

**Moorabool Planning Scheme Amendment C108moor
Ballan Precinct 5**

Panel Report

Planning and Environment Act 1987

10 September 2025

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue, you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Moorabool Planning Scheme Amendment C108moor

Ballan Precinct 5

10 September 2025



Sarah Carlisle, Chair



Elizabeth McIntosh, Member

Executive summary	7
1 Introduction.....	11
1.1 The Amendment.....	11
1.2 Key issues.....	13
1.3 Versions of the Amendment	13
1.4 The Panel’s approach	14
1.5 Limitations	14
2 Strategic issues	15
2.1 Planning context	15
2.2 Strategic justification.....	18
2.3 Choice of zones	19
2.4 Average lot size	22
2.5 Local commercial centre.....	23
2.6 Bushfire risk.....	25
3 Character	27
3.1 Character response	27
3.2 Werribee River corridor interface.....	29
3.3 Freeway interface	32
4 Ecology.....	34
4.1 The issue	34
4.2 Background	34
4.3 Evidence and submissions	35
4.4 Discussion	38
4.5 Conclusions and recommendations	39
5 Open space and community infrastructure	41
5.1 The issue	41
5.2 Background	41
5.3 Active and passive open space.....	42
5.4 Schools	44
5.5 Community facility.....	45
5.6 Infrastructure contributions	47
6 Infrastructure	48
6.1 Drainage and flooding.....	48
6.2 Servicing.....	51
7 Traffic and transport.....	54
7.1 Background	54
7.2 Traffic congestion and safety	55
7.3 Geelong-Ballan Road and Old Melbourne Road intersection	57
7.4 Active transport	59
7.5 Car parking	62

8	Other issues	64
8.1	Aboriginal cultural heritage	64
8.2	Post-contact heritage	68
8.3	Social and affordable housing	70
8.4	Noise impacts	71
9	Drafting	74
Appendix A	Parties to the Panel Hearing	75
Appendix B	Document list	76
Appendix C	Panel recommended version of Development Plan Overlay Schedule 9	82

List of Tables

	Page	
Table 1	Planning context	15

List of Figures

	Page	
Figure 1	Subject land.....	11
Figure 2	Development Concept Plan (Map 1 in DPO9)	12
Figure 3	Ballan Framework Plan	17
Figure 4	Mapping correction to the extent of Habitat Zone Patch A	36
Figure 5	Cultural heritage overlaid with proposed drainage assets	65

Glossary and abbreviations

BMPA	Bacchus Marsh Platypus Alliance
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan
CHW	Central Highlands Water
Council	Moorabool Shire Council
DEECA	Department of Energy, Environment and Climate Action
DELWP	Department of Environment, Land, Water and Planning (former)
DPO9	Development Plan Overlay Schedule 9
DSS	Development Services Scheme
DTP Transport	Department of Transport and Planning (Transport)
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
GRZ	General Residential Zone
ha	hectares
IN-01	intersection of Geelong-Ballan Road and Old Melbourne Road
MEG	Moorabool Environment Group
NRZ10	Neighbourhood Residential Zone Schedule 10
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Moorabool Planning Scheme
PPN	Planning Practice Note
PSP Guidelines	<i>Precinct Structure Planning Guidelines: New Communities in Victoria</i> , Victorian Planning Authority, October 2021
RCZ	Rural Conservation Zone
RGZ	Residential Growth Zone
SWMS	Stormwater Management Strategy
VPO2	Vegetation Protection Overlay Schedule 2
WTOAC	Wadawurrung Traditional Owners Aboriginal Corporation

Overview

Amendment summary

The Amendment	Moorabool Planning Scheme Amendment C108moor
Common name	Ballan Precinct 5
Brief description	Introduction of a development framework for future residential development of land identified as Precinct 5 in the Ballan Framework Plan
Subject land	Land bounded by the Western Freeway, Geelong-Ballan Road, Old Melbourne Road and the Werribee River, Ballan
The Proponent	Whiteman Property and Associates Pty Ltd on behalf of Wel.Co.
Planning Authority	Moorabool Shire Council
Authorisation	5 August 2024, with conditions
Exhibition	24 January to 3 March 2025
Submissions	Number of Submissions: 68

Panel process

The Panel	Sarah Carlisle (Chair) and Elizabeth McIntosh
Supported by	Chris Brennan, Georgia Thomas and Sarah Vojinovic of Planning Panels Victoria
Directions Hearing	By video, 4 June 2025
Panel Hearing	Moorabool Shire Council offices in Darley and by video, from 23 to 31 July 2025
Site inspections	Unaccompanied, 15 July 2025
Parties to the Hearing	See Appendix A
Citation	Moorabool PSA C108moor [2025] PPV
Date of this report	10 September 2025

Executive summary

Ballan is a small country town in a peri-urban municipality. It has long been identified in the policy framework as a suitable location for growth. The Ballan Framework Plan, introduced into the Moorabool Planning Scheme in March 2020, designates a number of precincts for residential development to accommodate this growth.

Moorabool Planning Scheme Amendment C108moor (the Amendment) relates to Precinct 5, which is the first of the greenfield growth precincts identified in the Ballan Framework Plan to be rezoned. Precinct 5 is at the western edge of Ballan, separated from the town by the Werribee River which runs along the eastern edge of the Precinct. The land is in a gateway location to Ballan, along Old Melbourne Road. Land to its north and west is outside the town boundary and will remain rural land.

The proposal is to develop the relatively flat land above the river escarpment for residential purposes, with a 100 metre buffer to the river (the river corridor). The river corridor contains the river floodplain which has some high value native vegetation, and most of the escarpment. Some community and drainage infrastructure is proposed in the river corridor. Lower density residential lots are proposed along the edge of the river corridor and around the perimeter of the Precinct, to maintain the country town character of Ballan, while the core of the Precinct is proposed for a mix of conventional and medium density housing. A co-located active open space reserve and community facility is proposed along part of the edge to the river corridor.

The Amendment proposes rezoning Precinct 5 to the Neighbourhood Residential Zone (NRZ) and applying the Development Plan Overlay Schedule 9 (DPO9) to guide the future residential development of the land. It proposes to apply the Vegetation Protection Overlay Schedule 2 (VPO2) to protect native vegetation along the river corridor and roadsides adjacent to the Precinct, as well as some scattered trees on the subject land.

At full development, Precinct 5 would almost double the size of Ballan. Submitters, while not against development, raised a range of concerns primarily related to the impact of the proposed development on township character and impacts associated with the additional traffic generated by the proposed development. Impacts on the sensitive ecological values of the river environs were a key concern for submitters.

A considerable amount of background work has informed the Amendment. In some respects the work is further advanced than what might ordinarily be expected at this stage of the planning process, particularly in relation to cultural heritage values, ecology and the river corridor interface.

The Amendment gives effect to the planning policy framework for the growth of Ballan and will facilitate a mix of housing types to cater for the existing and future population of Ballan. Provided the impacts of development are appropriately managed, the Panel is satisfied the Amendment is strategically justified and will deliver net community benefit.

The Panel considers the NRZ is the appropriate zone for Precinct 5, given the subject land's unique setting and constraints including its sensitive interfaces with the river and surrounding rural areas and its gateway location on one of the main approaches into Ballan (Old Melbourne Road). This is not to say that the NRZ will necessarily be the appropriate zone for other greenfield growth areas identified in the Ballan Framework Plan.

Environmental and biodiversity values

Despite some oversights in the Flora and Fauna Assessment supporting the Amendment, the Panel is satisfied the assessment, together with expert evidence presented to the Panel by the Proponent, provide a sufficient understanding of environmental and biodiversity values to inform the Amendment.

The proposed development has generally been designed in accordance with 'avoid, minimise and offset' principles. Retaining the Werribee River corridor is the Amendment's most important ecological outcome, and is an appropriate response to the sensitive river environs. High value native vegetation is to be retained in the river corridor and road sides, and large scattered trees will be retained in local parks, protected by the VPO2.

The DPO9 provides sufficient guidance for the further identification and mitigation of risks to ecological values, including the river environs. It includes comprehensive requirements for a Biodiversity Management Plan. This, coupled with the requirements for a Construction Environment Management Plan and an Integrated Water Management Plan, will ensure the river values and environment are appropriately protected. Notably, the DPO9 requirements are generally supported by both the Department of Environment, Energy and Climate Action and Melbourne Water.

Further flora and fauna surveys for potential threatened species will need to be conducted, and it will be important that they occur at the appropriate time of year when threatened species are likely to be identifiable. This may result in further adjustments to the Development Concept Plan, including consideration of environmental values that may be present along the former Barwon Water aqueduct in the western part of the subject land.

Apart from a minor adjustment required to the mapping of the VPO2 covering Habitat Zone Patch A (a patch of native vegetation in the northern end of the river corridor), the Panel is satisfied the Amendment deals appropriately with environmental and ecological values.

Township character

While the Panel appreciates the concerns of Ballan residents about maintaining the country town character and feel of Ballan, the town is identified in the policy framework as an appropriate location for growth. The town has been evolving for decades and has already developed a varied character across different parts of the town. Precinct 5 will, in time, develop its own character.

The Amendment represents an appropriate response to the Precinct's gateway location and the town character. The treatments proposed for Old Melbourne Road and Geelong-Ballan Road respond to planning policy and will help integrate the new development into its surroundings, consistent with the land's rural setting. The river corridor edged by lower density residential lots and the active open space reserve is an appropriate character response to this sensitive interface.

Traffic, transport and movement networks

While the Panel appreciates the concerns of Ballan residents in relation to traffic, there is no evidence that the proposed development of Precinct 5 will result in unacceptable traffic congestion in Ballan. Traffic impacts have been assessed based on a conservative trip generation rate and modelling demonstrates that key intersections on the surrounding road network will not reach capacity with the addition of traffic generated by the Precinct's development.

The Department of Transport and Planning (Transport), Council and the Proponent all agreed that the intersection of Geelong-Ballan Road and Old Melbourne Road will need to be upgraded at some point to ensure safe movements through the intersection. Given the uncertainties associated with the upgrades, the requirement in the DPO9 for a section 173 agreement is the appropriate approach.

The active transport network shown on the Development Concept Plan is appropriate. Council's proposal to add a shared path river crossing has not been strategically justified. There is merit in showing a potential shared path along the aqueduct alignment, particularly if the further ecological assessments required under the Biodiversity Management Plan identify high value native vegetation along the aqueduct and recommend that it be preserved.

Locating drainage assets in areas of likely cultural heritage sensitivity

One of the more controversial aspects of the Development Concept Plan was the location of wetland retarding basins along the escarpment in areas where large artefact scatters are thought to be located.

Melbourne Water requested that the Development Concept Plan be amended to show a Cultural Heritage Investigation Area measured 200 metres from the river, and that the proposed drainage assets be relocated outside the Cultural Heritage Investigation Area with an option to move them back on the understanding that the developer would be responsible for salvage costs. Melbourne Water pointed to examples in other developments where the discovery of cultural heritage had dramatically increased the costs of constructing drainage assets, and in some cases even prevented their construction.

A substantial amount of cultural heritage investigation work has been undertaken in consultation with the Wadawurrung Traditional Owners Aboriginal Corporation (WTOAC). While this work demonstrates the likely presence of artefacts along the escarpment within 200 metres of the river, the Panel does not support the identification of a Cultural Heritage Investigation Area as proposed by Melbourne Water. This was not supported by the WTOAC or the Proponent's cultural heritage expert, is not contemplated in the draft Cultural Heritage Management Plan, and could potentially have significant impacts on the design and layout of the proposed development.

The WTOAC has indicated in principle support for the drainage assets (and active open space reserve) to be located on the top of the escarpment as shown in the exhibited Development Concept Plan, provided salvage works are undertaken. The Proponent has undertaken to meet any associated salvage costs. Council proposed an addition to the DPO9 to provide flexibility to relocate or resize the drainage assets (and other features) if needed to avoid or minimise cultural heritage impacts. This approach is supported by the WTOAC, and the Panel considers this to be an appropriate response to the Aboriginal cultural heritage values on the land.

Recommendations

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

- 1. Adopt Moorabool Planning Scheme Amendment C108moor as exhibited, with the changes recommended in this report.**
- 2. Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:**
 - a) Amend the conditions and requirements for permits in Clause 3.0 to:**

- delete the condition requiring a section 173 agreement or restriction on title to secure any social and affordable housing contribution.
- b) Amend the conditions and requirements for permits in Clause 3.0 relating to the Construction Management Plan to:
- require soil erosion and sediment control measures to protect the escarpment (as well as stormwater infrastructure and the Werribee River)
 - strengthen the requirement to consider lighting impacts to wildlife.
- c) Amend the Masterplan requirements in Clause 4.0 to:
- remove the average lot size requirement.
- d) Amend the Public Open Space and Landscape Masterplan requirements in Clause 4.0 to:
- strengthen the requirement to consider lighting impacts to wildlife
 - exclude active open space playing fields and courts from the 30 percent canopy cover requirements.
- e) Amend the Biodiversity Management Plan requirements in Clause 4.0 to:
- strengthen the requirement to consider lighting impacts to wildlife
 - remove the requirements relating to a shared path waterway crossing.
- f) Amend the Acoustic Design Response Plan requirements in Clause 4.0 to:
- require a consistent visual presentation to the Western Freeway interface and other precinct edges
 - make it clear that either the developer or future home builders, as appropriate, will bear the costs of mitigation measures.
- g) Amend the Integrated Transport Management Plan requirements in Clause 4.0 to:
- remove the requirements relating to a shared path waterway crossing.
3. Amend the Vegetation Protection Overlay Schedule 2 mapping to reflect the full extent of the patch of native vegetation known as Habitat Zone Patch A, as shown in Figure 4 in this report.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to introduce planning provisions into the Moorabool Planning Scheme (the Planning Scheme) to guide the future residential development of Precinct 5 identified in the Ballan Framework Plan.

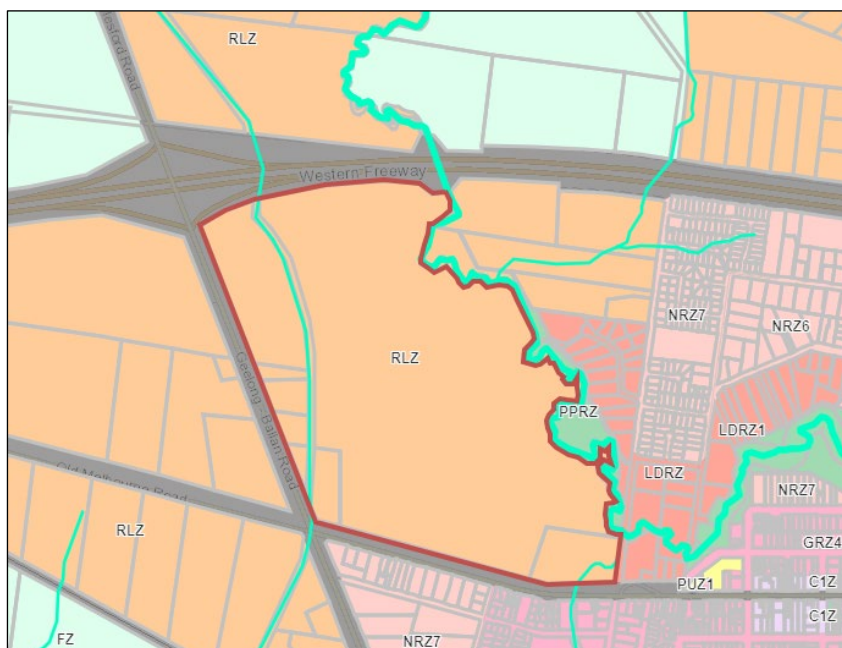
Specifically, the Amendment proposes to:

- rezone the subject land from Rural Living Zone to Neighbourhood Residential Zone Schedule 10 (NRZ10)
- apply the Development Plan Overlay Schedule 9 (DPO9) to guide and facilitate staged, master-planned development of the subject land
- apply the Vegetation Protection Overlay Schedule 2 (VPO2) to protect patches of remnant native vegetation and remnant large scattered native trees on the subject land and adjacent road reserves
- apply the Environmental Audit Overlay to 5580 Geelong-Ballan Road, Ballan
- delete the now obsolete Design and Development Overlay Schedule 2 from the subject land
- make associated administrative and mapping changes.

(ii) The subject land

The Amendment applies to the land outlined in red in Figure 1, bounded by the Western Freeway, Geelong-Ballan Road, Old Melbourne Road and the Werribee River, Ballan. A disused Barwon Water aqueduct traverses the western part of the land.

Figure 1 Subject land

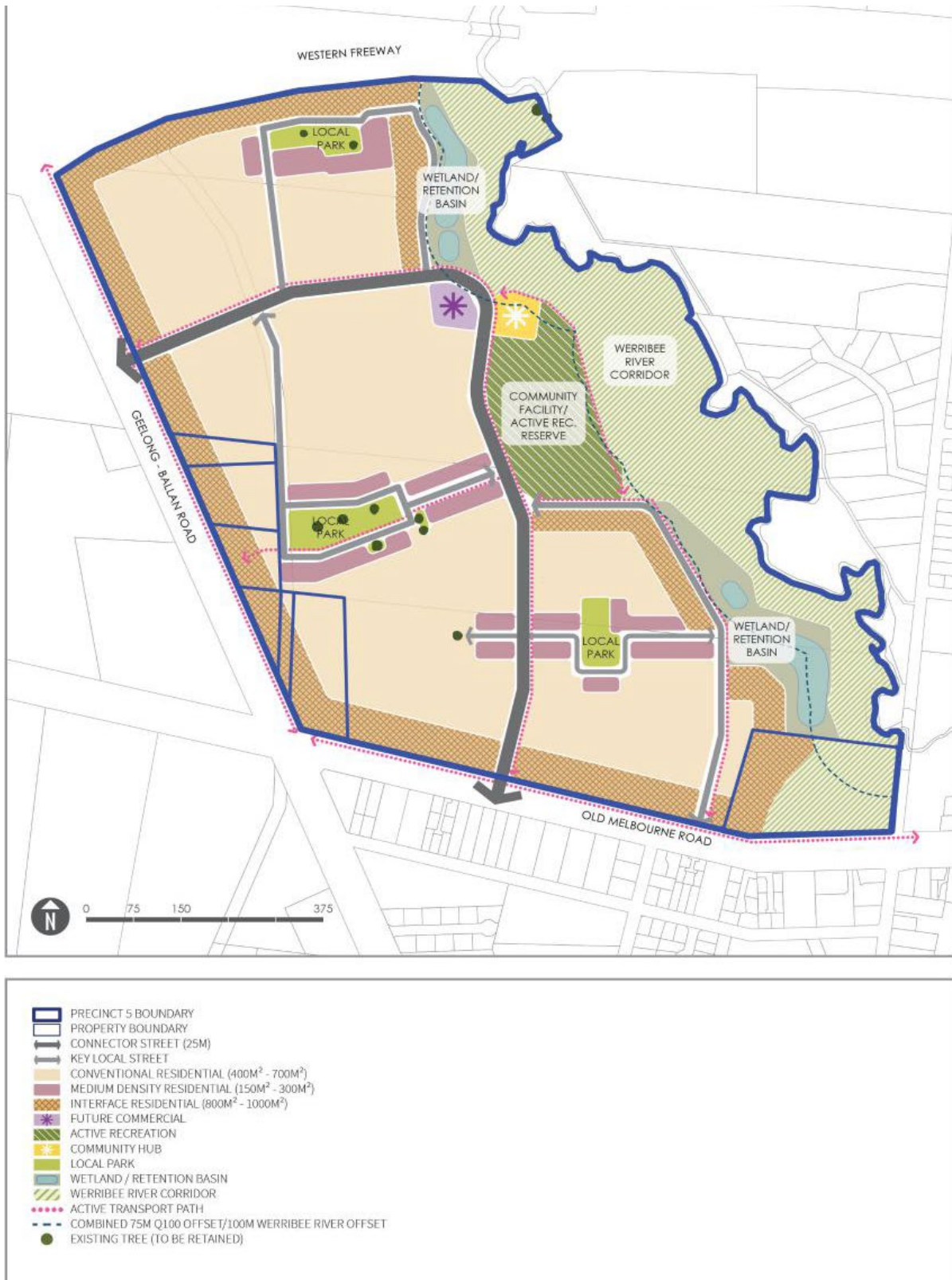


Source: Explanatory Report

(iii) Development Concept Plan

The DPO9 requires the subject land to be developed generally in accordance with the Development Concept Plan included at Map 1 (see Figure 2).

Figure 2 Development Concept Plan (Map 1 in DPO9)



Source: Exhibited DPO9

1.2 Key issues

Key issues raised in submissions were:

- town character, including the extent of growth, lot sizes and loss of land used for agricultural and rural living purposes
- ecological and environmental issues, including biodiversity impacts, water quality, environmental management during construction and urban heat island effects
- public open space and landscaping, including the appropriateness of the proposed active open space reserve
- stormwater drainage, including water quality and flood risk and the interaction of drainage assets and Aboriginal cultural heritage values
- water supply, sewerage infrastructure and electricity infrastructure
- community infrastructure including retail services and education facilities
- traffic congestion, public transport, active transport and car parking
- post-contact heritage issues
- freeway noise.

1.3 Versions of the Amendment

The Panel was presented with several versions of the DPO9:

- Council's post exhibition version including changes requested by the Department of Transport and Planning (Transport) (DTP Transport) (D55)
- Melbourne Water's initial preferred version, tracked against D55 (D73)
- the Council Day 1 version (D60)
- the Ballan South Pty Ltd preferred version (D83)
- the Bacchus Marsh Platypus Alliance (BMPA) preferred version (D87)
- the Moorabool Environment Group (MEG) preferred version (D90(b)).

The Panel requested Council to prepare a preferred final version after considering the various versions tabled by the parties (D55, D73, D83, D87 and D90(b)), as well as opportunities to improve the drafting by removing duplication and improving clarity. Council's final preferred version was D106 (clean) and D107 (tracked changes).

The Panel provided the parties with the opportunity to provide comments or marled up changes to Council's final preferred version. It received responses from:

- Whiteman Property & Associates/OMRB Developments (Proponent) (D108)
- Ms Robinson (D109)
- BMPA and MEG (D110)
- DTP Transport (D111 and D112)
- Ballan South Pty Ltd (D113)
- Melbourne Water (D114).

Council provided reply comments (D115) to the various party responses to its final preferred version of the DPO9 (D108 to D114).

The Panel has had regard to all versions of the DPO9 presented to it in developing its recommended version in Appendix C, and to Council's reply comments. Except where stated otherwise and subject to minor drafting refinements, the Panel supports the changes in Council's

final version, which generally provide greater clarity and improve the operation of the controls. Appendix C uses Council's final version (D106) as the starting point.

1.4 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

1.5 Limitations

Several submissions raised issues that relate to existing conditions, for example that Ballan needs additional regional bus services, there is a lack of parking in the town centre, and the old railway station at Gordon should be reopened to reduce pressure for growth at Ballan. These are not relevant to the Amendment and have not been considered by the Panel.

2 Strategic issues

2.1 Planning context

(i) Planning context

Table 1 identifies key parts of the planning context relevant to the Amendment.

Table 1 Planning context

	Relevant references
Victorian planning objectives	Section 4 of the <i>Planning and Environment Act 1987</i> (PE Act)
Municipal Planning Strategy	Clause 2.01 (Context) Clause 2.03 (Strategic directions)
Planning Policy Framework	<p>Clause 11.01 (Victoria), including:</p> <ul style="list-style-type: none"> - Clause 11.01-1S (Settlement) - Clause 11.01-1R (Settlement - Central Highlands) - Clause 11.01-1L-01 (Settlement in Moorabool) - Clause 11.01-1L-03 (Ballan) <p>Clause 11.02 (Managing growth), including:</p> <ul style="list-style-type: none"> - Clause 11.02-1S (Supply of urban land), including: - Clause 11.02-2S (Structure planning) - Clause 11.02-2L (Structure planning in Moorabool) - Clause 11.02-3S (Sequencing of development) <p>Clause 12 (Environmental and landscape values), including:</p> <ul style="list-style-type: none"> - Clause 12.01-1S (Protection of biodiversity) - Clause 12.01-1L (Biodiversity) - Clause 12.01-2S (Native Vegetation Management) <p>Clause 13 (Environmental risks and amenity), including:</p> <ul style="list-style-type: none"> - Clause 13.02-1S (Bushfire planning) - Clause 13.03-1S (Floodplain management) - Clause 13.04-1S (Contaminated and potentially contaminated land), - Clause 13.05-1S (Noise management) - Clause 13.07-1S (Land use compatibility) <p>Clause 14 (Natural resource management), including:</p> <ul style="list-style-type: none"> - Clause 14.02-1S (Catchment planning and management) - Clause 14.02-1L (Declared special water supply catchments) - Clause 14.02-2S (Water quality) <p>Clause 15 (Built environment and heritage), including:</p> <ul style="list-style-type: none"> - Clause 15.01-1S (Urban Design) - Clause 15.01-1L (Urban design) - Clause 15.01-3S (Subdivision design) - Clause 15.01-4S (Healthy neighbourhoods)

Clause 16 (Housing), including:

- Clause 16.01-1S (Housing Supply)
- Clause 16.01-1L (Housing supply in Moorabool)
- Clause 16.01-2S (Housing affordability)

Clause 19 (Infrastructure), including:

- Clause 19.02-4S (Social and cultural infrastructure)
- Clause 19.02-6S (Open space)
- Clause 19.02-6L (Open space in Moorabool)
- Clause 19.03-3S (Integrated Water Management)
- Clause 19.03-3L-02 (Integrated water management)

Other planning strategies and policies	Plan for Victoria* Plan Melbourne 2017 – 2050* Central Highlands Regional Growth Plan Ballan Strategic Directions
Planning scheme provisions	Clause 32.09 (Neighbourhood Residential Zone) Clause 42.01 (Environmental Significance Overlay) Clause 42.02 (Vegetation Protection Overlay) Clause 43.04 (Development Plan Overlay) Clause 44.04 (Land Subject to Inundation Overlay) Clause 45.03 (Environmental Audit Overlay) Clause 52.17 (Native Vegetation) Clause 56.05 (Urban Landscape)
Planning scheme amendments	Moorabool Planning Scheme Amendment C88moor
Ministerial directions	Ministerial Direction 1 (Potentially Contaminated Land) Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes (PPNs)	PPN07: Vegetation Protection in Urban Areas, August 1999 PPN23: Applying the Incorporated Plan and Development Plan Overlays, September 2022 PPN30: Potentially contaminated land, July 2021 PPN46: Strategic Assessment Guidelines, September 2022 PPN91: Using the Residential Zones, July 2023

* After the Hearing concluded VC283 was gazetted that (among other things) removed references to Plan Melbourne from the Planning Scheme and inserted references and made various policy changes consistent with Plan for Victoria.

(ii) Ballan Strategic Directions

The Ballan Strategic Directions is a background document which informed Amendment C88moor and resulted in the existing planning policy content relating to Ballan at Clauses 02.03 and 11.01-1L-03 of the Planning Scheme. It (and earlier strategic work including the Central Highlands Regional Growth Plan):

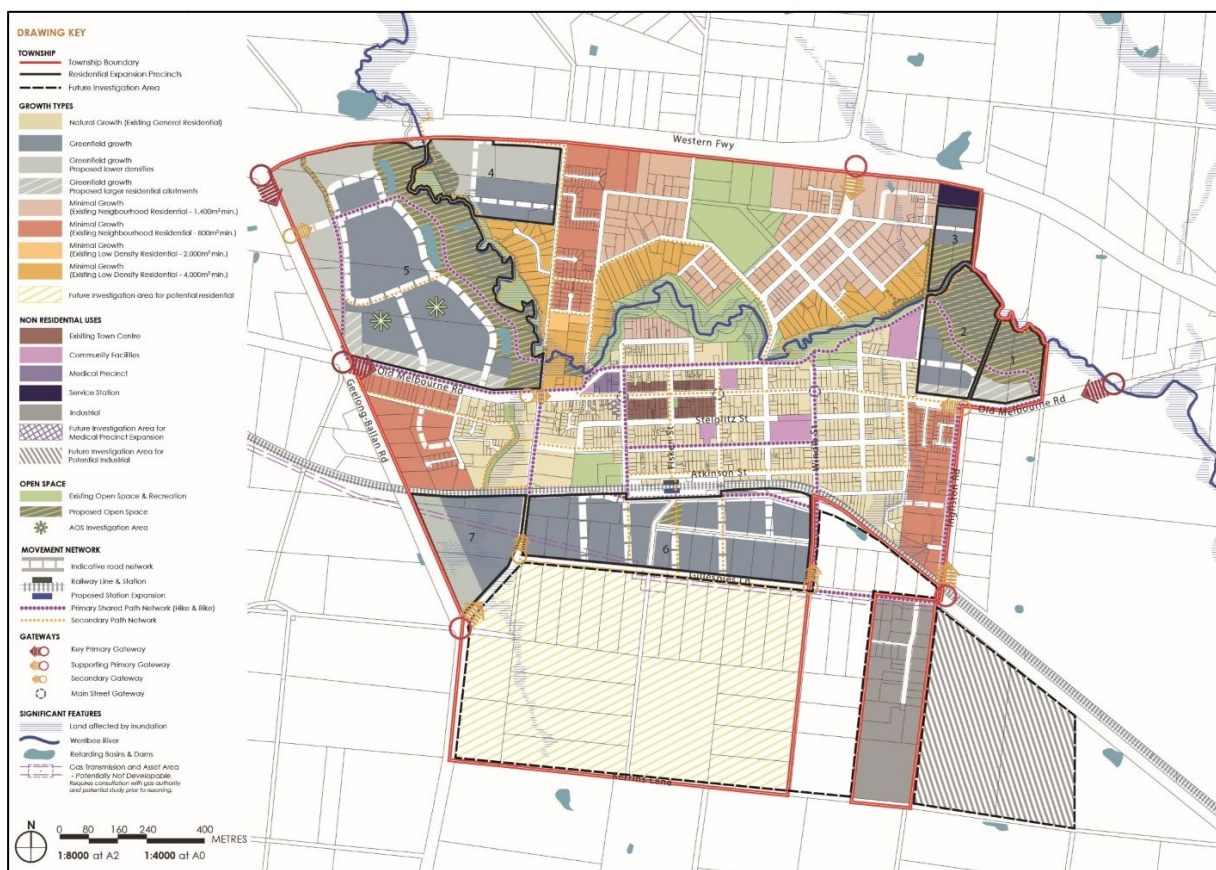
- identified Ballan as a suitable location for additional residential growth within the municipality
- designated Precinct 5 as a growth area.

The Ballan Strategic Directions identified the General Residential Zone (GRZ) as potentially suitable for the central core of Precinct 5, and the Rural Living Zone and Low Density Residential Zone as potentially suitable for its sensitive interfaces.

(iii) Ballan Framework Plan

The Ballan Framework Plan (Figure 3), included in Clause 11.01-1L-03, implements the Ballan Strategic Directions. It identifies the core of Precinct 5 as ‘greenfield growth’ with ‘greenfield growth – proposed lower densities’ along the Freeway and Geelong-Ballan Road, ‘greenfield growth – proposed larger residential allotments’ along Old Melbourne Road and ‘proposed open space’ along the Werribee River corridor.

Figure 3 Ballan Framework Plan



Source: Moorabool Planning Scheme

Clause 11.01-1L-03 provides no specific guidance on the choice of zones for Precinct 5.

(iv) Planning Practice Note 91: Using the Residential Zones

PPN91 describes the role and application of the NRZ as being applied to areas where:

- there is no anticipated change to the predominantly one and two storey character
- there are identified neighbourhood, heritage, environmental or landscape character values that distinguish the land from other parts of the municipality.

2.2 Strategic justification

(i) Evidence and submissions

The overall strategic justification for the Amendment was not significantly challenged in submissions. Most of the submissions were concerned about the impacts of the Amendment on town character, ecological and environmental values, traffic congestion and infrastructure and servicing. These issues are discussed in the following chapters.

Some submissions asserted it was not appropriate for Precinct 5 to be developed first. They submitted that other precincts (in particular those to the south of the railway line) are better located to accommodate early growth in Ballan given their closer proximity to the station and schools, services and facilities in central Ballan and better accesses in and out of town.

Council submitted the Amendment has a strong strategic rationale, founded in the Ballan Strategic Directions and the Ballan Framework Plan implemented into the Planning Scheme through Amendment C88moor. Council submitted the subject land has long been identified in the strategic framework as an area suitable for greenfield growth, and:

Accordingly, the key questions that arise in this matter are not about whether the area should be the subject of strategic planning to facilitate urban growth, but how the controls should be framed to appropriately manage the intended growth through the area.

Council was generally satisfied with the level of background work undertaken in support of the Amendment, submitting it was sufficient to inform the proposed controls and guide the future preparation of a development plan under the DPO9.

In response to concerns about the sequencing of development of the precincts in the Framework Plan, Council submitted Precinct 5 has been endorsed as a potential short term proposal through the Ballan Strategic Directions and Amendment C88moor. It submitted the Amendment does not preclude other amendments to facilitate residential development of land to the south of the railway line, which *“are presently undergoing investigations”*.

Ballan Dev Co and Ballan South Pty Ltd, landowners in other precincts, supported the Amendment, submitting it was consistent with more than a decade’s worth of strategic planning in Ballan and that it was essential to unlock developable land in the township. They submitted proper implementation of the Ballan Framework Plan was essential to meeting the policy objectives for housing and growth in Ballan.

The two planning experts that presented evidence to the Panel, Mr Barnes (for the Proponent) and Mr Black (for Ballan Dev Co), both found that the Amendment was strongly aligned with the strategic context.

(ii) Discussion

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The subject land has long been identified in the strategic framework as suitable for growth, including the Central Highland Growth Plan, the Ballan Strategic Directions and the Ballan Framework Plan.

The policy framework requires planning authorities to maintain a 15 year supply of residential land across their municipalities. The Amendment is supported by a Residential Retail Assessment prepared by Ethos Urban that identified a critical shortage of residential land supply in Ballan (2.9 years). While the Ethos Urban analysis highlights the shortage in Ballan (rather than the municipality as a whole), the Panel is satisfied there is a relatively pressing need for more residential land in Ballan.

The Panel is satisfied Precinct 5 is a logical place to start delivering growth in Ballan's greenfield areas. It is commensurate with other precincts in terms of accessibility to the existing facilities and amenities in the town centre, and has a majority landowner who appears ready and willing to develop. Clause 11 does not direct or encourage the development of other precincts, including those south of the railway line, ahead of Precinct 5.

The Amendment gives effect to the planning policy framework for the growth of Ballan and will facilitate development that comprises a mix of housing types to cater for the existing and future population of Ballan. Provided the impacts of development are appropriately managed, the Panel is satisfied the Amendment is strategically justified and will deliver net community benefit.

(iii) Conclusion and recommendation

The Amendment is supported by, and implements, the planning policy framework, is well founded and strategically justified, and should proceed subject to addressing the more specific issues raised in submissions discussed in the following chapters.

The Panel recommends Council:

Adopt Moorabool Planning Scheme Amendment C108moor as exhibited, with the changes recommended in this report.

2.3 Choice of zones

(i) The issues

The issues are:

- whether the NRZ is the appropriate zone for Precinct 5 (rather than the GRZ)
- whether the Rural Conservation Zone (RCZ) should be applied to the Werribee River corridor.

(ii) Evidence and submissions

Neighbourhood Residential Zone

Council submitted the NRZ10 represents an appropriate response to the Ballan context, noting that it:

- confines development to two storeys or 9 metres in height
- does not limit density.

In response to questions from the Panel at the Hearing, Council and the Proponent explained the NRZ had been chosen as the appropriate zone through discussions between them prior to the Amendment being prepared. They noted the NRZ allows for a variety of lot sizes and densities, and the mandatory two storey height limit is not considered problematic as residential

development of more than two storeys is not considered likely in Ballan for the anticipated development life of Precinct 5.

Mr Barnes (who gave expert planning evidence for the Proponent) noted that the GRZ is the most commonly applied zone for greenfield growth areas. However, he considered the NRZ appropriate for Precinct 5, given:

- its setting
- Ballan's country town character
- the subject land is transitioning from a rural to residential setting
- the C88moor Panel supported use of the NRZ in other parts of the township as an effective tool for protecting neighbourhood character.

Relying on Mr Black's evidence, Ballan Dev Co opposed the NRZ and submitted the GRZ is the appropriate zone to apply to Precinct 5. It noted that the background reports supporting the Amendment demonstrate land supply in Ballan is severely restricted, and the NRZ is unnecessarily restrictive and inconsistent with the strategic intent outlined in the Ballan Strategic Directions. It submitted the NRZ could undermine the growth potential of greenfield growth areas in Ballan.

Mr Black noted the NRZ appeared to have been arrived at through a process of negotiation rather than strategic justification, which he did not consider appropriate. His view was that the NRZ is inconsistent with the direction for the subject land set out in the Ballan Strategic Directions, and the GRZ is more appropriate in the context of greenfield growth areas, particularly for the central part of Precinct 5 which is relatively unconstrained. He considered:

- the NRZ could undermine the intent to support more substantial residential growth in greenfield growth areas
- the GRZ will enable a more diverse housing product, including affordable and medium density typologies that are consistent with State housing policy
- if height was the key reason to apply the NRZ (which has a two storey mandatory height limit), the DPO could control height.

Under cross examination Mr Black conceded the NRZ10 does not limit density, and would facilitate the housing mix envisaged for Precinct 5 including conventional density in the core, medium density around amenities such as open space and the retail uses, and larger lots around the Precinct's sensitive perimeters. In response to a question from the Panel, he noted that unlike the GRZ, the purposes of the NRZ include specific reference to environmental constraints which would appropriately recognise the Precinct's interface with the Werribee River corridor.

Ballan Dev Co was concerned that applying the NRZ to Precinct 5 would set a precedent for other greenfield growth areas in Ballan. It submitted that if the Panel supported the application of the NRZ to Precinct 5, it should provide clear commentary stating why it is appropriate in the context of Precinct 5. Council responded that what applies to Precinct 5 does not form a template or precedent for other precincts. The only question before the Panel was whether the NRZ is appropriate for Precinct 5.

Rural Conservation Zone

MEG and BMPA submitted the RCZ should be applied to the Werribee River corridor. They submitted the fundamental principle of protecting the environmental assets within the river corridor means that the land should be zoned RCZ as part of this Amendment, rather than waiting for the land to be subdivided and vested in Council as a reserve.

When MEG and BMPA cross examined Mr Barnes, he acknowledged that the RCZ *“is an option”* provided stormwater retarding basins and similar works were not prohibited under the RCZ.

(iii) Discussion

Neighbourhood Residential Zone

The Panel acknowledges that the Ballan Strategic Directions envisages GRZ for conventional residential areas in the town’s greenfield growth areas. However the Ballan Strategic Directions is a background document and has limited weight. Amendment C88moor did not translate the preferred zones outlined in the Ballan Strategic Directions into Clause 11.01-1L-03 of the Planning Scheme.

The Panel agrees with Mr Black and Mr Barnes that the GRZ is the more usual zone applied to greenfield growth areas, particularly growth areas within Melbourne’s urban growth boundary. However Ballan is not within Melbourne’s urban growth boundary. It is a country town in a peri urban municipality. While the planning policy framework identifies Ballan as suitable for accommodating growth, the growth expectations in Ballan are not the same as Melbourne’s growth areas. This is particularly the case in the early stages of delivering the growth anticipated by the Ballan Framework Plan.

The Panel accepts the position of the Proponent and Council that three storey residential development is unlikely to be attractive to those looking to purchase a home in Ballan, at least in the medium term. The Panel therefore has no concerns that the mandatory two storey height limit in the NRZ will unnecessarily or inappropriately constrain development in Precinct 5.

Nor does the Panel have any concerns that the NRZ would inappropriately limit density in Precinct 5, or hinder the delivery of the densities (including medium density housing) envisaged for the Precinct. As Council pointed out, the NRZ does not contain density controls, and the minimum garden area requirements (which might otherwise limit medium density product) do not apply where land is subdivided in accordance with an approved development plan as will be the case here.

Precinct 5 is located on the edge of town, in a gateway location to Ballan immediately adjacent to rural areas, the Freeway and the Werribee River. It has unique constraints that make the NRZ the appropriate choice of zone for this Precinct. This does not mean the NRZ will be appropriate for other greenfield growth areas identified in the Ballan Framework Plan, including those to the south of the railway line.

Rural Conservation Zone

It is good planning practice to align zone boundaries with property boundaries. The precise boundary of the Werribee River corridor will not be known until the land is subdivided and the corridor is vested in Council as a reserve. It is not appropriate to apply the RCZ before the land has been subdivided. Further, once the land vests in Council and becomes public land, one of the public land zones is likely to be more appropriate than the RCZ.

(iv) Conclusions

The Panel concludes:

- The NRZ is the appropriate zone for Precinct 5. This does not set a precedent for other greenfield growth areas identified in the Ballan Framework Plan.

- The Werribee River corridor should not be zoned RCZ as part of this Amendment. Consideration should be given to the appropriate zone once the land is subdivided and the corridor vested in Council.

2.4 Average lot size

(i) The issue

The issue is whether it is appropriate to include a requirement in the DPO9 for an average lot size of 600 square metres in the conventional residential areas.

(ii) Background

The Proponent proposes lots of between 400 and 700 square metres in conventional residential areas.

Council's Day 1 version of the DPO9 included requirements for any subdivision to demonstrate an average lot size of 600 square metres in conventional residential areas. The exhibited DPO9 did not include an average lot size requirement.

(iii) Evidence and submissions

Council explained that the average lot size requirement had been inserted into the Day 1 version of the DPO9 to respond to community concerns about character. Council submitted that an average lot size of 600 square metres was consistent with the outcomes sought for Precinct 5 in the policy framework.

The Proponent opposed the average lot size requirement, submitting that it is *"cumbersome and may work against the provision of the mix of lot sizes based on the overall design"*. It submitted the requirement *"is misguided and represents a crude attempt to control density and lot sizes without regard to the pattern of development and mix of housing product sought to be provided"*. The requirement would also be difficult to implement given the Precinct will be subdivided and developed in stages.

The Proponent submitted that peri-urban areas present a valuable opportunity to provide affordable housing options, including smaller lots. This is particularly relevant in Ballan, where both an ageing population and young families face challenges related to housing affordability and rising costs. Making the most of land within the township boundary was essential for accommodating growth, while also protecting the rural and agricultural values of the land outside these boundaries.

Mr Barnes noted there is always tension in the size of residential lots when new greenfield residential development is proposed in a country town such as Ballan. He did not support the average lot size requirement, noting:

- Precinct 5 will be a long term greenfield growth area that is likely to be developed over 10 to 15 years or more
- the development plan and the planning controls should provide flexibility for a mix of lot sizes and housing types to evolve over time, as the community's housing needs evolve
- it is not appropriate, feasible or consistent with current planning policy to try to replicate lot pattern or density within the existing township in the greenfield growth areas.

He considered Precinct 5 is largely separated from the town centre, providing the opportunity for the Precinct to establish its own character without unreasonably impacting on the character of other parts of the town. Further, he considered the Proponent's proposed pattern and distribution of lots represents an appropriate balance between:

- character issues
- the provision of diverse, sustainable and affordable housing
- the efficient use of greenfield land
- avoiding the expansion of the township beyond the town boundaries, thereby protecting the surrounding rural areas.

(iv) Discussion

The Panel does not agree with the Proponent that an average lot size requirements will be difficult or impractical to implement. The DPO9 requires a masterplan to be prepared which includes lot sizes and layouts. Lot sizes are therefore likely to be determined at the master planning stage for Precinct 5, not when subdivision permits are sought for individual parts of the land. The Masterplan could (if required) demonstrate that conventional residential development areas would deliver an average lot size across the different stages.

That said, the Panel does not consider the average lot size requirement is strategically justified. It agrees with Mr Barnes that the lot sizes and layout of the conventional residential areas should be allowed to evolve organically in response to market demand. Further, Ballan's housing context is changing and with the demand for smaller households may well increase over time.

The average lot size requirement is not justified on the basis of the need to respond to township character. As Mr Barnes pointed out, Ballan already has varied character across the different parts of the town. Precinct 5 is separated from the established parts of Ballan by the river, which presents an opportunity for the Precinct to develop its own character. There is limited visibility of the core of Precinct 5 from outside the Precinct, and the larger lots around the perimeter will soften the impact of smaller lot sizes in the core and will help retain Ballan's country town character. Character is addressed in more detail in Chapter 3.

(v) Conclusion and recommendation

The Panel concludes:

- The average lot size requirement introduced in Council's Day 1 DPO9 is not justified and should be removed.

The Panel recommends Council:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the Masterplan requirements in Clause 4.0 to:**
 - **remove the average lot size requirement.**

2.5 Local commercial centre

(i) The issue

The issue is whether the local commercial centre is appropriate in size and location.

(ii) Background

The Development Concept Plan identifies a small commercial area along the main connector road in the east of the Precinct, opposite the community facility and adjacent to the active open space. The Residential Retail Assessment that supported the Amendment considered that a modest local convenience centre in Precinct 5 aligns with the draft Moorabool Retail Strategy and would not undermine the role of the Ballan town centre. The assessment noted the proposed commercial centre is located beyond a comfortable walking distance from the town centre, and is unlikely to draw demand from the shops, services and facilities in the town centre.

(iii) Evidence and submissions

The Proponent submitted that the local commercial centre would appropriately serve the daily needs of residents within a walkable catchment. The commercial centre would be zoned NRZ which allows for a limited range of non-residential uses to serve local community needs including medical centre, childcare centre, convenience shop and food and drink premises.

Mr Barnes supported the inclusion of a small local commercial centre within the Precinct given most of the land is more than 800 metres (a convenient walk) from central Ballan. He considered the centre would appropriately cater for the day-to-day needs of the future residents of the Precinct and respond to the modest projected demand in the Residential Retail Assessment for additional retail floorspace.

Mr Barnes did not consider the proposed location of the local commercial centre (opposite the community facility) to be inappropriate, but observed it may be better positioned further to the south, at the southern end of the active open space and adjacent to the medium density housing in that location, to:

- improve accessibility to a larger number of lots
- provide a more central location in the Precinct.

Mr Barnes considered that if the centre remains in the exhibited location, the Development Concept Plan should show a small area of medium density housing around the centre.

MEG and BMPA requested the local commercial centre be relocated west of the proposed main connector road further away from the Werribee River corridor interface, as discussed in Chapter 3.2.

(iv) Discussion

The Panel supports the provision of a small local retail area in Precinct 5. The strategic rationale for the centre is established in the Residential Retail Assessment, and the Panel is satisfied that it will not compete with the primacy of the shops in the town centre (predominantly along Ingles Street).

In terms of location, the Panel expresses no particular view on whether the exhibited location or the alternative suggested by Mr Barnes would be more appropriate. Planning policy supports co-locating medium density housing with local commercial facilities, so Mr Barnes' alternative has some advantage in that regard. Equally, policy supports co-locating commercial and retail facilities with community facilities, so the exhibited location also has advantages.

Council and the Proponent should further consider which is the preferable location before the Amendment is adopted. If the more southerly location is preferred, Council should amend the

Development Concept Plan to avoid any concern that the location of the centre as shown on a future development plan is not 'generally in accordance with' the Development Concept Plan.

If the preferred location remains as exhibited, the Development Concept Plan could be amended to designate a small amount of medium density housing around the centre, although this would potentially intensify development closer to the Werribee River corridor (discussed in more detail in Chapter 4).

The Panel notes that while the small scale retail uses proposed in the commercial centre can occur in the NRZ, it may be appropriate to rezone the centre in future once its location has been confirmed and the lot boundaries are known.

(v) Conclusions

The Panel concludes:

- It supports the inclusion of a small local commercial centre on the Development Concept Plan.
- It sees merit in both the location shown on the exhibited Development Concept and the alternative location (further south) suggested by Mr Barnes.
- Council and the Proponent should further consider which is the preferable location and amend the Development Concept Plan (if required) before the Amendment is adopted.
- Locating medium density housing around the local commercial centre is supported in either location.

2.6 Bushfire risk

(i) The issue

The issue is whether the Amendment appropriately plans for bushfire risk.

(ii) Background

Clause 13.02-1S directs that protection of human life be prioritised over all other policy considerations. It directs population growth and development to low risk locations.

Clause 13.02-1L states that subdivision of towns subject to severe bushfire risk should be limited. It names high risk towns in the municipality – Ballan is not named.

(iii) Submissions and discussion

Precinct 5 is not identified as a high risk bushfire area in the policy framework or the planning controls. The Amendment was supported by a comprehensive Bushfire Hazard Assessment including a bushfire hazard landscape assessment that concluded Precinct 5 is:

... a location where residential growth presents a relatively low risk, subject to appropriate structure planning details.

The Bushfire Hazard Assessment considered the proposed layout of Precinct 5 is responsive to the bushfire risks, including the use of perimeter roads and an appropriate lot and road distribution. It concluded:

... the rezoning proposal and [DPO9] can meet the relevant requirements in the Planning Scheme including the policy objectives at Clause 13.02-1S and the Bushfire Interface Guidance published by DELWP.

The Bushfire Hazard Assessment recommended the DPO9 include a requirement for a Bushfire Management Plan, which requires (among other things):

- a revised hazard assessment that considers the ultimate revegetated state of the Werribee River corridor
- vegetation management in defensible space areas to the standard specified by the Country Fire Authority (CFA)
- future open space and landscaping areas to be managed and maintained to a low threat state
- avoiding vulnerable and hazardous uses in locations with a direct interface with unmanaged vegetation
- setbacks for defensible space that will ensure radiant heat exposure at future development is less than 12.5kW per square metre in accordance with the Australian Standard (AS3959) for new dwellings and lower exposure for vulnerable uses
- recommendations for bushfire risk mitigation at the various stages of subdivision development.

The Amendment was referred to the CFA who did not oppose the Amendment provided certain conditions were met, such as achieving radiant heat benchmarks, managing vegetation and the like (D4 and D11).

One submission (S19) expressed concern about how new residents would safely evacuate given there is only one access in and out of the Precinct. There are in fact three access points in and out of the Precinct, as discussed in Chapter 7. Access and egress were considered in the Bushfire Hazard Assessment and found to be appropriate.

The Panel is satisfied the DPO9 effectively addresses the recommendations in the Bushfire Hazard Assessment and the CFA's response, and is appropriate from a bushfire management perspective. It is satisfied the proposed road network (which includes more than one road out of Precinct 5) has been designed to appropriately respond to the relatively low bushfire risk.

(iv) Conclusion

The Panel concludes:

- The Amendment responds appropriately to bushfire risk.

3 Character

3.1 Character response

(i) The issue

The issue is whether the Amendment provides an appropriate character response.

(ii) Background

Policy

Both the existing and proposed planning framework seek a character response on the subject land that responds to Ballan's existing rural character, particularly along the Precinct edges. Planning policy seeks to achieve this through:

- larger residential lots along key gateway approaches into town
- diverse streetscapes and treelined streets internal to the Precinct
- retaining and enhancing vegetation
- development design that responds to topography, landscape, vegetation and natural features.

The Amendment

The Development Concept Plan and DPO9 relevantly include:

- larger lots along the Precinct edges (but to a depth less than the depth nominated in the Ballan Framework Plan)
- requirements for a landscape plan that considers canopy cover, setbacks and retained vegetation
- a loosely grid-like road network set around a 25 metre wide 'boulevard connector'
- requirements for subdivision to respond to topography and natural features.

(iii) Evidence and submissions

Submitters expressed concern about the potential loss of Ballan's country town character of treelined streets. Some called for larger lots throughout the Precinct, to avoid a 'suburban' character response.

The Proponent and Council supported the proposed character response primarily for its alignment with the strategic intent of the Ballan Framework Plan, as did Mr Barnes.

The Proponent submitted the Framework Plan provides a visual representation of the strategic direction for the Precinct and nominates clear development expectations for land use and interface treatments that form a gateway role. It submitted the Development Concept Plan was developed in accordance with the Framework Plan.

The Proponent argued that from a broader perspective, the Amendment contributes positively to the character of Ballan as it aligns with its mix of character and emerging subdivision styles. While the traditional settlement grid is evident south of the Werribee River, areas to the north of the River are distinguished with newer subdivisions patterns. The Amendment will change the character of the western edge of the township, but the DPO9 and the Development Concept Plan

provided a thoughtful response, including through larger residential lots along the interface, setbacks, street planting and road widths.

Council submitted the Amendment will create housing with a different character from the current Ballan but sees this as appropriate to meet Ballan's evolving role in accommodating growth aligned with the Ballan Framework Plan. It supported the boulevard connector treatment for placemaking character, tree canopy and urban heat benefits.

Mr Barnes highlighted the importance of maintaining clear urban growth boundaries to protect Ballan's rural, country town feel. He acknowledged the Amendment would inevitably bring change to the western edge of the town, but found the Development Concept Plan to be an appropriate and contemporary response to character considerations. The separation of the Precinct from the remainder of urban Ballan was seen as providing an ability for the Precinct to form its own character, without unreasonable impacts on other areas. Mr Barnes observed that Ballan's character has evolved in phases, and that the addition of Precinct 5 would continue this pattern.

Mr Barnes endorsed the proposal for a lesser depth of large lots along the Precinct interfaces than nominated in the Ballan Framework Plan. He found the proposed depth suitable for gateway and rural-residential transition treatments, and considered that extending lower density lots further into the Precinct was unnecessary to achieve the desired character outcomes. His reasons included:

- a single row of larger lots along the major roads establishes a spacious character with increased vegetation and greater building separation than lots beyond the edge
- the proposed service road and front-facing lots would offer an attractive presentation to major road frontages
- the wide verges along Old Melbourne Road and Geelong-Ballan Road provide opportunity for substantial landscaped setbacks to help integrate the subdivision into its surrounds.

(iv) Discussion

Planning policy provides clear direction for the desired character outcomes within the Precinct. The proposed planning framework, especially the Development Concept Plan, has been designed to align with the vision set out in Clause 11 and particularly the Ballan Framework Plan. It responds to the town's character primarily by setting a lower density response at the Precinct's edges and introducing a contemporary yet sympathetic character beyond these interfaces.

Both Council and the Proponent share the view that the proposed character response is suitable, consistent with the strategic intent for the Precinct, and will produce development that respects both its immediate context and the broader township identity. The Panel agrees. A requirement of the Masterplan is for subdivision layouts to respond sensitively to the site's topography and integrate with the established township. This response is already evident in the Development Concept Plan.

Mr Barnes' evidence highlighted the progressive evolution of Ballan's character and phases of development can be seen when moving through the town. It is inevitable that new development in Precinct 5 (and other greenfield growth areas) will contribute to this ongoing evolution.

The gateway treatments proposed for Old Melbourne Road and Geelong-Ballan Road respond to planning policy and will help integrate the new development into its surroundings. The Panel

agrees with Mr Barnes' observations that the existing wide road verges, a future service road and setbacks to dwellings will position new development away from main roads and will help maintain the country town feel of Ballan. New homes will be set behind existing mature trees and further landscaping required by DPO9, resulting in a gateway experience of larger residential lots nestled within landscaping, consistent with a rural setting. In the Panel's view, extending the depth of these larger lots further into the Precinct would not provide additional character benefits.

Within the Precinct, the public realm will reference Ballan's township character with a modern interpretation. The main connector road will feature a wide verge capable of supporting mature trees, and the road network will create a generally gridded, 'treelined street' effect. The Development Concept Plan preserves significant vegetation, incorporating it into public open spaces to continue the landscape character from the Precinct's edges. Dwelling development will be limited to two storeys and encouraged to provide limited fencing and front setbacks capable of accommodating canopy trees. These are features consistent with the Ballan character.

(v) Conclusion

The Panel concludes:

- The Amendment provides an appropriate character response.

3.2 Werribee River corridor interface

(i) The issue

The issue is whether the Amendment provides for an appropriate interface to the Werribee River corridor.

This chapter deals with the proposed interface beyond the 100 metre setback to the Werribee River. The environmental values of the Werribee River and corridor itself are dealt with at Chapter 4.

(ii) Background

Policy

Relevant state and local planning policies, such as at Clause 11 and 12, emphasise the protection and enhancement of the river's ecology, amenity and landscape identity. These policies encourage the creation of public land reserves, revegetation and careful management of visual impacts from new development. The ESO2 (Waterway Protection) aims to ensure appropriate development within 100 metres of the waterway.

The Amendment

The Development Concept Plan shows a 100 metre setback from the river designated as the 'Werribee River corridor'. At the setback edge, the Plan proposes a perimeter road, a community facility and an active open space reserve as well as an active transport link (shared path). The local commercial centre and 'interface residential' lots sit beyond this.

The DPO9 guides the interface response to the Werribee River corridor by requiring:

- setbacks to meet Melbourne Water standards
- landscape design that complements the Werribee River corridor

- a concept plan for the active open space reserve that includes a cut and fill plan (which is a post-exhibition change)
- a Biodiversity Management Plan that addresses risks to the river corridor from adjacent land.

(iii) Evidence and submissions

The Proponent submitted the Amendment would activate the Werribee River corridor for public use, contrasting with its current state. It tabled Viewshed Analyses (D27 to D31) that illustrated the proposed revegetation along the Werribee River corridor intervening the waterway and development interface.

Council submitted impacts on the Werribee River interface can be appropriately managed under the proposed planning controls, development plans and permit processes. Locating active open space beside the river contributes to the buffer between housing development and the river corridor. More detailed design work that will occur through preparation of the development plan will further address the interface.

BMPA and MEG contended that the community facility and active open space are 'active' uses which are incompatible with, and provide an inadequate buffer to, the river. They argued the extent of cut and fill required for the active open space would negatively impact the interface. They noted the Ballan Framework Plan designates active open space further from the interface and shows the land adjacent to the waterway as passive open space. They submitted low density housing (if done well) was the preferred interface treatment.

Mr Barnes highlighted the importance of the Werribee River as a significant natural feature of the Precinct. He considered the proposed interface ensures the significance is not impacted by new urban development. His evidence was:

- The Development Concept Plan allocates a comparable area of land to the river corridor as the Ballan Framework Plan, and includes wetlands and public uses within the corridor.
- The active open space reserve is almost entirely outside the 100 metre setback.
- The Public Open Space and Landscape Plan provisions in the DPO9 require open space and landscaping to complement the river corridor and identify opportunities for revegetation.
- The active open space interface design would be strengthened by additional guidance on landscaping screens for car parks near the sports reserve, helping to enhance the visual amenity of the interface.
- The Development Concept Plan "*opens up and activates*" the corridor for public use, differing from its current private farm use.
- If well managed, the local commercial centre near the river corridor edge could enable greater enjoyment of the natural setting.

Mr Panozzo considered co-locating active open space and the river corridor creates a positive mix of active and passive recreation in a natural setting and aligns with the Victorian Planning Authority's *Precinct Structure Planning Guidelines: New Communities in Victoria* (PSP Guidelines) which encourage locating sports reserves along waterways.

(iv) Discussion

The Werribee River interface was recognised by parties as the most sensitive and significant Precinct interface. Considerations regarding the appropriateness of the proposed interface were primarily confined to the location of the active open space reserve, community facility and local commercial centre along this edge.

Planning policy acknowledges the delivery of development along waterways and the Ballan Framework Plan establishes an expectation for urban growth along the Werribee River edge. The key aim in this regard is to ensure that the visual impacts of new development are minimised, remain visually subordinate to the landscape and that existing topography and vegetation is protected.

The Panel is satisfied the Amendment will effectively manage character and visual amenity along the Werribee River interface. The provisions of the DPO9 set out a framework ensuring the character response to the interface will be determined appropriately at later stages and these are well supplemented with planning policy that seek responsive design.

The 100 metre buffer will make a substantial contribution to maintaining the natural character of this interface. The placement of a perimeter road and larger residential interface lots beyond it are consistent with the Ballan Framework Plan. Further:

- provision of active open space in this location can stimulate activity along the interface and positively shape the identity and visual presentation of the urban edge
- the viewshed analysis illustrates that vegetation along the interface will contribute to the character response, sense of place and visual screening of new development
- the DPO9 requires:
 - careful consideration of cut and fill along the escarpment to accommodate the active open space
 - a landscape design that will enhance the Werribee River corridor, including through canopy coverage

The Panel supports Mr Barnes' recommendation for vegetation screening of car parking and any other 'back of house' facilities associated with the active open space use and community facility that have potential cause unsightly or visually dominate views. The Day 1 version of the DPO9, together with existing planning policy, includes sufficient guidance to achieve this outcome.

The Panel has considered concerns raised by the environmental groups regarding the proposed interface, but is satisfied that the DPO9 provides for these matters to be properly addressed during preparation of the development plan. Ecological impacts are addressed in Chapter 4.

(v) Conclusion

The Panel concludes:

- The Amendment provides for an appropriate interface to the character of the Werribee River corridor.

3.3 Freeway interface

(i) The issue

The issue is whether the Amendment provides for an appropriate interface to the Western Freeway.

(ii) Background

The subject land sits at a higher elevation than the Western Freeway. According to the Acoustic Assessment, a noise barrier (earth bund or wall) will be needed along this edge, reaching heights of up to seven metres in certain areas. Noise barriers will also be necessary at the Precinct's north-eastern and western boundaries.

The existing DDO3 (which will be retained) aims to protect the amenity of Freeway users and includes decision guidelines about landscaping, visual impact and preserving skyline and landscape values. The DPO9 further guides the design of the Freeway interface by:

- seeking master-planned development that is sensitive to the landscape
- requiring low density lots and landscaped buffers along the Freeway boundary, as well as landscape treatments in road reserves
- requiring the Acoustic Design Response Plan to prioritise 'natural' noise mitigation treatments (such as vegetated earth bunds) over walls (as requested by DTP Transport).

(iii) Evidence and submissions

Council submitted that managing the Freeway interface was a 'common matter' to address in growth area planning. It submitted the DPO9 provides an appropriate framework for considering the interface, including the presentation of any noise mitigation measures that will be required.

The Proponent submitted the DPO9 and the Development Concept Plan appropriately give effect to the strategic direction to provide lower densities along the Freeway interface to emphasise Ballan's rural township character.

Mr Barnes considered the Freeway interface was very important from a visual amenity point of view and formed part the broader urban-rural transition of the Precinct. He found the lots proposed along the Freeway edge would create a spacious and low density transition which would reduce the visual impact of development from the arterial road.

Mr Barnes considered there was uncertainty about ensuring uniformity in the visual presentation along the road edge. He considered it worthwhile to explore how a consistent strategy could be delivered, whether by noise barriers or landscaping. This approach could be represented in the Development Concept Plan by marking the sections where noise attenuation is necessary as 'Freeway noise extent'.

(iv) Discussion

The Western Freeway interface is a critical edge to the Precinct, requiring careful management of visual amenity as indicated by existing controls. The Panel considers the Amendment delivers an appropriate response, primarily achieved through design and presentation of the future noise barrier along the edge followed by the lower density residential development beyond it.

A noise barrier rising to approximately seven metres in height will significantly influence both the visual impact and character of this interface from the road. The DDO3 provides assurance that the Freeway's amenity is a key consideration, while the DPO9 favours natural landscape features over constructed walls. These tools will be important in achieving a suitable visual outcome.

The Panel acknowledges Mr Barnes' observation regarding the need for a consistent, precinct-wide approach to visual amenity along this interface. This is particularly pertinent given noise barriers required along other Precinct boundaries will also contribute to the overall Freeway experience. Given the primary intent of the additional guidance is to manage visual impacts along the road interfaces, rather than demarcate the specific extent of noise mitigation, the Panel prefers an additional requirement in the provisions relating to the Acoustic Design Response Plan that articulates the desired visual outcome.

Beyond the noise barrier, the DPO9 and the Development Concept Plan propose lower density lots along the interface. This strategy aligns with the direction established by the Ballan Framework Plan and supports the Precinct's contribution to the rural character of the area.

(v) Conclusions and recommendation

The Panel concludes:

- The Amendment provides an appropriate response to the Western Freeway interface.
- Further guidance is needed to ensure a consistent visual presentation to the Western Freeway interface and other precinct edges.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the Acoustic Design Response Plan requirements in Clause 4.0 to:**
 - **require a consistent visual presentation to the Western Freeway interface and other precinct edges.**

4 Environmental and biodiversity values

4.1 The issue

The issue is whether the Amendment adequately considers impacts on the environmental and biodiversity values of the subject land and the Werribee River environs.

4.2 Background

Policy

Planning policy (at Clause 11 and Clause 12) seeks to protect and enhance biodiversity generally and the Werribee River particularly. The primary strategy is to ensure decisions that involve the removal of native vegetation apply the three step approach to avoid, minimise and offset impacts to ensure there is no net loss of biodiversity. Other strategies include to:

- protect biodiversity values of roadsides
- retain and re-establish vegetation cover along the Werribee River
- set development back from retained watercourses in growth areas
- create public land reserves along the Werribee River adjacent to new developments.

The Amendment

The Amendment will retain the ESO1 and ESO2, both of which trigger a permit for native vegetation removal. The ESO2 manages water quality entering the Werribee River and applies to all land within 100 metres of the Werribee River centreline.

The Development Concept Plan identifies retained patches of native vegetation in the road reserves and along the Werribee River corridor, and retained scattered trees located in local parks or road reserves. As noted in Chapter 3.2, land within 100 metres of the Werribee River is set aside as a reserve, consistent with Melbourne Water requirements. Some drainage assets are shown within the river corridor, and the corridor is edged by a perimeter road, 'interface' residential lots, and the active open space reserve co-located with the community facility and a commercial centre.

The Amendment introduces two controls for managing ecological impacts:

- the VPO2 is proposed to protect remnant vegetation and scattered trees in the Precinct
- the DPO9 includes environmental protection objectives and requires:
 - a Biodiversity Management Plan including targeted flora and fauna surveys, native vegetation retention recommendations, Werribee River management and risk mitigation
 - a Construction Management Plan to address environmental risks, waste management, and erosion and sediment controls for the Werribee River
 - an Integrated Water Management Plan focused on protecting natural systems and water quality, with suitable outfalls to the Werribee River
 - a Public Open Space and Landscape Masterplan that provides for revegetation of the river corridor with indigenous species.

The Biodiversity Management Plan requirements were updated after exhibition in response to requests from the Department of Environment, Energy and Climate Change (DEECA).

Background technical reports

The Amendment was supported by a Flora and Fauna Assessment (prepared by Nature Advisory) which included a site survey for the Proponent's land only, being Parcel 5 (and a desktop assessment for the remaining parcels in Precinct 5). The survey was conducted during autumn and winter, potentially missing seasonal species. The assessment:

- found the land was mostly cleared of native vegetation except for some patches and flora and fauna species listed under the *Flora and Fauna Guarantee Act 1988*
- found no species listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) were likely to be present
- calculated the offset needs and noted removal of native vegetation would trigger a Clause 52.17 assessment and require offsets in general habitat units (which are available).

The assessment found conservation of the Werribee River corridor is critical to preserving ecological values and concluded the proposed development will result in minor impacts on native vegetation and listed species. It recommended:

- retaining native vegetation along the Werribee River and large scattered trees across the Precinct where possible
- conducting further seasonal flora surveys and establishing protection zones and pollution controls during construction.

The Amendment was supported by a Stormwater Management Strategy (SWMS) prepared by Spiire that, among other things, identified ways of designing drainage assets to ensure the protection of water quality in the Werribee River.

4.3 Evidence and submissions

The importance of the ecology in the Werribee River corridor was undisputed between the parties. Maintaining the health and ecological integrity of the corridor was a shared aim, however submitters disputed the Amendment would achieve this.

Proponent

The Proponent submitted that the Amendment is a low-impact response to existing biodiversity values and provides an adequate response to the ecological values of the Precinct and the river corridor. Areas of significance have been identified, with further flora and fauna assessments to occur to meet the requirements of the DPO9 and the EPBC Act. It submitted incursions into the 100 metre river corridor were minor and confined to public open space, community uses, small sections of road and drainage infrastructure.

The Proponent contended that development is appropriately set back from the riparian corridor to avoid native vegetation, and that the Biodiversity Management Plan would offer measures to mitigate impacts to the escarpment and river floodplain. This included sediment and litter controls, and managing disturbance from pets and artificial lighting.

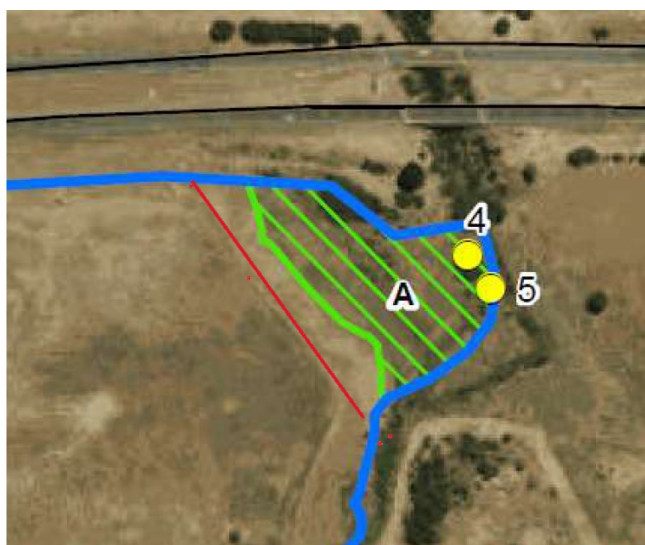
Mr Mueck gave ecological evidence for the Proponent. His evidence included a peer review of the Nature Advisory Flora and Fauna Assessment. He concluded the Amendment will ensure a low-impact response to the biodiversity values of Precinct 5 and the river corridor.

Mr Mueck agreed with most of the Nature Advisory assessment's mapping of native vegetation, but noted:

- it had missed six native vegetation patches (five of which were located in the disused aqueduct), one scattered tree
- another scattered tree required reclassification
- the assessment missed some species including the EPBC-listed Matted Flax-lily, evidence of which he found along the aqueduct.

Mr Mueck recalculated the offset requirement and confirmed General Habitat Units would be required. He considered the mapping of Habitat Zone Patch A near the river corridor in the north east part of the subject land should be extended to the red line shown in Figure 4.

Figure 4 Mapping correction to the extent of Habitat Zone Patch A



Source: Annexure A to the Proponent's closing submission (Document 99(a))

Mr Mueck considered the proposed change of land use from farming to residential (with the proposed setbacks) will have a negligible impact on the flora of the subject land. Relevantly:

- most of the subject land is dominated by introduced species, with high-value native vegetation confined to the Werribee River floodplain and remnant areas along the aqueduct
- the Development Concept Plan retains native vegetation in the Werribee River corridor and places other scattered trees and patches in local parks.

He noted the targeted surveys required under the Biodiversity Management Plan requirements in the DPO9 will need to include the Matted Flax-lily, and should be conducted at an appropriate time of year (spring or summer).

Mr Mueck considered threatened fauna are unlikely to occur on site except in the Werribee River corridor which may support species including the Growling Grass Frog, the Tussock Skink and platypus. He considered:

- the buffer to the river will assist to mitigate impacts from development and is sufficiently wide to maintain its function as a movement corridor for any significant fauna
- intrusions of development into the setback are minor and are mainly drainage assets, which themselves act as buffers

- wetland design and construction would need to follow DEECA Growling Grass Frog guidelines which would also manage impacts on platypus habitat
- the active open space reserve provides further buffering, despite some potential for impacts including from artificial lighting and chemicals used on the sporting fields – these impacts will need to be managed and various mitigation options are available
- impacts to platypus and other fauna could occur, including from sediments and pets but these will be largely managed by the Biodiversity Management Plan
- strict management of litter and waste will be required.

The Panel questioned Mr Mueck on the timing and extent of his site inspection and the surveys that informed the Nature Advisory assessment. His view was that, overall, his and Nature Advisory's assessments were collectively sufficient to gain an understanding of the biodiversity values on the subject land and in the river corridor, and that the inspections have likely captured the native vegetation patches accurately.

Council

Council submitted environmental and biodiversity impacts will be appropriately managed through the development plan and subsequent permits, noting:

- the Biodiversity Management Plan needs to include a targeted flora and fauna survey prior to development
- the Development Concept Plan generally meets Melbourne Water's 100 metre setback requirement, with minor incursions for stormwater infrastructure which still buffer the waterway from development.

Agencies

Melbourne Water explained that the setback to Werribee River had been determined in accordance with the Melbourne Water Greenfield Waterway Corridor Guidelines to respond to the ESO, ecological values and geomorphic values (including the escarpment) along the river.

While it did not oppose the Amendment, Melbourne Water requested updates to the SWMS and associated documents to better address waterway protection. It recommended revising the SWMS to include suitable locations for drainage assets which consider avoidance and minimisation, and further details be provided regarding outfalls. It also requested that:

- the ESO2 be extended to include all land within 100 metres of the river centreline or 75 metres from the flood boundary.
- any hard infrastructure (such as roads and the community facility) be moved outside the 100 metre setback to the river.

Council explained it was not possible to extend the ESO2 through this Amendment because it was a regional control.

DEECA generally supported the Amendment including the proposed overlays to protect native vegetation and the location of drainage assets within the river corridor. However it considered stronger biodiversity protections were needed and recommended strengthening the Biodiversity Management Plan requirements in the DPO9. These changes were reflected in Council's Day 1 version. DEECA encouraged Council to consider long term conservation management for areas remaining in private ownership.

BMPA and MEG

BMPA and MEG expressed concern that significant trees were not adequately protected and development would negatively impact the river corridor. They were particularly concerned about the impact on fauna species that use the river corridor, such as platypus and Growling Grass Frog. They opposed any incursions of development into the 100 metre river setback, and were concerned about the impacts of litter, sediment, pets, noise and artificial lighting. MEG further submitted the Amendment was a missed opportunity to create a conservation corridor along the disused aqueduct, which holds both ecological and historical significance.

The environment groups requested various changes to the Amendment, including to:

- expand the VPO2 to include native grasses, reeds and significant trees
- relocate the community facility, active open space and commercial centre further away from the river
- designate the disused aqueduct as a conservation corridor
- establish a benefit-sharing scheme to fund ongoing conservation efforts managed by Council and volunteer groups
- increase Council resources to monitor and enforce environmental compliance during construction
- prohibit cats in the Precinct.

4.4 Discussion

The Panel considers the Amendment appropriately addresses ecological impacts and enables a staged and progressively detailed consideration of impacts. The Panel agrees with the expert evidence that flora and fauna impacts are relatively low, with further assessment and mitigation to be addressed in future planning stages, primarily through the Biodiversity Management Plan and the Integrated Water Management Strategy required under the DPO9.

The Panel is satisfied the proposed development has generally been designed in accordance with planning policy, including avoiding and minimising impacts on native vegetation. The most significant native vegetation, largely within the Werribee River corridor, will be retained and measures to ensure ongoing management are proposed. Higher value native vegetation outside the river corridor will be retained, including patches along external road reserves and groupings of scattered trees within local parks.

Mr Mueck identified several oversights in the Nature Advisory assessment, however the Panel accepts that, together, the Nature Advisory assessment and his evidence provide a sufficient understanding of ecological values to inform the Amendment. The limitations of the survey work undertaken to date can be addressed in the future targeted survey work required under the Biodiversity Management Plan and to address EPBC Act requirements. Further surveys will need to be conducted at the appropriate time of year.

The to the mapping of Habitat Zone Patch A should be corrected as part of this Amendment.

The Amendment's most important ecological outcome is the retention and protection of the Werribee River corridor, and the requirements to retain native vegetation in this area and substantially revegetate the corridor. The proposed buffer to the river will minimise development impacts on the river's environmental values. The Panel supports Melbourne Water's recommendation that hard infrastructure be relocated outside the 100-metre setback. Any other incursions can be further assessed as the development plan is prepared and approved.

The Panel does not consider a wider buffer is necessary. The buffer aligns with Melbourne Water requirements and the requirements of the ESO2.

The Panel supports the proposed location of the active open space reserve, community facility and the local commercial centre along the edge of the river corridor. Community access and engagement with the river corridor is a positive outcome, and is likely to increase public awareness and appreciation of the area's natural values.

The DPO9 requirements for a Construction Management Plan, Biodiversity Management Plan and an Integrated Water Management Plan provide an appropriate framework to identify and manage any risks to the river environs from both construction and ongoing use of the land. These are complemented by a specific requirement in the DPO9 for lighting design that considers impacts on wildlife, which should include consideration of both temporary (during construction) and permanent lighting and reference to the relevant guidelines.

Additional medium density housing (if placed around the local commercial centre) would be unlikely to significantly increase impacts on the river environs as it would be set well back from the corridor edge. That said, managing the impacts of the uses on the corridor will be very important. The Panel agrees with concerns raised by submitters about the need to control both construction and post-development risks such as sediment, waste, litter, pets and artificial lighting. Impacts of sediment and litter are dealt with further in Chapter 6.1.

Importantly, both DEECA and Melbourne Water support the Amendment and will remain closely involved in the later stages of planning, including through the Biodiversity Management Plan and an Integrated Water Management Plan. This ongoing collaboration and oversight will help ensure biodiversity values are identified and protected through the planning process. However ongoing management of land in the corridor, particularly while the land remains privately owned, will need further consideration by Council as development of the Precinct advances.

The Panel acknowledges the request from BMPA and MEG to designate the aqueduct corridor as a conservation reserve. However, the full extent and distribution of biodiversity values along the aqueduct will only become clear after targeted surveys are completed. Retention of values in the aqueduct can be considered at future planning stages, noting there may be other master planning factors that influence any such decisions.

The Panel finds no strategic or statutory basis to impose a benefit-sharing scheme to fund the ongoing conservation of the corridor.

4.5 Conclusions and recommendations

The Panel concludes:

- Despite some oversights in the Flora and Fauna Assessment prepared to support the Amendment request, the Panel is satisfied the assessment, together with Mr Mueck's evidence, provide a sufficient understanding of ecological values to inform the Amendment.
- The DPO9 provides sufficient guidance for the further identification and mitigation of risks to ecological values, including the Werribee River.
- Future flora and fauna surveys for potential threatened species will need to be conducted and at the appropriate time of year.
- The VPO2 mapping covering Habitat Zone Patch A should be extended to reflect the full extent of the patch.

- Hard infrastructure should not be located within the 100 metre setback to the Werribee River, and any other incursions can be appropriately assessed at later planning stages.
- The DPO9 should manage the potential impacts of temporary and permanent light spill into the Werribee River corridor, including reference to the relevant guidelines.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) Amend the conditions and requirements for permits in Clause 3.0 relating to the Construction Management Plan to:**
 - strengthen the requirement to consider lighting impacts to wildlife.
- b) Amend the Public Open Space and Landscape Masterplan requirements in Clause 4.0 to:**
 - strengthen the requirement to consider lighting impacts to wildlife.
- c) Amend the Biodiversity Management Plan requirements in Clause 4.0 to:**
 - strengthen the requirement to consider lighting impacts to wildlife.

Amend the Vegetation Protection Overlay Schedule 2 mapping to reflect the full extent of the patch of native vegetation known as Habitat Zone Patch A, as shown in Figure 4 in this report.

5 Open space and community infrastructure

5.1 The issue

The issue is whether the Amendment appropriately plans for the provision open space and community infrastructure.

5.2 Background

Policy

Planning policy (Clauses 11 and 19) promotes early and accessible provision of open space and community infrastructure, with a diverse, integrated open space network supporting recreation, conservation and social connection. Key strategies include co-locating facilities to improve access, safety and surveillance, as well as identifying infrastructure gaps and ensuring education facilities meet current and future needs.

The Ballan Strategic Directions found community facilities to be generally adequate for growth projections to 2041, though many require upgrades to remain fit for purpose. A secondary school was not required based on projections, but could be reconsidered with accelerated growth.

The PSP Guidelines apply to greenfield development in metropolitan contexts and set open space targets of:

- a minimum of 10 percent of net developable area, comprising 5 to 7 percent for active open space and 3 to 5 percent for passive open space
- a sports reserve larger than 1 hectare within 800 metres walking distance of all dwellings
- local parks within 400 metres walking distance of all dwellings.

Clause 56 set the same standards but adds that active open space should be at least 8 hectares and located within 1 kilometre of 95 percent of dwellings.

The Amendment

The Development Concept Plan identifies the following open space and social infrastructure:

- the active open space reserve co-located with a community facility (which is positioned around the former Ballan Homestead site)
- three local parks in the Precinct's north, centre and south, generally around existing trees to be retained
- no provision for schools.

The DPO9 provisions require:

- development staging that includes early provision of open space and community facilities
- a public open space network that provides open space generally in accordance with the Development Concept Plan, with allowance for alternative locations provided intended outcomes are met
- a Public Open Space and Landscape Masterplan
- concept details for the sports pavilion, community facility and playgrounds
- consideration of open space interface treatments
- a condition and requirement of permits that landowners enter a section 173 agreement for development contributions.

Background technical reports

The Amendment was supported by a Public Open Space Provision Needs Assessment which recommended the Precinct align with the PSP Guidelines targets and Clause 56 standards and provide:

- 2.2 hectares (ha) of passive open space across three parks, located to meet walkability metrics (and each to include a playground)
- 4.5 ha of active open space including an oval and sports pavilion
- 6.7 ha of unencumbered public open space.

The Public Open Space Provision Needs Assessment recommended the active open space reserve be located near the Werribee River corridor, rather than the location options identified in the Ballan Framework Plan. It considered the location by the river corridor optimised distribution of open space and the reserve's capacity to serve as a multifunctional, regionally significant recreation node. It also noted that the active open space reserve could be co-located with a multi-purpose community facility, and include a playground.

Council tabled a Community Facilities and Educations Needs Assessment (D35) that was lodged with the Amendment but did not form part of the exhibited material. The Assessment supported a medium-sized, multi-purpose community facility in the Precinct based on provision ratios typically applied in metropolitan contexts (being 1 large centre per 3,000 dwellings) with:

- 900 square metres of floorspace on a 0.8 ha site
- two kindergarten rooms, consulting suites and flexible meeting spaces
- integration with the sports pavilion.

No immediate need for a secondary or second primary school was found.

The draft Shared Infrastructure Funding Plan exhibited with the Amendment apportioned 100 percent of costs (land and works) for the active open space, sports pavilion and community facility to the Precinct. For local parks, it listed embellishments but not the associated land (as this would be secured through Clause 53.01). While not referenced in the DPO9, Council and the Proponent advised the plan will form the basis of the section 173 agreement securing development contributions.

5.3 Active and passive open space

(i) Evidence and submissions

Submitters expressed a desire to ensure the future community is well supported by sufficient open space, including a full-sized sports oval and usable recreational areas.

The Proponent submitted the location of the active open space reserve broadly (although not precisely) aligns with the indicative active open space investigation areas set out in the Ballan Framework Plan and that:

- the extent of both passive and active open space exceeds what was indicated in the Ballan Strategic Directions
- the proposed variety of recreation facilities will cater to the needs of the future population in the Precinct while provide benefits to the wider Ballan community.

Council submitted the Public Open Space Provision Needs Assessment confirmed the proposed quantum and distribution of open space is adequate. It supported the location of the active open space alongside the river corridor.

Mr Panozzo gave community infrastructure evidence for the Proponent. He considered the proposed active open space provision is strategically justified and consistent with the technical reports informing the Amendment. He:

- supported the proposed quantum of active and passive open space, which satisfies the targets in the PSP Guidelines and is consistent with the recommendations in the Public Open Space Provision Needs Assessment
- supported the proposed locations of open space areas which generally met the walkable distance targets in the PSP Guidelines
- endorsed the size of the active open space provision, which can accommodate multiple types of playing fields to respond to local demand
- reiterated the findings of the Public Open Space Provision Needs Assessment that it is preferable to co-locate the active open space with the river corridor to serve as a hub for recreation, social interaction and appreciation of the natural environment.

Attached to Mr Panozzo's written evidence was an assessment he prepared earlier in the Amendment process regarding funding apportionments for open space infrastructure (also tabled by Council as D36). The assessment recommended that the Precinct fund 30 to 33 percent of the total cost for the active open space reserve and sports pavilion. This was based on the provision ratio of one sports reserve per 3,000 dwellings as is typically applied in metropolitan greenfield scenarios. In his evidence though, Mr Panozzo supported the 100 percent apportionments listed in the draft Shared Infrastructure Funding Plan and considered these represented a 'generous' contribution towards open space infrastructure provision.

Regarding passive open space, Mr Panozzo expressed support for the apportionments detailed in the draft Shared Infrastructure Funding Plan, although he recommended including the costs for the four playgrounds. Under cross-examination, he acknowledged that, given the proportion of passive open space that the Proponent will provide is less than the standard 5 percent applied elsewhere in Moorabool, it would be reasonable for the Proponent to fund both the land and improvements required for passive open space.

Mr Barnes supported the proposed active and passive open space network. He considered the provision of open space would offer social and recreational benefits for the local community and deliver environmental benefits such as urban heat cooling. He supported the location of active open space adjacent to the Werribee River, reasoning it enabled accessible and visible community use in a generally central part of the Precinct, and allowed a degree of activation and engagement with the environment.

(ii) Discussion

The Panel considers the proposed provision of open space is sufficient, strategically located and designed to deliver community benefits.

The location and distribution of passive open spaces are suitably planned such that all residents across the Precinct will be within a convenient walking distance of at least one, and in some cases multiple, local parks. Both the distribution and the overall quantum of passive open space accord with metrics in the Planning Scheme and the technical report that informed the Amendment.

The Panel accepts that the active open space is strategically located. The evidence demonstrates that this location is preferred for walking accessibility, relative to the alternative location identified in the Ballan Framework Plan. Accessibility is of central importance to the effective planning of active open space. Co-location with the Werribee River corridor is a positive outcome as it creates an integrated open space hub that can support a range of recreational pursuits. The quantum of active open space is adequate and will cater for a diversity of sporting needs within Ballan.

The Panel observes that the northernmost area of passive open space is positioned close to the Precinct's northern boundary. While this may not maximise walkability to residential areas to the south, the Panel accepts that its location is appropriate to protect retained vegetation.

The DPO9 requirement for landscaping in open spaces addresses the retention of significant vegetation, canopy cover and use of drought-tolerant species. These measures will contribute to the creation of visually appealing and comfortable environments for future residents and will enable a range of recreational opportunities. Landscaping will also contribute to the management of the urban heat effect, predominantly through the precinct-wide 30 percent tree canopy target as consistent with the PSP Guidelines. The 30 percent canopy cover requirement should exclude active open space playing fields and courts.

(iii) Conclusion and recommendation

The Panel concludes:

- The Amendment appropriately plans for the provision of active and passive open space, and appropriately guides suitable landscaping of open spaces and other public spaces.
- The 30 percent tree canopy cover requirement should not extend to active open space playing fields and courts.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the Public Open Space and Landscape Masterplan requirements in Clause 4.0 to:**
 - **exclude active open space playing fields and courts from the 30 percent canopy cover requirements.**

5.4 Schools

(i) Evidence and submissions

Several submissions raised concerns regarding the absence of high schools in Ballan, as well as the potential impact of population growth on the town's existing primary schools.

The Proponent maintained there was no justification to include a school within the Precinct. It submitted the Department of Education has been aware of Ballan's anticipated growth for several years, having contributed to the Ballan Strategic Directions, and at no point was the need for additional schools identified anywhere in Ballan. The Department has had multiple opportunities to engage on the matter of school provision in the Precinct, and has not indicated the need for an additional school.

Mr Panozzo expressed the view that, by or after 2041, there may be a need for a secondary school or a second primary school in Ballan. He confirmed the existing primary school site has capacity for additional enrolments, either through internal reallocation or the construction of portable

classrooms. He reiterated that development within the Precinct does not in itself create a requirement for further school provision.

While Mr Panozzo did not consider the Development Concept Plan should require land to be set aside for a school, he suggested further consultation with the Department of Education would be beneficial to clarify its position on primary and secondary school needs in Ballan and to determine whether the Precinct is a suitable location for future provision. He recommended a community infrastructure needs assessment be prepared to provide additional opportunities for engagement with the Department. Mr Barnes also supported further consultation with the Department.

Council submitted the development of the Precinct would not generate the need for new schools. It noted a mismatch between the likely timing for land supply and the projected timing for additional school provision in 2041. Council suggested that, should the need arise earlier, the Department of Education should be open to securing land within the Precinct through its normal process of negotiation or acquisition.

(ii) Discussion

In the absence of an expressed need from the Department of Education, the Panel does not consider the DPO9 should require land to be set aside for a school. Mr Panozzo's evidence was that projected demand does not establish a requirement for a secondary or additional primary school within Ballan during the anticipated development horizon of the Precinct. The Panel sees no reason to find otherwise and agrees with Council that should the need arise, the ability for the Department of Education to pursue land acquisition for school provision remains, regardless of the Amendment.

The Panel accepts that the matter of school provision has been appropriately addressed within the Amendment, and does not support imposing additional consultation requirements with the Department of Education as no immediate need has been demonstrated. That said, ongoing engagement between Council and the Department of Education is desirable to ensure school provision projections remain current as the Ballan population evolves.

(iii) Conclusion

The Panel concludes:

- The Amendment appropriately plans for the provision of schools.

5.5 Community facility

(i) Evidence and submissions

Submissions emphasised the importance of ensuring adequate community infrastructure to support the growing population, including community facilities.

The Proponent maintained that the Amendment offered an appropriate framework for community infrastructure, submitting that both the size and location of the community facility were suitable.

Council endorsed the community facility and indicated that, like other infrastructure, it would be planned and delivered as part of the development process to ensure it meets the community's evolving needs. It submitted that the draft Shared Infrastructure Funding Plan, together with the

section 173 agreement required by the DPO9, would facilitate the delivery of the community facility.

Mr Barnes supported the establishment of a community facility in the Precinct. He saw the benefit of co-locating the centre with the active open space, but expressed a preference for a more central location within the Precinct. This view was consistent with his opinions regarding the location of the local commercial centre, as discussed in Chapter 2.5. If the two uses were positioned further south, he considered they should remain co-located.

Mr Panozzo noted that the range of existing social infrastructure in Ballan would play a vital role in fulfilling the early service and social interaction needs of future residents in the Precinct. He considered the Community Facilities and Education Needs Assessment was based on a thorough examination of Council's policy and guidance and that Council's community infrastructure framework was thorough. Mr Panozzo's support for the facility was not predicated solely on provision ratios and he considered it was an excellent opportunity to supplement current community infrastructure, albeit on a modest scale.

Mr Panozzo supported reducing the land allocated for the proposed facility to 0.5 ha, which was less than the 0.8 ha recommended in the background technical report. He reasoned that co-locating the facility with the active open space would allow for more efficient land use and noted that the catchment for the facility was relatively small. He observed that planning in regional areas differs significantly from metropolitan contexts, which generally rely on standard provision ratios.

Mr Panozzo suggested that the DPO9 should require the preparation of a community needs assessment to guide the services and functions to be included in the proposed multipurpose community facility, including confirmation of funding for early years services (such as kindergarten and maternal and child health) from the Department of Education. Neither Council nor the Proponent considered such an assessment was needed.

(ii) Discussion

The Panel considers the size and location of the community facility appropriate. Regional catchments, being more dispersed than those in metropolitan areas, shape different expectations for service delivery. Mr Panozzo's evidence supports applying context-specific provision ratios rather than metropolitan standards. Locating a new modest sized facility within the Precinct ensures convenient access for future residents, especially given the Precinct sits at the edge of urban Ballan and not immediately proximate to existing services.

The Panel supports a land allocation of 0.5 ha for the community facility on the basis of land use efficiencies gained from co-locating it with the active open space. The early delivery of the facility, as guided by the DPO9, will address the needs of early residents and facilitate the development of a community identity from the earliest stages of growth.

The Panel considers the co-location of the community facility with the active open space, the local commercial centre and the Werribee River corridor to be a positive outcome. Together, these uses will provide a focal point for the Precinct, supporting social connections among new residents and helping establish a distinct community identity. Connection with the former Ballan Homestead site could further embed local identity. If the local commercial centre is ultimately moved further south as discussed in Chapter 2.5, it should remain co-located with the community facility and active open space to maintain the hub of active uses.

It is not necessary to prepare a new community infrastructure needs assessment to determine the appropriate mix of services for the facility. The existing Assessment already offers an 'extensive' review of existing Council policy and guidelines, which are 'thorough', according to Mr Panozzo. Combined with Council input, this should be sufficient to establish the right service mix.

Any further engagement with the Department of Education in relation to schools provision in Ballan can occur in the ordinary way. The Committee does not consider that a further community infrastructure needs assessment for the Precinct is required to support that ongoing engagement.

(iii) Conclusions

The Panel concludes:

- The Amendment appropriately plans for the provision of community infrastructure.
- There is no need for the development plan to be informed by a community infrastructure needs assessment.

5.6 Infrastructure contributions

Council indicated it was working with the Proponent to progress the section 173 agreement regarding development contributions for various community infrastructure items in line with the Shared Infrastructure Funding Plan.

Mr Black supported a section 173 agreement dealing with developer contributions, rather than requiring the preparation of a complex development contributions plan, given that much of the land is under single ownership. He considered the section 173 agreement would provide a clear and enforceable mechanism for the collection of funds necessary for infrastructure delivery within the Precinct.

As noted in Chapter 5.5, Mr Panozzo initially recommended that the Precinct fund 30 to 33 percent of the community facility, based on provision ratios of one facility per 3,000 dwellings. However in his evidence he supported a 100 percent allocation, noting it was 'generous'.

The Panel supports the approach of using a section 173 agreement to secure development contributions, and the use of a shared infrastructure funding plan to inform the agreement. However it makes no particular findings about the appropriateness of the apportionments listed in the draft Shared Infrastructure Funding Plan. The Shared Infrastructure Funding Plan did not form part of the exhibited Amendment material, and nor is the document listed in the DPO9. No final version was tabled as part of the Panel process.

6 Infrastructure

6.1 Drainage and flooding

(i) The issues

The issues are whether:

- the Amendment appropriately considers flood risk
- stormwater discharges will impact the environmental and aquatic values of the Werribee River
- stormwater discharges will cause erosion of the escarpment.

The interaction between drainage assets and Aboriginal cultural heritage is discussed in Chapter 8.1.

(ii) Background

As noted in Chapter 4, the Amendment was supported by a SWMS prepared by Spiire. The SWMS outlines how post development stormwater flows through Precinct 5, including from sites to the west, will be managed.

The SWMS was based on Melbourne Water's Ballan North Development Services Scheme (DSS) prepared in 2017, which showed three wetland retarding basins in Precinct 5 located along the top of the escarpment. The SWMS consolidates the three wetland retarding basins into two. Melbourne Water has provided in principle agreement to this change.

The SWMS includes a map showing the flood extent in a 1 percent Annual Exceedance Probability event (a 1 in 100 year event). All developable areas and key infrastructure assets (such as the wetland retarding basins and the active open space reserve) are proposed to be located well above the 1 in 100 year flood level.

(iii) Evidence and submissions

Submitters raised concerns in relation to:

- flooding risks to the subject land and surrounding properties as a result of development in Precinct 5
- heightened flood risk from climate change effects
- the impacts of the proposed drainage assets (wetland and retarding basins and the drainage outfalls) on the Werribee River ecology, water quality and volumes
- the management of overland drainage flows across the escarpment and into the river, including erosion effects.

Submitters provided several photographs which showed heavy sediment loads in other parts of the river that had come off surrounding development sites. They were concerned construction waste and pollutants would enter the river and impact its aquatic and environmental values.

The Proponent submitted the subject land can be appropriately drained in accordance with Melbourne Water requirements, without adversely impacting the Werribee River, and in a way that responds to ecological values. It submitted the Amendment is appropriate from a drainage

and hydrology perspective, and the SWMS represents a carefully considered design of the stormwater management system.

Mr Wilkinson gave drainage evidence for the Proponent. He considered the Amendment is appropriate from a drainage and hydrology perspective, provided that appropriate development controls are applied.

Mr Wilkinson concluded *“flooding from the Werribee River provides no flood risk to the precinct”*. He noted the ridge of the escarpment sits 8 to 12 metres above the lower lying land along the Werribee River corridor, and the 1 percent Annual Exceedance Probability flood extent mapping shows flood levels are confined to the lower lying land.

Mr Wilkinson’s evidence was that stormwater draining from Precinct 5 would contribute little to rising river levels, and he did not consider development of the Precinct would pose any additional flood risk to surrounding properties. Stormwater from Precinct 5 runs off quickly and leaves the site well before the Werribee River reaches its peak, reflected in the fact that Melbourne Water only requires the drainage assets in Precinct 5 to be designed to retard rainfall events up to the 50 percent Annual Exceedance Probability (a 1 in 2 year storm event), rather than the more severe 1 in 100 year storm event.

Regarding increased flood risks from climate change, Mr Wilkinson explained that the SWMS had been updated to reflect climate change modelling in accordance with updated Australian Rainfall Runoff Guidelines issued in August 2024. He expected the updated rainfall predictions as a result of climate change would be adequately catered for within the current design configurations of the wetland retarding basins, but the assets could be resized if necessary to deal with the additional predicted rainfall and runoff. He stated:

I can categorically state that any increases in predicted flooding from the Werribee River will not create a risk of flooding to the Precinct 5 area.

Melbourne Water confirmed at the Hearing that the modelling in the SWMS had been updated to reflect climate change to Melbourne Water’s satisfaction, but could not assist the Panel in relation to whether the proposed wetland retarding basins were sufficiently sized to accommodate increased climate related rainfall and runoff.

Regarding water quality, Mr Wilkinson’s evidence was that outfalls will be designed to ensure the protection of the Werribee River and its environs. He noted the SWMS provides a framework for the drainage system, which will be further modelled and designed through the development plan and permit processes. He was confident the drainage assets could be designed and constructed to ensure water draining into the river achieves appropriate water quality standards, including in relation to sediment, and that outfall locations will be further considered at the detailed design stage.

Mr Wilkinson noted it is important to consider the current use of Precinct 5 (for agricultural and rural living purposes), with runoff from farming and cropping activities currently discharging to the Werribee River with relatively few controls. His evidence was:

... often residential developments with adequate stormwater quality treatment provide improved water quality discharge to receiving environments.

He noted all residential developments must meet best practice water quality treatment objectives to ensure receiving environments are sufficiently protected from the potential impacts of development to water quality. Further:

- the drainage system includes water quality treatment assets (the two constructed wetlands and one standalone sediment basin)
- modelling of these assets has been undertaken that demonstrated adequate water quality treatment can be achieved.

In relation to erosion risks, Mr Wilkinson stated:

I agree with submitters that this needs to be addressed however it can and will be addressed once the masterplan is resolved and engineering design of the estate progressed.

His evidence was that overland flows will be directed along protected flow paths down the escarpment to the Werribee River corridor, with the detailed design to be finalised through subsequent stages in the planning process.

(iv) Discussion

The Panel is satisfied on the basis of Melbourne Water's submissions, Mr Wilkinson's evidence and the flood extent mapping in the SWMS that the development of Precinct 5 poses no risk of flooding of land in the Precinct or in surrounding areas. The SWMS included modelling of rainfall events with climate change factored in, which Melbourne Water confirmed was done to its satisfaction. The evidence confirmed the proposed drainage assets can be designed to manage the anticipated rainfall and runoff from Precinct 5 to avoid any risk of flooding, even with the additional rainfall and runoff anticipated as a result of climate change.

The Panel acknowledges the concerns of submitters in relation to maintaining the environmental and aquatic values of the river. It is confident the drainage system can be designed to ensure appropriate water quality standards for discharges to the river can be achieved. As Mr Wilkinson pointed out, the drainage system will need to be best practice and designed to achieve legislated water quality standards that should protect the aquatic and environmental values of the river.

The DPO9 includes several provisions designed to ensure appropriate environmental and water quality outcomes can be achieved, including:

- a requirement for a Biodiversity Management Plan that identifies risks to biodiversity values during and after development of the land, and makes recommendations for management of the Werribee River reserve and wetland retarding basins, including:
 - the protection and enhancement of biodiversity values
 - identification of risks to environmental values from adjoining land uses and construction activities
 - appropriate risk mitigation measures and management regimes, including a platypus survey, prior to stormwater outfall(s) design and construction activity
- a mandatory permit condition requiring approval of a Construction Management Plan before any works start that includes, among other things:
 - actions to address construction and environmental risks
 - soil erosion and sediment control provisions to protect drainage assets and the river, however this should be amended to include the escarpment
- a requirement that works be carried out in accordance with the approved Construction Management Plan.

(v) Conclusions and recommendation

The Panel concludes:

- The development of Precinct 5 will not present a flood risk to Precinct 5 or surrounding properties, even with the additional rainfall and runoff resulting from climate change.
- Stormwater discharges can be appropriately managed to ensure:
 - impacts to the environmental and aquatic values of the Werribee River are acceptable
 - erosion and sediment risks are properly managed.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the conditions and requirements for permits in Clause 3.0 relating to the Construction Management Plan to:**
 - **require soil erosion and sediment control measures to protect the escarpment (as well as stormwater infrastructure and the Werribee River).**

6.2 Servicing**(i) The issues**

The issues are whether:

- the Precinct can be adequately serviced
- there are any servicing implications for other precincts that arise from the Amendment.

(ii) Background

Clause 19 seeks timely, efficient and cost-effective development infrastructure that adequately serves the community, with strategies to ensure services and new developments are integrated.

The Amendment was supported by an Infrastructure Servicing Report that concluded the subject land can be adequately serviced. It noted however that most services will require developer-funded augmentation. Initial development will be capped at 60 to 100 lots for sewerage and up to 300 lots for water until further augmentation is provided. The Report concluded that the rezoning could proceed, but service connections would need to be staged.

The DPO9 requires an Infrastructure Servicing Plan which outlines the staging of infrastructure. This provision was updated after exhibition in response to a request from Central Highlands Water (CHW) that the Infrastructure Servicing Plan include details of the staging of infrastructure, its funding and delivery linked to stages of development.

(iii) Evidence and submissions

Submissions regarding servicing primarily focussed on the broader servicing constraints for the Ballan township.

CHW did not oppose the Amendment and confirmed in its submission to the Panel the Precinct could be serviced. It highlighted that projected growth in Ballan is significant, in contrast to previously steady and relatively low growth rates. CHW confirmed the lot caps identified in the Infrastructure Servicing Report for sewerage and water connections before augmentation occurred.

While CHW agreed with the recommendations set out in the Infrastructure Servicing Report, its submission to the Amendment raised concerns about the potential complications of planning and funding long term infrastructure if multiple precincts are advanced concurrently. It expressed concern about multiple concurrent growth fronts competing for infrastructure funding, recommending sequential growth across precincts.

Mr Black observed that existing service capacity allows for some initial development within the Precinct, and that careful planning will be essential to ensure timely infrastructure upgrades for the remaining land.

Regarding servicing other precincts in Ballan, Mr Black held the firm view that strategic, rather than operational, planning is needed to ensure sufficient land supply for planned residential growth. He noted that CHW is not a statutory authority for land use planning, and its stance on the timing and sequencing of growth is inappropriate. He argued that servicing authorities should align infrastructure planning and funding with both state and local policies, and urged the Panel to provide clear commentary that servicing authorities like CHW must plan for the full extent of projected growth rather than seek to restrict it.

Relying on Mr Black's evidence, Ballan Dev Co opposed CHW's suggestion to sequence growth according to operational constraints, emphasising that planning should be strategically driven. It submitted CHW's position was unacceptable and "*frustratingly at odds*" with established planning policy. It submitted that CHW should work collaboratively with landowners to ensure timely and cost effective delivery of water and sewerage infrastructure for all Ballan precincts.

Ballan South echoed Ballan Dev Co's position and submitted that infrastructure staging should be based on real site conditions to allow land to come to market as soon as possible, with a strategic rather than operational approach. It submitted a high level infrastructure assessment should be undertaken supporting a more holistic approach to servicing Ballan's growth areas. Ballan South encouraged servicing authorities, especially CHW, to work with landowners in all precincts to deliver timely and cost effective services, enabling Ballan's strategic growth ambitions to be realised sooner rather than later.

On the issue of servicing other precincts, Council maintained that the strategic exercise of the Amendment is focused on delivering the Precinct, not planning for other precincts. Nonetheless, Council stated:

- it is not opposed to planning for concurrent growth fronts in Ballan
- other precincts will be progressed through a joint process between landowners and Council and involving strategic background work
- the Amendment does not preclude any conclusions about future amendments.

(iv) Discussion

The Panel is satisfied the Precinct can be serviced and that all future lots will have access to essential servicing infrastructure, subject to augmentation. CHW did not contend that servicing the Precinct was unachievable but rather emphasised that funding and works will be required to enable servicing. This is not unusual in a context where land is transitioning from rural to residential use.

In relation to water and sewerage, the Panel notes that capacity constraints will necessitate augmentation relatively early in the planning and development of the Precinct. At this stage, it is enough to establish that the land can be serviced, with the finer detail to be resolved through

subsequent planning processes including the Infrastructure Servicing Plan required under the DPO9 and future permit applications. The DPO9 is appropriately drafted to manage sequencing of infrastructure alongside development and to confirm funding arrangements, to the satisfaction of CHW (and other relevant service authorities).

The Panel agrees with Council that servicing constraints affecting land outside the Precinct are beyond the scope of this Amendment. That said, the apparent housing supply challenges in Ballan and Council's support for concurrent planning for growth fronts suggests the development of multiple concurrent growth fronts may be justified. The Panel encourages ongoing engagement between CHW, Council and landowners and developers to advance servicing plans consistent with strategic objectives for Ballan's growth and consistent with policy objectives for timely and cost effective infrastructure.

(v) Conclusions

The Panel concludes:

- The subject land can be adequately serviced.
- The Amendment ensures development will be coordinated with services infrastructure, and that connections are provided in a timely and staged manner.
- There are no servicing implications for other precincts that arise from the Amendment.
- Ongoing engagement between CHW and landowners across Ballan's growth precincts should continue to enable service connections in a timely and cost-effective manner.

7 Traffic and transport

7.1 Background

Precinct 5 is located on the northeast corner of the four-leg staggered T intersection of Geelong-Ballan Road and Old Melbourne Road (IN-01). Both Geelong-Ballan Road and Old Melbourne Road are declared arterial roads with a single lane of traffic in each direction within wide road reserves. Geelong-Ballan Road has a posted speed limit of 80 kilometres per hour. Old Melbourne Road has a posted speed limit of 60 kilometres per hour. Council's Ballan Transport Study (May 2023) recommends IN-01 be upgraded in future to a roundabout.

Policy

Clause 18 of the Planning Scheme states that planning should ensure a safe, integrated and sustainable transport system that facilitates network-wide efficient, coordinated and reliable movements of people and goods and supports health and wellbeing.

The Amendment

The Development Concept Plan identifies:

- three access points into Precinct 5 (two from Old Melbourne Road, and one from Geelong-Ballan Road)
- an internal connector road that connects the access point on Geelong-Ballan Road with the westernmost access point on Old Melbourne Road
- active transport paths along the Geelong-Ballan Road and Old Melbourne Road frontages, parts of the internal road network and the interface between the active open space reserve and the river corridor.

The DPO9 requires an Integrated Transport Management Plan to be prepared to the satisfaction of the Head, Transport for Victoria that, among other things:

- identifies the staging, design, land requirements and funding plan for interim and ultimate upgrades to IN-01
- details trigger points for upgrades that are linked to stages of development or the number of lots developed
- provides a network of walking and cycling paths that provides connectivity between key destinations including along the Werribee River corridor and the proposed active open space reserve.

The DPO9 also includes a requirement (at the request of DTP Transport) for a section 173 agreement providing for the delivery, funding and identification of land requirements for the IN-01 upgrades, with DTP Transport as a party.

Background technical reports

The Amendment was informed by a Traffic Engineering Assessment prepared by Traffix Group that assessed whether the proposed internal and existing external road and path networks (including IN-01) were suitable to accommodate vehicle and active transport movements expected to be generated by the proposed development. Key conclusions were:

- the level of vehicle traffic likely to be generated by the proposed development will be readily accommodated by the surrounding road network without any adverse impacts

- IN-01 in its current configuration would continue to operate at a satisfactory level capacity-wise post development however it should be upgraded with dedicated turn lanes to ensure safer traffic movements through the intersection (interim upgrade)
- the proposed intersection treatments at the three site access points will function well and in some cases are more than required to accommodate the expected traffic generated by the proposed development
- the internal road network provides suitable reservations to accommodate carriageways, public transport, on-street parking, pedestrian and cycle provisions and services
- there are no traffic engineering reasons why the subject land should not be rezoned.

7.2 Traffic congestion and safety

(i) The issue

The issue is whether the proposed development will generate traffic that results in unacceptable congestion or safety issues.

(ii) Evidence and submissions

Several submitters were concerned about the impacts of the proposed development on traffic congestion and safety. The submissions noted that at full development Precinct 5 would almost double the population of Ballan. They were concerned this would put significant pressure on the existing road network, particularly during peaks and asserted that:

- precincts south of the railway line should be developed in preference to Precinct 5 because they had more options for accessing the town centre and areas beyond the township
- Inglis Street is already congested at busy times, and the section through the centre of town could not be widened
- the additional traffic generated by the proposed development would cause unacceptable congestion and impacts on the amenity of the town
- additional development traffic would place too much pressure on the existing bridges across the Werribee River
- additional school and public transport bus services were required.

Two traffic experts presented evidence to the Panel – Mr Woolcock of Traffix Group (for the Proponent) and Ms Garretty of Salt (for Council). Mr Woolcock prepared the Traffic Engineering Assessment that supported the Amendment. Ms Garretty's evidence was in the nature of an independent peer review.

The Traffic Engineering Assessment did not factor in increased traffic due to growth in other precincts. Mr Woolcock's evidence reassessed the performance of the internal and external road networks assuming an additional 450 lots are developed in Precinct 6. He concluded both the internal and external networks would continue to operate satisfactorily post full development of Precinct 5 without unacceptable congestion.

Ms Garretty's evidence was confined to the appropriate treatments for the intersections at the site access points and IN-01 (addressed below). Her firm had undertaken a peer review of the Traffic Engineering Assessment's analysis of the performance of these four intersections, and a draft peer review report was appended to her evidence.

The draft peer review used a higher trip generation rate than that assumed by Traffix Group. Both the peer review and Ms Garretty's evidence concluded that the intersections at the site access points were appropriate, even with the higher trip generation rate. Ms Garretty identified no concerns in relation to general network performance or congestion.

Council submitted the traffic implications of the Amendment were appropriately considered by the two experts who formed a clear view that the increased traffic associated with the Amendment can be accommodated in the road network, and access to and from Precinct 5 is appropriate. It submitted:

This is not surprising. Ballan presently enjoys a location where through traffic avoids the town proper for the large part by detour of the Western Highway and the fact that Geelong-Ballan Road is outside of the Amendment area. This means that the predominant source of traffic within the town represents localised journeys within generous road reservations.

DTP Transport submitted it seeks to maintain the safety and efficiency of Geelong-Ballan Road as a high speed (80 kilometres per hour) and key movement corridor for freight by limiting the number of new conflict points. DTP Transport would need to approve the design of intersections with arterial roads, which was provided for in Council's Day 1 version of the DPO9. It also submitted the draft Shared Infrastructure Funding Plan should fund the shared path network proposed in the Traffic Engineering Assessment.

For completeness, the traffic experts agreed the boulevard connector treatment proposed for the main connector road through the Precinct is not required for traffic reasons. They agreed that all of the functions to be performed by that road (including bus services, active transport paths and on-street parking) could be accommodated within a standard 25 metre connector road cross section. Council acknowledged this, but submitted it was seeking a boulevard treatment for placemaking and sustainability reasons. This was not opposed by the Proponent.

(iii) Discussion

The Panel is satisfied that the proposed development will not have unacceptable impacts in terms of traffic congestion or safety either within the Precinct or on the broader road network. The methodology applied by Traffix Group in the Traffic Engineering Assessment was appropriate and consistent with standard industry practice. The Panel is satisfied on the basis of the Traffic Engineering Assessment and the evidence of the two experts that the development of Precinct 5 will not result in unacceptable congestion in Ballan.

The trip generation rates originally applied in the Traffic Engineering Assessment were based on a residential subdivision in South Morang in 2013. Mr Kowarsky's submission expressed concerns about whether this was appropriate. Salt's peer review reassessed traffic impacts at the four key intersections assuming a higher traffic generation rate of 10 vehicle movements per day per household (1 movement per household in the morning and afternoon peaks)¹ and found the intersections will perform appropriately. The Panel considers the revised trip generation rate applied by Salt to be conservative.²

In assessing the performance of the external network the Traffic Engineering Assessment only considered natural network growth over a 10 year period, plus traffic generated by Precinct 5. It

¹ This is the rate recommended in the Infrastructure Design Manual and is commonly adopted as an appropriate trip generation rate for traffic impact assessments.

² Salt conducted tube counts in Ballan in 2025 which indicated an average weekday traffic generation of 5.9 vehicle movements per day per household.

did not consider traffic generated by future development in other precincts. This was addressed in Mr Woolcock's evidence, which concluded IN-01 will continue to operate satisfactorily with an additional 450 lots delivered in other precincts. In any event, it is not usual to require a proponent of one development to make assumptions about future traffic generated by other developments when assessing the impacts of its proposed development, unless the likely traffic generated by the other proposed development is known.

Some submitters raised concerns about the impact of development traffic on the existing bridges across the Werribee River (at Spencer Street and Blackwood Street). The Traffic Engineering Assessment did not specifically consider these bridges. Both bridges are relatively remote from Precinct 5, and neither of the traffic experts identified any concerns in relation to the safety or capacity of these bridges, or that they might reach capacity with the addition of development traffic. The Panel inspected both bridges on its site visit and did not observe any features that would suggest there is a capacity or safety issue associated with the bridges.

For completeness:

- the need for additional public transport or school bus services is a matter for Council and/or DTP Transport, and is not directly related to the Amendment
- the Panel accepts the advice of the experts that the internal connector road within Precinct 5 does not require a boulevard treatment for traffic reasons.

(iv) Conclusion

The Panel concludes:

- There is no evidence that the proposed development of Precinct 5 will result in unacceptable traffic congestion.

7.3 Geelong-Ballan Road and Old Melbourne Road intersection

(i) The issues

The issues are:

- whether the interim design for the upgrade of IN-01 proposed in the Traffic Engineering Assessment (with dedicated turn lanes) is appropriate
- whether the intersection should be upgraded straight to the proposed ultimate treatment (a roundabout)
- whether the Proponent should be responsible for interim and/or ultimate upgrades
- when upgrades should be triggered.

(ii) Evidence and submissions

The experts attended a joint expert meeting on 11 July 2025 which was also attended by DTP Transport as observers. The Joint Expert Statement (D58) outlined the following key points of agreement:

- IN-01 does not need to be upgraded for capacity reasons, but it should be upgraded to address safety concerns
- there may be benefits in upgrading the intersection straight to its ultimate design (roundabout) rather than the interim design
- some development should be allowed in Precinct 5 before IN-01 is required to be upgraded

- triggers for the interim and ultimate upgrades to IN-01 need to be agreed
- the ultimate roundabout treatment to IN-01 is not developer works, and the Proponent should not be required to fully fund the ultimate upgrade.

There was only one point of departure in their views, which related to whether the interim design in the Traffic Engineering Assessment would result in a lower level of service compared to the intersection's current configuration (Ms Garretty thought it would, whereas Mr Woolcock did not).

Another matter considered by the experts (but not addressed at the joint expert meeting) was whether the ultimate configuration (roundabout) would require land acquisition. Ms Garretty considered some land might be required, whereas Mr Woolcock thought it might be possible to fit the roundabout within the existing road reserves.

The Proponent submitted that because IN-01 will continue to operate at a satisfactory capacity level in both its existing and interim configurations in the short to medium term:

... the best option is for the Proponent to contribute towards the ultimate intersection, with a condition requiring a further traffic assessment prior to a statement of compliance for a stage including something like the 750th or 800th lot.

Early feedback from DTP Transport on the Amendment (D10 and D19) indicated:

- it supported the interim upgrade
- the timing of the ultimate upgrade to IN-01 (the roundabout) will be difficult to determine
- the interim and ultimate upgrades are to be at no cost to DTP Transport, and Council should explore a future contribution towards the ultimate upgrade with the Proponent.

DTP Transport's submission to the Panel (D66) considered IN-01 in detail. DTP Transport confirmed its view that the interim upgrade to IN-01 proposed in the Traffic Engineering Assessment "*provides an acceptable level of safety*". It requested a staging plan to clearly identify the timing of the interim treatment and confirm the trigger for the ultimate configuration. It maintained its position that any upgrades to IN-01 should be at no cost to DTP Transport, and submitted there are "*significant risks*" to collecting a financial contribution for a future upgrade of the intersection without a staging plan. It submitted the draft Shared Infrastructure Funding Plan should:

- fund the interim upgrade to IN-01
- not commit DTP Transport to delivering the ultimate upgrade
- set aside land required for the ultimate upgrade.

Council submitted it is unclear when the interim solution is likely to be required and in what form. It noted the intersection at the access point in Geelong-Ballan Road is expected to take some of the pressure off IN-01 and the potential contribution of this intersection has not yet been modelled. Council submitted the proposed section 173 agreement is therefore the appropriate approach to identify and secure the IN-01 upgrade. Council further submitted:

- it is not appropriate to foreclose on DTP funding of the ultimate intersection (but equally not possible to require it at this time)
- all options (interim or direct to ultimate with a contribution) should be on the table at the time of the preparation of the development plan and the section 173 agreement.

(iii) Discussion

There are many uncertainties around IN-01, including how long it is likely to perform at an acceptable level in its current configuration, when an upgrade might be required, whether the interim configuration will reduce the capacity of the intersection, when the ultimate upgrade will be delivered and how it will be funded. There is a high degree of uncertainty around land requirements for the ultimate upgrade, given only very preliminary concept designs of the roundabout are available.

The Panel agrees a section 173 agreement is the best approach to manage these uncertainties. Both the interim and ultimate upgrade options should be kept on the table at this stage.

In this context the section 173 agreement:

- should identify a trigger point at which further investigations are required into whether the intersection needs to be upgraded, and in what form
- should include a mechanism for determining an appropriate contribution from the Proponent toward the upgrades (whether they are interim or ultimate)
- should not preclude the possibility of some state funding for the ultimate upgrade given both Geelong-Ballan Road and Old Melbourne Road are managed by the state.

The Panel is satisfied that the drafting of the section 173 agreement requirement in Council's final preferred version of the DPO9 generally addresses what the section 173 agreement needs to cover. A staging plan for the intersection upgrades may be of assistance, and the section 173 agreement could deal with this if required.

The Panel makes no findings or conclusions in relation to how the draft Shared Infrastructure Funding Plan should deal with funding and land requirements for transport infrastructure. As already noted in Chapter 5.6, the plan is not part of the Amendment, and is not referenced in the DPO9.

(iv) Conclusions

The Panel concludes:

- Given the uncertainties associated with upgrades to the Geelong-Ballan Road and Old Melbourne Road intersection, the requirement in the DPO9 for a section 173 agreement dealing with the upgrades is the appropriate approach.
- The drafting of the section 173 agreement provision in Council's final preferred version of the DPO9 is generally appropriate, subject to some minor drafting changes to provide additional clarity.

7.4 Active transport**(i) The issues**

The issues are whether the Amendment should contemplate:

- a future pedestrian and cycling bridge across the Werribee River
- a shared path along the disused aqueduct.

(ii) Background

The exhibited DPO9 did not specifically require a shared path crossing of the Werribee River. Council's Day 1 version included requirements for the Integrated Transport Management Plan and

the Biodiversity Management Plan to identify at least one pedestrian/cyclist crossing near the proposed active open space reserve:

- based on a comprehensive biodiversity assessment demonstrating that the biodiversity values of the river corridor will not be impacted
- subject to approval from DEECA and Melbourne Water.

(iii) Evidence and submissions

Several submitters said pedestrian and cycling paths need to be provided to connect Precinct 5 to key destinations such as the town centre, railway station and schools, and to provide access along the Werribee River corridor.

Mr Woolcock's evidence was that active transport is proposed in order to ensure safe and convenient walking and cycling options are available for existing and future users including:

- footpaths on both sides of all internal roads
- shared (pedestrian and cyclist) paths along the Precinct's frontages with Geelong-Ballan Road and Old Melbourne Road
- a designated two-way off-road bicycle path along one side of the internal connector street
- shared paths along key internal local streets providing connection with the public open space network
- paths within the Werribee River corridor reserve
- a path connection between Precinct 5 and the existing path network within the Ballan Town Centre, immediately east of Bradshaw Street.

He noted 'potential' township connections are also identified along Old Melbourne Road and across the Werribee River. Mr Woolcock considered details of required active transport provisions could be addressed and assessed by Council as part of the development plan and future permit applications.

Bridge

Council submitted it was seeking to implement a shared path crossing of the Werribee River which would provide for improved active transport options and connections to the existing township. It proposed the Proponent would contribute to the funding of the crossing. . It submitted it had been working with Melbourne Water since exhibition of the Amendment to identify potential locations for a crossing. Any crossing point would need to be in a relatively narrow section of the river.

Melbourne Water generally supported the provision of a river crossing, but had no firm position on the location of the crossing other than avoiding or minimising impact to environmental and cultural heritage values.

The Proponent acknowledged that a potential pedestrian pathway link across the river was shown in one of the concept drawings provided in support of the Amendment, but it opposed any requirement in the DPO9 for such a crossing. It submitted:

- in prior discussions with Melbourne Water and DEECA it was concluded that a bridge would not be possible due to environmental impacts on the river environs
- there had been no discussion between Council and the Proponent on the funding or cost of such a bridge

- the bridge would require substantial earthworks, vegetation removal, footings and disturbance to the river environs
- given the importance of the river environs from a cultural heritage and ecological perspective, it seemed unusual that Melbourne Water and Council would push for a bridge.

The Proponent further submitted the strategic basis of the bridge is unclear given it does not connect to any obvious destination on the other side of the river, and the usual approach is for a linear pathway along the river with crossings at the road bridges. It submitted that there is no proper basis for requiring the bridge as community infrastructure, as it does not satisfy the 'basic and essential' test that would apply if a development contributions plan were to be applied.

Neither of the traffic experts considered the bridge in their evidence.

Mr Barnes' written evidence noted that the background material had included an indicative river crossing. While it was not included in the exhibited DPO9 he considered a crossing:

... would provide good opportunities for enhanced connections to existing services and surrounding neighbourhoods in the future, if feasible to establish from an ecological and a financial perspective.

He was more qualified in his oral evidence, stating there may be some benefit in a bridge, but only if it proves to be practical and feasible. He noted the link was not shown on any plans in the strategic documents, and there are significant ecological constraints that need to be carefully considered. He considered a low level pathway crossing that could be done cheaply may be appropriate, although these can be unsafe. He considered that if the bridge had to be constructed above the 1 in 100 year flood level, it may not be appropriate, and if it was to be pursued it needs to be the subject of shared funding.

MEG and BMPA did not support a river crossing and submitted the "*notion that the crossing will connect residents to the east is fanciful*".

A shared path along the aqueduct

MEG and BMPA submitted the existing pathway along the disused aqueduct provides an opportunity to create a linear conservation area for public use, with a shared path. Further::

- there were significant heritage and conservation values along the aqueduct, including the EPBC Act listed Matted Flax-lily, which justify the area being protected and repurposed as a linear conservation reserve with a shared path
- both the Precinct 5 Concept Plan from the Ballan Strategic Directions and the Ballan Framework Plan show a shared path in this location
- a shared path in this location would be safer than along Geelong-Ballan Road, which is an arterial road with a posted speed limit of 80 kilometres per hour
- the area along the aqueduct is currently in public ownership, making its conversion to a public zone more practical.

(iv) Discussion

The Panel is satisfied the active transport network shown on the Development Concept Plan is generally appropriate. It provides multiple options for connecting into the town centre from Geelong-Ballan Road, Old Melbourne Road and internally within the Precinct. The shared path along the river corridor will provide activation along the river corridor interface, and a pleasant and

attractive option for active transport movements through the Precinct and towards the town centre.

The Panel does not consider the bridge is strategically justified. It is not shown on any of the plans in the strategic documents, and does not appear to connect to any obvious destinations on the eastern side of the river. The environmental and cultural heritage values of the river corridor present potentially significant challenges (including costs) for the construction of the bridge, and insufficient work has been done to demonstrate the strategic justification for the bridge or its feasibility. Specific references to a requirement for the crossing should be removed from the DPO9.

There may be some merit in showing a potential shared path along the aqueduct alignment (or along the key local street that follows that alignment), if the further ecological surveys required to inform the Biodiversity Management Plan and the EPBC Act assessment demonstrate significant ecological values are present along the corridor that should be protected. However:

- the Ballan Framework Plan showed the path positioned at the interface between the deeper extent of lower-density lots and standard-density lots, whereas a link in this location would now cut through standard density lots
- this could potentially cause land configuration issues and master planning challenges
- at this stage the extent of biodiversity values within the aqueduct corridor remains unknown.

Given these uncertainties, it would not be appropriate to show an indicative link in this location at this stage. The option could, however, be further explored through the preparation of the development plan.

(v) Conclusions and recommendations

The Panel concludes:

- The active transport network shown on the Development Concept Plan is appropriate.
- The shared path river crossing has not been strategically justified and requirements to include it should be removed from the DPO9.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the Biodiversity Management Plan requirements in Clause 4.0 to:**
 - **remove the requirements relating to a shared path waterway crossing.**
- b) **Amend the Integrated Transport Management Plan requirements in Clause 4.0 to:**
 - **remove the requirements relating to a shared path waterway crossing.**

7.5 Car parking

(i) The issue

The issue is whether Amendment appropriately considers car parking impacts in Ballan.

(ii) Evidence and submissions

Submitters raised concerns in relation to car parking, including:

- parking at Ballan railway station is currently nearing capacity on weekdays, and parking capacity needs to be increased given Precinct 5 is not within walking distance to the station
- new streets within the Precinct need to be wide enough to allow for on-street parking and emergency vehicle access.

Mr Woolcock responded to these submissions, noting the Traffic Engineering Assessment recommended future road cross-sections that accommodate on-street parking consistent with good current practice including:

- formal parking lanes/bays clear of traffic lanes on both sides of the connector street and higher order access streets
- informal on-street parking on both sides of lower order access streets.

His evidence was that the proposed on-street parking is consistent with CFA requirements and will be appropriate to accommodate service vehicles and other emergency vehicles.

Mr Woolcock noted that a Car Parking Study undertaken by Council in 2022 suggests that parking within the township and around the station is currently underutilised and that:

- Ballan is not expected to experience a shortfall in parking availability before 2036
- there is predicted to be significant on-street capacity of at least 195 spaces in the vicinity of the station in 2041, so additional parking is likely not required
- on any given day someone can experience what they consider to be a lack of parking, even if there are plenty of parking spaces available more distant from their destination.

Mr Woolcock was satisfied on the basis of the Car Parking Study that there is no reason to suggest that the future development of Precinct 5 will result in unreasonable detriment to car parking.

Further:

I believe that it should be the responsibility of relevant authorities to ensure that sufficient parking is available within key existing areas to facilitate the urban growth that is projected for Ballan and that the same should be identified in the previously mentioned 'Ballan Integrated Transport Strategy' that is currently being undertaken by Council.

(iii) Discussion

There is nothing before the Panel to suggest that the Amendment will result in unacceptable impacts on parking in Precinct 5 or in Ballan more broadly. The Panel is satisfied on the basis of Mr Woolcock's evidence that the Amendment is appropriate from a parking perspective.

(iv) Conclusion

The Panel concludes:

- The Amendment will not result in unacceptable impacts on carparking in Ballan.

8 Other issues

8.1 Aboriginal cultural heritage

(i) The issue

The issue is whether the proposed controls provide sufficient flexibility to allow drainage assets (or other features) to be relocated if needed to avoid or minimise Aboriginal cultural heritage impacts.

(ii) Background

The Proponent has prepared a draft Cultural Heritage Management Plan (CHMP) which details how Aboriginal cultural heritage on Precinct 5 will be managed. The CHMP identified the escarpment as the area of highest archaeological potential. The wetland retarding basins and the active open space reserve are proposed to be located on the escarpment.

Melbourne Water's submission (D70) presented a helpful map overlaying the areas of known and suspected cultural heritage (the red dots and areas outlined in green in Figure 5) with the proposed locations of the DSS assets (shown in khaki) and the wetland retarding basins in the SWMS (shown in pink/purple).

- identify the area within 200 metres from the river as a Cultural Values Investigation Area, to align with the heritage prediction model in the work supporting the draft CHMP
- relocate the drainage assets out of the Cultural Values Investigation Area
- add a note indicating the assets could be moved into the Cultural Values Investigation Area at the developer's option if this was acceptable from a cultural heritage perspective.

This approach is similar to that taken in the Officer South Precinct Structure Plan and the related implementing amendment.

Melbourne Water emphasised that salvage costs associated with constructing drainage assets in areas containing artefact scatters could be very substantial. The DSS made no allowance for salvage costs, and if the developer opted to move the drainage assets into the Cultural Values Investigation Area it would have to meet any salvage costs. It submitted the DPO9 should require a section 173 agreement recording that the developer will be responsible for salvage costs.

At the Hearing the Panel expressed concern about whether sufficient work had been done to establish that the drainage assets could be relocated outside the river setback and still perform the necessary drainage function. Mr Wilkinson was relatively confident this could happen, subject to detailed design.

The Proponent explained the draft CHMP was undertaken to reduce any risks and ensure that areas of cultural heritage are appropriately identified and can be managed appropriately. It tabled a letter from the Wadawurrung Traditional Owners Aboriginal Corporation (WTOAC) (D67) which indicated the WTOAC:

- has not identified any concerns with the proposed development
- was aware of and consents to works occurring within the river setback subject to salvage of artefacts.

The Proponent submitted ongoing consultation with the WTOAC would focus on details of the conditions rather than substantive changes or decision about the layout or viability of the proposed development. It submitted the final drainage design will respond to the outcome of the CHMP (as well as any ecological constraints that emerge from the final flora and fauna studies).

Ms Nicolson of Ecology and Heritage Partners gave cultural heritage evidence for the Proponent. She outlined the cultural heritage investigation work undertaken to date and indicated it was relatively advanced for this stage of a development process (noting that a CHMP is not required before planning scheme amendments are approved). She did not consider there is a need at this stage to amend the Development Concept Plan or the SWMS on cultural heritage grounds, although flexibility is needed to allow the drainage assets to be relocated (if required) once the CHMP is completed. She stated:

Melbourne Water did note that written acceptance of the current SWMS report by the Registered Aboriginal Party (RAP) would be acceptable. Even if the RAP were to do this, the CHMP is the appropriate mechanism to ensure harm to known Aboriginal Heritage Places is avoided or minimised and is the most thorough way to assess high impacts.

Mr Wilkinson said he understood the WTOAC supported disturbance of the artefact areas provided salvage works occurred. Further, Spiire has proposed an alternative water quality treatment system of raingardens and rainwater tanks in place of wetland retarding basins "*which would significantly reduce the extent of disturbance to identified artefact areas*". An option analysis report for these alternatives would be appended to the next version of the SWMS.

Melbourne Water indicated it would not support rainwater tanks. It submitted that while they are a useful tool, they are not a treatment strategy and are on private land and therefore unable to be regulated as part of the DSS. Melbourne Water requires nature-based solutions for water treatment to meet best practice environmental management requirements reflected in current Melbourne Water guidelines. While it had undertaken a cursory review of the Spiire alternative options, it noted it had limited information and short timeframes, and no modelling had been provided. It further noted the alternative options do not address retardation requirements.

Council submitted it is critical, as a matter of orderly planning, that as more information is known about the cultural values of Precinct 5, the planning controls provide sufficient flexibility to adapt if assets need to be relocated. It noted other examples where flexibility has been written into the controls to ensure the deliverability of drainage assets, including Officer South. It submitted:

Council considers that an appropriate resolution in this matter could be achieved by providing a note on Map 1 or elsewhere within the DPO schedule that makes it clear that the location of drainage, active open space and development may need to change to accommodate Aboriginal cultural heritage considerations.

Council did not support Melbourne Water's proposal to locate the drainage assets outside the river setback with the possibility of relocating them back if supported by the approved CHMP. It considered this was unnecessary given the work done to date on cultural heritage and the letter from the WTOAC. It submitted:

There is enough information to give the requisite confidence that the assets will be where they presently are and if the drainage assets (or the active open space) need to be relocated then in the absence of a [development or infrastructure contributions plan] this will not upset land use budgets.

In its reply submission (D103) Melbourne Water confirmed its position that the drainage assets should be relocated outside the Cultural Heritage Investigation Area, and that the following note should be added to the Development Concept Plan:

Stormwater assets and interface treatment may be relocated to within the Cultural Heritage Investigation Area subject to Cultural Heritage Management Plan(s). Assets must not be diminished in their function (ie stormwater treatment/retardation, community facilities).

(iv) Discussion

Dealing with the compatibility of Aboriginal cultural heritage and drainage assets in a growth area context is not a novel concept. The approach does, however, depend on the context. The approach taken in metropolitan Precinct Structure Plans (including the examples of Officer South and Croskell presented by the parties) is not necessarily appropriate for Precinct 5.

The Proponent has already undertaken a substantial amount of investigation work on Precinct 5 in consultation with the WTOAC. Investigations suggest a high likelihood of cultural heritage being present, including potentially dense artefact scatters. Notwithstanding, the Panel does not support the identification of a 200 metre Cultural Heritage Investigation Area as proposed by Melbourne Water. This was not supported by either the WTOAC or Ms Nicholson, is not contemplated in the draft CHMP, and could potentially have significant impacts on the design and layout of the proposed development as shown on the exhibited Development Concept Plan.

The WTOAC has indicated in principle support for the drainage assets (and active open space reserve) to be located on the top of the escarpment as shown in the exhibited Development Concept Plan, provided salvage works are undertaken. Further, in the Panel's view it would not be appropriate to show the drainage assets in an alternative location in the absence of work

demonstrating a suitable alternative location that would ensure the drainage assets perform the required drainage and stormwater treatment functions.

Finally, Precinct Structure Plans (including Officer South) have detailed land budgets which inform the calculation of development or infrastructure contributions and public land contributions provided for in a development or infrastructure contributions plan accompanying the Precinct Structure Plan. In that context, having to relocate drainage assets into developable land presents significant complications that do not apply here.

The Panel considers the approach recommended by Council (and generally supported by the Proponent) is the appropriate approach. The drainage assets should be retained in the exhibited location, and a note should be added to the DPO9 to ensure sufficient flexibility to relocate the drainage assets if required to avoid or minimise cultural heritage impacts, while still being 'generally in accordance with' the Development Concept Plan in Map 1 of the DPO9. The note proposed in Clause 4.0 in Council's final preferred version of the DPO9 achieves this, and would benefit from specific reference to cultural heritage considerations.

The Panel understands the concerns of Melbourne Water in relation to salvage costs if large scale salvage works are required to accommodate the drainage assets in the currently proposed location. However the planning controls are not the right mechanism to deal with salvage costs. Salvage requirements will be detailed in the CHMP. The Proponent has undertaken to meet salvage costs.³ Melbourne Water will be a referral authority for any permit applications for Precinct 5, and could seek a permit condition requiring salvage costs to be met by the Proponent if necessary.

(v) Conclusions

The Panel concludes:

- There is no justification for showing a 200 metre Cultural Heritage Investigation Area on the Development Concept Plan.
- There is no justification for relocating the proposed drainage assets outside the river setback.
- With minor drafting changes, the Panel supports Council's addition to Clause 4.0 in the DPO9 and considers it provides flexibility to relocate or resize the drainage assets (and other features) if needed to avoid or minimise cultural heritage impacts.

The Panel's recommended version of the SPO9 in Appendix C relocates the note to just above Map 1 rather than in Clause 4.0.

8.2 Post-contact heritage

(i) The issue

The issue is whether the Amendment appropriately considers and integrates post-contact heritage.

³ Refer to the Proponent's closing submission (D99) and its response to Melbourne Water's reply (D104)

(ii) Background

The site of the former Ballan Homestead is located in the vicinity of the proposed community facility. The site is listed on the Victorian Heritage Inventory (Heritage Inventory H7722-0059) and is associated with Robert Steiglitz' early days in Ballan. The Statement of Significant describes the site as having high local significance due to its relatively undisturbed condition, which may contain significant deposits of cultural material and structural remains related to early European settlement in the Ballan area.

DPO9 requires preparation of a Heritage and Archaeological Assessment comprising an historical archaeological survey, an interpretation of the site, recommendations for retention of heritage elements including trees and recommendation for meaningful interpretation of heritage elements.

(iii) Submissions

Council referred the Amendment to Heritage Victoria, which did not object to the Amendment. Its submission explained that the *Heritage Act 2017* gives blanket protection to all historical archaeological sites, and noted that both the Victorian Heritage Inventory site and the broader area have the potential to contain unidentified historical archaeological sites. Heritage Victoria:

- noted it is likely a program of archaeological investigations will be required if works are planned within the area of the registered site
- recommended that a historical archaeological survey be conducted by a qualified historical archaeologist to identify any currently unrecorded sites.

The Proponent submitted:

... from a post contact heritage perspective, a high-level report has been prepared acknowledging the former location of the homestead and the commitment from the Proponent to install an interpretative/wayfinding signage along the Werribee River that designates the location of the homestead.

Mr Barnes acknowledged the presence of the heritage place, and noted that no planning permit would be required for works as a Heritage Overlay does not apply. He noted there may potential implications related to archaeological investigations or monitoring as outlined by Heritage Victoria.

Some submitters were not satisfied the Amendment appropriately responded to the heritage values on the subject land. Mr Kowarsky submitted the proposal "*apparently ignores the presence of two magnificent oak trees, some fruit trees, a stone underground cistern and other evidence of human activity associated with early European settlement*". Ms Robinson noted the active open space reserve overlaps the former Ballan Homestead site.

(iv) Discussion

The Panel considers the Amendment appropriately plans for the protection and integration of post-contact heritage. Heritage Victoria's submission provides guidance on managing the archaeological site. The Heritage and Archaeological Assessment required under the DPO9 will encompass survey work (as requested by Heritage Victoria), assessment of the site and recommendations for retention and interpretation. Any works will require Heritage Victoria consent under the *Heritage Act 2017*.

Retention of heritage elements and interpretive representation is a positive outcome that will allow community appreciation of the heritage values, particularly on the community facility site. In relation to the potential historic trees identified by Mr Kowarsky, the Heritage and Archaeological

Assessment required under the DPO9 requires an assessment of non-indigenous trees and recommendations for retention. The DPO9 also requires an arboricultural assessment that identifies trees to be retained based on tree health, biodiversity and ecological values or landscape values.

(v) Conclusion

The Panel concludes:

- The Amendment responds appropriately to post-contact heritage values on Precinct 5.

8.3 Social and affordable housing

(i) The issue

The issue is whether the Amendment appropriately plans for the provision of social and affordable housing.

(ii) Background

The objectives of the DPO9 include to facilitate housing diversity and opportunities for delivery of social and affordable housing. The exhibited DPO9 requires an Affordable and Social Housing Assessment that includes:

- an assessment of the future demand for affordable and social housing in Precinct 5, proportionate to the demand for such housing in the existing township
- recommendations for facilitating appropriate provision of affordable and social housing, such as:
 - quantifying land area requirements
 - identification of potential locations
 - mechanisms for implementation, such as a section 173 agreement or a restriction on the title.

The exhibited DPO9 included a mandatory permit condition requiring a section 173 agreement or a restriction on the title to ensure that development and use of land is for affordable or social housing in accordance with the Affordable and Social Housing Assessment.

A condition of Amendment authorisation required Council to review the Affordable and Social Housing Assessment requirements, and to consider whether:

- they would lead to the effective delivery of social and affordable housing
- the reasonableness of requiring an assessment that covers the whole of Ballan.

(iii) Submissions

The Proponent submitted that peri urban areas such as Ballan provide a good opportunity to deliver affordable housing, particularly through smaller lots. It submitted there is no legislative framework supporting mandatory social and affordable housing contributions, and drafting changes were required to the DPO9 to clarify that:

- the obligation is to deliver an assessment, not to deliver social and affordable housing
- any contribution of affordable housing would be voluntary (and subject to a housing provider being willing to deliver it).

Ballan South submitted there should be no reference to the provision of affordable and social housing in the DPO9:

... Being a voluntary matter, it is really up to the individual developer to consider whether it wants to make provision for affordable and social housing and if so, what that provision will be and the delivery mechanism ...

Ballan South submitted:

- any provision that is included should make it clear that a contribution is voluntary
- a requirement for an affordable housing assessment should only arise where the developer voluntarily proposes to make a contribution
- the current language regarding the assessment is vague and overly broad.

(iv) Discussion

Council's final preferred version of the DPO9 incorporated a number of changes to the social and affordable housing provisions that reflect the voluntary nature of social and affordable housing contributions. The Panel considers the revised provisions are generally appropriate subject to:

- some further refinement to improve the clarity of the provisions requiring an Affordable and Social Housing Assessment in Clause 4.0
- deleting the mandatory permit condition for a section 173 agreement relating to 'any' social and affordable housing provision from Clause 3.0.

On the latter point, even though the requirement is now qualified by 'any', it remains inappropriate as a mandatory permit condition, and to the extent that any contribution is proposed, the Affordable and Social Housing Assessment requirements in Clause 4.0 address mechanisms to secure the contribution. A separate mandatory permit condition is neither appropriate nor necessary.

(v) Conclusions and recommendation

The Panel concludes:

- The social and affordable housing provisions in Council's final preferred version of the DPO9 appropriately reflect the voluntary nature of social and affordable housing contributions, apart from the mandatory permit condition.
- Some further refinements are required to the provisions relating to an Affordable and Social Housing Assessment to improve clarity.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- Amend the conditions and requirements for permits in Clause 3.0 to:**
 - **delete the condition requiring a section 173 agreement or restriction on title to secure any social and affordable housing contribution.**

8.4 Noise impacts

(i) The issue

The issue is whether the Amendment appropriately plans for noise impact mitigation.

(ii) Background

The Western Freeway borders the northern edge of the Precinct. The existing DDO3 aims to minimise the adverse effect of traffic noise on sensitive uses by setting permit requirements and specific noise level standards for land within 50 metres of the Freeway reserve.

The Amendment

Before the Amendment was exhibited, consultation took place with both DTP Transport and the Environment Protection Authority (EPA):

- DTP Transport (D19) encouraged future development to achieve acoustic performance beyond the minimum requirements, aiming for durable long-term outcomes. DTP Transport did not support the removal of the DDO3 from the land.
- The EPA (D7 and D8) observed that the DDO3 noise mitigation requirements are no longer suitable for land rezoned for residential use as the related noise levels are too high. However, EPA accepted the DDO3 noise levels would continue to apply, and recommended lowering the noise levels to suit residential contexts on other land.

The DPO9:

- requires the development plan to include an Acoustic Design Response Report that prioritises measures that benefit both outdoor and indoor areas of sensitive uses
- applies separate noise standards to those in the DDO3, one for land within 50 metres of the Freeway reserve and another for land beyond this distance
- specifies internal noise level criteria, which vary for habitable and non-habitable rooms, as well as for daytime and nighttime periods
- requires a section 173 agreement or title restriction mandating that future developments are designed and constructed with suitable noise attenuation measures.

Background technical reports

A Noise Impact Assessment supported the Amendment and modelled the impacts from the Western Freeway. It deemed the VicRoads noise criteria⁴ were appropriate to apply to the Precinct for external noise and were comparable to the noise levels stipulated in the DDO3. The assessment concluded that compliance with the criteria is achievable through installation of noise barriers (walls or bunds).

Australian standards⁵ were applied to internal noise and the assessment concluded façade treatments to affected dwellings may be required to achieve compliance with the noise standards. The assessment noted detailed assessment and further refinement of designs will be required during subsequent project stages.

(iii) Submissions

Council submitted the DPO9 framework for consideration of noise impacts from the Western Freeway is consistent with the advice from the EPA and DTP Transport. It submitted it is appropriate to not specify the form of treatment required along the northern boundary, as more than one option exists (bund or noise wall). The DPO9 provides guidance at the development plan and permit stage on noise mitigation, which Council submitted was a logical approach.

⁴ VicRoads' *Requirements of Developers – Noise Sensitive Uses*

⁵ Australian Standard 2107-2016 *Acoustics – Recommended design sound levels and reverberation times for building interiors*

In response to questions from the Panel, Council clarified that noise mitigation measures will be funded and delivered by the Proponent or end developer. It expected delivery of precinct-scale measures to occur at the subdivision stage and lot-scale measures at the building construction stage. This reinforced the appropriateness of a section 173 agreement to ensure requirements run with the title on relevant lots.

The Proponent explained the Acoustic Design Response Report supporting the Amendment had been updated in response to feedback from both Council and the EPA. It submitted any acoustic impacts can be effectively mitigated by installing noise walls or landscape bunds during later stages of development, which will occur through consultation with Council and DTP Transport.

Mr Barnes was of the opinion the DDO3 could be removed as the DPO9 provides a more contemporary and tailored approach for noise mitigation for residential development. This is not proposed as part of the Amendment.

(iv) Discussion

Based on the advice of the EPA and DTP Transport, the Panel accepts that noise impacts can be adequately managed and that the DPO9 provides an appropriate framework to assess and mitigate noise impacts.

The noise levels specified in the DPO9 accord with the EPA's recommendations and no submissions or evidence were presented (including from agencies) advocating for an alternative treatment or stricter requirements.

The DPO9 provides a tailored and considered approach to noise impacts, providing two key mitigations – a noise barrier and façade designs. The Head, Transport for Victoria will remain a determining referral authority under the DDO3 to maintain oversight of noise mitigation and ensure accurate traffic volume data is adopted in any noise modelling. These provisions can guide the consideration of noise impacts to both dwellings and outdoor areas as appropriate.

The Panel accepts it is appropriate that the costs of delivering the noise mitigation measures should be borne by developers or future home builders, as appropriate. The Panel supports a minor change to the DPO9 provisions to reflect this.

The DDO3 should remain on the land until the relevant agencies and the planning authority endorse otherwise.

(v) Conclusions and recommendation

The Panel concludes:

- The Amendment appropriately plans for noise impact mitigation.
- The DPO9 should specify that the cost of noise mitigation measures should be borne by developers or future home builders as appropriate.

The Panel recommends:

Amend the Development Plan Overlay Schedule 9 as shown in Appendix C:

- a) **Amend the Acoustic Design Response Plan requirements in Clause 4.0 to:**
 - **make it clear that either the developer or future home builders, as appropriate, will bear the costs of mitigation measures.**

9 Drafting

As noted in Chapter 1.3, the Panel was presented with many versions of the DPO9. It has considered all those versions in preparing its recommended version in Appendix C, along with submissions to the effect that the exhibited DPO9 was overly complex, unnecessarily repetitive of other provisions in the Planning Scheme, and required simplification to focus on site-specific guidance.

Ballan South provided examples of other DPO schedules in the Planning Scheme to demonstrate the relative complexity of the DPO9. These were not overly helpful to the Panel, as they (and the DPO9) were drafted in response to particular circumstances including the site constraints of the relevant land, and the development outcomes sought to be achieved. These varied significantly to Precinct 5, and did not compare 'apples with apples'.

In preparing its preferred version, the Panel has recommended changes to address drafting issues, primarily to improve clarity and consistency and remove requirements that are unreasonable or impractical for the developer(s) of Precinct 5 to meet. These changes, marked up in Appendix C, are self-explanatory and do not require commentary from the Panel.

Ms Robinson's preferred version of the DPO9 and her accompanying email (D109) included an extensive number of changes that were substantive in nature (not limited to drafting as directed by the Panel), and that had not been previously raised and explained in her submission. Ms Robinson has not provided any strategic justification for the changes. Further, putting these changes so late in the process raises procedural fairness concerns. Accordingly the Panel does not support any of Ms Robinson's changes.

Where the Panel has moved text, it has not shown this as a change. Only text changes are shown in track changes. Minor drafting changes such as capitalisations and punctuation have not been tracked.

Appendix A Parties to the Panel Hearing

Submitter	Represented by
Moorabool Shire Council	Greg Tobin and Aaron Shrimpton of Harwood Andrews, who called expert evidence on: <ul style="list-style-type: none"> - Traffic from Jo Garretty of Salt3
Whiteman Property & Associates / OMRB Developments	Mark Bartley of Russell Kennedy, who called expert evidence on: <ul style="list-style-type: none"> - Aboriginal cultural heritage from Oona Nicholson of Ecology and Heritage Partners - Ecology from Steve Mueck of Steve Mueck Biodiversity Pty Ltd - Drainage and hydrology from Kerry Wilkinson of Spiire - Planning from David Barnes of Hansen Partnership - Social and community infrastructure from Robert Panozzo of ASR Research - Traffic from Nathan Woolcock of Traffix Group
Department of Transport and Planning (Transport)	Jozef Vass
Central Highlands Water	Steven Healy and Stephen Carter
Melbourne Water	Louise Hicks of counsel
Bacchus Marsh Platypus Alliance	David Bergin of Eighth Street Planning
Ballan Dev Co Pty Ltd	Briana Eastaugh of Maddocks, who called expert evidence on: <ul style="list-style-type: none"> - Planning from Jason Black of Insight Planning
Ballan South Pty Ltd	John Cicero of Best Hooper
Moorabool Environment Group	David Bergin of Eighth Street Planning
Danielle Anzai	
Concetta McFall	
Jennie Tabone	
John Kowarsky	
Renee Robinson	

Appendix B Document list

No	Date	Description	Presented by
2025			
1	15 May	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	29 May	Further written submission	Department of Environment, Energy and Climate Adaptation (DEECA)
3	6 June	Ballan Strategic Directions (June 2018)	Moorabool Shire Council (Council)
4	6 June	List of agencies consulted	Council
5	10 June	Panel Directions and Hearing Timetable (v1)	PPV
6	12 June	Submitter maps (provided to the Panel only): a) Map 1 (wider area) b) Map 2 (Ballan town centre)	Council
[CONFIDENTIAL]			
7	12 June	Environment Protection Authority Victoria MD19 response (1 December 2023)	Council
8	12 June	Environment Protection Authority Victoria email regarding MD19 response (10 February 2025)	Council
9	12 June	APA Group response (24 November 2022)	Council
10	12 June	Barwon Water response (20 October 2022)	Council
11	12 June	Country Fire Authority response (29 November 2022)	Council
12	12 June	Central Highlands Water response (17 November 2022)	Council
13	12 June	Central Highlands Water letter (22 September 2023)	Council
14	12 June	Corangamite Catchment Management Authority response (9 December 2022)	Council
15	12 June	DEECA Earth Resources Regulation response (16 January 2023)	Council
16	12 June	DEECA Planning and Approvals response (5 April 2023)	Council
17	12 June	DELWP Regional Planning Services (Grampians) response (30 November 2022), with: a) Covering email (1 December 2022)	Council
18	12 June	DTP Transport response (10 November 2022), with covering email	Council

No	Date	Description	Presented by
19	12 June	Department of Transport and Planning (Transport) further response (3 October 2023)	Council
20	12 June	Environment Protection Authority Victoria response - Part A (11 November 2022)	Council
21	12 June	Environment Protection Authority Victoria response - Part B (9 January 2023)	Council
22	12 June	Heritage Victoria response (2 December 2022)	Council
23	12 June	Melbourne Water response (26 April 2023)	Council
24	12 June	Melbourne Water response to additional information (6 November 2023)	Council
25	12 June	Melbourne Water response to Stormwater Management Strategy (25 June 2024)	Council
26	12 June	Site inspection location requests and documents provided	Whiteman Property & Associates / OMRB Developments (Proponent)
27	12 June	Viewshed Analysis - The Cedars Landscape Vision (Spiire, September 2022)	Proponent
28	12 June	Viewshed Analysis - The Cedars Ballan, Landscape Section (Spiire, 6 June 2023)	Proponent
29	12 June	Viewshed Analysis - The Cedars Ballan, Landscape Section (Spiire, 23 June 2023)	Proponent
30	12 June	Viewshed Analysis - Existing & Proposed Vegetation Management Plan (Spiire, 5 December 2023)	Proponent
31	12 June	Viewshed Analysis - Existing & Proposed Vegetation Management Plan (Spiire, 15 December 2023)	Proponent
32	12 June	Cultural Heritage Management Plan (Unearthed Heritage, 2 September 2022)	Proponent
33	12 June	Infrastructure Servicing Report, The Cedars, Old Melbourne Road, Ballan (Spiire, 29 June 2023)	Proponent
34	12 June	The Cedars Vision - Landscape Sections Map (Spiire)	Proponent
35	12 June	Precinct 5 Ballan Framework Plan Review of Community Facilities and Education Needs (ASR Research, 30 June 2023)	Proponent
36	12 June	Apportioning Community Infrastructure Costs for the Precinct 5 Development Plan, Explanatory Report v2 (ASR Research, 30 June 2023)	Proponent
37	12 June	Biodiversity Land Management Plan (Nature Advisory, June 2023)	Proponent

No	Date	Description	Presented by
38	12 June	Response to Council and EPA feedback (Marshall Day, 15 June 2023)	Proponent
39	12 June	Panels Directions regarding site inspection	PPV
40	n/a	<i>Not used</i>	<i>n/a</i>
41	18 June	Background and Context Submission	Proponent
42	18 June	Part A Submission	Council
43	18 June	Appendix A and B to Part A Submission (D42)	Council
44	20 June	Letter – Update on progress of Cultural Heritage Management Plan (Unearthed, 29 March 2025)	Proponent
45	24 June	Site inspection documents: a) Map b) Site list c) List of additional requested sites	Council
46	25 June	Further Panel Directions and Hearing Timetable (v2)	PPV
47	3 July	Letter from the Panel advising DTP Transport was granted leave to attend traffic conclave	PPV
48	10 July	Expert report of Jason Black in planning	Ballan Dev Co Pty Ltd (Ballan Dev Co)
49	10 July	Expert report of David Barnes in planning	Proponent
50	10 July	Expert report of Kerry Wilkinson in drainage / hydrology	Proponent
51	10 July	Expert report of Nathan Woolcock in traffic	Proponent
52	10 July	Expert report of Oona Nicholson in Aboriginal cultural heritage	Proponent
53	10 July	Expert report of Robert Panozzo in social / community infrastructure	Proponent
54	10 July	Expert report of Steve Mueck in ecology	Proponent
55	10 July	Department of Transport and Planning (Transport) further changes requested of the proposed Schedule 9 to Clause 43.04 Development Plan Overlay	Council
56	10 July	Department of Transport and Planning (Transport) further response (2 July 2025)	Council
57	10 July	Expert report of Jo Garretty in traffic	Council
58	15 July	Expert meeting joint statement – traffic	Jo Garretty
59	22 July	Part B submission	Council
60	22 July	Day 1 - Schedule 9 to Clause 43.04 Development Plan Overlay (Document 55 base)	Council

No	Date	Description	Presented by
61	22 July	Email – regarding revised ultimate roundabout plan, with attachment: a) Traffix Group revised ultimate roundabout plan	Proponent
62	23 July	Expert report addendum of Nathan Woolcock in traffic	Proponent
63	23 July	Nathan Woolcock - Definitions for classifying accidents chart	Proponent
64	23 July	Nathan Woolcock - Level of service criteria and gaps chart	Proponent
65	23 July	Submission	Proponent
66	23 July	Submission	Department of Transport and Planning (DTP Transport)
67	23 July	Wadawurrung Traditional Owners Aboriginal Corporation letter to Proponent	Proponent
68	23 July	Submission	Central Highlands Water
69	23 July	Submission Part 1	Melbourne Water
70	23 July	Submission Part 2	Melbourne Water
71	24 July	Appendix 6 to Submission Part 2 (in Excel format)	Melbourne Water
72	24 July	Development Plan Concept	Melbourne Water
73	24 July	Tracked changes to Council's Day 1 - Schedule 9 to Clause 43.04 Development Plan Overlay (Document 55 base)	Melbourne Water
74	24 July	Addendum submission	Melbourne Water
75	28 July	Hearing Timetable (v3)	PPV
76	28 July	Email – regarding Werribee River in flow, with attachment: a) Photo of Werribee River	John Kowarsky
77	29 July	Submission	Renee Robinson
78	29 July	Submission	John Kowarsky
79	29 July	Submission	Danielle Anzai
80	29 July	Attachment to submission	Danielle Anzai
81	29 July	Submission	Ballan South Pty Ltd (Ballan South)
82	29 July	Attachment A to submission (D81) , comprised of: a) Ballan Framework Plan b) Land Ownership c) Existing Title Plan	Ballan South

No	Date	Description	Presented by
83	29 July	Attachment B to submission (D81), comprised of: a) Schedule 9 to Clause 43.04 Development Plan Overlay (clean) b) Schedule 9 to Clause 43.04 Development Plan Overlay (marked up)	Ballan South
84	29 July	Attachment C to submission (D81) – Proposed DPO Schedule: Ballan South Growth Area	Ballan South
85	29 July	Attachment D to submission (D81), comprised of: a) Moorabool C103moor proposed DPO Schedule 7: Hopetoun Park North Growth Area b) Moorabool C103moor Exhibited Planning Scheme Maps 38 & 47	Ballan South
86	29 July	Attachment E to submission (D81) – Letter from SMEC regarding Jacobs Ballan Sewer Modelling and Master Planning Report	Ballan South
87	29 July	Submission, including attachments: a) Presentation of member Jodie Valpied b) Tracked changes to Day 1 DPO9 c) Healthy Waterways Strategy (Melbourne Water 2018) d) Guide to Sports Field Lighting (DPCD 2012) e) National light pollution guidelines f) Community Engagement & Benefit Sharing guidelines	Bacchus Marsh Platypus Alliance (BMPA)
88	29 July	Email – further objection	Jennie Tabone
89	29 July	Questions for the Panel and parties	Jennie Tabone
90	29 July	Submission, including attachments: a) Presentation of Ben Courtice b) Tracked changes to Day 1 DPO9 c) Healthy Waterways Strategy (Melbourne Water 2018) d) Guide to Sports Field Lighting (DPCD 2012) e) Community Engagement & Benefit Sharing guidelines f) Barwon Water Aqueduct Historical Plan	Moorabool Environment Group (MEG)
91	29 July	Submission	Concetta McFall
92	29 July	Statement of BMPA member Jodie Valpied	BMPA
93	30 July	Submission	Ballan Dev Co
94	30 July	Email - Request for reply to be made on the papers	Melbourne Water
95	31 July	Hearing presentation	Danielle Anzai
96	31 July	Hearing presentation notes	Renee Robinson

No	Date	Description	Presented by
97	31 July	Submission: Protecting The Werribee River Valley Ecological Values	John Kowarsky
98	31 July	Email from Panel granting Melbourne Water approval to reply on the papers	PPV
99	31 July	Closing submission, with attachment: a) Letter from ecology expert Steve Mueck - regarding mapping for VPO2	Proponent
100	31 July	Victorian Biodiversity Atlas - Platypus recordings at Ballan	BMPA and MEG
101	31 July	Hearing presentation notes	Concetta McFall
102	31 July	Part C submission	Council
103	1 August	Reply to submissions	Melbourne Water
104	4 August	Response to Melbourne Water reply to submissions	Proponent
105	4 August	Response to Melbourne Water reply to submissions	Council
106	7 August	Final preferred version of DPO9 (clean)	Council
107	7 August	Final preferred version of DPO9 (tracked changes)	Council
108	13 August	Tracked changes to Council final preferred version of DPO9	Proponent
109	14 August	Comments on Council final preferred version of DPO9, with attachment: a) Edits to Council final preferred version of DPO9	Renee Robinson
110	14 August	Edits to Council final preferred version of DPO9, with attachments: a) Alternate Map 1 b) Comments on Council final preferred version	BMPA and MEG
111	14 August	Tracked changes to Council final preferred version of DPO9	DTP Transport
112	14 August	Comments on Council final preferred version of DPO9, with attachment: a) Tracked changes to Council final preferred version of DPO9 (same as document 112)	DTP Transport
113	14 August	Tracked changes to Council final preferred version of DPO9	Ballan South
114	14 August	Tracked changes to Council final preferred version of DPO9: a) Word version b) PDF version	Melbourne Water
115	18 August	Reply to comments on Council final preferred version of DPO9	Council

Appendix C Panel recommended version of Development Plan Overlay Schedule 9

The Panel recommended changes are based on the Council final preferred version (Document 106) and are shown as:

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 9 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as DPO9.

BALLAN PRECINCT 5

1.0 Objectives

To guide and facilitate the staged, master-planned development that responds to the environmental, cultural, heritage and landscape significance of the land.

To reflect the country town character of wide, tree lined streets and open, spacious development.

To ensure the coordinated, efficient, and timely provision of physical and community infrastructure and public open space that enhances the amenity, safety and liveability of the precinct and surrounds.

To ensure a diverse mix of lot sizes, including appropriate interfaces with adjoining rural land, Western Freeway, Geelong-Ballan Road, Old Melbourne Road and Werribee River.

To facilitate an appropriate supply of housing diversity and encourage the provision of social and affordable housing.

2.0 Requirement before a permit is granted

A permit may be granted for the following before a development plan has been prepared to the satisfaction of the responsible authority:

- Removal, variation or creation of easements or restrictions.
- Advertising signs.
- Rehabilitation works to the creek corridor.
- Any works required to undertake or satisfy a Statement of Environmental Audit under the *Environment Protection Act 2017*.
- Subdivision:
 - If it is the re-subdivision of existing lots and the number of lots is not increased; or
 - If it is by a public authority or utility service provider to create a lot for a utility installation.

Any application for a permit lodged before the development plan has been prepared must be accompanied by a report demonstrating that approval will not prejudice the long-term future development of the land as set out in this schedule.

3.0 Conditions and requirements for permits

Except for a permit granted in accordance with Clause 2.0, the following conditions apply to permits to subdivide land, construct a building or construct or carry out works, as appropriate:

- ~~▪ The implementation of development contribution obligations, in accordance with a relevant agreement.~~
- ~~▪ A section 173 agreement or restriction on the title to ensure that:

 - ~~▪ future buildings, as identified in the Acoustic Design Response Plan, are designed and constructed with appropriate noise attenuation measures.~~
 - ~~▪ where social or affordable housing is proposed, the future development and use of the relevant land is for that purpose.~~~~
- Construction Management Plan

Prior to the commencement of development or the certification of a plan of subdivision ~~and/or prior to any development (whichever occurs first)~~ a Construction Management Plan ~~and/or Environmental Management Plan~~ must be submitted to and approved by the responsible authority. The plan must include:

 - Actions to address construction and environmental risks identified in the approved development plan (including each of the relevant supporting reports).
 - Details relating to the containment, collection and disposal of construction waste, fuels, oils and chemicals during the construction period and the management of fencing, sediment or silt barriers, flags, corflute signs and other temporary materials.
 - Soil erosion and sediment control provisions to protect the escarpment, existing local stormwater infrastructure and Werribee River.
 - The location, height and direction of any temporary lighting to be installed generally in accordance with the National Light Pollution Guidelines for Wildlife (Dept. of Climate Change, Energy, the Environment and Water – May 2023).

All works conducted on the land must be in accordance with the approved Construction Management Plan ~~and/or environmental management plan~~.
- Development Contributions - General

Unless otherwise agreed by the responsible authority, prior to the commencement of development or the issue of a Statement of Compliance (whichever occurs first) the landowner must enter into an agreement under section 173 of the *Planning and Environment Act 1987* (section 173 agreement), providing for development contributions to the satisfaction of the responsible authority. The costs of preparation and registration of the section 173 agreement are to be borne by the landowner.
- Development Contributions – Intersection upgrade

Unless otherwise agreed by the responsible authority, prior to the commencement of development or the issue of a Statement of Compliance (whichever occurs first), the landowner must enter into ~~an agreement under a~~ section 173 agreement of the Planning and Environment Act 1987 with the responsible authority and the Head, Transport for Victoria.

The section 173 agreement ~~applies to~~ must provide for the delivery, funding, timing and identification of land requirements for upgrades to the intersection of Geelong-Ballan Road and Old Melbourne Road, Ballan. ~~The agreement and the agreement will be prepared at no cost to Head, Transport for Victoria and/or the responsible authority, unless agreed in writing. The Agreement~~ must require a Transport Impact Assessment to be carried out prior to the statement of compliance for the stage which produces the 600th lot to identify the triggers for the delivery of an interim upgrade by the owner or the contribution to and timing of construction of the ultimate roundabout.

The agreement will be prepared at no cost to Head, Transport for Victoria and/or the responsible authority, unless agreed in writing.
- Acoustic mitigation

Unless otherwise agreed by the responsible authority, prior to the commencement of development or the issue of a Statement of Compliance (whichever occurs first) the landowner must enter into a section 173 agreement or place a restriction on the titles to the relevant lots to ensure that future buildings are designed and constructed with appropriate noise attenuation measures in accordance with any recommendations in the Acoustic Design Response Plan.

Requirements for development plan

A development plan must be generally in accordance with Map 1 to this Schedule and include the following requirements to the satisfaction of the responsible authority:

- A Site and Context Analysis.
- A Masterplan.
- An Affordable and Social Housing Assessment.
- A Public Open Space and Landscape Masterplan.
- An Arboricultural Assessment.
- A Biodiversity Management Plan.
- An Acoustic Design Response Plan.
- An Integrated Transport Management Plan.
- An Integrated Water Management Plan.
- An Infrastructure Servicing Plan.
- A Heritage Assessment.
- A Bushfire Management Plan.

SITE AND CONTEXT ANALYSIS

A **Site and Context Analysis** that identifies the key attributes of the land and its surrounds (including the existing Ballan township and future growth precincts) including:

- Contours of the land at 1.0 metre intervals and shading of 5 degree slope class intervals.
- Identification of areas of potential geotechnical instability.
- Land affected by the 1% annual exceedance probability (AEP) flood extent.
- Any areas of cultural, historic, social or environmental significance within the site.
- The location of proposed community infrastructure.
- The location of proposed public open space.
- The location of proposed transport infrastructure and systems, including public transport.
- The location of proposed cycling and pedestrian networks.
- Any key view lines and corridors to the surrounding landscape.

The Site and Context Analysis should also identify the key attributes of surrounding land (including the existing Ballan township and future growth precincts) including the locations of existing and (where known) proposed:

- Land uses and developments on adjoining land.
- Community infrastructure and public open space.
- Transport infrastructure including public transport and active transport networks.

MASTERPLAN

A **Masterplan** generally in accordance with Map 1 to this schedule, that includes:

- A subdivision layout that responds to the natural topography of the land and integrates with the established Ballan township and the surrounding rural landscape.
- Implementation of any relevant requirements of each plan or assessment approved under this clause.
- A response to key view lines and corridors to the surrounding landscape.
- Interface treatments between proposed development areas and waterways and public open space, including provision of road frontages and appropriate orientation of development, to ensure passive surveillance opportunities.

- Setbacks to the Werribee River in accordance with the requirements of Melbourne Water.
- The intersection design and locations for access into and out of the precinct from Geelong-Ballan Road and Old Melbourne Road identified within the Integrated Transport Management Plan.
- Annotations or colour-coding to identify:
 - A variety of lot sizes across the development area including potential medium density (150-349m²), conventional density (350-799m² ~~with an average of at least 600m²~~) and interface residential lots (800-1000m²).
 - Potential locations for any affordable or social housing proposed to be provided in accordance with the recommendations of the Affordable and Social Housing Assessment.
 - Proposed land uses.
- ~~▪ An indicative staging plan and associated table showing the overall land use budget for each category.~~
- Buffer areas and other measures to protect any sites of Aboriginal cultural heritage where required in accordance with the approved Cultural Heritage Management Plan.
- Retention of patches of remnant native vegetation and scattered trees in accordance with the recommendations of the Biodiversity Management Plan and Arboricultural Assessment. Any patches of remnant native vegetation or scattered trees identified for retention should be contained within Public Open Spaces or widened road reserves.
- Identification of areas where noise attenuation measures are required, in accordance with the recommendations of the Acoustic Design Response Plan.
- An indicative staging plan which indicates the Details of staging of development and which provides for the early provision of the active open space reserve, sports pavilion/community facility, district playground and associated infrastructure, pedestrian and cycling infrastructure and a land use budget for each type of infrastructure development.
- The location and size of the proposed future commercial area (which must not exceeding 1,000 square metres of net floor area).

AFFORDABLE AND SOCIAL HOUSING

An **Affordable and Social Housing Assessment** that includes:

- An assessment of the demand for affordable and social housing in Ballan Precinct 5, proportionate to the demand for such housing in the existing township (if known).
- Recommendations for an appropriate diversity of housing type, tenure and cost to meet the needs of households increasing choice in housing type (including alternative housing models, such as co-housing and eco-villages), tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.
- If any social or affordable housing is to be provided, identification of the potential locations and types of housing.
- Recommendations for facilitating any proposed provision of affordable and social housing, such as:
 - Identification of a community housing provider willing to manage any proposed social housing.
 - ~~• Quantification of the land area requirements including how social housing could be delivered across different medium density and conventional residential categories.~~
 - ~~• Identification of potential locations.~~
 - Mechanisms for implementing any proposed social and affordable housing contribution, such as a section 173 agreement or a restriction on the title to ensure

~~affordable or social housing is used that future development and use of the land is~~
for the intended purpose in the longer term.

PUBLIC OPEN SPACE AND LANDSCAPING

Panel note: requirements of the Biodiversity Management Plan relating to landscaping have been relocated to the Public Open Space and Landscape Masterplan. Relocated text is not shown as tracked.

A **Public Open Space and Landscape Masterplan** that is consistent the Biodiversity Management Plan and the Masterplan and that:

- Identifies significant vegetation to be protected and retained.
- Provides details of the proposed public open space network ~~consistent with the agreements and obligations of any section 173 Agreement,~~ including:
 - Provision for a range of active and passive recreational opportunities for future residents, either onsite or offsite.
 - Local parks located generally in accordance with Map 1 to this schedule.
 - Land encumbered by waterways, drainage infrastructure, overland flow paths, 1% AEP flood extents, steep slopes, heritage values or remnant vegetation, as required by Melbourne Water or the responsible authority.
 - Details of the onsite active open space reserve and associated playing fields.
 - Details of a connected network of shared paths for walking and cycling.
- ~~Is consistent the Biodiversity Management Plan.~~
- Provides concept details of community infrastructure, such as sports pavilion / community facility, recreation facilities, district playground, local playgrounds, picnic areas and toilets.
- Provides a concept design (including cross sections) for the active open space reserve, to demonstrate:
 - That the reserve dimensions and configuration will be adequate to provide for cut/fill batters, retaining walls, sports fields, multi-purpose courts, pavilion, community facility, district playground, carparking and landscaping.
 - How cut and fill will be managed to avoid/mitigate erosion and to avoid or manage visual amenity impacts and any encroachment into the Werribee River corridor.
 - ~~How any cut/fill batters and retaining walls will be managed to minimize visual amenity impacts.~~
- Provides for wildlife sensitive lighting design for streets/trails and sporting facilities interfacing with the Werribee River corridor ~~where consistent with the Biodiversity Management Plan,~~ as guided by the National Light Pollution Guidelines for Wildlife.
- Identifies landscape treatments for public open space and road reserves, including planting themes, species and planting densities and establishes a requirement to provide at least 30% tree canopy coverage across public realm and open spaces (excluding areas dedicated to biodiversity ~~and,~~ native vegetation conservation and active open space playing fields and courts).
- Identifies landscape treatments for Geelong–Ballan Road and Old Melbourne Road, appropriate for the role of these roads as gateways to the Ballan township.
- Identifies landscape treatments for the Werribee River corridor and streetscapes that buffer this area.
- Gives preference to ~~that include extensive use, where possible, of~~ local indigenous species and drought tolerant native vegetation to enhance local habitat values, and respond to water sensitive urban design objectives.
- Provides a statement explaining how the landscape design complements the Werribee River corridor and provides for the protection and enhancement of native flora and fauna values including consideration of species and communities listed under the

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and the *Flora and Fauna Guarantee Act 1988* (FFG Act).

- Provides urban design concepts, ~~public art, community flexible spaces~~ and interpretive information that will provide a sense of place, drawing on themes such as cultural heritage, environment or landscape features.
- Provides details of any fencing treatments proposed for land abutting public open space.
- Provides details of staging and timing of all landscape works.

ENVIRONMENT

An **Arboricultural Assessment** that:

- Assesses all remnant trees on the subject land and adjoining road reserves, in accordance with Australian Standard AS4970-2009 *Protection of Trees on Development Sites*.
- Identifies trees to be retained, based on tree health, ecological and/or biodiversity values (consistent with the Biodiversity Management Plan) ~~and ecological~~ or landscape values.

A **Biodiversity Management Plan**, prepared in consultation with of the Department of Energy, Environment and Climate Action and Melbourne Water, that:

- Identifies risks to biodiversity values, during and post development of the land.
- Includes targeted field surveys of flora and fauna species listed under the EPBC Act and the FFG Act including a platypus survey to inform the design and location of stormwater outfalls.
- ~~Identifies the preferred location for a shared path crossing over the Werribee River proximate to the proposed active open space reserve, based on the assessment of biodiversity values on either side the Werribee River corridor.~~
- Makes recommendations for:
 - Avoiding and minimising native vegetation removal (e.g. protection within public open space or widened road reserves where possible).
 - The retention of patches of remnant native vegetation and scattered native trees (including roadside vegetation) including species and communities listed under the EPBC Act and the FFG Act.
 - Vegetation protection zones and buffers around scattered trees and native vegetation patches to be retained.
 - ~~The maintenance and management of remnant native vegetation and scattered native trees to be retained.~~
 - Offsetting any native vegetation removal that cannot be avoided.
 - Management of the Werribee River reserve and wetlands/retarding basins, including:
 - The protection and enhancement of biodiversity values.
 - Revegetation of the reserve with species derived from appropriate Ecological Vegetation Classes (EVCs).
 - Identification of key pest plant and animal species.
 - Identification of risks to environmental values from adjoining land uses and construction activities.
 - Appropriate risk mitigation measures and management regimes, including ~~platypus survey prior to stormwater outfall(s) design and construction activity~~ measures to prevent pollution, sediment or waste entering the waterway.
 - Wildlife sensitive lighting design interfacing with the waterway corridor, as guided by the *National Light Pollution Guidelines for Wildlife*, to be incorporated into the Public Open Space and Landscape Masterplan.

- Includes a **maintenance** schedule for the [maintenance and management of remnant native vegetation and scattered native trees to be retained and the](#) eradication and control of pest plants, weeds and vermin.

AMENITY

An **Acoustic Design Response Plan**, prepared to the satisfaction of the Head, Transport for Victoria, by a qualified acoustic engineer or other suitably skilled person, in accordance with the *Environment Protection Act 2017, VicRoads Requirements of Developers – Noise Sensitive Uses Guidelines* and other relevant policies that:

- Identifies lots where combined noise levels from the surrounding roads (Western Freeway, Geelong-Ballan Road and Old Melbourne Road) exceed the objectives for ambient sound defined in the Environment Reference Standard for:
 - Land use Category 1 for lots within 50 metres of the Western Freeway road reserve and its ramps.
 - Land use category 3 for lots more than 50m from the Western Freeway road reserve and all other lots.
- Recommends a suite of mitigation measures, to be delivered at the cost of the developer or future home builders as appropriate, ~~for the identified lots,~~ that:
 - Prioritises the use of a built form that has a more natural environmental design where feasible, rather than walls.
 - [Provides a presentation to the Western Freeway that is visually cohesive along the Precinct edge and consistent with treatments along other precinct edges \(if known\).](#)
 - Achieves the following internal noise levels, when considering the combined noise from all relevant external sources.
 - Not greater than 35 dB(A) for bedrooms, assessed as an LAeq,8h from 10pm and 6am. Not greater than 40 dB(A) for living areas, assessed as an LAeq,16h from 6am and 10pm.
 - Not greater than the median value of the range of recommended design sound levels of Australian Standard AS/NZ 2107:2016 for internal areas, other than sleeping and living areas, assessed as a (LAeq,16h) from 6am and 10pm or an 8 hour equivalent continuous daily noise exposure level (LAeq,8h) from 10pm and 6am, as relevant to the normal period of occupancy of the area considered.
- Demonstrates how noise mitigation infrastructure and associated maintenance vehicle access will be contained within the subject land.

MOVEMENT AND TRANSPORT

An **Integrated Transport Management Plan**, prepared to the satisfaction of the responsible authority and the Head, Transport for Victoria ([as appropriate](#)) (and Melbourne Water in respect of [shared trails within the waterway corridors](#)) ~~the waterway crossings~~ and in accordance with the Infrastructure Design Manual (IDM), and VicRoads Road Design Note 04-01 that:

- Provides for an integrated transport network including roads, public transport and pedestrian and bicycle paths.
- Provides for multi-modal transport network connectivity within the site, and to the balance of the Ballan township.
- Provides a network of walking and cycling paths, including shared paths (including along the Werribee River corridor), that provides connectivity between key destinations including along the Werribee River corridor ~~and a shared path crossing proximate to~~ [such as](#) the proposed active open space reserve.
- Provides a variety of [road](#) reserve widths ~~road~~ and cross sections to create differentiation and neighbourhood character responsive to the site's country town context and the connector road shown as a bus capable, boulevard road.
- Identifies the location and design of intersections within the Transport 2 Zone network.

- Identifies traffic management controls for the internal road network.
- Provides details of necessary upgrades to the road, pedestrian and bicycle path infrastructure beyond the site and the trigger points for implementation of such works (linked to stages of development or the number of lots developed).
- Identifies the staging, design (including land requirements) and funding plan for the delivery of the interim and ultimate intersection of Geelong-Ballan Road and Old Melbourne Road.
- Discourages cul-de-sacs and ensures that any street will be connected through to other streets by a wide reserve and shared path for safe pedestrian and bicycle access.
- [If shared path waterway crossings are to be provided, identifies the location of the crossing and](#) includes concept details ~~of any shared path waterway crossings~~ prepared in accordance with 'Constructing Waterway Crossings' (Melbourne Water, 2011).
- Provides for the integration of land use with transport provision.

UTILITIES AND DRAINAGE

An **Integrated Water Management Plan** prepared to the satisfaction of Melbourne Water and in accordance with the Urban Stormwater Best Practice Environmental Guidelines (CSIRO) and the Infrastructure Design Manual (IDM) [as appropriate](#), that includes:

- Concept plans [showing the location](#) and details of the proposed stormwater drainage system.
- Protection of natural systems and water quality.
- [Reduction of run-off and peak flows, including the removal of sediment, litter and other urban wastes from stormwater prior to discharge.](#)
- Water conservation, harvesting, and re-use of stormwater particularly for open space irrigation.
- Integration of stormwater treatment into the landscape including the provision of retarding basins, water quality wetlands and enhanced stormwater management facilities within drainage and public open space reserves, and other water sensitive urban design treatments as appropriate.
- Modelling and response to flood risk, including climate change scenarios in accordance with Australian Rainfall and Runoff 2019 (Version 4.2).
- Overland flow paths that provide for storm events up to and including 1% AEP including flow paths demonstrated in road network design.
- A functional design of stormwater drainage assets to ensure that:
 - ~~Stormwater drainage assets are feasible in their proposed locations and sizes,~~
 - Stormwater drainage assets are feasible in their proposed locations and sizes including ensuring assets can be safely accessed and maintained and achieve safe stable outfalls to the Werribee River without negatively impacting the escarpment.
 - Suitable locations and details of outfalls to the Werribee River, which avoid/minimise impacts on environmental ~~values including~~ [and](#) biodiversity [values](#).
 - Stormwater drainage assets will meet the required flow regime and water quality requirements at the outfall into the Werribee River.
- Geotechnical advice to confirm site and soil suitability for asset construction and outfall design.
- The staging of stormwater drainage works (linked to stages of development), both internal and external to the site.

[Stormwater drainage assets may be located within the Werribee River reserve if feasible with other constraints and values.](#)

An **Infrastructure Servicing Plan**, prepared to the satisfaction of the relevant agencies, that includes:

- Concept plans and details of proposed utility infrastructure (e.g. reticulated water and sewerage).
- The staging of infrastructure, its funding and delivery linked to stages of development.

HERITAGE

~~Any advice from the Wadawurrung Traditional Owners Aboriginal Corporation or if available an approved Cultural Heritage Management Plan.~~

A **Non-indigenous Heritage and Archaeological Assessment** that includes the following:

- A response to the results of a historical archaeological survey/investigation conducted by a qualified historical archaeologist.
- An interpretation of the history of the site.
- An assessment of non-indigenous trees and recommendations for retention.
- Recommendations for the recording and retention of heritage elements of the site.
- Recommendations for meaningful interpretation of heritage elements and archaeological survey records within an appropriate setting (e.g. interpretive signage within public open space).

BUSHFIRE MANAGEMENT

A **Bushfire Management Plan**, prepared to the satisfaction of the Country Fire Authority (CFA) and including:

- A description of the fire risk and management for the area.
- An amended Bushfire Hazard Site Assessment including consideration of the ultimate revegetated state of the Werribee River corridor and wetlands/retarding basins, as required by Melbourne Water. The revegetated waterway corridor must be classified as “forest” or “woodland”, other than stormwater treatment assets which will have lower bushfire threat.
- The identification of setbacks for the purposes of defendable space between classified vegetation and future development to ensure that radiant heat exposure is less than 12.5kW/m² under AS3959 for new dwellings and lower exposure for vulnerable uses.
- Requirements for land identified as defendable space to ensure that vegetation is managed and maintained to the standard specified by the CFA.
- Future open space, or landscaping areas within the subject land to be managed and maintained to a low threat state in perpetuity to ensure a bushfire risk doesn’t increase overtime.
- Recommendations for appropriate land uses to avoid positioning vulnerable and hazardous uses where there is a direct interface with unmanaged vegetation.
- Notation that planting, landscape and vegetation management within landscape buffers, easements and areas of open space do not increase the risk of fire, including allowing for appropriate emergency service vehicle access.
- Recommendations for bushfire risk mitigation at the various stages of subdivision development.

MAP 1 TO SCHEDULE 9 TO CLAUSE 43.04

Make the following changes to Map 1:

~~Include ‘Potential Shared Path Crossing location’.~~

Amend dashed blue line to be labelled ‘Werribee River Offset’.

Move hard infrastructure (roads and the community facility) outside the Werribee River Offset.

On the legend, update lot size ranges to incorporate existing gaps of 300-400m² and 700-800m², making conventional residential 350-799m² ~~(with an average of at least 500m²)~~, medium density residential of 150-349m², and interface residential lots (800-1000m²)

Departures from Map 1 ~~Incorporated Development Plan~~

Any change to the size, type, staging or location of drainage assets, active open space, community facilities and commercial facilities as shown on Map 1, including where needed in response to cultural heritage considerations and any related approvals, will be regarded as being ‘generally in accordance’ with Map 1 and capable of approval within a development plan prepared under this clause if they will achieve the intended purpose and performance standards and are approved by Council or Melbourne Water as appropriate.

