



Planning and Environment Act 1987

Panel Report

Baw Baw Planning Scheme

Amendment C86

Warragul and Drouin Town Centre Strategies

Amendment C90 and Amendment C86

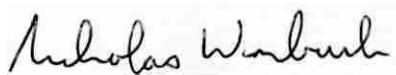
Heritage Places and Precincts

6 September 2012

Planning and Environment Act 1987

Panel Report pursuant to Sections 153 and 155 of the Act

Baw Baw Planning Scheme Amendments C86 and C90

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Nick Wimbush, Chair

A handwritten signature in black ink that reads "Gaye McKenzie". The signature is written in a cursive style with a clear, legible font.

Gaye McKenzie, Member



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List of Abbreviations

ACZ	Activity Centre Zone
B1Z	Business 1 Zone
DDO	Design and Development Overlay
DoT	Department of Transport
DPCD	Department of Planning and Community Development
DSE	Department of Sustainability and Environment
EAO	Environmental Audit Overlay
HO	Heritage Overlay
LPPF	Local Planning Policy Framework
MP	Masterplan
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
R1Z	Residential 1 Zone
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions

Summary and recommendation in chief

Amendment C90 to the Baw Baw Planning Scheme proposes to update the heritage controls and identification of heritage places and precincts in Baw Baw Shire for the first time in a comprehensive manner since the Shire was formed.

Amendment C86 proposed to rezone a number of areas in Drouin and Warragul; apply the Design and Development Overlay to the town centres; and apply heritage controls to a number of places and precincts in the towns.

Between them the Amendments attracted 64 submissions, in support and opposition. The same Panel was appointed to consider submissions to Amendments C86 and C90 given the overlap, in parts, of the Amendments related to heritage.

The key issues raised in objections related to:

- The impact of heritage controls on property values and development potential;
- Lack of existence of heritage values;
- Errors in the heritage citations about the values identified;
- Likelihood of increased planning difficulties and costs; and
- Concern about the imposition of heritage controls on a 'compulsory' basis.

There were a small number of submissions who raised issues with the rezonings and design and development controls in Amendment C86.

Hearings were held on two days in Warragul so that submitters could express their concerns directly to the Panel.

In general terms the Panel has supported both Amendments, subject to a number of relatively minor changes recommended in this report, finding that the Amendments are well supported in planning policy and will lead to improved planning outcomes in Baw Baw Shire. Based on the reasons set out in this Report, the Panel recommends:

Adopt Baw Baw Planning Scheme Amendments C86 and C90 subject to the recommendations in this report.

1 Background

1.1 The subject site and surrounds

Baw Baw is a rural Shire in the Melbourne hinterland, to its east. The Shire was created in 1994 from the former Shires of Buln Buln, Narracan and Warragul and part of the Upper Yarra Shire. It is around 82km long and 61km wide, with the top third comprising mostly state and national forest, and the remainder mostly farmland. The Shire is a municipality of great natural beauty and is bordered by the Great Dividing Range to the north and the Strzelecki Ranges to the south. It has an area of 4,027 square kilometres, and a population of around 43,000 people. The *Council Plan 2011-2015* states that the Shire recently had the sixth-fastest growth rate in the State.

Population growth has centred on the two largest towns, Warragul and Drouin, which are located within five kilometres of each other. These towns are developing complementary roles as twin towns. As well as their residential and service roles these towns have developed a strong industrial base. Smaller towns in the Shire are Longwarry, Yarragon, Trafalgar, Neerim South, Noojee, Erica-Rawson and Willow Grove.

The Shire's economy is focused around primary industry, education, health and services. Agribusiness is the major employment sector in the Shire, at 14.7 per cent, followed by Retail, Health Care and Social Assistance, Education and Training and Manufacturing. Trafalgar, Yarragon, Neerim South and Longwarry also have strong local service roles. The Shire is characterised by a large number of small local service centres reflecting the intensive nature of much of the agricultural activities and industries such as timber production and processing. The development of Warragul as the major urban centre serving West Gippsland has seen it take on regional service roles in activities such as education, health and medical services and agricultural research.

1.2 Amendment C86

Amendment C86 to the Baw Baw Planning Schemes, as exhibited, proposes to:

- Rezone land in the Warragul and Drouin town centres;
- Introduce a new Local Planning Policy at Clause 22.07 to include land use objectives for the Mixed Use Zone;
- Modify Local Planning Policy by introducing the Drouin Town Centre Strategy November 2010, Warragul Town Centre Urban Design Framework and Station Precinct Masterplan April 2010 and the Warragul Town Centre Masterplan May 2011 as reference documents. Local policy has also been updated to include correct referencing to the State Planning Policy Framework (SPPF) and clauses in the Local Planning Policy Framework (LPPF);
- Apply Schedules to the Design and Development Overlay over the Warragul (DDO1) and Drouin (DDO2) Town Centres;
- Apply the Environmental Audit Overlay (EAO) to land known to have previous industrial use or storage in Warragul, which is to be rezoned to a zone that permits 'sensitive uses';
- Remove Clause 22.02-3, Car Parking which requests cash in lieu for car parking applications without strategic justification;

-
- Apply the Heritage Overlay to those properties and precincts within Warragul as recommended for inclusion in Stage 2 and 2a of the Baw Baw Shire Heritage Study 2011;
 - Remove the Heritage Overlay from the new TAFE building in Warragul;
 - Replace the schedule to the Heritage Overlay (Clause 43.01) with a new schedule;
 - Include reference to the third rail crossing underpass in the Warragul structure plan (Clause 22.02); and
 - Amend Clause 61.03 to include the new planning scheme maps.

1.3 Amendment C90

Amendment C90 to the Baw Baw Planning Scheme, as exhibited, proposes to:

- Amend the Schedule to Clause 43.01 Heritage Overlay by the addition, amendment and deletion of various entries;
- Amend the Schedule to Clause 43.01 Heritage Overlay by the addition of an Incorporated document under Clause 43.01-2; and
- Amend the Schedule to Clause 63.01 to add two HO maps. Amend the Schedule to Clause 81.01 to add the Incorporated document 'Heritage Permit Exemptions'.

In the Local Planning Policy Framework, the Amendment replaces Clause 21.11-2 *Heritage* with a new Clause 21.11-2. The changes are summarised as follows:

- Amendment of the 'Context' by deleting existing context and adding new content;
- Amendment of 'Objective 1' at Clause 21.11-2;
- Deletion and replacement of Strategies 1.1 and 1.2 with new Strategies 1.1 and 1.2, in Clause 21.11-2;
- Insertion of a new Strategy 1.3 at Clause 21.11-2;
- Insertion of a new Objective 2 at Clause 21.11-2, accompanied by four new strategies;
- Addition of new sections to the Implementation section at 21.11-2;
- Introduction of Figures 1, 2 and 3 to the Implementation Section of Clause 21.11-2;
- Amendment of the Scheme Implementation section at 21.11-2 by adding new words;
- Insertion of a new section called 'Other Actions' at Clause 21.11-2;
- In the Reference Document section, the insertion of two more reference documents at Clause 21.11-2; and
- Introduction of Table 1 to Clause 21.11-2, listing precincts.

The planning authority and proponent for both Amendment C86 and Amendment C90 is Baw Baw Shire Council.

1.4 Council's rationale for having two Amendments

Council submitted that while the *Heritage Study* commenced in 2005, the Warragul and Drouin Town Centre Structure Plans were the product of a strategic planning exercise *Shaping the Future* beginning in 2009.

The *Heritage Study* and the Warragul and Drouin Town Centre Structure Plans project ran parallel to each other as they came to fruition. Common to both Studies was the recognition of the heritage value of the Warragul Queen Street precinct.

The *Warragul Town Centre Urban Design Framework* recognised the historic streetscape of the Queen Street Precinct under Principle 3 - '*enhance the 'historic precinct (Queen Street)'*'.

The heritage listing of four individual properties and one precinct at Drouin and one individual property and three precincts at Warragul are proposed under Amendment C86. The remainder (majority) of heritage listings along with amendments to policy and the Incorporated Document are contained in Amendment C90.

1.5 The Panel

The Panel was appointed under delegation on the 1 May 2012 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of the Amendments.

The Panel consisted of:

- Nick Wimbush (Chair); and
- Gaye McKenzie (Member)

1.6 Hearings and inspections

A Directions Hearing was held on 15 May 2012 at West Gippsland Arts Centre, Warragul. The Panel Hearings were held on 14 June 2012 (Amendment C90 and heritage matters of Amendment C86) and 9 July 2012 (Amendment C86 – non-heritage) at West Gippsland Arts Centre, Warragul.

The Panel inspected the sites affected by the Amendments, making unaccompanied visits of the precincts and individual properties in the Shire where submissions were lodged.

1.7 Exhibition

Amendments C86 and C90 were exhibited between 27 October and 23 December 2011. Notices were placed in the Government Gazette on 3 November 2011 and Notice was given to the prescribed Ministers and affected landowners. Notices also appeared in the local press.

Of the total of 24 (from 21 parties) submissions¹ (including one late submission) to Amendment C86, 11 opposed the heritage controls. One opposing submission however supported the Mixed Use zoning along the east side of Gladstone Avenue. One submission referred to the need for a clearer Precinct map for DDO1, and another requested the southerly extension of the proposed Mixed Use Zone along Gladstone Avenue to Queen Street. The submission from the owners of the former Bonlac site opposed a number of the DDO1 provisions, and the referencing of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan and the Warragul Town Centre Masterplan in the Scheme. VicTrack opposed the rezoning of land under its control at Warragul and Drouin. DPCD did not object to the Amendment.

¹ It is important to note that for completeness Council referred submissions both from the exhibition period for the Amendments and also from earlier exhibition of strategic documents such as the earlier heritage studies for Amendment C90. This means some of the submissions the Panel has addressed are relatively recent whilst some are nearly two years old.

Of the 40 submissions (including one late) received to Amendment C90, over 50 per cent opposed the application of the HO to their land. Of the submitters who supported the heritage controls, a number provided additional information concerning properties or precincts the HO was to apply to.

The Council and its consultant, Context Pty Ltd (Context) examined all submissions and this led to corrections and inclusion of additional information in the Stage 2 Heritage Report. The submissions and the Context response were set out in Baw Baw Shire Heritage Study Stage 2 Volume 2: Key Findings.

Council resolved to support a number of the submissions that requested a change to either Amendments C90 or C86.

1.8 Submissions

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table 1.

Table 1 Parties heard at the Amendment C90 (and heritage parts of C86) Panel Hearing

Submitter	Represented by
Baw Baw Shire Council	Ms Helen Crawford Strategic Planner who called the following expert witness: - Mr David Helms Heritage Architect Context Pty Ltd
National Trust of Australia (Victoria)	Mr Paul Roser
Mr David Hollier	
Mr Peter Myers	
Mr Bruce Jones	
Trafalgar Uniting Church	Mr Matthew Chapman of Hellier McFarland - Cityplan

Table 2 Parties heard at the Amendment C86 Panel Hearing

Submitter	Represented by
Baw Baw Shire Council	Mr Ian Pitt SC of Best Hooper, and Mr Scott Sibly of Council who called the following expert witness: - Mr Craig Czarny in planning and urban design
WD and DE Turner	Mr Phillip Bisset of Minter Ellison Lawyers who called the following expert witness: - Mr Tim Biles, in planning and urban design

A list of all submitters to the two Amendments is provided in Appendix A.

1.9 Further directions

At the close of the hearing on 14 June 2012 the Panel made the following directions in relation to heritage:

- that the Council (and its consultant) provide it with correct HO numbers; and
- a revised MSS clause also be provided.

At the close of the hearing on 9 July 2012 the Panel made the following direction:

- that the Council in consultation with WD & DE Turner provide a revised version of the DDO for the former Bonlac Factory as discussed in the Hearing.

These directions were complied with to the Panel's satisfaction.

Amendment C86 (non heritage)

2 Amendment background and issues

2.1 Description of Amendment

Amendment C86 was prepared by the Council and applies to land in and adjoining the Town Centres of Warragul and Drouin.

In summary the Amendment:

- rezones various parcels of land at Drouin and Warragul;
- applies the Environmental Audit Overlay over land previously occupied as industrial that is to be rezoned to allow 'sensitive uses';
- introduces the Design and Development Overlay over the Warragul (Schedule 1) and Drouin (Schedule 2) Town Centres;
- modifies Clause 21 to correct references to the State Planning Policy Framework and Local Planning Policy Framework Plan;
- modifies Clause 21 to reference the Warragul Town Centre Urban Design Framework and the Station Precinct Masterplan, April 2010, the Warragul Town Centre Masterplan, May 2011 and the Drouin Town Centre Strategy, Nov 2010;
- introduces a new Local Policy (Clause 22.07) to apply to land in the Mixed Use Zone;
- deletes Clause 22.02-3 Car Parking that requires 'cash in lieu' for car parking applications without strategic justification;
- includes the third rail crossing underpass on the Warragul Structure Plan at Clause 22.02; and
- amends Clause 61.03 to include the new planning scheme maps.

2.2 Key issues raised in the Amendment and submissions

Five written submissions were lodged to non-heritage aspects of Amendment C86, as it applies to the Warragul Town Centre. Of these, one was from the owner of the Commercial Hotel in Queen Street, Warragul. This submitter sought reassurance that any guidelines would be non-restrictive in nature so as not to prevent redevelopment of its property. This property is affected by both DDO1 and the Heritage Overlay (HO78).

A submission lodged by an owner of land on the east side of Gladstone Avenue supports its inclusion in the Mixed Use Zone. A second letter of support of this Zone requested that it be extended over all land on the east side of this street, to include land at its southern end that is currently in the Business 4 Zone.

A submission was lodged by VicTrack opposing the rezoning of land under its management to Mixed Use. The Department of Planning and Community Development (DPCD) had no objection to the Amendment.

A submission was lodged on behalf of the owner of the former Bonlac site on the east side of Mason Street, opposing elements of the proposed DDO1 and the referencing in the Scheme of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan and the Warragul Town Centre Masterplan.

The key issues of submitters opposing the Amendment are summarised as follows:

- Land vested in VicTrack should be included in the Public Use 4 Zone;

-
- A number of the DDO1 provisions will restrict the re-development of the former Bonlac site; and
 - Provisions contained in the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan and the Warragul Town Centre Masterplan will limit the redevelopment of the former Bonlac site.

The sole submission to non-heritage elements of the Amendment, as applying to Drouin, was from VicTrack. This was in relation to a small parcel of land vested in it that was to be rezoned from Business 4 (B4Z) to Residential 1. Following exhibition of the Amendment the Council resolved to include this parcel in the Public Use Zone 4 (PUZ4) to reflect its use.

There were no submissions to Schedule 2 of the Design and Development Overlay which will apply to land in the Drouin Town Centre and the Panel makes no further comment on that particular proposal.

3 Planning context

3.1 Strategic basis for the Amendment

This section of the Report considers the policy context for the Amendment and focuses on the strategic and policy issues. It assesses how the Amendment meets the objectives of the Planning Scheme. The following sections of this Report include a brief appraisal of the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the zone and overlay controls.

3.2 Policy framework

(i) State Planning Policy Framework

Council assessed the Amendment in the context of the SPPF in the Explanatory Reports and in its submission to the Panel.

In summary, Council submitted that the Amendment has a high level of strategic support from the following sections of the SPPF as discussed below.

Warragul is the major service centre in the Baw Baw Shire and is consistent with Clause 11.01-1 (Activity centre network) which seeks to *build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.*

Strategies include, to develop a network of activity centres that:

- *Is a focus for business, shopping, working, leisure and community facilities.*
- *Provides different types of housing, including forms of higher density housing.*
- *Is connected by public transport and cycling networks.*
- *Maximises choices in services, employment and social interaction.*

At Clause 11.01-2 (Activity Centre planning), it is State policy to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

Strategies of particular relevance at Warragul are to:

- *Undertake strategic planning for the use and development of land in and around the activity centres.*
- *Give clear direction in relation to preferred locations for investment.*
- *Encourage a diversity of housing types at higher densities in and around activity centres.*
- *Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.*
- *Improve access by walking, cycling and public transport to services and facilities for local and regional populations.*

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- *Broaden the mix of uses in activity centres to include a range of services over longer hours appropriate to the type of centre and needs of the population served.*
 - *Provide a focus for business, shopping, working, leisure and community facilities.*
 - *Encourage economic activity and business synergies.*
 - *Locate significant new education, justice, community, administrative and health facilities that attract users from large geographic areas in or on the edge of Major Activity Centres with good public transport.*

The Amendment is consistent with Clause 15.01 (Urban Environment) the objective of which is *'to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity'*. Strategies include to:

- *Promote good urban design to make the environment more liveable and attractive;*

The urban design principles set out in Clause 15.01-2, particularly in relation to context, the public realm, landmarks views and vistas, pedestrian spaces, heritage and consolidation of sites and development of vacant sites, are relevant in considering the DDO Schedules and reference documents. Also of relevance under State Policy are the *Activity Centre Design Guidelines 2005*, which are to be used in assessing the design and built form of new development in Activity Centres.

(ii) Local Planning Policy Framework

Municipal Strategic Statement

The LPPF at Clause 21.05-1 (Urban Growth), identifies Drouin and Warragul as the two largest centres in the municipality and at Clause 21.05-2 (Roles of Towns) it is policy to promote the *enhancement and consolidation of Warragul and Drouin as the major service centres for West Gippsland*. Warragul is identified as the *Centre for education, retailing and business*.

Under Clause 21.06 (Individual Town Strategies) Warragul is to be supported as a prime urban and business centre with strategies to:

- *Strengthen the role of Warragul as the major retail, business and service centre in the Shire (Strategy 1.2).*
- *Develop a Town Centre Structure Plan for Warragul (Strategy 1.3).*
- *Identify potential sites and facilitate development within and adjoining the existing Warragul central business district (Strategy 1.5).*

Local Planning Policy

The only relevant Local planning policy is Clause 22.02 (Settlement Policies), the Policy basis of which is that:

The co-ordinated planning and development of the four largest urban areas is important for the efficient provision of infrastructure and services, the management of residential, industrial and commercial development, the continuing development of the transport network and the provision of community

facilities and services. It is expected that the majority of future growth pressures will be in and around the four largest towns and along the corridor served by the Princes Highway/Freeway and the Melbourne to Gippsland railway - the Princes Highway/Freeway Corridor. The corridor represents opportunities for development which can be serviced and in locations which do not impact on agricultural production.

The Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, the Warragul Town Centre Masterplan and the Drouin Town Centre Strategy are to be Reference documents in the Scheme.

The Amendment deletes the Policy (Clause 22.02-3) that requires cash-in-lieu payments for car parking where it cannot be provided in business zones.

The Amendment introduces a new planning policy associated with mixed uses.

3.3 Planning scheme provisions

(i) Zones

The Amendment includes land circling the Warragul Town Centre in the Mixed Use Zone. Under the Amendment land on the south side of Queen Street is rezoned to reflect the existing uses as open space, public uses and mixed use. Industrial 1 zoned land on the south side of the railway is to be rezoned to Business 4 and Public Use 4.

At Drouin, land in the north-west section of the Town Centre and currently in the Business 1 Zone is to be rezoned Business 2. Land adjoining the Civic Park is to be included in the Public Park and Recreation Zone, to reflect its use. Land south of the railway is to be rezoned Residential 1, Public Use Zone 4 and Public Park and Recreation to reflect the use of those lands.

(ii) Overlays

At Warragul, the Amendment applies Schedule 1 to the DDO over land in the Business 1 and Business 4 Zones. It also applies this Schedule to land to be included in the Mixed Use Zone. At Drouin Schedule 2 to the DDO is applied to the Business 1 and new Business 2 Zones, and part of a Business 4 Zone and Residential 1 Zone.

The Environmental Audit Overlay is applied to rezoned land at Warragul where sensitive uses may establish.

3.4 Other planning strategies

The Warragul Transit Precinct Study Development Options Report, December 2004, prepared jointly by Council and the Department of Sustainability and Environment, referred to the redevelopment opportunities presented at the former Bonlac site.

In 2009 the Council undertook a strategic planning program *Shaping the Future* in response to unprecedented growth within the Shire. The projects identified to formulate a growth strategy for the Shire included developing town centre strategies for Drouin and Warragul. This resulted in the Drouin Town Centre Strategy, November 2010 and the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010 (UDF) being

prepared. Following the preparation of the UDF for Warragul, the Warragul Town Centre Masterplan, May 2011 was prepared. These Plans were adopted by Council and were the precursors to the current Amendment.

3.5 Ministerial Directions and Practice Notes

The Practice Note 'Writing Schedules' notes on page 7: *'Where possible the provisions set out in a schedule should be self-contained. They should be capable of being understood without having to refer to other documents.'*

The Practice Note 'Incorporated and Reference documents' is relevant to the subject Amendment.

The Amendment complies with the relevant Ministerial Directions and Practice Notes.

3.6 Panel discussion and conclusion on planning context

The Panel has formed the view that the Amendment supports State and Local Planning Policy. The Amendment builds on the fact that Warragul and Drouin are identified as the major centres within the municipality, with Warragul recognised as the primary centre for education and business in the Shire.

The Panel now turns to the individual submissions in relation to particular elements of the Amendment.

4 The Warragul former Bonlac site

4.1 The issue

The Panel has considered the content of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan (UDF) and the Warragul Town Centre Masterplan (MP) as they affect the former Bonlac site. The Panel has also examined DDO1 as it applies to the site, specifically the one matter in DDO1 that remains in dispute between the parties.

4.2 Planning context

Local Planning Policy identifies Warragul as the major centre for retail and business within the Baw Baw Shire.

The Council initially considered applying the Activity Centre Zone (ACZ) to the Warragul Town Centre, so as to avoid the layering of controls. Officers of the Department of Planning and Community Development (DPCD) however advised that more strategic work would be required if this Zone was to be used. It was therefore decided to apply a Schedule of the DDO to the Warragul Town Centre.

A purpose of the DDO is *to identify areas that are affected by specific requirements relating to the design and built form of new development*. A schedule to this overlay must contain a statement of the design objectives to be achieved for the area affected by the Schedule.

4.3 Evidence and submissions

The former Bonlac site has an area of approximately 4.5 hectares and is the largest single landholding within the Town Centre that is capable of redevelopment. There was no dispute between the parties that this site possesses the required qualities for its redevelopment and that this could include large format retailing.

The submissions and evidence put to the Panel from both the Council and submitter related to:

- The content of the Urban Design Framework and Station Precinct Masterplan, April 2010 (UDF) and the Warragul Town Centre Masterplan, May 2011 (MP) as affecting the former Bonlac site and their referencing in the Scheme; and
- The disputed wording of a provision under ‘*Vehicle parking and access*’ in the Schedule to the Design and Development Overlay (DDO1).

(i) Referencing the strategic documents in the scheme

The UDF for Warragul sets out the key principles that are intended to shape the future development within the commercial core of the Town and to integrate development around the train station. The MP provides an example of how particular areas and sites, identified in the UDF, may develop.

The UDF provided the strategic basis for the drafting of DDO1.

In his evidence Mr Czarny provided an outline of the Amendment followed by a detailed explanation of the UDF, which he stated built on the base provided by earlier documents, in particular the 2004 Transit Cities Development Options Paper.

It was Mr Czarny's evidence that in considering the Warragul UDF, as it affected the former Bonlac site, it was first necessary to take a 'step back' and view the Town Centre of Warragul in its entirety. This is because the UDF is not simply confined to the former Bonlac site, but provides the 'vision' and development parameters for the entire Town Centre, as defined in the UDF.

In Mr Czarny's opinion the proposed built form of the Town Centre is grounded in the State Policy for Activity Centres and is about breaking up larger areas into smaller components that have active street frontages and a 'finer grain' design. In Mr Czarny's opinion the Town's grid pattern is an important feature which is reflected in the plans contained in the UDF.

It was Council's submission and Mr Czarny's evidence that it was vital to ensure that the former Bonlac site did not develop in a manner that 'turned its back' on the existing Town Centre. It was the Council's submission that this site is clearly an integral part of the Town Centre and therefore there needs to be a high level of permeability both through and within the site, along with active street frontages, as encouraged by the Activity Centre Guidelines referred to in State Policy.

It was Mr Bisset's submission for the owner of the former Bonlac site that it was important to ensure that *DDO1 is a sufficient planning control that can inform the future development of the Site without the need to rely on further guidance from the UDF and Masterplan as reference documents*. He put to the Panel that it was imperative that the proposed reference documents did not attempt to 'subvert' the planning scheme controls or impose further requirements or restrictions on development.

In his submission, Mr Bisset referred the Panel to the VPP Practice note, '*Incorporated and Reference documents, August 2000*' and to the reports of the C171 Melbourne Planning Scheme Panel and the C55 Colac Otway Planning Scheme Panel, in which the role of Reference documents in Planning Schemes was discussed.

Both of the Panel reports cited by Mr Bisset stated that in informing the preparation of a statutory control, Reference documents were not to be relied upon as a 'de facto planning control'.

In the case of the Warragul Town Centre MP, Mr Bisset advised the Panel that his client took issue with the level of prescription it contained in relation to the former Bonlac site.

In response to this matter, Mr Czarny accepted that the MP was but one example of how the UDF could be progressed for particular sites within the Town Centre and therefore it did not need to be referenced in the Scheme. Mr Czarny was however of the opinion that the principle contained in both the UDF and MP, to require an east west linkage through the former Bonlac site aligned with Palmerston Street, was an important feature that should be an integral part of any redevelopment.

It was Mr Bisset's submission and Mr Biles' evidence that although both the UDF and MP are discretionary documents, they will be used by the decision maker in assessing any development in the Town Centre. It was Mr Biles' evidence that the MP was too prescriptive

in terms of setting the use and development direction for the former Bonlac site. For example, it does not acknowledge the site's gradient which will influence the design and layout of buildings. Mr Bisset also referred to the fact that in requiring the extension of Palmerston Street through the site, the UDF and MP ignore the existing buildings fronting Mason Street that continue to have an economic life. While it was acknowledged that these buildings may be redeveloped in the future, until that occurs they will restrict the width of any access into the site from Palmerston Street. It was also noted by Mr Bisset that no acquisition mechanism has been suggested by the Council in relation to this land.

Also discussed at the Hearing was whether a plan from the UDF should be inserted into Clause 21 or Clause 22 of the Scheme and, if so, which plan should be chosen. It was the Council's position that the 'Vision' and a Plan of the Warragul Town Centre could be included in the MSS and if one of the UDF plans was to be included in the MSS, it should be Figure 4 of the UDF.

At the conclusion of the Hearing the parties were provided with a further 14 days to provide their comments in relation to any revised wording of Clause 22.02 and DDO1.

The response subsequently provided for the owner of the former Bonlac site opposed the inclusion of Mr Czarny's recommendations in Clause 22.02, other than to include a reference to DDO1 to the effect that '*new development in the Town Centre should address the design requirements and outcomes to be achieved identified (sic) for the town centre in DDO1, as well as any requirement/outcomes specified for individual precincts in Table 1 of that schedule*'. This response went on to say that if the Panel was of a mind to support Mr Czarny's recommendations, then only the vision and principles contained in the UDF should be included in the text of Clause 22.02. The following text, to support their inclusion, was suggested by the submitter:

The vision and principles outlined above, need to be taken into account as possible approaches to the use and development of the relevant parts of the Centre, but without limiting the consideration of other approaches which achieve the design objectives and outcomes in Schedule 1 to the Design and Development Overlay applying to the Centre.

The owner of the former Bonlac site does not support the inclusion of a 'Figure' from the UDF in Clause 22.02, however if the Panel considers this is necessary, 'Figure 3' is the submitter's preferred option.

In response to the comments made on behalf of the owner of the site, the Council's response to the Panel was that *the vision and principles of the UDF should be included either by being imported into Clause 22.02 or by reference*. The Council's preferred wording in relation to Clause 22.02 is:

It is policy that: the principles of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan April 2010 be taken into account when assessing development in the Warragul town centre.

The Panel was advised that the Planning Authority no longer sought the inclusion of either Figure 3 or Figure 4 of the UDF in the Planning Scheme.

(ii) Schedule 1 to the Design and Development Overlay (DDO1)

At the Hearing the Panel was advised that discussions between Counsel for the Planning Authority (Council) and the owner of the former Bonlac site had, with one exception, resulted in agreement being reached on a revised wording of DDO1.

The agreed revised wording included two additional Design Objectives to recognise and support the redevelopment of key strategic redevelopment sites, including the former Bonlac (Butter Factory) site and to encourage the redevelopment of these sites in an integrated manner.

The revised DDO1 also includes minor changes to the wording of General and Site specific design requirements and deletes those provisions made redundant with the proposed abandonment of the Mixed Use Zone (discussed in Chapter 6) at the periphery of the Town Centre. The parties were in agreement to these changes.

The single outstanding matter concerns the wording of DDO1 in relation to the requirement under '*Vehicle parking and access*' that '*Palmerston Street be extended into the site and connected with Gladstone Street*'.

The owner's preferred version is to:

Provide a pedestrian priority place at the intersection of Palmerston and Mason Streets which extends into the site and provide (sic) an opportunity for a linkage to Gladstone Street through the proposed development.

From the Council's perspective the extension of Palmerston Street through the former Bonlac site will reinforce the grid street network of the existing Town Centre and provide a view line into the adjoining residential area and beyond. It was the owner's submission that while a level of pedestrian access through the site may be appropriate, direct access between Palmerston and Gladstone Streets is unnecessary. It was considered that the gradient of the site would influence the route of any such connection.

4.4 Discussion

In considering the Amendment, the Panel noted the level of agreement reached between the Council and the sole submitter in relation to wording of DDO1, particularly the provisions specific to the former Bonlac site. Based on the agreement reached between the parties, the Panel has confined itself to considering the outstanding matters put to it at the Hearing, by way of submissions and evidence along with the comments provided to it by the parties following the Hearing. These relate to the status of the UDF and MP in the Planning Scheme, possible changes to Clause 22.02 and the final wording of DDO1.

(i) The UDF and MP

The UDF recognises the redevelopment capabilities of the former Bonlac site and other key sites / areas in the Town Centre stating at page 26: '*Actively promote redevelopment of key areas within the Town Centre including the 'triangle precinct', the Williams Square and the old butter factory site*' (Underlining added).

The redevelopment opportunities on the former Bonlac site, as recognised by the *Warragul Transit Precinct Study Development Options Report*, prepared by Council and the

Department of Sustainability and Environment in December 2004, and referred to by Mr Bisset in his submission states:

The holdings referred to as the 'Butter Factory' presents one of the most significant opportunities for the future development of the town centre. Given the critical location of the holdings and the attributes of the former dairy and the location relative to the balance of the town centre, it is imperative that the development of this land is undertaken on the basis of an overall masterplan for the site which seeks to complement and integrate with the balance of the town centre. It is crucial that the site not be developed as a stand-alone entity which 'turns its back' on the balance of the town centre as its location within 400 metre or five-minute radius of the station presents a significant opportunity.

This Study also identifies the importance of having an overall 'masterplan' for the site that integrates it into the Town Centre.

Having considered the submissions and evidence put to it, the Panel has formed the view that the UDF document provides the strategic direction necessary to progress the more detailed planning of sites within the Warragul Town Centre and Station Precinct. In recognising the opportunities presented by the former Bonlac site for retailing, including large format retailing, Principle 2 requires that this to be achieved in a way that integrates the site into the existing Town Centre. The Panel supports this principle of the UDF.

The inclusion of building envelopes in Figure 4 of the UDF provide, in the Panel's opinion, a concept of how development may proceed. In the case of the former Bonlac site, this was taken a step further in the MP prepared for the Town Centre. The Council has now agreed this need not be a Reference document as it provides but one example as to how the site may be redeveloped. The Panel agrees with this decision.

The Panel however supports referencing the UDF in the Scheme. As a reference document the UDF will have a limited role in the decision-making process as it will not be part of the planning scheme (*Incorporated and Reference documents Practice Note*). It will however, in the Panel's opinion, support the DDO1 by providing useful background information to assist in the detailed planning of individual sites, including the former Bonlac site, and areas at the fringe of the Town Centre that have been earmarked for change in the UDF.

(ii) Clause 22.02

The Panel has considered the comments provided by Council and the submitter following the Hearing as to whether the 'vision' and principles and a Figure should be included in Clause 22.02. It now makes the following observations and comments.

In relation to whether a Figure from the UDF should be included at Clause 22.02 of the Planning Scheme the Panel acknowledges that the parties have agreed this is unnecessary and supports this outcome.

In supporting referencing the UDF in the Scheme, the Panel supports the amended wording for Clause 22.02 as provided by the Council. The Panel does not however consider it is necessary to refer to DDO1 in Clause 22.02 as the DDO is called up as relevant in its own right through Clause 43.02.

(iii) DDO1

In relation to DDO1 the amended version provided to the Panel at the conclusion of the Hearing contained only one provision where the parties disagreed. Under the UDF it is proposed that Palmerston Street be 'extended' to link with Gladstone Street and wording to this effect is included in DDO1. The submitter objected to this wording and provided an alternate version.

Having considered the alternative clauses provided by the Council and submitter the Panel prefers the submitter's version subject to a minor modification.

The Panel's preferred version is:

A pedestrian precinct is to be provided on the site opposite the intersection of Palmerston Street and Mason Street and this is to extend into the site to provide a pedestrian link through the site between Mason Street and Gladstone Street

The Panel's preferred version of DDO1 is contained in Appendix C.

4.5 Conclusions and recommendations

Having considered the submissions and evidence put to it, the Panel supports the revised version of DDO1 generally as agreed by the parties but with the inclusion of the clause under the heading 'Vehicle parking and access' as set out above.

The Panel also supports the referencing of the UDF in the Scheme along with reference to it at Clause 22.02 as amended by Council following the Hearing.

The Panel recommends:

Adopt the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010 as a Reference document in the Baw Baw Planning Scheme.

Adopt Schedule 1 to the Design and Development Overlay generally as amended and provided to the Panel at the Hearing but with the following further changes (additions underlined):

- **Design Objectives Bullet point 10 to read 'To encourage high quality contemporary building design that protects visual amenity when viewed from surrounding residential and rural areas'.**
- **Design Objectives Bullet point 11 to read 'To recognise and support development of the town centre at key strategic redevelopment sites, including the Butter Factory site, as an integrated part of the town centre.'**
- **Under Clause 2.0 Buildings and works adopt the following wording for the last two sentences: 'A permit may be granted for buildings and works that do not accord with any of the requirements of this schedule provided the design objectives and outcomes in Table 1 are satisfied.' and 'New development should address the design requirements and outcomes to be achieved for the town centre as well as any design requirement / outcome specified for individual precincts in Table 1 to this schedule'.**
- **Under Clause 6.0 Reference: retain the words 'Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010.'**
- **DDO1 – 3a Major Development Site add the words 'Bonlac Factory Precinct'.**

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- **DDO1 – Precinct 3a - under the heading ‘Building height’ delete the words ‘4 storeys or’ in the last sentence.**
 - **DDO1 – Precinct 3a under the heading ‘Vehicle parking and access’ insert the following point ‘A pedestrian precinct is to be provided on the site opposite the intersection of Palmerston Street and Mason Street and this is to extend into the site to provide a pedestrian link through the site between Mason Street and Gladstone Street’.**
 - **DDO1 – 3b Opportunity site add the words ‘William Square Precinct’**
 - **DDO1 – 3c Opportunity site add the words ‘Triangle Precinct’.**
 - **Replace ‘stories’ with ‘storeys’ where appearing in DDO1 Table 1.**

Under Clause 22.02 amend the first bullet point under the heading Warragul and Drouin Townships to read:

- **‘The principles of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010.’**

5 Other Issues with the Amendment post exhibition

5.1 The removal of the Mixed Use Zone and accompanying DDO1

Following exhibition the Council determined that the Mixed Use Zone (MUZ) and Schedule 1 of the Design and Development Overlay (DDO1) should not apply to land circling the Town Centre.

(i) Submissions

At the conclusion of the hearing of submissions to Amendment C90 and the heritage component of C86, the Panel requested further clarification concerning matters associated with the Heritage Overlay (HO), and proposed accompanying Incorporated Document and Heritage Guidelines. In providing his comments to the Council in this matter, Mr Helms became aware of the proposed application of the MUZ and DDO1 to land at the periphery of the Warragul Town Centre, where either the HO currently applied or is to be applied under this Amendment.

It was Mr Helms' opinion that the application of multiple Overlays to this land may be problematic. In Mr Helms' opinion the application of DDO1 to land also affected by the HO could be confusing and even conflicting, in some cases.

Based on Mr Helms' comments, the Council advised the C86 (non-heritage) Panel that it did not intend proceeding with the MUZ and DDO1 at Warragul. In adopting this position, the Council advised that the 'prohibited uses' trigger in the HO could be used to enable heritage buildings to be occupied by prohibited uses. This would ensure the overall residential character of these areas was maintained while 'minimising potential confusion and conflict with layering of controls'. At the Hearing the Panel was advised that the use of the 'prohibited uses' trigger would be subject of a separate amendment following further work to determine the properties it should be applied to.

There were two submissions to the Amendment that supported the application of the MUZ and DDO1 to land on the east side of Gladstone Street. This is part of the area where Council advised it is not proceeding with the MUZ/DDO planning approach under this Amendment.

(ii) Discussion

In considering the MUZ and DDO1 provisions applied to land at Warragul under Amendment C86 the Panel is mindful of the Council's revised position based on the comments of Mr Helms, that it does not intend proceeding with this part of the Amendment.

The Panel supports the revised Council position in this matter. It concurs with Mr Helms' comments, as adopted by Council in its submission that the application of the MUZ and DDO1 over residential properties to which the HO either currently applies or is to be applied could be confusing. Furthermore the MUZ and DDO1 could conflict with the heritage values accorded to particular properties.

(iii) Conclusions and recommendations

The Panel supports Council in its decision not to proceed with that part of the Amendment that applied the MUZ and DDO1 to land peripheral to the Town Centre and to the railway land on the south side of Queen Street.

5.2 VicTrack issues

The issue raised in the VicTrack submission relates to land vested in it at Drouin and Warragul, which in its opinion should be included in the Public Use 4 Zone (PUZ4).

(i) Submissions

The written submission lodged by VicTrack referred to land vested in it that had been included in a Zone other than Public Use Zone 4 (Public Use Transport) in Amendment 86. A plan of the land vested with VicTrack at Warragul and Drouin was included as part of the submission. The submitter advised Council that some of this land is under lease arrangements until it is required for future transport purposes. VicTrack and the Department of Transport are of the view that all of this land should be included in the PUZ4 to avoid possible future conflict.

Prior to the Hearing, a written submission from VicTrack to the Panel drew attention to what it considered a potential discrepancy in the proposed rezoning of that part of the VicTrack vested land in Warragul that is currently occupied as the Queen Street Park.

VicTrack opposes the rezoning of this land from Business 4 to Public Park and Recreation Zone (PPRZ). It has requested that it be included in the PUZ4. In the opinion of VicTrack having the PUZ4 as the 'underlying' zone in this instance provides a clear understanding that the land may be required for public transport uses in the future. In the view of VicTrack, land vested in it should only be rezoned if the Department of Transport (DoT) provides clearance that the land is not required for future public transport purposes, which is not the case for this land.

In the case of the land vested in VicTrack on the south side of Queen Street, Warragul the Council advised the Panel that it had accepted the VicTrack submission that the MUZ and DDO1 be removed. The Council advised that this land should be included in the PUZ4. In the case of land on the south side of the railway, at Warragul, the Council also agreed that this should remain in the PUZ4 until its future is determined.

The Council does not support VicTrack's request that land occupied as the Queen Street Park should be included in the PUZ4.

In the case of land on the south side of the Drouin railway station, included in the Residential 1 Zone in the Amendment, the Council advised the Panel that it had accepted the submission of VicTrack to include it in PUZ4.

(ii) Discussion

In considering the VicTrack submission the Panel is mindful of the Warragul Station Precinct Masterplan that has been adopted by Council and is to be a Reference Document in the Planning Scheme. It also notes Council support of VicTrack's submission, which is not to

proceed with the rezoning to Mixed Use on the north side of the railway, and Business 4 on the south side of the railway, along with the DDO1, over the area that affected by the third rail crossing.

In the case of the land on the north side of the railway that is presently occupied by the old Shire Hall, the Queen Street Park and TAFE, their proposed rezoning to PUZ2, PUZ6 and PPRZ respectively reflects the adopted Masterplan for the area. In the Panel's opinion these Zones should be adopted, as exhibited.

In the case of the small parcel of VicTrack land at Drouin, extending from the Station to Oak Street, the Panel agrees with the Council decision to include it in PUZ4.

(iii) Conclusions and recommendations

Having regard to the plans associated with a third track crossing at Warragul, the Panel supports the Council decision not to rezone the land vested in VicTrack on the north side of the railway from Business 4 to Mixed Use. It also supports the retention of the PUZ4 over land on the south side of the railway that is vested in VicTrack.

In relation to the Old Shire Hall, Queen Street Park and TAFE, the Panel supports the adoption of the Public Use Zones, as exhibited.

The Panel supports the Council decision to include the small parcel of VicTrack land on the south side of the Drouin railway station, extending to Oak Street, in PUZ4.

5.3 Queen Street Precinct, Warragul

(i) Issues and submissions

The owner of the Commercial Hotel on the corner of Queen Street and Mason Street lodged a written submission to Amendment C86. This submitter sought confirmation that the Amendment would have non-restrictive guidelines that would not prevent the redevelopment of the property.

(ii) Discussion

Amendment C86 applies DDO1 over the land (see Appendix C). The DDO provides performance based guidelines to help inform the type and form of development. The property is also in the Queen Street Heritage Precinct to which HO78 has been applied.

While redevelopment is not prohibited by the HO, it will be a consideration in assessing any application to redevelop the property. The Panel considers that the submission does not require a change to the Amendment.

Amendment C90 and Amendment C86 (Heritage)

6 Amendment background and issues

6.1 Description of Amendment C90 and C86 heritage elements

Amendment C86, as it applies to heritage proposes the following:

- The application of the Heritage Overlay (HO147) over the Notre Dame De Sion Convent at 6 Witton Street, Warragul;
- The application of the Heritage Overlay to three precincts: Queen Street (HO78), Peace Avenue (HO156) and Albert Street/Victoria Street (HO162) at Warragul; and
- The application of the Heritage Overlay to four individual properties at Drouin: Scots Presbyterian Church (HO217), Royal Hotel (HO219), Drouin Uniting Church (HO340) and ANZ Bank (HO351), and one precinct (Princes Way Residential Precinct - HO80).

Amendment C90 to the Baw Baw Planning Scheme, as exhibited, proposes to:

- Implement findings of the draft *Baw Baw Heritage Study (Parts 2 and 2a)*, through changes to the heritage overlay schedule, municipal strategic statement and introduction of an incorporated document and local planning policy;
- Revise and update the schedule to the Heritage Overlay (HO);
- Revise and update the local policy on heritage;
- Modify the Heritage Overlay planning scheme maps accordingly; and
- Create an Incorporated document for the schedule to the Heritage Overlay.

More specifically, the Amendment:

- Affects 29 planning scheme maps and properties;
- Adds new HO Places;
- Corrects anomalies, for example HO11 had been mistakenly placed on the wrong site, several kilometres from the actual heritage place;
- Consolidates a number of HO entries into one where it applies to the same cluster on one site;
- Deletes entries as appropriate; and
- Reduces polygon where subsequent subdivision had changed the boundaries of the heritage place.

Since exhibition five matters emerged that required that the Council undertake the following policy neutral changes to the Amendment documents:

- Numbering discrepancies in the proposed table to the Schedule of the HO and on the HO maps;
- Existing numbering discrepancies, discovered in course of the Amendment preparation and exhibition;
- Some typographic and sentence construction errors in the table to the Schedule of the HO;
- Inclusion of the words 'Heritage Permit Exemptions' in the 'Incorporated plan' column in the table to the Schedule of the HO to be consistent with the Heritage Permit Exemption Plan; and
- Council decision relating to the future of proposed HO site HO308, being 'Swaffields' in Neerim South (Council has issued a demolition permit for the heritage property related to developing a new CFA facility).

With the exception of the last item, these were considered largely administrative in nature.

The Explanatory Report stated the amendment is required by the Municipal Strategic Statement (MSS), and also in recognition that the existing list of HO sites is inadequate and out of date.

The MSS at clause 21.11-02 obliges Council to implement the recommendations of the *Rural City of Warragul 1991 Heritage Study*, and to prepare a comprehensive study on the whole Shire. The HO and local policy parts of the planning scheme had not been thoroughly revised since the planning scheme was approved in 1998.

At present, the HO includes 228 places affecting 336 properties. Of these, 16 places are on the State Register and many are also on the National Trust Register. Of the 16 places on the State Register, 12 are in Walhalla and the northern forests of the Shire. The remaining four are the Drouin Primary School, Warragul Railway Station, Warragul Drill Hall and Crossover Trestle Bridge. Currently 70% of places to which the HO is applied are located in the Drouin, Warragul and Darnum districts and in Walhalla.

Council considers that the current list of HO sites is ‘*out-of-date, uneven and inadequate*’ given the breadth and depth of heritage places across the Shire. They provided the following overview in submissions of previous heritage work:

The Rural City of Warragul had undertaken a Heritage Study in 1991 from which the majority of this former municipality’s entries are derived. Most, although not all of these places were given protection under the planning scheme at that time.

Buln Buln Shire had seven sites of historical interest or ‘botanical or zoological’ significance protected under its planning scheme. Six of these are included in the current HO schedule, and include three areas of native habitat and a caravan park/recreation ground.

Narracan Shire protected 11 significant trees or groups of trees and 24 buildings protected under its planning scheme. All but two of the buildings are in Walhalla.

The remaining sites came onto the existing HO via the Heritage Victoria register or from the National Trust database. Accordingly, the content of the current *Heritage Study* schedule is predominantly made up of those in planning schemes from pre-amalgamation Shires. Until now there has been no comprehensive Amendment to introduce all these heritage places into the Baw Baw Planning Scheme. The elements of the current heritage study are outlined in Section 7.5.

6.2 Key issues raised in submissions to the Amendments

During the exhibition period, 40 submissions (including one late submission) were received to Amendment C90 and 19 submissions (from 17 parties) were received to the heritage provisions in Amendment C86. A number of the opposing submissions to C90 were based on economic and personal concerns, particularly the impact the HO would have on future plans for individual sites. The major issues raised were:

- The HO will impose undue costs on and inconvenience affecting landowners;
- The sites affected have limited heritage significance;
- Some of the properties are in such poor condition that the HO is inappropriate;

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- The HO infringes on submitter's property rights; and
 - The HO will stymie development opportunities for the site/town.

Those submitters who supported the HO stated:

- The HO is consistent with the owners' wishes for the site; and
- The HO is appropriate for the site / town / community.

A number of supporting submissions provided information in relation to particular sites or precincts.

The majority of submissions objecting to Amendment C86 were from owners of properties in the Peace Avenue Precinct or the Albert Street / Victoria Street Precinct. One submission opposed the application of the HO to land occupied by Scots Presbyterian Church in Drouin and the submission from the owner of the Commercial Hotel in Queen Street sought reassurance that its plans to redevelop the property would not be thwarted by the Amendment. This submission has been addressed in section 5.3.

7 Planning Context

7.1 Strategic basis for the Amendments

Council submitted that the current Heritage Policy at Clause 21.11-2 of the Municipal Strategic Statement is a document that acknowledges the 'wealth' of heritage assets in the Shire which are valued in terms of economic development. Its strategies are to prepare a comprehensive heritage study for the Shire to complement existing studies for Warragul and Walhalla and to introduce heritage planning provisions to protect heritage places.

The completion of the heritage study and the amendments, as exhibited, will see these strategies carried out. The proposed changes to the Objectives and Strategies of this Clause are supported by the Panel.

7.2 Policy framework

(i) State Planning Policy Framework

Council submitted that Clause 15.03-1 (Heritage Conservation) of the SPPF is relevant to the amendment:

The Objective of Clause 15.03-1 is:

- *To ensure the conservation of places of heritage significance.*

The Strategies listed to achieve this Objective include to:

- *Identify, assess and document places of natural and cultural significance as a basis for their inclusion in the planning scheme.*
- *Provide for the conservation and enhancement of those places which are of aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.*
- *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings whose use has become redundant.*

(ii) Local Planning Policy Framework

Council submitted that the LPPF at Clause 21.11-2 (Heritage), the objective of which is 'to seek to apply a consistent approach to the retention of built heritage' supports the Amendment. The two strategies to achieve the objective are:

- *Strategy 1.1 - Prepare a comprehensive heritage study for the Baw Baw Shire to complement the existing heritage studies of Warragul and Walhalla;*

-
- *Strategy 1.2 - Introduce heritage planning provisions to protect places and sites in Warragul as identified in the Rural City of Warragul Heritage Study 1991.*

Strategy 1.1 is met by *Baw Baw Heritage Study* Stages 1-2a, and Strategy 1.2 is met by applying the HO to the properties and precincts identified in the Heritage Studies.

They also submitted Clause 21.11-1 (Visual Character of Towns and Rural Landscapes) is relevant which has as its objective *'to protect the character and heritage of the Shire's towns and their hinterland from inappropriate development'*. The proposed HO listing identifies key themes and features in the towns, which is not presently the case.

The Amendments propose protection of places identified in the Studies were presently there is limited or no protection.

Clause 22.05-3 (Walhalla Tourist Development Area) guides the development in the public and private realm in Walhalla. Council submitted that although the *Baw Baw Heritage Study* did not discuss Walhalla:

...Stage 2A of the study did review existing statements of significance and HO places and created statements of significance where none could be found for all built sites. Thus the resultant Amendment has updated heritage conservation provisions for the town, and enabled the management of the built environment to be focused and relevant. There are two examples of this:

- *HO9 Farmer, Robey Brown and Co. Steam Engine was actually a group of remnant mining machinery, was not shown on any map, and the schedule description gave no location for it. The amendment locates the site on a map, and describes it accurately in the schedule. This aids its protection.*
- *HO29, a fire hand cart – proposed to be deleted in the schedule, and it and its description added to the building in which it is housed (HO20).*

7.3 Planning scheme provisions

(i) Zones

The Amendments apply to land in a number of Zones, including rural, residential and business zones. The Amendments do not propose to rezone any land.

(ii) Overlays

The Amendments propose to apply the HO to a number of precincts and properties as outlined in Chapter 6. The purposes of the HO are (in part):

To conserve and enhance heritage places of natural or cultural significance.

To conserve and enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Subject to the detailed recommendations in this report the Panel considers the HO has been used appropriately.

(iii) Particular provisions

Proposed Incorporated Document at Clause 81.01: - *Heritage Permit Exemptions*

The Incorporated Document - *Heritage Permit Exemptions* will exempt minor matters from having to obtain consent under the HO. This will result in the permit trigger being focused on the significant features and fabric for a heritage place or a heritage precinct. It will apply to:

- Land in the 11 precincts;
- Individual HO places in the Residential 1 Zone (49 places, of which nine are not buildings);
- Individual HO places in the Township Zone (20 places, of which 7 are not buildings);
- Individual HO places in the Rural zones (97 places, of which 28 are not buildings); and
- Individual HO places for two dairy processing plants.

The Incorporated Document will apply to a total of 179 HO places out of a total of 335 places, (as exhibited).

This Incorporated Document sets out permit exemptions for properties listed in the Table at Clause 3.1 headed 'Heritage Precincts' and applies to properties in specified precincts and townships.

A number of the submissions lodged in opposition to the HO were based on the concern that they would be restricted in what they could do on their properties.

The provisions of the Incorporated Document should, in the Panel's opinion, go some way in allaying the concerns of these submitters.

The Council is to be congratulated for proposing an Incorporated Document which will exempt many matters that would normally require consent under the HO and notes that this approach is consistent with recent heritage Amendments in other municipalities. The Incorporated Document sometimes includes the heritage citations themselves (for example Moonee Valley C109) so that the citation is located next to the exemptions document. However in this case the Panel notes, and accepts, that given the number of heritage citations this would not be practical.

The Panel supports the Incorporated Document as proposed.

7.4 Ministerial Directions and Practice Notes

(i) Practice Note No. 1: Applying the Heritage Overlay

The Victoria Planning Provisions Practice Note *Applying the Heritage Overlay* provides guidance in respect of using the HO in the planning scheme.

The Practice Note identifies that the following places should be included in the Heritage Overlay.

- *Any place that has been listed on the Australian Heritage Commission's Register of the National Estate.*
- *Any place that has been recommended for planning scheme protection by the Heritage Council.*
- *Places listed on the National Trust Register of the National Trust of Australia (Victoria), provided the significance of the place can be shown to justify the application of the overlay.*
- *Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.*

The Practice Note outlines the requirements for including places in the HO, noting that all places:

- *should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.*

and that:

- *the documentation for each place should include a statement of significance that clearly establishes the importance of the place.*

The Practice Note sets out the criteria to be used in considering the application of the Heritage Overlay.

(ii) Other Ministerial Directions

Council submitted that the amendment complies with the following two Minister's Directions: No. 1 - *The Form and Content of Planning Schemes* and No. 11, *the Strategic Assessment of Amendments*.

7.5 Other planning strategies

(i) Baw Baw Heritage Study Stages 1, 2 and 2a

The amendment is based on the *Baw Baw Heritage Study Stages 1, 2 and 2a*. The study was prepared in accordance with Heritage Victoria guidelines, using *The Burra Charter, the Australia ICOMOS Charter for Places of Cultural Heritage Significance (1999)* and its guidelines. Places of significance were identified and assessed using the Heritage Council criteria for the Assessment of Cultural Heritage Significance.

Stage 1, producing a Thematic Environmental History 2006, identified key elements of the development of the Shire since European contact. From that study was derived a list of around 200 potential heritage sites which were researched to produce the current recommendations.

Stage 2 investigated that list of sites. *Stage 2a* revised the existing schedule and produced citations for the entries which did not already have one, and made recommendations about some sites to either include or remove them from the schedule to the Heritage Overlay.

Stage 2 and 2a affected the entire settled areas of the Shire. Council submitted that the Study was originally to examine areas outside the former Rural City of Warragul (since a heritage study was completed in 1991) and the Walhalla area (which has a number of heritage-focused studies). The consultant was however asked to look at earlier recommendations from the 1991 Study in Warragul and to review existing Heritage Overlay entries throughout the Shire, with the aim of creating statements of significance for most of the buildings and as many of the other features as possible.

The *Heritage Study* recommended to add around 116 heritage places, 11 precincts (containing 304 properties), remove 20 HO entries (including reducing one multiple parcel entry), and update other entries in the table to the schedule to Clause 43.01 Heritage. As exhibited, the Amendment proposes a net increase of 109 Heritage Overlay entries and a net increase of 264 addresses affected by the Heritage Overlay.

(ii) Baw Baw Shire Council Plan 2011-2015

Council drew the Panel's attention to The *Baw Baw Shire Council Plan 2011-2015* which encourages better service delivery to stakeholders, reducing 'red tape'. One of its Core Values is '*Collaboration*', which includes '*inclusive*' as a desirable attribute. The Council Plan described '*inclusive*' as ensuring its use and navigation is relatively straightforward and the content decipherable to the average person.

Council considered that the Heritage Overlay and its schedule are most effective when used with supporting documentation, and read in conjunction with the statement of significance and any Incorporated Document and the heritage study from which the schedule list is derived.

In addition, Council referred to the HO guidelines produced by Heritage Victoria, the *Rural City of Warragul Heritage Study (1991)*, and various plans and guidelines for development in Walhalla and the recent *Baw Baw Heritage Studies*.

7.6 Panel discussion and conclusion on planning context

The Panel has reviewed the planning context for Amendment C90 and the heritage elements of Amendment C86 and is satisfied that Council has undertaken a comprehensive review of the heritage values in the Shire and used the appropriate tools in the Victoria Planning Provisions to reflect those values in the planning scheme.

The Panel has considered a number of individual submissions and these are contained in the following chapters. Where relevant the Panel has recommended changes to the Amendments.

8 Submissions to Amendment C86

8.1 Peace Avenue Precinct, Warragul (HO156)

(i) Issue and submissions

The heritage precinct HO156 was proposed in Amendment C86 to cover the area in Warragul shown in Figure 1. A number of submissions were received on the proposed overlay including:

- Property devaluation, increased regulatory burden, stress on landowners, lack of heritage values and suggestion for reduction in the HO area (submission 20);
- Houses not original or of a suitable heritage standard, other places in Warragul of a better standard, property devaluation and impediments to development, the proximity of industrial devalues heritage and the new rail crossing at Normanby Street will further reduce heritage values (submissions 3, 16, 17, 18, 18); and
- Houses in the B1Z on Gladstone Street and Albert Street should not have the HO applied as it will stifle development due to the intent of the zone conflicting with the overlay (submission 9, 22).

Mr Myers, a resident of Normanby Street attended the Hearing and explained some of these concerns to the Panel.

Mr Hollier, the owner of a number of properties on Albert Street, Peace Avenue and Gladstone Street also attended the Hearing and made a submission in support of removing the HO from their properties.

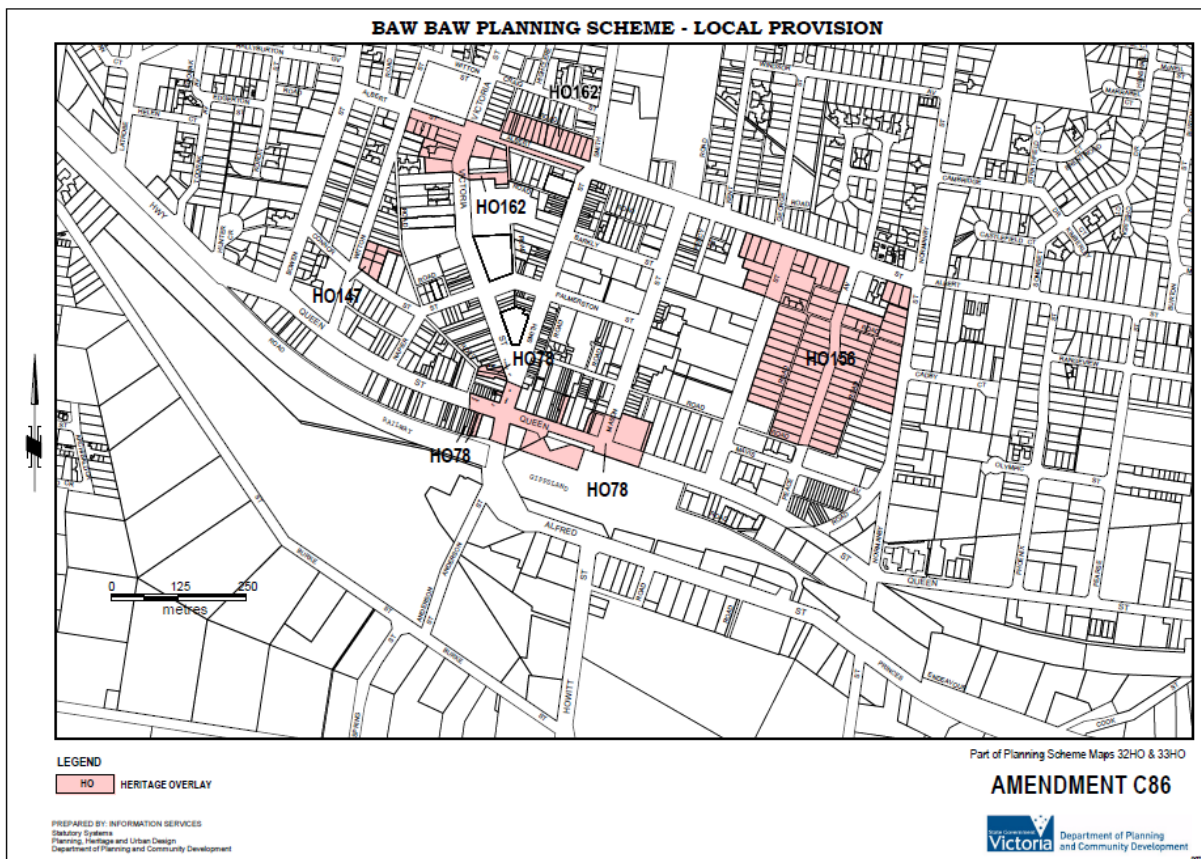
In response to these submissions, Council resolved to make two significant changes to the precinct. These were:

- To remove the HO from the properties west of Gladstone Street and fronting Albert Street on the western edge of the precinct; and
- To remove the HO from the properties fronting Normanby Road and Albert Street on the eastern edge of the precinct.

The effect of these changes is to reduce the precinct to a core on either side of Peace Avenue and on the eastern side of Gladstone Street.

Mr Helms, in giving evidence for Council to the Panel, affirmed his opinion that the original precinct, as exhibited, was his preferred model, as it can be supported on heritage grounds through the research and characterisation of heritage values that he had undertaken.

Figure 1 Proposed Heritage Overlays in Warragul



(ii) Discussion

The Panel understands the approach adopted by Council in that it protects a significant and to some extent more homogenous precinct centred on Peace Avenue. It also enables Council to respond to a significant number of submitters with concerns about the HO, particularly on Normanby and Gladstone Streets.

This is not to suggest that Mr Helms is incorrect in his assessment of heritage values for the precinct. The Panel thinks that the case for the exhibited, expanded precinct is sound and reasonable, if not overwhelming.

It does not accept in principle that B1Z properties cannot have a HO, as this occurs commonly in planning. It is conceivable that in some instances the heritage values of a site will prevent, or at least determine, the eventual use and development of a property in the B1Z. However in this instance, given that the properties are contributing to a precinct that has otherwise broad coverage, rather than having specific site heritage values, the Panel thinks it reasonable to remove the HO from the B1Z properties.

In the Hearing the minor extension of the HO boundary to the south and east to cover the bluestone lanes on the edge of the precinct was also canvassed. Council provided a suggested expansion in post Hearing Attachment 5 and the Panel supports this extension.

(iii) Conclusions and recommendations

Putting all these elements together, on balance the Panel considers the 'shrinking' of the Peace Avenue Precinct to a smaller but more cohesive area is a reasonable outcome that will still protect the core heritage values existing in the precinct.

The Panel recommends:

Adopt the changes to the Peace Avenue Precinct, Warragul (HO156) as put to the Panel in the Council submission including removing the Heritage Overlay from properties fronting Normanby Avenue and those on the western side of Gladstone Street.

Extend the boundary of Peace Avenue Precinct, Warragul (HO156) to the south and east to cover the bluestone lanes that form the boundary in those areas.

8.2 Albert Street / Victoria Street Precinct, Warragul (HO162)

(i) Issues and submissions

Two main submitters raised issues with the HO162 precinct. Submitter 15 raised the issue of the prevention of development opportunities by the imposition of the HO on 90 Albert Street.

Submitter 14, Mr B Jones, objected to the placing of HO162 on their property (60 Victoria Street) which is in the B1Z. He submitted that amongst other things:

- The site was excised from the Church next door so development could be pursued;
- The existing HO on a part of the property has recognisably decreased the value of the property's rates and thus confirms that a full placement of the HO will have further negative impact on property value;
- The building on site is in poor condition and was not 'built to last';
- It is not economically viable to maintain the building; and
- Until recently Council had advised them that the property would not be included in the HO.

In his evidence to the Panel Mr Helms addressed the property in some detail and concluded that the former Manse (at 60 Victoria Street) is probably the original one for the Wesley Church next door. He noted that whilst it has been modified it still has original elements and its association with the Church next door is clear. In comments post Hearing (see Section 10.1) Mr Helms suggested that HO162 not be applied to the east side of Victoria Street but that HO148 (the existing control on the Wesley Church) be extended to include No 60 Victoria Street, with internal controls only applying to the church.

Council in submissions at the Hearing argued that the HO should remain in place and should not be removed.

(ii) Discussion

The Panel understands the arguments put by Mr Jones in relation to 60 Victoria Street, but as discussed elsewhere in this report many of the arguments relate to issues of value and economic viability which of themselves are not relevant to the central question of whether

heritage values exist. The same comment can be made in relation to the other submission for this precinct from 90 Albert Street.

In this case the Panel is satisfied that the heritage value of the Manse is such that it should have the HO applied. How this will play out in consideration of a permit application for a B1Z use and development is not clear, but that is a question for the permit application process.

The Panel considers this a different situation to that on Gladstone Street in the Peace Avenue Precinct, where the B1Z area recommended for removal from the HO is a part of a much larger whole and not in the Panel's mind as central to the values of the precinct. In this case the Manse, whilst not listed as significant in its own right, has a higher level of significance than the Gladstone Street properties due partly to its association with the Wesley Church. Mr Helm's suggestion to add the property to HO148, which the Panel supports, is perhaps a reflection of this higher significance.

The Panel considers that this change of HO does not give rise to any issues of transformation of the Amendment as the end result is effectively the same.

(iii) Conclusion and recommendation

The Panel concludes that HO162 should generally be adopted as exhibited subject to the following recommendation.

The Panel recommends:

Council consider including the Manse at 60 Victoria Street in HO148 (Wesley Church) rather than in HO162.

8.3 Scots Presbyterian Church, Drouin (HO217)

(i) Issues and submissions

A written submission lodged by Scots Presbyterian Church advised of plans to possibly extend the church building in the future in catering for the needs of the congregation. Reference was also made to the condition of the free standing 'spire' adjacent to the church building which is need of repair/modification. The church did not see the benefit the HO would have for the community in the longer term and therefore objected to its application to the site.

In response to this written submission the Council stated that the listing of the property did not preclude development on the vacant portion of the site.

Mr Keith Reid, the architect of the Drouin Presbyterian Church, has designed a number of prominent Presbyterian churches in Victoria and this and the Trafalgar Uniting Church contribute to the substantial body of work he undertook between the late 1950s to the 1980s.

The Heritage Citation identifies Scots Presbyterian Church as a fine example of this architect's work.

(ii) Discussion

The submission was made by the Scots Church in late 2010 in response to the provision of the heritage citation for the property. Whilst the Panel notes that the Church objected at that time, there is nothing before the Panel in terms of additions submissions or evidence that suggests the HO is not appropriate.

The Panel considers that no change is required to the Amendment for this property.

9 Submissions to Amendment C90

Of the 40 submissions (including one late submission) lodged to Amendment C90 there were 15 in support of the HO. A number of these submitters provided additional information, including corrections to and additional historical data for individual properties and precincts affected by the Amendment. Four submissions were lodged by the Department of Sustainability and Environment (DSE) in relation to the Drouin West Public Hall, one of which also dealt with the fire dugout and memorial at Tanjil Bren. The remaining submissions opposed the application of the HO to their properties based on their limited historic value and the expectation that the HO would decrease property values and restrict development.

Mr Roser of the National Trust (S14) appeared at the Hearing in support of the Amendments. The Trust's submission included a response to a number of the submissions that opposed Amendments C86 and C90. Mr Roser also advised the Panel that the Trust did not oppose the removal of properties on the west side of Gladstone Avenue and the south side of Albert Street, west of Gladstone Street from the Peace Avenue Precinct HO, as agreed to by Council, post exhibition.

9.1 Contingent Street Precinct, Trafalgar (HO335, HO329)

(i) Issues and submissions

The Contingent Street Precinct is located on the east side of Contingent Street, Trafalgar extending south of Kitchener Street, to include two properties to the south of Church Street and east to the west side of Holland Street and Wellington Street. As well as being contained in the Precinct three properties are individually listed.

There were three written submissions lodged for this area. These were from the Anglican Diocese (S23: St Mary's Church at 40 Contingent Street), The Trafalgar Uniting Church (S2: 34 Contingent Street) and Ross and Worth Pty Ltd, Surveyors (S31: 9 and 26 Contingent Street).

The Anglican Church did not support the inclusion of its whole church complex in the HO as it indicated it may wish to develop part of the site in future and the HO may be too restrictive. No further information was provided by the Church to support its submission.

The Uniting Church - Trafalgar Parish (S33), written submission was that the buildings in the HO do not carry the level of significance attributed to them and that the HO would restrict redevelopment of the land. The submitter described the buildings, in particular the Hawksley Building, as '*basic and simple*'. It was considered that the proposal to include the church properties in the heritage precinct could be viewed as an attempt to create a 'neat' boundary for the overlay.

Mr Chapman of Hellier McFarland, represented the Trafalgar Uniting Church at the Panel Hearing.

In acting for the Uniting Church Mr Chapman requested the following changes to be made to the HO, as exhibited.

- The change of grading of the site occupied by the manse from 'significant' to 'non-contributory', and removal of the individual HO from that property.

-
- The removal of the 'Precinct' HO from land occupied by the 'Hawksley' temporary building, formerly occupied as a Sunday School, together with the vacant land to its north that extends through to Wellington Street.

While it was Mr Chapman's submission that the manse site should be removed from the Precinct HO335, he understood this may not be possible because the Precinct extends south of Church Street to include an Anglican Church and a residence.

In evidence, in response to the submissions, Mr Helms for Council noted that it was agreed that the Manse did not have significance in itself, but it is appropriate to include it in the precinct and be marked as 'non-contributory' to ensure that if it is redeveloped, due consideration is given to the surrounding heritage fabric.

Mr Helms supported the removal of the vacant land fronting Wellington Street from the HO precinct as:

This is because any future development on this site, which faces toward Wellington Street, is unlikely to affect the setting of the Uniting Church buildings or the precinct in Contingent Street.

He did not support the removal of the Hawksley Building from the precinct as:

It is, however, my opinion that the existence of the other building (Panel note: another similar former SECV building at the Trafalgar Bowling Club) does not diminish the historic and social significance of the former Sunday School as part of the Uniting Church complex and as a remnant SECV building. The assessment of the former Sunday School took note of the fact that there was at least one other known SECV building in the Shire.

He specifically noted in response to submissions from the Church that the building's use on this site is part of its significance, in addition to any significance in the building itself.

The submission of Ross & Worth Pty Ltd, Surveyors (S31), question the significance of Contingent Street as a Precinct and are concerned that it does not consider the effect of this control on the Business 1 Zone that applies to land in this Precinct.

The submitter considered that the dwellings within the Contingent Street Precinct contribute nothing to the significance of the four individually important Places in the precinct.

The submitter considered:

There are plenty of residences in Trafalgar that illustrate the significant growth in population from 1920s to 1940s without the need to include the dwellings in the proposed Contingent Street Precinct....Preserve the significant buildings but leave the dwellings unencumbered by unjustified controls particularly where the dwellings have not been considered worthy of being listed on the Heritage Place Overlay.

The submitter refers to the isolation of 9 and 26 Contingent Street from the proposed Contingent Street Precinct by Kitchener Street and that they are the only 'contributory' properties used for Business 1 purposes.

(ii) Discussion

The Panel considers that on the investigations and evidence presented, the precinct on Contingent Street Trafalgar (HO335) should be supported. The Panel notes the Amendments submitted on behalf of the Trafalgar Uniting Church and accepts that as the Manse on the corner of Contingent and Church Streets has no heritage value, it should be marked as 'non-contributory' in the citation for the precinct.

The removal of the rear of the Uniting Church complex fronting Wellington Street was agreed in the Hearing (not including the Hawksley Building) and this should be amended on map 41HO for HO335 and HO329.

The Panel does not consider, on balance, that the Hawksley Building should be removed from the Amendment. Mr Helms correctly notes that the condition of the building is not directly relevant to its heritage value. He ascribes the value of the building at least partly to its use on the site in this context in addition to any specific building values.

Whilst this particular issue is a matter of judgement, the Panel was not presented with any evidence to refute Mr Helm's position in chief and thus the Panel is reluctant to recommend its removal from the Amendment. Any change or removal of the building should thus be considered in the context of a particular application under the HO.

In relation to 9 and 26 Contingent Street the Panel notes that these properties are not part of Amendment C90. A review of the changes made following consultation around the Stage 2 Heritage Study suggests that while they may have been previously considered in the precinct they are no longer included in it.

(iii) Conclusion and recommendations

As discussed above the Panel has concluded that in principle the precinct is sound but there are a number of minor changes that could be made to improve it by removing an area and changing the contributory significance of the Manse.

The Panel recommends:

Remove the rear of Lot 1 on Title Plan 567354L in Trafalgar from the citation for HO335 and the 41HO map HO335 and HO329. The new western boundary of the above lot should generally align with the rear boundary of 34 Contingent Street.

Remove the Manse on the corner of Church Street and Contingent Street in Trafalgar from the site specific heritage place HO329.

9.2 Princes Highway East Precinct, Trafalgar (HO338)

(i) Issues and submissions

The surveyors Ross & Worth Pty Ltd submitted that this frontage to the highway should be abandoned as a heritage precinct.

(ii) Discussion

The Princes Highway East Precinct applies to a row of 10 inter-war dwellings of which 8 have been graded 'contributory'. The objection is not entirely clear and appears to be making a

point about comparing this precinct to the Contingent Street precinct discussed in the previous section. The Panel does not propose any changes in response to the submission.

9.3 Bowen Street Precinct, Warragul (HO149)

(i) Issues and submissions

Submitter 13 commented on what was considered an error in the Heritage Citation report (page 52), where the fourth key element of *'What is significant?'* refers to *'The gateposts between 13 and 15 Bowen Street'*.

The submitter believes this should read *'The gateposts between 15 and 17 Bowen Street'* and perhaps, more specifically, they should be described as *'rendered tall brick piers'*.

The submitter also referred to the historical significance of the lane (between 15 and 17 Bowen Street) which, before the creation of Koroit Street (to the west), was the only access to houses, built in the 1940s by J J Murray, on the east side of Toorak Avenue, when Toorak Avenue was not formed.

Submitter 17 is of the view that the boundary of the Precinct HO should be adjusted to include the lane at the rear of 33 to 37 Bowen Street.

(ii) Discussion and recommendation

The Panel notes the support of these submitters and understands the Council supports the changes they have suggested. Mr Helms in evidence supported the corrections suggested by Submitter 13. The Panel recommends:

The Precinct be adopted in the revised form to include the lane at the rear of 33 to 37 Bowen Street.

The Heritage Citation for the Bowen Street Precinct be amended to change the reference under 'What is significant' to the gateposts between 13 and 15 Bowen Street to 'the rendered tall brick piers between 15 and 17 Bowen Street' and to add the additional information in relation to access.

9.4 Victoria Street North Precinct, Warragul (HO350)

(i) Issues and submissions

There were three written submissions in opposition to this Precinct.

The owner of 90 Victoria Street (S9) objected to her property being included in the HO on the basis that it will be de-valued. It was submitted that if the property is heritage listed the Council should contribute to the costs associated with maintenance of the property (including the retention of a mature oak tree) She also requested that part of the small parcel of land that is currently heritage listed be removed.

It was Mr Helms' evidence that the dwelling at 90 Victoria Street contributed to the Victoria Street North Precinct. The Council advised that the HO would not materially affect the maintenance of the house and pruning of the existing tree.

The owner of 101 Victoria Street (S11) objects to the HO being applied to this property. The submitter states that the timber dwelling has major deficiencies, and the photograph in the Council's Heritage Citation Report is not current. The submitter provided current photographs of the dwelling which show its dilapidated condition. The submitter went on to state that the quoted cost of required repairs to make the dwelling habitable is more than the current value of the property.

Submitter 37 referred to inaccuracies contained in the 'Heritage Citation Report' for this Precinct which he stated required correction.

(ii) Discussion

Number 90 Victoria Street is within the proposed Victoria Street North Precinct and adjoins the property occupied by St Pauls Anglican Church at 92 Victoria Street which is HO152 under the Scheme. A slither of land in this existing individual HO is now contained along the northern boundary of 90 Victoria Street. This boundary should be adjusted to reflect the new property boundary of 90 and 92 Victoria Street.

The Panel notes that tree controls are not triggered by the Amendment for this Precinct.

Having inspected the site externally the Panel agrees that the dwelling contributes historically to this Precinct and supports the HO. The Panel however agrees that the southern boundary of the existing HO152 (92 Victoria Street) should be 'adjusted' to align with the northern property boundary of 90 Victoria Street.

The Panel noted the fair condition of 101 Victoria Street when it viewed this property. Its condition however does not diminish the heritage value of this property within the Precinct. The HO does not require owners to maintain a property in the HO nor does it prohibit partial or full demolition. The condition of the building is a matter for the Council to consider at such time an application may be lodged for works or demolition.

(iii) Conclusion and recommendation

The precinct in general is supported by the Panel subject to the boundary alignment discussed in the previous section.

The Panel recommends:

Adjust the southern boundary of HO152 to accord with the proposed precinct boundary of HO350 of the Victoria Street North Precinct, Warragul.

9.5 Proposed individual property listing

This section considers those properties in Amendment C90 about which submissions were made. An external inspection was made by the Panel of each of these properties. The inspections and the content of the written submissions have been considered by the Panel in its review of the Amendment.

(i) Submission 1: 6 Hopetoun Road, Drouin (HO425)

Issue

The owner of 6 Hopetoun Road opposes the application of the HO to this property, and considers other houses are better suited to heritage listing.

Discussion

No specific reasons for not listing the property were provided beyond the general suggestion that other properties are more suitable. Mr Helms provided in his evidence the response that the house is of local historic and architectural significance and that few examples of houses of this type survive in Drouin.

The submitter suggests that the proposed listing is causing considerable worry. The Panel notes this but considers it does not remove the reasons for the house being proposed for listing. The Panel also considers that the Heritage permit exemptions document provides capacity for a range of 'normal' household maintenance items to be conducted with no impact on the owner.

The Panel supports the application of the HO to this property.

(ii) Submission 3: Hiawatha Hall, Narracan (HO292)

Issue and submissions

This submitter stated that the family does not support the inclusion of their property on the HO based on its heritage value. They noted:

We understand the importance of preserving history especially as our family has been part of this community since it was first settled, however we feel it is our duty to maintain the property in the name of our ancestors as well as our current and future family nor do we wish to relinquish any control over what will happen/can happen to the property.

Mr Helms in his evidence for Council noted that the house is the oldest in the area associated with the Savige family and the house and mature plantings are of local significance.

Discussion

The submitter did not seek to argue in their written submission that Hiawatha Hall did not have the heritage attributes to support a listing, but rather that they did not wish see the HO controls applied. The application of the HO controls are to protect the values of the heritage on an 'objective' view and consideration of the control is not generally influenced by the desire of the owner to protect (or not protect) the heritage.

The Panel considers that the heritage values have been adequately established through the Amendment and no changes to the exhibited Amendment are required.

(iii) Submission 4: Kraft Crescent, Drouin (HO240)

Issue and submissions

This submitter opposed the overlay, stating that:

- 12 Kraft Crescent is in a dilapidated condition and repair would be very costly, and does not fit in with other properties in the street;
- 21 Kraft Crescent is in a dilapidated condition with asbestos material used in its cladding and is currently unoccupied.

The submitter provided extensive information on the state of the properties and the difficulty in maintaining them.

The Council advised the Panel that it resolved to support this submission which would see the HO removed from these properties. This decision was based on the poor condition of the buildings and the use of asbestos which would render their renovation difficult.

In his evidence Mr Helms noted:

Although it has been altered, the house at 12 Kraft Crescent contributes to the significance of the group as one of the original 'flat tops' built c.1947. Despite its alterations it still retains the distinctive form and some detailing that distinguish it as one of the c.1947 houses. I have re-inspected the precinct and consider that, despite the demolition of No 19, the surviving five houses as a group still meet the threshold of local significance.

He reiterated his opinion that the properties are of local heritage significance and should be included in HO240.

Discussion

The Panel is in a difficult position on this group of properties as the heritage expert is clear that the group has suitable heritage values based on the type of properties and their relationship to the Drouin butter factory. Council is however seeking to recognise that the difficulties associated with maintaining the properties negates their heritage value.

Applying the same principles as it has to other properties, the Panel concludes that the heritage value has been clearly established, and this is a separate issue to the properties' condition. Thus the properties should be recognised in the HO and any improvements outside the *Heritage exemptions policy* or demolition dealt with through the permit application process.

The Panel considers that no change is required to the Amendment for this submission.

(iv) Submission 5: 2 Railway Road, Thorpdale (HO326)

Issue and submissions

This submitter stated that he did not believe his property has any historical significance as it has been extensively renovated and he explained the changes made. It should therefore not be included in the overlay.

Mr Helms for Council considered that despite the changes made to the house, it is an important contributory property to the Thorpdale Precinct and thus should be included. He also noted the property's relocation from Walhalla contributed to its significance.

Discussion

The Panel notes the submission and the evidence of Mr Helms. It does not consider a change to the Amendment is required.

(v) Submission 6 (and 24): 30 School Road, Erica (HO271)

Issues and submissions

The submitter opposed the HO, suggesting it might impact on property values, be a burden in terms of increased permit requirements and the house is not 'grand' enough to warrant the HO.

Mr Helms submitted that the property is contributory to the significance of the Erica Township Precinct and should be included and that issues such as property values are not relevant to the Amendment.

Discussion

The Panel accepts that the property is properly classified as contributory. The Panel discusses the issue of property values in more detail in section 10.2. No change is recommended to the Amendment.

(vi) Submission 7: 16 Moore Street, Erica (HO269)

Issue and submissions

This submitter objected to this property being included in the overlay stating that it is derelict and unoccupied, with parts of it having been replaced. The submitter also questioned why the overlay is being proposed over the entire 1.5 acre property, when the dwelling occupies a small part of the property.

Mr Helms in evidence noted that:

These houses stand out in Erica because of their relatively large size and elevated siting and for their historic associations with local sawmilling family.

He considered that even with the changes made and the derelict state of the property that it (and number 18 next door) still meet the threshold for local significance.

Discussion

This property is one of two adjoining properties that have been listed for heritage protection. On its external view of the property, and in noting its 'run down' condition the Panel observed that some work appeared to be underway at the front verandah.

The HO will not prohibit work, nor demolition necessarily if that is applied for, but will require assessment through the permit application process.

Based on the evidence and the apparent original features of the dwelling the Panel supports its inclusion in the HO. The Panel notes that the entire property has been included in the HO to match the overlay to the title boundary as is normal practice.

(vii) Submissions 8, 15, 19 and 20: Department of Sustainability and Environment (DSE) (HO344)

Issue and submissions

The original submission from DSE advised Council that it had no objection to the amendment.

DSE then sent further submissions (S15, S19 and S20) opposing the application of the HO over the Drouin West Mechanics Institute Hall (HO344). These submissions referred to its correspondence with Council which indicated that the hall could be demolished and the land sold.

The Council advised the Panel that it has resolved to support the submission having regard to its previous resolutions to allow the demolition of the building.

Submission 20 also referred to the Fire Dugout and Memorial at Tanjil Bren, advising it did not support the site being open to the public because of safety factors. It was also of the opinion that this site did not warrant heritage protection as the dugout is a more recent construction (from 1985) and not the original one associated with the 1939 bushfires.

Mr Helms in evidence noted that he supported the removal of the Tanjil Bren Dugout and Memorial from the HO but not the Drouin West Mechanics Institute Hall. He stated in evidence that the hall is the earliest surviving building in Drouin West and is evidence of Drouin West being a distinct development from Drouin. He also considered that the building is even more important given the recent demolition of the Drouin West School.

Discussion

In relation to the Drouin West Mechanics Institute, the Panel is not convinced that its removal from the Amendment is warranted. Whilst it understands that DSE wishes to demolish the building and it is in a poor state, there is no evidence before the Panel to refute its significance. Consistent with the approach taken to dilapidated, but significant, buildings on private land, the Panel considers that this element of the Amendment should be retained and HO344 put in place.

(viii) Submission 10: 865 Neerim Road, Neerim East (HO301)

Issue and submissions

The submitters advised the Council of the extensive renovations that have been undertaken to the property, including an extension and new verandahs and roof using modern building materials. Council submitted that, in the view of the submitters the changes that have occurred do not warrant the HO being applied to the property.

Whilst Council submissions and Mr Helms in evidence responded to this submission, it has become apparent to the Panel in drafting this report that these comments relate to a different property, namely the former Neerim East Hall at 955 Neerim East Road, Neerim East (HO304).

Discussion

The Panel notes the submission and without a response in submissions or evidence from the Council is not in a position to conclude on the appropriateness or otherwise of the proposed HO301. The Panel considers that until the heritage values are reviewed the HO should not be applied. If necessary the HO could be applied through a future omnibus amendment.

The Panel recommends:

The Heritage Overlay not be applied to 865 Neerim East Road, Neerim East until such time as the submission has been considered and the heritage values reviewed.

(ix) Submission 16: 12-14 Henty Street, Erica (HO271)

Issue and submissions

This submitter objects to the amendment and considers the reference to their property in the *Heritage Citation Report* to be incorrect. The submitter states that the low line picket fence is not original as it had originally been a wire fence and the gable roofed structure at the north of the property was originally a blacksmith building.

Mr Helms in evidence agreed that Amendments to the citation for the property should be undertaken but that the contribution of the property to the precinct in Erica is sound and the HO should be retained.

Discussion

This property is within the Erica Township Heritage Precinct and the Panel is satisfied on the evidence of Mr Helms that the listing is appropriate. The Panel has not made a specific recommendation in relation to updating the citation but a general recommendation on these matters is made in Chapter 10.

(x) Submission 18: Drouin Butter Factory, Drouin (HO236)

Issue and submissions

This submitter commented on aspects relating to the inclusion of the Drouin Butter Factory in the overlay. Reference was made to the fact that the extensions to the original office building at 29 to 35 Lardner Road have not been referred to in the Heritage Study. Furthermore, the submitter advised that the main factory at 32 Lardner Road has undergone extensive renovations over the years with an extensive and major upgrade in 1990s. Clarification was sought as to what aspects of the building are to be included under the overlay given that ninety per cent of the building has been extensively renovated.

The submitter was opposed to the HO until these matters were clarified.

In the response to submissions to the Stage 2 Heritage Study, Context undertook further research to clarify the text and improve the identification of significant buildings.

Discussion

It was not made clear to the Panel if the original submission (objection) still stands, but in any case the Panel is satisfied on the material presented in the property citation that the HO

is appropriate for the former Drouin Butter Factory. No change to the Amendment is required.

(xi) Submission 21: Tetoora Road Hall, Tetoora Road (HO323)

Issue and submissions

This submission advises that the Tetoora Road Hall has been so substantially altered externally from its original condition that it should not be included on the HO. The submitter stated that better examples of early public halls include the Buln Buln Hall (which is now the Gary Miles' Art Studio), the Darnum Hall (relocated and refurbished but in a style sympathetic to the original design), Hallora Hall and Hill End Hall.

At the Hearing Mr Helms advised in evidence that the submission had been withdrawn and therefore he did not provide comment on its merits.

Discussion

The Panel notes that the submission has been withdrawn and thus provides no comment on the proposed HO.

(xii) Submission 23: The Anglican Diocese of Gippsland (HO328, HO335, HO324, HO270, HO274)

Issue and submissions

The Anglican Diocese of Gippsland, provided comments in relation to the following four churches:

St Mary's Anglican Church, Contingent Street, Trafalgar (HO328, HO335)

The Diocese did not support the whole church complex being added to the Heritage Overlay. It is considered that the hall has only a *'moderate degree of external integrity'* and the church may wish to use a portion of the land for other purposes in the future. This matter is dealt with in section 10.1.

St Mark's Anglican Church, Robinson Street, Thorpdale (HO324)

The Diocese stated that it considered the description of the history of the site to be incomplete, as in the 1990s the church was significantly reconfigured. The 1990s renovations linked the church to the hall and the church is not in its original form. The Diocese is uncertain about the statement in the report that the Thorpdale Church has *'a moderate degree of external integrity and compares with the churches at Narracan, Neerim East and Childers'*, as the other churches referred to have not undergone the same level of alteration.

St Thomas' Anglican Church, School Road, Erica (HO270)

The Diocese objects to the inclusion of this property in the HO as it does not have architectural merit. This building was moved to a new site in 1961 and its heritage significance has diminished.

St James' Anglican Church, Hill End (HO274)

The Diocese corrected a number of statements in the report. These are:

- The citation in both thematic context and in place history provides no firm evidence as to why the church or hall at Hill End should be included in the Overlay;
- The plans were not drawn up by Fred Bloye but were a replica of those for the Anglican Church of the Epiphany built at Seaspray in 1937 that were drawn up by the Diocesan Architect, Mr Ashton of Maffra;
- The statement is incorrect that the approvals of the Health Department to line the building with weatherboards instead of the proposed iron were not obtained, based on documentary evidence at the Diocese;
- The current building material of fibro sheet external lining of the church dates from 1960s not from the time of construction and the building should not be described as 'Carpenter Gothic';
- The statement that Hill End was the only Anglican Church destroyed in the 1939 bushfires is incorrect, as the Anglican Church at Noojee was also destroyed at that time.

Mr Helms did not address the submission in his evidence to the Panel but it is clear that the statement of significance was updated in response to the submission to update and correct information.

Discussion

The submission was in response to the consultation on the Heritage Studies in 2010 and the background material has been updated in response. The submission did not lead Council or its expert to reconsider the application of the HO to St Mark's in Thorpdale, St Thomas' in Erica or St James' in Hill End. In the absence of more specific objections to the application of the HO the Panel does not consider a change to the Amendment is needed to address the submission on these properties.

(xiii) Submission 25: Lot 4 Knots Siding Road, Rawson (HO297)

Issue and submissions

The submitters oppose the inclusion of their property in the HO due to the potential for property devaluation and the building restrictions that apply under the HO.

Council submitted that as it was a vacant site it should be graded 'non-contributory' but retained within the Precinct. The Panel was advised that the land was sold, post-exhibition, and the new owner does not object to the property remaining in the Precinct HO297.

Discussion

The Panel supports the decision to re-grade the land 'non-contributory' and retain it in the Precinct.

(xiv) Submission 27: Narracan Primary School, Narracan (HO220)

Issue and submissions

The Narracan Primary School provided two items of clarification to the heritage report:

-
- The 'Sloyd Room' is currently used as the Staffroom/Domestic Science facility not as the Office.
 - The house to the east of the School on School Road is not the original Teacher's Residence.

The school expressed concern that placing the HO over the school may require permits for renovation of the existing buildings which may affect the flexibility to use rooms in the manner that suit the school population in any given year.

The Stage 2 Heritage Study recommended that the school be included for listing on the Victorian Heritage Register.

Discussion

The Panel notes that the school is in the Public Use Zone (PUZ2) and thus is not covered by the *Heritage Exemptions Plan*. The HO will not prevent renovations and maintenance of the existing building or internal changes to the building which are not triggered by the HO but may in some circumstances require a planning permit.. The Panel considers that the planning controls proposed should not adversely affect the school's maintenance activities and a change to the Amendment is not warranted.

(xv) Submissions 28 and 29: Narracan Uniting Church, Narracan (HO296)

Issue and submissions

Submission 29, from the Uniting Church in Australia, objected to the application of the HO over the buildings and poplar trees at 417 Narracan - Connection Road, Narracan stating:

- The five mature poplars along the southern boundary of the church are causing damage with roots extending underneath the church building and therefore they would object to the HO preventing the removal of those trees;
- The church and hall exterior has been updated from weatherboard to aluminium clad, and they do not consider the building to be in 'good condition', as described in the heritage citation; and
- Regarding the interior of the building, they believe that furniture items are not 'fixtures' and should therefore not be included in the HO.

The submission stated that whilst the church does have some historical significance due to its original build date, it is not well supported by the Narracan community and the HO would put unwanted pressure on the congregation to maintain the buildings and unwanted restriction on future plans of the church to sell the property.

In response to the submission to the Stage 2 Heritage Study modifications were made to the building citation and tree guidelines were introduced.

Mr Helms in evidence noted that he did not consider that the aluminium cladding reduced the overall heritage values sought to be protected.

Discussion

The Panel accepts the general recommendation of the HO for the property based on its background and research and does not believe a change is warranted to the Amendment. The Panel notes that while tree controls are included in the HO schedule, it does not mean a

permit for their removal would not be granted and property damage may be one of the considerations in any such permit application.

(xvi) Submission 30: 32 Station Street, Thorpdale (HO326)

Issue and submissions

This submitter supports retaining the heritage aspects of the town, particularly the main street. The ongoing deterioration of the old timber buildings is considered a significant problem given the climate and construction techniques used, however the intention of this submitter is to rebuild the verandah of this building to its original specifications.

The submitter requested further information on the implications of the HO on the property.

Discussion

The Panels view of the properties in the Thorpdale Precinct confirmed the historic attributes of the Thorpdale township and it supports the Heritage Precinct as exhibited. No change to the Amendment is recommended.

(xvii) Submission 32: 142 Trafalgar South Road, Trafalgar (HO337)

Issue and submissions

These submitters objected to their property, comprising school building and pine and cypress trees being included in the HO. The submitters stated that the trees are causing damage to the school. They stated they had been told that the current school house was originally built in Boolarra and transported to the property, following the destruction of the originally building by fire.

In response to the submission to the Stage 2 Heritage Study the history of the property was reviewed and specific tree management guidelines added.

Discussion

Having read the citation and history of the property and viewed it from the public domain, the Panel is satisfied that the HO as exhibited is warranted. As for the comments in section xv above, tree controls apply but property damage may be a consideration for Council in deciding whether to issue a permit for their removal.

(xviii) Submission 34: Jindivick School Classroom, Jindivick (HO282)

Issue and submissions

In supporting the Amendment this submitter requested that the architectural integrity of the school be maintained and that the oak tree remain.

Discussion

The Panel notes this submission. No changes are recommended to the Amendment.

(xix) Submission 35: 2 Mackey Street, Longwarry (HO288)

Issue and submissions

This submitter, advised that the property was a station master's house, correcting what she believed was an inaccuracy in the report.

Discussion

The Panel notes the history of the property has been updated to reflect the submission. No changes to the Amendment are recommended.

(xx) Submission 36: Neerim North Soldiers Memorial, Neerim North (HO223)

Issue and submissions

This correspondence from the DSE to Neerim North Soldiers Memorial, advises that this Memorial has been identified as a nominated place, and the HO has been applied by the Amendment. The submission attaches a copy of the Heritage Citation report which includes amendments.

Discussion

The Panel notes this correspondence and refers the Council to the amended citation included with the submission, for its attention.

(xxi) Submission 38 (and 40): 365 Yarragon-Shady Creek Road, Yarragon (Wilderslea) (HO26)

Issue and submissions

This submission queried the extent of the proposed HO which it was understood would only apply to the worker's hut and specified trees. The submission also referred to the poor condition of trees on the property.

Discussion

The Panel notes the submission. Submission 39 relates to the same property and provides a significant amount of additional historical information.

(xxii) Submission 40: Murray Farm Complex, Longwarry Road, Drouin (HO42)

Issue and submissions

The submission raised a number of issues including:

- opposition to the inclusion of the stable, house & cypress trees in the HO;
- the land is designated on Drouin Structure Plan as future industrial and the overlay would highly compromise the future development of the land; and
- the Cypress trees have a short lifespan, and both the house and stables are in disrepair and have been changed.

The submission does not oppose the inclusion of the Canary Island Palms that would be retained as part of future development.

Mr Helm's evidence was that the property is significant as a complex of farm buildings and trees and that the issue of condition and future development potential are not relevant to the heritage values assessed.

Discussion

The Panel notes the assessment of heritage values on the site and supports the HO as put forward in the Amendment. No changes are considered necessary.

10 Other issues

10.1 Changes post Hearing 14 June 2012

Following the completion of the Hearing, Council provided correspondence dated 25 June 2012 (see Appendix D) which provided revised and updated documentation, generally related to policy neutral improvements to the Amendment.

(i) Revised Clause 21.11 of MSS

Council and its consultant reviewed the content of Clause 21.11 (Urban Design) and provided a copy of the revised Clause to the Panel following extensive discussion on drafting in the Hearing

The changes made are minor in nature and generally relate to the 'set out' of the policy and are supported by the Panel.

The section on 'Managing Planning Applications' has been simplified. It deletes requirements covered under other provisions of the Scheme. The need to prepare a Conservation Management Plan has been replaced by a more concise requirement to prepare a heritage impact statement in some cases.

The Table of the Heritage Precincts has been removed from this Clause. This Table is included in the Incorporated Document, which is appropriate in the view of the Panel.

The Panel notes that no submissions to the Amendment sought to take issue with the exhibited clause 21.11 or provide suggestions for change or improvement.

(ii) Corrections to maps

Errors to the HO numbers in the Planning Scheme maps have been corrected, with a copy provided to the Panel.

(iii) Changes from submissions

A number of submissions (number 39 being notable in relation to 'Wilderslea') have provided additional information on properties that should be considered for inclusion in the citations for properties (and in some cases have been included already). The Panel is satisfied that Council, in consultation with its expert, can undertake this process to ensure that relevant information is effectively captured.

(iv) Conclusions and recommendation

The Panel is satisfied that the post Hearing changes to the Amendment sent to the Panel with correspondence dated 25 June 2012 (Council's preferred version at Attachment 1 to that document), whilst extensive in number are not substantive in nature, and can be made by Council in consultation with its heritage expert. The Panel also considers that information in submissions can be effectively incorporated by Council.

The Panel recommends:

Make the numerous minor corrections and changes to Amendment C90 generally in accordance with the matters communicated to the Panel in correspondence dated 25 June 2012 as shown in Appendix D and the additional historical information provided by submitters.

Adopt the revised Clause 21.11 as provided to the Panel as Attachment 1 to the Council's correspondence of 25 June 2012.

10.2 Matters not related to heritage values

A number of submitters raised issues unrelated to the specific heritage values sought to be protected through the Amendment. These include:

- Property devaluation (for example submission 6);
- Loss of development rights (for example submission 40); and
- The effect of property condition on heritage.

Panels have consistently taken the view that the approach to these matters, in a heritage context, is that they are generally not given significant weight at the Amendment stage but rather left to the discretion available to Council when considering a permit application.

In essence, this approach is taken because the presence of heritage values is not dependent on the economic or other impacts on the landowner; the heritage either exists or it doesn't. If the heritage values are present they should be protected. The impacts on individuals can then be assessed at such time a permit application is being considered and the Council can determine whether the particular circumstances dictate that the permit should or should not be granted.

Mr Helms in his evidence to this Panel highlighted some of the significant Panels that have considered this issue including Southern Grampians C6 and Ballarat C58.

As a result of this consistent approach over time, this Panel has not given significant weight to possible or perceived economic and other non-heritage impacts.

11 Summary of recommendations

For the reasons outlined in this report the Panel makes the following recommendation in chief:

- 1 Adopt Baw Baw Planning Scheme Amendments C86 and C90 as exhibited subject to the recommendations in this report.

11.1 Amendment C86

The Panel makes the following recommendations in relation to Amendment C86:

2. Adopt the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010 as a Reference document in the Baw Baw Planning Scheme.
3. Adopt Schedule 1 to the Design and Development Overlay generally as amended and provided to the Panel at the Hearing but with the following further changes (additions underlined):
 - Design Objectives Bullet point 10 to read 'To encourage high quality contemporary building design that protects visual amenity when viewed from surrounding residential and rural areas'.
 - Design Objectives Bullet point 11 to read 'To recognise and support development of the town centre at key strategic redevelopment sites, including the Butter Factory site, as an integrated part of the town centre.'
 - Under Clause 2.0 Buildings and works adopt the following wording for the last two sentences: 'A permit may be granted for buildings and works that do not accord with any of the requirements of this schedule provided the design objectives and outcomes in Table 1 are satisfied.' and 'New development should address the design requirements and outcomes to be achieved for the town centre as well as any design requirement / outcome specified for individual precincts in Table 1 to this schedule'.
 - Under Clause 6.0 Reference: retain the words 'Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010.'
 - DDO1 – 3a Major Development Site add the words 'Bonlac Factory Precinct'.
 - DDO1 – Precinct 3a - under the heading 'Building height' delete the words '4 storeys or' in the last sentence.
 - DDO1 – Precinct 3a under the heading 'Vehicle parking and access' insert the following point 'A pedestrian precinct is to be provided on the site opposite the intersection of Palmerston Street and Mason Street and this is to extend into the site to provide a pedestrian link through the site between Mason Street and Gladstone Street'.
 - DDO1 – 3b Opportunity site add the words 'William Square Precinct'
 - DDO1 – 3c Opportunity site add the words 'Triangle Precinct'.
 - Replace 'stories' with 'storeys' where appearing in DDO1 Table 1.

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4. Under Clause 22.02 amend the first bullet point under the heading Warragul and Drouin Townships to read:
 - 'The principles of the Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010.'
 5. Adopt the changes to the Peace Avenue Precinct, Warragul (HO156) as put to the Panel in the Council submission including removing the Heritage Overlay from properties fronting Normanby Avenue and those on the western side of Gladstone Street.
 6. Extend the boundary of Peace Avenue Precinct, Warragul (HO156) to the south and east to cover the bluestone lanes that form the boundary in those areas.
 7. Council consider including the Manse at 60 Victoria Street in HO148 (Wesley Church) rather than in HO162.

11.2 Amendment C90

The Panel makes the following recommendations in relation to Amendment C90:

8. Remove the rear of Lot 1 on Title Plan 567354L in Trafalgar from the citation for HO335 and the 41HO map HO335 and HO329. The new western boundary of the above lot should generally align with the rear boundary of 34 Contingent Street.
9. Remove the Manse on the corner of Church Street and Contingent Street in Trafalgar from the site specific heritage place HO329.
10. The Bowen Street Precinct be adopted in the revised form to include the lane at the rear of 33 to 37 Bowen Street.
11. The Heritage Citation for the Bowen Street Precinct be amended to change the reference under 'What is significant' to the gateposts between 13 and 15 Bowen Street to 'the rendered tall brick piers between 15 and 17 Bowen Street' and to add the additional information in relation to access.
12. Adjust the southern boundary of HO152 to accord with the proposed precinct boundary of HO350 of the Victoria Street North Precinct Warragul.
13. The Heritage Overlay not be applied to 865 Neerim East Road, Neerim East until such time as the submission has been considered and the heritage values reviewed.
14. Make the numerous minor corrections and changes to Amendment C90 generally in accordance with the matters communicated to the Panel in

correspondence dated 25 June 2012 as shown in Appendix D and the additional historical information provided by submitters.

15. Adopt the revised Clause 21.11 as provided to the Panel as Attachment 1 to the Council's correspondence of 25 June 2012.

Appendix A List of Submitters

No.	Submitter	Amendment C86	Amendment C90
1	Robert Smethurst	X	
2	VicTrack	X	
3	Bona Vista Holdings P/L	X	
4	Bruce Jones	X	
5	Nina McMahan	X	
6	DSE	X	
7	Gavin Brosche	X	
8	Peter Myers	X	
9	Warren & Lois Platt	X	
10	Rigby Cooke lawyers for Warren Turner	X	
11	Corey McMahan	X	
12	Stuart Lawson	X	
13	Roy Raymond Bain Properties P/L	X	
14	Bruce Jones	X	
15	Dorothy Robinson (?)	X	
16	Jim Straatman	X	
17	Janet & Peter Montgomery	X	
18	David Lawton	X	
19	Val Trewin	X	
20	Albert & Nancy Tatterson	X	
21	Peter Myers	X	
22	David & Tracey Hollier	X	
23	Warren Platt	X	
24	Scots Presbyterian Church Drouin	X	
			X
1	Judith Aitken		X
2	Trafalgar Uniting Church		X
3	John & Myrleen Savige		X
4	Shannon Grohs		X

5	W Bradbury	X
6	Lance Kelly	X
7	M Rawson	X
8	DSE	X
9	Phyllis Nelson	X
10	Elisabet Smedbakken & Paul Pellegrino	X
11	Margaret Jenkins	X
12	Hill End Community Inc	X
13	Barrie Baker	X
14	National Trust of Australia	X
15	DSE	X
16	Stephen Watson	X
17	Stephen Vanyai	X
18	Don Lazzaro	X
19	DSE	X
20	DSE	X
21	Peter Finlayson	X
22	Ian Brooks	X
23	The Anglican Diocese of Gippsland	X
24	Lance Kelly	X
25	Phil & Janine Bechaz	X
26	Janet Cowden	X
27	Narracan Primary School	X
28	Rev'd Russell Jones	X
29	Uniting Church – Presbytery of Gippsland	X
30	Dale & Rosemary Richardson	X
31	Ross & Worth Pty Ltd Surveyors	X
32	M & H Williams	X
33	Uniting Church of Australia – Trafalgar Parish	X
34	Terry Lelievre	X
35	Heather Vafidis	X
36	DSE	X

37	George Neill	X
38	Luc Valiquette	X
39	Lynnette Hammet	X
40	Tania Ernst	X

Appendix B Exhibited Design and Development Overlay (C86)

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SCHEDULE 1 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO1**

WARRAGUL TOWN CENTRE

1.0 Design objectives

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- To encourage high quality urban design that is responsive to and reinforces the locally distinctive topography, features, characteristics and landscape of the area.
- To ensure the height of future development responds to the desired future scale and character of the precinct within the town centre.
- To ensure that building setbacks achieve the desired spatial proportion of the street, define the street edge and provide a high amenity for users of the street.
- To ensure that pedestrian routes, streets, footpaths, open spaces and other public spaces including transport facilities interact with and are overlooked by buildings.
- To promote active frontages to streets, walkways and public spaces.
- To promote high quality and distinctive built form outcomes on prominent corners, gateways and infill sites.
- To ensure key community nodes and pedestrian streets have good access to sunlight, weather protection and clear pathways linking elements.
- To maintain and improve the provision and integration of quality public spaces, including streets, laneways and other public spaces.
- To encourage buildings to be designed to take advantage of views and vistas towards and within the town centre while retaining attractive long range vistas from key vantage points.
- To encourage high quality building design that provides an attractive and articulated form when viewed from surrounding residential and rural areas.
- To improve signage and way finding measures for users of the activity centre.

2.0 Buildings and works

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Permit requirement

A permit is required to construct a building or carry out works.

This does not apply to:

- Construction or carrying out the following within a Business Zone:
 - The installation of an automatic teller machine.
 - An alteration to an existing building facade provided:
 - The alteration does not include the installation of an external roller shutter.
 - At least 80 per cent of the building facade at ground level is maintained as an entry or window with clear glazing.
- An awning that projects over a road if it is authorised by the relevant public land manager.
- Construction or extension of the following within a Mixed Use Zone:
 - A single dwelling on a site greater than 300 sqm.
 - Works normal to a dwelling.
 - An open-sided pergola or verandah with a finished floor level not more than 800 mm above natural ground level and a maximum height not more than 3 metres above natural ground level.
 - An outbuilding with a gross floor area not more than 10 metres and a maximum building height not more than 3 metres above natural ground level.
 - A deck with a finished floor level not more than 800 mm above natural ground level.
 - A domestic swimming pool or spa and associated mechanical equipment and safety fencing

This exemption does not apply to the construction or extension of a garage or carport in a Mixed Use zone.

A permit may be granted for buildings and works that do not accord with any of the requirements of this schedule provided the design objectives and outcomes are still satisfied.

New development should address the design requirements and outcomes to be achieved identified for the centre as well as any requirement/outcome specified for individual precincts in Table 1 to this schedule.

3.0 Exemption from notice and review

An application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This does not exempt any application from notification and review requirements under any other clause, zone or overlay.

4.0 Information to be submitted with an application

In addition to other information required to be submitted with a planning application, if considered necessary, applications must be accompanied by the following plans and reports to the satisfaction of the responsible authority:

- A report detailing how the proposed development responds to the Design objectives of this schedule. The report must demonstrate the design responses to the objectives.
- Three dimensional diagrams or visualisation showing the proposed building in the context of the surrounding activity centre buildings.
- An assessment of the impact on key vistas and the amenity of public spaces for developments of three or more storeys. All major new development are to include an assessment of the following Ecological Sustainable Design principles:
 1. Energy efficiency achieved through such features as enhanced building fabric, efficient appliances and services, use of daylight, renewable energy generation, and use of alternative energy sources.
 2. Conservation of water use through such features as water sensitive urban design, water efficient fittings, rainwater harvesting, greywater and blackwater treatment.
 3. Indoor environmental qualities through such features as quality through natural ventilation, improved thermal comfort, good acoustics, visual comfort.
 4. Management of waste during demolition, construction, and at the operational stage.
 5. Reducing/recycling a percentage of demolition and construction waste.
 6. A waste management plan (WMP) that ensures future waste from buildings will have adequate space and facilities for collecting, processing.
 7. The selection of sustainable building materials.

5.0 Decision guidelines

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Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule.
- Whether the proposal achieves the design requirements and the outcomes to be achieved in Table 1 of this schedule.
- Whether development is consistent with Clause 21.11-1 Visual Character of Towns and Rural Landscapes.
- Whether subdivision associated with a development proposal that supports the objectives for the Warragul Town Centre will not result in fragmentation of sites.

6.0 Reference

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Warragul Town Centre Urban Design Framework and Station Precinct Masterplan April 2010

Warragul Town Centre Masterplan May 2011

Local Government Planning For Sustainable Buildings Guide 2010

With respect to building heights, the Structure Plan states that as a general criteria, heights should be generally limited to 12 metres (4 storeys) to ensure an integrated and active connection between the private and public realms

Table 1 to Schedule 1

<p>General</p> <p>Design Requirements</p>	<p>Outcome to be achieved</p>
<p><i>Building appearance</i></p> <p>Building facades should be designed with an appropriate scale, rhythm and proportion that respond to the building's use and the character of the surrounding area.</p> <p>Maximise the development potential of sloping sites by creating additional levels where the land falls away that require minimal excavation.</p> <p>Buildings should be suitably capped with a roof form or feature parapet street wall with all plant and rooftop equipment concealed from the surrounding street views and contribute to a high quality presentation in the streetscape and skyline context of the town centre.</p> <p>Bin enclosures and other storage should be located at the rear of buildings and screened from view to ensure a tidy presentation onto streets, pedestrian areas, laneways and public parking areas.</p>	<p>High architectural quality.</p> <p>Building facades define adjoining public spaces and achieve the desired streetscape character.</p> <p>Building design retain a harmonious town centre skyline when viewed from surrounding areas.</p> <p>Building elements are integrated into the overall building form and facade design.</p>

<p><i>Public/private interface</i></p> <p>The street facade and internal layout of the ground floor should be designed to facilitate visual and physical access between the building and the adjoining street.</p> <p>Pedestrian entries into buildings should be clearly visible, well lit and directly face the street or adjoining public space.</p> <p>Entrances and key pedestrian routes should provide adequate weather protection.</p> <p>Building scale to transition to adjoining residential uses or heritage buildings.</p>	<p>Buildings contribute to enhanced street life.</p> <p>Building frontages provide for natural surveillance and security of public spaces.</p> <p>Development clearly connected to public spaces.</p> <p>Development provide comfort and amenity to pedestrians.</p>
<p><i>Vehicle access and parking</i></p> <p>The number of vehicle crossovers should be minimised and where possible provided from laneways or secondary street frontages.</p> <p>Onsite parking for vehicles should be located to have a minimal visual impact on the streetscape and adjoining public spaces. Parking between the front of the building and the street should be avoided.</p> <p>All parking areas, including entry and exit points, should be well lit and clearly identified with signage.</p> <p>Vehicle access points should be separate from pedestrian access points.</p> <p>Car parking facilities to be centralised or connected between adjoining outlets where appropriate. Surrounding supply will be taken into account when assessing car parking requirements.</p> <p>Tandem spaces should not be provided unless associated with a single occupancy.</p> <p>Basement car parks should be naturally ventilated wherever possible.</p> <p>Views of cars on upper storeys should be screened from public viewpoints.</p> <p>Where multi deck car parking buildings are located on retail streets, screen the car park with ground level shop fronts or other suitable screening treatments.</p> <p>Loading facilities should be located away from key pedestrian routes and screened from public spaces.</p>	<p>Vehicle movements and connections within the development and the street network are convenient, safe and efficient.</p> <p>Sufficient car parking provided for building occupants and visitors.</p> <p>Parking and access areas are safe, practical and attractive and can be easily maintained.</p>
<p><i>Landscaping</i></p>	<p>Landscaping is integrated</p>

<p>Landscaping should be designed to complement the landscape treatments of adjoining streets and public spaces where appropriate.</p> <p>New development to be well landscaped, including canopy trees.</p>	<p>with the design of the development and complements the landscaping of any adjoining public space. .</p>
<p><i>Signage</i></p> <p>Signage should be of a size and height that is complementary to the built form of the building and surrounding landscape, and does not detract from public view lines.</p> <p>Sign structures and panels to be within parapet silhouette and architectural features so as not to visually dominate the building.</p> <p>Signs should be limited in number and incorporate limited detail other than is necessary to identify the building name and key tenants.</p> <p>Signs should be consolidated in mixed use and commercial developments to avoid the visual clutter of signage and displays.</p>	<p>Signage is integrated into the design of the building facade, surrounding streetscape and landscape setting.</p>
<p>DDO1 - 1 Bulky goods / main road sales precinct</p> <p>Design requirements</p>	<p>Outcome to be achieved</p>
<p><i>Building Height</i></p> <p>Building height to be generally limited to three stories (11 metres).</p> <p><i>Building appearance</i></p> <p>Buildings located on the north side of Alfred Street should ensure that appropriate landscaping and articulation of rear facades is provided to ensure an attractive view from the rail line, station and Hazel Creek area.</p> <p><i>Setbacks</i></p> <p>Front setbacks should be no more than 20 metres (limited parking to the front of buildings may be allowed, provided the bulk of parking is provided to the side or rear).</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>The sense of arrival is strengthened at a key gateway location.</p> <p>Development positively interacts with the street edge.</p>

<p><i>Gateway sites (south east and south west corners of Howitt and Alfred Street intersection).</i></p> <p>Development should reinforce the gateway presentation to the intersection of Howitt Street and Alfred Street.</p> <p>Development should be setback no more than 5m from Howitt Street and Alfred Street.</p> <p>Development should be setback a minimum of 3m from other boundaries.</p> <p>A 3m soft landscape buffer should be established around the site perimeter.</p> <p>The heritage trees along Permewan Lane will be protected by locating vehicle crossovers via other street frontages with a preference for vehicle and service access via the southern laneway.</p> <p><i>The general form anticipated for development to the south east of Howitt and Alfred Street intersection is shown in Plan 1.</i></p> <p><i>Other</i></p> <p>Support the incorporation of water sensitive urban design into developments to the west of Howitt Street given the proximity to Hazel Creek and flood prone land.</p>	<p>Building design of new development reflects the gateway role of this prominent location.</p> <p>Heritage assets are protected from adjoining development</p> <p>Impacts of flood water in this area are mitigated.</p>
<p>DDO1 - 1 a Bulky goods / main road sales precinct</p> <p><i>Building Height</i></p> <p>Building height to be generally limited to three stories (11 metres).</p>	<p>Development retains public views towards and within the town centre and ensures a connection between private and public spaces</p>
<p>DDO1 – 2 Trinca Lane Precinct</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>

<p><i>Building Height</i></p> <p>Building height to be generally limited to three stories (11m) – not <i>including gateway site</i>).</p> <p><i>Building Appearance</i></p> <p>Buildings to incorporate windows, balconies and entrances to activate the Trinca Lane streetscape.</p> <p><i>Setbacks</i></p> <p>Provide a minimum 3m landscape setback from Trinca Lane.</p> <p><i>Gateway site (land at western edge of precinct).</i></p> <p>Provide a minimum 5m landscape setback from the eastern boundary for planting of canopy trees.</p> <p>Establish a parapet street wall of up to three storeys (11m) to Queen Street which transitions to two storeys (8m) at the eastern part of the site.</p> <p>A maximum building height of four storeys above the Queen Street footpath level which steps down to three storeys at the eastern part of the site.</p> <p>The western ‘wedge’ of the site should contain a distinctive corner feature treatment which wraps from the Queen Street frontage to Trinca Lane.</p> <p>Building entries should be logically placed and designed towards the Queen Street frontage with secondary access to Trinca Lane.</p> <p>Development should ensure a high quality presentation of equal resolution is achieved to both the Queen Street and Trinca Lane frontages.</p> <p>Use the fall of the land to provide undercroft / semi- basement car parking which is concealed from views along Queen Street.</p> <p>Visitor or customer car parking may be accommodated within a setback from</p>	<p>Development retains public views towards and within the town centre and ensures a connection between private and public spaces.</p> <p>Design provides high quality presentation from the railway line.</p> <p>Building design of new development reflects the gateway role of this prominent location.</p>
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<p>the eastern boundary provided a landscape buffer of 5m is provided.</p> <p>Vehicle access can be achieved via a maximum of one centralised vehicle crossover to Queen Street and/or vehicle access via Trinca Lane which is sited and designed to ensure that a row of shadow canopy trees can be established within/adjacent to the site along this frontage.</p> <p># The general form anticipated for the western gateway development is shown in Plan 2.</p>	
<p>DDO1 – 3 Business transition</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building Height</i></p> <p>Building height to be generally limited to two storeys (9 metres) - <i>not including gateway site.</i></p> <p><i>Setbacks</i></p> <p>Development to incorporate minimal setbacks from Queen Street to encourage active frontages.</p> <p><i>Building Appearance</i></p> <p>Buildings located on the south side of Queen Street should ensure that appropriate landscaping and articulation of rear facades is provided to ensure an attractive view from the rail line and station.</p> <p><i>Public/private interface</i></p> <p>Consideration should be given to how any new development will interact with the proposed pedestrian Queen Street promenade.</p> <p><i>Gateway site (juncture of Normanby and Queen Streets)</i></p> <p>Building height to be generally limited to four storeys (14metres) height at the junction of Queen Street and Normanby Place</p> <p>Ensure glazed ground level frontages, an interesting roof and corner form and strong landscape setbacks where possible.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between private and public spaces.</p> <p>Design provides high quality presentation from the railway line.</p> <p>Development positively integrates with public spaces.</p> <p>Building design of new development reflects the gateway role of this prominent location</p>
<p>DDO1 – 4a Residential edge</p> <p>Design Requirements</p>	<p>Outcomes to be achieved</p>

<p><i>Building Height</i></p> <p>New building height should integrate with existing built form and character.</p> <p><i>Heritage</i></p> <p>Avoid demolition of buildings which contribute to the consistency of heritage building character.</p> <p><i>Building appearance</i></p> <p>Limit modifications to the facades of buildings which would substantially alter the contribution to the streetscape.</p> <p>New additions to buildings should be contemporary in character, however they should seek to integrate with existing buildings by reflecting the proportions and scale, form, materials and setbacks of the existing building.</p> <p>Roof forms of development should seek to maintain similar proportions and pitch as existing dwellings on/immediately adjacent the site.</p> <p>Materials and finishes should reflect the local palette and comprise predominantly weatherboard with selective use of render and brick. Reflective or metallic finishes are discouraged.</p> <p>Any infill medium density residential development should be incorporated to the rear of lots (where laneway access is possible) to ensure the streetscape character is retained.</p> <p><i>Setbacks</i></p> <p>New building additions should be setback the length of the first two rooms of the building (equivalent 8m depth of the dwelling frontage).</p> <p>Side setbacks of additions should maintain a minimum 1.5m setback from side boundaries and incorporate landscaping areas in the setback</p> <p>First floor additions should be recessed from the front elevation.</p>	<p>The low rise silhouette of buildings is retained.</p> <p>The residential character of this precinct, while providing for mixed use activities, is protected and enhanced.</p> <p>Design of new development reflects the dominant visual residential character.</p> <p>The sense of spaciousness between the buildings is retained.</p>
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<p>DDO1 – 4b Residential transition Design Requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building height</i> Building height to be generally limited to three storeys (11 metres).</p> <p><i>Other</i> Properties should be consolidated to create higher density residential and mixed use redevelopment sites.</p> <p>New development to be designed to minimise amenity impacts on adjoining residential properties.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>High quality medium density residential and mixed use development provides an appropriate interface between the town centre and surrounding residential areas.</p>

<p>DDO1 – 5a Major development site</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building Height</i></p> <p>Buildings to be generally limited to parapet street wall height of 11m.</p> <p>Development to be generally limited to three storeys (and 14m) measured at street level to the nearest street / accessway frontage from which the development will be visible.</p> <p><i>Building appearance</i></p> <p>Primary active retail frontages should be focused along the Mason Street frontage and any future Palmerston Street extension. Development should also provide activation to Queen Street and Gladstone streets.</p> <p>Buildings should be sited and designed to follow the site slope and avoid excessively elevated buildings which result in exposed blank walls (particularly at ground level).</p> <p><i>Setbacks</i></p> <p>Commercial development to Mason Street should have a zero boundary setback with the provision of weather protection measures over the public footpath.</p> <p>Commercial development facing Gladstone Street should be setback a minimum of 3m for soft landscaping.</p> <p><i>Vehicle parking and access</i></p> <p>Palmerston Street should be extended as a wide tree lined street environment between Mason Street and Gladstone Street.</p> <p>Provide a series of north-south connections according to a street based design (vehicle, pedestrian, cycling) and landscaping typical of the rest of the activity centre.</p> <p>A shared pedestrian and vehicle access connecting to Williams Street will extend through the development to Gladstone Street.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>New development improves physical and visual connectivity to the rest of the town centre and allow for the orderly expansion of the primary retail core.</p> <p>Commercial development interacts appropriately with adjoining uses.</p> <p>New development provides a legible and well connected network of streets with safe pedestrian and bicycle access within the site which integrate with the broader activity centre network.</p>

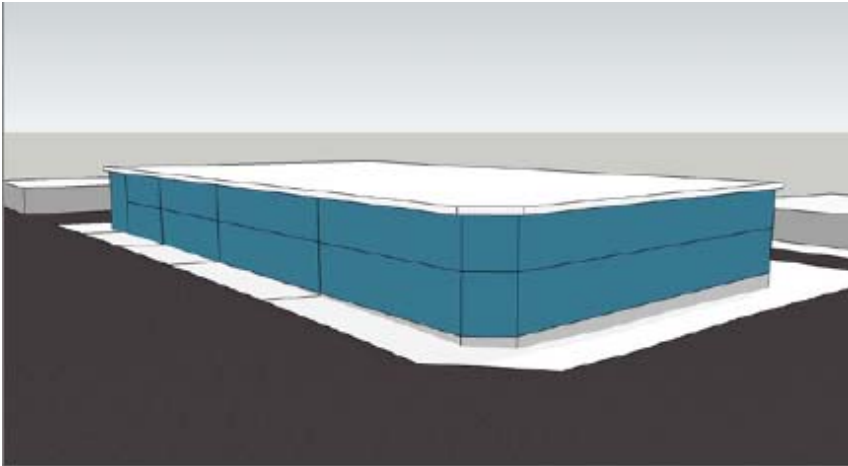
<p>Vehicular access to decked or basement car parking to be provided at appropriately located access points from Mason and Gladstone Streets.</p> <p>At grade or decked car parking to be located centrally within the precinct, away from street frontages.</p> <p>Servicing and loading areas to be concealed within building envelopes to avoid conflict with pedestrians, bicycle or car parking areas.</p>	
<p>DDO1 – 5B Opportunity site</p> <p>Design requirement</p>	<p>Outcome to be achieved</p>
<p>5B - opportunity site</p> <p><i>Building Height</i></p> <p>Development to be generally limited to a parapet street wall of up to 11m</p> <p><i>Building Appearance</i></p> <p>Conceal large retail forms (e.g. supermarket, mini major stores and discount department stores) behind active retail frontages which incorporate regularly spaced and well placed entries including highly glazed frontages at street level.</p> <p>Buildings should have a zero lot setback from Palmerston Street and Mason Street to create a consistent built form within the retail core of the activity centre.</p> <p>Blank walls should be avoided to Palmerston Street and Mason Street and achieve a minimum 80% active frontage to each street, whilst buildings interfacing Williams Street should include at least 20% active frontages comprising logically placed building entries and glazed retail frontage which integrate with the surrounding development</p> <p><i>Setbacks</i></p> <p>Development above the parapet street wall should be setback a minimum of 3m to have a recessive presentation</p> <p><i>Vehicle parking and access</i></p> <p>Maintain Williams Street as a public vehicle thoroughfare with pedestrian link</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>Development regenerates and consolidates the retail core and the key pedestrian axis of Palmerston Street.</p>

<p>along its southern edge.</p> <p>Provide for laneway widening (to a minimum width of 6m) along the western boundary of the Centrepoin shopping centre site to accommodate service vehicles for the precinct.</p> <p><i>Williams Square car park</i></p> <p>Retain the Williams Square Council car park and redevelop with a three storey deck car park subject to the following:</p> <ul style="list-style-type: none"> • Setback a minimum of 6m from the south, east and west boundaries and minimise unreasonable loss of daylight to the frontage of interfacing private properties interfacing with the car park; • Any roof feature or weather protection over the third storey is lightweight in design and is well articulated; • The overall design makes a positive contribution to the pedestrian environment; and • Connect decked car parking areas on the Council and privately owned sites, as appropriate, to provide legibility and improved permeability of the precinct car parking. 	<p>Decked car parking is designed to make a positive contribution to adjoining public space.</p>
<p>DDO1 – 5c Opportunity site</p> <p>Design requirement</p>	<p>Outcome to be achieved.</p>
<p><i>Building Height</i></p> <p>Development to be generally limited to four stories (16m above natural ground level) with upper levels setback from the Palmerston shared zone to avoid overshadowing the pedestrian plaza. Building height should maintain vistas of the heritage listed church to the north.</p> <p><i>Setbacks</i></p> <p>Establish a parapet street wall with a zero lot setback and a height of up to 12m (equivalent two to three storeys) Development above the parapet street wall should be recessed a minimum of 5 metres from the front elevation.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>The Triangle Precinct</p>

<p><i>Vehicle parking and access</i></p> <p>New driveways and access ways should be located to maximise separation from existing and planned pedestrian crossings, with the primary access via Victoria Street.</p> <p>Conceal car parking in a basement where possible and ensure the location of vehicle crossovers minimises impact to key pedestrian routes such as Palmerston Street. New driveways and access ways should be located to maximise separation from existing and planned pedestrian crossings, with a primary access via Victoria street.</p> <p>Maintain service laneway access to the rear of 41-47 Smith Street and 15-17 Palmerston Street unless alternative access arrangements can be found.</p> <p>Pedestrian spaces should be suitably designed for DDA compliance and where abutting service laneways, they should be established as a safely designed shared pedestrian/vehicle space.</p>	<p>reinvigorates the image of the retail core with an inspiring and articulated built form.</p> <p>Vehicle movements and connections within the development and the street network are convenient, safe and efficient.</p>
<p>DDO1 – 6 Retail</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building height</i></p> <p>Preferred height up to 3 storeys (11 metres).</p> <p>Ensure development maintains retail focus of the precinct and addresses all street frontages.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>Active retail frontages in the core retail areas and complementary uses located at upper levels or side streets.</p>

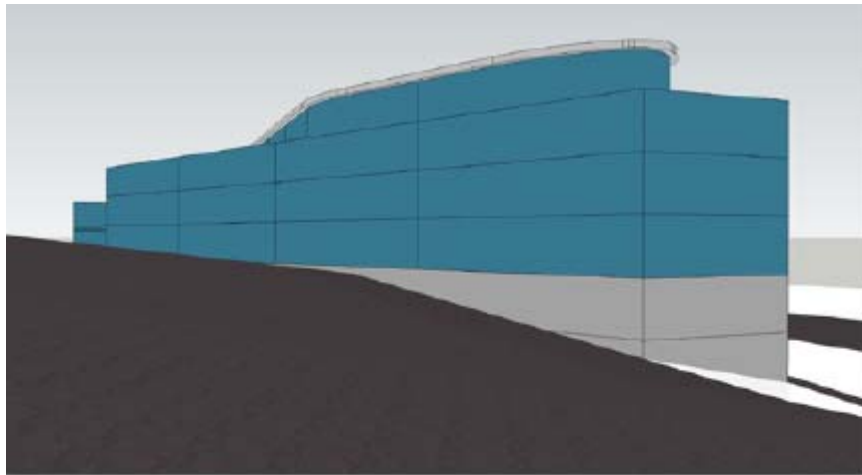
<p>DDO7 – 7 TAFE</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building Height</i></p> <p>Any future redevelopment of the TAFE to be designed so as to allow commuters exiting via the existing pedestrian overpass to have clear visibility towards the Queen/ Mason intersection and views of the railway station are maintained.</p> <p><i>Building Appearance</i></p> <p>Integrate the design of the TAFE with pedestrian links to the town centre.</p> <p>Support the development of a new 'landmark' sustainable building over the new TAFE car park to the east.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>Redevelopment to functionally integrate with the town centre.</p>

PLAN 1

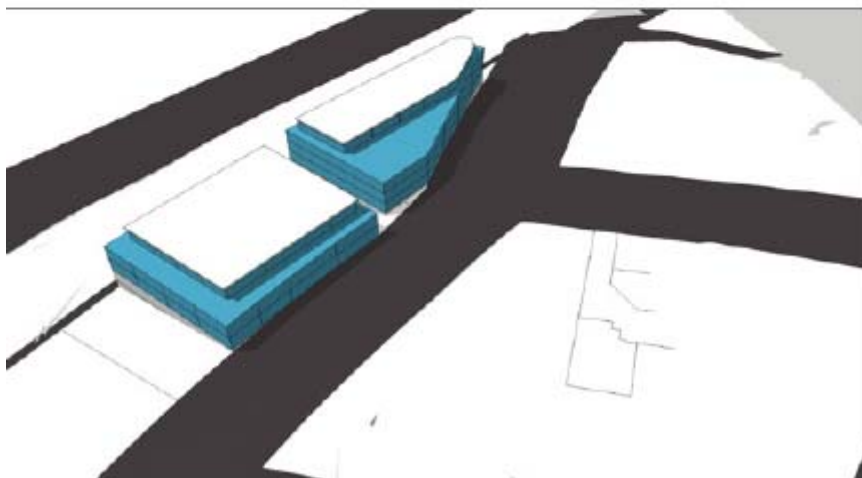


southern gateway view from the corner of howitt and alfred streets

PLAN 2



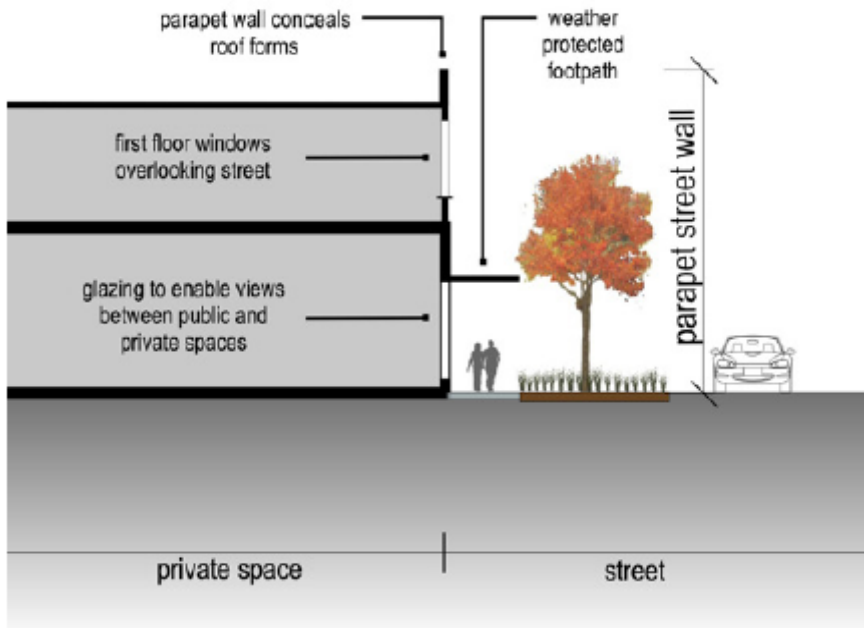
view from queen street and trinca lane intersection of the corner feature form



aerial view of gateway buildings from queen street (east).

PLAN 3

parapet street wall treatment : typical cross section



PLAN 4

Design and Development Overlay



Appendix C Panel Recommended Design and Development Overlay (C86)

SCHEDULE 1 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO1**

WARRAGUL TOWN CENTRE

1.0 Design objectives

- To encourage high quality urban design that is responsive to and reinforces the locally distinctive topography, features, characteristics and landscape of the area.
- To ensure the height of future development is determined having regard to the appropriate future scale and character of the precinct within the town centre.
- To ensure that building front setbacks achieve appropriate spatial proportions of the street, define the street edge and provide a high amenity for users of the street.
- To ensure that pedestrian routes, streets, footpaths, open spaces and other public spaces including transport facilities interact with and are overlooked by buildings.
- To promote active frontages to streets, walkways and public spaces.
- To promote high quality and distinctive built form outcomes on prominent corners, gateways and infill sites.
- To ensure key public realm areas and pedestrian accessways and any streets have good access to sunlight, weather protection and clear pathways linking elements.
- To maintain and improve the provision and integration of quality public spaces, including streets, laneways and other public spaces.
- To encourage buildings to be designed to take advantage of views and vistas towards and within the town centre while retaining attractive long range vistas from key vantage points.
- To encourage high quality contemporary building design that protects visual amenity when viewed from surrounding residential and rural areas.
- To improve signage and way finding measures for users of the activity centre.
- To recognise and support development of the town centre at key strategic redevelopment sites, including the Butter Factory site, as an integrated part of the town centre.
- To encourage redevelopment of key strategic sites in an integrated manner, avoiding fragmented redevelopment of sites.

2.0 Buildings and works

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Permit requirement

A permit is required to construct a building or carry out works.

This does not apply to:

- Construction or carrying out the following within a Business Zone:
 - The installation of an automatic teller machine.
 - An alteration to an existing building facade provided:
 - The alteration does not include the installation of an external roller shutter.
 - At least 80 per cent of the building facade at ground level is maintained as an entry or window with clear glazing.
- An awning that projects over a road if it is authorised by the relevant public land manager.

A permit may be granted for buildings and works that do not accord with any of the requirements of this schedule provided the design objectives and outcomes in Table 1 are satisfied.

New development should address the design requirements and outcomes to be achieved for the town centre as well as any design requirement/outcome specified for individual precincts in Table 1 to this schedule.

3.0 Exemption from notice and review

An application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This does not exempt any application from notification and review requirements under any other clause, zone or overlay.

4.0 Information to be submitted with an application

In addition to other information required to be submitted with a planning application, if considered necessary, applications must be accompanied by the following plans and reports to the satisfaction of the responsible authority:

- A report detailing how the proposed development responds to the Design objectives of this schedule.
- Three dimensional diagrams or visualisation showing the proposed building in the context of the surrounding activity centre buildings.
- An assessment of the impact on key vistas and the amenity of public spaces for developments of three or more storeys.
- All major new developments are to include, where applicable, an assessment of the following Ecological Sustainable Design principles:

1. Energy efficiency achieved through such features as enhanced building fabric, efficient appliances and services, use of daylight, renewable energy generation, and use of alternative energy sources.
2. Conservation of water use through such features as water sensitive urban design, water efficient fittings, rainwater harvesting, greywater and blackwater treatment.
3. Indoor environmental qualities through such features as quality through natural ventilation, improved thermal comfort, good acoustics, visual comfort.
4. Management of waste during demolition, construction, and at the operational stage.
5. Reducing/recycling a percentage of demolition and construction waste.
6. A waste management plan (WMP) that ensures future waste from buildings will have adequate space and facilities for collecting, processing.
7. The selection of sustainable building materials.

5.0 Decision guidelines

--/20-- Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule.
- Whether the proposal achieves the preferred design requirements and the outcomes to be achieved in Table 1 of this schedule.
- Whether subdivision associated with a development proposal supports the design objectives for the Warragul Town Centre and will not result in fragmentation of sites.

6.0 Reference

--/20-- *Local Government Planning For Sustainable Buildings Guide 2010
Warragul Town Centre Urban Design Framework and Station Precinct Masterplan, April 2010.*"

Table 1 to Schedule 1

<u>General Design Requirements</u>	Outcome to be achieved
<i>Building appearance</i>	
Building facades should be designed with an appropriate scale, rhythm and proportion that respond to the building's use and the character of the surrounding area.	High architectural quality.
Maximise the development potential of sloping sites by creating additional levels where the land falls away that require minimal excavation.	Building facades define adjoining public spaces and achieve the desired streetscape character.
Buildings should be suitably capped with a roof form or feature parapet street wall with all plant and rooftop equipment concealed from the surrounding street views and contribute to a high quality presentation in the streetscape and skyline context of the town centre.	Building design retain a harmonious town centre skyline when viewed from surrounding areas.
Bin enclosures and other storage should be appropriately located and screened from view to ensure a tidy presentation onto streets, pedestrian areas, laneways and public parking areas.	Building elements are integrated into the overall building form and facade design.
<i>Public/private interface</i>	
The street facade and internal layout of the ground floor of developments should be designed to facilitate an activated edge and	Buildings contribute to enhanced street life.

passive surveillance between the building and the adjoining street.	
Pedestrian entries into buildings should promote safety for building users and should be clearly visible, well lit and directly face the street or adjoining public space.	Building frontages provide for natural surveillance and security of public spaces.
Entrances and key pedestrian routes should provide adequate weather protection.	Development clearly connected to public spaces.
Buildings should be scaled appropriately to create an effective transition to adjoining residential uses or heritage buildings.	Development to provide comfort and amenity to pedestrians.
<i>Vehicle access and parking</i>	
The number of vehicle crossovers should be reduced and where appropriate provided from laneways or secondary street frontages.	Vehicle movements and connections within the development and the street network are convenient, safe and efficient.
Onsite parking for vehicles should be located to have a minimal visual impact on the streetscape and adjoining public spaces where appropriate.	
All parking areas, including entry and exit points, should be well lit and clearly identified with signage.	
Vehicle access points should be separate from pedestrian access points where appropriate.	Sufficient car parking provided for building occupants and visitors. Parking and access areas are safe, practical and attractive and can be easily maintained.
Car parking facilities to be rationalised and connected between adjoining outlets where appropriate.	
Tandem spaces should not be provided unless associated with a single occupancy.	
Basement car parks should be naturally ventilated. Views of cars on upper storeys should be screened from public viewpoints.	
Where multi deck car parking buildings are located on retail streets, consider options to screen the car park with ground level shop fronts or other suitable screening treatments.	
Loading facilities should be located away from key pedestrian routes and screened from public spaces.	
<i>Landscaping</i>	
Landscaping should be designed to complement the landscape treatments of adjoining streets and public spaces where appropriate.	Landscaping is integrated with the design of the development and complements the landscaping of any adjoining public space.
New development to be appropriately landscaped, including canopy trees where appropriate.	
<i>Signage</i>	
Signage should be of a size and height that is complementary to the built form of the building and surrounding landscape, and does not detract from public view lines.	Signage is integrated into the design of the building facade, surrounding streetscape and landscape

Sign structures and panels to be within parapet silhouette and architectural features so as not to visually dominate the building. Signs should be limited in number and incorporate limited detail other than is necessary to identify the building name and key tenants. Signs should be consolidated in mixed use and commercial developments to avoid the visual clutter of signage and displays.	setting.
DDO1 - 1 Bulky goods / main road sales precinct Design requirements	Outcome to be achieved
<i>Building Height</i>	
Building height to be generally limited to three storeys (11 metres).	Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.
<i>Building appearance</i>	
Buildings located on the north side of Alfred Street should ensure that appropriate landscaping and articulation of rear facades is provided to ensure an attractive view from the rail line, station and Hazel Creek area.	The sense of arrival is strengthened at a key gateway location.
<i>Setbacks</i>	
Front setbacks should be no more than 20 metres (limited parking to the front of buildings may be allowed, provided the bulk of parking is provided to the side or rear).	Development positively interacts with the street edge.
<i>Gateway sites (south east and south west corners of Howitt and Alfred Street intersection)</i>	
Development should reinforce the gateway presentation to the intersection of Howitt Street and Alfred Street. Development should be setback no more than 5m from Howitt Street and Alfred Street. Development should be setback a minimum of 3m from other boundaries. A 3m soft landscape buffer should be established around the site perimeter. The heritage trees along Permewan Lane will be protected by locating vehicle crossovers via other street frontages with a preference for vehicle and service access via the southern laneway. <i>The general form anticipated for development to the south east of Howitt and Alfred Street intersection is shown in Plan 1.</i>	Building design of new development reflects the gateway role of this prominent location. Heritage assets are protected from adjoining development
<i>Other</i>	
Support the incorporation of water sensitive urban design into developments to the west of Howitt Street given the proximity to Hazel Creek and flood prone land.	Impacts of flood water in this area are mitigated.
DDO1 - 1 a Bulky goods / main road sales precinct	
<i>Building Height</i>	
Building height to be generally limited to three storeys (11 metres).	Development retains public views towards and within the town centre and ensures a connection between private

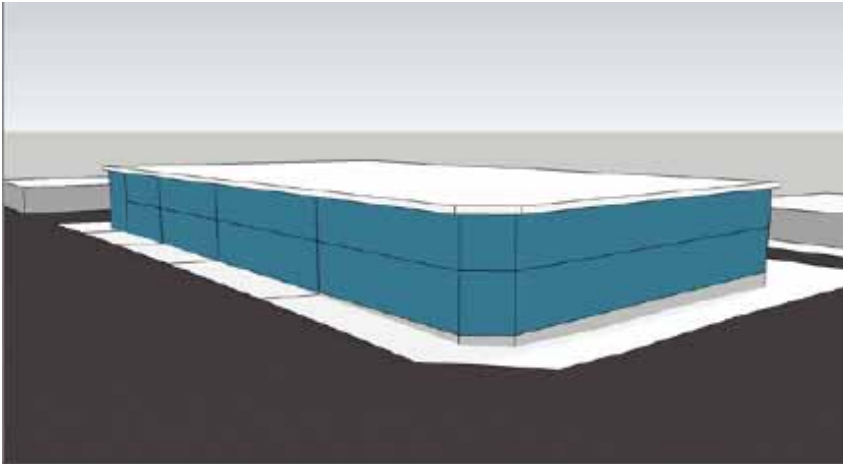
	and public spaces.
DDO1 – 2 Trinca Lane Precinct	
Design requirements	Outcomes to be achieved
<i>Building Height</i>	
Building height to be generally limited to three storeys (11m) – not including gateway site).	Development retains public views towards and within the town centre and ensures a connection between private and public spaces.
<i>Building Appearance</i>	
Buildings to incorporate windows, balconies and entrances to activate the Trinca Lane streetscape.	Design provides high quality presentation from the railway line.
<i>Setbacks</i>	
Provide a minimum 3m landscape setback from Trinca Lane.	Design provides high quality presentation from the railway line.
<i>Gateway site (land at western edge of precinct)</i>	
<p>Provide a minimum 5m landscape setback from the eastern boundary for planting of canopy trees.</p> <p>Establish a parapet street wall of up to three storeys (11m) to Queen Street which transitions to two storeys (8m) at the eastern part of the site.</p> <p>A maximum building height of four storeys above the Queen Street footpath level which steps down to three storeys at the eastern part of the site.</p> <p>The western 'wedge' of the site should contain a distinctive corner feature treatment which wraps from the Queen Street frontage to Trinca Lane.</p> <p>Building entries should be logically placed and designed towards the Queen Street frontage with secondary access to Trinca Lane.</p> <p>Development should ensure a high quality presentation of equal resolution is achieved to both the Queen Street and Trinca Lane frontages.</p> <p>Use the fall of the land to provide undercroft / semi- basement car parking which is concealed from views along Queen Street.</p> <p>Visitor or customer car parking may be accommodated within a setback from the eastern boundary provided a landscape buffer of 5m is provided.</p> <p>Vehicle access can be achieved via a maximum of one centralised vehicle crossover to Queen Street and/or vehicle access via Trinca Lane which is sited and designed to ensure that a row of shadow canopy trees can be established within/adjacent to the site along this frontage.</p> <p><i>The general form anticipated for the western gateway development is shown in Plan 2.</i></p>	Building design of new development reflects the gateway role of this prominent location.

DDO1 – 3a Major development site - <u>Bonlac factory Precinct</u>	Outcomes to be achieved
Design requirements	
<i>Building Height</i>	
Buildings should be generally limited to parapet street wall height of 11m. Development to be generally limited to four storeys (and 16m) measured at street level to the nearest street / accessway frontage from which the development will be visible. New development can be higher where appropriate.	Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.
<i>Building appearance</i>	
Primary active retail frontages should be resolved and focussed along primary street frontages where possible. Buildings should be sited and designed to follow the site slope and avoid excessively elevated buildings which result in exposed blank walls (particularly at ground level).	New development improves physical and visual connectivity to the rest of the town centre and allow for the orderly expansion of the primary retail core.
<i>Setbacks</i>	
Commercial development to Mason Street should have a zero boundary setback where appropriate.	Commercial development interacts appropriately with adjoining uses.
<i>Vehicle parking and access</i>	
The number of vehicle crossovers to Mason Street, Queen Street and Gladstone Street should be reduced and where appropriate provided from laneways or secondary street frontages. A pedestrian precinct is to be provided on the site opposite the intersection of Palmerston Street and Mason Street and this is to extend into the site to provide a pedestrian link through the site between Mason Street and Gladstone Street. Servicing and loading areas should be visually appropriate and designed to avoid conflict with pedestrians, bicycle or car parking areas.	New development provides a legible and well connected network of streets or accessways with safe pedestrian and bicycle access within the site which integrate with the broader activity centre network.
DDO1 – 3b Opportunity site – <u>William Square Precinct</u>	Outcome to be achieved
Design requirement	
<i>Building Height</i>	
Development to be generally limited to a parapet street wall of up to 11m Development above the parapet street wall should be setback a minimum of 3m to have a recessive presentation.	Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.
<i>Building Appearance</i>	
Conceal large retail forms (e.g. supermarket, mini major stores and discount department stores) behind active retail frontages which incorporate regularly spaced and well placed entries including highly glazed frontages at street level. Buildings should have a zero lot setback from Palmerston Street and	Development regenerates and consolidates the retail core and the key pedestrian axis of Palmerston Street.

<p>Mason Street to create a consistent built form within the retail core of the activity centre.</p> <p>Blank walls should be avoided to Palmerston Street and Mason Street and achieve a minimum 80% active frontage to each street, whilst buildings interfacing Williams Street should include at least 20% active frontages comprising logically placed building entries and glazed retail frontage which integrate with the surrounding development</p>	
<p><i>Vehicle parking and access</i></p>	
<p>Maintain Williams Street as a public vehicle thoroughfare with pedestrian link along its southern edge.</p> <p>Provide for laneway widening (to a minimum width of 6m) along the western boundary of the Centrepont shopping centre site to accommodate service vehicles for the precinct.</p>	
<p><i>Williams Square car park</i></p>	
<p>Retain the Williams Square Council car park and redevelop with a three storey deck car park subject to the following:</p> <ul style="list-style-type: none"> • Setback a minimum of 6m from the south, east and west boundaries and minimise unreasonable loss of daylight to the frontage of interfacing private properties interfacing with the car park; • Any roof feature or weather protection over the third storey is lightweight in design and is well articulated; • The overall design makes a positive contribution to the pedestrian environment; and • Connect decked car parking areas on the Council and privately owned sites, as appropriate, to provide legibility and improved permeability of the precinct car parking. 	<p>Decked car parking is designed to make a positive contribution to adjoining public space.</p>
<p>DDO1 – 3c Opportunity site – <u>Triangle Precinct</u></p> <p>Design requirement</p>	<p>Outcome to be achieved.</p>
<p><i>Building Height</i></p>	
<p>Development to be generally limited to four stories (16m above natural ground level) with upper levels setback from the Palmerston shared zone to avoid overshadowing the pedestrian plaza. Building height should maintain vistas of the heritage listed church to the north.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p>
<p><i>Setbacks</i></p>	
<p>Establish a parapet street wall with a zero lot setback and a height of up to 12m (equivalent two to three storeys) Development above the parapet street wall should be recessed a minimum of 5 metres from the front elevation.</p>	<p>The Triangle Precinct reinvigorates the image of the retail core with an inspiring and articulated built form.</p>
<p><i>Vehicle parking and access</i></p>	
<p>New driveways and access ways should be located to maximise separation from existing and planned pedestrian crossings, with the primary access via Victoria Street.</p> <p>Conceal car parking in a basement where possible and ensure the location of vehicle crossovers minimises impact to key pedestrian routes such as Palmerston Street. New driveways and access ways</p>	<p>Vehicle movements and connections within the development and the street network are convenient, safe and efficient.</p>

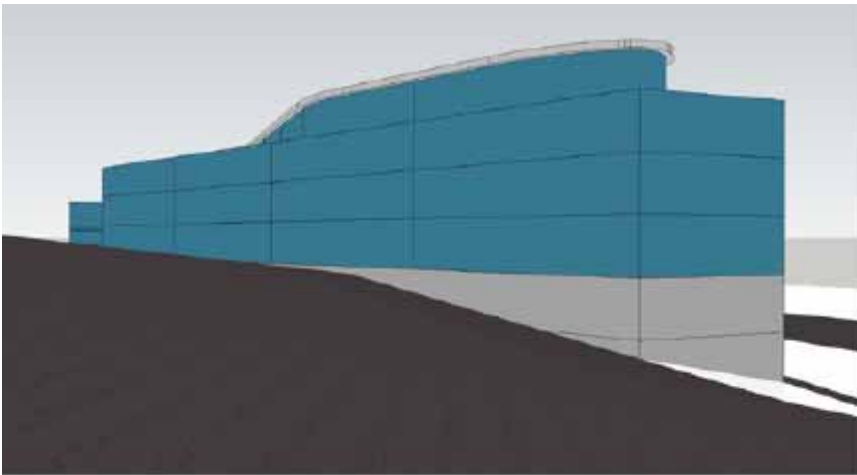
<p>should be located to maximise separation from existing and planned pedestrian crossings, with a primary access via Victoria street.</p> <p>Maintain service laneway access to the rear of 41-47 Smith Street and 15-17 Palmerston Street unless alternative access arrangements can be found.</p> <p>Pedestrian spaces should be suitably designed for DDA compliance and where abutting service laneways, they should be established as a safely designed shared pedestrian/vehicle space.</p>	
<p>DDO1 – 4 Retail Precinct</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building height</i></p>	
<p>Preferred height up to 3 storeys (11 metres).</p> <p>Ensure development maintains retail focus of the precinct and addresses all street frontages.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p> <p>Active retail frontages in the core retail areas and complementary uses located at upper levels or side streets.</p>
<p>DDO7 –5 TAFE Precinct</p> <p>Design requirements</p>	<p>Outcomes to be achieved</p>
<p><i>Building Height</i></p>	
<p>Any future redevelopment of the TAFE to be designed so as to allow commuters exiting via the existing pedestrian overpass to have clear visibility towards the Queen/ Mason intersection and views of the railway station are maintained.</p>	<p>Development retains public views towards and within the town centre and ensures a connection between the private and public spaces.</p>
<p><i>Building Appearance</i></p>	
<p>Integrate the design of the TAFE with pedestrian links to the town centre.</p> <p>Support the development of a new 'landmark' sustainable building over the new TAFE car park to the east.</p>	<p>Redevelopment to functionally integrate with the town centre.</p>

PLAN 1

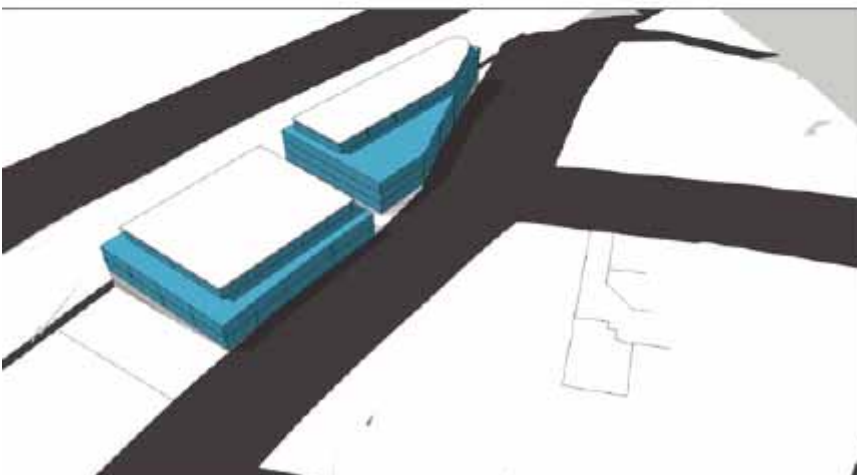


southern gateway view from the corner of howitt and alfred streets

PLAN 2



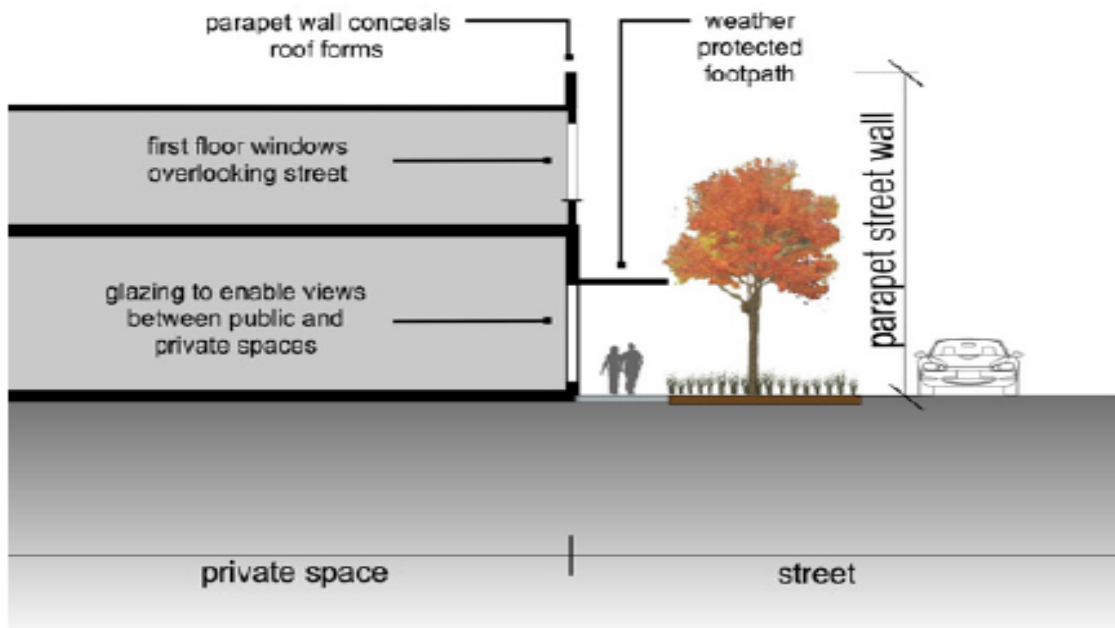
view from queen street and trinca lane intersection of the corner feature form



aerial view of gateway buildings from queen street (east).

PLAN 3

parapet street wall treatment : typical cross section



PLAN 4

Design and Development Overlay



Appendix D Post hearing correspondence from Baw Baw Shire Council (C90)

Our Ref:545/04/04/c90
Your Ref: Baw Baw Planning Scheme Amendments C90 & C86 heritage

Ask For: Helen Crawford

June 25, 2012

**Ms L Agius
Panel Coordinator
Planning Panels Victoria
8 Nicholson St
East Melbourne 3002**

DX 210098

Dear Madam,

RE Baw Baw Planning Scheme: Amendments C86 and C90

At the panel hearing held 14 June 2012 at Baw Baw Shire Offices for the above amendments, the panel members Mr Wimbush and Ms McKenzie requested further information be provided. This letter and attachments provide that information.

Please be advised of the following:

1. Revised MSS with accepted changes, including embellishment of introduction – see Attachment with track changes by Council (i.e. final draft). Attachment 2 shows revised MSS with tracked changes and Council's comments (i.e. first draft).
2. Location of HO256 on amendment maps: HO256 already exists and covers the entire site. The Amendment C90 alters the description of the heritage place – at present only some trees are described. The amendment adds buildings on the site to the description as well. The polygon for the HO needs no alteration. See Attachment 3 for a copy of the existing HO maps 44HO and 41HO.
3. Clarification of reference documents listed in the exhibited MSS – see Attachment 1.
4. Officer/Council consideration of submission from Normanby Street and Peace Avenue residents – See Attachment 4.
5. Example of polygon for HO156 so it includes all of the laneway in Peace Avenue – See Attachment 5.
6. HO162 – alteration to southern boundary of polygon – this is not required. The apparent extension to the land parcel of 60 Victoria Street is Lot 2 PS500309

which is owned by another party, not the same as the owner of 60 Victoria Street – it is currently the access ramp to the adjacent supermarket's loading bay. See Attachment 6 for copy of plan of subdivision.

7. The entry for HO306 reads 'Commercial Bank (former), 133 Main Neerim Road, Neerim South'. Owing to a street numbering anomaly, this number is misleading. It is proposed to amend the entry to show its property description, i.e. "HO306: Commercial Bank (former), Lot 2 PS 90054, Parish of Neerim, Main Neerim Road, Neerim South". The title description can be included if required.
8. List of HO sites on exhibited planning scheme maps that require renumbering, using exhibited Schedule as reference for correct numbers – See Attachment 7 for summary of changes. See Appendix 1 for maps showing changes.
9. Re-numbering of HO73, an existing HO, which is erroneously shown as HO144 on existing Map 32HO – See Map HO32 included in Appendix 1 for corrected version.

Please contact the undersigned if there is any queries regarding this information, on 56242479 or by email Helen.crawford@bawbawshire.vic.gov.au . Emailed contact is preferred for the next three weeks.

Yours faithfully

Helen Crawford,
Strategic Planner