

Planning and Environment Act 1987

Advisory Committee Report

Kaufland Stores in Victoria Advisory Committee

7 February 2019

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William O'Neil, Deputy Chair



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Kate Partenio, Member

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List of Abbreviations

ACZ1	Activity Centre Zone Schedule 1
the Committee	Kaufland Stores in Victoria Advisory Committee
DCP	Development Contributions Plan
DCPO	Development Contributions Plan Overlay
DELWP	Department of Environment, Land, Water and Planning
EIA	Economic Impact Assessment
EPA	Environment Protection Authority
ESD	Environmentally Sustainable Development
Greater Dandenong	Greater Dandenong City Council
Kaufland	Kaufland Australia Pty Ltd
MAC	Metropolitan Activity Centre
MGAIR	Master Grocers Association Independent Retailers
PPF	Planning Policy Framework
QIC/Bevendale	QIC Epping Pty Ltd and Bevendale Pty Ltd
the Act	<i>Planning and Environment Act 1987</i>
Structure Plan	Epping Central Structure Plan
UDGV	<i>Urban Design Guidelines for Victoria, 2017</i>
VCAT	Victorian Civil and Administrative Tribunal
Whittlesea	Whittlesea City Council
WSUD	water-sensitive urban design
Yarra Ranges	Yarra Ranges Shire Council

Executive summary

(i) Summary

Kaufland, a German-based grocery chain and a subsidiary of the Schwartz Group, proposes to enter the Victorian retail market through the development of six supermarket stores with locations across metropolitan Melbourne in Chirnside Park, Coolaroo, Dandenong, Epping, Oakleigh South and Mornington.

Kaufland sought a streamlined public process to provide the necessary planning permissions by using the Specific Controls Overlay and the Incorporated Document to provide the means for planning approval. It has sought all approvals be considered through a public Advisory Committee process, which the Minister for Planning has supported.

The Minister for Planning appointed the *Kaufland Stores in Victoria Advisory Committee* on 24 July 2018 to provide advice on all relevant planning matters associated with the location, development and use of the proposals, including advice on the site-specific planning scheme amendments proposed. The Committee's Terms of Reference (refer Appendix A) require it to consider submissions made to the publicly exhibited draft amendments; hold a Public Hearing; provide independent advice on the planning merits of proposals; and make recommendations whether planning permissions should be granted, with or without modification. This report considers the Tranche 1 sites at Chirnside Park, Dandenong and Epping.

The proposals consist of three draft Planning Scheme Amendments which apply the Specific Controls Overlay, accompanied by an Incorporated Document to the relevant local planning scheme. The content of the Incorporated Document controls the use and development proposed on each site. This approach was the subject of objecting submissions, some of which argued this as providing preferential treatment outside the standard planning permit process.

Following an extensive exhibition process (with notification being far wider than if it went through a standard planning permit application process), 30 submissions were received in total for all three sites (Appendix B).

Except for a number of submissions from the combined independent supermarkets, none were from retail competitors. Very few submissions were received from local communities, with the remaining being from the relevant planning authority and other retail landowners or agents.

A Directions Hearing was held on Friday 2 November 2018, and Public Hearings were held over nine days on 23, 27, 28, 29, and 30 November and 3, 4, 6 and 13 December 2018 to consider submissions and evidence.

The key issues raised in submissions are summarised in Chapter 1.5 of this report. Common issues across all three proposals are addressed in Chapter 3, including matters relating to:

- application of the Specific Controls Overlay and Incorporated Document
- assessment of economic impacts
- built form
- signage
- stormwater management

- hours of use.

The specific issues relating to each site are addressed in Chapter 4 (Chirnside Park), Chapter 5 (Dandenong) and Chapter 6 (Epping). Chapter 7 provides an overview of how the Committee has addressed its Terms of Reference.

Having considered all submissions and evidence presented in response to exhibition of the proposals as well as what was presented and tested during the course of the Public Hearing, the Committee finds that the proposed use of the Specific Controls Overlay and Incorporated Documents is reasonable and can be supported.

The Committee finds that all sites provide significant opportunities to diversify the supermarket offer to enhance competition and price; and improve choice and convenience to local and wider catchments.

In order to progress the three proposals, the Committee recommends that the draft Planning Scheme Amendments be approved. The Committee is satisfied that the draft amendments are strategically justified and that interested stakeholders have had an appropriate opportunity to respond to the proposals.

(ii) Recommendations

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

- 1. Approve the draft amendment to the Yarra Ranges Planning Scheme to facilitate the use and development of the land at 266-268 Maroondah Highway, Chirnside Park for a Kaufland supermarket and complementary uses with associated carparking and signage in accordance with the approved Incorporated Document, subject to the following changes:**
 - a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix E and make any consequential changes to Clause 72.01 if required.**
 - b) Include Planning Scheme Maps (Document 86) in the final Amendment documentation.**
- 2. Approve the draft amendment to the Greater Dandenong Planning Scheme to facilitate the use and development of the land at 1 Gladstone Road, Dandenong for a Kaufland supermarket and complementary uses with associated carparking and signage in accordance with the approved Incorporated Document, subject to the following changes:**
 - a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix F and make any consequential changes to Clause 72.01 if required.**
 - b) Include Planning Scheme Map (Document 87) in the final Amendment documentation.**
- 3. Approve the draft amendment to the Whittlesea Planning Scheme to facilitate the use and development of the land at 592-694 High Street, Epping for a Kaufland supermarket and complementary uses with associated carparking and signage in**

accordance with the approved Incorporated Document, subject to the following changes:

- a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix G and make any consequential changes to Clause 72.01 if required.
- b) Include Planning Scheme Map (Document 88) in the final Amendment documentation.

Other Recommendation

4. Within 12 months of planning permission being granted for the Kaufland Epping store, Whittlesea Council in conjunction with Aventus, Kaufland and any other relevant landowners should complete a whole of site masterplan in order to resolve a preferred future for the redevelopment of the remainder of Precinct 6 strategic development site that should address the following matters:
 - a) future development pad sites in a three-dimensional form
 - b) an integrated development outcome for land owned by Aventus and other adjoining landholders
 - c) internal movement networks for all modes of transport, and broader connectivity
 - d) additional pedestrian connectivity and treatment
 - e) future landscaping
 - f) staging and implementation having regard to aspects which can be incorporated as part of the first phase of the Kaufland supermarket development.

1 Introduction

1.1 The proposal

Kaufland is a German supermarket chain that is seeking to enter the Victorian retail market by establishing an initial presence of six stores in metropolitan Melbourne. A summary of the six proposed store locations and other site details are summarised in Table 1.

Table 1 Summary of store location and site details

SITE	LGA	ZONE	OVERLAYS	SITE AREA (sqm)	GFA (sqm)	CAR PARKS
1 Gladstone Road, Dandenong	Greater Dandenong	Commercial 2	Nil	30,607	6,680	456
592-694 High Street, Epping	Whittlesea	Activity Centre 1	Development Contributions Plan Overlays 3 and 14, Development Contributions Plan Overlay 14, Environmental Audit Overlay, Parking Overlay 1	30,885	6,717	494
1126-1146 Centre Road, Oakleigh South	Kingston	Industrial 1	Nil	44,085	6,863	480
1550 Pascoe Vale Road, Coolaroo	Hume	Commercial 2	Special Building Overlay	54,153	6,905	549
266-268 Maroondah Highway, Chirnside Park	Yarra Ranges	Commercial 1	Development Contributions Plan Overlay 1, Special Building Overlay	39,496	6,886	423
1158 Nepean Highway, Mornington	Mornington Peninsula	Industrial 3	Development Plan Overlay 2	19,147	7,584	430

Source: Town Planning Assessment, Kaufland Store Network – Victorian Entry Proposal, Planning & Property Partners

To facilitate this entry into the Victoria market, Kaufland sought a streamlined planning process from the Minister for Planning to assist the review and assessment process for each of its proposed sites using the Specific Controls Overlay and an Incorporated Document.

This report deals with Tranche 1 of the sites referred, these being sites in Chirnside Park, Dandenong and Epping.

1.2 The Advisory Committee

The Minister for Planning appointed the Kaufland Stores in Victoria Advisory Committee (the Committee) on 24 July 2018 under the provisions of s151 of the *Planning and Environment Act 1987* (the Act) to consider submissions and provide advice on the redevelopment proposal of the six referred sites in metropolitan Melbourne identified in Table 1. The Committee comprises:

- Kathy Mitchell – Chair
- Rodger Eade – Deputy Chair (to 31 October 2018)
- William O’Neil – Deputy Chair (from 1 November 2018)
- Suzanne Barker
- Kate Partenio.

The Committee is assisted by Andrea Harwood, Senior Project Manager and Joseph Morrow, Project Officer from Planning Panels Victoria (PPV).

Due to the later than expected exhibition of the Tranche 1 sites, Professor Eade had no role in this Committee process.

The Terms of Reference sets out the purpose of the Committee at Clause 3 which is to:

... Provide advice to the Minister for Planning on all relevant planning matters associated with the location, development and use of six proposed Kaufland supermarket-based stores in metropolitan Melbourne and the national headquarters proposed to be co-located with the proposed store at Oakleigh South. This includes advice on the site-specific planning scheme amendments proposed for each of the relevant planning scheme to facilitate the establishment of the stores, and/or any other planning mechanism that is proposed.

The Terms of Reference provide that the Committee undertakes its work in the following stages:

- notice and exhibition
- Public Hearings
- outcomes.

Clauses 12 to 17 specify a range of direct and public notices which were required to be undertaken as part of the public exhibition phase, which is the responsibility of the Department of Environment, Land, Water and Planning (DELWP). The Committee had no role in that process and DELWP summarised the extent of notification in Document 9.

There was no rezoning of land proposed in Tranche 1, but rather draft planning scheme amendments that provide for individualised Incorporated Documents to be the principal form of planning control and permit approval for each respective site.

1.3 Submissions and Public Hearings

The Terms of Reference require the Committee to carry out a Public Hearing and provide all submitters with the opportunity to be heard.

A total of 30 submissions were received by PPV across the three sites and are recorded at Appendix B.

A Directions Hearing was held on Friday 2 November 2018, and Public Hearings were held at PPV over nine days on 23, 27, 28, 29, and 30 November and 3, 4, 6 and 13 December 2018 to consider submissions and evidence. The parties to the Hearing are provided in Appendix C.

In accordance with Clause 21 of the Terms of Reference, the Committee conducted the Public Hearing either as a full Committee or as a quorum of two. The Chair and Deputy Chair were present during the entire hearing process.

The Outcomes at Clause 22 of the Terms of Reference note the Committee is to produce a written report or reports for the Minister for Planning providing:

- recommendations for each site and advice on whether the site is appropriate for the proposed use
- assessment of relevant planning provisions and recommendations for any suggested amendments to the existing planning controls
- assessment of each development and any conditions that should apply to the use and development
- assessment of submissions.

Clause 27 notes the Committee is required to submit its report or reports in writing no longer than 20 business days from the completion of its Hearings. Due to the delayed exhibition period for this tranche of sites, and the intervening Christmas and new year period, the Committee noted at the Directions Hearing and the conclusion of the Hearings that its report or reports would be delivered in a longer time frame than the 20 business days.

Prior to the commencement of the Public Hearing, the Committee undertook an unaccompanied inspection of the Tranche 1 sites and surrounds.

1.4 Procedural issues

At the Directions Hearing, the following declaration was made about Ms Barker, Committee Member. Ms Barker is a contracting consultant to the Colac Otway Shire and part of that role includes acting as the Project Manager and stakeholder/community engagement facilitator for the Colac Otway Tourism Parking and Traffic Strategy, which is being undertaken by GTA Consultants. GTA Consultants have led the traffic impact studies for Kaufland Australia.

All parties in attendance were specifically invited to raise any issues about these declarations and no party or individual raised any issues in response. Further, the declaration was noted in the letter from the Committee advising of the outcome of the Directions Hearing and the timetable (Document 7).

1.5 Summary of issues raised in submissions

The key issues raised in submissions of various parties are briefly summarised as follows:

(i) Common issues

The key issues raised of a general nature included:

- choice of planning control

- whether the economic impact of the proposed developments have been adequately assessed
- built form proposed and the adequacy of response to urban design and policy guidelines
- scale and height of the pylon signage
- provision of stormwater management
- hours of operation.

(ii) Chirnside Park

The key issues raised in relation to Chirnside Park included:

- sale of liquor
- vehicular access and car parking configuration
- light spill impacts and potential impact on future residential land
- site specific issues relating to the vehicular access and car parking configuration.

(iii) Dandenong

The key issues raised in relation to Dandenong included:

- location is not within the Dandenong Major Activity Centre (MAC)
- siting of the building and proximity to the existing residential area
- sufficiency of lighting
- location of the loading bay and associated impacts with the surrounding residential areas
- noise impacts on surrounding residential area.

(iv) Epping

The key issues raised in relation to Epping included:

- whether the proposal appropriately responds to local policy
- economic impacts on existing supermarkets, retail and shopping centres in the trade area catchment
- appropriateness of the siting of the development
- impacts of the proposed signalisation at Cooper Street
- whether development contributions should be payable.

1.6 Approach to this report

The Committee has considered all written submissions made in response to the exhibition of the proposal, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

All submissions and materials 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
- Common issues
- Chirnside Park

- Dandenong
- Epping
- Response to Terms of Reference.

The Committee has assessed the applications based on the set of plans (Document 27) dated 08/11/2018, the substitution of Epping TP-07 with Rev ACP1 dated 28/11/2018 (Document 91) and addition of Epping TP-12 Rev ACP dated 11/12/2018 (Document 92).

The Committee has adopted the final version of the Incorporated Documents provided by Kaufland (Documents 118, 119 and 120) as the base document for its recommendations in Appendices E, F, and G.

The Committee's recommendations have been incorporated into Kaufland's final versions of Incorporated Documents utilising tracked changes.

2 Planning context

The Terms of Reference require the Committee to undertake an assessment of the existing planning scheme provisions applying to each site. Kaufland undertook a Strategic Assessment of each proposal as part of the exhibited Explanatory Reports.

This Chapter provides a high-level summary of these matters and other relevant material that the Committee had regard to in its assessment of the proposals. Further assessment of relevant policy is included in each of the location-based chapters.

2.1 *Planning and Environment Act 1987*

The Objectives of the Act are defined in section 4 and include:

- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- (fa) *to facilitate the provision of affordable housing in Victoria;*
- (g) *to balance the present and future interests of all Victorians.*

2.2 *Plan Melbourne 2017*

The Vision for Melbourne is that *“Melbourne will continue to be a global city of opportunity and choice”*.

Outcome 1 is that *“Melbourne is a productive city that attracts investment, supports innovation and creates jobs”*. To achieve this, Direction 1 seeks to *“create a city structure that strengthens Melbourne’s competitiveness for jobs and investment”*.

Policy 1.1.7 is to *“plan for adequate commercial land across Melbourne”*. This policy identifies that:

... growth could create demand for an additional ... 8 million square metres of retail floor space by 2051. An adequate supply of commercial land needs to be secured to accommodate this growth, as well as a range of services, entertainment and civic activities in suburban locations.

Direction 1.2 is to:

Improve access to jobs across Melbourne and closer to where people live. The policy recognises that outer suburbs and growth areas generally have less access to jobs than middle and inner Melbourne.

Policy 1.2.1 is to “support the development of a network of activity centres linked by transport”. The policy states that:

All activity centres have the capacity to continue to grow and diversify the range of activities they offer ... Diversification will give communities access to a wide range of goods and services, provide local employment and support local economies and the development of 20-minute neighbourhoods.

Policy 1.2.2 seeks to “facilitate investment in Melbourne’s outer areas to increase local access to employment”. This policy recognises that:

Planning for outer suburbs and growth areas must ensure there is sufficient zoned land to support future development and job creation. This will provide for strong local economies and ease pressure on transport infrastructure by providing employment close to home.

Direction 4.3 is to “achieve and promote design excellence”.

Direction 5.1 is to “create a city of 20-minute neighbourhoods”. Policy 5.1.1 is to “create mixed-use neighbourhoods at varying densities”.

2.3 Planning Policy Framework

The Planning Policy Framework (PPF) includes a range of higher order objectives and strategies that are relevant to the three proposals.

(i) State planning policies

The following State clauses in the PPF are relevant to each proposal:

Clause 11 – Settlement includes the objective:

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Clause 11.01-1S – Settlement includes the strategy:

Ensure retail, office-based employment, community facilities and services are concentrated in central locations.

Clause 11.03-1S – Activity centres includes the objective:

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

Clause 11.03-1R – Activity centres – Metropolitan Melbourne has several strategies to support the development and growth of Metropolitan Activity Centres by ensuring they:

- *Are able to accommodate significant growth for a broad range of land uses*
- *Provide high levels of amenity.*

Clause 15.01-1R – Urban design – Metropolitan Melbourne includes the following objective:

To create a distinctive and liveable city with quality design and amenity.

Clause 15.01-2S Building Design which has the objective “*to achieve building design outcomes that contribute positively to the local context and enhance the public realm*”. Furthermore, it has the following strategies:

- *Require a comprehensive site analysis as the starting point of the design process.*
- *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*
- *Ensure development responds and contributes to the strategic and cultural context of its location.*
- *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles.*
- *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*
- *Encourage development to retain existing vegetation.*

As relevant, the *Urban Design Guidelines for Victoria, 2017 (UDGV)* which contemplate large format retail premises must be considered.

Clause 15-02-1S – Energy and resources efficiency includes strategies:

- *Support low energy forms of transport such as walking and cycling.*
- *Reduce the urban heat island effect by greening urban areas, buildings, transport corridors and open spaces with vegetation.*
- *Encourage retention of existing vegetation and planting of new vegetation as part of development and subdivision proposals.*

Clause 17 - Economic Development includes the objective:

Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity. Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.

Clause 17.02-1S – Business includes the objective:

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

Its strategies seek to:

- *ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*
- *locate commercial facilities in existing or planned activity centres.*
- *provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres.*

Clause 17.02-2S – Out of centre development includes the objective to:

To manage out-of-centre development.

Its strategies seek to:

- *discourage proposals for expansion of single use retail, commercial and recreational facilities outside activity centres.*
- *give preference to locations in or on the border of an activity centre for expansion of single use retail, commercial and recreational facilities.*
- *ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal or provides small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.*

Clause 18.01-1S – Land use and transport planning has the objective:

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

Clause 18.02-1S – Sustainable personal transport has the objective:

To promote the use of sustainable personal transport.

Its strategies include to:

- *Encourage the use of walking and cycling by creating environments that are safe and attractive.*
- *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
- *Ensure cycling routes and infrastructure are constructed early in new developments.*
- *Provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including activity centres, public transport interchanges, employment areas, urban renewal precincts and major attractions.*
- *Ensure cycling infrastructure (on-road bicycle lanes and off-road bicycle paths) is planned to provide the most direct route practical and to separate cyclists from other road users, particularly motor vehicles.*

- *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
- *Provide improved facilities, particularly storage, for cyclists at public transport interchanges, rail stations and major attractions.*
- *Ensure provision of bicycle end-of-trip facilities in commercial buildings.*

Clause 18.02-2S – Public Transport has the objective:

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

Clause 18.02-3S – Road system has the objective:

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.

Clause 18.02-4S – Car parking has the objective:

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

Clause 19.03-1S – Development and infrastructure contribution plans has the objective:

To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans.

(ii) Other relevant provisions

Clause 52.05 signage has the following purpose:

- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

Clause 52.06 Car Parking has the following purpose:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *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 52.17 Native Vegetation has the purpose to:

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Clause 52.27 Licensed Premises has the following purposes:

To ensure that licensed premises are situated in appropriate locations.

To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

52.29 Land Adjacent to a Road Zone Category 1 purpose includes:

To ensure appropriate access to identified roads.

52.34 Bicycle Facilities has the purpose to:

- *To encourage cycling as a mode of transport.*
- *To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.*

53.18 Stormwater management in urban development has the purpose:

To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

Clause 65 Decision Guidelines requires responsible authorities to decide whether a proposal will produce acceptable outcomes in terms of the decision guidelines in the clause.

Clause 71.02-1 Operation of the PPF seeks to ensure the objectives of planning in Victoria are met, and integrated decision making amongst other matters.

2.4 Local policies and relevant strategies

(i) Chirnside Park – Yarra Ranges Planning Scheme

The following local policies are relevant to the Chirnside Park proposal:

- Clause 21.04-2 – Commercial – Objectives, Strategies, Policy and Implementation, Objective 1 is to “*promote the future growth and prosperity of the Shire*”. The relevant strategies to achieve this are to:
 - *identify preferred sites in appropriate locations for specific industry, service and commercial sectors.*
 - *implement structure plans for activity centres, particularly the major activity centres of Lilydale and Chirnside Park.*
 - *minimise off-site impacts to the amenity of local communities and satisfy other relevant planning criteria for such activities.*
- The key policies to achieve the objectives in Clause 21.04-2 are:
 - *commercial centres are the preferred location for retail, business and community services and encroachment of these uses into other areas be discouraged.*

- *any proposed land use reinforces and enhances the established role of the centre.*
- *the proposed use be located on a site that can provide adequate car parking without compromising the character and appearance of the built and natural environments.*
- *traffic generated by a proposed use be able to be accommodated without compromising the functioning of the centre or detracting from the residential amenity of the surrounding area.*
- *retail facilities (other than a convenience shop), tourist facilities, recreation facilities (other than on public land) and places of assembly not be established in Foothills Residential Areas, Green Wedge areas, Rural Conservation Zone or other residential areas, particularly those which have environmental or amenity constraints.*
- Clause 21.04 –2 Settlement – Objectives, Strategies, Policy and Implementation, seeks to:
 - *promote siting and good design in the construction of all buildings and in carrying out of works.*
 - *provide well designed and integrated commercial centres that provide a range of retail and business facilities and associated community services that meet the needs of the local residents and the tourists visiting the municipalities.*
- Clause 22.04 Advertising signs includes policy that:
 - *external facades or walls of buildings not to be painted or coloured in a manner that creates a form of advertising.*
 - *sky signs, pole signs, panel signs and promotional signs not to be of a height and, or dimensions that detract from the landscape character of Maroondah Highway.*
 - *signs not to be located on roofs of buildings or above the parapet of a building.*
 - *signs not to be animated.*
- Clause 22.06 Chirnside Park Activity Centre seeks to:
 - *create a thriving centre, comprising a broad range of retail, entertainment, commercial and community facilities clusters around a vibrant town centre and supported by higher density residential neighbourhoods.*
 - *ensure that future development is supported by improvements to traffic circulation infrastructure and the public open space network.*

(ii) Dandenong – Greater Dandenong Planning Scheme

The following local planning policies are relevant to the Dandenong proposal:

- Clause 21.02 Municipal profile:
 - *Council aim to protect and promote the role of the municipality and Central Dandenong Metropolitan Activity Centre as one of the largest retail and commercial centres in metropolitan Melbourne.*

- Clause 21.03 A vision for Greater Dandenong:
 - *The vision provides for greater multi-national investment, employment and a vibrant commercial and retail sector, and driving commercial development within central Dandenong.*
- Clause 21.03-3 Strategic framework map:
 - *The subject land is contained in an area designated for encouraging integrated industrial/commercial uses.*
- Clause 21.04-2 Retail, commerce and entertainment:
 - *Aims to reinforce and develop the role, character and identity of activity and neighbourhood centres outside of central Dandenong by encouraging business and activities which increase social interaction, pedestrian activity, active frontages and diverse retail opportunities. It encourages a mix of complementary land uses that enhance variety without comprising core commercial strengths.*
- Clause 21.04-3 Industrial:
 - *Supports provision of development, employment and industrial opportunities while facilitating new investment and redevelopments.*
- Clause 21.05-1 Urban design, character, streetscapes and landscapes:
 - *Aims to facilitate high quality building design and architecture which supports and integrates with the surrounding environment. It seeks to ensure that signs do not detract from the streetscape and are designed and placed in a co-ordinated manner.*
- Clause 21.05-3 Sustainability:
 - *Encourages environmentally sustainable practices by industrial and commercial developments along with the sustainable use of water.*
- Clause 22.03 applies to land in a Commercial 2 Zone. It has the objective to:
 - *To improve the appearance of all commercial and industrial areas, and particularly development along main roads and at identified gateway sites.*
 - *To provide urban design solutions which respond to the type of road and the speed of the traffic using the road.*

In relation to setbacks, all development should enhance the streetscape character by reinforcing the street facades of existing buildings by:

- *Matching the predominant front setbacks of surrounding buildings if these setbacks are typical, rather than the setback of immediately adjacent buildings if these do not conform to the character of the area.*
- *Reflecting the setbacks of the residential streetscape if the development fronts a residential street.*

In relation to the built form of buildings along main roads, new buildings can contribute significantly to the image of the route by:

- *Fronting all buildings onto the route to maintain visual interest, encourage street activity and enhance public safety for pedestrians and cyclists.*
- *Ensuring that new buildings are in scale with the dominant pattern of the area.*

- *Matching the dominant setback from the road frontage.*
- *Using building materials that complement the dominant materials used in the area.*
- *Using building materials that do not reflect light or glare to the detriment of road users.*

Local policy details requirements for landscaping and frontage setbacks along main roads including:

- *Designing the landscaping to complement the theme of the main road.*
- *Encouraging the use of large canopy trees. Clean trunked canopy trees provide a landscape setting, but also enable clear views to the building and associated signage.*
- *Using shrub material only if screening is required.*
- *Not locating security or high fencing in the frontage setback, but rather at or behind the building line.*
- *Locating storage areas behind the building line.*
- *Minimising car parking in the frontage setback and preferably restricting it to visitor parking.*
- *Locating large car parks behind the building line.*

Clause 22.11-3.4 Advertising signs policy includes matters relevant to car-based stand-alone development which states it is policy that:

- *Generally signs are located on buildings or canopies.*
- *Generally limit freestanding signs to one per premises (for large sites with more than one street frontage a maximum of two freestanding signs may be permitted).*
- *Limit additional freestanding signs (more than two) to direction signs placed at strategic locations at a height easily read by pedestrians, including people with a disability, and motorists.*
- *Freestanding signs are spaced consistent with the prevailing spacing in the streetscape, if any.*
- *Freestanding signs are set back from the street consistent with the prevailing setbacks in the streetscape, if any.*

(iii) Epping – Whittlesea Planning Scheme

The following local planning policies are relevant to the Whittlesea proposal:

- **Clause 21.04 Settlement:**
 - Identifies Epping Central as the municipality's established MAC and its capacity to build on the existing assets. It includes strategies to implement the objectives of the *Epping Central Structure Plan (Structure Plan)*, which has since been implemented through the rezoning of the land to the Activity Centre Zone.
- **Clause 21.08 Built Environment and Heritage, Clause 21.09 Housing, and 21.11 Transport** have strategies relevant to the Epping Central MAC, and implementation of the Structure Plan.
- **Clause 21.10 Economic Development:**

- Outlines Council’s aim to increase employment opportunities in the MAC and to encourage establishment of attractive and activated street addresses in the key employment corridors such as Cooper Street and High Street.
- Clause 21.13 Local Areas - 21.13-1 Epping Central MAC:
 - Outlines Council’s strategic directions to develop the Epping MAC as a vibrant, attractive and sustainable hub for housing, employment and community services for the municipality and wider region.
- Clause 22.11 Development Contributions Plan Policy:
 - This policy applies to both residential and non-residential development in the municipality and includes the objective *“To ensure the provision of basic infrastructure in a timely fashion to meet the needs generated by new development.”* It provides that Development Contributions Plans (DCP) will be provided for areas. It is noted that two development contribution plan overlays apply to the Epping site (see Chapter 6.6).

Epping Central Structure Plan, December 2013

The Structure Plan reflects Whittlesea’s local planning policy in relation to the development of the Epping Central MAC. The Structure Plan is listed as a Reference Document in Schedule 1 to the Activity Centre Zone at Clause 37.08 of the Whittlesea Planning Scheme.

The Structure Plan identifies the subject site as part of Strategic Redevelopment Site F within Precinct 6 – Regional Demand. The site is identified as *“Mixed Use B – Employment-focused, mixed use higher-density development Offices & large format retail at ground floor with office and residential above”*. More specifically, the identified opportunity for the site in Precinct 6 states:

A significant opportunity exists to undertake comprehensive redevelopment of the existing Homemaker Centre site given its location on a major intersection, with ready access to Epping Station, the High Street Village and Epping Plaza. Collaboration between major land owners or lot consolidation is required to ensure an integrated outcome. Redevelopment should incorporate a mix of uses at higher densities (including employment, retail and residential), public open space, a fine-grained pedestrian network and high quality urban design.

This policy is further explored in Chapter 6.

2.5 Ministerial Directions and Practice Notes

(i) Ministerial Directions

Ministerial Direction on the Form and Content of Planning Schemes

This Direction applies to the form and content of planning schemes. The draft Amendment is generally consistent with the Direction.

Ministerial Direction No 11 – Strategic Assessment of Amendments

The purpose of this Direction is to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. The Explanatory Reports that accompany the draft amendments meet the requirements of this Direction.

Ministerial Direction No 9 – Metropolitan Planning Strategy

The purpose of this Direction is to ensure that planning scheme amendments have regard to the Metropolitan Planning Strategy (*Plan Melbourne, 2017*). The draft amendments meet the requirements of this Direction.

(ii) Planning Practice Notes

Planning Practice Note 46 - Strategic Assessment Guidelines for evaluating planning scheme amendments (May 2017)

The purpose of this Practice Note is to provide guidance for undertaking a Strategic Assessment of Planning Scheme Amendment. The Explanatory Reports that accompany the draft amendments meet the requirements of this Practice Note.

Planning Practice Note 13 - Incorporated and Reference Documents (June 2015)

The purpose of this Practice Note is to provide guidance in the application and use of an Incorporated Document. The Committee notes that the three exhibited draft Amendments include the listing of the proposed Incorporated Documents in the schedules to Clause 45.12 and Clauses 72.04.

2.6 Discussion and Conclusion

The Committee is satisfied that the proposals are generally consistent with the objectives of the Act, particularly sections 4(a), 4(c), 4(e) and 4 (g).

The Committee is satisfied that there is higher order strategic support for the three proposals, including from *Plan Melbourne 2017-2050* and the PPF.

The Committee is satisfied that the draft amendments make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on the Form and Content of Planning Schemes* and other relevant Directions.

Chapters 4, 5, and 6 further assess the proposals against local policy in relation to planning and activity centre policy, economic impact, built form and urban design, signage, acoustics, landscaping and traffic and access.

Consideration of planning proposals requires a balanced assessment of relevant State and local policy imperatives in favour of sustainable development and net community benefit. For reasons expressed in this report, the Committee is satisfied that on balance, each proposal meets State and local planning policy, and each will provide a net community benefit to both local and wider catchments.

3 Common issues

There were several issues raised in submissions and evidence about the Kaufland proposals that are common across all three sites in Tranche 1. These include:

- use of the Specific Controls Overlay and Incorporated Document as the planning tool to deliver the proposals
- whether the economic impact of the proposals have been adequately assessed
- the ‘big box’ nature of built form proposed
- the scale of signage proposed
- how stormwater management is addressed
- hours of use.

3.1 Specific Controls Overlay and Incorporated Document

(i) Context

The Specific Controls Overlay was selected by Kaufland as the preferred site-specific mechanism to facilitate the use and development of each of the sites by making the following amendments to each planning scheme:

- applying the overlay to each site and updating the schedule
- listing the Incorporated Document in the schedules to Clause 45.12 and Clause 72.04.

The Specific Controls Overlay was introduced through Amendment VC148 to all Planning Schemes on 31 July 2018. It generally has the same function as the former Particular Provision, Clause 52.03 Specific Sites and Exclusions, in that it enables specific controls to override other requirements of the Planning Scheme. The Specific Controls Overlay at Clause 45.12 has as its purpose:

To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

Further, at Clause 45.12-1 it notes:

Land affected by this overlay may be used or developed in accordance with a specific control contained in the incorporated document corresponding to the notation on the planning scheme map (as specified in the schedule to this overlay). The specific control may:

- *Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted.*
- *Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply.*
- *Exclude any other control in this scheme.*

Each site was exhibited with a draft Explanatory Report and Incorporated Document, as well as other supporting documents, including specialist reports. Towards the end of the Hearing Kaufland provided the Committee with copies of planning scheme maps to indicate the extent of the application of the Specific Controls Overlay (Documents 86, 87 and 88 - Appendix H).

(ii) Submissions and evidence

One of the key criticisms of the use of the Specific Controls Overlay and Incorporated Document, as well as the process by some of the Councils and the Master Grocers Association Independent Retailers (MGAIR) was that it was contended that this process bypassed consideration of State and local policy.

In its Part B submission (Document 72) and in response to the Committee's Directions, Kaufland noted the extraordinary circumstances comprised "*facilitation of*":

- *A new entrant into the supermarket sector to promote choice and competition and to create employment opportunities; and*
- *An efficient roll out of stores to establish a critical mass reasonably quickly.*

Mr Gobbo for Kaufland noted the Specific Controls Overlay is more transparent than the former Clause 52.03 because it is to be included in planning scheme maps and planning certificates. He further advised:

The incorporated document for each proposal, which references the plans and conditions for the approval, will function in the same way as a planning permit.

During the Hearing, the Committee sought further information from Kaufland about how the Specific Controls Overlay and Incorporated Document would work in conjunction with the existing zones. It was advised that neither expires on completion of the use and development. Both stay in place in addition to the existing zones and any other planning control. If a new use is proposed other than what is permitted under the Incorporated Document, permission would need to be sought under the existing zone and overlay regime with full regard to the relevant policies. Mr Gobbo advised that Kaufland gain the benefit of what is allowed by the Incorporated Document and "*no more than that*".

Originally, Yarra Ranges Shire Council (Yarra Ranges) suggested that the Specific Controls Overlay be removed once any development was complete but noted in its endorsed submission that it would then leave the development without any documented planning approval. Yarra Ranges now acknowledges that the Overlay must continue to be applied so long as the Kaufland development exists on the site.

Mr Gobbo advised that Kaufland proposed that the Minister for Planning would be Responsible Authority for conditions 1 and 2 under 4.3 Conditions, and the relevant Council would be Responsible Authority for all other conditions in Clause 4.3 of the Incorporated Document. The Minister for Planning would then be the Responsible Authority for the Expiry condition in Condition 4.4. The Councils did not support that position, preferring that the Minister for Planning only be Responsible Authority for Condition 1 under 4.3 Conditions.

The endorsed submission from Yarra Ranges (CP04) was critical of the use of the Specific Controls Overlay and noted it was being used to ensure Kaufland's entry into the Victoria market was not impeded by Council or Victorian Civil and Administrative Tribunal (VCAT) processes. It said:

Clearly, the SCO is being used to circumvent the normal processes as opposed to addressing a unique planning issue on the site.

In saying this, Yarra Ranges supported the use and development of the site for the purposes of the Kaufland supermarket, subject to several changes to the conditions of the Incorporated Document. It noted the Incorporated Document emulates a planning permit and conditions, for which it will be the approving authority. Yarra Ranges (Document 52) contended it removes or turns off any other Planning Scheme requirements that would prohibit use and development of the site.

No submissions were made by the Greater Dandenong City Council (Greater Dandenong) or other Dandenong submitters on the choice of the planning control proposed.

In submissions for Whittlesea City Council (Whittlesea), Mr Montebello did not argue against the Specific Controls Overlay or Incorporated Document, rather he contended numerous changes to the Incorporated Document to meet Council's requirements.

Mr O'Farrell, on behalf of QIC Epping Pty Ltd and Bevendale Pty Ltd (QIC/Bevendale) (Document 94) submitted that the proposal for Epping did not warrant the Specific Controls Overlay as in reference to the Practitioners Manual, *A Practitioners Guide to Victorian Planning Schemes* (2018):

There is nothing extraordinary about the circumstances here that would warrant such a dramatic step away from the current planning policies and controls for the Epping MAC.

It is not understood that Kaufland claim that it is somehow prohibited by the planning controls that apply.

In arguing his case, Mr O'Farrell asked whether this proposal would obtain a planning permit, if it were to be considered under the current planning scheme and suggested that it would not due to strategic considerations. He asked, *"So why should Kaufland be supplied with a planning scheme Amendment that would authorise something that would not obtain a planning permit?"* This rhetorical question assumed that no planning permit would issue. He noted that facilitation of new players in the retail market was a *"meritorious objective"* and contended that this needed to be done in a responsible way and in the context of the strategic role of the MAC.

Mr Kane presented for the MGAIR who argued that Kaufland, as one of the world's largest supermarket operators has been able to bypass the planning permit process which in a highly competitive retail environment, *"provides Kaufland with an unfair advantage"* (Document 70). He considered that Kaufland was receiving special treatment from the Minister for Planning and that like other supermarket operators, should apply for a planning permit and engage with the local Council and community. He noted that this process, can and does take years.

Some members of MGAIR spoke to this issue at the Hearing, including Mr Harrison, the Chief Executive Officer of Ritchies. He commented that there is nothing special about Kaufland in that they are just another supermarket and he questioned the level of 'dispensation' being provided to them. He said this current planning process would not *"pass the pub test, it is not ground breaking or life saving"*. Mr DeBruin, the Chief Executive Officer of the Master Grocers Association, while noting that VCAT process can be onerous, the process well known and appropriate to handle planning disputes.

Mr Ingpen, the owner of the Mt Evelyn Supa IGA spoke of how he had built up his business over many years, and his plans for expansion. While he conceded that Kaufland was unlikely to impact on his own business to any great degree, he argued that Kaufland have not shown the community the respect they deserve, and that the community has not had the chance to be involved in these considerations.

(iii) Discussion

MGAIR contended that the community and the Councils have not had the chance to have their say in these matters. The Committee observes that DELWP was responsible for undertaking the notification of these proposals and it produced a Group 1 Stores: Notification Report November 2018 (Document 9). The report details the extent of notification and advised that in accordance with the Terms of Reference, DELWP:

... after consulting with the relevant municipal councils, DELWP forwarded a cover letter and information sheet inviting submissions from:

- *Each relevant Council*
- *The owners and occupiers of properties adjoining or surrounding the proposed development sites*
- *Relevant government agencies and servicing or referral authorities*
- *The prescribed Ministers ...*

The Committee understands it was the Councils that agreed on the boundaries for notice and provided the address details for owners and occupiers within the notification boundaries for each site as provided in Document 9. DELWP provided information sheets about the draft amendments. Letters to identified owners and occupiers included:

- Chirnside Park: 165 owners and occupiers of 318 properties
- Dandenong: 172 owners and occupiers of 172 properties
- Epping: 374 owners and occupiers of 374 properties.

From this notification, which in the opinion of the Committee is fair and extensive considering that there is no need to formally notify in the case of Chirnside Park and Epping (as the use of the land for supermarket is a section 1, permit not required use), there were 30 submissions received in total:

- General – 4 (representatives from MGAIR)
- Chirnside Park – 9 (Council, VicRoads, GPT Group, and local submitters)
- Dandenong – 9 (Council, VicRoads, GPT Group, and local submitters)
- Epping – 8 (Council, VicRoads, Epping Plaza (QIC/Bevendale), Aventus Epping Pty Ltd and local submitters).

Additionally, newspaper advertisements were provided in three local newspapers in the week commencing 15 October 2018 as well as hard copy information folders containing all the planning documents and background reports in public areas of each of the municipalities.

It is fair to say the Committee was surprised at the relatively low number of submissions, including none from major supermarket chains such as Aldi, Coles or Woolworths. Two were from other retailers including QIC/Bevendale for Epping Plaza and the GPT Group sites at Dandenong and Chirnside Park, but only QIC/Bevendale came to the Hearing. One local

submitter from Dandenong came to speak to the Committee on behalf of herself and another local submitter who was unable to attend.

In this regard, the Committee is confident that all proposals were well notified and there was sufficient opportunity for those who had concerns to provide a submission. This process originally was timetabled for 13 days but was ultimately reduced to nine days due to the limited extent of cross examination on the expert evidence called. This by no means reflects on the quality of the submissions and evidence, rather it reflects a lack of interest or concern by the community at large regarding these three sites.

Many of the concerns raised by the MGAIR related to the impact that Kaufland would have on its businesses. It is instructive to the Committee that Day 1 of the Hearing was set aside to hear and consider the economic evidence. Not a single submitter or party, including two of the Councils, MGAIR or QIC/Bevendale attended that day to listen to the evidence and/or to avail themselves of the opportunity to cross examine that evidence. MGAIR did not attend for any other part of the Hearing, apart from its own scheduled appearance.

The Committee notes that each of the sites in Tranche 1 could have been considered as a planning permit application pursuant to Part 4 of the Act by the relevant Council in the normal way, especially as each was a Section 1 – permit not required use (Chirnside Park, Epping) or a Section 2 – permit required use (Dandenong). All would have required permits for buildings and works. The notification required for this would have been less comprehensive - if it was required at all.

Considering all sites and the proposals holistically, the Committee can understand why this process has been proposed, in that all sites will be considered by the one Committee, under one process and in a manner where full consideration will be given to each site where submissions and involvement in a public hearing process has been encouraged.

The use of the Specific Controls Overlay and Incorporated Document to progress these proposals, while unusual, is a legitimate part of the Victoria Planning Provisions tools available for application. The Committee was appointed to consider these proposals in this manner, with detailed Terms of Reference to guide its deliberations. The Committee had no role in the selection of the form of planning control employed.

In response to concerns raised that this process bypasses consideration of local and State planning policies, the Terms of Reference for the Committee note at Clause 4 that it is expected to:

Undertake a strategic assessment of the use of each proposed store site, including an assessment against State and local policies, and, where relevant, recommend any required amendments to the existing planning scheme provisions applying to the site or to land that is surplus to the Kaufland store and associated uses.

This assessment is provided in Chapters 2 and 3, as well at the beginning of each of the site-specific Chapters (4, 5, 6) and in the summary of the response to the Terms of Reference in Chapter 7.

With regard to the issue of the role of the Minister for Planning as Responsible Authority for enforcing the conditions, the Committee accepts that the Minister for Planning be the

Responsible Authority for approving the architectural plans. However, implementation of the plans and the other conditions should be undertaken by one authority and recognising enforcement of conditions is a critical role, in the opinion of the Committee, the local Councils are best placed to do this.

(iv) Findings

The Committee finds:

- the application of the Specific Controls Overlay over the Tranche 1 sites is appropriate
- the use of an Incorporated Document to provide the permission required to develop the sites is appropriate, subject to the revisions to each Incorporated Document in Appendices E, F and G
- the Minister for Planning should be the Responsible Authority for Condition 4.3(1) relating to 'Submission and approval of architectural plans' and the relevant Council should be the Responsible Authority for all other conditions
- Planning Scheme Maps showing the application of the Specific Controls Overlay (Refer Appendix H) need to be added to Planning Scheme Amendment package prior to gazettal.

The above findings are reflected in the Conclusions and Recommendations of the following three site-specific chapters: Chapters 4, 5 and 6 respectively.

3.2 Assessment of Economic Impact

(i) Context

A *Consumer and Economic Impacts – Overview* report, dated June 2018, was prepared by Dimasi and Co and exhibited as a background report with the three proposals. The report provides an overview of:

- the supermarket sector in Australia and Victoria
- the proposed Kaufland Store format and offer
- alleged economic stimulus and long-term beneficial impacts.

Individual Economic Impact Assessments (EIA) dated November 2018 for each of the three sites were subsequently prepared by Dimasi and Co and were distributed as part of the Proponent's Part A submission to the Committee (Documents 8a, b and c). The site-specific EIA's include:

- an overview of site location and context
- a trade area and competition analysis
- a projection of sales potential
- an estimate of economic impact and net community benefit assessment.

(ii) Submissions and evidence

Kaufland noted it had provided an overarching economic overview report and individual EIA's for each site, prepared by Mr Dimasi. To independently assess the findings of Mr Dimasi, Kaufland commissioned Mr Stephens of Essential Economics to peer review Mr Dimasi's work. Kaufland submitted "*no contrary expert evidence has been adduced*" and accordingly, the

evidence of Mr Dimasi and Mr Stephens should be accepted by the Committee (Document 72).

In relation to the scope of assessment, Kaufland submitted that the relevant effects to consider in relation to economic impacts are the effects on a particular community rather than on an individual business, and that an applicant does not need to demonstrate the 'need' for a proposal. It contended that general submissions asserting a lack of need for the proposal are misconceived.

Kaufland submitted that because the relevant zones in relation to the Epping and Chirside Park proposals allow supermarket uses as-of-right, the economic impacts of those proposals are taken to be acceptable by the relevant planning schemes. Kaufland submitted that economic impact is of most relevance in relation to the Dandenong proposal, *"because it is not located within the Dandenong Metropolitan Activity Centre and a supermarket is only as-of-right up to a floorspace of 1800m²"* (Document 72).

The submissions by the GPT Group (DO2) and the Victorian Small Business Commission (G04) were critical that individual economic impact assessment reports had not been prepared and distributed as part of the exhibition material for each site. In absence of such information, they expressed concern that the impacts of the proposals have not been adequately considered.

The MGAIR submitted (Document 70) that the trade catchments contained in the EIA do not appear to have included some Independent supermarkets/retailers. Accordingly, it expressed concern that the trading impacts of the Kaufland supermarkets on some independent stores may not have been assessed. Further it submitted that it is difficult to assess trading impacts with any certainty given that the store is a new entrant into the Australian market. It questioned the validity of the alleged consumer benefits in terms of improved choice, convenience and competition, noting that in all three locations the community is well served by supermarkets and retailers. It expressed concern that the new stores may result in the loss of jobs and may impact on the ability of store owners to upgrade their premises.

MGAIR submitted that there *"is a real risk that Kaufland stores will have a detrimental impact on Independent supermarkets/retailers and local neighbourhood shopping centres"*. It concluded that the proposals do not represent a net community benefit and should not be supported.

Greater Dandenong submitted (D09) that while it acknowledged that the proposal will provide additional jobs, both directly and indirectly, it has potential to have an overall negative economic impact as a result of the loss of jobs and businesses in the Dandenong Activity Centre. Further, Council submitted (Document 78) *"the proposal will have significant impacts that have not been properly examined let alone identified or quantified"*. Having noted this, Council submitted *"The November 2018 Economic Impact Assessment by Dimasi & Co is not an assessment of benefit to the community. The document is merely an economic impact assessment"*.

The submissions of Whittlesea and QIC/Bevendale did not comment on matters relating to economic impact.

(iii) Discussion

The Committee agrees with the submissions by the GPT Group and the Victorian Small Business Commission that it would have been beneficial to submitters for the individual EIA's for each site to have been circulated with the original exhibition material. While noting this, the Committee is satisfied that all parties had enough time prior to the Hearing to assess the material that was subsequently provided. No party pursued submissions during the Hearing that their case had been jeopardised due to the late provision of the EIA's.

In relation to the content, scope and methodology adopted by Dimasi & Co in the preparation of the EIA's, the Committee is satisfied that they represent robust assessments, and are typical of EIA's prepared in consideration of retail-based planning scheme amendment proposals. This finding was supported by the peer review of Mr Stephens.

The Committee does not accept the submission advanced by MGAIR that the EIA's were deficient due to the trade area assessments omitting several independent supermarkets. Specific matters raised by MGAIR were responded to in detail in the Addendum Report by Mr Dimasi (Document 84). The Committee is satisfied with responses provided by Mr Dimasi that each of the stores in question were reviewed and assessed by him. He commented each are under 500 square metres in size and can be appropriately categorised as convenience stores which have trade area characteristics that differ from full line supermarkets.

The Committee highlights that the submissions by parties that raised concerns regarding the potential economic impacts of the proposals (Greater Dandenong and MGAIR) did not attempt to quantify the potential economic impacts of the Kaufland Stores, did not include a net community benefit assessment and were not supported by independent economic evidence. Further, the submitters had the opportunity to cross examine both Mr Dimasi and Mr Stephens. They chose not to avail themselves of that opportunity.

The Committee reviews the specific findings of each of the individual EIA's in Chapters 5.3, 6.3 and 7.3.

(iv) Findings

The Committee finds that:

- the potential economic impact of the three proposals have been appropriately documented and assessed by Kaufland.

3.3 Built form

(i) Context

It is proposed to construct a supermarket utilising a large format or 'big box' built form for all three sites. The building for each proposal is single storey at 9 metres height with an 11-metre parapet. The size of the building varies between 6,754 square metres and 6,886 square metres and is located with accompanying at grade car parking. While the merits of the built form detail for each site are considered in Chapters 4.4, 5.4 and 6.4, this chapter contemplates the standardised nature of the 'Kaufland model'.

Relevant planning scheme provisions include Clause 15.01-2S Building Design as noted in Chapter 2.2. This clause considers as relevant the UDGV which contemplate large format retail premises. These are free-standing buildings and associated infrastructure, which are often single-level buildings with large at-grade car parking lots. The UDGV acknowledges that:

When well integrated physically and functionally into their surrounding area, they draw many customers, enhance the viability of nearby businesses, increase street activity and provide diversity and choice for customers.

It has the objective of supporting an active frontage interface of large format retail premises to the street and supporting safe and direct pedestrian and cyclist access by locating the main customer car parking facility away from the main street frontage.

(ii) Submissions and evidence

A key issue of the 'big box' format raised in submissions is the large format, single use building, with visually dominant car parking areas and lack of integration with surrounding areas.

Mr Gobbo submitted:

Kaufland has designed the buildings in a standardised way to ensure customer legibility, familiarity and comfort, and in such a way as to maximise the efficiency of its operations. It has appropriately positioned the entry and tenancies along the front elevations and articulated the remaining elevations with architectural treatments or softened them with landscaping. This considerably lessens the 'big box' effect, particularly when compared with stand-alone 'big box' retailers such as Bunnings and Harvey Norman, and indeed the form of many of the Masters stores the design and layout of which was carefully examined by the appointed Advisory Committee.

He stated that the built form response was largely justified because "*form follows function: a supermarket is necessarily large, rectangular in shape, with a relatively inactivated back-of-house and (for the majority of proposals) at-grade car parking out the front.*" The submission stated:

In order to accommodate built form above, structural columns would be required, which would impede the ability to provide the spacious layout Kaufland seeks with high ceiling, no stacking of boxes above display shelving and wide, generous aisles.

Proposals such as these do not lend themselves to fine grained, highly articulated and activated edges.

Mr Gobbo further noted that the entry to the proposed developments had been appropriately sited along the front elevations which have been articulated, and all remaining elevations include architectural treatments or softened with landscaping which considerably lessens the 'big box' effect.

Kaufland's standard design response was reiterated by Mr Czarny who noted that he had been briefed that the Kaufland supermarket was part of a national brand and design package, and that:

The layout and configuration of the Supermarket offer, and related food court, tenancy and back of house/administration areas are rigorously aligned to customer legibility, familiarity and comfort. In this context, the positioning of the proposed building envelopes, and the arrangement of access, car parking and loading is central to the functional operation of the proposed facility.

In relation to the proposed building designs, Mr Gobbo submitted the proposed building at Dandenong adopted a superior site design and architectural response compared with the now demolished Bunnings building that was formally on the site. For Epping, the proposal presented an improved design response to the existing conditions, and for Chirnside Park, the proposal is similar to the Masters store approved for the site.

Mr Czarny's evidence was that aspects of the architectural response served to diminish the 'big box' effect such as indoor-outdoor dining areas and open building entry. His view was that the areas of car parking on at least three sides served as 'courts' for different users and accessibility. It was his opinion that Kaufland's generic approach *"is superior to that of the many large format bulky goods or retail warehouse buildings realised in Melbourne over recent decades. In this regard, the proposed forms are consistent with the calling in the Planning Policy Framework (Clause 15.01) for better building design"*.

Mr Czarny, while generally supportive of the façade treatment for each of the proposed stores, was of the view that the elevations could be improved for each by extending what he termed 'Grade A façade treatment' along the primary and secondary elevations to reduce the 'big box' effect by increasing the building's articulation. The proponent's amended plans presented during the Hearing reflected these changes.

Submissions to the three sites in relation to built form were varied. Submissions to the Epping proposal contended that the design response largely ignored built form provisions in the planning scheme. For Chirnside Park, the built form response was generally supported by Yarra Ranges, and for Dandenong, issues centred on the location of the loading bay, where it was argued could be 'flipped' to be further away from the abutting residential areas.

The Whittlesea submission stated that the proposal did little to implement the vision or preferred character for the Epping MAC. Mr Montebello suggested the proposed supermarket provides *"the sort of retail experience invented in a bygone era namely a big box supermarket in a sea of car parking with little or no amenity."* Furthermore, the Structure Plan and planning provisions had been crafted to change that design response to implement a different approach *"to pull the MAC into a modern age"*.

Mr Montebello stated that Mr Czarny was very clear in his evidence under cross-examination that the proposal did not comply with the Epping Activity Centre Zone Schedule 1 (ACZ1) provisions in relation to built form or intensity of development. Both Mr Montebello and Mr O'Farrell went to considerable lengths to highlight the various sections of the ACZ1 which, in their view, the proposal failed to meet. This included the absence of *"sleeving of large stores with smaller scale buildings or uses along the street"*.

Mr Montebello submitted that:

At the very least there could have been a real opportunity to provide for several more other shops and commercial (office) premises along an activated internal

street to try and provide the synergies of a retail precinct and to facilitate single purpose trips for convenience and shopping needs as it were. But, as we have been repeatedly told, the proposal is the Kaufland model. Not surprisingly, all three sites are similar notwithstanding different context.

In Dandenong, resident submissions (D01 and D04) questioned the location of the loading bay close to the residential interface on David Street. The discussion about this issue at the Hearing highlighted that the design response had been largely driven by Kaufland's standardised approach to store construction. Other concerns were expressed about the perceived 'intractable nature' of the Kaufland model.

(iii) Discussion

The Committee recognises that Kaufland is making a substantial investment as a new supermarket operator to enter the Victorian market. For the reasons expressed throughout this report, the Committee is supportive of the use of the three sites for development of the land as a supermarket.

However, the Committee considers that the built form and urban design outcomes can be improved to better reflect both State and local planning policy. While the Committee considers that, particularly in the case of Epping and Dandenong, the investment in and development of those sites have the potential to revitalise and stimulate further activity and investment, there are matters of design detail which should be amended to facilitate improved urban design outcomes.

The Committee notes that little comprehensive site analysis was presented as part of the background material for any of the three sites to demonstrate how the built form and site response was contemplated, or how the development responded to or contributed to its strategic or local context in a physical way. Kaufland instead relied on the existing or previously approved built form envelopes.

The Committee considers a comprehensive site analysis and design response forms an important part of any proposal, which would have been useful as part of this process.

The Committee is generally supportive of the spacious layout and design features reflected in the Kaufland proposals (including the uncluttered wide aisles and high ceilings) which will create a pleasant internal shopping environment. The Committee accepts the size of the Kaufland Store as reflected in the number and length of its aisles required to accommodate the extensive number and range of product lines, which will contribute to price and efficiency gains that can be passed on to consumers. These features combined, result in the 'big box' built form proposed, a form which is legitimate in the right location.

However, the Committee is of the view that it is important for the design response to consider the building's surroundings to ensure a pleasant public realm. It accepts the submissions and evidence advanced by Whittlesea that in order to be more responsive to planning policy, further modifications and additions should be considered to integrate the building with its surroundings, improve the public realm, and lessen the visual impact of the development. This should be achieved by including outward facing external tenancies which sleeve part of the supermarket. The Committee considers, in general, the designs should be modified to provide greater access and visual permeability to the internal tenancies and enable the location of the

main store entrance and loading areas to be adjusted so the development can adapt to different site configurations.

The Committee considers similar and additional modifications should be considered at Dandenong in order to better integrate the development into its surrounding context, through the consideration of the siting of the building to avoid large areas of car parking on the more sensitive street frontages (David Street).

The Committee notes that the plans have changed for all stores since exhibition. Changes have been made to improve the urban design outcomes by incorporating modifications to façade treatments as suggested by Mr Czarny, and other various recommendations accepted by Kaufland (Document 53). The Committee supports these changes and recommends further modifications in the following chapters to improve urban design, landscaping and built form outcomes.

(iv) Findings

The Committee finds:

- the 'big box' design proposed by Kaufland is a legitimate form of development
- the design contributes to the attainment of a wide range of economic and choice outcomes that will benefit consumers
- integration of the building with its surrounds could be improved with further modifications and additions to the proposed design
- changes suggested by Mr Czarny in relation to façade treatment for the three sites are supported as included in the revised plans provided by Kaufland (28 November 2018)
- further changes to public realm and built form outcomes should be included as noted in subsequent chapters.

3.4 Signage

(i) Context

The proposal includes various business identification signage for the three sites. The signage is generally consistent across the sites and includes Kaufland's logo and images of produce which form part of the building facades, as well as two types of pylon signs described in Table 2.

Table 2 Key elements of the signage proposal as exhibited

Chirnside Park	<ul style="list-style-type: none"> Internally illuminated logo signage: Entry logo sign (5 metres by 5 metres), typical logo sign 1b (5 metres by 5 metres) and typical logo sign 1c (4 metres by 4 metres) Billboard signage lit by linear LED lighting from brackets above: 5.01 metres x 3.51 metres Internally illuminated tenancy signage: 10 metres x 1.3 metres Pylon Sign type 1, 8 metres (h) x 2-2.4 metres (w) Pylon Sign type 2 (pole sign): 21.8 metres (h) with a sign 5 metres x 5 metres Signage associated with the free-standing trolley enclosures.
Dandenong	<ul style="list-style-type: none"> Internally illuminated logo signage: Entry logo sign (5 metres by 5 metres), typical logo sign 1b (5 metres by 5 metres) and typical logo sign 1c (4 metres by 4 metres) Billboard signage lit by linear LED lighting from brackets above: 5.01 metres x 3.51 metres Internally illuminated tenancy signage: 10 metres x 1.3 metres Pylon Sign type 1, 8 metres (h) x 2-2.4 metres (w) Pylon Sign type 2 (pole sign): 21.8 metres (h) with a sign 5 metres x 5 metres.
Epping	<ul style="list-style-type: none"> Internally illuminated logo signage: 2x Entry logo sign (5 metres x 5 metres), 2x typical logo sign 1b (5 metres x 5 metres) and 1x typical logo sign 1c (4 metres x 4 metres) 3x Billboard signage lit by linear LED lighting from brackets above: 5.01 metres x 3.51 metres Internally illuminated tenancy signage: 10 metres x 1.3 metres 2x Pylon Sign type 1, 8 metres (h) x 2-2.4 metres (w) Pylon Sign type 2 (pole sign): 21.8 metres (h) with a sign 5 metres x 5 metres Trolley enclosure signage.

Clause 52.05 contains the relevant State provisions as noted in Chapter 2.2.

For Chirnside Park, Clause 22.04 - Advertising Signs relates to advertising signs within Yarra Ranges (Refer Chapter 2.3).

For the Dandenong proposal, Clause 22.11 Advertising signs policy applies to outdoor signs on all land in Greater Dandenong. It raises various matters to consider when determining signage applications.

For Epping, the ACZ1 includes provisions which relate to signage including:

Business Identification Signage (including corporate logos incorporated into the built form and landscape to identify a specific site) should:

- *Be designed to integrate and be compatible with the building design, scale, material and colour.*
- *On heritage buildings, be compatible with the architectural style of the place.*
- *Use internally lit signs, particularly those that face public areas and streets or pedestrian walkways.*
- *Ensure up-lit signage is minimised or baffled to minimise light spill.*
- *Use renewable energy sources and/or low energy use fittings in lighting of signage.*

(ii) Submissions and evidence

The main issue raised in submissions related to the height and visual presentation of the second type of pylon sign at 22 metres in height. All Council submissions and some community submitters raised concerns about the overall height of this type of sign, stating that it was excessive, out of context in the three locations, and should be either reduced in height or replaced with the type 1 pylon sign.

The Greater Dandenong submission (D09) stated that the proposed height and size of the sign *“is unacceptably large, and would dominate the skyline”*. It submitted that the product signage on the elevations was poorly integrated with the building architecture and should be reduced or removed. At the Hearing, Mr Montebello reinforced that Council’s position was the type 2 sign should not be permitted so close to residential premises.

Local submitters in Dandenong raised various concerns in relation to the signage. For example, submission D03 stated that the signage was too high and would not interface with the surrounding area, submission D04 stated that the pylon sign type 2 was *“out of context and grossly over bearing”*, and submission D01 raised concerns in relation to the signage’s visual presentation, lack of aesthetic, and dominance at the entry to Dandenong. There was a consistent view from submitters that there was sufficient signage on the building without the need for a tall pylon sign.

The Yarra Ranges (CP04) submission sought a reduction in the scale and height of the sign. It stated that the prominence of the site and the site’s clear visibility from the Maroondah Highway negated the need for such *“a massive sign”*.

Whittlesea submitted that the scale of proposed type 2 pylon sign is out of proportion in scale to the proposed and surrounding built form. Ms Roberts in evidence for Whittlesea noted:

That the signage strategy should be integrated with the detailed landscape plan and consideration given to the impact of signage on pedestrian routes, how the signage can be integrated into other way finding elements including directions to the train station, major cycling routes and High Street amenities.

It was generally accepted by submitters that the height and scale of the type 2 pylon sign at 22 metres would be an anomaly at each of the three sites with no other proximate examples.

In its original planning assessment *Kaufland Town Planning Assessment* (June 2018), the proponent stated that the signage was acceptable for each site. At the Directions Hearing, the Committee raised the suitability of the height of the proposed signage as a key issue to be

addressed. At the Directions Hearing, Mr Gobbo confirmed that the height of signage would be reviewed by its expert witness(es) and subsequently conceded that none of his experts could support 22 metres.

Through his evidence, Mr Czarny did not support the height and stated that the type 2 pylon sign was a tall element in the viewshed and higher than any other local signage, building or canopy tree for all three sites. At the Hearing, Mr Czarny presented a photomontage analysis to address the question of signage by exploring different pylon heights and signage box sizes. The analysis reinforced his view that the 22 metres pylon sign height would have a substantial impact. He was however, satisfied with a height of 15 or 16 metres for Chirnside Park, 15 or 18 metres for Dandenong (with the retention of road reserve vegetation in the road reserve), and 18 metres in Epping on both High and Cooper Streets.

In response to Mr Czarny's evidence, Mr Gobbo stated that Kaufland, while accepting a reduced height for the sign, was of the firm view that the signage box should remain at 4 x 4 metres to ensure that the sign remained effective and provided advanced notice for motorists in the case of Chirnside Park.

(iii) Discussion

In addition to the contested type 2 pylon sign, the proposal includes various other forms of signage including a smaller pylon sign more typical of activity centres, and signage integrated with the building façade. These types of signs raised less concern from Councils and resident submitters.

To explore the matter of visual impact, the Committee welcomed Mr Czarny's photomontage analysis for each site. However, the analysis did not answer the question of quantum of signage and potential for excessive visual clutter.

The Committee notes that in cross examination in relation to Epping, Mr Czarny stated that he had not undertaken a more comprehensive analysis of signage in the viewshed of each site to explore the issue of visual clutter. He accepted that it is likely there will be more demand for business identification signage in the area with further expansion of the activity centre. He acknowledged the need to consider the proliferation of signage per se in the viewshed as it may lead to visual clutter.

The Committee agrees with Ms Roberts that there is a need for signage to identify businesses both internally to the site and from the street. It however is unconvinced of the need for the type 2 pylon sign. The Committee considers that the type 2 signs are visually dominant in all locations and have the potential to set a precedent in various locations that could lead to the proliferation of similar signs and visual clutter. This would be to the detriment of the amenity and appearance of each of the immediate and broader locations.

It is the view of the Committee that business identification while necessary and important, should not be to the detriment of the amenity of the location. It holds the strong opinion that the pylon type 2 sign is excessively large, visually dominant, and incompatible with any of the three sites.

In relation to how long a sign might be in place, it is noted that in the final versions of the Incorporated Documents provided by Kaufland (Documents 118, 119 and 120), the following clause was added under Section 4.4 Expiry:

The exemption in this document from the need for a permit for a major promotion sign expires 25 years after the approval date of Amendment X.

Clause 52.05-4 requires a condition if the expiry date for a major promotion sign is to exceed 15 years. There was little discussion on this matter at the Hearing and the Committee finds no justification to exceed the standard time frame.

(iv) Findings

The Committee finds:

- the pylon type 2 signage in all three locations is not acceptable at any height
- there will be a range of other signage that will ensure all sites are well identified
- the expiry date for major promotional signage approval should be 15 years from the date of planning approval.

The above findings are reflected in the Conclusions and Recommendations of the following three site-specific chapters.

3.5 Stormwater Management

(i) Context

In October 2018, Amendment VC154 introduced provisions into all planning schemes to improve the management of water, stormwater and drainage in urban development. This included the introduction of a new particular provision, Clause 53.18 '*Stormwater management in urban development*'.

Further, Greater Dandenong and Whittlesea have local Environmentally Sustainable Development (ESD) policies in their schemes which contain requirements relevant to the management of stormwater at Clauses 22.06 and 22.01 respectively. Yarra Ranges has an equivalent proposed policy (proposed Clause 22.03) which has been through a Panel Hearing (Amendment C148) but at the time of this report had not yet been adopted by Council. For Epping, Whittlesea has requirements as part of Parking Overlay 1 to include stormwater measures.

During the Hearing, various matters were considered in relation to these provisions and requirements by Councils for the management of stormwater.

(ii) Submissions

Each Council made submissions in relation to their various sustainable management policies.

Dandenong noted its requirement for a Sustainability Management Plan which includes MUSIC modelling to consider stormwater management.

Whittlesea recommended the inclusion of stormwater treatment measures in accordance with Best Practice Environmental Management objectives, consistent with the requirements of Parking Overlay 1 at Clause 5.0. It submitted that it is critical for the implementation of the

Epping Central Structure Plan and Stormwater Management Strategy to improve the quality of stormwater entering the Darebin and Edgars creeks.

Mr Gobbo stated that there was no requirement for Kaufland to consider the new provisions introduced by VC154 given their application was made prior to its gazettal. Furthermore, and because of the timing of exhibition, he said this was impossible. Mr Gobbo stated however that:

Kaufland is committed to achieving environmentally sustainable design and accepts that it is appropriate to include conditions in the Incorporated Document reflecting the requirements of cl 53.18.

He referenced *The Ark Resources Report* (Document 32) which used the Dandenong site as an example to model the predicted stormwater quality with the MUSIC modelling to assess best practice performance objectives for stormwater quality as contained in the *Urban Stormwater - Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999). He noted that these are the same standards called up by Clause 53.18. That report recommended modifying the car park design to incorporate raingardens to filter stormwater runoff prior to discharging into the stormwater system.

Mr McWha in chief opined that it was possible to integrate bio swales (raingardens) into the car park with his landscape layout plan.

In relation to the proposed conditions in the Incorporated Document, Mr Gobbo noted that the three Councils have slightly different stormwater management conditions. He added that Kaufland accepted these requirements which in all cases require the development to comply with *“the Stormwater Best Practice Environmental Management Guidelines, based upon an integrated WSUD strategy, which are the key consideration under Clause 53.18.”*

(iii) Discussion

The Committee notes the difficulties associated with the timing of Amendment VC154 in relation to exhibition of the draft amendments in terms of compliance with its requirements. It further notes Kaufland’s proposed inclusion of more detailed stormwater management requirements in response to submissions and discussions at the Hearing. Documents 115, 116 and 117 were submitted later in the Hearing and contained the following condition:

Stormwater Management

1. *Prior to the commencement of development, a Stormwater Management Plan (SMP) must be submitted to and be approved by the Responsible Authority. The SMP must:*
 - a. *be based on an integrated water sensitive urban design strategy*
 - b. *meet the objectives of clause 53.18-5 of the Planning Scheme*
 - c. *include details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system*
 - d. *confirm that the development has been designed to achieve compliance with the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).*

The measures included in the SMP must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.

The Committee is satisfied that the condition will appropriately fulfil the requirements of the various planning schemes and respond to stormwater management issues.

(iv) Findings

The Committee finds:

- the stormwater management requirements proposed by Kaufland in the Incorporated Document are supported.

3.6 Hours of Use

(i) Submissions and Discussion

The exhibited versions of the Incorporated Documents did not contain a condition limiting the hours of use. Condition 3 limiting the hours of use of the supermarket use from 7:00am to midnight was first included in the versions of the Incorporated Documents tabled by Kaufland on Day 5 of the Hearing (Documents 57 to 62). This was in response to a request from Dandenong for operating hours of 7:00am to 10:00pm.

There were some objections to operating hours in the evenings by various parties due to noise impacts and a request to consider the operating hours of the liquor shop.

Yarra Ranges noted that the adjacent Dan Murphy's store has a closing time of 10:00pm. There was some concern expressed about the social impacts of the sale of packaged liquor.

The final versions of the Incorporated Documents submitted by Kaufland (Documents 118, 119 and 120) included a restriction on hours of operation of both the supermarket and the bottle shop uses of 7:00am to midnight.

There is no limitation on the hours of operation on any other use that may be permitted as of right under Section 4.1 of the Incorporated Documents. Such uses could include potential late-night operation, such as for food and drink premises, or art galleries.

The Committee is mindful of the potential impacts of the sale of packaged liquor and noise caused by late night trading and considers that a 10pm limit on the bottle shop use is appropriate, while other uses may reasonably trade until midnight.

(ii) Findings

The Committee finds that:

- the hours of operation for the bottle shop should be limited from 9:00am to 10:00pm while other uses may be permitted to trade from 7:00am to midnight.

The above finding is reflected in the Conclusions and Recommendations of the following three site-specific chapters.

4 Chirnside Park

4.1 Context

(i) Proposal summary

Kaufland Australia is seeking to develop land at 266-268 Maroondah Highway, Chirnside Park for the purposes of a Kaufland supermarket and complementary uses, with associated carparking and signage.

The draft amendment proposes the following changes to the Yarra Ranges Planning Scheme:

- application of the Specific Controls Overlay to land at 266-268 Maroondah Highway, Chirnside Park, formally described as lot 50 on Plan of Subdivision 54466H and update the schedule to the Specific Controls Overlay accordingly.
- insert “*Kaufland supermarket development, 266-268 Maroondah Highway, Chirnside Park*” in the schedule to Clauses 45.12 and 72.04 as an Incorporated Document.

The key elements of the proposal are outlined in Table 3.

Table 3 Key elements of the Chirnside Park proposal

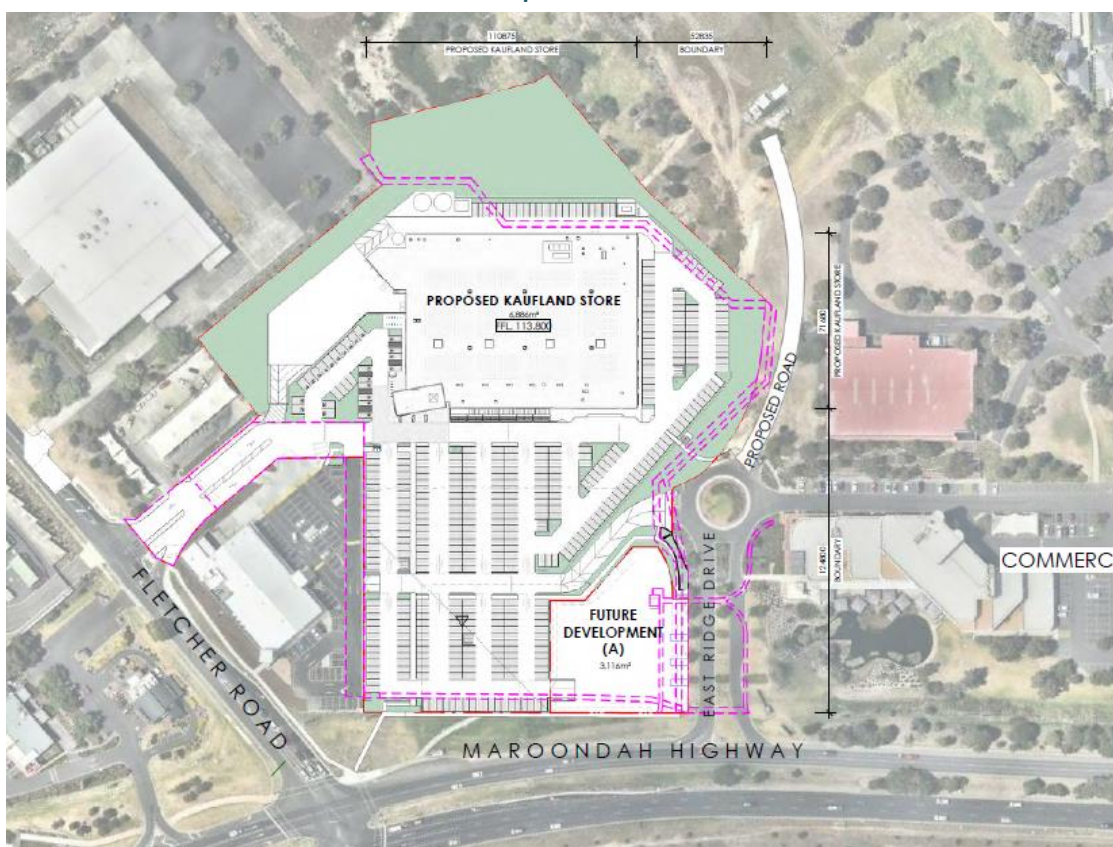
Land Use Mix	A 6,914 square metre building containing the following: <ul style="list-style-type: none"> • 3,610 square metres of supermarket floor area • 354 square metres for bottle shop • 278 square metres for food hall and 136 square metres for outdoor eatery • two complementary tenancies totalling 258 square metres • associated in house facilities including 1,323 square metres back of house facilities and 307 square metres of administration • 648 square metres of non-leasable floor area
Built form	A large single storey building with a building height of 9 metres and a feature parapet of 11 metres Construction materials include a mix of feature cladding including concrete panels and planter timber and metal deck roofing
Car parking provision	At grade car park accommodating 419 car parking spaces, allocated as: <ul style="list-style-type: none"> • 389 standard spaces • 10 accessible spaces • 14 family spaces • 6 senior spaces
Bicycle Parking Provision	38 on-site bicycle spaces
Signage	See Table 2

Loading Bay facilities	Loading and deliveries located at the east towards the rear the site and accessed off Fletcher Road
Access	<p>Vehicle access will utilise existing access arrangements including the existing customer entry/exit from Fletcher Road and the Maroondah Highway entry/exit to East Ridge Drive</p> <p>The existing accessway on Fletcher Road currently servicing Dan Murphy’s will be extended to allow a second point of vehicle access</p>

Source: Chirside Park Ground Floor Plan - TP-04 Rev ACP dated 08/11/2018 (Document 27)

The site context plan at Figure 1 sets out the proposed layout for Chirside Park.

Figure 1 Exhibited Chirside Park site context plan



Source: TP Plans Chirside Park, Site Context Plan, p2.

(ii) The site

The site as shown in Figure 2 is located on the south east-corner of Maroondah Highway and Fletcher Road and forms part of the former business park known as ‘East Ridge Business Park’ which has been partially developed.

Figure 2 266-268 Maroondah Highway, Chirside Park



Source: Epping Town Planning Assessment, Planning and Property Partners, June 2018; p6.

Characteristics of the site are set out in Table 4:

Table 4 Chirside Park site characteristics

Current land use	The site is currently vacant and includes a retarding basin in the south-west corner
Site area	Irregular in shape with a total area of 3.948 hectares
Frontage and abuttals	The site has frontage to the Maroondah Highway and Fletcher Road
Slope	The site has a significant fall from east to west of approximately 15 metres
Other	The site is affected by multiple easements which are understood to be for carriageway, drainage, sewerage and transmission of electricity

The site is surrounded by the following land uses set out in Table 5.

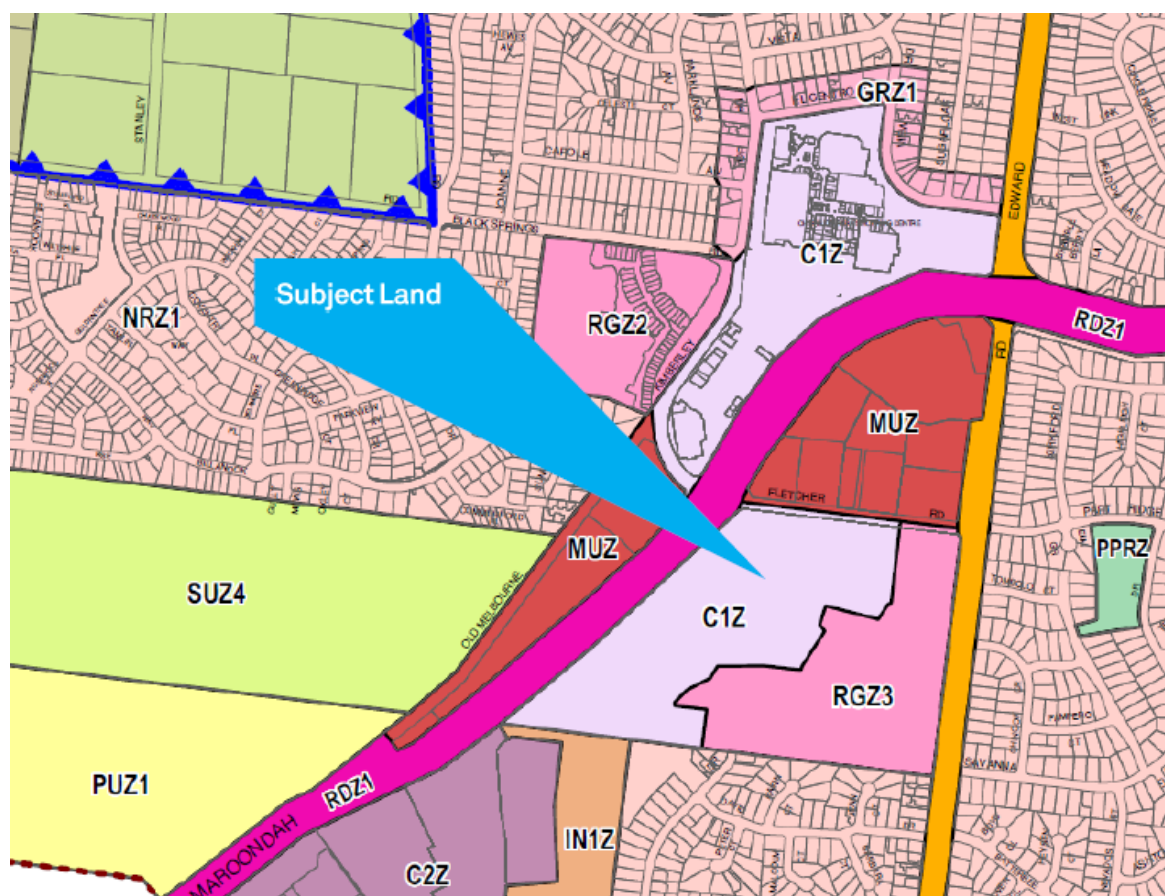
Table 5 Chirside Park surrounding land uses

North	Dan Murphy’s Liquor store is located immediately north of the site The site is within the Chirside Park MAC which includes Chirside Park Shopping Centre located approximately 400 metres north of the site, across Maroondah Highway
East	A vacant parcel of land zoned residential growth exists to the east Further east is an established residential area
South	The site forms part of the former business park known as ‘East Ridge Business Park’ which has been partially developed
West	Maroondah Highway bounds the site to the west A vacant mixed-use zoned site exists to the west

(iii) Planning scheme controls

The site is included within the Commercial 1 Zone under the Yarra Ranges Planning Scheme (Figure 3).

Figure 3 Chirside Park zoning



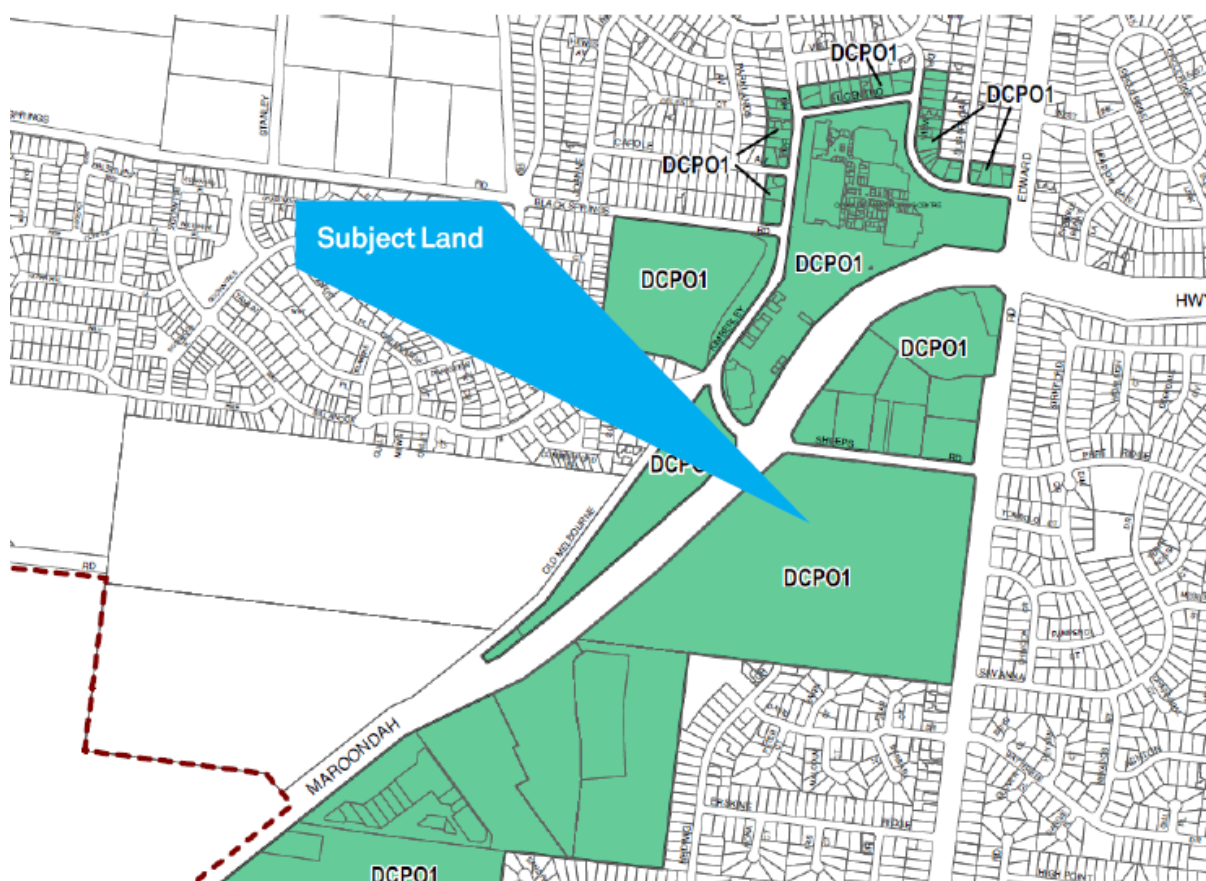
Source: Document 23a – Expert Witness Statement of Andrew Biaci, p29.

The key purposes of the Commercial 1 Zone are to:

- create vibrant mixed-use commercial centres for retail, office, business, entertainment and community uses
- provide for residential uses at densities complementary to the role and scale of the commercial centre.

The site is subject to DCPO1 (Figure 4).

Figure 4 Chirnside Park Overlays



Source: Document 23a – Expert Witness Statement of Andrew Biaci, p30.

The following planning scheme provisions trigger a requirement for a planning permit for the site:

- **Clause 34.01-4 Commercial 1 Zone:** A permit is required to construct a building or construct or carry out works.
- **Clause 45.06 Development Contribution Overlay:** Applies a levy to all land seeking development that is covered by DCPO). Council confirmed (Document 89) that the full DCP contribution was paid through the previous Masters approval, and that no additional payment is required for the proposed Kaufland development.
- **Clause 52.05-7 Signs:** A commercial area is a category 1 (minimum limitation) area. A permit is required for all signage proposed on site as the size of the signs exceed the conditions listed in Clause 52.05-7.
- **Clause 52.27 Licensed Premises:** A permit is required to use the land to sell liquor.

- **Clause 52.29 Land Adjacent to a Road Zone Category 1:** A permit is required to alter access to a Road Zone Category 1 including a change in terms of volume, frequency or type of vehicles.

A permit is not required under the following planning scheme provisions:

- **Clause 34.01-1 Commercial 1 Zone:** A permit is not required to use the land for a supermarket, which is nested under Shop and is a Section 1 (permit not required) use.
- **Clause 52.06 Car parking:** The car parking provided on site exceeds the statutory car parking rates in Clause 52.06-5 for a 'supermarket' and 'shop' and do not require a permit.
- **Clause 52.34 Bicycle Facilities:** The bicycle parking and end of trip facilities required by Clauses 52.34-3 and 52.34 are provided or proposed to be provided by condition.

4.2 Planning issues

(i) Context

Matters concerning the proposed application of the Specific Controls Overlay accompanied by an Incorporated Document were addressed in Chapter 3.1 of this report.

The subject site is in the Commercial 1 Zone and forms part of the Chirnside Park Activity Centre. Under the existing zone provisions, a permit for use would therefore have not been required.

The site was previously approved for a Masters hardware store. While the development did not proceed, applicable development contributions were paid and various preparatory site works were undertaken.

It is noted that a Dan Murphy's store abuts the site and that the Chirnside Park Shopping Centre is located across the Highway and to the north of the site.

Land to the east of the development is zoned Residential Growth Zone Schedule 3. It is understood that the land is to be developed for higher density residential housing.

(ii) Submissions and evidence

Yarra Ranges submitted (Document 52) that:

The proposed development is consistent with what would be expected in a Commercial 1 Zone in a Major Activity Centre – Chirnside Park. Council generally supports the proposal which is consistent with planning policy for this location as documented in the assessment in the exhibited Town Planning Report.

The submission noted that the proposed development is generally consistent with the strategic direction contained in *Local Planning Policies 22.06 – Chirnside Park Activity Centre* and *Clause 21.05 Settlement Objective 2 – Major Activity Centres*.

Several matters were raised in the submission relating to content of the Incorporated Document including hours of operation, external lighting plan, landscaping, car parking, pedestrian movement and traffic management.

Council concluded that it had no objection to the Kaufland proposal.

In relation to strategic planning policy, Kaufland submitted (Document 72) that the Chirnside Park proposal is the least controversial of the three sites in Tranche 1 as it is zoned Commercial 1 where supermarket and specialty retail are as-of-right uses and located within an Activity Centre.

Submission CPO2 expressed concern that the proposed development would fragment shopping within the activity centre, as the main shopping complex at Chirnside Park is located on the other side of Maroondah Highway. The submission objected to the proposed liquor store and concluded that it should be rejected.

Mr Biacsi and Mr Clarke independently reviewed the proposed development against existing planning policy, both concluded the proposal has strong strategic planning policy support.

No other party to the Hearing called nor challenged the expert planning evidence presented.

(iii) Discussion

The Committee accepts the submissions and evidence that the subject site is well suited to accommodate the proposed Kaufland store and that this outcome is supported by both State and local planning policy. While the subject site is on the opposite side of the Maroondah Highway to the Chirnside Park Shopping Centre, the site is contained within the Commercial 1 Zone and abuts existing retail development. The proposed uses are Section 1 Uses (Permit not required) within the Yarra Ranges Planning Scheme.

The Committee is satisfied that the future development of higher density residential outcomes to the east of the site will not be jeopardised by development of the Kaufland proposal.

(iv) Findings

The Committee finds:

- the proposed Kaufland development at 266-268 Maroondah Highway, Chirnside Park is consistent with both State and local planning policy.

4.3 Economic impact

(i) Context

The Chirnside Park EIA concluded that the existing supermarket operators within the main trade area would expect a one-off trading impact of between 5 and 6 per cent. Further, the EIA estimated that the total impact on the Chirnside Park Shopping Centre is expected to be in the order of 4.5 to 6 per cent, which represents between one and two year's growth in available trade area retail expenditure. The EIA concluded that the impacts reflect a normal competitive environment.

(ii) Submissions and evidence

Kaufland supported the findings of the Chirnside Park EIA.

Kaufland noted and accepted the finding of the EIA that the supermarkets within Chirnside Park Shopping Centre would experience a higher impact on average than other retailers in the catchment, but that the centre's continued operation would not be threatened. It submitted that the likely impacts on existing traders in Chirnside Park need to be balanced against the significant consumer and economic benefits that will result from development, and that the proposal represents a clear net community benefit.

The MGAIR expressed concern (Document 70) that the trade area utilised within EIA for Chirnside Park did not include six independent supermarkets (Cellarbrations at Mooroolbark, Foodworks at Wonga Park, Foodworks Croydon, Croydon South IGA X-press, The Bottle-O Croydon and Lilydale Foodworks).

Mr Ingpen noted that turnover of his IGA Supermarket at Mt Evelyn was likely to be impacted by not more than 5 per cent. He stated that the new Kaufland store would "*create competition and bring it on*" and the trade impact "*would effect his profitability slightly, but not greatly*". Mr Ingpen submitted that a 5 per cent trading impact would result in him having to trim approximately 5 per cent wages.

In relation to economic impacts, Yarra Ranges (Document 52) concluded:

The Amendment facilitates the development of a large retail store which will provide further employment opportunities in a major activity centre.

.. it is considered the scale of development will not unduly compromise the role of the Town Centre Precinct as the primary retail area. Overall the amendment is consistent with building a vibrant and diverse activity centre that will increase services, choice, competition and employment opportunities.

KFT Investments Pty Ltd (Submission CP09) supported the proposed Kaufland development and considered it would provide a significant economic and jobs boost to the local area.

As noted previously, no party to the Hearing (apart from Kaufland) called economic evidence and no party attended the Hearing day when Kaufland's economic witnesses appeared and were available for cross examination.

(iii) Discussion

The Committee considers that the EIA for Chirnside Park is a robust and valid assessment. It has formed this view from its review of the assessment and from its questioning of Mr Dimasi, as well as the findings of Mr Stephens. The Committee accepts the projections of likely trading impacts contained in the assessment. Further the Committee supports the findings that residents and local businesses will enjoy the following benefits arising from the proposal:

- substantially improved shopping choice and convenience
- downward pressure on grocery prices
- an additional avenue for retail sales for local suppliers
- local employment creation.

Mr Dimasi addressed concerns raised by MGAIR relating to the lack of consideration of several independent retailer stores in his Addendum Report (Document 84). Mr Dimasi's opinion was that there is no likelihood of any noticeable impact on the trading performance of IGA X-press or the two bottleshops identified in the MGAIR submission due to their distance from the store and the nature of their retail offer. Similarly, Mr Dimasi's assessment of the three nominated Foodworks stores noted the identified Lilydale store closed in 2015 and the site has been redeveloped into a Bunnings Store. Further the other two stores which are approximately 400 square metres in size will not be impacted by the new Kaufland Store. The Committee supports the findings of Mr Dimasi in relation to these matters.

(iv) Findings

The Committee finds:

- the development of the proposed Kaufland Store at Chirnside Park will provide a range of economic benefits for local shoppers, suppliers and residents
- while a number of short-term trading impacts will be experienced by existing supermarkets, retailers and shopping centres in the trade area catchment, the projected economic impacts are acceptable and within normal competitive tolerances.

4.4 Urban design/built form/landscape

(i) Context

The matter of the Kaufland built form model is discussed in Chapter 3.3, which includes discussion about façade treatment for all three sites. The matter of the shared path on the Maroondah Highway is discussed in Chapter 4.5. Other specific issues for Chirnside Park are discussed below.

(ii) Submissions and evidence

Mr Czarny provided evidence in relation to aspects for improvement to the urban design and landscaping treatments, including improvements to façade treatments (see Chapter 3.3), as well as the extension of the shared zone in front of the main entrance and the provision of complementary canopy trees. The proponent accepted these recommendations as noted in Document 53.

Mr McWha's expert opinion was that the proposed landscaping would be of high quality, would enhance the architectural layout, and would improve the landscape character of the site.

(iii) Discussion

The Committee notes the exhibited plans have been modified and Mr Czarny's recommendations (Document 14) largely incorporated in the revised plans and landscape plan. The Committee is supportive of these changes.

While the Committee advocates external sleeving and tenancies for Dandenong and Epping, due to the existing built form of the Dan Murphy's store, and provision of the future

development pad site fronting the Maroondah Highway, it is less concerned with the façade and edge treatment of the building in this location.

The Committee agrees with Mr McWha's assessment that the proposed landscaping would provide an improved character for the site but notes that it will need to be adjusted to respond to the specific recommendations noted in Chapter 4.5 in relation to pedestrian access and movement.

(iv) Findings

The Committee finds:

- the revised plans for Chirnside Park incorporating the changes set out in Mr Czarny's evidence are appropriate
- the landscaping plans for Chirnside Park are acceptable subject to modifications required to respond to changes to pedestrian access.

4.5 Traffic and access

(i) Context

The subject land has its primary frontage to Maroondah Highway, a secondary frontage to East Ridge Drive and a roadway connection to Fletcher Road. A 'Future Development (A) Site Area' is located at the eastern corner of the site, on the corner of Maroondah Highway and East Ridge Drive.

Immediately to the north of the site and west of the Fletcher Road connection is a Dan Murphy's liquor outlet. That store has its sole vehicular access from the Fletcher Road connection, by an easement of carriageway. It has been developed with pedestrian links through its carpark designed for future connection into the subject land. A car wash is located along the west side of the Fletcher Road connection, with its sole vehicular access from the connection. There are currently no footpaths along this connection to Fletcher Road.

Maroondah Highway is a State arterial road under the control of VicRoads. It has a divided carriageway with three north-eastbound and two south-westbound (citybound) lanes outside the site. A left turn lane is located at East Ridge Drive, with East Ridge Drive limited to left turns into and from the highway. The intersection of Maroondah Highway/Fletcher Road/Kimberly Road is signalised with pedestrian crossings on all legs. There is a bus stop on the Highway outside of the site and a pedestrian path links the bus stop to the pedestrian crossings. A gravel path continues from the bus stop traversing across the western corner of the site and linking to the footpath network near the roundabout in East Ridge Drive.

Fletcher Road is a local road running between Maroondah Highway and Manchester Road to the east and is limited to left turn movements at Manchester Road.

East Ridge Drive is currently a private road, but it is intended to be ultimately transferred to Council. It is constructed as a divided road, between the Maroondah Highway and a roundabout which is proposed to provide access into the site. Beyond the roundabout the road terminates abruptly and the land slopes steeply up both to the southeast along the future road alignment and to the northeast into the subject land.

(ii) Submissions and evidence

Traffic Impacts

VicRoads provided a revised submission at the Hearing (Document 42), which took into account the material provided in expert witness statements provided on behalf of Kaufland.

VicRoads advised that the proposed right turn lane into East Ridge Drive on Maroondah Highway was not supported due to potential conflicts with the approved access strategy for the site on the opposite side of Maroondah Highway and to the bend in the Highway. However, to ameliorate impacts at the Maroondah Highway/Fletcher Road/Kimberly Road intersection, VicRoads supported the proposal contained in the evidence of Mr Davies to construct a third south-westbound lane along Maroondah Highway generally as shown on GTA Drawing No. V155990-02 Issue P1. This work would effectively maintain the existing degree of saturation along Maroondah Highway in the weekday evening peak and significantly improve conditions on a Saturday for south-westbound traffic. It is noted that other work has already been undertaken at the intersection in preparation for the now defunct plan to develop the subject land for a Masters store.

Neither Mr Davies' evidence, nor the supporting Traffic Impact Appraisal report, contained any traffic analysis of the Maroondah Highway/Manchester Road/Edwards Road intersection, although both provided existing and future traffic volumes at this intersection. Both Ms Dunstan and VicRoads recommended that this intersection be assessed, and any necessary works be undertaken to ameliorate impacts. Of contention however, was the level of impact needed to be ameliorated.

VicRoads proposed a condition to undertake works to maintain existing operating conditions, citing Clause 18.01-2S of the planning scheme which includes a strategy to *"avoid detriment to and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms"*.

The expert witnesses considered that a condition to return to existing operating conditions may be inappropriate in the event that such conditions may be well below the capacity of the road. Ms Dunstan suggested replacing VicRoads' words *"required to restore the intersection to its pre-development operating conditions"* with *"if necessary to ensure an acceptable performance outcome"*.

Yarra Ranges submitted that should the widening of Maroondah Highway occur on the verge outside the site, then the site boundary should be modified to ensure that the Council's 'Green Spine' vision can be implemented without compromise. Mr Davies noted that it may be possible to widen the road into the median.

In respect of the 'Future Development (A) Site Area' located on the eastern corner of the land, VicRoads advised that vehicular access to that site will not be permitted directly from East Ridge Drive or Maroondah Highway. Mr Davies advised that no traffic assessment had been undertaken for this site, but if access was to be via the car park, then it would be limited to cars and small to medium rigid trucks. Council advised that a subdivision application has been lodged to carve off the pad site, but approval was on hold pending the outcome of this work.

Parking and pedestrian movements

With respect to the car park, the experts noted that the provision of parking is well in excess of the minimum planning scheme requirements with a provision of 419 spaces compared to a requirement for 305 spaces. The Committee was advised the higher level of parking was being provided for amenity reasons, rather than based on any empirical assessment.

Ms Dunstan gave evidence that a more comprehensive pedestrian path network was required at Chirnside Park. Included in her proposal were connections into the Dan Murphy's car park and to the future residential land to the south. A direct connection between the store and the East Ridge Drive roundabout was also recommended, consistent with a request from the Council. These were accepted by the proponent.

Mr McWha advised that a direct *Disability Discrimination Act 2005* compatible connection to the roundabout may be difficult due to the levels involved and that stairs may be needed on this route.

Ms Dunstan noted that given the high supply of parking, some loss of parking could be tolerated to provide an improved pedestrian network.

The Council requested that a car park plan be provided for approval prior to the endorsement of plans to allow this issue to be resolved through a further design process.

The Council noted that it considered the construction of a shared path along the Maroondah Highway 'Green Spine' outside the site is the responsibility of the proponent on the basis that the development will remove an existing shared path that currently runs through the site between the Maroondah Highway bus stop and East Ridge Drive. This was agreed to by Kaufland.

(iii) Discussion

Traffic Impacts

The objective of Clause 18.01-2S Transport System is *"To coordinate development of all transport modes to provide a comprehensive transport system"*. Of relevance to all three sites is the objective of Clause 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"*.

With respect to the need for works on Maroondah Highway outside the site, the proposed widening to provide three through lanes will meet the objectives of Clause 18 and result in an enhancement of the road network. The decision on whether to widen on one side of the carriageway or the other is a matter best resolved during the design process, which should include consideration of the construction of the shared path along the 'Green Spine'. An assessment of the need to adjust the property boundary to accommodate the 'Green Spine' would flow from that process.

With respect to the Maroondah Highway/Manchester Road/Edwards Road intersection, the Committee considers that an analysis of that intersection should be undertaken to determine if works are needed to avoid detriment and maintain a satisfactory level of service. In the absence of any existing performance analysis or impact assessment of the intersection, the

Committee considers that it is premature to include a condition effectively requiring an enhancement of the existing intersection performance. It is important that the most use of existing infrastructure is maximised. Accordingly, the Committee agrees with the expert witnesses that to require a return to existing operating conditions in a circumstance where there is ample spare capacity would be contrary to the road system objective.

Parking and pedestrian movements

It is important to provide a comprehensive pedestrian network across and through large sites to ensure the site is interconnected with adjoining land uses in a way that encourages sustainable personal transport for short local trips, in accordance with the objectives of Clause 18.01 of the planning scheme.

Given the complexity of the site's topography, further design work is required to finalise preferred pedestrian paths. The Committee notes that the proposed car park has an abundance of parking spaces well in excess of the statutory requirement. The Committee considers there is scope to reduce some of the proposed parking supply to accommodate a more comprehensive pedestrian and cycle path network to encourage walking and cycling to the site and to minimise conflicts with cars. To that end, the Committee generally supports the network proposed by Ms Dunstan, but considers that the pathway to the new southern site access point onto the future extension of East Ridge Drive should be more direct, running generally along the east side of the new access road.

Further, the Committee considers it important that the car park plan consider the likely future connections required with the 'Future Development (A) Site', to ensure it integrates with its surrounding uses. Given its site area of 3,116 square metres, the need to accommodate large rigid trucks as well as pedestrian and car access via the Kaufland car park should be considered to ensure that future use of this site is not unduly constrained.

(iv) Findings

The Committee finds that:

- the provision of parking exceeds the statutory requirement, is sufficient and can tolerate some loss of parking to achieve improvements in the pedestrian network among other things
- adequate provisions for pedestrians and cyclists can be made through the preparation of a Car Parking Plan, generally consistent with the plan in the evidence of Ms Dunstan
- a pedestrian and vehicular access strategy for the 'Future Development (A) Site' area that accommodates large rigid vehicles should be developed as a part of the preparation of a Car Parking Plan
- traffic impacts can be acceptably mitigated subject to the provision of a third lane on Maroondah Highway and mitigation of any impacts to the Maroondah Highway/Manchester Road intersection
- any required widening of the road reserve into the Kaufland site or the corner pad site should be determined during the design process for the proposed works within the road reserve.

4.6 Acoustics

Acoustic issues at this site are limited to the impact on future residential dwellings that may be constructed within 50 metres of the northeast boundary of the site within the Residential Growth Zone 3 land.

Mr Tardio advised that an acoustic wall may be required to shield dwellings from noise and waste deliveries limited to hours prescribed in Environment Protection Authority (EPA) Publication 1254. While a three-metre-high noise wall has been specified, Mr Tardio advised that it is difficult to say how high or long the wall should be until details of the affected dwellings are known.

The Council expressed concern with the timing of the construction of the wall once a request was made and it sought completion within three months. The proponent suggested 12 months would be reasonable to allow for design and construction.

The Council suggested that State Environment Protection Policy N-1 (SEPP N1) apply rather than Noise from industry in regional Victoria (NIRV). The Committee has reviewed the SEPP N-1 boundary map on the EPA's website¹ and agrees with Mr Tardio that the site is outside the SEPP N-1 boundary.

Findings:

The Committee finds:

- the acoustic impacts can be appropriately mitigated
- the proposed future noise wall along the boundary to the Residential Growth Zone land should be provided 'at the earliest opportunity' and within 12 months of a request to do so by the Responsible Authority
- waste collection hours should accord with EPA Publication 1254 once residential properties are occupied within 50 metres of the subject land unless with the written consent of the Responsible Authority.

4.7 Conclusions

(i) Should planning approval be granted?

The Committee concludes:

- the proposed Kaufland Store at 266-268 Maroondah Highway should be granted planning approval.

(ii) Changes to Incorporated Document

The Committee considers the Incorporated Document for Chirnside Park should be amended as follows:

- Replace Condition 1a with: "*The removal of Pylon Sign Type 2*".
- Modify Condition 1 by inserting "*Any changes resulting from the Car Parking Plan as required by Condition 17*".

¹ Source: https://www.epa.vic.gov.au/business-and-industry/guidelines/noise-guidance/~/_media/Files/noise/docs/Noise_SEPP_NorthEast_061011.pdf, accessed 24/01/19.

- Modify Condition 2 by replacing the words *“Minister for Planning”* with the words *“Responsible Authority”*, in two places.
- Replace Condition 3 with the following words:
 - *“The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority”.*
- Modify Condition 4 to add the following sentence: *“Following the occupancy of residential buildings within 50 metres of the site, waste collection hours must comply with the recommended hours in EPA Publication 1254, unless with the written consent of the Responsible Authority”.*
- Modify Condition 7 to include the words *“at the earliest opportunity and”* prior to the words *“within 12 months”*.
- Modify Condition 17 by inserting *“e. any changes required to provide for suitable vehicular and pedestrian access to the ‘Future Development (A) Site Area’”*.
- Modify Section 4.4 Expiry by:
 - replacing the words *“The Minister for Planning”* with the words *“The Council”* in respect of the approval of extensions of time
 - replacing the number *“25”* with *“15”*, in respect of the expiry time for exemption for a planning permit for major promotional signage.

These amendments are reflected in Appendix E.

4.8 Recommendations

For the reasons expressed in this report, the Committee recommends that the Minister for Planning:

- 1. Approve the draft amendment to the Yarra Ranges Planning Scheme to facilitate the use and development of the land at 266-268 Maroondah Highway, Chirnside Park for a Kaufland supermarket and complementary uses with associated carparking and signage in accordance with the approved Incorporated Document, subject to the following changes:**
 - a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix E and make any consequential changes to Clause 72.01 if required.**
 - b) Include Planning Scheme Maps (Document 86) in the final Amendment documentation.**

5 Dandenong

5.1 Context

(i) The proposal

Kaufland Australia is seeking to develop land at 1 Gladstone Road, Dandenong for the purposes of a Kaufland supermarket and complementary uses with associated car parking and signage.

The draft amendment proposes the following changes to the Greater Dandenong Planning Scheme:

- application of the Specific Controls Overlay to land at 1 Gladstone Road, Dandenong, formally described as lot S2 on PS440244Q (Volume 11325 Folio 301) and update the schedule to the Specific Controls Overlay accordingly
- insert “*Kaufland supermarket development, 1-3 Gladstone Road, Dandenong*” in the schedule to Clauses 45.12 and 72.04 as an Incorporated Document.

The key elements of the proposal are outlined in Table 6.

Table 6 Key elements of the Dandenong proposal

Land Use Mix	<p>A 6,769 square metres building containing the following:</p> <ul style="list-style-type: none"> • 3,610 square metres of supermarket floor area • 354 square metres for bottle shop • 278 square metres for food hall and 136 square metres of outdoor eatery • two complementary tenancies totalling 258 square metres • associated in-house facilities including 1,178 square metres back of house facilities and 307 square metres of administration • 648 square metres of non-leasable floor area
Built form	<p>A large single storey building with a building height of 9 metres and a feature parapet of 11 metres</p> <p>Construction materials include a mix of feature cladding including concrete panels and planter timber and metal deck roofing</p>
Car parking provision	<p>At grade car park accommodating 425 car parking spaces, allocated as:</p> <ul style="list-style-type: none"> • 395 standard spaces • 10 accessible spaces • 14 family spaces • 6 senior spaces
Bicycle Parking Provision	36 on-site bicycle spaces

Signage	See Table 2
Loading Bay facilities	Loading and deliveries are located at the east towards the rear the site and will be accessed off the common property driveway (Gateway Boulevard) from David Street
Access	Existing vehicle access into the site will continue to utilise the traffic arrangements of the previous development from Gatehouse Drive (north) leading to the signalised intersection on Gladstone Road

Source: Dandenong Ground Floor Plan - TP-04 Rev ACP dated 08/11/2018 (Document 27)

The site context plan at Figure 5 sets out the proposed layout.

Figure 5 Dandenong site context plan



Source: TP Plans Dandenong, Site Context Plan, p2.

(ii) The site

The site is located at 1 Gladstone Road, Dandenong, formally described as lot S2 on PS440244Q (Volume 11325 Folio 301) (Figure 6) and is located within Greater Dandenong City Council.

The site is located approximately one-kilometre south-east of the Princes Highway intersection with Heatherton Road and 800 metres from the Dandenong MAC boundary.

Figure 6 1 Gladstone Street, Dandenong



Source: Dandenong Town Planning Assessment, Planning and Property Partners, June 2018; p6.

The site is in close proximity to the Dandenong National Employment and Innovation Cluster, with activities generally located to the south of the Dandenong Metropolitan Activity Centre (MAC) and extending to Heatherton and Stud Road to encompass Chisholm TAFE and Dandenong Hospital.

Characteristics of the site are set out in Table 7:

Table 7 Dandenong site characteristics

Current land use	The site is currently vacant, with a landscape strip along the north, south and east of the site boundaries containing established trees and vegetation
Site area	The site has a total area of 30,607 square metres with a northern boundary of 171.68 metres, eastern boundary of 169.72 metres, southern boundary of 158.18 metres and western boundary of 185.76 metres
Frontage and abutments	The site has a frontage to David Street, Gladstone Road and a minor portion to the Princes Highway
Slope	None
Other	Gateway Boulevard runs along the site's northern and eastern boundaries and is a carriageway easement

The site is surrounded by the following land uses set out in Table 8.

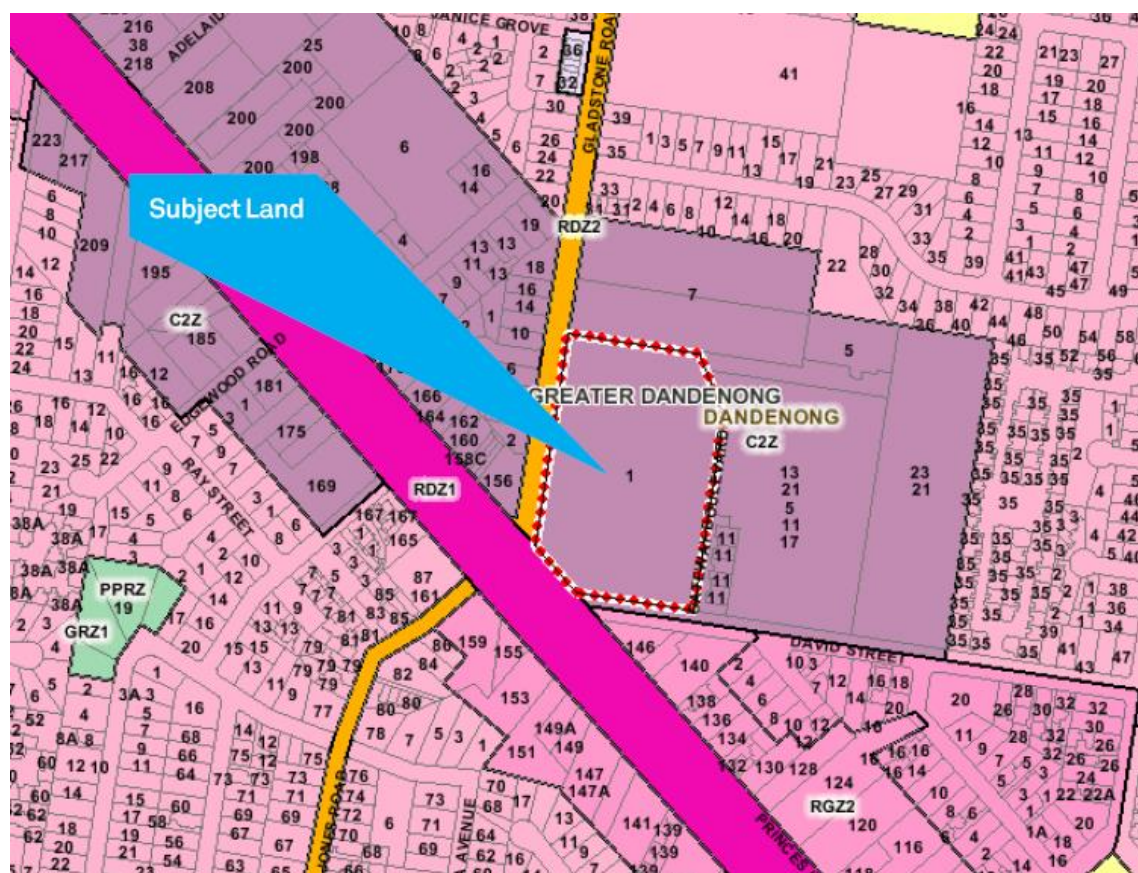
Table 8 Dandenong surrounding land uses

North	North of the site fronting Gladstone Road is a long two storey warehouse building utilised by Victoria Carpets
East	The site's eastern interface consists of a series of one and two storey commercial warehouse/office buildings
South	The commercial precinct continues along the northern boundary of David Street with warehouse/office buildings before transition to a residential area further east The southern boundary of David Street is zoned Residential Growth with multi-unit and detached dwellings
West	The bulk of western interface adjacent to Gladstone Road, which is designated as Residential Growth Zone 2, is currently used for a Caltex Star Mart, a Paint Supplier Shop and other buildings associated with the motor vehicle industry

(iii) Planning scheme controls

The site is included within the Commercial 2 Zone under the Greater Dandenong Planning Scheme, shown on Figure 7.

Figure 7 Dandenong zoning



Source: Document 23b – Expert Witness Statement of Andrew Biacsi, p30.

The key purposes of the Commercial 2 Zone are:

- to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services
- to ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

The land is not presently affected by any Overlays.

The following planning scheme provisions trigger a requirement for a planning permit:

- **Clause 34.02-1:** A permit is required for use as a supermarket if the leasable floor area exceeds 1800 square metres. The land must be within the Urban Growth Boundary in metropolitan Melbourne and the site must adjoin a road in a Road Zone.
- **Clause 34.02-4:** A permit is required to construct a building or construct or carry out works.
- **Clause 52.05 Signage:** A permit is required for the proposed signage due to the size of each sign (classified major promotion signs). A commercial area is designated as a minimum limitation area.
- **Clause 52.27 Licensed premises:** A permit is required to use the land to sell liquor.

A permit is not required under the following planning scheme provisions:

- **Clause 52.06 Car parking:** The car parking provided on site exceeds the statutory car parking rates in Clause 52.06-5 for a 'supermarket' and 'shop'.
- **Clause 52.34 Bicycle facilities:** The bicycle parking and end of trip facilities required by clauses 52.34-3 and 52.34-4 are provided or proposed to be provided by condition.

Subject to Clause 52.29 (land adjacent to a Road Zone 1), a permit is required to alter access to a Category 1 road. This clause does not apply as the principle access point for the site is from Gateway Boulevard (accessed from Gladstone Road) which is classified as a Category 2 road.

5.2 Planning issues

(i) Context

Matters concerning the proposed application of the Specific Controls Overlay accompanied by an Incorporated Document have been addressed by the Committee in Chapter 3.1 of this report.

A Supermarket use up to a leasable floor area of 1800 square metres and other shop uses up to a leasable floor area of 500 square metres are as of right. Given the proposed development exceeds the Section 1 as of right floor area triggers (refer Table 5), a use permit would be required via Section 2 of the zone provisions if the proponent sought planning approval through a planning permit.

The site was previously developed and used as Bunnings hardware store. It is currently vacant and partially fenced off. Surrounding land uses are described in Table 7 and consist of a wide range of mixed uses including commercial and warehousing, as would be expected in a Commercial 2 Zone, and residential land uses adjacent in David Street.

(ii) Submissions and evidence

Kaufland acknowledged that the subject site is not within the Dandenong MAC. It submitted (Document 72) that the subject land "*should be regarded as being located on the edge of the MAC and within a 'local shop node'*". Given that a supermarket is a Section 1 use where conditionally a permit is not required, Kaufland submitted that the relevant planning consideration is not whether the overall proposed uses are acceptable, but whether the additional retail floor space that requires a permit is acceptable.

The submission stated:

The fact that this site is available, within close proximity to the MAC and has recently been developed and used by a Bunnings large format store presents an opportunity that should be grasped.

Further Kaufland submitted that State planning policy at Clause 17.02-2S contemplates out of centre development such as is proposed in this instance "*where the proposed use or development is of net benefit to the community in the region it is served*". In relation to this policy, Kaufland submitted that the expert assessment of Mr Dimasi, Mr Stephens, Mr Biacsi and Mr Clarke concluded that the proposal will result in a net community benefit. Further, it

noted that *“this proposition has not been challenged through cross examination, and there is no evidence to the contrary”*.

Kaufland concluded that the proposed development will provide a level of convenience and competitive opportunity for consumers that is supported by policy, without undermining the role of the MAC.

The written submission of Greater Dandenong (DO9) noted that the subject site is located in excess of 800 metres outside the Dandenong MAC. It expressed concern and objected to the proposal on the basis that the proposed development may pull people away from, and detrimentally impact, the MAC.

Council appeared at the Hearing at the 11th hour. The submission presented by Mr Montebello (Document 78) reiterated Council’s concern that the proposal is ‘out-of-centre’.

Mr Montebello highlighted the content of the out-of-centre State Policy at Clause 17.02 – S2, focusing on the strategy that states: *“Ensure that out-of-centre proposals are only considered where the proposed use is of net benefit to the community in the region served by the proposal”*. Mr Montebello submitted that *“no proper”* net community benefit analysis has been provided to the Committee.

Submission D01 expressed concern that proposed development will impact the amenity of residents due to increased car and truck traffic, and that the proposal *“offers nothing new”* to the community.

The GPT Group (Submission D02) raised concerns regarding the impact of the proposal upon the Activity Centre hierarchy within Greater Dandenong due to the location of the development being outside the MAC. The Committee notes that GPT chose not appear at the Hearing following its review of the site specific EIA report and other evidence tendered.

Mr Biacsi’s expert town planning opinion was that the proposal:

... is clearly of a nature and description that will provide a net community benefit to the area whilst also ensuring that small scale shopping opportunities in the form of neighbourhood/convenience shopping activities are provided in a convenient location to meet the needs of local residents and workers.

Further, Mr Biacsi said:

The Subject Land is conveniently located relative to the Dandenong MAC and near the Dandenong NEIC being a location that is already supportive of commercial and retail use and also within close proximity to residential land. The overall composition of the proposal has responded to the objectives to strengthen the role of the Dandenong MAC as set out in Clauses 21.04-2 and 22.03 of the Planning Scheme.

In respect of the proposed development’s response to State policy concerning net community benefit, accessibility and serving community needs, Mr Biacsi’s opined that the proposal represents an appropriate outcome for the subject land given that the development:

- has excellent vehicle/road connections and substantial parking on site
- will satisfy community needs, enhance customer choice and accessibility to retail services

- will provide for competitive business practices
- will provide jobs for local residents
- achieves a net community benefit.

Mr Biacsi's evidence and his response to questions from the Committee, was clear and strong in that he considered there is State and local policy support for the use of the site for a supermarket. Further, that in addition to zone and policy support for the proposal, there are economic and community benefits to be gained.

Mr Biacsi reiterated that a supermarket proposal up to 1,800 square metres in size is as-of-right in the Commercial 2 Zone. He opined that the additional supermarket space being sought has no material bearing on the hierarchy of activity centres within Dandenong and the development will complement the range of services and facilities available to residents of the catchment. He concluded that the site is appropriate for the proposed large format use due to its size, location, accessibility and the surrounding land use context.

With regard to State planning policy discouraging single use retail facilities in out of centre locations, Mr Clarke's expert opinion was that the proposed development is not a single use retail facility because:

- *The product range is wider than other Australian based supermarket chains, for both grocery and non-grocery items. Multiple purchase options that would otherwise only be available from different stores are now proposed in a single outlet;*
- *In addition to the supermarket, 2 specialty shops, a food hall with associated outdoor dining area and a bottle shop are proposed.*

In relation to net community benefit Mr Clarke's gave evidence that:

The benefits of the proposal are:

- *Increased jobs associated with construction;*
- *Ongoing jobs once the facility is operational;*
- *Increased choice and diversity of the retail offer currently available;*
- *Increased competition with expected price advantages for customers.*

I have assumed at the time of writing this report that there will be no loss of other nearby supermarkets as a result of the proposal and separate evidence to this effect will be provided to the Committee.

The disadvantages of the proposal are:

- *An inconsistency with activity centre policy with an associated spatial fragmentation of the retail offer.*

Mr Clarke concluded the disadvantages of an out of centre location are negligible compared to the benefits of a new retail operator providing the above benefits.

Mr Clarke concluded that the proposal "*will deliver outcomes that result in a net community benefit*". He noted that his review of aerial photography of nearby larger activity centres including Dandenong, Springvale, Noble Park and Parkmore indicated no available sites in commercial zones in excess of three hectares.

Mr Dimasi's evidence assessed the likely trading impacts of the proposed development on the activity centre hierarchy as well as the existing network of supermarkets and grocery stores in Greater Dandenong and the wider catchment. Having regard to the findings of his assessment, his expert opinion was that:

It can reasonably be concluded that there will be a clear net community benefit that will result from the project's development. The consumer benefits plus the significant broader economic benefits, in particular construction investment and employment creation, that will result from the project are indisputable, and will be very substantial.

The trading impacts that are likely to be experienced by existing supermarket and grocery store operators will not be of such a magnitude as to imperil the continued operation of any existing store, and are highly likely to be experienced primarily by the two largest supermarket and grocery store chains in Australia – Woolworths and Coles. Both of these groups are very large, highly successful and very well placed to counter any competitive intensity that will result from the entry of Kaufland into the Australian market.

Mr Stephen's evidence in relation to net community benefit specific to Dandenong was:

- **Consumer Choice.** *The proposed store will add significantly to the range and availability of grocery products available to consumers in the trade area and beyond.*
- **Competition.** *Additional competition in terms of price and the range/quality of product offerings will also be of benefit not only to Kaufland shoppers, but also to people who choose to stay loyal to their existing supermarket stores and who benefit from more competitive pricing.*
- **Employment.** *The proposed Kaufland is expected to support approximately 100 ongoing positions once the store is operational. Additional employment will also be generated through the construction phase of the project. Some additional flow on employment will also occur through supplier industries, including wholesale business and primary producers selling their goods at Kaufland.*
- **Trading Impacts.** *It is forecast that the proposed Kaufland Dandenong will have relatively modest trading impacts on existing competitors. In indicative terms, the proposed Kaufland will generate average sales impacts on supermarket competitors equivalent to -7% of sales in 2021 relative to sales in that year which might otherwise have been achieved, or -2% impact on average relative to current 2018 sales levels. By 2026, overall supermarket sales could be on average 7% higher than current levels for existing stores even with the proposed Kaufland Dandenong proceeding.*

Mr Stephens concluded that he did not identify any economic basis to suggest that the proposed Kaufland store will undermine the activity centre hierarchy in Dandenong and that the development will deliver a clear net community benefit in terms of economic matters.

In its submissions in reply (Document 103) Kaufland stated that Greater Dandenong's submissions were based on two false premises; being firstly an assertion that a supermarket

is prohibited under the Commercial 2 Zone, and secondly that the proposal *“is the single largest retail development in Victoria’s modern history”*.

(iii) Discussion

The Committee accepts that planning policy indicates a preference for large supermarkets to be located in MACs as opposed to sites that are outside or on the fringe of activity centres. Having noted this, the Greater Dandenong Planning Scheme explicitly provides for the consideration of large retail facilities and supermarkets, such as is being proposed, on the subject land.

The Committee accepts the submissions and evidence advanced on behalf of Kaufland that the site is well suited to host the proposed development due to the site’s size, location, accessibility and surrounding land use context.

While submissions were advanced by Mr Montebello that the development would be better suited to a location within the Dandenong MAC, when asked by the Committee, no sites were identified by him where he considered the proposal could be accommodated. In this regard the Committee notes that Greater Dandenong did not take the opportunity to challenge the evidence of Mr Clarke which contended that no other appropriately commercially zoned sites of three hectares were available within Dandenong, Springvale, Noble Park and Parkmore.

All the evidence before the Committee is that the subject site is appropriate to host the nature and size of the proposed Kaufland development, and that its realisation will provide a net community benefit. No other party to the Hearing chose to provide competing independent evidence in relation town planning, economics or matters concerning net community benefit. The Committee considers this significant.

The submissions advanced by Greater Dandenong that Kaufland have not adequately assessed net community benefit, and that the Committee do not have enough information before it to assess net community benefit, are not supported. The Committee accepts that the community will derive significant choice, competition, employment and commercial outcomes from the proposed development specifically, and Kaufland’s entry into the Victoria retail market more generally. There is no evidence before the Committee to suggest that the Dandenong MAC would be undermined by this development as asserted by Greater Dandenong in its written submission.

Further, the introduction of the Commercial 2 Zone contemplates significant investment in this zone of a range of retail roles and functions that previously were not permitted. The fact that 1800 square metres for a supermarket is allowed as of right, with a permit required for a floor space beyond that threshold has changed the face of retail location opportunities. Once Bunnings had left this site, it was open to Council to take the opportunity to undertake strategic work to seek to rezone the land or to prepare a strategy for potential future uses and opportunities.

Additionally, there is already significant commercial and residential uses and investment in this part of Dandenong (see Figure 6) and a new supermarket with supporting shop uses will create opportunities for workers and residents to walk to this commercial node to undertake a range of convenience retail, thus taking pressure off the MAC and traffic congestion in that area.

For these reasons, the Committee considers that the proposal does not contravene State policy Clause 17.02-S2 as the development of a supermarket on this site will result in a clear net community benefit.

Other matters concerning economic impact are discussed in the following chapter.

(iv) Findings

The Committee finds:

- retailing is anticipated on the site as use for a supermarket (up to 1800 square metres) is a Section 1 (as-of-right) use in the Greater Dandenong Planning Scheme
- based on the evidence presented, the additional supermarket floorspace sought by the Kaufland proposal will not have a material impact on the Dandenong MAC, nor the activity centre hierarchy within Greater Dandenong
- the proposed development will provide a range of local and regional community net benefits and is well suited for the subject site.

5.3 Economic impact

(i) Context

The Dandenong EIA concluded that that the existing supermarket operators within the main trade area would expect a one-off trading impact of between 5 and 6 per cent. Further, the EIA estimated that the total impact on Dandenong Plaza Shopping Centre within the MAC is expected to be in the order of 5.5 to 7 per cent and that this order of impact will not threaten the centre hierarchy or undermine the viability, role, or function of the centre. The EIA concluded that the impacts reflected a normal competitive environment.

(ii) Submissions and evidence

Kaufland supported the findings of the Dandenong EIA.

It highlighted that the EIA found that the five supermarkets within the Dandenong MAC would experience a higher impact on average, but that their continued operation would not be threatened. It concluded that the likely impacts on existing traders in Dandenong need to be balanced against the significant consumer and economic benefits that will result from development (Document 72).

The MGAIR expressed concern that the trade area utilised within EIA for Dandenong did not include three Independent Supermarkets (Dandenong Bottle-O; Dandenong Foodworks; and Menzies Cellars Foodworks) (Document 71).

Greater Dandenong did not challenge the EIA's findings in relation to the specific trade area analysis, competition analysis, projection of sales potential, nor the estimate of economic impact. The submission (Document 78) focused on its concerns regarding the concluding net community benefit assessment contained in the EIA.

As noted previously, no party to the Hearing called its own economic evidence and no party attended the Hearing day where Kaufland's economic witnesses appeared and were available for cross examination.

(iii) Discussion

The Committee considers that the EIA for Dandenong is a robust and valid assessment. It has formed this view from its review of the assessment and from its questioning of Mr Dimasi as well as the findings of Mr Stephens. The Committee accepts the projections of likely trading impacts contained in the assessment. Further the Committee supports the findings that residents and local businesses will enjoy the following benefits arising from the new proposed store:

- substantially improved shopping choice and convenience
- downward pressure on grocery prices
- an additional avenue for retail sales for local suppliers
- local employment creation.

Mr Dimasi addressed concerns raised by MGAIR relating to the lack of consideration of several independent retailer stores in his Addendum Report (Document 84). Mr Dimasi's opinion was that the likely impacts on the three identified stores will not imperil their continued operation. The Committee supports the findings of Mr Dimasi in relation to these matters.

(iv) Findings

The Committee finds:

- the development of the proposed Kaufland Store at Dandenong will provide a range of economic benefits for local and regional shoppers, suppliers and residents
- while a number of short-term trading impacts will be experienced by existing supermarkets, retailers and shopping centres in the trade area catchment, the projected economic impacts are acceptable and within normal competitive tolerances.

5.4 Urban design/built form/landscape

(i) Context

Chapter 3.3 discussed the built form utilised for each site. For Dandenong, the proposal utilises the same design as the other two sites and includes large setbacks from the two street frontages for the primary building, with the loading bay protruding forward closest to the David Street frontage. The building is to be surrounded by car parking on three sides. It is proposed that the car park be re-landscaped, replacing the existing *Robinia* sp. trees with a variety of plants including *Eucalyptus* 'Little Spotty' and *Pyrus* 'Capital'.

The local relevant provisions, in addition to State provisions, include Clause 21.05-1 Urban design, character, streetscapes and landscapes, and Clause 22.03 Urban design in commercial areas.

(ii) Submissions and evidence

Urban design and siting

Submissions raised concerns in relation to the siting of the development, particularly the loading bay. Submitter D04 stated that the proposed loading bay was in the wrong location and should be relocated to where the former Bunnings loading bay was in the north-east

corner of the site. In their view, the siting of the loading bay close to the existing residences would impact on the amenity and peace of the area through noise and odour.

Greater Dandenong's submission raised concerns about the visibility of the plant equipment on the roof. It more generally noted the proximity of the site to surrounding residential areas, and socio-economic profile of the area. It submitted that *"it cannot be assumed that everyone will drive to the site. Rather, it is highly likely that there will be many walking and cycling trips to the store"*. The submission raised concerns about the 2.4 metre proposed trolley enclosure which in its view, could create a 'hiding place' and encourage anti-social behaviour.

The proponent included a draft condition (Document 117 – condition 1b and e) to address Council's concern in relation to the trolley enclosure and visibility of the roof plant by requiring amended plans.

In evidence in response to site planning issues, Mr Czarny considered the building's siting a sympathetic response to the more sensitive interface to David Street. He noted that the primary western elevation consisted of outward facing tenancies, eating areas and the building entrance positioned to the south-west corner exposed to the Princes Highway corner. His view was that *"this is consistent with the 'parallel alignment' of other building stock in the precinct, albeit setback 61.1m from the street"*.

In relation to questions about the siting of the building and position of the loading bay, Mr Czarny noted how the Kaufland model and internal configurations dictated the loading bay's location. Mr Czarny in response to questioning about the position of the loading bay, stated that he too asked the proponent whether the loading could be relocated to the north of the site, consistent with the siting of the former Bunnings loading area. He was given advice that the site had been designed with the requirements of access and loading to suit the Kaufland model. He however, agreed that the loading could be designed differently, and pushed further north or flipped to the other side. Mr Biacsi in response to questions about the siting of the loading bay also thought that the store could be flipped, and the loading bay located to the north. He stated however, that this would result in the entrance of the Dandenong store being located to the north. This was because the design response was a result of store layout and operational requirements of Kaufland.

Mr Gobbo in his closing stated, *"the only realistic change to the layout at Dandenong would involve a full flip of the store."* He reiterated that Kaufland strenuously opposed this change because, and as noted in its Part B submission, the matter raises issues about the acceptability of the proposed layout. The acceptability of the layout should be considered in relation to the context of the site and he submitted that:

- the site *"is not a pristine residential hinterland setting but rather a robust mixed-use setting"* which already experiences commercial and industrial traffic and no limit on after hours' activities
- there is a strategic expectation of substantial change for land nearby
- the visual bulk is ameliorated by a substantial setback of built form from David Street
- noise can be managed through measures detailed by Mr Tardio in evidence.

Mr Gobbo therefore contended that the layout was acceptable.

Landscaping and lighting

Some local submitters raised concerns about the proposed landscaping, although it is noted that no landscaping plans were exhibited. These were provided by the proponent post exhibition. Submission D03 expressed objection to the lack of mature trees in the car parking areas, and lack of mature trees along the Gladstone Road interface. Submission D04 expressed concern at the proposed removal of the existing trees from the former Bunnings car park.

Greater Dandenong opposed the removal of existing trees in the car park area and sought their retention and enhancement.

In relation to landscaping, the proponent presented concept landscape plans for the site as part of its revised plans (Document 30). Mr McWha in evidence explained the rationale behind the removal of the trees. He noted that the arboreal assessment considered the existing *Robinia* sp. trees planted in the former Bunnings car park mostly in poor condition and should be removed. He stated that:

Unlike some other species, these trees do not perform well, with confined 'diamond bay' type root spaces, and their branches can be brittle, and subject to wind damage in exposed locations, which appears to have occurred here.

He supported the retention of the Yellow Box trees, however was of the view that the Southern Mahogany were not a good choice as they are prone to branch and limb drop in strong winds and can cause damage and safety concerns in a car park environment. He recommended that the Southern Mahogany should be removed and replaced.

He noted that the intent of the landscape concept plan was to “*provide an attractive landscape of high amenity, with a strong sense of individual character, which can be identified as a 'Kaufland' store.*” He believed it fulfilled this outcome with a quality landscaped environment.

In verbal evidence in response to discussion about the Princes Highway frontage, Mr McWha thought that more trees could be planted on the corner of Princes Highway if deemed appropriate.

In relation to discussion about the location and function of the plaza areas noted on the plans, Mr McWha considered that the plazas were intended as resting areas for waiting or as a meeting point. He thought that the Dandenong site would benefit from the removal of the two car parks adjacent to the plaza located near the Princes Highway frontage.

Submissions were made in relation to the need for appropriate lighting. For example, Submission D03 was concerned there was a lack of night time lighting for safety in and around the site. Greater Dandenong sought the inclusion of lighting to an appropriate standard throughout the site including the car parking area.

In response to submissions about lighting, the proponent included conditions for amended plans to include details of lighting, as well as conditions limiting amenity impacts caused by the lighting (Document 117 – condition 1d and 29).

(iii) Discussion

Urban design and siting

The Committee does not agree with Mr Czarny's assessment that the site planning is a more sympathetic response when compared to the former Bunnings building. Nor is it reasonable to term the alignment of buildings consistent with other building stock in the precinct when the Kaufland building setbacks far exceed any building in the immediate area. The building siting does not have regard to Clause 22.03 in relation to locating large car parks behind the building line or matching the dominant setback from the road frontage. Nor does it have regard to the UDGV as noted in Chapter 3.3.

For the Committee, it is important to consider amenity impacts because of noise, from the issue of siting and resultant urban design impacts. The siting creates a big building surrounded by car parking on three sides. Clause 22.03 seeks development to enhance streetscape character by *"reflecting the setbacks of residential streetscape if the development fronts a residential street"*. Large setbacks do not ameliorate visual bulk as contended by Mr Gobbo but rather reduce the ability of development to create an attractive interface with a residential interface – the interface proposed is a large car park and loading bay, not an attractive building with active frontage.

The Committee notes Greater Dandenong's assertion that given the socioeconomic profile of the area, that it cannot be assumed most people will arrive in vehicles. Indeed, the purpose of the UDGV and the local policies noted is to consider urban design solutions to improve walking and cycling environments. The Committee does not consider that this development achieves this outcome because the building's siting is buffered by a large car park on three sides.

For Dandenong, the Committee cannot see a valid reason why it is not possible to flip the store and locate the loading area in the north-east corner as per the previous Bunnings store. The store could be shifted towards David Street, and utilise a similar setback as the former Bunnings store on the site and the adjoining buildings to the east. It should be possible to explore opportunities to create an active frontage with tenancies to David Street. This setback could be integrated with a plaza and quality landscaping to create an attractive public realm interface with this street. The store entrance would only marginally shift in location. While this response does not resolve the issue of a large car parking interface to Gladstone Street, it does enable Kaufland to largely maintain its internal configuration, in the absence of any alternative proposition or exploration by Kaufland of other configurations. The Gladstone Street elevation could be improved with further sleeving to improve its integration with the building's surrounds.

It is the Committee's view that logistical and operational efficiencies should not be the only consideration when responding to the development of a site, and that it is important to have regard to good urban design and built form outcomes, as required by State and local policies, which in turn inform whether the layout is acceptable.

Landscaping and lighting

Whilst it is always preferred to maintain mature trees when developing a site, the Committee accepts Mr McWha's evidence in relation to the removal of trees on site due to issues with

their health and/or species selection causing potential safety issues. It agrees with Mr McWha that there is an opportunity to increase tree planting in the Princes Highway frontage area.

The Committee considers that the landscaping is generally well conceived, however is of the view that the plaza area proposed in the Princes Highway street frontage could be improved with the removal of the two car parking spaces. It considers that with a modified layout as suggested, there is an opportunity to include a plaza and landscaped area in the David Street frontage to improve this interface.

The Committee is comfortable with the amended conditions in relation to lighting.

(iv) Findings

The Committee finds:

- the layout in its exhibited form is unacceptable because it does not adequately address relevant urban design and built form considerations
- the layout should be 'flipped' to locate the loading to the north east, to better address David Street with active uses, and provide further sleeving for the Gladstone Street frontage
- the landscape plan is generally acceptable subject to specific changes noted in the recommendations.

5.5 Traffic and access

(i) Context

The subject land is located on the northeast corner of the intersection of Princes Highway and Gladstone Road. Gladstone Road is a local road that runs along the site's western boundary and David Street, while Princes Highway runs across the southwest corner of the site. David Street runs along the southern boundary and is limited to left turn movements at Princes Highway. Gateway Boulevard is a carriageway easement within the title boundary, running generally around the site's northern and eastern boundaries linking Gladstone Road and David Street. It provides shared access to other commercial properties east of the subject land.

The intersections of Gladstone Road with both Gateway Boulevard and Princes Highway are signalised. Gladstone Road has been widened to provide two or more traffic lanes in each direction at both intersections, but between the intersections the carriageway only accommodates two southbound and one northbound lane. Bus stops are provided on both sides of Gladstone Road outside the site.

The car park will have three access points onto Gateway Boulevard, providing primary access via the traffic signals at Gladstone Road and secondary access from the unsignalised intersection at David Street. The loading bay is located in the southeast corner of the building off Gateway Boulevard. Trucks will enter Gateway Boulevard via Gladstone Road and will pull into the enclosed dock area clear of Gateway Boulevard before reversing into the dock bays. Trucks will depart via David Street.

(ii) Submissions and evidence**Traffic**

VicRoads submitted that it is satisfied the traffic impacts of the proposal are acceptable subject to modification of signal timings at the traffic lights at Princes Highway and the widening of Gladstone Road to provide two marked traffic lanes northbound between the two sets of traffic signals. VicRoads noted that the northbound lane squeezes down to around 5.2 metres and with a double right turn out of Princes Highway into Gladstone Road there is an increased safety risk with the additional traffic flow.

VicRoads did not pursue an earlier request for a left turn slip lane at Gateway Boulevard, based on the traffic evidence that it would provide little benefit to the road system.

Kaufland's traffic witnesses argued that the widening of Gladstone Road is not necessary as traffic was observed to travel in two lanes in any event. Ms Dunstan noted that road widening, to a desirable 6.0 metres for two marked lanes, can be costly depending on the provision of services within the nature strip.

The submitters raised concerns with additional traffic, including trucks using David Street causing pedestrian safety issues and noise. Mr Davies' evidence advised that the traffic on David Street would be similar to that generated by the previous Bunnings store on the site.

Parking and pedestrian movements

With respect to the car park, the experts noted that the provision of parking is well in excess of the minimum planning scheme requirements with a provision of 425 spaces compared to a requirement for 296 spaces. The higher level of parking is being provided for amenity reasons rather than based on any empirical assessment.

Ms Dunstan recommended several additional pedestrian paths be provided throughout the car park, addressing concerns raised in the written submission by Greater Dandenong.

(iii) Discussion**Traffic**

The traffic evidence indicated that the northbound queuing on Gladstone Road during both the weekday afternoon peak and on Saturdays would increase from around 30 metres in length to around 90 metres in length, past the bus stop. The queue will extend into the section of road that has a single marked lane. The road network however was modelled with two continuous lanes.

Given the increased traffic and queueing predicted, as well as the location of the bus stop, the Committee agrees with VicRoads that it would be preferable to widen Gladstone Road to ensure that traffic does not queue back onto Princes Highway or create other safety hazards. However, Gladstone Road is a local street under the control of the Council. The Committee did not have the benefit of advice from the Council about this and considers that it should retain discretion on this matter.

With respect to the submitters concerns regarding traffic in David Street, the Committee notes that this site is zoned for commercial use and has existing access rights via Gateway Boulevard onto David Street. It is not unreasonable for traffic from the site to utilise this access. Given

that David Street is configured only for left turn movements at Princes Highway, the Committee notes that this will be a secondary rather than primary site access point and will mostly serve the local community. With an 11-metre-wide carriageway, David Street is designed to accommodate a level of traffic greater than what would be acceptable within a typical residential street.

Parking and pedestrian movements

The level of parking exceeds the statutory requirement by over 100 spaces. The Committee was advised that the high level of parking is for amenity reasons rather than any determined need.

The Committee agrees with Ms Dunstan that a more comprehensive pedestrian network should be provided, and that car parking can be lost to achieve this and other urban design and landscaping improvements. This should include for pedestrian priority, measures where pedestrians traverse between the parking aisles and store entry points.

(iv) Findings

The Committee finds:

- the traffic and parking impacts are acceptable subject to the following requirements:
 - preparation of a Car Park Plan that incorporates a comprehensive pedestrian network that integrates with paths along the external road network and provides for a level of priority for pedestrians crossing from the parking aisles to the store entries
 - widening of Gladstone Road between Princes Highway and Gateway Boulevard to provide for two marked northbound lanes in consultation with the road authority
- the loss of some of the 100 excess car parking spaces to achieve improved landscaping and urban design outcomes is supported.

5.6 Acoustics

Submitters D02 and D04 raised concerns regarding the impact of noise from the loading activities to the residential properties on the south side of David Street.

Mr Tardio provided acoustic evidence (Document 26) supplemented by an addendum (Document 54) that considered the impact of allowing deliveries overnight, with one delivery between midnight and 5:00am and multiple deliveries between 5:00am and 7:00pm.

The loading dock is proposed to be enclosed by an acoustically designed wall and gate. Trucks would pull forwards into the dock area and the gate closed before trucks reverse to the loading dock. Mr Tardio was advised by Kaufland that a Loading and Delivery Management Plan can be implemented that requires the use of broadband reverse beepers or beepers to be turned off and the truck manually guided into the dock. Refrigeration can be turned off or connected to an electric supply to remove the need for trucks to keep idling whilst unloading.

Mr Tardio advised that compliance with SEPP N-1, *Control of Noise from Industry, Commerce and Trade* can be achieved subject to a limitation of no more than one delivery overnight within any 30-minute period. He advised that a semi-trailer will typically take around 30 minutes to unload.

The Incorporated Document contains controls that limit hours of operation of the supermarket to between 7:00am and midnight and waste collection to between 7:00am and 8:00pm Monday to Saturday and 9:00am – 8:00pm Sunday and public holidays. Noise conditions include a requirement that the loading dock gate must remain closed whenever a truck is within the dock area between 10:00pm and 7:00am. A Loading and Delivery Management Plan must be prepared and approved by the Responsible Authority and subject to periodic review. This plan is to include measures to minimise the impact of deliveries on the amenity of the local area.

Mr Tardio advised that the risk of an adverse noise event would be reduced if the loading dock was located on the north side of the building.

The Committee accepts that noise can be controlled to meet the SEPP N-1 requirements. However, this relies on numerous controls with the primary control being to ensure that the acoustic gate is closed before a truck reverses and unloads within the dock area. Risks associated with this could be reduced if the dock was relocated to the north side of the site, in a similar location to the dock for the former Bunnings store on the site. Alternatively, overnight deliveries could be prohibited.

Findings

The Committee finds:

- the acoustic impacts can be appropriately mitigated
- the relocation of the loading dock as recommended in Chapter 5.4 will help to mitigate risks of unacceptable noise impacts on nearby residential properties
- should it be decided that the loading dock not be relocated, then overnight deliveries should be prohibited, with deliveries restricted to the standard hours specified in the EPA Publication 1254.

5.7 Conclusions

(i) Should planning approval be granted?

The Committee concludes:

- The proposed Kaufland Store at 1 Gladstone Road Dandenong should be granted planning approval.

(ii) Changes to Incorporated Document

The Committee considers the Incorporated Document should be amended as follows:

- Replace Condition 1a with: *“The removal of Pylon Sign Type 2”*.
- Modify Condition 1 to include:
 - Relocation of the loading bay to the north-east corner of the site.
 - Active frontage to David Street with outward facing tenancies.
- Modify Condition 2 by replacing the words *“Minister for Planning”* with the words *“Responsible Authority”*, in two places.
- Replace Condition 3 with the following words:
 - *“The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the*

written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority”.

- Delete Conditions 7 and 8 relating to the design and operation of a loading dock located on the David Street side of the building.
- Modify Condition 17 to include a requirement to modify the landscape plan to show:
 - no parking spaces in the triangular island containing the plaza area located near the Princes Highway frontage.
 - increased number of canopy trees located along the Princes Highway frontage.
 - a plaza area and increased landscaping in the David Street frontage.
- Include a new condition, after Condition 39 under the subheading VicRoads Conditions, that states *“Prior to the commencement of use, Gladstone Road between Princes Highway and Gateway Boulevard must be widened to provide for two through lanes in each direction, at no cost to, and to the satisfaction of the Responsible Road Authority, unless otherwise agreed in writing by the Responsible Authority.”*
- Modify Section 4.4 Expiry by:
 - replacing the words *“The Minister for Planning”* with the words *“The Council”*, in respect of the approval of extensions of time
 - replacing the number *“25”* with *“15”*, in respect of the expiry time for exemption for a planning permit for major promotional signage.

These amendments are reflected in Appendix F.

5.8 Recommendations

For the reasons expressed in this report, the Committee recommends that the Minister for Planning:

- 2. Approve the draft amendment to the Greater Dandenong Planning Scheme to facilitate the use and development of the land at 1 Gladstone Road, Dandenong for a Kaufland supermarket and complementary uses with associated carparking and signage in accordance with the approved Incorporated Document, subject to the following changes:**
 - a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix F and make any consequential changes to Clause 72.01 if required.**
 - b) Include Planning Scheme Map (Document 87) in the final Amendment documentation.**

6 Epping

6.1 Context

(i) The proposal

Kaufland Australia is seeking to develop land at 592-694 High Street, Epping for the purposes of a Kaufland supermarket and complementary uses with associated car parking and signage.

The draft amendment proposes the following changes to the Whittlesea Planning Scheme:

- application of the Specific Controls Overlay to land at 592-694 High Street, Epping, formally described as Lot 1 on PS413977W and update the schedule to the Specific Controls Overlay accordingly
- insert “*Kaufland supermarket development, 592-694 High Street, Epping*” in the schedule to Clauses 45.12 and 72.04 as an Incorporated Document.

The key elements of the proposal are outlined in Table 9.

Table 9 Key elements of the Epping proposal

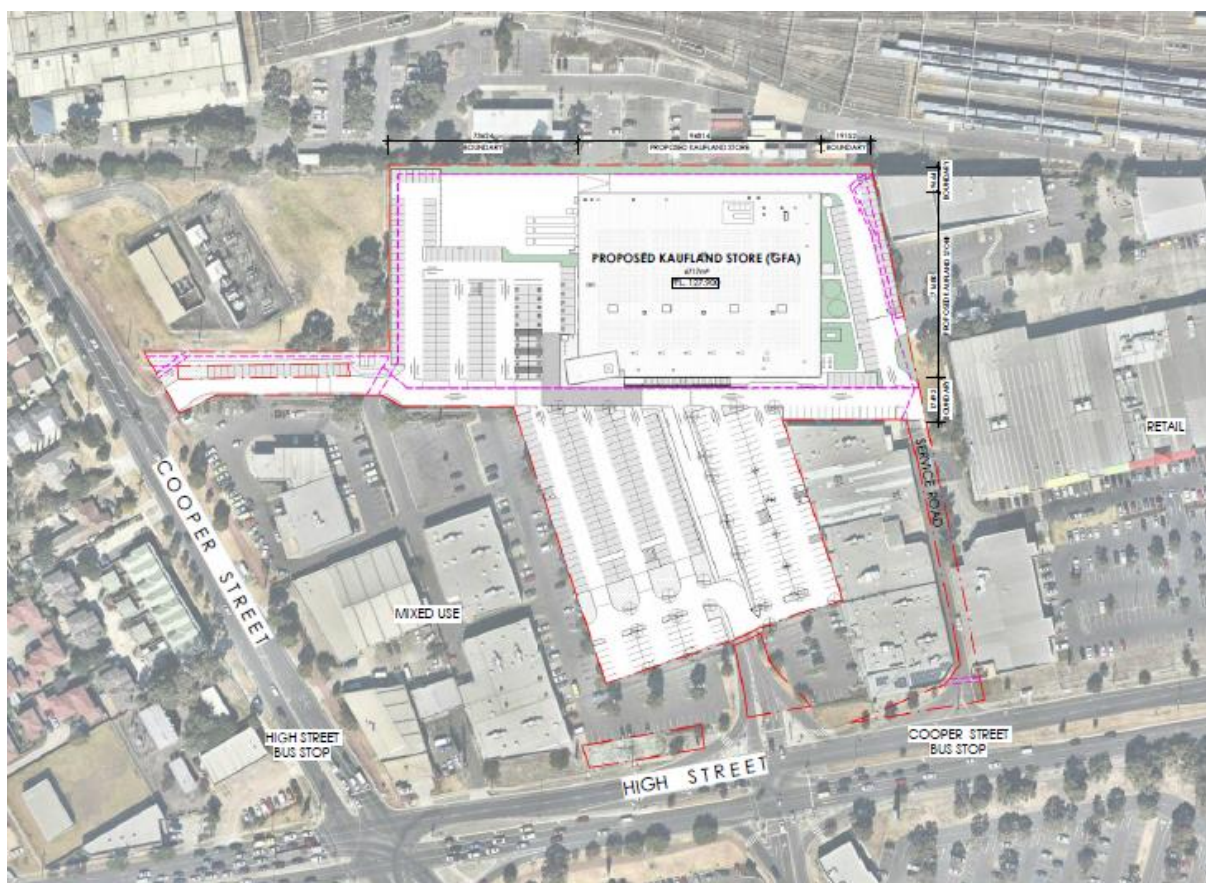
Land Use Mix	A 6,741 square metres building containing the following: <ul style="list-style-type: none"> • 3,610 square metres of supermarket floor area • 354 square metres for bottle shop • 278 square metres for food hall and 108 square metres of outdoor eatery • two complementary tenancies totalling 258 square metres • associated in house facilities including 1,178 square metres back of house facilities and 297 square metres of administration • 648 square metres of non-leasable/services
Built form	A large single storey building with a building height range of 6.7 metres and a feature parapet of 11 metres Construction materials include a mix of feature cladding including concrete panels and planter timber and metal deck roofing
Car parking provision	A total of 486 car parking spaces are proposed to be provided on site: <ul style="list-style-type: none"> • 454 general spaces • 10 accessible spaces • 16 family spaces • 6 senior spaces
Bicycle Parking Provision	36 on-site bicycle spaces
Signage	See Table 2

Loading Bay facilities	Loading and deliveries are located at the south towards the rear of the existing building and will be accessed by Cooper Street and a secondary access from High Street
Access	The primary access is the signalised intersection with High Street, with additional access through Cooper Street

Source: Epping Ground Floor Plan - TP-04 Rev ACP dated 08/11/2018 (Document 27)

The site context plan at Figure 8 sets out the proposed layout.

Figure 8 Epping site context plan



Source: TP Plans Epping, Site Context Plan, p2.

(ii) The site

The site is located at 592-694 High Street, Epping, formally described as Lot 1 on PS 413977W and is located within Whittlesea City Council.

The site is located on east side of High Street, immediately south of its intersection with Cooper Street. The site is part of an established retail centre known as the ‘Epping Hub’, part of the ‘Epping Homemaker Centre’, which comprises two shopping centres on High Street, both with buildings forming a ‘U’ shape around a central parking area at the front.

The site is located centrally to the Epping Central Activity Centre (Figure 9), recognised by Plan Melbourne as one of seven existing MACs.

Figure 9 592-694 High Street, Epping



Source: Epping Town Planning Assessment, Planning and Property Partners, June 2018; p4.

Characteristics of the site are set out in Table 10.

Table 10 Epping site characteristics

Current land use	The site is part of an established retail centre and comprises a large warehouse building which operates as a discount bedding centre and warehouse (previously operated as a Bunnings Warehouse)
Site area	The site has an irregular shape, with a total site area of 30,885 square metres
Frontage and abutments	The site has a frontage to High Street and an abuttal to Cooper Street
Slope	The existing car parking areas are sloped to a modest degree from the west to the east in the context of the site area
Other	The site is affected by 14 easements for the purposes of drainage, sewerage, powerline and carriageway

The site is surrounded by the following land uses set out in Table 11.

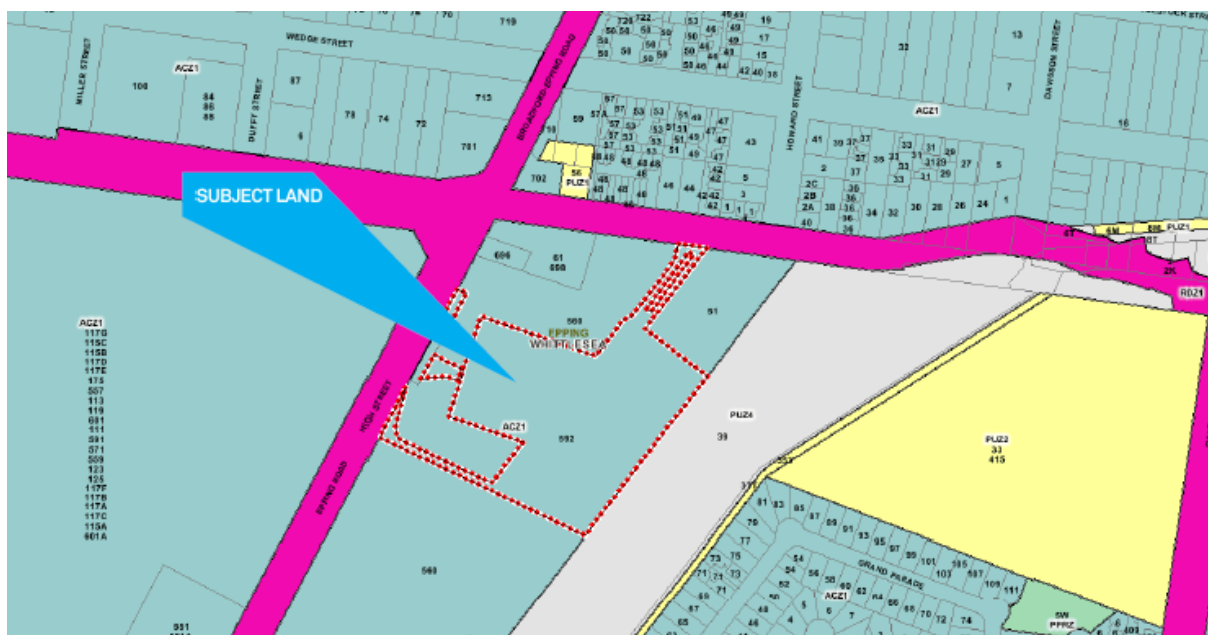
Table 11 Epping site surrounding land uses

North	<p>Comprises several buildings that form part of the Epping Hub, with uses including bulky goods, office, auto repairs</p> <p>A substation operated by SP AusNet is located on the land between the northern end of the existing building and Cooper Street</p>
East	<p>The rear of the existing building is bounded by the Epping Train Depot, which is located on the Mernda Train Line</p> <p>Dwellings exist to the east of the train depot and are primarily dwellings on single lots, separated from the site by approximately 100 metres</p>
South	<p>A large building comprising commercial tenancies is located immediately south of the parking lot, with uses including primarily bulky goods, retail and food and drink premises</p> <p>The site's secondary accessway to High Street runs along the southern side of this building and provides rear access to this building as well as buildings to the south</p> <p>South of this accessway is the second 'U' shaped shopping centre also part of Epping Hub</p> <p>The southern interface with the site is primarily back of house loading bays of the neighbouring shopping centre, although an indoor play area backs onto the train line</p>
West	<p>Across High Street to the west is the Pacific Epping Shopping Centre, with one access provided by the signalised intersection at High Street</p> <p>This indoor shopping mall is set back from High Street with the intervening space comprising car parking</p>

(iii) Planning scheme controls

The site is included within the Activity Centre 1 Zone under the Whittlesea Planning Scheme (Figure 10).

Figure 10 Epping zoning



Source: Document 23c – Expert Witness Statement of Andrew Biacsi, p30.

Within Schedule 1 to the Activity Centre Zone, the site is located in Precinct 6 of the Epping Central Framework Plan (Figure 11).

Figure 11 Epping Central Framework Plan, Schedule 1 to the ACZ



Source: Document 23c – Expert Witness Statement of Andrew Biaci, p32.

The ACZ1 includes objectives about the following matters:

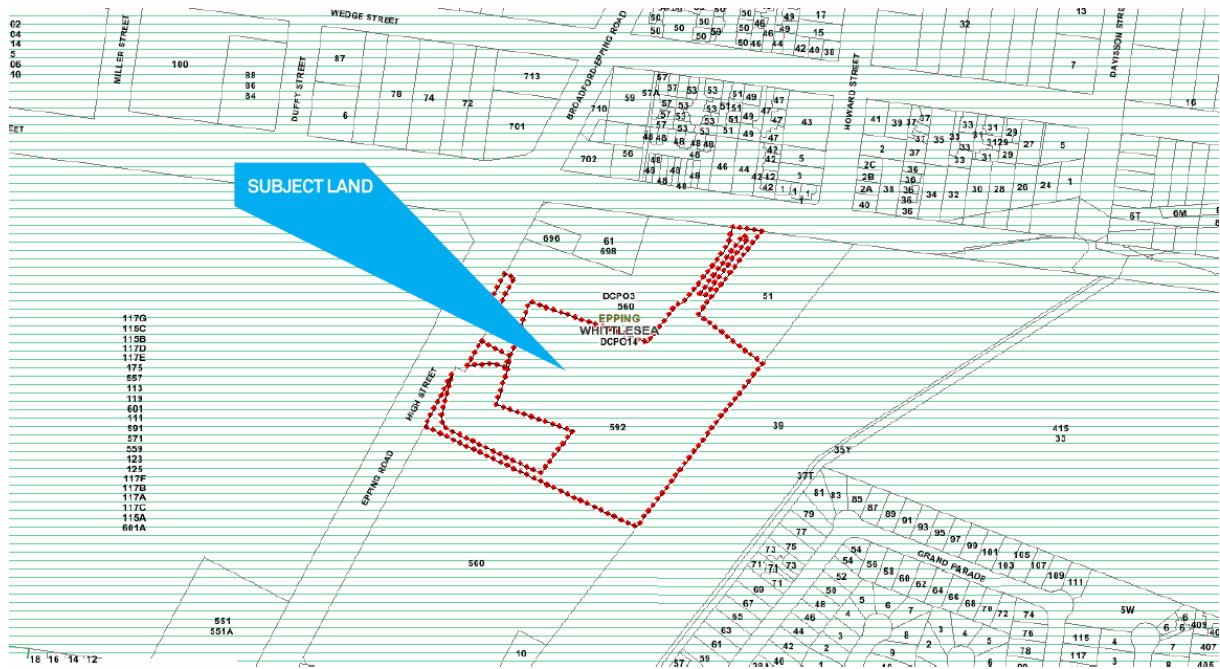
- land use and development
- built form
- transport and access
- environmentally sustainable design
- public realm, open space and landscaping
- land configuration
- master planning
- interim use and forms of development.

It details centre-wide provisions generally about these matters as well as precinct specific provisions.

The Epping site is subject to the following Overlays:

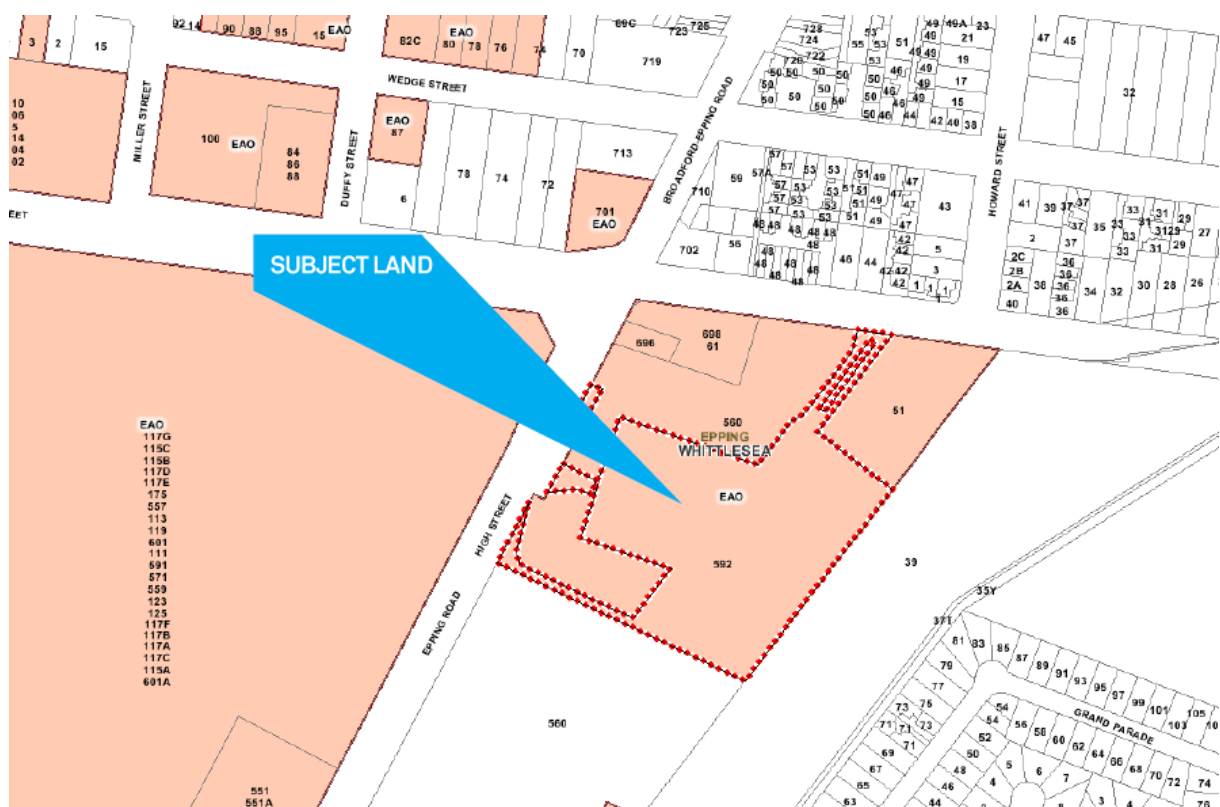
- Development Contributions Plan Overlay (Figure 12)
 - Schedule 3 – Drainage Infrastructure Development Contributions Plan
 - Schedule 14 – Epping Central Development Contributions Plan
- Environmental Audit Overlay (Figure 13)
- Parking Overlay Schedule 1 – Epping Central (Figure 14).

Figure 12 Whittlesea Development Contribution Plan Overlay map



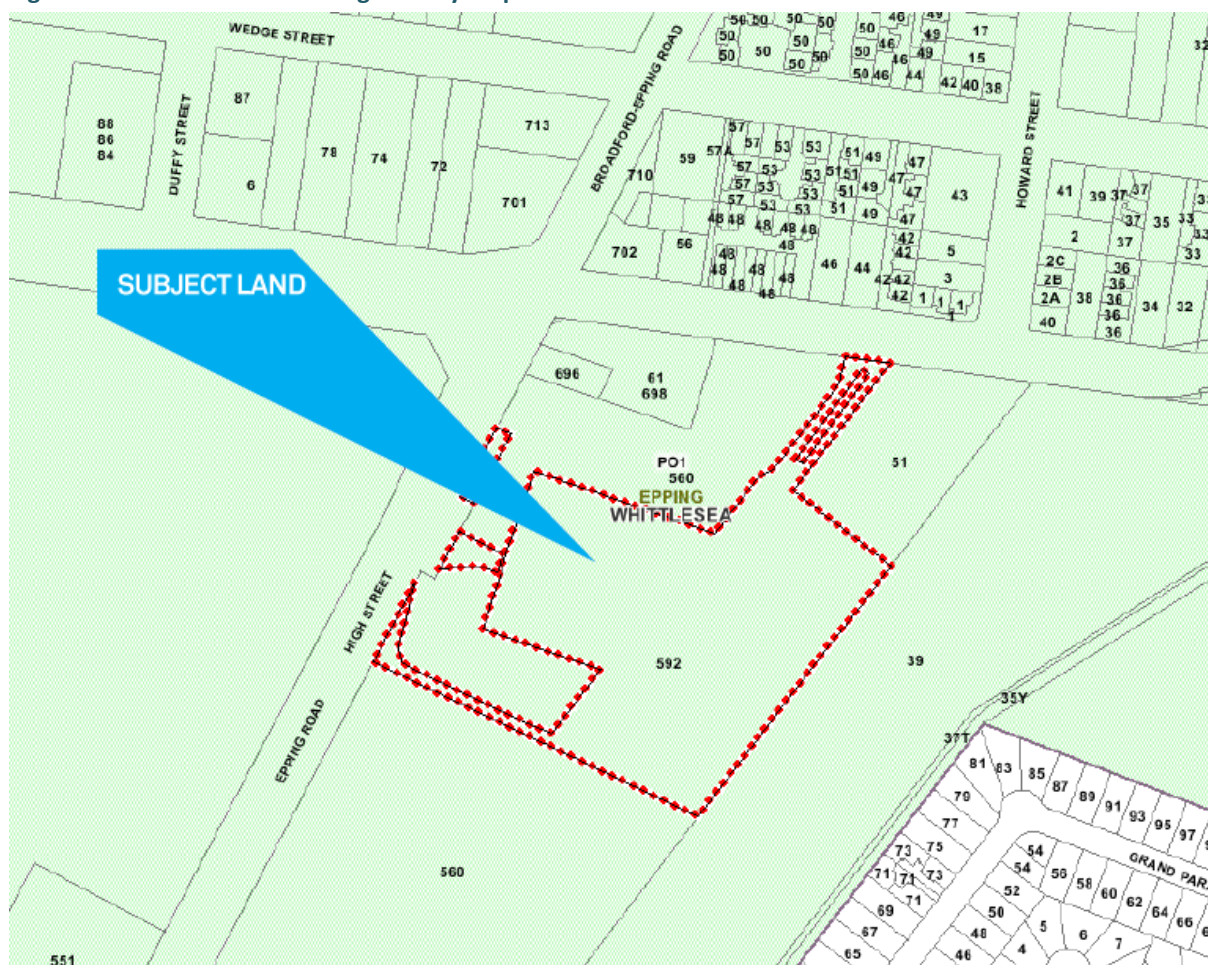
Source: Document 23c – Expert Witness Statement of Andrew Biaci, p31.

Figure 13 Whittlesea Environment Audit Overlay map



Source: Document 23c – Expert Witness Statement of Andrew Biaci, p31.

Figure 14 Whittlesea Parking Overlay map



Source: Document 23c – Expert Witness Statement of Andrew Biacsi, p32.

The following planning scheme provisions trigger a requirement for a planning permit:

- **Clause 37.08 Activity Centre Zone – Schedule 1:** a planning permit is not required to use land as a supermarket, food and drink premises, retail premises within Precinct 6 of the ACZ1. A planning permit is required to use land as a bottle shop. A planning permit is required for buildings and works.
- **Clause 45.06 Development Contributions Plan Overlay – Schedule 3 and 14:** Neither Overlay schedule trigger a planning permit. However, they specify development contributions to be paid to Council based on the type and size of a proposed development.
 - DCPO3 requires \$7.00 per square metre of additional impervious floor area (based on 2006 rates indexed annually). The site is already covered by impervious surfaces, except for the garden beds within the parking lot, therefore there are no contributions required.
 - DCPO14 (charge area 7) requires \$8,833.29 per 100 square metres of floor space (2017 rates). DCPO14 specifies that a development contribution is not payable where the buildings or works comprise the redevelopment of an existing building and the redevelopment does not add any additional demand unit(s) to the land. The question of whether the proposal is a redevelopment of an existing building

and therefore whether development contributions are required to be paid is discussed later in this chapter.

- **Clause 45.03 Environmental Audit Overlay:** A planning permit is not triggered under this provision; however, it requires that either:
 - *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
 - *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*
- **Clause 45.09 Parking Overlay Schedule 1:** This overlay works in conjunction with Clause 52.06 Car Parking and serves to vary the car parking rates. It stipulates the following minimum car parking rates relevant to this proposal:
 - Supermarket – 5 spaces to each 100 square metres of leasable floor area.
 - Shop (other than listed in the table) – 3.5 spaces to each 100 square metres of leasable floor area.
- **Clause 52.05 Advertising signs:** A planning permit is required for the proposed signage as the site is in Category 1 – Commercial Areas with Minimum Limitation.
- **Clause 52.17 Native Vegetation:** A planning permit is not required for planted vegetation if it has not been planted or managed with public funding for land protection of enhancing biodiversity. As the native vegetation was not planted or managed with public funding, no permit is required to remove the planted native vegetation.
- **Clause 52.25 Licensed Premises:** A planning permit is required to sell liquor as a licence is required under the *Liquor Control Reform Act 1998*.
- **Clause 52.29 Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road:** Both High Street and Cooper Street are Road Zone, Category 1. Any changes to access to these sites or any subdivision would require planning permission and would require the application to be referred to VicRoads as a determining authority.
- **Clause 52.34 Bicycle Facilities:** The bicycle parking and end of trip facilities required by Clauses 52.34-3 and 52.34-4 are provided or proposed to be provided by condition.

6.2 Planning issues

(i) Context

Matters concerning the proposed application of the Specific Controls Overlay accompanied by an Incorporated Document have been addressed by the Committee in Chapter 3.1 of this report.

The subject site is zoned ACZ1, some of the key purposes of which include the encouragement of a mixture of uses and the intensive development of the activity centre as a focus for business, shopping, working, housing, leisure, transport and community facilities. The zone seeks to maximise infrastructure and create pleasant, walkable, safe and stimulating environments through good urban design.

The subject site is located in Precinct 6b of ACZ1. Several objectives and guidelines are specified in ACZ1 relating to built form, transport and access, environmentally sustainable design, public realm, open space and landscaping. The content of ACZ1 has been informed by the Structure Plan which is a Reference Document. An overview of the Structure Plan is provided in Chapter 2.4.

A Shop and Supermarket in Precinct 6 are both Section 1 – Permit not required uses.

The site was previously developed and used as a Bunnings store and is now used as a homemaker centre.

(ii) Submissions and evidence

Kaufland submitted the proposed supermarket and associated uses at Epping have strong strategic support (Document 72):

There can be no doubt that the proposed supermarket and associated uses at Epping have strong strategic policy support. This is because:

- (a) The site is within the Epping Central Metropolitan Activity Centre;*
- (b) 'Shop' is an as-of-right use in Precinct 6 of ACZ1; and*
- (c) Precinct 6 is specifically encouraged to develop with regional-focussed retail-based development.*

Kaufland submitted that the proposed development directly responds to several key 'Land use and development objectives to be achieved' specified in Clause 2.0 of the ACZ1 including to:

- *diversify the local retail offer and help to reduce escape expenditure*
- *facilitate the development of Precinct 6 as a major commercial precinct with a regional retail focus that reinforces the precinct's role as Epping Central's core retail area.*

In response to submissions from Council, QIC/Bevendale and MGAIR, Kaufland acknowledged that the proposal may be considered an underdevelopment of the site, both in terms of the mix of uses and the built form proposed. However, having noted the objectives for the Precinct seek intensive uses and development of the land, Kaufland highlighted that an Objective specified for Precinct 6b within ACZ1 at Clause 5.6.2 specifically recognises the challenge of achieving this outcome in the short-term:

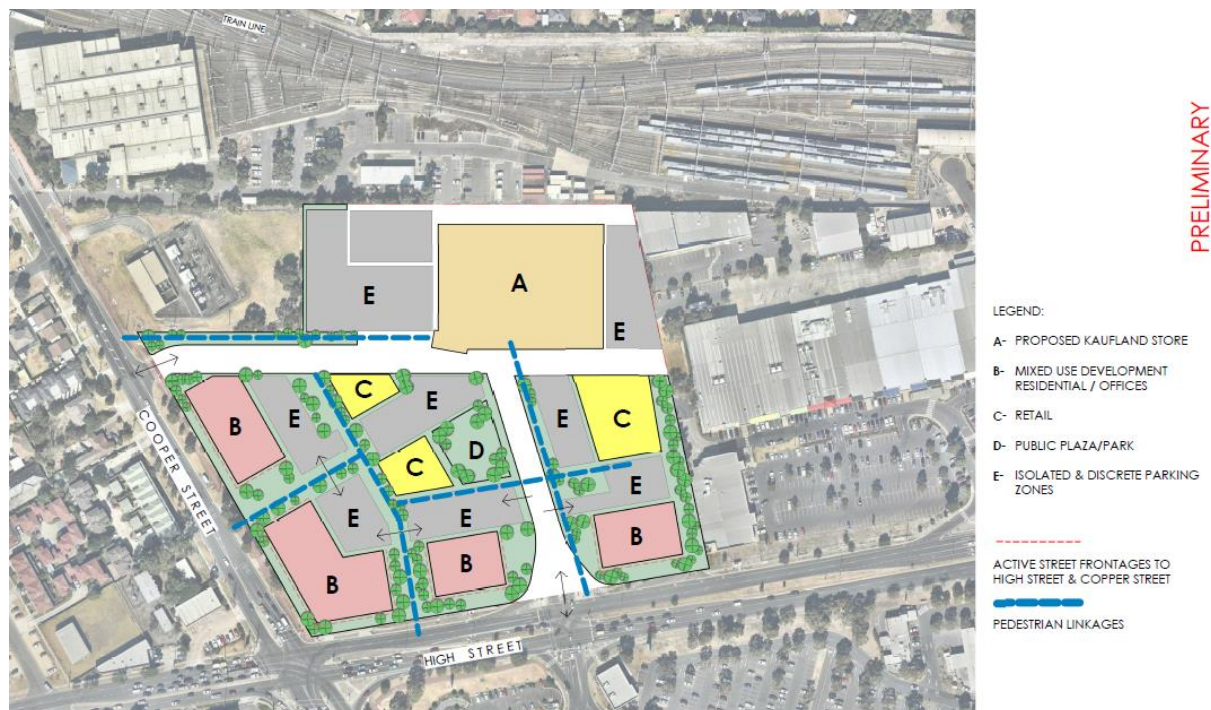
- *To recognise that the existing subdivision pattern and legal constraints may prevent achievement of these objectives in the short term.*

Further, Kaufland noted that Clause 2.0 recognised that interim uses and a form of development that depart from the provisions of the ACZ1 may be necessary. Kaufland submitted that it is unrealistic for Council to expect that every site within Precinct 6 will achieve a high-density mixed use built form.

In respect of suitability of the site for the proposed nature and form of the development, Kaufland submitted that the site was ideal and that such large land parcels were incredibly rare to find within existing activity centres. It contended that the proposed development was appropriate at this time and would not compromise the realisation of a more intensive built form being developed on the site in the future in accordance with the 20-year vision contained

in the Structure Plan. In support of this submission, Kaufland tabled a Preliminary Context Plan (Figure 15) which included several mixed-use residential nodes and retail pad sites with associated car parking and a public plaza/park (Document 75).

Figure 15 Kaufland Preliminary Context Plan



Source: Document 75

Mr Biacsi's planning evidence concluded that planning policy supports the continued growth, diversification and concentration of major development such as is proposed by Kaufland into Activity Centres. He opined that the proposed use is likely to provide a point of difference, increased choice and competition *"thereby complementing and enhancing rather than fragmenting the retail offer in the Pacific Epping Shopping Centre"*. Mr Biacsi was satisfied that the proposed land use is appropriate for the site having regard to the PPF, the Structure Plan and the provisions of the ACZ1.

Mr Biacsi noted that the impacts of the development can be managed to achieve an acceptable outcome and that the layout and built form implications of the proposed development are well resolved given the particularly large irregular shaped site. In relation to staging and the ultimate preferred built form outcome for the site, Mr Biacsi noted that the proposed use and development will not unreasonably prejudice any longer-term strategic outcomes for the MAC in terms of built form or land use intensification.

Mr Clarke's planning evidence was unequivocal that the use of the land proposed by Kaufland is strongly supported by State, regional and local planning policy. His evidence highlighted that supermarket, retail premises and food and drinks premises are all Section 1 (as of right) uses in ACZ1.

No other party to the Hearing called planning evidence.

Whittlesea submitted that it welcomed investment in the Epping Central Activity Centre and *“acknowledge the permissibility of the supermarket land use on the subject site”* (Submission E03). However, Council submitted it does not support the proposed development in its current form as it considered the proposal does not advance the vision for the precinct as contained in the Structure Plan and various controls and policies contained within the Whittlesea Planning Scheme.

Mr Montebello submitted (Document 80) that the proposal is not only inconsistent with but frustrates the achievement of the purpose-built planning control that applies to the Epping MAC. Key areas of concern to Council focussed on the lack of increased density and lack of diversity of land uses proposed by Kaufland. The Committee addresses the concerns by Whittlesea in relation to its concerns regarding the proposal’s non-compliance with the built form and urban design objectives and strategies contained in ACZ1 in Chapter 6.4.

The Committee asked Mr Montebello whether he thought the supermarket would be successful in the proposed location, to which he replied that there would be no doubt whatsoever that it would be. Notwithstanding, Mr Montebello urged the Committee to recommend against planning approval.

QIC/Bevendale submitted that the Kaufland proposal for the subject site was inconsistent with the Structure Plan. Mr O’Farrell noted that Whittlesea Council and Pacific Epping have long been active in the structure planning for the Epping MAC. He submitted that the Structure Plan calls for the further consolidation, expansion and intensification of development, and that the proposal seeking to be advanced by Kaufland does not reflect these planning policy directions. Mr O’Farrell further submitted that Kaufland’s proposal is not an interim use, but rather an underdevelopment of the site. He said no effort had been made by Kaufland to collaborate with its surrounding land owners to ensure an integrated outcome. The submission concluded that the proposal ought not be approved.

With regard to the status of the Preliminary Context Plan, Kaufland’s submissions in reply (Document 103) stated that the plan demonstrated the significant future potential to meet the strategic vision for Epping Central and that the current proposal does not preclude the potential for Aventus and Kaufland to undertake a future master planning process to build upon the Preliminary Context Plan. Mr Gobbo submitted that the Committee should reject Whittlesea’s submissions that the proposal represents an underdevelopment of the site and that there is nothing in ACZ1 to suggest that a master planning exercise should be undertaken in relation to Epping Hub prior to this proposal being approved. He submitted that the evidence of Mr Czarny, Mr Clarke and Mr Biacsi was that the proposal would not prejudice the ability to realise the long-term strategic vision for Epping Central.

Mr Gobbo further submitted that while not every component of policy is met, the proposal does meet policy objectives that encourage the establishment of a significant new retail use in the retail core of Epping Central (Document 103). He concluded that there is a significant net community benefit to be derived from the proposal *“not only to the centre as a whole by adding a significant draw card to the area, but to the State of Victoria by facilitating this new entrant to the market”*.

(iii) Discussion

No party to the Hearing questioned the permissibility of the use of the subject land for supermarket, retail premises, and food and drink premises. The Planning Scheme is clear that the uses proposed by Kaufland are Section 1 - Permit not required uses, and that the site is located within a precinct that has as an overarching objective to accommodate commercial uses which have regional demand. ACZ1 at Clause 2.0 includes several objectives that the Committee considers lend additional policy support for the proposal, including that:

- encourage retail uses on the subject land which diversify the local retail offer and help reduce escape expenditure
- seek to facilitate the development of the subject land and the surrounding precinct as a core retail area of Epping Central.

The Committee considers the Kaufland proposal responds positively to these overarching land use and development objectives to be achieved. Further, the Committee notes that no party to the Hearing seriously challenged Kaufland's proposed location of the supermarket within the subject site as being unresponsive to planning policy, nor did submitters oppose the redevelopment of the existing Homemaker Centre on first principles. Issues of concern and opposition related to the proposed design elements, or perceived lack of design integration and response to the proposed 20-year vision for the Epping Hub.

In this regard the Committee agrees with the Whittlesea and QIC/Bevendale submissions that the proposal as reflected in the current plans before it, does not garner the same level of policy support for 'design' as it does for 'use'. As discussed in Chapter 6.4, the Committee considers that the design currently does not adequately respond to the precinct guidelines contained within Clause 5.6-4 of ACZ1 and other higher order policy objectives relating to urban design, landscape and accessibility. Having noted this however, the Committee does not accept Mr O'Farrell's submission that "*a refusal is the best outcome for delivery of strategic outcomes*". The Committee considers that subject to the inclusion of a number of additions and modifications advocated by the urban design expert witnesses during the Hearing, the plans can be modified to reflect an acceptable built form outcome.

Under questioning from Mr O'Farrell, Mr Clarke did not agree that the development should be refused if the proposal brings about an underdevelopment. The Committee accepts Mr Clarke's opinion in relation to this. The Committee agrees that the Structure Plan has a 20 plus year implementation timeframe and that approval of this development will not foreclose on the realisation of other long-term strategic outcomes for the site.

The Committee accepts the submissions advanced by Mr Gobbo that neither the ACZ1 nor the Structure Plan specifically seeks the preparation of a masterplan for the subject site as a precursor to a future development approval. The Committee agrees that the ACZ1 is clear that further master planning specifically sought by Clause 2.0 and 5.6-4 applies to the eastern side of High Street, opposite the subject land. Further in relation to master planning, the Committee considers:

- there are beneficial outcomes that can be gained by advancing further master planning of the broader '*strategic redevelopment site*'
- Council is well placed to take a lead in advancing the master planning given that there is more than one land owner in the precinct

- achievement of the broader urban design, density, movement and integration outcomes sought by the site-specific control reflected in ACZ1 will not unduly be hindered by granting planning approval to facilitate the development proposed by Kaufland (with modifications to the current plans).

In relation to the above, the Committee accepts the evidence of Mr Clarke in response to questioning by Mr O'Farrell that co-operation between land owners in activity centres is rare, however, it should continue to be pursued. The Committee notes that its review of the Pacific Epping Concept Plan (Document 76), that was lauded by Mr O'Farrell and Mr Montebello, is site specific to the land holdings of QIC/Bevendale. It does not address any adjoining land.

Chapter 6.4 further describes and assesses matters concerning urban design, landscaping and built form.

(iv) Findings

The Committee finds:

- the Whittlesea Planning Scheme contains significant State and local planning policy support for the use of the land for supermarket and ancillary shop uses proposed by Kaufland
- the siting of the proposed development is appropriate
- the proposed development can provide a catalyst for future redevelopment of the balance of the site and wider precinct
- a number of urban design, built form, landscape, vehicle and pedestrian movement issues require resolution prior to planning approval being granted.

6.3 Economic impact

(i) Context

The Epping EIA concluded that the existing supermarket operators within the main trade area would expect a one-off trading impact of between 5 and 6 per cent. Further, the EIA estimated that the total impact on Pacific Epping is expected to be in the order of between 3 and 4.5 per cent, which is less than one year's growth in available trade area retail expenditure. According to the EIA, this order of impact will not threaten the centre hierarchy or undermine the viability, role, or function of the centre.

(ii) Submissions and evidence

Kaufland supported the findings of the Epping EIA.

It highlighted that the EIA found that the three chain supermarkets within Pacific Epping would experience a higher impact on average, but their continued operation would not be threatened. It concluded that the likely impacts on existing traders in Epping need to be balanced against the significant consumer and economic benefits that will result from development (Document 72).

The MGAIR expressed concern that the trade area utilised within EIA for Epping did not include three independent operators (Bowens Timber and Building Supplies Epping; Dalton Village Epping Foodworks; and The Bottle-O Thomastown) (Document 71).

Neither Whittlesea nor QIC/Bevendale made submissions concerning economic impact.

As noted previously, no party to the Hearing called its own economic evidence and no party attended the Hearing day where Kaufland's economic witnesses appeared and were available for cross examination.

(iii) Discussion

The Committee considers that the EIA for Epping is a robust and valid assessment. It has formed this view from its review of the assessment and from its questioning of Mr Dimasi as well as the findings of Mr Stephens. The Committee accepts the projections of likely trading impacts contained in the assessment. Further the Committee supports the findings that residents and local businesses will enjoy the following benefits arising from the new proposed store:

- substantially improved shopping choice and convenience
- downward pressure on grocery prices
- an additional avenue for retail sales for local suppliers
- local employment creation.

Mr Dimasi addressed concerns raised by MGAIR relating to the lack of consideration of a number of independent retailer stores in his Addendum Report (Document 84). Mr Dimasi's opinion was that the likely impacts on the Foodworks within the Dalton Shopping Centre may to experience an impact that *"will be considerably smaller than the (5% to 6%) average, if there is any noticeable impact at all."* The Committee supports the findings of Mr Dimasi in relation to these matters.

(iv) Findings

The Committee finds:

- the development of the proposed Kaufland Store at Epping will provide a range of economic benefits for local shoppers, suppliers and residents
- while several short-term trading impacts will be experienced by existing supermarkets, retailers and shopping centres in the trade area catchment, the projected economic impacts are acceptable and within normal competitive tolerances.

6.4 Urban design/built form/landscape

(i) Context

The proposal consists of the same design as the other sites. It seeks to replace the existing structure located at the rear of the site with a Kaufland supermarket. The existing car park that immediately fronts High Street is on land owned by Aventus. It is proposed to retain this carpark. The extension of the car park onto the subject site is proposed to be retained, albeit with part of it regraded to achieve a maximum two per cent grade to reduce risks associated with errant shopping trolleys. The car park would therefore include an east–west retaining wall along the northern property boundary. It is proposed that the existing *Corymbia* sp. trees are replaced with a variety of plants including *Eucalyptus* 'Little Spotty' and *Pyrus* 'Capital' as the main car parking trees.

The provisions to guide built form, in addition to State policy, are primarily contained within the ACZ1.

(ii) Submissions and evidence

Urban design and built form

The Whittlesea submission noted the strategic intent of Epping Central as a MAC, and that the Structure Plan and ACZ1 seek the centre's redevelopment as a mixed use, high density urban environment. The Structure Plan identifies the site as a strategic redevelopment site. Given the proximity of the site to the Epping Train Station, the Structure Plan provides guidance for the land's redevelopment to:

Incorporate a mix of uses at higher densities, public open space, a fine-grained pedestrian network and high quality urban design.

Mr Montebello contended that:

In terms of delivering upon the vision of the Structure Plan, this proposal is undoubtedly the poorest of designs on the most strategic of sites.

He submitted that Whittlesea expects that new development considers the provisions of the planning scheme and the vision identified for the site. Furthermore, Council did not accept new development which proposes a 'like for like' response based on development which pre-dates the ACZ1 and Structure Plan. He submitted (Document 80) that:

The proposal is inconsistent with the purpose-built planning control that applies to the Epping MAC in the context where the planning scheme provisions explicitly seek a clear and different direction. The proposal is not only inconsistent with the planning control in the sense that it is not supported by it, but worse still, the proposal frustrates the achievement of the planning controls objectives more broadly.

Mr Montebello went through various parts of State and local policy, as well as ACZ1, as did Mr O'Farrell for QIC/Bevendale to reinforce Council's view of non-compliance. He submitted that replacing the existing building with 'like for like' was not an acceptable outcome, nor was it reasonable to consider the proposal an interim development, as could be provided for by the ACZ1. It was Council's view that the Kaufland proposal:

If allowed, will be a long-term land use that will not change in future benevolently to meet the requirements of the planning scheme. Indeed, apart from the fact that it won't need to, the planning scheme will not apply to it given the drafting of the incorporated document which excludes all other provisions. Furthermore, we also suspect that Kaufland will not tolerate being built out so as to have the so called "aperture" closed so that the store is tucked away behind a redeveloped frontage to High Street.

Mr Montebello asserted that the development is likely to impact on the redevelopment of other titles in the precinct in accordance with the vision of the Structure Plan, and thwart integration and improvement to public realm amenity.

He stated that the proposal, in addition to not providing for a mix of uses and more intensive development, failed to address other specific built form and urban design provisions of the ACZ1. These included:

- lack of sleeving of the large store with smaller scale buildings or uses
- no provision for significantly more greening
- lack of integration of open space because the public plazas provided are insufficient
- inadequate weather protection for pedestrians
- no provision for public art work.

Mr Montebello contended *“the proposal fails to make a marked contribution to the public realm, makes no provision for open space and provides a poor landscaping proposal”*.

The evidence of Ms Roberts supported Council’s assertion in relation to the deficiencies of the proposal. In her view, the low scale, single use development replicated the existing built form, and did little to respond to policy requirements or the vision for the centre. She considered that the large, low height form provided little opportunity to enhance interfaces, improve pedestrian outcomes, or provide for a range of uses. A taller built form with a mix of uses would provide for *“a varied time-frame of occupation often associated with a mix of uses, particularly commercial and residential uses”* which, she said, this proposal did not.

Ms Roberts supported Council’s request for:

A plan that shows how the site may accommodate future development that does respond to the policy context. This plan should show potential pedestrian, cycle and vehicle access routes, potential massing and open space and landscape opportunities.

She was of the view that a masterplan should be prepared for the corner site between Cooper Street, High Street, and the rail lines, including the land owned by Aventus, prior to the proposal’s further consideration. The masterplan should show *“how the proposal responds to the desired future character of the activity centre including the provision of internal movement networks, landscaping opportunities and development parcels”*, and include features such as:

- future multi-level additions above the proposed supermarket
- indicating how equitable development can occur on surrounding sites in relation to setbacks and separation distances for apartments, access and car parking
- the extension of pedestrian-based retail along High Street south of Cooper Street
- internal streets which connect through the site to create increased permeability from the Plaza to the station
- avenue planting
- how development parcels could evolve into finer grain development.

Submissions for QIC/Bevendale raised concerns with the proposal. Mr O’Farrell submitted that single storey, car based, single use centres were a thing of the past, and *“contemporary town planning practice eschews such a concept”*. He submitted that the Kaufland site was part of a strategic redevelopment site which has a regional retail focus with specific built form objectives. He said the Kaufland proposal does not respond to the directions established for the precinct. He submitted that the development was not an interim use, but rather an underdevelopment, and noted that none of the Kaufland witnesses could *“point to much at*

all about this proposal that responds to the objectives". He contended that Kaufland had failed to collaborate with the surrounding land owners.

Mr O'Farrell submitted *"that it is readily apparent that this proposal would not be given a planning permit in light of the policy and controls that apply"* and questioned why a planning scheme amendment would authorise something when a permit would not issue. He stated that facilitation of new players in the retail market, whilst worthy, ought to be done in a responsible way given the strategic role of the MAC in broader metropolitan planning policy. He submitted the Committee should:

... send a clear message to Kaufland that the standards that are expected for Metropolitan Activity Centres in this State are much higher than the standard of the proposal that Kaufland has put before the Advisory Committee.

Kaufland's experts had a different view.

Mr Clarke considered the proposed building *"contemporary but nevertheless uncomplicated in design"*. He said because the building is well removed from dwellings, there will be no adverse built form impacts and that the proposal is strongly supported by policy.

Mr Biacsi considered the layout and built form to be well resolved. In verbal evidence, he noted how the interim development provision in the ACZ1 had been advanced by himself and others with the view that the Structure Plan would not be delivered overnight. He considered the proposed development would not prejudice the outcomes sought by the Structure Plan. He contended that the development enables the repurposing of the site with a valuable resource by an important retailer.

Mr Czarny shared the view that the proposal's *"configuration does not hamper realisation of the long-term aspiration [for the Centre] and provides the foundation for what I consider to be an enhanced 'status quo'."* He acknowledged however that the proposal *"does not deliver the ultimate vision"* and stated:

It is in my view problematic to enforce a rigid interpretation of ACZ1 siting and design ambitions, particularly where land is constrained in dimension and address ... In response to these particular conditions and existing setback development, I have no difficulty with a large format store as proposed as a replacement building. While this design response is distinctive to the ambition for land around it (addressing High and Cooper Streets), the proposal will not compromise the presentation of the High Street spine and establish a meaningful destination in its own right as a complement to the activity precinct.

The proponent submitted that Kaufland is limited in its selection of sites which will accommodate the large area it requires for a store. The Epping site had already been developed with a large format retail facility with ample car parking and was eminently suited to Kaufland's proposal. However, *"Kaufland's model is not well suited to the aspirational form of development sought by the ACZ1"*.

Mr Gobbo stated that Epping ought not be compared with inner city locations with very high land values with *"vastly different factors influencing the economic viability of developing land"*. He contended that to require the development to provide for future upper levels of development would likely have a significant impact on the viability of the development and

“is unnecessary in circumstances where the building could be developed and the site re-developed when the market is ready for that sort of development”.

He submitted that the proposal does not depart from the provisions of the ACZ1 and is consistent with its intention to expand a regionally focussed retail offer in the precinct by supporting a new supermarket entrant and destination in the centre. Mr Gobbo contended the proposal was consistent with the building height range sought by the control and the proposal does not compromise the delivery of the objectives. Further, he said:

It also does not prejudice the ability to develop any of the land directly adjacent to High Street or indeed the vast majority of the car parking areas in the future.

Mr Gobbo stated that it could not be suggested that the proposal is premature without a masterplan because there is no requirement for one for this precinct:

Without conceding the need for master planning as part of this process, and to demonstrate that the Kaufland store would not prejudice the achievement of a mixed use multi-level future for the area, Kaufland has produced a concept plan.

The Preliminary Context Plan (Document 75) noted by Mr Gobbo provided a plan encompassing land owned by both Kaufland and Aventus. It showed potential development parcels for mixed use development with residential, offices and retail, along with an area of public park/plaza, pedestrian connections, and isolated and discrete parking zones (see Figure 15).

Landscape

In relation to landscaping matters, Mr Montebello noted the ACZ1 sought *“significantly more greening”*. He stated: *“the proposal responds by providing hardly more than a like for like tree planting strategy for a 1960’s open lot car park.”* He noted that Parking Overlay Schedule 1 requires the provision of one tree per every eight spaces in surface car parks, and the structure plan specifically seeks trees in garden bed plots. Council did not support the removal of the existing trees.

In evidence, Mr McWha stated that the existing spotted gum trees in the car park provide little shade because of their height, and do not create a canopy effect. He further stated they are subject to the dropping of limbs, creating safety concerns. Furthermore, due to the excavation of the car park for regrading, it would not be possible to create sufficient tree protection zones without the substantial loss of car parking. In any event, trees of a medium height are preferred to create more amenity and shade, compared to the existing very tall trees.

In relation to the number of trees proposed, Mr McWha advised that more than one tree per eight car parking space has been provided on site, and that the provisions in the Scheme did not require that the trees are to be located within the car parking area. He did note however, that it would be possible to provide additional trees on site. Mr Gobbo confirmed that the proponent is not averse to providing additional canopy trees at the rate of one tree per eight car parking spaces calculated across the car park only, as noted in the amended Incorporated Document (Document 115, condition 12e).

In relation to the provision of trees in garden bed plots, Mr McWha was of the view that garden beds can often be trampled when located within car parks. Mr Gobbo stated that

Kaufland's preference was for diamond bay configurations to support the trees in the car park, which could be supplemented by water-sensitive urban design (WSUD) treatments yet to be designed.

(iii) Discussion

The Structure Plan has a specific vision for the site with a clear retail focus and high amenity outcome. The site is very close to the Epping station, and has the potential to achieve the broader strategic planning goals in this strategically positioned MAC.

The site in its current form is clearly underutilised and in need of reinvestment. Previous discussion has noted that the use of the land as a supermarket is not at issue. Indeed, the Committee agrees with Mr Montebello's statement that supermarkets tend to thrive in activity centres. Therefore, once built, Kaufland is unlikely to be an interim use of the land, and the building is unlikely to undergo significant redevelopment which would undermine its day to day operations.

The Committee asked Mr O'Farrell whether his client, as the key landholder in the Epping MAC, had sought to discuss a possible site for the location of the Kaufland supermarket on its land. Mr O'Farrell replied that to the best of his knowledge, his client had not.

Thus, in a broad sense, the development of the site for a supermarket is something which the Committee welcomes because it is likely to drive further revitalisation and investment in this Precinct. The Committee does not accept the propositions put by both Mr Montebello and Mr O'Farrell that the proposal is akin to placing a new 'big box' in a 'sea of car parking'. The subject land is part of a well-established precinct in Epping, which is itself, one of many precincts that make up the MAC. This proposal will not result in an isolated stand-alone supermarket, rather it will be surrounded by existing retail, office and other business uses. Importantly, the renewal of the site could legitimately act as the catalyst in regenerating Epping Hub, which will be a positive outcome.

In saying this, the Committee acknowledges that there are challenges in terms of the site's development because of the current lot configuration. The title boundaries provide only for access off High Street, allowing no opportunity for development at street level along this frontage. The Committee therefore agrees with the proponent's logic that it is not possible to address High Street with the built form as the title boundaries do not allow for it.

However, the Committee notes that Kaufland appears to have made little attempt to discuss the development of the site with the Council or with adjoining land owners. The ACZ1 is quite a detailed and specific control in relation to built form, and it raises the need for reconfiguration of titles and collaboration to realise the vision of the Structure Plan.

The Committee finds it disappointing to learn that no attempt was made to reconcile this issue, particularly when the regrading of the car park will create a physical barrier and potentially reinforce existing title boundaries rather than working towards an improved integrated public realm outcome.

In relation to the siting of the building, the Committee broadly agrees with the proponent that the siting of the building will not preclude the realisation of the vision for the Structure Plan. It considers that the location of the site within the Precinct is suitable for a supermarket. It is

of the view that it is not necessary to require multi storey development on every square metre of the site to realise the vision, or to require multi-use in every building. There has been no evidence to show that a specific plot ratio or dwelling yield is required for the precinct. It considers that the balance of the site will form development parcels over time which should however be developed with multi-use and multi-level buildings, to meet the mixed use and multi-level built form requirements of ACZ1.

Having said this, little effort was made by Kaufland to consider how the balance of the site could be developed, or indeed, how the proposed supermarket building might contribute to a more strategic response for the site and more broadly, the opportunities for redevelopment of the wider Epping Hub precinct. Through this Hearing process, the proponent recognised the need for a more holistic approach because it provided a Preliminary Context Plan to provide a high-level overview of the potential development of the land with pad sites and connections. The plan however, has no status or ownership.

While the Committee finds it useful to provide a masterplan to address unresolved urban design and built form matters, it considers that the concept should be further developed to provide more certainty and detail and consistency with the built form and urban design outcomes sought by the ACZ1. Building on the work presented in Document 75, the Committee agrees with Council and Ms Roberts that a more refined master planning process should be undertaken to inform the future development of the balance of the site.

However, it sees that it is the role of Council to further this plan, and not for an individual landowner given that it involves multiple landowners. There are aspects of this development which can be improved to advance core parts of the strategic vision, such as:

- sleeving of the building to ensure active uses along the main building frontage
- a central boulevard for the main east-west spine off High Street that incorporates a shared pedestrian/cycle path, with the shared path continuing through to Cooper Street
- provision of public art
- integration of weather protection measures for pedestrians
- provision of a large publicly accessible plaza connected to the boulevard which is not shade prone.

The Committee notes the discussion at the Hearing in relation to the low traffic volumes along the central access spine off High Street and potential to narrow the carriageway as an opportunity to further improve the public realm outcomes sought by the ACZ1.

The development of the masterplan does not have to be an unwieldy document or take substantial amounts of time in its preparation. However, it should be led by Council in a collaborative manner with the land owners, including Aventus. It should consider the matters raised in evidence by Ms Roberts, and how the site can transition over time to achieve the vision of the Structure Plan to have regard to staging and implementation.

Thus, the plan should at least consider multi-level, multi-use pad sites in three dimensions.

In a collaborative process, the opportunity to realign titles and address High Street with buildings could be explored.

In relation to landscaping, the Committee notes Kaufland's willingness to deliver an increased number of canopy trees and supports this. It considers that the tree bays could be designed to be more substantial planting areas and integrate WSUD, while avoiding trampling. The Committee suggests that detailed aspects of this should be explored as part of the detailed design phase.

(iv) Findings

The Committee finds:

- the proposed development on the subject site is appropriately sited and could act as a catalyst for regeneration of Precinct 6
- the height and scale of the proposed development is acceptable
- the proposed development should be amended as follows:
 - sleeving of the building to ensure active uses along the main frontage
 - provision of a central tree lined 'boulevard' for the main east-west spine off High Street that incorporates a shared pedestrian/cycle path, with a reduced carriageway
 - the continuation of the shared pedestrian/cycle path through to Cooper Street
 - provision for public art in appropriate areas, including but not limited to pedestrian areas of the development or in locations visible from the public realm
 - the provision of a large publicly accessible plaza connected to the boulevard which is not shade prone
 - Integration of weather protection measures for pedestrians
- the built form and urban design outcomes for land fronting High and Cooper Streets is out of the direct control of Kaufland as they do not own the land
- improved short and long term beneficial urban design, landscape and built form outcomes for the whole of the subject site could potentially be achieved by Council investing time and effort now in a masterplan to determine the long-term development outcome for the whole of the Epping Hub precinct in consultation with adjoining landowners and other relevant agencies.

6.5 Traffic and access

(i) Context

Kaufland Epping is proposed to be located within the Epping Hub Homemaker Centre on a former Bunnings site. Access is via an existing signalised intersection on High Street, with secondary access from Cooper Street. The Cooper Street access is presently unsignalised and the proponent seeks to signalise the intersection.

The car park is presently shared with the wider Epping Hub. Easements of carriageway in favour of the relevant owners facilitate shared access.

The Structure Plan provides some guidance over the expected outcomes across the site in relation to pedestrian and cyclist movements.

The development plans indicate a supply of 486 parking spaces, being made up of 175 existing spaces and 311 new or reconstructed spaces.

The existing spaces include parking located between the southern buildings that form part of Epping Hub and the central High Street access road as well as parking along the access road out to Cooper Street.

The new parking areas are being created at the northern and southern ends of the building.

The reconstructed parking is existing parking located to the north of the High Street access road. This parking is being reconstructed to alter the surface level to a grade more amenable to trolley use. The change in grade line results in a retaining wall of up to approximately 950mm in height creating a physical separation between the Kaufland parking area and the Epping Hub parking area immediately to the north. To help minimise the impact on pedestrians of this new barrier, a midblock pedestrian ramp is proposed to help reconnect the parking areas.

(ii) Submissions and evidence

Traffic

While VicRoads did not object to the development, it raised concerns with the proposed signalisation of the Cooper Street intersection due to potential impacts on buses on Cooper Street. VicRoads advised that the traffic volumes on Cooper Street are predicted to drop following the construction of the O’Hearns Road interchange on the Hume Freeway.

The Council was supportive of signalisation as it will incorporate a signalised pedestrian facility.

Both Mr Davies and Ms Dunstan supported the signalisation of the intersection, noting that the signals will be linked on High Street to minimise delays. Both considered the signals would provide a significant safety improvement over the existing unsignalised intersection.

Mr Davies questioned VicRoads’ advice that volumes on Cooper Street will drop by the extent suggested, as local modelling by GTA Consultants did not support that prediction.

VicRoads sought an updated traffic impact assessment to resolve the signalisation issue.

Parking

In respect to the car parking supply, the experts have both assessed the car parking on the basis that the supply excludes the 175 parking spaces noted on the development plans as existing parking. Mr Davies advised he was satisfied that the parking meets the standard requirement of the planning scheme with the 175 spaces excluded from the analysis.

Ms Dunstan provided supplementary evidence (Document 93) that considered the potential loss of parking to allow for water sensitive design treatments to be introduced into the parking areas. She concluded that a provision of 283 spaces would be acceptable, being slightly below the statutory requirement of 295 spaces.

There was no evidence provided in respect to the demand or required supply of parking for the balance of Epping Hub car parking areas.

The Council advised that the Structure Plan seeks to establish a shared path across the subject car park running between the High Street and Cooper Street entrances, providing an improved link to Epping Station and the north-eastern precincts.

Pedestrian movements

Council, QIC/Bevendale and Aventus all raised issues regarding pedestrian movements throughout the car park, citing the Structure Plan recommendation for a shared path through the site linking High Street and Cooper Street. Council called for the creation of a pedestrian plaza between the access into the car parking area off the High Street entrance and the store entrance.

Ms Dunstan included a pedestrian movement plan in her evidence to provide for additional pathways through the car park, including a connection across the proposed retaining wall. Ms Dunstan did not support the creation of a pedestrian plaza but agreed that the main east west accessway could be narrowed to seven metres.

(iii) Discussion

Traffic

The primary traffic issue relates to the proposal to signalise the Cooper Street access. Signalisation has the opportunity to provide some significant safety benefits for pedestrians, cyclist and vehicles turning out of the access road. This must however be weighed against impacts on public transport operations along Cooper Street, which has not been thoroughly investigated.

This is a matter that should be resolved prior to the issue of planning approval as it is central to the development's access strategy. An alternative had not been put to the Committee.

Parking

The expert evidence indicated that a parking supply that is within five per cent of the statutory requirement is reasonable. This equates to around 283-295 spaces.

There appeared to be some confusion over the availability of the 175 parking spaces marked on the plans as existing parking.

In relation to the existing parking along the Cooper Street access road, Ms Dunstan advised that there are 25 not 20 spaces in this area and 19 of these spaces must be removed to allow for the widening of the access road as part of the proposed signalisation of the Cooper Street intersection.

Reference to the Plan of Subdivision 413977W indicates that this parking is located within Lot 2 of the plan and hence is not part of the Kaufland site (Lot 1) but forms part of the Aventus landholding. These property boundaries are correctly shown on the development plans but this issue was not raised at the Hearing by any party. Should this parking be required for road widening then it should be replaced to the satisfaction of the land holder. The Committee considers that an appropriate land swap could occur, subject to agreement of the relevant land owners, with some of the parking located along the frontage of the southern set of Epping Hub buildings on the Aventus land, for example.

In relation to the remaining 155 spaces, the Committee notes that they are located within Lot 1 of the plan of subdivision. They were considered as part of the parking for the most recent planning permit issued for the subject site (Document 112) relating to the split of the Bunnings building into three tenancies, to be available for the use of that building. In addition, Council

provided a copy of a plan of the Homemaker Centre (Document 111) showing floor areas for the buildings on Lot 1 (Kaufland) and Lot 2 (Aventus) and parking. Based on this document it appears that Lot 2 has a parking provision in the order of 3.0 spaces per 100 square metres which is reasonable for restricted retail development.

Based on this, it appears that the development proposal includes some 466 spaces, not 486 spaces, which is well in excess of a statutory requirement of 295 spaces and the minimum of 283 spaces recommended by Ms Dunstan. This indicates that a loss of up to 183 spaces could be tolerated to provide improvements in water sensitive design, landscaping and urban design.

Pedestrian Movements

It is important to have a strong consideration for pedestrians within car parks, particularly where they may be used as thoroughfares between groups of shops or to public transport. This can help reduce dependency on private cars and the desire to move cars within the centre when visiting different premises.

Having consideration to the oversupply of car parking, it is clear that parking can be lost in favour of improved public realm outcomes. Ms Dunstan's pedestrian movement plan is a great start. It begins to address the north south movements across the western car park but limits itself to the reconstructed portion of this parking area. Continuing the north-south pathway located within the centre of this car park across to the Aventus buildings to the north and south would complete this network and help minimise the impact of the barrier proposed by the new retaining wall. This would require the removal of one or two spaces within the Aventus land, subject to landowner approval, but this could be replaced along with the lost parking along the Cooper Street access road.

While it is noted that all car parks are intended to operate as shared zones, the provision of pedestrian crossing points can increase safety and complement a pedestrian network. Giving priority to pedestrians near store entries and diverting cars into car parking areas prior to the store entry helps to minimise conflict. While Council's proposed pedestrian plaza would address this issue, a middle ground can be achieved to further reduce car dependency and improve the quality of the public realm. This can be achieved through further design work, given the ability to reduce the parking supply.

(iv) Findings

The Committee finds that:

- the traffic impacts and parking provision are acceptable subject to:
 - the resolution of the Cooper Street entry control
 - the extension of the pedestrian and cyclist path network across the whole of the car park and linking to existing footpaths on Cooper Street, High Street and to the Aventus buildings on both sides of the main car park
- the provision of car parking can be reduced by up to 183 spaces to achieve the water sensitive design, landscaping and urban design outcomes recommended in Chapter 6.4.

6.6 Development contributions

(i) Context

DCPO14 – *Epping Central Structure Plan* (charge area 7) requires a contribution of \$8,833.29 per 100 square metres of floor space (2017 rates).

The question of whether Kaufland should be required to pay contributions under DCPO14 was disputed at the Hearing.

(ii) Submissions and Evidence

Kaufland submitted (Document 72) that if a contribution is lawfully leviable, it would have no hesitation in making its contribution.

With respect to DCPO14, Kaufland submitted that the contribution does not apply due to the following exemption provided at Clause 4.0:

A development contribution is not payable where the buildings or works comprise the redevelopment of an existing building and the redevelopment does not add any additional demand unit(s) to the land.

Kaufland submitted that the proposed store is substantially smaller than the former Bunnings store, and therefore no additional demand units would be generated. It contended that the proposed store is a redevelopment of the existing Bunnings building.

Mr Clarke gave evidence that under the provisions of the Schedule, redevelopment of an existing building is exempt if it does not add any additional demand (units) to the land. In response to questioning, he stated that the construction of the Kaufland store constitutes redevelopment and therefore the levy should not be charged.

Whittlesea (Document 80) submitted that contributions are payable, and a condition should be imposed in the Incorporated Document. Council's opinion was that the development is not a redevelopment of an existing building. Rather, it considered the Bunnings store is being demolished, and the Kaufland Store is in effect being built on vacant land. Whittlesea submitted that for the exemption to apply, there must be a nexus with the existing building, which in this case, it said there is not.

QIC/Bevendale submitted (Document 94) that there was no basis for any suggestion that Kaufland ought to be excused from having to pay its fair share of development contribution. It submitted that the Bunnings building is being 'destroyed' and it is not being redeveloped again.

(iii) Discussion

It is not in dispute that the development of the Kaufland Store on the subject site will require the demolition of the former Bunnings store. While that store is now being re-used, it is understood that no element of the Bunnings store will be retained. The Committee acknowledges that whether the proposal represents a redevelopment will likely be determined by others in a legal context. But for what it is worth, the Committee considers the new Kaufland Store will not be a redevelopment of the Bunnings store, but rather it will involve the construction of a new purpose-built building on the subject site.

The Committee understands that Bunnings did not pay development contributions on the land as the requirement was not in the planning scheme when it was first developed.

The Committee supports the submission of Whittlesea that as the 'redevelopment' provision of the exemption in the Schedule is not triggered, contributions under DCP014 should be payable.

Mr Montebello argued that this matter could not be resolved through this current process, but provision for a development contribution should be made in the Incorporated Document to ensure the matter could be tested and resolved legally. To its credit, Kaufland included the provision in the Incorporated Document, even though it did not support it.

Accordingly, the Committee supports the inclusion of the following provision in the Incorporated Document.

Development contributions

Prior to the completion of the development or at any other time agreed by the Collecting Agency, any development contributions that would have been payable under the Development Contributions Plan Overlay Schedule 14 if a permit had been issued for the development, must be paid to the Collecting Agency.

(iv) Findings

The Committee finds:

- Kaufland should be required to pay the Development Contributions commensurate with the applicable rate within the provisions of DCPO14 (charge area 7) – *Epping Central Structure Plan*
- a provision has been included in the Incorporated Document to that effect.

6.7 Acoustics

Mr Tardio gave evidence that noise impacts from overnight deliveries and waste collection would be within reasonable limits. He noted that while reverse beepers may be heard outside of the most proximate dwellings, they would not be audible inside the dwelling or would be indistinguishable from background noise.

The Committee finds that:

- the noise impacts are reasonable and suitable controls are included in the Incorporated Document.

6.8 Conclusions

(i) Should planning approval be granted?

The Committee concludes:

- the proposed Kaufland Store at 592-694 High Street, Epping should be granted planning approval.

(ii) Changes to Incorporated Document

The Committee considers the Incorporated Document be amended as follows:

- Modify the table in 4.2 Plans for all Sheet Numbers except Sheet Number TP-07 to change the Revision to *“ACP dated 8/11/2018”*.
- Modify Condition 1 to include:
 - the sleeving of the building to ensure active uses along the main building frontage.
 - the provision of a central tree-lined ‘boulevard’ for the main east-west spine off High Street that incorporates a shared pedestrian/cycle path and narrowing of the carriageway.
 - the continuation of the shared pedestrian/cycle path through to Cooper Street.
 - the provision of public art in pedestrian areas of the development or in locations visible from the public realm.
 - the removal of Pylon Sign Type 2.
 - any changes resulting from the Landscape Plan as required by Condition 12
 - any changes resulting from the Car Parking Plan as required by Condition 13
- Modify Condition 2 by replacing the words *“Minister for Planning”* with the words *“Responsible Authority”*, in two places.
- Replace Condition 3 with the following words:
 - *“The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority”*.
- Modify Condition 12 to require the modification of the Landscape Plan to show:
 - the provision of a central tree-lined ‘boulevard’ for the main east-west spine off High Street that incorporates a shared pedestrian/cycle path and narrowing of the carriageway.
 - the continuation of the shared pedestrian/cycle path through to Cooper Street.
 - the provision of a large publicly accessible plaza connected to the boulevard which is not shade prone.
 - the provision for public art in pedestrian areas of the development or in locations visible from the public realm.
 - canopy trees at the rate of one for every eight spaces in surface car parks set out in bay form.
 - the provision of larger tree bays which integrate water sensitive urban design and have regard to measures to avoid trampling and litter collection.
 - any changes resulting from the Car Parking Plan as required by Condition 13
- Modify Condition 13b. to include:
 - provision of a shared path between the High Street and Copper Street entries
- Modify Section 4.4 Expiry by:
 - replacing the words *“The Minister for Planning”* with the words *“The Council”*, in respect of the approval of extensions of time.
 - replacing the number *“25”* with *“15”*, in respect of the expiry time for exemption for a planning permit for major promotional signage.

These amendments are reflected in Appendix G.

6.9 Recommendations

For the reasons expressed in this report, the Committee recommends that the Minister for Planning:

- 3. Approve the draft amendment to the Whittlesea Planning Scheme to facilitate the use and development of the land at 592-694 High Street, Epping for a Kaufland supermarket and complementary uses with associated carparking and signage in accordance with the approved Incorporated Document, subject to the following changes:**
 - a) Replace the exhibited version of the Incorporated Document with the revised version as provided at Appendix G and make any consequential changes to Clause 72.01 if required.**
 - b) Include Planning Scheme Map (Document 88) in the final Amendment documentation.**

Other Recommendation

- 4. Within 12 months of planning permission being granted for the Kaufland Epping store, Whittlesea Council in conjunction with Aventus, Kaufland and any other relevant landowners should complete a whole of site masterplan in order to resolve a preferred future for the redevelopment of the remainder of Precinct 6 strategic development site that should address the following matters:**
 - a) future development pad sites in a three-dimensional form**
 - b) an integrated development outcome for land owned by Aventus and other adjoining landholders**
 - c) internal movement networks for all modes of transport, and broader connectivity**
 - d) additional pedestrian connectivity and treatment**
 - e) future landscaping**
 - f) staging and implementation having regard to aspects which can be incorporated as part of the first phase of the Kaufland supermarket development.**

7 Summary Response to Terms of Reference

The Committee provides the summary of its response to its Terms of Reference in Table 1.

Table 12 Summary of response to Terms of Reference

Term of Reference	Comment	Chapter(s)
PURPOSE		
4a. Strategic assessment against State and local planning policies	All three sites enjoy strong policy support	2.5, 4.2, 5.2 and 6.2
4b. assessment of each site with regard to amenity, traffic and access, built form, urban design and other referral and statutory requirements	Chapter 3 addresses common issues Chapter 4 addresses the Chirnside Park store Chapter 5 addresses the Dandenong store Chapter 6 addresses the Epping store	3, 4, 5 and 6
4c. Advice about the introduction and form of the proposed Incorporated Document and conditions	The use of the Specific Controls Overlay and Incorporated Documents is supported Minister for Planning should be the Responsible Authority for Condition 4.3 (1) relating to 'Submission and approval of architectural plans' and the relevant Council should be the Responsible Authority for all other conditions	3.1
GENERAL		
10a. <i>Planning and Environment Act 1987</i> , Victoria Planning Provisions and Plan Melbourne 2017-2050	Chapter 2 outlines the various planning controls considered, with relevant discussions in each subsequent Chapter	2, 3, 4, 5 and 6
10b. Consider relevant Planning Scheme, adopted plans, strategies or planning scheme amendments	Chapter 2 outlines the various planning controls and other documents, including the Epping Central Structure Plan that were considered, with relevant discussions in each subsequent Chapter	2, 3, 4, 5 and 6
10c. Consider all relevant material from Kaufland or otherwise	Appendix D lists the additional Documents tabled by and for consideration by all parties	3, 4, 5 and 6
10d. Consider all submissions and evidence	All submissions and evidence were considered by the Committee Appendix B and C list the Submitters and Parties to the Hearing Chapter 3 discusses and assesses common issues raised in submissions and evidence, and Chapters 4, 5 and 6 discuss and assess site specific issues	3, 4, 5 and 6
HEARING PROCESS		
18. Directions Hearing and Public Hearing	A Directions Hearing was held on Friday 2 November 2018, and Public Hearings were held at PPV over nine days on 23, 27, 28, 29, and 30 November and 3, 4, 6 and 13 December 2018	1.3
19. May conduct other forms of inquiry	Not required	-

Term of Reference	Comment	Chapter(s)
20. May limit times of parties and may prohibit or regulate cross examination	Not required	-
21. Quorum of two at all times, including Chair or Deputy Chair	A quorum of was maintained at all times and both the Chair and Deputy Chair attended all aspects of the Hearing	1.3
OUTCOMES		
22a. Consider matters in the Terms of Reference	This Report of the Advisory Committee represents its response to the Terms of Reference	All
22b. Recommendations for each site, including whether each site is an appropriate location for the proposal	Recommendations for each site are contained at the end of each respective site-specific Chapter	4.7 and 4.8 5.7 and 5.8 6.7 and 6.8
22c. Assessment of planning provisions for each site and recommendations for any amendments	Chapter 2 provides an overview and assessment of the planning provisions Specific Recommendations for each site are contained at the end of each site-specific Chapter	2, 4.7 and 4.8 2, 5.7 and 5.8 2, 6.7 and 6.9
22d. Assessment of each proposal including layout, access, parking, and built form	Chapter 3 addresses common issues Chapter 4 addresses the Chirnside Park store Chapter 5 addresses the Dandenong store Chapter 6 addresses the Epping store	3, 4, 5 and 6
22d. Conditions that should apply to use and development	Conditions are shown in the Committee's amended versions of the Incorporated Documents	Appendix E Appendix F Appendix G
22e. Assessment of submissions and other relevant matters	Chapter 3 addresses common issues Chapter 4 addresses the Chirnside Park store Chapter 5 addresses the Dandenong store Chapter 6 addresses the Epping store	3, 4, 5 and 6
22f. List of submitters	A list of submitters is in Appendix B	Appendix B
22g. List of parties consulted and heard	A list of parties consulted and heard is in Appendix C	Appendix C

Appendix A Terms of Reference

Kaufland Stores in Victoria Advisory Committee

Advisory Committee appointed pursuant to section 151 of the *Planning and Environment Act 1987 (Act)* to provide advice on the proposed initial establishment of supermarket-based stores in Victoria by Kaufland Australia Pty Ltd (Kaufland).

Name

1. The Advisory Committee is to be known as the 'Kaufland Stores in Victoria Advisory Committee'.

Skills

2. The Advisory Committee is to have a Chair and Deputy 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.

Purpose

3. The purpose of the Advisory Committee is to provide advice to the Minister for Planning on all relevant planning matters associated with the location, development and use of six proposed Kaufland supermarket-based stores in metropolitan Melbourne and the national headquarters proposed to be co-located with the proposed store at Oakleigh South. This includes advice on the site-specific planning scheme amendments proposed for each of the relevant planning schemes to facilitate the establishment of the stores, and/or any other planning mechanism that is proposed.
4. The Advisory Committee is expected to:
 - undertake a strategic assessment of the use of each proposed store site, including an assessment against State and local policies, and, where relevant, recommend any required amendments to the existing planning scheme provisions applying to the site or to land that is surplus to the Kaufland store and associated uses.
 - undertake an assessment of each of the proposed store developments, including consideration of amenity, traffic and access, built form, urban design, and referral authority or statutory body requirements in sufficient detail to enable the Advisory Committee to recommend whether each development should be approved and the conditions of any such approval.
 - provide advice on the proposed introduction and form of an Incorporated Document in the schedules to Clause 52.03 and Clause 81.01 of each of the planning schemes to enable the use and development of the Kaufland stores, subject to conditions.

Background

5. Kaufland is a German-based grocery chain, and is a subsidiary of the Schwarz Group, the world's fourth largest retailer. Kaufland Australia Pty Ltd intends to enter the Victorian retail market and, through its consultant Planning and Property Partners Pty Ltd, has requested that the Minister for Planning assist in facilitating its plan to deliver an initial tranche of proposed supermarket-based stores.

6. Based on its experience elsewhere, Kaufland considers that it needs to enter the market with a critical mass of stores to develop its customer base and deliver optimal benefits to customers. Kaufland has secured control of sites for potential stores at:
 - 1-3 Gladstone Road, Dandenong VIC 3175
 - 592-694 High Street, Epping VIC 3076
 - 1126-1146 Centre Road, Oakleigh South VIC 3167
 - 1550 Pascoe Vale Road, Coolaroo VIC 3048
 - 266-268 Maroondah Highway, Chirnside Park VIC 3116
 - 1158 Nepean Highway, Mornington VIC 3931
7. The Minister for Planning may refer an additional site or tranche of sites or any other use or development associated with the development of the Kaufland stores to the Advisory Committee, at the Minister's discretion.
8. The Minister for Planning considers the proposed roll-out of stores has the potential to deliver significant economic and employment benefit across the State, as well as greater retail choice for Victorians.
9. The Advisory Committee has been appointed to provide a consistent, timely and transparent process for assessing the planning merits of each of the proposed initial tranche of stores.

Method

General

10. 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 and *Plan Melbourne 2017 - 2050: Metropolitan Planning Strategy*.
 - b. the relevant Planning Scheme, including any adopted plans, strategies or planning scheme amendments.
 - c. all relevant material submitted on behalf of Kaufland or otherwise provided to the Advisory Committee.
 - d. all submissions and evidence received.
11. 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

12. The Department of Environment, Land, Water and Planning (DELWP) must liaise with the Advisory Committee to agree:
 - a. the public exhibition dates
 - b. a Directions Hearing date
 - c. the Public Hearing dates.The agreed dates are to be included on all notices.
13. DELWP will provide direct notice (by letter) inviting written submissions within a 20 business-day notice period, at a minimum, to:
 - a. Each relevant council
 - b. Relevant Government agencies and servicing or referral authorities

- c. Any landowners and occupiers adjoining or surrounding the proposed sites.
- 14. DELWP will place a notice in a local newspaper (where available) during the notice period.
- 15. 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.
- 16. All submissions are to be collected at the office of Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV'. Electronic copies of submissions will be provided for each relevant council, DELWP and the proponent.
- 17. 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

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

Outcomes

- 22. The Advisory Committee must produce a written report or reports for the Minister for Planning, providing the following:
 - a. Consideration of the matters outlined in these Terms of Reference.
 - b. Recommendations for each proposed development site including advice on whether the site is an appropriate location for the proposed use.
 - c. An assessment of the existing planning provisions applying to each site and recommendations for any suggested amendments to the existing planning controls in consideration of the proposed use.
 - d. An assessment of each proposed development including consideration of the proposed layout, access, parking and built form and advice on the conditions that should apply to the use and development and whether the proposed means of applying these conditions is appropriate.
 - e. An assessment of submissions to the Advisory Committee and any other relevant matters raised in the course of the Advisory Committee process.
 - f. A list of persons who made submissions to the Advisory Committee.
 - g. A list of persons consulted or heard.

The report or reports of the Advisory Committee may be submitted in stages depending on the timing of matters referred to the Advisory Committee.

Submissions are public documents

- 23. 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.
- 24. 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.

25. All submissions, evidence and other material received will be treated as public documents and will be placed online as part of the exhibition and public notification process.

Timing

26. The Advisory Committee should commence hearings as soon as practicable after the completion of the notice period.
27. The Advisory Committee is required to submit its report/s in writing no later than 20 business days from the completion of any of its hearings.

Fee

28. 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*.
29. The costs of the Advisory Committee and associated public consultation notification will be met by the proponent, Kaufland Australia Pty Ltd.



HON RICHARD WYNNE MP
Minister for Planning

Date: 24/7/18

Appendix B List of Submitters

No.	Submitter
GENERAL SUBMISSIONS	
G01	Environment Protection Authority Victoria (EPA Victoria)
G02	Master Grocers Association
G03	Ritchies Stores Pty Ltd
G04	Victorian Small Business Commission
CHIRNSIDE PARK	
CR01	Lindsay Gordon
CR02	Franklyn Parrent
CR03	GPT Group
CR04	Yarra Ranges Council
CR05	Roads Corporation (VicRoads)
CR06	Mt Evelyn Supa IGA
CR07	Transport for Victoria
CR08	Simon Merrigan
CR09	KFT Investments Pty Ltd
DANDENONG	
D01	Pagan K Barrett-Woodbridge
D02	The GPT Group
D03	Dandenong Community Association
D04	Guy Di Domenico
D05	VicRoads
D06	IGA Dandenong
D07	Menzies Cellars
D08	Transport for Victoria
D09	City of Greater Dandenong
EPPING	
E01	VicRoads
E02	VicTrack
E03	City of Whittlesea
E04	Aventus Epping Pty Ltd

E05	VicRoads Metropolitan North West Region
E06	Transport for Victoria
E07	IGA Epping
E08	Queensland Investment Corporation and Bevendale Pty Ltd

Appendix C Parties to the Hearing

Submitter	Represented by
Kaufland Australia	Jeremy Gobbo QC of Counsel, with Juliet Forsyth SC and Emily Porter of Counsel, instructed by Mark Naughton of Planning and Property Partners, calling evidence from: <ul style="list-style-type: none"> - Tony Dimasi of Dimasi & Co on economics - Sean Stephens of Essential Economics on economics - Simon Davies of GTA Consultants on traffic - Charmaine Dunstan of Traffix Group on traffic - Craig Czarny of Hansen Partnership on urban design - Andrew Clarke of Matrix Planning on planning - Andrew Biacsi of Contour Planning on planning - Mark McWha of Formium on landscape - Daren Tardio of Enfield Acoustics on acoustics
VicRoads	Michael Freeman and Dimitrios Chrysis
Master Grocers Association Independent Retailers	Jason Kane of Counsel, with Joss DeBruin, Fred Harrison, Tony Ingpen, Arben Adali, Vass Adali and Fred Taroksy
City of Whittlesea	Terry Montebello of Maddocks, with Liam Wilkinson and Emerald Thompson, calling evidence from: <ul style="list-style-type: none"> - Amanda Roberts of SJB on urban design
Aventus Epping Pty Ltd	Akemi Traill of Tract Consultants, with Oliver Misso of Aventus
Shire of Yarra Ranges	Claudette Fahy, with Theo Knol and James Thornstone
QIC Pty Ltd and Bevendale Pty Ltd	Peter O'Farrell of Counsel, instructed by Gemma Robinson of Rigby Cooke Lawyers
	Pagan Barrett-Woodbridge (and representing Guy De Domenico)
City of Greater Dandenong	Terry Montebello of Maddocks Lawyers

Appendix D Document list

Version 13 – 17 December 2018

No.	Date	Description	Presented by
1	09/10/18	Correspondence requesting site specific economic analysis	Ms Morris, Harwood Andrews
2	18/10/18	Response to correspondence from Harwood Andrews	Ms Harwood, PPV
3	25/10/18	Correspondence outlining hearing information	Mr Naughton, Planning & Property Partners
4	26/10/18	Advisory Committee Hearing Process Notification Letter	Ms Mitchell, Advisory Committee Chair
5	30/10/18	Kaufland Australia Request to be Heard	Mr Naughton
6	07/11/18	Kaufland Australia Confirmation of Witnesses	"
7	08/11/18	Committee Directions and Timetable	Ms Harwood
8	09/11/18	Economic Impact Assessment a. Chirnside Park b. Dandenong c. Epping	Mr Hughes, Planning and Property Partners
9	"	Notification Summary Report	Mr Kirkland, DELWP
10	12/11/18	Transport Impact Assessment a. Chirnside Park b. Dandenong c. Epping	Mr Hughes
11	13/11/18	Correspondence seeking to change order of Expert Witnesses	"
12	14/11/18	Correspondence replying to Kaufland request to change order of experts	Mr Montebello, Maddocks Lawyers for City of Whittlesea
13	15/11/18	Correspondence from PPV - requested change to timetable	Mr Morrow, PPV
14	16/11/18	Economics expert witness statement of Mr Dimasi	Mr Hughes
15	"	Economics expert witness statement of Mr Stephens	"
16	19/11/18	Urban Design Expert Evidence – SJB Urban	Mr Wilkinson, City of Whittlesea
17	"	Kaufland Australia Part A submission	Mr Hughes
18	"	City of Whittlesea short form submission	Mr Wilkinson
19	"	City of Whittlesea response to Direction a. Epping Central Structure Plan b. DCP documents	"
20	"	Traffic engineering expert evidence – Simon Davies a. Chirnside Park b. Dandenong	Mr Hughes

No.	Date	Description	Presented by
		c. Epping	
21	“	Traffic engineering peer-review evidence – Charmaine Dunstan a. Chirnside Park b. Dandenong c. Epping	“
22	“	Urban design expert evidence – Craig Czarny a. Chirnside Park b. Dandenong c. Epping	“
23	“	Urban planning expert evidence – Andrew Biacsi a. Chirnside Park b. Dandenong c. Epping	“
24	“	Urban planning expert evidence – Andrew Clarke a. Chirnside Park b. Dandenong c. Epping	“
25	“	Landscape architecture expert evidence – Mark McWha a. Chirnside Park b. Dandenong c. Epping	“
26	“	Acoustic engineering expert evidence – Darren Tardio a. Chirnside Park b. Dandenong c. Epping	“
27	“	Updated plans a. Chirnside Park b. Dandenong c. Epping d. Summary of changes	“
28	22/11/18	Revised Hearing Timetable and Distribution List (version 2)	Ms Harwood
29	23/11/18	Hearing Folder	Mr Gobbo QC of Counsel for Kaufland
30	“	A3 Booklet of Plans and Diagrams	“
31	“	Nesting Diagrams from Planning Scheme	“
32	“	ESD Outcomes Statement November 2018	“
33	23/11/18	Packaged Liquor Outlet Assessment Epping	“
34	“	Waste Management Plan, Chirnside Park	“

No.	Date	Description	Presented by
35	"	Waste Management Plan, Epping	"
36	"	Waste Management Plan, Dandenong	"
37	"	Bushfire Development Report Chirnside Park	"
38	27/11/18	Letter regarding revised order of calling of Experts	Mr Moylan, Planning and Property Partners
39	"	Email regarding timetable issues	Ms Robinson, Rigby Cooke
40	"	Email regarding timetable issues	Mr Montebello
41	"	Revised Incorporated Document Clause 4.1 Wording	Mr Gobbo QC
42	"	VicRoads Submission	Mr Freeman, VicRoads
43	"	Option 2 Design for Maroondah Highway/Fletcher Rd	Mr Davies, VicRoads
44	"	Proposed Maroondah Highway Boundary Change	Mr Knol, Yarra Ranges
45	"	Photomontage Statement of Evidence of Mr Czarny	Mr Gobbo QC
46	"	A3 Plans Photomontage Images of Mr Czarny	"
47	"	Correspondence on behalf of QIC/Bevendale	Ms Robinson
48	28/11/18	Power point slides	Mr Czarny, Hansen Partnership
49	"	Revised Hearing Timetable and Distribution List (version 3)	Mr Morrow
50	29/11/2018	Email from Planning Property Partners	Ms Mitchell
51	"	Proposed conditions from Greater Dandenong	"
52	"	Email from Yarra Ranges re endorsed submission	"
53	"	Updated Spreadsheet with consultant recommendations	Mr Gobbo QC
54	"	Technical Memo Addendum to Acoustic Evidence by Mr Tardio	"
55	"	Clause 21.09 Whittlesea Planning Scheme	Mr O'Farrell of Counsel for QIC/Bevendale
56	"	Extract from 'A Practitioner's Guide to Victorian Planning Schemes'	"
57	30/11/2018	Incorporated Document – Yarra Ranges Tracked Changes	Ms Forsyth SC of Counsel for Kaufland
58	"	Incorporated Document – Yarra Ranges Changes Accepted	"
59	"	Incorporated Document – Dandenong Tracked Changes	"
60	"	Incorporated Document – Dandenong Changes Accepted	"
61	"	Incorporated Document – Whittlesea Tracked Changes	"
62	"	Incorporated Document – Whittlesea Changes Accepted	"
63	"	Addendum to Mark McWha evidence re: Dandenong Store	Ms Porter of Counsel
64	"	Addendum to Mark McWha evidence re: Epping Store	"

No.	Date	Description	Presented by
65	"	Landscape Concept Plan Dandenong – Revision D	"
66	"	Landscape Design Principles – Guideline	Mr Wilkinson
67	"	Extract from Urban Design Guidelines – Movement Network	"
68	"	Pacific Epping Concept Master Plan – Current and Future Land Use Opportunities	Mr O’Farrell of Counsel
69	"	Pacific Epping Concept Master Plan – Precinct Access	"
70	3/12/18	Submission for Master Grocers Association Independent Retailers	Mr Kane of Counsel
71	"	Maps from Dimasi Economic Impact Assessments	"
72	"	Part B Submissions for Kaufland Australia	Mr Gobbo QC
73	"	Clause 53.18 Stormwater Management in Urban Development	"
74	"	Correspondence from KFT Investments regarding Development Levy	"
75	"	Preliminary Context Plan	"
76	"	Pacific Epping Concept Master Plan	"
77	4/12/18	Emails regarding appearance from Dandenong City Council	Mr Montebello
78	6/12/18	Submissions for City of Dandenong	Mr Montebello
79	"	Stonnington C172 evidence of Dr Spiller	"
80	"	Submission for City of Whittlesea	"
81	"	Images from Urban Design Evidence of Ms Roberts	Ms Roberts, SJB Urban
82	"	Tracked Change version of Incorporated Document	Mr Montebello
83	"	Submissions for Aventus Epping Pty Ltd	Ms Traill, Tract Consultants
84	"	Email copy of Addendum Report of Mr Dimasi	Mr Gobbo QC
85	10/12/18	Correspondence regarding Final Hearing Day	Ms Mitchell
86	13/12/18	SCO1 Planning Scheme Map – Yarra Ranges	Mr Gobbo QC
87	"	SCO1 Planning Scheme Map – Dandenong	"
88	"	SCO1 Planning Scheme Map - Whittlesea	"
89	"	Email exchange re payment of development contributions	"
90	13/12/2018	Letter from KFT Investments	Mr Gobbo QC
91	"	Revised TP07 ACP1 Epping – Retaining Wall Section	"
92	"	New Plan TP-12 ACP – Retaining Wall Elevation Epping	"
93	"	Memorandum - Response from Ms Dunstan re Epping Car Parking Numbers	"
94	"	Submission on behalf of QIC/Bevendale	Mr O’Farrell

No.	Date	Description	Presented by
95	"	Pacific Epping Concept Master Plan	"
96	"	Burns Bridge v Greater Bendigo City Council and Others	"
97	"	Track Change version of Incorporated Document - Epping	Mr Gobbo QC
98	"	Track Change version of Incorporated Document – Chirnside Park	"
99	"	Track Change version of Incorporated Document - Dandenong	"
100	"	Clean Version of Incorporated Document - Epping	"
101	"	Clean Version of Incorporated Document – Chirnside Park	"
102	"	Clean Version of Incorporated Document - Dandenong	"
103	"	Part C Submissions on behalf of Kaufland Australia	"
104	"	Council Report (Ref 714148) re Costco Wholesale Australia (December 2013)	"
105	"	Delegate Report – Amendment to Planning Permit (11/07/2018)	"
106	"	Closing Submissions for Whittlesea City Council	Mr Montebello
107	"	Extracts from Epping Wayfinding Study, Issue 1	"
108	"	List of other residential developments at Epping Central MAC	"
109	"	Images of Retail Centres	"
---- HEARING CLOSE ----			
<i>Post Hearing Circulated Documents Follow</i>			
110	14/12/18	Car Park Plan for 592-594 High Street Epping	Mr Wilkinson
111	"	Homemakers Centre Location Plan for 550 – 650 High Street Epping	"
112	"	Traffic Impact Assessment for 592 – 594 High Street Epping	"
113	"	Planning Permit 712063 for 560 – 650 High Street Epping	"
114	"	Planning Permit 716196 for 592 – 694 High Street Epping	"
115	18/12/18	Final track change version of Incorporated Document - Epping	Mr Hughes
116	"	Final track change version of Incorporated Document – Chirnside Park	"
117	"	Final track change version of Incorporated Document - Dandenong	"
118	"	Final clean version of Incorporated Document – Epping	"
119	"	Final clean version of Incorporated Document – Chirnside Park	"
120	"	Final clean version of Incorporated Document – Dandenong	"

Appendix E Incorporated Document – Chirside Park

Kaufland Supermarket and complementary uses, 266-268 Maroondah Highway, Chirside Park Incorporated Document (*insert date*), 2019

Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

This document is an incorporated document in the schedule to clause 45.12 and clause 72.04 of the Yarra Ranges Planning Scheme ('Planning Scheme') pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

The land identified in clause 3.0 of this document and shown in Appendix A may be used and developed in accordance with the specific control in clause 4.0 of this incorporated document.

If there is any inconsistency between any of the provisions of this document and the provisions of the Planning Scheme, the control at clause 4.0 of this document shall prevail over any contrary or inconsistent provision in the Planning Scheme. All other provisions of the Scheme must be met.

2.0 PURPOSE

To facilitate efficient land use for the purposes of supermarket and complementary uses in the areas affected by this control.

3.0 LAND

The control in this document applies to the land defined as 266-268 Maroondah Highway, Chirside Park, described as Part Lot S3 on Plan of Subdivision 544666H, excluding the area noted as 'Future development site A' on plans TP02 and TP04.

Subject to the approval of planning permit application (YR-2018/408) the subject land will be known as Lot 90 on PS544666H / S3.

4.0 CONTROL

4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Any requirement in the Planning Scheme which:

- Prohibits use and/or development of land; or
- Requires a permit for use and/or development of land; or
- Requires use or development of land to be carried out in a particular manner,

does not apply to the use and development of the land identified in clause 3.0 of this document undertaken either for or in connection with the use or development of land:

- for a supermarket or a bottle shop used in conjunction with a supermarket where such use or development is carried out by or on behalf of Kaufland Australia Pty Ltd (or a related entity)
- for the purposes of the following uses of land:
 - Bank
 - Electoral office
 - Medical centre
 - Real estate agency
 - Travel agency
 - Art gallery
 - Food and drink premises except for hotel or tavern
 - Postal agency
 - Shop except for adult sex product shop, department store, laundromat, restricted retail premises (other than party supplies)
 - Party supplies
- for the purposes of signage associated with the above uses of land.

4.2 PLANS

The use and development of the land must be undertaken generally in accordance with the following plans but as modified by clause 4.3 of this document:

SHEET NUMBER	SHEET NAME	REVISION
TP-02	SITE CONTEXT PLAN	ACP dated 8/11/2018
TP-03	EXISTING CONDITIONS PLAN	ACP dated 8/11/2018
TP-04	PROPOSED SITE & GROUND FLOOR PLAN	ACP dated 8/11/2018
TP-05	ROOF PLAN	ACP dated 8/11/2018
TP-06	OVERALL ELEVATIONS	ACP dated 8/11/2018
TP-07	STREET ELEVATIONS	ACP dated 8/11/2018
TP-08	OVERALL SECTIONS	ACP dated 8/11/2018
TP-09	SIGNAGE DIAGRAMS	ACP dated 8/11/2018

4.3 CONDITIONS

The exemption from Planning Scheme requirements outlined in clause 4.1 of this document is subject to the following conditions:

Submission and approval of architectural plans

1. Prior to the commencement of any development (including demolition, bulk excavation works and site preparation/retention works), detailed architectural plans must be prepared and submitted to the Minister for Planning for approval and endorsement. The plans must be drawn to scale, and be generally in accordance with the plans listed in clause 4.2 to this incorporated document but modified to show:
 - a. ~~The removal of Pylon Sign Type 2. The pylon sign reduced in height to 16m (overall height) with a 4 x 4 m box for the Kaufland logo and a 1.3m high tenancy sign~~
 - b. Any changes required to ensure the development is consistent with Plan of Subdivision [TBC].
 - c. Installation of a 1.8metre high non-combustible fence along the southern and eastern boundary where the site abuts grassland
 - d. Dimensions of title boundaries (including Future Development Site A).
 - e. At least 10 bicycle lockers or lockable compound for at least 10 employee bicycles and end of trip facilities
 - f. Existing path at roundabout on East Ridge Drive
 - g. Note regarding sewer at rear of building as “Proposed easement over proposed realigned sewer” or similar.
 - h. Any changes resulting from the Stormwater Management Plan as required by Condition 30.
 - i. Any changes resulting from the Car Parking Plan as required by Condition 17.

Layout not altered

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the ~~Minister for Planning~~ Responsible Authority. Where a proposed alteration would require referral to a referral authority, save for these provisions, a request for the ~~Minister for Planning’s~~ Responsible Authority’s written consent must be accompanied by the written views of the referral authority.

Hours of Operation

3. ~~The supermarket and bottle shop uses shall only operate between the hours of 7am and midnight each day of the week, unless with the written approval of the Responsible Authority~~
The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority.
4. Waste collection from the site in association with the permitted uses must not occur between the hours midnight and 7.00am (other than a maximum of one waste collection truck between midnight and 7.00am) unless with the written consent of the Responsible Authority. Following the occupancy of residential buildings within 50 metres of the site waste collection hours must comply with the recommended hours in EPA Publication 1254, unless with the written consent of the Responsible Authority.

Noise

5. Noise levels emanating from the premises must not exceed noise levels as determined by EPA Publication 1411 Noise from Industry in Regional Victoria (NIRV).
6. Plant and equipment shall be assessed by a suitably qualified acoustic consultant during design and construction to ensure compliance with NIRV.
7. If a request is made in writing by the Responsible Authority, the owner of the land must install a 3 [metre](#) high noise wall on the [north-west](#) abuttal with the residentially zoned land [at the earliest opportunity and](#) within 12 months of the request to the satisfaction of the Responsible Authority.
8. No external sound amplification equipment, loud speaker, siren or other audible signalling device will be installed on the land.

Amenity Conditions

9. All external lighting provided on the site must be baffled so that no direct light is emitted beyond the boundaries of the site and no nuisance is caused to adjoining properties.
10. The use and development must be so managed that the amenity of the area is not detrimentally affected through the:
 - transportation of materials, goods or commodities to or from the land,
 - appearance of any building, works or materials,
 - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste products, grit or oil,
 - presence of vermin,
 - no goods may be stored or left exposed outside any of the permitted building (other than in designated storage areas) so as to be visible from any public road or thoroughfare.

Waste

11. Prior to the commencement of use, a waste management plan for the development generally in accordance with the Waste Management Plan prepared by One Mile Grid dated November 2018 must be prepared to the satisfaction of the Responsible Authority.
12. Provision must be made on the land for the storage and collection of garbage and other solid waste.

Loading and Delivery Management Plan

13. Prior to the commencement of the use, a Loading and Delivery Management Plan (LDMP) must be submitted to and be approved by the Responsible Authority. The LDMP should consider measures to minimise the impacts of deliveries on the amenity of the area. The LDMP must be periodically reviewed to the satisfaction of the Responsible Authority.
14. Any loading and unloading of goods and all manoeuvring of vehicles must only be carried out within title boundaries of the land.

Landscaping

15. Prior to the commencement of any buildings or works a landscape plan must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the landscape plans by Formium Landscape Architects Figures 3-9 dated November 2018 but amended to show:
 - a. The species (botanical names) and quantities of trees to be removed on the Landscape Plan.
 - b. The Plant Schedule of the Landscape Plan adjusted to include a minimum of 50% indigenous plant species and does not include any listed environmental weeds known in the Yarra Ranges Council.
 - c. Standard landscape notes included on the Landscape Plan in relation to soil preparation, irrigation of planting beds, replacement of dead plants and planting technique for trees and shrubs.
 - d. Adequate instruction on the Landscape Plan for the protection of existing vegetation to be retained during construction.
 - e. The geographical location of all plant species proposed in the Plant Schedule on the Landscape Plan.
 - f. The botanical name, common name, quantity, average size at maturity and intended pot size for each plant species in the Plant Schedule of the Landscape Plan.
 - g. A note on the Landscape Plan specifying that all planted areas will to be mulched to a minimum 75 mm thickness using an appropriate timber species such as Pine or local common Eucalyptus species avoiding rare timber species such as Red Gum or Jarrah.
 - h. A 24 month maintenance plan with notes on appropriate weed control, irrigation, mulch replenishment, dead plant replacement and pruning is included on the Landscape Plan to ensure the successful establishment, and on-going health, of new planting.

16. Landscaping in accordance with this approved plan must be completed prior to occupation of the permitted development, or if not occupied, within 3 months of completion of the permitted development. New planting must be maintained or replaced as necessary.

Car parking and traffic management

17. Prior to the commencement of development, a car parking and traffic management report and Car Parking Plan by a recognised traffic consultant must be submitted to and be approved to the satisfaction of the Responsible Authority. The Car Parking Plan must show:
 - a. pedestrian linkages having regard to Figure 16 of the statement of evidence by Charmaine Dunstan of Traffix group dated 19 November 2018 which shows the following additional pedestrian connections:
 - i. a footpath exiting the site on Maroondah Hwy near Fletcher Road with an additional direct connection to the bus stop
 - ii. a footpath from East Ridge Drive through the main car park extended into the Dan Murphy car park
 - iii. a 2.5 [metre](#) wide shared path generally at grade along the Maroondah Highway frontage between East Ridge Drive and the Fletcher Road/ Maroondah Highway intersection
 - iv. a connection between the car park and Fletcher Road
 - v. a connection between the store and car park to the future road; and
 - vi. a connection, if practicable, between the store and car park to the roundabout (possibly with steps).
 - b. line marked return on Chevron Island for left turn entry from Kaufland shared zone to Dan Murphy car park access
 - c. line marking and signage
 - d. detail of the shared zones including any pedestrian priority spaces
 - e. [any changes required to provide for suitable vehicular and pedestrian access to the 'Future Development \(A\) Site Area'](#).

18. Prior to the occupation of the permitted development:
 - a. the car parking spaces and vehicular access ways shown on the endorsed plan and approved Car Parking Plan must be fully constructed, sealed, delineated and/or signed and drained incorporating

- Water Sensitive Urban Design elements including gross pollutant trap(s) to the satisfaction of the Responsible Authority;
- b. all traffic mitigation works and management measures as recommended in the car parking and traffic management report and Car Parking Plan must be implemented at no cost to the Responsible Authority, and must be maintained to the reasonable satisfaction of the Responsible Authority.
19. Prior to the occupation of the permitted development the following footpath works must be undertaken to the satisfaction of the Responsible Authority:
 - a. A concrete footpath 1.5 metres wide and all connecting links must be constructed in East Ridge Drive.
 - b. Footpath exiting the site on Maroondah Hwy near Fletcher Road with additional direct connection to the bus stop shown on the plan.
 - c. A concrete footpath 2.5 metres wide along the Maroondah Highway frontage from East Ridge Drive to the traffic signals at Fletcher Road
 20. Prior to the commencement of works, engineering construction plans showing all internal works, including access ways, parking, footpaths, drainage, and all Council works including external footpaths together with a processing fee of \$ 300 must be submitted to, and approved by, the Responsible Authority. Civil works must then be constructed in accordance with these approved engineering plans.
 21. Prior to the approval of engineering construction plans an inspection/surveillance fee of 2.5% of the estimated cost of all Council works of this Incorporated Document, must be paid to the Responsible Authority.
 22. Prior to the approval of engineering construction plans, a maintenance bond to the value of \$5000 for Council works of this Incorporated Document, must be paid to the Responsible Authority.
 23. The Council works as required by this Incorporated Document must be maintained in good condition and repair by the developer for a period of three months from the date of practical completion to the satisfaction of the Responsible Authority.
 24. Prior to an Off Maintenance inspection and subsequent return of the maintenance bond, "As Constructed" plans of all Council works, together with a video survey record of the full length of all Council piped drainage, must be submitted to, and approved by, the Responsible Authority.
 25. Prior to the occupation of the permitted development the construction of all civil works within the site, including water tanks/detention and internal/external signs must be fully completed and subsequently inspected and approved by a suitably experienced Civil Engineer at the arrangement and expense of the owner/developer. This person must supply written certification that the works have been constructed in accordance with this Incorporated Document and to relevant standards to the satisfaction of the Responsible Authority.
 26. The car parking spaces, vehicular access ways and drainage approved by this Incorporated Document are to be maintained and must not be obstructed or made inaccessible to the satisfaction of the Responsible Authority.

Materials, finishes and design integrity

27. Prior to the commencement of development, a facade and materials strategy must be submitted to and be to the satisfaction of the Responsible Authority. The facade and materials strategy must include a detailed schedule of materials and finishes including the colour, type of materials (and quality), construction and appearance.

[Environmentally Sustainable Development \(ESD\)](#)

28. Prior to the commencement of development, an ESD report and ESD Management Plan must be submitted to and be approved by the Responsible Authority. The ESD report must confirm that the roof top photovoltaic arrays have been optimised and that the development has been designed to achieve a 5 Star Green Star Design & As Built rating.
29. The measures included in the ESD Management Plan must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.

Stormwater Management

30. Prior to the commencement of development, a Stormwater Management Plan (SMP) must be submitted to and be approved by the Responsible Authority. The SMP must:
 - a. be based on an integrated water sensitive urban design strategy
 - b. meet the objectives of clause 53.18-5 of the Planning Scheme
 - c. include details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system
 - d. confirm that the development has been designed to achieve compliance with the *Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*.
31. The measures included in the SMP must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.

Construction Management Plan

32. Prior to the commencement of development, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority. The plan must be prepared in accordance with any municipal construction management plan guidelines (where applicable), and should include the following:
 - a. public safety, amenity and site security;
 - b. construction hours, noise and vibration controls;
 - c. air and dust management;
 - d. stormwater and sediment control;
 - e. waste and materials reuse;
 - f. traffic management; and
 - g. site services and amenities during construction.

Signage

33. The type, location, size, lighting and material of construction of the signs shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.
34. The signs, including their structure, as shown on the endorsed plans must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
35. The signs must only contain a logo or name which identifies the business conducted on the site unless otherwise approved by the Responsible Authority.

VicRoads Conditions

36. An electronic or animated sign within 60 [metres](#) of a freeway or arterial road declared under the Road Management Act 2004 must not be constructed without the written consent of VicRoads and the Responsible Authority.
37. Prior to the commencement of any roadworks, detailed engineering design plans must be submitted to VicRoads for approval. The detailed design plans must be prepared generally in accordance with GTA Consultants Drawing No. V155990-02 Issue P1 dated 14/11/18.
38. Prior to the occupation of the development, road improvement works on Maroondah Highway, generally in accordance with GTA Consultants Drawing No. V155990-02 Issue P1 dated 14/11/18 shall be completed to the satisfaction of and at no cost to VicRoads.
39. Prior to the occupation of the development, an updated transport impact assessment (TIA) shall be conducted to the satisfaction of and at no cost to VicRoads. The TIA shall examine the likely effects of the development and use of the subject site on the operations and safety of the Maroondah Highway/Manchester Road/Edward Road intersection and identify any improvement measures, if necessary, required to ensure an acceptable outcome.
40. Prior to the occupation of the development, any improvement measures identified in the TIA as being required at the Maroondah Highway/Manchester Road/Edward Road intersection must be completed to the satisfaction of and at no cost to VicRoads.

4.4 EXPIRY

The control in this document expires in respect of land identified in clause 3.0 and Appendix A of this document if any of the following circumstances apply:

- a. development of that land has not commenced 2 years after the approval date of Amendment X; or
- b. use of that land has not commenced 4 years after the approval date of Amendment X; or
- c. development of that land is not completed 4 years after the approval date of Amendment X.

The ~~Minister for Planning~~ [Council](#) is the responsible authority for the purposes of extending time under Clause 45.12-2.

The exemption in this document from the need for a permit for a major promotion sign expires ~~25~~ [15](#) years after the approval date of Amendment X.

Appendix F Incorporated Document – Dandenong

Kaufland Supermarket and complementary uses, 1-3 Gladstone Road, Dandenong Incorporated Document (*insert date*), 2019.

Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

This document is an incorporated document in the schedule to clause 45.12 and clause 72.04 of the Greater Dandenong Planning Scheme ('Planning Scheme') pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

The land identified in clause 3.0 of this document may be used and developed in accordance with the specific control in clause 4.0 of this incorporated document.

If there is any inconsistency between any of the provisions of this document and the provisions of the Planning Scheme, the control at clause 4.0 of this document shall prevail over any contrary or inconsistent provision in the Planning Scheme.

2.0 PURPOSE

To facilitate efficient land use for the purposes of supermarket and complementary uses in the areas affected by this control.

3.0 LAND

The control in this document applies to the land defined as 1-3 Gladstone Road, Dandenong, formally referred to as Lot S2 on PS440244Q.

4.0 CONTROL

4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Any requirement in the Planning Scheme which:

- Prohibits use and/or development of land; or
- Requires a permit for use and/or development of land; or
- Requires use or development of land to be carried out in a particular manner,

does not apply to the use and development of the land identified in clause 3.0 of this document undertaken either for or in connection with the use or development of land:

- for a supermarket or a bottle shop used in conjunction with a supermarket where such use or development is carried out by or on behalf of Kaufland Australia Pty Ltd (or a related entity)
- for the purposes of the following uses of land:

- Bank
 - Electoral office
 - Medical centre
 - Real estate agency
 - Travel agency
 - Art gallery
 - Food and drink premises except for hotel or tavern
 - Postal agency
 - Shop except for adult sex product shop, department store, laundromat, restricted retail premises (other than party supplies)
 - Party supplies
- for the purposes of signage associated with the above uses of land.

4.2 PLANS

The use and development of the land must be undertaken generally in accordance with the following plans but as modified by clause 4.3 of this document:

SHEET NUMBER	SHEET NAME	REVISION
TP-02	SITE CONTEXT PLAN	ACP dated 8/11/2018
TP-03	EXISTING CONDITIONS PLAN	ACP dated 8/11/2018
TP-04	PROPOSED SITE & GROUND FLOOR PLAN	ACP dated 8/11/2018
TP-05	ROOF PLAN	ACP dated 8/11/2018
TP-06	OVERALL ELEVATIONS	ACP dated 8/11/2018
TP-07	STREET ELEVATIONS	ACP dated 8/11/2018
TP-08	OVERALL SECTIONS	ACP dated 8/11/2018
TP-09	SIGNAGE DIAGRAMS	ACP dated 8/11/2018

4.3 CONDITIONS

The exemption from Planning Scheme requirements outlined in clause 4.1 of this document is subject to the following conditions:

Submission and approval of architectural plans

1. Prior to the commencement of any development (including demolition, bulk excavation works and site preparation/retention works), detailed architectural plans must be prepared and submitted to the Minister for Planning for approval and endorsement. The plans must be drawn to scale, and be generally in accordance with the plans listed in clause 4.2 to this incorporated document but modified to show:
 - a. ~~The removal of Pylon Sign Type 2. The pylon sign reduced in height to 18m (overall height) with a 4 x 4 m box for the Kaufland logo and a 1.3m high tenancy sign.~~
 - b. Relocation of the loading bay to the north-east corner of the site
 - c. Active frontage to David Street with outward facing tenancies.
 - d. At least 10 bicycle lockers or lockable compound for at least 10 employee bicycles and end of trip facilities.
 - e. An appropriate roof top screen on the eastern elevation to obscure the roof plant and equipment;
 - f. Details of lighting to be erected throughout the site, including the car park;
 - g. The trolley enclosure altered to reduce the secluded nature of this area;
 - h. A landscaping plan as required by Condition 17;
 - i. Any changes resulting from the traffic management report required by Condition 19;

- j. Any changes resulting from the Sustainability Management Plan (SMP), as required by Condition 23;
- k. Any changes resulting from the Stormwater Management Plan as required by Condition 24.

Layout not altered

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the ~~Minister for Planning~~ Responsible Authority. Where a proposed alteration would require referral to a referral authority, save for these provisions, a request for the ~~Minister for Planning's~~ Responsible Authority's written consent must be accompanied by the written views of the referral authority.

Hours of Operation

3. ~~The supermarket and bottle shop uses shall only operate between the hours of 7am and midnight each day of the week, unless with the written approval of the Responsible Authority~~
The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority.
4. Waste collection from the site in association with the permitted uses must only occur between the following times:
 - 7.00am – 8.00pm Monday to Saturday
 - 9.00am – 8.00pm Sunday and public holidays

unless with the written consent of the Responsible Authority.

Noise

5. Noise levels emanating from the premises must not exceed noise levels as determined by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
6. Plant and equipment shall be assessed by a suitably qualified acoustic consultant during design and construction to ensure compliance with SEPP N-1.
- ~~7. Prior to the commencement of the use a noise wall, 4m high, and a 3m high solid gate, shall be erected around the loading dock in accordance with the plans marked up in Appendix C to the expert witness statement of Mr Tardio dated November 2018. The noise wall and gate shall be constructed of cladding weighing at least 15kg/m² and with an acoustically absorptive finish to the internal face. The gate itself shall be constructed to emit low levels of noise by employing soft rollers and no metal on metal contact points.~~
- ~~8. When loading is being carried out between 10pm and 7am, the gate must remain closed during the period that the delivery truck is within the loading dock.~~

Amenity Conditions

9. The amenity of the area must not be detrimentally affected by the use of land, including through the:
 - a. transportation of materials, goods or commodities to or from the land;
 - b. appearance of any building, works or materials;
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, girt or oil;
 - d. presence of vermin;
 - e. adverse behaviour of patrons to or from the land; or
 - f. in any other way.

Waste

10. Prior to the commencement of use, a Waste Management Plan for the development generally in accordance with the Waste Management Plan prepared by One Mile Grid dated November 2018 must be submitted to and approved by the Responsible Authority.
11. The management of waste on the subject site must be carried out in accordance with the approved Waste Management Plan for the site.
12. Bins or other receptacles for any form of rubbish or reuse, with the exception of those bins and receptacles intended to be used by the public, may not be placed or allowed to remain in the view of the public and no odour shall be emitted from any such receptacles.
13. All wastes must be disposed of to the satisfaction of the Responsible Authority and no liquid waste or polluted waters shall be discharged into a sewer or stormwater drainage system

Loading and Delivery Management Plan

14. Prior to the commencement of the use, a Loading and Delivery Management Plan (LDMP) must be submitted to and be approved by the Responsible Authority. The LDMP should consider measures to minimise the impacts of deliveries on the amenity of the area and must set out the process to ensure compliance with the condition 8 requiring the use of the gate when loading is being carried out between 10:00pm and 7:00am.
15. The LDMP must be periodically reviewed to the satisfaction of the Responsible Authority.
16. Any loading and unloading of goods and all manoeuvring of vehicles must only be carried out within title boundaries of the land.

Landscaping

17. Prior to commencement of development, a landscape plan dimensioned and drawn to scale, must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the landscape plans by Formium Landscape Architects Figures 3-9 dated November 2018, ~~and must~~ but modified to show:
 - a. no parking spaces in the triangular island containing the plaza area located near the Princes High frontage;
 - b. increased number of canopy trees located along the Princes Highway frontage;
 - c. a plaza area and increased landscaping in the David Street frontage;
 - d. the location of all existing vegetation to be retained and/or removed;
 - e. the location of all proposed vegetation throughout the site;
 - f. vegetation, including mature vegetation, throughout the car park, along all street frontages, around the loading bay, and within the forecourt entry and outdoor eatery. This should include canopy cover to provide shade for those entering or waiting outside;
 - g. planter boxes and seating in the entry forecourt;
 - h. the location of buildings and trees on neighbouring properties within 3 metres of the title boundaries;
 - i. details of surface finishes of pathways and driveways; and
 - j. a planting schedule of all proposed trees, shrubs, and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each species. This must contain evergreen vegetation to provide greenery all year round.
18. Before the use of the land starts, landscaping works as shown on the endorsed plan/s must be completed and then maintained, all to the satisfaction of the Responsible Authority.

Car parking and traffic management

19. Prior to the commencement of development, a car parking and traffic management report and Car Parking Plan by a recognised traffic consultant must be submitted to and be approved to the satisfaction of the Responsible Authority. The Car Parking Plan must show:
 - a. pedestrian linkages designed having regard to Figure 15 of the statement of evidence by Charmaine Dunstan of Traffix group dated 19 November 2018 which shows the following additional and revised pedestrian connections:
 - i. relocating the proposed link through to Gladstone Road to the south one row of car spaces ~~in order~~ to bring it closer to the Princes Highway/Gladstone Road intersection
 - ii. a footpath connection through the carpark to the bus stop on Gladstone Road
 - iii. an improved pedestrian link to the northern carpark
 - iv. an improved pedestrian link to the south-east corner of the carpark
 - v. a footpath connection along Gateway Boulevard to the signals at Gladstone Road/Perkin Court.
 - b. line marking and signage
 - c. detail of the shared zones including any pedestrian priority spaces.
20. Prior to the occupation of the permitted development:
 - a. the car parking spaces and vehicular access ways shown on the endorsed plan and approved Car Parking Plan must be fully constructed, sealed, delineated and/or signed and drained incorporating Water Sensitive Urban Design elements including gross pollutant trap(s) to the satisfaction of the Responsible Authority;
 - b. All traffic mitigation works and management measures as recommended in the car parking and traffic management report and Car Parking Plan must be implemented at no cost to the Responsible Authority, and must be maintained to the reasonable satisfaction of the Responsible Authority.
21. The car parking provided on the land must always be available for use by persons employed on or visiting the subject premises, and no measures may be taken to restrict access to the car park by such persons, all to the satisfaction of the Responsible Authority.

Materials, finishes and design integrity

22. Prior to the commencement of development, a facade and materials strategy must be submitted to and be to the satisfaction of the Responsible Authority. The facade and materials strategy must include a detailed schedule of materials and finishes including the colour, type of materials (and quality), construction and appearance.

Environmentally Sustainable Development

23. Prior to the commencement of the use, a Sustainability Management Plan (SMP) prepared by a suitable qualified professional must be submitted to the satisfaction of the Responsible Authority. The SMP must detail how the application meets the objectives of clause 22.06 and include the following:
 - a. Provide a detailed assessment of the development and identify relevant sustainability targets or performance standards, including achievable environmental performance outcomes, including a target of a 5 Star Green Star Design & As Built rating
 - b. Demonstrate that the building has the design potential to achieve the relevant environmental best practice performance outcomes, having regard to the site's opportunities and constraints
 - c. Document the means by which the performance standards can be achieved and can be maintained over time.

Stormwater Management

24. Prior to the commencement of development, a Stormwater Management Plan (SMP) must be submitted to and be approved by the Responsible Authority. The SMP must:
- a. be based on an integrated water sensitive urban design strategy
 - b. meet the objectives of clause 53.18-5 of the Planning Scheme
 - c. include details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system
 - d. confirm that the development has been designed to achieve compliance with the *Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*.
25. The measures included in the SMP must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.

Construction Management Plan

26. Prior to the commencement of development, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:
- a. Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints;
 - b. All Traffic Management Plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;
 - c. The location of all areas on-site and off-site to be used for construction staff parking;
 - d. A Parking Management Plan for all associated construction vehicles;
 - e. All site sheds, portable toilet, storage and materials, etc. must be confined to the land;
 - f. The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;
 - g. A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;
 - h. No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the land;
 - i. All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system.

General conditions

27. No buildings or works may be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables under the control of a public authority without the prior written consent of the relevant authority and the Responsible Authority.
28. Goods, materials, equipment and the like associated with the uses of the land must not be displayed or stored outside the building/s and must not disrupt the circulation and parking of vehicles on the land, without the further written consent of the Responsible Authority.
29. All external lighting of the site, including car parking areas and buildings, must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.
30. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.

31. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Signage

32. The type, location, size, lighting and material of construction of the signs shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.
33. The signs, including their structure, as shown on the endorsed plans must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
34. The signs must only contain a logo or name which identifies the business conducted on the site unless otherwise approved by the Responsible Authority.
35. The signs must be wholly located within the subject property. That is, no part of the sign may encroach into the declared road reserve.
36. The sign lighting must be designed, baffled and located to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
37. The intensity of the light in the signage must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area, to the satisfaction of the Responsible Authority.

VicRoads Conditions

38. An electronic or animated sign within 60 [metres](#) of a freeway or arterial road declared under the Road Management Act 2004 must not be constructed without the written consent of VicRoads and the Responsible Authority.
39. Prior to the occupation of the development a [Transport Impact Assessment](#) (TIA) shall be undertaken to the satisfaction of and at no cost to VicRoads. The TIA shall identify any operational changes required to be made to the traffic signals to optimise the performance of the Princes Highway/Gladstone Road/Jones Road intersection.
40. [Prior to the commencement of use Gladstone Road between Princes Highway and Gateway Boulevard must be widened to provide for two through lanes in each direction at no cost to and to the satisfaction of the Responsible Road Authority, unless otherwise agreed in writing by the Responsible Road Authority.](#)

4.4 EXPIRY

The control in this document expires in respect of land identified in clause 3.0 and Appendix A of this document if any of the following circumstances apply:

- a. development of that land has not commenced 2 years after the approval date of Amendment X; or
- b. use of that land has not commenced 4 years after the approval date of Amendment X; or
- c. development of that land is not completed 4 years after the approval date of Amendment X.

The [Minister for Planning Council](#) is the responsible authority for the purposes of extending time under [Clause 45.12-2](#).

The exemption in this document from the need for a permit for a major promotion sign expires ~~25~~ [15](#) years after the approval date of Amendment X.

Appendix G Incorporated Document – Epping

Kaufland Supermarket and complementary uses, 592-694 High Street, Epping Incorporated Document (*insert date*), 2019

Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

This document is an incorporated document in the schedule to clause 45.12 and clause 72.04 of the Whittlesea Planning Scheme ('Planning Scheme') pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

The land identified in clause 3.0 of this may be used and developed in accordance with the specific control in clause 4.0 of this incorporated document.

If there is any inconsistency between any of the provisions of this document and the provisions of the Planning Scheme, the control at clause 4.0 of this document shall prevail over any contrary or inconsistent provision in the Planning Scheme.

2.0 PURPOSE

To facilitate efficient land use for the purposes of supermarket and complementary uses in the areas affected by this control.

3.0 LAND

The control in this document applies to the land defined as 592-694 High Street, Epping, formally referred to as Lot 1 on PS 413977W.

4.0 CONTROL

4.1 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Any requirement in the Planning Scheme which:

- Prohibits use and/or development of land; or
- Requires a permit for use and/or development of land; or
- Requires use or development of land to be carried out in a particular manner,

does not apply to the use and development of the land identified in clause 3.0 of this document undertaken either for or in connection with the use or development of land:

- for a supermarket or a bottle shop used in conjunction with a supermarket where such use or development is carried out by or on behalf of Kaufland Australia Pty Ltd (or a related entity)
- for the purposes of the following uses of land:
 - Bank

- Electoral office
 - Medical centre
 - Real estate agency
 - Travel agency
 - Art gallery
 - Food and drink premises except for hotel or tavern
 - Postal agency
 - Shop except for adult sex product shop, department store, laundromat, restricted retail premises (other than party supplies)
 - Party supplies
- for the purposes of signage associated with the above uses of land.

4.2 PLANS

The use and development of the land must be undertaken generally in accordance with the following plans but as modified by clause 4.3 of this document:

SHEET NUMBER	SHEET NAME	REVISION
TP-02	SITE CONTEXT PLAN	ACP 1 dated 28 /11/2018
TP-03	EXISTING CONDITIONS PLAN	ACP 1 dated 28 /11/2018
TP-04	PROPOSED SITE & GROUND FLOOR PLAN	ACP 1 dated 28 /11/2018
TP-05	ROOF PLAN	ACP 1 dated 28 /11/2018
TP-06	OVERALL ELEVATIONS	ACP 1 dated 28 /11/2018
TP-07	STREET ELEVATIONS	ACP1 dated 28/11/2018
TP-08	OVERALL SECTIONS	ACP dated 28 /11/2018
TP-09	SIGNAGE DIAGRAMS	ACP 1 dated 28 /11/2018

4.3 CONDITIONS

The exemption from Planning Scheme requirements outlined in clause 4.1 of this document is subject to the following conditions:

Submission and approval of architectural plans

1. Prior to the commencement of any development (including demolition, bulk excavation works and site preparation/retention works), detailed architectural plans must be prepared and submitted to the Minister for Planning for approval and endorsement. The plans must be drawn to scale, and be generally in accordance with the plans listed in clause 4.2 to this incorporated document but modified to show:
 - a. [The sleeving of the building to ensure active uses along the main building frontage.](#)
 - b. [The provision of a central tree-lined 'boulevard' for the main east-west spine off High Street that incorporates a shared pedestrian / cycle path and narrowing of the carriageway.](#)
 - c. [The continuation of the shared pedestrian / cycle path through to Cooper Street.](#)
 - d. [The provision of public art in pedestrian areas of the development or in locations visible from the public realm.](#)
 - e. [The removal of Pylon Sign Type 2. The pylon sign reduced in height to 18m \(overall height\) with a 4 x 4 m box for the Kaufland logo and a 1.3m high tenancy sign](#)
 - f. At least 10 bicycle lockers or lockable compound for at least 10 employee bicycles and end of trip facilities.
 - g. Subject to condition 34, the following changes identified in the Transport Impact Assessment (TIA) by GTA Consultants dated 12 November 2018:

- i. The signalisation of the Cooper Street access point;
- ii. An extension of the right turn lane on the east approach to the High Street/Cooper Street intersection of approximately 40metres;
- iii. An extension of the right turn lane on the south approach to the High Street/site access/Pacific Epping Shopping Centre Site Access intersection of approximately 30m;
- h. Decrease the central carriageway width to 7metres and increase the area provided for landscape accordingly.
- i. Additional façade treatments (such as random pattern effects or other coloured textured or attached surfaces) to the railway line (eastern) elevation.
- j. [Any changes resulting from the Landscape Plan and Car Parking Plan as required by Conditions 12 and 13 respectively.](#)
- k. Any changes resulting from the Stormwater Management Plan as required by Condition 18.

Layout not altered

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the ~~Minister for Planning~~ [Responsible Authority](#). Where a proposed alteration would require referral to a referral authority, save for these provisions, a request for the ~~Minister for Planning's~~ [Responsible Authority's](#) written consent must be accompanied by the written views of the referral authority.

Hours of Operation

3. ~~The supermarket and bottle shop uses shall only operate between the hours of 7am and midnight each day of the week, unless with the written approval of the Responsible Authority~~
[The supermarket and all other uses other than bottle shop shall only operate between the hours of 7:00am and midnight each day of the week, unless with the written approval of the Responsible Authority. Bottle shop uses shall only operate between the hours of 9:00am and 10:00pm each day of the week, unless with the written approval of the Responsible Authority.](#)
4. Waste collection from the site in association with the permitted uses must not occur between the hours midnight and 7.00am (other than a maximum of one waste collection truck between midnight and 7.00am) unless with the written consent of the Responsible Authority.

Noise

5. Noise levels emanating from the premises must not exceed noise levels as determined by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
6. Plant and equipment shall be assessed by a suitably qualified acoustic consultant during design and construction to ensure compliance with SEPP N-1.

Waste

7. Prior to the commencement of use, a waste management plan for the development generally in accordance with the Waste Management Plan prepared by One Mile Grid dated November 2018 must be prepared to the satisfaction of the Responsible Authority.
8. Provision must be made on the land for the storage and collection of garbage and other solid waste.

Loading and Delivery Management Plan

9. Prior to the commencement of development, a Loading and Delivery Management plan must be submitted to and be approved by the Responsible Authority.
10. Any loading and unloading of goods and all manoeuvring of vehicles must only be carried out within title boundaries of the land.

Visual Amenity

11. No air conditioning equipment, plant or the like must be installed on the roof of the building such that it would be visible to the public.

Landscaping

12. Prior to commencement of development, a landscape plan dimensioned and drawn to scale must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the landscape plans by Formium Landscape Architects Figures 3-9 dated November 2018 ~~and dimensioned and drawn to scale, and must~~ but modified to show:
 - a. the location of all existing vegetation to be retained and/or removed;
 - b. the location of buildings and trees on neighbouring properties within 3 metres of the title boundaries;
 - c. details of surface finishes of pathways and driveways; ~~and~~
 - d. a planting schedule of all proposed trees, shrubs, and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each species;
 - e. the provision of a central tree lined 'boulevard' for the main east-west spine off High Street that incorporates a shared path and narrowing of the carriageway;
 - f. the continuation of the shared pedestrian / cycle path through to Cooper Street;
 - g. the provision of a large publicly accessible plaza connected to the boulevard which is not shade prone;
 - h. the provision for public art in pedestrian areas of the development of in locations visible from the public realm.
 - i. canopy trees at the rate of one for every eight spaces in surface car parks set out in bay form
 - j. the provision of larger tree bays which integrate WSUD and have regard to measures to avoid trampling and litter collection.
 - k. any changes resulting from the Car Parking Plan as required by Condition 13

Car parking and Traffic Management

13. Prior to the commencement of development, a car parking and traffic management report and Car Parking Plan by a recognised traffic consultant must be submitted to and be approved to the satisfaction of the Responsible Authority. The Car Parking Plan must show:
 - a. relocation of the outdoor plaza further towards the entry to the supermarket
 - b. pedestrian linkages designed having regard to Figure 22 of the statement of evidence by Charmaine Dunstan of Traffix group dated 14 November 2018 which shows the following additional pedestrian connections:
 - i. an improved pedestrian link to the northern carpark
 - ii. an additional link across the Service Road to the south of site
 - iii. relocation and extension of the footpath connection between the main path (linking the store and High Street) and Epping Hub
 - iv. Provision of a shared path between High Street and Copper Street entries.
 - c. line marking and signage

- d. detail of the shared zones including any pedestrian priority spaces.

14. Prior to the occupation of the permitted development:

- a. the car parking spaces and vehicular access ways shown on the endorsed plans and approved Car Parking Plan must be fully constructed, sealed, delineated and/or signed and drained incorporating Water Sensitive Urban Design elements including gross pollutant trap(s); and
- b. all traffic mitigation works and management measures as recommended in the car parking and traffic management report and Car Parking Plan must be implemented at no cost to the Responsible Authority, and must be maintained to the reasonable satisfaction of the Responsible Authority.

Materials, finishes and design integrity

15. Prior to the commencement of development, a facade and materials strategy must be submitted to and be to the satisfaction of the Responsible Authority. The facade and materials strategy must include a detailed schedule of materials and finishes including the colour, type of materials (and quality), construction and appearance.

Environmentally Sustainable Design (ESD)

16. Prior to the commencement of development, an ESD Report and ESD Management Plan must be submitted to and be approved by the Responsible Authority. The ESD report must confirm that the roof top photovoltaic arrays have been optimised and that the development has been designed to achieve a 5 Star Green Star Design & As Built rating
17. The measures included in the ESD Management Plan must be implemented prior to occupation of the building, to the reasonable satisfaction of the Responsible Authority.

Stormwater Management

18. Prior to the commencement of development, a Stormwater Management Plan (SMP) must be submitted to and be approved by the Responsible Authority. The SMP must:
- a. be based on an integrated water sensitive urban design strategy
 - b. meet the objectives of clause 53.18-5 of the Planning Scheme
 - c. include details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system
 - d. confirm that the development has been designed to achieve compliance with the *Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*.
19. The measures included in the SMP must be implemented prior to occupation of the building, to the satisfaction of the Responsible Authority.

Construction

20. Prior to the commencement of development, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority. The plan must be prepared in accordance with any municipal construction management plan guidelines (where applicable), and should include the following:

- a. public safety, amenity and site security;
- b. construction hours, noise and vibration controls;
- c. air and dust management;
- d. stormwater and sediment control;
- e. waste and materials reuse;
- f. traffic management; and
- g. site services and amenities during construction.
- h. a requirement that, at all times during the construction phase of the development, the owner shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site
- i. a requirement that any litter generated by building activities on the site shall be collected and stored in an appropriate enclosure which complies with Council's Code of Practice for building / development sites. The enclosures shall be regularly emptied and maintained such that no litter overflows onto adjoining land. Prior to occupation and / or use of the building, all litter shall be completely removed from the site.
- j. a requirement that, during the construction phase, a truck wheel washing facility or similar device must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited

21. Upon completion of all buildings and works authorised by this Incorporated Document, the owner must notify the Responsible Authority of the satisfactory completion of the development and compliance with all relevant conditions.

Signage

22. The type, location, size, lighting and material of construction of the signs shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.

23. The signs, including their structure, as shown on the endorsed plans must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.

24. The signs must only contain a logo or name which identifies the business conducted on the site unless otherwise approved by the Responsible Authority.

Green Travel Plan

25. Before the use and/or development starts, a Green Travel Plan must be prepared for the supermarket and submitted to and approved by the responsible authority. The Plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the staff of the supermarket. When approved, the Green Travel Plan will be endorsed by the Responsible Authority. The Green Travel Plan must include the following:

- a. an introduction to the site, a description of the location and the objectives for the Green Travel Plan
- b. a site audit report, including an assessment of the available alternative modes of transport;
- c. an action plan outlining methods used to implement the objectives of the Green Travel Plan including targets and measures
- d. a monitoring and evaluation strategy outlining how the ongoing performance and success of the Green Travel Plan will be assessed.

Provision of Services

26. Prior to the occupation of the building hereby approved, the Owner is required to construct at no cost to Council, drainage works between the subject site and the Council nominated point of discharge. Such drainage works must be designed by a qualified engineer and submitted to and approved by Council. Computations will also be required to demonstrate that the drainage system will not be overloaded by the new development. Construction of the drainage system must be carried out in accordance with Council specifications and under Council supervision.
27. Prior to the occupation of the building hereby approved, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.
28. The Owner shall be responsible to meet all costs associated with reinstatement and / or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The Owner shall be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.

Landscaping completion and maintenance

29. Unless with the prior written consent of the Responsible Authority, before the occupation of the development and/or use hereby permitted commences and/or within 6 months and/or 12 months of the completion of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
30. Unless otherwise agreed in writing by the Responsible Authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Universal Access

31. A report and additional plan prepared by a suitably qualified and accredited person demonstrating that access to and throughout the commercial part of the building (including the public toilets) must be provided in accordance with the Disability (Access to Premises – Buildings) Standards 2010 and applicable Australian Standards: AS 1428.1 – 2009, AS/NZS 1428.4.1 – 2009 and AS/NZS 2890.6 – 2009 and conforms with the objectives of the Disability Discrimination Act 1992 (Commonwealth).

Development contributions

32. Prior to the completion of the development or at any other time agreed by the Collecting Agency, any development contributions that would have been payable under the Development Contributions Plan Overlay Schedule 14 if a permit had been issued for the development, must be paid to the Collecting Agency.

VicRoads Conditions

33. An electronic or animated sign within 60 [metres](#) of a freeway or arterial road declared under the Road Management Act 2004 must not be constructed without the written consent of VicRoads and the Responsible Authority.
34. Prior to the commencement of the development (excluding demolition and site preparation works) or at another time agreed in writing with VicRoads, an updated [Transport Impact Assessment \(TIA\)](#) shall be prepared to the satisfaction of and at no cost to VicRoads and the Head, Transport Victoria. The TIA shall

consider the signalisation of the Cooper St access taking into consideration 2020 and 2031 network operating conditions and shall identify any works required to mitigate the impact of the development on the arterial road network and on Cooper Street bus operations.

35. Unless otherwise agreed in writing by VicRoads, and prior to the commencement of any works, Functional Layout Plans must be submitted to and approved by VicRoads to show (as modified by any requirement of the TIA):
 - a. the signalisation of the Cooper Street access point;
 - b. the extension of the right turn lane on the east approach to the High Street/Cooper Street intersection;
 - c. the extension of the right turn lane on the south approach to the High Street/site access/Pacific Epping Shopping Centre site access intersection.
36. Subsequent to the approval of the Functional Layout Plans and prior to the commencement of any roadworks, detailed engineering design plans must be submitted to VicRoads for approval. The detailed design plans must be prepared generally in accordance with the approved Functional Layout Plans.
37. Prior to the commencement of the development (excluding demolition and site preparation works) or at another time agreed in writing with VicRoads, the endorsed plans must be amended (if required) to be consistent with the required impact mitigation works identified in the TIA.
38. Prior to the occupation of the development, all impact mitigation works required by the TIA must be completed to the satisfaction of and at no cost to VicRoads.

4.4 EXPIRY

The control in this document expires in respect of land identified in clause 3.0 and Appendix A of this document if any of the following circumstances apply:

- a. development of that land has not commenced 2 years after the approval date of Amendment X; or
- b. use of that land has not commenced 4 years after the approval date of Amendment X; or
- c. development of that land is not completed 4 years after the approval date of Amendment X.

The ~~Minister for Planning~~ [Council](#) is the responsible authority for the purposes of extending time under clause 45.12-2.

The exemption in this document from the need for a permit for a major promotion sign expires ~~25~~15 years after the approval date of Amendment X.

Appendix H Planning Scheme Maps

