

Planning and Environment Act 1987

Shepparton North Activity Centre
Advisory Committee Report
Amendment C193 Part 2 and PPA2016-269

14 August 2020

Planning and Environment Act 1987

Shepparton North Activity Centre Advisory Committee Report
pursuant to section 151 of the Act

Greater Shepparton Planning Scheme Amendment C193 Part 2
and Planning Permit Application 2016-269

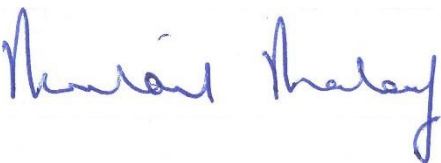
14 August 2020



Kathy Mitchell, Chair



Con Tsotsoros, Member



Michael Malouf, Member

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Glossary and abbreviations

ABS	Australian Bureau of Statistics
Act	<i>Planning and Environment Act 1987</i>
Amendment	Amendment C193 Part 2
CACS	<i>Greater Shepparton Commercial Activity Centres Strategy 2015</i>
CBD	Central Business District of Shepparton
Committee	Shepparton North Activity Centre Advisory Committee
Council	Greater Shepparton City Council
Covid-19	Novel Coronavirus Disease 2019
DDO9	Design and Development Overlay Schedule 9
DELWP	Department of Environment, Land, Water and Planning
Growth Plan	<i>Shepparton and Mooroopna 2050: Regional City Growth Plan</i>
Lascorp	Lascorp Investment Group Pty Ltd
Lascorp Land	221-229 Numurkah Road and 10 Ford Road
Marl	Marl Enterprises Pty Ltd
Planning Scheme	Greater Shepparton Planning Scheme
Shepparton	Shepparton Pty Ltd and Metcash Pty Ltd
Shepparton Land	177-193 Numurkah Road
SNAC	Shepparton North Activity Centre
TfV	Head, Transport for Victoria
UDF	<i>Addendum to the Urban Design Framework – Shepparton North and South Business Areas, Planisphere, July 2017</i>
Urban Design Guidelines	<i>Urban Design Guidelines for Victoria 2017</i>
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment C193 Part 2 and permit summary

The Amendment	Amendment C193 Part 2
Amendment description	Rezones land at 221-229 Numurkah Road and 10 Ford Road, Shepparton from Commercial 2 Zone to Commercial 1 Zone
Permit application	Planning permit application 2016-269
Permit description	<p>A 5,990 square metre supermarket based retail centre development which requires a planning permit for:</p> <ul style="list-style-type: none"> - buildings and works associated with a supermarket, specialty shops and associated uses in the Commercial 1 Zone - a packaged liquor licence - access to a Road Zone Category 1 - place of assembly community meeting space - business identification signs to be erected and displayed
Subject land	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
Notice	16 December 2019 to 29 January 2020
Submissions to notice	<ol style="list-style-type: none"> 1. Goulburn Broken Catchment Management Authority 2. Lascorp Development Group Pty Ltd 3. Greater Shepparton City Council 4. Shepparton Pty Ltd and Metcash Pty Ltd 5. Marl Enterprises 6. Head, Transport for Victoria

Committee process	
The Committee	Kathy Mitchell (Chair), Con Tsotsoros and Michael Malouf
Initial meeting	At Planning Panels Victoria, 23 October 2019
Directions Hearing	At Planning Panels Victoria, 26 February 2020 By video conference on 4 June 2020
Committee Hearing	By video conference on 19, 22, 23, 24, 25 and 26 June 2020
Site inspections	By aerial video
Parties to the Hearing	<p>Greater Shepparton City Council represented by Ian Pridgeon of Russell Kennedy Pty Ltd instructed by Michael McDonagh, called the following expert evidence:</p> <ul style="list-style-type: none"> - economics from Sean Stephens of Ethos Urban - planning from Chris De Silva of Mesh Planning <p>Lascorp Development Group Pty Ltd, represented by Chris Townshend QC and Emily Porter of Counsel instructed by Amy Golvan, called expert evidence on:</p> <ul style="list-style-type: none"> - strategic planning from Michael Barlow of Urbis - economics from Tony Dimasi of Dimasi and Co - retail economics from Rhys Quick of Urbis - traffic and access from Henry Turnbull of Traffix Group <p>Shepparton Pty Ltd and Metcash Pty Ltd represented by Nicholas Tweedie SC and Barnaby Chessell of Counsel instructed by Samantha Megenis of Minter Ellison, called expert evidence on:</p> <ul style="list-style-type: none"> - economics from Tim Nott - planning from David Crowder of Ratio Consultants - supermarkets from Paul Banks of Paul Banks Consulting <p>Marl Enterprises, represented by Jason Kane of Counsel, instructed by Cain McGirr of Wisewould Mahony</p> <p>Head, Transport for Victoria, represented by Kate Stapleton</p>
Citation	Shepparton North Activity Centre (AC) [2020] PPV
Date of this Report	14 August 2020

Executive summary and recommendations

(i) Summary

Amendment C193 Part 2 (the Amendment) seeks to rezone land known as the Lascorp Land at the corner of Numurkah Highway and Ford Road, Shepparton from the Commercial 2 Zone to the Commercial 1 Zone. A permit (PPA2016-269) is sought to use and develop the land for the purpose of a supermarket and supporting specialty shops. The land is located within the Shepparton North Activity Centre.

Of significance, Shepparton/Metcash have a permit for two supermarkets and associated retail and shops some 400 metres south of the Lascorp Land, also within the Activity Centre and in a Commercial 1 Zone.

This matter has a long history. It was subject to a Panel Hearing in 2017 and Victorian Civil and Administrative Tribunal and Supreme Court proceedings in 2018/19. At the request of the parties, the Minister for Planning appointed an Advisory Committee in 2019 to consider whether:

- the subject land should be rezoned
- a planning permit should issue for the use and development
- a Structure Plan is required to guide development of the Shepparton North Activity Centre.

The Advisory Committee (which is the same constitution as the previous Panel for Greater Shepparton Planning Scheme Amendments C192 and C193) held a six day Hearing from 19 to 26 June 2020 to consider these matters in accordance with its Terms of Reference. Ultimately, this process has raised significant issues about planning for retail uses in a designated Activity Centre and the balance of competing policy objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

While the Lascorp Land has some broad scale policy support in that it is located within a designated subregional Activity Centre, the Committee finds there is insufficient State and local policy support for the Amendment and the planning permit application. The site for the Lascorp development is appropriate, if it was considered in isolation and there was no appropriately zoned land for commercial development with good access nearby. As a stand-alone site, it has good accessibility and exposure but it cannot be considered in isolation, nor can it be considered without due regard to the Objectives of planning as set out in the *Planning and Environment Act 1987*, State and local policy imperatives and in oblivion to a site within the same Activity Centre on land zoned for retail purposes that already has a permit for two supermarkets and associated retail. In particular, the Lascorp proposal does not implement Greater Shepparton's preferred outcome in the recently introduced *Greater Shepparton Commercial Activity Centres Strategy 2015*.

Currently there is demand for two full size supermarkets and specialty shops in Shepparton North, for which there are permits already in place. There is unlikely to be sufficient population demand for a third full line supermarket and specialty shops within the next 15 years.

Approval of the Amendment will likely lead to the Lascorp supermarket proposal being developed and the existing permit in the Commercial 1 Zone lapsing. The Committee has asked itself whether this is the best outcome for the community of Shepparton North in the context of State and local policy. It has concluded that it is not. A further outcome is that if the Amendment is approved, the existing supermarket may remain, or it might be redeveloped. This would result in two separate retail nodes, separated by an approximate 750 metre walking (door to door) or a 400 metre driving distance. This is not how Activity Centres should be planned.

Based upon the evidence and submissions at the Hearing, the Committee considers the Shepparton North Activity Centre and its community will achieve greater longer term benefits from a single, integrated and well-functioning retail core, rather than two disconnected stand-alone retail nodes.

The Committee would have been inclined to accept the well-constructed arguments put by Lascorp if there was no other option, that is, if there was no appropriately Commercial 1 zoned land and/or if there was no permit for the current supermarket based centre in place.

In saying this, there is a time imperative for Shepparton/Metcash to act on its permit and its verbal commitment to proceed to develop the site. The community will be far better off to have two supermarkets on the one site. But it will be worse off if Shepparton/Metcash does not make good their permit and nothing happens. There will be other ways for Lascorp to proceed to get approval for its Amendment and permit if Shepparton/Metcash does not act on its permit in the timeliest of ways.

Irrespective of these findings, the Committee considers that to assist the Shepparton North Activity Centre develop further, there is an immediate need for appropriate planning guidance in the form of a Structure Plan for the existing Activity Centre but broadened in area to include other retail and community uses adjacent to and close by. A properly developed Structure Plan will provide Council, the community, existing landowners and investors with certainty about the long term future of the Activity Centre and will ultimately enhance growth opportunities and economic benefits in Shepparton North.

(ii) Response to Terms of Reference

The Terms of Reference note at Clauses 3 and 24 that the Committee is to advise the Minister for Planning on key matters. The following summary responds to these matters.

Table 1 Response to Terms of Reference

Term of Reference – Clause 3	Committee response
3.a. The appropriateness of Amendment C193 (Part 2) to the Greater Shepparton Planning Scheme as exhibited (and updated).	The Committee does not support the Amendment as it is inconsistent with the Objectives of the <i>Planning and Environment Act 1987</i> , State and local planning policy and the preferred outcome of the <i>Greater Shepparton Commercial Activity Centres Strategy 2015</i> . (Chapters 3 and 4)

Term of Reference – Clause 3	Committee response
3.b. Whether Planning Permit PPA2016-269 should issue, and if so, the appropriate permit conditions as exhibited (and updated).	The Committee does not support the Planning Permit; however, it has assessed the permit and has recommended conditions should the Minister for Planning not accept these recommendations. (Chapter 7 and Appendix C)
3.c. Whether the preparation of a Structure Plan for the Shepparton North Activity Centre is warranted and the timing and scope of the plan.	A Structure Plan for the Shepparton North Activity Centre is warranted. It should commence within six months of the date of this report. The scope should be broadened to consider adjacent land and uses external to the existing Shepparton North Activity Centre. (Chapter 6)
<p>24.b. Whether Planning Scheme Amendment C193 (Part 2) should be approved, including:</p> <ul style="list-style-type: none"> <li data-bbox="264 875 730 987">• Advice on whether the site is an appropriate location for the proposed uses and development. <li data-bbox="264 1301 730 1637">• A recommendation on whether PPA2016-269 should issue, including an assessment of the proposed uses and development including the proposed layout, access, parking, built form, and advice on conditions that should apply to the uses and development. 	<p>The Committee agrees that without considering the full policy context for the Amendment, the site is appropriate for a standalone supermarket-based shopping centre. However, State and local policy favour the preferred location for retail activity in the Shepparton North Activity Centre, which is the existing land already zoned Commercial 1. Design and Development Overlay 9 does not support the proposed siting in that it is set back too far from Numurkah Highway. (Chapters 2 and 3)</p> <p>The Committee does not support the issue of the Planning Permit, however it has assessed it and has recommended conditions should the Minister for Planning not accept these recommendations. (Chapter 7 and Appendix C)</p>
24.c. A draft planning permit including relevant conditions from referral authorities.	(Chapter 7 and Appendix C)
24.d. An assessment of submissions and any other relevant matters raised in the course of the Advisory Committee process.	This report addresses the submissions, evidence and relevant matters raised throughout the Advisory Committee process.
24.e. A list of persons who made submissions.	See Overview

Term of Reference – Clause 3	Committee response
24.f. A list of persons consulted or heard.	See Overview

(iii) Recommendations

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

- 1. Amendment C193 Part 2 to the Greater Shepparton Planning Scheme be abandoned.**
- 2. Planning Permit 2016-269 not be issued.**
- 3. Council prepare a Structure Plan for the Shepparton North Activity Centre area, to commence within six months of the date of this report.**
- 4. Expand the area within the Structure Plan to include, but not limited to, the Shepparton North Activity Centre, the existing shops in Pine and Hawkins Streets, the Shepparton Sports and Events Centre and the Munarra Centre for Regional Excellence.**

Should the Minister for Planning decide to approve the Amendment and Permit Application, the Planning Permit conditions should be revised as shown in Appendix C.

1 Introduction

1.1 The Committee and Terms of Reference

The Shepparton North Activity Centre Advisory Committee (the Committee) was appointed by the Minister for Planning on 8 December 2019 through section 151 of the *Planning and Environment Act 1987* (the Act). The Minister for Planning issued Terms of Reference on 17 February 2019 and updated these on 17 November 2019 (Appendix A).

The purpose of the Committee, set out at Clause 3 of the Terms of Reference, is to advise the Minister for Planning on:

- the appropriateness of Amendment C193 (Part 2) to the Greater Shepparton Planning Scheme, and as exhibited (and updated)
- whether Planning Permit PPA2016-269 (the Permit Application) should issue, and if so, the appropriate permit conditions as exhibited (and updated)
- whether the preparation of a structure plan for the Shepparton North Activity Centre (SNAC) is warranted and the timing and scope of the plan.

The Committee comprises the same members who considered and reported on Amendments C192 and C193 to the Greater Shepparton Planning Scheme in 2017, these being Kathy Mitchell (Chair), Con Tsotsoros and Michael Malouf. It was assisted by Andrea Harwood and Ellen Ryan of the Office of Planning Panels Victoria.

Consistent with Clause 11, the Committee may inform itself as it sees fit and must consider relevant matters, including but not limited to:

- a. relevant provisions of the *Planning and Environment Act 1987*, the Victoria Planning Provisions Plan Melbourne 2017 - 2050: Metropolitan Planning Strategy and Hume Regional Growth Plan 2014.
- b. the Greater Shepparton Planning Scheme, including any adopted plans, strategies or planning scheme amendments.
- c. all relevant material submitted on behalf of the proponent and submitters or otherwise provided to the Advisory Committee.
- d. the Supplementary Economic Advice.
- e. all submissions and evidence received.

Clause 23 notes the Committee is expected to:

- undertake a strategic assessment of the site
- determine whether a Structure Plan is required for the SNAC, and if so, the timing and form of it
- undertake an assessment of the referred Amendment and planning permit application and recommend whether it should be approved.

Consistent with Clauses 13 to 18, the Department of Environment, Land, Water and Planning (DELWP) undertook notice of Amendment C193 (Part 2) and permit between 16 December 2019 and 29 January 2020. Six submissions were received as outlined in the Overview.

Clauses 19 to 22 provided for the Committee to carry out a Directions Hearing and Hearing. In this regard, it held a Directions Hearing in person on 26 February and by video conferencing on 4 June 2020. It convened a Public Hearing that was entirely held by video conference using MS Teams on 19, 22, 23, 24, 25 and 26 June 2020.

As set out in Clause 24, the Committee is to prepare a report for the Minister for Planning that includes:

- a. consideration of the matters outlined in these Terms of Reference
- b. a recommendation as to whether Planning Scheme Amendment C193 (Part 2) to the Greater Shepparton Planning Scheme should be approved, including:
 - advice on whether the site is an appropriate location for the proposed uses and development
 - a recommendation on whether Planning Permit PPA2016-269 should issue, including an assessment of the proposed uses and development including the proposed layout, access, parking and built form and advice on conditions that should apply to the uses and development.
- c. a draft planning permit including relevant conditions from referral authorities
- d. an assessment of submissions to the Advisory Committee and any other relevant matters raised in the course of the Advisory Committee process
- e. a list of persons who made submissions to the Advisory Committee
- f. a list of persons consulted or heard.

The Report is required to be submitted to the Minister for Planning no later than forty business days from the completion of any of its hearings.

1.2 The Amendment and permit application

Amendment C193 Part 2 (the Amendment) to the Greater Shepparton Planning Scheme (the Planning Scheme) seeks to rezone land at 221-229 Numurkah Road and 10 Ford Road (Lascorp Land), Shepparton North from Commercial 2 Zone to Commercial 1 Zone. The subject land is shown in the red outline in Figure 1.

Planning Permit Application 2016-269 seeks a permit to use and develop the Lascorp Land for a freestanding retail centre. Specifically, the Permit application seeks:

- buildings and works for a supermarket and additional retail space, medical centre and community meeting space
- to use the land for a community meeting space
- packaged liquor licence (bottle shop)
- to create and alter access points to a road in a Road Zone Category 1
- to erect and display advertising signs.

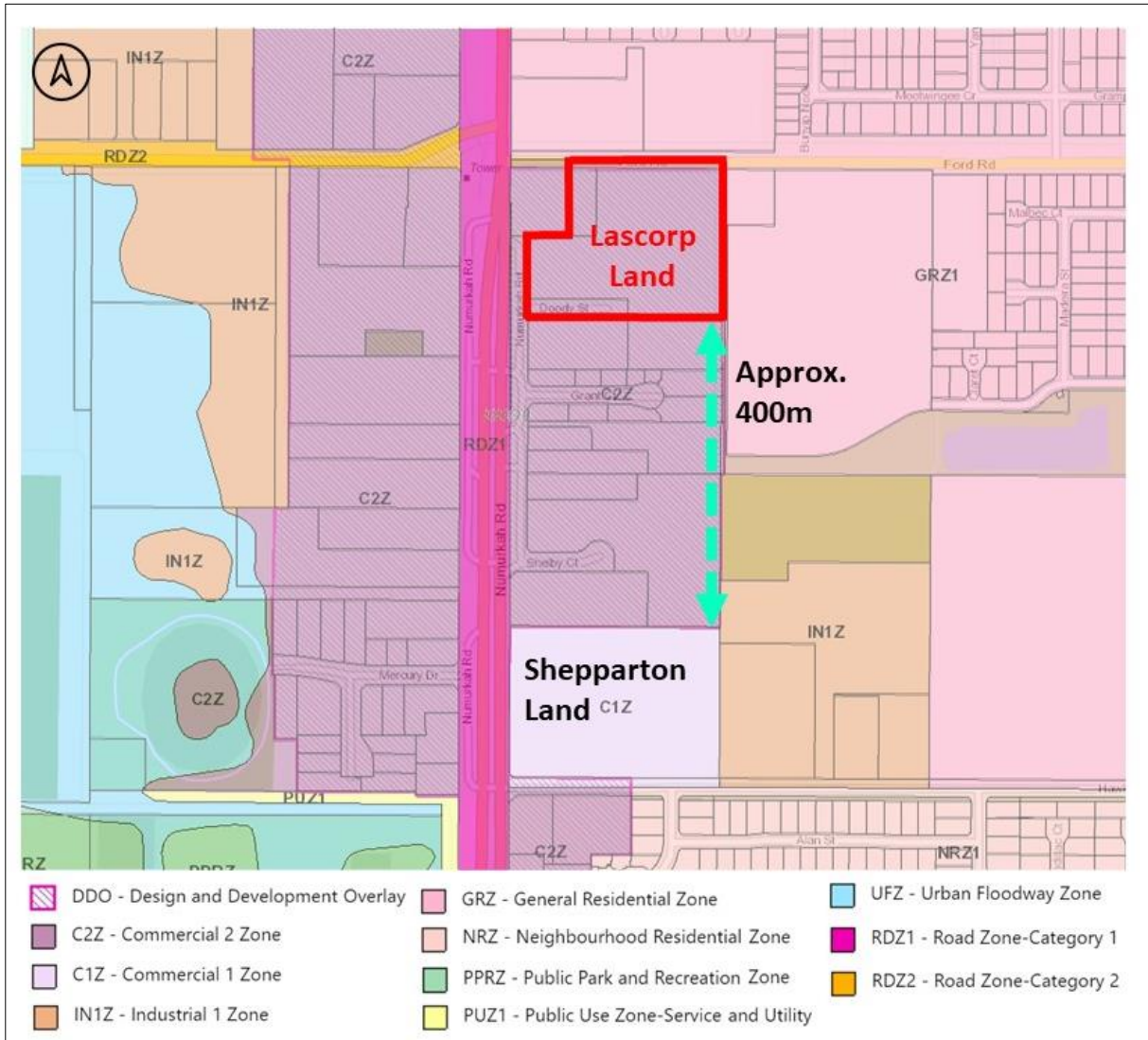
The development will comprise:

- a full line supermarket (3,960 square metres) including an area to sell liquor
- an area with outdoor seating and dining
- loading dock to the supermarket with access from Ford Road
- specialty retail tenancies (2,030 square metres) wrapping around the supermarket
- a chemist and medical centre (560 square metres)
- a space for community purposes in one of the tenancies
- bicycle and change room facilities, internal bike lockers, and external bicycle parking
- convenient pedestrian access is accessible throughout the development
- pylon signs along Numurkah Road and Ford Road.

The Proponent of the Amendment and permit application is Lascorp Investment Group Pty Ltd (Lascorp). Lascorp advised the Committee that Woolworths will be the supermarket tenant.

The property at the north-west corner of the site at Numurkah and Ford Road (231-237 Numurkah Road) does not form part of the Lascorp proposal.

Figure 1 The Lascorp and Shepparton land



Source: <https://mapshare.vic.gov.au/vicplan/> and Planning Panels Victoria

1.3 Procedural issues

The Advisory Committee considered and ruled on several procedural matters.

(i) Exchange of documents

At the first Directions Hearing, Shepparton Pty Ltd and Metcash Pty Ltd (Shepparton) through Mr Tweedie requested the Committee direct Lascorp to provide documents relating to the statements made in the original submission of Lascorp to the Committee about the legally binding agreement made with Woolworths and the commitment of Woolworths to the Lascorp Land¹. Shepparton sought these documents within seven business days.

¹ Document 17

Lascorp responded that it did not oppose the request and countered it with requests that Shepparton provide it with documents relating to contracts of sale between Shepparton and Metcash; leases between Marl Enterprises Pty Ltd (Marl) and Metcash; and any evidence of intention to act upon its permit, initially within the same timeframe of seven days or a timeframe to be agreed.

As part of the preliminary matters raised by the Committee at the Directions Hearing, the Committee noted the following directions for Shepparton:

- Provide an update of tenancy arrangements for the site and advice on commitments made by a second supermarket operator.
- Provide an update on the progress of the permit and its timing, noting the condition that works must commence by April 2021.

Committee response

The Committee heard submissions from various parties on the requests made by Shepparton and Lascorp and made the following rulings²:

- Lascorp put its verbal request in writing to Shepparton by 28 February 2020.
- Lascorp respond and comply with the request by Shepparton (Document 17) in writing by 6 March (noting that there may be redactions of commercial in confidence sections of the documents and that the documents remain commercial in confidence).
- Shepparton bring forward its response to the two Committee directions noted above so that these are tabled at the same time as the expert evidence on 9 April 2020. The Committee noted the evidence and submissions of Shepparton will precede the same for Lascorp and that witnesses can respond to the Shepparton issues at an appropriate time.
- Shepparton provide a response in writing to the request of Lascorp by 6 March 2020.
- The Committee considered these issues and advised on 11 March 2020. It ruled the information was only to be provided commercial in confidence to Lascorp and Shepparton in hardcopy only and was to be returned to the relevant submitter at the conclusion of the proceedings.
- The Committee noted it would convene a short Directions Hearing on 13 March if required (which it was not).

(ii) Novel Coronavirus Disease 2019

The Committee informed parties on 20 March 2020 about possible implications relating to Novel Coronavirus Disease 2019 (COVID-19) and provided an opportunity to comment on how to progress the matter in response to restrictions associated with this. It encouraged parties to work together to come to an agreed and shared position on the Hearing arrangements by 30 March 2020.

The Committee received individual responses from Greater Shepparton City Council (Council) on 27 March 2020, Lascorp on 27 and 30 March 2020, Marl, Shepparton and Transport for Victoria³ on 30 March 2020 and from Council again on 1 April 2020.

² Document 18

Council and Lascorp supported the Hearing progressing either on the papers, through video conferencing, or a combination of both. Transport for Victoria did not oppose any of these processes. Marl and Shepparton sought to have the Hearing adjourned until it could be heard in person.

Committee response

On 2 April 2020, the Committee informed parties that it determined to proceed with the Hearing through video conferencing for the following reasons:

- All parties and their expert witnesses had, or could freely obtain, video conferencing technology which would provide fair and equitable access to the process.
- There were no public submitters.
- The Committee was familiar with the subject land, the IGA Centre and the immediate and wider surrounds of Shepparton North.
- The Committee's Terms of Reference expect, but do not require, a public hearing.
- Sections of the Act relating to conducting a hearing in public do not apply to an advisory committee appointed under section 151.
- Section 151(6) of the Act enables an advisory committee to regulate its own proceedings, subject to the regulations.
- Irrespective, video conferencing enabled a public hearing while affording natural justice and procedural fairness to all parties.
- There were only five parties to the matter, which was a relatively small number.
- Planning Panels Victoria had already scheduled video conferences for various matters.

(iii) Information from the Department of Transport

On 3 April 2020, Lascorp requested through the Committee that the Department of Transport provide:

- a full set of current plans detailing the proposed road works in the vicinity of the subject land, including the Goulburn Valley Highway roundabout and Ford Road access points
- the design traffic volumes for the roundabout (existing and future) and an understanding of which proposed developments in the immediate vicinity have been allowed for within the future estimates.

It required the information so that it could respond to the Committee's Direction 21.

Committee response

The Committee considered the request to be fair and reasonable and directed that the Department of Transport provide the information as soon as possible but no later than 4.00pm on Wednesday 8 April 2020.

(iv) Further request for adjournment

On 7 April 2020, the Committee received a letter from Minter Ellison on behalf of Shepparton seeking to defer the Hearing due to the sudden and unfortunate death of Mr

³ All references to VicRoads, Department of Transport, Regional Roads Victoria are referred to as Transport for Victoria

Bisset, the principal lawyer and Partner who had carriage of this matter from its inception (Document 42).

Committee response

The Committee acknowledged the tragic circumstances and granted the request for adjournment.

(v) Arrangements for the Hearing

Following this, the parties helpfully got together and established a proposed timetable for procedural issues and dates to move this Hearing forward. The Committee acknowledged the helpfulness of this, and it agreed to that timetable.

Committee response

A second Directions Hearing was held by video conference on 4 June 2020. At this point in time, the Committee flagged the opportunity of having the Hearing in person, as at that time, the issues with COVID-19 had settled down somewhat. Parties generally confirmed they would prefer a face to face Hearing if that was possible.

The Committee proceeded on that basis but due to concerns raised the day before the Hearing was to commence on 19 June 2020 by some parties, it determined to hold it by video conference using MS Teams. Through this form of technology, the Hearing went well and while there were some minor technology glitches, there was nothing substantial that caused any delays.

1.4 Chronology of events

This matter has an extensive history and the Committee has built upon a chronology of relevant events provided by Council (Document 9a) since this matter was first considered by a Panel in 2017 in Table 2.

Table 2 Chronology of events

Date	Event
2017	
20 April	Council exhibited Amendment C193 and Planning Permit Application 2016-269 (Lascorp proposal)
16 June	18 Pty Ltd (now known as Shepparton Pty Ltd) lodged planning permit application 2017-177 to Council to use and develop land at 177-193 Numurkah Road, Shepparton (the Shepparton Land) for Stage 2 of its retail centre, comprising 5,500 square metres of retail floorspace including a second supermarket
27 June	Panel hearing for Amendments C192 and C193 and permit began
18 July	Council adopted the Urban Design Framework: Shepparton North and South Business Areas (Addendum) 2017
August	IGA Retail Services entered into a contract of sale to sell the Commercial 1 Zone land to Shepparton Pty Ltd (sale pending)

Date	Event
9 October	Council received the Panel Report for Amendments C192 and C193 and permit application 2016-269
17 November	Council failed to determine planning permit application 2017-177 within the prescribed time Shepparton Pty Ltd lodged a section 79 appeal to review the applications at the Victorian Civil and Administrative Tribunal (VCAT)
21 November	At its Council meeting, Council officers: <ul style="list-style-type: none"> - considered the supermarket proposed on the subject land to be the ‘second’ supermarket and the one proposed on the Shepparton Land to be the ‘third’ - recommended to refuse planning permit application 2017-177 because a third supermarket would be inconsistent with the City of Greater Shepparton Commercial Activity Centres Strategy 2015 (CACS) and detrimentally affected the Shepparton Central Business District (CBD) At its Council meeting, Council resolved to: <ul style="list-style-type: none"> - adopt Amendment C192 - split Amendment C193 into Part 1 (Public Acquisition Overlay) and Part 2 (Lascorp proposal – combined rezoning and planning permit) and adopt Amendment C193 Part 1 - defer the consideration of Amendment C193 Part 2 and planning permit application to <i>“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”</i> - delegate the power to adopt Amendment C193 Part 2 and planning permit application 2016-269 to the Chief Executive Officer
21 December	Shepparton Pty Ltd lodged a section 39 application of the Act with VCAT alleging procedural defects with the Council’s November 2017 resolutions
2018	
7 February	Shepparton Pty Ltd submitted a revised development proposal to Council
16 February	Council received the Panel Report for Amendment C196 (Addendum to the Urban Design Framework)
2 March	VCAT found that Council failed to comply with sections 29 and 188 of the Act by purporting to delegate the power to adopt Amendment C193 Part 2 to its Chief Executive Officer
6 March	VCAT conducted a compulsory conference between Council and 18 Pty Ltd to discuss the second stage of the Shepparton Land. Parties generally agreed that subject to revised plans being provided, that a planning permit would be granted for the proposal
15 March	18 Pty Ltd submitted revised plans for Section 79 Appeal 2017-117 on 13 March 2018 and a second VCAT conference was held

⁴ Council assumed the Lascorp proposal was more likely to be developed

Date	Event
20 March	At its meeting, Council resolved to: <ul style="list-style-type: none"> - set aside its November 2017 resolutions - adopt Amendment C192 with changes - adopt Amendment C193 Part 1 and recommendations 2, 4 and 7 of the Panel Report - approve 13,675 square metres of retail floorspace on the Shepparton land including two 4,000 square metre full line supermarkets through planning permit 2017-177
19 April	VCAT directed Council to issue a planning permit no. 2017-177, as part of Consent Orders. The planning permit allows the development of the land for two, full line supermarkets on the land
27 April	Council issued planning permit 2017-177
30 May	Essential Economics prepared a report for Council associated with the possibility of three supermarkets establishing in Shepparton North
19 June	At its meeting and after considering the Essential Economics report, Council: <ul style="list-style-type: none"> - did not adopt the Panel's recommendation to prepare a Structure Plan for the Shepparton North Activity Centre (SNAC) before deciding on Amendment C193 Part 2 and permit application 2016-269 - adopted Amendment C193 Part 2 and recommended that the Minister for Planning issue permit application 2016-269 for a third supermarket approval
16 August	Marl Enterprises Pty Ltd served Council with a judicial review application in the Supreme Court of Victoria
17 August	IGA Retail Services Pty Ltd and Shepparton Pty Ltd served Council with a judicial review application in the Supreme Court of Victoria
2019	
20 May	The Supreme Court plaintiffs wrote to the Minister for Planning and advised they were willing to stop the proceedings if the Minister for Planning established an advisory committee under section 151 of the Act to consider the merits of Amendment C193 and permit application 2016-269
21 August	The Minister for Planning agreed to establish the Shepparton North Activity Centre Advisory Committee to consider the merits of combined Amendment C193 Part 2 and planning application 2016-269.
15 September	The Minister for Planning issued the Terms of Reference for the Advisory Committee and appointed the Shepparton North Activity Centre Advisory Committee
17 September	Council adopted Amendment C211 which seeks to include the Munarra Centre for Regional Excellence and Shepparton Sports and Events Centre, September 2019 as an incorporated document to the Greater Shepparton Planning Scheme
24 September	Council issued a planning permit for a KFC restaurant at 178-180 Numurkah Road, opposite Fairleys IGA

Date	Event
4 October	Amendment C118 was approved and gazetted. Among other things, the Amendment rezoned 177 hectares of land identified in the Shepparton North East Precinct Structure Plan and includes a small convenience based local activity centre
1 November	The Supreme Court of Victoria made orders dismissing the IGA proceedings by consent of the parties
6 November	The Supreme Court of Victoria made orders dismissing the Marl Enterprises Pty Ltd proceedings by consent of the parties
2020	
14 May	Endorsed plans for Planning permit 2017-177 (Shepparton Land) issued
19 June	Committee conducted Hearing for six days
2021	
27 April	Planning permit 2017-177 expires if development does not commence

1.5 The approach of the Committee

The Committee found the approach of witnesses submitting evidence and ‘like’ witnesses having the opportunity to respond to that evidence in writing before the Hearing commenced to be very useful. Likewise, it was helpful to require all parties to lodge an opening submission before the Hearing and then having the opportunity to provide a closing submission. The Committee provided time limits on all opening and closing submissions and this too worked well.

The Committee considered all written submissions made in response to the exhibition of the Amendment and planning permit application, observations from its previous site visits and the updated drone footage played by Council, and submissions, evidence and other material presented to it during the Hearing. All have been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context (Chapter 2)
- Strategic planning considerations (Chapter 3)
- Economic considerations (Chapter 4)
- Net community benefit (Chapter 5)
- Activity Centre Structure Plan (Chapter 6)
- Planning scheme amendment and permit (Chapter 7).

In reaching its findings and recommendations, the Committee has assessed the Amendment and planning permit application against the principles of net community benefit and sustainable development for the benefit of present and future generations, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

It is important to note and recognise that the Committee is not required to, nor does it, assess or make findings and recommendations on any matter relating to the existing permit for the two supermarkets and associated shops and other facilities on the existing Commercial 1 zoned Shepparton Land.

2 Planning context

There is significant State and local planning legislation and policy to guide the consideration of these matters and these are briefly summarised.

2.1 State legislation and policy

(i) *Planning and Environment Act 1987*

The relevant objectives of the Act include:

- (1) The objectives of planning in Victoria are:
 - (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
 - ...
 - (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
 - ...
 - (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
 - (g) to balance the present and future interests of all Victorians.
- (2) The objectives of the planning framework established by this Act are:
 - (a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;
 - ...
 - (e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;
 - ...
 - (h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision making;
 - (i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice.

(ii) **Planning Policy Framework**

The Amendment is assessed by various clauses in the Planning Policy Framework, summarised in Table 3 and Table 4.

Table 3 Planning Policy Framework: State and regional policies

Relevant clauses
11 Settlement
11.02 Managing growth
11.02-1S Supply of urban land To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
11.02-2S Structure planning To facilitate the orderly development of urban areas.
11.02-3S Sequencing of development To manage the sequence of development in areas of growth so that services are available from early in the life of new communities.

Relevant clauses

11.03 Planning for places

11.03-1S Activity centres

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

11.03-2S Growth areas

To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create sustainability benefits while protecting primary production, major sources of raw materials and valued environmental areas.

11.03-6S Regional and local places

To facilitate integrated place-based planning.

13 Environmental Risks and Amenity

13.07 Amenity and Safety

13.07-1S Land use compatibility

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

15 Built environment and heritage

15.01 Built environment

15.01-1S Urban design

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity

15.01-2S Building design

To achieve building design outcomes that contribute positively to the local context and enhance the public realm.

15.01-4S Healthy neighbourhoods

To achieve neighbourhoods that foster healthy and active living and community wellbeing

15.02 Sustainable Development

15.02-1S Energy and resource efficiency

To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.

16 Housing

16.01 Residential Development

16.01-2S Location of residential development

To locate new housing in designated locations that offer good access to jobs, services and transport.

17 Economic development

17.01 Employment

17.01-1S Diversified economy

To strengthen and diversify the economy.

Relevant clauses

17.01-1R Diversified economy - Hume

Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

17.02 Commercial

17.02-1S Business

To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

Strategy: Apply a five year time limit for commencement to any planning permit for a shopping centre or shopping centre expansion of more than 1000 square metres leasable floor area.

17.02-2S Out-of-centre development

To manage out-of-centre development.

18 Transport

18.01 Integrated transport

18.01-1S Land use and transport planning

To create a safe and sustainable transport system by integrating land use and transport.

18.01-2S Transport system

To coordinate development of all transport modes to provide a comprehensive transport system.

18.01-2R Transport links - Hume

Support improved east-west transport links including those into Gippsland.

18.02 Movement Networks

18.02-1S Sustainable personal transport

To promote the use of sustainable personal transport.

18.02-2S Public transport

To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.

18.02-3S Road system

To manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.

18.02-4S Car parking

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

19 Infrastructure

19.02 Community Infrastructure

19.02-1S Health facilities

To assist the integration of health facilities with local and regional communities.

19.02-4S Social and Cultural Infrastructure

To provide fairer distribution of and access to, social and cultural infrastructure.

Relevant clauses

19.03 Development Infrastructure

19.03-2S Infrastructure design and provision

To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.

19.03-3S Integrated water management

To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.

Table 4 Planning Policy Framework: Local policies

Relevant clauses

21 Municipal Strategic Statement

Key Influences and Issues

- The Shepparton CBD is recognised as the principal retail centre in the region but requires consolidation of the traditional retail core and strengthening of its role and image to remain competitive with free-standing sub-regional centres such as Shepparton marketplace. In addition to retaining a good range of national brand retailers and large variety and supermarket stores, it is vital that the CBD continues to be a focus by its offering of boutique retailing, specialty food outlets, together with entertainment, cafes and dining.
- Competition between regional centres for community health and education services and facilities, and regional infrastructure investment in cities will be significant and success will be with those communities able to overcome

21.04 Settlement

21.04-4 Urban Design

- To promote a high standard of architectural, landscaping and urban design for built form and public spaces throughout the municipality.
- 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

- The environment is a key factor influencing the economy, lifestyle and recreational choices in the Shire.

21.06 Economic development

21.06-5 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 maximise the regional service role of Shepparton through the provision of a dynamic and efficient activity centre hierarchy.
- To ensure the provision of adequate subregional retail facilities to serve local communities. To create a movement network that is convenient, connects key destinations and precincts,

Relevant clauses

and prioritises walkability, cycling and public transport use.

- Encourage the redevelopment of peripheral areas of the Shepparton 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.
- 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.
- 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.

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.
- 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.
- It included the Shepparton Business Framework Plan.

21.07 Infrastructure

21.07-1 Transport

- To ensure new developments incorporate appropriate bicycle infrastructure.
- To ensure that adequate parking is provided for all new uses and developments.

2.2 Planning scheme provisions

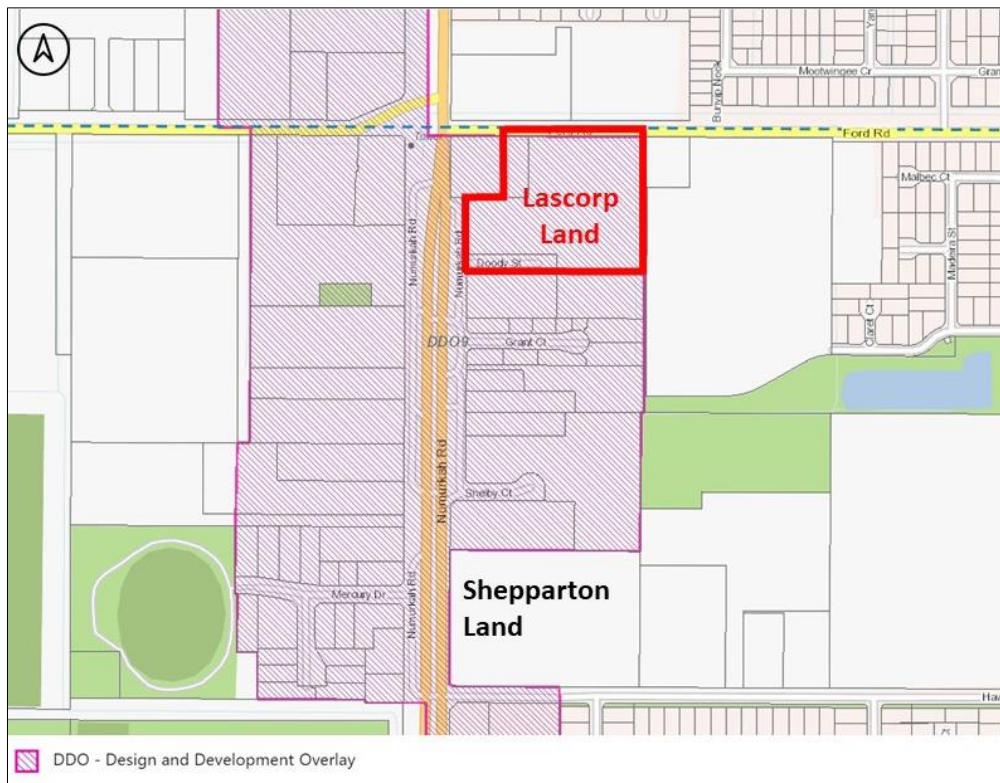
The Commercial 1 and 2 Zones apply to land in the SNAC. The Amendment seeks to rezone the Lascorp Land from the Commercial 2 Zone to Commercial 1 Zone. DDO9 applies to the Shepparton North Enterprise Corridor, which includes the SNAC and Lascorp Land, and excludes the Shepparton Land (Figure 2).

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework. The zones and overlays shown in Table 5 are either existing or proposed planning provisions.

Table 5 Relevant zone and overlay purposes

Zones and overlays	
Zones	
Commercial 1	<p>To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.</p> <p>To provide for residential uses at densities complementary to the role and scale of the commercial centre.</p>
Commercial 2	<p>To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.</p> <p>To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.</p>
Overlays	
Design and Development	<p>To identify areas which are affected by specific requirements relating to the design and built form of new development (See Figure 2).</p> <p>DDO9:</p> <p>To encourage a vibrant commercial area supporting large scale, regionally significant service and retail activities that reflect the strategic importance of the area as a gateway location in Shepparton’s north.</p> <p>To ensure the design, quality and siting of buildings reflects and enhances the role of the area while making efficient use of the land.</p>

Figure 2 Design and Development Overlay Schedule 9



Source: <https://mapshare.vic.gov.au/vicplan/> and Planning Panels Victoria

2.3 Relevant planning strategies and policies

(i) *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.

(ii) *Urban Design Guidelines for Victoria (DELWP, 2017)*

Urban Design Guidelines for Victoria 2017 (Urban Design Guidelines) advises on the design of public spaces, building design in relation to a building's interface with public space, and the layout of cities, towns and neighbourhoods. It sets out its guidance in the following sections:

1. Urban structure
2. Movement network
3. Public spaces
4. Public transport environs
5. Buildings
6. Objects in the public realm.

Section 1 (Urban structure) sets out the following principles for an activity centre structure:

- 1.2.1 To ensure accessible and functional activity centres
- 1.2.2 To ensure activity centre structure supports public transport access
- 1.2.3 To ensure the activity centre structure supports safety and amenity
- 1.2.4 To activate the activity centre's interface with its barrier edges
- 1.2.5 To respond to change within an activity centre.

(iii) *City of Greater Shepparton Commercial Activity Centre Strategy 2015*

The *City of Greater Shepparton Commercial Activity Centre Strategy 2015* (CACS) seeks to provide a policy framework which:

- clarifies 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.

CACS identifies the need for additional commercial and retail floor area to meet demand from the growing population. CACS seeks to "*Confirm the primacy of the Shepparton CBD,*" and outlines the need for a second supermarket in Shepparton North in response to demand. It does not include a specific timeframe for the second supermarket.

CACS designates Shepparton North as a Subregional Centre (along with Riverside and Mooroopna). Each centre is to comprise retail and commercial activity that serve an immediate residential catchment as well as a broader rural and regional hinterland that open space accessible from regional road networks. All centres have capacity for growth.

CACS provides planning and development assessment criteria which requires new or expanded Retail premises to be assessed against.

CACS sets out the following directions and actions for the SNAC:

Shepparton North

- Action 1: Encourage the expansion of retail and commercial facilities in the existing Commercial 1 Zone area so that residents of Shepparton North are provided with an enhanced range of local convenience shopping facilities and services.
- Action 2: Expansion of the Shepparton North centre to provide a range of retail and non-retail facilities that is consistent with sub-regional status in the activity centres hierarchy. This could include the addition of a second full-line supermarket and enhanced supporting retail (not including a major non-food retail anchor such as a discount department store).
- Action 3: Ensure that future development of the Shepparton North centre takes place in a manner supported by appropriate urban design and planning guidance. In indicative terms, an increase of 6,000m² in shop floorspace may be supported on land outside the existing Commercial 1 Zone at Shepparton North, which is sufficient to accommodate a 2nd supermarket and supporting retail such as specialty shops. This should be subject to detailed assessment through application of the Planning and Development Assessment Criteria to any proposal.

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.

Shepparton North Strategic Planning Guidance

- Zoning: Currently Commercial 1 Zone. Possible expansion of the Commercial 1 Zone somewhere in area between Ford Road and Hawkins Street.
- ...
- Local Centres Policy: 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 site suitability and availability.

The CACS notes:

Although retaining a contiguous area of land in the Commercial 1 zone is a preferred outcome, the potential for expansion on other available sites in the area between Ford Road and Hawkins Street may be required to achieve the required growth in retail and commercial activity.

Amendment C192 implemented the CACS by changing relevant Planning Policy Framework clauses of the Planning Scheme on 7 June 2018.

(iv) *Urban Design Framework: Shepparton North and South Business Areas (Addendum) 2017*

Council adopted the Addendum to the *Urban Design Framework, Shepparton North and South Business Areas* in July 2017 (UDF). The document is an addendum to *Shepparton*

North and South Business Areas Urban Design Framework (2006) and both apply to the Shepparton North Gateway Commercial Precinct.

The UDF designates the existing Fairley's IGA site and the subject land 'Prominent sites (including gateways)'. It provides objectives and design requirements for:

- façade treatment, architectural features, materials and finishes
- massing, building height and street wall height
- upper building, street, side and rear setbacks
- roof form, roofline, access points and crossovers
- parking, landscaping, front gardens and signage.

The UDF recommended that a Design and Development Overlay schedule, as appended to the document, be applied to the Precinct. Amendment C196 introduced Design and Development Overlay Schedule 9 (DDO9) to the Precinct on 28 June 2018. Council did not apply DDO9 to the existing Commercial 1 Zone land on the Shepparton Land.

(v) *Draft Shepparton and Mooroopna 2050: Regional City Growth Plan (July 2020)*

The Victorian Planning Authority, in partnership with Council, prepared the draft *Shepparton and Mooroopna 2050: Regional City Growth Plan* (Growth Plan). It aims to guide the sustainable development of the Shepparton-Mooroopna urban area to the year 2050.

The Growth Plan outlines the vision for Shepparton and Mooroopna by 2050:

- be a thriving regional hub with a diverse and sustainable economy supported by essential infrastructure
- new residents and investors will be drawn to the area due to the affordable and liveable lifestyle
- the natural and cultural heritage significance of the area will be protected and enhanced
- engaging, transparent and financially responsible leadership will be committed to deliver positive and sustainable outcomes.

The vision for Shepparton and Mooroopna is underpinned by 10 principles. Relevant principles include:

- resilient and sustainable development balanced across new and existing precincts
- activation and renewal of key precincts
- integrated transport networks
- a thriving and diverse economy
- a hierarchy of centres to support regional and local needs
- attractive and distinctive places.

At the Ordinary Council Meeting held in September 2019, Council resolved to authorise exhibition for the draft Growth Plan. The draft Growth Plan was exhibited in September and October 2019 and 30 submissions were received.

It was envisaged by Council that a planning scheme amendment to implement the findings and recommendations of the final Growth Plan will occur in mid-2020, however this date is uncertain at this stage.

(vi) Other relevant planning strategies and policies

Other relevant planning strategies and policies include:

- *Activity Centre Design Guidelines* (2005)
- *Greater Shepparton 2030 Strategy* (2006)
- *Interim Design Guidelines for Large Format Retail Premises* (2007)
- *Shepparton CBD Strategy* (2008)
- *Shepparton North Growth Corridor: Outline Development Plan* (2003 and 2009)
- *Greater Shepparton Housing Strategy* (2011)
- *Industrial Land Review* (2011).

2.4 Relevant Planning Scheme amendments

Relevant amendments introduced in the Greater Shepparton Planning Scheme since 2017 include:

(i) Amendment C196

Amendment C196 introduced the *Addendum to the Urban Design Framework: Shepparton North and South Business Areas, July 2017* as a reference document in the Planning Scheme. It implemented its recommendations by revising Schedule 7 to the Design and Development Overlay that applies to land at Kialla and introduces a new DDO9 for the Shepparton North Commercial Gateway Precinct.

Amendment C196 was introduced into the Planning Scheme on 28 June 2018.

(ii) Amendment C118

Amendment C118 implemented the *Shepparton North East Precinct Structure Plan* (February 2019) and the *Shepparton North East Development Contributions Plan* (February 2019). The Precinct comprises 146 hectares of developable land with up to 1,500 new dwellings or approximately 4,000 residents. It is expected to take 20 to 30 years to fully develop and will include a local convenience centre about 800 metres away from the SNAC.

Amendment C118 was introduced into the Planning Scheme on 4 October 2019.

(iii) Amendment C211

Amendment C211 facilitates development of the Munarra Centre for Regional Excellence, Rumba Re-life, the Shepparton Sports and Events Centre, and associated drainage infrastructure. This will enable a significant expansion of capacity to host major sporting, educational and cultural events in North Shepparton.

The Amendment applied a Specific Controls Overlay to several parcels of land and the new Incorporated Document *Munarra Centre for Regional Excellence and Shepparton Sports and Events Centre, September 2019* facilitates the Munarra Centre at 120-174 Numurkah Road, being opposite the Supa IGA site and the SNAC.

Amendment C211 was introduced into the Planning Scheme on 24 December 2019.

2.5 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

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

Planning Practice Note 58 guides councils on the activity centre structure planning process. It sets out reasons for structure planning in activity centres, the policy context, and possible inputs and outputs of the process. Its advice is intended specifically for principal and major activity centres but can be tailored to all types of centres.

3 Strategic planning considerations

The key issues to resolve relate to:

- policy support for the Amendment
- justification of locating a new supermarket on the Lascorp Land
- fair and orderly planning.

The Committee had the benefit from submissions of all parties and expert economic evidence from:

- Mr De Silva for Council
- Mr Barlow for Lascorp
- Mr Crowder for Shepparton.

3.1 Policy support

(i) The issue

The key issue to resolve is:

- How the Lascorp Amendment implements State and local policy.

(ii) Evidence and submissions

All planning experts acknowledged that the Lascorp Land is located in the SNAC area as defined by local policy.

Mr De Silva considered the Amendment does not directly conflict with State, Regional and Local policy, given the land is in a designated activity centre and given the demonstrated need for two supermarkets within the Activity Centre. Beyond that, he considered that State, Regional and Local policy, apart from a key strategic issue, was not direct enough to determine the Amendment. The key strategic issue was whether approving the Amendment would unreasonably risk the primacy of the Shepparton CBD. He added:

The threat to the primacy of the CBD is associated with whether there is any likelihood that approval of the Amendment and issue of the Planning Permit, which would mean that approval is granted for a 'third supermarket', would ever result in construction of three supermarkets.

Mr De Silva questioned whether approving the Amendment and permit would "*offend*" the policy context of the SNAC or unreasonably prejudice any future strategic planning process.

Mr Barlow considered the proposal was supported by existing planning policy because it would:

- support the continued growth and diversification of the activity centre to give communities access to a wider range of goods and services (Clause 11.03-1S)
- concentrate additional retail and commercial facilities for the SNAC between Ford Road and Hawkins Street (21.06).

Mr Barlow found the proposal was consistent with CACS through the following Actions:

- Action 1 - by expanding retail, commercial and community facilities
- Action 2 - through a second full line supermarket
- Action 3 - which seeks to increase 6,000 square metres of shop floorspace outside the existing Commercial 1 Zone land

- Action 4 - by excluding a Discount Department Store and other major non-food based 'anchor' shops.

Mr Crowder acknowledged that, in isolation, the Lascorp proposal is supported by policy which seeks greater choice and opportunities with its retail offer. He considered that, as a standalone centre, it met urban design policy seeking a safe, healthy, functional, and enjoyable place.

Mr Crowder identified issues with state planning policies such as Clauses 11 and 15, many of which relate to the absence of appropriate strategic and structure planning. He considered there was sufficient Commercial 1 Zone land to meet local demand over the next 15 years. He acknowledged the proposal would facilitate choice and opportunity, however he was not convinced it would result in a compact urban area based around the existing and planned activity centre. He found the proposal would not co-locate facilities and therefore would not maximise access to facilities and services.

Mr Crowder found that policy seeking to achieve a sense of place and cultural identity would be better achieved if the SNAC comprised a single integrated centre. He considered that further strategic planning is needed to determine how the Lascorp and Shepparton centres can better integrate and promote sustainable personal transport, walking and cycling.

(iii) Discussion

For reasons set out in Chapter 4.1, the proposal, if approved, would result in three supermarket approvals in the SNAC. The Committee disagrees with Mr Barlow that the Lascorp proposal is for the 'second' supermarket. It shares Mr De Silva's concern that the Lascorp Amendment and permit may threaten the primacy of the Shepparton CBD because there is no assurance that approving a third supermarket would not result in three supermarkets operating in the SNAC prematurely. This would affect one of the paramount foundations of the CACS – to protect the primacy of the Shepparton CBD.

The CACS makes it clear that the land use preference is for two supermarkets and additional specialty shops on the existing Commercial 1 Zone land. It nominates any other land in the 180,000 square metre activity centre as an alternative location for this retailing. However, any alternative location would need to be considered within the context of the existing permits on the Commercial 1 Zone land (the retail core). There is a direct relationship between the distance from the retail core of a third supermarket and the ability to meet relevant activity centre and urban design related planning policy.

It is very unlikely that a retail centre on the Lascorp Land, some 750 metres walking distance from the retail core, would result in a vibrant activity centre, as sought by State policy at Clause 11 and the purpose of the Commercial 1 Zone. Separating the retail core into two parts would certainly not achieve a sense of place and cultural identity. The Committee cannot be more definitive because there is no Structure Plan to demonstrate otherwise. However, it is confident that locating all supermarket and specialty shops within a single larger retail core would attract the mix of associated activity centre uses sought by State and local policy and the zone.

Regarding the CACS, Action 1 relates to encouraging the expansion of retail and commercial activities in the existing Commercial 1 Zone area. The Committee is perplexed with how Mr Barlow considered the Lascorp proposal to be consistent with this action.

CACS Action 3 relates to supply of 6,000 square metres of retail floorspace above the existing 8,000 square metre cap on the existing Commercial 1 Zone land. This action was implemented when 14,000 square metres was supported and approved on the Shepparton Land. For reasons set out in Chapter 4, the Committee considers there is insufficient demand to justify approving additional floorspace for a third supermarket and specialty floorspace outside the existing Commercial 1 Zone.

On this basis and at this point in time, there is little policy support to rezone the Lascorp Land to the Commercial 1 Zone.

(iv) Conclusions

The Committee concludes:

- There is insufficient State and local policy to support rezoning the Lascorp Land to the Commercial 1 Zone.
- The Amendment is inconsistent with planning policy related to activity centre planning and sustainability.

3.2 Justification of location

(i) Key issue

The key issue to resolve is:

- whether it is strategically justified to locate a full line supermarket and speciality shops on the Lascorp Land.

(ii) Evidence and submissions

All submitters and experts agreed that the Lascorp Land is included in the SNAC as defined in the CACS, although it is not zoned for retail uses. There were divergent views about whether the land was a suitable location for a retail centre with a full line supermarket and speciality shops. A key factor for these opinions was the separation distance between the Lascorp Land and the Shepparton Land. Planning and economic experts generally agreed that this separation would encourage visitors to:

- access the proposed Lascorp centre without visiting the other part of the retail core
- drive to one centre and then the other if they were visiting both centres in the one trip.

Mr Crowder found the Lascorp Land to be a suitable location for a standalone neighbourhood activity centre because of its proximity to existing and future catchments, abuttal to major and collector roads with bus services, good size and dimensioned property, grouping with other existing commercial facilities and the relative absence of abutting sensitive interfaces. He contended the Lascorp Land is part of a broader sub-regional activity centre and its strategic merit could not be viewed in a policy or contextual vacuum. He gave evidence that the Lascorp proposal needed to be considered in the context of the existing Commercial 1 Zone land and the permits already issued.

Mr Crowder emphasised a single integrated centre is important because vehicles would not need to use Numurkah Road to traverse between two retail nodes. He considered pedestrian and bicycle networks were needed to maximise connectivity and convenience between these two disconnected nodes. He suggested a separated road along the eastern

boundaries of the commercially zoned land would be an optimal outcome that could achieve this. He reiterated the need for a Structure Plan to resolve what is desirable and achievable.

In Mr Crowder's opinion, if the preferred CACS outcome of expanding retailing on the existing Commercial 1 Zone land was not possible, the property abutting the northern boundary of that land would be the preferred alternative site. He explained this would achieve a single integrated sub-regional centre.

In his evidence, Mr Barlow opined:

The aim of the design and management of activity centres is to create a cluster of activities and functions that are connected and accessible places that cater to all modes of transport. The intent of this approach is to enable multiple needs (by providing more services) to be satisfied in a single trip or visit to a centre – depending on the size of the centre.

...

The focus on walkability is disproportionately concerned with walking between the two supermarkets. This is unlikely to regularly occur given that most trips to a supermarket centre in regional locations is undertaken by car.

...

Nonetheless, the intervening distance of 450 metres is considered to be a comfortable walking distance, should visitors decided to park at one centre and walk to the other.

At the Hearing, Mr Barlow acknowledged the walking distance was more towards 750 metres and that visitors parking at one centre are likely to drive to the other. He considered this to be small community disbenefit compared to having to wait for a second supermarket on the Shepparton Land. He acknowledged there could be one year difference between the time enabled for the Lascorp development by the exhibited draft permit condition (2027) and the Coles' indicative population threshold of 25,000 people in the main trade area (2028).

Mr Barlow referred to the Belmont activity centre in Geelong as an example of a centre with a Kmart at the northern end and a Coles at the southern end. He explained the Belmont retail core was in a contiguous Commercial 1 Zone with specialty stores between the Kmart and Coles. Mr Barlow stated that whether people walked between the SNAC's two retail core nodes depended on how pleasant the environment was between them. He found the current environment along the highway to be uninviting.

The Morwell activity centre was the other activity centre which Mr Barlow referred the Committee to as an example of a centre with the Commercial 1 Zone at either end of its boundary with Commercial 2 Zone between them.

At the Hearing, Mr Barlow acknowledged that, like the Lascorp Land, the second supermarket permitted on the Shepparton Land would be easily accessible to the Shepparton community and Shepparton North growth areas.

(iii) Discussion

The CACS states at page 118:

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 site suitability and availability.

Through CACS, Council has committed to initiate a process to work with landowners and developers to identify the appropriate location for expanding the Commercial 1 Zone land. Council sought to support additional retail floorspace on the Lascorp Land before having completed the strategic work necessary to understand where this floorspace (and how much floorspace) should be located within the SNAC.

Council relied on the broad economic direction set out in the CACS to define the SNAC area and to avoid out-of-centre development. However, it provides little direction on arranging land uses within the activity centre beyond the existing Commercial 1 Zone land. Proper strategic planning would have gone beyond economics to consider existing policies, strategies and guidelines, along with social and environmental matters. This process would have informed the appropriate location for an additional supermarket and speciality shops.

The Committee has considered whether the Lascorp Land is suitable for additional retail floorspace in the absence of this strategic work.

The Committee agrees with Mr Crowder that the Lascorp Land is a suitable location if it was a standalone centre. In reality, it is part of an 180,000 square metre activity centre with an existing retail core located about 400 metres away 'as the crow flies'. This is measured from each property boundary and does not reflect the walking distance.

The Lascorp proposal extends the walking distance between its centre and the existing retail core by locating the supermarket and speciality shops towards the rear of the property. The additional 130-metre separation from its frontage would result in a walking distance of about 750 metres to the Shepparton centre.

No submitter or expert was able to refer to a comparable example where an activity centre had:

- its retail core at either end of its boundary rather than a single centrally accessible area, or
- a Commercial 1 Zone at each end of its boundary, separated by a Commercial 2 Zone.

This would have assisted to understand whether such an arrangement can achieve a sustainable, vibrant and well-functioning activity centre.

The Committee does not accept that Belmont and Morwell are comparable examples. The Belmont activity centre is located along an approximately 17-metre road corridor along High Street with specialty shops and footpaths on both sides and safe pedestrian crossing points. It is in a contiguous Commercial 1 Zone. In Morwell, the Commercial 1 Zone applies to the Mid Valley indoor shopping centre, located west of the Commercial 2 Zone land. It did not break up its retail core at either end with Commercial 2 Zone land in the centre.

In contrast, the SNAC is located on one side of an approximately 77 metre-wide highway with about 250 metre deep properties and an existing retail core (Commercial 1 Zone) and surrounding Commercial 2 Zone land. There is no strategic or structure planning direction to understand whether it is possible to effectively connect the proposed Lascorp centre with the existing retail core to have a single functioning activity centre.

Council and Lascorp seek approval for the Amendment and Planning Permit and to work out critical issues such as integration at a later and unknown point in time. There is no evidence this approval would result in anything other than two independently operating retail nodes divided by a range of other uses, including peripheral sales. This result would result in an unacceptable policy outcome that contradicts the preferred outcome of the CACS which seeks a single consolidated activity centre as its priority. It demonstrates that drawing an activity centre boundary around 180,000 square metres of land can result in negative and unintended consequences if the necessary strategic direction is not in place early in the process to properly plan and structure the centre to maximise economic potential.

In the absence of appropriate strategic direction, the Committee has assessed the issue of location and connectivity on existing circumstances.

The Lascorp centre would depart from the SNAC's existing single retail core where visitors can park their car once for a multi-purpose trip. It would require shoppers and visitors to walk about 750 metres or almost 10 minutes from the closest shop of one centre to the other, if at all. The Committee considers it unreasonable to expect visitors to walk this distance each way to complete their visit. They are more likely to only visit one centre. Those that might visit the two centres in a single trip visit might leave the one to drive along Numurkah Road to access the other centre. Using a highway to connect two disparate retail core nodes would be an unacceptable outcome.

For the few visitors walking between the two centres, their journey would be along the service lane footpath of an unattractive, relatively exposed and hostile highway environment.

The Committee considers there would be less economic benefit from breaking the retail core into two nodes at such a distance with poor connectivity between them. Land between the two nodes is unlikely to develop with specialty and associated retail because CACS considers that a centre with specialty retail floorspace of such a scale is likely to compromise the ability to achieve the CACS objective of protecting the primacy of Shepparton's CBD.

Having specialty retail separated by about 400 metres of the Commercial 2 Zone would mean that the SNAC would have two disparate and dysfunctional nodes within a very elongated activity centre. The consequences would be permanent and irreversible. Having shoppers visit only one part of the centre or drive between the two would effectively divide the community rather than unite them in one meeting place.

Two supermarkets and associated shops at either end, separated by a range of Commercial 2 zoned uses would not read like the consolidated and thriving activity centre that the CACS envisages. It would read like two separate shopping centres.

Enabling the proposed use and development on the Lascorp Land would therefore result in unacceptable impacts by:

- potentially halving the number potential purchasers passing each shop by locating the retail anchors in two separated retail nodes
- depriving the community from a single and vibrant meeting place in one retail core
- generating unnecessary car movements, including U-turns, along Numurkah Road for shoppers seeking to visit both centres.

(iv) Conclusions

The Committee concludes:

- The Lascorp Land is not an appropriate location for the proposed uses and development within the SNAC.
- The location is compromised by the intent of the CACS, which in turn, compromises the existing permit for the Shepparton Land.
- The longer-term economic, social and environmental benefits of the SNAC with a single retail core outweigh the marginal short-term economic benefit from locating part of the retail core on the Lascorp Land.

3.3 Fair and orderly planning**(i) Key issue**

The key issue to resolve is:

- whether locating a full line supermarket and speciality shops on the Lascorp Land is fair and orderly planning.

(ii) Evidence and submissions

In raising the issue of orderly and proper planning, Mr Tweedie urged the Committee in his closing submissions to review the process undertaken by Council in approving both the Lascorp and Shepparton permits, and its reluctance to endorse the preparation of a Structure Plan.

Shepparton submitted the Amendment would fundamentally reshape the SNAC and materially affect the viability of development approved on the Shepparton Land. It added this was compounded by Council's refusal to prepare a Structure Plan in a timely manner. Shepparton considered the Amendment lacked strategic planning merit and was contrary to the principles of fair and orderly planning, and submitted:

By preparing and simultaneously processing what are in essence two mutually incompatible planning scheme amendments in respect of the SNAC the Council has precluded the realisation of what is universally accepted to be the superior strategic planning outcome (as given effect by Amendment C192 and the permit issued in respect of the Shepparton Land).

Marl Enterprises submitted (Document 78) that Council has embraced an ad hoc and laissez faire approach to the planning of Shepparton North and contended that two supermarket-based centres was inconsistent with orderly and proper planning.

Mr Crowder stated that an activity centre is more than a collection of commercial premises. He said they are increasingly being sought as focal points for the surrounding community and "*places of social interaction where people can meet, converse, relax, observe and interact*". Mr Crowder gave evidence that planning policy encouraged an aggregation of retailing, commercial, housing, community, employment, transport, leisure and entertainment within and adjacent to activity centres. Further, he said:

This has the benefit of achieving integrated and functional centres with connected movement networks, and associated economic, social and environmental benefits to the community.

(iii) Discussion

The Committee has had regard to relevant activity centre policy to consider whether the Lascorp proposal represents proper and orderly planning within the context of the SNAC.

The first objective planning in Victoria in the Act at 4(1)(a) is:

to provide for the fair, orderly, economic and sustainable use, and development of land.

Objective 4(1)(g) provides that planning is:

to balance the present and future interests of all Victorians.

These objectives establish the planning framework at (2)(a):

to ensure sound, strategic planning and coordinated action at State, regional and municipal levels.

State policy at Clause 15.01-1S seeks to *“create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”*.

This Committee of course is familiar with the previous Panel report, but it is generally basing its analysis of the submissions and evidence on what was put before it at this current Hearing. Some things have not changed since 2017 and some things have. While the Committee understands that Council did not follow the Panel recommendations, it is not delving into this issue nor does it feel obliged to try and rationale Council’s reasoning. What is not in dispute is that Council:

... agreed to issue a permit for a combined, single permit that required the development of the Shepparton Land with two supermarkets. The Council agreed to issue the permit that allowed 3 years for the approved use and development to commence ...

This notwithstanding, in June of 2018 (some two months after it had consented to the grant of the Shepparton permit), the Council resolved to adopt Amendment C193 to the Scheme⁵.

That Council commissioned an additional report from Essential Economics, among other matters, led to the appeal to the Supreme Court which then led to the parties agreeing to this Advisory Committee process. The Committee agrees with the proposition put by Mr Tweedie that:

Rather than providing clarity and guidance in respect of preferred development outcomes within the SNAC, the Council’s actions have been wholly incompatible, and have run counter to the realisation of the clear strategic potential that exists within the activity centre⁶.

Council should now work objectively and collaboratively with Shepparton to facilitate its decision to support a permit for two supermarkets, mini majors and specialty shops in a single retail core on the existing Commercial 1 Zone land in the interests of the present and future Shepparton North community.

The use and development of land is *“orderly”* as defined by the Macquarie Dictionary where it is *“arranged or disposed in order or in a tidy manner”* or *“methodically”*. The Committee

⁵ Document 125, paras 28 and 29.

⁶ Document 125, para 35.

considers approval of the Lascorp Land would be premature in the activity and structure planning processes and therefore not be in the interests of fair and orderly planning. It would set an unfortunate precedent in planning for activity centres in regional Victoria.

In the more usual circumstances in planning for a sub-regional Activity Centre, a Structure Plan would be critical to secure its long term future, to provide certainty and to maintain investment confidence. The Committee deals with the issue of structure planning in Chapter 6. It is important to note that while the previous Panel endorsed the preparation of a Structure Plan, and this Committee does not resile from that, the Committee will recommend that a Structure Plan be prepared. The timely development of the Shepparton Land is critical to ensure Shepparton North has two supermarkets as soon as possible.

(iv) Conclusions

The Committee concludes:

- The Amendment is consistent with broader scale planning policy in that it is located within an Activity Centre.
- The Amendment is inconsistent with the Objectives of the *Planning and Environment Act 1987* and State and local policy related to activity centre planning and sustainability.

4 Economic considerations

The key issues to be resolved relate to:

- economic impact assumptions
- main trade area forecasts
- retail trade impact
- implementing the preferred outcome from CACs.

The Committee had the benefit from submissions of all parties and expert economic evidence from:

- Mr Stephens for Council
- Mr Dimasi and Mr Quick for Lascorp
- Mr Nott and Mr Banks for Shepparton.

4.1 Impact assessment assumptions

(i) Key issues

The key issues to resolve are:

- whether the proposed Lascorp full line supermarket should be considered as the SNAC's second or third supermarket
- whether at least one full line supermarket will continue to operate during both stages of the Shepparton Land development
- how shoppers and visitors would travel between two parts of an expanded retail core, separated by a 750-metre (door to door) walking distance.

(ii) Evidence and submissions

There was considerable discussion and varying views as to whether the full line supermarket proposed by the Lascorp proposal represented the second or third supermarket in the CACS. Council referred to its November 2017 meeting resolution, where the officer report:

- reported that respective owners of the Lascorp Land and the Shepparton Land were competing for a second supermarket within the SNAC
- assumed the supermarket proposed for the Lascorp Land as the SNAC's 'second supermarket'
- recommended that planning permit 2017-177 for the Shepparton Land be refused because there was insufficient demand for a third supermarket.

The officer report stated:

Economic modelling commissioned by officers has found that a third full line supermarket is not required in Shepparton North until 2031. Based on these finding officers support two, not three supermarkets at this time in Shepparton North.

...

A third supermarket would have an unacceptable impact on the Shepparton CBD and would divert money and customers from the premier retail destination in the municipality.

Economic experts applied different impact assessment assumptions for the purposes of their economic evidence before this Committee.

Mr Stephens (who was the principal author of the CACS) assumed the Fairley's IGA operator owned the Shepparton Land and this was a disincentive to introduce competition on that site.

Mr Dimasi assumed:

- about 80 per cent of food and groceries expenditure is available to supermarkets, the balance being directed to fresh food specialty stores and other non-supermarket channels
- with an appropriate provision of supermarket floorspace in the Shepparton North main trade area, about 80 per cent of available supermarket expenditure would be retained by supermarkets in the local area
- in addition to the expenditure attracted from main trade area residents, about 10 per cent of supermarket turnover in the main trade area would be attracted from beyond that trade area
- general merchandise (ie non-food sales) will account for about 5 per cent of total store sales
- a reasonable average trading level for supermarket floorspace in the main trade area is \$9,500 per square metre at 2019, increasing in real terms by 0.5 per cent each year.

Mr Quick assumed:

- no development would proceed on the Shepparton Land at this time
- the Lascorp development would be operating from 2023
- Stage 1 of the Shepparton development will proceed with additional specialty shops and a mini-major, and Stage 2 would not proceed
- Stage 1 of the Shepparton Land development would likely require the existing supermarket to close.

Mr Nott assumed:

- Stage 1 of both the Shepparton and Lascorp developments would operate by 2022
- Stage 2 of the Shepparton development would operate by 2023
- a local convenience centre would operate in Shepparton North East Precinct Structure Plan area by 2033
- the impact of the Lascorp development would be shared between all competing centres, including the Lascorp centre itself
- the impact on each centre would be directly proportional to its size, and inversely proportional to its distance from the Lascorp development
- growing online supermarket sales would affect future demand for retail floorspace
- the economic effect of the COVID-19 will slow development in Shepparton North in the short to medium term.

Economic experts agreed that should shoppers visiting the Lascorp development seek to visit the other part of the retail core, they would most likely drive, rather than walk. They qualified this by saying they expected most shoppers to visit only one of the two separate retail nodes at any time.

(iii) Discussion***Assessment scope***

In November 2017, Council resolved to support the Lascorp combined Amendment and planning permit application and resolved to refuse the permit application for a second supermarket on the Shepparton Land. Council assumed the combined application would introduce the second supermarket to the SNAC and the Shepparton proposal would introduce a third supermarket. Accordingly, Council officers recommended that the Shepparton permit application be refused.

It is unclear on what planning grounds Council chose to grant approval to the Lascorp Land and refuse the permit application on the Shepparton Land.

Five months later, through VCAT mediation, Council agreed to the second supermarket in the SNAC on the Shepparton Land. When Council issued planning permit 2017-177 on 27 April 2018, the Shepparton Land was found to be suitable for 13,675 square metres of retail floorspace in the SNAC. This included two 4,000 square metre supermarkets, two 600 square-metre mini majors and 4,475 square metres of specialty shops. Council found this permit would be consistent with the CACS and would not negatively impact the primacy of the Shepparton CBD.

Council has changed its position since November 2017. It now supports a third supermarket be approved, irrespective of market demand or its potential impact on the Shepparton CBD on the assumption that only two would eventuate in the foreseeable future.

For the purpose of its considerations throughout this report, the Committee considers the Amendment and planning permit application under consideration proposes a third supermarket approval in the SNAC.

Economic expert impact assessments

The Committee is unable to directly compare economic expert impact assessments because all applied different methodologies, including different base years and assumptions. This has resulted in different conclusions. This has not affected the ability for the Committee to assess the economic evidence and reach its conclusions.

The Committee is concerned that:

- Mr Stephens formed his view about inactivity on the Shepparton Land on the assumption that the Fairley's IGA operator owned the land
- Mr Quick formed part of his view about the viability of developing the Shepparton Land on the assumption the existing supermarket would cease to operate to enable the first stage of development.

The Committee appreciates Mr Quick's willingness to reconsider aspects of his evidence after being informed of actual circumstances during the Hearing.

The Committee has proceeded on the basis that:

- Shepparton entered into a contact of sale in August 2017 with the property owner, IGA Retail Services Pty Ltd (not the existing supermarket operator)⁷

⁷ Shepparton will purchase the property if specified conditions are met

- the existing supermarket on the Shepparton Land will continue to operate during the first stage of development and is likely to be the operator from its new store before the original building is demolished to enable the second stage.

(iv) Conclusions

The Committee concludes:

- The combined Amendment and planning permit application proposes a third full line supermarket in the Shepparton North Activity Centre.
- At least one full line supermarket should be operating during the first and second stages of the Shepparton Land development.
- Should the Activity Centre be separate in two parts with a 750-metre walking distance, most shoppers and visitors would choose to shop at one node over the other and would drive to visit both as part of one journey.

4.2 Main trade area forecasts

(i) Key issues

The key issues to resolve are:

- estimated population within the specified timeframe
- existing and future retail spending to support supermarket floorspace
- retail floorspace demand based on future retail spending
- average supermarket trading levels after a second supermarket begins operating in the SNAC.

(ii) Evidence and submissions

Population

All economic experts applied similar population figures. Collectively, they stated there were between 22,571 and 22,700 people in the main trade area around 2019/2020. Population forecasts included:

- 2026/27 – 24,040 (Mr Stephens), 24,500 (Mr Quick) and 24,656 (Mr Dimasi)
- 2036 – 26,247 (Mr Dimasi) and 26,799 (Mr Nott).

Mr Dimasi's higher population figures were based on Australian Bureau of Statistics (ABS) Census of Population and Housing (2016), ABS Estimated Resident Population Data (2017 – 2019) and population projections prepared by forecast.id for Council, most recently updated in October 2017. Mr Nott used the figures in *Victoria in Future* 2019 because he found the 2017 forecast.id figures used by Mr Dimasi to be too optimistic.

Retail spending

The economic experts had similar main trade area retail spending figures. They forecasted that spending would increase from around \$300 million in 2019 to between \$342.2 million (Mr Dimasi) and \$393 million (Mr Nott) in 2031. Mr Dimasi considered that in 2031, \$169.6 million of that spending would be for food and grocery, of which \$135.7 million would be available to supermarkets.

Mr Nott estimated the SNAC could sustainably cater for about half of the annual total primary trade area retail demand of \$112 million, including \$68 million for food, groceries

and liquor. This was forecast to increase by an average 1.1 per cent each year and reach an annual rate of \$133.9 million by 2036.

Regarding overall retail demand, Mr Nott considered that growth in online retailing, which would account for 9 per cent of all retail spending, would reduce growth in shop floorspace. He referred to 2019 National Australia Bank figures which showed that online spending was predicted to grow 15 per cent in 2020 compared to 3 per cent for all retail sales. Mr Nott applied an 8 per cent increase in food, groceries and liquor sales, non-food sales and total retail spending in the main trade area between 2019 and 2036.

Retail floorspace demand

All experts agreed that the main trade area's population of about 22,700 people can support a second full line supermarket and additional specialty shops. Mr Dimasi and Mr Quick explained that in 2019, the main trade area had three supermarkets (Fairley's Supa IGA in the SNAC and two smaller stores in Numurkah) comprising 5,800 square metres of floorspace. Mr Quick found this provided 25.6 square metres of supermarket floorspace for every 100 people. He explained that this is significantly less than the Victorian non-metropolitan ratio of 43.5 square metres for every 100 people.

Mr Dimasi found demand for supermarket floorspace in 2019 equated to 10,045 square metres, resulting in a need for a further 4,245 square metres. He estimated that this would grow to 6,940 square metres by 2031.

On his assumption that only the Lascorp centre and the first stage of the Shepparton centre proceed (13,679 square metres), Mr Quick estimated that by 2026, there would be demand for a further 3,428 square metres of retail floorspace. He qualified that over 30,000 people would be needed in the main trade catchment to support a third full line supermarket. He considered that this would not be achieved within the next 15 years.

Average supermarket trading levels

There were varying views about average supermarket trading figures and trends in the main trade area. Economic experts estimated that between 2019 and 2023, average supermarket trading levels would:

- decline from \$9,000 per square metre to \$6,900 per square metre (Mr Nott)
- decline from \$10,466 to \$7,553 (Mr Quick)
- increase from \$9,500 to 10,086 (Mr Dimasi).

Mr Quick referred to other centres in the main trade area that trade below \$7,000 per square metre. Mr Nott noted trading of about \$6,900 per square metre could only be sustained for a short period and there was not a strong growing market to achieve this. Mr Dimasi's forecast showed incremental increases to \$9,838 in 2026 and \$10,086 in 2031.

At the Hearing, Marl submitted that a large IGA trades at about \$9,000 to \$10,000 per square metre. It noted that Fairley's Supa IGA trades at about that level. Marl referred to the most recent Woolworths Annual Report which stated that its supermarkets traded at about \$17,000 per square metre.

(iii) Discussion

The Committee notes that economic experts had similar main trade population, catchment and trade figures. These figures are estimates so they are unlikely to be precisely met in the

future. Some degree of variance should be expected. The Committee therefore accepts economic expert estimates for future population, existing retail demand and supermarket trading levels.

The expert figures account for existing online shopping and its growth trajectory is unclear and cannot be estimated at this stage. Similarly, the impacts of COVID-19 are also unknown and would be difficult to determine at this moment.

The Committee considers that COVID-19 will have a negative short-term impact on Shepparton North's development growth and retail spending. This is currently not possible to quantify because of evolving and unforeseeable circumstances. While this may affect the timing of a third full line supermarket, it does not affect existing demand for a second supermarket and specialty shops.

(iv) Conclusions

The Committee concludes:

- There is currently a significant undersupply of retail floorspace in the SNAC's main trade area when compared to Victoria's non-metropolitan retail floorspace ratio.
- The current population of between 22,571 and 22,700 people in the main trade area will increase to between 24,040 and 24,656 in 2026/27 between 26,247 and 26,799 in 2026.
- Estimated retail spending in the main trade area can support approximately 4,245 square metres of supermarket floorspace right now and about 6,940 square metres by 2031.
- Average supermarket trading levels in the main trade area are likely to decline from between \$9,000 and \$9,500 per square metre in 2019 to between \$6,900 and \$7,553 in 2023 for an interim period if a second supermarket starts operating in 2023.

4.3 Retail trade impact

(i) Key issue

The key issue to resolve is:

- How the Lascorp centre would impact on existing retail trade in the SNAC.

(ii) Evidence and submissions

The economic experts agreed there was sufficient demand for two supermarkets and additional specialty shops in the SNAC. Mr Dimasi considered there would be demand for a third smaller scale supermarket such as an Aldi by the time the Lascorp centre was completed in two years.

Each economic expert found that the combined Amendment and permit application would result in existing SNAC retail turnover declining by more than 10 per cent negative in the first year of the Lascorp development operating. They applied different methodologies and assumptions. For example, Mr Nott assumed the Shepparton Land would have two operating full line supermarkets.

Mr Dimasi and Mr Nott found the Lascorp development would impact retail turnover at the existing SNAC by 12.2 and 13 per cent respectively. Mr Quick estimated that Fairley's Supa IGA would experience a 21.2 per cent decline in retail turnover if the Lascorp centre commenced operating in 2023.

Mr Nott considered the 13 per cent impact on the SNAC to be substantial. He added that a retail impact of more than 10 per cent on an existing centre should be avoided unless there is an overwhelming net community benefit. He noted:

In the past, Panels have accepted that retail impacts of 10% or more on centres are significant and may result in an unacceptable degradation of the retail service to residents.

Mr Quick agreed an economic impact of more than 10 per cent needs to be closely reviewed based on the context of each scenario. With the SNAC, he considered the one or two impacted supermarkets could withstand higher impacts without undermining their sustainability. He noted the expanded SNAC would generate a higher turnover level, which would be higher than other centres in Shepparton.

No economic expert found sufficient demand for a third full line supermarket. Mr Quick considered there may be demand for a third supermarket in about 15 years.

Mr Stephens, Mr Dimasi and Mr Quick supported approval for a full line supermarket on the Lascorp Land and agreed that a third operating supermarket at this stage may negatively affect the primacy of the Shepparton CBD. Mr Stephens noted the third approval would result in about 20,000 square metres of approved retail floorspace and emphasised this would not be the actual operating floorspace.

Economic experts were confident that a third supermarket approval would result in only two full line supermarkets operating until there was demand for a third. Mr Stephens, Mr Dimasi and Mr Quick considered that, out of the three approvals, the timing of a second supermarket development should be on the Lascorp Land. This is consistent with Council's submission, which predicated its support for the combined Amendment and planning permit application on the basis there was no support for a third full line supermarket in SNAC.

Council acknowledged that the Lascorp proposal would allow 20,000 square metres of retail floorspace in the SNAC. It considered this to be a theoretical floorspace which is likely to result in no more than 14,000 squares metres. Council was prepared to leave it to the developers to compete for this floorspace.

Shepparton tabled a letter from Coles expressing interest in locating in Shepparton North if the main trade area population reached 25,000 people (Document 61). Mr Nott and Mr Quick considered this population would be achieved somewhere between 2028 and 2029. Lascorp submitted that Woolworths showed interest to locate in the SNAC based on the existing main trade area population.

(iii) Discussion

All economic experts agreed there is sufficient demand for a second full line supermarket in the SNAC, but not enough for a third at this point in time – no matter where it is located. The Lascorp proposal would introduce approval of a third supermarket, supported by additional specialty shops. This would bring the total approved retail floorspace in the SNAC to 19,665 square metres, comprising:

- three full line supermarkets: 11,960 square metres
- specialty, including mini majors: 7,705 square metres.

Consistent with the economic expert witnesses, the Committee considers there is insufficient demand for a third supermarket and specialty shops beyond what has been approved for the Shepparton Land. Approving the Lascorp proposal would introduce unsupported retail floorspace and result in:

- supported and approved retail floorspace being transferred from the Shepparton Land (likely)
- both centres being delivered prematurely and impacting the Shepparton CBD and retail hierarchy (less likely but possible).

(iv) Conclusions

The Committee concludes:

- There is currently demand for the two full line supermarkets and specialty shops approved for the Shepparton land.
- There is insufficient demand for a third full line supermarket and specialty shops beyond the approximately 14,000 square metres approved for the Shepparton Land for at least 15 years.
- The additional 7,110 square metres of floorspace proposed on the Lascorp Land would delay the ability of the SNAC to reach its full economic potential through the 13,675 square metres of retail floorspace approved for the existing Commercial 1 Zone land.
- Approving unsupported retail floorspace on the Lascorp Land would:
 - transfer 5,990 square metres of supported and approved retail floorspace and jobs from the Shepparton Land
 - result in about 12 to 13 per cent impact on existing retail trade in the SNAC, which is substantial but unlikely to result in the closure of the existing Fairley's Supa IGA
 - result in no longer-term net economic benefit when compared to the full extent of approvals being realised on the Shepparton Land.
- There will be a significant short to medium term negative economic impact on the SNAC if construction of the first stage of the Shepparton centre does not commence by early 2021 and if the second stage does not commence immediately after.

4.4 Implementing the CACS preferred outcome

(i) Key issue

The key issue to resolve is:

- how the Lascorp proposal implements the preferred outcome from the CACS.

(ii) Evidence and submissions

The key policy position of the CACS was explained in detail in Chapter 2.3(iii).

In relation to this policy driver, there were differing views about the economic impact of locating a supermarket on the Lascorp Land compared to co-locating two supermarkets on the core Shepparton Land. Mr Dimasi considered that locating a supermarket on the

Lascorp Land would be a superior economic outcome because it would encourage the same type of retailers to open and compete in two separate retail nodes. He said it was beyond his scope of expertise to advise on where retail anchors should be located in a centre to maximise revenue.

In his evidence, Mr Quick stated the Lascorp development would deliver similar benefits to locating it elsewhere in the SNAC, including the Shepparton Land. He added:

While I recognise that ideally centres should be as compact as possible to allow for focussed activity and maximisation of cross usage opportunities, I believe approval of the Lascorp development is in the best interests of the Shepparton North community in economic terms.

Mr Quick reached this conclusion on the assumption there was no other viable proposal to deliver this outcome.

At the Hearing, Mr Quick and Mr Nott each considered co-locating the two supermarkets in the same retail node would deliver greater economic benefits than two separate locations. Mr Quick qualified the difference would be marginal. Mr Nott explained that compared to separating the retail core into two parts, a single retail core with two supermarkets, as envisaged by planning permit 2017-177:

- would concentrate foot-traffic, support a wider range of small shops and improve the range of services and jobs available to local residents
- should have fewer environmental costs because it would generate fewer trips and should have a reduced call on local infrastructure.

Mr Nott considered the Lascorp development would have net community disbenefits because a two-centre solution would not fulfil the intent of the CACS to create a sub-regional centre on the Commercial 1 Zone land.

(iii) Discussion

To understand how the Lascorp proposal aligns with the CACS preferred outcome, the Committee has considered whether:

- a third supermarket should be approved on the Lascorp Land
- the CACS preferred outcome for two supermarkets on the existing Commercial 1 Zone should be supported and whether it can be achieved.

Should a third supermarket be approved on the Lascorp Land?

The Committee considers that approving a third supermarket for the SNAC on the Lascorp Land:

- is not supported by CACS based on existing and future retail demand forecasts
- would depart from the CACS preferred single retail core
- may affect the primacy of the Shepparton CBD if three supermarkets were developed before there was enough demand in the SNAC trade catchment
- is simplistic and falls short of understanding the economic impacts of having two retail nodes separated by about 750 metres walking distance
- may delay the full extent of investment in the SNAC through the uncertainty it would generate.

Should the CACS preferred outcome for two supermarkets on the existing Commercial 1 Zone land be supported?

The Committee agrees with Mr Nott and Mr Quick that a single retail core would result in a better economic outcome, rather than breaking it into two distinct parts. Implementing the CACS preferred outcome for a single retail core would:

- focus the community into one activity area to expose specialty shops to a greater number of potential shoppers and maximise cross-usage opportunities
- be more attractive for a diverse range of like-shops and restaurants to establish in the same area
- be more vibrant and encourage shoppers to stay longer and make further purchases
- assure a single car trip to access all retailing.

The economic evidence demonstrated the need to understand the economic impacts associated with how the SNAC is structured. Supermarkets can perform well irrespective of their location in an activity centre. However, the location, scale and nature of its retail core, and the location of retail anchors such as supermarkets within that core, play an important role in overall economic performance of an activity centre. The SNAC will achieve a considerably greater degree of investment, economic development and jobs through a single retail core anchored by supermarkets at either side, and a well-structured centre would maximise the number of people walking past the specialty shops.

The Committee disagrees with Mr Dimasi that two separate retail cores would be economically superior to one.

Can the CACS preferred outcome of two supermarkets on the existing Commercial 1 Zone land be achieved?

At the Hearing, the ability to achieve the CACS preferred outcome on the Shepparton Land was heavily questioned by parties and experts. Their views were formed based on inaction on the site, particularly since the C192/C193 Panel process in 2017.

Shepparton (previously 18 Pty Ltd) advised it had undertaken the steps which it has been asked to do since 2017 regarding the re-siting of the proposed supermarkets.

It sought to work with Council to implement the C192/C193 Panel's recommendation to redesign its site plans to establish a more functional layout. Consequent to that, it has now been issued a permit for a two supermarket based centre with a mini major and specialty shops (P2017-177 issued on 27 April 2018).

It agreed to Council's development contributions sought through a section 173 agreement signed in 2018⁸, which prohibits the development being used until:

- a community facility of at least 195 square metres is provided to Council:
 - containing at least two consulting rooms (4 by 6 metres each) with a hand basin/sink in each; a multipurpose room (15 by 7 metres) with an operable partition wall; storeroom (4 by 3 metres); separate kitchen/tea room; separate male and female children's toilets; and a waiting room and parents room if additional space allows it

⁸ Document 127

- fitted out with kitchen cabinetry and fixtures, suspended ceiling, carpet, painting, electrical and internet cabling and connected to all utilities
- the community facility is leased for \$11 each year for five years then 50 per cent of the market rent (set at the commencement date) for a further five years
- Shepparton procures and fully funds the construction of the Numurkah Road and Hawkins Street signalisation and intersection upgrade works (Council to reimburse 66 per cent of the cost at a later date)
- Shepparton completes drainage works and pays Council \$289,928 towards the Yakka Basin works.

The section 173 agreement also specifies that if the land is not used for the purpose of two full line supermarkets, it cannot be used for a department store, cinema, specialty shops or a bottle shop, except to the satisfaction of Council.

Shepparton advised the Committee that its ability to achieve the full extent of the retail core on the existing Commercial 1 Zone land has been delayed through the uncertainty caused by:

- not having a Structure Plan to provide sufficient and appropriate planning guidance for land beyond the existing Commercial 1 Zone
- Council's inconsistent and contradictory decisions since the Panel submitted its report, including its November 2017 resolution to refuse Shepparton's permit application one month after it was lodged
- the requirement for a permit to use the land for floorspace above 8,000 square metres which resulted in a convoluted planning permit process – a 14,000 square metre threshold may have avoided delays
- the prospect of unsupported retail floorspace being approved on the Lascorp Land which would effectively transfer supported retail floorspace from Stage 2 of the Shepparton development
- the impact on the viability of Stage 1 if the second stage did not proceed.

Regarding the latter, Shepparton submitted that its planning permit prohibits any building from being occupied until it provides significant upfront capital required by the section 173 agreement. The contributions are proportional to developing the full extent of the retail centre (Stages 1 and 2).

The Committee considers permitting unsupported additional floorspace on the Lascorp Land would cause sequential negative economic impacts on the rest of the SNAC. It would render Stage 2 of the Shepparton Land development unviable. Having to provide the same amount of development contributions for a significantly reduced retail centre would seriously affect the viability of Stage 1. Stage 1 would need to be redesigned and most likely reduced, to account for the scale of contributions being sought by Council. This would seriously affect the SNAC and broader Shepparton community.

Throughout the Hearing, Lascorp repeatedly referred to an urgency to deliver the second supermarket in the SNAC. The Committee acknowledges there has been demand for a second full line supermarket in the SNAC since 2019 and that the Shepparton North community is currently served by the existing large full line (but dated and tired) supermarket.

The community has access to other supermarkets located throughout Shepparton including its CBD, but there is a clear need for supermarkets in Shepparton North. The Committee agrees with economic experts that most of the unmet demand is being spent within Greater Shepparton, therefore expenditure and jobs are being maintained within the wider local economy. A proportion of those jobs will be transferred to an expanded retail offer in Shepparton North.

Taking these circumstances into account, the Committee considers there is an urgent need for additional retail floorspace, however this should not be achieved through an inferior planning outcome which will have generational consequences. There is immediate demand in the main trade area for the Shepparton North community to have convenient access to a second full line supermarket on the existing Commercial 1 Zone land now, rather than having to travel further for choice. This would require:

- Shepparton delivering both stages of its development as an integrated package without delay
- Council taking a proactive and facilitative role to ensure this can be achieved, with no further planning impediments.

Council should consider revising the maximum retail floorspace specified for the Shepparton Land in the schedule to the Commercial 1 Zone so that it reflects the area enabled through planning permit 2017-177 through a separate planning process. Allowing land uses in the core centre to use land without a permit would encourage further economic development through increased certainty.

(iv) Conclusions

The Committee finds:

- The Lascorp proposal does not implement the key policy provisions of the CACS.
- Transferring 5,990 square metres (including one full line supermarket) of the total 13,675 retail floorspace approved for the Shepparton Land to the Lascorp Land would not result in a net economic benefit beyond what the Shepparton centre could deliver.
- Locating 13,675 retail floorspace (including two full line supermarkets) in a single retail core on the Shepparton Land would result in a marginally higher economic benefit compared to relocating a portion to the Lascorp Land.

5 Net community benefit

5.1 Key issue

The key issue to be resolved is:

- whether the Lascorp proposal results in a net benefit for the community of Shepparton North.

5.2 Evidence and submissions

Lascorp and Shepparton advanced their positions on what constituted net community benefit through its evidence and submissions. Council did not address net community benefit in its opening or closing submissions, nor did its planning witness.

(i) Lascorp

In opening, Lascorp advised the Committee:

... the notion of community benefit as it concerns convenience shopping has always included the desire to achieve increased access to convenience shopping, and competition for local communities at the earliest possible time without detriment to the provision of equal access to other communities. In this case the next delivered supermarket, whatever the timing, provides the same benefit.

Lascorp noted several times that the test is whether its proposal provides an acceptable outcome, not the best or an ideal outcome. In opening, Lascorp observed its proposal “... *has a sound strategic basis and will lead to acceptable planning outcomes and a net community benefit for the future residents of North Shepparton*”.

In closing, Lascorp observed:

The test of net community benefit, and the achievement of acceptable outcomes. Applies to all decision makers under the PE Act, whether acting as Planning Authority or Responsible Authority. Even when an “ideal” outcome is contended for or demonstrated, it will rarely be the case that it will be appropriate to delay other supportable and important planning decisions unless there is an overwhelming case to do so. ... The notion of acceptability is therefore apt to the notion of integrated decision making, where a range of sometimes conflicting policy objectives need to be balanced in favour of net community benefit.

Lascorp summarised its position on net community benefit in that it would:

- create construction and ongoing employment opportunities
- provide choice and competition
- provide considerable investment and improvement in an activity centre “*desperately in need of revival*”.

The Committee notes later that the same benefits accrue for the Shepparton proposal, and even more so.

Lascorp noted one of its benefits was in terms of timing, that is, Lascorp is “*shovel ready*” and will build once a permit was granted. The Committee noted the exhibited conditions had a three year start date from the grant of a permit, but this was changed to 12 months in the amended conditions.

In his evidence, Mr Barlow asked the question of whether the creation of two retail nodes resulted in a net community benefit, or would it create unacceptable impacts on the community. He noted the benefits as:

- It provides not only a second supermarket but other allied retail and supporting services to the community.
- Despite the approvals for the Fairley's IGA site neither a second supermarket nor any additional retail or allied services have been provided to date.
- There is a commitment from a tenant to anchor the centre and ensure it is provided.
- The community of Shepparton North and beyond are provided with a broader range of shopping outlets and competition between the supermarkets in terms of items and prices.
- This competition will ensure the community receives good service and choice.
- The development will provide the impetus for other uses and activities to establish in the SNAC given the improved attractiveness of the locality due to the broader range of services provided.
- The development will integrate into the surrounding area as it continues to grow.

Mr Barlow noted several disbenefits, these being:

... the approval of the development of the subject site together with the existing approval for the Fairley' IGA site will collectively provide for three full line supermarkets and a further 8,000 sq.m of other retail and allied services in a location that does not require this level of retail provision. The potential risk is that the SNAC becomes a major competitor to the CBD and Shepparton Marketplace centres. Alternatively, the three supermarkets cannot attract sufficient patronage which leads to many vacancies and the creation of unviable and unattractive centres.

...

A second potential disbenefit is that the Fairley's IGA site and the subject site develop independently (one supermarket each) and prevent the opportunity to create a single retail destination in the SNAC for the daily and weekly shopping trip.

Mr Barlow concluded that the benefits would significantly outweigh the potential disbenefits and notably *"In the absence of the development of the Fairley's IGA site, the proposed development will create an immediate and enduring net community benefit"*.

(ii) Shepparton

While Shepparton did not explicitly address net community benefit in its opening written submission (Document 79), it briefly did so verbally in its opening submission on Day 1. Mr Tweedie observed that planning is about deriving a net community benefit through a proper planning process, not about a benefit to a single operator (in his reference to Woolworths). He further noted that the key benefits of co-location, reducing car dependency, promoting competition are critical points – not for the individual retailers but for the Shepparton North community. Mr Tweedie urged the Committee to recommend the optimal outcome, not what would be the acceptable outcome. He advised the Committee that in the same way Lascorp was 'ready to go' in terms of timing, so too was his client for Stage 1.

In his closing submission, Mr Tweedie argued that the short term benefits of a Lascorp approval would not outweigh the longer term disbenefits. He said Lascorp's position:

... fails to properly have regard to the range of economic, social, and environmental benefits that would be foregone by precluding the establishment of a consolidated retail node of the type permitted on the Shepparton Land. ...

... fails to properly recognise the employment benefits that would be generated by the redevelopment of the Shepparton Land.

Mr Tweedie urged that planning of sub-regional activity centres should be driven by public, strategic planning processes. He advised the Committee that if the Lascorp approvals were granted, the Stage 2 aspects of the Shepparton permit would be 'dead'. Conversely, if the Committee and ultimately the Minister for Planning supported the Shepparton position, his client will have 'clean air' and a degree of commercial certainty to seek a tenant for the Stage 2 supermarket.

While Mr Crowder fairly acknowledged the Lascorp Land was a suitable location for a standalone Neighbourhood Activity Centre due to positive site and locational characteristics, he observed it should not be viewed in a policy or contextual vacuum. He gave evidence the Lascorp proposal will realise "... *important and tangible community benefits*" including service, economic and site location benefits, but that it should not be approved because "*the community benefits do not outweigh the community disbenefits*". Further, he said:

The establishment of a full-line supermarket with specialty shops on the **Lascorp** site would also result in a disjointed broader activity centre with no single 'heart' or community focal point / town centre. In reality, it would likely result in two independent activity centres located a relatively short distance apart fronting the same main road and serving the same catchment areas. There may be opportunities to achieve a degree of integration or assimilation between the two centres, but it is more likely the outcome will be two independently operating and disjointed shopping nodes. This would be an inferior outcome compared with the development of the **Metcash** site in accordance with the 2018 permit and, in my opinion, would also represent a community disbenefit. (expert witness highlight)

Mr Crowder identified what he saw as the net disbenefits of the Lascorp proposal:

- economic/strategic (oversupply, delayed provision)
- social/economic (economic, employment and social impacts)
- fragmentation (disconnect with existing/planned retail areas)
- sustainability
- lost opportunity
- character/visual/amenity (unacceptable built form and amenity outcomes)
- amenity
- traffic.

(iii) **Marl**

The opening and closing submissions of Mr Kane followed a similar train of thought. He advised the Committee that residents of Shepparton were able to shop in multiple locations with little travelling distance. Mr Kane made the pertinent observation that in planning for growth areas, all retail and commercial uses are planned to be co-located in one centre/area. He observed planning would not contemplate two separate centres several hundred metres apart.

5.3 Discussion

The Victorian planning system provides robust guidance for proposed planning projects through the Act, State and local policies and municipal Planning Schemes. These are well tested when considering amendments to planning schemes and planning permit applications when required and have stood the test of time. Planning scheme amendments engage with

all aspects of the planning system and can be critically scrutinised by Councils, various agencies, Proponents and third party involvement of local community submitters.

Clause 72.02-3 of the VPP 'Integrated decision making' provides that:

Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure.

Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and **balance conflicting objectives in favour of net community benefit** and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Planning authorities should identify the potential for regional impacts in their decision making and **coordinate strategic planning with their neighbours and other public bodies** to achieve sustainable development and effective and efficient use of resources.

(Committee bold and underlining)

Supportable development should demonstrate there is net community benefit and that the matter is sustainable. This often involves weighing up competing State and local policies to assist determining the net benefit of a Project. Planning is not about maintaining the status quo but rather it is about managing change for the benefit of existing and future generations of Victorians. This means that net community benefit is not just about short term benefits at this point in time, but what might be benefited by communities, now and into the future. Short term gain does not mean that longer term impacts should be ignored.

The key to analysing a matter such as this where there are competing policy objectives is to determine whether the Lascorp proposal will result in an acceptable outcome that achieves a net community benefit.

This matter raises a number of dilemmas and competing policy issues for the Committee, and there are no easy answers to the issues to be addressed. On the one hand there is a Commercial 1 zoned site with a permit for two supermarkets. That should be the end of the story. On the other hand, there is a willing developer who state it "*is shovel ready*" and can build a new supermarket based centre on land included in the SNAC that requires a rezoning some 400 – 750 metres away from the zoned land that has a permit.

While that permit was issued in 2018, nothing has been built. In addition, Council supports the willing developer and has been proactive in helping it facilitate an outcome in this regard.

After reviewing the evidence and submissions, the Committee provides its analysis of net community benefit in Table 6.

Table 6 Analysis of net community benefit

Key issue	Lascorp	Shepparton/Metcash
Planning	<i>Requires rezoning</i>	Already zoned Commercial 1
	<i>Requires permit</i>	Single combined permit issued for two supermarkets
	<i>Little State policy support</i>	Strong State policy support (Clause 11.03-1S)
	Some local policy support (Clause 21.06 and CACS)	Strong local policy support (Clause 21.06 and CACS)
	<i>Will result in a new centre in a new location away from the central core of the Activity Centre</i>	Builds on an existing supermarket location and consolidates a core retail and activity centre
	<i>Is an inferior sub-optimal outcome that is inconsistent with proper and orderly planning for Activity Centres and will result in a disparate centre with poor walkability</i>	Co-location of retail facilities in a single node that has good walkability
	There are no planning or site constraints that preclude Woolworths locating at the Shepparton site	There are no planning or site constraints that preclude Woolworths locating at the Shepparton site
Economics	No impact on the CBD	No impact on the CBD
	Recognition by experts that the consolidated site outcome is the better outcome	Recognition by experts that the consolidated site outcome is the better outcome
	<i>Significant impact on opportunity for two supermarkets on the Shepparton site</i>	Two supermarket on this site would impact on opportunity to develop a third full line supermarket elsewhere in the Shepparton North region
	The proposal is for a full line supermarket and approximately 12 specialty shops	The proposal is for two full line supermarkets and mini-major, specialty, medical and community floorspace, resulting in greater range of retail and support uses
	Will result in significant construction jobs	Will result in significant construction jobs
	Will result in new part time and full time employment opportunities for local residents	Will result in new part time and full time employment opportunities for local residents

Key issue	Lascorp	Shepparton/Metcash
	Disparate centre will not enhance the choice and completion that is preferable to co-location	Co-location creates economies of scale, choice, competition
	Lascorp prefers not to have head to head competition	Shepparton prefers head to head competition – policy prefer this as well
	<i>Would probably result in the second supermarket not being built on the Shepparton/Metcash site, and maybe the existing site not being redeveloped at all</i>	Would allow for the unfettered opportunity for two supermarkets being co-located on the site
	<i>A reverse impact where there would still only be one supermarket in Shepparton North</i>	<i>A second supermarket would likely not be built on the site if Lascorp approved</i>
Access	Requires construction of new road intersections (major works) and access points (minor works)	Requires some site access upgrades (minor works)
	Exceeds car parking requirements	Exceeds car parking requirements
	This supermarket would be some 750 metres walking distance from the other supermarket, resulting in no pedestrian synergy	The two supermarkets on this site would enhance walkability and connectivity
Built form	Proposal has an acceptable built form outcome	Permit has been issued and results in an acceptable built form outcome
	Built form outcome would be enhanced if the corner site was included in the land area as it is a prominent corner and the exposure of the centre could be maximised	Provides for two supermarkets, each with a range of speciality shops, separated by a pedestrian oriented town square, with good exposure
	<i>Proposal is contrary to the provisions of DDO9</i>	Proposal is not impacted by the provisions of DDO9
Timing and certainty	Permit amended to commence construction within one year and completion within two years	Permit requires commencement of development and use by April 2021 and commencement of use by April 2023
	Committee advised that agreements are in place and Lascorp can commence as soon as rezoning gazetted and permit issued	Committee advised dates will be met if Lascorp amendment and permit application not approved

Key issue	Lascorp	Shepparton/Metcash
	Could be a short term benefit if Lascorp able to commence its development and use earlier than Shepparton	If Amendment and permit are approved, it may mean the Shepparton centre will not be able to proceed and may mean that neither of the two supermarkets are built
	Lascorp is relying on certainty, and notes it is 'shovel ready' to build	Uncertainty about a second tenant for the Shepparton site
Infrastructure	<i>Two separate sites will add to range of infrastructure costs</i>	Consolidation of activity will result in economies of scale in range of infrastructure costs, including car park layout, pedestrian accessibility, lighting, street furniture, access roads, signage
Structure Plan	Still necessary but should not hold up this process (Clause 11.02-2S)	Still necessary but should not hold up this process (Clause 11.02-2S)
	Could determine whether the Lascorp Land could or should be rezoned for future Commercial 1 Zone opportunities in the medium to long term, or remain in the Commercial 2 Zone	

Note: *italics denotes disbenefit*

From the analysis of the issues and the issues raised in Table 6, there are a number of scenarios that could occur on the Shepparton Land and/or the Lascorp Land. These include:

Scenario 1

The Amendment and permit is not approved and nothing happens on the Shepparton Land for several years – status quo is maintained, equating to a net community disbenefit.

Scenario 2

The Amendment and permit is not approved, one new supermarket is built, the existing supermarket is demolished and the second supermarket does not eventuate, equating to a net community disbenefit.

Scenario 3

The Amendment and permit is not approved, two new supermarkets are built on the Shepparton Land, including a Supa IGA, Woolworths or Coles, equating to a net community benefit.

Scenario 4

The Amendment and permit is approved, no new supermarket built for some time on that site, IGA stays as it is or is relocated and rebuilt, equating to a net community disbenefit.

Scenario 5

The Amendment and permit is approved, one new supermarket is built on the Lascorp Land, Shepparton permit is not activated, Supa IGA stays as it is, equating to a net community benefit.

Scenario 6

The Amendment and permit is approved, one new supermarket is built on the Lascorp Land, Shepparton walk away, Supa IGA closes down, equating to a net community disbenefit.

Scenario 7

The Amendment and permit is approved, one new supermarket is built, Shepparton permit is activated, Supa IGA is rebuilt, a second supermarket is built on the Shepparton Land, equating to a net community benefit.

5.4 Conclusions

All of these scenarios involve planning and commercial risk. One risk is that if the Amendment and permit are approved and Woolworths proceeds, it may be that Coles is offered the key tenancy on the Shepparton Land, with an Aldi or Supa IGA as the second option. Likewise, the Committee does not rule out that if the Amendment and permit is not approved, Woolworths might be offered, and accept the Stage 1 site.

The Committee asked the question on the final day whether there was any contract for Supa IGA to occupy the Stage 1 site. Mr Tweedie advised that there is no current signed agreement to lease, rather it is an in-principle agreement where there are contractual documents that through a process of negotiation, Marl would be the ultimate tenant of Stage 1.

There is no guarantee that if the Lascorp Amendment and permit were approved, it would proceed to develop the site immediately. While Mr Townshend assured the Committee in good faith that it would, the rezoning and permit, once attained, cannot be taken away. But the Amendment and permit can, and most likely will, mean that the Shepparton Land is not developed in accordance with its permit. As Lascorp noted in its opening submission, *“Ultimately, market forces will determine investments decisions by experienced supermarket operators”* (Document 74). In closing, Mr Townshend was adamant that Lascorp was ready to go:

To the contrary there need be no objective doubt that the Lascorp site can be developed immediately to accommodate a Woolworths supermarket and specialty shops. An agreement for lease has been in place for years and Woolworths has repeatedly reaffirmed its commitment to the Lascorp site⁹.

The Committee would have been inclined to accept the well construed arguments put by Lascorp if there was no other option, that is, if there was no appropriately Commercial 1 zoned land and/or if there was no permit for the current supermarket based centre in place.

In saying this, there is a time imperative for Shepparton to act on its permit and its verbal commitment to proceed to develop the site. The community will be far better off to have

⁹ Document 120, para 12(g).

two supermarkets on the one site. But it will be worse off if Shepparton does not make good their permit and nothing happens. There will be other ways for Lascorp to proceed to get approval for its Amendment and permit if Shepparton does not act on its permit in the timeliest of ways.

In conclusion, the Committee considers that a greater community benefit for present and future generations will ensue from the development of the Shepparton Land than from approval of the Lascorp Land. The Committee goes back to first principles in planning and for this matter, the Shepparton Land is a superior planning outcome to the Lascorp Land for a supermarket based centre because:

- the land is already located in the Commercial 1 Zone that allows for commercial development
- there is an existing permit for two supermarkets
- the land is strongly supported by State and local planning policy as the preferred location for commercial activities
- the land is part of the preferred Activity Centre for Shepparton North
- there will be stronger synergies and economies of scale for two supermarkets to be located on the one site
- the redevelopment of the Shepparton Land will provide a focal point for future development opportunities in the broader Activity Centre area and surrounds through a properly considered Structure Plan where the Activity Centre is its heart
- realisation of the permit will provide for an overall net benefit for the Shepparton North community.

For these reasons, the Committee does not support the Amendment, and consequently the planning permit application.

5.5 Recommendations

The Committee recommends:

- 1. Amendment C193 Part 2 to the Greater Shepparton Planning Scheme be abandoned.**
- 2. Planning Permit 2016-269 not be issued.**

6 Activity Centre Structure Plan

6.1 Key issues

Clause 3 of the Terms of Reference notes the Committee is to provide advice to the Minister for Planning on:

- whether the preparation of a structure plan for the Shepparton North Activity Centre (SNAC) is warranted and the timing and scope of the plan.

This is reiterated in Clause 23. The Panel report of October 2017 held the strong view and recommendation that a Structure Plan should be prepared to determine the form and extent of the SNAC area and to inform its decisions on land outside the existing Commercial 1 Zone. Council did not support this recommendation and it has not undertaken any work in this regard.

Key facts relevant to considering structure planning for the SNAC:

- CACS defines the SNAC activity centre boundary
- the SNAC is about 180,000 squares and:
 - forms part of a broader and relatively underdeveloped commercial business precinct
 - excludes existing retail activity south of Hawkins Street and directly opposite the major sports and recreation precinct including convenience stores, restaurants and a major pharmacy
 - excludes the major sports and recreation precinct
- DDO9 applies to all land in the SNAC except for the existing Commercial 1 Zone land
- the C192/C193 and C196 Panels both noted that an urban design framework does not guide the structure of the SNAC
- Planning Practice Note 58 provides guidance on preparing an activity centre Structure Plan.

Clause 21.06-7 of the Planning Scheme directs Council to:

- 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.

At the first Directions Hearing, Council tabled a plan which it considered to be an indicative Structure Plan (Documents 15 and 16), noting it was the commencement of a process and not to be read as an endorsed plan in any way. It represented a snapshot of what was in the SNAC area at a point in time.

The key issues to be resolved are:

- whether a Structure Plan is needed
- when a Structure Plan should be prepared
- the scope of a Structure Plan for the Activity Centre area.

The Committee notes that in addressing the Structure Plan, Mr De Silva helpfully addressed the three key issues as set out in the Terms of Reference of whether a Structure Plan is needed, and if so, its timing and scope.

6.2 Need for a Structure Plan

(i) Evidence and submissions

In its closing submission, Council noted it *“strongly supports the preparation of a structure plan at Shepparton North once the fundamental configuration of the SNAC is settled through determination of the Lascorp Proposal”* (Document 124). It supported the scope be widened beyond the SNAC area, similar to the area recommended by Mr De Silva.

Mr De Silva found the scope for the Structure Plan had been narrowed through:

- the Addendum to the Urban Design Framework
- advancement of plans for streetscape improvements
- extension of the Numurkah Road duplication
- short term delivery of the ultimate form of the intersection of Numurkah Road, Ford Road and Wanganui Road.

Notwithstanding, he gave evidence that *“... there is still need for preparation of a Structure Plan to serve a range of important purposes ...”*

Mr Barlow believed there was sufficient planning guidance to direct development in the short term and did not directly address whether a Structure Plan is needed at any stage.

Mr Crowder referred to Planning Practice Note 58 which states that structure planning is sometimes required and preferred for higher order centres. He considered structure planning to be a useful planning tool to guide the future use and development in an activity centre and assimilate it with its surrounding context. He acknowledged the need and complexity of a Structure Plan will depend on the size and role of the centre and on the ease which the land can be developed in an integrated and coordinated way.

Regarding the SNAC, Mr Crowder considered that, if the Lascorp centre was supported, a Structure Plan would be needed to ensure that it can integrate with, and complement, the existing retail core on the Shepparton Land.

Mr Barlow acknowledged the C192/C193 Panel found that the Urban Design Framework was not a substitute for a Structure Plan. He explained that since then:

- Council approved the CACS with the accompanying policy in Clause 21.06-5
- the Urban Design Framework was completed in July 2017
- DDO9 was introduced in June 2018 to implement the Urban Design Framework
- the Southdown Street Precinct Development Plan was updated with details on:
 - integrating existing and proposed retail centres
 - arranging an active transport network throughout the precinct which links both residential and commercial areas.

Mr Barlow considered these documents and planning provisions provided sufficient guidance for development in the SNAC in the short-term, though they did not include all components of a Structure Plan.

There was broad agreement between planning experts that what Council titled as an ‘indicative structure plan’ had no official status and was an internal Council document, not informed through community consultation.

(ii) Discussion

Council did not question the need for a Structure Plan. Rather, it considered the Shepparton and Mooroopna 2050: Regional City Growth Plan should be prepared first. It found there would be no issue with approving the Lascorp proposal before preparing the Structure Plan.

The Committee was not able to reconcile Council's reluctance to prepare a Structure Plan for the SNAC before the Shepparton and Mooroopna 2050: Regional City Growth Plan was prepared and finalised. The broader scale content of the consultation draft version of this plan generally reflects known growth figures for Shepparton's northern region and provides little further direction for the SNAC.

Regarding other documents and planning provisions since the C192/C193 Panel, the Committee notes:

- the Panel was aware of the broad details of the Urban Design Framework when it found that it was not a substitute for a Structure Plan
- the Panel was aware of the contents of approved Clause 21.06-5 – Commercial/Activity Centres
- DDO9 reflects content from the Urban Development Framework
- Southdown Street Precinct Development Plan provides little guidance to what is sought through a Structure Plan.

In essence, there has been no new guidance since 2017 to understand how the SNAC will be structured to operate as a well-designed, connected and functioning centre for the broader community. This has resulted in the inability to understand whether there is any opportunity to integrate the Lascorp development at a separated location with the CACS preferred retail core on the existing Commercial 1 Zone land.

A Structure Plan is needed because transforming the existing SNAC land into a single activity centre is complicated by:

- being a brownfield development, with minimal infrastructure intended for a different context
- no north-south connection near the approximately 250 metre deep properties in the Activity Centre as an alternative to the service road and footpath along the relatively bare Goulburn-Valley Highway corridor
- the Grant Court subdivision which has smaller properties that restrict the ability for land between those properties and Ford Road to effectively integrate with the rest of the SNAC.

DDO9 provides no guidance on how to resolve these structural issues. The Committee considers DDO9 is not the appropriate planning tool to apply to an activity centre at this point in time. It is predominantly focussed on the larger-scale business corridor without regard to structure planning and finer detailed design and guidance normally found in an activity centre.

Drawing the CACS activity centre boundary to include 180,000 square metres of land simply indicates where activity centre uses should be located. There is a significant planning gap between that broad direction and detailed guidance to structure the brownfield area into a functioning activity centre. This can only be achieved through a Structure Plan informed by stakeholders, including business owners and the community.

A well prepared Structure Plan with appropriate planning guidance would:

- ensure proper and orderly planning until the SNAC establishes most of its form
- support consistent planning decisions
- act as a prospectus for landowners and potential investors to provide certainty about how the SNAC will evolve and to encourage economic investment sooner.

The Committee endorses Clause 21.06-7 of the Planning Scheme which directs Council to prepare and implement a Structure Plan for the SNAC. This work may inform another strategy in that clause which seeks to review the application of the Activity Centre Zone for the SNAC and the Shepparton North Enterprise Corridor to reinforce the retail hierarchy.

(iii) Conclusions

The Committee finds:

- A Structure Plan is needed to ensure proper and orderly planning for the Shepparton North Activity Centre.
- It will stimulate investment confidence and economic development through centre-specific vision, objectives, directions and details.

6.3 Timing for a Structure Plan

(i) Evidence and submissions

There were differing views among the planning experts about when a Structure Plan should be prepared:

- Mr Crowder – before deciding on the Lascorp proposal, to determine whether it can integrate with the existing retail core on the Shepparton Land
- Mr De Silva – after:
 - approving the Amendment, if the Committee is satisfied that the risk to the Shepparton CBD is reasonable, or
 - abandoning the Amendment, if the Committee is not persuaded the risk is reasonable
- Mr Barlow – did not directly respond to the question but found there was sufficient planning guidance to direct development in the short term.

When asked further, Mr De Silva advised a Structure Plan could take in the order of five years to prepare through to gazettal. Mr Barlow noted it could be three years. The Committee noted that if Council had prepared one as part of implementing the former Panel recommendations, it could have been done by now.

Mr Townshend made submissions to the effect that if the Committee recommended that a Structure Plan be prepared, it would significantly delay a second supermarket in Shepparton North. He said:

The Advisory Committee could find that it is better to wait years for a structure plan to be in place before a second full line supermarket is approved. The Advisory Committee could find it is better to wait years to have the potential that there will emerge two full-line supermarkets on one site, or to avoid the (unlikely) walk of

customers from the Metcash site to the Lascorp Woolworths. No doubt theoretical support can be advanced to support these findings¹⁰.

(ii) Discussion

In terms of timing, the preparation of a Structure Plan should not delay the development of the land in the Commercial 1 Zone. The Committee considers Council should expedite the preparation of a Structure Plan for the SNAC and that it be prepared taking into account the approved permit for the Shepparton Land.

The Committee refutes the arguments made by Mr Townshend in that it is not a one-step after the other process, that time has now passed. The preparation of the Structure Plan is in the Council's hands and it should be concurrent with the development of the existing zoned land. But if Council determine not to prepare a Structure Plan, that should not affect Shepparton undertaking its development.

The Committee considers preparing a Structure Plan should not take anywhere near five years, nor three. It can build upon work already undertaken. The critical issue for the Structure Plan to resolve is how the Commercial 2 Zone land on both sides of Numurkah Highway should be developed in coming years.

(iii) Conclusions

The Committee finds:

- Council should commence the preparation of a Structure Plan for the SNAC as soon as practically possible and within six months of the date of this report to ensure it can be completed in a reasonable time period of less than two years.
- The Structure Plan should be undertaken before deciding on any major retail development proposal outside the existing Commercial 1 Zone land.

6.4 Appropriate scope of the Structure Plan

(i) Evidence and submissions

Mr De Silva considered a Structure Plan should address the general purposes in Planning Practice Note 58 and:

- define a vision for the SNAC as a designated sub-regional centre
- define the Structure Plan area (recommended as the Commercial 1 and 2 zoned land on the east side of Numurkah Road between Hawkins Street and Ford Road and the existing Industrial 1 zoned land on the north side of Hawkins Street)
- provide direction for:
 - preferred uses, shop floor space limits and urban design objectives for the Commercial 1 Zone land
 - preferred land uses, floor space limits and urban design objectives and requirements for the balance of the Commercial 2 Zone land
 - preferred land uses, and urban design objectives and requirements for the remaining Industrial zoned land on the north side of Hawkins Street

¹⁰ Document 120, para 13.

- explore the need for internal north-south connectivity within the Commercial 2 zoned land, noting the Commercial 2 zoned land is about 250 metres deep
- identify and recommend any rezonings that may be needed
- define a streetscape improvement plan for Numurkah Road.

Mr Barlow stated that existing planning guidance excluded components of a Structure Plan including:

- a detailed assessment of other retail development opportunities beyond the existing Commercial 1 Zone land
- public transport routes and stops
- possible other uses that could be accommodated in the SNAC including the non-retail and community uses
- identification of further infrastructure investment to support the centre's development
- an implementation plan.

(ii) Discussion

Table 7 sets out the elements that should be included in the Structure Plan and provides references for further direction.

Table 7 Structure Plan scope

The Structure Plan should:	Guidance and support
1. Follow the process and the scope set out in Planning Practice Note 58, including: <ol style="list-style-type: none"> effective engagement with stakeholders and the community a concise vision which sets out the shared and agreed objectives for the centre show the form of future development and identify suitable locations for a range of developments in and around the centre to give clear directions about preferred locations for investment identify key opportunity sites show locations in and around the centre for active and passive public spaces 	Planning Practice Note 58 CACS p117 – preference for a single contiguous retail core on the existing Commercial 1 Zone land
2. Review the Activity Centre boundary to determine a final boundary, including whether the following sites should be included within the boundary: <ol style="list-style-type: none"> existing shops between Hawkins Street and Pine Street (which includes the packaged liquor outlet and major chemist at the corner of Pine Street) Lascorp Land Commercial 2 Zone site between the Shepparton and Lascorp sites Munarra Centre for Regional Excellence Shepparton Sports and Events Centre. 	Planning Practice Note 58, pp2-3

The Structure Plan should:	Guidance and support
3. Include specific activity centre urban design guidelines	Planning Scheme Clause 21.06-7, Strategy 15
4. Review the application of the Activity Centre Zone for the SNAC and the Shepparton North Enterprise Corridor to reinforce the retail hierarchy	Planning Scheme Clause 21.06-7, Strategy 16

(iii) Conclusions

The Committee finds:

- Planning Practice Note 58 and the relevant Planning Scheme provisions as outlined in Table 7 provides robust guidance for preparing a Structure Plan.
- The extent of the area to be included in the Structure Plan should be reviewed by Council in consultation with affected stakeholders.
- Council should consider the list of issues identified by Mr De Silva in his evidence (Document 55, paragraph 66) to provide context for the scope of the Structure Plan.

6.5 Recommendations

The Committee recommends:

3. **Council prepare a Structure Plan for the Shepparton North area, to commence within six months of the date of this report.**
4. **Expand the area within the Structure Plan to include, but not limited to, the Shepparton North Activity Centre, the existing shops in Pine and Hawkins Streets, the Shepparton Sports and Events Centre and the Munarra Centre for Regional Excellence.**

7 Planning scheme amendment and permit

7.1 Key issues

The key issues to be resolved relate to:

- built form and proposed layout
- access
- parking
- conditions.

The Committee has considered issues associated with the Planning Scheme Amendment and planning permit application. Its recommendation to the Minister for Planning is to not approve the Amendment or the permit application.

However, the Committee is obliged to consider the permit application should the Minister for Planning decide to approve it. In this regard, the Committee notes Clause 24 of the Terms of Reference and that it provide:

- a recommendation on whether Planning Permit PPA2016-269 should issue, including an assessment of the proposed uses and development including the proposed layout, access, parking and built form and advice on conditions that should apply to the uses and development.

The Committee recognises that the permit application has not changed much since it was considered by the Panel in 2017. However, there are some built form, advertising and traffic issues that have changed and so it warrants detailed scrutiny in this regard.

7.2 Built form and proposed layout

(i) The issue

The issue to be resolved is:

- whether the proposed retail development will result in an acceptable built form and layout.

DDO9 was introduced the Planning Scheme in 2018 and it applies to all land in the SNAC, except for the Shepparton Land. It implements the UDF, which is a reference document in the Planning Scheme.

Clause 15.01-2S seeks to *“achieve building design outcomes that contribute positively to the local context and enhance the public realm”*.

Both clauses refer to the Urban Design Guidelines for Victoria as a policy document.

(ii) Evidence and submissions

Site layout

In its opening, Council noted that Mr De Silva suggested changes to the siting of the Lascorp proposal so that it *“better responds to the gateway nature of the Development Site”*.

Mr Barlow and Mr Crowder referred to Clause 11.03-1S (Activity centres), 15.01-1S (Urban design), 15.01-2S (Building design) and DDO9 as relevant considerations for the proposal’s design and development, as well as the UDF for guidance.

Mr Barlow acknowledged the proposed building setbacks well exceeded the setback requirement of between 9 and 20 metres from the front lot boundary specified in DDO9. He considered the zero setback recommended for shops in an activity centre in the Urban Design Guidelines for Victoria to be inappropriate for the locality.

Mr Crowder believed the proposal, as a standalone centre, was acceptable and would appropriately integrate with its surrounds. He preferred if the corner of Numurkah Road and Ford Street (231 - 237 Numurkah Road) had a more pronounced gateway by rezoning it to Commercial 1 Zone if this development proceeded and integrating its future development with the Lascorp centre.

Mr Crowder qualified that, as part of a broader sub-regional activity centre, the Lascorp Land needed to be considered within that context. He said it was not possible to conclude whether the proposed site layout could be integrated and connected with the rest of the SNAC because there was no strategic planning process. Having assessed the proposal in this context, Mr Crowder found:

- its single building typology would positively impact the area's character and its height, setbacks and landscaping can be absorbed in the surrounding environment
- the outward facing retail tenancies will suitably activate car parking areas and communal spaces
- it appropriately provided onsite car parking, loading areas, weather protection, and pedestrian connectivity from the building to its car park.

Mr Crowder recommended the service plant and equipment within or on the building be located so it is not highly visible from the public realm. He noted the 400 square metres of land labelled as 'town square' may be actively used by the public but it was not sufficiently sized or dimensioned to be an effective town square.

Building design and landscaping

Mr Barlow was satisfied that the overall development met the DDO9 requirements, Urban Design Guidelines for Victoria, Clause 15.01 and Appendix A of the CACS. He considered the proposed centre to be well designed and attractive.

Mr Barlow noted the building height of 9.2 metres is less than the maximum height of 11 metres specified in DDO9. Mr Crowder considered the building height could be absorbed in the robust environment of the Lascorp Land.

Mr Barlow found the materials and finishes such as timber-look and metal cladding, ribbed concrete and textured paint and architectural features and street furniture provide a "*highly articulated and quality presentation*", consistent with Objective 5.1.7 of the Urban Design Guidelines for Victoria.

Mr Barlow referred to DDO9 which requires a 1.5 metre landscape buffer between residential and non-residential properties and a minimum of 15 per cent of the lot frontage to be landscape with a variety of shrubs and at least one mature tree. He considered the landscaping to be generally appropriate and recommended that the landscaping plan be further enhanced by removing four car spaces on the Numurkah Road frontage to establish a planting area.

Advertising signs

Mr Barlow noted that the permit application proposes two pylon signs, one on each major road frontage. Each sign structure would be 11.5 metres tall, 3.2 metres wide and 0.9 metres deep. The advertising area would be 5.6 metres wide and 2.2 metres wide. He explained that when the permit was originally submitted, Clause 52.05 of the Planning Scheme applied, however the following advertising requirements in DDO9 have since applied:

- Free-standing signage (e.g. pole signs) must be set back a minimum distance of 1m from the front property boundary.
- Freestanding business identification signs are to fit in an envelope that is a maximum height of 2m and maximum width of 1.5m. This envelope includes the height of any supporting structure.

Mr Barlow acknowledged the proposed signs were slightly higher than the preferred height for buildings but considered the proportion and scale of the signs to be acceptable within the context of the adjacent roads and the emerging character of the locality. He opted for a single larger and orderly sign with multiple tenancy advertising than multiple signs that may clutter the environment.

Mr Barlow found all other signs to be well integrated with the overall design and consistent with DDO9.

Mr Crowder considered the overall signage to be effective, proportional, interesting and appropriate for the proposed centre.

(iii) Discussion

Like the planning experts, the Committee has considered the design of the proposal within the context of existing Planning Scheme policy and provisions and in the absence of a Structure Plan, to understand how it fits in with the overall design of the centre.

When viewed without regard to existing planning provisions and in isolation of its surrounds, the Lascorp proposal demonstrates positive on-site design elements by:

- sleeving the supermarket behind speciality shops
- discretely locating the loading bay along the supermarket's eastern elevation
- providing shelter to a portion of its car park spaces
- providing a landscaped zone (identified as 'town square') and landscape play zone at the front of the mall entrance which would soften the view towards the expansive front car park.

The modestly scaled landscaped zone cannot be regarded a 'town square'.

Site layout

The Planning Scheme requires the Lascorp proposal to be assessed based on existing planning policy and provisions within its broader context.

DDO9 which applies to the Lascorp Land, includes the following requirement:

Building setback should be a minimum of 9m and maximum of 20m from the front lot boundary, to the satisfaction of the responsible authority.

The parent DDO requires a permit for buildings and works which are not in accordance with DDO9 requirements. Although the provision says 'should' and is not phrased like a requirement, DDO9 specifies that it is, and the Committee has considered it accordingly.

DDO9 identifies the Lascorp and Shepparton Land as "*Prominent sites (including gateways)*". As 'bookends' to the SNAC, both sites play an important urban design role in defining the centre's overall built form. The proposed and approved Shepparton centre does not achieve what is sought through DDO9. However, the Shepparton Land does not need to, because DDO9 does not apply to that property.

The Lascorp proposal seeks to set back its building about 130 metres from its Numurkah Road boundary and about 50 metres from its Ford Street boundary. Although the maximum 20 metres is a discretionary provision, the proposed front setback represents a 650 per cent increase in the specified maximum setback. The Committee considers this to be an unacceptable planning outcome for a prominent site within the SNAC and broader corridor.

As a prominent site, there should be little to no variation from the maximum 20-metre setback because an activity centre needs to activate frontages to the public realm. In that respect, the DDO9 provisions have little regard to urban design outcomes for an activity centre urban design through planning policy and the Urban Design Guidelines for Victoria. They are predominantly focussed on larger scale highway-style business corridor built form with large setbacks. Exceeding the maximum 20-metre setback would therefore result in negative outcomes for a well-functioning activity centre.

The Lascorp centre would compel shoppers to walk about 130 metres from the mall's front entrance to reach the Numurkah Road property boundary. They would have to travel south along the Highway about 550 metres to visit shops in the SNAC's existing retail core. Users of the centre would have to walk hundreds of metres along inactive property frontages because the 9 to 20 metre setbacks with landscaping would separate the people from buildings. This contradicts modern activity centre planning sought through relevant policies and guidelines.

Integrating the site at the corner of Numurkah Road and Ford Street with the Lascorp Land may have assisted to address some of its design issues.

The Committee disagrees with Mr Barlow that shops with a zero setback are not appropriate for the Lascorp setting. The approved Shepparton centre, which is not subject to DDO9, demonstrates how urban design outcomes sought through the Urban Design Guidelines for Victoria can be achieved by:

- locating retail activity on its south-west boundary directly onto the Numurkah Road and Hawkins Street footpaths with zero setback to activate the public realm and define the urban space
- creating a main street environment through a treed spine and central pedestrianised town square which creates a community meeting place.

Building design and landscaping

The Committee considers the proposed building is well designed and articulated, and positively responds to its surrounding environment through its colours and materials. The building is generally consistent with the discretionary 11 metre maximum height and building design requirements specified in DDO9.

Advertising signs

The proposed business identification signs are consistent with the DDO9 option of one sign for multiple retailers to reduce visual clutter. However, the proposed 11.5 metre structures are significantly greater than the DDO9 requirement for signage structure to be no more than two metres tall and 1.5 metres wide. They would be 2.3 metres taller than the overall building height. Its dominating scale is likely to further enhance the impression that the Lascorp centre is a freestanding centre separate to the Shepparton centre.

In the absence of a structure plan which includes advertised signage guidelines for an activity centre, the Committee considers signage should be generally consistent with the dimensions specified in DDO9. This would result in more consistent and equitable signage within the SNAC.

(iv) Conclusions

The Committee finds:

- The proposed Lascorp centre would result in an unacceptable design outcome by locating the building:
 - about 130 metres from the Numurkah Road frontage
 - about 110 metres further than the maximum setback sought through DDO9.
- The proposed Lascorp centre demonstrates positive on-site design elements, however these do not overcome its bigger site layout issues.
- The advertising signage should be reduced to a scale more consistent with the dimensions specified in DDO9.

7.3 Access

(i) The issues

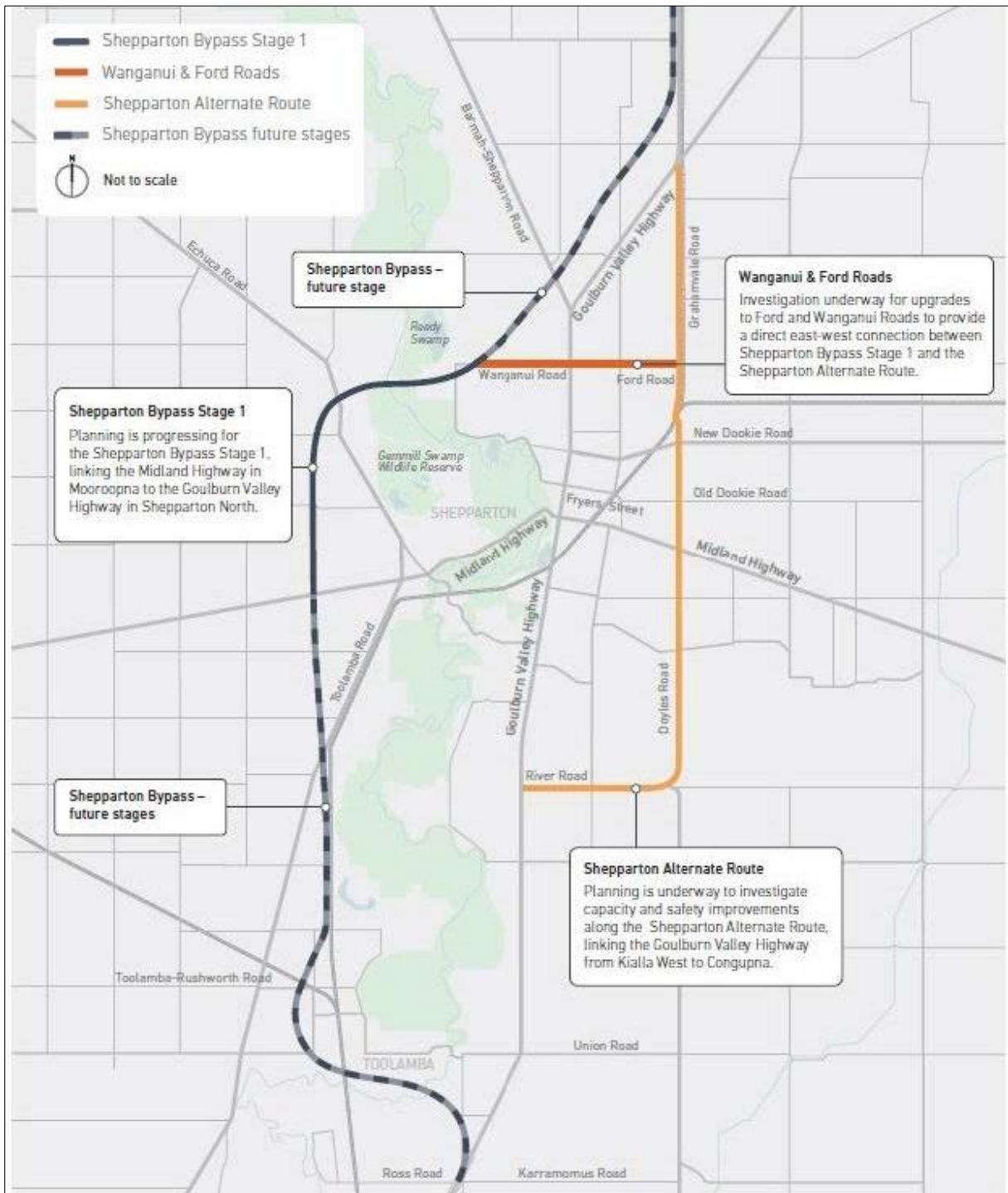
The key issues to be resolved are:

- whether the Lascorp proposal would result in acceptable access, taking into account road capacity and traffic management impacts
- whether mitigation works would be needed to support the additional traffic volume generated by the proposed centre
- whether the requirements of the Head, Transport for Victoria (TfV)) as a determining statutory referral authority are satisfactorily addressed.

The Lascorp Land has frontages along Numurkah Road (Goulburn Valley Highway) and Ford Road. The Goulburn Valley Highway is currently one of Shepparton's two major through-freight routes and is part of the corridor between Melbourne, inland NSW, and Queensland.

Council is responsible for Wanganui Road and Ford Road because they are not declared arterial roads. These roads will provide an east west link to Shepparton Alternative Route after the Shepparton Bypass Stage 1 is constructed, as shown in Figure 3. TfV has indicated that it intends to gazette the east west link as part of the arterial road network at a time unknown in the future.

Figure 3 Bypass Shepparton projects



Source: Head, Transport for Victoria opening submission (Document 75)

(ii) Evidence and submissions

Lascorp called expert evidence on traffic engineering from Mr Turnbull of Traffix Group. He noted that since the permit application was exhibited, the Numurkah Road/Wanganui Road/Ford Road intersection was now proposed to be a roundabout rather than a signalised controlled cross intersection. He assessed information provided previously by TfV that

provided traffic volume assessment for the years 2021, 2031 and 2041 on two different scenarios¹¹:

- Base Case assumes that the first stage of the Bypass is not constructed with traffic continuing through central Shepparton
- Bypass (Stage 1) assumes that the first stage of the Bypass is constructed with upgrade works to this intersection completed by 2031.

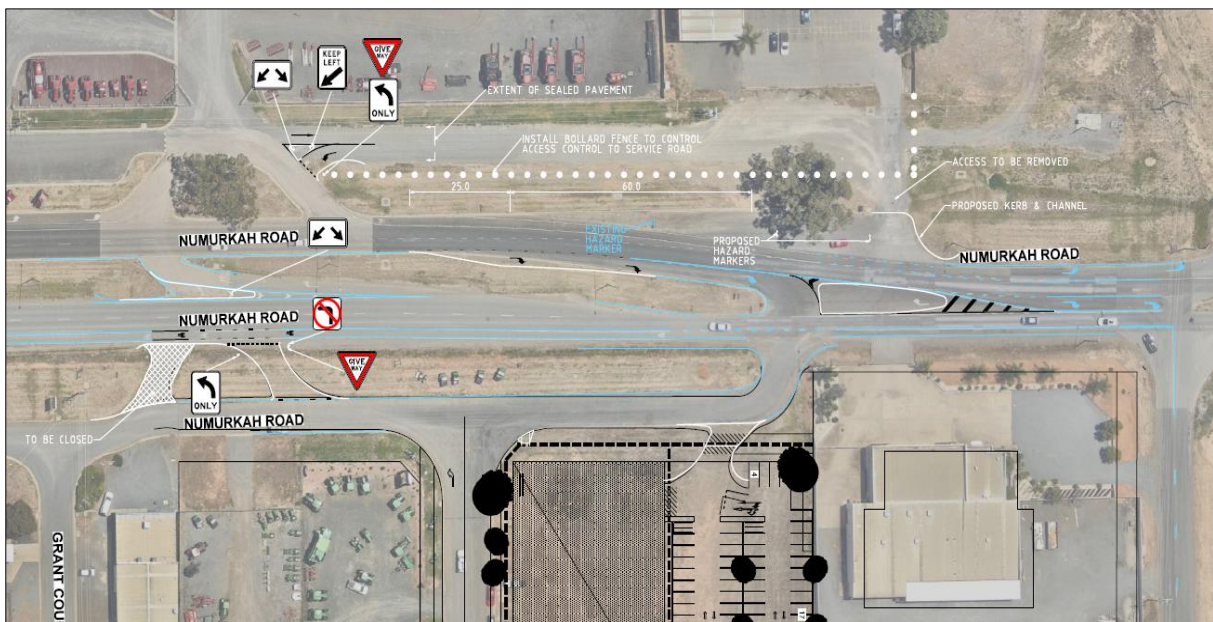
The SIDRA assessment for the 2041 Base Case and the Bypass traffic volumes indicated the proposed intersection will operate with excellent operating conditions, minimal delays on each approach, and an overall Level of Service A.

The evidence provided by Mr Turnbull evolved in response to TfV discussions over the course of the Hearing¹²

Figure 4 identifies the Goulburn Valley/Numurkah Road access to the Lascorp Land. Mr Turnbull indicated that it includes the traffic works required on the eastern side of the Highway to service the Lascorp Land and on the western side, as proposed by Mr Humphrey at the 2017 Panel.

Mr Turnbull highlighted that access from the service road will include an updated channelised right turn treatment in the Numurkah Road.

Figure 4 Numurkah Road access points



Source: Traffix Group Drawing Number G19863-04G (Document 85)

Mr Turnbull's evidence on the Ford Road access is indicated in Figure 5. This access is provided by a western vehicle only access, allowing entry and egress to the car park and the eastern access as an entry only driveway for loading/waste collection heavy vehicles. He

¹¹ "Traffic Study: Review of Intersection Treatment – Goulburn Valley Highway /Wanganui Road/Ford Road" Report prepared for Regional Roads Victoria. 21 November 2019. Report prepared by SMEC (Ref. 3004209)

¹² Documents 51, 85 and 106

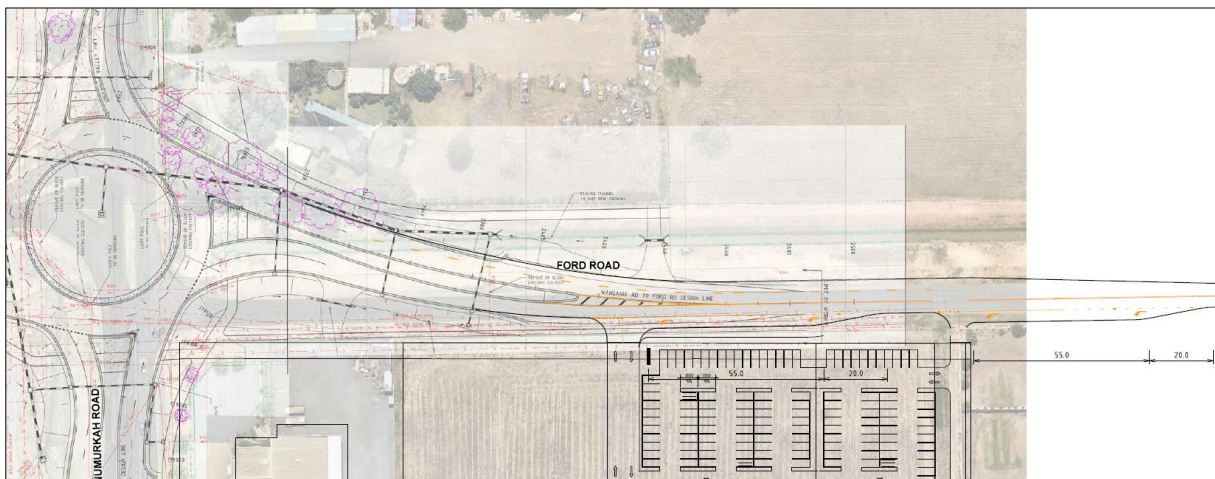
noted that Regional Roads Victoria had requested a painted island channelised right turn treatment instead of the previously proposed auxiliary lane treatment.

A SIDRA analysis provided by Mr Turnbull indicated this proposed single carpark access would have very good operating conditions with no adverse impact on the road network.

Mr Turnbull gave evidence on two potential future traffic configurations on Ford Road. He first considered the implications on the Ford Road site access if the proposed roundabout is constructed. Figure 5 indicated all entry and egress movements to the western car park entry are still possible and the eastern loading/waste collection right and left turn entry is still possible.

Mr Turnbull considered the roundabout control would serve as an appropriate control and will accommodate all traffic movements associated with the proposed development.

Figure 5 Ford Road access points and roundabout stage



Source: Traffix Group Drawing G19863-08

In response to TfV's submission to remove all right entry and exit turns from the two Ford Road access points when the Ford Road duplication occurs, Mr Turnbull gave evidence that in the instance of the eastern entry, most heavy vehicles are likely to travel along the Shepparton Bypass and will be required to make a right turn into the site. He said:

I believe that the right turn in movement across a two-lane carriageway is a suitable ultimate arrangement and would remove the need for a U-turn facility further to the east.

TfV confirmed the status of the Goulburn Valley Highway as a declared arterial road and confirmed that it is the coordinating road authority under the *Road Management Act 2004*. It indicated its intent to limit access to and from the Highway directly. It considered site access is preferable from a service road or a local road, for example, from Doody Street.

TfV highlighted that access arrangements along the west side of Goulburn Valley Highway plans resulting from the traffic conclave as part of the 2017 Panel Hearing were not included in Mr Turnbull's initial report.

TfV confirmed that Ford Road is a local road intended to be gazetted as part of the arterial road network in the future which will go through three stages of development:

- the current scenario
- the construction of the Wanganui Road roundabout

- the future duplication of Ford Road.

TfV noted:

This means that access arrangements along Ford Road need to be designed in a way that can respond to the potential future changes of the road environment.

TfV submitted that should Ford Road be upgraded to a four-lane road, right hand turns in and out of the access points should be removed, and that access to these points should be limited to left turns in and out, stating:

The Head, Transport for Victoria has significant concerns that having vehicles turn across multiple lanes of traffic when entering and exiting the development will create an unsafe road environment on a future arterial road. And result in vehicles having to dash across multiple lanes of traffic in unsafe conditions.

TfV in its closing submission indicated it had one outstanding matter, being the continued use of the right turn movement by truck and cars entering the site from the western and eastern most Ford Road access points, once Ford Road is duplicated. TfV sought advice from Mr Turnbull whether truck access from Goulburn Valley Highway could be considered:

When TfV asked Mr Turnbull whether delivery trucks could access the site via Numurkah Road and if swept path plans had been prepared for this access scenario. Mr Turnbull confirmed that swept path plans had not been prepared for this scenario and that a change to the way vehicles access the site would require a redesign of the site's internal configuration.

TfV puts to the Panel that this shows that the site access arrangements have not been properly considered for a scenario where Ford Road is duplicated.

TfV clarified its position about traffic arrangements on the east side of Goulburn Valley Highway:

Following discussion with Lascorp conditions 8 (a) (iii) and (b) (v) have been amended to remove reference to "modifications to the central median". The language incorrectly referred to the central median of the arterial road, rather than the land between the service road and the lane of the arterial road, as intended.

TfV concluded that it supported the combined planning scheme amendment and planning permit subject to the conditions outlined in its Appendix 1 (Document 122).

(iii) Discussion

The Committee acknowledges the constructive approach of TfV which has assisted to resolve the traffic management and access issues associated with the Lascorp Land.

The Committee agrees with the evidence of Mr Turnbull that the proposed roundabout at the Goulburn Valley Highway, Wanganui/Ford Road intersection is appropriate and will accommodate the traffic movements associated with the proposed development.

Access to the Lascorp Land from the Goulburn Valley Highway and Ford Road frontages are more complex.

The Committee considers Traffix Group Drawing Number G19863-04G provided by Mr Turnbull (Document 85) best includes the traffic works required on both the eastern and western sides of the Goulburn Valley Highway and therefore should be referenced in the planning permit, replacing any other similar plans. The Committee considers this drawing includes the requests of TfV on the eastern side of the Highway and includes all traffic works on the western side, previously agreed in 2017 and shown as Figure 8 of the 2017 Panel

Report. It considers the proposed road works are sufficient to remove any significant adverse impacts to the road network.

The Committee accepts that Ford Road would go through three stages of development and that it will be a gazetted arterial road in the future. The two proposed Ford Road access points will provide acceptable outcomes for the current stage and the roundabout stage.

When considering the future Ford Road duplication, the Committee generally agrees with TfV that a right turn entry and egress from the Ford Road western vehicle access should be removed. Removing a Ford Road truck right turn entry into the eastern access would be more problematic.

TfV's alternative truck entry point from the Goulburn Valley Highway frontage would reverse the truck movement around the proposed supermarket site to exit left into Ford Road. Mr Turnbull did not undertake a swept path analysis of this reverse route scenario and advised it was likely that it would require a redesign of the internal configuration of the site.

The Committee considers that a future truck right hand turn entry from a future duplicated Ford Road (with likely low volumes), while not desirable, does not represent a risk significant enough to require a major redesign of the internal layout of the site at this stage. Site access arrangements for the future Ford Road duplication scenario should be considered when it is classified an arterial road and when TfV is the statutory referral authority.

The Committee accepts the Condition 8 wording proposed by TfV:

The site access points along Ford Road annotated to state that unless otherwise agreed in writing by the Head, Transport for Victoria, at the time of the duplication of Ford Road, access to Ford Road will be restricted to left in/left out only.

The Committee notes there was no disagreement on footpath linkages and other transport matters included in the exhibited planning permit.

Mr Turnbull's cross-referenced commentary on Condition 8 was helpful. The Committee agrees with Mr Turnbull that permit Condition 3 (Civil Construction Requirements), specifically the sub sections "*Roadworks*" and "*Footpaths*" are acceptable and therefore remain unchanged.

The Committee has relied on the two final versions tabled by Lascorp (Document 121) and TfV (Document 122) in closing in making its recommendations. It has revised Condition 8 in Appendix C in consideration of the above. The Committee notes that TfV should be substituted for VicRoads in the permit's Notation Section at the end of the document.

(iv) Conclusions

The Committee finds:

- The Lascorp proposal would result in acceptable road capacity and traffic management impacts.
- The future roundabout at the intersection of the Goulburn Valley Highway, Wanganui and Ford Roads will serve as an appropriate control and can accommodate all traffic movements associated with the proposed developed.
- All site access points along the Goulburn Valley Highway and Ford Road will operate satisfactorily until Ford Road is duplicated.

- Roadworks proposed to facilitate access to the Lascorp Land will not adversely impact the road network.
- There is no traffic engineering or road management reason why the development should not proceed in accordance with the revised planning permit as attached in Appendix C.

7.4 Car and bicycle parking and on-site traffic management

(i) The issues

The key issues to be resolved are:

- whether the Lascorp proposal satisfies the statutory requirements for bicycle and car parking
- whether the on-site traffic layout, including the loading facilities, is acceptable.

Clause 52.06 of the Planning Scheme specifies the minimum number of car parking spaces required for different land uses and includes the following purposes:

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

To support sustainable transport alternatives to the motor car.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Clause 52.34 specifies the minimum number of bicycle parking spaces and includes the following purposes:

To encourage cycling as a mode of transport.

To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Clauses 52.06 and 52.34 do not require a permit for car and bicycle parking if the minimum number of spaces are met.

Clause 65 requires a responsible authority to consider the adequacy of the loading and unloading facilities and any associated amenity, traffic flow and safety impacts before deciding on an application.

(ii) Evidence and submissions.

Mr Turnbull was satisfied with the proposed number of car and bicycle spaces and the parking layout. He noted the car and bicycle parking do not require a permit because:

- the 446 car spaces exceeded the required 309 spaces
- the 30 bicycle spaces (14 for shoppers near tenancy 4 and 16 secured spaces for employees) exceeded the required 29 spaces.

He noted two shower/change room facilities proposed next to the secure bicycle parking.

Mr Turnbull assessed the car parking layout and access arrangements with the relevant Australian Standards and Planning Scheme and found:

- vehicles can exit the Lascorp Land in a forward direction and adequate sight triangles are provided at all proposed cross overs
- articulated vehicles such as a 19 metre semi-trailer are expected to enter through Ford Road and exit through Doody Street
- All standard car spaces exceed the minimum standards of the Planning Scheme.

Mr Turnbull considered the three loading facilities (one for the supermarket and two shared by other retailers) to be sufficient and was satisfied they would not negatively affect traffic flow or road safety.

(iii) Discussion

The proposed number of car and bicycle parking spaces exceed the Planning Scheme requirements and do not require a permit. The bicycle parking layout, associated amenities and location provide bike riders with safe and convenient access to the specialty shops and mall entrance.

The loading facilities enable appropriate truck manoeuvring without negatively affecting on-site traffic flow, amenity or safety. Having trucks enter from Ford Road, travel along a one way exclusive truck route and exit into Doody Street is an acceptable safety outcome because it separates them from vehicle and pedestrian traffic.

During the Hearing there was some concern raised regarding the location of the two click and collect loading bays, in that they are too far distant from the retail areas. The Committee considers that this detail can be finalised in the revised plans prepared to the satisfaction of the responsible authority.

The Committee agrees with Mr Turnbull's conclusions that the proposed development satisfies Permit Condition 3 (Civil Construction Requirements), specifically in relation to car parking.

(iv) Conclusions

The Committee finds that:

- The number of bicycle and car parking spaces exceed the numbers specified in the relevant planning provisions.
- The Lascorp proposal does not negatively impact on-site traffic flow.
- The loading facilities are appropriate.

7.5 Conditions

Should the Minister for Planning decide to approve the Amendment and Permit Application, the Planning Permit conditions should be revised as shown in Appendix C.

Appendix A Terms of Reference

Advisory Committee appointed pursuant to section 151 of the Planning and Environment Act 1987 (Act)

Name

1. The Advisory Committee is to be known as the 'Shepparton North Activity Centre Advisory Committee'

Skills

2. The Advisory Committee is to have a Chair and other members as appropriate, with the following skills:
 - a. strategic and statutory planning
 - b. retail planning analysis
 - c. traffic/transport planning
 - d. urban design.

The Advisory Committee may seek specialist legal advice if required.

Purpose

3. The purpose of the Advisory Committee is to advise the Minister for Planning:
 - a. on the appropriateness of Amendment C193 (Part 2) to the Greater Shepparton Planning Scheme (the Amendment) as exhibited (and updated).
 - b. whether Planning Permit PPA2016-269 (the Permit Application) should issue, and if so, the appropriate permit conditions as exhibited (and updated).
 - c. whether the preparation of a structure plan for the Shepparton North Activity Centre (SNAC) is warranted and the timing and scope of the plan.

Background

4. Amendment C193 (Part 2) proposes to rezone land at the corner of Numurkah Road and Ford Road Shepparton North from Commercial 2 Zone to Commercial 1 Zone. The permit application would allow use of the land for a community meeting space (place of assembly), buildings and works in the Commercial 1 Zone, erection and display of signs, a packaged liquor licence and creation of access to a Road Zone Category 1.
5. On 9 October 2017, a Panel appointed under Part 8 of the Act issued a report containing recommendations in respect to the Amendment and Permit Application. The Panel Report also contained recommendations about Amendment C192 to the Greater Shepparton Planning Scheme which, amongst other things, proposed amendment to the planning controls affecting the SNAC.
6. On 20 March 2018, the Council resolved to adopt Amendment C192. That amendment was subsequently gazetted on 7 June 2018.
7. On 27 April 2018 the Council issued Planning Permit 2017-177 which allows the development of two supermarkets on land within the existing Commercial 1 Zone contained within the SNAC.
8. On 19 June 2018, after considering the Panel report and supplementary advice prepared by Essential Economics, dated 30 May 2018 (Supplementary Economic Advice), the Council resolved to adopt Amendment C193 (Part 2) and recommend that the Minister for Planning issue the Permit subject to conditions.
9. On 23 August 2018 the Minister for Planning was advised of a Supreme Court Proceeding relating to the council's adoption of the Amendment and request that the Minister for Planning issue the Permit. The proceeding remains on foot.
10. The Council and parties to the Proceeding that made submissions to the Amendment, the Permit Application and Amendment C192, have requested that the Minister for Planning establish an advisory committee to further consider and make recommendations about the planning merits of the Amendment and Permit Application to inform the Minister's decisions about whether to approve the Amendment and direct that the council issue the Permit.

Method

General

11. The Advisory Committee may inform itself in any way it sees fit, and must consider all relevant matters, including but not limited to:
 - a. relevant provisions of the Planning and Environment Act 1987, the Victoria Planning Provisions Plan Melbourne 2017 - 2050: Metropolitan Planning Strategy and Hume Regional Growth Plan 2014.
 - b. the Greater Shepparton Planning Scheme, including any adopted plans, strategies or planning scheme amendments.
 - c. all relevant material submitted on behalf of the proponent and submitters provided to the Advisory Committee.
 - d. the Supplementary Economic Advice
 - e. all submissions and evidence received.
12. The Advisory Committee may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit prior to submission of its report to the Minister for Planning.

Notice

13. DELWP will liaise with the Advisory Committee to agree:
 - a. direct notice dates
 - b. a Directions Hearing date
 - c. the Public Hearing dates.

The agreed dates are to be included on all notices.

14. DELWP will provide direct notice (by letter) inviting written submissions within a 20 business-day notice period, at a minimum, to:
 - a. relevant Government agencies and servicing authorities or referral authorities.
 - b. any landowners and occupiers adjoining or surrounding the proposed site.
 - c. all submitters to Amendment C193 (Part 2) and Amendment C192 that relate to Amendment C193 (Part 2).
15. DELWP will place a notice in the Shepparton News during the notice period.
16. The Advisory Committee is not expected to carry out any additional public referral or notice but may do so if it considers it to be appropriate.
17. All submissions are to be collected by the Office of Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV'. Electronic copies of submissions will be made available to DELWP, Greater Shepparton City Council, Lascorp Development Group Pty Ltd, IGA Retail Services Pty Ltd, Shepparton Pty Ltd and Marl Enterprises. Electronic copies may also be provided to other submitters upon request.
18. Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence on Advisory Committee matters.

Hearing

19. The Advisory Committee is expected to carry out a directions hearing and public hearing.
20. The Advisory Committee may conduct workshops, forums or other meetings as necessary.
21. The Advisory Committee may limit the time of parties appearing before it and may prohibit or regulate cross-examination.
22. The Advisory Committee requires a quorum of two members, one of whom must be the Chair for any hearing.

Outcomes

23. The Advisory Committee is expected to:
- a. undertake a strategic assessment of the development of the site, including an assessment against State and local planning policies.
 - b. determine whether a structure plan should be prepared for the SNAC, timing and the form of the plan.
 - c. undertake an assessment of the referred proposal (C193 Part 2 and Planning Permit application), including consideration of amenity, traffic and access, linkages, built form, urban design, referral authority or statutory body requirements, and any other relevant considerations, in sufficient detail to enable the Advisory Committee to recommend whether the proposal should be approved and the conditions of any such approval.
24. The Advisory Committee must produce a written report for the Minister for Planning, providing the following:
- a. consideration of the matters outlined in these Terms of Reference.
 - b. a recommendation as to whether Planning Scheme Amendment C193 (Part 2) to the Greater Shepparton Planning Scheme should be approved, including:
 - advice on whether the site is an appropriate location for the proposed uses and development.
 - a recommendation as to whether Planning Permit PPA2016-269 should issue, including an assessment of the proposed uses and development including the proposed layout, access, parking and built form and advice on conditions that should apply to the uses and development.
 - c. a draft planning permit including relevant conditions from referral authorities,
 - d. an assessment of submissions to the Advisory Committee and any other relevant matters raised in the course of the Advisory Committee process.
 - e. a list of persons who made submissions to the Advisory Committee.
 - f. a list of persons consulted or heard.

Submissions are public documents

25. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
26. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain confidential.

Timing

27. The Advisory Committee should commence hearings as soon as practicable after the completion of the notice period.
28. The Advisory Committee is required to submit its report in writing no later than forty business days from the completion of any of its hearings.

Fee

29. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the Planning and Environment Act 1987.
30. The costs of the Advisory Committee will be required to be met in equal shares by the entities who requested the Advisory Committee being:
- a. Greater Shepparton City Council
 - b. IGA Retail Services Pty Ltd
 - c. Shepparton Pty Ltd
 - d. Marl Enterprises Pty Ltd
 - e. Lascorp Development Group (Aust) Pty Ltd.

The Greater Shepparton City Council will take responsibility for coordinating this.

HON RICHARD WYNNE MP
Minister for Planning

Date: 17/11/19

Appendix B Document list

No.	Date	Description	Presented by
2019			
1	23 Sep	Email to DELWP advising of intention to seek changes to TOR and request submitter database information	Ms Mitchell, Chair
2	25 Sep	Response from DELWP with attachments: <ol style="list-style-type: none"> a. VCAT Order P2930/2017 b. Ford Road Roundabout town entry concept design c. Endorsed Planning Permit 2017-177 d. Southdown Street Redevelopment Area Development Plan e. Public Notice of Permit Application 2019-230 	Mr Whiting, DELWP
3	30 Sep	Letter to TOR Clause 30 parties inviting parties to initial meeting	Ms Mitchell
4	23 Oct	Initial Meeting Agenda	Ms Harwood, PPV
5	22 Nov	Revised Terms of Reference	Ms Harwood
6	11 Dec	Direct Notice Letter sent to affected parties	Mr Henson, DELWP
7	11 Dec	Proposal Documents: <ol style="list-style-type: none"> a. Explanatory report to Greater Shepparton Amendment C193(Part 2) b. Instruction Sheet c. Commercial Zone Map 14 d. Draft Planning Permit 2016-269 	Mr Henson
8	11 Dec	Supporting Documents: <ol style="list-style-type: none"> a. Acoustic Assessment, prepared by Acoustic Consulting Australia (Jan 2017) b. Commercial Activity Centres Strategy, prepared by Essential Economics (Nov 2015) c. Accompanying Plans, prepared by i2C (Jan 2017) d. Land Valuation Report, prepared by Opteon Property Group (Dec 2016) e. Economic Impact Assessment, prepared by MacroPlan Dimasi (Jan 2017) f. Peer Review Economic Impact Assessment, prepared by Hill PDA (Jul 2016, updated Feb 2017) g. Shepparton North Drainage Strategy, prepared by Yakka Hawkins Catchments (Apr 2017) h. Peer Review of North Shepparton Drainage Strategy, prepared by Rural Works (Mar 2017) i. Traffic Impact Assessment, prepared by Traffix 	Mr Henson

No.	Date	Description	Presented by
		<ul style="list-style-type: none"> Group (Jan 2017) j. Peer Review of Traffic Impact Assessment, prepared by GTA Consultants (Feb 2017) k. Planning Report, prepared by Debra Butcher Consulting (Jan 2017) l. Preliminary site and soil assessment, prepared by Geotechnical Testing Services (Oct 2016) m. Proposed Southdown Street Precinct Development Plan, prepared by Spiire (Nov 2016) n. Site Landscape Plan, prepared by John Patrick Landscape Architects (date unclear) o. Stormwater Management Assessment, prepared by Biofilta (Jan 2017) 	
9	11 Dec	<p>Chronology Documents:</p> <ul style="list-style-type: none"> a. Amendment C193 Chronology b. D01 – Ordinary Council Meeting Minutes, 18 July 2017 c. D02 – Section 79 Appeal Application d. D03 – Ordinary Council Meeting Minutes held on 21 November 2017 e. D04 – Planning Permit 2017-177 – 177-193 Numurkah Road Delegate’s Report f. D05 – Section 39 Appeal Application g. D06 – Ordinary Council Meeting Minutes, 20 March 2018 h. D07 – VCAT Section 39 Appeal Application i. D08 – 177-193 Numurkah Road Revised Plans j. D09 – Section 79 Appeal Direction 2017-177 Planning Permit k. D10 – Endorsed Planning Permit 177-193 Numurkah Road l. D11 – Essential Economics Pty Ltd Report, May 2019 m. D12 – Ordinary Council Meeting Minutes, 19 June 2018 n. D13 – Marl Enterprises Pty Ltd v Greater Shepparton Supreme Court Motion o. D14 – IGA Retail Services Pty Ltd v Greater Shepparton Supreme Court Originating Motion p. D15 – Letter to Minister Wynne from Council requesting Advisory Committee q. D16 – Minister’s advice on Advisory Committee for Amendment C193 Part 2 & associated Planning Permit 	Mr Henson

No.	Date	Description	Presented by
		r. D17 – Ordinary Council Meeting Minutes, 17 September 2019	
		s. D18 – Supreme Court Orders dismissing IGA proceedings	
		t. D19 – Supreme Court Orders dismissing Marl Enterprises proceedings	
10	11 Dec	Email confirming Committee Hearing dates	Ms Harwood
11	23 Dec	Email advising of availability constraints	Ms Megenis, Minter Ellison for Shepparton and Metcash
2020			
12	31 Jan	Hearing notification letter	Ms Mitchell
13	25 Feb	Confirmation of witnesses	Ms Golvan, Lascorp
14	25 Feb	Confirmation of witnesses	Ms Megenis
15	26 Feb	Indicative Structure Plan – Shepparton North Activity Centre	Mr Pridgeon, Russell Kennedy for Council
16	26 Feb	Indicative Structure Plan – Rendered Master Plan	Mr Pridgeon
17	26 Feb	Order for production of documents sought by Shepparton Pty Ltd and Metcash Pty Ltd	Mr Tweedie
18	26 Feb	Committee ruling on exchange of documents	Ms Harwood
19	28 Feb	Committee Directions and Hearing Timetable (version 1)	Ms Harwood
20	28 Feb	Letter requesting commercial documents from Shepparton Pty Ltd	Ms Golvan
21	6 Mar	Response to Committee ruling – Marl Enterprises	Mr McGirr, Wisewould Mahoney for Marl Enterprises
22	6 Mar	Response to Committee ruling – Shepparton Pty Ltd and Metcash Pty Ltd	Ms Megenis
23	6 Mar	Commercial in confidence documents (hardcopy only)	Ms Golvan
24	10 Mar	Further Committee Directions	Ms Harwood
25	10 Mar	Revised Hearing Timetable (version 2)	Ms Harwood
26	12 Mar	Request for extension – Production of documents	Ms Megenis
27	12 Mar	Committee grant of extension – Production of documents	Ms Harwood
28	12 Mar	Correspondence regarding Novel Coronavirus (COVID-19)	Ms Mitchell
29	12 Mar	Commercial in confidence documents (hardcopy only)	Ms Megenis
30	20 Mar	Committee correspondence regarding hearing arrangements	Ms Harwood

No.	Date	Description	Presented by
31		Response from Council regarding hearing arrangements	Ms McSweeney, Russell Kennedy
32		Response from Lascorp regarding hearing arrangements	Ms Golvan
33	27 Mar	Further Committee correspondence re hearing arrangements	Ms Mitchell
34	30 Mar	Response from Shepparton and Metcash re hearing arrangements	Ms Megenis
35	30 Mar	Response from Marl Enterprises re hearing arrangements	Mr McGirr
36	30 Mar	Response from Transport for Victoria re hearing arrangements	Mr Ridgwell, Transport for Victoria
37	31 Mar	Further response from Lascorp re hearing arrangements	Ms Golvan
38	1 Apr	Correspondence from Council outlining suggested process for future conduct of Advisory Committee	Mr Pridgeon
39	2 Apr	Correspondence regarding hearing arrangements	Ms Mitchell
40	3 Apr	Request from Lascorp for information from Transport for Victoria	Ms Golvan
41	6 Apr	Correspondence from the Chair directing Transport for Victoria to provide information	Ms Mitchell
42	7 Apr	Letter requesting hearing deferral	Mr Carey, Minter Ellison for Shepparton and Metcash
43	8 Apr	Response to deferral request	Ms Goodall, Transport for Victoria
44	8 Apr	Response to deferral request	Ms Mitchell
45	8 Apr	Extension request for the provision of works plans	Ms Goodall
46	9 Apr	Grant of extension for the provision of works plans	Ms Harwood
47	17 Apr	a. Tabling letter b. Draft Plans of Goulburn Valley Highway, Wanganui and Ford Roads intersection c. Traffic demand information	Ms Goodall
48	27 Apr	Suggested pre-hearing timetable for circulation of materials	Ms Golvan
49	28 Apr	Further Directions re Hearing arrangements	Ms Mitchell
50	1 May	Evidence Statement of Mr Dimasi	Ms Golvan
51	1 May	Evidence Statement of Mr Turnbull	Ms Golvan
52	1 May	Evidence Statement of Mr Barlow	Ms Golvan
53	1 May	Evidence Statement of Mr Quick	Ms Golvan

No.	Date	Description	Presented by
54	1 May	Evidence Statement of Mr Stephens	Mr Pridgeon
55	1 May	Evidence Statement of Mr De Silva	Mr Pridgeon
56	1 May	Filing letter	Ms Megenis
57	1 May	Evidence Statement of Mr Banks and Appendix	Ms Megenis
58	1 May	Evidence Statement of Mr Nott	Ms Megenis
59	1 May	Evidence Statement of Mr Crowder	Ms Megenis
60	1 May	Summary of contractual documents	Ms Megenis
61	1 May	Correspondence from Coles	Ms Megenis
62	1 May	Condition 1 Plans – Doig Architects	Ms Megenis
63	1 May	Condition 6 Landscape Plans - Spiire	Ms Megenis
64	15 May	Council filing letter – evidence in reply	Mr Pridgeon
65	15 May	Mr De Silva – evidence in reply	Mr Pridgeon
66	15 May	Filing letter – evidence in reply	Ms Golvan
67	15 May	Mr Dimasi – evidence in reply	Ms Golvan
68	15 May	Mr Barlow – evidence in reply	Ms Golvan
69	15 May	Mr Quick – evidence in reply	Ms Golvan
70	15 May	Filing letter – evidence in reply	Ms Megenis
71	15 May	Mr Nott – evidence in reply	Ms Megenis
72	15 May	Mr Crowder – evidence in reply	Ms Megenis
73	18 May	Committee correspondence to confirm further Directions Hearing	Ms Harwood
74	29 May	Lascorp written submission	Ms Golvan
75	29 May	Head TfV written submission	Mr Lynch, Transport for Victoria
76	29 May	Head TfV written submission – Appendix 1	Mr Lynch
77	29 May	Council written submission	Mr Pridgeon
78	29 May	Marl Enterprises written submission	Mr McGirr
79	29 May	Shepparton Pty Ltd and Metcash written submission	Ms Megenis
80	2 June	Lascorp – updated request to be heard information	Ms Golvan
81	2 June	Council – updated request to be heard information	Mr Pridgeon
82	2 June	Shepparton and Metcash – updated request to be heard information	Ms Megenis
83	2 June	Head Transport for Victoria – updated request to be heard information	Ms Goodall
84	2 June	Marl Enterprises – updated request to be heard	Mr McGirr

No.	Date	Description	Presented by
		information	
85	4 June	Supplementary Evidence Statement of Henry Turnbull	Ms Golvan
86	5 June	Further Directions and Timetable version 3	Ms Mitchell
87	12 June	a. Brief to Mr Stephens b. Mr Stephens response to brief	Mr Pridgeon
88	12 June	a. Instructions to Mr De Silva b. Mr De Silva response to brief	Mr Pridgeon
89	12 June	a. Indicative Structure Plan 1:4000 b. Indicative Structure Plan 1:4000 (expanded)	Mr Pridgeon
90	12 June	Brief to Mr Turnbull	Ms Golvan
91	12 June	Brief to Mr Barlow	Ms Golvan
92	12 June	Brief to Mr Quick	Ms Golvan
93	12 June	Brief to Mr Dimasi	Ms Golvan
94	12 June	Brief to Mr Crowder	Ms Megenis
95	12 June	Brief to Mr Banks	Ms Megenis
96	12 June	Brief to Mr Nott	Ms Megenis
97	18 June	Further instructions to Mr Crowder, 22 April 2020	Ms Megenis
98	18 June	Further instructions to Mr Banks	Ms Megenis
99	18 June	Further instructions to Mr Nott	Ms Megenis
100	18 June	Letter confirming hearing arrangements	Ms Mitchell
101	18 June	Email raising procedural issues with hearing arrangements	Mr Pridgeon
102	18 June	Email revising hearing arrangements	Ms Mitchell
103	18 June	Email enclosing link to Hearing Day 1	Ms Harwood
104	18 June	Further instructions to Mr De Silva	Mr Pridgeon
105	19 June	Head, TfV supplementary submission	Ms Stapleton
106	19 June	Presentation of Mr Turnbull	Ms Golvan
107	19 June	Council response to Further Direction 5	Mr Pridgeon
108	19 June	Staging plan for Shepparton Pty Ltd land	Ms Megenis
109	19 June	Greater Shepparton Planning Scheme Amendments C192 and C193/Planning Permit Application 2016-269 Commercial Strategy and Lascorp proposal Panel Report	Mr Tweedie
110	19 June	Residential estate masterplan brochures and aerial maps identifying estate areas	Mr Pridgeon
111	19 June	Aerial video footage of subject land and surrounds	Mr Pridgeon

No.	Date	Description	Presented by
112	22 June	Supplementary Submission, Head, Transport for Victoria	Ms Stapleton
113	22 June	Mr De Silva – Summary of Evidence	Mr Pridgeon
114	22 June	Mr Barlow – Summary of Evidence	Ms Golvan
115	23 June	Draft Shepparton & Mooroopna 2050: Regional City Growth Plan, submissions and covering email	Mr Pridgeon
116	23 June	Mr Dimasi – Summary of Evidence	Ms Golvan
117	23 June	Mr Quick – Summary of Evidence	Ms Golvan
118	24 June	Mr Quick – Supplementary Evidence	Ms Golvan
118a	24 June	Email regarding timetable matters	Ms Goodall
118b	24 June	Email regarding timetable matters	Mr Pridgeon
119	25 June	Timetable version 3 and further Advisory Committee direction	Ms Harwood
120	25 June	Lascorp closing submission and attachments	Ms Golvan
121	25 June	Draft permit conditions	Ms Golvan
122	26 June	Head, Transport for Victoria closing submission	Ms Stapleton
123	26 June	Marl Enterprises Pty Ltd closing submission	Mr McGirr
124	26 June	Council closing submission and attachments: <ul style="list-style-type: none"> a. Letters from Council to Ms Thomas, Lascorp Pty Ltd, Marl Enterprises Pty Ltd and Shepparton Pty Ltd b. Assemblies of councillors for various meetings 	Mr Pridgeon
125	26 June	Shepparton Pty Ltd and Metcash Pty Ltd closing submission and attachments: <ul style="list-style-type: none"> a. Greater Shepparton PSA C196 [2018] PPV b. Regulation 9, <i>Planning and Environment Regulations</i> c. Letter from Council to Minter Ellison, 21 November 2017 d. Letter from Council to Minter Ellison, 28 November 2017 e. Letter from Shepparton to Council, 4 May 2018 	Ms Megenis
126	26 June	Letter from Woolworths to Council's Chief Executive Officer, 4 June 2018	Mr Pridgeon
127	26 June	Signed section 173 agreement between Council and IGA Retail Services Pty Ltd for 177-193 Numurkah Road, Shepparton, undated	Ms Megenis
128	26 June	Letter from Executive Director, Statutory Planning Services, DELWP to Council Mayor, 23 October 2018	Mr Pridgeon
129	26 June	Lascorp preferred draft Planning Permit 2016-269 with tracked changes	Ms Golvan

Appendix C Committee version of conditions for Permit 2016-269

The Committee has used the version of the permit conditions provided by Lascorp on 26 June 2020 (Document 129)

[Committee track added](#)

~~Committee track deleted~~

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
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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 Advertising~~ sign details generally in accordance [with the requirements of Design and Development Overlay Schedule 9 of the Greater Shepparton Planning Scheme](#)~~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~~ [Two](#) 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 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 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 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. Head, Transport for Victoria Requirements

A. Prior to development commencing amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the functional layout plan prepared by Traffix Group plans date stamped 2 May 2020 and annotated G19863-04G and G19863-08 but modified to show:

- a) The site access points along Ford Road annotated to state that unless otherwise agreed in writing by the Head, Transport for Victoria at the time of the duplication of Ford Road, access to Ford Road will be restricted to left in/left out only.
- b) Protected channelised right hand turn for vehicles traveling east along Ford Road entering the site at the western access point or other arrangement agreed to by the Head, Transport for Victoria.
- c) Closure details of the northern access point to 228 Numurkah Road through the western median to create a two-way service road.

B. Prior to the commencement of use the following roadworks on Numurkah Road must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria, unless otherwise agreed by Head, Transport for Victoria. The roadworks are to be generally in

accordance with the updated plans required by condition 8A, [that shows](#):

- 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) Construct a median island to the south of the right turn lane from Numurkah Road into Ford Road.
- d) 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.
- e) Closure details of the northern access point to 228 Numurkah Road through the western median to create a two-way service road.
- f) [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 Head, Transport for Victoria.](#)

9 Section 173 Agreement – Head, Transport for Victoria

Prior to commencement of use, the owner of the land must enter into an agreement with the Responsible Authority and the Head, Transport for Victoria under section 173 of the Planning and Environment Act 1987 and make an application to the Registrar of Titles to have the agreement registered on the title of the land under section 181 of the Planning and Environment Act 1987. The agreement must provide that:

- a) unless otherwise agreed in writing by the Head, Transport for Victoria at the time of the duplication of Ford Road, access to Ford Road from the site will be restricted to left in/left out only.
- b) Prior to the commencement of the use of the supermarket, the owner will make a contribution of \$250,000 to [Head, Transport for Victoria](#) ~~Department of Transport~~ towards traffic management works at the intersection of Numurkah Road and Ford Road, Shepparton.

The landowner must pay for the costs of the preparation, execution and registration of the Section 173 agreement.

10. Section 173 Agreement – Responsible Authority

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) \$266,000 for the construction of drainage works which form part of the regional drainage solution to service the land; and
- b) \$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.

11. 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.

12. 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 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.

13. 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.

14. 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.

15. Time for Starting and Completion

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

- a) the development has not started within one year from the date of this permit; and
- b) completed within three years from the date of this permit.

NOTATIONS

Vic-Roads Head, Transport for Victoria 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.