



# Amendment C192 and C193 Greater Shepparton Planning Scheme

JULY 2017

EXPERT EVIDENCE

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## Attachments

1 Expert Witness Statement

2 Curriculum Vitae

ROBERT MILNER – DIRECTOR

3 Design Response, out puts and relevant standards for town centres (*Precinct Structure Plan Guidelines* 2013)



## 1 INTRODUCTION

### 1.1 Purpose

- 1 I have been retained by Minter Ellison Lawyers on behalf of 18 Pty Ltd (**18**), to provide an independent strategic planning review and assessment of the merits of proposed Amendments C192 (**C 192**) and C193 (**C193**) to the Greater Shepparton Planning Scheme (**GSPS**).
- 2 18 Pty Ltd is the prospective purchaser of the existing IGA based shopping centre at 117 - 193 Numurkah Road, Shepparton, on the corner with Hawkins Street (**Hawkins Street Site**).
- 3 Submissions to the amendments have been lodged on behalf of 18, concerning the implications of Amendment C193 as it would impact upon their Fairley's SUPA IGA supermarket based landholding and the performance of the proposed Shepparton North Sub-regional Centre (**SNSC**) and the Gateway North Enterprise Corridor (**GNEC**).

### 1.2 The Amendments

- 4 It is assumed that the Panel is familiar with the scope and proposed terms of the amendments and will not be assisted by a detailed description of their content.
- 5 In summary:
  - Amendment C193 provides for the rezoning of 3.8 ha of land either side of the south-east corner Numurkah Road (the Goulburn Valley Highway (**GVH**) with Ford Road (**Ford Road site**) from Commercial 2 to Commercial 1 and a planning permit application for a large full line supermarket and a specialty tenancies with a floor space of 5,900 square metres and associated car parking.
  - Amendment C192 would establish the context for the consideration of C193. It provides for the Greater Shepparton Commercial Activity Centre Strategy (2015) (**Strategy**) to be referenced in the planning scheme and for the Local Planning Policy Framework (**LPPF**) to be amended to incorporate the Strategy's recommendations including updating the activity centres framework. Zones and overlays managing land use and development in and around the Shepparton

CBD are to be comprehensively recast in the form of the Activity Centre Zone and its associated schedule.

## 1.3 Instructions and submissions

### 1.3.1 Scope of evidence and assumptions

- 6 This evidence is principally confined to a critical review of the strategic planning justification for the amendments and the permit application.
- 7 While my research and analysis for this report has had regard to the entirety of the Amendments and supporting documentation, the evidence does not address:
  - The merits or accuracy of the various economic assessments that have been undertaken regarding the quantity of retail floor space that might be sustained at Shepparton North;
  - Detailed design issues associated with the proposed supermarket and specialty shop development on the Ford Road Site.
- 8 I am instructed that an application for planning permit has been lodged with the responsible authority to provide for the further development of the Hawkins Street Site with 5,550 square metres of retail floor space including a further supermarket.
- 9 Further I understand an application has been made to amend the existing Stage 1 permit for the land.
- 10 This report does not assess the merits of those applications save to note that they are consistent with the current zone provisions and floor space cap that apply to the Hawkins Street Site.

### 1.3.2 Witness Statement

- 11 I have a long association and familiarity with growth areas and strategic planning in and around Greater Shepparton, having been directly or indirectly involved in the preparation of the following strategies:
  - The Shepparton North and South Growth Corridors (2003);
  - The Greater Shepparton 2030 Strategy (2006); and

- The Shepparton North and South Business Areas Urban Design Framework (2006).
- 12 I have previously given evidence to Panels with regard to planning scheme amendments that have enabled;
- The Greater Shepparton 2030 Strategy;
  - The Woolworth's / Aldi supermarket development at Mooroopna; and
  - The Goulburn Valley Freight Logistics Centre.
- 13 I have had no association with strategic planning for the Shepparton growth areas since 2010 and no role or contribution to the background work, strategy development or development planning associated with either C192 or C193 or the development proposals for the Hawkins Street and Ford Road Sites.
- 14 An Expert Witness Statement and Curriculum Vitae is included at **Attachment 1** and **Attachment 2** of this report.

## 2 BACKGROUND AND OVERVIEW

### 2.1 15 years of activity centre planning and development

- 15 The *Commercial Activity Centres Strategy* (November 2015) is a necessary and timely piece of strategic planning revision given the evolution, growth and maturity of Shepparton as one of Victoria's largest and more significant regional cities.
- 16 It is essentially 15 years since pressure for significant growth at Shepparton was translated into growth area plans for the large tracts of land to the north and south of the city, broadly defined in the west and south by the Broken River and Sevens Creek and to the east by Doyles Road and the fertile irrigated agricultural plain.
- 17 While there was evidence to the north and south of the Central Business District of various outlying commercial strips and local centres, it took the growth area plans to begin an orderly process of urban restructure that recognised that there would be a need for a clearer, structured, hierarchy of activity centres to support the growing residential and employment population, with convenient and accessible services.
- 18 The strategic and structural change identified as part of the growth area plans was crystallised and reinforced by the comprehensive strategic inquiry and wider scope of *Focussing on the Future - Greater Shepparton 2030 Strategic Plan* (2006) (**GS2030**).
- 19 In terms of economic development and activity centre planning a core strategic message of that work was the desirability of protecting, consolidating and building up Shepparton Central Activities District as the principal regional centre and prime focus of diverse activity and higher residential densities.
- Mooroopna and Shepparton Market Place were designated as *Major Activity Centres*.
  - *Future / Expanded Neighbourhood Centres*, in conjunction with strips of *Highway Business*, were identified proximate to the corner of Hawkins Street and Numurkah Road and at the former 'Drive In' site immediately south of the crossing of the Broken River by the Goulbourn Valley Highway (Figure 1).

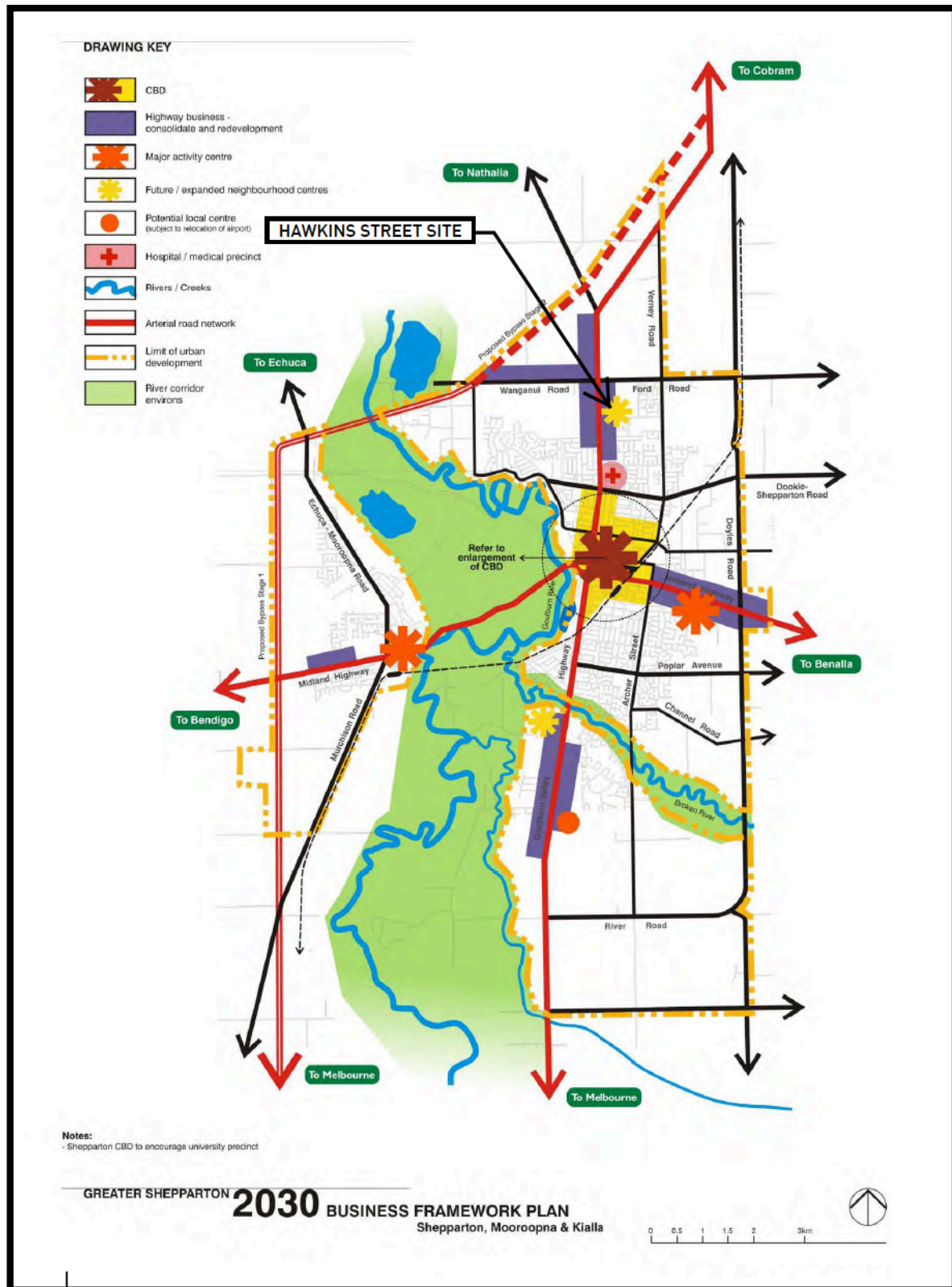


Figure 1: Greater Shepparton 2030 Business Framework Plan (excerpt GS2030) (Hawkins Street Site shown indicatively)

## 2.2 Recent implementation

- 20 Recently there has been marked progress in the implementation of that Activity Centre vision.
- Riverside Plaza Shopping Centre has been built and operates on the site of the former the drive-in theatre as envisaged by local planning policy to serve the southern growth corridor.
  - A new Woolworths / Aldi supermarket complex has opened, as intended, in the Mooroopna strip shopping centre.

## 2.3 Existing strategy for a northern activity centre

- 21 For the northern growth corridor, additional activity centre development has not been delivered to date.
- 22 Regardless, the intent of planning strategy was explicit.
- 23 The *Economic Development Report No. 5* of GS2030 and the current provisions of the *Commercial / Activities Centres* policy at Clause 21.06-5 of the *Greater Shepparton Planning Scheme* both explicitly reference Fairley's Numurkah Road as a Neighbourhood / Township Centres and:

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

- 24 It might be reasonably observed that the *Business Framework Plan* (Figure 1) indicates the *Future / Expanded Neighbourhood Centre* on the Fairley's, (Hawkins Street) site, confirmed by the wording of the local policy.
- 25 While the Strategy and the provisions of the GSPS occasionally reference retail centres the principal policy objective of Clause 21.06-5 is to have a hierarchy of viable activity centres.

## 2.4 Implications of C192 and C193

### 2.4.1 C192

- 26 If approved as exhibited this amendment would result in:

- A name change (**Shepparton North**) and an elevated, different role (**Sub-Regional Centre**) for the Fairley's neighbourhood activity centre, which the strategy fairly notes currently serves a more limited role compare to either Riverside or Mooroopna.
- The previous Highway Business Precinct (Figure 1) would become an *Enterprise Corridor*.
- Replacement of the current provision reproduced at Paragraph 23 above with the following words:

*"Facilitate the expansion of additional retail and commercial facilities for the neighbourhood centre in the north between Ford Road and Hawkins Street, subject to the application of the planning and development assessment criteria at Appendix A of the Commercial Activity Centres Strategy November 2015, to reflect the designated sub-regional role and function of the centre in the future".*

- A requirement as part of the *Strategic Work Program* (Clause 21.06-7) that Structure Plans / Urban Design Frameworks be prepared for activity centres, where further development is likely to occur.
- No change in the *Business Framework Plan* (Figure 1).

- 27 The language and intent of the proposed new local policy clause, detailed above, is more strident than that used in the Strategy (Section 9). The Strategy encourages retail and commercial facilities in the existing Commercial 1 Zone and expresses a preference for an extension to that zone, noting:

*Council to initiate a process with landowners and developers to identify the appropriate location for expansion to 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 may be required subject to suitability and availability.*

#### 2.4.2 C193

- 28 Amendment C193 advances one possible response, and not the preferred one, to the above local policy and Strategy by seeking to rezone part of the

land between Hawkins Street and Ford Road to Commercial 1 and approval of the full line supermarket development summarised earlier.

- 29 The Amendment is advanced in the absence of a Structure Plan for the Shepparton North Sub regional centre and 'Enterprise Corridor' or an approved Urban Design Framework.
- 30 I am instructed that some consultation has been held with the owners of the Hawkins Street site but I am not aware of a wider process of engagement with all landowners between Hawkins Street and Ford Road to identify the appropriate options for any expansion to the Commercial 1 Zone and the further development of the activity centre.



### 3 APPLICABLE POLICY CONSIDERATIONS

#### 3.1 Scope of relevant considerations

- 31 The broader policy context in which to evaluate the collective merits of C192 and C193 is detailed in Clauses 11.01 – 11.05, Clause 11.07 of the GSPS and the overarching planning scheme objectives regarding sustainable development and net community benefit.
- 32 These provisions draw attention to the need for orderly settlement planning in established and growth areas.
- 33 The relevant directions to glean from that policy are summarised below.
- 34 The policy is premised upon the fundamental proposition that the community will derive the greater benefit and development will be more sustainable if activity centre planning and development is undertaken in an orderly, structured, and systematic manner of progressive greater detail, that:
- Takes full advantage of existing settlement patterns;
  - Builds up a variety of uses;
  - Optimises accessibility for the community;
  - Focuses upon high quality design;
  - Concentrates major activities in centres; and
  - Provides clarity for investment.

- 35 The source for advancing the above outcomes is highlighted below.

#### 3.2 The framework of relevant policy

- 36 The overall intent of *Settlement* planning policy (Clause 11) includes:
- Anticipating and responding to the need for appropriately zoned and serviced land;

- Recognising and as far as practicable contributing towards economic viability; a high standard of urban design and amenity; accessibility and land use and transport integration; and
- Facilitating sustainable development that **takes full advantage of existing settlement patterns**, and investment in a range of social and physical infrastructure.

### 3.3 The need for structure planning

- 37 Within the above framework, significant changes in role, land use and the structure of settlements are intended to occur in a planned and orderly manner to optimise the benefits to the community.
- 38 To facilitate the orderly structure and development of urban areas planning authorities are required to ensure effective planning and management **through the preparation of strategic plans, statutory plans, development plans and other plans** including Precinct Structure Plans [Clause 11.02-2].

### 3.4 Growth area planning and activity centres

- 39 In planning for growth areas, the creation of a network of mixed-use activity centres is sought, that is of a **high quality, well designed** and creates a sense of place [Clause 11.02-3].

### 3.5 Activity centre planning

- 40 The principal intent is that activity centres be a focus for high quality development and business, shopping, work, leisure and community facilities.

The policy objective is:

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

- 41 This will be achieved by undertaking structure planning for the use and development of land in and around activity centres and in so doing giving **clear direction in relation to preferred locations for investment** [Clause 11.03].

### 3.6 Guidance on structure planning for activity centres

42 There are a number of referenced sources to assist in the structure planning for activity centres including:

- Precinct Structure Plan Guidelines (2013);
- Structure Planning for Activity Centres – Planning Practice Note 58;
- Height and Setback Controls for Activity Centres – Planning Practice Note 60;
- Urban design Frameworks - Planning Practice Note 17;
- Activity Centre Design Guidelines (2005); and
- Safer Design Guidelines for Victoria (2004).

43 This evidence does not address, at length, the content of this guidance save to say that collectively it advances the objectives, standards, design responses, tools and processes that endeavour to ensure that established and new activity centres meet the overarching structural and design objectives.

44 At **Attachment 3** relevant extracts are assembled from the Precinct Structure Plan guidelines addressing activity and town centre design and including the appropriateness of the design response, relevant standards and considerations for planning permit applications.

45 I rely on this framework in the later *Assessment* section of this report to evaluate the merits of the amendments.

### 3.7 The local policy context and activity centres

46 The earlier *Background* commentary is sufficient to appreciate the existing and proposed local planning policy framework as it applies to activity centres in Shepparton North.

### 3.8 An Urban Design Framework

- 47 Council has commissioned an Addendum to the *Shepparton North and South Business Areas Urban Design Framework* (2006). A draft of the Addendum, prepared by Planisphere was issued in March 2017.
- 48 The 'Shepparton North' of the original report and the Addendum are two different places. The original document addressed the established land use and development in the section of Wyndham Street south from Balaclava Road, which itself is 1.4km south of the Hawkins Street Site.
- 49 Because the original UDF was dealing with established land use, urban structure and development it confined itself to matters of built form, setbacks from boundaries, parking and landscape and the identification of gateways.
- 50 The recently released *Addendum to the Urban Design Framework – Shepparton North and South Business Areas* (Draft 2017) as it applies to Shepparton North addresses the area referred to in the Strategy as Shepparton North Sub-Regional Centre (Figure 2).
- 51 Despite addressing an enlarged activity centre with an elevated status (from Neighbourhood to Sub-regional) the draft UDF is written in the similar limited scope, as the original framework, addressing practical subjects including:
- Gateways;
  - Massing and height;
  - Setbacks to boundaries;
  - Roof form;
  - Parking:
  - Landscape; and
  - Signage.

### 3.9 Conclusions - policy and structure plan omissions

52 Given the issues raised in this report regarding activity centre roles and structure planning it is relevant to note that at the time of the Panel hearing on C192 and C193 there is no centre based structure plan direction or guidance for Shepparton North upon the following relevant considerations:

- 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 particular 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.

## 1.2 Subject Areas

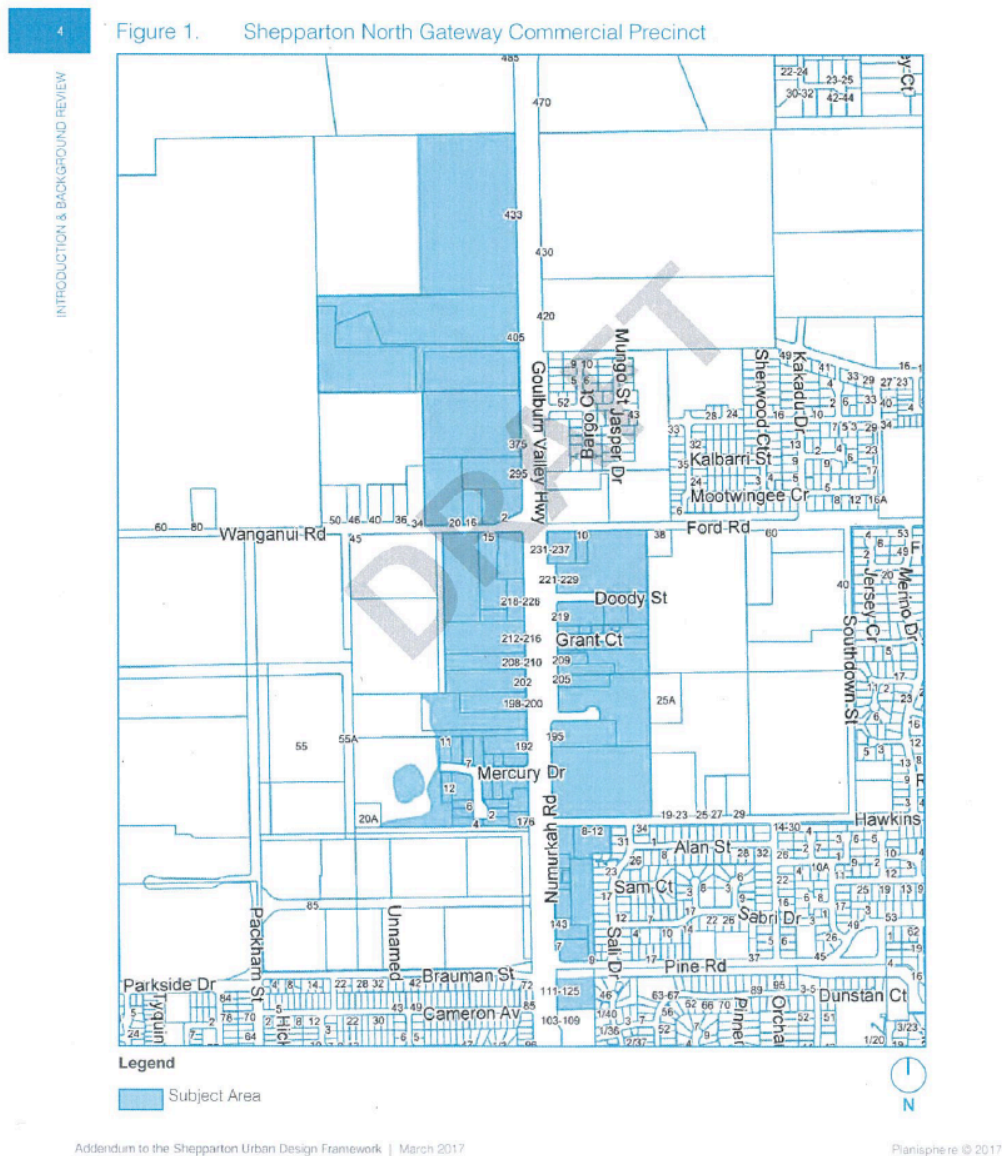


Figure 2: Addendum to the Urban Design Framework – Shepparton North and South Business Areas (Draft 2017) (Excerpt)

## 4 STRATEGIC CONTEXT

### 4.1 Overview

- 53 Urban growth in the Shepparton North growth corridors is illustrated in the 7 years between 2010 and 2017 (Figure 3 and Figure 4).
- 54 The land between the Goulburn Valley Highway and Verney Road has been the primary focus of growth.
- 55 The Strategy appropriately foreshadows the continued growth of urban development in the northern corridor.
- 56 Land to the north west of the intersection of Wanganui Road / Ford Road and the GVH has not advanced for development in the presence of the Special Investigation Area status and the alignment of the proposed Shepparton Bypass, that cuts diagonally across this precinct (Figure 1).
- 57 The above intersection is advanced as a partial gateway to the northern corridor in the Addendum to the proposed Urban Design Framework (Figure 2).

### 4.2 Hawkins Street site

- 58 The Hawkins Street Site comprises 4.4ha of land.
- 59 Fairley's SUPA IGA supermarket and cafe has been a constant presence and the main convenience based supplier in the northern corridor for the last 35 years.
- 60 I am instructed that the supermarket trades well and has a catchment that extends well beyond Shepparton.
- 61 The business offers approximately 3,500 square metres of floor space in a stand-alone supermarket and approximately 500 square metres given over to a café, liquor, lottery sales and amenities.
- 62 The development of the Site includes a stand-alone warehouse of 1,200 square metres and car parking for 197 vehicles.

- 63 Current applications for planning permit provide for 8,000 square metres of retail floor space, including a new IGA supermarket and a large format retail use.
- 64 The land is included with in the Commercial 1 Zone (Figure 5) to which a local schedule applies limiting the shop floor space to 8,000 square metres, other than restricted retail premises and a limit of 900 square metres applies to office use.
- 65 The local bus service stops outside the Fairley SUPA site.

### 4.3 Shepparton North commercial land

- 66 The land to the north, south and west with frontage to the GVH and identified as *Highway Business* in both the existing and proposed local policy and Strategy is all zoned for Commercial 2.
- 67 The commercial land is only partially developed and neither used or developed consistently because of:
- Incremental land use and subdivision decisions;
  - The land's historically relatively remote location from urban development;
  - The large areas of land set aside for commercial purposes; and
  - The opportunism and exposure presented to a range of businesses that have gained commercial advantage from exposure to the most significant road passing through the regional city.
- 68 The area comprises a combination of large lots with highway or service road frontage and a few small courts, further subdivided and developed as smaller holdings.
- 69 With a few exceptions land on the west side of the highway and north of the Hawkins Street Site is either undeveloped or an agglomeration of highway related sales and servicing (car, boat and tractor sales) and light industrial activities, including storage, service, fabrication and warehousing.
- 70 The exception to the above is the section of commercially zoned land on the east side of the GVH to the south of Fairley's and Hawkins Street. It has been



partially redeveloped as a centre of fast food and convenience restaurants and supports a service station and car wash.

- 71 In combination with the Fairley's supermarket these uses to the south of Hawkins Street can be identified as the nucleus of the existing neighbourhood activity centre (Figure 6).

#### **4.4 Abutting and adjacent land**

- 72 The land to the immediate east of the Hastings Street Site is zoned for industrial purposes and partially developed for distribution and logistics activities.
- 73 To the south of Hawkins Street and behind the GVH frontage, is an established residential precinct zoned Neighbourhood Residential.
- 74 Large expanses of vacant industrially zoned land between Ford Road and Hawkins Street located to the east of land zoned Commercial 1 and 2, has been rezoned, in the last year, to General Residential Zone.

#### **4.5 Conclusions – the existing structure of the activity centre**

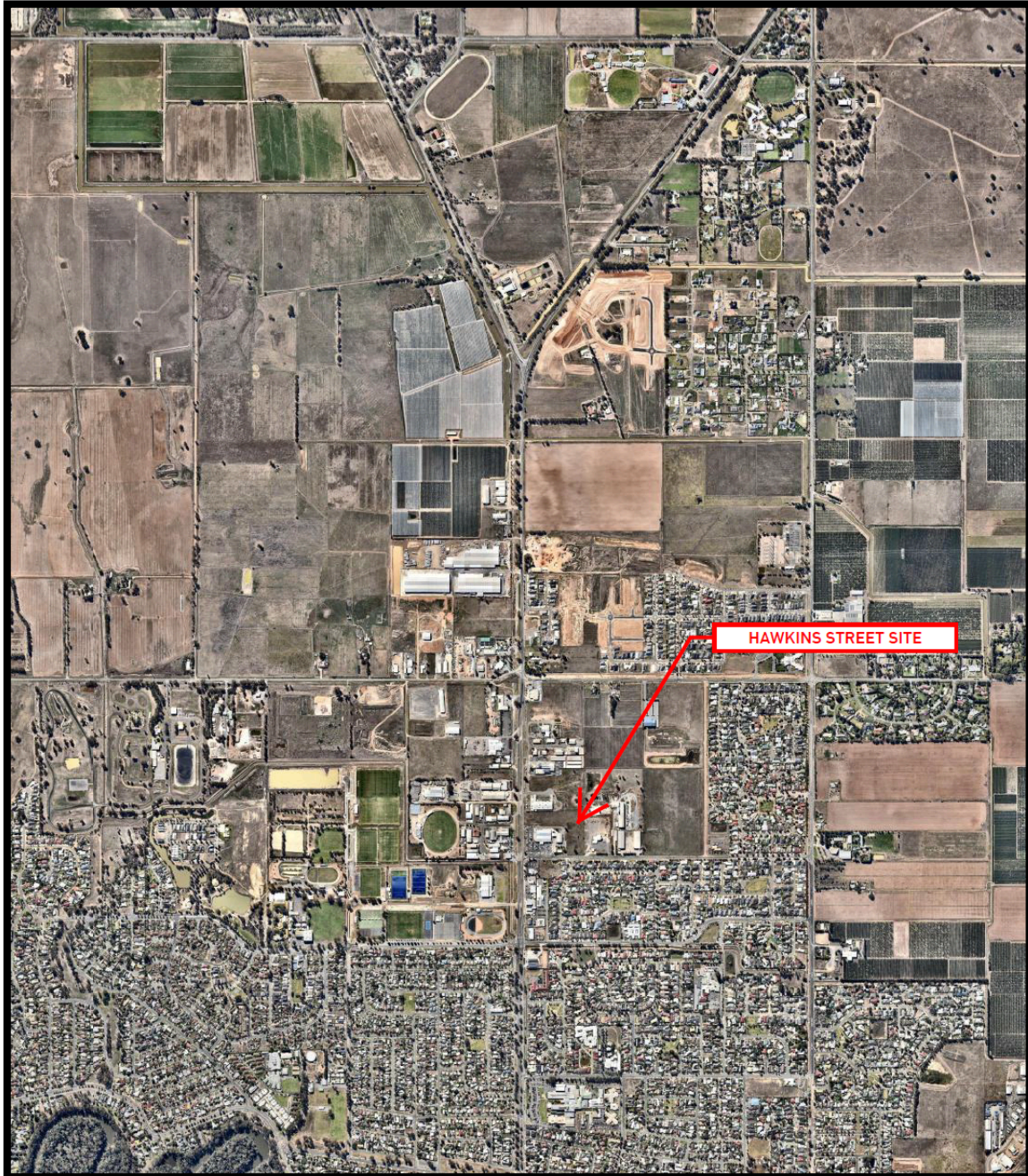
- 75 Under the existing local policy framework, the foundation of land use and development upon which a Subregional Activity Centre is expected to grow and expand, are established by land uses and development located either side of Hawkins Street.
- 76 The uses on this land in conjunction with established residential areas to the south are elements that would be expected to be found in and around a neighbourhood activity centre.
- 77 The balance of the commercially zoned land serves the intended role of the Enterprise Corridor being partially used for highway business purposes.
- 78 The current pattern of land use zoning with the distinction between Commercial 1 and 2 zones gives clear expression to both the existing and proposed *Business Framework Plans* (Figure 1).
- 79 The Commercial 1 zone highlights the presence and location of the activity centre in the locality of the Hawkins Street and the Commercial 2 Zone distinguishes the Highway Business role of land to its north, south and opposite to the west.

- 80 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.
- 81 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.
- 82 It would provide a forum to test options and feasibilities regarding the more sustainable development and appropriate net community benefit.



*Figure 3: Aerial photo - January 2010 (nearmap)*





*Figure 4: Aerial photo – April 2017 (nearmap)*

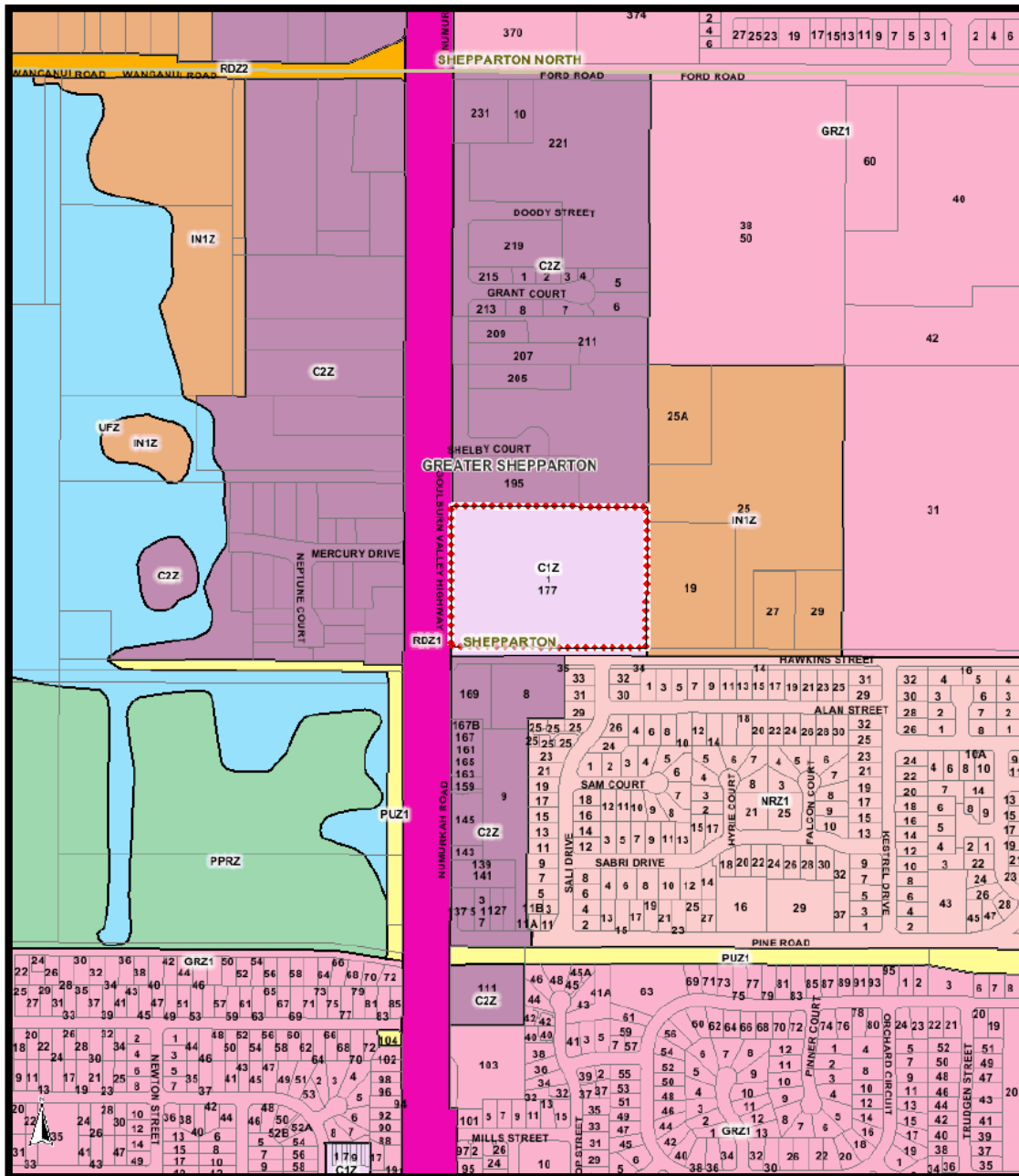


Figure 5: Zone map ([www.planning.vic.gov.au](http://www.planning.vic.gov.au))





Figure 6: Aerial photo (nearmap)

## 5 ASSESSMENT

### 5.1 C192

#### 5.1.1 Commendable features

83 With a few qualifications, I am supportive of C192 as it applies to Shepparton North and how it proposes to integrate the recommendations of the Commercial Activity Centres Strategy 2015 into the local policy framework.

- It is a carefully researched and developed piece of strategic work.
- It builds upon and reinforces the evolution of activity centre policy as it applies to the municipality, the Shepparton CBD and the relationship to an activity centre in Shepparton North.
- 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.

84 The purposes and provisions of the current Commercial 2 Zone already enable to a limited extent such an outcome:

- A supermarket is a permitted use if less than 1,800 square metres.
- A shop up to 500 square metres is permitted if in conjunction with a supermarket and is otherwise discretionary;
- Restricted retail premises are a permitted use.

#### 5.1.2 Concerns

##### Abandonment of reference to Fairley supermarket

85 I am troubled that the proposed *Strategy for Commercial/Activity Centres* removes the explicit reference to the Fairley supermarket site as the historically recognised foundation upon which the enlarged activity centre

should build, in favour of a broader reference land between Ford Road and Hawkins Street.

86 As Amendment C193 illustrates this reference can be interpreted as enabling growth and expansion that is entirely divorced from the established activity centre.

87 The proposed policy also needs to be clear that the growth and expansion is not confined to retail activity and includes community and non-retail uses.

**The appropriate tests for retail expansion**

88 I do not support the sole test of an expansion to retail uses being the application of the planning and development assessment criteria at Appendix A of the *Commercial Activity Centres Strategy November 2015*.

89 The draft of the revised policy at Clause 21.06 has given insufficient regard to the distinction between a retail / commercial strategy and the expectations of a mixed-use activity centre.

90 Retail and commercial activities may be a major component of the sub regional activity centre but they are not the only land use or movement considerations.

91 Shepparton North Sub-regional Activity Centre is in its infancy.

92 No strategic or structure plan work has been undertaken to establish:

- The range and nature of uses that should be assembled in this centre;
- The layout and structure of the centre, being mindful of the synergies of potential future uses;
- The prime vehicle and sustainable movement networks and connections within the centre and to its urban context; or
- The public spaces and facilities.

93 A failure to effectively undertake and complete that work, as a high priority task, before the issue of further permits for individual sites, outside those already contemplated by the planning scheme, presents the real prospect of



Shepparton North being anything but a high quality, vibrant and attractive activity centre.

- 94 In the absence of such an approach the more likely outcome could be a loose agglomeration of disaggregated, poorly located and inadequately integrated activities.
- 95 Amendment C193 is a case study of how an isolated development proposal has the potential to directly and immediately compromise the attainment of design objectives for the sub-regional centre.
- 96 I therefore endorse the inclusion of a requirement for the preparation of Structure Plans / Urban Design Frameworks for activity centres, under the heading of *Strategic Work Program* in the revised local policy but suggest that this direction should be clear that it is undertaken before further major approvals and development occurs on sites outside those already contemplated by the planning scheme.
- 97 Further the draft Urban Design Framework Addendum is not a suitable substitute for a structure plan at Shepparton North.

## 5.2 C193

### 5.2.1 The zoning and development proposal

- 98 The amendment as it is relevant to activity centre planning and development provides for a large (3.8 ha) parcel of land with frontage to both GVH and Ford Road, but not commanding the corner allotment, to be rezoned from Commercial 2 to Commercial 1.
- 99 A concurrent permit application provides for building and works approval for a total retail floor space of 5,990 square metres and a medical centre /chemist of 560 square metres.
- 100 The retail floor space would take the form of full line supermarket contained by speciality shops with a community space (100 square metres) to be provided in one of the tenancies.
- 101 The proposal foreshadows a later application for a service station.
- 102 The site development plan shows indicative pedestrian paths to Ford Road and GVH, crossing a foreground car park providing for 446 vehicles.

- 103 The accompanying planning report notes that the Commercial Activities Centre Strategy (November 2015) advances, as an action, that an indicative increase in the order of 6,000 square metres of shop floor space might be supported on land outside the existing Commercial 1 Zone and this might include a second supermarket and specialty shops.
- 104 The proposal gives effect to this postulated scenario.

### 5.3 Weaknesses

- 105 The weaknesses and short coming with this amendment and planning permit application is not what is proposed (a supermarket and smaller tenancies for retail, medical and community uses) but rather where it is proposed, how it is advanced and if this proposal forms part of an orderly and considered planning and development process.
- 106 In the event that the land was rezoned and the development implemented in the manner proposed the following outcomes would occur with the following consequences.

#### 5.3.1 Two centres

- 107 Two free standing supermarket-based centres would be established separated by approximately 600 metres<sup>1</sup> of land, partially used and developed as a quasi industrial estate.
- 108 The manner and distance of separation calls in to consideration whether the proposal is an 'out of centre development' in the meaning of Clause 17.01-2.
- 109 Differences of opinion will be held on whether the Clause should apply to the circumstances of this amendment.
- 110 However, a judgement on the appropriate interpretation of the Clause would be academic as the lay-person's experience of the use of the Ford Road Site in conjunction with the Hawkins Street Site, would amount to visiting two activity centres, not one.

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<sup>1</sup> This measurement is taken from the centre of each site

- 111 As a consequence, the community may elect to favour one centre over the other or would be required to move between sites to complete convenience purchases and frequent the range of suppliers.
- 112 This would be a case of urban design and land use planning consciously frustrating the attainment of those activity centre and transportation objectives that emphasise accessibility and convenience, walking and cycling, sustainability and community benefit.
- 113 The distance and intervening land uses are such that walking between centres is extremely unlikely and access to and use of the car would become almost essential, diminishing the attraction of the centre to those who do not have ready access to private transport.
- 114 Any further or later proposals to add other non-retail uses would be severely challenged in their capacity to integrate, having to secure land next to one of the centres but not integrated with the other.
- 115 Public transport stops at the activity centre would have to be duplicated or again one centre chosen over the other.
- 116 With the passage of time the competing and split focus of the centre could undermine the potential opportunities of one or both centres.

### 5.3.2 The first stage of a bigger picture?

- 117 It might be put that the proposal advanced in Amendment C193 is but the first stage in a larger and longer-term development of the Sub-regional activity centre and should be supported mindful of that bigger picture objective. The short comings of that proposition are numerous:
- **Firstly**, there is no bigger picture. Save for identifying the location for a Subregional centre and the generic description in the Strategy of what might comprise such a centre there is no vision or plan for Shepparton North other than a draft UDF that does not address the real constraints of the location or the layout, composition of uses and structure.
  - **Secondly** the capability of Shepparton North to support and sustain sufficient growth to absorb and facilitate the redevelopment of all the intervening commercial / industrial land to join the two parts of the centre in the longer term has to be seriously questioned.

- The Strategy of November 2015 has placed a series of constraints on the type of retail and non-retail uses that can be established in the lower order centres in order to protect the primacy of the Shepparton CBD.
- In addition, the Strategy (at page 23) and Amendment C192 have established that the 8,000-square metre cap should be retained on the Hawkins Street Site because development and floor space to date has not reached that cap and:

*“The application of this cap is appropriate in ensuring any development is consistent with the role of this centre in the activity centre hierarchy.”*

- While this conclusion locks in the growth retail capacity on the Hawkins Street site, the effect of Amendment C193 is a direct contradiction to the above rationale.
- In effect Amendments C192 and C193, in combination, restrict development in the established part of the activity centre, by applying a floor space cap, while suitably rezoning and liberating the amount of retail floor space on land remote from the existing centre.
- **Thirdly** there is a considerable amount of vacant and developed land between the two centres, which is subdivided into many smaller holdings. Its assembly and suitability for bulky goods retailing is constrained. However, its progressive acquisition and redevelopment as smaller additions to the existing activity centre is more feasible.
- **Fourthly** bulky goods retailing would be more advantageously located on large, vacant landholdings in single ownership with multiple main road frontages, such as the Ford Road Site.
- **Finally**, the Ford Road Site is identified in the Business Framework Plan (Figure 1) for highway business or bulky retail uses. Relative to a Sub-regional centre built upon the existing Hawkins Street Site, the Ford Road Site would be appropriately located for bulky goods purposes.

### 5.3.3 Shepparton North is more challenging

- 118 The establishment of a vibrant high quality mixed use centre in Shepparton North is more challenging than that presented in establishing sub-regional centres in Shepparton South and Mooroopna.
- 119 Unlike the other two centres Shepparton North has not to date been a prime location for retail activity other than the Fairley supermarket, making restructure and transformation into a subregional centre notably more difficult.
- **Shepparton South / Riverside** - The GVH south of the Broken River has been the principal entrance in to the city being the connection between Melbourne and Shepparton.
- In that role, it has already attracted many of the main bulky goods retailer and the new car dealerships.
- When the drive-in site became available as a large land holding in one-ownership, the constraints on establishing the retail component of the sub-regional retail centre were low.
- **Mooroopna** - In this case the integration of a dual supermarket complex, with direct frontage into an established neighbourhood strip centre, was relatively straight forward, not warranting any fundamental restructure of the established urban fabric.
- 120 For the above reasons site specific amendments and planning permits were an appropriate process to facilitate that development.
- 121 In both of the above cases the challenge might be likened to putting the last pieces into a jigsaw in which the overall picture was very clear.
- 122 In the case of Shepparton North the converse is true. There is no shared appreciation of the overall picture let alone clear direction as to which pieces go where.
- 123 The highway related businesses that are present and established in Shepparton North have a stronger association with the primary and secondary economy of the region than the consumer / tertiary retail sector.

- 124 The car dealerships and boat and caravan sales are marketed at the used second-hand buyer rather than the new buyer.
- 125 For many of the established business at Shepparton North there would be no direct synergies or relationship to be gained from being within or at the edge of an activity centre, for example motor trimming, concrete pumping, agricultural research, home construction and storage.
- 126 It is for these reasons that prior to issuing permits for developments that will irreversibly set the structure of the future centre, other than development already contemplated by the planning scheme, there is a need for the planning authority to facilitate a structure planning process with all the potentially affected land owners and users and fully understand the opportunities and constraints that are presented.
- 127 The structure plan process would also enable engagement with the new and emerging resident population that will be the primary beneficiaries of the sub-regional centre. It would have a contribution to make in setting the vision and structure of the centre.

#### **5.4 Uses in a sub-regional activity centre**

- 128 In giving a clearer understanding of the challenge of establishing a Subregional centre I have been requested to consider what uses might comprise such a centre.
- 129 The Strategy at pages 22 and 23 has sought to define a subregional activity centre by limiting the scale and nature of retailing so that it does not compete with the higher order role served by the Shepparton CBD and Shepparton Market Place.
- 130 Floor space caps have been used to restrict the scope of the retail role.
- 131 Additional uses, other than retail that I would consider appropriate to locate in or at the edge of a Sub-regional centre include:
- Cafes and restaurants;
  - Take away food premises;
  - Smaller offices for local businesses and personal services;

- Medical and health facilities;
- A hotel, or tavern(s);
- Service business;
- Community facilities;
- Reception centre and or a place of assembly;
- A community hub and local library;
- A post office;
- Public spaces;
- Larger format retailing located towards the edge of the centre;
- Medium or higher density accommodation above ground level.

#### **5.4.1 Lessons from the past**

- 132 There are a number of free standing car based shopping and retail developments that were approved in the 1960's to 1980 which, with the wisdom of hindsight, stand as unfortunate lessons, locked in bricks and mortar, about how not to go about the creation of attractive, integrated, safe multipurpose activity centres.
- 133 Many of those centres were car based single purpose developments, where the character and sense of place of the centre was established by large areas of at grade car parking.
- 134 In those centres, minimal attention was given to public spaces and uses other than shops. In more recent years attempts have been made to refit these centres to provide a more balanced role and a better amenity.
- 135 A good example of this, with direct parallels to the current proposal, is to be found at Newcomb in Geelong (Figure 7). Two Woolworths based centres have been established with frontage to the Bellarine Highway less than 250 metres apart. In that example, the separation distance is less than half that proposed by C193 and the intervening land use is a supportive and beneficial residential role - not an industrial one.



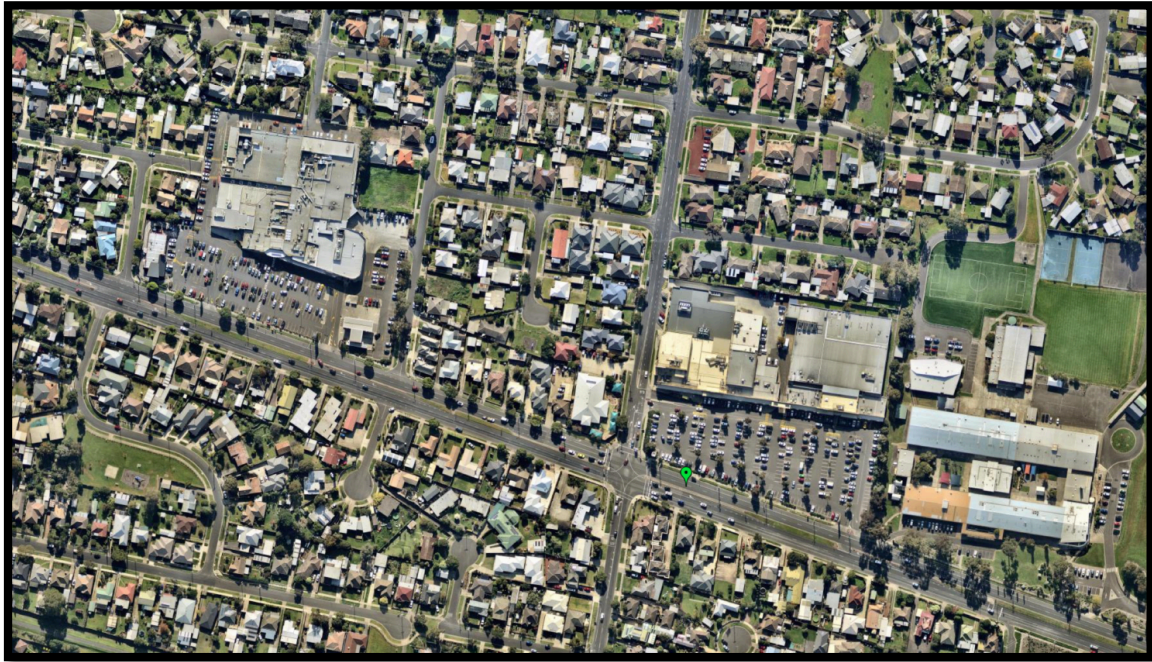


Figure 7: Woolworths, Bellarine Highway, Necomb (nearmap)

## 5.5 The role of zoning

- 136 Zoning gives effect to strategic policy.
- 137 The timing of zoning affects the order and process of urban development.
- 138 What does acceding to a request to rezone the land at 221-229 Numurkah Road and 10 Ford Road to a Commercial 1 zone (without a cap on the floor space of retail or other land uses) say or imply 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?
- 139 In the absence of a structure plan it suggests uncertainty and a confusing range of roles and uses for different pieces of neighbouring land.
- 140 On the other hand, the established local policy, the existing zoning of the Hawkins Street Site, the pattern of zoning on adjoining land and the Commercial Activity Centre Strategy articulate a clear preferred strategic direction and position that:
- The activity centre is to build and expand from the established retail centre, which is zoned differently from the balance of the strip.



- There is capacity for further development within the cap that is set for that zone and the Hawkins Street Site.
- The logical and strategic progression for further expansion is north on to land adjoining the Hawkins Street Site.
- The expansion of the centre to the north will be held in partial check by retaining the land in a Commercial 2 Zone until a structure plan has been prepared and agreed at which time additional land suitable for a Commercial 1 role can then be identified and released.

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## 6 CONCLUSIONS

- 141 Amendment C192 as it references Shepparton North should be supported provided that the strategy referencing the Sub regional activity centre:
- Is expressed in terms of building and expanding upon the Hawkins Street Site;
  - Makes the preparation and adoption of a Structure Plan for the sub-regional centre a requirement prior to the rezoning of further land or the approval of developments that would significantly influence its the layout and structure.
- 142 Amendment C193 should be either abandoned or if that view is not supported deferred pending the conduct of a structure plan process for Shepparton North with a further review of its merits in the context of that work.
- 143 In the meantime, there is scope for growth of the established activity centre as provided for by the existing zoning of the land.

**Robert Milner**  
**July 2017**

## **Attachment**

### **1 Expert Witness Statement**

## Expert Witness Statement

### **The name and address of the expert**

Robert Milner, Director of 10 Consulting Group Pty Ltd, 3/2 Yarra Street, South Melbourne, Victoria, 3205.

### **The expert's qualifications and experience**

Robert Milner holds an Honours Diploma in Town and Country Planning from Liverpool Polytechnic. He is a Life Fellow of the Planning Institute of Australia and a Fellow of the Victorian Planning and Environmental Law Association.

A Curriculum Vitae is included at Attachment 3.

### **The expert's area of expertise to make this report**

Robert has a broad range of expertise in planning and development matters enabling him to comment on a wide spectrum of urban and rural, statutory and strategic planning issues and processes.

### **Other significant contributors to the report**

Not applicable

### **Instructions that define the scope of the report**

Robert Milner has been requested by Minter Ellison, Lawyers to prepare town planning evidence.

### **The identity of any person who carried out tests or experiments upon which the expert has relied on and the qualifications of that person**

Not applicable.

### **The facts, matters and all assumptions upon which this report proceeds**

There are no other facts, matters or assumptions upon which the report relies other than those explicitly stated in the report.

### **Documents and other materials the expert has been instructed to consider or take into account in preparing his report, and the literature or other material used in making the report**

Rob Milner has reviewed material as referenced in the body of this report.

The report has been prepared having regard to:

- The Greater Shepparton Planning Scheme;
- Amendments C192 and C193 and the supporting documentation made available alongside the exhibited documentation; and
- The reports, Planning Practice Notes, strategies and guidelines explicitly referenced during the course of the report.

### **A summary of the opinion or the opinions of the expert**

A summary of Robert Milner's opinions are provided within the body of the report.

### **Any provisions or opinions that are not fully researched for any reason**

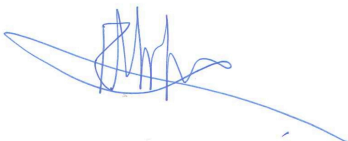
Not applicable.

### **Questions falling outside the expert's expertise and completeness of the report**

Robert Milner has not been instructed to answer any questions falling outside his area of expertise. The report is complete.

### **Expert declaration**

I have made all inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



**Robert Milner**  
**July 2017**

## Attachment

### 2 Curriculum Vitae

## ROBERT MILNER – DIRECTOR

### Qualifications and Positions

- Director 10 Consulting Group Pty Ltd and The Milner Group Pty Ltd
- Diploma in Town and Country Planning (First Class Honours) Liverpool Polytechnic
- Life Fellow Planning Institute of Australia
- Fellow of the Victoria Planning and Environmental Law Association
- Former State and National President of the Planning Institute of Australia
- Member, Planning and Local Government Advisory Council (1994 – 1999)
- Deputy Chairman, Future Farming Expert Advisory Group (2009)

### Employment History

2010 – Current	Director 10 Consulting Group Pty Ltd
1999 – 2010	General Manager, Senior Principal and Adjunct Senior Planning Counsel – Planning, CPG Australia Pty Ltd (Formerly the Coomes Consulting Group)
1994 – 1999	Director, Rob Milner Planning Pty Ltd and Savage Milner
1991 - 1994	Project Director, Collie Planning and Development Services
1988 – 1991	General Manager, Town Planning, Jones Lang Wootton
1980 - 1988	City Planner, City of Box Hill
1977 – 1980	Planner, Perrott Lyon Mathieson, Architects and Planners
1976 – 1977	Planner, Kirklees Metropolitan Borough Council

### Career Overview

Rob Milner is a respected strategic and statutory planner. He is equally competent in urban and regional practice.

He is recognised as a leader of the planning profession in Victoria. He has had a high profile career spanning 40 years with extended periods of experience working for local government and private practice.

Until 2010 he worked with CPG Australia building that planning team to be one of the larger and most respected strategic and statutory practices in Victoria. The team was twice awarded planning consultant of the year in Victoria.

He now directs 10 Consulting Group, as a small boutique consultancy offering the highest level of advice and service to clients wanting the benefit of Rob's considerable experience, knowledge and understanding of planning in Victoria.

He is regularly retained to provide expert evidence to courts, panels and tribunals on the broadest range of land use and development planning issues. He is usually involved in 4 or 5 different matters monthly and has a reputation for objectivity, an original style of evidence and for providing clear and fearless advice. Particular expertise is in complex and controversial projects, gaming matters, acquisitions and compensation and restrictive covenants.

He is an acknowledged advocate and negotiator and is regularly engaged in development approval and rezoning projects where process and relationships need to be carefully nurtured to ensure a viable and timely outcome.

His ability to communicate effectively among a broad range of stakeholders means that he is regularly engaged to facilitate workshops, conferences, consultation and other situations where leadership and engagement of groups is required.

His clients have included many State government agencies (including planning, community development, justice, roads, growth areas and regional development), municipalities throughout metropolitan Melbourne and regional Victoria, as well as a broad range of corporate and other private sector interests.

Robert Milner brings a high level of integrity to his work, choosing to participate on those projects that accord with his professional opinion.

## **Areas of Expertise and Experience**

### **Strategic studies, policy development and statutory implementation**

Rob is widely acknowledged for his capacity to take a strategic perspective to urban and regional and planning challenges and provide direction and leadership that is responsive, creative and thoughtful in its strategic intent and detail.



When combined with his depth of experience with strategic policy based planning schemes he is powerfully equipped to deliver sound advice on the spectrum of land use and development planning issues.

His strategic planning skills are ground in work experience at the State, regional, local and site specific levels dealing with the issues that affect a town or sub region or examining themes or subjects that span geographical areas.

While working for CPG Australia he lead multi disciplinary planning teams that worked for clients that included DPCD, Department of Justice, Department of Innovation, Industry and Regional Development, and many municipal councils in metropolitan Melbourne and regional Victoria.

In 1994 he lead the planning consultancy that recommended the model for the Victorian Planning Provisions, the strategic policy driven planning scheme that is now consistently used throughout Victoria.

In 2009 Robert served as the Deputy Chairman on the Future Farming Expert Advisory Group reporting to the Minister for Planning. That work addressed a broad range of issues facing the next three decades of land use and development in regional Victoria.

### **Expert evidence and advocacy**

Rob is regularly called upon to provide expert evidence and reports to clients, courts, Independent Panels and VCAT. He has acted in this capacity or as an advocate in over 1,200 cases during his career.

In a Supreme Court of Victoria – Court of Appeal matter of 2016 <sup>2</sup> his evidence was singled out for being “*rational, detailed and credible.*”

He is often retained to provide the strategic perspective to planning disputes. He is equally capable in commenting on matters of urban design, and compliance with planning policy and provisions.

The scope of matters that he has addressed in this capacity is extremely diverse and includes:

- Medium density and high rise residential development,

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<sup>2</sup> Winky Pop Pty Ltd & Anor v Mobil Refining Australia Pty Ltd & Anor S AP1 2015 0084

- Greenfield, master planned communities in growth areas,
- Waste management, quarries and landfill proposals,
- Major shopping centres and mixed use developments,
- Industrial and residential subdivisions,
- Hotels, motels, restaurants and other leisure facilities
- Retirement villages,
- Rail projects,
- Coastal developments,
- Office and CBD projects
- Heritage projects
- Compensation and land acquisition matters,
- Liquor licence and gaming proposal,
- Freeway service centres and petrol stations,
- Agribusiness centres.

### **Legislative and planning scheme reviews and amendments**

Aside from Rob's leadership of the consultant planning team that conceived the model for the Victorian Planning Provisions, he has been associated with many reviews of municipal planning schemes and amendments.

Planning scheme review usually takes the form of comprehensive research examining both the merits of the strategic policies as well as the statutory provisions. Wide ranging consultation is involved in the task.

Work associated with planning scheme amendments usually includes strategic justification of the proposal as well as statutory documentation and management of the process. The provision of expert evidence to independent panels is often involved.

In more recent times Rob has been involved in projects that entail a review of allied legislation as well as amendments to planning schemes. Recent relevant projects have included the following:

## **Reviews of Victorian planning provisions and allied legislation**

- Activity Centre Zone construction and application in Footscray, Doncaster, Knox and Sunshine
- Tramway infrastructure and the VPP's,
- Higher density living adjacent to tramway corridors
- Liquor Licensing legislation and planning provisions
- Gaming (EGM) policy and provisions for Councils
- Review of the Farming and Green Wedge zones for their economic implications

## **Planning scheme reviews**

- Shire of Surf Coast 2007
- Shire of Wellington 2009 -10
- Rural City of Horsham 2010
- Borough of Queenscliff 2011- current

## **Organisation audits and process reviews**

Rob has a long and established career providing reviews of planning documents, teams and processes, particularly in a local government environment.

Trained as a LARP facilitator in 1990 as part of a Commonwealth Government initiative his experience in this area commenced with the development of planning and building specifications for tenders as part of Compulsory Competitive tendering process and the coaching of bid teams.

Since then Rob has developed a specialisation in providing reviews and recommendations to State and Local Government, which audit planning schemes, the performance of planning teams and departments and development approvals processes.

In the last 20 years he has worked with the majority of metropolitan councils and many regional municipalities; he prepared the model audit process for the Department of Sustainability and Environment in 2003 and recently provided a

facilitated program for the Department of Planning and Community Development reviewing how it processes planning scheme amendments.

He has worked with Councils in Victoria, New South Wales and South Australia.

He uses a range of audit techniques, extensive consultation with users of the processes and provides detailed strategies on necessary reforms.

His most recent work has been as a major contributor to the VicSmart program.

## Attachment

### 3 Design Response, out puts and relevant standards for town centres (*Precinct Structure Plan Guidelines* 2013)

## element three

### *Town Centre Design*

#### DESIGN RESPONSE

The design response included in the Precinct Structure Plan should address the following questions:

- Q1. Has a viable mix of uses been allowed for in the town centre?
- Q2. How can the town centre incorporate active street frontages that maximise pedestrian activity (such as by minimising/excluding internal malls and planning street-based building entries)?
- Q3. How does the design of the town centre reinforce a unique sense of place and identity?
- Q4. How does the design of the town centre promote local shopping and reduced car travel?
- Q5. How does the design of the town centre respond to potential conflicts between residential and commercial uses (e.g. food and drink uses)?
- Q6. Is the layout of uses within the town centres flexible to change?
- Q7. How has the movement of pedestrians, cyclists and public transport services been prioritised in town centres?
- Q8. How does the town centre design provide for a range of business types and sizes?
- Q9. How will the quality, orientation and adaptability of built form contribute to the long term success of the town centre?
- Q10. How are amenity and noise impacts that result from a mix of uses, including housing, in the town centre minimised?
- Q11. How is consideration of town centre design balanced with other objectives in favour of net community benefit and sustainable development?

#### OUTPUTS

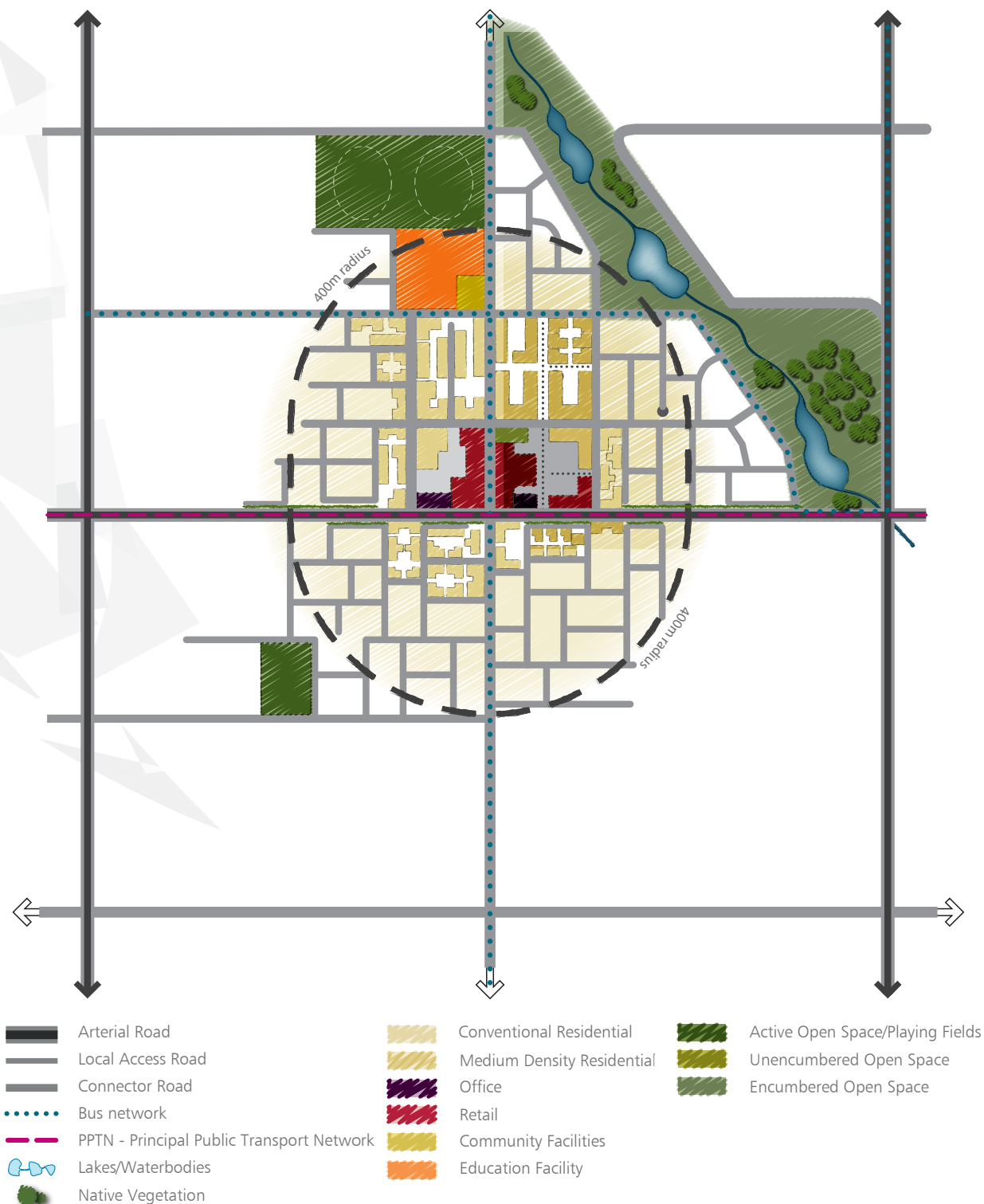
The design response should be demonstrated by including the following outputs in the Precinct Structure Plan:

- A **town centre plan** showing the location of the proposed town centre/s within the precinct. This may be shown on the employment plan.
- A **town centre table** setting out the type of centre, indicative floor space and role of the centre.

Town centre urban design framework requirements will set out the critical design requirements for town centres in the precinct, and would normally include a conceptual plan showing the location of key uses (see figure 7).

## element three

**Figure 6: Relationship between road grid, town centre and density**



This diagram shows how the town centre should be located on a connector street with direct access to the arterial road network. It shows the potential inter-relationship between the town centre and housing density, community facilities and open space.

## element three

**Figure 7: A conceptual town centre plan showing the location of key uses**



### RELEVANT STANDARDS

The PSP should respond to the following standards in association with the design suggestions set out in the Town Centre Design Guidelines:

<b>S1</b>	Town centres and land within the walkable catchment of town centres incorporate mixed use development. <i>See Clauses 56.03-2 and 56.04-1</i>
<b>S2</b>	Town centres have a variety of land uses and a range of business sizes that have main street frontage. This includes a mix of retail, office (including home-office and other administration uses), housing, recreation and entertainment, community services and civic uses.
<b>S3</b>	80-90% of households should be within 1km of a town centre of sufficient size to allow for provision of a supermarket.
<b>S4</b>	Street blocks should be highly permeable and enable people to access goods and services safely. <i>See Clause 56.06-2.</i>
<b>S5</b>	Buildings on landmark sites within town centres are multi-storey. <i>See Clauses 56.03-4.</i>
<b>S6</b>	Buildings within town centres address the street and public spaces and have 'active' ground floor uses. <i>See Clause 56.03-2 and Element 3 in the Town Centre Design Guidelines.</i>
<b>S7</b>	Pedestrian movement is prioritised over vehicle movement within town centres, including along the main street.



## element three

<b>S8</b>	All town centres should contain town parks/squares and multi-purpose urban spaces should be provided for meeting places, local markets and community events or other gatherings. See Clause 56.05-2.
<b>S9</b>	Larger format restricted retail stores are located within town centres, but away from the highest intensity uses.
<b>S10</b>	Opportunities are provided for small business in and adjacent to town centres, including in conjunction with a dwelling.
<b>S11</b>	Civic buildings are placed in prominent locations, usually next to town squares.
<b>S12</b>	Local centres are located on connector streets carrying an existing or proposed public transport route, and include a viable convenience store.

### CONSIDERATIONS FOR PLANNING PERMIT APPLICATIONS

Questions to be considered in preparing planning permit applications are:

- How will buildings in town centres be designed to ensure they reflect the significance they have to the broader community?
- How will buildings be designed and constructed so that they are flexible enough to accommodate a range of uses over time, including responding to changing market forces practically and cost effectively?
- How will transport access to major employment areas and town centres, especially for freight, avoid impacting on the amenity of nearby residential areas?
- How can streets be designed in town centres to enable comfortable and safe movement by all modes of transport, especially pedestrians and cyclists?
- How can the visual impact of parking and servicing be minimised within town centres?
- What opportunities have been sought to incorporate high environmental standards into the development? These standards apply to issues such as water conservation, landscaping of streets and public open space, bicycle paths, water sensitive urban design, energy conservation, safety, heat and sun exposure and waste management.
- How are buildings within and adjacent to town centres designed to facilitate a mix of uses and high development densities? (For example, multi-storey buildings)
- What facilities have been provided for cyclists in the town centre, community hub or other employment area (including end-of-trip facilities and parking)?
- How does the town centre design provide for people with disabilities?



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