matters outside of Council's planning powers.

It is considered that subject to appropriately controlling the use of floor space that may be available for shop use, it is appropriate to theoretically allow for three full line supermarkets, to facilitate the implementation of a second supermarket. This avoids the possibility of a permit holder of a second full-line supermarket on the IGA site warehousing its approval.

The above situation could arise should a full-line supermarket tenant not be confirmed in relation to the land, Council adopt C-193 Part 2 in June this year and amendment C193 part 2 and the combined permit is approved by the Minister.

Should the situation arise where there is two additional approvals for a full-line supermarket, it is considered that in practical terms there is little or no chance of a third full-line supermarket becoming operational at Shepparton North, until the market can adequately sustain it.

The approved floor space that would theoretically allow two additional full-line supermarkets can be managed to prevent other shop uses (should the full-line supermarkets not proceed) that may potentially impact on the commercial activity centre hierarchy.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

The suggested section 173 agreement that is related to the current permit proposal includes limitations on the use of shop floor space should a second full-line supermarket not eventuate. The 173 agreement proposes to prevent the use of the floor space for a department store and cinema. It further restricts the use of the floor space identified for speciality shops associated with a supermarket, should the supermarket use not proceed.

Assessment under the Planning and Environment Act

The purpose of this report is to consider amended plans that were submitted to officers on 13 March 2018 and outline future steps associated with this application.

As discussed earlier within this report the applications are currently before VCAT, therefore Council does not have the ability to approve or refuse the application. Council is required to set a position on the revised application.

Officers are satisfied with the revised proposal (third amended plans Revision B) as it includes the following design elements (subject to further design changes to meet the permit conditions below):

- Appropriate road works are proposed to allow for safe and convenient traffic movements. Proposed road works include signalisation of Numurkah Road and Hawkins Street and the provision of dedicated turn lanes from Hawkins Street to the land and Sali Drive
- Amenity impacts to the residential zoned land to the south is appropriately managed by limiting loading hours and landscaping to screen the development
- Requirement for the construction of a shared path abutting the proponents land on the northern side of Hawkins Street
- An infrastructure agreement has been reached to drain the land to the Yakka Basin which provides for an improved drainage solution for the neighbourhood
- The proposed design to Hawkins Street provides for active frontages which ensures Hawkins Street does not become back of house to the shopping centre
- Permit conditions that requires connection of the development to all urban services.
- The proposed development complies with parking requirements under 52.06.
- Conditions requiring the submission of a waste plan that details waste storage areas, times for waste collection and public bins within the car parking area
- Conditions requiring the submission of a landscape plan that has a focus on the planting of canopy trees within the car park to provide for shade and to soften the large pavement areas. Street plantings are also required on the south side of Hawkins Street abutting the residential properties. Interim landscaping of undeveloped stages is to be designed and planted.
- The provision of a mix of uses to service the community including retail, medical, gymnasium and a 195sqm community centre.

Council Plan/Key Strategic Activity

Council Plan

Built: Objective 4.1

Growth is well planned and managed for the future

Officers are satisfied that the proposed development provides an acceptable urban design outcome.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Incorrect notification	Rare	Major	Medium	Officers have recommended that the application be advertised to allow neighbours to consider and respond to the application.

Policy Considerations

The application has been considered against the policies contained within the Greater Shepparton Planning Scheme and found to achieve acceptable planning outcomes.

Financial Implications

This planning application has no significant financial implications for Council.

Legal/Statutory Implications

Title details

The title contains a Section 173 Agreement (X569060Q). The agreement relates to flood levels on the property and exempts Council from any responsibility for flood damage for buildings being constructed lower than 114.7AHD.

The title contains an easement (E-3) along the north eastern portion of the land, for the supply of water and is in favour of Goulburn Murray Water. This is proposed to be removed as part of the application.

Cultural Heritage

The land is not identified as having an Aboriginal Cultural Heritage Sensitivity.

Environmental/Sustainability Impacts

The use has no detrimental impact on the environment subject to the inclusion of appropriate drainage conditions should it be decided to grant a permit.

Social Implications

Section 60(1)(f) of the Act states the following:

Before deciding on an application, the responsible authority, if the circumstances appear to so require, must consider-

- *Any significant social effects and the economic effects which the responsible authority considers the use or development may have.*

The proposal does not raise social issues that warrant the refusal of the application.

Economic Impacts

Should Council decide to oppose the application; the investment associated with the application may be lost.

The submitted application states the cost of the development is \$14,000,000.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

Referrals/Public Notice

Officers are seeking direction from VCAT that the revised application be advertised to neighbours and referred to the relevant authorities.

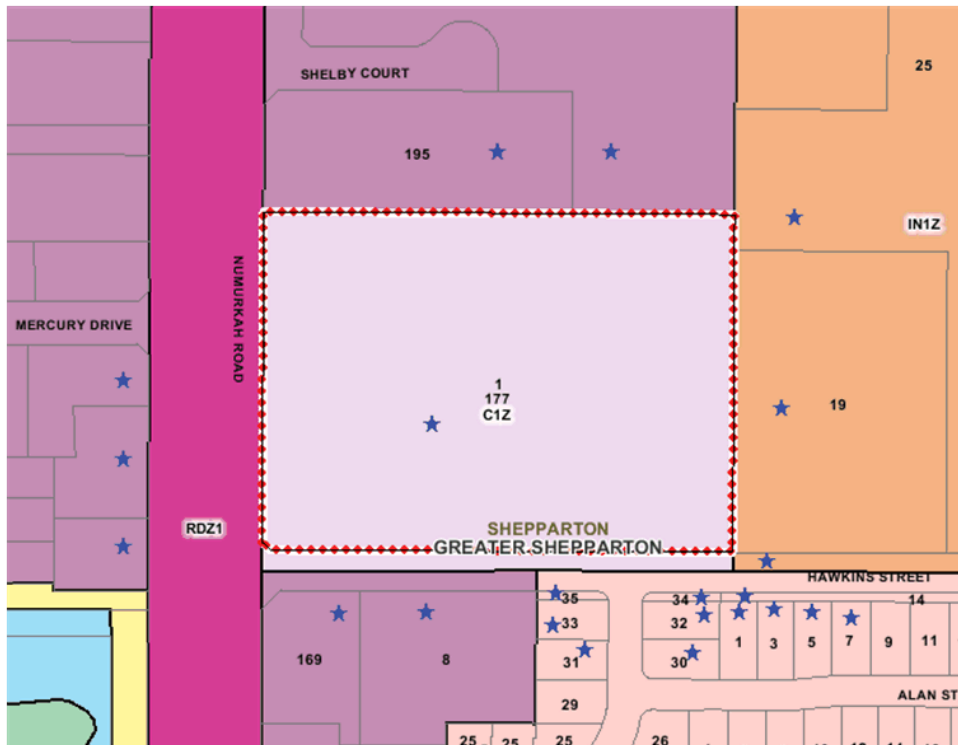
The application is to be referred to:

- Vic Roads (52.29)
- Public Transport Victoria (66.02-11)
- Goulburn Broken CMA (44.04-5)

The application is to be notified to:

- Goulburn Valley Water
- Goulburn Murray Water
- Powercor
- APA

Officers recommend that the revised application be advertised to owners and occupiers as shown below.



Strategic Links

The Greater Shepparton 2030 strategy (GS2030) is a reference document in the planning scheme under 21.09.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

A reference document is described by Practice Note 13 Incorporated and Reference Document as:

Reference documents provide background information to assist in understanding the context within which a particular policy or provision has been framed.

Reference documents have only a limited role in decision-making as they are not part of the planning scheme. They do not have the status of incorporated documents or carry the same weight.

Section 6 Commercial / Retail Centres

The retail industry is an important component of the local economy, with approximately 4,000 residents or approximately 17% of the resident labour force employed in the industry in 2001 (ABS Census for Population and Housing). This industry is also important for its role in delivering goods and services to households and businesses.

Shepparton CBD is the principal retail centre in the municipality and plays an important regional role. The main trade area served by Shepparton CBD comprises Greater Shepparton, plus the surrounding municipalities of Moira and Strathbogie and the southern and eastern parts of Campaspe Shire. Shoppers are also drawn from the wider Goulburn Valley, Benalla, Seymour and Wangaratta, and as far north as Deniliquin in NSW.

The Shepparton CBD has a well-established role as the major regional centre for retailing and other activities, but there is increasing competition from the Shepparton Marketplace, particularly in convenience-type retailing.

If the Shepparton CBD is to maintain its primary regional role, there is a need to emphasise the CBD's opportunities as a location for entertainment, tourism and specialty retailing, and as the location for higher-order professional and community services, etc. The provision of an appropriate range of retail and entertainment facilities, as well as other higher-order services (such as health, legal, accounting, etc) has the potential to generate increased spending by residents and visitors.

Objective 2

To develop the Shepparton CBD as the regional centre for commerce and entertainment.

Objective 4

To develop and maintain a hierarchy of viable activity centres by retaining local and visitor spending in the municipality

Amendment (C-192) and C-193

Amendment C-192 of the planning scheme seeks to implement the findings of the Commercial Activity Centre Strategy (November 2015)

The Amendment introduces planning controls and policy into the Planning Scheme to implement key priorities of the Strategy, particularly, to ensure the primacy of the Central Business District (CBD) as a key regional retail and commercial centre, providing a hierarchy of activity centres and defining their role in supporting retail growth in Shepparton.



10. SUSTAINABLE DEVELOPMENT DIRECTORATE

10.9 Amended Development Proposal (IGA) 177-193 Numurkah Road (continued)

In the Strategy Shepparton North is identified as a sub-regional centre, however it is noted that this role is not being fulfilled.

For Shepparton North to fulfil its role, it is suggested that a second full line supermarket and supporting retail uses is required.

In this regard, the strategy notes that a second full line supermarket and supporting retail would be appropriate in the area bounded by Hawkins Street to the south and Ford Road to the north.

C-193 part 2 relates to a combined planning application and planning scheme amendment to allow for the land at 221-229 Numurkah Road and 10 Ford Road to be rezoned to the Commercial 1 Zone and to allow for a full line supermarket and associated retail development (including community centre, child care centre and bar / restaurant)

A Planning Panel has considered both amendments and has recommended the adoption of C-192 of the planning scheme (with minor amendments).

1) The Panel recommended that Amendment C193 be split into Part 1 – Application of the PAO and Part 2 – Rezoning of the proposed supermarket site, and that Part 2 be deferred pending considerations regarding a structure plan being prepared for the Shepparton North Activity Centre and confirmation of a tenant being secured for supermarket proposed in stage 2.

2)

In terms of section 60 of the *Planning and Environment Act 1987*, C-193 part 2 is of contextual relevance only to a decision regarding the current proposal, as, amongst other things, C-193 part 2 is not adopted by Council. It is contemplated that C193 Part 2 will be put to Council for a decision regarding adoption at its Ordinary Meeting in June 2018.

Conclusion

Planning and Engineering officers have undertaken an assessment of the revised proposal and recommended that Council support the proposal. Officers have prepared a detailed set of conditions to mitigate potential amenity and infrastructure impacts of the proposal.

As the application is before VCAT, officers will make submissions to VCAT in support of the proposed revised development for the reasons as outlined in this report.

Attachments

Nil

Planning and Environment Act 1987

GREATER SHEPPARTON PLANNING SCHEME
AMENDMENT C193 (PART 2)
PLANNING PERMIT APPLICATION 2016-269
EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Greater Shepparton City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Debra Butcher Consulting Pty Ltd on behalf of Lascorp Development Group Pty Ltd.

Land affected by the Amendment

The amendment rezones land at 221-229 Numurkah Road and 10 Ford Road, Shepparton, as shown Figure 1 – *Land to be rezoned*. The land is approximately 3.8 hectares, with frontages to Ford Road (north) and Numurkah Road (west).

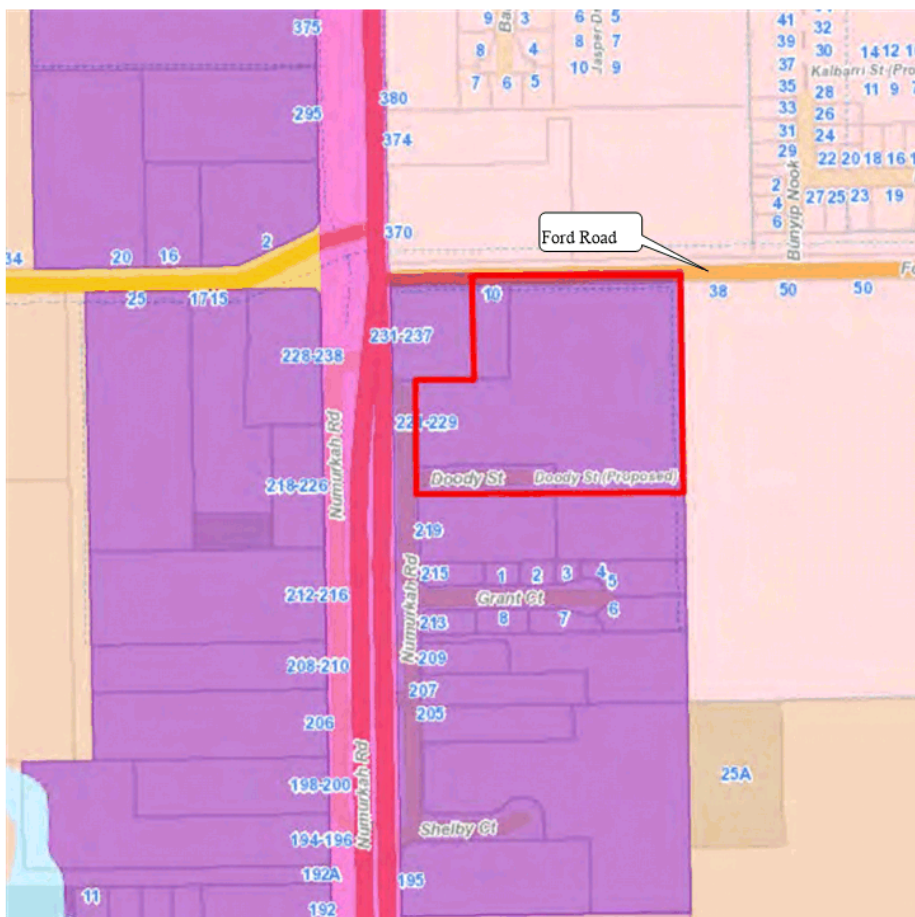


Figure 1 – Land to be rezoned (outlined in red).

The amendment is a combined planning permit application and planning scheme amendment under Section 96A of the *Planning and Environment Act 1987* (Act).

The planning permit application applies to land at 221-229 Numurkah Road and 10 Ford Road.

What the amendment does

Concurrent with the planning scheme amendment is a planning permit made pursuant to Section 96A (1) of the Act.

The planning permit is for the use of land for a community meeting space, buildings and works in the Commercial 1 Zone, erection and display of advertising signs, a packaged liquor licence and creation of access to a Road Zone Category 1.

Specifically, the planning scheme amendment makes the following changes:

- Rezones land at 221-229 Numurkah Road and 10 Ford Road, Shepparton North from Commercial 2 Zone to Commercial 1 Zone; and

Amends planning scheme map no. 14. Specifically, the planning permit allows the following permissions:

- Buildings and works for a supermarket and additional retail space, medical centre and community meeting space;
- Use of the land for a community meeting space;
- Packaged liquor licence (bottle shop);
- The creation and alteration of access points to a road in a Road Zone Category 1; and
- Erection and display of advertising signs.

The development will comprise of the following key elements:

- A 'full-line' supermarket comprising 3,960 square metres which includes an area for the sale of liquor. The west facing main entry to the supermarket will be access via a town square area with seating and outdoor dining options in conjunction with the west facing tenancies located to the north of the entry. The loading dock to the supermarket will be located on the east side of the building with access via Ford Road and egress provided via Doody Street;
- Specialty retail tenancies wrapping around the supermarket building along its west and north sides with a total floor area of 2,030 square metres. The specialty retail tenancies are expected to comprise a variety of uses including shops, cafes, takeaway food premises and other retail uses. Delivery areas for the specialty retail tenancies are located to the north east and south west corners of the supermarket;
- A chemist and medical centre will be adjacent to the south west corner of the supermarket. This tenancy will have a floor area of 560 square metres of which approximately 300 square metres will be used for the medical centre and 260 square metres for the chemist;
- A space to be used for community purposes is to be located in one of the tenancies along the north side of the centre;
- Bicycle facilities are located adjacent to the south west corner of the supermarket including change room facilities and internal bike lockers. Additional external bicycle parking is also located adjacent to the north west corner of the building.
- Convenient pedestrian access is accessible throughout the development. This includes along the frontage of all the specialty stores, with a direct pedestrian connection through to Numurkah Road from the town square and supermarket entry and additional connections along Doody Street and to the south, providing access to the recently approved child care centre and the future residential development to the east; and

- One pylon sign is to be located along Numurkah Road and one located along Ford Road, both extending to a height of approximately 11.5 metres.

Strategic assessment of the Amendment

Why is the Amendment required?

The combined amendment/ permit rezones the land to allow for the commercial development on the site. Under the provisions of the Commercial 2 Zone, the use of the land for a supermarket with a floor area of greater than 1,800 square metres is prohibited. Therefore, the land must be rezoned to Commercial 1 Zone to facilitate the development.

The community facility would also require a planning permit in a Commercial 2 Zone, as would the erection and display of signs.

The combined amendment/ permit is required to implement the findings and recommendations of the *Commercial Activity Centres Strategy, November 2015* (the Strategy) in relation to Shepparton North.

Commercial Activity Centres Strategy November 2015

The rezoning and permit has strong support in the Strategy. The Strategy was adopted by Council at the Ordinary Council Meeting held on 15 February 2016 and:

- *Provides a clear understanding of the role and function of urban and rural activity centres in Greater Shepparton;*
- *Identifies future retail/commercial floor space requirements for activity centres; and*
- *Identifies the relationship between economic activity, population levels, demographics, and social sustainability of activity centres.*

The Strategy defines an activity centre hierarchy for Greater Shepparton, and designates Shepparton North as a subregional centre. The Strategy notes the centre lies within the Gateway North Enterprise Corridor but does not form part of the Corridor.

The Strategy includes the permit granted to the Fairley's IGA site for an additional 4,000 square metres retail space in its baseline assessment of available retail floor space, noting there is a current floor space cap of 8,000 square metres retail. It further states that the opportunity for expansion within the vacant Commercial 1 Zoned land has not been realised and while it is identified as a sub-regional centre in the hierarchy, the Strategy identifies it is currently functioning in a more limited role. The centre is dominated by a single use (supermarket) and a lack of diversity in the retail and commercial activities when compared to the other sub-regional centres of Riverside Plaza and Mooroopna. For the centre to realise its expected sub-regional service role, it must contain a broader range of retail and commercial functions.

The Strategy recommends six actions in relation to the Shepparton North Activity Centre, five of which relate to Amendment C193 (Part 2). Action 1 encourages the expansion of retail and commercial facilities in the existing Commercial 1 Zone area. However, Action 3 states that retail and commercial development may be appropriate outside the existing Commercial 1 Zone specifically to accommodate a second supermarket, and that an appropriate site in the area fronting the Goulburn Valley Highway between Ford Road in the north and Hawkins Street in the south can be endorsed for this extension to the Commercial 1 Zone. The combined amendment/ permit therefore aligns with this action.

The amendment/ permit also aligns with Action 2, providing a range of retail and non-retail facilities consistent with sub-regional status, including a second full line supermarket. A provision in Amendment C192 ensures this will not include a major non-food retail anchor.

Similarly, Amendment C192 incorporates the recommendation to discourage discount department stores and other major non-food based anchor tenants in the Shepparton North Centre.

Action 5 states that once the location of an expanded Commercial 1 Zone in Shepparton North is identified Council should develop an urban design framework or similar assessment that provides appropriate guidance on how the centre can develop in a manner that provides a high-level of amenity to shoppers and is consistent with best-practice activity centre development guidelines. The amendment is accompanied by a planning permit, which ensures the development of the centre can be assessed as part of any approval. The existing *Urban Design Framework – Shepparton North and South Business Areas July 2006* is also currently being expanded to include design guidelines in relation to this land and land further South in Kialla, to ensure the land continues to be developed in an appropriate manner.

The Strategy provides *Planning and Assessment Criteria* for considerations in the assessment of planning applications. These include Accessibility and Urban Design, Retail Demand/ Need and Retail Supply. Council is satisfied the *Shepparton North Neighbourhood Centre Economic Impact Assessment January 2017*, accompanying the amendment/ permit, provides sufficient information to allow for an accurate assessment of the economic impact of the amendment. This matter is further discussed in the *Economic Effects* section of this Explanatory Report.

In relation to Accessibility and Urban Design, Council has undertaken an assessment against the relevant sections of State and Local Policy, the Strategy and State Government Urban Design Guidelines, which is detailed elsewhere in this report.

Council is satisfied the amendment/ permit is consistent with the suggested guidelines for assessing relevant applications as provided in the Strategy for the following reasons/;

1. The amendment is consistent with the guidance for developing additional retail floor space as provided in the Strategy and with the draft *Urban Design Framework: Shepparton North and South Business Areas Addendum, 2017*, as prepared by Planisphere. The combined permit/ amendment allows for a thorough consideration of the design and layout of the development, to ensure it integrates architecturally and functionally into the surrounding areas.
2. The amendment provides sufficient articulation and activation along the eastern elevation (frontage), with the inclusion of landscaping to create a town square, fenestration to provide surveillance of the street/ car parking area and provision of seating for cafes. The northern elevation provides access from all retail onto the street, with identification for each frontage. The western elevation is a long wall, however it is considered appropriate given it is primarily for loading and heavy vehicle access. Landscaping, and a drainage easement setting back the building from the boundary will ameliorate the impact of this wall to the west. The southern boundary will be sufficiently articulated given its primary function is access to the click and collect bay and loading for the medical centre. The building will be articular via fenestration to the front of the building provided by the medical centre and a green wall along the central element, as well as landscaping, softening the appearance from the street. Pedestrian access will be provided along the southern boundary of the site, separated via a landscaped nature strip, which is considered an appropriate measure to protect the safety of pedestrians given the road will be used by heavy vehicles.
3. The amendment provides pedestrian access and cycling connections to the proposed residential developments to the north east and east of the site and permit conditions will require provision for public transport infrastructure at the site.
4. The amendment integrates with a range on non-retail commercial and community facilities, including a medical centre and community facility, with easy access to the recently approved childcare centre to the south.

How does the Amendment implement the objectives of planning in Victoria?

The amendment meets the objectives of planning in Victoria under section 4(1) of the *Planning and Environment Act 1987* by providing for the fair, orderly, economic and

sustainable use and development of land in commercial areas throughout Shepparton, and protecting the primacy of the CBD.

The changes to local policy, particularly Clause 21.06 *Economic Development*, addressing objectives and strategies for the growth and hierarchy of commercial areas, will consolidate and strengthen the retail and commercial role of the Shepparton CBD, and provide a pleasant, efficient and safe working, living and recreational environment for all residents, business operators, employees and visitors to Shepparton.

Objective (a) *'to provide for the fair, orderly, economic and sustainable use and development of land'*

Objective (c) *'to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria'*

Objective (g) *'to balance the present and future interest of all Victorians'*

The amendment meets objectives (a), (c) and (g) of planning in Victoria by providing for the orderly, economic and sustainable use and development of land in the municipality. The amendment helps to strengthen the existing businesses and the economy of the region through the provision of the development in an area designated for a larger Sub-regional Activity Centre. The development is located in an area of considerable growth, with an identified need for additional retail services.

The amendment balances the interests of the community through the provision of a high quality, supermarket centre with community facilities that will not detract from, nor be detrimental to, the CBD shopping precinct. The amendment will also ensure a pleasant, efficient and safe working, living and recreational environment by generating regional benefits through additional employment and service provision.

How does the Amendment address any environmental, social and economic effects?

Environmental

The combined amendment/ permit is not expected to result in any significant environmental effects. The site is currently used for grazing and contains primarily grassed land. Any development will require adequate landscaping as well as stormwater drainage and strategies to limit off site impacts.

Social

The combined amendment/ permit will provide a larger activity centre with improved access to a diverse range of services for the wider community. The combined amendment/ permit includes an area for community meeting space and a childcare centre, with connections to residential areas to the east and south of the site.

The combined amendment/ permit will achieve a positive social outcome, resulting in the development of a larger neighbourhood activity centre with improved access to a diverse range of services for the wider community. The amendment will provide additional childcare and community space options for residents in the region.

It is not expected that there will be any negative social impacts on adjoining land as a result of this combined amendment/ permit. The amendment will result in a net community benefit by providing a pleasant and safe working and recreational environment in the northern corridor of the city.

Economic

At the Ordinary Council Meeting on 16 February 2016, Council resolved to:

Discourage the allocation of additional retail floor space in the Shepparton North Activity Centre until there is evidence that this will not have a detrimental effect on the CBD, in accordance with Appendix A of the Commercial Activity Centres Strategy.

The *Shepparton North Neighbourhood Centre Economic Impact Assessment January 2017* (the Report), prepared by MacroPlan Dimasi Pty Ltd, accompanies the combined

amendment/ permit, providing an assessment of the impacts that may result from the amendment on the existing retail base in Shepparton North and the CBD.

The Report acknowledges that the provision of a second full line supermarket in Shepparton North is likely to have trading impacts on existing facilities, however these impacts will not be such as to threaten any existing facility's ability to continue operating successfully.

The development will provide a supermarket and associated retail shops to serve the convenience shopping needs of local residents, and as such will not adversely impact retailers within the Shepparton CBD. The Report states the Shepparton CBD will remain a regular destination for the bulk of shopping needs.

The Report was reviewed on Council's behalf by PDA Hill Pty Ltd in January 2017. PDA Hill Pty Ltd found that the impact assessment undertaken by MacroPlan Dimasi Pty Ltd was broadly acceptable. It is likely that the supermarket will have a degree of impact on the existing IGA and CBD supermarkets, while the scale of the impact of the associated speciality shops is capable of being comfortably absorbed by the CBD. Importantly, the assessment supported MacroPlan Dimasi Pty Ltd's finding that the scale of possible impact is considered acceptable and will not present a real risk of closure of the IGA or CBD stores.

The amendment will provide additional supermarket floor space in the North, which is has been identified as a requirement in the Strategy. The supermarket will provide an additional 252 ongoing jobs and cost approximately \$10 million to develop.

The provision of an additional supermarket in Shepparton North will also ensure that the area continues to serve a sub-regional function with the Shepparton Activity Centre hierarchy, servicing the wider northern region.

Amendment C192

Council officers prepared Amendment C192 to implement the general recommendations of the Strategy. This included rezoning commercially zoned land along the Benalla Road Enterprise Corridor, Wyndham Street North and the Shepparton Marketplace to the Activity Centre Zone and strengthening support for certain uses to be established within the Shepparton CBD. Amendment C192 also provided additional supporting information for planning scheme amendments rezoning land for commercial uses outside of the CBD.

In relation to Shepparton North, Amendment C192 implements the recommendations from the Strategy, amending the Municipal Strategic Statement relating to the Shepparton North Activity Centre to state the following, *'encourage expansion of retail and commercial convenience facilities in Shepparton North, subject to detailed planning and development assessment criteria'*.

Amendment C192 was approved by the Minister for Planning on 21 May 2018.

Does the Amendment address relevant bushfire risk?

The land is not within the Bushfire Management Overlay, nor a designated bushfire prone area (BPA) under the Building Code of Australia. The landscape setting of the land – within an area of open (cleared) farmland surrounded by Commercial properties, does not pose an unacceptable risk to life (as a priority), property, community infrastructure or the natural environment from bushfire.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The combined amendment/ permit is consistent with the Ministerial Direction on the Form and Content of Planning Schemes pursuant to section 7(5) of the Act.

The combined amendment/ permit is consistent with the Minister's Direction No. 11 on Strategic Assessment of Amendments under section 12(2) of the *Planning and Environment Act 1987*.

The combined amendment/ permit is consistent with the Minister's Direction No. 15 on the Planning Scheme Amendment Process under section 12(2) of the *Planning and Environment Act 1987*.

How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?

The State Planning Policy Framework (SPPF) of the Scheme seeks to ensure that land use and development planning policies in Victoria meet the objectives of planning in Victoria as set out in the *Planning and Environment Act 1987*.

The amendment supports and implements Clause 11 *Settlement*, Clause 15 *Urban Design*, Clause 16 *Housing*, Clause 17 *Economic Development* and Clause 18 *Transport* of the State Planning Policy Framework by guiding major retail, commercial, administrative, entertainment, residential and community uses and development into a designated sub-regional activity centre.

The combined amendment/ permit supports:

- Clause 11 *Settlement* as it provides a retail development that, responds to the needs of existing future communities and provides an activity centre of a size and function that is a focus for shopping and community. The amendment will provide a variety of land uses highly accessible to the community.
- Clause 15 *Built Environment and Heritage* creating an urban environment that is safe, functional and of good quality.
- Clause 15.01 *Urban environment* as it provides a development that responds to the urban character and takes into account Council's design policies (draft Urban Design Framework) for this location. The site is located on a corner allotment fronting Ford Road to the north and Numurkah Road to the west. Council has considered the *Activity Centre Design Guidelines*, in particular *Element 6: Malls and Large Stores*, and is satisfied the amendment response to the design requirements, integrating pedestrian and cycling access from the residential growth area to the east/ north east, and providing a footpath around the entire site.
- In addition, there is an existing business located to the north west of this parcel, impacting the layout and design of the amendment. The development seeks to provide adequate setbacks from this business via landscaped car parking, and provides activation along the frontage of the supermarket, including areas for seating, windows along the western elevation, a range of materials and colours to provide articulation and a landscaped 'town square' to create an entry to the supermarket. Shops along the northern elevation will have access from the car park, while it is considered acceptable that the southern and eastern elevation are not activated, given their function as a loading area/ click and collect bay, and not a residential street.
- Clause 15.01-2 as the architectural and urban design contributes positively to the local urban character and enhances the public realm while minimising detrimental impact on neighbouring properties.
- Clause 17 *Economic Development* as it provides a development that meets the communities' need for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- The combined amendment/ permit responds to the Clause 17 locating, 'commercial facilities in existing or planning activity centres' and 'provides new convenience shopping facilities to provide for the needs of the local population in new residential areas within, or immediately adjacent to, existing commercial centres'.
- Clause 18 *Sustainable Personal Transport* as it encourage opportunities for sustainable transport options such as walking, cycling and public transport and will comply with Clause 18.02-5 *Car Parking* to 'ensure an adequate supply of car parking

that is appropriately designed and located' to ensure that residential amenity is protected from the 'effects of road congestion created by on-street parking'.

- Clause 19 *Infrastructure*, planning for the appropriate provision of such infrastructure and services.

Hume Regional Growth Plan

The Hume Regional Growth Plan, 2014 shows Shepparton as a major growth location, while the amendment is located within a designated 'key residential growth front' in the northern growth corridor. The amendment will provide opportunities for employment and community facilities to people in this growing residential area, and the broader catchment area.

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment is consistent with the policies and controls of the Greater Shepparton Planning Scheme, including the Municipal Strategic Statement outlined within the Local Planning Policy Framework.

The combined amendment/ permit aims to incorporate the objectives of the Strategy to provide a sub-regional activity centre servicing Shepparton North, in accordance with the hierarchy of activity centres.

The combined amendment/ permit responds to the following objectives of the Municipal Strategic Statement:

- Clause 21.04-4 *Urban Design*, promoting high quality architecture, urban design and sustainable development.
- Clause 21.05 *Environment*, particularly in relation to floodplain and drainage management. The amendment is supported by a strategy responding to floodplains and drainage ensuring that new development maintains the free passage and temporary storage of floodwater and encouraging the development of surface water management systems with run-off into natural systems or into reuse storage for irrigation.
- Clause 21.06-5 *Commercial/ Activity Centres*, providing employment diversity, economic growth and business development. It also provides additional retail space in a growth area of Shepparton North, in accordance with the retail hierarchy.

Clause 21.06-5 identifies an Activity Centre Hierarchy based on the findings of the *Greater Shepparton 2030 Economic Development Report*. The hierarchy identifies 'Fairley's Numurkah Road' as a Neighbourhood/Township Centre. The amendment/ permit implements a number of strategies for Commercial/Activity Centres which including:

- *'Support a hierarchy of retail centres that promotes the primacy of the Shepparton CBD as a multi-function centre complemented by local centres for convenience shopping.*
- *Identify lower order neighbourhood retail and community centres to serve convenience needs of north Shepparton, Mooroopna and Kialla.*
- *Facilitate the expansion of the neighbourhood centre in the north at the Fairley's supermarket site subject to an Economic Impact Assessment.*
- *Encourage shops to front the road, be built in line with other buildings, and have regard to the location of car parking, landscaping and pedestrian areas.*

The amendment/ permit provides an activity centre in the north in close proximity to the Fairley's supermarket site as envisaged by the Strategy.

The recently updated 'Shepparton Business Framework Plan' at Clause 21.06 *Economic Development* of the Planning Scheme shows the subject site as being within "potential site for Shepparton North activity centre expansion".

The combined amendment/ permit responds to the objectives of Clause 21.07 *Infrastructure* including:

- *Support new facilities such as community centres, neighbourhood centres, sporting facilities, entertainment and health services to be located in proximity to public transport routes and/or bicycle paths.*
- *Provide cost efficient physical and social infrastructure to support growth.*
- *To maintain and enhance stormwater quality throughout the municipality.*
- *To ensure that new development complies with the Infrastructure Design Manual.*

Does the Amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the VPPs by implementing the appropriate strategic work to enable better administration of the Greater Shepparton Planning Scheme. The amendment applies the Commercial 1 Zone to a specific area in Shepparton North to facilitate the development of a supermarket centre as encouraged in the Municipal Strategic Statement and the Strategy.

The Strategy identifies the possible expansion of the Commercial 1 Zone to support an indicative 6,000 square metres of shop floorspace may be supported on land outside the existing Commercial 1 Zone. This is sufficient to accommodate a second supermarket and supporting retail.

How does the Amendment address the views of any relevant agency?

The planning permit has been referred to a number of agencies including VicRoads, Public Transport Victoria (PTV), Goulburn Broken Catchment Management Authority and Goulburn Valley Water for comment and incorporated any comments/ conditions into the draft feedback and the assessment on the amendment. There will be an opportunity for relevant authorities and departments to formally comment on the amendment as part of the exhibition period.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The purpose of the *Transport Integration Act 2010* is to create a new framework for the provision of an integrated and sustainable transport system in Victoria. The vision statement recognises the aspirations of Victorians for an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible state.

The objectives of the *Transport Integration Act 2010* relate to social and economic inclusion, economic prosperity, environmental sustainability, integration of transport and land use, efficiency, coordination and reliability, and safety and health and wellbeing.

The combined amendment/permit will impact the transport system at a local level, requiring upgrades to nearby parts of the road network to enable connectivity to the site.

The amendment and permit will meet transport system objectives by:

- Ensuring that transport will be appropriately planned and designed. The provision of footpaths and connectivity to residential areas to the north and east will allow permeability through the site for pedestrians and cyclists, while active street interfaces and open space will improve personal safety through increased surveillance and activity.
- Providing pedestrian and cycling opportunities for future residents, which supports the social and economic inclusion objectives of the *Transport Integration Act 2010*.
- Involving relevant government bodies responsible in the provision of transport infrastructure and services in the decision making process of the amendment.

The amendment supports the decision making principles of the *Transport Integration Act 2010* – it demonstrates integrated decision making as it has been prepared by Council in accordance with state and local policy, and in consultation with VicRoads and PTV. There will be an opportunity for further consultation with the community and relevant referral agencies during exhibition.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

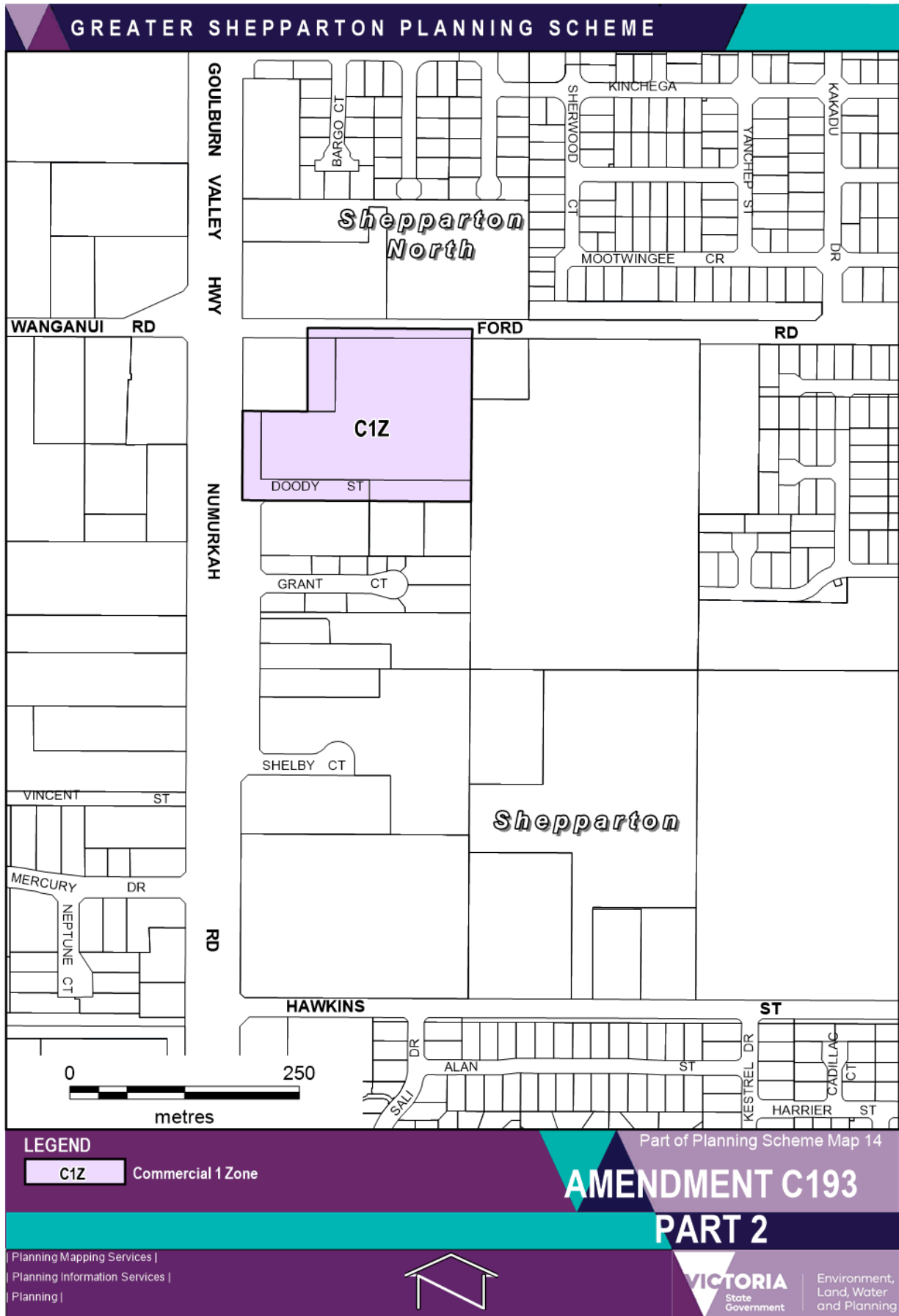
The amendment will have minimal impact on the resources or administrative costs of the Council. Any costs associated with a Planning Panel, if required, will be funded out of the Sustainable Development (Building and Planning Department) Directorate's general budget.

Where you may inspect this Amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

Greater Shepparton City Council, 90 Welsford Street, Shepparton or online at the Greater Shepparton City Council website at www.greatershepparton.com.au.

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at <https://www.planning.vic.gov.au/planning-schemes/amending-a-planning-scheme/planning-documents-on-exhibition>



Planning and Environment Act 1987

GREATER SHEPPARTON PLANNING SCHEME

AMENDMENT C193 PART 2

INSTRUCTION SHEET

The planning authority for this amendment is the Greater Shepparton City Council.

The Greater Shepparton Planning Scheme is amended as follows:

Planning Scheme Maps

The Planning Scheme Maps are amended by a total of 1 attached map sheet.

Zoning Maps

1. Amend Planning Scheme Map No. 14 in the manner shown on the 1 attached map marked "Greater Shepparton Planning Scheme, Amendment C193 Part 2".

End of document

Planning and Environment Regulations 2005 Form 9

PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF
THE PLANNING AND ENVIRONMENT ACT
1987

Permit No.: 2016-269

Planning Scheme: Greater Shepparton

Responsible Authority: Greater Shepparton
City Council

ADDRESS OF THE LAND:
221-229 Numurkah Road and 10 Ford Road
SHEPPARTON VIC 3630**THE PERMIT ALLOWS:**

Use of land for a (place of assembly) community meeting space, buildings and works in the Commercial 1 Zone, erection and display of business identification signs, a packaged liquor licence and creation of access to a Road Zone Category 1

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**1. Amended Plans Required**

Before development starts, 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 the permit. The plans must be drawn to scale with dimensions and a minimum of two copies (or as specified) must be provided. The plans must be generally in accordance with the plans submitted with the application and placed on public exhibition being plans TP02 Rev B, TP03 Rev A, TP05 Rev A, TP06 Rev A, TP07 Rev A, TP08 Rev A, TP09 Rev A, TP10 Rev A prepared by i2C dated 17.01.17, but modified to show:

- a) Existing site conditions, generally in accordance with Plan TP01 Rev A dated 17.01.17;
- b) Location of the liquor store within the supermarket, road works, drainage pipes, public transport stops and taxi parking bays generally in accordance with TP02 Rev C and TP03 Rev B dated 26.06.17;
- c) Roof plan generally in accordance with TP04 Rev B dated 26.06-17;

Date Issued:**Date Permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the Responsible Authority

 Permit No.: 2016-269

Planning and Environment Regulations 2005 Form 9

- d) Modifications to the southern elevation facade facing to the carpark generally in accordance with TP06 Rev B dated 26.06.17;
- e) Modifications to the facade to the medical centre generally in accordance with TP10 Rev B dated 20.06.17;
- f) Pylon sign details generally in accordance with TP11 Rev A;
- g) Survey to locate sewers under the land and all structures to be setback one metre from any Goulburn Valley Water asset as required by Goulburn Valley Water;
- h) 2 metre wide footpaths along the lands frontage to Ford Road, Numurkah Road and the northern side of Doody Street;
- i) Correction of the location of the left turn arrow on Ford Road to the entries eastern most vehicle access to the land;
- j) Further details to show that pedestrian and cyclist movement to and within the development will be clearly demarcated;
- k) Modifications to the southern elevation to Doody Street to show greater opportunities for passive surveillance and an active frontage;
- l) Modifications of the loading and unloading areas to ensure safe pedestrian and cyclist movement along Doody Street;
- m) Provide a greater landscape buffer along the eastern boundary;
- n) Lower the height of the high-wall sign on the southern elevation to reduce its visual impact in close proximity to Doody Street;
- o) Details of the road management works to Numurkah Road as detailed in Condition 8; and
- p) Closure details of the northern access point to 228 Numurkah Road through the western median to create a two-way service road and modifications to the central median to allow south bound egress from the service road.

2. Layout Not Altered

The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority

3. Civil Construction Requirements

Before any of the development starts, detailed plans with computations 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 the permit. The information submitted must show the details listed in Council's Infrastructure Design Manual (IDM) and be designed in accordance with the requirements of that manual as well as show:

Drainage

- a) details (and computations) of how the buildings and works on the land is to be drained including underground pipe drains conveying stormwater to the legal point of discharge;
- b) a litter trap at the drainage outfall from the site to prevent any litter from

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entering Councils drainage system;

- c) documentation demonstrating how drainage will be designed so neighbouring properties are not adversely affected by the development, including water flow to and from neighbouring properties;

Car Parking

- d) detailed plan of the car park with no less than 309 on site car parking spaces, including eight disabled bays and long vehicle parking bays unless a lesser number of car parking spaces is approved in writing by the responsible authority on account of accommodating landscaping pursuant to the landscape plan requirements under this permit;
- e) provision of at least 29 bicycle spaces on the land and one end of trip facility for employee use including a change room and showers;
- f) carparking areas, circulation lanes and access shall be designed and constructed to the satisfaction of the responsible authority;
- g) all areas associated with car parking, circulation lanes and access be surfaced with an all-weather seal coat, line marked to indicate each car space and access lane and traffic control signs installed including signage directing drivers to the area(s) set aside for car parking;
- h) provision of a signage and line marking plan for the internal accessways;
- i) location of trolley bays and rubbish bins within the car park;
- j) proper illumination with lighting designed, baffled and located to the satisfaction of the responsible authority to prevent any adverse effect on adjoining land;
- k) detailed intersection layout of the cross intersection at the lands entry from the Numurkah Road service road.

Road Works

- l) construction plans of the extension of Doody Street in accordance with the IDM;
- m) construction details of the intersection treatments to Ford Road including right, left and through lanes, swept path movements for single articulated vehicles and intersection lighting;
- n) construction details of kerb and channel incorporating underground drainage along the lands frontage to Ford Road;
- o) removal of all redundant vehicle crossings and replacement with concrete kerb and channel along the sites frontage;
- p) traffic details including swept paths to show that the revised access

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arrangements to the Numurkah Road service road continue to provide for over size heavy vehicle movements that access 219 Numurkah Road;

- q) lighting of the intersections of Ford Road and entries to the land;
- r) no standing signs abutting the site on the southern side of Ford Road;
- s) construction details of the loading area and Click and Collect bays abutting Doody Street including measures to manage conflicts between vehicles and pedestrians;
- t) construction details of the vehicle access from the land to Doody Street;
- u) Closure details of the northern access point to 228 Numurkah Road through the western median to create a two-way service road and modifications to the central median to allow south bound egress from the service road;

Footpath Works

- v) a 2 metre wide footpath on the northern side of the street);
- w) a 2 metre wide footpath along the lands frontage to Ford Road and across the frontage of 231 Numurkah Road to the western boundary of 231 Numurkah Road;

Noise Control

- x) design details of acoustic treatments as recommended in the Acoustic Consulting Australia Pty Ltd report dated 23 January 2017 including:
 - o an acoustic fence along the entire eastern boundary of the land with a height of 2.8 metre above the roadway height;
 - o acoustic screening of the condenser platform;
 - o supermarket refrigeration compressors be located inside a dedicated and acoustically treated plant room;
 - o the supermarket loading dock acoustically treated.

Other

- y) underground power connection to the buildings and screened electrical substation;
 - z) fencing design of the common boundaries with 231 - 237 Numurkah Road, Shepparton;
 - aa) construction details of the proposed shade sails.
- to the satisfaction of the responsible authority.

Before the occupation of the development all civil works as shown on the endorsed

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plans must be constructed and be in accordance with the endorsed plans to the satisfaction of the responsible authority.

Before the occupation of the development, the extension to Doody Street must be vested to Council as a Road.

Within two months of the development being occupied a full set of as constructed plans must be provided to Council of the completed civil works.

4. Loading and Unloading Times and Operation

The loading and unloading of goods from delivery vehicles must only be carried out in the allocated loading and unloading bays and must only be made:

- 7:00am to 10:00pm on Monday to Saturday;
- 9.00am to 10.00pm on Sundays and public holidays;

to the satisfaction of the responsible authority, unless otherwise agreed to in writing by the responsible authority. These requirements do not apply to the Click and Connect loading bays.

Waste collection must only be carried out in the allocated waste collection areas and waste collection must only be made during the following times:

- 7:00am to 6:00pm on Monday to Friday;
- 7:00am to 1:00pm on Saturdays;

No waste collection on Sunday or public holidays.

to the satisfaction of the responsible authority, unless otherwise agreed to in writing.

5. Landscaping Plan

Before construction works commence (or as otherwise agreed in writing by the responsible authority) a revised landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The revised plan must be drawn to scale with dimensions and two copies must be provided and show:

- a) a schedule of all proposed trees, shrubs and ground cover in accordance with the Landscape Plan Guide for Developments in the Shire of Campaspe, City of Greater Shepparton and Moira Shire Council (December 2016), including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials;
- b) increased areas of landscaping within the car park to allow for understorey and canopy plantings and shade and canopy plantings to the outdoor dining

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- area;
- c) the method of preparing, draining, watering and maintaining the landscaped area;
- d) garden bed heights above car-park surface;
- e) specific details of any filter mediums to be used in associated with water quality treatment facilities;
- f) the provision of street trees in Ford Road and Numurkah Road;
- g) interim landscape treatment of the pad site and future fuel site.

All species selected must be to the satisfaction of the responsible authority.

The landscape plan must be consistent with the endorsed drainage plans associated with the development.

All trees planted as part of the landscape works must be a minimum height of 1.2 metres at the time of planting.

Before the occupation of the buildings or by such a later date as is approved by the responsible authority in writing, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority. Any dead, diseased or damaged plants and/or trees must be replaced to the satisfaction of the responsible authority.

6. Construction Phase

Before the development starts, a construction management plan shall be submitted to and approved by the responsible authority. The plan must detail measures to be employed for the effective management of matters including, mud on roads, dust generation and erosion and sediment control on the land, during the construction phase. When approved the plan will be endorsed and form part of the permit. The construction management plan must provide contact details of the site manager.

During the construction of buildings and/or works approved by this permit, measures must be employed to minimise mud, crushed rock or other debris being carried onto public roads from the land, to the satisfaction of the responsible authority.

Dust suppression must be undertaken to ensure that dust caused on the land does not cause a nuisance to neighbouring land to the satisfaction of the responsible authority.

7. Council Assets

Unless identified in a written report, any damage to public infrastructure adjacent to the land at the conclusion of construction on the land will be attributed to the land. The

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owner/operator of the land must pay for any damage to the Council's assets/Public infrastructure by way of the development.

8. VicRoads Requirements

Prior to the development coming into use the following mitigating works generally in accordance with Drawing No. G19863-04F prepared by TraffixGroup must be undertaken to the satisfaction of and at no cost to the Roads Corporation unless otherwise agreed by the Roads Corporation as follows

- a) Extend the right turn lane on Numurkah Road and construct an auxiliary left turn lane at the northern entrance to the service road fronting the subject land.
- b) Closure of the entrance to the service road on the eastern side of Numurkah Road located approximately 30 metres north of Grant Court.
- c) The proposed access from the subject land to the service road fronting Numurkah Road must be constructed to the satisfaction of the Responsible Authority (Greater Shepparton City Council) and the Roads Corporation.
- d) Construct a median island to the south of the right turn lane from Numurkah Road into Ford Road.
- e) Construct the proposed service road exit on the eastern side of Numurkah Road located approximately 60 metres north of Grant Court including extending median island adjacent to right turn lane opposite the proposed service road exit.

Section 173

Prior to the commencement of the development, the owner must enter into an agreement with the responsible authority, pursuant to Section 173 of the Planning and Environment Act 1987. This agreement must be registered on the title to the land pursuant to Section 181 of the Planning and Environment Act 1987. The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement. The agreement must provide that unless otherwise agreed between the parties, prior to the commencement of the use of the supermarket, the owner will make the following contributions to Council:

- a) \$250,000 for the development of interim traffic management works at the intersection of Numurkah Road and Ford Road, Shepparton;
- b) \$266,000 for the construction of drainage works which form part of the regional drainage solution to service the land; and
- c) \$40,000 for the construction of a footpath on the east side of Numurkah Road between Hawkins Street and Ford Road.

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation

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must be fully paid prior to execution and registration of the document by Council.

9. Goulburn Broken Catchment Management Authority Requirements

The finished floor levels of all proposed buildings must be constructed to a level not less than 111.8 metres AHD.

10. Goulburn Valley Region Water Corporation Requirements

- a) Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.

All works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section;
- c) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;
- d) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement
- e) The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;
- f) The plan of Consolidation to be lodged for certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the Subdivision Act, 1988.
- g) As there are live sewers in the property, any structure to be built must be clear of any easement in favour of the Corporation and one metre laterally clear of any assets of the Corporation. The location of any Corporation assets will need to be proven at the developer's expense.
- h) An upgrade of the Corporation sewer and water infrastructure which may include, but not be limited to the construction of a sewerage pumping station, rising mains, gravity mains and water mains.
- i) The operator under this permit shall be obliged to enter into an Agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any sewerage or water works required. The form of such

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Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the format of the Agreement will be provided on request;

- j) Please note, should the applicant wish to subdivide each tenement onto separate titles in the future, provision of appropriate servicing arrangements to facilitate a future subdivision proposal should be investigated as part of this development.

The applicant should contact the Corporation to discuss current and future proposals for this development.

11. Goulburn Murray Water Requirements

- a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
- b) No works are to be constructed on Goulburn Murray Water easement, freehold or reserve without approval. It is the responsibility of the developer to locate the easement or reserve boundary.

12. Powercor Requirements

The applicant shall:-

- a) Provide an electricity supply to all properties within the development in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work may be required).
- b) Where buildings or other installations exist on the land and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- c) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- d) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- e) Set aside on the property for the use of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways where an electric substation (e.g. indoor) is required to service the development.

Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat.

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- f) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the development and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- g) Obtain for the use of Powercor Australia Ltd any other easement external to the development required to service the development.
- h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.

13. Time for Starting and Completion

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

- a) the development has not started within five years from the date of this permit; and
- b) completed within seven years from the date of this permit

NOTATIONS**Vic Roads Notes**

1. Separate consent for works within the road reserve and the specifications of these works will be required under the Road Management Act.
2. It should be noted that the consent application will be treated as a developer funded application which requires fees and detailed plans and specifications.

Date Issued:

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(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

Signature for the Responsible Authority

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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister administering the **Planning and Environment Act 1987** under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
 2. A permit for the use of land expires if -
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - * the use is discontinued for a period of two years.
 3. A permit for the development and use of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
 4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision-
 - * the use or development of any stage is to be taken to have started when the plan is certified; and
 - * the permit expires if the plan is not certified within two years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
-

WHAT ABOUT APPEALS?

- * Any person affected may apply for a review of -
 - a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or,
 - a decision of the responsible authority refusing to extend the time within which a plan under the **Subdivision Act 1988** is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**; or,
 - the failure of the responsible authority to extend the time within one month after the request for extension is made.
 - * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
 - * An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
 - * An application for review must state the grounds upon which it is based.
 - * An application for review must also be served on the Responsible Authority.
 - * Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
-



ESSENTIAL ECONOMICS

30 May 2018

Our Ref: 18107

Michael MacDonagh
Team leader Strategic Planning
Greater Shepparton City Council

Dear Michael,

Re: Shepparton North Supermarket Considerations

Thankyou for the briefing in relation to the current situation for Shepparton North and the proposed expansion of the activity centre, as foreshadowed in the Commercial Activity Centres Strategy (CACS). As you are aware, I was the principal author of the CACS prepared in November 2015, and have had a longstanding involvement in activity centre planning within Greater Shepparton for the past 15-years.

Further to our discussions, this letter provides an independent review of the current considerations relevant to Council decision-making. This relates to the following context which has been provided in your briefing:

- Amendment C192 to the Greater Shepparton Planning Scheme implements the CACS
- A combined Amendment C192 and C193 sought to implement directions within the CACS in relation to Shepparton North by facilitating approval of a 2nd full-line supermarket and associated shops on the south-east corner of Ford Road and Goulburn Valley Highway (Lascorp proposal)
- An independent panel report recommended Amendment C192 be adopted with some post-exhibition changes
- Amendment C193 has been subsequently split into Part 1 (relating to a public acquisition overlay) and Part 2 which is focussed specifically on the Lascorp proposal
- Council is considering Amendment C193 - Part 2 at the Ordinary Council meeting being held in June, this is within the context that a development proposal on the Fairley's IGA land has been approved which also potentially accommodates a new full-line supermarket.

The following represents the opinions of our firm relevant to the considerations of Council in relation to the Shepparton North activity centre matter at the June meeting.

ESSENTIAL ECONOMICS PTY LTD
MELBOURNE 96 PELHAM STREET CARLTON VICTORIA 3053 AUSTRALIA • TEL +61 3 9347 5255
SYDNEY LEVEL 26 / 44 MARKET STREET SYDNEY NEW SOUTH WALES 2000 AUSTRALIA • TEL +61 2 9089 8654
mail@essentialeconomics.com • www.essentialeconomics.com • ABN 92 079 850 427

Overview of the Rationale for Shepparton North in the CACS

In relation to Shepparton North, the CACS responds to a policy failure. As far back as the Greater Shepparton 2030 strategic plan (2006), the opportunity was identified for:

“An expanded neighbourhood centre to cater for the northern residential growth areas. A potential site is the Fairley’s (sic) IGA site on the Goulburn Valley Highway” (Background Report No 5, Page 40)

Further, even prior to development of Shepparton 2030 in 2006, the then MSS for Greater Shepparton also specifically indicated support for expansion on the Fairley’s IGA site subject to an economic impact assessment.

Amendment C119 was implemented in 2012 which rezoned the Fairley’s IGA site to the B1Z and a permit was granted for an expansion of the centre to 8,000m² of floorspace. This permit has not been acted on to the current day.

In July/August 2014, the initial consultation phase for the CACS included direct discussions with Metcash/IGA as the then owners of the freehold site. At this time, it was made clear to Metcash/IGA that the CACS was dealing with a circumstance where:

- Longstanding strategic policy support existed for expansion of the retail and other facilities on the Fairley’s IGA site,
- The northern parts of Shepparton were experiencing ongoing residential growth and increasing demand for retailing and associated infrastructure, and
- Notwithstanding the above, no significant change had occurred at the Fairley’s IGA site and that a long-standing planning permit for expansion had remained un-actioned.

As a result, the CACS was prepared with a pre-existing activity centre policy setting for Shepparton North which was not achieving an outcome in the community interest. That is, despite long-standing policy support and ongoing growth in community demand, Fairley’s IGA continues to trade in its existing format.

During the initial consultation phase for the CACS, Woolworths expressed their expectation that in the near future northern Shepparton would be an area of interest for them.

The CACS identifies a ‘Shepparton North’ activity centre, rather than simply referring to Fairley’s or Fairley’s IGA as in previous strategic documents.

In addition, the CACS identifies the Shepparton North centre as a ‘sub-regional centre’ in the Greater Shepparton activity centres hierarchy. This status reflects the long-term expectations of future urban growth in northern Shepparton, and that over time the Shepparton North activity centre should also grow and evolve to meet community needs.

The appropriate role and function of Shepparton North is as a sub-regional centre serving what the CACS describes as:

Sub-regional centres are important locations for retail and commercial activity that serve an immediate residential catchment in the surrounding urban area, as well as a broader rural and regional hinterland that is highly accessible via regional road networks. (CACS Page 22)

A particular emphasis of the CACS is on delivering a policy setting which ensures in actual terms, not theoretical planning terms, delivery of additional retail and commercial uses in Shepparton North. Given the long-standing policy support for development at the Fairley's IGA site which remained undelivered (over 10+ years), a reasonable policy response is to 'decouple' the specific Fairley's IGA site from this outcome.

For this reason, the CACS defines the Shepparton North activity centre to potentially include land outside the Fairley's IGA site.

The primary emphasis of the CACS direction in relation to Shepparton North is the need to support the development of a 2nd full-line supermarket and supporting retail and non-retail uses.

Full-line supermarkets are a particularly important element of the retail sector, in particular for urban growth areas in regional Australia. No other retail format is visited more often by a higher share of the population than a supermarket.

In general a full-line supermarket will include:

- Full range of fresh dairy produce
- Hot chicken department
- Delicatessen
- Fresh seafood counter
- Butchery
- Bakery
- Fresh fruit and vegetable display and sales area
- General dry and packaged groceries.

The CACS fulfils the obligation to achieve a net community benefit in Shepparton North by facilitating future development of a second full-line supermarket.

In locational terms, the Shepparton North Action 3 identifies the potential for land to be considered in the area fronting the Goulburn Valley Highway (Numurkah Road) between Ford

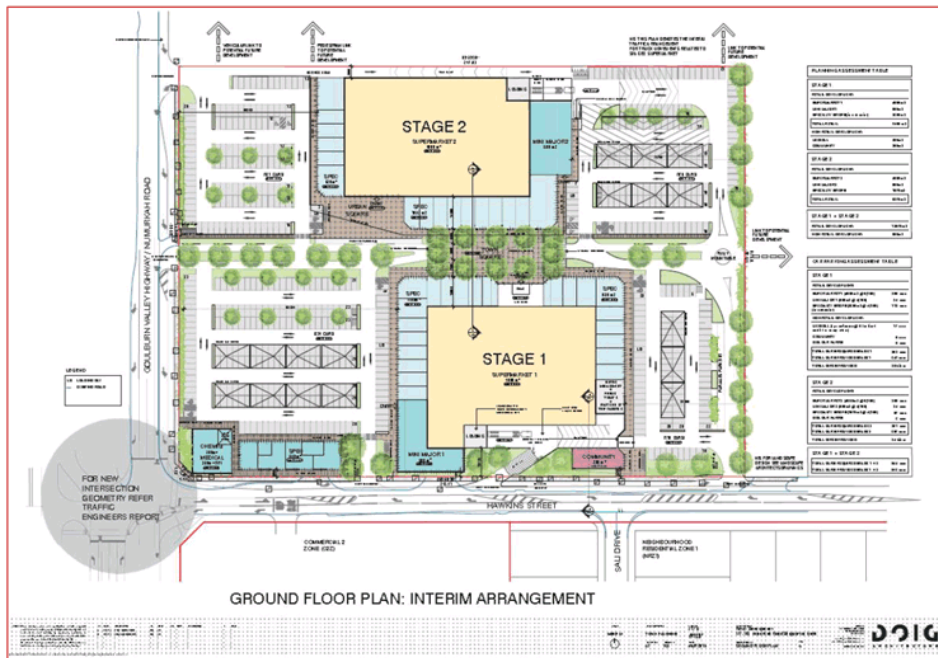
Road in the north and Hawkins Street in the south. This area already includes a diverse mix of retail, trade and other uses.

Current Considerations for Amendment C193 - Part 2

Comments on Approved Fairley’s IGA Scheme

We understand that further to ongoing dialogue and negotiation between Council and the proponent of the Fairley’s IGA, the below plans have been adopted for the purposes of the approval for that site.

Figure 1 Proposed Fairley’s IGA Site Expansion



Source: Agenda Ordinary Council Meeting 20 March 2018

The proposed scheme comprises two stages.

- **Stage One** is a full line supermarket on the southern edge of the site with specialty stores and a mini-major tenancy ‘wrapping’ around the edges of the supermarket tenancy. Medical and commercial uses area located on the south-west edge of the site.
- **Stage Two** comprises a 2nd full-line supermarket on the northern portion of the site which also includes specialty shops and a mini-major wrapping the edge of the tenancy.

In our view, the proposed scheme would not preclude additional retail and shop-type development in Shepparton North outside the Fairley's IGA site. For example, over time we anticipate additional fast food and other uses (such as car wash) to seek locations at Shepparton North, and which do not appear to be incorporated into the scheme. Nonetheless, in most instances these uses will be consistent with the Commercial 2 Zone which currently applies to adjacent land.

At the current time, it is assumed that the Stage 1 development is effectively the re-location of the existing Fairley's IGA into a new purpose-built tenancy which is consistent with contemporary supermarket design. On completion of Stage 1 the IGA supermarket and specialty shops would have at-grade parking on three sides and strong exposure to both the Goulburn Valley Highway and Hawkins Street.

Future development of Stage 2 would include an as yet to be confirmed 2nd major supermarket operator. This store would be competing directly with the Stage 1 supermarket located to the south, noting that in most respects the Stage 2 development is effectively a duplication of Stage 1 in terms of the scale and layout of tenancies.

In general, we are of the view that the proposed development scheme reflects a relatively standard scale and mix of uses for a double supermarket anchored shopping centre.

Does the Fairley's IGA Approval Meet Needs of CACS and Community?

The proposed Fairley's IGA site scheme, if delivered, would fulfil the overall objective of the CACS to accommodate a 2nd full-line supermarket in Shepparton North. Further, the scheme accommodates additional specialty shops, mini major tenancies and medical/commercial uses which are consistent with the evolution into a genuine activity centre comprising a mix of uses.

The Section 173 Agreement which prevents a cinema and discount department store operating at the Fairley's IGA site is also consistent with the strategic direction established by the CACS.

However, the proposed scheme does not overcome the key constraint to development on the Fairley's IGA site which has undermined previous approvals and supportive policy mechanisms by Council. This can be described in lay terms as follows:

Ownership of the site by the operator of the highly successful and profitable IGA store also located on-site creates a strong commercial dis-incentive to undertake a major investment which results in a competitor also operating from the same location.

It is noted that consideration of a 2nd major supermarket at the Fairley's IGA by the site owner was only made once the strategic intent for the CACS to ensure such an outcome in Shepparton North was bought to bear by the independent panel hearing for Amendments C192 and C193.

Notwithstanding the recent approval for the Fairley's IGA site, it remains possible that commercial imperative described above may continue to result in a lack of development which

undermines activity centre development in Shepparton North, at a cost in terms of unfulfilled net community benefit.

We have no specific insight into the internal commercial considerations and development intent of the owners of the Fairley's IGA and site. However, previous experience in relation to the site, including the lack of action related to previous approvals, is a relevant consideration for both policy developed in the CACS, and the subsequent decision-making of Council.

Context for Lascorp Proposal

The proposed Lascorp development at 221-229 Numurkah Road being considered in Amendment C193 - Part 2 incorporates a full-line supermarket, specialty shops and some limited medical/community uses totalling approximately 6,300m². This includes 6,000m² of 'shop' floorspace which would sit under the cap applying to the site.

In combination with the Fairley's IGA site (14,000m²), if the Lascorp proposal (6,000m²) is approved the total shop floorspace in Shepparton North that could potentially be developed is up to 20,000m². Note that this would be subject to any restrictions associated with Section 173 agreements or other relevant controls on selected shop uses such as cinema and department store.

It is important to recognise that this would be the 'approved' shop floorspace in Shepparton North rather than actual operating floorspace. Since the 8,000m² shop floorspace cap was applied on the Fairley's IGA site some years ago, the approved shop floorspace in the Shepparton North activity centre has been well in excess of actual operational floorspace.

As a result, given the history of Shepparton North and the strong direction contained in the CACS related to ensuring delivery of additional development in actual, rather than theoretical terms, the distinction between approved and actual floorspace is an important consideration for Council.

It is noted that, in contrast to the Fairley's IGA site, a major supermarket operator (Woolworths) has made a commercial commitment to the Lascorp proposal and would develop a full-line supermarket if Amendment C193 - Part 2 was approved. This is a level of certainty simply not associated with the Fairley's IGA approval based on long-standing previous experience of inaction, combined with the lack of a current commitment from a 2nd supermarket operator.

Implications of Approving Amendment C193 – Part 2 or Otherwise

By approving Amendment C193 – Part 2, Council would be accommodating the potential for three major supermarkets at Shepparton North. This would be:

- One existing and one approved (although not committed) major supermarket at the Fairley's IGA site, and
- One approved supermarket with an operator committed at the Lascorp site.

In practical terms, the potential for three supermarkets to be developed and operating in Shepparton North within the foreseeable future (say, 15-years) is relatively remote.

In Australia, the provision of major supermarkets is generally one store per 9,000 to 10,000 people. With some limited exceptions, this rate of provision is relatively consistent across the nation including regional areas.

For Shepparton North, a relevant consideration is that the supermarkets in the CBD and at Shepparton Marketplace also have a role in serving residents in Shepparton North and outlying rural areas and towns.

According to the economic impact assessment for the Lascorp site prepared by Macroplan Diamsi in 2017, the forecast population of the trade area served by Shepparton North is as follows:

- 2015: 22,220 people
- 2018: 23,120 people
- 2021: 24,020 people
- 2026: 25,520 people.

These population figures remain consistent with current expectations.

Given the role of the Shepparton CBD and Shepparton Marketplace in also serving residents of this trade area, in general terms it is reasonable to assume that to achieve commercial viability a trade area population of 11,000-plus persons per major supermarket is relevant to Shepparton North.

That is, at the current time and for the foreseeable future only two major supermarkets in the trade area are viable. It is not expected that North Shepparton and surrounds will have a population exceeding 30,000 persons before at least 2036, and more likely some time after this.

On this basis, we are confident that a third major supermarket operator is not likely in Shepparton North for the foreseeable future, notwithstanding any Council approvals which might make this possible in planning terms. That is not to say a smaller discount supermarket, or alternatively a large fresh fruit and vegetable store, might locate at Shepparton North during this time period.

Potential Controls in Relation to Lascorp Site

The potential exists to apply similar controls to the Lascorp site in relation to cinemas and department stores, as apply to the Fairley's IGA site.

It is also an option for Council to limit shop floorspace at the Lascorp site, subject to a supermarket being developed. In general terms, this could be 2,000m² which is equivalent to

the provision of specialty floorspace already proposed under the development scheme concept provided in relation to the site.

Fairley's IGA Site

If Amendment C193-Part 2 was approved, although the future potential for a 2nd major supermarket at the Fairley's IGA would be highly unlikely for the foreseeable future, this does not preclude further development on the site.

Other uses which do not require a permit which can be accommodated on the Fairley's IGA site include:

- Accommodation (with conditions)
- Child care centre (with conditions)
- Office
- Retail premises other than shop including trade supplies, market, landscape gardening supplies, food and drink premises.

Subject to relevant planning controls being applied, it may also be possible for Council to approve sub-sets of shop including restricted retail.

Quite clearly, the lack of a 2nd supermarket on the Fairley's IGA site does not preclude full development of the land with other alternative uses. Indeed, such an outcome has been proposed (at least in conceptual terms) for the Fairley's IGA site in the past.

Summary and Conclusions

On the basis of our review of the latest considerations in relation to Shepparton North, it is our view that:

- The existing approval for expansion on the Fairley's IGA site to include a 2nd major supermarket provides no certainty that this outcome will be achieved within a reasonable time frame given previous experience related to the site and the lack of a committed operator for this store
- Nonetheless, in planning terms the proposal does broadly meet the requirements of the CACS, it is the practical delivery of the proposed planning outcome which is the subject of uncertainty
- Greater certainty for delivery of a 2nd major supermarket in Shepparton North is associated with the Lascorp site and proposal, with a committed operator (Woolworths) and a development scheme which relies on attracting a supermarket to the site
- If the Amendment C193 - Part 2 is approved for the Lascorp site, it is highly unlikely that a third major supermarket would be developed in Shepparton North for the foreseeable future given relevant economic metrics related to population and spending levels

- Further, the Amendment C193 - Part 2 does not preclude future development on the Fairley's IGA site as sufficient flexibility remains within the Commercial 1 Zone to support an alternative development scheme without a 2nd major supermarket – as has previously been proposed for the Fairley's IGA site
- It may be appropriate for Council to place controls on the Lascorp site associated with preventing cinema and department store development, and limiting shop floorspace without development of a major supermarket.

*

I trust the above information is of assistance to Council in assessing Amendment C193 - Part 2. If you have any further questions, please don't hesitate to call our office on 03 9347 5255.

Yours sincerely,



Sean Stephens
Managing Partner
Essential Economics Pty Ltd

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